

1                   Next witness.

2           MR. NIXON: Call Dennard Jones, Judge.

3                   Judge, I would ask **that -- this** is a hostile  
4                   witness. I would **ask** that --

5           MR. JORDAN: Judge, could **we** have some showing of  
6                   that outside the presence of the jury.

7           THE COURT: You already have.

8           MR. JORDAN: We **haven't** had that, Your Honor.

9           THE COURT: I thought we discussed this Monday  
10                   morning. I know **it's** been a long time ago.

11                   **Come** around here, please, sir.

12           MR. JORDAN: Judge, I'm not familiar with that on  
13                   the record and I --

14                   (Witness sworn.)

15           THE COURT: **Wasn't** this on the record Monday  
16                   morning, Barbara?

17           REPORTER: I **don't remember**, sir.

18           MR. NIXON: State your name, please.

19           THE COURT: Wait a minute. I **don't want** something  
20                   not to be on the record. Come on up here.

21                   (sidebar conference **as** follows:)

22           THE COURT; I know we talked **about** it. I **don't** know  
23                   **if it's** on the record or not.

24           REPORTER: If **Taco** is Dennard Jones --

25           THE COURT: He **is** one **of** the ones **that** was in **that**

1 motion in limine. I'm positive of that. But  
2 just briefly for the record, why should I allow  
3 you to --

4 MR. NIXON: Judge, in the -- (inaudible) got a  
5 statement from this man as to (inaudible) --  
6 first got a statement -- (inaudible) --  
7 the second of which -- (inaudible) -- is  
8 involved in this crime.

9 THE COURT: I don't want to know what he thinks.  
10 You can ask him what he thinks, but why he  
11 thought something --

12 MR. NIXON: Ko, I'm not going to do that, I'm just  
13 telling you why I --

14 THE COURT: Go ahead. You may do so. Over his  
15 objections.

16 MR. NIXON: Yes, sir. Thank you, Judge.

17 MR. JORDAN: Judge, the problem we're getting into  
18 here is Taco didn't see anything. He heard a  
19 lot of stuff, and this and that. It's all  
20 based on --

21 THE COURT: He's not going to testify what he heard.

22 MR. NIXON: As long as he don't --

23 THE COURT: There's no way in the world this man is  
24 going to testify what he heard.

25 (End of sidebar conference)

DENNARD EUGENE JONES

was sworn and testified as follows:

DIRECT EXAMINATION

BY MR. NIXON:

Q Tell us your name, please

A Dennard Eugene Jones.

Q How old are you, Mr. Jones?

A Twenty-seven.

Q And do you go by any other name?

A Taco.

Q Taco?

THE COURT: Taco. T-A-C-O. Taco,

MR. NIXON: Yes, sir.

Q And tell us how you know Rodney Stanberry.

A Well, I knew Rodney Stanberry for many years from growing up in the neighborhood, Bessemer Projects, and that's where I met Rodney.

Q And did you know -- You knew Rodney in March of '92?

A Yes.

Q And you knew Mike Finley, didn't you?

A Well, not at the time that I known Rodney, no.

Q Where did you meet Mike Finley?

A I didn't meet Mike Finley until -- Im not precise about the date.

Q Okay. You remember two guys coming from New York that

1 you met in March of '92?

2 A Yes.

3 Q And what were their names?

4 A Well, I know one of the guys by a street name. They  
5 called him Wish.

6 Q And describe Wish for me.

7 A Tall, muscular build, brown skin, low haircut.

8 Q And the other guy, describe him.

9 A He was a Indian named **Rene**. I believe his last name was  
10 **Whitecloud** or something like that, but he had very long  
11 hair, straight good hair.

12 Q Did you ever see that hair in a pony tail?

13 A Excuse me?

14 Q Did you ever see that hair in a pony tail?

15 A No, I just seen it hanging down.

16 Q Okay. Now, you know **Tyrrell** (phonetic) Moore?

17 A Yes.

18 Q And how do you know Terrell Moore?

19 A The same neighborhood. He grew up in the neighborhood  
20 where I moved to.

21 Q How long have you known Terrell Moore in March of '92?

22 A I know Terrell since -- I'd say about five years before  
23 that time.

24 Q So, at that point in March of '92 you had known Terrell  
25 for five years? **That's** the same Terrell that was here at

1 court yesterday, isn't it?

2 A Yes.

3 Q Tall fellow that had the hat on?

4 A Yes.

5 Q Now, in March of 1992 or thereabout tell us when you  
6 first net Wish and Rene, the two guys from New York.

7 A Well, I net him when **Stanberry**, Rodney Stanberry, went to  
8 the bus station to pick them up. They had come in town  
9 to visit.

10 Q And when was that?

11 A I **don't** know the date.

12 Q **Was** it before or after **Mardi Gras** Day?

13 A I'm not sure.

14 Q Do you recall the day that Valerie **Finley's** house got  
15 **robbed and she got shot?**

16 A Well, I **don't** recall the date, but -- or the day, but --

17 Q Do you recall when it happened?

18 A Yes.

19 Q And you met Wish and Rene before that?

20 A **Yes**, before that.

21 Q How long before that?

22 A I'd say about a week or two.

23 Q Okay, And that week prior to that you stayed with them,  
24 **didn't** you?

25 A Yes. I **was** more or less like just -- I was just showing

1        them around town while they were here, you know.

2        Q        Did anybody ask you to show **them** around town?

3        A        Well, no, not actually. I was just doing it as a favor  
4        to the Defendant.

5        Q        To Rodney?

6        A        **Yes.**

7        Q        Okay. You knew that Rodney -- They were **Rodney's**  
8        friends?

9        A        Yes.

10       Q        And Rodney worked that week, **didn't** he?

11       A        He worked every day.

12       Q        Now, that week preceding the day that Valerie **Finley's**  
13       house got robbed, tell us how many nights you stayed with  
14       them and where you stayed.

15       A        Well, I **can't** recall how many nights, but they just, you  
16       know, stayed in various hotels.

17       Q        Did Rodney **Stanberry** ever stay with you all in a hotel?

18       A        **No.**

19       Q        Now, who did stay with you at a hotel, you and wish **and--**

20       A        It was just me. I was the only one staying there.

21       Q        You, Wish, and Rene?

22       A        Yes.

23       Q        Now, what about Terrell? Did **Terrell** Moore stay with you  
24       all at a motel?

25       A        **No**, he didn't stay. He just would **come** by.

1 Q Did you all -- Were you all going out partying? What  
2 were doing during the night?

3 A Basically **that's** what we **were** doing, you know, going out.  
4 I was introducing them to girls and taking them to  
5 different clubs, you know, just to have --

6 Q Do you recall going to Axis, Alabama, and target  
7 practicing?

8 A Yes.

9 Q And when was that?

10 A I **don't** recall the date, but I believe the day we went  
11 on, I'm not sure, I believe it was on a Saturday.

12 Q And who went?

13 A It was me, Rodney **Stanberry**, **Rene**, Wish, and Mike **Finley**  
14 and his wife, they -- **they** net us up there about 15  
15 **minutes** after we got there.

16 Q Okay, and who brought guns?

17 A Mr. **Finley** brought some guns up there.

18 Q Rodney brought some guns?

19 A I'm not **sure**. I **don't** --

20 Q What about Wish? Did Wish bring guns?

21 A No.

22 Q How many guns were up there? Or do you recall?

23 A I don't recall. It was a lot of them.

24 Q Lot of guns?

25 A Yeah.

1 Q Did you shoot the guns?

2 A Yeah, of course.

3 Q Wish shot the guns?

4 A Everybody that was up there shot.

5 Q Did Terrell go up there that day?

6 A No.

7 Q Terrell Moore?

8 A No.

9 Q What kind of car did Terrell Moore drive at that time?

10 A He had a blue-gray Caprice (sic).

11 Q Mercury Capri?

12 A Sort of like a -- Looked Like a Mustang.

13 Q Mercury Capri?

14 A Yes.

15 Q And was he driving it that week?

16 A He drove it every day. It's his car.

17 Q You rode in that car before?

18 A I rode in it -- Well, I rode in it the day that the  
19 incident happened.

20 Q Did you introduce Terrell Moore to Rodney?

21 A More or less, you could say so, yeah.

22 Q That week, right?

23 A Well, he -- He met Terrell when he was with me on, you  
24 know, different occasions, but he didn't know him  
25 personally.



1 Q Okay. Now, the night before this happened -- This  
2 happened on a Monday, is that right?

3 A I don't recall what day it was.

4 Q Okay. Well, you've given a couple of statements in this  
5 case, haven't you?

6 A Yes, and I have reason for that.

7 Q I understand. But the night before this happened, did  
8 you spend the night at the motel with Wish and Rene?

9 A Yes, I was.

10 Q Okay. What motel was it?

11 A Motel Six off the Beltline.

12 Q And who spent the night there?

13 A I spent the night, along with Rene and Wish.

14 Q Anybody else?

15 A No.

16 Q Was Rodney Stanberry there that night?

17 A No, he --

18 Q Lee#@ assume that this happened on --

19 MR. JORDAN: Wait, He cut him off, Judge.

20 THE COURT: Let him answer.

21 Q I thought you did, Was Rodney Stanberry there that  
22 night?

23 A No.

24 Q Now, let's assume that this happened on a Monday. So,  
25 this would have been a Sunday night, correct?

1 A Yes.

2 Q If the robbery and the shooting happened on a Monday,  
3 then you would have spent Sunday night with them in the  
4 motel?

5 A Yes.

6 Q Now, Sunday night or Sunday did you ever hear Wish or  
7 anyone else--

8 MR. NIXON: Judge, you said there would not be  
9 hearsay allowed in this testimony.

10 THE COURT: That's exactly what I said.

11 MR. JORDAN: I object to the --

12 MR. NIXON: Im not asking what they said, Judge.

13 THE COURT: Go ahead.

14 Q Did you ever hear Wish or Rene or anyone else discuss the  
15 Finleys?

16 MR. JORDAN: Judge, he's talking about other people  
17 talking. He just said he wasn't going to ask  
18 that.

19 MR. NIXON: I'm not asking what they said, Judge.

20 MR. JORDAN: He just said "discussed." Judge, this  
21 is the problem.

22 THE COURT: sit down.

23 MR. JORDAN: If I can try.

24 THE COURT: Can't you talk sitting down?

25 MR. JORDAN: Yes, Your Honor.

1           **THE COURT:** Go ahead.

2           **MR. JORDAN:** Hearsay is not proper and I object to  
3                   it and -- and I have no problem with what this  
4                   person saw --

5           **THE COURT:** I have already said **that**.

6                   What was your question again?

7           **MR. NIXON:** My question was, Judge, the night **before**  
8                   this happened did he ever hear **Wish** or anyone  
9                   else in that motel room say **anything** about the  
10                  **Finleys**. I **didn't** ask him what they said. I  
11                  asked him --

12           **THE COURT:** I **don't** care if he answers that, but he  
13                  cannot introduce any hearsay testimony.

14           **MR. NIXON:** I **understand**. I'm **not** going **to** ask him  
15                  that- I understand your ruling.

16       Q     Prior to **that** Monday when this shooting happened, did you  
17              ever hear wish or Rene or **Terrell** discuss anything **about**  
18              the E'inleys?

19       A     **Yes**, I heard **them** -- overheard them say a few **things**.

20       Q     **Tell** us what you saw **Monday** morning. What time did you  
21              wake up?

22       A     **Well**, I-m **not** precise on the time that I wake up, but I  
23              woke up and Wish was gone and I went and **took** a shower  
24              and **the** other guy, **Rene**, **told** me that **Terrell** --

25           **MR. JORDAN:** Judge, judge --

1 THE COURT: You don't tell us what anybody told you.

2 MR. JORDAN: And, Judge, if you would maybe tell the  
3 jury why that's proper is because that witness  
4 is not here and can't testify and I don't have  
5 a chance to ask that witness questions.

6 THE COURT; That is correct.

7 MR. JORDAN: Just so the jury knows.

8 Q You woke up and Wish and Terrell were gone?

9 A Well, I woke up that morning and Wish was gone. Okay.  
10 Wish was gone. I got up and took a shower.

11 Q Had Terrell been there that morning?

12 A Well, he said I can't --

13 MR. JORDAN: Judge --

14 Q Did you ever tell anybody that you saw Terrell there that  
15 morning?

16 A After I got out the shower, yes.

17 Q You did, didn't you?

18 A Yes, I did see him.

19 Q And Terrell and Wish left?

20 A No, I didn't see him til he come back.

21 Q Did you ever tell anybody that you saw him leave?

22 A No, I just was there when he came back.

23 Q Did you see Wish leave?

24 A No, I was sleep.

25 Q Were you there when Wish went to bed that night?

- 1 A Yes, I **was** there.
- 2 Q And he was gone when you woke up?
- 3 A Yes.
- 4 Q What happened next?
- 5 A Well, next I get out the shower and I would say about 15
- 6 to 20 minutes after I got out the shower Wish comes up
- 7 and Terrell comes to the hotel room. They both together
- 8 and --
- 9 Q What time in the morning was this?
- 10 A I really **can't** say a time because I'm not sure. **It's**
- 11 been so long ago.
- 12 Q Was it in the morning?
- 13 A It was in the morning time.
- 14 Q Was it before noon?
- 15 A Yes, I would say so.
- 16 Q And what did you see?
- 17 A Well, I just saw them at the time and, you know, the guy
- 18 Wish was acting kind of frank. He looked like he was
- 19 mad, like he was upset.
- 20 Q **How** was Terrell acting?
- 21 A Nervous.
- 22 Q And did they have anything with them?
- 23 A Not when they came in the hotel room, no.
- 24 Q Now, did you have a conversation with them?
- 25 A Yes. Well, I asked Terrell what's wrong, what happened,

1 and he **wouldn't** say nothing.

2 Mr. JORDAN: Judge, judge --

3 Q You can't tell me what he told you. Okay. I know this  
4 is difficult.

5 A Okay. I **won't** do it.

6 Q Did you have a conversation with him?

7 A Well, no.

8 Q You talked with him?

9 A Yes.

10 Q Did you 'talk with Wish?

11 A No.

12 Q When you talked with him, what did you do then?

13 A I asked him to take me home.

14 Q Asked who to take you home?

15 A **Terrell.**

16 Q And did he do that?

17 A Yes.

18 Q And who else was with you, if anybody?

19 A Rene and Wish were. They got in the car also.

20 Q So, it was you, Rene and Wish, and **Terrell.** what kind of  
21 car did you get in?

22 A The Capri Mustang.

23 Q And what was in the Capri Mustang?

24 THE COURT: What?

25 A I'm sorry, a Capri. I **just** call it -- it just looks like

1 a Mustang.

2 Q Terrell's car?

3 A Yes.

4 Q And what:, if anything, was in the car?

5 A Well, he got a -- well, I saw what **was** in the car, but I  
6 **didn't** see it until, you know, like I got -- he was  
7 fixing to drop me **off**.

8 Q Mr. Jones, were the guns in the car?

9 A Yes.

10 Q Sir?

11 A Yes.

12 Q And when did you see those guns, Mr. Jones?

13 A I saw them when I got into the car.

14 Q Okay, and how were the -- where were the guns in the car?

15 A They were in the back, in his -- the trunk area.

16 Q What they in?

17 A In looked like just a -- like a big green Army bag or  
18 something.

19 Q And how many guns were in there?

20 A I couldn't tell you.

21 Q More than one's

22 A **Obviously**. It was a lot **of** barrels sticking out.

23 Q And where did you go after that?

24 A Well, **Terrell** dropped -- dropped the two guys off and  
25 then he took -- then he was going to take me home.

1 Q He dropped Wish and Rene off? *Where?*

2 A Up there at the -- I believe **it's** Warren Inn, Warren  
3 Village, something like that, on Airport.

4 Q **And** what happened to the guns, Mr. Jones?

5 A He kept them in the car and then he drove. He went by  
6 one of his **ex-girlfriend's** house and I **saw** him get the  
7 bag out **and** I -- he put it up under her house in the  
8 back.

9 Q okay. Now, where is -- where was this? This was in  
10 Crichton?

11 A **This** was in Crichton.

12 Q **That's** what you said before, right?

13 A Yes.

14 Q And Terrell was with you?

15 A Yes.

16 Q Let me get this straight. After **Terrell** dropped off Wish  
17 and Rene, you and Terrell went to **Terrell's girlfriend's**  
18 house in Crichton and he put; the guns under the house?

19 A Yes.

20 Q Is that right?

21 A **Yes.**

22 Q And you were in the car and saw that?

23 A Yes.

24 Q And what happened next?

25 A Then he took me home like I asked him **to.**



1 Q After you got home what did you do? Did you call Rodney  
2 Stanberry?

3 A Yes, I started making several calls to Rodney because I  
4 felt like I --

5 MR. JORDAN: Judge, feelings are not part of this  
6 trial.

7 THE COURT: Sustain the objection.

8 Q You called Rodney about noon, didn't you? Do you recall  
9 what --

10 A I don't, know the time, but I was calling Rodney  
11 Stanberry, but he was not at home. He was at work at the  
12 time.

13 Q You talked to him, though, didn't you?

14 A He called me back later on that day. I believe it was  
15 like 1:00, 1:30, something like that, he called me.

16 Q And did you tell him what --

17 THE COURT: Hold on a minute.

18 (Off the record interruption.)

19 THE COURT: Go ahead.

20 Q When you called him -- Well, let me ask you this. You  
21 told Rodney where the guns were, didn't you?

22 A Certainly.

23 Q sir?

24 A Yes.

25 Q And you told him where the guns were before you told him

1           that Valerie had been shot, didn't you?

2           A     Well, I didn't tell him that she had been shot.

3           Q     You just told him that they had robbed her house, didn't  
4           you?

5           A     Yeah, I could see **that's** what they done.

6           Q     Yes, sir. You didn't say anything about her being shot,  
7           did you?

8           A     No.

9           Q     And then you took Rodney over to Crichton to get the  
10          guns, **didn't** you?

11          A     Yes.

12          Q     And you showed him where the guns were?

13          A     **Yes.**

14          Q     Is that right?

15          A     Yes.

16          Q     And he did get the guns?

17          A     Yes.

18          Q     The same guns that he gave back to Mike **Finley**?

19          A     Yes.

20          Q     The guns that were stolen from Mike **Finley**?

21          A     **Yes.**

22          Q     Did you go under the **house** and get the guns, Mr. Jones,  
23          in **Crichton**?

24          A     I believe so. **I'm** not sure.

25          Q     Did you ever look in that bag?

1 A You **don't** have to look in **it**, just -- you could see it  
2 sticking up.

3 Q Did you ever look in the bag, Mr. Jones?

4 A No.

5 Q Did you have any contact with Wish and Rene after that?

6 A Well, several times after the incident they were calling  
7 to my mom's house. Well, it was one collect call came to  
8 my mom's house. It was from Rene.

9 Q Mm-hm. What were you supposed to do with the guns?

10 MR. JORDAN: Judge --

11 A I **wasn't** supposed to do nothing with them. I had nothing  
12 to do with it.

13 Q Okay. **Now**, did you receive any of those guns?

14 A No.

15 Q Now, you've **given** several **statements** to the police,  
16 haven't you?

17 A Yes.

18 Q And you've given several statements to Mr. Jordan?

19 A I'm sure.

20 Q And you testified as the grand jury, correct?

21 A Yes.

22 Q And I -- The reason I'm asking you this is because I've  
23 been provided copies **of** some of your statements. You  
24 remember **testifying** at the grand jury, **don't** you?

25 A Yes.

1 Q And when I read **those statements, they don't appear to**  
2 all say the same thing. Did you say the same thing in  
3 all those statements, Mr. Jones?

4 A No, I did not.

5 Q Why not?

6 MR. JORDAN: Judge, object.

7 THE COURT: I sustain the objection.

8 Q Did you tell any lies during those statements?

9 A Well, not so much as lies. I just ~~didn't~~ tell the whole  
10 truth.

11 Q And what whole truth **didn't** you tell, Mr. Jones?

12 A Well, I **didn't** tell the truth about me being in the car  
13 when the guns got dropped off. You know, I ~~didn't~~ want  
14 to have any involvement cause I **didn't** do nothing, you  
15 know. I was scared and his -- and on top of that, the  
16 guy trying to follow me to kill me. I was scared.

17 Q Anything else that you said?

18 A I cannot recall anything I really said because **it** was so  
19 long ago, but, you know, like I told **you**, I was scared.  
20 I watch **TV**. I saw a innocent **man** getting locked up, you  
21 know. So, I was scared myself. I know I ~~didn't~~ have  
22 nothing to --

23 MR. JORDAN: Judge, none of this is -- has anything  
24 to do with anything.

25 THE COURT; I agree.

1 A Okay.

2 Q Do you recall calling Rodney Stanberry and trying to talk  
3 him out of getting you **involved** in it?

4 A Yes.

5 Q You remember trying to talk Rodney **Stanberry** out of  
6 telling the police where to find Wish and Rene?

7 MR. JORDAN: **Judge**, all of this -- All of this is  
8 concocted.

9 MR. NIXON: It's not. concocted, Judge.

10 THE COURT: **Doesn't** make any different what it is,  
11 **it's --**

12 MR. JORDAN: And it's all hearsay and it's all  
13 statements made outside of court.

14 THE COURT: **Let's** don't have any hearsay.

15 MR. NIXON: **I've** got plenty -- Judge, **I've** got a  
16 **tape --**

17 MR. JORDAN: It's still hearsay. **It's** all  
18 concocted.

19 MR. NIXON: I'm asking him what he said.

20 THE COURT: You **can** ask him what he said, but **just**  
21 ask him instead of telling him what he said.

22 MR. NIXON: Yes, sir. Judge, I thought he was  
23 declared a hostile witness.

24 THE COURT: Well, he is, but that still **doesn't** give  
25 you the right to **tell** him what to say.

1 Q You called Rodney, **didn't** you?

2 A Yes.

3 Q Right after this happened?

4 A Yes.

5 Q And tell us what you -- Why you called him and what you  
6 said to him.

7 A I was telling Rodney after I took him to the guns that  
8 after that **dn't** -- I **didn't** want to have any  
9 involvement. I was telling him **don't** bring my name up  
10 because I'm just getting my life together and I **didn't**  
11 need no trouble on my back. I was scared. I **didn't** want  
12 no trouble at all.

13 Q You try to tell him not to get Wish and **Rene** involved  
14 either?

15 A No.

16 Q Did you try to tell him he **shouldn't** tell the police  
17 where they were? Do you remember that conversation?

18 A No, I **don't** remember that.

19 Q If you heard your voice on tape, would that refresh your  
20 recollection?

21 A If **it's** on tape, then I -- if I said it, I said it. I'm  
22 not going to deny it if I hear it.

23 MR. NIXON: Please answer Mr. Jordan's questions.

24 CROSS EXAMINATION

25 BY MR. JORDAN:

VOLUME NO. 6

COURT OF CRIMINAL APPEALS NO. 94-1552

**APPEAL TO ALABAMA COURT OF CRIMINAL APPEALS**

FROM

CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

CIRCUIT COURT NO. CC92-2313 thru 2315 CLERK **ALABAMA COURT CRIMINAL APPEALS**

CIRCUIT JUDGE FERRILL D. McRAE

Type of Conviction/Order Appealed From: ATTEMPTED MURDER, ROBBERY. 1st. BURGLARY, 1st  
92-2313. -Pen for 20 yrs, 92-2314. -Pen for 20 yrs concurrent with 2313 and 2315, 92-231  
Sentence Imposed: pen for 20 yrs concurrent with 2313 and 2314

Defendant Indigent; ☐ YES ☒ NO

RODNEY KARL STANBERRY

NAME OF APPELLANT

Kenneth A. Nixon (334) 433-1806  
(Appellant's Attorney) (Telephone No.)

P.O. Box 2301  
(Address)

Mobile, Alabama 36652  
(City) (State) (Zip Code)

V.

STATE OF ALABAMA

NAME OF APPELLEE

(State represented by Attorney General)

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

(For Court of Criminal Appeals Use Only)

1 Q Are you hostile towards your good buddy and pal and  
2 running buddy, Rodney Stanberry?

3 A Am I hostile towards him?

4 Q Yes.

5 A No.

6 Q You're not hostile at all towards Rodney Stanberry, are  
7 you?

8 A No.

9 Q You guys are big buddies, aren't you?

10 A Used to be.

11 Q Used to be? I mean what kind of -- would you go clubbing  
12 together?

13 A No, we never went to clubs.

14 Q Well, how were you all close?

15 A How were we close?

16 Q Yeah.

17 A The same way you would be close with one of your friends.

18 Q Go ahead.

19 A We just hung out together.

20 Q You guys hung out together --

21 A That's it.

22 Q -- didn't you? At the time this went on, Stanberry's two  
23 buddies come down from New York and he wants to bring you  
24 into the crowd, didn't he?

25 A He didn't bring me into anything. I knew him, so I was



1 there.

2 Q Yeah, you were with him, right?

3 A Yes, I was.

4 Q And you're sure not about to say anything that's going  
5 to get Rodney **Stanberry** in trouble, are you?

6 A Not to get him in trouble?

7 Q No.

8 A He looks like he's already in trouble. What you talking  
9 about?

10 Q **That's** right.

11 A Well --

12 Q And it's not having to do with anything **you're** saying, is  
13 it?

14 A Does it?

15 Q Well, **let's** go to when his buddies came to town you all  
16 would be partying at night time, right, at the **motel**  
17 room?

18 A I guess, if **that's** what you call it.

19 Q What would you call it?

20 A I wouldn't call it partying. We didn't party.

21 Q What did you all do?

22 A We just hung out together and just sat back and just  
23 talked and drunk a **few** beers, **you** know, do guy stuff. Do  
24 you do that?

25 Q And you and Rodney came up with a story in this case,

1 didn't you?

2 A Such as?

3 Q Such as Rene and Ihoe went over there and robbed this  
4 lady and tried to kill her.

5 A **Are** you asking ~~me~~ a question? Didn't we make that up?  
6 Are you asking me that?

7 Q Yeah.

8 A No.

9 Q Well, who are the home boys? Who are Rodney's home boys?

10 A Everybody in the hood.

11 Q And who was the hood?

12 A Everybody in **Bessemer**. Everybody he knew is our home  
13 boy. Everybody we know is our home boy. **It's** not one  
14 particular person.

15 Q Who was his home boys from New York?

16 A **That's** a question **you'll** have to ask him.

17 Q Who was his home boys from New York that were in town,  
18 Taco?

19 A **Rene** and Wish.

20 Q Yeah. That was no secret, was it? They were Rodney's  
21 home boys, weren't they? They weren't your home boys,  
22 were they?

23 A I just met **them**.

24 Q Exactly. They were not your home boys, right.?

25 A Right.

1 Q And **Terrell** was not Rodney's hone boy, was he?

2 A No.

3 Q Uh unh. It was Rene and Wish, right?

4 A Just --

5 Q When this first happened you went to the police and you  
6 told the police that Rene and Wish had broken into **Val's**  
7 house and shot her and had left town, had blown the town  
8 and were out of here.

9 A Are you telling me what I **said** or do you know?

10 Q **That's** what you said, **isn't** it?

11 A I **didn't** go to the police. The police came to me.

12 Q Okay. The police came to you.

13 A Mm-hm.

14 Q And **that's** what you told the police?

15 A I **don't** know. Is it? I don't remember what I said back  
16 then.

17 Q Well, here you were, **Stanberry's** friend, right? Right?

18 A Go ahead.

19 Q You have to answer the question, Mr. Taco.

20 A Yes, I'm his -- I was his friend, yes.

21 Q And you are his friend, and you knew Valerie **Finley** had  
22 been shot, right?

23 A I **didn't** know nothing.

24 Q Oh, you never learned a woman had been shot before you  
25 talked to the police?

1 A Oh, I learned about it, yeah, before, but obviously, you  
2 know, X **didn't** know what really happened.

3 Q Yeah, and, Taco, did Rodney ever pick you up from the  
4 police station?

5 A Did he ever pick me up?

6 Q Yeah.

7 A **No.**

8 Q Let me ask you this too. You in fact lied to the police  
9 early on with your information, Taco?

10 THE COURT: Buzz, I turned that microphone off.

11 MR. JORDAN: I understand. I still just like being  
12 in front of it, Judge.

13 Q Did you lie to the police?

14 A I'm not sure. Maybe I did. I was scared. I had reason  
15 to be.

16 Q My question, sir, was you in fact. lied to the police,  
17 didn't you?

18 A I do not know if I in fact did. I said I did not tell  
19 the whole truth. I **didn't say** I lied.

20 Q Here are the police investigating a major crime and you  
21 and Rodney are going out and talking to them, **aren't** you?  
22 right?

23 A Sure.

24 Q And **you're** giving the police misinformation about a crime  
25 that they are investigating. Is that correct, Mr. Taco?

1 A No.

2 MR. NIXON: Judge, I object to the way he's formed  
3 the question. If he's asking him what he did --

4 Q So, you did -- (Mr. Nixon and Mr. Jordan speak at once.)

5 MR. NIXON: -- have any objection to it.

6 A No, I didn't give them no misinformation. I gave them  
7 the information needed for -- to pursue --

8 Q Then let's go over your statement.

9 A Go right ahead.

10 MR. JORDAN; Can you mark this?

11 (State's Exhibit 51 identified.)

12 Q Could you come down here, please.

13 THE COURT: It's all right. Go ahead.

14 Q Get over here on this side, right over here. We can both  
15 look at it. Little bit further out of the way so the  
16 lady over here can see. That's your signature, isn't it,  
17 Dennard Jones?

18 A Yes.

19 Q And that's a statement that you gave to the police on 3/7  
20 of 1992. Okay? Let's go over it. You were asked, What  
21 is your full name," and you answered, "Dennard Eugene  
22 Jones." Right?

23 A Right.

24 Q You were asked where you lived and you gave your address,  
25 didn't you?

1 A Yes.

2 Q Then they asked you, "Tell me in your own words, what do  
3 you know about shooting and burglary at 1736 Meadow," and  
4 this is what you told them. You told them, "They called  
5 me." At that time you were referring to Rene, weren't  
6 you?

7 A I don't know who I was referring to.

8 Q Well, you said "they," didn't you? "They called me,"  
9 referring to two people?

10 A That's what it says.

11 Q Are you telling us that you did not make this statement  
12 to the police, Mr. Jones?

13 A I'm not denying nothing. But you sitting here  
14 backtracking about it. If my signature is on it, I  
15 signed it, what difference of it, you know? Ain't  
16 nothing else I can say about that.

17 Q Let's keep going. So, who called you on Monday, Mr.  
18 Jones, when you told the police "they called me"?

19 A I don't, recall.

20 Q "Monday at about a quarter to twelve and they told me  
21 they had just robbed this house. Me and my boy is going  
22 to break out of town." Who was it that was breaking out  
23 of town?

24 A Okay, Where --

25 Q It was Rene and Ihoe, wasn't it?

1 A Where it says, "They called my house and they told me  
2 they robbed this house," if you notice, I left myself  
3 out, right? So, that was **the** whole purpose of giving a  
4 statement 'like that. I **didn't** want no involvement in it.

5 Q Let's keep going over **the** statement, Taco.

6 A All right. So, I did not.

7 MR. NIXON: Judge, please ask him not to interrupt  
8 him and let him answer the question.

9 THE COURT: Let him answer **the** question you ask him.

10 Q You got a big smile on your face, Mr. Taco. I need --

11 A I'm smiling cause you going through this for no reason,  
12 you know. I said **that's** my signature.

13 Q And as the police asked you to tell about what happened  
14 on this serious crime, you said, "Me and my boy is going  
15 to break out of **town**."

16 A Me and my boy? I **didn't** -- I **didn't** say that.

17 Q You **didn't** say that?

18 A I never said that. What I'm going to leave town for. I  
19 got a career here.

20 Q Not about you.

21 A Well, who?

22 Q That they told you that they were going to break out of  
23 town and you knew **Rene** and **Ihoe** were on the way to the  
24 bus station, didn't you?

25 A I **didn't** know nothing. That was for you -- you all

1 people to leave me alone. I **didn't** want to have no  
2 involvement. **Don't** you understand that?

3 Q "And we will **get** back in touch with you, and they hung  
4 up. They may said Light's (phonetic) house. I called  
5 Stan and I told him that I had just finished talking with  
6 one of the boys and Stan put me on hold and he came back  
7 and said he knows what the deal is, because Mike had told  
8 him over the phone and Stan told me to get back with him  
9 later **on.**" "Is there anything else you want to **add,**" and  
10 you said no. You were asked, What day or how did you  
11 meet the two guys," and you told him you met them at some  
12 time -- you were with them that Sunday, 1st of March.  
13 You were asked where you took them. You took them to the  
14 bus station. You were asked about the motel room. You  
15 talked about going back and a girlfriend named Leslie  
16 picking you up, and you were asked if you saw them any  
17 more and you said that was the last time you saw them.

18 Now, this is a complete statement that you gave to  
19 the police five days --

20 MR. NIXON: Excuse me. Is he asking him a question  
21 or is he just reading and talking to the jury?  
22 I'm going to object to him doing that.

23 THE COURT: Ask him questions.

24 MR. NIXON: This is a question and answer session.

25 Q This is -- you can go ahead and have a seat back up



1 there.

2 (Witness complies.)

3 Q This is the entire statement you gave to the police give  
4 days after this incident occurred. Is that correct?

5 A I guess. It's there in black and white.

6 Q Never mentioned anything about any guns, did you?

7 A I don't recall anything I said back two or three years  
8 ago.

9 Q Mr. Jones, did you just read that statement with me?

10 A Yes, I just read it with you.

11 MR. JORDAN: Judge, I want to introduce that at this  
12 time.

13 MR. NIXON: Can you show him a copy of it and let  
14 him identify it and see if that's his  
15 statement, please?

16 MR. JORDAN: He just said it was his signature.

17 Q Let's try it one more time. Is that your signature,  
18 Dennard Jones?

19 A Yes, that's my signature.

20 MR. JORDAN: We move to introduce it.

21 A Whatever.

22 THE COURT: It's introduced.

23 MR. JORDAN: It consists of three pieces of --

24 THE COURT: Do you have the statement so you don't  
25 have to introduce those blow-up's.

1 MR. JORDAN: Okay. I'll introduce the statement.

2 I'll swap it out.

3 (State's Exhibit 51 admitted in  
4 evidence.)

5 Q You **didn't** tell them anything about any **guns** on that day,  
6 did you?

7 A I **don't** recall what I said three years ago. I told you  
8 that. But I know I did not tell the whole truth about  
9 anything. I did not want any involvement.

10 Q You **didn't** tell the whole truth, which means you lied to  
11 the police as they were investigating --

12 A Well, if that's what you want to call it, then I guess I  
13 lied. I'm not going to deny **it** now.

14 Q **Now**, have you ever stated under oath that Rodney  
15 Stanberry came down there **to** the police station **to** bring  
16 you home after you met with the police?

17 A No. I **don't** recall that at all.

18 Q Let me just read something to you here. Let you look at  
19 this. **Do you** see this, "**having** been sworn, testified as  
20 follows"?

21 MR. NIXON: Judge, please --

22 THE COURT; Let him read it.

23 MR. NIXON: -- **that's** improper.

24 Q You go ahead and read this. See that?

25 A Yes, I see it.

1 Q Are you Dennard Eugene "Taco" Jones?

2 A I sure am.

3 Q And would you read this to yourself right here, please?

4 A I know that that's a lie. I know **that's** a lie, because--

5 Q So, you lied under oath before the grand jury too? Go,  
6 you lied to the police, you lied under oath before  
7 the grand jury, but you're telling us today everything  
8 you say on behalf of Rodney Stanberry is the truth?

9 A I know what **I'm** saying today is the truth.

10 Q Let me ask you this last question. Were you present with  
11 this lady right here when Rodney **Stanberry** and **Rene**, the  
12 guy with the pony tail came in her house and attacked her  
13 on March 2nd of 1992?

14 MR. NIXON: Objection.

15 A For one thing, no. Rene was at the hotel with me.

16 Q Let me ask you this one **more** time.

17 MR. NIXON: Let him answer the question, Judge. He  
18 asked it.

19 A Do you want to know, I'm fixing to tell you. --

20 THE COURT: He has a right to answer.

21 A -- because this is ridiculous.

22 MR. JORDAN: Judge, I asked if he was present.

23 MR. NIXON: Now, Judge, he asked --

24 A And I just **answered** you.

25 MR. NIXON: Excuse me. Judge, he asked him a

question --

THE COURT: He may answer the question.

Q Go ahead and answer the question.

A No, I was at the hotel with Rene.

Q And you never ever told the police that as to Rene being present with you at the time you were interviewed on the 7th?

A Sure I have, sure I have.

Q On the 2nd.

A If it's not written down there, then you didn't write it down right.

Q On the 7th.

A (No verbal response.)

MR. JORDAN: Judge, I have no questions -- no further questions for this witness.

(Pause. )

A Excuse me, Your Honor?

THE COURT: Certainly.

MR. NIXON: Just one second, Judge.

A Could I speak on the record?

THE COURT: No.

A Couldn't do it?

THE COURT: Not until they ask you a question.

A All right.

REDIRECT EXAMINATION

v  
1 BY MR. NIXON:

2 Q Mr. Jones, after you all went Axis and shot the guns,  
3 Wish and Rene and yourself and they saw Mike **Finley's**  
4 guns, did you have any conversation with them about those  
5 guns?

6 A No, but I heard them talking a few times about the guns.

7 MR. JORDAN: **Judge**, Judge --

8 THE COURT: He answered the question. He said no.

9 Q Mr. Jones, you told us you didn't want to get in trouble,  
10 is that correct?

11 A Yes.

12 Q And that's why you said you **didn't** know what happened or  
13 **that's** why you **didn't** tell the truth?

14 A Yes.

15 Q And in fact you felt that --

16 MR. JORDAN: Judge, feelings again. All this has  
17 no place in this trial.

18 MR. NIXON: I'm asking him his feelings, Judge, at  
19 the time he did something.

20 THE COURT: I sustain his objection.

21 Q Well, you were afraid that if Rodney **Stanberry** led the  
22 police to Wish and **Terrell** and the police caught them  
23 that you may get in trouble, **weren't** you?

24 A No. **Why** would I get in trouble if they caught him?

25 Q You **weren't** afraid that you would get in trouble because

1        **you were with Terrell when he took the guns** and put them  
2        under the house?

3        A        Yes, I was afraid of that.

4        Q        **Didn't** that --

5        A        But I wasn't afraid to introduce --

6        Q        -- concern you?

7        A        For them to get caught, no. I just **didn't** want my name  
8        brought up, period.

9                MR. NIXON: Judge, if **you'd** give me just a minute,  
10                I may be finished.

11                (Pause. )

12        Q        Were you afraid of Mike **Finley** after this happened?

13        A        **Excuse** me?

14        Q        Were you afraid of Mike **Finley**?

15        A        Yes, I have reason to be.

16        Q        Why?

17                MR. JORDAN: Judge, again what his fears and his --  
18                have absolutely no relevance to this trial.

19        A        It has a lot to do with it.

20                THE COURT: Young man, I'll do the deciding in here,  
21                not you.

22                MR. JORDAN: Thank you, **Your** Honor.

23                THE COURT: **Now**, what was **your** objection?

24        A        I'm sorry.

25                MR. JORDAN: He's asking about his feelings and his

1 reasons and this and that and fear.

2 MR. NIXON: I asked him if he was afraid of Mike  
3 Finley. He said yes, and I asked him why.

4 THE COURT; He may answer.

5 Q Why were you afraid of Hike Finley?

6 A Because the day that I went down to the police station in  
7 Prichard Mike Finley followed me home and he -- he passed  
8 by my house several other days after that and I was  
9 afraid he was trying to kill me.

10 Q Did you ever go back to that motel that day?

11 A Excuse me?

12 Q Did you ever go back to the motel that day?

13 A No, not at all.

14 Q What's your girlfriend's name or was your girlfriend's  
15 name then, Mr. Jones?

16 A Leslie Tucker.

17 Q And did you and Leslie Tucker take Wish and Rene out of  
18 town that night?

19 A No.

20 Q You sure about that?

21 A Positive.

22 Q Mr. Jordan asked about you coming down here and you  
23 giving these statements to protect Mr. Stanberry. Did  
24 you ever tell anybody that Mr. Stanberry knew that they  
25 had planned this?

1 A No.

2 Q Sure about that? When you were **mad** at him?

3 A Well, I said a lot of things when I was upset, but --  
4 you know.

5 Q You were upset with him, weren't you?

6 A Yes.

7 Q Because he was **calling** the police and giving them  
8 information and you were afraid your name was going to  
9 get involved?

10 A I just felt like he betrayed our friendship, you know,  
11 and I was upset.

12 Q How do you feel like he betrayed your friendship?

13 MR. JORDAN: Judge, again --

14 A Well, the minute the police picked -- **came** to my house to  
15 get me --

16 MR. JORDAN: -- these feelings, they've have got no  
17 part in this trial.

18 THE COURT: I agree, but let him go.

19 **Let's go.**

20 Q What did he do to make you mad at him, to betray your  
21 friendship?

22 A Well, for one thing, Mr. Fletcher there was telling me  
23 different things that **Stanberry** was saying.

24 MR. JORDAN: Now we're getting into all --

25 THE COURT: **Ain't** no telling where we're going with



1 this now. Ask him questions.

2 MR. NIXON: **That's** all I have of that witness.

3 THE COURT; And in fairness to him, he wanted to

4 make a statement. If you want to come over

5 here and ask him -- I told him he couldn't say

6 anything until somebody asked him a question.

7 If you want to come over here and see what **he's**

8 talking about, **that's** fine.

9 (Off the record discussion.)

10 THE COURT: I can hear that whispering way over

11 here.

12 MR. NIXON: Judge --

13 THE COURT: Do you have any more questions?

14 MR. JORDAN: No.

15 MR. NIXON: I **don't** have any more questions, Judge.

16 He wants to say something if **you** want to let

17 him.

18 THE COURT: No, no, no. **Can't** do that.

19 MR. NIXON: I **don't**, have any problem with it.

20 THE COURT: **You** may step **down**, sir.

21 MR. NIXON: Oh, just one quick thing, Judge, please.

22 if I can ask him one question. Never mind, I

23 withdraw, Judge. Im sorry: Im through with

24 this witness.

25 THE COURT: Next **witness**.

1 MR. NIXON: Call Rodney **Stanberry**, Your Honor.

2 MR. RODNEY KARL STANBERRY

3 was sworn and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. NIXON:

6 Q State your name, please.

7 A Rodney Karl **Stanberry**.

8 Q How old are you, Rodney?

9 A Twenty-five.

10 Q Do you go by any other names?

11 A Stan, for short.

12 Q **That's** your nickname?

13 A **Yes**.

14 Q And where do you live, Rodney?

15 A I live on 605 **Opp** Avenue, Whistler, Alabama.

16 THE COURT: Young man, that microphone is turned  
17 off. You can just sit back and --

18 Q Are you nervous?

19 A NO, I'm wad.

20 Q Where do you work?

21 A I work at BFI.

22 Q How long have you worked there?

23 A I'm guessing six years.

24 Q What do you do there?

25 A I drive a commercial front loader.

- 1 Q And how long have you been living in Mobile?
- 2 A I think in 1987.
- 3 Q And where did you move here from?
- 4 A New York.
- 5 Q Your family move with you?
- 6 A Yeah, my father retired from Transit and we relocated.
- 7 Q Is that. your father here?
- 8 A That's my father right there.
- 9 Q What's his name?
- 10 A Ersell (phonetic) Stanberry
- 11 Q And is that your sister behind him?
- 12 A That's my sister.
- 13 Q What's her name?
- 14 A Teneesha (phonetic) Stanberry.
- 15 Q And in March of 1992 were you living with your mother and
- 16 father?
- 17 A Yes, I was.
- 18 Q Do you know -- well, do you hunt?
- 19 A Yes, hunt, fish, turkey hunt.
- 20 Q Do you hunt often?
- 21 A Yeah.
- 22 Q Did you hunt and fish back in 1992?
- 23 A Yes, I did.
- 24 Q And do you know Mike Finley?
- 25 A Yes, I do.

1 Q Do you know Valerie Finley?

2 A Yes, I do.

3 Q How long have you known them?

4 A **Approximately** about three years.

5 Q Is that three years from 1992 in March?

6 A Three years from 1992.

7 Q So, when Valerie had got shot., you had known her for  
8 three years?

9 A **Yes.**

10 Q You had known her husband for three years?

11 A Three years.

12 Q Tell the jury your relationship with her husband, Mike?

13 A Me and Mike **Finley** hunted together. We barely fished  
14 together. We went to some gun shows together, but **we**  
15 weren't best friends, but we was friends during hunting  
16 **season.** When hunting season was **out,** we really **didn't**  
17 see each other.

18 Q What is hunting season?

19 A **Squirrel** season, rabbit season, deer season, **bow** season.

20 Q Months, when does that go from?

21 A November, November **til** the end of January.

22 Q Did you have a gun collection?

23 A **Yes,** I did.

24 Q And how **many** guns did you have in your collection in  
25 March of '92?

- 1 A I'm thinking about four less than what Mike had, which  
2 was 11. He had about 14, all the same, all registered.
- 3 Q He had rifles, shotguns, pistols?
- 4 A Pistols.
- 5 Q And you were full time employed at that time?
- 6 A Full time employed.
- 7 Q Living with your parents?
- 8 A Yes.
- 9 Q You buy those guns with your own money?
- 10 A Yes, I did.
- 11 Q Did you have a car or a vehicle?
- 12 A Yeah, I had a brown Bronco.
- 13 Q And you're seen these pictures that Mr. Jordan showed to  
14 the jury of this brown Bronco. Is that your --
- 15 A Yes, **that's** it.
- 16 Q Sir?
- 17 A That was it.
- 18 Q What year Bronco is that?
- 19 A Eighty-four model.
- 20 Q And what narks **distinguished** that Bronco from other  
21 Broncos?
- 22 A I have One Night Stand on the front windshield and  
23 Humping and Bumping, meaning the music.
- 24 Q On the back?
- 25 A That was in it at the time.

1 Q A sticker on the back?

2 A No, that Hump-- Heartbreak **was** on there at that time.

3 Q Okay. Now, have you been to the **Finley** home?

4 A Yes, several times.

5 Q What was your purpose for going over there before March  
6 of '92?

7 A Before March of '92?

8 Q **Yes**, sir.

9 A Well, when **my** friends came in town I introduced **them** to  
10 Valerie and Mike, which I did 100 people. I introduced  
11 **them**.

12 Q Well, **let's** back up just a second. You had been to their  
13 house to eat dinner with them?

14 A **Yes**.

15 Q And played with their children?

16 A Played with their children.

17 Q Did **you** know how **many** guns Mike had?

18 A I knew exactly what he had.

19 Q He knew what **you** had?

20 A He knew what I had.

21 Q And how many times had you been over to the **Finley** house  
22 before March the 2nd in **your** own opinion?

23 A Several, several, several times.

24 Q Fifty, hundred?

25 A Fifty, **I'd say** fifty.

1 Q Okay. Now, do you know Angel **Melindez**?

2 A Yes, I do.

3 Q And does he go by any other names?

4 A Yes, he goes by the name Wish.

5 Q Do you know Rene **Whitecloud**?

6 A Yes.

7 Q Does he go by any other names?

8 A Rene **Barbosa Whitecloud**.

9 Q Those two gentlemen go by Rene and Wish?

10 A Yes, they do.

11 Q Where are they from?

12 A Both of them are from New York.

13 Q How did you meet them and when did you meet them?

14 A I knew them I guess from me being 12 until I moved when I  
15 was 16.

16 Q Okay, from age 12 --

17 A Seventeen. Seventeen.

18 Q -- to 16. So, four years.

19 A My adolescent; years.

20 Q In **New** York?

21 A In New York.

22 Q When you moved to Mobile did you have any contact with  
23 them?

24 A Well, no, I really **didn't** until a week -- a week before  
25 they came down there.

1 Q Did you talk to them on the telephone on occasion?

2 A **Yeah.** Well, I did that time.

3 Q No, I mean from the time you moved down from New York to  
4 Mobile until a week before Mrs. **Finley** was shot.

5 A I think I talked to **Rene** one time in, you know, that four  
6 years or whatever I been moved, from '92 until '87.

7 Maybe twice. Definitely one.

8 Q On the telephone?

9 A On the telephone.

10 Q So, **it's** not like you had any Kind of regular  
11 relationship with these people after you moved to Mobile?

12 A NO.

13 Q And when were you contacted first by them in March of  
14 1992? Who contacted you?

15 A I was talking to one of Mike's girlfriends on the phone  
16 on the corner and just happened to be Rene was walking by  
17 and she --

18 Q And where was -this?

19 A In the Bronx, New York.

20 Q Okay. So, **you're** talking to a girl in the Bronx --

21 A Mm-hm.

22 Q -- and **Rene** walks by?

23 A Mm-hm.

24 Q And does she mention his **name**?

25 A Yes, she does.



1 Q And did you talk to him?

2 A Yes, I did.

3 Q Did you arrange to have -- did you all discuss coming  
4 down for **Mardi Gras**?

5 A Yes, we did.

6 Q And when was this, the best of your memory?

7 A It happened on the 2nd, that Tuesday before they got  
8 here, possibly three or four days before the 2nd.. Three  
9 or four days before the following Tuesday before it  
10 happened on the 2nd. If I had a calendar, I could be  
11 exact.

12 Q All right. **Let's** -- This happened on a Monday?

13 A Mm-hm.

14 Q When did they get to Mobile?

15 A They gat to Mobile that following Tuesday.

16 Q You mean the prior Tuesday?

17 A The prior Tuesday.

18 Q Okay. So, the Tuesday before the Monday is when they  
19 come to Mobile?

20 A Mm-hm.

21 Q And how long before that was **it** when you had the  
22 conversation and they decided they were going to come?

23 A Three, three days, possibly four days.

24 Q And what was their purpose for coming down here?

25 A For **Mardi Gras**.

- 1 Q Did you **have** any other conversations with them after that  
2 one before they got to Mobile? Did they call you and  
3 tell you where they were coming or how they were **coming**?
- 4 A Yeah, they told me they were going to come by bus.
- 5 Q And did they in fact come by bus?
- 6 A Yeah. Well, **Rene** cane. He didn't know who he was going  
7 to come with. **Now**, he ended up eventually **coming** with  
8 Angel **Melindez**.
- 9 Q Did you know that Angel **Melindez** was coming?
- 10 A No. **No**, I didn't.
- 11 Q Until he arrived here?
- 12 A Until he arrived.
- 13 Q What are your hours at BFI? What were your hours at that  
14 time?
- 15 A I **was** starting about two o'clock, getting through around  
16 ten **o'clock**, eleven **o'clock**.
- 17 Q We're talking two o'clock in the morning?
- 18 A Two **o'clock** in the morning, eleven **o'clock** in the  
19 afternoon.
- 20 Q You saw this photograph of the truck. Is that the type  
21 truck that you drive?
- 22 A **That's** the truck that I drive.
- 23 Q And what do you do?
- 24 A I pick up **commercial** dumpsters.
- 25 Q You go to the stores, **Delchamps**, and stores and --

1 A Apartment complex.

2 Q -- load your truck?

3 A Load my truck.

4 Q Empty those big steel garbage containers?

5 A **That's** true.

6 Q And where do you dump that garbage?

7 A In Chestang, Alabama, which is a couple of miles from  
8 Mount Vernon.

9 Q So, **you're** at work at two o'clock in the morning?

10 A Two o'clock in the morning.

11 Q **And** what time do you generally get off, finish your  
12 route?

13 A Eleven, ten **o'clock** in the morning, something to that  
14 matter right there.

15 Q Sometimes earlier, sometimes later?

16 A Sometimes earlier, **sometimes** later.

17 Q Now, when Wish and **Rene** arrived did you pick them up?

18 A No, my little sister picked them up because I was -- they  
19 **were coning in** late and I was at work. I was going to be  
20 at work.

21 Q Did you arrange that?

22 A Yes.

23 Q And do you know where they checked in, what motel?

24 A Red Carpet Inn, on the **Beltline** of Government and 65.

25 Q And what; day was this?

1 A That was a **Tuesday**.

2 Q And when you got off work did you go by the hotel?

3 A Yes, I did.

4 Q What time?

5 A After I got off work, which -- whatever time that was.

6 Q Okay. Did you visit with them?

7 A Yes.

8 Q Did you go out with them?

9 A Well, I picked them up and **we** went riding from there. I  
10 think got **something** to eat.

11 Q **And** the *next* day, did you work that night?

12 A **Yes**, I did.

13 Q Did you go over there and visit with them when you got  
14 off work?

15 A Yeah, I was able to go there every day after work because  
16 I wasn't able to get off with short notice for my  
17 vacation since I didn't know they were coming.

18 Q So, you couldn't **take** off work?

19 A **No**.

20 Q So, you went to visit them?

21 A After work.

22 Q All right. Did you take them to Mike **Finley's** house?

23 A Yes, I did.

24 Q And when was that?

25 A If it wasn't that same day, it was the next day.

1 Q The **day** they came in or the next day?

2 A Yes.

3 Q Why did you take them to **Mike's** house?

4 A The last buck that I killed, I **didn't** have a deep freeze  
5 and I was going to ~~get~~ the head mounted. He had a deep  
6 freeze. So --

7 Q Who had a deep freeze?

8 A Mike **Finley** had a deep freeze. So, I left **it** there.

9 Q You left it where?

10 A I left it at Mike **Finley's** house.

11 Q And my question was why did you take Wish and **Rene** to  
12 Mike **Finley's** house?

13 A I wanted them to see it.

14 Q And did they in fact see it?

15 A Yes, they did.

16 Q And did you introduce them to Valerie?

17 A Yes, I did.

18 Q And did you introduce them to Mike?

19 A Yes, I did.

20 Q **Was** there anybody else present?

21 A **No**, that was it at that time.

22 Q How long did you all stay at the **Finley** home on **that**  
23 occasion?

24 A **We** stayed shortly, just talking about, you know, hunting  
25 and stuff, telling --

1 Q Did you go inside?

2 A No. They didn't never -- they never been inside. They  
3 never was inside.

4 Q That would have been -- Okay, when was the next time that  
5 you went to the **Finley** house with Wish or Rene, if you  
6 did?

7 A I'm -- That Thursday, I know for sure.

8 Q Tell me about Thursday.

9 A When I got; off work, I'm guessing I went to the hotel and  
10 they had already said that they had talked to Mike **Finley**  
11 that day and he was going to -- he found a way to, you  
12 know, pick up some guns for them.

13 Q Mike **Finley** found a way --

14 A Yeah.

15 Q -- for them to purchase some guns?

16 A Yeah.

17 Q And who told you this Thursday?

18 A Rene did.

19 Q Did you go to **Mike's** house?

20 A Yeah.

21 Q Were they with you?

22 A Yeah.

23 Q Rene and Wish?

24 A Rene and Wish.

25 Q And tell us what happened.

1 A **We** got there, I -- I kind of stand back and just listen.  
2 What it was is they got a ride over there that Thursday  
3 while I was at work to talk to Mike about purchasing the  
4 guns, which he **didn't** want to -- he would not sell his  
5 **guns** in his name cause I told him not to. **so --**

6 Q He wouldn't sell who his guns?

7 A He wouldn't sell his guns.

8 Q To whom?

9 A To Rene. To Rene or Wish.

10 Q Why did you tell him not **to** sell his guns to Rene or  
11 Wish?

12 A Well, my two best friends that I left school with, which  
13 are cops now in New York City --

14 MR. JORDAN: Judge, this reasoning or rationale has  
15 nothing to do with this and the question is did  
16 he do it or not.

17 MR. NIXON: Judge, **I'm** asking him why he told him  
18 not to sell the guns to them.

19 THE COURT: Go ahead. It's all right.

20 A **You're** not allowed to buy handguns in New York City.

21 Q You were afraid he was going to get in trouble?

22 A There was a possibility.

23 Q Did they offer to buy your guns?

24 A Yes, they did.

25 Q Did you decline to sell them?

1 A I declined.

2 Q How, go ahead and tell us what happened that Thursday.

3 A Well, I told Mike **don't** sell them his. He told them I  
4 told them not to. That **pissed** them off. Mike didn't  
5 exactly understand why I **didn't** want him to, but he just  
6 figured I just didn't want him to sell them ~~if~~ they **was**  
7 in his name.

8 MR. JORDAN: Judge, **we're** getting into a lot of  
9 mental impressions. I have no way of verifying  
10 any **of** this.

11 THE COURT: He's **correct**.

12 Q Was Valerie there?

13 A Yes, Valerie was there.

14 Q During this discussion?

15 A Yeah.

16 Q Now, tell us about where they went and where they  
17 purchased the guns.

18 A Went to **Moffat** Road Dairy Queen and there was a gentleman  
19 **up** there that. I **guess** met Mike previously at a gun **show**.

20 Q **Who** rode up there? Did you all ride together?

21 A Yeah, we all rode up there together.

22 Q And tell us who **was** in **the** car.

23 A I know me and Taco and Wish and I'm -- yeah, and **Rene**,  
24 and I'm guessing Mike rode up there separately.

25 Q But you know Mike was there?



1 A Yeah,

2 Q And Mike introduced this guy to them?

3 A Yeah.

4 MR. JORDAN: Object to leading. Now, some -- I'd  
5 like to hear **from** the witness **from** now on.

6 Q **Who** did you see purchase a gun?

7 A Rene. **Rene purchased a gun from the gentleman.**

8 Q And what gun or guns did he purchase?

9 A **It** was a **Glock** nine millimeter, a .380 of what brand I  
10 **don't** know, and a .25 automatic, which -- what brand I  
11 **don't** know.

12 Q **And** did he pay **for** them also?

13 A Yes, he did.

14 Q **And** what happened after that?

15 A He gave Mike \$75 for like, I guess, a commission for  
16 introducing to the, you know, person.

17 Q Mike **Finley**?

18 A Yeah.

19 Q **And then** what happened?

20 A I'm guessing we all just went back. Mike went home. I  
21 took them back to the hotel.

22 Q **This** was Thursday?

23 A This **was** Thursday.

24 Q Did you go to work Thursday night?

25 A Yes, I did.

1 Q Or that would be Friday coming at two o'clock?

2 A That would have been Friday morning, two o'clock.

3 Q Did you run your route?

4 A Run my route.

5 Q Did you get off Friday afternoon?

6 A Yes, I did.

7 Q What time, do you recall?

8 A Somewhere in twelve o'clock, eleven o'clock hour.

9 Q And what did you do Friday night?

10 A I couldn't stay out with them, which Friday night and  
11 Saturday night would have been the only night I could  
12 stay out with them, but I had to go to work that next day  
13 because I **didn't** dump my truck. So, I had to **come** and  
14 work off the clock and dump the truck, which was  
15 Saturday.

16 Q So, did you do anything with them Friday?

17 A **No, I didn't.** You know, I had to go to bed.

18 Q You worked Saturday morning?

19 A Worked Saturday morning shortly.

20 Q Got off Saturday?

21 A Got off Saturday.

22 Q And what did you do Saturday?

23 A That Saturday I'm guessing we was planning to go to the  
24 parade, but they wanted to shoot the guns that they  
25 bought and I was going to shoot the guns that I --

1                   you know, all the guns I have, I was going to let  
2                   them go up there and shoot them.

3       Q     Did you all target practice, you and Mike and Valerie?

4       A     Yes, several times.

5       Q     In **Creola**?

6       A     In Axis --

7       Q     Or Axis?

8       A     -- and Mauvilla.

9       Q     Okay. That was a routine thing?

10      A     That was a, yeah, routine thing.

11      Q     Go ahead and tell us what you did.

12      A     That Saturday we stopped at the **Finley** house. Her and  
13             Mike were working on the house. I told then I was going  
14             to Axis to shoot the guns that, you know, that I had **and**  
15             he was going to shoot the gun that he bought. So, I  
16             picked up my targets and my target set up. He said he  
17             wasn't going to go to cause she **didn't** want him to go cause  
18             she wanted him to continue, you know, cleaning up the  
19             house, you know. I said, Okay, fine. We left.. **Fifteen**  
20             minutes **after** we got there they popped up and they were  
21             there.

22      Q     Where?

23      A     In **Axis-Creola**.

24      Q     Okay. Who was there? Everybody? Tell me who --

25      A     Who rode with me was **Rene Barbosa**, Wish, Taco.

1 Q And Mike and **Valerie**?

2 A Mike and Valerie rode in their car, their new car.

3 Q Was there anyone else there?

4 A It was several people that lived in the trailer and lived

5 in the neighborhood.

6 Q Were they shooting with you all?

7 A **Yes**, they were.

8 Q Okay. What, if anything, did Mike and Valerie bring with

9 them when they came up there?

10 A They **brung** -- he **brung**, showing off, everything he had.

11 Q **What** do you mean, everything he had?

12 A AK 47, Tech 9, Tech 22, .380, M 11, which all those

13 weapons there, they did not know he had.

14 Q So, you're saying he brought all of his guns up there?

15 A He **brung** all his guns up there.

16 Q And you say "**they**." Do you mean Wish and Rene?

17 A Wish, Rene, Taco, the people that lived in the trailer.

18 Q People that were trying to buy guns?

19 A Well, Rene was the one trying to buy guns, but several,

20 you know, other people that lived up there.

21 Q And did they see those guns?

22 A Yeah, they saw them.

23 Q Mike **Finley's** guns?

24 A They saw his guns and was just, you know, amazed.

25 Q Did they shoot those **guns**?

1 A They shot the guns.

2 Q And how long did you all stay up there? How long did  
3 they spend shooting those guns?

4 A We -- no more than two hours, possibly a hour, hour and a  
5 half.

6 Q Okay. What happened next?

7 A Mike and Valerie left. ~~We~~ left.

8 Q Who is we?

9 A Me, Rene, Wish, and Taco.

10 Q Where did you go?

11 A I'm guessing I took them back to the hotel. We got into  
12 a disagreement. I took them back to the hotel.

13 Q What did you get in a disagreement about?

14 A There was a gun show that weekend, which there are  
15 usually --

16 MR. JORDAN: Judge, this -- this all involves  
17 hearsay. It's not relevant.

18 MR. NIXON: He hasn't answered, Judge. I asked  
19 him what he got in a disagreement, about.

20 THE COURT; Go ahead.

21 MR. JORDAN; Well, he's trying to and he's starting  
22 to talk about a discussion they had.

23 Q You may answer.

24 A There was a gun show that week end they wanted to go and  
25 buy guns.

1 Q Who is "they"?

2 A Rene. Rene and Wish.

3 Q And what was the disagreement about?

4 A Because I wouldn't take them to go get them.

5 Q Why wouldn't you take them to the gun show?

6 A Because, back to the first thing, you **can't** have guns in  
7 New York, and I was scared of the possibilities of what  
8 could have happened.

9 Q So, you all got into a disagreement --

10 A We got into the disagreement.

11 Q -- Saturday evening?

12 A Saturday evening.

13 Q And did you do anything else **with** them Saturday evening?

14 A No, we got into the disagreement, and I took them back to  
15 the hotel, you know, and I went **my** way and left them  
16 there.

17 Q When were they supposed to leave and go back to New York?

18 A That Monday.

19 Q Monday?

20 A That Monday. Well, they were going to leave Tuesday, but  
21 they decided to leave Monday.

22 Q Okay. And what about Sunday? **Did** you have **any** contact  
23 with them Sunday?

24 A Very vaguely. I think it was like later on that night  
25 when, you **know**, I told them bye.

1 Q **And** where were you when you told them bye?

2 A At the Motel Six, 65 and Airport.

3 Q And what time was that?

4 A Possibly -- well, around eight: o'clock, cause I got to go  
5 to bed at least by nine **o'clock** or **before**.

6 Q All right.. Did you have any contact with then before  
7 eight **o'clock** that day?

8 A No.

9 Q Did you **see** them?

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

11 Q Now, did you go to **the** motel?

12 A That night?

13 Q Yes, sir.

14 A Yeah, to **say** bye to then.

15 Q Who was there when you went to say bye?

16 A Taco, **Rene Barbosa**, and Wish.

17 Q Anybody else?

18 A I'm thinking **Taco's girlfriend** Leslie was there.

19 Q Okay. What happened next?

20 A I told them bye. He told me it **wasn't** no hard **feelings**  
21 and I went home.

22 Q who told you that?

23 A **Rene Barbosa**.

24 Q Did you go to work that night?

25 A I went to work that night.

1 Q What time?

2 A Somewhere around between two or three. That's what time  
3 I always just about started.

4 Q That would have been Monday morning?

5 A Monday morning. Sunday night, Monday morning.

6 Q Early Monday morning.

7 A Mm-hm.

8 Q You've seen your time card that's in evidence?

9 A Yeah.

10 Q Is that time consistent with what time you usually come  
11 to work and you did go to work on that day?

12 A Yes, it is.

13 Q Did you run your route?

14 A Yes, I did.

15 Q You say you went to work. Did you go to work at BPI at  
16 Halls Mill?

17 A Yes, I did.

18 Q What did you drive to work?

19 A Front end truck 989.

20 Q What did you drive to work?

21 A My Bronco,

22 Q Okay. And where did you park that Bronco?

23 A On the east side of the -- no, no, the south side of the  
24 building in the front.

25 Q Is that where you normally park it?



1 A That's what I always park.

2 Q Did you get in your truck and leave?

3 A Yes, I did.

4 Q And what route did you run that day?

5 A That south end of Mobile County, Grand Bay, Theodore.

6 Q Do you recall where you went first?

7 A Just about, because I do the same thing -- the route is  
8 one and the same.

9 Q Tell us what you did early that Monday morning.

10 A Went to my first stop, which started in Theodore and went  
11 to Grand Bay and worked my way back to **Bellingrath** Road.

12 Q Did you come back to the shop?

13 A Well, when I got to my last stop one of my eight tires  
14 had a flat tire.

15 Q All right. What time was that?

16 A It was some time before nine o'clock. On my route sheet  
17 it's 8:43.

18 Q And where were you when you had the flat tire?

19 A I was right next to DeGussa, which was on **Laurendine** and  
20 Range Line Road.

21 Q And what did you do when you had the flat tire?

22 A I called the shop and asked them what did they want me to  
23 do; I had a flat tire.

24 Q Who did you speak with?

25 A Freddie Robinson.

1 Q And what were you told to do?

2 A Well, he told me to -- he put me on hold first, he -- I  
3 thought **was** going to come to me, but then he come back to  
4 the radio and told me to bring it to the shop.

5 Q Bring your truck to the shop?

6 A Bring the truck to the shop.

7 Q And did you do that?

8 A Yes, I did.

9 Q And how long did that take you to get from Range Line  
10 Road to the shop?

11 A Ten minutes, fifteen minutes. Ten minutes; at the most  
12 fifteen minutes.

13 Q What time did you get at the shop?

14 A I got to the shop at nine o'clock.

15 Q And what did you do when you got there?

16 A I went in, pulled the truck in shop, showed them what  
17 tire it was, chocked the tires --

18 Q Showed who what tire it was?

19 A Freddie Robinson.

20 Q Okay.

21 A Went in, told the dispatcher I was down, I had a flat.  
22 tire, what was the mechanic, and what time it was.

23 Q Was your tire repaired?

24 A Yes, it **was**.

25 Q And while your tire was being repaired, where were you?

1 A I was upstairs in the drivers' break room.

2 Q What were you doing?

3 A on the telephone.

4 Q **Who** were you talking to?

5 A I was -- I called the hotel where they was staying.

6 Q okay. Did you talk to anybody?

7 A Yes, I did.

8 Q Who did you talk to?

9 A I talked to Taco first, then I talked to Rene.

10 Q So, they were still there?

11 A They were still there.

12 Q Were they supposed to still be there?

13 A Yes, they were **supposed** to still be there, but I was  
14 thinking I was going to be able to stop there and tell  
15 them bye.

16 Q This was between 9:00 and 9:30?

17 A Between 9:00 and 9:30.

18 Q **And** what, **if** anything, **did** Taco tell you?

19 A He told me -- **I asked** him where was Wish. He said --

20 MR. JORDAN: Judge, all of this, all of this is  
21 hearsay.

22 **THE COURT:** **Don't** tell us what; somebody else said.

23 MR. NIXON: **I'm** asking what Taco said. Taco  
24 testified.

25 MR. JORDAN: **It's** still outside -- statement made

1 outside of court.

2 THE COURT: He **is** correct, but go ahead. But **don't**  
3 put in any of this the whole time we're here,  
4 **what** did he **say**, they say, everybody said.

5 MR. NIXON: I understand, **Judge**, and I'm not  
6 offering it for the truth of the matter  
7 asserted, just want to know --

8 MR. JORDAN: Oh, **it's** not being offered for the  
9 truth?

10 MR. NIXON: What did --

11 THE COURT: Go ahead.

12 A He said **they** went to the Waffle House?

13 Q Okay. Who is they?

14 A Well, I **don't** know if he said they. He said he went to  
15 the Waffle House.

16 Q Taco told you **this**?

17 A Yes.

18 Q What did you do next?

19 A I "told them I was broke down. I **was** thinking I would  
20 have had time to stop by there and tell **them** bye one last  
21 time or take them to the **bus station** myself, but I had an  
22 appointment later on that day and I **wasn't** going to be  
23 able to make **it**.

24 Q Did you tell them **that**?

25 A Yes, I did.

1 Q What kind of appointment did you have later that day?

2 A I was supposed to go to Baldwin County Court House to  
3 register for my CDL driver's license.

4 Q And that's your commercial driver's license?

5 A Commercial driver's license.

6 Q That you needed to drive a truck?

7 A Yeah.

8 Q Okay. What did you do next?

9 A Freddie Robinson came and got me and told me my truck was  
10 up. My truck, the flat was fixed, so then I got off the  
11 phone with them and went downstairs, wrote the time in  
12 that I was back up, unchecked the tires, backed up out of  
13 there.

14 Q Okay. Did you leave in your truck?

15 A I backed up out of the garage, drove out the fence, but  
16 turned right back around because the brakes was soft.  
17 So, I came back in there and asked them to do me a brake  
18 adjustment.

19 Q So, you clocked out, according to your sheet, after the  
20 tire was fixed at 10:32?

21 A No, 9:37.

22 Q I'm sorry. Okay. And then you stopped and backed --  
23 came back in?

24 A Pulled back in the shop, chocked the brakes -- the tires  
25 back up.

- 1 Q And how long did it take for Freddie to fix your brakes?
- 2 A Ten minutes, fifteen minutes.
- 3 Q Where did you go from there?
- 4 A I went to Halls -- got on Halls Mill Road, went to
- 5 McVay, got on Highway 90 and got on 65.
- 6 Q 1-65.
- 7 A 1-65.
- 8 Q And where did you go from there?
- 9 A I was headed to Chestang land fill.
- 10 Q And was **that** to make the -- to dump your load?
- 11 A That was to dump the load.
- 12 Q And did you go to Chestang land fill?
- 13 A Yes, I did. I **was headed** towards **Chestang** land fill.
- 14 Q Is that your normal route?
- 15 A Normal route.
- 16 Q Okay. Did you go to Chestang land fill?
- 17 A Yes, I did.
- 18 Q Did you see the sheet here that **says** you arrived at
- 19 10:40? Xs that consistent with your memory?
- 20 A **That's** it.
- 21 Q And what happened next?
- 22 A Well, what I **didn't** say is on the way up there, when I
- 23 looked at the hotel where they were spying, **which is** on
- 24 1-65 and the **Beltline**, I saw --
- 25 Q Hotel where who was staying?

1 A Motel Six where Rene and Wish was staying.

2 Q Okay.

3 Q And Taco. I noticed the Capri, the faded out Capri,  
4 parked on the side and Rene -- and Wish and Terrell  
5 wandering up the stairs.

6 Q Rene, Wish and Terrell?

7 A No, just Wish. Wish was headed up the stairs, Terrell  
8 was in behind him.

9 Q Okay. And you saw that from the interstate?

10 A Saw that from the interstate.

11 Q You said the faded Capri?

12 A It's two-tone, gray and blue.

13 Q Is that **the** car that Terrell was driving?

14 A That's the car that he was driving.

15 Q And what did you do then?

16 A I didn't, think nothing about it. I just kept on going.

17 Q And you **Chestang** land fill?

18 A Went into Chestang land fill.

19 Q Arrived there at 10:40?

20 A Ten forty.

21 Q When you went in, **what** did you do at the landfill?

22 A Well, you go up -- get on the scale, go up a hill. You  
23 got to wait **til** all trucks dump. Undo your turnbuckles,  
24 tighten your turnbuckles up. Come back down, sign your  
25 ticket.

1 Q Okay. How long does that take?

2 A Possibly 15 minutes, maybe 20 minutes.

3 Okay.

4 A According to how many trucks **was** up there.

5 Q So, you get there at 10:40 and you stay about 15 minutes?

6 A Stay **about**. 15 minutes.

7 Q **And** then you left coming back with an empty truck.

8 A Left coming back with a empty truck.

9 Q **And** where did you go?

10 A I came back to Halls Mill to **BFI**.

11 Q **And** what time did you arrive?

12 A I arrived there 11:55.

13 Q Okay. Park your truck?

14 A Parked my truck. Filled up the truck with fuel first,  
15 then **parked** it.

16 Q Did **you** go inside?

17 A Go inside.

18 Q You **didn't** clock out that day?

19 A I forgot **to** clock out: **that** day.

20 Q Did you have a conversation with anybody while you were  
21 inside?

22 A Yeah, I was -- I was **on** the phone **and** **Bruce Hickbottom**  
23 reminded me if I **dn't** have my Social Security card,  
24 going all the way **to** **Baldwin** County Court House would be  
25 **a complete** waste **of** time.



1 Q Why was that?

2 A Because even though your Social Security number is on  
3 your old driver's license, you're not -- they still want  
4 you to give a Social Security card there. They **won't**  
5 issue you the new license.

6 Q Is that what Bruce told you?

7 A **That's** what Bruce told me.

8 Q What did you do when you learned that?

9 A Then I called my mother and told her to, you know, pull  
10 out the drawers and look for my Social Security card.

11 Q You didn't have it with you?

12 A I **didn't** have it with me.

13 Q What did you do next?

14 A I went home. They still **didn't** find it.

15 Q Wait a minute. You went home. Where did you live?

16 A I went -- in **Prichard**.

17 Q Where in **Prichard**?

18 A In Whistler on Williams Avenue off Main Street.

19 Q Okay. How long did it take to get home from --

20 A Fifteen minutes. I **was** in a rush, so 15, no more than 20  
21 minutes.

22 Q Your ending time on your sheet says 11:55 at BFI?

23 A Mm-hm.

24 Q Is that what time you left or is that what time you  
25 parked your truck?

1 A That's the time I parked the truck.

2 Q So, you would have left BFI some time after that?

3 A Twelve twenty. That's the longest, 12:15.

4 Q Okay. What were you driving?

5 A I was driving my brown Bronco.

6 Q Okay. You drove your Bronco to work; you drove your  
7 Bronco back?

8 A Mm-hm.

9 Q Then you went to your home in Whistler to your parents'  
10 house?

11 A Mm-hm.

12 Q What happened when you arrived there?

13 A My sister, my little sister, was on the phone and I asked  
14 my mother did she find the Social Security card yet and  
15 she said she didn't. While we was looking, my sister  
16 told me Taco done called one or two times already for me.

17 Q Now, did you take a shower that day?

18 A No, I didn't.

19 Q Do you normally take a shower?

20 A Yes, I do.

21 Q Why didn't you take a shower that day?

22 A The court house opens back up at one o'clock. I was  
23 already down a hour. I barely would have made it in time  
24 with all the people that was going to be in that line  
25 that day.

1 Q You were in a hurry?

2 A Yes.

3 Q How were you dressed that day?

4 A My blue uniform, my blue hat, my blue jeans, and my  
5 boots.

6 Q That's a BFI uniform?

7 A BFI uniform.

8 Q Does it have any markings on it or labels?

9 A Yes, my name, **BFI**, Keep America Beautiful.

10 Q Okay. Did you find your Social Security card.?

11 A Yes, I did.

12 Q Did you talk to **Taco**?

13 A Yeah, at that time my sister handed me the phone. It was  
14 Taco.

15 Q And what did he say?

16 A He told, Your friends broke in **Mike's** house and stole his  
17 guns.

18 Q Did you know who he was talking about?

19 A Yes, I did.

20 Q And then what happened?

21 A At that time I asked him where they were, you know. I  
22 asked him where was he when they did this. I asked him  
23 where they were. He told me. At that time Mike **Finley**  
24 called me on the other line.

25 Q And Mike **Finley** called you while you were talking --

1 A Mike Finley --

2 Q -- to Taco?

3 A Mike Finley called me while I was talking to Taco.

4 Q About, what time was this?

5 A It **had** to be around 12:30, possibly -- it was before one  
6 clock. So, it had to be around 12:30. Let's say 12:30,  
7 12:40.

8 Q What did Mike say?

9 A He told me he got a call **from** someone, which I guess was  
10 his sister-in-law, that somebody broke in his house.

11 Q What happened next?

12 A I told him I **was** on the other line with Taco right now  
13 and he told me they did it and he said he thinks they're  
14 at the bus station.

15 Q Okay. **What** happened next?

16 A I went to the bus station about 90 miles an hour trying  
17 to catch them before they leave.

18 Q What bus station?

19 A The one on Highway 90 next door to Food World and  
20 Whataburger.

21 Q Okay. Now, at this time did you know or had anybody told  
22 you that she had been shot?

23 A No.

24 Q Did anybody tell you anything other than the fact that  
25 they broke into the house and took the guns?

- 1 A That was it?
- 2 Q Why were you going to the bus station?
- 3 A **Because I** wanted to get them before they get out of town
- 4 with the guns.
- 5 Q Get who?
- 6 A Rene and Wish get out **of** town **with** -- before they get out
- 7 **of** town with the guns.
- 8 Q What were you going to do with them?
- 9 A First **thing** I wanted to do was get **my friend's** guns back.
- 10 Q Your friend Mike's guns. What did you tell Mike?
- 11 A I told him exactly what Taco told me.
- 12 Q That they were at the bus station?
- 13 A That they was at the -- he thought he were at the bus
- 14 station.
- 15 Q And tell me what happened next?
- 16 A I got to the bus **station**; I parked. I went inside; they
- 17 **wasn't** there. I went around the back; they **wasn't** there.
- 18 When I proceeded to pull back on Highway 90, they pulled
- 19 up in a cab.
- 20 Q Who pulled up in a cab?
- 21 A Rene and wish pulled up in a cab.
- 22 Q **And** what happened next?
- 23 A I checked their bags. They **didn't** have no guns on them.
- 24 Wish **wasn't** even looking at me. Rene was telling me he's
- 25 sorry, he's sorry, he's sorry, and Im asking **where's** the

1 guns. He said, Taco knows where the guns are.

2 Q And then what did you do?

3 A I stood there for, I guess, about 10 minutes, thinking  
4 Mike was going to pull up.

5 Q Were you angry at the time?

6 A Yeah, I was angry and I was scared at the time.

7 Q Why were you scared?

8 A Because I knew if Mike pulled up he was going to just  
9 start shooting.

10 Q Mike Finley?

11 A Mike **Finley**.

12 Q Then what did you do?

13 A I waited there 10 more minutes for them -- I let them go  
14 inside and I proceeded to go to Taco's house since they  
15 said Taco had it, wanted to catch Taco before he moves  
16 anywhere, just in case they were lying.

17 Q Now, at this **time** you still didn't know anyone had been  
18 shot?

19 A No, I still didn't know no one was shot.

20 Q And what happened?

21 A I went to **Taco's** house, knocked on his door. He was  
22 there. I **told** him, They said you know where the guns  
23 are. He said, Oh, yeah, they just called me and they  
24 just told me where the guns were.

25 Q And then what did you do?

1 A I told him to take me to them.

2 Q To what?

3 A To **the** guns.

4 Q And did he?

5 A Yes, he did. He took me to **Crichton**, off Spring Hill

6 Avenue. He went behind the house and came back with the

7 guns.

8 Q Were you angry at that time?

9 A **Yes**, I was angry.

10 Q **Why?**

11 A Because if they did that, he had to know about it, and he

12 didn't tell me and he --

13 Q Who had to know about it?

14 A Taco had to know about it.

15 Q Okay. So, Taco got the guns?

16 A Taco got the guns.

17 Q Put them in your Bronco?

18 A Put them in my Bronco, and he went to telling me that he

19 saw Terrell put them there and he didn't **know nothing**

20 about it.

21 Q All right. What happened next?

22 A I took Taco home. I went back to the **Finley** residence.

23 Q What time was this?

24 A It was before two **o'clock** by now. So, **let's** say --

25 everything happened so fast -- 1:30, that's -- had to be

1 somewhere around 1:30.

2 Q It could have been later or could have been earlier?

3 A Could have been later.

4 Q And why did you go back to the **Finley** house?

5 A Cause I wanted to take Mike back his guns.

6 Q Was Mike there?

7 A No, he **wasn't**.

8 Q Did you see anybody there?

9 A Yes, I did.

10 Q Were there any police or anything there?

11 A No, there was no police there.

12 Q And this was several hours after the police had left **or**,  
13 you **dn't** know --

14 A I **didn't** know what time the police left, but it was  
15 around 1:30.

16 Q All right. What did you do? You **didn't** see **Mike**?

17 A No, I **didn't** see Mike.

18 Q Then what did you do?

19 A I pulled up around the circle and I saw Tyrone and  
20 another guy working on a car and I asked them did they  
21 see Mike.

22 Q **That's** Tyrone **Dortch**?

23 A That's Tyrone Dortch.

24 Q And what did Tyrone say?

25 A He said he did not see Mike. I asked him did he see who



1 did this. **He** said he saw two guys. I had pictures of  
2 them from New York --

3 Q Of who?

4 A **Of Rene** and Wish. I showed him the pictures. He said it  
5 definitely wasn't, this one, but he wasn't sure on this  
6 one.

7 Q Which one?

8 A On -- He said it definitely wasn't this one, which was  
9 **Rene**, but he said he **wasn't** sure about the other one,  
10 which was Wish.

11 Q okay. And then what did you do?

12 A I told him as soon as Mike -- as soon as Mike gets back,  
13 tell him to come straight to my house.

14 Q Where did you go from there?

15 A I went straight home.

16 Q **And** what did you do?

17 A I showed my father and my sister the guns and told them,  
18 you know, that they broke in the house and took the guns.

19 Q Okay. Then what **next:** happened?

20 A That was around two o'clock by that time. Six **o'clock at**  
21 -- well, I talked to **Taco** again after that and I'm asking  
22 **them**, you know, telling him. You **didn't** know they were  
23 going to do something. He said he **didn't** have no idea  
24 they were going to do this. So, now, around six o'clock  
25 **that** night, **I'll** never forget **it**, it was already dark,

1 Q This is Monday night?

2 A Monday night.

3 Q Okay. And who did you see at the hospital?

4 A He walked out of the lobby where her family was sitting  
5 and met me as I walking up.

6 Q Who?

7 A Mike.

8 Q Okay. Did you **talk** with him?

9 A I talked with him.

10 Q Did **you** ask about Valerie?

11 A He asked did I see them.

12 Q Did you ask about Valerie?

13 A Yeah, I asked **about** Valerie.

14 Q Did you tell him that you had the guns?

15 A No, I did not tell him I had the guns.

16 Q **Why** not?

17 A Because I was -- I was, you know, hurt. I **didn't** know  
18 what he would think if I told him, you know, I caught  
19 them and **didn't** grab or do whatever he would have did to  
20 them.

21 Q Okay. What else happened?

22 A I was walking towards the family. He stopped me. He  
23 told me that her mother had a gun and I **shouldn't** talk  
24 with her right now because he told her they were my  
25 friends from **New** York and she was already saying, well,

1        **he had** to have had something to do with it. So, I **didn't**  
2        go no farther. He stopped me right **there**.

3        Q        And did you leave the hospital?

4        A        I left the hospital after a while.

5        Q        Go home?

6        A        I went home.

7        Q        Anything else happen that night?

8        A        They called, Rene called, I told him, I **said**, You knew  
9        that she was shot. You didn't say nothing. He told me  
10       Angel **Melindez** did it. I told him he needs to turn  
11       **hissself** in and don't -- he needs to go ahead and separate  
12       **hissself** from Angel **Melindez** cause I'm definitely going to  
13       tell him where they live at and everything, so you nay as  
14       well just exclude yourself and tell me where Wish **is**.

15       Q        And when what happened?

16       A        He said he, you know, he **couldn't** do that.

17       Q        Did you know where he was when he was calling?

18       A        No, he woulh't: tell me.

19       Q        Anything else happen that: **night**?

20       A        Nothing else happened that night, that I remember.

21       Q        What about the next day? That would have been Tuesday.

22       A        The next day I knew I had to -- I had to give **Mike** back  
23       the guns, so I told him that they called me and they told  
24       me where the guns were.

25       Q        You told who?

1 A I told that to Mike.  
2 Q On Tuesday?  
3 A On Tuesday.  
4 Q You told him what?  
5 A I told him that day, Call me, and since everything done  
6 messed up, they just told me where the guns were and  
7 let's go -- let's go look for them where they said they  
8 were.  
9 Q And did you go get Mike?  
10 A Yes, I did.  
11 Q And that **wasn't** true, what you told Mike, was it?  
12 A No, it **wasn't**.  
13 Q Why did you tell him that?  
14 A Because I was hurt, because he was my best friend and I  
15 could have did more, but I didn't because I **didn't** know  
16 that -- exactly what happened at the time.  
17 Q Did you get him and take **him**?  
18 A Yes, I did.  
19 Q Where did you take him?  
20 A We went, I guess, about **two** blocks from his house **in a**  
21 wooded area.  
22 Q And did you give him the guns?  
23 A We got everything that was taken,  
24 Q And did you show him where they were?  
25 A I showed him where they were.

1 Q When did you put them there?

2 A I think that morning. That -- it was that morning,  
3 before I came to his house.

4 Q And what else happened Tuesday?

5 A That Tuesday we went back to his house. He checked  
6 everything. His watch was in there, his rings were in  
7 there, knives, bullets, and right then I got on the  
8 phone.

9 Q What else **was** in there?

10 A Knives, bullets, watch, a B.B. gun, two B.B. guns, stun  
11 gun and hand guns.

12 Q Did you see any masks or gloves?

13 A Yeah, and the mask and the suede gloves.

14 MR. JORDAN: Judge, I would object to the Defense  
15 telling the witness -- answering **the** questions  
16 for him.

17 MR. NIXON: Judge, **Mr.** Jordan has been testifying  
18 here all day --

19 THE COURT: Come on.

20 MR. NIXON: -- and I **haven't** had a chance to cross  
21 examine him yet.

22 THE COURT: Come on.

23 MR. JORDAN; Object to the leading.

24 Q Anything else in the bag?

25 A Like I said, the green mask with the piece in the middle

1 getting into mental impressions and all this  
2 other stuff.

3 THE COURT: He can **tell** us why he called New York.

4 Q Why did you call New York?

5 A I have friends in New York City that are police officers  
6 **that** I asked and did help apprehend them in New York,  
7 attempt to apprehend them in New York.

8 Q Did you talk to those police officers?

9 A I talked to one, Detective Hardy, which I gave the  
10 detective in charge **here's** phone number.

11 Q That would be Detective who?

12 A Detective Fletcher.

13 Q Detective **Al** Fletcher with the **Prichard** Police  
14 Department?

15 A Yes, I did.

16 Q Who else did you talk to, police officer in **New** York?

17 A I talked to one other police officer, a police officer  
18 that's my friend, which is George **Westow** (phonetic) which  
19 X know that **we** had **pictures of them**. I **gave** him  
20 descriptions, size, address.

21 Q And where did you make this call from?

22 A From the **Finley** residence.

23 Q And what time and what day?

24 A The next day, no later than four o'clock.

25 Q Okay. Did you give them all the information you had at

1 that time?

2 A Yes, I did.

3 Q Why would you give the people in New York, the police in  
4 New York, this information?

5 A **Because** I was hoping if they did get back on the bus the  
6 **police** in New York with some help from **Prichard** could  
7 have caught them right then and there.

8 Q And was that information provided to **Prichard**?

9 A **Yes**, it was.

10 Q And to what particular officer?

11 A Fletcher.

12 Q Detective Fletcher.

13 A **Detective** Fletcher.

14 Q Now, you mentioned some photographs. Did you -- have you  
15 seen those photographs here during this trial?

16 A Yes, I did.

17 Q Is that the two photographs that are in evidence?

18 A Those are the three or four photographs I furnished to  
19 the police department.

20 Q You gave them those photographs?

21 A I gave them.

22 Q And what do those photographs show that you gave to the  
23 police?

24 A **It's** pictures of Rene, Rene Whitecloud, Angel **Melindez**,  
25 which is Wish, and I **was** on one or two of them.

1 Q Okay. And when did you give those to the police?

2 A That was the next day.

3 Q Tuesday?

4 A Tuesday.

5 Q What police officer did you give those photos to?

6 A Fletcher.

7 Q And then what happened after that?

8 A She -- I gave the telephone for Prichard. She said she  
9 would get in touch with them.

10 Q What did you do next?

11 A I don't know if we went back to the hospital or I went  
12 home. Well, I know that same day -- the next day I gave  
13 a statement to Detective Fletcher.

14 Q Okay. Where did you give that statement to him?

15 A At the Prichard Police Station.

16 Q Did he ask you to come in?

17 A No, he didn't.

18 Q You came in on your own?

19 A I came in on my own.

20 Q And what did you tell him during that statement?

21 A I told him everything I could, description on them,  
22 address, where they could be found.

23 Q Rene and wish.

24 A Rene and Wish. What they had on, how I was suspecting  
25 they were getting back to New York.



1 Q Okay. Anything else?

2 A I talked to Taco several times that day.

3 Q Now, wait a minute. When you gave that statement to  
4 Detective Fletcher, did you tell him about the guns?

5 A No, I didn't.

6 Q Why not?

7 A Because I was being blackmailed not to mention how I got  
8 the guns.

9 Q And what do you mean by that?

10 A Dennard Jones, which is Taco, is the one that took me to  
11 where I got the guns from. When I told him to go ahead  
12 and tell the cops where he got them from, he said he  
13 would not, cause he does not want to be involved with it,  
14 leave his name out of it.

15 Q Okay. And did he say what, if anything, he was going to  
16 do if you brought him up?

17 A He said if I -- if I bring Fletcher -- put his name in  
18 Fletcher's mouth, he was going to -- he was going to tell  
19 them I knew about it. or some sort, that they were going  
20 to rob the house or some sort.

21 Q Did you tell Detective Fletcher anything else?

22 A No, I don't think so. Not that I recall.

23 Q And then what happened next?

24 A I talked to Taco several more times. I got him to tell  
25 me where that -- that Terrell Moore lives at, which has

1 that two-tone car.

2 Q And where was that?

3 A That was **Lynnwood Court**: Apartments.

4 Q And what did you do next?

5 A I told Mike where it was. Mike immediately wanted to go  
6 over there and find him.

7 Q And then what happened?

8 A I'm guessing Mike went there. I'm not sure about that,  
9 but I know I called Fletcher and told Fletcher that and  
10 Fletcher said he would check it out. He said he went  
11 there and he could not find Terrell Moore.

12 Q That's what -- Detective Fletcher?

13 A That's the Detective Fletcher.

14 Q And **that's** Terrell -- the same Terrell Moore that came  
15 in here.

16 A (No verbal response.)

17 Q And then what happened?

18 A At that time when **Dennard** Jones, Taco, was trying to  
19 blackmail me, I purchased a tape recorder to tape him  
20 threatening me, that if I put his name in their mouth, he  
21 was going to say blah, say blah, and which I did and I  
22 got --

23 Q And when was that?

24 A I gave a statement the next day. I didn't get it the  
25 next day. I gave a statement the 7th. That day after

1 that **last** statement, which was the **7th**, I got Taco Jones  
2 on tape saying he was going to blackmail me and blah,  
3 blah, blah.

4 Q Well, **you're** using blackmail as -- don't use blackmail --

5 MR. JORDAN: Judge, wait **a** minute, Judge. This is  
6 what the witness is saying now.

7 MR. NIXON: Judge, can I finish my question, please?

8 THE COURT: Certainly.

9 Q Blackmail is a legal term.

10 A Okay.

11 Q If you would, explain to us what you mean when you say  
12 blackmail.

13 A I meant threaten. If I told the cops that he took me to  
14 the guns and he showed me where the guns were, that would  
15 have put him involved with it, and he was going to say I  
16 knew about **it**.

17 Q Okay. And you say you made another statement before  
18 that?

19 A **Yes**, I did.

20 Q When was that?

21 A The morning before I got Taco Jones on tape saying that.

22 Q When was **that**? What day?

23 A That was a Saturday, the 7th.

24 Q Did you tell -- did you make that statement to Detective  
25 Fletcher?

v

1 A Yes, I did, early that morning.

2 Q Did you go to the police department?

3 A Yes, I did.

4 Q And what did you tell him in that statement?

5 A I think I added on a little more and I told him I  
6 couldn't be -- exactly what I'm -- what I got, but I'm  
7 just going to need time to get Taco on tape, and which I  
8 did later on that day.

9 Q And what did you do later on that day?

10 A Later on that day I talked to Taco again and this time he  
11 said on tape that I'm going to tell you straight out, if  
12 blah, blah, blah, if you say I took you to those guns and  
13 that puts me involved with it, I'm going to say you knew  
14 about it, and once I got that I told Michael Finley  
15 exactly what happened and told Fletcher by phone exactly  
16 what happened.

17 Q And in that taped conversation with Taco Jones --

18 MR. JORDAN: Judge, all-- all of this is hearsay,  
19 all of it.

20 THE COURT: He can tell us what he did.

21 MR. NIXON: I've got the tape, Judge. I can get him  
22 to --

23 THE COURT: Go ahead.

24 MR. NIXON: Move to admit, it into evidence.

25 Q You recorded that tape with Taco?

1 A Yes, I did.

2 Q And did Taco call you or did you call him?

3 A I'm not exactly sure.

4 Q I ask you to listen to this and tell me if this appears  
5 to be the tape or if this is the tape.

6 (Audio cassette tape played.)

7 Q Now, does this have anything to do with it?

8 A No, not that right there. Need to fast-forward it some.

9 MR. JORDAN: I ask that he play the whole tape,

10 Judge. If **he's** going to play any of **it**, I ask

11 that he play it all.

12 THE COURT: **Don't** think we particularly want to hear

13 his personal conversations. If you want to

14 play it, you have every right to play it.

15 MR. JORDAN; Judge, what he just said is not on that

16 tape. What he just said is not on that tape.

17 MR. NIXON: If you want to hear the whole tape, I'll

18 play the whole tape.

19 Q All right. Who are you talking **to** there?

20 A **That's** Taco, **Dennard** Jones, I'm talking to.

21 (Audio cassette tape played.)

22 MR. JORDAN: Judge, we **don't** have to hear all of it,

23 if he wants to stop it. **It's going** to take

24 another 40 minutes.

25 MR. NIXON: Judge, **I've** got a copy of **this** that I

1 can mark on evidence and end the tape and let  
2 the jury --

3 MR. JORDAN: Listen to it anyway.

4 THE COURT: As I told you earlier, **I'm not** going to  
5 let you introduce both of them. if **you** want to  
6 introduce one of them, you can.

7 Q Is that **your** conversation with Taco and -- that you made?

8 A Yes, it is.

9 Q That you recorded?

10 A Yes, it **is**.

11 MR. NIXON: **Judge**, I --

12 THE COURT: Do you have a copy of this?

13 MR. JORDAN: Tape?

14 THE COURT: Yes.

15 MR. JORDAN: Yes.

16 THE COURT: Also a copy of the statement?

17 MR. JORDAN: No.

18 MR. NIXON: Well, **it's** not -- it's a transcription,  
19 **Judge**.

20 THE COURT: Well, transcript.

21 MR. JORDAN: No, I **don't** have a **copy** of that.

22 **THE COURT**: He needs to look at it before you do  
23 that.

24 MR. NIXON: We've got half of it? **It's** just not  
25 finished?

1 PARALEGAL: No, I (inaudible).

2 MR. NIXON: Judge, move to admit the tape and let  
3 the jury hear it in the jury room.

4 MR. JORDAN: Judge, I can't cross examine him from  
5 something like that and the tape is hearsay and  
6 the tape is a concoction of Mr. Stanberry that  
7 he created for court.

8 MR. NIXON: Judge, he's testifying again.

9 MR. JORDAN: Well, I'll quite testifying, but I --

10 MR. NIXON: If he wants to get up there --

11 MR. JORDAN: I object to it.

12 MR. NIXON: -- and let me cross examine him, that's  
13 fine. He's heard the tape. I gave him a copy  
14 of it.

15 MR. JORDAN: That doesn't mean it's admissible.

16 THE COURT: No, it doesn't.

17 MR. JORDAN: Thank you.

18 THE COURT: Doesn't mean it isn't either.

19 MR. NIXON: Yes, sir.

20 THE COURT: We'll rule on that later. Let's move  
21 along.

22 MR. NIXON: Okay. Well, I --

23 THE COURT: You can have it marked.

24 (Defendant's Exhibit N identified.)

25 MR. NIXON: Judge, I would move at this time to

1 admit the tape in evidence.

2 THE COURT: And I'll reserve ruling on it. **Let's**  
3 proceed.

4 Q What did you do after you made that tape?

5 A After I made that tape I gave it -- I called Detective  
6 Fletcher, told him on the phone about **my** first  
7 statements, why I had to say what I said. He said he  
8 understood and he said he would get back with me. At  
9 that time I called Mike **Finley**, told him to come to **my**  
10 house, and I let him hear the tape.

11 Q What day was this?

12 A This was Saturday afternoon.

13 Q Did you tell Mike **Finley** about the guns?

14 A I told Mike **Finley** the exact -- exactly what happened and  
15 why.

16 Q And then what next did you do?

17 A Well, we made sure that Detective Fletcher get it and by  
18 that time he was --

19 Q Got what?

20 A Got the tape.

21 Q That tape right there?

22 A Got the tape.

23 Q And you gave that to Detective Fletcher?

24 A No, Mike took that from me and he gave it to **Detective**  
25 Fletcher.



1 Q That was within a week of --

2 A That was -- it happened that Monday. It was that  
3 Saturday he got the tape.

4 Q Okay. What else happened?

5 A I'm thinking I made some more phone calls to New York to  
6 see if they made any progress and the detective told me--

7 THE COURT: **No**, no, no. We **don't** want to hear what  
8 **the** detective in New York said.

9 Q Were you talking to Detective Fletcher --

10 A I talked --

11 Q -- on a daily basis?

12 A Yes. Yes, I was.

13 Q Were you giving him all the **information** that you had?

14 A I **gave** him everything that I had and, you know,  
15 everything I -- I gave him everything I could possibly  
16 give him as if it was **my** little sister that **was** shot  
17 cause I felt like we was that **close**.

18 Q And then what did you do, Rodney?

19 A I went looking for **Terrell** Moore. You know, we went  
20 looking for him and I found him.

21 Q When did you find him?

22 A I'm thinking that. Sunday, which I'm almost positive it  
23 was that Sunday or Monday. That Sunday or Monday.

24 Q Where did you find him?

25 A I saw the car parked outside a basketball court.

- 1 Q Did you see him or did you see **the** car?
- 2 A I saw him.
- 3 Q What, if anything, did you do?
- 4 A I **didn't** do nothing. I went straight to the police.
- 5 Q And do you know whether or not **they** found him?
- 6 A Detective Fletcher told me it would be -- it would **just**
- 7 make **hissself** look worse and he did not -- he did not come
- 8 come out there and talk to him.
- 9 Q Do you know whether or not they found him?
- 10 A Yes, I did know they found him.
- 11 Q Do you know when?
- 12 A Sunday, that week.
- 13 Q **And** then what did you do?
- 14 A The only possible thing I could do was just keep asking
- 15 Mike, you know, checking on Valerie.
- 16 Q Were you working at this time?
- 17 A Yes, I was.
- 18 Q **At BFI?**
- 19 A I'm still working.
- 20 Q **Still** going to work?
- 21 A Still going to work.
- 22 Q Now, did there come a time when Mr. Jordan and Mr. Smith
- 23 came to talk to you?
- 24 A Yes, I do.
- 25 Q Do **you** recall when '**that** was?

v

1 A I guess about the middle of April, April 15th, 17th.

2 Q And tell us about that.

3 A Well, they came there asking for my help, having me --  
4 made me --

5 MR. JORDAN: Judge, this is -- this is all self-  
6 serving and **it's** all hearsay. He can just tell  
7 that he made a statement or something. **That's**  
8 *it.*

9 **THE COURT:** I'm not going **to** put those limitations  
10 on him by you saying **it's** hearsay.

11 **MR. JORDAN:** Well, it was said out of court. I can  
12 -- I can cross examine him on it, which I plan  
13 to.

14 **MR. NIXON:** He took the statement, Judge.

15 **THE COURT:** I have every reason to believe you **will.**  
16 Go ahead.

17 A I told **him** I had, you know, all the information on  
18 definitely how we could get them and told him the  
19 complete, complete, complete truth then.

20 Q And you told Buzz Jordan that and **Lebarron Smith** at BFI?

21 A Yes, I did.

22 Q And was that statement recorded?

23 A Yes, it was.

24 Q And that was April the **17th**?

25 A April **17th.**

1 Q 1992?

2 A 1992.

3 Q Now, how long after that was it when you were arrested?

4 A A week later.

5 Q Was your Bronco ever at Valerie **Finley's** home on March  
6 the **2nd**, 1992, in the morning hours?

7 A No, it was not.

8 Q Did you go over there in the afternoon?

9 A Yes, I did.

10 Q You told us about going by and asking Tyrone if Mike --

11 A Asking if **Mike** was there and showing pictures of two  
12 individuals that were here from New **York**.

13 Q Is that the only time your Bronco **was** there?

14 A No, it **wasn't**. I was there the next day.

15 Q No, I'm talking about the day this happened?

16 A Yes, that was the only time that **day**.

17 Q Was your Bronco at BFI parking lot from the time you got  
18 to work until the **time** you got off?

19 A Yes, it **was**.

20 Q Did you ever go into Valerie **Finley's** home on March the  
21 **2nd**, 1995 (sic)?

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

23 Q Did you drive **your** Bronco to **Valerie Finley's** home on  
24 March the **2nd**, 1995.

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

1 Q Did you ever hold a gun to Valerie **Finley's** head?

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

3 Q On that day or any other day?

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

5 Q Did you take any guns out of that house?

6 A No, I didn't.

7 Q Did you have any reason to take guns from Mike Finley?

8 A No, I didn't. Everything he had, I had.

9 Q Did Mike **Finley** -- did you conspire with Mike **Finley** or  
10 anybody else to burglarize her home or to shoot his wife?

11 A No.

12 Q Did you participate in anything of that nature?

13 A Definitely not.

14 Q Do you know anything about any such conspiracy or to rob,  
15 burglarize, or shoot his wife?

16 A No, definitely not. I been down here since 1987. I  
17 never been arrested. I never even thought --

18 MR. JORDAN: Judge, none of this --

19 A -- of anything like that. in my head ever --

20 MR. JORDAN: It's all **self** serving.

21 MR. NIXON: Excuse me, excuse me.

22 THE COURT: **He's** not answering the question you  
23 asked him, Ken. Go ahead, ask him questions.

24 MR. NIXON: I withdraw that questions, Judge.

25 THE COURT: You withdraw the question. It **wasn't** a

question.

MR. NIXON: Sir?

THE COURT: I **don't** recall hearing a question.

Q Mr. **Stanberry**, did you have anything to do whatsoever with the burglary, the robbery, or the shooting of Mrs. Valerie **Finley**?

A No, sir, I definitely **don't**. I just -- I'm in trouble for trying to help.

MR. NIXON: Thank you. Answer Mr. **Jordan's** questions.

CROSS EXAMINATION

BY ME. JORDAN:

Q Mr. **Stanberry**, you did in fact lie to the police that were investigating these serious crimes that were committed on your best friend's wife, did you not?

A Yes, I did, March (sic) 2nd and March 7th.

Q So, you would lie to the police, but **you're** telling us you would not lie now to stay out of prison?

A I lied to the police about how I got the guns.

Q Let **me** just go back here a **little** bit. Valerie **Finley** had been shot.

A Mm-hm.

Q Right? You knew all the details about that as of late Monday night, **didn't** you?

A No, I **didn't**. Over the period of a week I found out.

- 1 Q Well, you knew about the guns, didn't you?
- 2 A I knew the guns were stolen, Monday.
- 3 Q You knew it Monday?
- 4 A Yes, I did.
- 5 Q And you knew that she had been shot because you told Mike
- 6 **Finley** she had been shot?
- 7 A No, Mike **Finley** told me she was shot.
- 8 Q Well, you were in court when Mike **Finley** testified,
- 9 **weren't** you?
- 10 A Yes, I was.
- 11 Q And when -- so, you're telling us that at two o'clock in
- 12 the afternoon you did not tell him at the hospital --
- 13 you, Rodney K. **Stanberry**, did not tell Mike **Finley** that
- 14 Valerie had been shot?
- 15 A No, I definitely **didn't**. I **didn't** talk to him at two
- 16 o'clock.
- 17 Q Well, you heard him testify, **didn't** you?
- 18 A Yes, I did.
- 19 Q Now -- and knowing -- having known that she got shot, you
- 20 talked to the police on Tuesday, the next day, didn't
- 21 you?
- 22 A Yes, I did.
- 23 Q And you knew -- but you knew she was alive, **didn't** you?
- 24 A Yes, I did.
- 25 Q You knew she **wasn't** dead?

- 1 A Yes, I did.
- 2 Q You **didn't** know, though, whether she'd be able to talk or  
3 not, did you?
- 4 A I knew a week later when I **gave** them the pictures for her  
5 to I.D.
- 6 Q Let's go to Tuesday --
- 7 A Mm-hm.
- 8 Q -- when you first talked to the police, when you first  
9 told your first lie to the police.
- 10 A Mm-hm.
- 11 Q You **didn't** know that Valerie was going to be able to  
12 talk, did you?
- 13 A No, I **didn't**.
- 14 Q And you lied to the police, **didn't** you?
- 15 A I lied to the police how I got the guns. I did not lie  
16 who did it.
- 17 Q You lied to the police, didn't you?
- 18 A Yeah, I did.
- 19 Q Well -- and you also told the police that Rene and Ihoe  
20 were the **two** people that went in and robbed the house,  
21 didn't you?
- 22 A **That's** true, cause at that time I did not know of a  
23 **Terrell** Moore.
- 24 Q Let **me** ask you "this one more time.
- 25 A Ask me one **more** time, sir.



1 Q On **Tuesday** you told the **Prichard** police who were  
2 investigating this very serious crime that your friends  
3 Rene and **Ihoe** --

4 A Mm-hm.

5 Q -- were the ones who did this, is that correct?

6 A The neighbors said they could not definitely I.D. them,  
7 so I could not definitely I.D. then. So, I said I'm  
8 pretty sure or I got a idea **that's** who they are.

9 Q Let me ask you this one more time.

10 A Mm-hm.

11 Q You were trying to be all so helpful with the police --

12 A Of course.

13 Q -- right?

14 A Of course.

15 Q And a little lie was not a big deal to you at that time,  
16 was it?

17 A How I got the guns?

18 Q Well, you lied to the police?

19 A I lied to them how I got the guns- That had nothing to  
20 do with who did it, which I told who did it that day.

21 Q You told the police Rene and Ihoe did this, right?

22 A I said possibly both of them.

23 Q And Rene and **Ihoe**, that was the first line of defense,  
24 that was the first story, that was your first creation,  
25 wasn't it, Mr. Stanberry?

1 MR. NIXON: Judge, I object. That's a compound  
2 question. Nu way he can answer that question.

3 Q That was your first information?

4 A Well, it was only common sense. They wanted to buy his  
5 guns. He **wouldn't** sell it to them. They took them.  
6 They left town.

7 Q Let me ask you this one more time.

8 A Yes, sir.

9 Q That: was the information that you gave to the police.

10 A Yes, I did.

11 Q And then you went about telling them Rene and **Ihoe's**  
12 names --

13 A Mm-hm.

14 Q -- Rene and **Ihoe's** addresses?

15 A Yes, I did.

16 Q Called the police in Mew York --

17 A Yes, sir.

18 Q -- to go get Rene and **Ihoe**?

19 A Yes, I did.

20 Q Of course, now, you know we got -- we will be bringing  
21 Rene back for trial on this case?

22 A Yes, I do.

23 Q Do you know where **Ihoe** is as **of** today?

24 MR. NIXON: There again he's testifying again, and I  
25 would ask that: you instruct him to for the

1 tenth time --

2 THE COURT: We're not trying that other case, let's  
3 go.

4 MR. NIXON: He said he knew that. I didn't testify.

5 A I **didn't** say nothing.

6 MR. NIXON: Judge, I --

7 THE COURT: Come on, cone on.

8 Q Do you know where **Ihoe's** whereabouts are as of right now?

9 A Yes, I do.

10 Q Where?

11 A He's dead.

12 Q Oh, **Ihoe's** dead?

13 A Yes, he is.

14 Q And when did he die?

15 A Some tine in January.

16 Q Of **this** year?

17 A Yes, he did.

18 Q So, your first story to the police was Rene and Ihoe were  
19 the killers?

20 A I said I had an idea it was Rene and **Ihoe**. I **wasn't**  
21 there, so I could not tell them definitely Rene and Ihoe.

22 Q Did you tell the police Rene and Ihoe, Mr. Stanberry, or  
23 did you not:?

24 A I'm not sure if I told them definitely. I said I had a  
25 completely good idea it had to be.

1 Q And that's where the investigation went, Rene and Ihoe?

2 A That's where it went.

3 Q And this lady was in the hospital, **couldn't** talk, but you  
4 knew she was alive?

5 A Mm-hm.

6 Q Now, several days or weeks later your story has shifted?

7 A Yes, when I got that tape.

8 Q And it shifted to now **it's Terrell** and Ihoe were the two?

9 A Yeah, Taco said that on the tape.

10 Q So, you -- you, of course, are not worried about her  
11 coming conscious and being able to identify the two  
12 people, were you?

13 A Well, I **gave** her pictures. She was conscious a week  
14 later. I was hoping she was going to point one of them  
15 out on the pictures that I supplied, sir.

16 Q **Why** just one of then?

17 A What you mean one of them? I gave her four or five  
18 pictures.

19 Q Why just one **of** the people?

20 A One of the people, **Angel Melindez**, which is Wish, and  
21 Rene **Barbosa**, which is **Whitecloud**, was on both of those  
22 pictures.

23 Q Now, did -- Rene had the pony tail?

24 A Yes, I did.

25 Q And. Ihoe was your brother-in-law?

1 A No, I never been married, sir.

2 Q Well, that's how **you've** described him before?

3 A I said that I thought I had a baby from his sister, which  
4 two years ago during this trial I found out that it was  
5 not my child.

6 Q So, at one time -- so, you used to date **Ihoe's** sister?

7 A Exactly. **Ihoe**, which is Wish.

8 Q **Isn't** it a fact that you personally orchestrated this  
9 entire investigation by your efforts that you began  
10 immediately after you found out that Valerie did not die  
11 as she was supposed to have done?

12 A Definitely not.

13 Q Well, earlier you said Mike **Finley**, your relationship  
14 with him was just hunting buddies?

15 A Mm-hm.

16 Q But then you were real concerned that here these guys  
17 came to the bus station and you let them **go** and you hated  
18 to break his heart. Well, which is it? Are you all that  
19 close or were you all **not** that close?

20 A Well, it's not the point of me and him was that close.  
21 They could have shot a woman at Circle K, I would have  
22 did the exact same thing.

23 Q Now, Val **Finley** has been nothing but kind to you over the  
24 years, hasn't she?

25 A Definitely.

1 Q Never done anything against you, has she?

2 A Mot nothing.

3 Q Can you give a single reason why Valerie Finley would  
4 come into **this** courtroom and lie about you coming over  
5 there to that house?

6 A Well, the only thing I could possibly think, they had on  
7 a mask. She **doesn't** have a window on the door. They  
8 could have said Stan. She opened the door.

9 Q Oh, they had on a mask?

10 A Yes.

11 Q That was also your creation, wasn't it?

12 A Oh, yeah. This is a Kennedy situation, sir.

13 Q **You're** very familiar with different type of criminal  
14 proceedings, **aren't** you, Mr. Stanberry?

15 A Yeah.

16 Q Twenty-five. Does that look similar to a hunting mask?

17 A It looks like a winter mask.

18 Q People wear those when they go hunting?

19 A They wear camouflage ones when they go **hunting**.

20 Q So, you **wouldn't** wear that, nobody you know would wear  
21 something like to go hunting?

22 A Somebody that was making a burglary or robbery would wear  
23 something like that.

24 MR. NIXON: Answer his questions, if you will.

25 Q And when you got the guns back that was in the pillow

1 case?

2 A Yes, it was.

3 Q Because you went through -- you went through the guns  
4 before you returned them to your friend Mike?

5 A Yes, I did.

6 Q And so if the mask could have gotten in -- you could have  
7 been a person -- you had the opportunity to put those  
8 things in there yourself, didn't you?

9 A Yeah, sure.

10 Q Did you have the opportunity?

11 A Sure **didn't**.

12 Q Well, you had possession of those stolen guns, **didn't**  
13 you?

14 A Yes, I did.

15 Q And you had possession of them by yourself, **didn't** you?

16 A Yes, I did.

17 Q So, you never worried about her identifying you because  
18 they had a mask on, right?

19 A Repeat that question. **You're** asking two questions.

20 Q You never worried about Valerie identifying you because  
21 you had information that who broke in had a mask on?

22 A No, I never found out that they had a mask on or not.

23 Q You just said that a minute ago.

24 A I said the mask was in the bag, so I --

25 MR. NIXON: No, Judge, **that's** not what he said. He

asked him if he knew any reason why. **That's** when he said that. He **didn't** say that he knew **they** had a mask on. **Mischaracterization** of his **testimony**.

Q Where did you come up with the idea that they had a mask on?

A When I picked the bag up and it was in there.

Q So, then you just figured whoever broke in had a mask on, Valerie **couldn't** identify them, so you **weren't** afraid?

A I assumed.

Q Well, then what are you doing giving pictures for her to identify? Why were you hoping **she'd** be able to identify somebody, you just said, from your photographs, if they had masks on? Right?

A Because if they **didn't**, she would be able to pick them out and New **York City** Police would have been able to catch them.

Q There was absolutely no reason for Valerie not to open the door for **you**, was there, Mr. Stanberry?

A I **don't** know how to answer that question.

Q Well, tell us why you would knock on the door and Valerie would not open the door for you. Give us a reason for that.

MR. NIXON: Judge, I object to that question. Is he asking him if he **did** knock on the door that



1 day? I object to that question. Object to the  
2 form of the question.

3 THE COURT: Restate your question.

4 Q Do you know of any reason why Valerie **Finley** would not  
5 open the door for you, Mr. **Stanberry**?

6 A **Why** she wouldn't open the door for me?

7 Q **Right**.

8 MR. **NIXON**: You mean on any given day? is that what  
9 what **he's** asking, Judge.

10 THE COURT: The way I interpret it, **it's** any time.

11 MR. **NIXON**: Okay.

12 THE COURT: Is that what **you** meant, Mr. --

13 MR. **JORDAN**: I think the witness understands that  
14 too, Your Honor.

15 MR. **NIXON**: Well, I'm sorry. I don't.

16 A Sure, she would of.

17 Q She'd open the door for you?

18 A Mm-hm.

19 Q You're familiar with the area of 1-65 and the exit that  
20 we take to get to the **Finley** residence, **aren't** you?

21 A Yes, I am.

22 Q **You're** familiar with Meadow Avenue and the neighborhood?

23 A Yes, I am.

24 Q **You're** familiar with the outside of the **Finley's** house?

25 A Mm-hm.

1 Q You're familiar with the inside of the **Finley's** house?

2 A Yes, I am.

3 Q Now, Rene and Wish had never been inside that house, have  
4 they?

5 A No, they haven't, not to my knowledge.

6 Q You had never taken **them** inside there, have you?

7 A No, I **haven't**.

8 Q You were familiar that they had a vault, that Mike had a  
9 vault that he stored his guns in?

10 A Yes, I did.

11 Q **It** took; a key to unlock that vault?

12 A I didn't know if it took a combination or a key.

13 Q **And** you were **familiar** with the fact **that** he had a lot of  
14 **guns**?

15 A I have the exact same guns registered, legal, that I  
16 could have easily let them take, sir. That's what you're  
17 forgetting.

18 Q Well, does it seem strange to you, Mr. **Stanberry**, that  
19 somebody would try to Kill her to supposedly steal guns  
20 and then they would just leave the guns? Just leave the  
21 guns and take off and go back to New York City?

22 A Well, see, the plan was intercepted when I came **home** at  
23 lunch time.

24 MR. NIXON: Are you finished with your answer?

25 A Yes, I am.

1 Q When you came home at **lunch** time?

2 A Well, 1:00, 1:30, whatever.

3 Q Are these the two photographs that you gave to Detective  
4 Fletcher?

5 A **That's** one of the four.

6 Q One of four?

7 A One of four.

8 Q Well, there's two.

9 A **That's** two.

10 Q Well, who wrote on the back of this **Rene Beebee**  
11 (phonetic)?

12 A I'm guessing Detective Fletcher.

13 Q Oh, that's not your handwriting?

14 A You want to check it?

15 THE COURT: You **don't** have to guess. If you **don't**  
16 know, say you **don't** know.

17 Q And who is this in this picture?

18 A **That's** me.

19 Q You're **Rodney K. Stanberry**?

20 A **Rodney K. Stanberry**.

21 Q **Who's** in the middle?

22 A I'm not sure what his name is.

23 Q And who's on the end?

24 A **That's** **Rene Barbosa Whitecloud**.

25 Q **You're** not denying that you gave this photograph to

1 Detective Fletcher, are you?

2 A No, I'm not.

3 Q And this guy, **Ahole** (phonetic) Martinez on there --

4 A Mm-hm.

5 Q -- or Angel **Melindez**?

6 A Uh huh.

7 Q He had two different names? And where is Angel on this  
8 case, on this picture?

9 A Right there circled.

10 Q And who is the person to the right of him?

11 A That's a guy named Trevor.

12 Q And who's this?

13 A Well, **that's** the **guy** named Trevor. That was a guy named,  
14 I guess, St. Anthony (phonetic).

15 Q Who's this?

16 A Guy named **Mike**.

17 Q And who's that?

18 A A guy named Brew (phonetic).

19 Q And **that's** you?

20 A Yes, it is.

21 Q So, the police are hot on Rene and **Ahoe's** trail, thanks  
22 to your assistance, right?

23 A Well, they were hot on both -- they were hot on their  
24 trail and **Terrell** Moore's trail.

25 Q Well, not on -- not the Tuesday after this happened they

1 weren't, were they?

2 A Well, that week they were.

3 Q Not after the Saturday you talked to them? You talked to  
4 the police on Tuesday. You went down and talked to them  
5 on Saturday?

6 A Mm-hm.

7 Q And on Saturday they were still hot on Rene and Ahoe's  
8 trail, weren't they? Based on your information?

9 A I don't know whose trail they were on.

10 Q Well, you didn't mention Terrell on Saturday in your  
11 Saturday statement, did you?

12 A Well, if I didn't know about that Terrell until I got  
13 that tape recording from Taco, how could I mention him.

14 Q Hold on a second. You're telling us under oath that you  
15 did not know about Terrell until Saturday when you got  
16 the tape recording?

17 A Uh --

18 Q Now, that's what you just said.

19 MR. NIXON: Judge, let him answer the question,  
20 please.

21 Q I think I caught you up on something, didn't I?

22 A Did --

23 Q ~ i you just say that under oath, Mr. Stanberry?

24 A I said I found out about Terrell from Taco on the tape.

25 Q I'm just -- I want to get this clear.

1 A Mm-hm.

2 Q You're telling us that you did not **know** about **Terrell's**  
3 involvement until **you** tape recorded Taco on Saturday?

4 A I tape recorded **Taco** Wednesday, Thursday, Friday, and  
5 Saturday.

6 Q You made four tapes of Taco?

7 A No, no, no. I recorded four different, times when -- back  
8 when he didn't say what I wanted him to say.

9 Q When did you get the final one?

10 A Saturday.

11 Q What did you do with the first three tapes?

12 A The recordings are on there. They just was gone over.

13 Q You erased on them?

14 A I went over them and -- I only had one tape. What could  
15 I do?

16 Q Now, this is -- **you're** playing -- **you're** the detective on  
17 this case, **aren't** you?

18 A Yeah, like a fool, I was.

19 Q Well, you had **an** interest. in it?

20 A Yeah.

21 Q And **you're** the detective on the case and you take a tape  
22 recording of Taco on Wednesday?

23 A Mope, Thursday. I **got** it when I got paid from Radio  
24 Shack.

25 Q Thursday?

1 A Thursday.

2 Q And you get a tape recording, but you **don't** turn that  
3 over to the police?

4 A When I got it, I gave it to Mike **Finley** and he turned it  
5 directly over to the police.

6 Q And then Friday you took a tape recording of **Taco**?

7 A Yes.

8 Q And you -- wait a minute, you just said you tape recorded  
9 over it, Mr. **Stanberry**?

10 A When he didn't say what I wanted him to say, I just went  
11 back until he did.

12 Q So, Thursday did he say what you wanted?

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

14 Q And you -- you didn't. Keep a copy of that tape recording,  
15 did you?

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

17 Q You **didn't** give that to the police?

18 A It **didn't** say nothing valuable.

19 Q You **didn't give that to the police**?

20 A It **didn't** say nothing valuable.

21 Q Can I ask you a question --

22 A Ask me.

23 Q -- and will you try to answer it?

24 A Yes, sir.

25 Q You did not give that tape to the police? Right?

1 A Mm-mn.

2 Q Friday you say you taped Taco? He didn't say what you  
3 wanted and you tape recorded **over** that one. You did not  
4 give that to the police. Saturday you tape recorded Taco  
5 and **that's** when he said what you wanted to know. That's  
6 the first time you ever learned about Terrell?

7 A No, no, no, I didn't say that.

8 Q **That's** what you said just a minute ago?

9 A No. I didn't. I said that was the first time he said  
10 what I wanted him to say. He mentioned Terrell before  
11 that and I mentioned that before that. You **got** to  
12 understand, Mr. Jordan, Terrell was not my friend. When  
13 I found out where Terrell lived, Mike **Finley** told that to  
14 Fletcher, Fletcher went there.

15 Q Let me go to something else.

16 A Go to something else, sir.

17 Q On Terrell.

18 A Terrell.

19 Q You **took** Mike **Finley** to **Terrell's** car?

20 A Mm-hm.

21 Q You showed Mike **Finley** **Terrell's** car?

22 A A car that looked like it.

23 Q No, wait a minute. You took Mike **Finley** to a car and you  
24 said this is **Terrell's** car. This is a car I saw at the  
25 Motel Six. This is the car that Terrell was driving.



1 This is **Terrell's car**. This is the **car** -- a Mustang, by  
2 the way, that you said was at the **Finley** house, right?

3 MR. NIXON: Judge, I object, and want -- and, Mr.

4 Jordan, ask him which one of those 13 questions  
5 he wants him to answer first, please.

6 Q Did you not in fact take him to a place and say this is  
7 **Terrell's car**, Mike?

8 A I took Mike to a place that looked like a car that --  
9 like **Terrell's**, and eventually it was.

10 Q Good. So, you took Mike to **Terrell's car**?

11 A Mm-hm.

12 Q Right? And then Mike took Tyrone to **Terrell's car**?

13 A To I.D. the car.

14 Q And Tyrone said that was not the car?

15 A I wasn't there. I **don't** know what he said.

16 Q You were in court, though, when he testified, weren't  
17 you?

18 A Yes, I was.

19 Q When Tyrone testified. So, now, you have -- you have  
20 created a car that was used in this. You have identified  
21 the two people, **Rene** and **Ihoe**, that went and did this,  
22 you have recovered the guns from this?

23 (Off the record interruption.)

24 Q Mr. **Stanberry**, you -- it's true, isn't it, that you work  
25 alone?

1 A Yes, it is.

2 Q All alone?

3 A Mm-hm.

4 Q Nobody rides with you?

5 A Nobody rides with me.

6 Q Nobody follows you?

7 A Nobody follows me.

8 Q Part of **your** route takes you by the **Finley** residence,  
9 doesn't it?

10 A No, it doesn't take me by the **Finley** residence. It takes  
11 me by the underpass of the interstate a block away.

12 Q Block away. One minute, one **minute**, from the **Finley**  
13 residence?

14 A Five minutes, ten minutes.

15 Q One minute?

16 A Five, ten **minutes**.

17 Q Remember asking Mike **Finley** if Valerie was talking?

18 A Several times,

19 Q That **was** very important **to** you, **wasn't** it?

20 A Yes, it was.

21 Q Now, you have never mentioned before about calling the  
22 motel and who did -- who did you talk to when **you** --

23 A Taco. You might need to check this statement, because  
24 I'm pretty sure it says that, April 17, 1992.

25 MR. JORDAN: Where is that statement?

v  
1 Q Go ahead. If I'm wrong, please correct me.

2 A I will.

3 (Pause. )

4 MR. NIXON: Which, statement did you give him, Mr.  
5 Jordan?

6 MR. JORDAN: The one he requested.

7 MR. NIXON: Which one is that?

8 MR. JORDAN: April 17th.

9 MR. NIXON: Which one, the revised statement or --

10 MR. JORDAN: Yes.

11 MR. NIXON: -- the first statement?

12 MR. JORDAN: Revised.

13 THE COURT: If you know **where this** is, how about  
14 helping him out, because I know that statement  
15 is 52 pages long. **We're** liable to be here a  
16 **while.**

17 MR. JORDAN: Judge, I **don't** ever recall seeing it on  
18 that statement. **That's** why it surprised me  
19 when he said it.

20 THE COURT: Go ahead.

21 (Pause. )

22 THE COURT: What page are you on?

23 A Forty-three.

24 THE COURT: Well, you take your time. Only nine  
25 more.

1 Q All right, Did you find it in there?

2 A It stops short of saying that they went, that they left  
3 and went to go do something. It must have been one of  
4 my other statements that said it completely.

5 Q Let me give you your other two statements. I want you to  
6 look at those too.

7 THE COURT: The yellow one is the second and the  
8 white one is the 7th.

9 Q Here are your other two statements, lay them out here for  
10 you. That's one and here's two.

11 MR. NIXON: Judge, the April 17th statements that I  
12 received through discovery from Mr. Jordan, one  
13 was a revised and one was a regular, and could  
14 we just make sure what the revisions were?

15 THE COURT: You have the same one he has. You did  
16 yesterday.

17 MR. NIXON: I've got two, Judge. He gave me one  
18 statement, a 47-page statement. He gave me  
19 another one just like it, but it says  
20 "revised." I just wanted to know if he notes  
21 what the revisions were.

22 THE COURT: Let him know.

23 Young man, you go ahead and look.

24 MR. JORDAN: You got both copies, don't you?

25 MR. NIXON: Yeah. Do you know what the revisions

1                   were?

2                   MR. JORDAN: Where's your original?

3                                   (Off the record discussion between  
4                                   Mr. Jordan and Mr. **Nixon**.)

5       Q     Did you find it in either one of those other two?

6                   THE COURT: His answer is no. **He's** shaking his head  
7                                   no.

8       A     No. The answer is no.

9                   MR. **NIXON**: And, Judge, for the record, we **don't**  
10                               really know what the difference in **the** revised  
11                               statement is from the regular statement that **we**  
12                               had, but --

13                  MR. JORDAN: I'll let **them** look at **that** too.

14                  MR. **NIXON**: I'll be looking through it to see if I  
15                               can find out --

16                  MR. **JORDAN**: **That's** fine.

17                  MR. **NIXON**: -- **what** the difference is.

18                  THE COURT: Certainly.

19                  MR. JORDAN: He and his investigator. I'd ask them  
20                               both to look through it.

21       Q     But **you're** telling us here today that you called the  
22                       hotel at what time?

23       A     While I was broke down **at** BFI.

24       Q     **What** time **was** that?

25       A     Between 9:00 and 9:50.

1 Q so, you called the -- you called them at the hotel. Who  
2 answered the phone?

3 A Taco answered the phone.

4 Q Taco?

5 A Taco.

6 Q And you said something about the Waffle House?

7 A I asked him where was Wish and he said he went to Waffle  
8 House.

9 Q Waffle House.

10 A Waffle House.

11 Q And you said on this -- you mentioned Waffle House? You  
12 didn't see Waffle House mentioned in any of -- three of  
13 these statements, did you?

14 A I seen it highlighted in my -- my lawyer's office. I  
15 don't see it now.

16 Q Not in any of **these** three statements you gave to the  
17 police, right?

18 A I **don't** see it.

19 Q No. **That's** brand new **today**?

20 A No, **it's** not brand new today.

21 Q So, you are **Rene's** alibi now, **aren't** you?

22 A I haven't seen **Rene** in four years. They were my best  
23 friends from the time I got here. **There's** no way in the  
24 world I would choose them, which I'm talking about.  
25 Valerie **Finley** and Mike **Finley**, over people I haven't

1           seen since I was 16 or 14 years old. Think about it.

2           Q    What I'm saying is this. You knew **Rene** couldn't -- **Rene**  
3               couldn't have been at the house, because he was at the  
4               hotel --

5           A    Yes.

6           Q    -- because you called there --

7           A    And talked to him.

8           Q    -- and talked to him?

9           A    Yes.

10          Q    So, you're **Rene's** alibi?

11          A    Yes, I'm **Rene's** alibi.

12          Q    Now, you put yourself within six minutes of the crime  
13               scene at ten **o'clock** in the morning, **don't** you?

14          A    Yeah.

15          Q    Because when you were driving from BFI up 1-65 to  
16               Chestang you state that about ten **o'clock** in the morning  
17               you were at the Motel Six?

18          A    Drove by the Motel Six.

19          Q    Drove by it on the Interstate?

20          A    On the Interstate.

21          Q    This location is **six** minutes from **Valerie's** house?

22               **MR. NIXON:** Judge, is he testifying again?

23               **MR. JORDAN:** **It's** cross examination, Judge.

24               **MR. NIXON:** He's not asking any question. Judge.

25               **MR. JORDAN:** **He's** already admitted to it. He just

1 admitted to it and I'm just restating what he  
2 already said.

3 THE COURT: Go ahead.

4 Q And within six minutes of -- or at ten o'clock in the  
5 morning, six minutes from Val's house, you see who you  
6 say today did this crime?

7 A That everybody says from the first week that it happened.

8 Q That all your friends say?

9 A No, no, no.

10 Q That all the people you've put together on this case say?

11 A Tyrone's not my friend. Terrell's not my friend. Wish  
12 was my friend, and they said Wish was there and Im  
13 saying Wish was there.

14 Q Well, let me ask you about something. (Pause.)

15 THE COURT: What page?

16 MR. JORDAN: Page 31.

17 THE COURT: Thirty-one, Ken.

18 MR. NIXON: Thank you, Judge.

19 Q Tyrone told you --

20 THE COURT: Let him see it.

21 Q See that?

22 A Yeah.

23 Q You gave this statement, right?

24 A Yes, I did.

25 Q Now, you said a minute ago that Tyrone identified who



1 they were or identified one of them?

2 MR. NIXON: **That's** not what he said, Judge.

3 A **That's** not what I said.

4 Q What did you **say**?

5 A I said it looked -- this one look familiar, and he said  
6 he **doesn't** recognize that one at all, which were one out  
7 of the two friends that came down here to visit me.

8 Q But when you talked to **Lebarron** Smith out at your work  
9 place --

10 A Mm-hm.

11 Q -- you told him that: Tyrone said he **didn't** really  
12 recognize them?

13 A He **didn't** recognize one of **them**.

14 Q And you said them?

15 A Okay, them.

16 Q You recovered the pillow case. **That's** what you gave to  
17 Mike **Finley**. You gave Mike **Finley** the guns back in that  
18 striped pillow case, right?

19 A **That's** correct.

20 Q You said you were -- you didn't want to sell then guns  
21 and somebody else **didn't** want to sell them guns?

22 A **That's** correct..

23 Q Because somebody was afraid?

24 A No, no, no. Mike -- Valerie **didn't** want Mike to have the  
25 guns in the first place. She wanted Mike to sell the

1 ~~guns. I stopped Mike from selling them the guns because,~~  
2 one reason, **they're** listed in his name. If they go do  
3 something wrong in New York, they'll be traced right bade  
4 to him. The second reason, **there's** no guns allowed in  
5 New York City and they did not have no reason to have no  
6 guns in New York.

7 Q What about you told the police you were afraid that they  
8 would take **them** up there and do something bad with them?

9 A Exactly, **that's** what I said.

10 Q But then you went with Rene and Mike to buy a **Glock** nine  
11 millimeter when Rene bought it from Charles **Hearn**, is  
12 that right?

13 A I was at work when they worked that deal out and it was  
14 nothing I could do. Sir, I could have took them to the  
15 gun show and bought as many guns as they want to legally  
16 if I wanted to, but I **didn't** do that. I could have sold  
17 them my guns if I wanted to. I could have let Mike  
18 **Finley** sell them his guns if I wanted to. I did not want  
19 them to get no guns and take back to Mew York. **The**  
20 possibility of what they could do -- I got two friends in  
21 New York **that's** cops. One of those same guns could kill  
22 one **of** my two friends that are police officers, that  
23 helped in this investigation get. murdered, and I **didn't**  
24 want that.

25 Q And they had money to buy guns, **didn't** they?

1 A And they had money to buy them.

2 Q And Rene in fact bought guns?

3 A He bought, one -- well, three.

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

5 MR. NIXON: That's all I have.

6 THE COURT: You may step down.

7 Do you have any additional witnesses?

8 MR. NIXON: Judge, if I could just ask him one  
9 question.

10 THE COURT: You my. You can ask him right there.

11 REDIRECT EXAMINATION

12 BY MR. NIXON:

13 Q Rodney, we've heard testimony, you've testified that you  
14 called Angel Melindez "Wish" and Rene Whitecloud --

15 A Rene Barbosa Whitecloud.

16 Q Rene Barbosa Whitecloud. Did anybody in Mobile to your  
17 knowledge know Wish's real name was Angel Melindez?

18 A They did not know their names. They did not know their  
19 real names.

20 Q Did anybody in Mobile know Rene Barbosa also went by --  
21 his real name was Rene Whitecloud?

22 A They didn't know none of that.

23 Q Did anybody in Mobile, to your knowledge, have any  
24 photographs of either one of these people?

25 A They did not have any, no photographs of them until I

1 furnished then.

2 Q You're the one who gave the photographs of these people?

3 A Yes, I did.

4 Q And you're the one who gave their true names?

5 A Yes, I did.

6 Q Their real names?

7 A Their real names.

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

9 MR. JORDAN: Judge, if I could just do one thing,  
10 and I apologize.

11 THE COURT: Do you want to ask him any additional  
12 questions?

13 MR. JORDAN: I think I might. I apologize to the  
14 jury. I just want to see something here.

15 MR. NIXON: One more question.

16 REDIRECT EXAMINATION CONTINUED

17 BY MR. NIXON:

18 Q Rodney, have you ever been in trouble before?

19 MR. JORDAN: Judge, that's not a proper question.

20 That is not proper evidence.

21 THE COURT: He may answer it.

22 A No, I haven't. I've lived in Prichard all these years  
23 since '87, and I've never been in trouble and I've had a  
24 job all my life.

25 MR. NIXON: That's all I have.

1 MR. JORDAN: May I ask him --

2 THE COURT: Certainly.

3 MR. JORDAN: And I need to put him back up there.

4 I'm sorry. I apologize.

5 THE COURT: Come back around here.

6 MR. JORDAN: This is a big -- Judge, we're trying,  
7 for the jury's benefit, **we're** trying to -- I  
8 apologize.

9 RECROSS EXAMINATION

10 BY MR. JORDAN:

11 Q Tell us what you did in returning the guns back to Mike  
12 **Finley?**

13 A What do you mean?

14 Q Tell us what you did?

15 A Until Taco made the tape and admitted the truth --

16 Q No, no, no, no. Tell us what you did, what you  
17 physically --

18 MR. NIXON: Judge, **he's** trying to answer the  
19 question.

20 MR. JORDAN: He started talking about something --

21 Q Tell us what you did in returning the guns.

22 A Until **Taco** admitted that he handed me the guns --

23 MR. JORDAN: Judge, this is non-responsive --

24 A -- and put the guns --

25 MR. JORDAN! Judge --

1 THE COURT: He's answering it. He put the guns.

2 Go ahead.

3 A Placed the guns in the woods and let --

4 Q Where did you get the guns from?

5 A From Taco.

6 Q Where?

7 A He took me to a house in Crichton. He got out, walked to  
8 the back of the house, and **brung** the bag back with the  
9 guns in it.

10 Q What kind of bag?

11 A It was a pillow case.

12 Q So, Taco has already testified. So, **you're** telling us  
13 Taco didn't get a green Army bag? Right?

14 A They might not remember. I remember.

15 Q Well, so Taco gave you the guns in a pillow case where?

16 A At a house in **Crichton** off Spring Hill Avenue, next --  
17 right -- the street: is right next door to **AmSouth** Bank.

18 Q And what did you do with them?

19 A Took the guns, took Taco home, went back to the **Finley**  
20 residence, asked the neighbors did they see **Mike** and when  
21 they do see Mike, tell him to come directly to **my** house.

22 Q This is Monday?

23 A This was Monday.

24 Q You did not take the guns to the police station?

25 A No, I did not take the guns to the police station.

v

1 Q You knew the guns had been stolen and something had hurt  
2 your friend's wife?

3 A I **didn't** know exactly what happened. He did not know  
4 what happened. I did not know she was shot until six  
5 o'clock that afternoon.

6 Q I thought you knew the house had been robbed before that  
7 according --

8 A I knew the house was robbed from when Taco called me and  
9 told me.

10 Q So, you knew the guns were stolen. You did not take them  
11 to the police station?

12 A I knew the guns was stolen and I knew I recovered them.

13 Q Did you take them to the police station?

14 A No, I did not take them to police station.

15 Q So, instead you took them where?

16 A I took them home with me until Mike got there.

17 Q **And** then where did you take them?

18 A That morning I took them and I placed them --

19 Q Wait, this **is** Monday. You picked them up Monday?

20 A Picked 'them up Monday.

21 Q So, Monday night where are they?

22 A They were with me Monday night?

23 Q So, then Tuesday what did you do?

24 A I **took** them **to** the woods next to his house and placed  
25 there there and took him back hours later and recovered

1       them.

2       Q     So, on Tuesday you took the guns to some woods out by UPS  
3             and you took the guns out and you put **them** in the woods?

4       A     Yes, I did.

5       Q     And then Tuesday you went and got Mike and you went  
6             driving, looking around the woods for some guns, and  
7             surprise, surprise, there are the guns?

8       A     Exactly, until Taco confessed that he gave me the guns,  
9             which he did.

10      Q     And you did all these things, you did all this planning  
11             because you were afraid that one day Valerie **Finley** would  
12             again speak?

13      A     Mr. Jones, first Michael **Finley** was involved with this  
14             whole set up. Why would I be lying to Michael **Finley**?  
15             Remember, this was a big insurance -- this is a big  
16             insurance thing, right? This is a conspired murder. If  
17             Michael **Finley** would have caught up with Taco or **Dennard**  
18             Jones or **Terrell** Moore, he would have been up for **murder**.  
19             What would you have said then?

20      Q     But you knew that one day this woman would talk again,  
21             didn't you, **Rodney** Stanberry?

22      A     I knew when I gave her those pictures she was going to be  
23             able to ID. them..

24      Q     You knew she **was** going to be able to ID. **Rene** and **Ihoe**?

25      A     Whoever did it.



1 Q And you were scrambling?

2 A Scrambling?

3 Q Scrambling. You were --

4 A Scrambling --

5 Q -- making telephone calls to Tam and to Mike Finley.

6 You were running back and forth to the police department.

7 A Just like I would do if it was my little sister that that  
8 happened to.

9 Q You were --

10 A Hopefully Mike would do the same thing for me.

11 Q You were lying to the police about things you did?

12 A No, I didn't lie to the police about nothing I did except  
13 Taco admitting that he gave me those guns. That was the  
14 only lie in the first and second statement.

15 Q Let's go over your second statement.

16 A Let's go over it.

17 Q This is on Saturday. You say you got a call from Taco  
18 about twelve-something. Taco said your home boys have  
19 broke into -- and you didn't even remember whose house it  
20 was? That's what you told the police, right?

21 A No, I'm saying I don't remember what Taco said exactly.  
22 It wasn't twelve-something, it was -- it was twelve-  
23 something, about, twelve-thirty when I got home.

24 Q And then Mike called. You clicked off, you talked to  
25 Mike and Mike said, Where are your home boys, and he said

1       **somebody broke into** the house and hit his wife on the  
2       head with something?

3       A     That's what I found out later.

4       Q     That's what Mike told you?

5       A     **That's** what he said his sister-in-law told him. She fell  
6       or something like that.

7       Q     I doesn't say she fell or something like that, it says--

8       A     He said she fell -- his sister-in-law told him. she fell  
9       or something like that. **She** didn't know she was shot,  
10      he didn't know she was shot and I did not know she was  
11      shot.

12      Q     You said, Somebody hit my wife in the head. **That's** what  
13      you said.

14      A     He said something to that nature.

15      Q     **That's** what you said.

16      A     Okay, **that's** what. I said.

17      Q     "I asked Mike what did they take. I guess he told me,  
18      but I **don't** really remember. I asked Mike when did they  
19      do **this** and he said nine-something in the morning. I  
20      told Mike that I was on the line with Taco. He said my  
21      home boy called and said that they had did it." Your  
22      home boy being **Rene** and **Ihoe**, right?

23      A     Exactly.

24      Q     So, as of Saturday you were **telling** the police that Rene  
25      and **Ihoe** did this?

1 A I said Taco said that they did it, and that's what it  
2 says if you read it, and that was three years ago.

3 Q "I went to the bus station and they were not there."  
4 Who's they?

5 A That was Wish, Angel **Melindez**; and Rene **Barbosa**  
6 **Whitecloud**.

7 Q So, let's get this straight just so the jury understands.

8 A Mm-hm.

9 Q This is on Saturday?

10 A On Saturday.

11 Q Five days after this happened?

12 A Five days after it happened.

13 Q You tell the police -- you're giving them information so  
14 they can investigate this, right, and **you're** telling them  
15 that you went to the bus station looking for Rene and  
16 **Ihoe**, who **you've** already **identified** as being the people  
17 who did this crime?

18 A No, I did not identify. I said those are the people that  
19 we had visting me. That's what. I ID.'d.

20 Q And you tell them you went to the bus station and they  
21 **weren't** there? They were **gone**?

22 A That's what I said until **Dennard** Jones made the statement  
23 and told the truth and I had it on tape.

24 Q So, this is another lie, right? This is a lie. Just **so**  
25 **we're not** mistaken on this thing. They were gone. It

1           **was** a lie, right?

2           **A**    Yes, it was, which that was before I got the conversation  
3           of **Dennard** Jones on the tape.

4           **Q**    You lied to the police, right?

5           **A**    Yes. I did the 2nd and the 7th.

6           **Q**    And -- but I said to Rene, Man, why did you all do that,  
7           and Rene kept saying that he was sorry.

8           **A**    Yes, he did.

9           **Q**    Rene was apologizing to you on the telephone for what  
10          happened to Val?

11          **A**    No. for what he let Angel **Melindez** do.

12          **Q**    Did -- do you say that here?

13          **A**    No, sure **don't**.

14          **Q**    **And** look at: when -- you tell the police the last time you  
15          saw them was Sunday night, eight o'clock Sunday night?

16          **A**    It -- this --

17          **Q**    That was another lie, right, if you in fact saw them at  
18          **the** bus station. Oh, then we talk about the guns being  
19          found and you tell them that Rene called you, **right**?  
20          Rene called you at home and said that we don't have the  
21          guns and said that the guns are in the woods. So, on  
22          this day **you're** reporting Rene as apologizing for what  
23          happened to her. **You're** reporting Rene as the person  
24          that put the guns in the woods, right? If **we** could have  
25          caught Rene that day, we could have prosecuted **Rene**,

1 couldn't, we, based on -- based just on your testimony and  
2 your evidence that you gave to the Prichard Police  
3 Department?

4 A No, I **wouldn't** say that. Well, see, that statement was--  
5 if I remember right, that lie there about how I got the  
6 guns, that was before Taco said the truth, right? Before  
7 I got that taped conversation. Yeah, it was.

8 Q That's your -- **that's** your defense, **isn't** it?

9 A Yes, it is.

10 Q That **you're** just going to lie, lie, lie, give the police  
11 all this **misinformation** until your man Taco comes through  
12 for you, right?

13 A The fact of the matter is, sir, if --

14 Q Let me ask you again --

15 A -- the first time we -- (Mr. Jordan and witness speak at  
16 once.)

17 Q -- ask you to --

18 A -- everybody that came here today could have testified  
19 against Angel Melindez or **Rene Barbosa**, including me,  
20 which would have been, what, seven, eight people,  
21 neighbors, the **man** working on a car, **Terrell** Moore.

22 Q I could have brought you in --

23 A Mm-hm.

24 Q -- to stand up there and say **it** was Angel and **Terrell**,  
25 **couldn't** I, Mr. **Stanberry**.

1 A Well, I wasn't --

2 Q And then I'd put Valerie --

3 A -- there, so I couldn't have testified to that.

4 Q And then I'd put Valerie **Finley** on to tell whether or not  
5 you were telling the truth about who came in and attacked  
6 her. **Let's** point out another lie or this is another  
7 thing. Rene said again that he was sorry, right?

8 A Mm-hm.

9 Q Again he's sorry. Right? Point the finger one more time  
10 at Rene on Saturday.

11 MR. NIXON: Judge, is he asking him did Rene say he  
12 was sorry?

13 THE COURT; He's asking him did he say that in that  
14 statement.

15 Q So, you went by Mike's house --

16 THE COURT: Is that what **you're** doing, Buzz?

17 MR. JORDAN: Yes.

18 Q So, you went by **Mike's** house and told him what Rene had  
19 told you --

20 A Mm-hm.

21 Q -- about the guns being in the woods and about saying how  
22 sorry he was for what he did to his wife?

23 A Mm-hm. No, no, no. He **didn't** say he was sorry for what  
24 he did to his wife. He said he was sorry for letting  
25 Angel **Melindez** go over there and do that.

1 Q You never **say** that on this statement, do you?

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

3 Q You say it in fact today when **you're** on trial. Right,  
4 Mr. **Stanberry**?

5 A I **probably** said it in that last statement, which was  
6 **April 17**. We **probably** can check it and see that.

7 Q **Better** be careful now. You didn't say anything else.

8 A **Mr. Jordan --**

9 MR. JORDAN: Judge --

10 A -- all of this **information here --**

11 MR. JORDAN: Judge --

12 A -- her family did not know. She did not know that a man  
13 confessed to it, so she just said they **were** Rodney's  
14 **friends**, had to be Rodney. Rodney's helping, Rodney's  
15 getting -- Rodney gave the guns back. They was his  
16 **friends**. He's helping; had to be him. So, it was him.  
17 Before she **found** out a man confessed to it. Now, that's  
18 what all the squabble is.

19 Q Well, you're going to get to hear --

20 A I would have took **care** of **her** like she was my **sister**. I  
21 would have jumped on them like she was my sister.  
22 There's no way in the world I would have let them do that  
23 to her if I knew they **were**.

24 Q Rodney?

25 A Yes, sir.

1 Q Isn't it a fact that Valerie looked at you in the face  
2 and said, Rodney, why are you doing this?

3 A No, that's definitely not true. if it was two people  
4 here from New York, why would I do something, if that --  
5 if that's what happened, if it was Rene and Ihoe?

6 THE COURT: Do you have any other questions to ask  
7 him?

8 MR. JORDAN: No.

9 THE COURT: Step down.

10 WITNESS: Thank you.

11 THE COURT: Do you have any additional witnesses?

12 MR. NIXON: We rest. Judge.

13 THE COURT: Any rebuttal?

14 MR. JORDAN: Yes, Your Honor.

15 THE COURT: I know what time it is.

16 MR. JORDAN; Valerie Finley.

17 THE COURT: She nay stay right there.

18 Mrs. Finley, you're still under oath.

19 VALERIE FINLEY

20 recalled, being still under oath,

21 testified further as follows:

22 FURTHER DIRECT EXAMINATION

23 BY MR. JORDAN:

24 Q Valerie, do you remember the person that they brought in,  
25 a Terrell Moore?



1 A Yes, sir.

2 Q And he took his Fifth Amendment?

3 A Yes, sir.

4 Q **About** fifty times?

5 A Yes, sir.

6 Q And Mr. **Nixon** asked him a bunch of questions where he

7 took his Fifth Amendment?

8 A Yes, sir.

9 Q Did you get a good look **at** him today?

10 A Yes, sir.

11 Q Did you see him when you testified at Grand Jury?

12 A Yes, sir.

13 Q And did you get a good look at him then?

14 A Yes, sir.

15 Q And is that the person -- is **that** one of the two people

16 that came in your house the day this happened?

17 A No, sir.

18 Q Are you absolutely sure?

19 A I'm positive.

20 Q Could he have been the person that **was** with Rodney

21 **Stanberry**?

22 A No, sir.

23 Q Could he have been the person **that** was with Rodney that

24 had the pony tail?

25 A No, sir.

v  
1 Q Could he have been there instead of Rodney Stanberry, in  
2 Rodney's place?

3 A No, sir.

4 MR. JORDAN: That's all.

5 FURTHER CROSS EXAMINATION

6 BY MR. NIXON:

7 Q Mrs. Finley, are you as absolutely positive about that as  
8 you were when you told me that you were absolutely  
9 positive that that was your voice on that tape, but you  
10 didn't say that?

11 A I know who came in my house. I know it wasn't the guy  
12 that was on the stand. I know it was Stanberry and Rene.  
13 I didn't know his name then at that time. I called him  
14 Pony Tail. That's who came in my house on March the 2nd  
15 on my baby's birthday and that's the only person I saw in  
16 my house -- people I saw in my house that day.

17 MR. NIXON: That's all I have, Judge, of that  
18 witness.

19 THE COURT: Any further questions, Mr. Jordan?

20 MR. JORDAN: No further rebuttal.

21 THE COURT: Okay. Do you have any other witnesses  
22 an rebuttal?

23 MR. JORDAN: No, Your Honor.

24 THE COURT: Ladies and gentlemen, this case for all  
25 the -- all the testimony in this case is completed. They

1 have some legal motions to make to me. I have every  
2 reason to believe that we will get started promptly  
3 tomorrow morning at 9:00. Not 9:15, 9:00. How about  
4 8:30? Want to be here at 8:30. I'll come at 7:30, if  
5 you want to. I see several people giving it this, but --  
6 all right. nine o'clock. I'll see you all then. Let me  
7 tell you what's going to happen. The attorneys are going  
8 to make their closing argument and then I'll tell you  
9 what the law is and then this case will be yours. Okay.  
10 Again, don't discuss this case with anybody. See you all  
11 tomorrow morning at nine o'clock.

12 (Jurors excused.)

13 THE COURT; All right, for the record, I assume, Mr.  
14 Nixon that you wish to make the same motions that you  
15 made at the close of the State's case.

16 MR. NIXON: I do, Your Honor. I would like to renew  
17 those motions and I make a motion for a judgment of  
18 acquittal at this time on each and every count of the  
19 indictments pending against Mr. Stanberry. At this time  
20 I would ask leave of the Court to adopt and re-aver the  
21 sane arguments that I made to the Court; at the close of  
22 the Plaintiff's case or shortly thereafter and make those  
23 the same part of my argument on my judgment of acquittal  
24 at this time. Plus, Judge, I would like to add as to  
25 each of the charges the insufficiency of the evidence,

1 especially in light: of the fact that since the Defense  
2 has put on its case, we've had two eyewitnesses that were  
3 there, who offered **testimony** which directly conflicts  
4 with --

5 THE COURT: You know, I'm glad you mentioned that.  
6 We do have an eyewitness here **who's** testified and it's  
7 Valerie **Finley**. There's not any question that your  
8 client's testified and there's not any question that --  
9 what's the guy that says a half truth is not a whole lie?

10 DEFENDANT: Taco?

11 THE COURT: Taco. But I think we all know that --  
12 now, of course, I understand you have to make these  
13 motions for the record, but **there's** not any question in  
14 my **mind** that there's a jury question on each of these  
15 counts, so I deny your motion.

16 MR. NIXON: Yes, sir. Judge.

17 THE COURT: **That's** for a jury to determine, not me.

18 MR. NIXON: And, Judge, for the record again I would  
19 like to renew my **exceptions** to your ruling regarding the  
20 admission of the video tapes --

21 THE COURT: Certainly.

22 MR. NIXON: -- statement of **Terrell** Moore and **the**  
23 sworn statement -- Judge, you have not ruled on that at  
24 this time.

25 THE COURT: I have not, but I'm leaning, and I think

1 you know that, I'm leaning not to admit it in any way.

2 MR. JORDAN: What sworn statement?

3 THE COURT: That -- Buzz --

4 MR. JORDAN: I'm sorry-

5 THE COURT: -- you'd do well to listen.

6 And the reason is simply this. You know, your  
7 client brings in a tape recording he says is conversation  
8 he had with Taco. I think that was the gentleman's name  
9 or the guy's name, Taco.

10 MR. NIXON: It was, Your Honor.

11 THE COURT: All of this is -- I let you testify to,  
12 even let you play some of the record. Quite frankly, I  
13 don't think I should, but I did, and I think it would  
14 compound it more by me introducing that -- the whole  
15 tape, but if you can find some law that says it's  
16 admissible by tomorrow morning, I promise you it will go  
17 back to the jury room, along with the tape recording.

18 MR. NIXON: Well, Judge, just so we're straight on  
19 this, this was a taped conversation that Rodney Stanberry,  
20 who has testified here made with --

21 THE COURT: I know exactly what it was. He said  
22 that he wanted to tape Taco --

23 MR. NIXON: Right.

24 THE COURT: And that he tried for three days to tape  
25 Taco until he had him saying what he wanted him to say.

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1 MR. NIXON: Yes, sir.

2 THE COURT: You know, **that's** another thing that --  
3 and he taped over some, and if you listen to the tape  
4 recording, which we all did, you can tell some of it's  
5 taped over. But again, if you can find anything to  
6 support that, it will in **tomorrow morning**.

7 MR. NIXON: Well, Judge, now, Taco testified also  
8 and Mr. Jordan had been provided a copy of this tape. He  
9 got it through **the** police, I assume. So, I don't see  
10 where **it's** hearsay if the two people who are on the tape  
11 both took the stand and testified, Judge.

12 THE COURT: Well, okay. But, again, if you can find  
13 me some case that says **that's** admissible, **it's**  
14 admissible. If not, **it's** not. What else?

15 MR. NIXON: And you have not yet ruled on the  
16 admissibility of the witness statement of **Terrell** Moore,  
17 who took the Fifth. My understanding is you took that  
18 under submission.

19 THE COURT: That **is** correct; I haven't, but **I will**  
20 by in the morning.

21 MR. NIXON: Okay.

22 THE COURT: Okay?

23 MR. NIXON: Thank you, Your Honor.

24 (Whereupon, court adjourned for the evening.)

1 STATE OF ALABAMA

2 v.

CASES NO. CC-92-2313,

3 RODNEY KARL STANBERRY,

CC-92-2324 and CC-92-2315

4 Defendant

5 Mobile, Alabama - April 7, 1995

6 (Trial resumed. Jury not present.)

7 THE COURT: Well, for the record, we are now in the fifth  
8 day of this case that should have been over with in two days.  
9 But I said yesterday that I would tell everybody how I was going  
10 to rule on these things. There are no more exhibits going to the  
11 jury. So, the deposition taken by Mr. Jordan -- why it was  
12 taken, I say for the umpteenth time, I don't know, but I'm not  
13 going to allow that to go to the jury. There was one other  
14 matter -- I don't remember what it was -- but it's not going  
15 either.

16 MR. NIXON: The tape.

17 THE COURT: Yeah, the tape.

18 Now, I was **given** a number of charges, written charges,  
19 and I feel that I should tell Ken which ones I'm going to give.  
20 Everything that I have been handed, I would have covered anyhow,  
21 but since some of these are stated different from the way I  
22 usually state it -- by the way, Ken, just for your own -- I don't  
23 know who prepared these last **two** charges. **They're** on different  
24 typewriters. **There's** no such thing as a moral certainty any  
25 more.

1 MR. NIXON: Yes, sir.

2 THE COURT: Other than that, the charge would be all right,  
3 but I'm giving charge one, charge six, charge seven, charge  
4 thirteen. All the rest are denied, but again I can assure you  
5 I'm covering everything you got and more.

6 MR. NIXON: Yes, sir, Judge.

7 THE COURT: In addition, I intend to charge -- Mrs. Finley,  
8 where is she?

9 MR. JORDAN: Judge, I don't know. We're looking for her.  
10 She's -- the whole family should be here.

11 THE COURT: She said yesterday and I quote -- well, somebody  
12 threw my paper away -- no. One or the other shot me. One or the  
13 other shot me, and she was referring to the Defendant in this  
14 case, Rodney Karl Stanberry, and the other guy -- what's his  
15 name?

16 MR. JORDAN: The only name we know is Rene Whitecloud.

17 THE COURT: Rennie (phonetic). I called him Renay  
18 (phonetic), but you all say it's Rennie.

19 So, I intend to charge this jury on accomplice and aid-  
20 ing and abetting. Other than that, it's more or less a boiler  
21 plate, everyday charge, and Ken has tried cases with me before.  
22 Buzz has not. So, Ken knows exactly, I believe, what I'm going  
23 to cover and it's the usual everyday thing.

24 MR. JORDAN: Judge, the only thing I would ask that you  
25 might cover is that the questions asked --



1       **THE COURT:** I have no intentions of asking that -- telling  
2 that.

3       **MR. JORDAN:** I'm sorry.

4       **THE COURT:** I know exactly what **you're** going to say, but I  
5 have no intentions of doing that.

6       **MR. JORDAN:** Okay. **We're** not going to be allowed to argue  
7 that as evidence, are we?

8       **THE COURT:** What?

9       **MR. JORDAN:** The questions **that** were asked Terrell Moore  
10 where he took the Fifth Amendment and basically Ken asked a bunch  
11 of questions; I asked a bunch of questions.

12       **THE COURT:** I'm not telling either side how to argue, but I  
13 guarantee you it I was Ken I'd be arguing it.

14       **MR. NIXON:** Perfectly proper, Judge.

15       **THE COURT:** sure, **it's** an inference from -- conclusion from  
16 the facts --

17       **MR. JORDAN:** The fact that he took the Fifth isn't -- is an  
18 inference.

19       **THE COURT;** That **is** correct.

20       **MR. JORDAN:** **But** the fact of what Ken asked **him** is not evi-  
21 dence. It -- I mean **it's** not evidence, Judge, but I'll abide by  
22 whatever Your Honor rules.

23       **THE COURT:** You know, I'm not going to tell Ken how to  
24 handle it, but if it was me, and I'm not going to listen to Davis  
25 how I should handle it either, but if it were me and I **were** Ken,

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1 I would argue that I asked these questions and the reason I asked  
2 them is because he knew the answer, but he took the Fifth  
3 Amendment and therefore you were not -- you **didn't** hear his  
4 answer, but you can glean from that what you -- reasonable and  
5 just inference that can be drawn from that, just like any other  
6 evidence in this case. And, by the way, it **doesn't** make any  
7 difference whether you tell them or not, **they're** going to do it.

8 MR. JORDAN: Well, Judge, I think --

9 THE COURT: But if I was the **Defendant's** attorney, that's  
10 exactly what I would argue.

11 MR. JORDAN: I always thought you could only argue things  
12 that came out in evidence.

13 THE COURT: That **is** correct, That **is** why I said I would do  
14 it exactly that way. I asked these questions and we got a, I  
15 refuse to answer on the grounds it may tend to incriminate me, or  
16 **the** Fifth Amendment. The reason these questions were asked is he  
17 knew the answers. He chose the Fifth. **You** also can, without  
18 speculating.

19 I **also** intend to tell them, **Ken**, that your client --

20 (Off the record interruption.)

21 THE COURT: I intend to tell these people that the Defendant  
22 took the witness stand. He had no obligation to do so, but he  
23 did. Therefore, his testimony like any other witness should be  
24 given the weight and credence you, the jury, determine it should  
25 be given, consistent with all the evidence that you heard in this

1 case.

2 MR. NIXON: Judge, just for the record, we have argued in  
3 chambers and out of chambers about the admission into evidence of  
4 the statement and the video tape --

5 THE COURT: You've got it in there about 14 times. How  
6 many more times you want to get it?

7 MR. NIXON: And the audio tape. Judge, I would like for the  
8 video tape confession of Terrell Moore to be marked as --

9 THE COURT: Fourth time, it is not going in, but it is  
10 marked already.

11 MR. NIXON: No, sir, Judge, it's not.

12 THE COURT; Well, if it isn't, we'll mark, it.

13 MR. NIXON: I would like the video tape and audio tape  
14 marked as a Court's Exhibit --

15 THE COURT; Certainly.

16 MR. NIXON: -- that we're talking about.

17 THE COURT; Certainly. But, you know, I don't wish to point  
18 the finger at anybody, but I know of no law that says somebody  
19 can -- well, I don't want to say manufacture, but --

20 MR. JORDAN: That's a good word, Judge.

21 MR. NIXON: Judge, there's no evidence that anything was  
22 manufactured in this case and I certainly didn't have any part in  
23 manufacturing anything.

24 THE COURT; I think the record is absolutely clear that you  
25 didn't.

1 MR. NIXON: Anything, Judge.

2 THE COURT: But I think the record is also absolutely clear  
3 that the State and the District Attorney didn't.

4 (Court's Exhibit 2 was marked for  
5 identification.)

6 MR. NIXON: Judge, I --

7 This is not on the record, Barbara.

8 (Off the record discussion.)

9 THE COURT: We'll do it right now. Barbara, hold it a  
10 minute.

11 An I correct in saying, Buzz, that the way this  
12 scenario happened, and I believe it's in the record for the third  
13 time, but in this case we have to get everything in four tines.  
14 Number one, his investigator goes out and, quote, gets a video  
15 tape of Moore or whatever his name is.

16 MR. NIXON: Terrell Moore.

17 THE COURT: Terrell Moore. By the way, is it technicolor?

18 MR. RUSSELL: Sir?

19 THE COURT: Is it in technicolor?

20 MR. NIXON: It's in color, yes, sir, Judge.

21 MR. RUSSELL: Oh, yeah, it's in color. I haven't heard that  
22 word in a long tine. I forgot --

23 THE COURT: And then there's some conflict as to whether he  
24 sent him to a lawyer or not, but he made his way to a lawyer.

25 MR. NIXON: He denies that he did.

1           **THE COURT:** This information **was** -- well, we can bring Mr.  
2 dark over here and I'm sure **he'd** verify it, but -- and then he  
3 -- Mr. Buzz Jordan was advised. He subpoenaed that same man to  
4 the grand jury where, although he had given this, quote,  
5 deposition for the investigator he refused to testify at grand  
6 jury. The next step in this bizarre scenario, and **I've** used  
7 those words advisedly, Mr. Jordan met with his attorney, Mr. Bob  
8 **Clark**, and **this** Mr. Moore, and proceeded to give, using his  
9 terminology, a qualified immunity. That two page document will  
10 speak for itself, but that again is the third or fourth time I've  
11 heard this, but is that the way it happened?

12           MR. JORDAN: Yes, Your Honor.

13           **THE COURT:** Now, what else do you want to put in the record.

14           MR. **NIXON:** The only exception. Judge, would be that I had a  
15 conversation with Mr. Jordan before the grand jury subpoenas went  
16 out where I told him that I could have this person that confessed  
17 in his office and that he would confess to him and -- but he  
18 would say that Mr. **Stanberry** was not with him when he did it, and  
19 **at** that point Mr. Jordan told me that his victim, **Mrs. Finley**,  
20 had made a proper identification of someone -- of my client and  
21 someone else and that he was not interested in **nolle** pressing the  
22 case with leave to re-instate if and when I had that person  
23 appear in **his** office to make that confession, and then after that  
24 is when the grand jury subpoena went out to Mr. Moore, and  
25 everything else **that** Your Honor recited occurred.

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1 (Mr. Jordan presented his closing  
2 argument to the jury without  
3 objection thereto.)

4 (Mr. **Nixon** presented his closing  
5 argument to the jury, during which  
6 the following occurred:)

7 MR. NIXON: If you will recall, he told me he was absolutely  
8 positive that he did not talk to my investigator, Mr. Russell, at  
9 this fish fry at Willie White's house in the neighborhood of  
10 Meadow Avenue. He was absolutely positive of that and that came  
11 as a shock to me and I usually **don't** ask people are you  
12 absolutely positive --

13 MR. JORDAN: Judge, the attorney's shock or confusion or  
14 any-thing, those are not part of the --

15 MR. NIXON: Judge, this is argument and that's proper and he  
16 knows it's proper.

17 **THE COURT:** Go ahead.

18 \* \* \* \* \*

19 (Mr. Jordan presented his final argument  
20 to the jury, during which the following  
21 occurred:)

22 MR. JORDAN; Remember **about** Emmett, remember Mr. **Nixon** when  
23 he **was** basically calling **Emmett** a liar. He had his --

24 MR. NIXON: Judge, I object to that. I never called him a  
25 liar. I never said that, Judge.

MR. JORDAN: I'll rephrase that.

\* \* \* \* \*

MR. JORDAN: He said he went out at 8:30. Tyrone says he was out there at 8:30 in the morning.

MR. NIXON: Judge, I object. That's a mischaracterization of the testimony.

MR. JORDAN: Ladies and gentlemen, you remember what --

THE COURT: He has a right to argue inferences --

MR. JORDAN; You remember --

THE COURT: -- as he remembers those to be.

\* \* \* \* \*

MR. JORDAN; You heard from Mr. McDonald, who says that Rodney left work that day at 10:30 in the morning, and he writes in 10:30 on the time sheet. You'll see it. I think he wrote it down as 10:50.

MR. NIXON: Judge, I object to that. That's definitely not what he said.

MR. JORDAN: He wrote it down right there on the sheet and you'll get to see it.

MR. NIXON: Judge, he said he didn't know what time he left. He was unequivocal about that.

THE COURT: The jury heard the evidence. Let's go.

\* \* \* \* \*

MR. JORDAN; First of all, why would Valerie lie. The only reason -- the only way that you can reasonably find Stanberry not



1 guilty of these charges is you have got to reasonably find that  
2 Valerie Finley is lying.

3 MR. NIXON: Judge, I'm going to object to that. That's --

4 MR. JORDAN: Judge, that's argument.

5 MR. NIXON: You're going to charge them on the law and  
6 that's not what it is. He's telling them what the law is and  
7 what they can't do.

8 MR. JORDAN: That's argument.

9 THE COURT: I'll tell then what the law is, but he's got a  
10 right to argue.

11 MR. JORDAN: Thank you.

12 \* \* \* \* \*

13 THE COURT: Ladies and gentlemen, let's take a break.

14 (Recess. )

15 (Jury present;.)

16  
17 THE COURT: Ladies and gentlemen, I got a lot to tell you,  
18 but I promise you it won't take two hours. The first thing I  
19 want to tell you is you heard the attorneys give what we call a  
20 closing argument. They not only have a right, they have a duty  
21 to give a closing argument if they think it's in the best  
22 interest of their client. In making that closing argument they  
23 have a right to draw inferences and conclusions from the facts as  
24 they remember those facts to be. However, you twelve people are  
25 the sole triers of the facts in this case, and if any lawyer has

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1, argued to you facts, inferences or conclusions from those facts  
2 different from what you yourself would draw, then totally  
3 disregard it, because you're the sole triers of the facts in this  
4 case and it is you that must return a verdict in this case.

5 Now, I tell every jury that sits in that box that the trial  
6 of this **case** or any case should be like your daily life and that  
7 is a search for the truth. In this connection, I'm sure that you  
8 noticed that every single witness that took this stand, I had  
9 **that** person raise their right hand and take the oath prior to  
10 taking that stand. I could have brought all of them in here and  
11 said raise your right hand. I **don't** do that, and the reason I  
12 **don't** do that is to impress upon each person that when they take  
13 this stand they should tell the truth.

14 Now, you may logically **assume** from that that every person  
15 who takes this stand is presumed to speak the truth. But our  
16 Supreme Court has ruled, and I believe correctly so, that no such  
17 presumption exists. That is for you to **determine**. I will tell  
18 you **it's** the law of this state if you can reconcile the testimony  
19 of all the witnesses with that of being the truth, then you  
20 should do so. Of course, as the sole triers of the facts in this  
21 case, if you are unable to do this, then you must decide which  
22 witness you choose to believe and which witness you choose not to  
23 believe.

24 I will tell you that if you believe any witness has wilfully  
25 sworn falsely to a material fact you may, if you wish, disregard

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1 that **person's** entire testimony. **The theory of our** law being that  
2 simply that if a person would testify falsely in any one material  
3 aspect, the law would presume that person would testify falsely  
4 in any other material aspect.

5 **Of** course, you may consider many other things: The demeanor  
6 of the witness on the stand, and that simply means how they  
7 answered the questions; his or her ability to see and know about  
8 the facts which he or she has testified; how that person may be  
9 affected by your verdict; or, another way of **saying** the same  
10 thing, is any bias or prejudice which any witness may possibly  
11 possess. It has been said countless numbers of times, and I  
12 believe correctly so, that when you go back into that jury room  
13 you're not required to leave your common sense out here. On the  
14 contrary, the laws calls upon you twelve reasonable, prudent men  
15 and women to use all of your combined wisdom, experience, and,  
16 yes, **common** sense in sifting through the evidence, accepting the  
17 true and rejecting the false.

18 Now, this case, ladies and gentlemen **of** the jury, you all  
19 know there are three indictments in this case. To each of these  
20 **indictments** the Defendant has entered a plea of not guilty. **Of**  
21 course, that places the burden upon the State of Alabama to prove  
22 the allegations of these indictments beyond a reasonable doubt.  
23 **As** I have instructed you earlier, in fact, on the first day, the  
24 Defendant, in coming before you, a jury of his peers, is presumed  
25 innocent of the charges against him. This presumption of

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1, innocence **remains with** him throughout the **trial** and **is** not  
2 overcome unless and until from all of the evidence in this case  
3 you, the jury, are convinced beyond a reasonable doubt that the  
4 Defendant is guilty as charged in each indictment.

5 Now, as I told you the first day, Monday morning, that the  
6 presumption with which the Defendant entered into the trial of  
7 this case is a fact which must be considered by you as evidence  
8 and should not be disregarded. There is absolutely no  
9 presumption **of** guilt against this Defendant merely **because** a  
10 grand jury of this county has returned these indictments against  
11 him. They are neither evidence for nor against the Defendant,  
12 but they are simply a vehicle by which these cases get to you for  
13 your ultimate consideration.

14 Now, ladies and gentlemen of the jury, the phrase reasonable  
15 doubt is self explanatory and efforts on my part to define it do  
16 not **always** clarify the term. But it may help you some to say  
17 that the doubt which would justify an acquittal must be an actual  
18 doubt and not a mere guess or surmise. It is not a forced or  
19 capricious doubt. The reasonable doubt which entitles an accused  
20 to an acquittal is not a mere vague conjecture or speculative  
21 doubt. It is a doubt which arises from all or part of the  
22 evidence, from a lack of evidence, or from contradictory evidence  
23 and remains after careful consideration of all the testimony that  
24 you heard in this **case**.

25 As simply as I know how to state it, a reasonable doubt is a

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1 doubt for which a reason **exists**. It is **such** a doubt that fair-  
2 minded conscientious men and women would entertain after  
3 considering all the facts and circumstances, again, which you  
4 heard in this case. However, you should observe that the State  
5 is **not** required to convince you of the **Defendant's** guilt beyond  
6 all doubt, **but** simply beyond a reasonable doubt. Of course,  
7 evidence which merely gives rise to surmise, conjecture or  
8 suspicion of guilt is insufficient:.

9 Now, ladies and gentlemen of the jury, if after considering  
10 all the evidence in this case you are convinced **of** the  
11 **Defendant's** guilt beyond a reasonable doubt, then it would be  
12 your duty to convict the Defendant in that indictment or  
13 indictments. However, if you have a reasonable doubt, then the  
14 Defendant is entitled to it and you should acquit him.

15 Now, in this case, ladies and gentlemen of the jury, there  
16 has been testimony concerning aiding a conspiracy. So, I want to  
17 give you some legal definitions, legal principles in regard to  
18 accomplice and accessories. Under the law of the State **of**  
19 Alabama, the distinction or difference between an accessory  
20 before the fact and principal in any case **of** a felony has been  
21 abolished and all persons concerned in the commission of a felony  
22 whether they directly **commit** the act constituting the offense or  
23 aid or abet in its **commission**, even though not present, must be  
24 indicted and tried and, if convicted, punished as principals  
25 under our law.

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1, Now, in connection with that statutory enactment, whether it  
2 be by pre-arrangement or on the spur of the moment, two or more  
3 persons enter into a common enterprise or adventure and a  
4 criminal offense is contemplated, then each of those persons is  
5 considered a conspirator and, if the purpose is carried out, then  
6 each is guilty of the offense committed, whether he did any overt  
7 act or not. This rests upon the principle, that is, legal  
8 principle that one who is present, encouraging, aiding or  
9 abetting or assisting the actual perpetrator in the **commission** of  
10 an offense is a guilty participant and, in the eyes **of** the law,  
11 is equally guilty with the one who actually does the act or fires  
12 the shot. Such community of purpose of conspiracy need not be  
13 proven by positive testimony. You, the jury, **are** to determine  
14 whether it exists and the extent of it from the conduct of the  
15 parties and, of course, all the testimony that you heard in this  
16 case.

17 Now, again I have used in connection with this definition or  
18 legal principle the words aid and abet. They comprehend any and  
19 all assistance rendered by acts or words of encouragement or  
20 support or presence to render assistance should it become  
21 necessary. No particular acts are necessary. If encouragement  
22 is given to commit a felony or if giving weight to all of the  
23 testimony you are convinced beyond a reasonable doubt that the  
24 Defendant was present with a view to render aid, should it become  
25 necessary, then that ingredient of the offense is made out. **Now,**

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1 if there is no pre-arrangement or pre-concert between the  
2 parties, mere presence with the intent to give aid if necessary  
3 is not aiding or abetting unless the principal knew of the  
4 presence of the other with the intent to give such aid.

5 So, again, conspiracy or **common** purpose to do an unlawful  
6 act need not be shown by positive testimony, as I have stated,  
7 nor need it be shown that there was any pre-arrangement to do the  
8 specific act complained of. So, if being present without **pre-**  
9 concert two or more persons enter into a **common** illegal venture  
10 and one of them did the deed of violence and the other **was**  
11 present, aiding, **abetting**, encouraging or giving countenance to  
12 the unlawful act. or ready with the perpetrator's knowledge of his  
13 intent to render assistance if necessary, to lend assistance if  
14 it should become necessary, then the other **is** as guilty as the  
15 actor himself. Therefore, in short, ladies and **gentlemen** of the  
16 **jury**, an accessory or accomplice is **an** associate in crime, a  
17 partner and a partaker in the guilt.

18 Now, ladies and **gentlemen** of the jury, as you all know, the  
19 Defendant, Rodney **Karl Stanberry**, has **been** indicted for three  
20 separate and distinct offenses and these are, number one,  
21 burglary in the first degree; number two, robbery in the first  
22 degree; and number three, attempted murder. I will legally  
23 define each of these offenses for you and I will tell you  
24 specifically what the State must prove to you beyond a reasonable  
25 doubt before the Defendant can be found guilty of that specific

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1, crime, and again the Defendant has been charged or indicted for  
2 three separate crimes.

3 First of all, Title 13A-7-5 defines burglary in the first  
4 degree as follows:

5 "A **person commits** the crime of burglary in the first  
6 degree if he knowingly and unlawfully enters or remains  
7 unlawfully in a dwelling with the intent to commit a  
8 crime therein, and if in effecting entry or while in  
9 the dwelling or in the immediate flight therefrom he or  
10 another participant in the crime is, one, armed with  
11 explosives or a deadly weapon? two, causes physical  
12 injury to any person who is not a participant in the  
13 crime; or, three, uses or threatens the imminent use of  
14 a dangerous instrument."

15 Now, the indictment **states** in part and I quote:

16 "Rodney Karl **Stanberry** did knowingly and unlawfully  
17 enter or remain unlawfully in "the dwelling of Valerie  
18 **Finley** with the intent to **commit** a crime therein, to-  
19 wit, theft and while effecting entry or while in the  
20 dwelling or in the **immediate** flight therefrom the said  
21 Rodney Karl **Stanberry** was **armed** with a deadly weapon or  
22 dangerous instrument, to-wit, a gun, in violation of  
23 Title **13A-7-5** of the Code of **Alabama**."

24 Ladies and gentlemen of the jury, in order for the Defendant  
25 to be found guilty of this offence the State must prove beyond a



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1 reasonable doubt the following: Number **one**, that the Defendant,  
2 Rodney Karl **Stanberry**, unlawfully entered or unlawfully remained;  
3 two, in a dwelling of Valerie Finley: three, with the intent to  
4 **commit** a crime therein, theft; four, that while in the dwelling  
5 or in the immediate flight therefrom the said Rodney Karl  
6 **Stanberry** was armed with a gun. The State must prove each of the  
7 above elements beyond a reasonable doubt before the Defendant can  
8 be found guilty of this offense of burglary in the first degree.

9 The second indictment charges robbery in the first degree.  
10 Robbery in the first degree is defined in our Criminal Code in  
11 Title **13A-8-41** and it states as follows and I quote:

12 "A person commits the crime of robbery in the first  
13 degree if he, one, uses force against the person of the  
14 owner or any person present with the intent to overcome  
15 his physical resistance or physical power of resistance  
16 and, two, causes serious physical injury to **another**."

17 Now, the **indictment** in this case states in part and again I  
18 quote:

19 "Rodney Karl **Stanberry** did, in the course of **committing**  
20 a theft of **guns**, use force against the person of  
21 Valerie **Finley** with the intent to **overcome** her physical  
22 resistance or physical power of resistance and during  
23 the course of committing the theft of said property the  
24 said Rodney Karl Stanberry or another participant in  
25 this theft **did** cause serious physical injury to Valerie

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1           **Finley** in violation of Title 13A-8-41 of the Code of  
2           Alabama."

3           Now, in order for the Defendant to be found guilty of this  
4           offense, that is, robbery in the first degree, the State must  
5           prove the following to you beyond a reasonable doubt: Number  
6           one, that the Defendant, Rodney Karl Stanberry, did in the course  
7           of committing a theft of guns; two, use force against the person  
8           of Valerie **Finley**; three, with the intent to overcome her  
9           physical resistance or physical power of resistance; and, four,  
10          during the course of **committing** the theft in question Rodney Karl  
11          **Stanberry** or another participant in the theft caused serious  
12          physical injury to Valerie Finley.

13          Now, ladies and gentlemen of the jury, under the law of the  
14          State of Alabama to constitute robbery it is not necessary for  
15          the robber to use actual physical force against the victim, but  
16          it is alleged and must be proved in this case. Robbery requires  
17          both the intent to deprive the victim of his property and the  
18          intent to overcome the **victim's** resistance or compel his  
19          acquiescence through the use or threat of the use of force.  
20          However, where more than one person participates in a robbery, it  
21          is **immaterial** which one actually takes the property in question.

22          The third indictment in this case charges the crime of  
23          attempted murder. The indictment states in part and again I  
24          quote:

25                 "Rodney Karl Stanberry did, with the intent to cause

1           **the death of Valerie Finley**, a violation of Title 13-6-  
2           2 of the Code of Alabama, attempt to cause the death of  
3           Valerie **Finley** by shooting her in the head with a gun  
4           in violation of Title **13A-4-2** of the Code of Alabama."

5           Title **13A-6-2** of the Code of Alabama defines the crime of  
6           murder as follows:

7           **"A person commits** the offense of murder *if*, with the  
8           intent to cause **the death** of another person, he causes  
9           the death of that person or another person."

10          Title 13A-4-2 of our Criminal Code of Alabama defines an  
11          attempt as follows:

12          **"A person** is guilty of an attempt to commit a crime if,  
13          with the intent to commit a specific offense, he does  
14          any overt act towards the commission of such offense."

15          Again, in order for the Defendant to be **guilty** of this  
16          offense the State must prove each of the following elements to  
17          you beyond a reasonable doubt: **Number** one, that Rodney Karl  
18          **Stanberry** did, with the intent to cause the death of Valerie  
19          **Finley**; two, attempt to **cause the death of Valerie Finley** by  
20          shooting her in the head with a gun. Simply stated, under the  
21          law of Alabama, a person commits the crime of attempt to murder  
22          if he intends to cause the death of another **person** and does any  
23          overt act towards the commission of that intent. Intent to kill  
24          may be shown by the use of a deadly weapon.

25          Now, ladies and gentlemen of the jury, intent, is an

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1 indispensable element of this offense, as well as the offense of  
2 burglary in the first degree and robbery in the first degree and  
3 must be proved by the State beyond a reasonable doubt before the  
4 Defendant could be found guilty of these offense. I would tell  
5 you and you know that intent is a mental thing. We have no x-ray  
6 machine that can look into **someone's** head and tell what they did  
7 intend or did not. intend. So, you, the jury, as the sole triers  
8 of the facts in this case, must determine this from all of the  
9 facts and circumstances which you heard in this case. However,  
10 to aid you in this respect, the Code of Alabama in Title 13-A-2-2  
11 defines intentionally and knowingly as follows;

12 "Intentionally. A person acts intentionally with  
13 respect to a result or to conduct described by a  
14 statute defining an offense when his purpose is to  
15 cause that result or to engage in that conduct."

16 "Knowingly. A person acts knowingly with respect to  
17 conduct or to a circumstance described by a statute  
18 defining an offense when he is aware that his conduct  
19 is of that nature or that the circumstance exists."

20 Ladies and gentlemen of the jury, in this case or in any  
21 case the attorneys have an absolute right to ask the Court to  
22 give certain written requested charges. That has been done in  
23 this case and I am about to read to you certain of those charges.  
24 I would tell you that these charges again are correct statements  
25 of the law and must be considered by you, but consistent with

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1 what I have already told you.

2 I charge you, members of the jury, that it is better than  
3 many guilty go unpunished than a single innocent person should be  
4 convicted of a crime.

5 I charge you, members of the jury, **that** if after a  
6 consideration of all the evidence the guilt of the Defendant  
7 depends upon the testimony of a single witness and the jury has a  
8 reasonable doubt as to the truthfulness of the testimony of such  
9 witness, then in such event the Defendant must be acquitted.

10 I charge you, members of the jury, that the burden is on the  
11 State to prove the **Defendant's** guilt beyond a reasonable doubt  
12 from the evidence and that the burden never shifts. There is no  
13 burden on the Defendant to prove evidence or prove anything.

14 I charge you, members of the jury, that if two conclusions  
15 can reasonably be drawn from the evidence, one of guilt and one  
16 of innocence, it is the duty of the jury to adopt the conclusion  
17 of innocence.

18 Ladies and gentlemen of the jury, after a fair consideration  
19 of all the evidence in this case if the State has met the burden  
20 of proof as to burglary in the first degree, then the form **of**  
21 your verdict would be, "**We**, the jury, find the Defendant, Rodney  
22 Karl **Stanberry**, guilty of burglary in the first degree as charged  
23 in the indictment." On the other hand, if the State has failed  
24 to meet the burden of proving the elements of this offense, in  
25 that event it would be your duty to return that verdict and the

1 form of your verdict would be, "We, the jury, find the Defendant,  
2 Rodney Karl **Stanberry**, not guilty."

3 As to the charge of robbery in the first degree, if the  
4 State has met the burden of proving the Defendant guilty of  
5 robbery in the first degree, then it would be your duty to return  
6 that verdict and the form of your verdict would be, "We, the  
7 jury, find the Defendant, Rodney Karl **Stanberry**, guilty of  
8 robbery in the first degree as charged in the indictment." On  
9 the other hand, if the State has failed to meet the burden of  
10 proving this offense, then you would return that verdict and the  
11 form of your verdict would be, "We, the jury, find the Defendant,  
12 Rodney Karl **Stanberry**, not guilty."

13 Likewise, if the State has met the burden of proving the  
14 offense of attempted murder, it would be your duty to return that  
15 verdict and the form of your verdict would be, "We, the jury,  
16 find the Defendant, Rodney Karl **Stanberry**, guilty of attempted  
17 murder as charged in the indictment." And again if the State has  
18 failed to meet that burden of proof, it would be your duty to  
19 return that verdict and the form of your verdict would be, "We,  
20 the jury, find the Defendant, Rodney Karl **Stanberry**, not guilty."

21 Your verdict in these cases, ladies and gentlemen of the  
22 jury, must be unanimous. It must be free of any sympathy for or  
23 prejudice against any party. Again, your verdict must be  
24 unanimous.

25 Your duty when you go back to that jury room will be first.

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1, of all to elect whomever **you** wish to be your spokesman, that is,  
2 your foreman or **forewoman** of this jury. It will be that **person's**  
3 duty to lead in your deliberations in arriving at whatever your  
4 unanimous verdict may be. In addition, it will be that **person's**  
5 duty to sign his or her name on the forms of verdict that we --  
6 as I have in my hand -- will go back to the jury with you,  
7 indicating whatever your unanimous verdict is in each one of  
8 these cases. In addition, you will have with you in the jury  
9 room all of the exhibits which I have authorized to be introduced  
10 into evidence.

11 When you go back into that jury room in **just** a few **minutes**,  
12 only elect whomever you wish to be your spokesman, and, believe  
13 **me**, I know what time it is. Do not start any actual deliberation  
14 until you knock on that door and tell us that you have elected  
15 your foreman. But do not start any deliberations until we give  
16 you the forms or until **Billy** gives you the forms and the exhibits  
17 and we say commence your deliberations. The reason for that is  
18 simply this. Under the law of this State these attorneys must  
19 have a right to object to anything I have said and they must  
20 likewise have a right to object to anything they think I have  
21 failed to say and that must be done prior to your actual  
22 deliberations. Now, the reason for that should be rather  
23 obvious. It gives ~~me~~ the opportunity to correct anything that  
24 they can convince me that I have incorrectly stated or it **gives**  
25 me the opportunity "to add anything if they can convince me I

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1 should have said something else. I can tell you I do not believe  
2 that will occur, but they still must have this opportunity.

3 Now, before you go back to the jury room to do the first  
4 thing, that is. elect whomever you wish to be your spokesman,  
5 does any member of this jury have any legal question whatsoever  
6 that you would like to ask me? Any one of you? (No response.)  
7 Well, I would tell you one other thing and I'll do it by telling  
8 you this. I have been asked many, many, many times, does any  
9 jury of twelve people remember all the facts they've heard. The  
10 answer is no. Collectively, yes. You'll be surprised when you  
11 get back there that twelve people can almost quote verbatim what  
12 happened. That's what makes our jury system so great. Two, does  
13 the jury remember all that law you tell them. The answer is no.  
14 Any one individual, no. Collectively, you'd be surprised, yes.  
15 But the beauty of that part is this. I am here to answer any  
16 legal questions you have at any time. Okay? So, should you have  
17 any legal question, knock, and I will answer. I am prohibited by  
18 law from answering any factual questions, but again I promise you  
19 if you have a factual question, one of your members can answer it;  
20 for you. Okay?

21 Go do the first thing.

22 (At. approximately 11:53 the jury retired  
23 to the jury room.)

24 THE COURT: Ken?

25 MR. NIXON: Judge, first; I would object to the Court, failing



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1, to give my requested charges one, six, seven, and thirteen, and  
2 represent to the Court that those are each -- those charges  
3 separately and severally represent accurate statements of the law  
4 --

5 THE COURT: There not any question there is, but **there's**  
6 also not any question that I covered them, but go ahead.

7 MR. NIXON: Yes, sir. Not otherwise covered sufficiently in  
8 your oral charge.

9 Also I would object to the Court's -- you stated that  
10 the indictments in this case were against the Defendant. He has  
11 entered a plea of not guilty to that and the burden is on the  
12 State to prove the allegations. I would say that that should  
13 have been all of the allegations of the indictment.

14 THE COURT: I think I said that.

15 MR. NIXON: Yes, sir. Also in your definition of reasonable  
16 **doubt**, Judge, it was my recollection from what I thought I heard  
17 that you said that if you had a doubt or a reasonable doubt which  
18 would entitle the Defendant to an acquittal -- **I'll** strike that,  
19 Judge, I **can't** read my notes on that one. I apologize.

20 And I would object to the Judge apparently charging the  
21 jury on the elements of conspiracy. I **don't** believe **that's**  
22 alleged in the indictment.

23 THE COURT: I hope there's not any element of it. I hope I  
24 did it specifically.

25 MR. NIXON: Yes, sir.

1 THE COURT: I sure intended it to be specific if I didn't.

2 MR. NIXON: I don't believe he was charged or that was  
3 averred in the indictment and --

4 THE COURT; Doesn't have to be.

5 MR. NIXON: Yes, sir.

6 THE COURT: The old Title 14, Section 14, sets it out in  
7 great detail. But you have that in the record,

8 MR. NIXON: That's all I have.

9 THE COURT: Buzz?

10 MR. JORDAN: Judge, I object to the failure to give aiding  
11 and abetting on the attempted charge. Although you gave it  
12 generally, you didn't specifically do it on that one, which I  
13 don't know if that will be confusing to the jury or no.

14 Object to the many guilty, innocent go -- I just object  
15 to that charge. I object to the two conclusions reasonably be  
16 drawn, one of innocence and one of guilt. Basically I think  
17 that's a circumstantial evidence charge and I --

18 THE COURT; That's absolute nonsense. That's been the law  
19 of this country for 200 years.

20 MR. JORDAN: Just objecting, Judge.

21 I object to the single witness charge, Judge, because  
22 the evidence did not -- the theory was not based on the single  
23 evidence. There was more than one --

24 THE COURT: I don't know what you're talking about.

25 MR. JORDAN: You gave a charge that if the State's case is

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1 based on the testimony of a single witness and you found that  
2 witness lied, then you can -- you would have to find the  
3 Defendant not guilty, and there were other witnesses that  
4 testified before any single witness -- besides a single witness  
5 and I think **it's** a comment on the evidence.

6 No other objections.

7 **THE COURT:** You do what? That went over my head or under it  
8 one. But in any event your objections are noted.

9 Now, before this jury comes in and tells me who they --  
10 you give me that statement.

11 This morning there was some conversation by Mr. **Nixon**  
12 about who -- that his investigator **didn't** send **Terrell** Moore to  
13 an attorney.

14 **MR. NIXON:** Yes, **sir**. Judge, he told him he needed to get an  
15 attorney.

16 **THE COURT:** **It's** stronger than that.

17 **MR. NIXON:** Sir?

18 **THE COURT;** **It's** much stronger than that, and I'm just going  
19 to help the -- anybody that wants to review this out. On page  
20 40, "**Who** is your attorney?" Answer, "**First** it was Mr. **Hardesty**."  
21 "**How** did you go about seeing Mr. **Hardesty**?" Answer, "**At** the  
22 court house. That was -- that was the **time**." "Who referred you  
23 to **him**?" Answer, "**Mr. Russell**." "May I ask who referred you?"  
24 **Mr. Clark:** "**That's** fine with **me**." "Who referred you to Mr.  
25 **Clark**?" Answer, "**Mr. Russell**." "**Can** you tell us any other

1, discussions you had with Mr. Russell? Telephone or anything?"  
2 Answer, "**Just** to keep in touch of what my whereabouts were and  
3 who. That was **it.**" **Doesn't** make sense, but **that's** what it said.  
4 "**Have** you talked to him on the telephone," **i.e.**, Mr. Russell?  
5 "That's mainly how we **talk.**" "**Did** he let you know when you had  
6 court appearances and things?" "Yes, sir." "**Have** you let them  
7 know that I wanted to talk to **you?**" "**Yes, I did.**" Question:  
8 "Why is **that?**" Answer, "**Because** he keep telling me that that was  
9 my -- that **was** looking me, that they was looking for me and that  
10 they wanted questions and answers and he told them about saying  
11 that I had a lawyer and I refused **to** confront me and told me to  
12 tell you that I'm not: saying anything until I talk with my  
13 lawyer." Question, "**Is** that what Mr. Russell instructed you?"  
14 Answer, "**Right.**"

15 I just wanted to correct you that **there's** not any  
16 question about what I said this morning and that verifies it.

17 **MR. NIXON:** Judge; he said that in -- Mr. Russell said that  
18 he told him he needed to get a lawyer and **it's** on the video tape  
19 **that's** a **Court's Exhibit** and he did give him the name **of** several  
20 lawyers, not just one lawyer. He **didn't** send him **to** any  
21 particular lawyer. He gave him the names of several lawyers and  
22 I specifically told Mr. Russell, once I saw that video tape,  
23 Judge, I told him if you ever want to work for me again, **don't**  
24 you let this fellow get out of your sight until this case is  
25 tried.

1 THE COURT: Okay.

2 Bring them in.

3 BAILIFF: I asked them to decide whether they wanted to go  
4 to lunch or not. So, you may ask **them** --

5 THE COURT: I can tell you what the answer to that is.

6 MR. JORDAN: Judge, before we bring them **out**, the Court's  
7 exhibit, this says sworn statement of **Terrell** Moore. That's --  
8 this was not a sworn statement and I -- I mean **that should** be  
9 complete on the record, since this is going -- if it goes up on  
10 appeal.

11 THE COURT: **That's** fine.

12 Just tell them to come in.

13 (At approximately 12:00 the jury returned  
14 to the courtroom.)

15 THE COURT: Billy said you all hadn't voted on whether you  
16 wanted to go eat or not. I said I know they want to go eat.  
17 Whether they tell me that or not, I know they want to go eat.

18 JUROR: We **don't**.

19 THE COURT: YoU all **don't want** to go eat?

20 JUROR: No.

21 THE COURT: Fine. We **won't** go eat.

22 Billy, take them **the** evidence.

23 Well, I was wrong. It **won't** be the first time.

24 (The jury retired to the jury room.)

25 MR. NIXON: I object to the blow-ups being admitted into

1 *evidence.*

2 THE COURT: What blow-ups?

3 MR. NIXON: He's got a bunch of blow-ups down there of some  
4 maps and things. I don't think they're admitted into evidence.  
5 If there's a statement that was admitted into evidence, I would  
6 request that the eight by eleven of it be admitted and not the  
7 big blow-up. I don't think it should --

8 THE COURT: I don't know what you're talking about.

9 MR. JORDAN; That's fine. We'll --

10 MR. NIXON: I don't --

11 THE COURT: Well, give it to them because they want to go  
12 ahead and deliberate.

13 AFTERNOON SESSION

14 THE COURT: All right, for the record, I have been told that  
15 the jury has unanimous verdicts in all three of these cases. I  
16 have no idea what these verdicts are, but I am as convinced as I  
17 am that my white hair is white that it's not going to please  
18 everybody out here, and this case is no different from any other  
19 case in that usually one side -- the Defendant's family is on one  
20 side and the victim's family is on the other side. But again I  
21 know that everybody in here is not going to -- and I don't have  
22 any idea what these verdicts are. But everybody is not going to  
23 be pleased with them.

24 If this jury comes in with a verdict of guilty in one or all  
25 of these cases, I don't want a single word out of this side or

1, that side. Likewise, *if* they come in with a verdict of not  
2 guilty in one or all of these cases, I **don't** want an absolute  
3 word from anybody. These people did not ask to **come** down here.  
4 They did not ask to get selected on these cases, and whatever  
5 their **verdicts** are, **we're** going to accept them in total silence.

6 Now, if there's anybody that **doesn't** think they can do that,  
7 I'm not asking you, **I'm** telling you, leave now. Because if  
8 **there's** any outburst from anybody when these verdicts are read, I  
9 promise you that person is going to jail. That is the very  
10 reason these people are in here now. Now, the reason for that is  
11 simply this. If anybody did that after me telling you that I  
12 want everybody to accept these verdicts in silence, you would be  
13 in contempt of the order that I just issued.

14 And before I bring them in here, can everybody on this side  
15 accept these verdicts in total silence? Valerie? Everybody on  
16 this side? Mr. **Stanberry**?

17 **Bring them in.**

18 (At approximately 12:48 p.m. the jury  
19 returned to the jury box and  
20 delivered verdicts as follows:)

21 **THE COURT;** All **of** you all have a seat.

22 Mary, for the record, has the jury reached unanimous  
23 verdicts in each one of these cases?

24 **FOREWOMAN:** Yes, sir.

25 **THE COURT:** **I'm** going to ask the Defendant to stand and face

1 the jury.

2 Mary, I'm going to ask you to stand and read these  
3 verdicts into the record.

4 FOREMAN: We, the jury, find the Defendant, Rodney Karl  
5 **Stanberry**, guilty of burglary in the first degree as charged in  
6 the indictment.

7 We, the jury, find the Defendant, Rodney Karl **Stanberry**,  
8 guilty **of** robbery in the first degree as charged in the  
9 indictment.

10 **And**, We, the jury, find the Defendant, Rodney Karl  
11 **Stanberry**, guilty of attempted murder as charged in the  
12 indictment.

13 THE COURT: Okay, have a seat, Mary. **You** all have a seat\*

14 Rodney Karl **Stanberry**, the jury having found you  
15 guilty, I find you guilty. I have heard in this court that you  
16 have no prior criminal record, but prior to making any sentence  
17 in this case, I am going to order a pre-sentence investigation  
18 and -- **what's** three weeks from now? Today is April the 7th. **I'm**  
19 **going** to say on April the **27th**, but **he's** to report, Mr. Nixon --

20 MR. NIXON: Yes, sir.

21 THE COURT: -- to the probation office Monday morning.

22 Now, also under the law of this State he has made bond  
23 in all of these cases. He had been **to** court every single time  
24 that I know of. I have no intentions of changing that, but **it's**  
25 my understanding of the law that once a jury returns a verdict of



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1 guilty, these bonds are of no value and a new bond must be made.

2 So, the only thing I'm saying is -- did the family make these  
3 bonds in the first place or was it Freedom Bonding Company? It  
4 says both on here.

5 MR. NIXON: I think it was his father, Judge.

6 THE COURT: Okay. Well, he has to go with them and a new  
7 bond has to be made.

8 MR. NIXON: We would ask that his father be allowed to sign  
9 that bond, *Judge*.

10 THE COURT: If **that's** the way it was originally, **I'll** do so.

11 Under the law of this State, you know he has an  
12 absolute right to appeal, but not until I render sentence in this  
13 particular case or cases. Do you all have any questions?

14 MR. NIXON: Judge, I would ask that the jury be polled.

15 THE COURT; Certainly.

16 I'm going to ask each one of you a question and **we'll**  
17 start with Rebecca **Willis**. Are the verdicts that Mary read, are  
18 these your true verdicts?

19 JUROR: **Yes**, sir.

20 THE COURT: Beva Thomas, are the verdicts that Mary Bass  
21 read, are these your verdicts?

22 JUROR: Yes, sir.

23 THE COURT: Donald **Barnette**, is the verdicts that Mary Bass  
24 read, are these your verdicts?

25 JUROR: Yes, **sir**.

1 THE COURT: Mrs. Johnson, are the verdicts that Mary read,  
2 are these your verdicts?

3 JUROR: Yes, sir.

4 THE COURT: David McIntyre, is the verdicts that Mary Bass  
5 read, are these your verdicts?

6 JUROR: Yes, they are.

7 THE COURT: Ruthie Curtis, is the verdicts that Mary Bass  
8 read, are these your verdicts?

9 JUROR: Yes, sir.

10 THE COURT: Ronald Peppenhorst, is the verdicts that Mary  
11 Bass read, are these your verdicts?

12 JUROR: Yes, sir.

13 THE COURT: Charles Walls, is the verdicts that Mary Bass  
14 read, are these your verdicts?

15 JUROR: Yes.

16 THE COURT: Donna Gibson, is the verdicts that Mary Bass  
17 read, are these your verdicts?

18 JUROR: Yes, sir.

19 THE COURT: Earl Riggs, is the verdict that Mrs. Bass read,  
20 are these your verdicts?

21 JUROR: Yes, sir.

22 THE COURT: Carolyn Head, is the verdicts that Mary Bass  
23 read, are these your verdicts?

24 JUROR: Yes, sir.

25 THE COURT: Mary Bass, are the verdicts that you read, are

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1 *these* your verdicts?

2 FOREWOMAN: Yes, they are.

3 THE COURT: Ladies and gentlemen, on behalf of your State  
4 and County, I thank you for your services.

5 Billy, if you will, give them their checks. And if any of  
6 you all need a certificate, **we** can provide that for you today.  
7 If **it's** all right to mail it, **we** can do that -- **you've** got it?  
8 Okay.

9 And **I'm** not going to let anybody **leave** here until you all  
10 leave.

11 \* \* \* \* \*

12

MAY 11, 1995

(The Defendant being present in court with his attorney, Mr. Kenneth A. **Nixon**, and the assistant district attorney, Mr. Joe Carl Jordan, the following occurred before the **Hon. Ferrill D. McRae**:)

THE COURT: For the record, these are the cases of the State of **Alabama** v. Rodney Karl **Stanberry**, and these cases are and I am going to read them in the order that I think I charged the jury, not the order that they appear **on** this docket sheet or the numbers on this docket sheet. But if my memory is correct, **there's** three cases, burglary in the first degree, robbery in the first degree, and attempted **murder**. But again if my memory is correct -- you all sit down. This is going to be a minute. **If** my memory is correct, I charged the jury first: on burglary in the first degree, which carries a sentence of ten **years** to life in the penitentiary. I charged then on robbery in the first degree, which the penalty is from ten years to live in the penitentiary. I then charged on attempted murder and under the law of this State the punishment is from twenty years to life in the penitentiary.

I requested and I have received and I have read and I have marked the pre-sentence investigation report as Exhibit AA. **It** is now a part of the **Court's** record. I feel reasonably sure that both the attorney for the State, Mr. Buzz Jordan, and the

1 attorney for *the* Defendant, Mr. Ken Nixon, has received and  
2 reviewed this report.

3 Have you, Ken?

4 MR. NIXON: Yes, I have, Your Honor.

5 THE COURT: Have **you**, Carl?

6 MR. JORDAN: Yes, Your Honor.

7 THE COURT: Or Buzz. And his name is Joe Carl "**Buzz**," but  
8 he likes to be called Buzz.

9 In addition, I would point out that on page five is one  
10 entire page of prior, quote, offenses, but all the offenses on  
11 page five are driving offenses, with the exception of on 4/2/92  
12 **there's** harassing **communication** charge which was nolle pressed.  
13 Other than that, I know nothing about it. And there is on 4/3/92  
14 an assault in the third degree. I do not know the disposition  
15 because the probation officer did not put it. In fact, his  
16 notation on the third one **from** the bottom is found not guilty. I  
17 do know that part of the disposition, but I know nothing else  
18 about that case. So, **it** really **wasn't** correct when I said I  
19 didn't know the disposition. I do know the disposition, but I  
20 know nothing about the facts.

21 The other is on 4/23/95. It says there is a harassment  
22 charge that is still pending and it says that the Defendant is  
23 alias. We all know **he's** not alias. He's sitting right in front  
24 of me. But **that's** what the report says.

25 The only real mistake I found in the report, that probably

1 wasn't a mistake -- it has really no bearing on what we're here  
2 today about, but I see the gentleman from BFI in the audience.  
3 It says that the probation officer wrote that Mr. **Stanberry's**  
4 weekly salary is \$400 a week. BFI says **it's** \$640.

5 I particularly read -- well, I read every single word, but I  
6 already knew what Mr. **Terrell** Moore had to say. Didn't need to  
7 read it in this report, but I did read it. I read the letters  
8 that were attached and I told Mr. Jordan earlier -- I **don't** know  
9 if Ken was there or not, but I **don't** like to say anything in my  
10 office that I **don't say** in open court. I was particularly  
11 impressed with the letter which **was** written by one Dennis Reeves,  
12 but I read them all.

13 Mr. Jordan, has the State got anything to say before I ask  
14 the Defendant?

15 MR. JORDAN: Yes, Your Honor, I would like to have Mrs.  
16 Patrick talk to Your Honor briefly, as well as Valerie Finley,  
17 and then I would like to say some words to Your Honor.

18 THE COURT: Proceed.

19 **EUGENIA PATRICK**

20 was sworn and testified as follows:

21  
22 BY MR. JORDAN:

23 Q Would you tell us your name, please?

24 A Eugenia Patrick.

25 Q And Mrs. **Patrick**, how old are you?

1 A I'm 65.

2 Q Mrs. Patrick, **how** many children do you have?

3 A Nine.

4 Q And what number is Valerie?

5 A She is ~~say~~ youngest daughter.

6 Q And would you tell us the impact of the effect this has had  
7 on your family, you, your husband, and your nine children, since  
8 this happened to Valerie?

9 A Well, since it happened to my daughter the whole family had  
10 to get in and try to help her. Help her, you know, maintain her  
11 life and her business and her apartment.

12 Q And has the family all been 100 percent supportive?

13 A All **the family**.

14 Q Helped her?

15 A The whole family. We do whatever we can **to** help because she  
16 can't do **very** much for herself.

17 Q Before this happened to her physically would you tell us  
18 **what** she did or how she **was** able to take **care** of her children or  
19 her household or her **family**?

20 A Before she got hurt she **was** doing everything for her and her  
21 family. She would paint the house. **That's** something I **didn't**  
22 never do myself. She would scrape the house down, her house, and  
23 paint her house. She had done that, she had done a lot of stuff.  
24 She'd get around with the kids, take them places, take them out  
25 of town. She was just a person was always working, always doing

1 something.

2 MR. JORDAN: Thank you, Mrs. Patrick.

3 A She kept her house looking real nice and she was just busy.  
4 She worked. She got a job, she started working, bought her a  
5 car. She was a busy person **til** she got hurt.

6 Q She's honestly not able to do those things any more?

7 A She's **not** able to do hardly anything now.

8 MR. JORDAN: Thank you, Mrs. Patrick.

9 THE COURT: Apparently Mr. Jordan thinks that **by memory**  
10 is short. I heard in the trial of this case that your daughter,  
11 since she was shot in the top of the head -- that she was very  
12 active before, but now the only thing she can do is move her  
13 right arm.

14 A **That's** right.

15 THE COURT: Not her left arm, but her right arm, is  
16 that right?

17 A **That's** all she can use, her right arm.

18 THE COURT: And, in addition, she can now talk, but she  
19 could not for a **number of days**. Until the **neurosurgeon** operated  
20 and relieved the pressure or whatever he did, she **couldn't** even  
21 do that. Am I correct? When she first went in to South Alabama,  
22 I'm not sure from the testimony I heard anybody knew that the  
23 bullet was in her head at all.

24 A We **didn't** know the bullet was in her head until my **son--in-**  
25 law, Mike, told me it was in there.



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1 THE COURT: Well, worse than that, I don't think  
2 the hospital knew it was there.

3 A They **didn't**, and Mike told me --

4 THE COURT: After they operated and some week or so  
5 after that she began to talk, right?

6 A **That's** right.

7 THE COURT: We all heard her **testimony** here in open  
8 court..

9 A But in court (sic) Mike told me that she had a bullet in her  
10 head because she said his friend Stan told him that he (sic) had  
11 a bullet in the head and I asked him why he didn't tell the  
12 doctor, because he was talking about his guns was lost. and he  
13 **wouldn't** even tell the doctor that she had a bullet in her head.

14 THE COURT: Okay.

15 A **So**, I went around there and told them then. I said, well,  
16 my son-in-law, Mike, said she got a bullet in her head.

17 THE COURT: Anything else you want to ask her?

18 MR. JORDAN: Thank **you**, Mrs. **Patrick**.

19 THE COURT: Do you want to ask her anything, Ken?

20 MR. NIXON: No questions. Your Honor.

21 THE COURT: You **may** step down.

22 MR. JORDAN: Judge, **I'd** like Valerie to say some things  
23 to you.

24 THE COURT: **She** can.

25 VALERIE FINLEY

was sworn and testified as follows:

DIRECT EXAMINATION

BY MR. JORDAN:

Q Valerie, you got to speak up. Okay?

A Okay.

Q Tell us your name for the record.

A Valerie **Finley**.

Q **And** speak up so the judge can hear you.

A Valerie **Finley**.

THE COURT: Have no fear, I can hear.

Q Valerie, would you tell the Judge the impact, the effect that this has had on you since you have **come** out of the hospital and since you have been in this physical condition compared to where you were prior to this happening?

A I used to could wash my hair and comb my hair myself and now I can't do that any more. I **can't** put clothes on by myself any more, and I can't comb my hair. I **can't** take care **of** my Kids any more. I can't. comb their hair. I used to do all that. I used to take them to the park and everything. Now, I can't drive them anywhere unless I get somebody **come** drive us. It's been hard. And then my ex-husband and his mother, she's been trying to turn my kids against me. She say **she's** their mother and I'll never be able to take care of them again because I can't, do anything. **She** says I **can't** take care of myself, much less take care **of** them, and **that's** the hardest part. That's the hardest thing, if my

1 kids get taken away from me. I see them every other weekend if  
2 they decide to bring them. If they don't decide to bring them, I  
3 don't see them then, when my kids was with me at all times.

4 Q Before this happened, did you have all your children with  
5 you? Did your children live with you and did you take care of  
6 them and make sure they go to school and all those things,  
7 Valerie?

8 A Yes.

9 Q And were you able to do house chores and paint the house  
10 like your mama said?

11 A I did all of it. because my husband, he was lazy about that  
12 kind of stuff. So, he -- I was raised up, if you want. something  
13 done, do it yourself, and therefore I had to paint the house.

14 Q And now you can't do any of those things?

15 A No, I can't.

16 MR. JORDAN: That's all I have. If you would, answer  
17 any of Mr. Nixon's or the Judge's questions.

18 MR. NIXON: No questions, Your Honor.

19 THE COURT: Anything further?

20 MR. JORDAN: Judge, based on the facts of this case  
21 that came out during the trial, based on the severity of the  
22 injuries that; were sustained and, Your Honor, this -- this case  
23 was more in the nature of really a hit, almost an assassination  
24 attempt based on all the surrounding circumstances. I have my  
25 suspicions that there is still somebody else in -- we have

1 indicted the shooter and we are bringing him back from New York  
2 City where he has been convicted of murder in New York City and  
3 has been sentenced to a substantial period of time up there. We  
4 are bringing him back and we will try **him** in Mobile, Alabama, for  
5 the shooting that he did in this case. He was one of Rodney  
6 **Stanberry's good** friends from the neighborhood where they grew up  
7 and were pals and part of an association up in New York City  
8 prior to Mr. Stanberry coming south, and I **still** have suspicions  
9 that there is still a third person that **was** involved that came up  
10 with this original idea, but at this time we cannot corroborate  
11 or prove that by evidence, but we will not give up that attempt.

12 But I submit to Your Honor that the only reason that this  
13 could have been pulled off was because Rodney **Stanberry** was  
14 involved. He was the one that was able to get into the house.  
15 If for not him being friends with Valerie, her not trusting  
16 Rodney, this would not have been possible to have gotten into the  
17 house to commit these crimes. This is obviously a horrible case,  
18 based on the facts and the injuries. **We're** just fortunate that  
19 Valerie survived and has somewhat **of** a chance to lead a life and  
20 we ask for the maximum sentence on all cases.

21 Judge, I believe the **minimum** sentence on each case because  
22 there was a gun involved is twenty years to life, but we would  
23 ask that a life sentence be imposed on each case and that those  
24 sentences run consecutive in each case, and that is the State's  
25 position.

THE COURT: Ken?

MR. NIXON: Judge, I'm not -- as we know, we tried this case for five days and I'm sure Your Honor -- it **hasn't** been that long ago and I'm sure you **remember** everything about the case and the facts and I would ask that you take Mr. Jordan's suspicions as just that, his suspicions, and that you remember the evidence that was introduced.

I want to call your attention, Judge -- stand up. On Mr. **Stanberry's** pre-sentence report, the -- just for the record the harassing **communications** on 4/92 and the assault on 4/3/92 that he was found not guilty of, those involved his girlfriend. **There** were mutual warrants that he signed against her and she signed against him and in fact I think she **was** convicted and he was found not guilty from that altercation.

On this harassment that shows an alias at the bottom of that page, Judge, I have checked into that. There is no alias now. It has been set aside. It was a friend of his who has contacted the probation officer since this time and said that it was a misunderstanding over some money that was owed and that he is not going to prosecute and he has attempted to -- he **didn't** show up the first time and he's attempted to drop that case and **it's** pending for next week and I anticipate that that will be nolle pressed.

Judge, as you can see from his report, I have nothing else to add, really, other than the fact that Mr. **Stanberry** has never

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1, **been in trouble before this**, other than the traffic violations,  
2 and, if you will recall, this incident occurred three years ago.  
3 **Hasn't** been in any trouble since that time. **You'll** remember that  
4 the people from **BFI** -- Mr. Henry Johnson is here and I'm not  
5 going to waste the Court's time on having **him** testify. **He**  
6 already testified once before, but they thought enough of Mr.  
7 **Stanberry** to cone down here and basically wait for four days ---

8 THE COURT: By the way, that report says they still do.

9 MR. NIXON: Yes, sir. And Mr. Johnson is here in court  
10 today. He has employed Mr. Stanberry for the last seven years,  
11 almost seven years. He has employed him the last three years  
12 since this incident and before the trial. He has continued to  
13 employ him since the trial, pending the sentencing, and **he's**  
14 prepared to say today that he will employ Mr. **Stanberry** from now  
15 on, if he's allowed to do that.

16 Judge, the **man** has basically a spotless record up until now  
17 other than the traffic violations. You've heard the facts **of** the  
18 case. I don't have anything to add about that. You know the  
19 Defendant's position in that regard, Judge, and I would ask that  
20 the Court consider everything that you have, and I know that you  
21 will, including the probation report and that you -- we would ask  
22 that the Court show leniency based on his prior record.

23 THE COURT: **You're** correct about a number of things.

24 One, I remember every word of **testimony**. I wish sometimes that I  
25 didn't, but I do. I have read everything that has been handed to

1 **me and, as you stated, I heard every word of testimony in the**  
2 trial.

3 Rodney Karl Stanberry, is there any good reason, other  
4 than what Mr. Ken **Nixon** has stated, why the sentence of law  
5 **should** not be imposed upon you at this time?

6 DEFENDANT: Yes, sir.

7 THE COURT: Go ahead.

8 DEFENDANT: Sir, in our society we have two type of  
9 people, people that care about **themselves** and the other cares  
10 about **themselves** and other people, and most likely that same  
11 situation. That's a person that -- that would try to get rich  
12 quick **instead** of working and making their own, and **I'm** that  
13 number two person. I always have. My father has, my grandfather  
14 has, and I was very proud **of** that, to be a -- in my contemporary  
15 in breaking that stereotype of my age and what I am. This crime  
16 that happened, I **can't** even imagine it happening, let alone have  
17 anything to do with it. Valerie **Finley** and Mike **Finley** was my  
18 role models before marriage when I was younger and there's no way  
19 in the world possible -- not possible that I had something to do  
20 with this.

21 That's all I have to say, sir.

22 **THE COURT:** By the way, that's the same thing that you  
23 said in the -- to the twelve jurors who unanimously found you  
24 guilty of all three of these charges. That's the same thing that  
25 you said to the probation officer, and, by the way, that same

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1 terminology **was** used, **i.e., role model** and two types of persons,  
2 was used in the letters that I read, and that being from **Rene**  
3 **Nedder** and Robert **McCall**, Denise Reeves, and **I'm** sure that they  
4 could have gotten hundreds -- could have gotten many more.

5 But again, the jury and all of us heard the testimony in  
6 these cases. It is not for me to speculate on what else is  
7 involved in these case. **It's** only my duty to hear the facts as  
8 presented in court. It is my duty to sentence.

9 **As** I stated earlier and I think Mr. Jordan is correct, in  
10 the attempted murder the very minimum you can get is twenty  
11 years, and robbery, I said ten years **to** life. **He's** probably  
12 correct in that one being twenty years to life. **I'm** not too sure  
13 **he's** correct on the other. But it really **doesn't** make any  
14 difference.

15 On all of **these** cases I'm going to sentence the Defendant to  
16 the minimum. In Case **No.** CC-92-2313, I sentence him to twenty  
17 years in the State penitentiary. Likewise in Case No. **CC-92-**  
18 **2314**, and Case No. **CC-92-2315**; 2314 and 2315 are to run  
19 concurrent with 2313.

20 I fully understand, and the law of this State is that each  
21 Defendant has an absolute right to appeal, and I fully understand  
22 that that's going to be done in this case. Either I **was** told  
23 that today or the last time. Ken, did you tell **me** that?

24 MR. NIXON: **Yes**, sir, Judge.

25 THE COURT: Under the **law of** this State I also must: set



1 an appeal bond and I think that was done when the jury said  
2 guilty and unless you -- you check the law, Ken. If you have to  
3 re-execute that bond, do so.

4 MR. NIXON: Yes, sir, Judge.

5 THE COURT: Are you going to represent him on appeal?

6 MR. NIXON: Yes, sir. Judge.

7 THE COURT: It's done.

8 MR. JORDAN: Judge, what is the appeal bond?

9 THE COURT: Same thing it was. I think it was \$20,000  
10 I made it last time, wasn't it?

11 MR. NIXON: I think it was \$20,000 in each case.

12 THE COURT; It will be the same.

13 I know of no reason to raise it, do you? He's  
14 been here every single time, and that's the way I leave it.

15 I don't think another bond has to be made, but if it does,  
16 they'll make it.

17 It's done.

18 \* \* \* \* \*

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CERTIFICATE OF COMPLETION OF COURT REPORTER'S TRANSCRIPT

RODNEY KARL STANBERRY,

TO: THE CLERK OF THE COURT OF

Appellant

CRIMINAL APPEALS OF ALABAMA

v.

CASES NO. CC-92-2313,

STATE OF ALABAMA,

92,2314, and 92-2315

Appellee

DATE OF NOTICE OF APPEAL:

MAY 11, 1995

I certify that I have this date completed and filed with the clerk of the trial court the original of a true and correct transcript of the evidence [and matters designated by the parties].

All the pages are numbered serially in the upper right-hand corner of the page, prefaced by an index (page 2), and ending with the number appearing at the top of this certificate.

I further certify that; a copy of this certificate, together with a copy of the index, has this day been served on counsel for the Defendant, the Attorney General of Alabama, the District Attorney, and the Clerk of the Court of Criminal Appeals of Alabama.

Dated this 18th day of December, 1995.



Barbara Ausborn  
Official Court Reporter

DEC 18 1995

Filed  
Susan F. Wilson, Clerk

1 STATE OF ALABAMA  
2 IN THE CIRCUIT COURT FOR THE COUNTY OF MOBILE  
3 THIRTEENTH JUDICIAL CIRCUIT  
4 CRIMINAL  
5

6 STATE OF ALABAMA,

7  
8 vs.

CASE NO.: CC 92-2313-2315

9 RODNEY K. STANBERRY,

10 Defendant.

11 \_\_\_\_\_/

12 REPORTER'S OFFICIAL TRANSCRIPT OH APPEAL

13 BEFORE:

14 Honorable Ferrill D. McRae

15 Mobile, Alabama - July 28, 1995

16 APPEARANCES:

17 For the State:

18

19 Joe Carl (Buzz) Jordan, Esq.  
20 Assistant District Attorney

21 For the Defendant:

22

23 Kenneth Nixon, Esq.  
24 Attorney at Law

25

26 Yulundar D. Marshall  
27 Court Reporter

(The following proceeding was held before  
the Honorable **Ferrill D. McRae**, during  
which the following occurred):

**THE COURT:** These are the cases of the State of  
**Alabama** versus Rodney **Karl** Stanberry, **Case**  
Number, CC 92-2314, the charge is Robbery in the  
First Degree. **Case Number**, CC 92-2313, Attempted  
Murder. **Case Number**, CC 2315, **Burglary** in the  
First Degree. I have no intentions of going  
through all of the entries on the docket sheet. I  
don't mind saying that I'm looking on the docket  
sheet for what day the jury found this man **guilty**  
as charged in the indictment in each one of these  
cases. On 4/7/95, the jury returned a verdict of  
guilty; 4/3/95, the jury was selected, the case  
**was** continued from day to day and on 4/7/95, the  
jury returned a verdict of guilty of Robbery in  
the First Degree. The **Presentence** Investigation  
was **ordered** by me to be made **and it was** returned.  
Sentencing was on 5/11/95, at which time in this  
case, CC 92-2314, I sentenced him to twenty years  
in the state penitentiary. Okay. And without me  
going through each one of these, I **know** for a  
**fact**; that **the** same day, the same notations **are**  
going to be appear in each one of these cases,

1 because the cases were consolidated for trial and  
2 the twenty years that I imposed in these cases  
3 was the same in each. **Now** that I have something  
4 in the docket sheet -- I mean in the record to  
5 identify what we are doing today and I do not  
6 have **your** notion in front of me, what is the  
7 reason for the motion for new trial?

8 **MR. NIXON:** Judge --

9 **THE COURT:** And by the way for the record, his client  
10 is in court, **he's** sitting in the **back**. He is  
11 present.

12 **MR. JORDAN:** Judge, for the record, the victim,  
13 **Valeria Finley**, cannot be here today because she  
14 is dying, so we --

15 **THE COURT;** Died?

16 **MR. JORDAN:** She is dying. She is not deceased but  
17 she is -- I talked to her doctor this morning to  
18 get her prognosis and she is not provided much  
19 time to live. She cannot be here. She is at  
20 home, released from the hospital. She's in a  
21 great deal of pain and I am here on her behalf.  
22 She cannot be here, **but**. I am here to oppose this  
23 motion.

24 **THE COURT;** The motion for the new trial states --

25 **MR. NIXON:** And just far the **record**, Judge, I don't

1 think **she's** dying from a gunshot wound from my  
2 information.

3 MR. JORDAN; Well, if we are going to get into the  
4 documented the medical conditions and the effect  
5 that the gunshot wound has had on her ability to  
6 be treated for other diseases, if they want to  
7 open that door, then we can run right through it.  
8 But -- and I didn't state the reason that she was  
9 dying, but that is why she cannot be here today  
10 and that is my only representation at this time.

11 THE COURT: The motion that I new have in front **of** me  
12 states the ground rather explicitly, number 3 --  
13 well number 2, the Court erred in overruling  
14 objections to the Defendant's questions. **I'm**  
15 sure I overruled questions from both sides.  
16 Three, the Court erred in sustaining separate and  
17 several objections of the State of Alabama to the  
18 separate and several questions asked of witnesses  
19 during the course of the trial. I'm sure there  
20 were many, many of them. Five, the Court erred  
21 in its ruling on the admissibility of the  
22 physical evidence at the trial including, but not.  
23 limited to the refusal to admit in evidence, the  
24 tape recorded conversation between Donald Taco  
25 Jones and the Defendant, the video and audio tape

1 confessions of **Tyree** -- **Tyrell** Moore and the  
2 transcript of the interrogation of **Tyree** Moore by  
3 Assistant District Attorney, Joe **C.** Jordan and  
4 the Defendant, **Labarron** Smith. Number **9**, I'm  
5 reading all of them, but **Number 9**, I don't need  
6 any explanations for those. **Number 9**, the  
7 Defendant was denied a fair trial in that the  
8 State failed to disclose exculpatory material in  
9 violation of **Brady V. Maryland** including, but  
10 not limited to, failing to disclose the certain  
11 factual witnesses **who** changed their testimony. **I**  
12 have no idea of what you are talking about.

13 THE COURT: Ken.

14 MR. NIXON: Yes, sir?

15 THE COURT: I have no idea of what you are talking  
16 about there.

17 MR. NIXON: I can tell you, Judge, if you want me  
18 to now or **I** can wait until you finish.

19 THE COURT: Sure.

20 MR. NIXON: In that particular instance, Judge, what **I**  
21 was -- what **I** am referring to is the testimony of  
22 the victim's sister, Brenda Gay, during the  
23 course of the trial. If you'll recall, time was  
24 a significant factor in this trial.

25 THE COURT: I remember, specifically, the sister's

1 testimony. Her testimony began with her -- when  
2 she was -- the young lady was in the hospital at  
3 University of South Alabama, ah, that's where I  
4 recall the first mention of the sister at all,  
5 the conversations had to occur at the hospital  
6 and at the time, her sister, the victim, that  
7 y'all have been relating to, whose name is --

8 MR. NIXON: **Valeria Finley.**

9 THE COURT: -- **Valeria Finley**, who is incapacitated  
10 to the point that she could not talk. I believe  
11 the first time that the sister gave testimony to  
12 the effect of anything about the case is where  
13 her sister, again, could not talk, prior to the  
14 neurosurgeon operating on her relieving the  
15 pressure of whatever he did, and also the bullet  
16 that he removed from her brain and then there was  
17 another time, I believe, in the hospital after  
18 the operation that she testified a related  
19 conversation and that's what I recall.

20 MR. NIXON: Actually, Judge, the significant portion  
21 of the testimony that I'm addressing in this  
22 motion is her testimony, her factual testimony  
23 the day of the shooting.

24 THE COURT: About the telephone call?

25 MR. NIXON: Yes, **sir.**



1 THE COURT: I remember there being testimony about the  
2 telephone call.

3 MR. NIXON: If you **will recall**, Your Honor, my client  
4 had various documents from his employer, **BFI**, and  
5 various witnesses, one who --

6 THE COURT: He had two **of** them here.

7 MR. NIXON: Yes, sir. -- most specifically, **doct** --  
8 written documentation and oral testimony that he  
9 was at his place of employment getting a tire  
10 changed at 9:30 **a.m.** on the date of the shooting.

11 THE COURT: I also remember there being a lapse in the  
12 **time** periods but, yes, I do remember that.

13 MR. NIXON: Yes, sir, Judge, and that's what I am  
14 addressing. I **was** provided pursuant to specific,  
15 Brady request that Your Honor granted, in  
16 addition to open file discovery, I was provided  
17 by Mr. Jordan with a statement from this witness  
18 prior to the trial. It was a one-paged  
19 statement, hand-written statement, from this  
20 particular witness and in that statement, she  
21 said that she, on the morning of the shooting,  
22 she spoke on the telephone with **Valeria Finley** at  
23 9, excuse me, **9:00** -- approximately **9:00** in the  
24 **morning** and that at 9:13 a.m., she -- a knock  
25 came on the door and her sister, **Valeria**, went to

1           answer the door and told her to hold on and never  
2           came back and that she heard some wrestling  
3           around in the room and she stayed on the phone  
4           for quite some **time** and eventually hung up. That  
5           **was** the information that was contained -- the  
6           only information that I received regarding her  
7           testimony prior the trial. At the trial, this  
8           witness took the stand and, of course, my client,  
9           Judge, his alibi defense and the times were  
10          concentrated on the time periods of **9:00, 9:15,**  
11          **9:30** and after that area, not before because I  
12          had no indication through pretrial discovery that  
13          anything happened before that and then this  
14          witness gets on the witness stand at trial and  
15          says that she was -- basically, says that she was  
16          mistaken that that phone call was at **8:00** instead  
17          of **9:00** which was consistent with another  
18          factual witness' testimony that he saw a truck  
19          similar to ~~my~~ client -- or two other witnesses --  
20          similar to my client; in that area. And that was  
21          a very material and very substantial change,  
22          Judge, and I think that I should have been  
23          informed of that change when it was made known to  
24          the district attorney\*

25           **MR. JORDAN;** May I be heard?

1 THE COURT: Well the record can't show that I'm  
2 pointing to you, asking you to be heard, but go  
3 ahead.

4 MR. JORDAN: Number one, it's my understanding that  
5 was what I provided to Ken **Nixon** was not her  
6 statement, but it **was** notes that a police officer  
7 took when **they** had interviewed her and she made  
8 statements to the police officer **and** he's the one  
9 that wrote it down and that's all that I had and  
10 that's what I gave to Mr. Ken **Nixon**. Number 2,  
11 Mr. Ken **Nixon** called Brenda **Gay** to the stand and  
12 he brought up all of his facts of what she told  
13 the police, et cetera, about all of these times  
14 **et** cetera, that was his witness, number 3, on  
15 cross-examination, I showed the witness and I  
16 referred to --

17 THE COURT: Wait a minute. Wait a minute. Brenda  
18 Gay, the victim's sister, was his witness?

19 MR. JORDAN; Exactly, he called her to the stand.

20 THE COURT: Go ahead.

21 MR. JORDAN: Number 3, on cross -- my  
22 cross-examination, I went through what I thought  
23 was reasonable cross-examination to show that the  
24 times that she told the police were  
approximations and I went through her statement

1 and showed about four different spaces where it  
2 **was** written in the statement, approximately,  
3 guess, approximate, approximate, guess, all of  
4 these things and she's on the stand and I went  
5 through that step by step with her to show that  
6 those were approximations. Mr. Ken **Nixon** has  
7 just represented that she testified that she got  
8 the telephone call at 8:00 a.m. I don't remember  
9 that being the testimony at the trial, that may  
10 have been, but I sure don't remember that **and if**  
11 that was the testimony, I never knew that she was  
12 going to testify to that prior to trial, because  
13 I -- to this day, I don't know that she said that  
14 on the witness stand, so --

15 THE COURT: Well, excuse **me**. **Let's** go twelve. It  
16 says and, you know, from that it's about **Tyrell**  
17 Moore and, my gosh, we got about thirty minutes  
18 or an hour in the record about **Tyrell** Moore.

19 MR. NIXON: Um-huh.

20 THE COURT: The State engaged in **prosecutorial**  
21 misconduct **by** failing to comply with the Court's  
22 open tile discovery and I'll mention that **goes** to  
23 Number 9, again, but you add to it, specifically,  
24 among other things, the prosecutor took  
25 statements from key witnesses, himself, rather

1 than allowing the investigating -- investigation  
2 officer, I guess that means the investigating  
3 officer -- to take the said statements and  
4 refused to disclose the contents of said  
5 statements and the defense claiming they were a  
6 working product. Further, the prosecution knew  
7 or should have known that a key witness, the  
8 victim 's sister, **was** going to give testimony at  
9 trial which is materially different, again,  
10 that's basically the same thing that I heard  
11 **before**.

12 MR. NIXON: Yes, sir.

13 THE COURT: Is there anything that you wish to add to  
14 that?

15 MR. NIXON: Judge, what I'm referring to in their --  
16 in that particular statement, if you will recall,  
17 you may recall one young **man** --

18 THE COURT: They testified, I recall. I wish I didn't  
19 remember everything, but I do, but go ahead.

20 MR. NIXON: I **don't** recall his first name, but I  
21 recall him being known as **Pig**, I think his last  
22 name was **Malone**. He was a young boy who lived in  
23 the neighborhood and who actually discovered the  
24 victim at her residence on the morning **of** the  
25 shooting.

1 THE COURT: This is the young man that, without me  
2 being unkind, was a little slow. He had an  
3 operation on his brain at an earlier time. I  
4 thought he did remarkably well, considering what  
5 he had gone through, but, yes, he was slow.

6 MR. NIXON: Yes, sir. In that -- and that particular  
7 witness, I was provided in the pretrial  
8 discovery, I had his name on something and I  
9 think on one of the reports it said that he found  
10 -- one of the police reports, it said that he  
11 found the victim in her home and initially,  
12 started an investigation or contacted the  
13 authorities or told someone who did contact the  
14 authorities. At trial, he took the witness stand  
15 and testified that that morning he saw the brown  
16 or a brown Bronco, which he identified as being  
17 my client's brown Bronco at that scene at 8:00 in  
18 the morning or in that time frame, Judge, at the  
19 time -- at or near the time that the woman would  
20 have been shot. I was not provided any of that  
21 information. and it's just not conceivable to me  
22 that he would have taken the stand and made that  
23 particular statement and given that particular  
24 testimony without someone having interviewed him  
25 prior to that and if they had interviewed him,

1                   they would have known that he was going to say  
2                   that and I think they would have had a duty to  
3                   disclose that to me at the time.

4                   MR. JORDAN; Judge, I interview every witness in every  
5                   case before they are put on the stand. It is  
6                   always my practice to interview them, to talk to  
7                   them, and I generally take notes of those  
8                   conversation, sometimes, I do, sometimes I don't,  
9                   just depending on it. And of course, I had  
10                  interviewed Pig **Malone** and I had a general idea  
11                  of what he was going to say and I interviewed him  
12                  that morning and I had an idea **of** what he was  
13                  going to say. I also, when I interviewed him, I  
14                  knew that he had some kind of a -- I didn't know  
15                  that he had all of the problems or I had been  
16                  told that one time that he had had an operation,  
17                  but I had forgotten about that. I just thought  
18                  he **was** -- just had a speech impediment or was a  
19                  little slow or something that affect, which Ken  
20                  brought out on cross-examination. Ken also had  
21                  further cross-examination and spent a long time  
22                  impeaching him, also brought in the fact that **his**  
23                  investigators had interviewed Pig **Malone** prior to  
24                  the trial, which I was not aware that he'd  
25                  interviewed him, was not aware that he had tape

1 recorded him, made a transcript of his testimony  
2 or anything of that nature of his interview, but  
3 Ken was very aware of this witness, had every  
4 opportunity to do what I did, which was interview  
5 him. I had no police report of an interview with  
6 -- I mean whatever I had on him regarding a  
7 police report, I provided to Mr. **Nixon**. As to my  
8 actual interviews with Pig **Malone**, no, I did not  
9 provide that to Mr. **Nixon**. I did not feel that I  
10 had a duty to provide that. Those were my  
11 interviews and that was information that I had  
12 and I -- so that's -- I mean that was not done,  
13 **but** I mean that's -- I did not understand Your  
14 Honor's order to provide -- that I provide **my**  
15 notes of my interviews of witnesses and I think  
16 we went over that several times and Your Honor  
17 expressly said I did not have to do that and this  
18 was not something exculpatory that would fall  
19 under **Brady**. It was not something **prosecutorial**  
20 misconduct where I had violated Your Honor's  
21 order, because I would not ever do that, so I  
22 think that this motion is without merit on that  
23 particular grounds.

24 MR. NIXON: Judge, may I respond briefly? Judge, if I  
25 recall correctly, my investigator did speak with



1           this bay prior to the trial. Of course if you  
2           recall, this trial remained pending for quite  
3           some time. It **was** actually several years after  
4           **she** was **shot** before the case came to trial.

5           THE COURT: That is correct.

6           MR. NIXON: He did not indicate --

7           THE COURT: And I think the record is replete with the  
8           reasons why.

9           MR. NIXON: Yes, sir, Judge. And --

10          THE COURT: Many among these was the fact that the  
11          young lady was -- after she was shot, she was in  
12          very serious -- in the top of the head -- she was  
13          in **very** serious condition. After she recovered  
14          somewhat from that, she had carcinoma cancer of  
15          the breast, had one breast removed. After that,  
16          another -- another operation, breast, was removed.  
17          Each one of these times caused her life. Without  
18          me going specifically through the docket sheet,  
19          some of the delays were at the request of the  
20          defendant but, no, there's not any question it  
21          was approximately a "two-year period from the time  
22          of the occurrence to the time of the trial, I'm  
23          aware of that, but go ahead.

24          MR. NIXON: But in any event, Judge, my investigator  
25          during the course of his investigation over that

1 time period did speak with this young man and  
2 reported back to me nothing factual that this man  
3 was, specifically, did not tell my investigator  
4 that he saw a truck there or my **client's** vehicle  
5 at the scene on this occasion. Specifically what  
6 he said, reported back to me, was that this guy  
7 -- that this witness, basically, found the body  
8 -- found the injured person, the victim, in the  
9 home place and made the report. And, Judge, if  
10 you will recall, you granted open file discovery  
11 in this particular case.

12 THE COURT; As I do in every case.

13 MR. NIXON: Yes, sir. And ah, I mean, in my opinion,  
14 Judge, it's a question of when -- you didn't  
15 have to grant open file discovery but you did  
16 grant open file discovery and when you do that,  
17 I don't think that the prosecutor should be able  
18 to go talk to a material, factual witness and  
19 when that witness tells him something that he  
20 can, just by not writing it down, fail to  
21 disclose it to me or by writing it down himself  
22 rather than sending a police officer out there  
23 to take the statement where the statement will  
24 be contained in the district attorney's file --

25 THE COURT; Ken, you had no trouble -- I know I'm

1 interrupting you -- you had no trouble talking to  
2 this man. In fact, your investigators did talk  
3 to this man. **Now** as I recall, there was an older  
4 gentleman that likes to cook, I don't remember  
5 his name, he did not want to talk to you or your  
6 investigator but he, eventually, did when your  
7 investigator went to a party, cookout party, I  
8 don't want to get into all of the testimony I  
9 heard, but I was of the opinion that all of these  
10 witnesses have been seen by you or your  
11 investigator but there is no question that I  
12 granted open file discovery in this case, as I do  
13 in every case because I think the playing field  
14 ought to be made as even as it could -- can for  
15 the defendant.

16 MR. NIXON: Judge, if I may --

17 THE COURT: Just specifically state in the record what  
18 you think the district attorney did that violated  
19 my order.

20 MR. NIXON: Judge, I think that he has circumvented  
21 your open file discovery order by either making  
22 these interviews of significant and material  
23 witnesses in his own **handwriting** and, therefore,  
24 claiming that they are a privilege and not made a  
25 part of your order because they are his notes in

1 anticipation of a trial or whatever or either by  
2 making no notes whatsoever of his interviews with  
3 these witnesses so that I would not be entitled  
4 to it. Apparently, he is claiming that if he  
5 talks to a particular witness and if he doesn't  
6 write it down or have a police officer type it or  
7 write it down, then I'm not entitled to it  
8 regardless of what they say and I -- what I'm  
9 saying, Judge, is I think the spirit of a open  
10 file discovery order is that regardless of who  
11 talks to a witness, whether it be the prosecutor  
12 or whether it be a police officer in **regardly** --  
13 regardless of whether it's written down in a  
14 police report or on a piece of yellow paper or  
15 not writing down at all, if it's significant  
16 information that should be given to the defendant  
17 pursuant to an open file discovery order, then I  
18 should receive that order and in this particular  
19 case, **my** position is that if the district  
20 attorney or police officer, under his control,  
21 knew that this particular witness was going to  
22 give that testimony, then I think it should have  
23 been given to -- that, **i.e.**, that he saw my  
24 client's truck at the scene that morning, then it  
25 should have been made available to me pursuant to

1 your discovery order.

2 THE COURT: Well, as I recall, there was a number of  
3 people that saw a car that resembled your  
4 client's car that at the time -- that morning,  
5 you knew, the biggest actual differences was  
6 when.

7 MR. NIXON: Well, there were two, Judge.

8 THE COURT: The young man that did the cooking and  
9 **Pig.**

10 MR. NIXON: Yes, sir, and **Valeria Finmore.**

11 THE COURT: Yes. Anything else you want to add?

12 MR. JORDAN: Judge, just this, pursuant to your order,  
13 there was a handwritten note in my file from a  
14 particular witness stating that he had seen the  
15 Bronco that morning. I would not give that to  
16 Mr. **Nixon** originally and I had filed a motion for  
17 protective order. **That's** something that the  
18 police had prepared, but I felt as if it was  
19 something that was not exculpatory, should not  
20 have been discoverable. Your Honor ordered me,  
21 after we had a hearing, to provide that to him.

22 THE COURT: That I did.

23 MR. JORDAN; Which I did. That was the only written  
24 part that I had from a police investigator to do  
25 that and I asked Your Honor specifically whether

1 I had to provide my notes of my interviews with  
2 witnesses because I want to interview -- it would  
3 be foolish for me to put witnesses on the stand,  
4 it would be incompetent, neglectful to put  
5 witnesses on the stand without me interviewing  
6 them. Now Ken, apparently, wants me -- wants  
7 Your Honor to impose a duty on me that whenever I  
8 interview witnesses in preparation for trial that  
9 I'm supposed to call him up and give him the gist  
10 of what they have told me or provide him with my  
11 notes or whatever and I think that's improper. I  
12 think it's beyond the scope of any discovery,  
13 beyond the scope of Your Honor's order, which  
14 Your Honor's order is the broadest I've ever  
15 worked under and I complied with Your Honor and  
16 when I had a problem with Your Honor, I came down  
17 here and fought with Your Honor, but Your Honor  
18 told me what to give him and I gave him  
19 everything that I -- that. Your Honor had ordered  
20 me to give to him, and the other witness that had  
21 identified the Bronco, Valeria had identified the  
22 Bronco, those things were in reports, transcripts  
23 of my file which I provided to Mr. Nixon, so  
24 there was no surprise as to any of that evidence.

25 THE COURT: Motion for new trial is denied.

1 MR. NIXON: Judge, may I argue one more point plus  
2 provide you with same law on this?

3 THE COURT: Oh certainly. Certainly.

4 MR. NIXON: Judge, I have two other portions of my  
5 motion that I want to bring to the Court's  
6 attention, number one was a tape recorded  
7 conversation between --

8 THE COURT: I read that, **Tyrell** and Moore and, you  
9 know, the reason that I **skimmed** over that, Ken,  
10 is because we spent the better part of an hour,  
11 two hours, going over that. I saw, heard  
12 everything that was done which, by the way, was  
13 procured by your investigator at the insistence  
14 of your investigator and which was done in the  
15 DA's office. We had -- we had so many  
16 discussions about **that**, all of which is in this  
17 record.

18 MR. NIXON: Yes, **sir**, Judge, but may I -- I would like  
19 to provide the Court with some cases, some law on  
20 that.

21 THE COURT: Certainly.

22 MR. NIXON: And I was initially talking about a tape  
23 recorded conversation between Donald [Taco]  
24 Jones and my client, which I attempted to  
introduce into trial after **my** client testified,

1                   excuse me, after Taco.

2           THE COURT: Well, you know, I remember a taped  
3           conversation between your client and a Taco or  
4           whatever.

5           MR. NIXON: Denard Jones, **yes**, sir.

6           THE COURT: And by the way, you know, I don't think I  
7           put in the record, but there's not any question  
8           in my mind, as I recall it and I don't have  
9           instant recall of every single fact, but it  
10          appears to me that **there's** a lot of self-serving  
11          declaration with this witness, why did you do  
12          this or why can't you do this or I said for you  
13          to do this and, certainly, I ruled that they were  
14          not admissible.

15          MR. NIXON: Yes, sir.

16          THE COURT: The record will clearly reflect it.

17          MR. NIXON: Just so I could preserve that, Judge, it  
18          is my position that I'm not aware if Your Honor  
19          was -- well, I **just** want to refresh your memory  
20          that Mr. Taco Denard Jones, the participant in  
21          that taped conversation did, in fact, testify.

22          THE COURT; Yes, right here.

23          MR. NIXON: **Yes**, sir.

24          THE COURT; In **fact**, he testified and we had him wait  
25          out in the hall and we brought him back. I heard



1 him.

2 MR. NIXON: Now, I'm not talking about Tyrell Moore,  
3 Judge.

4 THE COURT: I know that. You are talking about Taco  
5 Jones.

6 MR. NIXON: Yes, sir. And he testified and then my  
7 client testified and that's when I tried to put  
8 the tape in evidence which was overruled.

9 THE COURT: I can refresh your memory, Tyrell Moore  
10 is rather tall and skinny and Taco is a little  
11 bit shorter. Again, I wish I didn't remember all  
12 of those things, but I do.

13 MR. NIXON: Yes, sir. And, Judge, the other portion  
14 and I'd like to give you, if I may approach, give  
15 you some of the cases. I'll let you read those,  
16 Judge, but briefly the issue was, as you recall,  
17 and the record is, as you say, replete with  
18 argument on that point was the issue of Mr.  
19 Tyrell Moore. We subpoenaed him. He is the  
20 person who confessed to committing this crime.

21 THE COURTS Give this to me. I will read all of these  
22 before I rule one way or the other, but I'll take  
23 these home with me and read them.

24 THE CLERK: It's not granted or denied yet?

25 THE COURT: No, it's not granted or denied yet.

1 Anything else **y'all** want to tell me?

2 **MR. JORDAN:** Judge, just one other thing, I do want to  
3 introduce for the purposes of this hearing, the  
4 motion for new trial, State's Exhibit **Number 1**,  
5 which is the statement **Terrell** Moore gave to the  
6 **Prichard** Police Department on April **21st** and  
7 prior to his meeting with Mr. -- with the defense  
8 investigator where he denied having any  
9 involvement with this incident --

10 **THE COURT:** Didn't I already have that in?

11 **MR. JORDAN:** His actual statement to the police was  
12 never introduced. It needs to be in. And  
13 State's Exhibit Number 2, which is the un-sworn  
14 statement that he gave --

15 **THE COURT;** I **don't** like you saying State's Exhibits  
16 because they'll get confused with the exhibits  
17 that were offered -- that were introduced at the  
18 **time.**

19 **MR. JORDAN:** What should I call them?

20 **THE COURT:** Put them as Court's Exhibits.

21 **MR. NIXON:** And that would be over my objection.

22 **THE COURT:** Certainly. I'll read these cases and let  
23 **y'all** know.

24

25