

CLOSING ARGUMENT EXAMPLE: *Presenting a Theory of Defense Throughout the Case*

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What follows are excerpts from the proceedings in the case of *State of Georgia v. William Anthony Brooks* tried in 1991 in the Superior Court of Morgan County, Georgia. They contain discussion of many of the facts of the case; they are included to illustrate how they were discussed.

Brooks, an African American, kidnapped, raped, robbed and killed a 23-year old white woman. He abducted her from her home one morning and forced at gunpoint to drive him in her car to an area where she was raped and shot. She died of a single gunshot wound to the neck.

Brooks was not arrested for several weeks after the crime. Before his arrest, some of the state's witnesses had identified persons other than Brooks as the one who committed the crime. Before the trial, there had been much pretrial litigation over the admissibility of testimony of eyewitness identification. The judge ultimately ruled that testimony regarding some highly suggestive identifications would be allowed. The remainder of the state's case was based upon the Brooks' confession, a lift of his fingerprint from the victim's car, the testimony of a witnesses who gave the Brooks a ride from the area of the crime to the other side of town.

In the confession, William Brooks admitted the kidnapping, robbery and rape, but claimed that the gun went off accidentally when he pointed it at the victim to make her stop screaming after the rape. A pretrial motion to suppress the confession was denied.

The defense decided not to argue misidentification at the guilt phase, and, instead, to acknowledge Mr. Brooks' responsibility for the death, but assert, based on his account of what happened in the confession, that the gun discharged accidentally and that he should be

found not guilty of murder with malice because he did not have the requisite intent and malice.

The mitigating evidence to be presented by the defense was evidence of Mr. Brooks' premature birth, prenatal injuries, limited intelligence (Brooks had an IQ of 75), and neglect and abuse during childhood. Mr. Brooks had a prior criminal record, introduced by the state, and had twice been in prison. During his first period of incarceration he had many disciplinary reports, but during his second period of imprisonment his adjustment was excellent.

The defense themes for the penalty phase were:

(1) acknowledge responsibility for the crime, its wrongfulness, and the loss to the victim's family and friends.

(2) both life *imprisonment* and the death penalty are severe punishments; the jury was to decide between them.

(3) life imprisonment instead of death was sufficient punishment because:

(a) Mr. Brooks' limited intelligence, his abuse and neglect during childhood should be taken into account in deciding punishment; Brooks could not be held to the same standard as an intelligent person who had learned proper values growing up;

(b) Mr. Brooks' good adjustment to prison demonstrated that it was not necessary to resort to the death penalty;

(c) there is at least a lingering question about whether the shooting was intentional remaining from the guilt phase, where the jury was out for an entire day.

(d) a death sentence would result in needless suffering on the Brooks family, who had another family member fighting in the Gulf War that was going on that the time of the trial.

The defense also sought to do what it could to take the sting out of the prosecution's emphasis on the horror of the crime. The theme at the guilt phase – that the gun went off accidentally – fit well with the theory at the penalty phase – the murder was not so heinous and cold blooded that the death penalty was the only penalty for one who had suffered the abuse and had the limited functioning of Mr. Brooks.

The case was tried by Stephen B. Bright and Ruth E. Friedman, Southern Center for Human Rights, George Kendall, NAACP Legal Defense Fund, Inc., and Gary Parker of Columbus, Georgia.

JURY SELECTION

The jury questionnaires required jurors to list the number of children, their ages, etc., and membership in organizations.

The following is a sampling of some of the voir dire questions that were asked in anticipation of the defense themes at the penalty phase.¹ Questions were also asked about death qualification, attitudes toward crime, knowledge of the case, race, and other factors. As is always the case in voir dire, some open ended questions were asked to obtain information. Other, closed questions were asked to nail down various points.

Do you spend much time with your children?

Is there anything more important to you than that time?

Do you think it makes a difference in your children's growth and development? How?

Did you get to spend much time with you parents?

[Questioning responsive to the answers continued to develop this area.]

I notice from your jury questionnaire that you are a member of the Morgan County Men's Club. Could you tell me what that organization does?

[The club was founded by African American men to help African American youth in the community. Questions revealed that the club was formed because of concern about the lack of parental supervision of some youth in the community. Note that this answer will be used later in closing argument at the penalty phase.]

Do you find that you are making a difference in these kids' lives?

Have you ever been in a situation where you had to decide if another human being would live or die?

Have you thought about what kind of information you would want to know about that person before you decided whether he lives or dies?

If you were chosen as a juror on this case, would you want to hear evidence about Mr. Brooks' childhood, about any difficulties he might have had?

Do you think that sort of information ought to be taken into account in deciding punishment?

[Many jurors indicated that they did not think evidence regarding a difficult upbringing should be taken into account. Challenges for cause were made. Some were excused; some were rehabilitated by the judge, but the answer could be taken into account by the defense in exercising peremptory challenges.]

[Once this line was completed, the following question was asked:]

If you were selected to be on this jury, would you want to know *everything* about Mr. Brooks before you made a decision about whether he would live or die?

What does a sentence of "life imprisonment" mean to you?

[This question often revealed beliefs about parole that were developed with follow up questions.]

What does a sentence of "death" mean to you?

[This question often produced answers about appeals and frustration with carrying out the death sentence.]

1. The voir dire questions which follow are summarized from the transcript. The excerpts from the arguments that appear are taken verbatim from the transcript.

The judge explained to you [during the death qualification process] that whether to punish with death or with life imprisonment would be based upon consideration of aggravating and mitigating circumstances. I would like to talk about mitigating circumstances for a minute. Do those words – mitigating circumstances – have any meaning to you right now?

[Some jurors said they thought mitigation related only to why Brooks committed the crime, i.e. he stole because he was hungry, and did not give the term any broad meaning. After exploring the answers, the following question was asked:]

You understand that “mitigating” for purpose of this case means *anything* about the life and background of Mr. Brooks – his birth, his childhood, his family circumstances, his level of intelligence – *anything* about him which would help you and your fellow jurors decide punishment, if we ever got to that phase of the case.

You understand, that the death penalty is never required?

In a capital case, even if the prosecution proves up every single one of the aggravating factors, the jury must still decide whether to punish with death or with life imprisonment?

And even if not a single mitigating circumstance was offered for the accused, the jury could still decide to impose life imprisonment?

And, of course, if mitigating factors were offered, those are to be taken into account to decide whether to impose the death penalty or life imprisonment. You understand that? The jury would be able to consider the mitigating factors in deciding punishment.

You agree that not everyone should be punished the same? You punish younger children differently than older people?

**DEFENSE OPENING
STATEMENT AT GUILT PHASE**

The opening statement is a chance, both for Mr. [prosecutor] to go over the evidence of what the State was going to prove, and it's my opportunity, on behalf of the young man that I represent, William Anthony Brooks, to go over what we expect the evidence to prove. And part of

that, too, ladies and gentlemen, is it shows you where the dispute is in this case, what's in disagreement between the parties. We come to you because there's a disagreement about whether William William Brooks is guilty of malice murder, of killing another person intentionally and maliciously.

Let me say, first, that with regard to all you have heard [in the prosecutor's opening], we do not disagree, and will not, in the course of this trial as the evidence is presented to you, disagree with ninety percent of that evidence.

* * * You will hear * * * about an armed robbery, about Miss [victim] being robbed of her automobile and her money. I want to make it clear, we do not contest that. Miss [victim] was robbed of her car; she was robbed of her money. And I also want to make it clear that this young man that I represent, William Brooks, is the young man who committed that crime. You're going to hear evidence about a rape in this case. You are going to hear that she was forced to take off her clothes and submit to sexual intercourse. There's no question about it. And, again, we're not going to contest that it happened. That crime took place and the young man I represent did that crime and we fully acknowledge that.

And you're going to hear that that morning, when she came out of her home and went to that carport, that she was kidnapped, that she was made to get in that car and drive away to another place. Her mother will say that she saw this young man do it, take her away. And, again, that's not going to be contested. That's kidnapping with bodily injury, and there's no question about it and there's no question William Brooks did that.

The one thing that is going to be disputed here, though, ladies and gentlemen, is whether what happened there behind the Dawson School was an intentional and malicious killing of this young lady. There's no doubt that she was killed; there's no question that it was tragic. But you're asked to decide, whether the evidence shows, beyond a reasonable doubt an intentional and malicious killing, you're going to find that it does not. That, in fact, the gun did go off accidentally, and that, in fact, there was a wound to the neck. Not a wound to the head, not a wound to the heart, not multiple wounds.

This woman had taken off all her clothes, but the evidence will show that she was fully dressed again. She wasn't left naked out in the field. You'll hear that she was clothed again. You'll hear about the nature of that wound. And we think, based upon that evidence and the statements you'll hear, that it will demonstrate that, in fact, the shooting, the tragedy that did occur here was an accident and was not intentional and was not malicious.

I want to go through the evidence with you, too, and tell you what I expect the evidence will show and I hope that it will be helpful to you as you listen to the evidence in this case in terms of whether or not what you're hearing helps you resolve that question about whether it was intentional or whether it was accidental. Let's start with what happened first.

[The evidence was then described, including the finding of Brooks' fingerprint of the victim's car.]

At the end of this case when we come back before you, we will once again acknowledge the fact that Mr. Brooks was guilty of these other crimes. There's no question about that. But because the shooting, the tragedy that took place in this case, because it wasn't malicious, because it wasn't intentional, and because it was an accident, at that time, ladies and gentlemen, on behalf of William Brooks, we'll ask you to find him not guilty of malice murder because he is not guilty of the crime of malicious and intentional murder in this case.

**DEFENSE CLOSING
AT THE GUILT PHASE**

The Court refused to instruct on any lesser included offense or on a theory of accident. Thus, the defense focused in closing on intent and malice.

* * *

The key question, as I told you when I opened, and I'll tell you now, and that the Judge is going to ask you to determine whether the evidence proves beyond a reasonable doubt whether William Brooks possessed the requisite intent, the intent to kill, when the gun discharged.

It will not be what his intent was with regard to robbery. There was intent to rob. It will not be the

intent with regard to rape. I told you when we started this case that there would be no question about that and there has not. It will not be about the intent with regard to going to the house and kidnapping.

The question put to you is whether the evidence shows beyond a reasonable doubt that when that gun discharged, it was fired maliciously and it was fired intentionally or whether it was not, or whether it went off accidentally.

Now, through a great part of this case, the State has gone back and forth about it could have happened this way or it could have happened that way. But the burden on the State is not to show what *could* have happened. It's not to show what *might* have happened. And, ladies and gentlemen, it's not even to show what *probably* happened. Their burden is to show what did happen and to convince you of it beyond a reasonable doubt.

If there's a reasonable doubt in your mind after looking at all this evidence, and after listening to Judge Lawson's instructions as to whether, when that gun was fired, it was fired intentionally or maliciously. If there is a reasonable doubt, if you find that the prosecution has not convinced you beyond a reasonable doubt, then the law requires that Mr. Brooks be found not guilty of malice murder even though he is guilty, as I acknowledged when I started talking to you in this case several days ago, of all those other crimes.

* * *

Now, there's no question, ladies and gentlemen, later this afternoon, I'm sure Mr. [prosecutor] can shake the rafters and the lights with regard to how horrible everything that happened was. I want to say again as I've said before, I don't dispute that for one minute. I don't dispute that what happened out there was criminal, that it was wrong, that it violated our law. There's no question about that.

The terrible job that all of us have in this case is to sort through this tragedy and decide whether the crime of murder has been established as the Judge will define it to you. It's a terrible job for everybody here, for you, to listen to this tragic evidence, to review these sad things that happened, to see these awful pictures.

And I want to tell you, it's as hard for me to look at those pictures as it is for you. It's as hard for me to look through this evidence that came in and to look at what happened out there as it is for you. I'm not trying to minimize or explain away anything that happened. There is no way to do that.

In a lot of countries, we wouldn't sit down like we are here and go through this awful thing, this terrible job, to see if it met the definition of this crime or not. There was even a time in our country's history when we did not do that. But we do now. We sit down and we look at it and we say there are definitions of these crimes like rape and armed robbery and kidnapping and murder and we have to go through the evidence and we have to hear the Judge's instruction and we have to see whether or not it adds up to the definition. And that's the solemn duty that all of us took on; I, as an officer of the Court; the Judge as the Judge; the prosecutor, and that you took on as the jury.

* * *

But so much of the evidence that you heard this week went to *who* did it, not what was done. * * *

We looked at these fingerprints for quite a bit of time [holding up chart showing points of comparison of the fingerprints introduced by the state] and we looked at all these points of comparison on the fingerprints. I told you in opening statement, these are William Brooks' fingerprints. This tells you that he was there, that he touched the car. I told you that when we started out. This tells you who did it, but it doesn't tell you *what* was done. It doesn't answer that question at all about when the shooting took place, whether the shooting was malicious or whether the shooting was intentional. This doesn't help you.

This red shirt – there's no question, Mr. Brooks had this shirt on that was found out there. It's been preserved ever since. It doesn't really even tell you who did it, I suppose, but it tells you nothing about what happened and about whether it was intentional, whether the evidence established beyond a reasonable doubt that when the gun discharged it was intentional.

You saw the picture, and you'll have it back there, of the car with the doors open and the trunk

open and the license-plate registration. That was Miss [victim]'s car. Her car was taken from her and there's no issue about that. But, again, that car and the trunk being open and the doors in the picture, it doesn't tell you what happened when the gun discharged.

[State's witness], the man who testified about giving the ride across town, the man who was arrested himself at one point and charged with this crime, again, he told you that he gave Mr. Brooks a ride from the area. I told you in opening statement that Mr. Brooks was there. He took the ride across town. That tells you who did it, but it does not answer the question for you – It sheds no light, I submit to you – on the question of whether at the time it was done, it was done intentionally and was done maliciously.

The pictures of the house and the carport, how the car backed down the driveway, the same thing is true about that evidence. It does not help you with the question you must answer about intent and malice.

What this case is really about is the awful, terrible, tragic things that took place when Miss [victim]'s life was lost. I want to talk about three things about that first and whether they tell us anything about whether it was malicious or intentional.

* * * It was pointed out * * * that after Miss [victim] was shot, Mr. Brooks fled. He ran; he got a ride, and he got out of the area. And there's no question about it. He had committed these crimes of robbery, rape. There's no question that that day, William Brooks was committing criminal acts and there's no question that he fled as people who commit criminal acts. * * * When crimes are committed, people run and people try not to get caught.

And there's no question William Brooks tried not to get caught. And he fled to Atlanta and he got a ride from other people to Atlanta. But that, again, doesn't tell you that when the gun discharged, that it's proven beyond a reasonable doubt that that gun was fired maliciously and intentionally.

There's also the point that was raised – and I'm sure you'll hear about it more this afternoon – about Mr. Brooks should have called for help.

And, of course, he should have. Of course, he should have never done any of these things to begin with. Of course not. And, of course, he should have never gone to that lady's home. He should have never done any of the things that happened here. And, of course, after that happened, he should have done what a good citizen like you or I would do, go and call 911 or go and flag down help. And, of course, he didn't do that.

But that, again, ladies and gentlemen, is just like what I said about fleeing to Atlanta. That tells you about what was going on, about the fact that there were crimes and about the fact that he left after the crimes were over, but it doesn't tell you with regard to that gun discharging. It does not answer that question.

* * *

There were all kinds of other things that could have happened and there were all kinds of other things that should have happened. And a lot of terrible, bad things did happen. But the question before you is when that gun was discharged, was it done maliciously and intentionally. And is there a basis for doubt that it was done maliciously and intentionally?

* * *

You've heard Officer [relating the confession]. * * * And you heard that it wasn't just, "I did it and it was an accident. The gun went off and I didn't mean for it to happen." You heard [the officer] testify for some length of time with regard to that statement. It was a long statement. It was a detailed statement. It went into great detail about everything that happened. It told about going to that house and about confronting that lady that day, about going into the laundry room. It didn't mince any words. It said that she was made to get in that car with that gun, that that gun was displayed to her right then and she was forced to do that against her will.

It didn't say, "I walked down the street and I met a lady and we decided to take a ride together and things got out of hand." It didn't say, "We got in the car and we rode off together and we decided to have sex and then things got out of hand." That statement tells you in great detail about going in and putting the gun on that lady, about making her

go where they went and about what happened there. And as Dr. [pathologist] pointed out to you this morning in his testimony, the details of that statement all the way through, ladies and gentlemen, are corroborated by other independent evidence that you heard in this trial.

The conversation in the carport and the lady being in the room, the mother. That's exactly what Ms. [mother of the victim] told you in her testimony what happened. * * * The fact that every detail in that statement paints as dark and as bad a picture of himself as it could be, with regard to all of those things, everything that we have heard in this trial corroborates that. It says that it's the truth.

The prosecution wants you to take that statement and take every bit of that statement and send this man to the electric chair on it – *except one sentence about the gun firing accidentally*. They say to believe everything in it except one sentence. They say that one sentence is not true, but everything else is. I suggest, most respectfully, you can't have it both ways.

* * *

And, you know, ladies and gentlemen, when this gun – and I'm sure you'll see that gun demonstrated many a time in Mr. [prosecutor]'s closing argument – but you remember when that gun was handed up and Judge Lawson said, "Check the gun. Check the gun." Even though it had already been checked, Judge Lawson said, "Check the gun." Why? Because there could be an accidental shooting right here in this courtroom. That's why.

And you notice that even after that, when Dr. [ballistics expert] was given the gun, that expert, even after it had been checked before, even after it had been checked in open court, what was the first thing he did? He flipped that cylinder out and took a look at it. He checked that gun again, and why? Because he did not want an accidental shooting in this courtroom. He knows that even in the hands of a person like himself, that gun can discharge accidentally. And he explained to you how that could be in a variety of ways.

And, again, they came back and asked you, Mr. [prosecutor] asked him, "Well, it could have been this way. It could have been that way. This is

possible and that's possible. It's possible that you squeeze that trigger and shoot and mean to."

Yes, it's possible that you cock that hammer back and that this finger comes forward and that you think you've got it cocked back and it slips and that hammer goes down and it discharges and that gun fires. That's possible, too.

But the burden on the State, again, as I talked about a moment ago, is not to tell us all the things that are possible, not to say, "Well, there are a number of different possibilities out there. It could have happened one of three ways or it could have happened one of two ways."

And what Dr. [ballistics expert]'s testimony, I think, helps you with, as you think through this and think through whether this is a reason to doubt, and you look at this statement Mr. Brooks gave, it says, "I cocked the hammer back and the gun went off." Could that happen? Is what we know about guns and how guns work and how guns discharge consistent with what is in the statement? Yes. The evidence is that it is consistent and that evidence is another reason to doubt whether this shooting was, in fact, intentional and malicious.

And what it tells us, too, is that even when people do very bad things, guns can be fired accidentally. Even when Dr. [ballistics expert] is examining firearms, they can go off. Even when people are using them for other reasons and unlawful purposes, they can go off and be fired accidentally.

* * *

The fact that what took place here was horrible, tragic, reprehensible – every word that you want to put on it – and I attach all those to it, I feel as much sadness as anybody in this courtroom about what happened, but that doesn't answer the question.

That's not a shortcut around the legal requirement. That doesn't get us to that point of guilty – just by saying that what happened was sad and tragic and awful because it was. I said that when I started. The sad job that you have, and the sad job that I have, the sad job that we all have is to sort through this evidence, to sort through what we've heard here this last week as hard and as unpleasant and as difficult as it is, and look at all

of this and ask us, does that tell us beyond a reasonable doubt that this young man right here, that when he did those things, that when that gun discharged, that it was intentional and that it was malicious.

* * *

And on behalf of William Anthony Brooks, as his lawyer, and based on this evidence that you've heard, and based on the instructions the Judge is going to give you, I ask you, as difficult and as hard and as troublesome as that is on these things, to apply our law to these facts and to find this young man not guilty on the count of malice murder.

The jury, after deliberating for a day, returned a verdict of guilty of malice murder.

DEFENSE OPENING STATEMENT AT THE PENALTY PHASE

During this opening statement, set out below, defense counsel referred to a chart containing the names and ages of each of the children in Mr. Brooks' family.

It's hard for me to get back up in front of you, quite frankly. You reached a verdict Saturday. We respect it; we accept it; we have no choice. And we're here now today [Martin Luther King, Jr. Day], a day that's a holiday for everybody but us, all of us here. But we're doing what Dr. King was so concerned about during his life, matters of justice. And I want to spend a little time with you right now before we put on our evidence going through what we expect to show about the life of the young man that I represent here, William Anthony Brooks.

You've heard about one terrible, awful incident and the crime that we spent all last week on. But, now, we're going to look at a larger picture of his life in deciding between the two most severe, most extreme and most extraordinary punishments that our society has for a person who has committed crimes and gone astray – spending the rest of their natural life in prison or being electrocuted by the State.

And in deciding between those two choices, the way in which we go about it is framed up, of course, by that instruction that Judge Lawson went over with each one of you when you came

up for the jury selection process; that, first, the State has the opportunity to prove aggravating circumstances – any reason that the [prosecution] lawyers over here can show as to why William Brooks ought to be electrocuted. And, as the judge told you then, the fact that someone's been convicted of murder, in and of itself, is not a reason to give somebody the death penalty.

And he told you as well that even if aggravating circumstances are proven – and there's no question that they will be in this case, there are aggravating circumstances. These crimes that we've acknowledged from the outset are aggravating circumstances: the rape, the armed robbery, the kidnapping. Those are aggravating circumstances.

But, even when those are established, you recall the Judge saying, you go to look at mitigating circumstances – anything in fairness and mercy, anything about the life and the background of the human being who is on trial – anything about that life that tells you whether this person is so beyond redemption that they should be eliminated altogether from the human community. Is this a person who is so bad, who is so terrible, that we will destroy them, or is this somebody that can be severely punished by the sentence of imprisonment for the rest of his life?

And in doing that, as I said, we look at the whole life, the good and the bad. If there wasn't some bad, I wouldn't be standing here right now. If there weren't a lot of bad things that William did, we wouldn't be here having a capital murder trial. We wouldn't be talking about which of these two severe punishments ought to be imposed.

We're not suggesting to you with the evidence that we're going to be presenting that William Brooks is a great guy. You're going to meet some people who know him and who love him and who share his life and who care about him and love him. But William Brooks hasn't been a great guy. You know that from what you've heard about in this case.

But what we want to talk about here is this young man – who has hurt people, who has sinned grievously against man and against God – what are some of the forces that pushed him in that direction? What are some of the things that made these things come to pass in the life of this young

man? What kind of life did he have compared to the kind of life that other people have? And what does that tell us in terms of understanding a part of what happened?

And I want to make this clear. Mr. [prosecutor] said at the end [of his opening statement about the expected defense evidence], “does it excuse what happened?” *Nothing that we're going to present will excuse what happened.* There's no excuse for it. And the Judge will tell you that mitigating circumstances are not things that excuse or justify the crime. Mitigating circumstances are things about the life and background of the person that tell you who this person is and how do you punish them in choosing between these two punishments.

We're going to tell, with our witnesses, the story of a life and it's a hard story to tell. So much of what we do in Court is talking about an incident. Like what you heard about before, you heard about a morning at the first part of this trial, what happened that morning when Ms. [victim] was kidnapped and taken and robbed and raped and the shot was fired. And so often in Court, we talk about, you know, was the light green or red when somebody ran the light. We're talking about split seconds of time or an hour or a day. We're going to tell you about a life and that's a lot harder to do.

We're going to present this evidence through members of William Brooks family and others. A lot of the witnesses that you're going to hear from, ladies and gentlemen, are people who have been trying to forget horrible and tragic things that happened in their lives. They've been trying to forget for the last thirty years. And now, they're going to be called upon to come in Court and relive some family violence, some abuse, some neglect, some mistreatment that happened to them and that happened to their brother as he was growing up. And about some loss. Losses over and over during this life.

I want to take you all the way back to the start. William Brooks was born in 1955. He was born in a military hospital in France. And the reason he was born there is because his father was a career military man. Sergeant Brooks devoted his life to this country. He is no longer in life today. He was murdered on the streets of Columbus, Georgia, about fifteen years ago.

He was married to Beatrice Brooks. That's William's mother. And they had a marriage of eighteen years. I want to [use this] chart * * * just to introduce you to the people in this family. * * *

The two parents that I told you about, ladies and gentlemen, had six children right here. [Indicating to six middle children on the chart.] Shirley, a girl, is the oldest. She was born in 1948. John, the second oldest brother, and Beverly, born in 1951. Then Marvin, a brother, and Gwen was born in 1953. And, then, as I said, William was born in 1955. He was the baby of this group of children. I put these dates by these people because they're going to be testifying. And I want you have a sense of how much older or younger they are than William. You can see that Shirley is quite a bit older. She was born in 1948 and William in '55. Gwen is his sister just two years older and she was closer to William than any of the other sisters and brothers in the family.

Now, William's mother had two other children, Frederick [*indicating child at the top of the chart born of a marriage before the marriage to Sergeant Brooks*] and Jonathan [*indicating child at the bottom of the chart born of a marriage after the marriage to Sergeant Brooks*] both by other husbands. Frederick is career military. He served twenty-six years and he's now in Saudi Arabia. And Jonathan is also in the military and is on the way to Saudi Arabia right now.

So, those are the children that were born of this marriage. And, as I said, you're going to hear from some of them over the course of this trial.

William Brooks experienced problems even before he was born, even when he was in the womb. He was born in that hospital premature. He spend the first month of his life in an Army hospital in an incubator and being treated because of his prematurity. He weighed only six pounds when he left the hospital. He was in poor health during the early years of his life. About six months after he was born, Sergeant Brooks was transferred to Fort Campbell, Kentucky, to the military base there. And William spent more time in the hospital there.

And at about age two, when William was two, he and his family moved to Columbus, Georgia, because Sergeant Brooks was assigned to the

military base there, the Army base at Fort Benning. And in a way, that was a coming home for the family. Both Sergeant Brooks and his wife were from Columbus. Their families were there. Their parents and even one set of grandparents were still there when they got back.

But when they got back to Columbus, this marriage that had gone on for however long I said, about eighteen years, suddenly, for reasons that are not completely clear, started falling apart. One reason may have been that Beverly [one of the children] spent all of one year in the hospital right on the verge of death and that her father just had trouble dealing with that. It may have been the in-laws. We don't really know. But we know that Sergeant Brooks started drinking heavily. And all of a sudden, what had been a fairly good marriage, and had produced these six children right here, went to hell.

There first started being fights – verbal fights at first – between Sergeant Brooks and Mrs. Brooks over trivial things, about how the table was set, how the dishes were washed. They escalated to physical fights, slaps and fists and tearing of clothes. They escalated to accusations of infidelity and that sort of thing and to higher levels of violence, of Mrs. Brooks taking a high-heeled shoe and attacking her husband, of him taking the shoe away and repeatedly hitting her on the head with the shoe. She had to be taken to the hospital and have her head stitched back together from the injuries inflicted by this shoe. And little William – he was only about four or five years old right then – he saw the two most important people in his life, the most important man in his life hitting the most important woman in his life with that shoe when he was about five years old.

But that wasn't all. There was a broken nose; there was a broken toe; there was an argument at dinner on night and Mrs. Brooks mad about it, grabbed the coffee that was cooking there and threw it on Sergeant Brooks. He had to go to the hospital – third-degree burns. Little William was there. He saw that.

There was a time when they got in a fight and she took some scissors and she stabbed Sergeant Brooks right in the eye.

Every weekend, Sergeant Brooks came home drunk. Every weekend, they picked a fight, quite

often, physical; quite often, down on the floor; people hitting each other, fists, weapons, whatever it was. And it finally got to where the older children, these folks [*indicating on chart*], Frederick and John – they were big enough that it got to be where they could fight their father off. And the fights would start and they would get on top of their father and try to pull him off their mother. There were times when Frederick actually knocked his stepfather unconscious. He once took a log and threw it at his stepfather and hit him in the chest and knocked his wind out and knocked him unconscious. He once threw a brick at him and hit him in the head.

The little kids, they couldn't do much. They would stand and scream and cry. Little William would often wet himself or run out of the house screaming because there was nothing he could do when all the rest of his family – even some of the girls like Shirley – would be piled in trying to stop these fights.

There were times when Sergeant Brooks would come home and pick a fight and throw the whole family out of the house. People on the military base would be disrupted in the middle of the night because there was a fight down at the house. And all of a sudden, they'd look out their windows and there would be Mrs. Brooks and the children running down the street and Sergeant Brooks yelling at the door. And she'd run down the street and go to a neighbor's and huddle the kids there and call the grandparents on the phone and have her parents come and get them. Finally, a sort of a preemptive strike, I guess you could say, she started on Friday evenings just taking the kids to the grandparents. And they knew why. They fled their own home and their own father because of what was going on.

Not surprisingly, of course, the marriage split up. Sergeant Brooks was reported to the MP's so many times and arrested so many times that, finally, he was court-martialled. He was a career military man. He'd been all over the world serving his country. He was thrown out because he was constantly drunk and violent. And they had to leave the home on the base. The family moved into another home in town. And you would have hoped that this family might get some peace and solitude after all this. And little William, now –

eight years old when his parents separated – a third grader.

But, unfortunately, the problems got worse instead of better. Because Mr. Brooks got worse instead of better. Because Mrs. Brooks would move and Mr. Brooks would come to the house and try to get her back. And Mr. Brooks would come to the house and hide out and wait for her and fights would break out. Mr. Brooks would come to the house and get the children to let him in and fights would break out.

* * *

One time, the children were at home and Sergeant Brooks was drunk and he came to the home and you'll hear testimony that he started throwing bricks through the window, one window after another all the way around the house. And Shirley, the daughter, she had heard [*her grandfather*] explain to Mrs. Brooks how to use a rifle because the family was having so many problems. She took it. She got off three shots and she shot her own father in the hand. Little William was lying on the floor in the house while the bricks were coming through the window and while his sister was shooting at his father.

The evidence will be as well that despite all these problems, and all this drinking and all this fighting, William Brooks loved his father. All these kids loved their father. They were always in a conflict between these parents and what to do with this father and whether to lie to him and whether to run from him.

* * *

Arrests were frequent. Sergeant Brooks was arrested over and over and over. A lot of times the police would come. I'm sure some of you know about domestic disputes. Sometimes they'd come and they'd just let everybody cool off and make him go somewhere else. Sometimes they'd put him under arrest. The children were often involved in calling the police on their own father. One time, there was a fight downstairs and they ran upstairs and made a rope out of sheets; threw the sheet out the upstairs window and one of the littlest kids slid down and ran to the police station. The family didn't have any money at that time. They didn't even have a phone.

Mrs. Brooks, because of all these problems and because she was not getting any support – William’s mother had to go to work. She was working two jobs. She worked 7:00 to 3:00 and 3:00 to 11:00. That left her a lot of time with her family, didn’t it?

These kids raised themselves. These kids here [*indicating on the chart*], the older children, they were getting up there in age. They were able to take care of themselves. Sometimes, just a little bit later than all this, Frederick left for the military. So, he was gone. Shirley married somebody in the military. She moved out because she got married. John went to Vietnam. Beverly went to college. These children [*indicating on the chart*] remained at home.

William, the youngest of these children, the one who saw so much of this, had the least, ladies and gentlemen, in terms of coping with it. William isn’t as smart as all the rest of us. That’s the best way I can put it. William was slow right from the start probably because of some of those injuries that he suffered at birth or before birth. His IQ is just a little over 70. He’s right at the borderline between mentally retarded and not mentally retarded. He had a serious problem stuttering, getting his words out. The more excited he got, the more he stuttered. The more violence there was in the home, the more disruption, the more confusion, the more William stuttered. Kids made fun of him because he was slow. Kids made fun of him because of the family violence that everybody knew about because it happened in the streets; it happened in the home.

William had a hard time in school. We’re going to introduce his school records. He made bad grades from the very first grade. He went one through eight. And, of course, back in those days, ladies and gentlemen, they didn’t have a lot of the special education programs that we have today. They didn’t have special programs for someone like William who has learning disabilities. And he just sort of struggled.

These girls [*pointing to chart*] were real good students and they had teachers who took a lot of interest in them. And they did real well. Beverly works for the General Accounting Office. Gwen is a respiratory therapist at Georgia Baptist Hospital. They survived. William didn’t have

quite as much to cope with in terms of trying to survive.

William Brooks gets to be twelve years old and, all of a sudden, there’s a little peace because Mr. Brooks has been arrested so many times that he leaves Columbus and goes to live with some relatives in Ohio. And one would hope that maybe again this is an opportunity for this family to regroup and pull itself together. Tragically, things got even worse.

In 1967, William’s mother married a man named [*stepfather*]. * * * And this man said if she would marry him, he would buy her a house – a nice house out in a nice part of town. And with no consideration of love in the deal at all, she married that man to get a home for her children. And they got married and they moved out to a nice sort of ranch-style home.

But they paid very dearly to make that move, ladies and gentlemen, because, now, the violence that William Brooks had watched so much of and had occasionally been a victim of – the father had kidnapped him and his sister a couple of times – but now, the violence turned on William Brooks. Because the man that his mother married was a child abuser.

* * *

William Brooks carries scars on his back today, ladies and gentlemen, from what happened in the next few years of his life. He’s got scars on his back today from times when his stepfather, would take him in a room; make him take his clothes off; lock the door so that nobody else could get in; take off his belt and whip him, not with the front part of the belt, but with the buckle of the belt on his shoulders and on his back and down his back cutting scars in that back that are still there today.

His little sister, Gwen, remembers coming home back at the projects before they moved and there being a crowd of kids outside the window there of the house, and she could hear the screaming before she got there. And all these kids are listening. And there are only two people inside their house, [*stepfather*] and little William. And William is screaming and she can hear the whacks coming down as she comes in. And she goes to the door of the bedroom and she can’t get in. It is

locked. And she beats on it and she beats and she yells.

And, finally, [stepfather] opens the door and she sees him covered in sweat, William covered in sweat; his back bloody from what is taking place, screaming. [Stepfather] tussles with her and puts her out. She runs across the street to the playground to try to find somebody to help, to try to find one of these brothers, Marvin or John, to come and stop this beating. She can't find them. She comes back. [Stepfather] is gone. Her brother is crying and screaming and has got these cuts all over his back.

[Other abuse described] * * *

William started running away from home. That would be no surprise given all that was going on at home. You'll hear from Mr. [juvenile probation officer called by the state]. William was in trouble as a juvenile. That's true.

What I think all this evidence shows you, ladies and gentlemen, and tells you is not that all these horrible things that happened to William Brooks while he was growing up make it okay for William Brooks to do horrible things to other people. I'm not saying that for one minute. But what the evidence that we're presenting to you will show is that this kid right over here, William Brooks, the big guy that I represent, he wasn't dealt a full hand at birth. He wasn't dealt the hand that you and I were dealt in terms of intelligence, in terms of ability to cope with life, in terms of what was coming down the road for him.

The evidence that we're going to present will show that this big guy over here, that when he was growing up, at a time when you and I, when our children are out on the playground playing with other kids, when they're reading stories with the family, when they're sitting on their parents' knee, when they're playing with their grandparents, when those kinds of things were happening in our lives, William Brooks was witnessing the kind of violence and the kind of fighting and the kind of turmoil that nobody ought to ever have to see in their whole life. When most children are learning values and learning respect and learning how to deal with each other – how to deal person to person and how to feel their way in our world – unfortunately, William was learning that one way

to do things was to do it through violence or to take what you want.

As I said, ladies and gentlemen, that doesn't make anything that William Brooks did okay, but it's something that you can take into account when you think about how to punish William Brooks for the awful crimes that were committed. But as you hear this evidence, there's one thing that I ask you to keep in mind: *William Brooks has been punished his whole life*. William Brooks was punished before he was born; when he was two; when he was four; when he was five; when he was eight. This kid's been punished and he's going to continue to get punished.

And given all that, after you've heard all this evidence, we'll ask you to impose a sentence that's severe, that's extraordinary: to put William Brooks in prison for the rest of his natural life for what he did, but not to kill him.

Thank you very much.

THE EVIDENCE

The State presented a probation officer who testified that Brooks had been in trouble as a juvenile and had a bad reputation.

The defense presented Brooks' mother and three sisters, who testified in detail about family violence and abuse he suffered from his stepfather; two persons, who lived on the military base and observed some of the family difficulties; a social worker, who described the impact of the family disruption and abuse on Brooks; a psychologist employed by the Department of Corrections, who had observed Brooks in prison and found his adjustment good; a former prison warden from another state, who examined Brooks' prison records and testified regarding his adjustment; and a minister, who described his sessions with Brooks.

Direct Examination of Mother of Defendant

Q. Ms. _____, I want you to tell these ladies and gentlemen of the jury, first of all, your name.

A. My name is _____.

Q. And please tell us where you live,

A. I live at [address]

Q. Where are you employed?

A. I'm employed with [employment]

Q. And what do you do?

A. I'm a private nurse.

Q. Do you know William Brooks [the defendant]?

A. Yes.

Q. How do you know him?

A. He's my son.

Q. How many children do you have, Ms. _____?

A. I have eight.

Q. I want to just show you a chart that I drew up. It's been marked as Defense Exhibit Number 3. Why don't you just come down here, if you don't mind?

* * *

Q. Are those your children?

A. Yes.

Q. Just go through for the jury each one of you children just very briefly who they are.

A. Frederick, my oldest son, is in Saudi Arabia right now.

Q. All right.

A. Shirley is my oldest daughter. She's here. John is my next son. And Beverly is my next daughter, which is here. And Marvin is my next son. Gwendolyn is my baby girl, which is here. And William is my next son. Johnathan is my baby son which is in Saudi Arabia.

Q. All right. I have some birthdates marked on there. Do those appear to be right for Shirley, Beverly, Gwen and William?

A. Yes.

Q. And do I have it correctly paired up here that these six children are the children of you and Sergeant Brooks?

A. Right.

Q. And I take it Frederick and Johnathan are children by other marriages? Is that correct?

A. Yes.

Q. Where was William born?

A. He was born in France.

Q. And how did it come about that William was born in France?

A. Because my husband was transferred to France and the kids went over, also, with him.

Q. Now, were there any problems with William's birth?

A. Yes. He was an eight-month baby and had a problem. Right now, I don't know what the problem was. But he stayed in the hospital for awhile after he was born. And they didn't think he was going to live.

Q. Do you recall about how long he remained in hospital?

A. He remained in there about three month after he born.

Q. Now, do you recall about how old William was when the family left France?

A. He was still a baby because he was born in '55 and we left in '55. We left the end of the year in '55.

Q. Where did you go after you left France?

A. We went to Fort Benning – Columbus, Georgia – Fort Benning.

Q. Let me just ask you if you ever recall moving to Kentucky, Fort Campbell?

A. Yeah, we was transferred to Fort Campbell. We went to Fort Benning to see the family, but he was transferred to Fort Campbell, Kentucky.

Q. How long did you stay at Fort Campbell, roughly?

A. About two or three years. William became ill there. also, and he was hospitalized. I don't know what the problem was right now, but they had needles going in in both sides of his head and his sides and he was just there for a good while.

Q. Where did the family – where was Mr. Brooks next stationed after the two years at Fort Campbell, Kentucky?

A. Martin Army Hospital at Fort Benning, Georgia.

Q. And that's near Columbus, Georgia; is it not?

A. Right.

Q. Now, did either you or Sergeant Brooks have family in the Columbus area?

A. We did.

Q. Who did?

A. My family was there and his family was there, also.

Q. Both sets of parents: your parents and his parents?

A. Yes.

Q. Let me ask you this. How long were you married to John Brooks?

A. Seventeen and a half years.

Q. And up until this time when you moved back to Columbus, had John been a good provider and a good husband?

A. Yes, he was a good husband and a good provider. He loved his kids.

Q. Is he in life today?

A. No, he's dead.

Q. After you moved back to the States, Fort Campbell and then Fort Benning, did you begin to experience any problems, you and your husband?

A. Yes. He began drinking and he would be changed. There was always arguments and fights after we got back and he started drinking a lot.

Q. You said fights. Tell us what these fights were like.

A. Well, he would hit me and I would hit him back-and we would tussle for awhile. And the kids were there to see these things. And by William being the baby, he just cried. And he'd get hysterical. And he'd shake. He was very easy to get upset. And, then, we'd end up stopping or he would leave so the kids would quit crying.

Q. You said hitting. Hitting with what, now?

A. With his hands, fists.

Q. Would these blows sometimes draw blood?

A. Yes. He broke my nose at Fort Campbell, Kentucky. I had to go to the hospital.

Q. Were there ever any other times that you had to go to the hospital?

A. Yes. My toe was broken at Fort Benning. And he hit me in the back of the head with my shoe heel and I had stitches in the back of my head.

Q. How did that happen? Did he hit you in the back of your head with your shoe heel?

A. Yes. He had been out drinking and came back and dumped me out of the bed and we began fighting. And I took the shoe and hit him with it and he twisted my arm and took the shoe and hit my in the head with the heel of it and I had to go to the hospital for stitches.

Q. Was there blood?

A. Yes.

Q. Were the kids there?

A. Yes.

Q. Was William there?

A. Yes.

Q. Where there times you inflicted injuries like that on him?

A. Yes. I scalded him once.

Q. How did that happen?

A. It was at the table. And he refused butter for one of my kids. And I made a statement to him and he slapped me. And I had the coffee pot on the table where we always had coffee and threw it on him. And he was scalded and he had to go the hospital.

Q. What kinds of burns did he have?

A. He had third-degree on his chest – because the coffee – I always left it on the stove boiling until we all sat down for breakfast. Then I took it off and put it on the table.

Q. Were the children there at the table when this happened?

A. They was all at the table and they all began crying and screaming. And he left and went to the hospital.

Q. Was little William there at the table when that happened?

A. Yes, he was there. He was crying and screaming, which he always does. He's very easy to get upset.

Q. Were there other times when you inflicted injuries on him that required him to get medical attention?

A. Yes, he went out and got drunk one night and started fighting. The kids was crying and they came down the stairs and he threatened them and made them go back upstairs. And they came down anyway and he hit one of them because one of them stayed down and wouldn't go back up. And I hit him because he hit the kid and he grabbed me. And the only thing I could reach was pair of scissors and I hit him with the scissors and cut his eye duct.

Q. Cut his eye duct?

A. Yes.

Q. And he had to go to the hospital for that?

A. Yes, he had to go to the hospital.

Q. How frequent were these fights as the years went on, as time went on?

A. Every weekend – every weekend. And it got to the point that I had to leave home every Friday with all the kids and go to my parents and stay until Sunday evening and I'd come back home. Because he'd drink from Friday night and he'd ease up when it was time to go back on the Post.

Q. Now, when you would make these weekend trips to, I guess, your mother and father's; right?

A. Yes.

Q. Did the children know why you were going?

A. Yes, they knew. They were ready to go, also, because of the hassles they had with him doing what he did.

Q. Was there a great deal of fear?

A. Yes, there was.

Q. When these fights that you've described, both the ones with just hitting as well as the more – the ones that required hospitalization – how did the children react to the fights, and in particular, William?

A. William cried all the time and he'd get so upset that you couldn't understand anything he said. And the other children would try to comfort him, but he was hard to stop from crying. And he'd get upset real quick more than the other kids did.

Q. Now, how long did this go on, this period before you separated from Sergeant Brooks? Just roughly in terms of years?

A. It went on about two or three years. From the moment we got to Fort Benning, every weekend, he started going to town and getting drunk. This happened every weekend and it got to the point, some weekends, I wouldn't come back home. And he threatened me and the children if we didn't come back home. And he threatened to cut up everything in the house if we didn't come back home. So, I didn't come back that weekend because I was afraid. And he cut up everything in the house – my clothes.

Q. What do you mean he cut up everything in the house?

A. All the clothes, all the furniture. He kicked in the TV. We were still on the Post at the time.

Q. This was at Fort Benning?

A. Right.

Q. Living on the Post in Government housing?

A. Right. And I thought he was kidding. And then, he talked real nice and he asked me to come back home. So, I went on the Post and the kids had to go to school. Some was going to school on the Post and some was going in town. And I went back home. And he was good during the week until the weekend and the same thing would go all over again. I had to call the MP's.

Q. Were there often times that the MP's were called?

A. Yes.

Q. How often, would you guess, that the Military Police would be called?

A. They would come just about every week.

Q. What would they usually do when they got there?

A. He would argue with them. They'd take him on the Post and take him out and try to talk to him. And one of the MP's told me to – could I seek help for him. So, I went to the Chaplain and went to see – and the Chaplain got him so we could go see a psychiatrist. And he said he wasn't going to go unless I went. So, I told him I would go with him. And we went once and he felt that the psychiatrist was just going along with me and he wouldn't go back anymore.

Q. Now, you've told about that cutting up. What was everything cut up with, with what instrument?

A. I don't know if it was a knife or scissors. I wasn't there. I just knew that everything was sliced. The side of the couch, the pillows and all of my clothes.

Q. The children's clothes?

A. No, he didn't bother the children's clothes; just mine.

Q. Tell us whether or not the children ever got involved and, if so, how?

A. Yes, the children got involved. The boys would try to get him off if he throwed me on the floor. And my oldest son told him to – he wouldn't stop fighting – I think that's when I broke my toe. And he got up and jumped out the window and told the kids to tell me to come out the door whenever I got a chance to. And when he came out he would have something to hit him with. And that happened. And he ran behind me. I was going to neighbor's house. I used to go to the neighbor's house if couldn't get to my mother and father's. And my oldest son was outside. And when he came behind me, my oldest threw and hit him with a log and knocked him out.

Q. You're talking about Frederick, your oldest son?

A. Right.

Q. Now, was little William there when that happened?

A. Yes. He was still upstairs crying and the other kids was trying to get him quiet because he gets like hysterics when he gets upset. And he gets so shaky and he would urinate on himself when he get that way.

Q. Did William have a problem with his speech?

A. Yes, he had a real bad problem with his speech. And when he got upset and shaky, he couldn't even talk.

Q. What was his speech problem?

A. I don't know for sure what his speech problem was but he stuttered a lot. And when he'd get upset and shaky, you couldn't understand anything he said.

Q. Now, did there ever come a time when you and Sergeant Brooks separated?

A. Yes, because we lived in pure hell.

Q. Excuse me?

A. That's when we lived in pure hell.

Q. All right. After that?

A. After we separated.

Q. When you split up, where did you go?

A. I moved in an apartment in the projects. And I asked the kids not to tell him where I moved to.

Q. Now, tell us how the children were divided between you and your husband.

A. All of them went with me.

Q. All right. Go ahead.

A. And I told the children, "Don't tell him where I live so we won't have any more problems." So, what he would do, he would follow them from school. And all the other kids ran and William and Gwen would be the ones that got caught. And he would threaten them and they had to tell him where I lived. And once he found out where I lived, he would come around and we'd go through the same thing all over again. Then I had to end up moving again.

Q. How much during this time period after you and he separated – how often were you moving?

A. About every four to five months. I moved one place to another.

Q. Why were you moving so often?

A. Because everywhere I moved, he would come and interrupt the family. He wanted me to come back and we would fight and the kids would get hysterical and they'd run and they'd call the police. And William, he'd just go to pieces because he was there and the other kids was gone. And he would keep Gwen and William sometimes two days until the oldest boys would get them back.

Q. During this time, what was your work schedule? Were you working?

A. Well, I was working at the hospital and I worked in private home because that's the only way I could support the kids. I had seven of them and they was all in school. And went to work from 7:00 to 3:00 and, then, I went straight from there on a second job from 3:00 to 11:00.

Q. And did you and Sergeant Brooks every try during that time to reconcile?

A. Yes, we did once.

Q. What happened?

A. He got violent. He was out of the service by this time. And he got violent there and he threw all the food – I cooked breakfast for the kids – dinner for the kids. And he went out on a Sunday and got drunk and came back and he ate and threw all the food out that I had cooked for the children.

Q. Had the children eaten at that time?

A. No, the children hadn't eaten.

Q. Where did he throw the food?

A. He threw it outdoors.

Q. In the yard?

A. In the yard.

Q. Okay.

A. And I got in an argument and told him that my kids had to eat just like he ate. And he hit me. And I got a vase and I beat him with it. And he was going down to the floor and my kids stopped me. And I left and went to my mother's.

Q. How severely was he hurt that time?

A. He just had a few bumps on his head because the vase didn't break.

Q. Okay. How many times did you hit him with the vase?

A. I don't know. I just went crazy.

Q. Was there ever a time when he threatened harm to the whole family?

A. Yes.

Q. Tell us about that time.

A. I was trying to get a divorce and he came to the house and we wouldn't let him in. He tried to tear the door down. He told one of the children to let him in and they talked to me and said, "Mama, maybe he won't fight this time." So, I opened the door and he came in and argued and we went through the same thing all over again. And, so, the same thing. And I went and talked to his mother to see if we could send him to Milledgeville.

Q. Send him where?

A. Milledgeville – mental institution. To a mental institution because he was arguing with the policemen. You know, they'd put him in jail and he never stopped talking; he never stopped arguing. He threatened that if he couldn't have me and the kids, he would kill me and the children and himself, too. So, I went trying to get a divorce. And every time I'd go to the lawyer's office, he'd show up and he'd try to catch me in the lawyer's office and I'd have to run back there behind their desk with them – behind them to keep him from bothering me. And he told the Judge that he would not take care of me or the children and if he couldn't have all of us, he would kill all of us and himself, too.

Q. Now, the first time that he made that statement about killing everybody, was that in the presence of the children?

A. In the presence of the children, yes.

Q. You've described on the Post the MP's. When you were off Post living these various places, tell us whether or not there were times that the civilian police, the Columbus police were called?

A. Yes, they was called every time we fought when he'd come around the house; And I moved. My father got an apartment next to him and I moved where they were. And he was explaining to me – my husband would come at night. He'd find out where. He caught William again and he found out where I was living, that I was close to my mother and dad. So, he'd come and he started breaking windows. So, my father brought a friend and put in the windows and nailed down all the windows. And he brought me a shotgun and he told me that if he come in and tried to hurt me, to shoot him.

So, I didn't know the kids was listening because I was working at night and my mother and father would look after the children while I was at work. And he did come around and start breaking every window and my oldest daughter fired and shot him in the hand.

Q. How long did this period of separation and violence you've described – how long a period, just to your best estimate, are we talking about there?

A. This went on up until he left town. He would ask me to come and talk with him. He wasn't drinking, he said. And I would try because of the children. And I thought that maybe everything would be all right and they could be taken care of. I was tired of working two jobs and I didn't have any time for the children, which I'd always been with the kids when they were younger. And working two jobs, I had no time to discipline or do anything. And I went to talk with him and I got beat up again in the streets in the railroad track. And the boys followed me and got me home that time.

Q. You said there finally came a time when he did leave?

A. Yes, he left Columbus.

Q. After that time, did you end up – did there come time when you met another man that you ultimately married?

A. Yes, I married again.

Q. What was his name?

A. His name was Allen [Stepfather].

Q. How'd you meet him?

A. I met him through visitation of my daughter' boyfriend. They were both in the service.

Q. What was the age difference between you and Mr. [Stepfather]?

A. I was twelve years older than he was.

Q. I beg your pardon?

A. I was twelve years older than he was.

Q. Did there come a time when you did marry him?

A. Yes, I did.

Q. And why?

A. I didn't love him, but he said he'd care for me. He wanted to put me in a house and I was working in the projects

and working two jobs. And I thought this would be some assurance the kids would be in a decent place and would have more income to buy the things that they needed and to help them in school. So, he wanted to buy me a house and we went to buy a house. And didn't marry him then, but he came and picked me up and asked me look at the house and I did. And he told the peoples that we were married and I knew it was Government because he got on GI Bill, so I married him because he told the peoples we was married and he was buying this house.

Q. How did this new man, . . . how did he get along with your children that you already had?

A. He did at first, but that wasn't too long. As soon as we moved in the house, all that changed. He didn't get along with them at all. He would always aggravate William. He would always harass William because William couldn't speak good. And he was the onliest one that was home most of the time because he was the youngest one.

Q. When were you working during that time?

A. I was working at the Medical Center then.

Q. And what kind of shift system did they have?

A. We had a rotating shift. Sometimes I was there – sometimes I worked from 7:00 to 3:00 and sometimes it was 3:00 to 11:00 and sometimes it was 11:00 to 7:00. I wasn't home all the time.

Q. I see. How did he get along with your son, William?

A. He didn't. He would harass him and tease him and he whipped him, too. He whipped him one time with a belt buckle. And I had gone to the store and I come back and Gwen met me screaming and hollering saying that Allen was whipping William. And I went to check on him. I heard him hollering and I went to the door and the door was locked. And I couldn't get in. I couldn't push the door in, so I called my son, Marvin, to help me break the door in. And I broke the door in and William was bleeding and screaming and he couldn't talk. He couldn't tell me what was going on. And I know -- you know, I love my kids. I love William and if I had it to do all over again, I'd probably do it differently. I took William and took care of his wounds and didn't call the policemen. But I took him and tried to take care of his wounds and console him.

Q. What did you do with Mr. [Stepfather]?

A. He left.

Q. You said there was blood. Where was the blood?

A. On his back. He had beat him with a belt buckle.

Q. Now, you had some sense that something might be wrong at your house?

A. Right.

Q. And before you came in and saw that scene that you just described, were you able to tell what was going on?

A. The only thing – the children used to tell me things and I confronted him with it. And he said the children was lying because they didn't like him. And I believed him because the kids would always tell me something. And when I'd confront

them, they'd say he was lying and he would say the children was lying. I didn't know who to believe. Then, I started calling him from work. And when began to believe the kids was telling the truth was when this one incident, he was beating William and I was at work. And Gwen had to call my mother and father to come out there and stop him. That's when I started believing the kids.

Q. Now, did there come a time when this man, was physically abusive to you as well?

A. Yes.

Q. When was that?

A. Anything that I argued about with him about the kids, kids he'd deny it and there was a fight. And I said, "The kids haven't lied about you beating them before." And I said, You had no reason to. If they disobey you, then you can punish them, but you don't have to beat them. And we'd argue and fight about that, also.

Q. Was there ever a time in your arguments and fighting with Mr. [Stepfather] that firearms were used by either one of you?

A. Yes.

Q. How did that happen?

A. I had put him out for beating William and he came back for some of the things that we had in the house. And I told him he couldn't have them because I bought them. And he slapped me. And at that time, I shot him.

Q. Where did this take place?

A. It was on Eisenhower Avenue in the house that we had bought.

Q. What part of the house?

A. This happened in the living room.

Q. And what happened when you shot him?

A. Well, the bullet ricocheted. By me being nervous, it hit the table and ricocheted, hit him in the hand. And he got upset and he left.

Q. Where was William when that happened?

A. He was standing right in the door crying as usual.

Q. Did there come a time when your marriage to Mr. [Stepfather] ended?

A. Yes, it did.

Q. How long were you married to Mr. [Stepfather]?

A. About two or three years.

Q. Do you love your son, William

A. Yes, I do. I love all of them.

Q. Thank you.

**CLOSING ARGUMENT
AT THE PENALTY PHASE**

There are references to Christianity in the closing argument. It was learned on voir dire that all the jurors were members of Protestant Christian denominations.

MR. BRIGHT: May it please the Court, ladies and gentlemen of the jury.

We get down now to the ultimate issue here: Do we kill William Brooks? An issue about as stark and about as great a moral decision as a human being could ever be called upon to make. I've never been in the position that any of you are in. This young man's life is in my hands now, but it will soon be in your hands.

* * *

And I want to take some time to think out loud with you and go back through the evidence that we have heard and talk about these two punishments that are before you. As I said at the start, the two most extreme, the two most severe punishments that our law has: death by electrocution, the elimination of human life by 2200 volts of electricity, or imprisonment for the rest of one's natural life.

And not a life. You know, we talk in these cases about life and death. And it's important just to say at the start that when we talk about what's at stake here, we're not talking about life as you and I know life; life to stroll the streets, life to play with our kids, life to see our parents, life to live our lives, to see the birds, to go fishing, to do those things. That's not the life we're talking about. Life imprisonment.

All through this trial – I don't know if you've noticed it or not, but every day when my client, Mr. Brooks, has come to court, I know he's here because I hear the chains rattling. I hear him in the chains of the State the only time that he is ever out of the prison or the jail to come to this courtroom. A life in chains and life imprisonment. That is the life that we are talking about here and a life that we recognize is an extreme and a harsh punishment for what somebody has done.

The verdict that you render on this great question is what will decide whether this young man lives or dies. It's not up to anybody else.

You've heard about the Supreme Court. Each of you is the Supreme Court today. You are supreme. And the decision that's in your hands, of course, is the supreme decision about whether William Anthony Brooks lives or dies.

I want to spend a good bit of my argument going through our evidence and going through the trial and going through the aggravating and mitigating circumstances. But before I do that, I want to see if I can organize things a little bit and, obviously, I'm doing this from the standpoint of William Anthony Brooks and I'm pleading for his life and you know that. But I hope I'm doing it in a way that helps you in your deliberations, that when you go back and you decide between these two punishments, that the way in which I go through this with you will be useful to you.

And I'd like to start out with you by talking about some things that I think are not the issues in this case, the things that are not before you. And, then, if we can, turn to what we've heard about and how it relates to the instructions that Judge Lawson will give you after my argument.

And the first thing I want to say to you is that this case is not about whether William Brooks will be excused for what he did. A couple of times during his arguments, Mr. [prosecutor] talked about our evidence and what's here and he said, "did it excuse it?" It doesn't excuse it. There is no excuse for what William Brooks did. We wouldn't be here at the penalty phase of this capital trial if there was an excuse for what William Brooks did. And when you consider this evidence in mitigation that we've offered to you, it's not to excuse it. It can't be excused. It's not to justify it. It can't be justified. We're not saying he's not responsible. He is responsible and that's why we're here. Those questions have all been decided. They're put behind us.

The question now is, since he is responsible, since there is no excuse and no justification, how do we punish him? Do we kill him or do we sentence him to the rest of his life in prison? That's the question that we decide here. The evidence that we put in is offered to you to help understand what happened, and I'm going to come back to that later, but not to excuse or justify what he did.

The loss that has taken place here cannot be erased no matter what your verdict is. The loss cannot be erased. Mr. [prosecutor] said I wouldn't talk about Miss [victim]. I'm talking right now about Miss [victim]. This was a tragic, senseless loss of human life. It was a terrible series of crimes that were committed there. And they were wrong and they were bad and they were evil and there's no question about that. And if we could bring Miss [victim] back, William Brooks would sit down in that electric chair. I would throw the switch myself. But what we're talking about here is what punishment do we impose given what has happened, in light of the terrible tragedy, the awful, sadness and the terrible thing that has happened here.

This case is not about not being punished. We're choosing between two punishments. The prosecutor told you this is a "freebie;" that a life sentence would not be punishment. That's not true. You're choosing between two punishments and they're the most extreme, the most severe punishments that the law of Georgia allows to be imposed on a human being.

Society has ways of punishing people besides killing them. He said: "This case – if we don't give the death penalty in this case we ought to take it off the books." Don't believe that, ladies and gentlemen. Think about it now. Think about your own common experiences. Think about the cases in this community. Think about times you've heard about tragedies and killings.

Judge Lawson told you when we were all going through the jury selection, no case requires the death penalty, ladies and gentlemen. No case has to be satisfied by the death penalty. There is no automatic death penalty. It's a matter of looking at everything.

You know, we had a lot of little black children killed in Atlanta a few years ago. There was no death penalty. When Dr. King was shot down in Memphis, there was no death penalty. When those little kids were killed in that church in Birmingham, there was no death penalty. When Medgar Evers was shot down at his home, there was no death penalty. Don't let anybody tell you that it *has* to be a death penalty. No case *has* to be a death penalty. It's a penalty that's considered, but you look at everything, including the life and

background and how this person got to that station in life before you decide if it *has* to be a death penalty case.

It's not about right or wrong. I'll give you right now, William Brooks knows the difference between right and wrong. We never suggested that he didn't know the difference between right and wrong; never suggested that he was insane at the time. He was not. Never suggested that he was not responsible. And we're certainly not asking you to disregard your oath as a juror. We're asking you to *live up to your oath as a juror*, the oath that you took to individually try this case, to individually listen to everything we had to say and they had to say and look at all this and, then, make your own decision about whether William Brooks should live or die.

Let me talk about the crime for just a minute. I spent an hour with you before talking about the crime that took place here. I'm not going to go through all that again. Your foreman said – Mr. Clark said when you came in, it was a tough decision. It was a hard decision that you reached. It was a hard decision that you reached because, as we talked about then, ladies and gentlemen, however you cut it – and it's a close question and a hard question – about that gun discharging.

No question about the other crimes. Ask about the aggravating circumstances? You can go right in and fill them in right now on that form. I told you when I stood up here at the start of the trial that he kidnapped and he raped and he robbed. And we told you about the circumstances of the gun going off and you spent a day agonizing over that and I'm sure discussing it back and forth and you came to the decision you came to. But I'd suggest to you, ladies and gentlemen, that part of that struggle is a reason for voting for a life sentence in this case, the fact that it was a close question, a difficult question, a question that obviously some of you had different views about before you came to ultimate agreement on it. But if there's some lingering question among any of you as to exactly what happened when all those events were going on out there, that's a reason to consider life and vote for life because that goes to the degree of culpability and blameworthiness in this case.

Let me talk a little about the structure and then talk about the evidence. Judge Lawson has already given you one bit of instructions about how the penalty phase works, but I just want to go over them and then talk about them.

He told you first of all when we first came in, in jury selection, the death penalty is never required. It's never required in a case of murder. It's never required even when the aggravating circumstances have been established. If we had not put on one bit of evidence in this case, if we hadn't told you anything about William Brooks's life and about his background and about how he came up, you could still vote for a sentence of life imprisonment even with none of this evidence before you.

The Judge will tell you that feelings of mercy and sympathy – feelings of mercy and sympathy that flow from the evidence – are things that you can appropriately take into account in deciding how to sentence William Anthony Brooks. And in a way, I think that instruction is particularly important because it squares up with what we've all learned growing up as Christians about the place that mercy and compassion have in our life. And, then, this is a place in which our legal system and our upbringing and our views about those sorts of things are connected up. They're not in conflict. The thing that separates our legal system from so many others, the thing that we're proud of about it is that it's one where compassion and mercy can play a role. And much of the evidence that you heard is evidence that you can consider about the role that that plays.

This case did involve mitigating circumstances – what Judge Lawson told you, anything about the life and background of the person. He told you in that opening instruction that if you find one or more of those mitigating circumstances, that can be a reason for giving a sentence of life. And he will tell you, ladies and gentlemen, about the kind of evidence that you heard here, anything about the life and background of Mr. Brooks, anything about his environment, anything about his behavior in prison that makes him a person less deserving of the ultimate and extreme penalty of death.

And Judge Lawson will tell you as well, ladies and gentlemen, that even if I have not talked to

you about it in this statement, even if we did not point it out in our evidence, that if there's anything that in fairness and mercy any one of you – or all of you – thinks should be considered, it must be considered and you are to factor it in, in deciding between these two punishments.

He will also tell you that with regard to mitigating circumstances, you're not required to agree. I hope that you will. And I think that the mitigating circumstances that we're going to be talking about are things that were clearly established and that you will agree have been proven up by this evidence. But the Judge will tell you that even if some of you accept it and others don't, each of you is to make that determination and you don't have to be unanimous, completely in agreement, in order to consider mitigating circumstances.

When we picked this jury and talked to you, we asked a lot of you the question, if you were chosen to sit on a capital trial, would you want to know everything about the life and background of the person? And I think that everybody here that was asked that question – probably all of you – as any good and decent person would, said yes.

And I want to just talk for a moment about the purpose of that evidence. As I said before, it's not to justify or excuse. But when you're sitting here and you're back there making the decision between these two punishments, deciding whether a person lives or dies, obviously, there is a difference in whether that's a human being who's had every opportunity in life, somebody who was born into this world with enough smarts and with the kind of parenting and guidance to get them through life, somebody who was helped all the way and who went to school and made good grades, who went to high school and maybe did whatever and learned a trade. You can look at whether this is someone who had every opportunity and made the decision to go into a life of crime. Or whether we're talking about somebody like William Brooks whose life was one nightmare after another. That's an appropriate thing to think about.

And, of course, we're not saying that because his life was like that, you can go out and commit crime. You can't. We're not saying that because all these things happened, it made what he did

okay. It doesn't. But it tells us something about which of these two awful punishments we're considering, which one might be the most appropriate punishment.

People are not all the same. People are not all the same. And that's the point. And you know – the District Attorney talked about free will – everybody makes individual decisions. And that's right. But people aren't all the same. As I was thinking about this last night, I thought about the parable our Savior gave us about the sower sowing the seeds. And the seeds that fell on the rocks grew up a little bit, then the dust blew away and they died away. And some grew up in the thistles, but they were choked out by the thistles. But the ones that grew up in the good soil, they multiplied a hundred fold.

Now, when Jesus gave us that parable, he was talking about the word of God. But when you think about it, you can apply that parable to people as well, that we are sown in this world and some people, fortunate people, grow up in good homes and good soil and they prosper.

And William Brooks was somebody – his seed wasn't very strong to begin with. It wasn't as strong as some of the others. Six pounds, premature birth. That seed was a little weaker. And it was sown among the thorns. And, yes, ladies and gentlemen, you can sow those seeds – and you can sow those seeds among the thorns and there will be some plants that will survive even among the thorns and they'll grow up big. But what are the percentages? What's the likelihood that that's going to happen? A few of them will. But not like the ones that are plowed and nourished and watered. That's what we're talking about. We're talking about somebody whose seed was not that great to begin with and it grew up among the thorns. Goodness gracious! And more thorns kept coming up. And this little seed tried to struggle, two, three, four, six years old – through those thorns. And it was a hard time. And it was choked back over and over again. And the fact that some prosper and other don't, that's life. That's life. But that tells you something when you look at this guy and you look at his soul and you look at who he is and where he came from. You've got to take that into account, don't you? It wouldn't be right not to.

Just plain mean. Let's talk about that. Mr. [prosecutor] was talking to [the social worker who testified for the defense during the penalty phase about Mr. Brooks' background and upbringing] "Isn't it true that some people are just plain mean?" He gave his closing argument here and he told you that again. "Some people are just plain mean." I want to think about that with you.

You go to a hospital some time and you look through that glass where all those new babies are. Do you look in there and see some babies that are just plain mean? Do you think that when William Anthony Brooks was a month old, that first month in the hospital and he was in the incubator there at the hospital in France, do you think, that Doug [prosecutor] could have rolled in, looked in the incubator and said: "Just plain mean. Let's send him to the electric chair right now. Let's just get rid of him." Do you think that?

You go to a nursery and you see these little two-year-olds down on the floor and you get down there on your hands and knees and you play with them. Are there some of those kids that are just plain mean, come up and bite you on the foot or something? Just plain mean at two years old?

You go to kindergarten and you see the kids there and you hold them on your lap and you play with them; and you do whatever. Are there kids five years old in the kindergarten that are just plain mean? Just plain no-good kids right from birth that are just exercising their free will and they're going to go out and kill people?

What do we do as parents? What do we do with our kids at that age? We protect them; we nurture them; we guide them. Why? Because we know they're influenced by their environment. We know that it's important for that little child to guide it through life. That's what parents are for; that's what teachers are for; that's what we do to shape and to help guide them through their lives. That's what we're talking about here, ladies and gentlemen. Childhood is about teaching and learning, teaching and learning. We, as parents, teach. We, as teachers, teach. We teach not only by telling people what to do; we teach – more than any other way in those impressionable years, at age three, four or five – how do we teach? *By example.* We teach our children by *the way we live our lives.* The way our parents lived their

lives for us. That's how we learn. And that's how we shape lives.

When our kids start school, we worry about them, don't we? I don't know if you worry as much about your children here in Madison as we do in Atlanta because you've got one public school here and I guess that's where most of them go and I understand it's a good school system. But, you know, we have lots of schools in the Atlanta system and we worry about where our children go to school. We worry about violence in the school. We don't just worry about it because we worry about our kids getting hurt, although that's one consideration, but we also just don't want our children to see it. We don't want it to shape their lives during those impressionable years. We want to protect them from it as they're growing up, as parents because we know it influences their lives.

We talk about our kids and we say: "You know, she's really impressionable or he's really impressionable." What are we saying? Some kids are more impressionable than others, but we're acknowledging the fact that as children grow up, they're influenced.

We're not saying the devil made him do it as Mr. [prosecutor] said. We're not saying that people don't have free will. Of course, people have free will. But we're talking about what happens to children as they grow up and how it influences their course of behavior later and whether that's not something that ought to be taken into consideration when we decide whether we kill somebody or not. That's what we're talking about.

All of us as human beings have different frailties, weaknesses, strengths. Some people have a strong character and some people don't have as strong a character and are more easily influenced. But anybody who's agonized over a child or a sister or a brother who – during their childhood or the teenage years – is getting out of line or getting in with the wrong group or whatever it may be, knows what I'm talking about.

In jury selection, we talked to some of you about it, about people getting together and forming a group, the Morgan County Men's Club, I think it was called. And I may have misunderstood it from the questions and answers,

but my understanding was, it is a group of people who came together to work with young men in the community because they realize that guidance and support can be critical in developing and guiding somebody away from a life of crime and into being a useful and productive citizen in our society.

None of us would be fair to our parents to say that we were here all on our own. I'm not standing before you today as a lawyer because the day I was born, the day after I was given birth forty-two years ago, I just decided to go to law school and be a lawyer. It's because I had two wonderful parents who guided and raised me and put me in the right direction. And when I got out of line, helped bring me back in line. And all of you, I'm sure, would say the same thing about how it is that you got to where you are in life today. And that's what I'm talking about with regard to the difference between that kind of life and the life of William Brooks.

Can you really say that when William Brooks was in that incubator at six pounds that he was just plain mean; that when he was in the hospital about to die at age two in Fort Campbell, Kentucky, that William Brooks was just plain mean? Can you really say that when this little boy was standing there crying hysterically while his parents fought, while his older brothers and sisters fought off his dad from his mom – was he just plain mean? Six years old – seven – was he just plain mean?

When he was thrown out of his home – you heard those people testify, the military people, those people don't owe anybody anything, those people who came here, told what they saw – a little boy six years old having been thrown out of the house and running down the street confused and terrified? What in the goodness is going on?

Mr. [prosecutor] says: "Well, they kissed him after it was over and they hugged him and they told him they loved him so it made it okay." Would any of us want our children to suffer even one of these things? Would we want our child to go through even one time of seeing two human beings engaged in that kind of violence that his parents were engaged in?

I'm not talking about people related to you. I was walking down the street one day and a car ran

a red light and the other car ran through and knocked that car over. It was a terrible accident. And I was shaken up for that whole day to see that violence. And, goodness gracious, I know more about more violence than anybody ever ought to. But to think about your child seeing that kind of violence – not on the TV – but to actually see people stabbed and hot coffee thrown on people and all that, *even if it wasn't members of your family*, you wouldn't want your child to see that.

But, here, *it's your mom and your dad*, for goodness sake, fighting it out like that. We wouldn't want one of our children to see his or her mother abused by anyone – by anyone – but, certainly, not by his own father. We wouldn't want any child to see his father abused by anyone, but, certainly, not by his own mother.

A child – think about children you know that age – six, seven and eight. This is before the family split up. Six, seven, eight – first grade, second grade, third grade child.

Do you remember the fellow who testified yesterday, [a military person who knew William Brooks' father]? He lived way over here, [*indicating on chart of military compound*], and he didn't even live in the same building with the Brooks family. They lived over here in 107. [*Indicating on chart*]. He said there's eighty feet between these buildings and, then, there's another apartment. And he said, every week, he could hear and would wake up to a fight, an argument, things being thrown – all the way over here in Apartment A in 107 that far away. And it wasn't just one time. It was all the time.

And Mr. [another military person who had witnessed some of the family turmoil] that testified recalled that time that he went out and went through the house and he told you what he saw. There wasn't just blood in one room. He said there was blood all through the house. A little child, seven years old, sees his parents fighting and there's blood all through the house.

You know, ladies and gentlemen, we celebrate Father's Day for a reason, don't we? *Because fathers are important.*

I can remember sitting on a church pew in Cornelia, Georgia, and hearing a minister give a Father's Day sermon and talking about how every

little boy thinks that his father is the most important man in the world. And I remembered the pride swelling up in my throat and looking up at my dad and knowing that all those children might think that, but my dad *was* the most important person. I knew it.

We lost one of our jurors here because his child was in crisis. I don't know if you could hear it; I could. He left this courtroom and went out that door and he broke down in tears right outside the door. He had an important job to do here, ladies and gentlemen, but he had to leave that job because his child was in crisis and he had to *be there – be there for his child*. And that's what fathers and parenting is about. And that's what William Brooks didn't have. That's what William Brooks didn't have.

We learn from our dads. The reason we celebrate Father's Day – because they teach us respect. They teach us respect for other people, for our mothers, for other people in society. They teach us values. They teach us how to live our lives. We imitate what they do. And the fact of the matter is, ladies and gentlemen, that William Brooks – through no fault of his own – was born into a family where he didn't have that kind of guidance and that kind of teaching from his father.

Instead, what he learned from his family were the awful effects of alcoholism, the terror of running away every weekend and those things that you heard about during this trial, and I'm not going to go through them again. But there's a difference there and that's an important factor to consider.

And you could stop right there, ladies and gentlemen. I submit to you that if we didn't put on anything after that – if you stopped right there at age nine, the third grade and just looked at what had happened to William Brooks up until age nine, you could say that this is a young man who was scarred for life by what happened and what he had seen, emotionally scarred.

But it didn't end at age nine, and you know that. His mother came in here and testified about moving from place to place, about the father chasing them from place to place. And talk about not being there for your children! No matter how heroic this woman wanted to be to support her family, she's working two jobs, 7:00 to 3:00, 3:00

to 11:00. There's nobody to be there. The father's not there. He's the problem, at least with this, the alcoholism, the fighting. And the mother's working two jobs to keep her kids clothed. And, so, we've got kids literally raising themselves.

And when the father is there, we have the violence and the fighting and the threatening to kill everybody and threatening to kill themselves – that kind of life.

And I would say again, just think about that and think about what that influence would be, just one of those things, on a child growing up. You know, I can't imagine my sister shooting my father. I've tried. I can't imagine it. I can't imagine what it would have been like growing up to have my sister shoot three times and hit my father. But I know it would have made a difference in my life if I had seen that sort of thing.

I can't imagine being told to lie to my father or to run from my father, to avoid my father or to be afraid of my father. But I know it would have influenced my life dramatically if any of those kinds of things had happened. And I know that, no matter how many times I got kissed and how much I got loved afterwards, I don't think it would erase -- and I think you would agree -- erase those things from my life. And all of this is before the sixth grade, ladies and gentlemen. Just remember that. I just want to put this together sort of chronologically now, different from the witnesses.

All this had happened before sixth grade because that's when she remarried – Mrs. Brooks, William's mother, remarried his stepfather, when he was twelve years old, 1967.

Mr. [prosecutor], in his closing argument here today, said he's not going to trivialize child abuse. Well, that's a nice change of pace, isn't it? Because he certainly trivialized it yesterday, with [the social worker] – all that sarcasm and hatefulness. Now, it's not trivial anymore. “Well, yes, indeed, there was child abuse, but it doesn't make it okay.” But, again, ladies and gentlemen, just think about it and think again about whether any one of those kinds of experiences – what impact it would have.

You heard from these witnesses, ladies and gentlemen. I didn't ask those people to come

down and beg for William Brooks's life. They said they love him. I think you know from their testimony they want you to spare his life. Of course, his sisters, his mother – those people that love and care about him. You heard about the hell these people went through in their lives, about what they tried to do, about Gwen, Williams' sister, being sexually assaulted by the stepfather and William being caught up in all this and the mother using a firearm and shooting at this guy in the living room. What kind of life is this for a kid in the seventh, eighth and ninth grades?

And, again, think again to your own growing up and your own dealing with children. You've got a child with a handicap. Mr. [prosecutor] said: “Well, he didn't really stutter.” I guess the point of asking that police officer yesterday if he remembered if William stuttered was to try to say, oh, we just made up this stuttering.

Ladies and gentlemen, we had the school records yesterday. He was referred to the counselor because he stuttered badly. You heard all these people talk about his stuttering. You talk about trying to distort things or tell you what's not the case. Who would let their child – who would want to see their child ridiculed because they stuttered, ridiculed about these sorts of things? But, of course, that's the least of what was happening to this child.

Just look at his life from start to finish. And I'm not going to go through all the details because you've heard about them from a number of different witnesses. But I would submit to you, ladies and gentlemen, that not one of God's children should have to go through any one of the things that happened to William Anthony Brooks while he was growing up – not one.

And I ask you to look at things about where he or where anyone learns their values, their respect, how to get along in life with other people, and what example had been set for this young man between the ages of birth when he was in that incubator until he got to be sixteen years of age. What kind of example, what kind of life he lived and what kind of impact did it have? Does it account for everything, excuse everything? No. But did it have an impact? Does it tell us something that we want to know in sentencing the man? Of course.

Does it come to any surprise to you that somebody who grows up in this kind of life smokes marijuana when they're seventeen or eighteen or twenty-two years old? Does it really surprise you that somebody who grows up like this uses other drugs? What else would we expect?

There was a fellow nominated for the Supreme Court of the United States a few years ago who smoked marijuana. He went to Harvard Law School. He taught. He had every opportunity in this world – smart as he could be. He smoked marijuana. That doesn't make it okay for him and it doesn't make it okay for William Brooks.

But people who are constantly downtrodden, who are abused, who are neglected, it's not surprising that they're going to try some kind of self-medication. It's not surprising that they're going to get in trouble. You go to any place where kids struggle for lack of opportunity and you're going to see the problems of drugs and crime and those sorts of things. It doesn't make it okay, but we know there's a road to that and that's something that we can take into account here.

Does it really surprise us that a kid who grew up in a family of violence, of throwing hot coffee, of stabbing, of every kind of profanity – does it really surprise you that at age seventeen when he's in prison, he was vulgar, that he was throwing bars of soap, that he was threatening people? That's terrible. It's absolutely terrible that he did those things, ladies and gentlemen. But is it any surprise? Is it any surprise that he's involved in crime? Of course not. It doesn't make it okay. But it tells you part of what got him there. And when you look at two ways to punish that young man, that's something that you can take into consideration.

Would it surprise you that he stole a gun, that he used it one other time in whatever this incident was about somebody trying to run over him, a cab driver and he shot? And this case – this case with its awful, tragic loss of life. And we're not saying that somebody who gets abused can go out and kill somebody because, obviously, they can't. But when you look at this person and how you're going to punish him, you can look at his background and see: is this the person that had all his facilities there? Is this a person who knew all the right values?

We're making a moral decision here about whether to kill somebody. Is this Ted Bundy, somebody who went to law school and went and raped and killed women in three or four different states? He got the death penalty. Somebody who had the smarts, somebody who had the knowledge, the ability. Or is this some poor kid who had never been taught any of those values?

You punish those two people differently, ladies and gentlemen. You look at the life and background of those people and you punish them differently based on who they are and where they came from.

All of us, *to some extent – to some extent*, I underline that – are products of our upbringing. Not a hundred percent, but not zero percent. And that's something that's important and appropriate to take into consideration. None of us are completely self-made. All of us – I expect every person on this jury, every person in this courtroom – all of us were helped along the way. We were helped by a parent, by a sister, by a brother, by a teacher who took a special interest in us, by a minister, by a friend. All of those kinds of influences.

And William Brooks had a little of that. He had some sisters that loved him and cared for him. There's no question. But those sisters were struggling to make it, too, ladies and gentlemen. Goodness gracious, Gwendolyn, who's closest to him in age, she loved her brother and she cared about him and she saw these awful things happening to him. But *her stepfather was trying to sexually molest her as well as abuse her little brother*. She had a lot to deal with. She had her own life to deal with just like Beverly [Brooks' sister] did and just like Shirley [Brooks' oldest sister] did. And they told you, they had some help from teachers who took an interest, and other people. William didn't have that.

William Brooks didn't choose this childhood. This childhood was thrust upon him and that's something that you can take into consideration.

Mr. [prosecutor] says: "Just plain mean." Let's get back to that a minute. "Just plain mean." And I suggest to you, ladies and gentlemen, that notion, if you buy it, denies the redemptive power of God Almighty who can change the coldest and the hardest heart. And this is not the coldest and

the hardest heart. This is a troubled heart – a kid that had every difficulty. But this is not the coldest and hardest heart. And that notion of cold and mean denies that there’s something in human nature, something in the human spirit that people can respond to. Life and faith is a journey. It’s always an unfinished job. It’s a long journey.

William Brooks had a rough journey, about the toughest one I’ve ever heard of, while he was growing up. He made that journey a little slower than a lot of the rest of us. He was still going pretty slow at age seventeen and older. But you heard, ladies and gentlemen, now that he’s gotten older, he’s made some progress along that journey.

What’s he done in prison – Judge Lawson will tell you that one of the things that you can take into account is his behavior in prison. It’s been good and it’s been bad. Let’s talk about it and talk about how it factors into this sentencing decision that you’re going to make.

Mr. [former prison warden who testified as an expert about Mr. Brooks adjustment to prison] told you what you already knew. He told you William had a lot of problems at age seventeen. And I talked about those. And I submit to you that – I walk down the streets past a construction project and I hear a lot of vulgar, offensive conduct from a lot of kids working on the construction project. I’m talking about the eighteen, nineteen, twenty, twenty-one-year-olds. A lot of that stuff happens. Kids do a lot of acting out at that age. We know that. Those of us that’s had lots of children, grandchildren – we know that. We know that they go through that time, and as they get older, a lot of that acting out stops as they get older.

What is “acting out?” [The prosecutor had said there was no such thing.] I mean, what is this? It’s something inside the person and, you’ll see in school, or wherever it may be, in church, Sunday School, this kid is “acting out.” What are we saying about that kid? He’s got some problems. Maybe he’s got some problems at home. Maybe he’s got some emotional or other kind of problems, but there’s something inside that kid and he is acting out. That’s what that means. And I don’t know how often I’ve seen that with a kid at Sunday School or something and they say: “Well, the parents are having a lot of trouble and he’s

really disturbed.” We know that happens. Our basic human knowledge, our experience, tells us that happens.

And William Brooks was doing that. But what is really remarkable, ladies and gentlemen, is when you look at that incarceration at Jackson, Georgia [where Brooks was incarcerated for eight years] – look at that time. Look at after William Brooks was a bit older [quoting from prison records]: “Good adjustment, gets along well with staff, gets along well with staff and inmates, good adjustment, gets along well with staff” – month after month after month for six years, in the 80’s, the years leading up to where we are today. What does that tell us about how this young man is behaving in prison? What does it tell you when you make this decision? Do we just have to eliminate this young man from the human community? Is the only punishment available to us killing him or can we put him in prison and manage him there? And that gives you the answer to that question.

Dr. [psychologist who worked for the Department of Corrections and saw William Brooks in prison] came in here and he wasn’t paid by me. He works for the Department of Corrections. And he doesn’t do what Mr. [prosecutor] said either. He doesn’t go down there and counsel people. He testified that what he did at the prison was go down and work with the staff and try to deal with a lot of problems that they were having about violence and that there was a lot of violence between the inmates and there were a lot of problems there and that he studied that system for a number of years and worked on how to correct it. And he said that William Brooks was not a part of the problem, that William Brooks’s adjustment in that prison while he was there was good. What he did was confirm what Mr. [former prison warden] had told you, that this is a young man who today, in terms of how he’s behaving in prison, is not posing a problem for the guards, is not posing a problem for other inmates and is adjusting to his incarceration.

What this tells us, I think, ladies and gentlemen, is that we don’t need to kill William Brooks. The law doesn’t require us to kill anybody. It may be that there are times we’ve got to kill somebody, but the law doesn’t require us to. And in this particular case, I submit to you that

we don't need to kill William Brooks. He can be punished. Society can be protected by putting him in a maximum security institution where he's not free to ever mingle with other people or do things out on the street. We don't need to kill William Brooks.

Let me talk just a little more about the progress on that journey and what it says about whether we need to kill William Brooks. You heard from [a Baptist minister who had been visiting Brooks in prison for a number of years]. Mr. [prosecutor] called him an interloper and a meddler. He ought to be ashamed of himself. He really should be ashamed of himself. What is it I remember? Matthew 25 – it's somewhere in Matthew where Jesus talks about that day coming when all nations are brought together and the Lord separates them out just like the sheep and the goats and he puts the sheep on one side and he puts the goats on the other. And the Good Shepherd separates out those and these are put over here and they say: "How did we end up here?"

"I was sick and ye came to see me. I was hungry and ye fed me. I was naked and ye clothed me. I was in jail and ye came to visit me."

"Lord, we never did any of that."

"I say, when you do it to the *least among us*, you have done it unto me."

And I submit to you that Reverend Loney responded to the call in his ministry and in his life. Matthew 25 – forgive me if I've got the chapter wrong. He's gone to visit the *least among us*, and William Brooks is the least among us. There's no question about that, ladies and gentlemen. But we all have our ministry in life, whatever it may be. It may be to teach children; it may be to help the sick; it may be to minister in one way or the other. We should be able to respect that. And this man of the cloth came in here, a Baptist minister, and told you that he had responded. He had gone and he had visited William Brooks and he had prayed with him for a long period of time. And he had gotten to know him. And gotten to know about his concern for his family and about the remorse that he felt.

And he knew the family [of the young woman who was killed] in this case. He went to the dentist's office [where the young woman's mother

worked] and he knew Ms. [victim's mother] there. And he tried to reach out to both sides. And there's nothing wrong with that. That's Christian love, ladies and gentlemen. That's Christian love. And that's what we need more of, not less of, in this world today.

And Reverend Loney also told you one other thing, and I think it's important, ladies and gentlemen. He told you he would continue to see William Brooks because that journey that I talked about is ongoing. And this young man – we're not talking about putting this young man out on the street. We're talking about two punishments: life imprisonment or death. But don't think either that Reverend Loney's influence, that it doesn't have some effect on this young man, too. Just like we talked about those things early in life having an influence, so, too, does that ministry have an influence, ladies and gentlemen. It is probably one reason for this difference in adjustment. It's probably one reason that this young man is not a problem at the institution. But it's certainly a reason that we don't need to kill William Brooks.

As he pointed out, God has used people who have sinned grievously. Saul, who persecuted the Christians and killed them and later became Paul. King David. I'm not saying William Brooks is that. But I'm saying, ladies and gentlemen, that even those who have sinned most grievously, as he has, can be punished, can be redeemed, can have some glimmer and much more than that in their life that you can take into account in deciding how to punish them. You don't have to kill.

And I have just a few more thoughts. You heard from these members of his family. You heard from these folks here who grew up with him, who loved him, who tried to struggle through all this. Just think about that, too, ladies and gentlemen. These people haven't killed anybody. They haven't committed any crimes. They've got two sons – two sons or two brothers depending on who they are – in Saudi Arabia. Who knows what loss could come their way? This whole tragic history. Do we really need to compound all this even more by killing William Brooks? Do we really have to do that?

Ladies and gentlemen, this awful job falls on each of you, the twelve people here. Look at all that I've talked about; decide whether this young

man is so beyond redemption that he should be eliminated from the human community.

You know, we've always had a great problem coming to grips with killing people. You and I could be driving down the street in our car and a possum could run out in front of us. And we go to great lengths to try to avoid killing it. I suggest to you, ladies and gentlemen, that in our world and in our society, killing is the last resort. Killing is the last resort. And all the things that I have talked to you about suggest that we are not yet to the last resort in this particular case.

Back some time ago when people were killed, we used the firing squad. They use electrocution now. And when they had the firing squad, you know, one person in the firing squad would have a gun that did not have – it had blanks in it – so that after the execution was over that, if later, it was determined this was a wrong thing or it shouldn't have been done or whatever, each member of the firing squad would have the solace of thinking that maybe they had that gun that had the blank.

The law is not nearly so kind to you. This is no joint enterprise. Each person has to make a decision. Each person has to decide life or death. And there are no blanks on this jury. Each person has to look at the evidence and hear all this. And Judge Lawson will tell you that, after looking at the aggravating factors and looking at the mitigating factors, you've got to decide whether death is the right punishment and be convinced of that beyond a reasonable doubt, beyond a reasonable doubt that that is the punishment that has to be imposed in this case.

Mitigating circumstances. Anything about the life, the background, the person that is William Brooks. The fact that he was born prematurely, the fact that he had these problems in early childhood. That, ladies and gentlemen, is a fact about his background that is a mitigating circumstance. The fact that he was endowed with below-average intelligence, the fact that when he was tested at Jackson, no matter when it was, that he reads at a third-grade level; the fact that when he was in school at the eighth grade, they tested him as educable mentally retarded. That's a fact. And the fact that he clips articles out of the paper and sends them to me doesn't take a thing away from that. What do you expect some kid to do

locked up facing death? Send his lawyer whatever he can.

The fact that he stuttered and was subjected to ridicule growing up, and that it influenced his life. That's a mitigating circumstance, ladies and gentlemen. The fact that he was exposed to turmoil and violence and confusion and vulgarity throughout his childhood. That's a mitigating circumstance, ladies and gentlemen, and a powerful one in this particular case.

The fact that his school years were completely disrupted, that the family moved every nine months, or whatever it was, from one place to another to avoid this conflict. That's a mitigating circumstance that you can take into account in deciding whether to let William Brooks live or die. The fact that all this family turmoil and limitations, impaired his ability to learn and to have those kinds of opportunities that we talked about, that's a mitigating circumstance.

The fact that he was abused by his stepfather, that's a mitigating circumstance, ladies and gentlemen.

The fact that he's got these people here in this audience on the front row who love him and who care about him, you can take that into account. You can take into account that love and that care and the suffering and the pain. That's a mitigating circumstance as well, ladies and gentlemen.

The fact that he has not been a problem in prison in Jackson; the fact that he has adjusted well and that Dr. [prison psychologist] told you that – the man who works at Jackson and who saw him there – the man who came from the prison system and told you that. That's a mitigating circumstance, ladies and gentlemen.

And any one of these would be a reason in and of itself, without anything else, to give this young a life sentence. But look at how many there are because of the life that is before us.

The fact that he's expressed remorse, his sorrow. It may have been a long time coming, but as we say at our church, God is not through with me yet. The journey is ongoing, but it has been reckoned. And we have that.

The fact that he told everything to the police in this case – everything they have told you bad

about William Brooks came right out of William Brooks's mouth. He had a right to remain silent, to have a lawyer, all those things. And that's something you can take into account. It doesn't mean, ladies and gentlemen, that you don't punish him. It doesn't mean that. You punish him. But it's something you take into account in deciding *how* you punish him.

I'm going to ask you, ladies and gentlemen, as you go back to deliberate on this, and before you do, I ask you to pray over this decision that you're going to make. I know you will. But I ask you to pray, too, for the strength and the endurance to go through these deliberations. I know that you're tired and the hour is late and we've been here long. But, ladies and gentlemen, we have to roll up our sleeves and do justice here. And I ask you to pray for the strength and the endurance to stay with it, as Dr. King said: "To stay on the case for as long as it takes." And I ask you to pray for the strength to give this case your individual considered judgment and to reach in your heart and soul and mind, your individual judgment about what's right and wrong for this case, and what punishment is appropriate for this young man.

We have learned since our childhood in words of Ecclesiastes: "For everything there's a season and a time for every purpose under the heaven." And I suggest to you, ladies and gentlemen, that this is a time to punish that is before us here now. But it is not a time to kill. It is not a time to kill.

Ladies and gentlemen, I ask you on behalf of this kid – he's not a kid anymore, but he still seems like one to me – I ask you to sentence him to the rest of his natural life in prison. I ask you, ladies and gentlemen, to let this rough and difficult journey go on there until it ends.

And I submit to you, ladies and gentlemen, that even though it continues there with pain and suffering and sorrow and all that, that given all this, and given all we've heard about and all we've struggled with and all we've talked about, it is – it is enough. It is enough.

Thank you.

The jury unanimously sentenced William Brooks to life imprisonment.