

1 Q So a knife, two pocket knives?

2 A Yeah. It was an old Buck and another Old Timer, one of
3 those and, like I said, about between 15 and 20 dollars
4 apiece, something like that.

5 Q So about three knives that were taken?

6 A Something like that, yeah.

7 Q Anything else?

8 A My jewelry that was on the --

9 Q Let's stay with the gun vault, first. Any ammunition
10 taken from that?

11 A Yeah, it was ammo that was taken.

12 Q Approximately, what was taken?

13 A Shells, different rifle bullets, pistol bullets were in
14 there.

15 Q Now, was ammunition left: in the vault?

16 A There was some shotgun shells left, yes.

17 Q Was a pump shotgun left in the vault?

18 A Yeah.

19 Q What kind?

20 A Long spur, full 20-inch barrel, whatever, pump shotgun.

21 Q That was just left right there in the vault?

22 A Yeah, it was left.

23 Q In plain view?

24 A Yeah.

25 Q Anything else left in the vault?

1 A And some of the **knives** were --

2 Q There were some knives still left?

3 A Yeah, there were some that were in the back still in
4 there.

5 Q Now, where did -- Did you have a TV/VCR between the
6 kitchen and the -- or **between** the dining room and
7 living room?

8 A It sat in the dining area.

9 Q **And** was that left there?

10 A Yeah, that was there.

11 Q So you still had your TV and your VCR?

12 A Still there.

13 Q Do you have a TV in your bedroom?

14 A **No.**

15 Q Okay. What about -- what jewelry was taken?

16 A My two rings and my watch.

17 Q Two rings. What kind of rings?

18 A I had two diamond clusters, small clusters.

19 Q And the watch **was** taken. Where was that?

20 A It was up there on the jewelry box on the mantle with
21 my rings.

22 Q That's the only jewelry that was taken **from** the house;
23 is that right?

24 A Right.

25 Q Now, let ~~me~~ show you some -- **Let's** go through some of

1 these photographs. This, of course, is the front of
2 your house; is that right?

3 A Yes, it is.

4 Q Okay. Is this a picture of your gun vault?

5 A Yes, it is.

6 Q And is that what was left -- Is that the pump shotgun
7 that was left in there?

8 A **That's** the shotgun.

9 Q And it looks like you got some box of shells and things
10 in there. Those are the things that were left; is **that**
11 correct?

12 A That's correct.

13 Q And it looks like -- Is that a brass knuckles or --

14 A Yeah, those are brass knuckles hanging there, yeah.

15 Q And those things were all left inside the vault, is
16 that right, were still there?

17 A Yeah.

18 Q Where is this TV kept?

19 A That was -- yeah, **you're** right, that was on the dresser
20 in the corner.

21 Q In your bedroom?

22 A Yeah.

23 Q What's on top of it here?

24 A **That's** a clock radio.

25 Q So you had a TV set in your bedroom?

- 1 A Yeah, I did.
- 2 Q And a clock radio; is that right?
- 3 A Yeah, alarm clock.
- 4 Q And those things were left behind; is that correct?
- 5 A Yeah.
- 6 Q Let me show you something else, too. What was missing
- 7 from this pillow in this particular case -- in this
- 8 photograph?
- 9 A A pillowcase.
- 10 Q And the pillowcase you had on that pillow when you went
- 11 to work would have matched that bedspread or the same
- 12 sheets that are on there; is that correct?
- 13 A Matching set, right.
- 14 Q Do you have -- **There's** another picture of the pillow
- 15 without the pillowcase and this is a photograph --
- 16 **that's** what you described as the TV/VCR set **that's** in
- 17 the dining room area?
- 18 A Dining room area.
- 19 Q **Now, did** you go **to the** hospital? Were you at the
- 20 hospital that night?
- 21 A **The** same night she was in the hospital?
- 22 Q Right.
- 23 A Yes.
- 24 Q That first night?
- 25 A Yes.

1 Q And did Rodney **Stanberry** come to the hospital that
2 **night?**

3 A Yes, he did.

4 Q And who was he accompanied with?

5 A **His** girlfriend at that time.

6 Q About how long was he there?

7 A Maybe 20 **minutes.**

8 Q And did he ever come back to the hospital the rest **of**
9 the time your wife **was** there at the hospital?

10 A No, he did not.

11 Q Do you remember telling the doctor that your wife had
12 been shot that same Monday, that Monday afternoon?

13 A Later that day, yes.

14 Q And who was it that had told you that she had been
15 shot?

16 A **After** I talked with my friend. **That's** when we found
17 out. He told me then.

18 Q Rodney **Stanberry** told you that your wife had been shot,,
19 and you told the doctor that she had been shot?

20 A Yes.

21 Q And that was Monday afternoon; is that correct?

22 A Monday evening, yes.

23 Q And when Rodney **Stanberry** told you your wife had **been**
24 shot, was that over the **telephone** or in person?

25 A Over the **telephone.**

1 Q Now, I want to go to Tuesday. On Tuesday at about
2 between four and five o'clock in the afternoon, who
3 came by your house?

4 A I was at home after leaving the hospital and was
5 changing clothes. Rodney came by.

6 Q I'm sorry?

7 A Rodney came by.

8 Q Rodney Stanberry came by your house on Tuesday; is that.
9 right?

10 A Yes.

11 Q You live on Meadow Avenue?

12 A Yes.

13 Q You live a couple doors down from Clara **Malone** and the
14 Malones?

15 A **Yes.**

16 Q And a couple doors down from **Emmet** Rogers; is that
17 right?

18 A Yes.

19 Q Now, when he came by, was he driving his brown Bronco?

20 A Yes.

21 Q And did you get into that brown Bronco?

22 A Yes.

23 Q And did you leave with Rodney Stanberry?

24 A Yes.

25 Q And where did Rodney Stanberry drive you?

1 A We went to look **for** the guns'.

2 Q Where did Rodney Stanberry drive you?

3 A We went over --

4 Q **First** of all, who drove?

5 A Stanberry. Rodney did.

6 Q Rodney **was** driving?

7 A Yes.

8 Q Were you giving him directions of where to drive you
9 to?

10 A No.

11 Q Where did he drive you to?

12 A We went over on **Wolf Ridge**.

13 Q Wolf Ridge Road?

14 A Yeah, over between Wolf Ridge and the service road.

15 Q Okay. And y'all were driving down there. Rodney was
16 driving. You were a passenger?

17 A Yes.

18 Q Anybody else in the vehicle with you?

19 A NO.

20 Q And where did Rodney drive to?

21 A We went to look **for** the guns.

22 Q I'm sorry?

23 A We went over --

24 THE COURT: **They** went to look for the gun.

25 Q Where exactly did he drive you to?

1 A Around that area between Wolf Ridge and the service
2 road.

3 Q What is that area? Is it a building? Is it an
4 apartment complex? What's out there?

5 A You have UPS out in that area, a telephone company in
6 that area, a trucking company in that area.

7 Q Do you have a bunch of woods?

8 A Yeah, woods, yes.

9 Q And how far is that from your house on Meadow Avenue?

10 A Wolf Ridge from my house, I would say it's about three,
11 maybe four blocks.

12 Q I mean, it's right there, isn't it?

13 A Wolf Ridge is, but. between -- there's woods behind my
14 house where I live, yes.

15 Q And when Rodney drove you out there, where did he --
16 did you tell him where to stop or did he stop
17 somewhere?

18 A He just stopped at various spots just looking.

19 Q And who first sighted something out in the woods?

20 A We pulled over to the side of the street that runs
21 between Wolf Ridge and the service road and were just
22 walking along the side of the road there and were just
23 looking into the woods, and that's when I spotted the
24 pillow slip from my bed in the woods.

25 Q And what did you do at that point?

1' A **That's** when we went into the woods to look and to
2 retrieve it.

3 Q And who was with you?

4 A Rodney.

5 Q **And** did you find the pillow slip from your bed out in
6 the woods?

7 A Yes.

8 Q And what did you do then?

9 A Picked it up and put it in the Bronco and brought it
10 **back** to the house and notified the **Prichard**
11 authorities.

12 Q Let me ask you this: Did you and Rodney **take** those
13 guns to the police station at that time and say, here,
14 we found this out in the woods?

15 A **No**, we did not.

16 Q And who was it that drove you to the location of where
17 your stolen guns were located?

18 A We rode to find them.

19 Q No, no, sir. Who is it that drove you to the location
20 of where your stolen guns were found?

21 A Rodney **Stanberry** drove to find the guns.

22 Q Did you tell Rodney to go out into those woods, to
23 drive the Bronco out there?

24 A Rephrase the question.

25 Q Did you **say**, Rodney, I knew where the guns are, **let's**

1 drive, and tell him exactly where to drive? Oh, there
2 they are. Is that what happened?

3 A No.

4 Q What happened?

5 A No, I did not tell anything of that nature.

6 Q Whose idea was it to drive to the guns?

7 A it. was Rodney's idea to go and look for the guns.

8 Q And who knew where to look?

9 A Rodney Stanberry.

10 Q Mew, did you recover all your guns that were stolen?

11 A Yes.

12 Q Did you recover your two rings and your watch that were
13 stolen?

14 A Yes.

15 Q Out of the pillowcase?

16 A Yes.

17 Q And you and Rodney took the guns back to your house; is
18 that right?

19 A correct.

20 Q Did you go through the bag?

21 A Yes.

22 Q Was there something else in that pillowcase?

23 A Yes, it was*

24 Q What else was in there?

25 A That right there, the --

1 Q Let me show you a photograph, what's been identified as
2 State's Exhibit 25, a mask and some gloves.

3 A Yes.

4 Q Was that in the pillowcase?

5 A Yes, it was.

6 Q Is that your mask?

7 A Nope.

8 Q Are those your gloves?

9 A Mope.

10 Q Old that mask come out of your house?

11 A Mope.

12 Q Did those gloves come out of your house?

13 A No, it didn't.

14 Q Were you present when that mask and those gloves were
15 placed in that pillowcase?

16 A Placed in there?

17 Q Yeah.

18 A No, I was not.

19 Q Now, did officer Ragland come out to your house the
20 next day, that Wednesday?

21 A Yes, he did.

22 Q Did he fingerprint, around your house?

23 A Yes, he did.

24 Q Did he take photographs?

25 A Yes, he did.

1 Q Did you show him that mask in those pictures there?

2 Did you lay those out on the counter like that?

3 A Gave them to him.

4 Q I'm sorry?

5 A Gave them to him.

6 Q Okay. And what happened then, as far as your guns and
7 things?

8 A I asked bin did he want to fingerprint the guns. He
9 said he had enough fingerprints.

10 Q Did you keep the guns?

11 A Yes, I **did**.

12 Q Yourself?

13 A Yes, I **did**.

14 Q Did you find your wife's keys?

15 A I **don't** remember finding her keys.

16 Q Well, do you remember coming into possession of them?

17 A I think -- I **don't** remember. I **don't** remember coming
18 **into** possession of them. I **don't** even remember if they
19 were in the bag.

20 Q Now, **what about** the -- And that was **Tuesday**, is that
21 right, that you recovered everything that was stolen
22 from your house?

23 A Tuesday.

24 Q These are photographs, State's Exhibits Four, **Five**,
25 Seven, **Six** and **Eight**. Those are photographs taken of

1 you out in the woods; is that correct?

2 A Showing **Ragland** where **we** found them at, right, the
3 exact spot.

4 Q Okay. Let me show you what has been marked as State's
5 Exhibit Number 22. Do you recognize that photograph?

6 A **It's** the inside of my house.

7 Q **And it's** a photograph taken from the position of your
8 hallway looking out through your back door; is that
9 correct?

10 A I remember the day he took it, yes.

11 Q And you were standing, in fact, at the back door?

12 A Yeah, that's where he asked me to stand, yes.

13 Q **And** from the vantage point of where the camera was
14 taking the photograph, you can obviously see yourself
15 at the back door?

16 A That's me.

17 Q **Does** that picture fairly and accurately depict the
18 location in your house as far as visibility from one
19 room to the back door **of** your house?

20 A Say that again.

21 Q Basically, does that picture show that you can see
22 where the camera was taken all **the** way to **the** back door
23 of your house?

24 A From standing at the front door, yes, you can see the
25 back door.

Q Thank you.

MR. JORDAN: We move to introduce **State's** 22 at
this time.

THE COURT: **It's** introduced.

(State's Exhibit 22 admitted in
evidence.)

Q I want to show you what's been marked as State's
Exhibits 42 and 43. Have you seen those photographs
before?

A Yes, I have.

Q Take 42, first.

A Okay.

Q And **when's** the first time you saw that picture?

A When my friend, Rodney, **gave** it to Fletcher, Detective
Fletcher.

Q **And** he showed you that photograph?

A Yes, I saw it.

Q **Now**, can you identify people in that photograph?

A Yes, I **can**.

Q **Who** is to the far right in that photograph?

A **To** the far right?

Q Uh-huh.

A That's Rodney.

Q Rodney **Stanberry**; is that correct?

A Yes.

1 Q Who's in the middle?

2 A I don't know that gentleman in the middle.

3 Q And who's on the far left?

4 A That's Ponytail, Rene.

5 MR. JORDAN: Judge, we move to introduce 42 at
6 this time.

7 THE COURT: Let me see it.

8 MR. NIXON: Judge, may I see it?

9 THE COURT: Certainly. Give it to Barbara. It's
10 introduced.

11 (State's Exhibit 42 admitted in
12 evidence.)

13 Q And just so the jury can look at it at the same time,
14 on the right-hand side of this photograph is --

15 A Rodney.

16 Q Rodney. You don't know the man in the middle, and the
17 person on the left you've identified as being Ponytail?

18 A Yes, sir.

19 Q I show you State's Exhibit Number 43. Have you seen
20 that picture before?

21 A Yes, I have.

22 Q Is that also a picture that Rodney Stanberry had in his
23 possession?

24 A That he gave to Fletcher, yes.

25 Q And does it show Rodney Stanberry in that photograph?

1 A Yes, it does.

2 Q Where is he?

3 A Right here.

4 Q Who is the person that's being held on **somebody's** back
5 that has a red sweater with, looks like, a baseball cap
6 on; is that correct?

7 A **He's** across the **guy's** back, yes.

8 Q **That's** Rodney Stanberry?

9 A Yes.

10 Q Do you recognize anybody else in that photograph?

11 A Yeah, the picture **that's** circled right here.

12 Q And who is that a photograph of?

13 A That's ^{angel} ~~Ihoe~~.

14 Q Ihoe, or what other names did Rodney call his friend
15 from New York?

16 A I heard him call him Wish.

17 Q Ihoe or Wish. Did he ever tell you his real name or
18 his full name?

19 A I think he might have, but I **don't** remember it. **You**
20 know, it was Ihoe or Wish.

21 MR. NIXON: Can I see that photograph?

22 MR. JORDAN? Yes.

23 MR. NIXON: No objection, Judge.

24 MR. JORDAN: We introduce 43.

25 THE COURT; **It's** introduced.

(State's Exhibit 43 admitted in evidence.)

Q Just so the jury can see, again, the person being held right there is Rodney **Stanberry**; is that correct? Mike, is that correct?

A Across the guy's shoulder, yes.

Q And the person back here in the back with a circle around his face is who **you've** identified as **Ihoe** or wish?

A With the circle around him.

Q Now, that Wednesday night, what were you doing at the house?

A Some of my friends had came by. After the forensic guy took the pictures and dusted the house and everything, he said that, you know, I could clean up "the house at that **time**. He said after he done that you can clean **up**. So I **was** there at the house and some of my friends came by, like, about three couples came by.

Q What did you do -- Did you mop the floors?

A They -- **my** friends and their wives and everything, they offered to help clean up, and they did everything.

Q Was the house mopped?

A They did everything.

Q Was the house cleaned?

A They did everything. They mopped --

1 Q What did you do with the pillowcase that the guns were
2 in?

3 A It might have gotten thrown away with the other stuff
4 that was in the room there, the bloody clothes and
5 stuff like that.

6 Q Bloody clothes, you threw them away. The pillowcase
7 you threw away?

8 A Probably so, yeah. A lot of stuff got thrown away.

9 Q Now, was anything found by one of your friends at the
10 house?

11 A Yes, it was.

12 Q What was it?

13 A There was an nine millimeter casing found and a
14 projectile,

15 Q And the casing, did it -- was it similar to casings
16 that you have in your house?

17 A Nine millimeter, yes.

18 Q Mine millimeter, the same thing you have?

19 A Nine millimeter, yes, sir.

20 Q And do you know where he found that? Let me say this,
21 were you present when he found that?

22 A No, I was not present in the room when he found it, but
23 he did show me where.

24 Q But were you present when he found it?

25 A Not exactly when he found it., no.

1' Q Now, on Thursday -- strike that. A couple of weeks
2 later, did you have a chance to talk to your wife when
3 she could finally talk?

4 A When she came out of the ICU.

5 Q And at that time, did she tell you who had gone inside
6 the house?

7 A She didn't necessarily say who went in the house. I
8 tried to talk to her, and she could respond.

9 Q Did you ask her if Stanberry had gone in the house?

10 A I asked her did she remember, could she remember who
11 came in the house on her.

12 Q Was **Stanberry** one of the people?

13 A That's what she nodded.

14 Q And was **Ponytail** one of the people?

15 A **That's** what she nodded.

16 Q Now, that was at that time. Later on, was she able to
17 talk? Did her speech come back?

18 A It was like months later, whatever, when she finally
19 was able to talk.

20 Q And regain her ability to talk to where you could
21 understand her?

22 A Uh-huh.

23 Q That was not immediately when she came out of ICU, was
24 it?

25 A No, not **immediately**, no.

1 THE COURT: Did not you just testify that it was
2 months before she could talk?

3 THE WITNESS: Yes, sir. It was -- She had been in
4 there all of March, and it was a while before
5 she actually talked because of the tube in
6 her throat. Exactly -- Exact dates, I can't
7 recollect.

8 THE COURT: You said it was over a month; is that
9 right?

10 THE WITNESS; That's what I think, yes, sir.

11 Q And did you have any idea that your stolen guns were in
12 the woods where Rodney Stanberry took you before you
13 found them there?

14 A Nu, I did not.

15 Q Was anybody else with Rodney Stanberry when he showed
16 you or when he drove you to the spot of where your guns
17 were located?

18 A No, there was not.

19 Q It was just the two of you?

20 A Yes.

21 MR. JORDAN: That's all I have.

22 CROSS EXAMINATION

23 BY MR. NIXON:

24 Q Mr. Finley, when did you first meet Rodney Stanberry?

25 A During hunting season one year I was introduced to

1 Rodney by another friend of ours that we hung with.

2 Q How long had you known him before March 2nd of 1992,
3 the day this happened?

4 A Approximately about three, maybe four years, close to
5 four years.

6 Q And how old are you, Mike?

7 A Im 32.

8 Q And where do you work?

9 A Fitzgerald Engineering.

10 Q What do you do there?

11 A I'm a process control tech.

12 Q And how long have you been working there?

13 A I've been in the process control field going on
14 approximately ten years now, but I've been with
15 Fitzgerald for a little over a year.

16 Q And when were you married to Valerie Finley?

17 A We were married in July of '87, I want to say.

18 Q Do you remember the year?

19 A It was '82 to be exact, '82 to be exact.

20 Q And you had two children --

21 A Yes, sir, "two daughters.

22 Q -- at the time this happened?

23 A Two daughters.

24 Q And what were "their ages?

25 THE COURT: He said earlier that their ages now

1 are 12 and seven.

2 THE WITNESS; Yes.

3 Q Twelve and seven *now*.

4 A Yes, sir, now.

5 Q And you are separated -- excuse me. You are divorced
6 now, correct?

7 A Divorced, yes, sir.

8 Q And you have custody of those children?

9 A Yes, sir, I have custody.

10 Q And tell us when the divorce was filed.

11 A It was filed in '92. Let's see. No, it was '93, the
12 early part of '93 when it was filed.

13 Q It was after this happened?

14 A Yes, sir, it was.

15 Q And up until the day that this happened on March the
16 2nd, did you have marital problems with Valerie?

17 A No, sir, we did not, none whatsoever.

18 Q And after this happened -- How long after this happened
19 was it before you began having marital problems?

20 A We started having marital problems after she went into
21 the Rotary,.

22 Q Okay. She went into Rotary about 30 days after this
23 happened?

24 A Yes, sir, when she was released from USA.

25 Q And did you go visit her there while she was there?

1 A Yes, sir, I did.

2 Q And was it when she was about to be discharged from
3 Rotary that you found out that there was some major
4 marital problems?

5 A Yes, sir. **That's** when our problems started.

6 Q Tell us what happened.

7 A Well, there was times when **we'd** go to Rotary to visit
8 her, and my mother would like to come by and see her.
9 There was times when, you know, you stopped **at** the door
10 -- you had to -- We were on a list as to who could come
11 in and who **couldn't**, and she **didn't** want **my** mother to
12 visit **her, to** see her. And I went in there one day to
13 see her and all of a sudden she told me that she could
14 have me taken off the list, as well.

15 Q Valerie told you that?

16 A Told me that. And there was one day I went to talk to
17 her, and I let; her know I had went down to the Social
18 Security office to take care of paperwork for her, that
19 the lady over at USA, the case worker, had gotten the
20 paperwork taken care of for me, and I went down there
21 and did that. **And** I told her all I had to do was just
22 send it off for her, and she just said, leave it there,
23 you know, I **don't** need you to do it for **me. I got**
24 somebody doing it for me myself.

25 Q Okay. Let me back up. Let me back up just a minute.

1 We'll do it in a logical fashion, or try to. You said
2 that. you met these two people from Hew York
3 approximately one week before the shooting; is that
4 right?

5 A Yes, sir.

6 Q And Rodney introduced you to those people.

7 A Yes.

8 Q And there was two people, correct?

9 A Correct.

10 Q And one's name was introduced to you as Ihoe or Wish?

11 A Correct.

12 Q Is that right?

13 A Correct.

14 Q And do you know his real name to be Angel Melindez?

15 A I didn't know his real name.

16 Q You knew his nickname as Ihoe and Wish?

17 A And Wish, yes.

18 Q And the other one's name was introduced to you as --

19 A Rene.

20 Q Rene Barbosa?

21 A I just knew Rene. That's all I remember.

22 Q And did Rodney bring them to your house?

23 A Yes, he did.

24 Q You said he told you that they came down for Mardi
25 Gras?

1 A To visit him for Mardi Gras.

2 Q Now, when was the first time that you showed your guns
3 to either one of those two gentlemen?

4 A When we went to target shoot that Saturday.

5 Q And that was the first time they saw your guns? And
6 did you bring all of your guns?

7 A No.

8 Q How many guns did you bring up there?

9 A That day I had four.

10 Q Did they -- They expressed an interest in buying the
11 guns --

12 A Yes, they did.

13 MR. JORDAN: Judge, this would be hearsay. This
14 is all hearsay.

15 MR. NIXON: Judge, he asked him about it.

16 THE COURT; Go ahead.

17 Q They wanted to buy your guns, didn't they?

18 A Yes, sir, yes, they did.

19 MR. JORDAN: Judge, I didn't ask anything about
20 buying any guns. I didn't ask anything about
21 any conversations. It's hearsay, and he
22 knows it's --

23 THE COURT! Go ahead.

24 Q They wanted to buy your guns, didn't they?

25 A Yes.

1 Q And you wouldn't sell then your guns, would you?

2 A No, sir, I wouldn't.

3 Q And Rodney Stanberry told you not to sell them the
4 guns?

5 A Yes, sir.

6 MR. JORDAN: Judge, again, it's all hearsay.

7 A Yes.

8 THE COURT: Ask him what he did.

9 MR. NIXON: Well, Judge, can I ask him what Mr.

10 Stanberry told him since Mr. Jordan has been
11 asking him about what Mr. Stanberry told him?

12 THE COURT: Go ahead.

13 MR. JORDAN: Judge, I just object that this is a
14 way to get it in, and there is a way to get
15 it in --

16 THE COURT: I think you've objected about four
17 times. I said he may answer it. Now, go
18 ahead.

19 Q What did Rodney tell you about selling your guns to
20 Rene Barbosa and Ihoe or Wish?

21 A That it wasn't a good idea. They were from New York.

22 Q Did he tell you why?

23 A Well, we both knew that in New York, you can't --

24 MR. JORDAN: Now, Judge, again, we both know in
25 New York this and that. It's hearsay. It's

1 opinion. It's mental impression. I'd like
2 to take him on voir dire.

3 THE COURT: No. Go ahead.

4 Q Were you present when anybody tried to buy the guns
5 from Rodney Stanberry, Rodney's gun?

6 A Yes, sir, we were there. I was there.

7 Q And Rodney wouldn't sell them his guns, either, would
8 he?

9 A Yes, sir.

10 Q Excuse me?

11 A Yes, sir.

12 Q He would not sell him his gun?

13 A Right, he wouldn't.

14 Q Now, did you help these individuals get some guns,
15 purchase some guns?

16 A They wet a guy who's a collector that I had met.

17 Q You're a gun collector, aren't you?

18 A Yes, sir.

19 Q And you go to gun shows?

20 A Yes, sir.

21 Q And Rodney went to gun shows? Y'all went to gun shows
22 together, correct?

23 A Yes, sir.

24 Q Now, tell me when this was when you -- Did you
25 introduce them to this guy, or did you give them this

1 guy's name?

2 A I introduced them to him.

3 Q Okay. And do you recall what his name was?

4 A Charles Hern was his name.

5 Q When was this that you introduced them to this guy,
6 Charles Hern?

7 A That Thursday. One Thursday I introduced them.

8 Q The Thursday before the shooting?

9 A Yes.

10 Q And did you see them purchase guns from Mr. Hern?

11 A Yes, sir, I did.

12 Q What kind of guns did they purchase from Mr. Hern?

13 A They purchased from him -- They purchased three guns
14 from him.

15 Q What kind of guns?

16 A They purchased a nine millimeter.

17 Q Do you know what brand?

18 A It was a Glock.

19 Q A Glock nine millimeter?

20 A Yes, they did.

21 Q Okay. What else?

22 A A little .25 and a .380.

23 Q And was that the same Glock millimeter that they had up
24 in Creola, or Axis, when you went up there to shoot the
25 Saturday before the shooting?

1 A Yes, they did.

2 Q And, specifically, which one of those two men purchased
3 the guns from Mr. Hern that Thursday?

4 A Rene did.

5 Q That's the one with the ponytail?

6 A Ponytail, yes.

7 Q And where did this transaction take place?

8 A They bought them at a Dairy Queen in Semmes on Highway
9 98.

10 Q Okay. Now, did you see them, other than the Saturday
11 night, or other than the Saturday when y'all went to
12 Axis to shoot, did you see those two men any more
13 between Thursday and Saturday?

14 A No, I did not.

15 Q Now, let's talk about the Saturday when you went to
16 Axis to shoot. Who contacted -- Did Rodney contact you
17 and ask you to go up there and shoot with them?

18 A Yes.

19 Q Now, did Rodney come by your house that day?

20 A Yes, he did.

21 Q And you said that you and Valerie rode up there
22 together.

23 A Yes, sir. we did.

24 Q And Rodney and -- Who was with Rodney when he came by
25 your house?

1' A Rene and Ihoe and a third guy named Taco was with them.

2 Q Taco, is that Bernard Jones?

3 A I only know him by --

4 Q You know him as Taco?

5 A Taco, yes.

6 Q So Rodney, Rene-and Ihoe or Wish and Bernard Jones or-

7 Taco?

8 A Taco, yes.

9 Q Four people came by your house, and they picked up some'

10 targets, didn't they?

11 A Some targets that I had, yes.

12 Q And were they in Rodney's Bronco at the time?

13 A Yes.

14 Q And then they went up to --xis?'

15 A Yes.

16 Q And you and Valerie came after that in your car?

17 A Yes, we did.

18 Q Did Rodney have all of his guns up there at Axis?

19 A No, he didn't have all of them, no.

20 Q He has a pretty extensive gun collection, doesn't he?

21 A Yes.

22 Q And have you seen his gun collection?

23 A Yes, I did.

24 Q Did he have as many or more guns than you?

25 A Not as many as I did.

1 Q He had quite a few **guns**, though?

2 A Yes, sir.

3 Q And how long did you shoot when you were up in Axis?

4 A We were there about an hour or better.

5 Q And was Rene and **Ihoe** shooting the **Glock** nine
6 millimeter?

7 A Yes, they were.

8 Q Did they shoot some **of** your guns?

9 A Yes, they did.

10 Q And that **Glock** nine millimeter was the one they bought
11 Thursday?

12 A Yes, it was.

13 Q Did Valerie shoot guns?

14 A Yes, she did.

15 Q Did Rodney shoot guns?

16 A Yes.

17 Q And after you left Axis, did **y'all** go somewhere
18 together, or did you separate at that point?

19 A We left. Me and Valerie left.

20 Q You **didn't** see them anymore that night?

21 A No.

22 Q Now, Sunday, did you see Rodney Sunday?

23 A No.

24 Q Did you see Taco or **Tyrrell** or Angel **Melendez** or Ihoe
25 or any of those people Sunday?

1 A No.

2 Q You went out of town' Sunday, didn't you?

3 A Yes, we did.

4 Q And you went to Mississippi?

5 A Yes, sir, we did.

6 Q You and Valerie?

7 A Yes.

8 Q And what time did you get back?

9 A About ten o'clock that night.

10 Q Had you already made arrangements to leave the children
11 with her mother?

12 A Yes, sir, we did.

13 Q Did you preplan to leave the children overnight with
14 her mother?

15 A We didn't preplan. We were hoping to get back in time,
16 but we didn't, and so she called her mother and let her
17 know she'd pick the kids up in the morning.

18 Q Whose idea was that?

19 A That was Valerie's.

20 Q Valerie decided to wait until the morning to go get the
21 kids?

22 A Yes.

23 Q Now, you went to bed. You got up at what time Monday,
24 the day of this incident?

25 A I got up about six and dressed.

- 1 Q Is that the normal time you get up?
- 2 A Yes, sir, about six.
- 3 Q And what time did you leave to go to work?
- 4 A 6:30.
- 5 Q Was Valerie in bed?
- 6 A Yes, sir, she was.
- 7 Q Was she awake?
- 8 A Yes, sir, she was.
- 9 Q When you left, did you lock the front door?
- 10 A I don't go out the front door. I go out the back.
- 11 Q You always go out the back?
- 12 A Always.
- 13 Q Was it locked?
- 14 A Yes, sir, it was.
- 15 Q Now, describe the front door for me. Did it have a
- 16 storm door on it?
- 17 A It has a solid glass storm door with the hard wood oak
- 18 shape stain glass door.
- 19 Q And that glass door opens outward, doesn't it, the
- 20 storm door?
- 21 A The storm door opens to your right to outside, and the
- 22 --
- 23 Q Does it push in?
- 24 A No, it. does not.
- 25 Q There's no way you can push that door in without

1 breaking it, is it?

2 A No, sir, it can't be done.

3 Q Okay. And does that storm door have a lock on it?

4 A Yea, sir, it does.

5 Q Do you keep it locked?

6 A The storm door always stays locked.

7 Q When you got home that day after you were called, did
8 you notice any damage to the house?

9 A No, sir, not the front door.

10 Q Okay. Only on the inside?

11 A Yes, sir.

12 Q Now, let's get back. You're at work. Did you have any
13 conversation with Valerie Finley, your wife, while you
14 were at work?

15 A Yes, sir, that morning.

16 Q And you called her on the telephone, didn't you?

17 A Yes, sir, I did.

18 Q What time did you call her that morning, that Monday
19 morning on March the 2nd, 1995 -- excuse me, 1992?

20 A After talking with a co-worker who works part time at
21 Chuck-E-Cheese, we had planned to take our oldest
22 daughter to Chuck-E-Cheese for a birthday party.

23 Q That night?

24 A Yes. we did.

25 Q And after talking with him, he said he would give us

1 some tokens when we come over, so I called my wife that
2 morning around 8:30, something tonine, something like
3 that, and told her he was gonna give us some tokens
4 whew we come in; all we had to do was just let him know
5 we were there, and I told her I'd see her this evening
6 when I get in, and that's the last time I talked to
7 her.

8 Q And what time was that?

9 A That was around 8:30 or 9:00, something like that.

10 Q How do you know that that's what the time was?

11 A Because usually we -- they give the employees who does
12 not smoke a break around the same time they give the
13 smokers a break at that time, and that's what it was.
14 The smokers got a break, around eight, something like
15 that, and, you know, a lot of times the non-smokers
16 would get five minutes, stop for five minutes in
17 between time.

18 Q So you talked to her on the telephone at 8:30 or nine?

19 A Yes, sir, somewhere between then.

20 Q And everything was okay?

21 A Yes, sir.

22 Q Did you have a -- what vehicle was operable at your
23 house that day when you left to go to work?

24 A She had her little new '91 Ford Festiva, and we had an
25 old Subaru in the driveway.

1 Q And you talked to her about some gas, getting some gas,
2 didn't you?

3 A I left her ten dollars that morning.

4 Q Where did you leave that ten dollars?

5 A I left it on the head of the bed.

6 Q Okay. Did you tell her to go get some gas with that?

7 A Yes, sir. We needed gas in the car.

8 Q Was the car empty?

9 A When we got back, it was less than a quarter of a tank.

10 Q When you came back that night after the police had
11 already left, did you find that ten dollars?

12 A Later on, I found five dollars over the sun visor in
13 the car.

14 Q In the car?

15 A Yes, sir.

16 Q And when did you find the five dollars over the sun
17 visor in the car?

18 A When I got ready to use the car. Tuesday or that
19 Wednesday when I got ready to drive it over to the
20 hospital, that's when I noticed that the money was
21 there.

22 Q The day after the shooting?

23 A Yes, sir.

24 Q And did the car have gas in it at that time?

25 A Yes, sir, it did.

1 Q So someone had taken five dollars of the ten dollars
2 and bought some gas and put it in the car?

3 A Yes, sir, they did.

4 Q And was "the car parked in the same place when you got
5 there as it was when you left?

6 A Yes, sir. It was parked right on the side of the house
7 in the driveway.

8 Q Is "that where it was always parked?

9 A Yes, sir.

10 Q The next time that you heard anything, you received a
11 call from Valerie's sister?

12 A Yes.

13 Q And you said that was at 11:45?

14 A Yes, sir.

15 Q How do you know it was at 11:45?

16 A Just like I say, we had already broke for lunch. We
17 were on lunch break, and I was sitting there, had made
18 my sandwich, and we only get 30 minutes. That's why I
19 figured it was between 11:40 and 11:45.

20 Q What time do you take lunch every day?

21 A 11:30. I had made one sandwich and had eaten it and
22 was getting ready to make me another one.

23 Q What is Valerie's sister's name, the one that called
24 you?

25 A Brenda Gay.

1 Q **And** she had told you that Valerie **had** fell?

2 A Sounded like Valerie had fell.

3 Q Did she tell you that she was talking to Valerie on the
4 telephone?

5 A **No**, she did not.

6 MR. JORDAN; **Judge**, all **of** this is hearsay.

7 MR. **NIXON**: **Judge**, Ms. **Gay** is here, and ~~she's~~
8 under subpoena.

9 MR. JORDAN: **It's** all hearsay, **Judge**. **It's** still
10 hearsay. I object to it.

11 MR. **NIXON**: Are **you** finished?

12 THE COURT; Go ahead.

13 MR. **NIXON**: Thank you.

14 Q Did she tell you that she had been talking to Valerie
15 that day?

16 A No, sir, she **didn't**. She **didn't** tell me.

17 Q Now, you say you left work?

18 A Yes, I did.

19 Q Approximately what time did you leave work?

20 A I left work, probably, about 11:50, 11:55, something
21 like that.

22 Q And went straight home?

23 A Yeah. When I got the call and I talked to her, **that's**
24 when I left and went straight home.

25 Q And how long does it take to get home from your work?

1 A About 15, 15 minutes.

2 Q The police had already left when you arrived?

3 A Yes.

4 Q Did you see Eddie Ragland or any other police --
5 Lebarron Smith or any other police officers at your
6 house that day?

7 A No, sir, I did not.

8 Q Did **you** talk to **any** police officers **that day**?

9 A No, sir.

10 Q The Monday, the day of the shooting?

11 A **No, sir.**

12 Q How long did you stay at the house before you went to
13 the hospital?

14 A I wasn't there -- I **don't** think I was there 15 minutes.

15 Q Okay. You realized while you were there that your guns
16 had been stolen, did you not?

17 A Yes, sir.

18 Q And did you call the police at that time and tell them,
19 or did you just go straight to the hospital?

20 A I went to the hospital.

21 Q You were concerned about your wife?

22 A Yes, sir.

23 Q And when you arrived at the hospital, were there any
24 police officers there?

25 A No, sir.

- 1' Q Did you tell that police that day that: your guns were
2 stolen?
- 3 A I think I called. I might have talked to Detective
4 Smith that night when I called over there. I can't
5 recall.
- 6 Q Did you talk **to** Rodney **Stanberry** that afternoon?
- 7 A Yes, sir.
- 8 Q And what time did you first talk to **him** Monday
9 afternoon?
- 10 A Maybe two, one or two,. somewhere along in there.
- 11 Q Did he call you or did you call him?
- 12 A I called him.
- 13 Q And you called him from where?
- 14 A From the hospital.
- 15 Q And why did you call him from the hospital?
- 16 A I called him and asked was his friends still in town:
- 17 Q **Why** would you ask that question, Mr. **Finley**?
- 18 A Because **my** house had been broken into. My guns were,
19 stolen.
- 20 Q And you suspected that those people might be the ones
21 who did it because they had been trying to buy them?
- 22 A Yes, sir.
- 23 Q And where did you reach Mr. **Stanberry** when you called
24 him?
- 25 A At home.

1 Q And tell us about that conversation.

2 A I just told him that I was over at the hospital; my
3 wife had been hurt. And I was asking was his friends
4 still in town because my guns were missing; they were
5 gone. And I told him she was in the emergency room or
6 whatever, that she had been hurt. And he said, I'll
7 get back with you.

8 Q Okay. And did he get back with you?

9 A Yeah. I called him back a little later.

10 Q About how long later, do you recall?

11 A Probably about, maybe, **about two** hours, something like
12 that, had passed.

13 Q **You** called him at home?

14 A Yes, sir.

15 Q Tell us about that conversation.

16 A When I called him at home, **that's** when he told me that
17 --

18 THE COURT: He can tell us what he said, but **let's**
19 **don't** get into unnecessary hearsay.

20 MR. NIXON: Judge --

21 A **That's** when he told me that he found out that **they did**
22 -- had went in my house, his **friends went** in my house
23 **and that I hoe did shoot my wife.**

24 Q okay. And he told you that that evening?

25 A That evening and --

1 MR. JORDAN: **Judge**, all this is hearsay. **It's**
2 improper and it's not --

3 **THE COURT:** I sustain the objection.

4 Q okay. And what else did he tell you about that, did
5 Rodney tell you?

6 A He said **that's** what they had done, and --

7 Q Did he tell you anything about where they were?

8 A No, sir. He didn't say where they were. **They** might
9 have gone back to New **York** already.

10 Q Did he tell you that he was trying to do anything or
11 what he was trying to do?

12 MR. JORDAN: Judge, all this is, all this is
13 hearsay.

14 **THE COURT:** Sustain the objection.

15 MR. **NIXON:** I'm talking about Rodney, Judge.

16 MR. JORDAN: That's hearsay.

17 **THE COURT:** Sustained.

18 MR. JORDAN: Thank you, Your Honor.

19 MR. **NIXON:** Judge, can I ask him what Mr.

20 **Stanberry** told him in that conversation he
21 was going to do?

22 **THE COURT:** **NO.**

23 Q Okay. After that conversation -- I can't ask you
24 anything about that conversation. After that
25 conversation, what, if anything, did you do?

1 A At that time, she was in the emergency room. I got up,
2 went back to the house and got the old shotgun that was
3 left in the vault and got some shells, and I went to
4 the bus station. I thought the old bus station was
5 still on Government Street here, but it wasn't. They
6 had moved it out on 90, so I went out on 90 looking for
7 them. And I had the gun in the car.

8 Q Did you go to the bus station -- get your shotgun and
9 go to the bus station looking for them after you talked
10 to Rodney?

11 A Yes.

12 Q And after he relayed information to you?

13 MR. JORDAN: Judge, again, this is all --

14 A Yes.

15 THE COURT: What he does is not hearsay.

16 Q Based on the conversation you had with Rodney and the
17 information he relayed to you, you got your shotgun and
18 went to the bus station?

19 A Yes, sir.

20 Q But you thought the bus station was at Government
21 Street?

22 A Yeah, here, right.

23 Q Did you see Mr. Rogers when you got your shotgun that
24 day?

25 A When I was leaving out of the house, yes, sir, I did

1 see him.

2 Q Did you say anything to him or ask him anything that
3 you recall?

4 A No, sir. He approached me and said something. I don't
5 really remember what he said.

6 Q And where was that, by your house?

7 A That was in my neighborhood there.

8 Q And tell us -- Okay. You got your shotgun and you went
9 to the bus station?

10 A Yes, sir,

11 Q And what did you do?

12 A I went in. I left the shotgun on the seat of the car
13 and went in the bus station looking to see did I see
14 the guys.

15 Q And did you?

16 A No, sir.

17 Q Is this the bus station on Highway 90?

18 A On Highway 90.

19 Q And you first went to the bus station downtown?

20 A We came here to the old bus station, but they had
21 moved.

22 Q How Long did you stay out there at the bus station?

23 A I walked in looking for them and I didn't see them, and
24 I turned around and left there and went back to the
25 hospital.

1 Q When you got back to the hospital, did Rodney come out
2 there?

3 A No, not at that time. No, sir. She was still in the
4 emergency room at that time.

5 Q This was Monday?

6 A Yes, sir.

7 Q Did you have any other conversations with Rodney from
8 the hospital that night before he came out there?

9 A I had -- not that; I can recall.

10 Q But he did come out there, he and his girlfriend?

11 A Yes, sir, he did.

12 Q Monday night about what time?

13 A Id say about 6:30, 7:00. It was dark or getting dark.

14 Q Okay. And were Valerie's family members present when
15 he came?

16 A Yes, sir, they were.

17 Q Had you shared any of the information about the boys
18 from New York with Valerie's family members?

19 A I probably had, sitting in the waiting room upset about
20 it.

21 Q So you think they may have known that the boys from New
22 York had a dealing in this, or had a part in this?

23 A Yes, sir.

24 Q And that they were Rodney's friends? They knew they
25 were Rodney's friends?,

1 A Yes, sir.

2 Q And when Rodney came up, did you talk to Rodney in
3 front of Valerie's family members?

4 A Yes, sir. We were standing outside the door of the
5 waiting room area.

6 Q Did you discuss the boys from New York at that time?

7 MR. JORDAN: Judge, **this is** all hearsay.

8 A Yes, sir.

9 MR. NIXON: **It's** not hearsay, Judge.

10 THE COURT; Restate your question. **To** be
11 perfectly honest, I **didn't** hear all of it.

12 MR. NIXON: I asked him if he discussed the boys
13 from New York with Rodney at the hospital in
14 front of **Valerie's** family.

15 THE COURT: If he did, **there's** nothing wrong with
16 that. Let's just **don't** get **into** all the
17 conversation.

18 Q Did you?

19 A Yes.

20 Q And how long did Rodney **stay** there that night?

21 A Maybe about 20 minutes.

22 Q Did anything else significant happen after Rodney left
23 Monday night?

24 A No, sir.

25 Q Did you sleep at the hospital Monday night?

1 A Yes, sir.

2 Q And did you talk to Rodney any **more** on Monday night?

3 A No, sir.

4 Q Now, tell us about Tuesday. Did **you** stay at the
5 hospital Tuesday?

6 A I was **there** all **day Tuesday until** about three and **left**
7 there **and** went home **to change** clothes and take a bath,
8 and while I was there, Rodney came by.

9 Q And tell us, did you have a conversation with **him** when
10 he came by?

11 A Yes, sir.

12 Q Now, this is **Tuesday** afternoon?

13 A Tuesday evening, yes, **sir**.

14 Q And did you see **what**. Rodney was driving Tuesday
15 afternoon?

16 A Yes, sir.

17 Q **What** was he driving?

18 A His Bronco.

19 Q He always drives that Bronco?

20 A Yes, sir.

21 Q He had come to your house hundreds **of** times before
22 that, **hadn't** he?

23 A Yeah, in the Bronco.

24 Q And every time he drove his Bronco, **didn't** he?

25 A Yes, sir, he did.

1 Q And everybody in that neighborhood could see his Bronco
2 when he drove down that circle?

3 A Yes, sir.

4 Q Tell us about "that conversation Tuesday with Rodney at
5 your house.

6 A He came by and he told me that they had called him and
7 told him,--

8 MR. JORDAN: Judge, this is all --

9 A -- where the guns were.

10 MR. JORDAN: -- this is all --

11 THE COURT: I sustain the objection, what somebody
12 else called, what somebody else said. Just
13 totally disregard that.

14 Q When he came to your house and talked to you
15 Tuesday, after y'all had the conversation, is that
16 when you got in the car with Rodney and you went
17 to the woods and recovered the guns?

18 A Yes, sir.

19 Q And you brought: the guns back to your house?

20 A Yes.

21 Q Did you notify the police Tuesday that you had the
22 guns?

23 A Yes, sir.

24 Q And who did you notify at the police department?

25 A Fletcher was off duty at the time.

1 Q Tell the jury *who* Fletcher is.

2 A He was the detective over the case. He was working the
3 case at that time. Detective Fletcher is his name.

4 Q Detective **Al** Fletcher?

5 A **Al Fletcher, yes**, sir, and he **was off** duty when I
6 called, and I talked to Mr. Smith.

7 MR. JORDAN: Judge, the question is who did he
8 contact, and I would ask that the witness
9 answer the question.

10 A Yes, sir.

11 MR. NIXON: **He's** answering, Judge, the best he
12 can.

13 Q Detective Fletcher was the case agent?

14 A Yes, sir.

15 Q And you say he was off so you talked with Lebaron
16 Smith?

17 A **Yes**, sir. I talked to Mr. Smith when I called.

18 Q What did you tell him?

19 A That I had recovered the guns back **and** what **should I**
20 do.

21 Q Did you give him a list of the guns?

22 A No, sir, I **didn't**. I talked to him on the phone. I
23 **didn't** give him a list of the guns.

24 Q What did Lebaron Smith tell you Tuesday night about
25 the guns?

- 1 A That Detective Fletcher would be in tomorrow and to see
2 him.
- 3 Q That would be Wednesday?
- 4 A Yes, sir, that would be Wednesday.
- 5 Q And Detective Smith **wasn't** the case agent on the case;
6 is that right?
- 7 A No, sir, he was not.
- 8 Q And **he's** the one who told you that **Al** Fletcher **was** not
9 working?
- 10 A Right. He said he was off.
- 11 Q Did you go back to the hospital Tuesday night?
- 12 A Yes, sir.
- 13 Q Did **you** have any other conversations with Rodney
14 Tuesday night?
- 15 A **No**, sir.
- 16 Q The guns stayed at your house?:
- 17 A Yes, sir, they were.
- 18 Q **Now**, you recovered everything that was taken?
- 19 A Yes, sir.
- 20 Q Plus some, right?
- 21 A Yes, sir, found stuff that was **threwed** (sic) out in the
22 woods, yes.
- 23 Q But you found a glove and mask in that: pillowcase?
- 24 A Yes.
- 25 Q Right?

1 A Right.

2 Q And these photographs that have been admitted in
3 evidence of that glove and that mask, those -- you have
4 already testified that you had never seen those before?

5 A Never have.

6 Q Did you tell **Lebarron** Smith that the gloves and mask
7 were in there with the guns when you talked to him, or
8 do you recall?

9 A I don't recall telling him that they were in there, but
10 I did give them to the forensics guy.

11 Q That was the next day?

12 A Yes, sir.

13 Q Okay. Did anything else happen Tuesday night?

14 A While I was sitting there after I had received the
15 stuff back that Tuesday, I put my rings on. I wore my
16 rings and my watch, had put them on when I left the
17 house. I wore them to the hospital, and that's when --
18 I was sitting in the waiting room at that time, and my
19 in-laws were there at the time*.

20 MR. JORDAN: Judge, this is getting into hearsay.

21 None of it's admissible.

22 MR. NIXON: It's not any hearsay, Judge. He's
23 testifying to what he did.

24 A My in-laws were **there** at the time and I came up -- you
25 know, I had my rings and my watch on, and they were

1 sitting there, and they saw that I had my rings and
2 stuff, and I told them that --

3 MR. JORDAN: Judge, again, **he's** getting into --

4 MR. NIXON: Excuse me. Judge *-

5 THE COURT: He can say what he did.

6 MR. NIXON: Mr. Jordan knows that **that's** not
7 hearsay.

8 THE COURT: Come on. Let's **go**.

9 MR. JORDAN: Judge --

10 THE COURT: I don't need any of this --

11 A **They** realized that I had gotten the stuff **back**.

12 Q Valerie's family members were there, saw you **come** in
13 the hospital Tuesday night with the rings -- the two
14 rings that had been stolen?

15 A Yes, sir, and my watch.

16 Q Okay. Did you tell **them** that you had recovered the
17 stuff?

18 A Yes, sir, I did.

19 Q Did they start acting differently toward you **after**
20 that?

21 A Yes, sir, they did.]

22 Q And how did they start acting toward you after that?

23 MR. JORDAN: **Now**, Judge, all of this, number one,
24 is not relevant.

25 THE COURT: I sustain the objection. **It's** not.

1 MR. NIXON: Judge, I'm trying to show --

2 MR. JORDAN; Show what, Judge, from this witness?

3 THE COURT: I don't need all this conversation.

4 MR. JORDAN; Thank you.

5 THE COURT: Let's go.

6 Q Were you treated differently by Valerie's family after
7 that night?

8 A Yes, sir, I was.

9 Q Now, Wednesday -- You **didn't** talk to Rodney Tuesday
10 night, did you?

11 A No, sir.

12 Q Now, Wednesday, did you call the police **Wednesday**?

13 A Yes, sir. I talked to Fletcher.

14 Q You went down to the police and talked to Detective
15 Fletcher?

16 A Yes, sir.

17 Q **What** time was that Wednesday?

18 A It was that morning I **went** there to let him **know** I had
19 recovered the guns.

20 Q Did he take a list of it?

21 A Yes, sir, he did.

22 Q And then did Corporal **Ragland** come-out?

23 A Yes, sir.

24 Q The I.D. officer to take **photographs**?

25 A Yes, sir.

1 Q Now, **did** you give him **the gloves and the mask**?

2 A Yes, sir, I did.

3 Q That were recovered in the pillowcase along with the
4 guns?

5 A Yes, sir.

6 Q Did **you** tell him that you had recovered the glove and
7 the mask along with the guns in the pillowcase?

8 A Yes, sir, I did.

9 Q What about the pillowcase? Did he take the pillowcase?

10 A No, sir, he **didn't**.

11 Q Do you know why?

12 A **Wo**, sir, I **don't**.

13 Q Did he fingerprint the guns?

14 A No, he **didn't**.

15 Q Did he say anything about fingerprinting the **guns**?

16 A I told him I had them, and he said he felt he had
17 enough fingerprints.

18 Q Okay. Have you seen the mask and the gloves since
19 Corporal **Ragland** took them from your house?

20 A No, sir, I haven't.

21 Q Now, you saw Rodney Stanberry that Wednesday, **too**,
22 **didn't** you?

23 A Yes, sir.

24 Q And when did you see him? What time?

25 A He **came** by the night **we** were cleaning up.

1 Q Okay. Did you have a conversation with -- Talking
2 about your cleaning up, Corporal **Ragland** told you to go
3 ahead and clean up, didn't he?

4 A Yes, sir, he did.

5 Q Told you there **wasn't** anything else he needed from your
6 house?

7 A Yes, sir.

8 Q Did you specifically ask him if you could clean up?

9 A Yes, sir, I did.

10 Q And were **you** having a party over there that **night**?

11 A No, sir, I was not.

12 Q Did you have some friends -- You said some couples came
13 over. Did they come to help you clean up?

14 A Yes, sir, friends of mine and **Valerie's**. There **were**
15 three couples.

16 Q And when you were cleaning up, what did you find?

17 A **That's** when we found **the** nine millimeter casing and the
18 projectile.

19 Q And when you say a projectile, you're talking about a
20 bullet, **aren't** you?

21 A Yes, sir, the bullet.

22 Q Was the bullet damaged?

23 A Yes, sir, it was.

24 Q And who found **that**? What's the person's name who found
25 it?

1 A Thomas.

2 Q Thomas found it in the bedroom, **didn't** he?

3 A Yes, sir, he did.

4 Q And what did you do when Thomas showed you the shell
5 casing and the bullet?

6 A We put it in a **plastic** bag to **give** to Fletcher the next
7 day.

8 Q **And** you did give it to him the **next** day, **didn't** you?

9 A Yes, sir, we did.

10 Q Okay. Now, tell me about when Rodney Stanberry came
11 over. What time was that Wednesday?

12 A It was that night that we were cleaning up. He just
13 stopped by.

14 Q Do you know what time?

15 A I'd **say** around eight or something like that because it
16 was pretty **late**.

17 Q Did you have any conversation with him about what
18 happened?

19 A Yes, sir. That's when he said he had some pictures **to**,
20 you know, give Fletcher.

21 Q And those pictures that he gave to Fletcher are
22 pictures that you identified for Mr. Jordan, aren't
23 they?

24 A Yes, sir.

25 Q And those photographs were in **Rodney's** possession,

1 weren't they?

2 A Yes, sir.

3 Q Rodney's photos. He gave those to the police so that
4 they **could** tell what the people looked like.

5 MR. JORDAN: **Judge**, I object to --

6 A Yes, sir.

7 MR. JORDAN: -- to why he did something or
8 another. That calls for mental impression.

9 THE COURT: Sustained.

10 Q Now, originally, Rodney told you he had been told where
11 the guns were by "the people from New **York**; is that
12 right?

13 A Right.

14 Q And Rodney is the one who told you where the guns were
15 and got you and took you to the woods to find them?

16 A Right.

17 Q Did you ever have a conversation with him after that
18 about how he knew the guns were where they were in the
19 woods?

20 A **No**.

21 Q Do you remember Rodney telling you anything about, how
22 the guns got in the woods after that point?

23 A I **can't** recall, no.

24 Q Okay.

25 MR. NIXON: Judge, if you give me just a minute,

1 please.

2 Q Mike, your neighbor is Tyrone Dortch, isn't he?

3 A Yes, sir.

4 Q And he lives right next door to you?

5 A Yes, sir.

6 Q Did you ever tell Tyrone Dortch that --

7 MR. JORDAN: Judge -- Never mind. I'll withdraw
8 that.

9 Q Have you ever told Tyrone Dortch that you saw Rodney
10 Stanberry come into your house? Did you?

11 A No, sir, I did not;.

12 Q You never told Tyrone that -- I mean, Tyrone never told
13 you that he saw Rodney come into your house?

14 A No, sir, he did not.

15 MR. JORDAN: Judge, that would be hearsay.

16 THE COURT: Go ahead.

17 Q Now, you hunted with Rodney, didn't you?

18 A Yes, sir.

19 Q Y'all hunted deer together often?

20 A Yes, sir, we did.

21 Q This wasn't deer season in March, was it?

22 A No, it was not.

23 Q Did you ever tell Valerie Finley, your wife, that
24 morning that Rodney was coming by that day to get a
25 deer stand?

1 A Mot that morning, no, sir.

2 Q Had you told her that before?

3 A **During** the season, Rodney had came by to get it, and I
4 had told **her** that I was leaving it outside the garage
5 on the side of the fence there, behind the fence, for
6 him to get **it**.

7 Q **And** that would have been in what month?

8 A During November and January.

9 Q **you're** certain you **didn't** tell her anything about
10 Rodney coning by that day to get a deer stand -- tree
11 stand?

12 A No, sir.

13 Q Did you talk to Tyrone **Dortch** that day, the neighbor?

14 A Yeah, I spoke to **him**. I asked **him** did he see anybody
15 go into my house or --

16 Q He answered you, didn't, **he**?

17 A Sir?

18 Q He answered you, didn't he?

19 A Yes, sir, he did.

20 Q **Did you** call the **New York** Police Department from your
21 home?

22 A **Yes, sir, we did.**

23 Q And what day was that?

24 A That was -- I think it was that Thursday or maybe that
25 **Friday.**

1 Q Of the same week?

2 A Yes, sir.

3 Q And who was with you when you made those calls to the
4 New York Police Department:?

5 A Rodney'.

6 Q And that was from your hone?

7 A Yes, sir.

8 Q Did you give Detective Fletcher the name of a detective
9 in New York to contact?

10 A Yes, sir, that we talked to.

11 Q Do you recall that detective's name?

12 A It was a lady.

13 Q Detective Hardy, wasn't it?

14 A Something like that, yes, sir.

15 Q Now, Mike, did you notice a change in your wife's
16 mental condition after this shooting occurred?

17 A Yes, sir.

18 Q And how did her mental condition change?

19 A Well, after all these years, we were move than just
20 husband and wife, and her attitude towards me changed,
21 and I didn't understand that. And, as well, I went to
22 see her one day, and she was talking to me about my
23 blue '66 Chevy, and I had been got rid of that car for
24 -- I think I sold it about a year and a half, two years
25 ago, and she asked me about the car.

1 Q And when was this when she was asking you?

2 A When she was at the Rotary.

3 Q So this would have been over 30 days after she had been
4 shot?

5 A Yes, sir.

6 Q Was she able to speak at that time?

7 A Yes, sir, she was.

8 Q And this car that she was asking you about, you had
9 sold it a year earlier?

10 A Uh-huh.

11 Q And you had to tell her that you no longer had that
12 car, that we sold it a year ago, right?

13 A Right, yes, sir.

14 Q And were there other instances where her memory failed
15 and she was confused when she talked to you or appeared
16 to be confused?

17 A Yes, sir. There was one other instance. I'm trying to
18 think what it was she had said. She asked me about
19 something, and I told her we don't have that anymore,
20 something like that.

21 Q But you're sure about the car?

22 A Yes, sir. I'm sure about the car.

23 Q Now, y'all never went back home together after you left
24 the Rotary Rehab, did you?

25 A So, sir, we did not.

1 Q And a divorce was filed how long after that?

2 A She filed the divorce, like I said, in '93. It became
3 final just June of last year;

4 Q You've had custody of your children since this
5 happened, haven't you?

6 A Yes, sir, I have.

7 Q Temporary custody?

8 A Yes, sir.

9 Q And you've been taking care of them?

10 A Yes, sir.

11 Q Your wife, Valerie, has made a claim, since the divorce
12 was initially filed, for custody, hasn't she?

13 A Yes, sir.

14 Q And that case -- and she made allegations in that
15 divorce proceeding --

16 MR. JORDAN: Judge, none of this -- What has this
17 got to do --

18 THE COURT: Nothing whatsoever. Let's move on.

19 MR. JORDAN: Thank you.

20 Q The divorce case has not been resolved, has it, the
21 issue of custody?

22 A The issue of custody, no, sir.

23 Q And it has been reset every time this case has been
24 reset, hasn't it?

25 A Yes, sir, it has.

1 Q And it is going to be determined after this case is
2 over with, isn't it?

3 A Yes, sir, it is.

4 Q Whether you get the children or whether she gets the
5 children for good?

6 A Yes, sir.

7 Q And that decision was made based upon her testimony at
8 the trial, right?

9 MR. JORDAN: Judge, this calls for -- Now, he's
10 becoming a judge.

11 THE COURT: Mr. Nixon, let's don't try the divorce
12 case. Come on.

13 MR. NIXON: Judge, I'm just trying to establish
14 one fact. I asked what he heard her say.
15 She's going to testify here today. I can
16 keep him and recall him, if you want me to.

17 MR. JORDAN: I'd like him to do that, because I'm
18 going to keep him, too. He'll be here.

19 Q Now, Mike, throughout the time when Valerie was in the
20 hospital, her wife and -- excuse me, her mother and her
21 sister were with her just about all the time, correct?

22 A Yes, sir, around the clock.

23 Q And that was Brenda Gay and Eugenia Patrick?

24 A Yes, sir.

25 Q Now, the guns that were stolen, what happened to them?

1 A me ones -- A sold them.

2 Q Did you sell them?

3 A Yes, sir, I did.

4 Q Why did you sell then?

5 A To pay for lawyer's fees.

6 Q When did you sell them? How long after this happened?

7 A Probably a year later.

8 Q Okay. Did anybody ever tell you not to get rid of
9 them?

10 A No, sir. I didn't see no need not to.

11 THE COURT: Do you have many more questions, Ken?

12 MR. NIXON: I don't think so, Judge. I
13 believe

14 that's it. That's all for right now.

15 THE COURT; Do you have any questions?

16 MR. JORDAN: Yes, Your Honor.

17 THE COURT: Well, y'all go take a break. I've
18 kept y'all about an hour and 20 minutes.

19 Take a break.

20 (Recess.)

21 REDIRECT EXAMINATION

22 BY MR. JORDAN:

23 Q Mr. Finley, the last thing you told Mr. Nixon was that
24 nobody ever asked you not to get rid of your guns for
25 this trial. Remember that?

1 A Yes, sir.

2 Q And you **just** told this jury under oath that nobody ever
3 asked you to keep those weapons for the purpose of this
4 trial.

5 A Yes, sir.

6 Q Is that true?

7 A Yes, sir.

8 Q Well, you **don't** remember **Lebarron** Smith, myself and
9 your wife being present at your Meadow Avenue house
10 when you were specifically asked not to get rid of
11 those weapons?

12 A I **don't** remember specifically being asked that. I
13 **don't** remember.

14 Q You **don't** remember that?

15 A No, sir, I do not. I mean, if they -- if I had knew to
16 keep them, you would have used them as evidence.

17 **That's** what I figured. I **don't** remember you asking.

18 Q You **don't** remember me asking or I **didn't** ask you, Mr.
19 Finley?

20 A I **don't** remember you asking.

21 Q **Don't** remember that?

22 A No, sir, I **don't**. And --

23 Q I'm sorry. Go ahead.

24 A I just **don't** remember.

25 MR. NIXON: Can we find out when this was, Judge,

1 he's talking about?

2 THE WITNESS: **There's** a lot of things I don't
3 **remember.**

4 THE COURT: When was this?

5 MR. JORDAN: Between the time she got shot and
6 **today.**

7 MR. NIXON: No, Judge, **I'm** asking about the
8 time -- He made reference to some time that
9 he **went** over there.

10 MR. JORDAN: About a year **ago.** About a year **ago.**

11 Q Before you sold all **your** guns off, **Mr. Finley.**

12 A I **don't** remember. Like I said, it was -- If you're
13 saying a year **ago**, I sold those **guns** when I was going
14 **through** the custody trial with my wife over the kids,
15 and I had to **pay** lawyer fees and stuff, and that was in
16 '93. So they might have already been -- I might have
17 already sold then before you --

18 Q Did you tell **Lebarron** Smith, when I asked you not to
19 get rid of the guns, that **you** had already **sold** the
20 guns? Did **you** tell him that at your house on Meadow
21 Avenue?

22 A No, I **didn't** say anything like that. I **didn't** tell him
23 anything.

24 Q Well, now, so at first you say you **don't** remember.
25 Then you're saying, if you were asked, you **wouldn't**

1 have said, well, I already sold the guns, right?

2 MR. NIXON: Judge, he's asking two different
3 questions. He's answered two different
4 questions.

5 Q Were you asked to keep those guns, Mr. Finley?

6 A I don't remember him asking, no, or you asking, no. I
7 don't remember that. You had asked so many things. I
8 just can't recollect.

9 Q Well, you remembered a lot, though, when Mr. Nixon was
10 just asking you questions. You remembered everything.
11 You remembered times. You remembered every detail.

12 A The same questions you had asked.

13 Q In fact, you were married on July 2nd of 1983, weren't
14 you, Mr. Finley?

15 A July 2nd, yes, sir.

16 Q You didn't remember that, did you?

17 A I wasn't sure, '82 or '83, something like that. See
18 there?

19 Q And you've never been shot in the head, either, have
20 you?

21 A No, I haven't.

22 Q And you are currently involved in a custody situation
23 with your ex-wife, right?

24 A Yes, I am.

25 Q And that will be resolved by a domestic court judge

1 whether you will get custody of your children or
2 whether Valerie **Finley** will get custody of the
3 children, right?

4 A True.

5 Q And that will be done through a hearing just like this;
6 is that correct?

7 A Well, I wouldn't say exactly **like** this.

8 Q Not exactly.

9 THE COURT: I think what **he** means is there won't
10 be any jury. **Let's** go on.

11 Q Now, I'm sure that it was very important to tell the
12 police everything that you learned about this case
13 after your wife got shot, right?

14 A I was trying to be of help to them, yes.

15 Q And anything that would come up, **like who** actually shot
16 her or what gun was bought a couple of days before, you
17 would think that would be important, wouldn't you?

18 A I would think so.

19 Q I would think so, and you would want to immediately
20 tell the police about, that, wouldn't you?

21 A I did all I could to help them.

22 Q Well, **isn't** it a fact that from day one until today you
23 have never, ever, ever told **Lebarron** Smith about **Rene**
24 buying a nine millimeter from somebody by the name of
25 Charles Hern?

1 A Lebarron Smith was not the detective on the case at the
2 time.

3 Q Let me tell you this: Did you tell Lebarron Smith
4 about Rene buying a nine millimeter?

5 A No, I did not tell Detective Smith, no.

6 Q You remember going and talking to Detective Lebarron
7 Smith, **don't** you?

8 A After he was put on the case I talked with him.

9 Q And you never told him about Charles Hern selling a
10 nine millimeter gun to Rene?

11 A Never brought it up.

12 Q Oh, he never brought it up?

13 A It **was** never mentioned, no.

14 Q **And** you never mentioned it to me, either, did you?

15 A No.

16 Q But today who's the first person you told that to? **Who**
17 did you tell that to?

18 A I was asked.

19 Q **Who** asked you?

20 A Mr. --

21 Q Mr. Russell?

22 A Yeah.

23 Q You talked to Mr. Russell and you told him who sold the
24 nine millimeter to Rene, right?

25 A After I **was** asked.

1 Q And Stanberry's daddy was there, right?

2 A Stanberry's daddy was where?

3 Q I mean, yeah, his daddy was present when you were
4 interviewed by Ryan Russell, wasn't he?

5 A Yes.

6 Q Why do you act surprised at Stanberry's daddy? Do you
7 know Stanberry's daddy?

8 A Yeah, I knew Mr. Stanberry, yes.

9 Q And was he present when you were interviewed by Ryan
10 Russell?

11 A Yes.

12 Q And you talked to him?

13 A Yes.

14 Q You gave him a taped statement, right?

15 A Yes.

16 Q So, in other words, you're not gonna tell Lebaron
17 Smith or the D.A.'s office anything about this case
18 involving your wife unless you're specifically asked:
19 is that right?

20 A Ho, that's not right.

21 Q Well, you just said that you weren't asked about Rene
22 buying a nine millimeter the Thursday before your wife
23 was shot.

24 A True. I wasn't asked. Right.

25 Q Who is Charles Hern?

1 A He is a collector that I met at a gun show.

2 Q Where does he live?

3 A Somewhere in Semmes.

4 Q Have you got an address or telephone number on him?

5 A Mope.

6 Q So you're telling us now that you put Rene in touch
7 with somebody to buy a nine millimeter four days before
8 your wife should have been murdered, is that correct, a
9 Glock nine millimeter?

10 A They offered to buy -- asked to buy mine. I refused.
11 I didn't want -- I wasn't selling any of mine. So they
12 asked did I know anybody who did sell guns. I told
13 them of a collector.

14 Q Let me ask you the question one more time. Did you,
15 sir -- Are you the sir -- or the person that put Rene
16 in touch with the man that sold them a Glock nine
17 millimeter four days prior to your wife being -- should
18 have been murdered?

19 A I introduced him to a collector.

20 Q Did you personally take them there to him?

21 A I showed him how to get to Semmes.

22 Q Well, now, you just couldn't tell me how to get there,
23 but you could tell Rene how to get there?

24 MR. NIXON: Judge, he didn't ask him how to get
25 there.

1 Q You just told Rene how to go to **Semmes**, and he went to
2 **Semmes** and found some Charles **Hern**? How did you tell
3 Rene to find Charles Herns?

4 A By word of mouth. What do you mean? Rephrase the
5 question, sir.

6 Q How did you put Rene in touch with Charles Herns?

7 A How did I do it? I just called the guy up for him.

8 Q Go ahead.

9 A And he went to purchase the gun from him.

10 Q Well, how did Rene know where to go?

11 A Well, he rode **with** his friend.

12 Q Huh?

13 A He rode with his friend.

14 Q Who?

15 A **Stanberry**.

16 Q His friend or your friend?

17 A His friend.

18 Q Well, how did his friend **Stanberry**, not your friend
19 **Stanberry** know how to go to Charles **Hern's** house?

20 A Nobody went to **Hern's** house.

21 Q Well, you just told us a second ago. Where did the
22 transaction go down?

23 A **At Dairy Queen**.

24 Q And who set it up?

25 A That's where **we** met Herns at.

1 Q You went with them?

2 A Yes.

3 Q So you and Rodney Stanberry and Rene went in
4 Stanberry's brown Bronco to the Semmes -- to the Dairy
5 Queen in Semmes. You had, I guess, called Charles Hern
6 and asked him to meet at the Dairy Queen?

7 A I had talked to him, yes.

8 Q On the telephone?

9 A Yes.

10 Q And asked Charles Hern to meet y'all at the Dairy
11 Queen?

12 A I talked to him, and he said he would meet us at the
13 Dairy Queen.

14 Q And that was on Thursday before this happened?

15 A Yes.

16 Q So y'all went up there and met them at the Dairy Queen.
17 And Charles Hern sold how many guns to Rene?

18 A He sold three to Rene.

19 Q A Glock nine millimeter?

20 A Yes.

21 Q And what else?

22 A A .380 and a .25.

23 Q Cash money paid?

24 A Yeah.

25 Q Who had the cash?

1^p A Rene did.

2 Q So Rene had the cash and paid **it** to Charles **Hern**.

3 A Yes.

4 Q In front of you and Rodney K, right?

5 A Yeah.

6 Q And you never ever told Lebarron Smith about that
7 transaction?

8 A Like I said, Detective Smith **wasn't** on the case at the
9 time.

10 Q Since March 2nd until today, how many times have myself
11 and Lebarron Smith come around talking to you about
12 this case, Mr. Finley?

13 A Detective Smith, I think I talked with him maybe **four**
14 or five times.

15 Q Four or five times. Never, ever in all this time have
16 you ever mentioned the Charles Hern transaction,
17 selling a gun that you set up to Rene, have you?

18 A No.

19 Q **You** have never, ever told Lebarron Smith prior to today
20 that you had called your wife at 8:30 or 9:00 the
21 morning that she should have been killed, have you?

22 A No, I **didn't**.

23 Q You have never, prior to today, told Detective Lebarron
24 Smith about finding a **five-dollar** bill on the visor of
25 that car.

1 A Like I said, Detective Smith wasn't the first detective
2 on the case, and these things I didn't tell him, I
3 think I told Detective Fletcher.

4 Q Well --

5 A Whether it was written down or not, I **don't** know.

6 Q Well, you just told me a little while ago that things
7 of this nature you consider to be important because you
8 obviously consider it important enough to tell Rodney's
9 **lawyer's** investigator, or **Rodney's** investigator about
10 them, right?

11 A These are things they **came** and asked **me**.

12 Q Oh, they asked you about finding a five-dollar bill on
13 a visor?

14 A **No**. They **didn't** ask **me** about that.

15 Q But you told that to **Rodney's** investigator, **didn't** you?

16 A Yeah.

17 Q And you told it for the very first time in court here
18 today, right?

19 A For the first time, yes.

20 Q And you have never, ever told **Lebarron** Smith about
21 that, **have** you?

22 A I might have told Detective Fletcher, because he was
23 the first on the case.

24 Q You might have.

25 A Yes, sir.

1 Q But you have definitely **never** told this detective.

2 A I **never** told that one.

3 Q **Who's** been working this case for over two and a half
4 years, have you?

5 A Well, I probably told Detective Fletcher who started
6 out on it, and **whether** he got the **information** from him
7 or not, I **don't** know. I never mentioned it to him,
8 that I know of.

9 Q And you have never, **ever**, **ever** told Detective **Lebarron**
10 Smith that Rodney told you that **thoe** shot her, have
11 you? You have **never**, **ever** said that to Detective
12 Smith?

13 A I told Detective **Fletcher**, not **Smith**, no.

14 Q Oh, so that's **your** answer. You told Detective
15 Fletcher?

16 A Like I say. he was the **first** one on the case, and when
17 **Lebarron** Smith came on, like I said, **there** was a lot of
18 things I probably didn't say to him, **or** he asked **or** we
19 discussed or anything like that.

20 Q Well, **let's** tell you something right **now**. You found
21 that out Monday **afternoon**, right? It's your testimony
22 under oath that Rodney K. **Stanberry** told you Monday.
23 He's the **first person** that told you that your wife had
24 been shot with a gun; is that correct?

25 A **Correct.**

1 Q And **you're telling us** under oath that he told you
2 Monday afternoon on the telephone that **Ihoe** was the
3 shooter, right?

4 A Correct.

5 Q And you never told this to Detective Lebarron Smith,
6 did you?

7 A No, I didn't.

8 Q But **isn't** it a fact, sir, that you went and **saw** and
9 spoke with Detective Lebarron Smith Monday night **at** the
10 **Prichard** -- Monday afternoon about 5:30 or six at the
11 **Prichard** Police Department?

12 A No. I **don't** remember going over there. I think I
13 called that evening over **there**, and he **was** there, and I
14 asked for Fletcher, and he said Fletcher was out at the
15 time.

16 Q So you now admit talking to Detective **Lebarron** Smith?

17 A He answered the call, yes.

18 Q And you remember asking Detective Lebarron Smith
19 whether **he** was going to be working on the case or to be
20 working on a case?

21 A asked him that. He said no.

22 Q And you never, ever told him any of these things, did
23 you?

24 A **He** said he wasn't on the case then.

25 Q Well, now, when he and I came to your house, did you

1 have any doubt that he was on the case, have any doubt
2 at all?

3 A I don't understand. What do you mean doubt? That's
4 when I found out he was on the case.

5 Q Exactly. You knew he was working the case, didn't you?

6 A I found out. that he was on the case, yes.

7 Q Because he and I came out to your house on numerous
8 occasions, didn't we?

9 A You came out a couple of times.

10 Q You would have to come out there and meet us out there,
11 wouldn't you?

12 A Yes, I did.

13 Q You'd have to open the door so we could get in to take
14 photographs and do things and look. at the scene, didn't
15 you?

16 A Yes.

17 Q Right?

18 A Yes.

19 Q And you never, ever told him about anything like that,
20 about Rodney Stanberry saying that Ihoe was the
21 shooter. Never did, never, ever.

22 A I probably mentioned it to Fletcher at first.

23 Q My question is, did you ever, ever in the last two and
24 a half to three years that he has been working on the
25 case tell him that Rodney K. Stanberry told you that

1' **Thoe** was the shooter?

2 A No, I didn't.

3 Q You just testified a little while ago under oath that
4 **Emmet** approached you, **Emmet** Rogers, approached you.
5 Where did he approach you, Mr. Stanberry -- Mr.
6 **Finley**?

7 A **Finley**, yes. Thank you. **After** I had came out of the
8 house and was getting ready to get into the car, Mr.
9 Rogers, he came outside and said he had something to
10 tell me, like that, and I had my gun in my hand and
11 everything getting ready to put it in the car, and I
12 walked over to hear what he had to say and say whatever
13 he said.

14 Q You walked over to where?

15 A Towards his house.

16 Q You walked over to his back porch?

17 A **That's** where he told me that, yeah.

18 Q So he came all the way to your car, and **you're** getting
19 in the driveway, because he wanted to tell you
20 something. Is that what you just said or not?

21 A I **didn't** say he come to the car.

22 Q Well, where were you when he first approached you?

23 A I was getting ready to get in the car. He came
24 outside. He **was** outside.

25 Q Where was your car?

1 A My car was in my driveway.

2 Q So you were getting ready to get into your car **in** your
3 driveway.

4 A Yes.

5 Q And Mr. ~~Emmet~~ Rogers approached you?

6 A **That's** when he -- more or less, what he did, like I
7 said, he was outside in front of his house, whatever,
8 and **that's** when he said he had something to tell me.

9 Q So he hollered at you? He **didn't** approach you?

10 A No. I went; over to see what Mr. Rogers wanted. **That's**
11 when he told me that.

12 Q So you went over there -- You **didn't** talk on his front
13 porch, right? **You** went around to his back porch?

14 A We walked on back. I was listening to what he had **to**
15 say before he went in.

16 Q And you **don't remember** what he had to say?

17 A I don't --

18 Q You remember everything Rodney told you. You remember
19 everything all these other people told you, but you
20 **don't** remember what ~~Emmet~~ Rogers told you?

21 A Mr. Buzz, I was mad that day, and whatever he said went
22 this way and, out that way. I really **didn't** pay him
23 much attention as to what he was saying. **I was read.**

24 Q **You don't** remember **him** telling you that he saw a brown
25 Bronco out there that morning?

1 A I don't remember it. I was furious, and I don't
2 remember.

3 Q So you had your loaded shotgun, right?

4 A Correct.

5 Q You left Mr. Rogers* house, and where did you go?

6 A Like I say, I came to here where I thought the old bus
7 station was, and it wasn't here; it was out on 90, so I
8 ended up going out on 90.

9 Q So you went from your house to Emmet's house, straight
10 to the bus station, right?

11 A Right.

12 Q Did you stop by the police station to get a police car
13 to go with you to the bus station to catch who did
14 this?

15 A Nah, nope, I didn't.

16 Q Did you -- When you got to the bus station, weren't you
17 expecting to meet Rodney out there?

18 A No.

19 Q You weren't?

20 A No.

21 Q SO you got to the bus station. Was Rodney there?

22 A No.

23 Q Were Rene or Ihoe there?

24 A NO.

25 Q You didn't get the police to go with you to get the

1' guns, right?

2 A No.

3 Q Let me ask you about something. Why did you take a
4 stun gun up into the room when your wife was there in
5 critical condition on that night when she got shot?

6 A When I left the house, I had the stun gun with me for
7 protection in the parking lot in the hospital because
8 they were robbing people out there. There had been a
9 number of cases where people had been robbed and women
10 had been mugged and stuff at the hospital in the
11 parking lot. And I had it on me, and for -- you know,
12 I just had it for protection in and out of my home, as
13 well, because I was going home late, stuff like that.

14 Q You took it up to your wife's room, didn't you, the
15 stun gun?

16 A I had it clipped to my belt. My wife used to carry it.
17 I used to carry it, and I just had it on me that day.

18 Q And you were told by the doctor and the nurse that you
19 couldn't be in there with a stun gun; is that right?

20 A He had asked me to take it out.

21 Q Do you remember telling someone that Rodney kept coming
22 over wanting to know how your wife was doing and
23 whether or not she was talking? Do you remember
24 telling somebody that?

25 A He asked about her a number of times, how she was

1' doing.

2 Q So Rodney was very interested in knowing about whether
3 your wife was talking, **wasn't** he?.

4 A How she was doing, yes.

5 Q Whether she was talking or not, right.?

6 A How she was **doing**. Like I say, he asked us how she was
7 doing.

8 Q I'm sorry. Did you tell somebody that Rodney was
9 coming by the house asking you how your wife was doing
10 and whether or not she was talking?

11 A I remember saying how she **was** doing, yes, how she was
12 doing. Whether she was talking or not --

13 Q Are you telling us under oath, sir, **that** you **don't**
14 remember Rodney asking you whether or not your wife was
15 talking?

16 A He asked how she was doing. I told him she was doing
17 pretty well. She was getting better.

18 Q Did he ever ask you over again, or ask you one time
19 whether your wife was talking?

20 A Like I said, he asked how was she doing.

21 Q So the answer to that is, no, he never asked you that?

22 A Was she talking?

23 Q Right.

24 A **No.**

25 Q **Rodney** never asked you if your wife was talking; is

1 that what you're telling us under oath?

2 A He asked how was she doing.

3 Q I'm going to try one more time. Did Rodney ever ask
4 you whether your wife was talking?

5 A Not that I can recall. I remember him saying how is
6 she doing.

7 Q Well, then, what's your answer to that?

8 A He asked how she was doing.

9 THE COURT: Sir, answer his question. Either he
10 did or he didn't. Did he ask you --

11 THE WITNESS: NO. NU*

12 THE COURT: All right. Let's go.

13 Q Did you ever tell a person that Rodney did, in fact,
14 ask you how your wife -- let me just be specific -- how
15 your wife was doing and if she was talking? Have you
16 ever told anybody that?

17 A I know he asked how she was doing. That's all I
18 remember.

19 Q So the answer to that is, no, you never told a witness
20 -- you never told anybody that?

21 A Not that I can recall, nobody.

22 Q No. You can't recall or you didn't say it? Let's be
23 specific. Did you never tell anybody that, or you
24 can't recall that you've never told anybody that?

25 A I can't recall telling anybody that he asked whether

1 she was talking or not. He did ask how she was **doing**.

2 Q Did you also tell this person that you would always lie
3 to Rodney about your wife's condition?

4 A No.

5 Q **Didn't** say that?

6 A No.

7 Q Now, who is Horace Reynolds?

8 A Horace Reynolds, **he's** another hunting buddy of ours.

9 Q **Who** is he?

10 A **He's another** friend we hunt with. **That's** how I met
11 Rodney, through Horace. **We all** went hunting **together**
12 **one** day.

13 Q Does your wife know Horace?

14 A Yes, she does.

15 Q Have **you** ever discharged a gun in your bedroom?

16 A **Accidentally**, yes, I did.

17 Q And how long before your **wife** was shot?

18 A I **don't** remember how long it was. It was an accident.

19 Q How long before she was shot, ten years, 20 years, two
20 months? **Wasn't** it, in fact, two months before your
21 wife got shot that a gun **went** off in your bedroom?

22 A It might be longer than that. It might be longer than
23 that.

24 Q Tell us about that. Tell us about the **gun** going off.

25 A I was taking the clip out, and I ~~At~~though I had ejected

1' it out, and it slipped, and right as it slipped, I
2 caught it, and when I caught it, it shot through the
3 closet door or the corner of the molding or whatever.

4 Q And where were you?

5 A I was in the bedroom at the time when it shot through
6 the closet door. My **wife** was in the bed.

7 Q And what gun **was** that?

8 A That was a nine millimeter.

9 Q Nine millimeter?

10 A Yeah.

11 Q The same kind of casing that Thomas found; is that
12 right?

13 A I think this was a hardball.

14 Q Well, you think, but **wasn't** it a nine millimeter
15 casing?

16 A It was a nine millimeter, yes, sir.

17 Q In fact, immediately after this shooting occurred, You
18 and Rodney K. began talking on the phone back and
19 forth, right? **You** called him -- In fact, you called
20 him several times, **didn't** you?

21 A Yeah, we talked on the phone.

22 Q I mean, it was -- You were calling each other, right?
23 He **was** coming over to your house?

24 A He **was** trying --

25 Q **You** were going out finding guns, your stolen **guns**,

1 right?

2 MR. NIXON: Judge, will you let him answer each
3 question, please?

4 A We found the stolen guns, yes.

5 Q Now, you had mentioned Tyrone Dortch mentioned two men
6 going inside your house. What did he say about the two
7 men going inside the house?

8 A He thought they were relatives when they came over.
9 That's what he said.

10 Q Going inside the front door?

11 A At the front door.

12 Q So Tyrone told you about two men going inside the front
13 door. Did he describe them to you?

14 A No.

15 Q Is that all he told you? Did he tell you anything
16 else?

17 A That's about it. He saw the car.

18 Q What kind of car?

19 A It was a grayish silver, whatever, looked a Caprice,
20 Mustang Caprice or something like that, Ford Caprice.

21 Q And you remember that, but you don't remember Emmet
22 telling you about the Bronco?

23 A Like I said, the day that Emmet came to me, like I say,
24 I was mad. I was furious.

25 Q Well, you just said Tyrone told you this the same day.

1 A No, Tyrone didn't tell me that the same day.

2 Q What day did he tell you that?

3 A I didn't see Tyrone that day.

4 Q What day did Tyrone tell you that?

5 A That was later in the week when I talked to Tyrone.

6 Q What day?

7 A It might have been, maybe, Wednesday or Thursday
8 sometime when I finally saw Tyrone.

9 Q Are you sure about that, now?

10 A That's when I think it was.

11 Q Wednesday or Thursday?

12 A Yeah, that's when I think it was.

13 Q Who was present when you talked to Tyrone?

14 A Nobody. I don't remember nobody being present with me
15 and Tyrone.

16 Q Was Rodney ever present when you talked to Tyrone?

17 A Un-uh.

18 Q Huh?

19 A Not that I can recall.

20 Q So you never talked to Tyrone in Rodney's presence?

21 A I don't think so.

22 Q Well, after this happened, Rodney took you by some
23 apartments, didn't he?

24 A Yes.

25 Q And he showed you a car, didn't he?

1' A Yes.

2 Q And then you went and got Tyrone, took Tyrone by that
3 same place, saw the car, right?

4 A Right.

5 Q And Tyrone said that **wasn't** the car?

6 A **That's** what Tyrone said.

7 Q Now, the deer stand was at your house, **wasn't** it?

8 A In the garage, yes.

9 Q In the garage at your house?

10 A Yes.

11 Q Who is Uncle Freddy?

12 A Uncle Freddy. **That's**, probably Freddy Patrick.

13 Q Huh?

14 A Probably Freddy Patrick.

15 Q Yeah. Who is he?

16 A **Valerie's** brother.

17 Q Have you ever sold anything to him?

18 A No.

19 Q Anything at all?

20 A No.

21 Q Do you have an Uncle Freddy?

22 A Yes, I do.

23 Q Have you ever sold anything to him?

24 A I sold him a '66 Chevrolet Impala.

25 Q That '66 Chevrolet that you were talking to Mr. **Nixon**

1' about there?

2 A Uh-huh.

3 Q So did you just forget your Uncle Freddy when I just
4 asked you about it?

5 A Valerie has a Freddy, too.

6 Q You didn't just tell me that, though, did you? I asked
7 you about an Uncle Freddy and you told me about one.

8 **You didn't** tell me about the other one, did you?

9 A You just asked me **about mine.** I have an --

10 Q I have to be specific, don't I, with you?

11 A It would help*

12 MR. JORDAN: **Judge**, I have no more questions of
13 this witness at this time, but he is under
14 subpoena, and I would like to make sure that
15 he is outside this courtroom for the
16 remainder of this trial.

17 THE COURT: Well, **I'm** not too sure that **I'm gonna**
18 make him sit out of the courtroom the
19 remainder of the trial, but **I'll** make sure
20 that **he's** available for you to call.

21 MR. JORDAN: As long as he's available, Judge.

22 THE COURT; Where's Cathy? Do you have any other
23 questions to ask him?

24 MR. NIXON: Yes, sir, Your Honor.

25 RECROSS EXAMINATION

1' BY MR. NIXON:

2 Q You sold your guns in 1993, didn't you?

3 A Yes, sir.

4 Q And was that more than a year after this occurred?

5 A Yes, sir.

6 Q And your testimony here today is that nobody had told
7 you not to get rid of your guns?

8 A Yes, sir.

9 Q Do you think that if somebody had of wanted your guns
10 and needed your guns, that they would have told you not
11 to get rid of the guns or that at least they would have
12 come over to your house and collected your guns?

13 A Yes.

14 MR. JORDAN: Judge, what his thoughts are
15 absolutely have nothing to do with the
16 instructions he received.

17 THE COURT: Sustained.

18 MR. NIXON: Judge, he made a big deal about this
19 on his direct examination. I'm just asking
20 the man why he did what he did.

21 THE COURT: What he thought doesn't have anything
22 to do with it. You can ask him why he did
23 what he did.

24 Q And when Mr. Jordan talked about he and Mr. Smith and
25 someone else coning to talk to you, do you remember

1 that conversation two years after this happened?

2 A No, sir. So much has went on since then. I can't
3 recall anything.

4 Q But if they had asked you not to get rid of the guns,
5 the guns had already been gone for a year; is that what
6 you're telling us?

7 A Yes, sir.

8 Q Now, did you give that information to Detective
9 Fletcher about Ihoe?

10 A Yes, sir.

11 Q Okay. And Detective Fletcher was the case agent,
12 wasn't he?

13 A Yes, sir, he was.

14 Q Assigned to your case back then.

15 A Yes, sir, he was.

16 Q Did you give him other information?

17 A Yes, sir. I helped in any way I could to give him any
18 information I could.

19 Q Tried to get him hooked up with the detective in New
20 York?

21 A Yes, sir.

22 Q Gave him her number?

23 A Yes, sir.

24 Q Did you give him some photographs?

25 A Yes, sir.

1 Q Of the people from New York?

2 A Yes, sir, we did.

3 Q Did you do everything he asked you to do?

4 A Yes, sir.

5 Q Did he ever ask you about buying a gun the Thursday
6 before that or seeing them buy a gun or if they bought
7 any guns?

8 A No, sir.

9 Q Now, you told Ryan Russell about that, **didn't** you, you
10 admitted that, the investigator here?

11 A Yes, I did.

12 Q And that was back in 1992, wasn't *it*?

13 A Yes, sir, it was.

14 Q Did anybody ever ask you about them purchasing any guns
15 or selling any guns or anything to do with any guns
16 from the police department or the district attorney's
17 office?

18 A No, sir.

19 Q Until today?

20 A Until today.

21 Q If they asked you, would you have told them?

22 A Yes, sir.

23 Q Now, have you seen this Charles Hern, the person who
24 sold that gun that lives in Semes? Have you seen him
25 since?

1 A No, sir.

2 Q As far as you know, does he still live in Semmes?

3 A I don't know.

4 Q Now, about the five dollars that you found in the visor
5 of the car after you had given or left ten dollars for
6 Valerie to buy some gas in the car, did anybody ever
7 ask you about that?

8 A No, sir.

9 Q Do you recall whether or not you told Detective
10 Fletcher about that?

11 A I think I mentioned it to him, that when I got ready to
12 use her car I noticed that there was **gas** there. I had
13 given her ten dollars that morning before I left to get
14 the gas to go take the kids to **Mardi Gras**, and I
15 noticed there was five left on the visor.

16 Q Did he ever ask you anything about that?

17 A No, sir.

18 Q Has anybody from **the police department** or the district
19 attorney's office asked you about that?

20 A No, sir.

21 Q Until today?

22 A Until today.

23 Q **But** you did tell **Detective** Fletcher that there **was** gas
24 in the car on Tuesday and there had not been **gas** in the
25 car on Monday?

1 A Yes, sir.

2 Q Now, you said that when you contacted **Lebarron** Smith
3 and asked him -- did you ask him if he was going to be
4 working on the case?

5 A Yes, sir, but --

6 Q What did he tell you?

7 A He said, no, Detective Fletcher is handling that case.

8 Q He said no?

9 A Yes, sir.

10 Q Im not going to be working on it?

11 A Yes, sir, I'm not working on it.

12 Q Did he ask you any questions after he told you, no, he
13 wasn't going to be working on it?

14 A No, sir, he **didn't**.

15 Q Did he just tell you that Fletcher will be back in a
16 couple of days?

17 A Tomorrow.

18 Q Did he take down the information to give to Fletcher?

19 A I **don't** know if he did or not.

20 Q How, when you approached **Emmet** Rogers or when **Emmet**
21 Rogers hollered at you, that was on Monday, wasn't, it?

22 A Yes, sir.

23 Q The same day that: your wife was shot?

24 A Yes, sir, it was.

25 Q And you had come out with a shotgun in your band,

1 right?

2 A Yes, sir.

3 Q And you were angry?

4 A Right.

5 Q Does that have anything to do with why you **can't**
6 remember exactly what you **said** to **Emmet** Rogers or what
7 **Emmet** Rogers said to you?

8 A Yes, sir. I was mad at the time, and I wasn't really
9 paying much attention. And he said something, but what
10 he said, I don't remember. I was just mad.

11 Q Now, the stun gun that you took in the hospital Mr.
12 Jordan asked you about, was that Valerie's stun gun?

13 A Yes, sir, that was Valerie's stun gun.

14 Q And did you hide that stun gun somewhere? Did you put
15 it in your coat pocket or -- how did you have the stun
16 gun?

17 A It was just clipped on my pocket in plain view.

18 Q And you had that for personal protection?

19 A Yes, sir.

20 Q And what night was that? How many weeks after this; do
21 you recall?

22 A That was Tuesday, maybe Wednesday or might have been
23 later on in the week. It might have been later on in
24 the week.

25 Q Was it a couple weeks after the shooting?

1 A Un-uh. It was --

2 Q It was after you got your gun back?

3 A Yes, sir.

4 Q Because the stun gun had been taken?

5 A Yes, sir.

6 Q And you can't recall the date?

7 A Not the exact date.

8 Q But when they asked you to take it -- you couldn't come
9 in the hospital without it (sic), what did you do?

10 A Take it and put: it in the car.

11 Q And come back in the hospital?

12 A Yes, sir, put it in the glove box.

13 Q And everybody could see that stun gun? In fact, they
14 did see it. That's why they told you you couldn't take
15 it in, right?

16 A Yes, sir.

17 Q Were you going in the hospital that night with the stun
18 gun to finish off your wife?

19 A No, sir.

20 Q You weren't?

21 A No, sir.

22 Q You were not?

23 A No, sir.

24 Q Did you have anything to do with arranging her to be
25 shot?

1' A No, sir.

2 Q Did you have any reason to have her shot?

3 A No, sir.

4 Q Now. Mr. Jordan asked you about insurance money.

5 A He did.

6 Q Tell us about your insurance that you had in effect at
7 the time.

8 A It's standard company policy where I was worth 70
9 thousand dollars. My wife was half -- your spouse is
10 half of what you're worth, and I had four thousand on
11 each one of our kids. It's standard company policy
12 that's payroll deducted out of your payroll.

13 Q And is that through your employment?

14 A Through my employer, yes, sir.

15 Q And do you have any additional insurance?

16 A No, sir, that was it.

17 Q So you had 70 on you, and she had half of that.?

18 A Half of 70.

19 Q And that's what the company sets, right?

20 A Yes, sir. That was company policy.

21 Q Did you hire those guys from New York to come down here
22 and shoot Valerie and kill her?

23 A No, sir.

24 Q Did you hire anybody to do that?

25 A No, sir.

1' Q Did you participate in it. in any way or plan it in any
2 way?

3 A No, sir.

4 Q You provided Detective Fletcher with quite a bit of
5 information as you learned it about this case, didn't
6 you?

7 A Yes, sir, I did.

8 Q And you learned quiet a bit of information about this
9 case, didn't you?

10 A Yes, sir, I did.

11 Q And you learned and you know that Rodney Stanberry
12 didn't go in your house that day?

13 A Yes, I did.

14 MR. JORDAN: Judge, object, object. He doesn't
15 know anything. He wasn't there. Object to
16 it.

17 THE COURT: Sustained.

18 Q You know who was in your house, don't you?

19 A Yes, sir, I do.

20 Q Who was it?

21 MR. JORDAN: Judge, again, object.

22 THE COURT: I don't know how he can -- the only
23 thing he knows is what somebody told him, so
24 I sustain the objection.

25 Q Now, you said, I think, in response to Mr. Jordan that

1' you thought that Rodney told you that she had been shot
2 at; six p.m. on Monday.

3 A Six p.m.

4 Q is that what you said, or is that not what you said?

5 A No, sir, **that's** not what I said.

6 Q Well, tell me what you said.

7 A The last time I talked to Rodney was that afternoon.

8 Q When did you find out your wife had been shot?

9 A After I had talked to him that afternoon. I called him
10 back. It was maybe around one or two, something like
11 that, when I talked to him again.

12 Q You were **at** the hospital?

13 A Yes, sir. **It** was in the waiting area there, the
14 emergency room, the waiting area at USA.

15 Q Did he tell you that she had been shot, or did he tell
16 you that she had been robbed?

17 A He said she had been shot and the house had been robbed
18 and the guy that shot her.

19 Q Well, you already knew the house had been robbed,
20 **didn't** you?

21 A **Yes**, sir, I did.

22 Q Did you tell that to the doctor?

23 A I didn't tell that the house had been robbed.

24 Q Did anybody ask you?

25 A The doctor who came in, he was sitting and talking to

1' us, he said there was something on her brain and he
2 couldn't make out what it was, and after I had talked
3 to Rodney and he told me about that, that's when I told
4 him that she had been shot, and that more or less let
5 him know what it was that was on her brain.

6 Q Now, the type that -- You said you accidentally fired
7 your gun in the bedroom one time.

8 A Yes, sir.

9 Q And in response to Mr. Jordan's question about it being
10 a nine millimeter, you said something about hardball.

11 Could you tell us what you meant? What is a hardball?

12 A It's just a standard nine millimeter round, just a
13 round nosed nine millimeter.

14 Q And did you see the projectile that was found by your
15 friend when he cleaned up after your wife was shot?

16 A Yes, sir, I did.

17 Q Was that a hardball?

18 A No, sir, it wasn't.

19 Q And what kind of projectile was that?

20 A That was a hollow point.

21 Q You could tell?

22 A Yes, sir..

23 Q Was it damaged?

24 A Yes, sir, it was.

25 Q Could you see any -- Well, when the hardball went off,

1 where did that **bullet** -- did it **make** a hole in the
2 **floor** or the wall?

3 A It went through **the** molding by the closet door and into
4 **the** sheetrock inside the closet.

5 Q Okay. And when you were cleaning up **or after** you found
6 the hollow-point bullet you gave to the **police**, did you
7 **see** any marks on the floor or any other bullet holes in
8 the **bedroom** or any marks on the **wall** or the **ceiling** or
9 **anywhere**?

10 A We **found** a casing there on **the** floor, and we found --
11 like I say, we found a projectile in the corner of the
12 molding. It was laying **there in** the corner of the
13 molding. **That's where** we found it at.

14 Q Was **it** embedded in the **molding**?

15 A No, sir, it was just laying there.

16 Q **Now**, the **gun** that you **accidentally shot**, what type of
17 **gun** was that?

18 A **It** was a Taurus nine millimeter.

19 Q Did the police take that **gun and test** it?

20 A Yes, sir, they did.

21 Q Did they **compare** it to the shell **that** you gave them,
22 the detective?

23 A Yes, sir, **they did**.

24 Q **It wasn't** the same, was it?

25 A **No**, sir, it **wasn't**.

1' MR. NIXON: I think that's all I have at this
2 time, Judge. I reserve the right to recall
3 him, but thank you. Thank you.

4 THE COURT: Do you have any other questions?

5 MR. JORDAN: Just one.

6 THE COURT: Go ahead.

7 FURTHER REDIRECT EXAMINATION

8 BY MR. JORDAN:

9 Q You say you know who killed -- who tried to murder your
10 wife, right?

11 A Yes, sir.

12 Q Were you present with your wife when she was attacked?

13 A No, sir, I wasn't.

14 MR. JORDAN: That's all I have.

15 THE COURT: Anything else, Ken?

16 MR. NIXON: Not at this time, Your Honor.

17 THE COURT: Mr. Finley, both the State and the
18 attorney for the Defendant has requested that
19 you stay. I have no desire for you to be out
20 there in that hall the rest of the day or
21 tomorrow, but you must leave your number
22 where Ms. Cathy can get in touch with you.
23 If they wish to call you back to the stand,
24 if she calls, you must come back immediately;
25 do you understand that?

1 THE WITNESS: Yes, sir.

2 THE COURT: You don't have any problem with that?

3 THE WITNESS: No, sir.

4 THE COURT: Cathy, you get with him.

5 MR. NIXON: Judge, may I ask him while he's here
6 to just identify these photographs and put
7 them in evidence?

8 THE COURT: Certainly.

9 (Defendants Exhibits A-F marked for
10 identification.)

11 FURTHER RECROSS EXAMINATION

12 BY MR. NIXON:

13 Q Mr. Finley, I'm going to show you what's been marked as
14 Defendant's Exhibits A, B, C, D, E and F. First, look
15 at them and see if you recognize those photographs.

16 A Yes, sir, I do.

17 Q Okay. What is Exhibit A?

18 A That's a picture of in front of my house.

19 Q Is that taken from Meadow Avenue?

20 A Yes, sir.

21 Q Defendant's Exhibit D represents what?

22 A It also shows my house again.

23 Q Okay. Is this the medium we've heard about?

24 A Yes, sir, that's the medium, the circle, we called it.

25 Q Defendant's Exhibit B, another photo of your house?

1 A Yes, sir.

2 Q And C is also a photo of the median and your house?

3 A Yes, sir.

4 Q And Defendant's Exhibit E and F, can you tell us what
5 that is?

6 A That's my back door of my house.

7 Q Okay,

8 MR. NIXON: Hove to admit these, Your Honor.

9 THE COURT: They're all introduced.

10 (Defendant's Exhibits A-F admitted in
11 evidence.]

12 MR. NIXON: Judge, may I publish them to the jury?

13 THE COURT: certainly.

14 Q Mr. Finley, just one more question. Your divorce case
15 was set today, wasn't it?

16 A My custody case.

17 Q Yes, sir.

18 A I'm not aware of that, sir.

19 Q Thank you.

20 THE COURT: Check with Ms. Cathy.

21 THE WITNESS: Yes, sir.

22 THE COURT: You may step down.

23 THE WITNESS: Thank you.

24 THE COURT: Mr. Jordan, I had one witness brought
25 dawn here for you. He's out there*

1' MR. JORDAN: Judge, I don't need to put him on at
2 this time. I've got somebody I need to put
3 on first. I can tell him. You want me to
4 tell him to hang around till five till we
5 recess and then what time to be back in the
6 morning? He told me he's got no problem in
7 the morning with his schedule, so I think
8 that's the time I'll put him on.

9 THE COURT: Okay.

10 MR. JORDAN: We would call Valerie Finley at this
11 time, Your Honor.

12 THE COURT; You're going to be longer than 55
13 minutes, aren't you?

14 MR. JORDAN: Yes, Your Honor.

15 THE COURT: Huh?

16 MR. JORDAN: Yes. Judge, we do need to take up
17 one matter, perhaps, outside the presence of
18 the jury.

19 THE COURT: I think we're gonna do that now. I'm
20 gonna let this jury go home. I know they're
21 upset and don't want to go home, but -- Let's
22 do that. Let's take the motion outside of
23 the presence of the jury. I'll let the jury
24 go home. I'm going to say 9:15. I hope I
25 can make it, but I'm going to say 9:15. Good

1 night.

2 Oh, by the way, was I correct? Did
3 people ask you what's this case about? I
4 guarantee you they'll ask. If they haven't,
5 they will. Okay. Good night.

6 (Recess.)

7 (Jury not present.)

8 MR. JORDAN: Mr. Nixon's pre-trial motion he
9 filed, we're getting to that point, where we
10 need "to have a hearing on that.

11 THE COURT: Okay. Mr. Fletcher, come on in. Both
12 of y'all come in. Mr. Fletcher, first of
13 all, do I understand that you didn't really
14 have any problem, they just did a poor job of
15 trying to find you?

16 MR. FLETCHER: No, sir. I was out of town, had to
17 go to Birmingham for a --

18 THE COURT: Okay. Now, Mr. Dearman?

19 MR. JONES: Jones.

20 THE COURT: Where am I getting Dearman from?
21 What's your first name, Dennard?

22 MR. JONES: Yes, sir.

23 THE COURT: Dennard Jones, also known as Taco. I
24 am told that you were approached and told to
25 be here, and in so many words you said you

1 weren't coming: is that correct?

2 MR. JONES: Haven't nobody seen me. I haven't
3 known. I came here every time that I
4 supposed to come, but I was out of town, and
5 I got back, and I just found out today that
6 court had started.

7 THE COURT: Well, sir, the reason I'm asking you
8 these questions is, you know, everything I'm
9 told is not always exactly so. So you have
10 not been evading process?

11 MR. JONES: I've been here every other time so I
12 haven't, been --

13 THE COURT: Okay. Just hold it a minute. It is
14 not unusual, in fact, it's as frequent as
15 people wearing hats, I see both of you have
16 got one, as frequent as people wearing hats
17 to put somebody under a bond or put them in
18 jail because they won't be here. I had no
19 intention -- You know, I don't want to do
20 that. Okay?

21 When do y'all want this gentleman here?

22 MR. NIXON: Tomorrow, Judge, I guess.

23 THE COURT: When are you gonna be through with
24 your case?

25 MR. JORDAN: We're to start back at 9:15?

1' THE COURT: Good Lord willing.

2 MR. JORDAN: **It's** probably going to take an hour
3 and a half, hour and **45** minutes on Valerie,
4 maybe two hours. So I would **say** two hours.

5 THE COURT: So you want this man down here by
6 11:00 tomorrow?

7 MR. NIXON: **Yes**, sir, if **that's** what time he's
8 finishing, Judge.

9 THE COURT: Now, Mr. Jones, if I let **you** go ahead
10 and go home, are you going to be back
11 tomorrow morning at eleven?

12 MR. JOKES: Definitely. Is there anyway I can
13 arrange -- My car is slipping, so I need some
14 --

15 THE COURT: Let me tell you what you do. You see
16 this bald-headed fellow over here. You make
17 whatever arrangements you can with him. **I'm**
18 **gonna** tell you, I **dn't** run no Jitney
19 Service. Okay? Make whatever arrangements
20 you can with him. Go on out in the hall and
21 do that now. **Don't** make me have to send the
22 deputies after you. All right?

23 Mr. **Fletcher**, **they're gonna use** you. I
24 want them to do it now so you can **go** ahead
25 and go.

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

5 MR. JORDAN: Yes, **Your Honor**.

6 THE COURT; Do you wish to put Mr. Fletcher **on** the
7 stand now?

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

10 **AL FLETCHER**

11 was sworn and testified as follows:

12 **DIRECT EXAMINATION**

13 BY MR. JORDAN:

14 Q Tell **us** your name for the record, please.

15 A Al Victor Fletcher.

16 MR. JORDAN: **Mark** this, please.

17 (State's Exhibit 44 marked for
18 identification.)

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

20 MR. JORDAN: **You** want to look at this?

21 THE COURT: Yeah, sure **do**.

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

25 THE COURT: **You** have copies of all these

1 statements, don't you?

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

6 THE COURT; I only have two,

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

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

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

16 **Who** underlined **this**?

17 MR. JORDAN; Let me see.

18 THE COURT: **Who** highlighted this in yellow?

19 MR. JORDAN; I probably did.

20 THE COURT: **Why**?

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

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

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

3 MR. NIXON: Yes, sir, Judge.

4 THE COURT: Because I granted open file discovery.

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

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

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

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

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

20 THE WITNESS: My name is **Al** Victor Fletcher.

21 THE COURT: And where are you employed, sir?

22 THE WITNESS: I'm **not** employed **at** this time. I
23 was employed through **the** city of **Prichard**
24 Police Department from '90 to '93.

25 THE COURT; So at the time this statement was

1 made you were a **police officer**?

2 THE WITNESS: Yes, **sir**.

3 THE COURT: In the **Prichard** Police Department?

4 THE WITNESS; Yes, sir.

5 THE COURT: When did you terminate that
6 **employment**?

7 THE WITNESS: January of '93.

8 THE COURT: Okay. Now you may proceed.

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

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

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

15 A This is my handwriting.

16 Q All of it?

17 A Yes, sir.

18 Q Did you ask Mr. **Stanberry** those questions?

19 A Yes, sir.

20 Q And did you write **down** his response?

21 A Yes, sir.

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

24 A Yes, it is.

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

1' told you about the incident?

2 A Yes.

3 Q Did he tell you anything else?

4 A On this particular day?

5 Q Right;.

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

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

9 A On this particular date, yes.

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

12 A No, he was not,

13 Q Was he under arrest?

14 A No, sir.

15 Q He came to the police department on his own?

16 a Yes, sir.

17 Q Did he leave on his own?

18 A Yes, sir.

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

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

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

25 Q Do you recognize that document?

1' A Yes, it is. I recognize it.

2 Q What were the circumstances surrounding that statement?

3 A The circumstances of this statement, March 7th, was in
4 the office, also. It was a formal investigation
5 questionnaire for statements lay my handwriting for
6 questions that I asked Mr. Stanberry.

7 Q Did you go out and find him and bring him in, or did he
8 come in and talk to you?

9 A He came in and talked to me.

10 Q And is that all of your handwriting on there?

11 A Yes, it is.

12 Q Did he review that statement and sign it as to its
13 verification?

14 A Yes, sir. I passed it to him as we finished the
15 interview and let him read over it, and he signed it.

16 Q Okay. Did he state on there that anything was wrong?

17 A Not at that time.

18 Q And did you, in fact, ask him the questions that are on
19 that paper?

20 A Yes, I did.

21 Q And are those the answers that he gave you at that
22 time?

23 A Yes, it was.

24 Q And the signature on the side of each paper, that is
25 his signature on each piece of paper?

1' A Yes, sir.

2 Q Was he under arrest at that time?

3 A No, sir, he was not.

4 Q Was he free to go when he got through with the
5 statement?

6 A Yes, he was.

7 Q Did he, in fact, leave the police station?

8 A Yes, he did.

9 Q That's all I have.

10 CROSS EXAMINATION

11 BY MR. NIXON:

12 Q Detective Fletcher, when was he under arrest?

13 A I really don't know, sir, because at that time I was
14 not working on the case. It had been turned over to
15 whomever that took the case after I left.

16 Q On March 7th you were not working on this case?

17 A No, sir. You asked me the statement about the arrest.
18 I don't know anything about that.

19 Q Okay. You were the case agent on March 7th. weren't
20 you?

21 A Yes, at that time, yes.

22 Q You were the chief investigator handling the shooting
23 at Valerie Finley's house?

24 A I don't know about chief investigator because we all
25 were working on it at the same time.

1' Q That case was assigned to you, wasn't it?

2 A Yes, it was.

3 Q And you were responsible for doing what needed to be
4 done on that case?

5 A I was responsible for taking care of the interviews and
6 whatever leads that I had on the case, yes.

7 Q On March the 3rd when you took this first statement,
8 you say Rodney Stanberry came in. Did he come in at
9 your request?

10 A Could you repeat the question?

11 Q The March the 3rd statement, you said Rodney came in to
12 the police station and gave that statement to you on
13 March the 3rd?

14 A Yes.

15 Q Did you ask him to come in?

16 A I don't recall asking him to come in on that particular
17 date, no, sir.

18 Q He just came in on his own?

19 A I really don't know how he came to the police station
20 to talk to me but --

21 Q You don't recall?

22 A No, sir. He was one *of* the individuals that I first
23 talked with.

24 Q Do you have any notes that you reviewed before you come
25 in here to testify today?

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

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

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

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

12 A Yes, sir.

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

15 A Yes.

16 Q And what information did he give you?

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

19 Q Did he give you some photographs?

20 A Yes, he did.

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

25 A Yes, sir.

1 Q Now, you asked him who they were, didn't you?

2 A Yes, I did ask him who they **were**.

3 Q And who did he tell you?

4 A At **this** time I **can't** recall. But it was some buddies
5 of his that he knew from New York.

6 Q You **don't** remember who **he** told you did it?

7 A If I have it in my notes, I **don't** -- I **don't** have the
8 notes **here** with me presently.

9 Q **Who has** your notes?

10 A Everything was left in the case folder. It should be
11 at the department.

12 Q Okay. So he told you that the guys from New York did
13 it **at** that time?

14 A Yes, sir.

15 Q And you let him go. And you **didn't** have any
16 **information** in your possession at that time to not
17 believe him, did you?

18 A **No**.

19 Q So he **was** not a suspect at that time?

20 A Not at that time, no.

21 Q No police officers had told you that any'-- Well, did
22 you know what kind of car he drove at that time? Had
23 anybody told you what kind of car he drove?

24 A No, not at **that** time.

25 Q And had anybody told you what kind **of** car had been at

1' the scene when this happened?

2 A I can't recall at that time, not when I talked with
3 him, no, sir.

4 Q Sir?

5 A I said not at that time. I can't, recall if anyone had
6 told me anything about a car or any individual cars or
7 anything on the scene at that **time**.

8 Q Well, you said just a minute ago that you didn't have
9 any leads on March the 3rd.

10 A I said about a car. You asked we about a vehicle.

11 Q Well, I'm asking now. Did you have any leads at all?
12 I thought you said you **didn't** have any leads.

13 A You asked me a question **about** a car.

14 Q Okay. I'm asking you now, did you have any leads
15 before Rodney told you about these guys in New York?
16 Did you have any leads on the case as to who did it?

17 A Nothing but he told me about some guys that he knew
18 from New York.

19 Q So until Rodney told you about the **guys** from New York,
20 you **didn't** have any information about -- or any leads
21 in the case?

22 A No, not at that time.

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

24 THE COURT: Anything else, Buzz?

25 ME. JORDAN: Not on that one.

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

3 THE COURT: Sure.

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

6 A Yes.

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

8 A Yes, I did.

9 Q At the police station?

10 A Yes, sir.

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

13 A I believe so, I did.

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

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

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

19 A Right..

20 Q Was he a suspect at that time?

21 A I don't think so.

22 Q Well, what do you mean by that?

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

24 Q Well, did you have any information at all on March 7th,
25 1995 implicating Rodney Stanberry in this crime?

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

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

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

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

14 A No, sir, not at that time.

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

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

18 Q You sure about, that?

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

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

24 A Not that I can recall, no, sir.

25 Q Do you recall Rodney giving you some photographs on

1' March the 7th?

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

4 Q Did he give you any other information?

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

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

10 THE COURT: Name **of who?**

11 MR. NIXON: Detective in New York named Hardy.

12 A Yes, I did. I recall that.

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

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

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

19 A Yes, it is.

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

23 A Can you restate your question?

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

1' got here and testified today to refresh your
2 recollection?

3 A No, sir.

4 Q But your testimony is he was not a suspect on 3/7/92 or
5 3/3/92?

6 MR. JORDAN: Judge, actually, that's not relevant
7 to this proceeding. it's not relevant to the
8 trial or to the proceeding.

9 THE COURT: What's not relevant?

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

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

16 THE COURT: Go ahead. 'Overruled.

17 Q Is that right, Mr. Fletcher?

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

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

1' was not a suspect; is that basically right?

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

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

10 A No, sir.

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

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

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

20 A Formal interview, right.

21 Q You **don't** read miranda on formal interviews?

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

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

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

1 I gave him a card and also read it to him.

2 Q Oh, you did?

3 A Yes, sir.

4 Q Well, a while ago you told me you **didn't** read him his
5 rights.

6 A Okay. Well, I said I retract that, on this particular
7 statement. On the **3rd**, I did not read him any **miranda**
8 rights because it was an informal interview, but this
9 particular on the **7th**, the rights was read to him on
10 this particular statement.

11 Q Well, **don't** you think as an investigator that **it** would
12 have been important to note that you read him his
13 rights on this -- This is the only **memorialization of**
14 that interview, **isn't** it, Mr. Fletcher?

15 A And also his signature is, too. He signed it.

16 Q Yes, sir. And you put everything that you thought was
17 important **in this** written **down** to be included in the
18 case file, **didn't** you?

19 A All the questions I asked him are on the document, and
20 he signed **it**.

21 Q Yes, sir. **And** you have rights and waiver forms in the
22 police station, **don't** you?

23 A That's correct.

24 Q That people sign when they waive their rights after
25 **you've** read them **miranda**?

1 A If you check the files, I'm pretty sure they're in
2 there.

3 Q And if you had read him his rights, there would be a
4 written waiver in the file, wouldn't it?

5 A There should be.

6 Q And you would attach that to this statement, wouldn't
7 you?

8 A I would have put it in my case folder. Everything I
9 have is in the case folder. I don't know about the
10 attachment. Attachment, to me, is putting it inside
11 the folder, also.

12 Q Okay. But you haven't reviewed the folder. This
13 district attorney hasn't provided any such waiver to
14 me. You don't have any independent recollection of Mr.
15 Stanberry signing any such waiver, do you?

16 A Yes, I do.

17 Q You do?

18 A Yes.

19 Q You're telling as here today that you specifically
20 remember Rodney Stanberry signing a written waiver?

21 A Yes, sir.

22 Q On March the 7th?

23 A On the 7th, he gave me this statement signed and had
24 various papers, documents that he signed.

25 Q Well, what various papers and documents did he sign?

1 A He had the miranda rights waiver, and also we had this
2 formal statement here that he has his signature on.

3 Q What other documents did he sign?

4 A That's it.

5 Q You **didn't** make any notation on this statement about
6 having read him his rights, did you?

7 A No, I did not.

8 Q And you didn't make any notation anywhere else about
9 having read him his rights and him having signed a
10 waiver, did you?

11 A No.

12 Q And everything that you prepared in connection with
13 this case, especially a waiver of rights, should have
14 been included in the file folder and case folder; is
15 that right?

16 A Everything should be in the case folder.

17 Q Your testimony is when you left the police department
18 at **Prichard**, you turned over everything you had in
19 connection with this case to Lebarron Smith?

20 A I **don't** know if I turned it over to him. I left --

21 THE COURT: He said he left it in the file out
22 there. **Isn't** that what you said?

23 THE WITNESS: Yes, sir.

24 MR. NIXON: That's all I have at **this** time, Judge.

25 THE COURT: I have a question. Attached to that

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

4 **THE WITNESS:** Yes, sir.

5 **MR. NIXON:** He said he did, Judge.

6 **THE COURT:** Okay,

7 **REDIRECT EXAMINATION**

8 **BY MR. JORDAN:**

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

10 **A** Yes, sir.

11 **Q** The names, everything? Everything is **verbatim** as
12 Rodney K. **Stanberry** told you: is that correct?

13 **A** Yes, sir.

14 **Q** Now --

15 **THE COURT:** Well, wait a minute. Wait a minute.

16 Wait a minute. You say **it's** verbatim.

17 Officer, didn't he tell you -- now, if I'm
18 not right, you correct me, but didn't it
19 happen something like "**this**: You talked to
20 him and then you sat down and wrote what he
21 said, and then you had him go back and review
22 what -- **You're** no stenographer. **You didn't**
23 take down word for word what he said, did
24 you?

25 **THE WITNESS:** Yeah, best that I could.

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

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

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

7 THE WITNESS: Yes, sir.

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

10 THE WITNESS: Yes, sir.

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

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

14 THE COURT: Okay.

15 RECROSS EXAMINATION

16 BY MR. NIXON:

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

19 A No, sir.

20 Q **Why** didn't **you** record these statements?

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

23 Q You didn't have a tape recorder?

24 A No, sir.

25 Q This statement was taken at --

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

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

7 THE COURT: I understand.

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

11 A Yes, they were.

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

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

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

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

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

23 A **No**, sir, I sure did not.

24 Q Did you ask anybody for **one**?

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

1 Q On March the 7th?

2 A That's right. Most of the detectives or most of the
3 people in that **department** either had their own tape
4 recorders or they weren't available for me to get one.

5 Q And you remember that, **Detective** Fletcher? Now you
6 remember going and asking somebody for a tape recorder
7 and looking for one and couldn't find one; is that what
8 you're telling us?

9 A Yeah. Yes, I do, because it's been many times that I
10 have needed one and couldn't find one.

11 Q I'm not asking you about those times. I'm asking you
12 about the 7th. You're telling us you specifically
13 remember looking for a tape recorder?

14 A That's correct.

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

16 FURTHER REDIRECT EXAMINATION

17 BY MR. JORDAN;

18 Q How long were you a police officer at the time you took
19 this --

20 A About three and a half years.

21 Q You had been a police officer for three and a half
22 years at the time?

23 A Yes.

24 Q And did Rodney have a chance to review this?

25 A Yes, he did.

1 Q Did he tell you anything in here was incorrect?

2 A If he did, I either scratched it out or made a new
3 statement, but he -- yeah, he did.

4 Q **You've** got one area scratched out on page three.

5 A Right.

6 Q Would that have been at **Rodney's** advice or --

7 A No, that would have been at my discretion, something
8 that I went back. and asked him or **didn't** quite hear
9 what he stated.

10 Q And you corrected it right there?

11 A Right.

12 Q And you wrote this in his presence?

13 A Yes, I did.

14 Q And he reviewed it in your presence?

15 A Yes, he did.

16 Q And he signed it in your presence?

17 A Yes, he did.

18 Q Did he tell you anything on here was wrong or
19 incorrect?

20 A After reviewing it, after we finished the statement, I
21 let him read it, and he signed it.

22 MR. JORDAN: **That's** all.

23 MR. **NIXON**: Nothing further, Your Honor.

24 THE COURT: Anything --

25 MR. JORDAN: **Just** one thing.

1 BY MR. JORDAN:

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

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

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

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

10 MR. NIXON: Judge, I object.

11 THE COURT: sustained.

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

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

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

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

20 Q Go ahead.

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

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

3 Q Okay.

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

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

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

9 A No.

10 MR. NIXON: Did you try to verify it?

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

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

17 THE WITNESS: she knew Of **him**.

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

19 THE WITNESS: **Yes**, she did.

20 Q She knew who?

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

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

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

1 back to her about the incident.

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

4 THE WITNESS: No.

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

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

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

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

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

14 Q So that's all?

15 A That's all.

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

17 A Uh-huh.

18 THE COURT: Anything else?

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

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

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

24 THE WITNESS: Yes, sir.

25 THE COURT: Okay, Lebaron, raise your right hand

1' for me.

2 LEBARRON SMITH

3 was sworn and testified as follows:

4 MR. NIXON: Judge, just before we get going, I
5 have not subpoenaed Detective Fletcher, I
6 don't believe, but I would request that he be
7 here.

8 THE COURT: I just got through saying he'll be
9 here at 9:15 in the morning.

10 MR. NIXON: I just didn't want the district
11 attorney to release him.

12 THE COURT: Go ahead, take the stand, Lebarron.

13 DIRECT EXAMINATION

14 BY MR. JORDAN:

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

16 A Lebarron smith.

17 Q Who do you work for?

18 A City of Prichard Police Department.

19 Q And did you take a statement from Rodney Stanberry on
20 4/17/1992?

21 THE COURT: I don't need it. Do you have a copy
22 of this third statement, Ken?

23 MR. NIXON: Yes, sir.

24 Q And --

25 THE COURT: Before you start asking him anything,

1 this former police officer, Fletcher.

2 MR. JORDAN: Yes.

3 THE COURT: He said, **Lebarron**, that he had a
4 waiver form for the second **statement**, which I
5 **dn't** have anything **in** front of me, but. I
6 believe it's 3/7/92, 3/3 and 3/7/92, and
7 **everybody's** looking around like it's **gonna**
8 rain in here. Is that right, 3/3/92 and
9 **3/7/92?**

10 MR. NIXON: Yes, sir, Judge, 3/3 and 3/7.

11 THE COURT: On the 3/7/92, he said he distinctly
12 **remembers** having a waiver form signed, and he
13 further said that all this was left in the
14 file of the **Prichard** Police Department. **Is**
15 he correct or incorrect is all I want to
16 know.

17 THE WITNESS: I **haven't** seen one, Judge. I could
18 go back and look at **the** file, but --

19 THE COURT: Do that tonight. **Go** ahead.

20 MR. NIXON: Judge, I will represent that one has
21 never been provided to me.

22 MR. JORDAN: I'll represent that, too. I'll
23 represent -- I'll even say that we **didn't**
24 need to **mirandize** him. So if he was -- I
25 mean, he was not in custody, so. But I'll

1 make that legal argument at the right time.

2 Q Lebarron, when you interviewed -- Where did you
3 interview --

4 THE COURT: When he gets through making that
5 argument, you look tonight. Okay?

6 THE WITNESS: Yes, sir.

7 Q Where did you interview Rodney?

8 A It was at his place of employment on Halls Mill Road at
9 BFI.

10 Q And where specifically at his place of employment?

11 A BFI Waste Management.

12 Q Was **it** outside or in **an** office?

13 A It was in an office.

14 Q And **was** he under arrest at that time?

15 A No, he was not.

16 Q And when you got through interviewing him, was he under
17 arrest? Did you arrest him there at the scene?

18 A Yes, I believe we did arrest him at **BFI**.

19 Q You think you did. **Are** you sure about **that**, or do you
20 think he was arrested about a week or **two** later?

21 A Okay. We went to BFI twice. **Yes**.

22 Q The first time you went to BFI, when you interviewed
23 him, when you got through talking to him, **didn't** you,
24 in fact, leave?

25 A Yes, on that first occasion.

1 Q And you left Rodney there?

2 A Yes.

3 Q And he was not under arrest, and he was not arrested?

4 A No, he wasn't.

5 Q And then about two weeks later or three weeks, whatever
6 time it was, I can find it in the records, did you come
7 back to BPI?

8 MR. NIXON: Judge, respectfully, **it's** late, and I
9 **don't** want to prolong this out, but I **don't**
10 want Mr. Jordan just to testify. He was
11 there. If he wants to testify, just let him
12 testify, but he's asking these long leading
13 questions, and all Mr. Smith is doing is
14 saying, yes, yes, yes.

15 MR. JORDAN: I **wasn't** there when he was arrested.

16 MR. NIXON: You were there when the statement was
17 taken.

18 MR. JORDAN: Yeah, the first statement.

19 Q Did you go back later and arrest him at BFI?

20 A yes.

21 Q **And** who went with you that time?

22 A I can't recall the officer right off.

23 Q But that happened on two separate days?

24 A **That's** correct.

25 Q The interview one day and three or four weeks later the

1' arrest?

2 A Yes.

3 Q Both occurred, though, at BFI?

4 A **That's** correct.

5 Q Was he mirandized when you interviewed him at BFI?

6 A **Not** on the first one.

7 Q And the statement **we** have is the statement, basically,
8 that he gave to you?

9 A **That's** correct.

10 MR. JORDAN: **That's** all I have.

11 CROSS EXAMINATION

12 BY MR. NIXON:

13 Q Mr. Jordan **was** with you when he **was** arrested, too,
14 **wasn't** he, Mr. Smith, at BFI?

15 A He nay have' been.

16 Q Do you remember arresting Mr. Stanberry, Mr. Smith?

17 A **Yes**, I do.

18 Q And Mr. Jordan was with you when you arrested him out
19 at BFI, **wasn't** he?

20 A He could have been.

21 Q I **didn't** ask **you** if he could have been. **You remember**
22 it, and he was there, **wasn't** he?

23 A As I say, He could have been. **It's** been two years ago.

24 Q **You don't** remember?

25 A I remember Mr. Jordan in the interview with Mr.

1 Stanberry, but at the actual arrest, he could have been
2 with me or he may have not. I'm not sure.

3 Q You remember going out to BFI, putting the handcuffs on
4 Rodney and taking him away?

5 A Yes.

6 Q And you don't remember Buzz being there with you, Buzz
7 Jordan, D.A., Mobile County?

8 A I say he could have been.

9 Q He was with you when you took this statement, though,
10 wasn't he?

11 A That's correct.

12 Q And this statement was taken on April the 7th, 1992 at
13 BFI?

14 A If that's what's on there, that's when it was taken.

15 Q Have you seen the statement?

16 A Yes, I looked at it.

17 Q Okay. Was that the date you took the statement?

18 THE COURT: Ken, can I see it?

19 MR. NIXON: Yes, sir.

20 THE COURT: Do you need it to ask any questions?

21 MR. NIXON: I've got another copy, Judge, I think.

22 Q Now, Mr. Smith, he was -- Rodney Smith was your chief
23 suspect on that date, wasn't he, in this case?

24 A The day the statement was taken?

25 Q Yes.

1 A He was a suspect.

2 Q In fact, you were the case agent on the case at that
3 time, were you not?

4 A Yes. I was.

5 Q And he was your primary suspect, wasn't he? You had
6 stopped investigating everybody else at that time?

7 A No, we hadn't stopped investigating everybody else.

8 Q Are you sure about that?

9 A Yes, I'm sure.

10 Q Had Valerie Finley told you that Rodney Stanberry did
11 it?

12 A She told us two people.

13 Q Did she tell you?

14 A Yes, she did.

15 Q And when did she tell you that the first time?

16 A Probably at the Rotary Rehabilitation Center, I believe
17 it was.

18 Q When was that?

19 A I don't know the exact date. I could go back and look
20 through the file.

21 Q Was it before or after April the 7th when you took this
22 statement from Rodney?

23 A Had to be before.

24 Q So before you went out to BFI and took Rodney's
25 statement, you had been told by Valerie Finley that

1' Rodney was the one who broke into her house and did
2 this crime; is that correct?

3 A I had been told that he was with another person that
4 came in the house.

5 Q Right. So he and the other person that was with him
6 were your chief suspects at that time; is that **right**?

7 A **Yes.**

8 Q And you did not read him his **Miranda** warnings, did you?

9 A **No**, not on that occasion.

10 Q And you did not advise him that he was a suspect in
11 that; crime, did you?

12 A I **don't** believe I did.

13 Q Sir?

14 A No, I **didn't**.

15 MR. JORDAN; I'm sorry, I didn't hear the
16 question.

17 THE COURT; No, I **didn't**.

18 MR. JORDAN: I **didn't** hear the question. Im
19 **sorry.**

20 **THE COURT:** Did you Mirandize him?

21 Q So you **didn't mirandize** him, and you **didn't** advise him
22 he was a suspect, even though he was a suspect and had
23 been identified by the victim as being the one who came
24 in her house; is that correct?

25 A **Yes.**

- 1 Q Now, you knew before the statement, right?
- 2 A Yes.
- 3 Q Right.
- 4 A Yes.
- 5 Q Did you ask his **permission** to record the statement?
- 6 A Yes.
- 7 Q Is that on the statement? Is **that** recorded?
- 8 A That he realized it was being recorded?
- 9 Q Yes, sir.
- 10 A I believe it is. I would have to look at it and see.
- 11 Q Do you usually do that?
- 12 A Yes.
- 13 Q And Mr. Jordan went: with you on this interview and
- 14 participated in it, didn't he?
- 15 A Yes, **that's** correct.
- 16 Q **As** the district, attorney here in Mobile?
- 17 A Yes.
- 18 Q **And** he asked Mr. **Stanberry** questions?
- 19 A Yes.
- 20 Q And Mr. Jordan knew that Mr. Stanberry **was** the chief
- 21 suspect in this case, also, correct?
- 22 A Yes.
- 23 Q He knew everything that you **knew** about this case at the
- 24 time because you told him; is that right?
- 25 A That's right.

1' Q And y'all rode out there together?

2 A Yes.

3 Q And the purpose of you going out there that day was to
4 get a statement from Rodney **Stanberry**, right?

5 A Yes.

6 Q To use against him after you arrested him?

7 A I didn't hear the question.

8 Q You went out there to get a **statement** from Rodney
9 **Stanberry**, your chief suspect, so that you could use it
10 against him after you **arrested** him, at trial here like
11 you're trying to do; is that right?

12 A Yes, I guess so.

13 Q Mr. Jordan **didn't** read him his **Miranda** rights, either,
14 did he?

15 A I don't believe so.

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

17 MR. JORDAN: **That's** all I have, Judge.

18 THE COURT: You nay step **down**, **Lebarron**.

19 MR. NIXON: Judge, I would proffer that Mr.

20 **Stanberry** will testify that he did not sign a
21 waiver, written waiver. He's never signed a
22 written waiver. He would also testify that
23 he's never been read his **miranda** rights
24 before these statements.

25 THE COURT; Do you have anything to put in the

record, Buzz?

MR. JORDAN: **Yes**, Your Honor. **It's** my understanding of the law on Miranda that the only statements that are excluded, number one, **you've** got to be in custodial -- **It's got** to be a custodial interrogation before **miranda** ever applies. If it is not a custodial interrogation, then Miranda absolutely, under the Constitution, under the U. S. Supreme Court rulings for the last 20 to 30 years, does not apply.

The **Prichard** Police Department, Detective **Fletcher** was never required to give Rodney **Stanberry** his Miranda rights on the first interview. They were not required to **Mirandize him** on the second interview.

THE COURT; For the record, I'm only on page three of what purports to be a joint statement, 52 pages long, of questions and answers, and the questions were, all **I've** seen so far, were from Mr. Smith, Officer Smith. But at the very first **it's** Mr. Buzz Jordan, and I quote in part, "We're present today. Today **is** April **17th**, 1992 at about 2:00 in the afternoon at BFI's office on Halls Mill Road.

1 Present is Mr. Rodney Stanberry." And I'm
2 skipping around, "Sergeant Lebarron Smith,
3 and I am Buzz Jordan with the district
4 attorney's office. We've come out here to
5 meet with you and to talk to you about an
6 incident. You, of course, are not under
7 oath, but we would ask that, being tape
8 recorded. Do you have an objection to this
9 being tape recorded? No."

10 Further down. it says, I would implore
11 you -- not in those words does it say
12 implore, but -- to tell absolutely nothing
13 but the truth, the whole truth so help you
14 God. Well, let me read that. "However, we
15 would just," and this is Buzz Jordan again
16 talking. "However, we would just. emphasize
17 that it's very important that you attempt
18 your best to tell us the truth about what
19 we're gonna talk to you about. Terry (sic),
20 if you have any reason that you may not want
21 to tell us the truth, we would ask that you
22 please try to tell us the truth and nothing
23 but the truth about everything that sergeant
24 Smith is going to ask you."

25 Now, I have also heard from Sergeant

1 Lebarron Smith **that** the Defendant; was more
2 than a **"suspect"** at this time because he had
3 talked to Mrs. **Finley** at the Rotary
4 Rehabilitation Center, and she had identified
5 two persons as being a, my terminology, the
6 culprit in this affair. **Isn't** that what you
7 said, Lebarron?

8 DETECTIVE SMITH: Yes, sir.

9 THE COURT: And that, yes, this statement that we
10 were given, in answer to Mr. Ken **Nixon's**
11 question on cross, yes, it would be used
12 against him.

13 Now, am I to hear the district
14 **attorney's office** say that **we** can go out and
15 take this statement and because he is not "in
16 custody," then we can just -- we're not gonna
17 arrest him today. **We're** gonna take a
18 statement from him, and we know **we're** gonna
19 **use** it against him, but since he's not "in
20 custody," **miranda** In no way applies? Is that
21 what **you're** telling me?

22 MR. JORDAN: Yes, **Your Honor**. If I **could** just
23 show you **McElroy's** so you can, perhaps, see
24 what **I'm** relying on.

25 THE COURT: You **might** want to get me more than

McElroy's but --

MR. JORDAN: I understand, but that may be a starting point. Judge, the old law used to be that if somebody was a suspect., you had to **Mirandize** them. I think that was changed about 20 years ago when the Supreme Court clarified that and said, no, it doesn't matter how strong a suspect. You can be the number one suspect, the only suspect, the main suspect, the best suspect, but unless you are in custody, you do not have to be **Mirandized**.

There is no doubt that Mr. **Stanberry** was a suspect here. Rene **Whitecloud** was a suspect --

THE COURT: I don't; have any problems with a case -- the **footnote** here under what you've showed me, Sullivan v. State, 351 So.2d 659 when the Alabama Appellate Court said the Miranda safeguards did not apply when the defendant voluntarily appeared at the jail and stated that he had "**done something terrible**." The safeguards are required only when the confessing person is taken into custody and questioned. And they're citing

1 there a federal case, Fifth Circuit Court
2 case.

3 MR. JORDAN: The distinction there is if somebody
4 shows up at the jail voluntarily and makes a
5 confession and **then he's** arrested --

6 THE COURT: And then the next one goes even closer
7 to where **we're** getting. **Miranda** rules do not
8 compel the police to give warnings where a
9 person, without being subjected to any police
10 interrogation, desires to confess to the
11 crime. Where the person, without being
12 subjected to any police interrogation --
13 See, **we don't** have that here because **we've**
14 got police interrogation. Not only do we
15 have police interrogation, we've got
16 assistant district attorney interrogation.

17 MR. JORDAN: **We've** definitely got interviewing,
18 aka, interrogation, however you want to
19 phrase it. This was -- also involved -- This
20 case was still being -- He was a suspect. It
21 was still being investigated, and in any case
22 I always advise our investigators, our check
23 investigators, our D.A. investigators,
24 always, always, always interview the suspect,
25 interview your person prior to -- I mean,

1' it's just. **good** law **enforcement** to interview
2 the person beforehand. And under the law, we
3 are allowed to do that, as long as that
4 person is not in custody. Custody being not
5 free to go, under the duress of being in
6 custody, under the duress of the stress of
7 police with guns surrounding you: **you're**
8 under --

9 **THE COURT:** Buzz, I'm hearing you, but I **don't**
10 mind saying that I'm going to think **about**
11 **this** until tomorrow morning, but I have a
12 little question with this, because if what
13 **you're** saying is, you know, absolutely valid,
14 why would you ever arrest anybody? Why not
15 always go out and, you know, say anything you
16 want to do.

17 **MR. JORDAN:** Judge, the best police practice is to
18 always -- It **is** to always interview them.
19 You know how that happens a lot of times; the
20 police rush to arrest somebody; they go make
21 the arrest, and then they **don't** have the
22 right to interview that person after that. I
23 mean, they do if **they Mirandize** them or they
24 do if they, you know -- but, you **know** --

25 **THE COURT:** Get me a case between now and in the

1 morning. Barbara, turn your machine off.

2 (Off **the** record.)

3 MR. NIXON: Just for the record, Judge, I would
4 like to note that from page seven of that
5 statement until page 52 the interview was
6 conducted by Mr. Jordan.

7 THE COURT: Well, I was getting to that.

8 MR. NIXON: And I would like to ask Lebarron Smith
9 just two quick questions again.

10 THE COURT: Sure.

11 REDIRECT EXAMINATION (CONTINUED)

12 BY MR. NIXON:

13 Q Detective Smith, when you and Mr. Jordan went out and
14 took this statement on April the 17th, 1992, you had
15 full intentions, and you knew that you were going to
16 arrest Mr. **Stanberry**, didn't you, for this crime?

17 A Yes, I was planning on getting a warrant for him.

18 Q Yes, sir. And when you went out there on April the
19 17th, 1992 and talked to Mr. **Stanberry**, at the end of
20 this interview I notice that Mr. Jordan keeps asking
21 Mr. **Stanberry** about where he lives and that **he's** not
22 planning to go anywhere. Do you recall that?

23 A Yes.

24 Q And Mr. Jordan asked, and **he's** making sure that he's
25 gonna stick around, **he's** not leaving. Do you remember

1' that?

2 A Yes.

3 Q Now, if Mr. Stanberry had responded to that question by
4 saying, I'm going to Europe and I'm never coming back,
5 and I'm not telling you where I'm going, you would have
6 arrested him right then, wouldn't you?

7 MR. JORDAN: Judge, I object to that. There's no
8 way he could know hypothetically what he
9 would have done in that situation.

10 MR. NIXON: I'm asking him what he would have
11 done, Judge. I'm asking what he would have
12 done.

13 THE COURT: I'm gwnna let him answer.

14 Q You would have arrested him, wouldn't you?

15 A I didn't have a warrant then.

16 Q You don't need a warrant to arrest somebody for a
17 felony, attempted murder charge, do you, if you have
18 probable cause?

19 A After a while I like to get a warrant. If it's
20 something spur of the moment, I'll go ahead and arrest
21 him. After I plan it, I like to have a warrant in
22 hand.

23 THE COURT: Is there anything else you want to put
24 in the record?

25 Q Detective Smith, are you telling this Judge that if he

1 had told -- Mr. **stanberry** had **told** you he was going off
2 and **never** coming back, at that point, with the evidence
3 that. you had, you would have let **him** go? You wouldn't
4 have arrested him?

5 **A** If he told me he was **going** off and never coming back?

6 **Q** Yes, sir.

7 **A** No, I probably **wouldn't** of.

8 **Q** You would have arrested **him**, wouldn't you?

9 **A** Yes, I would **have** took him into custody.

10 **Q** To keep him from going off?

11 **A** Yes, if he had told me that.

12 **Q** And you had probable cause to arrest him in your
13 opinion **at** that **time**, didn't you?

14 **A** Yes.

15 MR. NIXON: That's all I have in the **record**,
16 Judge.

17 **THE COURT**; All right, Barbara, turn the record
18 off.

19 (Whereupon, court adjourned for the
20 evening.)

STATE OF ALABAMA

CASE NO. CC-92-2313,

VS.

92-2314 and 92-2315

RODNEY KARL STANBERRY

(Mobile, Alabama, April 5, 1995)

(Trial resumed, jury not: present.)

THE COURT: For the record, Mr. Buzz Jordan said that he did not bring a case with him as I requested and he does not intend to introduce that statement, but I'll say this, and I'll say it for the record, this idea that y'all have here of this way we don't have to mirandize somebody absolutely makes no sense to me.

MR. JORDAN: Judge, can you and I debate this at a later time?

THE COURT: No, I want it in the record.

MR. JORDAN: Okay. I mean, for future cases.

THE COURT: I'm just telling you you need to stop that practice because it doesn't make any sense. I mean, it makes no sense at all when you have a directive of the Supreme Court of the United States and you say we're gonna go by way of Memphis, Tennessee to dance around that case. And when this police officer

1 takes this stand and says, oh, yes, he said
2 he was -- you know, being "in custody." You
3 don't have to say the magic words, you're
4 under arrest. When this police officer says,
5 oh, yes, if they had said he was leaving, I'd
6 arrest him immediately.

7 Two, you're gonna take that statement to
8 use against him, aren't you? Oh, yes. And
9 to sit there and tell me boldly for the
10 record, I do this in every case, that does
11 not make any sense to me. And in a 52-page
12 statement, 45 of those pages you're doing the
13 questioning. In line with Walbert v. State,
14 that makes no sense to me.

15 MR. JORDAN; You're saying I'm crazy.

16 THE COURT: I'm saying that practice is crazy. It
17 makes no sense.

18 MR. JORDAN: Judge, this is something we need to
19 discuss in the future tor future cases.

20 THE COURT: Oh, I intend to discuss it.

21 MR. JORDAN: Because my advice to every
22 investigator would always be to interview a
23 suspect prior to your concluding your
24 investigation, always.

25 THE COURT: I don't see a thing wrong with that.

1' You don't have one statement. You've got
2 three.

3 MR. JORDAN: Well, the more the merrier, I mean,
4 that's something we could debate, but if we
5 comply with the Supreme Court's
6 pronouncements, I don't --

7 THE COURT: That's just it. I think a subterfuge
8 to get around the Supreme Court case by
9 saying technically we didn't say you're under
10 arrest is absolutely ludicrous.

11 MR. JORDAN: But he wasn't under arrest. I mean,
12 we left BFI. He went back to work. I mean,
13 how can you even assume he was under arrest?
14 I mean, factually speaking -- and, see, the
15 history of those cases, the history of the
16 cases they used to bring somebody down to the
17 police station and didn't tell him he was
18 under arrest and then they got a statement
19 and then he was not free to go home after
20 they got the statement. So the Supreme Court
21 said, well, even though you didn't say he was
22 under arrest, he really was under arrest.
23 because, obviously, he didn't leave the
24 police station. And they always talk about
25 -- There's nothing wrong with a defendant or

1 a suspect giving a statement. I mean --

2 THE COURT: Of course there is.

3 MR. JORDAN: And the question is whether he's

4 under so much intimidation -- the old -- the
5 problem that they used to have, he used to be
6 under so much intimidation because he was
7 under arrest that they brought in the **miranda**
8 safeguards to protect him. We **didn't** have
9 any of that here. It **wasn't** at the police
10 station. He **wasn't** under arrest. I **wasn't**
11 even armed with a **gun**. **Lebarron**, I **don't**
12 know --

13 THE COURT: I hope you **weren't** armed with a gun.

14 MR. NIXON: I know Lebarron was armed with a gun.

15 THE COURT: I tell you what, if they had you armed
16 with a gun, I'm gonna leave town.

17 MR. NIXON: I can guarantee you Lebarron had two
18 **guns**, at least, **Judge**.

19 MR. JORDAN: Maybe not in plain sight.

20 THE COURT: Again, this just doesn't make **sense** to
21 me.

22 MR. JORDAN: Well, I mean, that's something I'd
23 like to talk about with you in the future
24 because **it's** something that's an
25 investigative tool, and I think it's

1 important.

2 THE COURT: I think it's absolute ignorance. I
3 don't know how I can get any stronger than
4 that. This man here is fully competent, to do
5 his job.

6 MR. JORDAN: Oh, as far as me assisting the
7 interview, there's no question about that.

8 MR. NIXON: Judge, for the record, I would also,
9 since I filed that motion **in limine** regarding
10 those **statements**, I would object to the
11 statements being used for impeachment
12 purposes, also, if they were obtained in
13 violation of Mr. **Stanberry's** rights, and Mr.
14 Jordan has represented that he intends to use
15 those as **impeachment**.

16 MR. JORDAN; Absolutely.

17 MR. NIXON: And I'm going to object to that.

18 MR. JORDAN: And, Judge, the case law, and **let's**
19 just pretend, for the sake of argument, that
20 all three of those statements were obtained
21 in violation of **miranda**. The case law in
22 **McElroys**, once the defendant, takes the stand,
23 then there was no problem with using those
24 statements. If he takes the stand, **I'm** going
25 to cross examine, and **I'm gonna** use then, and

1 I don't have to go through any Miranda
2 predicate or anything else like that. I
3 mean, that's the law. If Ken can show you
4 some law contrary to that, I'd like to see
5 it, but I know that it doesn't exist.

6 MR. NIXON: Judge, what Mr. Jordan is saying is
7 that if Lebarron Smith had taken Rodney
8 Stanberry at gunpoint down to the police
9 station and beat him over the head with a
10 rubber hose and got him to make a confession,
11 that he could use that confession to cross
12 examine Mr. Stanberry, and I think that's
13 ridiculous. I don't think that is the law.
14 If the statement was obtained in violation of
15 the defendant's constitutional rights, it is
16 not admissible for any purpose. That defeats
17 the whole purpose of miranda and Escobito and
18 all the cases that followed that, Judge.

19 What he says is, if it was taken
20 unconstitutional -- He's saying assume that
21 it was an unconstitutional -- 'that the
22 statement was taken in violation of Mr.
23 Stanberry's constitutional rights; now I can
24 use it on cross examination; I just can't use
25 it on my direct examination. Now, like I

1 said, take that to its logical conclusion.
2 If Mr. Smith had taken a gun and put it to
3 Mr. **Stanberry's** head and threatened to kill
4 **him** and made him make a confession or a
5 statement, would Mr. Jordan be able to use
6 that on cross examination? I **don't** think he
7 would, Judge, and I **don't** think Your Honor
8 would let that in in a million years.

9 MR. JORDAN; Contrary to Mr. **Nixon**, in 1975 the
10 United States Supreme Court ruled that a
11 confession which is secured in violation of
12 **miranda** and **inadmissable** as substantive
13 evidence can still be used as a prior
14 inconsistent statement to impeach the accused
15 who takes the stand in his **own behalf**.

16 THE COURT: All right. Fine. **Let's** go.

17 MR. NIXON: **Judge**, another preliminary **matter**,
18 please. As you know, you granted me open-
19 file discovery.

20 **THE** COURT: That I did.

21 MR. NIXON: And **I'm** asking for Mr. Jordan to give
22 me any statements that he has that he did not
23 provide **me** from any **of** these witnesses when I
24 looked at his file. Mr. Larry **Malone, Jr.**
25 took the witness stand and testified on the

1 first day of this trial. I had never seen a
2 statement from Mr. Malone, Jr. Mr. Rogers,
3 I've never seen a statement from Mr. Rogers.
4 All I saw was his name and address on a
5 handwritten piece of paper.

6 THE COURT: Well, all that assumes there was a
7 written statement.

8 MR. NIXON: Yes, sir. And I'm asking that if
9 there were any written statements from any of
10 these witnesses that I have not been
11 provided, that they provide them to me. And
12 you also ordered open-file discovery on the
13 police officer's file, and I would ask that
14 if **they're** in that file that I be provided
15 with them, too. And Mr. Jordan had
16 represented to me when I went to his office
17 that there were some of his private notes
18 **that** he was not going to show me and some
19 things that were not discoverable.

20 THE COURT: I **don't think** his notes are
21 discoverable. But I think if he has any
22 typed statements, **handwritten** statements,
23 they're certainly discoverable.

24 MR. NIXON: Judge, **that's** normally not a problem,
25 but in this case Mr. Jordan went out and

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interviewed several of these witnesses. He went to the scene. He went to BFI. He talked to many, many people. Now, if he made notes of those interviews and is not giving them to me, claiming that they're his personal notes, I don't think that's proper, and I want then, and I'm requesting that the Court direct him to give them to me.

THE COURT: If he has any narrative of any statements, you're entitled to them. If he just has -- If he's made notes in preparation of this case, you're not entitled to his work product.

MR. NIXON: What about notes of his interviews of the witness, Judge, of the witnesses that he went out and interviewed himself, personally, rather than the police officer? You granted open-file discovery.

THE COURT: I did.

MR. NIXON: Is he able to, through subterfuge, prevent me from getting those interviews by taking them himself, rather than allowing the police officer to take them?

THE COURT: Of course not.

MR. NIXON: Then I would request that the Court

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order him to provide those to me if he has
any in his possession.

THE COURT; Do you have any more statements?

MR. JORDAN: Judge, I don't have any. I've given
him everything in the file except for my
notes, my work product.

THE COURT: Well, what do you consider your work
product?

MR. JORDAN: When somebody comes into my office
and talks to me, I take notes of it. If
Lebarron and I go out and talk to somebody, I
take notes of it for my recollection, for my
ability. I mean, that's -- I didn't think I
could get Ken's notes and work product. I've
always considered that to be work product.
That's my work product. As far as whatever,
everything that's been put down to
transcription and accuracy or any kind of
statements that people have reviewed and such
-- no witness has reviewed my notes. No
witness has reviewed my work product. That's
my work product.

MR. NIXON: Judge, if I may. open-file discovery
was granted by Your Honor. If Lebarron
Smith, the case investigator, goes out and

1 talks to witness X **and makes a** report of it,
2 that goes in the file. **I'm** entitled to see
3 that in open-file discovery. Now, if Mr.
4 Jordan goes with Mr. Smith and Mr. Jordan
5 writes down the interview rather than Mr.
6 Smith and they say, hey, I'll **write** it down;
7 that way it will be my notes and I **won't** have
8 to give them to the defense lawyer, so you
9 don't: write it down, Lebarron, you let me
10 write it down, and then I **won't** have to give
11 it to Ken **Nixon**, the defense lawyer, and by
12 subterfuge I can get around this open-file
13 discovery that Judge **McRae** ordered. **And**
14 **that's** not right. **It's** not fair. **It's** in
15 violation of the **spirit** of your order. Judge
16 or the **spirit** of open-file discovery.

17 MR. JORDAN: And I have not done that. I have not
18 **told Lebarron** Smith not to take notes, that I
19 would take notes so **we** can get around the
20 Judge's --

21 THE COURT: You got something you **want** me to sign?

22 (Off the record interruption.)

23 MR. JORDAN: Been absolutely no subterfuge on
24 this Court. It would be crazy for me not to
25 talk to witnesses before **they** testify. **It**

1 would be just insane for me not to interview
2 witnesses, not to prepare, not to try to know
3 the case inside-out myself.

4 'THE COURT: Okay. You know, this record is gonna
5 be 15 volumes more than it should be. If he
6 doesn't have any, he doesn't have any. Let's
7 get to all these witnesses.

8 MR. NIXON: I'd just like to renew my objection
9 for that, Judge, and my position is --

10 THE COURT: I told him if he has any statements,
11 he has to give them to you, but if he's got
12 notes of what he's gonna do in here, that's
13 not discoverable.

14 Barbara, see if you can get that jury
15 in.

16 MR. NIXON: Judge, are you ruling on the
17 impeachment, the use of the statement?

18 THE COURT; He can use that for impeachment.
19 Let's go. I'm not too sure it's not
20 admissible, period, but I think it's a
21 practice I would certainly stop.

22 (Jury present;.)

23 THE COURT: Who do you want to call, Buzz?

24 MR. JORDAN: I'd call Valerie Finley.

25 your Honor, is it permissible for her to stay

1 where she **is** and use the microphone I have
2 provided for her?

3 THE COURT: **That's** fine. You have one witness in
4 court that you had yesterday afternoon
5 outside the presence of the jury. Do you
6 have any objection to the police officer
7 staying in here?

8 MR. NIXON: **No**, sir, Judge. **He's** gonna be called.
9 I would object to him being in here, and **I'd**
10 ask that he wait outside.

11 THE COURT: Okay.

12 MR. JORDAN: If I may sit here to ask her
13 questions, it will be easier.

14 THE COURT: Pull her up a little bit so she gets
15 close enough to Barbara. Oh, wait a minute.
16 **That's** probably fine. Leave the **microphone**
17 there.

18 MR. JORDAN: Now, speak into that. Say test, one,
19 two, three.

20 MRS. FINLEY: Test, one, two, three.

21 THE COURT; **That's** fine. All right.

22 VALERIE FINLEY

23 was sworn and testified as follows:

24 DIRECT EXAMINATION

25 BY MR. JORDAN:

1' Q Valerie, if it ever gets to the point where you can't
2 hear me, just raise your right hand, and I'll say it
3 louder, the question. Okay?

4 A Yes, sir.

5 Q Tell us your full name for the record.

6 A Valerie Deborah Denise Patrick **Finley**.

7 Q And, Valerie, how old are you at this time?

8 A Thirty-two.

9 Q How old were you when this event occurred?

10 A Twenty-nine.

11 Q And at the time it occurred, what was your address?

12 A 1736 Meadow Avenue, Whistler, Alabama 36612.

13 THE COURT: Excuse **me**. How old are you now?

14 THE WITNESS: Thirty two.

15 THE COURT; Thirty what?

16 THE WITNESS: TWO.

17 THE COURT: Thirty-two. Okay.

18 Q **And** back when this happened, even now, how many
19 children do you have?

20 A Three.

21 Q **And** who is your oldest child?

22 A Terrell Patrick.

23 Q **And who** was his father?

24 A Oliver **McCants**, III.

25 Q **And** how old is **Terrell**?

1 A Thirteen.

2 Q Where does he go to school?

3 A Chastang Middle School.

4 Q What grade is he in?

5 A Eight.

6 MR. JORDAN: Chastang Middle School.

7 Q I'm sorry. How old is he now?

8 A Thirteen.

9 Q And who is your next child?

10 A Tiffany Nicole Patrick.

11 Q And how old is Tiffany?

12 A Twelve.

13 Q And where does she go to school?

14 A Old Shell Road.

15 Q What grade is she in?

16 A Sixth.

17 Q And who is her father?

18 A Michael Laverre Finley.

19 Q And who is your third child?

20 A Mallory Denise Finley.

21 Q How old is she?

22 A Seven.

23 Q And where does she go to school?

24 A Westlawn Elementary.

25 Q What grade is she in?

1 A Second.

2 Q When is Tiffany's birthday?

3 A March the 2nd, 1983.

4 Q March the 2nd, the same day this occurred?

5 A Yes.

6 Q Now, who is your mother?

7 A Eugenia Patrick.

8 Q And who is your father?

9 A James L. Patrick.

10 Q How many brothers do you have?

11 A Five.

12 Q And what are their names?

13 A James, Jr., Fred, Cleophus, Charles, Reginald.

14 Q What do the five brothers do?

15 A James, Jr., he's a truck driver. Fred is a fireman.

16 Charles, he's done so much, I don't know what he's

17 doing now. Reginald, he's in the Air Force. I don't

18 know what rank. Cleo, he's a school teacher.

19 Q And how many sisters do you have?

20 A Three.

21 Q What are their names?

22 A Jo Ann, Brenda and Amanda.

23 Q And what do they do?

24 A Jo Ann, she's a manager at skyline Country Club, and

25 Brenda, she work with me.

1' Q In what capacity?

2 A PCA worker out at the **Kimberly**.

3 Q What's a PCA?

4 A Personal care attendant.

5 Q From Kimberly. What is Kimberly?

6 A They provide nursing services.

7 Q Okay. And your third sister, what does she do?

8 A Amanda, **she's** a student.

9 Q Where?

10 A At Southwest -- No, **it's** Bishop State, out at Bishop
11 State.

12 Q Where did you attend first through third grade?

13 A **W. D. Reynolds School**.

14 Q And where was that located?

15 A On Main Street in **Prichard**.

16 Q And where did you attend fourth and fifth grade?

17 A **Westlawn** Elementary.

18 Q And where is that located?

19 A **Ralston** Road in Mobile.

20 Q **And** where did you attend sixth through eighth grade?

21 A Scarborough Middle School.

22 Q And where is that located?

23 A On Phillips Lane off of **Moffatt** Road.

24 Q And where did you attend **high** school?

25 A **Blount High School**.

1' Q Did you actually graduate or finish high school?

2 A No. I got my GED.

3 Q How far did you go in school?

4 A Twelfth grade.

5 Q So you made it to the 12th grade?

6 A Yes.

7 Q And where did you get your GED from?

8 A Murphy High School.

9 Q Now, how old were you when you had your first child?

10 A Eighteen.

11 Q And that would be Terrell?

12 A Yes.

13 Q Who was your first, grade teacher?

14 A Mrs. McGrew, but she had remarried. It was Mrs.
15 Taylor, but when she remarried and her name became Mrs.
16 McGrew.

17 Q Okay. What was the first job you ever had, Val?

18 A At Eckerd's.

19 Q And what did you do at Eckerd's?

20 A Cashier.

21 Q And where was that job?

22 A In Dallas, Texas.

23 Q And who did you live with out there?

24 A My brother, James Patrick, Jr.

25 Q So you -- and you had Terrell with you?

- 1' A No. I left him here.
- 2 Q Okay. And what was your next job?
- 3 A Camellia Bowling Lanes.
- 4 Q And what did you do there?
- 5 A I worked in the nursery.
- 6 Q With children?
- 7 A Yes.
- 8 Q What was your job after Camellia Bowling Lanes?
- 9 A Eight Mile School.
- 10 Q What did you do there?
- 11 A I worked in the cafeteria.
- 12 Q Now, were you working at Eight Mile School at the time
- 13 this happened?
- 14 A Yes. I had just got hired.
- 15 Q How long had you been working there?
- 16 A I had subbed there a position came open. Then Mr.
- 17 Roberts hired me. So I had been -- I had worked a week
- 18 on a regular -- you know, regular service.
- 19 Q Okay. When did you meet or begin dating Mike Finley?
- 20 A It was -- let's see. It would have been January of
- 21 81.
- 22 Q Where did you meet him?
- 23 A At Phillips 66 Service Station.
- 24 Q And how long did y'all date?
- 25 A About -- It was over a year.

1' Q Okay. When did you get married?

2 A July 2nd, 1983.

3 Q And where did you get married?

4 A At his mother house. It was his house, but his mother
5 lived there with him, but the deeds and everything was
6 in his name.

7 Q Okay. And where was that house located?

8 A At 1723 Meadow Avenue.

9 Q So right there in the neighborhood where you eventually
10 bought a house?

11 A Yes.

12 Q When did you and Mike buy your house?

13 A In 1986.

14 Q Do you know how much you paid for the house?

15 A Twenty-eight thousand.

16 Q And do you know how much you put down on it?

17 A Five hundred.

18 Q And whose name was the house in?

19 A My name and Mike's name.

20 Q Both of y'all's names?

21 A Yes.

22 Q Okay. And how long had you been living in that house,
23 then, prior to this event occurring?

24 A About seven years. I don't know exactly.

25 Q Okay. Would you describe the relationship that your

1 husband had with Rodney Stanberry?

2 A That was his best friend. They went hunting together.
3 They went to gun shows and everything together, and he
4 used to cone by the house a lot.

5 Q Okay. When you say he --

6 A Stanberry.

7 Q What did you call him?

8 A Stan.

9 Q That was what you called him, Stan?

10 A Yes.

11 Q Okay. What did your husband call him?

12 A Stan.

13 Q And had he been to your house on numerous occasions?

14 A Yes, sir.

15 Q Do you see him here in court this morning?

16 A Yes, sir.

17 Q Would you tell us what he's wearing?

18 A A black suit and tie and a shirt.

19 MR. JORDAN: Let the record reflect she's
20 identified the Defendant, Rodney K.
21 Stanberry.

22 Q And had you ever cooked him dinner at your house?

23 A Yes, sir.

24 Q Do you recognize him now, Valerie?

25 A Yes, sir.

1 Q And is this basically the way he looked back in March
2 of 1992?

3 A No, sir -- well, basically. He's just put some weight
4 on.

5 Q He's a little heavier now than he was back then?

6 A Yes, sir.

7 Q And had he been in your house? Did he know where the
8 vault was in your house?

9 A Yes, sir.

10 Q Did he know that your husband had a gun collection?

11 A Yes, sir.

12 Q And had you had conversations with him over that three,
13 four, five years he was best friends with your husband?

14 A Yes, sir.

15 Q What kind of vehicle did he drive?

16 A A brown Bronco.

17 Q And I **don't** know if you've seen a picture -- State's
18 Exhibit Number 39, is that Rodney K. **Stanberry's** brown
19 Bronco?

20 A Yes, sir.

21 Q During -- Prior to this time happening, did you have an
22 occasion to see one of, or **some of Rodney's** friends
23 that Rodney told you had come down from New York?

24 A Yes, sir.

25 Q And describe the hair of those two people, Rodney's two

1' friends from New York.

2 A I only **saw** one.

3 Q And describe his hair.

4 A He had a ponytail **in the** back, about that long.

5 Q And what did you call him?

6 A Ponytail.

7 Q **And** what did your husband call him?

8 A Ponytail.

9 Q Do you remember how Stan described -- what name Stan
10 gave to **him** or anything? **Did** Stan ever call his name
11 out in front **of** you or anything?

12 A No, they never did.

13 Q So you knew him as Ponytail?

14 A Yes, sir.

15 Q **And** was he friends with your **husband**?

16 A Only through Stan.

17 Q Now, I want to go to Monday, the day that this
18 happened. Okay?

19 A Okay.

20 Q I'm going to stand up now. **I'll** just have to talk as
21 loud as I can. Okay, **Valerie**?

22 A Okay.

23 Q Valerie, do you remember about **what** time you woke up on
24 Monday, March the **2nd**?

25 A **Yes**, sir.

1' Q And what time was that?

2 A About 3:00 in the morning.

3 Q And what was the reason you woke up that early?

4 A I wake up a lot of time at 3:00, but I don't get out of
5 bed. I just be laying around.

6 Q When did you get up for good or when did you wake up
7 for good?

8 A When I got out of bed for good?

9 Q Right.

10 A When the doorbell rung.

11 Q Okay. So you had been in bed that morning?

12 A Yes, sir.

13 Q And what had you been *doing* in bed that morning?

14 A Talking on the phone.

15 Q And who had you been talking with?

16 A To my sister.

17 Q Which sister?

18 A Brenda.

19 Q Now, at the time this was happening, were you looking
20 at your watch or looking at your clock or keeping track
21 of the time that anything's going on that morning?

22 A No, sir.

23 Q Can you tell us today the exact times that you went to
24 the door or anything of that nature?

25 A No, sir, not at the exact time.

1' Q Was it in the morning?

2 A Yes, sir.

3 Q Was it before lunch time?

4 A Yes, sir.

5 Q Now, who was at home with you that morning prior to you
6 getting out of bed?

7 A Michael.

8 Q And **that's** your husband?

9 A My ex-husband.

10 Q And what did he do that morning? What do you recall
11 him doing?

12 A He got up and got dressed for work and he said after --
13 he was fixing to go. He said, **I'm** fixing to go to
14 work. I said, Mike, you're supposed to go pick the
15 kids up this morning. He said, well, you're gonna have
16 to pick them up because **I'm** running late for work,
17 because he had told me that night before, because I was
18 **gonna** go over to my mother's house and pick the Kids up
19 that night when **we** got back. He said, **don't** worry
20 about it; **I'll** pick them up in the morning. I said,
21 well, you know **I'm** gonna plan a party for Tiffany and
22 everything and **we're** going to **Mardi Gras**. He said,
23 don't worry, **I'll** pick -- **I'll** go get them early in the
24 morning before I go to work, and **so** I tried to wake him
25 up. So, he just laid on there, act like he **didn't** hear

1 me. And so he said, you just go get them. And so he
2 left: and went to work.

3 Q So he went to work that morning?

4 A Yes, sir.

5 Q And he went without picking up the children?

6 A Yes.

7 Q So where was **Tiffany** and, Im sorry, your other
8 daughter's name?

9 A **Mallory.**

10 Q **Mallory**, where were they?

11 A With my mother, still at my mother's house.

12 Q And where was **Terrell**?

13 A He was over at the house, too.

14 Q Okay. So all three of your children were over there?

15 A Yes.

16 Q Had you picked them up prior to anybody coming to your
17 door?

18 A No, sir.

19 Q Had you driven that car anywhere that morning?

20 A No, sir.

21 Q Did you put any five dollar bill in any visor?

22 A No, sir.

23 Q Did Mike **Finley** leave you'a ten-dollar bill for gas?

24 A No, sir.

25 Q Did Mike tell you anybody was supposed to come by that

1 morning?

2 A Yes, sir.

3 Q Who was supposed to come by?

4 A Stan.

5 Q What was ha supposed to do?

6 A Pick up a tree stand.

7 Q Did you think that was unusual?

8 A At first I did because they owned a tree stand together
9 because the club has (unintelligible) a tree stand out
10 the woods where they hunt and so both of them claimed
11 the tree stand together.

12 Q So it's both of their tree stands?

13 A Both of them.

14 Q Okay. Well, why was it unusual when you thought about
15 it?

16 A Because I realized hunting season was over when Mike
17 had cleaned his guns and locked them in "the vault for
18 the year.

19 Q What hunting season was over?

20 A Deer hunting, deer season.

21 Q And is that the only kind of hunting that your husband
22 and Rodney K. Stanberry did at that time together?

23 A That was the main hunting they did.

24 Q And it wasn't even deer season?

25 A No. It was over.

1 Q Now, what caused you to get out of your bed at that
2 time?

3 A When the doorbell rung, and then I heard some
4 (unintelligible) at the back door.

5 Q Somebody was at the house?

6 A Yes, sir.

7 Q Now, what did you do when you got out of your bed?
8 Where did you go?

9 A I went into the hall, and then I -- I was headed to the
10 front door, and then I could see from the front door --
11 no, in the dining room area to my back door, but then
12 the guy with the ponytail was standing on the back
13 porch. I didn't know him so well. I knew Stan and so
14 I went on to the front door to see what Stan wanted
15 because I figured if -- if it was anything up --

16 Q Let me stop you. I'm going to go step by step. When
17 you first got out of bed, which room did you go into
18 first before you went to the front door?

19 A Into Tiffany and Mallory's room, my daughters' room.

20 Q So you leave your bedroom, and where was Tiffany and
21 Mallory's bedroom?

22 A To the front of the house.

23 Q And did you go in there?

24 A Yes, sir.

25 Q And what did you do in there?

1 A I looked out **their** blinds and looked over to the
2 **driveway.**

3 Q Okay. if you look out Tiffany and **Mallory's** bedroom,
4 what **driveway** can you see?

5 A My **driveway.**

6 Q And what did you see in **your** driveway?

7 A **Stan's Bronco.**

8 Q Okay. Now, let me show you what has been **marked** as
9 State's Exhibit Number 33, **Valerie.** Do you **recognize**
10 that **driveway** in that **photograph?**

11 A This is my **driveway.**

12 Q And do you **recognize** what window you would be looking
13 out of, looking out that window?

14 A This, my kids' window.

15 Q Speak up, **ma'am.**

16 A My kids' window.

17 Q And that would be **Mallory** and Tiffany?

18 A And Tiffany.

19 Q The **two** girls?

20 A Yes, **sir.**

21 Q **That's** their bedroom?

22 A Yes, **sir.**

23 Q And does that **picture** fairly and accurately depict the
24 view you **could** see looking out **Mallory** and **Tiffany's**
25 **bedroom** window?

1 A Yes, sir.

2 MR. JORDAN: We'd move to introduce 33 at this
3 time.

4 THE COURT: It's introduced.

5 MR. NIXON: No objection.

6 (State's Exhibit 33 admitted in
7 evidence.)

8 Q Now, I'm gonna go slow, and I'm gonna go step by step.
9 Okay?

10 A Yes, sir.

11 Q After you looked out that window and saw Stan's Bronco,
12 where did you go from Mallory and Tiffany's room?

13 A Into the hall.

14 Q Now, which hallway is it? Is there a hallway between
15 the two bedrooms?

16 A Between two bedrooms.

17 Q When you come out of the hallway, what room did you
18 enter?

19 A The dining room.

20 Q Okay. And did you actually enter into the dining room?

21 A No, sir.

22 Q What room did you go into from the hallway?

23 A I entered into the dining room after I left the
24 hallway, but I saw -- I stopped in the hallway for a
25 few minutes because I saw the guy with the ponytail

1' standing on my back step.

2 Q Okay. so you saw him at the back door?

3 A Yes, sir.

4 Q Was the back door open?

5 A The steel door, but the storm door **wasn't**.

6 Q What was the guy with the ponytail doing at the back
7 door?

8 A At that time, he was just: standing there looking in.

9 Q I show you what has been marked as **State's** Exhibit
10 Number 29. Do you recognize the view in this
11 photograph?

12 A Yes, sir.

13 Q And what is that a photograph of?

14 A Of my kitchen.

15 Q And is that the view you can see by standing in that
16 hallway all the way through the kitchen and to the back
17 door?

18 A Yes, sir.

19 MR. JORDAN: I believe that's in evidence. Is
20 this in evidence already?

21 Q Now, which door did you actually go to?

22 A The front door.

23 Q And tell us what happened when you went to the front
24 door. Describe your front door *from* the inside of the
25 house.

1 A It's an oval -- It's a wood door with oval glass with a
2 steel thing and, I don't know, bevel glass, and then I
3 had a blind in it. and then I have a storm door in
4 front of it. And so I raised the blind up.

5 Q When you raised the blind, who did you see at the front
6 door?

7 A Stan.

8 Q The man sitting down right over there in his coat and
9 tie?

10 A Yes, sir.

11 Q And did you open the front door?

12 A yes, sir.

13 Q How do you open the front door?

14 A I left my keys in the deadbolt, so I had to unlock, the
15 deadbolt to open the door.

16 Q Okay. And you opened it -- unlocked the deadbolt, and
17 you opened the front door?

18 A I opened the front door.

19 Q And what happened then?

20 A Stan came in.

21 Q Okay. And what -- Did anybody come in with Stan?

22 A Well, Stan told Ponytail to come around, come around to
23 the front, man.

24 Q Okay. And did Ponytail come around to the front of the
25 house?

1 A Yes, sir.

2 Q Who came in the door first?

3 A **Stanberry**, Stan.

4 Q **And** who came in the door after Stan?

5 A Ponytail.

6 Q **Now**, as they came into the house -- **let's** go very
7 slowly. Tell me what happened first.

8 A Stan came in, and then **Ponytail** came in and pulled a
9 gun out.

10 Q Now, where did Ponytail pull the gun out from?

11 A I **couldn't** see it while he was outside. I **don't** know.
12 I suppose it was something he had concealed.

13 Q When he got inside, could you see where he pulled it
14 from?

15 A Out his shirt, **his** clothes or whatever. **His** shirt or
16 somewhere down here.

17 Q Okay. But the next thing you know, you saw Ponytail
18 with a gun?

19 A Yes, sir.

20 Q And after he pulled the gun, what did Ponytail **say**, **if**
21 anything, to you at that time?

22 A He told **me**, get over **there**, sit down, bitch.

23 Q And where did you go to sit down?

24 A I **sat** on the couch, on the sofa.

25 Q **And** what happened then?

1 A He told **we** to get off the sofa, get over there behind
2 the sofa and sit on the **floor**.

3 Q Who said that?

4 A **Ponytail**.

5 Q Always tell me **who's** saying what. **Okay?**

6 A Yes, sir.

7 Q So first you sat down on **the** couch, and then Ponytail
8 orders you to sit behind the couch?

9 A **Yes**, sir.

10 Q on the floor?

11 A Yes, sir.

12 Q Did **you** do what he said?

13 A **Yes**, sir.

14 Q And where did you sit on the floor?

15 A Right in between **my** dining room wall and the living
16 room wall, behind --

17 Q And is that -- I'm sorry.

18 A Behind the sofa.

19 Q Behind the sofa?

20 A Yes, sir.

21 Q Is that a hardwood **floor**?

22 A Yes, sir.

23 Q Now, who does what next. or who says what next at that
24 time?

25 A Stan asked me where the keys to the vault was. I told

1> him I **didn't** know. **And** so they went looking for those
2 Keys and then they got in a panic, like. And then Stan
3 said -- Stan said, here they are, **man**. He **got** the keys
4 out the front door. Then Stan went over there where
5 **Ponytail** had the gun **on me** and **told** me I better not
6 move or scream or holler or nothing; **he'll** kill me.
7 And so Stan went to the vault.

8 Q Let me back up a second. Did you ever say anything to
9 Stan at that point?

10 A Yes, sir, while Ponytail **was** in another room looking
11 around for the Keys, and I asked Stan, I said, Stan,
12 why are you doing this.

13 Q Hold on, now. **That's** what you actually asked Stem, the
14 man sitting right there?

15 A Yes, sir.

16 Q Your **husband's** friend **of** all **those** years?

17 A Yes, **sir**.

18 Q And could he hear you when you said that to him?

19 A Yes, sir.

20 Q Were you looking at him when you said it **to him**?

21 A Yes, sir.

22 Q And what did he say **to** you at that point?

23 A He said, we just came to get the guns.

24 Q Did he tell you what **was gonna** happen **to** you there?

25 A **No**, sir, he **didn't** tell me.

1 Q Did you at that time consider *Stan* to be your friend,
2 too?

3 A Yes, sir.

4 Q As well as your husband's friend?

5 A Yes, sir.

6 Q Did you know why he was doing this?

7 A No, sir.

8 Q Were you shocked or surprised at this time, Valerie?

9 A Very shocked.

10 Q Now, you just said the first: thing they started doing
11 was looking for the keys.

12 A Yes.

13 Q Now, let's go step by step. Do you remember what
14 Stanberry did when he was looking for the keys?

15 A He asked me where the keys was.

16 Q And what did you -- Who asked you?

17 A Stanberry.

18 Q The keys to what?

19 A To the vault.

20 Q And what did you tell Stanberry?

21 A I didn't know.

22 Q Was that true?

23 A No.

24 Q Did you know where the Keys were to the vault?

25 A Yes.

1' Q And where were the keys to the vault?

2 A On my key chain in the door, in the front door.

3 Q And why **didn't** you tell Stan where the keys were?

4 A Because I figured that if they **couldn't** find the keys,
5 they **would** just leave.

6 Q That's what you actually thought?

7 A **That's** what I thought.

8 Q And after you told **Stanberry** you **didn't** know where the
9 Keys were, what did he say or what did he do?

10 A They looked around, were looking around for the --

11 Q Let's don't, go to -they. **Let's** be specific. Tell me
12 **what** Stan did, **first**.

13 A Stan looked around the living room, and he went into
14 the kitchen and looked on the counter in the kitchen,
15 because he knew the vault keys was on my key chain.
16 And so Stan then -- Ponytail started **getting** a little
17 impatient and Stan --

18 Q When you say getting impatient, how was Ponytail
19 getting impatient?

20 A Aggravated like.

21 Q What makes you say that?

22 A Like ready to start speeding up looking for things.

23 Q What. **was** he doing that gave you the impression he was
24 getting impatient? **What** was he saying or doing?

25 A He **had** started moving real fast. He was moving slow

1 and the only time saw him move fast when he came from
2 the back porch to the front porch.

3 Q You saw him move fast then?

4 A Yeah.

5 Q And you saw him **move** fast when they were having a hard
6 time finding the keys to the vault?

7 A Yes, sir.

8 Q And who finally found the keys?

9 A **Stanberry**.

10 Q **And** where did he find them?

11 A In the front door.

12 Q And what did he **say**?

13 A He said, I got the keys, man.

14 Q Could you actually see **Stanberry** from where you were
15 sitting at the front door?

16 A **Yes**, sir.

17 Q And what did you see **Stanberry** do, or how did you see
18 **Stanberry** get the keys?

19 A He removed the keys from the front door **of** the lock.

20 Q And what did **Stanberry** do with the keys at that time?

21 A He went into -- went through the dining room into the
22 hall and opened the closet door, and then he opened the
23 vault.

24 Q Now, you have a closet door **that's** in front of the
25 vault?

1 A Yes, sir.

2 Q And what kind of vault is it?

3 A A steel vault with two locks on it, brown.

4 Q About how tall is it?

5 A About four feet tall.

6 Q And who bought that vault?

7 A I did.

8 Q Why did you buy it?

9 A Because we had kids in the house, and Mike bought all
10 those guns and stuff and I didn't want no -- them to
11 get hurt with the guns. He had too many guns.

12 Q So it was a good idea from a safety value, to have some
13 place to keep all those guns?

14 A That's the only reason I bought it.

15 Q And how did you open that vault?

16 A The same key fit both locks. You had to open one lock
17 at a time.

18 Q Where are the two locks?

19 A On the door of the vault to the side -- to one side.

20 Q Okay. And where are they in location to each other?

21 A About two feet apart.

22 Q There's one at the top?

23 A One at the top and one at the bottom.

24 Q And who actually took the key on your key chain and
25 opened the vault up?

- 1 A Stan.
- 2 Q Now, while Stan was doing that, where was Ponytail?
- 3 A In the living room with me.
- 4 Q And **what** was Ponytail **doing**?
- 5 A Had the gun held to ~~by~~ head.
- 6 Q **Now**, let's pretend I'm you sitting on "the floor. Okay?
- 7 A Okay.
- 8 Q Kind of give us an idea where Ponytail -- Let's pretend
- 9 **you're** Ponytail.
- 10 A Okay.
- 11 Q **Give** us an idea how he had the gun pointed at you at
- 12 that time.
- 13 A Like that.
- 14 Q Pointed down like that?
- 15 A Yeah.
- 16 Q When he had the gun pointed on you that way and when
- 17 Stan was at the metal vault, could you see **Stanberry** at
- 18 the metal vault?
- 19 A Yes.
- 20 Q Could you see him unlock the vault?
- 21 A I **couldn't** see him **actually** unlock **the** vault.
- 22 Q Could you hear him unlocking the vault?
- 23 A Yes, sir.
- 24 Q Could you hear him opening the vault up?
- 25 A Yes, sir.

1' Q Now, what happened then?

2 A Stan came back through the dining room area, and he
3 told Ponytail that he had to find a bag or a pillow
4 slip or something, and so he asked me did I know where
5 a pillowcase was. I said -- I told him no because I
6 was too nervous. I couldn't even think. And so --

7 Q Where did Stan first go to look for something, some
8 Kind of bag or something?

9 A In the kitchen.

10 Q Could you see him when he was in the kitchen?

11 A NO.

12 Q Could you hear him in the kitchen?

13 A No.

14 Q You just lost sight of him?

15 A Yes.

16 Q When he came back through the kitchen, what direction
17 did Stan go into then?

18 A Back towards my bedroom, back towards the vault.

19 Q Do you have to walk by the vault to get to your
20 bedroom?

21 A Yes, sir.

22 Q And did you see him actually enter into your bedroom?

23 A No, sir.

24 Q But you saw him go back into the area where the
25 bedrooms were?

1 A Yes, sir.

2 Q Did you hear anything going on in your bedroom at that
3 time?

4 A I heard a whole lot of rambling and stuff.

5 Q And where is Ponytail while **Stan's** back in the bedroom
6 area?

7 A Still in the living room with me.

8 Q Is he saying anything to you at that time?

9 A No. He just told me once, you better sit down and be
10 quiet. If you scream or holier, I'll kill you right --
11 right now. That's all he said.

12 Q And did he -- Did **Stanberry** finally come out of the
13 bedroom area?

14 A Yes, sir.

15 Q And when he did, what did **Stanberry** have with him, if
16 anything?

17 A A pillowcase.

18 Q And a **pillowcase** from whose bed?

19 A My bed.

20 Q Valerie, I want to show **you what's** been introduced as
21 State's Exhibit Number 29. Is that your bed and your
22 bedroom?

23 A Yes, **sir**.

24 Q And **was that** the sheets that **you** had on your bed that
25 day?

1 A Yes, sir.

2 Q And you see a pillowcase -- you see a pillow there
3 without a pillowcase?

4 A Yes, sir.

5 Q Was that like that when you answered the door **for**
6 **Stanberry**?

7 A No, sir.

8 Q And is that the same -- would **the pillowcase** match --

9 A Yes, sir.

10 Q -- that sheet and that bed pattern?

11 A Yes, sir.

12 Q **And** what did **Stanberry** do at that time?

13 A He came back to the vault, and I heard him taking
14 things out **of** the vault.

15 Q Could you see what he was taking out of the vault?

16 A No, not exactly, but I heard a lot of rambling and a
17 **lot** of -things was coaling out.

18 Q What did **Stanberry** do at that point?

19 A He came through the dining area, and he went to the
20 kitchen. I heard the back door open and close.

21 Q What happened next?

22 A And then I heard the door open and close again, and I
23 **saw** Stan come back into the dining area.

24 Q **And** was anything said at that time?

25 A No. Oh, yes. The guy with the Ponytail had told Stan,

1 we can get the VCR, microwave and stereo.

2 Q And what did **Stan** reply to that?

3 A Stan said, we don't have enough room for all that in
4 the truck.

5 Q And what happened after that?

6 A I don't know,

7 Q You **don't** know what: happened after that?

8 A **No.** The next thing after that I remember, I **was** in USA
9 Hospital.

10 Q Did you hear a gunshot?

11 A No.

12 Q Did you feel the gunshot?

13 A **No.**

14 Q Valerie, before this happened, were you able to walk?

15 A **Yes.**

16 Q Were you able to use your left arm?

17 A **Yes, sir.**

18 Q And since this happened, can you use your left. arm?

19 A **No, sir.**

20 Q Can you walk?

21 A (No audible response. Witness sobs.)

22 Q I show you **what's** been marked as State's Exhibit 25.

23 It shows a green mask and some orange gloves. Did

24 **Stanberry** wear any orange gloves on the day that you

25 let him into your **house**?

1 A No, sir.

2 Q Did he have a mask on, Valerie?

3 A No, sir,

4 Q Did Ponytail have a mask on?

5 A No, sir.

6 Q Or gloves?

7 A No -- No, sir.

8 MR. JORDAN: We'll take a short break.

9 Judge, can we take a brief break?

10 THE COURT; Sure.

11 (Recess.)

12 MR. JORDAN; Could you mark this?

13 (State's Exhibit 46 marked for
14 identification.)

15 THE COURT: Are you ready?

16 MR. JORDAN: Yes, Your Honor.

17 Q Valerie, do you have a pen there in your right hand?

18 A Yes, sir.

19 Q As best you can, I'm gonna stand up here close to you,
20 would you show the jury on that diagram where Meadow
21 Avenue is?

22 A Right here.

23 Q And where would Emmet Rogers live in relationship to
24 that drawing?

25 A He lived sort of on around the circle.

- 1' Q Who lives beside you?
- 2 A Lee.
- 3 Q I'm sorry?
- 4 A Lee **Pettway**.
- 5 Q And who lives beside Lee **Pettway**?
- 6 A **Emmet** Rogers.
- 7 Q And who does he live there with?
- 8 A His wife, Carolyn Rogers.
- 9 Q How do you know Carolyn?
- 10 A She was my sixth grade science teacher.
- 11 Q I'm sorry. Your sixth grade --
- 12 A Sixth grade science teacher.
- 13 Q At what school?
- 14 A Scarborough Middle School.
- 15 Q And who lives beside the **Rogers**?
- 16 A It was a yellow house. I don't -- I'm not familiar.
- 17 Q You **don't** know the people?
- 18 A **No**.
- 19 Q Now, who lives beside you on the other side of Meadow?
- 20 A Tyrone **Dortch**. He was living with Hazel.
- 21 Q Is that Hazel?
- 22 A Uh-huh.
- 23 Q And who lives besides the **Dortches**?
- 24 A **Roeshell**.
- 25 Q **Roeshell** who?

- 1' A I **don't** know him. I **don't** know her last name.
- 2 Q You know Roeshell?
- 3 A I know Roeshell.
- 4 Q And who lives beside --
- 5 A Oh, **Roeshell** Major.
- 6 Q **Roeshell** Major?
- 7 A Uh-huh.
- 8 A Who lives beside her?
- 9 A Clara **Malone**.
- 10 Q Clara, Larry?
- 11 A Roderick.
- 12 Q Roderick. How old is Roderick?
- 13 A Nine.
- 14 Q **That's** little Larry's brother?
- 15 A Yes.
- 16 Q Who does Clara live there with?
- 17 A Her husband and her two sons.
- 18 Q Where does her husband work?
- 19 A Barry Steel.
- 20 Q Where does Clara work?
- 21 A Eight Mile School.
- 22 Q And can you see your house -- I wean, can you see the
- 23 **Malone's** house from your house?
- 24 A Yes, sir.
- 25 Q Can you see the **Rogers'** house from your house?

1 A Yes, sir.

2 Q What's out here in this area?

3 A The median.

4 Q Now, show us your sidewalk on that drawing, the
5 sidewalk that goes to your front door.

6 A Right here.

7 Q And that's just a sidewalk?

8 A Yes, sir.

9 Q Take it all the way up to the front porch, if you
10 would, so we'll see where your front door is.

11 A (Witness complies.)

12 Q And where is your front door?

13 A Right here.

14 Q And what kind of doors are there there?

15 A A glass storm door, pull open the storm door and then
16 there's a solid wood door with an oval glass with a
17 beveled glass inside.

18 Q Were those the doors that were on the house when you
19 bought it, or did you add then?

20 A No, sir, we added then.

21 Q Where's your driveway?

22 A Be right here.

23 Q Take it all the way up. And what was in the back of
24 your driveway at the time this happened?

25 A A garage.

1 Q And what did you keep in the garage?

2 A Lawn mower, the thing, a air -- that they use to blow--
3 the ole air pump machine, and yard tools and bicycles
4 and all kind of tools and junk.

5 Q Did you drive your cars into that garage?

6 A Ho, sir.

7 Q And where would you keep the tree stand?

8 A In the garage.

9 Q That's where it was kept? So it was not kept in the
10 house?

11 A Ho, sir.

12 Q It was kept in the back in the garage?

13 A Yes, sir.

14 Q And that day, what kind of car was your husband driving
15 to work and back at the time this happened?

16 A I can't recall. He had a loud car. I remember it was
17 loud.

18 Q What kind of car did you have?

19 A I had just bought, a Ford Festiva.

20 Q Just bought; like, how old was it?

21 A Like two months old.

22 Q Two months old?

23 A At the most; might not have been that old.

24 Q Brand new car?

25 A Brand new car.

- 1 Q And who bought it?
- 2 A I did.
- 3 Q With whose money?
- 4 A My money.
- 5 Q And what color car -- what color was that car?
- 6 A It was blue with some -- you know, that new kind of
- 7 color blue had some -- I don't know -- metallic in it.
- 8 Q Who did you buy it from?
- 9 A Key Ford in **Pensacola**.
- 10 Q And where was that parked the day this happened?
- 11 A In the driveway.
- 12 Q About where?
- 13 A Right past -- right at -- because I can look right out
- 14 these windows and see the car right here.
- 15 Q Now, **going** to your house, **we'll** see as you go in the
- 16 front door -- take your pen with me. When you enter,
- 17 **what's** the first room you enter?
- 18 A A foyer.
- 19 Q **What's** the next room?
- 20 A The living room.
- 21 Q And what kind of furniture did you have in there?
- 22 A **Living** room suit, a **sofa/sleeper** and a love seat and a
- 23 coffee -- end tables and a coffee table.
- 24 Q What about pictures? Did you have any pictures in
- 25 there?

- 1 A Yes, I had pictures all **over** the wall,
- 2 Q Pictures of what?
- 3 A Home Interior. I had Home Interior. That's mainly
- 4 what I bought and I had some little brass candle holder
- 5 things.
- 6 Q Did you have any pictures of your children in there?
- 7 A Not on the wall but on the fireplace.
- 8 Q Where was the fireplace?
- 9 A Right here.
- 10 Q And what: pictures did you have up there?
- 11 A My kids. And then I had a picture -- **here's** a picture
- 12 frame right. I had pictures on the table. I had
- 13 pictures of my kids all over this table right here.
- 14 Q What about the den? Go to the den area. Is there a
- 15 door into the den?
- 16 A Yes, **that's** it **coming** right, off the living room here.
- 17 Q **And what's** in the den?
- 18 A It was just a daybed and T.V.
- 19 Q Now, **what's** the room behind the living room?
- 20 A The dining room.
- 21 Q And what **was** in the dining room?
- 22 A The dinette set.
- 23 Q Keep your pen up there for us. You had a table in
- 24 there?
- 25 A Table and chairs, and then I think I had -- yeah, I did

1 have another sofa over here.

2 Q Did you have -- Let me show you a photograph. **What's**
3 this photograph of?

4 A The **T.V.** and VCR.

5 Q **What's** it in?

6 A **It's** on a utility cart.

7 Q Where was that in your house?

8 A In the dining room, right here in the **corner**. It was
9 catty-corner.

10 Q And where is your kitchen area?

11 A Right here.

12 Q Where is your back door?

13 A Right here.

14 Q And are there steps to the back door, leading up to the
15 back door?

16 A Yes, sir,

17 Q Now, take us to -- If you walked into the front door,
18 take us in -- how do you get to your child's bedroom?

19 A You go through the -- This the foyer. You go through
20 the and come down the hall, and here's the **kids'** room
21 right here.

22 Q Keep your pen up there. **And** whose bedroom was that?

23 A Tiffany and **Mallory's**.

24 Q Just the **two girls**?

25 A Yes, sir.

- 1 Q Where would **Terrell** stay?
- 2 A When he came? He stayed with my mother and father.
- 3 Q Where would he stay when he came to your house?
- 4 A He would stay over here in the den.
- 5 Q Now, **did** Tiffany and **Mallory** have a window looking out
- 6 of their room?
- 7 A Yes, **sir**.
- 8 Q Where is the window in the diagram?
- 9 A Right here.
- 10 Q And looking out that window shows where you can see?
- 11 A Yes, sir.
- 12 Q Can you see outside your house?
- 13 A Yes, sir.
- 14 Q Can you see the driveway?
- 15 A Yes, sir.
- 16 Q Show us **how you** would see the driveway from that view.
- 17 A You would get and just look over towards the driveway.
- 18 Q All right. And is that the window you looked out that
- 19 day?
- 20 A Yes, sir.
- 21 Q And **that's** when you saw **Stan's** Bronco in the driveway?
- 22 A Yes, sir.
- 23 Q Now, **what's** between -- When you walk out the child's
- 24 bedroom, **what's** there?
- 25 A Like a hallway and the bath. **Here's** the bathroom,

1 because the hall was like a L-shape. It's a hallway to
2 my room and also into the kitchen and bathroom right
3 here.

4 Q Let me show you another photograph. I show you what's
5 been introduced as State's 28. What is that a picture
6 of?

7 A My room.

8 Q What is it specifically a picture of?

9 A My dresser and the T.V.

10 Q Now, if you would, show the jury where that was in your
11 bedroom at the time this happened.

12 A In this corner right there.

13 Q Where was the bed?

14 A Right back here on this wall facing toward the door.

15 Q And what kind of bed was it?

16 A It was a king-size waterbed with 12 drawers underneath
17 with a mirror headboard, bookcase with (unintelligible)
18 right-hand side.

19 Q Now, where is the vault where the guns were kept?

20 A In the hall closet. In this closet right here.

21 Q And what was in front of the vault?

22 A Two louver doors that pull out. There were four
23 drawers, but you know how they have two doors on one
24 door with the hinges, and you pull them out and they
25 slide back.

1 me to nod if I -- nod if yes or no -- if I was doing
2 fine, nod yes and nod no if I **wasn't**.

3 Q And how long were you actually at the hospital?

4 A A month.

5 Q And how long were you at Rotary?

6 A I was over there about **six** months.

7 Q And when you were released, where did you go?

8 A To my mother's house.

9 Q And then how long did you stay there?

10 A I can't -- I don't know. It was some months.

11 Q Where did you go from your mother's house?

12 A Into my apartment. I moved into an apartment.

13 Q Who is Uncle Freddy?

14 A That's **Mike's** uncle -- **that's** Angela's brother. **That's**
15 his mother's brother.

16 Q Would Mike ever sell him anything?

17 A Yes.

18 Q **What** did he sell him?

19 A A 1966 blue Chevy.

20 Q When did your problems with Mike **Finley** begin?

21 A We had been having problems off and on **just** like every
22 marriage would, but you talking about after I got shot?

23 Q **Right.**

24 A I had told him Stan had shot me, that he -- in the
25 house came and robbed me. He said Stan didn't and so

1' when he stopped believing me and so he, you know --

2 Q Did he tell you -that somebody else did it instead of
3 Stan?

4 A He told me (unintelligible) did.

5 Q So your own husband tried to tell you that; somebody
6 else was the one that did it?

7 A Yes.

8 Q After you had specifically told him it was Stan?

9 A Yes.

10 Q And **that's** when the problems began?

11 A Yes, sir.

12 Q Were you going to change your mind just because your
13 husband told you it **was** somebody else?

14 A No, sir.

15 Q **What** were you supposed to do that Monday?

16 A I was gonna have a party for Tiffany.

17 Q A party where?

18 A Supposed to be at Chuck-E-Cheese, but I **didn't** Have
19 that **much** money, so I was gonna take her to the parade
20 (unintelligible).

21 Q And what parade were you going to take her to?

22 A Prichard.

23 Q Did your husband, Mike **Finley**, call you that morning --

24 A No, sir.

25 Q -- prior to you being shot?

1 A No, sir.

2 Q That did not happen?

3 A No, sir.

4 Q Now, are you absolutely sure two men came into your
5 house that morning?

6 A Yes, sir.

7 Q Are you absolutely sure that one of them is in this
8 courtroom with us right now?

9 A Yes, sir.

10 Q And who is that?

11 A Rodney Stan -- Well, I call him Stan.

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

14 THE COURT: Ken, if you will, cone around here so
15 she **doesn't** have to move.

16 MR. NIXON: Yes, Judge.

17 THE COURT: I'm not telling you you have to sit up
18 there; wherever you want to go. I just **don't**
19 want her to have to move.

20 MR. NIXON: I would prefer to stand, Judge. I
21 **can't** talk very well when I'm sitting down.

22 CROSS EXAMINATION

23 BY MR. NIXON:

24 Q Mrs. **Finley**, my name is Ken **Nixon**. **We've** never met
25 before, have we?

1 A No.

2 Q I know this is difficult for you, but I'm gonna have to
3 ask you a few questions. If you can't hear what I ask
4 you, if you will, just ask me, and I'll be glad to
5 repeat it or rephrase it. Okay?

6 A Yes, sir.

7 Q I'm going to go back over a few things you said just to
8 clarify some things. This happened back in March the
9 2nd of 1992, correct?

10 A Yes, sir.

11 Q And since that time, Mrs. Finley, you have discussed
12 this case on several occasions, haven't you?

13 A Yes, sir.

14 Q And you've discussed it with Mr. Jordan many times.,
15 haven't you?

16 A Yes, sir.

17 Q And you've discussed your testimony with Mr. Jordan and
18 Mr. Smith many times before today, haven't you?

19 A Yes, sir.

20 Q And you went to the D.A.'s office, and you went over
21 how you were gonna testify, what you were going to say,
22 every detail about your testimony on many occasions,
23 didn't you?

24 A No, sir.

25 Q This case has been reset over the last three years many

1' times, hasn't it?

2 A Yes, sir.

3 Q Do you know how many times?

4 A No, sir.

5 Q And each time it was reset, you would go to the D.A.'s
6 office and go over your testimony, or he would talk to
7 you, and y'all would go over what you were going to
8 say? is that right?

9 A I would call him and -- See, I would just try to see
10 when was the trial gonna be, because it had been put
11 off so many times.

12 Q How many times, in your best estimate, did you discuss
13 your testimony with Mr. Jordan or someone from the
14 D.A.'s office or the police department?

15 A I don't recall.

16 Q Probably 15, 20 times?

17 A NO.

18 Q Ten times?

19 A It might have been ten over three years.

20 Q And before this trial you discussed your testimony with
21 Mr. Jordan, didn't you, the past couple of weeks?

22 A Yes, sir.

23 Q And you went to the D.A.'s office to do that, or did he
24 come to your house?

25 A He came to my house.

1 Q On how many occasions?

2 A Once.

3 Q And y^rall talked for how long?

4 A Maybe about an hour.

5 Q Did he show you the prior statements?

6 A No, sir.

7 Q Did he tell you he was going to ask you these details
8 about your family and where you've worked and where you
9 went to school and who your friends were and the date
10 that you were married and all of that thing -- all of
11 those things?

12 A He just said he might ask me some questions. He didn't
13 go into detail exactly what.

14 Q But he went over the questions he was going to ask you,
15 didn't he?

16 A No.

17 Q Didn't do that?

18 A No, sir.

19 Q He went over the areas he was going to ask you
20 questions about during that hour interview?

21 A Yes, sir.

22 Q What about Lebarron Smith, was he there? Did he talk
23 to you?

24 A He wasn't there.

25 Q Okay. Just Mr. Jordan?

1 A Or he **didn't** say anything.

2 Q Just Mr. Jordan?

3 A Just him.

4 Q Now, you said you moved in with your mother?

5 A Yes.

6 Q And how long did you live with your mother?

7 A For a few months --

8 Q After the shooting?

9 A Yes, sir.

10 Q So you say you **haven't** lived with your mother in over
11 two years?

12 A It hasn't been quite two years yet.

13 Q So it would have been --

14 A No, been a little over a year because at first I moved
15 our August the 9th in '93.

16 Q So **it's** been a lot more than two months after this
17 shooting, **wasn't** it? More like two years than two
18 months: **isn't** that right?

19 A Yes, sir.

20 Q Ma'am?

21 A Would you repeat that?

22 Q Okay. You said on direct examination that you moved in
23 with your mother when you got out of the hospital,
24 rather than going back home, right?

25 A Yes, sir.

1 Q And you said you lived with your mother for about two
2 months before you got an apartment.

3 A I didn't say that.

4 Q You didn't say that?

5 A I said a few months.

6 Q Okay. Well, it's more like a few years, wasn't it?

7 A No, sir. It's only been three years since I been shot.

8 Q I understand. Didn't you just tell me that you moved
9 out from your mother a year ago?

10 A Yes, sir.

11 Q Well, if it's three years since you been shot and you
12 moved out from your mother's house a year ago, then
13 that would have meant you lived with your mother for
14 two years after you got shot; is that right?

15 A No, sir.

16 Q Okay.

17 A I was in Rotary Rehab. I got out of Rotary Rehab and
18 went to ~~lay~~ mother's and stayed over there with her for
19 a few months. I think about a year. And then I moved
20 out, and I've been in my apartment going on two years
21 now.

22 Q okay. So you lived with your mother a year?

23 A Yes. It's about a year.

24 Q Via'am?

25 A Just about a year. I don't recall exactly how long.

1 Q So when you said you moved out of your mother's house
2 about a year ago, that would really be two years ago?

3 A No, that's not what I'm saying. I have been in my
4 apartment going on two years, and when I moved into my
5 apartment, I left my mother's house.

6 Q So you're saying you lived with your mother for a year,
7 and then you moved on your own, you've been living on
8 your own for two years; is that what you've telling us?

9 A Going on two years. November the 9th of this year will
10 be two years.

11 Q Why did you move out of your mother's house?

12 A Because I was grown, an adult, and that's what I wanted
13 to do.

14 Q Did you have a disagreement with your mother?

15 A No, I did not.

16 Q Haven't had one since the shooting?

17 A No, I haven't.

18 Q Or your sister?

19 A No, I haven't.

20 Q Now, you described and identified this Bronco that you
21 saw to Mr. Jordan, and you said you looked out your
22 window and saw that Bronco; is that correct?

23 A Yes, sir.

24 Q Now, you knew what Rodney Stanberry's Bronco looked
25 like, didn't you?

- 1 A Yes, sir.
- 2 Q He had been to your house hundreds of times, hadn't he?
- 3 A I don't want to say hundreds.
- 4 Q Well, he had been there a lot. You said he was your
- 5 husband's best friend, right?
- 6 A He had been there a lot.
- 7 Q He came over there all the time, didn't he?
- 8 A Basically.
- 9 Q And when he came over to your house, he would have to
- 10 drive around the circle to get out, wouldn't he?
- 11 A Yes, sir.
- 12 Q There's no way you can get out of your house without
- 13 going -- no way you can get to your house or from your
- 14 house without going down that street, is it, and going
- 15 around the circle?
- 16 A No, sir.
- 17 Q Now, Mrs. Finley, when you looked out. -- I'm trying to
- 18 find this photograph. How, I'm gonna show you state's
- 19 Exhibit Number 33 that you've identified and said
- 20 that's the view that you saw when you looked out the
- 21 window --
- 22 A Yes, sir.
- 23 Q -- and saw Rodney's car parked in your driveway.
- 24 A Yes, sir.
- 25 Q Or you saw the brown Bronco parked in your driveway.

- 1 A Rodney's Bronco.
- 2 Q And you said your car was parked there, also?
- 3 A My car was parked farther down.
- 4 Q So you **couldn't** see your car?
- 5 A Ho, sir. Not from that window.
- 6 Q When you looked out of the window, this is on this side
7 of the window, this photograph, right?
- 8 A Yes, sir.
- 9 Q The window goes on over here, right?
- 10 A Yes, sir.
- 11 Q So when you pull those shades up and you look out, you
12 can see clearly out the driveway, your front yard and
13 the medium, right?
- 14 A Yes, sir.
- 15 Q When you looked out in the medium, tell us what you saw
16 out in the medium.
- 17 A I saw Tyrone.
- 18 Q And what else did you see in the medium?
- 19 A He was out there working on his car.
- 20 Q Okay. That's Tyrone **Dortch**, your neighbor?
- 21 A I **don't** know his last name.
- 22 Q Okay, but it was your neighbor, Tyrone?
- 23 A Yes, sir.
- 24 Q And he **was** out working on a car?
- 25 A Yes, sir.

1 Q And what else did you see in the medium?

2 A Nothing but a telephone pole that's been out there all
3 the time.

4 Q Okay. And you're sure about that?

5 A Yes, sir.

6 Q And there was only one car that you saw?

7 A Yes. sir.

8 Q And that: was -- What: kind of car was Tyrone working on
9 in the medium?

10 A A wine colored Grand Prix with --

11 Q There weren't any other cars in the medium?

12 A I couldn't see any others.

13 Q You could have seen them clearly, if there were,
14 couldn't you?

15 A I could have.

16 Q So there weren't any other cars in the medium?

17 A No, sir.

18 Q Did you see any other people in the medium?

19 A No, sir.

20 Q Did you see Tyrone, or did you just see someone in the
21 medium?

22 A I saw Tyrone.

23 Q Do you recall how he was dressed?

24 A No, I don't recall.

25 Q And what time was this?

1 A I don't know exactly what time, but it was in the
2 morning.

3 Q You can't be any closer to the time than in the
4 morning?

5 A It was before 12.

6 Q At no time when you looked out -- Well, there was
7 nothing to impede your view of the medium, was it?

8 A No, sir.

9 Q And you're positive there was only one car there and
10 one person, and that was Tyrone?

11 A Yes, sir.

12 Q Was his car parked in the middle of the medium or close
13 to the telephone pole or --

14 A It was parked there in front of the pole facing my
15 house. The hood was facing my house.

16 Q Okay. Now, you said Rodney was your husband's best
17 friend. He was your friend, too, wasn't he?

18 A I thought he was.

19 Q Yes, ma'am. You never had any problems with Rodney
20 before, did you?

21 A No, I didn't.

22 Q And y'all went and did things together, you and your
23 husband and Rodney, didn't you?

24 A Not all the time. I only went -- We went fishing once
25 together once before then. We went target shooting one

1 time. That were the only time I went with then. The
2 only other time, Stan came to the house. That was the
3 only time I was with them together.

4 Q You never went anywhere else with your husband and
5 Rodney over the entire time that you knew him?

6 A Like I said, we went fishing and we went target
7 shooting at one time.

8 Q That's the only time you went anywhere with him?

9 A That's the only time I can recall.

10 Q But. he came and ate dinner at your house?

11 A Yes, sir.

12 Q Visited, played with your children?

13 A Yes, sir.

14 Q He never said a harsh word to you, did he?

15 A No, sir. That's why I say I thought he was my friend,
16 also.

17 Q Now, you say that he is heavier now than the person
18 that came in your house that day. How much heavier?

19 A His stomach got a little bit bigger.

20 Q Is he taller or shorter?

21 A No.

22 Q Now, this brown Bronco that Stan was driving at. the
23 time, it had some markings on it, didn't it?

24 A Yes, sir.

25 Q And do you know what those markings said? You've seen

1' the photograph.

2 A I **don't** recall, but I know he got it changed. When I
3 **saw** it -- I **don't** recall what exactly it had. I
4 remember he had on there "**One** night stand" on the front
5 once before and "Humping and Bumping" on the back.

6 Q On the front of the Bronco it says, "**One** night stand,"
7 doesn't it?

8 A Yes, sir.

9 Q The sticker on the front **of** the Bronco. And that was
10 on there well before the shooting, **wasn't** it?

11 A Yes, sir, but he had got it changed several times.

12 Q Got it changed several times before that?

13 A Yes, sir.

14 Q He had a sticker on the back, **didn't** he, too?

15 A Yes, sir.

16 Q Do you recall what that said?

17 A It was "Humping and **Bumping.**"

18 Q Are you sure about that?

19 A Yes, sir.

20 Q These stickers were rather large, **weren't** they?

21 A Yes, sir.

22 Q Now, you said that you only met one person from Mew
23 York. Is that what your testimony is?

24 A Yes, sir.

25 Q And that person you refer to as **Ponytail**?

1 A That's what Stan -- I met him through Stan. If it
2 wouldn't been for Stan, I wouldn't know him now.

3 Q I understand that, but that is the person that you
4 referred to as Ponytail in your direct examination?

5 A Yes, sir.

6 Q And is it your testimony that you never met another
7 person that was from Hew York, a person named wish or
8 Ihoe?

9 A Yes, sir, I never met him.

10 Q And you're sure about that?

11 A I'm positive.

12 Q How, when you said you went to Axis and shot -- target
13 shot.

14 A Yes, sir.

15 Q And let's talk about that for a minute. You're
16 positive that a person named Wish or Ihoe was not
17 there?

18 A I don't know. I didn't know the people's names. They
19 didn't introduce me to then.

20 Q All right. Well, I thought you said on your direct
21 examination that when you went to Axis and Creola --
22 Excuse me -- when you went to Axis to target shoot --
23 well, strike that.

24 Tell us about that day. That was the Saturday
25 before this happened, wasn't it?

- 1 A Yes, sir.
- 2 Q And who did you go to Axis with?
- 3 A My ex-husband.
- 4 Q You and Mr. Finley?
- 5 A Yes, sir.
- 6 Q Did you ever tell anybody that you rode up there with
- 7 Rodney? Rodney came by and picked you up?
- 8 A No, sir.
- 9 Q You never **said** that?
- 10 A I **don't** recall. I think he did come by to pick us up,
- 11 but **we** drove **by** car instead. .
- 12 Q Well, are you sure about that?
- 13 A Yes, sir.
- 14 Q Did you ever **tell** the police that you and Mike **Finley**,
- 15 your ex-husband, rode up to **Axis** on that Saturday with
- 16 Rodney **Stanberry** and the Ponytail?
- 17 A I may have, but I meant all us **went** together. They was
- 18 in one vehicle and we was in the other.
- 19 Q Okay. So you may have told them that?
- 20 A I may have.
- 21 Q But that **didn't** happen, did it?
- 22 A That did not happen.
- 23 Q Do you remember going up there and shooting and target
- 24 practicing?
- 25 A Yes, sir.

1 Q Do you know a person named Taco?

2 A No, sir.

3 Q Was a person named Taco up there that day?

4 A I don't remember. I don't know the names of the people
5 who was up there.

6 Q You said that it was you and your ex-husband, Mike
7 Finley, and Rodney and the person you call Ponytail.

8 A Yes, air.

9 Q That's Rene?

10 A Yes, sir.

11 Q And you didn't mention anybody else being up there, did
12 you?

13 A Yes, sir.

14 Q Who else was there?

15 A It was a trailer -- We went behind a trailer and then I
16 asked Mike who lives in that trailer. He say a guy
17 named Dick (phonetic).

18 Q Okay. My question was who else was up there shooting
19 with y'all.

20 A No one else was shooting.

21 Q You're sure about that?

22 A Well, somebody came by in a truck and got out and shot
23 or something, but. as far as who went up there with us,
24 no one else went with us.

25 Q You're sure about that?

1 A I'm --

2 Q You and your husband, your ex-husband, Mike --

3 A Yes, sir.

4 Q And it was Rodney and this person you call Ponytail --

5 A Yes, sir.

6 Q -- that went up there together.

7 A Yes, sir.

8 Q And nobody else?

9 A Not went up with us. It was some more people already
10 up there.

11 Q Did anybody else shoot your guns or Rodney's guns?

12 A I'm not sure because I don't have a gun. I don't own
13 my own gun.

14 Q Well, you shot --

15 A I shot one of my husband's, ex-husband's guns.

16 Q Well, while you were there, did anybody other than you
17 and Mike Finley, Rodney and the person you call
18 Ponytail shoot your guns?

19 A I can't recall.

20 Q Was there someone else there with y'all shooting?

21 A No, sir, but, as I said, somebody drove up. Dick's
22 wife was inside the trailer with the kids.

23 Q Okay. Who drove up? I mean, did they drive up and get
24 out and come over where you were and start, shooting
25 with you?

1 A They drove up and got out and started looking around,
2 but I don't recall what they did after that. They were
3 shooting, so what -- I don't know who shot what because
4 I was more concerned for the kids in the trailer, they
5 were riding around the trailer on their tricycles,
6 because I tried to keep them back.

7 Q My question was, did those other people that you say
8 drove up -- was it two people?

9 A I don't recall.

10 Q Was it more than two people?

11 A I don't recall. I don't know how many people it was
12 because, as I said, I wasn't paying any attention then.

13 Q Well, the people that drove up, did they come over to
14 where you were and your husband and Rodney?

15 A By that time when they drove up, I just went some more
16 closer to the trailer.

17 Q Did you see them come up to where you were, where y'all
18 were shooting?

19 A I saw they was getting out of the truck. When I saw
20 them get out of the truck, I just proceeded on closer
21 to the trailer. So at that point, I wasn't paying no
22 attention to what they were doing then.

23 Q So you don't remember whether they came up to where
24 y'all were shooting and shot your guns or not?

25 A They went back there, as I say. I was not back there

1 when they got out the truck and went back there and
2 started -- because the shooting kept on. I went over
3 there watching about the kids cause I didn't want them
4 to get in -- be involved getting in the bullet -- in
5 the line of fire no kind of way.

6 Q Now, when you left, you got in the car with Mike and --

7 A No, Mike got in the car with me.

8 Q Okay. And y'all came home. Did y'all leave before
9 Rodney Stanberry left?

10 A No, sir.

11 Q Rodney Stanberry left first?

12 A All us left together.

13 Q Okay. And did you see who got in the car with Rodney
14 Stanberry?

15 A Rene -- ponytail.

16 Q Rene is Ponytail?

17 A Uh-huh.

18 Q Was there anybody else that got in the car with Rodney?

19 A I didn't pay no attention.

20 Q Well, you could have seen, couldn't you?

21 A I didn't -- I can't recall.

22 Q You don't recall that?

23 A No, sir,

24 Q Now, how many times had Rene come to your house before
25 that day?

- 1' A Maybe about twice.
- 2 Q And was anybody ever with him?
- 3 A He was with Stanberry every time he came.
- 4 Q Nobody else?
- 5 A No.
- 6 Q Did you ever see him with anybody other than Stanberry?
- 7 A No, sir.
- 8 Q Did you ever hear your husband refer to or talk to or
- 9 see your husband talk to a person that he called Ihoe
- 10 or Wish?
- 11 A No, sir.
- 12 Q Now, you said your husband left to go to work. What
- 13 time does he go to work?
- 14 A He supposed to had been there at 7:00.
- 15 Q And what time does he usually leave?
- 16 A I'd say about 6:55.
- 17 Q Was he running late that morning?
- 18 A He was running late just about every morning.
- 19 Q Do you know what time he left that morning?
- 20 A He left, I think, right at 7:00. IM not sure.
- 21 Q Not sure about that?
- 22 A Because he be late so much.
- 23 Q And you were in bed, right?
- 24 A Yes, sir.
- 25 Q Now, you said that the children were at your mother's

1 house.

2 A Yes, sir.

3 Q They spent the night there?

4 A Yes, sir.

5 Q And that Mike, your husband, had told you Sunday night
6 that he would pick up the kids and bring them home.

7 A The next morning.

8 Q Right. And that would have been Monday morning?

9 A Yes, sir.

10 Q Then Monday morning when he got up to go to work, he
11 told you that he wasn't gonna get the kids, he was
12 running late; you would have to get them?

13 A Yes, sir.

14 Q That's your testimony?

15 A Yes, sir.

16 Q And did you say okay?

17 A No, sir.

18 Q What did you say?

19 A I said, I could have got them last night while I was
20 still on 65 but you said you were gonna go get them. I
21 said you be late just about every day, so go on and get
22 them anyway.

23 Q And he said he wasn't gonna get them?

24 A He said he wasn't gonna get them.

25 Q Okay. So when he left there, it was his position that

1' you were gonna go get the kids?

2 A I don't see how it was his position that I was gonna go
3 get the kids because I didn't say I would.

4 Q Well, didn't he tell you, you go get then?

5 A I don't do what he tell me to do.

6 Q Okay. Did he tell you that, though?

7 A He said --

8 Q Ma'am?

9 A He had said -- He just said he wasn't gonna pick them
10 up.

11 Q He wanted you to go get them?

12 A He didn't say that. He just said, you go -- He said he
13 wasn't gonna pick them up and left.

14 Q Well, you just said -- I thought you said on direct
15 that he said, you go pick them up. Is that what he
16 said?

17 A That's what he said earlier, but when I kept fussing
18 with it and he didn't say anything else, he just --

19 Q So he did say that earlier?

20 A yes.

21 Q So when he left, there, he was expecting you to go get,
22 the kids?

23 A No, he wasn't.

24 Q When he said that, he wanted you to go get the kids?

25 A That's what -- He wanted me to go get them.

1 Q And you had the ability to go get the kids, right?

2 A Yes, sir, I did.

3 Q You had a car that worked?

4 A Yes, sir.

5 Q Parked in the driveway, and there was nothing to
6 prevent you from getting the kids?

7 A No, sir.

8 Q And you say you don't recall him leaving you money for
9 gas and telling you to get some gas in the car?

10 A He didn't because he didn't even have any money. I had
11 all the money myself because he would ask me for money
12 to buy some beer in Mississippi that night -- that day
13 before.

14 Q Was the car out of gas when y'all came in that night?

15 A No, sir.

16 Q It was low on gas, wasn't it?

17 A No, sir.

18 Q Okay. Are you sure about that?

19 A Yes, sir, because I had got it filled up in Mississippi
20 before we came back. So, it had a lot of gas in it.
21 because it takes about a quarter of a tank of gas to go
22 to Meridian in that little car.

23 Q So Mike left around 7:00 that morning, right?

24 A Around. I'm not for sure.

25 Q Well, he had to be at work at seven?

1 A I think so.

2 Q Well, that's what time he usually -- Everyday he has to
3 be at work at seven, doesn't he?

4 A No, sir.

5 Q He has different hours that he comes in in the morning?

6 A They change the shifts so regular. See, sometimes they
7 tell them to come in at 6:30 for about three or four
8 months, and then they start telling them to come in at
9 7:00 for another three or four months, and then 8:30.
10 He has been at 8:30 to 4:30.

11 Q But at that time he was coming in at seven, wasn't he?

12 A I think so.

13 Q And you had been awake since 3:00 in the morning?

14 A Yes, sir.

15 Q And after he left, you stayed in bed, right?

16 A Yes, sir.

17 Q How long after he left was it when your sister called?

18 A I was talking to her on the phone when he left.

19 Q You were talking to your sister on the phone?

20 A As he left the house.

21 Q And how long did you talk with her?

22 A We talked all the way up to the time Stan came to the
23 house.

24 Q How long was that?

25 A We had been talking about -- I think we took about

1 three or four hours.

2 Q You talked three or four hours?

3 A Yes, I do that every day.

4 Q Your **sister's** named Brenda Gay, right?

5 A But it might not -- I might not talked to her that
6 long, **but** I usually **be** on the phone every day a lot.

7 Q Okay. **I'm** asking you about this day, Mrs. **Finley**.

8 A I might have talked to her for two hours.

9 Q **You're** pretty sure **about** that?

10 A I'm not sure, but I know it was a long time.

11 Q It was more than ten or 15 **minutes**?

12 A Yes, sir.

13 Q You're positive about that?

14 A Positive.

15 Q Did you talk to anybody else?

16 A **No**, sir.

17 Q Do you recall Mike calling you that morning?

18 A Mike did not call me **that** morning.

19 Q **At 8:30**?

20 A He did not call me at 8:30.

21 Q **You're** sure **about** that?

22 A I'm positive.

23 Q **Y'all** were going to Show Biz that night, weren't you?

24 A We were going somewhere, but I really **hadn't** decided
25 where **we** were going.

1 Q Well, on your direct testimony, I thought you said
2 something about Show-Biz and tokens. Didn't you say
3 something --

4 A Chuck-E-Cheese.

5 Q Excuse me?

6 A Chuck-E-Cheese.

7 Q Chuck-E-Cheese. Okay. You said that in response to
8 one of Mr. Jordan's questions, didn't you?

9 A Yes, sir, but Mike was not going with us.

10 Q What did you say to Mr. Jordan about Chuck-E-Cheese and
11 tokens?

12 A We went to the parade -- I was planning on going to the
13 parade because I didn't have that much money left after
14 we came from Mississippi and so we'd let them have fun
15 at the parade for a while, and then they wouldn't want
16 too many tokens to play all that stuff at Show Biz.

17 Q And then they wouldn't want too many tokens?

18 A Yeah, where they would be too tired to play too much.

19 Q So you don't recall -- You're saying Mike Finley never
20 called you and told you that a friend --

21 A Mike never called me.

22 Q -- was going to have some tokens for y'all that night?

23 A No, he did not.. He never called me and told me that.

24 Q Now, you said that you talked on the phone for two
25 hours. Are you confident about that; it was at least

1 two hours?

2 A Im **not** sure how long *it* was. It **was** a long time to be
3 on the phone.

4 Q It was much more than 30 minutes or an hour, **wasn't** it?

5 A More than -- Yes, more than 30 minutes.

6 Q Could it have been longer than two hours?

7 A I don't think **so**. I'm not -- like I say, Im not sure.

8 Q Well, you told me three or four hours at first.

9 A I said I talk on the phone as much as three or four
10 hours a day.

11 Q Well, Im not asking -- I'm asking about, this
12 particular day. That's what I'm concerned --

13 MR. JORDAN: Judge, we've been over this four
14 times, and **she's** already stated this at least
15 twice. **It's** somewhat cumulative, and **it's**
16 going forward, back, forward, back.

17 THE COURT: I **think she's** answered it, too, but go
18 ahead.

19 Q So two hours to four hours, somewhere in that range; is
20 that your testimony?

21 A That's --

22 MR. JORDAN: Judge, if I could ask him what his
23 question was. **How** long she talks on the
24 phone in general or how long she talked on
25 the phone --

1' MR. NIXON: Judge, she knows what my question is.

2 MR. JORDAN: Judge, **I don't know** what the question
3 is.

4 MR. NIXON: I'll rephrase the question.

5 Q Mrs. **Finley**, that morning, **that's** all I care about,
6 okay, this morning, March the **2nd**, 1992. You talked to
7 your sister on the telephone that morning,

8 A Yes.

9 Q **And** you told me some different time frames. **Was** it
10 somewhere between two hours and four hours that you
11 talked to her?

12 A **No**, sir.

13 Q Okay. Tell me how **long** you talked to her.

14 A It was more than an hour. Like I said, **I can't** say for
15 sure because I **don't** look at no **clock** when **I'm** on the
16 phone.

17 Q But it; was more than **an** hour?

18 A **Yes**, sir.

19 Q And you **were** laying in bed while you were talking to
20 her?

21 A **Yes**, sir.

22 Q You didn't talk to anybody else that day?

23 A No, sir.

24 Q Now, you said that Mike told **you** that morning **that**
25 Rodney was **coning** by to pick up a tree stand?

1 A Yes, sir.

2 Q And the tree stand is kept in the garage, **isn't** it?

3 A Yes, sir.

4 Q You **don't** need to go in **the** house to get the tree
5 stand, do you?

6 A No, sir.

7 Q And it **wasn't** hunting season, was it?

8 A No, sir.

9 Q And Rodney and Mike, they hunt deer, didn't they?

10 A Yes, sir.

11 Q And do you recall Mike **Finley**, your ex-husband, telling
12 you back in December or January that Rodney was gonna
13 come by and pick up a tree **stand** one day?

14 A Rodney came by to pick up the tree stand up a bunch of
15 times.

16 Q Okay. Do you remember Rodney telling you -- Excuse me.
17 Do you remember Mike telling you back in December or
18 January **that** Rodney's **gonna** come by and pick up the
19 tree stand?

20 A I don't know, but it was just about **every** month **of** the
21 hunting season he told **me** that.

22 Q Mike told you that often?

23 A **Yes**, sir.

24 Q Now, you said that while you were talking on the phone
25 the doorbell rang.

1 A Yes, sir.

2 Q Are you sure about that?

3 A Yes, sir.

4 Q Positive?

5 A Positive.

6 Q Now, when you were questioned by the police, you **didn't**
7 tell them that the doorbell rang, did you?

8 A I'm not sure. I **don't** recall.

9 Q Do you remember telling them that someone was **banging**
10 on the back door, that that's what you noticed first?

11 A Yes, sir.

12 Q And somebody was banging on the front door?

13 A Yes, sir.

14 Q And now you're telling us that it was a doorbell that
15 rang?

16 A The doorbell rang at the front and a guy was at the
17 back, he was banging on that back door, the screen
18 door, because the steel door **was** wide open.

19 Q But you **didn't** tell the police that you heard the
20 doorbell ring. You told the police that you heard
21 banging, and that's when you laid the phone down; isn't.
22 that true?

23 A I might have. I **don't** recall.

24 Q You **don't** remember that? And you said you saw Stan at
25 the front door?

- 1 A Yes, sir.
- 2 Q And you said you got up and you saw Stan at the front
- 3 door.
- 4 A I didn't see Stan at the front door.
- 5 Q Okay. You said you saw somebody at the back door.
- 6 A Yes, sir.
- 7 Q Because the back door was open but the screen door was
- 8 closed?
- 9 A Yes, sir.
- 10 Q And you don't normally leave the back door open, do
- 11 you?
- 12 A No, sir.
- 13 Q It's usually locked, isn't it?
- 14 A Yes, sir.
- 15 Q Did you tell the police that the back door was open
- 16 when you talked to them?
- 17 A Yes, sir.
- 18 Q Was the screen door -- storm door locked?
- 19 A Yes, sir.
- 20 Q The back storm door?
- 21 A Yes, sir.
- 22 Q And you can't get in that back storm door if it's
- 23 locked, can you, without damaging it or breaking it?
- 24 A No, sir.
- 25 Q Now, when you went to the front door after you say you

1 saw Stan, you unlocked the front door.

2 A Yes, sir.

3 Q How were you dressed?

4 A I had a green little T-shirt like set on because I just
5 jumped up and put it on right quick.

6 Q You put it on after you got out of bed?

7 A Yes, sir.

8 Q So you got up, you got dressed, and then you went to
9 the door?

10 A It just slipped right on because it's like T-shirt
11 material.

12 Q And you unlocked the door with your set of keys?

13 A Yes, sir.

14 Q That's the same set of keys that had the key to the
15 vault and some other keys on it?

16 A Yes, sir.

17 Q They were on a key ring?

18 A Yes, sir.

19 Q Now, your storm door on the front was locked, also,
20 wasn't it?

21 A No, sir.

22 Q It was not. locked?

23 A No, sir.

24 Q You normally keep that door locked, don't you?

25 A Normally we did because we used the back door. But

1 when you go in one door, you have to have -- one screen
2 have to be unlocked.

3 Q Ma'am?

4 A One screen door would have to be unlocked when he
5 leaves out. You can't lock both screen doors.

6 Q Doesn't that door lock when it shuts automatically, the
7 screen door?

8 A No, sir, it don't, supposed to lock from the inside.

9 Q Do you know whether Mike left the front or the back
10 that day?

11 A I don't know.

12 Q Are you saying today that when you opened the door,
13 that Rodney Stanberry pushed his way in?

14 A He didn't push his way in, but he --

15 Q Did you let him in?

16 A No, I did not.

17 Q Did you open the door?

18 A No, I didn't. I opened the wood door. He came in the
19 storm door himself,

20 Q How did he do that?

21 A Just took the handle and came on in. He took the
22 handle and opened the door and came on in.

23 Q The door opens back, doesn't it?

24 A Yes, sir.

25 Q You didn't tell him not to, did you, this person?

1 A No, sir.

2 Q Did you ever tell the police that they pushed their way
3 in, this person pushed their way in?

4 A No, sir, I don't recall. I'm quite sure I didn't.

5 Q Did you think something was unusual when you saw one
6 person, this person you call Ponytail, at the back and
7 you saw or heard Rodney or someone else at "the front?

8 A Yes. When I saw Ponytail at the back and Rodney at the
9 front; door, I thought that was unusual.

10 Q But you unlocked the door, anyway?

11 A But I thought he ~~was~~ my friend and so I said -- I
12 thought if they came here to do anything --

13 Q You ~~didn't~~ think he would have any reason to do
14 anything like that, did you?

15 A I didn't think he would.

16 Q Matter of fact., he had -- you've seen his gun
17 collection, haven't you?

18 A No, sir. I just saw the guns he Had purchased.

19 Q You know Rodney's got a bunch of guns, ~~don't~~ you?

20 A Yes, sir.

21 Q And you saw a bunch of guns of Rodney's when y'all went
22 up to Axis, didn't you?

23 A No, sir, I wasn't paying his guns no attention.

24 Q Well, you know your husband goes to gun shows with
25 Rodney over the years and they've bought a lot of guns,

1' haven't they?

2 A Yes, sir.

3 Q And you knew that Rodney had quite a gun collection,
4 didn't you? You've seen them yourself, haven't you?

5 A Like I say, I might have seen one gun at a time, but I
6 don't recall what they was.

7 Q Now, how are you saying the person named Ponytail got
8 inside your house?

9 A Stan called him around the front, so he entered the
10 front" door.

11 Q How did he call him?

12 A Said, come around the front, man.

13 Q He hollered?

14 A Yes.

15 Q Stan was at the front of the house?

16 A Uh-huh. Well, he beck-- cause the guy, Ponytail, could
17 see him and so Stan said come on around this way.

18 Q Stan was inside your house?

19 A Stan was inside.

20 Q And the other guy was outside in the backyard?

21 A In the back. He was on the back porch.

22 Q Porch. And you're saying the person hollered come
23 around?

24 A He did and beckoned for him to come on around the
25 front. He said it loud, come on around the front.

1 Q And this person you call Ponytail came in through the
2 front door --

3 A Yes, sir.

4 Q -- after that; is that right?

5 A Yes, sir.

6 Q Did you ever see any -- You said one person had a gun
7 on you.

8 A Yes, sir.

9 Q Was he holding it with one hand or two hands?

10 A One hand.

11 Q Are you sure about that?

12 A Yes, sir.

13 Q You showed Mr. Jordan that he was holding it like this
14 with one hand. Is that --

15 A He was. Then Stan, he was holding with -- Well,
16 sometimes they would hold -- because they held a gun on
17 me more than one time between the two of them, and so
18 **sometimes** they would hold it with both hands.

19 Q Mrs. **Finley**, you **didn't** say anything on direct
20 examination about Mr. **Stanberry** ever holding a gun on
21 you, did you?

22 A I **don't** think he asked me.

23 Q Well, are you telling us now that Mr. **Stanberry** had a
24 -- He asked you every other detail about everything
25 **that** happened **that** day, **didn't** he?

1 A I think so.

2 Q Are you telling us now that **it's** your testimony now
3 that you saw Rodney Stanberry with a gun?

4 A Yes, sir.

5 Q And they were using the same gun; is that what you're
6 saying?

7 A I'm not sure whether they had the same **gun** or not.

8 Q Well, you told us how this other person -- you told us
9 where he took the gun from, what part **of** his body, and
10 you told us how he was holding it on you, but you never
11 mentioned anything about Rodney **Stanberry** with a gun.

12 A He did there inside the house. So after he got inside
13 the house, he told me to sit down and be quiet. I
14 wasn't -- Stan had went on back into the vault room. He
15 could have **got** one of **the** guns out the vault, so I
16 **don't** know whether that was a gun out of the vault.

17 Q When did you see Stan, the person that you say is
18 Stanberry, with a gun?

19 A When he was over my head with a gun pointed at **my** head.

20 Q When was that in this scenario of events?

21 A In the living **room** at the same time I was sitting on
22 the floor during that same time period.

23 Q Where was the other person that had been holding the
24 gun on you?

25 A He had went through the house, wandering through the

1' house. I don't know what he was doing.

2 Q I thought you told us that Stanberry was the one
3 wandering through the house while the other guy had the
4 gun on you.

5 A I said both of them. They took turns wandering through
6 the house, but the other guy got agitated.

7 Q Are you sure about that?

8 A Yes, sir.

9 Q Don't you think that's kind of important that Mr.
10 Stanberry, the person that's on trial here today, that
11 you saw him holding a gun on you?

12 A Yes, sir, that's why I told you when you asked me.

13 Q And you never told the police that you saw Stanberry
14 holding a gun on you, did you?

15 A I think I did.

16 Q You think you did?

17 A I know I did.

18 Q Have you reviewed your statements that you made to the
19 police?

20 A No, I haven't.

21 Q You have not?

22 A No, I haven't.

23 Q That would have been something that you surely would
24 have told the police, wouldn't it?

25 A I did tell them.

1' Q You did tell them?

2 A Yes, sir.

3 Q And you're positive about that?

4 A Yes, sir. They might not have understood me, understood
5 what I was saying because my voice is getting better
6 and better every day. I know y'all can't really
7 understand everything I --

8 Q You made a tape-recorded statement, didn't you?

9 A Yes, sir.

10 Q And you're positive that you told them that Rodney
11 Stanberry had a gun on you at that time?

12 A Yes, sir.

13 Q And you're just as positive about that as you are
14 everything else you told us here today, right?

15 A Yes, sir. But I heard the tape-recorded statement, and
16 that was supposed to have been my voice, and at that
17 time I couldn't even understand what I was saying, but
18 I knew what I was saying, but, see, you couldn't get no
19 head nod or shakes on the tape recorder.

20 Q When Mr. Jordan was asking you questions awhile ago and
21 asking you about every detail that happened in that
22 house, you didn't think it was important then to tell
23 us that Rodney Stanberry, the person on trial here, had
24 a gun pointed at you, did you?

25 A He didn't ask me. I answered every question he asked

1 me.

2 Q Didn't he ask you what happened?

3 A He -- What now?

4 Q Tell us what happened. He tracked every event, didn't
5 he?

6 A I called myself doing that.

7 Q Did you overlook that little detail?

8 A I can't recall. I think I had told him. I'm not sure.
9 I said more than one time that he had a gun on me -- he
10 held a gun on me.

11 Q Now, you said that -- you looked at these photographs
12 of the mask and the gloves, right?

13 A Yes, sir.

14 Q And you never saw those before; is that your testimony?

15 A I'm not saying that. They look familiar. My husband
16 got gloves and a mask just like those.

17 Q Your husband, Mike Finley?

18 A Yes, sir.

19 Q You never told anybody that, either, did you?

20 A Yes, sir, I told them. Yes, sir. I (unintelligible)
21 tell then that today.

22 Q You told them that just a minute ago?

23 A But I didn't -- when they first came out, they asked me
24 did the people that came in the house have gloves and a
25 mask on. If they would have had a glove or mask on, I

1' couldn't even identify -- how can you identify somebody
2 with a mask on?

3 Q That's what we're trying to determine, ma'am.

4 A They did not have a mask on.

5 Q Are you saying that the glove and mask was your
6 husband's?

7 A I'm not saying that. I said he had a set of gloves and
8 mask like that. It might not be the same ones.

9 Q Might not be?

10 A It might not be. It might.

11 Q Now, neither one of these people had gloves on?

12 A No, sir.

13 Q Neither one of them had anything else on their hands?

14 A No, sir.

15 Q While they were going through the drawers in your
16 bedroom, they didn't have gloves on?

17 A No, sir.

18 Q You said Rodney Stanberry went in the kitchen and was
19 looking for the keys up under the counter --

20 A I'll say it like this. They didn't have any gloves on
21 or a mask on when they came in the house and when they
22 ventured out into other areas of the house, I don't
23 know what they might have done because I couldn't see
24 into every room.

25 Q Well, you said you saw them searching around and

1' looking around --

2 A I heard. I said I heard.

3 Q -- for the keys.

4 A Yes.

5 Q You **saw** them looking for the keys.

6 A I **saw** them in an area that I could see around in the
7 living room and dining area.

8 Q Let me rephrase my question. Your testimony is you saw
9 this man right here open the front door and come in,
10 right?

11 A Yes, sir.

12 Q And you **saw** this **man** right here get the keys out of the
13 door, right?

14 A Yes, sir.

15 Q And you saw -- did **you** see **him** go into the vault?

16 A Yes, sir.

17 Q You **saw** that?

18 A Yes, sir.

19 Q And you saw him go into the kitchen looking for the
20 keys under the counter, **didn't** you?

21 A No, sir. I can't see in the kitchen from the living
22 room.

23 Q Okay. **And** at no time did **you** see anything on either
24 one **of them's** hands?

25 A No, sir.

1' MR. NIXON: **Just** one second, please, Judge.

2 Q How long had Tyrone been living **next** to you, Mrs.
3 **Finley**?

4 A I'm not sure.

5 Q Pretty good while?

6 A Yes, sir.

7 Q And you said you **saw** his **plum** colored Grand **Prix**?

8 A Yes, sir.

9 Q And did he have another Grand Prix?

10 A Yes, sir.

11 Q What color was it?

12 A He had a burgundy and white.

13 Q He had **two** Grand Prix, **didn't** he?

14 A Yes, sir.

15 Q And do you know of any other cars **theft** he had?

16 A I **don't** know.

17 Q **That's** all he had, **wasn't** it?

18 A I'm not sure. I **dn't** know.

19 Q Is that all that you saw over there at his house?

20 A When?

21 Q **The** weeks before this.

22 A I know he had a wine Grand Prix that he had redid up,
23 and then he had another white Grand Prix. All **of** his
24 cars **was** the same. I think he had three in all.

25 Q **You're** not really sure?

1' A Grand Prix. I'm almost sure. I'm pretty sure.

2 Q You weren't big friends with Tyrone, were you?

3 A We were just neighbors, but when he saw me, he spoke.

4 Q But he didn't come over to your house and eat dinner
5 with you or --

6 A No, sir.

7 Q -- go to the boats with you and Mike or anything else,
8 did he?

9 A No, sir.

10 Q He was just a neighbor that you saw on occasion and
11 spoke to you?

12 A Him and Mike friends.

13 Q Sir?

14 A Him and Mike friends.

15 Q They didn't go off together, did they? They didn't go
16 to the boats or go out to eat together or anything, did
17 they?

18 A No, They used to go -- they went a few times that I
19 can recall, but they didn't never just go out like him
20 and Stan went places together.

21 Q Was there a green car in your yard that day that you
22 saw?

23 A No, sir. I didn't see one.

24 Q When you clean up your house normally, do you turn your
25 couch over?

1 A No, sir.

2 Q You **don't** do that? The gun vault that you have, that
3 you described, does it have a handle that you open **it**,
4 with?

5 A I just would pull it open with the Key.

6 Q Does it have a handle that you have to turn?

7 A I can't remember; **it's** been so long.

8 Q You **don't** remember that?

9 A No, sir. It had one you turn. It had one you just **put**
10 your hand in like this and pull, pull out. **That's** what
11 I think.

12 Q Put your fingers in and pull?

13 A Yes, sir.

14 Q So if someone opened that **vault**, they would have to put
15 their fingers in and open it up?

16 A I'm not sure, but I know -- but I never did use a
17 handle. I **just** pulled it open with a key.

18 Q And you said the next thing you remember after this
happened was waking up in the hospital and your **mother**
20 and your sister and Dr. **Webber** were there?

21 A Yes, sir.

22 Q Do you know how many days after this happened that that
23 was when you woke up in the hospital?

24 A I'm not sure.

25 Q Have you, since this happened -- Do you know **now**? **Have**

1' you looked back at your records or -- was it a week or
2 was it a month or do you have any idea?

3 A I stayed at University of Alabama, South Alabama, for
4 one month, approximate.

5 Q I'm trying to get an idea of when you first woke up
6 that you were talking about. If you could, tell us
7 what the date was. Was it the next day or a week
8 later?

9 A I think it was about the next week, but I wasn't
10 talking. I think I, like, just nodded my head when my
11 mother asked me did I know who did this to me. She
12 said, if you know who did this to you, nod your head
13 yes or no.

14 Q You don't know when that was?

15 A No, I'm not sure because it wasn't a calendar in the
16 room.

17 Q Do you remember being showed a photo spread while you
18 were in the hospital?

19 A Yes, sir.

20 Q Do you remember who showed you that photo spread?

21 A A man and woman from the Prichard Police Department:.

22 Q And did you recognize anybody in that spread?

23 A Yes, sir.

24 Q Who did you recognize?

25 A Stan and the guy with the ponytail.

1 Q You sure about that.?

2 A Yes, sir.

3 Q And was this the first time that you talked to the
4 police?

5 A Yes, sir.

6 Q The very first time? And this was when you couldn't
7 talk, right?

8 A Yes, sir.

9 Q Detective Fletcher came out there?

10 A Yes, sir.

11 Q And showed you two sets of photographs?

12 A Yes, sir.

13 Q And you say you picked out Stan from one of them?

14 A Yes, sir.

15 Q And that you picked out; Ponytail from the other one?

16 A Yes, sir.

17 Q And you're sure about that?

18 A Yes, sir.

19 Q Who was in the room when that occurred?

20 A I think my sister, Brenda, was over there with me
21 because somebody stayed over there with me at all
22 times.

23 Q is that Brenda Gay?

24 A Yes, sir.

25 Q Brenda Gay or your mother were with you at all times,

1 weren't they?

2 A No, sir.

3 Q The majority of the **time** you were at the hospital?

4 A I had somebody there with me at all times.

5 Q Some of your family?

6 A Yes, sir.

7 Q And did they tell you what happened after you woke up?

8 A No, sir.

9 Q Did they tell you **about** getting the guns back or any of
10 that?

11 A No, sir. **Mike** told me when he got the **guns** back.

12 Q Did they tell you that they had seen Mike at the
13 hospital with the jewelry **that** he claimed had been
14 stolen?

15 A Yes, sir.

16 Q They told you that when?

17 A I **can't** recall.

18 Q They told you that Stan had got the guns back to Mike
19 or showed Mike where the **guns** were?

20 A No, sir. A friend **of** my son had told his mother that
21 when Stan and Mike pulled back **up in** the yard, he went
22 down to the yard and in the driveway and saw Mike with
23 the guns and **stuff**, and so **Stan** -- Sam, he told **me** that
24 he said, oh, Mike, you got your guns back, huh. And
25 Mike said, yeah, man.

- 1 Q You're telling us that your family members never told
2 you that **Stan** got the guns to Mike?
- 3 A No. I told them.
- 4 Q They never told you?
- 5 A No.
- 6 Q And what friend told you this?
- 7 A Sandra **Murphy's** son, Sam, little Sam Murphy.
- 8 Q He came to the hospital and told you this?
- 9 A No, sir.
- 10 Q When did he tell you this?
- 11 A His mother -- I talked to him on the phone, I think. I
12 **can't** recall. I know he was the one told ~~me~~.
- 13 Q From the hospital?
- 14 A I **don't** know where I was.
- 15 Q Well, do you remember when you first learned that the
16 guns had been recovered and that Mike, your husband,
17 recovered them?
- 18 A Yes, I remember.
- 19 Q When was it?
- 20 A I was in the hospital. Reverend **Powe** had told me that
21 something seemed strange about that whole situation.
- 22 Q So Reverend Powe?
- 23 A Yes, sir.
- 24 Q Is he the one who told you?
- 25 A He had told me because he had told my mother that --

1 Q I just asked you if **he's** the one that told you that
2 your husband recovered his guns.

3 A I **don't** remember who told me.

4 Q But somebody did?

5 A Someone did.

6 Q You got suspicious at that point of your husband?

7 A I was suspicious of him already.

8 Q You were already suspicious of your husband?

9 A Yes, sir.

10 Q Now, **you're** telling us -- or did you tell us that Mike
11 Finley, your husband, told you that Horace Reynolds is
12 the one who shot you?

13 A Yes, sir.

14 Q And when did he tell you that?

15 A In the hospital when I was up in the room in USA
16 Hospital.

17 Q How long after you had been shot?

18 A I was talking -- I had -- I was talking, so I had told
19 him. When I told him Stan and the guy with the
20 ponytail did this to me, then **that's** when he came up
21 with, Stan **couldn't** have did this.

22 Q And he told you at that point that Horace Reynolds is
23 the one who did it?

24 A Yes, sir.

25 Q That's what you're telling us today?

1 A Yes, sir.

2 Q And Horace Reynolds, who is he?

3 A A guy that went hunting with Stan and Mike.

4 Q You never told the police that, did you?

5 A I **can't** recall -- I **don't** know.

6 Q You never told anybody that until you just testified,
7 did you?

8 A I told my family.

9 Q You told your family?

10 A I know I told them. I **don't** know who I told.

11 Q Did you tell the police that Mike, your ex-husband,
12 told you that Tyrone **Dortch** had told him that he saw
13 **Stanberry** there?

14 A No, sir.

15 Q You never told the police that:?

16 A No.

17 Q **You're** sure about that?

18 A I might have. I **can't** recall. Mike said so much --
19 See, he was saying so much to try to screw me up until
20 it -- if I **didn't** go along with that little game he was
21 playing, it --

22 Q So your answer is you **don't** recall?

23 MR. JORDAN: **He's** cutting her **off**. Judge.

24 MR. NIXON: I'm **trying** to **get** her to answer my
25 question, Judge.

1 MR. JORDAN: She was trying to answer the
2 question. She had not finished.

3 THE COURT: Mrs. **Finley**, do you want to answer
4 any further?

5 THE WITNESS: As I was trying to tell him what
6 happened, he kept on coming up with other
7 things that they **didn't** put in. **And** so he
8 saw I wasn't gonna go for that, after he **saw**
9 I wasn't gonna change my mind about -- after
10 he couldn't convince me that Stan didn't do
11 it, he started getting **worser** (sic) and
12 worser **with** me, so we **became** distant at that
13 time.

14 Q Now, my question is, did Mike tell you that he had
15 talked **to Tyrone** and that **Tyrone** told him, Tyrone
16 **Dortch**, your neighbor, Tyrone told him that he saw Stan
17 at your house that morning?

18 A Yes, I think **so**. I'm not sure.

19 Q You're not sure about that?

20 A I'm not sure. I told Mike because I had already told
21 Mike that Stan had did this to **we**, then he said
22 somebody else had said that **they** saw Stan Bronco in **the**
23 yard, saw him in the yard, so Mike left the hospital
24 that night. He said he was gonna go get that **MF**.

25 Q You told the police that Mike, your husband, told you

1' that the neighbor, Tyrone, saw Stan over there that
2 morning, **didn't** you?

3 A Yes, sir, I think so. **I'm** not sure. **It's** been so
4 long.

5 Q You **don't** remember that?

6 A I **don't** recall. Like I say, **you're** trying to get me
7 all twisted up.

8 Q No. If you **don't** recall, that's fine. And **you're**
9 saying that Mike **Finley** told you, also, that Horace is
10 the one who did it, **Horace** Reynolds?

11 A Yes, sir. Then I asked him, I said, how you know
12 Horace Reynolds did it. I said, you **wasn't** there. I
13 said, I was there. I know who shot me. I know who was
14 in my house that morning. I said, Horace Reynolds was
15 not there. I said, Stan and the guy with the ponytail
16 was the only ones there that morning.

17 Q How many times did you talk to Detective Fletcher?

18 A It **wasn't** many.

19 Q Ma'am?

20 A It **wasn't** too many, maybe once or twice. At that time
21 when I saw **Sgt.** Fletcher I **wasn't** even talking that
22 well, hardly at all.

23 Q Do you remember telling Detective Fletcher that you saw
24 a white man at your house that morning?

25 A No, I did not.

1 Q You never told him that?

2 A No.

3 Q Did you tell Detective Fletcher that you went to the
4 back door first?

5 A No, sir.

6 Q And that. there was no one there?

7 A No, sir. As I say, he might not understood what I was
8 saying because I **wasn't** talking clear at all.

9 Q Did you tell Detective Fletcher that you had burglar
10 bars?

11 A No, sir.

12 Q And you already told us that you **didn't** tell the police
13 that they pushed their way in.

14 A They came in. I **didn't** ask them to cone in. They just
15 came in on their **own**.

16 Q Okay. Valerie, do you remember Detective Fletcher
17 coming to the hospital with a female police officer
18 with him and talking to you?

19 A Yes, sir.

20 Q **That's** the same day that you say you picked Mr.

21 **Stanberry** out of a line-up, **isn't** it?

22 A Yes, sir.

23 Q The sane interview?

24 A Yes, sir.

25 Q And that was Detective Fletcher and that **was** Police

1' Officer Jackie Arnold, a female black police officer,
2 wasn't it?

3 A I **don't** know her name.

4 Q But it was a female police officer?

5 A Yes, sir.

6 Q And she was black?

7 A Yes, **sir**.

8 Q And your sister, Brenda Gay, was there, **wasn't** she?

9 A Yes, sir.

10 Q Was there anyone else in the room that day?

11 A No, sir. I **don't** recall.

12 Q Do you remember that interview?

13 A Yes, sir.

14 Q And did you understand what Detective Fletcher was
15 asking you at that time?

16 A Yes, sir.

17 Q Did you ever tell your sister, Brenda **G**ay, you **didn't**
18 know who did this?

19 A I said I **didn't** know which one shot me. I didn't never
20 say I **didn't** know who did it, who was in my house that
21 morning.

22 Q So you did tell her that you **didn't** know?

23 A I **didn't** know which one of the two shot me.

24 Q **A**nd you've reviewed that statement, **haven't** you?

25 A Yes, sir. I have reviewed that statement. I don't

1' remember all that's --

2 Q Would you like to see it?

3 A I just remember I said I don't know. Like I said, --

4 MR. NIXON: Judge, may I approach the Bench?

5 THE COURT; Sure.

6 THE WITNESS: I don't know who shot me.

7 MR. JORDAN: Wait. **That's** not -- she doesn't **say**
8 that on there.

9 Q Would you please take a look at this statement, and see
10 if you remember if **that's** the questions that **were** asked
11 to you by Detective Fletcher and that was the interview
12 that was given?

13 A Yes, this **was** it.

14 Q Is that the way it went down that day?

15 A Yes, because I **wasn't** talking then.

16 Q Correct, but you understood **and** you heard everything
17 that **was** said.

18 A I understood everything, yes, sir.

19 Q And you have a memory of that now?

20 A I never did forget that.

21 Q okay. **Now**, this statement that was provided to me by
22 the district **attorney's** office has Detective **Fletcher's**
23 name and your name here, but it also refers to female
24 and unknown female. Is it your testimony that the
25 other two people in the room that were **female was**

1 Detective Arnold, or a female police officer, and your
2 sister?

3 A Yes, sir.

4 Q Can you tell the jury which one of those unknown
5 females said --

6 MR. JORDAN: Now, Judge, this is hearsay. What
7 somebody else said --

8 THE COURT: Let him finish asking the question,
9 please. Ask your question.

10 A I couldn't figure that out myself.

11 MR. NIXON: May I ask my question, Judge?

12 MR. JORDAN: Go ahead.

13 THE COURT: Ask your question.

14 Q My question is, Mrs. Finley, you've already established
15 that you remember this interview, that you remember who
16 was there --

17 A Yes, sir.

18 Q -- and that you understood what was asked you --

19 A Yes, sir.

20 Q -- that you heard everything that was asked you.

21 A Yes, sir.

22 Q Now, what I'm asking you is, they haven't told me who
23 these unknown females are. You told me that. I'm
24 asking you where it says in this taped transcript, did
25 she know who hurt her, and an unknown female said, she

1 told me she didn't know. Do you know who said that?

2 A That don't say unknown female. That just say female.

3 Q One of them is an unknown female, and one of them is
4 female, correct?

5 A Yes.

6 Q Now, can you tell me which one of the females made that
7 statement in your presence?

8 A I do not know.

9 Q Was it your sister?

10 A I don't know. They should have put her name by it.

11 Q I agree with you. I wish they had, but I'm asking you,
12 do you recall whether it was your sister that said, she
13 told me she didn't know?

14 A It might of been.

15 Q And did you, in fact -- You, in fact, did tell your
16 sister, Brenda Gay, that you didn't know, didn't you?

17 A I told a lot of people I didn't know which one of the
18 two that shot me, but I knew it was one or the other.
19 I don't deny that at all.

20 Q And you're sure that during this interview the photo
21 spread that was shown to you, you picked out Rodney
22 Stanberry's photograph?

23 A I pointed.

24 Q You were never shown any other line-ups or any other
25 photo spreads other than that day, were you?

1 A Yes, sir.

2 Q You **were**?

3 A Yes, sir.

4 Q And was that sometime afterward?

5 A I **can't** recall whether it was the same day or later.

6 Q But on that day you were shown two photo spreads,
7 correct?

8 A I think so. I'm not sure.

9 Q Well, please think carefully. **It's** important. You
10 said you remember that day. **You** were shown two photo
11 spreads, correct?

12 A I **don't** know. What you mean by photo spreads?

13 Q I **mean** a card or a piece of cardboard with a bunch of
14 photographs on it.

15 A No, I just had pictures like you would take with a
16 camera.

17 Q Oh, okay. So just snapshot photographs?

18 A Yes, sir.

19 Q And how **many** photographs was it?

20 A I **can't** say. It **was** a bunch of them.

21 Q Five, six?

22 A I **can't** recall.

23 Q Were they pictures of one person or a group of people
24 or --

25 A A group **of** people on some of them, on most of them.

1 Q And were some of them individuals?

2 A No, I **didn't** see not one with one person on it.

3 Q That was the first time you had been shown any
4 photographs, wasn't it?

5 A Yes, sir.

6 Q You told your husband that you **didn't** want to come back
7 and live with him when you left the Rotary Rehab
8 Center, **didn't** you?

9 A I said I **wasn't** going back to stay there.

10 Q And a divorce action is pending now, **right**?

11 A **We're** divorced.

12 Q You've been divorced, **but the** issue of custody **of** your
13 children is still pending, **isn't** it?

14 A Yes, sir.

15 Q And **that's** pending until after this trial is over?

16 A **Yes**, sir.

17 Q And **that's** because you told the **judge**, the divorce
18 judge, that your husband hired **somebody** to kill you?

19 MR. JORDAN: Judge, this is --

20 A No, sir, I did not tell him that.

21 Q **You** never told him that?

22 A No, sir.

23 Q Do you believe that?

24 A Sir?

25 Q **You** believe that, though, **don't** you?

1 A Yes, sir.

2 Q You think that your husband hired somebody to kill you?

3 A Yes, sir.

4 Q And that's why the divorce case has been reset and
5 reset in the last year --

6 A I don't know why it's --

7 MR. JORDAN: Judge, this is not fair to her that a
8 judge --

9 THE COURT: She's doing fairly well answering the
10 questions, Mr. --

11 MR. JORDAN: Okay. Well, I mean -- okay.

12 Q Do you know any other reason why the case has been
13 reset and reset and reset?

14 A I don't know why he's doing that.

15 Q It's been reset every time this case, this criminal
16 case, has been reset, hasn't it?

17 A No, it haven't. It's been reset for a different
18 reason, and I can't remember why.

19 Q The fact is, if Mr. Stanberry gets convicted here
20 today, then you're going to get your children, you
21 think, don't you?

22 A No, sir. He don't have anything to do with me getting
23 my kids.

24 Q Your husband has custody of your children now, doesn't
25 he?

1 A Yes, sir. The only thing he had to do with me losing
2 my kids in the first place

3 Q Did you ever tell anybody that you saw a -- Well,
4 strike that. Have you told us everything that you felt
5 was important, the important details about that day?

6 MR. JORDAN: Judge, I object to this question.

7 This involves --

8 THE COURT: I see nothing wrong with it.

9 Overruled.

10 A I've answered any of those questions that you asked me.

11 Q Well, have you told us every significant detail or
12 every detail that you feel -- that was significant
13 about what you saw that day in response to either Mr.
14 Jordan's questions or my questions?

15 A As you ask me, it come back to me, that they --

16 Q As I ask you, it comes back to you?

17 A Yes, because, like, as soon as all this over with, I
18 just want to try to get it out of my mind completely,
19 but I know that will never happen.

20 Q Did you see a white girl in the Bronco?

21 A No. I don't know who was in the Bronco.

22 Q Did you see a white girl in the Bronco while it was
23 parked in your driveway?

24 A I didn't see anyone in the Bronco.

25 Q Did you tell the police or anybody else that you saw a

1' white girl in the Bronco while **it** was parked --

2 A I **don't** recall.

3 Q You **don't** recall or you **didn't**?

4 A I **dn't** recall.

5 Q You could have "told someone you **saw** a white female in
6 the Bronco?

7 A I could have, and I could --

8 Q That would not be true, though, would it?

9 A I **don't** recall.

10 Q You **don't** recall whether there was a white female in
11 the Bronco?

12 A I **dn't** recall.

13 Q **That's** a pretty significant fact, **isn't** it?

14 A For a white girl being being --

15 Q Im asking you right now, when you looked out the
16 window and you told Mr. Jordan that you remember it
17 clearly and you could see clearly, you **saw** the Bronco.
18 Did you see a white female in the Bronco?

19 A I **don't** recall. The windows was tinted.

20 Q You **don't** -- Well, then **you're** saying you **didn't** see a
21 white female in the Bronco.

22 A I **don't** recall. It could have been anything in there.
23 I **dn't** recall.

24 Q I'm not asking you what could have been. I'm asking
25 you what you **saw** --

1 A I don't know.

2 Q -- with your eyes, ma'am.

3 A I don't know.

4 Q You don't know what you saw?

5 A I don't know whether a white female was out in the
6 Bronco or not.

7 Q Please listen to my question. You said you saw the
8 Bronco clearly when you looked out the window.

9 A Yes, I saw the Bronco clearly.

10 Q I'm asking you here today, when you saw it clearly, did
11 you see a white female in the Bronco?

12 A I don't -- I didn't.

13 Q You did not?

14 A I'm not sure.

15 THE COURT: Ken, put a red mark wherever you are.

16 We'll go to lunch. We'll be back at 1:15.

17 (Lunch recess.)

18 * * * * *

19 AFTERNOON SESSION

20 (Jury present.)

21 THE COURT: You want me to tell you your last
22 question?

23 MR. NIXON: Yes, sir, Judge, please.

24 THE COURT: Well, I'm not sure if what I'm
25 thinking about is the last one. Read him his