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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 3 OF 9

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1 SAID -- THEY SAID HE WAS PERFECTLY FINE, HE HAD -- HE
2 HAD THOSE MINOR THINGS THAT DR. CRAWFORD MENTIONED,
3 BUT THERE IS NO -- NO INDICATION THAT HE HAD A
4 PROBLEM NOT FORMING MALICE AND THOSE KINDS OF THINGS,
5 SO....

6 THE COURT: IN MY ESTIMATION, SOMEONE HAVING
7 ANTISOCIAL PERSONALITY OR NARCISSISM IS NO DIFFERENT
8 THAN LIKE THE STATE VERSUS SANTIAGO WHEN SOMEBODY HAD
9 THAT SORT OF -- OR WHICH IS A MILD -- WHICH IS A FORM
10 OF AUTISM WHICH IS THE SAME, WHICH AFFECTS YOUR
11 ABILITY TO CONTROL YOUR IMPULSES.

12 AT LEAST THAT'S THE WAY I READ IT. NOW, I MAY
13 BE WRONG AND OPEN TO HEAR WHAT THE STATE'S
14 INTERPRETATION IS. I'M SORRY. MR. HUMPHRIES? MR.
15 DIGGS, ARE YOU THROUGH MAKING YOUR ARGUMENT? I WANT
16 TO MAKE SURE THAT YOU COMPLETED THE RECORD.

17 MR. DIGGS: WELL, BASICALLY ANY EVIDENCE THAT'S
18 IN THE RECORD THAT SUPPORTS DIMINISHED CAPACITY WOULD
19 BE IMPROPERLY ADMITTED ANY WAY. I WOULD SUBMIT THE
20 COURT HASN'T MADE ANY ERROR IN THAT RESPECT.

21 THE COURT: PARDON ME?

22 MR. DIGGS: I WOULD SUBMIT THE COURT HAS NOT
23 MADE ANY ERROR IN THAT RESPECT, AND IT JUST GIVES --
24 IT GIVES THE JURY AN OPTION TO RESOLVE THIS CASE ON
25 SOME BASIS OTHER THAN THE MERITS. THERE'S NO NEED TO

1 HAVE DIMINISHED CAPACITY ISSUE INJECTED INTO THE CASE
2 AT ALL, BECAUSE IT WILL BECOME CONFUSING.

3 THE COURT: ARE YOU SAYING DIMINISHED CAPACITY
4 HAS NOT BEEN A PART OF THE FACTUAL PRESENTATION OF
5 THIS CASE?

6 MR. DIGGS: YES. RIGHT.

7 MR. HUMPHRIES: YOUR HONOR, LET ME -- IF IT'S MY
8 TURN.

9 THE COURT: IT IS YOUR TURN, MR. HUMPHRIES.

10 MR. HUMPHRIES: LET ME SAY THIS. THE DEFENSE'S
11 EVIDENCE SEPARATE AND APART FROM THAT LAST, YOU KNOW,
12 THEIR LAST WORD ON THE OPINION, THAT IS THAT HE
13 DIDN'T KNOW MORAL AND LEGAL RIGHT FROM MORAL AND
14 LEGAL WRONG--

15 THE COURT: SAY THAT ONE MORE TIME.

16 MR. HUMPHRIES: I'M SO SORRY.

17 THE COURT: NO, I WAS JUST LOOKING BACK AT SOME
18 NOTES. IT SEEMED TO ME ALMOST -- EVEN IN THE CROSS
19 OF ALL THE DEFENDANT'S WITNESSES DIMINISHED
20 CAPACITY--

21 MR. HUMPHRIES: THAT'S MY POINT.

22 THE COURT: -- EVEN IN THE CROSS OF DR.
23 ALBINIAK.

24 MR. HUMPHRIES: THAT IS EXACTLY MY POINT. EVEN
25 IN THE DEFENSE'S CASE IN REGARD TO THE MENTAL STATUS

1 OF THE DEFENDANT BASED ON WHAT THEY TESTIFIED TO
2 SEPARATE AND APART FROM THEIR FINAL CONCLUSIONS THAT
3 HE DIDN'T KNOW MORAL OR LEGAL RIGHT FROM MORAL OR
4 LEGAL WRONG, WHAT THEY ACTUALLY SAID CAN BE FAIRLY
5 EQUATED TO AND ACCEPTED BY THE JURY AS EVIDENCE OF
6 DIMINISHED CAPACITY.

7 SO SEPARATE AND APART FROM THE STATE'S CASE THE
8 DEFENSE CASE BRINGS DIMINISHED CAPACITY INTO ISSUE.

9 THE COURT: I'M GOING TO LEAVE IT IN FOR NOW. I
10 WILL COGITATE OVER IT A LITTLE BIT MORE TONIGHT. BUT
11 I THINK THAT WHENEVER THERE IS A FACTUAL ISSUE THAT
12 HAS BEEN RAISED BEFORE THE JURY THAT HAS THE
13 POTENTIAL TO CONFUSE THEM, IT IS ERROR FOR THE COURT
14 NOT TO ARM THEM AS THE FACT-FINDING BODY WITH THE
15 APPLICABLE LAW.

16 THEY HAVE TO BE ABLE TO -- AND I WILL INSTRUCT
17 THEM THAT IT'S THEIR JOB AS THE FINDERS OF THE FACTS
18 TO DETERMINE WHAT THE TRUE FACTS ARE AND THEN APPLY
19 THE LAW TO IT.

20 AND I DON'T THINK THAT I CAN GIVE THEM ONE
21 VERSION OF THE LAW WHERE FACTUALLY OTHER PARTS OF IT
22 HAVE BEEN RAISED BECAUSE THEN INEVITABLY I GET A
23 QUESTION AND I HAVE TO INSTRUCT THEM ANY WAY.

24 I THINK IT IS MY JOB TO MAKE SURE THAT THEY KNOW
25 THE APPLICABLE LAW AND TO APPLY IT, AND THERE'S

1 NOTHING THAT, YOU KNOW, THE JURY MAY WELL -- AND
2 REALLY IT COMES DOWN TO CREDIBILITY, QUITE FRANKLY,
3 WHOSE SETS OF EXPERTS THE JURY BELIEVES.

4 THE JURY MAY WELL BELIEVE THE DEFENSE'S EXPERTS,
5 THAT HE WAS INCAPABLE OF DISTINGUISHING MORAL AND
6 LEGAL WRONG, RIGHT FROM WRONG, AND THEY MAY -- AND
7 WITHIN THE INSTRUCTION THEY CERTAINLY HAVE THE
8 ABILITY TO DETERMINE THAT HE IS NOT GUILTY BY REASON
9 OF INSANITY, AND THEY WILL SO BE INSTRUCTED.

10 AND QUITE FRANKLY, THE WAY THE INSTRUCTION IS
11 CRAFTED IS THAT GUILTY IS THE LAST OPTION THAT THEY
12 HAVE TO CONSIDER PURSUANT TO -- ACTUALLY AND IT'S
13 KIND OF INTERESTING BECAUSE THE WAY OUR -- OUR
14 STANDARD INSTRUCTION IS WRITTEN, IT'S A LITTLE
15 DIFFERENT FROM THE WAY THE STATUTE IS WRITTEN BECAUSE
16 THE STATUTE SAYS, GUILTY, NOT GUILTY, NOT GUILTY BY
17 REASON OF INSANITY.

18 BUT I'M GOING TO INSTRUCT THEM BASED ON OUR
19 STANDARD INSTRUCTION WHICH IS THAT GUILTY IS THE LAST
20 OPTION THAT THEY HAVE TO CONSIDER. SO I THINK QUITE
21 FRANKLY THAT WORKS TO THE BENEFIT OF THE DEFENDANT
22 BECAUSE IT'S MY UNDERSTANDING BASED ON CASE LAW THAT
23 THE VERDICT FORM HAS TO REFLECT EXACTLY THE MANNER
24 THAT THE STATUTE IS RAISED.

25 MR. DIGGS: YOUR HONOR, I JUST AM KIND OF TIRED.

1 I WOULD ASK THAT WE MAYBE DO THIS IN THE MORNING.

2 THE COURT: WE'RE NOT GOING TO HAVE TIME TO
3 REVISIT IT IN THE MORNING.

4 MR. DIGGS: WELL...

5 THE COURT: IF WE NEED TO, WE WILL, BUT I, YOU
6 KNOW, I DON'T INTEND TO HAVE A WHOLE LENGTHY EXTENDED
7 ARGUMENT ABOUT IT. IF YOU WANT TO PRESERVE YOUR
8 RECORD ON IT, I'D SUGGEST THAT YOU DO IT NOW.

9 MR. DIGGS: WELL, THE ONLY THING I'M OBJECTING
10 TO IS THE CHARGE ON THE DIMINISHED CAPACITY.

11 THE COURT: AND I THINK--

12 MR. DIGGS: NOT--

13 THE COURT: -- I DON'T KNOW THAT YOU HAVE TO BE
14 ANY MORE SPECIFIC THAN THAT.

15 MR. DIGGS: THANK YOU.

16 THE COURT: I WILL THEN GIVE THE JURY A CHARGE
17 REGARDING THE INDICTMENT WHICH IS THAT EACH -- THAT
18 IT'S ONE INDICTMENT, BUT IT HAS SIX COUNTS AND THAT
19 THEY ARE TO CONSIDER EACH ONE OF THOSE COUNTS
20 INDIVIDUALLY, THAT THE STATE HAS THE BURDEN OF
21 PROVING EACH AND EVERY ELEMENT TO EACH OF THOSE
22 COUNTS BEYOND A REASONABLE DOUBT, AND THEY ARE TO
23 CONSIDER THOSE SEPARATELY AND INDIVIDUALLY FROM ONE
24 ANOTHER AND INDEPENDENT OF ONE ANOTHER, THAT THEY --
25 AND UNINFLUENCED BY THE OTHER, AND THEY CAN, OF

1 COURSE, CONVICT HIM ON ALL OR ACQUIT HIM ON ALL, IT
2 IS CERTAINLY UP TO THEM, BUT THEY ARE TO CONSIDER
3 THEM INDIVIDUALLY.

4 I WILL THEN INSTRUCT THEM THAT THEY HAVE THREE
5 POSSIBLE VERDICTS FOR EACH COUNT OF THE INDICTMENT,
6 THOSE BEING GUILTY, NOT GUILTY -- GUILTY, NOT GUILTY,
7 AND NOT GUILTY BY REASON OF INSANITY CONSISTENT WITH
8 THE STATUTE.

9 OF COURSE, I WILL GIVE THEM THE BOILER-PLATE
10 LANGUAGE REGARDING THE UNANIMOUS, ET CETERA, ET
11 CETERA.

12 NOW, NORMALLY WHAT I DO IS WHEN THERE ARE
13 SEPARATE INDICTMENTS, I SIMPLY ATTACH THE VERDICT
14 FORMS TO THE UNDERSIDE OF EACH INDICTMENT AND EXPLAIN
15 TO THE FOREPERSON THAT UNDER VERDICT THEY ARE TO
16 WRITE THE JURY VERDICT, SIGN, AND DATE.

17 BUT WITH THIS INDICTMENT IT HAS ONE VERDICT
18 SECTION, IT HAS SIX COUNTS. I THINK THAT THAT COULD
19 BE FAIRLY CONFUSING, AND I THINK IT PROBABLY WOULD BE
20 BETTER FOR US, UNLESS OF COURSE WE COULD CLARIFY
21 SOMEHOW UNDER THIS VERDICT SECTION, ALTHOUGH THERE
22 REALLY IS NOT ENOUGH SPACE -- TO PUT COUNT ONE, COUNT
23 TWO, YOU KNOW, THROUGH SIX.

24 OTHERWISE I THINK IT MIGHT BE FAIRLY CONFUSING
25 FOR THE JURY -- FOR THE FOREPERSON, QUITE FRANKLY, TO

1 TRY TO FILL IT OUT BECAUSE THERE JUST ISN'T ENOUGH
2 SPACE. IT IS A THREE PAGE INDICTMENT WITH COUNTS
3 ONCE THROUGH SIX.

4 AND THE LAST PAGE, OF COURSE, IS COUNT SIX,
5 ARMED ROBBERY, AND THEN OF COURSE -- AND WHAT I'M
6 REFERRING TO IS THE SECTION RIGHT HERE THAT HAS
7 VERDICT.

8 I JUST THINK IT MIGHT TEND TO BE CONFUSING AND I
9 WOULD PREFER THAT WE EXPLAIN TO THE FOREPERSON AFTER
10 THE VERDICTS HOW TO FILL THAT OUT. IS THERE ANY
11 EXCEPTION FROM THE STATE?

12 MR. HEMBREE: NO, YOUR HONOR. I KNOW IN THE
13 PAST WE JUST HAD THEM FILL OUT, SIGN -- THEY HAVE
14 THAT SEPARATE VERDICT FORM FOR EACH COUNT AND WE HAVE
15 USED MULTI-COUNT INDICTMENTS, PRESENT CASES AND HAVE
16 THEM FILL THAT OUT AND NOT EVEN SIGN THE INDICTMENT,
17 JUST ATTACH THOSE VERDICT FORMS THAT ARE SIGNED.

18 THE COURT: ALL RIGHT. HOWEVER Y'ALL NORMALLY
19 DO IT IS FINE. WHAT WE -- SOMETIMES WE SEND THEM
20 BACK, SOMETIMES WE DON'T. BUT MORE OFTEN THAN NOT WE
21 DON'T BECAUSE IT'S CONFUSING. AND THEN AT THE
22 CONCLUSION OF TRIAL WE HAVE THE FOREPERSON SIGN THE
23 VERDICT PORTION OF THE ACTUAL VERDICT.

24 MR. HUMPHRIES: I'D JUST ASSUME WE NOT SEND THE
25 INDICTMENT BACK. WE ARE SENDING THEM -- THEY WILL

1 HAVE A COPY OF THE CHARGE. I THINK THAT...

2 THE COURT: IS THERE ANY EXCEPTION TO US
3 HANDLING IT THAT WAY, MR. DIGGS OR MR. KELLY? IN
4 OTHER WORDS, NOT SENDING THE INDICTMENTS BACK, SIMPLY
5 SENDING THE VERDICT FORMS BACK?

6 MR. DIGGS: NO, YOUR HONOR, I DON'T HAVE ANY
7 OBJECTION.

8 MR. KELLY: NO, MA'AM.

9 THE COURT: OKAY. ARE THERE ANY EXCEPTIONS TO
10 THE CHARGES PROPOSED OTHER THAN THOSE RAISED BY MR.
11 DIGGS REGARDING THE CHARGE ON DIMINISHED CAPACITY?

12 MR. HUMPHRIES: NO, YOUR HONOR.

13 THE COURT: ANY EXCEPTIONS FROM THE DEFENSE?

14 MR. DIGGS: NO.

15 THE COURT: ALL RIGHT. Y'ALL GET SOME REST.
16 WE'LL SEE YOU IN THE MORNING AT 9:30. I WILL THINK A
17 LITTLE BIT ABOUT DIMINISHED CAPACITY. YOU ALL COULD
18 LOOK AT THE PROPOSED VERDICT FORMS FOR ME SO I CAN --
19 AND BEFORE YOU ALL SCATTER SO I CAN ALSO GET ON THE
20 RECORD WHETHER YOU HAVE ANY EXCEPTION TO THOSE.

21 (WHEREUPON THERE WAS A PAUSE.)

22 THE COURT: I NEED YOU TO LOOK AT THEM REAL
23 QUICKLY, SEE IF ANYBODY HAS ANY EXCEPTION SO I CAN
24 PUT THAT ON THE RECORD.

25 (WHEREUPON THERE WAS A PAUSE.)

1 THE COURT: THE DEFENSE HAS NO OBJECTION TO THE
2 VERDICT FORMS AS PROPOSED. DOES THE STATE HAVE ANY
3 EXCEPTION?

4 MR. HEMBREE: NONE, YOUR HONOR.

5 THE COURT: OKAY. Y'ALL HAVE A GOOD EVENING AND
6 I WILL SEE YOU AT 9:30.

7 (COURT WAS IN RECESS FOR THE EVENING.)

8 ***** AUGUST 11TH, 2006 *****

9 THE COURT: AS A MATTER OF HOUSEKEEPING BEFORE
10 WE PROCEED, AS I INDICATED DURING OUR CONFERENCE IN
11 CHAMBERS, THAT I HAD HAD SOME MORE TIME OVER THE
12 EVENING TO RESEARCH THE MATTER OF THE COURT'S CHARGE
13 ON INSANITY AND HAD SOME TIME FOR COOL REFLECTION AND
14 HAVE MADE SOME AMENDMENTS TO THAT CHARGE THAT ARE
15 DIFFERENT THAN THE CHARGE AS PROPOSED THAT I
16 ORIGINALLY GAVE YOU ON LAST NIGHT, AND I BELIEVE MY
17 CLERK HAS GIVEN YOU A COPY OF THAT REVISED CHARGE.

18 AND JUST FOR PURPOSES OF THE RECORD -- I'M
19 SORRY. I DIDN'T REALIZE MR. STANKO WAS NOT HERE. WE
20 NEED THE DEFENDANT.

21 (DEFENDANT ENTERED THE COURTROOM).

22 THE COURT: OKAY. AS INDICATED DURING THE
23 CHAMBERS CONFERENCE, I HAD THE OPPORTUNITY TO REVIEW
24 THE COURT'S PROPOSED CHARGE ON INSANITY, AND
25 REGARDING THE DEFENSES -- I MEAN, THE STATE'S REQUEST

1 THAT THE COURT GIVE SOME FORM OF THE CHARGE REGARDING
2 DIMINISHED CAPACITY.

3 AND I ORIGINALLY INCLUDED SOME LANGUAGE
4 INCLUDING BLACK'S LAW DICTIONARY OF -- BLACK'S LAW'S
5 DICTIONARY DEFINITION OF DIMINISHED CAPACITY AND ALSO
6 INCLUDED WITHIN THAT OUR STATE STATUTES 17 24 10C
7 , WHICH DEALS WITH EVIDENCE OF MENTAL DISEASE OR DEFECT
8 MANIFESTED ONLY BY REPEATED CRIMINAL OR OTHER
9 ANTISOCIAL CONDUCT. IT IS NOT SUFFICIENT TO
10 ESTABLISH THE DEFENSE OF INSANITY.

11 WHAT I HAVE DONE OVER LAST NIGHT, I DID SOME
12 ADDITIONAL RESEARCH AND GAVE THE MATTER CONSIDERABLE
13 MORE THOUGHT AND I HAVE DETERMINED THAT I AM GOING TO
14 ELIMINATE FROM THE CHARGE ANY REFERENCE TO A
15 DEFINITION OR THE DEFINITION THAT I WAS GOING TO USE
16 REGARDING DIMINISHED CAPACITY.

17 AND THERE ARE SEVERAL REASONS FOR THAT, ONE OF
18 WHICH IS THAT THERE IS SPLIT AUTHORITY AS TO WHAT THE
19 DEFINITION OF DIMINISHED CAPACITY IS. OUR STATE LAW
20 HAS NOT TAKEN ON THE TASK OF ACTUALLY DEFINING
21 DIMINISHED CAPACITY AND I THINK THAT IT WOULD NOT BE
22 PRUDENT FOR ME TO TRY TO DO THAT, AT LEAST WITH A
23 SPLIT AUTHORITY OUT THERE BETWEEN STATES AS TO WHAT
24 THEY ACCEPT AND WHAT THEIR DEFINITION OF DIMINISHED
25 CAPACITY IS.

1 HOWEVER, IN MY HUMBLE ESTIMATION I BELIEVE 17 24
2 10 SUBSECTION C IS OUR STATE LEGISLATURE'S ATTEMPT TO
3 DEFINE EXACTLY WHAT SOUTH CAROLINA CONSIDERS AT LEAST
4 TO SOME EXTENT A DEFINITION OF DIMINISHED CAPACITY.

5 SO I'M GOING TO LEAVE OUT ANY REFERENCE TO THAT
6 TERM ALTOGETHER IN THE CHARGE. AND IN PLACE OF THAT,
7 AS I HAVE INDICATED, I'VE ELIMINATED ALL REFERENCE TO
8 DIMINISHED CAPACITY.

9 AND ORIGINALLY I THOUGHT ABOUT SIMPLY SAYING,
10 SOUTH CAROLINA DOES NOT RECOGNIZE THE DEFENSE OF
11 DIMINISHED CAPACITY. THEN OF COURSE, KNOWING JURIES
12 AS I DO, I THINK THE NEXT QUESTION WOULD BE, JUDGE,
13 WHAT IS DIMINISHED CAPACITY? AND I WOULD BE RIGHT
14 BACK AT SQUARE ONE TRYING TO DEFINE THAT TERM.

15 AND I JUST FELT THAT IT WAS NOT A DIRECTION THAT
16 I WANTED TO GO IN. AND AGAIN, IN MY HUMBLE
17 ESTIMATION AT SOME POINT OUR SUPREME COURT OR COURT
18 OR APPEALS WILL DEFINE THAT TERM FOR US ONCE THEY
19 HAVE DETERMINED WHAT CONSENSUS THEY'RE GOING TO REACH
20 ON IT OR WHOSE DEFINITION THEY ARE GOING TO ACCEPT,
21 IF ANY, OR WHETHER THEY ARE SIMPLY GOING TO LEAVE IT
22 AT WHAT OUR STATUTES DEFINES, WHICH PROBABLY TO SOME
23 GREAT EXTENT IS WITHIN THE PREROGATIVE OF THE
24 LEGISLATURE TO DETERMINE EXACTLY WHAT HAS BEEN --
25 WHAT DIMINISHED CAPACITY MEANS.

1 AND AGAIN, IN MY HUMBLE ESTIMATION I BELIEVE IN
2 SUBSECTION C OF 17 24 10 THEY HAVE DONE THAT FOR US.
3 SO I'M GOING TO CONFINE MYSELF -- MY STANDARD CHARGE
4 MIRRORS 17 24 10 EXACTLY AND THE CASE LAW THAT HAS
5 INTERPRETED IT WHICH MIRRORS THE STATUTE.

6 AND SO AGAIN, IN MY HUMBLE ESTIMATION YOU NEVER
7 GO WRONG BY CITING WHAT THE CAPITAL LAW, WHICH IS
8 WHAT THE LEGISLATURE TELLS US IT IS, WHICH IS A
9 STATUTE.

10 SO I WILL AGAIN REDACT ALL REFERENCES TO
11 DIMINISHED CAPACITY. THE CHARGE WILL REMAIN AS
12 ORIGINALLY DRAFTED EXCEPT WHERE I ORIGINALLY HAD THE
13 LANGUAGE REGARDING DIMINISHED CAPACITY, IT'S
14 ELIMINATED, AND THE CHARGE WILL READ, I WILL FURTHER
15 INSTRUCT YOU, LADIES AND GENTLEMEN, THAT SOUTH
16 CAROLINA CODE ANNOTATED SECTION 17 24 SUBSECTION C
17 PROVIDES THAT EVIDENCE OF MENTAL DISEASE OR DEFECT,
18 IT IS MANIFESTED ONLY BY REPEATED CRIMINAL OR OTHER
19 ANTISOCIAL CONDUCT IS NOT SUFFICIENT TO ESTABLISH THE
20 DEFENSE OF INSANITY.

21 LADIES AND GENTLEMEN OF THE JURY, YOU ARE FREE
22 TO CONSIDER ALL OF THE FACTS IN EVIDENCE IN YOUR
23 DETERMINATION OF WHETHER THE STATE HAS MET ITS BURDEN
24 OF PROVING BEYOND A REASONABLE DOUBT THE REQUISITE
25 MENTAL STATE ACQUIRED FOR THE DEFENDANT FOR THESE

1 OFFENSES. AND THEN I WILL GO INTO THE FORMS OF THE
2 VERDICT.

3 NOW, MY OTHER -- AFTER DOING SOME OTHER
4 RESEARCH, SOMETHING ELSE THAT CAME TO MY ATTENTION --
5 WELL, I THINK IT WAS PROBABLY ALWAYS IN THE BACK OF
6 MY MIND, WAS NAGGING AT ME, BUT I COULDN'T PUT MY
7 FINGER ON WHAT IT WAS THAT WAS CONCERNING ME.

8 BUT AFTER DOING SOME MORE RESEARCH LAST NIGHT I
9 ALSO REALIZED THAT THE COURT WOULD HAVE TO -- IN THE
10 FORMS OF THE VERDICT THAT IT PRESENTS TO THE JURY
11 THAT THE FORM OF THE VERDICT WOULD HAVE TO MIRROR 17
12 24 30 EXACTLY IN THAT THE COURT DOES NOT HAVE ANY
13 OPTION IN THAT REGARD, THAT THE STATUTE IS MANDATORY.

14 AND AFTER SOME ADDITIONAL RESEARCH, I ALSO
15 ADVISED THE LAWYERS IN CHAMBERS THAT THE COURT WOULD
16 BE MODIFYING THE VERDICT FORMS TO REFLECT 17 24 30,
17 AND THAT STATUTE PROVIDES, IN A PROSECUTION FOR A
18 CRIME, WHEN THE AFFIRMATIVE DEFENSE OF INSANITY IS
19 RAISED SUFFICIENTLY BY THE DEFENDANT OR WHEN
20 SUFFICIENT EVIDENCE OF MENTAL DISEASE OR DEFECT OF
21 THE DEFENDANT IS ADMITTED INTO EVIDENCE, THE TRIER OF
22 FACT SHALL FIND UNDER THE APPLICABLE LAW AND THE
23 VERDICT MUST SO STATE WHETHER THE DEFENDANT IS, ONE,
24 GUILTY, TWO, NOT GUILTY, THREE, NOT GUILTY BY REASON
25 OF INSANITY, OR FOUR, GUILTY BUT MENTALLY ILL.

1 AND ORIGINALLY THE DEFENSE HAD INDICATED TO ME
2 THAT THEY WERE NOT PURSUING A DEFENSE OF GUILTY BUT
3 MENTALLY ILL, AND SO OF COURSE THE COURT IS NOT GOING
4 TO -- THERE IS A SEPARATE CHARGE THAT DEALS WITH WHEN
5 A DEFENDANT IN FACT ADVANCES THAT THEORY.

6 AND THAT CHARGE WOULD SAY THE DEFENDANT HAS
7 ADVANCED THE THEORY OF GUILTY BUT MENTALLY ILL, AND I
8 AM NOT GOING TO CHARGE THAT BECAUSE I DO NOT BELIEVE
9 HE HAS ADVANCED THAT THEORY NOR THAT IT WOULD BE
10 APPROPRIATE FOR ME TO CHARGE THAT.

11 HOWEVER, AGAIN, AFTER ADDITIONAL RESEARCH -- AND
12 I AM BASING MY OBSERVATIONS ON STATE VERSUS RIMERT
13 WHICH IS FOUND AT 315 SOUTH CAROLINA 527, 446
14 SOUTHEAST SECOND 400, WHICH IS A 1994 SUPREME COURT
15 DECISION. RE-HEARING WAS DENIED IN 1994. AND ALSO I
16 BELIEVE CERT WAS DENIED BY THE US SUPREME COURT. IF
17 I'M INCORRECT, I STAND TO BE CORRECTED.

18 STATE VERSUS CAMPEN, C-A-M-P-E-N, 321 SOUTH
19 CAROLINA 505, 469 SOUTHEAST SECOND 619, WHICH IS A
20 1996 COURT OF APPEALS DECISION CITING RIMERT -- WHICH
21 FOR THE BENEFIT OF THE COURT REPORTER, IS SPELLED
22 R-I-M-E-R-T -- WHICH BOTH DEAL WITH THE
23 INTERPRETATION OF CODE SECTION 17 24 30.

24 AND JUST IN A NUTSHELL, AND DEFENSE COUNSEL HAD
25 INDICATED TO ME DURING THE COURSE OF THESE

1 PROCEEDINGS THAT THEY WISH TO WAIVE ANY REFLECTION ON
2 THE VERDICT FORM OF GUILTY BUT MENTALLY ILL OR ANY
3 REFERENCE TO THAT.

4 THE COURT'S RESEARCH REFLECTS THAT THAT CANNOT
5 BE WAIVED, THAT IS IT MANDATORY, AND THAT I HAVE NO
6 OPTION IN CHARGING IT. AND OF COURSE, WE KNOW IT
7 REALLY IS A BASIC TENANT OF LEGISLATIVE
8 INTERPRETATION, THE COURT MUST GIVE THE WORDS OF A
9 STATUTE ITS PLAIN AND ORDINARY MEANING, AND WHEN A
10 STATUTE USES WORDS SUCH AS, MUST OR SHALL, THAT THEY
11 ARE MANDATORY AND THE COURT HAS NO DISCRETION IN
12 OMITTING OR MODIFYING THOSE TERMS.

13 AND MIRRORING THE LANGUAGE STATED IN BOTH OF
14 THOSE CASES BASICALLY INDICATES THAT THE GBMI VERDICT
15 MUST BE SUBMITTED BECAUSE STATUTE MANDATES IT AND IT
16 CANNOT BE WAIVED BY THE DEFENDANT.

17 SO EVEN IF IT IS THE DEFENSE'S POSITION THAT
18 THEY ARE NOT SEEKING IT AND THEY WISH TO WAIVE IT,
19 STATE LAW HAS INDICATED THAT IT CANNOT BE WAIVED AND
20 IT MUST BE SUBMITTED TO THE JURY.

21 AND AGAIN, CITING CAMPEN, PROVISIONS OF 17 24 30
22 ARE MANDATORY AND MAY NOT BE WAIVED. THE COURT WAS
23 NOT FREE TO OMIT GUILTY BUT MENTALLY ILL FROM ITS
24 SUBMISSION OF VERDICT FORMS TO THE JURY. AND AS
25 SUCH, THE COURT'S FAILURE TO SUBMIT IT WOULD

1 CONSTITUTE REVERSIBLE ERROR.

2 AND I THINK BASED ON BOTH OF THOSE CASES, MORE
3 SO RELYING ON RIMERT WHICH CAMPEN CITES, IT IS VERY
4 CLEAR THAT OUR SUPREME COURT IN INTERPRETING 17 24 30
5 HAVE INTERPRETED THAT THE LEGISLATIVE INTENT MUST BE
6 AFFECTUATED AND THAT THE PLAIN AND ORDINARY MEANING
7 OF THE STATUTE IS MANDATORY AND THAT THE COURT HAS NO
8 DISCRETION IN THAT REGARD, THAT EACH OF THOSE FORMS
9 OF THE VERDICT HAVE TO BE SUBMITTED TO THE JURY.

10 HOWEVER, IN GIVING THAT CHARGE TO THE JURY I AM
11 NOT GOING TO GIVE -- AGAIN, AS I INDICATED -- MY FULL
12 CHARGE REGARDING GUILTY BUT MENTALLY ILL BECAUSE THE
13 DEFENDANT HAS NOT ADVANCED THAT AS A DEFENSE, AND I
14 AM NOT GOING TO MISLEAD THE JURY AND PRESENT TO THEM
15 THAT THAT IS A DEFENSE THAT HE IS SEEKING.

16 I AM SIMPLY GOING TO ADVISE THEM THAT IN
17 ACCORDANCE WITH 17 24 30 THAT THERE ARE FOUR POSSIBLE
18 VERDICTS THAT THEY CAN FIND IN THIS CASE.

19 AND TO THAT EXTENT, THE NEW INSANITY CHARGE THAT
20 I WILL -- HAVE GIVEN YOU REFLECTS THAT. I DID NOT,
21 HOWEVER, MAKE A COPY OF THE VERDICT, THE LAST TWO
22 PAGES, BECAUSE ALL WE DID WAS CHANGE IT FROM THREE
23 POSSIBLE FORMS TO FOUR POSSIBLE FORMS, SO I DIDN'T
24 FEEL THE NEED TO REPRINT THAT FOR YOU.

25 BUT WHAT IT WILL SIMPLY SAY, THE SAME AS WHAT --

1 AS IT READ BEFORE WITH THE EXCEPTION OF GBMI WILL BE
2 ADDED, WHICH IT WILL SAY, THERE ARE FOUR POSSIBLE
3 VERDICTS YOU MAY RETURN IN THIS CASE.

4 IF YOU HAVE ANY REASONABLE DOUBT AS TO THE
5 DEFENDANT'S GUILT AFTER CONSIDERING ALL OF THE
6 EVIDENCE, THEN YOU MUST FIND THE DEFENDANT NOT
7 GUILTY.

8 IF YOU HAVE NO REASONABLE DOUBT THAT THE
9 DEFENDANT COMMITTED THE CRIME BUT YOU FIND THAT IT IS
10 MORE LIKELY THAN NOT -- MORE LIKELY THAN NOT THAT
11 BECAUSE OF A MENTAL DISEASE OR DEFECT THE DEFENDANT
12 COULD NOT DISTINGUISH MORAL OR LEGAL RIGHT FROM WRONG
13 OR RECOGNIZE THE CRIME AS MORALLY OR LEGALLY WRONG,
14 YOU MUST FIND THE DEFENDANT NOT GUILTY BY REASON OF
15 INSANITY.

16 ANOTHER POSSIBLE VERDICT IS GUILTY BUT MENTALLY
17 ILL. IF YOU HAVE NO REASONABLE DOUBT THAT THE
18 DEFENDANT COMMITTED THE CRIME AND THAT THE DEFENDANT
19 HAD THE MENTAL CAPACITY TO DISTINGUISH MORAL OR LEGAL
20 RIGHT FROM WRONG OR RECOGNIZE THE CRIME AS MORALLY OR
21 LEGALLY WRONG BUT YOU FIND THAT IT IS MORE LIKELY
22 THAN NOT BECAUSE OF A MENTAL DISEASE OR DEFECT THAT
23 THE DEFENDANT COULD NOT FOLLOW THE LAW, YOU MUST FIND
24 THE DEFENDANT GUILTY BUT MENTALLY ILL.

25 THE FINAL POSSIBLE VERDICT IN THIS CASE IS

1 GUILTY. YOU MAY ONLY FIND THE DEFENDANT GUILTY IF
2 THE STATE HAS PROVEN BEYOND A REASONABLE DOUBT THAT
3 THE DEFENDANT COMMITTED THE CRIME, THAT THE DEFENDANT
4 WAS ABLE TO DISTINGUISH MORAL AND LEGAL RIGHT FROM
5 WRONG AND TO RECOGNIZE THE CRIME AS MORALLY AND
6 LEGALLY WRONG, AND THAT THE DEFENDANT WAS ABLE TO
7 FOLLOW THE LAW.

8 NOW, BOTH RIM -- DON'T KNOW HOW THAT'S
9 PRONOUNCED, WHETHER IT'S RIMERT OR RIMERT -- AND IN
10 CAMPEN, NEITHER ONE WERE DEATH PENALTY CASES, BUT I
11 DO NOT FIND THAT DISTINGUISHABLE AS TO APPLICABILITY.

12 I THINK, YOU KNOW, STATUTORY INTERPRETATION IS
13 STATUTORY INTERPRETATION WHETHER IT BE A DEATH
14 PENALTY CASE OR A MURDER CASE OR OTHERWISE, OR ANY
15 OTHER TYPE CASE WHERE 17 24 30 WOULD BE IMPLICATED
16 UNLESS THERE IS SOME SEPARATE STATUTORY PROVISION
17 THAT SAYS IT'S NOT APPLICABLE, IT IS CERTAINLY
18 APPLICABLE, AND UNLESS THERE'S SOME CASE LAW OR
19 STATUTE THAT SAYS, THE FACT THAT IT IS A DEATH
20 PENALTY MAKES IT DIFFERENT AND MAKES IT INAPPLICABLE,
21 I THINK, OF COURSE, WOULD DEFINE THE COURT OTHERWISE.

22 I THINK BLACK LETTER INTERPRETATION IS BLACK
23 LETTER INTERPRETATION AND THE COURT IS BOUND BY IT.

24 NOW, ARE THERE ANY EXCEPTIONS, ANY ADDITIONAL
25 EXCEPTIONS TO THE CHARGE AS PROPOSED IN ADDITION TO

1 THAT WHICH WAS STATED FOR THE RECORD ON LAST NIGHT?

2 MR. HEMBREE: NO EXCEPTIONS FROM THE STATE, YOUR
3 HONOR.

4 THE COURT: ANY EXCEPTIONS FROM THE DEFENSE?

5 MR. KELLY: YES, MA'AM.

6 THE COURT: YES, SIR.

7 MR. KELLY: THERE'S ONE THAT I WOULD INQUIRE.

8 THE COURT: CERTAINLY.

9 MR. KELLY: AND THEN MR. DIGGS MAY HAVE OTHERS.

10 THE COURT: OKAY.

11 MR. KELLY: IN YOUR CHARGE TO THE JURY HAVING TO
12 DO WITH GUILT...

13 THE COURT: I CAN'T HEAR YOU.

14 MR. KELLY: IN YOUR CHARGE TO THE JURY THAT YOU
15 JUST READ ABOUT GUILT, FINDING HIM GUILTY, I NOTICED
16 THAT IN THAT CHARGE YOU DIDN'T SAY THAT AT THE END OF
17 IT OR IN IT, AND THAT BEYOND ANY REASONABLE DOUBT.

18 THE COURT: IT SAYS THAT IN THE TEXT OF THE
19 ENTIRE CHARGE. IT REPEATS IT SEVERAL TIMES THAT THEY
20 HAVE TO PROVE IT BEYOND A REASONABLE DOUBT.

21 MR. KELLY: SO THAT THEY DO UNDERSTAND THAT, I
22 WOULD JUST SIMPLY ASK THAT YOU ADD THAT PHRASE AT
23 THAT PLACE SO THAT THERE IS NO DOUBT IN THEIR MIND
24 THAT IF THEY FIND GUILT, THEY MUST FIND THESE THINGS
25 AND BEYOND A REASONABLE DOUBT. THAT'S MY ONLY

1 EXCEPTION.

2 THE COURT: LET ME READ IT ONE QUICK TIME, MR.
3 KELLY, AND YOU STATE--

4 MR. KELLY: YES, MA'AM.

5 THE COURT: -- DOES THE STATE TAKE ANY POSITION?

6 MR. HEMBREE: YOUR HONOR, I'M NOT SURE WHAT
7 PLACE IN THE CHARGE MR. KELLY IS SPEAKING ABOUT.

8 THE COURT: I THINK HE'S TALKING ABOUT AT THE
9 VERY END WHERE I SAY, THE FINAL POSSIBLE VERDICT IN
10 THIS CASE IS GUILTY. YOU MAY ONLY FIND THE DEFENDANT
11 GUILTY IF THE STATE HAS PROVEN BEYOND A REASONABLE
12 DOUBT THE DEFENDANT COMMITTED THE CRIME, THAT THE
13 DEFENDANT WAS ABLE TO DISTINGUISH MORAL AND LEGAL
14 RIGHT FROM WRONG AND TO RECOGNIZE THAT THE CRIME WAS
15 MORALLY AND LEGALLY WRONG, THAT THE DEFENDANT WAS
16 ABLE TO FOLLOW THE LAW. I THINK I SAID IT THAT --
17 THEY HAVE TO PROVE IT BEYOND A REASONABLE DOUBT.

18 MR. KELLY: IT IS IN THE FRONT PART OF THAT--

19 THE COURT: OH, YEAH, ALL THE WAY THROUGH.
20 WELL, NO. IT SAYS -- YEAH, IT SAYS, THE FINAL
21 POSSIBLE VERDICT IN THIS CASE IS GUILTY. YOU MAY
22 ONLY FIND THE DEFENDANT GUILTY IF THE STATE HAS
23 PROVEN BEYOND A REASONABLE DOUBT THAT THE DEFENDANT
24 COMMITTED THE CRIME, THAT THE DEFENDANT WAS ABLE TO
25 DISTINGUISH MORAL AND LEGAL RIGHT FROM WRONG AND TO

1 RECOGNIZE THE CRIME AS MORALLY AND LEGALLY WRONG.

2 EARLIER IT SAYS THAT THEY HAVE TO PROVE INSANITY
3 BEYOND A REASONABLE DOUBT.

4 MR. KELLY: IN THAT CASE, MA'AM, I WILL
5 WITHDRAW.

6 THE COURT: OKAY. ACTUALLY I SAY IT THREE
7 TIMES. THEY HAVE TO -- THEY CAN CONSIDER EVERYTHING
8 IN DETERMINING WHETHER THE STATE'S MET THEIR BURDEN
9 BEYOND A REASONABLE DOUBT AND THEN THE STATE MUST
10 THEN PROVE BEYOND A REASONABLE DOUBT THAT THE
11 DEFENDANT WAS SANE. YES, SIR. MR. DIGGS.

12 MR. DIGGS: YOUR HONOR, WE APPRECIATE THE FACT
13 THAT THE COURT HAS GONE AS FAR AS THE COURT FEELS
14 LIKE IT CAN WITHOUT HAVING ITS HANDS TIED ON THIS
15 GUILTY BUT MENTALLY ILL VERDICT, BUT I JUST WANT TO
16 PUT ON THE RECORD THAT WE DO OBJECT TO HAVING THAT
17 WORD FORM SUBMITTED BECAUSE OF BASICALLY THREE
18 REASONS.

19 ONE, ON THE SIXTH AMENDMENT GROUND, THAT IT
20 INFRINGES ON THE RIGHT TO COUNSEL. IT CHILLS THE
21 COUNSEL'S ABILITY TO ADVISE THE CLIENT WHETHER OR NOT
22 TO SEEK AN INSANITY DEFENSE WHEN SUPPORTED BY THE
23 EVIDENCE IN A REASONABLE WAY.

24 SECONDLY, IT'S -- VIOLATES THE EIGHTH AMENDMENT
25 BECAUSE IT'S ARBITRARY. I MEAN, THERE'S NO REASON IN

1 OUR STATUTORY SCHEME FOR REQUIRING THAT. I MEAN,
2 IT'S JUST THERE.

3 AND IT'S ALMOST THERE AS A RESULT OF A
4 LEGISLATIVE OVERSIGHT BECAUSE OF THE STATE V WILSON
5 CASE FROM A NUMBER OF YEARS, PROBABLY ABOUT 15 YEARS
6 AGO, THAT SAYS THAT GUILTY BUT MENTALLY ILL CAN STILL
7 LEAD TO A -- CAN WARRANT A DEATH PENALTY.

8 THE COURT: I DON'T THINK IT'S A LEGISLATIVE
9 OVERSIGHT. I THINK OUR LEGISLATURE HAS BUILT INTO A
10 FAIL-SAFE -- THAT THEY HAVE DETERMINED AS A BODY AND
11 AS A STATE AND AS A MATTER OF PUBLIC POLICY THAT AS A
12 STATE WE STILL BELIEVE THAT EVEN IF YOU'RE MENTALLY
13 ILL, THE GUILT -- THAT YOU'RE ABLE TO DISTINGUISH
14 LEGALLY RIGHT FROM WRONG BUT YOU ARE UNABLE TO
15 CONTROL IN THE WORDS OF WHAT CJS WOULD SAY AN
16 IRRESISTIBLE IMPULSE, THAT YOU CAN STILL FACE THE
17 DEATH PENALTY.

18 MR. DIGGS: AND HERE IS AN ADDITIONAL EIGHTH AND
19 A 14TH AMENDMENT ARGUMENT. YOUR HONOR, IT'S
20 FUNDAMENTALLY UNFAIR BECAUSE IT GIVES THE STATE THE
21 ABILITY TO PROVIDE THE JURY WITH A COMPROMISED
22 VERDICT.

23 MAYBE THEY DON'T -- MAYBE THEY GET BACK IN
24 DELIBERATION AND SAY, WELL, WE DON'T BELIEVE HE'S
25 INSANE, CLEARLY THE BOY IS SICK, YOU KNOW, HE'S GOT

1 SOME MENTAL ILLNESS, SO WHY DON'T WE FIND HIM GUILTY
2 BUT MENTALLY ILL.

3 THEY THINK THAT THERE'S A COMPROMISE THERE AND
4 THEY DON'T FEEL HE'S REALLY INSANE, FULLY INSANE, BUT
5 GUILTY BUT MENTALLY ILL, AND SO UNDER STATE LAW IN
6 ITS CURRENT STATE, THE STATE HAS TWO OPTIONS ON THIS
7 VERDICT FORM THAT CAN RESULT IN A DEATH SENTENCE.

8 AND IT JUST -- IT CREATES A NATURAL FUNNEL TO
9 THE JURY DELIBERATION PROCESS -- MOVE THIS TOWARD A
10 DEATH SENTENCE, AND I WOULD SUBMIT THAT'S SIMPLY
11 ARBITRARY AND IT'S FUNDAMENTALLY UNFAIR BECAUSE THE
12 STATE SHOULD ONLY HAVE ONE VERDICT ON THAT FORM THAT
13 CAN RESULT IN THE DEATH SENTENCE, AND THAT SHOULD BE
14 GUILTY. AND SO THAT WOULD BE OUR -- OUR EXCEPTION.

15 THE COURT: OKAY. WOULD THE STATE LIKE TO
16 RESPOND?

17 MR. HEMBREE: VERY BRIEFLY, YOUR HONOR. FIRST,
18 AS TO THE SIXTH AMENDMENT ARGUMENT, THE -- FAIL TO
19 SEE HOW THIS WOULD IN ANY WAY CHILL DEFENSE COUNSELS'
20 ABILITY TO REPRESENT HIS CLIENT OR ADVISE HIS CLIENT.

21 IT'S BLACK LETTER LAW. THIS IS STATUTORY LAW.
22 IT'S WELL KNOWN WHAT THE STATE OF THE LAW IS TO
23 DEFENSE COUNSEL, SO IN MAKING THOSE STRATEGIC
24 DECISIONS, DEFENSE COUNSEL IS FULLY AWARE OF WHAT THE
25 STATE OF THE LAW IS, AND THEREFORE CAN MAKE A -- AN

1 INFORMED AND COMPREHENSIVE PRESENTATION OR PROVIDE
2 ADVICE TO DEFENSE COUNSEL OR TO THE DEFENDANT.

3 AND THE OTHER ASPECT OF IT, ON THE EIGHTH
4 AMENDMENT. YOUR HONOR, THERE IS A -- I WOULD SAY
5 THAT THIS IS NO OVERSIGHT. I THINK THAT THIS IS
6 QUITE INTENTIONAL BY THE GENERAL ASSEMBLY.

7 IT'S OBVIOUS THAT THEY PUT THIS IN FOR A REASON,
8 NOT TO MENTION THE FACT THAT LEGISLATION HAS A
9 PRESUMPTION OF INTENTION (SIC). SO YOUR HONOR, WE
10 WOULD -- WE WOULD DISAGREE WITH DEFENSE COUNSEL ON
11 BOTH OF THOSE -- BOTH OF THOSE ARGUMENTS.

12 *THE COURT:* THE COURT WOULD NOTE BOTH PARTIES
13 POSITIONS FOR THE RECORD AND WOULD FIND THAT
14 DEFENDANT'S -- THE DEFENDANT'S ARGUMENT IN THIS
15 MATTER WOULD BE WITHOUT MERIT. THE VERY SAME
16 ARGUMENTS WERE MADE IN RIMERT AND THE SUPREME COURT
17 CONSIDERED THEM AND SAID THAT THEY WERE NOT
18 CONSTITUTIONAL VIOLATIONS.

19 AND I THINK THERE IS MORE THAN AMPLE UNITED
20 STATES SUPREME COURT PRECEDENT THAT WOULD SUPPORT THE
21 LEGISLATURE HAS THE ABILITY TO DRAFT STATUTES AS THEY
22 THINK APPROPRIATE AND TO ADVANCE THEIR OWN
23 LEGISLATIVE INTENT FOR THEIR -- FOR EACH PARTICULAR
24 STATE, AND CLEARLY THAT'S SOUTH CAROLINA'S INTENT.

25 AND WE'RE NOT THE ONLY STATE THAT HAS THIS VERY

1 SAME STATUTE. AND I WOULD IMAGINE THAT I AGREE WITH
2 THE STATE TO SOME EXTENT THAT IT WAS NOT CRAFTED
3 ACCIDENTALLY, THEY CRAFTED THAT TO SAY EXACTLY WITH
4 THE UNITED STATES SUPREME COURT PRECEDENT IN MIND AND
5 CRAFTED IT WITHIN THE CONFINES OF THAT CASE LAW.

6 NOW, ARE WE READY FOR CLOSING ARGUMENT? Y'ALL
7 WANT TO LOOK AT THE NEW VERDICT FORMS? IT JUST
8 SIMPLY ADDS GBMI.

9 MR. HEMBREE: YOUR HONOR, I REVIEWED THE VERDICT
10 FORMS. THEY ARE...

11 THE COURT: HAVE YOU HAD AN OPPORTUNITY--

12 MR. HEMBREE: NO EXCEPTION FROM THE STATE.

13 THE COURT: IT SAYS EXACTLY WHAT 17 24 30 SAYS,
14 WHICH IS GUILTY, NOT GUILTY, NOT GUILTY BY REASON OF
15 INSANITY, AND GUILTY BUT MENTALLY ILL.

16 AND ACTUALLY I GUESS TO SOME EXTENT YOU COULD
17 ARGUE THAT IT GIVES BOTH OF Y'ALL TWO BITES AT THE
18 APPLE, GUILTY AND GUILTY BUT MENTALLY ILL AND NOT
19 GUILTY AND NOT GUILTY BY REASON OF INSANITY. SO I
20 GUESS EVERYBODY GETS TWO BITES AT THE APPLE.

21 MR. DIGGS: YOUR HONOR, MR. STANKO HAD--

22 THE COURT: OH, I NEEDED TO ASK MR. STANKO
23 ANOTHER QUESTION ACTUALLY BEFORE WE GET STARTED THIS
24 MORNING TO MAKE SURE THAT HE HAS NOT CHANGED HIS
25 MIND. OKAY.

1 MR. STANKO, IF YOU WOULD STAND. I WOULD REMIND
2 YOU THAT YOU'RE STILL UNDER OATH.

3 THE DEFENDANT: YES, MA'AM.

4 THE COURT: GIVE ME ONE SECOND. BEAR WITH ME.
5 I NEED TO SHIFT GEARS JUST ONE MOMENT.

6 (WHEREUPON THERE WAS A PAUSE.)

7 THE COURT: MR. STANKO, I QUESTIONED YOU ABOUT
8 THIS ON YESTERDAY, BUT OUT OF AN ABUNDANCE OF CAUTION
9 I'M GOING TO QUESTION YOU AGAIN, AND IT'S REGARDING
10 16328 WHICH GIVES YOU YOUR RIGHTS TO MAKE -- TO ARGUE
11 BEFORE THE JURY, AND I WANT TO MAKE -- YOU ANSWERED
12 ON YESTERDAY THAT YOU HAD FULLY DISCUSSED THAT MATTER
13 WITH YOUR ATTORNEYS AND THAT YOU DID NOT WANT TO
14 ADDRESS THE JURY IN ARGUMENT, AND I JUST WANTED TO
15 MAKE SURE THAT THAT WAS STILL YOUR POSTURE AND STILL
16 YOUR DECISION.

17 THE DEFENDANT: I DON'T KNOW. CAN I ASK YOU
18 SOME QUESTIONS?

19 THE COURT: SURE. TO THE BEST OF MY ABILITY I
20 WILL TRY TO ANSWER THEM. I CAN'T GIVE YOU ANY LEGAL
21 ADVICE AND I CAN'T ADVOCATE, SO AS NEUTRALLY AS
22 POSSIBLE I WILL TRY MY BEST TO ANSWER THOSE QUESTIONS
23 FOR YOU. YES, SIR.

24 THE DEFENDANT: REALLY -- AND REALLY THAT'S ALL
25 I'M ASKING, FOR YOU -- FOR YOU TO ANSWER SOME

1 QUESTIONS OF LAW.

2 THE COURT: CERTAINLY.

3 THE DEFENDANT: IN RAISING THE INSANITY
4 DEFENSE--

5 THE COURT: YES, SIR.

6 THE DEFENDANT: -- THE BURDEN PROOF WOULD BE ON
7 WHO?

8 THE COURT: THE BURDEN OF PROOF QUITE FRANKLY IS
9 VERY INTERESTING. IT SHIFTS.

10 THE DEFENDANT: YES, MA'AM.

11 THE COURT: OKAY. IN SOUTH CAROLINA IT IS
12 PRESUMED THAT YOU ARE SANE.

13 THE DEFENDANT: YES, MA'AM.

14 THE COURT: ONCE THE -- ONCE THE ISSUE OF -- OR
15 ANY ISSUE OF INSANITY IS RAISED, IT -- THE BURDEN IS
16 THEN ON YOU TO PROVE BY A PREPONDERANCE OF THE
17 EVIDENCE, WHICH MEANS MORE LIKELY THAN NOT, THAT YOU
18 WERE INSANE.

19 THE DEFENDANT: YES, MA'AM.

20 THE COURT: THE BURDEN THEN SHIFTS BACK TO THE
21 STATE TO PROVE BEYOND A REASONABLE DOUBT THAT YOU
22 WERE SANE AT THE TIME OF THIS OFFENSE.

23 THE DEFENDANT: THAT'S CORRECT. THANK YOU.

24 NOW -- I MEAN, NOW I UNDERSTAND.

25 THE COURT: OKAY.

1 THE DEFENDANT: OKAY. MY QUESTION NOW IS THAT
2 WITH -- WHAT YOU WERE SAYING WITH THE DIRECTION TO
3 THE JURY REGARDING VERDICTS.

4 THE COURT: UH-HUH.

5 THE DEFENDANT: BEFORE THIS MORNING.

6 THE COURT: UH-HUH.

7 THE DEFENDANT: THE VERDICTS THAT WERE READ
8 ALOUD PLACED THAT SAME BURDEN ON THE STATE.

9 THE COURT: THE BURDEN HASN'T CHANGED.

10 THE DEFENDANT: BUT IT HAS.

11 THE COURT: HUH-UH. IT HASN'T CHANGED. IT'S
12 THE SAME. THEY STILL HAVE THE BURDEN TO PROVE YOU'RE
13 SANE BEYOND A REASONABLE DOUBT BEFORE A JURY CAN FIND
14 YOU GUILTY.

15 THE DEFENDANT: BUT MAY I SAY WHAT I -- WHAT I
16 SEE?

17 THE COURT: SURE.

18 THE DEFENDANT: AND YOU TELL ME IT'S RIGHT OR
19 WRONG.

20 THE COURT: SURE.

21 THE DEFENDANT: BY GIVING THEM A GUILTY BUT
22 MENTALLY ILL WHAT HAS HAPPENED NOW IS THE BURDEN HAS
23 SHIFTED SO THAT A JURY COULD LOOK AT THE EVIDENCE IN
24 WHICH CASE WE NEVER MADE ANY ATTEMPT TO SAY THAT
25 GUILTY BUT MENTALLY ILL. THE WHOLE TIME WE HAVE KEPT

1 AN AFFIRMATIVE DEFENSE OF NOT GUILTY.

2 BUT NOW 12 JURORS HAVE THE ABILITY TO, AS MR.
3 DIGGS SAID, COMPROMISE THE SITUATION AND SAY, WELL,
4 WE--

5 THE COURT: WELL, ACTUALLY IT WOULDN'T BE A
6 COMPROMISE. IT IS WELL WITHIN THE FACTS OF THIS
7 CASE. THERE IS EVIDENCE THAT COULD SUPPORT A VERDICT
8 THAT YOU WERE LEGALLY SANE.

9 AS A MATTER OF FACT, ONE OF YOUR OWN EXPERTS
10 TESTIFIED THAT YOU WERE LEGALLY SANE, THAT YOU
11 UNDERSTOOD WHAT YOU WERE DOING WAS LEGALLY WRONG BUT
12 YOU DO NOT HAVE THE CAPACITY TO FORM MORALS.

13 AND SO OUR STATE LAW SAYS THAT WHENEVER -- IT
14 DOESN'T EVEN HAVE TO BE IN THE CONTEXT THAT I JUST
15 ANNUNCIATED TO YOU. WHAT IT WOULD HAVE TO BE IS
16 WHENEVER ANY ISSUE OF SANITY IS RAISED, PERIOD, BE IT
17 SANE OR INSANE, OKAY, THE STATE LAW PROVIDES THAT IT
18 IS MANDATORY THAT I PROVIDE THOSE TO THE JURY.

19 I DON'T HAVE AN OPTION AND THE SUPREME COURT HAS
20 SAID THAT IT'S MANDATORY AND YOU CAN'T WAIVE IT.

21 THE DEFENDANT: RIGHT.

22 THE COURT: IT DOESN'T GIVE YOU THE OPTION. IT
23 DOESN'T GIVE ME THE OPTION.

24 THE DEFENDANT: RIGHT.

25 THE COURT: DOES THAT MEAN THE SUPREME COURT --

1 BECAUSE THERE'S A MANDATORY REVIEW OF WHATEVER
2 HAPPENS IN THIS CASE. WELL, IF YOU'RE FOUND NOT
3 GUILTY, THERE'S NO MANDATORY REVIEW.

4 BUT IF YOU'RE FOUND GUILTY, THERE'S A MANDATORY
5 REVIEW, AND THE SOUTH CAROLINA SUPREME COURT WILL
6 REVIEW IT, THE FOURTH CIRCUIT COURT OF APPEALS WILL
7 REVIEW IT, AND THE UNITED STATES SUPREME COURT
8 POTENTIALLY MIGHT REVIEW IT. OKAY?

9 AND WHO KNOWS. I MEAN, THE LAW IS A STATIC
10 CREATURE. IT CHANGES. I DON'T DO -- I DO KNOW THAT
11 THEY MAY LOOK AT THE STATUTE AND SAY, YOU KNOW, THAT
12 THE LEGISLATIVE INTENT VIOLATES SOME CONSTITUTIONAL
13 RIGHT? I DON'T KNOW. I'M NOT CLAIRVOYANT.

14 I HAVE NO IDEA. I -- YOU KNOW, I'M NOT ON THE
15 SUPREME COURT. I JUST -- YOU KNOW, I'M LIKE A
16 SOLDIER THAT FOLLOWS THE LAW. I -- IT IS MY JOB--

17 *THE DEFENDANT:* I UNDERSTAND.

18 *THE COURT:* -- IT'S NOT MY JOB TO MAKE NEW LAW.
19 IT'S SIMPLY MY JOB TO INTERPRET THE LAW AS IT STANDS
20 AND TO -- TO DO MY BEST TO GIVE STATUTES THEIR PLAIN
21 AND ORDINARY MEANING.

22 AND THIS IS NOT A SITUATION WHERE THE STATUTE IS
23 AMBIGUOUS. IT IS MANDATORY. AND IT'S NOT A
24 SITUATION WHERE THE SUPREME COURT HAS NOT LOOKED AT
25 IT AND GIVEN ME DIRECTION. AND IT WOULD BE DIFFERENT

1 IF THE SUPREME COURT SAID, WELL, YOU KNOW, HE CAN
2 WAIVE IT. BUT THEY HAVEN'T ADDRESSED THAT.

3 AND THE DEFENDANTS IN THESE CASES VERY MUCH HAVE
4 MADE THE VERY SAME ARGUMENT THAT MR. DIGGS JUST MADE
5 TO ME WHICH IS, I DIDN'T RAISE THAT AND I DIDN'T WANT
6 THAT SUBMITTED TO THE JURY. AND THE SUPREME COURT
7 SAYS, IT'S NOT YOUR CHOICE, THAT THE STANDARD -- WHEN
8 A STATUTE SAYS SHALL--

9 THE DEFENDANT: YES, MA'AM.

10 THE COURT: -- THE COURT HAS NO OPTION. IT
11 MEANS THAT, YOU KNOW, THERE ARE THREE BRANCHES OF
12 GOVERNMENT.

13 THE DEFENDANT: YES, MA'AM.

14 THE COURT: I'M ONE BRANCH. THE LEGISLATURE IS
15 ANOTHER BRANCH. AND THEN, OF COURSE, THERE'S THE
16 EXECUTIVE BRANCH. AND WHEN THE LEGISLATURE TELLS ME
17 WHAT TO DO, IT IS ONLY MY JOB TO INTERPRET IT AND TO
18 ENFORCE IT. IT'S THEIR JOB TO MAKE THE LAW WHICH IS
19 WHAT THEY DO WHEN THEY PASS THE STATUTE. IT IS
20 SIMPLY--

21 THE DEFENDANT: AND YOU HAVE TO FOLLOW THAT.

22 THE COURT: I DO. I HAVE NO OPTION.

23 THE DEFENDANT: AND THEN MY NEXT QUESTION TO YOU
24 WOULD BE THIS. IF WE HAD KNOWN COMING INTO THIS
25 SITUATION THE GUILTY BUT MENTALLY ILL ARGUMENT -- I

1 HAVE BEEN IN THIS SYSTEM AS YOU WELL KNOW. THE ONLY
2 WAY YOU CAN GET ANY KIND OF MENTAL TREATMENT IN THE
3 SYSTEM IS IF YOU THREATEN TO COMMIT SUICIDE.

4 THE COURT: UH-HUH.

5 THE DEFENDANT: THAT'S THE ONLY WAY. NOW,
6 HAD -- KNOWING GOING INTO THIS, WOULD IT NOT HAVE
7 BEEN MY RIGHT AND MY ABILITY TO PRESENT EVIDENCE TO
8 THE JURY THAT THERE IS NO -- AND I UNDERSTAND, AND I
9 SPOKE WITH MR. KELLY ABOUT THIS PREVIOUSLY, AND HE
10 MADE THE POINT, WHICH IS A VERY GOOD POINT, THAT
11 ESSENTIALLY IF I WERE CONVICTED OF GUILTY BUT
12 MENTALLY ILL, I COULD MAKE THE ARGUMENT LATER THAT
13 THERE IS NO HELP, COUNSELING, OR ANYTHING LIKE THAT
14 IN THE SYSTEM FOR SOMEBODY WITH A GBMI VERDICT.

15 THE COURT: WELL, THE STATE LAW DOESN'T PROVIDE
16 FOR IT. IT DOESN'T ANTICIPATE IT--

17 THE DEFENDANT: EXACTLY.

18 THE COURT: -- IT ANTICIPATES THAT YOU WILL FACE
19 PUNISHMENT JUST AS IF SOMEONE WHO IS FOUND GUILTY.

20 THE DEFENDANT: WITH NO MENTAL ASSISTANCE.

21 THE COURT: THE STATUTE DOESN'T PROVIDE FOR IT.

22 THE DEFENDANT: EXACTLY. AND WOULDN'T THAT HAVE
23 BEEN MY RIGHT TO PRESENT TO THE JURY INFORMATION
24 CONCERNING THAT VERDICT BECAUSE IT WOULD HAVE WEIGHED
25 ON THEIR DECISION OF WHETHER OR NOT TO FIND ME GUILTY

1 OR NOT GUILTY?

2 THE COURT: I DON'T THINK THEY REALLY HAVE --
3 GET THE RIGHT TO CONSIDER THAT. THAT'S NOT ONE OF
4 THE ELEMENTS. THE ONLY THING--

5 THE DEFENDANT: BUT IS IT A FACT?

6 THE COURT: HUH-UH. THE ONLY THING THEY --
7 WELL, YOU KNOW, THESE ARE STRATEGIC DECISIONS AND I
8 CAN'T ADVISE YOU IN THAT REGARD. BUT IN TERMS OF
9 GUILTY BUT MENTALLY ILL, THE ONLY THING THE JURY --
10 WELL, THE STATE LAW PROVIDES FOR THEM TO CONSIDER IS
11 WHETHER YOU KNEW RIGHT FROM WRONG BUT YOU HAD THE
12 INABILITY TO CONTROL YOURSELF.

13 THE DEFENDANT: YES, MA'AM.

14 THE COURT: AND I THINK THERE HAS BEEN MORE THAN
15 SUFFICIENT EVIDENCE TO COVER EVERYTHING, ALL --
16 FACTUALLY I THINK THERE HAS BEEN MORE THAN ENOUGH
17 EVIDENCE FROM THE EXPERTS TO COVER EVERY SINGLE ONE
18 OF THOSE OPTIONS.

19 THE DEFENDANT: YES, MA'AM.

20 THE COURT: AND THEY HAVE GONE INTO EACH OF THEM
21 IN REALLY VERY DEEP, VERY -- A LOT OF DETAIL. AND
22 QUITE FRANKLY, IN HINDSIGHT IF I WERE TO OMIT THAT,
23 IT REALLY WOULD NEED A VACUUM FACTUALLY BECAUSE ALL
24 OF THAT HAS BEEN PRESENTED TO THE JURY FACTUALLY, BUT
25 THEN I WOULD NOT BE -- HAVE INSTRUCTED THEM ON IT.

1 THE DEFENDANT: I UNDERSTAND.

2 THE COURT: SO ACTUALLY IT WOULD BE LIKE A
3 GAPING HOLE WHERE -- WHERE THAT COMPONENT WOULD FIT
4 BECAUSE THERE HAS BEEN MORE THAN SUFFICIENT EVIDENCE
5 FROM YOUR EXPERTS, FROM THE STATE'S EXPERTS, ON THAT
6 ISSUE.

7 AND I THINK THAT IS PRECISELY WHY THE LAW IS
8 CRAFTED THE WAY IT IS, IT ANTICIPATES THAT.

9 THE DEFENDANT: I UNDERSTAND. I JUST WANTED TO
10 MAKE THAT ARGUMENT.

11 THE COURT: CERTAINLY. AND I -- AND I -- AND I
12 THINK IT IS A VERY INTERESTING ONE, BUT I AM BOUND BY
13 WHAT STATE LAW -- AND QUITE FRANKLY, MR. STANKO, I
14 WILL BE HONEST WITH YOU, I'M NOT IN THE MIND OF YOUR
15 LAWYERS.

16 I WILL TELL YOU THAT I KNOW THAT THEY HAVE
17 ARDUOUSLY ADVOCATED THIS CASE FOR YOU. I HAVE NO
18 CONCERNS ABOUT THAT. I KNOW THAT THEY HAVE BEEN
19 ZEALOUS ADVOCATES ON YOUR BEHALF, AND I AM NOT
20 CERTAIN, ALTHOUGH AGAIN I CANNOT SPEAK FOR THEM, BUT
21 I DOUBT VERY SERIOUSLY THAT THAT WOULD HAVE ALTERED
22 IN ANY WAY THE WAY THEY PRESENTED.

23 THE DEFENDANT: I DON'T THINK IT WOULD HAVE
24 EITHER, TO BE HONEST. AND--

25 THE COURT: YEAH. I DON'T -- BECAUSE IT'S JUST

1 THE WAY THE LAW IS WRITTEN. IT'S A FAIL --

2 THE DEFENDANT: RIGHT.

3 THE COURT: -- SAFE THAT ALLOWS THE STATE TO --
4 NOT THE STATE NECESSARILY, BUT IT REALLY IS A PUBLIC
5 INTEREST, PUBLIC POLICY KIND OF FAIL-SAFE THAT THE
6 LEGISLATURE BUILT INTO THE STATUTORY FRAMEWORK FOR
7 THE STATE.

8 THE DEFENDANT: OKAY. WITH REGARD TO YOUR
9 QUESTION WHETHER I...

10 THE COURT: YES, SIR. LET'S GET BACK -- I'M
11 SORRY. I SORT OF GOT A LITTLE LEFT FIELD. HAVE YOU
12 DURING THE EVENING RECESS DISCUSSED IN ANY MORE
13 DETAIL YOUR ABILITY TO ADDRESS THE COURT IN CLOSING
14 ARGUMENT?

15 THE DEFENDANT: YES, MA'AM, I HAVE.

16 THE COURT: AND DO YOU -- AND EARLIER YOU TOLD
17 ME YOU DID NOT WISH TO, AND I JUST NEED TO MAKE SURE
18 THAT THAT IS STILL YOUR DESIRE.

19 THE DEFENDANT: THAT IS STILL MY DESIRE. I
20 SPOKE WITH THEM THIS MORNING AND THEY INTEND TO RAISE
21 EVERYTHING I WANT.

22 THE COURT: AND DO YOU -- ARE YOU MAKING THAT
23 DECISION FREELY AND VOLUNTARILY AND OF YOUR OWN WILL?

24 THE DEFENDANT: YES, MA'AM, I AM.

25 THE COURT: DO YOU FEEL THAT ANYONE HAS COERCED

1 YOU OR HAVE YOU FACED ANY DURESS IN MAKING THAT
2 DECISION?

3 THE DEFENDANT: NONE OTHER THAN THOSE STATED.

4 THE COURT: OKAY. WELL, OTHER THAN THOSE
5 STATED.

6 THE DEFENDANT: I MEAN, THERE'S NOTHING YOU
7 COULD DO ABOUT THE CHARGE.

8 THE COURT: OKAY. AND AGAIN, YOU ARE FREELY AND
9 VOLUNTARILY MAKING THIS DECISION?

10 THE DEFENDANT: YES, MA'AM.

11 THE COURT: AND YOU ARE NOT UNDER THE INFLUENCE
12 OF ANY DRUGS, ALCOHOL, OR OTHER ANY-- ANY OTHER
13 INTOXICANT THAT WOULD IMPAIR YOUR ABILITY TO
14 UNDERSTAND WHERE YOU ARE RIGHT NOW OR WHAT YOU'RE
15 DOING?

16 THE DEFENDANT: NO, MA'AM.

17 THE COURT: AND SIR, WITHOUT COMPROMISING, OF
18 COURSE, ANY STRATEGY THAT YOU WOULD HAVE DISCUSSED
19 WITH YOUR ATTORNEYS OR OTHERWISE, ARE YOU STILL
20 SATISFIED WITH YOUR ATTORNEYS' SERVICES?

21 THE DEFENDANT: YES, MA'AM, AS FAR--

22 THE COURT: HAVE THEY DONE EVERYTHING YOU'VE
23 ASKED OR EXPECTED IN REPRESENTING YOU UP TO THIS
24 POINT?

25 THE DEFENDANT: TO THE EXTENT OF MY KNOWLEDGE,

1 YES, MA'AM.

2 THE COURT: IS THERE ANYTHING MORE YOU WOULD
3 HAVE THEM DO AT THIS POINT THAT THEY HAVE NOT ALREADY
4 DONE FOR YOU?

5 THE DEFENDANT: NO, MA'AM.

6 THE COURT: AND DO YOU HAVE ANY COMPLAINTS ABOUT
7 THEIR SERVICES?

8 THE DEFENDANT: AGAIN, THE EXTENT OF MY
9 KNOWLEDGE, NO, MA'AM.

10 THE COURT: AND DO YOU HAVE -- HAVE THEY FULLY
11 AND COMPLETELY DISCUSSED WITH YOU ALL OF THE
12 STRATEGIC ISSUES? AND AGAIN, DON'T COMPROMISE, DON'T
13 TELL ME ANYTHING THAT WOULD BE CONSIDERED PRIVILEGED.

14 HAVE THEY FULLY DISCUSSED THIS CASE WITH YOU IN
15 ITS ENTIRETY AND ALL OF THE STRATEGIC DECISIONS THAT
16 HAVE BEEN MADE UP TO THIS POINT?

17 THE DEFENDANT: TO THE BEST OF MY ABILITY, YES,
18 MA'AM.

19 THE COURT: OKAY. YOU MAY BE SEATED.

20 MR. DIGGS: YOUR HONOR, I DON'T KNOW IF WE PUT
21 THIS ON THE RECORD LAST NIGHT BECAUSE WE HAD A LOT OF
22 THINGS GOING ON.

23 THE COURT: OKAY.

24 MR. DIGGS: BUT NOW THAT ALL OF THE EVIDENCE HAS
25 CONCLUDED, WE'D RENEW THE DIRECTED VERDICT MOTIONS ON

1 THE SAME GROUNDS THAT WE ALREADY STATED IN THE
2 RECORD, AND WE JUST DO THAT AS -- I THINK IT'S A
3 PROCEDURAL MATTER.

4 THE COURT: I THINK YOU CERTAINLY DO. AND TO BE
5 HONEST WITH YOU, MR. DIGGS, IT WAS SO LATE LAST NIGHT
6 I DON'T REMEMBER IF WE DID OR NOT. AND SO IT'S
7 ALWAYS BETTER -- I TEND TO REPEAT MYSELF SOMETIMES,
8 BECAUSE, AS YOU KNOW, IT'S BETTER TO KNOW YOU DID
9 THAN THINK YOU DID--

10 MR. DIGGS: YES, MA'AM.

11 THE COURT: -- AND YOU DIDN'T. SO I WOULD
12 IMAGINE THE STATE WOULD STAND ON ITS ORIGINAL
13 GROUNDS?

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

15 THE COURT: THE COURT WILL RELY ON ITS PREVIOUS
16 RULINGS AND DENY THE MOTION.

17 MR. DIGGS: THANK YOU.

18 THE COURT: AND AT LEAST WE KNOW THE RECORD IS
19 PRESERVED.

20 MR. DIGGS: THANK YOU, YOUR HONOR.

21 THE COURT: YOU'RE WELCOME.

22 MR. DIGGS: CAN I TAKE A SECOND BEFORE THE JURY
23 COMES IN?

24 THE COURT: GO RIGHT AHEAD. DO WHAT YOU NEED TO
25 DO BECAUSE ONCE WE GET STARTED...

1 (WHEREUPON THERE WAS A PAUSE.)

2 THE COURT: IS THE STATE READY TO PROCEED?

3 MR. HUMPHRIES: THE STATE'S READY TO PROCEED,
4 YOUR HONOR.

5 THE COURT: IS THE DEFENSE READY TO PROCEED?

6 MR. DIGGS: YES, YOUR HONOR.

7 THE COURT: OKAY. AS WE DISCUSSED AT SIDE BAR
8 LAST NIGHT, OF COURSE, THE DEFENDANT HAS THE LAST
9 ARGUMENT AND ALSO HAS AN OPTION TO OPEN AND CLOSE.
10 AND AS I UNDERSTOOD IT, YOU ALL WERE WAIVING THE
11 RIGHT TO OPEN. IS THAT CORRECT?

12 MR. DIGGS: YES, YOUR HONOR.

13 THE COURT: OR THE OPTION OF IT. AND I WOULD
14 IMAGINE THE STATE HAS NO EXCEPTION.

15 MR. HUMPHRIES: NONE, YOUR HONOR.

16 THE COURT: PLEASE BRING IN THE JURY.

17 (JURY ENTERED THE COURTROOM AT 11:59 AM.)

18 THE COURT: LADIES AND GENTLEMEN, ON BEHALF OF
19 THE COURT AND THE ATTORNEYS, THE PARTIES IN THIS
20 CASE, WE THANK YOU FOR YOUR TIME AND YOUR ATTENTION
21 THIS MORNING.

22 I DON'T KNOW ABOUT Y'ALL, BUT I AM NOT REAL FOND
23 OF CONFINED SPACES. I GET A LITTLE CLOSED IN. SO I
24 SAY THAT TO TELL YOU THAT I HAVE A GREAT DEAL OF
25 EMPATHY FOR THAT SMALL SPACE THAT YOU ALL HAVE TO BE

1 CONFINED IN.

2 THERE ARE MANY MATTERS OF LAW -- WE HAVE BEEN
3 WORKING -- ACTUALLY I THINK MY CLERK AND I ARRIVED AT
4 8:45 AND WE HAVE BEEN WORKING DILIGENTLY SINCE THAT
5 TIME THIS MORNING.

6 THERE WERE SOME MATTERS OF LAW THAT THE
7 ATTORNEYS AND I HAD TO WORK THROUGH SO THAT WE COULD
8 ENSURE NO INTERRUPTION DURING THE PROCESS OF CLOSING
9 ARGUMENTS AND THE COURT'S CHARGE.

10 I OFTEN TELL JURORS I KNOW THAT YOU ALL PROBABLY
11 THINK, COULDN'T THEY HAVE DONE THIS AND WORKED THIS
12 OUT BEFORE WE GOT HERE? BUT ABSOLUTELY WE COULD NOT
13 HAVE.

14 THERE ARE CERTAIN THINGS -- THE LAW IS KIND OF A
15 LIQUID SORT OF PROCESS. I THINK THAT'S THE BEST WAY
16 I CAN DESCRIBE IT, IT'S ALWAYS MOVING, IT'S NEVER
17 STATIC, AND THAT IS PROBABLY WHY MOST LAWYERS CALL IT
18 A PRACTICE BECAUSE YOU NEVER GET IT PERFECT.

19 IT'S SOMETHING THAT YOU ARE CONTINUALLY WORKING
20 AT UNTIL YOU -- AND WE ALWAYS TRY TO PERFECT. IT'S
21 ALMOST LIKE A GOLFER WHO IS ALWAYS TRYING TO GET A
22 BETTER SCORE, AND HE KEEPS GOING OUT ON THE COURSE
23 TRYING TO GET A BETTER SCORE.

24 SOME DAYS WE GET A BETTER SCORE, SOMETIMES THEY
25 DON'T, SOME DAYS IT'S ELUSIVE TO THEM. BUT I WANTED

1 YOU TO KNOW THAT WE DO NOT TAKE YOUR TIME FOR
2 GRANTED.

3 WE DO NOT WANT YOU TO THINK THAT WE DO NOT VALUE
4 IT, AND THAT WE HAVE BEEN WORKING DILIGENTLY SINCE WE
5 ALL ARRIVED THIS MORNING AND WE DID NOT ANTICIPATE A
6 DELAY.

7 HAD WE, WE WOULD HAVE SCHEDULED COURT TO START A
8 LITTLE BIT EARLIER -- LATER RATHER. AND I WANT YOU
9 TO KNOW THAT IT'S NO ONE'S FAULT. IT'S JUST PART OF
10 THE PROCESS THAT COULD NOT BE AVOIDED. SO PLEASE
11 DON'T HOLD IT AGAINST US. WE WANT YOU TO KNOW THAT
12 WE DO VALUE YOUR TIME.

13 AS I INDICATED TO YOU ON LAST NIGHT, THAT WE
14 HAVE REACHED THE STAGE OF THE TRIAL WHERE YOU WILL
15 HEAR CLOSING ARGUMENTS AND THE COURT'S CHARGE ON THE
16 LAW.

17 YOU WILL HEAR FROM THE STATE'S COUNSEL. YOU
18 WILL THEN HEAR FROM THE DEFENSE COUNSEL. IN CASES OF
19 THESE TYPES, STATE LAW PROVIDES THAT THE DEFENDANT
20 HAS THE LAST ARGUMENT. I WOULD ASK THAT YOU GIVE THE
21 ATTORNEYS YOUR UNDIVIDED ATTENTION.

22 I ANTICIPATE THAT DURING THE COURSE OF CLOSING
23 ARGUMENT I WILL PROBABLY HAVE TO GIVE YOU ALL SOME
24 BREAKS AND I PROBABLY WILL GIVE YOU AN ADDITIONAL
25 BREAK PRIOR TO THE COURT'S CHARGE BECAUSE I

1 ANTICIPATE THAT MY CHARGE WILL TAKE IN EXCESS OF 30
2 MINUTES.

3 SO I WANT TO MAKE SURE THAT YOU ALL ARE
4 REFRESHED AND THAT YOU'RE MENTALLY ATTUNE AS YOU
5 LISTEN TO THE COURT'S CHARGE ON THE LAW.

6 IF WE REACH THE LUNCHEON HOUR, WHICH I
7 ANTICIPATE WE WILL, LUNCH, AS EVERY DAY, HAS BEEN
8 BROUGHT IN BY THE CLERK'S OFFICE. WE WOULD SIMPLY
9 STOP SO THAT YOU ALL WOULD BE ABLE TO EAT YOUR LUNCH
10 AND REFRESH YOURSELVES, AND THEN WE WILL RESUME THE
11 PROCESS.

12 AGAIN, WE THANK YOU FOR YOUR PATIENCE IN
13 ADVANCE. THE STATE MAY PROCEED WHEN IT'S READY.

14 MR. HUMPHRIES: MAY IT PLEASE THE COURT.

15 THE COURT: YES, SIR. THE COURT IS PLEASED.

16 BAILIFF: YOUR HONOR, MAY I PASS THESE OUT?

17 THE COURT: YES.

18 BAILIFF: I'M SORRY.

19 THE COURT: WAIT ONE SECOND, MR. HUMPHRIES.

20 BAILIFF: THANK YOU, MA'AM.

21 THE COURT: I DIDN'T REALIZE THEY HADN'T BEEN
22 GIVEN TO THEM.

23 CLOSING STATEMENT

24 MR. HUMPHRIES: MADAM FORELADY, LADIES AND
25 GENTLEMEN OF THE JURY, THERE HAS BEEN A QUESTION

1 SINCE THE VERY BEGINNING OF THIS CASE THAT HAS
2 ABSOLUTELY TORMENTED ME.

3 THAT QUESTION IS, WHEN DID IT BEGIN. DID IT
4 BEGIN ON [REDACTED] LING'S BIRTHDAY WHEN THE DEFENDANT
5 FIRST MET HER? DID IT BEGIN AFTER HE MOVED INTO THE
6 HOME OF LAURA AND [REDACTED] LING?

7 DID IT BEGIN WHEN NIGHT AFTER NIGHT HE WATCHED
8 THAT YOUNG GIRL GO TO HER BEDROOM WHILE HE WENT
9 ACROSS THE HALL TO HIS? AT WHAT POINT IN TIME DID
10 HIS MIND AND HIS THOUGHTS TURN TO A PERVERSE AND EVIL
11 LUST FOR [REDACTED] LING? WHEN DID IT BEGIN?

12 THE DEFENDANT IS CHARGED IN A SIX COUNT
13 INDICTMENT, CONTAINS THESE CHARGES, MURDER. MURDER
14 IS THE UNLAWFUL KILLING OF ONE HUMAN BEING BY ANOTHER
15 WITH MALICE AFORETHOUGHT.

16 MALICE IMPLIES WICKEDNESS, AN INTENTIONAL DOING
17 OF A WRONGFUL ACT, A HEART FATALLY BENT ON MISCHIEF.
18 MALICE CAN BE INFERRED BY THE USE OF A DEADLY WEAPON.
19 THE COURT WILL CHARGE YOU THAT THE HAND OR A FIST CAN
20 BE A DEADLY WEAPON WHEN USED IN THAT FASHION.

21 MALICE AFORETHOUGHT. IT MEANS THAT THE MALICE
22 MUST EXIST IN THE MIND OF THE ACCUSED AT THE TIME THE
23 FATAL BLOW WAS STRUCK. IS THERE ANY QUESTION? IS
24 THERE ANY QUESTION REGARDING THE MURDER OF LAURA
25 LING? NO, MA'AM. NO, SIR.

1 ASSAULT AND BATTERY WITH INTENT TO KILL ON
2 ██████████ LING. AN ASSAULT, THAT'S A PRESENT ABILITY
3 TO COMMIT A BATTERY. THE BATTERY, A VIOLENT TOUCHING
4 WITH INTENT TO KILL. MALICE.

5 AGAIN, MALICE CAN BE INFERRED FROM THE USE OF A
6 DEADLY WEAPON. A HAND OR A FIST CAN BE A DEADLY
7 WEAPON. A KNIFE CAN BE A DEADLY WEAPON.

8 REALLY, IS THERE ANY DOUBT ABOUT THE DEFENDANT'S
9 GUILT FOR ASSAULT AND BATTERY WITH INTENT TO KILL OF
10 ██████████ LING?

11 CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE
12 REQUIRES A SEXUAL BATTERY, IN THIS CASE INTERCOURSE,
13 ACCOMPANIED BY CIRCUMSTANCES OF AGGRAVATION. IN THIS
14 CASE WE ALLEGE TWO. THAT THE SEXUAL BATTERY WAS
15 ACCOMPLISHED BY AGGRAVATED FORCE OR THAT THE VICTIM
16 SUCCUMBED TO THE SEXUAL BATTERY WHILE ALSO THE VICTIM
17 OF FORCIBLE CONFINEMENT, KIDNAPPING.

18 OF COURSE, YOU HAVE HEARD FROM SPECIAL AGENT
19 TAYLOR FROM SLED. THERE'S NO QUESTION THE BATTERY
20 OCCURRED. IS THERE A QUESTION THAT AGGRAVATED FORCE
21 WAS USED? IS THERE A QUESTION AS TO WHETHER OR NOT
22 ██████████ LING SUCCUMBED TO THAT SEXUAL BATTERY WHILE
23 FORCEFULLY CONFINED OR KIDNAPPING? I WILL SPARE YOU
24 THE BLOODY NECKTIE CUT FROM HER WRIST. THERE IS NO
25 QUESTION, NONE.

1 KIDNAPPING BOTH AS TO LAURA LING AND [REDACTED]
2 LING. KIDNAPPING IS THE UNLAWFUL SEIZING, CONFINING,
3 KIDNAPPING OF ANOTHER PERSON BY ANY MEANS WITHOUT
4 AUTHORITY OF LAW. AS TO BOTH, IS THERE ANY DOUBT AS
5 TO THE DEFENDANT'S GUILT?

6 ARMED ROBBERY. THAT THE DEFENDANT WHILE ARMED
7 WITH A DEADLY WEAPON, KNIFE OR HAND OR FIST, TOOK
8 AWAY FROM THE PERSON OR PRESENCE OF LAURA LING GOODS
9 OR MONIES OF THAT VICTIM WITH THE INTENT TO
10 PERMANENTLY DEPRIVE HER OF THE USE.

11 YOU CAN'T DEPRIVE SOMEONE ANY MORE PERMANENTLY
12 OF THEIR POSSESSIONS THAN IN THE INSTANCE WHERE YOU
13 KILL THEM. AND IT MATTERS NOT WHETHER SHE WAS
14 BREATHING OR GONE WHEN HE WALKED OUT THAT DOOR AND
15 CRANKED THAT CAR UP.

16 THESE ARE NOT IN ISSUE. THE DEFENDANT -- THE
17 DEFENDANT SAYS TO YOU, OH YEAH, THERE'S AN ISSUE, NOT
18 ABOUT THESE THINGS, NO, NOT ABOUT THESE THINGS, THE
19 ISSUE IS MY SANITY. AND SO HE SUGGESTS TO YOU
20 THROUGH HIS WITNESSES THAT HE IS INSANE AT THE TIME
21 OF THE OFFENSE.

22 WHAT THE LAW REQUIRES, AND THE JUDGE WILL
23 CERTAINLY EXPLAIN THIS TO YOU, IS THAT IF THE
24 DEFENDANT SEEKS TO ASSERT THE AFFIRMATIVE DEFENSE OF
25 INSANITY, THE VERY FIRST THING HE MUST DO IS TO

1 ESTABLISH TO YOU MORE LIKELY THAN NOT BY A
2 PREPONDERANCE OF THE EVIDENCE THAT HE WAS INSANE AT
3 THE TIME, THE COMMISSION OF THESE OFFENSES.

4 NOW, IT'S NOT A HIGH BURDEN, MORE LIKELY THAN
5 NOT, BUT IT'S A BURDEN. AND I SUBMIT TO YOU THAT IN
6 THIS CASE HE'S NOT EVEN DONE THAT.

7 BUT IF IN FACT THAT IS ACCOMPLISHED, AND THAT'S
8 SOMETHING YOU HAVE TO DECIDE BEFORE WE EVEN CONSIDER
9 INSANITY. BUT IF YOU GIVE HIM THE BENEFIT OF THE
10 DOUBT, THEN IT'S ON THE STATE TO PROVE BEYOND A
11 REASONABLE DOUBT -- THE COURT WILL CHARGE YOU WHAT A
12 REASONABLE DOUBT IS, BUT BASICALLY IT'S SOMETHING
13 THAT LEAVES YOU FIRMLY CONVINCED.

14 THE STATE HAS TO PROVE THE DEFENDANT'S SANITY
15 BEYOND A REASONABLE DOUBT.

16 NOW, AS TO THE ISSUE OF SANITY AND INSANITY, THE
17 DEFENSE WENT FIRST. AND IN ORDER TO ESTABLISH THEIR
18 CASE FOR INSANITY THEY PRESENTED A NUMBER OF
19 WITNESSES, EXPERTS.

20 LET'S TALK JUST A BIT ABOUT THEM. DR. ALBINIAK,
21 LOCAL PROFESSOR HERE AT COASTAL. REALLY, AT THE END
22 OF THE DAY, WHEN DR. ALBINIAK FINISHED, WHAT HE SAID
23 OVER AND OVER AND OVER AGAIN IS THAT THE DEFENDANT
24 SUFFERED FROM A DIMINISHED CAPACITY OVER AND OVER AND
25 OVER. THAT AIN'T INSANE.

1 THEN WE HAD DR. EINHORN, RIGHT OUTSIDE OF
2 ATLANTA. NOW, DR. EINHORN IS AN INTERESTING FELLOW.
3 HE COMES IN AND HE TELLS YOU THIS IS WHAT HE DOES FOR
4 A LIVING. HE'S A NEUROPSYCHOLOGIST. HE TESTS PEOPLE
5 FOR A LIVING.

6 AND HE CAME IN AND TOLD YOU, I GAVE HIM HIS
7 EXTENSIVE BATTERY OF TESTS. HE WAS NORMAL, WITHIN
8 NORMAL LIMITS, EVERY ONE OF THEM, EVERY ONE OF THEM.
9 BUT THEN WHEN ASKED, WELL NOW, DOES THAT IMPACT ON
10 FRONTAL LOBE FUNCTIONING? OH, NO, NO, NO, NO.

11 YOU SEE THAT -- IT'S ALL IN THE HIGHER PART, THE
12 SURFACE OF THE BRAIN. WE DON'T GET INTO THE DEEP
13 STRUCTURES. BECAUSE IF HE HAD SAID THAT, THEN
14 EVERYTHING ELSE THAT CAME BEHIND IT WOULD HAVE BEEN
15 PROBLEMATIC FOR THE DEFENSE.

16 NOW, DR. THRASHER -- DR. THRASHER IS A LOCAL
17 PSYCHIATRIST. HE EXAMINED THE DEFENDANT AFTER ALL
18 THESE OTHER FOLKS. HE HAD THE -- HE HAD THE BENEFIT,
19 IF YOU WILL, OF THE PET SCAN FROM WU. HE HAD BENEFIT
20 OF THE STATISTICAL ANALYSIS FROM DR. GUR. HE HAD THE
21 BENEFIT OF DR. SACHY'S OPINION.

22 WHAT DID HE REALLY SAY? WHAT WAS THE LAST THING
23 DR. THRASHER SAID ON THE STAND? WE'RE GOING TO COME
24 BACK TO THIS AGAIN AND AGAIN, LOOK AT WHAT HE DID,
25 HE'S INSANE. LOOK AT WHAT HE DID, HE'S INSANE.

1 NOW, THE NEXT THREE ARE SPECIAL -- GOT DR. WU
2 FROM CALIFORNIA, PET SCAN, DR. GUR WHO WASN'T HERE
3 BUT EVERYBODY TALKED ABOUT HIM, NOR -- HE'S THE
4 STATISTICAL ANALYST FOR THE MRI, AND DR. SACHY FROM
5 GEORGIA.

6 THAT'S A SPECIAL GROUP. SOME ALLIANCE, WORKING
7 TOGETHER. AND I SUBMIT TO YOU IT'S NEVER BEEN MORE
8 CLEAR THAN IT WAS IN THIS CASE HOW REALLY TIGHT THAT
9 ALLIANCE IS.

10 LET'S -- LET'S TALK A LITTLE BIT ABOUT WHAT THEY
11 SAID THE DEFENDANT WAS, OKAY? THEY SAID THE
12 DEFENDANT IS A PSYCHOPATH. AND WHAT DID THEY SAY
13 ABOUT PSYCHOPATHS? THEY SAID 25 PERCENT OF THE
14 PRISON POPULATION IN SOUTH CAROLINA ARE PSYCHOPATHS.
15 THOSE PSYCHOPATHS, THEY'RE IN JAIL, OKAY? IN JAIL.

16 THEY SAID -- THEY SAID THIS. THAT A BABY --
17 Y'ALL REMEMBER THIS? THAT A BABY SPITTING UP AT
18 BIRTH, BECAUSE OF THAT CONDITION, I COULD BECOME A
19 PSYCHOPATH.

20 NOW, THERE IS ONE THING FOR WHICH I AM VERY
21 GRATEFUL AND THAT IS THAT EACH AND EVERY ONE OF YOU
22 WALKED INTO THIS COURTROOM WITH YOUR COMMON SENSE
23 INTACT. THEY SAID THAT A GOOD SALESMAN MIGHT BE A
24 PSYCHOPATH, TOO. I'M NOT MAKING THIS UP.

25 THEY SAY THE DEFENDANT IS INSANE BECAUSE --

1 BECAUSE SOMEBODY WHO WOULD TIE SOMEONE UP AND ASSAULT
2 THEM IS INSANE. DR. SACHY TESTIFIED THAT BASED ON
3 THOSE FACTS THAT THE SCIENTIFIC EVIDENCE WAS POINTING
4 THAT WAY. WROTE THAT DOWN.

5 ANOTHER THING DR. SACHY SAID WAS EVERYBODY,
6 EVERYBODY WHO DOES THESE KINDS OF HORRIBLE THINGS ARE
7 INSANE. FOLKS, WE'RE GOING TO HAVE A LOT OF EMPTY
8 BEDS AT THE DEPARTMENT OF CORRECTIONS IF THAT'S THE
9 TRUTH.

10 THE DEFENDANT THROUGH HIS EXPERTS SUBMIT THEIR
11 OWN STANDARD FOR INSANITY. IF THE BEHAVIOR IS
12 INAPPROPRIATE -- THESE ARE THEIR TERMS -- IF THE
13 BEHAVIOR IS INAPPROPRIATE, HE'S INSANE. IF THE
14 CONDUCT IS BAD ENOUGH, THEN YOU'RE INSANE.

15 HOW CONVENIENT A STANDARD THAT IS WHEN YOU
16 REALLY THINK ABOUT IT. HOW CONVENIENT A STANDARD
17 THAT IS THAT IF YOUR CONDUCT GETS REALLY BAD, THEN
18 YOU'RE INSANE.

19 AND WHAT ARE THEY SAYING BY THAT WHEN THEY SAY,
20 I'M INSANE? WHAT THEY'RE SAYING IS, I'M NOT
21 ACCOUNTABLE. I'M NOT ACCOUNTABLE. YOU CAN'T HOLD IT
22 AGAINST ME. WHEN I AM REALLY, REALLY BAD, WHEN I AM
23 EVIL, CAN'T HOLD THAT AGAINST ME.

24 NOW, WE'RE FORTUNATE. WE'RE FORTUNATE IN THIS
25 COMMUNITY AND IN THIS STATE WE DON'T HAVE SUCH A

1 STANDARD OF INSANITY. THE LAW, THE COURT, HAS A
2 STANDARD OF INSANITY AND IT VARIES SUBSTANTIALLY FROM
3 THE DEFENDANT'S STANDARD OF INSANITY.

4 AT THE TIME, THE COMMISSION OF THE OFFENSE, THE
5 QUESTION IS, ONE, DID THE DEFENDANT HAVE A MENTAL
6 DISEASE OR DEFECT; TWO, WHICH PREVENTED HIM FROM
7 BEING ABLE TO DISTINGUISH BETWEEN MORAL AND LEGAL
8 RIGHT, MORAL AND LEGAL WRONG, AND OR THE DEFENDANT
9 COULD NOT APPRECIATE THE MORAL AND LEGAL WRONGNESS
10 (SIC) OF HIS ACTIONS. THAT'S THE LEGAL STANDARD.
11 THERE'S A LITTLE BIT MORE.

12 THE STATUTE SAYS THE COURT WILL CHARGE EVIDENCE
13 OF A MENTAL DISEASE OR DEFECT THAT IF MANIFESTED ONLY
14 BY REPEATED CRIMINAL OR OTHER ANTISOCIAL CONDUCT IS
15 NOT SUFFICIENT TO ESTABLISH A DEFENSE OF INSANITY.
16 IT'S NOT SUFFICIENT.

17 I'M GOING TO READ YOU SOMETHING FROM THE
18 TRANSCRIPT OF THIS TRIAL. QUESTION, SOLICITOR
19 HEMBREE TO DR. SACHY. NOW, IS IT FAIR TO SAY JUST TO
20 SUM UP YOUR TESTIMONY OR YOUR CONCLUSION, THAT THE
21 DEFENDANT STANKO HAS A DEFECT THAT MANIFESTS ITSELF
22 IN REPEATED CRIMINAL AND ANTISOCIAL BEHAVIOR? YES.
23 AND IS THAT THE SUM AND SUBSTANCE OF YOUR -- AND
24 BEFORE HE COULD EVEN FINISH THE QUESTION DR. SACHY
25 SAID, YES.

1 ALMOST MAKES YOU WONDER WHAT WE'RE DOING HERE
2 WITHOUT -- I TOLD YOU BEFORE THE STATE BEARS THE
3 BURDEN AT THIS STAGE, IF YOU BELIEVE THE DEFENDANT'S
4 MET THE PREPONDERANCE OF THE EVIDENCE MORE LIKELY
5 THAN NOT, WE THEN HAVE TO ESTABLISH BEYOND A
6 REASONABLE DOUBT THAT HE IS SANE.

7 NOW, HOW DO WE DO THAT? WE USE COURT'S EXPERTS.
8 DR. CRAWFORD, A FORENSIC PSYCHIATRIST, FORMER
9 DIRECTOR OF WILLIAM S. HALL THAT DOES ALL THE
10 COURT-ORDERED FORENSIC PSYCHIATRIC EXAMS IN THE
11 STATE, HAS DONE HUNDREDS, AND BASED ON HER REVIEW OF
12 VOLUMINOUS RECORDS, BASED ON HER CONSULTS WITH
13 EXPERTS IN THE FIELD OF NEUROLOGY, NEUROPSYCHOLOGY,
14 RADIOLOGY, AFTER 14 HOURS OF CLINICAL INTERVIEW,
15 AFTER TALKING TO NUMBERS AND NUMBERS OF PEOPLE, AFTER
16 ALL OF THAT -- THEN SHE TALKED WITH THE DEFENSE
17 EXPERTS TOO, BY THE WAY -- WHAT'S HER OPINION?

18 HE HAS A PERSONALITY DISORDER, NOT A MENTAL
19 DEFECT OR ILLNESS. WELL, WHAT IS IT? HE'S
20 ANTISOCIAL. HE'S MEAN. HE'S NARCISSISTIC. HE WANTS
21 WHAT HE WANTS WHEN HE WANTS IT.

22 HE KNOWS THE DIFFERENCE BETWEEN MORAL AND LEGAL
23 RIGHT AND MORAL AND LEGAL WRONG. HE HAS THE ABILITY
24 TO CONFORM HIS CONDUCT. HE JUST HAS A LITTLE
25 BALANCING TEST, A LITTLE WEIGHT, YOU KNOW, WHAT'S TO

1 GAIN BY MY DOING WHAT'S MORALLY AND LEGALLY RIGHT AND
2 WHAT'S TO LOSE? AND HE'S NOT INSANE.

3 COURT'S EXPERT, DR. TORA BRAWLEY. THIS IS
4 WHERE, YOU KNOW, YOU STARTED BUYING DR. EINHORN UNTIL
5 WE HEARD FROM DR. BRAWLEY, COURT'S EXPERT WHO SAYS,
6 DR. EINHORN DID A PRETTY GOOD JOB, I AGREE WITH HIM,
7 EVERYTHING IS WITHIN NORMAL LIMITS.

8 AND THAT ONE THING EINHORN TOLD YOU, THAT ALL
9 HIS TESTING WAS JUST SORT OF ON THE SURFACE, IT
10 DIDN'T REALLY GET DOWN INTO THE -- THE DEEP
11 STRUCTURES OF THE BRAIN.

12 WELL, HE COULDN'T TELL YOU THAT. HE COULDN'T
13 TELL YOU THEIR TESTING DID. BUT WHAT DID DR. BRAWLEY
14 SAY? GOODNESS SAKES, THAT'S WHAT WE DO. THAT'S WHAT
15 WE DO, WE TEST.

16 MANY OF THOSE TESTS THAT EINHORN GAVE THE
17 DEFENDANT WERE SPECIFICALLY DESIGNED TO TEST FRONTAL
18 LOBE FUNCTION. AND HE'S FINE IN TERMS OF
19 FUNCTIONING.

20 DR. BRANNON, NEUROLOGIST. WHAT DID HE TELL YOU?
21 HE LOOKED AT THE MRI. HE LOOKED AT THE MRI LIKE
22 EVERY NEUROLOGIST IN THE COUNTRY WHO IS LOOKING AT AN
23 MRI FOR DIAGNOSTIC PURPOSES LOOKS AT AN MRI.

24 IT IS THE STANDARD OF CARE. THAT MEANS -- WHAT
25 IT MEANS ON THE OTHER SIDE IS IF HE DIDN'T PERFORM TO

1 THE STANDARD OF CARE, HE'D SUBJECT HIMSELF TO A
2 LAWSUIT. THERE'S A REASON THEY PRACTICE AT A
3 STANDARD OF CARE, AND THAT'S WHAT HE DID.

4 HE LOOKED AT THE MRI WHICH IS WHAT EVERY DOCTOR
5 PRACTICING IN THE FIELD DOES, AND HE SAYS IT'S
6 NORMAL. BUT DR. BRANNON, HE DIDN'T JUST DO THAT. HE
7 THEN TOOK THOSE IMAGES AND HE WENT TO TWO, THREE
8 OTHER PEOPLE, SOME NEURORADIOLOGISTS AND HE SAYS,
9 TELL ME WHAT YOU SEE.

10 DIDN'T SUGGEST ANYTHING. DIDN'T TELL HIM WHAT
11 HIS POSITION OR OPINION WAS ABOUT IT. TELL ME WHAT
12 YOU SEE. EVERYONE TO A PERSON WHO DIDN'T HAVE AN
13 INTEREST IN THE CASE SAID IT WAS NORMAL. DIDN'T HAVE
14 AN INTEREST IN THE CASE SAID IT WAS NORMAL.

15 DR. SPICER, RADIOLOGIST. ON THE MOST
16 SOPHISTICATED EQUIPMENT, THE MOST SOPHISTICATED
17 CLINICAL EQUIPMENT IN THE NATION USING METHODOLOGY
18 AND COMPUTER PROGRAMS WHICH ARE THE STANDARD OF CARE
19 READ THE PET SCAN OF DEFENDANT STANKO AND IT IS
20 PERFECTLY NORMAL. PERFECTLY NORMAL.

21 HE TOLD YOU, NUMBER ONE, THAT PET SCANS AIN'T
22 REALLY USED FOR DIAGNOSING MENTAL DEFECTS LIKE THAT.
23 THAT'S NOT EVEN GENERALLY ACCEPTED IN THE MEDICAL AND
24 SCIENTIFIC COMMUNITY. IT'S NOT.

25 SECOND HE TOLD YOU THE WAY THAT THE STANDARD OF

1 CARE IS GENERALLY ACCEPTED, MANNER IN WHICH YOU
2 EXAMINE PET SCANS IS TO DO IT IN SLICES. NOW, I'VE
3 GOT TO TELL YOU FOLKS, I DON'T UNDERSTAND A WHOLE LOT
4 ABOUT THAT.

5 I SAW THEY WERE CUTTING THE LOBE THIS WAY AND
6 THAT WAY AND THIS WAY. I SAW ALL THAT. WHAT I DO
7 KNOW IS DR. SPICER SAYS, THAT'S THE WAY YOU DO IT.
8 THAT'S THE WAY YOU DO IT.

9 NOW, THAT COMPUTER MODEL OF DR. WU'S, THAT'S ALL
10 GOOD AND FINE AT A TRADE SHOW WHEN SOMEBODY IS TRYING
11 TO SELL YOU A CAMERA, BUT IT IS NEVER USED AS A
12 DIAGNOSTIC TOOL AND IT IS NOT EVEN CLOSE IN TERMS OF
13 THE SPECIFICITY AND DETAIL THAT YOU GET WHEN YOU LOOK
14 AT THE SLICES. IT'S SOMETHING USED WHEN YOU ARE
15 TRYING TO SELL SOMEBODY SOMETHING. WHAT ARE THEY
16 TRYING TO SELL YOU?

17 HOW? HOW? HOW COULD EXPERTS IN THOSE FIELDS
18 HAVE SUCH POLAR AND DIVERGENT OPINIONS? DID THAT
19 CAUSE YOU ANY CONCERN? HOW? HOW? HOW COULD A
20 PSYCHIATRIST REVIEW THESE RECORDS, DR. SACHY, AND SAY
21 100 PERCENT -- ANYBODY EVER HEARD A DOCTOR TALK LIKE
22 THAT, 100 PERCENT?

23 YOU FIND THEM -- YOU BETTER -- OR DO YOU --
24 100 PERCENT BEYOND A REASONABLE DEGREE OF MEDICAL
25 CERTAINTY THAT THESE RECORDS CONFIRM A BRAIN BIRTH

1 DEFECT.

2 AND DR. BRANNON, A NEUROLOGIST, NOT A
3 PSYCHIATRIST, WHO ACTUALLY DID INFANT NEUROLOGICAL
4 CONSULTS AS A PART OF HIS PRACTICE AND WHO HAS BY THE
5 WAY TREATED THREE UNITED STATES PRESIDENTS LOOKED AT
6 THESE RECORDS AND SAY, ABSOLUTELY NOT, ABSOLUTELY
7 NOT. HOW COULD THAT HAPPEN? HOW?

8 PET SCAN. HOW COULD DR. WU TAKE THE PET SCAN
9 THAT WAS DONE AT MUSC. NOW, WE ARE TALKING ABOUT THE
10 SAME THING, OKAY? THE PET SCAN, MUSC, PUT IT ON HIS
11 COMPUTER MODEL AND SAY THAT THERE WAS FROM A 30 TO AN
12 80 PERCENT REDUCTION IN THE FUNCTION OF THE FRONTAL
13 LOBES OF DEFENDANT, STEPHEN STANKO. THIRTY TO
14 80 PERCENT.

15 HOW COULD HE SAY THAT WHEN A RADIOLOGIST AT MUSC
16 HERE IN SOUTH CAROLINA ON THE BEST EQUIPMENT
17 AVAILABLE SAY THAT IT WAS PERFECTLY NORMAL? HOW
18 COULD THAT BE? THIRTY TO 80 PERCENT DECREASE IN
19 FUNCTION. PERFECTLY NORMAL.

20 THE COMPARATIVE STUDIES BOTH DR. SPICER AND DR.
21 WU GAVE, YOU KNOW, WHERE YOU COMPARE A NORMAL BRAIN
22 VERSUS THE DEFENDANT'S BRAIN.

23 AND DR. WU'S COMPARISONS SHOWED THESE COOL
24 AREAS, THESE AREAS WHERE THERE IS EITHER DECREASE OR
25 NO FUNCTION IN THE FRONTAL LOBES. BUT IN THE

1 COMPARATIVE STUDIES, AGAIN, DONE ON THE BEST
2 EQUIPMENT WITH COMPUTER PROGRAMS AND A DATABASE THAT
3 IS THE STANDARD OF CARE, WHEN YOU LOOK AT THOSE
4 FILES, AND THAT FRONTAL LOBE IS FIRING LIKE AN EIGHT
5 CYLINDER, HOW COULD THAT HAPPEN?

6 NOW, WE DIDN'T ASK DR. SPICER, THE DEFENSE DID.
7 SAID, HOW CAN YOU EXPLAIN THAT? THIS IS BLUE. IF
8 THIS IS -- IF THIS IS JUST SHOWING DECREASED
9 FUNCTION, THAT MUST MEAN -- IT'S BLUE, IT'S DECREASED
10 FUNCTION, DON'T YOU AGREE?

11 AND THEY -- DR. SPICER ACTUALLY TRIED TO BE SORT
12 OF NICE, SORT OF TRIED TO AVOID THE QUESTION, BECAUSE
13 HE KNEW THAT THEY DIDN'T REALLY WANT THE ANSWER TO
14 THE QUESTION.

15 BUT WHEN PRESSED, HE FINALLY SAID -- AND IT TOOK
16 ME A LITTLE WHILE TO UNDERSTAND EXACTLY WHAT HE WAS
17 SAYING, TOO -- ABOUT THE BAND DOWN HERE BEING
18 NARROWED AND EXPANDED. BASICALLY WHAT HE'S SAYING IS
19 THAT THEY ARE TURNING THE COLOR DOWN.

20 NOW, WOULD HE SAY SOMETHING LIKE THAT WITHOUT
21 ANY BASIS WHATSOEVER? NO. HE TOLD YOU THE BASIS.
22 Y'ALL REMEMBER IN THE DIRECT TESTIMONY OF DR. SACHY,
23 I BELIEVE, AND THEY WERE LOOKING AT THE IMAGES OF
24 DEFENDANT STANKO AND THEY WERE TALKING ABOUT THE
25 OCCIPITAL LOBE, Y'ALL REMEMBER IN THE BACK, AND THEY

1 SAID, YOU KNOW, HIS OCCIPITAL LOBE IS FIRING LIKE
2 CRAZY, IN FACT, IT MAY VERY WELL EVEN BE
3 OVERCOMPENSATING FOR THIS DECREASED FUNCTION IN THE
4 FRONTAL LOBES.

5 Y'ALL REMEMBER THAT? SEE THERE? THAT'S HIS
6 OCCIPITAL LOBE. OCCIPITAL LOBE. OCCIPITAL LOBE.
7 DOES IT LOOK LIKE IT'S FIRING TO Y'ALL? IT'S TURNED
8 EVERY COLOR. WE DIDN'T ASK HIM THAT.

9 MRI. DR. BRANNON, HE TOLD YOU, THIS IS THE WAY
10 WE DO MRIS. AND WHEN I SAY, WE, I MEAN EVERYBODY WHO
11 IS A CLINICIAN, WHO IS A RADIOLOGIST OR NEUROLOGIST,
12 THIS IS THE WAY WE READ MRIS. WE DON'T USE
13 STATISTICAL ANALYSIS.

14 WHY? WHY, DOCTOR, WOULDN'T YOU USE SUCH A
15 THING? BECAUSE THEY AREN'T VALID IN DIAGNOSING ONE
16 INDIVIDUAL. WELL, WHAT ABOUT THIS ONE? WHAT ABOUT
17 THIS ONE? DR. GUR DID THIS ONE, AND BASICALLY HE
18 SAID THAT STEPHEN STANKO IS BAD OFF.

19 DR. BRANNON ALMOST SUGGESTED WHAT HE THOUGHT
20 ABOUT SUGGESTING. BUT WHAT HE DID SAY IS, THAT IS --
21 THEY USED A SAMPLE OF 41 PEOPLE, WHO BY THE WAY WE
22 DON'T KNOW, WHO BY THE WAY WE HAVEN'T SEEN NOR
23 ANYBODY ELSE BESIDES DR. GUR, HAVEN'T SEEN WHERE THEY
24 RANK ON THOSE SCALES.

25 HE SAID, YOU KNOW, STATISTICS ARE FINE. I WILL

1 DEAL WITH THEM, THEY ARE FINE, BUT THEY ARE
2 WORTHLESS. THEY ARE WORTHLESS WHEN YOU ARE TALKING
3 ABOUT DIAGNOSING AN INDIVIDUAL.

4 WHAT'S THE STANDARD OF CARE? EXACTLY WHAT HE
5 AND THREE OTHER INDEPENDENT, UNINTERESTED DOCTORS
6 SAID. HOW COULD DR. GUR SAY THAT THIS DEFENDANT IS
7 IN THE TWO PERCENTILE -- IN THE TWO PERCENTILE I
8 GUESS OF THE WORLD IN TERMS OF HIS FRONTAL LOBE --
9 HIS FRONTAL LOBE STRUCTURE.

10 NOW, HE SAID THERE'S BEEN INCREASE TO THE EXTENT
11 THAT HE'S IN 2 PERCENT OF THE POPULATION. HOW CAN HE
12 SAY THAT WHEN DR. BRANNON AND THREE OTHERS SAY
13 PERFECTLY NORMAL? HOW COULD THAT HAPPEN?

14 HOW COULD DR. SACHY, AFTER REVIEWING THE
15 RECORDS, DOING HIS OWN CLINICAL REVIEW, SEEING THE
16 MRI AND THE PET SCAN AND THEIR REPORTS FROM THE
17 MEDICAL UNIVERSITY, HOW COULD HE SAY THE DEFENDANT
18 WAS INSANE AFTER DR. CRAWFORD REVIEWED AT LEAST AS
19 MUCH IN TERMS OF MATERIAL, PROBABLY MORE, SPENT
20 LONGER WITH HIM IN THE CLINICAL INTERVIEW, AND
21 CONSULTED WITH THREE EXPERTS OUTSIDE HER FIELD OF
22 EXPERTISE?

23 THAT WAS ANOTHER INTERESTING THING JUST SORT OF
24 AS A SIDE IN THIS CASE. YOU HAD PSYCHIATRISTS
25 TALKING ABOUT NEUROLOGY, YOU HAD RADIOLOGISTS TALKING

1 ABOUT NEUROLOGY, YOU HAD EXPERTS GOING RIGHT AND LEFT
2 AND IN EVERYBODY'S FIELD OF EXPERTISE.

3 YOU DIDN'T HAVE THAT FROM THE COURT'S EXPERTS.
4 EVERY ONE TO A PERSON, WHEN ASKED ABOUT SOMETHING
5 OUTSIDE OF THEIR FIELD OF EXPERTISE SAID, YOU TALK TO
6 THE GUY WHO KNOWS.

7 HOW COULD DR. SACHY SAY HE'S INSANE WHEN DR.
8 CRAWFORD, AFTER DOING ALL OF THOSE THINGS SAY NOT
9 ONLY IS HE NOT INSANE, HE AIN'T EVEN MENTALLY ILL,
10 DOESN'T EVEN HAVE A DEFECT, HE'S GOT A PERSONALITY
11 DISORDER, HE'S ANTISOCIAL, NARCISSISTIC.

12 HOW COULD THAT HAPPEN? FORTY GRAND PLUS. THINK
13 OF ANOTHER REASONABLE EXPLANATION. FORTY GRAND PLUS.

14 NOW, HERE'S WHAT THEY HAVE TO SAY AND THEY'VE
15 SAID IT OVER AND OVER AGAIN. WHAT WE'RE LOOKING AT
16 ARE, THIS PET SCAN, THESE MRIS, IS SUBTLE. IT IS
17 SUBTLE.

18 WE HAD TO USE ALL THESE SPECIAL COMPUTER
19 PROGRAMS AND STATISTICAL ANALYSIS TO HIGHLIGHT IT
20 BECAUSE, YOU KNOW, YOUR EVERY-DAY AVERAGE PRACTICING
21 DOCTOR WHO YOU MAY SEE SOME TIME, THEY ARE GOING TO
22 TELL YOU THEY MUST HAVE MISSED THAT.

23 LET ME TELL YOU SOMETHING, FOLKS. IF IT'S SO
24 SUBTLE THAT THE COURT'S EXPERTS, CLINICIANS AND
25 EXPERTS IN THEIR FIELDS DIDN'T SEE IT, THEN IT REALLY

1 SHOULDN'T MATTER. SHOULDN'T.

2 IT'S THE FIRST TIME. IT'S THE FIRST TIME IN
3 SOUTH CAROLINA. IT'S THE FIRST TIME THAT YOU GET
4 BOTH THE PET SCAN AND STATISTICAL ANALYSIS FOR THE
5 MRI IN THE UNITED STATES.

6 WELL, I GUESS SO. I GUESS IT IS THE FIRST TIME.
7 AND YOU MAY BE THINKING TO YOURSELF, WHY US? THERE'S
8 A REASON, FOLKS, BECAUSE IT'S NOT GENERALLY ACCEPTED
9 IN THE MEDICAL AND SCIENTIFIC FIELD TO THE EXTENT
10 THAT IT IS EVIDENCE FOR JURIES TO CONSIDER ON THIS
11 ISSUE.

12 NOBODY TRIED TO BAD-MOUTH PET SCANS. NOBODY
13 TRIED TO BAD-MOUTH MRIS. THEY HAVE THEIR PURPOSES,
14 BUT THEY ARE LIMITED AS THE ONE THING THE DEFENDANT
15 COULDN'T EVEN ARGUE. SO SUBTLE, AND SUBTLE, SO
16 SUBTLE THAT YOU CAN'T SEE.

17 DR. THRASHER, DR. SACHY, DR. ALBINIAK, EVERY ONE
18 OF THEM SAID HE MUST BE INSANE IN SOME FORM OR
19 FASHION, HE MUST BE INSANE, LOOK AT WHAT HE DID.
20 OKAY?

21 THE DEFENDANT CALLS OUT TO YOU RIGHT NOW, LOOK
22 AT WHAT I DID, I MUST BE INSANE. WELL, LET'S LOOK.
23 PRIOR TO GOING TO BED THERE WERE NO -- THERE WERE NO
24 VIAL ARGUMENTS. LITTLE TENSION IN THE AIR BECAUSE
25 ██████████ HADN'T FINISHED HER PAPER.

1 WHAT WE DO KNOW IS THE DEFENDANT STEPHEN STANKO
2 WAS CONNING HARD, HE WAS SCAMMING HARD, AND THEY WERE
3 COMING TO AN END. IT WAS TIME TO GO.

4 SO I ASK YOU, WHEN DID IT BEGIN. WHEN DID IT
5 BEGIN? HE COULD HAVE WALKED OUT THAT DOOR, STEAL HER
6 CAR, STEAL HER PHONE, HE'D BEEN GONE. BUT HE DIDN'T.
7 GO TO THE BEDROOM, HIM AND LAURA, AND HE WAITS.

8 [REDACTED] GOES TO BED, AND HE WAITS. THESE
9 BEDROOMS ARE FEET APART, FOLKS, FEET APART, IN A
10 LITTLE OLD HOUSE IN MURRELLS INLET. [REDACTED] SAID
11 THEY'RE PAPER THIN WALLS.

12 SHE WENT TO BED. SHE DIDN'T HEAR A THING. WHAT
13 IS THE ONLY REASONABLE INFERENCE YOU CAN GATHER FROM
14 THAT FACT? YOU KNOW, YOU DON'T EVEN HAVE TO TRY HARD
15 BECAUSE WHAT DID HE DO TO HIS FORMER GIRLFRIEND,
16 ELIZABETH MCLENDON?

17 HE WAITED UNTIL SHE WENT TO BED. HE WAITED FOR
18 LAURA LING TO GO TO SLEEP. OTHERWISE CERTAINLY,
19 CERTAINLY YOU'D HAVE HEARD AN ALTERCATION, YOU'D HAVE
20 HEARD HER SCREAM OUT. [REDACTED] WOULD HAVE. SHE WAS
21 FEET AWAY.

22 HE DIDN'T SNAP. HE MADE A PLAN. HE SUBDUED
23 LAURA, BEAT HER, AND TIED HER UP AND PUT HER IN SUCH
24 A CONDITION SHE COULDN'T CRY OUT. HE'D ALREADY CUT
25 HER THROAT.

1 THEN WHAT DID HE DO? WENT TO [REDACTED] S ROOM,
2 AND HE BOUND HER AND HE RAPED HER. NOW, WHY? WHY?
3 WHY DIDN'T HE JUST KILL HER? [REDACTED] RAPE WAS
4 NOT NECESSARY TO ACCOMPLISH THE OTHER THINGS.

5 BUT THE INCAPACITATION AND ULTIMATE MURDER OF
6 LAURA LING WAS NECESSARY IN ORDER FOR HIM TO COMMIT
7 THE RAPE OF [REDACTED] LING. THINK ABOUT THAT.

8 WHY? WHEN DID IT BEGIN? WHEN DID IT BEGIN?
9 HOW MANY NIGHTS DID HE LAY THERE IN THAT BED WHEN HE
10 KNEW SHE WAS IN THE BED ACROSS THE HALL? HE DOES
11 WHAT HE WANTS WHEN HE WANTS.

12 AFTER HE COMMITS THOSE ACTS, WHAT DOES HE DO?
13 TAKES A SHOWER. WELL NOW, IF HE DIDN'T KNOW MORAL
14 AND LEGAL RIGHT FROM MORAL AND LEGAL WRONG, WHY WOULD
15 HE BE CONCERNED HE WAS COVERED IN BLOOD?

16 I MEAN, IF HE HAD SNAPPED, WHY WOULD HE TAKE A
17 SHOWER? BECAUSE HE HAD PLACES TO GO. WHAT ELSE DID
18 HE DO? PACKED A BAG, TOOK SOME THINGS, A BRACELET
19 OFF LAURA LING'S WRIST BECAUSE SHE DIDN'T DESERVE IT.

20 THERE ARE MANY THINGS LAURA LING DIDN'T DESERVE.
21 THAT BRACELET WASN'T ONE OF THEM. TAKES LAURA LING'S
22 CELLPHONE, TAKES LAURA LING'S CAR. CHECKS TO SEE IF
23 THEY ARE DEAD. AND HE MESSED UP. THANK GOD HE
24 MESSED UP.

25 BUT YOU SEE, HE LEARNED FROM ELIZABETH MCLENDON.

1 AND YOU HEARD A LOT OF TALK ABOUT THAT. HE'S BEEN TO
2 PRISON. FOR GOODNESS SAKES, HE HASN'T LEARNED NOT TO
3 DO BAD THINGS. NO, HE'S JUST LEARNED TO DO BAD
4 THINGS BETTER.

5 HE'S LEARNED. HE KNEW HE COULDN'T LEAVE ANY
6 WITNESSES BECAUSE THE LAST TIME HE DID, HE DID EIGHT
7 AND A HALF YEARS BEHIND IT.

8 HE GETS IN THE CAR, LAURA LING'S CAR. BEFORE
9 THAT, WHILE LAURA LING IS LYING DEAD BESIDE THE BED
10 AND [REDACTED] -- YOU SEE WHERE THAT BLOOD IS ON THE
11 BED RIGHT THERE? SEE WHERE LAURA'S FOOT IS? RIGHT
12 IN THE POOL.

13 DO YOU SEE HOW CLOSE [REDACTED] LING HAD TO BE
14 MAKING THAT 9-1-1 CALL TO THE BODY OF HER DEAD
15 MOTHER. HE DUMPS THEIR PURSES. HE HASN'T STOLEN
16 ENOUGH FROM LAURA, HER LIFE, HE HASN'T STOLEN ENOUGH
17 FROM [REDACTED], THE LIFE OF HER MOTHER AND HER BODY,
18 HE GOES THROUGH THEIR PURSES.

19 IS HE PLANNING? YEAH. HE GOES TO THE ATM,
20 PULLS OUT EVERY DIME IN THERE. LAURA LING'S MONEY.
21 HER PAYCHECK IS THE ONE THAT JUST WENT IN. HE DIDN'T
22 HAVE A PAYCHECK.

23 HE TAKES LAURA LING'S CAR AND DITCHES IT. HE
24 OBTAINS ANOTHER CAR, HE OBTAINS ANOTHER CELLPHONE,
25 AND HE IS OFF TO AUGUSTA. AND DR. CRAWFORD SAID,

1 WELL, FOR GOODNESS SAKES, YOU KNEW WHAT YOU DID, WHY
2 DIDN'T YOU GO TO MEXICO? I THOUGHT I HAD A LITTLE
3 MORE TIME.

4 WHY? BECAUSE HE MADE A CALL. Y'ALL REMEMBER
5 THAT? HE MADE A CALL. AND LET ME SUBMIT TO YOU
6 THIS. THAT ONE CALL, THAT ONE WITNESS, MR. JOHN
7 GUAMER IS PROBABLY THE KEY PIECE OF EVIDENCE
8 REGARDING WHETHER OR NOT THE DEFENDANT KNEW MORAL AND
9 LEGAL RIGHT FROM MORAL AND LEGAL WRONG BECAUSE IF HE
10 DIDN'T KNOW WHAT HE HAD DONE, WHY IN THE WORLD WOULD
11 HE TRY AND COVER IT UP? HE DOES KNOW.

12 LAURA LING, SHE'S GOT A LITTLE CASE OF FOOD
13 POISONING, SHE WON'T BE IN TODAY. REMEMBER, IT'S
14 FRIDAY. FRIDAY, SATURDAY, SUNDAY, MONDAY. GIVES HIM
15 FOUR DAYS.

16 HE MAKES ANOTHER CALL. CALLS HIS BROTHER. HEY
17 JEFF, IT'S STEVE, I'M SORRY FOR EVERYTHING, I LOVE
18 YOU. WHAT'S HE SORRY FOR? DOES HE KNOW THAT HE'S
19 DONE SOMETHING WRONG? NOW HE'S APOLOGIZING TO THE
20 WRONG GUY, OKAY? BUT HE'S STILL APOLOGIZING.

21 HE KNOWS THE DIFFERENCE BETWEEN MORAL AND LEGAL
22 RIGHT AND MORAL AND LEGAL WRONG, AND HE CAN
23 APPRECIATE THE FACT THAT HIS CONDUCT HAS NOT BEEN
24 MORALLY, AND LEGAL AND RIGHT. THAT'S NOT THE ISSUE
25 IN THIS CASE, FOLKS.

1 THIS DEFENDANT, STEPHEN CHRISTOPHER STANKO, IS
2 ANTISOCIAL, HE IS MEAN, HE IS EVILLY-HEARTED, HE IS
3 NARCISSISTIC, HE LIKES HIMSELF JUST THE WAY HE IS.

4 HE KNOWS THE DIFFERENCE BETWEEN RIGHT AND WRONG.
5 SOMETIMES HE DOES IT, SOMETIMES HE DON'T, AND IT'S A
6 CHOICE. HE WANTS WHAT HE WANTS WHEN HE WANTS IT.

7 NO MORE. NO MORE, NOT TODAY. THIS IS NOT
8 APRIL 8TH, 2005. THIS IS NOT IN THE EARLY MORNING
9 HOURS. THIS IS NOT IN A SECLUDED MURRELLS INLET
10 RESIDENCE. HE IS NOT DEALING WITH A WOMAN WHO IS
11 ASLEEP AND A CHILD.

12 AUGUST 11TH. THE SUN IS SHINING. HE'S IN A
13 COURT OF LAW. HE HAS TO DEAL WITH YOU. HE WANTS
14 WHAT HE WANTS WHEN HE WANTS IT. NOT TODAY.

15 [REDACTED] LING AND HER FAMILY, YOU KNOW WHAT
16 THEY ARE ASKING FOR? JUSTICE. JUSTICE. YOU KNOW
17 WHAT THIS COMMUNITY CRIES OUT FOR? JUSTICE.
18 JUSTICE.

19 MR. KELLY: OBJECTION.

20 THE COURT: SUSTAINED. LADIES AND GENTLEMEN,
21 YOU WILL DISREGARD THE SOLICITOR'S LAST REMARK. YOU
22 MAY CONTINUE.

23 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

24 THE COURT: YOU'RE WELCOME.

25 (MR. HUMPHRIES' CLOSING ARGUMENT CONTINUED.)

1 MR. HUMPHRIES: YOU KNOW WHAT THE DEFENDANT IS
2 ENTITLED TO? JUSTICE. AND GIVE IT TO HIM. THANK
3 YOU.

4 THE COURT: ONE MOMENT. MADAM CLERK?

5 (WHEREUPON THERE WAS A PAUSE.)

6 THE COURT: WILL COUNSEL APPROACH FOR ME,
7 PLEASE?

8 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

9 THE COURT: MADAM FORELADY, LADIES AND GENTLEMEN
10 OF THE JURY, IT IS NOW 1:04 ACCORDING TO MY CLOCK.
11 YOU ALL HAVE BEEN SITTING JUST THREE MINUTES SHY OF
12 AN HOUR.

13 YOUR LUNCH HAS ARRIVED. AND SO WHAT WE'RE GOING
14 TO DO IS THAT WE'RE GOING TO BREAK AND ALLOW YOU TO
15 EAT YOUR LUNCH AFTER WHICH WE WILL RESUME CLOSING
16 ARGUMENTS, AND THEN IN THE NATURAL PROGRESSION THE
17 COURT'S CHARGE ON THE LAW.

18 DURING THIS BREAK STRICTLY ABIDE BY THE COURT'S
19 INSTRUCTIONS AND HAVE NO DISCUSSION ABOUT THIS CASE
20 IN ANY MANNER WHATSOEVER. PLEASE LEAVE YOUR NOTEPADS
21 IN YOUR SEATS.

22 THE PROCEDURE THAT WE WILL FOLLOW TODAY IS THAT
23 AS SOON AS YOU ALL ARE DONE EATING AND THOSE OF YOU
24 WHO NEED TO GO OUTSIDE AND GET A LITTLE AIR OR SMOKE
25 OR OTHERWISE, AS SOON AS YOU ALL HAVE COMPLETED THAT

1 PROCESS, LET YOUR GUARDIANS AND CUSTODIANS KNOW THAT,
2 AND AT THAT TIME WE WILL IMMEDIATELY RESUME CLOSING
3 ARGUMENTS. OKAY?

4 DON'T FEEL RUSHED. BUT AS SOON AS YOU ALL HAVE
5 COMPLETED EATING AND REFRESHING YOURSELVES, PLEASE
6 LET THEM KNOW AND WE WILL IMMEDIATELY RECEIVE YOU
7 BACK INTO THE COURTROOM AT THAT TIME AND RESUME
8 CLOSING ARGUMENT. ENJOY YOUR LUNCH. IF YOU WOULD GO
9 WITH THE BAILIFFS.

10 (JURY LEFT THE COURTROOM AT 1:04 PM.)

11 THE COURT: YOU MAY BE SEATED. I ANTICIPATE
12 GENERALLY... CAN YOU MAKE SURE FOR ME THEY ARE ALL IN
13 THE JURY ROOM? I THOUGHT I SAW SOMEONE OUT IN THE
14 HALLWAY.

15 (WHEREUPON THERE WAS A PAUSE.)

16 THE COURT: GENERALLY IT HAS BEEN TAKING THEM
17 ABOUT MAYBE 20 MINUTES. AND I'M THINKING THAT
18 GENERALLY TAKES THEM ABOUT 15 MINUTES TO EAT. WE
19 HAVE A COUPLE OF SMOKERS. THEY GO RIGHT OUTSIDE THE
20 BUILDING, AND HAVE A COUPLE OTHER FOLK THAT JUST
21 USUALLY GET A LITTLE AIR. SO I'M THINKING 20 TO 30
22 MINUTES IS PROBABLY GOING TO BE THE MAX.

23 I HATE TO TELL Y'ALL TO GO TO THE SNACK
24 MACHINE... YOU MIGHT WANT TO CALL SOMEBODY AND HAVE
25 THEM BRING YOU SOMETHING UP TO THE COURTHOUSE...

1 (OFF-THE-RECORD DISCUSSION.)

2 THE COURT: SO IF YOU ALL WOULD TAKE A BREAK.
3 AS SOON AS THE -- AS I INDICATED, AS SOON AS THE JURY
4 LETS US KNOW THEY'RE READY, WE WILL RESUME CLOSING
5 ARGUMENT AND CHARGE.

6 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

7 MR. KELLY: THANK YOU, MA'AM.

8 THE COURT: YOU'RE WELCOME.

9 (WHEREUPON COURT WAS IN RECESS FOR LUNCH.)

10 THE COURT: IS THE STATE READY TO PROCEED? AS A
11 PRELIMINARY MATTER I WOULD ASK THAT EVERYONE WHO HAS
12 CELLPHONES, PLEASE PLACE THEM IN THE OFF POSITION.
13 MY HEARING IS NOT ALWAYS PERFECT, BUT I THOUGHT I
14 HEARD ONE GO OFF DURING THE STATE'S CLOSING ARGUMENT,
15 AND IT'S EXTREMELY DISTRACTING, AND I WANT TO MAKE
16 SURE THAT THAT DOES NOT HAPPEN AGAIN. THEY SHOULD
17 NOT BE IN THE VIBRATE POSITION EITHER. THEY SHOULD
18 BE OFF. OKAY?

19 AND I ALSO DO NOT EXPECT THERE TO BE ANY
20 EXCESSIVE MOVEMENT. QUITE FRANKLY, I DON'T EXPECT
21 THERE TO BE ANY MOVEMENT DURING CLOSING ARGUMENT. SO
22 IF YOU FEEL THE NEED THAT YOU WILL NOT BE ABLE TO SIT
23 DURING THE DURATION OF THE ARGUMENT, I WOULD ASK THAT
24 YOU EXIT YOURSELF NOW FROM THE COURTROOM IN THE EVENT
25 THAT YOU DON'T THINK YOU'RE GOING TO BE ABLE TO DO

1 THAT BECAUSE I DO NOT WANT IT TO BE A DISTRACTION TO
2 THE JURY.

3 OF COURSE, I'M NOT TALKING ABOUT PEOPLE,
4 NEWSPAPER FOLK WHO NEED TO TAKE PICTURES. I
5 UNDERSTAND THAT YOU ALL WILL BE MOVING IN THE
6 MARGINS, AND I DON'T HAVE A PROBLEM WITH THAT. I
7 THINK YOU ALL KNOW THE COURT'S RULES AND KNOW HOW TO
8 ABIDE BY THEM. OKAY. PLEASE BRING IN THE JURY.

9 MR. DIGGS: YOUR HONOR, WE HAD--

10 THE COURT: WAIT ONE SECOND. DON'T -- WAIT TO
11 BRING THE JURY IN, PLEASE, BECAUSE WE ARE TAKING UP
12 SOME MORE ARGUMENT. TELL THEM TO DELAY, NOT BRING
13 THE JURY IN. I NEED FOR THEM NOT TO COME IN YET,
14 PLEASE. THAT IS -- THANK YOU. I'M SORRY.

15 (WHEREUPON THERE WAS A PAUSE.)

16 THE COURT: WAIT ONE SECOND, MR. DIGGS. I WANT
17 TO MAKE SURE THEY ARE ACTUALLY IN THE ROOM WITH THE
18 DOOR CLOSED. OKAY. YES, SIR.

19 MR. DIGGS: YOUR HONOR, I THOUGHT WHEN DR. WU
20 WAS TESTIFYING THAT THIS DISK ACTUALLY HAD BEEN
21 MARKED AS A DEFENSE EXHIBIT. MOVED OVER FROM A
22 COURT'S EXHIBIT TO A DEFENSE EXHIBIT, AND I WOULD ASK
23 THAT WE CLEAN THAT UP AND MAKE IT A--

24 THE COURT: ACTUALLY, THE ONLY THING THAT WAS
25 MOVED FROM AS A COURT'S EXHIBIT TO A DEFENSE EXHIBIT

1 WERE THE ACTUAL WRITTEN REPORTS. THIS WAS NEVER
2 MOVED INTO EVIDENCE. IT WAS ALWAYS A DEMONSTRATIVE
3 AID.

4 MR. DIGGS: WELL, HERE'S--

5 THE COURT: IF UNLESS THERE'S SOME PLACE IN THE
6 TRANSCRIPT THAT I MISSED THAT, MAYBE NOW -- EVERYONE
7 HAS RESTED AND I HAVE NO ABILITY TO MOVE ANYTHING
8 INTO EVIDENCE UNLESS THE STATE CONSENTS TO THAT.

9 MR. DIGGS: WELL, I WOULD MOVE TO PUT IT INTO
10 EVIDENCE IF IT'S -- IF IT'S NOT. NOW, HERE'S WHAT MY
11 THOUGHT ON IT WAS, AND I DON'T KNOW -- I WANT TO TAKE
12 TIME AT THIS POINT--

13 THE COURT: I CAN GO BACK. I HAVE REALTIME
14 REPORTING. WE CAN GO BACK AND LOOK BACK THROUGH THE
15 TRANSCRIPT AND SEE, BUT IT IS MY RECOLLECTION THAT
16 DURING THE COURSE OF TESTIMONY THAT THE MEDICAL
17 RECORDS OF MR. STANKO AND HIS MOTHER AT THE TIME--

18 MR. DIGGS: RIGHT.

19 THE COURT: -- OF HIS BIRTH WERE ORIGINALLY
20 MARKED AS COURT'S EXHIBITS. THOSE WERE MOVED INTO
21 EVIDENCE. I HAD THE COURT REPORTER -- ACTUALLY MY
22 CLERK DID -- MADE EXTRA COPIES AND THOSE WERE MARKED
23 AS EXHIBITS BECAUSE IT WAS MY INTENTION TO MAKE SURE
24 THAT WE HAVE SEPARATE RECORDS FOR THE EN CAMERA
25 HEARING AND PRETRIAL MOTIONS AND HAVE SEPARATE

1 EXHIBITS FOR THE TRIAL BECAUSE I DIDN'T WANT THERE TO
2 BE ANY CONFUSION ON APPEAL SO THAT WE KNEW WHAT WE
3 WERE REFERRING TO AT THE EN CAMERA HEARING WAS CLEAR
4 AND THEY KNEW WHAT WE WERE REFERRING TO IN THE TRIAL
5 RECORD THAT WAS CLEAR.

6 THE ONLY OTHER THING THAT WAS MOVED INTO
7 EVIDENCE WERE SOME OF THE COURT'S EXHIBITS THE
8 DOCTOR -- I BELIEVE DOCTOR -- YOUR EXPERT'S REPORT, I
9 BELIEVE, MAY HAVE BEEN MOVED IN.

10 AGAIN, MY -- I DON'T RELY ON MY MEMORY. I'M
11 GOING TO RELY ON THE ACTUAL RECORD. I THINK THERE
12 WAS ANOTHER WRITTEN REPORT THAT WAS MOVED FROM A
13 COURT'S EXHIBIT AS AN EXHIBIT. I AM NOT CERTAIN.

14 AGAIN, I MAY BE WRONG, BUT WE CAN GO BACK AND
15 LOOK, BUT IT IS MY RECOLLECTION THAT THIS WAS
16 DEMONSTRATIVE AND IT WAS ONLY MARKED AS A
17 DEMONSTRATIVE AID.

18 BUT AGAIN, WE DON'T HAVE TO SPEND TIME ON THAT
19 NOW. WE CAN GO BACK AND LOOK PRIOR TO ANY EVIDENCE
20 BEING SENT TO THE JURY AND WE CAN MAKE SURE.

21 MR. DIGGS: YOUR HONOR, I WANT TO USE THE
22 DEMONSTRATIVE IMAGES DURING ARGUMENT.

23 THE COURT: YOU CAN USE DEMONSTRATIVE AIDS IN
24 CLOSING. I DON'T THINK THERE'S ANYTHING TO PRECLUDE
25 YOU FROM DOING THAT.

1 MR. DIGGS: AND YOUR HONOR, IT MIGHT HELP YOU,
2 WHERE I THINK THAT I INTRODUCED IT WOULD BE BACK WHEN
3 WE WERE TALKING ABOUT THE -- REMEMBER THE FLIP CHART?

4 THE COURT: SHE CAN PUT IN A KEYWORD SEARCH AND
5 IT WILL FIND IT FOR US.

6 MR. HEMBREE: YOUR HONOR, I--

7 THE COURT: SO THAT I DON'T HAVE TO SPEND TIME
8 DOING THAT, WE CAN GO BACK AND I WILL LOOK AT THE
9 ACTUAL TRANSCRIPT AND SEE WHAT WAS SAID, AND THAT IS
10 WHAT WILL PREVAIL.

11 IF IT WAS MOVED INTO EVIDENCE AT THAT TIME, WE
12 WILL HONOR IT. IF IT WAS NOT, IT'S -- I INTEND --
13 THERE'S NO -- FOR ME TO ADMIT EVIDENCE AFTER THE
14 CLOSE OF ALL THE EVIDENCE UNLESS YOU ALL CONSENT TO
15 IT. NOW, IF YOU CONSENT TO IT--

16 MR. HEMBREE: YOUR HONOR, I -- WE'LL CONSENT TO
17 THE INTRODUCTION OF THE -- THIS IS THE FOUR MINUTE--

18 MR. DIGGS: YEAH.

19 MR. HEMBREE: YEAH.

20 THE COURT: THAT RESOLVES THE ISSUE?

21 MR. HEMBREE: THAT RESOLVES THE ISSUE.

22 MR. DIGGS: ALL RIGHT. THANK YOU, YOUR HONOR.

23 THE COURT: DO YOU HAVE AN ADDITIONAL COPY OF
24 IT? OR DO WE--

25 MR. DIGGS: YES.

1 THE COURT: OKAY. THEN WE NEED TO MARK THAT AS
2 THE DEFENSE EXHIBIT WHATEVER IS NEXT IN LINE THE
3 NUMBER WOULD BE. AGAIN, I WANT TO KEEP THE EN CAMERA
4 RECORD AND THE TRIAL RECORD SEPARATE SO THAT THE
5 APPELLATE COURT WILL HAVE A VERY CLEAR RECORD.

6 MR. DIGGS: AND YOUR HONOR, FOR YOUR INFORMATION
7 WHAT I HAVE IN NOW IS THE COURT'S DISK.

8 THE COURT: OKAY. THAT'S FINE.

9 MR. DIGGS: BUT I HAVE ANOTHER ONE THAT WE CAN--

10 THE COURT: THAT'S FINE. THAT WILL WORK
11 PERFECTLY. AND I THINK I ACTUALLY HAVE AN EXTRA IF
12 YOU NEED.

13 MR. DIGGS: OKAY. THANK YOU.

14 THE COURT: IF YOU RUN SHORT AND YOU NEED ONE, I
15 THINK YOU ALL PROVIDED ME WITH ONE.

16 MR. DIGGS: WE DID.

17 (WHEREUPON, DEFENDANT'S EXHIBIT 23 WAS ADMITTED
18 INTO EVIDENCE.)

19 THE COURT: THAT WILL BE DEFENSE 23 WITHOUT
20 OBJECTION. ALL RIGHT. OTHER THAN THAT, ANY OTHER
21 HOUSEKEEPING WE NEED TO -- ALL RIGHT. PLEASE BRING
22 IN THE JURY.

23 (JURY ENTERED THE COURTROOM.)

24 THE COURT: LADIES AND GENTLEMEN, YOU MAY BE
25 SEATED. WE WILL NOW RESUME WITH CLOSING ARGUMENT. I

1 WOULD ASK YOU TO GIVE THE ATTORNEYS YOUR UNDIVIDED
2 ATTENTION. YOU MAY PROCEED.

3 MR. KELLY: MAY IT PLEASE THE COURT.

4 THE COURT: YES, SIR. THE COURT PLEASES.

5 CLOSING STATEMENT

6 MR. KELLY: LET THE TRUTH BE THE LIGHT. YOU
7 AGREE WITH ME ON THAT? YOU AGREE WITH ME WE SHOULD
8 LET THE TRUTH BE THE LIGHT THAT SHINES ON THE PATH
9 THAT WE'RE WALKING SO THAT WE CAN SEE CLEARLY BY THAT
10 LIGHT?

11 LET ME TELL YOU WHAT THE TRUTH OF THE LIGHT I
12 THINK. THE TRUTH IS LIKE A BEACON, A BRIGHT LIGHT ON
13 A TOWER, ON A HILL, AND YOU CAN TAKE IT AND YOU CAN
14 CARRY IT INSIDE A HOUSE, THEN YOU CAN GO INTO A DARK
15 ROOM AND YOU CAN TAKE IT AND PUT IT UNDER THE BED AND
16 PUT A BASKET ON THE TOP OF IT AND PULL THE COVERS
17 DOWN AND CLOSE THE SHUTTERS AND YOU CAN EVEN GO
18 OUTSIDE AND YOU CAN SAY THERE'S NO TRUTH IN THAT
19 HOUSE AND YOU CAN CALL THAT OUT TO ANYBODY WHO WILL
20 LISTEN.

21 BUT THE TRUTH WILL SHINE OUT LIKE THE NOON DAY
22 SUN. IT CANNOT BE HELD. IT CANNOT BE MOVED AWAY
23 WHERE IT CANNOT BE SEEN.

24 NOW, YOU'RE THE JUDGES OF THE FACTS. THAT'S
25 WHAT THE TRUTH IS; ISN'T IT? THE FACTS? WELL, LET'S

1 TALK FACTS, OKAY? LET'S TALK. NOW, ALL THE EVIDENCE
2 COMES IN HERE FROM THE WITNESSES AND FROM THE
3 DOCUMENTS THAT YOU HAVE SEEN, AND THERE'S BEEN A LOT
4 OF IT.

5 AND WE NEED TO DETERMINE AND YOU NEED TO
6 DETERMINE WHAT IS IT THAT WE HAVE ACTUALLY SEEN.
7 WHAT DOES IT REALLY MEAN? OKAY? I WANT TO TALK
8 ABOUT THESE EXPERTS FIRST OF ALL; OKAY?

9 I WANT TO START WITH DR. KEN SPICER. YOU
10 REMEMBER HIM? OKAY. YOU KNOW, WHEN HE GOT UP THERE
11 ON THAT WITNESS STAND AND HE STARTED SHOWING THOSE
12 PICTURES, I DON'T KNOW ABOUT YOU, BUT I STARTED
13 SCRATCHING MY HEAD BECAUSE I WAS WONDERING, WHAT IN
14 THE WORLD IS THE DIFFERENCE HERE?

15 HOW ARE HIS PICTURES SO MUCH DIFFERENT FROM THE
16 ONES THAT WERE PRODUCED BY THE DEFENSE'S EXPERTS?
17 HOW IN THE WORLD IS THAT POSSIBLE? BUT AT THE END OF
18 HIS TESTIMONY I FOUND OUT.

19 NOW YOU KNOW, WHEN IT COMES TO TESTIMONY, WHAT I
20 SAY, THAT'S NOT EVIDENCE. AND WHAT ANY OTHER LAWYER
21 SAYS, THAT'S NOT EVIDENCE. AND IF YOU WANT TO CHECK
22 TO SEE IF WHAT I'M SAYING IS RIGHT OR ANYBODY ELSE OR
23 FOR ANY REASON, THERE'S THE RECORD. ALL YOU HAVE TO
24 DO IS TO GO BACK AND EXAMINE IT AND HAVE IT PLAYED
25 FOR YOU AND DETERMINE.

1 BUT I WILL TELL YOU. AT THE END OF HIS
2 TESTIMONY HE WAS ASKED ABOUT THE CONTROL GROUP. AND
3 WHAT HE SAID WAS, WELL, YOU KNOW, THIS NORMAL BRAIN
4 PATTERN THAT WE'RE SHOWING UP HERE, THIS WAS TAKEN
5 WHEN PEOPLE WHO ARE -- AFTER THEY GOT THEIR INJECTION
6 ON THE RADIOACTIVE SUGAR, THEY WERE PUT INTO A DARK
7 ROOM IN AN EASY-CHAIR.

8 WELL, THAT EXPLAINS IT. OF COURSE STEPHEN
9 STANKO'S BRAIN LOOKED SIMILAR TO THOSE PEOPLE BECAUSE
10 STEPHEN STANKO'S FRONTAL LOBES DON'T WORK. AND ALL
11 THE EXPERTS TOLD YOU WHEN YOU AND I ARE ASLEEP OR
12 WE'RE RELAXED OR WE REST AND OUR FRONTAL LOBES ARE
13 NOT WORKING, THEY DARKEN DOWN.

14 WELL, STEPHEN STANKO WHEN HE TOOK THAT TEST --
15 DIDN'T YOU HEAR THAT EINHORN SAID THAT THERE WERE
16 OVER 600 IMAGES OR EVENTS THAT WERE ENGAGING HIS
17 FRONTAL LOBES TO SEE, YOU WANT THEM TO BE ACTIVE.

18 AND THEIR TEST GROUP OR CONTROL GROUP THAT'S
19 SHOWN ON THESE PHOTOGRAPHS WERE NORMAL BRAINS ENGAGED
20 IN THE SAME WAY. THAT'S WHY THE DEFENSE'S
21 PHOTOGRAPHS ARE DIFFERENT, NOT WHAT SPICER SAID.

22 DID YOU SEE SPICER? DID YOU SEE HIM GET UP OUT
23 OF THIS WITNESS BOX AND COME OVER HERE AND GET CLOSE
24 OVER HERE AND SAY, YOU KNOW, THAT IMAGE LOOKS LIKE
25 IT'S DAMPENED DOWN. DID YOU HEAR THAT? I DID.

1 HE WAS ACCUSING THE FOREMOST EXPERTS IN THE
2 UNITED STATES OF AMERICA OF CHEATING AND FUDGING ON
3 THESE IMAGES WHEN HE HIMSELF HAD USED A FAULTY, FALSE
4 CONTROL GROUP.

5 IF YOU DON'T BELIEVE IT, GO TO THE TRANSCRIPT.
6 WHAT KIND OF HOGWASH IS THIS WHEN A MAN'S LIFE, NO
7 MATTER WHO HE IS, IS AT STAKE?

8 YOU THINK WE OUGHT TO PUT UP WITH THAT? YOU
9 THINK WE OUGHT TO SWALLOW DOWN THE BIG FISH THAT HE
10 BRINGS US BECAUSE WE DON'T LIKE STEPHEN STANKO? I
11 DON'T THINK SO.

12 AND THAT'S EXACTLY WHAT HE DID. AND I DON'T
13 CARE WHO HE IS OR WHO HE SAYS HE IS OR WHERE HE'S
14 FROM. I DON'T CARE HOW -- WHAT DEGREES HE'S GOT OR
15 ANYTHING ELSE.

16 RIGHT IS RIGHT AND WRONG IS WRONG. AND THAT'S
17 THE REASON AND THAT'S THE ONLY REASON HE GOES OVER
18 AND HE EYEBALLS IT. YOU KNOW, EYEBALL IN THERE FROM
19 THE -- NOT THE COURT'S EXPERTS AS MR. HUMPHRIES
20 CALLED THEM, THEY ARE NOT COURT'S EXPERTS, THOSE ARE
21 STATE'S EXPERTS.

22 THE ONLY ONE WHO MIGHT EVEN BE A COURT EXPERT
23 WOULD HAVE TO BE ONE AGREED UPON AND THAT WOULD BE
24 PAMELA AND WHAT'S HER NAME -- PAMELA CRAWFORD.

25 AND BY THE WAY, LET ME GET SOMETHING OUT IN THE

1 OPEN. THE SOLICITOR SAID, MR -- DR. SACHY, HOW MUCH
2 MONEY YOU'D BE MAKING HERE? \$400 AN HOUR, UP TO
3 \$40,000. WHOO, THAT'S A LOT OF MONEY; ISN'T IT?

4 WELL, LET ME ASK YOU SOMETHING. IF YOU GET THE
5 FOREMOST EXPERTS IN THE UNITED STATES OF AMERICA, I'M
6 NOT TALKING ABOUT A -- SOME OTHER COUNTRY, I'M
7 TALKING ABOUT THE RICHEST COUNTRY IN THE WORLD -- YOU
8 THINK YOU'RE GOING TO GET THEM FOR NICKELS AND DIMES?
9 YOU GOING TO PAY THE MARKET IN AMERICA BECAUSE WE ARE
10 A FREE MARKET SOCIETY. THAT'S WHAT YOU'RE GOING TO
11 PAY FOR. AND IF YOU WANT SOMETHING LESS, FINE.

12 THINK FOR ONE MOMENT -- DO YOU BELIEVE THAT DR.
13 SACHY IS FABRICATING HIS OPINIONS UP HERE TO MAKE
14 MONEY? DO YOU BELIEVE THAT? I DON'T. I CERTAINLY
15 DON'T. BUT LET THE TRUTH BE THE LIGHT.

16 DON'T MEASURE ME BY MY SUIT. DON'T MEASURE ME
17 BY THE HAT I WEAR. DON'T MEASURE ME EVEN BY WHAT I
18 SAY. MEASURE ME BY WHAT I DO. AND WHEN YOU MEASURE
19 ME BY WHAT I SAY, MAKE SURE IT ADDS UP, OKAY?

20 THEY ARE TALKING ABOUT ADDING UP. LET'S TALK
21 ABOUT THE EXPERT, MR. WILLIAM BRANNON. YOU LIKE HIM?
22 YOU THINK HE'S GIVING YOU GOOD OPINION? WELL, HE
23 SEEMED TO ME TO BE A LITTLE BEHIND THE CLOCK.

24 I THOUGHT HE WAS A LITTLE BACK IN THE -- IN THE
25 BACKGROUND AS FAR AS SCIENCE WAS CONCERNED. WHAT DO

1 YOU THINK? LET'S TALK ABOUT IT. HE'S A -- HE SAID,
2 WELL, I STUDIOUSLY AVOID STATISTICS. YOU KNOW, I
3 ACTUALLY HEARD PEOPLE LAUGH WHEN HE SAID THAT.

4 AN EXPERT WHO IS DEALING WITH STATISTICALLY
5 GENERATED INFORMATION WHO JUST AVOIDS THINGS. RIGHT?
6 HOW ABOUT THIS. HE -- HE EVEN SAID, YOU KNOW THAT
7 PEER REVIEW? THAT'S NOTHING. RIGHT? THESE
8 ARTICLES? JUST INTERESTING, NOT USEFUL.

9 AND IN FACT, LET ME JUMP TO SOMETHING. LET ME
10 JUMP TO THE FIRST TIME THAT THE EXPERTS KNOW THAT IN
11 A COURTROOM IN AMERICA THERE IS PARTICULAR KIND OF
12 EVIDENCE IS BEING PRESENTED. WHAT IS IT?

13 IT'S THIS VOLUMETRIC AND METABOLIC EVIDENCE THAT
14 WAS GIVEN TO US IN BOTH THE CIT (SIC) AND THE PET
15 SCAN. NOT JUST TALKING ABOUT THE FIRST TIME? WELL,
16 LET ME ASK YOU SOMETHING.

17 YOU EVER THINK THERE WAS A FIRST TIME MICHAEL
18 JORDAN EVER PICKED UP A BASKETBALL? DO YOU THINK
19 THERE WAS A FIRST TIME THAT GALELEI THE GREAT
20 SCIENTIST FROM THE RENAISSANCE, LOOKED THROUGH HIS
21 TELESCOPE AND SAW THE MOONS OF SATURN, THAT NOBODY
22 HAD EVER SEEN BEFORE?

23 AND IN FACT, WHEN HE REPORTED IT THERE WERE
24 PEOPLE WHO SAID, OH, NO, NO, NO, NO, THAT AIN'T THE
25 WAY IT IS.

1 AND THAT WAS THE ESTABLISHMENT THAT OFTEN
2 RESISTS THE CHANGE THAT REALLY UNSEATS THEM IF THEY
3 DON'T KEEP UP WITH IT.

4 BUT GOING BACK TO MR. BRANNON, HE DIDN'T THINK
5 THAT THIS CHART MEANT ANYTHING. IF YOU DON'T BELIEVE
6 IT, PLAY IT BACK UP. HE SAID, HE DID EVERYTHING BUT
7 THE BELCH WHEN HE SAID THAT DON'T MEAN NOTHING.
8 REALLY? REALLY?

9 THIS CHART DOESN'T MEAN ANYTHING? ISN'T THAT
10 JUST ANOTHER WAY OF SAYING, WELL, YOU KNOW, THESE
11 EXPERTS ON THE OTHER SIDE? THEY DON'T KNOW ANYTHING.
12 THAT'S JUST ANOTHER WAY OF SAYING THAT. HE ALSO
13 VIEWED THE MRI WITH HIS EYEBALL.

14 HE SAID, HEY, YOU KNOW, I HAVE BEEN THE DOCTOR
15 TO PRESIDENTS, AND LET ME TELL YA, I LOOK AT THIS
16 WITH MY EYEBALL LIKE EVERYBODY ELSE DOES AND I CAN
17 TELL YOU THERE AIN'T NOTHING HERE. REALLY? REALLY?

18 HA HA HA. AND OF COURSE, MR. HUMPHRIES SAID,
19 HEY, IF IT'S THAT SUBTLE IT DOESN'T MEAN ANYTHING ANY
20 WAY.

21 WELL, I DON'T KNOW, YOU KNOW. IF THE VOLUME IN
22 YOUR BRAIN IS ABNORMAL, THESE EXPERTS SAY IT MEANS
23 SOMETHING; DIDN'T THEY? BUT HE JUST POOH-POOHED IT.
24 THAT DOESN'T MEAN ANYTHING AND THAT'S EXACTLY WHAT HE
25 DID.

1 YOU LIKE THAT? IS THAT THE KIND OF PEOPLE YOU
2 TAKE YOUR CHILDREN TO TO HAVE THEM CHECKED OUT? IS
3 THAT WHAT THAT'S ALL ABOUT? HE WAS -- YOU KNOW WHAT
4 THAT WAS?

5 BY THE WAY, HIM LOOKING AT THAT, THAT'S LIKE ME
6 DRAWING YOUR BLOOD AND HOLDING IT UP TO THE LIGHT AND
7 SAYING, NO, DON'T BELIEVE HE GOT ANY DISEASE. THAT'S
8 WHAT IT'S LIKE.

9 I CAN TELL, I CAN TELL JUST BY LOOKING AT HIM
10 THAT YOUR BLOOD IS OKAY. NOW, HE KNEW LITTLE OR
11 NOTHING ABOUT THE UNITED STATES AIR FORCE ACADEMY,
12 BUT HE WAS HAPPY TO GIVE US HIS OPINION. NEVER BEEN
13 THERE.

14 NOW, HE KNEW A LITTLE BIT ABOUT THE NAVY NOW,
15 YOU KNOW, AND HE KNEW A LITTLE BIT ABOUT WEST POINT.
16 HE DIDN'T KNOW ANYTHING ABOUT THE AIR FORCE ACADEMY,
17 BUT HE WAS HAPPY TO TELL US ABOUT IT.

18 HE ALSO DIDN'T KNOW TO ANYTHING -- HE HAD EVER
19 BEEN TO GUANTANAMO, NEVER BEEN DOWN THERE, BUT HE WAS
20 HAPPY TO TELL US HOW THEY HAD TO HAVE RUN THEIR
21 BUSINESS DOWN THERE, OKAY.

22 LET ME TELL YOU WHAT HE SAID. YOU DON'T BELIEVE
23 ME, GO TAKE A LOOK. HERE'S WHAT HE SAID. HE SAID,
24 OH YEAH, NOW LET ME LOOK AT THESE TWO THINGS HERE.
25 LET ME FIND IT. I KNOW THEY ARE AROUND HERE.

1 LET ME SHOW THEM TO YOU. THEY ARE THE EXCEPTS
2 OF THE BIRTH PAPERS, MOM AND THE BABY, OKAY? DOWN IN
3 GUANTANAMO. OKAY? THINK ABOUT IT. THESE ARE
4 AMERICAN DOCTORS SERVING IN THE NAVY AND THEY ARE NOT
5 JUST GUESSING. THEY ARE PUTTING DOWN JUST LIKE DR.
6 SACHY SAID.

7 SASHY SAID, WHEN WE DOCTORS -- THESE ARE MEDICAL
8 DOCTORS -- WHEN WE DOCTORS MAKE OUT THESE KIND OF
9 CHARTS AND WHATNOT, WE WANT TO BE PARTICULAR ABOUT IT
10 SO IN THE FUTURE PEOPLE CAN RELY ON IT. OKAY? YOU
11 REMEMBER THE LIST?

12 YOU TAKE THESE IN THE ROOM WITH YOU, TAKE A LOOK
13 AT THEM. YOU REMEMBER THE LIST AND THE LIST HAS GOT
14 N, N, N, O, N, O. THERE ARE THREE O'S ON THERE,
15 RIGHT? WELL, WHAT DID HE SAY THAT MEANT? O MEANT
16 ZERO.

17 WELL, I THINK TWO OF THEM WERE A YELLOW PALLOR
18 THAT YOU HAVE AS JAUNDICE THAT'S MENTIONED IN THE
19 OTHER REPORT. AND ONE OF THEM IS A TINGE OF BLUE TO
20 THE SKIN THAT YOU GET WHEN YOU DON'T HAVE ENOUGH
21 OXYGEN.

22 AND WHAT DID THE O MEAN TO HIM? IT MEANT IT
23 WASN'T THERE. BUT WHAT DOES THE O MEAN? WHAT DID
24 DR. SACHY SAY? O MEANS OBSERVED. THAT'S WHAT O
25 MEANS. AND N MEANS NOT OBSERVED.

1 AND THAT'S WHEN YOU LOOK AT IT THAT WAY, WHICH
2 IS THE WAY IT IS, THESE TWO DOCUMENTS MESH PERFECTLY
3 TO YOU. YOU THINK THESE DOCTORS ARE IDIOTS? NO.
4 IT'S OBSERVED OR IT'S NOT OBSERVED.

5 WHY IS THAT IMPORTANT? BECAUSE THE STATE WANTS
6 TO CONVINCE YOU THAT THERE IS NO BIRTH DEFECT. AND
7 THAT BRINGS ME TO THE BURDEN OF PROOF FOR A MOMENT.
8 YOU KNOW, HERE IS THE DEFENDANT, HE'S GOT NOTHING TO
9 PROVE.

10 THE JUDGE HAS ALREADY TOLD YOU THAT. HE DOESN'T
11 HAVE TO PROVE A THING. HE DOESN'T HAVE TO PROVE
12 BEYOND A REASONABLE DOUBT THAT THERE WAS OR WE DON'T
13 THAT THERE WAS ANY BIRTH DEFECT.

14 WE'RE SHOWING YOU THIS BECAUSE THIS IS THE MAN'S
15 BIRTH RECORDS. OKAY? AND THEY SHOW THAT THESE
16 DOCTORS BELIEVED HE HAD THIS HEMORRHAGE IN HIS HEAD,
17 HE HAD THIS PROBLEM IN HIS MIND WITH HIS BRAIN, THAT
18 IN FACT THEY DON'T TALK ABOUT IT MUCH, BUT THE
19 DOCTORS DOWN THERE SAID, NO TUBAL LIGATION, WE DON'T
20 WANT TO GIVE YOU ONE, MA'AM, BECAUSE IN -- BECAUSE
21 THIS BABY MIGHT NOT LIVE, MIGHT NOT SURVIVE.

22 AND YEAH, THE BABY WENT HOME A DAY AFTER MAMA
23 DID. WHEN WAS THIS? 1968. THERE WEREN'T ANY PET
24 SCANS OR CAT SCANS OR ANYTHING BACK THERE; WERE THEY?
25 ISN'T THAT WHAT THE EXPERTS SAID?

1 IN FACT, HERE IS STEPHEN STANKO UNTIL HE'S PUT
2 ON TRIAL FOR HIS LIFE UP HERE. HE HAD NO IDEA AND
3 EITHER DID ANYBODY ELSE, EVEN THOUGH HE HAD BEEN
4 UNDER STRICT SUPERVISION BY THE STATE OF SOUTH
5 CAROLINA THAT HE HAD ANY BRAIN DAMAGE.

6 THEY WANT TO SELL IT -- SQUELCH IT. HEY, HOW
7 ABOUT THIS, I WILL JUST HIDE IT IN MY JACKET. THINK
8 THAT WILL DO IT FOR YOU? I DON'T THINK SO. BUT IT'S
9 UP TO YOU.

10 THERE ARE MORE THINGS IN HERE THAN I HAVE
11 MENTIONED. OKAY? MAYBE MR. DIGGS WILL TELL YOU
12 ABOUT THEM. BUT I REMEMBER THAT CLEARLY. THEY'RE
13 FIGHTING TO KEEP IT OUT BECAUSE THEY WANT YOU TO
14 AGREE WITH THEM THAT THERE JUST AIN'T NO POSSIBILITY
15 OF ANY BIRTH DEFECT AT ALL.

16 NOW, WHEN STEPHEN STANKO WAS 15, THE HISTORY IS
17 HE WAS HIT IN THE BACK OF THE HEAD WITH A FULL BOTTLE
18 OF BEER AND THAT HE LOST CONSCIOUSNESS. THAT CAME IN
19 FROM THE HISTORIES THAT WERE THERE.

20 AND THEY SAID, WE'RE NOT SAYING THAT DAMAGED HIS
21 BRAIN, BUT IT CERTAINLY CAN DAMAGE HIS BRAIN BECAUSE
22 WE GET HIT IN THE BACK, YOUR BRAIN CAN SLIDE FORWARD
23 AND BE BRUISED ON THE FRONT.

24 BUT I'LL TELL YOU ONE THING. YOU TAKE A LOOK AT
25 THESE IMAGES -- I MEAN, THE FAIR ONES, NOT THE ONE

1 THAT THE SHOW THE PEOPLE ASLEEP IN CHAIRS. OKAY?
2 WELL, MAYBE NOT ASLEEP, BUT SITTING IN A DARK ROOM --
3 AND PUT THOSE UP AGAINST THE NORMAL BRAIN.

4 AND YOU REMEMBER THAT WAS 41 SELECTIONS OF
5 NORMAL BRAINS. WHAT DID THE DEAR EXPERT BRANNON SAY?
6 WELL, MY GOODNESS, 41? WELL, THAT'S NOTHING. SHOULD
7 BE MILLIONS. NO. PREFER NOT, EXPERT, BRANNON,
8 BECAUSE THE PEER GROUPS AND THE SIZE OF TODAY, NOT
9 YOUR DAY, TODAY, SAYS THAT'S PERFECTLY FINE.

10 IT'S USED BY SURGEONS. IT'S USED BY
11 PSYCHIATRISTS. MAYBE YOU DON'T THINK SO. MAYBE YOU
12 WANT TO CONVINCE US THAT IT CANNOT. BUT HEY, IF I'M
13 GOING FOR STORIES ABOUT RICHARD NIXON AND GERALD
14 FORD, I WILL COME TO YOU. BUT IF I WANT EXPERT
15 TESTIMONY ABOUT PET SCANS, I'M GOING TO GO OVER HERE
16 TO DR. WU AND I'M GOING TO GO TO DR. SACHY AND THE
17 OTHER EXPERTS.

18 LET ME TELL YOU A LITTLE BIT ABOUT WU WHILE I'M
19 ON IT. IF YOU'VE EVER SEEN ANYBODY THAT'S GOT THAT
20 KIND OF EDUCATION, HONORS FROM STANFORD AND HONORS
21 FROM SO AND SO, HE'S RECEIVING GRANTS FROM THE UNITED
22 STATES GOVERNMENT, FROM THE DEPARTMENT OF HEALTH OR
23 WHATEVER -- DON'T TAKE MY WORD FOR IT. YOU WANT TO
24 SEE IT, READ THE TRANSCRIPT, GET IT RED BACK TO YOU.

25 THIS GUY IS IT. HE'S THE MAN. OKAY. HE'S THE

1 ONE WRITING Y'ALL. HE'S THE MAN WHO IS ON THE PEER
2 GROUPS TO -- WHAT DO THEY DO? THEY MAKE SURE THAT
3 THE ARTICLES THAT COME IN ARE GOOD SCIENCE.

4 THIS GUY IS THE REAL DEAL. THAT'S WHO -- THAT'S
5 WHO WU IS. WELL, THAT AIN'T BRANNON. I DON'T WANT
6 TO RUN THE MAN DOWN, BUT DON'T COME IN HERE WHEN A
7 MAN'S LIFE IS ON THE LINE AND TRY TO MAKE HIM OUT AS
8 HEALTHY WHEN HE'S SICK.

9 AND I DON'T CARE WHY YOU'RE DOING IT. I DON'T
10 WANT TO -- WHY SHOULD I EVEN WANT TO KNOW WHY YOU'RE
11 SOMEBODY'S HAND PUPPET OR YOU'RE ACTING LIKE A
12 TRAINED PARROT. I DON'T NEED TO KNOW. BUT I DO KNOW
13 WHAT WU IS LIKE, BUT THAT'S FOR YOU TO DECIDE. OKAY?

14 WHAT I SAY TO YOU IS NOT EVIDENCE. YOU KNOW,
15 YOU MIGHT NOT LIKE ME LAYING IT OUT HERE LIKE THIS,
16 BUT LET THE TRUTH BE THE LIGHT. HE SAID THESE PEER
17 REVIEW ARTICLES, HE SAID THEY'RE INTERESTING, BUT
18 THEY ARE NOT USEFUL, AND HE DID ADMIT THAT HE WAS
19 UNFAMILIAR WITH VOLUMETRIC MRIS.

20 WELL, OKAY. AND HE -- AND HE MAY SAY THIS, TAKE
21 MY WORD FOR IT, THIS IS THE WAY IT IS BECAUSE OF WHO
22 I AM. OKAY? WELL, WHEN I'M GOING DOWN THERE TO PAY
23 MY GROCERY BILL, I NEED TO ADD UP LISTS TO MAKE SURE,
24 OKAY, WHEN I PAY IT. YOU KNOW.

25 NOW, YOU TAKE DR. BRAWLEY. NOW, I LIKED HER.

1 SHE'S MY KIND OF EXPERT. YOU REMEMBER HER? SHE GOT
2 UP HERE ON THE STAND, SHE SAYS, I'M A
3 NEUROPSYCHOLOGIST. IN OTHER WORDS, SHE'S JUST LIKE
4 DR. EINHORN.

5 AND SHE SAID, THIS IS MY AREA OF EXPERTISE AND
6 THIS IS WHAT I DO AND THIS IS WHAT I KNOW. THE REST
7 OF IT I REALLY CAN'T GIVE YOU AN OPINION ON. I LIKE
8 THAT, DON'T YOU, BECAUSE THAT GIVES ME WHAT I NEED TO
9 MAKE A DECISION.

10 AND WHAT DID SHE SAY? SHE SAID, WHAT I DO IS I
11 USE PAPER AND BLOCKS AND THINGS. I DON'T LOOK INSIDE
12 THE BRAIN. I TAKE PAPERS AND BLOCKS AND THINGS AND I
13 MAKE EXAMINATIONS VERY MUCH THE SAME WAY THAT EINHORN
14 DOES, AND I CAN TELL YOU THAT EINHORN'S EXAMINATION
15 WAS LENGTHY AND IT WAS THOROUGH, AND I AGREE WITH
16 HIM. OKAY?

17 NOW, LET'S TALK ABOUT THIS A LITTLE BIT, OKAY?
18 EINHORN'S EXAMINATION WHICH SHE SAYS SHE AGREES WITH.
19 YOU MAY REMEMBER EARLY ON IN THE TRIAL THAT THE
20 SOLICITOR SAID, THERE'S NOTHING WRONG WITH THIS MAN'S
21 BRAIN. EVEN THEIR OWN EXPERT SAYS SO.

22 BUT HOW DOES IT COME OUT? THE UPPER PART OF THE
23 FRONTAL LOBES, THAT'S WHAT EINHORN WAS TESTING. AND
24 EVEN THERE HE FOUND ANTISOCIAL DISORDER AND WHATEVER
25 OTHER MALADIES OR DISAFFECTS THAT HE FOUND THERE.

1 OKAY? NOT THE LOWER LOBES.

2 AND THE EXPERTS HAD TOLD YOU UP IN THIS AREA, UP
3 THERE WHERE EINHORN AND BRAWLEY WERE DOING THEIR
4 TESTING FOR, THAT IS -- DOESN'T REALLY HAVE ANYTHING
5 TO DO WITH WHAT WE'RE TALKING ABOUT.

6 YOU COULD BE DAMAGED ON THE LOWER LOBES, FINE.
7 IN FACT, THEY SAID PSYCHOPATHS, AS WE KNOW IT, THEY
8 UNIFORMLY HAVE HEALTHY UPPER -- THAT UPPER FRONTAL
9 LOBE. YOU DON'T BELIEVE ME? CHECK IT. OKAY?

10 SO THAT'S IN KEEPING -- THAT'S PART OF IT. I
11 LIKED HER. I THOUGHT SHE WAS HONEST AND I THOUGHT
12 SHE WAS STRAIGHT-FORWARD.

13 NOW, PAMELA CRAWFORD. SHE'S INTERESTING BECAUSE
14 PAMELA CRAWFORD DOES NOT SEE INSIDE THE HEAD. OKAY?
15 SHE TAKES HISTORY. SHE'S THE ONE WHO SAYS, AS MR.
16 HUMPHRIES HAS REPEATED FOR US, HE WANTS WHAT HE WANTS
17 WHEN HE WANTS IT.

18 WELL, I TELL YOU TO -- WHAT I SAY ABOUT HER.
19 SHE THINKS WHAT SHE THINKS ABOUT, SHE THINKS IT.
20 THAT'S THE WAY SHE IS. OKAY? SHE -- SHE DOESN'T GO
21 THROUGH THAT PET SCAM -- SCAN STUFF. THAT'S THE NEW
22 IT.

23 YOU KNOW, I CAN'T READ THE FUTURE. NEITHER CAN
24 YOU. BUT I'D BE WILLING TO GUESS THIS MUCH. SOME
25 DAY WHEN YOU'RE ARRESTED, THEY'LL JUST SCAN YOU. IF

1 HIS VIOLENT CRIME, JUST LIKE THEY TAKE YOUR
2 FINGERPRINT, GO AHEAD, SCAN THEM, SEE WHAT WE GOT UP
3 THERE.

4 BECAUSE WHAT WE HAVE FOUND OUT IS OR WHAT THE
5 DOCTORS ARE TELLING US IS YOU GO OVER TO THE PRISON,
6 50 PERCENT OF THE PRISONERS ARE ANTISOCIAL, AND AS A
7 SUBSET SAY THAT 50 PERCENT, 25 PERCENT OF THOSE
8 PEOPLE ARE PSYCHOPATHS.

9 THOSE PEOPLE ARE GUESS -- I'M NOT A DOCTOR. I'M
10 JUST A LAWYER. BUT THAT PSYCHOPATH SEEMS TO ME FROM
11 WHAT THE DOCTORS SAID, THEY ARE MORE VIOLENT AND
12 THERE -- THEY ARE A SMALLER GROUP OF PEOPLE TO BE
13 DEALING WITH. AND THEY HAVE CERTAIN TRAITS AND
14 CHARACTERISTICS.

15 AND THAT'S WHAT THEY SAY STEPHEN STANKO IS.
16 NOW, SHE WANTS TO SAY IT'S ALL VOLITION. YOU KNOW
17 WHAT VOLITION IS? THAT MEANS FREE WILL, JUST LIKE
18 MR. HUMPHRIES SAID.

19 HE JUST A MEAN -- HE'S AN EVIL MAN. YEAH.
20 WELL, I DON'T KNOW. YOU GOT THIS BRAIN DAMAGE. YOU
21 KNOW, YOU LOOK -- YOU LOOK AWAY FROM ALL YOU WANT TO,
22 BUT LET THE TRUTH BE THE LIGHT. IT'S THERE.

23 FINALLY, WHAT IS -- WHAT DID SHE SAY? LET ME
24 FINISH HER UP BECAUSE I WANT TO GET TO OUR EXPERTS
25 WHO REALLY GIVE YOU SOMETHING TO DEAL WITH. YOU

1 KNOW, SHE WAS ASKED BY MR. DIGGS, VERY INTERESTING
2 QUESTION.

3 SHE SAID, WHAT DRIVES HIS ACTIVITY? WHEN SHE
4 SAID -- FIRST SHE COULDN'T ANSWER. SHE DIDN'T KNOW
5 WHAT TO SAY. LOOK ON THE TRANSCRIPT. AND THEN SHE
6 SAYS -- HE SAYS, ISN'T IT THE BRAIN THAT DOES THAT?

7 AND YOU KNOW, YOU CAN'T GET AWAY FROM THAT; CAN
8 YOU? YOU KNOW, THEY WANT TO GET AWAY WITH IT BY
9 SAYING THE BRAIN IS HEALTHY. BUT LET ME GIVE YOU AN
10 EXAMPLE. TELL ME IF YOU AGREE WITH THIS.

11 THERE IS A NEWSPAPER MAN. HE OWNS A NEWSPAPER.
12 NOT ONE, NOT TWO, MORE THAN ONE. MORE THAN TWO.
13 HE'S RICH. HE'S WEALTHY. AND HE'S A PILLAR OF THE
14 COMMUNITY. HE'S MARRIED. HIS WIFE. HEALTHY BUILD.

15 BUT THEY REACH A PLACE WHERE SHE'S GOING TO
16 LEAVE HIM. AND SHE'S GOING TO TAKE HER PORTION WITH
17 HER WHEN SHE GOES. AND HE GETS WIND OF IT AND THEY
18 CONFRONT ONE ANOTHER AND THEY ARGUE. AND BEFORE IT'S
19 OVER WITH, HE KILLS HER AND HE STUFFS HER INTO A
20 TRASH CAN.

21 AND WHEN IT'S OVER AND HE'S APPREHENDED, AND
22 LET'S SAY HE -- HE LEAVES THE HOME AND HE GOES AND
23 HIDES FOR A FEW DAYS AND TURNS HIMSELF IN. BUT WHEN
24 IT'S OVER, HE'S DEEPLY SADDENED BY IT, BY WHAT HAS
25 HAPPENED. HE'S MOROSE.

1 WELL, THAT DOESN'T SOUND LIKE A PSYCHOPATH; DOES
2 IT? SO THEY TEST HIS BRAIN AND THEY FIND OUT GIVEN
3 HIS AGE AS A MATURE MAN, HIS BRAIN IS OKAY, HE
4 DOESN'T HAVE ANY DYSFUNCTION IN THE FRONTAL LOBES.
5 OKAY.

6 DOES THAT MEAN ACCORDING TO WHAT WE HAVE HEARD
7 ON THE STAND THAT HE COULD NOT HAVE BEEN INSANE AT
8 THE TIME THAT HE KILLED HIS WIFE SIMPLY BECAUSE HE
9 HAD A HEALTHY BRAIN? THE ANSWER TO THAT IS, NO. IT
10 DOESN'T MEAN THAT. NOT FROM WHAT I HEARD.

11 AND YOU KNOW, IT'S UP TO YOU, BUT THAT IS NOT
12 WHAT I HEARD. HERE IS WHAT I HEARD. I HEARD THAT
13 HERE IS ALL OF NATURE AS WE KNOW IT ON EARTH. HERE
14 ARE ALL THE LIVING FORMS.

15 YOU'RE THE MAN. WE ARE UP AT THE TOP. AND WE
16 DEVELOP THESE FRONTAL LOBES. WE HAVE GOT THE
17 REPTILIAN BRAIN, NOW. DIDN'T Y'ALL EVER FIGURE
18 ANY -- FEEL ANY ANGER THIS WEEK OR ANY DISGUST THIS
19 WEEK? SURE YOU DID.

20 THAT'S THE -- AS SACHY SAYS, THAT'S THE ROCK --
21 IN OTHER WORDS, EXPERIENCE, THAT'S FALLING INTO THE
22 POND OF MY BRAIN. AND WHEN IT FALLS IN THERE, THEN
23 THAT EMOTION HAS TO BE DEALT WITH BY THE FRONTAL
24 LOBES.

25 AND IF I HAD GOOD FRONTAL LOBES OR UNLIKE THE

1 NEWSPAPER MAN WHO WAS HEALTHY, IT'S NOT SO GREAT, I
2 CAN'T CONTROL IT. THEN IF MY FRONTAL LOBES ARE
3 WORKING PROPERLY, THEN I SHOULD BE ABLE TO DEAL WITH
4 IT; SHOULDN'T I? YEAH. THAT'S WHAT THE DOCTORS SAY.

5 BUT IF THEY ARE NOT, CAN'T DO IT. MY FRONTAL
6 LOBES ARE THE CROWN AND GLORY OF MY HUMANITY. MY
7 BRAIN AND YOUR BRAIN I THINK IS COMMON KNOWLEDGE TO
8 THE SCHOOLBOY AND SCHOOLGIRL IS THE MOST COMPLEX
9 CHEMICAL THING IN THE UNIVERSE.

10 WE ARE THE GLORY OF THIS AND OF CREATION. AFTER
11 US I'M GOING TO ALBINIAK. YOU REMEMBER HIM? HE MAY
12 HAVE TALKED ABOUT FRONTAL LOBES, BUT NOT JUST HIM.
13 AFTER HIM, THE GREAT APES, THE GORILLA, THE
14 CHIMPANZEE, THEY HAVE FRONTAL LOBES, TOO. YOU KNOW.
15 THEY HAVE SOME.

16 GO RIGHT ON DOWN, THE CAT, THE RABBIT, BOP, BOP,
17 BOP, BOP, BOP, BOP, BOP, WHATEVER IT IS, THE BIRD AND
18 FISH, AND THEN FINALLY YOU GET DOWN TO THE LIZARD.
19 AND -- FISH, LIZARD, WHO KNOWS. BUT WHEN YOU GET
20 DOWN THERE, NO FRONTAL LOBES.

21 AND WHAT DO THEY SAY, WHAT DO THESE EXPERTS SAY?
22 THEY SAY, WELL, YOU DON'T HAVE FRONTAL LOBES AND YOU
23 JUST GOT THAT WHAT THEY CALL A REPTILIAN BRAIN. THEN
24 IT'S EAT THEM OR RETREAT FROM THEM. FLIGHT OR FIGHT.
25 I'M EITHER GOING TO EAT YOU OR I'M GOING TO GO

1 SOMEWHERE ELSE. OKAY?

2 YOU REMEMBER SIEGFRIED AND ROY? REMEMBER WHERE
3 ROY GOT MAULED BY HIS TIGER? REMEMBER THAT? IT'S IN
4 THE NEWS. ROY HAD HIS WHITE TIGER, TAKING THE TIGER
5 ON STAGE AND THE TIGER, WHICH HE HAD AND RAISED FROM
6 A CUB, MAULED HIM AND DRUG HIM OFF OF THE STAGE BY
7 THE HEAD.

8 AND PEOPLE SAID -- SOME PEOPLE SAID KILL
9 THAT TIGER REALLY. BUT ROY SAID, NO, THAT'S NOT THE
10 TIGER'S FAULT. WELL NOW, LET'S SAY WE GOT THIS TIGER
11 AND HE MAULS ROY AND THEN LATER ON HE MAULS SOMEBODY
12 ELSE.

13 WHAT DOES THAT MEAN? ACCORDING TO MR. HUMPHRIES
14 HE LEARNED BETTER HOW TO MAUL PEOPLE. IS THAT WHAT
15 IT'S ALL ABOUT WITH THE REPTILIAN BRAIN? NO.

16 WE -- WE DON'T BELIEVE AND WE HAVE ENCODED INTO
17 OUR LAW THAT WHEN YOU CAN'T DISTINGUISH BETWEEN MORAL
18 RIGHT AND WRONG OR YOU CAN'T DISTINGUISH BETWEEN THE
19 ACT THAT YOU ARE DOING, THAT'S WHAT THEY CALL
20 INSANITY. OKAY.

21 WELL, I GUESS MY POINT HERE IS, AS WE GO DOWN
22 THE LADDER IN NATURE, THEN WE GET MORE AND MORE AWAY
23 FROM THIS MORAL UNDERSTANDING OF RIGHT AND WRONG, LET
24 ALONE THE LEGAL UNDERSTANDING OF RIGHT AND WRONG.

25 BUT BEFORE I LEAVE PAMELA CRAWFORD WHO SAYS, BY

1 THE WAY, I DON'T KNOW ANYTHING ABOUT PET SCANS, YOU
2 KNOW, AND THEN SHE GOES ON TO SAY, EVEN THOUGH I
3 DON'T KNOW ANYTHING ABOUT THEM, MAYBE 25 YEARS
4 THEY'LL BE TECHNOLOGY.

5 WELL, THE TRUTH IS, THEY'RE THE TECHNOLOGY RIGHT
6 NOW. AND JUST AS MICHAEL JORDAN LEARNED TO DRIBBLE
7 AND SHOOT THE BALL, BECAME THE WORLD CHAMPION, IT'S
8 VERY LIKELY IN THE SAME WAY THAT THE TELESCOPE BECAME
9 THE FLAT FORM IN SPACE AND THE SAME WAY THAT THE
10 MAGNIFYING GLASS BECAME THE ATOMIC MICROSCOPE, THEN
11 THIS PET SCAN IS GOING TO GO DEEPER AND TELL US MORE
12 AND MORE AND MORE.

13 YOU KNOW WHAT SHE'S LIKE? SHE'S ON THE OUTSIDE
14 OF THE BRAIN. HEY, I DIDN'T HAVE ANYTHING AGAINST
15 HER, BUT HERE'S WHAT SHE'S LIKE. SHE'S LIKE SOMEBODY
16 COMES UP TO A WALL AND SHE SAYS -- AND SOMEBODY SAYS
17 TO HER, IS THERE ANYTHING ON THE OTHER SIDE OF THAT
18 WALL?

19 AND SHE SAYS, WELL, I CAN HEAR WHAT'S GOING ON
20 OVER THERE AND I HAVE GOT A HISTORY OF WHAT'S GOING
21 ON OVER THERE, BUT HERE COMES SOMEBODY WITH A LADDER.
22 AND THEY CLIMB UP ON THE LADDER AND THEY LOOK OVER
23 THE WALL.

24 HERE COMES SOMEBODY ELSE WITH A PERISCOPE AND
25 THEY LIFT IT UP AND THEY LOOK OVER THE WALL AND SHE

1 SAYS, THIS LADDER IS GOING TO BE SOMETHING SOME DAY.
2 AND MAYBE THAT PERISCOPE IS, TOO. BUT TODAY IT'S
3 NOT.

4 WELL, IS THAT THE TRUTH? I DON'T -- I DON'T
5 THINK IT IS. DO YOU? BUT IF IT IS, LET THE TRUTH BE
6 THE LIGHT. WHO DO WE HAVE TO PUNISH AS JURORS? WHO
7 DO WE HAVE TO REWARD AS JURORS? WE HAVE ONLY OUR
8 OATH TO DO WHAT IS PROPER.

9 TAKE THE LAW, APPLY IT. WELL, I'M SURE I GET AN
10 ARGUMENT FROM PEOPLE, SOME OTHER PEOPLE, THAT'S THE
11 WAY SHE SEEMED TO ME. THEN SHE CAN'T TELL US
12 ANYTHING WITH WU AND SASHY, SHE AND EINHORN AND
13 THRASHER AND ALBINIAK CAN TELL US REALLY,
14 PARTICULARLY THE ONES WITH THE PET SCAN INFORMATION.
15 SHE JUST CAN'T TELL US THAT.

16 BUT ARE YOU GOING TO TURN YOUR BACK ON THAT
17 INFORMATION? NOW, LET'S GO TO DR. SACHY. OKAY.
18 SASHY -- DR. SACHY HAS TOLD US ABOUT THE STONE
19 DROPPING INTO THE POND OF THE BRAIN AND EXPLAINS THAT
20 TO US IN THE SAME WAY THAT ALBINIAK DID AND TELLS US
21 HOW OUR FRONTAL LOBES ARE RESTRAINING AND DEALING
22 WITH THAT AND THAT IF THEY ARE DAMAGED, YOU CAN'T DO
23 IT THE SAME WAY.

24 AND IN FACT, THE MORE THEY ARE DAMAGED, MAYBE
25 THE LESS SO. OKAY? AND THAT SEEMS TO BE ACCEPTED

1 SCIENTIFIC FACT.

2 NOW, WE DIDN'T ASK HIM TO COOK UP INFORMATION.
3 NOBODY ASKED HIM TO COME DOWN HERE AND HOODWINK YOU
4 OR ANYBODY ELSE WHEN THEY WERE ONLY TO DO WHAT
5 SCIENTISTS AND MEN OF HONORABLE VIRTUE ALWAYS DO AND
6 THAT REPRESENT THE TRUTH AS THEY SEE IT AND LET THE
7 CARDS FALL WHERE THEY MAY, AND THAT'S WHAT SASHY DID.
8 THAT'S WHAT THEY DID.

9 YOU KNOW, IF THIS HAD HAPPENED 10, 15 YEARS AGO,
10 WE'D HAVE NO IDEA ABOUT WHAT'S WRONG WITH THIS FELLOW
11 BECAUSE WE WOULDN'T BE ABLE TO SEE IT.

12 NOW, WHAT DID HE SAY? DON'T BELIEVE ME. IF YOU
13 DON'T BELIEVE ME, GO LOOK AND PLAY IT TO YOU. HE
14 SAID, THERE'S NO DOUBT THAT THE BRAIN DEFICIT -- AND
15 INSANITY CAUSED BY THIS BRAIN DEFICIT, UNABLE TO
16 CONTROL, UNABLE TO ADEPT DUE TO A FUNCTIONAL DEFICIT.

17 THAT FUNCTIONAL DEFICIT, LADIES AND GENTLEMEN,
18 IS SHOWN BY THAT SUGAR THAT'S PUT IN THERE AND HOW
19 IT'S USED. AND HERE'S WHAT HE SAID AND THE
20 PSYCHIATRIST CALLED INSANITY.

21 NEARLY MISSED THIS WHEN HE SAID IT BECAUSE HE
22 ONLY SAID IT ONE TIME. HE SAID INSANITY IS EXTREME
23 BEHAVIORAL DYSCONTROL. EXTREME BEHAVIORAL
24 DYSCONTROL. THAT'S A REAL SIGN OF INSANITY. THAT'S
25 A SIGN OF IT.

1 AND LEGALLY WE ARE DEALING WITH SOMETHING MAYBE
2 A LITTLE BIT MORE THAN THAT. AND THE JUDGE IS GOING
3 TO TELL YOU. AND THAT IS, HEY, CAN YOU CONTROL IT OR
4 NOT? AND ISN'T THAT THE REAL QUESTION IN HERE?

5 NOW, EINHORN SAID REALLY ONLY ONE THING. I
6 TESTED UP HERE AND IT WAS OKAY, EXCEPT I DID -- DID
7 IDENTIFY ANTISOCIAL BEHAVIOR. OKAY. YEAH, AND
8 THAT'S IT.

9 DON'T TRY AND MAKE IT OUT AS SOMETHING THAT IT'S
10 NOT. DON'T TRY TO MAKE IT OUT THAT EINHORN IS SAYING
11 THERE'S NOTHING WRONG WITH THE FRONTAL LOBES. THAT
12 AIN'T THE TRUTH. BUT LET THE TRUTH BE THE LIGHT.

13 NOW, HERE'S WHAT DR. THRASHER SAID. HE'S A
14 LOCAL GUY, LONG DISTINGUISHED CAREER. I'M NOT
15 RELYING ON THAT. I -- I -- I THOUGHT -- I DON'T KNOW
16 WHAT YOU THOUGHT. I THOUGHT HE WAS HONEST. THAT'S
17 WHAT I THOUGHT.

18 AND WHAT HE SAID, THE LAST WORDS THAT HE SAID,
19 IF YOU LOOK ON THE TRANSCRIPT, IS HE IS INSANE. HE
20 WAS INSANE AT THAT TIME. THAT IS WHAT HE SAID. THEY
21 ALL PUT THIS FINGER ON THIS POSSIBLE -- WE DON'T HAVE
22 TO PROVE IT. WE'RE JUST TRYING TO SHOW IT.

23 THERE IS NO PROOF DEMANDED OF US. WE'RE TRYING
24 TO SHOW SOMETHING THAT WE KNOW HAPPENS. CHILDREN,
25 YOU KNOW, DON'T POOH-POOH IT AND SAY JUST BECAUSE I

1 SPIT UP, WHAT'S THAT, ALL BABIES DO IT--

2 MR. HUMPHRIES: YOUR HONOR, AT THIS TIME I NEED
3 TO ENTER AN OBJECTION.

4 THE COURT: PLEASE APPROACH.

5 MR. HUMPHRIES: THANK YOU.

6 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

7 THE COURT: THE OBJECTION IS SUSTAINED BY
8 CONSENT. COUNSEL WILL REPHRASE HIS REMARKS. YOU MAY
9 PROCEED.

10 (WHEREUPON MR. KELLY CONTINUED HIS ARGUMENT.)

11 MR. KELLY: I MIGHT HAVE MISSPOKEN MYSELF. SAID
12 WE DON'T HAVE ANYTHING TO PROVE. WE HAVE ONE THING
13 WE HAVE TO PROVE. WE HAVE TO PROVE BY THE
14 PREPONDERANCE OF THE EVIDENCE, YOU KNOW, WE HAVE TO
15 PROVE BY THE PREPONDERANCE OF THE EVIDENCE THAT HE
16 WAS INSANE.

17 WE RAISED THE ISSUE AND I WILL SPEAK TO THAT
18 JUST FOR A MOMENT. OKAY? HERE'S WHAT PREPONDERANCE
19 IS. PREPONDERANCE IS NOT BEYOND ANY REASONABLE
20 DOUBT. THAT IS WHERE IT'S MORE LIKELY THAN NOT.

21 LET'S SAY YOU HAVE TWO PEOPLE WHO WERE IN A
22 PARKING LOT AND THEY BOTH BACKED OUT OF THEIR PARKING
23 SPACES AND THEY HAD A COLLISION, AND EACH ONE OF THEM
24 SAYS, HEY, I LOOKED BEHIND ME, I HAD THE RIGHT OF
25 WAY, SO YOU CAN'T BELIEVE THE SIDE.

1 THEY GO TO COURT AND SETTLE IT, SEE WHO IS GOING
2 TO PAY THE DAMAGES. AND THE JURY LISTENS TO THEM AND
3 THEY HAVE TO DECIDE BY THE PREPONDERANCE OF THE
4 EVIDENCE WHICH ONE WAS AT FAULT. THAT'S THE
5 PREPONDERANCE.

6 LET'S SAY WE ARE MAKING A CHOICE IN OUR OWN
7 LIVES. WE ARE SAYING, I WANT TO GO EITHER THIS WAY
8 OR AM I GOING TO GO THAT WAY, SORT OF WEIGHING IT
9 OUT. AND SAY, BOY, THAT'S CLOSE, BUT I'M GOING TO GO
10 THIS WAY. YOU MIGHT SAY THAT'S THE PREPONDERANCE OF
11 YOUR OWN OPINION.

12 BUT HERE IN THE COURTROOM THE EVIDENCE IS
13 WHATEVER IS ADMITTED. WE KNOW WHAT THAT IS. IT'S
14 WHAT YOU HAVE HEARD. THAT'S THE EVIDENCE, NOT WHAT I
15 SAY OR WHAT ANY LAWYER SAYS.

16 AND THAT -- THAT'S WHAT YOU HAVE TO SHOW BY
17 THE -- WHAT'S CALLED THE SIMPLE PREPONDERANCE OF THE
18 EVIDENCE THAT AT THE TIME THESE HORRIBLE EVENTS TOOK
19 PLACE THAT HE WAS INSANE.

20 AND AS JURORS YOU HAVE TO CONSIDER IT. IF YOU
21 DECIDE -- THAT'S BY LOOKING AT OUR EVIDENCE AND AS
22 YOU SAY, YEAH, THEY MEET THE PREPONDERANCE, NOW, THE
23 STATE HAS TO SHOW YOU BEYOND ANY REASONABLE DOUBT,
24 ANY REASONABLE DOUBT, THAT HE WAS SANE.

25 NOW, THAT'S WHAT THE JUDGE IS GOING TO INSTRUCT

1 YOU. AND WHAT I SAY TO YOU IS NOT THE LAW. IT'S
2 JUST ME SAYING THAT'S WHAT I THINK SHE'S GOING TO
3 INSTRUCT YOU, OKAY?

4 ALL RIGHT. LET'S SEE. YOU KNOW. LAURA LING
5 WAS NOT MAULED BY A TIGER OR A BEAR OR A PITBULL.
6 SHE WAS KILLED. AND IT'S UP TO YOU TO DECIDE IF SHE
7 WAS MURDERED OR NOT AND UNDER WHAT CIRCUMSTANCES.

8 AND WHEN I FIRST TALKED TO YOU, WE TALKED ABOUT
9 WHERE IT HAPPENED IS PRETTY OBVIOUS AND WHEN IT
10 HAPPENED. THAT'S PRETTY OBVIOUS, AND THEN HOW AND
11 WHY.

12 NOW WE GET INTO IT, PARTICULARLY WHY AND HOW.
13 ALL RIGHT. LET'S SEE IF YOU AGREE WITH ME FIRST OF
14 ALL. SEEMS TO ME IN THE CLOSING ARGUMENT OF MR.
15 HUMPHRIES WAS SAYING TO YOU HE WAS LURKING IN THE
16 SHADOW GASPING WITH DESIRE TO RAPE THE 15 YEAR OLD
17 GIRL.

18 HE WAS WAITING HIS OPPORTUNITY. AND THE MOTHER
19 WAS IN BED ASLEEP AND HE OVERPOWERED HER AND THAT HE
20 WENT IN AND HE GOT THE GIRL AND HE RAPED HER. AND
21 HE -- EVENTUALLY TO DEATH. ISN'T THAT WHAT HE'S
22 SAYING? MOTIVATION TO ATTACK LAURA LING WAS IN ORDER
23 TO RAPE THE DAUGHTER. THAT'S WHAT I HEARD.

24 ALL RIGHT. LET'S EXAMINE IT. WHAT DOES
25 LAURA -- WHAT DOES [REDACTED] LING SAY? LET ME SAY

1 FIRST OF ALL SHE'S A BRAVE GIRL. THIS SHOULD NEVER
2 HAVE HAPPENED. OKAY. GET THAT OUT RIGHT NOW. AND I
3 HOPE SHE CAN PUT THIS BEHIND HER, TOO, AS WE ALL DO.
4 BUT LET'S LOOK AT THE EVIDENCE.

5 WITHOUT PASSION, WITHOUT DISGUST, WITHOUT
6 CONFUSION, WITHOUT -- SHE SAYS, WHILE I WAS ON THE
7 BED, HE WOULD BEAT MY MOTHER. WHY WAS HE DOING THIS?
8 IF THE -- IF THE WHOLE THING WAS TO JUST -- TO
9 DISABLE THE MOTHER, WHY DIDN'T HE SO SAVAGELY BEAT
10 THE MOTHER AND CONTINUE TO BEAT THE MOTHER IN THE
11 PRESENCE OF THE DAUGHTER?

12 WHY DID HE SAY TO HER, YOU'RE TO BLAME FOR THIS,
13 I LOVED HER. I ASKED YOU, YOU REMEMBER ME ASKING
14 HER, I ASKED HER TO SEE WHAT SHE'D SAY TO MAKE SURE
15 THAT REALLY WAS WHAT WAS SAID BECAUSE I THOUGHT IT
16 WAS SIGNIFICANT FOR YOU TO HEAR IT. AND SHE SAID,
17 YEAH, HE SAID IT.

18 AND I ASKED HER, YOU MEAN AS THOUGH HE WERE
19 BLAMING YOU? AND SHE REPLIED WORDS TO THE EFFECT,
20 YEAH, LIKE THAT. ALL RIGHT?

21 IT'S UNDOUBTED FROM THE EVIDENCE THAT STEPHEN
22 STANKO IS A LIAR. HE LIES. NOW, COMMON SENSE TELLS
23 YOU, EVERYBODY DON'T LIE 100 PERCENT ALL THE TIME.
24 NOBODY WOULD EVER BELIEVE YOU WOULD.

25 BUT BE AWFUL HARD TO EVER TAKE HIS WORD FOR

1 ANYTHING. AND -- AND THIS, WHAT THE STATE -- SHE
2 BELIEVES.

3 BUT JUST LOOK AT CIRCUMSTANCES AND LOOK AT THE
4 ACCOUNT THAT HE GAVE TO THE DOCTORS INCLUDING
5 CRAWFORD. HE SAID, LAURA LING ACCUSED ME AND SAID
6 THAT HER DAUGHTER -- SHE WOULD REPORT THAT HER
7 DAUGHTER HAD SAID THAT I HAD MOLESTED HER.

8 YOU REMEMBER THAT? AND IF YOU DON'T REMEMBER
9 IT, IT'S RIGHT HERE IN THE TRANSCRIPT. AND I THINK
10 IT'S PROBABLY IN CRAWFORD'S TESTIMONY AND PROBABLY
11 ALSO SOME OF OUR EXPERTS. I CAN'T TELL YOU AT THE
12 MOMENT EXACTLY WHERE IT IS, BUT IT'S THERE.

13 AND WHEN -- I'M GOING TO SEND YOU BACK TO
14 PRISON, YOU'RE GOING TO GO. THERE WAS AN ARGUMENT
15 TAKING PLACE. AND WE'VE ALL SEEN THEM. WE'VE ALL
16 SEEN ARGUMENTS. AND WE'VE SEEN THEM COME TO BLOWS,
17 TOO.

18 SOMETIMES THEY WILL BE FIRED OFF -- OVER
19 SOMEBODY NUDGING YOU OR PUSHING YOU. WHAT HE
20 REPORTED WAS IS THAT SHE EITHER -- I DIDN'T GET QUITE
21 SHE EITHER THREW UP HER HAND OR SHE CAME AROUND THE
22 BED AND SHE SLAPPED HIM AND A CIGARETTE MIGHT HAVE
23 GONE OFF IN HIS FACE, ALTHOUGH HE DIDN'T HAVE ANY
24 BURN LATER, ACCORDING TO THE TESTIMONY, AND THAT SET
25 IT, AND BOY DID IT SET IT. IT REALLY SET IT OFF.

1 AND NOW IT MAKES SENSE TO SOME DEGREE. WHY HE
2 WOULD -- THE RAGE, THE BLIND RAGE, THAT CAN COME OUT
3 OF YOUR BRAIN IN THE SAME WAY THAT OUR HYPOTHETICAL
4 NEWSMAN WHO DOESN'T HAVE ANY PROBLEM WITH HIS BRAIN,
5 IS A PILLAR OF THE COMMUNITY, WHEN HE KILLS HIS WIFE,
6 COMES ROARING OUT IN THE SAME WAY THAT WATER STACKED
7 UP AGAINST A DAM FINALLY BREAKED (SIC) AND COME
8 THROUGH, AND WE KNOW THIS IS A FACT.

9 THIS IS A HUMAN SCIENTIFIC FACT. AND WHAT A --
10 RAGE WAS THERE. AND THAT WOULD THEN MAKE SENSE LIKE
11 WE WOULD GO TO PUNISH HER IN HER MOTHER'S FACE.
12 WHY -- INSANITY? WOULD YOU CALL IT THAT?

13 IT'S UP TO YOU TO DECIDE WHY HE WOULD DO THIS IN
14 THE MOTHER'S FACE. SHE WASN'T DEAD YET. AND THEN
15 SAY TO HER, SEE WHAT YOU MADE ME DO TO HER? OKAY?
16 THAT'S A LITTLE DIFFERENT THAN LURKING IN THE SHADOW
17 GASPING WITH DESIRE AND TYING THE MOTHER UP WHILE
18 SHE'S ASLEEP.

19 NOW, WHY [REDACTED] LING DIDN'T HEAR ALL THAT WAS
20 GOING ON IN THERE, I CANNOT EXPLAIN IT. OKAY? SHE
21 SAID SHE HAD THE DOOR OPEN. SAID SHE DIDN'T HAVE ANY
22 RADIO ON.

23 I DIDN'T ASK HER WAS SHE TAKING ANY KIND OF
24 MEDICATION THAT WOULD MAKE HER SLEEP HEAVILY, BUT SHE
25 SAID NORMALLY SHE WAS A LIGHT SLEEPER. BUT HOW SHE

1 SLEPT THROUGH THAT, I CAN'T TELL YOU.

2 YOU THINK THAT WOMAN DIDN'T FIGHT HIM? YOU
3 THINK SHE DIDN'T CALL OUT? THE MARKS ON HER HANDS
4 THAT YOU SEE, SHE FOUGHT. SURE SHE DID BEFORE SHE
5 WAS TIED UP.

6 NOW, I'M GOING TO JUMP TO MCLENDON. THAT'S THE
7 WOMAN IN BERKELEY COUNTY. HE TIED HER UP, TOO. WE
8 DIDN'T GET ALL THE DETAILS OF IT. YOU DIDN'T SEE ALL
9 THE REPORTS ON IT, BUT YOU HEARD SOME ABOUT IT.

10 AND I THINK THE DOCTOR SAID WHERE SHE WAS LUCKY
11 HIS FRONTAL LOBES HADN'T KICKED IN AND HE HADN'T
12 RESTRAINED HIMSELF, LAURA LING WOULD BE ALIVE TODAY
13 BECAUSE THAT WOMAN WOULD PROBABLY BE DEAD.

14 WELL, I'M NOT A PSYCHIATRIST. I HAVE TO ASK
15 THEM TO EXPLAIN TO ME, HERE'S -- TAKE A LOOK AT THIS,
16 YOU TELL ME, NOT YOU MESSING AROUND AND YOU FUDGE IT
17 UP AND YOU MAKE IT SO WE CAN HOODWINK THE JURY.

18 NO. YOU TELL ME. YOU'RE THE EXPERT. YOU'RE
19 QUALIFIED. YOU'RE THE -- YOU TELL WHAT IT'S ALL
20 ABOUT. HAVE TO TELL ME. I CAN'T TELL YOU.

21 BUT WHAT DID THEY SAY? THIS IS HARD TO GET YOUR
22 HEAD AROUND. AND THAT IS -- IN THE SAME WAY THAT A
23 SLEEPWALKER CAN BE OUT OF IT AND BE ABLE TO TALK OR
24 SING OR WALK OR WHATEVER, THAT'S SIMILAR TO A PERSON
25 THAT WE WOULD SAY IS INSANE BY OUR DEFINITION AND

1 ACTUALLY WOULD BE ABLE TO HOLD A CONVERSATION. HARD
2 TO GET YOUR HEAD AROUND IT.

3 NOW, THIS WAS A -- THIS WAS A RAGE, AND IT WAS A
4 BLIND RAGE. THAT'S WHAT I WOULD SAY. BUT IT'S UP TO
5 YOU. BUT HE TOLD THE DOCTORS, CRAWFORD, FOR
6 INSTANCE, THAT HE HAD COME OUT OF IT IN THE SHOWER.

7 SASHY SAID, I DON'T BELIEVE THE WHOLE STORY
8 ABOUT THIS AMNESIA. OKAY? BUT THE DOCTORS DID SAY
9 THAT THE TRAUMATIC EVENT TAKES PLACE, YOU WILL HAVE
10 SOME MEMORY OF IT.

11 BUT THEY SAID, NO. SASHY WAS HONEST. HE SAID,
12 NO, I DON'T BELIEVE THE WHOLE THING ABOUT THAT,
13 ABOUT -- BUT THEY ALL SAID THAT THESE RAGES SUBSIDE.

14 THIS MIGHT NOT BE A PERFECT ANALOGY. BUT WHEN
15 THE WATER COMES RAGING DOWN THE VALLEY, WHEN THE --
16 WHEN THE DAM HAS BROKEN, WHEN THE RAINS WERE HEAVY
17 AND BEGINS TO WASH AWAY EVERYTHING THAT'S IN ITS
18 PATH, IT FINALLY SUBSIDES.

19 NAME ONE THING IN ALL THE HOUSE, NATION, THAT
20 DOES NOT SUBSIDE. EVEN THE SUN WILL BURN OUT IN THE
21 SAME WAY THAT OUR LIVES WILL PASS AWAY INTO TIME.
22 ALL THINGS, DON'T THEY SUBSIDE?

23 NOW, THERE'S SOME PEOPLE WHO NEVER GET OVER IT,
24 JUST NEVER -- MAYBE IT'S BECAUSE THEY ACTUALLY HAVE
25 SOME PHYSICAL DAMAGE. BUT WE HEAR ABOUT IT EVERY

1 SINGLE DAY.

2 EVEN -- AND I DON'T WANT TO COMPARE OUR HEROIC
3 CITIZENS WHO ARE SERVING US IN THE ARMED FORCES, BUT
4 WE EVEN HEAR WHERE THEY WERE UNDER PRESSURE, ARE
5 ACCUSED OF HEINOUS ACTS, OF RAPING AND KILLING.

6 THERE'S GOT TO BE AN EXPLANATION FOR THAT. NOT
7 MEANNESS, NOT BEING EVIL, THAT'S NOT IT. CAN YOU
8 HAVE SOMEBODY WHO IS EVIL? YUP. YES, YOU CAN. YES,
9 YOU CAN. AND THAT'S PART OF WHAT YOU HAVE TO DECIDE
10 HERE.

11 BUT, HOW ABOUT THE BRAIN DEFECT? AND HOW ABOUT
12 ALL THE SIGNS THAT YOU HAVE BEEN GIVEN? OKAY? WHAT
13 IS THAT ALL ABOUT? YOU KNOW, THEY WANT TO SAY -- I
14 DON'T KNOW IF YOU CALL THIS LIBRARIAN THE NEXT
15 MORNING OR NOT, I DON'T KNOW WHETHER TO BELIEVE THE
16 LIBRARIAN OR NOT, BUT HERE'S WHAT THE LIBRARIAN SAID.

17 THE LIBRARIAN SAID, SOMEBODY CALLED, SOUNDED
18 LIKE STEPHEN STANKO, I HAD TALKED TO HIM BEFORE ON
19 THE PHONE, THEY SAID LAURA LING WON'T BE IN BECAUSE
20 OF WHATEVER IT WAS, SOME -- A FOOD POISONING.

21 AND THEN HE SAID, WELL, YOU KNOW, I HAD SEEN THE
22 NEWS, SO I SAID, HOW ABOUT GIVING ME YOUR PHONE
23 NUMBER? AND THE PERSON SAID, OH, I'VE GOT LAURA
24 LING'S PHONE.

25 NOW, IF THAT DOESN'T SOUND LIKE STEPHEN STANKO,

1 WHO DOES IT SOUND LIKE? AND THEY SAY, A HA, THAT
2 PROVES HE WAS SANE. AND HE REACHED DOWN AND HE TOOK
3 THE BRACELET OFF HER WRIST, HE EMPTIED OUT HER
4 POCKETBOOK, HE WENT TO THE ATM MACHINE WHERE WE HAVE
5 PICTURES OF HIM WITH THE DATE AND THE TIME UP THERE,
6 CALLED HIS BROTHER, AND THEY SAY TO YOU, THEY SAY TO
7 YOU, NOT TO THE EXPERTS WHO CAN TELL IT, BUT TO YOU,
8 HOW CAN THAT BE?

9 WELL, I WOULD HAVE TO SAY TO THEM, YOU GOT TO
10 ASK SOMEBODY BESIDES ME. I'D HAVE TO ASK SOMEBODY
11 MYSELF. AND THAT'S JUST WHAT WE DID. AND THAT'S
12 WHAT IT COMES DOWN TO HERE.

13 YOU KNOW, WHEN [REDACTED] LING WENT TO THE
14 HOSPITAL, YOU REMEMBER WHAT THE NURSE SAID TO YOU?
15 SHE SAID SHE WAS CLEAR. AND SHE JUST WANTED TO KNOW
16 ONE THING, WHY DID THIS HAPPEN TO ME. WELL, THIS
17 BRAIN DAMAGE THING THAT I'M SURE MR. DIGGS CAN TELL
18 YOU MUCH MORE ABOUT THAN I CAN, IS CERTAINLY A PART
19 OF THE EXPLANATION IN AND OF ITSELF.

20 THEY WANT TO SAY HANG YOUR HATS ON HIM GOING TO
21 THE ATM MACHINE AND SAY YOU'RE NOT INSANE WHEN YOU
22 DID THIS TO THIS WOMAN AND THIS CHILD. OKAY.
23 BECAUSE NUMBER ONE, YOU DIDN'T HAVE ANY MENTAL
24 DEFECT.

25 WELL, I HAVE GONE OVER THAT. THAT'S CLEARLY

1 THAT. AND NUMBER TWO, YOU CAN -- YOU COULD CONTROL
2 IT. LET ME ASK YOU SOMETHING. IF STEPHEN STANKO WAS
3 SO SMART, WHY WHEN HE'S RELEASED FROM PRISON IS HE
4 CONTINUING THIS BEHAVIOR?

5 YOU REMEMBER WHAT SASHY SAID TO YOU? HE SAID
6 24-SEVEN. HE'S PSYCHOPATH. THAT'S A LOT OF BAD
7 CHOICES, BELIEVE ME. 24-SEVEN. BUT HE'S NOT INSANE
8 24-SEVEN. OKAY.

9 BUT WHEN WE LOOK AT -- WE WANT TO MAKE SURE AND
10 YOU -- I KNOW YOU'RE GOING TO FOLLOW YOUR OATH, YOU
11 WANT TO MAKE SURE THAT YOU FOLLOW THE LAW AND DO
12 WHAT'S RIGHT.

13 I DON'T HAVE ANY QUARREL WITH YOU AT ALL. I
14 JUST WANT TO SAY WHAT I BELIEVE IS THE TRUTH. AND
15 ASK YOU HOW DOES IT FIT FOR YOU? DID YOU HEAR THE
16 SAME THING I HEARD? BECAUSE THAT'S THE WAY I SEE IT.
17 THAT'S THE WAY.

18 NOW, WHEN LAWYERS GET UP, THEY CAN'T THINK OF
19 EVERYTHING TO SAY THAT EVEN THEY WANTED TO SAY. I
20 KNOW THERE ARE THINGS THAT I -- I CAN'T EVEN HAVE IN
21 MY MIND RIGHT NOW THAT I SAID, GOSH, I WISH I'D HAVE
22 SAID THAT, I WISH I'D HAVE GOT THAT OUT WHEN I WAS UP
23 THERE. BUT I HAVE GOTTEN OUT AS MUCH AS I CAN GET
24 OUT. THAT'S THE WAY I SEE IT, OKAY?

25 RELY ON THESE EXPERTS. AND THE JUDGE IS GOING

1 TO TELL YOU, YOU CAN TAKE ALL OR PART OR NONE FROM A
2 WITNESS, YOU DON'T HAVE TO TAKE A LITTLE BIT, ALL, A
3 PART, OR NONE.

4 BUT IF YOU'RE GOING TO GO DO BISCUITS JUST LIKE
5 YOUR GRANDMAMA DID, AND YOU GOT HER RECIPE. THEN IF
6 YOU FOLLOW THAT RECIPE, THOSE BISCUITS OUGHT TO TURN
7 OUT PRETTY MUCH THE SAME.

8 OR IF YOU'RE GOING TO MAKE RELISH JUST LIKE YOUR
9 GRANDMOTHER DID SO THAT YOUR HUSBAND OR YOUR LOVED
10 ONE CAN ENJOY IT. AGAIN, THEN IF YOU FOLLOW THAT
11 RECIPE, THEN IT'S LIKELY TO COME OUT.

12 BUT IF YOU DON'T FOLLOW THE RECIPE -- AND THAT'S
13 WHAT THESE EXPERTS DID NOT DO -- THEY DID NOT FOLLOW
14 THE RECIPE WHEN THEY USED AS A CONTROL GROUP PEOPLE
15 SITTING IN A DARK ROOM IN A EASY-CHAIR NOT BEING
16 ENGAGED WITH THEIR FRONTAL LOBES -- YOU ARE NOT GOING
17 TO GET GRANDMA'S RELISH. OKAY? WE KNOW THAT.

18 THIS HAS BEEN HARD FOR YOU AND ME, EVERYBODY.
19 THIS IS A DRAINING, RUGGED EXPERIENCE FOR THE
20 STRONGEST OF US. YOUR MINDS HAVE NOW HAD INNERED
21 (SIC) INTO IT SOMETHING OF GREAT HORROR.

22 THEY OUGHT TO BE HAPPY, OUGHT TO KEEP OUR
23 THOUGHTS AND OUR MEMORIES AS HAPPY AS WE CAN, BUT YOU
24 HAVE DONE YOUR DUTY BY BEING EXPOSED TO THIS BECAUSE
25 THIS SYSTEM THAT WE HAVE GOT HERE, THIS IS IT.

1 IT'S NOWHERE ELSE ON EARTH THAT I CAN STAND
2 EXCEPT IN THIS COUNTRY AND ESPECIALLY IN SOUTH
3 CAROLINA WHERE WE VALUE OUR LIBERTY AND OUR
4 CONSTITUTIONAL RIGHTS.

5 AND I CAN SPEAK FREELY THE TRUTH OF MY OWN MIND
6 AND I CAN HAVE PEOPLE, JURORS WHO ARE NOT COOKING
7 THEIR OWN AGENDA, TO LISTEN AND MAKE A DECISION BASED
8 ON THE TOTALITY OF EVERYTHING.

9 DOESN'T HAPPEN ANYWHERE ELSE. THIS IS WHY WE
10 ARE THE STRONGEST PEOPLE ON EARTH, BECAUSE WE HAVE
11 JUSTICE. THIS IS WHY WE ARE AN INVINCIBLE PEOPLE.
12 AND IT'S WHY OUR GOVERNMENT IS SPREADING ALL OVER THE
13 PLACE.

14 AND SO I APPRECIATE YOUR SERVICE. BELIEVE ME.
15 AND YOU KNOW, IT'S JUST THE WAY I SEE IT. AND JUST
16 LET THE TRUTH BE THE LIGHT. AND THAT'S ALL I ASK.
17 AND THANK YOU FOR LISTENING TO ME.

18 THE COURT: LADIES AND GENTLEMEN, YOU HAVE BEEN
19 SITTING ABOUT AN HOUR AND EIGHT MINUTES. DOES ANYONE
20 NEED A BREAK? I'M GOING TO GIVE YOU A BRIEF RECESS.
21 DURING THE RECESS DO NOT DISCUSS THE CASE.

22 PLEASE LEAVE YOUR NOTEPADS IN YOUR SEAT. AS
23 SOON AS YOU ARE DONE, KNOCK ON THE DOOR AND WE WILL
24 PROCEED BACK INTO THE COURTROOM AGAIN.

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

1 THE COURT: YOU MAY BE SEATED. WE'LL BE AT EASE
2 AS SOON. AS THE JURY TELLS US, WE WILL RESUME
3 CLOSING ARGUMENTS.

4 (WHEREUPON A RECESS WAS TAKEN.)

5 THE COURT: IS THE STATE READY TO PROCEED?

6 MR. HUMPHRIES: YES, YOUR HONOR.

7 THE COURT: IS THE DEFENSE READY TO PROCEED?

8 MR. DIGGS: YES, YOUR HONOR.

9 THE COURT: PLEASE BRING IN THE JURY.

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

11 ***** BACKUP CLEAR FROM HEREON OUT *****

12 THE COURT: YOU MAY BE SEATED. LADIES AND
13 GENTLEMEN, I HOPE THAT YOU ALL HAD AN OPPORTUNITY TO
14 BE REFRESHED. I WOULD ASK THAT YOU GIVE COUNSEL YOUR
15 UNDIVIDED ATTENTION. MR. DIGGS, YOU MAY PROCEED.

16 MR. DIGGS: THANK YOU, YOUR HONOR.

17 THE COURT: YOU'RE WELCOME.

18 MR. DIGGS: MAY IT PLEASE THE COURT.

19 THE COURT: THE COURT IS PLEASED.

20 CLOSING STATEMENT

21 MR. DIGGS: LADIES AND GENTLEMEN, I APPRECIATE
22 YOUR ATTENTION. IT'S 20 MINUTES TILL FOUR AND I'M --
23 THE OTHER COUNSEL HAVE GONE FOR ABOUT AN HOUR. I
24 WILL TRY NOT TO DO THAT BECAUSE I'M NOT GOING TO
25 COVER A LOT OF GROUND ALREADY COVERED, BUT I DO WANT

1 TO MAKE SOME POINTS FOR YOU THAT I FEEL ARE IMPORTANT
2 IN THIS CASE THAT I WOULD ASK YOU TO CONSIDER BEFORE
3 YOU MAKE YOUR DECISION ON THIS ISSUE OF GUILT OR
4 INNOCENCE AND ON THE ISSUE OF INSANITY.

5 THE FIRST THING I WANT TO DO IS TO ASK YOU TO
6 LOOK AT THIS. IN THE 21ST CENTURY, 2006, FOUR --
7 ALMOST 40 YEARS AFTER THIS COUNTRY PUT A MAN ON THE
8 MOON, WITH THAT KIND OF TECHNOLOGY, TO LOOK INSIDE
9 THE BRAIN USING THE BEST TECHNOLOGY THAT WE HAVE
10 AVAILABLE TO US IN THE WORLD, WE CAN ALMOST SEE WHAT
11 HAS FOR CENTURIES BEEN AN INEXPLICABLE REALITY,
12 INSANITY.

13 WE HAVE ALWAYS IN THE HISTORY OF THIS WORLD HAD
14 PEOPLE THAT WERE INSANE. WE ALL KNOW THAT INSANITY
15 HAS ALWAYS BEEN AROUND IN THIS WORLD JUST LIKE BIRTH
16 DEFECTS.

17 AND WHAT WE'RE HERE TO SAY IS INSANITY IN THIS
18 INSTANCE HAS OCCURRED WITH THIS DEFENDANT THAT CAN
19 RISE AND FALL ON THAT SCALE BETWEEN SANE AND INSANE.
20 AT THIS TIME IN 2006, 21ST CENTURY, YOU'RE LOOKING AS
21 CLOSE AS WE CAN COME TO SHOWING YOU WHAT INSANITY CAN
22 LOOK LIKE UNDER THE RIGHT SET OF STIMULI, AND THAT'S
23 WHAT WE HAVE HERE.

24 PLEASE DO NOT BE TOO QUICK TO DISCOUNT RUBEN GUR
25 BUT -- SIMPLY BECAUSE OF DR. BRANNON'S TESTIMONY. HE

1 ADMITTED HE DOESN'T UNDERSTAND IT. HE'S NEVER READ
2 IT. HE DOESN'T NEED IT.

3 HE DIDN'T NEED IT IN HIS CAREER. HE DOESN'T
4 NEED IT TO -- TODAY, BUT WE DO. WE MOVE ON. AND
5 THAT'S WHERE WE ARE TODAY.

6 YOU HEARD DR. ALBINIAK. HE CAME IN BECAUSE DR.
7 GUR COULD NOT BE HERE, OKAY. AND DR. ALBINIAK TALKED
8 ABOUT THIS CHART. DR. BRANNON DOESN'T KNOW
9 STATISTICS, BUT DR. ALBINIAK DOES.

10 HE SAID, OF COURSE, HE'S GOT A BIG ENOUGH
11 SAMPLE. HUNDREDS OF ARTICLES HAVE BEEN PUBLISHED IN
12 THE MEDICAL JOURNALS AND PSYCHOLOGY JOURNALS,
13 PSYCHIATRIST JOURNALS, HUNDREDS OF ARTICLES ABOUT
14 THIS. IT'S BEEN PEER REVIEWED, ACCEPTED IN THE
15 COMMUNITY.

16 DR. BRANNON, HE DOESN'T NEED IT. HE CAN EYEBALL
17 IT. DON'T SEND YOUR LOVED ONE WHO SUFFERS FROM
18 INSANITY POSSIBLY TO DR. BRANNON BECAUSE YOU'RE NOT
19 GOING TO GET ANY ASSISTANCE.

20 IN FACT, I WOULD SUGGEST, YOU WOULDN'T WANT TO
21 SEND THEM TO ANY OF THE STATE'S EXPERTS. WITH ALL
22 DUE RESPECT TO THE PROSECUTION AND TO THE STATE, THAT
23 EVIDENCE WAS PATHETIC. IT WAS PATHETIC.

24 NOW, IT'S BECAUSE THEY'RE STUPID, THAT THEY
25 DON'T KNOW THAT THEY'RE BEING PATHETIC? NO. THEY

1 DON'T UNDERSTAND THIS ISSUE OF INSANITY. THEY DON'T
2 UNDERSTAND IT.

3 AND LET ME GIVE YOU AN EXAMPLE. DR. SPICER,
4 THAT MAN KNOWS WHAT IS -- GOOD WITNESS. HE KNOWS
5 WHAT HE'S TALKING ABOUT. EXCEPT WOULD YOU SEND HIM
6 TO -- WOULD YOU TAKE YOUR CHILD AND SEND HIM FOR
7 EVALUATION TO A RADIOLOGIST IF INSANITY WAS THE
8 ISSUE? NO.

9 LET'S LOOK AT HIS DATABASE. AND I'M GOING TO
10 COME BACK IN JUST A MINUTE IN A LITTLE MORE DETAIL.
11 BUT DR. WU SAID WHEN DR. RAINE, ADRIAN RAINE
12 PUBLISHED THESE STUDIES, YOU HAVE GOT TO MAKE SURE
13 YOU HAVE GOT A CONTROLLED DATABASE, YOU HAVE GOT TO
14 MAKE SURE YOU HAVE GOT A CONTINUANCE PERFORMANCE TEST
15 GOING SO THAT EVERYBODY'S BRAIN IS DOING THE SAME
16 FUNCTION AT THE SAME TIME SO YOU CAN COMPARE HEALTHY
17 VERSUS NON-HEALTHY.

18 AND THE FIRST THING THAT DR. SACHY DID WAS
19 ENGAGE DR. EINHORN TO GO AND PERFORM THAT TASK, TO
20 MAKE SURE THAT CPT, CONTINUANCE PERFORMANCE TEST, WAS
21 DONE WITH STEVE. THAT WAS THE FIRST RESPONSIBILITY
22 HE HAD. NOT THE ADDITIONAL TESTING.

23 THE ADDITIONAL TESTING WAS JUST A NET, ANYTHING
24 ELSE WRONG THERE THAT WE CAN SEE BY TRADITIONAL
25 MEANS. NO. OKAY. WELL, THIS PERSONALITY THING THAT

1 DR. EINHORN NOTED, BUT OTHERWISE IT'S JUST LIKE DR.
2 BRAWLEY SAID.

3 BUT WHAT WAS HIS PRIMARY PURPOSE? IT WAS THE
4 CPT, THE CONTINUANCE PERFORMANCE TEST. AND DR.
5 SPICER WHO WAS A PUBLISHED AUTHOR HIMSELF, 50
6 ARTICLES, HE SAID, ON RADIOLOGY, I ASKED HIM, DO YOU
7 KNOW, DID YOU DO A CPT AND DO YOU KNOW WHAT THAT IS?
8 AND HE DID NOT.

9 HE DID NOT KNOW WHAT THAT WAS. AND THE REASON
10 IS BECAUSE HIS DATABASE -- WHAT DOES A RADIOLOGIST
11 NEED A DATABASE FOR? THEY NEED A HEALTHY BRAIN ALL
12 OVER, NOT JUST IN THE FRONTAL LOBES WHEN THE FRONTAL
13 LOBES ARE INSIDE IT. HE NEEDS A BRAIN ALL OVER.

14 HE NEEDS A DATABASE OF A BUNCH OF PEOPLE WITH
15 HEALTHY BRAINS WHO ARE AT REST SO THAT WE COMPARE --
16 WE CAN COMPARE EVERY AREA OF THE BRAIN, OF THE
17 SUSPECTED PATIENT DEFECT WITH THE DATABASE WHEN THEY
18 ARE AT REST.

19 DR. WU'S DATABASE, THEY ARE AT WORK. THEY ARE
20 AT WORK AND THEY ARE RED. IN DR. SPICER'S DATABASE
21 THEY ARE AT REST AND THEY ARE BLUE. DR. SPICER
22 DIDN'T EVEN KNOW THAT THAT WAS IMPORTANT. HE DIDN'T
23 EVEN KNOW THAT.

24 IS IT BECAUSE HE'S STUPID? NO. HE DOESN'T WORK
25 ON INSANITY. HE'S NOT TO BE FAULTED FOR THAT. I

1 DON'T DO SECURITIES WORK. I'M NOT TO BE FAULTED
2 BECAUSE I DON'T UNDERSTAND SECURITIES LAW. I DON'T
3 DO IT. DR. SPICER DOESN'T DO IT.

4 DR. EINHORN GOES DOWN, AND THIS IS -- THIS IS
5 INCREDIBLE. I BELIEVE OTHERWISE EXCEPT FOR THAT
6 FUNDAMENTAL MISTAKE DR. SPICER MADE, I BELIEVE HE WAS
7 TRUTHFUL.

8 HE COULD NOT BELIEVE THAT STEPHEN STANKO'S BRAIN
9 WAS THAT LOW AND DEFICIENT IN ACTIVITY. HE COULDN'T
10 BELIEVE IT. HE WAS WILLING TO SAY THAT JOSEPH C WU
11 HAD TO BE A LIAR. THAT'S THE ONLY THING THAT MADE
12 SENSE TO HIM. HE HAD NEVER SEEN ANYTHING LIKE THAT.

13 AND I SUBMIT TO YOU DR. WU WAS NOT A LIAR.
14 OKAY. HE'S SMART. HE -- HE DOESN'T KNOW STEPHEN
15 STANKO. WHY WOULD HE COME ALL THE WAY HERE TO
16 DEFRAUD YOU ABOUT MR. STANKO'S BRAIN? DON'T YOU
17 THINK HE'S GOING TO BE EXPOSED? NO. HE'S NOT LYING.

18 UNDER THE CONTROLLED CIRCUMSTANCES YOU GET THIS
19 IMAGE. MR. STANKO GOT THIS IMAGE. FIFTY TO
20 80 PERCENT DEFICIENCY. IT WAS SO MUCH, SO DEFICIENT
21 THAT DR. SPICER SAID, IT CAN'T BE, WU HAS TO BE
22 LYING.

23 I MEAN, I -- WE CAN'T FAULT DR. SPICER. WE HAVE
24 NEVER BEEN ABLE TO KNOW THINGS LIKE THAT ABOUT PEOPLE
25 WHO ARE INSANE OR DO INSANE THINGS.

1 IF YOU HAVE A CHANCE, WE HAVE PUT THIS DISK INTO
2 EVIDENCE. DR. SPICER SAID, WELL, OVER HERE THEY HAD
3 TO TONE DOWN THE COLOR TO MAKE IT THAT LOW. BUT
4 LOOK, THERE'S A LITTLE AREA RIGHT UP HERE, OKAY, AND
5 RIGHT UP HERE, THAT AS FAR AS I CAN TELL ARE THE
6 HIGHEST REDS ON THE SCALE THAT WE SEE IN THOSE
7 IMAGES.

8 AND YOU KNOW WHAT? THEY ARE BOTH THERE, THE --
9 THE -- THE RED IS HERE AND THE RED IS HERE. AND IT
10 SHOWS YOU IT IS THE SAME COLOR SCALE.

11 WHAT YOU'RE LOOKING AT IS SO DEFICIENT, DR.
12 SPICER IN HIS EYEBALLING OF THE -- OF A NORMAL SCAN
13 AND FOR THE PURPOSES THAT HE NEEDS, HE HAD NEVER SEEN
14 ANYTHING LIKE THIS IN HIS PROFESSIONAL LIFE.

15 HE WAS SO THROWN, HE HAD TO ACCUSE DR. WU OF
16 FALSIFYING THE DATA. IMAGINE THAT. THIS, LADIES AND
17 GENTLEMEN, IS WHY I SAY THIS IS HOW INSANITY APPEARS.
18 NOT GUILT -- NOT MENTAL ILLNESS MERELY, BUT SOMETHING
19 REALLY, REALLY EXTRAORDINARY.

20 IT IS SO DEFICIENT, STEPHEN IS SO DEFICIENT --
21 THINK ABOUT THIS -- DR. SPICER IN REALITY IS OUR BEST
22 WITNESS FOR THE DEFENSE IN MR. STANKO'S POSITION OF
23 INSANITY IN THIS CASE BECAUSE HIS DATABASE OF PEOPLE
24 AT REST, PEOPLE AT REST, REFLECTS THE BEST THIS MAN
25 CAN DO UNDER THE MOST STRENUOUS OF TASKS.

1 DR. SPICER'S PEOPLE WERE IN A DARK ROOM ON A
2 LOUNGE CHAIR WITH THEIR EYES CLOSED DEPRIVED OF
3 SENSORY INFORMATION. STEPHEN WAS WORK -- HE WAS
4 WORKING A CONTINUOUS PERFORMANCE TEST DESIGNED
5 SPECIFICALLY TO EXCITE AND DRAW OUT FUNCTION OF THE
6 FRONTAL LOBE AREA THAT WE'RE CONCERNED WITH HERE.

7 AND THE BEST THAT STEPHEN COULD DO UNDER THE
8 MOST DEMANDING OF CIRCUMSTANCES ON THAT TASK WAS TO
9 MATCH SOMEONE AT REST, MATCH THE DATABASE THAT WAS AT
10 REST.

11 IT'S LIKE TWO CARS AT A NASCAR RACE, AND THEY'RE
12 SITTING HERE AND THE GUN SOUNDS AND ONE TAKES OFF,
13 BUT THIS ONE DOESN'T GO ANYWHERE. THE GAS PEDAL IS
14 TO THE FLOOR BUT IT DOESN'T MOVE. IT'S THE BEST IT
15 CAN DO. IT'S THE BEST IT CAN DO.

16 STEPHEN STANKO LIVES HIS LIFE EVERY DAY IN THIS
17 CONDITION. AND WHAT DID DR. SASHY SAY? THAT'S WHERE
18 EMPATHY IS. IT'S WHERE DR. THRASHER SAID IT WAS.
19 THRASHER AND SASHY SAY HE'S INSANE.

20 THERE IS NO WAY HE CAN HAVE AN ABSENCE OF
21 ACTIVITY LIKE THAT UNDER THIS CONTROLLED CIRCUMSTANCE
22 WITH THIS CONTROLLED DATABASE AND HAVE THAT LOW
23 ACTIVITY, 80 PERCENT.

24 DR. WU SAID THAT, 50 TO 80 PERCENT DIMINISHED IN
25 ACTIVITY OR FUNCTION. THERE ARE NO BRAKES HERE.

1 WHEN THAT LIMBIC SYSTEM GENERATES THAT IMPULSE OF
2 RAGE OR WHATEVER IT IS THAT COMES OUT OF THAT PORTION
3 OF THE BRAIN, THERE ARE NO BRAKES UP HERE.

4 IT'S LIKE A RUN-AWAY TRAIN. THAT'S WHERE THE
5 BRAIN DEFECT, THE MENTAL DEFECT IS. THAT'S WHERE THE
6 ABILITY TO DISTINGUISH BETWEEN RIGHT AND WRONG, MORAL
7 AND LEGAL RIGHT AND WRONG, THAT'S WHERE THAT FUNCTION
8 LIES IN THE BRAIN, AND HE DOESN'T HAVE IT.

9 HE LACKS THE CAPACITY TO DISTINGUISH BECAUSE IT
10 DOESN'T HAVE THE BRAIN FUNCTION TO DO THAT, TO MAKE
11 THAT DISTINCTION.

12 HUH, UH, UH, LAY BACK DOWN. IMAGINE THAT. YOU
13 REMEMBER WHEN [REDACTED] SAID THAT? SHE STARTED TO
14 GET UP AND STEPHEN, UH, UH, UH, LAY BACK DOWN. AND
15 IN HER STATEMENT SHE HEARS WHAT SHE THINKS ARE
16 VOICES. SHE DOESN'T EVEN RECOGNIZE IT AS STEVE.

17 HE IS INSANE. HE IS INSANE. OUR DEFENSE
18 EXPERTS ARE HERE BECAUSE THEY WORK IN THE AREA OF
19 INSANITY. STATE'S EXPERTS DON'T.

20 I DON'T CRITICIZE THEM FOR THAT, BUT THEY ARE
21 NOT IN THAT -- THEY ARE NOT UP TO SPEED, SO-TO-SPEAK
22 IN THAT AREA. IT'S NOT THEIR FAULT. THEY DON'T DO
23 THAT. PAM CRAWFORD IS NOT UP TO SPEED.

24 IF YOU BELIEVE THAT STEPHEN STANKO WAS INSANE --
25 AND THIS IS OF A PREPONDERANCE OF THE EVIDENCE, OKAY?

1 WHICHEVER DID TOO GOOD OF A JOB -- BUT WHEN IT TILTS,
2 THAT'S -- IT'S 51 49. THAT'S THE PREPONDERANCE.

3 IF YOU BELIEVE 51 TO 49 THAT STEPHEN STANKO HAS
4 THAT LACK OF CAPACITY TO DISTINGUISH, THEN WE HAVE
5 PROVEN INSANITY UNDER OUR BURDEN OF THE LAW.

6 ALL OF YOU SWORE, I CAN FOLLOW THE LAW, JUDGE
7 JEFFERSON, BECAUSE IT'S MY RESPONSIBILITY. EVEN IF I
8 DON'T AGREE WITH IT, I CAN FOLLOW IT. EVEN IF I
9 DON'T THINK THAT -- IF THE SPEED LIMIT IS 35 AND I
10 THINK IT COULD BE 50 EASILY, I'M GOING TO SAY IT'S
11 50, BUT THE JUDGE SAYS, NO, IT'S 35, THEN YOU'VE GOT
12 TO APPLY 35.

13 ALL OF YOU SAID YOU COULD DO THAT. IF HE LACKS
14 THE CAPACITY UNDER DR. WU'S ANALYSIS AS DR. SACHY AND
15 THRASHER SAY HE -- HE DOES, HE LACKS THAT CAPACITY,
16 THEN YOU HAVE GOT TO FIND HIM INSANE.

17 AND YOU HAVE GOT TO RELY ON DR. CRAWFORD TO
18 OVERCOME THAT BY A -- BEYOND A REASONABLE DOUBT. AND
19 THAT FAILS MISERABLY. THEY DON'T UNDERSTAND, WITH
20 ALL DUE RESPECT, WHAT THIS CASE IS ABOUT.

21 OTHERWISE THEY WOULD HAVE HAD WITNESSES WHO AT
22 LEAST UNDERSTOOD THAT THE MUSC DATABASE OF BRAINS,
23 BRAIN SCANS DONE IN THE DARK AT REST HAD TO BE THE
24 SAME THING AS THE DATABASE THAT WAS DONE HERE.

25 BUT YOU KNOW WHAT? WHAT WAS SHOCKING, DR.

1 SPICER SAID, NO, I HAVE NEVER EVEN SEEN THAT VIDEO.
2 THEY SHOULD HAVE NEVER PUT HIM IN THAT POSITION WHERE
3 HE HAD TO COME UP HERE AND SEE SOMETHING THIS UNUSUAL
4 AND THIS STRANGE, THIS EXTRAORDINARY TO THE POINT HE
5 WAS FORCED TO SAY, DR. WU'S GOT TO BE LYING. I HAVE
6 NEVER SEEN ANYTHING LIKE THIS.

7 HE CHOSE TO -- HE CHOSE TO BELIEVE DR. WU FUDGED
8 THE DATA. THE STATE SHOULD NOT PUT HIM IN THAT
9 POSITION, MADE HIM MAKE THAT DECISION. IT WAS A
10 MISTAKE.

11 INITIALLY WHEN I WAS SHOWING DR. SPICER ONE OF
12 THESE PHOTOS, HE SAID, OH WELL, YEAH, I SEE WHAT'S
13 HAPPENING THERE. YOU KNOW, WE DID THIS AS A
14 CONVENIENCE SO YOU'D JUST HAVE A -- SOMETHING TO LOOK
15 AT. IT'S RUN OFF ON A CHEAP INKJET PRINTER, FOR
16 HEAVEN'S SALES.

17 YOU HAVE GOT TO GO TO THE REAL DIGITAL IMAGE TO
18 SEE WHAT WE'RE TALKING ABOUT. IT'S -- AS DR. SACHY
19 SAID, IT'S TOO SUBTLE TO BE ABLE TO SEE WITH THE EYE
20 WITHOUT THIS COMPUTER ENHANCEMENT WITH RESPECT TO THE
21 DATA.

22 AND WHAT ELSE DID DR. WU SAY? REMEMBER -- IT'S
23 REMARKABLE. THESE COLOR SCHEMES ARE SET BY THE
24 MANUFACTURER. IT'S MUSC DATA. HOW DID DR. WU
25 MANIPULATE IT? HE DIDN'T. HE DIDN'T.

1 IT WILL TAKE SOMEBODY -- IT WOULD HAVE TO BE
2 DONE AT THE MANUFACTURING PLANT WHERE THE MACHINE WAS
3 INSTALLED. WE WENT THROUGH THAT WHOLE SLIDE SHOW
4 ABOUT HOW THAT WAS DONE, PET SCAN AND ALL OF THAT.

5 DR. ALBINIAK SAYS THERE ARE HUNDREDS OF ARTICLES
6 ABOUT THIS. THIS IS ACCEPTED SCIENCE. DR. BRANNON
7 HAS NEVER READ AN ARTICLE ABOUT IT, BUT HE GIVES
8 YOU -- THEY BRING HIM IN HERE AS AN EXPERT.

9 DR. THRASHER SAID HE WAS A LAWYER AND A
10 PSYCHIATRIST. HE UNDERSTANDS THE LEGAL DEFINITION
11 AND HOW THE PSYCHIATRIC FIELD AND THE LEGAL FIELD
12 DON'T SEEM TO CONNECT SOMETIMES, AND THE SAME
13 LANGUAGE.

14 BUT HE SAID BASED ON THIS AND -- I'M FAMILIAR
15 WITH THE PUBLISHED ARTICLES, I'M CERTAINLY WILLING TO
16 RELY ON THIS EVIDENCE AS A FORENSIC TOOL. I DON'T
17 HAVE ANY AVERSION TO USING THE LATEST TECHNOLOGY TO
18 HELP ME MAKE A DIAGNOSIS. I THINK HE'S INSANE. AND
19 DR. SACHY SAID THAT.

20 DR. EINHORN DID THE CONTINUOUS PERFORMANCE TEST
21 TO MAKE SURE THAT THESE AREAS RIGHT HERE WERE AS RED
22 AND ACTIVE AS THESE AREAS. THAT WAS HIS ROLE. AND
23 HE DID THAT. AND HE SAID THAT STEPHEN PERFORMED THE
24 TEST AND THAT'S THE RESULT.

25 DR. WU EXPLAINED TO US THE NECESSITY OF THE CPT,

1 OTHERWISE IT'S AN INVALID RESULT, AND YOU COME UP
2 WITH THIS GARBAGE, WITH ALL DUE RESPECT, THAT DR.
3 SPICER GAVE US YESTERDAY, HE'S COMPLETELY NORMAL. DO
4 YOU THINK HE'S NORMAL BASED ON THE -- JUST BASED ON
5 THE STATE'S CASE. YOU KNOW HE'S NOT NORMAL.

6 [REDACTED] ASKED THE QUESTION, WHY DID THIS
7 HAPPEN? THIS IS WHY IT HAPPENED. YOU CAN LOOK AT
8 IT. WE CAN MOVE IT AND WATCH IT. IT'S GOING. SEE
9 THE RED HERE? THERE'S MORE RED IN STEPHEN'S BRAIN
10 THAN OVER HERE. THERE'S NO MANIPULATION OF THE COLOR
11 SCALE. THAT IS OBSERVED.

12 AND I FEEL SORRY AND EMBARRASSED FOR THE
13 PROSECUTION'S CASE THAT SUGGESTED THAT AS A SOUTH
14 CAROLINIAN. LOOK AT THIS. LET'S WATCH IT A MINUTE.
15 SAME SLICES THAT DR. SPICER WAS TALKING ABOUT. SAME
16 ANGLES.

17 (PAUSE WHILE PLAYING VIDEO).

18 LOOK AT THAT. THEIR REDS ARE THE SAME COLOR,
19 NOT AS MUCH, BUT THE SAME COLOR, SAME SCALE IN BOTH
20 FRAMES. LOOK AT THAT INACTIVITY. LOOK AT IT. ALL
21 THE WAY ACROSS, ALL THE WAY ACROSS. LOW, LOW, LOW,
22 LOW. LOOK AT THAT.

23 LADIES AND GENTLEMEN, DO YOU THINK THAT'S A
24 SIDE-SHOW TRICK, GAME? THAT'S UNWORTHY OF THIS
25 COURTROOM. IT'S UNWORTHY OF US.

1 DR. SACHY PUT THESE EXPERTS TOGETHER BECAUSE HE
2 KNEW THAT'S WHAT WAS NEEDED TO MAKE A SHOWING OF WHAT
3 INSANITY IS, BECAUSE THIS CASE -- WHEN YOU FIRST HEAR
4 ABOUT THIS CASE, WHEN THE STATE RESTED, YOU KNEW --
5 THE STORY THAT YOU HEARD FROM [REDACTED] WAS FOR FOUR
6 MONTHS LIFE HAD BEEN TRANQUIL, PEACEFUL IN THIS
7 HOUSEHOLD.

8 SHE LIKED STEPHEN. HE HAD NEVER DONE ANYTHING
9 TO HER OR EVEN SUGGESTED IT. NEVER. AND ALL OF A
10 SUDDEN ONE NIGHT THIS HAPPENS. THE ONLY EXPLANATION
11 IS INSANITY.

12 IT'S NOT A DIRTY WORD. IT IS A BIRTH DEFECT AND
13 YOU CAN SEE IT IN HIS BIRTH RECORDS. AND DR.
14 BRANNON -- CAN YOU IMAGINE THIS? CYANOSIS, ZERO.
15 THAT MEANS OBSERVED. THEY OBSERVED CYANOSIS.

16 PARALYSIS, THEY OBSERVED THAT WITH THE MORO,
17 POOR MORO REFLEX. OH, YOU THINK THEY ARE GOING TO
18 WRITE ZERO? THEY OBSERVED IT. PALLOR, HE HAD
19 JAUNDICE AND HE WAS SWALLOWING MUCUS AND HE WASN'T --
20 HE WAS BLEEDING.

21 AND THEY NOTED -- I DON'T KNOW IF YOU HAVE EVER
22 HAD CHILDREN, BUT IMAGINE A PARENT OF A NEWBORN
23 SITTING IN A DELIVERY ROOM HEARING, I'M SORRY, BUT
24 YOUR BABY HAS A POOR PROGNOSIS, MIGHT NOT SURVIVE.

25 YOU DON'T THINK THAT'S SERIOUS? YOU WANT TO

1 DISCOUNT THAT COMMENT LIKE THE PROSECUTION ASKS YOU
2 TO DO NOW? YOU KNOW WHAT? YOU KNOW WHO THAT BABY
3 IS? IT'S HIM. HE HAS A BIRTH DEFECT.

4 UNFORTUNATELY IT MANIFEST ITSELF IN THE WAY IT
5 DID WITH LAURA LING. LAURA LING'S DEATH, YOU KNOW --
6 FROM ALL ACCOUNTS -- I DIDN'T KNOW LAURA LING, BUT
7 FROM ALL -- SHE WAS A WELL-LIKED PERSON.

8 WE HAVE A CHANCE TO MAKE SURE THAT HER DEATH IS
9 NOT IN VAIN, THAT SHE IS NOT SIMPLY ANOTHER STATISTIC
10 OF DOMESTIC VIOLENCE LIKE THE PROSECUTION ASKS YOU TO
11 DO.

12 HER DEATH CAN MEAN SOMETHING, TO HELP US
13 UNDERSTAND THAT THESE ARE INDIVIDUALS WHO HAVE A
14 BIRTH DEFECT AND IT AFFECTS THEIR BEHAVIOR AND THEIR
15 CONDUCT AND AT TIMES THEY CAN DO THINGS LIKE THIS
16 UNDER THE RIGHT STIMULI.

17 STEPHEN -- I DON'T KNOW IF LAURA MEANT TO SLAP
18 HIM OR HIT HIM OR WHATEVER. SHE HIT THE CIGARETTE
19 AND IT LODGED UP HERE BENEATH HIS GLASSES AND STUCK
20 HIM IN THE EYE, AND THAT WAS THE LAST THING HE
21 REMEMBERED UNTIL HE CAME TO IN THE SHOWER.

22 HOW LONG IT TOOK THAT INSANE EPISODE TO
23 TRANSPIRE, I DON'T KNOW. BUT IT SUBSIDED AND HE CAME
24 BACK TO REALITY, OR AT LEAST HE REMEMBERS IT. AND HE
25 REALIZES THE HORRIBLE, AWFUL THINGS HE HAD DONE.

1 IMAGINE THAT.

2 HE'S NOT -- YOU GO BACK, AND WHILE THIS IS --
3 THIS IS WHERE DR. EINHORN SAID HE MEASURED WITH HIS
4 TESTS AND DR. BRAWLEY. YOU SEE WHERE THAT IS?
5 THAT'S WHY -- THAT'S WHY IT WAS HEALTHY AND NORMAL,
6 BECAUSE IT IS FAIRLY HEALTHY AND NORMAL.

7 BUT LOOK UNDERNEATH THERE. THAT'S WHAT IS NOT
8 DISCOVERED BY OR SHOWN BY DR. EINHORN'S TESTS OR DR.
9 BRAWLEY'S TESTS. AND THAT'S WHAT IS AT ISSUE IN THIS
10 CASE.

11 DOCTOR -- IF YOU BELIEVE THAT THERE WAS A PERIOD
12 OF INSANITY HERE AT THE TIME THE JUDGE IS GOING TO
13 CHARGE YOU, NOT THE NEXT MORNING WHEN HE CALLED THE
14 LIBRARY, NOT THE NEXT DAY WHEN HE STOLE ANOTHER CAR,
15 BUT AT THE TIME LAURA LING DIED, DID HE HAVE THE
16 CAPACITY TO DISTINGUISH BETWEEN RIGHT AND WRONG.
17 THAT'S THE QUESTION YOU HAVE GOT TO ANSWER.

18 AND I WOULD SUBMIT TO YOU THE EVIDENCE SHOWS THE
19 LIMBIC SYSTEM WAS DRIVING THAT CONDUCT WITH EMOTION.
20 AND THERE WAS NO BREAK UP HERE, NO CAPACITY TO
21 DISTINGUISH OR APPRECIATE HIS ACTIONS AT THAT TIME.
22 THE LIMBIC EMOTION WAS TOO STRONG.

23 IT'S LIKE BEING DROWNED OUT BY -- YOU'RE IN A
24 CAFE AND YOU ARE HAVING A CONVERSATION AND A LIVE
25 ROCK BAND STARTS UP AND YOU GET DROWNED OUT. THAT'S

1 WHAT WAS HAPPENING IN THIS CASE. IN THIS -- THAT IS
2 INSANITY.

3 YOU DON'T HAVE THE CAPACITY TO MAKE THE
4 DISTINCTION, TO DEAL WITH THIS EMOTION THAT'S COMING
5 OUT, A NATURAL EMOTION. IT'S NOT A FREAK. IT'S A
6 NATURAL EMOTION THAT WE ALL HAVE FOR OUR OWN
7 SURVIVAL.

8 DR. CRAWFORD DOESN'T KNOW -- SHE DOESN'T WANT TO
9 LOOK AT THAT. SHE WANTS TO LOOK AT THE LITTLE DSM
10 BOOK THAT'S BUILT ON OBSERVATIONS THAT HAVE BEEN MADE
11 OVER THE PAST HUNDRED YEARS AND RELY ON THAT.

12 AND SOME DAY LET SOMEBODY ELSE SOMEWHERE ELSE
13 DECIDE, WELL, WE'LL LOOK AT IT WITH A PET SCAN, THE
14 BRAIN SCAN, AND SEE IF THERE IS ANY CORRELATION
15 BETWEEN DEFECTS AND CONDUCT. OF COURSE THERE IS.

16 JUST LIKE IF YOU'RE MISSING A FOOT, YOU'RE NOT
17 GOING TO WALK WELL. IF YOU'RE MISSING AN ARM, WELL
18 YOU'RE NOT GOING TO BE A GOOD ATHLETE AND YOU'RE NOT
19 GOING TO BE ABLE TO DO THOSE TASKS. AND IF YOUR
20 BRAIN DOESN'T WORK, THERE ARE CERTAIN THINGS YOU'RE
21 NOT GOING TO DO IN A NORMAL WAY.

22 DR. CRAWFORD DOESN'T KNOW WHY, BUT SHE AGREES
23 WITH DR. SACHY THAT THERE IS A BEHAVIORAL PROBLEM
24 HERE. SHE'LL CALL IT A PERSONALITY DISORDER. HE
25 LACKS EMPATHY. SHE DOESN'T KNOW WHY.

1 HE FAILS TO CONFORM TO SOCIAL NORMS. SHE
2 DOESN'T KNOW WHY. HE LIES A LOT. SHE DOESN'T REALLY
3 KNOW WHY. HE HAS AGGRESSION. SHE DOESN'T REALLY
4 KNOW WHY. HE STEALS A LOT. SHE DOESN'T REALLY KNOW
5 WHY.

6 YUP, DR. SACHY SAYS HE DOES ALL THOSE THINGS
7 BECAUSE HE HAS THE BRAIN TO MAKE HIM DO THOSE THINGS.
8 HOW MANY OF US DO THINGS WHEN OUR BRAIN IS NOT
9 INVOLVED IN THE -- IN THE CHOICE IN SOME FASHION OR
10 ANOTHER? NONE OF US DO.

11 THE BRAIN CONTROLS OUR CONDUCT. AND IF YOU'VE
12 GOT THIS BRAIN SCAN, YOU'RE GOING TO DO THESE THINGS.
13 IT'S THAT SIMPLE. IT'S NOT THAT HARD TO UNDERSTAND.

14 SHE DOES NOT CARRY THE BURDEN OF SAYING BEYOND A
15 REASONABLE DOUBT. THAT FAILS. HER BURDEN FAILS.
16 DR. SPICER'S TESTIMONY IS FAULTY BECAUSE HE'S GOT THE
17 WRONG DATABASE.

18 DR. BRANNON'S TESTIMONY IS FAULTY BECAUSE HE'S
19 NEVER READ THE ARTICLES TO TELL US THAT THIS IS
20 ACCEPTED SCIENCE. DR. BRAWLEY'S TESTIMONY FAILS
21 BECAUSE SHE WAS TESTING THE WRONG AREAS UP HERE WHERE
22 IT'S RED AND HEALTHY.

23 AND DR. CRAWFORD'S TESTIMONY FAILS BECAUSE SHE
24 DOESN'T KNOW ANYTHING ABOUT THIS. SHE JUST BELIEVES
25 HE IS SANE.

1 WE DON'T HAVE ANYONE TO REWARD OR TO PUNISH OR
2 TO WHATEVER FOR YOUR DECISION HERE. YOU HAVE A
3 RESPONSIBILITY TO ABIDE BY YOUR OATH AS A JUROR
4 WHETHER YOU LIKE IT OR NOT.

5 THAT'S WHY THE STATE PUT YOU ON THE JURY.
6 THAT'S WHY WE AGREED TO PUT YOU ON THE JURY. AND
7 THAT'S WHY THE JUDGE QUALIFIED YOU TO BE ON THE JURY,
8 TO FOLLOW THE LAW WHETHER YOU LIKE IT OR NOT.

9 AND IF THIS MAN, NO MATTER HOW VILE OR
10 DISGUSTING THE EVENTS, WAS INSANE, YOU MUST RETURN A
11 VERDICT OF INSANITY. THE LAW RECOGNIZES THE VERDICT
12 OF NOT GUILTY BY REASON OF INSANITY.

13 AND YOU HAVE, MORE THAN ANYBODY HAS HAD, EVER
14 HAD AN OPPORTUNITY TO LOOK AT INSANITY IN TERMS THAT
15 WE CAN SEE AND UNDERSTAND TO JUSTIFY YOUR VERDICT.

16 ONE MORE THING I WANT TO SAY. THE JUDGE BY LAW
17 IS GOING TO GIVE YOU AN OPTION TO VOTE GUILTY BUT
18 MENTALLY ILL. NOBODY -- WE DON'T SAY THAT, THAT HE
19 WAS GUILTY BUT MENTALLY ILL AND THEY DON'T SAY HE WAS
20 GUILTY BUT MENTALLY ILL BECAUSE GUILTY BUT MENTALLY
21 ILL MEANS HE KNEW BECAUSE HE HAD THE CAPACITY AT THAT
22 TIME TO -- TO MAKE A DISTINCTION BETWEEN RIGHT AND
23 WRONG.

24 HE OBVIOUSLY DID NOT. UH, UH, UH, LIE BACK
25 DOWN, AND SPEAKING IN A VOICE THAT [REDACTED] DIDN'T

1 UNDERSTAND OR RECOGNIZE.

2 HE WAS INSANE AND THAT IS THE ONLY VERDICT
3 THAT'S JUSTIFIED BY THE EVIDENCE IN THIS CASE. NO
4 MATTER HOW HORRIBLE THIS POOR GIRL'S DEATH WAS, NO
5 MATTER HOW HORRIBLE, THE LAW IS THE LAW AND YOU SWORE
6 TO FOLLOW IT, AND I'M SURE THAT YOU WILL. THANK YOU
7 VERY MUCH.

8 THE COURT: LADIES AND GENTLEMEN, YOU ALL HAVE
9 BEEN SITTING ABOUT 37 MINUTES. I WANT YOU TO STAND
10 FOR ME AND STRETCH, GET YOUR BLOOD CIRCULATING.

11 (WHEREUPON THERE WAS A PAUSE.)

12 THE COURT: DOES ANYONE NEED TO GO TO THE
13 RESTROOM? OKAY. DURING THIS -- DURING THIS BREAK
14 PLEASE DO NOT DISCUSS THE CASE. PLEASE LEAVE YOUR
15 NOTEPADS IN YOUR SEATS.

16 AS SOON AS YOU HAVE COMPLETED THAT PROCESS,
17 KNOCK ON THE DOOR AND WE WILL RECEIVE YOU BACK INTO
18 THE COURTROOM TO RESUME THE COURT'S CHARGE.

19 (JURY LEFT THE COURTROOM AT 4:18 PM).

20 THE COURT: YOU MAY BE SEATED. WE'LL BE AT EASE
21 UNTIL THE JURY TELLS US THEY ARE READY TO PROCEED.

22 (WHEREUPON THERE WAS A PAUSE.)

23 THE COURT: IS THE STATE READY TO PROCEED?

24 MR. HEMBREE: YES, YOUR HONOR.

25 THE COURT: IS THE DEFENSE READY TO PROCEED?

1 MR. DIGGS: YES, YOUR HONOR.

2 THE COURT: PLEASE BRING IN THE JURY.

3 (JURY ENTERED THE COURTROOM AT 4:36 PM.)

4 JURY CHARGE

5 THE COURT: DURING THIS TRIAL, LADIES AND
6 GENTLEMEN, YOU AND I HAVE CERTAIN DUTIES TO PERFORM.
7 AS THE TRIAL JUDGE, IT IS MY RESPONSIBILITY TO
8 PRESIDE OVER THE TRIAL OF THIS CASE. AND I ALSO HAVE
9 THE DUTY TO RULE UPON OR PASS UPON THE ADMISSIBILITY
10 OF THE EVIDENCE OFFERED DURING THIS TRIAL.

11 YOU ARE TO CONSIDER ONLY THE COMPETENT EVIDENCE
12 THAT IS BEFORE YOU AND YOU ARE TO DISREGARD AND
13 DISABUSE FROM YOUR MIND ANY TESTIMONY THAT THE COURT
14 HAS ORDERED STRICKEN FROM THE RECORD IN THIS CASE, IF
15 THERE HAS BEEN ANY.

16 YOU ARE TO CONSIDER ONLY THE TESTIMONY WHICH HAS
17 BEEN PRESENTED FROM THIS WITNESS STAND TOGETHER WITH
18 ANY EXHIBITS WHICH HAVE BEEN MADE A PART OF THE
19 RECORD IN THIS CASE AND ANY STIPULATIONS OF COUNSEL
20 WHICH HAVE BEEN MADE FOR AND PLACED IN THE RECORD.

21 I HAVE THE ADDITIONAL DUTY TO CHARGE YOU THE LAW
22 APPLICABLE TO THIS CASE. AS THE PRESIDING JUDGE I AM
23 THE SOLE JUDGE OF THE LAW OF THIS CASE AND IT IS YOUR
24 DUTY AS JURORS TO ACCEPT AND APPLY THE LAW AS I NOW
25 STATE IT TO YOU.

1 IF YOU HAVE A PRECONCEIVED IDEA AS TO WHAT THE
2 LAW IS OR WHAT THE LAW OUGHT TO BE IN A CASE OR IN
3 THIS CASE AND IT SHOULD NOT AGREE WITH WHAT I NOW
4 TELL YOU THE LAW IS, YOU ARE OBLIGATED UNDER THE OATH
5 WHICH YOU HAVE TAKEN TO ABANDON THIS PRECONCEPTION ON
6 YOUR PART BECAUSE YOU ARE SWORN TO ACCEPT THE LAW AND
7 APPLY THE LAW PRECISELY AS I NOW STATE IT TO YOU.

8 IN EVERY CASE TRIED IN THIS COURT BEFORE A JURY,
9 THE JURY BECOMES THE SOLE AND EXCLUSIVE JUDGE OF THE
10 FACTS IN A CASE. YOU THE JURY ARE THE JUDGE OF THE
11 FACTS IN THIS CASE. THIS COURT IS THE JUDGE OF THE
12 LAW.

13 THE CONSTITUTION OF OUR STATE HAS DECLARED THAT
14 A TRIAL JUDGE SHALL NOT INTIMATE, STATE, COMMENT
15 UPON, OR MAKE ANY STATEMENT TO A TRIAL JURY ABOUT THE
16 FACTS IN A CASE.

17 SINCE YOU, THE JURY, ARE THE SOLE JUDGES OF THE
18 FACTS IN THIS CASE, YOU ARE NOT TO INFER ANYTHING
19 FROM WHAT I HAVE SAID DURING THE PROGRESS OF THIS
20 TRIAL IN RULING UPON THE ADMISSIBILITY OF EVIDENCE OR
21 OTHERWISE OR ANYTHING THAT I NOW SAY DURING THE
22 COURSE OF THIS INSTRUCTION TO YOU THAT I HAVE ANY
23 OPINION ABOUT THE FACTS IN THIS CASE.

24 THE LAW DOES NOT PERMIT ME TO HAVE AN OPINION
25 ABOUT THE FACTS. THIS IS A MATTER SOLELY FOR YOU,

1 THE JURY, TO DETERMINE.

2 AS JURORS THEN IT IS YOUR DUTY AS I HAVE
3 INSTRUCTED YOU TO DETERMINE THE EFFECT, THE VALUE,
4 THE WEIGHT, AND THE TRUTH OF THE EVIDENCE PRESENTED
5 DURING THIS TRIAL.

6 NECESSARILY YOU MUST ASSESS THE CREDIBILITY OF
7 THE WITNESSES WHO HAVE TESTIFIED IN THIS CASE.
8 CREDIBILITY IS SIMPLY A LEGALISTIC TERM MEANING THE
9 BELIEVABILITY OF THE WITNESSES WHO HAVE TESTIFIED.

10 IT BECOMES YOUR DUTY AS JURORS THEN TO ANALYZE
11 AND TO EVALUATE THE EVIDENCE AND DETERMINE THAT
12 EVIDENCE WHICH CONVINCES YOU OF ITS TRUTH.

13 I INSTRUCT YOU THAT IN DETERMINING THE QUESTION
14 OF THE CREDIBILITY OR BELIEVABILITY OF WITNESSES WHO
15 HAVE TESTIFIED IN THIS CASE YOU MAY BELIEVE ONE
16 WITNESS AS AGAINST SEVERAL WITNESSES OR SEVERAL
17 WITNESSES AS AGAINST ONE WITNESS.

18 YOU MAY BELIEVE A PART OF THE TESTIMONY OF A
19 WITNESS AND REJECT THE REMAINING PART OF THE
20 TESTIMONY OF THAT SAME WITNESS. IF YOU HAVE A GOOD
21 AND SOUND REASON, YOU MAY BELIEVE THE TESTIMONY OF A
22 WITNESS IN ITS ENTIRETY OR REJECT THE TESTIMONY OF A
23 WITNESS IN ITS ENTIRETY.

24 YOU MAY CONSIDER WHETHER ANY WITNESS HAS
25 EXHIBITED TO YOU ANY INTEREST, ANY BIAS, ANY

1 PREJUDICE OR OTHER MOTIVE IN THIS CASE. YOU MAY
2 CONSIDER THE Demeanor OF A WITNESS, THAT IS THE
3 APPEARANCE AND MANNER OF A WITNESS FROM THE WITNESS
4 STAND.

5 AND YOU MAY, OF COURSE, CONSIDER THE OPPORTUNITY
6 FOR KNOWLEDGE CONCERNING THOSE THINGS ABOUT WHICH A
7 WITNESS TESTIFIED AS WELL AS THE REASONABLENESS OF
8 THE TESTIMONY.

9 THESE CONSIDERATIONS, HOWEVER, YOU DO NOT
10 EXERCISE ARBITRARILY. BUT IF IN YOUR GOOD JUDGMENT
11 THERE IS SOUND REASON IN THE RECORD OF THIS CASE FOR
12 THE CONSIDERATION OF THESE FACTORS, YOU MAY DO SO.

13 IN EXERCISING YOUR MENTAL PROCESSES AND IN
14 DETERMINING WHAT YOU CONSIDER TO BE TRUE, THE LAW
15 SIMPLY REQUIRES THAT YOU EXERCISE YOUR GOOD JUDGMENT,
16 YOUR COMMON SENSE, AND YOUR SENSE OF LOGIC AND
17 REASON.

18 YOU THEN APPLY THESE ATTRIBUTES TO THE EVIDENCE
19 AND DETERMINE WHAT YOU, THE JURY, CONSIDER TO BE
20 TRUTHFUL EVIDENCE. TO THESE TRUE STATEMENTS OF FACT
21 AS DETERMINED BY YOU, THE JURY, YOU THEN APPLY THE
22 LAW AS I NOW STATE IT TO YOU AND THUS ARRIVE AT A
23 TRUE AND JUST VERDICT IN THIS CASE.

24 YOUR VERDICT, OF COURSE, SHOULD NOT BE THE
25 RESULT OF PASSION, PREJUDICE, OR SYMPATHY. BY YOUR

1 VERDICT YOU HAVE NO FRIENDS TO REWARD OR ENEMIES TO
2 PUNISH. IT SHOULD SIMPLY SPEAK THE TRUTH.

3 THE RULES OF EVIDENCE ORDINARILY DO NOT PERMIT
4 WITNESSES TO TESTIFY TO OPINIONS OR CONCLUSIONS. AN
5 EXCEPTION TO THIS RULE EXISTS FOR WITNESSES WE CALL
6 EXPERT WITNESSES.

7 A WITNESS WHO BY EDUCATION AND EXPERIENCE HAS
8 BECOME AN EXPERT IN SOME ART, SCIENCE, PROFESSION, OR
9 CALLING MAY STATE AN OPINION AS TO RELEVANT AND
10 MATERIAL MATTERS IN WHICH THE WITNESS CLAIMS TO BE AN
11 EXPERT, AND MAY ALSO STATE THE REASONS FOR THE
12 OPINION.

13 YOU SHOULD CONSIDER ANY EXPERT OPINION RECEIVED
14 IN EVIDENCE IN THIS CASE LIKE ANY OTHER EVIDENCE.
15 GIVE IT THE WEIGHT YOU THINK IT DESERVES. IF YOU
16 DECIDE THAT THE OPINION OF AN EXPERT WITNESS IS NOT
17 BASED ON SUFFICIENT EDUCATION AND EXPERIENCE OR IF
18 YOU CONCLUDE THAT THE REASONS GIVEN IN SUPPORT OF THE
19 OPINION ARE NOT SOUND OR THAT THE OPINION IS
20 OUTWEIGHED BY OTHER EVIDENCE, YOU MAY DISREGARD THE
21 OPINION ENTIRELY.

22 AN EXPERT WITNESS'S TESTIMONY IS TO BE GIVEN NO
23 GREATER WEIGHT THAN THAT OF OTHER WITNESSES SIMPLY
24 BECAUSE THE WITNESS IS AN EXPERT. FURTHER, YOU ARE
25 NOT REQUIRED TO ACCEPT AN EXPERT'S OPINION EVEN

1 THOUGH IT IS NOT CONTRADICTED.

2 LADIES AND GENTLEMEN, YOU HAVE HEARD EVIDENCE
3 THAT THE DEFENDANT COMMITTED A BAD ACT OTHER THAN THE
4 ONE FOR WHICH THE DEFENDANT IS NOW ON TRIAL. THIS
5 TESTIMONY, IF YOU CONCLUDE IT IS TRUE, MAY ONLY BE
6 CONSIDERED BY YOU ON THE QUESTION OF THE SANITY OR
7 INSANITY OF THE DEFENDANT AND HIS MENTAL CAPACITY TO
8 DISTINGUISH MORAL OR LEGAL RIGHT FROM MORAL OR LEGAL
9 WRONG AND FOR NO OTHER REASON AND NO OTHER PURPOSE.

10 YOU MAY GIVE THIS EVIDENCE THE WEIGHT AND VALUE,
11 IF ANY, WHICH YOU FIND IT SHOULD HAVE ON THE SOLE
12 ISSUE OF THE SANITY OR INSANITY OF THE DEFENDANT AND
13 HIS MENTAL CAPACITY TO DISTINGUISH MORAL OR LEGAL
14 RIGHT FROM MORAL OR LEGAL WRONG.

15 YOU MUST NOT CONSIDER EVIDENCE OF THE COMMISSION
16 OF ANOTHER OFFENSE AS PROOF OF THE DEFENDANT'S GUILT
17 OF THE CHARGES WE ARE TRYING TODAY.

18 I FURTHER INSTRUCT YOU THAT YOU HAVE ALSO HEARD
19 EVIDENCE THAT THE DEFENDANT WAS CONVICTED OF A CRIME
20 OTHER THAN THE ONE FOR WHICH THE DEFENDANT IS NOW ON
21 TRIAL.

22 THIS TESTIMONY, AGAIN, IF YOU CONCLUDE IT IS
23 TRUE MAY ONLY BE CONSIDERED BY YOU ON THE QUESTION OF
24 THE SANITY OR INSANITY OF THE DEFENDANT AND HIS
25 MENTAL CAPACITY TO DISTINGUISH MORAL OR LEGAL RIGHT

1 FROM MORAL OR LEGAL WRONG AND FOR NO OTHER REASON AND
2 NO OTHER PURPOSE.

3 YOU MAY GIVE THIS EVIDENCE THE WEIGHT AND VALUE,
4 IF ANY, WHICH YOU FIND IT SHOULD HAVE ON THE SOLE
5 ISSUE OF THE SANITY OR INSANITY OF THE DEFENDANT AND
6 HIS MENTAL CAPACITY TO DISTINGUISH MORAL OR LEGAL
7 RIGHT FROM MORAL OR LEGAL WRONG.

8 YOU MUST NOT CONSIDER EVIDENCE OF THE COMMISSION
9 OF ANOTHER OFFENSE AS PROOF OF THE DEFENDANT'S GUILT
10 OF THE CHARGES WE ARE TRYING TODAY.

11 LADIES AND GENTLEMEN, THERE ARE TWO TYPES OF
12 EVIDENCE WHICH ARE GENERALLY PRESENTED DURING A
13 TRIAL, DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE.

14 DIRECT EVIDENCE IS THE TESTIMONY OF A PERSON WHO
15 ASSERTS OR CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A FACT
16 SUCH AS AN EYE WITNESS.

17 CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN OF
18 FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A
19 FACT. THE LAW MAKES ABSOLUTELY NO DISTINCTION
20 BETWEEN THE WEIGHT OR VALUE TO BE GIVEN TO EITHER
21 DIRECT OR CIRCUMSTANTIAL EVIDENCE NOR IS A GREATER
22 DEGREE OF CERTAINTY REQUIRED OF CIRCUMSTANTIAL
23 EVIDENCE THAN OF DIRECT EVIDENCE.

24 YOU SHOULD WEIGH ALL OF THE EVIDENCE IN THIS
25 CASE. AFTER WEIGHING ALL OF THE EVIDENCE, IF YOU ARE

1 NOT CONVINCED OF THE GUILT OF THE DEFENDANT BEYOND A
2 REASONABLE DOUBT, YOU MUST FIND THE DEFENDANT NOT
3 GUILTY.

4 CONVERSELY, IF YOU ARE CONVINCED OF THE GUILT OF
5 THE DEFENDANT BEYOND A REASONABLE DOUBT, THEN YOU
6 MUST FIND HIM GUILTY.

7 LADIES AND GENTLEMEN, I INSTRUCT YOU THAT THE
8 FACT THAT THE DEFENDANT WAS ARRESTED, CHARGED AND
9 INDICTED IN THIS CASE IS NOT EVIDENCE IN THIS CASE
10 AND CANNOT BE CONSIDERED BY YOU AS EVIDENCE OF GUILT
11 IN THIS CASE NOR DOES IT CREATE ANY PRESUMPTION OR
12 INFERENCE OF GUILT.

13 THIS DOCUMENTATION, LADIES AND GENTLEMEN, IS
14 SIMPLY THE FORMAL WRITTEN INSTRUMENT WHICH CONTAINS
15 THE CHARGE OR CHARGES MADE AGAINST A DEFENDANT. IT
16 SERVES AS THE FORMAL DOCUMENT BY WHICH THIS CASE IS
17 PROCESSED OR BROUGHT INTO THIS COURT.

18 LADIES AND GENTLEMEN, THE DEFENDANT HAS PLED NOT
19 GUILTY TO THE INDICTMENT AND THAT PLEA CASTS THE
20 BURDEN ON THE STATE TO PROVE THE DEFENDANT GUILTY
21 BECAUSE A PERSON CHARGED WITH COMMITTING A CRIMINAL
22 OFFENSE IN SOUTH CAROLINA IS NEVER REQUIRED TO PROVE
23 HIMSELF OR HERSELF INNOCENT.

24 I CHARGE YOU, LADIES AND GENTLEMEN OF THE JURY,
25 THAT IT IS A CARDINAL AND IMPORTANT RULE OF THE LAW

1 OF EVIDENCE THAT THE DEFENDANT IN A CRIMINAL TRIAL,
2 NO MATTER WHAT THE SERIOUSNESS OF THE CHARGE MADE
3 AGAINST HIM MAY BE, WILL ALWAYS BE PRESUMED TO BE
4 INNOCENT OF THE CRIME FOR WHICH HE IS INDICTED UNLESS
5 HIS GUILT HAS BEEN PROVEN BY EVIDENCE SATISFYING YOU
6 OF THAT GUILT BEYOND A REASONABLE DOUBT.

7 THIS PRESUMPTION OF INNOCENCE DOES NOT CEASE
8 WHEN YOU RETIRE TO DELIBERATE, BUT IT ACCOMPANIES THE
9 DEFENDANT FROM THE TIME OF HIS APPEARANCE THROUGHOUT
10 THE TRIAL UNTIL YOU REACH A VERDICT OF GUILT BASED
11 UPON EVIDENCE SATISFYING YOU OF THAT GUILT BEYOND A
12 REASONABLE DOUBT.

13 OUR SUPREME COURT HAS SAID THAT THE PRESUMPTION
14 OF INNOCENCE IS LIKE A ROBE OF RIGHTEOUSNESS PLACED
15 ABOUT THE SHOULDERS OF THE DEFENDANT AND IT REMAINS
16 WITH HIM AND ASSIGNS HIM TO THAT CLASS, THE INNOCENT,
17 UNTIL THAT PRESUMPTIVE ROBE OF RIGHTEOUSNESS HAS BEEN
18 STRIPPED FROM HIS PERSON BY EVIDENCE SATISFYING YOU
19 OF THAT GUILT BEYOND A REASONABLE DOUBT.

20 MADAM FORELADY, AND LADIES AND GENTLEMEN OF THE
21 JURY, THE PRESUMPTION OF INNOCENCE IS NOT MERE LEGAL
22 THEORY. IT IS NOT SIMPLY A LEGAL PHRASE. IT IS THE
23 SUBSTANTIAL RIGHT TO WHICH EVERY DEFENDANT IS
24 ENTITLED UNLESS YOU, THE JURY, ARE SATISFIED FROM THE
25 EVIDENCE OF HIS GUILT BEYOND A REASONABLE DOUBT.

1 YOU MAY ASK WHAT IS A REASONABLE DOUBT IN THE
2 LAW. THE STATE HAS THE BURDEN OF PROVING THE
3 DEFENDANT GUILTY BEYOND A REASONABLE DOUBT.

4 SOME OF YOU MAY HAVE SERVED AS JURORS IN CIVIL
5 CASES WHERE YOU WERE TOLD THAT IT IS ONLY NECESSARY
6 TO PROVE THAT A FACT IS MORE LIKELY TRUE THAN NOT
7 TRUE. IN CRIMINAL CASES THE STATE'S PROOF MUST BE
8 MORE POWERFUL THAN THAT. IT MUST BE BEYOND A
9 REASONABLE DOUBT.

10 PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT
11 LEAVES YOU FIRMLY CONVINCED OF THE DEFENDANT'S GUILT.
12 THERE ARE VERY FEW THINGS IN THIS WORLD THAT WE KNOW
13 WITH ABSOLUTE CERTAINTY. AND IN CRIMINAL CASES THE
14 LAW DOES NOT REQUIRE PROOF THAT OVERCOMES EVERY
15 POSSIBLE DOUBT.

16 IF BASED ON YOUR CONSIDERATION OF THE EVIDENCE
17 YOU ARE FIRMLY CONVINCED THAT THE DEFENDANT IS GUILTY
18 OF THE CRIME CHARGED, YOU MUST FIND HIM GUILTY.

19 IF ON THE OTHER HAND YOU THINK THERE IS A REAL
20 POSSIBILITY THAT HE IS NOT GUILTY, YOU MUST GIVE HIM
21 THE BENEFIT OF THE DOUBT AND FIND HIM NOT GUILTY.

22 LADIES AND GENTLEMEN, I INSTRUCT YOU AND
23 EMPHASIZE THAT THE FACT THAT THE DEFENDANT DID NOT
24 TESTIFY IS NOT A FACTOR TO BE CONSIDERED BY YOU IN
25 ANY WAY IN YOUR DELIBERATIONS AND IN YOUR

1 CONSIDERATION ON THE QUESTION OF THE GUILT OR
2 INNOCENCE OF THE DEFENDANT.

3 IT MUST NOT BE CONSIDERED BY YOU IN ANY MANNER
4 WHATSOEVER. A DEFENDANT HAS THE CONSTITUTIONAL RIGHT
5 TO REMAIN SILENT, AND THE ASSERTION OF THIS RIGHT
6 MUST NOT BE CONSIDERED BY YOU IN YOUR DELIBERATIONS.

7 I REPEAT, UNDER YOUR OATH YOU ARE TO DRAW NO
8 CONCLUSION WHATSOEVER FROM THE FACT THAT THE
9 DEFENDANT IN THIS CASE DID NOT TESTIFY. THE FACT
10 THAT THIS DEFENDANT DID NOT TESTIFY SHOULD NOT EVEN
11 BE DISCUSSED IN THE JURY ROOM DURING DELIBERATIONS.

12 THE BURDEN OF PROOF, AS I HAVE STATED TO YOU, IS
13 ON THE STATE. THE DEFENDANT IS NOT REQUIRED TO PROVE
14 HIS INNOCENCE. THE BURDEN OF PROOF REMAINS ON THE
15 STATE TO PROVE GUILT BEYOND A REASONABLE DOUBT.

16 THE DEFENDANT IS CHARGED WITH MURDER. THE STATE
17 MUST PROVE BEYOND A REASONABLE DOUBT THAT THE
18 DEFENDANT KILLED ANOTHER PERSON WITH MALICE
19 AFORETHOUGHT.

20 MALICE IS HATRED, ILL WILL, OR HOSTILITY TOWARDS
21 ANOTHER PERSON. IT IS THE INTENTIONAL DOING OF A
22 WRONGFUL ACT WITHOUT JUST CAUSE OR EXCUSE AND WITH AN
23 INTENT TO INFLECT AN INJURY OR UNDER CIRCUMSTANCES
24 THAT THE LAW WILL INFER AN EVIL INTENT.

25 MALICE AFORETHOUGHT DOES NOT REQUIRE THAT MALICE

1 EXIST FOR ANY PARTICULAR TIME BEFORE THE ACT IS
2 COMMITTED, BUT MALICE MUST EXIST IN THE MIND OF THE
3 DEFENDANT JUST BEFORE AND AT THE TIME THE ACT IS
4 COMMITTED. THEREFORE, THERE MUST BE A COMBINATION OF
5 THE PREVIOUS EVIL INTENT AND THE ACT.

6 MALICE AFORETHOUGHT MAY BE EXPRESSED OR
7 INFERRED. THE TERMS EXPRESSED AND INFERRED DO NOT
8 MEAN DIFFERENT KINDS OF MALICE BUT MERELY THE MANNER
9 IN WHICH MALICE MAY BE SHOWN TO EXIST, THAT IS EITHER
10 BY DIRECT EVIDENCE OR BY INFERENCE FROM THE FACTS AND
11 CIRCUMSTANCES WHICH ARE PROVED.

12 EXPRESS MALICE IS SHOWN WHEN A PERSON SPEAKS
13 WORDS WHICH EXPRESS HATRED OR ILL WILL FOR ANOTHER OR
14 WHEN THE PERSON PREPARED BEFOREHAND TO DO THE ACT
15 WHICH WAS LATER ACCOMPLISHED.

16 FOR EXAMPLE, LYING IN WAIT FOR A PERSON OR ANY
17 OTHER ACTS OF PREPARATION GOING TO SHOW THAT THE DEED
18 WAS WITHIN THE DEFENDANT'S MIND WOULD BE EXPRESS
19 MALICE.

20 MALICE MAY BE INFERRED FROM CONDUCT SHOWING A
21 TOTAL DISREGARD FOR HUMAN LIFE. INFERRED MALICE MAY
22 ALSO ARISE WHEN THE DEED IS DONE WITH A DEADLY
23 WEAPON.

24 A DEADLY WEAPON IS ANY ARTICLE, INSTRUMENT OR
25 SUBSTANCE WHICH IS LIKELY TO CAUSE DEATH OR GREAT

1 BODILY HARM. WHETHER AN INSTRUMENT HAS BEEN USED AS
2 A DEADLY WEAPON DEPENDS ON THE FACTS AND
3 CIRCUMSTANCES OF EACH CASE.

4 THE FOLLOWING ARE EXAMPLES OF INSTRUMENTS WHICH
5 MAY BE DEADLY WEAPONS. A PISTOL, A SHOTGUN, A RIFLE,
6 A DIRK, A DAGGER, A KNIFE, A SLINGSHOT, METAL
7 KNUCKLES, A RAZOR, GASOLINE, A FIREBOMB OR MOLOTOV
8 COCKTAIL, AND LIGHTER FLUID.

9 A GUN MAY BE A DEADLY WEAPON EVEN IF IT IS NOT
10 OPERATING. A HAND OR A FIST IS NOT NORMALLY
11 CONSIDERED A DEADLY WEAPON. HOWEVER, UNDER SOME
12 CIRCUMSTANCES DEPENDING ON THE MANNER AND MEANS OF
13 ITS USE, THE WOUNDS INFLICTED, AND OTHER RELEVANT
14 FACTS, A HAND OR A FIST MAY BE CONSIDERED A DEADLY
15 WEAPON.

16 IT IS FOR YOU TO DECIDE IN THIS CASE BEYOND A
17 REASONABLE DOUBT WHETHER OR NOT A HAND OR FIST IS A
18 DEADLY WEAPON.

19 ORDINARY OBJECTS MAY BECOME DEADLY WEAPONS WHEN
20 THE FACTS SHOW THAT THEY HAVE BEEN USED TO INFLICT
21 SERIOUS BODILY HARM OR DEATH. THESE ARE FACTUAL
22 ISSUES OR QUESTIONS FOR YOU, THE JURY, TO DETERMINE.

23 I FURTHER INSTRUCT YOU THAT IF ONE INTENTIONALLY
24 KILLS ANOTHER DURING THE COMMISSION OF A FELONY, THE
25 INFERENCE OF MALICE MAY ARISE. IF FACTS ARE PROVED

1 BEYOND A REASONABLE DOUBT SUFFICIENT TO RAISE AN
2 INFERENCE OF MALICE TO YOUR SATISFACTION, THIS
3 INFERENCE WOULD SIMPLY BE AN EVIDENTIARY FACT TO BE
4 TAKEN INTO CONSIDERATION BY YOU ALONG WITH ALL OTHER
5 EVIDENCE IN THIS CASE AND YOU MAY GIVE IT THE WEIGHT
6 THAT YOU DECIDE IT SHOULD RECEIVE.

7 THE DEFENDANT HAS BEEN CHARGED WITH ASSAULT AND
8 BATTERY WITH INTENT TO KILL. IN ORDER TO PROVE
9 ASSAULT AND BATTERY WITH INTENT TO KILL THE STATE
10 MUST PROVE BEYOND A REASONABLE DOUBT THAT THE
11 DEFENDANT COMMITTED AN UNLAWFUL ACT OF A VIOLENT
12 NATURE TO THE PERSON OF ANOTHER WITH MALICE
13 AFORETHOUGHT.

14 AN ASSAULT OCCURS WHEN A PERSON UNLAWFULLY
15 ATTEMPTS OR OFFERS TO COMMIT A VIOLENT INJURY UPON
16 ANOTHER PERSON AND HAVE THE PRESENT ABILITY TO
17 COMPLETE THE ATTEMPTED INJURY.

18 AN ASSAULT IS THE INTENTIONAL CREATION OF A
19 REASONABLE FEAR OF IMMEDIATE BODILY HARM. IT IS NOT
20 NECESSARY THAT THE ATTEMPTED INJURY OR HARM ACTUALLY
21 TAKE PLACE. FOR EXAMPLE, IF I WALK UP TO YOU AND
22 WHEN WE ARE WITHIN ARMS REACH, I DRAW BACK TO HIT
23 YOU, THAT IS AN ASSAULT.

24 A BATTERY IS THE UNLAWFUL TOUCHING OF ANOTHER
25 PERSON BY A PERSON WHO HAS COMMITTED THE ASSAULT. AN

1 UNLAWFUL TOUCHING CAN BE CAUSED BY A PART OF THE
2 ACCUSED'S BODY OR BY ANY OBJECT THE ACCUSED PUTS
3 INTO MOTION.

4 A BATTERY IS THE COMPLETION OF THE ASSAULT BY
5 USING OR APPLYING FORCE TO ANOTHER PERSON, HOWEVER
6 SLIGHT, IN A RUDE, ANGRY, OR RESENTFUL MANNER WITHOUT
7 LEGAL JUSTIFICATION FOR DOING SO. USING MY EARLIER
8 EXAMPLE, IF I CARRIED THROUGH THE ASSAULT BY HITTING
9 YOU, THEN THAT IS A BATTERY.

10 MALICE IS HATRED, ILL WILL, OR HOSTILITY TOWARDS
11 ANOTHER PERSON. IT IS THE INTENTIONAL DOING OF A
12 WRONGFUL ACT WITHOUT JUST CAUSE OR EXCUSE AND WITH AN
13 INTENT TO INFLICT AN INJURY OR UNDER CIRCUMSTANCES
14 THAT THE LAW WILL INFER AN EVIL INTENT.

15 MALICE AFORETHOUGHT DOES NOT REQUIRE THAT MALICE
16 EXIST FOR ANY PARTICULAR TIME BEFORE THE ACT IS
17 COMMITTED, BUT MALICE MUST EXIST IN THE MIND OF THE
18 DEFENDANT JUST BEFORE AND AT THE TIME THE ACT IS
19 COMMITTED.. THEREFORE, THERE MUST BE A COMBINATION OF
20 THE PREVIOUS EVIL INTENT AND THE ACT.

21 MALICE AFORETHOUGHT AS I HAVE EXPLAINED MAY BE
22 EXPRESSED OR INFERRED. THESE TERMS EXPRESS AND
23 INFERRED DO NOT MEAN DIFFERENT KINDS OF MALICE BUT
24 MERELY THE MANNER IN WHICH MALICE MAY BE SHOWN TO
25 EXIST, THAT IS EITHER BY DIRECT EVIDENCE OR BY

1 INFERENCE FROM THE FACTS AND CIRCUMSTANCES WHICH ARE
2 PROVEN.

3 EXPRESS MALICE IS SHOWN WHEN A PERSON SPEAKS
4 WORDS WHICH EXPRESS HATRED OR ILL WILL FOR ANOTHER OR
5 WHEN THE PERSON PREPARED BEFOREHAND TO DO THE ACT
6 WHICH WAS LATER ACCOMPLISHED.

7 FOR EXAMPLE, LYING IN WAIT FOR A PERSON OR ANY
8 OTHER ACTS OF PREPARATION GOING TO SHOW THAT THE DEED
9 WAS WITHIN THE DEFENDANT'S MIND WOULD BE EXPRESS
10 MALICE.

11 MALICE MAY BE INFERRED FROM CONDUCT SHOWING A
12 TOTAL DISREGARD FOR HUMAN LIFE. INFERRED MALICE MAY
13 ALSO ARISE WHEN THE DEED IS DONE WITH A DEADLY
14 WEAPON.

15 A DEADLY WEAPON IS ANY ARTICLE, INSTRUMENT, OR
16 SUBSTANCE WHICH IS LIKELY TO CAUSE DEATH OR GREAT
17 BODILY HARM. WHETHER AN INSTRUMENT HAS BEEN USED AS
18 A DEADLY WEAPON DEPENDS ON THE FACTS AND
19 CIRCUMSTANCES OF EACH CASE.

20 THE FOLLOWING ARE EXAMPLES OF INSTRUMENTS WHICH
21 MAY BE DEADLY WEAPONS. A PISTOL, A SHOTGUN, A RIFLE,
22 A DIRK, A DAGGER, A KNIFE, A SLINGSHOT, METAL
23 KNUCKLES, A RAZOR, GASOLINE, A FIRE BOMB OR MOLOTOV
24 COCKTAIL, AND LIGHTER FLUID.

25 A GUN MAY BE A DEADLY WEAPON EVEN IF IT IS NOT

1 OPERATING. A HAND OR A FIST IS NOT NORMALLY
2 CONSIDERED A DEADLY WEAPON. HOWEVER, UNDER SOME
3 CIRCUMSTANCES, DEPENDING ON THE MANNER AND MEANS OF
4 ITS USE, THE WOUNDS INFLICTED AND OTHER RELEVANT
5 FACTS, A HAND OR A FIST MAY BE CONSIDERED A DEADLY
6 WEAPON.

7 IT IS FOR YOU TO DECIDE IN THIS CASE BEYOND A
8 REASONABLE DOUBT WHETHER OR NOT A HAND OR A FIST IS A
9 DEADLY WEAPON. ORDINARY OBJECTS MAY BECOME DEADLY
10 WEAPONS WHEN THE FACTS SHOW THAT THEY HAVE BEEN USED
11 TO INFLICT SERIOUS BODILY HARM OR DEATH.

12 IF FACTS ARE PROVEN BEYOND A REASONABLE DOUBT
13 SUFFICIENT TO RAISE AN INFERENCE OF MALICE TO YOUR
14 SATISFACTION, THIS INFERENCE WOULD SIMPLY BE AN
15 EVIDENTIARY FACT TO BE CONSIDERED BY YOU ALONG WITH
16 THE OTHER EVIDENCE IN THIS CASE AND YOU MAY GIVE IT
17 THE WEIGHT YOU THINK IT SHOULD RECEIVE.

18 A SPECIFIC INTENT TO KILL IS NOT AN ELEMENT OF
19 ASSAULT AND BATTERY WITH INTENT TO KILL. BUT THERE
20 MUST BE A GENERAL INTENT TO COMMIT SERIOUS BODILY
21 INJURY.

22 INTENT MEANS INTENDING THE RESULT WHICH ACTUALLY
23 OCCURS, NOT ACCIDENTALLY OR INVOLUNTARILY. INTENT
24 MAY BE SHOWN BY ACTS AND CONDUCT OF THE DEFENDANT AND
25 OTHER CIRCUMSTANCES FROM WHICH YOU MAY NATURALLY AND

1 REASONABLY INFER INTENT.

2 EVIDENCE OF THE CHARACTER OF THE ASSAULT, THE
3 CHARACTER OF THE INSTRUMENT USED, THE MANNER IN WHICH
4 IT WAS USED, THE PURPOSE TO BE ACCOMPLISHED, AND THE
5 RESULTING WOUNDS OR INJURIES MAY BE CONSIDERED IN
6 DETERMINING THE INTENT WITH WHICH THE ASSAULT WAS
7 COMMITTED.

8 INTENT MAY BE INFERRED WHEN IT IS DEMONSTRATED
9 THAT THE DEFENDANT VOLUNTARILY AND WILLFULLY COMMITS
10 AN ACT THE NATURAL TENDENCY OF WHICH IS TO DESTROY
11 ANOTHER'S LIFE.

12 THE DEFENDANT IS CHARGED WITH CRIMINAL SEXUAL
13 CONDUCT IN THE FIRST DEGREE. THE FIRST ELEMENT WHICH
14 THE STATE MUST PROVE BEYOND A REASONABLE DOUBT IS
15 THAT THE DEFENDANT ENGAGED IN A SEXUAL BATTERY WITH
16 THE VICTIM.

17 A SEXUAL BATTERY IS SEXUAL INTERCOURSE,
18 CUNNILINGUS, FELLATIO, ANAL INTERCOURSE, OR ANY
19 INTRUSION HOWEVER SLIGHT OF ANY PART OF A PERSON'S
20 BODY OR OF ANY OBJECT INTO THE GENITAL OR ANAL
21 OPENINGS OF ANOTHER PERSON'S BODY EXCEPT WHEN THE
22 INTRUSION IS ACCOMPLISHED FOR MEDICALLY RECOGNIZED
23 TREATMENT OR DIAGNOSTIC PURPOSES.

24 IF YOU FIND THAT THE STATE HAS NOT SHOWN BEYOND
25 A REASONABLE DOUBT THAT A SEXUAL BATTERY OCCURRED,

1 YOU WOULD STOP DELIBERATING AND YOUR VERDICT WOULD
2 HAVE TO BE NOT GUILTY.

3 IF YOU FIND THAT A SEXUAL BATTERY DID OCCUR, YOU
4 MUST THEN DECIDE WHETHER THE STATE HAS PROVEN ONE OR
5 MORE OF THE FOLLOWING CIRCUMSTANCES BEYOND A
6 REASONABLE DOUBT.

7 THE DEFENDANT USED AGGRAVATED FORCE TO
8 ACCOMPLISH THE SEXUAL BATTERY. AGGRAVATED FORCE
9 MEANS THE USE OF PHYSICAL FORCE OR PHYSICAL VIOLENCE
10 OF A HIGH AND AGGRAVATED NATURE TO OVERCOME THE
11 VICTIM. THIS INCLUDES THE THREAT OF USING A DEADLY
12 WEAPON.

13 THE VICTIM SUBMITTED TO SEXUAL BATTERY WHILE THE
14 VICTIM WAS ALSO THE VICTIM OF FORCIBLE CONFINEMENT,
15 KIDNAPPING, ROBBERY, EXTORTION, BURGLARY,
16 HOUSEBREAKING, OR ANY OTHER SIMILAR ACT OR OFFENSE.

17 THE DEFENDANT IS ALSO CHARGED WITH KIDNAPPING.
18 THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT
19 THE DEFENDANT KNOWINGLY AND UNLAWFULLY SEIZED,
20 CONFINED, INVEIGLED, DECOYED, KIDNAPPED, ABDUCTED, OR
21 CARRIED AWAY ANOTHER PERSON WITHOUT AUTHORITY OF LAW.

22 TO DO A THING UNLAWFULLY IS TO DO IT WILLFULLY
23 AGAINST THE LAW. KNOWING MEANS WITH KNOWLEDGE,
24 CONSCIOUSLY, NOT ACCIDENTALLY. SEIZE MEANS TO TAKE
25 HOLD OF SUDDENLY OR FORCIBLY. CONFINE MEANS TO

1 LIMIT, RESTRICT, OR ENCLOSE WITHIN BOUNDS, IMPRISON
2 OR SHUT, OR KEEP IN.

3 INVEIGLE MEANS TO LURE, ENTICE, OR LEAD ASTRAY
4 BY FALSE REPRESENTATIONS, PROMISES, OR OTHER
5 DECEITFUL MEANS. DECOY MEANS TO LURE BY OR -- OR AS
6 IF BY DECOY. A DECOY IS SOMETHING TO ENTICE A PERSON
7 INTO A TRAP.

8 KIDNAP IS TO REMOVE A PERSON AGAINST HIS WILL BY
9 UNLAWFUL FORCE OR BY FRAUD. ABDUCT MEANS TO CARRY
10 OFF SECRETLY OR BY FORCE FOR AN ILLEGAL PURPOSE.
11 CARRY AWAY MEANS TO REMOVE.

12 THE STATE DOES NOT HAVE TO PROVE THAT THE
13 DEFENDANT DID ALL OF THESE THINGS. INSTEAD, IF YOU
14 FIND BEYOND A REASONABLE DOUBT THAT THE DEFENDANT DID
15 ANY OF THESE THINGS, YOU MAY FIND THE DEFENDANT
16 GUILTY OF KIDNAPPING.

17 SOMETHING DONE WITHOUT AUTHORITY OF LAW IS
18 SOMETHING WHICH THE LAW DOES NOT SANCTION, PERMIT,
19 ALLOW, CONDONE, OR PROVIDE JUSTIFICATION FOR.

20 THE KIDNAPPING DOES NOT HAVE TO BE FOR ANY
21 PERSONAL OR MONETARY GAIN OR FOR ANY ILLEGAL PURPOSE
22 BUT MAY BE FOR ANY REASON WHATSOEVER.

23 THE DEFENDANT IS CHARGED WITH ARMED ROBBERY. IN
24 ORDER TO PROVE THIS OFFENSE, THE STATE MUST FIRST
25 PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT

1 TOOK PERSONAL PROPERTY FROM THE PERSON OR PRESENCE OF
2 ANOTHER PERSON.

3 PROPERTY IS IN THE PRESENCE OF A PERSON IF IT IS
4 WITHIN THE PERSON'S REACH, INSPECTION, OBSERVATION,
5 OR CONTROL SO THAT THE PERSON COULD, IF NOT OVERCOME
6 WITH VIOLENCE OR PREVENTED BY FEAR, KEEP POSSESSION
7 OF THE PROPERTY.

8 THE STATE MUST ALSO PROVE BEYOND A REASONABLE
9 DOUBT THAT THE DEFENDANT CARRIED THE PROPERTY AWAY
10 INTENDING TO PERMANENTLY DEPRIVE THE OWNER OF THE
11 PROPERTY AND TO KEEP THE PROPERTY FOR THE DEFENDANT'S
12 OWN USE.

13 THE SLIGHTEST REMOVAL OF THE PROPERTY OR THE
14 COMPLETE POSSESSION OF THE PROPERTY, EVEN FOR AN
15 INSTANT, BY THE DEFENDANT IS SUFFICIENT TO SHOW A
16 TAKING AND CARRYING AWAY OF THE PROPERTY.

17 THE TAKING AND CARRYING AWAY OF THE PROPERTY
18 MUST HAVE BEEN DONE WITH VIOLENCE OR BY PUTTING THE
19 OWNER OF THE PROPERTY IN FEAR OF VIOLENCE.

20 FINALLY, THE STATE MUST PROVE BEYOND A
21 REASONABLE DOUBT THAT THE DEFENDANT WAS ARMED WITH A
22 DEADLY WEAPON DURING THE ROBBERY. A DEADLY WEAPON IS
23 ANY ARTICLE, INSTRUMENT, OR SUBSTANCE WHICH IS LIKELY
24 TO CAUSE DEATH OR GREAT BODILY HARM.

25 WHETHER AN INSTRUMENT HAS BEEN USED AS A DEADLY

1 WEAPON DEPENDS ON THE FACTS AND CIRCUMSTANCES OF EACH
2 CASE. THE FOLLOWING ARE EXAMPLES OF INSTRUMENTS
3 WHICH MAY BE DEADLY WEAPONS.

4 A PISTOL, A SHOTGUN, A RIFLE, A DIRK, A DAGGER,
5 A KNIFE, A SLINGSHOT, METAL KNUCKLES, A RAZOR,
6 GASOLINE, FIRE BOMB, OR MOLOTOV COCKTAIL, AND LIGHTER
7 FLUID. A GUN MAY BE A DEADLY WEAPON EVEN IF IT IS
8 NOT OPERATING.

9 A HAND OR A FIST IS NOT NORMALLY CONSIDERED A
10 DEADLY WEAPON. HOWEVER, UNDER SOME CIRCUMSTANCES
11 DEPENDING ON THE MANNER AND MEANS OF ITS USE, THE
12 WOUNDS INFLICTED AND OTHER RELEVANT FACTS, A HAND OR
13 FIST MAY BE CONSIDERED A DEADLY WEAPON.

14 IT IS FOR YOU, THE JURY, TO DECIDE IN THIS CASE
15 BEYOND A REASONABLE DOUBT WHETHER OR NOT A HAND OR A
16 FIST IS A DEADLY WEAPON.

17 ORDINARY OBJECTS MAY BECOME DEADLY WEAPONS WHEN
18 THE FACTS SHOW THAT THEY HAVE BEEN USED TO INFLICT
19 SERIOUS BODILY HARM OR INJURY. AND LIKEWISE, IT IS
20 FOR YOU, THE JURY, TO DECIDE IN THIS CASE BEYOND A
21 REASONABLE DOUBT WHETHER OR NOT AN ORDINARY OBJECT
22 HAS BEEN USED AS A DEADLY WEAPON.

23 LADIES AND GENTLEMEN, THE DEFENDANT HAS RAISED
24 THE DEFENSE OF INSANITY. CRIMINAL INTENT IS REQUIRED
25 TO PROVE THAT THE DEFENDANT IS GUILTY OF THE CRIME

1 CHARGED.

2 A PERSON WHO IS INSANE CANNOT HAVE CRIMINAL
3 INTENT AND THEREFORE CANNOT BE FOUND GUILTY OF A
4 CRIME. IN ORDER TO BE FOUND NOT GUILTY BY REASON OF
5 INSANITY, IT MUST BE SHOWN THAT AT THE TIME OF THE
6 CRIME THE DEFENDANT HAD A MENTAL DISEASE OR DEFECT
7 WHICH MADE HIM UNABLE TO DISTINGUISH MORAL OR LEGAL
8 RIGHT FROM WRONG OR TO RECOGNIZE THE CRIME AS MORALLY
9 OR LEGALLY WRONG.

10 BY RAISING THE DEFENSE OF INSANITY, THE
11 DEFENDANT DOES NOT NECESSARILY ADMIT THE CRIME WAS
12 COMMITTED. THE STATE MUST STILL PROVE BEYOND A
13 REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE
14 CRIME.

15 HOWEVER, THE DEFENDANT MUST PROVE INSANITY BY A
16 PREPONDERANCE OF THE EVIDENCE. A PREPONDERANCE OF
17 THE EVIDENCE SIMPLY MEANS THE GREATER WEIGHT OF THE
18 EVIDENCE OR MORE LIKELY THAN NOT.

19 IF YOU FIND THERE IS EVIDENCE IN THE RECORD THAT
20 AT THE TIME THE CRIME WAS ALLEGEDLY COMMITTED IT IS
21 MORE LIKELY THAN NOT THAT BECAUSE OF A MENTAL DISEASE
22 OR DEFECT THE DEFENDANT DID NOT KNOW THE ALLEGED
23 CRIME WAS MORALLY OR LEGALLY WRONG, THE STATE MUST
24 THEN PROVE BEYOND A REASONABLE DOUBT THAT THE
25 DEFENDANT WAS SANE.

1 IT IS FOR YOU TO DECIDE WHAT THE STATE OR
2 CONDITION OF THE DEFENDANT'S MIND WAS AT THE TIME THE
3 ALLEGED CRIME WAS COMMITTED.

4 I WOULD FURTHER INSTRUCT YOU, LADIES AND
5 GENTLEMEN, THAT SOUTH CAROLINA CODE ANNOTATED SECTION
6 17-24-10C PROVIDES THAT EVIDENCE OF MENTAL DISEASE OR
7 DEFECT THAT IS MANIFESTED ONLY BY REPEATED CRIMINAL
8 OR OTHER ANTISOCIAL CONDUCT IS NOT SUFFICIENT TO
9 ESTABLISH THE DEFENSE OF INSANITY.

10 LADIES AND GENTLEMEN OF THE JURY, YOU ARE FREE
11 TO CONSIDER ALL OF THE FACTS AND EVIDENCE IN YOUR
12 DETERMINATION OF WHETHER THE STATE HAS MET ITS BURDEN
13 OF PROVING BEYOND A REASONABLE DOUBT THE REQUISITE
14 MENTAL STATE REQUIRED FOR THE DEFENDANT FOR THESE
15 OFFENSES.

16 THERE ARE FOUR POSSIBLE VERDICTS WHICH YOU MAY
17 RETURN IN THIS CASE. IF YOU HAVE ANY REASONABLE
18 DOUBT AS TO THE DEFENDANT'S GUILT AFTER CONSIDERING
19 ALL OF THE EVIDENCE, THEN YOU MUST FIND THE DEFENDANT
20 NOT GUILTY.

21 IF YOU HAVE NO REASONABLE DOUBT THAT THE
22 DEFENDANT COMMITTED THE CRIME BUT YOU FIND THAT IT IS
23 MORE LIKELY THAN NOT THAT BECAUSE OF A MENTAL DISEASE
24 OR DEFECT THE DEFENDANT COULD NOT DISTINGUISH MORAL
25 OR LEGAL RIGHT FROM WRONG OR RECOGNIZE THE CRIME AS

1 MORALLY OR LEGALLY WRONG, YOU MUST FIND THE DEFENDANT
2 NOT GUILTY BY REASON OF INSANITY.

3 ANOTHER POSSIBLE VERDICT IS GUILTY BUT MENTALLY
4 ILL. IF YOU HAVE NO REASONABLE DOUBT THAT THE
5 DEFENDANT COMMITTED THE CRIME AND THAT THE DEFENDANT
6 HAD THE MENTAL CAPACITY TO DISTINGUISH MORAL OR LEGAL
7 RIGHT FROM WRONG OR RECOGNIZE THE CRIME AS MORALLY OR
8 LEGALLY WRONG BUT YOU FIND THAT IT IS MORE LIKELY
9 THAN NOT BECAUSE OF A MENTAL DISEASE OR DEFECT THE
10 DEFENDANT COULD NOT FOLLOW THE LAW, YOU MUST FIND THE
11 DEFENDANT GUILTY BUT MENTALLY ILL.

12 THE FINAL POSSIBLE VERDICT IN THIS CASE IS
13 GUILTY. YOU MAY ONLY FIND THE DEFENDANT GUILTY IF
14 THE STATE HAS PROVEN BEYOND A REASONABLE DOUBT THAT
15 THE DEFENDANT COMMITTED THE CRIME, THAT THE DEFENDANT
16 WAS ABLE TO DISTINGUISH MORAL AND LEGAL RIGHT FROM
17 WRONG AND TO RECOGNIZE THE CRIME AS MORALLY AND
18 LEGALLY WRONG AND THAT THE DEFENDANT WAS ABLE TO
19 FOLLOW THE LAW.

20 THE INDICTMENT IN THIS CASE, LADIES AND
21 GENTLEMEN, ALLEGES SEVERAL DIFFERENT OFFENSES AGAINST
22 THE DEFENDANT. THE COUNTS OF THE INDICTMENT ARE AS
23 FOLLOWS. COUNT ONE, MURDER. COUNT TWO, ASSAULT AND
24 BATTERY WITH INTENT TO KILL. COUNT THREE, CRIMINAL
25 SEXUAL CONDUCT IN THE FIRST DEGREE. COUNT FOUR,

1 KIDNAPPING. COUNT FIVE, KIDNAPPING. AND COUNT SIX,
2 ARMED ROBBERY.

3 EACH COUNT OF THE INDICTMENT CHARGES A SEPARATE
4 AND DISTINCT OFFENSE. YOU MUST DECIDE EACH COUNT OF
5 THE INDICTMENT SEPARATELY ON THE EVIDENCE AND THE LAW
6 APPLICABLE TO IT UNINFLUENCED BY YOUR DECISION AS TO
7 ANY OTHER COUNT OF THE INDICTMENT.

8 THE DEFENDANT MAY BE CONVICTED OR ACQUITTED ON
9 ANY OR ALL OF THE OFFENSES CHARGED. YOU WILL BE
10 ASKED TO WRITE A SEPARATE VERDICT OF GUILTY -- YOU
11 WILL BE -- AND LET ME REPHRASE THAT. YOU WILL BE
12 ASKED TO WRITE A SEPARATE VERDICT FOR EACH COUNT OF
13 THE INDICTMENT.

14 LADIES AND GENTLEMEN, THERE ARE FOUR POSSIBLE
15 VERDICTS FOR EACH COUNT OF THE INDICTMENT WHICH YOU
16 MAY FIND IN THIS CASE. THERE IS NO SIGNIFICANCE
17 WHATSOEVER TO THE ORDER IN WHICH I STATE THESE
18 POSSIBLE VERDICTS. IT IS SIMPLY THAT ONE MUST BE
19 STATED FIRST AND SO FORTH. AND I WILL GO OVER THE
20 FORMS OF THE VERDICT WITH YOU MOMENTARILY.

21 LADIES AND GENTLEMEN, I INSTRUCT YOU THAT YOUR
22 VERDICT MUST BE A UNANIMOUS ONE WHICH MEANS THAT ALL
23 12 OF YOU MUST AGREE UPON THE VERDICT.

24 THE OPTIONS FOR EACH COUNT OF THE INDICTMENT ARE
25 AS FOLLOWS. AS TO COUNT ONE, MURDER, WE THE JURY BY

1 UNANIMOUS CONSENT FIND THE DEFENDANT -- THE FIRST
2 OPTION IS GUILTY, THE SECOND IS NOT GUILTY, THE THIRD
3 IS NOT GUILTY BY REASON OF INSANITY, AND THE FOURTH
4 IS GUILTY BUT MENTALLY ILL.

5 AS TO COUNT TWO, ASSAULT AND BATTERY WITH INTENT
6 TO KILL THE OPTIONS ARE THE SAME. GUILTY, NOT
7 GUILTY, NOT GUILTY BY REASON OF INSANITY, OR GUILTY
8 BUT MENTALLY ILL.

9 AS TO COUNT THREE, CRIMINAL SEXUAL CONDUCT IN
10 THE FIRST DEGREE, WE THE JURY BY UNANIMOUS CONSENT
11 FIND THE DEFENDANT GUILTY, NOT GUILTY, NOT GUILTY BY
12 REASON OF INSANITY -- INSANITY, GUILTY BUT MENTALLY
13 ILL.

14 AS TO COUNT FOUR AND FIVE, WHICH ARE KIDNAPPING,
15 WE THE JURY BY UNANIMOUS CONSENT FIND THE DEFENDANT
16 GUILTY, NOT GUILTY, NOT GUILTY BY REASON OF INSANITY,
17 GUILTY BUT MENTALLY ILL.

18 AND AS TO COUNT SIX, ARMED ROBBERY, WE THE JURY
19 BY UNANIMOUS CONSENT FIND THE DEFENDANT GUILTY, NOT
20 GUILTY, NOT GUILTY BY REASON OF INSANITY, GUILTY BUT
21 MENTALLY ILL.

22 AGAIN, LADIES AND GENTLEMEN, THERE IS ABSOLUTELY
23 NO SIGNIFICANCE WHATSOEVER TO THE ORDER IN WHICH THE
24 COURT HAS STATED THESE POTENTIAL VERDICTS. IT IS
25 SIMPLY THAT ONE MUST BE STATED FIRST.

1 AND AGAIN, YOUR VERDICT MUST BE A UNANIMOUS ONE
2 WHICH AGAIN MEANS ALL 12 OF YOU MUST AGREE. MADAM
3 FORELADY, IT IS YOUR RESPONSIBILITY TO WRITE THE
4 VERDICT ON THE VERDICT FORMS AND TO SIGN YOUR NAME AS
5 THE FOREPERSON. IT IS ALSO YOUR RESPONSIBILITY TO
6 PRESIDE DURING JURY DELIBERATIONS.

7 IF THE JURY HAS ANY QUESTIONS DURING
8 DELIBERATIONS IT WILL BE YOUR RESPONSIBILITY TO WRITE
9 THOSE QUESTIONS OUT AND TO KNOCK ON THE DOOR AND
10 ADVISE THE BAILIFF THAT -- OR THE BAILIFFS THAT THE
11 JURY HAS A QUESTION.

12 LADIES AND GENTLEMEN, I WILL ADVISE YOU THAT IF
13 YOU HAVE ANY QUESTIONS DURING THIS PROCESS, THERE
14 WILL BE A DELAY IN US ANSWERING. PLEASE DO NOT THINK
15 WE ARE IGNORING YOU.

16 STATE LAW REQUIRES AND CASE LAW REQUIRES AND
17 SETS FORTH A PROCEDURE THAT WE MUST FOLLOW IN
18 ANSWERING QUESTIONS. SO IF THERE IS A DELAY IF YOU
19 HAVE A QUESTION, PLEASE KNOW THAT WE'RE ADHERING TO
20 THAT PROCESS AND THAT WE ARE NOT IGNORING YOU.

21 IT IS ALSO YOUR RESPONSIBILITY, MADAM
22 FOREPERSON, THAT ONCE THE JURY HAS REACHED A VERDICT,
23 TO KNOCK ON THE DOOR AND ADVISE THE BAILIFFS THAT THE
24 JURY HAS REACHED THEIR VERDICT. AND AT THAT TIME THE
25 COURT WILL RECEIVE YOU BACK INTO THE COURTROOM AND

1 RECEIVE YOUR VERDICT AT THAT TIME.

2 LADIES AND GENTLEMEN, I'M GOING TO ASK THAT YOU
3 RETURN TO YOUR JURY ROOM BUT I'M INSTRUCTING YOU NOT
4 YET TO BEGIN YOUR DELIBERATIONS. THERE ARE MATTERS
5 OF LAW THAT I NEED TO TAKE UP WITH THE ATTORNEYS THAT
6 MAY REQUIRE THE COURT TO GIVE AN ADDITIONAL
7 INSTRUCTION OR TO CLARIFY AN INSTRUCTION.

8 HOWEVER, IF THERE IS NO FURTHER INSTRUCTION,
9 YOUR NOTEPADS WILL BE SENT INTO YOU ALONG WITH THE
10 EVIDENCE AND THE VERDICT FORMS AND AT THAT TIME YOU
11 WILL BE ALLOWED TO BEGIN YOUR DELIBERATIONS.

12 AT THIS TIME THE ALTERNATES SHOULD GO INTO THE
13 JURY ROOM WITH THE JURY, BUT AT THE TIME THAT WE
14 AUTHORIZE THEM TO BEGIN THEIR DELIBERATIONS, THOSE
15 ALTERNATES WILL BE SEQUESTERED UNTIL SUCH TIME THAT
16 THE JURY HAS COMPLETED -- FULLY COMPLETED ITS
17 DELIBERATIONS AND FULLY DISCHARGED ITS
18 RESPONSIBILITIES.

19 BUT AGAIN, PLEASE ABIDE BY THE COURT'S
20 INSTRUCTIONS AND DO NOT YET BEGIN YOUR DELIBERATIONS
21 UNTIL INSTRUCTED TO DO SO. IF YOU'D GO WITH THE
22 BAILIFFS.

23 (JURY LEFT THE COURTROOM AT 5:12 PM.)

24 THE COURT: YOU MAY BE SEATED. OKAY. ANY
25 EXCEPTIONS TO THE CHARGE FROM THE STATE?

1 MR. HEMBREE: YES, YOUR HONOR, A VERY -- A
2 SOMEWHAT MINOR ONE, AND I SHOULD HAVE CAUGHT IT THIS
3 MORNING WHEN I WAS REVIEWING YOUR CHARGE AND IT
4 SLIPPED BY ME.

5 · IN THE INSANITY CHARGE WHEN THE COURT CHARGES --
6 CHARGES INSANITY, WE HAVE NO EXCEPTION TO THAT.
7 HOWEVER, IN THE PORTION OF THAT CHARGE WHEN YOUR
8 DISCUSSION OF THE VERDICT FORMS IS COVERED, WHEN THE
9 COURT COVERS INSANITY, IT -- IT OMITTED ONE ASPECT OF
10 THE CHARGE, THE CHARGE THAT THE STATE AND -- GETS
11 TO -- AND I WILL JUST READ IT IS THE EASIEST WAY FOR
12 ME TO EXPLAIN IT -- BECAUSE OF A MENTAL DISEASE OR
13 DEFECT THE DEFENDANT DID NOT DISTINGUISH MORAL OR
14 LEGAL RIGHT FROM WRONG OR RECOGNIZE THE CRIME AS
15 MORALLY OR LEGALLY WRONG, YOU MUST FIND THE DEFENDANT
16 NOT GUILTY.

17 YOUR HONOR, WE WOULD SUBMIT THAT THE LANGUAGE--

18 THE COURT: YOU LOST ME. YOU NEED TO TELL ME
19 EXACTLY WHAT PARAGRAPH YOU'RE REFERRING TO. THAT
20 LANGUAGE IS IN THERE SEVERAL TIMES.

21 MR. HEMBREE: I'M ON THE -- I'M SORRY.

22 THE COURT: ARE YOU ON PAGE ONE?

23 MR. HEMBREE: I'M ON PAGE THREE OF THE INSANITY
24 CHARGE, FINAL PARAGRAPH.

25 THE COURT: OKAY. WHICH -- THE FINAL PARAGRAPH?

1 NOW, TELL ME WHAT YOUR EXCEPTION WAS.

2 MR. HEMBREE: MY -- I WOULD SUGGEST THAT WE
3 INSERT THE LANGUAGE THERE WHERE IT SAYS, WRONG COMMA,
4 AND YOU FIND THAT THE STATE HAS FAILED TO PROVE
5 BEYOND A REASONABLE DOUBT THAT THE DEFENDANT WAS
6 SANE, YOU MUST FIND THE DEFENDANT NOT GUILTY, THAT --
7 THAT PART OF THE CHARGE--

8 THE COURT: DON'T YOU THINK THAT GOES WITHOUT
9 SAYING BECAUSE I'VE ALREADY INSTRUCTED THAT YOU HAVE
10 THAT BURDEN.

11 MR. HEMBREE: WELL, IT'S IN THE -- IT'S IN THE
12 ASPECT OF THE -- I MEAN, IT'S COVERED IN THE FIRST
13 PART, NO QUESTION ABOUT THAT. BUT BY LEAVING IT OUT
14 IN THAT CRITICAL PART WITH -- REGARDING THE CHARGE
15 ITSELF, I JUST THINK...

16 (THE COURT WAS READING TO ITSELF.)

17 THE COURT: AREN'T I SAYING THAT IN THE FIRST
18 PARAGRAPH? IF YOU HAVE A REASONABLE DOUBT -- BECAUSE
19 I'M SAYING YOU HAVE TO -- YOU HAVE -- YOU WOULD
20 ALREADY HAVE THIS BELIEF, YOU -- IN ORDER TO REACH
21 THIS, YOU WOULD HAVE TO FIND THE STATE HAS NOT MET
22 ITS BURDEN OF PROOF BY A REASONABLE DOUBT -- BEYOND A
23 REASONABLE DOUBT.

24 WOULDN'T IT SORT OF BE REDUNDANT TO SAY IT
25 AGAIN? AND MAYBE I'M NOT UNDERSTANDING WHAT YOU'RE

1 SAYING.

2 MR. HEMBREE: I'M PROBABLY NOT EXPLAINING IT
3 VERY WELL. AND LET ME GO -- LET ME JUST KIND OF TAKE
4 IT BACK A STEP BECAUSE -- NOT LOOKING AT THE CHARGE
5 ITSELF. AS WE KNOW, THE BURDEN IS ON THE DEFENSE TO
6 OFFER EVIDENCE BY A PREPONDERANCE OF THE EVIDENCE,
7 EVIDENCE OF INSANITY.

8 SO IF THEY DON'T GET THERE, THEN THE STATE -- IT
9 DOESN'T TRIGGER THE STATE'S BURDEN ON INSANITY. WHAT
10 THE -- WHEN THE DISCUSSION OF THAT PART OF THE CHARGE
11 REGARDING THE VERDICT FORMS, IT OMITTS THAT CRITICAL
12 SECTION ABOUT THE STATE'S BURDEN AND THE STATE'S
13 ABILITY TO CONTRADICT THAT PREPONDERANCE.

14 IT JUST SAYS PREPONDERANCE -- BASICALLY JUST
15 SAYS, IF YOU FIND BY PREPONDERANCE OF THE EVIDENCE
16 HE'S NOT GUILTY BY REASON OF INSANITY.

17 THE COURT: THAT'S NOT WHAT IT SAYS. IF YOU
18 READ THE FIRST PARAGRAPH IT SAYS, IF YOU HAVE NO
19 REASONABLE DOUBT. SO IT STATES YOUR BURDEN FIRST.
20 IF YOU HAVE NO REASONABLE DOUBT THAT THE DEFENDANT
21 COMMITTED THE CRIME -- SO YOU ALREADY HAVE TO GET
22 BEYOND A REASONABLE DOUBT THEN YOU CAN GET TO HIS
23 PREPONDERANCE.

24 MR. HEMBREE: BUT NOT AS TO INSANITY. IT
25 DOESN'T COVER OUR REASONABLE DOUBT, THE -- OUR BURDEN

1 ON THE REASONABLE DOUBT -- EXCUSE ME -- OUR BURDEN ON
2 THE INSANITY.

3 (COURT READING TO ITSELF.)

4 THE COURT: I HAVE ALREADY SAID IT AT THE
5 BEGINNING YOU HAVE TO PROVE INSANITY BEYOND A
6 REASONABLE DOUBT AND THAT HE HAS TO PROVE BY A
7 PREPONDERANCE THAT HE WAS INSANE.

8 MR. HEMBREE: WELL, IT'S REALLY NOT HOW -- WE
9 HAVE TO PROVE THAT HE COMMITTED THE CRIME.

10 THE COURT: YEAH, BEYOND A REASONABLE DOUBT.

11 MR. HEMBREE: THEN THE DEFENSE CAN PROVE BY A
12 PREPONDERANCE OF THE EVIDENCE THAT HE'S INSANE.

13 THE COURT: ACTUALLY IT'S VERY -- TWO VERY
14 SEPARATE THINGS. YOU HAVE TO PROVE IRREGARDLESS
15 BEYOND A REASONABLE DOUBT HE COMMITTED THE CRIME.
16 THE LAW PRESUMES HE'S SANE.

17 ONCE HE RAISES INSANITY, HE HAS TO PROVE BEYOND
18 A -- HE HAS TO PROVE BY A PREPONDERANCE OF THE
19 EVIDENCE THAT HE IS INSANE. YOU THEN HAVE TO PROVE
20 BEYOND A REASONABLE DOUBT THAT HE IS SANE. YOU HAVE
21 TWO SEPARATE OBLIGATIONS.

22 MR. HEMBREE: PRECISELY.

23 THE COURT: HAVE TO PROVE ALL THE ELEMENTS
24 BEYOND A REASONABLE DOUBT AND YOU HAVE TO PROVE
25 SANITY BEYOND A REASONABLE DOUBT.

1 MR. HEMBREE: NO QUESTION, YOUR HONOR. AND YOU
2 COVER OUR -- THAT WE'RE REQUIRED TO PROVE THE GUILT
3 BEYOND A REASONABLE DOUBT, THE GUILT -- THE CRIME
4 ITSELF.

5 THE COURT: I COVERED YOU PROVE INSANITY BEYOND
6 A REASONABLE DOUBT AT THE BEGINNING OF THE CHARGE.

7 MR. HEMBREE: IT'S COVERED IN THE BEGINNING OF
8 THE CHARGE. I JUST THINK WHEN YOU REVIEW IT AGAIN,
9 BECAUSE ESSENTIALLY YOU REVIEW IT IN THE -- IN THIS
10 SECTION OF THE CHARGE REGARDING THE VERDICT FORMS,
11 THAT IF YOU LEAVE THAT ELEMENT OUT, THERE'S AN
12 INCONSISTENCY THERE THAT MAY LEAD TO CONFUSION ON THE
13 PART OF THE JURY.

14 THE COURT: I DON'T THINK SO BECAUSE I THINK I
15 APPROACHED THAT IN THAT VERY FIRST SENTENCE BECAUSE
16 IT SAYS, IF YOU HAVE NO REASONABLE DOUBT THAT THE
17 DEFENDANT COMMITTED THE CRIME, BUT YOU FIND THAT IT
18 IS MORE LIKELY THAN NOT THAT BECAUSE OF A MENTAL
19 DISEASE OR DEFECT THE DEFENDANT COULD NOT DISTINGUISH
20 MORAL OR LEGAL RIGHT FROM WRONG AND RECOGNIZE THE
21 CRIME AS MORALLY OR LEGALLY WRONG, YOU MUST -- WELL,
22 I DON'T KNOW. LET ME SEE. MR. DIGGS, MR. KELLY,
23 WHAT DO Y'ALL THINK?

24 MR. DIGGS: YOUR HONOR, I THINK IT WAS COVERED
25 IN THE REST OF THE CHARGE. I THINK THE JURY WOULD

1 UNDERSTAND WHAT IT IS. IF YOU BRING THEM BACK OUT,
2 IT'S GOING TO EMPHASIZE PARTS OF THE CHARGE---

3 THE COURT: THAT'S MY ONLY CONCERN. I FEEL LIKE
4 IT OVER-EMPHASIZES IT IF I BRING THEM BACK OUT.

5 MR. KELLY: WE THINK IT'S IN...

6 THE COURT: I WISH YOU'D CAUGHT IT EARLIER. I
7 MIGHT HAVE CONSIDERED ADDING SOMETHING TO IT. BUT
8 IT'S OUR STANDARD CHARGE. IT'S BASED ON THE WAY CASE
9 LAW IS WRITTEN. I...

10 MR. HEMBREE: JUDGE, I THINK IT LEAVES OUT AN
11 ESSENTIAL -- AN ESSENTIAL ELEMENT TO THE LAW OF
12 INSANITY.

13 THE COURT: WELL, I DON'T THINK I HAVE TO KEEP
14 REPEATING IT. I THINK AS LONG AS I STATE THE
15 ACCURATE LAW, I HAVE MET THE BURDEN REQUIRED. AND
16 I -- I HAVE SAID VERY CLEARLY ONCE HE RAISES IT, HE
17 HAS THE BURDEN OF PROOF, AND THEN YOU HAVE TO PROVE
18 HE'S SANE BEYOND A REASONABLE DOUBT.

19 I DON'T THINK THAT CAN ESCAPE THE JURY
20 RESPONSIBILITY. I THINK THEY KNOW THAT VERY CLEARLY.
21 NOW, IF I'D LEFT IT OUT ALTOGETHER, THAT'S A WHOLE
22 DIFFERENT...

23 MR. HEMBREE: VERY WELL, YOUR HONOR.

24 THE COURT: BUT I'M GOING TO LOOK ONE MORE TIME
25 AND MAKE SURE THAT -- AND GIVE ME A SECOND, MR.

1 DIGGS, UNLESS YOU WANT TO ADD SOMETHING TO WHAT
2 MR....

3 MR. DIGGS: NO, YOUR HONOR.

4 THE COURT: ALL RIGHT. GIVE ME ONE SECOND.

5 (WHEREUPON THERE WAS A PAUSE.)

6 THE COURT: I DON'T THINK -- I SAID IT. I THINK
7 I STATED THE APPLICABLE LAW AND I INDICATE IN THE
8 CHARGE THAT INTENT IS -- THAT CRIMINAL INTENT IS
9 REQUIRED, WHICH IS THE PRESUMPTION OF SANITY, AND
10 THAT IN ORDER FOR HIM -- THAT HE'S RAISED THIS
11 DEFENSE, AND IN ORDER FOR HIM TO BE -- TO HAVE --
12 AVAIL HIMSELF OF IT, THAT HE HAS TO HAVE STATED THE
13 M'NAGHTEN STANDARD, AND I HAVE ALSO INDICATED THAT HE
14 HAS TO PROVE ANY INSANITY BY A PREPONDERANCE OF THE
15 EVIDENCE. I DEFINE THAT.

16 I ALSO INDICATE PRIOR TO THAT THAT BY RAISING
17 THAT DEFENSE, THE STATE STILL HAS TO PROVE BEYOND A
18 REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE
19 CRIME.

20 THE CHARGE THEN MOVES ON TO INDICATE THAT IF YOU
21 FIND EVIDENCE IN THE RECORD THAT THE CRIME WAS
22 ALLEGEDLY COMMITTED, THEN AGAIN STATING THE M'NAGHTEN
23 STANDARD, THE STATE MUST THEN PROVE BEYOND A
24 REASONABLE DOUBT THAT THE DEFENDANT WAS SANE AND THEN
25 IT IS UP TO YOU TO DECIDE WHAT THE CONDITION OF THE

1 DEFENDANT'S MIND WAS.

2 AND THEN I INSTRUCTED THEM REGARDING -- WHICH IS
3 BASICALLY SOUTH CAROLINA'S VERSION OF DIMINISHED
4 CAPACITY.

5 AND I THINK THAT WHAT YOU'RE SAYING -- IT
6 PROBABLY -- THERE IS ALWAYS A POSSIBILITY SOMETHING
7 COULD HAVE BEEN SAID BETTER, BUT I THINK THE FIRST
8 SENTENCE SAYS WHAT YOU'RE ASKING WHICH IS, IF YOU
9 HAVE NO REASONABLE DOUBT THAT THE DEFENDANT COMMITTED
10 THE CRIME.

11 NOW, MAY -- IS IT POSSIBLE I MAY HAVE CHANGED IT
12 IF YOU'D BROUGHT IT UP EARLIER? MAYBE. I MAY WELL
13 HAVE RE-WORDED IT. BUT NOW I THINK AT THIS POINT IT
14 REALLY WOULD CONFUSE -- I THINK IT HAS THE POTENTIAL
15 TO CONFUSE THE JURY AND I THINK IT'S ALREADY BEEN
16 STATED.

17 I THINK IT'S AN ACCURATE STATEMENT OF THE LAW.
18 THE COURT WILL NOTE YOUR EXCEPTION FOR THE RECORD.
19 ARE THERE ANY OTHER EXCEPTIONS FROM THE STATE
20 REGARDING THE CHARGE?

21 MR. HEMBREE: NO OTHER EXCEPTION, YOUR HONOR.

22 THE COURT: ANY EXCEPTIONS FROM THE DEFENSE?

23 MR. DIGGS: NONE OTHER THAN THE ONE WE MENTIONED
24 PREVIOUSLY, YOUR HONOR.

25 THE COURT: WHICH IS...

1 MR. DIGGS: WE DON'T WANT...

2 THE COURT: THE ONES YOU STATED IN CHARGE
3 CONFERENCE?

4 MR. DIGGS: YES, MA'AM.

5 THE COURT: THE COURT WILL NOTE THOSE FOR THE
6 RECORD.

7 MR. DIGGS: THANK YOU, YOUR HONOR.

8 THE COURT: YOU'RE WELCOME.

9 MR. HEMBREE: AND NOT TO BELABOR THIS POINT,
10 JUDGE, BUT YOU'RE SENDING YOUR CHARGE INTO THE JURY,
11 THE WRITTEN CHARGE?

12 THE COURT: YOU KNOW, I ORIGINALLY WAS DEBATING
13 DOING THAT, BUT I THEN WENT BACK AND LOOKED AT AN
14 OPINION FROM JUDGE ANDERSON THAT SAYS THAT IN ORDER
15 TO DO THAT, YOU HAVE TO HAVE SOME STATUTORY OR
16 PROCEDURAL RULE TO DO THAT.

17 AND WHILE SOME JUDGES DO IT, WE IN SOUTH
18 CAROLINA -- AND HE GOES THROUGH A WHOLE GREAT
19 ANALYSIS OF ALL THE STATES THAT HAVE IT AND DON'T
20 HAVE IT, AND SIMPLY SAYS, WE HAVE NO RULE AND THERE'S
21 A VOID, AND THEREFORE BASED ON THAT HE DOESN'T THINK
22 WE HAVE THE AUTHORITY TO DO IT.

23 AND SO I SORT OF IN MID-STREAM -- WELL, NOT
24 MID-STREAM, I MADE UP MY MIND YESTERDAY.

25 MR. HUMPHRIES: I THINK UNLESS--

1 THE COURT: THEN ON TOP OF THAT, TO BE FRANK
2 WITH YOU, JUST THE PERFECTIONIST IN ME FOUND SOME
3 TYPOS AND IT BOTHERED ME, AND...

4 MR. HEMBREE: THAT WAS MY CONCERN.

5 THE COURT: NO. I DIDN'T WANT A WORK PRODUCT
6 WITH TYPOS AND I, YOU KNOW, AND ALSO SOME GRAMMATICAL
7 AND OTHER THINGS THAT I HAD TO CORRECT IN MID-STREAM
8 AND I -- I WASN'T REAL PARTICULARLY ENAMORED WITH
9 THAT. MR. DIGGS, I ASSUME YOU ALL HAD NO REQUEST?

10 MR. DIGGS: PARDON?

11 THE COURT: DID YOU WANT TO ADD ANYTHING TO WHAT
12 MR. HEMBREE--

13 MR. DIGGS: OH, I WAS GOING TO SAY WE DON'T
14 OBJECT TO THE INSTRUCTIONS GOING TO THE JURY.

15 THE COURT: I SUSPECT IF THEY HAVE ANY
16 QUESTIONS, I HAVE FOUND THAT JURIES ARE EXTREMELY
17 ARTICULATE AND THAT IF THEY HAVE QUESTIONS, THEY WILL
18 ASK. AND I IN MANY OCCASIONS HAVE HAD TO RE-CHARGE
19 PORTIONS OF A CHARGE. I HAVE HAD TO RE-GIVE A WHOLE
20 CHARGE A COUPLE OF TIMES ON MORE THAN ONE OCCASION,
21 SO I FEEL VERY, VERY STRONGLY THAT IF THEY NEED...

22 NOW OF COURSE, IF WE REACH THE OTHER PHASE OF
23 THE TRIAL, THERE IS STATUTORY INSTRUCTIONS THAT
24 REQUIRE CERTAIN PORTIONS OF THE CHARGE TO GO TO THE
25 JURY, AND WE OF COURSE WILL COMPLY WITH THAT.

1 OKAY. IS THERE ANYTHING ELSE? YOU ALL HAVE
2 GONE THROUGH THE EVIDENCE; CORRECT? YOU HAVE
3 DETERMINED THAT IS IN ORDER?

4 MR. HUMPHRIES: WE HAVE, YOUR HONOR.

5 MR. DIGGS: THAT'S -- WE AGREE WITH THAT.

6 THE COURT: OKAY. IF YOU ALL COULD GIVE IT TO
7 THE BAILIFFS SO THAT WE CAN SEND IT INTO THE JURY
8 ALONG WITH THE VERDICT FORMS. SLED WILL TAKE CARE
9 OF -- WE NEED TO MAKE SURE THAT OUR ALTERNATES ARE
10 SEQUESTERED BEFORE WE DO ANY OF THAT AND ALSO BEFORE
11 WE TAKE ANY NOTEBOOKS INTO THEM.

12 SO IF YOU COULD GET MR. MCLEOD FOR ME, PLEASE.
13 THEY'LL TAKE CARE OF THAT. THOSE NEED TO GO TO THE
14 ALTERNATE.

15 (WHEREUPON THERE WAS A PAUSE WHILE THE COURT
16 SPOKE WITH THE BAILIFFS AND THE CLERK.)

17 THE COURT: MR. MCLEOD, YOU KNOW THE PROPER
18 PROCEDURE TO GO AHEAD AND SEQUESTER OUR ALTERNATES.
19 AND WE HAVE AN ALTERNATIVE ROOM FOR THEM; CORRECT?

20 AGENT MCLEOD: YES, MA'AM. IT'S IN AN
21 OUTSIDE -- BUILDING.

22 THE COURT: PERFECT. IF YOU COULD GIVE THESE
23 NOTEPADS TO THEM. WELL, ACTUALLY WE NEED TO KEEP
24 THEM BECAUSE THEY ARE NOT DELIBERATING, SO WE WILL
25 HOLD ON TO THOSE.

1 AND IF YOU WOULD TAKE IN THE EVIDENCE AND THE
2 JURY'S NOTEPADS AS WELL AS THE VERDICT FORMS. AND WE
3 NEED TO GIVE THEM SOME RUBBER GLOVES. AND IS THE
4 9-1-1 TAPE IN EVIDENCE?

5 MR. HUMPHRIES: IT IS.

6 THE COURT: DO YOU HAVE A TAPE RECORDER TO GO
7 INTO THE JURY ROOM?

8 MR. DIGGS: YOUR HONOR, WHAT IF THEY WANT TO
9 LOOK AT THE DVD? JUST COME OUT HERE?

10 THE COURT: DO WE HAVE A DVD PLAYER?

11 MR. DIGGS: THE ONLY ONE WE HAVE IS...

12 THE COURT: DO WE HAVE A TV WITH A DVD PLAYER WE
13 CAN TAKE IN THERE?

14 THE CLERK: YES, YOUR HONOR.

15 THE COURT: IF WE CAN ARRANGE THAT, LET'S TAKE
16 CARE OF THAT, TOO, SO THEY DON'T HAVE TO ASK US TO
17 LOOK BACK AT THE THINGS THAT ARE IN EVIDENCE.

18 (OFF-THE-RECORD DISCUSSION WAS HAD WITH THE
19 CLERK.)

20 THE COURT: OKAY. AND THE RECORD SHOULD REFLECT
21 THEN THAT THE JURY DELIBERATIONS BEGAN AT 5:28.

22 (WHEREUPON JURY BEGAN DELIBERATIONS AT 5:28 PM.)

23 THE COURT: WE'RE AT EASE.

24 (WHEREUPON A RECESS WAS HAD.)

25 THE COURT: OKAY. ALL RIGHT. WE HAVE A NOTE

1 FROM THE JURY. DO WE NEED MR. STANKO FOR THIS?

2 MR. KELLY: NO.

3 THE COURT: LET THE RECORD REFLECT THAT I HAVE
4 ASKED COUNSEL IF MR. STANKO NEEDS TO BE PRESENT FOR
5 THE NOTE, AND THEY HAVE INDICATED NO. AND THE NOTE
6 READS, WE HAVE TWO KIDNAPPING COUNTS. THEY DO NOT
7 SPECIFY WHICH VICTIM IS FOR WHICH COUNT. DO WE NEED
8 TO HAVE THE VICTIMS' NAMES ON THESE FORMS?

9 AND THEY ARE REFERRING TO COUNT FOUR AND COUNT
10 FIVE. I HAVE CONSENTED WITH COUNSEL AND THEY HAVE
11 AGREED THAT THE COURT CAN SIMPLY WRITE ON EACH --
12 EXCUSE ME -- ON EACH VERDICT FORM WHO COUNT FOUR
13 REPRESENTS AND WHO COUNT FIVE REPRESENTS.

14 AND FOR THE RECORD, I'M REVIEWING THE ORIGINAL
15 INDICTMENT. COUNT FOUR, KIDNAPPING, REFERS TO
16 [REDACTED] LING. AND COUNT FIVE REFERS TO LAURA LING.

17 SO MR. MCLEOD, I'M GOING TO HAVE THIS NOTE
18 MARKED AS A COURT'S EXHIBIT. IF YOU COULD, INSTRUCT
19 THE JURY TO CEASE THEIR DELIBERATIONS AND BRING ALL
20 OF THE VERDICT FORMS TO ME -- WELL, JUST BRING COUNT
21 FOUR AND FIVE TO ME SO THAT I CAN MAKE THAT
22 CORRECTION IN THE PRESENCE OF COUNSEL.

23 (WHEREUPON, COURT'S EXHIBIT NO. 11 WAS MARKED
24 FOR IDENTIFICATION ONLY.)

25 THE COURT: THANK YOU. DO YOU ALL HAVE ANY

1 REFERENCE WHERE I WRITE THIS? IS IT OKAY IF I SIMPLY
2 WRITE IT RIGHT OUT HERE TO RIGHT -- RIGHT NEXT TO...

3 MR. HUMPHRIES: THAT'S FINE.

4 MR. DIGGS: I DON'T HAVE ANY PREFERENCE.

5 THE COURT: AND I WILL LET EVERYBODY SEE WHAT I
6 DID TO MAKE SURE THERE IS NO EXCEPTION.

7 MR. HUMPHRIES: NO.

8 MR. KELLY: NONE.

9 MR. HUMPHRIES: NONE FROM THE STATE. YES,
10 MA'AM.

11 THE COURT: ALL RIGHT. IF YOU CAN TAKE THAT
12 BACK FOR ME, MR. MCLEOD. MR. MCLEOD IS SO EFFICIENT.

13 (WHEREUPON A RECESS WAS HAD.)

14 THE COURT: WE HAVE A NOTE FROM THE JURY WHICH
15 INDICATES -- OH, WE NEED THE DEFENDANT. I APOLOGIZE.
16 I WILL WAIT WHILE YOU ALL -- AND WE ALSO NEED MR.
17 DIGGS.

18 (WHEREUPON THERE WAS A PAUSE.)

19 THE COURT: I HAVE A NOTE FROM THE JURY WHICH
20 SAYS, PLEASE SEND CLARIFICATION-DEFINITION ON VERDICT
21 OF GUILTY BUT MENTALLY ILL. I WILL HAVE THAT NOTE
22 MARKED AS A COURT'S EXHIBIT.

23 IT WOULD BE THE COURT'S PREFERENCE FOR LACK OF A
24 BETTER WAY OF PUTTING IT THAT I CAN SIMPLY RE-CHARGE
25 THEM ON INSANITY.

1 I DON'T KNOW WHETHER IT WAS THAT THEY WERE JUST
2 NOT -- YOU KNOW, SOMETIMES JURIES DON'T HAVE A POINT
3 OF PREFERENCE OF WHAT YOU'RE TALKING ABOUT AND SO
4 THEY DON'T LISTEN AS CAREFULLY PROBABLY ONCE THEY
5 START TO GET INTO DELIBERATIONS.

6 THE VERDICT -- THE INSTRUCTION THAT I GIVE THEM,
7 JUST FOR PURPOSES OF REFRESHING YOU ALL'S
8 RECOLLECTION SAYS, ANOTHER POSSIBLE VERDICT IS GUILTY
9 BUT MENTALLY ILL.

10 IF YOU HAVE NO REASONABLE DOUBT THAT THE
11 DEFENDANT COMMITTED THE CRIME AND THAT THE DEFENDANT
12 HAD THE MENTAL CAPACITY TO DISTINGUISH MORAL OR LEGAL
13 RIGHT FROM WRONG OR RECOGNIZE THE CRIME AS MORALLY OR
14 LEGALLY WRONG BUT YOU FIND THAT IT IS MORE LIKELY
15 THAN NOT BECAUSE OF A MENTAL DISEASE OR DEFECT THE
16 DEFENDANT COULD NOT FOLLOW THE LAW, YOU MUST FIND THE
17 DEFENDANT GUILTY BUT MENTALLY ILL.

18 OR I CAN SIMPLY RE-CHARGE THAT SECTION. REALLY
19 THAT'S ALL THEY ARE REQUESTING. THAT'S A
20 CLARIFICATION OF WHAT IT MEANS.

21 MR. HUMPHRIES: THAT'S WHAT WE WOULD REQUEST,
22 JUST THAT SECTION. AND JUDGE, LET ME SAY, AND QUITE
23 FRANKLY DIDN'T CATCH THIS THE LAST TIME. IT HAS
24 BASICALLY THE SAME LANGUAGE WHICH SAYS--

25 THE COURT: IF YOU HAVE NO REASONABLE DOUBT.

1 MR. HUMPHRIES: IT SAYS AT THE -- COMMITTED THE
2 CRIME. BUT THEN IN THE BODY IT SAYS, IF YOU FIND
3 THAT IT IS MORE LIKELY THAN NOT BUT -- WELL, IF YOU
4 FIND THAT HE HAS, YOU KNOW, KNOWS MORAL OR LEGAL
5 RIGHT FROM MORAL OR LEGAL WRONG BUT YOU FIND IT'S
6 MORE LIKELY THAN NOT NOT--

7 THE COURT: IT ALSO SAYS -- IT ALSO SAYS THEY
8 STILL HAVE TO FIND BEYOND A REASONABLE DOUBT THAT THE
9 DEFENDANT COMMITTED THE CRIME.

10 MR. HUMPHRIES: COMMITS THE CRIME, BUT NOT
11 THE -- YOU KNOW, IT'S SORT OF THE SAME ISSUE. AND
12 THIS IS ANOTHER OPPORTUNITY TO--

13 THE COURT: YEAH. I REALLY WISH Y'ALL HAD
14 RAISED IT EARLIER SO I COULD HAVE -- BECAUSE IT IS --
15 I HAVE TO AGREE TO SOME EXTENT -- WELL, I DON'T KNOW
16 THAT I AGREE. I THINK IT SAYS IN THE BODY OF THE
17 CHARGE THAT YOU HAVE TO PROVE SANITY BEYOND A
18 REASONABLE DOUBT.

19 NOW, IF THAT BOTHERS YOU, I CAN RE-CHARGE THE
20 WHOLE THING WHICH WILL REINFORCE THAT YOU HAVE TO
21 PROVE SANITY BEYOND A REASONABLE DOUBT IN FAIRNESS TO
22 YOU. BECAUSE I THINK TO CHANGE IT NOW WOULD BE VERY
23 CONFUSING.

24 MR. HUMPHRIES: I UNDERSTAND. AND MY PREFERENCE
25 THEN IS THAT WE CHARGE THE WHOLE CHARGE VERSUS THAT

1 IF -- IF THAT...

2 THE COURT: WELL, I THINK FOR PURPOSES OF
3 CLARITY, AND IF THAT IS IN FACT YOUR CONCERN, THAT
4 THE JURY IS IN FACT AWARE THAT THE STATE HAS TO PROVE
5 SANITY BEYOND A REASONABLE DOUBT, I THINK THAT'S A
6 REASONABLE CONCERN AND I THINK IT'S VALID.

7 IS THERE ANY EXCEPTION FROM THE DEFENSE TO US
8 PROCEEDING IN THAT WAY?

9 MR. DIGGS: I UNDERSTAND YOU'RE GOING TO
10 RE-CHARGE ON INSANITY, THE ADDITIONAL LANGUAGE
11 REQUESTED BY THE SOLICITOR.

12 THE COURT: NO. WHAT I'M GOING TO DO IS JUST
13 RE-CHARGE THE WHOLE THING. NOW, IF Y'ALL AGREE FOR
14 US TO ADD THAT LANGUAGE, THEN THAT WILL RESOLVE THE
15 WHOLE PROBLEM.

16 MR. DIGGS: RE-CHARGE THE WHOLE...

17 THE COURT: I CAN DO THE -- I CAN RE-CHARGE
18 INSANITY IN TOTAL WHICH COVERS THE STATE PROVING
19 BEYOND A REASONABLE DOUBT -- WHICH PROVES -- I'M
20 SORRY, I GOT AHEAD OF MYSELF -- WHICH STATES THE LAW
21 WHICH IS, YOU KNOW, YOU NEED MENTAL -- YOU NEED
22 INTENT. YOU HAVE TO BE SANE TO HAVE MENTAL INTENT.
23 IT'S PRESUMED.

24 HOWEVER, ONCE RAISED BY THE DEFENDANT, HE HAS TO
25 PROVE BY A PREPONDERANCE OF THE EVIDENCE THAT HE'S

1 NOT SANE. ONCE THAT'S RAISED, THE STATE HAS TO PROVE
2 HIS SANITY BEYOND A REASONABLE DOUBT. AND THEN IT
3 GOES TO THE FORMS OF THE VERDICT.

4 IF, HOWEVER, YOU ALL AGREE AND YOU WANT TO AGREE
5 TO ADDING SOME LANGUAGE AND THE STATE WANTS TO TELL
6 ME EXACTLY WHAT KIND OF LANGUAGE THEY WANT ME TO ADD
7 AND RUNS IT BY YOU AND YOU'RE AGREEABLE TO THAT, I
8 WOULD HAVE NO PROBLEM ADDING IT.

9 MR. DIGGS: YOUR HONOR, I DON'T OBJECT TO THAT,
10 TO ADDING THE ADDITIONAL LANGUAGE IF YOU'RE GOING TO
11 RE-CHARGE ON INSANITY ANY WAY.

12 THE COURT: NO. IF WE ADD THE ADDITIONAL
13 LANGUAGE, I'M ONLY GOING TO RE-CHARGE THE
14 CLARIFICATION THEY'VE ASKED, WHICH IS THIS ONE
15 SECTION.

16 MR. DIGGS: YOUR HONOR, I WOULD ASK THAT YOU
17 RE-CHARGE INSANITY AND THAT CLARIFICATION BECAUSE --
18 I MEAN, AND THE GUILTY BUT MENTALLY ILL AND DRAW--

19 THE COURT: YOU UNDERSTAND WHAT I'M SAYING?
20 THESE ARE THE OPTIONS. I CAN RE-CHARGE THE ENTIRE
21 THING WHICH I THINK IS AN ACCURATE STATEMENT OF THE
22 LAW, OR I CAN JUST RE-CHARGE THAT ONE SECTION WHICH
23 IS WHAT THE JURY HAS REQUESTED AND ADD THE ADDITIONAL
24 LANGUAGE THAT THE STATE HAS REQUESTED WHICH I DON'T
25 SEE HOW IT PREJUDICES THE DEFENDANT BECAUSE IT SIMPLY

1 SAYS THAT THE STATE HAS TO PROVE THAT HE'S SANE
2 BEYOND A REASONABLE DOUBT. QUITE FRANKLY, I THINK
3 THAT ENDURES TO HIS BENEFIT.

4 MR. HUMPHRIES: LET ME READ IT TO -- INTO THE
5 RECORD SO WE CAN -- SO WE ALL KNOW WHAT WE'RE TALKING
6 ABOUT.

7 THE COURT: I THINK WE ALL KNOW.

8 MR. HUMPHRIES: I MEAN, FOR MR. DIGGS BECAUSE HE
9 HAS NOT HEARD -- I DON'T KNOW IF--

10 THE COURT: YOU MEAN THE PORTION TALKING ABOUT
11 GUILTY BUT MENTALLY ILL?

12 MR. HUMPHRIES: THE PORTION WE WOULD LIKE TO
13 INSERT.

14 THE COURT: OH, GO RIGHT AHEAD. I'D LIKE TO
15 HEAR IT ALSO. GO RIGHT AHEAD.

16 MR. HUMPHRIES: AND REFERRING -- WELL, LET'S GO
17 TO I THINK IT'S THE LAST PAGE. THIS IS THE WAY WE
18 PROPOSE IF YOU READ -- AND I WILL TELL YOU WHERE WE
19 INSERT.

20 THE COURT: OKAY. GO RIGHT AHEAD. I AM
21 LISTENING.

22 MR. HUMPHRIES: LET'S BEGIN -- LET'S BEGIN AT
23 THE TOP OF THE PARAGRAPH. ANOTHER POSSIBLE VERDICT
24 IS GUILTY BUT MENTALLY ILL. IF YOU HAVE NO
25 REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE

1 CRIME AND THAT THE DEFENDANT HAD THE MENTAL CAPACITY
2 TO DISTINGUISH MORAL OR LEGAL RIGHT FROM MORAL --
3 WELL, LEGAL RIGHT OR RECOGNIZE CRIMES MORALLY OR
4 LEGALLY WRONG BUT YOU FIND THAT IT IS MORE LIKELY OR
5 NOT, MORE LIKELY THAN NOT BECAUSE OF A MENTAL DISEASE
6 OR DEFECT THE DEFENDANT COULD NOT FOLLOW THE LAW AND
7 YOU FIND THAT THE STATE HAS FAILED TO PROVE BEYOND A
8 REASONABLE DOUBT THAT THE DEFENDANT WAS SANE, YOU
9 MUST FIND THE DEFENDANT GUILTY BUT MENTALLY ILL.

10 SO THE REQUESTED ADDITIONAL LANGUAGE IS, AND YOU
11 FIND THAT THE STATE HAS FAILED TO PROVE BEYOND A
12 REASONABLE DOUBT THAT THE DEFENDANT WAS SANE.

13 MR. KELLY: NO, MA'AM. WE DON'T WANT THAT
14 ADDITIONAL LANGUAGE. WE LIKE THE CHARGE JUST AS IT
15 IS IN FULL.

16 MR. HUMPHRIES: JUDGE, CAN WE HAVE JUST A
17 MINUTE?

18 THE COURT: YEAH.

19 (WHEREUPON THERE WAS A PAUSE.)

20 MR. HUMPHRIES: YOUR HONOR, IF YOU ELECTED--

21 THE COURT: I'M LISTENING.

22 MR. HUMPHRIES: IF I CAN INVITE YOU TO TAKE A
23 LOOK AT THE GUILTY BUT MENTALLY ILL STATUTE, 17 24
24 20A. HAVE YOU GOT THE STATUTE.

25 THE COURT: I'M LOOKING AT SOMETHING ELSE.

1 MR. HUMPHRIES: I'M SORRY. THANK YOU. I'M
2 SORRY. I MIGHT BE ABLE TO MAKE THIS EASY. WE WOULD
3 LIKE TO WITHDRAW OUR REQUEST FOR THAT ADDITIONAL
4 LANGUAGE AS IT RELATES TO GUILTY BUT MENTALLY ILL
5 BECAUSE I DON'T THINK THE STATUTE--

6 THE COURT: SUPPORTS IT.

7 MR. HUMPHRIES: -- SUPPORTS THAT.

8 THE COURT: OKAY. THEN THAT RESOLVES IT.

9 MR. HUMPHRIES: THE WHOLE CHARGE.

10 THE COURT: OKAY. ANY EXCEPTION FROM THE
11 DEFENSE?

12 MR. KELLY: NONE, MA'AM.

13 THE COURT: ALL RIGHT.

14 MR. DIGGS: WELL, YOUR HONOR, CAN WE JUST HAVE A
15 CONTINUING OBJECTION ON THIS GUILTY BUT MENTALLY ILL
16 CHARGE SO WE DON'T HAVE TO KEEP SAYING--

17 THE COURT: I THINK YOU'VE ALREADY PRESERVED IT.

18 MR. DIGGS: THANK YOU, YOUR HONOR.

19 THE COURT: YOU'RE WELCOME. AND THE COURT WOULD
20 OF COURSE RULE THAT IT IS STATUTORILY BOUND TO CHARGE
21 IT--

22 MR. DIGGS: WE UNDERSTAND, YOUR HONOR. THANK
23 YOU, YOUR HONOR.

24 THE COURT: -- YOU'RE WELCOME. PURSUANT TO
25 STATE VERSUS RIMERT, AND THAT AGAIN FOR THE COURT

1 REPORTER IS R-I-M-E-R-T WHICH IS AT 315 SOUTH
2 CAROLINA 527, 446 SOUTHEAST SECOND 400, 1994 SUPREME
3 COURT AND...

4 MR. HUMPHRIES: JUST ONE SECOND, YOUR HONOR.
5 I'M SORRY.

6 THE COURT: THAT'S ALL RIGHT. AND I BELIEVE YOU
7 ALL ARE IN AGREEMENT THAT THE ALTERNATES NEED TO BE
8 BROUGHT IN TO HEAR THIS ADDITIONAL CHARGE.

9 MR. HUMPHRIES: THAT'S CORRECT.

10 MR. KELLY: THAT'S CORRECT.

11 THE COURT: JUST WANTED TO MAKE SURE WE WERE
12 CLEAR FOR THE RECORD. IS THERE ANYTHING FURTHER
13 BEFORE WE BRING IN THE JURY?

14 MR. HUMPHRIES: JUDGE? LET -- I'M SORRY. I
15 APOLOGIZE. THIS...

16 THE COURT: YOU DON'T HAVE TO APOLOGIZE.

17 MR. HUMPHRIES: IN LOOKING AT THE STATUTE,
18 HERE'S MY CONCERN.

19 THE COURT: WAIT, LET ME GET THE STATUTE.

20 MR. HUMPHRIES: I'M SORRY. IF YOU WILL LET ME
21 KNOW WHEN YOU GOT THE STATUTE?

22 THE COURT: YEAH. GIVE ME ONE SECOND. AND
23 YOU'RE REFERRING TO CODE SECTION 17 YOU SAID 24?

24 MR. HUMPHRIES: 20A. WELL, HERE'S THE THING,
25 JUDGE.

1 THE COURT: WAIT ONE SECOND.

2 MR. HUMPHRIES: I'M SORRY.

3 THE COURT: THAT'S ALL RIGHT. OKAY. Y'ALL WANT
4 TO TALK FOR A COUPLE MINUTES?

5 MR. HUMPHRIES: LET ME TALK IT OUT LOUD AND SEE.
6 MY CONCERN IS THE STATUTE FOR GUILTY BUT MENTALLY ILL
7 DOES NOT PLACE A BURDEN ON THE DEFENDANT TO SHOW BY
8 PREPONDERANCE OF THE EVIDENCE THAT HE HAS--

9 THE COURT: ACTUALLY IF YOU ASSERT THE
10 AFFIRMATIVE DEFENSE OF GUILTY BUT MENTALLY ILL, HE
11 DOES HAVE THE BURDEN OF PROVING BY THE PREPONDERANCE
12 OF THE EVIDENCE THAT HE'S GUILTY BUT MENTALLY ILL.
13 THE PROBLEM, HOWEVER, IS WE DON'T HAVE THAT
14 SITUATION.

15 MR. HUMPHRIES: CORRECT.

16 THE COURT: WE HAVE A SITUATION WHERE THE
17 STATUTE REQUIRES THAT I LIST FOUR VERDICTS WHENEVER
18 INSANITY IS RAISED. I ASSUME IT'S SOMETHING THE
19 LEGISLATURE HAS NEVER QUITE FRANKLY REALIZED OR DEALT
20 WITH, AND I'M LEFT WITH THE MANDATORY NATURE OF THE
21 STATUTE.

22 WHAT I TRIED TO DO TO THE BEST OF MY ABILITY IS
23 MY STANDARD CHARGE FRANKLY CHARGES AFTER GUILTY BUT
24 MENTALLY ILL THAT HE HAS TO PROVE BY A PREPONDERANCE
25 OF THE EVIDENCE THAT HE IS GUILTY BUT MENTALLY ILL.

1 BUT I REMOVED THAT LANGUAGE BECAUSE HE DID NOT ASSERT
2 THAT AS AN AFFIRMATIVE DEFENSE.

3 THE STATUTE REQUIRED THAT I INSERT THAT OPTION.
4 SO I SIMPLY DEFINED FOR THE JURY WHAT THE STANDARD IS
5 IN TERMS OF A GUILTY BUT MENTALLY ILL VERDICT BECAUSE
6 HE REALLY IN THIS INSTANCE HAS NOT ASSERTED IT AS AN
7 AFFIRMATIVE DEFENSE, AND SO IN TRYING HIS CASE, HE --
8 WELL, I GUESS TO SOME EXTENT --

9 MR. DIGGS: YOUR HONOR--

10 THE COURT: -- HE PROBABLY HAS ALREADY MET THAT
11 ARGUABLY BY A PREPONDERANCE OF THE EVIDENCE, DEPENDS
12 ON HOW YOU VIEW THE EVIDENCE AND THE INFERENCES
13 FROM--

14 MR. DIGGS: I WOULD ASK YOU TO DIRECT A VERDICT
15 AT THIS STAGE ON THE ISSUE OF GUILTY BUT MENTALLY ILL
16 AND SAY THAT WE HAVE NOT PROVEN THAT--

17 THE COURT: OH, NO, I'M NOT GOING TO DO THAT
18 BECAUSE THERE'S SUFFICIENT EVIDENCE IN THE RECORD TO
19 SUPPORT THAT FINDING.

20 MR. HUMPHRIES: AND MAYBE I'M COMPLETELY WRONG,
21 BUT I THINK--

22 THE COURT: DEPENDING UPON HOW YOU LOOK AT THE
23 EVIDENCE FROM THE EXPERTS AND THEIR TESTIMONY. QUITE
24 FRANKLY -- AND I'M REFERRING TO THE -- I BELIEVE IT'S
25 DR. THRASHER'S TESTIMONY OR EITHER DR. ALBINIAK, ONE

1 OF THEM, OR BOTH, BOTH SAID THAT HE WAS -- HE KNEW
2 EXACTLY WHAT HE WAS DOING AND HE KNEW IT WAS WRONG,
3 HE SIMPLY DOES NOT HAVE THE CAPACITY TO FORM MORALS,
4 AND THAT'S A WHOLE DIFFERENT BALL GAME.

5 MR. HUMPHRIES: HERE IS MY CONCERN. I THINK --
6 AND IT MAY JUST BE MY READING -- BUT I THINK THE WAY
7 IT'S WRITTEN, IT APPEARS -- IT REDUCES OUR BURDEN OF
8 PROOF FROM BEYOND A REASONABLE DOUBT TO SHOW THAT THE
9 DEFENDANT COULD NOT FOLLOW THE LAW TO THE
10 PREPONDERANCE OF THE EVIDENCE IF THEY FIND MORE
11 LIKELY THAN NOT BECAUSE OF MENTAL DISEASE OR DEFECT
12 HE COULD NOT FOLLOW THE LAW. YOU SEE WHAT I'M
13 SAYING?

14 THE COURT: NO, IT JUST IMPOSES THE SAME BURDEN
15 WHICH IS BY A PREPONDERANCE WHICH IS HOW THEY HAVE TO
16 JUDGE HIS BURDEN WHICH IS THAT MORE LIKELY THAN NOT
17 HE COULDN'T CONFORM HIS BEHAVIOR. THAT'S WHAT IT'S
18 SAYING.

19 IT'S SAYING THAT THEY ONLY HAVE TO DETERMINE BY
20 A PREPONDERANCE OF THE EVIDENCE HE SIMPLY COULD NOT
21 FOLLOW THE LAW BUT THAT HE KNEW WHAT HE WAS DOING WAS
22 WRONG, BUT BECAUSE OF A MENTAL DISEASE OR DEFECT HE
23 COULDN'T CONFORM.

24 MR. HUMPHRIES: I'M SORT OF ARGUING AGAINST
25 ITSELF.

1 THE COURT: NO. I MEAN, I'M JUST -- I'M TRYING
2 TO, YOU KNOW, THE PROBLEM IS WITH THE WAY THE
3 STATUTE, YOU KNOW, YOU HAVE AN AFFIRMATIVE DEFENSE OF
4 GUILTY BUT MENTALLY ILL WHERE WE HAVE A COMPLETE
5 CHARGE BASED ON CASE LAW THAT SAYS THE DEFENDANT HAS
6 BY A PREPONDERANCE OF THE EVIDENCE TO PROVE CERTAIN
7 THINGS.

8 IT REALLY DOESN'T ALTER THE STATE'S BURDEN. THE
9 STATE ALWAYS HAS TO PROVE THAT THE DEFENDANT IS SANE
10 ONCE THE PRESUMPTION -- ONCE THERE'S ANY EVIDENCE OF
11 INSANITY, THE STATE STILL HAS TO PROVE BEYOND A
12 REASONABLE DOUBT THAT THE DEFENDANT IS SANE.

13 NOW, FRANKLY, I'LL BE DIRECT WITH YOU AND
14 HONEST. I WISH YOU RAISED IT EARLIER. I THINK THE
15 WAY THIS IS WORDED IS SLIGHTLY CONVOLUTED. AND NOW
16 THAT I HAVE A DIFFERENT POINT OF REFERENCE, I
17 PROBABLY WOULD HAVE INSERTED THE LANGUAGE THAT YOU'RE
18 NOW REQUESTING.

19 THE PROBLEM, HOWEVER, IS THAT I HAVE ALREADY
20 GIVEN A CHARGE TO THE JURY AND I DON'T LIKE SWITCHING
21 MID-STREAM BECAUSE IT THEN HAS A TENDENCY TO CONFUSE
22 THEM.

23 BUT I THINK, HOWEVER, EVEN HAVING MADE THAT
24 OBSERVATION, THAT THE CHARGE IN AND OF ITSELF IN ITS
25 TOTALITY I KNOW IS BASED ON PREVAILING CASE LAW. I

1 KNOW THAT IT STATES EXACTLY -- IT'S WRITTEN EXACTLY
2 IN STATUTORY LANGUAGE AS AN INSANITY CHARGE -- I MEAN
3 THE INSANITY STATUTE, AND IT STILL SAYS, YOU HAVE THE
4 BURDEN OF PROVING INSANITY BEYOND A REASONABLE DOUBT.

5 NOW, DO I WISH WE COULD REPEAT IT AGAIN? DO I
6 THINK THAT THE WAY IT WAS WORDED WAS INARTFUL WHEN IT
7 SAYS, ANOTHER POSSIBLE VERDICT -- IF YOU HAVE NO
8 REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE
9 CRIME, I THINK THE INTENTION OF THAT SENTENCE IS THE
10 STATE HAD TO PROVE INSANITY BEYOND A REASONABLE DOUBT
11 AND THEY HAVE TO PROVE HE COMMITTED THE CRIME BEYOND
12 A REASONABLE DOUBT.

13 DO I WISH IT WAS WORDED BETTER? THE ENGLISH
14 MAJOR IN ME REALLY DOES WISH IT WAS, BUT IT ISN'T AND
15 I WISH--

16 MR. HUMPHRIES: THAT'S OUR FAULT. THAT'S OUR
17 FAULT.

18 THE COURT: WELL, YOU KNOW, AND I WISH --
19 BECAUSE IF YOU HAD, MR. HUMPHRIES, I'M JUST BEING
20 DIRECT WITH YOU, I WOULD HAVE ADDED THAT LANGUAGE
21 BECAUSE I THINK IT HAS A POTENTIAL TO CLARIFY IT.

22 I WISH YOU ALL COULD AGREE ON IT, BUT YOU CAN'T,
23 SO IT SORT OF LEAVES ME THE OPTION OF JUST -- I THINK
24 IN ORDER -- I WOULD HAVE A PROBLEM AT THIS POINT
25 SIMPLY RE-CHARGING THAT FOR -- THIS PARAGRAPH WITHOUT

1 THAT LANGUAGE BECAUSE I THINK IT WOULD BE MISLEADING.

2 MR. HUMPHRIES: I AGREE.

3 THE COURT: BUT I THINK IN ORDER FOR THE -- FOR
4 THE JURY TO HAVE THE ENTIRE PICTURE OF THE BURDENS
5 THAT ARE REQUIRED AND THE OPTIONS, I THINK THE WHOLE
6 THING NEEDS TO BE RE-CHARGED.

7 MR. HUMPHRIES: DON'T TAKE EXCEPTION.

8 THE COURT: OKAY. ANY EXCEPTION FROM THE
9 DEFENSE?

10 MR. HUMPHRIES: NO.

11 MR. KELLY: NO, YOUR HONOR.

12 THE COURT: I THINK MR. KELLY HAS ALREADY SAID
13 HE WOULD WANT THE WHOLE INSANITY SECTION OF THE
14 CHARGE. PLEASE BRING IN THE JURY AND THE ALTERNATES.

15 (JURY ENTERED THE COURTROOM AT 6:26 PM.)

16 (WHEREUPON, COURT'S EXHIBIT 12 WAS ADMITTED INTO
17 EVIDENCE.)

18 THE COURT: YOU MAY BE SEATED. LADIES AND
19 GENTLEMEN, THE COURT RECEIVED YOUR NOTE, PLEASE SEND
20 CLARIFICATION DASH DEFINITION ON VERDICT OF GUILTY
21 BUT MENTALLY ILL.

22 AND FOR PURPOSES OF CLARIFICATION THE COURT IS
23 GOING TO RE-CHARGE THE SECTION OF INSANITY IN ORDER
24 TO ANSWER THAT QUESTION.

25 THE DEFENDANT HAS RAISED THE DEFENSE OF

1 INSANITY. CRIMINAL INTENT IS REQUIRED TO PROVE THAT
2 THE DEFENDANT IS GUILTY OF THE CRIME CHARGED. A
3 PERSON WHO IS INSANE CANNOT HAVE CRIMINAL INTENT AND
4 THEREFORE CANNOT BE FOUND GUILTY OF A CRIME.

5 IN ORDER TO BE FOUND NOT GUILTY BY REASON OF
6 INSANITY IT MUST BE SHOWN THAT AT THE TIME OF THE
7 CRIME THE DEFENDANT HAD A MENTAL DISEASE OR DEFECT
8 WHICH MADE HIM UNABLE TO DISTINGUISH MORAL OR LEGAL
9 RIGHT FROM WRONG OR TO RECOGNIZE THE CRIME AS MORALLY
10 OR LEGALLY WRONG.

11 BY RAISING THE DEFENSE OF INSANITY THE DEFENDANT
12 DOES NOT NECESSARILY ADMIT THE CRIME WAS COMMITTED.
13 THE STATE MUST STILL PROVE BEYOND A REASONABLE DOUBT
14 THAT THE DEFENDANT COMMITTED THE CRIME. HOWEVER, THE
15 DEFENDANT MUST PROVE INSANITY BY A PREPONDERANCE OF
16 THE EVIDENCE.

17 A PREPONDERANCE OF THE EVIDENCE SIMPLY MEANS THE
18 GREATER WEIGHT OF THE EVIDENCE OR MORE LIKELY THAN
19 NOT. IF YOU FIND THERE IS EVIDENCE IN THE RECORD
20 THAT AT THE TIME THE CRIME WAS ALLEGEDLY COMMITTED IT
21 IS MORE LIKELY THAN NOT THAT BECAUSE OF A MENTAL
22 DISEASE OR DEFECT THE DEFENDANT DID NOT KNOW THE
23 ALLEGED CRIME WAS MORALLY OR LEGALLY WRONG, THE STATE
24 MUST THEN PROVE BEYOND A REASONABLE DOUBT THAT THE
25 DEFENDANT WAS SANE.

1 IT IS FOR YOU TO DECIDE WHAT THE STATE OR
2 CONDITION OF THE DEFENDANT'S MIND WAS AT THE TIME THE
3 ALLEGED CRIME WAS COMMITTED.

4 I WOULD FURTHER INSTRUCT YOU, LADIES AND
5 GENTLEMEN, THAT SOUTH CAROLINA CODE ANNOTATED SECTION
6 17-24 SUBSECTION C PROVIDES THAT EVIDENCE OF A MENTAL
7 DISEASE OR DEFECT THAT IS MANIFESTED ONLY BY REPEATED
8 CRIMINAL OR OTHER ANTISOCIAL CONDUCT IS NOT
9 SUFFICIENT TO ESTABLISH THE DEFENSE OF INSANITY.

10 LADIES AND GENTLEMEN OF THE JURY, YOU ARE FREE
11 TO CONSIDER ALL OF THE FACTS AND EVIDENCE IN YOUR
12 DETERMINATION OF WHETHER THE STATE HAS MET ITS BURDEN
13 OF PROVING BEYOND A REASONABLE DOUBT THE REQUISITE
14 MENTAL STATE REQUIRED FOR THE DEFENDANT FOR THESE
15 OFFENSES.

16 THERE ARE FOUR POSSIBLE VERDICTS WHICH YOU MAY
17 RETURN IN THIS CASE. IF YOU HAVE ANY REASONABLE
18 DOUBT AS TO THE DEFENDANT'S GUILT AFTER CONSIDERING
19 ALL THE EVIDENCE, THEN YOU MUST FIND THE DEFENDANT
20 NOT GUILTY.

21 IF YOU HAVE NO REASONABLE DOUBT THAT THE
22 DEFENDANT COMMITTED THE CRIME BUT YOU FIND THAT IT IS
23 MORE LIKELY THAN NOT THAT BECAUSE OF A MENTAL DISEASE
24 OR DEFECT THE DEFENDANT COULD NOT DISTINGUISH MORAL
25 OR LEGAL RIGHT FROM WRONG OR RECOGNIZE THE CRIME AS

1 MORALLY OR LEGALLY WRONG, YOU MUST FIND THE DEFENDANT
2 NOT GUILTY BY REASON OF INSANITY.

3 ANOTHER POSSIBLE VERDICT IS GUILTY BUT MENTALLY
4 ILL. IF YOU HAVE NO REASONABLE DOUBT THAT THE
5 DEFENDANT COMMITTED THE CRIME AND THAT THE DEFENDANT
6 HAD THE MENTAL CAPACITY TO DISTINGUISH MORAL OR LEGAL
7 RIGHT FROM WRONG OR RECOGNIZE THE CRIME AS MORALLY OR
8 LEGALLY WRONG BUT YOU FIND THAT IT IS MORE LIKELY
9 THAN NOT BECAUSE OF A MENTAL DISEASE OR DEFECT THE
10 DEFENDANT COULD NOT FOLLOW THE LAW, YOU MUST FIND THE
11 DEFENDANT GUILTY BUT MENTALLY ILL.

12 THE FINAL POSSIBLE VERDICT IN THIS CASE IS
13 GUILTY. YOU MAY ONLY FIND THE DEFENDANT GUILTY IF
14 THE STATE HAS PROVEN BEYOND A REASONABLE DOUBT THAT
15 THE DEFENDANT COMMITTED THE CRIME, THAT THE DEFENDANT
16 WAS ABLE TO DISTINGUISH MORAL AND LEGAL RIGHT FROM
17 WRONG AND TO RECOGNIZE THE CRIME AS MORALLY AND
18 LEGALLY WRONG AND THAT THE DEFENDANT WAS ABLE TO
19 FOLLOW THE LAW.

20 LADIES AND GENTLEMEN, THAT WILL CONCLUDE THE
21 COURT'S ADDITIONAL INSTRUCTION. IF YOU HAVE ANY
22 FURTHER ASSISTANCE OR NEED OF THE COURT, PLEASE DO
23 NOT HESITATE TO LET US KNOW.

24 IF YOU WOULD GO WITH THE BAILIFFS AND RESUME
25 YOUR DELIBERATIONS. AND OF COURSE, THE ALTERNATES

1 WILL AGAIN BE SEGREGATED. WE APPRECIATE YOUR
2 PATIENCE.

3 (JURY LEFT THE COURTROOM AT 6:31 PM.)

4 THE COURT: ANY EXCEPTIONS FROM THE STATE?

5 MR. HUMPHRIES: NO, YOUR HONOR.

6 THE COURT: ANY FROM THE DEFENSE?

7 MR. DIGGS: NO, YOUR HONOR.

8 THE COURT: ALL RIGHT. WE'LL BE AT EASE.

9 MR. KELLY: THANK YOU, MA'AM.

10 THE COURT: YOU'RE WELCOME.

11 (WHEREUPON A RECESS WAS HAD.)

12 THE COURT: LADIES AND GENTLEMEN, I HAVE BEEN
13 ADVISED THAT THE JURY HAS REACHED A VERDICT. IS
14 THERE ANYTHING FROM THE STATE?

15 MR. HEMBREE: NO, YOUR HONOR.

16 THE COURT: ANYTHING FROM THE DEFENSE?

17 MR. DIGGS: NO, YOUR HONOR.

18 THE COURT: LADIES AND GENTLEMEN, JUST FOR
19 PURPOSES OF THOSE SEATED IN THE GALLERY WHO ARE HERE
20 TO OBSERVE THE PROCEEDINGS, MY INSTRUCTIONS WILL BE
21 VERY SHORT AND TO THE POINT.

22 I KNOW THAT THE NATURE OF THESE PROCEEDINGS IS
23 VERY EMOTIONAL -- EMOTIONAL FOR EVERYONE INVOLVED,
24 NOT JUST FOR THOSE WHO ARE ACCOMPANYING THE STATE,
25 BUT ALSO THOSE WHO ARE ACCOMPANYING THE DEFENSE.

1 I WOULD ASK THAT EVERYONE ABIDE BY THE DECORUM
2 OF THIS COURT, GIVE THE COURT ITS UPMOST RESPECT.
3 AND AGAIN, I KNOW THAT THIS IS A VERY EMOTIONAL
4 MATTER, BUT I WOULD INSTRUCT AND I TAKE THIS
5 INSTRUCTION VERY SERIOUSLY, THAT THERE BE NO
6 EMOTIONAL OUTBURSTS OF ANY KIND, WHETHER THAT BE --
7 WELL, I THINK THAT IS SELF-EXPLANATORY. I DON'T
8 THINK I REALLY NEED TO GO ANY FURTHER THAN THAT.

9 AND AGAIN, THE COURT IS MINDFUL AND SENSITIVE
10 THAT THIS IS A VERY EMOTIONAL MATTER FOR EVERYONE
11 INVOLVED, BUT I WOULD ASK AGAIN THAT YOU STRICTLY
12 ABIDE BY THE COURT'S INSTRUCTIONS BECAUSE I AM -- I
13 DELEGATE THE SECURITY OF THE COURTROOM TO THOSE WHO
14 ARE TRAINED IN THAT AREA, AND IF THERE ARE ANY
15 OUTBURSTS OR ANY OTHER BEHAVIOR THAT THEY INTERPRET
16 IS DISRUPTIVE OF THE COURT'S PROCEEDINGS, YOU WILL BE
17 REMOVED BY THEM.

18 SO I JUST NEED TO PUT YOU ALL ON NOTICE THAT
19 THAT WILL TAKE PLACE AND THEY WILL NOT NEED MY
20 PERMISSION TO ACCOMPLISH THAT TASK. PLEASE BRING IN
21 THE JURY.

22 (JURY ENTERED THE COURTROOM AT 7:56 PM.)

23 VERDICT

24 *THE COURT:* YOU MAY BE SEATED. MADAM FORELADY,
25 IS IT CORRECT THAT THE JURY HAS REACHED A VERDICT?

1 FORELADY: YES.

2 THE COURT: IF YOU WOULD GIVE THE VERDICT FORMS
3 TO THE BAILIFF.

4 (BAILIFF APPROACHED THE FORELADY, THEN
5 APPROACHED THE COURT.)

6 THE COURT: MADAM CLERK, IF YOU WOULD PUBLISH
7 THE VERDICTS. MR. STANKO, IF YOU WOULD STAND. YOU
8 MAY PROCEED.

9 THE CLERK: STATE OF SOUTH CAROLINA VERSUS
10 STEPHEN CHRISTOPHER STANKO IN THE COURT OF GENERAL
11 SESSIONS OF THE 15TH JUDICIAL CIRCUIT, DOCKET NUMBER
12 2005-GS-22-918.

13 AS TO COUNT ONE, MURDER, WE THE JURY BY
14 UNANIMOUS CONSENT FIND THE DEFENDANT GUILTY.

15 LADIES AND GENTLEMEN OF THE JURY, IS THIS YOUR
16 VERDICT AND IT IS STILL YOUR VERDICT, PLEASE LET IT
17 BE KNOWN BY RAISING YOUR RIGHT HAND.

18 AS TO THE COUNT, COUNT TWO, ASSAULT AND BATTERY
19 WITH INTENT TO KILL, WE THE JURY BY UNANIMOUS CONSENT
20 FIND THE DEFENDANT GUILTY.

21 LADIES AND GENTLEMEN OF THE JURY, IF THIS IS
22 YOUR VERDICT AND IT IS STILL YOUR VERDICT, PLEASE LET
23 IT BE KNOWN BY RAISING YOUR RIGHT HANDS. THANK YOU.

24 AS TO COUNT THREE, CRIMINAL SEXUAL CONDUCT FIRST
25 DEGREE, WE THE JURY BY UNANIMOUS CONSENT FIND THE

1 DEFENDANT GUILTY.

2 LADIES AND GENTLEMEN OF THE JURY, IF THIS IS
3 YOUR VERDICT AND THIS IS STILL YOUR VERDICT, PLEASE
4 LET IT BE KNOWN BY RAISING YOUR RIGHT HANDS. THANK
5 YOU.

6 AS TO COUNT FOUR, KIDNAPPING, WE THE JURY BY
7 UNANIMOUS CONSENT FIND THE DEFENDANT GUILTY.

8 LADIES AND GENTLEMEN OF THE JURY, IF THIS IS
9 YOUR VERDICT AND THIS IS STILL YOUR VERDICT, PLEASE
10 LET IT BE KNOWN BY RAISING YOUR RIGHT HANDS. THANK
11 YOU.

12 AS TO COUNT FIVE, KIDNAPPING, WE THE JURY BY
13 UNANIMOUS CONSENT FIND THE DEFENDANT GUILTY.

14 LADIES AND GENTLEMEN OF THE JURY, IF THIS IS
15 YOUR VERDICT AND THIS IS STILL YOUR VERDICT, PLEASE
16 LET IT BE KNOWN BY RAISING YOUR RIGHT HANDS. THANK
17 YOU.

18 AS TO COUNT SIX, ARMED ROBBERY, WE THE JURY BY
19 UNANIMOUS CONSENT FIND THE DEFENDANT GUILTY. LADIES
20 AND GENTLEMEN OF THE JURY, IF THIS IS YOUR VERDICT
21 AND THIS IS STILL YOUR VERDICT, PLEASE LET IT BE
22 KNOWN BY RAISING YOUR RIGHT HANDS. THANK YOU.

23 THE COURT: ARE THERE ANY REQUESTS TO POLL THE
24 JURY FROM THE STATE?

25 MR. HEMBREE: NO REQUESTS TO POLL FROM THE

1 STATE, YOUR HONOR.

2 THE COURT: FROM THE DEFENSE?

3 MR. DIGGS: YES, YOUR HONOR.

4 THE COURT: MADAM CLERK, IF YOU WOULD PROCEED
5 AND POLL THE JURY.

6 THE CLERK: YOUR HONOR, WOULD YOU LIKE THEM TO
7 BE POLLED INDIVIDUALLY FOR EACH COUNT?

8 THE COURT: YES. WELL, LET ME ASK. DO YOU ALL
9 WISH FOR THEM TO BE POLLED INDIVIDUALLY ON EACH COUNT
10 OR CAN THE COURT DO IT COLLECTIVELY?

11 MR. DIGGS: COLLECTIVELY, INDIVIDUALLY...

12 THE COURT: DO YOU UNDERSTAND WHAT I'M ASKING?
13 I'M GOING TO HAVE HER ASK EACH OF THEM INDIVIDUALLY,
14 BUT WHAT I THINK--

15 MR. DIGGS: YES, MA'AM.

16 THE COURT: -- TO SAVE HER --

17 MR. DIGGS: YES, MA'AM.

18 THE COURT: -- IN THE INTEREST OF TIME, ASK HER
19 IF THIS IS STILL YOUR VERDICT AS TO COUNTS ONE
20 THROUGH SIX OF THE INDICTMENT. IS THERE ANY
21 EXCEPTION TO US PROCEEDING IN THAT WAY?

22 MR. DIGGS: NO, YOUR HONOR.

23 THE COURT: MADAM CLERK, YOU MAY PROCEED.

24 THE CLERK: LADIES AND GENTLEMEN OF THE JURY,
25 WHEN YOUR NAMES ARE CALLED AND IF IT IS YOUR VERDICT

1 AND IT IS STILL YOUR VERDICT ON ALL SIX ACCOUNTS OR
2 COUNTS, PLEASE LET IT BE KNOWN BY RAISING YOUR RIGHT
3 HAND.

4 MICHAEL KEOUGH, JUNIOR. DONALD HORTON. STEPHEN
5 WALTERS. DAVID DUBOIS. BARNEY BLAIN, JUNIOR.
6 PATRICIA WOFFORD. CARROLL BAKER, JUNIOR.
7 TONGRANGELIA COLE. JOSEPH HENSON. RYAN IZZARD.
8 LARRY DRAKE. RICHANDA KNOWLIN. THANK YOU.

9 THE COURT: IS THAT SATISFACTORY TO THE DEFENSE?

10 MR. DIGGS: THANK YOU, YOUR HONOR.

11 THE COURT: YOU MAY BE SEATED. LADIES AND
12 GENTLEMEN, AT THIS TIME I'M GOING TO EXCUSE YOU FROM
13 THE COURTROOM FOR A SHORT WHILE FOR THE COURT TO DEAL
14 WITH SOME SCHEDULING ISSUES.

15 AS YOU KNOW AND AS I EXPLAINED TO YOU AT THE
16 INCEPTION OF THIS CASE THAT IF THE JURY WERE TO FIND
17 THE DEFENDANT GUILTY, WE WOULD THEN MOVE TO THE NEXT
18 PHASE OF THE TRIAL WHICH IS THE SENTENCING PHASE.

19 AS I EXPLAINED, A CAPITAL CASE IS HANDLED IN TWO
20 PHASES, AS WE CALL IT BIFURCATED, WHICH IS REALLY
21 JUST A FANCY WAY OF SAYING TWO PHASES.

22 THERE ARE CERTAIN WAITING PERIODS THAT ARE
23 PRESCRIBED BY STATUTE, AND I NEED TO INQUIRE OF THE
24 DEFENDANT REGARDING THAT AND TALK WITH THE LAWYERS TO
25 SEE EXACTLY WHEN WE WILL BE PROCEEDING AND HOW WE

1 WILL BE PROCEEDING FOR THE NEXT SEVERAL DAYS.

2 I TELL YOU IN ADVANCE THAT WE APPRECIATE YOUR
3 PATIENCE AND I STRICTLY INSTRUCT YOU TO HAVE NO
4 FURTHER DISCUSSION ABOUT THE CASE, HOWEVER, DURING
5 THIS BREAK IN ANY MANNER WHATSOEVER.

6 OF COURSE, THAT DOES NOT MEAN THAT YOU ALL
7 CANNOT TALK TO -- TALK AMONGST YOURSELVES ABOUT OTHER
8 THINGS, BUT PLEASE DO NOT TALK ABOUT ANY MATTER THAT
9 RELATES TO THE CASE AND ALSO DON'T PANIC, WE ARE
10 PREPARING FOR YOUR DINNER, AND YOU ALL WILL BE TAKEN
11 OUT TO DINNER AND WE'LL MAKE SURE THAT YOU ALL EAT IN
12 VERY SHORT -- IN A VERY SHORT TIME PERIOD BECAUSE I
13 WOULD IMAGINE THAT YOU ALL ARE READY TO HAVE SOME
14 DINNER. IF YOU WOULD GO WITH THE BAILIFFS FOR ME,
15 PLEASE.

16 (JURY LEFT THE COURTROOM AT 8:04 PM.)

17 THE COURT: YOU MAY BE SEATED.

18 BAILIFF: THEY ARE IN THE ROOM, YOUR HONOR.

19 THE COURT: THANK YOU. OKAY. JUST OUT OF AN
20 ABUNDANCE -- YES, SIR. DO YOU WANT TO SAY SOMETHING?

21 MR. HEMBREE: YOUR HONOR, I JUST WOULD LIKE TO
22 NOTE FOR THE RECORD THAT THE VERDICT OF THE JURY WAS
23 DELIVERED AT 8:00 PM ON AUGUST THE 11TH.

24 THE COURT: THAT IS WHAT I WAS ABOUT TO DO.

25 MR. HEMBREE: SORRY. JUMPED THE GUN ON YOU.

1 THE COURT: THAT'S OKAY. THE COURT WOULD FIND
2 FOR THE RECORD THAT THE JURY ENTERED ITS VERDICT --
3 IT IS NOW 8:05 PM ON THE 11TH DAY OF AUGUST, 2006.
4 NOW, ARE THERE ANY POST-TRIAL MOTIONS?

5 MR. DIGGS: YOUR HONOR, INITIALLY WE'D MOVE FOR
6 A NEW TRIAL ON THE GROUNDS THAT WE HAD ADVANCED
7 EARLIER IN THE CASE.

8 EVEN GIVEN THE GUILTY VERDICT IN THE CASE, THE
9 NOT GUILTY OR GUILTY BUT MENTALLY ILL DEFINITION OR
10 INSTRUCTION WAS GIVEN IN THE COURT'S INSTRUCTION TO
11 THE JURY WAS CONFUSING ON THE ISSUE OF INSANITY AND I
12 WOULD SUBMIT PREJUDICED A FULL AND FAIR HEARING ON
13 THAT PARTICULAR ISSUE. CONFUSION WAS THERE AND IT
14 COULD HAVE SIMPLY ENCOURAGED THE JURORS TO VOTE
15 GUILTY SIMPLY BECAUSE THEY DIDN'T UNDERSTAND IT.

16 AND YOUR HONOR, THAT STATUTE ON COMPETENCE IS
17 CONFUSING, IT'S ILLOGICAL, IT'S ARBITRARY, AND IT
18 AFFECTED THIS PARTICULAR VERDICT I WOULD JUST SUBMIT
19 RESPECTFULLY, SO I'D ASK FOR A NEW TRIAL ON THOSE
20 GROUNDS.

21 THE COURT: WOULD THE STATE LIKE TO RESPOND?

22 MR. HEMBREE: YOUR HONOR, WE HAVE NO ADDITIONAL
23 ARGUMENTS. WE'D JUST RELY ON THE RULINGS THAT THE
24 COURT PREVIOUSLY MADE REGARDING THIS MATTER.

25 THE COURT: THE COURT WOULD DENY THE MOTION. I

1 WOULD FIND THAT THERE IS NO BASIS FOR A NEW TRIAL IN
2 THIS MATTER. AND I'M TRYING TO RECALL -- I DON'T
3 THINK THAT THE DEFENSE MADE AN OBJECTION INITIALLY
4 DURING CHARGE CONFERENCE OR OTHERWISE TO THE
5 SUBSTANCE OF THE COURT'S INSANITY CHARGE.

6 THE DEFENSE MADE AN OBJECTION TO THE COURT
7 CHARGING GUILTY BUT MENTALLY ILL AND INDICATED THAT
8 THE STATUTE -- THAT BASICALLY YOU HAVE A PROBLEM WITH
9 THE MANDATORY NATURE OF THE STATUTE.

10 AND I BELIEVE THE RECORD REALLY STANDS ON ITS
11 OWN AND I DON'T NEED TO REGURGITATE WHAT WE HAVE
12 ALREADY DISCUSSED. BUT THE STATUTE IS MANDATORY.
13 THE STATUTE IS NOT AMBIGUOUS. IT IS NOT ILLOGICAL.
14 IT IS CLEARLY A PART OF OUR LEGISLATURE'S LEGISLATIVE
15 INTENT AND A REFLECTION OF THEIR FEELING ABOUT PUBLIC
16 POLICY.

17 AND I DO NOT BELIEVE THAT THE COURT'S CHARGE ON
18 INSANITY WAS AMBIGUOUS NOR DO I FEEL THAT IT WAS
19 MISLEADING. IT WAS A PROPER STATEMENT OF THE LAW.
20 AND I BELIEVE THAT IT WAS VERY CLEAR.

21 IT IS NOT UNUSUAL FOR JURIES TO ASK FOR THE
22 COURT TO RE-CHARGE CERTAIN PORTIONS OF THE LAW.
23 SOMETIMES, QUITE FRANKLY, THEY ARE TIRED AND THEY ARE
24 NOT ALWAYS LISTENING AS CLOSELY AS THEY NEED TO AND
25 SOMETIMES THEY JUST NEED IT REPEATED.

1 AND OFTEN TIMES I FIND WITH JURORS THEY SIMPLY
2 HAVE NO POINT OF REFERENCE UNTIL THEY BEGIN
3 DELIBERATIONS AND THEY SIMPLY NEED TO HAVE A PORTION
4 OF THE CHARGE REPEATED TO THEM.

5 THE COURT WOULD NOT FIND THAT THE STATUTE IN AND
6 OF ITSELF WAS ILLOGICAL NOR THAT IT WAS ARBITRARY NOR
7 THAT IT WAS AMBIGUOUS. I THINK IT IS VERY CLEAR AND
8 CLEAR ON ITS FACE, AND I -- SO I WOULD FIND -- AND
9 QUITE FRANKLY I THINK TO SOME EXTENT IT ENURES TO THE
10 BENEFIT OF THE DEFENDANT BY GIVING AN ADDITIONAL
11 OPTION OF GUILTY BUT MENTALLY ILL.

12 MR. DIGGS: YOUR HONOR, THE VERDICT WAS ALSO
13 AGAINST THE WEIGHT OF THE EVIDENCE IN THIS CASE.
14 THE -- IF YOU GO BACK TO THE INITIAL RESTING OF THE
15 STATE IN ITS CASE IN CHIEF, AT ITS CASE IN CHIEF WHEN
16 THE STATE RESTED, THERE WAS NO EVIDENCE IN THIS
17 RECORD OTHER THAN THE FACT THAT THE DEFENDANT
18 COMMITTED THIS PARTICULAR SERIES OF ACTS BECAUSE HE
19 WAS INSANE.

20 AND FROM THAT POINT ON TO THIS POINT IT'S -- THE
21 ONLY REASONABLE INFERENCE THAT COULD BE DRAWN WE
22 WOULD SUBMIT IS THE FACT THAT HE WAS INSANE. HE
23 DIDN'T UNDERSTAND, COULDN'T APPRECIATE, DIDN'T HAVE
24 THE CAPACITY TO DISTINGUISH BETWEEN WHAT WAS RIGHT
25 AND WHAT WAS WRONG, MORALLY RIGHT OR LEGALLY RIGHT.

1 AND THERE WAS NOT REALLY ANY CREDIBLE EVIDENCE
2 IN THE RECORD TO SUPPORT A FINDING THAT HE WAS SANE,
3 ESPECIALLY GIVEN THE MIX-UP BETWEEN THE RADIOLOGIST'S
4 TESTIMONY AND WHAT WAS IN FACT THE CASE.

5 WHEN THERE IS A CONFUSION OF THE DATABASES THAT
6 WERE USED IN THE CASE, MAKES NO SENSE TO BE ABLE TO
7 CONCLUDE ON THAT BASIS THAT THE DEFENDANT HAD A
8 NORMAL PET SCAN, FOR EXAMPLE.

9 THE VERDICT IS SIMPLY CONTRARY TO THE WEIGHT OF
10 THE EVIDENCE AND WE'D ASK FOR A NEW TRIAL ON THAT
11 GROUND.

12 THE COURT: WOULD THE STATE LIKE TO RESPOND?

13 MR. HEMBREE: VERY BRIEFLY, YOUR HONOR. FIRST,
14 OF COURSE, AT THE CONCLUSION OF THE STATE'S CASE WE
15 WERE AT A PLACE WHERE THE DEFENDANT IS PRESUMED SANE
16 UNDER WELL-ESTABLISHED SOUTH CAROLINA LAW, SO THERE
17 IS NO INFERENCE OR -- OR, YOU KNOW, LEAP OF FAITH
18 TO -- BASED ON THE STATE'S CASE THAT MAKES HIM
19 INSANE.

20 WITH THAT PRESUMPTION OF SANITY THE DEFENSE THEN
21 ELECTED TO ADVANCE AN INSANITY DEFENSE, THEN THEY --
22 THEY HAVE TO PROVE BY A PREPONDERANCE OF THE EVIDENCE
23 THAT HE IS -- HE IS INSANE.

24 WE DON'T KNOW WHAT THIS JURY HAS DONE, WHETHER
25 THEY HAVE -- THEY HAVE LOOKED AT THE DEFENDANT'S

1 EVIDENCE AND SAID, THERE'S NOT A PREPONDERANCE OF THE
2 EVIDENCE THERE.

3 AND THEY CAN -- THEY CAN CERTAINLY -- THEY HAVE
4 THE RIGHT AND THE AUTHORITY TO REJECT EACH AND EVERY
5 DEFENSE WITNESS ON THAT ISSUE IF THEY SO CHOOSE, AND
6 THAT MAY HAVE BEEN VERY WELL WHAT THEY DID. WE CAN'T
7 GO BEHIND THAT.

8 OR THEY MAY HAVE SAID, WELL, THERE MAY BE A
9 PRESUMPTION HERE OR THERE'S A -- THAT THEY FOUND THAT
10 BY A PREPONDERANCE OF THE EVIDENCE THAT THE DEFENDANT
11 DID PRESENT EVIDENCE OF INSANITY BUT THE STATE'S
12 WITNESSES OVERCAME THAT AND THEY DID PROVE BEYOND A
13 REASONABLE DOUBT THAT THE DEFENDANT WAS SANE.

14 AND THEY -- EITHER WAY THEY HAVE THAT RIGHT AND
15 AUTHORITY TO EVALUATE THOSE WITNESSES. THEY ARE THE
16 TRIERS OF FACT, OF COURSE, AND THEY'VE MADE THOSE
17 JUDGMENTS AND, YOUR HONOR, THEY HAVE DONE IT ALL
18 IN -- AS THEY FOLLOWED THE JUDGE'S CHARGE, SO WE
19 WOULD SUBMIT THAT -- THAT THAT MOTION SHOULD BE
20 DENIED.

21 *THE COURT:* THE COURT WILL DENY THE MOTION. I
22 DO NOT FIND THAT THE VERDICTS ARE AGAINST THE GREATER
23 WEIGHT OF THE EVIDENCE.

24 AS I MADE THE OBSERVATION AT THE BEGINNING OF
25 TRIAL, REALLY THE JURY IS THE FACT FINDER, WOULD HAVE

1 TO WEIGH THE CREDIBILITY AND BELIEVABILITY OF THE
2 EXPERT WITNESSES WHO PRESENTED TESTIMONY IN THIS
3 CASE, AND IT WOULD COME DOWN TO WHO THEY BELIEVED.

4 IT IS CLEAR AT THIS POINT IRREGARDLESS OF THE
5 SCENARIO LAID OUT BY THE STATE WHETHER IT BE THAT
6 THEY FOUND THAT THE DEFENDANT MET HIS BURDEN BY A
7 PREPONDERANCE AND THE STATE THEN MET THEIRS -- MET
8 THEIR BURDEN BEYOND A REASONABLE DOUBT PROVING SANITY
9 OR THE OTHER SCENARIOS OUTLINED BY MR. HEMBREE.

10 IT IS APPARENT TO THE COURT FROM THE JURY'S
11 FINDINGS THAT THEY FOUND THE STATE'S EXPERTS -- AT
12 LEAST I THINK IN A VERY LIBERAL ANALYSIS OR VIEW OF
13 THEIR VERDICT -- THAT THEY FOUND THEM CREDIBLE AND
14 THEY FOUND THEM BELIEVABLE ON THE ISSUE OF SANITY FOR
15 MR. STANKO.

16 AND IT IS NOT FOR THE COURT TO SUBSTITUTE ITS
17 JUDGMENT FOR THAT OF THE JURY NOR DOES THE LAW OR THE
18 CONSTITUTION ALLOW THE COURT THAT PREROGATIVE NOR
19 WOULD I EVEN IF I HAD THAT ABILITY BECAUSE I DO
20 BELIEVE THAT THE VERDICTS ARE SUPPORTED BY THE
21 GREATER WEIGHT OF THE EVIDENCE IN THIS CASE.

22 AND REGARDING THE DEFENDANT'S ARGUMENT THAT THE
23 STATE -- THERE WAS NO EVIDENCE OF SANITY, IN THE
24 STATE'S CASE IN CHIEF, CASE LAW IS VERY CLEAR THAT
25 THE STATE DOES NOT HAVE TO ESTABLISH SANITY IN ITS

1 CASE IN CHIEF BY EXPERT WITNESS TESTIMONY.

2 THEY CAN ESTABLISH IT BY LAY TESTIMONY. AND
3 THAT IS PURSUANT TO STATE VERSUS SMITH. AND THE
4 STATE IS CORRECT, THERE IS A PRESUMPTION OF SANITY.

5 WHEN INSANITY IS RAISED, THE DEFENDANT HAS TO
6 MEET HIS BURDEN BY A PREPONDERANCE OF THE EVIDENCE.
7 ONCE THAT IS MET, THE STATE THEN MUST PROVE BEYOND A
8 REASONABLE DOUBT THAT THE DEFENDANT WAS SANE.

9 AND I THINK QUITE FRANKLY THERE -- BASED ON THE
10 RECORD IN THIS CASE, NOT MY OWN PERSPECTIVE, THAT
11 THERE IS SUFFICIENT EVIDENCE IN THE RECORD IN THE
12 STATE'S CASE IN CHIEF THAT MR. STANKO WAS SANE AT THE
13 TIME OF THESE EVENTS.

14 MR. DIGGS: YOUR HONOR -- YES. AND WITH ALL DUE
15 RESPECT, AS YOU STATED AT THE CLOSE OF THE STATE'S
16 CASE, UNDER THE LAND -- CASE, THAT PRESUMPTION OF
17 SANITY EVAPORATES UPON THE...

18 THE COURT: THAT IS CORRECT, AND I'VE MADE THAT
19 OBSERVATION FOR THE RECORD.

20 MR. DIGGS: THANK YOU.

21 THE COURT: THE STATE STILL HAS THE BURDEN OF
22 PROVING INSANITY BEYOND A REASONABLE DOUBT, BUT THEY
23 DON'T HAVE TO PROVE THAT IN THEIR CASE IN CHIEF WITH
24 EXPERT TESTIMONY. THEY CAN HAVE LAY TESTIMONY.

25 QUITE FRANKLY, YOU DON'T HAVE TO ESTABLISH

1 INSANITY WITH EXPERT TESTIMONY EITHER. THE LAW
2 ALLOWS YOU TO PRESERVE THAT AND TO PRESENT IT BY LAY
3 TESTIMONY ALSO. THERE IS NO REQUIREMENT OF EXPERT
4 WITNESSES ON EITHER SIDE OF -- OF THE TABLE.

5 SO -- BUT I THINK THERE'S MORE THAN SUFFICIENT
6 EVIDENCE IN THE RECORD THAT MR. STANKO WAS SANE AT
7 THE TIME OF THE -- OF THE EVENTS, AND THE COURT WOULD
8 NOT FIND THAT THE VERDICTS ARE AGAINST THE GREATER
9 WEIGHT OF THE EVIDENCE AND WOULD DENY THE MOTION.

10 ARE THERE ANY OTHER POST-TRIAL MOTIONS FOR THE
11 RECORD FROM THE STATE?

12 MR. HEMBREE: NO, YOUR HONOR.

13 THE COURT: FROM THE DEFENSE?

14 MR. DIGGS: YOUR HONOR, WE DON'T HAVE ANY
15 MOTIONS AT THIS TIME.

16 THE COURT: OKAY. NOW, WITH THAT THEN LEAVES US
17 WITH DEALING WITH SECTION 16-3-20 SUBSECTION B WHICH
18 ALLOWS, OF COURSE -- AND I NEED TO INQUIRE BOTH OF
19 COUNSEL AND OF THE DEFENDANT REGARDING HIS 24 HOUR
20 WAITING PERIOD PRIOR TO THE COURT PROCEEDING WITH THE
21 SENTENCING PHASE OF THIS TRIAL.

22 MR. DIGGS AND MR. KELLY, HAVE YOU FULLY
23 EXPLAINED TO YOUR CLIENT HIS -- THE RIGHT UNDER THE
24 STATUTE OF HIS 24 HOUR WAITING PERIOD?

25 MR. KELLY: WE HAVE, YOUR HONOR.

1 THE COURT: DO YOU BOTH BELIEVE HE FULLY
2 UNDERSTANDS HIS RIGHTS PURSUANT TO 16-3-20 SUBSECTION
3 B?

4 MR. KELLY: WE DO, MA'AM.

5 THE COURT: AND DOES YOUR CLIENT WISH TO WAIVE
6 THE 24 HOUR PERIOD OR TO OBSERVE THIS 24 HOUR PERIOD?

7 MR. KELLY: OBSERVE, MA'AM.

8 THE COURT: MR. STANKO, HAVE YOU FULLY DISCUSSED
9 WITH YOUR LAWYERS YOUR RIGHT TO HAVE A 24 HOUR
10 WAITING PERIOD PRIOR TO PROCEEDING WITH THE
11 SENTENCING PORTION OF THE TRIAL?

12 THE DEFENDANT: YES, MA'AM.

13 THE COURT: AND DO YOU FULLY UNDERSTAND WHAT
14 THEY HAVE DISCUSSED WITH YOU?

15 THE DEFENDANT: YES, MA'AM.

16 THE COURT: SIR, DO YOU WISH TO EXERCISE OR
17 WAIVE YOUR 24 HOUR WAITING PERIOD?

18 THE DEFENDANT: I WOULD LIKE TO EXERCISE IT,
19 MA'AM.

20 THE COURT: OKAY. AND YOU'RE DOING THAT FREELY
21 AND VOLUNTARILY AND OF YOUR OWN WILL?

22 THE DEFENDANT: YES, MA'AM.

23 THE COURT: AND YOU'RE NOT SUFFERING FROM ANY
24 DURESS OR UNDER THE INFLUENCE OF ANY DRUGS OR OTHER
25 INTOXICANT?

1 THE DEFENDANT: NO, MA'AM.

2 THE COURT: OKAY. YOU MAY BE SEATED. NOW,
3 TECHNICALLY 24 HOURS FROM NOW IS 8:15 SATURDAY NIGHT.
4 WE KNOW AS A PRACTICAL MATTER WE WILL NOT BE HERE AT
5 8:15 ON SATURDAY TRYING THIS CASE.

6 SO THAT THEN LEAVES US -- THE JURY HAS INDICATED
7 AN INCLINATION TO WORK BOTH ON SATURDAY AND SUNDAY.
8 THAT WAS COMMUNICATED TO THE COURT BY MR. MCLEOD WHO
9 IS, OF COURSE, ONE OF THEIR HEAD CUSTODIANS WHO IS
10 EMPLOYED WITH SLED.

11 YOU ALL HAVE COMMUNICATED TO THE COURT VERY
12 EARLY ON THAT YOU ALL WERE NOT -- WE ALL SORT OF
13 ANTICIPATED WHERE WE WERE GOING IN TERMS OF
14 SCHEDULING.

15 THE DEFENSE HAD ALREADY INDICATED TO THE COURT
16 THAT THEY WERE NOT INCLINED TO WORK ON SUNDAY BECAUSE
17 THEY REALLY NEEDED THAT TIME FOR PREPARATION OF THE
18 MITIGATION PHASE OF THE TRIAL SO THAT THEY WOULD HAVE
19 A BETTER OPPORTUNITY TO FULLY BE PREPARED AND TO MAKE
20 SURE THAT THAT PHASE OF THEIR CASE RAN SMOOTHLY.

21 IS THAT A CORRECT SUMMARY OF WHAT YOU ALL
22 COMMUNICATED TO ME?

23 MR. KELLY: IT IS, MA'AM.

24 THE COURT: THE STATE HAS COMMUNICATED TO THE
25 COURT THAT THEY WANT TO WORK ON SUNDAY. YOU KNOW, OF

1 COURSE, I'M HERE AT Y'ALLS PLEASURE. WHATEVER Y'ALL
2 TELL ME TO DO, I WILL BE HERE AND I WILL BE DOING IT.
3 I DON'T HAVE ANY PARTICULAR PREFERENCE ONE WAY OR THE
4 OTHER.

5 I WOULD IMAGINE, MR. MCLEOD, THAT IF ANY OF THE
6 JURORS HAVE ACTIVITIES THEY WANT TO PARTICIPATE IN ON
7 SUNDAY THAT WE CAN MAKE ARRANGEMENTS FOR THAT? IF
8 ANY OF THEM WANT TO ATTEND CHURCH SERVICE OR
9 OTHERWISE? OR IS THAT GOING TO BE TOO -- WELL, WE
10 CAN TALK ABOUT THAT.

11 WE'LL TALK ABOUT WHAT WE'RE GOING TO DO WITH
12 THEM. I AM INCLINED -- ALTHOUGH I AM TIME CONSCIOUS
13 AS EVERYONE ELSE AND WOULD LIKE TO HAVE YOU, YOU
14 KNOW, MAKE EFFICIENT USE OF THE COURT'S RESOURCES AND
15 EVERYONE ELSE'S RESOURCES AND GET THE CASE TRIED AS
16 EXPEDITIOUSLY AS POSSIBLE.

17 I AM INCLINED TO ERR ON THE SIDE OF CAUTION WHEN
18 I HAVE LAWYERS TELLING ME THEY NEED ADDITIONAL TIME
19 TO PREPARE AND I AM INCLINED BECAUSE THIS IS SUCH A
20 SERIOUS MATTER, THAT BEING A CAPITAL CASE AND WE'RE
21 DEALING WITH LIFE OR DEATH, THAT WE GIVE WHAT --
22 MR. STANKO AND HIS LAWYERS WHAT THEY'RE ASKING FOR.

23 SO AS I UNDERSTAND IT, THE STATE HAS 22
24 WITNESSES IN THEIR AGGRAVATION PHASE, SENTENCING
25 PHASE?

1 MR. HEMBREE: TWENTY-SIX, YOUR HONOR.

2 THE COURT: TWENTY-SIX. AND YOU PLAN TO CALL
3 ALL 26. IS THAT CORRECT?

4 MR. HEMBREE: THAT'S CORRECT, YOUR HONOR. MANY
5 OF THOSE WITNESSES ARE VERY SHORT.

6 THE COURT: OKAY. AND HOW MANY WITNESSES DOES
7 THE DEFENSE ESTIMATE THEY WILL HAVE?

8 MR. KELLY: MA'AM, AS AN ESTIMATE, WE WOULD SAY
9 PROBABLY 15.

10 THE COURT: OKAY.

11 MR. KELLY: COULD BE LESS, BUT...

12 THE COURT: ARE THEY -- AND I'M NOT TRYING IN
13 ANY WAY INVADE YOUR PROVINCE OR ATTORNEY-CLIENT
14 PRIVILEGE, BUT HOW LONG WOULD YOU ESTIMATE THOSE
15 WITNESSES WOULD TAKE?

16 MR. KELLY: I WOULD SAY SEVERAL HOURS.

17 THE COURT: OKAY. WOULD YOU SAY TWO DAYS WOULD
18 BE SUFFICIENT TO COVER ALL OF THOSE WITNESSES?

19 MR. KELLY: YES, MA'AM. I WOULD SAY SO, MA'AM.

20 THE COURT: AND WOULD THE STATE ALSO BE OF THE
21 SAME OPINION THAT IT WOULD TAKE APPROXIMATELY TWO
22 DAYS TO COVER THEIR WITNESSES?

23 MR. HEMBREE: A DAY AND A HALF TO TWO DAYS, YOUR
24 HONOR.

25 THE COURT: SO THAT WOULD PUT US AT FOUR DAYS

1 AND WOULD PUT US AT CLOSING AND CHARGING AGAIN ON
2 FRIDAY MORNING. IS THAT ABOUT A CORRECT ESTIMATE?

3 MR. KELLY: MA'AM, I THINK WE MIGHT PUT OUR
4 WITNESSES UP WITHIN ONE DAY.

5 THE COURT: REALLY? OKAY.

6 MR. KELLY: PERHAPS. IT'S JUST DIFFICULT TO
7 SAY.

8 THE COURT: WELL, THE JURY HAS INDICATED A
9 WILLINGNESS -- AND AGAIN MR. MCLEOD HAS COMMUNICATED
10 THIS TO THE COURT -- THEY HAVE INDICATED A
11 WILLINGNESS TO WORK LATE.

12 OF COURSE, NOT HAVING A TELEVISION IN YOUR HOTEL
13 ROOM CAN BE A POWERFUL INCENTIVE TO WANT SOMETHING TO
14 DO, OF COURSE, AND PROBABLY FEELING THEIR TIME IS
15 MORE WELL SPENT HERE, AND I THINK QUITE FRANKLY IS AN
16 INDICATION OF THEIR COMMITMENT TO THE SERIOUSNESS OF
17 THE DUTY THAT THEY HAVE BEEN--

18 MR. HEMBREE: THAT WOULD BE SUITABLE.

19 THE COURT: -- ENTRUSTED WITH. SO WHAT WE WILL
20 DO IS I WILL -- I WILL ADVISE THEM QUITE FRANKLY
21 BECAUSE I DO NOT WANT THEM IN ANY WAY TO PERCEIVE
22 THAT THERE IS ANY DELAY CAUSED BY THE DEFENDANT, I AM
23 SIMPLY GOING TO INSTRUCT THEM THAT THERE ARE CERTAIN
24 STATUTORY TIME PERIODS THAT MUST BE OBSERVED, THAT
25 THOSE TIME PERIODS ARE SET BY STATE LAW AND WE'LL BE

1 RESUMING THE TRIAL ON MONDAY.

2 NOW MR. MCLEOD, I GUESS SOME OF THEM MIGHT WANT
3 TO SEE THEIR FAMILY. I GUESS THOSE ARE THINGS YOU
4 AND I NEED TO TALK ABOUT. WE'RE GOING TO HAVE TO
5 FIGURE OUT SOMETHING INSTEAD OF THEM SITTING AT THE
6 HOTEL FOR TWO DAYS, BUT WE WILL TALK. YEAH, WE WILL
7 FIGURE SOMETHING OUT. OKAY. AND WE'LL START BRIGHT
8 AND EARLY ON MONDAY MORNING AT 9:30?

9 MR. KELLY: YES, MA'AM.

10 THE COURT: THAT WORK FOR EVERYBODY? THEN I
11 THINK TUESDAY WE MIGHT START EARLIER THAN 9:30, BUT
12 WE'LL WING IT. WE'LL GO FROM THERE. IF YOU CAN
13 BRING IN THE JURY FOR ME, PLEASE.

14 (JURY ENTERED THE COURTROOM AT 8:22 PM.)

15 THE COURT: YOU ALL MAY BE SEATED. LADIES AND
16 GENTLEMEN, WE ARE GOING TO RESUME THE TRIAL OF THIS
17 CASE ON MONDAY MORNING. THERE ARE CERTAIN TIME
18 PERIODS THAT ARE REQUIRED BY STATE LAW THAT WE HAVE
19 TO OBSERVE THAT DELAY THE BEGINNING OF THE SECOND
20 PHASE OF THE TRIAL.

21 I WILL TELL YOU IN ADVANCE THAT WE GREATLY
22 APPRECIATE YOUR PATIENCE. WE KNOW THAT BEING
23 SEQUESTERED, AS I TOLD YOU DURING INDIVIDUAL VOIR
24 DIRE, IS -- WE ASSUME IT IS A DISRUPTION TO YOUR
25 LIFE.

1 AND I THINK REALLY TO SAY THANK YOU AND TO SAY
2 THAT WE APPRECIATE IT SEEMS SO VERY INADEQUATE. I
3 WISH THAT I HAD SOME OTHER WAY TO REALLY TELL YOU HOW
4 MUCH WE APPRECIATE YOUR SACRIFICE.

5 BUT I'M GOING TO BE SPEAKING WITH MR. MCLEOD AND
6 THE OTHER SLED AGENTS TO TRY TO SEE IF WE CAN MAKE
7 THAT WAITING TIME PERIOD FAR MORE COMFORTABLE FOR
8 YOU.

9 SO I'M GOING TO BE HAVING SOME DISCUSSION WITH
10 HIM THIS EVENING BEFORE YOU ALL LEAVE TO TRY TO SEE
11 EXACTLY IN THE CONFINES OF THE LAW WHAT WE CAN DO;
12 OKAY?

13 DURING THIS BREAK IN THE PROCEEDINGS PLEASE DO
14 NOT DISCUSS THIS CASE IN ANY WAY. AND I KNOW THAT'S
15 VERY DIFFICULT BECAUSE YOU'VE ALREADY HEARD ONE PHASE
16 OF THE TRIAL AND YOU'VE ALREADY REACHED A VERDICT IN
17 ONE PHASE OF THE TRIAL.

18 BUT IT IS ABSOLUTELY ESSENTIAL THAT YOU REMAIN
19 FAIR AND IMPARTIAL UNTIL YOU HAVE HEARD ALL OF THE
20 EVIDENCE IN THE SECOND PHASE OF THE TRIAL, THE
21 ARGUMENTS OF COUNSEL, AND THE COURT'S CHARGE ON THE
22 LAW.

23 I HAVE NO DOUBT THAT EACH OF YOU WILL PERFORM
24 THOSE DUTIES ACCORDINGLY AND ABIDE BY THE COURT'S
25 INSTRUCTIONS.

1 THE CLERK HAS ALREADY MADE PREPARATION FOR YOU
2 TO BE TAKEN STRAIGHT FROM THE COURTHOUSE TO YOUR
3 DINNER. AND I BELIEVE THAT IT IS AT A WONDERFUL
4 RESTAURANT WHERE YOU ALL CAN AT LEAST EXHALE A
5 LITTLE, GET A LITTLE RELAXED, AND HAVE A GOOD MEAL
6 AND PREPARE FOR YOUR EVENING.

7 AGAIN, YOU ARE -- WE GREATLY APPRECIATE YOUR
8 SACRIFICE AND YOU'RE EXCUSED WITH THE COURT'S THANKS
9 AND WE'LL SEE YOU ON MONDAY MORNING AT 9:30.

10 (JURY LEFT THE COURTROOM AT 8:26 PM.)

11 THE COURT: YOU MAY BE SEATED. IS THERE
12 ANYTHING THAT WE NEED TO TAKE UP BEFORE WE BREAK FOR
13 THE EVENING AND RESUME ON MONDAY?

14 MR. HEMBREE: NOTHING FROM THE STATE, YOUR
15 HONOR.

16 MR. DIGGS: NO.

17 THE COURT: YOU ALL ARE -- I WOULD LIKE TO THANK
18 BOTH STATE'S COUNSEL AND DEFENSE COUNSEL FOR MAKING
19 WHAT IS AT BEST AN ARDUOUS PROCESS VERY -- I DON'T
20 WANT TO SAY EASY FOR THE COURT BECAUSE IT HASN'T BEEN
21 EASY FOR ANY OF US, BUT YOU ALL HAVE MADE MY LIFE
22 VERY -- A LOT LESS COMPLICATED THAN IT COULD BE, AND
23 I WANT TO TELL YOU THAT I REALLY APPRECIATE IT AND I
24 THANK ALL OF YOU.

25 IT REALLY HAS MADE A DIFFERENCE FOR THE COURT,

1 AND I WANTED TO TELL YOU ALL THANK YOU VERY MUCH.

2 MR. DIGGS: THANK YOU.

3 THE COURT: IF YOU ALL NEED US, OF COURSE,
4 SUMMER AND I WILL LEAVE OUR CELLPHONES AVAILABLE TO
5 YOU IN THE EVENT THAT SOMETHING COMES UP DURING THE
6 WEEKEND THAT YOU NEED OUR ASSISTANCE WITH.

7 BUT WE WILL BE READY TO RESUME ON MONDAY MORNING
8 AT 9:30 AND WE'LL SEE YOU ALL THEN. HAVE A GOOD
9 WEEKEND. GET SOME REST.

10 MR. HEMBREE: THANK YOU, YOUR HONOR.

11 MR. KELLY: THANK YOU, MA'AM.

12 (COURT IN RECESS FOR EVENING.)

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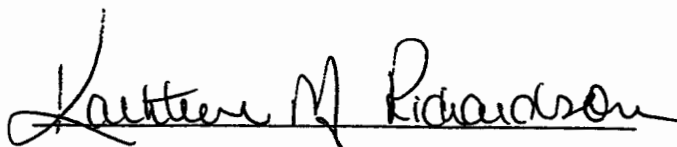
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

I, KATHLEEN RICHARDSON, RPR, CRR, OFFICIAL COURT REPORTER FOR THE FIFTEENTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR GEORGETOWN COUNTY, SOUTH CAROLINA, ON THE ELEVENTH DAY OF AUGUST, 2006.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL NOR INTEREST TO ANY PARTY HERETO.

JANUARY 17, 2007



KATHLEEN RICHARDSON, RPR, CRR

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

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

AUGUST 14-18 2006
GEORGETOWN, SOUTH CAROLINA

B E F O R E:
THE HONORABLE DEADRA L. JEFFERSON, JUDGE; AND A
JURY.

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

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

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

KATHLEEN RICHARDSON, RPR, CRR
OFFICIAL COURT REPORTER

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1 THE COURT: IS THE STATE READY TO PROCEED?

2 MR. HEMBREE: YES, YOUR HONOR.

3 THE COURT: IS THE DEFENSE READY TO PROCEED?

4 MR. KELLY: YOUR HONOR, WE'RE READY. MR. STANKO
5 NEEDS TO BE BROUGHT IN.

6 THE COURT: CERTAINLY.

7 MR. HUMPHRIES: YOUR HONOR, THERE IS ONE ISSUE
8 THAT WE HAVE LEFT OUTSTANDING -- AT LEAST FROM MY
9 RECOLLECTION WE LEFT IT OUTSTANDING -- AND THAT IS
10 THE EVIDENCE REGARDING HENRY LEE TURNER IN THE
11 SENTENCING PHASE. THERE WAS A MOTION IN LIMINE FILED
12 BY THE DEFENSE--

13 THE COURT: IS THAT ANYTHING YOU ALL ARE GOING
14 TO TAKE UP?

15 MR. HUMPHRIES: WELL, LET ME TELL YOU WHERE IT'S
16 COMING, SO YOU CAN MAKE SOME DECISION ABOUT WHAT WE
17 NEED TO DO.

18 THE COURT: CERTAINLY.

19 MR. HUMPHRIES: I AM NOT GOING TO MENTION IT
20 SPECIFICALLY IN OPENING. I JUST -- I USUALLY DON'T
21 MENTION SPECIFIC INSTANCES ANY WAY IN OPENING.

22 IT WILL COME STARTING AT ABOUT OUR TENTH
23 WITNESS. MANY -- MANY OF THE ONES BEFORE ARE VERY
24 SHORT WITNESSES, BUT I SUSPECT THAT WE'LL HAVE ABOUT
25 AN HOUR AND A HALF TO TWO HOURS OF TESTIMONY PRIOR TO

1 US REACHING THAT PARTICULAR ISSUE.

2 I DON'T -- I'M JUST TELLING YOU THAT SO YOU CAN
3 MAKE SOME PLANS REGARDING WHEN THE MOTION IS HEARD.

4 THE COURT: I WOULD ASSUME THAT THE MOTION IN
5 LIMINE APPLIED TO BOTH PHASES OF THE TRIAL. IS THAT
6 CORRECT, MR. KELLY?

7 MR. KELLY: THAT WAS MY UNDERSTANDING, MA'AM.
8 AND WE THOUGHT IT WAS WELL SETTLED AT THIS POINT.
9 AND IF IT'S NOT, WE'D LIKE TO SETTLE IT RIGHT NOW.

10 THE COURT: WELL THEN, I'LL TELL YOU WHAT I --
11 OF COURSE, MOTIONS IN LIMINE ARE PRELIMINARY. THEY
12 ARE NOT FINAL IN NATURE. AND THEY DEAL WITH IN MOST
13 INSTANCES VERY SPECIFIC TESTIMONY OR TYPES OF
14 TESTIMONY.

15 I DID NOT REALIZE -- AND I HAVE TO BE FRANK WITH
16 YOU -- NOR DID I ANTICIPATE THERE WOULD BE ANY
17 TESTIMONY ABOUT MR. TURNER IN THE GUILT PHASE. I
18 REALLY INITIALLY ANTICIPATED THAT THE MOTION RELATED
19 ONLY TO THE TESTIMONY IN THE GUILT PHASE BECAUSE THAT
20 IS ALL THAT WAS BROUGHT TO MY ATTENTION.

21 IN OTHER WORDS, GOING TO THE ISSUE OF SANITY OR
22 INSANITY REGARDING THE SUBSEQUENT INCIDENTS THAT
23 HAPPENED WITH MR. TURNER AND THE NECESSITY -- ALLEGED
24 TO HAVE HAPPENED WITH MR. TURNER AND THE NECESSITY
25 FOR MRS -- DR. CRAWFORD HAVE TO GO INTO THOSE ISSUES,

1 AND I RULED IN THAT REGARD.

2 MR. HUMPHRIES: CERTAINLY.

3 THE COURT: NOW, AS REGARDS -- RAISING ANY
4 EVIDENCE REGARDING MR. TURNER IN THE SENTENCING
5 PHASE, AGAIN, MY POSTURE WOULD BE THE SAME. I REALLY
6 HAVE NO POINT OF REFERENCE AT THIS POINT AS TO FOR
7 WHAT PURPOSE THE TESTIMONY WOULD BE OFFERED.

8 AND UNTIL I HAVE THE SAME POINT OF REFERENCE
9 THAT YOU ALL, I THINK IT WOULD BE PREMATURE FOR ME TO
10 MAKE ANY RULING IN THAT REGARD.

11 HOWEVER, I WILL INSTRUCT YOU TO STAY AWAY FROM
12 THOSE ISSUES IN ANY ARGUMENT OR IN ANY -- IN ANY
13 WITNESSES THAT YOU ANTICIPATE COMING BEFORE THE
14 COURT.

15 HOWEVER, WHEN YOU REACH THE POINT WHERE YOU
16 THINK YOU'RE GOING TO GET INTO THAT, YOU NEED TO MAKE
17 ME AWARE OF IT AND TO INDICATE THAT WE HAVE A MATTER
18 OF LAW TO TAKE UP SO I CAN HEAR THE MATTER EN CAMERA,
19 AND THAT WAY IT SERVES TWO PURPOSES. WE HAVE A
20 PROFFER, AND IT GIVES THE COURT FULL ABILITY TO MAKE
21 A RULING REGARDING THE MOTION IN LIMINE.

22 MR. HUMPHRIES: YOUR HONOR, IF I COULD AT THIS
23 TIME JUST AS A PRELIMINARY MATTER, I -- THERE ARE
24 CASES WHICH SUPPORT OUR POSITION IN REGARDS TO--

25 THE COURT: JUST GIVE ME THE CITATIONS.

1 MR. HUMPHRIES: OKAY. I WILL BE GLAD TO DO
2 THAT. I MADE COPIES, BUT I WILL BE GLAD TO GIVE THE
3 CITATIONS. STATE VERSUS HOWARD, THAT'S AT 295 SOUTH
4 CAROLINA 462, 369 SOUTHEAST SECOND 132. STATE
5 VERSUS--

6 THE COURT: WHAT YEAR IS THAT?

7 MR. HUMPHRIES: OH, I'M SORRY. IT'S 1988.

8 THE COURT: COURT OF APPEALS OR SUPREME COURT?

9 MR. HUMPHRIES: SUPREME COURT. THESE ARE ALL
10 CAPITAL CASES.

11 THE COURT: OKAY. YOU MAY CONTINUE.

12 MR. HUMPHRIES: STATE VERSUS GREEN, JUST -- 301
13 SOUTH CAROLINA 347, 392 SOUTHEAST SECOND 157. IT'S A
14 1990 CASE. AND STATE VERSUS MIDDLETON, 295 SOUTH
15 CAROLINA 318, 368 SOUTHEAST SECOND 457.

16 THE COURT: AND WHAT YEAR IS THAT?

17 MR. HUMPHRIES: I'M SORRY. THAT IS 1988.

18 MR. KELLY: YOUR HONOR, WE'D ASK THAT THE STATE
19 PROVIDE US WITH COPIES OF THE CASES.

20 MR. HUMPHRIES: I HAVE GOT COPIES FOR YOU. I
21 INTENDED TO GIVE THEM TO YOU.

22 THE COURT: IS THERE ANYTHING ELSE WE NEED TO
23 TAKE UP PRIOR TO BRINGING IN THE JURY IN?

24 MR. HUMPHRIES: NO, YOUR HONOR.

25 THE COURT: FROM THE DEFENSE?

1 MR. KELLY: MA'AM, I WOULD RESERVE MY OPENING
2 UNTIL WE OPEN OUR CASE AT THIS TIME.

3 THE COURT: YOU KNOW, I WAS READING. THERE'S A
4 CASE ON POINT THAT SAYS YOU DON'T HAVE THE ABILITY TO
5 DO THAT, I DON'T THINK. AND I NEED TO -- I MEANT TO
6 RESEARCH IT AGAIN BECAUSE I READ IT VERY EARLY ON.
7 AND I MAY BE WRONG AS TO MY RECOLLECTION.

8 LET ME ASK IT THIS WAY, MAYBE CUT... DOES THE
9 STATE HAVE ANY EXCEPTION TO THAT?

10 MR. HUMPHRIES: WE DON'T HAVE ANY EXCEPTION.

11 THE COURT: THEN THAT RESOLVES THE ISSUE.

12 MR. DIGGS: WELL, I WAS GOING TO MAKE AN
13 OPENING.

14 THE COURT: PARDON ME?

15 MR. DIGGS: I WAS GOING TO MAKE A BRIEF OPENING
16 ANY WAY, SO -- MR. KELLY STATED WITH RESPECT TO HIS
17 STATEMENT ONLY AND NOT MINE.

18 MR. KELLY: MR. DIGGS WILL OPEN. I WOULD
19 RESERVE.

20 THE COURT: I DON'T THINK YOU GET TO DO THAT.
21 I'VE ALLOWED YOU TO SPLIT YOUR ARGUMENT, BUT IN
22 ESSENCE YOU HAVE ONE ARGUMENT. YOU DON'T GET TO
23 SPLIT THE TIMING YOU GET TO DO IT.

24 NOW, IF YOU WANT TO WAIT UNTIL THE PRESENTATION
25 OF YOUR CASE TO MAKE YOUR OPENING WHICH MEANS BOTH OF

1 YOU, THAT'S FINE, OR IF YOU WANT TO MAKE IT NOW,
2 THAT'S FINE.

3 BUT I DON'T THINK THERE IS ANY PROVISION IN THE
4 RULES THAT ALLOWS FOR WHAT YOU'RE ASKING. AND YOU
5 KNOW, YOU HAVE ONE ARGUMENT. I JUST ALLOW YOU TO
6 SPLIT IT. IT'S NOT LIKE--

7 MR. DIGGS: OPENING STATEMENT. IT'S NOT REALLY
8 AN ARGUMENT, SO WE WOULD ASK--

9 THE COURT: IN ANY EVENT, YOU HAVE ONE OF BOTH.
10 I JUST ALLOW YOU TO SPLIT IT.

11 MR. DIGGS: WELL...

12 THE COURT: WHICH I TECHNICALLY DON'T HAVE TO
13 DO, BUT I HAVE.

14 MR. KELLY: MAY WE CONFER FOR A MOMENT?

15 THE COURT: YES. CERTAINLY. YOU ALL DECIDE
16 WHICH IS MOST BENEFICIAL TO YOU, HOW YOU WOULD LIKE
17 TO DO IT.

18 (WHEREUPON THERE WAS A PAUSE.)

19 MR. DIGGS: YOUR HONOR, I'D JUST LIKE TO NOTE AN
20 EXCEPTION FOR THE RECORD, AND WE WILL RESERVE.

21 THE COURT: YOUR EXCEPTION IS NOTED. OF COURSE,
22 YOU ALL ARE FULLY AWARE UNDER THE RULES THE DECORUM
23 OF THE COURT AND HOW PROCEDURALLY WE PROCEED IS
24 WITHIN THE SOLE DISCRETION OF THE COURT.

25 YOU ALL HAVE REQUESTED THAT YOU HAVE SEPARATE

1 ARGUMENTS, SO TO SPEAK, BUT IN ESSENCE -- OR SEPARATE
 2 OPENING, HOWEVER YOU WANT TO TERM IT, BUT IN ANY
 3 EVENT, I THINK IT WOULD BE CLEARLY WITHIN THE COURT'S
 4 PREROGATIVE TO REQUIRE ONE OR THE OTHER OF YOU TO DO
 5 IT, I DON'T HAVE TO ALLOW YOU TO SPLIT IT.

6 BUT OUT OF AN ABUNDANCE OF CAUTION AND --
 7 BECAUSE I JUST THINK IT'S FAIR, I'VE ALLOWED YOU TO
 8 SPLIT IT, BUT I DON'T THINK THERE IS ANY PROVISION IN
 9 THE RULES THAT REQUIRES THE COURT TO HAVE YOU SPLIT
 10 IT THE WAY YOU'RE REQUESTING.

11 AND I THINK IF YOU GAVE ME SOME PROCEDURAL
 12 SUPPORT FOR IT, I WOULD CONSIDER IT, BUT THERE IS
 13 NONE. AND SO I WILL NOTE YOUR EXCEPTION FOR THE
 14 RECORD.

15 I -- IF YOU NEED ADDITIONAL TIME TO DISCUSS HOW
 16 YOU WOULD LIKE TO HANDLE IT, I CERTAINLY WILL GIVE
 17 YOU THAT. ABSENT THAT, WE WILL MOVE FORWARD.

18 MR. KELLY: THAT IS EXACTLY WHAT WE'RE DOING,
 19 MA'AM. MR. DIGGS IS MERELY MAKING THAT AS A
 20 PROCEDURAL MATTER. NOW WE WILL TELL YOU HOW WE WANT
 21 TO DO THAT--

22 THE COURT: CERTAINLY.

23 MR. DIGGS: -- IF YOU'D LET US CONFER.

24 THE COURT: OKAY. GO RIGHT AHEAD AND CONFER.

25 (DEFENSE ATTORNEYS CONFERRING.)

1 MR. KELLY: YES, MA'AM. NOW THAT THAT MATTER IS
2 RESERVED INTO THE RECORD, MR. DIGGS AND I ELECT TO
3 OPEN WHEN OUR CASE PROCEEDS IN THIS MATTER. IS THAT
4 AGREEABLE, MA'AM?

5 THE COURT: WHATEVER WORKS BEST FOR YOU ALL.
6 STRATEGY I WILL LEAVE SOLELY TO THE LAWYERS.

7 MR. DIGGS: THANK YOU.

8 THE COURT: THE COURT IS NOT AN ADVOCATE.

9 MR. HUMPHRIES: THERE IS ONE OTHER MATTER. WE
10 HAD A -- THERE WAS A SEQUESTRATION OF THE WITNESSES
11 ORDERED BY CONSENT OF THE PARTIES IN THE GUILT PHASE.
12 AND I'M INQUIRING AT THIS TIME WHETHER OR NOT THAT
13 SEQUESTRATION CONTINUES IN THE MITIGATION PHASE.

14 THE MITIGATION CASES ARE SOMEWHAT -- JUST
15 MITIGATION CASES ARE SOMEWHAT DIFFERENT. THERE ARE A
16 NUMBER OF WITNESSES, MANY WITNESSES WHOSE TESTIMONY
17 DOESN'T BUILD ON THE OTHER. IT'S NOT CONNECTED TO
18 ANY OTHER WITNESS.

19 AND I WOULD INQUIRE AS TO WHETHER OR NOT THERE'S
20 AN OBJECTION TO ALLOW THOSE WITNESSES TO STAND ALONE.

21 MR. KELLY: MA'AM, WE BELIEVE THAT THEY SHOULD
22 BE SEQUESTERED. WE HAVE MATTERS OF WITNESSES. WE
23 HAVE -- THAT WE BELIEVE THEY IN ALL FAIRNESS TO THE
24 PROCEEDINGS FEEL THEY SHOULD BE SEQUESTERED, AND WE
25 ASK THAT.

1 MR. HUMPHRIES: WELL, LET ME ASK SPECIFICALLY AS
2 TO ONE PARTICULAR WITNESS, MS. DANA PUTNAM. HER
3 TESTIMONY HAS NOTHING TO DO WITH ANYBODY ELSE'S, AND
4 WE'D REQUEST THAT SHE BE ALLOWED TO REMAIN IN THE
5 COURTROOM. AND ROGER TURNER IS A VICTIM AND HE
6 WILL...

7 MR. KELLY: NO, MA'AM. WE WON'T HOLD ANY
8 EXCEPTIONS TO IT. I DON'T UNDERSTAND THAT ANY WAY,
9 MA'AM. JUST BECAUSE SHE'S A WITNESS IN ANOTHER AREA
10 GEOGRAPHICALLY, I DON'T SEE HOW THAT MAKES ANY
11 DIFFERENCE.

12 THE COURT: WELL, ACTUALLY, I THINK VICTIMS
13 RIGHTS BILL WAS WRITTEN -- AND I'M PARAPHRASING ITS
14 ACTUAL TECHNICAL HEADING BECAUSE I FORGET THE ACTUAL
15 WAY THAT IT'S WORDED. I WOULD NOT BE ABLE TO EXCLUDE
16 HER IN ANY PROCEEDING THAT HAS ANY BEARING ON ANY
17 MATTER IN WHICH SHE IS A VICTIM.

18 MR. HUMPHRIES: AND ROGER TURNER--

19 THE COURT: NOW, UNLESS I MISUNDERSTOOD--

20 MR. HUMPHRIES: ROGER TURNER IS A VICTIM. HE
21 WILL REMAIN IN THE COURTROOM. DANA PUTNAM--

22 THE COURT: MR. TURNER IS DEAD, SO...

23 MR. HUMPHRIES: ROGER TURNER, HIS SON.

24 THE COURT: ROGER TURNER. I APOLOGIZE. OKAY.

25 MR. HUMPHRIES: DANA PUTNAM IS THE YOUNG WOMAN

1 THAT THE DEFENDANT WAS WITH IN AUGUSTA. HER
2 TESTIMONY STANDS ALONE. THERE WILL BE NO TESTIMONY--

3 THE COURT: SO SHE IS NOT A VICTIM; CORRECT?

4 MR. HUMPHRIES: SHE IS NOT A VICTIM.

5 THE COURT: OKAY.

6 MR. HUMPHRIES: BUT THERE IS OBVIOUSLY--

7 THE COURT: I MISUNDERSTOOD. I THOUGHT YOU WERE
8 TALKING ABOUT MR. TURNER'S WIFE OR A FAMILY MEMBER.

9 MR. HUMPHRIES: NO, YOUR HONOR. BUT AN ORDER
10 FOR SEQUESTRATION IS TO PREVENT WITNESSES FROM BEING
11 ALLOWED TO HEAR THE TESTIMONY OF OTHER WITNESSES UPON
12 WHICH THEY BUILD OR WHICH MIGHT, YOU KNOW, INTERTWINE
13 OR INTERCONNECT.

14 MS. PUTNAM'S TESTIMONY STANDS ALONE. SHE WILL
15 TESTIFY TOWARDS THE END OF THE CASE. AND WE WOULD
16 ASK FOR AN EXCEPTION SPECIFICALLY AS REGARDS TO HER.

17 THE COURT: PURPOSE? WELL, I GUESS I'M TRYING
18 TO FIGURE OUT -- SHE WOULD BE OUT OF THE
19 SEQUESTRATION ORDER.

20 MR. HUMPHRIES: BECAUSE THERE'S NO BASIS...

21 THE COURT: AREN'T THERE OFFICERS COMING FROM --
22 WHO TOOK HIM INTO CUSTODY THAT WILL TESTIFY ABOUT THE
23 ATTENDANT CIRCUMSTANCES OF THAT?

24 MR. HUMPHRIES: THE ONLY WITNESS COMING FROM
25 AUGUSTA WILL BE THE WITNESS WHO ACTUALLY PROCESSED

1 THE VEHICLE, HAD NO CONNECTION WHATSOEVER WITH THE
2 ARREST OR ANY CONTACT WITH MS. PUTNAM. HER TESTIMONY
3 WILL STAND ALONE.

4 MR. KELLY: WELL MA'AM, FOR CLARIFICATION, I'M
5 NOT INTERRUPTING THE GENTLEMAN, BUT WE HAVE NO
6 OBJECTION TO THE MEMBERS OF THE VICTIM'S FAMILY
7 REMAINING THROUGHOUT.

8 BUT PEOPLE WHO ARE NOT MEMBERS OF THE VICTIM'S
9 FAMILY SHOULD BE SEQUESTERED. THAT INCLUDES DANA
10 PUTNAM. WHY WOULD THE -- DOES THE STATE WANT HER IN
11 THE ROOM IF IT DOESN'T AFFECT THEM EITHER WAY?

12 SO WE HAVE NO PROBLEM WITH THE VICTIM REMAINING
13 IN THE ROOM THROUGHOUT. BUT ANYBODY ELSE, NO.

14 THE COURT: WELL, I GUESS MY PERCEPTION AT THIS
15 POINT IS IF YOU HAVE A SEQUESTRATION ORDER, IT NEEDS
16 TO BE EQUALLY IMPOSED. I THINK ONCE YOU START
17 PICKING AND CHOOSING WITNESSES, IT SORT OF
18 CIRCUMVENTS WHAT PURPOSE YOU HAVE IT.

19 AND IF YOU'RE GOING TO START ELIMINATING
20 WITNESSES FROM IT, WHY HAVE IT AT ALL? YOU KNOW,
21 EITHER YOU HAVE EVERYBODY IN OR HAVE EVERYBODY OUT.

22 AND SO I -- I DON'T KNOW FOR WHAT -- AND THE
23 OTHER PURPOSE IS YOU DON'T WANT THE WITNESSES EXPOSED
24 TO TESTIMONY BECAUSE YOU WANT TO MAKE SURE THAT THEY
25 ARE NOT IN ANY WAY INFLUENCED BY ANOTHER WITNESS'S

1 TESTIMONY, AND MOST TIMES THAT IS FOR IMPEACHMENT
2 PURPOSES.

3 AND I -- I CAN'T THINK OF ANY REASON WHY SHE
4 SHOULD BE ALLOWED TO REMAIN IN THE OTHER COURTROOMS
5 WHEN THE OTHER WITNESSES ARE SEQUESTERED. SO IF
6 WE'RE GOING TO HAVE A SEQUESTRATION ORDER, IT'S GOING
7 TO BE EQUALLY APPLIED TO BOTH WITNESSES OR IT'S NOT
8 GOING TO BE IN PLACE AT ALL.

9 MR. HUMPHRIES: VERY GOOD.

10 THE COURT: BECAUSE I SEE NO POINT IF YOU'RE
11 GOING TO DO IT THAT WAY.

12 MR. HUMPHRIES: THANK YOU.

13 MR. KELLY: ONE MORE MATTER, JUDGE. WE
14 SUBPOENAED INVESTIGATOR STEVE BRANHAM THIS MORNING.
15 I DON'T KNOW -- THEY CAN HAVE ONE OFFICER AT THE
16 TABLE. I DON'T KNOW IF THAT'S THE ONE THEY WANT OR
17 NOT.

18 MR. HUMPHRIES: I DISAGREE WITH THAT, YOUR
19 HONOR. THEY SUBPOENAED STEVE BRANHAM. HE IS OUR
20 INVESTIGATOR. HE IS THE INVESTIGATOR WHO IS WORKING
21 WITH THIS CASE IN OUR OFFICE. I DON'T KNOW FOR WHAT
22 PURPOSE THEY SUBPOENAED HIM, BUT FOR WHATEVER
23 PURPOSE, HE IS INTEGRAL TO THE PRESENTATION OF THE
24 EVIDENCE IN THIS CASE.

25 THE COURT: IS HE YOUR...

1 MR. HUMPHRIES: HE IS OUR INVESTIGATOR, THE
2 SOLICITOR'S OFFICE INVESTIGATOR.

3 THE COURT: OKAY. AND YOU'RE ASKING THAT HE BE
4 SEQUESTERED?

5 MR. KELLY: NO, MA'AM. I'M JUST CLARIFYING, DO
6 THEY WANT HIM IN THE ROOM. IF THEY DO, WE HAVE NO
7 OBJECTION TO HIM BEING IN THE ROOM SINCE HE'S THE
8 PRIMARY, TOO.

9 MR. HUMPHRIES: THANK YOU.

10 THE COURT: I JUST WANTED TO RAISE THAT SO HE
11 WOULDN'T BE OUT, WE'D HAVE TO BRING--

12 MR. HUMPHRIES: VERY GOOD. I APPRECIATE THAT.
13 THANK YOU.

14 THE COURT: IS THERE ANYTHING ELSE WE NEED TO
15 TAKE UP?

16 MR. HUMPHRIES: WE NEED TO ASK THOSE WITNESSES
17 THAT ARE SEQUESTERED TO LEAVE THE COURTROOM.

18 THE COURT: AND I ASSUME WE HAVE A PLACE FOR
19 THEM TO SIT.

20 MR. HUMPHRIES: WE DO, YOUR HONOR. WE DO HAVE
21 ONE WITNESS WHO IS A VERY CLOSE PERSONAL FRIEND OF
22 LAURA LING. SHE WILL TESTIFY ONLY IN VICTIM IMPACT
23 PORTION OF THE CASE. SHE'S ONE OF THE TWO STATE'S --
24 AND SHE'S BEEN HERE THROUGHOUT. I WOULD ASK THAT SHE
25 BE ALLOWED TO REMAIN.

1 CLEARLY THE VICTIM IMPACT TESTIMONY -- IT HAS
2 NOTHING TO DO WITH ANY PRIOR BAD ACTS. IT IS ALL TO
3 DO WITH LAURA LING, HAS NOTHING TO DO WITH THE
4 DEFENDANT STANKO WHATSOEVER.

5 MR. KELLY: WE HAVE NO OBJECTION.

6 MR. HUMPHRIES: THANK YOU.

7 THE COURT: YOU'RE WELCOME.

8 MR. KELLY: MA'AM?

9 THE COURT: YES, SIR.

10 MR. KELLY: ONE OTHER MATTER. OUR WITNESSES ARE
11 NOT ARRIVING TODAY OR I BELIEVE TOMORROW, BUT THEY
12 WILL ARRIVE, BUT I JUST WANT YOU TO KNOW MAYBE THERE
13 WOULD HAVE TO BE ARRANGEMENTS MADE FOR THEM OR -- ARE
14 THE ARRANGEMENTS THAT ARE NOW WILL NOW BE EMPTY, THEY
15 CAN BE USED THERE. IT'S A MATTER OF HOUSEKEEPING. I
16 JUST WANTED...

17 THE COURT: YOU MEAN FOR SEQUESTRATION PURPOSES?

18 MR. KELLY: YES, MA'AM, IF THAT MAKES ANY
19 DIFFERENCE. I DON'T KNOW IF IT DOES. AND THEN,
20 MA'AM, THERE ARE TWO OTHER MATTERS I WANT TO RAISE AS
21 WELL. I SPOKE WITH YOUR CLERK THIS MORNING AND--

22 THE COURT: SECURITY? REFERRING TO SECURITY?

23 MR. KELLY: YES, MA'AM.

24 THE COURT: THAT IS WHY WE HAD THE DELAY. I
25 HAVE ALREADY DEALT WITH IT.

1 MR. KELLY: THANK YOU.

2 THE COURT: YOU'RE WELCOME.

3 MR. KELLY: AND THE WORK SCHEDULE ITSELF.

4 THE COURT: I'M GOING TO TAKE YOUR REQUEST UNDER
5 ADVISEMENT. I'M GOING TO SEE WHAT WORKS BEST FOR THE
6 JURORS. I'M GOING TO WATCH THEM TODAY. THEY HAVE
7 INDICATED THAT THEY PREFER TO WORK LATE.

8 MR. KELLY: THANK YOU, MA'AM.

9 THE COURT: YOU'RE WELCOME. ANYTHING FURTHER?

10 MR. KELLY: MA'AM, THE SOLICITOR IS TELLING ME
11 SOMETHING OFF THE RECORD...

12 (WHEREUPON ATTORNEYS WERE CONFERRING.)

13 MR. KELLY: ARE THERE ANY WITNESSES THAT HAVE
14 BEEN SUBPOENAED BY THE DEFENSE?

15 (MR. KELLY WAS SPEAKING TO THE AUDIENCE.)

16 (WHEREUPON THERE WAS A PAUSE.)

17 THE COURT: ALL RIGHT. YES, SIR.

18 (WHEREUPON THERE WAS A PAUSE.)

19 THE COURT: MR. KELLY, ARE YOU COMFORTABLE -- I
20 KNOW MR. DIGGS NEEDED TO STEP OUT FOR A MOMENT.

21 MR. KELLY: MA'AM?

22 THE COURT: I SAID, I KNOW MR. DIGGS NEEDED TO
23 STEP OUT FOR A MOMENT. DO YOU WANT TO WAIT TILL HE
24 RETURNS?

25 MR. KELLY: I THINK WE CAN GO AHEAD AND BEGIN,

1 MA'AM.

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

3 (JURY ENTERED THE COURTROOM AT 10:02 AM.)

4 THE COURT: YOU MAY BE SEATED. AND LADIES AND
5 GENTLEMEN, IF YOU WOULD BEAR WITH US. WE NEED TO GET
6 YOUR NOTEBOOKS, SO IT WILL BE JUST A MOMENT.

7 (WHEREUPON THERE WAS A PAUSE.)

8 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.
9 I HOPE THAT YOU ALL HAD A RESTFUL WEEKEND. AND WE
10 APOLOGIZE FOR ANY DELAY THIS MORNING. THERE WERE
11 SOME MATTERS THAT WE NEEDED TO TAKE UP AND THEY TOOK
12 A LITTLE TIME, BUT WE FEEL LIKE DOING THAT IN ADVANCE
13 WILL KEEP US MOVING SMOOTHLY AND ALLOW FOR LESS
14 INTERRUPTION. AND WE ASK CERTAINLY YOU NOT HOLD THAT
15 AGAINST ANYONE AND WE APPRECIATE YOU BEARING WITH US.

16 WE WANT YOU TO KNOW THAT WE DO NOT TAKE YOUR
17 TIME FOR GRANTED. THERE ARE THINGS, HOWEVER, THAT
18 COME UP THAT CAUSE DELAY THAT NO ONE CAN ANTICIPATE.
19 SO AGAIN, WE APPRECIATE YOUR PATIENCE AND WE WANT YOU
20 TO KNOW THAT WE DO NOT TAKE YOUR TIME FOR GRANTED.

21 LADIES AND GENTLEMEN OF THE JURY, THE DEFENDANT
22 STEPHEN C STANKO WAS CONVICTED ON AUGUST 11TH, 2006
23 OF THE OFFENSE OF MURDER, AND THE OFFENSES OF ASSAULT
24 AND BATTERY WITH INTENT TO KILL, CRIMINAL SEXUAL
25 CONDUCT IN THE FIRST DEGREE, TWO COUNTS OF

1 KIDNAPPING, AND ARMED ROBBERY.

2 AND AS I EXPLAINED TO YOU AT THE BEGINNING OF
3 THIS CASE, IF THE CASE MOVED INTO THIS NEXT PHASE IT
4 WOULD BECOME NECESSARY FOR US TO HOLD THIS ADDITIONAL
5 PROCEEDING WHICH WILL DETERMINE THE PUNISHMENT THAT
6 THE COURT IS TO IMPOSE UPON THE DEFENDANT.

7 AND AS I EXPLAINED, IT IS THEREFORE NECESSARY
8 FOR US TO HOLD THIS ADDITIONAL PROCEEDING WHICH AGAIN
9 WILL DETERMINE THE PUNISHMENT THAT THIS COURT IS TO
10 IMPOSE UPON THE DEFENDANT.

11 SOUTH CAROLINA CODE SECTION 16-3-20 AS AMENDED
12 PROVIDES IN PART AS FOLLOWS: A PERSON WHO IS
13 CONVICTED OF OR PLEADS GUILTY TO MURDER MUST BE
14 PUNISHED BY DEATH OR BY IMPRISONMENT FOR LIFE.

15 THAT SECTION AS FURTHER AMENDED ALSO PROVIDES IN
16 PART UPON CONVICTION OF A DEFENDANT OF MURDER, THE
17 COURT SHALL CONDUCT A SEPARATE SENTENCING PROCEEDING
18 TO DETERMINE WHETHER THE DEFENDANT SHOULD BE
19 SENTENCED TO DEATH OR LIFE IMPRISONMENT WITHOUT THE
20 POSSIBILITY OF PAROLE.

21 SO OUR PURPOSE IN CONDUCTING THE PROCEEDING IN
22 WHICH WE ARE NOW ENGAGED IS TO DETERMINE WHETHER THE
23 DEFENDANT, STEPHEN C STANKO, SHOULD BE SENTENCED BY
24 THE COURT TO DEATH OR TO LIFE IMPRISONMENT WITHOUT
25 THE POSSIBILITY OF PAROLE.

1 WITH RESPECT TO YOUR PARTICULAR ROLE IN THIS
2 PROCEEDING YOU WILL BE ASKED TO DETERMINE -- YOU WILL
3 BE ASKED TO RECOMMEND TO THE COURT WHETHER IT SHOULD
4 SENTENCE THE DEFENDANT, STEPHEN C STANKO, TO DEATH OR
5 TO LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF
6 PAROLE.

7 DURING THIS SENTENCING PROCEEDING YOU MAY HEAR
8 ADDITIONAL EVIDENCE IN AGGRAVATION, EXTENUATION, OR
9 MITIGATION, AND BOTH SIDES WILL HAVE AN OPPORTUNITY
10 TO PRESENT ARGUMENTS FOR AND AGAINST THE DEATH
11 PENALTY.

12 SHOULD YOU RECOMMEND A SENTENCE OF LIFE
13 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE OR
14 SHOULD YOU RECOMMEND A SENTENCE OF DEATH, THAT IS THE
15 ONLY ISSUE INVOLVED HERE. THE SENTENCE THAT YOU
16 RECOMMEND WILL BE THE SENTENCE IMPOSED BY THE COURT.

17 AFTER THE LAST ARGUMENT HAS BEEN MADE TO YOU
18 CONCERNING THE PUNISHMENT THAT SHOULD BE IMPOSED UPON
19 THE DEFENDANT, THE COURT WILL GIVE YOU CERTAIN
20 INSTRUCTIONS AND YOU WILL THEN RETIRE TO DETERMINE
21 WHETHER A DEATH SENTENCE OR A LIFE SENTENCE WITHOUT
22 THE POSSIBILITY OF PAROLE IS TO BE RECOMMENDED.

23 NOW, IN THAT REGARD I'M GOING TO ALLOW COUNSEL
24 TO MAKE SOME BRIEF OPENING REMARKS TO YOU AND THEN WE
25 WILL PROCEED WITH ANY TESTIMONY. ARE THERE ANY

1 EXCEPTIONS TO THE COURT'S INSTRUCTIONS FROM THE
2 STATE?

3 MR. HUMPHRIES: NONE FROM THE STATE.

4 THE COURT: FROM THE DEFENSE?

5 MR. DIGGS: NO, MA'AM.

6 THE COURT: YOU MAY PROCEED.

7 MR. HUMPHRIES: MAY IT PLEASE THE COURT.

8 THE COURT: YES, SIR.

9 OPENING STATEMENT

10 MR. HUMPHRIES: MADAM FORELADY, LADIES AND
11 GENTLEMEN OF THE JURY, THE EVIDENCE THAT YOU ARE
12 ABOUT TO RECEIVE OVER THE COURSE OF THE NEXT COUPLE
13 OF DAYS IS OFFENSIVE, IT'S VIAL, IT'S CORRUPT, IT IS
14 GRUESOME AND IT IS TRAGIC. IT'S THE LIFE AND TIMES
15 OF DEFENDANT STEPHEN CHRISTOPHER STANKO.

16 IN THIS PHASE OF THE CASE WHAT WE ARE PRIMARILY
17 CONCERNED WITH IS THE CHARACTER AND THE
18 CHARACTERISTICS OF THIS DEFENDANT. AND IT MAKES
19 PERFECT SENSE GIVEN THE DECISION THAT EACH OF YOU
20 WILL HAVE TO MAKE. YOU WANT TO KNOW, YOU MUST KNOW,
21 AS MUCH AS YOU CAN ABOUT THIS DEFENDANT IN ORDER TO
22 DECIDE HIS PUNISHMENT.

23 YOU'LL HEAR EVIDENCE, PRIOR BAD ACTS, PRIOR
24 CRIMES, PRIOR VIOLATIONS OF RULES, AND PRIOR OFFENSES
25 TO THE GENERAL RULE OF SOCIETY AS WE KNOW IT.

1 WE COME HERE TODAY REALLY BECAUSE OF ONE THING
2 AND WE ARRIVE AT THIS PLACE TODAY BECAUSE OF ONE
3 THING, AND THAT IS THE CONDUCT OF STEPHEN CHRISTOPHER
4 STANKO.

5 WE WERE BOUND TO THIS PLACE AT THIS TIME WHEN HE
6 STRANGLED AND KILLED LAURA LING AFTER HAVING RAPED
7 HER DAUGHTER IN HER PRESENCE.

8 MY OPENING COMMENTS TO YOU TODAY WILL BE BRIEF.
9 BUT MAKE NO MISTAKE ABOUT IT. THE STATE IS THE ONE
10 WHO NOTICED THE DEFENDANT STANKO THAT THEY INTENDED
11 TO SEEK THE DEATH PENALTY.

12 MAKE NO MISTAKE ABOUT IT. THE STATE IS ASKING
13 THAT THIS JURY SENTENCE DEFENDANT STANKO TO DEATH.
14 AND MAKE NO MISTAKE ABOUT IT, THE STATE EXPECTS THAT
15 THAT IS THE SENTENCE THAT WILL BE HANDED DOWN.

16 I LEAVE YOU WITH THE SAME QUESTION THAT THE
17 STATE HAD TO WRESTLE WITH. AND THE QUESTION IS THIS.
18 IF NOT FOR THIS DEFENDANT, THEN WHO?

19 EACH OF YOU TOOK AN OATH. WE TALKED A GREAT
20 DEAL ABOUT THAT. EACH OF YOU RAISED YOUR HAND AND
21 YOU SAID UNDER OATH, UNDER THE RIGHT SET OF
22 CIRCUMSTANCES, GIVEN THE RIGHT AMOUNT OF EVIDENCE, I
23 COULD SENTENCE THE DEFENDANT TO DEATH.

24 I SUBMIT TO YOU THIS MORNING THAT AFTER YOU HEAR
25 WHAT WE PRESENT TO YOU, YOU WILL HAVE HEARD, YOU WILL

1 HAVE SEEN THE RIGHT SET OF CIRCUMSTANCES AND
2 SUFFICIENT EVIDENCE TO SENTENCE THIS DEFENDANT TO
3 DEATH. THANK YOU.

4 THE COURT: MADAM FORELADY, LADIES AND
5 GENTLEMEN, THE DEFENSE HAS RESERVED THEIR ARGUMENT
6 UNTIL THEY BEGIN TO PROCEED. THEREFORE, WE WILL
7 PROCEED WITH THE STATE'S WITNESSES. YOU MAY PROCEED,
8 MR. HUMPHRIES.

9 MR. HUMPHRIES: THANK YOU, YOUR HONOR. THE
10 STATE CALLS VERNON HOUSE.

11 VERNON HOUSE, AFTER
12 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

13 DIRECT EXAMINATION

14 BY MR. HUMPHRIES:

15 Q MORNING, MR. HOUSE.

16 A MORNING, SIR.

17 Q WHERE ARE YOU FROM?

18 A GOOSE CREEK.

19 Q MAY I ASK YOU, HOW ARE YOU NOW EMPLOYED?

20 A I'M UNEMPLOYED. I'M RETIRED.

21 Q AND WHAT HAVE YOU RETIRED FROM, MR. HOUSE?

22 A I RETIRED 22 YEARS IN THE NAVY AND 16 AND A HALF
23 YEARS CIVIL SERVICE, TOTAL OF 38 AND A HALF YEARS
24 GOVERNMENT EMPLOYMENT.

25 Q MR. HOUSE, LET ME ASK YOU, DO YOU KNOW THE DEFENDANT,

1 STEPHEN STANKO?

2 A YES, SIR, I DID.

3 Q TELL THIS JURY HOW YOU KNEW MR. STANKO.

4 A PARDON ME?

5 Q TELL THIS JURY HOW YOU KNOW MR. STANKO.

6 A MR. STANKO WAS A REAL GOOD FRIEND OF MY MIDDLE SON,
7 SPENT A LOT OF TIME AT MY HOUSE DURING HIS HIGH SCHOOL
8 YEARS, GOT TO KNOW MY SON, AND I GOT TO KNOW MR. STANKO
9 REAL WELL DURING THE LAST TWO YEARS OF HIS HIGH SCHOOL.

10 Q LET ME ASK YOU, HOW MANY -- HOW MANY SONS DO YOU
11 HAVE?

12 A I HAVE THREE.

13 Q HOW ARE -- WHERE DID THEY GO TO SCHOOL? WHERE DID
14 THEY GO TO SCHOOL?

15 A I HAD ONE SON THAT GRADUATED FROM WEST POINT AND IS
16 NOW IN PORTBRIS, TEXAS, LIEUTENANT COLONEL IN THE ARMY. I
17 HAVE ONE THAT GRADUATED FROM THE CITADEL, NOW WORKS FOR
18 ASM TECHNOLOGY IN LADSON. THE OTHER ONE IS A GOOSE CREEK
19 GRAD THAT WORKS AT NARCISO OVER ON HENDERSFERRY ROAD.

20 Q AND WHICH -- WHICH OF YOUR SONS WAS DEFENDANT STANKO
21 CLOSEST FRIENDS WITH?

22 A EDDIE, THE MIDDLE SON, THE ONE THAT IS IN THE ARMY.
23 HE WENT TO WEST POINT.

24 Q LET ME ASK YOU, WAS THERE A PERIOD OF TIME AFTER
25 GRADUATION THAT YOU DIDN'T HAVE MUCH CONTACT WITH

1 MR. STANKO?

2 A YES, SIR, FROM ABOUT -- ABOUT 1986 UNTIL -- MY SON
3 WENT TO WEST POINT IN 1986, GRADUATED IN '90, SO I'D SAY
4 BETWEEN '86 AND '92, '93 I HAD VERY LITTLE CONTACT WITH
5 MR. STANKO, VERY LITTLE.

6 Q TELL THE -- TELL THE JURY HOW YOU NEXT CAME INTO
7 CONTACT WITH DEFENDANT STANKO.

8 A WELL, MY BABY BOY WAS GETTING READY TO GO TO THE
9 CITADEL AND I HAD BEEN SENT A LETTER FROM THE CITADEL
10 STATING THAT HE WOULD NEED A COMPUTER FOR HIS CLASSES AT
11 THE CITADEL, SO IN PASSING, I -- I'M COMPUTER ILLITERATE,
12 I KNOW NOTHING ABOUT COMPUTERS, SO I MENTIONED TO
13 MR. STANKO THAT I NEEDED A COMPUTER FOR MY SON JUAN TO USE
14 DURING HIS SCHOOL AT -- AT THE CITADEL, AND HE SAID, WELL,
15 WHAT A COINCIDENCE, HE SAID, NEW YORK LIFE WAS JUST
16 GETTING READY TO UPGRADE ALL THEIR COMPUTERS.

17 HE SAID, I MIGHT BE ABLE TO GET YOU ONE OF THOSE.
18 AND I SAID, WELL, FINE, THAT WILL BE GREAT BECAUSE I KNOW
19 NOTHING ABOUT COMPUTERS. SO HE SAID GIVE ME A COUPLE
20 DAYS, AND I DID.

21 AND HE CAME BACK A COUPLE DAYS LATER AND TOLD ME THAT
22 HE HAD LOCATED ME A COMPUTER AND I COULD GET IT FOR ABOUT
23 \$1300. I SAID, FINE, I'LL TAKE IT, BECAUSE I KNEW NOTHING
24 ABOUT IT. AND HE SAID IT WAS A GOOD COMPUTER, SO I SAID,
25 FINE, I'LL TAKE IT.

1 Q DID YOU ULTIMATELY PAY DEFENDANT STANKO FOR THIS
2 COMPUTER?

3 A YES, I DID. I WROTE HIM A CHECK FOR \$1300 AND
4 BROUGHT THE COMPUTER OUT TO THE HOUSE. AND I KNEW NOTHING
5 ABOUT IT, SO I JUST STARTED PUNCHING BUTTONS. ALL OF A
6 SUDDEN A LADY'S NAME POPPED UP ON THE SCREEN AND SHE
7 HAPPENED TO BE A AGENT FROM NEW YORK LIFE.

8 AND SO I CALLED HER AND ASKED HER IF SHE HAD RECENTLY
9 SOLD -- WELL, SHE HAD A BUNCH OF PERSONAL DATA IN THERE
10 THAT I KNEW I COULDN'T BE LOOKING AT, LIKE HOW MUCH LIFE
11 INSURANCE SHE HAD AND HOW MANY SHARES OF STOCK SHE HAD,
12 AND ALL THAT STUFF.

13 SO I CALLED HER TO ASK HER IF SHE HAD RECENTLY SOLD A
14 COMPUTER. AND SHE SAID, NO, I RECENTLY HAD ONE STOLEN.
15 AND I SAID, WELL, I THINK I HAVE YOUR COMPUTER. AND SHE
16 SAID, WELL, HOW DID YOU COME TO THAT CONCLUSION?

17 I SAID, WELL, I FOUND A COMPUTER WITH YOUR NAME AND
18 ALL YOUR PERSONAL INFORMATION IN IT. AND SHE SAYS, WELL,
19 PLEASE CONTACT THE AUTHORITIES. SO I DID. I CALLED
20 CHARLESTON CITY POLICE.

21 Q CHARLESTON CITY POLICE?

22 A YES, SIR.

23 Q AS A RESULT OF THAT CONTACT, WHAT HAPPENED TO
24 DEFENDANT STANKO?

25 A MR. STANKO -- WENT DOWN TO FIRST TALK TO HIS FATHER

1 AND TOLD HIS FATHER WHAT I HAD COME UP WITH AND TOLD HIM I
2 HAD TO TAKE IT TO THE AUTHORITIES AND -- AND I ASKED HIS
3 FATHER IF HE COULD MAKE RESTITUTION FOR THE \$1300, AND HE
4 SAID NO.

5 SO I CALLED THE CITY OF CHARLESTON. THEY TOLD ME TO
6 BRING THE COMPUTER DOWN TO TURN IT IN, AND I DID. AND
7 THEN I LATER TOLD THEY WAS GOING UNDER PTI, WHICH IF I
8 UNDERSTAND IS PRETRIAL INTERVENTION OR SOMETHING LIKE
9 THAT, I'M NOT SURE, AND THAT I WOULD BE PAID RESTITUTION
10 FOR THE \$1300.

11 AND I DID RECEIVE TWO CHECKS FROM THE CHARLESTON CITY
12 AND NOT UNTIL -- LESS THAN \$300 OF THE \$1300. I CAN'T
13 REMEMBER. 13 YEARS AGO. I CAN'T REMEMBER EXACT FIGURES.
14 BUT ANY WAY, I GOT TWO CHECKS FROM HIM FROM THE CITY OF
15 CHARLESTON FOR RESTITUTION.

16 Q NOW, DID YOU EVER HAVE AN OCCASION AFTER THAT TO SEE
17 DEFENDANT STANKO?

18 A YES, ON ONE OTHER OCCASION I SAW HIM ON TV DOWN IN --
19 HE WAS IN ATLANTA, AND THEN I HEARD HE WAS WORKING FOR
20 MCELVEEN PONTIAC, SO I WENT OVER TO MCELVEEN PONTIAC AND
21 CONFRONTED HIM AT MCELVEEN PONTIAC ABOUT ME GETTING PAID
22 RESTITUTION, AND THAT'S BASICALLY THE ONLY OTHER TIME THAT
23 I HAD ANY CONTACT WITH HIM EXCEPT ONE TIME HE TOLD ME THAT
24 HE WAS GOING TO THE AIR FORCE ACADEMY AND -- JUST IN
25 PASSING, NOTHING REALLY CLOSE.

1 Q THANK YOU, MR. HOUSE.

2 THE COURT: ANY CROSS-EXAMINATION OF THE
3 WITNESS?

4 MR. KELLY: YES, MA'AM.

5 THE COURT: YOU MAY PROCEED.

6 CROSS-EXAMINATION

7 BY MR. KELLY:

8 Q MR. HOUSE, YOUR MIDDLE SON, HIS NAME IS EDDIE?

9 A PARDON ME?

10 Q EDDIE?

11 A CLAUDE EDWARD, YES, EDDIE.

12 Q AND HOW OLD WAS YOUR SON WHEN STEPHEN FIRST BECAME A
13 FRIEND, WHEN YOU FIRST NOTICED STEPHEN IN YOUR LIFE?

14 A I'D SAY PROBABLY '83 OR '84.

15 Q AND HOW OLD WOULD YOUR SON HAVE BEEN AT THAT TIME?

16 A SAME AGE AS STEPHEN, THEY WERE...

17 Q YOUR SON WAS BORN IN '68?

18 A SIXTY-EIGHT, YES, SIR.

19 Q SO IN '83, '84 HE'D BEEN 15 OR 16?

20 A I'M SORRY, SIR?

21 Q OKAY. AT -- IN '83 OR '84 YOUR SON WOULD BE ABOUT 15
22 OR 16 YEARS OF AGE?

23 A HE WOULD BE 16, YES.

24 Q AND AT THAT TIME WAS -- HE HAD BEEN IN HIGH SCHOOL OR
25 JUNIOR HIGH? WHERE WOULD HE HAVE BEEN?

1 A HIGH SCHOOL.

2 Q AND WHAT SCHOOL WOULD THAT BE?

3 A GOOSE CREEK HIGH SCHOOL, SIR.

4 Q OKAY. AND YOUR SON EDDIE, HE WAS A SUCCESSFUL
5 STUDENT AND AN INTELLIGENT YOUNG FELLOW?

6 A YES, SIR. HE WAS AN HONORS STUDENT AND HE WAS ALSO
7 BATTALION COMMANDER OF THE ROTC UNIT.

8 Q AND SO WAS STEPHEN; IS THAT CORRECT?

9 A PARDON ME?

10 Q STEPHEN WAS ALSO JUST LIKE YOUR SON AS FAR AS BEING

11 A -- HE EXCELLED AS A STUDENT AND WAS IN THE SAME CLUBS
12 WITH YOUR SON?

13 A HE WAS IN THE BETA CLUB I THINK, BUT HE WAS NOT A
14 MEMBER OF THE ROTC, AND YES, HE WAS A GOOD STUDENT.

15 Q AND WAS YOUR -- YOUR SON WAS IN THE ACADEMIC
16 OLYMPICS, THE OLYMPICS TEAM?

17 A YES.

18 Q AND SO WAS STEVE?

19 A DON'T RECOLLECT, BUT PROBABLY.

20 Q LET ME SHOW -- LET ME SHOW YOU THESE PICTURES.

21 HERE'S A -- LET ME SHOW YOU THIS. JUST TELL ME DO YOU
22 RECOGNIZE IT. THIS IS A NEWSPAPER ARTICLE. DO YOU
23 RECOGNIZE THAT FROM BACK WHEN?

24 A YES, SIR.

25 Q AND HOW ABOUT THIS PICTURE HERE, DO YOU RECOGNIZE

1 THAT?

2 A SAME ONE THAT'S IN THE PICTURE.

3 Q AND HOW ABOUT THIS ONE?

4 A YES, SIR.

5 Q OKAY. JUST A MOMENT, PLEASE SIR.

6 MR. HUMPHRIES: IF THEY INTEND TO ADMIT THEM, I
7 HAVE NO OBJECTION.

8 MR. KELLY: WE WOULD ASK THESE BE MARKED AS
9 EXHIBITS FOR THE DEFENDANT.

10 THE COURT: MARKED AND ADMITTED WITHOUT
11 OBJECTION.

12 (WHEREUPON, DEFENDANT'S EXHIBITS 24, 25 AND 26
13 WERE ADMITTED INTO EVIDENCE.)

14 MR. KELLY: AND COULD I ASK THE WITNESS TO STEP
15 DOWN?

16 THE COURT: SURE.

17 BY MR. KELLY:

18 Q COME DOWN, PLEASE SIR.

19 A (COMPLIED.)

20 Q LET'S SHOW THE -- THIS PORTION OF THE JURY THESE
21 PICTURES HERE; OKAY? STAND OVER HERE WITH ME. SHOW THEM
22 EDDIE.

23 A RIGHT THERE.

24 Q OKAY. AND SHOW THEM STEVE IN THERE.

25 A RIGHT THERE AND RIGHT THERE.

1 Q ABOUT HOW OLD WOULD EDDIE BE THERE?
2 A I DON'T KNOW EXACTLY YEAR TAKEN, 16, 17 YEARS OLD.
3 Q OKAY. HERE'S A NEWSPAPER ARTICLE. IT SHOWS ONE OF
4 THESE PICTURES IN IT; DOESN'T IT?
5 A YES, SIR.
6 Q OKAY. AND THIS IS -- WHAT'S THE DATE ON THIS
7 ARTICLE?
8 A MARCH 26TH, 1986.
9 Q ALL RIGHT. LET'S SHOW THE JURY DOWN HERE.
10 A HE WOULD BE A SENIOR THAT YEAR.
11 Q HE'D BE A SENIOR?
12 A YES, SIR.
13 Q COME DOWN HERE WITH ME, PLEASE.
14 A YES, SIR.
15 Q OKAY. LET'S SHOW THE -- THIS JURY DOWN HERE. AGAIN,
16 POINT OUT EDDIE FOR THEM IN HERE.
17 A RIGHT THERE AND RIGHT THERE.
18 Q OKAY. AND POINT STEVE OUT FOR THEM.
19 A RIGHT THERE AND RIGHT THERE.
20 Q NOW, THIS NEWSPAPER ARTICLE, IT ALSO SHOWS ONE OF
21 THESE PICTURES?
22 A SAME.
23 Q ALL RIGHT. LET'S SHOW THIS PORTION TO THE JURY, IF
24 YOU WOULD, PLEASE SIR.
25 A YES, SIR.

1 Q SHOW THEM WHERE--

2 A EDDIE, EDDIE AND STEVE AND STEVE.

3 Q OKAY. AND HERE.

4 A THAT SAME--

5 Q THIS IS THE SAME THING HERE; RIGHT? AND THERE'S A
6 TROPHY IN THERE; RIGHT?

7 A YES, SIR.

8 Q AND THIS LADY WHO IS IN THE PICTURE, DO YOU REMEMBER
9 HER NAME?

10 A THAT WOULD BE -- I'M NOT -- NO, SIR. NOT RIGHT OFF
11 THE TOP OF MY HEAD. I KNOW WHO SHE IS, BUT I CAN'T
12 THINK---

13 Q WOULD THAT BE MRS. WENZ?

14 A YES.

15 Q AND SHE WAS -- WAS SHE THE SPONSOR OF THE TEAM?

16 A I'M NOT REALLY -- I THINK SHE WAS A CAREER ALGEBRA
17 OR -- I'M NOT SURE WHAT SHE HAD -- AFFILIATION SHE HAD
18 WITH THE TEAM AT ALL, BUT MRS. WENZ WAS -- MY SON THOUGHT
19 VERY HIGHLY OF HER, I KNOW THAT, AND SHE WAS A STUDENT
20 COUNSELOR.

21 Q OKAY. IF YOU'D RETURN TO THE WITNESS STAND, PLEASE
22 SIR.

23 A (COMPLIED).

24 Q NOW MR. HOUSE, YOU KNEW STEVE I SUPPOSE FROM ABOUT
25 THE AGE -- HIS AGE OF 15 OR 16 UNTIL SOMETIME LATER IN HIS

1 LIFE; CORRECT?

2 A TILL '86 I KNEW HIM -- SPENT A LOT OF TIME AT MY

3 HOUSE, YES.

4 Q WHAT KIND OF YOUNG MAN WAS HE IN YOUR HOUSE?

5 A PERFECT GENTLEMAN.

6 Q AND DID YOU EVER SEE ANY SIGNS OF VIOLENCE IN HIM?

7 A NO, SIR.

8 Q DID YOU--

9 A JUST ROUGH-HOUSING LIKE A KID, BUT NOTHING I...

10 Q BUT DID -- WAS THERE ANYTHING ABOUT HIM THAT MADE YOU

11 THINK TO YOURSELF THIS IS A BAD BOY I'M LOOKING AT HERE?

12 A YES, SIR.

13 Q WHAT WAS THAT?

14 A PATHOLOGICAL LIAR.

15 Q WHEN DID THAT LYING START?

16 A FROM THE DAY I MET HIM TILL THE DAY THAT HE LEFT, I

17 DIDN'T KNOW HIM ANY LONGER.

18 Q YOU MEAN DURING THE TIME THAT THESE PICTURES WERE

19 TAKEN HERE?

20 A YES, SIR.

21 Q OKAY. AND HOW LONG -- TELL ME ABOUT THAT SO I -- SO

22 THE JURY WILL UNDERSTAND.

23 A WELL, HE NEVER -- HE NEVER WAS CONTENT TO BE JUST A

24 NORMAL PERSON. HE HAD TO ALWAYS BE BETTER THAN ANYBODY

25 ELSE, ANY OF HIS PEERS. HE ALWAYS LIED ABOUT HIS

1 EMPLOYMENT, ABOUT HOW MUCH MONEY HE WAS MAKING. HE LIED
2 TO ME ABOUT GOING TO THE AIR FORCE ACADEMY.

3 WHEN MY SON WENT TO THE WEST POINT, HE IMMEDIATELY
4 WAS ELECTED TO GO TO THE AIR FORCE ACADEMY, AND IT JUST --
5 HE -- HE'D NEVER BE CONTENT TO BE A REGULAR GUY. HE HAD
6 TO ALWAYS BE A LITTLE BIT BETTER THAN EVERYBODY ELSE.

7 Q EVEN AT THE AGE OF 15?

8 A YES, SIR.

9 Q I THINK YOU SAID EVEN FROM THE FIRST DAY THAT HE --
10 THAT YOU MET HIM?

11 A WELL, I CAN'T REMEMBER THE FIRST DAY, BUT I KNOW FROM
12 MY RECOLLECTION OF HIS COMING TO MY HOUSE HE WAS FOREVER
13 TELLING ME LITTLE FIBS THAT GREW INTO BIGGER FIBS AND
14 FINALLY INTO LIES.

15 Q DID YOU EVER TALK TO STEVE ABOUT THAT OR CONFRONT HIM
16 ABOUT THAT AS AN ELDER MAN?

17 A YEAH, BUT I CAN'T REPEAT WHAT I TOLD HIM.

18 Q WELL, WITHOUT REPEATING THE EXACT WORDS, TELL THE
19 JURY...

20 A BASICALLY TELL HIM HE WAS LYING IN SO MANY WORDS, BUT
21 NOT IN THOSE WORDS.

22 Q WHAT WOULD BE -- WHAT WOULD BE HIS RESPONSE?

23 A HE'D JUST BLOW IT OFF.

24 Q DID HE TRY TO GIVE YOU AN EXPLANATION?

25 A NO.

1 Q AND DID THIS -- WHY DID YOU LET HIM CONTINUE TO COME
2 TO YOUR HOUSE OR TO BE -- TO SEE YOUR SON?

3 A NOT OF THE LIES AFFECTED ME. I MEAN, HE LIED ABOUT
4 HIS LIFE OR ABOUT MY LIFE OR ABOUT MY SON'S, SO IT DIDN'T
5 AFFECT ME. HE COULD LIE ALL HE WANTED TO ABOUT WHAT HE
6 WAS DOING.

7 Q SO HE WAS -- EVEN AT THE AGE OF 15 HE WAS--

8 A I DON'T REMEMBER 15, NOW, BUT I'M TALKING ABOUT WHEN
9 HE WAS JUNIOR AND SENIOR IN HIGH SCHOOL, YES, AND SHORTLY
10 AFTER HIGH SCHOOL, YES.

11 Q AND YOU DIDN'T KNOW HIM EARLIER THAN THAT?

12 A YEAH, BUT -- AT THE SAME TIME I WAS WORKING AND, YOU
13 KNOW, I HAVE A JOB AND I HAVE A LIFE. I MEAN, MY -- MY
14 LIFE DIDN'T CIRCLE AROUND STEPHEN STANKO. BUT AT THE
15 TIMES THAT I MET HIM AFTER I RETIRED AND I GOT TO KNOW
16 HIM, THEN I REALIZED WHAT A LIAR HE REALLY WAS.

17 Q WHAT ABOUT WHEN HE OFFERED THE COMPUTER? DID YOU
18 THINK THAT, WELL, MAYBE I BETTER NOT MAKE THIS PURCHASE?

19 A NO. I HAD NO -- NO INDICATION THAT STEPHEN STOLEN
20 THE COMPUTER. IF HE HAD, I WOULD NEVER HAVE BOUGHT IT.

21 Q SO HE HAD -- YOU JUST -- HE HAD CONVINCED YOU THAT I
22 HAVE THIS COMPUTER AND YOU THOUGHT, THAT'S OKAY?

23 A WELL, HE TOLD ME A LOGICAL STORY. HE SAID THE
24 COMPANY IS FIXING TO UPGRADE THEIR COMPUTERS, WHICH I KNOW
25 COMPANIES DO FROM TIME TO TIME, THEY CHANGE THEIR

1 COMPUTERS.

2 AND HE ASKED ME TO WAIT A COUPLE OF DAYS AND HE'D SEE
3 WHAT THEY WERE GOING TO DO WITH THIS ONE, AND IF THEY WERE
4 GOING TO GET RID OF THEM, HE WOULD TRY TO GET ONE FOR ME.
5 SAID FINE.

6 Q CAN YOU GIVE ME ANY ESTIMATE OF HOW OLD YOUR SON
7 WOULD HAVE BEEN AT THE TIME THAT YOU BOUGHT THE COMPUTER
8 FROM STEVE?

9 A WHICH SON, THE ONE THAT--

10 Q EDDIE.

11 A EDDIE? ABOUT 25.

12 Q SO YOU HAD KNOWN STEVE AT THAT TIME OFF AND ON I'D
13 SAY FOR AS MUCH AS NINE YEARS?

14 A EIGHT OR NINE YEARS, MOSTLY.

15 Q AND DURING THAT TIME HE HAD TOLD YOU THINGS THAT YOU
16 CLEARLY SAW AS LIES?

17 A BACK IN '85 AND '86, YES. THEN IN '86 I HAD VERY
18 LITTLE CONTACT WITH HIM, IF ANY, BETWEEN '86 AND '93.
19 FROM '86 TO '93 I MIGHT HAVE SAW HIM ONCE OR TWICE IF I
20 EVEN SAW HIM AT ALL.

21 Q AND YOU BOUGHT THIS COMPUTER BECAUSE THE STORY HE
22 GAVE YOU WAS LOGICAL TO YOU?

23 A TO ME, YES.

24 Q AFTER YOU DID THAT, DID YOU EVER LOOK BACK AND SAY,
25 THIS IS NOT THE ONLY LOGICAL STORY THAT DIDN'T TURN OUT

1 RIGHT. DID YOU EVER DO THAT?

2 A WELL, NO, BUT I -- I KNEW IT WASN'T BECAUSE AT THE
3 TIME I KNEW THAT OUT OF HIGH SCHOOL, A MAN DOESN'T GET OUT
4 OF HIGH SCHOOL ONE DAY AND GO TO WORK THE NEXT DAY FOR AN
5 INSURANCE COMPANY MAKING \$60,000 A YEAR. I KNOW THAT.

6 Q THAT'S WHAT HE CLAIMED?

7 A THAT'S WHAT HE CLAIMED. I KNEW THAT WAS BOGUS. BUT
8 HE COULD TELL ME THAT IF HE WANTED TO. IT DOESN'T BOTHER
9 ME.

10 Q AND I THINK YOU SAID EARLIER -- AND I WANT TO GET THE
11 CHARACTER OF HIS LIES OUT. YOU SAID WAS HE MAKING HIMSELF
12 EXAGGERATED. IS THAT WHAT THEY WERE MAINLY ABOUT OR WERE
13 THEY ABOUT THAT OR...

14 A HE WAS EXAGGERATING WHAT HE WAS DOING, YES.

15 Q WAS THAT THE MAIN VEIN OF WHAT WAS GOING ON?

16 A RIGHT. IT NEVER HARMED -- HIS LIES NEVER HARMED
17 ANYONE, THEY JUST MORE OR LESS BUILT HIMSELF UP.

18 Q THANK YOU, SIR, AND THANK YOU FOR SPEAKING WITH ME.

19 A YES, SIR.

20 THE COURT: ANY REDIRECT OF THE WITNESS?

21 MR. HUMPHRIES: NO, YOUR HONOR.

22 THE COURT: ANY OBJECTION TO THE WITNESS BEING
23 EXCUSED FROM THE STATE?

24 MR. HUMPHRIES: NONE FROM THE STATE.

25 THE COURT: FROM THE DEFENSE?

1 MR. KELLY: NONE, MA'AM.

2 THE COURT: SIR, YOU'RE EXCUSED.

3 THE WITNESS: THANK YOU, MA'AM. I CAN LEAVE
4 NOW?

5 THE COURT: YES, SIR.

6 THE WITNESS: THANK YOU VERY MUCH.

7 THE COURT: YOU'RE WELCOME. YOU MAY CALL YOUR
8 NEXT WITNESS.

9 (WHEREUPON THE WITNESS LEFT THE STAND.)

10 MR. HUMPHRIES: THE STATE CALLS ELIZABETH
11 BUCKNER TO THE STAND.

12 JANE ELIZABETH BUCKNER,
13 AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

14 THE WITNESS: JANE ELIZABETH BUCKNER.

15 THE COURT: YOU MAY PROCEED.

16 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

17 DIRECT EXAMINATION

18 BY MR. HUMPHRIES:

19 Q MRS. BUCKNER, IN WHAT AREA DO YOU NOW LIVE?

20 A GOOSE CREEK, SOUTH CAROLINA.

21 Q AND HOW ARE YOU EMPLOYED?

22 A I'M SORRY?

23 Q HOW ARE YOU EMPLOYED?

24 A I AM EMPLOYED IN RADIO COMMUNICATIONS.

25 Q HOW LONG HAVE YOU BEEN EMPLOYED IN THAT AREA?

1 A FOR NEARLY 14 YEARS.

2 Q OKAY. YOU ARE MARRIED NOW?

3 A YES, I AM.

4 Q WHAT WAS YOUR MAIDEN NAME?

5 A MCLENDON.

6 Q LET ME ASK YOU. DO YOU KNOW THE DEFENDANT, STEPHEN
7 CHRISTOPHER STANKO?

8 A YES, I DO.

9 Q TELL THE JURY, IF YOU WILL, THE FIRST TIME YOU MET
10 DEFENDANT STANKO AND UNDER WHAT CIRCUMSTANCES.

11 A I WAS EMPLOYED WITH TELECO OF CHARLESTON IN THE
12 RETAIL STORE MANAGEMENT POSITION AND MR. STANKO WAS A NEW
13 SALES REP THAT WAS HIRED I THINK A DAY OR TWO PRIOR TO MY
14 MEETING HIM AND HE WAS INTRODUCED TO ME BY HIS SALES
15 MANAGER.

16 THE COURT: MR. HUMPHRIES, COULD YOU LOWER THAT
17 MICROPHONE? I'M HAVING DIFFICULTY HEARING AND THE
18 JURY IS AS WELL.

19 BY MR. HUMPHRIES:

20 Q IF YOU COULD PULL THAT CHAIR UP, IF YOU COULD, A
21 LITTLE CLOSER.

22 THE COURT: THANK YOU.

23 BY MR. HUMPHRIES:

24 Q WHAT TYPE OF BUSINESS IS TELECO?

25 A IT IS A BUSINESS--

1 Q OKAY.

2 MR. HUMPHRIES: I DON'T THINK THAT MICROPHONE IS
3 ON.

4 THE COURT: I DON'T THINK IT IS EITHER. IT WAS
5 EARLIER.

6 (WHEREUPON THERE WAS A PAUSE).

7 THE COURT: MADAM FORELADY, LADIES AND
8 GENTLEMEN, WE ARE HAVING A PROBLEM WITH THE
9 MICROPHONE. WE'RE GOING TO HAVE TO TROUBLESHOOT TO
10 TRY TO GET IT WORKING. I HOPE IT WILL ONLY TAKE FIVE
11 OR 10 MINUTES.

12 DURING THE BREAK PLEASE DO NOT DISCUSS THE CASE.
13 PLEASE LEAVE YOUR NOTEPADS IN YOUR SEATS. AND LET
14 THE BAILIFFS KNOW IF YOU NEED ANYTHING. WE WILL TRY
15 TO GET THIS DONE AS QUICKLY AS POSSIBLE.

16 (JURY LEFT THE COURTROOM AT 10:43 AM.)

17 THE COURT: MRS. BUCKNER, YOU MAY STEP DOWN, BUT
18 PLEASE DON'T DISCUSS YOUR TESTIMONY WITH ANYBODY. WE
19 ARE GOING TO TRY TO GET THIS WORKED OUT.

20 (WHEREUPON THE WITNESS LEFT THE STAND.)

21 (WHEREUPON A RECESS WAS HAD.)

22 THE COURT: ALL RIGHT. APPARENTLY TRAINING THE
23 SYSTEM AND WE SHOULD HAVE IT ALL STRAIGHT NOW.

24 MR. HUMPHRIES: WE HAVE GONE TO GET THE WITNESS.

25 THE COURT: WONDERFUL. OH, WE NEED MR. STANKO

1 ALSO.

2 (DEFENDANT ENTERED THE COURTROOM.)

3 THE COURT: OKAY. HAVE THE WITNESS ALSO?

4 (WHEREUPON THERE WAS A PAUSE.)

5 THE COURT: MRS. BUCKNER, IF YOU WOULD RE-TAKE
6 THE STAND. I WOULD REMIND YOU YOU ARE STILL UNDER
7 OATH AND I THINK WE HAVE GOT ALL OF OUR TECHNICAL
8 BUGS WORKED OUT.

9 THE WITNESS: THANK YOU.

10 THE COURT: YOU'RE WELCOME. IF YOU WOULD BRING
11 IN THE JURY.

12 (JURY ENTERED THE COURTROOM AT 11:29 AM.)

13 THE COURT: YOU MAY BE SEATED. LADIES AND
14 GENTLEMEN, WE APPRECIATE YOUR PATIENCE. WE HAVE
15 DETERMINED THAT THERE WAS A SHORT SOMEWHERE IN THE
16 SYSTEM, AND BELIEVE IT OR NOT WE HAD ABOUT 10 FOLK
17 OUT HERE WORKING ON IT AND THEY WERE ABLE TO TRACE
18 THE ROOT OF THE PROBLEM AND THEY TELL US IT IS NOW
19 RENDERED.

20 SO WE APPRECIATE YOUR PATIENCE. WE WILL NOW
21 RESUME WITH THE TESTIMONY OF THE WITNESS. MR.
22 HUMPHRIES, YOU MAY PROCEED.

23 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

24 THE COURT: YOU'RE WELCOME.

25 BY MR. HUMPHRIES:

1 Q LET'S -- WE HADN'T GOTTEN ALL THAT FAR IN YOUR
2 TESTIMONY, SO LET'S -- LET'S TAKE YOU BACK TO WHEN YOU
3 WERE WORKING AT TELECO. AND AGAIN, YOUR POSITION WITH
4 TELECO AT THAT TIME WHEN YOU FIRST MET DEFENDANT STANKO
5 WAS WHAT?

6 A RETAIL SALES MANAGER.

7 Q OKAY. AND THE DEFENDANT'S POSITION WAS WHAT?

8 A OUTSIDE SALES REP.

9 Q DID A RELATIONSHIP BEGIN BETWEEN THE TWO OF YOU WHILE
10 THERE?

11 A YES, IT DID.

12 Q AND TELL THE JURY VERY BRIEFLY HOW IT DEVELOPED.

13 A STEPHEN STANKO WAS TRYING TO ASSIST MY DEPARTMENT
14 WITH TRAINING AND SALES EFFORTS, AND IN DOING SO WE FOUND
15 THAT WE HAD SOME VERY SIMILAR INTERESTS AND HAD SOME
16 TRAINING UNDER THE SAME GUIDELINES, AND OF COURSE, HE WAS
17 APPROACHED TO ME BY MY MANAGER, ONE OF MY MANAGERS, IN
18 THAT HE COULD ASSIST US IN THAT AREA AND TO USE THAT
19 EXPERTISE TO HELP GROW THAT MARKET.

20 SO THAT'S HOW THIS BECAME A FREQUENT VISITATION
21 BETWEEN STEPHEN AND MYSELF.

22 Q AND TO WHAT POINT DID IT PROGRESS WHILE AT TELECO?

23 A THERE WAS A COMPANY EVENT, A PICNIC OF SOME SORT, I
24 BELIEVE, THAT I CAN RECALL, AND HE ASKED IF I WOULD GO
25 WITH HIM, AND I SAID YES. AND FROM THAT POINT ON WE

1 BECAME MORE INVOLVED.

2 Q DID HE CONTINUE TO WORK AT TELECO?

3 A NO, HE DID NOT.

4 Q DO YOU RECALL THE REASON FOR HIS LEAVING TELECO?

5 A TO THE BEST OF MY RECOLLECTION IT WAS DUE TO
6 FRAUDULENT ACTIVITY.

7 Q DID YOU REMAIN WITH TELECO AFTER HE LEFT?

8 A YES, I DID.

9 Q OKAY. DID YOUR RELATIONSHIP CONTINUE EVEN THOUGH HE
10 LEFT THAT COMPANY?

11 A YES, IT DID.

12 Q THAT WAS ABOUT WHAT TIME?

13 A THAT WAS LATE FALL OF '92.

14 Q OKAY. NOW, DID YOU CONTINUE TO WORK AT TELECO?

15 A YES.

16 Q OKAY. DID YOU SUBSEQUENTLY LEAVE TELECO AND GO TO
17 ANOTHER COMPANY?

18 A YES, I DID.

19 Q OKAY. WAS YOUR RELATIONSHIP AT THAT POINT STILL
20 CONTINUING WITH THE DEFENDANT?

21 A YES.

22 Q WERE THERE ANY DIFFICULTIES IN CONNECTION WITH YOUR
23 EMPLOYMENT AND THE DEFENDANT AT THIS NEW JOB?

24 A AT THE NEW JOB?

25 Q UH-HUH.

1 A NOT RIGHT AWAY. EVENTUALLY IT BECAME A PROBLEM.

2 Q IN WHAT WAY?

3 A I WOULD SAY IT WAS ABOUT A YEAR OR MORE AFTER THAT I
4 WAS APPROACHED BY MY CURRENT MANAGER THAT STEPHEN HAD
5 CALLED MY EMPLOYER AND SAID THAT MY JOB WAS COMING IN
6 BETWEEN US IN THAT I WORKED TOO MUCH.

7 Q HAD YOU EXPRESSED THOSE CONCERNS TO YOUR MANAGER?

8 A WE DISCUSSED IT, YES.

9 Q WELL, LET ME ASK YOU. DID YOU EVER BRING THAT TO THE
10 MANAGER'S ATTENTION THAT YOUR JOB WAS COMING IN BETWEEN
11 YOU AND DEFENDANT STANKO?

12 A DID I?

13 Q RIGHT.

14 A NO.

15 Q OKAY. LET ME ASK YOU, LET'S -- WELL, LET ME ASK IT
16 THIS WAY. WAS THERE EVER AN OCCASION WHEN YOU AND
17 DEFENDANT STANKO LIVED IN THE SAME HOME?

18 A OH, YES.

19 Q OKAY. AND ABOUT WHEN DID THAT OCCUR?

20 A THAT OCCURRED I WOULD SAY LATE '92 EARLY '93.

21 Q OKAY. FROM THAT POINT ON DID YOU REMAIN TOGETHER
22 UNTIL THE END OF YOUR RELATIONSHIP?

23 A NO.

24 Q ALL RIGHT. JUST TELL THE JURY JUST A LITTLE BIT
25 ABOUT HOW THAT DEVELOPED.

1 A STEPHEN AND I -- HE MOVED INTO AN APARTMENT THAT I
2 WAS LEASING AND WE ULTIMATELY MOVED INTO A SECOND
3 APARTMENT IN THE SAME COMPLEX. AND FROM THAT POINT WE
4 MOVED TO GOOSE CREEK AND RENTED A HOME IN GOOSE CREEK
5 TOGETHER. AND WE LIVED THERE FROM '93 -- ABOUT AUGUST OF
6 '93 UNTIL JUNE OF '95. OFF AND ON STEPHEN WAS THERE.

7 AND WE HAD SOME MISHAPS IN THE RELATIONSHIP THAT
8 CREATED A PROBLEM FOR THE ENVIRONMENT THAT WE WERE LIVING
9 IN. AND HE LEFT, I ASKED HIM TO LEAVE. ULTIMATELY WE DID
10 GET BACK TOGETHER ON TWO OR MORE OCCASIONS AT THAT POINT.

11 Q WELL, LET'S DO THIS. LET'S TELL THE JURY JUST A BIT
12 ABOUT THE MISHAPS.

13 A THOSE WERE DUE TO STEPHEN'S CON JOBS, IF YOU WILL.
14 HE WAS INVOLVED IN ALL KINDS OF SCRUTINY WITH HIS
15 EMPLOYERS. HE NEVER KEPT A JOB ALTHOUGH HE GOT READY
16 EVERY DAY LIKE HE WAS GOING TO A JOB, AND THAT BECAME A
17 PROBLEM.

18 Q PROBLEM FOR WHOM?

19 A FOR ME.

20 Q OKAY.

21 A AND I CONFRONTED HIM ON THAT. ON NUMEROUS OCCASIONS
22 WE HAD CONFRONTATIONS BECAUSE I FELT THAT HE WAS LYING TO
23 ME ABOUT EVERYTHING. AND IN CONFRONTING HIM, HE WOULD GET
24 ANGRY, WE WOULD HAVE SPATS, SOMETIMES PHYSICAL, AND EITHER
25 ONE OF US WOULD HAVE TO LEAVE.

1 AT ONE POINT I CALLED THE POLICE AND ASKED THAT THEY
2 WOULD HAVE HIM REMOVED, AND ULTIMATELY I WAS ASKED TO
3 LEAVE BECAUSE HE SAID HE HAD NO OTHER PLACE TO GO AND I
4 DID, SO I LEFT THE HOME.

5 AND I'M NOT SURE WHAT KIND OF TIMEFRAME, MAYBE TWO TO
6 THREE DAYS I WENT BACK TO THE HOUSE. AND I HAD SPOKEN
7 WITH STEPHEN AND HE APOLOGIZED, BUT HE SAID HE WAS GOING
8 TO LEAVE.

9 AND ULTIMATELY SOME THINGS WERE MISSING FROM THE
10 HOME. HE HAD -- DID LEAVE, AND I -- I WOULD SAY MAYBE A
11 MATTER OF A FEW MONTHS HE WAS ON MY DOORSTEP AGAIN AND I
12 ALLOWED HIM TO COME BACK IN. THIS WENT ON FOR I WOULD SAY
13 TWO TO THREE MONTHS AT THIS POINT WHICH...

14 Q WHERE DOES THAT BRING US TO IN TERMS OF TIME?

15 A WE'RE IN '95.

16 Q OKAY.

17 A AND THIS WAS -- I WOULD SAY MAY OF '95 I HAD PUT A
18 CONTRACT ON A HOUSE TO BUY. AND THE RELATIONSHIP WAS
19 STILL VERY FRAGILE AND HE WAS NOT WORKING AT THIS
20 PARTICULAR TIME, BUT I WAS UNDER THE IMPRESSION THAT HE
21 WAS WORKING.

22 Q WHERE DID YOU THINK HE WAS WORKING?

23 A FOR A CHEMICAL COMPANY.

24 Q A CHEMICAL COMPANY?

25 A UH-HUH.

1 Q OKAY.

2 A AND LIKE I SAID, HE WOULD GET READY AND LEAVE THE
3 HOUSE, MY THINKING THAT HE WAS WORKING, BUT FOUND OUT
4 LATER THAT HE WAS NOT WORKING. WE HAD ANOTHER ALTERCATION
5 IN THE HOME AND IT LED TO SOME PHYSICAL...

6 Q TELL ME ABOUT THAT.

7 A I TOLD HIM THAT HE WAS LYING AND I WAS VERY VOCAL
8 ABOUT IT, VERY FORCEFUL, BECAUSE I WANTED THE TRUTH AND I
9 WANTED THE FACTS OF WHAT I WAS DEALING WITH BECAUSE I HAD
10 TRIED TO HELP STEPHEN ON NUMEROUS OCCASIONS. AND I WAS
11 ALWAYS WILLING TO HELP, EVEN THOUGH I DON'T THINK THAT'S
12 WHAT I NEEDED TO DO LOOKING BACK.

13 BUT STEPHEN WAS VERY ANGRY WITH ME BECAUSE I DOUBTED
14 HIM. AND HE BECAME SOMEWHAT VIOLENT WITH ME AND HE PUSHED
15 ME. I PUSHED HIM BACK. WE STRUGGLED. ULTIMATELY WE
16 MOVED FROM THAT PARTICULAR ROOM INTO ANOTHER ROOM OF THE
17 HOUSE WHICH HE TOOK ME UP OFF THE GROUND BY MY NECK AND
18 WAS HOLDING ME OFF THE FLOOR WITH HIS HANDS AND WE WERE
19 STRUGGLING WITH ONE ANOTHER.

20 AND AT THAT POINT I WAS KICKING AND TRYING TO GET
21 AWAY FROM HIM. AND I'M NOT REAL SURE HOW EXACTLY I DID
22 GET AWAY FROM HIM, BUT I WAS ABLE TO DO SO, AND I FLED THE
23 HOME AT THAT PARTICULAR TIME AND HE ULTIMATELY LEFT THE
24 HOME AND I HAD MY LOCKS CHANGED.

25 I WAS ONLY THERE FOR A BRIEF TIME BECAUSE I MOVED SO

1 THAT I COULD MOVE IN MY NEW HOME. AND THAT WAS MAY, EARLY
2 JUNE OF '95.

3 Q DID YOU HEAR ANY MORE FROM HIM?

4 A I HEARD FROM HIM PERIODICALLY. I FOUND OUT THAT HE
5 HAD LEFT GOOSE CREEK AND HE WAS IN ATLANTA.

6 Q OKAY.

7 A HE CALLED OCCASIONALLY. WE SPOKE. THERE WAS REALLY
8 NO ARGUMENTS GOING ON AT THAT POINT.

9 Q HAD YOU FORGIVEN HIM?

10 A ALWAYS. AND SO HE -- HE WAS THERE AND I HAD NO IDEA
11 WHAT WAS REALLY GOING ON IN HIS LIFE THERE. HOWEVER, HE
12 WAS CALLING ME, LEAVING A VOICEMAIL HERE AND THERE, AND
13 SOMETIMES I WOULD RESPOND AND ANSWER HIS CALL, SOMETIMES I
14 WOULD NOT.

15 I REALLY THOUGHT THAT HE WAS JUST OUT OF MY LIFE AND
16 SOMEHOW IT WOULD JUST GET BACK TO A PEACEFUL ENVIRONMENT
17 FOR BOTH OF US.

18 ONE DAY, IT HAPPENED TO BE MY BIRTHDAY, SEPTEMBER OF
19 '95, I WAS GETTING READY TO GO TO MY PARENT'S HOUSE AND MY
20 PHONE RANG AND THE VOICE ON THE OTHER END SAID, STEPHEN
21 STANKO'S FIANCEE, AND OF COURSE, I WAS TAKEN ABACK AND I
22 DIDN'T REALIZE FOR SURE IF SHE WAS ASKING ME IF I WAS OR
23 IF SHE WAS STATING THAT SHE WAS, SO CURIOSITY, I SAID,
24 YES, AND SHE PROCEEDED TO TELL ME THAT SHE WAS INDEED
25 STEPHEN STANKO'S FIANCEE AND THAT HE HAD BEEN TELLING HER

1 THAT I WAS HARASSING HIM.

2 AND SO IN THE COURSE OF THAT BRIEF CONVERSATION I
3 INFORMED HER THAT HE INDEED WAS CALLING ME AND THAT I
4 HOPED THAT SHE WOULD REALLY TAKE A LOOK AT WHAT SHE WAS
5 GETTING INTO BECAUSE HE WAS GOING TO TAKE HER FOR A RIDE.

6 AND HE WAS THERE. I DID NOT KNOW THIS AT THE TIME.
7 BUT SUDDENLY I HEARD HIS VOICE ON THE OTHER END OF THE
8 PHONE AND HE IS YELLING AND GOT ON THE PHONE WITH ME AND
9 SAID, TELL HER THE TRUTH, I LOVE THIS WOMAN, AND JUST WENT
10 FROM THERE. AND I SAID, LISTEN, I DON'T WANT TO BE
11 INVOLVED IN THIS, LEAVE ME ALONE, YOU TWO SETTLE IT.

12 WELL, THIS WAS LATE IN THE AFTERNOON AND WE DID GET
13 OFF THE PHONE. SHORTLY THEREAFTER, MAYBE A FEW DAYS, I
14 WAS CONTACTED AGAIN BY STEPHEN AND HE WAS IN A PANIC. HE
15 HAD NOWHERE TO GO.

16 AND THEY HAD HAD AN ALTERCATION AFTER THE DISCUSSION
17 ON THE PHONE AND THAT SHE WAS THROWING HIM OUT, AND HE
18 WANTED TO COME BACK HOME, HOME BEING GOOSE CREEK. AND OF
19 COURSE, I FELL FOR THAT THINKING I WAS GOING TO HELP HIM.
20 AND SO I SAID, YOU KNOW, COME BACK, WE'LL SEE WHAT WE CAN
21 DO, GET YOU SOME HELP.

22 AND HE HAD SOME PENDING PROBLEMS IN BERKELEY COUNTY
23 AT THAT POINT THAT HE HAD RUN FROM. I DID NOT REALIZE ALL
24 OF THAT AT THE TIME, BUT AT THIS POINT IT WAS BECOMING
25 OBVIOUS.

1 AND SO I DIDN'T HEAR FROM HIM. HE WAS SUPPOSED TO BE
2 COMING BACK THIS WAY. AND HIS SISTER AND MOTHER WERE
3 GOING TO TAKE HIM TO BERKELEY COUNTY. AND A COUPLE OF
4 DAYS SEEMED TO HAVE PASSED AND THE LADY IN ATLANTA WAS
5 TRYING TO REACH ME, AND AT THAT POINT I DIDN'T WANT TO
6 TALK TO HER BECAUSE MY MODE THEN WAS TO HELP STEPHEN.

7 AND FINALLY MY PARENTS CONVINCED ME TO CALL HER AND
8 TALK TO HER BECAUSE UNBENOUNCED TO ME AT THIS PARTICULAR
9 TIME I HAD KNOWN HER WHEN I WAS A YOUNG CHILD GROWING UP.
10 WE WERE FRIENDS. SO I DID CALL HER AND SHE PROCEEDED TO
11 TELL ME SOME THINGS THAT WERE GOING ON IN THAT
12 RELATIONSHIP.

13 Q LET'S DO THIS. INSTEAD OF -- LET'S NOT GO INTO WHAT
14 SHE TOLD YOU ABOUT WHAT WAS GOING ON IN THE RELATIONSHIP.
15 WHAT -- WAS THERE AN OCCASION THEN WHEN STEPHEN STANKO
16 ARRIVED AT YOUR HOUSE?

17 A YES. A COUPLE OF DAYS LATER HE DID ARRIVE AT MY
18 HOUSE, AND IT WAS LATE IN THE EVENING. AND HE CAME IN,
19 AND WE TALKED. AND HE SAID THAT HE WOULD STAY THERE AND
20 HE WOULD LEAVE THE NEXT DAY, THAT HIS MOTHER AND SISTER
21 WERE COMING TO PICK HIM UP.

22 WELL, WHAT ULTIMATELY HAPPENED IS HE DID STAY THERE
23 AND THEY DID PICK HIM UP AND HE WAS IN JAIL FOR I THINK 30
24 TO 60 DAYS. THE TIME KIND OF ESCAPES ME. I'M NOT REAL
25 SURE. BUT HE WAS IN JAIL FOR SOME TIME AT THAT POINT.

1 MEANWHILE, TO REFLECT BACK, I HAD HELPED HIM ACQUIRE
2 ATTORNEYS IN THE PAST. I HAD DONE MY BEST TO WORK WITH
3 HIM THROUGH THAT EVEN THOUGH AT THIS DAY I DIDN'T TRUST
4 HIM AT ALL. AND SO HE ASKED IF I WOULD HELP HIM IN THAT
5 SITUATION, AND I SAID, YES, I WOULD.

6 Q WHAT DID YOU DO?

7 A I HELPED HIM TO FIND AN ATTORNEY AND I HELPED HIM
8 SEEK COUNSEL.

9 Q WHO PAID FOR THE ATTORNEY?

10 A I DID. AND SO AT THIS PARTICULAR TIME IN STEPHEN'S
11 LIFE HE HAD NO TRANSPORTATION. HIS PARENTS HAD TAKEN THE
12 CAR FROM HIM, SO I WAS HIS SOLE CONFIDANTE, IF YOU WILL.
13 EVERYTHING CAME THROUGH ME.

14 HE HAD ME DRIVE HIM ON TO INTERVIEWS, HAD ME TAKE HIM
15 DOWNTOWN TO SEE THE THERAPIST. AND WE DID THAT FOR SOME
16 TIME. AND I WAS BECOMING VERY UPSET WITH STEPHEN AGAIN
17 BECAUSE I FELT LIKE I WASN'T GETTING THE WHOLE TRUTH, THAT
18 SOME THINGS WERE BEGINNING TO TAKE PLACE THAT I DID NOT
19 LIKE. I SAW SIGNS AND--

20 Q HAD YOU SEEN THEM BEFORE?

21 A YES, I HAD. AND I CONFRONTED HIM ON THAT. AND HE
22 PASSED IT OFF AS, I'VE GOT TO TRUST HIM, THAT HE WAS NOT
23 DOING ANYTHING WRONG, AND JUST BELIEVE IN HIM BECAUSE HE
24 WAS TURNING THINGS AROUND.

25 SO I TRIED TO GIVE HIM THE BENEFIT OF THE DOUBT. AND

1 I SHOULDN'T HAVE, BUT I BELIEVED IN HIM AT THIS PARTICULAR
2 TIME.

3 MEANWHILE, WE HAD BEFRIENDED MY NEIGHBORS AND HE
4 BEGAN CONNING MY NEIGHBORS, TRYING TO PUT TOGETHER A USED
5 CAR LOT BECAUSE AT THIS PARTICULAR TIME HE WAS EMPLOYED BY
6 A CAR DEALER IN CHARLESTON, SUMMERVILLE.

7 AND THEY DIDN'T WANT ME TO KNOW BECAUSE HE WAS GOING
8 TO SURPRISE ME WITH THIS BIG SUCCESSFUL BUSINESS. AND HE
9 SAID THAT TO THEM -- THAT I FOUND OUT LATER THAT IT WAS
10 FOR US.

11 AT THIS PARTICULAR TIME I BECAME VERY WEARY OF WHAT I
12 SAW, NOT THAT THERE WAS ANY PROOF AT THIS PARTICULAR
13 MOMENT, BUT I SUSPECTED SOMETHING WAS GOING ON.

14 AND I HAD HAD AN ACCIDENT IN MY CAR. HE PROCEEDED TO
15 TELL ME THAT HE COULD FIX THE CAR AND HE COULD TAKE IT IN
16 AND SOME OF THE GUYS WOULD GET IT FIXED AND IT WOULDN'T
17 COST ME MUCH MONEY.

18 AND IN THE PAST I HAD BEEN DEFRAUDED BY STEPHEN ON
19 NUMEROUS OCCASIONS FOR MONEY TO BUY JEWELRY THAT HE SAID
20 WAS ULTIMATELY GOING TO BE PAID BACK TO ME. CHECKS WERE
21 STOLEN OUT OF MY CHECKBOOK. I CONFRONTED HIM ON IT. NO,
22 IT WASN'T ME, ONLY TO FIND OUT MONTHS LATER THAT, YES, IT
23 WAS HIM AND PEOPLE WERE CALLING ME TO COLLECT ON THAT.

24 SO OF COURSE, I WAS VERY LEARY IN MONETARILY
25 CONTRIBUTING TO HIM AT THIS POINT. ONE EVENING I HAD COME

1 HOME AND I JUST HAD A SENSE THAT SOMETHING WAS TERRIBLY
2 WRONG, AND I CONFRONTED STEPHEN.

3 AND WE GOT INTO AN ARGUMENT AND I SAID I WANT MY CAR
4 BACK BECAUSE MY JOB REQUIRED ME TO TRAVEL, AND I AT THIS
5 POINT WAS DRIVING WHAT I THOUGHT TO BE A DEMO FROM THE
6 DEALERSHIP.

7 Q DEMO FROM THE DEALERSHIP?

8 A YES. IT WAS NOT A DEMO. IT WAS A STOLEN VEHICLE.
9 AND HE HAD ME DRIVING THAT FOR MY JOB WHICH WAS OUT OF
10 TOWN FOR A LOT OF THE TIME.

11 Q THIS IS A VEHICLE HE PROVIDED YOU?

12 A YES. HE SAID IT WAS A DEMO, IT WAS HIS, AND BECAUSE
13 OUR RELATIONSHIP, IT WAS OKAY THAT I DRIVE IT. AND I HAD
14 MET HIS EMPLOYERS. AT ONE POINT THEY SEEMED TO HAVE A
15 VERY GOOD RELATIONSHIP, SO I KIND OF TRUSTED THAT, OKAY,
16 THIS IS FINE.

17 BUT IT CAME A POINT WHERE IT WAS GOING ON SO LONG AND
18 I WANTED TO KNOW WHERE MY VEHICLE WAS. SO HE WAS VERY
19 AGITATED THAT I WOULD QUESTION HIM ABOUT THAT. AND I
20 THINK IT MAY HAVE BEEN A FEW DAYS LATER I WAS STAYING VERY
21 AGGRESSIVE WITH GETTING MY CAR BACK, EVERY DAY WANTING TO
22 KNOW WHERE MY CAR WAS, EVEN CALLING THE CAR LOT TO TALK
23 WITH HIM ABOUT MY CAR.

24 I CAME HOME ONE EVENING AND THERE WAS MY CAR AND IT
25 WAS FIXED. AND I THANKED HIM. AND I THOUGHT, WELL,

1 THINGS ARE OKAY THEN. I REALLY FELT A LITTLE BETTER. I
2 THINK THIS MAY HAVE BEEN ON A THURSDAY.

3 AND HE SEEMED TO HAVE BEEN STAYING HOME OR NOT BEING
4 AT HIS JOB AS MUCH AS I THOUGHT HE SHOULD HAVE BEEN BEING
5 THAT HE WAS A SALESMAN. THE MORE THAT YOU WORK, THE MORE
6 OPPORTUNITY YOU HAVE TO SELL.

7 Q SURE.

8 A SO VERY CURIOUS I CALLED THE CAR LOT AND I ASKED FOR
9 HIM AND I WAS TOLD THAT HE WASN'T IN AND THEY REALLY
10 DIDN'T KNOW WHEN HE WOULD BE IN BUT THEY WOULD CERTAINLY
11 GET THE MESSAGE TO HIM THAT I CALLED. SO I THOUGHT, OKAY,
12 WELL MAYBE HE IS STILL EMPLOYED, MAYBE ALL THAT'S JUST,
13 YOU KNOW, THE PAST.

14 THAT NEXT DAY -- OVER THE WEEKEND I TAKE MY CAR TO
15 THE GROCERY STORE TO BUY GROCERIES AND STEPHEN WAS AT THE
16 HOUSE. AND WHEN I CAME OUT OF THE GROCERY STORE AND I
17 OPENED THE TRUNK, THERE WAS A LITTLE OFFICE SET UP IN MY
18 TRUNK. EVERYTHING YOU COULD IMAGINE THAT ONE WOULD NEED
19 FOR AN OFFICE WAS THERE.

20 AND I BECAME VERY AGITATED AT THAT POINT. I WAS
21 FURIOUS AND I KNEW I HAD BEEN LIED TO AND I HAD BEEN
22 CONNED ALL OVER AGAIN, AND I WAS ANGRY.

23 SO I DROVE BACK TO THE HOUSE. AND WHEN I PULLED UP
24 INTO THE DRIVEWAY, STEPHEN WAS IN THE YARD NEXT DOOR WITH
25 OUR NEIGHBORS. AND I JUST GAVE HIM A TERRIBLE LOOK AND I

1 GOT OUT OF MY CAR AND HE COMES RUNNING OVER TO HELP,
2 BECAUSE HE WAS VERY HELPFUL FOR THE MOST PART.

3 THERE'S A SENSE OF STEPHEN THAT HE WOULD DO JUST
4 ABOUT ANYTHING TO MAKE YOU FEEL THAT HE WAS JUST A
5 WONDERFUL GUY. SO I THOUGHT, OKAY, HERE COMES THE BIG
6 ACT, HE'S GOING TO -- HE KNOWS NOW THAT I HAVE SEEN
7 SOMETHING, SO HE'S GOING TO PERSUADE ME WHY WHAT I SAW IS
8 NOT REALLY WHAT I SAW, AND THAT'S EXACTLY WHAT HE
9 ATTEMPTED TO DO.

10 AND I WAS ANGRY AND I WAS VERY VERBALLY ABUSIVE TO
11 HIM ABOUT THAT. AND I SAID, WE WILL GO INSIDE AND I NEED
12 TO TALK TO YOU ABOUT THIS, AND WE DID. AND HE'S CALMING
13 ME DOWN.

14 I DIDN'T BELIEVE A WORD HE SAID AT THIS POINT. AND I
15 KNEW SOMETHING REALLY BAD WAS ABOUT TO HAPPEN BECAUSE I
16 HAD SEEN IT TOO MANY TIMES. TRIED TO CONVINCE ME DURING
17 THE EVENING, JUST SEE, YOU'LL SEE, YOU'LL SEE AND YOU'LL
18 WISH THAT YOU HAD BELIEVED ME. WHEN I'M GONE, YOU'RE
19 GOING TO WISH THAT YOU HAD BELIEVED ME.

20 AND AT THIS POINT I'M THINKING, I WISH YOU WERE GONE
21 NOW BECAUSE IT'S JUST GOING TO ELEVATE, IT'S GOING TO
22 ESCALATE INTO A HUGE PROBLEM FOR BOTH OF US, AND I SAID
23 THAT TO HIM. AND HE KIND OF WENT HIS OWN WAY AND WENT
24 BACK TO SPEAK TO MY NEIGHBORS.

25 WELL, ULTIMATELY I WENT TO WORK THE NEXT DAY. HE WAS

1 SUPPOSEDLY WAITING ON HIS BOSS TO CALL HIM THAT MONDAY SO
2 HE COULD GO BACK TO WORK. AGAIN I CALLED THE CAR
3 DEALERSHIP AND I ASKED FOR HIM, AND I GOT A VERY WEARY
4 SENSE THAT SOMETHING WAS NOT RIGHT BECAUSE OF -- THE
5 RESPONSE WAS, NO, HE'S NOT GOING TO BE IN TODAY, BUT IF I
6 SEE HIM, AGAIN, I'LL GIVE HIM YOUR MESSAGE.

7 AND I ASKED FOR ONE OF THE OWNERS. WAS NOT AVAILABLE
8 AT THAT TIME. I SAID OKAY. WELL, IN THE MEANWHILE I
9 START DIALING STEPHEN TRYING TO FIND HIM TO LEARN THAT HE
10 WAS AT THE NEIGHBOR'S PLACE OF BUSINESS.

11 AND THIS IS WHEN SOME OF THE INFORMATION BECAME
12 APPARENT TO ME THAT HE WAS TRYING TO START A BUSINESS, AND
13 I REALLY DIDN'T WANT YOU TO KNOW THIS, I WAS GOING TO TRY
14 TO DO THIS AS A SURPRISE FOR YOU. AND I SAID, THAT'S NOT
15 HOW YOU SHOULD DO IT. I DON'T BELIEVE YOU. AND ONE THING
16 LED TO THE OTHER AND WE WERE FUSSING OVER THE PHONE.

17 WELL, I WAS LATE COMING HOME THAT EVENING. WHEN I
18 DROVE UP INTO MY DRIVEWAY I FOUND THAT STEPHEN AND MY
19 NEIGHBOR, THE GENTLEMAN, WAS IN WHAT I WAS TOLD TO BE A
20 DETECTIVE'S CAR THAT LOOKED VERY MUCH LIKE A DETECTIVE'S
21 CAR, AND I CALLED MY NEIGHBOR'S WIFE TO INQUIRE WHAT WAS
22 GOING ON, AND SHE PROCEEDED TO TELL ME, I REALLY DON'T
23 WANT TO GO INTO A LOT OF DETAIL, BUT WE SUSPECT SOME
24 FRAUDULENT ACTIVITY WITH STEPHEN, I THINK THAT HE'S DONE
25 SOME TERRIBLE THINGS WITH US, HE HAS CONNED US, AND I

1 DON'T WANT TO TELL YOU TOO MUCH ABOUT IT UNTIL THEY ARE
2 THROUGH AND I TALK TO RAY.

3 AND I SAID, OKAY. CALL ME BACK. WELL, HOURS WENT BY
4 AND THEY'RE STILL OUTSIDE. I WENT FOR A DRIVE JUST TRYING
5 TO CLEAR MY THOUGHTS AND TRY TO GATHER SOME COMPOSURE AS
6 TO WHAT MAY BE HAPPENING IN THAT CAR.

7 AND SO NATALIE DID CALL ME BACK, AND SHE SAID THAT
8 THEY SHOULD BE THROUGH VERY SHORTLY AND HE WOULD RETURN
9 AND EVERYTHING WAS OKAY.

10 WHEN STEPHEN WALKED IN THE HOUSE, I WAS FURIOUS AND I
11 ADDRESSED HIM TO TELL ME THE TRUTH ABOUT WHAT WAS GOING
12 ON. AND WE GOT INTO A MAJOR CONFRONTATION, A VERY
13 PHYSICAL AND VERBAL CONFRONTATION, AND I TOLD HIM I WANTED
14 HIM TO LEAVE AND I COULD NOT DO THIS ANY MORE, I HAD HAD
15 IT, AND I REALLY COULD NOT HELP HIM ANY FURTHER AND I
16 DIDN'T WANT TO HEAR ANY OF THE LIES.

17 AND HE SAID THAT HE DIDN'T HAVE ANY PLACE TO GO, BUT
18 HE WOULD LEAVE TOMORROW MORNING, JUST WAIT, I'LL LEAVE,
19 AND YOU'RE GOING TO BE SORRY BECAUSE YOU'RE GOING TO KNOW
20 WHAT I TOLD YOU IS THE TRUTH AND YOU'LL BE SORRY FOR IT.

21 AND I THOUGHT, WELL, I'LL PROBABLY TAKE MY CHANCES,
22 AND IF I AM, FINE. I WENT TO BED AND I HEARD THAT HE WAS
23 UP FOR QUITE A WHILE. I DON'T EVEN KNOW IF HE SLEPT THAT
24 EVENING.

25 THE NEXT MORNING I WAS KIND OF LATE WAKING UP, BUT

1 WHEN I DID WAKE UP I WOKE UP WITH HIM COMING INTO THE
2 ROOM, AND I WAS TURNED SIDEWAYS, AND I SAW HIM WALK BY AND
3 HE STOOD AT THE FOOT OF MY BED AND HE HAD A HORRIBLE LOOK
4 ON HIS FACE.

5 AND I SAID, WHAT ARE YOU DOING? AND HE SAID, I'M
6 GETTING READY TO LEAVE. AND I SAID, WHAT IS THAT THAT I
7 SMELL, ARE YOU CLEANING THE HOUSE? BECAUSE HE WAS A CLEAN
8 PERSON. HE LIKED TO CLEAN HOUSE.

9 AND AT THAT PARTICULAR POINT HE PROCEEDED TO COME
10 OVER ME WITH A CLOTH THAT WAS DRENCHED IN CLOROX, AND I
11 FOUND 409, A MIXTURE THAT HE HAD PUT TOGETHER, AND HE HELD
12 ME DOWN AND HE WAS FIGHTING WITH ME AND HE WAS SPEAKING
13 ALL KINDS OF THINGS, TELLING ME THAT HE HAD TO QUIET ME
14 DOWN AND I -- I COULD NOT TELL ANYBODY WHAT WAS GOING ON,
15 AND HE HAD TO SHUT ME UP.

16 AND I WAS FIGHTING HIM OFF. AND HE WAS SO BIG
17 COMPARED TO ME, BUT I WAS TRYING TO FIGHT HIM OFF AND I
18 DID ULTIMATELY HAVE A LITTLE ROOM TO FREE MYSELF. AND I
19 WAS KICKING.

20 AND HE GOT OVER ME AGAIN AND HE HAD SOME TIES THAT HE
21 HAD PUT ON THE BED AND HE WAS TRYING TO TIE ME UP AND I
22 WAS FIGHTING FOR HIM TO STAY AWAY FROM ME AND I WAS
23 PRAYING FOR HIM TO LEAVE ME ALONE, AND IF HE JUST LEFT, I
24 WOULD NEVER SAY ANYTHING. I JUST WANTED HIM TO LEAVE.

25 BUT HE TURNED ME OVER AND THEN HE SAID, WHY ISN'T

1 THIS WORKING? IT WORKED ON TV. AND I KNEW HE WANTED ME
2 DEAD. HE DIDN'T WANT ME TO LIVE THROUGH THIS.

3 SO I WAS FINALLY ABLE TO BITE HIS HAND VERY HARD AND
4 HE LET GO, AND AT THAT POINT -- AND I TURNED OVER AND WAS
5 KICKING, AND HE SAID, CALM DOWN. HE SAID, YOU CAN'T TELL
6 ANYBODY WHAT'S GOING ON, IT'S FOR YOUR PROTECTION.

7 AND I THOUGHT, OH, BOY. HE STARTED TYING MY HANDS
8 AND MY LEGS, MY HANDS TO MY FEET, AND HE PUT THE CLOTH IN
9 MY MOUTH AND THEN HE TIED A TIE AROUND, AND THEN HE PULLED
10 THE TIE AND WAS PULLING ME THROUGH THE HOUSE AS HE WAS
11 PREPARING TO TAKE A SHOWER, AND HE MADE ME SIT IN THE
12 BATHROOM WHILE HE TOOK A SHOWER.

13 AND I WAS PRAYING OUT LOUD THE LORD'S PRAYER BECAUSE
14 I WAS HOPING THAT HE WOULD HEAR AND HE WOULD GET A SENSE
15 OF WHAT HE WAS DOING WAS TERRIBLY WRONG AND THAT HE WOULD
16 JUST LEAVE.

17 BUT THEN HE GOT THROUGH AND HE WAS HUMMING, WHICH HE
18 DID A LOT. HE WAS ALWAYS IN A GOOD MOOD IT SEEMED. THEN
19 HE PUT ME ON THE FLOOR IN THE BATHROOM WHILE HE WAS
20 SHAVING, AND I DON'T REMEMBER THAT HE WAS REALLY TALKING
21 TO ME, BUT HE WAS TALKING.

22 AND I WAS TRYING SO HARD TO TALK BACK TO HIM TO JUST
23 MAYBE BRING HIM DOWN FROM WHATEVER HE WAS DOING. AND
24 WHATEVER HAPPENED AT THAT POINT, HE DID CALM DOWN. AND HE
25 TOOK ME AND PUT ME ON THE SOFA AND HE SAID HE WAS LEAVING

1 AND THEN HE ASKED IF I WOULD JUST NOT CALL ANYONE, GIVE
2 HIM A LITTLE TIME TO GET AWAY, AND I SAID I WOULD,
3 WHATEVER, I WILL DO WHATEVER YOU WANT BECAUSE I DID CARE
4 FOR HIM.

5 EVEN THOUGH ALL THESE THINGS HAPPENED, I DIDN'T WANT
6 ANYTHING BAD TO HAPPEN TO HIM. AND HE LOOKED AT THE FLOOR
7 AND THEN HE LOOKED UP AT ME AND HE SAID, I'M LEAVING, AND
8 HE KISSED ME ON THE FOREHEAD AND HE STOPPED A COOCOO CLOCK
9 THAT HIS PARENTS HAD GIVEN HIM THAT WAS HANGING ON THE
10 WALL DIRECTLY IN FRONT OF ME, AND HE JUST STOPPED IT AND
11 HE LEFT.

12 AND I REALLY DON'T KNOW WHAT I DID AT THAT PARTICULAR
13 TIME. I CALLED SOMEONE. I MAY HAVE CALLED MY NEIGHBOR, I
14 CALLED MY FAMILY, AND I CALLED MY SCHOOL BECAUSE I HAD A
15 SON WHO IS 16 YEARS OLD, AND I HAD ALREADY ASKED HIM WHERE
16 MY SON WAS AND WHERE MY DOG WAS.

17 AND MY SON HAD LEFT EARLY FROM SCHOOL AND HE PUT MY
18 DOG OUTSIDE WHICH MADE ME REALIZE THAT IT WASN'T A VERY
19 GOOD THING THAT WAS GOING TO BE HAPPENING. AND I CALLED
20 THE POLICE OR I ASKED MY NEIGHBOR TO CALL THE POLICE, AND
21 WITHIN A MATTER OF MINUTES MY HOME WAS A CRIME SCENE.

22 AND THEN ALL THOSE YEARS BEING WITH STEPHEN, HE
23 ALWAYS MADE ME BELIEVE THAT HE KNEW EVERY BERKELEY COUNTY
24 POLICE OFFICER AND DETECTIVE, AND IF I EVER CALLED THE
25 POLICE, THAT THEY WOULD NEVER BELIEVE ME BECAUSE HE HAD

1 THEM IN HIS POCKET. THEY WERE GOOD FRIENDS. SO...

2 Q DID YOU FIND THAT TO BE THE CASE?

3 A THAT WAS NOT THIS CASE AT ALL. HE JUST DIDN'T WANT
4 ME TO BE ABLE TO DO ANYTHING ABOUT IT, WHAT HAD BEEN
5 HAPPENING. AND THE DETECTIVE THAT HAPPENED TO ARRIVE AT
6 THE SCENE STARTED SPEAKING ABOUT HIM AS IF HE KNEW HIM.

7 AND I SAID, WHAT IS YOUR NAME? AND WHEN HE TOLD ME
8 HIS NAME, I BROKE DOWN, I WENT INTO A PANIC MODE BECAUSE
9 THAT WAS ONE OF THE OFFICERS IN WHICH STEPHEN HAD
10 COMMUNICATED TO ME THAT THEY WERE FRIENDS, AND I HAD NO
11 WAY OF KNOWING ANYTHING DIFFERENT UNTIL DETECTIVE LEWIS
12 TOLD ME QUITE THE CONTRARY AND LIFTED UP OUR -- WHAT HE
13 CALLED A RAP SHEET THAT WAS JUST ENORMOUS FOR SOMEONE OF
14 HIS AGE, FOR STEPHEN STANKO TO HAVE THAT KIND OF A RAP
15 SHEET, AND I KNEW THAT I REALLY DIDN'T KNOW HIM AT ALL.

16 Q LET ME ASK YOU, WAS THERE AN INVESTIGATION AS A
17 RESULT OF THE INCIDENTS THAT TOOK PLACE WITH YOU?

18 A YES.

19 Q AS A RESULT OF THAT INVESTIGATION, WAS DEFENDANT
20 STANKO ARRESTED?

21 A YES.

22 Q DO YOU KNOW WHAT HE WAS CHARGED WITH AS RELATES TO
23 YOU?

24 A IT WAS TOLD TO ME THAT HE WAS ARRESTED FOR
25 KIDNAPPING, ASSAULT AND BATTERY WITH INTENT TO KILL.

1 Q AFTER HIS ARREST, WHERE WAS HE INITIALLY HOUSED?

2 A AFTER HIS ARREST?

3 Q UH-HUH.

4 A BERKELEY COUNTY DETENTION CENTER.

5 Q DID YOU GO SEE HIM?

6 A OH, YES, I DID. I CERTAINLY DID.

7 Q WHY?

8 A BECAUSE HE CALLED ME AND HE HAD ANOTHER STORY BECAUSE
9 HE WAS SO SORRY AND HE DIDN'T HAVE ANYONE ELSE TO TURN TO
10 BUT ME.

11 Q DID THERE COME A TIME THAT ULTIMATELY HE ENTERED
12 PLEAS TO THE CHARGES THAT INVOLVED THAT ALTERCATION WITH
13 YOU?

14 A SO I LEARNED.

15 Q AND IN FACT, DID YOU -- DID YOU GO TO THE SENTENCING?

16 A YES, I DID.

17 Q AND DO YOU RECALL WHAT SENTENCE HE RECEIVED AS A
18 RESULT OF THE KIDNAPPING CHARGE FOR YOU?

19 A EIGHT AND A HALF YEARS. NO, I'M SORRY, 10 YEARS IN
20 WHICH I THINK HE SERVED EIGHT AND A HALF.

21 Q AFTER HE WAS SENTENCED, SENT TO THE DEPARTMENT OF
22 CORRECTIONS, DID YOU GO SEE HIM?

23 A YES, I DID.

24 Q AT WHAT POINT, LIZ, DID YOU STOP SEEING DEFENDANT
25 STANKO?

1 A THROUGH THE VICTIM'S ADVOCATE PROGRAM THEY HAD ME
2 SEEK COUNSELING, WHICH I DID, AND THROUGH THE COUNSELING
3 PERIOD I QUESTIONED MY OWN REASONS FOR WHY I COULDN'T LET
4 GO.

5 AND IT WAS TOLD TO ME FROM MY COUNSELOR THAT OVER THE
6 COURSE OF THOSE THREE AND A HALF SOME YEARS BEING WITH
7 STEPHEN, THAT HE WAS REALLY IN CONTROL AND THAT I ALLOWED
8 HIM THAT CONTROL, AND EVEN THOUGH I DIDN'T BELIEVE
9 EVERYTHING THAT HE SAID, I WANTED TO BECAUSE I CARED SO
10 MUCH FOR HIM, AND I JUST HAD TO LET HIM GO FOR MY OWN
11 SAKE.

12 AND THE ONLY WAY THAT I COULD DO THAT WAS CLOSE THE
13 DOOR ON MY TERMS AND NOT ON HIS TERMS.

14 Q DID YOU DO THAT?

15 A YES, I DID, I THOUGHT.

16 Q LET ME ASK YOU, LIZ, WERE YOU ADVISED BY THE
17 DEPARTMENT OF CORRECTIONS THAT HE HAD BEEN RELEASED?

18 A YES.

19 Q WHEN WAS HE RELEASED?

20 A JUNE OR JULY OF '94.

21 Q EXCUSE ME, '94?

22 A SORRY, 2004.

23 Q 2004.

24 MR. HUMPHRIES: BEG THE COURT'S INDULGENCE JUST
25 ONE MOMENT.

1 (WHEREUPON THERE WAS A PAUSE) .

2 MR. HUMPHRIES: THAT'S ALL I HAVE OF YOU.

3 PLEASE ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE.

4 THE COURT: ANY CROSS-EXAMINATION FOR THE
5 WITNESS?

6 MR. KELLY: YES, MA'AM.

7 THE COURT: YOU MAY PROCEED.

8 CROSS-EXAMINATION

9 BY MR. KELLY:

10 Q MA'AM, WHAT'S YOUR MARRIED NAME NOW?

11 A BUCKNER.

12 Q EXCUSE ME?

13 A BUCKNER.

14 Q BUCKNER? MS. BUCKNER -- MRS. BUCKNER, I BELIEVE THAT
15 YOU SAID THAT YOU AND STEPHEN WERE WORKING AT THE SAME
16 COMPANY AND THAT'S HOW YOU MET HIM.

17 A THAT'S CORRECT.

18 Q I MISSED THE NAME OF THAT COMPANY.

19 A TELECO OF CHARLESTON.

20 Q I'M SORRY?

21 A TELECO OF CHARLESTON.

22 Q TALCO?

23 A TELECO.

24 Q TELECO. AND THAT BECAUSE OF THE JOB Y'ALL HAD

25 FREQUENT VISITS OR HE FREQUENTLY VISITED THE DEPARTMENT OR

1 THE DIVISION YOU WERE IN; CORRECT?

2 A THAT'S CORRECT.

3 Q AND THAT Y'ALL ATTENDED A PICNIC TOGETHER, AND YOUR
4 RELATIONSHIP BEGAN THEN.

5 A THAT'S CORRECT.

6 Q OKAY. WELL, WHAT YEAR WOULD THAT BE?

7 A THAT WAS '92.

8 Q AND WHAT MONTH WOULD THAT BE?

9 A SEPTEMBER MAYBE. OCTOBER I THINK WAS THE PICNIC.

10 Q NOW, AT THAT TIME YOU DIDN'T KNOW OF ANY FRAUDULENT
11 ACTIVITY THAT HE WAS INVOLVED WITH?

12 A NO. STEPHEN HAD TOLD ME THAT HE HAD BEEN IN A
13 RELATIONSHIP -- AND FORGIVE ME, I'M NOT SURE IF IT WAS
14 SAVANNAH OR AUGUSTA -- WHERE HE WAS A VICTIM OF A YOUNG
15 LADY THAT TOOK ADVANTAGE OF HIM AND TOOK ALL OF HIS MONEY.
16 AND NO, I DID NOT KNOW OF ANY FRAUDULENT ACTIVITY.

17 Q NOW, THE -- THERE WAS A -- THERE WAS A TIME THAT HE
18 WAS ARRESTED FOR SELLING A COMPUTER TO A MR. HOUSE. WAS
19 THAT BEFORE YOU MET HIM OR AFTER?

20 A I THINK THAT I KNEW HIM AT THIS POINT. I'M -- HE WAS
21 NOT LIVING IN MY HOUSE AT THIS PARTICULAR TIME. BUT I WAS
22 MADE AWARE OF THE SITUATION ALTHOUGH IT -- TO HEAR IT FROM
23 STEPHEN, IT WASN'T QUITE THAT WAY.

24 Q WELL, HE WAS -- HE WAS ON PROBATION FOR THAT. DO YOU
25 RECALL THAT, REMEMBER THAT?

1 A NO, I DO NOT.

2 Q DO YOU REMEMBER THAT HE WAS -- THERE WAS A VIOLATION
3 OF HIS PROBATION AND HE WAS -- THAT WAS A TIME WHEN HE WAS
4 PLACED IN THE -- I BELIEVE THE BERKELEY COUNTY JAIL. DO
5 YOU RECALL THAT?

6 A FOR WHAT PURPOSE? I'M NOT SURE WHAT YOU'RE SAYING.

7 Q I THINK FOR THE -- THE PROBATION VIOLATION. IF I
8 REMEMBER, YOU SAID IN YOUR TESTIMONY JUST A LITTLE WHILE
9 AGO THAT YOU HIRED A LAWYER FOR HIM AFTER--

10 A THAT WAS MANY YEARS LATER. THAT WAS NOT IN '92.

11 Q WELL, I'M JUST TRYING TO PLACE THAT TIME OF HIM BEING
12 IN THE BERKELEY COUNTY JAIL AND WHEN YOU HELPED HIM BY
13 RETAINING AN ATTORNEY. AND COULD YOU PLACE THAT IN TIME
14 FOR ME? I KNOW THAT'S LATER, BUT I JUST WANT TO KNOW.

15 A I BELIEVE THAT WAS POSSIBLY '94, LATE '93.

16 Q AND THAT WAS AFTER HE HAD BEEN TO ATLANTA?

17 A NO, SIR.

18 Q OKAY. LET ME ASK YOU THIS. I THINK THAT YOU SAID --
19 AND JUST CORRECT ME OR TELL ME, THAT'S ALL I'M DOING IS
20 ASKING -- THERE CAME A TIME IN MAY OR JUNE OF 1995 WHEN
21 YOU HAD THE LOCKS CHANGED ON YOUR HOUSE. IS THAT CORRECT?

22 A THAT IS CORRECT.

23 Q AND THAT AFTER THAT, WENT TO ATLANTA; CORRECT?

24 A THAT'S CORRECT.

25 Q AND THAT YOU FORGAVE HIM?

1 A ULTIMATELY, YES.

2 Q AND SOMETIME I THINK AROUND YOUR BIRTHDAY IN 1995

3 WAS -- THAT'S WHAT I THOUGHT YOU SAID -- WAS THAT ABOUT

4 RIGHT?

5 A THAT'S WHEN I RECEIVED A PHONECALL.

6 Q WHEN IS YOUR BIRTHDAY, MA'AM?

7 A 9-27-60.

8 Q AND SUBSEQUENT TO THAT OR AFTER THAT HIS FIANCEE

9 CALLED YOU ON THE TELEPHONE?

10 A THAT'S CORRECT.

11 Q AND HE GOT ON THE TELEPHONE AT THAT -- THAT TIME?

12 A YES, HE DID.

13 Q AND THEN HE WENT BACK TO ATLANTA?

14 A HE WAS IN ATLANTA AT THAT POINT.

15 Q OH, HE WAS?

16 A YES.

17 Q OKAY. BUT THERE WAS A PENDING PROBLEM IN BERKELEY

18 COUNTY I THINK YOU TOLD US.

19 A THAT'S CORRECT.

20 Q THAT'S WHAT I'M TALKING ABOUT. I'M TALKING ABOUT THE

21 PENDING PROBLEM IN BERKELEY COUNTY. AND THIS WOULD HAVE

22 BEEN 1995; IS THAT RIGHT?

23 A THAT'S CORRECT.

24 Q OKAY. AND ARE YOU -- YOU -- I THINK YOU KNEW --

25 FOUND OUT THEN YOU KNEW THIS WOMAN IN ATLANTA?

1 A THAT'S CORRECT.

2 Q AND A COUPLE OF DAYS LATER STANKO ARRIVED ON YOUR
3 DOORSTEP?

4 A THAT'S CORRECT.

5 Q OKAY. AND HE STAYED THERE; DIDN'T HE?

6 A FOR THAT NIGHT YES, HE DID.

7 Q FOR THAT NIGHT.

8 A UH-HUH.

9 Q AND THEN I THOUGHT YOU SAID THAT AFTER THAT HE WAS IN
10 JAIL FOR 30 TO 60 DAYS.

11 A HE WAS.

12 Q OKAY. AND THAT YOU HELPED HIM ACQUIRE AN ATTORNEY.

13 A YES, AT THAT POINT I DID.

14 Q THAT'S WHAT I'M TALKING ABOUT. I'M TRYING TO PLACE
15 THAT IN TIME AND TO ASK YOU WAS THAT BECAUSE HE HAD
16 VIOLATED HIS PROBATION ON THE THEFT OF THIS COMPUTER OR DO
17 YOU KNOW?

18 A NO, I BELIEVE THAT HAD -- THERE WERE SO MANY THINGS.
19 I'M GOING TO BE QUITE FRANK WITH YOU. I CAN'T RECALL ALL
20 THE THINGS THAT HE HAD DONE BECAUSE THERE WERE SO MANY.
21 AND HE HAD REPORTEDLY CONNED OTHER EMPLOYERS AND THAT MAY
22 VERY WELL BE PART OF WHAT HE WAS ON DETENTION FOR OR
23 PROBATION FOR.

24 Q OKAY. BUT YOU DON'T REALLY KNOW WHAT HE WAS ON
25 PROBATION FOR EVEN TO THIS DAY?

1 A THERE WERE SO MANY, I COULDN'T KEEP UP.

2 Q WELL, I KNOW THAT, MA'AM. AND I'M NOT PRESSING YOU
3 ON THIS. BUT YOU HAVE SAID TO US THAT THERE WERE A LOT OF
4 WHAT WE'LL CALL CONS THAT GOT HIM INTO TROUBLE AND LOST
5 HIM JOBS AND THAT MADE YOU SUSPICIOUS, BUT HE WASN'T
6 ARRESTED FOR ALL THOSE; WAS HE?

7 A HE WAS ARRESTED, YES, ON MORE THAN ONE OCCASION WHILE
8 I KNEW STEPHEN STANKO.

9 Q WELL, CAN YOU TELL ME HOW MANY OCCASIONS?

10 A AT LEAST TWO.

11 Q AT LEAST TWO. ALL RIGHT. GIVE ME THE FIRST ONE.
12 WHERE WERE YOU LIVING WHEN HE WAS ARRESTED DURING THE TIME
13 YOU LIVED WITH HIM?

14 A AT THAT POINT WE WERE LIVING IN GOOSE CREEK.

15 Q IN GOOSE CREEK?

16 A UH-HUH.

17 Q IN AN APARTMENT OR A HOUSE?

18 A NO, A HOUSE.

19 Q FIRST HOUSE OR SECOND HOUSE?

20 A NO, THE FIRST HOUSE.

21 Q OKAY. THAT WAS WELL INTO THE RELATIONSHIP; WASN'T
22 IT?

23 A THAT'S CORRECT.

24 Q AND ABOUT WHAT YEAR WOULD THAT HAVE BEEN?

25 A THAT WOULD HAVE BEEN LATE '93.

1 Q OKAY. SO THERE HAD BEEN OTHER INCIDENTS OF CONS FOR
2 WHICH HE WAS NOT ARRESTED EVEN DURING THE TIME FROM THE
3 PICNIC RIGHT UP UNTIL THE FIRST HOUSE; CORRECT?

4 A THAT'S CORRECT.

5 Q OKAY. NOW, YOU SAY HE WAS ARRESTED WHILE Y'ALL WERE
6 LIVING THERE. TELL ME ABOUT IT. TELL ME ABOUT HIS ARREST
7 AND WHAT HAPPENED.

8 A WELL, NOT MUCH CAME OF IT AND I'M NOT -- IT'S BEEN A
9 LONG TIME AGO. I DON'T RECALL EXACTLY, AND IT MAY BE THE
10 COMPUTER. BUT WHAT I HEARD FROM STEPHEN -- BECAUSE I WAS
11 NOT INVOLVED IN KNOWING THE DETAILS AT THAT PARTICULAR
12 TIME -- THAT IT WAS A BIG MISTAKE AND THAT HE DID NOT
13 STEAL A COMPUTER.

14 I DON'T THINK I EVER REALLY UNDERSTOOD EXACTLY WHAT
15 THE PROBLEM WAS, TO BE HONEST WITH YOU.

16 MR. KELLY: ONE MOMENT, JUDGE.

17 (WHEREUPON THERE WAS A PAUSE.)

18 BY MR. KELLY:

19 Q DID YOU KNOW HIM DURING THE TIME HE WORKED FOR NEW
20 YORK LIFE IN CHARLESTON?

21 A NO. I BELIEVE HE WORKED THERE PRIOR TO MY KNOWING
22 HIM.

23 Q THAT WAS PREVIOUS TO WHEN YOU MET HIM; CORRECT?

24 A THAT'S CORRECT.

25 Q OKAY. AND -- BUT YOU DID MEET HIM AT THE -- IN --

1 PREVIOUS TO SEPTEMBER OF 1992. IS THAT THE TIME OF THE
2 PICNIC; RIGHT?

3 A THAT'S WHEN HE BECAME EMPLOYED BY TELECO OF
4 CHARLESTON WHICH IS WHERE I WAS ALSO EMPLOYED.

5 Q ALL RIGHT, MA'AM. I'M ONLY TRYING TO GET IT STRAIGHT
6 IN MY OWN MIND. OKAY?

7 A THAT'S FINE.

8 Q NOW, PREVIOUS TO -- I'LL JUST SAY PREVIOUS TO THE
9 1992 PICNIC YOU HADN'T ANY IDEA THAT HE WAS RUNNING OR
10 DONE ANY KIND OF ILLEGAL ACTIVITY; IS THAT RIGHT?

11 A THAT'S CORRECT.

12 Q OKAY. AND WHEN DID YOU -- AND YOU THOUGHT THIS IS AN
13 OKAY GUY, I CAN START A RELATIONSHIP WITH THIS MAN;
14 CORRECT?

15 A QUITE HONESTLY, TO THE CONTRARY. WHEN I FIRST MET
16 HIM, I THOUGHT HE WAS SHIFTY-EYED AND TOO NICE, BUT HE
17 SOON SHOWED ME THAT HE WAS A SUPER NICE GUY.

18 Q OKAY. SO THAT'S WHAT I'M SAYING. WHEN YOU ENTERED
19 THE RELATIONSHIP WITH HIM, AT THAT TIME YOU THOUGHT, HE'S
20 OKAY, I WILL BEGIN TO ENTER INTO A RELATIONSHIP.

21 A EXACTLY. I WOULDN'T HAVE ENTERED INTO A RELATIONSHIP
22 IF I HAD NOT KNOWN THAT OR THOUGHT...

23 Q NEVER BELIEVED ANYTHING DIFFERENT, MA'AM. BUT LET ME
24 ASK YOU THIS. AFTER THAT TIME THERE HAD TO BE A FIRST
25 INSTANCE OF YOU SAYING, MY IMAGE OF HIM MAY NOT BE

1 CORRECT.

2 A YES, THERE WAS.

3 Q WHEN DID THAT HAPPEN?

4 A EARLY ON BECAUSE HE COULDN'T KEEP A JOB. AND EVERY

5 TIME THERE WAS A NEW STORY FOR WHY HE COULD NOT KEEP A

6 JOB. AND I THOUGHT, ALL EMPLOYERS CAN'T BE WRONG.

7 Q SO HE WOULD LOSE A JOB AND GIVE YOU AN EXPLANATION

8 AND THEN YOU'D FIND OUT THE EXPLANATION WAS NOT CORRECT?

9 A THAT'S CORRECT.

10 Q OKAY. AND YOU WOULD FIND OUT FROM THE EMPLOYERS

11 THEMSELVES OR FROM OTHER PERSONS? HOW DID THAT WORK FOR

12 YOU?

13 A ACTUALLY I WOULD FIND OUT FROM EMPLOYERS.

14 Q SO -- AND THAT'S WHAT YOU PRETTY MUCH -- THAT WAS THE

15 WAY YOU OFTEN DID, YOU WOULD CALL THE PEOPLE THAT HE WAS

16 WORKING FOR.

17 A NO, HE WOULD ACTUALLY HAVE THEM CALL ME OR TAKE ME TO

18 HIS PLACE OF BUSINESS BECAUSE AT ONE POINT HE WAS EMPLOYED

19 BY A LUMBER COMPANY AND HE REQUESTED THAT I GO BY AND TALK

20 TO THEM BECAUSE THEY WOULDN'T GIVE HIM A PAYCHECK AND HE

21 WANTED ME TO GO WITH HIM TO GET HIS PAYCHECK.

22 Q AND THEY HAD -- THIS WAS -- WHEN I SAY YOU WOULD CALL

23 THEM AND TALK TO THEM, I'M TALKING ABOUT THERE'D BE SOME

24 PROBLEM AND YOU'D WANT TO KNOW FROM THEM RATHER THAN

25 STEVE.

1 A HE WOULD ASK ME TO CALL.

2 Q AND THAT'S HOW YOU WOULD FIND OUT FROM THE JOB -- THE
3 PROBLEM ON THE JOB IS NOT WHAT HE HAD REPRESENTED TO ME,
4 BUT WHAT I AM NOW HEARING--

5 A THAT'S RIGHT.

6 Q -- EITHER IN THE OFFICE OF HIS EMPLOYERS OR ON THE
7 TELEPHONE.

8 A AND HE WOULD SAY THAT THEY WERE LYING AND IT WASN'T
9 THAT WAY AT ALL AND THEY'RE JUST TRYING TO SET HIM UP
10 BECAUSE THEY KNOW HE HAD A RECORD.

11 Q AND HE WOULD ACTUALLY ASK YOU TO CALL THEM EVEN
12 THOUGH YOU NOW UNDERSTAND THAT AT THE TIME HE WAS DOING
13 THAT NOTHING COULD HAPPEN OTHER THAN THEY WOULD REVEAL TO
14 YOU THAT WHAT HE WAS SAYING WAS NOT TRUE?

15 A HE WAS TRYING TO MAKE ME BELIEVE HIM.

16 Q AND EVEN IN HIM TRYING TO MAKE YOU BELIEVE HIM, HE
17 WOULD ASK YOU, GO AHEAD, I WANT YOU TO CALL MY EMPLOYER OR
18 GO SEE THEM?

19 A OH, WE ACTUALLY GOT IN THE CAR AND WENT TO THE
20 EMPLOYERS' PLACE AT THIS POINT.

21 Q AND YOU WOULD GO IN AND THEY WOULD TELL YOU
22 INFORMATION THAT WAS DIFFERENT FROM WHAT YOU HAD BEEN
23 TOLD?

24 A UH-HUH.

25 Q WHAT --

1 A THAT'S RIGHT.

2 Q -- DID YOU THINK ABOUT THIS GUY? DID YOU THINK THAT

3 KIND OF BEHAVIOR WAS...

4 A NOT NORMAL.

5 Q NOT NORMAL. DID YOU CONFRONT HIM ABOUT THIS NOT --

6 BEING NOT NORMAL OR THIS--

7 A WELL, YES, I DID.

8 Q -- ODD BEHAVIOR?

9 A I CERTAINLY DID.

10 Q WELL, HE WOULD CONTINUE TO ATTEMPT TO EXPLAIN TO YOU.

11 I THINK YOU SAID AT ONE POINT WHEN YOU TALKED ABOUT

12 FINDING THE LITTLE OFFICE IN THE TRUNK OF YOUR CAR AT THE

13 GROCERY STORE THAT YOU AT THAT POINT HAD REACHED A PLACE

14 WHERE YOU SAID HE'S NOW GOING TO TRY AND CONVINCE ME I'M

15 NOT LOOKING AT WHAT I'M LOOKING AT; RIGHT?

16 A I KNEW THAT THAT'S WHAT WOULD HAPPEN. AND THIS WAS

17 IN '96.

18 Q AND THAT WOULD HAVE BEEN FOUR YEARS LATER. YOU HAD A

19 BIG DOSE OF THAT, HADN'T YOU, OF HIS BEHAVIOR?

20 A YES, I HAD.

21 Q OKAY. THAT'S REALLY WHAT I'M TALKING ABOUT. THAT'S

22 WHAT I'M ASKING ABOUT. I FIND IT EXTREMELY ODD THAT HE

23 WOULD TAKE YOU DIRECTLY TO THE PLACE WHERE THEY WOULD SAY

24 THE OPPOSITE. DID YOU FIND THAT ODD, TOO?

25 A I FOUND LOOKING BACK EVERYTHING WAS ODD.

1 Q DID YOU -- HAVE YOU EVER SEEN THAT KIND OF BEHAVIOR
2 OUT OF ANYBODY?

3 A I'D NEVER BEEN EXPOSED TO ANYTHING LIKE THAT IN MY
4 LIFE, NO.

5 Q DID YOU EVER MEET HIS PARENTS?

6 A YES, I DID.

7 Q AND HOW -- WHEN DID YOU FIRST MEET THEM?

8 A IT WAS EARLY ON IN THE RELATIONSHIP.

9 Q SO IN THE -- I'LL JUST SAY WHEN THE RELATIONSHIP IS
10 REALLY UNDERWAY, SEPTEMBER OF '92. THAT'S THE PICNIC
11 TIME; RIGHT?

12 A NO. THAT WOULD HAVE BEEN IN OCTOBER. IT WAS LATE
13 OCTOBER.

14 Q THAT YOU MET THEM OR THE PICNIC WAS TAKING...

15 A THE PICNIC.

16 Q OKAY. SO THAT WOULD BE OCTOBER OF '92?

17 A UH-HUH. AND I DON'T BELIEVE THAT I MET THEM AT THAT
18 POINT. I THINK IT WAS SOME TIME LATER, MAYBE A MONTH
19 LATER, AFTER HE WAS LET GO FROM THAT EMPLOYER.

20 Q HAD HE TOLD YOU ABOUT HIS PARENTS?

21 A YES, HE HAD.

22 Q AND WHAT DID HE SAY ABOUT HIS PARENTS, MAY I ASK?

23 A HE NEVER REALLY HAD ANYTHING BAD TO SAY ABOUT HIS
24 PARENTS. HIS MOTHER WAS A VERY LOVING, SUPPORTIVE MOTHER,
25 DOTING. HIS FATHER I THINK HAD HIGH EXPECTATIONS AND

1 DIDN'T GIVE HIM A LOT OF ATTENTION, AND PROBABLY HE WANTED
2 THAT ATTENTION, AND THAT'S WHAT I GOT GATHERED FROM THE
3 CONVERSATIONS WE HAD ABOUT HIM.

4 Q DID YOU EVER MEET THEM OR SEE THEM ANY PLACE OTHER
5 THAN YOUR HOME?

6 A NOT THAT I CAN RECALL.

7 Q HOW MANY TIMES DO YOU THINK YOU ACTUALLY WENT TO
8 THEIR HOME DURING THE RELATIONSHIP WITH STEPHEN STANKO?

9 A MAYBE A HALF A DOZEN, MAYBE A DOZEN TIMES.

10 Q AND DID YOU GO INTO THE HOME EVERY TIME YOU WENT
11 THERE?

12 A NOT EVERY TIME, NO.

13 Q WHY WOULD YOU -- WHAT WOULD HAPPEN THAT YOU WOULD GO
14 TO THE HOME AND NOT GO IN? HOW DID THAT...

15 A THEY WOULD NOT ALLOW HIM TO COME IN.

16 Q THEY WOULD NOT ALLOW HIM TO COME IN?

17 A THAT'S CORRECT.

18 Q HOW OFTEN DID THAT HAPPEN?

19 A I RECALL ONE TIME IT WAS ON CHRISTMAS AND HE WAS
20 WANTING TO TAKE A PRESENT BY AND THEY DIDN'T LET HIM IN,
21 AND ON TWO OTHER OCCASIONS THAT I CAN RECALL OFF THE TOP
22 OF MY HEAD.

23 Q TELL ME ABOUT THE TWO OTHER OCCASIONS.

24 A HE WANTED TO GO BY AND VISIT WITH HIS MOTHER, BUT HE
25 WAS NOT ALLOWED TO GO IN TO VISIT.

1 Q AND YOU WENT WITH HIM?

2 A I DROVE HIM.

3 Q YOU DROVE HIM?

4 A UH-HUH.

5 Q ON THE TIME OF THE CHRISTMAS OCCASION, WERE YOU AT

6 THE DOOR WITH HIM WHEN HE--

7 A NO, I WAS NOT.

8 Q OKAY.

9 A I WAS IN THE CAR.

10 Q OKAY. SO HE LEFT THE CAR AND WENT TO THE DOOR WITH A

11 PRESENT OR PRESENTS?

12 A THAT'S CORRECT.

13 Q IS THAT CORRECT?

14 A UH-HUH.

15 Q DID HE COME BACK WITH THEM OR WITHOUT?

16 A I BELIEVE HE LEFT THEM ON THE DOORSTEP.

17 Q OKAY. AND DID THEY OPEN THE DOOR? DID YOU REMEMBER?

18 A AS WE WERE DRIVING OFF I RECALL HIS MOTHER HAD OPENED

19 THE DOOR AND WAS JUST LOOKING OUT.

20 Q DID YOU EVER TALK WITH HIS MOTHER YOURSELF?

21 A YES, I HAD.

22 Q OKAY. SO THOSE WOULD BE OCCASIONS EITHER IN HER HOME

23 OR ON THE TELEPHONE?

24 A YES, INDEED.

25 Q YOU TALKED WITH HER ON THE TELEPHONE AS WELL AS BEING

1 IN HER HOME?

2 A FROM TIME TO TIME, YES.

3 Q OKAY. DID YOU EVER TALK WITH HER ALONE, JUST YOU AND

4 HER WITHOUT HER SON?

5 A YES, I DID.

6 Q OKAY. WHAT DID SHE SAY ABOUT HIM?

7 A OF COURSE, SHE NEVER PUT HIM DOWN OR SAID THAT HE WAS

8 WRONG, BUT HE HAD MADE SOME BAD CHOICES IS ONE THING THAT

9 I RECALL HER SAYING AND THAT HE HAD SO MUCH POTENTIAL AND

10 SHE DOESN'T KNOW WHAT THEY CAN DO TO HELP HIM, THAT THEY

11 HAD HELPED HIM ALL THEY COULD.

12 Q AND DID YOU EVER COMPLAIN TO HER OR -- ABOUT HIS

13 BEHAVIOR TO HER OR SAY OR ASK HER?

14 A I DID ASK HER SOME THINGS. AND NO -- COMPLAINT OF

15 HER, NO, BECAUSE THAT WAS HIS MOTHER. BUT CERTAINLY I DID

16 ASK HER QUESTIONS AND SHE SAID THAT SHE FELT THAT IT WAS

17 TIED TO SOME OTHER PROBLEMS IN THE HOUSEHOLD AND NEVER

18 REALLY DISCUSSED IT.

19 Q DID YOU EVER TALK WITH HIS FATHER ALONE?

20 A NOT THAT I CAN EVER RECALL, NO.

21 Q DID YOU EVER MEET HIS FATHER?

22 A YES, I DID.

23 Q AND WAS STEPHEN WITH YOU WHEN YOU WERE -- MET HIS

24 FATHER?

25 A YES, HE WAS.

1 Q AND THAT WOULD BE IN THE HOME ITSELF?
2 A YES, IT WAS.
3 Q WHAT WAS THAT LIKE? WAS THAT A -- A LOVING, FRIENDLY
4 RELATIONSHIP OR NOT?
5 A NOT AT ALL.
6 Q TELL ME WHAT IT -- WHAT THAT MEANS, NOT AT ALL. I
7 WASN'T THERE, SO LET US KNOW.
8 A THE FATHER SEEMED TO BE REMOVED FROM THE FAMILY.
9 Q EXCUSE ME?
10 A THE FATHER SEEMED TO BE REMOVED FROM THE FAMILY.
11 Q SEEMED TO BE REMOVED FROM THE FAMILY.
12 A UH-HUH. HE STAYED IN ANOTHER ROOM.
13 Q HE STAYED IN ANOTHER ROOM?
14 A UH-HUH.
15 Q HE DIDN'T COME IN AT ALL?
16 A HE CAME OUT MAYBE TWO OR THREE TIMES THE ENTIRE TIME
17 THAT I WAS AROUND THE FAMILY.
18 Q WERE YOU EVER ABLE TO DETERMINE FROM ANYONE OTHER
19 THAN STEPHEN WHY THIS ISOLATION FROM THE FAMILY WAS TAKING
20 PLACE, OTHER THAN BAD CHOICES, DO YOU--
21 A NOTHING -- NOTHING THAT I HAVE FACTUAL, NO.
22 Q DID YOU EVER TALK WITH -- HOW MANY SISTERS DOES HE
23 HAVE?
24 A TWO.
25 Q DID YOU EVER TALK WITH THEM?

1 A YES, I HAVE.

2 Q YOU EVER TALK WITH THEM ABOUT WHAT WE'RE NOW TALKING
3 ABOUT?

4 A I HAD THE OPPORTUNITY TO TALK TO ONE OF HIS SISTERS
5 IN GREAT DETAIL ABOUT IT, YES.

6 Q YOU DID?

7 A UH-HUH.

8 Q OKAY. AND DID SHE HAVE ANY EXPLANATION TO YOU FOR
9 HIS BIZARRE, NOT NORMAL BEHAVIOR THAT YOU HAD SEEN?

10 A NO. SHE MENTIONED TO ME THAT ALL OF THE CHILDREN HAD
11 EITHER BEEN THROUGH SOME COUNSELING BECAUSE OF A BROTHER
12 THAT HAD PASSED AWAY OR NEEDED TO BE IN COUNSELING.

13 Q I -- SPEAKING OF THE BROTHER WHO PASSED AWAY, I WANT
14 TO GO TO THAT FOR A MOMENT. I BELIEVE THERE WAS AN
15 ARTICLE IN THE POST AND COURIER, AND IT WAS PROBABLY ALONG
16 ABOUT APRIL THE 18TH, AND IN THAT IT WAS REPORTED THAT YOU
17 HAD BEEN INTERVIEWED. DO YOU REMEMBER THAT INTERVIEW OR
18 READING THAT ARTICLE?

19 A I MAY HAVE. IF -- IF YOU TELL ME WHO IT WAS, I CAN
20 PROBABLY RECALL.

21 Q I WILL JUST -- LET ME JUST SHOW YOU THE ARTICLE TO
22 REFRESH YOUR MEMORY; OKAY?

23 A OKAY.

24 Q THIS IS WHAT I HAVE GOT, AND YOU CAN LOOK AT IT. I
25 THINK IT REFERS THERE TO HIS BROTHER AND REFERS AS TO WHAT

1 YOU HAD SAID ABOUT THAT. IT'S PROBABLY IN THE FIRST
2 COLUMN.

3 A IT IS.

4 Q DOES THAT REFRESH YOUR MEMORY A LITTLE BIT ABOUT THE
5 INTERVIEW?

6 A YES, SOMEWHAT IT DOES.

7 Q OKAY. NOW, I DON'T WANT YOU TO READ FROM IT. I'M
8 JUST GIVING IT TO YOU TO REMIND YOU IS ALL. LET ME ASK
9 ABOUT IT. I THINK IT'S IN THE SECOND PARAGRAPH THAT --
10 DID YOU RELATE TO HIM THAT HIS BROTHER AS FAR AS YOU KNEW
11 HAD BEEN KILLED?

12 A THAT'S WHAT I WAS INFORMED OF, YES.

13 Q OKAY. AND -- AND DID YOU BELIEVE THAT THAT HAD A
14 HUGE IMPACT ON HIS LIFE, HIS BROTHER BEING KILLED?

15 A I AM CERTAIN THAT IT MUST HAVE.

16 Q OKAY. WHY -- WHY DO YOU THINK IT MUST HAVE?

17 A BECAUSE IT WOULD AFFECT ME IF MY BROTHER WAS KILLED.

18 Q DID STEPHEN TALK TO YOU ABOUT IT, ABOUT HIS BROTHER'S
19 BEING KILLED AND HOW IT MIGHT HAVE AFFECTED HIM?

20 A YES, HE DID.

21 Q TELL US WHAT HE SAID AND HOW THAT WAS.

22 A WELL, HE WAS AFFECTED BY IT BECAUSE HE SAID THAT HE
23 AND HIS BROTHER WERE VERY CLOSE AND THAT HE LOOKED UP TO
24 HIS BROTHER, AND HE WOULD GO BY THE GRAVE AND VISIT HIS
25 BROTHER'S GRAVE FROM TIME TO TIME, AND HE TOOK ME WITH

1 HIM.

2 Q AND DO YOU HAVE ANY IDEA ABOUT HOW OLD STEPHEN WAS
3 WHEN HIS BROTHER WAS KILLED?

4 A I CAN'T RECALL, NO. I THINK HE WAS A YOUNG TEENAGER.

5 Q LET ME SHOW YOU AGAIN. LOOK AT PARAGRAPH TWO AND SEE
6 IF THAT REMINDS YOU OF WHAT YOU MIGHT HAVE SAID AS TO WHAT
7 THE AGE OF STEPHEN WAS WHEN HIS BROTHER WAS KILLED.

8 A IT SAYS HE WAS 15.

9 Q OKAY. DOES THAT GO WITH YOUR MEMORY OF WHAT STEPHEN
10 TALKED TO YOU ABOUT, THAT HE WAS--

11 A YES, IT DOES.

12 Q WAS THERE EVER ANY MENTION TO YOU OF STEPHEN HAVING
13 ANY BIRTH PROBLEMS WHEN HE WAS BORN?

14 A BIRTH PROBLEMS?

15 Q YES.

16 A NOT AT ALL.

17 Q DO YOU KNOW WHERE HE WAS BORN?

18 A YES, IN GUANTANAMO BAY, CUBA.

19 Q HE WAS?

20 A UH-HUH.

21 Q AND WERE -- WAS THERE EVER ANY MENTION TO YOU BY HIM
22 OR ANYBODY ELSE OF ANY TIME THAT HE MIGHT HAVE BEEN HIT IN
23 THE HEAD WITH A BEER BOTTLE AT--

24 A NEVER.

25 Q NEVER. YOU NEVER HEARD ABOUT THAT?

1 A NO, I DID NOT.

2 Q OR ABOUT ANY POSSIBLE BIRTH DEFECT OR BIRTH PROBLEM,
3 EITHER ONE?

4 A NOT AT ALL.

5 Q OKAY. WAS THERE EVER ANY TIME THAT YOU KNOW OF
6 DURING THE TIME THAT YOU KNEW HIM, WHICH WAS WHAT, FOUR OR
7 FOUR AND A HALF YEARS? IS THAT HOW LONG?

8 A UNDER FOUR YEARS, ABOUT THREE AND A HALF.

9 Q THAT HE MIGHT HAVE SOME SORT OF CEREBRAL DAMAGE OR
10 DAMAGE TO THE INSIDE OF HIS CRANIUM, TO HIS ACTUAL BRAIN?

11 A NEVER.

12 Q NEVER?

13 A NOT AT ALL.

14 Q AND NOBODY EVER REALLY READ ANY TESTS THAT YOU KNOW
15 OF TO -- TO SEE ABOUT THAT?

16 A I CAN'T ACCOUNT FOR THAT. I DON'T KNOW IF THERE WERE
17 OR NOT.

18 Q OKAY. BUT I THINK YOU DID SAY THAT YOU HAD TAKEN HIM
19 TO OR ACCOMPANIED HIM TO COUNSELING.

20 A THAT'S CORRECT. IT WAS REQUIRED BY LAW.

21 Q OKAY. AND ABOUT WHAT -- HELP ME WITH THE TIME OR THE
22 YEAR WITH THAT. CAN YOU -- CAN YOU GIVE ME SOME IDEA WHEN
23 THAT WOULD HAVE BEEN AND WHO THE DOCTOR WOULD HAVE BEEN?
24 DO YOU RECALL?

25 A RANDY WADE.

1 Q RANDY WADE WAS THE DOCTOR?
2 A YES.
3 Q AND THIS WAS A TIME WHERE THE PROBLEMS OF HIS
4 BEHAVIOR AS IT WAS AFFECTING Y'ALLS RELATIONSHIP TOGETHER
5 WERE FULLY BECOMING MANIFEST?
6 A CAN YOU REPEAT THAT?
7 Q WHEN HE WENT TO DR. WADE.
8 A UH-HUH.
9 Q THIS WOULD BE -- BY THEN THERE WAS A REAL PROBLEM
10 THAT YOU COULD SEE THERE WITH HIS BEHAVIOR AS FAR AS
11 TRUTHFULNESS OR WHAT WE CALL CONNING?
12 A ABSOLUTELY.
13 Q WAS THAT THE REASON OR -- WHAT WAS THE DOCTOR, AS FAR
14 AS YOU KNOW, DEALING WITH OR AS...
15 A WHAT WAS...
16 Q WITH STEPHEN?
17 A DR. WADE DEALING WITH?
18 Q YES, MA'AM. YES, MA'AM.
19 A HIS INABILITY TO TELL THE TRUTH, TRYING TO I GUESS
20 GET AT THE SOURCE OF WHAT HIS PROBLEM WAS.
21 Q MRS. BUCKNER, I KNOW THAT YOU -- YOU KNEW AND --
22 STEVE OVER A LONG PERIOD OF TIME AND SOMETIMES ON A DAILY
23 BASIS. OKAY?
24 A UH-HUH.
25 Q TELL ME SOMETHING. THIS UNTRUTHFULNESS, WAS IT

1 CONSTANT OR WAS IT JUST SURFACING EVERY ONCE IN A WHILE?
2 A IT WASN'T CONSTANT. I THINK HIS ACTIONS WERE
3 CONSTANT BECAUSE HE SEEMED TO BE ACTIVE QUITE A BIT WITH
4 IT. BUT WITH THE RELATIONSHIP, NO, IT WASN'T A CONSTANT
5 THING LIKE THAT AT ALL.

6 HE COULD BE VERY CARING AND BUY GREETING CARDS AND
7 FLOWERS AND FIX DINNERS. SO, NO, HE WASN'T ALWAYS LIKE
8 THAT AT ALL.

9 Q NOW, I KNOW THAT YOU RECITED TO US A TIME WHEN THE
10 RELATIONSHIP DID BECOME VIOLENT. BUT PREVIOUS TO THAT
11 TIME HAD THERE BEEN -- AND THAT VIOLENT PERIOD I'LL CALL
12 IT, FOR THE LACK OF A BETTER WORD -- BUT WHAT ABOUT THE
13 FIRST YEAR? WAS THERE ANY OF THAT VIOLENCE IN THERE?

14 A I DID NOT SEE ANY OF THAT THEN.

15 Q WHEN -- WHEN I -- AND YOU DIDN'T SEE IT WITH YOU OR
16 ANYBODY ELSE?

17 A NOT WITH ME. I NEVER WITNESSED IT, BUT I DIDN'T SEE
18 HIM AROUND TOO MANY PEOPLE.

19 Q NOT DIRECTLY TOWARDS YOU OR PRESENT WHEN YOU HAPPENED
20 TO BE PRESENT.

21 A THAT'S CORRECT.

22 Q IN OTHER WORDS, HE DIDN'T HURT ANIMALS OR HE DIDN'T
23 HURT CHILDREN OR HE DIDN'T HURT SOMEBODY AND YOU SAW IT
24 AND KNEW ABOUT IT; CORRECT?

25 A NO, HE DID NOT HURT--

1 Q HOW ABOUT THE SECOND YEAR? DID YOU -- WAS THERE ANY
2 VIOLENCE DIRECTED AT YOU--

3 A NO REAL VIOLENCE OR VIOLENT ACTIVITIES STARTED UNTIL
4 WE WERE IN GOOSE CREEK WHICH WOULD HAVE BEEN IN '93.

5 Q NINETY-THREE?

6 A LATE '93.

7 Q LATE '93?

8 A UH-HUH.

9 Q OKAY. YOU HAVE -- AT THAT TIME YOU -- YOU HAVE A SON
10 NAMED CHAD?

11 A YES, I DO.

12 Q AND HOW OLD WAS CHAD BACK DURING THIS TIME?

13 A HE WAS 12, 13 WHEN I MET STEPHEN.

14 Q HOW WAS STEPHEN WITH CHAD?

15 A FOR A WHILE HE WAS VERY GOOD WITH CHAD, TRYING TO
16 HELP HIM PLAY BASEBALL, AND THEN HE SEEMED THAT HE WAS
17 VERY JEALOUS OF CHAD AND HE WAS IN A MORE COMPETITIVE MODE
18 WITH CHAD.

19 Q DID CHAD HAVE ANY KIND OF -- AND I'M NOT ATTACKING
20 THE CHILD AT ALL. I JUST WANT TO KNOW; OKAY? DID HE HAVE
21 ANY -- ANY PHYSICAL OR MENTAL PROBLEM AT ALL?

22 A NO, HE DID NOT.

23 Q HE'S A NORMAL BOY?

24 A (NODDED HEAD.)

25 Q BUT THERE CAME A TIME WHEN STEPHEN WAS -- SEEMED TO

1 BE JEALOUS OF YOU, SO TO SPEAK, WITH -- DIDN'T WANT CHAD
2 TO BE SHARING THE SAME PLACE, YOU KNOW. YOU SAID HE'S
3 JEALOUS OF CHAD. IT'S REALLY BEING JEALOUS OF--

4 A NO. NO, NOT--

5 Q -- CHAD AND YOU?

6 A -- SPECIFICALLY WITH ME. BUT TO HEAR STEPHEN IN WHAT
7 HE WANTED TO DO IN HIS LIFE WOULD HAVE BEEN PLAY BASEBALL
8 OR DO THOSE KINDS OF THINGS. I DON'T BELIEVE THAT HE MAY
9 HAVE HAD AN OPPORTUNITY TO DO SO.

10 AND INSTEAD OF TRYING TO HELP CHAD, I THINK HE WAS
11 TRYING TO BE IN COMPETITION WITH CHAD, AND THAT'S THE ONLY
12 REAL NEGATIVE APPROACH THAT I SAW WITH HIM AND CHAD.

13 Q THAT WAS SORT OF A -- DID YOU TAKE THAT AS BEING AN
14 IMMATURE -- IMMATURITY OR SOMETHING ON STEPHEN'S PART?
15 HOW DID YOU READ THAT?

16 A I DID. I THOUGHT MAYBE HE JUST DIDN'T HAVE THE
17 ATTENTION GROWING UP THAT HE REQUIRED.

18 Q YOU KNOW, WAS CHAD LIVING WITH YOU IN BOTH HOUSES,
19 THE FIRST HOUSE AND THE SECOND?

20 A YES, HE WAS.

21 Q AND HE HAD GONE TO SCHOOL THE MORNING THAT THIS HAD
22 TAKEN PLACE?

23 A THAT'S CORRECT.

24 Q LET ME SHOW YOU THIS PHOTOGRAPH, PLEASE MA'AM. DO
25 YOU RECOGNIZE THAT?

1 A I SURE DO.

2 Q AND LET ME JUST HAVE IT BACK. I WANT TO SEE IF YOU
3 RECOGNIZE IT.

4 A I SURE DO.

5 Q OKAY.

6 MR. HUMPHRIES: IF THE DEFENSE INTENDS TO
7 INTRODUCE IT, WE HAVE NO OBJECTION.

8 MR. KELLY: I WOULD LIKE IT MARKED--

9 THE COURT: MARKED AND ADMITTED WITHOUT
10 OBJECTION.

11 MR. KELLY: -- AT THIS TIME AS AN EXHIBIT IN
12 EVIDENCE FOR THE DEFENSE.

13 (WHEREUPON, DEFENSE EXHIBIT 27 WAS ADMITTED INTO
14 EVIDENCE.)

15 BY MR. KELLY:

16 Q OKAY. MA'AM, COULD YOU COME DOWN?

17 MR. KELLY: MAY I ASK THE LADY TO COME DOWN,
18 MA'AM?

19 THE COURT: YES, SIR.

20 BY MR. KELLY:

21 Q COULD YOU COME DOWN, PLEASE MA'AM? LET'S SHOW THE
22 JURY THIS ONE LITTLE PHOTOGRAPH.

23 A (COMPLIED.)

24 Q OKAY. THIS IS YOUR SON?

25 A IT IS.

1 Q ABOUT WHEN WOULD THIS HAVE BEEN TAKEN?

2 A THAT WOULD HAVE BEEN '93, EARLY '94.

3 Q IS THAT YOUR PUPPY?

4 A IT IS.

5 Q OKAY. AND WHAT -- AND THAT LITTLE PUPPY LIVED WITH
6 YOU AND YOUR FAMILY?

7 A SURE.

8 Q OKAY. LET'S GO DOWN HERE AND LET THESE PEOPLE SEE.
9 THIS IS CHAD; RIGHT? AND WHAT YEAR WOULD IT HAVE BEEN,
10 MA'AM?

11 A I WOULD SAY '93 OR '94.

12 Q OKAY. WHAT'S THE LITTLE PUP'S NAME?

13 A SUGAR.

14 Q STILL LIVING?

15 A YES.

16 Q OKAY. THANK YOU, MA'AM.

17 (WITNESS RESUMED STAND.)

18 Q I'M GOING TO PUBLISH IT TO THE JURY. NOW, I WANT TO
19 ASK YOU AGAIN ABOUT THIS COMPETITION BETWEEN STEPHEN AND
20 YOUR SON. OKAY. AND WHEN YOU FIRST -- STEPHEN AND YOU
21 FIRST MOVED IN TOGETHER, ABOUT HOW OLD WOULD CHAD HAVE
22 BEEN?

23 A ABOUT 12.

24 Q WAS THERE ANY OTHER CHILD BESIDES HIM?

25 A NO.

1 Q SO IT WOULD BE LIKE -- LIKE 12 TO 16?
2 A THAT'S CORRECT.
3 Q OKAY. AND WAS THERE ANY -- OTHER THAN
4 COMPETITIVENESS -- AND YOU CAN EXPLAIN THAT TO ME IF YOU
5 WISH -- WAS THERE ANY TIME THAT YOU FELT THAT STEPHEN
6 MIGHT INJURE CHAD PHYSICALLY?
7 A NO. HE NEVER GAVE ME THAT FEELING AT ALL.
8 Q OKAY. DID HE EVER TALK TO YOU ABOUT HURTING PEOPLE
9 OR DID HE EVER SAY THAT TO YOU?
10 A NO.
11 Q OKAY. NOW, IF -- I'M NOT TRYING TO PUT WORDS IN YOUR
12 MOUTH. YOU JUST TELL ME, OKAY? BUT IT SEEMS TO ME THAT
13 YOU'RE SAYING THAT THE RELATIONSHIP COULD BE VERY GOOD
14 WITH HIM.
15 A CERTAINLY.
16 Q OKAY. AND BUT THERE -- THE ONE THING -- IF I HAD TO
17 NUMBER THEM, THEY WOULD MAYBE BE ONLY ONE THING, BUT
18 THEY'D HAVE A LOT OF CATEGORIES UNDER IT AND THAT WOULD BE
19 THIS, DISHONESTY.
20 A ABSOLUTELY.
21 Q OKAY. SHOULD WE CALL IT THAT, DISHONESTY? DOES THAT
22 CHARACTERIZE IT PROPERLY?
23 A THAT DEFINES IT QUITE WELL.
24 Q OKAY. DIDN'T THAT PUZZLE YOU, HOW CAN THIS BE, THESE
25 TWO THINGS GOING ON WITH THIS GUY?

1 A BECAUSE HE ALWAYS WANTED TO BE SOMETHING BETTER THAN
2 WHAT HE WAS AND HE WOULD NEVER SETTLE FOR JUST BEING A
3 PERSON THAT WORKED FOR A LIVING.

4 Q DID YOU FEEL THAT HE WAS CONSTANTLY TRYING TO
5 CONVINCE YOU OR TO IMPRESS YOU THAT HE WAS DIFFERENT OR
6 BETTER THAN HE WAS?

7 A HE TRIED TO IMPRESS EVERYONE.

8 Q EVERYBODY?

9 A YES.

10 Q CHAD AND EVERYBODY ELSE?

11 A ABSOLUTELY.

12 Q AND HE -- THIS WAS A -- WAS THIS A -- I'LL JUST FOR
13 LACK OF A BETTER WORD OR LACK OF A BETTER PHRASE -- AN
14 OPERATION ON HIS PART OR A METHOD OF BEHAVIOR THAT HE JUST
15 WORKED AROUND IT? IS THAT IT?

16 A IT WAS A PLAN.

17 Q OKAY.

18 A A PLAN.

19 Q A PLAN?

20 A EVERYTHING HE HAD A PLAN FOR.

21 Q OKAY.

22 A HE KNEW EXACTLY WHAT HE WANTED TO DO AND WHEN HE
23 WANTED TO DO IT AND HOW HE WANTED TO DO IT.

24 Q WHERE DID YOU HEAR THAT PHRASE?

25 A I LIVED WITH HIM FOR ALMOST FOUR YEARS. I KNEW HIM

1 VERY WELL.

2 Q WELL, I HEARD THAT PHRASE FROM DR. CRAWFORD. IS THAT
3 WHERE YOU HEARD THE PHRASE?

4 A HUH-UH, NOT AT ALL. SHE MAY HAVE HEARD IT FROM ME.

5 Q SHE MAY HAVE HEARD IT FROM YOU?

6 A THAT'S CORRECT.

7 Q OKAY. SO HE -- HE WANTED TO DO -- THAT'S THE WAY IT
8 APPEARED; CORRECT?

9 A THAT'S THE WAY IT WAS.

10 Q WELL, WHEN I SAY THAT'S THE WAY IT WAS, IF THERE WAS
11 SOME UNDERLYING CAUSE FOR IT THAT WOULD BE PHYSICAL, YOU
12 DIDN'T KNOW ABOUT IT AND YOU DIDN'T SEE IT. THAT'S THE
13 WAY IT LOOKED AND THAT'S THE WAY IT WAS; CORRECT?

14 A STEPHEN TOOK NOTES ABOUT EVERYTHING THAT HE DID.
15 EVERYTHING WAS CALCULATING. HE KNEW WHAT HE WAS DOING
16 EVERY STEP OF THE WAY BECAUSE HE PLANNED EVERY DAY.

17 Q WELL MRS. BUCKNER, WHY DID HE DO THESE BACKWARD
18 THINGS SUCH AS TAKING YOU TO AN OFFICE WHERE PEOPLE ARE
19 GOING TO SAY THAT WHAT HE'S TOLD YOU IS COMPLETELY
20 DIFFERENT?

21 A THAT WAS HIS PLAN.

22 Q WHAT WAS HIS PLAN, TO--

23 A THAT'S RIGHT.

24 Q -- TO REVEAL THAT HE WAS LYING TO YOU.

25 A TO REVEAL THAT THEY WERE TAKING ADVANTAGE OF HIM

1 BECAUSE HE HAD BEEN HONEST WITH THEM ABOUT ALL OF HIS
2 PROBLEMS, HIS CRIMINAL BEHAVIORS.

3 Q SO YOU FOUND -- YOU FIND ALL OF THIS LOGICAL THAT HE
4 DID? HE WAS TOTALLY UNSUCCESSFUL IN IT; WASN'T HE?
5 WASN'T HE?

6 A I WOULD SAY HE WASN'T SUCCESSFUL, YES.

7 Q EXCUSE ME?

8 A HE WAS NOT SUCCESSFUL.

9 Q YEAH. HE WAS A FAILURE AT IT CONSTANTLY AND OVER AND
10 OVER AGAIN; WASN'T HE?

11 A HE WAS A CON-ARTIST OVER AND OVER AGAIN.

12 Q MA'AM, I'M NOT TRYING TO PUT WORDS IN YOUR MOUTH. I
13 AGREE WITH YOU THAT THAT'S AS GOOD A PHRASE AS ANY. I'M
14 ONLY ASKING THIS; OKAY? I DON'T -- I'M NOT TRYING TO
15 CHANGE THINGS. I'M TRYING TO FIND OUT; OKAY?

16 A UH-HUH.

17 Q BUT WASN'T HE A CONSTANT FAILURE AS A CON-MAN,
18 EVERYTHING HE DID SOONER OR LATER FELL THROUGH ON YOU;
19 DIDN'T IT?

20 A SOONER OR LATER THE TRUTH DID COME OUT.

21 Q YEAH.

22 A IN EVERYTHING THAT HE DID.

23 Q RIGHT. AND HE'S A PRETTY SMART GUY; RIGHT?

24 A SO I'M TOLD, YES.

25 Q WELL, YOU KNOW. YOU KNOW, DON'T -- YOU KNOW, DON'T

1 WITHDRAW FROM ME JUST BECAUSE I'M ASKING YOU ABOUT IT.
2 PLEASE BE HONEST WITH ME.
3 A HE SEEMED TO BE QUITE BRILLIANT.
4 Q OKAY.
5 A IN A NUMBER OF AREAS.
6 Q BUT DOING A LOT OF DUMB THINGS; RIGHT?
7 A DEFINITELY.
8 Q DEFINITELY?
9 A DEFINITELY.
10 Q HAD THE WORLD REALLY AT HIS FEET?
11 A HE COULD HAVE.
12 Q WELL, WITH YOU LIVING IN AN EDEN PRACTICALLY, BUT NOT
13 COPING WITH THAT AS IT WAS; RIGHT?
14 A THAT'S CORRECT.
15 Q OKAY.
16 (WHEREUPON THERE WAS A PAUSE).
17 Q ALL RIGHT. IN MAY OF 1995 -- I WANT TO TALK ABOUT
18 THAT FOR A FEW MINUTES; ALL RIGHT?
19 A OKAY.
20 Q OKAY. THERE WAS A CONTRACT YOU SAID TO BUY A HOUSE;
21 RIGHT?
22 A I HAD PUT A CONTRACT ON A HOME, YES, I HAD.
23 Q YES. AND THAT WAS -- IS THAT -- THAT'S THE SECOND
24 HOUSE, SO TO SPEAK; IS THAT RIGHT?
25 A THAT WAS THE FIRST HOUSE THAT I WAS BUYING. WE HAD

1 BEEN RENTING A HOME TOGETHER, STEPHEN AND I.

2 Q AND THAT'S WHAT I'M TRYING TO GET STRAIGHT IN MY OWN
3 MIND. WHAT'S THE ADDRESS ON THAT, BY THE WAY, THAT -- ON
4 THAT HOUSE THAT YOU...

5 A THE HOME THAT I PURCHASED?

6 Q YES, MA'AM.

7 A 110 DURHAM DRIVE.

8 Q AND A -- WHAT'S THAT DRIVE?

9 A DURHAM.

10 Q DURHAM? OKAY. YOU STILL LIVE THERE?

11 A NO, I DO NOT.

12 Q OKAY. DURING THAT TIME HE WAS MAKING IT APPEAR TO
13 YOU THAT HE WAS LEAVING THE MONEY -- IN THE MORNING TO
14 WORK, BUT HE REALLY WASN'T; CORRECT?

15 A AT THAT PARTICULAR TIME DEPENDING ON WHAT FRAME OF
16 '95 WE'RE TALKING ABOUT.

17 Q I JUST HAVE IT IN MY NOTES THAT YOU HAD SAID IT WAS
18 MAY 1995 AND THAT WAS WHEN THE CONTRACT WAS GOING TO BE
19 MADE AND IT--

20 A YES.

21 Q -- AND IT WAS ABOUT THAT TIME -- AND IT MAY HAVE BEEN
22 MANY OTHER TIMES, BUT AT THAT TIME HE WAS -- HE WAS LYING
23 AND YOU CONFRONTED HIM AND SAID, YOU ARE LYING?

24 A THAT'S CORRECT.

25 Q OKAY. AND HIS REACTION WOULD BE... WHEN YOU SAID TO

2350

1 HIM, YOU ARE LYING, WHAT WOULD -- WHAT WAS -- WHAT DID IT
2 BECOME THEN BY THAT TIME?

3 A HE WOULD BECOME ANGRY WITH ME BECAUSE I DIDN'T
4 BELIEVE HIM.

5 Q ALL RIGHT. CHARM DIDN'T WORK SO MUCH AT THAT POINT.
6 IT HAD ALREADY WORN THIN BY THEN WITH HIM? YOU WEREN'T
7 ABLE TO ACCEPT HIS EXPLANATION?

8 A HIS EXPLANATIONS JUST SEEMED TO GET MORE GRANDIOSE
9 THAN THE FIRST. HE ALWAYS HAD SOME KIND OF SOLUTION TO
10 WHAT WAS GOING ON AND IT WAS UNDER HIS CONTROL, HE COULD
11 FIX IT.

12 Q MORE GRANDIOSE AND LESS BELIEVABLE?

13 A THAT'S TRUE.

14 Q HE WOULD HAVE BEEN -- AT THAT TIME HE WOULD HAVE BEEN
15 ABOUT 26 OR SEVEN YEARS OLD; RIGHT?

16 A I IMAGINE. I DON'T RECALL THAT.

17 Q WELL, HE -- HE WAS BORN IN 68?

18 A THAT'S TRUE.

19 Q NOW, YOU GAVE ME THE YEAR OF YOUR BIRTHDAY, BUT I
20 DIDN'T WRITE IT DOWN. WHAT WAS THE YEAR YOU WERE BORN, IF
21 I CAN ASK?

22 A SIXTY.

23 Q SIXTY?

24 A THAT'S CORRECT.

25 Q SO YOU -- HE WAS -- HE WAS THAT -- NOT THAT IT MAKES

1 ANY DIFFERENCE, BUT I JUST WANTED TO KNOW IF YOU RECALL --
2 TOOK PLACE, ABOUT WHAT HIS AGE WAS.

3 A YES. ACTUALLY THAT WAS ANOTHER ONE OF HIS LIES EARLY
4 ON.

5 Q WAS IT?

6 A YES, IT WAS.

7 Q WHAT WAS THAT LIE?

8 A WHAT WAS THAT LIKE?

9 Q YES. NO, NOT LIKE, BUT WHAT WAS THAT LIE? YOU
10 SAID--

11 A THAT HE SAID HE WAS OLDER.

12 Q HE DID?

13 A UH-HUH.

14 Q HOW DID HE REPRESENT HIMSELF TO BE IN AGE?

15 A I BELIEVE HE SAID HE WAS 30.

16 Q ALL RIGHT. SO THAT WOULD HAVE BEEN A STRETCH BECAUSE
17 HE COULD HAVE ONLY BEEN ABOUT 25 OR 26, I SUPPOSE?

18 A THAT WAS A STRETCH.

19 Q AT THAT TIME I THINK YOU SAID THAT IT ACTUALLY HAD
20 PROGRESSED TO THE PLACE THAT HE PUSHED YOU AND HE PICKED
21 YOU UP BY THE NECK.

22 A THAT WAS IN '95.

23 Q THAT WAS 1995. HAD YOU -- HAD HE BEEN TO YOUR
24 KNOWLEDGE TO ANY KIND OF COUNSELING FOR THIS ODD BEHAVIOR
25 THAT WAS NOW APPARENTLY BECOMING VIOLENT?

1 A I DON'T -- I CAN'T RECALL.

2 Q IT WASN'T UNTIL DR--

3 A RANDY WADE.

4 Q -- WADE, AND THAT WAS LATER.

5 A I BELIEVE THAT WAS SOME TIME LATER, YES.

6 Q OKAY. AND THAT'S WHEN YOU HAD THE LOCKS CHANGED;

7 RIGHT? HE LEFT, YOU HAD THE LOCKS CHANGED. THAT WOULD

8 HAVE BEEN MAY OR JUNE OF '95; RIGHT?

9 A THAT'S RIGHT.

10 Q OKAY. AND I BELIEVE THAT THAT'S ABOUT THE TIME THAT

11 HE LEFT AND WENT TO ATLANTA AND THEN YOU FORGAVE HIM;

12 CORRECT?

13 A THAT'S CORRECT.

14 Q JUST TO CUT IT SHORT, CONDENSE IT.

15 A THAT'S RIGHT.

16 Q NOT--

17 A THAT'S CORRECT.

18 Q WHEN HE CAME BACK FROM ATLANTA, I THINK YOU SAID THAT

19 TIME YOU HAD -- YOU PAID FOR AN ATTORNEY TO HELP HIM OUT?

20 A YES, I HAD.

21 Q AND HE HAD NO TRANSPORTATION?

22 A NO, HIS PARENTS HAD TAKEN HIS TRUCK.

23 Q SO PREVIOUS TO THAT HAD YOU ACTUALLY SEEN A TRUCK

24 THAT HE HAD BEEN DRIVING AND -- OR DID YOU KNOW THAT THEY

25 HAD ACTUALLY TAKEN IT?

1 A YES, I KNEW.

2 Q YOU DID? SO THAT DID HAPPEN?

3 A YES, IT DID.

4 Q OKAY. BY THIS TIME YOU WERE BEGINNING TO RECOGNIZE
5 WHAT YOU CALLED SIGNS OF HIS BEHAVIOR. WERE YOU -- THEY
6 WOULD BE PRECURSORS TO WHAT MIGHT FOLLOW; CORRECT?

7 A THAT'S RIGHT.

8 Q AND WHAT WERE THESE SIGNS THAT BEGAN TO REAPPEAR TO
9 THE PLACE WHERE YOU SAID, OH, THAT'S A SIGN, AND
10 SOMETHING'S COMING HERE. WHAT WERE THEY?

11 A BECAUSE WHAT HE TOLD ME NEVER ADDED UP. HE WOULD
12 LEAVE EARLY AND BE GONE AND NOT COME HOME UNTIL LATE. HE
13 WOULD BE VERY QUIET WHERE THAT WASN'T NORMAL FOR HIM. HE
14 ALWAYS LOOKED WORRIED ABOUT SOMETHING OR HE WAS FIDGETY.

15 Q NOW, YOU -- I BELIEVE IN YOUR SECOND HOME WHICH WOULD
16 BE ON DURHAM LANE OR DURHAM ROAD?

17 A DURHAM DRIVE.

18 Q DURHAM DRIVE. THE CRENSHAW'S WERE YOUR NEIGHBORS?

19 A THEY WERE.

20 Q OKAY. AND YOU -- HOW DID YOU LEARN THAT STEVE WAS
21 APPARENTLY -- I'LL JUST SAY CONNING CRENSHAW ABOUT SOME
22 KIND OF CAR LOT?

23 A BECAUSE NATALIE HAD MENTIONED SOMETHING WAS WRONG
24 WITH A BUSINESS DEAL THEY WERE INVOLVED IN WITH STEPHEN,
25 AND THEN THE NIGHT THAT I CAME HOME AND FOUND HE WAS IN A

1 CAR IN MY NEIGHBOR'S YARD FOR HOURS, STEPHEN CAME IN AND I
2 CONFRONTED HIM AND THAT'S WHEN HE BEGAN TO TELL ME THIS.

3 Q SO STEPHEN BEGAN TO TELL YOU A--

4 A THAT IT WASN'T WHAT HE -- I THOUGHT, THAT HE WAS
5 PUTTING TOGETHER A USED CAR LOT FOR US.

6 Q AND I THINK HE ALSO TOLD YOU HE WAS SETTING UP A
7 BUSINESS FOR YOU; IS THAT CORRECT?

8 A THAT'S WHAT HE SAID.

9 Q AND WHAT BUSINESS WOULD THAT HAVE BEEN?

10 A I COULDN'T TELL YOU.

11 Q OKAY. NOW, I BELIEVE THAT YOU GAVE A STATEMENT AT
12 THE BERKELEY COUNTY SHERIFF'S DEPARTMENT ON FEBRUARY THE
13 22ND, '96, A HANDWRITTEN STATEMENT.

14 A THAT SOUNDS CORRECT.

15 Q AND WHERE YOU REALLY GAVE AN ACCOUNT OF THE PERIOD
16 THAT WE'RE NOW TALKING ABOUT.

17 A THAT'S TRUE.

18 Q NOW, I WANT TO TALK TO YOU ABOUT -- ABOUT THAT; OKAY?
19 AND YOU SAID IN THAT STATEMENT OR YOU -- YOUR -- BY
20 TELLING THEM -- YOU SAID YOU HAD BEEN SUSPICIOUS OF HIS
21 ACTIVITIES FOR SEVERAL WEEKS AT THAT TIME.

22 A THAT'S TRUE.

23 Q YEAH. AND THAT HE WOULD LEAVE WORK -- FOR WORK EARLY
24 AND RETURN LATE -- THINK YOU SAID EVERY NIGHT IN YOUR
25 STATEMENT.

1 A THAT'S PROBABLY TRUE, YES.

2 Q PROBABLY TRUE? AND ON THE DAYS THAT HE WAS SUPPOSED
3 TO BE OFF HE STILL WENT TO WORK?

4 A THAT'S RIGHT.

5 Q ALL THIS WAS MAKING YOU SUSPICIOUS?

6 A THAT'S CORRECT.

7 Q PLUS THIS WAS SORT OF A REPETITIOUS KIND OF BEHAVIOR
8 AS WELL; WASN'T IT?

9 A YES, IT WAS.

10 Q DID YOU BEGIN TO LOOK AT THIS AS A SICKNESS THAT THIS
11 MAN HAD OR HOW DID YOU LOOK AT THIS?

12 A I DIDN'T KNOW. I WASN'T EQUIPPED TO KNOW HOW TO LOOK
13 AT THIS.

14 Q OKAY. BUT YOU DID START QUESTIONING HIM ABOUT THIS
15 THAT WE'RE TALKING ABOUT?

16 A YES, I DID.

17 Q OKAY. AND WHY HE WAS GOING TO WORK SO MUCH FOR
18 INSTANCE?

19 A YES, EXACTLY.

20 Q OKAY. AND HE WOULD TELL YOU HE HAD DEALS TO FINALIZE
21 OR THERE WERE OTHER PERSONS DUE IN TO CLOSE ON A DEAL OR
22 DELIVER CARS. HE'D GIVE YOU THIS KIND OF--

23 A THAT'S TRUE.

24 Q IN OTHER WORDS, THIS KIND OF, IT'S BUSINESS AND
25 BECAUSE IT'S BUSINESS THAT'S WHY I HAVE TO BE GONE THIS

1 TIME.

2 A WELL, YOU REFERRED TO THE TERM DEALS, AND THAT ALWAYS
3 SCARED ME WHEN HE USED THOSE TERMS BECAUSE THAT ALWAYS
4 MEANT HE WAS DOING SOME DEAL.

5 Q AND YOU WERE -- THAT FRIGHTENED YOU BECAUSE OF YOUR
6 LOVE AND AFFECTION FOR HIM AND YOU FELT THAT HE WAS
7 ENDANGERING EVERYTHING AGAIN; RIGHT?

8 A SOMEWHAT, YES.

9 Q SOMETHING LIKE THAT?

10 A I KNEW HE WAS GOING TO HAVE A PROBLEM AGAIN.

11 Q DIDN'T YOU EVER SAY TO HIM, WHY DON'T YOU JUST STOP
12 THIS, JUST QUIT THIS? DID YOU EVER SAY THAT?

13 A MANY TIMES, YES. WE ACTUALLY HAD DISCUSSIONS ABOUT
14 IT.

15 Q DID HE PROMISE YOU, OH YEAH, WELL, I WILL QUIT, I --
16 OR HOW DID HE DO THAT? DID HE JUST SAY, I'M NOT DOING IT?
17 HOW DID HE HANDLE IT?

18 A HE MADE IT SEEM THAT IT WASN'T WHAT IT WAS, IT NEVER
19 WAS WHAT IT REALLY WAS BASED ON HIS FACTS.

20 Q OKAY. AND MA'AM, I'M NOT TRYING TO UPSET YOU; OKAY?

21 A NO, THAT'S QUITE ALL RIGHT.

22 Q OKAY. ALL RIGHT. THEN SOMETIME IN LATE JANUARY --
23 AND THAT WOULD BE 1996 -- YOU RECEIVED A CALL FROM CHARLES
24 DAY? CHARLES DAY?

25 A MAYBE -- I'M NOT FAMILIAR WITH CHARLES DAY.

1 Q LET ME JUST SHOW IT TO YOU. I DON'T KNOW EITHER, BUT
2 MAYBE IT WILL REFRESH YOUR MIND. IT'S...

3 A I DON'T RECALL CHARLES DAY, BUT I BELIEVE WHAT I
4 WROTE THERE.

5 Q OKAY, MA'AM. AND MR. DAY ASKED YOU A QUESTION THAT
6 PUZZLED YOU, DIDN'T HE, BECAUSE HE ASKED IF STEPHEN WAS AT
7 HIS DEALERSHIP; RIGHT?

8 A THAT'S TRUE, YES.

9 Q AND THAT ALARMED YOU REALLY?

10 A YES, IT DID.

11 Q BECAUSE YOU KNEW THERE WASN'T ANY, HIS DEALERSHIP,
12 THAT YOU KNEW ABOUT.

13 A THAT'S CORRECT.

14 Q OKAY. AS FAR AS YOU KNEW, HE WAS AN EMPLOYEE, NOT
15 A -- NOT A CAR DEALER.

16 A THAT'S RIGHT.

17 Q RIGHT? THAT RAISED A RED FLAG RIGHT OFF THE BAT.

18 A IT CERTAINLY DID.

19 Q AND WHEN HE RETURNED HOME, YOU -- YOU -- YOU DID ASK
20 HIM ABOUT THE CAR?

21 A YES, I DID.

22 Q OKAY. AND THAT'S WHEN YOU FOUND OUT THAT HE WAS
23 CLAIMING THERE WAS A USED CAR LOT.

24 A THAT'S WHAT HE SAID.

25 Q AND THAT HE WAS GOING TO OPEN IT WITH RAY CRENSHAW,

1 THE NEXTDOOR NEIGHBOR; RIGHT?

2 A HE WAS HELPING RAY AND THEY WERE--

3 Q HELPING?

4 A -- YES, AND THEY WERE GOING TO START THIS DEALERSHIP.

5 Q OKAY. AND YOU WERE CONCERNED ABOUT THAT, THAT HE HAD
6 BEEN -- SEEMED LIKE SUCH A SECRET FROM YOU, RIGHT, OF
7 COURSE?

8 A I WAS ALARMED.

9 Q OKAY. AND HE -- HE TOLD YOU SOMETHING TO THE EFFECT,
10 WELL, IT'S A SURPRISE, I WAS KEEPING IT AS A SURPRISE FOR
11 YOU.

12 A YES.

13 Q OKAY. DID YOU REALLY BELIEVE THAT OR WHAT DID YOU
14 THINK AT THAT TIME? DO YOU REMEMBER?

15 A I'M SURE I DIDN'T BELIEVE THAT.

16 Q OKAY. AND HE ALSO TOLD YOU AT THAT TIME THAT THERE
17 WAS A BUSINESS BEING SET UP FOR YOU IN ADDITION TO THAT;
18 CORRECT?

19 A NO, I DON'T RECALL THAT UNTIL LATER.

20 Q OKAY.

21 A THAT WAS TOLD TO ME THE NIGHT THAT I SAW HE WAS IN
22 THE CAR WITH THIS DETECTIVE OR WHOMEVER THIS PERSON WAS.

23 Q ALL RIGHT. BUT AT SOME TIME, MAYBE NOT AT THAT
24 PARTICULAR MOMENT, BUT WITHIN A SHORT TIME HE DID TELL YOU
25 THAT; RIGHT?

1 A THAT'S RIGHT.

2 Q AND YOU WERE COMPLETELY SURPRISED BY ALL THIS
3 INFORMATION, DIDN'T HAVE THE SLIGHT IDEA OF WHAT WAS GOING
4 ON.

5 A VERY SURPRISED.

6 Q OKAY. AND Y'ALL ARGUED OVER IT; CORRECT?

7 A THAT'S TRUE.

8 Q AND YOU -- AND PART OF THE ARGUMENT WAS THAT YOU
9 SAID, HEY, WE SHOULD HAVE TALKED ABOUT THIS IF YOU WERE
10 GOING TO DO IT; RIGHT?

11 A ABSOLUTELY.

12 Q OKAY. AND HE GAVE YOU AN EXPLANATION ABOUT WHY HE
13 AND RAY WERE DOING IT; CORRECT?

14 A THAT'S RIGHT.

15 Q ALL RIGHT. AND IN FACT, HE TOLD YOU, WE'VE ALREADY
16 MADE MONEY OFF OF IT.

17 A THAT HE DID, YES.

18 Q OKAY. AND NOW LOOKING BACK AT THAT, YOU -- YOU SEE
19 THAT HE WAS JUST TRYING TO PLACATE YOU AND--

20 A YES.

21 Q -- MOVE AWAY FROM THE SUBJECT. AND WHEN YOU LOOK
22 BACK AT IT NOW YOU SEE THAT AS A LONG PATTERN OF BEHAVIOR,
23 JUST ANOTHER ODDITY IN WHAT WAS GOING ON?

24 A YES.

25 Q OKAY. DID YOU EVER ASK YOURSELF, WHY IS HE DOING

1 THIS TO ME, I LOVE HIM, I ACCEPT HIM, I'M TRYING TO HELP
2 HIM, WHY IS HE DOING THIS -- WHY IS HE DOING THIS TO ME,
3 SO TO SPEAK?
4 A HE WASN'T REALLY DOING IT TO ME. IT WASN'T ABOUT ME.
5 IT WAS ABOUT HIM.
6 Q IT WAS ABOUT HIM?
7 A UH-HUH.
8 Q OKAY. ALL RIGHT. THEN ON FEBRUARY THE NINTH DID HE
9 CONTACT YOU AND SAY HE WAS HAVING A BAD DAY? DO YOU
10 REMEMBER THAT?
11 A I'M SORRY. CAN YOU REPEAT THAT?
12 Q THAT ON FEBRUARY THE NINTH OF 1996 STEPHEN CONTACTED
13 YOU I SUPPOSE BY TELEPHONE AND SAID HE WAS HAVING A BAD
14 DAY. DO YOU REMEMBER THAT?
15 A IT SEEMS FAMILIAR, YES.
16 Q OKAY. LET ME SHOW IT TO YOU JUST TO REFRESH YOUR
17 MEMORY SO WE'LL BE -- WE'LL HAVE YOUR UNDERSTANDING OF IT.
18 MR. HUMPHRIES: YOUR HONOR, I HAVE GOT A COPY OF
19 HER STATEMENT IF SHE JUST WISHES TO HAVE IT UP THERE
20 WITH HER, MIGHT SAVE SOME TIME.
21 MR. KELLY: THAT WILL BE FINE. BE HAPPY TO HAVE
22 IT.
23 BY MR. KELLY:
24 Q HERE IS A COPY THAT WE'LL JUST GIVE YOU TO REMIND
25 YOU. MAKE IT EASY IN GOING BACK AND FORTH FOR YOU, AND

1 ME, TOO. SO THAT -- I THINK THAT YOU RECOUNTED THAT
2 YOU -- THAT HE CALLED AND SAID SOMETHING TO THE EFFECT OF
3 HAVING A BAD DAY?

4 A YES.

5 Q OKAY. AND TO YOU HE SOUNDED LIKE HE WAS UPSET, SO
6 YOU -- YOU TRIED TO CHEER HIM UP BY SENDING HIM A GIFT;
7 RIGHT?

8 A YES.

9 Q OKAY. SOME BALLOONS TO CHEER HIM UP?

10 A YES.

11 Q OKAY. AND THEN I THINK THAT YOU RECOUNT IN THIS, AND
12 IF THE -- IF THE SOLICITOR HAS NO OBJECTION, I'LL JUST
13 ENTER IT INTO EVIDENCE. IS THAT AGREEABLE TO YOU?

14 MR. HUMPHRIES: I, YOU KNOW, I'D PREFER WE
15 PROCEED IN THE WAY THE RULES ALLOW.

16 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

17 THE COURT: YOU MAY PROCEED.

18 BY MR. KELLY:

19 Q SO HE CALLED AND SAID, BAD DAY, AND -- AND YOU HEARD
20 THE TONE OF HIS VOICE AND YOU TRIED TO CHEER HIM UP BY
21 SENDING HIM A GIFT OF BALLOONS. THAT'S WHERE WE LEFT OFF;
22 OKAY?

23 A UH-HUH.

24 Q AND THEN I THINK THAT -- WASN'T WHAT HAPPENING THAT
25 AT THAT POINT THINGS SEEMED TO BE GETTING REALLY OUT OF

1 CONTROL WITH STEPHEN.

2 A YES.

3 Q RIGHT? OUT OF CONTROL WITH STEPHEN. AND -- AND GO
4 AHEAD AND TELL US WHAT YOU MEAN BY THAT WAS GETTING --
5 WHAT DO YOU MEAN BY IT WAS GETTING OUT OF CONTROL WITH
6 STEPHEN. WHAT DOES THAT MEAN?

7 A HIS TEMPER BECOMES QUITE AGITATING.

8 Q AND IN -- HOW WOULD IT DISPLAY ITSELF, MA'AM?

9 A ANGER.

10 Q ANGER?

11 A AND HIS -- HE WOULD CHANGE HIS TONE AND SPEAK WITH A
12 DEMEANING TONE.

13 Q AND THE REASON THAT YOU KNEW THAT BECAUSE YOU HAD
14 SEEN THE SAME TYPE OF TEMPERAMENT IN HIM BEFORE; CORRECT?

15 A THAT'S CORRECT.

16 Q OKAY. SO THAT WHEN THINGS -- THERE CAME A POINT,
17 MAYBE YOU KNEW WHY, MAYBE YOU DIDN'T KNOW WHY, MAYBE YOU
18 KNEW PARTIALLY WHY, BUT WHAT YOU DID KNOW IS THIS THING
19 WAS STARTING TO GET OUT OF CONTROL WITH STEPHEN; RIGHT?

20 A YES.

21 Q OKAY. WASN'T GETTING OUT OF CONTROL REALLY FOR YOU.
22 YOU WERE JUST ALMOST LIKE A OBSERVER SOMETIMES; CORRECT?

23 A I KNEW I WOULD BE BROUGHT INTO IT. IT WOULD BE A
24 WHIRLWIND.

25 Q AND HOW COULD YOU NOT; RIGHT?

1 A YES.

2 Q BEING IN THAT POSITION. AND ON VARIOUS OCCASIONS HE
3 HAD -- HE BECAME ARGUMENTATIVE?

4 A YES, HE DID.

5 Q AND PREVIOUS TO THIS MOMENT THAT WE'RE TALKING ABOUT
6 YOU HAD RECITED FOR US THAT HE HAD TAKEN MONEY FOR THINGS
7 HE COULDN'T SUPPLY, HE HAD WORKED WITH SEVERAL COMPANIES
8 AND LOST JOBS, IT MIGHT BE DUE TO FALSE ORDERING OR IT
9 MIGHT BE EVEN FORGING CUSTOMER DOCUMENTS, AND OTHER
10 ACTIVITIES THAT HAD LED TO FAILURE, DISMISSAL; RIGHT?

11 A TRUE, YES.

12 Q YEAH. AND THE SHAME THAT GOES WITH IT AND THE STIGMA
13 THAT GOES WITH IT BEING CAUGHT IN BAD ACTS AND BEING FIRED
14 FROM THE JOB, ALL THAT TOGETHER; RIGHT?

15 A I'M NOT SURE WHAT YOUR QUESTION IS.

16 Q WELL, WHAT I'M SAYING IS IS THAT -- WELL, LET ME ASK
17 IT THIS WAY. WHEN THESE THINGS WOULD HAPPEN TO STEVE, DID
18 HE SHOW REMORSE? DID HE SHOW SHAME THAT HE HAD BEHAVED IN
19 THIS WAY AND THE RESULT WAS HE HAD BEEN EXPOSED TO HIS
20 EMPLOYER AND THEY HAD SAID, THERE'S THE DOOR, MR. STANKO,
21 GO THROUGH IT AND DON'T COME BACK HERE NO MORE?

22 A NO, HE DIDN'T SHOW SHAME.

23 Q DID HE SHOW REGRET?

24 A NOT THAT I COULD SEE.

25 Q LET ME ASK--

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1 A IT WASN'T HIS FAULT.

2 Q IN THAT SAME WAY THAT HE DIDN'T SHOW SHAME OR REGRET
3 ABOUT THAT, DID YOU EVER SEE HIM SHOW SHAME OR REGRET OR
4 REMORSE ABOUT WHAT HE WAS DOING?

5 A NOT THAT I CAN RECALL, NO.

6 Q DID YOU TAKE THAT TO BE -- WHAT KIND OF BEHAVIOR DID
7 YOU TAKE THAT TO BE? IS THAT -- HOW COULD THE MAN WHO
8 COULD BE FEELING TOWARDS YOU AND EMPATHETIC TOWARDS YOU
9 NOT HAVE THIS REMORSE AND FEELINGS OF GUILT OR SHAME? DID
10 THAT EVER OCCUR TO YOU, WHAT'S THAT ALL ABOUT?

11 A NO, PERHAPS IT NEVER REALLY OCCURRED TO ME THAT WAY.

12 Q CAN YOU SEE IT? IS THAT NOW MORE THE DIFFERENCE OF
13 THE BEHAVIOR WITH YOU, MORE FEELING AND EMPATHETIC, BUT
14 WHEN IT HAD TO DO WITH THESE THINGS, REALLY NOT? IS THAT
15 THE WAY--

16 A I'M SORRY. AGAIN, I DON'T THINK I QUITE UNDERSTOOD
17 WHAT YOU WERE SAYING.

18 Q I WILL JUST LEAVE THAT ALONE. WE WILL JUST GO ON
19 FORWARD; OKAY? ALL RIGHT. YOU SAID THAT HE HAD DONE THIS
20 AND BECAME A LEGAL PROBLEM FOR HIM WHEN HE WAS -- AND I
21 CAN'T READ THIS LINE -- THIS -- WHAT YOU WROTE HERE.

22 CAN YOU -- DO YOU SEE THAT ON THE THIRD PAGE ABOUT
23 EIGHT LINES DOWN? IT'S IN THE SENTENCE WHERE IT SAYS, HE
24 HAD DONE THIS AND IT BECAME A LEGAL PROBLEM FOR HIM WHEN
25 HE WAS...

1 A INVOLVED.

2 Q INVOLVED.

3 A WITH THIS--

4 Q INVOLVED WITH A MR. HOUSE?

5 A UH-HUH.

6 Q AND HIS SON IN GOOSE CREEK?

7 A YES.

8 Q OKAY.

9 A I SEE THAT.

10 Q OKAY. THAT'S WHAT I WAS TALKING ABOUT EARLIER WHEN

11 MR. HOUSE AND HIS SON IN GOOSE CREEK AND THE COMPUTER.

12 THAT'S WHAT I WAS ASKING ABOUT.

13 A OKAY. YES, OBVIOUSLY.

14 Q DOES THIS REFRESH YOUR MEMORY TO ANY DEGREE WHEN THAT

15 TROUBLE WITH GOOSE CREEK MIGHT HAVE BEEN?

16 A SOMEWHAT. IT'S BEEN A LONG TIME AGO.

17 Q I KNOW, MA'AM. I'M JUST -- I'M NOT ASKING BUT JUST

18 WHAT YOU CAN TELL ME. I'M NOT BEING CRITICAL.

19 A THAT'S FINE.

20 Q THEN YOU RECOUNT THAT WHEN Y'ALL HAD LIVED AT 106

21 ASHTON DRIVE -- NOW, THAT WAS THE HOUSE YOU RENTED

22 BEFORE--

23 A THAT'S RIGHT.

24 Q -- DURHAM ROAD.

25 A YES.

1 Q IN GOOSE CREEK IS WHERE THAT WAS; RIGHT?
2 A UH-HUH. THAT'S CORRECT.
3 Q HE WAS SUPPOSED TO BE REPORTING REGULARLY TO MR -- I
4 CAN'T...
5 A ROMEO.
6 Q ROMEO...
7 A RADDERMAN.
8 Q RADDERAN (SIC)?
9 A RADDERMAN.
10 Q RADDERMAN. AND DO YOU KNOW WHO MR. ROMEO -- WELL, IT
11 SAYS HERE, BERKELEY COUNTY PROBATION.
12 A THAT'S RIGHT.
13 Q OKAY. AND YOU SAID HE WAS DOING OTHER SUSPICIOUS
14 THINGS AND YOU SAY LIKE LAST YEAR, SO THAT WOULD BE --
15 SINCE THIS WAS WRITTEN IN FEBRUARY 22ND, '96, THAT WOULD
16 BE ABOUT '95, LAST YEAR.
17 A UH-HUH.
18 Q ABOUT THE TIME OF MAY OR JUNE. AND ALSO, WAS HE
19 PAWNING PERSONAL POSSESSIONS?
20 A YES, HE DID.
21 Q OKAY. DID YOU FIND THAT TO BE STRANGE? AND HOW DID
22 YOU DISCOVER THAT?
23 A I DISCOVERED THAT BY GOING THROUGH SOME OF OUR THINGS
24 AND FINDING PAWN TICKETS IN THE HOUSE.
25 Q AND DID YOU EVER -- COULD YOU TELL ME WHAT THEY WOULD

1 HAVE BEEN FOR? DO YOU HAVE ANY REMEMBRANCE OF WHAT THE
2 TICKET SAID OR COULD YOU TELL?

3 A I REMEMBER THERE WERE SEVERAL PAWN TICKETS. SOME I
4 DON'T RECALL WHAT THE MATERIALS WERE. SOME WERE MINE,
5 JEWELRY, AND PAINTING.

6 Q THAT WOULD BE YOUR JEWELRY?

7 A YES, IT WAS MY JEWELRY.

8 Q THE PAINTING WOULD BE BELONGING TO YOU?

9 A YES.

10 Q DID YOU CONFRONT HIM WITH THIS WHEN YOU FOUND THESE
11 PAWN TICKETS?

12 A I BELIEVE I DID ON -- OVER THE PHONE.

13 Q HE WAS IN ATLANTA AT THE TIME?

14 A YES, I THINK THAT POSSIBLY HE WAS IN ATLANTA AT THAT
15 POINT.

16 Q AND THESE WOULD BE AMONG THE THINGS OR THE ITEMS THAT
17 YOU TOLD US EARLIER WERE MISSING FROM THE HOUSE?

18 A THAT'S RIGHT.

19 Q AND NOW THE PAWN TICKETS SHOW UP?

20 A YES.

21 Q AND THEY'RE IN THE HOUSE?

22 A YES.

23 Q THAT'D PRETTY MUCH SHOW US THAT HE HAD PAWNED THEM
24 BEFORE HE LEFT AND LEFT THE TICKETS THERE; CORRECT?

25 A THAT'S RIGHT.

1 Q OKAY. YOU SAID IN JUNE 23RD, '95 YOU CONFRONTED HIM
2 ABOUT SEVERAL ISSUES THAT INVOLVED HIS WORK AND PAWNED
3 ITEMS AND VARIOUS PHONECALLS. WHAT WERE THE PHONECALLS
4 ABOUT? DO YOU REMEMBER?

5 A HE WAS ALWAYS ON THE PHONE MAKING PHONECALLS. I'M
6 NOT SURE WHO HE WAS SPEAKING TO.

7 Q WAS IT YOUR PHONE OR HIS PHONE?

8 A IT WAS MY -- THE HOUSE PHONE.

9 Q OKAY. AND THAT LED INTO A MAJOR ARGUMENT AS TO WHERE
10 STEPHEN THREATENED YOUR LIFE AND PLACED THE HANDS AROUND
11 YOUR NECK AS IF HE WOULD CHOKE YOU?

12 A THAT'S RIGHT.

13 Q CORRECT? AND THAT'S WHAT YOU TOLD US ABOUT EARLIER;
14 ISN'T IT?

15 A YES. YES, THAT'S TRUE.

16 Q AND THAT'S WHEN YOU WENT TO A NEIGHBOR. WHEN YOU
17 WENT TO THE NEIGHBOR, DID YOU CALL THE AUTHORITIES AT THAT
18 TIME?

19 A I LEFT THE HOME.

20 Q YOU LEFT--

21 A AND YES, I DID REPORT IT.

22 Q YOU DID REPORT IT?

23 A YES.

24 Q AND YOU FILED A REPORT WITH BERKELEY COUNTY?

25 A THAT'S CORRECT.

1 Q WHICH YOU DECIDED, I'M NOT GOING TO PRESS THESE
2 CHARGES.

3 A THAT'S RIGHT.

4 Q OKAY. SO THERE WAS A TIME WHEN YOU LEFT ASHTON AND
5 LIVED WITH YOUR PARENTS UNTIL YOU GOT THE HOUSE OVER IN
6 DURHAM; CORRECT?

7 A THAT'S RIGHT. I HAD TO MOVE OUT OF THE RENTAL HOUSE
8 AND PREPARE TO MOVE INTO MY NEW HOUSE, YES.

9 Q AND THIS WOULD PROBABLY BE THE TIME THAT STEPHEN WAS
10 IN ATLANTA AND OUT OF YOUR LIFE AT THAT TIME. IS THAT THE
11 WAY THAT WORKED?

12 A I'M NOT SURE WHERE HE WAS, BUT HE WAS NOT INVOLVED
13 WITH ME.

14 Q OKAY. AND YOU TOOK -- SPOKE WITH HIM OCCASIONALLY ON
15 THE TELEPHONE; CORRECT?

16 A YES. THAT'S WHAT I SAID, YES.

17 Q BUT YOU COULD NEVER -- YOU CAN NEVER TELL WHERE
18 ANYBODY IS WHEN THEY'RE ON THE TELEPHONE. THEY MIGHT TELL
19 YOU, BUT YOU DON'T KNOW; DO YOU?

20 A WITH HIM YOU NEVER KNOW ANY WAY.

21 Q RIGHT. AND THAT'S A PATTERN THAT NEVER CHANGED--

22 A THAT'S TRUE.

23 Q -- WITH HIM. OKAY. AND DID YOU HAVE ANY KIND OF
24 CALLER ID WHERE YOU COULD SAY, OH, WELL, HE'S CALLING ME
25 FROM SO AND SO. DID YOU HAVE THAT?

1 A NOT AT MY PARENTS' HOME. WHEN I MOVED INTO MY HOME,
2 YES, I DID, AND IT WAS ALWAYS AN UNKNOWN NUMBER.

3 Q OKAY. WHAT DOES THAT MEAN, UNKNOWN NUMBERS?

4 A IT'S NOT REGISTERED -- IT'S NOT REGISTERED. IT COULD
5 HAVE BEEN A CELLPHONE NUMBER.

6 Q OKAY, MA'AM. THANK YOU. AND THERE WAS A TIME AFTER
7 THIS -- I'LL JUST CALL IT THIS EXPLOSION OF ANGER WHERE HE
8 GRABBED YOU AROUND THE NECK AND WHERE YOU WERE NOT LIVING
9 WITH HIM, HE WAS LIVING WITH SOMEBODY NAMED RANDY AND
10 CHARLES AND DEVIN FOREST, IS THAT -- OR THAT WAS PART OF
11 IT. NOT MAYBE ALL OF IT.

12 A NOW, SOMEWHERE ALONG IN THERE I THINK THAT HE DID,
13 YES.

14 Q AND I THINK ALSO ALONG ABOUT THIS TIME THAT'S WHEN
15 THE LADY IN ATLANTA BEGAN TO APPEAR AS WELL?

16 A NOT UNTIL SEPTEMBER OF '95.

17 Q ALL RIGHT. LET'S TALK ABOUT SEPTEMBER 26TH -- I
18 BELIEVE THIS IS OF '95. DIDN'T STEPHEN RETURN TO
19 CHARLESTON FROM ATLANTA TO YOUR HOUSE?

20 A NOT ON SEPTEMBER 26TH, NO.

21 Q OKAY.

22 A IT WOULD HAVE BEEN AFTER THAT.

23 Q LOOK AT YOUR PAGE -- THEY'RE NOT NUMBERED, BUT IT
24 WOULD BE THE FOURTH PAGE, SECOND FULL PARAGRAPH. YOU SEE
25 WHERE IT SAYS, ON SEPTEMBER THE 26TH?

1 A I WILL TELL YOU THAT THAT'S A MISTAKE. IT WAS AFTER
2 THAT, YES. IT WAS ABOUT A WEEK OR SO AFTER THAT.

3 Q OKAY. AND IT GOES ON TO SAY THAT HE WAS TAKEN TO THE
4 PROBATION OFFICE IN BERKELEY COUNTY BY HIS MOTHER AND
5 SISTER WHERE HE WAS ARRESTED AND SERVED LOOKS LIKE 35 DAYS
6 IN THE BERKELEY COUNTY DETENTION CENTER.

7 A THAT'S RIGHT.

8 Q IS THAT THAT 30 DAYS THAT WE HAVE BEEN TALKING ABOUT
9 WHILE YOU HAVE BEEN UP HERE WITH US TODAY?

10 A YES, THAT'S TRUE.

11 Q OKAY. SO THAT'S WHERE WE CAN PLACE THAT?

12 A YES.

13 Q OKAY. AND YOU RETAINED AN ATTORNEY, MR. RICK
14 BUCHANAN, TO HELP STEPHEN IN HIS DEFENSE; CORRECT?

15 A THAT'S TRUE.

16 Q AND ACTUALLY PAID OFF SOME OF -- OTHER DEBTS THAT HE
17 HAD BEEN, WHAT IS THIS WORD, INCLUDED WITH OR... TOWARDS
18 THE BOTTOM OF THE PAGE, NEXT TO THE LAST LINE, PAID OFF
19 OTHER DEBTS THAT HE HAD BEEN -- WHAT'S THAT WORD, I-N -- I
20 CAN'T READ THAT.

21 A INVOLVED WITH.

22 Q INVOLVED. THAT HE HAD BEEN INVOLVED WITH. AND
23 SEEMED TO HAVE OCCURRED DURING EARLIER MONTHS. DO YOU
24 REMEMBER WHAT THOSE WERE?

25 A I REALLY DON'T RECALL.

1 Q OKAY. THAT'S FINE IF YOU DON'T KNOW. I JUST
2 WONDERED IF YOU DID. NOW, IN ADDITION TO HIS LEGAL
3 ASSISTANCE, WHAT DID YOU ALSO REQUEST?
4 A I'M SORRY. WHAT DID I REQUEST?
5 Q YES. I'M LOOKING AT THE TOP OF THE NEXT PAGE.
6 DIDN'T YOU REQUEST PSYCHIATRIC -- PSYCHIATRIST?
7 A I DID NOT REQUEST IT.
8 Q OKAY. LOOK AT THAT FIRST LINE. JUST STRAIGHTEN THIS
9 OUT FOR ME. IT SAYS, IN ADDITION TO LEGAL ASSISTANCE, I
10 REQUESTED -- AND THEN I CAN'T REALLY -- LOOKS LIKE
11 PSYCHIATRIST. WHAT IS THAT?
12 I REQUESTED TO CONTACT FOR AN EVALUATION AND ONGOING
13 TREATMENT FOR STEPHEN AFTER HIS RELEASE. WHAT'S THAT?
14 A I PROBABLY MEANT TO SAY THAT I REQUESTED TO GO WITH
15 HIM.
16 Q OKAY. AND SO YOU -- IF I GET THE GIST OF THIS,
17 YOU'RE TALKING ABOUT EVALUATION, ONGOING TREATMENT AFTER
18 HE'S RELEASED AT THAT TIME?
19 A THAT'S RIGHT.
20 Q BECAUSE YOU FELT THAT HE NEEDED PROFESSIONAL
21 OBSERVATION OR EVALUATION OR...
22 A HE NEEDED COUNSELING AS TO WHY HE WAS CONNING PEOPLE.
23 Q WELL, YOU KNOW, ALL OF THE COUNSELING, IF THAT'S WHAT
24 WE WANT TO CALL IT THAT YOU TRIED TO GIVE HIM OR ANYBODY
25 ELSE HAD--

1 A I'M NOT A COUNSELOR, SIR.

2 Q WELL, WHEN I SAY COUNSELING I MEAN SITTING DOWN AND
3 SAYING -- HOLDING HANDS AND SAYING, DON'T DO THIS, DON'T
4 BEHAVE THIS WAY. I CALL THAT COUNSELING. AND I'M SURE
5 YOU GAVE PLENTY OF THAT OVER THE YEARS; DIDN'T YOU?

6 A YES. I TRIED, YES.

7 Q YEAH. YOU TRIED TO COUNSEL HIM THE SAME WAY YOU'D
8 COUNSEL YOUR SON TO -- TO DO THE RIGHT THING AND TO -- AND
9 TO CORRECT THE BEHAVIOR THAT WOULD BE DETRIMENTAL TO THE
10 FAMILY; CORRECT?

11 A RIGHT, BUT I'M NOT A PROFESSIONAL.

12 Q NO, MA'AM. I KNOW YOU'RE NOT A PROFESSIONAL AT ALL.
13 BUT WHAT I'M SAYING IS NO COUNSELING FROM ANY SOURCE UP TO
14 THIS POINT HAD EVER CORRECTED HIS BEHAVIOR; RIGHT?

15 A THAT'S TRUE.

16 Q OKAY. THEN I THINK THE SITUATION BECAME MORE
17 AGGRAVATED. YOU WERE QUESTIONING STEPHEN ABOUT HIS
18 DEALINGS ON THE SALE THAT NEVER WAS COMPLETED WITH RAY,
19 THAT WOULD BE CRENSHAW?

20 A THAT'S RIGHT.

21 Q AND NATALIE, THAT WOULD BE MRS. CRENSHAW?

22 A THAT'S CORRECT.

23 Q OKAY. SO YOU -- YOU JUST GOT TO HIM ON THAT. SHE --
24 THEY EVIDENTLY TOLD YOU AND YOU TOOK IT TO HIM?

25 A I FOUND OUT ABOUT IT BECAUSE STEPHEN INQUIRED ON A

1 LEASE THAT THEY WERE INVOLVED IN AND HE WAS TRYING TO WORK
2 SOMETHING OUT WITH THAT LEASE SO THAT THEY WOULD NOT BE
3 UPSIDE DOWN ON THEIR LEASE.

4 Q AND THERE WAS ALWAYS A STORY THAT -- THAT STEPHEN HAD
5 READY OR THAT HE DIDN'T HAVE READY, HE GAVE READILY, TO
6 ANY CRITICISM SUCH AS THIS AND IN FACT TO THIS; CORRECT?

7 A THAT'S CORRECT.

8 Q AND THAT NEVER ALTERED. THAT WAS A CONSTANT BEHAVIOR
9 OF THIS MAN.

10 A YES.

11 Q AND AT THAT TIME YOU FELT THAT HE WASN'T TAKING HIS
12 LEGAL RESPONSIBILITIES AS SERIOUSLY AS HE SHOULD.

13 A THAT'S RIGHT.

14 Q AND HE -- AND YOU STILL BELIEVE THAT TODAY, HE
15 DEFINITELY WAS NOT TAKING HIS LEGAL RESPONSIBILITIES AS
16 SERIOUSLY AS HE SHOULD; RIGHT?

17 A CERTAINLY NOT.

18 Q OKAY. AND THERE WAS NO APPARENT REASON FOR IT.
19 THERE WAS NOTHING THAT YOU COULD SEE OTHER THAN HIS
20 BEHAVIOR. THERE WAS NO EXPLANATION OTHER THAN HIS OWN
21 BEHAVIOR; CORRECT?

22 A THAT'S RIGHT.

23 Q AND BECAUSE OF THAT -- OR JUST LET ME ASK YOU. I'M
24 NOT TRYING TO PUT WORDS IN YOUR MOUTH. BUT BECAUSE -- I
25 MEAN, IT'S JUST THIS GUY'S BEHAVIOR, THAT'S ALL YOU SEE.

1 YOU'RE BECOMING MORE AND MORE DISSATISFIED WITH HIM AS
2 WELL AS HIS BEHAVIOR. WHY DON'T YOU STOP THIS. ISN'T
3 THAT BASICALLY WHAT THIS IS ABOUT, THE KIND--

4 A CERTAINLY WE ADDRESSED THAT, YES.

5 Q OKAY. IN FACT, LATER ON -- I'M JUST GOING TO JUMP A
6 LITTLE BIT AHEAD AND MAYBE --

7 A OKAY.

8 Q -- MAYBE IT'S ALSO DURING THIS TIME, TOO. BUT LATER
9 ON HE'S GIVING YOU A -- HE'S GIVING YOU ANOTHER STORY AND
10 THAT IS, I CAN'T STOP DOING IT. THE BAD MAN, THE BAD
11 SIDE. YOU REMEMBER THAT?

12 A YES, I DO RECALL THAT.

13 Q ALL RIGHT. AND YOU WROTE A LETTER TO HIM WHILE HE
14 WAS IN PRISON AND YOU -- YOU TALKED WITH HIM ABOUT HIM
15 RECOUNTING THAT TO YOU ALSO. DO YOU REMEMBER?

16 A I'M SURE I DID. I WROTE SEVERAL LETTERS TO HIM.

17 Q WE'LL GO OVER THAT LATER, TOO. BUT THEN THERE --
18 WHAT I'M GETTING AT IS, I'M ASKING YOU, WASN'T THERE A
19 TIME THAT CAME WHERE HE SAID, I CAN'T STOP, I CAN'T DO IT
20 BECAUSE OF THIS BAD--

21 A HE MAY HAVE USED THOSE WORDS, YES.

22 Q ALL RIGHT. WE'LL GET TO THAT. HE WAS BECOMING
23 ABUSIVE -- VERBALLY ABUSIVE TO YOU AT THIS TIME; WASN'T
24 HE?

25 A YES, HE WAS.

1 Q LET ME ASK YOU SOMETHING; OKAY? WHEN HE DID -- HE
2 WOULD CONTINUE HIS BEHAVIOR, IT -- ONCE IN A WHILE HE'D
3 GET INTO A TIGHT SPOT; WOULDN'T HE? I MEAN, IT'D BE
4 BREAKING DOWN AROUND YOU; WOULDN'T IT?
5 A YES.
6 Q AND WHEN THAT HAPPENED AND IT WAS BREAKING DOWN
7 AROUND HIM, THAT'S WHEN YOU WOULD BECOME AWARE OF IT, TOO?
8 A YES.
9 Q AND IN THAT TIGHT SPOT, THAT'S WHEN HIS BEHAVIOR
10 BEGAN TO ESCALATE UP TO THIS KIND OF AGGRESSION AND ABUSE.
11 A YES.
12 Q REST OF THE TIME DIDN'T SEEM TO BE THAT WAY, BUT IN
13 THIS TIGHT SPOT, YES, THAT WAS IT.
14 A WHEN HE WAS ABOUT TO BE CAUGHT OR HE WAS CONFRONTED,
15 YES, HE BECAME VERY AGGRESSIVE.
16 Q AND PARTICULARLY TOWARDS THE END OF YOUR RELATIONSHIP
17 WHERE YOU WERE NO LONGER -- JUST FOR LACK OF A BETTER
18 WORD -- SUBMISSIVE AND UNDERSTANDING AND ACCEPTING, BUT
19 YOU WERE ACTUALLY GETTING RIGHT IN HIS FACE ABOUT IT, THAT
20 ESCALATED IT EVEN HIGHER?
21 A YES, IT WOULD.
22 Q OKAY. ONE OF THE THINGS AT THIS TIME THAT MADE YOU
23 QUESTION IS THAT YOU'D GIVEN HIM A DEPOSIT, ENTRUSTED HIM
24 WITH A DEPOSIT, DIDN'T SHOW UP IN THE ACCOUNT; RIGHT?
25 A THAT'S RIGHT.

1 Q YEAH. I SUPPOSE WHEN YOU LOOKED AT THAT YOU SAID,
2 OH, OH, HERE WE GO AGAIN; RIGHT?

3 A RIGHT.

4 Q YEAH. AND HE HAD A STORY READY FOR YOU; RIGHT?

5 A ALWAYS, YES.

6 Q OKAY. THE STORY ON THE DEPOSIT WAS -- IS THAT IT
7 JUST DIDN'T REFLECT AT THAT TIME WHAT IT SHOULD; RIGHT?

8 A IN -- SOMETHING LIKE THAT, YES.

9 Q MA'AM, IF YOU'RE GETTING -- YOU KNOW, YOU'VE BEEN
10 TALKING TO ME AND YOU'VE BEEN UP THERE FOR A LONG TIME.
11 WOULD YOU LIKE TO HAVE A BREAK?

12 A I'M QUITE ALL RIGHT.

13 Q YOU'RE OKAY?

14 A YES.

15 Q OKAY.

16 A THANK YOU.

17 Q BUT NOW, LET ME KNOW; OKAY?

18 A I WILL.

19 Q TELL THE JUDGE, NOW. I'M NOT TRYING TO UPSET YOU.
20 IN FACT, HE WENT SO FAR THAT ON FEBRUARY THE 14TH HE TOLD
21 YOU BEST THAT YOU CAN ACCOUNT, I MADE THE DEPOSIT, BUT IT
22 WAS DEPOSITED INTO THE WRONG ACCOUNT; RIGHT?

23 A THAT'S WHAT I RECALL NOW, YES.

24 Q YEAH. YOU'RE REALLY REACHING WHEN YOU START BLAMING
25 ON THE BANK; AREN'T YOU? YOU KNOW. AND THAT'S WHAT HE

1 WAS DOING?

2 A YES.

3 Q OKAY. AND HE WENT SO FAR AS TO TELL YOU THAT BECAUSE

4 OF THEIR MISTAKE, THE BANK HAD ISSUED A CASHIER'S CHECK TO

5 HIM; RIGHT?

6 A RIGHT.

7 Q YOU NEVER SAW THAT, THOUGH; DID YOU?

8 A NOT THAT I RECALL.

9 Q JUST LIKE A DELAYING TACTIC THAT HE CONSTANTLY USED

10 UNTIL THERE WAS NO DELAY POSSIBLE ANY LONGER.

11 A YES.

12 Q CORRECT?

13 A THAT'S RIGHT. YES.

14 Q AND WHEN THERE WASN'T ANY DELAY ANY LONGER, THEN THE

15 EMOTION ESCALATED UP.

16 A YES.

17 Q AND THAT'S THE PATTERN; RIGHT? OKAY. NOW, THIS

18 POINT -- AND IT'S JUST BECAUSE I SUPPOSE THAT'S THE POINT

19 IT WAS IN TIME YOU BEGAN ASKING AND QUESTIONING

20 EVERYTHING.

21 A I BEGAN QUESTIONING?

22 Q YES, MA'AM.

23 A YES, I DID.

24 Q YEAH. IN OTHER WORDS, YOU REALLY OPENED UP ON THE

25 PROBLEM, STARTED AGGRESSIVELY SAYING, WHAT ABOUT THIS AND

1 WHAT ABOUT THIS AND WHAT ABOUT -- NOT LEAVING ANY STONE
2 UNTURNED OR TURNING A BLIND EYE TO IT.

3 A ABSOLUTELY.

4 Q COMING RIGHT AT HIM WITH IT AND MAKING AND DEMANDING
5 ANSWERS.

6 A THAT'S RIGHT. I WAS HIS LAST CHOICE.

7 Q AND WHEN -- OH, AMEN TO THAT, MA'AM. AND NOT ONLY
8 THAT, WHEN HE GAVE YOU AN ANSWER TO IT AND THE ANSWER
9 BROKE DOWN, THEN YOU CAME AT HIM WITH A BREAK DOWN ON THE
10 ANSWER ITSELF. EVERYTHING CAME AT IT; RIGHT?

11 A YES.

12 Q OKAY. GOOD. NOW, ON SUNDAY MORNING, WHICH WAS
13 FEBRUARY THE 18TH, THAT'S WHEN YOU OPENED THE TRUNK OF
14 YOUR CAR?

15 A YES.

16 Q AND THAT'S -- YOU WERE AT THE GROCERY STORE. I GUESS
17 YOU PUT THE GROCERIES IN AND THERE IT WAS?

18 A THAT'S RIGHT.

19 Q OKAY. THAT'S -- I WANT TO TALK ABOUT THAT A LITTLE.
20 I THINK YOU SAID YOUR CAR HAD BEEN DAMAGED, HE TOOK YOUR
21 CAR AND SAID, I AM GOING TO HAVE IT FIXED, AND GAVE YOU A
22 DEMO, SAID WAS HIS, LATER TURNED OUT TO BE STOLEN,
23 IRREGARDLESS, YOU WERE DRIVING IT OUT OF TOWN DURING THAT
24 TIME. YOU BEGAN TO DEMAND YOUR CAR BACK; IS THAT CORRECT?

25 A THAT'S TRUE.

1 Q ONE DAY THERE IT IS IN FRONT OF THE HOUSE.
2 A RIGHT.
3 Q AND YOU'RE HAPPY TO GET IT BACK AND RESTORE SOME
4 CONFIDENCE IN WHAT'S GOING ON TO SOME DEGREE.
5 A YES.
6 Q BUT WHEN YOU GO TO THE GROCERY STORE, YOU FIND WHAT
7 APPEARS TO BE A SMALL OFFICE IN THE TRUNK OF THE CAR.
8 A YES.
9 Q DO YOU THINK THAT'S ODD THAT HE LEFT THAT IN THE CAR
10 WHEN YOU WERE SURE THAT AS SOON AS YOU OPENED THE TRUNK,
11 THERE IT IS?
12 A HE DIDN'T HAVE MUCH OF A CHOICE BECAUSE HE WANTED ME
13 TO TAKE THE DEMO TO THE GROCERY STORE AND I REFUSED, AND
14 HE TRIED VERY HARD TO KEEP ME OUT OF MY CAR.
15 Q UH-HUH. SO HE WAS THINKING -- OR NOW YOU SEE THAT HE
16 WAS THINKING, WELL, MAYBE I WILL REMOVE THIS, BUT DIDN'T
17 HAVE THE OPPORTUNITY.
18 A RIGHT.
19 Q OKAY. I'M GOING TO ASK YOU TO HELP ME READ A WORD I
20 CAN'T READ. IT'S ON THAT PAGE WHICH IS -- SHOULD BE ONE,
21 TWO, THREE, FOUR, FIVE... SIXTH PAGE. SECOND -- LOOKS
22 LIKE SECOND FULL PARAGRAPH. IT'S TOWARDS THE MIDDLE OF
23 THE PAGE, MA'AM.
24 AND IT'S -- IT'S WHERE THIS IS BEING SAID. HE SAID
25 HIS JOB WAS FINE AND HE COULD NOT KEEP THESE THINGS IN

1 THE -- WHAT IS...

2 A TOWER.

3 Q TOWER?

4 A YES.

5 Q WHAT IS THE TOWER?

6 A THAT WAS THE SALES -- EXCUSE ME -- SALES MANAGER'S
7 OFFICE. THEY CALLED IT THE TOWER.

8 Q OH, SO HE'S SAYING THE REASON IT'S IN THE TRUNK IS I
9 COULDN'T KEEP IT IN THE TOWER.

10 A RIGHT.

11 Q AND THIS IS SUPPOSED TO BE A NEW POSITION. HE'S
12 SAYING, I HAVE A NEW POSITION. OKAY. SO THAT THE -- THE
13 STORY IS ESCALATING OUT INTO CHECK-LAND WHERE YOU CAN
14 ACTUALLY CHECK IT; RIGHT?

15 A THAT'S RIGHT, YES.

16 Q THAT'S BREAKDOWN TIME, ISN'T IT? AS SOON AS HE GETS
17 UP HERE WHERE YOU CAN CHECK IT--

18 A YES.

19 Q -- THAT'S WHEN EVERYTHING BEGINS TO ESCALATE, ISN'T
20 IT, OR WAS IT?

21 A YES.

22 Q OKAY.

23 A HIS LIES CAUGHT UP WITH HIM.

24 Q ALL RIGHT. ON SUNDAY EVENING, THAT SUNDAY MORNING,
25 ON THAT EVENING, THE 18TH, HE BECAME NERVOUS AND AGITATED.

1 THAT WAS IN YOUR PRESENCE WHEN Y'ALL WERE IN YOUR HOME?

2 A YES, THAT'S TRUE.

3 Q IN THE HOME?

4 A YES.

5 Q EXPLAIN THAT TO ME SO WE CAN UNDERSTAND IT BETTER.

6 DID HE -- WAS HE -- Y'ALL DOING SOMETHING AND HE WASN'T
7 NERVOUS, NOW YOU STATED HE BECAME NERVOUS, OR HOW WAS
8 THAT? DO YOU RECALL?

9 A NO. HE WAS THAT WAY ALL AFTERNOON AND INTO THE
10 EVENING. HE WAS AGITATED AND FIDGETY AND JUST COULDN'T
11 SIT STILL. HE WAS UP AND DOWN--

12 Q AND YOU--

13 A -- IN AND OUT.

14 Q AND YOU HAD -- IN YOUR PREVIOUS HISTORY WITH HIM YOU
15 HAD SEEN HIM BECOME NERVOUS AND AGITATED AT TIMES;
16 CORRECT?

17 A YES.

18 Q AND THAT WAS ALWAYS PRECEDING SOME EXPOSURE TO HIM?

19 A YES.

20 Q RIGHT? AND SO YOU SUSPECTED, I'M GOING TO SEE SOME
21 EXPOSURE, HERE, CORRECT, SOMETHING LIKE THAT?

22 A I KNEW SOMETHING WAS ABOUT TO HAPPEN, YES.

23 Q OKAY. AND HE TOLD YOU THAT HE HAD A MEETING TO MAKE
24 AND THAT HE WAS GOING TO THE CAR LOT. THAT'S WHAT HE TOLD
25 YOU; RIGHT?

1 A RIGHT.

2 Q AND HE GAVE YOU A STORY ABOUT PICKING UP CARS AND
3 SUCH, YOU KNOW, I GOT TO GO OUT OF THE HOUSE AND THIS IS
4 THE REASON WHY?

5 A YES.

6 Q AND AT ABOUT 9:30, 10:00 HE DID LEAVE YOUR HOME AT
7 THAT TIME?

8 A HE LEFT, YES, SOMETIMES THAT LATE.

9 Q AND WHATEVER THE TIME MIGHT BE -- AND HE WAS GONE
10 UNTIL ABOUT 11:30 PM?

11 A YES.

12 Q OKAY. AND YOU WERE CONCERNED AND UPSET AT THAT TIME;
13 CORRECT?

14 A OH, ABSOLUTELY.

15 Q YES. NOW, ON SUNDAY NIGHT WHEN HE RETURNS, HE
16 DOESN'T THREATEN YOU OR THERE'S NO -- THERE'S NO CLASH
17 BETWEEN THE TWO OF YOU THEN; RIGHT?

18 A NO.

19 Q LET'S GO TO MONDAY MORNING, PLEASE MA'AM. HE DIDN'T
20 GO TO WORK AS HE NORMALLY HAD APPEARED TO HAVE DONE.

21 A RIGHT.

22 Q AND HE GAVE YOU A REASON FOR THAT AND -- AND NOT THAT
23 IT'S MATERIAL TO US, BUT HE TOLD YOU THAT DOUG WAS GOING
24 TO CONTACT HIM WHEN HE WENT INTO THE OFFICE AND THAT'S --
25 HE WAS GOING TO GO INTO WORK AND ALL THIS WAS GOING TO GO

1 ON; CORRECT?

2 A THAT'S TRUE, YES.

3 Q WERE YOU STILL LOOKING AT HIM AT THAT TIME SAYING, I
4 DON'T KNOW IF I OUGHT TO EVEN BELIEVE EVEN THAT AT THIS
5 POINT?

6 A I DID NOT BELIEVE THAT, NO.

7 Q OKAY. SO YOU HAD REACHED THAT POINT?

8 A THAT'S TRUE.

9 Q AND HE TOLD YOU THAT HE WAS WORKING FROM 12 TO 9 PM
10 THAT DAY; IS THAT CORRECT?

11 A YES.

12 Q AND HE CALLED YOU LATER FROM WHAT HE CLAIMED WAS THE
13 OFFICE; RIGHT?

14 A YES.

15 Q OKAY. YOU WERE VERY SUSPICIOUS AT THIS POINT;
16 CORRECT?

17 A YES.

18 Q VERY. AND YOU CALLED HIS PLACE OF WORK.

19 A YES, I CALLED THE RECEPTIONIST.

20 Q OKAY. AND -- TO FIND OUT IS HE WORKING THERE?

21 A YES. I ASKED IF HE WAS THERE, YES.

22 Q BUT THEY DON'T REALLY TELL YOU. THEY JUST SAY HE'S
23 NOT IN AND WE DON'T KNOW IF HE'S COMING IN.

24 A RIGHT.

25 Q AND HAD THEY TOLD YOU -- THIS IS -- I'M JUST ASKING

1 YOU, BUT HAD THEY SAID, WELL, HE DON'T WORK HERE ANY MORE,
2 THEN, OF COURSE, YOU WOULD HAVE CONFRONTED HIM ON THAT AT
3 THIS POINT THE NEXT TIME YOU HAD A CHANCE TO, TO SEE WHAT
4 THIS WAS ALL ABOUT.

5 A I WOULD HAVE ASKED HIM, YES, AND PROBABLY HE --
6 INQUIRED AS TO WHAT HIS PLANS WERE.

7 Q YES, MA'AM. ON MONDAY YOU AND STEPHEN ARGUED ABOUT
8 THE JOB SITUATION; RIGHT? AM I -- AM I WRONG ABOUT THAT?
9 JUST BELOW THE BOTTOM OF THE PAGE. I'VE NOT BEEN ABLE TO
10 CONFIRM MY SUSPICION THAT HE LOST HIS JOB MONDAY. STEPHEN
11 AND I WERE ARGUING ABOUT THE JOB SITUATION. IS THAT
12 CORRECT?

13 A YES, THAT WAS BEFORE I GOT HOME.

14 Q OKAY. AND YOU -- BY THIS -- NOW, YOU RECOUNT HERE
15 THAT YOU TOLD US SOMETHING YOU FELT WAS VERY WRONG.

16 A YES.

17 Q OKAY. AND YOU HAVE TOLD US THAT THESE WERE SIGNS
18 THAT YOU HAD SEEN BEFORE AND THAT WHEN THESE SIGNS
19 APPEARED, HE BECAME DEFENSIVE, ARGUMENTATIVE, AND IN A
20 VIOLENT AND VERBALLY ABUSIVE MANNER. THAT'S WHEN THIS
21 BREAKDOWN IS GETTING READY TO FLOURISH--

22 A YES.

23 Q -- AND COME TO BLOOME AND IN FULL FLOWER--

24 A RIGHT.

25 Q -- AS IT DID. THEN LATE ON MONDAY EVENING HE WENT TO

1 RAY'S HOUSE, RAY CRENSHAW NEXTDOOR, SO TO SPEAK, AND HE
2 SET IN A CAR WHICH APPEARED TO BE AN UNMARKED POLICE CAR.
3 A THAT'S CORRECT.
4 Q CORRECT?
5 A YES.
6 Q LATER ON DID YOU FIND THAT RAY HAD CONTACTED A FRIEND
7 OF HIS WHO WAS INDEED A POLICEMAN?
8 A YES, I DID.
9 Q AND THAT THEY HAD MET WITH STEPHEN AND THAT'S
10 ACTUALLY WHAT YOU HAD OBSERVED OUTSIDE?
11 A RIGHT.
12 Q BECAUSE RAY HAD SUSPICIONS JUST LIKE YOU DID THAT
13 SIGNS WERE SUCH THAT ALL WAS NOT RIGHT--
14 A THAT'S RIGHT.
15 Q -- IN STEPHEN'S WORLD.
16 A YES.
17 Q BUT YOU -- HE WOULDN'T BY SAYING -- CRENSHAW WOULDN'T
18 BE SAYING AGAIN, WOULD IT, YOU'RE THE ONE WHO IS SAYING IT
19 AIN'T RIGHT IN STEPHEN'S WORLD AGAIN, BUT CRENSHAW WAS --
20 THIS WAS THE FIRST TIME AROUND FOR HIM; RIGHT?
21 A YES.
22 Q OKAY. BUT THERE WERE A LOT OF CRENSHAW'S, SO TO
23 SPEAK.
24 A YES.
25 Q AND THEY WERE OUT THERE AFTER YOU RECOUNTED FOR ABOUT

1 AN HOUR AND A HALF, WHICH IS A LONG TIME.

2 A IT WAS MUCH LONGER THAN THAT.

3 Q LONGER THAN THAT?

4 A UH-HUH.

5 Q AND THAT WAS OUT IN FRONT OF YOUR HOUSE OR LIKE
6 BETWEEN THE TWO HOUSES?

7 A IT WAS IN THE DRIVEWAY OF RAY AND NATALIE.

8 Q SO THAT YOU COULD LOOK OUT OF YOUR HOUSE AND SEE
9 THIS?

10 A YES, MY--

11 Q WERE THEY ACROSS THE STREET OR ON THE SAME SIDE?

12 A ON THE SIDE OF MY HOUSE.

13 Q ON THE SIDE?

14 A UH-HUH.

15 Q AND DID YOU -- YOU COULD LOOK OUT ONE OF YOUR WINDOWS
16 AND SEE IT?

17 A YES. UH-HUH.

18 Q OKAY. THANK YOU. AND ALL OF THIS WAS FRIGHTENING TO
19 YOU; CORRECT?

20 A IT WAS UPSETTING.

21 Q IT WAS UPSETTING.

22 A YES.

23 Q ALL RIGHT. LET'S TALK ABOUT WHEN HE RETURNED TO THE
24 HOUSE ON MONDAY NIGHT, OKAY, MONDAY EVENING. I CAN'T
25 REALLY READ HERE WHAT THE TIME IS, SO CAN YOU TELL ME? OR

1 MAYBE YOU DON'T PUT IT HERE. JUST SAYS, MONDAY EVENING.
2 YOU HAVE ANY IDEA WHEN HE DID COME BACK IN THE HOUSE?
3 A NO, I CAN'T RECALL. IT WAS RATHER LATE.
4 Q AND YOU HAD THE LIGHTS OUT AND YOU WERE IN BED;
5 RIGHT?
6 A THAT'S WHAT IT SAYS, YES.
7 Q OKAY. AND YOU TAKEN -- YOU HAD PUT STEPHEN'S PILLOWS
8 ON THE SOFA; RIGHT?
9 A THAT'S WHAT IT SAYS, YES.
10 Q THAT'S A SIGN THAT, HEY, YOU NEED TO SLEEP OUT HERE
11 TONIGHT.
12 A ABSOLUTELY, YES.
13 Q OKAY. AND -- BUT HE ENTERED THE BEDROOM WITH A
14 LITTLE FLASHLIGHT.
15 A YES.
16 Q AND HE ASKED YOU WHAT WAS GOING ON, OR YOU -- YOU
17 ASKED HIM. I ASKED, WHAT WAS GOING ON? AND HE RESPONDED
18 WITH... WHERE ARE MY PILLOWS, HE ASKED YOU.
19 A RIGHT.
20 Q OKAY. AND YOU TOLD HIM, THEY'RE ON THE SOFA.
21 A THAT'S RIGHT.
22 Q AND THAT YOU -- YOU'RE NOT SLEEPING IN THIS BED
23 TONIGHT, OR WORDS TO THAT EFFECT; RIGHT?
24 A SOMETHING LIKE THAT, YES.
25 Q OKAY. AND HE -- HE DIDN'T ACCEPT THAT, THOUGH. HE

1 ARGUED WITH YOU; DIDN'T HE?

2 A YES, HE ARGUED.

3 Q AND HE SAID THAT HE WAS GOING TO SLEEP IN THAT BED;
4 RIGHT?

5 A THAT'S WHAT HE SAID, YES.

6 Q OKAY. BUT HE DIDN'T; DID HE?

7 A NO, SIR, HE DID NOT.

8 Q OKAY. AND HE -- NOW THE -- NOW THE ARGUMENT
9 ESCALATES INTO THE USE OF PROFANITY. HE'S DIRECTING
10 ABUSIVE PROFANITY AT YOU AT THIS POINT.

11 A YES, HE'S ANGRY AT ME.

12 Q HE'S ANGRY.

13 A YES.

14 Q OKAY. AND -- AND HE WAS CONTINUING TO SAY, I HAVEN'T
15 DONE ANYTHING WRONG AND I DESERVE BETTER FROM YOU AND --
16 AND HE WAS ATTACKING YOU, REPRESENTING YOU TO YOURSELF BY
17 HIM AS OTHER THAN YOU ARE -- HE WAS SAYING, YOU'RE A HAG
18 AND YOU'RE SO AND SO; RIGHT?

19 A RIGHT, YES.

20 Q VERY HURTFUL; CORRECT?

21 A OH, YES INDEED.

22 Q THIS ABUSIVE BEHAVIOR AND THIS EXCHANGE BETWEEN YOU,
23 WHICH IS BASICALLY I SUPPOSE IN A DARK BEDROOM WITH HIM
24 EITHER WITH A FLASHLIGHT ON OR OFF, HE THROWS A ROBE AT
25 YOU. IS THAT CORRECT?

1 A YES, HE DID.

2 Q THIS WOULD BE A ROBE THAT HE HAD, LIKE A BATHROBE OR

3 A...

4 A IT WAS MY ROBE.

5 Q EXCUSE ME?

6 A IT WAS MY ROBE.

7 Q IT WAS YOUR ROBE?

8 A UH-HUH.

9 Q OKAY. HE HAD IT ROLLED UP IN HIS HAND YOU SAY AND

10 THAT THE ROBE HIT YOU IN YOUR HEAD.

11 A YES.

12 Q SO HE THROWS THAT AT YOU AND YOU TOLD HIM, DON'T DO

13 THAT AGAIN, DON'T DO...

14 A I'M SURE I DID.

15 Q RIGHT?

16 A YES.

17 Q YES, OF COURSE YOU DID. AND THAT YOU WERE NOT GOING

18 TO -- YOU'RE NOT GOING TO HAVE THIS ANY MORE. DON'T DO

19 THAT AGAIN, THIS IS NOT GOING TO CONTINUE.

20 A RIGHT.

21 Q WORDS TO THAT EFFECT.

22 A YES.

23 Q SO THIS IS A CONFRONTATION WITH YOU IN YOUR BED AND

24 HIM STANDING UP I SUPPOSE NEAR THE BED; CORRECT?

25 A YES.

1 Q OKAY. HE THEN THREW SOMETHING AT YOU. DO YOU KNOW
2 WHAT IT WAS HE THREW AT YOU?

3 A I DON'T RECALL, NO.

4 Q OKAY. SO HE THROWS THE ROBE. YOU SAY, DON'T DO THAT
5 AGAIN, AND HE DOES IT AGAIN; RIGHT?

6 A YES.

7 Q OKAY. SO THIS IS ESCALATING A LITTLE BIT; RIGHT?

8 A YES.

9 Q YES. AND SO YOU ASKED HIM -- AND YOU THREW IT BACK
10 AT HIM, WHATEVER IT WAS.

11 A YES. THAT'S -- IT SAYS, YES.

12 Q RIGHT? IS THAT RIGHT?

13 A YES. AND IT SAYS, I THREW A TISSUE BOX AT HIM AS
14 WELL.

15 Q TISSUE BOX. I PICKED UP A TISSUE BOX AND THREW IT
16 BACK AT HIM TO -- MAYBE THREW THE TISSUE BOX AT YOU?

17 A MAYBE SO, YES.

18 Q OKAY. AND THEN YOU ASKED HIM TO LEAVE OR--

19 A THAT'S RIGHT, YES.

20 Q -- OR -- OR GET OUT OR WHATEVER IT HAPPENED TO BE.

21 A I ASKED HIM TO LEAVE, YES.

22 Q TO LEAVE. ASKED HIM TO LEAVE. AND YOU HEARD HIM GO
23 INTO THE GARAGE AND BEGIN TO PACK HIS LUGGAGE. SO YOU
24 WERE -- YOU'RE LYING THERE SAYING, HE'S GONE INTO THE
25 GARAGE, HE IS PACKING HIS LUGGAGE; RIGHT?

1 A I SAW THE LUGGAGE COME INTO THE HOUSE, AND YES, HE
2 WAS PACKING.
3 Q YOU SAW THE LUGGAGE COME IN?
4 A YES.
5 Q DOES THAT MEAN YOU GOT UP OUT OF THE BED?
6 A NO. HE BROUGHT IT INTO THE BEDROOM.
7 Q HE BROUGHT IT INTO THE BEDROOM?
8 A UH-HUH.
9 Q SO HE WAS PACKING THE THINGS THAT WERE IN THE BEDROOM
10 INTO THE LUGGAGE WHILE YOU WERE IN THE BED?
11 A YES.
12 Q YES, MA'AM. THANK YOU SO MUCH. AND HE WAS STILL
13 BEING ABUSIVE TO YOU VERBALLY. HE WAS CALLING YOU NAMES.
14 A YES, HE WAS.
15 Q OKAY. NOW, HE HAD BEEN OUTSIDE IN THIS WHAT WE
16 CAN -- SEE IF YOU AGREE WITH ME. I CALL THAT A TIGHT
17 SITUATION WHERE YOU'RE SITTING OUT WITH SOMEBODY, NEXTDOOR
18 NEIGHBOR YOU'RE CONNING, AND HE'S GOT HIS FRIEND THE COP
19 THERE, AND HE'S JUST COME OUT OF THERE AND COME BACK IN
20 HERE, SO HE'S ALREADY AGITATED PROBABLY. IS THAT THE WAY
21 YOU READ IT?
22 A YES.
23 Q OKAY. AND NOW YOU'RE THE ONLY TARGET IN THE
24 NEIGHBORHOOD, SO TO SPEAK; RIGHT?
25 A RIGHT.

1 Q OKAY. ALTHOUGH YOU HAVE NO IDEA WHAT HAS GONE ON
2 OUTSIDE.

3 A NOT TO THE FULLEST, NO.

4 Q AND IN FACT, HE'S LIED TO YOU AND HAS NOT REPRESENTED
5 IT AS HIM BEING CORNERED IN ANY WAY.

6 A I'M SORRY. WHAT?

7 Q WHEN HE COME IN FROM THE CAR OUT THERE, HE'S NOT --
8 HE DIDN'T TELL YOU THE TRUTH THAT YOU LATER FOUND OUT. HE
9 MISREPRESENTED THAT TO YOU.

10 A RIGHT.

11 Q IT'S NOT BEING HIGH INTENSITY--

12 A NO.

13 Q -- DANGER?

14 A NO, EVERYTHING WAS UNDER CONTROL.

15 Q EVERYTHING IS UNDER CONTROL.

16 A RIGHT.

17 Q BUT THE TRUTH IS IS THAT IF IT WAS, IT WAS ALL UNDER
18 CONTROL IN HIS HEAD, SO TO SPEAK?

19 A YES.

20 Q RIGHT? OKAY.

21 THE COURT: WE ARE GOING TO TAKE A BREAK AT THIS
22 TIME, MR. KELLY.

23 MR. KELLY: YES, MA'AM.

24 THE COURT: MADAM FORELADY, LADIES AND
25 GENTLEMEN, WE'RE GOING TO TAKE ADVANTAGE OF THIS

1 BREAK IN QUESTIONING TO TAKE YOUR LUNCHEON RECESS.
2 THE CLERK HAS VERY GENEROUSLY BROUGHT IN YOUR LUNCH
3 TODAY.

4 I ANTICIPATE WE PROBABLY WILL BREAK AS LONG AS
5 IT TAKES FOR YOU ALL TO EAT, WHICH WILL PROBABLY BE
6 ABOUT 40 MINUTES. GIVES YOU TIME TO EAT AND REFRESH
7 YOURSELVES AND ALSO TO TAKE A LITTLE WALK OUTSIDE IF
8 YOU DESIRE TO DO THAT.

9 DURING THE BREAK PLEASE DO NOT DISCUSS THIS CASE
10 IN ANY WAY. PLEASE LEAVE YOUR NOTEPADS IN YOUR
11 SEATS. IF YOU NEED ANYTHING, PLEASE LET THE BAILIFFS
12 KNOW.

13 (JURY LEFT THE COURTROOM AT 1:43 PM.)

14 THE COURT: YOU MAY BE SEATED. I ANTICIPATE --
15 IT'S GENERALLY TAKING THEM A LITTLE LESS THAN 30
16 MINUTES TO EAT AND THEN FOR THE SMOKERS TO GO OUTSIDE
17 AND REFRESH THEMSELVES. SO WE'RE GOING TO TAKE --
18 I'M GOING TO ESTIMATE IT'S GOING TO TAKE ABOUT 40
19 MINUTES FOR THE JURY TO HAVE THEIR LUNCH.

20 I HAVE 1:44. I'M THINKING THAT PUTS US ABOUT
21 2:30. ABOUT 45 MINUTES ACTUALLY, ACTUAL 46 MINUTES,
22 BUT I THINK THAT'S PROBABLY A GOOD GAUGE. SO YOU ALL
23 PREPARE YOURSELVES TO RESUME AT 2:30.

24 MA'AM, YOU MAY STEP DOWN, BUT PLEASE DO NOT
25 DISCUSS YOUR TESTIMONY IN ANY WAY DURING THE BREAK.

1 THE WITNESS: YES, MA'AM.
2 THE COURT: WE'LL BE AT EASE.
3 MR. HUMPHRIES: THANK YOU, YOUR HONOR.
4 THE COURT: YOU'RE WELCOME.
5 (WITNESS LEFT THE STAND.)
6 (COURT IN RECESS FOR LUNCH.)
7 THE COURT: IS THE STATE READY TO PROCEED?
8 MR. HUMPHRIES: YES, YOUR HONOR.
9 THE COURT: IS THE DEFENSE READY TO PROCEED?
10 MR. KELLY: YES, MA'AM.
11 THE COURT: OKAY. IS THE WITNESS READY?
12 MR. HUMPHRIES: WE'RE GOING TO GET THE WITNESS
13 RIGHT NOW.
14 (WITNESS ENTERED THE COURTROOM.)
15 THE COURT: MA'AM, IF YOU WILL TAKE THE STAND, I
16 WILL REMIND YOU YOU ARE STILL UNDER YOUR OATH, STILL
17 SWORN. PLEASE BRING IN THE JURY.
18 (JURY ENTERED THE COURTROOM AT 2:43 PM.)
19 THE COURT: YOU MAY BE SEATED. LADIES AND
20 GENTLEMEN, I HOPE THAT YOU ALL HAD A PLEASANT LUNCH,
21 A RESTFUL BREAK FROM THE PROCEEDINGS. WE WILL NOW
22 RESUME WITH THE CROSS-EXAMINATION OF THE WITNESS.
23 MR. KELLY, YOU MAY PROCEED WHEN YOU'RE READY.
24 MR. KELLY: THANK YOU, MA'AM.
25 THE COURT: YOU'RE WELCOME.

1 BY MR. KELLY:

2 Q ALL RIGHT, MA'AM. I HAD BEEN ASKING YOU ABOUT WHAT
3 TOOK PLACE IN THE BEDROOM. THAT'S WHAT WE WERE TALKING
4 ABOUT.

5 A YES.

6 Q AND I BELIEVE AT THAT TIME YOU WERE TELLING ME THAT
7 THE LANGUAGE HAD BECOME ABUSIVE. THAT WAS ONE OF THE
8 THINGS.

9 A YES.

10 Q AND THAT ACTUALLY THERE WERE THINGS BEING THROWN IN
11 THE ROOM; CORRECT?

12 A THAT'S CORRECT.

13 Q AND THAT HE HAD COME INTO THE ROOM WITH HIS LUGGAGE
14 IN ORDER TO PACK IT.

15 A RIGHT.

16 Q AND HE WAS STILL TRYING TO CONVINCE YOU THAT HE WAS
17 NOT LYING, THAT HE -- THERE WASN'T A PROBLEM AND THAT HE
18 WAS MAKING MONEY. ALL OF THAT WAS A PIECE...

19 A TRUE, YES.

20 Q SO TO SPEAK. AND AT THIS POINT OR ABOUT THIS POINT
21 YOU -- YOU TOLD HIM, IF YOU TOUCH ME OR TOUCH ME AGAIN,
22 I'M GOING TO CALL THE POLICE.

23 A YES.

24 Q AND THEN YOU SAY THAT HE SLAPPED YOU ACROSS THE HEAD.

25 A UH-HUH.

1 Q WHAT DID THAT MEAN EXACTLY, THAT HE HIT YOU ACROSS
2 THE TOP OF THE HEAD.
3 A THE BACK OF THE HEAD.
4 Q THE BACK OF THE HEAD?
5 A UH-HUH.
6 Q AND YOU WERE STILL -- WERE YOU STILL IN THE BED AT
7 THAT TIME?
8 A I CAN'T RECALL.
9 Q OKAY. AND DID THAT STUN YOU OR DID -- DID IT KNOCK
10 YOU UNCONSCIOUS IN ANY WAY?
11 A IT DEFINITELY STUNNED ME, NOT KNOCKED ME UNCONSCIOUS,
12 NO.
13 Q OKAY. AND YOU DID ACTUALLY CALL 9-1-1 OR YOU TRIED
14 TO CALL 9-1-1; IS THAT CORRECT?
15 A I ATTEMPTED TO DO SO, YES.
16 Q AND HE HUNG UP THE PHONE WHEN YOU ATTEMPTED TO DO
17 THAT.
18 A YES. HE TOOK THE PHONE FROM ME.
19 Q AND THE CALL WENT THROUGH AT ONE POINT AND 9-1-1
20 CALLED BACK.
21 A THAT'S CORRECT, YES.
22 Q OKAY. AND YOU -- AND YOU TOLD THEM THAT HE WAS GOING
23 TO BE LEAVING WHEN -- THEY MUST HAVE ASKED YOU, DID THEY
24 NOT, WHAT'S GOING ON THERE, MA'AM?
25 A I'M SURE THAT THEY DID, YES.

1 Q AND YOU TOLD THEM, IF I NEED YOU, I'LL CALL BACK.
2 A THAT'S CORRECT.
3 Q AND IF I DO CALL YOU BACK, PLEASE SEND ONE -- SOMEONE
4 QUICKLY AT THAT TIME.
5 A THAT'S RIGHT.
6 Q OKAY. SO THAT'S SORT OF THE STATE OF THINGS AS WE'RE
7 TALKING ABOUT THEM NOW.
8 A THAT'S RIGHT.
9 Q AND HE LEFT THE ROOM, AND THAT'S MEANING THE BEDROOM.
10 A THAT'S RIGHT, YES.
11 Q OKAY. AND ARE YOU IN YOUR PAJAMAS OR YOUR BED
12 CLOTHES?
13 A I'M SURE THAT I WAS.
14 Q MA'AM?
15 A I'M SURE I WAS, YES.
16 Q OKAY. AND THAT WAS THE END UNTIL THE NEXT DAY;
17 CORRECT?
18 A THAT'S RIGHT.
19 Q IN OTHER WORDS, NOTHING ELSE HAPPENED THEN.
20 A NO, IT DID NOT.
21 Q OKAY. SO REALLY THE 9-1-1 CALL CHILLED THAT BEHAVIOR
22 AND THAT STOPPED.
23 A THAT'S RIGHT, YES.
24 Q OKAY. ALL RIGHT. THE MORNING HOURS BETWEEN ABOUT 10
25 TILL EIGHT OR 9:00 ARE THE ONES THAT BEGAN TO COME TO OUR

1 ATTENTION NOW; IS THAT RIGHT?

2 A THAT SOUNDS RIGHT, SOMEWHERE LIKE THAT, YES.

3 Q AND THE -- YOU HEARD THE PHONE RING AND YOU ANSWERED

4 IT AND HE CAME INTO THE BEDROOM WHERE HE TOLD YOU THAT

5 YOUR BROTHER WAS ON THE PHONE; IS THAT RIGHT?

6 A THAT'S WHAT IT SAYS, YES.

7 Q THAT'S WHAT YOU WROTE THERE?

8 A YES, EXACTLY.

9 Q THESE ARE YOUR RECOLLECTION--

10 A YES, IT IS.

11 Q I'M NOT MAKING IT UP; AM I?

12 A NO, IT'S WRITTEN HERE.

13 Q IT'S ACTUALLY THERE?

14 A THAT'S RIGHT.

15 Q OKAY. AND YOU DID TALK TO YOUR BROTHER?

16 A YES.

17 Q FOR A FEW MINUTES?

18 A THAT'S CORRECT.

19 Q AND THEN AFTER THAT WHEN YOU HUNG UP, STEPHEN CAME

20 BACK IN, HE SAID, I'M LEAVING TODAY AND I WON'T BE BACK,

21 OR WORDS TO THAT EFFECT.

22 A YES.

23 Q AND THAT WAS AGREEABLE TO YOU?

24 A YES, IT WAS.

25 Q AND YOU -- AND IN EFFECT YOU SAID TO HIM, IT'D BE

1 BEST. OKAY?

2 A UH-HUH.

3 Q AND HE BEGAN WALKING IN AND OUT OF THE BEDROOM DOOR.

4 WAS THIS THIS NERVOUS TYPE OF BEHAVIOR THAT YOU DESCRIBED

5 EARLIER?

6 A FIDGETY, YES.

7 Q OR WAS IT DIFFERENT FROM THIS KIND OF NERVOUS

8 ANXIETY? WAS IT -- HOW -- EXPLAIN IT TO ME IF YOU CAN,

9 AND IF YOU REMEMBER.

10 A FIDGETY, JUST MOVING AROUND WITH REALLY NO POINT TO

11 WHERE HE WAS GOING.

12 Q AND THEN -- AND THEN YOU SAY SOMETHING HERE THAT I

13 WANT YOU TO EXPLAIN TO US. YOU SAY RAMBLING WORDS,

14 RAMBLING WORDS AND GOING THROUGH THE HOUSE. WHAT'S THAT

15 RAMBLING WORDS MEAN?

16 A HE WAS JUST TALKING OUT LOUD.

17 Q HE WAS TALKING TO HIMSELF?

18 A HE CERTAINLY WAS NOT TALKING TO ME.

19 Q AND WAS HE MAKING SENSE WHEN HE WAS TALKING?

20 A I -- I WOULDN'T SAY THAT HE WAS MAKING SENSE BECAUSE

21 HE WASN'T TALKING DIRECTLY TO ME.

22 Q I JUST WONDER WHY YOU PUT THE WORDS, RAMBLING WORDS.

23 A BECAUSE HE JUST RAMBLED ON. THERE WAS NO POINT TO

24 WHAT HE WAS SAYING AND HE WASN'T TALKING TO ANYONE

25 DIRECTLY.

1 Q BUT IT WAS IN HIS REGULAR VOICE AND HIS TONE OF VOICE
2 AND SO...

3 A IT SOUNDED LIKE STEPHEN IN AN AGITATED STATE.

4 Q ALL RIGHT, MA'AM. AND HE CAME BACK INTO THE BEDROOM
5 AND HE SET IN THE BLUE CHAIR BY THE WINDOW; DIDN'T HE?

6 A THAT'S WHAT IT SAYS, YES.

7 Q MA'AM, THAT'S WHAT YOU SAID; ISN'T THAT CORRECT?

8 A THAT'S RIGHT. THAT'S WHAT I SAID IN MY STATEMENT,
9 YES.

10 Q OKAY. AND YOU STILL AGREE WITH THAT TODAY; DON'T
11 YOU?

12 A I'M SURE THAT I DO, YES.

13 Q WELL MA'AM, DO YOU OR DON'T YOU?

14 A YES, I DO.

15 Q OKAY. NOW, I DON'T WANT TO PUT ANY WORDS INTO YOUR
16 MOUTH, MA'AM, BUT THESE ARE YOUR WORDS; CORRECT?

17 A THIS IS MY STATEMENT, YES.

18 Q OKAY. AND HE WAS STILL TRYING TO CONVINCE YOU AT
19 THAT POINT. AND THAT WASN'T HAVING ANY EFFECT REALLY ON
20 YOU. YOU WERE HOPING HE WOULD GO ON AND GET OUT OF THE
21 HOUSE; RIGHT?

22 A I CERTAINLY WAS HOPING THAT, YES.

23 Q YES, MA'AM. AND HE TRIED TO CONVINCE YOU HE WAS
24 DOING FINE AND HE WAS MAKING MONEY, BUT BY THIS POINT THAT
25 DIDN'T -- THAT DIDN'T SUIT ANY LONGER, THAT WAS NOT HAVING

1 ANY EFFECT ON YOUR THINKING; CORRECT?

2 A I DIDN'T BELIEVE HIM.

3 Q YES, MA'AM. I TOLD HIM HE WAS NOT DOING THE THINGS
4 THAT HE WAS INSTRUCTED TO DO AND -- LEGALLY -- AND THAT HE
5 HAD PROMISED ME -- THAT MEANS YOU -- HE PROMISED YOU THAT
6 HE WOULD DO WHEN HE WAS RELEASED. IN OTHER WORDS, HE MADE
7 PROMISES TO YOU WHEN HE WAS LOCKED IN THE BERKELEY COUNTY
8 DETENTION CENTER.

9 A YES.

10 Q AND WHEN YOU'D TAKEN A LAWYER TO HELP HIM. AND AMONG
11 THAT WAS HE WOULD GO TO GET COUNSELING AND HE WOULD DO
12 THINGS THAT WERE AGREEABLE TO YOU IN ORDER TO RECAPTURE OR
13 MAKE YOU -- EVEN RELATIONSHIP. IS THAT BASICALLY IT?

14 A HE MADE ATTEMPTS SO THAT IT WOULD LOOK LIKE HE WAS
15 DOING THOSE THINGS, YES.

16 Q AND HE HAD MADE PROMISES TO YOU AND TRIED TO MAKE IT
17 APPEAR THAT WAY AS WELL.

18 A YES.

19 Q AND THIS WAS ALL OF THE PATTERN OVER THE FOUR AND A
20 HALF YEARS.

21 A THREE AND A HALF YEARS, AND YES, IT WAS A PATTERN.

22 Q OKAY, MA'AM. BUT HE WASN'T DOING HIS COMMUNITY
23 SERVICE AND YOU KNEW THAT. IT DIDN'T MAKE ANY DIFFERENCE
24 WHAT HE SAID TO YOU BECAUSE YOU KNEW THAT FOR A FACT.

25 A THAT'S TRUE.

1 Q OKAY. AND WHEN HE DID SEE THE DOCTOR, HE HAD STARTED
2 TURNING THINGS AROUND. HE REALLY WASN'T BEING HONEST WITH
3 THE DOCTOR IN YOUR ESTIMATION.

4 A NO, HE WAS NOT.

5 Q OKAY. AND YOU FOUND THAT OUT HOW, BY TALKING WITH
6 THE DOCTOR, OR HOW DID YOU KNOW THAT?

7 A BECAUSE ON MANY OCCASIONS I WAS IN THE SESSION WITH
8 HIM.

9 Q YOU WERE ACTUALLY THERE?

10 A YES.

11 Q AND -- DID YOU TELL THE DOCTOR, DOCTOR, YOU KNOW,
12 THIS IS NOT EXACTLY THE WAY IT WAS. DID YOU DO THAT AS
13 WELL?

14 A THE DOCTOR CALLED ME TO COME VISIT WITH HIM AFTER ONE
15 OF THE SESSIONS AND WE TALKED ABOUT THAT, YES.

16 Q OKAY. AND DID THE DOCTOR GIVE YOU AN EXPLANATION, OR
17 DID HE HAVE ONE TO GIVE TO YOU, ABOUT WHY HE THOUGHT
18 STEPHEN WAS BEHAVING IN THIS WAY? DID HE TELL YOU?

19 A NO, HE DIDN'T SAY SPECIFICALLY WHY STEPHEN WAS
20 BEHAVING THAT WAY. HE SUGGESTED THAT MY REQUEST FOR HIM
21 TO IMPROVE HIMSELF WAS TOO HARD FOR STEPHEN AND THAT
22 STEPHEN WAS DOING THE BEST THAT HE COULD UNDER THE
23 CIRCUMSTANCES AND THAT HE SHOULD NOT BE IN A SALES
24 POSITION THAT ALWAYS ENCOURAGES HIS BEHAVIOR.

25 Q SO THAT WAS REALLY WHAT THE DOCTOR SAID, STEPHEN

1 SEEMS TO ME TO BE DOING THE BEST HE CAN UNDER THE
2 CIRCUMSTANCES, HE SHOULDN'T BE IN THE ONES THAT HE'S IN
3 PERHAPS. AND THAT TYPE OF THING WAS BEING SAID TO YOU?

4 A YES.

5 Q THANK YOU, MA'AM. YOU SAID THAT -- AS WE WERE
6 TALKING ABOUT HIM BEING IN THE ROOM, THAT STEPHEN WAS
7 STANDING NEAR THE BED AND THEN YOU RECOUNT THAT HE GAVE A
8 LOOK OF RAGE. TELL ME ABOUT THIS.

9 WAS THAT -- HE HAD BEEN GONE AT -- HE WAS TALKING, HE
10 WAS RAMBLING, HE REALLY DIDN'T -- WASN'T TALKING TO YOU,
11 HE WAS TALKING, SO TO SPEAK, AND THEN HE COMES INTO THE
12 ROOM. AND WHEN HE COMES IN, DOES HE HAVE THE LOOK OF RAGE
13 WHEN HE COMES IN OR DOES IT COME OVER HIM WHEN HE'S IN THE
14 ROOM? CAN YOU REMEMBER?

15 A I RECALL THAT HE WAS TELLING ME HE WAS GOING TO LEAVE
16 AND THAT HE WOULD NOT BE COMING BACK, AND I SAID THAT
17 WOULD BE THE BEST. AND AGAIN HE WAS TELLING ME THAT HE
18 WAS DOING THE RIGHT THINGS AND THAT I WAS DISTRUSTING OF
19 HIM AND I HAD NO REASON TO, AND I DID NOT AGREE WITH THAT
20 AND THAT'S WHEN HE BECAME AGITATED WITH ME FURTHER AND HE
21 GAVE A LOOK OF RAGE AND LEFT THE BEDROOM.

22 Q OKAY. AND YOU HEARD HIM RUMBLING THROUGH THE -- YOU
23 MUST HAVE HAD OR AT THAT TIME A LAUNDRY CLOSET THAT WAS
24 NEARBY ENOUGH SO YOU COULD HEAR, AND YOU KNEW, WELL, HE'S
25 IN THE LAUNDRY CLOSET.

1 A THAT'S CORRECT, YES.

2 Q AND THAT YOU THOUGHT HE WAS PROBABLY GETTING CLOTHES
3 OUT OF THE DRYER OR THE LAUNDRY OR SOMETHING?

4 A THAT'S RIGHT, YES.

5 Q AND -- TO TAKE WITH HIM BECAUSE HE WAS PACKING.

6 A YES, HE WAS.

7 Q AND YOU HEARD A LOT OF MOVEMENT, BUT YOU STAYED IN
8 THE BED--

9 A I WAS AFRAID TO GET UP, YES.

10 Q BY THIS TIME YOU WERE ACTUALLY FRIGHTENED OF HIM?

11 A YES, I WAS FRIGHTENED OF HIM.

12 Q AND YOU WERE JUST HOPING THAT HE WOULD LEAVE AND THAT
13 YOU WOULDN'T BECOME FURTHER INVOLVED IN ANY KIND OF FIGHT
14 OR ALTERCATION.

15 A EXACTLY. THAT'S RIGHT.

16 Q WHEN HE CAME INTO THE BEDROOM AGAIN YOU SAW HIM NEXT
17 TO THE BED, AND THAT'S WHEN YOU SMELLED A STRONG ODOR OF
18 CLOROX.

19 A I DID, YES.

20 Q OKAY. NOW, YOU TOLD THE JURY THAT HE -- YOU SAID, I
21 WAS ABOUT TO ASK HIM WHAT HE WAS CLEANING WHEN HE SAID, I
22 CAN'T HAVE YOU CALLING THE POLICE, I HAVE TO SHUT YOU UP.

23 A YES, THAT'S RIGHT.

24 Q ALL RIGHT. UP TO THAT POINT THERE WAS -- AND THE
25 NIGHT BEFORE YOU HAD CALLED 9-1-1.

1 A I HAD ATTEMPTED TO, AND YES, I DID REACH THEM.
2 Q RIGHT.
3 A UH-HUH.
4 Q AND THEN THE NIGHT -- THE REST OF THE NIGHT HAD
5 PASSED AND NOW WE WERE INTO THE NEXT MORNING.
6 A THAT'S RIGHT.
7 Q AND DURING THAT NEXT MORNING THERE WERE -- YOU DIDN'T
8 THREATEN TO CALL THE POLICE THAT MORNING?
9 A YES. WHEN WE WERE DISCUSSING THIS, I WAS -- I TOLD
10 HIM IT WOULD BE BEST IF HE LEFT SO THAT WE WOULD NOT HAVE
11 TO INVOLVE THE POLICE.
12 Q OKAY. SO THEN THAT WAS ALWAYS PRESENT, YOU KNOW, THE
13 NEXT MORNING, IT'S BEST YOU GO SO THE POLICE DON'T HAVE TO
14 COME; CORRECT?
15 A EXACTLY, YES.
16 Q ALL RIGHT. SO AT THAT TIME HE ACTUALLY JUMPED OVER
17 YOU ON THE BED AND PLACED THIS CLOTH OVER YOUR FACE.
18 A YES, THAT'S CORRECT.
19 Q AND YOU TOLD THE JURY WHAT HAPPENED BASICALLY THERE
20 AS TO WHAT TOOK PLACE AND THAT YOU TOLD HIM THAT YOU WOULD
21 NOT CALL THE POLICE, AND JUST PLEASE TO LET YOU GO.
22 A THAT'S RIGHT, YES.
23 Q OKAY. AND HE TOOK YOU -- YOU TOLD HIM THAT WHATEVER
24 HE HAD DONE, THAT ADDING TO IT WAS CERTAINLY NOT IN HIS
25 FAVOR.

1 A YES, I DID.

2 Q OKAY. AND AT THAT TIME YOU WERE ACTUALLY FEARING FOR
3 YOUR LIFE AT THAT TIME.

4 A DEFINITELY, YES.

5 Q OKAY. AND I THINK YOU RECOUNTED IN HERE THAT HE SAID
6 TO YOU, I DON'T BELIEVE YOU.

7 A I'M SORRY. WHAT?

8 Q DID HE SAY TO YOU, I DON'T BELIEVE YOU?

9 A I DON'T BELIEVE YOU WHAT?

10 Q MA'AM?

11 A I'M SORRY. I DON'T UNDERSTAND YOUR QUESTION.

12 Q DID HE SAY TO YOU, WELL, I DON'T BELIEVE YOU WHEN YOU
13 SAY YOU WON'T CALL THE POLICE. DO YOU REMEMBER THAT?

14 A I DON'T RECALL THAT, NO.

15 Q ALL RIGHT. THEN HE SAID -- WHEN YOU TRIED TO REACH
16 FOR THE PHONE, IS THAT WHEN HE TIED YOUR HANDS TOGETHER?

17 A YES, IT IS.

18 Q OKAY. AND AFTER HE TIED YOUR HANDS TOGETHER AND
19 THE -- AND THAT WAS REALLY I SUPPOSE TO -- OR KEEP YOU
20 FROM USING THE PHONE AT ALL. AFTER THAT BECAME A -- PLACE
21 WHERE YOU WERE PLACED ON THE FLOOR; IS THAT RIGHT?

22 A YES, I WAS.

23 Q OKAY. AND -- BUT YOU BIT HIS HAND. YOU BIT HIM ON
24 THE THUMB AREA; RIGHT?

25 A YES, I DID.

1 Q OKAY. AND THAT'S WHEN HE USED THE TIE AND HE TIED
2 YOU UP.
3 A YES.
4 Q OKAY. AND YOU LAY ON THE BED AND YOU WERE SCARED TO
5 MOVE, YOU SAID, AND YOU -- HE MADE YOU SIT ON THE SIDE OF
6 THE BED AND YOU SAY HE TIED YOUR ARM WITH A ROPE; IS THAT
7 RIGHT?
8 A YES, THAT'S RIGHT.
9 Q OKAY. AND YOUR LEGS WITH ANOTHER TIE?
10 A YES.
11 Q OKAY. AND YOU WERE STILL NOT GAGGED?
12 A NOT AT THAT POINT, NO.
13 Q AND YOU WERE -- YOU WERE TELLING HIM, PLEASE JUST
14 LEAVE, LET ME GET IN MY CAR AND GO. THAT'S WHAT YOU WERE
15 SAYING TO HIM?
16 A RIGHT.
17 Q IS THAT BASICALLY CORRECT?
18 A YES, UH-HUH.
19 Q OKAY. AND YOU HAD REALIZED THAT THE BLINDS WERE
20 CLOSED AND YOUR DOG HAD BEEN PUT OUTSIDE.
21 A YES.
22 Q AND HE TOLD YOU, DON'T MAKE ANY NOISE, DON'T SCREAM.
23 THAT WAS ALL PART OF THIS THAT WAS GOING ON.
24 A RIGHT, YES.
25 Q AND THAT HE WOULD HURT YOU IF YOU SAID ANYTHING ELSE.

1 DID HE ACTUALLY SAY THAT TO YOU, I'LL HURT YOU IF YOU--
2 A YES, DON'T MAKE ME HURT YOU.
3 Q AND THAT'S WHEN HE LEFT YOU ON THE FLOOR TIED UP?
4 A I'M SORRY?
5 Q THAT'S -- THAT'S WHEN HE LEFT YOU ON THE FLOOR TIED
6 UP.
7 A HE TOOK ME INTO THE BATHROOM WHILE HE SHOWERED.
8 Q YES, MA'AM. ON THE NEXT TO THE LAST PAGE, UP AT THE
9 TOP. IF YOU'LL LOOK AT IT, PLEASE MA'AM. ON THE SECOND
10 LINE TOWARDS THE END OF THE LINE, HE LEFT ME ON THE FLOOR
11 TIED UP.
12 A YES, THAT'S WHAT IT SAYS HERE.
13 Q THAT'S WHAT YOU WROTE. HE LEFT ME ON THE FLOOR TIED
14 UP AND HE SAID HE DIDN'T WANT TO GAG ME SO DON'T MAKE A
15 SOUND.
16 A THAT'S WHAT HE SAID, YES.
17 Q OKAY. AND YOU SAID TO HIM WORDS TO THE EFFECT,
18 PLEASE DON'T GAG ME.
19 A YES.
20 Q I'LL BE QUIET.
21 A UH-HUH.
22 Q AND AT THAT TIME HE WENT INTO THE KITCHEN AREA AND HE
23 BEGAN USING THE TELEPHONE. THAT'S WHILE YOU'RE STILL ON
24 THE FLOOR TIED UP NOW?
25 A YES, I...

1 Q AND YOU'RE IN THE BEDROOM?

2 A UH-HUH.

3 Q OKAY. AND YOU COULDN'T HEAR WHAT HE WAS SAYING. HE

4 USED THE PHONE SEVERAL TIMES AND YOU TRIED TO GET YOUR

5 FEET LOOSE, BUT THAT -- THAT DIDN'T WORK. YOU WERE TIED

6 SECURELY; RIGHT?

7 A YES, I--

8 Q BUT YOU TRIED TO GET YOUR -- I'M SURE YOU DID TRY TO

9 GET YOUR ARMS LOOSE.

10 A YES, I TRIED.

11 Q YES, MA'AM. AND HE SAID THAT HE HAD TO GET A SHOWER

12 AND GET DRESSED AND THEN HE WOULD LEAVE. IS THAT WHAT HE

13 SAID TO YOU WHEN HE CAME BACK?

14 A THAT'S RIGHT.

15 Q ALL RIGHT. AND IF HE -- IF YOU WOULD LISTEN TO HIM,

16 HE TOLD YOU HE WOULD NOT HURT YOU.

17 A THAT'S EXACTLY WHAT HE SAID.

18 Q IS THAT WHAT HE SAID?

19 A UH-HUH.

20 Q OKAY. AND HE SHAVED WHILE YOU SAT ON THE FLOOR; IS

21 THAT CORRECT?

22 A YES, HE DID.

23 Q ALL RIGHT. AND THEN HE MADE YOU -- AND WAS THAT THE

24 FLOOR OF THE BEDROOM OR THE FLOOR OF THE BATHROOM THAT HE

25 MADE YOU SIT ON WHILE HE SHOWERED?

1 A IT WAS THE MASTER BATHROOM.

2 Q OKAY. AND THAT HE MADE YOU SIT ON THE TOILET WHILE

3 HE SHOWERED; OKAY? ALL RIGHT. THEN YOU SAID SOMETHING

4 WHEN YOU WERE EXAMINED I REALLY -- I REALLY WANT TO ASK

5 YOU ABOUT; OKAY?

6 YOU WERE SITTING IN THE BATHROOM. HE WAS IN THE

7 SHOWER. YOU WERE PRAYING OUT LOUD SAYING THE LORD'S

8 PRAYER; CORRECT?

9 A I WAS PRAYING, YES.

10 Q YOU WERE PRAYING. AND HE WAS HUMMING?

11 A YES, HE WAS HUMMING.

12 Q WAS HE HUMMING IN THE SHOWER?

13 A UH-HUH.

14 Q AND WAS HE HUMMING ANYTHING IN PARTICULAR? WHAT --

15 TELL US ABOUT--

16 A I COULDN'T RECALL THAT. THAT WAS 10 YEARS AGO. I

17 DON'T RECALL. I JUST REMEMBER THE NOISE.

18 Q WELL, THAT DID -- DOES THAT SEEM ODD OR UNUSUAL

19 BEHAVIOR TO YOU NOW AS IT DID THEN THAT HE -- THAT THIS

20 WOULD BE GOING ON, THAT HE WOULD BE HUMMING?

21 A I FIND THAT QUITE ODD.

22 Q EXCUSE ME?

23 A YES, IT IS ODD.

24 Q YOU SAID THAT HE WOULD -- HE WOULD HUM EARLIER

25 THINGS. WOULD HE HUM WHEN HE WOULD -- WHEN THINGS WOULD

1 BE HIGH ANXIETY OR DID HE JUST DO THAT ALL THE TIME? HOW
2 DID THAT WORK?

3 A AS I SAID EARLIER, HE WAS ALWAYS IN A GOOD MOOD AND
4 THIS DIDN'T SEEM ANY DIFFERENT.

5 Q THIS DIDN'T SEEM TO BOTHER HIM WHEN HE HAD YOU TIED
6 UP.

7 A NO, IT DID NOT.

8 Q AND HE SEEMED TO BE HUMMING ALONG JUST AS HE WAS
9 BEING IN A GOOD MOOD.

10 A YES.

11 Q OKAY. HE WASN'T SHOWING ANY REMORSE OR ANY FEAR OF
12 WHAT MIGHT HAPPEN OR ANYTHING LIKE THAT, BUT MERELY JUST
13 ENJOYING HIMSELF AND HUMMING; IS THAT RIGHT?

14 A HE WAS ENJOYING HIMSELF I GUESS.

15 Q OKAY. AND HE WAS TALKING, YOU SAID, BUT NOT TO ME.

16 A NO, HE WASN'T SPEAKING TO ME.

17 Q BUT THAT'S WHAT I'M ASKING BECAUSE I HAVE IN MY NOTES
18 THAT HE WAS HUMMING AND THEN TALKING, BUT NOT TO ME.

19 A NO, HE WAS NOT TALKING TO ME DIRECTLY.

20 Q BUT WAS HE TALKING?

21 A YES, HE WAS TALKING.

22 Q THAT'S WHAT I WANT TO ASK YOU ABOUT. IS THAT WHILE
23 HE WAS IN THE SHOWER OR IN THE SHOWER AND OUT OR JUST
24 AFTER THE SHOWER OR DO YOU RECALL?

25 A IT'S -- AS I SAID EARLIER IN MY STATEMENT, HE WAS

1 RAMBLING, AND THE RAMBLING JUST CONTINUED ON.

2 Q SO HE -- THE TALKING HE WAS DOING IN THE BATHROOM WAS
3 ALSO RAMBLING AS WELL?

4 A WHEN HE WAS GETTING HIMSELF DRESSED, THE HUMMING
5 STOPPED AND HE WAS TALKING OUT LOUD AND TALKING TO THE
6 ROOM. HE WASN'T TALKING DIRECTLY TO ME. WE WERE NOT
7 HOLDING A CONVERSATION AT THAT TIME.

8 Q WHAT WAS HE SAYING TO THE ROOM? WHAT WAS -- DO YOU
9 REMEMBER?

10 A HE WAS JUST TALKING.

11 Q LIKE WHAT?

12 A ABOUT -- LIKE HE'S NOT A BAD GUY, HE DIDN'T DO THESE
13 THINGS THAT HE'S BEING ACCUSED OF, AND RAMBLING.

14 Q WAS HE SAYING -- AND PLEASE BEAR WITH ME HERE BECAUSE
15 I JUST REALLY WANT TO KNOW, OKAY, AS BEST I CAN FIND OUT.
16 WAS HE SAYING, I'M NOT A BAD GUY TO THE ROOM OR WAS HE
17 SAYING HE'S NOT A BAD GUY?

18 A I'M NOT A BAD GUY.

19 Q I'M NOT A BAD GUY. WHAT ELSE WAS HE SAYING SORT OF
20 TO THE ROOM?

21 A HE WAS REPEATEDLY SAYING THOSE TYPES OF THINGS AND
22 THAT HE HAS NOT DONE THESE THINGS.

23 Q OKAY. WHAT ABOUT -- DID HE SAY ANYTHING ABOUT WHAT
24 HE HAD DONE TO YOU SUCH AS TYING YOU UP?

25 A NO.

1 Q DID YOU THINK HE WAS IN CONTACT WITH REALITY AROUND
2 HIM WHEN HE WAS DOING THIS?

3 A HE SEEMED TO BE IN CONTACT WITH SOMETHING, BUT I'M
4 NOT SURE WHAT IT WAS. HE WAS DEFINITELY AWARE OF THE
5 SURROUNDINGS.

6 Q HE WAS AWARE OF THE SURROUNDINGS BECAUSE HE WAS
7 DRESSING? IS THAT WHAT MADE YOU THINK THAT?

8 A YES, HE WAS GOING ON LIKE IT WAS JUST A NORMAL DAY.

9 Q DID HE NORMALLY TALK TO HIMSELF ON A NORMAL DAY IN
10 THAT WAY?

11 A NO. I'M REFERRING TO THE GETTING DRESSED AND SHAVING
12 AND THINGS LIKE THAT.

13 Q THE THINGS THAT HE WAS DOING SEEMED TO BE NORMAL,
14 JUST LIKE EVERY DAY.

15 A UH-HUH.

16 Q CORRECT?

17 A YEAH.

18 Q BUT THE HUMMING UNDER THOSE CONDITIONS AND THE
19 TALKING, THAT WAS NOT EVERY DAY AND DIDN'T SEEM NORMAL?

20 A NO, HE DIDN'T TALK TO HIMSELF EVERY DAY.

21 Q OKAY. I'M NOT TRYING TO PUT ANY WORDS IN YOUR MOUTH,
22 BUT WHEN YOU SAW THIS HAPPEN, DID YOU THINK SOMETHING IS
23 WRONG WITH THIS GUY RIGHT NOW? DID YOU SEE THAT IN HIM OR
24 WHAT WERE YOU THINKING?

25 A I SUSPECTED SOMETHING WAS WRONG WHEN HE TRIED TO GAG

1 ME AND USE CLOROX TO TRY TO BLACK ME OUT OR WHATEVER HE
2 WAS ATTEMPTING TO DO, AND YES, I THOUGHT THAT WAS QUITE
3 ODD AND HIS BEHAVIOR WAS ATROCIOUS.

4 Q YES, MA'AM. YOU TOLD US THAT. BUT THAT'S NOT WHAT I
5 ASKED YOU.

6 A AND WHAT WAS YOUR QUESTION, SIR?

7 Q MY QUESTION WAS IS HERE'S THE MAN WHO'S TRIED TO DO
8 ALL THIS TO YOU, YOU CAN -- YOU TOLD HIM, PLEASE DON'T DO
9 THIS, I'M NOT GOING TO CALL THE POLICE, HE SAID, I DON'T
10 WANT TO GAG YOU, I WON'T HURT YOU IF YOU'LL JUST BE QUIET.

11 HE TOOK YOU INTO THE BATHROOM WITH HIM AND WHILE YOU
12 WERE THERE PRAYING, SAYING THE LORD'S PRAYER OUT LOUD, HE
13 WAS HUMMING AND TALKING, NOT TO YOU, BUT APPARENTLY JUST
14 TO THE -- HIS SURROUNDINGS.

15 AND THEN WHEN HE WENT IN TO DRESS, THAT'S WHAT I'M
16 TALKING ABOUT, AND YOU'RE SITTING THERE TIED UP AND YOU'RE
17 LOOKING AT THIS MAN YOU HAVE BEEN WITH FOR THREE AND HALF
18 TO FOUR YEARS, DID YOU -- OR WHAT DID YOU THINK? DID YOU
19 SAY...

20 A I WAS IN SHOCK, SIR.

21 Q OKAY. SO JUST THE MERE SHOCK OF IT. NOW, IN
22 RETROSPECT WHEN YOU HAVE MEMORY OF IT -- I'M TRYING TO GET
23 AT DID YOU LOOK AT THIS AS BIZARRE AND UNUSUAL BEHAVIOR I
24 REALLY HAVEN'T SEEN OUT OF HIM BEFORE OR WHAT DO YOU SEE
25 IN RECOLLECTION OF THAT?

1 A I FIND THAT TO BE BIZARRE IN ANYONE'S BEHAVIOR, BUT
2 YES, I FOUND IT TO BE QUITE BIZARRE.

3 Q THANK YOU, MA'AM. THAT'S ALL I WANTED TO KNOW. I
4 JUST WANTED TO ASK YOU THAT.

5 A THANK YOU.

6 Q BECAUSE IT SEEMED SO UNUSUAL AND I HADN'T SEEN--

7 MR. HUMPHRIES: OBJECTION.

8 THE COURT: BASIS.

9 MR. HUMPHRIES: FORM OF THE QUESTION.

10 THE COURT: SUSTAINED.

11 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

12 THE COURT: YOU MAY PROCEED, MR. KELLY.

13 BY MR. KELLY:

14 Q AND HAD THIS KIND OF BEHAVIOR, THIS TALKING AND
15 HUMMING AND -- AND CIRCUMSTANCES THAT YOU HAVE NEVER SEEN
16 THAT BEFORE; HAD YOU?

17 A NOT TO THAT DEGREE, NO.

18 Q OKAY. THEN WHEN HE FINISHED, THERE DID COME A TIME
19 WHERE HE STARTED TELLING YOU THAT HE HAD DONE SOME BAD
20 THINGS.

21 A YES, HE DID.

22 Q OKAY. AND HE SAID HE COULDN'T HELP IT. IS THAT WHAT
23 HE TOLD YOU?

24 A THAT'S WHAT HE SAID, YES.

25 Q HAD HE EVER SAID THIS TO YOU BEFORE WHEN HE HAD

1 BEEN -- HAD DONE BAD THINGS AND HAD COME OUT IN THE OPEN
2 BETWEEN YOU, I COULDN'T HELP IT?

3 A NO. HE HAD NOT SAID THOSE WORDS BEFORE AT ALL.

4 Q THIS IS THE FIRST TIME THAT YOU REALLY HEARD THAT?

5 A YES.

6 Q AND HE SAID THAT HE WANTED TO MAKE HIMSELF OUT TO BE
7 SOMETHING THAT HE WASN'T.

8 A RIGHT.

9 Q OKAY. AND HE ACTUALLY SAID THAT TO YOU OR WORDS TO
10 THAT EFFECT?

11 A YES, HE DID.

12 Q AND I THINK YOU TOLD US THAT WAS CERTAINLY TRUE
13 BECAUSE THAT IS THE PATTERN OF WHAT -- PART OF WHAT HE WAS
14 DOING AT LEAST. THEN HE CLAIMED THAT HE WAS SORRY AND
15 THAT HE DIDN'T INTEND TO HURT YOU.

16 A THAT'S WHAT HE SAID.

17 Q OKAY. AND YOU ASKED HIM TO CALL ROMEO RADDERMAN OR
18 RICK BUCHANAN OR RANDY WADE; RIGHT?

19 A YES. WE HAD DISCUSSED THAT, YES.

20 Q OKAY. BECAUSE YOU AND HE HAD DISCUSSED THAT?

21 A YES. BEFORE ALL OF THE OTHER EVENTS STARTED
22 HAPPENING WE WERE DISCUSSING THAT, AND THAT'S WHEN HE WAS
23 REFERRING TO THE FACT THAT HE HAD DONE SOME BAD THINGS.

24 Q OKAY. AND HE SAID THAT HE WAS GOING TO KILL HIMSELF
25 OR TO RUN.

1 A YES, HE DID.

2 Q AND THEN YOU WERE TELLING HIM, JUST GO AND -- AND
3 LEAVE ME AND -- AND -- AND DO THAT. THAT'S ESSENTIALLY
4 WHAT YOU WERE SAYING; CORRECT?

5 A YES. I JUST WANTED HIM TO GO AND I DIDN'T WANT HIM
6 TO HARM HIMSELF OR ME.

7 Q ALL RIGHT. THEN HE SEEMED TO CALM DOWN.

8 A APPARENTLY HE DID CALM DOWN, YES.

9 Q OKAY. AND I'M JUST REFERRING TO THE LAST PAGE OF THE
10 TOP OF THE PAGE WHERE I THINK THAT YOU RECOUNTED THAT HE
11 DID SEEM TO CALM DOWN. AND HE SET YOU ON THE SOFA AND HE
12 SAID TO YOU, DON'T MOVE AND I'LL UNTIE YOU.

13 A THAT'S WHAT HE SAID.

14 Q DID HE UNTIE YOU?

15 A HE UNTIED ME PARTIALLY, YES.

16 Q PARTIALLY MEANING WHAT?

17 A MY FEET.

18 Q HE UNTIED YOUR FEET?

19 A UH-HUH.

20 Q WERE YOUR HANDS TIED IN FRONT OF YOU OR BEHIND YOU?
21 HOW WERE THEY TIED?

22 A I DON'T RECALL. I THINK THEY WERE IN FRONT OF ME,
23 BUT I JUST DON'T RECALL AT THIS PARTICULAR MOMENT.

24 Q BUT YOU DO -- YOU DO RECALL THAT IT WAS YOUR FEET
25 THAT HE UNTIED?

1 A YES, I DO.

2 Q OKAY.

3 A BECAUSE I ACTUALLY HAD TO GET UP AND WALK.

4 Q OKAY. AND THEN HE -- HE DID UNTIE YOU. AND THEN HE

5 SAID -- WHAT DID HE SAY TO YOU?

6 A HE SAID, THE BAD GUY IS BACK.

7 Q THE BAD GUY IS BACK.

8 A UH-HUH.

9 Q HAD HE EVER TALKED TO YOU ABOUT THE BAD GUY?

10 A NO.

11 Q BUT HE -- THAT'S WHAT HE SAID ON THIS TIME.

12 A YES.

13 Q THE BAD GUY IS BACK.

14 A YES, HE DID.

15 Q AND THEN AT THAT TIME YOU DIDN'T HAVE ANY IDEA WHAT

16 HE MEANT BY, IS BACK.

17 A I WAS AFRAID. NO, I DIDN'T WANT TO CHALLENGE THAT.

18 Q DIDN'T CARE AT THAT POINT I'M SURE.

19 A WELL, OF COURSE I CARED. I WAS JUST MORE CONCERNED

20 ABOUT MY OWN SAFETY.

21 Q ABSOLUTELY, MA'AM. I UNDERSTAND. AND HE'S IN

22 CONTACT AND HE DIDN'T KNOW WHAT TO DO. IS THAT WHAT THAT

23 MEANS? IS THAT WHAT YOU -- IS THAT WHAT YOU WROTE? HE IS

24 IN CONTACT AND HE DIDN'T KNOW WHAT TO...

25 A HE IS IN CONTROL, SIR.

1 Q OH, HE'S IN CONTROL. THAT'S WHAT THAT WORD IS?

2 A THAT'S WHAT THAT WORD IS.

3 Q SO STEPHEN WAS SAYING THE BAD GUY IS BACK AND HE'S IN
4 CONTROL AND THAT HE, MEANING STEPHEN, DIDN'T KNOW WHAT TO
5 DO.

6 A THAT'S RIGHT.

7 Q OKAY. THEN HE -- HE TELLS YOU, I LOVE YOU, I DIDN'T
8 EVER WANT TO HURT YOU, AND THEN HE DOES -- AM I READING
9 THIS RIGHT, THAT HE STOPPED THE CLOCK ON THE WALL?

10 A YES, HE DID.

11 Q WHAT -- WHAT IN THE WORLD WAS THAT -- DESCRIBE THAT
12 TO ME.

13 A PERHAPS YOU SHOULD ASK HIM BECAUSE I DON'T KNOW.

14 Q WELL, I THINK YOU SAID EARLIER, MA'AM -- I'M NOT
15 ASKING WHY HE DID IT, BUT RATHER WHAT HE DID. I THINK YOU
16 SAID IT WAS A COO-COO CLOCK.

17 A YES, IT WAS A COO-COO CLOCK.

18 Q AND IT WAS HANGING ON THE WALL IN WHAT ROOM?

19 A IN THE LIVING ROOM.

20 Q AND HE WALKED OVER TO IT AND STOPPED IT?

21 A YES, HE DID.

22 Q HOW DO YOU STOP A CLOCK? HOW DID HE DO THAT? IS IT

23 A -- SOMETHING--

24 A STOPPED THE PENDULUM.

25 Q OH, YOU JUST STOP THE PENDULUM. SO HE STOPPED THE

1 CLOCK?

2 A YES, HE DID.

3 Q AND THEN AFTER HE STOPPED THE CLOCK, HE SET DOWN ON
4 THE FLOOR NEXT TO YOU?

5 A YES, HE DID.

6 Q AND SAID HE WAS LEAVING; IS THAT RIGHT?

7 A THAT'S WHAT HE SAID.

8 Q AND HE LEFT A COUPLE OF MINUTES AFTER THAT.

9 A HE DID.

10 Q WITH HIS BAGS? DID HE GET HIS BAGS AND GO OUT THE
11 DOOR?

12 A HE DID NOT TAKE EVERYTHING.

13 Q HE DIDN'T TAKE EVERYTHING?

14 A NO, HE DID NOT.

15 Q TALK TO ME ABOUT THAT. DOES THAT MEAN THAT HE LEFT
16 BAGS HE HAD PACKED OR WHAT DOES THAT MEAN?

17 A HE LEFT A DUFFEL BAG.

18 Q HE LEFT A DUFFEL BAG?

19 A AND SOME OTHER BELONGINGS.

20 Q AND SOME OTHER BELONGINGS?

21 A UH-HUH.

22 Q AND WHERE -- WHERE WERE THEY LEFT IN THE HOUSE, THE
23 BEDROOM OR WHERE?

24 A WHEREVER THEY WERE. I MEAN, THEY WERE ALL THROUGH
25 THE HOUSE. HE WAS LIVING THERE.

1 Q OKAY. ALL RIGHT. DID YOU LEAVE THE HOUSE AND GO
2 NEXT DOOR? IS THAT WHAT HAPPENED?

3 A I DID NOT LEAVE MY HOUSE, NO.

4 Q OH, YOU DIDN'T?

5 A NO, I DID NOT.

6 Q DID YOU GET OUT OF YOUR BONDS? IS THAT -- I SEE THAT
7 YOU DID CALL 9-1-1.

8 A YES.

9 Q SO EXPLAIN THAT TO ME HOW YOU WERE ABLE TO DO THAT.

10 A I WAS ABLE TO DO THAT BY TRYING TO BREAK AWAY FROM
11 THE REST OF THE TIES, AND THEN MY PHONE SEEMED TO HAVE
12 RANG. I'M NOT REALLY SURE, BUT I BELIEVE MY NEIGHBOR
13 CALLED ME, AND I WAS TRYING TO CONVEY TO HER WHAT HAD JUST
14 HAPPENED.

15 AND I BELIEVE -- I'M NOT SURE IF I CALLED 9-1-1 OR I
16 ASKED HER TO OR MAYBE WE BOTH DID, AND THEN I CALLED MY
17 FAMILY AND MY SON'S SCHOOL.

18 Q AND WERE YOUR HANDS TIED DURING THAT TIME?

19 A NO. I WAS ABLE TO BREAK FREE AS I JUST SAID. YES.

20 Q OKAY. THANK YOU, MA'AM. NOW, HE THEN -- AFTER HE
21 LEFT, THERE WAS A TIME WHERE HE CALLED YOU; CORRECT?

22 A YES, HE DID ON SEVERAL OCCASIONS.

23 Q AND WAS HE CALLING YOU -- DO YOU KNOW WHERE FROM?
24 FROM -- WHERE HE WAS?

25 A NOT AT THAT TIME, NO.

1 Q DID HE -- UNDERSTAND THAT THE POLICE ARRESTED HIM IN
2 GREENVILLE, SOUTH CAROLINA.

3 A THAT'S CORRECT.

4 Q HOW DID THEY -- I THOUGHT THAT THEY HAD LOCATED HIM
5 THROUGH HIM CALLING YOU.

6 A THEY DID.

7 Q THEY DID?

8 A EVENTUALLY, YES, DAYS LATER.

9 Q HOW DID THEY LOCATE HIM THROUGH HIM CALLING YOU?
10 WOULD YOU HAVE CALL -- SOME WAY TO TRACE HIM OR...

11 A YES. I HAD A CALLER ID MACHINE AND THEY TRACED THE
12 CALL.

13 Q AND SO WHEN HE CALLED YOU, THAT WAS ON YOUR MACHINE
14 AND THEN YOU GAVE THEM THAT INFORMATION? IS THAT HOW THAT
15 WORKED?

16 A YES.

17 Q OKAY. AND HOW LONG HAD YOU HAD THAT MACHINE? HOW
18 LONG HAD IT BEEN AVAILABLE TO YOU?

19 A FOR A LONG TIME.

20 Q A LONG TIME?

21 A UH-HUH.

22 Q SO HE WOULD HAVE KNOWN THAT WAS THERE.

23 A YES.

24 Q AND HE SHOULD HAVE KNOWN THAT IF HE WAS CALLING THAT
25 NUMBER, IT WOULD SHOW WHERE HE WAS?

1 A YOU WOULD THINK, YES.

2 Q YOU'D THINK SO?

3 A YES.

4 Q RIGHT? ALL RIGHT. AND SURE ENOUGH, THAT'S WHERE HE
5 WAS.

6 A YES, HE WAS.

7 Q NOW MA'AM, I WANT TO TURN YOUR ATTENTION -- THANK YOU
8 FOR HELPING ME THERE; OKAY? APPRECIATE IT. BUT NOW I
9 WANT TO TURN YOUR ATTENTION TO ANOTHER MATTER. NOW, YOU
10 WROTE TO STEPHEN WHEN HE WAS IN PRISON OR IN JAIL AFTER
11 THIS EVENT.

12 A YES, I DID.

13 Q AND REMIND US AGAIN, WHAT WAS THE DATE THAT THIS TOOK
14 PLACE, IN EARLY FEBRUARY? IS THAT WHEN IT WAS?

15 A IT WAS MID-FEBRUARY.

16 Q OKAY. AND DID YOU WRITE TO HIM IN -- PERHAPS IN MAY
17 OF '96?

18 A PERHAPS I DID, YES.

19 Q WAS THIS '95 THAT--

20 A NO, THIS WAS '96.

21 Q IT WAS?

22 A UH-HUH.

23 Q OKAY. ALL RIGHT. YOU WRITE TO HIM MORE THAN ONE
24 LETTER OVER A PERIOD OF TIME PERHAPS?

25 A I BELIEVE THAT I DID FOR SEVERAL MONTHS, YES.

1 Q LET ME SHOW YOU THIS DOCUMENT AND SEE IF YOU
2 RECOGNIZE IT; OKAY?

3 A YES, I DO.

4 Q DO YOU RECOGNIZE IT, MA'AM?

5 A YES, I RECOGNIZE THEM.

6 Q AND THIS WOULD BE A LETTER THAT YOU -- A TYPEWRITTEN
7 LETTER THAT YOU WROTE TO STEVE WHEN HE WAS IN CUSTODY?

8 A I'M NOT SURE WHAT THE DATE IS BECAUSE I DIDN'T SEE A
9 DATE.

10 Q UP TOWARDS THE TOP. I DON'T KNOW IF THIS IS YOUR
11 DATE OR IF IT'S A DATE THAT WAS PLACED ON IT. BUT THERE
12 IS A HANDWRITTEN DATE UP TOWARDS THE TOP.

13 A OKAY. NO, THAT'S NOT MY HANDWRITING, AND I DON'T
14 PARTICULARLY KNOW WHAT DATE THIS IS.

15 Q OKAY. BUT IT WOULD HAVE BEEN TO HIM WHILE HE WAS IN
16 CUSTODY?

17 A I'M SURE THAT IT WAS.

18 Q AND IN THIS LETTER --

19 MR. KELLY: THIS IS THE ONLY COPY THAT I HAVE
20 GOT, SO MAY I STAND CLOSE TO THE WITNESS, PLEASE
21 MA'AM?

22 THE COURT: YOU MAY.

23 BY MR. KELLY:

24 Q DOWN IN THE FOURTH PARAGRAPH YOU TELL HIM THAT YOU'RE
25 FEARFUL -- I WILL GIVE IT TO YOU TO REMIND YOU. DID YOU

1 TELL HIM THAT YOU WERE FEARFUL THAT HE WOULD NOT EXPRESS
2 HIMSELF OR HIS TRUE MENTAL STATE IF HE WERE EXAMINED, THAT
3 YOU WANTED HIM TO DO THAT, BUT YOU WERE FEARFUL HE MIGHT
4 NOT?

5 A YES, THAT'S WHAT IT SAYS.

6 Q OKAY. AND YOU'RE ENCOURAGING HIM IN THIS LETTER THAT
7 HE SHOULD DO THAT?

8 A YES, I WAS.

9 Q OKAY. AND YOU SAY IN HERE, DO YOU NOT -- AND I WILL
10 GIVE IT TO YOU IF YOU NEED TO REFRESH YOUR MIND -- THE
11 THING THAT I'M FEARFUL OF IS YOU WILL NOT EXPRESS YOUR --
12 EXPRESS YOUR TRUE MENTAL STATE WHILE YOU WERE IN THE
13 DESPERATE STAGE OR AS YOU PUT IT BAD PERSON. IS THAT
14 RIGHT?

15 A THAT'S EXACTLY WHAT IT SAYS.

16 Q AND FURTHER YOU SAY, I DO NOT EVEN KNOW IF YOU
17 REMEMBER TELLING ME THE BAD ONE IS BACK AND IS TAKING
18 OVER.

19 A THAT'S EXACTLY RIGHT.

20 Q OKAY. SO THEN HE -- HE MOST LIKELY DID TELL YOU THAT
21 BECAUSE YOU -- YOU REMIND HIM OF IT.

22 A YES. AND THAT WAS IN MY STATEMENT, YES.

23 Q OKAY. AND -- AND THAT -- AND YOU SAY TO HIM, YOU
24 ALSO SAID THAT -- AND YOU QUOTE HIM. YOU SAY, I CAN'T
25 CONTROL IT. THAT'S WHAT HE TOLD YOU?

1 A THAT'S WHAT WAS IN MY STATEMENT, YES.

2 Q AND YOU SAID, THESE THINGS REFLECT MORE ISSUES THAN
3 COMPETENCY OR MORAL -- OR MORAL RIGHT ISSUES, IT MAKES
4 MORE SENSE THAT THERE MAY BE A PERSONALITY ISSUE TO
5 EXPLORE OR THE POSSIBILITY OF SEPARATE IDENTITIES AND OF
6 MENTAL CAPACITY. SO YOU SUGGESTED THAT TO HIM?

7 A I DID SUGGEST THOSE THINGS.

8 Q AND REALLY WHAT YOU'RE SAYING HERE IS, TELL THESE
9 DOCTORS AND BE HONEST.

10 A THAT'S CORRECT.

11 Q OKAY. AND I'M REMINDING OF -- WHAT YOU TOLD ME -- I
12 DON'T KNOW IF YOU EVEN REMEMBER YOURSELF, BUT BE HONEST
13 WITH THESE PEOPLE.

14 A YES.

15 Q OKAY. AND YOU'RE TELLING -- THE ONLY REASON THAT YOU
16 REALLY ARE SAYING THIS TO HIM IS BECAUSE YOU'RE A PERSON
17 WHO HAS OBSERVED HIM FROM THE OUTSIDE, SO TO SPEAK?

18 A YES, I HAVE.

19 Q AND THAT -- BECAUSE YOU CARE FOR HIM?

20 A I DID, YES.

21 Q OR CARES WHAT HAPPENS TO HIM?

22 A YES.

23 Q RATHER THAN CARES FOR HIM. AND THEN DOWN --
24 CONTINUING THIS LINE OF IDEAS THAT YOU'RE EXPRESSING YOU
25 SAY, I HOLD A LOT OF UNRESOLVED FEELINGS OVER THE THINGS

1 THAT HAPPENED, BUT EVEN THOUGH I MAY STILL HAVE TO REALIZE
2 THIS MAY NOT HAVE BEEN SOMETHING YOU COULD CONTROL, MAYBE
3 IT CONTROLLED YOU. IS THAT WHAT YOU SAY TO HIM?

4 A THAT'S WHAT IT APPEARS TO BE, YES.

5 Q OKAY. THAT'S WHAT YOU WROTE TO HIM; CORRECT?

6 A THAT'S CORRECT.

7 Q AND THEN YOU -- YOU START TALKING TO HIM -- YOU'RE
8 STILL SAYING TO HIM IN THE LETTER, BE HONEST WITH THESE
9 DOCTORS. AND DON'T YOU SAY TO HIM, WELL, YOUR MOTHER
10 INFORMED ME THAT THE DOCTOR THAT WILL BE SEEING YOU IN
11 COLUMBIA HAS CONTACTED HER FOR BACKGROUND INFORMATION.
12 SOMETHING TELLS ME THAT SHE PROBABLY DIDN'T TELL HIM THE
13 ENTIRE FACTS OF YOUR FAMILY HISTORY. THINK YOU SAID THAT
14 TO HIM?

15 A THAT'S WHAT IT SAYS THERE, YES.

16 Q AND THE REASON I SAY THIS IS DUE TO HER NOT BEING
17 HONEST ABOUT BILLY. IS BILLY THE BROTHER?

18 A YES, HE IS.

19 Q THAT'S THE BROTHER WHO DIED?

20 A YES.

21 Q AND SOME THINGS THAT HAPPENED WITH YOUR FAMILY AS HAS
22 BEEN TOLD TO ME BY OTHERS AS WELL AS YOURSELF; CORRECT?

23 A CORRECT.

24 Q AND THIS IS REALLY BASICALLY A LETTER THAT'S
25 ENCOURAGING HIM TO BE HONEST WITH DOCTORS WHO MAY EVALUATE

1 HIM?

2 A YES, THAT'S...

3 Q AND REMINDING HIM OF WHAT IT IS THAT YOU SAW AND
4 OBSERVED?

5 A YES.

6 Q THANK YOU, MA'AM.

7 MR. KELLY: I HAVE NO FURTHER QUESTIONS.

8 THE COURT: ANY RE-DIRECT OF THE WITNESS?

9 MR. HUMPHRIES: NO, YOUR HONOR.

10 THE COURT: ANY OBJECTION TO THE WITNESS BEING
11 EXCUSED FROM THE STATE?

12 MR. HUMPHRIES: NONE FROM THE STATE.

13 THE COURT: FROM THE DEFENSE?

14 MR. KELLY: NONE, MA'AM.

15 THE COURT: MA'AM, YOU'RE EXCUSED.

16 (WHEREUPON THE WITNESS LEFT THE STAND.)

17 THE COURT: YOU MAY CALL YOUR NEXT WITNESS.

18 MR. HUMPHRIES: THANK YOU, YOUR HONOR. THE
19 STATE CALLS DARRELL LEWIS.

20 (WITNESS ENTERED THE COURTROOM.)

21 DARRELL LEWIS, AFTER
22 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

23 MR. HUMPHRIES: AND YOUR HONOR, AS A
24 HOUSEKEEPING MATTER, THE STATE AT THIS TIME WOULD
25 MOVE TO INCORPORATE ALL THE EVIDENCE FROM THE GUILT

1 PHASE INTO THE PENALTY PHASE WHICH IS DONE BY--

2 THE COURT: I WOULD ASSUME THERE IS NO
3 OBJECTION.

4 MR. DIGGS: YOUR HONOR, WE JOIN IN THE MOTION
5 ACTUALLY.

6 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

7 THE COURT: SO ADMITTED. YOU MAY PROCEED.

8 MR. HUMPHRIES: THANK YOU.

9 DIRECT EXAMINATION

10 BY MR. HUMPHRIES:

11 Q WITH WHOM ARE YOU EMPLOYED?

12 A BERKELEY COUNTY SHERIFF'S OFFICE.

13 Q HOW LONG HAVE YOU BEEN EMPLOYED WITH THE SHERIFF'S
14 OFFICE?

15 A ABOUT 19 YEARS.

16 Q AND IN WHAT CAPACITY ARE YOU NOW EMPLOYED WITH THE
17 SHERIFF'S OFFICE?

18 A ASSIGNED TO THE CIVIL PROCESS DIVISION.

19 Q AND IN 1996 WHAT POSITION DID YOU HOLD WITH THE
20 SHERIFF'S OFFICE?

21 A I WAS AN INVESTIGATOR.

22 Q LET ME ASK YOU, CONSISTENT WITH YOUR DUTIES AS AN
23 INVESTIGATOR, DID YOU HAVE AN OCCASION TO COME TO A CRIME
24 SCENE INVOLVING A KIDNAPPING AND AN ASSAULT OF THEN
25 ELIZABETH MCLENDON?

1 A YES, SIR, I DID.

2 Q TELL THE JURY HOW THAT CALL CAME IN AND WHAT YOU DID
3 AS A RESULT OF THAT CALL.

4 A IT WAS IN FEBRUARY, 1996. I WAS THE ON-CALL
5 INVESTIGATOR AND I GOT CALLED TO ELIZABETH MCLENDON'S
6 HOUSE AND STEPHEN STANKO'S HOUSE, AND IT WENT SORT OF --
7 SORT OF WEIRD BECAUSE ONE THING HAD HAPPENED AND THEN
8 ANOTHER THING ABOUT SOME CARS WERE GOING ON AT THE SAME
9 TIME WITH HIS NEIGHBOR.

10 BUT SHE HAD BEEN ASSAULTED AND TIED DOWN WITH SOME
11 NECKTIES AND I THINK A PHONE CORD, AND HE HAD LEFT THE
12 SCENE AND WAS ON THE RUN, AND WE WERE TRYING TO FIND HIM.

13 Q YOU MENTIONED ANOTHER INVESTIGATION RELATED TO SOME
14 CARS. TELL THE JURY ABOUT THAT, IF YOU WILL.

15 A WELL, STEPHEN WAS EMPLOYED AT MCELVEEN PONTIAC WHICH
16 IS IN SUMMERVILLE IN BERKELEY COUNTY. HE WAS A
17 SALESPERSON THERE AND HE HAD COME WITH SOME SORT OF
18 AGREEMENT WITH HIS NEIGHBOR TO OPEN UP A NEW CAR LOT
19 THEMSELVES, TWO OF THEM TOGETHER.

20 AND HE WAS ACTUALLY DEFRAUDING HIS EMPLOYER AND HIS
21 NEIGHBOR ACTUALLY. HE WAS MOVING CARS FROM THE CAR LOT.
22 THIS DEALERSHIP IS VERY HUGE AND REALLY DIDN'T MISS NO
23 CARS TO START WITH FOR A LONG TIME.

24 THEY WENT LOOKING FOR THEM, THEY WOULD BE IN-SERVICE
25 OR SOMEWHERE ELSE, YOU KNOW, THEY -- THEY REALLY DIDN'T

1 MISS ALL THE CARS THAT WERE BEING MOVED TO MR. STANKO'S
2 NEIGHBOR'S HOUSE OR CAR LOT THAT THEY HAD COME TOGETHER TO
3 MAKE.

4 Q AND LET'S GO BACK THEN TO DEFENDANT STANKO. WAS HE
5 ARRESTED IMMEDIATELY AFTER THE ALTERCATION WITH LIZ?

6 A NOT IMMEDIATELY. HE HAD LEFT TOWN, ACTUALLY WENT TO
7 GREENVILLE AND WAS PICKED UP IN GREENVILLE. HE HAD CALLED
8 THE HOUSE AND WAS ABLE TO TRACE THE PHONE NUMBER BACK TO
9 WHERE HE WAS STAYING IN A HOTEL, AND HE WAS PICKED UP
10 THERE.

11 Q NOW, LET ME ASK YOU. DID HE TURN HIMSELF IN OR WAS
12 HE ARRESTED?

13 A NO, SIR, HE WAS ARRESTED. I HAD SPOKE TO HIM ON THE
14 PHONE AND ASKED HIM TO TURN HIMSELF IN. AND HE -- WHEN HE
15 HAD CALLED THERE, AND HE JUST -- HE TOLD ME HE DIDN'T WANT
16 TO GO BACK TO JAIL AND THAT HE NEEDED SOME HELP FIRST.

17 Q OKAY. NOW, WAS HE ULTIMATELY ARRESTED IN CONNECTION
18 WITH THE THEFT OR THE BREACH OF TRUST REGARDING THE
19 VEHICLES?

20 A YES, SIR. THERE WAS I BELIEVE SEVEN COUNTS OF BREACH
21 OF TRUST WITH FRAUDULENT INTENT. HE WAS TAKING THE CARS
22 AND THEN THEY WOULD ACTUALLY SELL THEM TO OTHER PEOPLE.
23 AND IT WAS A WEIRD SITUATION THAT REALLY WASN'T GOING
24 ANYWHERE.

25 THE NEIGHBOR WAS FRONTING MONEY TO STEPHEN AND

1 STEPHEN SPENT SOME OF THE MONEY AND NEVER BOUGHT ANY CARS.
2 HE JUST WOULD BRING CARS FROM THE LOT. AND ACTUALLY THE
3 NEIGHBOR HELPED HIM PICK THEM UP. DIDN'T KNOW ANY BETTER.

4 Q OKAY. AS A RESULT OF THE DEFENDANT HAVING BEEN
5 CHARGED WITH THE CHARGES IN CONNECTION WITH THE THEFT AND
6 RE-SALE OF THE VEHICLES AND THE KIDNAPPING AND THE ASSAULT
7 OF ELIZABETH MCLENDON, DID HE ULTIMATELY ENTER A PLEA--

8 A YES, SIR, HE DID.

9 Q -- TO VARIOUS CHARGES?

10 A YES, SIR, HE DID.

11 Q OKAY. AND ARE YOU AWARE OF THE CUMULATIVE SENTENCE
12 HE RECEIVED?

13 A I BELIEVE HE RECEIVED LIKE 10 YEARS. A 10 YEAR
14 SENTENCE ALTOGETHER IS WHAT IT WAS.

15 MR. HUMPHRIES: THAT'S ALL WE HAVE, YOUR HONOR.

16 THE COURT: ANY QUESTIONS FOR THE WITNESS?

17 CROSS-EXAMINATION

18 BY MR. KELLY:

19 Q OFFICER LEWIS, DID YOU KNOW THAT THE -- YOU WERE JUST
20 IN THE COURTROOM WHEN I WAS EXAMINING ELIZABETH BUCKNER
21 JUST THEN, OR YOU WERE OUT OF THE COURTROOM?

22 A OUT OF THE COURTROOM.

23 Q OKAY. YOU REMEMBER THE STATEMENT THAT SHE GAVE, A
24 LENGTHY STATEMENT THAT SHE GAVE THAT EXPLAINED WHAT TOOK
25 PLACE IN HER HOME AND -- AND HOW -- HOW THAT HAPPENED? DO

1 YOU REMEMBER THAT YOU WERE THE PERSON WHO TOOK IT AND WERE
2 THE WITNESS FOR IT?

3 A YEAH. I REMEMBER I DID TAKE A STATEMENT FROM HER.

4 Q OKAY. AND WERE YOU FRIENDS WITH OR DID YOU KNOW
5 STEPHEN STANKO PREVIOUS TO THIS, TO INVESTIGATING THIS
6 MATTER THAT WE'RE TALKING ABOUT?

7 A YES, SIR.

8 Q YOU DID?

9 A YES.

10 Q WERE YOU FRIENDS WITH HIM OR JUST ACQUAINTANCES, OR
11 WHAT WAS THE RELATIONSHIP?

12 A ACQUAINTANCES. HE WAS -- HE AND I WENT TO SCHOOL,
13 THE SAME HIGH SCHOOL, TOGETHER. HE WAS A COUPLE YEARS
14 BEHIND ME, BUT I KNEW HIM. AND HE WENT TO SCHOOL WITH MY
15 SISTERS AND FAMILY MEMBERS.

16 Q UH-HUH. DID -- DID HE EVER DATE YOUR SISTER OR ANY
17 OF YOUR SISTERS?

18 A YES.

19 Q HE DID?

20 A AT ONE TIME HE DATED MY MIDDLE SISTER.

21 Q OKAY. AND HOW DID YOU KNOW HIM TO BE IN HIGH SCHOOL
22 OR WHEN YOU KNEW HIM DURING THE TIME THAT HE MIGHT HAVE
23 DATED YOUR SISTER? WHAT WAS -- WHAT KIND OF FELLOW WAS
24 HE? WHAT DID HE DO?

25 A I REALLY DON'T REMEMBER THAT MUCH ABOUT HIM, JUST

1 THAT I KNOW THAT THEY DID SEE EACH OTHER FOR SOME TIME. I
2 DON'T KNOW -- I DON'T EVEN REMEMBER HOW LONG IT WAS. YOU
3 KNOW, I NEVER HEARD ANYTHING AT THAT TIME THAT ROSE ANY
4 FLAGS TO ME THAT -- THAT HE WAS A BAD PERSON OR ANYTHING.

5 Q I UNDERSTAND. DID YOU, OFFICER -- DID YOU GO TO
6 GREENVILLE TO BRING HIM INTO CUSTODY OR WERE YOU AMONG
7 THAT -- THOSE PEOPLE?

8 A NO, SIR.

9 Q OKAY. DID YOU QUESTION HIM AFTER THAT TIME?

10 A YES, SIR, WHEN HE GOT BACK TO BERKELEY COUNTY.

11 Q DID -- DID HE EVER TELL YOU THAT HE FELT THAT HE
12 NEEDED HELP OR MENTAL HEALTH OR ANYTHING TO THAT EFFECT?

13 A HE HAD TOLD ME THAT ON THE PHONE BEFORE HE WAS
14 ARRESTED.

15 Q YOU ACTUALLY TALKED WITH HIM ON THE TELEPHONE? AND
16 HE WOULD HAVE BEEN CALLING FROM GREENVILLE?

17 A YEAH, I BELIEVE THAT'S WHERE HE CALLED FROM.

18 Q HOW IS IT THAT YOU GOT ON THE PHONE WITH HIM WHEN HE
19 CALLED? HOW DID THAT--

20 A I WAS AT THE VICTIM'S RESIDENCE.

21 Q YOU WERE THERE?

22 A WHEN THE PHONE RANG, YEAH.

23 Q OKAY. AND WHAT WAS THE PURPOSE FOR YOU TO BE THERE
24 AT THAT TIME, DO YOU RECALL?

25 A I WAS STILL INVESTIGATING AND GATHERING INFORMATION.

1 Q WAS IT THE SAME DAY OR A DIFFERENT DAY, LATER ON YOU
2 THINK OR THE SAME DAY?

3 A I THINK IT WAS THE SAME DAY. AND ACTUALLY IT TOOK
4 THE NEXT DAY BEFORE WE WERE ABLE TO GET THE PHONE NUMBERS
5 TO WHERE HE WAS.

6 Q NOW, DO YOU RECALL OR DID -- DID -- DIDN'T STEPHEN
7 STANKO GIVE A FULL STATEMENT OF EVERYTHING THAT HE HAD
8 DONE?

9 A YES, SIR, HE DID, HE WAS VERY COOPERATIVE.

10 Q HE COMPLETELY COOPERATED WITH THE POLICE AND TOLD
11 THEM, I'M RESPONSIBLE FOR THIS AND MR. CRENSHAW IS
12 RESPONSIBLE FOR NOTHING.

13 A ABSOLUTELY.

14 Q AND HE DIDN'T TRY TO SHIFT THE BURDEN FOR ANY OF
15 THE -- THESE CRIMES THAT HE WAS CONVICTED FOR OFF ON
16 ANYBODY ELSE?

17 A NO, SIR. HE TOOK FULL RESPONSIBILITY.

18 Q RIGHT. AND REALLY LAID THE CONFESSION -- INCLUDING
19 WHAT WE'RE LISTENING TO HERE, HE ALSO GAVE A FULL ACCOUNT
20 OF THAT?

21 A YES, SIR.

22 Q THANK YOU, SIR. THANK YOU. ALTHOUGH IT MIGHT HAVE
23 DIFFERED IN SOME DETAIL OR ASPECTS--

24 A RIGHT.

25 Q -- HE DID COOPERATE FULLY?

1 A FULLY WITH--

2 Q DID YOU EVER KNOW HIM TO BE VIOLENT OR IN A RAGE OR
3 ANYTHING LIKE THAT WHEN YOU SAW HIM?

4 A NO.

5 Q THANK YOU, SIR, AND APPRECIATE IT.

6 THE COURT: ANY REDIRECT?

7 MR. HUMPHRIES: NO, YOUR HONOR.

8 THE COURT: ANY OBJECTION TO THE WITNESS BEING
9 EXCUSED FROM THE STATE?

10 MR. HUMPHRIES: NO, YOUR HONOR.

11 THE COURT: FROM THE DEFENSE?

12 MR. KELLY: NONE, MA'AM.

13 THE COURT: SIR, YOU'RE EXCUSED.

14 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

15 (WHEREUPON THE WITNESS LEFT THE STAND.)

16 THE COURT: YOU'RE WELCOME. YOU MAY CALL YOUR
17 NEXT WITNESS.

18 MR. HUMPHRIES: YOUR HONOR, AT THIS TIME THE
19 STATE WOULD LIKE TO INTRODUCE CERTAIN CERTIFIED
20 PUBLIC RECORDS UNDER RULE 902 AND PUBLISH THEM TO THE
21 JURY.

22 THE COURT: ANY EXCEPTION?

23 MR. KELLY: WE MUST SEE THEM THEN.

24 THE COURT: YES, SIR. THEY NEED TO SEE THEM.

25 MR. HUMPHRIES: WE'VE PROVIDED THEM COPIES.

1 THEY ARE CERTIFIED TRUE INDICTMENTS AND SENTENCING
2 SHEETS.

3 (DEFENSE ATTORNEYS CONFERRING.)

4 MR. KELLY: WITHOUT OBJECTION.

5 THE COURT: MARKED AND ADMITTED WITHOUT
6 OBJECTION.

7 MR. HUMPHRIES: YOUR HONOR, WHAT I WOULD LIKE TO
8 DO, THEY ARE A GROUP OF CHARGES FROM CHARLESTON
9 COUNTY AND A LARGER GROUP OF CHARGES FROM BERKELEY
10 COUNTY.

11 CHARLESTON COUNTY CHARGES WERE PLED TO ON THE
12 SAME DAY AND THE BERKELEY COUNTY CHARGES WERE PLED TO
13 ON THE SAME DAY. I'D LIKE TO MARK THEM JUST AS TWO
14 EXHIBITS JUST FOR...

15 THE COURT: I THINK THEY SHOULD BE.

16 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

17 THE COURT: MARKED AND ADMITTED WITHOUT
18 OBJECTION.

19 (WHEREUPON, STATE'S EXHIBITS 72 AND 73 WERE
20 ADMITTED INTO EVIDENCE.)

21 MR. HUMPHRIES: YOUR HONOR, AT THIS TIME I
22 REQUEST PERMISSION TO PUBLISH THEM TO THE JURY.

23 THE COURT: YOU MAY PROCEED.

24 MR. HUMPHRIES: THANK YOU. INDICTMENT
25 93-GS-10-6592 WAS AN INDICTMENT FOR BREACH OF TRUST

1 WHICH ALLEGES THAT STEPHEN STANKO DID IN CHARLESTON
2 COUNTY ON OR ABOUT THE 14TH DAY OF MAY, 1993, WHILE
3 AN EMPLOYEE OF NEW YORK LIFE INSURANCE COMPANY, 200
4 MEETING STREET, CHARLESTON, SOUTH CAROLINA AND WHILE
5 BEING ENTRUSTED WITH \$600 THEN AND THERE WILLFULLY,
6 UNLAWFULLY AND FELONIOUSLY TAKE AND APPROPRIATE SAID
7 MONIES TO HIS OWN USE AND PURPOSES WITH THE INTENTION
8 OF CHEATING AND DEFRAUDING THE NEW YORK LIFE
9 INSURANCE COMPANY OUT OF THE NEC LAPTOP COMPUTER
10 WHICH HE WAS TO PURCHASE WITH MONIES. THIS IS IN
11 VIOLATION OF SECTION 16 13 230 SOUTH CAROLINA CODE OF
12 LAWS 1976 AS AMENDED.

13 HE ENTERED A PLEA ON MARCH 8TH, 1995 AND
14 RECEIVED A 30 DAY SENTENCE WHICH IS CONCURRENT WITH A
15 LATER INDICTMENT.

16 INDICTMENT NUMBER 93-GS-10-6593 ANOTHER BREACH
17 OF TRUST INDICTMENT WORDED IN SIMILAR FASHION TO THE
18 PREVIOUS INDICTMENT WHICH HE ALSO PLED TO ON
19 MARCH 8TH, 1995 AND RECEIVED A 12 -- I'M SORRY --
20 RECEIVED A 30-DAY SENTENCE AND 12 MONTHS PROBATION
21 CONCURRENT WITH THE LAST INDICTMENT IN THIS GROUP
22 WHICH IS 93-GS-10-6594, THAT BEING AN INDICTMENT FOR
23 GRAND LARCENY.

24 THE INDICTMENT ALLEGES THAT STEPHEN STANKO DID
25 IN CHARLESTON COUNTY ON OR ABOUT THE 26TH DAY OF MAY,

1 1993 FELONIOUSLY TAKE AND CARRY AWAY PERSONAL GOODS
2 OF ANOTHER OF A VALUE OF MORE THAN \$1000; TO WIT, THE
3 GOODS OF THE NEW YORK LIFE INSURANCE COMPANY,
4 200 MEETING STREET, CHARLESTON, SOUTH CAROLINA,
5 DESCRIBED AS FOLLOWS, ONE NEC LAPTOP COMPUTER MODEL
6 SL25C WITH INTENT TO DEPRIVE THE OWNER PERMANENTLY OF
7 THE GOODS.

8 ENTERED A PLEA ON MARCH EIGHTH OF 1995 AND
9 RECEIVED A SENTENCE OF THREE YEARS. THAT SENTENCE
10 WAS SUSPENDED AND HE WAS PLACED ON PROBATION FOR A
11 PERIOD OF 12 MONTHS INCLUDING 200 HOURS OF PUBLIC
12 SERVICE.

13 HE WAS ALLOWED TO TERMINATE THE PROBATION AFTER
14 PAYMENT OF THE RESTITUTION. AGAIN, THAT PLEA WAS
15 ENTERED MARCH 8TH, 1995. THOSE ARE THE CHARLESTON
16 COUNTY CONVICTIONS. STATE'S EXHIBIT 72.

17 STATE'S EXHIBIT 73, INDICTMENT NUMBER
18 96-GS-08-545, IT'S AN INDICTMENT FOR KIDNAPPING WHICH
19 ALLEGES THAT STEPHEN CHRISTOPHER STANKO DID IN
20 BERKELEY COUNTY ON OR ABOUT FEBRUARY 20TH, 1996
21 UNLAWFULLY SEIZE, CONFINE, KIDNAP, J ELIZABETH
22 MCLENDON BY BINDING HER HANDS AND LEGS WITHOUT
23 AUTHORITY OF LAW. ON JULY 29TH, '96 HE RECEIVED A
24 SENTENCE OF 10 YEARS.

25 96-GS-08-546, ASSAULT AND BATTERY WITH INTENT TO

1 KILL, STEPHEN CHRISTOPHER STANKO DID IN BERKELEY
2 COUNTY ON OR ABOUT FEBRUARY 20TH, 1996 WITH MALICE
3 AFORETHOUGHT COMMIT AN UNLAWFUL ACT OF VIOLENT INJURY
4 TO THE PERSON OF J ELIZABETH MCLENDON WITH AN INTENT
5 TO KILL HER DID FORCIBLY HOLD A BLEACH AMMONIA CLOTH
6 OVER HER FACE, NOSE, AND MOUTH IN VIOLATION OF 16 3
7 620.

8 HE ENTERED A PLEA TO ASSAULT AND BATTERY OF A
9 HIGH AND AGGRAVATED NATURE, A LESSER INCLUDED
10 OFFENSE, AND RECEIVED AN EIGHT YEAR SENTENCE WHICH
11 RAN CONCURRENT WITH THE KIDNAPPING. THAT PLEA WAS
12 ALSO ENTERED ON JULY 29TH, 1996.

13 AGAIN, YOUR HONOR, FOR THE SAKE OF BREVITY,
14 96-547, 96-548, 96-549, 96-550, 96-551, 96-552,
15 96-553, 96-554, 96-555 ARE ALL INDICTMENTS FOR BREACH
16 OF TRUST WITH FRAUDULENT INTENT WHICH I WILL READ IN
17 SIMILAR FASHION.

18 THAT STEPHEN CHRISTOPHER STANKO DID IN BERKELEY
19 COUNTY ON OR ABOUT FEBRUARY 12TH OF 1996 WHILE AN
20 EMPLOYEE OF MCELVEEN PONTIAC BUICK GMC BECAME
21 ENTRUSTED WITH A 1995 BUICK CENTURY AUTOMOBILE OF A
22 VALUE IN EXCESS OF \$5000, SUCH AUTOMOBILE BEING THE
23 PROPERTY OF MCELVEEN PONTIAC BUICK GMC AND DID THEN
24 AND THERE WILLFULLY AND UNLAWFULLY AND FELONIOUSLY
25 TAKE AND APPROPRIATE THE AUTOMOBILE TO HIS OWN USE

1 AND PURPOSES WITH THE INTENTION OF CHEATING AND
2 DEFRAUDING MCELVEEN PONTIAC BUICK GMC OF THE
3 AUTOMOBILE.

4 HE RECEIVED A FIVE YEAR SENTENCE WHICH RAN
5 CONCURRENT TO THE KIDNAPPING AND RECEIVED THE SAME
6 SENTENCE ON ALL THE ADDITIONAL COUNTS, 547 THROUGH
7 555.

8 INDICTMENT NUMBER 96-GS-08-556 WAS AN INDICTMENT
9 FOR OBTAINING PROPERTY BY FALSE PRETENSES AS IS 557
10 WHICH ALLEGES THAT STEPHEN CHRISTOPHER STANKO DID IN
11 BERKELEY COUNTY ON OR ABOUT DECEMBER 26TH, 1995 BY
12 FALSE PRETENSE OR REPRESENTATION OBTAIN FROM RAY
13 CRENSHAW \$1800 IN US CURRENCY WITH INTENT TO CHEAT,
14 DEFRAUD RAY CRENSHAW OF THAT PROPERTY. FOR THAT
15 OFFENSE HE RECEIVED A FIVE YEAR SENTENCE WHICH RAN
16 CONCURRENT WITH THE KIDNAPPING.

17 AND ON 96-557 IT ALLEGES FROM THE SAME VICTIM HE
18 OBTAINED \$2080 ALSO RECEIVING A FIVE YEAR SENTENCE.
19 THAT'S THE SENTENCE -- ALSO RAN CONCURRENT TO THE
20 KIDNAPPING. AND THAT IS STATE'S EXHIBIT 73, YOUR
21 HONOR.

22 THE STATE'S READY TO PROCEED WITH THE NEXT
23 WITNESS. MAY IT PLEASE THE COURT.

24 THE COURT: YOU MAY PROCEED.

25 MR. HUMPHRIES: THANK YOU, YOUR HONOR. THE

1 STATE CALLS KATHLEEN CROLLEY.

2 KATHLEEN CROLLEY, AFTER
3 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION

5 BY MR. HUMPHRIES:

6 Q MRS. CROLLEY, WITH WHOM ARE YOU EMPLOYED?

7 A I'M EMPLOYED WITH OWL-O-REST FACTORY OUTLET. I'M
8 ACTUALLY INVOLVED IN THE OWNERSHIP OF THE BUSINESS, MY
9 FAMILY IS, AND I'VE WORKED THERE FOR 21 YEARS.

10 Q TELL THE JURY WHAT OWL-O-REST IS AND WHAT IT SELLS.

11 A OKAY. WE ARE A MATTRESS AND FURNITURE AND ACCESSORY
12 STORE. WE SELL BLINDS. WE'RE A SMALLER STORE, SO WE DO A
13 LOT OF SPECIAL ORDERS FOR PEOPLE.

14 Q LET ME ASK YOU, IN CONNECTION WITH YOUR
15 RESPONSIBILITIES THERE AT THE STORE, DID YOU HAVE AN
16 OCCASION TO MEET THE DEFENDANT, STEPHEN STANKO?

17 A YES, SIR.

18 Q GO AHEAD. TELL THE JURY ABOUT THAT MEETING, IF YOU
19 WILL.

20 A WE WERE ACTUALLY A LITTLE BIT SHORT-HANDED THAT DAY
21 AND I WAS HELPING TO ACTUALLY WORK ON THE SALES FLOOR, AND
22 HE CAME INTO THE STORE LOOKING TO PURCHASE TWO DESKS AS A
23 SURPRISE GIFT FOR HIS WIFE FOR CHRISTMAS.

24 Q DO YOU RECALL ABOUT WHAT TIME THAT WAS?

25 A THE TIME OF DAY OR THE TIME OF YEAR?

1 Q THE DATE.

2 A IT WAS DECEMBER EIGHTH OF '04.

3 Q OKAY. TELL THE JURY HOW THAT TRANSACTION PROCEEDED.

4 A AS HE CAME IN, HE WAS VERY PROFESSIONAL, AND I HAD TO
5 GET DIFFERENT PHOTOGRAPHS AND LOOK UP DIFFERENT PRICES FOR
6 HIM BECAUSE I DIDN'T HAVE ANYTHING RIGHT ON HAND AND IF HE
7 WAS TO RECEIVE THE MERCHANDISE BY CHRISTMAS, WE HAD TO BE
8 ABLE TO ACT VERY QUICKLY IF WE WANTED TO ORDER IT.

9 AND MEANWHILE HE STARTED RECEIVING NUMEROUS
10 PHONECALLS THAT APPEARED TO BE PEOPLE THAT WERE DONATING
11 MONEY TO HIM FOR A SPECIFIC CAUSE, AND I COULDN'T HELP BUT
12 OVERHEAR IT WAS -- OBVIOUS CONVERSATIONS, AND I TOLD HIM
13 THAT I WAS, YOU KNOW, HATED TO INQUIRE, BUT I WAS JUST
14 CURIOUS WHAT HE HAD GOING ON.

15 AND HE INFORMED ME THAT HE WAS A CORPORATE ATTORNEY
16 BUT THAT HE HAD A YOUNG NIECE, I BELIEVE HE SAID SHE WAS
17 12 OR 13, THAT HAD BEEN DIAGNOSED WITH CANCER DOWN AT MUSC
18 IN CHARLESTON AND THAT HE HAD DECIDED TO TAKE OFF THE PAST
19 YEAR TO YEAR AND A HALF TO TRY TO HELP HER TO HELP RAISE
20 MONEY FOR A CHARITY THAT HE HAD ORIGINATED, THE CHILDREN'S
21 CANCER RESEARCH FOUNDATION, AND THAT HE WAS HAPPY TO SAY
22 THAT THEY HAD RAISED NUMEROUS DOLLARS AND THAT SHE WAS IN
23 REMISSION AND HE WAS ABLE TO HELP HER IN THE -- THAT THE
24 MONEY WAS DOING VERY GOOD WORK.

25 Q AFTER HE TOLD YOU THAT, WHAT DID YOU TELL HIM?

1 A I WENT AND TALKED TO ONE OF MY PARTNERS AND TOLD HIM
2 THAT -- BECAUSE WE DON'T GIVE TO A LOT OF ORGANIZATIONS,
3 WE'RE NOT ABLE TO. WE HELP WITH SOME SCHOOL FUNDRAISERS.

4 BUT I TOLD HIM THAT I THOUGHT THIS WOULD BE A VERY
5 WORTHY CAUSE AND WOULD IT BE OKAY IF I COULD ISSUE A CHECK
6 TO MR. STANKO FOR THIS CHILDREN'S CANCER RESEARCH
7 FOUNDATION.

8 Q LET ME ASK YOU THIS. DID YOU HAVE ANY CONNECTION
9 WITH MUSC?

10 A YES. I HAVE A DAUGHTER THAT WAS BORN THREE MONTHS
11 PREMATURE. SHE WEIGHED 1 POUND 12 OUNCES AND SHE'S NOW
12 SIX YEARS OLD AND I'M VERY BLESSED SHE'S IN WONDERFUL
13 HEALTH, BUT...

14 Q DID THE TWO OF YOU TALK ABOUT THAT AS WELL?

15 A I BELIEVE WE DID A LITTLE BIT, YES.

16 Q DID THE -- DID THE COMPANY IN FACT ISSUE A CHECK?

17 A YES, SIR, WE DID. WE -- I WROTE HIM A CHECK FOR \$100
18 FROM THE STORE AND THEN I WROTE HIM A PERSONAL CHECK FOR
19 MYSELF FOR \$25.

20 Q NOW, DID YOU WRITE THE CHECK TO THE CHILDREN'S CANCER
21 RESEARCH FOUNDATION?

22 A I WAS GOING TO, AND AT THE VERY LAST MOMENT HE SAID
23 THAT I WOULD NEED TO MAKE THE CHECK OUT TO HIM PERSONALLY,
24 AND THAT AT THAT TIME I TOLD HIM IF THAT WAS THE CASE THAT
25 I WOULD NEED TO GET A WRITTEN RECEIPT FROM HIM THAT IT WAS

1 FOR THE ACTUAL CHARITY.

2 Q DID YOU BRING--

3 A YES.

4 Q -- THAT RECEIPT?

5 A YES, SIR, I DID.

6 MR. HUMPHRIES: HAVE THIS MARKED FOR
7 IDENTIFICATION PURPOSES AT THIS TIME, PLEASE.

8 THE COURT: FOR ID? IT'S FOR ID ONLY; CORRECT?

9 MR. HUMPHRIES: AT THIS POINT UNTIL I...

10 (WHEREUPON, STATE'S EXHIBIT NO. 74 WAS MARKED
11 FOR IDENTIFICATION ONLY.)

12 BY MR. HUMPHRIES:

13 Q SHOWING YOU WHAT'S BEEN MARKED STATE'S 74 FOR
14 IDENTIFICATION PURPOSES. TELL ME IF YOU CAN IDENTIFY THAT
15 DOCUMENT. DON'T PUBLISH IT, BUT TELL ME IF YOU CAN
16 IDENTIFY IT.

17 A YES, SIR. THIS IS THE RECEIPT THAT STEPHEN STANKO
18 WROTE TO ME THAT DAY.

19 MR. HUMPHRIES: YOUR HONOR, AT THIS TIME WE'D
20 MOVE TO INTRODUCE STATE'S 74.

21 THE COURT: ANY OBJECTION?

22 MR. KELLY: MAY I SEE IT, MA'AM?

23 THE COURT: YOU MAY.

24 MR. KELLY: WITHOUT OBJECTION.

25 THE COURT: MARKED AND ADMITTED WITHOUT

1 OBJECTION.

2 (WHEREUPON, STATE'S EXHIBIT 74 WAS ADMITTED INTO
3 EVIDENCE.)

4 BY MR. HUMPHRIES:

5 Q PLEASE PUBLISH STATE'S 74 TO THE JURY IF YOU DON'T
6 MIND.

7 A READ?

8 Q READ IT TO THEM, YES, MA'AM.

9 A DATED DECEMBER 8TH, 2004. RECEIVED BY OWL-A-REST
10 FACTORY OUTLET INCORPORATED, STEPHEN STANKO, \$100 CHECK,
11 CHECK NUMBER 35445, KATHLEEN A CROLLEY, 25-DOLLAR CHECK,
12 NUMBER 2312, DONATIONS MADE TO THE CHILDREN'S CANCER
13 RESEARCH FOUNDATION, CERTIFICATE TO FOLLOW. AND THEN IT'S
14 SIGNED STEPHEN C STANKO.

15 Q DID YOU CONCLUDE YOUR BUSINESS WITH MR. STANKO THAT
16 DAY, AND IF SO, HOW?

17 A AFTER THIS WAS TAKING PLACE, HE INDICATED THAT HE
18 DEFINITELY WANTED THE DESK AND I TRIED TO GET AS MUCH
19 INFORMATION AS I COULD FOR HIM AS FAR AS A CONTACT PHONE
20 NUMBER AND DELIVERY DIRECTIONS AND PROCEEDED TO GO AHEAD
21 AND GET IT ROLLING, AGAIN, BECAUSE TIME WAS OF THE
22 ESSENCE.

23 AND HE WAS SUPPOSED TO COME BACK TO THE STORE THE
24 NEXT DAY TO BRING SOME TYPE OF CERTIFICATE FOR THE
25 CHARITY, WHICH I REALLY WASN'T THAT CONCERNED ABOUT. BUT

1 I DID CONTACT HIM BY TELEPHONE THE -- THE NEXT DAY TO SEE
2 IF HE DEFINITELY WANTED THE DESK BECAUSE HE HAD NOT
3 BROUGHT THE DEPOSIT AND HE WANTED TO SEE IF IT WOULD BE
4 OKAY SINCE IT WAS A SURPRISE FOR HIS WIFE IF HE COULD
5 BRING HIS BROTHER'S CREDIT CARD BY, IF I WOULD NEED TO
6 SPEAK TO HIS BROTHER DIRECTLY, AND I TOLD HIM AT THAT
7 POINT, YES, I WOULD HAVE TO TALK TO HIS BROTHER IF IT
8 WAS -- OR WHOEVER'S CREDIT CARD IT WAS.

9 Q LET ME ASK YOU THIS.

10 A YES, SIR.

11 Q AFTER DEFENDANT STANKO LEFT YOUR STORE THAT FIRST DAY
12 AFTER YOU GAVE THE CHECKS TO HIM.

13 A YES, SIR.

14 Q ANY QUESTION ARISE IN YOUR MIND?

15 A A COUPLE. ESPECIALLY WHEN HE ASKED ME TO MAKE THE
16 CHECK OUT TO HIM PERSONALLY. AND THEN THE DELIVERY
17 DIRECTIONS, I WASN'T SURE THAT THAT ROAD REALLY EXISTED.
18 AND I'M A LITTLE BIT FAMILIAR WITH THE AREA, BUT I HAD
19 CONTACTED THE BETTER BUSINESS BUREAU TO SEE IF THEY COULD
20 EITHER TELL ME IF THE CHARITY WAS REAL OR AT LEAST GIVE ME
21 THE PHONE NUMBER TO CHECK, AND THEY WEREN'T ABLE TO AT
22 THAT TIME, BUT THEY DID CALL ME BACK AND SAY THAT THEY
23 DIDN'T SHOW A STEPHEN STANKO AS A CORPORATE ATTORNEY FOR
24 THE STATE OF SOUTH CAROLINA.

25 AND I STILL HAD A SMALL, YOU KNOW, HOPE MAYBE IT WAS

1 A DIFFERENT STATE AND MAYBE THE CHARITY WASN'T REGISTERED
2 PROPERLY, BUT IT WAS STILL A GLIMPSE OF HOPE THAT IT WAS A
3 REAL THING EVEN THOUGH I KNEW IT PROBABLY WASN'T.

4 Q WELL, LET ME ASK YOU THIS. WERE THE CHECKS
5 ULTIMATELY PASSED THROUGH YOUR ACCOUNT?

6 A YES, SIR. THE OWL-O-REST CHECK WAS CASHED VERY
7 QUICKLY. MY PERSONAL CHECK WAS A COUPLE OF WEEKS DOWN THE
8 ROAD.

9 Q AND HOW WERE THEY ENDORSED?

10 A STEPHEN C STANKO.

11 Q THANK YOU, MA'AM. ANSWER ANY QUESTIONS THE DEFENSE
12 MAY HAVE OF YOU.

13 A OKAY.

14 THE COURT: ANY QUESTIONS FOR THE DEFENSE?

15 MR. KELLY: NO QUESTIONS, MA'AM.

16 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
17 EXCUSED?

18 MR. HUMPHRIES: NO. THANK YOU, YOUR HONOR.

19 THE COURT: FROM THE DEFENSE?

20 MR. KELLY: NO, MA'AM.

21 THE COURT: MA'AM, YOU'RE EXCUSED.

22 THE WITNESS: THANK YOU.

23 (WITNESS LEFT THE STAND.)

24 THE COURT: YOU'RE WELCOME. MADAM FORELADY,
25 LADIES AND GENTLEMEN, YOU ALL HAVE BEEN SITTING

1 APPROXIMATELY AN HOUR AND 15 MINUTES. I'M GOING TO
2 GIVE YOU A VERY BRIEF AFTERNOON BREAK. DURING THE
3 BREAK PLEASE DO NOT DISCUSS THE CASE.

4 PLEASE LEAVE YOUR NOTEPADS IN YOUR SEATS. AND I
5 ANTICIPATE THAT WE'LL BE AT EASE FOR ABOUT 10
6 MINUTES.

7 (JURY LEFT THE COURTROOM AT 3:54 PM.)

8 THE COURT: YOU MAY BE SEATED. WE'LL BE AT EASE
9 FOR 10 MINUTES.

10 (WHEREUPON COURT WAS IN RECESS.)

11 (WHEREUPON, STATE'S EXHIBITS NOS. 75 AND 76 WERE
12 MARKED FOR IDENTIFICATION ONLY.)

13 THE COURT: IS THE STATE READY TO PROCEED?

14 MR. HEMBREE: YES, MA'AM.

15 THE COURT: DEFENSE READY TO PROCEED?

16 MR. KELLY: YES, MA'AM.

17 THE COURT: PLEASE BRING IN THE JURY.

18 (JURY ENTERED THE COURTROOM AT 4:24 PM.)

19 THE COURT: YOU MAY BE SEATED. I HOPE YOU ALL
20 ENJOYED YOUR BREAK. WE WILL NOW RESUME WITH THE
21 TRIAL. YOU MAY PROCEED.

22 MR. HEMBREE: THANK YOU, YOUR HONOR. THE STATE
23 CALLINGS IDA BROOKS TO THE WITNESS STAND. IDA
24 BROOKS.

25 IDA BROOKS, AFTER BEING

1 DULY SWORN, TESTIFIED AS FOLLOWS:

2 THE WITNESS: MY NAME IS IDA BROOKS.

3 DIRECT EXAMINATION

4 BY MR. HEMBREE:

5 Q GOOD AFTERNOON, MRS. BROOKS. MRS. BROOKS, WHERE DO
6 YOU -- WHAT COUNTY DO YOU LIVE IN?

7 A HORRY COUNTY.

8 Q AND WHAT SECTION OF THE COUNTY DO YOU LIVE IN?

9 A SOCASTEE.

10 Q AND WHAT DO YOU DO FOR A LIVING?

11 A I'M RETIRED.

12 Q HOW LONG HAVE YOU BEEN RETIRED?

13 A WELL, BEFORE THAT I LIVED ON A FARM, SO... A LONG
14 TIME.

15 Q I -- UNDERSTOOD. MRS. BROOKS, ARE YOU ACQUAINTED
16 WITH THE DEFENDANT IN THIS CASE, STEPHEN STANKO?

17 A YES, SIR.

18 Q COULD YOU PLEASE EXPLAIN TO THIS JURY HOW YOU BECAME
19 FIRST ACQUAINTED WITH DEFENDANT STANKO.

20 A WELL, I WAS MEETING -- I WENT TO THE LIBRARY TO LOOK
21 UP SOME INFORMATION ON A VA. MY DECEASED HUSBAND, NOW
22 DECEASED HUSBAND WAS A VETERAN, HUNDRED PERCENT VETERAN
23 DISABLED, AND I WAS--

24 Q MRS. BROOKS, LET ME ASK YOU -- HATE TO INTERRUPT YOU,
25 BUT WHICH LIBRARY DID YOU GO TO?

1 A SOCASTEE LIBRARY. AND I LET LAURA LING HELP ME WITH
2 LOOKING UP SOME INFORMATION.

3 Q AND MS. LING WAS -- WHAT WAS SHE? HOW DID SHE--

4 A SHE WAS AN EMPLOYEE OF THE LIBRARY THERE.

5 Q AND CAN YOU TELL THIS JURY A LITTLE BIT ABOUT
6 MS. LING?

7 A VERY NICE PERSON, REALLY ANXIOUS TO HELP. AND SHE
8 SAID SHE HAD A FRIEND THAT COULD HELP US THAT KNEW A LOT
9 ABOUT COMPUTERS AND COULD LOOK UP INFORMATION WITH HER ON
10 THE COMPUTER.

11 Q AND WHO WAS THAT PERSON?

12 A STEPHEN STANKO.

13 Q NOW, TELL THIS JURY THE CIRCUMSTANCES OF YOUR FIRST
14 MEETING WITH DEFENDANT STANKO.

15 A WELL, THE FIRST -- I TALKED WITH HIM ON THE
16 TELEPHONE. LAURA HAD CALLED HIM ON THE TELEPHONE, SET UP
17 AN APPOINTMENT FOR HIM TO COME TO MY HOUSE AND FOR HIM TO
18 LOOK OVER THE INFORMATION I HAD AND SEE WHAT WE COULD --
19 WHERE WE COULD GO FROM THERE.

20 Q AND DID HE KEEP THAT APPOINTMENT WITH YOU?

21 A YES, SIR.

22 Q WHERE DID YOU MEET WITH HIM?

23 A IN MY HOME, ME AND MY SISTER.

24 Q AND APPROXIMATELY, DO YOU KNOW THE APPROXIMATE DATE
25 OF THAT FIRST MEETING?

1 A FEBRUARY OR APRIL. I'M NOT POSITIVELY SURE.

2 Q OKAY. FEBRUARY OF 2005?

3 A YES.

4 Q AND WAS ANYONE WITH MR. STANKO WHEN HE MET WITH YOU
5 THAT DAY?

6 A NO.

7 Q WHAT WAS THE -- DID YOU HAVE A DISCUSSION WITH HIM?

8 A YES.

9 Q TELL THE JURY A LITTLE BIT ABOUT THAT FIRST
10 DISCUSSION DURING THAT FIRST MEETING AT YOUR HOUSE.

11 A WELL, I BROUGHT OUT MY RECORDS THAT WE -- THAT I HAD
12 BECAUSE I GOT HIS COMPLETE RECORDS WHEN I GOT A DIVORCE IN
13 '86. AND SO WE LOOKED AT THE RECORDS. I GAVE THEM TO HIM
14 TO USE TO LOOK UP MORE INFORMATION.

15 Q AND WHAT WAS THE PLAN? WHEN YOU LEFT, WHAT WAS --
16 WHAT WAS THE -- WHAT WERE YOU GOING TO DO OR WHAT WAS
17 MR. STANKO GOING TO DO FOR YOU?

18 A WELL, HE WAS GOING TO FIND OUT, YOU KNOW, WHAT --
19 WHAT OTHER INFORMATION I MIGHT NEED TO -- TO FILE FOR THE
20 COMPENSATION THAT WOULD BE IN -- I WOULD BE ENTITLED FOR.
21 AND WE -- HE -- HE -- HE SAID -- AND HE SAID HE WAS GOING
22 TO DO IT ON THE COMPUTER. HE AND LAURA WOULD DO IT ON THE
23 COMPUTER.

24 Q DID HE INDICATE IF HE HAD ANY EXPERIENCE OBTAINING
25 VETERANS BENEFITS?

1 A HE SAID HE HAD HELPED GET HIS FATHER'S VETERANS
2 BENEFITS.

3 Q NOW, DID YOU HAVE OCCASION EITHER ON THAT DATE OR
4 SUBSEQUENT DATES TO PAY OVER TO DEFENDANT STANKO MONEY?

5 A HE SAID HE NEEDED MONEY ABOUT FILING OR SOME KIND OF
6 COURT PROCEDURE. AND ME GOING THROUGH A DIVORCE KNOW THAT
7 WAS SO, THAT YOU DID NEED MONEY FOR DIFFERENT THINGS LIKE
8 THAT, SO I GAVE HIM A CHECK.

9 Q AND LET ME SHOW YOU STATE'S EXHIBIT 75.

10 MR. HEMBREE: YOUR HONOR, THIS IS IN EVIDENCE
11 WITHOUT OBJECTION.

12 (WHEREUPON, STATE'S EXHIBIT 75 WAS ADMITTED INTO
13 EVIDENCE.)

14 BY MR. HEMBREE:

15 Q AND ASK YOU IF YOU CAN IDENTIFY STATE'S EXHIBIT
16 NUMBER 75, MRS. BROOKS.

17 A YES, THIS IS THREE CHECKS THAT I HAD GIVEN HIM.

18 Q AND IF YOU WOULD, TELL THE JURY HOW MUCH THOSE CHECKS
19 WERE IN THE AMOUNT OF AND THE DATES OF THOSE THREE CHECKS.

20 A WELL, THE FIRST ONE I SEE HERE IS ON MARCH THE THIRD,
21 2003, OR FIVE, FIVE, AND IT WAS \$400. AND THEN THE SECOND
22 ONE WAS -- WELL, THE -- THIS WOULD HAVE BEEN THE FIRST ONE
23 REALLY, IS 220 -- 2-25 OF 2005, AND THAT WAS \$400. AND
24 THEN THE THIRD ONE WAS 2-23-05 AND THAT WAS \$565. IN
25 FACT, THEY ARE PUT BACKWARDS--

1 Q SO THE WAY YOU READ THEM WAS SORT OF IN REVERSE
2 ORDER?

3 A YES. YES, THAT'S RIGHT.

4 Q SO YOU MET WITH HIM ON SEVERAL OCCASIONS?

5 A YES.

6 Q CAN YOU SAY TO -- CAN YOU TELL THIS JURY ON HOW MANY
7 OCCASIONS YOU ACTUALLY HAD A PERSONAL MEETING WITH
8 DEFENDANT STANKO?

9 A WELL, FROM -- I WOULD SAY FROM 2000 (SIC), WHICH THAT
10 WOULD BE FEBRUARY, UNTIL APRIL THE SEVENTH.

11 Q OKAY.

12 A MY SISTER WAS WITH ME ALL THOSE TIMES BUT TWO.

13 Q OKAY. SO THERE WERE SEVERAL -- A NUMBER OF MEETINGS?

14 A YES, ABOUT EVERY OTHER DAY OR EVERY THIRD DAY OR
15 EVERY, YOU KNOW, ABOUT TWICE A WEEK AT LEAST.

16 Q MRS. BROOKS, LET ME ASK YOU, WHO ARE THOSE CHECKS
17 MADE OUT TO?

18 A STEPHEN STANKO.

19 Q AND IF YOU WILL CHECK ON THE SECOND PAGE OF THAT
20 EXHIBIT AND TELL THIS JURY WHO ENDORSED THOSE CHECKS AND
21 DEPOSITED THEM.

22 A STEPHEN STANKO.

23 Q ON ALL THREE CHECKS?

24 A YES, SIR.

25 Q MRS. BROOKS, LET ME DRAW YOUR ATTENTION TO STATE'S

1 EXHIBIT NUMBER 76 THAT HAS BEEN ADMITTED WITHOUT
2 OBJECTION, AND ASK IF YOU CAN IDENTIFY THAT DOCUMENT.

3 A YES, SIR.

4 Q PLEASE DESCRIBE TO THE JURY WHAT -- WHAT THIS
5 DOCUMENT REPRESENTS.

6 A THIS WAS SUPPOSED TO BE WHAT HE CAME UP AND SAYING
7 THAT I SHOULD BE GETTING, SHOULD GET OUT OF THE
8 COMPENSATION OF MY DECEASED EX-HUSBAND.

9 Q AND THAT'S COMPENSATION FROM THE VETERANS
10 ADMINISTRATION?

11 A YES, SIR.

12 Q AND WHAT DID HE INDICATE TO YOU -- WHAT DID
13 MR. STANKO INDICATE TO YOU WAS THE -- WERE THE AMOUNTS
14 THAT YOU SHOULD RECEIVE?

15 A WELL, 63,286 AND 31, AND THEN \$124,869.56, AND THEN
16 THE THIRD ONE WOULD BE \$13,521.32. COME TOTAL OF 2000 --
17 200 -- 201,677.19.

18 Q AND WAS THERE AN ADDITIONAL MONTHLY BENEFIT HE
19 INDICATED YOU WERE TO RECEIVE?

20 A YES, SIR, A THOUSAND DOLLARS AND 30 -- \$1352.65.

21 Q NOW, THERE'S SOME SIGNATURES ON THAT DOCUMENT AS
22 WELL.

23 A YES.

24 Q WHOSE SIGNATURES ARE REPRESENTED THERE?

25 A THAT'S IDA W BROOKS, MYSELF, AND THE WITNESS IS MY

1 SISTER, DOROTHY W SMITH AND STEPHEN STANKO.

2 Q NOW MRS. BROOKS, WHEN YOU GOT THE NEWS FROM
3 MR. STANKO THAT YOU WERE TO RECEIVE A LUMP SUM PAYMENT OF
4 SOME \$201,000 PLUS MONTHLY BENEFITS OF 1352, WHAT WAS YOUR
5 REACTION?

6 A WELL, I WAS REAL SURPRISED THAT HE WAS ABLE TO GET
7 IT, YOU KNOW, AND I WAS THRILLED HE WAS MAKING PROGRESS.

8 Q WHAT'S YOUR SOURCE OF INCOME NOW?

9 A \$9000 A YEAR.

10 Q OKAY. I MEAN, IN WHAT FORM DO YOU RECEIVE THIS?

11 A SOCIAL SECURITY.

12 Q SO THIS WAS--

13 A YES, THAT--

14 Q -- LIFE CHANGING SITUATION FOR YOU?

15 A YES.

16 Q NOW, DID MR. STANKO EVER PRODUCE THAT MONEY OR ANY
17 MONEY, GIVE YOU ANY MONEY AT ALL?

18 A NO. IT WAS SUPPOSED TO COME BY FED-EX.

19 Q SUPPOSED TO COME BY FEDERAL EXPRESS?

20 A FED-EX, YES.

21 Q AND DID YOU EVER RECEIVE IT?

22 A NO, SIR.

23 Q DID YOU EVER RECEIVE ANY KIND OF FED-EX?

24 A (SHOOK HEAD.)

25 Q FROM VETERAN ADMINISTRATION?

1 A NO MONEY FROM VA.

2 Q DID MR. STANKO TELL YOU WHAT NATIONALITY HE WAS?

3 A YES, SIR.

4 Q WHAT DID HE SAY?

5 A RUSSIAN.

6 Q RUSSIAN. AND YOU INDICATED YOU HAD A NUMBER OF
7 MEETINGS WITH MR. STANKO, AND YOU -- YOU STATED EARLIER IN
8 YOUR TESTIMONY THAT YOU HAD -- BELIEVE YOU SAID YOU HAD
9 ONE ON APRIL THE SEVENTH OF 2005.

10 A YES, SIR.

11 Q PLEASE TELL THIS JURY ABOUT THAT MEETING.

12 A WELL, HE HAD BEEN COMING TO THE HOUSE AND SO I WAS --
13 MY -- I HAD A MALE FRIEND THERE AND MY SISTER AND HER
14 GRANDSON WAS THERE, AND I WAS GOING TO HAVE SUPPER FOR ALL
15 OF US AND I ASKED HIM WOULD HE LIKE TO COME IN AND HAVE
16 SUPPER WITH US, AND HE SAID, YES, THAT WOULD BE FINE.

17 I THOUGHT THAT'D BE ONE THAT LAURA WOULDN'T HAVE TO
18 FIX FOR HIM AND I KNEW SHE'S A BUSY PERSON AND SHE'D
19 HELPED ME A LOT.

20 Q LAURA LING YOU'RE TALKING ABOUT?

21 A YES.

22 Q SO KIND OF TRYING TO HELP HER OUT?

23 A YES. YES, I WAS THINKING ABOUT HER.

24 Q DID YOU SEE HIM EARLIER -- DID YOU SEE DEFENDANT
25 STANKO EARLIER THAT DAY OR TALK WITH HIM BY PHONE OR DO

1 YOU RECALL?

2 A I DON'T REMEMBER THAT DAY. YOU KNOW, AFTER -- BEFORE
3 THAT, I -- I DON'T KNOW IF I CALLED HIM BY PHONE OR -- OR
4 YOU KNOW, OR TALKED WITH HIM BY PHONE. I JUST DON'T
5 REMEMBER THAT.

6 Q BUT YOU DID EXTEND THE INVITATION?

7 A YES, I DID EXTEND THE INVITATION AND HE FILLED IT AND
8 WE ALL HAD DINNER ABOUT SEVEN OR SO.

9 Q ABOUT 7:00?

10 A SOMETHING LIKE THAT.

11 Q DO YOU REMEMBER WHAT YOU HAD FOR DINNER?

12 A YES, CABBAGE AND YORKSHIRE SAUSAGE COOKED TOGETHER.

13 Q FAIR ENOUGH. NOW, HOW LONG WAS MR. STANKO THERE
14 DURING THE DINNER TIME HOURS?

15 A WELL, WE ATE AND THEN HE MIGHT HAVE STAYED 30 MINUTES
16 AFTER WE GOT THROUGH, I WOULD SAY. HE GOT A PHONECALL
17 WHILE WE WERE AT THE TABLE.

18 Q HE GOT A PHONECALL?

19 A YES.

20 Q AND DID HE RELATE TO YOU WHAT THAT PHONECALL
21 CONCERNED?

22 A WELL, I OVERHEARD THE CONVERSATION.

23 Q AND WHAT DID YOU OVERHEAR?

24 A I HEARD THAT THIS LADY WAS CALLING ABOUT HER SON,
25 THEY WAS HAVING A PROBLEM, AND THAT SHE WANTED STANKO TO

1 HELP HER OUT WITH IT.

2 Q WHAT KIND OF A PROBLEM WAS SHE HAVING?

3 A I DON'T KNOW WHAT IT INVOLVED EXACTLY EXCEPT IT
4 WAS -- SOUND LIKE A LEGAL PROBLEM OR A SOMETHING YOU--

5 Q IN TROUBLE?

6 A -- INVOLVED SOMEBODY WHO KNEW ABOUT LAW.

7 Q OKAY.

8 A AND SO HE TOLD HER TO BRING A THOUSAND DOLLARS, THAT
9 HE HAD DONE OTHER THINGS FOR IN THE PAST AND THAT HE
10 NEEDED SOME MONEY FOR HER BACK, AND PRETTY SHORTLY AFTER
11 THEN HE LEFT.

12 Q ABOUT WHAT TIME WAS IT, DO YOU KNOW?

13 A I WOULD -- I WOULD SAY ABOUT 8:30 MAYBE, SOMETHING
14 LIKE THAT.

15 Q ALL RIGHT. NOW, DO YOU RECOGNIZE ANYONE IN THIS
16 COURTROOM AS BEING THE STEPHEN STANKO THAT YOU PAID OVER
17 SOME \$1300 -- OVER \$1300 TO?

18 A I DON'T SEE HIM RIGHT NOW. OH, YES. YES.

19 Q AND MRS. BROOKS, WHERE IS -- IF YOU WOULD -- FOR THE
20 PURPOSES OF THE RECORD, WOULD YOU PLEASE IDENTIFY
21 DEFENDANT STANKO?

22 A HE'S RIGHT THERE WITH THE PLAID SHIRT ON.

23 Q THANK YOU, MRS. BROOKS. PLEASE ANSWER ANY QUESTIONS
24 THAT DEFENSE COUNSEL MAY HAVE.

25 THE COURT: ANY QUESTIONS FOR THE WITNESS?

1 MR. KELLY: YES, MA'AM.

2 THE COURT: YOU MAY PROCEED.

3 CROSS-EXAMINATION

4 BY MR. KELLY:

5 Q MRS. BROOKS, YOU SAY THAT STEPHEN CAME TO YOUR HOME
6 TWO OR THREE TIMES A WEEK?

7 A (NODDED).

8 Q AND THAT WAS OVER A PERIOD OF TIME. CAN I SEE THE
9 EXHIBIT, PLEASE, WHOEVER HAS IT? IS IT HERE?

10 MR. HEMBREE: MR. KELLY, I THINK ONE OF THE
11 JURORS MAY HAVE IT.

12 MR. KELLY: MAY I SEE THAT, MA'AM, THEN I WILL
13 GIVE IT BACK TO YOU.

14 BY MR. KELLY:

15 Q MRS. BROOKS, I BELIEVE YOU GAVE CHECKS IN FEBRUARY
16 THE 23RD AND THE 25TH AND THEN AGAIN IN MARCH ACCORDING TO
17 THESE CHECKS HERE.

18 A YES.

19 Q AND WOULD -- WOULD THESE HAVE BEEN THE ONLY CHECKS
20 THAT YOU GAVE?

21 A YES.

22 Q AND THE FIRST ONE THAT I SEE HERE IS THE -- A CHECK
23 FOR \$565 ON FEBRUARY THE 23RD. WOULD THAT BE THE FIRST
24 CHECK?

25 A NO. YEAH, THAT WOULD BE THE FIRST CHECK, YES.

1 Q OKAY. AND SO THERE WAS -- THERE WAS A TOTAL OF THREE
2 CHECKS ALTOGETHER?

3 A YES.

4 Q OKAY. AND WOULD -- WOULD MARCH BE THE -- THE DATE ON
5 THE CHECK MARCH THE 23RD, WOULD YOU HAVE GIVEN HIM THIS
6 FIRST CHECK ON THE FIRST TIME HE MET WITH YOU OR WOULD
7 IT -- NO?

8 A HUH-UH.

9 Q HOW LONG AFTER THE FIRST TIME?

10 A WELL, HE HAD DONE -- HE HAD DONE SOME RESEARCH. I --
11 FROM THE FIRST MEETING UNTIL THE FIRST CHECK, I WOULD SAY
12 IT WOULD BE AT LEAST A WEEK OR TWO POSSIBLY. I MEAN, I'M
13 JUST GUESSING.

14 Q SO THAT WOULD MAKE IT PROBABLY SOME TIME IN THE
15 MIDDLE OF FEBRUARY THAT YOU FIRST MET HIM?

16 A UH-HUH.

17 Q AND YOU SAY THAT YOU -- YOU MET HIM BY -- THROUGH
18 LAURA LING.

19 A YES, SIR.

20 Q OKAY. DID SHE EVER TELL YOU THAT HE HAD A CRIMINAL
21 RECORD?

22 A HE TOLD ME.

23 Q HE DID?

24 A YES.

25 Q AND WHAT DID HE TELL YOU?

1 A HE TOLD ME THAT HE GOT -- HAD GOTTEN OUT IN JULY.

2 Q AND DID HE REPRESENT TO YOU THAT HE WAS AN ATTORNEY
3 HIMSELF?

4 A NO, SIR.

5 Q WHAT DID HE REPRESENT TO YOU THAT HE WAS?

6 A THAT HE HAD DONE SOME LEGAL WORK. HE TOLD ME THAT HE
7 HAD DONE SOME LEGAL WORK.

8 Q AND DID HE NAME ANY ATTORNEY OR ATTORNEYS TO YOU THAT
9 HE WORKED FOR?

10 A YES. YES, BUT I CAN'T -- I -- HE CALLED SEVERAL
11 ATTORNEYS AND -- IN CHARLESTON AND THEN HE CALLED AN
12 INVESTMENT PERSON. I DON'T REMEMBER THEIR NAMES.

13 Q YES, MA'AM. AND I BELIEVE THAT YOU SAID THAT YOU --
14 THAT HE WOULD COME BY YOU SAID EITHER EVERY DAY, EVERY
15 OTHER DAY, OR TWO OR THREE TIMES A WEEK?

16 A YES, SIR.

17 Q AND WHEN HE WOULD COME BY THAT OFTEN, WHAT WAS HE
18 DOING WHEN HE CAME BY?

19 A WELL, HE WOULD COME IN AND BRING ME UP TO DATE WHAT
20 HE SAID HE HAD BEEN DOING, AND LIKE THE ESTIMATES THAT I
21 WOULD GET FROM THE VA, AND THEN HE WOULD TELL ME WHAT HE
22 WAS GOING TO DO.

23 ONE TIME HE TOLD ME ABOUT THE TIME THAT HE WENT TO
24 SUMTER AND HAD A HARD TIME OF GETTING IN -- GETTING SOME
25 BUSINESS THAT HE WANTED TO DO FOR ME DONE. NOW, WHAT IT

1 ALL CURTAILED I DON'T KNOW, REMEMBER.

2 BUT THEN HE WOULD -- THAT'S MOSTLY WHAT WE TALKED
3 ABOUT, JUST WHAT TO EXPECT THAT NEEDED TO BE DONE. I HAD
4 THE PAPERS ALREADY FOR THE VA I FILLED OUT. HE JUST
5 HAD -- SOMEBODY HAD TO JUST CAREFULLY -- GO FORWARD WITH
6 IT, AND I THOUGHT HE WAS DOING THAT.

7 Q AND SO YOU SUPPLIED HIM PAPERWORK TO GIVE TO THE VA?

8 A YEAH, AND HE WOULD DO RESEARCH ON THE COMPUTER
9 WITH -- FOR SOMEBODY.

10 Q DID HE EVER BRING ANY PAPERWORK FOR YOU TO SIGN?

11 A JUST THAT -- FOR THAT ESTIMATE THAT I WOULD GET.

12 Q NOW, SO THE VISITS THAT HE MADE TO YOUR HOME WERE
13 MAINLY TALKING TO YOU?

14 A YES.

15 Q AND BRINGING YOU UP TO DATE. RATHER THAN SHOWING YOU
16 DOCUMENTS, HE WAS MAINLY SPEAKING WITH YOU; IS THAT
17 CORRECT?

18 A WELL, THEY -- THEY WEREN'T A LOT OF DOCUMENTS. ALL
19 OF THEM THAT I HAD WAS -- HAS BEEN REPORTED. MY SISTER
20 TOOK NOTES EVERY DAY THAT HE WAS THERE.

21 Q OKAY.

22 A THAT SHE WAS THERE.

23 Q YES, MA'AM. NOW, THAT WOULD BE YOUR SISTER, DOT?

24 A YES.

25 Q OKAY. AND THE -- AND SHE'S GOT A -- WHO IS PAUL?

1 A THAT'S A FRIEND OF MINE, A MALE FRIEND OF MINE.

2 Q AND THEN WILLIAM IS DOT'S GRANDSON?

3 A GRANDSON, YES.

4 Q OKAY. NOW, YOU SAY THAT YOU BELIEVE THAT ON
5 THURSDAY, APRIL THE SEVENTH THAT HE WAS IN YOUR HOME AND
6 HAD DINNER WITH YOU?

7 A YES, SIR.

8 Q AND WHAT TIME DO YOU -- NORMALLY WOULD HAVE DINNER?
9 WOULD THAT BE WHAT TIME?

10 A USUALLY AROUND SEVEN BECAUSE I DON'T LIKE TO EAT
11 LATE.

12 Q AND THAT NIGHT DOT AND PAUL AND WILLIAM WERE THERE?

13 A YES, SIR.

14 Q OKAY. NOW, ARE YOU -- CAN YOU TELL ME WHY YOU THINK
15 IT WAS THE SEVENTH ON THURSDAY RATHER THAN ANY TIME
16 EARLIER THAN THAT?

17 A WELL, BECAUSE MY SISTER WAS LEAVING FRIDAY TO GO BACK
18 TO GEORGIA.

19 Q YES, MA'AM.

20 A AND TO CARRY HER GRANDSON BACK. AND SHE LIVES IN
21 GEORGIA. SHE LIVED IN GEORGIA AT THAT TIME.

22 Q SO THE -- WHEN YOU SAW THE NEWS ON THE EIGHTH THAT
23 LAURA LING HAD -- HAD BEEN FOUND DEAD IN HER HOME, YOU
24 REALIZED STEPHEN STANKO WAS HERE AT MY HOUSE JUST LAST
25 NIGHT?

1 A YES, BUT I DIDN'T KNOW IT UNTIL 11:00.

2 Q SO YOU -- THERE'S NO REAL DOUBT IN YOUR MIND BUT THAT
3 HE ACTUALLY WAS HAVING DINNER WITH YOU ON THURSDAY THE
4 SEVENTH ABOUT -- BETWEEN SEVEN AND 8:30 DID YOU SAY?

5 A YEAH, THAT WOULD BE A -- YES.

6 Q NOW, AT THAT TIME STEPHEN STANKO HAD BEEN PROMISING
7 YOU THAT THE MONEY WAS ACTUALLY ON ITS WAY; IS THAT
8 CORRECT?

9 A UH-HUH.

10 Q AND IN FACT, THAT THE FED-EX WAS SUPPOSED TO HAVE
11 THE -- ALREADY DELIVERED?

12 A UH-HUH.

13 Q IS THAT RIGHT?

14 A YES.

15 Q HOW LONG HAD HE BEEN SAYING FED-EX IS -- IS SUPPOSED
16 TO HAVE IT COMING TO THE DOOR? HOW LONG HAD YOU BEEN
17 LOOKING FOR IT?

18 A I DON'T KNOW IF IT WAS A WEEK OR TWO WEEKS. IT
19 WASN'T A WHOLE LONG TIME.

20 Q UH-HUH. AND -- BUT IT HAD NOT ARRIVED?

21 A NO.

22 Q AND THAT NIGHT DID HE BRING YOU UP TO DATE ON WHY
23 FED-EX WAS DELAYED THEN?

24 A NO.

25 Q JUST DIDN'T?

1 A NO.

2 Q HE DIDN'T?

3 A I DON'T KNOW IF IT WAS DISCUSSED.

4 Q ALL RIGHT. SO AT THAT TIME YOU WEREN'T CONCERNED,
5 YOU REALLY BELIEVED THAT THE MONEY WAS ON ITS WAY?

6 A YES.

7 Q JUST A MATTER OF WHEN IT SHOWS UP?

8 A YES.

9 Q OKAY. ALL RIGHT. SO YOU -- YOU NEVER SUSPECTED THAT
10 STEPHEN STANKO WAS NOT DOING WHAT HE SAID HE WAS DOING
11 UNTIL--

12 A NO.

13 Q -- LATER. CORRECT?

14 A NO. I MEAN, I -- I -- HE HAD SHOWED ME PROOF THAT HE
15 WAS WORKING ON IT, AND I KNOW WITH THE VA IT TAKES A LONG
16 TIME.

17 Q SO IN THAT CASE YOU NEVER MADE ANY REPORT TO ANY
18 POLICE AGENCY ABOUT HIM BECAUSE YOU DIDN'T THINK ANYTHING
19 WAS WRONG; CORRECT?

20 A WELL, I -- NATURALLY YOU'RE GOING TO THINK A LITTLE
21 BIT, BUT YOU DON'T, YOU KNOW, YOU HAVE NOTHING TO, YOU
22 KNOW, PATIENCE, IS BEST TO WAIT.

23 Q YES, MA'AM. THANK YOU SO MUCH.

24 THE COURT: ANY REDIRECT FROM THE WITNESS?

25 MR. HEMBREE: NO, YOUR HONOR. NOTHING ON

1 REDIRECT.

2 THE COURT: ANY OBJECTION TO THE WITNESS BEING
3 EXCUSED FROM THE STATE?

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

5 THE COURT: FROM THE DEFENSE?

6 MR. KELLY: NO, MA'AM.

7 THE COURT: PLEASE, MA'AM, YOU MAY BE EXCUSED.

8 THE WITNESS: THANK YOU.

9 THE COURT: CALL YOUR NEXT WITNESS.

10 (WHEREUPON THE WITNESS LEFT THE STAND.)

11 MR. HUMPHRIES: THE STATE CALLS STEVE LEE.

12 STEVE LEE, AFTER BEING

13 DULY SWORN, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION

15 BY MR. HUMPHRIES:

16 Q STATE YOUR FULL NAME FOR THE RECORD, PLEASE.

17 A RICHARD S LEE.

18 Q TELL THE JURY WHAT KIND OF BUSINESS YOU'RE IN.

19 A SELF-EMPLOYED AUTO MECHANIC.

20 Q LET ME ASK YOU, IN CONNECTION WITH YOUR BUSINESS AS
21 AN AUTO MECHANIC, DID YOU HAVE AN OCCASION TO MEET THE
22 DEFENDANT IN THIS CASE, STEPHEN STANKO?

23 A I DID. HE BROUGHT HIS CAR IN FOR REPAIR.

24 Q WHAT CAR DID HE BRING IN?

25 A A RED MUSTANG.

1 Q DO YOU RECALL WHAT -- WAS THERE DAMAGE TO THE
2 VEHICLE? DID IT NEED A TUNE-UP? DO YOU RECALL?

3 A THINK IT WAS RUNNING HOT.

4 Q OKAY. NOW, WHEN HE CAME IN, DID YOU ENGAGE HIM IN
5 CONVERSATION?

6 A SOMEWHAT. ASKED HIM WHAT HE DID FOR A LIVING.

7 Q WHAT DID HE TELL YOU HE DID FOR A LIVING?

8 A SAID HE WAS A PARALEGAL FOR 10 LAW FIRMS IN THE AREA,
9 COLUMBIA, CHARLESTON, AND MYRTLE BEACH.

10 Q NOW, DID YOU HAVE A LEGAL SITUATION THAT YOU THOUGHT
11 YOU MIGHT NEED SOME HELP WITH?

12 A I DID. I HAD A FRIEND WHO PASSED AWAY IN MARCH AND
13 THINK THERE WAS SOME INSURANCE POLICY SUPPOSED TO HAVE
14 BEEN, AND HE CHECKED -- WAS CHECKING INTO IT FOR ME.

15 Q NOW, WAS HE DOING THAT FOR FREE?

16 A ABSOLUTELY NOT.

17 Q HOW MUCH DID HE CHARGE YOU?

18 A \$1000.

19 Q DID YOU GIVE HIM THAT THOUSAND DOLLARS?

20 A I DID.

21 Q DO YOU REMEMBER ABOUT WHAT TIME THIS WAS?

22 A ABOUT THE THIRD WEEK IN MARCH.

23 Q NOW, AFTER YOU GAVE HIM THAT MONEY, DID YOU GET
24 PERIODIC UPDATES FROM MR. STANKO ABOUT THE PROGRESS HE HAD
25 MADE ON YOUR BEHALF?

1 A OH, YEAH. HE TOLD ME HE HAD FOUND THAT THERE WAS A
2 INSURANCE POLICY FOR ME, MY GIRLFRIEND, AND MY FOUR YEAR
3 OLD DAUGHTER.

4 Q I ASSUME THEY WOULD BE INSURANCE POLICIES THAT YOU
5 WOULD RECOVER FROM.

6 A RIGHT.

7 Q DO YOU KNOW HOW MUCH?

8 A THINK MINE WAS 200,000, MY GIRLFRIEND'S WAS LIKE 80,
9 AND MY DAUGHTER'S WAS LIKE 40.

10 Q ALL RIGHT. WHAT DID YOU DO WITH ALL THAT MONEY?

11 A NEVER RECEIVED THAT MONEY.

12 Q NOT A DIME?

13 A NOT A DIME.

14 Q HOW DID THAT SIT WITH YOU?

15 A NOT WELL.

16 Q WHAT DID YOU DO?

17 A WELL, REPEATEDLY CALLED HIM AND HE WOULD TELL ME,
18 CHECK'S IN THE MAIL, FED-EX COMING, BE HERE SOON. NOTHING
19 EVER HAPPENED.

20 Q DID YOUR PATIENCE RUN OUT?

21 A IT DID.

22 Q ABOUT WHAT TIME?

23 A WELL, ON APRIL 7TH I GAVE HIM A CALL AND I MET HIM AT
24 THE FOOD LION PARKING LOT IN MURRELLS INLET.

25 Q ABOUT WHAT TIME?

1 A ABOUT BETWEEN 2:30 AND 3:00 IN THE AFTERNOON.

2 Q ALL RIGHT.

3 A HE ASSURED ME IT WOULD BE HERE THE NEXT DAY AND HE
4 WOULD GET IN TOUCH WITH ME AT 9:00 IN THE MORNING.

5 Q WHAT DID YOU TELL HIM?

6 A SAID, I WILL TALK TO YOU IN THE MORNING.

7 Q LET ME ASK YOU, DID YOU SEE HIM THAT NEXT MORNING,
8 APRIL 8TH?

9 A NO, I DID NOT. I CALLED HIS PHONE NUMBER, SOUTH
10 CAROLINA LAW ENFORCEMENT ANSWERED HIS PHONE. I DIDN'T
11 KNOW WHO IT WAS. I THOUGHT IT WAS A JOKE, SO I HUNG UP.
12 I WAS REALLY, REALLY MAD, SO I CALLED IT BACK, AND HE SAID
13 IT WAS SOUTH CAROLINA LAW ENFORCEMENT. I SAID, WHERE ARE
14 YOU AT? SAID MR. STANKO'S RESIDENCE.

15 SO I SAID, WELL, I'LL BE OVER TO SEE YOU IN A FEW
16 MINUTES. SO THAT'S WHEN I WALKED INTO THE YELLOW TAPE
17 AROUND THE HOUSE.

18 Q WHAT DID YOU FIND THAT OCCURRED AT THAT POINT?

19 A EXCUSE ME?

20 Q WHAT DID YOU FIND THAT HAD OCCURRED AT THAT RESIDENCE
21 ONCE YOU GOT THERE?

22 A THERE HAD BEEN A MURDER GOING ON AT THE HOUSE.

23 Q LET ME ASK YOU. INITIALLY WERE YOU -- WERE YOU
24 PLEASED WITH AT LEAST THE WAY MR. STANKO PRESENTED HIMSELF
25 AND WHAT YOU THOUGHT HE WAS DOING ON YOUR BEHALF?

1 A SURE. HE TOLD ME IT WAS CONNECTED WITH A LAW FIRM IN
2 CHARLESTON AND THAT HE WOULD NOT REPRESENT ME, BUT THE
3 FIRM IN CHARLESTON WOULD. I WENT ONLINE AND CHECKED OUT
4 THE FIRM AND IT WAS LEGIT, AND THE LAWYER THAT HE SAID HE
5 WOULD BE USING WAS LEGIT.

6 Q WERE YOU SATISFIED ENOUGH INITIALLY WITH MR. STANKO
7 THAT YOU REFERRED HIM TO A FRIEND OF YOURS?

8 A I DID.

9 Q WHAT WAS THAT FRIEND'S NAME?

10 A JACK JACKSON.

11 MR. HUMPHRIES: THAT'S ALL I HAVE OF THIS
12 WITNESS, YOUR HONOR.

13 THE COURT: ANY QUESTIONS FOR THE WITNESS?

14 MR. KELLY: YES, MA'AM.

15 THE COURT: YOU MAY PROCEED.

16 CROSS-EXAMINATION

17 BY MR. KELLY:

18 Q MR. LEE, DID I UNDERSTAND YOU TO SAY THAT YOU PAID
19 STEPHEN STANKO A THOUSAND DOLLARS?

20 A YES, SIR, I DID.

21 Q ALONG ABOUT THE THIRD WEEKEND IN MARCH?

22 A THIRD WEEK IN MARCH, YES, SIR.

23 Q OKAY. DID YOU -- HOW DID YOU PAY HIM, CHECK OR CASH?

24 A CASH.

25 Q DID YOU GET A RECEIPT FROM HIM?

1 A NO, SIR, I DID NOT. HE WAS GOING TO BRING ME ONE. I
2 NEVER RECEIVED ONE.

3 Q OKAY. AND HE TOLD YOU -- WHAT WAS IT, THAT THEY WERE
4 INSURANCE POLICIES THAT HE DISCOVERED THAT WOULD -- WERE
5 DUE?

6 A RIGHT, FROM MY DECEASED FRIEND.

7 Q AND WHEN DID YOU -- WHEN DID HE TELL YOU THAT DO YOU
8 THINK?

9 A PROBABLY WITHIN A COUPLE OF DAYS AFTER HE STOPPED BY
10 HE CAME BACK BY TO TELL ME THAT HE HAD FOUND THESE
11 POLICIES.

12 Q OKAY. AND YOU DIDN'T KNOW ANYTHING ABOUT ANY
13 POLICIES?

14 A NO, SIR, I DID NOT.

15 Q OKAY. AND DID HE TELL YOU WHERE HE FOUND EVIDENCE OF
16 THESE POLICIES, HOW HE--

17 A HE HAD OBTAINED MY FRIEND'S SOCIAL SECURITY NUMBER
18 AND HIS NAME AND HE WAS CHECKING IT ALL OUT THROUGH A
19 COMPUTER HE SAID.

20 Q ALL RIGHT. SO THE THIRD WEEKEND IN MARCH WOULD BE
21 AROUND THE 21ST OR SO, THAT'S THE THIRD WEEK.

22 A YES, SIR.

23 Q IS THAT ABOUT RIGHT?

24 A THIRD WEEK OF MARCH.

25 Q THIRD WEEKEND IN MARCH? I'M JUST SAYING THAT WOULD

1 BE SOMEWHERE TOWARDS THE MIDDLE OF MARCH, HAVE TO BE
2 AROUND 15TH AT LEAST OR 18TH OF MARCH WHEN YOU PAID HIM
3 THE THOUSAND DOLLARS.

4 A YES, SIR.

5 Q CORRECT? I DON'T HAVE A CALENDAR IN FRONT OF ME, BUT
6 IF IT'S THE THIRD WEEKEND IT WOULD HAVE TO BE SOMEWHERE
7 AROUND THERE OR LATER; RIGHT?

8 A RIGHT.

9 Q OKAY. AND THEN -- ABOUT FOUR DAYS LATER, THEN HE
10 SAID, I DISCOVERED THIS; RIGHT?

11 A RIGHT.

12 Q OKAY. AND THEN -- WHEN DID HE SAY THIS MONEY WAS
13 GOING TO BE COMING DUE?

14 A HE SAID IT COULD BE OBTAINED AT ANY TIME THAT -- IF
15 IT WAS MADE OUT DIRECTLY TO ME, THAT ALL HE HAD TO DO WAS
16 FILE PAPERWORK AND GET THE MONEY.

17 Q OKAY. AND SO DAYS PASSED AND WHAT -- WEREN'T A LOT
18 OF THEM -- OF DAYS -- AND YOU STARTED TO SAY, HEY, I WANT
19 TO KNOW WHERE THIS MONEY IS?

20 A RIGHT.

21 Q IS THAT RIGHT?

22 A CORRECT.

23 Q DID I UNDERSTAND YOU TO SAY THAT ON THE SEVENTH THAT
24 YOU MET IN THE FOOD LION PARKING LOT?

25 A IN MURRELLS INLET, YES, SIR.

1 Q WHAT TIME OF DAY OR NIGHT?

2 A BETWEEN 2:30 AND THREE.

3 Q IN THE AFTERNOON?

4 A YES, SIR.

5 Q JUST THE TWO OF YOU?

6 A YES, SIR.

7 Q AND HE SAID FED-EX IS SUPPOSED TO BE SENDING THE
8 MONEY TO YOU?

9 A RIGHT. HE SAID HE'D NOT GOTTEN IT YET BUT HE WOULD
10 BE IN TOUCH WITH ME THE NEXT MORNING.

11 Q THE NEXT MORNING. THANK YOU, SIR.

12 THE COURT: ANY REDIRECT OF THE WITNESS?

13 MR. HUMPHRIES: NO, YOUR HONOR.

14 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
15 EXCUSED FROM THE STATE?

16 MR. HUMPHRIES: NOT FROM THE STATE.

17 THE COURT: FROM THE DEFENSE?

18 MR. KELLY: NO, MA'AM.

19 THE COURT: SIR, YOU'RE EXCUSED.

20 THE WITNESS: THANK YOU, YOUR HONOR.

21 (WHEREUPON THE WITNESS LEFT THE STAND.)

22 THE COURT: YOU MAY CALL YOUR NEXT WITNESS.

23 MR. HUMPHRIES: THANK YOU. JAMES JACKSON.

24 JAMES JACKSON, AFTER
25 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

1 THE COURT: YOU MAY PROCEED.

2 DIRECT EXAMINATION

3 BY MR. HUMPHRIES:

4 Q MR. JACKSON, IN WHAT COMMUNITY DO YOU RESIDE?

5 A MURRELLS INLET.

6 Q AND TELL THE JURY IN WHAT LINE OF WORK ARE YOU IN.

7 A I'M SELF-EMPLOYED.

8 Q AND HOW ARE YOU SELF-EMPLOYED?

9 A I'M ALSO RETIRED, BUT I'M...

10 Q I'M WITH YOU.

11 A KIND OF DAY. I'M A COMMERCIAL FISHERMAN.

12 Q YOU'VE GOT A FRIEND NAMED STEVE LEE?

13 A CORRECT.

14 Q DID YOUR GOOD BUDDY STEVE REFER YOU TO A FELLOW THAT
15 HELPED YOU WITH A LEGAL MATTER YOU HAD?

16 A YES.

17 Q WHO DID HE REFER TO YOU?

18 A STEPHEN STANKO.

19 Q DID YOU HAVE OCCASION TO MEET STEPHEN STANKO AFTER
20 HIM BEING REFERRED TO YOU?

21 A YES, I DID.

22 Q HOW DID THAT COME ABOUT?

23 A WELL, I TALKED TO STEVE ON THE RADIO -- TELEPHONE
24 FIRST AND THEN I -- WE MADE AN APPOINTMENT TO MEET AT MY
25 HOUSE. SO WE MET AND I TOLD HIM MY SITUATION, AND FROM

1 THERE, YOU KNOW, HE PROCEEDED TO TELL ME WHAT TO DO, HOW
2 TO DO IT, AND YOU KNOW, WHAT IT COSTS AND ALL THIS.

3 Q WELL, LET ME ASK YOU THIS. FIRST OF ALL, HOW DID --
4 WHAT DID HE SAY HE WAS?

5 A A -- HE WAS WORKING WITH A FIRM FOR -- SEEMED LIKE HE
6 SAID THREE FIRMS. HE WAS A LEG-MAN, YOU KNOW. HE WAS
7 THE -- LIKE A FIELD-MAN GOING OUT AND GETTING CASES, YOU
8 KNOW, AND TAKE THEM BACK TO THE FIRM.

9 Q OKAY. AND JUST GENERALLY WHAT -- WHAT WAS THE LEGAL
10 MATTER YOU HAD AN INTEREST IN? WHAT KIND OF CASE WAS IT?

11 A IT WAS A -- THEY CALL -- WHAT DO YOU CALL IT --
12 DEFAMATION OF CHARACTER.

13 Q DEFAMATION?

14 A RIGHT.

15 Q OKAY. DID -- AFTER YOU TOLD DEFENDANT STANKO YOUR
16 SITUATION, DID HE SAY IF HE COULD HELP YOU?

17 A OH, YES. HE SAID THAT, OH, WE BEEN LOOKING FOR HIM
18 FOR YEARS.

19 Q TALKING ABOUT THIS FELLOW THAT DEFAMED YOU?

20 A RIGHT. I SAID, YOU'RE THE MAN, YOU KNOW.

21 Q YOU THAT EXCITED?

22 A OH, THAT -- YEAH.

23 Q YOU READY TO GO AFTER HIM?

24 A I WAS READY.

25 Q AND MR. STANKO WAS GOING TO HELP YOU DO THAT?

1 A OH, YES.

2 Q WAS HE GOING TO DO IT FOR FREE?

3 A OH, NO.

4 Q HOW MUCH WAS THAT GOING TO COST?

5 A THERE WAS A LITTLE UP-FRONT MONEY. THE TOTAL WAS A
6 THOUSAND DOLLARS, AND HE SAID THAT I COULD PAY LIKE HALF
7 OF IT NOW AND TWO OR 300 LATER, YOU KNOW, SO I PAID HIM
8 HALF OF IT.

9 Q \$500?

10 A PARDON ME?

11 Q \$500?

12 A \$500, YES.

13 Q DID YOU PAY IN CHECK OR CASH?

14 A CHECK.

15 Q WHO DID YOU MAKE THAT CHECK OUT TO?

16 A STEPHEN STANKO.

17 Q WAS THAT -- WELL, LET ME ASK YOU THIS. AFTER YOU
18 GAVE HIM THAT CHECK, HOW LONG DID HE STAY AT YOUR HOUSE?

19 A NOT LONG, BUT BECAUSE IT WAS ABOUT 4:30 AND BANKS
20 CLOSE AT FIVE. YEAH, ABOUT THAT -- ABOUT THAT TIME.

21 Q DID YOU -- YOU CHECK YOUR RECORDS TO FIND HOW LONG HE
22 HELD THAT CHECK BEFORE HE CASHED IT?

23 A I THINK HE HAD IT TIME ENOUGH TO LEAVE THE HOUSE AND
24 GO TO THE BANK AND GET IT DONE BEFORE I HAD TIME TO STOP
25 PAYMENTS ON IT BEFORE I FOUND OUT, YOU KNOW, THAT IF HE

1 WAS LEGITIMATE OR, YOU KNOW, IF I HAD A GOOD MAN OR NOT.

2 Q CASHED IT THAT DAY; DIDN'T HE?

3 A ABSOLUTELY.

4 Q DO YOU RECALL ABOUT WHEN THAT WAS?

5 A I THINK IF I'M NOT MISTAKEN, IT WAS ON THE SIXTH OF
6 APRIL. I'M NOT -- I'M NOT ALL THAT SURE. I HAD MY
7 STATEMENT BACK AND IT SHOWED THE PICTURE OF THE CHECK, BUT
8 I -- I TRIED TO FIND IT AND I COULDN'T.

9 Q WHAT WAS YOUR IMPRESSION OF DEFENDANT STANKO WHEN HE
10 WAS TALKING TO YOU?

11 A YOUNG, SMART, SHARP LAWYER SOMEWHAT. I WAS WAITING
12 FOR THE -- GIVE ME A GOOD IMPRESSION OF A SMART LAWYER.

13 Q THANK YOU, MR. JACKSON.

14 A THANK YOU.

15 MR. HUMPHRIES: HANG ON JUST A SECOND. ANSWER
16 ANY QUESTIONS THE DEFENSE MAY HAVE OF YOU, SIR.

17 THE COURT: ANY QUESTIONS?

18 MR. KELLY: YES, MA'AM.

19 THE COURT: YOU MAY PROCEED.

20 CROSS-EXAMINATION

21 BY MR. KELLY:

22 Q WHEN WAS THIS THAT YOU MET WITH MR. STANKO?

23 A I'M THINKING SOMEWHERE AROUND THE SIXTH OR THE
24 SEVENTH. THAT'S WHEN I WAS LOOKING FOR MY STATEMENT FROM
25 THE BANK AND--

1 Q YOU THINK IT WAS THE SIXTH OR SEVENTH OF APRIL?

2 A APPROXIMATELY, YEAH.

3 Q OKAY.

4 A I CAN'T -- I CAN'T PINPOINT THE DATE. I CAN THE
5 TIME.

6 Q OKAY. AND WHO HAD DEFAMED YOUR CHARACTER?

7 A PARDON ME?

8 Q WHO -- IF IT WAS A DEFAMATION CASE, WHO WAS IT WHO
9 HAD SAID SOMETHING THAT ATTACKED YOUR CHARACTER?

10 MR. HUMPHRIES: YOUR HONOR, I OBJECT TO--

11 THE COURT: BASIS.

12 MR. HUMPHRIES: RELEVANCE.

13 THE COURT: WIDE LATITUDE IS GIVEN.

14 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

15 THE COURT: OVERRULED.

16 BY MR. KELLY:

17 Q WHO WAS IT?

18 A WHO WAS IT?

19 Q YES.

20 A COOPER WELLS.

21 Q COOPER WHO?

22 A COOPER WELLS.

23 Q AND WHAT HAD HE SAID ABOUT YOU THAT DEFAMED YOU?

24 A IT WAS ABOUT SOME KIDS IN MY NEIGHBORHOOD.

25 Q AND WHAT DID -- HE SAID ABOUT YOU AND THE KIDS?

1 A HE SAID THAT HE HAD HEARD ABOUT A SITUATION THAT I
2 HAD WITH THE KIDS.

3 Q HE ACCUSED YOU OF BEING A CHILD MOLESTER?

4 A IT WAS SITUATION THAT -- OF THAT MATTER -- MANNER.

5 Q THANK YOU. DON'T HAVE ANY FURTHER QUESTIONS.

6 THE COURT: ANY REDIRECT?

7 MR. HUMPHRIES: JUST BRIEFLY.

8 REDIRECT EXAMINATION

9 BY MR. HUMPHRIES:

10 Q ANY POLICE REPORT EVER FILED ACCUSING YOU OF BEING A
11 CHILD MOLESTER?

12 A NEVER.

13 Q YOU EVER ARRESTED FOR BEING A CHILD MOLESTER?

14 A NEVER.

15 Q ANYBODY OTHER THAN COOPER WELLS EVER SAY YOU WERE A
16 CHILD MOLESTER?

17 A NEVER.

18 Q IS THAT WHAT GOT YOU AGGRAVATED?

19 A HE HAD A REASON FOR DOING THIS. YOU WANT ME TO TELL
20 YOU?

21 Q BECAUSE YOU WERE A CHILD MOLESTER?

22 A NO, IT'S NOT, BUT TO -- TRYING TO GET EVEN WITH ME.

23 Q AND WHY DID HE WANT TO GET EVEN WITH YOU?

24 A HIS GIRLFRIEND LEFT HIM FOR MY SON. OKAY. 3:00 ONE
25 MORNING HE CAME TO THE HOUSE. HE WAS LIVING UPSTAIRS FROM

1 ME, IT SOUNDED LIKE SOMEBODY WAS TEARING THE HOUSE DOWN.
2 SO I GO UP THERE IN MY SHORTS, FIND OUT WHO IT WAS. HE
3 WAS BANGING ON THE SIDE OF THE HOUSE TRYING TO GET MY SON
4 TO THE DOOR.

5 SO I FOUND OUT WHAT IT WAS AND SAID, HEY, YOU GOT TO
6 GO, SON. HE HAD A PISTOL IN HIS BACK POCKET. HE WAS
7 PRETTY WELL INTOXICATED. AND I SAID, YOU GOT TO GO, SON.
8 HE SAID, YOUR SON IS IN THERE WITH MY GIRLFRIEND.

9 I SAID, I DON'T CARE IF HE'S IN THERE WITH THE QUEEN
10 OF ENGLAND, YOU'RE NOT KNOCKING ON MY DOOR AT NIGHT THIS
11 TIME OF DAY. SO THEN THAT'S WHY HE HAD -- IT WAS A --
12 LIKE A PAY BACK THING.

13 Q I GOT YA. THANK YOU, MR. JACKSON.

14 A THANK YOU.

15 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
16 EXCUSED FROM THE STATE?

17 MR. HUMPHRIES: NONE FROM THE STATE.

18 THE COURT: FROM THE DEFENSE?

19 MR. KELLY: NO, MA'AM.

20 THE COURT: SIR, YOU'RE EXCUSED.

21 THE WITNESS: THANK YOU.

22 THE COURT: YOU'RE WELCOME.

23 (WHEREUPON THE WITNESS LEFT THE STAND.)

24 THE COURT: YOU MAY CALL YOUR NEXT WITNESS.

25 MR. HUMPHRIES: YOUR HONOR, WE HAVE A BRIEF

1 MATTER OF LAW PRIOR TO THE NEXT WITNESS.

2 *THE COURT:* MADAM FORELADY, LADIES AND
3 GENTLEMEN, THE LAWYERS AND I HAVE A MATTER OF LAW WE
4 NEED TO TAKE UP. DURING THIS BREAK PLEASE DO NOT
5 DISCUSS THE CASE. IT SHOULD BE FAIRLY SHORT.

6 PLEASE LEAVE YOUR NOTEPADS IN YOUR SEATS. AND
7 IF YOU NEED ANYTHING, PLEASE LET THE BAILIFFS KNOW.
8 WE APPRECIATE YOUR PATIENCE.

9 (JURY LEFT THE COURTROOM AT 5:02 PM.)

10 *THE COURT:* YOU MAY BE SEATED. MAY CALL THE
11 WITNESS.

12 *MR. HUMPHRIES:* YOUR HONOR, PRIOR TO THE CALLING
13 OF THE WITNESS, THE PURPOSE FOR THIS EN CAMERA
14 HEARING IS TO GIVE THE COURT AN OPPORTUNITY TO VIEW
15 PHOTOGRAPHS THE STATE INTENDS TO--

16 *THE COURT:* OH, I'M SORRY. I THOUGHT THIS WAS
17 ABOUT HENRY LEE TURNER.

18 *MR. HUMPHRIES:* NO. WE CAN TAKE THAT UP -- IF
19 YOU WANT, WE CAN TAKE THAT UP BECAUSE IT COMES UP
20 AFTER THE NEXT TWO WITNESSES. THESE TWO WITNESSES
21 RELATE SPECIFICALLY TO THE CRIME SCENE IN LAURA
22 LING'S CASE.

23 *THE COURT:* OKAY. I MISUNDERSTOOD. I
24 APOLOGIZE. WE CAN TAKE UP IN THE ORDER THAT IT IS --
25 THAT IT COMES UP, THAT'S FINE. YOU WANTED THE COURT

1 TO REVIEW PHOTOS EN CAMERA?

2 MR. HUMPHRIES: I DO. LET ME MARK THEM FIRST,
3 YOUR HONOR, SO WE CAN...

4 THE COURT: GO RIGHT AHEAD.

5 MR. HUMPHRIES: MARK THEM FOR IDENTIFICATION
6 PURPOSES AT THIS TIME.

7 THE COURT: THE DEFENSE HAS COPIES OF THIS?

8 MR. HUMPHRIES: YES, THEY DO. NOW, THEY HAVE
9 NOT -- THEY HAVE NOT SEEN THE BLOW-UPS, BUT THEY
10 CERTAINLY HAVE--

11 THE COURT: I WANT TO GIVE THEM AN OPPORTUNITY
12 TO SEE EXACTLY WHAT WE'RE GOING TO --

13 MR. HUMPHRIES: VERY GOOD, YOUR HONOR. YOUR
14 HONOR, FOR THE RECORD THESE ARE STATE'S EXHIBITS 77
15 THROUGH 83 FOR IDENTIFICATION PURPOSES.

16 THE COURT: HAS THE DEFENSE HAD A FULL
17 OPPORTUNITY TO VIEW THEM?

18 MR. HUMPHRIES: THEY ARE LOOKING AT THEM RIGHT
19 NOW, YOUR HONOR.

20 (WHEREUPON, STATE'S EXHIBITS NOS. 77-83 WERE
21 MARKED FOR IDENTIFICATION ONLY.)

22 MR. DIGGS: YOUR HONOR, WE OBJECT.

23 THE COURT: NEED TO SEE THEM BEFORE YOU ARGUE.

24 MR. HUMPHRIES: TRYING TO GET THEM BACK IN
25 ORDER, YOUR HONOR.

1 THE COURT: LET ME ASK THIS PRELIMINARY QUESTION
2 OF THE STATE.

3 MR. HUMPHRIES: YES, YOUR HONOR.

4 THE COURT: DO THESE PICTURES DEPICT THE BODIES
5 OF THE VICTIMS IN SUBSTANTIALLY THE SAME CONDITION
6 THEY WERE WHEN THE DEFENDANT LEFT THEM?

7 MR. HUMPHRIES: THEY DO, YOUR HONOR.

8 THE COURT: AND DO THEY DEMONSTRATE
9 CIRCUMSTANCES OF THE CRIME?

10 MR. HUMPHRIES: THEY NOT ONLY DEMONSTRATE
11 CIRCUMSTANCES OF THE CRIME, BUT THEY ALSO GO TO -- AT
12 LEAST ONE WILL -- TO A NUMBER OF AGGRAVATING
13 CIRCUMSTANCES.

14 THE COURT: THAT'S MY NEXT QUESTION.

15 MR. HUMPHRIES: YES, YOUR HONOR.

16 THE COURT: YOU ALREADY ANSWERED THAT. NOW, AS
17 I UNDERSTAND IT FROM MY VIEW OF THE PHOTOS, THAT THEY
18 ARE OF THE INTERIOR OF THE VICTIM'S HOME; IS THAT
19 CORRECT?

20 MR. HUMPHRIES: THAT'S CORRECT.

21 THE COURT: AFTER THE BODY WAS FOUND BY THE
22 POLICE AFTER THEY ARRIVE; IS THAT RIGHT?

23 MR. HUMPHRIES: ABSOLUTELY CORRECT.

24 THE COURT: MY NEXT QUESTION IS, SOME OF THEM
25 ARE DUPLICATES. I'M TRYING TO FIGURE OUT WHY YOU

1 NEED A DUPLICATION.

2 MR. HUMPHRIES: IF YOU LET ME HOLD THE
3 PHOTOGRAPHS.

4 THE COURT: I CAN TELL YOU WHICH -- EXACTLY THE
5 ONE WE HAVE QUESTION ABOUT. 77, 79, AND 80 AS WELL
6 AS 81 ALL SHOW THE SAME THING JUST FROM VARYING
7 ANGLES.

8 SEVENTY-SEVEN SHOWS HER BODY AS IT WOULD HAVE
9 BEEN FOUND AT THE TIME THE POLICE ARRIVED.
10 SEVENTY-NINE SHOWS THE BOTTOM PORTION WHICH ARE THE
11 FEET. NUMBER 80 SHOWS THE SAME THING EXCEPT MARKERS
12 ON THE MATTRESS. AND 81 IS JUST A CLOSE-UP OF 77.

13 AND THEN MY OTHER QUESTION WOULD GO TO 82 AND 83
14 WHICH IS A DISTANCE PHOTO AND THEN A CLOSE-UP, AND
15 I'M TRYING TO FIGURE OUT WHY YOU NEED ALL OF THOSE IF
16 THEY SHOW THE SAME THING. AND I WILL LET YOU LOOK AT
17 THEM, SEE IF YOU CAN ANSWER THOSE QUESTIONS FOR ME.

18 MR. HUMPHRIES: YOUR HONOR, THE STATE WILL
19 WITHDRAW STATE'S 80, 81 AND 83.

20 THE COURT: THESE ARE THE ONES THEY ARE
21 WITHDRAWING.

22 MR. HUMPHRIES: AND AS TO -- JUST FOR THE
23 COURT'S INFORMATION, 79 WILL BE AN EXHIBIT THAT
24 WILL BE OFFERED IN THE FIRST WITNESS WHO IS THE EMS
25 WORKER. THAT IS -- THAT WAS BASICALLY ALL HE SAW

1 WHEN HE FIRST GOT THERE. HE ACTUALLY STEPPED ON THE
2 VICTIM WHEN HE WAS TREATING [REDACTED].

3 THE COURT: OKAY.

4 MR. HUMPHRIES: THAT'S WHY THIS IS -- PHOTOGRAPH
5 IS IMPORTANT.

6 THE COURT: OKAY.

7 MR. HUMPHRIES: THEN THAT'S THE -- THAT'S WHEN
8 HE CHECKED THE PULSE, THAT'S OBVIOUSLY WHAT -- WHAT
9 HE SAW. THE OTHER TWO -- THE OTHERS ARE
10 SUBSTANTIALLY DIFFERENT.

11 STATE'S 77 IS NOW THE ONLY FULL LENGTH
12 PHOTOGRAPH. AND STATE'S 82 IS THE ONLY PHOTOGRAPH
13 SHOWING HER BOUND ON HER BACK.

14 THE COURT: OKAY.

15 MR. KELLY: MA'AM, IN REFERENCE TO 82, WE'RE
16 ALSO--

17 THE COURT: WELL, I'M GOING TO HEAR ARGUMENT. I
18 AM NOT READY TO DO THAT YET. LET ME SEE WHAT THEY
19 HAVE WITHDRAWN. LET ME SEE THE PHOTOS AGAIN. 80, 81
20 AND 83 ARE WITHDRAWN BY THE STATE. I WILL HEAR ANY
21 ARGUMENT IN OPPOSITION TO THE PHOTOS BEING ADMITTED.

22 MR. KELLY: WELL, YOUR HONOR, I'D JUST LIKE TO
23 ADD ONE THING MYSELF BEFORE MR. DIGGS.

24 THE COURT: CERTAINLY.

25 MR. DIGGS: THE PHOTO -- ONE THAT SHOWS YOU THE

1 FACE DOWN WITH HER HANDS TIED.

2 THE COURT: THAT IS NUMBER 82.

3 MR. KELLY: I BELIEVE THAT THE STATE INTENDS AT
4 A LATER TIME TO TRY TO -- TO ENTER AUTOPSY PHOTOS
5 THAT SHOW HER HANDS TIED BEHIND HER BACK. AND
6 THIS -- I THINK THIS WOULD CONFUSE THE JURY BECAUSE
7 THE -- SHE'S BEEN ROLLED OVER HERE, AND IT'S GOING TO
8 BE REPETITIOUS LATER ON.

9 JUST WANTED TO LET THE COURT KNOW THAT THERE ARE
10 OTHER PHOTOS THAT THEY WOULD OFFER -- THIS ONE COMES
11 IN, THEY SHOULD NOT.

12 MR. DIGGS: YOUR HONOR, MAY I SEE THOSE AND MAKE
13 SURE?

14 THE COURT: SURE.

15 MR. DIGGS: I DON'T REMEMBER WHICH ONES ARE
16 WHICH. THE MOTION FOR THE -- STATED BY THE STATE
17 THAT HAVE BEEN WITHDRAWN. YOUR HONOR, IF YOU TAKE
18 THESE ONE AT A TIME, WITH REGARD TO NUMBER 77, IT'S
19 A -- I THINK IT'S -- LET ME SAY THIS IN A WAY THAT'S
20 RESPECTFUL OF MS. LING. IT'S AN INVASION OF HER
21 PRIVACY. IT'S NOT THE BASIS FOR THE OBJECTION, BUT
22 WE DON'T NEED THE PHOTO.

23 THE INCIDENT AREA WHERE THE SCENE HAS BEEN
24 DESCRIBED IN SOME DETAIL BY [REDACTED] ABOUT WHAT
25 HAPPENED, WHAT WAS THERE. THIS DOESN'T REALLY DO

1 ANYTHING OTHER THAN DISPLAYING A VIEW OF WHICH WE
2 ALREADY KNOW, WHAT HAPPENED IN THIS, AT THIS SCENE.

3 WE WERE TOLD THAT IN FACT EVEN DURING THE
4 ASSAULT THAT THE DEFENDANT WAS HITTING MS. LING,
5 LAURA LING, AT THE TIME DURING THAT ASSAULT.

6 WE -- WE DON'T NEED THIS PHOTO TO SHOW US
7 ANYTHING ABOUT HOW THAT HAPPENED OR HOW IT WAS
8 CONDUCTED BECAUSE THERE'S -- THERE'S AMPLE -- AMPLE
9 EVIDENCE IN THE RECORD ABOUT THE CIRCUMSTANCES OF
10 THIS CRIME, THE -- THE ALLEGED CRIME THE STATE
11 ALLEGES BECAUSE OF THE DEFENSE THAT WE USED AND THE
12 POSITION, ALTHOUGH AT THIS POINT IN THE SENTENCING
13 PHASE WE UNDERSTAND WITH THE JURY VERDICT IS THAT THE
14 CIRCUMSTANCES OF THIS INCIDENT WOULD -- WELL AMPLY
15 DESCRIBED BY [REDACTED] S TESTIMONY IN THE GUILT PHASE
16 OF THE TRIAL.

17 AND AGAIN, IT ADDS NOTHING, THIS PHOTO ADDS
18 NOTHING BUT THE LIKELIHOOD TO INFLAME THE JURY,
19 INVOKE PASSION AND PREJUDICE AND THAT KIND OF THING
20 ESPECIALLY WITH RESPECT TO MOVING ON TO STATE'S
21 EXHIBIT NUMBER 78.

22 WE KNOW THAT THIS YOUNG LADY, THAT LAURA LING,
23 HAD MULTIPLE BRUISING, MULTIPLE STAB WOUNDS. WE KNOW
24 THAT FROM STATE'S EXHIBIT NUMBER 19, YOUR HONOR.
25 THIS SHOWS EVERY ONE OF THESE THINGS. EVERY ONE IN

1 DETAIL.

2 THE ONLY THING THIS DOES IS, IS ADD PASSION,
3 PREJUDICE TO THE CIRCUMSTANCES OF THIS CASE. THE --
4 IF YOU WANT TO KNOW HOW -- THE CIRCUMSTANCES OF THIS
5 CRIME, STATE'S EXHIBIT 19, DOES THAT. IT SHOWS THE
6 JURY EXACTLY WHAT THE CIRCUMSTANCES ARE.

7 WITH RESPECT TO 79, YOUR HONOR, AND -- WELL
8 79 -- IT'S REALLY NOT OF -- DON'T REALLY HAVE AN
9 OBJECTION TO THAT BECAUSE IT'S NOT INFLAMMATORY LIKE
10 THE PREVIOUS TWO.

11 WITH RESPECT TO NUMBER 82, YOU KNOW, IT'S
12 REALLY -- IT'S AGAIN, WE KNOW ABOUT THE CIRCUMSTANCES
13 OF THIS OFFENSE. WE DON'T NEED A STAGED PHOTO TO
14 TELL US ABOUT IT. IT'S BEEN AMPLY DESCRIBED AND --
15 BY WITNESS, YOUR HONOR.

16 THE COURT: YOU SAID STAGED PHOTO?

17 MR. DIGGS: YES, TURNED OVER AND MOVED,
18 FURNITURE MOVED, AND THE BODY PLACED THERE SO IT
19 COULD BE PHOTOGRAPHED.

20 THE COURT: WAS THAT STAGED?

21 MR. HUMPHRIES: NO, YOUR HONOR. THE -- THEY HAD
22 TO ROLL THE BODY OVER.

23 MR. DIGGS: YOUR HONOR, THAT'S HOW IT LOOKED.

24 THE COURT: HE IS SPEAKING. YOU CAN RESPOND IN
25 A MOMENT. I ASKED HIM A QUESTION. GIVE HIM AN

1 OPPORTUNITY.

2 MR. HUMPHRIES: NO, YOUR HONOR. AND THE -- THE
3 BODY IS ROLLED TO OBSERVE THE CONDITION OF THE VICTIM
4 PRIOR TO BEING TRANSPORTED TO THE MORGUE. THAT'S A
5 VERY IMPORTANT PART OF CRIME SCENE PROCESSING.

6 THAT PHOTOGRAPH WILL COME IN THROUGH THE --
7 THROUGH THE EXPERT WHO PROCESSED THE CRIME SCENE.
8 AND IT SHOWS THE BINDING, WHICH IS ONE OF OUR --
9 IT'S -- IT'S EVIDENCE IN AGGRAVATION. IT SHOWS THE
10 CIRCUMSTANCES OF THE CRIME.

11 WHILE THERE MAY BE SOME EVIDENCE ALREADY IN THE
12 RECORD RELATING TO THOSE ISSUES, WE ARE NOT BOUND IN
13 THE SENTENCING PHASE TO HAVE TO RELY SOLELY ON THAT
14 EVIDENCE.

15 THE COURT: THAT'S CORRECT.

16 MR. DIGGS: WHAT THEY ARE BOUND BY, THOUGH, YOUR
17 HONOR, WITH ALL DUE RESPECT, AND I -- I'M ALMOST --
18 THEY ARE BOUND TO INTRODUCE EVIDENCE THAT SHOWS
19 CIRCUMSTANCES OF THE CRIME, CHARACTERISTICS OF THE
20 DEFENDANT.

21 THOSE TWO ISSUES HAVE BEEN AMPLY DEMONSTRATED BY
22 OTHER EVIDENCE THAT IS LESS INFLAMMATORY AND
23 PREJUDICIAL. THANK YOU, YOUR HONOR.

24 THE COURT: YOU'RE WELCOME. THE TOTALITY OF THE
25 PHOTOS THE STATE WOULD BE SEEKING TO INTRODUCE?

1 MR. HUMPHRIES: THEY ARE AS RELATES TO THE CRIME
2 SCENE, YOUR HONOR, OF LAURA LING.

3 THE COURT: HAND THOSE TO ME, PLEASE.

4 (WHEREUPON, STATE'S EXHIBIT NOS. 80, 81 AND 83
5 WERE WITHDRAWN.)

6 (WHEREUPON THERE WAS A PAUSE.)

7 THE COURT: GENERALLY THE RELEVANCY, MATERIALITY
8 AND ADMISSIBILITY OF PHOTOGRAPHS IN EVIDENCE ARE
9 MATTERS LEFT TO THE SOUND DISCRETION OF THE TRIAL
10 COURT. AND OF COURSE, AS WE ALL KNOW, PHOTOGRAPHS
11 CALCULATED TO AROUSE SYMPATHY OR PREJUDICE OF THE
12 JURY SHOULD BE EXCLUDED IF THEY ARE RELEVANT OR
13 UNNECESSARY TO THE ISSUES AT TRIAL.

14 HOWEVER, THERE IS NO USE OF DISCRETION WHEN
15 PHOTOS ARE OFFERED TO CORROBORATE TESTIMONY. AND
16 THAT IS WHY DEATH PENALTY CASES ARE REALLY SO VERY
17 DIFFERENT FROM OTHER CASES. THEY ARE BIFURCATED FOR
18 A REASON.

19 OF COURSE, THESE TYPE PHOTOGRAPHS REALLY QUITE
20 FRANKLY TO SOME EXTENT BASED ON CURRENT STATE LAW
21 PROBABLY WOULD HAVE BEEN ADMISSIBLE IN THE GUILT
22 PHASE OF THE TRIAL, BUT OUT OF AN ABUNDANCE OF
23 CAUTION ARE PROBABLY BEST LEFT OUT TO MAKE SURE THAT
24 PASSION -- THAT THE STATE DO NOT APPEAL TO PASSIONS
25 OF THE JURY OR SOME OTHER BASIS THAT THEY COULD BASE

1 A DECISION UPON THAT WOULD BE IMPROPER.

2 AGAIN, CASE LAW IS VERY CLEAR AND IT IS WELL
3 ESTABLISHED THAT PHOTOGRAPHS ARE RELEVANT TO SHOW
4 BOTH THE CIRCUMSTANCES OF THE CRIME AND THE
5 DEFENDANT'S CHARACTER AND ARE ADMISSIBLE IN A
6 SENTENCE PROCEEDING UNLESS UNFAIRLY PREJUDICIAL.

7 THE TYPE OF UNFAIR PREJUDICE THAT IS COMPENSATED
8 BY THE CASE LAW EXISTS WHERE THE PHOTOS TEND TO
9 SUGGEST THE PENALTY DECISION SHOULD BE BASED ON AN
10 IMPROPER BASIS SUCH AS EMOTION.

11 AND IN THE SENTENCING PHASE OF A TRIAL THE JURY
12 MAY BE PERMITTED TO SEE PHOTOGRAPHS WHICH DEPICT THE
13 BODY OF THE MURDER VICTIM IN SUBSTANTIALLY THE SAME
14 CONDITION IN WHICH THE DEFENDANT LEFT THEM, AND THAT
15 IS BASED ON STATE VERSUS CANARON AS WELL AS THE CASE
16 LAW IS VERY CLEAR THAT THE TRIAL COURT MAY ADMIT
17 PHOTOGRAPHS WHICH DEPICT THE BODY OF THE MURDER
18 VICTIM AGAIN IN SUBSTANTIALLY THE SAME CONDITION IN
19 WHICH THE DEFENDANT LEFT THEM IN ORDER TO SHOW THE
20 CIRCUMSTANCES OF THE CRIME AND THE CHARACTER OF THE
21 DEFENDANT.

22 THEY ARE ALSO ADMISSIBLE WHEN MATERIAL AND
23 RELEVANT IN AGGRAVATING CIRCUMSTANCES. AND I THINK
24 QUITE FRANKLY THAT THAT IS WHY THE PHOTOS ARE -- WHY
25 THE STATE IS SEEKING TO ADMIT THE PHOTOS.

1 THE PHOTOS ARE NOT PARTICULARLY GRAPHIC. AND I
2 GUESS I HAVE A VERY DIFFERENT POINT OF REFERENCE. I
3 HAVE SEEN FAR MORE GRAPHIC PHOTOS THAN THESE FROM --
4 IN A NON-CAPITAL MURDER CASE THAT QUITE FRANKLY WERE
5 ADMISSIBLE.

6 AND AGAIN, NOT TO SOUND COLD OR DETACHED, BUT I
7 GUESS IN A WAY THAT IS REALLY THE WAY I HAVE TO LOOK
8 AT THEM. CLEARLY THESE PHOTOGRAPHS DEPICT THE BODY
9 OF MS. LING IN SUBSTANTIALLY THE SAME CONDITION THAT
10 THEY WERE IN IN WHICH THE DEFENDANT LEFT THEM.

11 IT CERTAINLY WOULDN'T BE NECESSARY TO SHOW THE
12 CIRCUMSTANCES OF THE CRIME AND CHARACTER OF THE
13 DEFENDANT, AND THEY'RE ALSO RELEVANT AND MATERIAL TO
14 AGGRAVATING CIRCUMSTANCE.

15 AND THAT IS -- HOWEVER, I TOOK MR. DIGGS'
16 ARGUMENT INTO CONSIDERATION WHEN I HAD THE STATE --
17 WHEN I ASKED THE QUESTIONS ORIGINALLY ABOUT SOME OF
18 THE PHOTOS BECAUSE I FELT THEY WERE CUMULATIVE AND I
19 FELT THEY WERE NOT NECESSARY.

20 THE ONLY PURPOSE WAS SHOWING THE CONDITION OF --
21 THE BODY WAS LEFT IN. I THINK CERTAINLY THE ONES
22 THAT WE HAVE ARE SUFFICIENT FOR THAT PURPOSE. AND
23 THE ONES THAT THE STATE HAS MOVED TO WITHDRAW I THINK
24 CURE ANY CONCERN THAT I HAVE REGARDING THEM BEING
25 CUMULATIVE.

1 SO THE PHOTOS ARE ADMITTED SUBJECT TO THE
2 DEFENSE'S OBJECTION. AND ALSO MY LAST RULING IS
3 BASED ON STATE VERSUS JOHNSON WHICH IS FOUND AT 338
4 SORRY -- 338 SOUTH CAROLINA 114, 525 SOUTHEAST SECOND
5 519, AND CERT WAS DENIED BY THE UNITED STATES SUPREME
6 COURT.

7 AND THERE ARE CERTAIN OTHER CASES WHICH SUPPORT
8 THE COURT'S RULING, THOSE BEING GRAY VERSUS STATE,
9 STATE VERSUS FRANKLIN, STATE VERSUS SHAW, STATE
10 VERSUS COOPER, AND STATE VERSUS KOHNARENS AS THE
11 COURT'S ALREADY POINTED OUT.

12 IS THERE ANYTHING FURTHER FOR THE RECORD BEFORE
13 WE BRING THE JURY BACK IN?

14 MR. HUMPHRIES: NOTHING FROM THE STATE, YOUR
15 HONOR.

16 THE COURT: ANYTHING FROM THE DEFENSE?

17 MR. DIGGS: NO, YOUR HONOR.

18 THE COURT: PLEASE BRING IN THE JURY.

19 (WHEREUPON, STATE'S EXHIBITS 77, 78, 79 AND 82
20 WERE ADMITTED INTO EVIDENCE.)

21 (JURY ENTERED THE COURTROOM AT 5:29 PM.)

22 THE COURT: YOU MAY BE SEATED. LADIES AND
23 GENTLEMEN, WE APPRECIATE YOUR PATIENCE. WE'LL NOW
24 RESUME WITH THE TRIAL. YOU MAY PROCEED, MR.
25 HUMPHRIES.

1 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

2 THE COURT: YOU'RE WELCOME.

3 MR. HUMPHRIES: STATE CALLS CHUCK PETRELLA.

4 CHUCK PETRELLA, AFTER BEING
5 DULY SWORN, TESTIFIED AS FOLLOWS:

6 THE COURT: YOU MAY PROCEED.

7 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

8 DIRECT EXAMINATION

9 BY MR. HUMPHRIES:

10 Q HOW ARE YOU EMPLOYED?

11 A CURRENTLY EMPLOYED WITH MURRELLS INLET GARDEN CITY
12 FIRE DISTRICT AS A SENIOR PARAMEDIC.

13 Q HOW LONG HAVE YOU BEEN EMPLOYED IN THE EMERGENCY
14 MEDICINE AREA?

15 A ELEVEN YEARS.

16 Q WHAT OTHER ARMED FORCES OR SECURITY EXPERIENCE HAVE
17 YOU?

18 A FOUR YEARS ACTIVE DUTY MILITARY WITH THE 82ND
19 AIRBORNE DIVISION, RECENTLY IN THE PRIVATE SECTOR WORKED
20 AS AN INDEPENDENT CONTRACTOR PROVIDING CLOSE PROTECTION
21 FOR DIGNITARIES OVERSEAS IN IRAQ -- AND NEW ORLEANS,
22 SORRY.

23 Q WHEN -- WELL, LET ME ASK YOU THIS. IN CONNECTION
24 WITH YOUR DUTIES WITH THE MURRELLS INLET GROUP AT THIS
25 POINT, WHAT ARE YOUR DUTIES?

1 A CURRENTLY I AM A 9-1-1 PARAMEDIC. I FUNCTION IN THE
2 CAPACITY OF PRE-HOSPITAL CARE, TREATMENT, AND TRANSPORT OF
3 INJURED AND SICK TO THE HOSPITAL. I'M ALSO A PARAMEDIC
4 PRECEPTOR. NEW PARAMEDICS THAT ROTATE THROUGH HAVE TO GO
5 THROUGH A PRECEPTING PERIOD WHERE THEY HAVE TO ORIENT, AND
6 I'M ALSO A TRAINER IN THAT CAPACITY ON MY SHIFT.

7 I SIGN OFF THE PARAMEDIC BEFORE THEY CAN GO TO THE
8 STREET AND OPERATE ON THEIR OWN.

9 Q OBVIOUSLY THERE WAS A BREAK IN TIME WHERE -- IN YOUR
10 EMERGENCY PRE-MEDICINE SERVICE WHEN YOU WERE IN IRAQ. HOW
11 LONG DID YOU SPEND IN IRAQ?

12 A SEVEN MONTHS.

13 Q AND WHEN DID YOU RETURN FROM SERVICE THERE?

14 A I WOULD SAY IT WAS LATE JUNE, EARLY JULY OF '04.

15 Q OF '04?

16 A ZERO -- '05, SIR. I'M SORRY, '04, CORRECT.

17 Q OKAY. LET ME ASK YOU. CONSISTENT WITH YOUR DUTIES
18 AS A 9-1-1 RESPONDER, DID YOU HAVE AN OCCASION TO RESPOND
19 TO A RESIDENCE ON MURRELLS INLET BOULEVARD ON APRIL 8TH,
20 2005?

21 A YES, SIR, I DID.

22 Q HOW DID THAT CALL COME IN?

23 A INITIAL DISPATCH INFORMATION WAS SENT TO US THROUGH
24 OUR 9-1-1 COMMUNICATIONS CENTER. IT WAS GIVEN TO US AS A
25 ASSAULT.

1 Q AND WHILE IN ROUTE, DID YOU RECEIVE ANY ADDITIONAL
2 INFORMATION?

3 A YES, SIR, WE DID. OUR DISPATCH CENTER STARTED GIVING
4 US WHAT INFORMATION THEY HAD WHILE WE WERE IN ROUTE. AS
5 IT ESCALATED, I BELIEVE THE -- THE FINAL INFORMATION WAS
6 GIVEN TO US IS THAT WE NEEDED TO STAGE AND WAIT FOR THE
7 SHERIFF'S OFFICE TO ARRIVE ON THE SCENE, AND THAT THEY HAD
8 ONE PERSON POSSIBLY DECEASED AND THE OTHER ONE TIED UP.

9 Q NOW, WHEN YOU TALK ABOUT STAGING, TELL THE JURY A
10 LITTLE BIT ABOUT WHAT THAT IS.

11 A SORT OF DEPARTMENT POLICY AS IT IS WITH MOST OTHER
12 DEPARTMENTS AS WELL. IF WE ARE GOING TO THE SCENE OF A
13 VIOLENT CRIME OR ANY PLACE WHERE THERE MAY BE HARM TO THE
14 EMS OR FIRE PROVIDERS THAT WE STAGE A SAFE DISTANCE AWAY
15 FROM THE RESIDENCE AND ALLOW LAW ENFORCEMENT TO MAKE ENTRY
16 TO MAKE SURE THAT WE'RE SAFE BEFORE WE CAN GO IN AND TEND
17 TO CARE FOR A PATIENT.

18 Q CHUCK, DID YOU -- DID YOU ARRIVE ON SCENE PRIOR TO
19 LAW ENFORCEMENT TO THE BEST OF YOUR KNOWLEDGE?

20 A YES, SIR, WE DID.

21 Q HOW FAR DID YOU HAVE TO GO?

22 A WE STAGED ROUGHLY A BLOCK I WOULD SAY, AT LEAST A
23 BLOCK, POSSIBLY TWO, AWAY FROM THE RESIDENCE AND WAITED
24 FOR LAW ENFORCEMENT, THE SHERIFF'S OFFICE TO ARRIVE ON THE
25 SCENE.

1 Q WERE YOU ULTIMATELY NOTIFIED THAT LAW ENFORCEMENT HAD
2 CLEARED THE RESIDENCE FOR YOU TO COME IN?

3 A YES. OUR DISPATCH HAD NOTIFIED US. OUR MEDIC UNIT,
4 THEY SAID YOU WERE CLEARED TO GO TO THE RESIDENCE, THE
5 SHERIFF'S OFFICE IS ON SCENE.

6 Q UPON ARRIVING AT THE RESIDENCE, WHAT DID YOU DO
7 FIRST?

8 A REMEMBER EXITING THE AMBULANCE AND GOING TO THE YARD
9 WHERE I WAS MET WITH DEPUTY MILLIGAN WHO ADVISED THAT THEY
10 NEEDED TO STEP IT UP, COME INTO THE RESIDENCE, THAT SHE
11 HAD ONE PATIENT THAT WAS BOUND ON THE BED THAT WAS -- WAS
12 IN BAD SHAPE I BELIEVE IS THE TERM SHE USED, AND SHE HAD
13 THE OTHER ONE THAT SHE BELIEVED TO BE DECEASED.

14 Q WHO WAS THE FIRST ONE IN THE HOUSE FROM THE
15 PARAMEDICS?

16 A THAT WOULD BE ME, SIR.

17 Q AND WHERE DID YOU GO?

18 A AS I COME THROUGH THE FRONT DOOR I REMEMBER BEING
19 DIRECTED BACK TOWARDS THE BACK RIGHT SIDE OF THE HOUSE.
20 THERE WAS A BEDROOM ON THE LEFT SIDE WHERE THE VICTIM WAS.
21 I ALSO REMEMBER SCANNING JUST QUICKLY OUT OF THE RIGHT
22 SIDE OF MY EYE TO LOOK, WHAT APPEARED TO BE A YOUNG GIRL'S
23 BEDROOM ON THE RIGHT HAND SIDE BECAUSE I REMEMBER THE
24 LIGHT WAS ON AND THERE WERE, YOU KNOW, TEEN-AGE TYPE
25 PICTURES ON THE WALLS AND STUFF LIKE THAT. WHERE I WENT

1 IMMEDIATELY WAS TO THE ROOM ON THE LEFT WHERE I FOUND
2 [REDACTED].

3 Q TELL THE JURY WHAT CONDITION YOU FOUND [REDACTED] WHEN
4 YOU ARRIVED.

5 A WELL, I ENTERED THE ROOM AND I REMEMBER HER LYING IN
6 A ONE, 7:00 POSITION ON THE BED. I REMEMBER HER BEING
7 MORE ON HER LEFT SIDE. THOUGH -- THE ROOM WAS IN A HEAVY
8 STATE OF DISARRAY. I REMEMBER THAT SHE WAS CRYING, SHE
9 WAS EXTREMELY UPSET.

10 YOU COULD TELL THAT THERE WAS A LARGE AMOUNT OF BLOOD
11 IN THE BEDROOM. I DID NOTICE THAT SHE HAD NOTHING ON BUT
12 A T-SHIRT. AND THEN I CONTINUED TO ASSESS HER,
13 IMMEDIATELY ASSESS HER.

14 I REMEMBER HER ASKING HOW HER MOTHER WAS. AND AT
15 THAT POINT I HAD NO IDEA WHERE THE MOTHER WAS AT THAT
16 POINT. WE TENDED TO HER. WE FOUND HER WITH A -- WHAT
17 APPEARED TO BE A CUT ACROSS THE THROAT, THAT SHE WAS BOUND
18 AT THE NECK, AND HER HANDS WERE BOUND AS WELL.

19 AND I REMEMBER ONE OF THE THINGS THAT LED ME FURTHER
20 INTO MY PATIENT ASSESSMENT TENDING TO THE PATIENT WAS
21 THERE WAS BLOOD ON THE TELEPHONE. AND I COULDN'T
22 IMMEDIATELY FIGURE OUT WHERE THE BLOOD WAS COMING FROM
23 UNTIL I GOT TO HER AIRWAY.

24 WE COULD SEE ONCE WE REMOVED THE BINDINGS FROM -- THE
25 TIES AROUND HER NECK THAT THERE WAS ABOUT A 2-INCH CUT

VOLUME SIX 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 UNDER THE -- ROUGHLY THE TRACHEA OR THE AIRWAY AND THERE
2 WAS A SLIGHT PUNCTURE TO THE BUBBLE AS SHE WOULD TRY TO
3 TALK.

4 IMMEDIATELY WE TRIED TO SECURE THAT AND MAINTAIN HER,
5 HER BREATHING, MAKE HER SAFE AT THAT POINT. AND THEN
6 THAT'S WHEN WE FOUND THE HEAVY CUT TO HER LEFT EAR.

7 Q TELL THE JURY WHAT TREATMENT YOU WERE ABLE TO RENDER
8 AT THAT POINT TO [REDACTED].

9 A THE FIRST THING THAT WE COULD DO IS -- THAT WE DID DO
10 IS BASICALLY SECURE HER AIRWAY. WE WANTED TO MAKE SURE
11 THAT SHE WAS GOING TO BE ABLE TO BREATHE ADEQUATELY. BUT
12 IN ORDER FOR US TO COMPLETELY DO THAT, WE HAD TO CUT WHAT
13 APPEARED TO BE NECKTIES OR A TOWEL FROM AROUND HER NECK IN
14 ORDER FOR US TO ASSESS HER.

15 THE BIGGEST THING IS MAINTAINING AN AIRWAY OR MAKING
16 SURE THAT SHE'S ABLE TO BREATHE. THAT'S OF UPMOST
17 IMPORTANCE. WE APPLIED BULKY LOOSE STERILE DRESSINGS
18 TO -- AROUND HER CUTS AND PUNCTURE TO HER NECK, AND THEN
19 WE IMMEDIATELY STARTED TO TRY TO CONTROL THE BLEEDING TO
20 HER EAR BECAUSE SHE SAID SHE WAS HAVING A HARD TIME
21 HEARING US, AND IT WAS BECAUSE OF THE POOLING OF THE BLOOD
22 RUNNING DOWN INTO THE EAR, SO KIND OF RELATE TO LIKE A
23 SWIMMERS EAR, YOU GET WATER IN YOUR EAR, KIND OF SOUNDS
24 BLURRY.

25 AT THAT POINT WE OBVIOUSLY PUT HER ON OXYGEN. HAD TO

1 IMMOBILIZE HER. SHE'S PUT THEN ON A BACKBOARD, PUTTING A
2 COLLAR AND STABILIZING HER SPINE. AND AT THAT POINT
3 THAT'S WHEN I REALIZED THIS IS WHERE MS. LING WAS BECAUSE
4 I HAD ACTUALLY STEPPED ON HER.

5 Q SHOWING YOU STATE'S 79 IN EVIDENCE. CAN YOU IDENTIFY
6 THIS PHOTOGRAPH, CHUCK?

7 A YES, SIR.

8 Q WHAT IS THAT A PHOTOGRAPH OF?

9 A THAT IS -- THIS IS MS. LING, MS. LING, AND THAT IS
10 WHERE I HAD STEPPED ON HER ON THE RIGHT SIDE OF THE BED
11 BETWEEN THE DRESSER AND THE BED.

12 Q ONCE YOU STEPPED ON LAURA LING, WHAT -- WHAT WAS YOUR
13 REACTION?

14 A STARTLED. I ACTUALLY HAD TO REGAIN MY COMPOSURE AND
15 REMEMBER WHERE I WAS AT.

16 Q WHAT THEN DID YOU DO?

17 A I IMMEDIATELY TOLD MY GUYS TO CONTINUE GOING WITH --
18 WHAT THEY WERE GOING -- WHAT THEY WERE DOING WITH GETTING
19 HER LOADED AND TRANSPORT. YOU HAVE TO UNDERSTAND, THIS IS
20 ALL HAPPENING IN A MATTER OF MINUTES, SO IT WASN'T OVER A
21 GREAT PERIOD OF TIME. WE WORKED RELATIVELY QUICKLY.

22 I IMMEDIATELY REACHED OUT TO FIND TO SEE IF THERE WAS
23 A PULSE. SHE DID NOT HAVE A PULSE. SHE WAS NOT
24 BREATHING. AND SHE HAD SIGNS TO ME THAT WERE
25 NONCOMPATIBLE WITH LIFE. AND AT THAT POINT I HAD MADE THE

1 DECISION THAT NO RESUSCITATIVE EFFORTS WOULD BE ATTEMPTED
2 DUE TO THE CONDITION OF THE BODY.

3 Q SHOWING YOU NOW STATE'S 78 IN EVIDENCE. CAN YOU
4 IDENTIFY THAT PHOTOGRAPH?

5 A YES, SIR.

6 Q WHAT THAT'S A PHOTOGRAPH OF, CHUCK?

7 A MS. LING.

8 Q IS THAT THE CONDITION IN WHICH YOU FOUND HER?

9 A YES, SIR.

10 Q CHUCK, WHAT DID YOU DO THEN?

11 A AS WE WERE GETTING [REDACTED] PACKAGED -- COMPLETED
12 THE PACKAGING TO GET HER MOVED TO THE AMBULANCE QUICKLY SO
13 WE COULD GO AHEAD AND GET HER IN ROUTE TO THE HOSPITAL, I
14 HAD ASKED HER IF SHE HAD ANY MEDICAL PROBLEMS, WHAT KIND
15 OF MEDICINES THAT SHE WAS ON.

16 THESE ARE JUST STANDARD QUESTIONS THAT WE ASK SO WE
17 CAN GET THE DOCTORS, YOU KNOW, THE INFORMATION AND THE
18 NURSES THE INFORMATION AS WELL. I ASKED HER IF THERE WAS
19 ANY CHANCE THAT SHE MAY BE PREGNANT. THIS IS A STANDARD
20 QUESTION THAT WE ASK IN THE FIELD TO ASSIST US IN
21 RENDERING CARE AND ALSO TO BE ABLE TO TELL THE PHYSICIANS
22 AT THE HOSPITAL. AND SHE SAID, I DON'T KNOW, HE RAPED ME.

23 MY NEXT QUESTION TO HER WAS, WHO DID THIS? WHO DID
24 THIS TO YOU? AND SHE SAID STEPHEN, STEPHEN STANKO, HE'S
25 WANTED, HE JUST GOT OUT OF PRISON, YOU KNOW HIM. AND I

1 DIDN'T. I DID NOT KNOW HIM.

2 Q WAS [REDACTED] ULTIMATELY TRANSPORTED TO THE HOSPITAL?

3 A YES, SHE WAS, TO WACCAMAW COMMUNITY HOSPITAL.

4 Q AND DID YOU MAKE ANY ADVANCE CALL IN ORDER TO ASSIST
5 WHEN SHE WAS -- WHEN SHE ARRIVED AT THE HOSPITAL IN TERMS
6 OF HER CARE?

7 A YES, I DID. HAVE A VERY GOOD WORKING RAPPORT WITH
8 THE HOSPITAL. I CALLED AND GOT THE EMERGENCY DEPARTMENT
9 PHYSICIAN, WHICH WAS DR. BURNS WHO WAS ON DUTY THAT NIGHT.
10 SAID DOC, THIS IS CHUCK, I HAVE GOT A BAD ONE, I HAVE GOT
11 A GIRL THAT APPEARS TO HAVE BEEN BEATEN AND ATTEMPT TO
12 HAVE HER THROAT CUT, SHE WAS BOUND AND BEATEN AND SEXUALLY
13 ASSAULTED.

14 I SAID, YOU'RE GOING TO NEED TO GET THE SANE NURSES
15 SET IN ALL THE MOTION ON YOUR END. WE WANTED TO HAVE A
16 SMOOTH TRANSITION AND SPEEDY CARE FOR HER.

17 SO AT 3:00 IN THE MORNING THEY WOULD NEED TO PHONE
18 CERTAIN PEOPLE IN ORDER TO GET THEM THERE IN A TIMELY
19 MANNER. ULTIMATELY WE WERE TRYING, AS WE ARE TAUGHT IN
20 OUR BUSINESS, TRY TO PRESERVE AS MUCH EVIDENCE OR ANYTHING
21 OF THAT NATURE AS WE COULD.

22 SHE WAS TRANSPORTED. AND UPON HER ARRIVAL, THE SANE
23 NURSES -- THEY CALL SEXUAL ASSAULT NURSE EXPERT -- I
24 BELIEVE WAS THERE AND THE TRANSITION WAS VERY SPEEDY AND
25 SMOOTH. EVERYBODY WAS IN THEIR PLACE AND READY TO GO.

1 Q CHUCK, DID YOU ULTIMATELY FOLLOW HER TO THE HOSPITAL?

2 A YES, SIR.

3 Q AND WHAT IF ANYTHING DID YOU DO UPON ARRIVING AT THE
4 HOSPITAL AT THAT TIME?

5 A I HAD -- I HAD GOT TO THE HOSPITAL AND I SPOKEN WITH
6 THE DOCTORS, WAS VERY CONCERNED ABOUT HER CONDITION. I
7 TALKED TO DR. BURNS AT LENGTH AS HE WAS DOING THE EXAMS
8 AND THE BREAKS IN BETWEEN, AND WE HAD BASICALLY STAYED
9 THERE FOR SOMEWHAT OF MORAL SUPPORT AT THAT POINT. WE
10 THEN...

11 Q PLEASE.

12 A WE -- WE THEN CLEARED THE SCENE. WE HAD RETURNED TO
13 THE SCENE TO ASSIST THE SHERIFF'S OFFICE WITH LIGHTING AND
14 SET UP, YOU KNOW, LIGHTS IN THE ROAD SO IT WOULD
15 ILLUMINATE AROUND THE HOUSE A LITTLE BIT MORE FOR THEIR
16 INVESTIGATORS.

17 WE PICKED UP HER AFFIDAVITS FOR OUR STATEMENTS THAT
18 THE SHERIFF'S OFFICE HAD GIVEN US FOR SWORN STATEMENTS.
19 WE FILLED THEM OUT AND RETURNED THEM. I'M NOT SURE WHO
20 THEY WERE RETURNED TO, BUT IT WAS AN OFFICER AT GEORGETOWN
21 COUNTY SHERIFF'S OFFICE. IS THAT -- AS THAT MORNING--

22 Q YES.

23 A -- CONTINUED, OUR SHIFT CHANGES AT 7:00 IN THE
24 MORNING, I HAD -- I SAID JUST EMOTIONALLY IT WAS KIND OF
25 A -- MOVED BY THIS. I TOOK IT UPON MYSELF KNOWING WHAT I

1 KNEW HAD JUST TRANSPIRED, TOOK IT UPON MYSELF TO GO AHEAD
2 AND I WENT TO K-MART, THE INLET SQUARE MALL, AND I JUST --
3 I REMEMBER NOT KNOWING WHAT TO SAY OR WHAT TO FEEL, BUT I
4 KNEW THIS LITTLE GIRL HAD JUST LOST HER MOTHER.

5 I DIDN'T KNOW ANY OTHER FAMILY IN THE AREA. AND
6 KNOWING THAT SHE'S ABOUT A YEAR OR TWO OFF FROM MY
7 DAUGHTER'S AGE, THAT SHE'S JUST BEEN THRUST INTO THIS
8 POSITION, I WENT IN AND I BOUGHT A BALLOON, A CARD, AND A
9 LITTLE WHITE TEDDY BEAR.

10 AND I NEVER GOT TO SEE [REDACTED], BUT I TOOK IT BACK
11 TO THE HOSPITAL AND I ASKED THE NURSING STAFF IF THEY
12 WOULD PLEASE MAKE SURE THAT SHE GOT THIS AND LET HER KNOW
13 THAT SOMEBODY CARES ABOUT HER, AND IT'S MY UNDERSTANDING
14 SHE DID GET IT.

15 Q THANK YOU, CHUCK.

16 A YES, SIR. ANSWER ANY QUESTIONS THE DEFENSE HAS.

17 THE COURT: ANY QUESTIONS FOR THE WITNESS?

18 MR. KELLY: YES, MA'AM.

19 THE COURT: YOU MAY PROCEED.

20 CROSS-EXAMINATION

21 BY MR. KELLY:

22 Q SIR, I MISSED YOUR NAME. WHAT DID YOU SAY YOUR NAME
23 IS?

24 A FIRST NAME IS CHARLES. MIDDLE--

25 Q YES.

1 A -- MIDDLE NAME IS MICHAEL. LAST NAME IS PETRELLA,
2 P-E-T-R-E-L-L-A.

3 Q PETRELLA?

4 A PETRELLA, YES, SIR.

5 Q AND MR. PETRELLA, I WANT TO ASK YOU ABOUT THE POINT
6 WHERE YOU SAY THAT [REDACTED] LING SAID TO YOU AND NAMED
7 STEPHEN, STEPHEN STANKO. TELL ME AGAIN, DID SHE SAY TO
8 YOU, HE IS WANTED? IS THAT WHAT SHE SAID?

9 A YES, SIR.

10 Q SHE SAID, HE IS WANTED, AND THEN SHE SAID, YOU KNOW
11 HIM.

12 A YES.

13 Q CORRECT?

14 A YES.

15 Q THANK YOU, SIR.

16 THE COURT: ANY REDIRECT?

17 MR. HUMPHRIES: NO, YOUR HONOR.

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

20 MR. HUMPHRIES: NONE FROM THE STATE, YOUR HONOR.

21 THE COURT: FROM THE DEFENSE?

22 MR. KELLY: NO, MA'AM.

23 THE COURT: SIR, YOU'RE EXCUSED.

24 THE WITNESS: THANK YOU, MA'AM.

25 (WITNESS LEFT THE STAND.)

1 THE COURT: WOULD COUNSEL APPROACH FOR A MINUTE,
2 PLEASE?

3 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

4 THE COURT: YOU MAY PROCEED.

5 MR. HUMPHRIES: THANK YOU, YOUR HONOR. THE
6 STATE RECALLS LIEUTENANT BILL PIERCE.

7 BILL PIERCE, AFTER
8 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION

10 BY MR. HUMPHRIES:

11 Q BILL, IF YOU WILL REMIND THE JURY WHERE YOU'RE
12 EMPLOYED.

13 A I'M EMPLOYED BY THE GEORGETOWN COUNTY SHERIFF'S
14 OFFICE.

15 Q AND AT PRESENT, HOW ARE YOU EMPLOYED, WHAT POSITION?

16 A I'M THE LIEUTENANT IN CHARGE OF CRIMINAL
17 INVESTIGATIONS.

18 Q LET ME ASK AGAIN, WAS IT WITHIN YOUR RESPONSIBILITIES
19 TO CONDUCT THE PROCESSING OF CRIME SCENES IN APRIL OF '05?

20 A YES, IT WAS.

21 Q AND OF COURSE, YOU HAVE TESTIFIED BEFORE THIS JURY
22 ALREADY ABOUT PROCESSING, HAVING PROCESSED THAT SCENE;
23 HAVE YOU NOT?

24 A YES, SIR.

25 Q I'M DISPLAYING ONCE AGAIN STATE'S 47 WHICH IS IN

1 EVIDENCE. AND AGAIN, TELL THE JURY WHAT THIS IS.

2 A THIS IS A COMPUTER GENERATED CRIME SCENE SKETCH THAT
3 I MADE TO ASSIST WITH PRESENTATION OF EVIDENCE AND WHERE
4 THINGS WERE LOCATED INSIDE THE HOUSE.

5 Q LIEUTENANT, WHAT I'D LIKE TO DO IS TO SHOW YOU A
6 SERIES OF PHOTOGRAPHS WHICH HAVE BEEN ADMITTED INTO
7 EVIDENCE. STATE'S -- IN THIS ORDER 79, 77, 78 AND 82
8 WHICH ARE IN EVIDENCE. TELL ME AGAIN IF YOU RECOGNIZE
9 THOSE PHOTOGRAPHS.

10 A STATE'S 79 IS A -- A PHOTOGRAPH OF THE BEDROOM WHERE
11 THE VICTIM, THE DECEASED VICTIM WAS LOCATED, THIS AREA
12 HERE SHOWING HER FEET ON THE FLOOR.

13 Q NOW, AS I AGAIN SHOW THIS PHOTOGRAPH TO THE JURY, IF
14 YOU WILL ORIENT THEM BY LOOKING ON STATE'S 47.

15 A IT WAS THIS AREA RIGHT HERE.

16 Q GOING TO THE NEXT PHOTOGRAPH, SIR.

17 A STATE'S 77 IS A PHOTOGRAPH OF THE VICTIM, THE
18 DECEASED VICTIM, LAYING ON THE FLOOR AS SHE WAS FOUND WHEN
19 I ARRIVED. AND SHE WAS FOUND IN THIS POSITION RIGHT HERE.
20 OF COURSE, HER FEET WERE IN THIS AREA AND HER HEAD WAS IN
21 THIS AREA.

22 Q AND THE NEXT PHOTOGRAPH?

23 A STATE'S 78 IS A CLOSE-UP PHOTOGRAPH OF THE VICTIM'S
24 HEAD AND FACE. I TOOK IT JUST TO -- TO SHOW THE AMOUNT OF
25 TRAUMA ABOUT HER HEAD.

1 Q THE -- THE ITEMS WHICH APPEAR AROUND THE HEAD AND
2 SHOULDERS OF THE VICTIM, COULD YOU DETERMINE BASED ON YOUR
3 PROCESSING OF THE CRIME SCENE WHERE THOSE ITEMS MIGHT HAVE
4 COME FROM?

5 A YES, SIR, THEY -- THEY APPEAR TO HAVE COME FROM THIS
6 NIGHTSTAND HERE. IT APPEARS THAT THEY WERE PULLED DOWN
7 OFF OF THE NIGHTSTAND ON TOP OF HER.

8 Q LET ME ASK YOU. WHEN -- LET'S WAIT JUST A MOMENT FOR
9 THAT, FOR THAT PHOTOGRAPH. YOU TALKED A GREAT DEAL ABOUT
10 CRIME SCENE PROCESSING. INITIALLY IS IT YOUR
11 RESPONSIBILITY TO TAKE PHOTOGRAPHS JUST AS YOU OBSERVED
12 THE SCENE UPON ENTERING IT?

13 A THAT'S CORRECT.

14 Q IS THERE A TIME IN WHICH YOU WOULD MOVE THE BODY IN
15 ORDER TO ATTEMPT TO LOCATE ADDITIONAL EVIDENCE WHICH MAY
16 BE LOCATED UNDER THE BODY?

17 A SURE.

18 Q AND IN THIS CASE DID YOU HAVE AN OCCASION TO MOVE THE
19 BODY OF LAURA LING FOR THAT PURPOSE?

20 A YES.

21 Q NOW, REFERRING TO STATE'S EXHIBIT 82, WHICH IS IN
22 EVIDENCE.

23 A STATE'S 82 IS A PHOTOGRAPH THAT WE TOOK OF THE
24 VICTIM, LAURA. AFTER ALL THE FURNITURE IN THE BEDROOM WAS
25 MOVED, SHE WAS ROLLED OVER SO THAT WE COULD POSITIVELY

1 DETERMINE THAT HER HANDS WERE BOUND BECAUSE UP TO THIS
2 POINT WE DIDN'T KNOW THAT FOR CERTAIN.

3 WE MOVED ALL THE FURNITURE, MOVED HER BODY,
4 REPOSITIONED HER BODY SO WE COULD SEE WHAT WAS UNDERNEATH
5 HER AND -- AND, YOU KNOW, WHAT FASHION HER HANDS WERE.

6 Q STATE'S 82.

7 MR. HUMPHRIES: BEG THE COURT'S INDULGENCE.

8 BY MR. HUMPHRIES:

9 Q AFTER TAKING THAT LAST PHOTOGRAPH, WHAT IS THE NEXT
10 STEP IN REGARDS TO THE BODY OF LAURA LING?

11 A SHE WAS -- HER BODY WAS PLACED ON A CLEAN SHEET AND
12 THEN PLACED INSIDE A BODY BAG. THE BODY BAG WAS THEN
13 SEALED BY MYSELF WITH A TAMPER-PROOF TAG. THEN IT WAS
14 MARKED AND AT THAT TIME SHE WAS REMOVED FROM THE HOUSE
15 AND -- AND ULTIMATELY TAKEN TO MUSC FOR AUTOPSY.

16 Q THANK YOU. ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE
17 OF YOU, PLEASE.

18 THE COURT: ANY QUESTIONS FOR THE WITNESS?

19 MR. KELLY: NO QUESTIONS.

20 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
21 EXCUSED?

22 MR. HUMPHRIES: NONE, YOUR HONOR.

23 MR. KELLY: NO, MA'AM.

24 THE COURT: SIR, YOU'RE EXCUSED.

25 THE WITNESS: THANK YOU.

1 THE COURT: YOU'RE WELCOME.

2 (WITNESS LEFT THE STAND.)

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

6 DURING THE BREAK PLEASE DO NOT DISCUSS THE CASE
7 AMONG YOURSELVES OR WITH ANYONE ELSE. PLEASE DO
8 NOT -- WELL, YOU'RE SEQUESTERED, SO -- I KNOW THE
9 SLED AGENTS ARE MAKING SURE THAT YOU ALL ARE NOT
10 WATCHING ANYTHING YOU AREN'T SUPPOSED TO BE WATCHING.

11 PLEASE ALSO LEAVE YOUR NOTEPADS IN YOUR SEATS.
12 WE WILL RESUME THE TRIAL AT 9:30. HOPEFULLY IN THE
13 MORNING ALL OF OUR TECHNOLOGY WILL BE COOPERATING
14 WITH US AND WE WILL NOT HAVE ANY INTERRUPTIONS AND WE
15 SHOULD MOVE ALONG EXPEDITIOUSLY.

16 WE APPRECIATE YOUR PATIENCE AND YOUR TIME. I
17 HOPE THAT YOU ALL HAVE A RESTFUL EVENING, AND WE WILL
18 SEE YOU ALL IN THE MORNING AT 9:30. YOU CAN GO WITH
19 THE BAILIFFS.

20 WELL, ACTUALLY THEY ARE NOT FINISHED LOOKING AT
21 THE PHOTOS. Y'ALL CAN SIT DOWN. LET ME LET YOU
22 FINISH PUBLISHING. I APOLOGIZE. I DIDN'T REALIZE
23 YOU ALL HAD NOT FINISHED PUBLISHING.

24 (WHEREUPON THERE WAS A PAUSE.)

25 (JURY LEFT THE COURTROOM AT 5:57 PM.)

1 THE COURT: YOU MAY BE SEATED. JUST A MATTER OF
2 HOUSEKEEPING ALSO, THE COURT MADE ITS RULING
3 REGARDING THE PHOTOGRAPHS, I ALSO RELIED ON STATE
4 VERSUS TUCKER.

5 AND AS REGARDS TO -- I MEANT TO DO THIS A LOT
6 EARLIER, AND I APOLOGIZE, REGARDING THE DEFENSE'S
7 REQUEST TO SPLIT THEIR ARGUMENT. THE COURT RELIED ON
8 STATE VERSUS SOUTHERLAND, THAT'S
9 S-O-U-T-H-E-R-L-A-N-D, WHICH PROVIDES THAT THE
10 GRANTING AND TIMING OF STATEMENTS ARE WITHIN THE
11 DISCRETION OF THE TRIAL COURT.

12 ALL RIGHT. NOW, AS REGARD TO THE MOTION IN
13 LIMINE, I UNDERSTAND THAT THE NEXT WITNESSES WE DEAL
14 WITH WILL DEAL WITH TESTIMONY OF MR. TUCKER -- I MEAN
15 HENRY LEE TURNER; IS THAT CORRECT?

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

17 THE COURT: AND WHO IS THAT NEXT WITNESS?

18 MR. HEMBREE: THE NEXT WITNESS IS CECELIA
19 KOTSIPIOUS.

20 THE COURT: COULD YOU SPELL THAT, PLEASE?

21 MR. HEMBREE: C-E-C-E-L-I-A,
22 K-O-T-S-I-P-I-O-U-S.

23 THE COURT: AND IS THAT THE -- I WANT TO HEAR
24 THE TESTIMONY IN CAMERA BECAUSE I NEED TO MAKE A
25 PROFFER IN THE EVENT THAT I EXCLUDE IT, BUT I -- I

1 NEED TO -- IF YOU COULD GIVE ME -- PARAPHRASE FOR ME
2 THE SUBSTANCE OF HER TESTIMONY.

3 MR. HEMBREE: YOUR HONOR, IT MAY BE -- IT MAY BE
4 MORE BENEFICIAL TO THE COURT BECAUSE WE HAVE SEVEN
5 WITNESSES THAT WE INTEND TO CALL REGARDING
6 MR. TURNER'S -- MR. TURNER'S MURDER.

7 ESSENTIALLY THOSE WITNESSES WILL -- WILL LAY OUT
8 THAT -- THAT HENRY TURNER WAS -- HENRY TURNER
9 CONTACTED MRS. KOTSIPIOUS, INFORMED HER THAT STEPHEN
10 STANKO WAS AT HIS RESIDENCE SHORTLY AFTER 3 AM ON THE
11 MORNING OF THE MURDER, THAT HE HAD INFORMED MR -- HE
12 HAD INFORMED MR. TURNER THAT HIS FATHER HAD DIED AND
13 NEEDED -- HE WANTED TO STAY THERE AND THAT HE WAS
14 GOING TO -- THAT MR. TURNER WAS GOING TO CONSOLE HIM
15 AND KIND OF PROVIDE HIM SOME COMFORT IN THIS TIME OF
16 NEED.

17 THIS WOULD GO TO MR. TURNER'S STATE OF MIND AT
18 THE TIME. THE NEXT -- THE NEXT WITNESS WOULD BE
19 ROGER TURNER. THAT'S THE SON OF HENRY TURNER.

20 ROGER TURNER IS -- MR. TURNER DID NOT -- DID NOT
21 TURN UP FOR A FAMILY DINNER THAT WAS SCHEDULED FOR
22 THAT FRIDAY NIGHT. KIND OF A BIG EVENT. AND THE SON
23 GOT CONCERNED ABOUT THAT, TRIED TO CONTACT HIS
24 FATHER, COULDN'T REACH HIM BY TELEPHONE, WENT TO HIS
25 HOME, BECAME VERY CONCERNED, CONTACTED LAW

1 ENFORCEMENT WHO ULTIMATELY RESPONDED TO THE SCENE.

2 THE FIRST RESPONDER TO THE SCENE WAS SERGEANT
3 JIMMY EDWARDS. HE WILL HAVE VERY BRIEF TESTIMONY
4 ABOUT WHAT HE FOUND WHEN HE ARRIVED. HE DID NOT GO
5 INTO THE HOUSE. HE SECURED THE SCENE.

6 CRAIG HUTCHINSON WITH THE HORRY COUNTY POLICE
7 DEPARTMENT IS ANOTHER OFFICER THAT WAS WITH THE --
8 WITH THE CERT TEAM, IT'S LIKE THEIR SWAT TEAM. HE IS
9 THE -- HE AND OTHER OFFICERS ENTERED MR. TURNER'S
10 RESIDENCE AND FOUND MR. TURNER'S BODY.

11 THEY THEN SECURED THE SCENE, TURNED IT OVER TO
12 THE CRIME SCENE FOLKS. THAT WILL BE PETER CESTARE
13 WHO IS WITH THE HORRY COUNTY POLICE DEPARTMENT. HE
14 PROCESSED THE CRIME SCENE. HE WILL OFFER QUITE A BIT
15 OF TESTIMONY ABOUT PHOTOGRAPHS, DIAGRAMS, OTHER ITEMS
16 OF EVIDENCE THAT HE LOCATED AT THE CRIME SCENE.

17 THEN WE WILL HEAR FROM INVESTIGATOR DUANE PIPER.
18 INVESTIGATOR PIPER IS WITH THE RICHMOND COUNTY
19 SHERIFF'S OFFICE IN AUGUSTA, GEORGIA. HE WILL
20 TESTIFY AS TO ITEMS OF EVIDENCE BELONGING TO
21 MR. TURNER AND OTHER ITEMS OF EVIDENCE THAT RELATE
22 BACK TO THE TURNER MURDER THAT WERE -- THAT WERE
23 OBTAINED FROM MR. STANKO WHEN HE WAS ARRESTED IN
24 AUGUSTA.

25 AFTER THAT WE WILL HEAR FROM SPECIAL AGENT DAN

1 DEFREESE OF SLED. HE IS A BALLISTICS EXPERT,
2 FIREARM -- BELIEVE THEY CALL IT FIREARM AND TOOLMARK
3 EXPERT.

4 HE WILL TESTIFY THAT THE BALLISTICS FROM THE
5 BULLETS RECOVERED FROM MR. TURNER'S BODY MATCHED A
6 HANDGUN THAT WAS IN THE POSSESSION OF THE DEFENDANT
7 WHEN HE WAS APPREHENDED IN AUGUSTA.

8 AND FINALLY WE WILL HEAR FROM KIM COLLINS, THE
9 PATHOLOGIST. YOU HEARD FROM HER EARLIER THIS WEEK.
10 SHE'S THE PATHOLOGIST FROM MUSC, DID THE AUTOPSY ON
11 MR. TURNER, AND OBVIOUSLY WILL TESTIFY AS TO THE
12 CAUSE OF DEATH AND TO THE -- TO THE RECOVERY OF THE
13 PROJECTILES THAT MATCHED THE GUN THAT WAS IN THE
14 POSSESSION OF THE DEFENDANT.

15 THE COURT: OKAY. AND IN A NUTSHELL TELL ME WHY
16 THE TESTIMONY REGARDING MR. TURNER SHOULD BE
17 ADMITTED.

18 MR. HEMBREE: YOUR HONOR, THIS TESTIMONY SHOULD
19 BE ADMITTED BECAUSE IT IS RELEVANT TO THE DEFENDANT'S
20 CHARACTER. IT IS ALSO RELEVANT TO -- I MEAN,
21 EXTREMELY RELEVANT TO HIS CHARACTER, BUT IN THIS CASE
22 THE -- UNIQUE TO THIS CASE, ALTHOUGH I WOULD SUBMIT
23 THIS WOULD BE RELEVANT IN ANY DEATH PENALTY CASE
24 WHERE WE HAVE -- WE HAVE THE OPPORTUNITY TO PRESENT
25 EVIDENCE OF THE DEFENDANT'S CHARACTER..

1 BUT IN THIS CASE THE DEFENSE HAS OFFERED AN
2 INSANITY DEFENSE, AND THEY -- THEY HAVE PRESENTED TO
3 THIS JURY EVIDENCE IN THE GUILT PHASE THAT THIS
4 DEFENDANT SNAPPED AND HE HAD JUST TERRIBLE REACTION,
5 AND THIS CRIME OF LAURA LING, CLASSIC.

6 BUT YOU KNOW, ONCE THAT WAS OVER, YOU KNOW, HE'S
7 OKAY AND THESE OTHER STEPS ARE JUST PART OF THIS KIND
8 OF DUMB CRIME THAT HE'S CONTINUING TO CARRY FORWARD
9 WITH THE -- WITH THE ATMS AND WITH THESE OTHER
10 THINGS, STEALING THE CAR AND SO ON AND SO FORTH.

11 THEY HAVE CONTINUED EVEN THOUGH -- EVEN THOUGH
12 IN THE GUILT PHASE THE JURY REJECTED THAT DEFENSE.

13 IN THE COURSE OF THE PENALTY PHASE THEY HAVE --
14 THEY HAVE CONTINUED TO GLEAM TESTIMONY FROM ELIZABETH
15 MCLENDON ABOUT THE STATE OF MIND, ABOUT THE MENTAL
16 STATE OF THIS DEFENDANT, SORT OF CONTINUING TO MAKE
17 THAT ARGUMENT THAT HE HAS THIS CONDITION THAT CAUSES
18 HIM TO TRIGGER AND THAT, YOU KNOW, HE IS JUST A
19 LOOSE, YOU KNOW, A LOOSE CANNON READY TO GO OFF.

20 YOUR HONOR, THIS -- THIS PARTICULAR ASPECT OF
21 THIS SERIES OF CRIMES SHOWS THAT HE'S PLANNING ALL
22 THE TIME, THAT HE KNOWS EXACTLY WHAT HE WAS DOING.
23 HE KNOWS EXACTLY WHY HE'S DOING IT.

24 THE EVIDENCE OF THE CRIME SCENE OF MR. TURNER
25 WILL -- WILL INDICATE THAT HE ACTUALLY OBTAINED A

1 FIREARM FROM MR. TURNER'S RESIDENCE, CAME UP BEHIND
2 MR. TURNER WHILE HE WAS SHAVING, TOOK A PILLOW AND A
3 357 MAGNUM HANDGUN AND STUCK IT INTO THE BACK OF
4 MR. TURNER USING THE PILLOW AS A SILENCER, FIRED INTO
5 HIS BACK. MR. TURNER TURNED AROUND AND HE FIRED ONE
6 SHOT INTO HIS CHEST KILLING HIM.

7 SO THIS IS NOT SOME, YOU KNOW, LOSS OF, YOU
8 KNOW, OF SOME SORT OF MENTAL STATE OR SOME SORT OF
9 SNAPPING. THIS WAS SOMETHING THAT WAS CONTRIVED,
10 THAT WAS INTENTIONAL, THAT WAS VERY DELIBERATE AND
11 VERY PLANNED THAT GOES DIRECTLY NOT ONLY TO THE
12 INSANITY DEFENSE BUT TO THE CHARACTER OF THIS
13 DEFENDANT.

14 THE COURT: WOULD YOU LIKE TO RESPOND?

15 MR. KELLY: YES, MA'AM. WE'D BOTH LIKE TO SPEAK
16 TO THIS MATTER. I HEAR THE SOLICITOR SAYING THE
17 MURDER OF HENRY TURNER. I DON'T KNOW OF ANY MURDER
18 OF HENRY TURNER THAT'S BEEN ADJUDICATED.

19 THE COURT: WELL, WHY DON'T WE -- I HATE TO SORT
20 OF CUT TO THE CHASE, BUT THERE ARE MANY CASES THAT
21 INDICATE THAT THIS TYPE EVIDENCE IS ADMISSIBLE AS TO
22 EVIDENCE -- DOESN'T SAY THIS, PARTICULARLY MURDER,
23 BUT IT SAYS EVIDENCE OF OTHER CRIMES RELEVANT TO THE
24 DEFENDANT'S CHARACTER, AND THAT CONTRARY TO WHAT THE
25 STANDARD WOULD BE IN A TYPICAL CRIMINAL CASE, IN THE

1 PENALTY PHASE YOU DON'T HAVE TO PROVE BEYOND A
2 REASONABLE DOUBT THAT IT HAPPENED TO ME OR AT LEAST
3 YOU DON'T HAVE TO PROVE TO THE COURT BY CLEAR AND
4 CONVINCING EVIDENCE THAT IT HAPPENED BEFORE IT'S
5 ADMISSIBLE.

6 AND I'M MAKING REFERENCE TO THE USUAL STANDARD
7 THAT WE HAVE WHEN YOU'RE TALKING ABOUT CRIMES THAT
8 ARE NOT THE SUBJECT OF A CONVICTION.

9 THE STATE WOULD HAVE TO PROVE THAT EVIDENCE BY
10 CLEAR AND CONVINCING EVIDENCE TO THE COURT BEFORE IT
11 COULD EVER BE INTRODUCED TO THE JURY. I SEEM TO --
12 IN MY RESEARCH THIS AFTERNOON FIND CASES THAT SAY,
13 YOU KNOW, THAT HAD DEFENDANTS RAISE THAT AND SUPREME
14 COURT SAYS THEY DON'T HAVE TO DO THAT.

15 MR. KELLY: WELL, MA'AM, IT'S UP TO THE JUDGE,
16 OF COURSE. BUT THE SOLICITOR CAN EVEN TELL US WHICH
17 SHOT WAS FIRED FIRST. I DON'T KNOW HOW HE DOES THAT.
18 HE'S TELLING YOU THAT HENRY TURNER WAS SHOT IN THE
19 BACK FIRST AND THEN HE WAS SHOT IN THE CHEST.

20 I DON'T KNOW HOW HE'S GOING TO SHOW OR PROVE
21 THAT. I DON'T KNOW HOW HE'S GOING TO SHOW OR PROVE
22 THAT IT WAS ACTUALLY A MURDER. BUT I DO KNOW THAT --
23 I KNOW THIS MAN HERE IS UNDER INDICTMENT IN A
24 DIFFERENT COUNTY FOR THIS CRIME HE HADN'T BEEN
25 CHARGED -- HE HADN'T BEEN TRIED ON YET. I KNOW THAT

1 FOR A FACT. AND I KNOW THAT--

2 THE COURT: AND I GUESS THAT'S WHAT I'M ASKING
3 YOU TO ADDRESS FOR PURPOSES OF THE RECORD BECAUSE
4 CASE LAW SEEMS TO INDICATE YOU DON'T -- THAT IT
5 DOESN'T HAVE TO BE.

6 IN THE CASES THAT I READ, YOU KNOW, ONE OF THEM
7 DEALT WITH THE GENTLEMAN WHO KILLED SOMEONE IN JAIL
8 IN BETWEEN THE GUILT PHASE AND PENALTY PHASE. THE
9 SUPREME COURT SAID THAT WAS COMPLETELY ADMISSIBLE ON
10 HIS CHARACTER.

11 ANOTHER GENTLEMAN ADMITTED TO A STRING OF ARMED
12 ROBBERIES AND A MURDER AND THE SUPREME COURT SAID
13 THAT WAS PERFECTLY ADMISSIBLE. AND THEY RAISE THOSE
14 VERY SAME ARGUMENTS WHICH IS, WE HAVEN'T BEEN
15 CONVICTED OF THESE THINGS, AND YOU KNOW, NOBODY HAD
16 TO PROVE BEYOND A REASONABLE DOUBT THAT HE DID THEM.

17 AND THE SUPREME COURT SEEMS TO SAY YOU DON'T
18 HAVE TO BECAUSE YOU GIVE A CURATIVE INSTRUCTION THAT
19 LIMITED -- IT'S BEING ADMITTED FOR A VERY LIMITED
20 PURPOSE WHICH IS THE CHARACTER OF THE DEFENDANT, AND
21 SO I GUESS I -- THAT'S THE PART OF IT THAT I REALLY
22 NEED FOR YOU ALL TO ADDRESS FOR ME IN TERMS OF YOUR
23 ARGUMENT THAT IT'S NOT ADMISSIBLE.

24 MR. KELLY: WELL, MA'AM, I DON'T SEE HOW IT
25 COULD BE ADMISSIBLE ON THE CHARACTER OF THE DEFENDANT

1 IF IT IS DETERMINED WHAT TOOK PLACE. ARE WE GOING TO
2 TRY THE HENRY TURNER MURDER HERE TODAY? BECAUSE IF
3 WE ARE, FINE. LET'S GO AHEAD AND LET'S TRY IT, I
4 SUPPOSE, IF THIS IS THE PROPER JURISDICTION.

5 BUT HENRY -- HENRY TURNER IS DEAD, THAT'S TRUE.
6 BUT THERE'S -- AS TO THE CHARACTER OF THIS DEFENDANT,
7 THE HENRY TURNER MURDER, WHETHER IT'S MURDER OR NOT
8 HAS CERTAINLY NOT BEEN PROVED.

9 I DO KNOW THIS. I KNOW THAT WE HAVE GONE TO
10 GREAT LENGTHS NOT TO PUT IT BEFORE THIS JURY. AND
11 THAT EVERY -- EVERY NEWSPAPER ARTICLE THAT I HAVE
12 READ, INCLUDING THE ONE THAT I SHOWED THIS LADY HERE
13 TODAY, MENTIONS THAT HENRY TURNER MURDER.

14 AND FRANKLY, IF YOU WANT TO PUT THE MAN TO
15 DEATH, LET THE JURY HEAR IT, THEY WILL DEFINITELY PUT
16 HIM TO DEATH. AND THIS IS THE REASON WHY. BECAUSE
17 THERE WON'T BE ANY OPPOSING EVIDENCE THAT CAN BE PUT
18 UP BECAUSE THIS TEAM IS NOT CHARGED WITH DEFENDING
19 THE HENRY TURNER MURDER.

20 AND SO IF YOU WANT TO HANG HIM OUT TO DRY, THEN
21 THAT'S WHAT WILL HAPPEN. AND I WILL GUARANTEE YOU
22 100 PERCENT THAT THE SOLICITOR WILL GET HIS DEATH
23 PENALTY BECAUSE THIS JURY IS GOING TO LIKE THE WAY --
24 AND BY THE WAY, ARE WE -- SOLICITOR, ARE WE PUTTING
25 IN THE PHOTOS OF HENRY TURNER'S MURDER AS WELL?

1 MR. HEMBREE: AS A MATTER OF FACT, YOUR HONOR,
2 THERE ARE QUITE A FEW -- QUITE A FEW CRIME SCENE
3 PHOTOGRAPHS THAT WE INTEND TO INTRODUCE.

4 MR. KELLY: WELL, YOU KNOW, IF YOU CAN'T GET A
5 FAIR TRIAL IN THE FIRST PART AND YOU HAVE TO KEEP IT
6 OUT, THEN YOU TELL ME. BUT I GUARANTEE YOU ONE
7 THING.

8 I'M NOT -- I MIGHT NOT KNOW MUCH, BUT I WILL
9 GUARANTEE YOU I CAN'T SEE THE FUTURE, BUT IF THIS
10 EVIDENCE COMES IN, SIGN IT OFF, THE MAN'S GOING TO BE
11 PUT TO DEATH BY THIS JURY. THAT'S FOR CERTAIN. IT
12 IS SO HIGHLY PREJUDICIAL.

13 AND WITHOUT HIM BEING ABLE TO MOUNT A DEFENSE ON
14 IT, YOU KNOW, THAT THE -- THE -- HIS -- IT IS SO
15 MANIFESTLY UNFAIR THAT IT MUST BE KEPT OUT.

16 THIS IS ABOUT THE DEATH OF LAURA LING AND THIS
17 IS ABOUT THE THINGS THAT HAVE TO DO WITH THAT. AND
18 IT PARTICULARLY HAS TO DO WITH RIGHT UP TO AND AFTER
19 THAT TIME.

20 THIS IS JUST A -- AND THAT'S MY POSITION ON IT.
21 I KNOW MR. DIGGS PROBABLY HAS OTHER THINGS TO SAY.
22 BUT YEAH, THEY'LL PUT HIM TO DEATH. I'M WILLING TO
23 GUARANTEE IT, THAT NO HUMAN FORCE CAN STOP IT IF
24 THAT'S ELECTED.

25 MR. DIGGS: YOUR HONOR, I WILL SAY WE'VE GOT --

1 WE HAVE THE ADDITIONAL ISSUE IN THE CASE OF THE
2 DEFENDANT'S MENTAL STATE UP IN HORRY COUNTY.

3 THE COURT: I'M SORRY. REPEAT THAT. YOU SAID
4 THE DEFENDANT'S MENTAL --

5 MR. DIGGS: WE HAVE THE ADDITIONAL--

6 THE COURT: -- STATE UP IN HORRY COUNTY. IS
7 THAT WHAT YOU SAID?

8 MR. DIGGS: YES. YES. AND WHETHER HE WAS SANE
9 OR INSANE AT THAT TIME. NOW--

10 THE COURT: I THINK THAT WHAT WE SORT OF -- AND
11 WHAT I WANTED YOU ALL TO ADDRESS -- AND AGAIN, I'M
12 NOT TRYING TO INTERRUPT YOU AND I'M GOING TO GIVE YOU
13 A FULL OPPORTUNITY TO MAKE YOUR RECORD.

14 BUT THE CASE LAW SEEMS TO INDICATE THAT IT'S NOT
15 A -- THAT THE PURPOSE THAT IT'S BEING OFFERED IS NOT
16 TO PROVE HIS GUILT ON THAT CHARGE. THE WHOLE PURPOSE
17 AND THE ONLY REASON THE STATE GETS TO INTRODUCE
18 EVIDENCE OF THAT TYPE IS TO SHOW A PERSON'S CHARACTER
19 AND BASICALLY HIS PROPENSITY OF -- IT IS BASICALLY
20 WHAT IT AMOUNTS TO.

21 AND BECAUSE OF THE FACT THAT THIS IS A CAPITAL
22 CASE, WHICH IS VERY DIFFERENT FROM A REGULAR MURDER
23 CASE -- OF COURSE, WE KNOW IN A REGULAR MURDER CASE
24 THIS WOULD NEVER COME IN.

25 PROPENSITY EVIDENCE JUST DOESN'T COME IN UNLESS

1 IT COMES UNDER ONE OF THE LYLE EXCEPTIONS, WHICH IS
2 VERY RARE THAT THAT HAPPENS UNLESS YOU HAVE A
3 SITUATION WHERE THERE'S A SERIAL OR SOMEONE IS
4 SERIALLY INVOLVED IN ACTS.

5 BUT BASED ON THE RESEARCH I HAVE DONE AT LEAST
6 OVER THE WEEKEND AND TODAY, THE SUPREME COURT SEEMS
7 TO INDICATE THAT BECAUSE THE NATURE OF THIS STAGE IS
8 PENALTY, THAT IT IS RELEVANT TO HIS CHARACTER.

9 AND I'M JUST TRYING TO -- AND I WILL BE FRANK
10 WITH YOU, ALL THE CASES I FOUND, HOWEVER, AND WHERE
11 I'M KIND OF STUCK AT RIGHT NOW DEAL WITH ACTS THAT
12 HAPPENED PRIOR TO THE INCIDENT THAT ARE AT HAND.

13 THE ONLY CASE THAT I FOUND WHERE IT HAPPENED
14 AFTER WAS THE INCIDENT WHERE THE GENTLEMAN IS ALLEGED
15 TO HAVE KILLED ONE OF HIS CELLMATES OR SOMEONE HE WAS
16 IN LOCK-UP WITH.

17 MR. KELLY: WELL, MA'AM, THIS IS A UNIQUE CASE
18 BECAUSE REALLY WHAT YOUR -- WHAT'S BEING IMPLIED BY
19 THE STATE IS HE MURDERED HENRY TURNER BECAUSE YOU
20 DECIDED HE MURDERED LAURA LING. THAT'S WHAT THIS IS
21 ABOUT.

22 HENRY TURNER WAS MURDERED BY THIS MAN BECAUSE
23 YOU HAVE DECIDED THAT HE MURDERED THIS LADY, LAURA
24 LING. IF YOU'RE GOING TO SHOW CHARACTER, IT'S GOT TO
25 BE ABOUT HIS CHARACTER. IT'S GOT TO BE SOMETHING --

1 YOU'RE SAYING HENRY TURNER WAS MURDERED.

2 AND THE REAL PROOF OF THAT, LADIES AND
3 GENTLEMEN, IS WHAT YOU'VE JUST FOUND OUT AND YOU'VE
4 JUST TOLD US FROM YOUR OWN VERDICT. THAT'S WHY
5 IT'S -- THE CART HAS BEEN PLACED BEFORE THE HORSE, SO
6 TO SPEAK HERE.

7 THEY WANT TO INFER THAT HENRY TURNER IS MURDERED
8 BECAUSE OF THAT. THEY WANT TO DO THAT, TRY HENRY
9 TURNER'S MURDER. DO THAT.

10 THE COURT: WELL, I THINK--

11 MR. KELLY: AND THEN BRING IT IN. IT'S BEEN
12 ESTABLISHED THAT HE MURDERED LAURA LING, THEN IN
13 HENRY TURNER'S TRIAL AND DEATH PENALTY, THEN PUT IT
14 IN BECAUSE THEN IT IS CHARACTER BECAUSE IT'S BEEN
15 DECIDED.

16 BUT OH, NO, THAT'S NOT WHAT'S GOING ON HERE.
17 THEY WANT TO SHOW THAT HENRY TURNER'S MURDER AND
18 HIS -- THESE PEOPLE HERE ARE NOT CHARGED WITH
19 DEFENDING HIM ON IT AND COMPLETELY UNPREPARED TO MEET
20 IT.

21 WHAT KIND OF FOOLISHNESS IS THIS? PUT HIM TO
22 DEATH ON HENRY TURNER'S MURDER AND SHOW CHARACTER
23 WITH LAURA LING'S MURDER CONVICTION. DON'T TRY TO
24 BRING IT IN ON THIS CASE WHERE IT'S SO HIGHLY
25 PREJUDICIAL, IT'S SURE TO GIVE HIM THE DEATH PENALTY

1 WITHOUT ANY REAL PRESENT (SIC).

2 DON'T DO THAT, JUDGE. THINK IT OVER. RESEARCH
3 IT. DO SOMETHING.

4 THE COURT: OH, I DON'T PLAN TO--

5 MR. KELLY: BUT DON'T DO IT BECAUSE IF YOU DO
6 IT, THEY'RE GOING TO PUT HIM TO DEATH WRONGFULLY
7 REALLY, NOW. I MEAN, THAT'S FAIR--

8 THE COURT: WELL, I PLAN TO HEAR ARGUMENT. I'M
9 GOING TO RESEARCH IT SOME MORE. I'M GOING TO SLEEP
10 ON IT. I'M NOT GOING TO MAKE A DECISION THIS
11 AFTERNOON BECAUSE QUITE FRANKLY I THINK WE ARE ALL
12 WEARY AND I DON'T THINK I WOULD BE DOING ANY OF YOU
13 JUSTICE BY GIVING MY DECISION RIGHT AT THIS POINT.
14 I'D LIKE TO REFLECT ON IT SOME MORE.

15 MR. DIGGS: YOUR HONOR, IF I COULD BE HEARD--

16 THE COURT: CERTAINLY.

17 MR. DIGGS: -- ON ONE POINT THAT I WOULD SUGGEST
18 IS APPLICABLE. ARBITRARY AND CAPRICIOUS FACTORS
19 UNDER THE EIGHTH AMENDMENT REQUIRE THAT WE HAVE A
20 SENTENCING PROCEEDING THAT PRODUCES A RELIABLE
21 RESULT.

22 IF WE GO UP TO HORRY COUNTY AND TRY THIS MAN FOR
23 HENRY TURNER'S MURDER AND HIS -- ACQUITTAL BECAUSE OF
24 INSANITY, THEN WE HAVE GOT SOMETHING AFFECTING THIS
25 PROCEEDING IN AN ARBITRARY MANNER IN VIOLATION OF THE

1 EIGHTH AMENDMENT AND THE 14TH AMENDMENT.

2 SO THERE IS AN ADDITIONAL -- ADDITIONAL
3 CONSIDERATION HERE BEYOND THE TYPICAL CONSIDERATIONS
4 THAT YOU HAVE LIKE IN THE -- GEORGE CASE WHERE THEY
5 MURDERED THAT FELLOW OVER IN MANNING, THEN CAME OVER
6 HERE AND MURDERED IN NICHOLS -- WHERE THERE WAS A
7 ROBBERY, THERE WAS TESTIMONY ABOUT IT BEING A MURDER,
8 WHERE THERE WAS PRETTY CLEAR AND CONVINCING EYE
9 WITNESS EVIDENCE ABOUT WHAT HAPPENED IN THOSE CRIME
10 SCENES. IN THIS CASE WE HAVE GOT FORENSIC EVIDENCE
11 AND THAT'S ALL.

12 THE COURT: THE PROBLEM IS THE SUPREME COURT --
13 AND THAT'S WHY I NEED YOU TO ADDRESS IT. THE SUPREME
14 COURT SAID IT DOESN'T HAVE TO BE PROVEN THAT WAY.

15 MR. DIGGS: IT'S GOT TO BE CLEAR AND CONVINCING.

16 THE COURT: NO, IT DOESN'T. YOU NEED TO
17 RESEARCH--

18 MR. DIGGS: THRESHOLD--

19 THE COURT: NO. READ THE CASE LAW. IT SAYS
20 THIS PHASE OF THIS TRIAL IT DOES NOT HAVE TO BE. THE
21 DEFENDANT, IN THE LAST CASE THE SUPREME COURT RAISED
22 THAT, AND THEY SAID, YOU DON'T HAVE TO PROVE IT BY
23 CLEAR AND CONVINCING EVIDENCE, IT'S COMING IN FOR A
24 VERY LIMITED ISSUE, THAT BEING EVIDENCE OF OTHER
25 CRIMES RELEVANT TO THE CHARACTER.