

COURT OF CRIMINAL APPEALS NO. _____

APPEAL TO ALABAMA COURT OF CRIMINAL APPEALS

FROM

CIRCUIT COURT OF MOBILE COUNTY, ALABAMACIRCUIT COURT NO. CC92-2313 thru 2315CIRCUIT JUDGE FERRILL D. McRAE

Type of Conviction / Order Appealed From: ATTEMPTED MURDER, ROBBERY, 1st, BURGLARY, 1st
92-2313.-Pen for 20 yrs, 92-2314.-Pen for 20 yrs concurrent with 2313 & 2315, 92-2315.-
 Sentence Imposed: Pen for 20 yrs concurrent with 2313 and 2314

Defendant Indigent: ☐ YES ☒ NORODNEY KARL STANBERRYKenneth A. Nixon(334) 433-1806

NAME OF APPELLANT

(Appellant's Attorney)(Telephone No.)P.O. Box 2301(Address)Mobile, Alabama 36652(City)(State)(Zip Code)

V.

STATE OF ALABAMA

NAME OF APPELLEE

(State represented by Attorney General)

NOTE: If municipal appeal, indicate above, and enter
 name and address of municipal attorney below)

(For Court of Criminal Appeals Use Only)

MR. JORDAN: We call Eddie Ragland to the stand.

Eddie.

EDDIE RAGLAND

was sworn and testified as follows:

DIRECT EXAMINATION

FedEx Office  ☐ PC ☐ Application/Version File Name
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☐ BSW ☐ Copies ☐ Size % ☐ ETF ☐ Paper Code ☐ Special Instructions/Pricing: ☐ Time Due ☐
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☐ DVS ☐ Size 8.5" x 11" 8.5" x 14" 11" x 17" Other
☐ Sides 1:1 1:2 2:1 2:2 as is

☐ Collate? ☐ Yes ☐ NFC ☐ PC ☐ PCR ☐ Front ☐ Back *E. Ragland*
☐ Coil ☐ Comb ☐ Tape ☐ Velo ☐ Wire ☐ Spine BK *23*

☐ ☐ ☐ ☐ ☐ Trim booklet? ☐ Restage originals?
Y N Y N

☐ ☐ ☐ ☐ ☐ Mil ☐ Trim? *225-248*
Y N

☐ Cut Dimensions x Yield Pieces
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ard Police

a working

A I was working in the identification division of Prichard Police Department.

Q And there was an incident that occurred at 1736 Meadow Avenue on March the 2nd, which would have been a Monday, of 1992. Did you go to the house on that Monday, March the 2nd?

A No, I did not.

Q And do you know the reason why you were not called out there at that time?

A As I recall, it was put out as a home accident.

1 Q Okay. So there was no necessity for I.D. for a home
2 accident?

3 A No, it was not.

4 Q Subsequently, were you called out to go to that scene
5 for the first time?

6 A Yes, sir. I believe that was on a Wednesday, two days
7 later.

8 Q Okay. And when you arrived at the scene, who was
9 present there?

10 A The husband.

11 Q Mike Finley?

12 A Yes.

13 Q And what did you do at that time?

14 A I looked over the interior of the house and began
15 talking to him for a few minutes. Information was
16 obtained that there was guns missing. I began to
17 question him in reference to the guns, did he have
18 serial numbers for identification purposes, and he said
19 on this particular date, Wednesday, that he had gotten
20 the guns back, and I began to question him how he got
21 the guns back. He said he had found them in the woods.
22 I got him to go with me. We went around to a location
23 of Antoine Street between Wolf Ridge Road and I-65
24 Service Road and located a woody area. The guns were
25 not there, but he showed me a general location of where

1 he had found them.

2 I questioned him as to how he knew the guns were
3 there. He said somebody had told him that the guns
4 were there, that he could get them.

5 Q Did he identify that person to you?

6 A No.

7 Q And what did you do while you were out there in the
8 woods?

9 A I got my camera equipment out of the car, took several
10 photographs showing the street location from two
11 different angles and also the wooded area and --

12 Q I'm sorry. Let me interrupt you just briefly and show
13 you State's Exhibits Four, Five, Six, Seven and Eight
14 and ask you if you can identify those photographs.

15 A Yes, I can.

16 Q And do those pictures fairly and accurately depict the
17 location that Mike Finley took you to where he told you
18 he had recovered the stolen guns?

19 A Yes, sir, it is.

20 MR. JORDAN: We move to introduce those at this
21 time.

22 THE COURT: It's introduced.

23 (State's Exhibits Four, Five, Six, Seven
24 and Eight admitted in evidence.)

25 MR. JORDAN: May I publish those, Your Honor?

THE COURT: Sure.

Q Now I show you what has already been introduced into evidence as State's 15, 11, 13, 14, 12, 10, 9, 28, 36, 35, 27, 33 and 32. Are those photographs that you took there at the scene of the residence on Wednesday?

A Yes.

Q I want to show you some additional photographs that have not been introduced yet, State's Exhibit Number 26 and 37. Can you identify those, please?

A Yes. State's Exhibit Number 26 is a picture of a gun vault that was located in the hallway of the house. State's Exhibit Number 37 is a cardboard box on a bed, I believe it is, with the blood pattern that's on the bed.

Q Did you, in fact, take both of those pictures?

A Yes, I did.

Q Did they fairly and accurately depict the scene of the residence on that Wednesday when you took the photographs?

A Yes, it does.

MR. JORDAN: I move to introduce those at this time.

THE COURT: Sure.

(State's Exhibits 26 and 37
admitted in evidence.)

1' Q I show you what has been marked as State's Exhibit
2 Numbers 25 and Number Two. Can you identify those?

3 A State's Exhibit Two and 25 are the kitchen area.
4 Located in this area is a green facial mask and a pair
5 of gloves.

6 Q Now, how did you come about taking that photograph?

7 A When we go to serious crime scenes, I do a general
8 search of the entire house.

9 Q Now, this was on Wednesday, right?

10 A Yes.

11 Q Michael Finley is there with you at the house?

12 A Yes.

13 Q Okay. Were those items laid out like that when you
14 took the photographs?

15 A Yes.

16 Q Did you recover those items?

17 A I do not recall right now.

18 Q Did you have anything to do with those items?

19 A I do not recall that right now.

20 Q Who would have placed them there on the counter like
21 that, or would they have already been there when you
22 got there?

23 A They were there prior to my arrival.

24 Q You didn't recover any items of evidence from the
25 woods, did you?

1' MR. NIXON: Judge, he answered that question. Oh,
2 excuse me. I withdraw the objection.

3 Q Did you recover any items of evidence from the woods?

4 A No, I did not.

5 Q Did you recover the guns that were stolen in this case?

6 A No, I did not.

7 Q Did you recover the pillowcase that was stolen in this
8 case?

9 A No, I did not.

10 Q Did you recover the items that were with the guns in
11 the pillowcase when these were recovered from wherever
12 they were recovered from?

13 A No, I did not.

14 Q Does this picture fairly and accurately depict the
15 scene, though, the picture of the kitchen that you took
16 at this time?

17 A Yes, it does.

18 MR. JORDAN: We move to introduce State's Exhibit
19 25 and Two.

20 THE COURT: They're introduced.

21 (State's Exhibits Two and 25 admitted in
22 evidence.)

23 Q Now, did you attempt to lift fingerprints from that
24 house?

25 A Yes. I processed the gun safe and area for latent

1' fingerprints.

2 Q You say you processed it. What do you mean?

3 A Our identification way of doing this is to take black
4 carbide type powder, put it on a phototype dust or
5 spread it on a hard metal surface, glass or wherever to
6 attempt to lift -- to indicate that there is latent
7 prints there. If we do locate any latent prints, we
8 then go through a process of using lifting tape to lift
9 the latent prints up and transfer it to an index card,
10 thereby preserving the latent prints.

11 Q So you actually went to the house and you took out your
12 black powder and dusted around the house. Is that what
13 you're telling us?

14 A Yes, I did.

15 Q And did you attempt to lift any prints?

16 A Yes, I did.

17 Q So you actually took some tape, stuck it on a surface,
18 peeled it off?

19 A Yes, I did.

20 Q And were you able to find any fingerprints of any value
21 to you?

22 A No, I did not.

23 Q Okay. What did you find?

24 A Several smudges but no latent print value to it.

25 Q So no prints with enough detail to where you could make

1' any kind of identification?

2 A No.

3 Q You could not tell us whether or not Rene Whitecloud's
4 fingerprints were on that safe or not, could you?

5 A No, I could not.

6 Q You could not tell us whether or not Rodney Stanberry's
7 fingerprints were on that safe or not, could you?

8 A No, I could not.

9 Q You can't even tell us if Mike Finley's fingerprints
10 were on that safe or not, can you?

11 A No, I could not.

12 Q Or Valerie Finley?

13 A No, I could not.

14 Q Or any of the children?

15 A No.

16 Q That's all I have at this time. If you would, answer
17 Mr. Nixon's questions.

18 CROSS EXAMINATION

19 BY MR. NIXON:

20 Q Sergeant Ragland, you were the identification officer
21 on that day on March the 2nd, and it was your duty to -
22 - well, tell us what the duties of an identification
23 officer are, please.

24 A Collect and preserve evidence of various crime scenes,
25 to photograph various crime scenes and to do a general

1 search of the area to look for any physical evidence
2 that could be helpful in relation to the prosecution of
3 the case.

4 Q And you've been a police officer for how long?

5 A Fourteen and a half years.

6 Q And is it your experience as a police officer that
7 generally a uniformed officer arrives on the scene
8 first, and if it's a serious crime or appears to be, he
9 calls a detective, and the detective calls an
10 identification officer, if necessary? Is that the
11 general chain of the way it works?

12 A Yes, in normal procedure.

13 Q Now, in this case, this event occurred on March the
14 2nd, which was on a Monday. You said on direct
15 examination that you didn't go out there on Monday; is
16 that right?

17 A That's correct.

18 Q You were not called out there Monday?

19 A No.

20 Q And all these photographs that you identified, the ones
21 that were previously admitted into evidence and the
22 ones that have just been -- that you identified and
23 admitted into evidence were taken by you; is that not
24 correct?

25 A That is correct.

1' Q And they were taken by you on Wednesday?

2 A Correct.

3 Q And who was with you on Wednesday when you went out
4 there to take these photographs?

5 A If I recall correctly, I was by myself.

6 Q Nobody was with you?

7 A No.

8 Q And the only people there were you and Mike Finley when
9 you took these photographs?

10 A Yes.

11 Q And did you ever go back out there any more at any
12 other time to take photographs or gather evidence?

13 A No.

14 Q You only went there one time? And were you called to
15 that scene on that Wednesday by someone else?

16 A Yes, sir. I was advised by a detective I was needed
17 out there.

18 Q Do you recall what detective asked you to go out there?

19 A I believe it was Lieutenant Smith.

20 Q Okay. Now, if Detective -- You know Captain Dees,
21 correct?

22 A Yes, I do.

23 Q So if Captain Dees said that he called you out there
24 Monday --

25 MR. JORDAN; Object. This wasn't said. There

1' wasn't testimony to that, and it's an
2 improper question. I object to the form.

3 MR. NIXON: I haven't finished yet.

4 THE COURT: I haven't heard it yet.

5 Q If Captain Dees said that you were out there Monday and
6 took those photographs in his presence, he would be
7 incorrect, wouldn't he?

8 MR. JORDAN: Judge, I object to the form of the
9 question. That was not said.

10 MR. NIXON: Judge --

11 THE COURT: I can assure you the jury remembers
12 what was said, but I'll overrule the
13 objection and he may answer it.

14 Q That wouldn't be right, would it?

15 A Would you repeat your question, please, sir?

16 A If Captain Dees said that he was on the scene Monday,
17 the day this occurred, and that you were called out and
18 you took some photographs in his presence on March the
19 2nd, he would have been mistaken, wouldn't he?

20 A I don't know.

21 Q Well, you know you didn't go out there Monday.

22 A No, I went out there on Wednesday.

23 Q Correct. So if somebody, Captain Dees or anybody else,
24 said you went out there Monday and took photographs,
25 that wouldn't be correct, would it?

1 A Not that I recall.

2 Q And if he identified these photos as being taken by you
3 in his presence, that wouldn't be correct, would it?

4 A I don't -- I testify that I went out there on Wednesday
5 and took photographs.

6 Q Right. And what I'm asking you is if Captain Dees had
7 testified that some of these photographs you took were
8 taken in his presence --

9 MR. JORDAN: Judge, again, referring to prior
10 testimony. I object to the form of the
11 question. I think that's improper cross
12 examination.

13 THE COURT: And for the third time I overrule your
14 objection, and it's not improper.

15 MR. JORDAN: Thank you.

16 Q That wouldn't be right, would it, Corporal Ragland?
17 Sergeant Ragland, I'm sorry.

18 A What was your question?

19 A If Captain Dees got on the witness stand and testified
20 that it was his recollection that you were out there on
21 the day this happened, that you took photographs in his
22 presence, that would not be true, would it?

23 A I recall going out there on Wednesday and taking
24 photographs, not on Monday.

25 Q And he wasn't there Wednesday either, was he, Captain

1 Dees?

2 A I do not recall.

3 Q It was only you and Mike Finley, right?

4 A That's correct.

5 Q Now, at the time you went Wednesday when you were
6 contacted by the detective, you knew that, or you had
7 been informed that it was a -- or that a crime had
8 occurred there, a serious crime occurred there; is that
9 right?

10 A Yes, instead of a home accident.

11 Q Yes, sir. And did you know that Mrs. Finley had been
12 shot at that time? Did they tell you that she had been
13 shot?

14 A I had found out through another officer that a shooting
15 had occurred, but that's all I knew.

16 Q You knew that there had been a burglary and a shooting
17 there at that house on Monday when you went out
18 Wednesday, didn't you?

19 A Only thing I knew is someone had been shot when I went
20 out Wednesday.

21 Q And that was your purpose, to go out there and take
22 photographs and gather evidence?

23 A Yes, sir.

24 Q Okay. Now, you said it was part of your duties to
25 search the house. Did you search the house?

1 A Just random or just general walking through looking to
2 see what could be seen in plain visible sight.

3 Q You didn't do a detailed search, did you?

4 A No, I did not.

5 Q And you said that Mike Finley told you that he had
6 recovered the guns and he told you what kind of guns
7 were recovered, didn't he?

8 A What I recall, he said that he had recovered his guns.
9 The general conversation, I asked him where did he get
10 his guns from, and he said he got them from a wooded
11 area. And at that point I asked him to go with me and
12 show me the exact location of where he recovered these
13 guns.

14 Q And y'all went out there?

15 A Yes, we went to that location on Antoine between Wolf
16 Ridge and I-65 Service Road.

17 Q Now, did you have a list of the guns that were taken?

18 A No, I did not.

19 Q Did you ask him to give you a list of the guns that
20 were taken?

21 A No, I did not. He just said that he had gotten his
22 guns back.

23 Q Did he show you the guns?

24 A No. I didn't ask to see them.

25 Q Did he tell you that they were in a -- recovered in a

1 pillowcase?

2 A He made mention of a pillowcase but not any description
3 or anything like that.

4 Q He told you that the guns were found in a pillowcase,
5 didn't he?

6 A Yes.

7 Q Okay. And he told you that there was a stun gun in
8 there, too, didn't he? Do you recall that?

9 A I don't recall a stun gun. I just remember some hand
10 guns were involved.

11 Q Okay. Now, you took a picture of the mask and the
12 gloves. Do you recall Mike Finley telling you that the
13 mask and the gloves were recovered in the bag with the
14 guns?

15 A No, I do not.

16 Q Okay. Well, you don't recall Mike Finley telling you
17 that the mask that you took a picture of and those
18 gloves had been recovered with the guns?

19 A Those were on the counter when I got to the house, and
20 I took pictures of those on the counter.

21 Q You don't remember what anybody told you about the mask
22 and the gloves?

23 A No, I do not.

24 Q And why did you take pictures of them?

25 A Pictures of what?

1 Q Of the mask and the glove.

2 A I did.

3 Q I know. I said why did you.

4 A Because they were in the kitchen area on the counter.

5 Q Did you call Mike Finley before you came out there and
6 tell him you were coming?

7 A No. I just went on out there to see if somebody was
8 home.

9 Q You were in uniform?

10 A Yes, I was.

11 Q Mike let you in and let you look around?

12 A Yes. I told him -- identified myself as the
13 identification officer of Prichard Police Department.

14 Q You didn't take those gloves and mask, did you?

15 A No. I don't recall that I did.

16 Q Do you recall whether you did or not?

17 A No, I don't.

18 Q You may have taken them?

19 A I don't recall right now.

20 Q What did you take from that crime scene when you left?

21 A I processed it for latent prints and took what lifts I
22 lifted to examine them later on at the office. There
23 were no latent prints of value.

24 Q What did you take from the scene other than
25 fingerprints? Do you remember? If you don't remember,

1' that's fine.

2 A Just other than my photography equipment.

3 Q You don't recall whether you took the gloves and the
4 mask with you?

5 A No, I do not recall that I took them at this present
6 time.

7 Q You could have? You may have; you may not have?

8 A I do not recall that at this present time if I did or
9 not.

10 Q Did you take any sheets or pillowcases or anything that
11 you recall, or is it just you don't remember?

12 A I do not remember at this time.

13 Q You say you fingerprinted the whole house, the drawers?
14 Did you fingerprint the drawers?

15 A I checked things that were out of place in the bedroom
16 area. I checked mainly the gun safe area because it
17 appeared to me that there were gun items missing.

18 Q Okay. Did you fingerprint the back door?

19 A I went to the kitchen area and checked something in the
20 kitchen area. There was a counter area, possibly the
21 back door, too.

22 Q You don't recall?

23 A I don't recall everything in exact detail.

24 Q Do you recall whether you checked the front door for
25 fingerprints?

- 1' A I checked it, partially, but there had been so much
2 traffic in and out of the door that I didn't figure
3 there would be no print value.
- 4 Q Did you check the microwave or the television for
5 fingerprints?
- 6 A No, I did not.
- 7 Q Did you check any keys for fingerprints?
- 8 A Any what?
- 9 Q Any keys.
- 10 A No.
- 11 Q Have you ever seen a key ring or a set of keys? Has
12 the I.D. officer at Prichard ever showed you any keys
13 that were connected with this case?
- 14 A No, I have not.
- 15 Q How about a purse? Did you ever fingerprint a purse?
- 16 A No, I didn't.
- 17 Q And you say you got smudges but no prints?
- 18 A No latent value of prints.
- 19 Q And latent value of prints means identifiable prints?
- 20 A Yes, containing rich characteristics.
- 21 Q And you didn't recover any hair samples, did you?
- 22 A No, I did not.
- 23 Q Did you do any search for hair?
- 24 A No, I did not.
- 25 Q Did you ever look in the mask to see if there were any

1 hair samples in the mask that you took the photograph
2 of?

3 A No, I did not.

4 Q You routinely on serious crimes, when you go out and
5 investigate and gather evidence, you would gather hair,
6 if it was in a mask, for example, and you thought the
7 mask had been used in the crime?

8 A I would preserve the evidence and send it in to Alabama
9 Department of Forensic Science.

10 Q And they do the test?

11 A They'll do -- they have a hair specialist. I'm not
12 qualified in that category.

13 Q I know you're not an expert in it, but you're familiar
14 that they can run a DNA test on hair samples and tell
15 who it came from, aren't you?

16 A They can do a comparison test, yes.

17 Q And a comparison test is, if you have a hair sample
18 that you find, they can take a sample of hair from
19 someone else and compare it and see if it's the same,
20 can't they?

21 A Yes, they can.

22 Q And you've done that, or you've had them do that for
23 you on many occasions, haven't you?

24 A Yes, upon request.

25 Q And you're telling us that there were no prints of --

1 you didn't even find any prints of Valerie or Mike
2 Finley?

3 A No. The areas all checked out, and the only things I
4 located were smudges, no print value and
5 characteristics.

6 Q Did you ever look at the guns when Mike Finley told you
7 he had received his guns back?

8 A No, I did not.

9 Q And do you recall whether he showed them to you or not?

10 A No, I did not.

11 Q They were not in the gun cabinet?

12 A No.

13 Q Do you know whether those guns that were stolen,
14 whether any police officer ever obtained those and
15 looked at them?

16 A According to his statement to me, that he recovered the
17 guns himself --

18 Q I know. I understand that. I mean, after he recovered
19 them, do you know whether any police officer took those
20 guns and inspected them?

21 A I have no knowledge of that.

22 Q If they had been printed, you wouldn't have been the
23 one that would have printed them; is that right?

24 A Yes, sir.

25 Q And no detective ever requested that you do that?

1 A No.

2 Q Did you ever receive a shell casing and a bullet in
3 connection with this case?

4 A No, I did not.

5 Q Have you been made aware that a shell casing and bullet
6 was recovered from that house?

7 A No.

8 Q You didn't do a detailed search of that house or the
9 rooms, did you? I mean, you said you walked through
10 and did a visual.

11 A Just a visual or general search of the area to see what
12 was disturbed and what was not.

13 Q But you didn't get down on the floor and look carefully
14 for anything, did you?

15 A No, I did not.

16 Q Do you recall having a conversation with Mike Finley
17 when you left that Wednesday?

18 A Pardon?

19 Q Do you recall talking to Mike Finley when you left
20 after you took the photographs that Wednesday?

21 A After I left?

22 Q Right. As you were leaving, did you have a
23 conversation with Mike Finley?

24 A Just talking in general.

25 Q And at that time, had you gathered everything you

1' needed or you felt you needed?

2 A Yes, at that point.

3 Q Do you recall him -- you didn't have any intentions at
4 that point in coming back, did you?

5 A Not unless I was requested by one of the detectives
6 with Prichard Police Department.

7 Q And do you recall telling Mike Finley or having -- Do
8 you recall Mike Finley asking you if it was okay to
9 clean up the mess now?

10 A As far as I was concerned, I was through with what I
11 needed at that time.

12 Q So you could have told him, yeah, it's okay; I'm
13 finished; you go ahead and clean up?

14 A Yes, sir.

15 Q Did you do any other tests or gather any other evidence
16 in connection with this case at all?

17 A No.

18 Q I believe that's all I have. Thank you.

19 MR. JORDAN: Just a couple of questions.

20 REDIRECT EXAMINATION

21 BY MR. JORDAN:

22 Q You are not any kind of DNA -- You have no
23 qualifications on DNA, do you?

24 A No. I have no expertise in DNA at all.

25 Q And you have no qualifications on hair analysis?

1' A None.

2 Q And you don't know any of the facts of this actual
3 event, do you?

4 A No, I do not, other than what I was requested by a
5 detective at Prichard Police Department.

6 Q By Wednesday, you obviously couldn't interview Valerie
7 Finley, could you? She was in the hospital. She
8 couldn't talk. She was in intensive care.

9 MR. NIXON: Judge, I'm gonna object to that. It's

10 --

11 Q Well, did you --

12 MR. NIXON: Excuse me. I'm making an objection.

13 He's leading his witness, number one.

14 There's no predicate he was ever in a
15 position to interview Valerie Finley; not
16 proper.

17 THE COURT: Overruled.

18 Q You can answer.

19 A No.

20 Q So you had no idea what had happened inside the house?

21 A No, I do not.

22 Q And as far as what people -- anything that went on,
23 right?

24 A No, I did not.

25 Q That's all. Thank you.

RECROSS EXAMINATION

BY MR. NIXON:

Q You knew someone had been shot in the house during the course of a burglary or robbery or something, didn't you?

A I knew someone had been shot, but I didn't know the full extent of the circumstances involved.

Q Right. That's why you were going out there, because somebody had been shot, a crime had been committed, and you were going to gather evidence; isn't that right?

A I knew someone had been shot, but I didn't know of any crime other than someone being shot.

Q Okay. Thank you.

MR. JORDAN: Thank you.

THE COURT: Thank you very much, Officer.

THE WITNESS: You're welcome, Judge.

THE COURT: Next witness.

MR. JORDAN: Judge, we would call Mr. Mike Finley.

MICHAEL FINLEY

was sworn and testified as follows:

DIRECT EXAMINATION

BY MR. JORDAN:

Q Tell us your name for the record.

A Michael Lavere Finley.