NEWS RELEASE

Luther Strange

Alabama Attorney General

FOR IMMEDIATE RELEASE
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For More Information, contact:
Joy Patterson (334) 242-7491
Suzanne Webb (334) 242-7351

AG ANNOUNCES COURT UPHOLDS CONVICTIONS FOR MURDER AND ARSON IN BALDWIN COUNTY

(MONTGOMERY) – Attorney General Luther Strange announced that the Alabama Court of Criminal Appeals on Friday upheld the murder and arson convictions of Ian Axyl Aitcheson. Aitcheson, 19, of Silverhill, was convicted by a jury in Baldwin County Circuit Court in March of 2010 for the murder of his father, Robert Aitcheson.

Evidence presented at trial stated that Ian Aitcheson, in concert with others, entered Robert Aitcheson's mobile home, put a plastic bag over his head, put a pillow over his face, and stabbed him in the abdominal area with a kitchen knife. The victim died from the wound to the abdominal area which perforated his liver. Aitcheson and others then poured gasoline over the victim's body and throughout the mobile home and ignited the gasoline. Testimony at trial showed that Aitcheson was involved in a gang, and that Robert Aitcheson's murder may have been part of a gang initiation for one of the codefendants. After Aitcheson was found guilty by a Baldwin County jury, four other codefendants who had some role in the murder entered pleas of guilt in the case.

The case was prosecuted at trial by the Baldwin County District Attorney's Office. Aitcheson was sentenced to life imprisonment for each conviction, and subsequently sought to have his convictions reversed on appeal.

The Attorney General's Criminal Appeals Division handled the case during the appeals process, arguing for the Alabama Court of Criminal Appeals to affirm the convictions. The Court did so in a decision issued on Friday, May 20. Attorney General Strange commended Assistant Attorney General Marc Starrett of the Attorney General's Criminal Appeals Division for his successful work in this case.

**For additional information regarding this case, a copy is attached of the memorandum opinion of the Alabama Court of Criminal Appeals.*

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REL: 05/20/2011

Court of Criminal Appeals

State of Alabama
Judicial Building, 300 Dexter Avenue
P. O. Box 301555
Montgomery, AL 36130-1555

SAMUEL HENRY WELCH
Presiding Judge
MARY BECKER WINDOM
J. ELIZABETH KELLUM
LILES C. BURKE
J. MICHAEL JOINER
Judges

Lane W. Mann
Clerk
Gerri Robinson
Assistant Clerk
(334) 229-0751
Fax (334) 229-0521

MEMORANDUM

CR-09-1269 Baldwin Circuit Court CC-09-1246

Ian Aitcheson v. State of Alabama

WINDOM, Judge.

Ian Aitcheson was indicted for capital murder during a robbery, a violation of § 13A-5-40(a)(2), Ala. Code 1975, and for first-degree arson, a violation of § 13A-7-41, Ala. Code 1975. A jury convicted Aitcheson of intentional murder, a violation of § 13A-6-2, Ala. Code 1975, as a lesser-included offense of the capital-murder charge, and of first-degree arson as charged in the indictment. The trial court sentenced Aitcheson to life in prison for each conviction and ordered the sentences to run consecutively.

Viewed in the light most favorable to the State, the evidence adduced at trial indicated that in the early morning hours of January 28, 2009, Aitcheson, who was 16 years old at the time, and three of his friends -- Keishjuan Betts, Danny Weaver, and Darlene Jerkins -- drove to Silverhill where Aitcheson's father, Robert Aitcheson ("Robert"), lived in a mobile home. They parked about a mile away from Robert's mobile home. Aitcheson, Betts, and Weaver then walked to Robert's mobile home with a gasoline can and an empty plastic bag; Jerkins remained in the vehicle. When Aitcheson, Betts, and Weaver arrived at the mobile home, Robert was on the sofa watching television. Weaver jumped on Robert and held him down while Betts put the plastic bag over his head and Aitcheson put a pillow over his face. Aitcheson then retrieved a knife from the kitchen and gave it to Weaver, who stabbed Robert in the abdominal area. Aitcheson and Weaver then poured gasoline over Robert's body and throughout the inside of the mobile home, and ignited the gasoline. The subsequent investigation by the State Fire Marshall's Office confirmed that the fire was, in fact, the result of arson from gasoline being ignited and revealed that the point of origin of the fire was in the living room where Robert's remains were found. In addition, an autopsy of Robert's remains revealed that he did not die from the fire -- there was no smoke or soot in his lungs -- but instead died from the stab wound to his abdomen that perforated his liver.

Betts testified against Aitcheson at trial and said that, shortly before the murder, he overheard Aitcheson talking with Weaver and saying that "his dad was gonna lock him up" (R. 899) for stealing from him, and then whispering in a "raspy" voice that he was going to kill his dad. (R. 937). Betts denied, however, that he knew that Aitcheson was going to kill his dad that night. The State also presented evidence that just after the murder, Aitcheson telephoned Edgar Hambright and told Hambright that he needed an alibi because he had killed someone. Aitcheson, Weaver, and Jerkins then dropped Betts off at Betts's girlfriend's house and drove to Hambright's residence. Hambright testified that Weaver and Aitcheson told him that they had killed Robert and burned Robert's mobile home. Testimony was presented that, in the weeks preceding the murder, Aitcheson had stolen almost $3000 from Robert's checking account as well as equipment from Robert's automobile repair shop in Gulf Shores. Testimony

also indicated that Robert had given Aitcheson an ultimatum only a day or two before his death -- either straighten up his life and start working to pay Robert back what Aitcheson had stolen or Robert would report the thefts and have Aitcheson arrested. Evidence also indicated that only one day after Robert's murder, on January 29, 2009, Aitcheson went to Robert's automobile repair shop and stole two automobiles and a motorcycle. Additional evidence indicated that in the vehicle that was used the night of the murder, law-enforcement officers found envelopes containing soot. Finally, the State presented evidence that Aitcheson was involved in a gang, and that Robert's murder may have been part of a gang initiation for Weaver.

On appeal, Aitcheson contends that the trial court erred in denying his motion to suppress statements he made to law-enforcement officers and statements he made during a conversation with his codefendant, Weaver, in the presence of law-enforcement officers because they were all obtained in violation of his juvenile Miranda rights, see Miranda v. Arizona, 384 U.S. 436 (1966), and § 12-15-202(a) and (b), Ala. Code 1975, and the conversation with Weaver was inadmissible hearsay and violated his right to confrontation. This Court disagrees.

The circumstances surrounding Aitcheson's statements are as follows. On the night of January 29, 2009, Aitcheson was taken into custody, transported to the Baldwin County Sheriff's Department in Robertsdale, and placed in an interview room where he was questioned for approximately two and a half hours (hereinafter referred to as the "interview"). The interview was recorded and identified at trial as State's Exhibit 62 and 62A.[1] This Court has reviewed State's Exhibit 62 in its entirety. The recording reflects that at approximately 9:00 p.m., Aitcheson was advised of his juvenile

[1]The full interview was initially identified as State's Exhibit 62A. However, the State, before offering the recording into evidence, voluntarily redacted the first 10 seconds of the interview (during which time it was mentioned that Aitcheson had previous experience with his juvenile Miranda rights) and identified the redacted version as State's Exhibit 62.

Miranda rights by Lawrence Griffith, an investigator with the Baldwin County Sheriff's Department. Aitcheson indicated to Inv. Griffith that he understood his rights, and he agreed to waive his rights and signed a waiver-of-rights form. Inv. Griffith testified at trial that Aitcheson did not appear to be under the influence of any substances and that no promises were made to Aitcheson to persuade him to give a statement. The recording supports Inv. Griffith's testimony. Inv. Griffith and Tony Nolfe, a lieutenant with the Baldwin County Sheriff's Department, then questioned Aitcheson about his father's death.

During the first hour of the interview, Aitcheson continually denied any knowledge of his father's death. Approximately 40 minutes into the interview, Aitcheson asked if he could have codefendant Darlene Jerkins's mother, Amber Jerkins, with whom he was living at the time, with him, and Inv. Griffith told him that he could not because she was not his mother. Aitcheson then asked if he could have his mother, Leisa Loffredi, present. No one answered Aitcheson, and the questioning continued for another 20 minutes, at which time Aitcheson requested that his mother be present, specifically referencing the rights of which he had previously been advised. Lt. Nolfe then contacted Loffredi and asked her to come to the office. However, after Loffredi was contacted, the questioning continued for over an hour before Loffredi arrived. During this hour, Aitcheson confessed that he was present when Weaver stabbed his father and when his father's mobile home caught fire, but maintained that he did not actively participate in the murder and claimed that he did not know how the mobile home caught fire.

Lt. Nolfe testified at one of the suppression hearings[2] that Aitcheson's mother arrived at approximately 10:45 p.m., he spoke with her "extensively" about the situation and told her that law-enforcement officers believed that Aitcheson had participated in his father's death, that Aitcheson had been advised of his Miranda rights, and that he believed that Aitcheson was not being entirely truthful about his

[2]As explained below, three separate hearings were held outside the presence of the jury regarding the admissibility of Aitcheson's various statements.

involvement in the crime. (R. 866.) The recording reflects that while Lt. Nolfe was speaking with Aitcheson's mother, Inv. Griffith continued questioning Aitcheson and that at approximately 11:05 p.m., Loffredi entered the room where Aitcheson was being questioned and was allowed to speak with him for a few minutes without any law-enforcement officers present. However, Loffredi and Aitcheson were advised that their conversation was being recorded.

Aitcheson then admitted to Loffredi that he was present when Weaver stabbed his father but still maintained that he did not actively participate in the murder and knew nothing about the fire. After a few minutes alone with his mother, Lt. Nolfe and Inv. Griffith reentered the room and continued questioning Aitcheson in his mother's presence for approximately half an hour. During this time, Aitcheson again denied knowing anything about how the fire started but admitted that he had told several people after the murder that he had poured gasoline on his father's body. Aitcheson claimed that his statements in that regard were false. When asked by his mother why he would say he poured gasoline on his father's body if he, in fact, had not done so, Aitcheson simply responded that he did "a lot of things without thinking." Aitcheson agreed to take the officers to the scene and show them what happened and show them where he said Weaver had disposed of the knife used to stab Robert.

Immediately following the interview, Lt. Nolfe and Inv. Griffith escorted Aitcheson and his mother to the area where the crime occurred, and Aitcheson walked them through the crime (hereinafter referred to as the "walk-through"). The walk-through was recorded and identified at trial as State's Exhibit 63. This Court has reviewed the entirety of that recording as well. During the walk-through, Aitcheson walked law-enforcement officers from where he said Weaver had parked the automobile, through the woods to his father's mobile home. He then explained what happened the night of the murder. The recording reflects that at this point, Aitcheson admitted that Weaver had brought a gasoline can with him when they walked to Robert's mobile home, and Aitcheson stated for the first time that he saw Weaver pour gasoline throughout the mobile home. Aitcheson still maintained, however, that he did not participate in the murder or the fire.

Following the walk-through, Loffredi was advised that Aitcheson would be taken back to the sheriff's office where he would be processed and then transported to jail. Lt. Nolfe testified at one of the suppression hearings that he asked Loffredi if she wanted to return to the sheriff's office with Aitcheson, but Loffredi declined and asked to be taken home. Before being taken home, Lt. Nolfe said, Aitcheson was allowed to speak with Loffredi for a few minutes alone. Loffredi was then taken home, and Aitcheson was returned to the sheriff's office, where he was seated in a hallway in the criminal investigations division while law-enforcement officers began processing him and arranging for his transport to jail and other law-enforcement officers were continuing to work on the case. Lt. Nolfe testified that while Aitcheson was waiting for transport, he compared the notes of his interview with Aitcheson with the notes of another investigator who had interviewed codefendant Danny Weaver and determined that Aitcheson had failed during the interview to mention that codefendant Keishjuan Betts was present and participated in the murder.

Lt. Nolfe said that he immediately approached Aitcheson in the hallway and asked him about Betts. At that point, Michael Gaull, a sergeant in the criminal investigations division of the Baldwin County Sheriff's Department who was present in the hallway at the time, activated an audio recorder he had on his person and began recording the conversation (hereinafter referred to as the "hallway conversation"). The recording was identified at trial as State's Exhibit 70, and this Court has listened to it in its entirety. Just after the conversation began, Weaver, who had been taken into custody at the same time as Aitcheson, was brought into the hallway, and Weaver and Aitcheson began talking. In addition, at various times throughout the hallway conversation, different law-enforcement officers posed questions to either Weaver or Aitcheson and elicited answers. Aitcheson admitted during the hallway conversation that he and Weaver went to Robert's mobile home to rob him and to kill him in order to keep Aitcheson out of prison for the thefts of his father's money and equipment. Specifically, Aitcheson admitted that on Monday, January 26, 2006, he had spoken with his father and that they had argued about the thefts. Aitcheson also admitted during the hallway conversation that he had helped Weaver pour the gasoline around the mobile home

but still maintained that he had no idea how the mobile home caught fire. Aitcheson further stated that Betts was present at the time of the murder and had put a plastic bag over Robert's head but claimed that he had forgotten Betts's presence during his previous interview because he was high on crack cocaine at the time of the murder.

The record reflects that Aitcheson did not file a pretrial motion to suppress his statements. Rather, Aitcheson waited until after the interview was admitted into evidence and a portion of it played for the jury before moving to suppress the interview, the walk-through, and the hallway conversation. The State called Inv. Griffith as its 24th witness. After questioning Inv. Griffith about Aitcheson's being advised of his juvenile Miranda rights and establishing that Aitcheson had waived his rights voluntarily the night of January 29, 2009, the State offered into evidence State's Exhibit 62, identified as "the interview between Investigator Griffith and [Lt.] Tony Nolfe with the Defendant" and moved "to publish it to the jury[.]" (R. 834.) When asked by the trial court if there was "any objection," Aitcheson's counsel responded "No, sir," and the trial court then stated that "State's No. 62 will be admitted." (R. 834.) The State then played approximately the first hour of the interview for the jury, at which point, the trial court indicated that it needed a break and put the jury in recess. According to the record, the digital counter on the recording read 9:58 p.m. at the time it was stopped by the trial court for the recess. This was approximately one minute after Aitcheson had specifically asked for his mother's presence.

After the break, but before the jury was brought back into the courtroom, Aitcheson's counsel objected to the admission of any statements Aitcheson had made after he had invoked his right to speak to his mother at approximately 9:57 p.m.[3] -- including the remainder of the two-and-a-half hour interview, the walk-through, and the hallway conversation --

[3]Aitcheson's counsel stated that he believed Aitcheson's first reference to his mother, at approximately 9:40 p.m., was ambiguous and "not a clear request" and that his argument was based solely on Aitcheson's unambiguous request for his mother at approximately 9:57 p.m. (R. 836.)

arguing that anything Aitcheson said after the invocation of that right should be suppressed because it was taken in violation of his juvenile Miranda rights. Specifically, counsel argued that Aitcheson should have been readvised of his juvenile Miranda rights after his mother arrived, and in his mother's presence, before any further questioning. After hearing initial arguments from the parties and viewing the entirety of State's Exhibit 62, the trial court brought the jury back into the courtroom and recessed the jury for the weekend.

A suppression hearing was then held and the parties made further arguments regarding the admission of Aitcheson's statements, and the trial court watched State's Exhibit 63 -- the recording of the walk-through. At the request of the State, the trial court then ordered the parties to file written briefs arguing their respective positions. In his brief, Aitcheson argued: (1) that all statements he made during the interview (State's Exhibit 62) between the time that he requested his mother's presence -- at 9:57 p.m. -- and the time that he spoke with his mother -- at 11:05 p.m. -- should be suppressed because they were obtained in violation of his juvenile Miranda right to speak to a parent; (2) that all statements he made after he spoke with his mother and in his mother's presence -- the last half hour of the interview (State's Exhibit 62), and all statements he made during the walk-through (State's Exhibit 63) -- should be suppressed because his mother was not advised of his juvenile Miranda rights or given a written copy of those rights in accordance with § 12-15-202(d)(1) and (d)(2), Ala. Code 1975; and (3) that all statements made during the hallway conversation (State's Exhibit 70) should be suppressed because his mother was not present and he was not readvised of his juvenile Miranda rights and given an opportunity to either waive or invoke those rights. In its brief, the State: (1) voluntarily agreed to redact that portion of the interview with Aitcheson (State's Exhibit 62) between the time that he requested his mother's presence -- at 9:57 p.m. -- and the time that he spoke with his mother -- at 11:05 p.m.; (2) argued that Aitcheson's statements made after he spoke with his mother and while in his mother's presence -- the last half hour of the interview (State's Exhibit 62), and all statements he made during the walk-through (State's Exhibit 63) -- were properly admitted because Aitcheson had been both advised of, and given

the opportunity to exercise, his right to communicate with his parent; and (3) argued that the totality of the circumstances surrounding the hallway conversation (State's Exhibit 70) indicated that it was voluntary.

When the trial reconvened the following Monday morning, a second suppression hearing was held outside the presence of the jury regarding the admission of State's Exhibit 70 -- the hallway conversation. Lt. Nolfe testified at that hearing as follows:

> "At the end of it, after the walk-through, we told her [Loffredi] sort of — explained to her what the process was going to be as far as him being taken into custody and where he would be transported, et cetera, et cetera. And we offered if she would like to just ride with us because she had ridden with us to the scene, that if she would like a ride back to the office until we got him transported, and she said no. In fact, she would like for us to take her back to her residence. So we did that with that being where we went and where we dropped her off."

(R. 863.) Lt. Nolfe said that Loffredi was never told that Aitcheson would not be questioned further after being taken back to the sheriff's department. The trial court then ruled that that portion of Aitcheson's interview -- State's Exhibit 62 -- from the time it was stopped in front of the jury (9:58 p.m. on the recording's digital counter) until Loffredi entered the room (11:05 p.m. on the recording's digital counter) would be suppressed and that the hallway conversation -- State's Exhibit 70 -- would also be suppressed. The trial court did not issue a specific ruling on the admissibility of the walk-through -- State's Exhibit 63 -- that had been raised in Aitcheson's brief in support of his motion to suppress.

The trial then continued with the last half hour of State's Exhibit 62 being played for the jury, and Inv. Griffith being questioned about the crime-scene walk-through. When the State offered into evidence the recording of the walk-through -- State's Exhibit 63 -- Aitcheson's counsel stated "No objection, Your Honor." (R. 879.) The recording of the walk-through was then admitted into evidence and played

for the jury, after which a recess was taken.

During the recess, the State requested an opportunity to present evidence regarding the admissibility of the hallway conversation. The trial court granted the request, but instructed the State to question Inv. Griffith only up to the point that the hallway conversation took place, stating that it may reconsider the admissibility of that statement at a later time. The State then concluded questioning Inv. Griffith and called three more witnesses. The jury was then released for an overnight recess and another suppression hearing was held outside the presence of the jury regarding the admissibility of the hallway conversation. Following that hearing, the trial court reversed its earlier decision and held that the hallway conversation was admissible. The following morning, Aitcheson filed another written brief regarding the admissibility of the hallway conversation, this time raising hearsay and confrontation arguments regarding the statements made by codefendant Weaver during the conversation. The parties then argued those issues to the trial court outside the presence of the jury. The trial court ruled against Aitcheson and held that the hallway conversation was admissible. The State then called its final two witnesses and State's Exhibit 70 -- the hallway conversation -- was admitted into evidence and played for the jury.

"It has long been the law that a confession is prima facie involuntary and inadmissible and that, before a confession may be admitted into evidence, the burden is upon the State to establish voluntariness and a Miranda predicate." Jones v. State, 987 So. 2d 1156, 1163 (Ala. Crim. App. 2006). To establish a Miranda predicate, "the [S]tate must show that the defendant was advised of his rights, as required by Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966), and its progeny, and that the defendant gave the statement after making a voluntary and knowing waiver of those rights." Robinson v. State, 698 So. 2d 1160, 1162 (Ala. Crim. App. 1996) (citations omitted). When the defendant is a juvenile, the State must establish that the defendant was properly advised of his juvenile Miranda rights. See Anderson v. State, 729 So. 2d 900 (Ala. Crim. App. 1998). Section 12-15-202(a) and (b), Ala. Code 1975, provide:

"(a) Rights of the child when taken into

custody. When a child[4] is taken into custody, the person taking the child into custody shall inform the child of all of the following, in language understandable to the child:

> "(1) The reason that the child is being taken into custody.
>
> "(2) That the child has the right to communicate with his or her parent, legal guardian, or legal custodian whether or not that person is present. If necessary, reasonable means will be provided for the child to do so.
>
> "(3) The child has the right to communicate with an attorney. If the child does not have an attorney, one will be appointed for him or her. If the child has an attorney who is not present, reasonable means shall be provided for the child to communicate with the attorney.

"(b) Rights of the child before being questioned while in custody. Before the child is questioned about anything concerning the charge on which the child was taken into custody, the person asking the questions shall inform the child of the following rights:

> "(1) That the child has the right to a child's attorney.
>
> "(2) That if the child is unable to pay for a child's attorney and if the parent, legal guardian, or legal custodian of the child has not provided a child's attorney, one will be appointed.
>
> "(3) That the child is not required to

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[4]There is no dispute that Aitcheson was a "child" for purposes of § 12-15-202, Ala. Code 1975.

> say anything and that anything the child says may be used against the child.
>
> "(4) That the child has a right to communicate with his or her parent, legal guardian, or legal custodian, whether or not that person is present. If necessary, reasonable means will be provided for the child to do so.
>
> "(5) That even if the child's attorney is not present or has not yet been appointed, the child has the right to communicate with him or her and that, if necessary, reasonable means will be provided for the child to do so."[5]

Aitcheson pursues on appeal the same arguments he presented to the trial court in his two briefs in support of his motion to suppress. First, he argues that all statements he made during the interview between the time that he requested his mother's presence -- at 9:57 p.m. -- and the time that he spoke with his mother -- at 11:05 p.m. -- should have been suppressed because, he says, they were obtained in violation of his juvenile Miranda right to speak to a parent. However, the record reflects that the trial court granted Aitcheson's motion to suppress in part and that this portion of the interview was, in fact, suppressed by the trial court. Therefore, Aitcheson has no adverse ruling from which he can appeal. See Berryhill v. State, 726 So. 2d 297, 302 (Ala. Crim. App. 1998) ("This court will not review the merits of a motion presented by the appellant at trial unless the court below has issued a ruling adverse to the appellant on the motion."); Rice v. State, 611 So. 2d 1161, 1163 (Ala. Crim. App. 1992) ("An adverse ruling is a prerequisite for

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[5]Section 12-15-202, Ala. Code 1975, became effective January 1, 2009, and Rule 11, Ala. R. Juv. P., which had previously set out the rights of a child, was rescinded effective January 9, 2009. Section 12-15-202, Ala. Code 1975, is substantially the same as former Rule 11, Ala. R. Juv. P. Therefore, caselaw applying former Rule 11 is equally applicable to § 12-15-202, Ala. Code 1975.

preserving alleged error for appellate review.").

In addition, as explained above, although Aitcheson did move to suppress the interview during the trial, he did so only after the interview had been admitted into evidence, without any objection by him, after a portion of the interview had been played for the jury, and after a recess had been taken. Therefore, Aitcheson's motion to suppress was untimely. See Fantroy v. State, 560 So. 2d 1143, 1144-45 (Ala. Crim. App. 1989) (motion to suppress photographs untimely when motion made after photographs had already been admitted into evidence). While a pretrial motion to suppress is not required, an objection must be made to the allegedly illegal evidence at the time that evidence is offered at trial. See Lewis v. State, 27 So. 3d 600, 602 (Ala. Crim. App. 2008) ("Although the better practice is to raise a motion to suppress before trial, we have held that 'a pretrial motion to suppress is not necessary, and that objection to the introduction of illegally obtained evidence may be made for the first time when illegally obtained evidence is offered at the trial.' Biggs v. State, 346 So. 2d 467, 469 (Ala. Crim. App. 1976)." (Emphasis added.)). Therefore, this argument is not properly before this Court for review.

Second, Aitcheson argues that all statements he made after he spoke with his mother and in his mother's presence -- the last half hour of the interview and all statements he made during the walk-through -- should have been suppressed because his mother was not advised of his juvenile Miranda rights or given a written copy of those rights in accordance with § 12-15-202(d)(1) and (d)(2), Ala. Code 1975. As this argument applies to the last half hour of the interview, it was not properly preserved for review because, as noted above, Aitcheson's motion to suppress was untimely, made only after the interview had been admitted into evidence. As this argument applies to the walk-through, it was likewise not properly preserved for review. As noted above, after the second suppression hearing, the trial court ruled that the portion of Aitcheson's interview from the time Aitcheson requested his mother until the time he spoke with his mother would be suppressed, and that the hallway conversation would also be suppressed. However, the trial court did not issue a specific ruling on the admissibility of the walk-through, and when the State later offered into evidence the recording of

the walk-through, Aitcheson's counsel stated that he had no objection to its admission. Therefore, it appears that Aitcheson also has no adverse ruling on his motion to suppress the walk-through from which to appeal. See Berryhill and Rice, supra.

However, even assuming that Aitcheson's argument that the statements he made after speaking with his mother should have been suppressed because his mother was not advised of his juvenile Miranda rights or given a written copy of those rights in accordance with § 12-15-202(d)(1) and (d)(2), Ala. Code 1975, were preserved, this argument is without merit. Section 12-15-202(d), Ala. Code 1975, provides:

> "(d) Rights of the child upon detention in a juvenile court intake office or juvenile detention facility or shelter care facility. When a child is detained pursuant to subsection (c),[6] the person in charge of the juvenile court intake office or the facility shall notify the child of the rights of the child as set out in subsection (b).

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[6]Section 12-15-202(c), Ala. Code 1975, provides:

> "(c) When a child is brought to the juvenile court intake office or delivered to a juvenile detention facility or shelter care facility, the juvenile court intake officer or person in charge of the facility shall immediately inform the child of the following:
>
> > "(1) The reason for the detention of the child.
> >
> > "(2) The right of the child to a hearing to determine if continued detention or shelter care is needed as provided in this article.
> >
> > "(3) That the parent, legal guardian, or legal custodian will be informed of the whereabouts of the child and the reason for the detention of the child."

"(1) The person in charge of the juvenile court intake office or the juvenile detention facility, in the most expeditious manner possible, shall ensure that the parent, legal guardian, or legal custodian of the child is notified of the whereabouts of the child and the reason for the detention of the child. Except in the situation provided herein, the person in charge shall also inform the parent, legal guardian, or legal custodian of the child of the rights of the child and of the right of the parent, legal guardian, or legal custodian to be represented by counsel. The parent, legal guardian, or legal custodian shall also be informed of the right of the child to remain silent. However, if the child has been read his or her rights, understands those rights, and knowingly, voluntarily, and intelligently waives those rights, then it is not necessary that the parent, legal guardian, or legal custodian be notified of the rights of the child or be present during the interrogation. This notification to the parent, legal guardian, or legal custodian, if practicable, shall be made in person or by telephone; otherwise, the communication shall be by the best means practicable.

"(2) A written statement containing the information in subdivision (1) shall be given to the parent, legal guardian, or legal custodian of the child at the first meeting with the juvenile court intake officer or person in charge of the facility. If the parent, legal guardian, or legal custodian does not appear at the facility within 24 hours after the placement of the child in the facility, or if the parent, legal guardian, or legal custodian fails to attend the detention or shelter care hearing, this written

> statement shall be mailed if an address may reasonably be ascertained."

By its plain language, § 12-15-202(d), Ala. Code 1975, applies only to juveniles who are brought to the juvenile court intake office or to a juvenile detention facility or shelter care facility. See Ex parte Berryhill, 801 So. 2d 7, 10 (Ala. 2001) ("When a court construes a statute, '[w]ords used in [the] statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used a court is bound to interpret that language to mean exactly what it says.' IMED Corp. v. Systems Eng'g Assocs. Corp., 602 So. 2d 344, 346 (Ala. 1992)."). The record reflects that, at the time Aitcheson's mother arrived at the sheriff's office, Aitcheson was simply in custody for questioning. He had not been transported to the juvenile court intake office, a juvenile detention facility, or a shelter care facility. Section 12-15-202(d), Ala. Code 1975, does not apply to those juveniles who are simply in custody for questioning, as was the case here. Cf. D.D.P. v. State, 595 So. 2d 528, 534 (Ala. Crim. App. 1991) (noting that there is a difference between taking a child into custody and placing a child into detention under former Rule 11, Ala. R Juv. P., and that different rights are afforded at those different phases). Nothing in § 12-15-202(b), Ala. Code 1975, requires that a juvenile's parent be advised of the juvenile's rights or given a written copy of those rights. Therefore, Aitcheson's argument in this regard is meritless.

In his third and fourth arguments, Aitcheson argues that the hallway conversation should have been suppressed because, he says: (1) his mother was not present and he was not readvised of his juvenile Miranda rights and given an opportunity to either waive or invoke those rights, and (2) Weaver's statements during the conversation constituted inadmissible hearsay and violated his right to confrontation. However, this Court need not address these arguments because the error, if any, in the admission of the hallway conversation was harmless beyond a reasonable doubt. In Smith v. State, 623 So. 2d 369 (Ala. Crim. App. 1992), this Court explained:

> "In some limited instances, receipt into evidence of an illegally obtained confession may be

considered harmless error. The United States Supreme Court has applied the harmless error doctrine to confessions obtained in violation of Miranda and to coerced confessions. Arizona v. Fulminante, 499 U.S. 279, 111 S. Ct. 1246, 113 L. Ed. 2d 302 (1991); Milton v. Wainwright, 407 U.S. 371, 92 S. Ct. 2174, 33 L. Ed. 2d 1 (1972). Receipt of an illegally obtained confession is harmless if the court can find, based on the circumstances of the case, that admittance of the confession was harmless 'beyond a reasonable doubt.' Fulminante; Milton. This harmless error doctrine was defined in Chapman v. California, 386 U.S. 18, 87 S. Ct. 824, 17 L. Ed. 2d 705 (1967). The United States Supreme Court stated:

> "'In fashioning a harmless-constitutional-error rule, we must recognize that harmless-error rules can work very unfair and mischievous results when, for example, highly important and persuasive evidence or argument, though legally forbidden, finds its way into a trial in which the question of guilt or innocence is a close one. ....
>
> "'... We prefer the approach of this Court in deciding what was harmless error in our recent case of Fahy v. State of Connecticut, 375 U.S. 851, 84 S. Ct. 229, 11 L. Ed. 2d 171 [(1965)]. There we said: "The question is whether there is a reasonable possibility that the evidence complained of might have contributed to the conviction." Id., at 86-87, 84 S. Ct. at 230. Certainly error, constitutional error, in illegally admitting highly prejudicial evidence or comments, casts on someone other than the person prejudiced by it a burden to show that it was harmless. It is for that reason that the original common-law harmless-error rule put the burden on the beneficiary of the error either to prove that there was no injury or

> to suffer a reversal of his erroneously obtained judgment. There is little, if any, difference between our statement in Fahy v. State of Connecticut about "whether there is a reasonable possibility that the evidence complained of might have contributed to the conviction" and requiring the beneficiary of a constitutional error to prove beyond a reasonable doubt that the error complained of did not contribute to the verdict obtained. We, therefore, do no more than adhere to the meaning of our Fahy, case when we hold, as we now do, that before a federal constitutional error can be held harmless the court must be able to declare a belief that it was harmless beyond a reasonable doubt. While appellate courts do not ordinarily have the original task of applying such a test, it is a familiar standard to all courts, and we believe its adoption will provide a more workable standard....'
>
> "Chapman, 386 U.S. at 23-24, 87 S. Ct. at 827-28. (Footnotes omitted, emphasis added [in Smith].)"

623 So. 2d at 372-73.

In this case, although the hallway conversation was the first time that Aitcheson admitted that he had gone to his father's mobile home to rob him, and to kill him in order to avoid going to jail for stealing, and that he had aided Weaver in pouring gasoline throughout the mobile home, there was ample other evidence presented establishing these facts and linking Aitcheson to the crime. Aitcheson had already admitted, in his previous, and properly admitted, statements that he had been present at the time of the crime and had motive to kill his father. He also had already admitted that Weaver had carried the gasoline can to the mobile home; that he saw Weaver stab his father; and that he saw flames coming from the mobile home. He had further admitted that he and Weaver had been together the night of the murder in the vehicle in which envelopes containing soot were found. In

addition, the State presented evidence from various witnesses that in the day or two before the murder, Robert had threatened to send Aitcheson to jail for stealing money and equipment from him, thus establishing the motive to which Aitcheson admitted. Codefendant Betts testified that, just before the murder, he had overheard Aitcheson plotting to kill his father because his father was going to send him to jail for stealing from him and that he saw Aitcheson pouring gasoline in the mobile home. Hambright testified that just after the murder, Aitcheson telephoned him and said he needed an alibi because he had killed someone, and then later Aitcheson and Weaver specifically told him that they had killed Robert and burned Robert's mobile home.

Simply put, the hallway conversation was not the most incriminating evidence against Aitcheson. See Fisher v. State, 665 So. 2d 1014, 1018 (Ala. Crim. App. 1995) (holding admission of defendant's confession harmless where confession was not most incriminating evidence against defendant, but eyewitness and physical evidence both linked defendant to the crime); McCray v. State, 629 So. 2d 729, 733 (Ala. Crim. App. 1993) (same). But see Wimberly v. State, 759 So. 2d 568, 571-72 (Ala. Crim. App. 1999) (holding admission of defendant's confession not harmless where confession was main evidence against defendant); Weaver v. State, 710 So. 2d 480, 488 (Ala. Crim. App. 1997) (holding admission of defendant's confession not harmless where no one could positively identify defendant as perpetrator and defendant's confession was strongest evidence of defendant's guilt); Pardue v. State, 695 So. 2d 199, 205-06 (Ala. Crim. App. 1996) (holding admission of defendant's confession not harmless where confession was most incriminating evidence against defendant). In addition, at trial, the defense strategy was not to claim innocence, but to admit Aitcheson's involvement in the crime and argue for a guilty verdict on a lesser-included offense of the capital charge (which, in fact, was a successful strategy). Aitcheson's counsel, during both opening statements and closing arguments, admitted to the jury that Aitcheson was involved and participated in his father's death. Counsel's only argument was that no robbery had occurred. (R. 387-88; 1118-1127.) Thus, Aitcheson's statements during the hallway conversation were, for the most part, entirely consistent with his defense strategy at trial, and the single statement that was not consistent with his defense strategy -- that he had

planned to rob Robert -- was clearly not harmful since Aitcheson's counsel successfully persuaded the jury to find Aitcheson guilty of intentional murder instead of capital murder during a robbery.[7] See McGriff v. State, 908 So. 2d 961, 984 (Ala. Crim. App. 2000) (holding harmless admission of defendant's confession where confession was consistent with defense strategy at trial), rev'd on other grounds, 908 So. 2d 1024 (Ala. 2004). Under the circumstances in this case, in light of the evidence presented at trial and the defense strategy, this Court concludes that admission of the hallway conversation was harmless beyond a reasonable doubt.

Based on the foregoing, the circuit court's judgment is affirmed.

AFFIRMED.

Welch, P.J., and Kellum, Burke, and Joiner, JJ., concur.

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[7]This Court notes that Aitcheson did not testify at trial and, thus, the State did not use the hallway conversation to attack Aitcheson's credibility. See Little v. State, 739 So. 2d 539, 543 (Ala. Crim. App. 1998) (holding admission of defendant's statement not harmless where inconsistencies between statement and defendant's trial testimony were used by State impeach defendant's credibility); Young v. State, 730 So. 2d 1251, 1255-58 (Ala. Crim. App. 1998) (holding admission of defendant's statement not harmless where inconsistencies between statement, defendant's trial testimony, and eyewitness's testimony were used by State to impeach defendant's credibility).