

1 we would go past 5:00, and the answer is no,
2 there is no chance. We will be out of here
3 by five or before, and I realize it's five
4 after four.

5 All right. Captain, you've already been
6 sworn in, right?

7 MR. DEES: Yes, sir.

8 CAPTAIN FRANK DEES

9 having previously been sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. JORDAN:

12 Q Tell us your name for the record, please.

13 A Frank Dees.

14 Q And, Frank, you're a captain now with Prichard Police
15 Department; is that correct?

16 A Yes, sir.

17 Q And did you have an occasion back on March 2nd of 1992
18 to go to the home of Mrs. Valerie Finley?

19 A I did.

20 Q And is that address on that home 1736 Meadow Avenue?

21 A Yes, it is.

22 Q Is that in Whistler, Alabama?

23 A Yes, sir.

24 Q Is that in Mobile County?

25 A It is.

1' Q Frank, tell this jury how you get there. If we got up
2 on I-65, what exit we would take to get to Valerie's
3 house?

4 A Okay. If you're coming from Mobile, you would head out
5 on the Prichard exit going north, and you go about two
6 blocks and make a left turn.

7 Q It's basically right off the interstate, isn't it?

8 A Right.

9 Q Right off of I-65?

10 A Right.

11 Q And would you tell us what occurred as you got to that
12 house?

13 A Yes. I got there about the same time that the
14 paramedics got there.

15 Q And was that at about 11:20 in the morning?

16 A Yes, it was. And I was met by Mrs. Malone.

17 Q And what time -- Do you know what time the call came
18 into the police station?

19 A I guess about, probably, 11:20 when we got the call.

20 Q And how long did it take you to get to the --

21 A About two minutes. I was very close to the place.

22 Q So 11:20 is when we have official word that Mrs. Finley
23 -- something's wrong at the house?

24 A Right.

25 Q Now, what happened when you got there?

1 A Okay. I was met by Mrs. Malone.

2 Q Did you, in fact, go inside the house?

3 A I did.

4 Q And would you tell us -- describe the house to us as
5 you came inside.

6 A Yes. When I went in the living room, the furniture was
7 turned upside down, and I went to the back bedroom
8 where I saw the lady laying, in the back room on the
9 floor by the bed with not a pillow but some pants under
10 her head.

11 Q Now, did you ask Mrs. Malone about that couch being
12 turned upside-down?

13 A Yes, I did.

14 Q And what did she tell you?

15 MR. NIXON: Object to hearsay, Judge.

16 MR. JORDAN: Judge, this is not offered for the
17 truth of the statement; it's offered merely
18 for the fact the statement was made to
19 Captain Dees.

20 THE COURT: Who said it?

21 MR. JORDAN: Clara Malone.

22 THE COURT: Is she going to testify?

23 MR. JORDAN: No. I mean, it's not offered for the
24 truth. It's basically information he had and

25 --

THE COURT: Go ahead.

Q What did she tell you?

A She told me that that's the way the lady cleaned up. She turned furniture upside-down when she cleaned up.

Q Did you think anything suspicious then about the couch being turned up after you talked to Clara Malone?

A No, I didn't. After that, I didn't.

Q And let me show you some photographs. Some of those may be duplicates.

MR. NIXON: Judge, I don't have any problems with photographs that Captain Dees can identify as representing the scene as he saw it, but I think there are some others included in there that were taken later, and I would object to those being introduced at this time.

MR. JORDAN: I haven't introduced anything. The later ones, I'll let somebody else introduce them.

Q Do you recognize those photographs, Captain?

A Yes.

Q And do those photographs fairly and accurately depict the scene at the time that you arrived there at the house?

A Yes.

MR. NIXON: What numbers are those?

1 MR. JORDAN: I'll go through them all, State's 26,
2 35, 37, 33, 32, 36, 28, 29, 12, 11, 14, 9,
3 10, 15 and 13. I'll put these in order.

4 MR. NIXON: Judge, may I ask this witness one voir
5 dire question, for the record?

6 THE COURT: Certainly.

7 MR. NIXON: Captain Dees, these photographs that
8 you have -- just so we're clear, these
9 photographs that you've just reviewed, is it
10 your testimony that they accurately reflect
11 what you saw and the way it was positioned
12 the day that you were in the house?

13 THE WITNESS: Yes. Some of them are. A lot of
14 them are. A few of them I don't recognize.

15 MR. NIXON: Can you distinguish which ones?

16 THE WITNESS: Yes, I will do that.

17 THE COURT: Let's do that.

18 MR. NIXON: Thank you.

19 MR. JORDAN: Just pick out the ones you don't
20 recognize. You can give those to the Judge.

21 THE COURT: For the record, he's given me 26 and
22 27. How about all the rest of them, Frank?

23 THE WITNESS: I recognize this one.

24 THE COURT: Those two, 26 and 27 are not
25 introduced

at this time.

(State's Exhibits 9, 10, 11, 12, 13, 14,
15, 28, 29, 32, 33, 35 and 37
admitted in evidence.)

Q Frank, I'll show you what has been marked and
introduced as State's 15 and 32. What do those
pictures depict?

A This is the front of the residence.

Q The front of the residence?

A Yes.

Q Is that the door you entered when you arrived? Did you
go through the front door or the back door, or do you
recall?

A I went through the front door.

MR. JORDAN: Let me give these back to the jury.

May I publish these, Your Honor?

THE COURT: Certainly.

Q Now, let me show you what has been marked as State's
Exhibit Number 13. Would you tell us what that is a
photograph of?

A That's the sofa that was turned upside-down.

Q Okay. I believe we have another little bit lighter
photograph, State's Exhibit 11. Is that also a
photograph of that?

A It is.

1 THE COURT: And what is that, Frank?

2 THE WITNESS: A sofa that was turned upside-down.

3 THE COURT: Tell the jury that.

4 Q And is that the condition of the sofa when you arrived?

5 A Yes, it is.

6 Q Now I show you what's been marked as State's Exhibits
7 12 and 14. What are those photographs of?

8 A This is the kitchen area here.

9 Q It shows a table and the back door to the kitchen?

10 A Yes, it does.

11 Q Let me show you what's been marked as -- I forgot one
12 of the kitchen photographs -- State's Exhibit Number
13 33. What is that a photograph of?

14 A The kitchen area.

15 Q Okay. Now, the rest of these photographs, Frank,
16 State's 9, 10, 28, 36, 35 and 29, what are those
17 photographs of?

18 A Okay. This is a photograph of the back room area.

19 Q That's the bedroom area where you found Valerie?

20 A Yes, sir.

21 Q And how was she laying back there, Frank?

22 A She was laying with her head back towards the foot of
23 the bed, just back on the back of the bed.

24 Q Were you able to communicate or talk to her at all?

25 A No. She was unconscious.

Q Frank, would you tell us what else you did at that time?

A At that time, I called for the detectives and the identification man who took those pictures.

Q Did you also see Larry Malone there at the time? They call him a nickname of Pig. They call him Pig.

A I don't know the name.

Q Did you see Clara Malone?

A Yes, I did.

Q Did Mike Finley ever arrive while you were there?

A There was a lot of peoples coming and going.

Q Okay. A lot of people came and just checked out what was going on?

A Right.

Q That's all I have. If you would, answer any Defense questions.

CROSS EXAMINATION

BY MR. NIXON:

Q Sergeant Dees -- Excuse me. Captain Dees, after that day, was that the extent of your involvement in this investigation?

A It was. Yes, it was.

Q And you did not participate in the investigation after that day?

A No, I did not.

Q Now, you said that you called I.D.

A Right.

Q And a detective.

A Right.

Q Now, I.D. is an identification officer; is that correct?

A That's correct.

Q And the identification officer with Prichard at that time was Eddie Ragland; is that right?

A That's correct.

Q And the detective that you called, did you call a specific detective, or did you just call and tell them to send a detective?

A I just called for a detective.

Q And did they send one?

A Yes, they did.

Q Would that have been Al Fletcher?

A Yes.

Q And why did you call for a detective and an identification officer? Well, strike that. You normally -- Isn't it normal police procedure when you go on a scene that if a felony or a serious crime has been committed or you think it has been committed, then you call for a detective and identification officer?

A Yes.

Q And that's standard police procedure?

A Yes, it is.

Q And in this particular case, did you think that a crime had been committed?

A I didn't know.

Q Okay. Did you have any indication in front of you, or at the time you were there, did anything indicate to you that someone had broken into the house or stolen or assaulted -- stolen things or assaulted Mrs. Finley?

A Like I said, the furniture was turned upside-down. That was suspicious there. Also --

Excuse me. And Mrs. Malone had told you that the furniture, that that's how Mrs. Finley did the furniture when she cleaned up?

A Yes. When I first walked in, I saw that. That's the first thing I saw. And I also saw a briefcase sitting up there of some type.

Q A briefcase sitting where, the counter?

A Like on the sofa there where it was turned upside-down.

Q Okay. Did you ever open that briefcase?

A No, I did not. I didn't touch anything. I preserved the crime scene.

Q And what led you to -- Did you see any blood when you looked at Mrs. Finley?

A I saw a lot of blood, yes.

1 Q Did you check her wounds?

2 A No. The paramedics did that.

3 Q So your testimony is that you called for an I.D.
4 officer, and you called for a detective because you did
5 not know what had happened there?

6 A Right.

7 Q Now, Mr. Jordan asked you if you saw Mike Finley there.
8 Do you recall Mike Finley coming to the scene?

9 A I don't know Mike Finley.

10 Q You don't remember talking to someone who represented
11 himself to be this lady's husband?

12 A I don't think I talked to him.

13 Q Do you recall anybody telling you, coming -- a man --

14 MR. JORDAN: Judge, I object to hearsay.

15 MR. NIXON: I haven't asked the question yet,
16 Judge.

17 THE COURT: Go ahead.

18 Q Do you recall a man coming in, a black man coming in
19 the house that day and telling you that some guns had
20 been stolen?

21 A No, he didn't tell me.

22 Q Were there any other police officers there?

23 A Yes, a lot of police officers there.

Q Can you tell me what other police officers were there?

25 A I don't remember. It's been three years. I don't

remember. It was someone on my shift, all I know.

Q Do you know why there were so many police officers? At this time, y'all didn't know whether she had fallen down or what had happened, did you?

A No, we didn't.

Q And do you know why there were so many police officers there? Can you tell us that?

A One thing, in case if it was a crime had been committed, they wouldn't have contaminated the crime scene.

Q Who would have?

The peoples coming in and out.

Q No, my question was how come there were so many police officers there at this particular scene when it was unknown what the origin was?

MR. JORDAN: Judge, I object to his --

THE COURT: If he knows, he may answer.

A Repeat your question, now.

Q How come there were so many Prichard police officers there at this scene when there was basically, the origin was unknown?

A Well, just in case. It might have -- in case something come up later on. We do that -- if it's an accident, we would do the same thing, if it's a terrible accident. We would do our best to just preserve that

scene until we finished with it.

Q And was that -- Were you trying to do that on this occasion?

A Yes, we are.

Q Did you instruct the other officers under you to preserve the scene?

A Yes, try to keep people out of certain areas of the house.

Q Correct. And the reason you were preserving the scene was because you didn't know what had happened there and you wanted to protect the evidence?

A Exactly.

Q And did they, did the police officers do that while you were there?

A They did.

Q Now, were you there when the identification officer arrived?

A Yes, I was.

Q And your testimony is that Officer Ragland came to the scene that day?

A He did.

Q And he is the Prichard identification officer?

A He was then at that time.

Q His duties as identification officer is to take photographs and to gather evidence?

v

1 A Exactly.

2 Q Take fingerprints. And he has been trained in that
3 field; is that right?

4 A That's right.

5 Q And did you observe him on March the 2nd take
6 fingerprints?

7 A I observed him taking pictures.

8 Q Did you observe him take any fingerprints?

9 A No, I did not.

10 Q Were you there until he left, or did you leave before
11 he did?

12 A I left before he did.

13 Q You saw him take photographs?

14 A Yes, I did.

15 Q Did you see him do anything else, as far as gathering
16 evidence?

17 A I saw him take pictures. Like I said, I left. When he
18 got there, I stayed there a little while and then I
19 left.

20 Q So the only thing you saw him do was take photographs?

21 A Yes.

22 Q When you left, did you take anything from the scene?

23 A No, I did not.

24 Q You didn't gather any evidence?

25 A No, I did not.

1 Q That would have been Officer Ragland's duty?

2 A That's correct.

3 Q Are you aware whether or not he -- Have you been made
4 aware of whether or not Eddie Ragland gathered any
5 evidence?

6 MR. JORDAN: Judge, again, this is hearsay, and
7 it's outside -- he has no personal knowledge
8 of it, and I object to it.

9 THE COURT: He may answer whether he does or
10 doesn't.

11 A I do not.

12 Q Now, you said you saw this brief case. Did you see --
13 well, excuse me. You said you didn't see Eddie Ragland
14 take any fingerprints, right?

15 A No, I did not.

16 Q Now, approximately how many officers were there? You
17 said a bunch of them.

18 A I didn't say a bunch of them.

19 Q I'm sorry.

20 A I guess about four or five of us.

21 Q And you don't recall who they were other than you and
22 Officer Ragland?

23 A No, I don't remember.

24 Q Do you recall whether Detective Fletcher ever came out
25 there that day?

1 A He did.

2 Q Did you talk to any witnesses other than Cora (sic)
3 Malone?

4 A No, I did not.

5 Q You did not talk to Larry Malone?

6 A No, I did not.

7 Q When you arrived on the scene, you came down and went
8 around the circle and pulled in the Finley's driveway?

9 A I did, behind the paramedic thing.

10 Q And you went in the front door?

11 A Yes, I did.

12 Q And that front door had a screen -- a storm door on it,
13 didn't it?

14 A I don't remember whether it had a storm door or not.

15 Q You don't remember what type of door?

16 A No, I don't.

17 Q But you went in through the front?

18 A I did.

19 Q And it was not locked at the time?

20 A No, it was not.

21 Q When you came there that day, did you see any vehicles
22 in the medium? You know, the grass medium.

23 A No, I didn't.

24 Q If there were some vehicles there, would you have seen
25 them?

1 A I'm not sure. I was concerned about what was going on
2 in the house. I didn't notice the vehicles.

3 Q How long did you stay there before you left?

4 A I guess about 20 minutes, I guess.

5 Q And when you left, did you notice any vehicles parked
6 in the grass median?

7 A No, I didn't.

8 Q You just don't remember?

9 A I don't remember.

10 Q And other than the police officers that you testified
11 to, there were some neighbors in the house, too,
12 weren't there?

13 A Yes, some neighbors and people that I didn't -- in
14 fact, I didn't know anybody there.

15 Q Okay. Can you give me an approximate number of the
16 people, other than police officers, that were in that
17 house when you were there?

18 A Okay. When I got there, there wasn't anybody in the
19 house.

20 Q Nobody was in the house?

21 A No, wasn't anybody in the house. Mrs. Malone and her
22 children was outside.

23 Q And then after you went in, some other people came in
24 the house?

25 A Yes.

1 Q And can you give me an approximate number of how many
2 people?

3 A I guess four or five people. I don't know who they
4 were, but we made them leave.

5 Q Okay. Thank you, Captain Dees.

6 MR. JORDAN: That's all. Thank you.

7 THE COURT: Do you have a short witness?

8 MR. JORDAN: I think so, Judge.

9 EMMET ROGERS

10 was sworn and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. JORDAN:

13 Q Tell us your name for the record, please.

14 A Emmet Alfons Rogers.

15 Q Emmet, how old are you?

16 A Fifty-three.

17 Q And where do you reside?

18 A 1728 Meadow Avenue.

19 Q And where is that in relationship to the residence or
20 what was the residence of Valerie Finley?

21 A Two doors down.

22 Q So you're right there on that same --

23 A On the same side, two doors down.

24 Q And do you have to drive by your house to get to her
25 house?