All right. For the record, as we all know, the jury is gone. We have a motion to suppress, I understand, the statement made by the Defendant himself; is that correct?

MR. JORDAN: Yes, Your Honor.

THE COURT: Do you wish to put Mr. Fletcher on the stand now?

MR. JORDAN: Yes, and we'll get this preliminary matter out of the way.

AL FLETCHER

was sworn and testified as follows:

DIRECT EXAMINATION

BY MR. JORDAN:

Q Tell us your name for the record, please.

A Al Victor Fletcher.

MR. JORDAN: Mark this, please.

(State's Exhibit 44 marked for identification.)

THE COURT: Let me see what you've got.

MR. JORDAN: You want to look at this?

THE COURT: Yeah, sure do.

MR. JORDAN: Judge, he wasn't in custody when these were given, so that's gonna kind of move things along.

THE COURT: You have copies of all these

statements, don't you?

MR. NIXON: Yes, Your Honor. My understanding is we have three statements, one dated 3/7/92, a handwritten statement, one dated 3/3/92, a handwritten statement.

THE COURT: I only have two.

MR. NIXON: And one dated April the 17th, 1992, statement to Buzz Jordan.

MR. JORDAN: That one is through Lebarron, Your Honor. I'll give you the third one, though.

THE COURT: Well, I don't know anything about those. I have two in my hand right now. One is 3/92, and it consists, looks like to me, of about three questions. The other is, looks like to me, about four pages.

Who underlined this?

MR. JORDAN: Let me see.

THE COURT: Who highlighted this in yellow?

MR. JORDAN: I probably did.

THE COURT: Why?

MR. JORDAN: Just so I could read it better. I should have done it with the copy, though, right? I can introduce a clean copy.

MR. NIXON: I've never seen any of the originals, Judge.

THE COURT: Go ahead. You have a copy of that, don't you?

MR. NIXON: Yes, sir, Judge.

THE COURT: Because I granted open file discovery.

Q Detective, I show you what's been marked as State's Exhibit 44 dated 3/3/92. Tell us the circumstances of, like, where you were and how you came about taking that statement from Rodney.

A Okay. On this date, it has 3/3 of '92. This particular statement was taken at the precinct in the office area.

Q And how did it come about for Rodney Stanberry to be down there? Did you go out and pick him up or did he come down there on his own?

A No, this individual, Mr. Stanberry, came --

THE COURT: For the record, what is your full name, sir? I'm gonna help him out a little bit. For the record, what is your full name, sir?

THE WITNESS: My name is Al Victor Fletcher.

THE COURT: And where are you employed, sir?

THE WITNESS: I'm not employed at this time. I was employed through the City of Prichard Police Department from '90 to '93.

THE COURT: So at the time this statement was

made you were a police officer?

THE WITNESS: Yes, sir.

THE COURT: In the Prichard Police Department?

THE WITNESS: Yes, sir.

THE COURT: When did you terminate that employment?

THE WITNESS: January of '93.

THE COURT: Okay. Now you may proceed.

Q Now, when Stanberry came down, how did you come about talking to him?

A I believe, sir, Mr. Stanberry came by the precinct himself.

Q Okay. And whose handwriting is that on that piece of paper?

A This is my handwriting.

Q All of it?

A Yes, sir.

Q Did you ask Mr. Stanberry those questions?

A Yes, sir.

Q And did you write down his response?

A Yes, sir.

Q Is that response, what you wrote down, the response he gave you?

A Yes, it is.

Q And did he, in fact, -- At that time, is that all he

told you about the incident?

A Yes.

Q Did he tell you anything else?

A On this particular day?

Q Right.

A The only statements that I have here is what he told me and --

Q That's everything he told you, isn't it, on that day?

A On this particular date, yes.

Q Now, let me show you what's been marked State's Exhibit -- Now, at that time, was he in custody?

A No, he was not.

Q Was he under arrest?

A No, sir.

Q He came to the police department on his own?

a Yes, sir.

Q Did he leave on his own?

A Yes, sir.

Q Let me show you what's been marked State's Exhibit 45 dated March 7th of '92.

MR. NIXON: Excuse me. Do you want to take these one at a time?

THE COURT: No, let him get through. He's only got one more.

Q Do you recognize that document?

A Yes, it is. I recognize it.
Q What were the circumstances surrounding that statement?
A The circumstances of this statement, March 7th, was in the office, also. It was a formal investigation questionnaire for statements by my handwriting for questions that I asked Mr. Stanberry.
Q Did you go out and find him and bring him in, or did he come in and talk to you?
A He came in and talked to me.
Q And is that all of your handwriting on there?
A Yes, it is.
Q Did he review that statement and sign it as to its verification?
A Yes, sir. I passed it to him as we finished the interview and let him read over it, and he signed it.
Q Okay. Did he state on there that anything was wrong?
A Not at that time.
Q And did you, in fact, ask him the questions that are on that paper?
A Yes, I did.
Q And are those the answers that he gave you at that time?
A Yes, it was.
Q And the signature on the side of each paper, that is his signature on each piece of paper?

A Yes, sir.
Q Was he under arrest at that time?
A No, sir, he was not.
Q Was he free to go when he got through with the statement?
A Yes, he was.
Q Did he, in fact, leave the police station?
A Yes, he did.
Q That's all I have.

CROSS EXAMINATION

BY MR. NIXON:

Q Detective Fletcher, when was he under arrest?
A I really don't know, sir, because at that time I was not working on the case. It had been turned over to whomever that took the case after I left.
Q On March 7th you were not working on this case?
A No, sir. You asked me the statement about the arrest. I don't know anything about that.
Q Okay. You were the case agent on March 7th, weren't you?
A Yes, at that time, yes.
Q You were the chief investigator handling the shooting at Valerie Finley's house?
A I don't know about chief investigator because we all were working on it at the same time.

Q That case was assigned to you, wasn't it?
A Yes, it was.
Q And you were responsible for doing what needed to be done on that case?
A I was responsible for taking care of the interviews and whatever leads that I had on the case, yes.
Q On March the 3rd when you took this first statement, you say Rodney Stanberry came in. Did he come in at your request?
A Could you repeat the question?
Q The March the 3rd statement, you said Rodney came in to the police station and gave that statement to you on March the 3rd?
A Yes.
Q Did you ask him to come in?
A I don't recall asking him to come in on that particular date, no, sir.
Q He just came in on his own?
A I really don't know how he came to the police station to talk to me but --
Q You don't recall?
A No, sir. He was one of the individuals that I first talked with.
Q Do you have any notes that you reviewed before you come in here to testify today?

A No, sir, I don't have any notes, but I'm particularly clear on what happened on that particularly day, sir, what I've written.

Q You're just not clear about whether you called him and asked him to come in or whether he just came in; is that right?

A I have no recollection of calling him and telling him to come in and talk to me, because at that time I'm pretty sure I didn't have any leads on anything at that time.

Q Okay. So he came in on his own, is your impression?

A Yes, sir.

Q And he came in to talk to you and give you some information?

A Yes.

Q And what information did he give you?

A The only information he gave me is what I have here on these documents.

Q Did he give you some photographs?

A Yes, he did.

Q Now, he says on this statement, "They called me and told me that they did it, and I told them that they should turn themselves in, but they said that they were in Texas." Right?

A Yes, sir.

Q Now, you asked him who they were, didn't you?
A Yes, I did ask him who they were.
Q And who did he tell you?
A At this time I can't recall. But it was some buddies of his that he knew from New York.
Q You don't remember who he told you did it?
A If I have it in my notes, I don't -- I don't have the notes here with me presently.
Q Who has your notes?
A Everything was left in the case folder. It should be at the department.
Q Okay. So he told you that the guys from New York did it at that time?
A Yes, sir.
Q And you let him go. And you didn't have any information in your possession at that time to not believe him, did you?
A No.
Q So he was not a suspect at that time?
A Not at that time, no.
Q No police officers had told you that any -- Well, did you know what kind of car he drove at that time? Had anybody told you what kind of car he drove?
A No, not at that time.
Q And had anybody told you what kind of car had been at

the scene when this happened?
A I can't recall at that time, not when I talked with him, no, sir.
Q Sir?
A I said not at that time. I can't recall if anyone had told me anything about a car or any individual cars or anything on the scene at that time.
Q Well, you said just a minute ago that you didn't have any leads on March the 3rd.
A I said about a car. You asked me about a vehicle.
Q Well, I'm asking now. Did you have any leads at all? I thought you said you didn't have any leads.
A You asked me a question about a car.
Q Okay. I'm asking you now, did you have any leads before Rodney told you about these guys in New York? Did you have any leads on the case as to who did it?
A Nothing but he told me about some guys that he knew from New York.
Q So until Rodney told you about the guys from New York, you didn't have any information about -- or any leads in the case?
A No, not at that time.

MR. NIXON: That's all I have, Judge, on that.

THE COURT: Anything else, Buzz?

MR. JORDAN: Not on that one.

MR. NIXON: Now, I'm gonna move to the second statement. Is that okay, Judge?

THE COURT: Sure.

Q I'm going to move to the second statement, and this statement was made on the 7th of March, correct?

A Yes.

Q And you wrote this entire statement out, didn't you?

A Yes, I did.

Q At the police station?

A Yes, sir.

Q On this statement, did you ask Mr. Stanberry to come in to talk to you on March the 7th?

A I believe so, I did.

Q Did you call him or did you go by and get him?

A I think I either left word with somebody or -- I really don't recall how he came by the station at the time, but I knew that I took this statement.

Q You just recall that you asked him to come by?

A Right.

Q Was he a suspect at that time?

A I don't think so.

Q Well, what do you mean by that?

A It's been so long, I really don't recall it.

Q Well, did you have any information at all on March 7th, 1995 implicating Rodney Stanberry in this crime?

A The only information I had was Rodney would continually come by the station or call and talk to me about this particular case. That's the only information that I had was coming from him.

Q So, to answer my question, on March the 7th when he came in and gave this statement to you, you didn't have any information whatsoever that would implicate Rodney Stanberry in this crime?

A Well, at that time I had my own personal beliefs.

Q I'm not asking you that. I'm asking you what evidence that you found or any evidence or testimony or statements that were given to you that implicated Rodney.

A No, sir, not at that time.

Q Had you recovered the guns or been notified that the guns had been recovered at that time?

A No, sir, I don't think -- No, sir.

Q You sure about that?

A I'm not quite sure what day the guns were recovered but at the time of this statement, I don't believe so.

Q And nobody had told you -- By March the 7th, 1995, nobody had told you that they had seen Rodney's car or Bronco over there at the neighborhood?

A Not that I can recall, no, sir.

Q Do you recall Rodney giving you some photographs on

March the 7th?

A I don't know if it was March 7th, but I do remember him giving some photos.

Q Did he give you any other information?

A The only information that he gave me, I don't recall the individual's name or the guy's name that he gave me, a couple guy's names and those photos.

Q Do you recall him giving you the name of the officer, the detective in New York at that time?

THE COURT: Name of who?

MR. NIXON: Detective in New York named Hardy.

A Yes, I did. I recall that.

Q Is it basically he was trying to give you information to apprehend these two guys from New York or to assist you in apprehending these two guys in New York?

A It apparently -- It seemed as if he was.

Q And I see you're reviewing something up there on the stand. Is that the statement that he gave you?

A Yes, it is.

Q And have you reviewed your notes concerning the circumstances of taking that statement before you testified here today?

A Can you restate your question?

Q Do you have any notes in the police file, or have you reviewed the police file or your own notes before you

got here and testified today to refresh your recollection?

A No, sir.

Q But your testimony is he was not a suspect on 3/7/92 or 3/3/92?

MR. JORDAN: Judge, actually, that's not relevant to this proceeding. It's not relevant to the trial or to the proceeding.

THE COURT: What's not relevant?

MR. JORDAN: Whether he was a suspect -- As to this officer, whether he was a suspect or not to this event.

MR. NIXON: I think it is, Judge, and I can proffer that, if you'll let him answer the question. This jury is not in the box.

THE COURT: Go ahead. Overruled.

Q Is that right, Mr. Fletcher?

A At this time these statements were taken, these are the only individuals that I had contact about the incident that took place, and this was my formal interview of everyone that I had came in contact dealing with that incident on Meadow Avenue.

Q On 3/3/92 and on 3/7/92 when you took these statements from Rodney, you didn't have any evidence that he had participated in this crime or he was a suspect, and he

was not a suspect; is that basically right?

A As I stated, this was a formal interview of everyone that I had came in contact with the incident that happened on Meadow Avenue.

Q I understand, Mr. Fletcher. You didn't have any evidence at that point in your possession, hadn't been told anything, you didn't have any evidence that implicated Rodney Stanberry in this crime or tended to implicate him, did you?

A No, sir.

Q Okay. And, for the record, you never read him his miranda rights on March the 3rd or March the 7th, did you?

A On this particular time, this was a formal interview. I didn't read him any type of miranda rights because we wasn't actually making an arrest. You know, this was actually an informal interview.

Q Are you saying an informal interview or a formal interview?

A Formal interview, right.

Q You don't read miranda on formal interviews?

A Yes, sir. I believe so, I did, yes.

Q But you didn't read -- You've never read Rodney Stanberry miranda warnings, have you?

A I retract that statement. I did read him his rights.

I gave him a card and also read it to him.
Q Oh, you did?
A Yes, sir.
Q Well, a while ago you told me you didn't read him his rights.
A Okay. Well, I said I retract that on this particular statement. On the 3rd, I did not read him any miranda rights because it was an informal interview, but this particular on the 7th, the rights was read to him on this particular statement.
Q Well, don't you think as an investigator that it would have been important to note that you read him his rights on this -- This is the only memorialization of that interview, isn't it, Mr. Fletcher?
A And also his signature is, too. He signed it.
Q Yes, sir. And you put everything that you thought was important in this written down to be included in the case file, didn't you?
A All the questions I asked him are on the document, and he signed it.
Q Yes, sir. And you have rights and waiver forms in the police station, don't you?
A That's correct.
Q That people sign when they waive their rights after you've read them miranda?

A If you check the files, I'm pretty sure they're in there.
Q And if you had read him his rights, there would be a written waiver in the file, wouldn't it?
A There should be.
Q And you would attach that to this statement, wouldn't you?
A I would have put it in my case folder. Everything I have is in the case folder. I don't know about the attachment. Attachment, to me, is putting it inside the folder, also.
Q Okay. But you haven't reviewed the folder. This district attorney hasn't provided any such waiver to me. You don't have any independent recollection of Mr. Stanberry signing any such waiver, do you?
A Yes, I do.
Q You do?
A Yes.
Q You're telling us here today that you specifically remember Rodney Stanberry signing a written waiver?
A Yes, sir.
Q On March the 7th?
A On the 7th, he gave me this statement signed and had various papers, documents that he signed.
Q Well, what various papers and documents did he sign?

A He had the miranda rights waiver, and also we had this formal statement here that he has his signature on.
Q What other documents did he sign?
A That's it.
Q You didn't make any notation on this statement about having read him his rights, did you?
A No, I did not.
Q And you didn't make any notation anywhere else about having read him his rights and him having signed a waiver, did you?
A No.
Q And everything that you prepared in connection with this case, especially a waiver of rights, should have been included in the file folder and case folder; is that right?
A Everything should be in the case folder.
Q Your testimony is when you left the police department at Prichard, you turned over everything you had in connection with this case to Lebarron Smith?
A I don't know if I turned it over to him. I left --
THE COURT: He said he left it in the file out there. Isn't that what you said?
THE WITNESS: Yes, sir.
MR. NIXON: That's all I have at this time, Judge.
THE COURT: I have a question. Attached to that

statement, I did not see any miranda waiver. Did you have a form, a miranda waiver form, that you had the Defendant sign?

THE WITNESS: Yes, sir.

MR. NIXON: He said he did, Judge.

THE COURT: Okay.

REDIRECT EXAMINATION

BY MR. JORDAN:

Q Officer, too, is this verbatim what he told you?

A Yes, sir.

Q The names, everything? Everything is verbatim as Rodney K. Stanberry told you; is that correct?

A Yes, sir.

Q Now --

THE COURT: Well, wait a minute. Wait a minute. Wait a minute. You say it's verbatim. Officer, didn't he tell you -- now, if I'm not right, you correct me, but didn't it happen something like this: You talked to him and then you sat down and wrote what he said, and then you had him go back and review what -- You're no stenographer. You didn't take down word for word what he said, did you?

THE WITNESS: Yeah, best that I could.

THE COURT: Well, the best you could after you talked to him?

THE WITNESS: Yeah, if I misunderstood a word, I stopped, I went back and corrected.

THE COURT: Did you ask him, your name is, and then write, your name is?

THE WITNESS: Yes, sir.

THE COURT: Well, it is -- You wrote it down as you were going through?

THE WITNESS: Yes, sir.

THE COURT: All right. The other question I have is do you have a recording of this?

THE WITNESS: No, sir, I don't have it recorded.

THE COURT: Okay.

RECROSS EXAMINATION

BY MR. NIXON:

Q You don't have a recording of the 3/3 statement, either, do you?

A No, sir.

Q Why didn't you record these statements?

A Well, at this time, like I say, I didn't have a tape recorder at that time to tape the statement.

Q You didn't have a tape recorder?

A No, sir.

Q This statement was taken at --

THE COURT: What did you say? You didn't have any recorder?

THE WITNESS: Well, you have to understand, at this time I was just going into the detective bureau. I didn't have a tape recorder at that time that he came.

THE COURT: I understand.

Q This statement was taken -- both these statements were taken at the detective bureau office of the Prichard Police Department, were they not?

A Yes, they were.

Q And is it your testimony that there was not a tape recorder in the detective bureau office of the Prichard Police Department on March the 3rd or March the 7th?

A No, there wasn't. If you were familiar with Prichard -- our office, we didn't have a tape recorder.

Q I'm familiar with it. I used to work there, probably longer than you did.

A Well, that's why you probably would understand, then, wouldn't you?

Q Is it your testimony that you had no tape recorder in the detective bureau of Prichard that day?

A No, sir, I sure did not.

Q Did you ask anybody for one?

A I tried to locate one but we didn't have one.

Q On March the 7th?
A That's right. Most of the detectives or most of the people in that department either had their own tape recorders or they weren't available for me to get one.
Q And you remember that, Detective Fletcher? Now you remember going and asking somebody for a tape recorder and looking for one and couldn't find one; is that what you're telling us?
A Yeah. Yes, I do, because it's been many times that I have needed one and couldn't find one.
Q I'm not asking you about those times. I'm asking you about the 7th. You're telling us you specifically remember looking for a tape recorder?
A That's correct.

MR. NIXON: That's all I have, Judge.

FURTHER REDIRECT EXAMINATION

BY MR. JORDAN:

Q How long were you a police officer at the time you took this --
A About three and a half years.
Q You had been a police officer for three and a half years at the time?
A Yes.
Q And did Rodney have a chance to review this?
A Yes, he did.

Q Did he tell you anything in here was incorrect?
A If he did, I either scratched it out or made a new statement but he -- yeah, he did.
Q You've got one area scratched out on page three.
A Right.
Q Would that have been at Rodney's advice or --
A No, that would have been at my discretion, something that I went back and asked him or didn't quite hear what he stated.
Q And you corrected it right there?
A Right.
Q And you wrote this in his presence?
A Yes, I did.
Q And he reviewed it in your presence?
A Yes, he did.
Q And he signed it in your presence?
A Yes, he did.
Q Did he tell you anything on here was wrong or incorrect?
A After reviewing it, after we finished the statement, I let him read it, and he signed it.

MR. JORDAN: That's all.

MR. NIXON: Nothing further, Your Honor.

THE COURT: Anything --

MR. JORDAN: Just one thing.

BY MR. JORDAN:

Q You said that he was a suspect in your own mind. Why were you suspicious of Rodney?

THE COURT: No, that's not what he said. He said I had my own opinion.

MR. JORDAN: Oh, I thought that kind of was what Ken was asking.

Q What is your opinion as to why you were suspicious of him?

MR. NIXON: Judge, I object.

THE COURT: Sustained.

MR. JORDAN: Well, it might be based on some facts.

MR. NIXON: I've already asked him that ten times. He's answered me ten times.

MR. JORDAN: Judge, the jury is not here.

THE COURT: It might rain, but, you know, I don't know what that's got to do with it, but go ahead and ask him.

Q Go ahead.

A Well, at this time, like I say, he was the only person I had communication with about it and, you know, to continuously come tell you about this person, that person, you know, he says he's giving me this information, anyone that comes and keep pouring on

information all the time, it has to be a suspect in your mind.

Q Okay.

MR. NIXON: And he kept pouring information on you, didn't he?

THE WITNESS: For the time I was there, yes.

Q And you didn't know if that information was correct or not, did you?

A No.

MR. NIXON: Did you try to verify it?

THE WITNESS: Well, at one time, yeah, I did. I called New York Police Department and talked to the, like I say, I think Detective Hardy or whomever and spoke with her, and she was somewhat familiar with the person's name.

MR. NIXON: She knew him, didn't she?

THE WITNESS: She knew of him.

MR. NIXON: She called you, didn't she?

THE WITNESS: Yes, she did.

Q She knew who?

A I can't recall the individual's name that he gave me.

MR. NIXON: Did you tell her to look for him?

THE WITNESS: Yes, I did to try to question him and talk to him or at least give us some information where we could, you know, relay

back to her about the incident.

MR. NIXON: You never talked to her again, though, did you?

THE WITNESS: No.

MR. NIXON: You never called her back to see if she found them, did you?

THE WITNESS: Well, at that time, I was out sick from -- anyway, from day to day, I was out after then.

MR. NIXON: That's all I have, Judge.

Q One more thing, when did you quit working on this case?

A I really don't recall. It probably was, maybe, a couple weeks later or so.

Q So that's all?

A That's all.

Q You were involved for a couple of weeks and that's it?

A Uh-huh.

THE COURT: Anything else?

MR. NIXON: Not at this time on those statements, Judge.

MR. JORDAN: That's all on those statements.

THE COURT: Officer, you may go. Be back tomorrow morning at 9:15.

THE WITNESS: Yes, sir.

THE COURT: Okay, Lebarron, raise your right hand