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THE COURT: I don't have any other details.

MR. ABERNATHY: I'll stand with whatever the Court says. If the Judge knows it and can't do anything, I understand, Judge. Thank you. I appreciate you bringing it to our attention.

THE COURT: All right. Bring the jury in, please.

[The jury enters the courtroom.]

THE COURT: All right. Sound for the next witness, please. It was?

MS. COLSTON: Sammy Dawkins.

THE COURT: Sammy Dawkins, please.

SAMMY DAWKINS

was called as a witness by and on behalf of the State, and after being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. COLSTON:

Q Mr. Dawkins, please speak up so that the jury can hear you. Tell us your name.

A Sam Dawkins.

Q Where do you live at, Mr. Dawkins?

A 1038 Rosedale Road.

Q Is that in Armuchee?

A Yes, ma'am.

1 Q Can you describe for us as far as where your house
2 is situated, what the driveway looks like and how far the
3 house is off the road and such?

4 A It's a big lot. It's probably on close to six
5 acres of land. The driveway is probably about 250 feet
6 long. The house is situated pretty much in the middle of
7 the lot.

8 Q Okay. And the house is at least 250 feet off the
9 road?

10 A I'd say so.

11 Q Now your son was Isaac Dawkins; correct?

12 A Yes, ma'am.

13 Q And Isaac, did he live with you at the time he was
14 killed in January of 2000?

15 A Yes, ma'am.

16 Q Mr. Dawkins, were you aware of any enemies or
17 anybody that was out to get your son or cause him any
18 trouble?

19 A None other than what I'd heard.

20 Q Well, you can't go into what you heard as far
21 as --

22 A No.

23 Q Nothing that you were aware of? Okay. Did Isaac
24 have a dog?

25 A Yes, ma'am.

1 Q What kind of dog was it?
2 A It was a black and tan coon hound. He liked to go
3 coon hunting.
4 Q And where was the dog kept?
5 A It was kept in a pen on the very back edge of the
6 lot.
7 Q And was he also chained to that pen?
8 A Yes, ma'am.
9 Q Why is that?
10 A Because she liked to dig holes and he did
11 everything he could to keep her in the pen.
12 Q Okay. Was there a time that that dog was shot?
13 A Yes, ma'am.
14 Q When was that?
15 A I believe it was on October the 3rd.
16 Q October the 3rd of '99?
17 A Yes, ma'am.
18 Q Are you aware of where the dog was shot at?
19 A As far as location on the body or --
20 Q Correct. Both actually.
21 A The dog was shot between the eyes while it was
22 still inside the pen.
23 Q And it was still chained?
24 A Yes, ma'am.
25 Q Your son died -- do you know what time they

1 pronounced him dead on January 12th?

2 A Not officially.

3 Q Was it around 12:25?

4 A Somewhere around there.

5 Q Were you aware on January the 11th after he was
6 brought into the hospital, were you made aware that it was
7 not a wreck at some point?

8 A Yes, ma'am.

9 Q Were you also made aware that his chances of
10 survival were not good?

11 A Yes, ma'am.

12 Q Okay. Were y'all asked to think about organ
13 donation?

14 A Yes, ma'am.

15 Q The next day being the 12th day of January 2000,
16 was it pretty much after those decisions were made that life
17 support was just terminated?

18 A Yes, ma'am.

19 Q Now after you buried your son -- where did you
20 bury him at?

21 A We asked Everett Springs Baptist Church if we
22 could bury him in their cemetery because he attended that
23 church and it's just at the foot of a mountain where he had
24 killed his first deer.

25 Q Okay.

1 A He liked to go hunting in that area and he loved
2 that part of the country and they gave us permission, of
3 course, and it's a little country cemetery. It's real
4 isolated. It's a small cemetery.

5 Q How close to the road was your son buried?

6 A His is the first lot next to the road.

7 Q All right. I'm going to walk towards you. Could
8 you tell me from where your son's grave is to the road, am I
9 as far away from the road yet or do I need to come towards
10 you or back up?

11 A I would say the road is probably -- it's -- I'd
12 say fifteen steps. I don't know.

13 Q As close --

14 A It's probably -- yeah. I'd say somewhere between
15 where you are right there.

16 Q So about -- this is the distance between the road
17 front?

18 A Yeah, it may be as far back as you were before. I
19 don't know. I haven't measured it.

20 Q Did you take some time and you and your family
21 leave the area after the death of your son and go somewhere?

22 A Yes, ma'am.

23 Q And when you returned from that trip, did you go
24 to the grave?

25 A After we had taken some time away from home, I

1 went to the graveyard.

2 MR. ABERNATHY: Judge, I object for just a moment.
3 May we approach?

4 THE COURT: Come on up. Come on over here.

5 [Inaudible colloquy between Court and counsel outside the
6 hearing of the jury.]

7 MR. ABERNATHY: Judge, I'm objecting to relevancy.
8 I don't know what this has to do with anything. I
9 think she's going to start talking about a dead dog
10 carcass or something.

11 MS. COLSTON: Yes, sir. He went to the grave site
12 after he return from vacation. The defendants were
13 still out on bond -- they had not been arrested yet.

14 THE COURT: Right.

15 MS. COLSTON: This was in February. After --
16 Isaac's dog was shot between the eyes. He found on the
17 grave of his son a thick matting of flies. He was
18 upset, didn't know where it was coming from. There
19 were just hundreds and hundreds and hundreds just all
20 over the top of the grave.

21 He walked up to look at another man's grave that
22 was recently buried. There were no flies but on the
23 way he saw that there was a dog that was placed in a
24 plastic bag not far from his son's grave off on the
25 edge of the road. He looked at that bag. That bag had

1 flies. The flies around -- it had seepage coming out
2 from underneath where the flies were attracted to that.

3 He knew that dog had been on his son's grave. He
4 carried it then. He went and got some more bags. He
5 bagged it up, double bagged it because he didn't want
6 Francine to see it.

7 He got to thinking about it in November. He
8 carried the detectives with him. He got the dog that
9 he had carried off and he carried -- they carried it to
10 the crime lab. That dog had also been shot in the head
11 as well as with a shotgun.

12 The relevance of this testimony is number one, his
13 signature. There's going to be more testimony about
14 Joey Watkins having said he killed Isaac's dog. I've
15 already gotten into the fact that it was killed. I've
16 gotten into the fact that he was presently -- Mark Free
17 said that the dog was taken care of; that they were
18 basically teaching him a lesson. I've tied that to
19 him.

20 This is like a signature, Your Honor. That
21 anybody would put on that grave, a dog that had been
22 shot between the eyes is like saying the signature of
23 who did the killing of Isaac Dawkins and that's the
24 relevance to it.

25 The jury, of course, can make their own

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assumptions as to what -- how much weight and credit to give it but it is relevant.

MR. ABERNATHY: Judge, there's nothing connecting this bag, sack, whatever it was, dog carcass that can relate to my client, nothing. I've not seen anything and there's nothing in this case.

The only testimony in this case is Mark made a statement that they took care of the dog and testimony that maybe they shot him but nothing to do with anybody putting it on the grave and this is not only not -- this is just -- can't be connected to my client in any way and it's so prejudicial it far outweighs anything. This is nothing but to evoke emotions simply into this trial and it's not connected to my client.

MS. COLSTON: There's a witness also that will mention that Mark Free told them that the dogs, plural -- talked about the dogs and also Paul Cooley said -- will say -- and I know that they don't believe anything Paul Cooley's said but he said that -- he's told the police in his statement that Joey killed the dog. Joey said he called the dog and one time he mentioned with a .22 and another time with a shotgun. This dog was shot with a shotgun and a bullet in between the eyes.

THE COURT: This is not the one --

MS. COLSTON: The one -- this is not Isaac's dog.

FBI LABORATORY - LASER REPRODUCTION SYSTEM

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No, sir, this was not Isaac's dog. This was a dog that was placed on the grave that was shot between the eyes and shot with a shotgun.

THE COURT: It wasn't found on the grave. It hadn't been placed on the grave?

MS. COLSTON: Because of the testimony he will give about the flies and the seepage under the bag and that's where the flies would be -- were at, were underneath the -- they were all over the grave and they were all under the bag of this dog.

THE COURT: But what I'm getting at is how does that prove the bag was ever on the grave?

MS. COLSTON: That's just, I'll say, a matter of common sense and reason and, you know, what else? That's why the flies were there. There's only flies two places in this graveyard.

THE COURT: And who moved the bag off the grave?

MS. COLSTON: Sir?

THE COURT: How did the bag get off the grave?

MS. COLSTON: We have tried to find out if a caretaker or somebody -- some caring person that just happened to be at the cemetery saw it and said, I better get this off and put it in the ditch but we have not been able to figure that out but the bag had to have been on the grave for the seepage to have built up

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and the flies to be all over it.

MR. ABERNATHY: May I comment, Judge? This is --

THE COURT: I have come up on a dog in the woods in that exact condition, not in a bag but covered with fly maggots.

MR. ABERNATHY: Maybe I don't need to speak then but, Judge -- I lost my train of thought listening to you. Not only has this not been tied to my client, this is a similar -- if she's saying this is a similar transaction, it's not related to Isaac. It's not his dog and if she's got witnesses to tie to him to putting this on the grave, then she needs to put them up, not him speculating.

THE COURT: Well, what it does is this. Of course, it's entirely up to the jury to evaluate any of the evidence and if I let it in it's only because it's something that they might consider. And you're right, it doesn't necessarily tie it to your client but what it does is it tends to make this a personal rather than an impersonal crime, rather than a random killing. It could tend to let the jury think there is some connection between the killing of his dog and this killing of this dog and putting it on the grave. Letting the jury see not that it's your client necessarily but that it is somebody, that there is a

1 personal aspect to this killing, not a random
2 impersonal fact. There has been no objection to it and
3 testimony has been submitted about the family dog, the
4 victim's dog being shot. And I think the jury is
5 entitled to this based on what the district attorney
6 has told me. If they connect it up with the crime lab
7 and all of it, I'll allow it in.

8 This is just seemingly more than a coincidence but
9 that's up to the jury to decide. I'm not going to
10 comment on it. I think the jury is entitled to hear
11 it and the district attorney is entitled to say that
12 there may be some connection.

13 MR. ABERNATHY: Judge, based on the Court's
14 ruling, may I have a standing objection so I won't have
15 to keep jumping up on this ruling?

16 THE COURT: Well, I don't care what you do. I
17 don't want you to get caught short in the Appellate
18 Court when they say you didn't object. You object now?

19 MR. ABERNATHY: I object, yes.

20 THE COURT: And I'll overrule that objection as to
21 this series of questions. You're still going to have
22 to object as it goes along.

23 MR. ABERNATHY: And I object specifically that
24 this has relevance to my client at all.

25 THE COURT: Well, my ruling is it has relevance to

1 this -- possible relevance to the killing, not
2 necessarily to your client.

3 MR. O'DELL: Our objection is to the prejudicial
4 matter though, even though it does -- it's just overly
5 prejudicial.

6 MR. ABERNATHY: It far outweighs any probative
7 value.

8 THE COURT: All right. I overrule that and we'll
9 move on.

10 MR. ABERNATHY: Thank you, Judge.

11 [End of colloquy.]

12 Q [By Ms. Colston] Mr. Dawkins --

13 A Yes.

14 Q When you went to visit your son's grave after you
15 returned from that vacation, when you got to your son's
16 grave, what did you find?

17 A I found it covered in flies.

18 Q When you say covered in flies, would you please
19 explain that for me? two? five? ten? hundreds?

20 A Hundreds.

21 Q And what were they apparently attracted to on your
22 son's grave?

23 A There was nothing there but dirt.

24 Q Dirt?

25 A A mound of dirt.

1 Q Was there flies anywhere else around your son's
2 grave or just on top?

3 A Just on top.

4 Q Just on top of the grave? I'm sure that that
5 upset you, Mr. Dawkins. So did you do anything to see if
6 maybe there was any other graves around that had the same
7 problem?

8 A Yes, ma'am.

9 Q What did you do?

10 A Looked around. I got up off my knees and I
11 thought this bad odor --

12 Q You could smell something coming from the grave?

13 A Yes, ma'am.

14 Q It was a bad odor?

15 A And I thought it couldn't be possible to be my
16 son.

17 Q So what did you do?

18 A I saw another fresh grave in the cemetery and I
19 started to walk over to it. The man's name was Mr. Everett.
20 He was buried a couple of weeks right after my son was.

21 Q Did you see the flies at his grave?

22 A No, ma'am.

23 Q In between the walk between your son's grave and
24 Mr. Everett's grave, did you see any flies on anybody else's
25 grave?

1 A No, ma'am.

2 Q On the ground around you or anything?

3 A No, ma'am.

4 Q Did something catch your eye at that point?

5 A Yes, ma'am.

6 Q What caught your eye?

7 A Laying in the ditch by the road was a black

8 garbage bag.

9 Q Okay. What did you see around that garbage bag?

10 A Flies.

11 Q Did you walk down to the garbage bag?

12 A I tore it open and there was a dead dog inside.

13 Q And that dead dog, did it have anything underneath

14 it that was seeping out?

15 A It was -- the bag was leaking. It was just like a

16 leaky garbage bag would -- it's --

17 Q The leaky -- what was leaking out of it, did it

18 have the same odor?

19 A Yes, ma'am.

20 Q Of what you smelled on your son's grave? Were

21 there flies attracted to that too?

22 A Yes, ma'am.

23 Q What did you do?

24 A I went to the Rosedale Smokehouse and asked the

25 man there and told him that somebody had hit a dog at the

1 cemetery and would he please give me a garbage bag to clean
2 it up with because I didn't want to go home and tell my wife
3 what I found.

4 Q Okay. So you told him somebody had hit a dog?

5 A Yes, ma'am.

6 Q Okay. And when you got the garbage bag?

7 A I went back to the cemetery and put the bag that
8 the dog was in inside another bag. Leon had given me two
9 bags. And then I put that bag inside another bag. So now
10 the dog is now inside three garbage bags. I put it in the
11 back of my truck and carried it down to the creek and
12 dropped it off where the ditch is right there beside the
13 creek just below the cemetery.

14 Q All right. Did you leave it there?

15 A Yes, ma'am, that's where I left it.

16 Q Did you mention anything to your wife?

17 A No, ma'am.

18 Q You kept this knowledge secret for a while?

19 A Yes, I did.

20 Q And then about -- was it November or so --
21 October, November?

22 A The same day I found it is when I went to Houston
23 Freeman, my neighbor, and told him what I had found.

24 Q Okay. What happened then?

25 A I told him that I was going to get the County

1 involved in this investigation.

2 Q So you asked the County to help the City?

3 A Yes, ma'am.

4 Q And did you do anything with regard to the dog
5 that day?

6 A I had just told Houston about it and then dropped
7 it off in the creek over -- in the ditch beside the creek.

8 Q All right. You didn't put it in the creek; you
9 put it in the ditch?

10 A In the ditch beside the creek.

11 Q Was there a time that you went back, you got
12 curious about something, you went back to where you had
13 dumped that dog?

14 A Yes, ma'am. Stanley had said that it might become
15 a --

16 Q You can't go into anything Stanley might have said
17 to you. Okay. He's going to testify. As a result of your
18 conversation with Stanley, as a result of that, what did you
19 do?

20 A I went back and retrieved the garbage bags.

21 Q The dog in the garbage -- was he still there?

22 A Yes, ma'am.

23 Q Did you look at him?

24 A Yes, ma'am, I tore the bags open and all the
25 tissue had decayed and all there was left was bones and some

1 hair and the skull had a bullet hole right between the eyes.

2 Q You don't know what that hole was but you saw a
3 hole between the eyes of the dog?

4 A Yes, ma'am.

5 Q Okay. And did you turn that carcass over to the
6 county police?

7 A Yes.

8 Q For transport to the crime lab in Summerville?

9 A Yes, ma'am.

10 MS. COLSTON: Thank you so much, Mr. Dawkins.

11 THE COURT: Counsel.

12 MR. ABERNATHY: Thank you, Judge.

13 *****

14 CROSS-EXAMINATION

15 BY MR. ABERNATHY:

16 Q Mr. Dawkins, as you already know, Mr. Dawkins, my
17 name is Rex Abernathy. I'm just going to have a few
18 questions for you, Mr. Dawkins, and you can return to your
19 seat.

20 Now this dog that you found out there, that was not
21 your dog; was it?

22 A No, sir.

23 Q And it was in a garbage bag when you found it?

24 A Yes.

25 Q And you told a man at the grave site that it had

1 been hit?

2 A No, I told the man in Rosedale Smokehouse that it
3 had been hit.

4 Q Okay. Rosedale Smokehouse that it had been hit?

5 A I didn't want to tell him what I had found.

6 Q And you turned -- when was it you said you found
7 the dog?

8 A It was after we had returned from a trip out of
9 town my wife and I took with some friends to get away from
10 all of this.

11 Q About what month was it? Do you remember?

12 A It was in late February.

13 Q Late February?

14 A Yes, sir.

15 Q Just you and your wife?

16 A No, we had returned with -- we had gone down there
17 with some friends to the races in Daytona.

18 Q Who all went with you?

19 A I think Francine and I traveled alone. I believe
20 Mr. J.P Reed, his son, Phil, Tommy Dunagan, his wife.

21 Q Was your daughter, Samantha, with you?

22 A I don't even recall.

23 Q Don't recall? And this was somewhere around
24 February when all this occurred?

25 A Yes, sir.

1 Q February of 2000?

2 A Yes, sir.

3 Q And you went back and retrieved the dog when?

4 A The exact date, I don't know, but the county
5 investigators could probably tell you. That's the date that
6 I turned it over to them.

7 Q That's all you know about this dog? You just
8 turned it over to them?

9 A Yes, sir.

10 MR. ABERNATHY: Mr. Dawkins, I'm not going to keep
11 you and thank you for your testimony.

12 MS. COLSTON: Thank you, Mr. Dawkins.

13 THE COURT: Step down, Mr. Dawkins, please. Call
14 the State's next witness.

15 MS. COLSTON: Amy Suddeth.

16 *****

17 AMY SUDDETH

18 was called as a witness by and on behalf of the State, and
19 after being first duly sworn, was examined and testified as
20 follows:

21 DIRECT EXAMINATION

22 BY MS. COLSTON:

23 Q Amy, first I want to apologize. You've been here
24 for two days and you're only going to be on the stand for
25 only five or ten minutes but I'm sorry. Tell the jury who