58196 - B22

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

2013 MAR 19 AM 10:10
CLERK OF COURTS
FRANKLIN CO. OHIO

STATE OF OHIO,	:	
Plaintiff,	:	
-v-	:	**Case No. 02 CR-3117**
JAMES T. CONWAY, III,	:	**Judge** _____
Defendant.	:	**Evidentiary Hearing Requested**

JAMES T. CONWAY III'S *PRO SE* POST-CONVICTION PETITION

Petitioner James T. Conway, III, *pro se*, petitions this Court for post-conviction relief pursuant to Ohio Rev. Code Ann. § 2953.21 as follows:

I. JURISDICTIONAL FACTS

Trial proceedings

1. On June 7 2002, a Franklin County Grand Jury returned a six-count indictment against Petitioner James T. Conway, III, ("Petitioner") charging him with Aggravated Murder, Kidnapping, Possession of Criminal Tools, Abuse of a Corpse, Obstruction of Justice, and Tampering with Evidence. The Aggravated Murder charges (Counts 1 and 2) contained three capital specifications set forth in O.R.C. § 2929.03(A)(3), (A)(7), and (A)(8). The indictment alleged that Petitioner ordered three individuals – Mike Arthurs, Jamie Horton and Shawn Nightingale – to kill Andrew Dotson because Dotson had allegedly witnessed Petitioner shoot Jesse James.

2. On June 12, 2002 Petitioner pled not guilty to all of ;the charges and specifications.

3. The Court, subsequent to the June 20, 2002, bond hearing conducted the following pretrial proceedings: 1) July 15, 2002, Pretrial; 2) July 19, 2002, Pretrial; 3) August 1, 2002, Pretrial; 4) December 27, 2002, Motions Hearing; 5) December 30, 2002, Motions Hearing; 6) March 7, 2003,

Pretrial; 7) March 14, 2003, Pretrial; and 8) July 11, 2003, Motions Hearing.

4. On July 24, 2002, the Court granted Attorney Chris Cicero's motions to withdraw.

5. On July 26, 2002, the Court appointed Attorneys Robert W. Suhr and Brian T. Rigg to represent Petitioner.

6. On February 28, 2003 the Court ordered that Attorneys David Young and Diane Menashe be substituted for Attorneys Suhr Rigg. Attorneys Young and Menashe represented Petitioner throughout the remainder of the proceedings before this Court.

7. On September 15, 2003, the Court commenced *voir dire* [Tr. 2] and on September 17, 2003 the prosecution began its case-in-chief. [Tr. 337.]

8. On September 23, 2003, the jury returned guilty verdicts as to all counts and specifications contained in the indictment. [Tr. 1029-1040.]

9. On September 23, 2003, the court commenced the mitigation proceedings.

10. On September 25, 2003, the jury recommended that the Court impose a sentence of death. [Tr. 1204-1206.]

11. On September 29, 2003, the Court entertained argument from the attorneys as to the appropriate sentence. [Tr. 1307-1310.]

12. On September 30, 2003, the Court merged Counts 1 and 2 and imposed a sentence of death. [Tr. 1311-1312.] The Court also imposed the following sentences as to the other counts: A) Count Three, Possession of Criminal Tools, twelve months of imprisonment; B) Count Four, Abuse of a Corpse, twelve months of imprisonment; C) Count Five, Obstruction of Justice, five years of imprisonment; and D) Count Six, Tampering with Evidence, five years imprisonment. The Court ordered that Counts Three through Six be served consecutively with each other, but concurrent with the sentence of death. [*Id.*]

Direct Appeal Proceedings

13. On November 10, 2003, Petitioner timely filed his Notice of Appeal to the Ohio Supreme Court from his convictions and sentences.

14. On June 11, 2004, Appellate Counsel filed with the Ohio Supreme Court the Merit Brief, which contained the following issues:

Proposition of Law One

Imposition of the death sentence violates the Sixth, Eighth and Fourteenth Amendments to the United States Constitution and Article One, Sections Two, Nine and Sixteen of the Ohio Constitution.

Proposition of Law Two

In a capital case where the state fails to present sufficient evidence to prove beyond a reasonable doubt all of ;the elements of the offenses charged, the defendant's subsequent convictions violate the due process clause of the Fourteenth Amendment to the United States Constitution, and the proscription against cruel and unusual punishment contained in the Eighth Amendment to the United States Constitution and Article One, Section Nine of the Ohio Constitution.

Proposition of Law Three

In a capital case, where the trial court precludes the defense from introducing, and the jury from considering, crucial and relevant evidence contra *Lockett v. Ohio* (1978), 438 U.S. 586, the Defendant's subsequent death sentence violates the due process clause of the Fourteenth Amendment to the United States Constitution, and Article One, Section Sixteen of the Ohio Constitution, and the proscription against cruel and unusual punishment contained in the Eighth Amendment to the United States Constitution and Article One, Section Nine of the Ohio Constitution.

Proposition of Law Four

Because of pre-trial publicity, including newspaper article detailing Appellant's prior conviction and death sentence in another case, Defendant was denied his constitutional right to a fair and reliable determination of his guilt or innocence as well as sentence by an impartial jury under Article I, Sections Two, Nine, Ten and Sixteen of the Ohio Constitution, and the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution.

Proposition of Law Five

In a capital case, where the trial judge gives a faulty reasonable doubt instruction during

the penalty phase, appellant's death sentence violates the due process clause of the Fourteenth Amendment to the United States Constitution, and Article One, Section Sixteen of the Ohio Constitution and the proscription against cruel and unusual punishment contained in the Eighth Amendment to the United States Constitution, and Article One, Section Nine of the Ohio Constitution.

Proposition of Law Six

The admission of hearsay statements as to key issues deprived appellant of his right to a fair trial under the Ohio and Federal Constitutions.

Proposition of Law Seven

Multiple instances of deficient performance in the conduct of the trial and penalty phases of a capital trial couple with prejudice inuring to the detriment of the Defendant result in the denial of the right to a fair trial and the right to effective assistance of counsel under the Sixth and Fourteenth Amendments to the United States Constitution as well as Article One, Section Ten of the Ohio Constitution.

Proposition of Law Eight

The Court erred by allowing the admission of irrelevant and prejudicial material regarding other acts committed by the Appellant, in violation of the Ohio Rules of Evidence and the Appellant's substantive and procedural due process rights under the Federal and State Constitutions.

[Exhibit 1.]

15. On June 21, 2006, the Ohio Supreme Court affirmed Petitioner's convictions and death sentence. *State v. Conway*, 109 Ohio St.3d 412; 2006-Ohio-2815.

16. On September 19, 2006, Petitioner filed with the United States Supreme Court his petition for *certiorari*. In his petition he presented the following questions for review:

I. Can a trial court's failure to admit relevant exhibits during the mitigation phase of a capital case be corrected by an appellate court's statutorily mandated reweighing of the evidence, when the defendant has a state constitutional and statutory right to have the jury determine the appropriate sentence?

II. When an appellate court is statutorily required to provide proportionality review in capital cases, does it violate the Due Process Clause of the Fourteenth Amendment when it in essence provides no meaningful review?

17. On November 27, 2006, the United States Supreme Court denied the petition for *certiorari*. *Conway v. Ohio* (2006), 549 U.S. 1061.

Application for Reopening

18. On September 19, 2006, Petitioner filed with the Ohio Supreme Court his Application for Reopening. He raised the following issues in his application:

PROPOSITION OF LAW NO. I

The State of Ohio's Death Penalty Violates International Law. Article IV, United States Constitution.

PROPOSITION OF LAW NO. II

The Law Enforcement Officers Improperly Obtained A Statement From Appellant. Fifth, Sixth, And Fourteenth Amendments.

PROPOSITION OF LAW NO. III

A Defendant Has Conflicted Counsel When His Trial Counsel Is The Focus Of The Investigation For Which The Defendant Is Indicted; And Trial Counsel Provides The Investigating Agencies With Information That Was Protected By The Attorney-Client Privilege. Fifth, Sixth and Fourteenth Amendments.

PROPOSITION OF LAW NO. IV

A Prosecutor's Office Should Either Voluntarily Withdraw From A Case OR Be Disqualified When It Is Pursuing Charges Against An Individual Who Has Allegedly Made Death Threats Against Members Of The Office And Is Under Active Investigation For Those Threats. Fifth and Sixth Amendment, United States Constitution.

PROPOSITION OF LAW NO. V

Members Of A Sheriff's Department and Prosecutor's Office Are Precluded From Making Public Statements That Deprive A Defendant Of A Fair Trial. Fifth, Sixth and Fourteenth Amendments.

PROPOSITION OF LAW NO. VI

A Single Count Of An Indictment Should Not Contain Two Separate Offenses. Fifth, Sixth and Fourteenth Amendments, O.R.C. § 2941.04; Ohio Crim. R. 8.

PROPOSITION OF LAW NO. VII

Members Of A Prosecutor's Office And Other Law Enforcement Agencies Are Precluded From Issuing Extra Judicial Subpoenas. Fifth Sixth, And Fourteenth Amendments, Ohio Crim. R. 17.

PROPOSITION OF LAW NO. VIII

An Individual's Death Sentence Is Constitutionally Infirm If The Sentence Will Be Administered Through Lethal Injection Eighth and Fourteenth Amendments.

PROPOSITION OF LAW NO. IX

Cumulative Error In The Trial Court Proceedings Can Render a Defendant's Sentence Constitutionally Infirm. Fifth, Sixth, Eighth and Fourteenth Amendments.

19. On November 29, 2009, the Ohio Supreme Court denied Petitioner's application for reopening. *State v. Conway*, 111 Ohio St.3d 1489; 2009-Ohio-6171.

Post-Conviction Proceedings

20. On August 23, 2004, Petitioner filed his initial post-conviction petition.

21. Petitioner filed this amended post-conviction petition as a matter of right. Petitioner raised the following causes of action in his amended petition:

FIRST CAUSE OF ACTION

Petitioner's Convictions And Sentences Are Void Or Voidable Because They Were Obtained In Violation Of International Law And Treaties To Which The United States I A Signatory. United States Constitution, Art. VI. § 1.

SECOND CAUSE OF ACTION

Petitioner's Convictions and Sentences Are Void Or Voidable Because Ohio's Post-Conviction Procedures Do Not Provide An Adequate Corrective Process, In Violation Of The Constitution. U.S. Const. Amends. V, VI, VIII, IX, and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20.

THIRD CAUSE OF ACTION

Petitioner's Convictions and Sentences Are Void or Voidable Because He Has Been Denied His Constitutional and Statutory Rights To Appointed Post-Conviction Counsel. U.S. Const. Amends. V, VI, VIII, IX, and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20.

FOURTH CAUSE OF ACTION

Petitioner's Convictions and Sentences Are Void or Voidable Because Petitioner Has Not Had the Benefit of a Complete Copy of All of The Trial Proceedings Before the Court. U.S. Const. Amends. V, VI, VIII. IX, and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20.

FIFTH CAUSE OF ACTION

Petitioner's Convictions And Sentences Are Void Or Voidable Because The State Officials Have Denied Petitioner Access To The Documents That He Needs To Identify And Support The Constitutional Errors That Rendered The Trial And Sentencing Proceedings Unfair. U.S. Const. Amends. V, VI, VIII, IX, and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20.

SIXTH CAUSE OF ACTION

Petitioner's Convictions And Sentences Are Void Or Voidable Because The Federal Government Officials Have Denied Him Access To The Information That He Needs To Review To Identify And Document All Of The Constitutional Violations That Occurred In The Course Of The Trial And Sentencing Proceedings Before This Court. U.S. Const. Amends. V, VI, VIII, IX, and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20.

SEVENTH CAUSE OF ACTION

Petitioner's Convictions And Sentences Are Void Or Voidable Because The Law Enforcement Agencies Improperly Employed A Jailhouse Informant To Obtain Information From Petitioner. U.S. Const. Amends. V, VI, VIII, IX. and XIV; Ohio Const. Art. I, §§ 1, 2, 5. 9, 10, 16, and 20.

EIGHTH CAUSE OF ACTION

Petitioner's Convictions And Sentences Are Void Or Voidable Because Attorney Christopher Cicero Who Initially Represented Petitioner, Was Under Investigation For The Offense And Was Providing The Franklin County Prosecutor Information That Was Protected By The Attorney-Client Privilege.

NINTH CAUSE OF ACTION

Petitioner's Convictions And Sentences Are Void Or Voidable Because the Charges Were Instituted By A Prosecutor's Office That Had A Personal, Vested, Interest In The Outcome Of The Proceedings. U.S. Const. Amends. V, VI, VIII, IX, and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20.

TENTH CAUSE OF ACTION

Petitioner's Convictions And Sentences Are Void Or Voidable Because the Franklin County Prosecutor's Office Made Improper Extrajudicial Statements Which Deprived Petitioner Of A Fair Trial. U.S. Const. Amends. V, VI, VIII, IX, and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20.

ELEVENTH CAUSE OF ACTION

Petitioner's Convictions And Sentences Are Void Or Voidable Because Count One of The Indictment Impermissibly Contained Two Separates Offenses. U.S. Const. Amends. V, VI, VIII, IX, and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20.

TWELFTH CAUSE OF ACTION

Petitioner's Convictions And Sentences Are Void Or Voidable Because Due To Prosecutorial Misconduct in Violation Of Petitioner's Rights To A Fair Trial Because The Trial Prosecutors Abused The Subpoena Process. U.S. Const. Amends. V, VI, VIII, IX, and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20.

THIRTEENTH CAUSE OF ACTION

Petitioner's Convictions And Sentences Are Void Or Voidable Because the Trial Prosecutors Failed To Provide Trial Counsel With Exculpatory Evidence.

FOURTEENTH CAUSE OF ACTION

Petitioner's Convictions And Sentences Are Void Or Voidable Because The Trial Prosecutors Knowingly Presented And Failed To Correct False Testimony To Obtain The Convictions And Death Sentences In The Present Case. U.S. Const. Amends. V, VI, VIII, IX, and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20.

FIFTEENTH CAUSE OF ACTION

Petitioner's Convictions And Sentences Are Void and/or Voidable Because Petitioner Was Denied The Effective Assistance Of Counsel During The Trial Stage Of His Capital Case. The Acts And Omissions Of Trial Counsel Deprived Him Of The Sixth Amendment Right To Effective Assistance Of Counsel. U.S. Const. Amends. V, VI, VIII, IX, and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10. 16, and 20; Strickland v. Washington, 486 U.S. 668, 686 (1984).

SIXTEENTH CAUSE OF ACTION

Petitioner's Convictions And Sentences Are Void and/or Voidable Because the Prosecutors Failed To Prove By Proof Beyond A Reasonable Petitioner's Guilt As To One Or More Aggravating Circumstances.

SEVENTEENTH CAUSE OF ACTION

Petitioner's Convictions And Sentences Are Void or Voidable Because He Was Denied His Statutory Constitutional Right to The Appointment of Experts. U.S. Const. Amends. V, VI, VIII, IX, and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20.

EIGHTEENTH CAUSE OF ACTION

Petitioner's Sentences Are Void and/or Voidable Because Petitioner Was Denied the Effective Assistance of Counsel during The Mitigation Stage Of His Capital Case. U.S. Const. Amends. V, VI, VIII, IX. and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20; Strickland v. Washington, 486 U.S. 668, 686 (1984).

NINETEENTH CAUSE OF ACTON

The Death Sentence Against Petitioner Is Void and/or Voidable Because The Death Penalty As Administered By Lethal Infection Violates His Constitutional Rights To Protection From Cruel and Unusual Punishment As Guaranteed By The Eighth Amendment And To Due Process Of Law. U.S. Const. Amends. V, VI, VIII, IX, and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20; Ohio Adult Parole Authority v. Woodard, 523 U.S. 272 (1998)(five justices holding that the Due Process Clause protects the "life" interest at issue in capital cases).

TWENTIETH CAUSE OF ACTION

Petitioner's Conviction And Sentences Are Void Or Voidable Because, Assuming Arguendo That None Of The Causes Of Action In This Post-Conviction Petition Individually Warrant The Relief, The Cumulative Effects Of The Errors And Omissions As Presented In The Petition In Paragraphs One Through Two-Hundred-Forty-Six Prejudiced Petitioner And Denied Him His Rights As Secured By The United States And Ohio Constitutions.

[Exhibit 2]

22. On May 2, 2005, the Court denied Petitioner's amended post-conviction petition. *State v. Conway*, Franklin C.P. No. Case No. 02 CR-3117 (entry denying post-conviction petition).

23. On May 31, 2005, Petitioner timely filed his notice of appeal to the Franklin County Court of Appeals.

24. On August 5, 2005, Petitioner filed his principal brief with the state appellate court.

25. On September 13, 2005, Petitioner filed his corrected principal brief with the state appellate court. He raised the following issues in that brief:

ASSIGNMENT OF ERROR NO. I

THE TRIAL COURT ERRED WHEN IT DENIED APPELLANT'S MOTION FOR FUNDING TO RETAIN EXPERTS. [T.d. 484, p. 9].

ASSIGNMENT OF ERROR NO. II

THE TRIAL COURT ERRED WHEN IT PRECLUDED PETITIONER FROM CONCUCTING DISCOVERY. [T.d. 484, pp. 8-9, T.d. 475].

ASSIGNMENT OF ERROR NO. III

THE TRIAL COURT ERRED BY APPLYING THE DOCTRINE OF RES JUDICATA TO PRECLUDE REVIEW OF CERTAIN OF PETITIONER'S CAUSES OF ACTION. [T.d. 475, pp. 307].

ASSIGNMENT OF ERROR NO. IV

THE TRIAL COURT ERRED WHEN IT FAILED TO GRANT APPELLANT RELIEF. [T.d. 475].

ASSIGNMENT OF ERROR NO. V

THIS COURT ERRED WHEN IT REFUSED TO APPOINT TWO ATTORNEYS FOR THIS APPEAL.

26. On November 28, 2006, the Franklin County Court of Appeals affirmed the trial court's post-conviction judgment. *State v. Conway*, 10th Dist. No. 05AP-550, 2006-Ohio-6219.

27. On January 12, 2007, Petitioner filed his notice of appeal and memorandum in support of jurisdiction with the Ohio Supreme Court. He raised therein the following issues:

PROPOSITION OF LAW NO. I

A Trial Court, Once It Orders That An Evidentiary Hearing Be Held, Must Provide Funding For An Indigent Post -Conviction Petitioner [T.d. 484, p. 9].

PROPOSITION OF LAW NO. II

A Trial Court, Once It Orders That An Evidentiary Hearing Be Held, Must Permit The Petitioner To Conduct Reasonable Discovery. [T.d. 484, pp. 8-9, T.d. 475].

PROPOSITION OF LAW NO. III

A Trial Court Should Not Apply The Doctrine Of Res Judicata To Preclude Review Of A

Petitioner's Causes Of Action Which Could Not Have Been Fairly And Fully Litigated On Direct Appeal. [T.d. 475, pp. 3-7].

PROPOSITION OF LAW NO. IV

A Trial Court Should Grant A Petitioner Post-Conviction Relief When He Documents The Existence Of A Prejudicial Constitutional Error In The Trial Court Proceedings. [T.d. 475].

PROPOSITION OF LAW NO. V

Trial And Appellate Courts Should Appoint Two Attorneys For Individuals Who Are Seeking Post-Conviction Relief And Have Been Sentence To Death.

28. On June 20, 2007, the Ohio Supreme Court declined to exercise its discretionary jurisdiction to hear Petitioner's appeal. *State v. Conway*, 114 Ohio St.3d 1425, 2007-Ohio-0064.

Federal Habeas Proceedings

29. On June 1, 2008, Petitioner filed with the Federal District Court, Southern District of Ohio, his initial habeas petition. *Conway v. Houk*, S.D. Ohio Case No. 3:07-cv-00345. He raised the following claims in his petition:

First Claim For Relief: James Conway's Conviction And Sentences Are Constitutionally Infirm Because The Trial Court Permitted A Jail House Informant To Testify As To Petitioner's Alleged Statements To The Informant Which Petitioner Made After He Invoked His Right To Counsel. United States Constitution, Fifth, Sixth, Eighth And Fourteenth Amendments.

Second Claim For Relief: James Conway's Convictions and Sentences Are Constitutionally Infirm Because the Indictment Charged Multiple Offenses As To Count One Of The Indictment. Fifth, Sixth, Eighth And Fourteenth Amendments.

Third Claim For Relief: James Conway's Convictions and Sentences Are Constitutionally Infirm Because He Was Initially Represented by Conflicted Counsel. Sixth and Fourteenth Amendments.

Fourth Claim For Relief: James Conway's Convictions and Sentences Are Constitutionally Infirm Because The Trial Prosecutors Failed To Provide Defense Counsel With All Exculpatory Evidence. United States Constitution, Sixth, Eighth and Fourteenth Amendments.

Fifth Claim For Relief: James Conway's Convictions and Sentences Are Constitutionally Infirm Because Of The Extensive Prosecutorial Misconduct. Sixth,

Eighth and Fourteenth Amendments.

Sixth Claim For Relief: James Conway's Convictions and Sentences Are Constitutionally Infirm Because the Trial Court Denied His Motion For A Change Of Venue. Sixth And Fourteenth Amendments.

Seventh Claim For Relief: James Conway's Convictions and Sentences Are Constitutionally Infirm Because the Trial Prosecutors Knowingly Used False Testimony Which They Neither Corrected Nor Disclosed The False Testimony To Defense Counsel. Fifth, Sixth, Eighth and Fourteenth Amendments.

Eighth Claim For Relief: James Conway's Convictions and Death Sentence Are Constitutionally Infirm Because the Trial Court Improperly Admitted Other Act Testimony. United States Constitution, Sixth, Eighth and Fourteenth Amendments.

Ninth Claim For Relief: James Conway's Convictions and Death Sentence Are Constitutionally Infirm Because the Trial Court Improperly Admitted Hearsay Statements Which Violated His Right to Confrontation. United States Constitution, Sixth, Eighth and Fourteenth Amendments.

Tenth Claim For Relief: James Conway's Conviction on The First Capital Specification and His Death Sentence Are Constitutionally Infirm Due To the Trial Court's Failure to Instruct the Jury on an Essential Element. United States Constitution, Sixth, Eighth and Fourteenth Amendments.

Eleventh Claim For Relief: James Conway's Convictions and Death Sentence Are Constitutionally Infirm Because the State Did Not Adduce Sufficient Evidence As First and Third Capital Specifications. United States Constitution, Sixth, Eighth and Fourteenth Amendments.

Twelfth Claim For Relief: Petitioner's Conviction for Capital Murder and The resulting Death Sentence Is Constitutionally Infirm Because He Is Actually Innocent of The Three Capital Specifications. Eighth and Fourteenth Amendments.

Thirteenth Claim For Relief: James Conway's Death Sentence Is Constitutionally Infirm Because the Trial Court Excluded Relevant Evidence In The Sentencing Phase. United States Constitution,Sixth, Eighth and Fourteenth Amendments.

Fourteenth Claim For Relief: James Conway's Death Sentence Is Constitutionally Infirm Because the Trial Court Employed An Infirm Definition Of Reasonable Doubt In The Sentencing Phase. United States Constitution, Fifth, Sixth, Eighth and Fourteenth Amendments.

Fifteenth Claim For Relief: James Conway's Death Sentence Is Constitutionally Infirm Because He Did Not receive the Benefit Of Reasonable and Necessary Experts. United States, Sixth, Eighth and Fourteenth Amendments.

Sixteenth Claim For Relief: Petitioner's Convictions And Sentences Are Constitutionally Infirm Because He Was Denied The Right To Effective Assistance Of Counsel In The Trial And Sentencing Stages. Fifth, Sixth, Eighth and Fourteenth Amendments.

Seventeenth Claim For Relief: Petitioner's Convictions and Sentences Are Constitutionally Infirm Because He Was Deprived of The Effective Assistance of Counsel on His Direct Appeal of Right. Fifth, Sixth, Eighth and Fourteenth Amendments.

Eighteenth Claim For Relief: Petitioner's Death Sentence Is Constitutionally Infirm Because Ohio's Capital Punishment System Operates in An Arbitrary and Capricious Manner. United States Constitution, Fifth, Sixth, Eighth and Fourteenth Amendments.

Nineteenth Claim For Relief: Petitioner's Convictions And Death Sentence Are Invalid Under The Federal Constitutional Guarantees Of Due Process, Equal Protection, The Effective Assistance Of Counsel, A Fair Tribunal, An Impartial Jury, And A Reliable Sentence Due To The Cumulative Errors In The Admission Of Evidence And Instructions, Gross Misconduct By State Officials And Witnesses, And The Systematic Deprivation Of His Right To The Effective Assistance Of Counsel. United States Constitution, Fifth, Sixth, Eighth and Fourteenth Amendments.

30. On October 3, 2008, the Warden filed the Return of the Writ and state court record.

31. On January 14, 2009, Petitioner file his Traverse (answer to the Warden's Return of the Writ).

32. On April 8, 2009, the District Court granted in part Petitioner's Motion for Leave to Conduct Discovery.

33. On May 25, 2010, Petitioner filed an Amended Traverse as a result of the facts garnered during the federal discovery.

34. On July 8, 2010, the Warden filed his Amended Return of the Writ in response to Petitioner's Amended Traverse.

35. On September 6, 2011, the District Court granted Petitioner's Motion to Hold Proceedings in Abeyance while he returned to state court.

36. On November 1, 2011, Petitioner filed a second post-conviction petition with this court. Petitioner raised the following grounds for relief in his second petition:

FIRST GROUND FOR RELIEF

Petitioner's Convictions and Death Sentence Are Void or Voidable Because The State Suppressed Favorable, Material Evidence. Sixth, Eighth and Fourteenth Amendments To The United States Constitution.

SECOND GROUND FOR RELIEF

Petitioner's Convictions and Death Sentences Are Void or Voidable Because The First Attorney Who Represented Him, Christoper Cicero, Operated Under A Conflict Of Interest. Sixth, Eighth and Fourteenth Amendments.

THIRD GROUND FOR RELIEF

Petitioner's Convictions and Sentences Are Void and/or Voidable Because The Actions Of Attorney Cicero Denied Petitioner The Effective Assistance Of Counsel. Sixth and Fourteenth Amendments.

FOURTH GROUND FOR RELIEF

Petitioner's Convictions and Sentences Are Void and/or Voidable Because The Attorneys Who Ultimately Represented Him Failed To Provide Him With Effective Assistance Of Counsel In Both The Trial and Mitigation Phases.

FIFTH GOUND FOR RELIEF

Petitioner's Conviction and Sentences Are Void or Voidable Because, Assuming *Arguendo* That None Of The Causes Of Action In This Post-Conviction Petition Individually Warrant The Relief, The Cumulative Effects Of The Errors and Omissions As Presented In This Petition, His August 23, 2004 Amended Post-Conviction Petition **[Exhibit 2]**, and His Direct Appeal Prejudiced Petitioner **[Exhibit 1]** and Denied Him His Rights As Secured By The United States and Ohio Constitutions.

37. On April 9, 2012, the Court denied Petitioner's amended post-conviction petition. *State v. Conway*, Franklin C.P. No. Case No. 02 CR-3117 (entry denying post-conviction petition).

38. On May 10, 2012, Petitioner timely filed his notice of appeal to the Franklin County Court of Appeals.

II. JURISDICTIONAL STATEMENT

39. Petitioner anticipates that the State of Ohio in its answer will claim that this Court lacks

jurisdiction to entertain this petition. The State of Ohio will cite to R.C. § 2953.23(A) which provides that a trial court may entertain a successor post-conviction petition if either the petitioner was unavoidably prevented from discovering the facts upon which the new claim is based or relies upon a new constitutional right that has been retroactively applied and that but for that constitutional error no reasonable juror would have found the petitioner guilty of the offenses(s) or sentenced him to death.

40. The state's argument will be unfounded. The Court should address all of the claims contained in this petition.

A. The Criteria Contained In R.C. § 2953.23(A) Are Not Jurisdictional.

41. R.C. § 2953.23(A) provides as follows:

> (A) Whether a hearing is or is not held on a petition filed pursuant to section 2953.21 of the Revised Code, a court **may** not entertain a petition filed after the expiration of the period prescribed in division (A) of that section or a second petition or successive petitioners for similar relief on behalf of a petitioner unless both of the following apply. (emphasis added.)

42. The Legislature's use of the word "may" as opposed to the word "shall" demonstrates that the Court has discretion when deciding successor post-conviction petitions. *Dorrian v. Scioto Conservation Dist.* (1971), 27 Ohio St.2d 102, 107; 271 N.E.2d 834, 837-838. Pursuant to that discretion the Court should not require Petitioner to make any showing prior to the Court reviewing the claims contained in this petition.

B. If The Criteria Contained In R.C. § 2953.23(A) Are Jurisdictional, The Statute Is Unconstitutional On Its Face.

43. It is the right and duty of judicial tribunals to determine whether a legislative act drawn into question in a suit pending before them violates the constitutions of the United States, and the State of Ohio, and if so found, to treat it as a nullity. *Cincinnati, Wilmington & Zanesville RR. Co. v. Clinton Cty. Commrs.* (1852), 1 Ohio St. 77; 1852 WL 11, Syl. Para 1. The appropriate judicial inquiry into the constitutionality of a statute involves the question of legislative

power not legislative wisdom. *State ex rel. Bowman v. Allen Cty. Bd. Of Commrs.* (1931), 124 Ohio St. 174, 196; 177 N.E.2d 271, 278. In this case, the General Assembly exceeded its legislative power when it enacted R.C. § 2953.23(A) because the statue violates the Supremacy Clause of the United States Constitution, usurps the judicial power of Ohio Courts in violation of the doctrine of separation of powers, and violates the "due course of law" and "open courts" provisions of Section 16, Article I of the Ohio Constitution.

R.C. § 2953.23(A) Violates 6th Amendment Right to the Effective Assistance of Trial Counsel.

44. In *Coleman v. Thompson*, (1991) 501 U.S. 722, 755, the US Supreme Court found that the 14th Amendment guaranty of the effective assistance of counsel in an appeal of right recognized by *Douglas v. California*, (1963) 372 U.S.353. 357, did not extend to post-conviction proceedings. Such being the case, any claim filed under R.C § 2953.21 but outside the time period allotted by subsection (A) would be denied according to R.C § 2953.23(A). Filing a claim under these conditions would have been frivolous. That is, until the U.S. Supreme Court's recent decision in *Martinez v. Ryan*, (2012) 132 S.Ct. 1309.

45. *Martinez* was a significant change in Supreme Court precedent, allowing a narrow exception to *Coleman's* prohibition on using ineffective assistance of post-conviction counsel as cause for procedural default on claims of ineffective assistance of trial counsel. See *Martinez*, at 1315. Just such a situation has arisen here. Petitioner's post-conviction counsel did not adequately investigate and present the claims contained herein. To make matters worse, due to prison regulations, Petitioner was not allowed direct access to much of the material used to substantiate the claims in this petition. **[Exhibit 4**, p. 12, paras. 27-34.] It was only due to an attorney, going above and beyond what was required of him, that Petitioner was able to access the materials needed as the basis for this petition. Since that time, Petitioner has worked diligently, despite numerous road blocks put in place by the state, to file this petition. **[Exhibit 4**, p. 12, paras. 27-34.]

46. No court has ever had the opportunity to review any of the claims contained herein. Virtually the entirety of this petition is a review of trial counsel's performance in this case. Review on the merits of these claims is necessary to vindicate Petitioner's 6th Amendment right to counsel at trial, and his 14th Amendment right to have trial counsel's performance reviewed by an appellate court. Thus, R.C §2953.23(A) violates the 6th and 14th Amendments to the U.S. Constitution if it precludes this court from reviewing this petition on the merits or serves as an adequate and independent basis for denying a federal habeas court from doing the same.

R.C. § 2953.23(A) Violates The Supremacy Clause.

47. The Supremacy Clause, Art. VI, Cl. 2 of the United States Constitution, provides that "the Laws of the United States . . . shall be the supreme Law of the Land; the Judges in every State shall be bound thereby." The Supremacy Clause dictates that federal law prevails over competing state exercise of power unless the state law affords greater constitutional protections than the federal law. State courts cannot refuse to apply federal law. *Testa v. Katt* (1947), 330 U.S. 386, 389; 67 S.Ct. 810, 812. In effect, the federal courts' interpretation of the federal constitution is part of the supreme law of the land. Therefore, if the Ohio General Assembly adopts a law in conflict with the Constitution, it is the constitutional responsibility of the Ohio judicial branch to declare the law unconstitutional.

48. R.C. § 2953.23(A)(2) is an attempt by the General Assembly to establish a judicial standard of review for the granting of relief for violations of a petitioner's federal constitutional rights. Specifically, R.C. § 2953.21(A)(2) requires a successor post-conviction petitioner to not only establish by competent evidence a violation of his federal constitutional rights but also requires that he prove by clear and convincing evidence that "but for constitutional error at trial, no reasonable fact finder would have found the petitioner guilty of the offense of [conviction]." The federal courts have already determined the standard of evidence necessary for an individual to obtain relief who have had their constitutional rights violated by state actors.

49. For example, in a total denial of counsel situation, a petitioner only has to show a denial of counsel and prejudice is presumed. *United States v. Cronic* (1984), 466 U.S. 648, 659; 104S.Ct. 2039, 2047. Where the prosecutor knows or should have known that he was using false evidence, a petitioner to obtain relief only has to establish that there is a reasonable likelihood that the false evidence could have affected the outcome. *United States v. Agurs* (1976), 427 U.S. 97, 103; 96 S.Ct. 2392, 2397. Claims of juror bias require the state to establish that the error is harmless beyond a reasonable doubt. *Smith v. Phillips* (1976), 455 U.S. 209, 229; 102 S.Ct. 940, 945. For violations of the holding in *Brady v. Maryland* (1963), 373 U.S. 83, 87; 83 S.Ct. 1194, 1196-1197, a person need only demonstrate that the suppressed information led to a verdict that was not worthy of confidence. *Kyles v. Whitley* (1995), 514 U.S. 419, 434; 115 S.Ct. 1555, 1566. Similarly, to show prejudice under the ineffective assistance of counsel standard annunciated in *Strickland v. Washington*, (1984) 466 U.S. 668; 104 S. Ct. 2052 (which Petitioner has alleged in his pending petition) requires only a lack of confidence in the verdict. None of these federal court decisions require a person to establish "but for constitutional error at trial, no reasonable fact-finder would have found the petitioner guilty of the offense of conviction" before the person can obtain relief. That is similar to the standard for newly discovered evidence which was specifically rejected by *Strickland* in favor of a standard somewhat less than a preponderance of the evidence. *Id* at 694; 2068.

50. As a result, R.C. § 2953.23(A)(2) is a legislative enactment that subverts the binding precedent of the United States Supreme Court for claims arising under the United States Constitution and it, therefore, violates the Supremacy Clause.

R.C. § 2953.23(A) Usurps Judicial Power In Violation Of The Doctrine Of Separation Of Powers

51. A statute that violates the doctrine of separation of powers is unconstitutional. *State, ex rel OATL v. Sheward* (1999), 86 Ohio St.3d 451, 475; 715 N.E.2d 1062, 1085. The Ohio Constitution's structural protections prohibit the General Assembly from exercising "any judicial power, not herein

expressly conferred." Section 32, Article II, Ohio Constitution. Historically, the functions of interpreting and providing remedies for violations of constitutional rights have been assigned exclusively to the judiciary. By enacting O.R.C. § 2953.23, the General Assembly exercised power that is exclusive to the judiciary, namely interpreting the State and Federal Constitutions. *See, Beagle v. Walden* (1997), 78 Ohio St.3d 59, 62; 676 N.E.2d 506, 508.

52. The General Assembly may not enact legislation that deprives a court of jurisdiction to enforce a constitutional right because "[w]hat the constitution grants, no statute may take away." *State ex rel. Hoel v. Brown* (1992), 105 Ohio St. 479; 138 N.E. 230 syllabus. In this case, the use of the terms "may not entertain" in O.R.C. § 2953.23(A) denotes the General Assembly's intention to deprive the state courts of the opportunity to hear and remedy violations of convicted individuals' constitutional rights when they are presented in second or successive petitions for post-conviction relief. As a result, the General Assembly has declared that long established equitable principles (such as tolling), should be ignored when reviewing constitutional violations alleged in successive petitions. In short, only when a successive petitioner can establish that but for the constitutional error no reasonable jury would have found him guilty of the offense or imposed the death sentence, may a constitutional violation be "entertained."

53. R.C. § 2953.23(A) runs afoul of the State and Federal Constitutions because the statute deprives Ohio courts of the ability to "entertain" claims of the violation of state and federal constitutional rights. The only exception occurs when the person can establish the legislative requirement that, but for the violation, no reasonable jury would have found the person guilty of the offense of conviction. Thus, the statute imposes new an insurmountable requirements for the granting of relief for previously undiscovered violations of a convicted person's constitutional rights. As such, the statute impermissibly infringes on the judiciary's exclusive power to define the scope and extent of constitutional protections, and to provide a meaningful remedy. The statute violates the separation of

powers doctrine.

R.C. § 2953.23(A)(2) Violates The "Due Course Of Law" And "Open Courts" Provisions Of Section 16, Article I Of The Ohio Constitution

54. There is no rational relationship between the discovery of a constitutional violation of a convicted person's rights and clear and convincing evidence that the person is not guilty of the offense of conviction. Nor is there a rational relationship between the retroactive application of a newly recognized federal or state right, and clear and convincing evidence that the person is not guilty of the offense of conviction. The absence of such a rational relationship constitutes a violation of the Federal and State Constitutional rights to due process and equal protection as guaranteed by the Fourteenth Amendments to the United States Constitution and Article I, Section 16 of the Ohio Constitution.

55. Many denials of a convicted person's constitutional rights do not manifest themselves immediately. For example, judicial bias, biased jurors, *Brady* violations, and ineffective assistance of counsel may all be discovered long after a person is unjustly convicted and has completed direct and collateral appeals. *Kimmilman v. Morrison* (1986), 477 U.S. 365, 378; 106 S.Ct. 2574, 2584 ("***consequently, a criminal defendant will rarely know that he has not been represented competently until after trial or appeal, usually when he consults with another lawyer about his case.").

56. In addition, there are Federal Constitutional violations that require reversal even though they would not clearly and convincingly impact a jury's decision as to the issue of guilt: 1) denials of counsel at critical stages of the proceedings; 2) denials of the right to appeal; 3) denials of the right to a speedy trial; and 4) the suppression of material and exculpatory evidence. R.C. § 2953.23(A) does not permit these constitutional violations to be remedied in a successive post-conviction petition. The petitioner must establish that he was unavoidably prevented from discovering the operative facts and present clear and convincing evidence that but for the claimed error he is innocent of the offense of conviction.

57. The statute denies successive post-conviction petitioners their right to "due course of law" and "open courts" because it conditions the right to obtaining relief for a constitutional violation upon the establishment by clear and convincing evidence that, but for constitutional error at trial, no reasonable fact-finder would have found the petitioner guilty of the offense of conviction. The operative effect is that a convicted person must discover a constitutional violation and successfully adjudicate the claim in his initial petition for post-conviction relief. Otherwise, the petitioner must thereafter establish by clear and convincing evidence an adverse causal relationship between the violation of his constitutional rights and his conviction to such a degree that no jury would have found him guilty. Absent such a showing, the petitioner filing a successor petition simply loses his right to relief for the constitutional violation. This result eviscerates the traditional function of the courts to provide remedies for constitutional violations and places successive post-conviction petitioners in a position of having to establish innocence in situations where: (1) they are not innocent or (2) cannot establish by clear and convincing evidence that there is a casual relationship between the constitutional violation and the finding of guilt. Thus, successive post-conviction petitioners are treated as second-class litigants even though they may be "unavoidably prevented from discovery of the facts upon which the petitioner must rely to present the claim for relief." As a result, R.C. § 2953.23(A(1) is arbitrary, unreasonable and denies a successive post-conviction petitioner his rights under Section 16, Article I of the Ohio Constitution and the Fourteenth Amendments to the federal Constitution.

C. If The Criteria Contained In R.C. § 2953.23(A) Are Jurisdictional, The Statute Is Unconstitutional As Applied To Petitioner.

58. On September 21, 1995, Ohio Senate Bill 4 became effective and substantially rewrote O.R.C. § 2953.21, Ohio's post-conviction statute. Specifically, OR.C. § 2953.23(A), which deals with the filing of successor post-conviction petitions was substantively amended as follows:

> (A) Whether a hearing is or is not held on a petition filed pursuant to section 2953.21 of the Revised Code, a court may not entertain a petition filed after the expiration of the

period prescribed in division (A) of that section or a second petition or successive petitions for similar relief on behalf of a petitioner unless both of the following apply:

(1) Either of the following applies:

(a) The petitioner shows that the petitioner was unavoidably prevented from discovery of the facts upon which the petitioner must rely to present the claim for relief.

(b) Subsequent to the period prescribed in division (A)(2) of section 2953.21 of the Revised Code or to the filing of an earlier petition, the United States Supreme Court recognized a new federal or state right that applies retroactively to persons in the petitioner's situation, and the petition asserts a claim based on that right.

(2) The petitioner shows by clear and convincing evidence that, but for constitutional error at trial, no reasonable fact finder would have found the petitioner guilty of the offense of which the petitioner was convicted or, if the claim challenges a sentence of death that, but for constitutional error at the sentencing hearing, no reasonable fact finder would have found the petitioner eligible for the death sentence.

59. As applied to Petitioner's case, the statute ignores the complex and evolving body of equitable principles established by judicial decisions. Paragraphs 44 through 47 are hereby incorporated as if fully rewritten herein.

60. For example, Petitioner's evidentiary documents presented in support of his pending petition might not establish by clear and convincing evidence that, but for constitutional error at trial, no reasonable fact-finder would have found the petitioner guilty of the capital murder or sentenced him to death. However. the documents clearly establish a substantial violation of Petitioner's rights as to render his conviction and sentence void and/or voidable under the United States Constitution. *See.* R.C. § 2953.21(A)(1). Thus, under the federal standard of review, unencumbered by any need to show that no jury would have convicted him, Petitioner would be entitled to have his successive post-conviction petitioner "entertained."

III. CONSTITUTIONAL VIOLATIONS

First Ground For Relief

61. Petitioner incorporates all of the allegations contained elsewhere in this petition as if

fully rewritten herein.

62. Petitioner's convictions and sentences are void and/or voidable because petitioner was denied the effective assistance of counsel during the trial stage of his capital case. The acts and omissions of trial counsel deprived him of the sixth amendment right to effective assistance of counsel. U.S. Const. Amends. V, VI, VIII, IX and XIV; Ohio Const. Art I, §§ 1, 2. 5. 9, 10. 16, and 20; *Strickland v. Washington*, (1984) 466 U.S. 668, 686.

63. During trial the state called Ronald Trent (Trent), a jail house informant, to corroborate the testimony of co-defendant Micheal Arthurs (Arthurs). In essence, Trent's testimony inculpated the Petitioner in four material ways. Trent testified that: (1) Petitioner, while housed with Trent in the Franklin County jail, confessed to killing Andrew Dotson (Dotson – the victim in the instant case); (2) two non-testifying co-defendants inculpated Petitioner while Trent was surreptitiously recording their conversations after he was released from jail for the purpose of working with the Franklin County Sheriff's Office; (3) Petitioner made a second confession to Trent while Trent was surreptitiously recording a conversation on a visit to the Franklin County jail; and (4) Petitioner masterminded a scheme to supply Trent with guns and drugs in an effort to kill Arthurs. Had Petitioner's trial counsel been familiar with all evidence available at trial, and put such evidence to use, Trent's testimony would have been thoroughly impeached on each of these points. In addition, Petitioner's trial counsel would have been able to suppress certain evidence, countered much of the testimony of Arthurs as well as shown that prosecutors and detectives conspired to fabricate and systematically withhold evidence thereby bringing the entire investigation and prosecution into question.

A. Trial Counsel Was Ineffective In Their Cross-Examination of Trent Regarding Trent's Allegations That Petitioner Confessed to Him.

64. During his direct examination, Trent was asked to testify as to what he says Petitioner confessed to him while they were housed together in the Franklin County jail (hereinafter referred to as

the jail house confession). Trent testified as follows:

> Conway said he asked him [Arthurs] to take him [Dotson] down in the hills, O.D. Him, find a place down in West Virginia and leave him. He said later on they brought him back. They couldn't do it. Later on they brought him back and called him and he met up with them. Him and Jamie met up with them. . . He said that they asked him where was he at. Jimmy asked Shawn and Mike where was he at. They said in the car. And he asked him was he dead. They said no. So he told them to get him out of the car. He told me at this time they stood on his neck and stood on his neck until he was dead. [Tr. 734.]

65. This is similar to the summary of this same alleged confession Trent details when he was interviewed by Detective Zach Scott (Scott – the lead detective in the case) on April 25, 2002.

> . . .Shawn and Mike Arthurs was suppose to take him to West Virginia OD him and leave him down there and when they took him down there I guess they fed him like 20 to 30 Valium and um he didn't die so they brought him back and called James Conway. . .so Jamie Gordon [*sic*] and James Conway met him I guess on Norton Road. . .James Conway was like well where's he at and he's like he's in the trunk and what do you mean he's in the trunk is he dead and he's like no he's not dead he's just passed out so um James Conway told Shawn and um Mike to get him out of the trunk and I guess they dragged him in a field or something and um Jamie, Jamie laid across his body to hold his arms and shit down and James Conway stood on his throat till he was dead and then he just told um Shawn and Mike he said you know_____and that was that. [**Exhibit 35,** p. 3.]

66. This confession is materially inaccurate in several respects. First, the coroner determined that only "therapeutic levels" of Valium were found in Dotson's system. [Tr. 664-671.] And that such levels would not result in someone of Dotson's size to have slurred speech, much less to be unconscious. [Tr. 668.] Second, Arthurs testified that Dotson asked for the pills after they were already in West Virginia and took them voluntarily. [Tr. 502.] Arthurs also testified that Dotson was transported to where he was eventually found in the "back seat" of a Jeep Cherokee. [Tr. 499, 508, 556, and 584-585.] A vehicle which does not have a trunk. And Arthurs says we met at Krogers shopping center on 3C Highway [Tr. 505.], not Norton Road as Trent claims.

67. Most importantly, Trent maintained throughout his testimony that Petitioner originally confessed to being the individual who stood on Dotson's neck. [Tr. 794-795.] Petitioner's counsel had available to them at trial, and never utilized, several statements made by Trent where he clearly states

that Petitioner never confessed to killing Dotson. In fact, these statements detail that the only information Trent received while in the Franklin County jail was that Arthurs was the individual who killed Dotson and that Arthurs was also the individual who stood on Dotson's neck. Arthurs denies actually killing Dotson, but he readily admitted to coming up with the idea and to actually standing on Dotson's neck. [Tr. 511.]

68. Trent testified that he first learned about Arthurs standing on Dotson's neck from Calvin Horton (Horton – co-defendant). [Tr. 795]. However, Trent's conversations with Horton were recorded, and reveal that Trent actually informs Horton of this fact.

> That's what I'm saying you know [Petitioner] told me that [Arthurs] just stood on [Dotson's] neck until he died. [**Exhibit 12**, p. 25.]

A critical point never made at any time during trial. There are several other statements which could have been used to show that Trent lied to detectives and committed perjury when he testified that Petitioner confessed to being the individual who killed Dotson. [**Exhibits 4**, p. 1, para. 1; **4**, p. 2, para. 2; **4**, p. 5, para. 10; **4**, p. 6, para. 12; **23**, pp. 9 and 12; and **32**, p. 4.] None of these statements were used to cross-exam Trent, a critical witness for the state. Had they been, it would have been clear that Trent lied to detectives and committed perjury, and the jury could have completely rejected his testimony.

69. Trent also recounts a second confession (hereinafter referred to as the May 23 confession) he alleges he obtained while surreptitiously recording a visit with Petitioner at the Franklin County jail. At trial, Trent testified as follows:

> Yeah. I told him – I told him I found out he had lied to me about how Andrew was killed and, you know, I told him I found out that he was – that James Conway had hit him twice in the chest with a pickax. And I asked him why. And he said, "Just to be sure that Andrew was dead." [Tr. 743.]

This testimony was repeatedly referred to by prosecutors in closing arguments. [Tr. pp. 944 and 976.] Culminating in this final climactic statement:

> James Conway confessed to Ronny Trent that he, in fact, asked Mike Arthurs and Shawn Nightingale [Nightingale – co-defendant] to kill Andrew Dotson; that they couldn't go through with it and that that man there finished the job with an instrument just like this. He plunged a pickax into the heart of Andrew Dotson, not once, but twice just to make sure he was dead and to make sure that he would not tell on him for shooting Jesse James. [Tr. 988.]

70. There are several problems with this testimony: (1) It is a completely inaccurate rendition of the *recorded* conversation referred to; (2) The primary point of the testimony involves hearsay statements allegedly made to Trent by co-defendants who never testified and thus were not subject to cross-examination; and (3) Trent is lying about what the co-defendant's actually said, which is, again recorded.

71. The conversation Trent is referring to is simply a six line conversation in which Trent accuses petitioner of lying and Petitioner protests that he didn't. It is clear that neither Trent nor Petitioner are clear about the subject of the conversation. Further, it is clear that Petitioner doesn't say anything remotely like, "Just to be sure that Andrew was dead." Trent wrote on the transcript of the conversation "No that he was done," but this is based on his bias "recollection" not on what was actually said. And the actual recording reveals that Petitioner made no such statement. [**Exhibit 4**, p. 8, para. 18.] Had trial counsel cross-examined Trent on this point, it would have been clear that Trent fabricated the testimony he gave and that conversation he referred to was not, in fact, an admission to anything by Petitioner.

72. Even if this conversation had taken place as Trent described, the jury should not have been allowed to hear it. After it became clear that Trent was testifying as to hearsay, trial counsel objected and requested Trent's testimony be stricken from the record. [Tr. 831.] The Court overruled this objection and allowed Trent's testimony to stand because (1) they were co-conspirator statements and (2) that it explained why Trent later questioned Petitioner, and thus was not offered for the truth of the matter. [Tr. 832.] As to the first reason, it is well known that the co-conspirator exception only

applies to statements made whle the conspiracy is ongoing, not to recollections of past events made during a completely different conspiracy. *See* Evid. R. 801(D)(2)(e). As to the second reason, the Court never informed the jury that it could not consider this statement as substantive evidence. In addition, because this statement involves inculpatory statements allegedly made by co-defendants who are not subject to cross-examination, the US Supreme Court has recognized the futility of such instructions to a jury. See *Bruton v. United States*, (1968) 391 U.S. 123, 135-136; 88 S. Ct. 1620, 1627-1628; and *Lilly v. Virginia*, (1999) 527 U.S. 116, 137; 119 S. Ct. 1887, 1900. Had trial counsel addressed this issue in a pre-trial motion to suppress, Trent would not have been allowed to testify as he did. And, even if trial counsel did not foresee this testimony, a contemporaneous objection supported by sound reasoning and relevant case law, would have resulted in a mistrial. Or at least an instruction to the jury that they could not consider the evidence. Counsel did neither, allowing the jury be base their verdict on inadmissible evidence.

73. Compounding this error is the fact that the statement in question wasn't true. Both co-defendants repeatedly told Trent that Arthurs killed Dotson and that Petitioner had nothing to fear because he was innocent. [**Exhibits 4**, p. 1, para. 1; **4**, p. 5, para. 10; **10**, p. 12; **12**, p. 25; **23**, pp. 8, 9 and 12; and **32**, p. 4.] Specifically, regarding the pickax, both co-defendants told Trent that Arthurs was the only one who went back into the field. [**Exhibits 4**, p. 4, para. 7; **30**, pp. 15-16; and **32**, p. 4.] Nightingale also told Detective Scott the same thing [**Exhibit 57**, p. 8.], but Scott attempted to "persuade" Nightingale otherwise by telling him everyone would say that Nightingale killed Dotson if Nightingale kept "protecting" Petitioner. [**Exhibit 57**, p. 10.] Both co-defendants also specifically told Trent they didn't know how many times Dotson was stabbed. [**Exhibits 4**, p. 4, para. 7; **4**, p. 10, para. 22; **19**, p. 9; **28** p. 2; **30**, p. 15-16; and **32**, pp. 4 and 5.] In addition, Petitioner made several statements to Trent protesting his innocence. [**Exhibits 4**, p. 3, para. 6; **25**, p. 20; and **32**, pp. 14 and 15.] Such statements are incompatible with Trent's testimony that Petitioner confessed to him. Had trial counsel

utilized these statements it would have been clear that Trent lied to detectives and committed perjury. It would have further been obvious that Arthurs' testimony was untruthful. Those being the only two witnesses to incriminate Petitioner at trial, it is likely that the result would have been different.

74. Trial counsels' failure to utilize all the statements above left Petitioner open to the following blistering attack made by prosecutors during closing arguments:

> Ask yourself one question: How does Ronny Trent get the facts of this case that he testified to if James Conway doesn't tell him? Case hasn't been solved yet. Wasn't in the paper as to who did what, when and why. But he came in here and told you those facts. He told you what James Conway told him. [Tr. 975.]

Had trial counsel been familiar with all the evidence in this case, they would have had an answer: The detectives were feeding Trent facts about Dotson's death. Someone had to tell Trent that Dotson was stabbed twice in the chest as he testified. [**Exhibit 39**, p. 98; Tr. 743.] Trent admits he was instructed on the information he was supposed to collect by Detective Scott. [Tr. 799.] Trent is adamant that Petitioner never told him about a pickax being used. [Tr. 795.] And, as can be seen from paragraph 73 above, neither co-defendant Trent spoke with gave him that information. It could have only come from detectives.

75. Conversations Trent recorded with Horton also reveal that he was given facts about Dotson's death by detectives. Trent, obviously prompted by police, asked Horton:

> . . . dude, in the papers, it said he got fucking cut up, you know what I mean. . . What the fuck, what the fuck did you all stab dude, what the fuck is that?

To which Horton responded, "I don't know." [**Exhibit 19**, pp. 4-5.] Trent also tells Horton he got information about Dotson through his "dad's" connection with the police and that these same connections tip him off when someone is about to be arrested. [**Exhibit 19**, p. 10.] Then, later in this same conversation Trent asks Horton:

> I mean, you just left him out there, you didn't do nothing to fucking disguise him, cover him, I mean that's just stupid to me, why didn't you do something to at least fucking disguise him, know what I'm saying, I don't understand that, throw something on him,

do something. . .

Horton responds, "I mean, I mean he got shit thrown on him, the old school stuff." Trent then *guesses*, "Oh cement." [**Exhibit 19**, p. 5.] Significantly, Arthurs [**Exhibit 50**, p. 1; and **51**, p. 9.] and Nightingale [**Exhibit 57**, p. 18; and **58**, pp. 23 and 29.] both told police lime was poured on Dotson. The coroner, however, believed it was "concrete [or] something else similar to concrete makeup." [Tr. 636.] Trent actually attempts to convince Nightingale that Arthurs standing on Dotson's throat didn't kill him [**Exhibit 4**, p. 6, para. 12.], evidence directly from the coroner's report. [Tr. 642-643.] Trent was given information from the autopsy, information he then attributed to Petitioner. Trial counsel failed to introduce this evidence and argue it to the jury, which would have altered the outcome of the trial by completely changing the light in which the jury saw the state's evidence.

B. Trial Counsel Was Ineffective In Their Motion to Suppress the Alleged Confessions Made to Trent Because They Failed To Utilize Evidence in Their Possession that Such Confessions, If Made, Were Involuntary.

76. Even before a suspect is indicted, and the Sixth Amendment bars surreptitious interrogation, the state is prohibited by the Fifth and Fourteenth Amendments from extracting a confession through threats and intimidation. In *Arizona v. Fulminante*, 499 U.S. 279; 111 S. Ct. 1246, the state was able to extract a confession from an unindicted suspect by using a fellow prison inmate as an interrogator. In exchange for protection from other inmates, the suspect agreed to give the fellow inmate a confession. Prosecutors then used this confession to convict the suspect. The US Supreme Court found a violation of the Fifth and Fourteenth Amendments stating:

> . . . there was a credible threat of physical violence. . . Fulminante's will was overborne in such a way as to render his confession the product of coercion. *Id* at 288; 1253.

77. The alleged May 23 confession was surreptitiously recorded by Trent. However, the transcript of this conversation is filled with blanks, and substantially differs from the actual conversation. In particular, as stated above, there actually was no confession. Additionally, just before

Trent begins his attempt to interrogate Petitioner as to what exactly happened to Dotson he makes the following statement:

> . . . you was bull shitting me dog. I'm going to sock you when you get out of there. . . You know about what about mother fucking Andrew. [**Exhibit 4**, p. 8, para. 17.]

The transcript of this statement substantially differs. It reads as follows:

> Well then that's the only person you got and he was bull shiting [*sic*] me dog _____ when you get out of there. [**Exhibit 25**, p. 23]

78. Whether or not a confession is voluntary or not is based on the totality of the circumstances. In the instant case, Trent is portraying himself as a hit man, and saying that he has killed people in the past and is prepared to do so again. [**Exhibit 37**, p. 182.] And he did this at the direction of Detective Scott. [**Exhibit 54**, p. 284.] Trent also said his dad was a hit man and his dad's friends were also hit men. [**Exhibits 20**, p. 6; and **25**, p. 18.] In addition, Trent was representing himself as a dirty cop [**Exhibit 40**, p. 1824.], while representing to Petitioner that nothing Petitioner said could be used against him. [**Exhibit 40**, p. 1913.] Trent persisted in coming to the visit where this alleged confession took place after Petitioner told him he didn't want to see him [**Exhibit 24**, p. 3 and 10.], and Trent brought pictures of people he had allegedly killed to that visit. [Tr. 742.] At that visit, just before the alleged confession in question, Trent told Petitioner that he was going to kill Nightingale, against Petitioner's wishes, because Nightingale could identify him and knew that Trent had planned on killing people. [**Exhibit 25**, p. 20.] Trent also threatened to kill Horton if Horton didn't give him the details of Dotson's death. [**Exhibits 4**, p. 10, para. 23; **19**, p. 9; and **33**, p. 2.] Finally, Petitioner made it clear to Trent that he did not want to discuss Dotson's death. [**Exhibit 25**, p. 24.]

79. Taking all these circumstances into account, and the fact that Petitioner was incarcerated along with Trent's statement that he was going to "sock" Petitioner if he didn't reveal to him what happened to Dotson, there can be little doubt that anything Petitioner did say violated his Fifth and Fourteenth Amendment rights. In all likelihood, had trial counsel filed a motion to suppress this alleged

May 23 confession and included all the above evidence, such a motion would have been successful and resulted in the suppression of a critical portion of Trent's trial testimony, changing the outcome of the trial.

C. Trial Counsel Was Ineffective In Failing To Suppress Irrelevant Evidence and/or Utilize Statements That Would Have Demonstrated To The Jury The State's Use Of Inconsistent Theories To Gain Multiple Convictions.

80. At several points during the prosecution of Petitioner and his co-defendant Horton, the state used particular pieces of evidence to support completely different versions of events. In both prosecutions the state used the alleged attempt to kill Arthurs as consciousness of guilt evidence. At Horton's trial the state introduced testimony through Trent that Horton originated this alleged attempt on Arthurs because he was afraid Arthurs would incriminate him. [**Exhibits 37**, p. 211; and **38**, pp. 105-106 and 124.] Then, during Petitioner's trial, again through Trent's testimony, the state argued that Petitioner originated this alleged attempt because Petitioner was afraid Arthurs would incriminate him. [Tr. 745.] What actually happened is that Trent convinced Horton that, even though both Horton and Petitioner weren't involved in Dotson's death, Arthurs *had* to be killed to prevent him from framing Petitioner, Horton's life long friend. See paragraph 86 below, which is incorporated here as if fully rewritten.

81. To maintain this deception, the state contended that the plot to kill Arthurs began at one time during Horton's trial and at a completely different time at Petitioner's trial. This was accomplished by telling Horton's jury that money placed on Trent's books and drugs given to Trent when he first began recording conversations were for something other than killing Arthurs. Then claiming at Petitioner's trial that this exact same money and drugs were for killing Arthurs. Trent told detectives and prosecutors initially that the money put on his books was so that he could bond out of jail. [**Exhibit 64**, p. 73.] In Trent's other statements and during Petitioner's first death penalty case (Dockside case), Trent claimed that this same money was put on his books to make a video and to kill Brian McWhorter,

a witness in that case. [**Exhibits 36**, p. 4; and **40**, pp. 1822-1824.] Trent also claimed in prior statements and during the Dockside trial that drugs given to him by Horton when he first began working with detectives was for making the video referred to above and killing Brian McWhorter. [**Exhibits 11**, p. 4; **12**, p. 12; and **40**, p. 1874.] Both Trent and Detective Scott maintained this testimony at Horton's trial. [**Exhibits 37**, p. 177; **38**, p. 105; **53**, p. 90.] And the prosecution referred to it in their closing arguments at the Dockside trial.

> And then when [Trent] wasn't able to find and kill Brian McWhorter, the plan was, well, make a video, we'll make this guy confess and then you'll kill him. And he was paid money. $2,000, $3,000 was put on his jail books by the Defendant's brother, Defendant's friend. [**Exhibit 41**, p. 2545.]
>
> But what did [Trent] tell you? He told you a video was being made. Why? To get [Petitioner] off the hook for this case. . . Recall the evidence about the $5,000 that he was paid to do these things. [**Exhibit 41**, pp. 2622-2623.]

82. However, during his testimony in the instant case Trent claimed the money put on his books was to kill Arthurs. [Tr. 745.] Trent also changed his testimony regarding the drugs he was given by Horton. Trent testified as follows:

> The first night I was out actually, I met up with [Horton] and got nine ounces of soft cocaine, powder cocaine and a pistol. . . That was part of the payment for supposedly killing Mike Arthurs. [Tr. 746.]

Trent actually completely fabricated his testimony regarding getting the pistol [**Exhibit 11**, pp. i and ii.], but trial counsel failed to notice this. The state again refers to this gun in closing arguments along with the same drugs and money referred to in the Dockside case.

> Mr. Trent told you that the defendant gave him guns, drugs and money to kill Mike Arthurs. That money was put on his books, put there by Jamie Horton. [Tr. 944.]
>
> What else do we know that corroborates stories? Ronny Trent told you five thousand dollars is put on his books. That corroborates what he was told by Mr. Conway – to kill Mike Arthurs. [Tr. 987.]

83. When you juxtapose closing arguments in the Dockside trial against those in the instant case, it is clear that prosecutors crossed the line. These closing comments from both cases, along with

Trent's testimony, are irreconcilable. Yet Petitioner's counsel stood by and allowed such evidence to go virtually unquestioned. At least some of this testimony has to be perjury, and it not only went uncorrected by prosecutors, it served as the basis for closing arguments. Had trial counsel filed a pre-trial motion to suppress this evidence, the Court would've had an opportunity to listen to the statements out of the presence of the jury. Given the evidence Petitioner listed above, the trial Court would likely have ruled this evidence inadmissible and totally irrelevant to the instant case. Alternatively, trial counsel could've asked for a sidebar during Trent's testimony to apprise the Court of what the state was attempting to do. The Court would then have suppressed the evidence in question.

84. Had both of these courses of action failed, the Court surely would have allowed Petitioner's trial counsel to point out this perjury to the jury and instructed prosecutors to use leading questions to avoid the impropriety of allowing testimony from the Dockside case to seep into the instant case. Such procedures are regularly followed, and were in fact used extensively in the case at bar. Trial counsel did nothing. The Court was never even made aware that such statements existed. Had trial counsel apprised the Court of these statements the evidence referred to above would have either been suppressed or Trent's testimony would have been thoroughly impeached. Either result would likely have changed the outcome of the trial.

D. Trial Counsel Was Ineffective In Failing To Utilize Statements That Would Have Demonstrated To The Jury That Petitioner Played No Part In A Conspiracy To Eliminate Nightingale Or Arthurs.

85. Much of Trent's testimony during trial surrounded an alleged plot to eliminate Arthurs. Prosecutors argued that Petitioner hired Trent to eliminate Arthurs to prevent Arthurs from testifying, and that this was evidence of consciousness of guilt. Petitioner has already laid out in paragraph 73 above, and incorporates as if fully rewritten herein, the fact that he, Horton, and Nightingale stated unequivocally that Petitioner was innocent in regard to Dotson's death. Of course, since Petitioner claimed he had nothing to do with Dotson's death, there would be no reason for Petitioner to hire Trent

to eliminate Arthurs.

86. What actually happened in this case was Trent lied to detectives and told them that Petitioner wanted Nightingale killed. [**Exhibit 35**, p. 5.] Detectives then discussed with Trent how to go about getting this evidence on tape. [**Exhibit 35**, p. 10.] Evidence they intended to use as consciousness of guilt and to persuade Nightingale to be a witness for the state. [**Exhibit 35**, p. 6.] Immediately upon beginning the recorded conversations with co-defendants, detectives discovered from both Horton and Petitioner that Trent had fabricated the plan to eliminate Nightingale. [**Exhibits 4**, p. 1, para. 1; **4**, p. 2, para. 4; **4**, p. 3, para. 5; **4**, p. 3, para. 6; **11**, p. 2; **12**, pp. 3-4; **25**, p. 15 and 20.] So, Trent began attempting to get Horton and Nightingale to agree to eliminate Arthurs, [**Exhibits 4**, p. 5, para. 9; **4**, p. 5, para. 10; **12**, pp. 4 and 7; and **23**, pp. 10 and 12.] while simultaneously trying to prevent Petitioner from finding out what they were doing. [**Exhibits 11**, p. 8; **25**, pp. 3 and 5; **30**, p. 6; and **32**, p. 15.] Nightingale never would go along with this idea. [**Exhibit 32**, p. 9.] Horton protested it was unnecessary because Petitioner was innocent, but was subsequently persuaded by the following argument from Trent:

> . . . if you got a person [Arthurs] that knows exactly how something happened he could say you did it. . . know what I'm saying, if he rolls [i.e. takes a deal] then he got it. . . if he knows all the details then who's to say he's lying. . .

To which Horton responded, "that's scary. . . that's makes me scared. . ." [**Exhibit 12**, p. 4.] Trent made the same argument to Nightingale. [**Exhibit 23**, p. 3.] Coincidently, Detective Scott uses an identical argument when interrogating Nightingale to try and persuade him that Petitioner killed Dotson. [**Exhibit 57**, p. 10.]

87. Petitioner first found out about this plan on a visit with Trent *after* the plan had supposedly already been executed. [**Exhibit 25**, p. 7.] At this time, and at numerous other times, Petitioner told Trent he didn't know what was going on. [**Exhibits 4**, p. 7, para. 13; **4**, p. 7, para. 14; **29**, p. 5; and **32**, p. 15.] Petitioner directly told Trent that he didn't need him doing anything on Petitioner's

behalf in regard to Dotson's death. [**Exhibit 32**, pp. 14 and 15.] Trent responded that Petitioner was working against him and that Petitioner told him he could do things the way he wanted to. [**Exhibit 32**, pp. 14 and 15.]

88. Probably the strongest evidence that Petitioner never requested Trent eliminate Arthurs, and certainly never offered him money to do so, is the discussion Trent has with detectives about getting Petitioner to admit he wanted Nightingale eliminated. Besides discussing telling Nightingale Petitioner wanted to kill him, detectives discuss in detail all the people Trent alleges Petitioner wants eliminated. [**Exhibit 35**, pp. 4-6.] Arthurs is not part of this list Trent gives detectives, yet there is a detailed discussion related to Arthurs at that time, along with a discussion regarding the money put on Trent's books. [**Exhibit 35**, pp. 7 and 9.] If Petitioner had already placed money on Trent's books to eliminate Arthurs, it defies common sense that Trent would not have related that to detectives at this time. The only reasonable assumption is that Trent and detectives fabricated this plot so they could use it to persuade Arthurs and Nightingale to testify and as consciousness of guilt evidence against Petitioner.

89. Despite the fact that Trent obviously fabricated the plan to kill both Arthurs and Nightingale, Petitioner's trial counsel never made either point to the jury. As delineated in paragraph 86 above, Petitioner and Horton both made explicit statements regarding Nightingale. And Trent took steps to prevent Petitioner from finding out about Arthurs, the opposite of what someone collecting evidence to present to the jury as consciousness of guilt would do. Had trial counsel been effective at presenting these statements to the jury, Trent would have been thoroughly impeached on this point. In addition, the detectives' knowledge of Trent's fabrication of the plan to eliminate Nightingale and their participation in the plan Trent initiated regarding Arthurs would have brought all the state's evidence into question. This could have changed the result of the trial.

E. Trial Counsel Was Ineffective For Not Utilizing Statements That Would Have Demonstrated To The Jury That Trent Committed Perjury When He Testified Petitioner Offered Him Money To Eliminate Arthurs.

90. During trial Trent testified that Petitioner offered him money and drugs to eliminate Arthurs. [Tr. 745-746.] Trent also testified that he was standing next to the phone in the county jail as Petitioner told Horton to give him anything he wanted. [Tr. 745.] All calls from the Franklin County jail are recorded. Yet, the state never handed over any such conversation in discovery nor did they introduced at trial any evidence of any such call made from the Franklin County jail. With Trent's credibility being suspect, had that call ever occurred, no reasonable prosecutor would have failed to introduce it at trial. In reality what happened was Trent lied to detectives and told them he was offered $30,000 to eliminate witnesses. Whether they ever actually believed Trent, detectives put him on work release to record Petitioner and his co-defendants. From the very first conversation between Horton and Trent after Trent began directly working for detectives, it became clear that Petitioner never made any arrangements for Horton to meet with Trent. In this conversation Trent told Horton that Petitioner had instructed him to get drugs from Horton. Horton's response was "When?" [**Exhibit 10**, p. 2.] There would have been no reason for such a question had Horton received instructions from Petitioner. It is also clear from the inflection in Horton's voice that this meeting was not prearranged. Hours later when they actually met, Horton asks Trent if Trent was in jail with Petitioner. [**Exhibit 11**, p. 1.] Trent finally admitted under cross-examination that Horton didn't know who he was when they first met. [Tr. 785.] Fairly definitive evidence Petitioner didn't arrange for Trent to receive anything from Horton.

91. Soon thereafter it became clear that Trent was never offered compensation. Horton asks Trent to pay him for the drugs he gave Trent when they first met, to which Trent readily agreed. [**Exhibit 12**, p. 12.] Trent, in fact, never did give Horton any money, but the understanding between the two for the duration of the conversations in question was that he eventually would. [**Exhibit 12**, p. 12; **15**, p. 3; **16**, p. 2; **19**, p. 8; and **28**, p. 3.] On the day after they first met, Trent told Horton ". . . I'm

fucked up right now the money side so I might need your help there but other than that I'm cool dog." [**Exhibit 12**, p. 26.] Later *Trent* stated expressly that the money he was given was a loan because he was struggling. [**Exhibits 4**, p. 8, para. 16; and **31**, p. 4.] In another conversation Trent stated he wouldn't even be asking for money had he not been broke. He said:

> . . . I'm going to tell [Petitioner] he's got to give us [Trent and Horton] something dog, because we're fucking doing everything, you know what I'm saying. . . I just, I mean, you know, I don't give a fuck dog, but at the same time, I'm I'm dog dick broke man. [**Exhibit 16**, p. 3.]

Such a statement made three days after Trent first met Horton is completely inconsistent with Trent already having received $5,000 from Petitioner and expecting $30,000 more. Trent also said in several recorded conversations that he was doing what he was doing because he "valued family" [**Exhibit 28**, p. 8.] or alternatively because he gave "his word" [**Exhibit 13**, p. 7.] or alternatively because he has "love" for Petitioner. [**Exhibit 32**, p. 13.]

92. Trent initially told detectives that the money put on his books was for his bond. [**Exhibit 64**, p. 73.] And if Petitioner had put $5,000 on his books to kill Arthurs, Trent would not be able to claim to Petitioner "When I got out I had nothing. . ." [**Exhibit 25**, p. 16.] Moreover, not only did Trent agree to repay Horton for the drugs and money he received, but he told Horton several times that he personally had a lot of his own money tied up in what he was doing [**Exhibits 11**, pp. 1 and 4; **12**. pp. 8, 14, and 17; **19**, pp. 7 and 8; and **30**, p. 31.] and that he borrowed $20,000 from his dad "to take care of this shit." [**Exhibit 20**, p. 6.] Money Trent says was lost [**Exhibits 16**, p. 3; and **25**, p. 11.], which is why Trent says he was broke. Trent represented to Horton that *he* was paying for everything *he* was doing. Trent also told Horton that he was broke and had to keep coming to Horton to get money "to make ends meet." [**Exhibit 4**, p. 9, para. 21.] Even more to the point, Trent told Horton and Petitioner from the beginning that he knew Petitioner didn't have any money [**Exhibits 4**, p. 2, para. 3; and **14**, p. 6.] and that he would pay Petitioner's attorney. [**Exhibits 12**, p. 20; and **13**, p. 13.] Petitioner told Trent

that Horton didn't have any money either. [**Exhibit 25**, p. 22.] Trent explicitly states that he isn't making any money whatsoever from what he is doing. [**Exhibit 12**, p. 25.] Every time Trent mentions money, he always explains it is for someone else [**Exhibits 14**, p. 13; **25**, p. 18; and **28**, p. 3.], never as compensation to Trent. And the only time Trent mentions money to Petitioner, Petitioner says he doesn't know what to tell Trent before asking Trent "For what?" [**Exhibit 4**, p. 7, para. 15.] Trent says it is because he is "broke." [**Exhibit 4**, p. 8, para. 16.]

93. In addition, Trent discussed several times committing a robbery that Horton supposedly set up. Trent agreed to pay Horton half the $360 thousand proceeds from the robbery without any reference to any money owed Trent. [**Exhibit 28**, p. 5.] Trent says this is because Horton is ". . . part of the crew. Part of the family. . ." [**Exhibit 28**, p. 6.] Trent also agreed to purchase 3 kilos of cocaine from Horton. [**Exhibits 18**, p. 3; **19**, p. 2; and **30**, p. 34.] Had there been some arrangement for Trent to receive $30,000, it is unlikely that it wouldn't have been discussed in either of these conversations. Trent actually testified in Horton's pre-trial hearing that there was never any set amount he was to be paid. [**Exhibit 37**, p. 193.] Which directly contradicts his statements that he was to be paid $30,000.

94. The above statements are irreconcilable with Trent's testimony that Petitioner offered him compensation. Furthermore, Trent couldn't have been representing to Petitioner and Horton that he was expecting money in the future because he told them repeatedly that he was going to disappear and not have any contact with them in the future. [**Exhibits 4**, p. 9, para. 21; **11**, p. 3; **13**, p. 10; and **33**, p. 4.]

95. Finally, any time Petitioner or his co-defendants attempted to avoid Trent or convince him that what he was doing was unnecessary, Trent pursued them relentlessly or threatened and intimidated them. [**Exhibits 16**, pp. 7 and 8; **22**, pp. 3, 4-5, 6, 7, and 8-9; **24**, p. 3; **27**, p. 7; **32**, pp. 9, 14 and 15; and **33**, p. 4.] The state should not be allowed to send someone out pretending to be a killer, standby while this "killer" threatens, tricks and intimidates people into giving him money, guns, and

drugs, and then turn around and use this evidence as consciousness of guilt.

96. All of the statements listed in this section are inconsistent with an agreement to compensate Trent in any way. Inexplicably, Petitioner's trial counsel never introduced any of them. All of which would have impeached Trent's testimony and would likely have changed the outcome of the trial. Had trial counsel introduced these statements, they would have been able to demonstrate still another instance of perjury and another instance of the state putting on evidence that was obviously false.

F. Trial Counsel Was Ineffective For Not Utilizing Statements That Would Have Demonstrated To The Jury That Dotson Committed The Felonious Assault That Was The Underlying Felony For Two Of The Three Death Specifications And The Alleged Motive For The Aggravated Murder For Which Petitioner Was Convicted.

97. Petitioner was convicted of the aggravated murder of Dotson supposedly for the purpose of concealing a felonious assault which Dotson witnessed. Under these circumstances, the state sought further to convict Petitioner of two death specifications: O.R.C § 2929.04(A)(3) and (8), murder to escape detection and murder to prevent a witness from testifying. Both of these specifications require that the state prove beyond a reasonable doubt that the defendant committed the underlying felonious assault. See *State v. Jones*, (2001) 91 Ohio St. 3d 335, 347; 744 N.E. 1163, 1177 and *State v. Yarbrough*, (2002) 95 Ohio St. 3d 227, 247; 767 N.E. 216, 237.

98. Trent testified that Petitioner told him he wanted Dotson killed because of someone that got shot in the butt at a White Castle restaurant. [Tr. 731; **Exhibit** 35, p. 1.] The victim of the underlying felonious assault, Jesse James (James), was called by defense counsel. He testified that there was no White Castle in the vicinity when he was shot [Tr. 848-849.], and that he doesn't know who shot him. [Tr. 853.] James also never identified Petitioner as someone being at the scene where he was shot. [Tr. 853, 856, and 858.] However, he did initially tell detectives that Dotson shot him and he identified Dotson as being someone at the scene where he was shot. [**Exhibit 61**, a and b.] James also

testified that he and Dotson had been arguing on the phone, and that he met up with Dotson with the intention of fighting him. [Tr. 854-856, and 859.] James says he brought a pipe to the fight. [Tr. 856.]

99. Given the fact that Dotson was the only person with a motive to assault James and the modicum of evidence introduced by the state implicating Petitioner, had trial counsel introduced any evidence whatsoever that Petitioner didn't confess to Trent and that Dotson actually committed the felonious assault in question the jury would likely have acquitted Petitioner on both death specifications. In addition, without a motive to kill Dotson, it is unlikely that the jury would have convicted Petitioner of aggravated murder.

100. In fact, such evidence was readily available at trial, Petitioner's counsel just failed to introduce and argue it to the jury. During the recorded conversations made by Trent, he told Horton:

> [Petitioner] was telling me he was like [Dotson] might be able you know say some shit on a racketeer cases. . . [**Exhibit 20**, p. 5.]

Horton responded that he had no idea why Dotson was killed. This statement by Trent is significant because he is trying to ascertain from Horton why Dotson was killed, but he doesn't mention anything about someone getting shot in the butt at White Castle. Trent was attempting to collect evidence. Had Petitioner actually told Trent that a felonious assault was the motive behind Dotson's death, he would have asked Horton. When Horton told Trent he didn't know how many times Dotson was stabbed, for example, Trent berated, cajoled and threatened Horton, saying he had information from other sources that Horton wasn't being truthful. See paragraph 73 above. Here, Trent doesn't even mention a felonious assault. Trent lied to detectives when he told them Petitioner said Dotson was killed because of a felonious assault. Trial counsel should have argued that is why Trent wouldn't want to corroborate what detectives believe was the motive in this case. In addition, detectives must have had a reasonable doubt themselves. Otherwise they would have instructed Trent to ask the question. The only way such a question would have been detrimental to the detective's theory of the case was if Horton had responded

that Dotson shot James and that it had nothing to do with Dotson's death.

101. In addition to failing to cross-examine Trent regarding the above statement, trial counsel was ineffective in the cross-examination of Roberta Hannah (Hannah), Dotson's one time girlfriend and the mother of his child. She also testified that the conflict between Dotson and James began because of her. [Tr. 414-415, and 429.] On October 17, 2001 Hannah gave an interview to Detective Scott regarding Dotson's death. In this interview she makes several statements that trial counsel should have used during her cross-examination. Most importantly, Hannah told Detective Scott:

> Andrew told me that he shot at [James] he said I shot at him and I said and they yeah he said he shot at them. . . **[Exhibit 59, p. 9.]**

This statement is a statement against interest, and was thus admissible under Ohio Evid. R. 804(B)(3) to show that Dotson actually committed the felonious assault that the state was trying to prove Petitioner committed. Hannah testified that it was her understanding that Dotson did not shoot James. [Tr. 433.]

102. There are other useful statements in Hannah's interview that Petitioner's trial counsel failed to use. She told Detective Scott that Dotson sold the gun he used that day to "Jason Besmen" **[Exhibit 59, p. 7.]** and that the day after the felonious assault in question Dotson told her:

> I can't go home right now. . . I don't want to talk about it I just can't go home right now. **[Exhibit 59, p. 11.]**

Hannah also said that Dotson was on drugs when he talked to her just moments after the felonious assault in question occurred. **[Exhibit 59, p. 10.]** Clearly, the fact that Dotson was high on drugs, admitted he shot at James, and was hiding out from police in Chillicothe are all relevant and exculpatory evidence. Due to trial counsel's ineffectiveness in this case, the jury wasn't aware of any of these facts when they rendered the verdict. Had this evidence been introduced, it would likely have changed the outcome of the trial.

103. Together all the statements counsel failed to utilize would have shown that virtually

every statement Trent made to detectives and under oath were all lies. The bottom line is Trent was running a double con: he was conning police into working with him to reduce his charges and trying to con Petitioner and his co-defendants to try and get what detectives wanted on tape. What is more, Trent had serious credibility problems because he admitted taking "a couple thousand dollars" in a separate criminal case to falsify an affidavit in addition to being a child molester doing anything he could not to go back to prison. In order to make Trent's credibility a non-issue, the prosecutor asked Trent, "What, if anything, exists to confirm the things that you've told to this jury today?" Trent was allowed to testify as follows:

> tables are stacked with transcripts from the whole investigation – you know, body wires, phone conversations, receipts of the money deposits. So, it's not about my testimony. I mean, all you got to do is look at it. [Tr. 806.]

Then they followed up in closing arguments with this fabrication:

> You got to see the transcripts. The defense and prosecutors were both asking questions off of it. The Judge decides what evidence is permitted. Please don't speculate. [Tr. 980.]

Almost none of these transcripts were entered into evidence, and very few of them were even referenced at any time during trial. And *none* of them were given to the jury at any time during trial or deliberations.

104. A reference to phantom evidence like this is a clear violation of due process because it shifts the burden of proof to the defense. See *In re Winship*, (1970) 397 U.S. 358, 364; 90 S. Ct. 1068, 1072 and *Francis v. Franklin*, (1985) 471 U.S. 307, 313; 105 S. Ct. 1965, 1970-1971. Essentially creating a mandatory presumption that Trent was credible. See *County Court v. Allen*, (1979) 442 U.S. 140, 157; 99 S. Ct. 2213, 2225. The jury was allowed to deliberate with the impression that Trent's testimony was incontrovertible. Had trial counsel actually utilized all this evidence, the jury would have had a very different take on the state's case, and there would have been a reasonable likelihood of a different outcome.

G. Trial Counsel Was Ineffective For Not Utilizing Statements That Would Have Cast Reasonable Doubt On The State's Contention That Petitioner Was The Primary Impetus Behind The Alleged Plan To Kill Dotson.

105. Arthurs testified he was told by Petitioner in the bathroom at the Hampton Inn in Chillicothe that Dotson needed to be killed. [Tr. 494.] However, when Arthurs mentions staying at the Hampton Inn in his initial statement, he never mentions being told by Petitioner in the bathroom to get rid of Dotson. [**Exhibit 50**, p. 1.] The state submitted a receipt in discovery, presumably to corroborate Arthurs, that showed he rented a hotel room at the Hampton Inn in Chillicothe on September 11, 2001 and checked out at 10 am on September 15, 2001. In Horton's trial, Arthurs testified that the hotel room in question was *his* hotel room. [**Exhibit 52**, p. 209.] Hannah testified in that trial that the last time she spoke with Dotson was on Saturday, the day after the James was shot. [**Exhibit 60**, pp. 132-135 and 147-148.] James was shot on Friday, September 14. [**Exhibit 61**.] When Hannah testified in the instant case, she remembered speaking with Dotson on the 16th. [Tr. 418-419, 421, 423, and 430-431.] To make the time lines fit, Arthurs had to change his testimony. So, Detective Scott went back and met with Arthurs for nearly two hours despite a separation of witnesses order being in place. [Tr. 481.] Nearly the first subject of Arthurs testimony was this hotel room, which he now says was usually rented using fictitious names. [Tr. 491-492.] A claim never before made by Arthurs in the Horton trial or in any of his statements to detectives. Later, while still on direct, Arthurs is specifically asked by prosecutors about the receipt the *state* submitted in discovery. He says he doesn't think it's the right receipt. [Tr. 535.] The only reason he gives for this revelation is that he woke up in West Virginia on September 11th and drove back to Chillicothe. That in no way precludes him from renting a room in Chillicothe on September 11, 2001. Despite having Arthurs testimony from the Horton trial and his prior statements to detectives on hand, trial counsel didn't point out any of these discrepancies, nor did they request a hearing to determine the substance of the two hour meeting between Detective Scott and Arthurs.

106. According to Trent, Petitioner instructed Arthurs and Nightingale to take Dotson to West

Virginia and "OD" (over dose) him. [Tr. 732-733.] Nightingale refused to testify. [Tr. 828-829.] Arthurs testified that he didn't know of any plan before he arrived in West Virginia with Nightingale and Dotson. [Tr. 555-556.] Arthurs actually contradicted Trent's testimony about causing Dotson to over dose. He testified that Dotson initiated a conversation about finding some pills after they were already in West Virginia because Dotson liked to take pills. [Tr. 503, 577, and 583.] Thus, Trent's testimony was the only evidence that Petitioner put forth some plan to kill Dotson in West Virginia, and that testimony was partially contradicted by Arthurs.

107. Petitioner's trial counsel had in their possession, but never introduced at trial, evidence to contradict another part of Trent's testimony. In both Nightingale's May 28, 2002 interrogation and his August 12, 2002 proffer, he admitted it was his idea to take Dotson to West Virginia because he had family there. [**Exhibits 57**, p. 4; and **58**, p. 23.] And when Detective Scott asked Nightingale about Petitioner directing him to kill Dotson, Nightingale responded:

> [Arthurs and I] never-talked to [Petitioner], you're not going to believe me man, but we just never fucking talked. . . [Petitioner] never fucking said nothing to me at that time or just fucking as far as this thing right now. [**Exhibit 57**, p. 3.]

108. Dotson was not, in fact, left in West Virginia. He was brought back to Franklin County by Arthurs and Nightingale and was taken to an isolated corn field. Arthurs testified that Dotson was brought back because he and Nightingale changed there minds about killing Dotson. [Tr. 501-502, and 577.] However, Nightingale told Trent in a conversation Trent recorded that he and Arthurs:

> . . . drove around for 3 or 4 hours, we just couldn't find a real good spot. [**Exhibit 4**, p. 5, para. 11.]

Later, when Trent directly asks Nightingale why Dotson wasn't left in West Virginia, Nightingale responds:

> Didn't happen, I guess didn't happen at all like that, I wish it would've. . . I don't know. [**Exhibit 32**, p. 17.]

Again, there is no mention of having a change of heart, as Arthurs describes. In fact, Trent directly

asked Nightingale if he thought Arthurs had changed his mind and really didn't want to kill Dotson. Nightingale responded, "I don't think so." [**Exhibit 4**, p. 11, para. 24.] When they rendered their verdict, the jury was completely unaware of any controversy over the reason Dotson was brought back to Franklin County by Arthurs and Nightingale.

109. Arthurs testified he followed Petitioner to an isolated cornfield off Galloway Road [Tr. 506 and 507.], where Dotson's body was eventually found. Prosecutors argued in closing:

> . . . [Petitioner] picked an isolated cornfield as the place in which he wanted [Dotson] killed. [Tr. 950.]

Prosecutors made this argument knowing full well that Nightingale said several times that he chose to take Dotson to that area because it was near where *his* brother lived. [**Exhibit 36**, p. 7.] What is worse, Petitioner's trial counsel was in possession of this statement and let the state's arguments go unchallenged. They actually asked Arthurs about this but Arthurs said he didn't know Nightingale had a brother who lived near the cornfield. [Tr. 558.] Trial counsel also possessed the following statement by Nightingale:

> [Arthurs] wanted me to fucking give him a spot to do it and that's what I did. [**Exhibit 57**, p. 18.]

Clearly, Petitioner had no involvement whatsoever in choosing to take Dotson to where his body was found. A fact the jury was completely unaware of. What is more, Nightingale gives Arthurs' true motive in this statement for wanting to kill Dotson: Arthurs wanted to be known as a tough guy/killer. Nightingale told detectives:

> That's just what [Arthurs] wanted to be my fucking, trying to be fucking part of us is what he said. . . [**Exhibit 57**, p. 5.]

110. Nightingale makes several other statements against interest that Petitioner's trial counsel could have utilized to create reasonable doubt in jurors' minds regarding his guilt. Petitioner's trial counsel challenged the motive the state put forth for Dotson's death, but they never submitted any

alternative. Nightingale told detectives he was present when James was shot. [**Exhibit 58**, p. 11.] James testified that at least three people fired guns at him. [Tr. 850.] One of these may have been Nightingale, giving him the exact same motive to want Dotson dead as the state was arguing Petitioner had. In addition, Nightingale said that he and Arthurs were involved in stealing A.T.V.s with Dotson [**Exhibit 58**, p. 13.], giving them both motive for wanting Dotson killed.

111. Evidence was submitted through the state pathologist, Dr. Fardal, that Dotson may have been killed somewhere other than where his body was found. Arthurs testified that he pulled Dotson out of the back seat of the Jeep they were in [Tr. 499, 508, and 556.] and was "pretending" to choke him. [Tr. 510, 511-512, and 587-597.] Arthurs testified he was able to do this because Dotson was either "asleep" [Tr. 508.] or "passed out." [Tr. 579 and 584.] However, Dr. Fardal testified that there weren't enough drugs in Dotson's system [Tr. 664-671.] and they weren't there for long enough [Tr. 668.] for Dotson to be unconscious. All this evidence brings into question whether or not Dotson was actually killed in the field on Galloway Road. A question that could have been answered by a statement Nightingale made to prosecutors while giving his proffer. Nightingale said:

> . . . and Then we drove his fucking body back. [**Exhibit 58**, p. 6.]

Nightingale is very erratic during this proffer, but the only body he could be referring to is Dotson's and this statement fits very well with Dr. Fardal's testimony and the defense's theory of the case. Therefore, it should've been presented to the jury.

112. All the statements listed in this subsection made by Nightingale are statements against interest, and were therefore admissible at Petitioner's trial. Furthermore, trial counsel had all of these statements in their possession, but failed to introduce them at trial. Had this evidence been introduced, it would likely have changed the outcome of the trial.

H. Trial Counsel Was Ineffective For Failing to Introduce Evidence That Detectives and Prosecutors Led A Biased Investigation, Presented False Evidence, and Suborned Perjury.

113. From the above arguments it is clear that, at some point, detectives and prosecutors must have realized that some of the things Trent was telling them were not true. See paragraphs 64-73, 86, and 94 which are hereby incorporated as if fully rewritten herein. Yet, there is no documented interrogation or interview of Trent where anyone even questions him on any of these inconsistencies. What is more, Trent's testimony was presented without stipulation, reservation, or correction, a clear violation of prosecutor's ethical duty and the Due Process clause of the 14th Amendment as stated in the line of cases that began with *Mooney v. Holohan*, (1935) 294 U.S. 103, 112; 55 S. Ct. 340, 342; and includes *Pyle v. Kansas*, (1942) 317 U.S. 213; 63 S. Ct. 177; *Napue v. Illinois*, (1959) 360 U.S. 264; 79 S. Ct. 1173; and *Giglio v. United States*, (1972) 405 U.S. 150; 92 S. Ct. 763.

114. It is also clear that someone from the state was feeding Trent information. See paragraphs 74 and 75 above which are hereby incorporated as if fully rewritten herein. Scott also confirmed information he believed to be correct to increase Trent's focus on certain evidence. During Trent's April 25, 2002 interview he told Detective Scott that Dotson was killed because of a racketeering case and for shooting someone in the butt at White Castle. Scott responded:

> We got the report on that day, that's true. [**Exhibit 35**, pp. 1-2.]

There is absolutely no reason for this statement from Detective Scott. Scott is ensuring that Trent focuses on the shooting rather than the racketeering Trent claims was the motive in Dotson's death. In addition, Detective Scott clearly gives Arthurs evidence directly from the autopsy. Apparently there was some bruising found on Dotson's lower abdomen, but the wound he suffered was in his upper abdomen. Arthurs tells Scott Dotson was stabbed in the lower abdomen. Scott responds:

> and then his lower abdomen was bruised_____correct. . . upper abdomen not the lower abdomen, upper abdomen. [**Exhibit 51**, p. 12.]

115. Both of these statements show a scheme by Detective Scott to subtly influence the testimony of the state's two key witnesses. Scott takes a similar tack with Nightingale. [**Exhibit 57**, pp.

8-10.] Detective Scott had lengthy conversations with both Trent and Arthurs for which there is no record. Significantly, there is no record of the information the state gave to Trent listed in paragraphs 74 and 75 above. And, despite Scott recording virtually every conversation he had, regardless of its significance, only a summary exists of Arthurs initial conversation with detectives. This conversation is supposed to crack the case, is in the detective's bureau, and no one thought it should be recorded? [**Exhibit 50.**] With two willing participants such as Arthurs and Trent, Scott could have easily used statements similar to those presented here to prevent any major contradictions in the state's case. An argument that Petitioner's counsel should have made to the jury.

116. There are also suspicious circumstances surrounding the alleged May 23 confession Trent attributes to Petitioner. It is clear from the conversations Trent had just prior to the visit where this alleged confession took place that the visit was a spur of the moment decision against Petitioner's wishes. [**Exhibit 24**, p. 3.] Earlier this same day, Arthurs had given his proffer. [**Exhibit 51**, p. 1.] In this proffer, Arthurs tells Detective Scott that Petitioner hit Dotson with a pick

> . . . to make sure he was dead. [**Exhibit 51**, p. 9.]

A statement Arthurs repeats twice, but is absurd considering his testimony that he had just announced that he couldn't do it and that everyone heard Dotson still breathing. [Tr. 618; **Exhibit 51**, p. 8; **Exhibit 52**, p. 227.] Later that exact same day, Trent states:

> . . . to make sure he was done. [**Exhibit 4**, p. 8, para. 18.]

This is almost *verbatim* from Arthurs' statement made only a few short hours before. It is hard to believe that Trent didn't have some kind of access to Arthurs statement. With Arthurs' proffer in hand, Trent and Scott set up the visit, against Petitioner's will, and created an opportunity to attribute the statement to Petitioner. In any event, such an argument could have been made to the jury and cast reasonable doubt on the entire investigation.

117. Detectives and prosecutors also stood by while Trent repeatedly threatened Petitioner

and his co-defendants in violation of their Constitutional rights. See paragraphs 77, 78, and 95 above which are hereby incorporated as if fully rewritten herein. There is no question that had detectives or prosecutors directly elicited the statements Trent was able to procure using the tactics he used, the court would have suppressed them as involuntary. Trent had *carte blanch* to do or say anything he wanted and had the means and information available only to the state to carry out his interrogations. Trent was also in a unique position to control and manipulate the statements made to ensure they conformed with the state's theory. Apparently, prosecutors believe they found a loop hole in the 5th, 6th, and 14th Amendments that allows them to extract statements that would otherwise be involuntary. I think the jury would have disagreed had they been made aware of the impropriety. Making such an argument to the jury would have served two purposes: (1) It would have put the statements Trent said he was able to acquire in a different light; and (2) It would have shown the state's utter disregard for the law and the truth in pursuing a conviction against Petitioner.

118. Prosecutors committed a more flagrant violation of their ethical duty, not to mention the law, when they had Trent perjure himself at various trials. Testimony they used in closing arguments. The state was concerned only with gaining convictions no matter what the truth was. See paragraphs 80-84 above which are hereby incorporated as if fully rewritten herein. Prosecutors also argued facts they knew to be false. See paragraph 109 above which is hereby incorporated as if fully rewritten herein.

119. When facts emerged in mid trial that would have raised serious doubts about Arthurs' veracity, prosecutors sent Detective Scott to coach him into changing his testimony from previous trials. At Horton's trial, Hannah (Dotson's girlfriend) testified that she last spoke with Dotson on the 15th of September. [**Exhibit 60**, p. 133.] At some point she remembered that the conversation with Dotson had actually occurred on the 16th, which she maintained despite prosecutors best efforts to impeach their own witness. [Tr. 418-419, 421, 423, and 430-431.] The problem with Dotson talking to

Hannah on the 16th is that Arthurs claimed he was killed the day after a hotel party in Chillicothe. In discovery the state submitted a receipt from this hotel where Arthurs was registered as staying from September 11, 2001 until 10am September 15, 2001. During Horton's trial, when Hannah testified she last spoke with Dotson on the 15th, Arthurs simply said:

> Went to C. J. Stevens' birthday party that night before we went back to *my* hotel room. (Emphasis added.) **[Exhibit 52**, p. 209.]

There is no controversy in Horton's trial over whose name was used to rent the room. However, in the instant trial, when Hannah was adamant that she last spoke with Dotson on the 16th, the prosecutor brings up the hotel receipt early in direct testimony and has Arthurs testify that he didn't rent the hotel room in his name and that someone else must've used his name. [Tr. 491-492.] Arthurs explains that he was in West Virginia when the World Trade Center was bombed and that he drove back to Chillicothe that day. [Tr. 535.] Of course, this in no way prevents him from renting a hotel room later that day. It does, however, demonstrate that Arthurs was prepped for this line of questioning.

120. Arthurs changing his testimony becomes criminal due to the fact that he was instructed to do so by Detective Scott *during* trial and in violation of a separation of witnesses order issued by the court. [Tr. 481.] As is clear from this colloquy with the court, Scott entered the jail through the court room during a recess, a route that would allow him to converse with Arthurs, but not require him to log in as having officially visited him. It was just happenstance that trial counsel witnessed Scott enter the jail and asked deputies who he was visiting. At the time this occurred Hannah had recently completed her testimony [Tr. 434.], and Arthurs was next to testify. [Tr. 483.]

121. There is no direct evidence of what Detective Scott and Arthurs talked about for at least an hour. Trial counsel failed to request a contemporaneous hearing on the issue. So, Scott has never even been asked. Arthurs denies they were talking about his testimony, but gives no explanation as to what they were talking about. [Tr. 542 and 609.] It is revealing, however, that prosecutors attempt to

give two alternative explanations as to why Scott would be meeting with Arthurs during trial. When trial counsel first brings up the issue, prosecutors tell the court that the "chief" put Scott in charge of keeping witnesses separate in the jail. [Tr. 481.] It's is extremely hard to believe that the chief would designate one witness to make sure other witnesses don't have any contact when the court has ordered that *all* witnesses are not to have contact. If such an order existed it would have had to be in writing because only designated personnel are allowed to wonder around the jail. Where is this order? And even if this were true, as unlikely as that is, this still doesn't explain why Scott would need to speak with Arthurs, and do so for an hour. Nor does it explain why Scott didn't enter the jail using the proper procedure and log his visit with Arthurs.

122. Prosecutors attempt a second explanation through Arthurs testimony. They explain that Arthurs was working with Scott on "other matters." [Tr. 609.] But there is no indication as to what these matters were, and also no indication as to why they didn't use that excuse when originally confronted about the violation. Furthermore, this doesn't explain why this meeting was so urgent that it couldn't wait until after Arthurs testified and why it required Scott to violate the separation of witnesses order the court put in place. Simply put, there is a mountain of circumstantial evidence that Detective Scott coached Arthurs into testifying that the hotel receipt was not from the night in question. There would be no other reason for that meeting to occur at that time and under those circumstances. And the prosecutors' specious explanations only give weight to Petitioner's claim, showing their consciousness of the criminal nature of Scott's actions. Death sentences have been acquired with less.

123. Whether or not Detective Scott talked to Arthurs about this receipt, however, is irrelevant. Trial counsel had an obligation to make the jury aware of the seriousness of his violation of the court's order, no matter the substance of the conversation he had with Arthurs. This is an unassailable fact which the prosecutor would have been hard pressed to justify and would have changed how the jury viewed the entire investigation. And if the jury happened to believe that Scott

actually coached Arthurs, they would had to have inferred that Arthurs deliberately lied under oath to cover up the substance of the conversation. That in and of itself could have resulted in a complete rejection of the state's case and thus a not guilty verdict on all charges.

124. In addition to the above instance of state action, which is nothing less than criminal, there are numerous direct examples of the state suborning perjury. Due to the circumstances surrounding statements Horton made to Trent, Horton's trial counsel filed a motion to suppress those statements as involuntary. In order to defeat this motion, prosecutors conspired with Trent and Detective Scott to cover up the fact that Horton, at least at one point, feared for his life. This hearing had already taken place at the time of the instant trial, and the fact that Scott and Trent coordinated their perjury is clearly relevant to the instant case.

125. One obvious example of coordinated perjury during Horton's pretrial hearing was in regard to a trip to Chillicothe Trent wants Horton to take with him. The ostensible purpose of this trip is for Horton to show Trent where Arthurs and others witnesses lived that Trent says he was supposed to eliminate. Horton initially refused to accompany Trent on this trip because he was afraid Trent would kill him while they were in Chillicothe. [**Exhibit 18**, pp. 5, 6, 10 and 11.] Nearly two days of transcripts are dedicated to Trent trying to convince Horton that he won't kill Horton on this trip. On May 19, 2002, in reference to this trip Trent says:

> Right, what, he's afraid I wouldn't let him come back. [**Exhibit 16**, p. 14.]

Then later this same day Trent tells Horton, again in reference to this trip:

> I feel you. If a motherfucker just showed me a video of a Dead Motherfucker I wouldn't wanta ride with him either. [**Exhibit 17**, p. 1.]

This statement was actually handwritten in the transcripts by Trent. Once Trent finally convinces Horton to go on this trip, they both repeatedly refer to Horton being afraid to go because he thought he would be killed. [**Exhibits 19**, pp. 1, 2, 6, and 8; and **21**, p. 5.] Trent actually testified about this trip

under direct examination anyway. [Tr. 740-741.] Trial counsel, however, failed to introduce evidence of perjury by Trent or Scott.

126. Despite the substantial amount of time Trent spent trying to convince Horton to go on this trip, both Trent and Scott deny that Horton *ever* said he didn't want to go. Scott is asked, "Do you recall him not wanting to go on the trip that you testified about to Chillicothe?" and he testifies:

> I don't recall him not wanting to go. He even rented the van to go take him. [**Exhibit 53**, p. 78.]

Trent was asked, "Isn't it true that Mr. Horton expressed that he did not want to got with you on that trip [to Chillicothe]?" and his response is nearly identical:

> No, because he rented the van to go down there.

Horton's counsel continued, "Prior to the renting of the van, isn't it true he expressed not wanting to go with you on that trip?" Trent responded:

> No. As a matter of fact, he said, no, it ain't shit. It's cool. I will go down there with you. I will get the van. [**Exhibit 37**, p. 200.]

Not only is this testimony clearly false, it is identically false. Petitioner's trial counsel could have, and had a duty to, introduce this testimony to show that Trent and Scott were working in tandem to commit perjury. This testimony also undermines whether Trent's testimony regarding being hired to kill Arthurs was actually true and showed consciousness of guilt. Coercing someone into going along with such a scheme is *not* evidence of consciousness of guilt.

127. In addition to perjuring themselves regarding this trip, both Trent and Scott deny that Horton *ever* acted like he was afraid of Trent. Trent made numerous threats to Horton's life. See paragraph 95 above which is fully incorporated as if rewritten herein. The most direct of which was the following statement by Trent:

> . . . if something happens with [Nightingale], I'm going to come see you. . . And you already know I'm not playing. . . [**Exhibit 19**, p. 9.]

This statement was the result of Horton trying to convince Trent that Trent should not kill Nightingale. Trent is telling Horton that he is going to let Nightingale live for now, but if Nightingale does something Trent doesn't like, Horton will be the one that gets killed. The following interchange took place during Horton's pre-trial hearing:

> Q: Did you ever threaten [Horton]?
>
> Trent: No.
>
> Q: Did you ever in any transcripts tell him you were going to kill him?
>
> Trent: No.
>
> Q: Did you ever tell him you were going to hurt him?
>
> Trent: No. [**Exhibit 37**, p. 209.]

Scott was questioned similarly, "Did you hear [Trent] make any threats to Mr. Horton during these meetings?" and "During any of the conversations that took place, did you hear Mr. Trent threaten Mr. Horton in any way?" Scott responded unequivocally "No" to both of these questions. [**Exhibit 53**, p. 62.]

128. One particularly telling instance of perjury by Scott and Trent involves a statement Trent made seconds after meeting with Horton. Just after Horton leaves, Trent tells the officers listening to the surreptitious recording, one of which is Detective Scott, the following:

> Dude he is so fucking scared its unbelievable. It's on tape. [**Exhibit 22**, p. 11.]

Both Trent and Scott are questioned about this statement during Horton's pre-trial hearing. Trent's testimony is as follows:

> Q: Do you remember saying on or about May 22, after the tape got turned off, after you had been talking to [Horton], "dude, he is so fuckin scared, it is unbelievable. It's on tape.
>
> Trent: I think that was in reference to Shawn, but if he was scared of me, why would he give me a loaded gun? . . . Actually we was talking about Shawn Nightingale.
>
> Q: Sir, what you are telling the court is that even though you just got done talking to [Horton] literally a second before the tape gets shut off, that you are talking about Shawn when you say, 'Dude, he is so fuckin scared it's unbelievable. It's on tape.'

> Trent: Yeah, this is when he was scared I was a cop, so Yeah, you are right, I did say that.
>
> Q: So your testimony is that what you meant there was he is so fuckin scared you were a cop, it is unbelievable?
>
> Trent: All of them was, yeah.
>
> Q: That's what you meant right there?
>
> Trent: I am pretty sure, yes.
>
> Q: Can you point to anything now that you reviewed in this transcript that says anything about or that indicates that Jamie thinks you are a cop in this transcript right here?
>
> Trent: No. [**Exhibit 37**, pp. 204-205.]

Detective Scott was asked about this same statement. His testimony was as follows:

> Q: Are you testifying that you had no inclination whatsoever that Mr. Horton was afraid of Mr. Trent?
>
> Scott: I don't recall him ever being afraid.
>
> Q: When this says investigator Chris Floyd, does this indicate you would have heard this tape [referring to **Exhibit 22**.] at some point?
>
> Scott: Yes.
>
> . . .
>
> Scott: That's what [Trent] said, but I think the question was did I hear [Horton] say it, and I never heard him actually say he was scared, is that correct?" [**Exhibit 53**, pp. 91-92.]

Clearly, Scott and Trent are attempting to cover up the fact that Horton was afraid of Trent so that Horton's statements would be admitted by the court. There are other statements by both Trent and Horton that describe his fear. [**Exhibit 25**, pp. 2 and 21; **26**, p. 1; **32**, pp. 8 and 10; and **33**, p. 7.] There is also other testimony by Trent [**Exhibits 37**, pp. 185, 186, 198, 200, 206, 207, and 220-222; and **38**, pp. at 108, 109, and 134-135.] and Scott [**Exhibit 53**, pp. 64, 75, 76, 78, 86, and 87; and **54**, pp. 284, 285, 301, 302, 303, 331, and 332.] that demonstrate this conspired perjury. None of this was put into evidence before Petitioner's jury.

129. When Petitioner's trial counsel filed a motion to suppress statements he allegedly made to Trent, the state again conspired to cover up the surrounding circumstances. The court held a hearing

to collect evidence on Trent's initial communications with law enforcement and prosecutors to determine when Trent officially became an agent of the state. At this hearing Trent [**Exhibit 39**, pp. 95 and 96.], Detective Scott [**Exhibit 55**, p. 66.], and the original prosecutor on the case, Dave Devillers (Devillers) [**Exhibit 56**, pp. 115 and 122.] all testified that the first they heard of Trent was a letter Trent sent on April 4, 2002. [**Exhibit 46.**] All three testified that prior to that they had no direct communication with Trent and that they did not meet with him until April 25, 2002 for the first time.

130. From the outset, this testimony was suspicious. First, the April 4 letter only mention the Dockside case. The detective working that case was a Detective Cone (Cone). [**Exhibit 56**, p. 116.] Second, the letter was directly addressed to Sheryl Prichard [**Exhibit 46.**], Devillers assistant prosecutor on the case Cone was working. Third, despite the fact that the communication only addressed the Dockside case, Detective Scott accompanied Devillers and Prichard to interview Trent [**Exhibit 56**, p. 116.] And finally, the Chillicothe Police department had information they said came from a confidential informant by March 22, 2002. [**Exhibit 62**, pp. 11 and 12.] The testimony regarding this tip in particular is telling. Detective Scott testified:

> Do I know who gave [Chillicothe police] the information? . . . Yes . . . It wasn't Ronnie Trent. . . It was not Ronnie Trent. [**Exhibit 55**, p. 76.]

Moments later Trent was called to testify and admitted turning over information regarding this case through his attorney. [**Exhibit 39**, p. 93.]

131. As it turns out, by the time of this April 4 letter, the state had been communicating directly with Trent for nearly a month. Trent sent a letter to the head prosecutor, Ron O'Brien, dated March 12, 2002 [**Exhibit 42.**] and left phone messages for Detective Cone on March 11 and 13, 2002. [**Exhibit 43** and **44.**] The strongest evidence of perjury, however, is a note dated March 26, 2002 directed to Cone which states:

> . . . Devillers. . . inquired about [Petitioner's] case. . . He wanted us to talk to Ronnie Trent (about the note he sent [Devillers]). [**Exhibit 45.**]

Devillers was clearly not being truthful. It seems there must have been some back and forth between Trent and Cone as well because Trent was aware Cone was the person who attempted to visit him. **[Exhibit 49.]** When you combine the prosecutor's office withholding evidence of Trent's communications with Cone, O'Brien, and Devillers at the same hearing where both Trent and Devillers perjure themselves regarding the same information, it is strong evidence of conspiracy to commit perjury by the state. In addition to that, Detective Scott attempts to convince the court that someone other than Trent gave information regarding the case in Chillicothe. Petitioner's trial counsel didn't admit any of this evidence or make any of these arguments to the jury.

132. Covering up Trent's initial communications with law enforcement also allowed Trent to claim, and the prosecutors to argue, that Trent didn't come forward in order to get a deal. Trent claimed to the jury that he was innocent of his gross sexual imposition charge [Tr. 748 and 762.], and that he only contacted law enforcement in the instant case because he says Petitioner laughed in Dotson's mother's face. [Tr. 749.] Dotson's mother, Lora Eberhard, describes this visit, and according to her Petitioner never laughed at her or was disrespectful to her in any way. [Tr. 379-381.] This visit occurred April 11, 2002 [Tr. 778.], roughly coinciding with the letters that were the subject of the pre-trial hearing referred to above.

133. Prosecutors argued in closing:

> Why [Trent] testified? Why he made a deal? Because [Petitioner] came back into his cell after a meeting with Lora Eberhard who Ronny Trent had no idea who she was, [Petitioner] told him what happened – that stupid bitch thinks I'm going to tell her I killed her son. Where would Ronny get that? . . . You heard Lora testify corroborating what happened. She had a conversation with Mr. Conway in the jail. How would Ronny know that? [Tr. 979.]

Given the communications Trent made well before this visit it is hard to understand how prosecutors could ethically make such an argument. It is even harder to justify Petitioner's trial counsel not using Trent's initial communications to undermine this argument and using Detective Scott's unethical

behavior outlined above to explain to the jury where Trent could have learned of this visit.

134. There are two other relevant statements Trent made in regard to why he testified that Petitioner's counsel could have used to undermine Trent's testimony that he was innocent of Gross Sexual Imposition. Trent was actually asked about what he was willing to do and why he was willing to do it. He told Detective Scott:

> I mean it's like I told um the girl here I'll wear wires you know give you a recorded phone conversation whatever need to be done I'll just you know and I'm not asking for a lot you know it's like I told my Lawyer and the Prosecutor I'm not asking for a lot. [**Exhibit 35**, p. 6.]

No one has ever identified what Trent was asking for, but clearly he had motives other than his conscience.

135. A second statement from Trent regarding his innocence was made to Horton during some of the conversations Trent recorded while investigating this case. Horton asked Trent why he was in jail. Trent didn't mention anything about being innocent. Instead he told Horton he was in jail

> . . . for my parole violation, that and letting a bitch suck pit bull dicks for crack. [**Exhibit 4**, p. 4, para. 8.]

Petitioner's trial counsel was obligated to use these statements to discredit Trent's claims that he was innocent and that he only took a deal because he had an attack of conscience.

136. Detective Scott also conspired with Trent to fabricate a story that Petitioner attempted to put a "hit" out on the county prosecutor, Ron O'Brien, and an assistant prosecutor, Sheryl Prichard. The planning behind this counterfeit conspiracy was rather elaborate. Trent would make ambiguous statements to Horton while surreptitiously recording the conversations. Then, he would go back and physically write statements on the transcripts that made it seem like the conversation was about killing a prosecutor. The following is an example of one such conversation between Trent (CI) and Horton. The transcripts read as follows:

CI: What's up with the fucking, which Prosecutor does he want me to deal with

Pritchard or O'Brien._____.

CI: O'Brien? Why cause I mean I fucking

Horton: I don't know either, I don't know Jimmy knows. [**Exhibit 28**, p. 1.]

Trent actually wrote in the blank above, "Jims [*sic*] saying do O'Brien." and in the space above Horton's comment he wrote, "It's all going to fall into place perfectly it will be alright." The actual subject of the conversation was mailing the video discussed above in paragraph 81 to the prosecutor. And the actual recording of the conversation is as follows:

> Trent: What's up with the fucking, which prosecutor does he want me to give this to Pritchard or O'Brien?
>
> Horton: It don't matter, its just going to fall into the hands of one of these people anyway.
>
> Trent: It don't matter? Jim's saying to O'Brien.
>
> Horton: _(inaudible)_
>
> Trent: Why I mean cause.
>
> Horton: _____
>
> Trent: Alright, I did, I mean, I just wanna. Fuck it, it ain't none of my business.
>
> Horton: I don't know either, I don't know. Any of 'em, it don't matter. Just send it to someone on the 8th floor _____.
>
> Trent: (laughs)
>
> Horton: They'll be like 'What the fuck?' [**Exhibit 4**, p. 9. para. 20.]

137. The prosecutor is mentioned in other places, but only ever in relation to mailing the video referenced in paragraph 81. [**Exhibits 16**, p. 4; **20**, p. 14; **26**, p. 4; and **27**, p. 13.] Particularly, notice the similarity between the conversation above and **exhibit 20**, p. 14. Trent never mentions doing anything to a prosecutor in his April 25, 2002 statement when he recounts the supposed "hit list" to Detective Scott. [**Exhibit 35**, pp. 4-6.] In his May 26, 2002 interview, Trent describes the above conversation as follows:

> . . . that's what I asked him, I said that's why I asked [Horton] that one night, I said, okay, what's up with this prosecutor thing, you know, said I thought it was Cheryl Pritchard [*sic*] and he said no, it's Ron O'Brien, I said you're sure you want me to do Ron O'Brien, he said yeah, I said okay. [**Exhibit 36**, p. 9.]

In this same conversation, Trent told police

> [Petitioner] told me himself Cheryl Pritchard and he said he even had someone watching her, one day he gave me her license plate, and what she was driving, I believe it was a Jeep, some kind of Jeep Cherokee Tahoe type thing, license plate number was AVN1160 is what he told me. **[Exhibit 36, pp. 8-9.]**

It is worth noting that by the time Trent gave this license plate number to police he had been working with detectives outside the jail for a couple of weeks and had met with Prichard several times. Thus, he could have easily seen the car she drove and took note of the license plate number. Either that or simply asked Detective Scott to give it to him.

138. Mr. O'Brien was recently deposed by Petitioner's federal habeas counsel and admitted he believed all along that Trent fabricated this plot on his life. **[Exhibit 65, p. 42.]** Therefore, had petitioner's counsel investigated this obvious fabrication, the state would have been obligated to stipulate that they believed Trent made this up. Being able to demonstrate to the jury the undisputed fact that Trent completely fabricated such a plot, and the elaborate means he used to substantiate it, would have cast doubt on everything he said, even if the state represented that his other statements were corroborate by audio recordings.

135. The state's fingerprints are all over this fabrication as well. Detectives elicit these statements from Trent and sit idly by as he describes the above conversation to them **[Exhibits 4, p. 9, para. 19; and 36, p. 9.]**, a conversation they were actually listening to as it was happening. At one point, Trent actually says over his "wire" that he is going to see what he can get from Horton about Ron O'Brien. **[Exhibit 30, p. 27.]** Someone leaked Trent's statements to the press in order to sensationalize the story. These "officials" managed to substantiate Trent's claim without actually saying it was true. The following is quoted from a story that ran in a local newspaper:

> Measures were taken to protect O'Brien and his family, said *officials*, who refused to elaborate. O'Brien also refused to comment. (Emphasis added.) **[Exhibit 63, p. 1.]**

Official participation in such a fabrication undermines the credibility of the entire prosecution, an argument Petitioner's trial counsel could have made to the jury.

139. Prosecutor's and detectives didn't limit their criminal behavior to Trent and Arthurs. Testimony was elicited from Roberta Hannah about an incident where she says Petitioner was very threatening to Dotson. [Tr. 413-414.] Trial counsel possessed Hannah's initial interview with Detective Scott in which she says she has no idea how tall Petitioner is because she has never seen him outside of his vehicle. [**Exhibit 59**, p. 4.] Even though this incident was fabricated, and had no place in the trial even if it had occurred, prosecutors used it in closing arguments to undermine the fact that Petitioner was friends with Dotson. [Tr. 940-941.]

140. Dotson's mother, Lora Eberhard, also testified during trial that Horton was with Dotson the last time she saw him. [Tr. 347.] However, she initially described this same individual as being short, stocky, and having blond hair, a perfect description of Arthurs. [Tr. 362-364 and 375..] Horton is six-feet-four-inches tall with dark brown hair. [**Exhibit 4**, p. 11, paras. 25 and 26.] Moreover, Nightingale signed a deal to testify truthfully that attorney Chris Cicero originated the plot to kill Dotson [**Exhibit 57**, pp. 1 and 2.] and that Arthurs was actually the principal offender. [**Exhibits 57**, pp. 6-8; **58**, p. 36.] In exchange for his testimony, Nightingale received 23 years for his role in Dotson's death. The jury never heard Cicero's name. When Nightingale refused to testify in the instant case, he was allowed to keep his deal. To this day the state has not rescinded Nightingale's deal to testify that Arthurs was the principal offender and that Cicero ordered Dotson killed.

141. Using all the information listed in this section (paragraphs 113-140) Petitioner's counsel could have established that, not only was the state not looking for the truth, it went to *great* lengths to subvert it. This was actually a theory Petitioner's trial counsel pursued, although half-heartedly, by pointing out to the jury that the state withheld information from the pathologist. At the direction of Detective Scott, Arthurs bought a pick that he says was similar to that used on Dotson. Detective Scott

took this to the state's pathologist to ask him if it was consistent with the wounds inflicted on Dotson. At this time Detective Scott had information that Arthurs killed Dotson by strangulation, a fact which Scott never related to the pathologist. [Tr. 680-681.] Had counsel utilized all the statements referenced above, the result of the trial would have been different. Furthermore, with this overwhelming evidence of criminal misconduct by the state, some of which occurred *during* trial, Petitioner's trial counsel should have filed a motion to dismiss the indictment in it's entirety. Such a motion would likely have been granted by the trial court and would have resulted in the case against Petitioner being dismissed with prejudice. Counsel's failure in this regard resulted in a violation of Petitioner's 6th Amendment right to the effective assistance of counsel.

142. The inaccuracies in the transcript pages referred to in **Exhibit 4**, pp. 1 through 11, paras. 1 through 24. show further a coordinated effort by the state to systematically cover up evidence favorable to Petitioner. Thus, the actual recorded conversations should have been used by Petitioner's trial counsel to advance the misconduct argument in this section. Such evidence would have changed the outcome of the trial.

143. In conclusion, Petitioner's trial counsel did not perform to the standards dictated by the 6th Amendment to the U.S. Constitution as stated in *Strickland v. Washington*, (1984) 466 U.S. 668, 686; and held to apply to ineffective assistance of trial counsel in post-conviction proceedings in *Martinez v. Ryan*, (2012) 132 S.Ct. 1309, 1317. Had they performed as required, using all of the evidence identified herein, the case against Petitioner could have been dismissed with prejudice before the completion of the trial phase. In the alternative, singularly and cumulatively, there is a reasonable probability that, if counsel had performed with reasonable effectiveness, a more favorable result should have been obtained.

Exhibits: 1-65.

Legal Authority Supporting this Ground for Relief: *Mooney v. Holohan*, (1935) 294 U.S.

103, 112; *Pyle v. Kansas*, (1942) 317 U.S. 213; *Napue v. Illinois*, (1959) 360 U.S. 264; *Bruton v. United States*, (1968) 391 U.S. 123, 135-136; *In re Winship*, (1970) 397 U.S. 358, 364; *Giglio v. United States*, (1972) 405 U.S. 150; *County Court v. Allen*, (1979) 442 U.S. 140, 157; *Strickland v. Washington*, (1984) 466 U.S. 668, 686; *Francis v. Franklin*, (1985) 471 U.S. 307, 313; *Arizona v. Fulminante*, (1991) 499 U.S. 279, 288; *Lilly v. Virginia*, (1999) 527 U.S. 116, 137; *State v. Jones*, (2001) 91 Ohio St. 3d 335, 347; *State v. Yarbrough*, (2002) 95 Ohio St. 3d 227, 247; *Martinez v. Ryan*, (2012) 132 S.Ct. 1309, 1317; Ohio Evid. R. 804(B)(3).

Second Ground for Relief

144. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

145. Petitioner's convictions and death sentences are void and/or voidable because the state suppressed favorable, material evidence. U.S. Const. Amends. VI, VIII, and XIV; *Brady v. Maryland*, (1963) 373 U.S. 83, 87.

146. The evidence in question consists of communications between state officials and a key witness for the state, Ronald Trent. These communications, and there relevance, are detailed above in paragraphs 129 through 133, which are hereby incorporated as if fully rewritten herein. Essentially, had this evidence been given in discovery as required, and state actors testified truthfully as to it's existence, the suppression hearing referred to in paragraphs 129 through 133 would have had a favorable result. That evidence, along with what the court already considered and the evidence referred to in paragraphs 76 through 79 and 117 (hereby incorporated as if fully rewritten herein) would have resulted in the suppression of the confession referred to in paragraph 64.

147. Furthermore, this same evidence supports the state misconduct claims laid out in paragraphs 113, 129 through 133, and 141, which are hereby incorporated as if fully rewritten herein. Petitioner's counsel could have used the evidence of Trent's communications with the state to undermine the entire investigation. Thus, it was material and would have resulted in a more favorable outcome for Petitioner.

Exhibits: 1-65.

Legal Authority Supporting this Ground for Relief: *Brady v. Maryland,* (1963) 373 U.S. 83, 87.

Third Ground for Relief

148. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

149. Petitioner's convictions and sentences are void and/or voidable because petitioner was denied the effective assistance of counsel during the post-conviction stage of his capital case. The acts and omissions of trial counsel deprived him of the sixth amendment right to effective assistance of counsel. U.S. Const. Amends. V, VI, VIII, IX and XIV; Ohio Const. Art I, §§ 1, 2. 5. 9, 10, 16, and 20; *Strickland v. Washington*, (1984) 466 U.S. 668, 686; *Martinez v. Ryan*, (2012) 132 S.Ct. 1309, 1317.

150. The failure of Petitioner's initial post-conviction counsel to incorporate the allegations contained in this petition into his August 23, 2004 Amended Post-Conviction Petition constitutes ineffective assistance of post-conviction counsel. Such deficiency constitutes cause to excuse any procedural default. Additionally, Petitioner should be able to avoid the heightened standards of review contained in R.C § 2953.23(A) even if the Court finds this petition falls outside the time allotted by R.C § 2953.21(A). Essentially, this court should consider all the claims contained in this petition as if they had been contained in his August 23, 2004 Amended Post-Conviction Petition and grant the relief requested.

Exhibits: 1-65.

Legal Authority Supporting this Ground for Relief: *Strickland v. Washington*, (1984) 466 U.S. 668, 686; *Martinez v. Ryan*, (2012) 132 S.Ct. 1309, 1317.

Fourth Ground for Relief

151. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

152. Petitioner's conviction and sentences are void or voidable because, assuming *arguendo*

that none of the Grounds for Relief in this Post-Conviction Petitioner individually warrant the relief, the cumulative effects of the errors and omissions as presented in this Petition, his November 1, 2011 Post-Conviction Petition, his August 24, 2004 Amended Post-Conviction Petition, and his direct appeal prejudiced Petitioner and denied him his rights as secured by the United States And Ohio Constitutions.

153. A conviction will be reversed where the cumulative effect of the errors deprives a petitioner of the constitutional right to a fair trial.

154. If the Court deems the individual Grounds for Relief of collectively all of the constitutional errors previously herein raised do not warrant the granting of relief, that then all of the errors identified in this Petition, his November 1, 2011 Post-Conviction Petition, his August 23, 2004 Amended Post-Conviction Petition, and his direct appeal taken together, are of sufficient magnitude as to warrant the granting of discovery and an evidentiary hearing.

Exhibits: 1-65.

Legal Authority Supporting this Ground for Relief: *State v. DeMarco* (1987), 31 Ohio St. 3d 191, syl. 2; *See also State v. Bunch*, (1989), 62 Ohio App. 3D 801.

Respectfully submitted,

James T. Conway, III, *pro se*
457-203
Chillicothe Correctional Institution
15482 State Route 104, North
Post Office Box 5500
Chillicothe, Ohio 44505

58196-2 B87

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *James T. Conway III's pro se Post-Conviction Petition* was forwarded by first-class, postage prepaid U.S. Mail to Ron O'Brien, Franklin County Prosecutor, 373 South High Street, 13th Floor, Columbus, Ohio 43215. on this 13th day of ~~February~~ March 2013.

James T. Conway, III
Petitioner, *pro se*

58196 - B88

OFFICE OF THE
PROSECUTING ATTORNEY

IN THE SUPREME COURT OF OHIO

04 JUN 14 AM 9:47

FRANKLIN COUNTY
OHIO

STATE OF OHIO,	:	
Appellee,	:	
-vs-	:	Case No. 03-1964
JAMES T. CONWAY, III,	:	
Appellant.	:	

MERIT BRIEF OF APPELLANT JAMES T. CONWAY, III

W. JOSEPH EDWARDS
Supreme Court No. 0030048
495 South High Street, Suite 100
Columbus, Ohio 43215
Telephone: (614) 224-8166
Facsimile: (614) 849-0475

COUNSEL FOR APPELLANT

STEVEN TAYLOR
Chief-Appellate Section
Supreme Court No. 0023440
Franklin County Prosecutor's Office
373 South High Street
Columbus, Ohio 43215
Telephone: (614) 462-3555

COUNSEL FOR APPELLEE

DIANNE WORTHINGTON
Attorney at Law
Supreme Court No. 0005518
P.O. Box 425
Galloway, Ohio 43119
Telephone: (614) 851-2631
Facsimile: (614) 878-8880

FILED

JUN 14 2004

CLERK OF COURT
SUPREME COURT OF OHIO

EXHIBIT

1

TABLE OF CONTENTS

	Page
Statement of the Case	1
Statement of the Facts	3
Proposition of Law One	12
Imposition of the death sentence violates the Sixth, Eighth and Fourteenth Amendments to the United States Constitution and Article One, Sections Two, Nine and Sixteen of the Ohio Constitution.	
Authorities Relied Upon to Support Proposition of Law One:	
Robison v. California (1960), 370 U.S. 600	12
Furman vs. Georgia (1972), 408 U.S. 238 rehearing denied (1972), 409 U.S. 902 (Brennan, J., concurring)	12
Rhodes v. Chapman (1981), 452 U.S. 337	12
Trop v. Dulles (1958), 356 U.S. 86	12
Coker v. Georgia (1977), 433 U.S. 584	12
Furman vs. Georgia (1972), 408 U.S. 238 rehearing denied (1972), 409 U.S. 902 (Brennan, J., concurring)	13
People v. Anderson (Cal. 1972), 493 P.2d 880, cert. Denied, (1972), 406 U.S. 958	14
Robison v. California (1960), 370 U.S. 600	14
Woodson v. North Carolina (1976),. 428 U.S. 280	14
Commonwealth v. O'Neal (Mass. 1975), 327 N.E.2d 662 cf.	15
Roe v. Wade (1973), 4120 U.S. 113	15
Johnson v. Zerbst (1938), 304 U.S. 458	15
Yick Wo v. Hopkins (1886), 118 U.S. 356	15

	Page
State v. Pierre (Utah 1977), 572 P.2d 1338 (Maughan, J. concurring and dissenting) cert. denied (1978), 439 U.S. 882	15
Gregg v. Georgia (1976), 428 U.S. 153 rehearing denied, (1976), 429 U.S. 875 at 118 and 193-195	15
Furman vs. Georgia (1972), 408 U.S. 238 rehearing denied (1972), 409 U.S. 902 (Brennan, J., concurring)	15
R.C. 2903.01(B)	15
R.C. 2929.04(A)(7)	15
Zant v. Stephens (1983), 462 U.S. 861	16
Barclay v. Florida (1983), 463 U.S. 939, rehearing denied, (1983), 464 U.S. 874	16
Woodson v. North Carolina (1976),. 428 U.S. 280	16
Lowenfield v. Phelps (1988), 474 U.S. 231, 98 L.E.3d 568, rehearing denied, (1988), 99 L.E.2d 286	17
R.C. 2929.04(A)(7)	17
R.C. 2903.04(B)	17
Crim. R. 11(C)(3)	17
Lockett v. Ohio (1978), 438 U.S. 586	18
United States v. Jackson (1968), 390 U.S. 570	18
R.C. 2929.021	18
R.C. 2929.03	18
Zant v. Stephens (1983), 462 U.S. 861	18
Barclay v. Florida (1983), 463 U.S. 939, rehearing denied, (1983), 464 U.S. 874	18

	Page
State v. Steffen (1987), 31 Ohio St.3d 111, 509 N.E.3d 383, cert. denied, (1988), 485 U.S. 916	19
R. C. 2929.05(A)	19
Spaziano v. Florida (1984), 468 U.S. 447	20
Smith vs. North Carolina (1982), 459 U.S. 1056	20
R.C. 2929.05	21
Spaziano v. Florida (1984), 468 U.S. 447	21
R.C. 2903.01	22
R.C. 2929.02	22
R.C. 2929.022	22
R.C. 2929.023	22
R.C. 2929.04	22
R.C. 2929.05	22
Proposition of Law Two	23
In a capital case where the state fails to present sufficient evidence to prove beyond a reasonable doubt all of the elements of the offenses charged, the defendant's subsequent convictions violate the due process clause of the Fourteenth Amendment to the United States Constitution, and Article One, Section Sixteen of the Ohio Constitution, and the proscription against cruel and unusual punishment contained in the Eighth Amendment to the United States Constitution and Article One, Section Nine of the Ohio Constitution.	
Authorities Relied Upon to Support Proposition of Law Two:	
In re Winship (1970), 397 U.S. 358	23
R.C. 2901.05(A)	23

	Page
State v. Adams (1980), 62 Ohio St.2d 151	23
State v. Miclau (1957), 167 Ohio St. 38	23
State v. Martin (1983), 20 Ohio App.3d 172, 175	23
State v. Eley (1978), 56 Ohio St.2d 169	23
Jackson v. Virginia (1979), 443 U.S. 307, 318-319	23
R.C. 2929.04(A)(3)	24
State v. Jones (2001), 91 Ohio St.3d 335, at 346-347	24
R.C. 2929.04(A)(3)	24
R.C. 2929.04(A)(8)	25
Proposition of Law Three	26
In a capital case, where the trial court precludes the defense from introducing, and the jury from considering, crucial and relevant evidence contra *Lockett v. Ohio* (1978), 438 U.S. 586, the Defendant's subsequent death sentence violates the due process clause of the Fourteenth Amendment to the United States Constitution, and Article One, Section Sixteen of the Ohio Constitution, and the proscription against cruel and unusual punishment contained in the Eighth Amendment to the United States Constitution and Article One, Section Nine of the Ohio Constitution.	
Authorities Relied Upon to Support Proposition of Law Three:	
Lockett v. Ohio (1978), 438 U.S. 586, 98 S. Ct. 2954	26
Lockett v. Ohio (1978), 438 U.S. 586	27
Proposition of Law Four	29
Because of pre-trial publicity including newspaper articles	

Page

detailing Appellant's prior conviction and death sentence in another case, Defendant was denied his constitutional right to a fair and reliable determination of his guilt or innocence as well as sentence by an impartial jury under Article I, Sections Two, Nine, Ten and Sixteen of the Ohio Constitution, and the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution.

Authorities Relied Upon to Support Proposition of Law Four:

None

Proposition of Law Five 31

Authorities Relied Upon to Support Proposition of Law Five:

None

Proposition of Law Six 33

Authorities Relied Upon to Support Proposition of Law Six:

None

Proposition of Law Seven 34

Multiple instances of deficient performance in the conduct of the trial and penalty phases of a capital trial coupled with prejudice inuring to the detriment of the Defendant result in the denial of the right to a fair trial and the right to effective assistance of counsel under the Sixth and Fourteenth Amendments to the United States Constitution as well as Article One, Section Ten of the Ohio Constitution.

Authorities Relied Upon to Support Proposition of Law Seven:

Strickland v. Washington (1984), 466 U.S. 668 34

State v. Lytle (1976), 48 Ohio St.2d 391, 396-97 34

	Page
Lockhart v. Fretwell (1993), 506 U.S. 364, 113 S. Ct. 838, 842-43	34
Evidence Rule 404(B)	37
State v. Davie (1997), 80 Ohio St.3d 311, 322	38
R.C. 2929.04(A)(3)	38
State v. Jones (2001), 91 Ohio St.3d 335, 347	38
Proposition of Law Eight	41
The Court erred by allowing the admission of irrelevant and prejudicial material regarding other acts committed by the Appellant, in violation of the Ohio Rules of Evidence and the Appellant's substantive and procedural due process rights under the federal and state constitutions.	
Authorities Relied Upon to Support Proposition of Law Eight:	
Evidence Rule 404(A)	41
State v. Davis (1989), 64 Ohio App.3d 334	41
State v. Coleman (1989), 45 Ohio St.3d 298, 299	41
Evidence Rule 404(B)	42
Evidence Rule 404(B)	43
Evidence Rule 404(A)	43
State v. Soke (1995), 105 Ohio App.3d 226, 249	43
State v. Hirsch (1998), 129 Ohio App.3d 294	43
State v. Adams (1980), 62 Ohio St.2d 151, 157	44
Conclusion	45
Certificate of Service	46
Appendix	47

STATEMENT OF THE CASE

A Franklin County Grand Jury returned a six count indictment against Defendant-Appellant James T. Conway, III, (hereinafter Appellant), charging him with Aggravated Murder, Kidnapping, Possessing Criminal Tools, Abuse of a Corpse, Obstruction of Justice and Tampering with Evidence. The charges arose from the September 15, 2001 homicide of Andrew Dotson whose body was found on October 10, 2001 in a cornfield near Galloway Road in Franklin County, Ohio.

The aggravated murder charge contained three death penalty specifications as set forth in R.C. §2929.04(A)(3), (A)(7), and (A)(8). The State of Ohio alleged that Appellant ordered three individuals – Mike Arthurs, Jamie Horton and Shawn Nightingale to kill Dotson because he had witnessed Appellant commit a shooting earlier that day.

Group voir-dire began on September 15, 2003 (Tr. Vol. I, p.2). The jury began hearing evidence on September 17, 2003. (Tr. Vol. II, p. 335).

After the State presented evidence, the defense made a motion for acquittal pursuant to Crim. R. 29, which was overruled. (Tr. Vol. IV, p. 841.). On September 22, 2003, after the conclusion of the evidence, the jury was instructed. (Tr. Vol. IV, p. 997). A day later, on September 23, 2003, the jury returned guilty verdicts on all counts, including the death penalty specifications. (Tr. Vol. IV, pp. 1039-1049).

The case was continued one day to September 24, 2003 when the mitigation hearing began. (Tr. Vol. V, p. 1052). At the conclusion of the mitigation phase, the jury

recommended a sentence of death. (Tr. Vol. V, pp. 1304-1305).

On November 10, 2003, Appellant filed a timely Notice of Appeal in this Court.

Appellant now brings this cause before this Court in his one and only direct appeal of his capital conviction and sentence, seeking a reversal of his sentence and a remand of this case for a new trial.

STATEMENT OF THE FACTS

This case arose from the homicide of twenty year old Andrew Dotson, whose partially decomposed body was discovered in a cornfield near Galloway Road in Franklin County, Ohio, on October 10, 2001. The State alleged that Dotson, a Columbus resident and friend of Appellant, witnessed a September 14, 2001 shooting on Columbus' west-side. Out of concern that Dotson might go to the police, Appellant asked several associates, including Mike Arthurs, to kill him during a trip to West Virginia. When the plan was not carried out, Appellant had Dotson brought to the cornfield where he was strangled and stabbed with a pickaxe. The approximate date of the incident and Dotson's death was September 15, 2001.

The evidence against Appellant consisted largely of hearsay statements used to provide a motive coupled with the testimony of Mike Arthurs and Randy Trent. The former was an alleged co-conspirator who agreed to kill Dotson but then backed out and, instead, transported him to the cornfield. Arthurs testified under a plea agreement and received no additional time in prison despite his substantial role in the homicide. The latter, i.e. Trent, was the proverbial "jailhouse informant," a convicted child molester and serial burglar who befriended Appellant after learning they were distant cousins but then had a change of heart and contacted the Prosecutors' Office to cut a deal for himself and testify against his long lost cousin. Trent told Prosecutors that Appellant admitted his role in the Dotson homicide and also asked him to kill other potential witnesses.

Set forth below is a brief summary of the important portions of the key trial witnesses. The summaries are presented not in chronological or event order but by order of trial testimony. In addition, each witnesses' testimony which pertains to specific propositions of law will be expanded when said proposition is raised below.

The State's first trial phase witness was Lara Eberhard – the mother of Andrew Dotson. (Tr. Vol. II, p.337). Andrew Dotson was twenty years of age when Eberhard last saw him on September 15, 2001. (Tr. Vol. II, pp. 337-351). Andrew arrived at her Columbus residence in a Jeep with at least two men, one of whom was Jamie Horton. (Id. at 346-348). Her son "seemed antsy, kind of jittery." (Id. at 348).

Over objection, Eberhard was permitted to testify as to the substance of conversations she had with a detective who was investigating a shooting that occurred on September 14, 2001. (Tr. Vol. II, pp. 342-343). Eberhard told the jury that "they i.e. the detectives, believed my son was witness to a shooting and they wanted to talk about it." (Id. at 343). The Court did not rule on the objection and failed to instruct the jury to disregard the hearsay statements or limit the weight of them.

Eberhard concluded her testimony by describing a visit to the Franklin County Jail to speak with Appellant in hopes of obtaining information concerning her son's death. (Tr. Vol. II, pp. 356-358). According to Eberhard, Appellant told her that he and Andrew were friends and that he was sorry. (Id. at 358). The visit was brief and ended when Appellant walked away. (Id.).

Cecil Dotson, the brother of Andrew Dotson, was living with his mother back in September of 2001. (Tr. Vol. II, pp. 383-388). Over objection, Dotson was permitted to testify that his brother was involved in a shooting on September 14, 2001. (Id. at 388-89). This information was based upon conversations he had with his brother and Bobbi Hannah, Andrew's girlfriend. (Id.).

Later, on September 14, 2001, Cecil traveled to the shooting scene and retrieved his brother's car.

Back in September of 2001, Cecil's brother was friends with Appellant, but he was unsure when the friendship began. (Id. at 385-386).

Roberta Hannah known as "Bobbi" was Andrew Dotson's girlfriend and the mother of his child-four year old Jacob. (Tr. Vol. II, p. 411). Hannah established that Dotson was friends with Appellant and had heard him mention the names Shawn Nightingale and Mike Arthurs. (Id. at 413).

A shooting occurred on September 14, 2001 near Hannah's home. Around this same time period, Hannah told Dotson that she was thinking about dating her high-school friend Jared Dilley. After the shooting, Hannah saw Dotson who appeared nervous. (Id. at 420). Hannah last spoke with Dotson on September 16, 2001. She never saw him again.

Thirty year old Christopher Furnier has lived in the Galloway, Ohio area for most of his life. (Tr. Vol. II, p. 437). On October 10, 2001, Furnier's car broke down, causing

him to walk home through a cornfield on Galloway Road. (Id. at 442).

Furnier was walking through the cornfield when he noticed a body in among the cornstalks. Furnier ran home, notified the police, and then showed a deputy where the body was located. (Id. at 446).

Robert McMillin is a detective with the Franklin County Sheriff's Office and was so employed on October 10, 2001 when he was dispatched to Galloway Road. (Tr. Vol. II, p. 452). While there, McMillin met Chris Furnier who took him to a location where a body was located. (Id. at 454-460).

Twenty-one year old Mike Arthurs was the State's most important witness. (Tr. Vol. II, p. 483). Arthurs was serving a four year prison sentence stemming from a robbery charge out of a Ross County case. He testified under a plea agreement in which no additional time was received despite his role in Dotson's death. (Id. at 485).

Arthurs described an evening party at a Hampton Inn located in Chillicothe, Ohio, that he attended with Appellant, Jamie Horton, Andrew Dotson and Shawn Nightingale. (Id. at 492-495). While at the party, Appellant asked Arthurs and Nightingale to kill Dotson because he had observed Appellant shoot a guy named Jesse James. (Id. at 495).

The next morning Arthurs, Nightingale and Dotson traveled to West Virginia to visit Nightingale's relatives. The murder was to occur during this time. But Arthurs and Nightingale backed out and telephoned Appellant to inform him of their decision. (Id. at 504-505). Appellant had Arthurs take Dotson to the cornfield on Galloway Road and

then asked him to remove Dotson, who had fallen asleep due to drug use, from the vehicle and choke him. (Id. at 509). Arthurs admitted placing his arm around Dotson but denied placing sufficient pressure to the neck or trying to kill him.

Rather, Arthurs faked the choking to satisfy Appellant by making it look like he was trying to hurt Dotson. After dragging Dotson into the cornfield, Arthurs saw Appellant walking towards the body with a pickaxe. He heard two thuds and saw Appellant stick the pickaxe into the dirt to remove the blood from it. (Id. at 516).

Forensic Pathologist Dr. Patrick Fardal performed the autopsy on Andrew Dotson. (Tr. Vol. III, p. 625). Fardal testified that Dotson "died as a result of two stab wounds to his chest, heart, liver and the great vessels surrounding the heart." (Id. at 631). On cross-examination, Dr. Fardal agreed that an individual could die from an asphyxiation type injury without the pressure of any marks on the body, specifically in the neck area. (Id. at 683-686).

Randy Trent was the State's last witness and has been previously introduced above as a "jailhouse informant" who testified under a plea agreement. (Tr. Vol. III, p. 715). Trent has a lengthy criminal record and met Appellant while the two were in the Franklin County Jail. Trent and Appellant discovered that they were distant cousins and became close while awaiting disposition of their cases. (Id. at 727).

Trent alleged that Appellant confided in him concerns that his street associates might tell law enforcement about his illegal activities. One day, Appellant returned from

a visit and told Trent that Andrew Dotson's mother (Lora Eberhard) had visited him at the jail and asked questions regarding her son's death. (Id. at 728-729).

According to Trent, Appellant commented as to the visit: "[t]hat stupid bitch actually thinks I'm going to tell her I killed her son. That stupid bitch." (Id. at 729). This testimony was introduced without any objection from the defense.

Trent testified that Appellant had developed a "hit list" and recruited him to execute the plans of killing potential witnesses against him starting with Mike Arthurs. (Id. at 729-730). Trent told the jury that Appellant admitted he killed Dotson out of a concern that Dotson would "tell on him for some upcoming charges and because he had seen him shoot somebody in the ass at White Castle." (Id. at 732). Over objection, Trent was also permitted to testify that Appellant wanted Arthurs killed because of an unrelated robbery in Chillicothe. (Id. at 736). Again over objection, Trent was able to describe his cooperation with law enforcement officials who had Mike Arthurs pose for staged photographs. (Id. at 741). The detectives "dug a hole and had Mike Arthurs lay in the hole like he was killed, took his clothes off." (Id.). After the photographs were taken, Trent, who had been released from jail, visited Appellant and showed him the pictures. (Id. at 742). Trent asked Appellant, "Is this what you wanted?" According to Trent, Appellant said "Yeah." (Id. at 742).

On cross-examination and re-direct, Trent's testimony expanded into numerous other bad acts the State alleged Appellant had committed due to defense counsel's

"opening the door" by attacking the witness's credibility because of an April 4, 2002 letter he wrote to the assistant prosecutor handling the case against this Appellant. (Tr. Vol. III, pp. 774-780). The letter, Defendant's Exhibit 11 – which was not admitted- contained Trent's version of what Appellant admitted to him about his role in a homicide. But not the homicide of Andrew Dotson. In fact, Trent told defense as much early during his cross-examination that the letter involved "a different murder case." (Id. at 775).

Defense counsel was aware that the letter, dated April 11, 2002, preceded Appellant's conversations with Trent about Dotson's homicide because those conversations arose due to the April 11, 2002 visit of Lora Eberhard. However, defense counsel persisted in attacking Trent's credibility on the basis of his failure to mention Andrew Dotson, Mike Arthurs or a pickaxe in the letter, all of which is understandable since the letter did not deal with that offense.

On re-direct, the State was able to rehabilitate Trent by bringing up a number of other unrelated homicides or attempted homicides, including Appellant's desire to have Trent kill a police informant in protective custody by acting as a co-operative witness. (Id. at pp. 805-815). This all culminated in the following damaging testimony:

> "Jimmy Conway told me he might have a couple of other people he might need killed. So I'm like, Okay, now the body count's- - its getting astronomical. He thinks Mike Arthurs is already talking. He wants me to take out Mike Arthurs for Andrew Dotson's shit." (Tr. Vol. III, p. 814).

After Trent's testimony, the State rested its case. (Tr. Vol. IV, p. 846).

Thereafter, the defense moved for a judgment of acquittal under Rule 29 of the Ohio Rules of Criminal Procedure.

The Trial Court overruled the defense motion. (Tr. Vol. IV, p. 841).

The defense called several witnesses but only Jesse James is relevant to issues raised herein. Defense witness Jesse James told the jury he was shot in the right thigh on September 14, 2001. (Tr. Vol. IV, p. 846). The bullet entered through his buttocks area. (Id. at 848). The shooting occurred on the west side of Columbus near a White Castle. James admitted that he was in this area at the time with friends, including Jared Dilley, who was the individual that Andrew Dotson's girlfriend, Bobbi Hannah, was thinking about dating. (Id. at 849).

James went to that area after Andrew Dotson called him. (Id.). Once there, James and his friends were fired at by numerous individuals. James could not identify any of the shooters.

On cross-examination, James acknowledged that Andrew Dotson was at the scene and also a big fat white guy. (Tr. Vol. IV, pp. 852-859).

The defense thereafter rested its case. (Tr. Vol. IV, p. 931).

The State called no witnesses in rebuttal. (Id.).

As stated above, Appellant was convicted on all counts.

A mitigation was held in which numerous family members of Appellant were called as witnesses.

In spite of a number of mitigation witnesses, the jury recommended a sentence of death. (Tr. Vol. IV, pp. 1039-1051).

The trial court concurred and adopted the recommendations and imposed a sentence of death. (Tr. Vol. V, pp. 1311-1315).

This is Appellant's one and only direct appeal of his conviction and sentence of death.

PROPOSITION OF LAW ONE

IMPOSITION OF THE DEATH SENTENCE VIOLATES THE SIXTH, EIGHTH AND FOURTEENTH AMENDMENTS TO THE U.S. CONSTITUTION AND ARTICLE ONE, SECTIONS TWO, NINE AND SIXTEEN OF THE OHIO CONSTITUTION.

The Eighth Amendment of the United States Constitution and Section 9, Article 1 of the Ohio Constitution explicitly prohibit the infliction of cruel and unusual punishment upon a convicted criminal offender. The Eighth Amendment protections are applicable to the states through the Fourteenth Amendment. *Robison v. California* (1960), 370 U.S. 600. The principle underlying this prohibition, governmental respect for human dignity, must be this Court's guideline in determining whether a challenged punishment is constitutional, *Furman v. Georgia* (1972), 408 U.S. 238, rehearing denied (1972), 409 U.S. 902 (Brennan, J., concurring); *Rhodes v. Chapman* (1981), 452 U.S. 337; *Trop v. Dulles* (1958), 356 U.S. 86.

The prohibition against cruel and unusual punishment promises to all that the state's power to punish will be exercised within the limits of civilized standards. *Trop, supra.* What constitutes cruel and unusual punishment is not a static concept but rather a concept which "must draw [its] meaning from the evolving standards of decency that mark the progress of a maturing society". (*Id.* at 101). This concept must be interpreted in a flexible and dynamic manner.

Punishment which is "excessive" constitutes cruel and unusual punishment. *Coker v. Georgia* (1977), 433 U.S. 584. A punishment is excessive if it (1) makes no

Measurable contribution to acceptable goals of punishment and hence is nothing more than the purposeless and needless imposition of pain and suffering; or (2) is grossly out of proportion to the gravity of the offense. *Coker, supra* at 592. Thus, if the death penalty makes no measurable contribution to acceptable goals of punishment or it if is disproportionate to the seriousness of the offense committed, it is excessive and, therefore, unconstitutional.

Equal protection under the law, as guaranteed by the Fourteenth Amendment, requires that similarly situated persons be treated similarly. This right extends to the protection against cruel and unusual punishment. *Furman, supra* at 294 (Douglas, J., concurring).

> "The high service rendered by the "cruel and unusual" punishment clause of the Eighth Amendment is to require legislatures to write penal laws that are even handed, nonselective, and no arbitrary, and to require judges to see to it that general laws are not applied sparsely, selectively, and spottily to unpopular groups. "

Furman, supra at 256 (Douglas, J., concurring). A death penalty imposed in violation of the Equal Protection guarantee is cruel and unusual punishment.

Capital punishment, because it involves the taking of life, is qualitatively different from other punishments. *Furman, supra* at 287 (Brennan, J., concurring). "The penalty of death differs from all other forms of criminal punishment, not in degree but in kind." (*Id.* at 306). (Stewart, J., concurring). "[I]n assessing the cruelty of capital punishment... We are not concerned only with the 'mere extinguishment of life'...But with the total

impact of capital punishment from the pronouncement of judgment of death through the execution itself, both on the individual and on the society which sanctions its use." *People v. Anderson* (Cal. 1972), 493 P. 2d 880, cert. Denied, (1972), 406 U.S. 958.

The Eighth Amendment concept of cruelty is not a prohibition against all suffering, but it is a prohibition against inflicting suffering greater than is necessary to serve the legitimate needs underlying a compelling state interest of society. Generally, society tolerated that degree of cruelty that is necessary to serve its legitimate needs. However, when the level of cruelty is disproportionate to the crime and consequently does not serve the needs of society, courts must find the punishment to be "cruel" within the meaning of the cruel and unusual punishment clause. *Robinson, supra.*

The Ohio capital punishment scheme allows for imposition of the death penalty in an arbitrary and discriminatory manner, in violation of the protections mandated in *Furman* and its progeny. The virtually uncontrolled discretion of prosecutors in indictment decisions allows for arbitrary and indiscriminatory imposition of the death penalty.

The United States Supreme Court's decision in *Woodson v. North Carolina* (1976), 428 U.S. 280, made it clear that the fatal flaw of mandatory death penalty statutes is that without specific standards, the process of deciding who is to be sentenced to death is shielded from judicial review.

The right to life is a constitutionally protected fundamental right. *Commonwealth*

v. O'Neal (Mass.1975), 327 N.E.2d 662; *Roe v. Wade* (1973), 4120 U.S. 113, rehearing denied, (1973), 410 U.S. 959; *Johnson v. Zerbst* (1938), 304 U.S. 458; *Yick Wo v. Hopkins* (1886), 118 U.S. 356. The Fifth and Fourteenth Amendments to the Constitution state explicitly that neither the United States Government nor any of the individual state governments may deprive a person of his life without due process of law. "aside from its prominent place in due process clause itself, the right to life is the basis for all other rights. In the absence of life all other rights do not exist." *Commonwealth v. O'Neal, supra* at 688.

Due process guarantees prohibit the taking of life unless the state can show a legitimate and compelling interest. *Commonwealth v. O'Neal, supra* at 668; *Commonwealth v. O'Neal II* (Mass. 1975), 339 N.E.3d 676, 678 (Tauro, C.J., concurring); *State v. Pierre* (Utah 1977), 572 P.2d 1338 (Maughan, J., concurring and dissenting), cert. Denied (1978), 438 U.S. 882.

Due process and equal protection rights require that states not impose a capital sentence through procedures that create a substantial risk of arbitrary and capricious application. *Gregg v. Georgia* (1976), 428 U.S. 153, rehearing denied, (1976), 429 U.S. 875 at 188 and 193-195; *Furman*, 408 U.S. 255, 274 and 309. The Ohio scheme does not meet these requirements. For example, by failing to require the conscious desire to kill or premeditation and deliberation as the culpable mental state, R.C. §2903.01(B) and R.C. §2929.04(A)(7) run afoul of the federal and state constitutions. Nor does the Ohio Code

require that imposition of death penalty only be allowed after proof beyond all doubt.

Another deficiency is that the statutes do not require the state to prove the absence of any mitigation factors and that death is the only appropriate penalty. The statutory scheme is also unconstitutionally vague which can lead to arbitrary imposition of the death penalty. Moreover, the statutes have impermissibly devalued the importance of mitigation because no methods exist to ensure a proper "weighing and consideration" is accomplished. Because of these deficiencies, the Ohio statutory scheme does not meet the requirements of *Furman* and its progeny.

The Ohio statutes also violate the mandates of the constitutional protections by requiring proof of aggravating circumstances in the trial phase of capital trials. The United States Supreme Court has approved schemes which separate the consideration of statutory aggravating circumstances from the determination of guilt because of their ability to provide an individualized determination and to narrow the category of defendants eligible for the death penalty. See, *Zant v. Stephens* (1983), 462 U.S. 861; *Barclay v. Florida* (1983), 463 U.S. 939, rehearing denied, (1983), 464 U.S. 874. Ohio's statutory scheme cannot provide for these constitutional safeguards.

By requiring proof of the aggravating specifications simultaneously with proof of guilt, Ohio has effectively prohibited a sufficient individualized determination in sentencing as required by post-*Furman* cases. See, *Woodson*, 428 U.S. at 961. The jury must be free to determine whether death is appropriate punishment for a defendant. By

not requiring the state to establish guilt on the question of murder prior to the jury's consideration of the aggravating circumstances, the jury is unconstitutionally barred from making the necessary individualized determination of appropriateness. This is especially prejudicial where, as in Ohio, the consideration of aggravating circumstances is accomplished without consideration of any mitigating factors.

The statutory scheme for capital felony murder also fails to comply with the requirements set forth in *Lowenfield v. Phelps* (1988), 484 U.S. 231, 98 L.E.2d 568, rehearing denied, (1988), 99 L.E.2d 286. Ohio's scheme allows an aggravating circumstance (R.C. §2929.04(A)(7)) to merely repeat an element of aggravated murder pursuant to R.C. §2903.04(B). No effective narrowing is performed when a capital defendant is indicted for felony murder and the felony murder specification. As a result, the scheme is unconstitutional.

The Ohio scheme is also unconstitutional because it imposes an impermissible risk of death on capital defendants who choose to exercise their right to a jury trial. A defendant who decides to plead guilty or no contest to an indictment which contains one or more capital specifications receives the benefit of having the trial court judge vested with the discretion to dismiss the specifications "in the interest of justice." Ohio Criminal Rule of Procedure 11(C)(3). Accordingly, the capital indictment may be dismissed regardless of the presence of absence of mitigation circumstances. No such corresponding provision exists if a capital defendant elects to proceed to trial before a

jury.

In *Lockett v. Ohio* (1978), 438 U.S. 586, Justice Blackmun, in his concurring opinion, found this discrepancy in Ohio's statute to be a constitutional infirmity. Justice Blackmun stated that this disparity in Ohio's statute violated the United States Supreme Court's pronouncement in *United States v. Jackson* (1968), 390 U.S. 570. (*Id.* at 617), and needlessly burdened the defendant's exercise of his rights to a trial by jury. Since the United States Supreme Court's decision in *Lockett*, the infirmity has not been cured, and Ohio's statute remains unconstitutional.

Another aspect of the unconstitutionality of Ohio's scheme concerns excessiveness and disporportionality issues. The Ohio Revised Code, through provisions in §§2929.021 and 2929.03, requires reporting of some data to the Court of Appeals and the Ohio Supreme Court; although as discussed above, there is a critical omission of a written life recommendation report for the panel. There are also substantial doubts as to the adequacy of the information received after guilty pleas to lesser offenses or after charge reductions at trial. §2929.021 requires the reporting of only minimal information on these cases. There is no system of adequate tracking under the Ohio scheme. This prohibits adequate appellate review.

Adequate appellate review is a precondition to a finding that a state death penalty system is unconstitutional. *Zant* at 884; 885; *Barclay, supra* at 958. Review must be based on a comparison of similar cases and ultimately must focus on the character of the

individual and the circumstances of the crime. (*Id.*).

Adequate appellate review is undercut by the failure of the Ohio statutes to require the jury recommending life imprisonment to identify the mitigating factors. Without this information, no significant comparison of cases, there can be no meaningful appellate review.

The proportionality system in Ohio is also constitutionally flawed because of the method used for case comparison. The Ohio Supreme Court in *State v. Steffen* (1987), 31 Ohio St.3d 111, 509 N.E.2d 383, cert. Denied, (1988), 485 U.S. 916, at paragraph one of the syllabus held that "the proportionality review required by R.C. §2929.05(A) is satisfied by a review of those cases already decided by the reviewing court in which the death penalty has been imposed." By only reviewing those cases in which death is imposed, the capital defendant is prevented from receiving a fair proportionality review. No meaningful manner exists in which to distinguish those capital defendants who are deserving of the death penalty and those who are not. This violates the Fifth, Eighth and Fourteenth Amendments to the United States Constitution.

The appropriateness analysis used by the Ohio courts of appeals and the Ohio Supreme Court is also constitutionally infirm. R.C. §2929.05(A) requires the appellate courts of Ohio determine the appropriateness of the death penalty in each capital case they review. The statute directs the court to "affirm a sentence of death only if the particular court is persuaded from the record that the aggravating circumstances the

offender was found guilty of committing outweigh the mitigating factors present in the case and that the sentence of death is the appropriate sentence in the case."

The Ohio Supreme Court and the courts of appeals have failed to follow the dictates of the statute. The appropriateness review ultimately conducted in each case is very cursory. It does not "rationally distinguish between those for whom it is not." *Spaziano v. Florida* (1984), 468 U.S. 447, 460. Any death sentence upheld on appeal under these circumstances does not comport with the Fifth, Eighth and Fourteenth Amendments of the United States Constitution.

The Ohio scheme is also unconstitutional in that it fails to provide the sentencing authority with an option to choose a life sentence when there are only aggravating circumstances. By foreclosing the jury or three judge panel's ability to return a life sentence unless aggravating factors fail to outweigh the mitigating factors, Ohio's statutes violate the Eighth and Fourteenth Amendments to the United States Constitution and Sections 9 and 16, Article I, of the Ohio Constitution and creates a mandatory death penalty. Merely concluding that the aggravating circumstances outweigh the mitigating factors may be inadequate, as a jury or three judge panel may still conclude that "a comparison of the aggravating factors with the totality of the mitigating factors leaves it in doubt as to the proper penalty", i.e., in doubt as to whether death is the appropriate punishment in a specific case. *Smith v. North Carolina* (1982), 459 U.S. 1056, (Stevens, J., dissenting from denial of certiorari).

Under §2929.05 of the Revised Code of Ohio, courts affirming a death sentence in Ohio are required to find that death is the only appropriate remedy, but the original sentencer has no such statutory requirements, and they must. The jury or three judge panel must make this decision and must make it in a fashion that will allow it to be reviewed objectively at the appellate level. Due process requires that the same standards apply at both levels. Arbitrary decisions are likely at the appellate level if courts make assumptions as to what the sentencer considered.

The "fundamental issue" in a capital sentencing proceeding is this "determination of the appropriate punishment to be imposed on an individual." *Spaziano v. Florida* (1984), 468 U.S. 447. The sentencer must "rationally distinguish between those individuals for whom death is an appropriate sanction and those from whom it is not." (*Id.* at 352). Appropriateness of the penalty thus appears to be the core, an indispensable element of a constitutionally valid sentencing scheme. Yet, Ohio's laws do not provide the jury or three judge panel with an opportunity to consider this.

The Eighth Amendment of the United States Constitution and Section 9, Article I, of the Ohio Constitution prohibit infliction of cruel and unusual punishment.

The Fifth and Fourteenth Amendments of the United States Constitution, as well as Sections 2 and 16, Article I, of the Ohio Constitution, provide guarantees to equal protection of law and due process. These guarantees are further safeguards against imposition of the death penalty, even if it is not found to be inherently cruel and unusual.

Due process guarantees that, where fundamental rights are at risk, the life of the defendant may not be taken without substantive safeguards first being met. Governmental action cannot be justified unless the interest to be served is a compelling governmental interest. Further, that interest must be promoted through use of the lease restrictive means that can effectively serve the State's interest. Moreover, the State has failed to show that a less interest means, such as life imprisonment, could not effectively serve the interest the State has asserted as justifying the death penalty. Due process also guarantees fair proceedings through which sentencing is accomplished. Where this occurs, the death penalty, as applied, constitutes cruel and unusual punishment.

Ohio's statutory scheme under which the death penalty is authorized fails to ensure that arbitrary and discriminatory imposition of the death penalty will not occur. The procedures utilized under this scheme actually promote the death penalty contained in R.C. §§2903.01, 2929.02, 2929.021, 2929.022, 2929.03, 2929.04 and 2929.05 violate the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution and Sections 2, 9, 10 and 16, Article I of the Ohio Constitution. The death sentence in this case must be reversed.

PROPOSITION OF LAW TWO

IN A CAPITAL CASE, WHERE THE STATE FAILS TO PRESENT SUFFICIENT EVIDENCE TO PROVE BEYOND A REASONABLE DOUBT ALL OF THE ELEMENTS OF THE OFFENSES CHARGED, THE APPELLANT'S SUBSEQUENT CONVICTIONS VIOLATE THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION, AND ARTICLE ONE, SECTION SIXTEEN OF THE OHIO CONSTITUTION, AND THE PROSCRIPTION AGAINST CRUEL AND UNUSUAL PUNISHMENT CONTAINED IN THE EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION, AND ARTICLE ONE, SECTION NINE OF THE OHIO CONSTITUTION.

The Constitution prohibits the criminal conviction of any person except upon proof of guilt beyond a reasonable doubt. *In re Winship* (1970), 397 U.S. 358. This principle has been codified in R.C. §2901.05(A), which provides that , "every person accused of an offense is innocent until proven guilty beyond a reasonable doubt and the burden of proof is on the prosecution." See *State v. Adams* (1980), 62 Ohio St.2d 151; *State v. Miclau* (1957), 167 Ohio St. 38.

In examining claims based upon insufficient evidence, a reviewing court must determine whether, after viewing the probative evidence and inferences reasonably drawn therefrom in the light most favorable to the prosecution, any rational trier of fact could have found all the essential elements of the offense beyond a reasonable doubt. *State v. Martin* (1983), 20 Ohio App.3d 172; 175; *State v. Eley* (1978), 56 Ohio St.2d 169. The United States Supreme Court has articulated and applied the same test. *Jackson v. Virginia* (1979), 443 U.S. 307, 318-319.

In this case the State failed to present sufficient evidence of Appellant's

aggravated murder conviction and specifically the first and third specifications contained in the indictment.

Under the first specification, the State was required to prove beyond a reasonable doubt that the aggravated murder "was committed for the purpose of escaping detection, apprehension, trial or punishment for another offense committed by the offender." (Emphasis added.) R.C. §2929.04(A)(3). As this Court has previously held, this statute requires the State to prove beyond a reasonable doubt that the capital Defendant committed the offense for which he sought to avoid apprehension. *State v. Jones* (2001), 91 Ohio St.3d 335, at 346-347.

Simply put, the Appellant's commission of the prior offense constitutes an essential element of the R.C. §2929.04(A)(3) specification. (Id. at 347).

In this case, the State failed to present sufficient evidence that Appellant committed the offense of felonious assault upon Jesse James. The Trial Court, although defining the offense felonious assault, never informed the jury that it had to find beyond a reasonable doubt that Appellant committed the offense to convict him of the specification. (Tr. Vol. IV, pp. 1016-1018).

In fact, the Trial Court told the jury that "[y]ou aren't deciding that offense before you...," meaning the felonious assault.

Based on the instructions, the jury was not instructed that a finding as to the felonious assault charge was necessary to convict on the specification.

Likewise, specification three required the jury to find that Andrew Dotson was a witness to an offense and purposely killed to prevent his testimony in a criminal proceeding. R.C. §2929.04(A)(8).

Again, the State failed to present sufficient evidence of this specification. No evidence existed that Appellant was even a suspect in the shooting of Jesse James. James testified that he had no idea who shot at him. (Tr. Vol, pp. 851-855). No criminal proceeding was underway nor did any evidence exist that Dotson was in the process of cooperating with law enforcement officials.

Based on these facts, insufficient evidence existed as to Appellant's aggravated murder conviction as well as specifications one and three.

PROPOSITION OF LAW THREE

IN A CAPTIAL CASE, WHERE THE TRIAL COURT PRECLUDES THE DEFENSE FROM INTRODUCING, AND THE JURY FROM CONSIDERING, CRUCIAL AND RELEVANT MITIGATION EVIDENCE CONTRA *LOCKETT V. OHIO*, THE APPELLANT'S SUBSEQUENT DEATH SENTENCE VIOLATES THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION, AND ARTICLE ONE, SECTION SIXTEEN OF THE OHIO CONSTITUTION, AND THE PROSCRIPTION AGAINST CRUEL AND UNUSUAL PUNISHMENT CONTAINED IN THE EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION, AND ARTICLE ONE, SECTION NINE OF THE OHIO CONSTITUTION.

In *Lockett v. Ohio* (1978), 438 U.S. 586, 98 S. Ct. 2954, the Court held that the Eighth and Fourteenth Amendments require that a capital jury consider as a mitigating factor any aspect of an Appellant's character when determining the appropriate penalty. The purpose for this holding was to ensure that individualized consideration of each capital Appellant occurs prior to the jury's verdict. "To meet constitutional requirements, a death penalty statute must not preclude consideration of relevant mitigating factors." (Id. at 608).

In the instant case, the Trial Court precluded Appellant from introducing during the penalty phase, photographs marked as Defendant's Exhibits M-1, M-2, M-3, M-4, M-5, M-6, M-7, M-11, M-12, and M-13. (Tr. Vol V, pp. 1106-1223).

Defense counsel moved for the introduction of these exhibits arguing correctly that under Ohio's statutory scheme the photographs were relevant factors as to

Appellant's background and history. (Tr. Vol V, p. 1247).

The State objected. (Id.).

The Trial Court sustained the State's objection by concluding that said photographs are not "relevant to any factors that the jury can consider." (Id. at 1247).

The photographs which are part of the Appellant record (Tr. Vol. V, p. 1248) depicted Appellant with family members which not only corroborate each witnesses' testimony as to their relationship with him, but also illustrates his background and life prior to the charges herein. The photographs assist in telling Appellant's life story. Perhaps the pictures could engender sympathy from the jury; however, the photographs are as relevant to Appellant's penalty phase presentation as the photographs of victim Andrew Dotson's were to the State's case during trial phase. But the Trial Court admitted photographs of the victim's decomposed body, as well as the staged photographs of Mike Arthurs in a grave, but not Appellant's photographs.

The penalty phase is about Appellant and why the death penalty is not suitable as a sentence. *Lockett* requires the trial court to permit the jury to consider all relevant mitigating evidence. The photographs were clearly relevant under *Lockett* to enable the jury to individualize its sentencing recommendation.

In fact, Appellant is unaware of any Ohio capital case in which a trial judge has precluded the admission of similar photographs of a capital Defendant and family members during the penalty phase of his trial.

> "When the choice is between life and death, the risk that the death penalty will be imposed in spite of factors which may call for a less severe penalty is unacceptable and incapitable within the commands of the Eighth and Fourteenth Amendments." *Lockett*, at p. 605.

The Trial Court erred by failing to admit Appellant's penalty phase photographs.

The Court's ruling tainted the process and violated the fundamental tenets of *Lockett* that the error is presumptively prejudicial and requires a reversal of the death sentence.

PROPOSITION OF LAW FOUR

BECAUSE OF PRE-TRIAL PUBLICITY INCLUDING NEWSPAPER ARTICLES DETAILING APPELLANT'S PRIOR CONVICTION AND DEATH SENTENCE IN ANOTHER CASE, APPELLANT WAS DENIED HIS CONSTITUTIONAL RIGHT TO A FAIR AND RELIABLE DETERMINATION OF GUILT OR INNOCENCE AS WELL AS SENTENCE BY AN IMPARTIAL JURY UNDER ARTICLE ONE, SECTIONS TWO, NINE, TEN AND SIXTEEN OF THE OHIO CONSITUTION AND THE FIFTH, SIXTH, EIGHTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION.

Appellant's capital trial began on Monday morning, September 15, 2003. One day earlier, September 14, 2003, an article appeared in The Columbus Dispatch "Metro Section" entitled "Killer Could Get Second Death Sentence." (Tr. Vol. I, pp. 2-3).

Based on the article, the defense moved for a change of venue and/or continuance. (Tr. Vol. I, pp. 2-3).

The Trial Court took the motion under advisement pending the voir-dire process. (Tr. Vol. I, p. 4).

The Trial Court apparently denied Defendant's motion, although, Appellant is unable to cite to the specific transcript page that contains the Court's ruling.

Nonetheless, articles regarding this case continued to appear in The Columbus Dispatch and are likewise part of the Appellate record.

The publicity that Appellant had been sentenced previously to death required that his case be moved from Franklin County.

The failure to do so prejudiced Appellant as the news reports regarding his prior conviction and death sentence surely permeated the venire causing question as to his conviction and death sentence.

PROPOSITION OF LAW FIVE

IN A CAPITAL CASE, WHERE THE TRIAL JUDGE GIVES A FAULTY REASONABLE DOUBT INSTRUCTION DURING THE PENALTY PHASE, APPELLANT'S DEATH SENTENCE VIOLATES THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION, AND ARTICLE ONE, SECTION SIXTEEN OF THE OHIO CONSTITUTION, AND THE PROSCRIPTION AGAINST CRUEL AND UNUSUAL PUNISHMENT CONTAINED IN THE EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION, AND ARTICLE ONE, SECTION NINE OF THE OHIO CONSTITUTION.

During the penalty phase, the Trial Court gave a flawed reasonable doubt instruction. (Tr. Vol. V, p. 1292). The Court gave the identical reasonable doubt instruction it gave during the trial phase by telling the jury that "[R]easonable doubt is present when after you've carefully considered and compared all of the evidence you cannot say you are firmly convinced of the truth of the charge." (Id.) Rather, the Court should have instructed the jury that reasonable doubt occurred when...you cannot say you're firmly convinced that the aggravating circumstances outweigh the mitigating factors.

By giving a flawed instruction, the jury was unable to properly consider the mitigation presented. Appellant submits that the phrase "truth of the charge" is especially problematic because the jury already found during the trial phase that the charge of aggravated murder was truthful.

The Trial Court's use of this phrase in the penalty phase instruction fails to give the jury the proper guidance in conducting a constitutionally appropriate weighing

process of the aggravators versus mitigators.

Because of this, Appellant was denied his right to a fair trial.

PROPOSITION OF LAW SIX

THE ADMISSION OF HEARSAY STATEMENTS AS TO KEY ISSUES DEPRIVED APPELLANT OF HIS RIGHT TO A FAIR TRIAL UNDER THE OHIO AND FEDERAL CONSTITUTIONS.

As stated in the Statement of the Facts, the Trial Court permitted two witnesses, Lora Eberhard and Cecil Dotson, to testify that Andrew Dotson was involved in a shooting and detectives wanted to speak with him. (Tr. Vol. II, pp. 343; 389). The Trial Court determined that these statements were not introduced to prove the truth of the matter asserted, and as such, the statements were not hearsay.

This is a misunderstanding of the State's theory of the case. The key motive in this case for Appellant to kill Dotson was that he witnessed a shooting and might run to the police.

By permitting Eberhard and Cecil Dotson to testify about these issues, the Court allowed the State to introduce crucial evidence by way of hearsay, thereby depriving the defense the right of confrontation and cross-examination, all of which deprived Appellant his right to a fair trial.

PROPOSITION OF LAW SEVEN

MULTIPLE INSTANCES OF DEFICIENT PERFORMANCE IN THE CONDUCT OF THE TRIAL AND PENALTY PHASES OF A CAPITAL TRIAL COUPLED WITH PREJUDICE INURING TO THE DETRIMENT OF THE DEFENDANT RESULT IN THE DENIAL OF THE RIGHT TO A FAIR TRIAL AND THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL UNDER THE SIXTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AS WELL AS ARTICLE ONE, SECTION TEN OF THE OHIO CONSTITUTION.

Evaluation of a claim of ineffectiveness of counsel is a two-step process. First, there must be a determination whether trial counsels' performance fell below an objective standard of reasonableness. *Strickland v. Washington* (1984), 466 U.S. 668. Next there must be a determination whether counsels' ineffectiveness prejudiced the defense. *State v. Lytle* (1976), 48 Ohio St. 2d 391, 396-97. The prejudice prong must include consideration of whether the outcome was fundamentally unfair or unreliable. *Lockhart v. Fretwell* (1993), 506 U.S. 364, 113 S. Ct. 838, 842-43. Appellant submits that the following acts or omissions by trial counsel were outside of the range of competence expected of Sup. Ct. 20 qualified counsel and that they undermine confidence in the outcome.

I. Trial Phase

A. Appellant's due process rights were infringed upon when counsel failed to request a hearing following contact between witnesses after the Court had ordered a separation of witnesses.

The Court ordered a separation of witnesses at the request of the parties early on

in the proceedings. Defense counsel brings to the Court's attention that Detective Zach Scott was meeting with a witness, Mike Arthurs, in a holding cell for 50 minutes. (Tr. Vol. II, pp.481-483). The Court did not address the issue at all after it was brought to the Court's attention, and defense counsel failed to request a hearing to inquire into the substance of the conversation. Ultimately, Detective Scott was not called as a witness, and there was therefore no opportunity for this issue to be explored. This conversation was taking place while counsel was bringing the situation to the Court's attention. (Tr. Vol. II, p. 481). Therefore, six witnesses had testified before this conversation took place. Clearly, it was a violation of the order for separation of witnesses, and a hearing should have been requested and conducted before proceeding with the trial.

B. By their cross-examination of a witness, counsel opened the door to later damaging testimony by that witness on re-direct, knowing through other evidence the consequences of that examination.

The victim's mother, Lara Eberhard, testified she visited the Appellant at the jail on April 11, 2002. (Tr. Vol. II, p. 365). Ronny Trent testified that his conversations with Appellant regarding the Andrew Dotson killing did not begin until after Appellant's visit with Andrew's mother. (Tr. Vol.III, pp. 728-729). On cross-examination of Mr. Trent, defense counsel presents to him and asks him about the first letter he sent to the prosecutor, dated April 4, 2002. (Tr. Vol. III, pp.774, 775). Apparently to question his motives for coming forward, she questions him extensively regarding the absence of information in the letter regarding the Andrew Dotson homicide. (Tr. Vol. III, pp. 775,

776). Knowing the contents of the letter, defense counsel opened the door to re-direct regarding why Mr. Trent wrote that letter, and why and when he came forward regarding the Andrew Dotson homicide. Mr. Trent testified that the letter was a follow-up to a request by Appellant that the witness go to the police with information about a case involving Appellant, in an effort to locate and kill a witness against Appellant who was then in the witness protection program. (Tr. Vol. III, p. 807). Clearly, the prejudicial nature of this testimony far outweighed any impeachment value it may have had. Counsel's performance here fell far below an objective standard of reasonableness, and most certainly prejudiced the defense. There can be no question that the outcome was fundamentally unfair when the Court permits testimony regarding yet another planned killing of a potential witness by Appellant. The admission of this and other bad act evidence prompted the jury to convict the Appellant because of a propensity to kill or order the killing of others, and not because of the evidence against him regarding the Andrew Dotson homicide. This error was so egregious that the Court should have excluded the testimony regardless of the ineffective assistance of counsel in opening the door to the testimony.

C. Defense counsel failed to zealously represent Appellant when they failed to object to hearsay testimony and other acts testimony.

Without laying a foundation as to how the witness would know from where a telephone call originated, Roberta Hannah testified she received a call from Andrew Dotson from Chillicothe. (Tr. Vol. II, p. 420). This is important because Chillicothe is

where the State's witnesses testified the series of events leading up to the homicide began. There was no objection to this testimony. Cross-examination simply assumes and confirms the location as Chillicothe to the detriment of Appellant. (Tr. Vol. II, p. 431). The Court amplifies this error in a ruling on this hearsay evidence, where the Court indicates it is not admissible, but that "most of them came in anyway." (Tr. Vol. II, pp.435-436). During defense counsel's cross-examination of Michael Arthurs, he elicits hearsay that Shawn Nightingale told Arthurs that Appellant shot Jesse James. (Tr. Vol. III, P. 561). Counsel does not stop the witness, or ask that the response be stricken. Shawn Nightingale did not testify in this case. Roberta Hannah testified as to the relationship between Andrew Dotson and Appellant. The prosecutor asked if she had ever seen Appellant treat Dotson badly. Hannah testifies to an incident where Appellant became upset with Dotson for no apparent reason. (Tr. Vol. II, p. 414). This testimony was in no way relevant, and further portrayed Appellant as volatile and angry. Again, there was no objection to this testimony, which was a clear violation of Evidence Rule 404(B).

D. Counsel failed to promptly object or to request a curative instruction following inadmissible testimony.

Appellant incorporates by reference the incidences discussed in subsection C above, regarding lack of objection, to this argument regarding a request for a curative instruction. Although defense counsel did not object in a timely manner, when clearly

inadmissible evidence was brought before the jury, counsel had a clear obligation to request a curative instruction: *State v. Davie* (1997), 80 Ohio St.3d 311, 322.

E. Defense counsel presented testimony in Appellant's case which was in fact harmful to the Appellant; and which was essential to, but was not presented by the State.

R.C. §2929.04(A)(3) provides that the death penalty may be imposed when it is proven beyond a reasonable doubt that the capital offense "was committed for the purpose of escaping detection, apprehension, trial, or punishment for another offense committed by the offender." Appellant was charged under this section in Specification 1 to Count 1 of the indictment. In *State v. Jones* (2001), 91 Ohio St.3d 335, 347, the Court held that the state must prove that the defendant committed the offense for which he sought to avoid apprehension by proof beyond a reasonable doubt. The Court found that the commission of the prior offense constitutes an essential element of the R.C. §2929.04(A)(3) specification. In this case, the state provided no competent, admissible evidence that Appellant committed the offense surrounding the shooting of Jesse James, which was the basis for the specification. Defense counsel, in their case, called Jesse James to testify to all essential elements of that offense, including location (Tr. Vol. IV, p. 848), and the reason for the initial meeting. (Tr. Vol. IV, p. 849). Mr. James also testified that Andrew Dotson called him and told him where they wanted to meet him, and that he was there with three other people. (Tr. Vol. IV, 855, 850). He further testified that one of the people with Andrew Dotson, and who had a gun, was a "big, fat, white

guy", a description which matches that of the Appellant. (Tr. Vol. IV, 856). Defense counsel, in their case, proved specification 1, an essential element of the State's case. In fact, the entire case against Appellant stems from the shooting of Jesse James and whether Appellant wanted Andrew Dotson killed because of that shooting. Clearly, the evidence presented by the defense, at the very least filled in any blanks left by the State's case regarding that incident. Clearly, counsel's performance fell below an objective standard of reasonableness and the prejudice to Appellant created a fundamentally unfair and unreliable outcome.

II. Penalty Phase

A. Counsel for Appellant failed to zealously represent defendant when they failed to object to an incorrect Reasonable Doubt instruction during the penalty phase.

The Court charged the jury in mitigation that "reasonable doubt is present when after you've carefully considered and compared all of the evidence you cannot say you are firmly convinced of the truth of the charge." (Tr. Vol. V, p. 1292). Clearly, the instruction in the penalty phase should be whether the jury is firmly convinced that the aggravating circumstances outweigh the mitigating factors.

B. Counsel for Appellant was ineffective for failing to call a psychologist during the penalty phase.

Psychological testimony regarding Appellant's home life, and the effects of living with a violent and volatile father would have helped the jury immeasurably in evaluating

Appellant's state of mind, and in providing insight into his life.

C. Counsel for Appellant was ineffective for calling Appellant's high school physics teacher during mitigation.

The testimony of William Kruczynski, Appellants high school teacher, demonstrated Appellant's intellect and potential. It left the jury with the impression that Appellant most certainly had the potential to do something positive with his life, and that he most certainly understood the consequences of the decisions he was making.

PROPOSITION OF LAW EIGHT

THE COURT ERRED BY ALLOWING THE ADMISSION OF IRRELEVANT AND PREJUDICIAL MATERIAL REGARDING OTHER ACTS COMMITTED BY THE APPELLANT, IN VIOLATION OF THE OHIO RULES OF EVIDENCE AND THE APPELLANT'S SUBSTANTIVE AND PROCEDURAL DUE PROCESS RIGHTS UNDER THE FEDERAL AND STATE CONSTITUTION.

The Trial Court in this case allowed the State, over defense objection, to introduce evidence of various other bad acts Appellant had allegedly committed. These acts were independent of the offense with which Appellant was charged, and the State used these acts solely to attack Appellant's character and to portray him as a violent and dangerous man. Evid.R. 404(A) prohibits evidence of other acts for the purpose of establishing that the defendant acted in conformity with his bad character. *State v. Davis* (1989), 64 Ohio App.3d, 334. Evid.R. 404(B), which provides exceptions to that general rule, must be strictly construed against admissibility. *State v. Coleman* (1989), 45 Ohio St.3d 298, 299. There was no direct evidence linking Appellant to the crime charged. Most of the evidence came from an alleged co-conspirator, and a long time jail house snitch, both of whom benefited greatly in their cases by cooperating with the State. The State used this other act evidence to bolster their testimony and to persuade the jury to convict because of their fear that Appellant was a danger to society, and not because the evidence regarding this crime supported conviction.

Roberta Hannah testified to an incident where Appellant yelled at Andrew Dotson. (Tr. Vol. II, p. 414). This is the only other acts testimony that was not objected

to. There was no reference as to when this incident took place, it was completely irrelevant to the crime Appellant was on trial for, and it fit none of the exceptions in Evid.R. 404(B).

Michael Arthurs testified, over objection, that while shopping after the Dotson homicide, Appellant purchased "a pointed shovel, a spaded shovel" and said it was for the next time. (Tr. Vol. II, p. 529). He also testified that detectives asked him to dig his own grave, and took pictures of him in it, because Appellant had hired someone to kill him. (Tr. Vol. II, p. 538). The pictures were to be shown to Appellant to prove the murder had been accomplished. Not only was this irrelevant and highly prejudicial, it was also hearsay testimony.

Ronny Trent testified about a discussion he had with Appellant regarding concerns that people involved with Appellant in a case from Chillicothe might cooperate with police and provide information or testimony against Appellant. (Tr. Vol. III, p. 728). Trent indicates Appellant told him he "had some people he wanted to take care of". He later testifies that "it was like it was a list, you know, a hit list", and that Appellant told him how he wanted Mike Arthurs killed. (Tr. Vol. III, p. 729). Mr. Trent further testified that Appellant was afraid Andrew Dotson was going to talk to authorities about a racketeering case and about seeing Appellant shoot somebody at a White Castle. (Tr. Vol. III, p. 730). On page 735 and 736, Mr. Trent testifies that Appellant wanted Michael Arthurs killed because he was afraid he was going to tell on

him for a robbery in Chillicothe, and for the Andrew Dotson homicide. He then confirms that after being asked by Appellant, he agreed to kill people for him. He later testifies that before any discussions of the Dotson homicide, he wrote a letter to the prosecutor, at Appellant's request, to attempt to get at and kill a witness in protective custody on a completely unrelated case. (Tr. Vol. III, p. 807). On pages 813 and 814, Trent again testifies that Appellant told him he might have a couple more people for him to kill. Trent testifies "now the body count's going—it's getting astronomical". Finally, on page 815, Trent testifies that he showed Appellant two pictures of people he was supposed to have killed: Michael Arthurs and a "guy that made a video confession for him." As is true with any evidence, Evid.R. 404(B) evidence still must be balanced against relevancy and fairness pursuant to Evid.R. 403(A). It must be excluded if its probative value is substantially outweighed by the danger of unfair prejudice. *State v. Soke* (1995), 105 Ohio App.3d 226, 249. The evidence of other acts in this case was highly prejudicial. Appellant suffered material prejudice in that the jury was invited to convict the Appellant solely because it was shown through other acts that he had the propensity to commit violent acts of the same nature as charged in this case, and deserved punishment. The State relied on highly inflammatory evidence in its case. Had the evidence been otherwise overwhelming, it would have minimized the danger of any unfair prejudice from improper evidence. *State v. Hirsch* (1998), 129 Ohio App.3d. 294. In this case, the evidence only evidence against Appellant came from inherently

unreliable sources and was entirely circumstantial. Therefore, the Trial Court's decision to allow testimony regarding these many instances of other acts was so arbitrary, unreasonable, or unconscionable as to constitute an abuse of discretion. *State v. Adams* (1980), 62 Ohio St.2d 151, 157.

CONCLUSION

For the reasons set forth above, Appellant would respectfully request this Court to sustain his assignments of error and remand this matter for a new trial. In the alternative, Appellant would request this Court remand this matter to the trial court to vacate the sentence of death and remand for resentencing.

W. JOSEPH EDWARDS
Attorney at Law
Supreme Court No 0030048
495 S. High Street, Suite 100
Columbus, Ohio 43215
(614) 224-8166 (Telephone)
(614) 849-0475 (Facsimile)

DIANNE WORTHINGTON
Attorney at Law
Supreme Court No. 0005518
P.O. Box 425
Galloway, Ohio 43119
(614) 851-2631 (Telephone)
(614) 878-8880 (Facsimile)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was served upon Steven Taylor, Attorney for Appellee, Franklin County Prosecutor's Office, 373 South High Street, Columbus, Ohio 43215 this 14th day of June, 2004.

W. JOSEPH EDWARDS
Attorney at Law

DIANNE WORTHINGTON
Attorney at Law

58196 - C42

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,	:	
Appellee,	:	Case No. 03-1964
vs.	:	
JAMES T. CONWAY, III,	:	
Appellant.	:	

ON APPEAL FROM THE FRANKLIN COUNTY COURT OF COMMON PLEAS
COLUMBUS, OHIO
CASE NO. 02CR-06-3117

NOTICE OF APPEAL

W.JOSEPH EDWARDS
Supreme Court No. 0030048
495 South High Street, Suite 100
Columbus, Ohio 43215
Telephone: (614) 224-8166
Facsimile: (614) 849-0475

COUNSEL FOR APPELLANT

STEVEN TAYLOR
Chief-Appellate Section
Supreme Court No. 0023440
Franklin County Prosecutor's Office
373 South High Street
Columbus, Ohio 43215
Telephone: (614) 462-3555

COUNSEL FOR APPELLEE

DIANNE WORTHINGTON
Attorney at Law
Supreme Court No. 0005518
P.O. Box 425
Galloway, Ohio 43119
Telephone: (614) 851-2631
Facsimile: (614) 878-8880

FILED
NOV 10 2003
MARCIA J. MENGEL, CLERK
SUPREME COURT OF OHIO

58196 - C43

APPELLANT JAMES T. CONWAY, III'S
NOTICE OF APPEAL

Appellant, James T. Conway, III hereby gives notice of appeal to the Supreme Court of Ohio from the Decision and Judgment Entry of the Franklin County Court of Common Pleas, journalized in Case No. 02CR-06-3117 October 2, 2003 and October 8, 2003 convicting Mr. Conway of Aggravated Murder with capital specification and sentencing him to death.

This is an appeal as to right involving the imposition of the death penalty for an offense committed on or after January 1, 1995.

Respectfully submitted,

W. Joseph Edwards (0030048)
Counsel for Appellant
495 South High Street, Suite 100
Columbus, Ohio 43215
Telephone: (614) 224-8166
Facsimile: (614) 849-0475

Dianne Worthington (0005518)
Counsel for Appellant
P.O. Box 425
Galloway, Ohio 43119
Telephone: (614) 851-2631
Facsimile: (614) 878-8880

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served upon Clerk of Court of Common Pleas, Franklin County Courthouse, 369 South High Street, Columbus, Ohio 43215; Steven Taylor, Chief-Appellate Section, Franklin County Prosecutor's Office, 373 South High Street, Columbus, Ohio 43215; and Carla Dinapoli, Court Reporter, Franklin County Hall of Justice, 369 South High Street, Eighth Floor, Columbus, Ohio 43215 by hand this 10th day of November 2003.

W. Joseph Edwards (0030048)
Counsel for Appellant

58196 - C45 IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

FILED
COMMON PLEAS COURT
FRANKLIN CO., OHIO
2003 OCT -8 PM 2:13
CLERK OF COURTS

The State of Ohio,	:	TERMINATION NO.___ BY___
Plaintiff,	:	
vs.	:	Case No. 02CR-06-3117
James T. Conway, III,	:	Judge Crawford
Defendant.	:	

JUDGMENT ENTRY

From September 15, 2003 through September 30, 2003, the State of Ohio was represented by Prosecuting Attorneys James Lowe and Sheryl Prichard and the Defendant was represented by Attorneys Diane Menashe and David Young. Counts One, Two, Three, Four, Five, and Six were tried by a jury which returned a verdict on September 23, 2003 finding the Defendant guilty of the following offenses:

Count One – **Aggravated Murder,** in violation of R.C. 2903.01, with three specifications.

Count Two – **Kidnapping,** in violation of R.C. 2905.01, a felony of the first degree.

Count Three – **Possession of Criminal Tools,** in violation of R.C. 2923.24, a felony of the fifth degree.

Count Four – **Abuse of a Corpse,** in violation of R.C. 2927.01, a felony of the fifth degree.

Count Five – **Obstructing Justice,** in violation of R.C. 2921.32, a felony of the third degree.

Count Six – **Tampering with Evidence,** in violation of R.C. 2921.12, a felony of the third degree.

The mitigation phase of this case began on September 24, 2003 and went through September 25, 2003. The jury reached a verdict on September 25, 2003, recommending the death penalty for the Defendant.

On September 29th and September 30th, 2003, a sentencing hearing was held.

The Court afforded counsel an opportunity to speak on behalf of the Defendant and addressed the Defendant personally affording him an opportunity to make a statement on his own behalf.

With respect to Counts Three, Four, Five, and Six, the Court has considered the purposes and principles of sentencing set forth in R.C. 2929.11 and the factors set forth in R.C. 2929.12. In addition, the Court has weighed the factors as set forth in the applicable provisions of R.C. 2929.13 and R.C. 2929.14. The Court further finds that a prison term is mandatory.

The Court, in a separate Decision, dated September 30, 2003, found that the Defendant was guilty of aggravated murder and that the aggravated circumstances the jury found outweighed, beyond a reasonable doubt, the mitigating factors. The Court hereby imposes the sentence of death for Count One. Count Two merges with Count One and the sentence is on Count One only. The Court imposes a sentence of **12 months for Count Three, 12 months for Count Four, 5 years for Count Five and 5 years for Count Six** to be served at the **OHIO DEPARTMENT OF REHABILTATION AND CORRECTIONS. Counts Three, Four, Five, and Six shall run consecutive with each other and collectively shall run concurrent with Count One.**

With respect to Counts Three, Four, Five, and Six, this Court has reviewed the Defendant's record (the record was not considered for purposes of Count 1). Maximum and consecutive sentences were given because considering this was an aggravated murder and the Defendant has committed a prior aggravated murder, the shortest prison term would demean the seriousness of the Defendant's conduct and would not adequately protect the public from future crime. Also considering the actions of the Defendant in this case and his previous case, he is the worst form of offender who poses the greatest likelihood of committing future crimes.

Because of the actions of the Defendant in this case and his prior case, consecutive sentences are necessary to protect the public from future crime and are not disproportionate to the seriousness of the Defendant's conduct and the danger he poses to the public and as previously stated, the harm caused by the multiple offenses was go great that no single prison term would adequately reflect the seriousness of the Defendant's conduct.

The Defendant having filed with the court an affidavit stating his indigency pursuant to Ohio Revised Code Section 2925.03(L), and it appearing that he is in indigent circumstances and unable to pay the court costs, the court finds the Defendant is an indigent person and unable to pay the court costs. The Court finds that the Defendant has **0 days** of jail time credit.

The execution date is set for September 30, 2004.

DALE A. CRAWFORD, JUDGE

Copies to:

James Lowe
Sheryl Prichard
Assistant Prosecuting Attorney

Diane Menashe
David Young
Counsel for Defendant

58196 - C48

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

The State of Ohio,	:	
Plaintiff,	:	
vs.	:	Case No. 02CR-06-3117
James T. Conway, III,	:	Judge Crawford
Defendant.	:	

FILED
COMMON PLEAS COURT
FRANKLIN CO., OHIO
2003 OCT -2 PM 2:06
CLERK OF COURTS

OPINION

Rendered this 30 day of September, 2003

CRAWFORD, J.

Background

On September 23, 2003, the Jury found the Defendant James T. Conway, III guilty of Aggravated Murder and guilty of three aggravating circumstances. The jury also convicted Mr. Conway of Kidnapping, Possessing Criminal Tools, Abuse of a Corpse, Obstructing Justice, and Tampering with Evidence.

On September 25, 2003 the jury returned a verdict finding that the state proved beyond a reasonable doubt that the aggravated circumstances outweighed the mitigating factors and they recommended that the Court impose a sentence of death upon Mr. Conway.

On September 29, 2003, the Court gave Mr. Conway and his counsel the opportunity to make any comments to the Court regarding his sentence. Pursuant to Rev. Code §2929.03 (F), the Court is issuing this opinion.

Facts

On or about September 12, 2001, the Defendant James T. Conway, III met Mike Arthurs and Shawn Nightingale at the Hampton Inn in Chillicothe, Ohio and Mr. Conway told them to kill Andrew Dotson because Mr. Conway believed Andrew Dotson would tell authorities that Mr. Conway was a principal offender in the felonious assault of Jessie James. The next day Arthurs and Nightingale took Andrew Dotson to West Virginia for the purpose of killing him. In West Virginia Mr. Dotson was given some pills and beer that caused him to pass out. Once there, Arthurs and Nightingale could not carry out the killing. During the return trip to Columbus, Conway talked with Arthurs and Nightingale on the telephone. Conway was advised that Arthurs and Nightingale could not carry out the killing. Conway was upset and ordered Arthurs and Nightingale to bring Dotson to him that evening near Georgesville Road on the West side of Columbus.

They all met in a parking lot. Conway was with Jamie Horton in one car and Arthurs and Nightingale were with Dotson in another car. Conway ordered Arthurs and Nightingale to follow him to a corn field nearby. Upon arriving in the corn field, Conway had Arthurs pull Dotson out of the car into the field. Dotson was still passed out at the time. After Arthurs faked trying to kill Dotson, by placing his foot on Dotson's throat, Conway had Dotson taken further into the field. Dotson was still alive. Conway got a pickax from his truck and while Dotson lay helpless and unconscious in the corn field, Conway struck Dotson two times with the pickax causing his death.

Dotson's body was left in the corn field until it was accidentally found by Christopher Fernier on October 10, 2001.

Aggravating Circumstances and Mitigating Factors

(A) Aggravating Circumstances

The following are the Aggravated Circumstances found by the Jury:

1. The Aggravated Murder was committed for the purpose of escaping detection, apprehension, trial or punishment for another offense committed by the offender, that being Felonious Assault.
2. The Aggravated Murder was committed while the offender or someone he was in complicity with was committing kidnapping and the defendant was the principal offender.
3. The Aggravated Murder was committed with purpose to prevent the victim's testimony in any criminal proceeding to which the victim was or would have been a witness.

For purposes of this decision, circumstances 1 and 3 will merge. Thus, the only circumstances this Court will consider is the merged circumstance 1 and 3 and circumstance 2. The Court finds that the circumstances have great weight. The Defendant was the principal offender who ordered and participated in the kidnapping and killing of Andrew Dotson and he did so to escape detection, apprehension, and trial and to prevent Mr. Dotson from testifying at a proceeding which could be commenced against the Defendant.

(B) Nature and Circumstances of the Offense

There is nothing mitigating in the nature and circumstances of the killing. This was a gruesome and senseless pickax killing of a young man because he was a witness to a crime.

(C) History and Character of the Defendant

There is very little mitigating about the Defendant's history and character. He is a 25 year old man, who as a younger person did some good things. He was a good

high school student; he played in the band; was a member of ROTC; and he had hopes to do positive things in the future. Other than a brief time at Columbus State, the Court heard no evidence of any positive things regarding the Defendant's adult life. He is now 25 and it appears that he had an opportunity to do positive things but there was no evidence of anything positive that he did. Good present adult character of a 25 year old weighs more heavily on this Court than past juvenile good character.

Thus, there is some weight given to the Defendant's history and character as a juvenile, but no weight in mitigation is given to his adult history and character.

(D) Mitigating Factors ORC §2929.04

(1) Age of the Defendant

The Defendant is 25 now and was either 23 or 24 at the time of the killing. Some weight, but very little, will be given to the age of the Defendant.

(2) Any other factors relevant to whether the Defendant should be sentenced to death.

The Defendant has a large immediate family, including two minor children and several aunts, uncles, and cousins. Many of his family members testified about his history and character as a youth. They all testified that they wanted to continue to have the Defendant in their lives and that he adds value to their lives. The Defendant's family members all testified that Mr. Conway's children need Mr. Conway as a father figure. Regardless of how bad a person's character may be, his life will generally add some value to those who are near to them. Whether a person's life

adding value to others is legally a factor under Ohio Rev. Code §2924.04 (B)(7) is questionable. However, for purposes of this decision, the Court will give weight to this as a factor. However, very little weight is given.

The Defense mitigation witnesses also testified that the Defendant's father was abusive, both physically and verbally, to his children while they were growing up. There is no evidence before this Court that any abusive behavior on the part of the Defendant's father in any way caused the Defendant to act as he did in September and October of 2001. The credible evidence does not show that the abuse was excessive or created such a home environment that it was impossible for anyone to live a normal life. To the contrary, it appears that most of the Defendant's immediate family voluntarily, as adults, have chosen to live close to each other and the Defendant's father. The Defendant's children stay in the Defendant's father's home often as does his sister, his mother, and the mothers of his children.

The abusive household history will have some mitigating weight, but very little.

Even though the Defendant only requested the Jury and this Court to consider the mitigating factors set forth in Rev. Code §2929.04(B)(4) and (7), this Court has looked at all of the other listed factors in Rev. Code §2929.04 and has determined that none exist in this case.

The Defendant made an unsworn statement to the Jury and he made a statement to the Court. The Defendant continues to deny his involvement

in this case and shows no remorse. Thus, no mitigation is afforded the Defendant's unsworn statements.

Balancing the Aggravated Circumstances and Mitigating Factors

The Court has balanced the Aggravating Circumstances against the weight given to the history and character of the defendant and the mitigating factors and has determined that the aggravating circumstance outweighed beyond a reasonable doubt the mitigating factors and has determined that the defendant shall be sentenced to death.

The execution date is hereby set on September 30, 2004.

DALE A. CRAWFORD, JUDGE

Copies to:

James Lowe
Sheryl Prichard
Assistant Prosecuting Attorneys

Diane Menashe
David Young
Counsel for Defendant

3. The Court, subsequent to the June 20, 2002 bond hearing, conducted the following pretrial proceedings: 1) July 15, 2002, Pretrial; 2) July 19, 2002, Pretrial; 3) August 1, 2002, Pretrial; 4) December 27, 2002, Motions Hearing; 5) December 30, 2002, Motions Hearing; 6) March 7, 2003, Pretrial; 7) March 14, 2003, Pretrial; and 8) July 11, 2003, Motions Hearing.

4. On September 15, 2003, the Court commenced voir dire [Tr. 2] and on September 17, 2003 the prosecution began its case-in-chief. [Tr. 337.]

5. On September 23, 2003, the jury returned guilty verdicts on all counts and specifications contained in the indictment. [Tr. 1029-1049.]

6. On September 23, 2003, trial counsel began the presentation of his mitigation phase evidence.

7. On September 25, 2003, the jury returned its sentencing verdict recommending that the Court impose a sentence of death. [Tr. 1204-1206.].

8. On September 29, 2003, the Court entertained argument from the attorneys and Petitioner as to the appropriate sentence. [Tr. 1307-1310.]

9. On September 30, 2003, the Court merged Counts 1 and 2 and imposed a sentence of death. [Tr. 1311-1312.] The Court also imposed the following sentences as to the other counts: A) Count Three, Possession of Criminal Tools, twelve months in the state penitentiary; B) Count Four, Abuse of a Corpse, twelve months in the state penitentiary; C) Count Five, Obstruction of Justice, five years in the state penitentiary; and D) Count Six, Tampering with Evidence, five years in the state penitentiary. This Court ordered that Counts Three through Six be served consecutively with each other, but concurrent with the sentence of death. [Id.]

58196 - C55

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

STATE OF OHIO,	:	
Plaintiff,	:	
-v-	:	**Case No. 02 CR-3117**
JAMES T. CONWAY, III,	:	**Judge Crawford**
Defendant.	:	**Evidentiary Hearing Requested**

JAMES T. CONWAY III'S AMENDED POST-CONVICTION PETITION

Now comes the Petitioner James T. Conway, III. by and through counsel, and petitions this Court for post-conviction relief pursuant to Ohio Rev. Code Ann. § 2953.21 as follows:

I. JURISDICTIONAL FACTS

1. On June 7 2002, a Franklin County Grand Jury returned a six-count indictment against Petitioner James T. Conway, III, ("Petitioner") charging him with Aggravated Murder, Kidnapping, Possession of Criminal Tools, Abuse of a Corpse, Obstruction of Justice, and Tampering with Evidence. The Aggravated Murder charge contained the three death penalty specifications set forth in O.R.C. § 2929.03(A)(3), (A)(7). and (A)(8). The indictment alleged that Petitioner ordered three individuals – Mike Arthurs, Jamie Horton and Shawn Nightingale to kill Andrew Dotson because Dotson had allegedly witnessed Petitioner commit a non-fatal shooting.

2. On June 12, 2002 Petitioner pled not guilty to all of the charges. On June 20, 2002 the Court denied bond.



3. The Court, subsequent to the June 20, 2002 bond hearing, conducted the following pretrial proceedings: 1) July 15, 2002, Pretrial; 2) July 19, 2002, Pretrial; 3) August 1, 2002, Pretrial; 4) December 27, 2002, Motions Hearing; 5) December 30, 2002, Motions Hearing; 6) March 7, 2003, Pretrial; 7) March 14, 2003, Pretrial; and 8) July 11, 2003. Motions Hearing.

4. On September 15, 2003, the Court commenced voir dire [Tr. 2] and on September 17, 2003 the prosecution began its case-in-chief. [Tr. 337.]

5. On September 23, 2003, the jury returned guilty verdicts on all counts and specifications contained in the indictment. [Tr. 1029-1049.]

6. On September 23, 2003, trial counsel began the presentation of his mitigation phase evidence.

7. On September 25, 2003, the jury returned its sentencing verdict recommending that the Court impose a sentence of death. [Tr. 1204-1206.]

8. On September 29, 2003, the Court entertained argument from the attorneys and Petitioner as to the appropriate sentence. [Tr. 1307-1310.]

9. On September 30, 2003, the Court merged Counts 1 and 2 and imposed a sentence of death. [Tr. 1311-1312.] The Court also imposed the following sentences as to the other counts: A) Count Three, Possession of Criminal Tools, twelve months in the state penitentiary; B) Count Four, Abuse of a Corpse, twelve months in the state penitentiary; C) Count Five, Obstruction of Justice, five years in the state penitentiary; and D) Count Six, Tampering with Evidence, five years in the state penitentiary. This Court ordered that Counts Three through Six be served consecutively with each other, but concurrent with the sentence of death. [Id.]

10. Attorney Chris Cicero initially represented Petitioner in these proceedings until July 24, 2002 when the Court granted his Motion to Withdraw.

11. On July 26, 2002, the Court appointed Attorneys Robert W. Suhr and Brian T. Rigg to represent Petitioner.

12. On February 28, 2003 the Court ordered that Attorneys David Young and Diane Menashe be substituted for Attorneys Suhr and Rigg. Attorneys Young and Menashe represented Petitioner throughout the remainder of the proceedings before this Court.

13. On November 10, 2003, Petitioner timely filed his Notice of Appeal to the Ohio Supreme Court from his convictions and sentences.

14. On February 25, 2004, the Clerk of this Court filed a portion of the record with the Ohio Supreme Court.

15. On June 1, 2004, the Clerk filed an additional portion of the record with the Ohio Supreme Court. The record that is currently before that Court remains incomplete.

16. On June 11, 2004, Appellate Counsel filed with the Ohio Supreme Court their Merit Brief, which raised the following issues:

Proposition of Law One

> Imposition of the death sentence violates the Sixth, Eighth and Fourteenth Amendments to the United States Constitution and Article One, Sections Two, Nine and Sixteen of the Ohio Constitution.

Proposition of Law Two

> In a capital case where the state fails to present sufficient evidence to prove beyond a reasonable doubt all of the elements of the offenses charged, the defendant's subsequent convictions violate the due process clause of the Fourteenth Amendment to the United States Constitution, and the proscription against cruel and unusual punishment contained in the Eighth Amendment to the United States Constitution and Article One, Section Nine of the Ohio Constitution.

Proposition of Law Three

In a capital case, where the trial court precludes the defense from introducing, and the jury from considering, crucial and relevant evidence contra *Lockett v. Ohio* (1978), 438 U.S. 586, the Defendant's subsequent death sentence violates the due process clause of the Fourteenth Amendment to the United States Constitution, and Article One, Section Sixteen of the Ohio Constitution, and the proscription against cruel and unusual punishment contained in the Eighth Amendment to the *United States Constitution and Article One, Section Nine of the Ohio* Constitution.

Proposition of Law Four

Because of pre-trial publicity including newspaper articles detailing Appellant's prior conviction and death sentence in another case, Defendant was denied his constitutional right to a fair and reliable determination of his guilt or innocence as well as sentence by an impartial jury under Article I, Sections Two, Nine, Ten and Sixteen of the Ohio Constitution, and the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution.

Proposition of Law Five

In a capital case, where the trial judge gives a faulty reasonable doubt instruction during the penalty phase, appellant's death sentence violates the due process clause of the Fourteenth Amendment to the United States Constitution, and Article One, Section Sixteen of the Ohio Constitution and the proscription against cruel and unusual punishment contained in the Eighth Amendment to the United States Constitution, and Article One, Section Nine of the Ohio Constitution.

Proposition of Law Six

The admission of hearsay statements as to key issues deprived appellant of his right to a fair trial under the Ohio and Federal Constitutions.

Proposition of Law Seven

Multiple instances of deficient performance in the conduct of the trial and penalty *phases of a capital trial coupled with prejudice inuring to the detriment of the* Defendant result in the denial of the right to a fair trial and the right to effective assistance of counsel under the Sixth and Fourteenth Amendments to the United States Constitution as well as Article One, Section Ten of the Ohio Constitution.

Proposition of Law Eight

The Court erred by allowing the admission of irrelevant and prejudicial material regarding other acts committed by the Appellant, in violation of the Ohio Rules of

Evidence and the Appellant's substantive and procedural due process rights under the Federal and State Constitutions.

17. Attorneys W. Joseph Edwards and Diane Worthington represent Petitioner in the Ohio Supreme Court. That appeal is still pending as of the date of the filing of this Post-conviction Petition. The State of Ohio has not filed its Merit Brief.

18. On August 23, 2004, Petitioner filed his initial post-conviction petition.

19. Petitioner now fi'es this amended post-conviction petition as a matter of right.[1] O.R.C. § 2953.21(F).

CONSTITUTIONAL VIOLATIONS

FIRST CAUSE OF ACTION

20. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

21. Petitioner's convictions and sentences are void or voidable because they were obtained in violation of international law and treaties to which the United States is a signatory. United States Constitution, Art. VI, § 1.

22. Petitioner was denied his right to a fair trial by an independent tribunal, and his right to the minimum guarantees for a defense under customary international law as guaranteed by the Universal Declaration of Human Right, the International Covenant on Civil and Political Rights, and the American Declaration of the Rights and Duties of Man. United States Constitution, Art. VI, § 1.

23. The two principle sources of international human rights law are treaties and customary international law. The United States Constitution accords treaties equally with federal statutes. Article VI, § 1, Clause 2 of the United States Constitution. Customary

international law is equated with federal common law. Restatement Third of the Foreign Relations Law of the United States (1987), at 145, 158; Eyde v. Robertson, 112 U.S. 580 (1884).

24. International law must be considered and administered in the United States courts whenever questions of right depending on it are presented for determination. The Paquete Habana, 175 U.S. 677, 700 (1900). To the extent possible, courts must construe American law so as to avoid violating principles of international law. Murray v. The Schooner Charming Betsy, 6 U.S. 64, 102 (1804). Weinberger v. Rossi, 456 U.S. 25, 33 (1982).

25. The United States Constitution authorizes Congress to "define and punish ... offenses against the law of nations," thus recognizing the existence and force of international law. U. S. Const., Article I, § 8. Courts have responded to this mandate by looking to international legal obligations, both customary international law and conventional treaties, in interpreting domestic law. Trans World Airlines, Inc. v. Franklin Mint. Corp., 466 U.S. 243, 252 (1984).

26. The United States has ratified three comprehensive multilateral human rights treaties; International Covenant on Civil and Political Rights; the International Convention Against All Forms of Racial Discrimination, and the International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. These instruments are now binding international obligations for the United States. Buergenthal, International Human Rights, (1988), at 4.

27. The factual and legal issues presented to the Court demonstrate that Petitioner was denied his rights to a fair and impartial trial in violation of customary international law as

---

1 Petitioner has kept the same number for purposes of the exhibits, with the new exhibits that he added commencing with "Exhibit ____".

evidenced by Articles 6 and 14 of the International Covenant on Civil and Political Rights ("ICCPR"). Article 14 provides, "[a]ll persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him . . . everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law." Article 6 declares that "[n]o one shall be arbitrarily deprived of his life . . . . [The death] penalty can only be carried out pursuant to a final judgment rendered by a competent court."

28. In cases where the United Nations Human Rights Committee has found that a governmental entity, which is a party to the treaty, violated Article 14 of the ICCPR, in that a defendant had been denied a fair trial and appeal, the Committee has held that the imposition of the sentence of death was a violation of Article 6 of the ICCPR. "Report of the Human Rights Committee," at 72, 49 UN GAOR Supp. (No. 40) at 72, UN Doc. A/49/40 (1994). The Committee has further observed, "the provision that a sentence of death may be imposed only in accordance with the law and not contrary to the provisions of the Covenant implies that the procedural guarantees therein prescribed must be observed, including the right to a fair hearing by an independent tribunal, the presumption of innocence, the minimum guarantees for the defense, and the right to review of conviction and sentence by a higher tribunal.'" Id.

29. Likewise, these protections are found in the American Declaration: Article 1 protects the right to life, liberty and security of person; Article 2 guarantees equality before the law; and Article 26 protects the right of due process of law.

30. The due process violations that Petitioner suffered throughout his trial and sentencing phase are also prohibited by customary international law. The United States is bound by customary international law, as informed by such instruments as the ICCPR and the Race

Convention. The purpose of these treaties is to bind nations to an international commitment to further protections of human rights.

31. The United States must honor its role in the international community by recognizing the human rights standards in our own country to which we hold other countries accountable. The Court should grant Petitioner relief on this Cause of Action or in the alternative, discovery and an evidentiary hearing.

Exhibits: 1-49

Legal Authority: Universal Declaration of Human Right, the International Covenant on Civil and Political Rights; American Declaration of the Rights and Duties of Man; U.S. Const. Art. VI, § 1 Article VI, § 1 of the United States Constitution; Eyde v. Robertson, 112 U.S. 580 (1884); The Paquette Habana, 175 U.S. 677 (1900); Murray v. The Schooner Charming Betsy, 6 U.S. (2 Cranch) 64 (1804); Weinberger v. Rossi, 456 U.S. 25 (1982); United States Const., Article I, § 8; Trans World Airlines, Inc. v. Franklin Mint, Corp., 466 U.S. 243 (1984); International Convention Against All Forms of Racial Discrimination; International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Vienna Convention on the Law of Treaties; Restatement Third of the Foreign Relations Law of the United States.

SECOND CAUSE OF ACTION

32. Petitioner hereby incorporates by reference all of the allegations contained elsewhere in this Petition as if fully rewritten herein.

33. Petitioner's convictions and sentences are void or voidable because Ohio's post-conviction procedures do not provide an adequate corrective process, in violation of the constitution. U.S. Const. amends. V, VI, VIII, IX, and XIV; Ohio Const. art. I, §§ 1, 2, 5, 9, 10, 16, and 20.

34. An adequate corrective process should be "swift and simple and easily invoked," should "eschew rigid and technical doctrines of res judicata of forfeiture, waiver or default," and should "provide for full fact hearings to resolve disputed factual issues." Case v. Nebraska, 381 U.S. 336, 346-47 (1965) (Brennan, H., concurring); Goldberg v. Kelly 397 U.S. 254 (1970); Evitts v. Lucey, 469 U.S. 387 (1985).

35. This minimum standard for state post-conviction proceedings are not fulfilled by the State of Ohio's cursory, inadequate, and ineffective process provided for in the relevant Ohio statutes. Furthermore, state courts, do not provide any meaningful review in these proceedings. Since 1982, only one death row inmate has been granted relief from a trial court on a post-conviction petition.[2]

36. The text of the statute provides that a petitioner must include affidavits or evidence dehors the record in support of the claims in a petition. O.R.C. § 2953.21(A). It is from the face of the petition that a trial court must determine if a hearing is required. State v. Cooperrider, 4 Ohio St. 3d 226 (1984). All this must be done without the benefit of the discovery processes available to every other civil litigant. Without this access, Ohio's post-conviction process imposes a nearly impossible pleading standard on petitioners.

37. Recent amendments by the Ohio Supreme Court and the Ohio Legislature to Rule 35 of Criminal Procedure, which became effective on July 1, 1997, further curtail the post-conviction process. Ohio R. Crim. P. 35(A) now demands that each cause of action contained in a post-conviction petition not exceed three pages. The Staff Notes to the amendment state the purpose of this change is to "introduce some uniformity in post-conviction relief proceedings and aid in the administration of justice." Uniformity in the post-conviction process may be a rational goal; however, it cannot be achieved at the expense of criminal defendants who are now facing death. If the need for uniformity in post-conviction cases is balanced against the requirement that capital cases be afforded the highest degree of due process, the only acceptable, and constitutionally sound, resolution is to protect due process rights.

38. The Sixth Circuit Court of Appeals has expressed its concerns regarding the State of Ohio's inadequate, excessively narrow, and ineffectual post-conviction scheme. Keener v. Ridenour, 594 F.2d 581, 590 (6th Cir. 1979). The basis for the Sixth Circuit's dissatisfaction with Ohio's lack of process can be traced to State v. Perry, 10 Ohio St. 2d 175 (1967). After Perry, The Sixth Circuit recognized that "[b]ecause of the narrow limits placed on the Ohio post-conviction statute, there is no longer any effective State remedy open to the Appellant to exhaust. *The Perry decision has rendered such process ineffective to protect the rights of the Appellant.*" Coley v. Alvis, 381 F.2d 870, 872 (6th Cir. 1967) (emphasis added). Accord Allen v. Perini, 424 F.2d 134, 139-140 (6th Cir. 1970).

39. The Ohio Legislature established a post-conviction procedure to effectuate the constitutional rights of those individual convicted of criminal offenses. Assuming arguendo that those procedures do not emanate directly from clear constitutional provisions, "when a State opts to act in a field where its action has significant discretionary elements, it must nonetheless act in

[2] State v. Barnes, No. CR-83-5911 (Lucas C.P. May 17, 1991).

accord with the dictates of the Constitution – and, in particular, in accord with the Due Process Clause." Evitts v. Lucey, 469 U.S. 387, 401 (1985). Ohio's procedures for post-conviction review at both the trial and appellate court levels must comport with the constitutional requirements of due process.

40. A viable, fair, effective means for Petitioner to raise collateral challenges to his criminal conviction and sentence is all the more critical here because Petitioner's "life" interest (protected by the "life, liberty and property" language in the Due Process Clause) is at stake in the proceeding. Ohio Adult Parole Authority v. Woodard, 523 U.S. 272 (1998). Death is different; for that reason more process is due, not less. See Lockett v. Ohio, 438 U.S. 586 (1978); Woodson v. North Carolina, 428 U.S. 280 (1976). Petitioner is entitled to an adequate post-conviction remedy in order to vindicate his Ohio and Federal constitutional rights to effective assistance of counsel, due process of law, equal protection of the law, confrontation of the State's evidence against him, and freedom from cruel and unusual punishment. U.S. Const. amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16 and 20. Due to the unconstitutionality of Ohio's post-conviction procedures, Petitioner must be granted a new trial or, at minimum, discovery and an evidentiary hearing on this Ground For Relief.

Legal Authority: Case v. Nebraska, 381 U.S. 336 (1965); Goldberg v. Kelly 397 U.S. 254 (1970); Evitts v. Lucey, 469 U.S. 387 (1985); State v. Cooperrider, 4 Ohio St. 3d 226 (1984); Keener v. Ridenour, 594 F.2d 581(6th Cir. 1979); State v. Perry, 10 Ohio St. 2d 175 (1967); Coley v. Alvis, 381 F.2d 870 (6th Cir. 1967); Allen v. Perini, 424 F.2d 134 (6th Cir. 1970); Ohio Adult Parole Authority v. Woodard, 523 U.S. 272 (1998); Lockett v. Ohio, 438 U.S. 586 (1978); Woodson v. North Carolina, 428 U.S. 280 (1976); U.S. Const. amends. V, VI, VIII, IX, and XIV; Ohio Const. art. I, §§ 1, 2, 5, 9, 10, 16, and 20; O.R.C. § 2953.21(A); Ohio R. Crim. P. 35.

THIRD CAUSE OF ACTION

41. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

42. Petitioner's convictions and sentences are void or voidable because he has been denied his constitutional and statutory rights to appointed post-conviction counsel. U.S. Const. Amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16 and 20. The Court can cure that violation, but only if it appoints counsel and grants counsel time to fully identify and investigate the constitutional violations which render Petitioner's convictions and sentences void or voidable.

43. In 1996, the Ohio Legislature amended Ohio's post-conviction statutes. The relevant amendment reads as follows:

> If a person who has received the death penalty intends to file a petition under this section, the court shall appoint counsel to represent the person upon a finding that the person is indigent and that the person either accepts the appointment of counsel or is unable to make a competent decision whether to accept or reject the appointment of counsel. The court may decline to appoint counsel for the person only upon a finding, after a hearing if necessary, that the person rejects the appointment of counsel and understands the legal consequences of that decision or upon a finding that the person is not indigent. (Emphasis added.)

O.R.C. § 2953.21 (I)(1).

44. *Petitioner, who is sentenced to death, is therefore entitled, pursuant to the* amended statute, to appointed counsel to represent him in the post-conviction proceedings before the Court. This right to appointed counsel extends to the investigation of his case and the drafting of this petition.

45. Petitioner also has a constitutional right to appointed counsel. Petitioner's statutory right to counsel gives him a liberty interest which is protected by the Due Process

Clause of the Fourteenth Amendment. Romano v. Oklahoma, 512 U.S. 1, 12 (1994); Ross v. Oklahoma, 487 U.S. 1, 89 (1988); Morrissey v. Brewer, 408 U.S. 471, 480-490 (1972). The courts have recognized that though a state is not required to create an appellate review system for criminal cases, once it erects such a right, it must do so consistent with the Due Process Clause of the Fourteenth Amendment. Evitts v. Lucey, 469 U.S. 387, 393 (1984); Griffin v. Illinois, 351 U.S. 12, 18 (1956).

46. In addition the courts have recognized the need for more exacting procedures in capital cases because the penalty demands fact-finding at a "heightened standard of reliability." Ford v. Wainwright, 477 U.S. 399, 411 (1986); Parker v. Delo, 33 F.3d 933, 939, n.6 (8th Cir. 1994).

47. On July 2, 2004, volunteer counsel for Petitioner filed a motion requesting the Court to appoint post-conviction counsel for him. [Exhibit 1.]

48. On July 7, 2004, the Court denied Petitioner's motion for appointment of counsel. The Court accused volunteer counsel of "soliciting appointments" and held that "The defendant is adequately represented by two competent counsel." [Exhibit 2.]

49. Petitioner has yet to receive, for the purpose of these post-conviction proceedings, the benefit of the counsel that the Court appointed. Appointed counsel have not met with him, let alone investigated or drafted a post-conviction petition.

50. A petitioner must normally demonstrate prejudice to prevail on an ineffective assistance of counsel claim. He must demonstrate that there is a reasonable probability that the outcome of the proceedings would have been different if counsel's performance met the prevailing standards of practice. Strickland v. Washington, 466 U.S. 668, 693-94 (1984).

51. However prejudice will be presume prejudice when there has been a total denial of counsel. United States v. Cronic, 466 U.S. 648, 656-58 (1984). This Court, by refusing to appoint counsel has deprived Petitioner of his right to appointed counsel in its entirety.

52. Despite the fact that no showing of prejudice is required, Petitioner has suffered substantial prejudice due to the deprivation of his right to appointed counsel to investigate and draft his post-conviction petition. The violations of his statutory and constitutional guarantees to appointed prevented Petitioner from properly identifying and investigating all of the constitutional violations and then drafting a petition which contained the necessary supporting documentation.

Exhibits: 1-2

Legal Authority: Romano v. Oklahoma, 512 U.S. 1 (1994); Ross v. Oklahoma, 487 U.S. 1 (1988); Morrissey v. Brewer, 408 U.S. 471 (1972); Evitts v. Lucey, 469 U.S. 387 (1984); Griffin v. Illinois, 351 U.S. 12 (1956); Ford v. Wainwright, 477 U.S. 399 (1986); Parker v. Delo, 33 F.3d 933 (8th Cir. 1994); Strickland v. Washington, 466 U.S. 668 (1984); United States v. Cronic, 466 U.S. 648 (1984); O.R.C. § 2953.21; U.S. Const. Art. I, § VIII and XIV.

FOURTH CAUSE OF ACTION

53. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

54. Petitioner's convictions and sentences are void or voidable because Petitioner has not had the benefit of a complete copy of all of the trial proceedings before the Court. U.S. Const. Amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16 and 20.

55. An individual sentenced to death has a constitutional right to "a complete, full and unabridged transcript of all proceedings against him." State, ex rel Spirko v. Judges of the Court of Appeals, Third Appellate District, 27 Ohio St. 3d 13, 18 (1986).

56. A court should insure that the record is complete when reviewing a capital case. If it is incomplete the court should take the necessary steps to complete the record. Dobbs v. Zant, 506 U.S. 357 (1996) (per curiam)

57. An attorney newly appointed for purposes of appeal is entitled to a full verbatim transcript of trial proceedings in order to perform his constitutional duty to bring to the attention of the reviewing court potential meritous issues. Hardy v. United States, 375 U.S. 277 (1964).

58. Ohio R. Crim. P. 22 directs trial courts that "In serious offense cases all proceedings shall be recorded." (Emphasis added).

59. The federal counterpart of Ohio R. Crim. P. 22, 28 U.S.C. § 753(b) requires the recording of "all proceedings". The federal courts have interpreted the phrase "all proceedings" literally. Stephens v. United States, 289 F.2d 308 (5th Cir. 1961), closing arguments; Fowler v. United States, 310 F.2d 66 (5th Cir. 1962), voir dire; Parrott v. United States, 314 F.2d 46 (10th Cir. 1963), jury instruction; United States v. Workcuff, 422 F.2d 700 (D.C. Cir. 1970), anything

that happened in open court with the possible exception of reading a deposition; United States v. Piascik, 559 F.2d 545 (9th Cir. 1977). side bar conferences.

60. The trial court file references the following hearings for which transcripts have not been filed with the Ohio Supreme Court of this Court: 1) May 31, 2002, evidentiary hearing before Municipal Court Judge Schneider; 2) June 12, 2002, Arraignment; 3) June 20, 2002, Bond Hearing; 4) July 15, 2002, Pretrial; 5) July 19, 2002, Pretrial; 6) August 1, 2002, Pretrial; 7) December 27, 2002, Motions Hearing; 8) December 30, 2002, Motions Hearing; 9) March 7, 2003, Pretrial; and March 14, 203, Pretrial.

61. Petitioner proffered to direct appeal counsel a Motion to file with the Ohio Supreme Court to complete the transcript. [Exhibit 3.] Appellate counsel has refused to file the Motion contending that this Court would never authorize the transcription of the pretrial proceedings and that they would be unable to justify the need to supplement the missing transcripts. [Exhibit 4.]

62. Petitioner, since he has not been able to review the transcripts in issue, is unable to determine if the missing transcript contains the factual or legal basis for any post-conviction issues. The Ohio Supreme Court, when it recognized a death sentenced individual's right to a "full, complete and unabridged transcript," placed no burden on the defendant to justify the need for a complete transcript. State ex rel Spirko v. Judges of the Court of Appeals, Third Appellate District, supra.

63. Direct appeal counsel's failure to insure that a complete record was filed violated Petitioner's right to both a fair direct appeal proceeding and a fair post-conviction proceeding. This constitutional violation is prejudicial per se. Direct appeal counsel's failure to complete the record makes it impossible for the state courts to provide adequate appellate review. In addition

the missing transcripts preclude counsel from meeting its statutory and constitutional obligations to Petitioner. In the alternative, the incomplete record adversely affected Petitioner's constitutional rights and the State accordingly cannot show, beyond a reasonable doubt, that the error is harmless.

64. This Court can correct this error, for purposes of post-conviction, but only by ordering that the instant proceedings be held in abeyance while the court reporter completes the record and appointed post-conviction counsel are provided sufficient opportunity to review the missing transcripts and to conduct all reasonable investigation necessitated by that review.

Exhibits: 3-4

Legal Authority: Stephens v. United States, 289 F.2d 308 (5th Cir. 1961); Fowler v. United States, 310 F.2d 66 (5th Cir. 1962); Parrott v. United States, 314 F.2d 46 (10th Cir. 1963); United States v. Workcuff, 422 F.2d 700 (D.C. Cir. 1970); United States v. Piascik, 559 F.2d 545 (9th Cir. 1977), cert. denied , 434 U.S. 1062 (1972); State, ex rel Spirko v. Judges of the Court of Appeals, Third Appellate District, 27 Ohio St. 3d 13 (1986); Hardy v. United States, 375 U.S. 277 (1964); Ohio R. Crim. P. 22, 28 U.S.C. § 753;

FIFTH CAUSE OF ACTION

65. Petitioner incorporates all of the allegations written elsewhere in this petition as if fully rewritten herein.

66. Petitioner's convictions and sentences are void or voidable because the state officials have denied Petitioner access to the documents that he needs to identify and support the constitutional errors that rendered the trial and sentencing proceedings unfair. U.S. Const. Amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16 and 20.

67. On June 10, 2004, Petitioner made public records requests to the Columbus Police Department, the Franklin County Sheriff's Department and the Franklin County Coroner's office. [Exhibits 5-7.] Petitioner requested access to all records concerning 1) himself, 2) the other individuals alleged to be involved in the instant offense and 3) the homicide of Andrew Dotson. [Id.] On October ____, 2004, Petitioner made a second request of the Franklin County Coroner's Office. [Exhibit 50.]

68. On June 15, 2004 the Franklin county Coroner's Office partially responded to the first request. [Exhibit 8.] It has not responded to the second request. The Franklin County Sheriff has not responded to the requests made of them. [Exhibit 4.] The Police Department has refused to provide any information concerning the present case [Id.]

69. When a state establishes a program or procedure, that program or procedure must be operated within the confines of the Due Process Clause of the Fourteenth Amendment of the United States Constitution. Goldberg v. Kelly, 397 U.S. 254, 262 (1970). This includes a system of appellate review. Evitts v. Lucey, 469 US. 387, 401 (1985); See also Ohio Adult Parole Authority v. Woodard, 523 U.S. 272 (1998).

70. In addition, the Eighth Amendment requires that the states employ procedures in capital cases that ensure heightened reliability in the determination of both the defendant's guilt and/or his sentence. Beck v. Alabama, 447 U.S. 625, 637 (1980). Lockett v. Ohio, 438 U.S. 586, 604 (1978) (plurality opinion) ("'the penalty of death is qualitatively different' from any other sentence . . . . We are satisfied that this qualitative difference between death and other penalties calls for a greater degree of reliability when the death sentence is imposed.")

71. In the State of Ohio, a petitioner in a post-conviction proceeding has the initial burden of submitting documentation to demonstrate to the trial court that a hearing is warranted as to the constitutional violations alleged in the petition. State v. Kapper, 5 Ohio St. 3d 36, 38 (1983); State v. Cole, 2 Ohio St. 3d 112, 114 (1982); State v. Pankey, 68 Ohio St. 2d 58, 59 (1981); State v. Jackson, 64 Ohio St. 2d 107, 111 (1980).

72. That documentation must consist of evidence dehors the record. State v. Milanovich, 42 Ohio St. 2d 46, 51 (1975); State v. Mishelek, 42 Ohio St. 2d 140 (1975).

73. If the petitioner fails to submit the necessary exhibits in support of the allegations contained in the post-conviction petition, then the trial court may summarily dismiss the post-conviction petition. State v. Milanovich, 42 Ohio St. 2d at 51.

74. The State, consistent with the Eighth and Fourteenth Amendments, cannot place this initial evidentiary burden upon a petitioner and subsequently deny him a meaningful opportunity to meet that burden.

75. The failures of the Franklin County Sheriff to provide any information, the Columbus Police Department to provide information concerning the present case, and the failure of the Franklin County Coroner's Office to provide all the requested information have denied

Petitioner his rights as guaranteed by the Eighth and Fourteenth Amendments. He is unable to fully support this post-conviction petition.

76. The state court official's denials of Petitioner's request for information also impedes Petitioner's right to seek federal habeas corpus relief, in violation of Article I, § 9 of the United States Constitution. Federal habeas corpus presupposes that full factual development of habeas corpus claims will occur in the state courts. Keeney v. Tamayo-Reys, 504 U.S. 1,9 (1992) (the state must afford the Petitioner a full and hair hearing on his federal claim). Discovery and other mechanisms for factual development are limited in federal habeas corpus because they are presumed to be available in the state courts. See generally, Calderon v. United States District Court, 98 F.3d 1102 (9th Cir. 1996); see also 28 U.S.C. § 2254(d)(2)

77. This Court should stay the instant proceedings and grant Petitioner access to the records he requested on June 10. 2004 from the Franklin County Sheriff, Columbus Police Department and Franklin County Coroner's Office.

78. The failure to grant such access will render Ohio's Post-conviction system meaningless and a separate violations of the Fourteenth Amendment and Article I, § 9 of the United States Constitution.

Exhibits: 4-8. 50

Legal Authority: Goldberg v. Kelly, 397 U.S. 254 (1970); Evitts v. Lucey, 469 US. 387 (1985); Ohio Adult Parole Authority v. Woodard, 523 U.S. 272 (1998); State v. Kapper, 5 Ohio St. 3d 36 (1983); State v. Cole, 2 Ohio St. 3d 112 (1982); State v. Pankey, 68 Ohio St. 2d 58 (1981); State v. Jackson, 64 Ohio St. 2d 107 (1980); State v. Milanovich, 42 Ohio St. 2d 46 (1975); State v. Mishelek, 42 Ohio St. 2d 140 (1975); Beck v. Alabama, 447 U.S. 625 (1980); Lockett v. Ohio, 438 U.S. 586 (1978); Wilson v. Butler, 825 F.2d 879 (5th Cir. 1987); Blackledge v. Allison, 431 U.S. 63 (1977); U.S. Const. Art. I, §§ XIX and XIV.

SIXTH CAUSE OF ACTION

79. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

80. Petitioner's convictions and sentences are void or voidable because the federal government officials have denied him access to the information that he needs to review to identify and document all of the constitutional violations that occurred in the course of the trial and sentencing proceedings before this Court. U.S. Const. Amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16 and 20.

81. A defendant, in a state prosecution is entitled to all relevant material information possessed by of the law enforcement agencies involved in the prosecution, regardless of whether the team members are employed by local, state or federal government. Moon v. Head, 285 F.3d 1301, 1309 (11th Cir. 2002); In re Sealed Case, 185 F.3d 887, 896 (D.C. Cir. 1999); United States v. Marshall, 132 F.3d 63, 69 (D.C. 1998); United States v. Joseph, 996 F.2d 36, 39 (3rd Cir. 1993).

82. On June 17, 2004, Petitioner requested information from the Federal Bureau of Investigation and the United States Drug Enforcement Agency concerning 1) James Conway III, 2) Ronnie Trent, 3) Michael L. Arthurs, 4) Shawn Nightingale, 5) Calvin "Jamie" Horton and 6) Andrew Dotson. [Exhibits 9-10.]

83. The Federal Bureau of Investigation has not responded to Petitioner's request for information. [Exhibit 4.]

84. When a state establishes a program or procedure, that program or procedure must be operated within the confines of the Due Process Clause of the Fourteenth Amendment of the United States Constitution. Goldberg v. Kelly, 397 U.S. 254, 262 (1970). This includes a system

of appellate review. Evitts v. Lucey, 469 US. 387, 401 (1985); See also Ohio Adult Parole Authority v. Woodard, 523 U.S. 272 (1998).

85. In addition, the Eighth Amendment requires that the states employ procedures in capital cases that ensure heightened reliability in the determination of both the defendant's guilt and/or his sentence. Beck v. Alabama, 447 U.S. 625, 637 (1980). Lockett v. Ohio, 438 U.S. 586, 604 (1978) (plurality opinion) ("'the penalty of death is qualitatively different' from any other sentence . . . . We are satisfied that this qualitative difference between death and other penalties calls for a greater degree of reliability when the death sentence is imposed.")

86. In the State of Ohio, a petitioner in a post-conviction proceeding has the initial burden of submitting documentation to demonstrate to the trial court that a hearing is warranted as to the constitutional violations alleged in the petition. State v. Kapper, 5 Ohio St. 3d 36, 38 (1983); State v. Cole, 2 Ohio St. 3d 112, 114 (1982); State v. Pankey, 68 Ohio St. 2d 58, 59 (1981); State v. Jackson, 64 Ohio St. 2d 107, 111 (1980).

87. That documentation must consist of evidence dehors the record. State v. Milanovich, 42 Ohio St. 2d 46, 51 (1975); State v. Mishelek, 42 Ohio St. 2d 140 (1975).

88. If the petitioner fails to submit the necessary exhibits in support of the allegations contained in the post-conviction petition, then the trial court may summarily dismiss the post-conviction petition. State v. Milanovich, 42 Ohio St. 2d at 51.

89. The State, consistent with the Eighth and Fourteenth Amendments, cannot place this initial evidentiary burden upon a petitioner and subsequently deny him a meaningful opportunity to meet that burden.

90. As a result of refusals of the Federal Bureau of Identification and United States Drug Enforcement Agency to produce the requested information, Petitioner has been, and

continues to be barred access to information and documentation he needs to support this post-conviction petition.

91. The law of federal habeas corpus presupposes that full factual development of habeas corpus claims will occur in the state courts. Keeney v. Tamayo-Reyes, 504 U.S. 1, 9 (1992); Calderon v. United States District Court, 98 F.3d 1102 (9th Cir. 1996); 28 U.S.C. § 2254(e)(1) [limiting the right to an evidentiary hearing in federal habeas corpus if the prisoner has "failed to develop the factual basis of a claim in State court proceedings"]. The federal officials refusing to provide the requested information interferes with the Petitioner's right to seek federal habeas corpus, in violation of U.S. Const. Art. I, § 9.

92. This Court should stay the instant proceedings pending the outcomes of all Freedom of Information appeals.

93. Failure of this Court to enter such a stay will render Ohio's Post-conviction process ineffective with respect to James Conway III and constitute separate violations of the Eighth and Fourteenth Amendment as well as . Article I, § 9 of the United States Constitution.

Exhibits: 4, 9-10

Legal Authority: Moon v. Head, 285 F.3d 1301, 1309 (11th Cir. 2002); In re Sealed Case, 185 F.3d 887, 896 (D.C. Cir. 1999); United States v. Marshall, 132 F.3d 63, 69 (D.C. 1998); United States v. Joseph, 996 F.2d 36, 39 (3rd Cir. 1993); Keeney v. Tamayo-Reyes, 504 U.S. 1 (1992); Calderon v. United States District Court (Nicolaus), 98 F.3d 1102 (9th Cir. 1996); 28 U.S.C. § 2254; U.S. Const. amends. V, VIII, XIX and XIV; Ohio Const. Art. I, §§ 9 and 16.

SEVENTH CAUSE OF ACTION

94. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

95. Petitioner's convictions and sentences are void or voidable because the law enforcement agencies improperly employed a jailhouse informant to obtain information from Petitioner. U.S. Const. Amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16 and 20.

96. Law enforcement officers must cease interrogating a suspect who is in custody, once the detainee requests an opportunity to consult with counsel. Miranda v. Arizona, 384 U.S. 436, 478-479 (1966).

97. The officers may not resume their interrogation of the detainee unless and until he requests that the questioning begin again. Edwards v. Arizona, 451 U.S. 477 (1981)

98. This preclusion against resuming interrogation applies to law enforcement agents who were not involved in the initial interrogation. Minnick v. Mississippi, 498 U.S. 146 (1990).

99. On January 2, 2002, the Franklin County jailers placed Orlando Wilson in a cell with Ronald Trent [Exhibit 11, Tr. 173.][3] Trent had Deputy Scott's business card [Id.] Scott made a late night visit to the jail to talk with Trent [Id. at Tr. 176.]

100. Trent pressured Wilson for information concerning Wilson's case [Id. at Tr. 175.] Trent offered to assist Wilson in obtaining privately retained counsel, if Wilson would provide him with the details concerning his case [Id. at Tr. 176] Orlando Wilson gave Trent information concerning an unrelated offense for which Wilson had never been charged [Id. at Tr. 178.] Trent never arranged for Wilson to be represented by a privately retained attorney.

[3] Petitioner has attached the transcript of the Motion to Suppress as an Exhibit since counsel on direct appeal have refused to cause the transcript to be made part of the record on direct appeal. See Fourth Cause of Action.

101. In the middle of February 2002, the jailers moved Trent from the pod in which he was housed with Orlando Wilson. Subsequently the Franklin County Grand Jury indicted Orlando Wilson for the offense for which he had told Trent [Id. at Tr. 178.]

102. In February 2002, an administrative review board of the Franklin County Sheriff's Office found Trent guilty of committing an assault while Trent was housed on the Eight Floor of the Jail. [Id. at Tr. 82-83.] The following day, Sheriff Karnes granted Trent's administrative appeal and returned Trent to the Eight Floor of the jail [Id.]

103. On February 23, 2003, the law enforcement officers arrested Petitioner. [Id. at Tr. 131.] At the time of his arrest, he refused to make a statement and instead requested the opportunity to speak with counsel [Id. at Tr. 132.] The jailers placed Petitioner in the same pod as Trent. [Id. at Tr. 133.]

104. The prosecution has repeatedly conceded that Trent, while acting as an informant, allegedly obtained incriminating information against Petitioner as to the three separate offenses; a) the homicide at the Dockside Dolls, b) the homicide involving Andrew Dotson, and c) the alleged conspiracy to kill several other individuals, and d) Petitioner's alleged commission of a robbery offense in Ross County [Id. at Tr. 132.][4].

105. The only issue is when Trent began acting as a governmental informant. It is the good faith belief of Petitioner that Trent has a long history of working as an informant for the Columbus Police Department and the Franklin Sheriff's Department as well as other law enforcement agencies prior to the April 26, 2002 meeting.

106. The prosecutors at trial refused to provide Petitioner with information concerning Trent's background as an informant [Id. at Tr. 180-182.] The state and federal officials refused

to provide Petitioner with that information during the course of the investigation and drafting of this Petition. See Fifth and Sixth Causes of Action.

107. At the very least Trent began working as an agent on April 25, 2002 [Exhibit 51]. At that point Detective Z_____ told Trent what information to obtain from Petitioner. [Tr. 800]. The deputies then placed Trent back into the same area of the jail with Petitioner.

108. Petitioner needs discovery and an evidentiary hearing to factually develop this Cause of Action.

109. Upon completion of the necessary factual development, the Court should award Petitioner a new trial. According to Deputy Scott, the Sheriff's Department did not have sufficient evidence to institute charges against Petitioner for the Dotson murder, until Trent provided them with "actual substantial information." [Id. at Tr. 34.]

Exhibits: 11

Legal Authority: Miranda v. Arizona, 384 U.S. 436, 478-479 (1966); Edwards v. Arizona, 451 U.S. 477 (1981); Minnick v. Mississippi, 498 U.S. 146 (1990)U.S. Const. amends. V, VIII, XIX and XIV; Ohio Const. Art. I, §§ 9 and 16.

[4] Petitioner has always stated that he did not make these admissions.

EIGHTH CAUSE OF ACTION

110. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

111. Petitioner's convictions and sentences are void or voidable because Attorney Christopher Cicero who initially represented Petitioner, was under investigation for the offense and was providing the Franklin County Prosecutor information that was protected by the attorney-client privilege.

112. A defense counsel may not represent a defendant when that attorney is under investigation by the same office that is pursuing charges against the defendant. Taylor v. United States, 985 F.2d 844, 846 (6th Cir. 1993); Thompkins v. Cohen, 965 F.2d 330, 333 (7th Cir. 1992).

113. In the present, the Franklin County Sheriff's Department, Franklin County Prosecutor's Office focused their investigation upon Attorney Cicero as well as the defendant's who were ultimately indicted. On May 16, 2002, the Ohio Bureau of Identification and Investigation agents administered a polygraph examination to Informant Trent [Exhibit 52]. The examination asked five questions concerning Petitioner. [Id.]

114. Informant Trent consistently attempted to obtain inculpatory statements concerning Petitioner [Exhibit 530, p. 7, Exhibit 57, p. 6]. Co-defendants Shawn Nightingale and Michael Arthur also provided information that Attorney Cicero was actively involved in the investigation. [Exhibit 55, pp. 3-5, Exhibit 56, pp. 18-20].

115. Petitioner suffered prejudice as a result of Attorney Cicero conflict. Cicero was providing information to then Assistant Prosecuting Attorney Dave DeVillers [Exhibit 57].

116. A defendant charged with a capital offense has the right to counsel pursuant to the Sixth and Fourteenth Amendments. Gideon v. Wainwright, 372 U.S. 335 (1963). Implicit within this right to counsel is the right of the defendant to consult privately with his counsel. Ford v. State, 121 Ohio St. 292, 295 (1929); Thomas v. Mills, 117 Ohio St. 114, 126 (1927).

117. The fact that a defendant is in custody or in jail does not abrogate his right to counsel. The United States Supreme Court has held that "It may be assumed that even in a jail or perhaps especially there, the relationships which the law has endowed with particularized confidentiality must continue to remain unceasing protection . . . ." Lanza v. New York, 370 U.S. 1-9, 143-144 (1962). Principal among those relationships is the one maintained between an attorney and his client. State v. Milligan, 40 Ohio St. 3d 341, 343 (1988).

118. This Sixth Amendment right is violated when defense counsel voluntarily provides information to the authorities which is protected by the attorney-client privilege and the Sixth Amendment. People v. Knippenberg, 362 N.E.2d 681 (Ill. 1977).

119. Unlike traditional ineffective assistance of counsel claims which require a defendant to show deficient performance and prejudice, a defendant who asserts a conflict of interest claim is entitled to a limited presumption of prejudice. In Culyer v. Sullivan, 446 U.S. 335 (1980), the United States Supreme Court held that prejudice is presumed when counsel is burdened by an actual conflict of interest. Id. at 345-350. Counsel's divulging of information in the present case met the reduced standard of prejudice.

120. Petitioner requests discovery and an evidentiary hearing to fully develop this Cause of Action.

Exhibits: 52, 55- 57

Legal Authority: Taylor v. United States, 985 F.2d 844, 846 (6th Cir. 1993); Thompkins v. Cohen, 965 F.2d 330, 333 (7th Cir. 1992); Gideon v. Wainwright, 372 U.S. 335 (1963); Ford v. State, 121 Ohio St. 292, 295 (1929); Thomas v. Mills, 117 Ohio St. 114, 126 (1927); Lanza v. New York, 370 U.S. 1-9, 143-144 (1962); State v.

Milligan, 40 Ohio St. 3d 341, 343 (1988); People v. Knippenberg, 362 N.E.2d 681 (Ill. 1977); Culyer v. Sullivan, 446 U.S. 335 (1980); Sixth Amendment to the United States Constitution;

NINTH CAUSE OF ACTION

121. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

122. Petitioner's convictions and sentences are void or voidable because the charges were instituted by a prosecutor's office that had a personal, vested interest in the outcome of the proceedings. U.S. Const. Amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16 and 20.

123. A prosecutor may strike hard blows, but he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one. Berger v. United States, 295 U.S. 78, 88 (1935).

124. A prosecutor should avoid a conflict of interest with respect to his or her official duties. ABA Statutes for Criminal Justice, Prosecutor Function, Third Edition 301.3 (a).

125. The prosecutor suffers from a conflict, when the office, his staff or the prosecutor himself become the victim. Lawless, Prosecutorial Misconduct (Third Edition Matthew Bender) § 13.30.

126. The Franklin County Prosecutor's office instituted three separate homicide prosecutions against Petitioner. The allegations surrounding one of the cases alleged that Petitioner planned to kill certain members of that Office [Exhibit 12.] Thus the Prosecutor's Office had a duty to disqualify themselves from the prosecution involving Petitioner.

127. Petitioner was prejudiced by the Prosecutor's failure to recuse themselves. The Prosecutor, instead of striking fair blows adopted a win at all costs mentality. The prosecutors entered into deals with witnesses to obtain testimony that were not in the public's interest. The

prosecutor permitted a co-defendant, Mike Arthurs, to plead guilty and receive a concurrent sentence to a sentence that he was already serving. [Tr. 484.] Therefore Arthurs is serving no time for his role in the murder of Andrew Dotson despite the fact that Arthurs was the principal offender. The prosecutor permitted its other informant Ronald Trent to plead to a misdemeanor even though the Grand Jury had indicted him for two counts of Gross Sexual Imposition. [Tr. 717-718.] The prosecutor, over the objection of the victim's mother in the gross sexual imposition case, recommended that Trent's parole, despite his lengthy felony record, not be revoked because he committed the sexual offenses. [Tr. 895.] The Franklin County Grand Jury has now indicted Trent for four counts of rape for offenses he committed after being released pursuant to the plea bargain. [Exhibit 13.]

128. Both Trent and Arthurs, as evidenced by their lengthy criminal records and the "sweetheart" deals they received were incapable of providing the quality and quantity of reliable testimony upon which a capital conviction and death sentence should be based.

129. The Court should award Petitioner a new trial because the Franklin County Prosecutor's Office refused to recuse itself. U.S. Const. Amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16 and 20. In the alternative, the Court should award Petitioner an evidentiary hearing and discovery.

Exhibits: 12-13

Legal Authority: Berger v. United States, 295 U.S. 78, 88 (1935); ABA Statutes for Criminal Justice, Prosecutor Function, Third Edition 301.3 (a); Lawless, Prosecutorial Misconduct (Third Edition Matthew Bender) § 13.30 ;U.S. Const. amends. V, VIII, XIX and XIV; Ohio Const. Art. I, §§ 9 and 16.

TENTH CAUSE OF ACTION

130. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

131. Petitioner's convictions and sentences are void or voidable because the Franklin County Prosecutor's Office made improper extrajudicial statements which deprived Petitioner of a fair trial. U.S. Const. Amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16 and 20.

132. Every person accused of a crime is entitled to a fair trial by a fair and impartial jury of his peers and to be convicted, if at all, on the basis of evidence properly adduced at trial.

133. In essence, the right to a jury trial guarantees to the criminally accused a fair trial by a panel of impartial, "indifferent" jurors. The failure to accord an accused a fair hearing violates even the minimal standards of due process. "A fair trial in a fair tribunal is a basic requirement of due process." In re Murchison, 349 U.S. 133, 136 (1955).

134. The law precludes representatives of the parties from taking any actions that would impair the other party's right to a fair and impartial jury. Lawyers shall not make "a public pronouncement if the lawyer "knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudication proceeding . . . ." DR 78-107(A)

135. In a criminal case "A prosecutor should not make or authorize the making of an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the prosecutor knows or reasonably should know that it will have a substantial likelihood of prejudicing a criminal proceeding." ABA Standards the Prosecutor Function § 3-1.4(a). See also ABA Standards for Criminal Justice, Fair Trial and Free Press Standard 8-11.1(b)(1)(8).

136. The same standards are applicable to law enforcement officers and agencies. Id. at Standard 8-2.1(c).

137. The law enforcement officers instituted additional charges against Petitioner by filing a complaint in the Franklin County Municipal Court. [Exhibit 14.] There was no reason to institute those charges (as opposed to a direct indictment) other than to garner unfavorable publicity at that expense of Petitioner. At that time the courts had ordered that Petitioner be held on a two million dollar bond on another capital offense.

138. A film crew for a local television station was permitted to go with the deputies when they arrested one of the co-defendants, Jamie Horton. [Exhibit 15, p. 898.]

139. The newspaper reported, the day after the arrests, that "Sheriff's deputies say three men were arrested in connection with the stabbing death of a suburban Columbus man and planned to kill at least six people in exchange for guns, drugs and money." [Exhibit 16.]

140. The Columbus Dispatch reported a day later that "Prosecutor Says Gang Compiled Hit List". [Exhibit 17.] The Franklin County Prosecutor was quoted that "They [the defendants] are a loosely knit, South Side gang involved in drugs and the violence to enforce their trades.". Id. Assistant Prosecutor David DeVillers told the Dispatch "all these people were involved in hiring others and conspiring with others to commit the murders of witnesses and their associates. None of them had jobs, but they had lots of money." Id.

141. The Franklin County Prosecutor subsequently dismissed the Municipal Court charges and presented the case to the Grand Jury [Exhibit 14 .]

142. On June 7, 2003, when the Franklin County Grand Jury returned two additional indictments, the Prosecutor and Sheriff's Department provided the Columbus Dispatch with yet additional inflammatory information. The newspaper reported: a) Petitioner fancied himself to

be a mob boss and was known to be a fan of actor Robert DeNiro, who portrayed gangster Jimmy Conway in the 1990 movie GoodFellas. Among his favorite TV shows is another mob-related tale, The Sopranos, b) The nine names on the gang's hit list included Prosecutor Ron O'Brien and Assistant County Prosecutor Sheryl Prichard. Prichard is a prosecutor in both of the two murder cases filed against Conway; c) Detectives learned that the gang had obtained a license-plate number for Prichard and had followed her once. d) The individuals on the list and the informant have been relocated and have received other protective services [Exhibit. 12.]

143. The law enforcement agencies released the information concerning alleged threats members of the prosecutor's office even though Petitioner has never been charged with these offenses.

144. On September 14, 2003, one day prior to the start of the trial in this case, the Columbus Dispatch published a lengthy article in which the Franklin County Prosecutor was again quoted at length. [Exhibits 18 and 58.]

145. The injection of these impermissible factors by the prosecutor into the trial of this capital case so infected these proceedings as to give rise to an unacceptable risk of prejudice. The prejudicial atmosphere at trial and during sentencing affected the process to such an extent as to render Petitioner's conviction and sentence fundamentally unfair and unconstitutional. Trial under such circumstances is prejudicial per se. . U.S. Const. Amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16 and 20.

146. The Court should grant Petitioner a new trial. In the alternative it should grant Petitioner discovery and an evidentiary hearing.

Exhibits: 12, 24-18 and 58

Legal Authority: In re Murchison, 349 U.S. 133, 136 (1955); ABA Standards the Prosecutor Function; ABA Standards for Criminal Justice, Fair Trial and Free Press Standard.

ELEVENTH CAUSE OF ACTION

147. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

148. Petitioner's convictions and sentences are void or voidable because Count One of the Indictment impermissibly contained two separates offenses. U.S. Const. Amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16 and 20.

149. Count One of the indictment charged Petitioner with violating both O.R.C. § 2903.01(A) and O.R.C. § 2903.01(B) [Exhibit 19].

150. The offenses contained in O.R.C. § 2903.01(A) (murder with prior calculation) and O.R.C. § 2903.01(B) (felony murder) are separate and distinct offenses. State v. Strozier, 32 Ohio St. 2d 62, 65-66 (1972); State v. Ferguson, 175 Ohio St. 389, 394 (1964); State v. Crago, 93 Ohio App. 3d 621, 631 (1994).

151. O.R.C. § 2941.04 requires that where an indictment contains two or more offenses the offense must be contained in "separate counts". Likewise, Ohio R. Crim. P. 8 provides that "Two or more offenses be charged in the same indictment, information or complaint in a separate count for each offense" (emphasis added).

152. The Court charged the jury as to both offenses contained in the Count One [Tr. 1014-1015.] The jury returned a general verdict as to Count One and did not identify which offense they determined that he committed [Exhibit. 20]

153. Petitioner was prejudiced. The failure of the Court and the jury to determine the applicable offense has deprived Petitioner of meaningful appellate review of his death sentence. The jury never specified which offense it considered in the mitigation phase and the Court's sentencing opinion suffered from the same flaw. [Exhibits 21-22.] The Ohio Supreme Court, on

direct appeal, when conducting its de novo review pursuant to O.R.C. § 2929.05 will not know which offense to weigh against the mitigating factors.

Exhibits: 19-22

Legal Authority: State v. Strozier, 32 Ohio St. 2d 62 (1972); State v. Ferguson, 175 Ohio St. 389 (1964); State v. Crego, 93 Ohio App. 3d 621 (1994); State v. Johnston, 24 Ohio St. 3d 87, 92-94 (1986);; O.R.C. § 2941.04; Ohio R. Crim. P. 8; O.R.C. § 2903.01; O.R.C. § 2929.05.

TWELFTH CAUSE OF ACTION

154. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

155. Petitioner's convictions and sentences are void and/or voidable due to prosecutorial misconduct in violation of Petitioner's rights to a fair trial because the trial prosecutors abused the subpoena process. U.S. Const. Amends. V, VI, VIII, and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20; United States v. Keen, 509 F.2d 1273 (6th Cir. 1975).

156. Ohio Crim. R. 17(A) sets forth the procedure for the issuance of subpoenas to compel individuals to appear in court and provide testimony. The rule clearly precludes the issuance of subpoenas to require individuals to appear in non judicial proceedings. Ohio Crim. R. 17(C) further provides a procedure for the issuance of subpoenas duces tecum, which require individuals to produce books, papers, documents, or other objects. Unlike subpoenas issued for the production of testimony, a court may authorize the appearance of the holder of the records or other objects to appear prior to the commencement of the relevant proceeding.

157. Rule 17 of the Federal Rules of Criminal Procedure sets forth the same guidelines as Ohio Crim R. 17. Federal Crim. R. 17 permits a party to issue a subpoena only for the purpose of compelling the attendance of witnesses or the production of evidence at formal proceedings, such as grand jury proceedings, preliminary hearings, and trials: See Keen, 509 F.2d 1273, 1274-74; United States v. Hedge, 462 F.2d 220, 222-23 (5th Cir. 1972); United States v. Standard Oil Co., 316, F.2d 884, 897 (7th Cir. 1963); United States v. Lafeunte, 991 F.2d 1406, 1411 (8th Cir. 1993). The government may not use trial subpoenas to compel prospective trial witnesses to attend pretrial interviews with government attorneys. Id.

158. The ABA Standards for Criminal Justice specifically preclude the non-judicial use of subpoenas:

> (a) A prosecutor ordinarily relies on police and other investigative agencies for investigation of alleged criminal acts, but the prosecutor has an affirmative responsibility to investigate suspected illegal activity when it is not adequately dealt with by other agencies . . .
>
> (e) A prosecutor should not secure the attendance of persons for interviews by use of any communication which has the appearance or color of a subpoena or similar judicial process unless the prosecutor is authorized by law to do so. (Emphasis added) . . .
>
> (g) Unless a prosecutor is prepared to forgo impeachment of a witness by the prosecutor's own testimony as to what the witness stated in an interview or to seek leave to withdraw from the case in order to present the impeaching testimony, a prosecutor should avoid interviewing a prospective witness except in the presence of a third person.

Prosecution Functions, Standard 3-3.1.

159. Despite these unambiguous strictures, the Prosecutors in the present case issued non-judicial subpoenas to compel the production of the Nextel telephone records of Petitioner, Jennifer Conway, James Horton, Shawn Nightingale and Attorney Christopher Cicero as well as records for 614-778-7074. [Exhibits 22-25] In addition the prosecutor issued an extrajudicial subpoena to compel the attendance of Mandel Williams. [Exhibit 26.]

160. In addition the police had the court issue at least one subpoena to "cover up:" the fact that the police had already improperly obtained records. On November ;2, 2001, Nextel provided Detective William McCoy with the telephone records for Miranda Oliver [Exhibit 59]. On November 5, 2001, two judicial officers issued subpoenas for those records. [Exhibit 60].

161. In State v. Campbell, Hamilton App. No. C-95-746, 1997 WL 5182, p.12 (Jan. 8, 1997). [Exhibit 27.] the Court addressed the issue of prejudice in the context of improperly issued subpoenas. The Court concluded that the petitioner was not entitled to relief because the witness did not turn over any documents pursuant to the subpoenas. Id. In the present case Petitioner was prejudiced, Nextel did turn over the telephone records in question.

162. Petitioner's trial was undermined due to prosecutorial misconduct. The prosecutor's improper use of the subpoena process violated Petitioner's rights as guaranteed by the Fifth, Sixth, Eighth and Fourteenth Amendments. Petitioner must be granted a new trial or, at a minimum, discovery and an evidentiary hearing on this ground for relief.

Exhibits: 22-27, 59-60

Legal Authority: United States v. Keen, 509 F.2d 1273 (6th Cir. 1975); Ohio Crim. R. 17; United States v. Hedge, 462 F.2d 220 (5th Cir. 1972); United States v. Standard Oil Co., 316, F.2d 884 (7th Cir. 1963); United States v. Lafeunte, 991 F.2d 1406 (8th Cir. 1993); State v. Campbell, Ham. App. No. C-95-746, 1997 WL 5182 (Jan. 8, 1997); U.S. Const. Amends V, VI, VIII, XIV; Ohio Const. Art. I. §§ 1, 2, 5, 9, 10, 16, and 20; Ohio R. Crim. P. 17.

THIRTEENTH CAUSE OF ACTION

163. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

164. Petitioner's convictions and sentences are void and/or voidable because the trial prosecutors failed to provide trial counsel with exculpatory evidence. U.S. Const. Amends. V, VIII, IX, XIV, Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20.

165. A prosecutor is required to disclose favorable evidence to an accused in a criminal proceeding. Brady v. Maryland, 373 U.S. 83, 87 (1963). The duty of disclosure extends to impeachment evidence as well as exculpatory evidence. United States v. Bagley, 473 U.S. 667, 676 (1985).

166. Evidence is material "if there is a reasonable probability that, had the evidence been disclosed, the result of the proceeding would have been different." Kyles v. Whitley, 514 U.S. 419, 433-4 (1995).

167. In conjunction with the duty of disclosure, a prosecutor has a duty to learn of any favorable evidence known to others acting on the government's behalf in this case, including the police. Kyles v. Whitley, 514 U.S. at 437.

168. The duty also extends to information in possession of the federal agents that have been previously involved with Ronald Trent. Moon v. Head, 295 F.3d 1301, 1209 (11th Cir. 2002); United States v. Joseph, 996 F.2d 36, 39 (3rd Cir. 1993).

169. The prosecutor must disclose exculpatory evidence throughout these post-conviction proceedings. Imblen v. Pachmon, 424 U.S. 409 (1976) fn. 25; High v. Head, 209 F.3d 1257 (11th Cir. 2008); Smith v. Roberts, 115 F.3d 818 (10th Cir. 1997); Thomas v. Goldsmith, 979 F.2d 746, 749-50 (9th Cir. 1992).

170. The Franklin County Prosecutor's Office has been found guilty of hiding exculpatory evidence in other high profile cases:

a) State v. Howard – The Franklin County Prosecutor's Office suppressed reports and other documents that caused the defendant to be wrongfully sentenced to death. He spent seventeen years wrongly incarcerated;

b) State v. James – The defendant was a co-defendant of Howard and was yet another person who was wrongly sentenced to death because of the prosecutor's suppression of evidence. The Franklin County Prosecutor continued to resist releasing the defendant, even after the constitutional violation came to light. The prosecutor that hid the evidence in that case would have been in a supervisory capacity over the attorneys in the present case;

c) State v. Walden – The Franklin County Prosecutor's Office suppressed reports that the deceased had constantly harassed the defendant by making improper telephone calls and damaging her property. State v. Walden, 19 Ohio App. 3d 141 (1984);

d) State v. Castleberry – The prosecutor's office suppressed evidence that 1) the victim's physical description of the assailant did not match the physical description of the defendant. 2) three of the victim's neighbors saw two very thin men go in or near the building at the time of the shooting and later flee the building (the defendant weighed two-hundred-twenty-one pounds) and; 3) the prosecutor's jail house informant had been heard by a disinterested witness planning the robbery. Castleberry v. Bringano, 349 F.3d 296, 294 (6th Cir. 1983).

171. Petitioner has identified an ongoing systemic problem concerning the disclosure of exculpatory evidence by the Franklin County Prosecutor's Office. Petitioner in the exercise of due diligence and on reasonable belief, alleges that the above examples warrant the granting of discovery to demonstrate that the chronic problem continued in the present case.

172. Petitioner has attempted to access the evidence by making public records and FOIA requests to support this Cause of Action. However both the state and federal officials have denied him access to the relevant information. [See Fifth and Sixth Causes of Action; Exhibits 4-10.]

173. Discovery will demonstrate the existence of this ongoing constitutional violations, which undermine the confidence in the court's verdicts in both phases of the proceedings. U.S. Const. Amends. V, VIII, IX, XIV, Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20. Petitioner must be granted a new trial or, at a minimum, discovery and an evidentiary hearing on this ground for relief.

Exhibits: 4-10

Legal Authority Supporting this Ground for Relief: Brady v. Maryland, 373 U.S. 83 (1963); United States v. Bagley, 473 U.S. 667 (1985); Kyles v. Whitley, 514 U.S. 419 (1995); Castleberry v. Bringano, 349 F.3d 296 (6th Cir. 1983); Imblen v. Pachmon, 424 U.S. 409 (1976) fn. 25; High v. Head, 209 F.3d 1257 (11th Cir. 2008); Smith v. Roberts, 115 F.3d 818 (10th Cir. 1997); Thomas v. Goldsmith, 979 F.2d 746 (9th Cir. 1992); Moon v. Head, 295 F.3d 1301 (11th Cir. 2002); United States v. Joseph, 996 F.2d 36 (3rd Cir. 1993); U.S. Const., amends. V, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20.

FOURTEENTH CAUSE OF ACTION

174. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

175. Petitioner's convictions and sentences are void or voidable because the trial prosecutors knowingly presented and failed to correct false testimony to obtain the convictions and death sentence in the present case. U.S. Const. Amends. V, VIII, IX, XIV, Ohio Const. Art. I, §§ 1, 2, 5, 9. 10, 16, and 20.

176. A prosecutor may not introduce trial testimony that he or she "knew or should have known was perjured." United States v. Agurs, 427 U.S. 97, 103 (1975); accord, Kyles v. Whitley, 514 US. 419, 432 (1995); Napue v. Illinois, 350 U.S. 264, 269 (1959).

177. A prosecutor has the same constitutional obligation when the State, although not soliciting false evidence, allows it to go uncorrected when it appears." Napue, 360 U.S. at 269.

178. A conviction obtained by the knowing use of perjured testimony is fundamentally unfair, and must be set aside if there is any reasonable likelihood that the false testimony could have affected the judgment of the jury. Agurs, 427 U.S. at 103.

179. A prosecutor's reliance upon false argument also invokes due process's traditional abhorrence of the use of falsehoods to secure a conviction. See, e.g. Miller v. Page, 386 U.S. 1, 7 (1967) (writ granted where prosecution misrepresented blood on pair of shorts); Pyle v. Kansas, 317 U.S. 213, 215-16 (1942).

180. The Franklin County Prosecutor's Office has a history and practice of using unreliable testimony and argument to obtain convictions:

a) The prosecutors have argued that a defendant fabricated her testimony. concerning harassing telephone calls, vandalism and damage to her apartment when the

prosecutors had in their possession police reports documenting the defendant's claims. State v. Walden, 19 Ohio App. 3d 141, 148 (1984);

b) The prosecutors argued that the defendant could have only left his palm prints in the store during the commission of an aggravated murder. The prosecutors, at that time, had in their possession a witness statement and surveillance film which documented that the defendant left his palm prints in the store on a prior day when he was making a purchase. State v. Hairston, No. 94APA02-205, 1994 WL 723316 (Franklin App. Dec. 30, 1994) [Exhibit 28].

181. The same type of misconduct occurred in the present case. Lora Eberhard testified when she last saw her son, he was in a jeep with two other individuals. Ms. Eberhard initially described the driver of the vehicle as "Blond, kind of heavy set, kind of blond hair." [Exhibit 29.] At trial Ms. Eberhard denied that she had told the police that the driver of the vehicle was "short, chubby and blond." [Tr. 363-364.]

182. In her pretrial conversation with the detectives, Ms. Eberhard indicated that Shawn Nightingale was driving "Yeah, he was driving." [Exhibit 29.] At trial Ms. Eberhard testified that it was Jamie Horton who was operating the vehicle. [Tr. 347.]

183. The prosecutor misrepresented the position of the victim's family in the Gross Sexual Imposition case to the Parole Board. [Exhibit 65.]

184. Likewise the prosecutor cannot pursue one theory of the case to obtain a conviction against a defendant and then pursue a different theory to obtain a conviction against a co-defendant. Smith v. Groose, 205 F.3d 1045 1050-1051 (8th Cir. 2000), Drake v. Kemp, 762 F.2d 1449 (11th Cir. 1985) concurring opinion. The prosecutors pursued conflicting theories in the cases of Petitioner and Janice Horton.

185. Petitioner has attempted to further develop this Cause of Action by seeking access to the law enforcement files in the possession of State and federal officials. The public officials have ignored his requests. [See Fifth and Sixth Causes of Action, Exhibits 4-10.]

186. The Court should grant Petitioner discovery and an evidentiary hearing to fully develop this Cause of Action. At the conclusion of the factual development the Court should grant Petitioner relief if he is able to demonstrate that there is a reasonable likelihood that false testimony and argument could have affected the judgment of the jury.

Exhibits: 4-10, 28-29, 65

Legal Authority: United States v. Agurs, 427 U.S. 97 (1975); Kyles v. Whitley, 514 US. 419 (1995); Napue v. Illinois, 350 U.S. 264 (1959); Miller v. Page, 386 U.S. 1 (1967); Pyle v. Kansas, 317 U.S. 213 (1942); State v. Walden, 19 Ohio App. 3d 141 (1984); State v. Hairston, No. 94APA02-205, 1994 WL 723316 (Franklin App. Dec. 30, 1994); Smith v. Groose, 205 F.3d 1045 1050-1051 (8th Cir. 2000), Drake v. Kemp, 762 F.2d 1449 (11th Cir. 1985).

FIFTEENTH CAUSE OF ACTION

187. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

188. Petitioner's convictions and sentences are void and/or voidable because Petitioner was denied the effective assistance of counsel during the trial stage of his capital case. The acts and omissions of trial counsel deprived him of the Sixth Amendment right to effective assistance of counsel. U.S. Const. amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20; Strickland v. Washington, 486 U.S. 668, 686 (1984).

189. Trial counsel retained the services of Matt Sauer to conduct the trial phase investigation. He conducted an unreasonable investigation. [Exhibit 30.]Some of the unreasonableness may be attributable to the prosecutor's suppression of evidence. See Thirteenth Cause of Action.

190. The State's case was dependent upon two witnesses: 1) Ronnie Trent and 2) Mike Arthurs. Defense counsel failed to conduct an adequate investigation as to Trent and Arthurs. including 1) the facts surrounding the prior offenses, b) the previous cases in which they provided assistance to other law enforcement agencies and c) the ongoing relationship with the prosecutors in the present case and d) their prior statements in the case [Exhibit 33].

191. The duty of pretrial investigation includes the retention of all reasonable and necessary witnesses. Trial counsel failed to retain a pathologist and a Forensic Entomologist. [See Sixteenth Cause of Action; Exhibits 31, 32.] The retention of these two experts would have raised reasonable doubt as to the prosecution's case that the Petitioner was the individual who actually killed Andrew Dotson. [Id.]

192. Trial counsel also failed to conduct a reasonable investigation concerning the shooting of Jessee James. If counsel had conducted a reasonable investigation they would have learned that it was Dotson who a) actually stood to benefit from the shooting of Dilley and c) instigated the shooting. [Exhibit 33, p. 379].These facts would have led to reasonable doubt in the prosecution's theory that Petitioner killed Dotson to prevent Dotson from testifying against him. Counsel failed to raise a corpus delecti argument.

193. Trial counsel failed to conduct a reasonable voir dire and opening statement. Trial counsel failed to adequately detail the history of the prosecutors' informants

194. Trial counsel failed to cross examine the State's witnesses as to their inconsistent statements including those made by Lora Eberhart [Exhibit 29], Ronald Trent, and Mike Arthurs. Counsel failed to ask Trent questions concerning his history of snitching in other cases.

195. Trial counsel unreasonably failed to cross examine Dr. Fardal concerning his opinion concerning the cause of death. [Exhibits 31-32.]

196. Trial counsel also failed to develop background information on the victim, including that the victim was a thief and heavily into pills [Exhibits 33, pp. 378-379, 383.]

197. In Petitioner's case in chief, trial counsel failed to call a Shawn Nightengale and a forensic pathologist and to rebut Dr. Fardal's findings [Exhibits 31, 32, 34, 35, 61-64.] In addition they failed to produce testimony for a Forensic Entomologist that would have highlighted the seriousness of the wounds that Arthurs inflicted upon Dotson's neck. See Sixteenth Cause of Action.

198. Trial counsel also failed to obtain a certified copy of CJ Stephens' birth certificate. The Court did not permit the introduction of an uncertified copy or Matt Sauer to

testify as to Stephens' date of birth [Tr. 889.] His birth date would have thrown into questions the testimony of the witnesses called by the prosecutor [Exhibit 36.]

199. Trial counsel for Petitioner had a duty to object and prevent the admission of all objectionable testimony and exhibits. Petitioner's counsel will be ineffective to the extent that the Ohio Supreme Court refuses to address the merits of issues because counsel did not properly preserve the record at trial [Exhibit. 37]

200. Ohio R. Crim. P. 30(A) imposes a similar duty upon counsel in the trial phase to object upon completion of the court's jury charge to any errors in the court's instructions. Counsel failed to submit written instructions as to the following instructional errors: 1) that required the jury to designate which prong of Aggravated Murder it found Petitioner guilty [See Cause of Action]; 2) the charge as to complicity [Tr. 1007]; the definition of purpose [Tr. 1010]; the definition of the term "criminal proceeding" [Tr. 1020] and the definition of the term "witness" [Tr. 1020.]

201. Trial counsel's performance was deficient in that they did not meet the prevailing standards of practice.

202. Trial counsel did not have any tactical or strategic reasons within the range of reasonable competence for failing to meet the prevailing standards of practice.

203. Singly and cumulatively, there is reasonable probability that, if counsel had performed with reasonable effectiveness a more favorable result would have been obtained.

Exhibits: 30-37, 61-64.

Legal Authority: U.S. Const. amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20; Strickland v. Washington, 486 U.S. 668, 686 (1984); Williams v. Taylor, 529 U.S. 362 (2000); Ohio R. Crim. P. 30.

SIXTEENTH CAUSE OF ACTION

204. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

205. Petitioner's convictions and sentences are void and/or voidable because the prosecutors failed to prove by proof beyond a reasonable Petitioner's guilt as to one or more aggravating circumstances.

206. In the State of Ohio for a defendant to be sentenced to death the prosecutor must initially demonstrate by proof beyond a reasonable doubt that the defendant committed one or more of the aggravating circumstances contained in O.R.C. § 2929.03(A).

207. The grand jury indicted Petitioner for the following aggravating circumstances: 1) the offense was committed for escaping detection, apprehension, trial or punishment O.R.C. § 2929.04(A)(3); 2) the offense was committed during the course of a kidnapping O.R.C. § 2929.04(A)(7) and the victim was a witness to an offense who was purposely killed to prevent the victim's testimony. O.R.C. § 2929.04(A)(8).

208. The Court merged the (A)(3) specification into the (A)(8) specification. [Tr. 1291.]

A. The Prosecutor Did Not Demonstrate By Proof Beyond A Reasonable Doubt that Petitioner Was Guilty of the (A)(3) Specification.

209. Because the Court merged the (A)(3) specification into the (A)(8) specification, the (A)(3) specification is no longer relevant to a claim of actual innocence. Petitioner was not convicted of the specification.

B. Petitioner Was Not the Principal Offender.

210. The Court charged the jury in the alternative as to the (a)(7) specification, Petitioner committed the kidnapping and was either the principal offender in the commission of the murder or committed the murder with prior calculation and design [Tr. 1019.]

211. The jury returned a guilty verdict as to the (A)(7) specification and therefore it is impossible to determine which alternative the jury found that the Petitioner violated [Exhibit 38.]

212. For a defendant to be found guilty of being the "principal offender" as the term appears in O.R.C. § 2929.04(A)(7), the prosecutor must prove beyond a reasonable doubt that the defendant performed every act which constituted the offense of aggravated murder and not simply that the defendant was an aider and abettor. State v. Sneed, 584 N.E.2d 1160, 1168 (1992); State v. Taylor, 612 N.E.2d 316, 317 (1993).

213. Petitioner was not the principal offender. One of the co-defendants told the both the state's informant and the investigators that Mike Arthurs caused Dotson's death [Exhibits 34, 35, 61-64]. Dr Fardal was in error as to the pick axe administered the fatal blows [Exhibits 31, 32.]

214. When a court charges a jury in the alternative, and one part of the instructions is later determined to be infirm, a reviewing court will not presume that the jury followed the portion of the instructions that was correct. The same principle should be applied to factual findings. The Court should not assume that the jury found the Petitioner guilty of committing the offense with "prior calculation and design" since it has now been conclusively established that he was not the "principal offender."

C. Andrew Dotson Ws Not A Witness In Any Criminal Proceeding.

215. The elements contained in the (A)(8) specification include: a) a murder, b) of a witness, c) who was purposefully killed to prevent his testimony, and d) in any criminal proceeding.

216. The State alleged the offense involved the felonious assault of Jesse James. Mr. James could not identify the shooter. [Tr. 853.]

217. Andrew Dotson instigated the events surrounding the shooting of Jesse James and who stood to gain from the shooting. Dotson's female acquaintance decided she was going to date another individual, Jared Dilley [Tr. 414], who was evidently an associate of Jesse James. Dotson became upset and called Petitioner to help Dotson confront Dilley [Exhibit 33.]

218. Neither the police nor James filed any charges. Therefore, never was "a criminal proceeding" for which Dotson had to be silenced. If there was no criminal proceeding, then Petitioner cannot have been guilty of this specification.

219. Ignoring the fact there was no criminal proceeding, it is irrational speculation that Dotson would have provided testimony against Petitioner, assuming that it was Petitioner who shot James. Dotson was not likely to tell the police that he solicited Petitioner to commit the shooting. This would have made Dotson equally culpable for the shooting. It defies logic that Petitioner, in an act to help Dotson get even because of his girlfriend, Petitioner, would shoot at Dilcy/James and then feel the need to "cover his tracks" by shooting Dotson.

D. Petitioner's Conviction for Capital Murder is Infirm

220. No reasonable juror would have convicted Petitioner of this specification if she or he heard all of the evidence. It will be a violation of the Eighth and Fourteenth Amendments to execute Petitioner who is not eligible for the death penalty under the State of Ohio's statutory sentencing.

Exhibits: 31-35, 38, 61-64
Legal Authority: State v. Sneed, 584 N.E.2d 1160 (1992); State v. Taylor, 612 N.E.2d 316 (1993); U.S. Const. amends. V, VIII and XIV; O.R.C. § 2929.03; O.R.C. § 2929.04.

SEVENTEENTH CAUSE OF ACTION

221. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

222. Petitioner's conviction and sentence are void or voidable because he was denied his statutory constitutional right to the appointment of experts. U.S. Const. amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20;

223. The State must as a matter of equal protection provide indigent prisoners with the basic tools of an adequate defense, when those tools are available for a price to other prisoners. Britt v. North Carolina, 404 U.S. 276, 227 (1971).

224. When an indigent criminal defendant demonstrates that his sanity at the time of the offense is to be a significant factor at trial, the state "must at a minimum assure the defendant access to a competent psychologist who will conduct appropriate examinations and assist in the evaluation, preparation and presentation of the defense at trial." [Id. at 83.] Ake v. Oklahoma, 470 U.S. 68, 83 (1905).

225. The principles of Ake are not limited to psychiatric assistance, but extend to other types of assistance. Terry v. Rees, 985 F.2d 283, 284-285 (6th Cir. 1993) (independent pathologist); Little v. Armontrout, 835 F.2d 1240, 1244 (8th Cir. 1987) (hypnotist); Dunn v. Roberts, 963 F.2d 308, 313 (10th Cir. 1992) (expert on battered woman's syndrome).

A. The Court Failed To Appoint A Forensic Entomologist.

226. There was a dispute as to the time and cause of death. One of the prosecution's informants initially reported that the homicide occurred in August 2001. [Tr. 533.] The indictment listed the time of death as September or October 2001. [Exhibit 19.] In addition there was a dispute as to the cause of death. The State claimed that the victim's death was caused by

two wounds to the chest which were inflicted by a pick ax. Petitioner claimed that the cause of death was strangulation and/or injuries to the decedent's neck.

227. Forensic entomologists are able to reliably determine the time of death by examining the insects found on a body. William D. Haglund and Marcella H. Sorg *Forensic Taphonomy, The Postmortem Fate of Human Remains*, , CRC Press, 1997, at p. 419.

228. In addition, a forensic entomologist by examining the location of the bugs on the corpse can determine the type of injuries that the decedent sustained. In the present case, the pictures of Andrew Dotson's body document the presence of a large number of insects on his throat, or neck, region. This demonstrates that Dotson's neck was wounded. Id. at 420.

B. The Trial Court Failed To Appoint A Forensic Pathologist.

229. The State presented the testimony of Dr. Patrick Fardal, M.D. who conducted the autopsy of Andrew Dotson. [Tr. 630.] He testified that the cause of Andrew Dotson's death was injuries to Dotson's torso. [Tr. 639-709.] Dr. Fardal conceded that the prosecutor never gave him any information from an eyewitness that Michael Arthurs stepped on Dotson's neck, put Dotson in a headlock and otherwise strangling him prior to the infliction of the wounds to the torso. [Tr. 688.] [Exhibits 61-64].

230. Dr. Werner Spitz. M.D. reviewed Dr. Fardal's testimony, report and other documents to evaluate the cause of death in this case. Based on his review, Dr. Spitz found, to a reasonable degree of medical certainty, that Andrew Dotson was already deceased when the blunt instrument wounds were inflicted on his torso. [Exhibits 31-32.].

C. The Court Failed To Appoint A Cultural Expert.

231. Evidence concerning a defendant's "familial background, personal history, and cultural experiences" was relevant for mitigation because it could have "significantly affected"

the jury's decision regarding the "ultimate sentence defendant-appellant is to receive." State v. Dixon, 1997 WL 113756, *97-98 (Ohio App. 8th Dist. March 13, 1997) [Exhibit 39.]

232. A competent cultural expert could have placed Petitioner's development and involvement in the offense in the context of the cultural in which he was raised. Petitioner's family of origin is from predominately American-Appalachian root which generated a discrete cultural environment that influenced and continued to influence the behavior of its members. Characteristics of this social group are mistrust of outsiders, strong family dependence and dysfunctional behavior in urban settings. (i.e. the South.) [Exhibit 40

C. Petitioner did not have the benefit of the testimony of a Forensic Psychologist.

233. The trial court appointed Dr. Robert Stinson to psychologically assess Petitioner and the environment and biological factors which affected his development. The expert never testified. The right to a psychological expert necessarily includes the right to have the expert testify.

234. A defendant has a right to expert psychological testimony where his mental capacity is a significant issue during the penalty phase of a capital case. Kordenbrock v. Scroggy, 919 F.2d 1091, 1104 (6th Cir. 1990); Glenn v. Tate, 71 F.3d 1204, 1208 (6th Cir. 1989); Branscomb v. Norris, 47 F.3d 258, 262 (8th Cir. 1994).

235. In the present case the jury did not hear any psychological evidence linking the relevant environmental and biological factors upon Petitioner's development and commission of the offense See Exhibit 41 Petitioner was prejudiced.

Exhibits: 19, 31-32, 39-41, 61-64

Legal Authority: Britt v. North Carolina, 404 U.S. 276 (1971); Ake v. Oklahoma, 470 U.S. 68 (1905); Terry v. Rees, 985 F.2d 283 (6th Cir. 1993); Starr v. Lockhart, 23 F.3d 1280 (8th Cir. 1994); Little v. Armontrout, 835 F.2d 1240 (8th Cir. 1987); Dunn v. Roberts, 963 F.2d 308 (10th Cir. 1992); State v. Dixon, 1997 WL 113756, *97-98 (Ohio App. 8th Dist. March 13, 1997); Kordenbrock v. Scroggy, 919 F.2d 1091 (6th Cir. 1990); Glenn v. Tate, 71 F.3d 1204 (6th Cir. 1989); Branscomb v. Norris, 47 F.3d 258, 262 (8th Cir. 1994).

EIGHTEENTH CAUSE OF ACTION

236. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

237. Petitioner's sentences are void and/or voidable because Petitioner was denied the effective assistance of counsel during the mitigation stage of his capital case. U.S. Const. amends. V, VI, VIII, IX, and XIV; Ohio Const. art. I, §§ 1, 2, 5, 9, 10, 16 and 20; Strickland v. Washington, 486 U.S. 668, 686 (1984).

238. Trial counsel chose to go forward with only good evidence concerning Petitioner: The prevailing standards of practice in a capital case dictates that the mitigation phase investigation and presentation of evidence should not be limited to "good" or "positive" information concerning the defendant.. See Williams v. Taylor. 529 U.S. 362 (2000).

239. Because trial counsel so limited the presentation, the jury did not receive most of the relevant information regarding Petitioner's development including the following:

a) Residents of Columbus's west side where Petitioner's family lived has a large population of Appalachian descendants. [Exhibit 42.] There is a "small town" atmosphere. People who live on the west side often marry within the circle of their west side friends. [Exhibits. 42, 43]

b) Petitioner' family is very tight knit, so much so that when the children turned eighteen years old they did not leave home. [Ex. 42.]

c) The Conway family contained much dysfunction. Petitioner's father, Jim, Jr., was known on the west side of Columbus, Ohio for his "wild side". [Exhibit 44.]

d) When Petitioner was a child, his father, Jim, Jr. was sent to prison for shooting a man. [Exhibit 44.] According to one observer, "Jim, Jr. and his family seemed to wear

prison time like I wore a Bronze Star, as a badge of courage." [Exhibit. 46.] Petitioner's uncle Roger also shot a man to death while Roger was ostensibly defending himself. Roger was sent to prison. " The Conway family viewed Roger as a martyr and placed him upon a pedestal." [Exhibit. 44]. Another family member, upon release from prison "was picked up in a limo." [Exhibit 46.]

e) Violence was both learned behavior and part of the family code. It is clear that such behavior was not unexpected by family members.

240. The Court appointed Dorian Hall as the mitigation specialist. Ms Hall has testified in another Franklin County capital cases, in which the jury returned a life verdict. [Exhibit 45.] Ms Hall could have combined all of the family's testimony into a comprehensive social history for the jury's consideration [Exhibits 45, 46.]

241. A defendant's degree of involvement in the offense is a statutory mitigating factor in the State of Ohio. O.R.C. § 2929.03(B)(6). Trial counsel did not address this issue. Counsel should have presented expert testimony [Exhibits 30, 31.] and eyewitness testimony that Petitioner did not inflict the fatal blows. [Exhibits 34-35, 61-64.] They also failed to present evidence that Attorney Cicero was involved in the offense. [Exhibit 51-57.]

242. A victim's degree of involvement (to the extent that the victim induced or facilitated the offense) is a statutory mitigating factor. O.R.C. § 2929.03(B)(1.) Trial counsel did not address this issue. The dispute in the present case was caused by Dotson. He was upset that his girlfriend had begun to see another male [Tr. 414-415]. The shooting of Jesse James was the direct result of his frustration [Exhibit 33]. If Dotson had acted appropriately, the shooting would never have occurred.

243. Trial counsel's duty in the mitigation phase includes the retention of all reasonable and necessary experts. Trial counsel failed to retain the services of: a) a pathologist who could have demonstrated that Petitioner did not inflict the fatal blows. [Exhibits 30-31.]; and b) a cultural expert who could have explained Petitioner's development in terms of the Appalachian culture in which he was raised [Expert 40];

244. In addition, trial counsel failed to call the psychologist who could have identified for the jury Petitioner's development in terms of a) the poor parenting that he received, b) the substance abuse within the family; c) the paternal family background of criminal behavior; d) the chaotic early family life; e) lack of bonding with his family; f) the disappointments in his life, and; g) other critical events. For example see Exhibit 41.

245. Trial counsel had a duty to preserve for appellate review the court's admission of improper testimony and argument. Trial counsel failed to that extent that the Ohio Supreme Court fails to address any of the errors that Petitioner raised on his direct appeal to that Court [Exhibit 37.].

246. Trial counsel also had a duty to object to the court's charge, upon completion of the Court's charge to any infirm instruction. Ohio R. Crim. P. 30(A). The failure of counsel to object, unless it is plain error will result in the error being waived for appellate purposes. Trial counsel failed to object to the following instructional errors: 1) the definition of "reasonable doubt" [Tr. 1292], and that the jury would decide what evidence was relevant [Tr. 1293].

247. There is reasonable probability that, if counsel had performed with reasonable effectiveness throughout the preparation for, and during, the trial proceedings, a more favorable result would have been obtained.

Exhibits: 30-31, 33-35, 37, 40, 42-46, 51-57, 61-64
Legal Authority: Strickland v. Washington, 486 U.S. 668 (1984); Williams v. Taylor, 529 U.S. 362 (2000); U.S. Const. amends. V, VI, VIII, IX, and XIV; Ohio Const Art. I, §§ 1, 2, 5, 9, 10, 16 and 20; O.R.C. § 2929.03.

NINETEENTH CAUSE OF ACTION

248. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

249. The death sentence against Petitioner is void and/or voidable because the death penalty as administered by lethal injection violates his constitutional rights to protection from cruel and unusual punishment as guaranteed by the Eighth Amendment and to due process of law. U.S. Const. amends. V, VIII, IX, XIV; Ohio Const. art. I, §§ 1, 2, 5, 9, 10, 16, 20; Ohio Adult Parole Authority v. Woodard, 523 U.S. 272 (1998)(five justices holding that the Due Process Clause protects the "life" interest at issue in capital cases).

250. A punishment is cruel when it involves "something more than the mere extinguishment of life," such as "torture or a lingering death." In re Kemmler, 136 U.S. 436, 447 (1890). This definition, however, "proscribes more than physically barbarous punishments." Estelle v. Gamble, 429 U.S. 97, 102 (1976). It "forbids the infliction of unnecessary pain in the execution of the death sentence." Louisiana ex rel. Francis v. Resweber, 329 U.S. 459, 463 (1947).

251. Although the "unnecessary and wanton infliction of pain," Gregg v. Georgia, 428 U.S. 153, 173 (1976), is the foremost aspect of a challenge to a method of execution, the cruel and unusual punishment clause also prevents the mutilation of the human body. "Civilized standards . . . require a minimization of physical violence during execution irrespective of the pain that such violence might inflict on the condemned. Trop v. Dulles, 356 U.S. 86, 100 (1958).

252. The cruel and unusual punishment clause has an "expansive and vital character," Weems v. United States, 217 U.S. 349, 373 (1909), that has been interpreted "in a flexible and dynamic manner." Stanford v. Kentucky, 492 U.S. 361, 371 (1989). Consistent with this

expansive and flexible reading, the cruel and unusual punishment clause "draw[s] its meaning from the evolving standards of decency that mark the progress of a maturing society," Trop, 356 U.S. at 101.

253. As to each facet of the analysis of whether a punishment is cruel and unusual, is the risk of error that the Eighth Amendment permits. In capital cases, as in other cases, the teaching of the Supreme Court's cases is that Eighth Amendment adjudication cannot proceed just by correcting ugly but isolated instances of deviation from generally acceptable standards of procedure. Rather, it must be concerned with assuring that general procedures themselves are adequately designed and maintained to avoid undue risks of inflicting inhumane punishments. Farmer v. Brennan, 511 U.S. 825, 846 (1994).

254. Upon information and belief, Petitioner contends that the chemicals that will be used to bring about his execution will result in undue pain and suffering. Typically, the chemicals include Sodium Thiopental or Sodium Pentothal (an ultra short-acting barbiturate); Pancuronium Bromide or Pavulon (a curare-derived agent which paralyzes all skeletal or voluntary muscles, but which has no effect whatsoever on awareness, cognition or sensation); and potassium chloride (an extraordinarily painful chemical which activates the nerve fibers in the inmate's veins and which can interfere with the rhythmic contractions of the heart and cause cardiac arrest). [Exhibits 47, 48, 49.]

255. This particular combination of chemicals will cause Petitioner to consciously suffer an excruciatingly painful and protracted death. [Exhibit 49.]

256. Sodium thiopental, or sodium pentothal, is an ultra short-acting barbiturate which is ordinarily used to render a surgical patient unconscious for mere minutes, only in the induction phase of anesthesia, specifically so that the patient may re-awaken and breathe on their own if

any complications arise from the insertion of a breathing tube prior to the surgery. Because of its brief duration, sodium thiopental may not provide a sedative effect if the sodium thiopental is neutralized by the second chemical typically used, pancuronium bromide. [Id.]

257. The second chemical involved in the lethal injection process, pancuronium bromide, or Pavulon, is a derivative of curare that acts as a neuromuscular blocking agent.

258. While Pavulon paralyzes skeletal muscles, including the diaphragm, it has no effect on consciousness or the perception of pain or suffering. To the extent that the first chemical, sodium thiopental, is neutralized by the second, Pavulon, the paralytic chemical (Pavulon) will serve only to mask Petitioner's excruciating pain. [Id.]

259. The risk of inflicting severe and unnecessary pain and suffering upon Petitioner in the lethal injection process is particularly grave because, upon information and belief, the procedures and protocols designed by the State of: Ohio do not include safeguards regarding the manner in which the execution is to be carried out, do not establish the minimum qualifications and expertise required of the personnel performing the critical tasks in the lethal injection procedure, and do not establish appropriate criteria and standards that these personnel must rely upon in exercising their discretion during the lethal injection procedures.

260. Executioners, in administering chemicals to Petitioner will cause unnecessary pain in the execution of a sentence of death, thereby depriving Petitioner of his rights under the Eighth and Fourteenth Amendments to be free from cruel and unusual punishment.

Exhibits: 47-49, 51-57, 61-64

Legal Authority: Ohio Adult Parole Authority v. Woodard, 523 U.S. 272 (1998); In re Kemmler, 136 U.S. 436 (1890); Estelle v. Gamble, 429 U.S. 97 (1976); Louisiana ex rel. Francis v. Resweber, 329 U.S. 459 (1947); Gregg v. Georgia, 428 U.S. 153 (1976); Trop v. Dulles, 356 U.S. 86 (1958); Weems v. United States, 217 U.S. 349 (1909); Weems v. United States, 217 U.S. 349 (1909); Penry v. Lynaugh, 492 U.S. 302 (1989); Robinson v. California, 370 U.S. 660 (1962); Farmer v. Brennan, 511 U.S. 825 (1994); U.S. Const. amends. V, VIII, IX, XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, 20.

TWENTIETH CAUSE OF ACTION

261. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

262. Petitioner's conviction and sentences are void or voidable because, assuming arguendo that none of the Causes of Action in this Post-Conviction Petition individually warrant the relief, the cumulative effects of the errors and omissions as presented in the Petition in paragraphs one through two-hundred-forty-six prejudiced Petitioner and denied him his rights as secured by the United States and Ohio Constitutions. A conviction will be reversed where the cumulative effect of the errors deprives a petitioner of the constitutional right to a fair trial. State v. DeMarco, 31 Ohio St. 3d 191, syl. 2 (1987). See also State v. Bunch, 62 Ohio App. 3d 801 (1989).

263. Petitioner contends, again assuming *arguendo* that this court does not deem any individual Ground for Relief as meriting the relief sought, that the errors presented in his Post-Conviction Petition taken together, are of sufficient magnitude as to warrant the granting of a new trial or, at minimum, discovery and an evidentiary hearing on this Ground For Relief.

Exhibits: 1-49

Legal Authority: State v. DeMarco, 31 Ohio St. 3d 191 (1987); State v. Bunch, 62 Ohio App. 3d 801 (1989).

III. CONCLUSION

WHEREFORE, Petitioner James Conway, III requests the following relief:

A. That the Court declare his conviction to be void or voidable and grant him a new trial;

B. In the alternative, that the Court declare his death sentence to be void or voidable and grant him a new sentencing hearing before a jury;

C. If this Court is not inclined to grant Petitioner relief based on the constitutional violations raised in this petition and supported by the attached exhibits, then he requests that the Court grant him leave to pursue discovery to more fully develop the factual basis demonstrating the constitutional violations contained herein;

D. If the Court is not inclined to grant Petitioner relief after the completion of discovery based on the matters raised in this post-conviction petition and supported by the attached exhibits and discovery, then he requests that the Court conduct an evidentiary hearing pursuant to Ohio Revised Code Ann. § 2953.21;

E. That the Court grant any further relief to which James Conway III might be entitled.

Respectfully submitted,

DAVID H. BODIKER
Ohio Public Defender

RANDALL PORTER (0005835)
Assistant State Public Defender

KATHRYN SANDFORD (0063985)
Assistant State Public Defender

Office of the Ohio Public Defender
8 East Long Street, 11th Floor

58196 - D18

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

FILED
2002 NOV -1 AM 11:20
CLERK OF COURTS

STATE OF OHIO,	:	
Plaintiff,	:	
-v-	:	**Case No. 02 CR-3117**
JAMES T. CONWAY, III,	:	**Judge** _____
Defendant.	:	**Evidentiary Hearing Requested**

JAMES T. CONWAY III'S POST-CONVICTION PETITION

Petitioner James T. Conway, III, petitions this Court for post-conviction relief pursuant to Ohio Rev. Code Ann. § 2953.21 as follows:

I. JURISDICTIONAL FACTS

Trial Proceedings

1. On June 7, 1992, a Franklin County Grand Jury returned a six-count indictment against Petitioner James T. Conway, III, ("Petitioner") charging him with Aggravated Murder, Kidnapping, Possession of Criminal Tools, Abuse of a Corpse, Obstruction of Justice, and Tampering with Evidence. The Aggravated Murder charges (Counts 1 and 2) contained three capital specifications set forth in O.R.C. § 2929.03(A)(3), (A)(7), and (A)(8). The indictment alleged that Petitioner ordered three individuals – Mike Arthurs, Jamie Horton and Shawn Nightingale - to kill Andrew Dotson because Dotson had allegedly witnessed Petitioner shoot Jesse James.



2. On June 12, 2002 Petitioner pled not guilty to all of the charges and specifications.

3. The Court, subsequent to the June 20, 2002, bond hearing, conducted the following pretrial proceedings: 1) July 15, 2002, Pretrial; 2) July 19, 2002, Pretrial; 3) August 1, 2002, Pretrial; 4) December 27, 2002, Motions Hearing; 5) December 30, 2002, Motions Hearing; 6) March 7, 2003, Pretrial; 7) March 14, 2003, Pretrial; and 8) July 11, 2003, Motions Hearing.

4. On July 24, 2002, the Court granted Attorney Chris Cicero motion to withdraw.

5. On July 26, 2002, the Court appointed Attorneys Robert W. Suhr and Brian T. Rigg to represent Petitioner.

6. On February 28, 2003 the Court ordered that Attorneys David Young and Diane Menashe be substituted for Attorneys Suhr and Rigg. Attorneys Young and Menashe represented Petitioner throughout the remainder of the proceedings before this Court.

7. On September 15, 2003, the Court commenced voir dire [Tr. 2] and on September 17, 2003 the prosecution began its case-in-chief. [Tr. 337.]

8. On September 23, 2003, the jury returned guilty verdicts as to all counts and specifications contained in the indictment. [Tr. 1029-1049.]

9. On September 23, 2003, the court commenced the mitigation proceedings.

10. On September 25, 2003, the jury recommended that the Court impose a sentence of death. [Tr. 1204-1206.]

11. On September 29, 2003, the Court entertained argument from the attorneys as to the appropriate sentence. [Tr. 1307-1310.]

12. On September 30, 2003, the Court merged Counts 1 and 2 and imposed a sentence of death. [Tr. 1311-1312.] The Court also imposed the following sentences as to the other counts: A) Count Three, Possession of Criminal Tools, twelve months of imprisonment; B) Count Four, Abuse of a Corpse, twelve months of imprisonment; C) Count Five, Obstruction of Justice, five years of imprisonment; and D) Count Six, Tampering with Evidence, five years imprisonment. The Court ordered that Counts Three through Six be served consecutively with each other, but concurrent with the sentence of death. [*Id.*]

Direct Appeal Proceedings

13 On November 10, 2003, Petitioner timely filed his Notice of Appeal to the Ohio Supreme Court from his convictions and sentences.

14. On June 11, 2004, Appellate Counsel filed with the Ohio Supreme Court the Merit Brief, which contained the following issues:

Proposition of Law One

> Imposition of the death sentence violates the Sixth, Eighth and Fourteenth Amendments to the United States Constitution and Article One, Sections Two, Nine and Sixteen of the Ohio Constitution.

Proposition of Law Two

> In a capital case where the state fails to present sufficient evidence to prove beyond a reasonable doubt all of the elements of the offenses charged, the defendant's subsequent convictions violate the due process clause of the Fourteenth Amendment to the United States Constitution, and the proscription against cruel and unusual punishment contained in the Eighth Amendment to the United States Constitution and Article One, Section Nine of the Ohio Constitution.

Proposition of Law Three

> In a capital case, where the trial court precludes the defense from introducing, and the jury from considering, crucial and relevant evidence contra *Lockett v. Ohio* (1978), 438 U.S. 586, the Defendant's subsequent death sentence violates the due process clause of the Fourteenth Amendment to the United States Constitution.

and Article One, Section Sixteen of the Ohio Constitution, and the proscription against cruel and unusual punishment contained in the Eighth Amendment to the United States Constitution and Article One, Section Nine of the Ohio Constitution.

Proposition of Law Four

Because of pre-trial publicity, including newspaper articles detailing Appellant's prior conviction and death sentence in another case, Defendant was denied his constitutional right to a fair and reliable determination of his guilt or innocence as well as sentence by an impartial jury under Article I, Sections Two, Nine, Ten and Sixteen of the Ohio Constitution, and the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution.

Proposition of Law Five

In a capital case, where the trial judge gives a faulty reasonable doubt instruction during the penalty phase, appellant's death sentence violates the due process clause of the Fourteenth Amendment to the United States Constitution, and Article One, Section Sixteen of the Ohio Constitution and the proscription against cruel and unusual punishment contained in the Eighth Amendment to the United States Constitution, and Article One, Section Nine of the Ohio Constitution.

Proposition of Law Six

The admission of hearsay statements as to key issues deprived appellant of his right to a fair trial under the Ohio and Federal Constitutions.

Proposition of Law Seven

Multiple instances of deficient performance in the conduct of the trial and penalty phases of a capital trial coupled with prejudice inuring to the detriment of the Defendant result in the denial of the right to a fair trial and the right to effective assistance of counsel under the Sixth and Fourteenth Amendments to the United States Constitution as well as Article One, Section Ten of the Ohio Constitution.

Proposition of Law Eight

The Court erred by allowing the admission of irrelevant and prejudicial material regarding other acts committed by the Appellant, in violation of the Ohio Rules of Evidence and the Appellant's substantive and procedural due process rights under the Federal and State Constitutions.

[Exhibit 1]

15. On June 21, 2006, the Ohio Supreme Court affirmed Petitioner's convictions and death sentence. *State v. Conway*, 109 Ohio St.3d 412, 2006-Ohio-2815.

16. On September 19, 2006, Petitioner filed with the United States Supreme Court his petition for certiorari. In his petition he presented the following questions for review:

> I. Can a trial court's failure to admit relevant exhibits during the mitigation phase of a capital case be corrected by an appellate court's statutorily mandated reweighing of the evidence, when the defendant has a state constitutional and statutory right to have the jury determine the appropriate sentence?
>
> II. When an appellate court is statutorily required to provide proportionality review in capital cases, does it violate the Due Process Clause of the Fourteenth Amendment when it in essence provides no meaningful review?

17. On November 27, 2006, the United States Supreme Court denied the petition for certiorari. *Conway v. Ohio* (2006), 549 U.S 1061

Application for Reopening

18. On September 19, 2006, Petitioner filed with the Ohio Supreme Court his Application for Reopening. He raised the following issues in his application:

PROPOSITION OF LAW NO. I

> The State Of Ohio's Death Penalty Violates International Law. Article IV, United States Constitution

PROPOSITION OF LAW NO. II

> The Law Enforcement Officers Improperly Obtained A Statement From Appellant. Fifth, Sixth, And Fourteenth Amendments

PROPOSITION OF LAW NO. III

> A Defendant Has Conflicted Counsel When His Trial Counsel Is The Focus Of The Investigation For Which The Defendant Is Indicted; And Trial Counsel

Provides The Investigating Agencies With Information That Was Protected By The Attorney-Client Privilege. Fifth, Sixth and Fourteenth Amendments

PROPOSITION OF LAW NO. IV

A Prosecutor's Office Should Either Voluntarily Withdraw From A Case Or Be Disqualified When It Is Pursuing Charges Against An Individual Who Has Allegedly Made Death Threats Against Members Of The Office And Is Under Active Investigation For Those Threats. Fifth and Sixth Amendment, United States Constitution

PROPOSITION OF LAW NO V

Members Of A Sheriff's Department and Prosecutor's Office Are Precluded From Making Public Statements That Deprive A Defendant Of A Fair Trial. Fifth, Sixth and Fourteenth Amendments

PROPOSITION OF LAW NO. VI

A Single Count Of An Indictment Should Not Contain Two Separate Offenses. Fifth, Sixth and Fourteenth Amendments, O.R.C. § 2941.04; Ohio Crim. R. 8

PROPOSITION OF LAW NO. VI

Members Of A Prosecutor's Office And Other Law Enforcement Agencies Are Precluded From Issuing Extra Judicial Subpoenas. Fifth Sixth, And Fourteenth Amendments, Ohio Crim. R. 17

PROPOSITION OF LAW VII

An Individual's Death Sentenced Is Constitutionally Infirm If The Sentence Will Be Administered Through Lethal Injection Eighth and Fourteenth Amendments

PROPOSITION OF LAW NO. VIII

Cumulative Error In the Trial Court Proceedings Can Render a Defendant's Sentence Constitutionally Infirm. Fifth, Sixth, Eighth and Fourteenth Amendments

19. On November 29, 2006, the Ohio Supreme Court denied Petitioner's application for reopening. *State v. Conway*, 111 Ohio St.3d 1498, 2009-Ohio-6171.

Post-Conviction Proceedings

20. On August 23, 2004, Petitioner filed his initial post-conviction petition.

21. Petitioner filed this amended post-conviction petition as a matter of right. Petitioner raised the following causes of action in his amended petition:

FIRST CAUSE OF ACTION

Petitioner's Convictions And Sentences Are Void Or Voidable Because They Were Obtained In Violation Of International Law And Treatics To Which The United States Is A Signatory. United States Constitution, Art. VI, § 1

SECOND CAUSE OF ACTION

Petitioner's Convictions and Sentences Are Void Or Voidable Because Ohio's Post-Conviction Procedures Do Not Provide An Adequate Corrective Process, In Violation Of The Constitution. U.S. Const. Amends. V, VI, VIII, IX, and XIV; Ohio Const. art. I, §§ 1, 2, 5, 9, 10, 16, and 20.

THIRD CAUSE OF ACTION

Petitioner's Convictions and Sentences Are Void or Voidable Because He Has Been Denied His Constitutional and Statutory Rights To Appointed Post-Conviction Counsel. U.S. Const. Amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16 and 20.

FOURTH CAUSE OF ACTION

Petitioner's Convictions and Sentences Are Void or Voidable Because Petitioner Has Not Had the Benefit of a Complete Copy of All of The Trial Proceedings Before the Court. U.S. Const. Amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16 and 20.

FIFTH CAUSE OF ACTION

Petitioner's Convictions And Sentences Are Void Or Voidable Because The State Officials Have Denied Petitioner Access To The Documents That He Needs To Identify And Support The Constitutional Errors That Rendered The Trial And Sentencing Proceedings Unfair. U.S. Const. Amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16 and 20.

SIXTH CAUSE OF ACTION

Petitioner's Convictions And Sentences Are Void Or Voidable Because The Federal Government Officials Have Denied Him Access To The Information That He Needs To Review To Identify And Document All Of The Constitutional Violations That Occurred In The Course Of The Trial And Sentencing

Proceedings Before This Court. U.S. Const. Amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16 and 20

SEVENTH CAUSE OF ACTION

Petitioner's Convictions And Sentences Are Void Or Voidable Because The Law Enforcement Agencies Improperly Employed A Jailhouse Informant To Obtain Information From Petitioner. U.S. Const. Amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16 and 20.

EIGHTH CAUSE OF ACTION

Petitioner's Convictions And Sentences Are Void Or Voidable Because Attorney Christopher Cicero Who Initially Represented Petitioner, Was Under Investigation For The Offense And Was Providing The Franklin County Prosecutor Information That Was Protected By The Attorney-Client Privilege.

NINTH CAUSE OF ACTION

Petitioner's Convictions and Sentences Are Void or Voidable Because the Charges Were Instituted By A Prosecutor's Office That Had A Personal, Vested Interest In The Outcome Of The Proceedings. U.S. Const. Amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16 and 20.

TENTH CAUSE OF ACTION

Petitioner's Convictions and Sentences Are Void or Voidable Because the Franklin County Prosecutor's Office Made Improper Extrajudicial Statements Which Deprived Petitioner Of A Fair Trial. U.S. Const. Amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16 and 20.

ELEVENTH CAUSE OF ACTION

Petitioner's Convictions and Sentences Are Void or Voidable Because Count One of The Indictment Impermissibly Contained Two Separates Offenses. U.S. Const. Amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16 and 20.

TWELFTH CAUSE OF ACTION

Petitioner's Convictions and Sentences Are Void and/or Voidable Due To Prosecutorial Misconduct in Violation Of Petitioner's Rights To A Fair Trial Because The Trial Prosecutors Abused The Subpoena Process. U.S. Const. Amends. V, VI, VIII, and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20; United States v. Keen, 509 F.2d 1273 (6th Cir. 1975)

THIRTEENTH CAUSE OF ACTION

Petitioner's Convictions and Sentences Are Void and/or Voidable Because the Trial Prosecutors Failed To Provide Trial Counsel With Exculpatory Evidence. U.S. Const. Amends. V, VIII, IX, XIV, Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20

FOURTEENTH CAUSE OF ACTION

Petitioner's Convictions And Sentences Are Void Or Voidable Because The Trial Prosecutors Knowingly Presented And Failed To Correct False Testimony To Obtain The Convictions And Death Sentence In The Present Case. U.S. Const. Amends. V, VIII, IX, XIV, Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20

FIFTEENTH CAUSE OF ACTION

Petitioner's Convictions And Sentences Are Void and/or Voidable Because Petitioner Was Denied The Effective Assistance Of Counsel During The Trial Stage Of His Capital Case. The Acts And Omissions Of Trial Counsel Deprived Him Of The Sixth Amendment Right To Effective Assistance Of Counsel. U.S. Const. amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20; Strickland v. Washington, 486 U.S. 668, 686 (1984).

SIXTEENTH CAUSE OF ACTION

Petitioner's Convictions and Sentences Are Void and/or Voidable Because the Prosecutors Failed To Prove By Proof Beyond A Reasonable Petitioner's Guilt As To One Or More Aggravating Circumstances.

SEVENTEENTH CAUSE OF ACTION

Petitioner's Conviction and Sentence Are Void or Voidable Because He Was Denied His Statutory Constitutional Right to The Appointment of Experts. U.S. Const. amends. V, VI, VIII, IX and XIV; Ohio Const. Art. I, §§ 1, 2, 5, 9, 10, 16, and 20

EIGHTEENTH CAUSE OF ACTION

Petitioner's Sentences Are Void and/or Voidable Because Petitioner Was Denied the Effective Assistance of Counsel during The Mitigation Stage Of His Capital Case. U.S. Const. amends. V, VI, VIII, IX, and XIV; Ohio Const. art. I, §§ 1, 2, 5, 9, 10, 16 and 20; Strickland v. Washington, 486 U.S. 668, 686 (1984)

NINETEENTH CAUSE OF ACTION

The Death Sentence Against Petitioner Is Void and/or Voidable Because The Death Penalty As Administered By Lethal Injection Violates His Constitutional Rights To Protection From Cruel And Unusual Punishment As Guaranteed By The Eighth Amendment And To Due Process Of Law. U.S. Const. Amends. V, VIII, IX, XIV; Ohio Const. art. I, §§ 1, 2, 5, 9, 10, 16, 20; Ohio Adult Parole Authority v. Woodard, 523 U.S. 272 (1998)(five justices holding that the Due Process Clause protects the "life" interest at issue in capital cases).

TWENTIETH CAUSE OF ACTION

Petitioner's Conviction And Sentences Are Void Or Voidable Because, Assuming Arguendo That None Of The Causes Of Action In This Post-Conviction Petition Individually Warrant The Relief, The Cumulative Effects Of The Errors And Omissions As Presented In The Petition In Paragraphs One Through Two-Hundred-Forty-Six Prejudiced Petitioner And Denied Him His Rights As Secured By The United States And Ohio Constitutions.

[Exhibit 2]

22. On May 2, 2005, the Court denied Petitioner's amended post-conviction petition. *State v. Conway*, Franklin C.P. No. Case No. 02 CR-3117 (entry denying post-conviction petition).

23. On May 31, 2005, Petitioner timely filed his notice of appeal to the Franklin County Court of Appeals.

24. On August 5, 2005, Petitioner filed his principal brief with the state appellate court.

25. On September 13, 2005, Petitioner filed his corrected principal brief with the state appellate court. He raised the following issues in that brief:

ASSIGNMENT OF ERROR NO. I

THE TRIAL COURT ERRED WHEN IT DENIED APPELLANT'S MOTION FOR FUNDING TO RETAIN EXPERTS. [T.d. 484, p. 9].

ASSIGNMENT OF ERROR NO. II

THE TRIAL COURT ERRED WHEN IT PRECLUDED PETITIONER FROM CONDUCTING DISCOVERY. [T.d. 484, pp. 8-9, T.d. 475].

ASSIGNMENT OF ERROR NO. III

THE TRIAL COURT ERRED BY APPLYING THE DOCTRINE OF RES JUDICATA TO PRECLUDE REVIEW OF CERTAIN OF PETITIONER'S CAUSES OF ACTION. [T.d. 475, pp. 307].

ASSIGNMENT OF ERROR NO. IV

THE TRIAL COURT ERRED WHEN IT FAILED TO GRANT APPELLANT RELIEF. [T.d. 475].

ASSIGNMENT OF ERROR NO. V

THIS COURT ERRED WHEN IT REFUSED TO APPOINT TWO ATTORNEYS FOR THIS APPEAL.

26. On November 28, 2006, the Franklin County Court of Appeals affirmed the trial court's post-conviction. *State v. Conway,* 10th Dist. No. 05AP-550, 2006-Ohio-6219.

27. On January 12, 2007, Petitioner filed his notice of appeal and memorandum in support of jurisdiction with the Ohio Supreme Court. He raised therein the following issues:

PROPOSITION OF LAW NO. I

A Trial Court, Once It Orders That An Evidentiary Hearing Be Held, Must Provide Funding For An Indigent Post-Conviction Petitioner [T.d. 484, p. 9].

PROPOSITION OF LAW NO. II

A Trial Court, Once It Orders That An Evidentiary Hearing Be Held, Must Permit The Petitioner To Conduct Reasonable Discovery. [T.d. 484, pp. 8-9, T.d. 475].

PROPOSITION OF LAW NO. III

A Trial Court Should Not Apply The Doctrine Of Res Judicata To Preclude Review Of A Petitioner's Causes Of Action Which Could Not Have Been Fairly And Fully Litigated On Direct Appeal. [T.d. 475, pp. 3-7].

PROPOSITION OF LAW NO. IV

A Trial Court Should Grant A Petitioner Post-Conviction Relief When He Documents The Existence Of A Prejudicial Constitutional Error In The Trial Court Proceedings. [T.d. 475].

PROPOSITION OF LAW NO. V

Trial And Appellate Courts Should Appoint Two Attorneys For Individuals Who Are Seeking Post-Conviction Relief And Have Been Sentence To Death.

28. On June 20, 2007, the Ohio Supreme Court declined to exercise its discretionary jurisdiction to hear Petitioner's appeal. *State v. Conway*, 114 Ohio St.3d 1425, 2007-Ohio-0064.

Federal Habeas Proceedings

29. On June 1, 2008, Petitioner filed with the Federal District Court, Southern District of Ohio, his initial habeas petition. *Conway v. Houk*. S.D. Ohio Case No. 3:07-cv-00345. He raised the following claims in his petition:

First Claim For Relief: James Conway's Convictions And Sentences Are Constitutionally Infirm Because The Trial Court Permitted A Jail House Informant To Testify As To Petitioner's Alleged Statements To The Informant Which Petitioner Made After He Invoked His Right To Counsel. United States Constitution, Fifth, Sixth, Eighth And Fourteenth Amendments.

Second Claim For Relief: James Conway's Convictions and Sentences Are Constitutionally Infirm Because the Indictment Charged Multiple Offenses As To Count One Of The Indictment. Fifth, Sixth, Eighth, and Fourteenth Amendments

Third Claim For Relief: James Conway's Convictions and Sentences Are Constitutionally Infirm Because He Was Initially Represented by Conflicted Counsel. Sixth and Fourteenth Amendments

Fourth Claim For Relief: James Conway's Convictions And Sentences Are Constitutionally Infirm Because The Trial Prosecutors Failed To Provide Defense Counsel With All Exculpatory Evidence. United States Constitution, Sixth, Eighth and Fourteenth Amendments.

Fifth Claim For Relief: James Conway's Convictions And Sentences Are Constitutionally Infirm Because Of The Extensive Prosecutorial Misconduct. Sixth, Eighth and Fourteenth Amendments.

Sixth Claim For Relief: James Conway's Convictions and Sentences Are Constitutionally Infirm Because the Trial Court Denied His Motion For A Change Of Venue. Sixth and Fourteenth Amendments

Seventh Claim For Relief: James Conway's Convictions and Sentences Are Constitutionally Infirm Because the Trial Prosecutors Knowingly Used False Testimony Which They Neither Corrected Nor Disclosed The False Testimony To Defense Counsel. Fifth, Sixth, Eighth and Fourteenth Amendments

Eighth Claim For Relief: James Conway's Convictions and Death Sentence Are Constitutionally Infirm Because the Trial Court Improperly Admitted Other Act Testimony. United States Constitution, Sixth, Eighth and Fourteenth Amendments.

Ninth Claim For Relief: James Conway's Convictions and Death Sentence Are Constitutionally Infirm Because the Trial Court Improperly Admitted Hearsay Statements Which Violated His Right to Confrontation. United States Constitution, Sixth, Eighth and Fourteenth Amendments.

Tenth Claim For Relief: James Conway's Conviction on The First Capital Specification and His Death Sentence Are Constitutionally Infirm Due To the Trial Court's Failure to Instruct the Jury on an Essential Element. United States Constitution, Sixth, Eighth and Fourteenth Amendments.

Eleventh Claim For Relief: James Conway's Convictions and Death Sentence Are Constitutionally Infirm Because the State Did Not Adduce Sufficient Evidence As First And Third Capital Specifications. United States Constitution, Sixth, Eighth and Fourteenth Amendments.

Twelfth Claim For Relief: Petitioner's Conviction for Capital Murder and The Resulting Death Sentence Is Constitutionally Infirm Because He Is Actually Innocent of The Three Capital Specifications. Eight and Fourteenth Amendments

Thirteenth Claim For Relief: James Conway's Death Sentence Is Constitutionally Infirm Because the Trial Court Excluded Relevant Evidence In The Sentencing Phase. United States Constitution, Sixth, Eighth and Fourteenth Amendments.

Fourteenth Claim For Relief: James Conway's Death Sentence Is Constitutionally Infirm Because the Trial Court Employed An Infirm Definition Of Reasonable Doubt In The Sentencing Phase. United States Constitution, Fifth, Sixth, Eight and Fourteenth Amendments.

Fifteenth Claim For Relief: James Conway's Convictions and Death Sentence Are Constitutionally Infirm Because He Did Not Receive the Benefit of Reasonable and Necessary Experts. United States Constitution, Sixth, Eighth and Fourteenth Amendments

Sixteenth Ground For Relief: Petitioner's Convictions And Sentences Are Constitutionally Infirm Because He Was Denied The Right To Effective Assistance Of Counsel In The Trial And Sentencing Stages. Fifth, Sixth, Eighth and Fourteenth Amendments

Eighteenth Ground For Relief: Petitioner's Convictions and Sentences Are Constitutionally Infirm Because He Was Deprived of The Effective Assistance of Counsel on His Direct Appeal of Right. Fifth, Sixth, Eighth and Fourteenth Amendments

Eighteenth Claim For Relief: Petitioner's Death Sentence Is Constitutionally Infirm Because Ohio's Capital Punishment System Operates in An Arbitrary and Capricious Manner. United States Constitution, Fifth, Sixth, Eighth and Fourteenth Amendments.

Nineteenth Claim For Relief: Petitioner's Convictions And Death Sentence Are Invalid Under The Federal Constitutional Guarantees Of Due Process, Equal Protection, The Effective Assistance Of Counsel, A Fair Tribunal, An Impartial Jury, And A Reliable Sentence Due To The Cumulative Errors In The Admission Of Evidence And Instructions, Gross Misconduct By State Officials And Witnesses, And The Systematic Deprivation Of His Right To The Effective Assistance Of Counsel. United States Constitution, Fifth, Sixth, Eighth and Fourteenth Amendments.

30. On October 3, 2008, the Warden filed the Return of the Writ and state court record.

31. On January 14, 2009, Petitioner filed his Traverse (answer to the Warden's Return of the Writ).

32. On April 8, 2009, the District Court granted in part Petitioner's Motion for Leave to Conduct Discovery.

33. On May 25, 2010, Petitioner filed an Amended Traverse as a result of the facts garnered during the federal discovery.

34. On July 8, 2008, the Warden filed his Amended Return of the Writ in response to Petitioner Amended Traverse.

35. On September 6, 2011, the District Court granted Petitioner's Motion to Hold Proceedings in Abeyance while he returned to state court.

III. JURISDICTIONAL STATEMENT

36. Petitioner anticipates that the State of Ohio in its answer will claim that this Court lacks jurisdiction to entertain this petition. The State of Ohio will cite to R.C. § 2953.23(A) which provides that a trial court may entertain a successor post-conviction petition if either the petitioner was unavoidably prevented from discovering the facts upon which the new claim is based or relies upon a new constitutional right that has been retroactively applied and that but for that constitutional error no reasonable juror would have found the petitioner guilty of the offense(s) or sentenced him to death.

37. The state's argument will be unfounded. The Court should address all of the claims contained in this petition.

A. The Criteria Contained In R.C. 2953.23(A) Are Not Jurisdictional

38. R.C. § 2953.23(A) provides as follows:

> (A) Whether a hearing is or is not held on a petition filed pursuant to section 2953.21 of the Revised Code, a court **may** not entertain a petition filed after the expiration of the period prescribed in division (A) of that section or a second petition or successive petitioners for similar relief on behalf of a petitioner unless both of the following apply. (emphasis added.)

39. The Legislature's use of the word "may" as opposed to the word "shall" demonstrates that the Court has discretion when deciding successor post-conviction petitions. *Dorrian v. Scioto Conservation Dist.* (1971), 27 Ohio St. 2d 102, 107, 271 N.E.2d 834, 837-838. Pursuant to that discretion the Court should not require Petitioner to make any showing prior to the Court reviewing the claims contained in this petition.

B. If The Criteria Contained In R.C. 2953.23(A) Are Jurisdictional, The Statute Is Unconstitutional On Its Face.

40. It is the right and duty of judicial tribunals to determine whether a legislative act drawn into question in a suit pending before them violates the constitutions of the United States and the State of Ohio, and if so found, to treat it as a nullity. *Cincinnati, Wilmington & Zanesville RR. Co. v. Clinton Cty. Commrs.* (1852), 1 Ohio St 77. 1852 WL 11, Syl. Para. 1. The appropriate judicial inquiry into the constitutionality of a statute involves the question of legislative power not legislative wisdom. *State ex rel. Bowman v. Allen Cty. Bd. Of Commrs.* (1931), 124 Ohio St. 174, 196, 177 N.E.2d 271, 278. In this case, the General Assembly exceeded its legislative power when it enacted R.C. § 2953.23(A) because the statute violates the Supremacy Clause of the United States Constitution, usurps the judicial power of Ohio Courts in violation of the doctrine of separation of powers, and violates the "due course of law" and "open courts" provisions of Section 16, Article I of the Ohio Constitution.

R.C. § 2953.23 (A) Violates The Supremacy Clause.

41. The Supremacy Clause, Art. VI, cl. 2 of the United States Constitution, provides that "the Laws of the United States . . . shall be the supreme Law of the Land; the Judges in every State shall be bound thereby." The Supremacy Clause dictates that federal law prevails over competing state exercise of power unless the state law affords greater constitutional protections than the federal law. State courts cannot refuse to apply federal law. *Testa v. Katt* (1947), 330 U.S. 386, 389, 67 S. Ct. 810, 812. In effect, the federal courts' interpretation of the federal constitution is part of the supreme law of the land. Therefore, if the Ohio General Assembly adopts a law in conflict with the Constitution, it is the constitutional responsibility of the Ohio judicial branch to declare the law unconstitutional.

42. R.C. § 2953.23(A)(2) is an attempt by the General Assembly to establish a judicial standard of review for the granting of relief for violations of a petitioner's federal constitutional rights. Specifically, R.C. § 2953.23(A)(2) requires a successor post-conviction petitioner to not only establish by competent evidence a violation of his federal constitutional rights but also requires that he prove by clear and convincing evidence that "but for constitutional error at trial, no reasonable factfinder would have found the petitioner guilty of the offense of [conviction]." The federal courts have already determined the standard of evidence necessary for an individual to obtain relief who have had their constitutional rights violated by state actors.

43. For example, in a total denial of counsel situation, a petitioner only has to show a denial of counsel and prejudice is presumed. *United States v. Cronic* (1984), 466 U.S. 648, 659, 104 S. Ct. 2039, 2047. Where the prosecutor knows or should have known that he was using false evidence, a petitioner to obtain relief only has to establish that there is a reasonable likelihood that the false evidence could have affected the outcome. *United States v. Agurs* (1976), 427 U.S. 97, 103, 96 S. Ct. 2392, 2397. Claims of juror bias require the state to establish that the error is harmless beyond a reasonable doubt. *Smith v. Phillips* (1976), 455 U.S. 209, 229, 102 S. Ct. 940, 945. For violations of the holding in *Brady v. Maryland* (1963), 373 U.S. 83, 87, 83 S. Ct. 1194, 1196-1197, (which Petitioner has alleged in his pending petition), a person need only demonstrate that the suppressed information led to a verdict that was not worthy of confidence. *Kyles v. Whitely* (1995), 514 U.S. 419, 434, 115 S. Ct. 1555, 1566. None of these federal court decisions require a person to establish "but for constitutional error at trial, no reasonable fact-finder would have found the petitioner guilty of the offense of conviction" before the person can obtain relief.

44. As a result, R.C. § 2953.23 (A)(2) is a legislative enactment that subverts the binding precedent of the United States Supreme Court for claims arising under the United States Constitution and it, therefore, violates the Supremacy Clause.

R.C. § 2953.23(A) Usurps Judicial Power In Violation Of The Doctrine Of Separation Of Powers

45. A statute that violates the doctrine of separation of powers is unconstitutional. *State, ex rel OATL v. Sheward* (1999), 86 Ohio St. 3d 451, 475, 715 N.E.2d 1062, 1085. The Ohio Constitution's structural protections prohibit the General Assembly from exercising "any judicial power, not herein expressly conferred." Section 32, Article II, Ohio Constitution. Historically, the functions of interpreting and providing remedies for violations of constitutional rights have been assigned exclusively to the judiciary. By enacting O.R.C. § 2953.23, the General Assembly exercised power that is exclusive to the judiciary, namely interpreting the State and Federal Constitutions. *See, Beagle v. Walden* (1997), 78 Ohio St. 3d 59, 62, 676 N.E.2d 506, 508.

46. The General Assembly may not enact legislation that deprives a court of jurisdiction to enforce a constitutional right because "[w]hat the constitution grants, no statute may take away." *State ex rel. Hoel v. Brown* (1922), 105 Ohio St. 479, 138 N.E. 230 syllabus. In this case, the use of the terms "may not entertain" in O.R.C. § 2953.23(A) denotes the General Assembly's intention to deprive the state courts of the opportunity to hear and remedy violations of convicted individuals' constitutional rights when they are presented in second or successive petitions for post-conviction relief. As a result, the General Assembly has declared that long established equitable principles (such as tolling), should be ignored when reviewing constitutional violations alleged in successive petitions. In short, only when a successive

petitioner can establish that but for the constitutional error no reasonable jury would have found him guilty of the offense or imposed the death sentence, may a constitutional violation be "entertained."

47. R.C. § 2953.23(A) runs afoul of the State and Federal Constitutions because the statute deprives Ohio courts of the ability to "entertain" claims of the violation of state and federal constitutional rights. The only exception occurs when the person can establish the legislative requirement that, but for the violation, no reasonable jury would have found the person guilty of the offense of conviction. Thus, the statute imposes new and insurmountable requirements for the granting of relief for previously undiscovered violations of a convicted person's constitutional rights. As such, the statute impermissibly infringes on the judiciary's exclusive power to define the scope and extent of constitutional protections, and to provide a meaningful remedy. The statute violates the separation of powers doctrine.

R.C. § 2953.23 (A) (2) Violates The "Due Course Of Law" And "Open Courts" Provisions Of Section 16, Article I Of The Ohio Constitution

48. There is no rational relationship between the discovery of a constitutional violation of a convicted person's rights and clear and convincing evidence that the person is not guilty of the offense of conviction. Nor is there a rational relationship between the retroactive application of a newly recognized federal or state right, and clear and convincing evidence that the person is not guilty of the offense of conviction. The absence of such a rational relationship constitutes a violation of the Federal and State Constitutional rights to due process and equal protection as guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, Section 16 of the Ohio Constitution.

49. Many denials of a convicted person's constitutional rights do not manifest themselves immediately. For example, judicial bias, biased jurors, *Brady* violations, and

ineffective assistance of counsel may all be discovered long after a person is unjustly convicted and has completed direct and collateral appeals. *Kimmelman v. Morrison* (1986), 477 U.S. 365, 378, 106 S. Ct. 2574, 2584 ("***consequently, a criminal defendant will rarely know that he has not been represented competently until after trial or appeal, usually when he consults with another lawyer about his case.").

50. In addition, there are Federal Constitutional violations that require reversal even though they would not clearly and convincingly impact a jury's decision as to the issue of guilt: 1) denials of counsel at critical stages of the proceedings; 2) denials of the right to appeal; 3) denials of the right to a speedy trial; and 4) the suppression of material and exculpatory evidence. R.C. § 2953.23(A) does not permit these constitutional violations to be remedied in a successive post-conviction petition. The petitioner must establish that he was unavoidably prevented from discovering the operative facts and present clear and convincing evidence that but for the claimed error he is innocent of the offense of conviction.

51. The statute denies successive post-conviction petitioners their right to "due course of law" and "open courts" because it conditions the right to obtaining relief for a constitutional violation upon the establishment by clear and convincing evidence that, but for constitutional error at trial, no reasonable fact-finder would have found the petitioner guilty of the offense of conviction. The operative effect is that a convicted person must discover a constitutional violation and successfully adjudicate the claim in his initial petition for post-conviction relief. Otherwise, the petitioner must thereafter establish by clear and convincing evidence an adverse causal relationship between the violation of his constitutional rights and his conviction to such a degree that no jury would have found him guilty. Absent such a showing, the petitioner filing a successor petition simply loses his right to relief for the constitutional violation. This result

eviscerates the traditional function of the courts to provide remedies for constitutional violations and places successive post-conviction petitioners in a position of having to establish innocence in situations where: (1) they are not innocent or (2) cannot establish by clear and convincing evidence that there is a casual relationship between the constitutional violation and the finding of guilt. Thus, successive post-conviction petitioners are treated as second-class litigants even though they may be "unavoidably prevented from discovery of the facts upon which the petitioner must rely to present the claim for relief." As a result, R.C. § 2953.23(A)(1) is arbitrary, unreasonable and denies a successive post-conviction petitioner his rights under Section 16, Article I of the Ohio Constitution and the Fourteenth Amendment to the federal Constitution.

C. If The Criteria Contained In R.C. 2953.23(A) Are Jurisdictional, The Statute Is Unconstitutional As Applied To Petitioner.

52. On September 21, 1995, Ohio Senate Bill 4 became effective and substantially rewrote O.R.C. § 2953.21, Ohio's post-conviction statute. Specifically, O.R.C. § 2953.23(A), which deals with the filing of successor post-conviction petitions was substantively amended as follows:

> (A) Whether a hearing is or is not held on a petition filed pursuant to section 2953.21 of the Revised Code, a court may not entertain a petition filed after the expiration of the period prescribed in division (A) of that section or a second petition or successive petitions for similar relief on behalf of a petitioner unless both of the following apply:
>
> (1) Either of the following applies:
>
> (a) The petitioner shows that the petitioner was unavoidably prevented from discovery of the facts upon which the petitioner must rely to present the claim for relief.
>
> (b) Subsequent to the period prescribed in division (A) (2) of section 2953.21 of the Revised Code or to the filing of an earlier petition, the United States Supreme Court recognized a new federal or state right that applies retroactively

to persons in the petitioner's situation, and the petition asserts a claim based on that right.

(2) The petitioner shows by clear and convincing evidence that, but for constitutional error at trial, no reasonable factfinder would have found the petitioner guilty of the offense of which the petitioner was convicted or, if the claim challenges a sentence of death that, but for constitutional error at the sentencing hearing, no reasonable fact finder would have found the petitioner eligible for the death sentence.

53. As applied to Petitioner's case, the statute ignores the complex and evolving body of equitable principles established by judicial decisions.

54. For example, Petitioner's evidentiary documents presented in support of his pending petition might not establish by clear and convincing evidence that, but for constitutional error at trial, no reasonable fact-finder would have found the petitioner guilty of the capital murder or sentenced him to death. However, the documents clearly establish a substantial violation of Petitioner's rights as to render his conviction and sentence void and/or voidable under the United States Constitution. *See*, R.C. § 2953.21(A)(1). Thus, under the federal standard of review, unencumbered by any need to show that no jury would have convicted him, Petitioner would be entitled to have his successive post-conviction petition "entertained."

IV. CONSTITUTIONAL VIOLATIONS

First Ground for Relief

55. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully restated herein.

56. Petitioner's convictions and death sentence are void or voidable because the state suppressed favorable, material evidence. Sixth, Eighth and Fourteenth Amendments to the United States Constitution

56. The prosecution has a constitutional obligation to disclose favorable, material evidence to the accused. The prosecution violated that constitutional obligation in the present case:

A. *The state suppressed exculpatory, material evidence concerning Jesse James.*

57. Two of the three capital specifications involved the non-fatal shooting of Jesse James. The only witness to the shooting of Jesse James was the victim.

58. The State suppressed the initial statement of Jesse James in which he identified Andrew Dotson as the shooter. [Exhibit 3, p. 1]. The state also suppressed the later recorded statement of James in which he identified the shooter as six feet tall and had black hair. [Exhibit 4]. Petitioner was five foot eight and had brown hair. [Exhibit 5]. Finally, the state suppressed a statement that memorialized that the Jesse James received a telephone call in which Dotson was identified as the shooter. [Exhibit, 4, p. 7]

B. *The state suppressed exculpatory, material evidence concerning Chris Cicero*

59. Unbeknownst to Petitioner, Attorney Cicero was providing privileged information to the law enforcement agencies investigating Petitioner. [Exhibits 6-10]

60. While Petitioner knew that Attorney Cicero was the target of an investigation, he did not know Attorney Cicero was actively participating in the investigation.

61. If the state had not suppressed the information, Petitioner could have filed a motion to preclude the state from using any of the information that it obtained from Attorney Cicero and any of the information that was the product of the information provided by the Attorney Cicero (the fruit of the poisonous tree). If the trial court had not granted the suppression of the evidence, Petitioner have used the suppressed evidence to impeach the state's

investigation. The information was provided by a source, Attorney Cicero, who was trying to hide his own involvement.

62. In addition, Petitioner could have employed the Cicero information in the sentencing phase. The jury would have had a different perspective of Petitioner's culpability if it knew that Attorney Cicero was the mastermind of the Dotson shooting and that he manipulated the process at the expense of Petitioner so that the investigation focused on Petitioner as opposed to himself.

C. *The state suppressed favorable, material evidence concerning Ronald Trent*

63. Ronald Trent, prior to informing on Petitioner, attempted to inform on Marvin Damron. [Exhibit 11] He claimed that Damron had confessed to participating in the murders of Robert Van Sickle, Patricia Van Sickle, and Kathleen Taylor. [*Id.*]. It appears that police did not act upon this information.

64. If provided this information, the jury would have inferred that Trent was not credible, given that he had previously provided information on a case involving a triple murder that did not result in the investigating officers filing charges. The state had an obligation to provide information as that detracted from the credibility of its own witness, Ronald Trent.

D. Petitioner was prejudiced by the state's suppression of evidence.

65. Constitutional error results "if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different."

66. The probability determination assesses the cumulative impact of all of the suppressed evidence.

67. There is a reasonable probability that if the state had timely provided Petitioner with all of the evidence identified herein that the jury's verdicts would have been different in the trial and penalty phases.

Exhibits: 3-11

Legal Authority Supporting this Ground for Relief: *Brady v. Maryland* (1963), 373 U.S. 83, 86; *Kyles vs. Whitley* (1995), 514 U.S. 419, 433 *United States vs. Bagley* (1985), 473 U.S. 667, 682; *Cone v. Bell* (2009), 129 S. Ct. 1769, 1784-85

Second Ground For Relief

68. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully restated herein.

69. Petitioner's convictions and death sentences are void or voidable because the first attorney who represented him, Christopher Cicero operated under a conflict of interest. Sixth, Eighth and Fourteenth Amendments

A. *Attorney Cicero labored under a conflict.*

70. Attorney Cicero, with respect to the shooting of Jason Gervais, represented potential defendants Jimmy Turner, Rickey Turner, and Joe Epling. [Exhibit 12, p. 5; Exhibit 13, p. 2; Exhibit 14, p.1; Exhibit 15, p. 1]. Attorney Cicero also represented Brian Lee Cheatwood who was also questioned by the investigating officers. [Exhibit 16, p. 2]. Subsequently, Attorney Cicero provided inculpatory information to the Franklin County Prosecutor's Office concerning Cheatwood and Epling. [Exhibit 8, p. 32].

71. Attorney Cicero, with respect to the shooting of Andrew Dotson, represented co-defendants Calvin Horton and Shawn Nightingale. [Exhibit 17]

B. *Attorney Cicero divulged privileged information.*

72. Then Assistant Prosecutor David DeVillers had several telephone calls with Attorney Cicero. One of the telephone calls took place on May 27, 2002. [Exhibit 8 p. 42]. Attorney Cicero expressed his frustration that the elected Prosecutor, Ronald O'Brien was mad at him, "Ron got mad at me, I wish he wouldn't have, you know how he gets sometimes." [*Id.* at p. 1]. Attorney Cicero asserted that the elected Prosecutor should not be mad at him because he (Attorney Cicero) had fully cooperated with the ongoing investigations of Petitioner. [*Id.* at pp. 2, 4, 5, 6, 9, 10].

73. On May 29, 2002, then Assistant Prosecutor David DeVillers recorded another telephone conversation with Attorney Cicero. [Exhibit 7, pp. 5-26]. Attorney Cicero again attempted therein to convince Attorney DeVillers that he (Attorney Cicero) was providing all of the information that he possessed concerning Petitioner. [*Id.* at pp. 6, 8, 9, 12, 13, 14, 15, 17, 18]

74. On May 29, 2002, DeVillers had a second telephone call that day with Attorney Cicero. [Exhibit 8, p. 17]. Attorney Cicero had previously informed Prosecutor DeVillers that Michael Arthurs may have been killed because he had provided information about some of the offenses for which Petitioner had been charged or was being investigated. [*Id.* at p. 16]. In this telephone call, Prosecutor DeVillers informed Attorney Cicero that Arthurs was alive and well. [*Id.* at p. 17]. Attorney Cicero responded that he (Petitioner) is "gonna just die" and "he's gonna be shocked or surprised that Mike Arthurs is *still* alive." [*Id.*] (emphasis added).

C. *Attorney Cicero was involved in the killing of witnesses.*

75. On April 25, 2002, Informant Ronald Trent reported that Attorney Cicero had permitted Petitioner to use the Attorney's cell phone to make drug transactions. [Exhibit 18, p. 8]. Trent also reported that Attorney Cicero approved the plan to kill Brian McWhorter. [*Id.*].

Trent in a subsequent statement said that Attorney Cicero provided the address of Brian McWhorter to facilitate the murder. [Exhibit 19. at pp. 12-13].

76. Subsequently, while Attorney Cicero was visiting with Petitioner at the Franklin County at the jail he gave Petitioner his cell phone. Petitioner telephoned Trent. Attorney Cicero, during that telephone call, instructed Trent to "dump" the body of Brian McWhorter after Trent killed him. [Exhibit 20].

77. Shawn Nightingale gave a recorded statement in which he recalled meeting with Attorney Cicero at his office. [Exhibit 21, p. 2]. At that meeting Attorney Cicero stated that Andrew Dotson needed to be killed. [*Id.* at pp. 2-3, 12].

78. On August 12, 2003, in a recorded statement Nightingale repeated the details concerning the meeting at Attorney Cicero's office. [Exhibit 22, pp. 14-15].

79. Jamie Horton confirmed Nightingale's recollection of the meeting. [Exhibit 23, pp. 2-3].

D. *Attorney Cicero suffered from a conflict.*

80. The Sixth Amendment right to counsel includes the right to representation that is free from conflicts of interest.

81 To prevail on a conflict of interest claim, a defendant must demonstrate an actual conflict of interest that adversely affected counsel's performance.

82. Attorney Cicero operated under a conflict when he: 1) represented several witnesses, the co-defendants, and Petitioner, 2) disclosed privileged information concerning Petitioner to the investigating officers, and 3) was under investigation for the offense for which Petitioner was charged and convicted.

83. Attorney Cicero's conflict adversely affected his performance.

Exhibits: 12-23

Legal Authority Supporting this Ground for Relief: *Holloway v. Arkansas* (1978), 435 U.S. 475, 490 (1978): *Cuyler v. Sullivan* (1980), 446 U.S. 335, 348-49; *Wood v. Georgia* (1981), 450 U.S. 261, 271; *Mickens v. Taylor* (2002), 535 U.S. 162, 168, 175; *United States v. Fulton* (2nd Cir. 1993), 5 F. 3d 605, 609; *Mannhalt v. Reed* (9th Cir. 1988), 847 F. 2d 576, 581

Third Ground For Relief:

84. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

85. Petitioner's convictions and sentences are void and/or voidable because the actions of Attorney Cicero denied Petitioner the effective assistance of counsel. Sixth and Fourteenth Amendments

86. Attorney Christopher Cicero initially represented Petitioner during the trial proceedings.

87. Attorney Cicero simultaneously represented the witnesses, the co-defendants, and Petitioner. *See* ¶¶ 70-71, *supra*

88. Attorney Cicero was providing privileged information to law enforcement authorities concerning Petitioner and his alleged involvement in the death of Andrew Dotson. *See*, ¶¶ 72-74.

89. The law enforcement officials were investigating Attorney Cicero for the same offense that Petitioner was charged, convicted and sentenced to death. *See* ¶¶ 75-79

90. Attorney Cicero's actions did not meet the prevailing standards of practice. The prevailing required that defense counsel in a criminal case: 1) not represent co-defendants and

witnesses in the same action, when the co-defendant and witnesses have interests that conflicted with the interests of the client, 2) not disclose privileged information, without the consent of the client, and 3) not provide representation in a case in which counsel is also the focus of the investigation.

91. Attorney Cicero did not have any tactical or strategic reasons within the range of reasonable competence for failing to meet the prevailing standards of practice.

92. Singularly and cumulatively, there is reasonable probability that, if counsel had performed with reasonable effectiveness a more favorable result would have been obtained.

Exhibits: 12-23

Legal Authority: Sixth, Eighth, and Fourteenth Amendments; *Strickland v. Washington* (1984), 486 U.S. 668, 686 (1984); *Williams v. Taylor* (2000), 529 U.S. 362.

Fourth Ground For Relief:

93 Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

94. Petitioner's convictions and sentences are void and/or voidable because the attorneys who ultimately represented him failed to provide him with effective assistance of counsel in both the trial and mitigation phases.

95. The prevailing standards in a capital case required counsel to conduct a reasonable investigation with respect to the trial phase.

96. Counsel failed to meet this prevailing standard of practice. They failed to conduct a reasonable investigation as to the shooting of Jesse James. As a result counsel did not learn and present evidence that Jesse James: 1) initially identified Andrew Dotson as the shooter. [Exhibit 3, p. 1]: 2) and subsequently identified the shooter as six feet tall and had black hair. [Exhibit

4]1. Counsel also failed to learn that the James had received a telephone call in which Dotson was identified as the shooter. [Exhibit 4, p. 7].

97. Counsel also conducted an unreasonable as Ronald Trent, who was the state's crucial witness. Trent had a history or working as an informant. [Exhibit 11] Trent had previously provided information concerning Damron. [*Id.*] Trent claimed that Damron had confessed to participating in the murders of Robert Van Sickle, Patricia Van Sickle, and Kathleen Taylor. [*Id.*]. The police were unable to substantiate this information.

98. Counsel conducted an unreasonable investigation as to Attorney Cicero who:

A. Labored under a conflict in his representation of Petitioner. He simultaneously represented Petitioner, some of the witnesses in a related criminal case, the co-defendants, and Petitioner. *See* ¶¶ 70-71, *supra*;

B. Provided information to law enforcement authorities concerning Petitioner that was protected by both the attorney client privilege and the Sixth Amendment. *See*, ¶¶ 72-74;

C. Was himself the subject of the investigation regarding the death of Andrew Dotson *See* ¶¶ 75-79;

D. Was involved in the murder of Andrew Dotson. On April 25, 2002, Informant Ronald Trent gave a recorded statement in which he reported that Attorney Cicero had previously permitted Petitioner to use the Attorney's cell phone to make drug transactions. [Exhibit 8, p.8]. Trent also reported that Attorney Cicero approved the plan to kill Brian McWhorter. [*Id.*]. Shawn Nightingale gave a recorded statement immediately upon his arrest in which he stated that Attorney Cicero said that Andrew Dotson needed to be killed. [Exhibit 21,

1 Petitioner was five foot eight and had brown hair. [Exhibit 5].

pp. 2-3, 12]. Nightingale later reaffirmed this statement [Exhibit 22, pp. 14-15]. Attorney Jamie Horton confirmed Nightingale's recollection of the meeting. [Exhibit 23, pp. 2-3].

99. When a court assesses counsel performance with respect to an ineffectiveness claim, it must include all of counsel's actions and not limited itself to the consideration of one act or omission. Petitioner incorporates by reference the allegations and supporting evidence contained in his direct appeal brief and his August 23, 2004 amended post-conviction petition, ¶¶ 3221-235, 236-247. [Exhibits 1-2].

100. Defense counsel did not have any tactical or strategic reasons within the range of reasonable competence for failing to meet the prevailing standards of practice.

101. Petitioner was prejudiced by counsels' deficient performance. Singularly and cumulatively, there is reasonable probability that, if counsel had performed with reasonable effectiveness a more favorable result would have been obtained.

Exhibits: 1-23

Legal Authority: Sixth, Eighth and Fourteenth Amendments; *Strickland v. Washington* (1984), 486 U.S. 668, 686 (1984); *Williams v. Taylor* (2000), 529 U.S. 362.

Fifth Ground For Relief:

102. Petitioner incorporates all of the allegations contained elsewhere in this petition as if fully rewritten herein.

103. Petitioner's conviction and sentences are void or voidable because, assuming *arguendo* that none of the Causes of Action in this Post-Conviction Petition individually warrant the relief, the cumulative effects of the errors and omissions as presented in this Petition, his August 23, 2004 Amended Post-Conviction Petition [Exhibit 2], and his direct appeal prejudiced Petitioner [Exhibit 1] and denied him his rights as secured by the United States and Ohio Constitutions.

104. A conviction will be reversed where the cumulative effect of the errors deprives a petitioner of the constitutional right to a fair trial.

105. If the Court deems the individual Grounds for Relief or collectively all of the constitutional errors raised previously herein raised do not warrant the granting of relief, that then all of the errors identified in petition, his August 23, 2004 Amended Petition [Exhibit 2], and his direct appeal [Exhibit 1] taken together, are of sufficient magnitude as to warrant the granting of discovery and an evidentiary hearing.

Exhibits: 1-23

Legal Authority: *State v. DeMarco* (1987), 31 Ohio St. 3d 191, syl. 2; *See also State v. Bunch* (1989), 62 Ohio App. 3d 801

Respectfully submitted,

James P. Fleisher (0059509)
BIESER, GREER & LANDIS, LLP
400 National City Center
6 North Main Street
Dayton, Ohio 45402-1908
Telephone: 937-223-3277
Fax: 937-223-6339
jpf@bgllaw.com

and

Marc S. Triplett (0021222)
332 South Main Street
Bellefontaine, OH 43311
Telephone: 937-593-6591
Fax: 937-593-2867
marctrip@earthlink.net

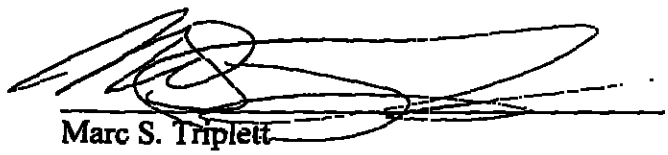
By

COUNSEL FOR PETITIONER
JAMES T. CONWAY, III

58196 - D50

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *James Conway, III's Post-Conviction Petition* was forwarded by first-class, postage prepaid U.S. Mail to Ron O'Brien, Franklin County Prosecutor, 373 South High Street, 13th Floor, Columbus, Ohio 43215, on this 1st day of November, 2011.



Marc S. Triplett
Attorney for Petitioner

58196 - D51

DISPOSITION OF GRIEVANCE

INMATE:	CONWAY III, JAMES	**COMPLAINT CODE:**	NON-GRIEVABLE MATTERS - Other
NUMBER:	A457203	**DISPOSITION:**	DENIED - No violation of rule, policy, or law
INSTITUTION:	CCI	**GRIEVANCE NUMBER:**	CCI-06-12-000016
DATE:	06/11/2012		

☐ The disposition of this grievance will be delayed longer than 14 calendar days for the following reason(s):

☑ Your grievance, filed on 06/04/2012, has been reviewed and disposed of as follows:

The office of the Inspector of Institutional Services is in receipt of your Notification of Grievance. You claim CCI has to ensure that your files stored on the computer used for your legal work on the unit are protected from being erased.

To investigate your grievance I interviewed CM Hauswirth, and AA Hooks. I also reviewed 59-LEG-01 and AR 5120-9-12.

The computer is a typewriter replacement. I have reviewed 59-LEG-01 and AR 5120-9-12 and there is no obligation for the Department to provide server storage for inmate files. If an inmate wants a copy of a document they can have a printed hard copy at the end of their session. Your grievance has been denied. This office will take no further action on this matter.

If you wish, you may appeal this decision to the Chief Inspector within 14 calendar days. Appeal forms are available in the office of the Inspector of Institutional Services.

Corby D. Fuss

Page 1 of 1

58196 - D52

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

STATE OF OHIO,	:	
Plaintiff,	:	
-v-	:	**Case No. 02 CR-3117**
JAMES T. CONWAY, III,	:	
Defendant.	:	

AFFIDAVIT OF JAMES T. CONWAY, III

County of Ross)
State of Ohio)

I, James T. Conway, III do solemnly swear to the following:

1. That the transcript marked as exhibit 12 on page 4 reads as follows:

CI ok so what, you know, there, is, first minute you don't want to do Shawn

CI so what, so what dude you want to do, I mean what's up with Shawn and Mike, with The Andrew's _____

JH _____happen with that_____

CI well Jimmy's thing is is he wants to take care of it before it _____, know what I'm saying, so that's what I'm saying, I need to know exactly who the front guy Gotta take of

JH so fucking_____ever gonna fall back on_____

CI well that's I mean that's what Jim told me but after it's Shawn, you know what I'm saying, if, if you got a person that knows exactly how something happened He could say you did it

JH OH yeah I was there but he did it

However, as recorded on tape # 22; 2130 at approximately 04 (minutes) :30 (seconds) from the beginning, the actual conversation is as follows:

Trent: Okay, so what, he don't, so what's Jimmy, he don't want to do [Nightingale]?

Horton: Nah.

Trent: so what, so what, whose he want to do, I mean what's up with [Nightingale and [Arthurs], with the [Dotson] shit?

Horton: Nothing has happened with that shit yet.

EXHIBIT
4

Trent: Well [Petitioner's] thing is is he wants to take care of it before it does, know what I'm saying, so that's what I'm saying. I need to know exactly who the fuck I gotta take care of.

Horton: So, fucking, it ain't never gonna fall back on [Petitioner] because [Petitioner] didn't do it.

Trent: Yeah, well, that's I mean that's what [Petitioner] told me, but after it's __(inaudible)__ you know what I'm saying, if, if you got a person that knows exactly how something happened he could say you did it.

Horton: Oh yeah, I was there but he did it.

2. That the transcript marked as exhibit 12 on page 6 reads as follows:

JH _____Mike's pretty much_____

CI _____

JH straightens up the whole, everybody: . . .

However, as recorded on tape # 22; 2130 at approximately 08:30 from the beginning, the actual conversation is as follows:

Horton: [Arthurs] pretty much, whenever he did that shit, fuckin'.

Trent: I know [Petitioner] told me, dude he just.

Horton: Straight fucked the whole, everybody up and everybody is like, damn.

3. That the transcript marked as exhibit 12 on page 19 reads as follows:

JH Well let's wait till we get a rent-a-car

CI I'll take care of it um man just try to get me some orders as soon as you can then I'll take care of it then yo know what I'm saying then we ain't got to worry about it and now you know what I'm saying I mean Jay told me that it was_____you know what I'm saying I mean. . .

However, as recorded on tape # 22; 2130 at approximately 33:20 from the beginning, the actual conversation is as follows:

Horton: Well let's wait till we get a rent-a-car.

Trent: I'll take care of it um man just try to get me some orders as soon as you can then I'll take care of it then yo know what I'm saying then we ain't got to worry about it and now you know what I'm saying I mean Jay told me that *his finances was light weight strapped* you know what I'm saying I mean. . . (emphasis added)

4. That the transcript marked as exhibit 12 on page 27 reads as follows:

CI Alright _____

JH He does but he's scared dog he is afraid. . .

However, as recorded on tape # 22; 213 at approximately 49:30 from the beginning, the actual conversation is as follows:

Trent: Alright, so you vouch for [Nightingale]?

Horton: [Petitioner] vouches for [Nightingale].

Trent: He does but he's scared dog he's afraid. . .

5. That the transcript marked as exhibit 13 on page 10 reads as follows:

CI Right okay what am I doing with Shawn Jay?

Conway I mean I just, just leave him alone you know what I'm saying

CI So just leave him alone

Conway Yeah I would for now

CI Cause I'm trying you know I'm trying to get everything done so I can get the fuck out of here

However, as recorded on tape # 19; 2141 at approximately 12:30 from the beginning, the actual conversation is as follows:

Trent: Right okay what am I doing with [Nightingale] [Petitioner]?

Petitioner: I mean I just, just leave him alone you know what I'm saying.

Trent: So just leave him alone

Petitioner: Yeah I would.

Trent: Cause I'm trying you know I'm trying to get everything done so I can get the fuck out of here.

6. That the transcript marked as exhibit 14 on page 10 reads as follows:

CI Man, don't, what the fuck is up with Sean, I don't know about, you know what I'm saying.

Conway Man, he says that he never done nothing for, for him to be in any serious trouble_____I don't think he would never snitch no matter what really, I mean in my heart but, he's never, in order for there to even be any doubt in my mind, he has to do a couple things that's real serious shit, you know what I'm saying?

However, as recorded on tape # 29; 2142 at approximately 10:25 from the beginning, the actual conversation is as follows:

Trent: Man, don't, what the fuck is up with Sean, I don't know about, you know what I'm saying.

Petitioner: Man, he just, he ain't never done nothing for, for him to be in any serious trouble, *or facing any serious time. That's the only reason why. . .* I don't think he would never snitch no matter what really, I mean in my heart but, he's never, in order for there to even be any doubt in my mind, he has to do a couple things that's real serious shit, you know what I'm saying? (emphasis added)

7. That the transcript marked as exhibit 19 on page 15 reads as follows:

CI What the fuck, what the fuck did you all stab

dude, what the fuck is that?

JAMIE HORTON I don't know

CI I mean I don't care dog, but like I'm saying if I can't ask you one thing (that's the squad)

JAMIE HORTON I mean, I really don't know cause it was in, it was in like, it was in a field and then Jim [Handwritten by Trent] and Mike went back know what I'm saying, like they pulled back the thing so I was nowhere around, know what I mean, so I don't know exactly what happened truthfully, I don't, I'm can't, I'm not going to tell you something that I didn't see with my eyes, you know what I mean cause I'd never do that, cause that would be just like lying to you, that's why I just tell ;you what I seen, that's what I seen, didn't see nothing else.

However, as recorded on tape # 5 at approximately 09:10 from the beginning, the actual conversation is as follows:

Trent: What the fuck, what the fuck did you all stab dude, what the fuck is that?

Horton: I don't know.

Trent: I mean I don't care dog, but like I'm saying if I can't ask you one thing (that's the squad).

Horton: I mean, I really don't know cause it was in, it was in like, it was in a field and then ah [Arthurs] went back know what I'm saying, like they pulled back the thing so I was nowhere around, know what I mean, so I don't know exactly what happened truthfully, I don't, I'm can't, I'm not going to tell you something that I didn't see with my eyes, you know what I mean cause I'd never do that, cause that would be just like lying to you, that's why I just tell ;you what I seen, that's what I seen, didn't see nothing else.

Horton does not tell Trent Petitioner went back into the field with Dotson's body. Horton is stuttering, as he is throughout the rest of this statement.

8. That the transcript marked as exhibit 20 on page 5 reads as follows:

Jamie then why was you down in the county for

CI just now, for my parole violation, that and letting a_____

Laughing

Jamie funny

CI Oh, it's funny as a mother fucker

However, as recorded on tape # 3; 2149 at approximately 10:20 from the beginning, the actual conversation is as follows:

Horton: then why was you down in the county for?

Trent: Just now? For my parole violation. That and letting a bitch suck pit bull dicks for crack. (Laughing)

Horton: That's funny?

Trent: Oh, it's funny as a mother fucker.

9. That the transcript marked as exhibit 21 on page 5 reads as follows:

CI How hard you think it's going to be to get to Mike

Male 1 _____-everybody int ch world is telling me_____he never said nothing_____Jason Woodrow went to the cops, wrote a statement, saying_____

However, as recorded on tape # 31; 2148 at approximately 08:40 from the beginning, the actual conversation is as follows:

Trent: How hard you think it's going to be to get to [Arthurs]?

Nightingale: I swear to god there would be no point in doing that. Everybody in the world is telling me he never said nothing. Jason Woodruff went to the cops, wrote a statement saying that Mike. . .

10. That the transcript marked as exhibit 23 on page 13 reads as follows:

NIGHTENGALE Oh you think there asking questions about Andrew.

C.I. Jimmy seems to think they are. I asked Jamie, Jamie said, he thinks, Jamie and Jim both said Mike should go

NIGHTENGALE _____anything like that

C.I. I think, I mean Jimmy's just afraid that Jimmy's just afraid if worse come to worse, Mike will just tell them about that mother fucking shit with Andrew and say it was him.

NIGHTENGALE I doubt it that's up to you guys

However, as recorded on tape # 10; 2152 at approximately 35:00 from the beginning, the actual conversation is as follows:

Nightingale: Oh, you think they're asking questions about [Dotson]?

Trent: [Petitioner seems to think they are. I asked [Horton], [Horton said he thinks, [Horton] and [Petitioner] both think [Arthurs] should go.

Nightingale: I really, I, I don't know. I just. It would be dumb as fuck for [Arthurs] to think that he could say anything like that. He did it. He wouldn't get away with it.

Trent: I think, I mean [Petitioner's] just afraid that [Petitioner's] just afraid if worse come to worse, [Arthurs] will just tell them about that mother fucking shit with [Dotson] and say it was him.

Nightingale: I doubt it that's up to you guys

11. That the transcript marked as exhibit 23 on page 16 reads as follows:

C.I. Yeah, he said, he told me that he was supposed, you was originally supposed to take care of the dude

NIGHTENGALE Yeah, I wasn't there wasn't no place I could do it there wasn't nothing_____me & mike went down there we just couldn't finde a good spot

C.I. _____

NIGHTENGALE _____me and mike and_____went down there we just could finde a real good spot.

C.I. That's what he said, fuck it_____shit dog

NIGHTENGALE _____...

However, as recorded on tape # 10; 2152 at approximately 42:15 from the beginning, the actual conversation is as follows:

Trent: Yeah, he said, he told me that he was supposed, you was originally supposed to take care of the dude.

Nightingale: Yeah, I, wasn't, there wasn't no place I could do it. There wasn't nothing. Me and [Arthurs] went down there. Just couldn't find a real good spot.

Trent: _____

Nightingale: _____Me and [Arthurs] and_____went down there, drove around for 3 or 4 hours. We just couldn't find a real a real good spot. [Dotson] got drugged up that's all I know.

Trent: That's what he said. Yeah, the fucking Valiums and shit.

Nightingale: Yeah like fucking 11.

12. That the transcript marked as exhibit 23 on page 17 reads as follows:

CI Mike was supposed to took care of that shit then you ended up calling him and he had to come take care of it

Nightengale he_____-he was already gone I don't care what anyone told you I know_____

CI mean,_____I mean he told me that a dude is still on his neck but he said that, that didn't do him, that's why_____

Nightengale I don't care what anybody says, he was gone

CI I mean yeah...

However, as recorded on tape # 12; 2154 at approximately 15:30 from the beginning, the actual conversation is as follows:

Trent: That's what I told, see [Petitioner] was pissed you see because you and [Arthurs] was supposed to took care of that shit then you ended up calling him and he had to come take care of it.

Nightingale: [Petitioner] didn't do it, if he told you everything, he was already gone. I don't care what anyone told you. I know he was already gone. I mean. I'm not lying to you.

Trent: I mean. [Petitioner] told me that [Arthurs] stood on his neck, but he said that that didn't kill him. That's why they did what they did.

Nightingale: I don't care what anybody says, he was gone.

Trent: I mean, yeah. . .

13. That the transcript marked as exhibit 25 on page 5 reads as follows:

MALE 2 Hugh

CI You tell me that's what I'm saying though don't run around here blind man I don't know what the fuck I'm doing I showed you what I've done just that so what do I do I'm getting tired man

However, as recorded on tape # 32; 2157 at approximately 18:30 from the beginning, the actual conversation is as follows:

Petitioner: Hugh?

Trent: You tell me. That's what I'm saying dog, I'm runnin' around here blind man. I don't know what the fuck I'm doing.

Petitioner: I don't know what you have done. I don't know.

Trent: I showed you what I've done. Just that. So what do I do, I'm getting tired.

14. That the transcript marked as exhibit 25 on page 7 reads as follows:

CI He says you guys are stupid that's what I'm saying dog, you got me running around here like a chicken with my head cut off

MALE 2 I don't fucking do that I'm still_____

CI Has anybody been punching on you lately

However, as recorded on tape # 32; 2157 at approximately 22:30 from the beginning, the actual conversation is as follows:

Trent: [Nightingale] says you guys are stupid. That's what I'm saying dog, you got me running around here like a chicken with my head cut off.

Petitioner: I don't got you doing nothing. I don't know what you're doing.

Trent: Has anybody been punching on you lately?

15. That the transcript marked as exhibit 25 on page 10 reads as follows:

CI You keep saying whatever you can do whatever you can do well who the fuck is running this I mean okay and I could use some money

MALE 2 How much

However, as recorded on tape # 32; 2157 at approximately 25:00 from the beginning, the actual conversation is as follows:

Trent: You keep saying, "Whatever you can do, whatever you can do." Well, who the fuck is running this? I mean, okay, I could use some money.

Petitioner: For what?

16. That the transcript marked as exhibit 25 on page 12 reads as follows:

CI I'm fucking broke dog I had to borrow a grand from him *from* my dad he was fucking spasing we went all the way down there and my dad you know I picked a bag up for my dad right you know what was in tat bag money (emphasis added)

However, as recorded on tape # 32; 2157 at approximately **:** from the beginning, the actual conversation is as follows:

> Trent: I'm fucking broke dog. I had to borrow a grand from him [indicating Horton] *for* my dad. He was fucking spasing. We went all the way down there and my dad, you know I picked a bag up for my dad, right? You know what was in that bag? Money. (emphasis added)

17. That the transcript marked as exhibit 25 on page 23 reads as follows:

> Well then that's the only person you got and he was bull shiting me dog _____when you get out of here
>
> MALE 2 About what
>
> CI You know about what about mother fucking Andrew_____

However, as recorded on tape # 32; 2157 at approximately 38:00 from the beginning, the actual conversation is as follows:

> Trent: Well then that's the only person you got. And you was bull shitting me dog. I'm going to sock you when you get out of here.
>
> Petitioner: About what?
>
> Trent: You know about what. About Mother fucking [Dotson].

18. That the transcript marked as exhibit 25 on page 23 reads as follows:

> Make sure of what of me
>
> MALE 2 No that he was done [Handwritten by Trent]
>
> CI _____that's what I'm saying I'm getting different stories about that and I don't _____I'm not going to deal with that well you know what I'm saying it is not good.

However, as recorded on tape # 32; 2157 at approximately 38:30 from the beginning, the actual conversation is as follows:

> Petitioner: ___(inaudible)____
>
> Trent: Make sure of what? Of me? You had to make sure he was done? That's what I'm saying. I'm getting different stories about that and I don't. . .
>
> Petitioner: ___(inaudible)____
>
> Trent: To you it don't matter, but to me it does because I'm the one out here doing this shit. I'm the one out here taking the fucking chances. Not you. Not them. Don't play with me dog. I'm not going to deal with that well you know what I'm saying it is not going to be good.

19. As recorded on tape # 30; 2159 at approximately 42:40 from the beginning, Trent makes the following statement to detectives:

> . . . I just asked [Horton] and I was like, 'Ron O'Brien' and he was like, 'Yeah.'

20. That the transcript marked as exhibit 28 on page 1 reads as follows:

CI What's up with the fucking, which Prosecutor does he want me to deal with Pritchard or O'Brien._____. Jims saying do O'Brien. [Handwritten by Trent.]

CI O'Brien? Why cause I mean I fucking

Horton I don't know either, I don't know Jimmy knows.

However, as recorded on tape # 27; 2161 at approximately 03:30 from the beginning, the actual conversation is as follows:

Trent: What's up with the fucking, which prosecutor does he want me to give this to Prichard or O'Brien?

Horton: It don't matter, its just going to fall into the hands of one of these people anyway.

Trent: It don't matter? Jim's saying to O'Brien.

Horton: _(inaudible)_

Trent: Why I mean cause.

Horton: _____

Trent: Alright, I did, I mean, I just wanna. Fuck it, it ain't none of my business.

Horton: I don't know either, I don't know. Any of 'em, it don't matter. Just send it to someone on the 8th floor _____.

Trent: (laughs)

Horton: They'll be like 'What the fuck?'

21. That the transcript marked as exhibit 28 on page 3 reads as follows:

CI Man you can't call dude_____Go to a payphone, I'm trying to get this done. I gotta keep coming to you guys to get money.

Horton Once you get that money you'll by chillin

CI Yeah I'm gonna take care of my pals, you know what I'm saying. . .

However, as recorded on tape # 27; 2161 at approximately 11:00 from the beginning, the actual conversation is as follows:

Trent: Man you cant call dude and just tell him to get you a fuckin' address? Go to a pay phone, I'm trying to get this shit done tonight dog. Cause that's less money you got to fuck with me about. If I got this to make I don't have to worry about nothing. I gotta keep coming to you guys to get money to make ends meet.

Horton: Once you get that money you'll by chillin'.

Trent: Yeah, I'm gonna take care of what I gotta take care of then I'm bouncin', you know what I'm saying. . .

22. That the transcript marked as exhibit 30 on page 21 reads as follows:

Alright well that's what I'm saying I really don't need you and Jamie both you know what I'm saying I mean I _____we hang out and do whatever but just all I

need to do is like get what you know and get what he knows and go from there it don't really matter you know what I'm saying how many times he _____then again it might because that's something they would know you know what I'm saying

HORTON I don't _____

CI That's what I'm saying we'll have to get with Jimmy on that part

HORTON He never even

_____

_____on the phone he was like_____

However, as recorded on tape # 28 at approximately 37:00 from the beginning, the actual conversation is as follows:

Trent: Alright, well that's what I'm saying I really don't need you and [Horton] both, you know what I'm saying? I mean I don't give a fuck. We hang out and do whatever, but just all I need to do is like get what you know and get what he knows and go from there. It don't really matter, you know what I'm saying, how many times he *hit him*. Then again it might because that's something they would know. You know what I'm saying? (emphasis added)

Nightingale: I don't know the answer to that.

Trent: That's what I'm saying, we'll have to get with [Petitioner] on that part.

Nightingale: He never even, on the phone he was like, "What are you talking about?"

23. That the transcript marked as exhibit 30 on page 30 reads as follows:

CI . . . Yeah when I went look when I went I said well let me see the trunk _____he was probably like oh my god I just told Shawn after, after Shawn gives me the mother fucking um after he gives me the nines tonight man for them dudes in Chilly and fuck him he tells me what he knows about that shit I really don't even want to fuck with him no more you know what I'm saying I won't fuck with nobody that's scary like that man cause he's the type of dude that_____you know what I'm saying I gave my word I would so

HORTON Okay. . .

However, as recorded on tape # 8; 02-0241 at approximately 14:30 from the beginning, the actual conversation is as follows:

Trent: Yeah, when I went, look when I went I said well let me see the trunk he was probably like, "Oh my god." I just told [Nightingale] after, after [Nightingale] gives me the mother fucking, um, after he gives me the nines tonight man for them dudes in Chilly, fuck him. He tells me what he knows about that shit I really don't even want to fuck with him no more, you know what I'm saying? I won't fuck with nobody that's scary like that man cause he's the type of dude that *would make you have to whack him* you know what I'm saying? I gave my word I wouldn't, so. . . (emphasis added)

Horton: Okay. . .

24. That the transcript marked as exhibit 32 on page 4 reads as follows:

CI You think, cause see when you choke somebody that long dog, it's, he should

have been gone, know what I'm saying

NIGHTENGALE That's what I thought

CI You think maybe fucking Mike was just playing you guys, _____that he really didn't want to smoke him

NIGHTENGALE _____I mean, he was doing everything he fucking could, had his fucking hand up like this pushing like_____-hard as he fucking possibly fucking could

CI Alright, so alright let me just run, let me run over this one time.

NIGHTENGALE _____

CI Alright, so you all picked dude up, feed him the mother fucking

NIGHTENGALE _____

CI Well whatever, Vicadins whatever

However, as recorded on tape # 33; 2168 at approximately 04:00 from the beginning, the actual conversation is as follows:

Trent: You think, cause see when you choke somebody that long dog, it's, he should have been gone, know what I'm saying?

Nightingale: That's what I thought.

Trent: You think maybe fucking [Arthurs] was just playing you guys, You know what I'm saying, that he really didn't want to smoke him?

Nightingale *I don't think so.* I mean, he was doing everything he fucking could. Had his fucking hand up like this pushing like, hard as he fucking possibly fucking could.

Trent: Alright, so alright let me just run, let me run over this one time.

Nightingale: ____(inaudible)____

Trent: Alright, so you all picked dude up, feed him the mother fucking. . .

Nightingale: *Nah, wasn't nothing fed to him at all.*

Trent: Well he ate them, whatever. Vicadins whatever

(emphasis added)

25. In September of 2001, Calvin Horton was approximately six-feet-four-inches tall with a slender build and dark brown hair.

26. In September of 2001, Micheal Arthurs was approximately five-feet-eight-inches tall with a stocky build and blond hair.

27. After repeated requests to every attorney who represented me at any point during both of my death penalty cases to listen to audio recordings and see video recordings that were used in both of those cases, one of my present attorneys, Kort Gatterdam, made arrangements for me to review them. This occurred in or about July of 2011.

28. At that time, I was housed at the Ohio State Penitentiary in Youngstown Ohio. The administration there would only allow me to review three of the thirty-or-so recordings at a

single time. This review had to take place in the attorney room, which was only available for a few hours a few days a week.

29. Between the time it took to review the recordings and the time it took to mail them back and forth, I was only able to review, on average, one recording per week.

30. On or about October of 2011, the Ohio Department of Rehabilitation and Corrections notified petitioner and the public that he, along with all the rest of death row, was being relocated to Chillicothe Correctional Institution. Knowing this move could occur at any time with no notice, Mr. Gatterdam thought it prudent to wait until this move was complete to continue mailing the recordings to me.

31. Upon arrival at Chillicothe Correctional Institution on January 8, 2012, Mr. Gatterdam and I began the process to get permission for me to review the recordings. This process took well over a month. In addition, the warden at Chillicothe Correctional Institution, Warden Robinson, required that an attorney be present while I reviewed the recordings. See exhibit 9. Because of this, it took until June of 2012 to review all the recordings.

32. It took from January of 2012 until March of 2012 for the administration at Chillicothe Correctional Institution to set up the legal computer, which I can only access for two hours a day. This computer is considered a substitute for typewriters for inmates because typewriters, and their replacement parts, are no longer available. See exhibits 5 through 8.

33. The computer system at the Ohio State Penitentiary had a backup system so that files could not be lost. Chillicothe's system is identical, but the computer technician refused to back up the files so that when they were erased, which happened several times, I had to begin writing and researching my post conviction petition anew. See exhibits 5 through 8.

34. In addition to all the obstacles listed in paragraphs 27 through 33, I also have responsibilities, such as a job assignment and school, that I am obligated to do. Still, I spent every possible available free minute working diligently to complete the *pro se* petition filed with this affidavit.

FURTHER AFFIANT SAYETH NAUGHT.

James Conway

James T. Conway, III
457-203
Chillicothe Correctional Institution
P.O. Box 5500
Chillicothe, Ohio 45601

Sworn and subscribed in my presence this 15th day of January, 2013.

NOTARY PUBLIC

Kristine A. Hosley
NOTARY PUBLIC
MY COMMISSION EXPIRES
MO. 5 DAY 22 YEAR 2017

05-12-00126

Informal Complaint Resolution

Institution: CCI

Top section to be completed by inmate, within 14 days of incident.
Inmate will forward the White & Canary copies to the supervisor of the staff person or department most responsible for complaint; Forward Pink copy to the Inspector; and keep the Goldenrod copy.

Submitted To: AA Hook		Date Submitted: 5/22/12	
Inmate's Name: James Connelly	Number: 457-203	Housing Assignment: OR-2 327B	

Complaint Regarding:

On Thursday, 5/17/12 sometime between 6pm and 9pm all the files on the computer were deleted. I don't know what happened, I think it was a malfunction rather than another inmate, but I need the legal stuff I was working on for when my lawyer comes down in a few weeks. I don't have time to do them all over again. The name of the folder was SETT and it contained two files; one called "3117" and the other called "log." It should not be difficult for the IT guy to restore them. That was what they did at OSP. Despite what anyone says, I know these file are backed up. If I had written something criminal I'm quite sure someone could figure out a way to restore them.

In addition there has to be a recovery procedure in place if you are going to limit our access to legal material to the computer. Even when a file has a password, any inmate can erase it without any sophisticated knowledge of computers. The password only prevents someone from reading the file. It doesn't prevent them from erasing it. They understood this very well at OSP and would have any erased files restored in a day or so. You are going to have to implement some similar process here because the time we have access to the computer is limited and everyone has deadlines. Missing a deadline can derail all of someones appeals. I don't know exactly when my attorney will be here, but he said within the next thirty days when I spoke with him on the 10th. I still have at least another two weeks of material to go through. So I can't go back and spend two weeks recreating some file that was deleted. And if an inmate decides to erase my files at some point in the future, I will need to be able to retrieve them as quickly as possible. You have to figure something out. Maybe you should contact Mr. Novak, our case manager at OSP, and the IT guy at OSP and find out exactly what you can do.

Lower Section to be completed by the supervisor of the staff person or department most responsible for complaint.
Return Canary copy to inmate within 7 calendar days. Send White copy to the Inspector.

RECEIVED
MAY 23 2012
INSPECTORS OFFICE

Action Taken *(Cite appropriate policy, procedure or regulation in response)*:

The computer is a typewriter replacement. The Department does not provide server storage for inmate files. If an inmate wants a copy of a document they can have a printed hard copy.

Those computer files are not backup therefore they cannot be retrieved.

Staff Member's Signature and Title: [signature] Date: 5/24/12

EXHIBIT sticker 5

Complaints not resolved may [illegible] ance with 5120-9-31.

DRC4151 (Rev 11/01)

ACA 4271

Informal Complaint Resolution

Institution: CCI

Top section to be completed by inmate, within 14 days of incident.
Inmate will forward the White & Canary copies to the supervisor of the staff person or department most responsible for complaint; Forward Pink copy to the Inspector; and keep the Goldenrod copy.

Submitted To: Network Administrator J. Clark		Date Submitted: 5/22/12
Inmate's Name: James Conway	Number: 457-203	Housing Assignment: OR-2 327B

Complaint Regarding:

On Tuesday, 5/7/12 sometime between 1pm and 9pm all the files on the computer were deleted. I don't know what happened, I think it was a malfunction rather than another inmate, but I need the legal stuff I was working on for when my lawyer comes down in a few weeks. I don't have time to do them all over again. The name of the folder was SETT and it contained two files: one called "3117" and the other called "log." It should not be difficult for the IT guy to restore them. That was what they did at OSP. Despite what anyone says, I know these file are backed up. If I had written something criminal I'm quite sure someone could figure out a way to restore them.

In addition there has to be a recovery procedure in place if you are going to limit our access to legal material to the computer. Even when a file has a password, any inmate can erase it without any sophisticated knowledge of computers. The password only prevents someone from reading the file. It doesn't prevent them from erasing it. They understood this very well at OSP and would have any erased files restored in a day or so. You are going to have to impliment some similar process here because the time we have access to the computer is limited and everyone has deadlines. Missing a deadline can derail all of someones appeals. I don't know exactly when my attorney will be here, but he said within the next thirty days when I spoke with him on the 10th. I still have at least another two weeks of material to go through. So I can't go back and spend two weeks recreating some file that was deleted. And if an inmate decides to erase my files at some point in the future, I will need to be able to retrieve them as quickly as possible. You have to figure something out. Maybe you should contact Mr. Novak, our case manager at OSP, and the IT guy at OSP and find out exactly what you can do.

Lower Section to be completed by the supervisor of the staff person or department most responsible for complaint.
Return Canary copy to inmate within 7 calendar days. Send White copy to the Inspector.

Action Taken (***Cite appropriate policy, procedure or regulation in response***)**:**

The computer is a typewriter replacement. The department does not provide server storage for inmate files. If an inmate wants a copy of a document they can have a printed hard copy.

Those computer files are not backed up therefore they cannot be retrieved.

EXHIBIT 6

Staff Member's Signature and Title:	Date: 5/31/12

Complaints not resolved may be addressed in accordance with 5120-9-31.

DRC4151 (Rev 11/01) ACA 4271

58196 - D66

NOTIFICATION OF GRIEVANCE

Name: James Conway	Institution: CCI
Number: 457-231	Grievance No. (To be completed by Inspector's Office): 06-12-00016
Housing Assignment:	Date: 6/4/12

A. Explain your complaint. (Be specific. Address only one incident or concern. Include what would solve your complaint.)

On Thursday, 5/17/12 sometime between 5pm and 9pm all the files on the computer were deleted. I don't know what happened, I think it was a malfunction caused from another inmate. There has to be either recovery procedure in place or some way of preventing other inmates from deleting our files [illegible]

If you are going to limit our access to legal material to the computer. Even when a file has a password, any inmate can access it without any sophisticated knowledge of computers. The password only prevents someone from changing the file. It doesn't prevent them from erasing it. They understood this very well already and would have any erased files restored in a day or so. You are going to have to implement some similar process here or give everyone a log in code because the time we have access to the computer is limited and everyone has deadlines. Missing a deadline can derail all of someone's appeals. You have to figure something out. Maybe you should contact Mr. Novak, our case manager at OSP, and the IT guy at OSP and find out exactly what you can do.

Mr. Cook's response overlooks two very important things. First, the computer cannot be a substitute for a typewriter if we aren't able to print anything from it. Another inmate can go into the computer room the second I finish a document and delete it before it can be printed. Unless you take steps to prevent this or to allow create some procedure to recover files, the computer is not a substitute for a typewriter.

Second, the computer is not just a substitute for a typewriter for death row. That is our only access to legal materials and thus our only access to the courts. The DOC is required to provide us with access to the legal materials that are only available through the computer. We are not like the inmates on the compound, every single person back here has at least one appeal pending. There is only one computer to every 25 death row inmates and we have to be able to store things because we all have to share time. It sometimes takes hours to read a single case, which must be done over several days. Without the ability to store files on the computer for extended periods, the computer is insufficient to give us adequate access to legal materials and thus is in fact unable to give us the access to the courts required by the [illegible] Amendment.

B. I will experience a substantial risk of **PHYSICAL INJURY** if this grievance is not promptly addressed. ☐ Yes ☒ No

C. I filed an informal complaint on 5/22/12 (Date) with AA Hook (Name) Warden's Assistant (Position)

(Attach informal complaint resolution).

D. I have read Administrative Regulation 5120-9-31. ☒ Yes ☐ No

Inmate Signature: James Conway

EXHIBIT Exhibit 7

05-12-00016

58196 - D67

DISPOSITION OF GRIEVANCE

INMATE:	CONWAY III, JAMES	**COMPLAINT CODE:**	NON-GRIEVABLE MATTERS - Other
NUMBER:	A457203	**DISPOSITION:**	DENIED - No violation of rule, policy, or law
INSTITUTION:	CCI	**GRIEVANCE NUMBER:**	CCI-06-12-000016
DATE:	06/11/2012		

☐ The disposition of this grievance will be delayed longer than 14 calendar days for the following reason(s):

☑ Your grievance, filed on 06/04/2012, has been reviewed and disposed of as follows:

The office of the Inspector of Institutional Services is in receipt of your Notification of Grievance. You claim CCI has to ensure that your files stored on the computer used for your legal work on the unit are protected from being erased.

To investigate your grievance I interviewed CM Hauswirth. and AA Hooks. I also reviewed 59-LEG-01 and AR 5120-9-12.

The computer is a typewriter replacement. I have reviewed 59-LEG-01 and AR 5120-9-12 and there is no obligation for the Department to provide server storage for inmate files. If an inmate wants a copy of a document they can have a printed hard copy at the end of their session. Your grievance has been denied. This office will take no further action on this matter.

If you wish, you may appeal this decision to the Chief Inspector within 14 calendar days. Appeal forms are available in the office of the Inspector of Institutional Services.

Cody D. Free

EXHIBIT tabbies 8

5810 DRC

Informal Complaint Resolution

Institution: CBCI

Top section to be completed by inmate, within 14 days of incident.
Inmate will forward the White & Canary copies to the supervisor of the staff person or department most responsible for complaint; Forward Pink copy to the Inspector; and keep the Goldenrod copy.

Submitted To: Warden Robinson		Date Submitted: 5/21/12
Inmate's Name: James Conway	Number: 457-205	Housing Assignment: A-2 327U

Complaint Regarding:

My attorney has been in contact with the case manager, Mr. Hardwick, several times regarding some DVD's that I need to review for my pending criminal case. According to Mr. Hardwick, he contacted the Warden and the only way he will allow me to review the legal materials is in the presence of my attorney. That is impossible. It will take hours and hours to go through all the stuff, and my attorney does not have the time and the Federal court will not grant funds for him to sit in a room with me while I go through it all. ODRC policy requires that I have access to all my legal materials whenever I need it. They can be stored in some secure location, but I have to be able to review them. I may need to go through them several times. I won't know until I go through it all.

This material will probably end up being the subsance of a postconviction petition that I may have to file in my case. That petition will have to be filed in the near future (within a few months) in order for it to be heard by this court. In advance if you do not allow me to review these materials in the way that I see fit you will be denying my access to the courts in violation of my 5th Amendment rights. This material is confidential legal material. Moreover, it is inconsistent with attorney client privilege for anyone other than me and my attorney that represents me to review the same. Please advise.

RECEIVED
MAY 21 2012
OFFICE OF THE WARDEN
Chillicothe Corr. Inst.

Lower Section to be completed by the supervisor of the staff person or department most responsible for complaint.
Return Canary copy to inmate within 7 calendar days. Send White copy to the Inspector.

Action Taken (*Cite appropriate policy, procedure or regulation in response*):

You will be permitted to review the DVD's in the Attorney Room.

EXHIBIT
tabbies 9

Staff Member's Signature and Title:	Date: 5/24/12

Complaints not resolved may be addressed in accordance with 5120-9-31.

DRC4151 (Rev 11/01) ACA 4271

SAVED AS
58196 - D69
HORTON & CI
SUMMARY
5/24/02

Franklin County Sheriff's Office

Detective Bureau
Progress of Investigation

Offense:	Homicide
Report #:	0109704
Victim:	Andrew Dotson
Place of Occurrence:	Field w/o Galloway Rd
Date of Offense:	10-10-2001
Reporting Detective:	Z. Scott
Date:	5-16-02

This would be a taped conversation between known CI and Jamie Horton.

THE FOLLOWING IS A CONVERSATION BETWEEN JAMIE HORTON AND KNOWN CI.

Page 2 - CI references that he needs a 9 pack, which is 9 ounces of cocaine that Jimmy had told him to get from Jeremy Horton.

Page 3 - Horton references that he has the shit right beside him (the 9 ounces of soft cocaine)

Page 4 - Horton picks the location for the drug transaction and gives known CI directions.

Page 5 - Horton refers to his blue Expedition that he'd be driving to make the drug transaction.

ZS/km

(1)

EXHIBIT
10

000212

Supervisor

C.I.	JAMIE HORTON	SCOTT	BAIN
Investigator 1	Investigator 2	Interview 1	Interview 2

TAPED INTERVIEW

OFFENSE:
REPORT#:
VICTIM:
PLACE OF OCCURRENCE:
DATE OF OCCURRENCE:
INTERVIEW OF:
DATE OF INTERVIEW: MAY 16, 2002, 6:59 P.M.
PLACE OF INTERVIEW: TELEPHONE CONVERSATION
INVESTIGATOR: ZACH SCOTT/CHRIS FLOYD

SCOTT Today's date is May 16, 2002, and it's about 6:59, we're making a phone call to....what's the phone number.

C.I. uh, 778-3958

SCOTT Okay

C.I. How do you work this fucking phone... I just don't know how to, how you send out on it, dial a number and then push what?

BAIN 778

C.I. 3958

BAIN 58?

C.I. 8 yeah

BAIN _____

C.I. no, that just clears it

(Sound of phone ringing)

JAMIE HORTON Hello-

C.I. Hi, is Jamie there? (loud squeeling noise)

JAMIE HORTON this is him

000213

C.I. Hi, this is Tony, Jimmy told me to call you.

AMIE HORTON Hey, I'm here, visiting his brother right now

C.I. yeah

JAMIE HORTON I'll be done in a half hour, can you give me a call back?

C.I. Yeah, uh, was my number on your phone?

JAMIE HORTON no, oh, yeah actually, actually it is>

C.I. Okay, well call me as soon as you leave there.

JAMIE HORTON Alright I will

C.I. Alright later. He's there visiting Jeff right now.

SCOTT Jeff

C.I. Yeah_____said he's going to leave there in a half hour, call me as soon as he leaves there he's gonna call me.

C.I. Yeah

AMIE HORTON Hey man, what's up

C.I. What's happening

JAMIE HORTON Nothing

C.I. Jimmy told me to holler at you on the 9 dude

JAMIE HORTON When

C.I. Told me to holler you on the 9 pack, I just got in town so I'm going to need it quick, I got shit to do.

JAMIE HORTON Uh, alright, I'll call you right back.

C.I. Alright. He said alright, he's going to call me right back. (Phone rings) Yeah.

JAMIE HORTON Hey man, where you close to?

C.I. Right now, I just left my dad's from up north.

AMIE HORTON Up north, hey, do you know where, uh, do you know where Lockbourne Road is?

C.I. Lockbourne Road...off of like High Street...off Williams?

JAMIE HORTON Yeah

C.I. Yeah

JAMIE HORTON Uh, hey can you get up somewhere by there and call me?

C.I. Uh, yeah I'll call you, give me like about 25 minutes or so

JAMIE HORTON 25 minutes?

C.I. Yeah

JAMIE HORTON Alright, I got you.

C.I. Alright. He wants me to get by Lockbourne Road and call him. (phone rings) Yeah.

JAMIE HORTON You somewhere even close yet?

C.I. No, I'm just now talking to my dad

JAMIE HORTON Oh, you just now getting done talking to him

C.I. Yeah, I got some things to do, trying to take care of bunch of things at once.

JAMIE HORTON Hey, can we hook up later on then?

C.I. uh, about what time?

JAMIE HORTON About...

C.I. About an hour?

JAMIE HORTON No, like in between 10:30 and 11:00?

C.I. Yeah, that's cool, just uh, just hit me up.

JAMIE HORTON Hey I got that shit right beside me for you so as soon as we can hook up, I'll just go ahead and give it to you, alright

C.I. Alright bet

JAMIE HORTON Alright man

C.I. Alright later.

C.I. Yeah

JAMIE HORTON Hey, what's up man?

C.I. What's happening dog?

JAMIE HORTON Are you ready to uh, do this?

C.I. Yeah, where uh, do you know where uh Tee Jay's is?

JAMIE HORTON Where?

C.I. Tee Jay's?

JAMIE HORTON No, where's that at

C.I. huh?

JAMIE HORTON Which, which Tee Jay's you talking about?

C.I. On Parsons

JAMIE HORTON Uh, hold on I don't even know where that's at man, which way on Lockbourne is it, I mean Parsons is it, towards downtown or.....

C.I. uh, towards downtown, what's good for you, where you at?

JAMIE HORTON uh, you know where Lockbourne.....get off on 104 right by Lockbourne, then uh, and just meet me at that Shell Station where the McDonald's is or whatever.

C.I. By, at the Shell Station by McDonald's?

JAMIE HORTON It's like a McDonald's and a Shell Station combined

C.I. Alright

JAMIE HORTON Alright

C.I. Yep

JAMIE HORTON Hey man, how long is it going to take you to get there

C.I. um, give me about, give me like 15 – 20 minutes man, I should be there.

JAMIE HORTON Alright man

C.I. Alright, later. (Recording over the phone....."based on where you were calling, your account has 58 minutes of talk time available") (Phone ringing)

JAMIE HORTON What's up

C.I.	What are you driving dog?
JAMIE HORTON	I'll be driving a blue Expedition, you'll see me.
.I.	Alright
JAMIE HORTON	Hey are you there yet?
C.I.	I'm on my way right now, about 10 minutes
JAMIE HORTON	You're about 10 minutes, hey call me, call me, call me whenever you get there alright?
C.I.	Alright.
JAMIE HORTON	I should be, I should be close
C.I.	Alright, later.

58196 - D75

Franklin County Sheriff's Office

Detective Bureau
Progress of Investigation

Offense:	HOMICIDE
Report #:	200109704
Victim:	ANDREW DOTSON
Place of Occurrence:	FIELD W/O GALLOWAY RD
Date of Offense:	October 10, 2001
Reporting Detective:	ZACH SCOTT
Date:	MAY 16, 2002

This is a review/summary of a taped conversation between Sheriff's Office known CI and Jamie Horton which occurred on May 16,2002.

On May 16, 2002, SO Confidential informant made contac with Jamie Horton. During this conversation the CI made reference to the following:

Page 6 - reference to the 4 people involved in Andrew Dotson's death;

Page 4 - SO CI makes reference to doing a video on a pre-arranged deal by Jim Conway while CI was in jail; making a video of a confession of someone confessing to the Dock Side Doll's shooting, CI stating that he would need some payment for this video; Jamie Horton stating that he would be able to pay him in hard dope indicating that it would be hard cocaine within the next 3 days; and, stating he could also get him a 9 pack if he needed it, meaning 9 ounces of hard crack cocaine;

Jamie making reference that someone had to go down,meaning killed

Page 5 Again Jamie Horton making reference that he would do anything, that he would lay down his life for Jim Conway, that he would do anything for him;

Jamie Horton making reference that once Jim gets out of jail, that it was going to be over with for everyone;

SO CI made reference that he did not have a weapon, that he would need a weapon in order to carry out the pre-arranged deal between him and Jim Conway;

EXHIBIT
11

Page 6 SO CI again made reference to people he can trust to include everyone that was Andrew Dotson's murder;

Horton made reference that he was going to take care of things; and, that he would find out where an individual (implying a victim) lived;

000219

SO CI made reference that he would take pictures of the individuals for payment for doing the contract killings;

(i)

SO CI stated that Jim Conway had contracted with him to eliminate several people, these would be individuals involved in the Andrew Dotson homicide, in the Dock Side Doll's shooting; and, in the Chillicothe robbery. These arrangements made while the SO CI was in same jail cell with Jim Conway on a previous date.

D76 000218

Submitting Officer: Supervisor

58196 - D77

HORTON	CI		
Investigator 1	Investigator 2	Interview 1	Interview 2

TAPED INTERVIEW

OFFENSE:
REPORT#:
VICTIM:
PLACE OF OCCURRENCE:
DATE OF OCCURRENCE:
INTERVIEW OF: CI/JAMIE HORTON
DATE OF INTERVIEW: MAY 16, 2002
PLACE OF INTERVIEW:
INVESTIGATOR: Z. SCOTT/C. FLOYD

CI What's up Bro what's going on_____-

HORTON I can get that but it's going to take me a minute that's all I have right now I have whole bunch of that shit but the next time I do something I can make I mean

Is that cool then

HORTON Is that what you want to do is you want some foreign

CI Well that's what I wanted because that's how I'm going to make some money to take care of these Dudes see they told me that first of all I Jay's cousin I don't know if he told you that but

HORTON No I haven't I just got I don't even really I don't know shit.

CI Okay well he told me that you about the only one left out of his crew that he can count on and trust.

HORTON Yeah that's me for sure

CI Right, right that's what he told me um dog I'm here for damage control you know what I'm saying as far as everything Chillicothe, Andrew docks all that shit

HORTON So you done talked to everybody so you talked to

CI The only person I talked

HORTON was you with him

000221

CI	Yeah the only person I talked to is Jimmy you see what I'm saying
HORTON	Good
	And he told me the only person I can trust is you
HORTON	That's right
CI	So you know he wants I mean he's kind of scared about Shawn on the Andrew shit so I mean if all I'm going to check some shit out and if I got to I'm going to have to have you hook me up with um Shawn so it's right now it's about damage control you know what I'm saying.
HORTON	I feel you man I got I think I done gave you everything
CI	Yeah, yeah we're cool on that part what um I mean who do you I mean who do you think is the biggest risk though Shawn or Mike see I know Mike got popped you know what I'm saying.
HORTON	I think truthfully cause I'm like Jim both of them you understand but Shawn is so tight with us I don't know
CI	I mean that's what he said he said he don't really want to take him out but you know what I'm saying and um don't say my number over no phone
HORTON	I don't know I'm if you call me I won't even say your I won't say nothing
CI	Right exactly as far as
HORTON	Like Jim's been trying to call me today like what's up man could you do that could you and I said like Britnee kept calling and I was like tell Jim I got the shit under control I don't need him calling me from the fucking jail asking me what I'm doing and where I'm at.
CI	Exactly that's not good
HORTON	I got I got the shit under control you know I know what I'm doing
CI	Right
HORTON	You know what I'm saying I can handle this
CI	But that's what he told me that you know what I'm saying you know what you're doing I don't want to fuck with nobody else but you, you know what I'm saying
HORTON	true me and Jim we got down we know I know
CI	Exactly I know he's told me um I mean who what do you think I should take care of first

581 96 - D78
000222

HORTON	I think this thing cause nothings came up with that shit with what's his name
	Well then why the fuck is she so scared about
HORTON	He's scared about the only thing that is fucking him up is Chillicothe bro
CI	Right and that's where that's why I got the name
HORTON	That's it that's all that's the only thing you need to do I don't know man this is going to make shit so hot we ain't gonna be able to do nothing dude
CI	Well that's why he's got me I mean I know what I'm doing okay and I'm not I'm far from stupid he just to the point now where he don't know who he can trust you know what I'm saying I mean I mean I'm risking a lot myself but Jimmy's my cousin I love him and he told me your solid -and I'm going for that so
HORTON	Yeah there ain't no way I could ever do anything to anybody cause I don't know what the fucks going on but I kind of got in mind of it but I'll never I'm never
CI	Right
HORTON	Never, never, never, never-
CI	Well I mean as far as far as this shit with Andrew it's only like, like they told me it's only 4 people that know that even know it happened so you know what I'm saying that's what I'm saying it's I don't know is it Shawn or Mike you know what I'm saying whose the biggest risk.
HORTON	Well Mike's got him on that shit in Chillicothe to-
CI	Right I know that but nobody knows where Mike is see I mean there's the thing Dave said if anybody could find him that you could find him doing Shawn or what's the colored kids name
HORTON	Marcus
CI	Marcus yeah so I mean I'm willing to get down I'm not going to be around here long you know what I'm saying I got shit to do and I'll stay out in the country so I mean my fucking car's been tore to shit but I mean I'm ready to just take care of this shit but I got to know I got a soldier you know what I'm saying you ain't never got to worry about me saying your name and
HORTON	You want me to come you want me to be down with you I don't care I mean I don't like doing shit like that but
CI	Right well I
)RTON	if I gotta be there

CI	I prefer not to all I need from you man is to just
ORTON	Where
CI	Where they're at you know what I'm saying and who I need to take out first that's all I need to know though and show me where they're at you know what I'm saying just tell me where
HORTON	You got to be like looking oh I' don't even like talking about it cause I get scared man
CI	But I mean I you know what I'm saying you ain't got to worry about none of this shit you know what I'm saying
HORTON	What I'm thinking is when it done do it and they can't be just left where they're at
CI	So what the fuck okay well I might need help with that
HORTON	That's what I'm saying I got you on that
CI	Okay
HORTON	That's no big deal
CI	I will I got to make video I don't know if he told you that or not as far as with the Dockside double shoot as far as see the whole thing is he wants somebody to confess on tape with that with a confession it's hard to convict him you see what I'm saying if you got somebody confessing
HORTON	Whose going to confess though
CI	Well I got to take care of that he ain't really told me who it don't really matter but I'm going to take care of it which is what I'm using part of it for that's why I prefer if I can bring some of it back hard you know what I'm saying
HORTON	I can get you some hard dope it will be in the next 3 days I can get you a 9 pack if you need it.
CI	That's probably what I'm going to need I mean cause see like you know I just got out and I'm starting from nothing and I put a lot of money in this myself you know what I'm saying I mean they'll tell you dog I'm from the old gangster school see I'm 30 years old I'm not playing no games I'm not taking no prisoners so you know what I mean I mean it's
HORTON	Okay someone's got to go down
CI	Exactly
ORTON	That's how it's got that's how it's got to be

000224 581961

CI I mean I ain't got no heat you know what I'm saying I might need some heat I'm going to definitely need some I don't I don't want to see what the fuck is that

.ORTON my Nextel messed up

CI Oh I don't want to see nobody but you, you know what I'm saying

HORTON Let me call you back

CI Um I don't want nobody to know my name or nothing you know what I'm saying I don't want to see nobody

HORTON I haven't said nothing to nobody that's how tight but I borrow money from some people to get somebody some money I don't know who she was who it was but I gave them money and they think that the money I borrowed they're scared like on my god they're having some done and kind of being scared about it but he's all right though

CI See this is I mean they can think whatever they want to think I'm saying it's a different between thinking and proving which is why I'm here to take care of all loose ends

HORTON All right that's cool

CI And I mean I just need somebody that I know without a doubt I can trust you know what I'm saying

.ORTON Hey ask I'll do anything for Jim

CI Well if I didn't believe it dog I wouldn't be here

HORTON I'm saying if I to do if I had to go lay down for the rest of my life I'd do it you know what I'm saying cause Jim would do it for me

CI Well we're going to try to avoid all that you know what I'm saying

HORTON Yeah for sure

CI We're going try to get Jim the fuck up out of there so I'm going to make a video I'm going to probably bring you I mean once I take care of dude, I got to bring you a picture of that so you can tell Jim you seen it You know what I'm saying just you ain't going to know nothing about it where the Dude's at but you'll see the picture so you can let him know it's done um

HORTON That's a bad ass idea how did you guys

CI I told you I'm good at what I do I do what I'm good at

"ORTON Um that's a fat that's fat if he gets out on this shit man we're going is this over with for everybody

CI	Well that's the plan
)RTON	Yeah
CI	Like I said I'm not going to be around here long I'm not even from around here so I got caught up on a humbug and luckily my cousin was with me so and we get shit taken care of you know what I mean like I said dog he told basically I'm putting my life in your hands you know what I'm saying.
HORTON	Yeah I do
CI	And that's the way it's laying
HORTON	That's the way it is so I understand the I understand everything
CI	Exactly, exactly right I mean
HORTON	uh, that's a fat ass idea if he gets out on this shit man, we're going, it's over with for everybody.
CI	Well, that's, that's the plan, know what I'm saying, I'm not, like I said, I'm not going to be around here long, I'm not even from around here so, I got caught up on a humbug and luckily my cousin was with me so, I'm going to get shit taken care of you know and I mean, like I said dog, he told me I could trust basically I'm putting my life in your hands, you know what I'm saying
HORTON	I do
CI	And that's the way it's laying, that's the way it is you know
HORTON	I understand, I understand everything
CI	Exactly, exactly, right, I already know that, you know what I'm saying, the people that was there, like I said, you know if I didn't trust you, I wouldn't be talking to you, you know what I'm saying. They told me it was Um, him, you, Sean and Mike that was there with Andrew so I trust you the most
HORTON	Trust me I do know
CI	You know what I'm saying, so whichever one of them you feel needs to go, I'm going off of your judgement cause Jim told me I could trust you, so however you want to work it.
HORTON	I'll get all that shit taken care of man I'll find out where he's at
CI	Just uh, yeah just, whenever you call me like I said, you don't even want to write my number

000226
58196 - D82

HORTON	I won't even call you, you call me
CI	Okay
ORTON	That way it looks better, I won't even.....
CI	Okay, cause nobody else got this phone number, when Jim needs the number cause I guess, if you got to give it to Chris or give me Chris HORTONcero's number so I can get it to him, some kind of way, you know what I'm saying.
HORTON	Fuck Chris, I don't trust Chris man
CI	Jimmy said he thinks he can man
HORTON	Fuck Chris man, fuck Chris, I say fuck Chris, but Jim wants to trust him, that's fine, I don't trust Chris, fuck him, he's done he's just all about money, ain't about nothing else
CI	I told him that man
HORTON	He don't give a fuck, he don't give a fuck about Jim
CI	So how, I mean how do we work this, where do you want to start dude?
CI	I figure we got about a month to get everything taken care of, Jim goes back to court in August.
HORTON	do your side that one thing, that one thing and I'll get
CI	I'm going to take care of the video
HORTON	And I'll get my shit together, we'll meet back up after that, give me a week
CI	Give you a week
HORTON	We'll get back in a week and I'll have everything together, you have everything, you should have all your stuff together
CI	Well I'm going, I'll probably take care of the video, I'm going to go just get back what I can off of this man, I'll take care of the video probably tomorrow or the next day, when I get that done...
HORTON	That's what I'm saying, about 4 or 5 days we'll hook back up
CI	Alright. Well I don't want to hold no pictures of dead bodies, you know what I'm saying, so I'm going to bring you the pictures let you see you know it's done and then that's history, see what I mean
ORTON	You don't have to do that dog

CI	Well, Jimmy wants it that way so he knows, so, know what I'm saying. That way he knows that I'm handling my business and everything's everything, so, uh.
ORTON	Alright, well I'll just hit you up and anytime we meet, I'm by myself
CI	I'm by myself, I got you
HORTON	And that way we ain't got to worry about nothing
CI	I got you
HORTON	Alright?
CI	Yep
HORTON	Alright bro, I'm out of here man, take care yourself-
CI	_____if you holler at Jay man just tell him I ain't even talking to him on the phone no more so it's over with, I ain't talking to him no more
HORTON	_____--what's Chris' , do you know Chris' cell phone?
CI	22_____00, tell you what I ain't got no more to do with it I ain't going too
ORTON	I'll call you here in a minute
CI	Okay, just call me, it'll be on my phone
HORTON	Alright
CI	Alright, alright man, be cool

581996 - D84 000228

Franklin County Sheriff's Office
Detective Bureau
Progress of Investigation

Offense:	HOMICIDE
Report #:	200109704
Victim:	ANDREW DOTSON
Place of Occurrence:	GALLOWAY S/O HALL ROAD
Date of Offense:	October 10, 2001
Reporting Detective:	ZACH SCOTT AND CHRIS FLOYD
Date:	May 29, 2002

THE FOLLOWING IS A REVIEW/SUMMARY OF THE CONVERSATION BETWEEN JAMIE HORTON AND THE SO CI DONE ON MAY 17, 2002. THIS CONVERSATION TOOK PLACE IN A VEHICLE.

Page 1 Horton refers to finding Brian; and, that Brian has a SWAT officer with him at all times;

Page 2 Horton and CI talk about an address;

Page 4 Horton refers to Andrew Dotson homicide stating, "yeah, I was there; but, he did it;

Page 5 Horton referring to Chris Cicero on a case;

Page 9 Horton talks about having people done;

Page 10 CI refers to the video tape; and, Chris Cicero's phone number;

Page 11 CI refers to the Andrew case; and, burying Andrew Dotson;

Page 14 Horton refers that he had access to a backhoe to get rid of bodies;

CI and Horton discussed doing the Chilli Guys all at once;

Page 15 Horton refers to Bullets being wiped off; this from the bullets and gun that he gave the CI on the previous date;

Jamie Horton references to getting a desert eagle handgun for the CI;

Jamie Horton tells CI to make the body be gone in reference to video;

Jamie Horton states that he talks to Jim Conway all the time; and, that's how he knows the body needs to be gone;

EXHIBIT 12

Page 16 Jamie Horton talks about when he gets a call from Jimmy Conway that he drops everything and immediately does what he is told;

(1)

Page 17 Jamie Horton talks about not wanting to actually do the killings; but, helping get rid of the bodies;

Page 18 Jamie Horton talks about how hard it is to carry out a plan like this; and, to make it all work;

Page 19 Jamie Horton talks about renting a car to show the CI the address' in Chillicothe, Jamie Horton didn't want to drive one of their 2 vehicles in case someone saw them;

Page 21 Jamie Horton refers to the gun we did the Dock Side with; Jamie felt that he might be able to retrieve that gun, that he was not capable of it;

Page 23 Jamie Horton refers to Andrew Dotson, he doesn't think it's ever going to come out;

Page 24 Jamie Horton talks about burying Andrew Dotson, that he started to loosen the dirt, and then they told him no;

Jamie Horton refers to giving someone money to keep him from turning on him;

Page 25 CI refers to Mike standing on Andrew Dotson's neck;

Horton states that's what really happened, referring to standing on Andrew Dotson' neck.

ARREST

(ii)

Submitting Officer: Supervisor

58196 - D87

FLOYD		CI	JH
Investigator 1	Investigator 2	Interview 1	Interview 2

TAPED INTERVIEW

OFFENSE:	HOMICIDE
REPORT#:	200109704
VICTIM:	ANDREW DOTSON
PLACE OF OCCURRENCE:	GALLOWAY S/O HALL ROADS
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	CI AND JAMIE HORTON
DATE OF INTERVIEW:	MAY 17, 2002,contact at 8:53 PM
PLACE OF INTERVIEW:	VEHICLE
INVESTIGATOR:	FLOYD

CI what's up big dog

JH _____

CI true cause a I, I really couldn't talk to Jimmy man, I can't get to that____detective _____so, I gotta HAVE some kind of Help finding Brian, so, I_____some_____man

for sure SWAT with him_____got to _____

CI just one

JH big dude, big purple_____

CI how can I get to him

JH Brian
~~find him~~, find him, then we'll,____just told me about_____that's a fact, that's all, Brian done told 4 different stories_____ _____know what I'm saying, he told, he told ____3 stories that Shawn beat him up, then he told the story that_____didn't do it so IT AIN'T GONNA HOLD UP

CI yeah

JH and, they can't say nothing about him and Shawn fighting, cause they grew up together, that's all they do is fight each other

CI right, ok, so after, I mean ok, what good has the video done,

JH that's_____out of the way, saying I know that what you're saying is still_____

(1)

CI what about the _____get that

JH you know where he lives in Jackson

I don't know his address but I know exactly, I could get you, I'll tell you right where he lives at

JH ain't no big deal so you just have to take me down there_____

CI my car is fucking up dog

JH _____according to a report that drive by his house and, well he'll know cause he lives in the country, know what I mean

CI so he_____does he know your ride ~~arrive~~

JH _____sure, just, just drive once_____

CI I can use my little brother's car

JH Yeah, that and then a,I'm thinking that dude either_____that dude continues to put on_____

CI yeah but they can fuck him, all they can fuck him on is what happened down _____right

JH that's bull shit though, I mean that's, it that's a little bit of time, but

CI yeah, that ain't the _____or nothing like that, so what's, I mean what's the major issue that I need to take care of first

JH _____mean what did Jim say

CI Jim says it, I mean we can only find out so much, know what I'm saying_____
So it's not really, I'm working basic through you, know what I'm saying, mean I
Don't give a fuck cause I'm whatever, you know what I'm saying, whatever it
Takes, I know what I'm doing, I mean I've got a guy that I've know for years
Going after em with a video tape that's taken care of I don't
Want to use him or nothing other then that because I'm gonna probably have
To get rid of him too, know what I'm saying, the only person I trust dog is you

JH that's good man, cause I

CI I_____nobody else

JH _____saying

581196 - DB8
000242

58196 - D89

CI I'm _____you_____exactly

JH _____if you and Jimmy say that in front of fucking_____ know I mean
I'm just hanging on, just now getting all my gear together and my mother fucking,
I lost everything when I was locked up

CI oh I understand that_____

JH yeah that's why_____

CI especially if you don't have to ~~fight~~ tight people to take care of you.

JH exactly, contact him, nothing

CI like right now, whenever Jim gets out, he's gonna_____

JH know what I mean, when he calms down

CI _____blow up and make a hundred thousand dollars, I'll_____
_____

JH _____

CI _____last night was so fucking neat though

I know that's all _____2 and 1/2

CI that's all I could get dog

JH I'm like god damm

CI that's all, that's all I could get, and the dude that's bringing me that is going to cut
Me off, fucking scared

JH _____

CI well I don't want to talk to_____this is what I'm saying dog,
Everybody is fucking_____everybody in this situation has got just as much
To loose as the next mother fucker, know what I'm saying

JH _____saying, this is_____I'm down to whatever
Man, I don't____about nobody but Jim shawn would be tight and Shawn
He says from now on just me, Shawn, Jim and then you're not, I know____
A little bit

CI right

and I'll be there for you guys but, you know what I'm saying

CI _____

exactly

CI I'm kinda like a secret weapon, so

JH oh

~~CI~~ JH that's some real, that's some fucking real, that's a real tight shit

~~JH~~ CI ok so what, you know, there is, first minute you don't want to do Shawn

CI so what, so what dude you want to do, I mean what's up with ~~Dan~~ Shawn and Mike, with The Andrew's_____

JH _____happen with that _____

CI well Jimmy's thing is is he wants to take care of it before it_____, know what I'm saying, so that's what I'm saying, I need to know exactly who the front guy Gotta take of

JH so fucking_____ever gonna fall back on Bob

CI well that's I mean that's what Jim told me but after It's ~~Dan~~ Shawn, you know what I'm saying, if, if you got a person that knows exactly how something happened He could say you did it

JH Oh yeah I was there but he did it

CI know what I'm saying, if he Rolls then he got it

JH that's just how they work man, who rode first, know what I'm saying, that's,

CI if he knows all the details then who's is to say he's lying, but if he's not There

JH that's scary_____that's makes me scared_____but I've never Seen_____that's a total _____

CI this is the thing brother, I'm going to tell you like this, I don't, the only person I've seen is you_____

JH man, I'm trusting you with everything, know what I'm saying

CI JH _____trusting you buddy talking about

CI JH exactly, that's why I_____out, I mean, you know I, I wanted it, just you Wanted to ask me was I wired, I wanted to ask you if you was wired

581196 - D90
000244

CI _____

_____ that's why I was glad we got that shit out of the way

CI yeah cause, I, you know what I'm saying, I've got as much to lose as you do dog

JH oh_____

CI I'm 30 years old man, it's a little late in the game for me to get fucked up, so I mean As far as me coming at you dog, I,I'd have to tell you on my kid's life; and, that's man that's not easy, you was the, you're the only one that give me 100 percent Trust, so I mean, cause I guess Cicero told him where it is, it's now_____

~~JH~~ I don't know

er J.H just think, look, Chris would be on this case, he's _____five thousand Dollars just to do this, then once that the five thousand dollars_____ _____-whatever, everybody will be tight again___whenever you need some money

~~JH~~ _____

er J.H mother fuckers_____yeah he's just playing his little fucking games

JH playing his _____yeah he's playing_____I mean I don't smoke, I can't Say he won't_____-when it comes down to this,this stuff happens, you know What I'm saying, I can't say cause you don't never know about

CI that's what I'm saying

JH C.F that's, that's what _____concern was or when, when they, when the _____is Saying and it's gonna hit the fan, you know what I'm saying

er J.H I know it will

JH a lot of witness' saw_____

CI well not on this_____

JH C.F. overall, know what I mean; and, and, the main, the main factor in all of em

er J.H yeah, yeah, me and fucking_____saying that shit went down with what's his Name, he's gonna fucking

C.F ___I mean is

(5)

CI-JH

Jim, Jim was ON plaine shi so we're gonna fuck with him

- C.F

that's what, I mean he told me a little bit, but, you know, and, I told him, I said look Don't_____know what I'm saying, I said look, we don't _____I said,_____I need to know, then I've have_____I said but _____then that, let's not talk about it anymore, you know what I'm saying

Jamie

CI the only thing I need to know, ~~Jeremy~~ should let me know, you know, he's talked to Jamie knows everything right, he said yeah, I said ok that's all I need to know, no we Don't gotta talk in there cause he's got dude's in there that just want to hear Conversation, the next thing you know we're all fucked up, I'm fucked up with This_____and I, I mean in that situation, I don't got nothing to lose but I'm Looking at a long term picture DC when everybody is out and we're all tight, You know what I'm saying, we're all solid, WHATS STOPING US

JH exactly

CI know what I'm saying, that's why, that's why J_____

JH _____I've got, since he's been in, I've got the best ~~pussy~~ hook that I've ever had _____

CI I know, I mean my dude, I don't know where the fuck my dude is, he's running Scared I guess, I don't know what's up with him

_____Mike's pretty much_____

CI _____

JH straightens up the whole, everybody; and, everybody is nice to him and I'm____ Money, money, money I don't know_____one of_____ That's getting kinda, it was getting____like a damm_____

CI I don't care thought, you know what I'm saying_____I don't give a fuck

JH exactly

CI _____everybody

JH yeah, so,

CI what the fuck is Mike doing

JH see Mike, Mike and then, my cousin_____my cousin is solid, he was _____Mike___to go do something cause, he just thinks that too many people know about it

are you talking about Rob

581196 - D92
000246

JH yeah and everybody knows Rob and something happens it's gonna go back _____

right

JH you know what I'm saying, they're gonna think_____

CI right

JH so he's kinda, you know what I'm saying,he don't know shit but I know when Something happens he's gonna be fucked,

CI well that's what I'm saying, that's why I need to know, OK, from the way you're Looking at it dog, who needs to be gone,I mean you know more about it then I do Know what I'm saying, I'm gonna do whatever, but don't just like to told Jimmy, Don't have me running around in the blind, tell me, don't send me on a suicide Mission_____

JH _____no waiting

CI _____probably but

JH they know_____

but,_____I mean it's like I told you last night dog, I'm good at what I do And do what you ask know what I'm saying

JH I pretty much know all that

CI and I, I mean there's ways around that,I just need to know who it is I'm going After

JH _____

CI yes, I left mine in the car, so

JH what's up

Female _____

JH nothing why, what are you doing

Female a_____about that a_____a you know if_____ Kinda like a hour and half and I'll return it

JH I don't care, you know that, I'll be AT MY House

.nale are you mad at me

JH no, I'm not mad at you, just call me back later

male alrighty

JH _____my girl

CI _____

JH I know she was calling me Today stop calling me, that's what I said, she was
Like Jim said_____I's like quit calling me,____yeah, I know, I got the number
Whenever I feel I have perk up and I got her

CI _____

JH I said look, you know

CI _____

Unknown get all fucked up

Unknown _____got to remember, I got Wayne's number

CI I don't even Store it yeah your number is not in my phone I
Just, numbers I got here, know what I'm saying and that's the only
Place I need to have em cause I don't know what's happened to that
Phone, you know, you all look after that phone; and, I just, I mean I
Told her I have to look, when I talked to Jay, you know I got a message
With Jay, I said look man, you know, I'm trying to get this video shit
Done, if_____that Jay wanted to use, I can't find it

JH I wouldn't say video in front of_____or nothing like that cause whenever
_____

CI no I'm not, I, when I call him I don't say,___we got our little system; and,
That's all he knows and I said look man, need some Heat I don't have
No, cause I had a couple guys that's supposed to take of this and we done
Put it between me and Jim, like fifty gran, know what I'm saying; and, I said look man,
My god, I don't even know where that _____but I'll do with that myself

JH _____whenever_____

CI nobody, that's what I'm saying dog, all I'm saying is, it's just like I told
Jay you know, I got a couple bodies and he knows about em and
then he confronts me but I trust him, know what I'm saying; and, I mean I
know what's happened and I confront him; but, I'm not on_____
you know I was raised by thoroughbred gangsters and you just don't get
out like that

000248 D94

JH _____

CI it's like me and _____said, with our crew, who's gonna stop us, you Know, you don't have to have a lot people, just have to know what

JH _____

CI that's it dog, that's it

JH _____--with you, they'll get me down there like what _____like man I'm fucked, know what I'm saying

CI _____I did nine and a half months for a fucking, a felony 4 because I _____know what I'm saying, I don't give a fuck about the rest

JH _____-

CI I mean we can take care of whatever, I just, I just, I gotta thing about knowing What the fuck I'm doing before I do it, know what I'm saying, I want to know What I'm doing and I want to know what's involved, what risk involved

JH _____my cousin and, gonna have him fucked man and it's All gonna come back on him I feel bad for that but, if I was him, if I was in his shoes they'd be done

_____what's gonna get him fucked

JH _____it's going to be coming back to him_____

CI on a robbery

JH _____

CI yeah

JH _____

CI ___I mean, I mean I'm not after_____they've talked about it, you Know what I'm saying, I mean I don't know how you feel about it dog But if he's a loose end, he's a loose end

JH _____just going to jail he_____that's all he admitted to this_____

CI I'm going to try

JH He would never do that

CI I'm going to try to get this the video and shit taken care of tomorrow man so

JH But I told you I told you like he's saying someone is going to be confessing to

What happened at the Dockside

JH _____

CI See what I'm saying so I know what I'm doing you know what I'm saying and I mean if I didn't trust you all I god dam sure wouldn't be here now _____you all

JH If I didn't trust you I wouldn't of gave you what I gave you yesterday

CI Exactly

JH _____you know _____

CI Well I mean I was a little nervous I'm like man what if I pull out of here and fucking Swat is rushing me

JH I was surprised _____

CI And I went around that car a couple times like man is somebody rushes in I'm driving through the field fuck it

JH I aint on that shit

Well you know we just you didn't know and I didn't know but now we know so we ain't got to worry about that so once I get I got to figure out a way to get in touch with Cicero man cause I'm suppose to get a video to Cicero

JH I got the number got the number

CI I know you was suppose to call me and gave it to me but you didn't call me

JH _____

CI What is it

JH 228-2600

CI 228-2600

JH Yeah

CI 2600 alright okay well once I take care of that man I'm going to get the I'm going to get the pictures and shit _____

JH _____

CI I'm going to take it down there to him cause I need to holler at him

JH You want to holler at him right now can I have him meet you down there

Yeah but I got to get shit done you know what I'm saying I got to get it taken care of but that would be love if you could just you know what I'm saying set it up

JH I got I got him right on the two-way thing I can get a hold of him his cell phone fucking with his secretary so

CI Okay well if we can just if we can just get we'll just do it like that you know what I'm saying I mean I can take care of everything I don't want to do a lot of the work I'll do the dirty work you know what I'm saying but I'm going to need you to do play the middle man see what I mean and I mean you're going to be my source of information dog as far as to what the fuck I'm doing

JH Okay man and we got to get a car to take him down there _____ but he's got _____ little family down there man

CI Why didn't why the fuck didn't you guys just bury Andrew and you wouldn't have to worry about it dog I don't understand that it makes no sense

JH Tell me man _____

CI I just don't understand that I mean I kick myself in the ass just I'm telling Jim like you know you got to be fucking stupid

_____ some way that they're going to be going through it anyway because of _____ I thought about that

CI See I mean sometimes sometimes Bro you got to step up man I mean you know Jimmy's my cousin and I love him Bro but and he got a lot of heart and he's smart but a lot of times he needs a little guidance you know what I'm saying

JH _____ I didn't think about it

CI Yeah you should of said _____

JH Thats crazy, _____ experience

CI I'm sure it is I mean I been there done that but

JH He's fucking crazy

CI Sometime my philosophy is though sometimes people just need sometimes people need _____ you know and obviously from your guy's point of view Thats one time but there is a way to do shit where you ain't got to worry about it

JH Yeah

CI See what I'm saying

JH Yeah,yeah

And I mean I don't know exactly what happened but I, I mean I heard you all fucked him up and that was to do something you, you got to bury him Bro you can't I mean I Feel you guys man all I ask man is that you just listen to me and stay solid that's all you got to do man.

JH I mean I ain't I don't mean to sound all weird and shit but I [redacted]t like it man I [redacted]t like that shit

CI Dog I grew up in it Jimmy knows Jimmy knows my family you know what I'm saying

JH

CI But I've never been in his situation because I had the right school and I know what the fuck I'm doing

JH he can take care of you man we'll get him out mother fucker once he gets out and hits the streets IT'S ON but man we're all ON

CI Exactly you know what I'm saying I mean I got a crib set up for when he gets out and we're all straight you know what I'm saying I mean he'll tell you dog I make like a quarter of a million dollar links at a time where you ain't got to worry about it you know where you ain't got to go through this nickel and dime shit

JH Yeah

CI But I mean you know you take baby steps before you walk you know so if I get this I get the video done though once that ain't that's no problem that's done all I needed was the piece and we got that and then that's done

JH Um they ain't going to be all scared freaking out on me

CI Well see that's why that's why Originally I needed the because I'm going to get a crack head you know what I'm saying and a crack head will tell you whatever the fuck you want him to say if you hold it's like holding a chair in front of a horses face they'll say what they want to say to get what they want he don't he's not going to know what's coming until afterwards and then by then it's too late you know what I'm saying but that's why I needed that yesterday I mean it kind of fucked fucked me up cause I had some other things I got to take care of and I got a partner I got to take care of so that's why I mean it I don't know I mean in a couple days dog if you can come up with some ~~whores~~ H. that's love you know what I'm saying

JH How much um I'll do my damist but man I'm going

CI I mean I could shoot you some shit back that ain't no problem see what I'm saying that that's not even a problem you know if you want to split I'll split the cost with you on a 9 you know what I'm saying half of it will be going on what Jimmy's going on and I get you half of it back whatever you want more you know what I'm saying

JH _____

CI Well I mean just take care of that and have it ready when you bring it to me and you ain't got to worry about it

JH You know I got to wait till I get some Shit don't know how long it's going to be _____ we got to get somebody to bring us a car not us not me or you

CI Right

JH We'll ride down there I'll show you what's up Then man what are you thinking you thinking just him or just Mike or

CI I don't know that's what I'm saying that's what that's what I'm asking you

JH _____ would have been there

CI I know that

JH _____

CI I know that that's what I'm saying

JH _____ that's what I call it

Okay so is that with all of them

JH I'm calling somebody else and maybe they didn't know about this one they be Real

CI _____ done

JH I don't know what this is dude is -FBI

CI Okay so but I'm saying that's Something Fuller is going to have to give us some money on that dog cause he's got as much to loose this is that is who got Fuller's share too right

JH Not only Fuller though but you got to think about this he ~~ain't~~ me & Jim up there talking not if I mean sometimes fucking crazy _____

CI Right

JH I mean that's fucking more money then why

CI Well Jim said he thinks that's who wanted to _____

JH Yeah it is for sure

So what do you want to do I mean I don't give a fuck dog you know what I'm saying I mean

JH I don't care about none of these people man JUST I really don't

You know I got I got my baby brothers fittin and shit so I'll have money so I ain't got time to risk and do what I got to do at the same time ya feel me

JH Yeah

CI So I mean I take losses and I got to cut people in so it's a little expensive but in the end it all comes back you know what I'm saying I mean it might get expensive but but you know if you got to spend thirty or forty grand now to make thirty or forty thousand thirty or forty million you know what I'm saying you're the man dog you know there is a few risks involved but it goes with the territory

JH Okay

CI I mean that's what I'm saying

JH That's what I'm saying

CI That's what I'm asking you dog whoever the fuck we need to do

JH I got to do something I been dealing with this for about 2 years now but I don't know if I can just creep up on him cause he got a back Hoe mother fucker dirch dug

CI My Dad's got a dump truck

Oh he does oh Thats cool

CI Ain't see nothing in there you know things got a double axel

JH I say Fuck fucking people that was in there and if Mike will give us some I don't even want to go up Mike on that Though

CI Well I mean that's something we can go at him at when it's all done you know and if he don't want to give us nothing then we'll deal with that.

JH alright it's in Columbus instead of Chillicothe

CI Well they're all right there so it's got to be like pow, pow, pow all of em's in Chillicothe

JH Yes it can't be it can't be bam come back bam come back bam

CI Right all at the same time

JH Yeah

CI Well then we got to work on somebody renting us a car to go down there

JH OR pick-up truck

CI Um well I hope you don't want that back right

All the bullets should be wiped off I'm not for sure but I got a little bit of

CI Well what if I do this another day and you ain't got to worry about it

JH Do whatever you got to do with it

CI I mean I don't and that's what I say if you want a bag you be more than welcome but I don't really

JH I could probably get you A deasert if I can get a hold of his uncle he's got a deasert eagle

CI Now what's up with the silencer man

JH Oh my god it's, let me know

CI They were sending somebody out when they were selling he said it was fully automatic with a silencer on it

JH Yeah

CI One like 3 round 4

Yeah

CI What's up with that

JH I Tried to buy it

CI And he didn't want to come off of it

JH _____ nobody would even know

CI See I need t find out from Cicero what he wants me to with the dude's body once I get it done with the video you know what I'm saying I mean would it be better cause I'm thinking would it be better if I just left him for them to find him and then cause it could be like you know dudes in a bunch of carupt shit anyway or just make him disappear so there ain't any questions should I just make him be gone

JH Just be gone

CI Jay called me today from the jail on three-way dog I was so spooked man I'm like man why did

JH He called me everyday man I mean I just talked to him about regular shit

Yeah that's cool

JH You know what I'm saying but sometimes he'll get into like did you do that yeah I'll be like and I'll just start singing some shit like yeah _____I mean what's up man _____

Yeah

JH I don't say nothing you know like yeah Jim bout to go do that.

CI Yeah

JH I mean I was like

CI That's like today I called Brittany and said look you know relay this message to Jim well instead of Jim giving her an answer he calls me three-way you know and he's like what's up and I'm like oh wow I'm like you trying to get me arrested or what

JH That's what I'm saying I'm saying _____

CI And I just told him I said look man can Jamie get me what I need he said yes so well then have him call me man what are you calling me for he said

JH That was bull shiting I wasn't bull shiting I said yeah so I'm like you know I got to take care of things this is important but fuck it [illegible]fucking worry about it

CI Cause I mean I mean I'm out in the country doing my shit

I just want to make it where it don't look like I'm sitting here chillin with all my people with my girls whatever and then I get a phone call from him I got to go now

CI Exactly he

JH That's crazy that's crazy I got to set it up man I got to set it up to where it's like I'm the _____whatever _____

CI Right that's what I like when you called me last night I couldn't really talk

JH Yeah

CI But I found _____like well I just got done talking to him cause I mean I don't want nobody, nobody in my business Bro you know especially with this you know what I'm saying I mean so if um the less I use my Dudes the more I can't like I said um working with him and with him so if we go down here to do these Dudes in Chilly you know what I mean can you handle that I mean you know what I'm saying if you can't dog something you can't

JH I really don't want to get into nothing like that truthfully I mean if you guys want to keep getting money and all that shit I'm I'm it you know what I'm saying I'll I'm what's left if I get fucked up this whole everybody is fucked

Right

581 00025 63

JH You know what I mean that's just the way it is Okay so if I don't want to get fucked

I don't either I don't either I mean you see that mother fucker was sitting gold deez and everything when I got locked up you know somebody striped my fucking set out of my they stole my rims and everything you know what I'm saying my car has just been tore all to hell

JH You can't trust them

CI No I lost everything a house all my jewelry everything you know what I'm saying I can't even tell what fucking time it is if I don't look at my phone you know what I mean it's cool I'm just I'm taking it with a grain of salt

JH its all good

CI And after I told Jay look man I'm putting everything I got into this

JH Okay and I can help you do whatever I can help you um go down there and get shit cause it's got to be we got to get a place first if he already has it ready

CI Right

JH You know what I mean I can help you do all that that's no problem

Right

JH But as far as go to do dude s dont wanta do that

CI Alright well I mean it's cool that if you don't want

JH I'm just being real with you

CI I appreciate that you know

JH I'm not going to say yeah lets go and get down there and like

CI Exactly I don't want you to say yeah okay I'm with you _____ be killing you know what I'm saying then when we get there no I don't want you know what I'm saying

JH Yeah _____

CI _____ I would rather have that though I mean cause I don't have a problem with that I mean if you know you I might need help getting rid of bodies man you know what I'm saying

JH _____

And as long as you got me there then I can handle everything else

JH _____fucked up _____-get in a situation where I'm going to fuck up everybody man cause I'm _____

Believe me dog it cause I mean you know _____you know what I'm saying if it was like that they'd have us both you know what I'm saying they wouldn't of last night would have been the last

JH _____

CI Exactly cause I didn't know what was happening you know what I'm saying so not anything like that I'm far from stupid I mean when I called you and told you I was here I been here like 10 minutes cause I

JH checkin it out-

CI I'm like you I like to test it out see what's going on you know what I'm saying I'm not I'm not rushing into nothing you know what I mean even though it ain't nothing but a mother fucking gun I can say well so what you know I just lost a gun but at the same time _____you know I don't know what the fucks going on so I just wanted I got

JH well don't worry about me I'll be alright

CI Well I mean

That's right I'm going to tell the truth No matter what I ain't going to lie to u the only people I lie to is the cops

CI Well that's the only yeah

JH If I have to I'll lie to you

CI Exactly

JH I don't talk to nobody else or lie to nobody I have no reason to show

CI Right okay so what about ~~Tom~~ I mean can we trust him or what dog can we trust him too be down when we're doing that shit

JH Well I do know _____fucked up well I mean the less people I got to meet the better you know what I'm saying cause it's going to be hard we got to devise a plan it's going to be hard to get all shit done

CI Um well than fuck I guess that's the plan though when can we um

JH Whenever you're ready man we _____we got to rent a car we could roll now

Right and I don't really want to use my little brother's car cause his tags is in his name.

JH Well let's wait Till we get a rent-A- car

I'll take care of it um man just try to get me some orders as soon as you can though .n I'll take care of it then you know what I'm saying then we ain't got to worry about it and now you know what I'm saying I mean Jay told me that it was _____ you know what I'm saying I mean you go visit him feel me and just tell him then man like look you know I know we can put somebody into it but I was in there you know what I'm saying I can't control what's happening from in there but I'm out here now as you see I take care of business dog you know and the more I

JH I'm going to go see him on Friday

CI Okay well just tell him you know what I'm saying try to get me some orders by Sunday though

JH UmHm get it by Sunday I hope

CI That's cool and just tell him man

JH _____ everything is straight just call and ask you something

CI Tell him we got this worked out

JH Yeah don't even call him no more

Right tell him I need him to call me on Cicero's phone cause Cicero's phone is you know what I'm saying ain't al that modern bull shit I mean has he called you from Cicero's phone

JH _____ yeah _____ like them people from Chillicothe were like Mike when Mike was _____

CI Right

JH He shouldn't of _____ -Mike _____ and a couple things got missing _____ paranoid you know what I mean and he went down there _____ you know what I'm saying

CI Right

JH _____

CI The thing I mean Cicero he's a crazy mother fucker though but at the same time he's the best lawyer to have in this situation man

JH _____

Um he said he can trust Cicero man

JH _____

Well my name is Tony don't nobody know my name but _____and that phone a burn out phone so it don't come back to my name you know what I'm saying and you can call me and say whatever you want to say on it and it ain't going to hurt me a bit so but I mean I ain't got no choice I got to know I got to know exactly what to tell this guy to say on this video can you tell me I mean I know a little bits and pieces Jim told me once but I mean fuck dog I got so much shit on my mind I can't remember everything

JH _____

CI Well then that's all I need man you know what I'm saying um fucking ask somebody how you do the script I may do read the script word for word instead of being Jim have it like it's him feel me the way it can go down is like well I, I did you know what I'm saying and just go from there

JH _____

CI That's what I'm saying

JH I mean no you will do some shit

CI I mean it would probably be better if you called him already first cause Chris don't know you know what I'm saying

Hes STARTING NOT TO TRUST ME

CI OK well look if you get some Hard by Sunday though by Monday I'll have the _____you know what I'm saying and then um just give Chris some of the money that way he's got everybody happy you know what I'm saying I need to get with Cicero like tomorrow cause I'm going to try to get this video done tomorrow so would that be a me, you and Chris visit or just you and Chris visit it might be better with might be you and Chris cause he don't know me you know what I'm saying I mean it I mean if you can tell me what the head Dude say that's just as good and then I'll just take the video to Cicero you know what I'm saying ..

JH _____

CI That's cool

JH _____

CI Cause I mean I don't know if this _____you know like I said I trust you and that's it and I'm going off of you so you know if you bring John Doe to me and tell me he's solid and that's all I know he's solid

JH _____cause I ain't fucking

That's why when I come I come by myself

JH _____

The only mother fuckers I bother for in this world is Jay who is that because we all got same thing to accomplish

JH Cause I know ever since _____

CI Exact that's what I'm trying to explain to everybody

JH If I was you I mean I'm not going to cry about what happened cause I know what I did when I did it you know what I'm saying

CI Right but lets try to keep from nothing happening you know what I'm saying so what's you want me to just get with you tomorrow or what

JH _____

CI Yeah cause I mean

JH _____

CI So he's got to know shit only the person that did it you know what I'm saying he's got to know shit that you know what I'm saying only you and Jim would know what that was so he's got to know what you know feel me I mean you ain't got to see him and he ain't got to see you all he's got to.. is me

JH If I find a gun we did dockside with

CI Exactly

JH _____ that would be hard

CI But can we do it or can we do it that would be dog he would walk out the door

JH That would be harder _____

CI He'll walk out the door

JH I don't know if I can get that bitch _____

CI As far as that goes though tell me where to pick it up see this is the thing you got to understand Bro nobody knows me

JH Right

CI You know what I'm saying and if they all watching you

None of his family members

CI No they don't I mean they know see my grandmother and his grandmother are sisters you know what I'm saying we just found out in jail our ties you know what I'm saying so if um I could walk up his family and I'd say _____wit them and they wouldn't know who the fuck I was see what I'm saying

JH _____

CI Like right now dog

JH _____-

CI He would walk out right now

JH _____

CI Hey you know what I'm saying how you going to find out

JH I'll call _____work that out

_____

CI Get me what I need to have him say and we'll make the video and if nothing else I can think of on the way down

JH Have to give me like man tell him like _____like all fucked up_____-

Right but see the thing if we can get the gun then that's all we need it's over with but see the thing about this is this he can't just say yeah okay um I did this and I just _____too that's not going to work you know what I'm saying it's got to be some exact he's got to know something that ain't been in the papers that ain't you know what I'm saying the only, only the mother fucking cops and you guys know that's the only way it works

JH _____

CI Oh Jay said um the bullet he said it was a live bullet there

JH What

CI A live bullet said he grabbed the _____and the bullet popped out don't nobody know that that's not in the press nobody know that but them and you guys so I mean I'm going to have him say that you know what I'm saying

JH Like man I was just standing there and I was watching them fight cocked back my gun bullet fell out of it I guess I already had it cocked _____say something like that _____

CI We'll get it together I'm going to make the video tomorrow

EX 00026825

JH Wait hold on for a minute I'm going To call him have to tell you _____ remember that oh my god yeah I got that _____

This time he'll walk you out the door and he will man even with the video it's going to take him a little while cause he got red face or political bull shit alright they got to investigate it really don't know but they still got to go through the motions you know what I'm saying and then once everybody all loose ends are tied up _____ you know what I'm saying cause then they're going to say well we think Jim did it no fucking way he thinks he did it he was in jail you think he had ir done what's your proof don't nobody know but Jim you and me.

JH Unless they catch shit from him _____ fuck it

CI Okay but when it comes down to it He didn't do nothing

JH Yeah

CI See what I'm saying

JH _____

CI Exactly but I mean it's estAblished you go visit you know what I'm saying alright well I'm going um

I'll call you tomorrow at about 3:00 o'clock somewhere in between 3:00 and 4:00 and let you know I'll say if I can get That I'm going to work on that if I think I can get my hands on iT ON if not then I'll just be like man dog do whatever you got in mind _____

CI Between me and you on the phone say whatevie

JH _____ go _____

CI _____ we'll take care of that while that's getting cleaned up we'll take care of that

JH I don't think it's going to come down man That othe shiT

CI Jim's thing is just the way

JH He's freaking out

CI He's freaking out because of the way Andrew was killed you know what I'm saying

JH Yeah I: feel ya

CI He thinks they're going to dig and dig and dig you know what I'm saying and I mean I don't know what I mean why was this is what I don't understand Jamie why wouldn't you guys just shoot

him and leave him the fuck alone you know what I'm saying I don't understand that you know or I mean bury him but if you're not bury him don't fucking torture the guy just do what you got to do and leave it at that you know what I'm saying

You probably heard a lot more shit than what happened I heard some crazy shit too

CI I did too

JH Like you know that some sick shit

CI Man that scare me I'm thinking of that shit with Andrew and I'm like I'm going to meet this Dude and he did this guy bad I don't know if I want to fuck with him or not you know what I'm saying

JH Aint nothing like a good old fashion burial I even started that shit I was sitting there like I was like

CI Get the fuck out of here cause you're going to bury him and they say not to you should of did it anyway man.

JH I was loosing the ground

CI I'm scared it's a little late for that unbelievable,alright so what am I doing here dog

I'm saying do that thing wait until tomorrow and I'll call you I can get that and I don't nk I don't know man whatever but I think if something happens to mike ~~you're He~~ going to be scared and I'll l take care of it I ain't going to shut him out like a turkey I'll take care of him or whatever give him money too

CI Exactly

JH Cause that's the only thing that's going to turn him against is it Hes broke you know what I mean

CI That's the same thing Jim did

JH That's the only thing that's going to turn him against us

CI I can't believe the mother fuckers is like that over money man

JH Ain't shit

CI Ain't shit real mother fuckers come once in a life time man that money you can get that shit hand over fist man

JH Yep anywhere and if you ain't fucking with him usually if you're fucking with people hat's like that

CI Exactly spending thirty dollars a week you know what I'm saying and if you're dead you can't spend shit alright I'm going to fucking um

I'm going to try to get that ~~date~~ thang man if I can and it will be over with breaking news kind of shit

CI What do you think about whoever did Andrew get him to confess as insurance you know what I'm saying can't hurt so

JH Thats some gangster shit.

CI That's what I'm saying you know he told me that Mike just stood on his neck until he died and I know that's bull shit you know what I'm saying but I didn't call Jay on it I just told him I said look I mean I heard a few a few different things and what I'm telling

JH thats what hapened

CI That's what happened but I mean you hear so much shit man so he really wasn't lying to me hugh cause I told him Jimmy what the fuck you trying to find me stupid you know so I said look I don't care if you don't want to tell me about it just tell me hey you know it ain't none of your business I respect that but don't lie to me you know what I'm saying cause I mean I'm going into the situation because of your ass you know what I'm saying really I could say fuck all you guys and not do nothing and go on about my life you know what I'm saying

JH That's right

And I ain't got nothing to worry about cause I ain't got nothing to do with none of you

JH Right

CI But you know I mean I'm not it's not like I'm not making nothing you know I make a little bit of shit off the nine last night I made a little bit you know what I'm saying but I gave my Dude a little bit.

JH What Dude

CI It all helps us all out in the end you know what I'm saying

JH Um yes

CI That's what we need to do though

JH

CI Well that's what that's what we need to do I mean you know just pick a day that we can fuck him and all this gets taken care of

JH I'm down

CI Um I usually got um I got to help my Dad _____

JH The only thing I don't like about rent a cars is - B in our name we don't even go with them just give them the money .d let them go do it and meet them somewhere

CI We can do that

JH Or meet you somewhere and you come pick me up

CI We can do that you know what I'm saying that way this is what I'm saying nobody will meet you that doesn't need to nobody meets me that doesn't need to you know what I'm saying so I mean you know I'm fucked up right now the money side so I might need your help then but other than that I'm cool dog

JH _____

CI Yeah I mean you know what happen to him you know what I'm saying so you're know if Mike's lying or not and just go from there you know what I'm saying or you don't even have to be there dog just let me know exactly what Mike did tell me who Mike is Mike don't know me you know what I'm saying and I will make Mike say what the fuck he needs to say tell me so

JH He'll get pretty angry I mean

CI Yeah you know the thing that matters _____ I mean that's that's what I'm saying though this is I'm your best your best weapon nobody knows about me you know what I'm saying I uld walk up to John

JH I promise you on my life if something happens to Mike John don't worry about ~~John~~ Shawn ~~John's~~ dont worry -he is so fucking scared that he is not going to never say nothing _____ I ain't going to lie I'm be kind of like damn

CI ~~John~~ Shawn don't know me you know what I'm saying and Like I said though just tell me what I need to know that Mike said and tell me who he is and I'll take care of that

JH _____ okay

CI So alright then that's what I'll do then Bro I mean you know what I'm saying if your 100% sure man

JH if shawn fucks us you come with me first man Cause I touched

CI I mean like I said though

JH It's business

CI Exactly so I mean from what I know of you I like you okay and you got sense

JH _____it's business I don't know your ass _____besides I know if something happened to him he's going to be so scared that's the only people that was there that knows anything about it

Alright _____-

JH He does but he's scared dog he is afraid I might go broke if I go broke don't worry about it if I go broke Shawn will go broke if I got money Shawn will have money he and his _____-

CI Exactly I don't

JH _____

CI Alright here's the deal man I'm going so how's this sound I go ahead and get the video made and I'll keep dude's I got a little bit of that hard you know what I'm saying I'll keep him over night later until 5 get a hold of you and find out if I need to wait and you was to _____you know what I'm saying _____if you can get it I'll use it if not I'll use that one you know what I'm saying and then um

JH _____

CI I know I don't know anybody _____

JH Hey is Jim there you going to be there for a minute I might holler at you alright

J.H. I'll find out right here in a second I going to check that right now Okay find out I'll call you and I'll say yes or no it's going to be that quick if it's yes I can get it no I can't get it

JH C.F Okay

CI Alright that's cool though

JH And you go from there and once that one is done and then

Jim wants you to show that to me

CI Right I'm going to bring you the picture and show it to you and you know it's done you know what I'm saying

JH I get the tape

CI If you want to see it you can

JH That way I can go to Chris & say heres the tape

CI Everything is there you seen the tape you seen the pictures you know it's done

JH Okay man

(27)

CI Now I'll talk to him on Sunday we'll get started when I got to clear it out so to where it looks like I got to work around my schedule to where it looks like I'm just going out and doing whatever I'm not fucking

Right

CI Cause I got people I got to work around too you know what I mean that's why I can't really do nothing though until after like 2:30, 3:00 o'clock in the afternoon I really can't do shit you know what I'm saying cause I be with my Dad and my daughter so I can't do nothing alright well um you'll find out what's up on the dog.

JH And ~~you'll~~ I'll say yes or no _____-if you call yes or no then Sunday I'll go to Jimmy's to find out what's going on _____Monday make up something man _____

CI Yeah just kind of um by Sunday what time do you want to begin

JH 7:30

CI Try to get with me ~~tomorrow~~ on some herd before you go see him you know what I'm saying

JH Okay

CI I do my shit at like third shift so the best time to do shit _____that's cool whatever cause I'll work with you dog just work with you know what I'm saying so

_____

JH Okay

CI Okay dog be cool man and holler at me _____

JH I'm going right now

CI Alright man

5898809 E15

58196 - E16

SCOTT	FLOYD	CI	CONWAY
Investigator 1	Investigator 2	Interview 1	Interview 2

TAPED INTERVIEW

OFFENSE:	HOMICIDE
REPORT#:	200109704
VICTIM:	ANDREW DOTSON
PLACE OF OCCURRENCE:	FIELD W/O GALLOWAY ROAD
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	CI & CONWAY
DATE OF INTERVIEW:	MAY 18, 2002 A
PLACE OF INTERVIEW:	TELEPHONE
INVESTIGATOR:	SCOTT/FLOYD

BRITTANY	Hello
CI	Um what's up chicken head.
BRITTANY	He hasn't called yet
I	So he hasn't called you
BRITTANY	Yeah, I did earlier he'll probably call me his lawyer is supposed to see him at 3:00 so
CI	What did you say
BRITTANY	At 3:00 Hugh
CI	What did you say
BRITTANY	I said his Lawyer is suppose to go see him at 3:00.
CI	Okay so he should be calling me then
BRITTANY	Yeah well you got that number
CI	Hugh
BRITTANY	He don't have this number that you're on does he
CI	I think if he don't he'll probably call you on Cicero's cell phone and get it
RITTANY	Yeah

EXHIBIT
13

CI	And then once, once Cicero does this he'll call me on Cicero's phone
RITTANY	Yeah
CI	Alright are you working today
BRITTANY	No
CI	Are you at the house
BRITTANY	Yeah
CI	Okay well if nothing else if not if Chris don't come to see him just tell him forward your phone to my cell phone.
BRITTANY	Okay
CI	Alright
BRITTANY	Alrighty
CI	Alright Britt I'll get with you later
BRITTANY	Okay bye
SCOTT	Today's date is May 18, 2002 starting our phone conversations at around 2:35 PM.
BRITTANY	Hello
CI	What's going on
BRITTANY	I haven't talked to him yet
CI	Haven't talked to him yet
BRITTANY	No
CI	I um can you get a hold of Jamie
BRITTANY	Yes
CI	Alright well if you get a hold of him cause I just tried to call him and just went to voice mail if you get a hold of him tell him get to a pay phone and call me
BRITTANY	Get to a pay phone and call you
CI	Yeah

BRITTANY	Alright
CI	alright
BRITTANY	Alright
CI	Later
BRITTANY	Bye----------Hello
CI Jennifer	What's up girl
~~BRITTANY~~	His phones must be turned off I don't know hold on Hugh
CI	You don't got him on two way
~~BRITTANY~~	Yeah but I mean if his phone is turned off it doesn't matter
CI	Oh
~~BRITTANY~~	Hold on a second and I'll try to get him up right now.
CI	Alright
Jennifer ~~BRITTANY~~	What's up hello
	Yeah
~~BRITTANY~~	What's up
CI	Who you talking to me or him
Jennifer ~~BRITTANY~~	I'm talking to you **THIS IS JENNIFER**
CI	Oh, oh
~~BRITTANY~~	You fucking idiot how'd you get out why don't you fucking why don't you smuggle my brother out of there
CI	Do what
Jennifer ~~BRITTANY~~	I said why didn't you smuggle my brother out of there.
CI	I'm trying I can't get a hold of no fucking body
~~BRITTANY~~	Who do you want to get a hold of
CI	Where is Jimmy at

58196 - E19

~~BRITTANY~~	Oh I don't know I can probably find him for you
CI	Alright well uh Cicero calling when's he going to see Jimmy
~~BRITTANY~~	I don't know I don't who was he trying to call
CI	Hugh
~~BRITTANY~~	I don't know why is Jim wanting him to come down there and talk to him
CI	Yeah Where's Britt at
Jennifer ~~BRITTANY~~	Right here calling Jamie hold on here **JENNIFER END.** Hello
CI	Hi what's up
BRITTANY	I'm trying to get a hold of him I'm calling somebody else that he is always with trying to see if I can get a hold of him that way
CI	Alright Jimmy ain't called me back yet
BRITTANY	No if I were you they might still be sleeping you know
CI	Who Jamie
BRITTANY	No they shouldn't be sleeping it's 4:00 o'clock I don't know was he suppose to get a hold of you today
CI	Yeah both of them
BRITTANY	I don't know um Cicero might be over there talking to Jim right now
CI	That's what I'm thinking cause he ain't called you back right
BRITTANY	Nope
CI	Okay well he's probably down there talking to him now
BRITTANY	Well he I think he would of called me for your number anyway
CI	Well he might of called Jamie and got it
BRITTANY	But I think Jamie's phone has been off if I get a hold of him I'll call you
CI	Alright and the minute Jay calls you call me
BRITTANY	I will
	Alright

000273

BRITTANY	All righty
	Alright
BRITTANY	Bye
CI	How you doing I dialed the wrong number _____I'll call you back in a little bit though alright. PHONE RINGING
JAMIE	Hello
CI	What's up Bro
JAMIE	Hey he's suppose to call you right now
CI	alright hey get a pay phone in about an hour and call me
JAMIE	I'm outta town I'll have to call you about 8:00 o'clock alright
CI	Alright make sure you do Bro
JAMIE	I will
CI	Alright----------Hello
CONWAY	Hey what's going on
CI	What's up big dog
CONWAY	Hey is this Ronnie
CI	Yeah
CONWAY	Hey I didn't hardly recognize your voice on the phone what's up
CI	Shit what's going on
CONWAY	Nothing
CI	Oh let me hit my radio right quick alright
CONWAY	Okay um hello
CI	Hey you um you calling me on Cicero's phone
CONWAY	Yeah
	Okay hey look check this out dog um the video right

CONWAY UmHm

Dudes in my basement right now

CONWAY Right

CI Um man it's some shit alright check this out man I know we already went over what I need to say right

CONWAY Yeah

CI But a lot of shit I forgot man you know what I'm saying

CONWAY UmHm

CI Um so I need to know, know exactly what the fuck I got to have dude say and Jamie's fucking me up man

CONWAY How what's going on?

CI I mean I mean I like him you know what I'm saying I trust he saw all that shit but I mean you know what I'm saying tell me what the fuck I'm doing he's got me going in circles man you know what I'm saying I mean I mean

CONWAY What

CI You know me and you understand about as far as Shawn you know what I'm saying

CONWAY UmHm

CI And that he goes you know what I'm saying Jamie is telling me he don't go so I mean what the fuck do I do

CONWAY Just I mean just, just I don't know I don't know man just I would just not worry about that see what I'm saying

CI Right but I mean okay me and Jamie's going down to Chilly right

CONWAY Right

CI Um Monday so when I go down there you know what I'm saying who the fuck do I have to take care of man

CONWAY Just what whatever we talked about before you know what I mean don't worry about it

CI The two Dudes from the store right

CONWAY Yeah

CI Okay um he's going to try to help me find Mike so

CONWAY Alright

CI Well look what the fuck well I don't even know what the fuck I got to have Dude say though this mother fuckers been in my basement smoking me out for two days

CONWAY Really? what um, what's going on with the other thing, isn't that where you are

CI No I can't I can't you talking about as far as Brian right

CONWAY Yeah

CI I can't get to him though can Cicero find out how to get to him

CONWAY No I thought you was they was going to put you there

CI No well they offered me that right but it wasn't _____it wasn't with him so it don't do me no good feel me?

CONWAY Yeah _____um I don't know what to um I don't remember I mean I thought you wrote it all down or whatever

CI No I got _____and you know my Dudes had it you know what I'm saying

CONWAY UmHm

CI I don't ever know where the fuck they're at so but like I gave you my word so I'm taking care of this shit myself I just need to know what the fuck I'm doing can you tell me

CONWAY Yeah

CI I don't want to run around

CONWAY Did

CI Hugh

CONWAY Did you call old boys girl or something

CI Whose girl

CONWAY You know what I'm talking about um Shorty or whatever

CI No why

CONWAY Cause he somebody called her said something stupid to her

CI	I isn't called that man fuck that bitch I ain't called that Broad why they trying to feel you out or something
.ONWAY	No he's in I just figured that someone called her and said something stupid to her but I don't know
CI	No I ain't talked to that girl man listen check this out though all my time has been spent on taking care of this shit for you, you know what I'm saying
CONWAY	Okay what do you um what are you doing
CI	I got a call hold on a second alright
CONWAY	Alright
CI	Hello
CONWAY	Yep still here
CI	Oh hold on Hello
BRITTANY	Hey what are you doing
CI	Hey I'm on the other line call me back alright
.RITTANY	How long
CI	About 10, 15 minutes
BRITTANY	Okay
CI	Yeah THAT WAS Kristy um I mean look though I just don't you know what I'm saying I know some shit but like I said but I don't know exactly you know what I'm saying
CONWAY	Just, just tell me you don't remember it's_____just because it's just a couple things
CI	Okay well listen well can you get Jamie you know what I'm saying I trust Jamie, you feel me can you have Jamie tell me what the fuck I need to say
CONWAY	You should just go to him cause he knows
CI	Okay well look this I mean I been thinking _____if I leave him just where they can find him right
CONWAY	Right

CI Maybe they'll think that it's some type of gang related shit you know what I'm saying or I could just get rid of him whatever you want me to do I'm just tired of having someone fuck in my business so tell me you know what I'm saying I mean what is Jamie said we can trust Chris so when does he think ___and would it be better for your case if they found him or better if they didn't you know what I'm saying

(UNKNOWN MALE VOICE) Probably didn't

CI That they didn't

CONWAY Yeah

CI Alright um well man I'm going to need I told Jamie I'm going to need a little bit of help as far as you know what I'm saying getting rid of some shit

CONWAY Yeah

CI So what's happening man

CONWAY Nothing

CI You doing alright Dude

CONWAY Yeah I'm fine

That's cool

CONWAY But um so there is no way they will be able to find whatever

CI Who Brian

CONWAY Yeah

CI I can't I can't find him, I mean you know what I'm saying I mean I know Jamie told me that um he goes home quite often but he says there is always a Swat Officer with him you know what I'm saying

CONWAY But what about them one dudes?

CI Which one my Dudes

CONWAY Yeah

CI I can't I don't know where the fuck they at Bro

CONWAY Really

CI That's why I'm doing all this shit myself you know what I'm saying and me and me and Pop is kind of pissed about that we going to take care of that but that ain't that's no big deal

CONWAY UmHm

CI You know what I'm saying I got I mean Jamie gave me the heat last night

CONWAY UmHm

CI This mother fucker brought me a cannon but um dudes., listen I'm telling you dog when you see Dude you'll think he's your fucking twin

CONWAY Alright if you don't think that I mean I don't know I mean you don't think you could find what's his name?

CI I don't know dog I mean Chris can't help me find the fucking guy

CONWAY I don't think so I mean

CI What the fuck is he okay listen ask him ask Chris what time I can move the thing to get it in that video

CONWAY Um just hey you should just um just let Jamie do that or put it in the Post Office you know what I'm saying

So just I just I'll just let Jamie deal with it

CONWAY Yeah just make sure you let him know how everything's supposed to go you know how everything went with the other one

CI Right okay what am I doing with Shawn Jay?

CONWAY I mean I just, just leave him alone you know what I'm saying

CI So just leave him alone

CONWAY Yeah I would for now

CI Cause I'm trying you know I'm trying to get everything done so I can get the fuck out of here

CONWAY Yeah I know

CI You know what I'm saying

CONWAY UmHm

So what about alright so fuck Shawn right?

CONWAY	Yeah
	Alright so I just need to take care of the Dudes on the robbery and um Mike
CONWAY	UmHm
CI	And Brian if I can get to him Chris can't help me in no kind of way.
CONWAY	I don't I don't think so you know I don't know I'll talk to him I'll be able to tell you later.
CI	Listen check this out Bro do me a favor when you call me if you can't call me from Cicero's phone forward your phone to my cell phone cause I don't like talking with Brittany and them on the phone
CONWAY	Okay
CI	You know what I'm saying
CONWAY	Yeah I know
CI	and this is a burn out so you ain't got to worry about shit Jamie is suppose to be calling me from a pay phone to fucking to get some shit taken care of
CONWAY	Alright he can tell you everything to say you know what I'm saying on that one thing do you remember the one thing I told you about _____ and you know what I'm saying though that one thing in the ground or whatever
CI	No
CONWAY	You know what I'm talking about
CI	No with what I don't know what you're talking about
CONWAY	From, from the video
CI	The thing on the oh you're talking about the bullet
CONWAY	Yeah
CI	Yeah okay yeah I
CONWAY	That's one thing he'll need to know
CI	Okay I'll have him say that um um look man how well do you trust this one man I mean does he know what's happening
ONWAY	No he don't know that's why I he don't much about anything really

CI	Right
CONWAY	I mean a little bit bull shit really
CI	Okay but he knows about the video and shit right
CONWAY	Not really I mean a little bit just like
CI	This is what I you're missing what I'm saying Jay I don't want to walk in on I don't want to walk into no mother fucking set up and no traps though
CONWAY	Oh I know
CI	Feel me
CONWAY	That's nobody knows anything that's going on except for us
CI	Right so nobody knows but me and Jamie as far as
CONWAY	Yeah and the only thing Jamie knows is what you told him Cause I whatever
CI	Right shit I got a lot of shit I got to these fucking Dudes are pissing me off man I cannot fucking believe they just you know what I'm saying they just they ain't even got in contact with me or nothing man
CONWAY	UmHm
CI	So you know I'm Jamie going to take me down there and show me fucking where everybody lives at and all that good shit
CONWAY	Yeah
CI	And then um I'm going to take care of them from there he said he don't really want to he don't want to help do the actual you know what I'm saying
CONWAY	Yeah I know
CI	But he'll help me get rid of some shit so
CONWAY	UmHm alright well um just try to find Brian if you can if you can't then there's nothing we can do about it
CI	Just um man Cicero had got to know though he's your fucking lawyer they got to tell him you know what I'm saying you mention discovery with the fucker I don't know
CONWAY	He don't have to tell him the place though I mean they just they already down told him everything that he needs

CI Right well did Jamie get him some money Cicero

CONWAY I don't if he did or not

all right well if not we're suppose to get him some Monday so try to get him off your back because

CONWAY Yeah so alright man I'll try to get in contact with you

CI Well look when um when can you have Cicero back down there

CONWAY whenever you know what I'm saying

CI Alright um ask him just ask Cicero if it's cool for me to call him and tell him I need to talk to you so _____

CONWAY Just don't just do it through Jamie _just do it through Jamie

CI Just have Jamie call him

CONWAY Yeah just talk to Jamie

CI Alright well I'm going um well look I'm gonna fuck me I'm doing everything by myself now man you know what I'm saying it ain't no big deal but I can handle it I just need it seems like there's certain shit to be getting it taken care of man

ONWAY UmHm

CI I mean as far as the Dude in my fucking basement where can I get rid of his body at though the mother fucker 300 pounds he ain't no little bitty guy

CONWAY I don't know man

CI Well who the fuck does know

CONWAY Just take it to Jamie or whatever

CI Hugh

CONWAY _____

CI I can't you're breaking up _____what did you say

CONWAY Jamie probably will help you

CI Oh okay alright well listen call Jamie and you know what I'm saying holler at him and have Jamie tell Jamie to go to a pay phone and call me not from his phone

ONWAY Alright

CI	He thinks his phone might me you know what I'm saying
CONWAY	UmHm
CI	It's better if Jamie just goes to a pay phone and calls me
CONWAY	Yeah I'll tell him
CI	Tell him to be out like yesterday you know what I'm saying
CONWAY	Yeah
CI	And um but just give me a call and like um _____I don't know what time it is hold on let me see what time it is give me a phone in about 2 hours on your um 3-way but 3-way it to my cell phone alright
CONWAY	Okay
CI	Other than that you doing alright Bro
CONWAY	Yeah I'm straight sure
CI	You don't need nothing
CONWAY	No I don't need anything that stuff whenever you get to it
CI	Well I'm getting ready I'm going to take care of the video today so as long I mean you're sure don't matter what I do it to the guy
CONWAY	Do what now
CI	I said I'm getting ready to take care of the video here in a minute it don't matter what I do with the Dude.
CONWAY	No it don't, it shouldn't matter.
CI	Alright well just tell Cicero I'll be getting with him on it and um call me back in a couple hours on the 3-way but just 3-way it to my cell phone you know what I'm saying I don't want to talk with Brittany and them on the phone hello Jimmy, Jimmy

58196 - E30

This is proved as DOTSON - MAY 18, 2002 SUMMARY

Franklin County Sheriff's Office
Detective Bureau
Progress of Investigation

Offense:	Homicide
Report #:	0109704
Victim:	Andrew Dotson
Place of Occurrence:	Field w/o Galloway Road
Date of Offense:	10-10-2001
Reporting Detective:	Z. Scott
Date:	May 18, 2002 B

This would be a conversation between CI, Jamie Horton, Jim Conway and Brittany. The date of this conversation was May 18 via telephone.

THE FOLLOWING IS A SUMMARY OF THE CONVERSATIONS BETWEEN THE ABOVE-PERSONS.

Page 2 - CI references that the tape is done.

Page 3 - CI references that he needs to get rid of the body.

Page 4 - CI references about tape and photo again.

Page 5 - Horton references a drug transaction to be done later that evening.

Page 6 - CI references tape being done again
Conway replies all right
CI references Chris Cicero getting the tape and also references that he is going to have Jamie look at the tape.
Conway replies yep.
CI references needing more money for the guys in Chile

Page 7 - Conway replies yes. Implies he understands. CI reference to a scrambler so that the two can talk more.

EXHIBIT 14

Page 11 - Conway starts to call off the hit on Brian McWorters

Page 12 - Conway puts the hit back on if it is possible to do.
CI references Chile hits and asks if he can trust Jamie about them.
Conway replies yes for sure.

Page 13 - CI asks for money for the dudes in Chile.
Conway replies yeah, I know
CI replies what the money is for meaning to get rid of the bodies at the animal plant.

(1)

58196 - E31

TAPED INTERVIEW

OFFENSE:	HOMICIDE
REPORT#:	0109704
VICTIM:	ANDREW DOTSON
PLACE OF OCCURRENCE:	FIELD W/O GALLOWAY ROAD
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	CI & HORTON
DATE OF INTERVIEW:	MAY 18, 2002 B
PLACE OF INTERVIEW:	TELEPHONE
INVESTIGATOR:	ZACH SCOTT/CHRIS FLOYD

SCOTT	Today's date is May 18, 0f 2002 and this will be the second tape we're running, we're starting this one about 6:01 p.m.
BRITTANY	Hello
C.I.	Hey
BRITTANY	What
C.I.	When is Jay supposed to call?
BRITTANY	I just got off the phone with him and he left an hour or go, you did talk to him didn't you? He called and I gave him your number
C.I.	Yeah I mean he was supposed to, you were supposed to forward the house phone to my cell phone
BRITTANY	He didn't tell me that
C.I.	Alright, well when is he calling you back?
BRITTANY	I, I don't know
C.I.	Alright, when he calls you
BRITTANY	It cut us off in the middle of a conversation, so I don't know
C.I.	Okay, well when he calls you back just tell him to forward it so he can call me
BRITTANY	Why don't he just call your house phone?

C.I.	Because I don't want him calling my house phone.
BRITTANY	Alrighty
C.I.	Alright.
BRITTANY	Alright
C.I.	Bye
C.I.	What's up?
HORTON	Hey
C.I.	What's going on
HORTON	I'm not going to go to make it to a pay phone till about 9 o'clock
C.I.	Till about 9?
HORTON	_____
C.I.	Okay well let's, hold on, let me turn my radio down dog, alright
HORTON	_____what's up
C.I.	Hey, I need you to get to a pay phone by 9 o'clock, cause my thing's done.
HORTON	Alright
C.I.	Alright, alright bro, call me at 9:00
HORTON	I will
C.I.	Later
C.I.	Hello
HORTON	Hey, this is Jamie, I'm at a pay phone, what's up?
C.I.	Hey, dig -dog, I got the video done
HORTON	You do?
C.I.	Yeah, so uh
HORTON	Can we meet up about 11 o'clock?
C.I.	11?

HORTON	Yeah
C.I.	Uh, damn see, I got get rid of dude man, give me um, yeah, that's cool, I'll hit you up like at a quarter to 11?
HORTON	Yeah cause I want to get a shower and get all together cause I've been out fuckin running all day running errands
C.I.	Okay, so uh
HORTON	What time, so call me about 11 or about 10:30 and we'll hook up?
C.I.	Alright yeah cause I need to holla at you on the other shit too.
HORTON	Alright
C.I.	So alright?
HORTON	Alright
C.I.	Alright
HORTON	This is Jamie call me back.
HORTON	Hello
C.I.	Hey
HORTON	What's up
C.I.	Hey, can you get with me about 10:00 – 10: dog?
HORTON	Yep
C.I.	Okay, like between 10:00 – 10:30, I'm going to hit you up?
HORTON	Alright
C.I.	Alright
HORTON	Alright
C.I.	Alright bro.
C.I.	What's up bro
HORTON	Hey man

C.I.	What's up
HORTON	Uh, hey man, how long are we going to be with these, be with each other tonight, cause I got to make up a little story here
C.I.	Uh, well I mean I got the video and the pictures so I'm going to let you watch the video and shit.
HORTON	Alright so how long are we gonna be
C.I.	uh, shouldn't be no more than an hour
HORTON	Cause I just got to figure out something to say you know what I mean?
C.I.	Right
HORTON	Uh, where do you want to meet at or whatever?
C.I.	Uh, fuck, we could do the same place
HORTON	That's cool with me then, I'll see you there, at what time, at 10:30?
C.I.	Uh, about 10:15
HORTON	Okay
C.I.	I'll just call you when I get there, it'll be between 10:00 and 10:30 though
HORTON	Alright, that's cool
C.I.	Alright
HORTON	Alright then
C.I.	Alright bro
HORTON	Hello
C.I.	Hey, you know where Southland Mall is right?
HORTON	Uh
C.I.	On High Street...Kroger's, you know where Kroger's is on South High?
HORTON	Where the Expo is?
C.I.	Yeah, I think, yeah, cause I don't want to keep meeting at that same spot, you know what I'm saying?

HORTON	I was just now I was just about to call you back, supposed to call you back, like I don't know
C.I.	Yeah, cause you know what I'm saying, we've been there, I don't want to keep sitting there
HORTON	Okay, alright well-that's cool with me man
C.I.	Okay, well, just when I get to that Kroger's it'll be like about 10:15 and I'll call you
HORTON	About 10:15?
C.I.	Yeah
HORTON	I'm about to jump in the shower right now
C.I.	Okay
HORTON	Hey, hey I, uh, I don't really want to say on the phone but I'm just got what he just like gave it to me to see what I could get
C.I.	Right
HORTON	Just going to let you get it and see if you like anything then get price on it try to make, get some
C.I.	Right, uh, well I got some, some good, I'll just holler at you, I got
HORTON	Alright
C.I.	Alright
HORTON	Alright
C.I.	Alright big bro, I'll see you in a little bit
HORTON	Alright
C.I.	Later
C.I.	Yeah (phone company recording – go ahead with your call) Hey, what's up big dog?
HORTON	(Heard no response) (phone company recording _____)
C.I.	Hello
JIMMY	_____

C.I. What's up? Hold on let me get the radio. Hello

CONWAY What are you doing?

C.I. Shit, what's going on

CONWAY SHIT

C.I. Hey, check this out big baby., that's done

CONWAY alright

C.I. Uh, can you have Chris down there tomorrow?

CONWAY Uh, said he's coming back Monday, but if he has to come back tomorrow, then he has to come back

C.I. Yeah, he's got to come back tomorrow, cause I got, I got something that's really good, you know what I'm saying?

CONWAY Yeah

C.I. Uh, I'm getting ready to meet with Jamie, like 10:30 and let him see that, and that, you know what I'm saying.

CONWAY Yep

C.I. And once I've shown him that, he's supposed to come see you tomorrow right?

CONWAY Uh Chris, oh, yeah Jamie, yeah

C.I. Jamie yeah, cause I mean I know you're strapped, but I might need just a little edge to take care of the rest of it (Recording..."this call is from a collect_____location and is subject to monitoring and recording" Hello

CONWAY _____

C.I. Right, well, I'm just running it, I'm just running it through you so you can run it through

CONWAY Yeah

C.I. You feel me?

CONWAY Yep

C.I. Like I said, it ain't going to be a lot, I just, just to take care of that shit in Chilli

581196 - E36
000292

CONWAY Yeah

C.I. SO

CONWAY Um, I don't know you really didn't, didn't call his girl?

C.I. No on on every, on everything I didn't

CONWAY Well obviously dude, I mean why would you lie about it I'm just saying

C.I. Yeah, what was I supposed to

CONWAY I told her someone called here and said, and said uh, and said that _____find something else out or something, I don't know, but he, you know how he is you know what I'm talking about right

C.I. Yeah

CONWAY He's going around here punching the walls and shit

C.I. Get the fuck out of here

CONWAY He has_____sitting there like two days, he said she's not staying at home because_____

C.I. (laughing)

CONWAY _____said that

C.I. I ain't called that bitch

CONWAY Oh, I believe you, I don't give a fuck, but that was the first thing that came to my mind because of what you said before, you know what I'm saying

C.I. Right, she ain't worth fucking calling

CONWAY Oh, I know, but he, I mean it was, it was crazy man, but _____talk to her_____

C.I. Well that's, that's probably just her fucking way of

CONWAY I know, that's, that's what I'm thinking now, but when I first heard it, they definitely_____-about it

C.I. Right, no he don't know, but uh, you know them scramblers? You know what I'm talking about for phones

CONWAY	Yeah
C.I.	I'm getting ready to have one hooked up the next time you call me so you ain't you know what I'm saying
CONWAY	Yep
C.I.	So we ain't got to worry about what the fuck we say
CONWAY	Alright
C.I.	Alright
CONWAY	Yep
C.I.	So uh, I'm getting ready to go get with my dad and pick that up, so just leave, just leave your phone forwarded to my phone and hit me in like, like a half hour, I'm on my way there so just give me like a half hour
CONWAY	Alright
C.I.	Alright
CONWAY	Alright, then I'll call you back dude
C.I.	Alright big dog, I'll get with you
CONWAY	So what time is it right now?
C.I.	Uh, fuck I don't know, it's, we got time, it's only like 9:30 isn't it?
CONWAY	I don't know, it's like after 9:00
C.I.	I'm getting off at Cook Road right now, give me like 10 minutes and I'll be there
CONWAY	Alright
C.I.	So just give me time to get there and hook the scrambler to my phone and call me back in like 15 minutes
CONWAY	Okay
C.I.	Alright
CONWAY	Alright
C.I.	Alright bro
C.I.	Hello

000294

BRITTANY	You talking to him
C.I.	huh?
BRITTANY	Are you talking to him?
C.I.	Yeah, he's getting ready to call me right back in like 10 minutes, I had to get a scrambler
BRITTANY	Alright
C.I.	Alright, hey, is the phone still forwarded to my cell? Brit?
C.I.	Yeah. (Ameritech recording) What's up...hello...hello
CONWAY	What's up
C.I.	What's up, hold on let me turn this shit down, what's going on big baby?
CONWAY	(Heard no response)
C.I.	Yeah, I went and got this scrambler man, that way we ain't got to worry about shit
CONWAY	They can, they can still record everything
C.I.	No you can't, you can't hear what the fuck we're saying
CONWAY	Really?
C.I.	Yeah, I mean, this mother fucker cost $800 but it's worth it right now
CONWAY	Hell yeah
C.I.	So, hey, dude, the video, you're going to love it
CONWAY	Alright, um, have you uh, do you really need to Chris to come down here tomorrow?
C.I.	Yeah, I mean it, I don't, I don't really need to, but it would be, you know what I'm saying, as long as, as long as, I just don't want you calling, I don't want you calling me through Brittany man, you know what I'm saying?
CONWAY	Yeah, I know
C.I.	So, but with this scrambler though, it's cool, you can call me like this and it don't matter everything's. (Ameritech Recording "This call is from a Correctional Institution and is subject to monitoring and recording....." You can call me this scrambler and we ain't got to worry about shit.

CONWAY	Uh_____
C.I.	Do what?
CONWAY	Still wouldn't say nothing over this phone regardless
C.I.	Yeah well...trust me dog, if I didn't know what the fuck I was doing, I wouldn't be doing it.
CONWAY	Oh I know
C.I.	It's just, it's just some shit that I need to holler at you about that I can't, you know what I'm saying, can't holler through nobody else about
CONWAY	Yeah I know
C.I.	And this makes it a lot easier
CONWAY	If um, what's up?
C.I.	Look you know, uh, you know that place where you used to take dead animals and destroy them
CONWAY	uh huh
C.I.	You know what I'm talking about
CONWAY	Yeah
C.I.	Alright, well my dad's got a dude that works there
CONWAY	Alright, well, that's cool
C.I.	So that's what I'm saying, I mean, he'll do anybody for me I just gotta pay
CONWAY	Yeah_____
C.I.	Man, don't, what the fuck is up with Sean, I don't know about, you know what I'm saying
CONWAY	Man, he says that he never done nothing for, for him to be in any serious trouble __I don't think he would never snitch no matter what really, I mean in my heart but, he's never, in order for there to even be any doubt in my mind, he has to do a couple things that's real serious shit, you know what I'm saying?
C.I.	Right

CONWAY That's still what he's saying, he's not saying for sure about anything, know what I'm saying plus he changed his story so many times, know what I'm saying, they just got some circumstantial bullshit when they got him down here you know what I'm saying?

C.I. Right

CONWAY But you, that one thing should clear everything up anyway, know what I'm saying, that might get, that might get everything cleared up anyway, you know what I'm saying?

C.I. So you, I mean, I mean it's up to you though, I'm just doing, know what I'm saying

CONWAY Yeah, I know

C.I. Whatever you think works man, I mean.....

CONWAY Well I mean if you, if you can't do it, you can't do it, that's just all there is to it, you know what I'm saying man

C.I. Right, okay, well listen man, when I go down there fucking do them dudes in Chili, can I trust Jamie, you know what I'm saying

CONWAY Yeah, yeah I would -say yeah for sure

C.I. I mean, I mean I think I can, I'm supposed to get with him tonight, just to let him see the video and the picture and shit so and as far as, I mean as far as these phones dog, believe me, know what I'm saying, I wouldn't be talking on the mother fucker if I didn't hundred percent trust it cause Brittany's like well why can't he just call you at home collect, I'm like because I don't want him calling my fucking number

CONWAY Yeah

C.I. So

CONWAY (Ameritech recording "This call is from a correctional institution and is subject to monitoring and recording"

C.I. huh

CONWAY I still don't wanta say nothin over this phone

C.I. Right (Loud beep) Hold on man, somebody's calling me, it's probably fucking Brittany, hold on. Hello

BRITTANY Are you talking to him?

C.I. Yeah, I'm talking to him now

BRITTANY So should I untransfer the call

C.I.	Well I'll call you back and let you know
BRITTANY	Alright bye.
C.I.	Hello
CONWAY	Yeah_____
C.I.	That was Brittany
CONWAY	Did you tell her to untransfer?
C.I.	Yeah, I told her when we hang up I'll call her and tell her though
CONWAY	She coulda done it now
C.I.	huh?
CONWAY	She can do it now anyway
C.I.	Right, well just as soon as we hang up, I'll call her, but uh, hey
CONWAY	Well I mean I still don't want to say nothing on the phone, you know what I'm saying
C.I.	Well that's
CONWAY	we'll use that whenever we talk on my other phone
C.I.	That's what I'm saying, if you get Cicero down there and then we can use the scrambler plus then we're a hundred percent sure
CONWAY	Yeah
C.I.	Feel me
CONWAY	Yep
C.I.	So um, the only thing I really need dog, is just some money for the shit in Chilli
CONWAY	Yeah, I know
C.I.	And it's really not, it's really not for them, it just for dude over at the animal plant
CONWAY	uh huh
C.I.	Feel me?
CONWAY	Yeah

581296 E42
000298

C.I. So uh.....

CONWAY I'll, I'll tell Jamie, he's comin to see me

C.I. Right well, I don't, I don't want to say nothing else over this one so

CONWAY Yeah

C.I. Can you get Cicero down there tomorrow though?

CONWAY I should be able to, if not, Monday, I mean it ain't too late is it

C.I. Well me and Jamie going down there Monday, it's just

CONWAY Well, I know, but_____he'll be down there early Monday, you understand, not like one o'clock_____maybe one, between one and five.

C.I. Right, well, just uh, yeah that's cool, cause I mean there's, there's some shit I want to holler at you about but I'm not going to do it over this.

CONWAY Okay

C.I. Alright

CONWAY Yep

C.I. Alright, well look man, I got to get ready to go get with Jamie, I'll call Brittany and tell her to untransfer the phone real quick.

CONWAY Alright

C.I. Alright

CONWAY Alright later

C.I. Alright bro, stay strong man

CONWAY I will

C.I. Later

CONWAY Later

HORTON Yeah?

C.I. What's up, was you calling me?

HORTON No

C.I. It must have been Brittany, alright, well I'm getting ready to roll out man, I'll probably be there in about 15 – 20 minutes (loud beep)

HORTON Hey, I'm, I'm just waiting on someone to stop by my house real quick_____

C.I. Okay, I got another call, so I'll get with you. (Loud beep) Hello. Hello (wrong number, I don't know who the fuck it is, I'm getting ready to find out real quick)

581196 - E44
000300

58196 - E45

SAVED AS
CI - HORTON
5/18/02

Franklin County Sheriff's Office

Detective Bureau
Progress of Investigation

Offense:	Homicide
Report #:	0109704
Victim:	Andrew Dotson
Place of Occurrence:	Field w/o Galloway Rd.
Date of Offense:	10-10-2001
Reporting Detective:	Z. Scott
Date:	

Interview of the CI conversation with Jamie Horton May 18, 2002 C

THE FOLLOWING IS A SUMMARY OF THE CONVERSATION BETWEEN JAMIE HORTON AND CONFIDENTIAL INFORMANT DATED MAY 18, 2002.

Page 1 - CI shows video to Jamie Horton.

Page 2 - CI references that he is taking care and doing his job.
Horton makes mention of the 6-1/2 (ounces of cocaine)
Horton makes reference to getting another gun.

Page 3 - Horton tells CI that he can also come up with some money

Horton refers to a price for the CI to pay for the crack cocaine.

Page 4 - Horton asks the CI for assurances that the body will not be found, referring to the body in the video tape.

ZS/km

EXHIBIT
tabbies 15

(1)

000302

Submitting Officer Supervisor

CI	HORTON	FLOYD	SCOTT
Investigator 1	Investigator 2	Interview 1	Interview 2

TAPED INTERVIEW

OFFENSE:	HOMICIDE
REPORT#:	200109704
VICTIM:	ANDREW DOTSON
PLACE OF OCCURRENCE:	GALLOWAY ROAD S/0 HALL ROAD
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	CI CONVERSATION WITH JAMIE HORTON
DATE OF INTERVIEW:	MAY 18, 2002 C
PLACE OF INTERVIEW:	HORTON'S VEHICLE
INVESTIGATOR:	FLOYD/SCOTT

CI — This you're going to love there it goes it's a long fucking this is not bull shit

HORTON — Did ~~they~~ you buy that camera or something

CI — Yeah fuck oh okay

HORTON — Yeah put it down on video

CI — Is that Jimmy or what **(VIDEO PLAYING)** my job is done dog so

HORTON — What do you want me to do with that tape?

CI — Um I got to get I got to make 3 copies so then I give one to you to give to Sisscro I got to send one to the Prosecutors Office and um one to Sisscro one to the Prosecutors Office and probably one to the District Attorneys Office so this fat mother fucker was heavy dog

HORTON — I know it but I talked to Jimmy

CI — Look you know on 104 where use to take the dead animals my Dad's got a Dude that works there any body you need to get rid of take it there $1,000.00 a body you'll never ever see em again so like I told Jay dog I handle my business you know what I'm saying.

HORTON — Okay Dog I can't even shake your hand it's just wet dog.

CI — That was a heavy mother fucker dog

HORTON — Got me nervous in this mother fucking van

5810036246

CI Well it's just um I mean you know I, I came around a couple times I'm like let me see what's up this mother fucking cop though but you know what I mean shit I'm riding around with a fucking video

HORTON You better get rid of that

CI Yeah I'm going to get rid of this as soon as we leave here that's history I just wanted to show you that you ain't got to worry about him no more so when um when you want to go down to Chillicothe dog

HORTON I'll talk to Jim tomorrow man

CI Just let him know that my business is handled

HORTON Okay

CI Well I mean you know I was paid to do a job doing a job I was paid to do no causalities fuck it that mother fucker can smoke some dope though

HORTON Oh yeah thanks for reminding me six and a half of them I get em for 5

CI Alright

HORTON I got to come up with some money you know what I mean

CI Okay well what is this

HORTON That's about a half

CI A half

HORTON Yeah but it's suppose to be good -

CI Okay um yeah cause I'm going to definitely need something you know what I'm saying cause I got um I got a Dude to take care of

HORTON Really well that's alright that's the way the ball bounces that pistol is history

CI But I'm going to follow you we're going to definitely I'm going to need another one you know what I'm saying so

HORTON Okay I got you -

CI Business is business dog

HORTON He's fucking crazy I'm just trying to get a whole bunch of fucking shit together at once man and it's that's just crazy

CI — No I mean is that hoping that's all he needed to say cause he ain't got a second chance to say it again

ORTON — That's it it looks just like Jim

CI — I know it does that's what I said so this guy is beautiful fuck it

HORTON — Where was that at

CI — Where was this at in my basement

HORTON — Fuck it it's crazy fuck it man it's all good I seen that I'll go talk to Jimmy and see what's up and I'll get with you like I said about 8:00 o'clock Monday

CI — Alright um

HORTON — Got to get a price

CI — What um what's the chances like getting some Hard tomorrow though

HORTON — I can come up with a little bit of money can you come up with a little bit

CI — Yeah

ORTON — I mean how much

CI — Well ~~you~~ He said 45 for six and a half we'll go half on it or whatever I don't know what to do I'll go I mean go half but you'll have to give me my money back or something just throw that towards you or whatever I don't care so you're be paying 40, 20 well who all is going to be paying

HORTON — Twenty-two Five

CI — Twenty-Two Five for a six and a half

HORTON — Well you can't make any money off that

CI — Something ain't right yeah

HORTON — You ~~pig~~ sick head

CI — Um yeah that's cool yeah I told I got a scrambler

HORTON — That's what he some he just called me and was talking about somebody said they have a scrambler they think it's cool to talk on the phone well tell them it's not cool whatever they make that's what Jimmy was telling me he said whatever they make if they make a scrambler you know what I mean they make something that can beat a

scrambler regardless they make they always have something always have something to get you always

I mean yeah if they're tapping your phone they don't know nothing about me in order for them to tap Sisscro's phone Sisscro has to know about it you know what I'm saying

HORTON So this this Dude ain't never Aint gonna be found

CI No he's history though you know what I'm saying we ain't got to worry about none of that, that's what I'm saying I got to come up with some shit to give Dudes but other than that you know what I'm saying

HORTON Its Tight okay I'm going grab my phone Yeah I'm going to get out of here man.

CI Um alright then so just what time do you want me to hit you up tomorrow

HORTON AS soon as I'm done talking to Jim I'll call you

CI Okay

HORTON I'll call you from a pay phone

CI Alright well let me get your phone before you go and just let Jim know that I'm going at least need some money to take care of them Dudes in Chillicothe if nothing els alright

58196 - E50

Franklin County Sheriff's Office
Detective Bureau
Progress of Investigation

Offense:	Homicide
Report #:	0109704
Victim:	Andrew Dotson
Place of Occurrence:	Field w/o Galloway Rd.
Date of Offense:	10-10-2001
Reporting Detective:	Z. Scott
Date:	May 19, 2002

CI, HORTON, CONWAY 5/19/2002

Taped interview between CI, Jamie Horton and Jim Conway May 19, 2002.

THE FOLLOWING IS A SUMMARY OF THE RECORDED CONVERSATION BETWEEN KNOWN CI, JAMIE HORTON AND JIM CONWAY.

Page 1 - Horton referenced that Cicero wants the tape, but doesn't want to meet anyone.

Page 2 - Horton references to 3 ounces of Coke and money payment by Jimmy. CI references the animal place, the place to get rid of bodies and he needs more money.

Horton acknowledges CI.

Page 3 - CI references money needed for the guys in Chile.

Page 4 - Horton presses the issue of having the tape for Chris. CI references Jamie asking him for money during a narcotics transaction. During a narcotics transaction Jamie made reference that he would start selling cocaine to CI.

CI references that Jamie is wanting money from him. Conway doesn't know why and states that something is wrong and is going to correct the problem.

Page 6 - CI referenced the 9 hard, which is crack cocaine. Conway acknowledges the transaction.

EXHIBIT 16

Page 7 - CI references money needed again for the Chillicothe guys and Conway acknowledges the need.

Page 8 - Conway references Cicero coming to see him the next day.

001

Page 9 - Horton references the 6-1/2 which would be 6-1/2 hard and not the

(1)

Page 9 - 9 hard of crack cocaine.

Page 11 - Horton sets the location for the second drug transaction.

Page 12 - Horton references that Chris wants the video tape.

Page 13 - Conway stating that he straightened out Jamie on things which would be the money.

Page 15 - Conway references his stress and an upcoming court date.

ZS/km

(11)

Submitting Officer Supervisor

581-96 - E52

TAPED INTERVIEW

OFFENSE:	HOMICIDE
REPORT#:	0109704
VICTIM:	ANDREW DOTSON
PLACE OF OCCURRENCE:	FIELD W/O GALLOWAY RD
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	C.I. & JAMIE HORTON
DATE OF INTERVIEW:	MAY 19, 2002
PLACE OF INTERVIEW:	TELEPHONE
INVESTIGATOR:	ZACH SCOTT/CHRIS FLOYD

C.I.	Hello
HORTON	Hey
C.I.	What's up dog?
HORTON	Hey, I just now left there and he, he said that you, he really ain't in to meeting no one but if you want to mail itor just give it to me and let me take it to him it's all good
C.I.	Okay
HORTON	I'll however you want todo it
C.I.	Right well, right now I'm with my girl at Donato's so....
HORTON	Oh I feel ya
C.I.	Where you going to be at in about like an hour?
HORTON	Shit I'll be close, I'll be anywhere you want me to be.
C.I.	Alright, I'll just hit you up in like an hour
HORTON	Alright
C.I.	Alright
HORTON	Later
HORTON	Hello

C.I.	Hey, are you by a pay phone
HORTON	I can get to one
C.I.	Alright, why don't you get to one and call me
HORTON	Alright
C.I.	Alright
C.I.	Hello, let me turn my radio down, hey, on the man on the money thing, money thing dog, I'm like way strapped on that man.
HORTON	Alright, I just talked to dude and he's got 3 of them
C.I.	Huh?
HORTON	He said, he said he would give me like 3 of them
C.I.	Okay yeah because, know what I'm saying, Jimmy is supposed to be taking care of all the money wise dog.
HORTON	Alright, well we'll be, he said, he said he would drop them off at my house or whatever here later in an hour
I.	Okay, cause uh, I mean, cause I got to come like, like damn near 7 grand dog, know what I'm saying by tomorrow
HORTON	By tomorrow?
C.I.	Yeah so, you feel me?
HORTON	Yeah
C.I.	Cause my dude over at the fucking animal place, I got to give him 5
HORTON	Alright well, alright
C.I.	That's what I'm saying, you know what I'm saying, I mean once, once I get the 9 and I flip it, you know what I'm saying, or 6 and flip it, then I can make it and give them some and shoot you some back, but I got to take care of these guys dog.
HORTON	Yeah I can really probably get 4 for sure
C.I.	Right
HORTON	And maybe the rest of tomorrow, I don't know yet
I.	Right, well I mean that's cool because, just, you know what I'm saying

581196 - E53
000310

HORTON — I mean I'm going to try my hardest you know what I mean, I'm going to get you whatever you need

C.I. — Right cause I don't see, all that, I mean, you know what I'm saying, me and Jimmy done gave my dudes like 40 grand and I don't know where they're at, so I got to take care of them when I catch them, but, I mean, from what the shit last night, I got dude 2500, what the hell is that?

HORTON — Hold on for a minute (says hello to someone else..."hey I'm right at the payphone right now I'll be there alright"

C.I. — Hey, what was that, your phone?

HORTON — Yeah

C.I. — Hey put that in your glove box dog

HORTON — It's put up

C.I. — Alright cause I got to give dude from last night 2500 you know what I'm saying and that ain't shit and I got to give dude at the animal plant, got to give him a grand for that, that's 35, and if them dudes down in Chillicothe, I've got to give him 5 to take care of all them, you feel me, so

HORTON — Alright well, I could probably have close to that by tomorrow alright___and I'll try to have the rest later

C.I. — Right, well that's cool, um

HORTON — _____

C.I. — Well, I'm, I'm waiting on Jimmy to call me, I'm waiting on Jimmy to call me cause I mean I know, you know what I'm saying, he told me his mom's got some money for him and I'm going to tell him he's got to give us something dog, because we're fucking doing everything, you know what I'm saying

HORTON — That's cool

C.I. — I just, I mean, you know, I don't give a fuck dog, but at the same time, I'm, I'm dog dick broke man

HORTON — I feel you dog I'm going to, I'm going to have something worked out for you by 10 o'clock

C.I. — By 10?

HORTON — Yeah

C.I. Okay, just um, just hit me, I got my car at my dad's man, the fucking tire was ready to fly off of it

)RTON So, so whenever we meet up or whatever, you going to let me get that

C.I. I could probably give you a copy of it yeah

HORTON And that way I could just shoot it down to Chris

C.I. Right, well see, I was thinking if I just

HORTON It's Jimmy that's because he wants to get one to the Prosecutor

C.I. Well see what I was going to do, I was going to mail him right, this is how I'm supposed to mail Cicero one, wait a day, then one to the Prosecutor, wait a day, and mail one to the Attorney General

HORTON To where?

C.I. To the Attorney Generals, that's like, she oversees all criminal shit, you know what I'm saying, if I, if I do it like that, if they get it by the mail it's probably better because he could show in the evidence that somebody just anonymously mailed the shit to him, you know what I'm saying, instead of them saying well.....

HORTON Well see, well I mean it don't matter

.I. Cause otherwise they're going to say, you know ask Cicero, like where did you get the tape at you know what I'm saying?

HORTON Yeah, that's true

C.I. If he just says they mailed it then

HORTON Alright that's cool, you already have the copies made

C.I. Well I got two of them made, I'm about to go make the other one here in a second.

HORTON Alright then

C.I. Well tonight, I might have to have you pick me up tonight man if my car ain't right so

HORTON That's cool

C.I. Just uh, just hit me up like about 8 o'clock and let me know what's going on

HORTON Well I'll be leaving here I'll probably be leaving soon

I. Okay, just well, whenever you leave Jim just hit me up

000312
581996 E55

HORTON	Alright then dog
I.	Alright, tell him uh, tell him_____just tell him to give me a call, cause I called Brittany and told her to tell Jimmy that he's starting to piss me off, just tell Jimmy me and you talked or I'll tell him when he calls me.
HORTON	Alright, I'm going to, I'm going to get all I can
C.I.	Okay, yeah, because I mean, you know what I'm saying, I know
HORTON	I know, I know, I can fucking understand you completely
C.I.	Alright
HORTON	I'll get all that I can for you
C.I.	Okay, well just hit me up and let me know what's going on.
HORTON	Alright
C.I.	Alright dog later
C.I.	(phone rings) Recording..."collect call from"
'ONWAY	Jim
C.I.	Hello
CONWAY	What's going on
C.I.	Hey hold up, let me hang my dad up, he's on the other line alright
C.I.	Hey dad, hello, hold on, hello....(Ameritech recording...) Hello...Hello..yeah my fault_____Hello
CONWAY	Is everything alright
C.I.	Hey, hey man, what the fuck dog?
CONWAY	What's wrong
C.I.	Fucking Jamie wanted me to give him money
CONWAY	Huh?
C.I.	Yeah
)NWAY	I don't know_something wrong?

C.I. huh?

ONWAY I'll talk to him tonight

C.I. I mean, I mean, yeah something's wrong dog know what I'm saying, I mean, god damn dog, it's like you're fucking, I feel like you're fucking playing like I'm stupid or something, I don't know if it's you or him or what

CONWAY Well see, I haven't even talked to him today, I didn't know anything was even going on.

C.I. Have you talked to him since last night?

CONWAY uh uh

C.I. Well okay, I met with him last night and showed him that shit right

CONWAY uh huh

C.I. And I talked to him about getting a fucking 9 hard right, he wants me to give him money (Recording: This call is from a Correctional Institution and is subject to monitoring and recording) He wants me to give him money for that, I'm like get the fuck out of here dog I'm doing all this shit for you I'm not giving you no fucking money.

ONWAY ___I mean, I don't whatever, I mean, I'll talk to him tonight, I don't know what his, I don't know what's going on so I don't know I mean, he's going to give you whatever he can, whatever, I'll talk to him tonight, I don't know, I haven't talked to him all day today

C.I. Well I just talked to him a few minutes ago, I mean I guess it's straight now cause I talked to him and let him know, you know what I'm saying

CONWAY Yeah

C.I. So he's supposed to come see you tonight, holler at you on some shit and then he'll get with me as soon as he leaves there, so

CONWAY Alright, well um,

C.I. Uh what the fuck is up with Chris dog, this mother fucker don't want to see me, don't trust me or what, what the fuck?

CONWAY I don't know, I mean, did you uh, I don't know, I don't know what's going on I haven't talked to him either

C.I. I mean I understand, I understand your position dog, but you know, you don't really want to talk Jimmy, but god damn dog, I don't, you know what I'm saying, I'm not

581196 - E57
000314

fucking with these dudes man, this is, this is me and you man, I don't, you know what I'm saying, I don't want to fuck with Jamie, Jamie's getting on my nerves man, he's a good dude, but he's fucking shit up man.

ONWAY Really, I'll talk to him tonight, what's that, he should be here about like 7:30 or 8:00

C.I. Right I mean

CONWAY But uh I don't know, I mean I don't know what's going with Chris either

C.I. I mean, you got some shit you got to take care of then bro, I mean, you know what I'm saying, I'm supposed to be in charge of this shit, I feel like I'm being played like a fucking flunky and I'm not liking it at all.

CONWAY Yeah well, I I don't know I mean, well what do you need him to do

C.I. I told him look, I need some money to take care of that shit in Chillicothe dog, know what I'm saying and I wanted to meet with Cicero my mother fucking self, I'm not getting ready to let this shit, I don't know what them dudes are going to do with that shit when it leaves my hands man

CONWAY Yeah I know

C.I. You feel me? I mean, if you trust them, I don't fucking know them dog

ONWAY uh huh

C.I. I'm doing what

CONWAY _____but I don't know, it shouldn't be that big of a deal should

C.I. That's my point exactly, they're acting like it's some big fucking operative mission, I'm not, I'm not getting ready to let Jamie walk away with that, I'm not going to, either I can give it to Chris or we gotta or you got to tell Chris to get his fucking panties out of a knot man, I'm not going through this bullshit man, I don't have time for this fucking aggravation

CONWAY I know, I'll talk to him, I'll have Jamie call him

C.I. Alright and tell, you know what I'm saying, let him know that the fucking money I need for them dudes in Chillicothe, I need it, I don't have time to fucking wait while you guys open negotiations man

CONWAY uh huh, yeah I know, well I'll tell him tonight

C.I. Alright well, get with him and then uh, get back with me and let me know what the fuck is going on man.

ONWAY Alright, shouldn't be no problem really

C.I. Well I mean

)NWAY Cic will be down here tomorrow so

C.I. Right, well we know it shouldn't and whatever the fuck Cicero told you about they got something undo a scrambler, the only way that works though is if they tapped our phones, the phone ain't in my name

CONWAY I'm talking about down here, I'm talking about with me down here, they uh, know what I'm saying, it would be like them picking up another line at the house

C.I. Okay well that's, that's what I'm saying, when you call me on Cicero's phone, I use the scrambler

CONWAY Yeah okay

C.I. Then we ain't got to worry about nothing, cause I mean I need to talk to you dog, I don't, I don't like the way this shit's going down, and I'm not getting ready to get played like no fucking idiot

CONWAY Alright well, I'll, I'll talk to, hopefully he'll be here tomorrow, he said he's going to be here tomorrow I ain't had a chance (Recording: This call is from a Correctional Institution and is subject to monitoring and recording)

I. Alright, well when Jamie comes to visit you tonight man, call me and let me know what the fuck you told him that I'm in charge or whatever

CONWAY Alright

C.I. Alright

CONWAY Alright I'll tell him

C.I. Alright later

CONWAY Alright man

C.I. Hey

HORTON What's up

C.I. I just talked to Jay

HORTON What's up with him, you want me to get, get, get to a pay phone real quick?

C.I. Yeah, just get to a pay phone and hit me right back

)RTON Alright

581986 000316 E59

C.I.	Alright
I.	Hello
HORTON	Hey man, what's up
C.I.	Hold on, let me turn this radio down, hey
HORTON	Hey, I got something worked out, I got, I can get 6 and a half of it
C.I.	Okay, that's, that's great that's what I need
HORTON	Alright I got you man don't worry, I got it but it won't be till about 10:30 until I have it
C.I.	Well that's cool, uh, well hey look man, he's, Jimmy's going to holler at Cicero man cause, I mean, you and me need to talk, I'm still not getting ready to talk on this phone, but me and you need to talk about some shit.
HORTON	Okay
C.I.	So you know I figure if we just, I'll just talk to you when we do that so, alright?
HORTON	So well then what, you'll be free about 10:00 – 10:30
I.	If not, I can get free, I'll make sure I'm free, so....alright?
HORTON	I'll uh, I'll be getting with you about 10:00 then
C.I.	Alright
HORTON	Alright
C.I.	Alright dog, later (Recording: Based on where you're calling, your account has 59 minutes of talk time available)
HORTON	Hello
C.I.	Hey, I forgot man, hey can you get your hands through that desert?
HORTON	Um, I'll try
C.I.	If not, just anyone you know what I'm saying
HORTON	I'll try
C.I.	Alright, later
I.	Hello

ORTON	Hello
C.I.	What's up dog?
HORTON	Hey, I'm about to go down and see him, but I'm in the shower right now, I can't holler right now, I_____-
C.I.	Alright well uh,
HORTON	I got you together, so I'll just
C.I.	I ain't talking about that, I'm talking about something good for you, so when you go down there stop at a phone and call me
HORTON	Alright
C.I.	Alright
HORTON	(Recording: "This is Jamie, call me back")
C.I.	(Recording: "Based on where you are calling your account has 46 minutes of talk time available")
ORTON	Hey I'm about to be at a pay phone in 15 minutes
C.I.	Okay
HORTON	Alright
C.I.	Yeah that's cool
HORTON	Alright
C.I.	Alright later
C.I.	Hello, Hello, Hello Hello
HORTON	Hey man, what's up?
C.I.	What's up, was that you that just called?
HORTON	Yeah this phone's fucked
C.I.	Alright, let me turn me radio down, what's up
ORTON	Probably 10:00 or 11:00

000318
58196 261

C.I. What time you wanting to get together?

ORTON _____

C.I. Alright, how about like 10:30

HORTON 10:30?

C.I. Yeah

HORTON How about the first place we went

C.I. Uh yeah, yeah that's cool, yeah we can meet there no problem, so I'll see you there at 10:30?

HORTON Yeah

C.I. Alright

HORTON _____

C.I. You there?

HORTON Hello

I. Alright, what did you say, I couldn't hear you man?

HORTON Yeah, I talked to uh, I talked to what's his name

C.I. Right

HORTON And uh, I don't know I'll talk to you later everything's cool

C.I. Okay, yeah, cause your girl's with you?

HORTON She will be but I'm at a pay phone and_____

C.I. Okay yeah, just don't say nothing else while she's there, uh, alright that's cool, will just talk about it when we get and I'll see you at 10:30, alright?

HORTON Well I mean, what I'm trying to say is, whenever I see you at 10:30 I'm not going to be able to hang got to hurry up there and do what we got to do

C.I. Alright well um, what's up the desert

HORTON Um, I'm not, I'm not going up there

C.I. Okay, well that's cool, uh, alright well that's slick, we'll just, we'll just talk when we get a chance, I'll see you there at 10:30 though

ORTON Yeah, ____we're definitely going to hook up tonight

C.I. Yeah for sure, we got to go down there right?

HORTON Yeah

C.I. Okay, that's that's cool

HORTON Well uh you know what he gave me another idea talking about dude or whatever with the tape

C.I. Yeah video, the video shit

HORTON Yeah he's talkingChris, the Prosecutor and the news

C.I. Send one to Chris, the Prosecutor and the news?

HORTON Yeah

C.I. Okay, that's slick

HORTON

.I. Alright, well don't bring your girl with you, you hear me

HORTON Yeah, I know, I'm I'm not stupid dude

C.I. Okay

HORTON Alright

C.I. Alright well, I'll see you like 10:30

HORTON Alright man

C.I. Alright bro, later.

HORTON Hello

C.I. Hey

HORTON What's up man

C.I. Hey you was talking about that Shell, the McDonalds?

ORTON Yeah

C.I.	Man I really don't want to fuck with that spot dog, we done been there a couple times man
HORTON	Alright well uh
C.I.	Let's, let's, what about same place last night
HORTON	That's cool with me
C.I.	Is that cool?
HORTON	Yeah, just call me, just call me whenever you get there, that way I'm not waiting around cause I don't want to be waiting around with that
C.I.	Right I feel you cause you know I got to drop my girl off at Donato's anyway, so as soon as I get there, I'll call you
HORTON	Alright
C.I.	Alright bro
HORTON	Alright
C.I.	Later (Recording: "Thank you for using Ameritech....." Hello
CONWAY	Hello
C.I.	Hello
CONWAY	Is everything alright
C.I.	Yeah, wait hold on let me turn this shit down, what's up
CONWAY	Nothing I just talked to him, everything should be cool
C.I.	Okay, so you got everything straightened out with him?
CONWAY	Should be yeah
C.I.	Should be
CONWAY	If anything else comes up, I'll be calling you tomorrow
C.I.	Alright, well you going to uh, you can't call me till after like 2 o'clock right?
CONWAY	Why what's up
C.I.	Nothing's up, just you can't call till after 2

CONWAY oh okay, alright well, it don't matter, everything going smooth?

I. I mean it's, yeah everything's going cool, I mean, you know what I'm saying, that one shit's made, everything's, me and Jamie is going to go down to Chilli tomorrow?

CONWAY Yeah, he said he's scared to go with you, I don't think, I don't think he's gonna go_

C.I. He's fucking scared of me ain't he?

CONWAY I know

C.I. (Chuckle) I mean

CONWAY He's like, he was like, this dude either a fucking cop or (Recording: "This call is from a Correctional Institution and is subject to monitoring and recording")

C.I. He said what?

CONWAY Said either a cop of nuts

C.I. Well did you tell him I was certified a long time ago?

CONWAY Yeah, I told him, he's_____man you got to make sure that he knows where to go to man, he was like man, I'm not going down there with him

.I. (Chuckle)

CONWAY Alright well, _____fucking get a hold of me

C.I. Right, what, he's afraid I wouldn't let him come back?

CONWAY Yeah that's what he's afraid of

C.I. Well, Just uh, just tell him to give me Sean's number, Sean stays down there don't he

CONWAY I don't, yeah, just do whatever is cool

C.I. Okay, yeah I just, I just try and

CONWAY I don't think he has a cell phone no more

C.I. Well Jamie can get me in touch with him right, I got to have somebody down there in Chillicothe____

CONWAY Yeah I know, I know, that's what I told him

I. Alright, I mean, I would

5E6500003225

58 CONWAY E66	You guys can work that out, I'll try to call you tomorrow
C.I.	Right, I wasn't, I wasn't flipping with you earlier dog, I just don't like to be played fucking stupid you know what I'm saying
CONWAY	oh I know, I know exactly what you're going through, I'm going through even worse cause I'm in here stressin a court date
C.I.	Exactly
CONWAY	Know what I'm saying
C.I.	Right
CONWAY	Well, I'll talk to you later.
C.I.	Alright, just give me a call tomorrow though
CONWAY	I will
C.I.	Alright
CONWAY	Later
C.I.	Later

000323

58196 - E67

Franklin County Sheriff's Office

Detective Bureau
Progress of Investigation

Offense:	Homicide
Report #:	0109704
Victim:	Andrew Dotson
Place of Occurrence:	Field w/o Galloway Rd
Date of Offense:	10-10-2001
Reporting Detective:	C. Floyd
Date:	

Taped wire conversation between CI and known persons on 5-19-02:

Page 2: Jamie Horton delivers 6½ onces of crack cocaine.

EXHIBIT
tabbies
17

(1)

000325

Det. C.A. Floyd (CAF)
Submitting Officer

Supervisor

TAPED INTERVIEW

FENSE:	Homicide
REPORT#:	0109704
VICTIM:	Andrew Dotson
PLACE OF OCCURRENCE:	Galloway Rd.S/O Hall Rd.
DATE OF OCCURRENCE:	October 10, 2001
INTERVIEW OF:	Wire conversations between CI and Known Person(s) Calvin Horton
DATE OF INTERVIEW:	May 19, 2002
PLACE OF INTERVIEW:	Vehicle
INVESTIGATOR:	Floyd/Scott

CI	Hey as soon as these motherfucking donut cops get done getting something to eat I'll just come over there man.
	Are you there. So wait till those motherfuckers pull out. Let me back up.
Horton	Hey with that one I gave you yesterday, that's 7 all together
CI	7? Okay. I need that heat dog. I went to Jimmy's and he _____ fucking nuts. I'm not a cop. So _____ Shawn's down there right, can you hook up with Shawn, just tell Shawn to meet me down there.
Horton	I mean I don't say nothing bad about you dude, I just, got scared
CI	I feel you it a motherfucker just showed me a video of a Dead Motherfucker s wouldnt wanna ride with him either
Horton	At least you know I ain't trying to be like all scared or nothing. but its all right, its all right.
CI	I mean its cool. _____ I think its better if you hook up with Shawn because Shawn is already down there. That way me and you don't gotta ride down there together. I need to ger with you early I can only work from like 3 to midnight you know what I'm saying.
Horton	I got this _____
CI	Try to have that gun early dog.
Horton	I had it by 3:30 because I have to leave.
CI	All right

000326

(1)

581196 - E68

Horton	I mean I didn't say that I think he's a cop, but I just seen shit like this on TV, you know what I'm saying.
	You're not seeing no TV dog, no doubt. I just gotta a job to do that's all.
Horton	All right man I know, I ain't like that man, he's just like man ride down there I was like NAW.
CI	I can't eat. All right just tell the dude from Chillicothe is paid for
Horton	That's all
CI	That's it down there as far as I know I need to go for sure.
Horton	Give me a little bit
CI	is this Hard though
Horton	Dude I took 4-1/2, that's 127, 7. That's right.
CI	Okay.
Horton	All right
	Man look that shit, he's trying to make some money.
Horton	Oh my God I gotta talk to you tomorrow too. I know where 360 Bigs at
CI	Yeah, then we definitely gotta talk.
Horton	I'll talk to you tomorrow.
CI	Alright Be easy. He just through even late. Its in my front seat.

58196 - E70

SCOTT	FLOYD	CI	HORTON
Investigator 1	Investigator 2	Interview 1	Interview 2

TAPED INTERVIEW

OFFENSE:	HOMICIDE
REPORT#:	200109704
VICTIM:	ANDREW DOTSON
PLACE OF OCCURRENCE:	FIELD W/O GALLOWAY
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	CI/JAMIE HORTON
DATE OF INTERVIEW:	MAY 20, 2002
PLACE OF INTERVIEW:	VARIABLE
INVESTIGATOR:	SCOTT/FLOYD

May 20, 2002, the following will be taped conversations between CI and different people:

CI	hello
Horton	hey, what's up
CI	Hello,
Horton	_____
CI	hello, let's me see_____what's up man
Horton	a, hey I'm having a problem with a _____ getting back with me man
CI	oh
Horton	_____one thing
CI	_____
Horton	yeah, with a, I mean, he's probably just at work or something I don't know what the_____
CI	a, what time is it now
Horton	it's probably close to 4, it's about 4:35
CI	alright, well we still got a little time
rton	yeah, I'll fucking, I'll have___I got get ahold of_____today_____I mean he ain't called or nothing so I don't know

EXHIBIT
tabbies
18

CI	who Jimmy ain't
Horton	no the other dude
CI	Cicero
Horton	_____no the other one
CI	_____
Horton	_____
CI	Shawn
Horton	yeah
CI	you think he's running scared
Horton	no, he's straight, I just got to find out
CI	right
Horton	_____fucking, we'll get together later on_____
	hey,a,_____
Horton	I'm getting my hair cut right now_____
CI	ok, do my a favor, when you leave there man, just a do the pay phone, cause I got something really important to holler at you about
Horton	oh, really
CI	yeah____money
Horton	_____
CI	alright
Horton	actually there's a pay phone in the barber shop right here
CI	ok, well just
Horton	I'd call from there but I'm not going to say nothing, just____what you to say
CI	right, I'll say what I got_____all you got to say is yes or no, so
Horton	alright, give me a, give me a_____some change_____call you

581196 - E71
000330

Alright

CI alright, later.

Phone ringing

CI hello

Jamie hey man, what's up

CI what's up, hey, hey my dad's interested in some _____you fill me

Jamie yeah

CI a, I's hollering at J before, it still like 20_____

Jamie yeah what_____

CI a hard preferably

Jamie I don't, I might___I don't know, I have to ask, I can figure it out, I'll call _____see what's up

well,I mean, we _____right

Jamie yeah

CI ok, well you were right, you know what's I'm saying

Jamie what

CI cause a, we, we can both make some money on that

Jamie that's cool_____I'll see what I can do,I'll, I'll a fucking ask around_____right now_____

CI yeah definitely try to get that taken care of today

Jamie _____are you gonna do that_____so post office____

CI yeah, I'm, I'm, but listen, as far as saying it to the news, I don't know dog

Jamie yeah, that's the bad shit

CI but listen, that's what I'm saying though Jamie _if I say it to the news, you know what I'm saying, what if somebody sees, sees_____know who he is, you know what I'm saying. Dude's boy's been calling me asking me where he is at now

CI I'm like I don't know where the fuck he's at, you know what I'm saying

nie _____knows you like that, he can call you

CI um well yeah, he can't call here _this phone, but he called on my other phone

Jamie _____

CI no, see I, I mean I need, I might need some help with that, but it's not for sure yet, you know what I'm saying, he's just a fucking crack head, but still, if somebody see's him on the news and then, you know what I'm saying, they like oh I know him, you feel me

Jamie yeah

CI it's just something, it's just____-that I really don't need

Jamie alright, well,a ___Jim actually has tried to call_____missed the call

CI right

Jamie probably_____call me back

CI ok, well I, I mean I don't want to__

amie I can't talk to him like that, I can't talk to him_____

CI right, I don't really want to talk about this shit on any phone

Jamie me neither

CI so a I mean

Jamie just do, just do the, just do it to the first two or whatever, I can get_____I can get_____I can get the_____doubles_____get to-

CI right, give me a, yeah get me the address'

Jamie yeah_____

CI alright, yeah try to get_____and get back with me man

Jamie hey, as soon as it comes through I'll call you alright--

CI alright

nie and_____try to get ahold of_____

000332 58596 - E73

CI	yeah, just try, try to get everything lined up but hit me back and let me know what's going on in a couple hours either way
Jamie	alright
CI	alright
Jamie	alright
CI	alright dog, later.
CI	YEAH
Male	hold on
CI	yeah_____hello, what's up_____hey a is Ciccro coming over there today
male	I don't know, supposed to, I haven't spoke to him
CI	right
male	_____
CI	alright well me and Jamie is having a little problem
Male	oh, really
CI	yeah
Male	what's wrong
CI	he can't get me, I need to get fucking get me some_____dog
Male	I know, he_____he_____do it_____
CI	well I mean he just now called me, I just now talked to him
Male	_____
CI	so
Male	_____

CI alright, well a man try to get Cicero down there today dog cause I need to holler at you on that one thing

ıle alright

CI _____

Male OK

CI alright

Male alright, I'll _____

CI alright dog

Male later

CI later.

Phone ringing

ıle yeah

CI hey, hey what time are you_____

Male huh, 8 o'clock, I got, I got_____

CI ok, well what time we going down there

Male I_____(laughing) I'll call you from a pay phone

CI ok, yeah that's, that's just hit me right back_____I want to make up some_____

Male oh, it'll be a minute, hey a, I got a, I got a, I got to get ahold of_____

CI so___

Male yeah

CI right, well just_____

Male _____he knows exactly all the places, I don't, I don't even really know, he's doing _____

CI right, well what I'm saying is, just call me from a pay phone

5814000364

Male	ok
[illegible]	alright, later.

Phone ringing

Female	hello
CI	what's going on_____
Female	nothing, what's up with you
CI	same, you heard from a Jimmy
Female	no, not since earlier
CI	you know when he might be calling you back
Female	probably within the next half hour – 45 minutes
CI	alright, will you do me a favor when he calls you ____
Female	yep
CI	alright, thank you
Female	bye
CI	bye, bye

Phone ringing

Female	hello
CI	what's going on
Female	nothing
CI	nothing
Female	nope

CI	is a, hey have you talked to a Jamie
Female	no I haven't, not since earlier since before I talked to you, you haven't talked to him either
CI	no, I, I_____his fucking phones got me spooked man, I don't want to call his phone
Female	a_____
CI	a, Jimmy ain't called you yet
Female	no
CI	_____any other time he's fucking_____
Female	he's got another girlfriend I'm telling you
CI	get the fuck out of here, maybe he thinks you got another boyfriend
Female	huh
CI	say maybe he thinks you got another boyfriend
Female	no, I'm just kidding, no he, he just knew that I was at work, he's probably just trying to wait until I got off work
CI	oh, you're at work now
Female	um huh
CI	get the fuck out of here girl, it's seven o'clock
Female	I had to work_____-today
CI	oh, so I'm like_____
Female	no, it's boredom, sitting here reading about John _____
CI	oh really
Female	yeah
CI	imagine that, it's kind ironic isn't it
Female	_____EANO
CI	kind ironic isn't it
Female	yeah,I know

CI	_____fucking call Jamie and tell him to go to a pay phone and call me
Female	alright
CI	cause a, I'm,I'm fucking, he's got me spooked, so
Female	where's your_____at
CI	fuck I don't know, she was in a little bit ago, she's_____
Female	got her out running around for you just like always
CI	yeah, ain't nothing changed, you know what it is
Female	laughing
CI	_____on campus
Female	yeah, I know,__my boyfriend_____
CI	don't you think I'm trying_____
Female	everybody better be
	well, I'm having problems with everybody so I don't know what
Female	_____I'll call him right now
CI	tell him to get to a pay phone and call me and fucking soon as Jimmy calls you, the minute he calls you, 3 way me
Female	I will
CI	alright
Female	I'll give him a call
CI	alright
Female	alright
CI	Hello
Female	hey

CI	hey
male	he said he just got out of the shower and he'd be at a pay phone in less then 2 minutes
CI	ok,_____
Female	_____
CI	oh ok_____and you're spooking me girl
Female	_____I'll call you bye
CI	bye

CI	hello
Female	hello
Male	what's up
CI	what's up_____LOTS OF NOISE that fucking Jamie acting like a bitch man
Male	he just_____
CI	do what,I mean he's supposed to, he's acting, just tell him I'm not doing nothing tonight, you know what I'm saying
Male	yeah
CI	I just want him to go down there and show me who the fuck I need to take, you feel me
Male	yeah, I know, I'll tell him
CI	it's just getting aggravating dog, I'm not, I'm not like I'm just fucking hoops and jumping people some bullshit
Male	ok,
CI	so, he's supposed to be calling me I guess, Brittney
Male	Brittney_____

CI	well, he's, he's, I guess he's supposed to go to a pay phone and call me, I mean, I'm, I got shit I got to do later tonight so I'm trying to get on the road like in about an hour at least
ale	alright, I'll, I get him
CI	tell him, tell him quit being a fucking pussy man, god damm
Male	____he was telling me that when he_____
CI	_____man, I mean it's fucking,_____fucking scared he's, it's like he's ready to piss hisself when I talk to him. _____dog
Male	_____
CI	_____he don't know how to deal with that
Male	he don't know how to deal with that
CI	no, he's fucking spooked, so a, look man, just tell him we'll go down there and we will be coming back
Male	alright
	alright, hey call him and call me back so I know what's happening man
Male	alright, hey I'm not going to be able_____
CI	huh
Male	_____I'm not going to be able to call you back, but, man I'll call you back later_____
CI	well
Male	have to hang up right now before I can call him
CI	ok, when we hang up you call him, have fucking Brittney call me back and let me know what's going on
Male	ok
CI	telling him quit being a bitch man, god damm, I thought he was a gangster
Male	jesus fucking Christ

Male _____

CI alright

ıle yeah, he, alright I'll call him

CI alright, later.

CI yeah

Jamie hey what's up

CI what's going on dog, hey let me turn this radio down, what's up

Jamie _____heading out there to get that_____

CI ok well a

Jamie well actually_____there ain't no way_____

CI right well a

Jamie _____-

CI well_____this is what I was thinking, this, hold on, I was thinking this fucking don't, don't burn_____know what I'm saying, _____just go down there and just so_____be able to get back_____I don't want to keep going down there with you, you know what I'm saying

Jamie _____I got shit going on_____no fucking way_____alright

CI right

Jamie _____got_____

CI OK

Jamie _____

CI alright, ok, so just move tonight and do that then

Jamie _____

CI so what, we'll _____tonight and do that

000340
58196 - E81

Jamie _____

CI just a, so ok, well when do you want to go down there

Jamie _____I can get ready_____

CI we can take my Cadillac, I'm not going down there to do nothing, do you feel me

Jamie _____

CI what I'm saying is this, this is what I'm saying Jamie, I want to go down there, just show me where the fuck they are at, who they are and we'll come back, you know what I'm saying, that's why I don't want to go down there with the _____in the car, I just get the _____when we come

Jamie _____

CI huh, fuck_____

Jamie _____

CI you feel me

Jamie _____

CI _____

Jamie _____

CI Right, ok well just,_____just_____fucking____whatever tonight, I mean, we'll worry about the rest later

Jamie _____

CI alright well, what time is it right now

Jamie _____

CI alright,_____want to just meet me at eight and take care of that

Jamie I got_____

CI ok, that's cool, alright just bring me_____and whatever else we's talking about and we'll just talk about it then. Alright, alright dog, later.

CI	hello
Male	hey what's up
	what's up dog
Male	_____-
CI	yeah
Male	_____-
CI	say what now
Male	_____
CI	that's cool, I mean as long as you're _____know what I'm saying
Male	_____
CI	fuck, I'll get some
Male	_____-
CI	yeah, that's cool, what's up on the other thing
Male	_____-
CI	yeah, ok, alright
Male	_____
CI	I don't want to see nobody but you, you feel me
Male	_____
CI	yeah, yeah that's always, I don't want to see nobody else_____a_____holler at you about earlier, at the barbershop
Male	_____
CI	oh, ok, ok
Male	hey_____
CI	yeah
ale	_____

581196 - E83

CI	right, that's cool
Male	_____
	that's_____, yeah that's great
Male	_____
CI	yeah, I, I _____, yeah, a, what time is it right now
Male	_____
CI	ok, give me about, give me about an hour and ____I___what I need to get out _____
Male	alright,whatever_____
CI	alright, alright, later.

Phone ringing

Jamie	this is Jamie, call me back
CI	_____Jimmy, I bet that's fucking Jimmy
Male	_____
CI	_____

HANGS UP.

PHONE RINGING

CI	hello
Male	what's up
CI	hey, whose number if 358-6610
Male	have no clue
CI	I though maybe Jimmy was calling
Male	I have no clue

CI	huh, alright, I just wanted_____that number, cause it's been on my phone like 3 times since we_____
ale	alright, well I don't_____
CI	right, alright well I'll see you tomorrow dog
Male	alright big dog
CI	alright later.

END OF TAPE.

5816034985

58196 - E86

TAPED INTERVIEW

FENSE:	HOMICIDE
REPORT#:	0109704
VICTIM:	Andrew Dotson
PLACE OF OCCURRENCE:	Field w/o Galloway Road
DATE OF OCCURRENCE:	October 10, 2001
INTERVIEW OF:	CI and Jamie Horton
DATE OF INTERVIEW:	MAY 20, 2002
PLACE OF INTERVIEW:	Wire at Central and Mound
INVESTIGATOR:	Detectives Scott, Floyd **(review/summary of the taped conversation between Sheriff's Office known CI and Jamie Horton)**

On May 20, 2002, Sheriff's known CI did meet with Jamie Horton at Central and Mound. The CI was wearing a wire at the time of this meeting. During the conversation, the following is a summary of topics discussed during their meeting.

Page 6: Horton references his confession about the Andrew Dotson homicide to CI.

Page 7: CI references previous nights of drug transaction.

age 8: CI references staged homicide of Deputy Shively.

- Horton tells CI that he will be able to get him more drugs.

Page 9: CI references Chillicothe homicides.

- Horton talks about the weapon (a pick that was used to kill Andrew Dotson).

Page 11: CI is given a gun by Horton to be used in the next homicide.

EXHIBIT
19

(1)

000328

TAPED INTERVIEW

Correction 5/22/02 CMcCue

OFFENSE:	HOMICIDE
REPORT#:	0109704
VICTIM:	ANDREW DOTSON
PLACE OF OCCURRENCE:	OCTOBER 10, 2001
DATE OF OCCURRENCE:	FIELD W/O GALLOWAY ROAD
INTERVIEW OF:	CI AND JAMIE HORTON
DATE OF INTERVIEW:	MAY 20, 2002
PLACE OF INTERVIEW:	WIRE AT CENTRAL AND MOUND
INVESTIGATOR:	ZACH SCOTT/CHRIS FLOYD

CI	Hey, where's your phone at dude
JAMIE HORTON	Uh in my pocket Here you go
CI	what's going on?
JAMIE HORTON	Hey man I go with with you man
	Yeah don't act so spooked Dog
JAMIE HORTON	I can't help it man that's just some good fellow shit
CI	(Chuckle)
JAMIE HORTON	(Chuckle)
CI	Yeah, I mean, you ain't got nothing to worry about dog, I'm not, you know what I'm saying
JAMIE HORTON	Cause Jim said something, he said, he said, he done told you how, how he feels about me or whatever so
CI	Yeah
JAMIE HORTON	know what I'm saying
CI	Yeah, I mean I mean, the least of your worries is me doing something to you though
JAMIE HORTON	I got a mini van for tomorrow, I'm already set up, my whole day is straight clear, I don't have shit to do at all so when it hits about 12, well I don't wake up till about 12

581 96 - EB7
000345

JAMIE HORTON I got a mini van for tomorrow, I'm already set up, my whole day is straight clear, I don't have shit to do at all so when it hits about 12, well I don't wake up till about 12

CI That's what I'm saying, probably

JAMIE HORTON I'm saying at 4 or 5 whatever, I'm ready any time tomorrow any time

CI Okay

JAMIE HORTON And I'll go, I'll go show you everything, I'll tell you how they look, I got every, I got you

CI Well um, what was up earlier you said you had something

JAMIE HORTON Oh I can get that whole thing, I can get that whole Bird for sure for 20

CI Well if my Dad does Birds he'd probably would like at least two thousand, know what I'm saying, but he ain't going to want to pay the whole, he might go like 35 for two

JAMIE HORTON I'll see what's

CI If it's raw he'll go 40 for two

JAMIE HORTON I'll see what I can do, IT Alright it's going to have cut on it it's crack, it's got to have cut on it

CI Alright

JAMIE HORTON But it's going to be the right mixture, it ain't going to be too much soda

CI Right, as long as it ain't no fucking chalk, chalk shit

JAMIE HORTON I'll let you, I'll let you watch me do it if you want to

CI No I'm cool on that, uh....I mean fuck dog, I told Jim, I was like fucking Jamie's spooked dog, I think he thinks I'm going to take him down there and he ain't coming back man

JAMIE HORTON he's going to whack me, I said man, I'm NOT going to get whacked, I ain't cool with that

CI That's what I told you like well we'll just leave the heat here, I'm like, we wont take it down there, we'll get it when we get back

JAMIE HORTON That's what, I was just like, I mean, I ain't going to lie man, that shit, I mean whenever he showed me that shit I was like damn dog, I mean I freaked, for real, that's real

CI Yeah, I'm not going to play no fucking games man, it's just I mean you know what I'm saying, I mean, it's certain shit that that's still got me, know what I'm saying, like pissed off, I'd like The Shit you guys are keep playing me like I'm Joe Donut with the fucking, and really

JAMIE HORTON With what?

CI With like Andrew, you know what I'm saying, that....dude, in the papers, it said he got fucking cut up, you know what I'm saying, I mean, I don't give a fuck, what I'm saying is I'm trusting you guys with my life, you know what I'm saying, I'm about to give you a video and I done showed ~~my~~ mother I whack know what I'm saying so I mean, I'm not no mother fucking cop you know, you ain't no mother fucking cop, and it's just, I need to know I can trust you guys, I mean you guys got sloppy man, why the fuck, I don't understand why the fuck didn't you guys just bury him dog, I don't understand that, that makes, that makes, I mean it just makes me nervous you know what I'm saying, I'm fucking with dudes that

JAMIE HORTON Amateurs

CI You know what I'm saying, I got to know, I mean, I mean was it your fault dude didn't get bury...I mean, I'm working with you, I don't want to be working with no fuck up, know what I'm saying, I got to know how you're thinking, are we thinking on the same, I mean

JAMIE HORTON I'll be with you man, I'll do, whatever, I'll do whatever you say man but I just when it comes down to it, I just want to leave

CI Right, I feel you on that

JAMIE HORTON put up somewhere

CI I mean that's cool you ain't

JAMIE HORTON Cause it's going to be hot when it goes down its going to be hot

CI That's what I'm saying, so I mean

JAMIE HORTON I'm just trying, I'm just going to try to _____ in, I got got 300, about 360 thousand dollar lick

CI What's up with that?

JAMIE HORTON In a bitches house, a girl, this Ray, you know who Ray Ellis is?

CI Yeah

JAMIE HORTON It's his money that he has on the street

687 000347 581

CI — Oh yeah but is it for sure there

JAMIE HORTON — Yeah for sure, it's either in the Tahoe, they got a secret compartment in the Tahoe or it's in her apartment in a safe that, it comes up outta the ground

CI — Big ass high tech intelligence stuff huh?

JAMIE HORTON — They said it's easy to do -there, but he said man, if you know someone that had a fucking, would fucking help my dude do it, or she knows someone that'll do it, I didn't say nothing, cause he told me that before I met you then I started thinking about you like and then I probably know somebody that could do it

CI — Yeah (chuckle)

JAMIE HORTON — (Chuckle)

CI — Yeah, all fucking day. Damn, it's just..I mean I'm going to be honest with you dog, I mean, it's just, you know what I'm saying, you make me nervous, you know what I'm saying and....

JAMIE HORTON — I ain't trying to make you nervous

CI — It's just, I mean it's just little shit and Jim will tell you, I mean, you might think me asking you questions like what is this dude a fucking cop why does he want to know this, all the shit I ask you is because I want to know for my reasons you know what I'm saying and the same way with Jim when we talked about Dockside, you know Dockside Dolls, you know tell me exactly what the fuck happened, you know what I'm saying and if you don't want to tell me then tell me to mind my business and we'll leave it at that, but don't lie to me and play me stupid I mean, god damn dog, I'm smoking mother fuckers for you guys. I should be the last mother fucker you all play stupid

JAMIE HORTON — Exactly

CI — Know what I'm saying, I mean, and you ain't, just quit being spooked dog, I 'm not going to do nothing to you man

JAMIE HORTON — Alright man -

CI — I don't know what, you know, you vouch for Sean, then he's vouched for, you know what I'm saying.

JAMIE HORTON — Well Jim said ~~something~~ it's up to me man

CI — So what the fuck, why was you all just bull shitting me about saying these mother fuckers stood on his neck, I don't understand that, I just

JAMIE HORTON — I dont know

CI	I mean I feel what you're saying like what, know what I'm saying, why do you want to know this, but if you lie to me about that dog, this ain't no game man
MIE HORTON	oh yeah
CI	This is some life or death type shit and if you're not going to trust me 100%, I'm not going to trust you 100% then we ain't got no business talking you know what I'm saying and, and I mean, that's just, that's just the way it's laying. I don't know if your lying to me because, how do I know what I'm saying, you guys ain't getting ready to whack me, you know
JAMIE HORTON	Well, I mean, something else did happen but I'm just, but I don't even want to say it I mean he did get whatever
CI	What the fuck, what the fuck did you all stab dude, what the fuck is that?
JAMIE HORTON	I don't know
CI	I mean I don't care dog, but like I'm saying if I can't ask you one thing (that's the squad)
JAMIE HORTON	I mean, I really don't know cause it was in, it was in like, it was in a field and then Tim and Mike went back know what I'm saying, like they pulled back the thing so I was nowhere around, know what I mean, so I don't know exactly what happened truthfully, I don't, I'm can't, I'm not going to tell you something that I didn't see with my eyes, you know what I mean cause I'd never do that, cause that would be just like lying to you, that's why I just tell you what I seen, that's what I seen, didn't see nothing else.
CI	Well why didn't you bury him dog
JAMIE HORTON	you know I told you
CI	I mean, you just left him out there, you didn't do nothing to fucking disguise him, cover him, I mean that's just stupid to me, why didn't you do something to at least fucking disguise him, know what I'm saying, I don't understand that, throw something on him, do something, I mean, I'm trying to see what your mind set is dog cause I mean, for real dog, I got some shit I'm going to need you to help me on, I mean you ain't got to do the actual shit but I'm going to need your help on something and I got to know, I'm not fucking with no dummy
JAMIE HORTON	I mean, I mean he got shit thrown on him the old school -stuff
CI	Oh cement
JAMIE HORTON	Yeah
CI	I mean, you know what I'm saying that's dog, believe me, I would die and go to hell a thousand times before I'd be a rat, know what I'm saying

[redacted] 89

JAMIE HORTON I believe you

And I just got to know that I can trust you to work with you dog, that's all I'm saying

JAMIE HORTON I just told you more than I've told anybody in my fucking life so

CI Well I mean, Jim would tell you dog

JAMIE HORTON I'm just saying, I'm just telling you right now, how this has fucking opened up a whole can of fucking everything that I just told you I'd say

CI Well, don't nobody know but know what I'm saying, the guys was there and me and I mean and as far as, as far as it goes between, I won't even say nothing to Jim

JAMIE HORTON Cause when it comes down to it man, actually happens down there, it's going to be fucking bad man.

CI I know and that's why I need to know I trust who the fuck I'm working with

JAMIE HORTON Alright that's cool

CI Know what I'm saying, that's all I'm saying dog, I mean

JAMIE HORTON That's cool, well we'll hook up tomorrow man, we'll talk about it

Yeah, we just when we got more time, because I got, my bitch is fucking stressed

JAMIE HORTON That's what I got my shit going to

CI I'm ready to shoot this bitch

JAMIE HORTON Oh I ain't going to shoot her but I'm going to talk to her

CI (Chuckle) It's just, it's a figure of speech to me dog, it's just...I mean I told Jimmy, I was like James, I think Jamie thinks I'm going to fucking whack him

JAMIE HORTON (Chuckle)

CI He was like man he does, I said man would you tell him dog not to worry about

JAMIE HORTON He said just go down there with him, I was going naw (Chuckling)

CI (Chuckling) And I was like and then know what I'm saying I said, I said I think he's know what I'm saying, he's like kind of leery of me cause you know, you guys think I'm salty, I was salty because I felt you all was playing me stupid, lying to me about Andrew and shit and I'm thinking, okay, if they're lying to me about this,

JAMIE HORTON Then they'll lie about something else

CI You know what I'm saying, are they just trying to get me to get this shit done so they can take me out, know what I'm saying, I mean, the way I look at it is like this dog, you know something that could put me away, you know what I'm saying, and you got The evidence w/ Chris Cicero, that's a fucking lawyer, I can't beat that, and I don't know nothing on you other than what I'm doing, this way we're on neutral ground.

JAMIE HORTON Alright whenever I come here & I meet you tomorrow and I'm going to have them addresses for you too.

CI Well, when we ride down there just show me, I'm not, I'm not taking, when we go down there, I'm not taking no heat with me, know what I'm saying, cause I don't, this is my thing, I want to go down there with you, you show me who they are, show me where they live at, we come back and I don't want to see you for at least a year or so.

JAMIE HORTON That's cool

CI Know what I'm saying

JAMIE HORTON That's cool

CI Um, I got my little brother working that shit from last night so

JAMIE HORTON That -shit's straight

CI So, see what I make, I mean he said it's going like hotcakes so and he pieces his shit out, so that's how we bust it

JAMIE HORTON Shit, I'm going, I, man I can't like once -you guys do that and everything's all straight, you guys are straight on your end, you guys want to keep coming and doing shit it's all good

CI Right

JAMIE HORTON You can send your little brother whatever.

CI See this the thing, this is the only thing I'm saying dog, I got, I mean I took care of dude at the animal plant, know what I'm saying, that cost me 5, I gave my dude that helped me with the video 2500, know what I'm saying, that's 7500, then a thousand for dudes body, that's 8500 I had to fork out, know what I'm saying, so I mean, I'm paying out a lot of money

JAMIE HORTON How did you get him to say that stuff

CI How am I doing what?

JAMIE HORTON How did you get him to say that stuff?

000351
581196 - E93

CI — I mean dog, first of all, he's a mother fucking smoker, know what I'm saying, so the whole idea was fed him dope, fed him dope, fed him dope, and I said look, I'm going to give you this, I just showed him a cookie, I said, Look I'm going to give you this, just say this...oh man I ain't confessing no murder, I'm like listen, listen...don't say your name, that way they don't know who the fuck you are, just say the shit, you get this ounce of hard and you're fucking out of here

JAMIE HORTON — This is bad

CI — Yeah I have some bad ass shit dog -fucking, my brother's crack head bitch sold some of it, but I just had him do that and then, you know after we was done with the video, I said, well you know, here's your dope, I said here's your dope, just put the shit behind him

JAMIE HORTON — Oh that's

CI — Man, I dragged that mother fucker up the steps by myself, I said, son of a bitch, that's when I called you and I was like I got to get rid of this one, I was just putting him in the fucking trunk then, I'm like I got to get rid of this mother fucker, know what I'm saying, I had to pay for a car, I done spent a lot of money on this shit dog

JAMIE HORTON — Alright, well man, I'm going to holler at you tomorrow we're going to get together

CI — Already dude, quit being so shaky man, I'm not

JAMIE HORTON — I'm not

CI — I ain't going to do nothing to you bro

JAMIE HORTON — oh that's

CI — Damn, well I'm going to call my dude, cause when we talked earlier I thought you was bringing some dope to get something back off of, so I'm just going to call my dude and tell him that I didn't get that.

JAMIE HORTON — I'll get some whenever you guys are ready.

CI — See that's what I'm saying, right now I don't have a lot of money to like give you up front

JAMIE HORTON — That's cool, I'll give you whatever you want man, just like Jim said, give you whatever you want

CI — Exactly, I mean I can shoot you some back that ain't shit, but I just need something to start with

JAMIE HORTON — Give me a little bit cause that what I just gave you *give me a little bit of time* then I'll have some

CI — Well, I don't need nothing right at the moment, I mean if something comes up with them dudes in Chilli, I might need something

JAMIE HORTON — Alright

CI — But other than that, I'm cool, know what I'm saying and uh, I think it would be better man, once we go down there and you show me who them dudes are and shit, hook me up with Sean, tell him not going to whack him though, just, I give you my word, know what I'm saying, you vouch for Sean and if something happens with Sean, I'm going to come see you

JAMIE HORTON — Alright

CI — And you already know I'm not playing, so

JAMIE HORTON — (Chuckle)

CI — You know what I'm saying

JAMIE HORTON — That's why had a feeling that's why I didn't want to go with it

CI — That's why, I told Jimmy, I said look I think I scared him dog, showing him that picture, I said I think, I probably shouldn't have showed him that, Jimmy was like, yeah, you got him fucking spooked dog, I said, well, I'll holler at him tonight man, just, just let him know man

JAMIE HORTON — Alright well

CI — So I'm, I'm going to send that video...I want to wait man and do everything at once, know what I'm saying, I'm going to take care of them dudes, that's why I'm trying to hurry up and get these dudes in Chillicothe...take care of them dudes in Chillicothe, then shoot the video, know what I'm saying, because then in case they say okay, well he got out of this, let's get him for this, know what I'm saying. If everything, if all lose ends are tied up then they can't do nothing but let him go.

JAMIE HORTON — It's over...alright

CI — Jimmy said, Jimmy was talking about that fucking prosecutor bitch dog uh, Cheryl Pritchard, I'm like well I don't know, he said he has somebody watching her out there, and I'm like well, I don't give a fuck dog, it don't matter to me if you're a thug I'm going after, politician, cop, I don't give a fuck. If I'm paid for a job, I'm going to do what I do and I'm good at what I do, I just, like I said man, don't. My question, if my questions make you nervous dog, just tell me and I'll tell you why I'm asking them, it's not that I'm asking just because I'm a curious mother fucker, I don't care why you killed Andrew it ain't my business, and I don't care...what the fuck did you guys stab dude with man

JAMIE HORTON — It was something like a big ass pick or something

000353961852

CI	Yeah cause I mean I heard he was fucked up, you know what I'm saying that's why I was like, cause I mean my dad, Jimmy will tell you, my dad's old school dog and we got connections, I know you're going to be arrested before you get arrested let's put it like that, my dad was telling me and I was, you know, running down my dad, cause my dad knows what's happening, he was like, something about them boys ain't right, I'm like what do you mean, he said well they're lying to you, I said, they're not lying to me, he said, yeah they are, here let me show you
JAMIE HORTON	Well you know now
CI	And I'm like what the fuck, I said okay well just let me holler at Jamie so we can just get it, cause you know what I'm saying
JAMIE HORTON	So it's all straight now
CI	Exactly dog, I'm trusting you with my life, you trust me with yours
JAMIE HORTON	Just did
CI	Exactly and I mean, when I showed you that video and the picture I trusted you with mine so....
JAMIE HORTON	Alright
	Uh this mother fucker ain't going to blow apart on me when I shoot it is it
JAMIE HORTON	I don't think so
CI	(chuckle) Well I mean, see what else you can do dog, but if we got to use this then I'll take care of it but cause I don't want to fuck with nobody else on getting no materials for none of this, I'd rather keep it between me and you and the less people that know, the better, know what I'm saying and uh, I'll probably holler at Jimmy tomorrow, I guess Cicero is supposed to go down there, he was supposed to went today but he didn't go down there
JAMIE HORTON	_____
CI	Yeah I got my girl at Donato's, I left her ass
JAMIE HORTON	Alright
CI	So let me grab your phone for you man
JAMIE HORTON	It's going to clear up tomorrow though man
CI	Oh I'm going to be ready like about 4:00 o'clock
JAMIE HORTON	Just have it cleared

CI Okay

JMIE HORTON Alright big dog

CI Alright baby take care.

CI Okay, he didn't bring no dope but I got the pistol___-white bag beside me, he did talk about Andrew, well you guys know what he talked about. I'm going to pull in the Big Bear across the street and have somebody get in the front of me so I know where the fuck I'm going, I'm lost

581796 - E97
000355

58196 - E98

Franklin County Sheriff's Office

Detective Bureau
Progress of Investigation

Offense:	HOMICIDE
Report #:	200109704
Victim:	ANDREW DOTSON
Place of Occurrence:	GALLOWAY ROAD S/O HALL ROAD
Date of Offense:	OCTOBER 10, 2001
Reporting Detective:	Z. SCOTT
Date:	May 30, 2002

INTERVIEW WAS A WIRE/CI/HORTON/NIGHTINGALE. DATE OF INTERVIEW May 21, 2002. PLACE OF INTERVIEW VEHICLE MOVING THROUGH ROSS COUNTY.

THE FOLLOWING WILL BE A REVIEW AND SUMMARY OF THE CONVERSATIONS THAT TOOK PLACE ON May 21, 2002 ON A BODY WIRE BETWEEN CI/HORTON/NIGHTINGALE.

PAGE 2/ Horton talks about the cost of renting the van for $139.00 for the day.

PAGE 6/ CI and Horton talk about the repeater in the bag Horton is very curious, CI gives him an excuse and he leaves the bag alone.

*Jamie refers to himself as not working and doing dope and being like the Mafia.

PAGE 14/ Horton he tells CI not to bring down the video tapes that would be bad and to make sure that he wipes them off and to use gloves when he mails them so no one can trace it back to him.

EXHIBIT
tabbies 20

PAGE 15/ CI and Horton talk about their earlier drug transaction.

PAGE 16/ Horton tells CI about Mike Authors home.

*Horton refers to a video that Shawn Nightingale has that will help identify the two victims in Chillicothe so that the CI will be able to kill them. Horton also states that he has one of the victims ID's. Apparently this was taken during a robbery.

PAGE 17/ Horton talks about robbing the guys and taking one of their ID's.

Horton talks about selling cameras to an undercover cop and Brittany finding out about the warrant on him and Rob and contacts Chris Cicero to have something done.

*Horton talks about he and Rob's dope business.

*Horton talks about helping funding Jim in the contract killings to help facilitate in getting him out of jail.

PAGE 20/ Horton talks about putting $2,000.00 on somebody's books.

PAGE 21/ Horton talks about the Andrew Dotson killing stating that when people say they're going to do something they should do it referring to Mike Authors and Shawn Nightingale.

PAGE 24/ Horton states Chris Cicero's secretary/Jimmy Horton's girlfriend knows everything that is going on.

Horton talks about directions from Jimmy to Shawn to give CI whatever he needs.

*Horton points out the location where Mike Authors lives on Yellow Bud Road.

*CI talks about the gun that was given to him by Jamie Horton.

5836000365

58196 -- F1

SCOTT	FLOYD	CI	HORTON
Investigator 1	Investigator 2	Interview 1	Interview 2

TAPED INTERVIEW

OFFENSE:	HOMICIDE
REPORT#:	200109704
VICTIM:	ANDREW DOTSON
PLACE OF OCCURRENCE:	GALLOWAY S/O HALL
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	WIRE/CI-HORTON-NIGHTENGALE
DATE OF INTERVIEW:	MAY 21, 2002
PLACE OF INTERVIEW:	VEHICLE
INVESTIGATOR:	SCOTT/FLOYD

CI what's up big dog

Jamie whats up

Male yeah

Jamie whats that yeah it's_____

just my dad, that's it.

Male nothing that ring

CI how do you move this fucking seat belt

James move it up

CI now that's better

Jamie _____

CI ___up front

Jamie _____

Male _____

CI _____stores, alright, well where we going dog, I just hope we got Tilt Steering

Jamie 104 south, can't get none of that money

what's the best way to go to get there

Jamie	just g o just go to right straight down mound street_____
Unknown	_____-
CI	_____morning I got
	Chuckling
Male	___mini van, mother fuckers brand new ain't it
Jamie	yeah
Male	Just follow it, has tinted windows in back
CI	yeah,_____-getting out_____park_____
Male	_____
Unknown	_____
CI	yeah it's for sure, it's brand brand new
~~Male~~ J. H.	cost 139 dollars per day
	damm, some expenses are necessary, it's got ops that's for sure
Male	_____kind
~~CI~~ J H	yeah I'd say at least. Shit, it's only about 45 minutes away,_____finally get down there_____
Male	_____
	Long pause with no voices
Male	_____make you go
CI	yeah
Male	zig zag
Jamie	gets you_____
CI	_____fucking_____I could put_____
Jamie	_____
	I'm not _____nothing,I'm_____

581196 - E2
000367

Jamie looks like other times_____

know he was fucking down there

Jamie _____

Long time with no voices

Jamie _____

Jamie _____up for_____last night, ___for sure, he's

CI I didn't know he was doing it like that though

Jamie _____street right now with Bricks on the street right now, he's still Selling that shit

Chuckles

CI the fucks on with ~~Miekie Sor~~ mikey fuller, he scared to death all the time

Jamie dont know I'm scared, but I ain't scared about that

male _____

Long pause between talking

CI what time do you want to do this_____the fuck is this

Jamie _____

Chuckling

male fuck is_____he did like, like Jim said you did something like 8 years or something

CI 9 and a half

Jamie 9 and half in the

CI the joint yeah

Jamie was it a, was it a federal prison or

CI no state

nie state_____fuck yeah

Phone ringing

you want stop now

Jamie — fuck no_____

Phone Ringing

Male — hello

CI — yeah, where at, call him where

Male — 607 7

CI — I need a lighter, you got a lighter

Jamie — need a lighter

CI — yeah

Jamie — _____see_____

Male — _____going

really don't matter, long as it [redacted] work s

Jamie — _____5

Long pause with nothing

CI — sure I put my keys in_____6 o'clock so we'll get_____

Male — _____

CI — ___you guys_____

Chuckling

Male — _____

male — hey I'll tell you what I_____this mother fucker is spooking me, all this shit
And all that shit was fucking

~~male~~ C.I — _____know what I'm saying, I mean I done whacked some mother
Fuckers but that grose

J.H — whole fucked up thing is mother fuckers sit back and laugh about it_____

581396 - E4
000369

~~Male~~ J. 14 _____fucking stupid

CI dog, what the fuck was point in even doing, I could see it if he had Something on yall I, I mean what Jim was telling me he was like He might be able you know say some shit on a racketeer cases, sounds Like he might have been able to fuck with_____killed a mother Fucker cause you thought he might say something

Jamie whatever floats ~~of dope~~ your boat

Laughing

CI have no idea

James what, what All joints you been in

CI shit I've been to a Orient, Lancaster, Chilly, Lebanon

Jamie oh you've been to Chillicothe_____

CI a, it's, it's dirty, it's _____I mean it's wide open, you got all the freedom In the world, but it's just dirty as fuck everybody there is a bunch Of older mother fuckers, they hurried up and got me out of there, this Mother fuckers off the hook, he's out of here and I was robbing dudes In there and shit, when they like call dudes to move their dope, I like I'm like Dude I got to have that

Jamie _____

CI naw I didn't give a fuck, play it down

Jamie lay it down fool

CI man The whole commissary bud

Jamie take the whole thing

CI might as well, fuck it, gonna do it, you might as well do it right

Jamie then why was you down in the county for

CI just now, for my parole violation, that and letting a_____

Laughing

Jamie funny

CI oh, it's funny as a mother fucker

Jamie — wasn't down there was it

Laughing

I was sitting there ah dude

Jamie — This sucks

CI — yeah they're fucking, now when I first went in there, I mean it was just like The other Feds at my family and all types of shit, you know what I'm Saying, they was like well is this, we know you know this about your dad And this and that and that and I'm like, go fuck your mother, what the Fuck you talking about. Well if you don't tell who_____I'm like Well

Jamie — your dads big time

CI — oh yeah, he has his way, I just pick up, hey I don't know what's in the bag, _____dog

Jamie — oh, so are you taking that down there

CI — I don't know what's in there, so I didn't ask, I didn't have time

male — _____

~~ale~~ C.I. — yeah it's always locked, always got a lock on it, I, fuck whatever it is, it's his Ain't none of my business. So I told him, I was well, I said I got to meet my Dude right now because my dad, and my dad's got his own company and that's Where he was at and I was like well man he wanted me to wait like an hour On him, I was like man I, I'll just get it to you when I get back, I've got To take care of something. See that's all I'm saying about my dad, he'll do A key dog but he's not going to do less then 2 at a time, you know what I'm saying, ain't worth your time

~~male~~ J.H. — it's mother fucking_____

~~male~~ C.I — he has his way, see originally it was supposed to be his dudes that was taking Care of this shit down here but nobody seems to know where they are at, So my dad, my dad loaned me 20 gran on Jimmy's word to take care of this shit and a we don't know where they are at

~~Male~~ J.H — They'll come up

~~Male~~ C.I. — ah yeah, they always do, run out of money, run out of dope, they'll be back

~~Male~~ C.I — what is that

ale — _____

96 - E6
581960
000371

Laughing

~~Male~~ C.F know what I'm saying, I don't want no smile you're on camera type shit

~~Male~~ J.H my God it ain't nothing like that

~~Male~~ C.F I mean I know they're right there with us but I don't know what the fuck

_____

~~male~~ J.H _____

CI I don't think I'm supposed to be smoking in it, I don't think they'll tell me I can't so

Jamie he just me he'd get in trouble for ~~it~~ in the bag

CI no it's probably just some his money or something, no it ain't no big deal We ain't doing nothing tonight anyway

Jamie _____

CI down there and back

Jamie is he gonna talk to you about it, get in trouble for it

I'm not going to tell _____talking

Laughing

Jamie _____you about talking about _____

CI oh,_____,it is, I mean some things, that's what I'll tell you, Jimmy like man I don't even really like talking, I'm like, that's what I'm saying, it is better just to get everything out open ain't gotta keep Talking about this shit, you know where you stand and I know where I Stand, we know what we gotta do, so,

~~Male~~ C.F _____I was praying like man this doesn't come down off of this shit

Laughing

Jamie that was cool man,I was gone fucking_____

CI which way do I go

Jamie _____

Long pause between voices

Jamie — the ole man has got a question to for you

yeah, well that's a pretty, really, really said shit

Jamie — how much it gonna cost

CI — a, well I paid 8 hundred for it, so

Jamie — I want a ___ white Gold

CI — I had a fat ass white girl with man my brothers fucking bitch sold it while I was In jail, my brother's bitch sold all my shit I

Jamie — I hope if I ever get locked up, those fuckers don't sell all my shit, keep my Fucking ~~stuff~~ ~~sorry~~ stash set

CI — well I mean we had it in the safe, they just left the safe open cause I mean it's His dick, know what I'm saying

Jamie — I mean_____

CI — he left and come back and she was gone_____

Jamie — even if you had 10 gran stacked up for yourself___ if he sold _____ to have Somebody you could trust it you did locked up no matter for how Long_____

CI — what you'd have when you got out

Jamie — yeah

CI — the only person I fuck with like that is my dad man, I could give my dad Whatever dog and I know it would be there, you know what I'm saying

Jamie — you know my daddy's old except he don't _____ me, he knows He knows that I do a little bit of dope, but he knows I don't work___ She don't ask No questions like that Mafia Gangster

Laughing

CI — that's why I didn't say nothing, well I'm kinda like well ok

Jamie — Shits fat

CI — that's what I mean, ~~Jamie~~ Jimmy is talking kinda other like we do this_____ Better fuck_____ but

581 96 - EB
000373

Jamie — a what

CI — a omen that me and Jim was put in the same tank

Jamie — what's up man

Male — _____I can't do it right now, I'm in the middle of something but If you get this scraped I'll give it back to you as soon as I get home If you'd get ____or something

Male — _____oh yeah

Laughing

Jamie — that's where Jeffs locked up

~~male~~ Jamie — the white guy_____right now

~~male~~ Jamie — that's worse then the county

CI — it is dog, yeah it's way worse, always have, just goes whenever you go up To visit people Still ___-shit

CI — well it's that and I mean you're just in a tank with like 30 mother fuckers, you Know what I'm saying, got a bunch of loud mother fuckers and I'm not, I mean When me and Jimmy was in the county though, we ran that thing, know what I'm saying

~~Male~~ J. It — you guys did

CI — Jimmy almost got us Jumped man like his second night in there by the whole Fucking tank, ___him and dude into it over the phone and then dude doed him in Jimmy was cousins, you know what I'm saying and me and Jimmy was just Standing there talking and dude come up to us just like the biggest black dude In the tank, he come to us like man, the mother fucking phone talking to Jimmy And we didn't know who he was talking to, me and Jimmy was looking at each Other like who is he talking to,_____who the mother fuck you talking to, and I'm Talking to both you I was like look bitch, I'll cuss your mother fucking head Off,who you talking to

Laughing

CI — Jimmy was like man, we could do____I'm like fuck it dog, whatever, whatever You bitchs want to do, everybody in the tank, what's up

Laughing

Jamie — just like that

CI man, they was like man we're cool, I told Jimmy, I was like man look dog, I mean
You know what I'm saying I gotta work outside for like 7 and 1/2 years, but I don't
You know I'm not really trying to catch case here, you know what I'm saying

Jamie Jimmy is dont give fuck I've seen him suck up the biggest mother fuckers
I ever seen in life just like -and one hit like_____

CI Jimmy ain't no little biddy dude man

Jamie no, a lot bigger people then him

CI uh

Jamie talking about a big mother fucking, big ass fucken this big guy no neck see we was
Walking down the _____one time at fucking, the _____this big ass fucking
Like you said no_____dude

Male _____

Jamie big ass mother fucker, big dude, he walked up and was like, he was saying something
To me, I'm like huh and he fucking pushed me for some reason, like_____forced
Me, I was like what the fuck, know what I mean,___we_____say nothing
This dude or nothing, Jimmy was like what, Jim, fucking Jim is like what man
You want trouble or something and that dude was like yeah, Jimmy was like,
Took his ring off

Laughing

Jamie dude went straight down

Laughing

Jamie _____he was _____all the way_____

CI all yeah, dude told me about that

Jamie his shit was fucked man

CI yeah he ai, Jimmy ain't no fucking, little dude man,

_____

CI he must a, I mean I got big hands dog, but this dude is like you know what I'm
Saying

Jamie he said, he said you beat up a guard

yeah when I first got arrested, no, they put me, they put me, you know when

581196 - E10
000375

They first take you to the county, ever been to the county

Jamie — yeah

when they first take you to the county, you know how they want you to lean
Against the desk and shit, well I mean they had my hands cuffed behind
Me for like 2 hours before that, you know what I'm saying, my shoulders,
I mean my shoulders are too big to be like that, I'm telling them like look
Remove my cuffs, they're breaking my shoulders man and fucking deputy
He got in my face and I go are you a tough_____I said ok listen, you
Touch one more time, when they take these cuffs off I'm knocking you
Out

Laughing

CI — Oh you're a tough guy, I said OK,_____taking the cuffs, I did like this
And just dropped

Jamie — you dropped him

CI — he's laying on his ass and started scooting backwards, he was like help help
Help

Laughing

then dude come running then they hit me with one of them mother
Fucking a Tazer guns and I was like what the fuck, I went to grab
It, they hit the juice and dropped me dog, I was like ok you bitchs,and they
Beat my ass after that, they fucked me up, but ever since then though,
Every guard that come around there like guards like what's up Trent
What's up bitch, you want some work

Laughing

CI — it was,_____what's up little pussy_____what's up little pussy,
Let me get some head or something

Laughing

CI — Jims like dude, you're all dumb, tell I'm a sick maniac

Jamie — _____

Laughing

CI — that's what Jimmy said he was like man, Jamie is spooked though, you know
_____already man, man he thinks you're a fucking maniac

laughing

CI — I was like well you know I just, it's like I grew up in this type of life, You know I'm saying so it really ain't, some people need to die Though and that's how I've been raised, but, I mean it's, you know If I'm down with you I'm down with you for whatever, know what I'm saying till the wheels fall off, we go down together that's just how I feel like um I was going to catch this one Dude on fire in the jail this mother fucker got on my nerves so bad though

HORTON — In Jail

CI — Yeah

HORTON — How you do that

CI — I was going to catch him on fire but Jimmy's like no don't do that though cause I had to light his cigarettes in there my Dude was bringing them to me.

HORTON — How you getting them

CI — Well the Dude would just pay a Guard give the Guard like a couple hundred dollars and he'd bring them in but um

HORTON — He was in there smoking in there?

CI — Oh yeah just smoking chronic in there

HORTON — Weed

CI — Yeah dog I use to man I use to

HORTON — Jim said you dogs was making some shit you guys are getting big ____drinking

CI — Making some wine tore out the rafters

HORTON — He said I say man what are you going to do man them guys are smoking and he was like I'm goin to the club that's what he said that's what he's talking about he says fuck ____get in trouble he said something south or north something I forget what he said it was funny

CI — Well we got fucking we got drunk in there one night man and fucking Jim is ready to beat mother fuckers up and I'm like yeah fuck it let's go they hated us in there dog they hated us ____

HORTON — But what about whenever you left Jimmy think he's alright?

CI — Oh I know he's alright

HORTON — Think he's in there running it cause I know he was like this I was on the phone like hey Jim what's up and he said just shut the fuck up

CI They hate us dog I fucked with everybody in there they yeah they was glad they probably threw a fucking party when I got out.

HORTON Made some hooch or make _____-

CI Yeah there's another Dude in there Bob Cat man he's there was me Jimmy and Bob, Bob's a solid mother fucker but he's they're probably getting ready to kill him though he's got like killed two mother fuckers executions style so

HORTON He did

CI Yeah oh he emptied a 12 gage loaded it up he shot them 30 times with a 12 gage.

HORTON What was wrong with him

CI He's a sick maniac

HORTON A sick maniac

CI I mean I mean you know to shoot a mother fucker 30 times with a 12 gage you got to load that mother fucker at least 4 times so I'm saying and that's if you got if you got course for 8 shots

HORTON Well how the fuck would oh my god they wouldn't even be nothing left of the little fucker

CI There was oh they did like dental guess they got like some of their teeth to send to dental records to find out who he was he fucked him up.

HORTON How long has he been there

CI He's been there 2 years in the County

HORTON In the County for 2 years

CI That's a grip dog I was like dam

HORTON How does the County hold him that long

CI Waiting to go to trial they can't find his lawyers and

HORTON So when is Jim's when is Jim's court date?

CI His court date is in August I can't remember the exact

HORTON Will, will that be his real court fucking start his real trial or

CI Well it's like to see if it's going to go to trial but I mean that's the purpose like if we get these video's done take care of these mother fuckers down here you know what I'm saying get everything done at once and Cicero takes I guess Cicero is suppose to take this into the Prosecutor.

HORTON Okay this is _____

CI Well see Ron O'Brien ain't his prosecutor though

HORTON Yeah but the head mother fucker out of all of them

CI Yeah but I thought Cheryl Pritchard was his worries okay

HORTON Just talked to Chris he told me not to bring them down he ain't said nothing to them cause might get both of us fucked up.

CI Right that's what I was saying whenever you do _____no prints on the paper

HORTON Fucked up

CI Well I mean it can't be that's what Cicero said cause it can't be all the way wipe clean they can't be all cause they're going to dust it for prints

HORTON wipe it off all the way

I should of put I should of put Dudes prints on the mother fucker

HORTON _____

CI Yeah I don't yeah I don't

HORTON _____have no record what you got to do is take some windex and spray it clean that shit off real good just wear gloves through the whole whatever you _____have somebody else handwrite it you don't even know _____

CI Right well I was just going to I was going to go out of town like to Davol or something go to the library and type it up I mean probably the library got type writers how the fuck can you trace that you know what I'm saying

HORTON _____even with the paper though whenever you seal it and all that stuff you wearing some rubber gloves or something.

CI Right

HORTON That's what Unabomber type shit cause I mean they're going to know where it came from or whatever so it can't be nowhere around us

Right

HORTON Maybe get around where ole boy fucked around

Fuck that he's like man you was suppose to have brought me some shit back I was like what the fuck are you telling me for you know what I'm saying and he was like no, no it ain't no problem with you dog I don't want no beef with you just stop fucking calling me or you're going to have beef he ain't called me since then so yeah the dude was fucking he was so easy it was unbelievable

HORTON I can't believe he said all that shit

CI It's just he been he been in blazer for 2 days since I got the first 9 from ~~him~~ you

HORTON Oh that you cooked

CI Yeah and he was blazer set then

HORTON Then I ~~I~~ gave you that half

CI Right then I showed him that though but he was like what Ummmmmmmmmmmmmmand he just started running off the mouth

HORTON _____

CI I was like I was like you should have been an actor so I go thought about it I'm thinking to myself well don't worry about it your career has been cut short. I wouldn't mind getting some land out here man

HORTON _____ get away from Columbus I moved straight up into ghetto I live right around the Shell station

CI Oh by that McDonalds

HORTON Yeah

CI Yeah that's fucking get to though

HORTON Swear to god there ain't no CATS in my hood it's all rats cats don't even come through there they're scared it's crazy

CI They got some nice ass cribs out here man

HORTON Still have Them uh you still have the address of that shit

CI No where we suppose to go

HORTON Jimmy never gave it to you

CI	He gave it to me but I threw that shit away cause I figured fuck it I could get with you guys
HORTON	Alright but man I don't it's once this babe's house is so secluded you can't drive right by it and I'm like well _____
CI	Whose House is it
HORTON	mikes
CI	Okay
HORTON	Just imagine a road that goes right off the road here and comes back like this and that's how it is
CI	That's how Mike's shit is
HORTON	Yeah it's right on this road right here
CI	Can we see his house from this road
HORTON	Yeah
CI	What's on down that road past his house I mean that's not his driveway is it
HORTON	No
CI	Okay so we can drive by there
HORTON	its a road there's a bunch of houses around it
CI	Yeah just when we holler at Shawn it's um cause see really I wanted to just come down here and meet him you know what I'm saying then I could of left you there and that way he can just you just show me where they're at and if we see them we see them and if not that's cool but show me the house Tell Shawn I might come back down in a couple days and just have him show me who the people are.
HORTON	I think he's got video tapes of them
CI	Oh the Dudes
HORTON	At some parties and shit
CI	Okay well that's good if he's got them then that's cool
HORTON	I got one of their ID's man but I got to find it and I have no fucking clue where it's at
CI	Oh yeah Jimmy told me about that fucking um

HORTON What he told you about the um_____-

CI What's the speed limit

HORTON Um 55

CI Well he's got somebody pulled over anyway

HORTON Alright it's gone

CI Good well I seen the back of his car I was wondering like

HORTON _____go_____

CI Yeah, yeah

HORTON They take the guy's ID like they think you know who we are but we know who you are

CI That's what they said to do

HORTON Yeah

CI He was probably shook

HORTON You may think he knows me or_____fucked up man I sold some ~~candles~~ cameras to an undercover cop

CI Yeah Jim told me about that when we was um that happened not too long ago

HORTON NO it happened on Valentines Day is when it happened but they didn't come get me just a couple months later they sent out a warrant for me but they didn't

CI Right well didn't you get arrested like not too long ago for that

HORTON I didn't get arrested because um Brittany was at work looking up names on computer for warrants and she looked up my name and it said I had a warrant and I'm like and I was staying at my Dad's house that night so they was probably coming to my house to get me I don't know but she called me and I said I left my Dad's house and went down to Chris's said man I got a warrant for something she called down there and he's like oh it's for Receiving Stolen Property and I was like hugh said what are you talking about he was like she was like talking to some lady or something and they was writing it down said 2 fucking cameras or something like that and I was thinking oh fuck I sold Them To Riot that dude was a cop _____my mind it was a fucking cop and then Chris when he got his fucking garage or whatever and they haven't indicted me for it so she pulled the file I didn't have to printed or nothin

(17)

CI Oh that's see that's I mean Cicero, Cicero is a fucking snake though but

HORTON He said they said what the fucking um the fucking detective has been in there like 2 or 3 times ~~getting~~ mad as fuck man they didn't get a picture of a ID or nothing no fingerprints or nothing and it's bull shit and they got Rob for that shit too and Rob was

CI They got Rob for

HORTON Receiving Stolen Property cause Rob was there

CI Oh

HORTON I'm going to take that shit you know what I'm saying fuck it I ain't never there receiving anything yeah I ain't in fucking no trouble I ain't no fucking receiving

CI Yeah what the fuck that

HORTON I did that

CI Yeah they ain't going to do nothing with that anyway

HORTON I wouldn't even care if it was I don't care if I get the max on it I wouldn't care I'd take it just cause they're fucking that shit

CI Yeah I was wondering if he was going to be like man some Dude Tony called me was fucking cussing at me and everything

HORTON He's like who's TONY

CI Right cause I was like um he said whose this and I was like who the fuck is this he is like this is Rob and I was like well what the fuck you know it was ~~Amy~~ Jamie's phone she was like oh I was like well look okay then I'm out of here dog I didn't know I thought it was a mother fucking cop dog

HORTON Robs straight cause really when that shit I really couldn't get none of that fucking crack man but like I had about had like 12 ounces raw that was all fucking profit me and Rob would split our shit and I was fucking I was like I got to take some of this I got to get wit somebody you know what I mean it's like like I really can't Tell you I Just need IT

CI Right blow up on it would be cool

HORTON So I was like fuck it and that kind of hurt cause I took me down you know what I'm saying if I can get Jimmy out I don't really care about it

CI Yeah that's what I said to Jim I was like man I said it might you know what I'm saying it might get expensive to get everything done but once it's done man that material shit you can get back

JRTON That's like I said I'll sell everything I got I ain't pressed

CI And I never even thought about using none of that shit man I should of as far as with Dude I mean after the video I should of thought about putting some old school shit on it you know what I'm saying I mean I can get him taken care of at the animal plant but I really don't like that you know what I'm saying cause anything could happen and fucking Dude could be like oh well this so and so brought him in here you know what I'm saying

HORTON I don't think ~~those work~~ bones burn do they

CI They will once you get them so hot see they got incinerators what we use to take dead horses and everything over there smokes like a van drives lovely I just get I was getting ready to say I got a mother fucking jacket here somewhere that was kind of a sharp turn I got a mother fucking jacket on and I'm cold

HORTON _____fucking _____came off right and I hit Mound Street and _____

CI I know when I was giving that mother fucker the gas that mother fucker gets my mother fucking car man they dogged my car while I was in jail man it's just to the point now where I'm like fuck it tear it up and get me another one I still ain't got no mother fucking all my clothes together or nothing Dude I just been buying outfits as I go like fuck it

HORTON _____

CI I didn't have anything dog nothing

HORTON Somebody done took all your clothes

CI Everything somebody see this one bitch I use to fuck with I was fucking with her when I got arrested I had my own apartment and shit but I couldn't get to nothing I couldn't have my Dad get over quick enough this Bitch just had like a fucking rummage sale on my stuff probably some of the Dudes she's fucking with you know what I'm saying gave them to them I'll catch her mother fucking ass one day

HORTON Sure

CI That's a little light but yeah something along them lines it's nice as fuck out here man

HORTON you guys was clowin in the county wasnt you

CI Man we was just having our way we do whatever we want to do though

HORTON He wants me to go put thirty dollars on two people to do it

CI Dog I left him was like $90.00 worth of groceries

HORTON Jim

CI Yeah

HORTON He needs um he said he needs thirty dollars on umbe words

CI Yeah

HORTON Anthony_____

CI He must be a new yeah he must of took my cell when I left

HORTON #Jim said they only order like two dollars worth of commissary I just give him thirty and they might get their two dollars worth

CI Yeah a lot of them Dudes that's what me and Jimmy use to do every week like I'd have somebody put money on somebody's books and he'd have somebody put money on peoples books that's just how we went well _____

HORTON I put mad loot somebody's books man put two grand on somebody's books

Yeah we just did we just man we did whatever the fuck we want to do on that though we live like kings to be in jail for real mother fuckers would hate him

HORTON _____

CI All day

HORTON Jim lost serious weight man

CI Well I had him working out and everything with me in there dude I got a Olympic weight set and shit told him when he gets out we can go ahead and get on a mother fucking routine

HORTON _____ if I stole one now I'd be a fucking monster too

CI It don't take long man I mean I'm not no matter I work out for a hour at least everyday so I mean in my profession I'm never you know so I got to be in shape I don't know what the fuck I don't know what could happen you know what I'm saying.

HORTON a lot heavy mother fuckers huh?

CI And believe it or not man they're a lot heavier when they're dead

HORTON That's dead weight man it's like _____weird

CI Well you should of seen me dragging that mother fucker up my steps I was like fuck him fuck man

HORTON No one helped you at all

CI No I was like son of a bitch I mean I didn't clean up I had to call my Dude to help me clean up yeah I mean I put plastic together _____so

HORTON He was thinking like what

CI He did _____he's like man what's all the plastic for ____my cousin and you mother fuckers keep dropping your STems and all kinds of shit in my basement you're burning shit up it was like he didn't give a fuck though he just wanted to smoke he didn't want no nothing I was talking about he just wanted to smoke like I had to redo the video like 3 times man yeah cause in between on what he was saying he was like well could I get a hit now I'm like Dude fuck you ain't suppose to be talking to me you know what I'm saying I was like

HORTON Happy

CI Yeah I'm like man if one more fucking time dog I'm telling you

HORTON I can't believe people do that ~~everyday~~ over crack

Oh yeah you ought to see my fucking Dude off the wall shit with grass I mean sucking a dogs dick is pretty bad and I've seen him do worse man with all these fucking places out here dog this is where the fuck you should of took old boy

HORTON Me & Jim shouldnt have been there

CI I know I mean he told me pretty much

HORTON We shouldn't even have been there

CI How it went down said um

HORTON If he knows that _____he knows me and him should have been setting fucking getting drunk Someplace you know what I mean

CI He said

HORTON When somebody says they're going to do something fucking do it don't fucking lie about it

CI Exactly

HORTON Don't get scared you know what I mean just say in the beginning I don't I can't do it don't fucking say you're going to do something then get somebody else involved you know what I mean

But that's the way it goes that's what I told Jimmy I was like well he's probably spooked at me dog cause he's use to dealing with mother fuckers that bull shit so I just told him I was going to do something and I did it

HORTON I know I went to bed that night thinking man wonder how come this sitting in that parking lot and when you was a little late I'm like man I was like man

CI Yeah well I just couldn't right when you called me

HORTON And you got your girl with you

CI Yeah and I was like man if she's she's so fucking nosey though

HORTON And my girl's not nosey but she fucking knows fucking everything she's fucking Chris's secretary see what I'm saying

CI Yeah, yeah so she's going to know

HORTON She knows shit

CI Right

HORTON Like Jesus Christ I mean that's why I leave her at home I just like stay at my house I'll be back in 20 minutes I'll be right back,why do you always leave me here for

CI I left my girl at Donatoes last time she's taking all fucking dam like look I walk out and I say what are you doing I'm just talking okay well I'll tell you what you stay here and talk to this mother fucker I'm out of here

HORTON It's better that way

CI Yeah

HORTON Like she's so funny

CI Well I was suppose to just take her home but she was fucking taking all day I'm like look I got shit to do Bitch you got to come on you always you fucking guy strange shut-up Bitch

HORTON She's talking to people on cell phones

HORTON You're like what are you doing

CI Yeah like sometimes I be like get your pay phone call my girl will be like why do they got to call you on a pay phone I'm like shut-up Bitch

ORTON I don't say nothing she don't even ask me no questions cause she is use to she fucking knows you don't it's just some shit I can't tell her because she deals she deals with the mother fuckers everyday you know man

CI See well my girl she's I mean she's fascinated by the life style I mean one of her Dudes um Jimmy knows him um Mike Lilly you know Mike Lilly

HORTON Yeah I know Mike Lilly

CI Yeah well I'll beat Mike Lilly's brains out one day though and I didn't even know him cause he was fucking with the girl that I was fucking with

HORTON Dude Mike Lilly

CI He didn't even get out of the car he started to get out the car and I slammed his head between the um car and the door and um cause we was just walking down the street me and my girl and she was like oh my god, oh my god and I'm like what she was like there's Mike Lilly he said he was going to beat my ass I'm like yeah right he pulled up and was like hey Bitch and like who the fuck you talking to Dude and he started to get out the car and I just grabbed his head and was like bam, bam, bam and that was pretty much over from there she was like stop you're going to kill him you're going to kill him I said well Bitch one minute you want him gone the next minute you don't want him gone I mean he didn't impress me much but

HORTON He ain't nobody they robbed something and used too much dynamite or something

CI Right

HORTON Safe or something was burning like all the money got burnt really

CI I heard about that shit that was his stupid ass

HORTON That was stupid

CI My um my daughters Uncle Jason Clay he was the one telling me about this shit.

HORTON Oh you know Jason Clay

CI Well yeah he's got my daughter he's got custody of my daughter

HORTON Shit I know Jason too I don't know him but I know ~~the~~ of him

CI Yeah he does his thing Jason Clay is a fucking really he's just a little fucking piss ant though so I mean he's

HORTON He'll do shit

CI Yeah he'll do shit but I mean he's on he's simpler shit he's on like stealing rims and arson

HORTON Arson type shit

CI Yeah I mean he did a couple insurance jobs with me but

HORTON So you probably know um you know fucking you know fucking Rick Turner

CI Yeah me and Ricky I guess Ricky thinks we're beefing over Jennifer but I'm like Dude I'm not fucking thinking about Jennifer

HORTON You will fuck Rick Turner up

CI That's what I mean that's what I told him I was like I'm going to check this out Ricky you know I said it's bad cause you just stick to playing with little boys cause if you come fuck with me dog I'm going to do you real bad you will be emotionally unbalanced when you're done fucking with me and I said look dog **SIDE ONE ENDS STARTING SIDE TWO**

HORTON You want I mean you want to hook up with him while we're down here just get it over with so that you can meet him

Yeah that way if I got to come back down here you know what I'm saying just tell him to give me a number and shit

HORTON *~~Sure~~ Shaw what's up ~~baby~~ dude I tried to call there 3 or 4 times for you yeah hey um are you going to be at your house I'm on my way down there right now I'm on my way down there no I'm with um I'm with my friend Tony alright, alright um we just passed the BP a little bit ago alright hey don't have nobody there I mean that's all I mean I'm talking about none of your friends alright I know alright (***THIS MUST HAVE BEEN A TELEPHONE CONVERSATION**) he said the only person there is his mom.

CI Tell him he can just tell him he can just come by here

HORTON Yeah I mean we'll discuss it in the car

CI Okay yeah

HORTON His Mom is a fucking son of a bitch anyway look where I got her under my ~~car~~ phone alright we're looking for that little road that comes off to the side called Yellow road

CI It's called what Yellow Road

HORTON Yellow Road

Alright

(24)

HORTON I said Sin with Tony & he just --you went dam well
I guess Jim told him that you get a hold of him and he'll give you whatever he wanted
whatever tips is what it says here

CI Oh so he's probably like oh fuck he's like the hounds are loose

HORTON I think this is it right here

CI Which way am I going

HORTON It will be to the left but

CI This one

HORTON No to the left it will be like you'll see a sign and it will say Yellow Bur

CI Yellow Bud

HORTON Yellow Bur B U E Rose Yellow Bud

CI Oh okay well I guess it is Yellow Bud ain't it

HORTON Yeah it's right here okay let me check it out man _____ right here

Whose crib is this Shawn's,this is Mike's okay

HORTON Mike Authors family knows me

CI Get out of here this lay all the way back

HORTON Right, right you see that little trailer right there

CI Left or right left in the back

HORTON Right just little orange trailer right here to the left right here

CI Yeah I see that's where he stays at

HORTON Yeah

CI Alright so what do we got to do turn around

HORTON _____ right back there _____ it's alright man

CI Yeah that's love

HORTON Is that an alright spot

5801860025

58196 - F26 It's a perfect spot

HORTON mom, Dad & Brothers live there

Man I was looking at that fucking gun last night though and I'm afraid to shoot that thing man

HORTON I'll get you another one

CI Yeah because I don't know that one mother fucking _____

HORTON _____

CI Yeah

HORTON _____

CI Cause man I took it out and looked at it and I was like you got to be fucking kidding me there is no way in this world I can shoot this

_____

THE REST OF THIS TAPE IS NOTHING BUT STATIC

58196 - F27

C.I.	Calvin Horton	Male 1	
Investigator 1	Investigator 2	Interview 1	Interview 2

TAPED INTERVIEW

OFFENSE:	HOMICIDE
REPORT#:	0109704
VICTIM:	ANDREW DOTSON
PLACE OF OCCURRENCE:	GALLOWAY ROAD S/O HALL ROAD
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	WIRE C.I. / CALVIN HORTON
DATE OF INTERVIEW:	MAY 21,2002
PLACE OF INTERVIEW:	VEHICLE
INVESTIGATOR:	ZACH SCOTT/CHRIS FLOYD

C.I. Got all these mother fuckers calling me, my girl's like, every time somebody calls you, you're like oh,oh, I'll call you right back and if you don't call me from a number where I cant' see the number, dude, we ain't got nothing to talk about.

Calvin Horton See I was supposed to call you from my dad's house, but I didn't cause I was thinking cause that's the address the cops have, you know what I mean

C.I. Yeah_____I mean that phone is just, that's one of them phones you work on minutes, you know what I'm saying, phone card, so that it don't go back to nobody.

Calvin Horton Oh his place is tapped

C.I. Yours is, I wouldn't doubt it.

Calvin Horton I'll bet you a thousand dollars it's tapped, I don't even say nothing bad on it, if somebody calls me and says stupid_____you know, I mean, I might say shit like ½_____or some weed

C.I. Yeah, that's why I'm always like, man go to a pay phone

Calvin Horton I aint pressed

C.I. Well they, yeah, they don't

Calvin Horton go left

C.I. They don't give a fuck about...

Calvin Horton _____

EXHIBIT
number 21

C.I. _____oh right here

lvin Horton This is usually where they set up surveillance on Sean right here

C.I. Yeah

Calvin Horton At the church, watching who goes in and out of his house and shit...the first driveway right here to the left_____

C.I. Why don't he get him a Pit Bull, what the fuck kind of dog is that?

Calvin Horton He's had a thousand Pit Bulls, he just fucking loses them, we may as well get outside the truck & TAK

C.I. Yeah Is this dog going to bite me?

Calvin Horton No, no_____

C.I. What the fuck is that

Calvin Horton uh horses

(Tape very distorted at this point)

I. That's perfect yeah, I'm just going to come down here and get a motel

Calvin Horton Have somebody else get it

C.I. Yeah, just, I don't nothing about down here man, see what I'm saying (loud noise)

Calvin Horton _____

C.I. What the fuck was that?

~~Calvin Horton~~ S. K. Is there anything up there NOW This is alot money man, Joey never fuckin

~~C.I.~~ J. H. Alright so how much is that do you want

~~Calvin Horton~~ S. K. I need _____(loud noise)_____you have to man

~~C.I.~~ J. H. Well you got to come get it

~~Calvin Horton~~ S. K. & can emily bring it

I. Got a_____

5 8 1 9 6 ~~Calvin Horton~~ F 2 9 _____you think he did?

~~C.I.~~ C.H If he did go to jail, how's that good?

~~Calvin Horton~~ S.K. _____well, you ain't going to give me_____-

~~C.I.~~ C. H. Yeah, I got it man, I got at my house, but uh, then you could start buying_____next thing, you can get them for, you can get them for like 300

~~Calvin Horton~~ S.K. oH naw, Rob said 350 that's what he

Male 1 He_____300 man_____

Calvin Horton Alright 300_____almost 10,000 dollars and I could have bought one then

~~Male 1~~ C. H. See that's all, he just wants to come down here and ride around or whatever_____

~~Calvin Horton~~ S.K. Yeah_____

C.I. I ain't got nothing else to do.

Male 1 We can ride by there right now

Calvin Horton Oh, we already did

Male 1 Oh, you already did_____

C.I. Yeah, I just, I just got to come down here and, I don't know what they look like, you know what I'm saying

Male 1 Yeah

Calvin Horton Don't you still have the videos, do you still have the videos?

Male 1 Have the black dude

Calvin Horton You had videos where you guys are partying and drinking and shit

Male 1 in the in that camera

Calvin Horton Yeah

Male 1 _____-I don't, I don't know where the tape is in my Jeep -right now

Calvin Horton That is_____

000395

Male 1 You sure it was on there

~~Calvin Horton~~ S.K. Yeah, I got the tape on there

C.I. Alright, well I mean, I'll look at it and if, if nothing else, I'll have you look at it.

Male 1 _____

C.I. Okay, I'm saying if they ain't on there, then just whenever I come back down there, we'll hook up, you'll have to give me a number so I can get a hold of you.

Male 1 Alirght, that's cool _____

Calvin Horton when are you comin down her

C.I. Well, I got to take care of something for my dad tomorrow, but if I get done early enough, I'll come...well, how long are you going to be at that motel ~~son~~? shawn!

Male 1 Like 3 days, 4 days _____

C.I. Uh, alright, well when you get to that motel, whatever, just give Jamie the number where you're at so I can get a hold of you, if I come down here then, cause I got some other stuff to do, but if I get it done in time, then I'll just shoot back down here.

ale 1 get with _____ make sure _____

Calvin Horton I know, I know _____

Male 1 _____

~~C.I.~~ J. N. _____ I was wondering what the fuck happened to you, I was like where is shawn _____

Male 1 _____

Calvin Horton How much _____ 24 _____ _____ so there's 23,

Male 1 24 _____

C.I. Uh alright, yeah when I come down here dog, just be by yourself always, know what I'm saying

Male 1 Oh I will nobody be down here _____

I. Alright

Calvin Horton

Male 1 Yeah you can go

Calvin Horton

C.I. Okay, yeah, cause I mean Jamie, I'm going to do what I gotta do, but I'm not playing no mother fucking games with nobody that's, I'm here for a purpose dog.

Male 1

Calvin Horton He was like, do you want to come down here with me

C.I. I know, I was like, that's why I told ~~your brother~~ you first, I was like dog, we ain't even got to bring the gun with us man.

Calvin Horton That's why I was alright well maybe

C.I. How hard you think it's going to be to get to Mike

Male 1 -everybody in the world is telling me he never said nothing Jason Woodrow went to the cops, wrote a statement, saying

C.I. Who the fuck is Jason Woodrow

Male 1 He's the fucking bitch, and I'd like to fucking kill him

Calvin Horton Somebody that don't know shit, that hasn't seen shit, you know what I mean, that door fucking know so

C.I. If Mike's running his....even Mike's just talking to him, that's something you shouldn't talk to no fucking body about. Certain things don't need to be talked about, when they're done, they're done, leave 'em at that.

Male 1 --he's never at his house, so I don't know, he won't talk to me at all, so

C.I. Well, what about the other two?

Male 1 They, they can't be hard to finde at all ~~work~~ ball everyday when it's nice out

C.I. That's cool

Male 1

C.I. Well if I just, I just need to get a look at them, you know what I'm saying, I don't want to run around whacking the wrong mother fuckers, I mean, I don't have a problem with, but it just defeats the purpose. Dude, this is like down in the fucking boonies, isn't it man.

~~Calvin Horton~~ S.K. _____

C.I. Really

~~Calvin Horton~~ C.I _____Dude, it would be so fucking sweat, but I mean, getting to where you want to go ain't really a problem, it's just getting

Male 1 _____

Calvin Horton _____

C.I. We'll just get it when.....you got a pen at your house?

Male 1 _____-really want to come to my house man

C.I. Okay

Male 1 _____

C.I. Wow

Male 1 I swear to god

Calvin Horton He said man they probably want you guys pretty bad

Male 1 _____

C.I. I was getting ready to say that, I was like yeah, I'm sure you know, fuck 'em, _____

Calvin Horton Huh

C.I. I said them wanting you and getting you is two different things.

Male 1 _____

~~Calvin Horton~~ C.I It is fucking beautiful

I. What do we need like, need like a fucking 4-wheeler

5 8196 Calvin Horton F33 alright get on it on this road

Male 1 yeah

J. this mother fucker can fly dog

Male 1 _____

LOTS OF STATIC FROM THIS POINT ON, CANNOT HEAR ANY CONVERSATION

58196 - F34

Investigator 1	Investigator 2	Interview 1	Interview 2

TAPED INTERVIEW

OFFENSE:	HOMICIDE
REPORT#:	0109704
VICTIM:	Andrew Dotson
PLACE OF OCCURRENCE:	Field s/o Galloway Road
DATE OF OCCURRENCE:	October 10, 2001
INTERVIEW OF:	CI, Conway
DATE OF INTERVIEW:	MAY 18th 2002 A
PLACE OF INTERVIEW:	
INVESTIGATOR:	Detective Scott **(review/summary from the conversation between CI and the suspects)**

The following is a summary of highlights from the conversation between CI and the suspects.

Page 5: Conway uses Cicero's phone from the jail to contact CI.

Page 6: Conway references comments made about the Chillicothe robbery and individuals in Chillicothe that Conway contacted with the CI to have killed.

Page 7: CI refers to Mike Arthurs being part of the killing list. Conway makes references about Brian McHorter.

- Conway references leaving the Conway look alike (Deputy Shivcs) and not finding his body and Conway states right.

Page 9: Conway/possibly Cicero, CI references body being found or not being found and an unknown voice says it would be better if it probably didn't.

- Conway references finding Brian McHorter.

Page 10: Conway and CI reference the gun transaction from the night before. CI also references the videotape.

Page 11: There is reference to taking care of the dudes on the robbery and on Mike Arthurs and Conway replies uh huh. Brian and Conway state that he'll ask Chris to find him (Brian McHorter) at the request of CI.

- Refers to the videotape that the CI is to make sure that the look alike that he is making confessed to the Dotson homicide makes some mention to the bullet that was left on the ground to authenticate the confession tape.

Page 12: CI references Jamie is going to show him different locations and Conway replied yeah.

- Conway again reiterates to CI that he needs to find Brian McHorter.

58196 - F35

TAPED INTERVIEW

OFFENSE:	Homicide
REPORT#:	0109704
VICTIM:	Andrew Dotson
PLACE OF OCCURRENCE:	Field S/O Galloway Rd.
DATE OF OCCURRENCE:	October 10, 2001
INTERVIEW OF:	CI and Horton
DATE OF INTERVIEW:	May 22, 2002
PLACE OF INTERVIEW:	Phone
INVESTIGATOR:	Scott/Floyd

Shawn:	Hello
Tony:	Is Shawn there?
Shawn:	Who's this?
Tony:	Tony.
Shawn:	What's up man?
Tony:	What's up is this Shawn?
Nightengale	Yeah, its him.
Tony:	Hey, you gonna be around there later on this evening?
Nightengale	Yes, I'm about to go play basketball here in like a half hour.
Tony:	All right what time is it now? How long you gonna be playing ball?
Nightengale	Probably play basketball a couple hours. 12:00-12:30
Tony:	All right well if I head down there before then I'll just give you a call.
Nightengale	All right just call this number man I'll probably be here about 12:30.
Tony:	All right well I'll be in my Cadillac when I come down.
Nightengale	All right man.
Tony:	All right

EXHIBIT
22

000400

Nightengale	All right.
ny:	Later.
Tony:	_____?
Brittany:	Yeah.
Tony:	_____? What's up?
Brittany:	Nothing.
Tony:	Jimmy isn't called you today?
Brittany:	No why
Tony:	Because I need to holler at him
Brittany:	No he hasn't called me.
Tony:	Where you at?
ittany:	I'm working.
Tony:	You're at work? What are you doing at work?
Brittany:	Making money.
Tony:	Making money. Hold on for a second all right?
Brittany:	Okay.
Recording:	Phone ringing – we're sorry all circuits are busy now.
Brittany:	Hook up
Tony:	What's going on?
Brittany:	Just got off work
Tony:	Jimmy called you yet?
Brittany:	Yeah I talked to him probably about ½ hour – 45 minutes ago.
ny:	All right, tell him its an emergency that he gets a hold of me and what's up with Jamie's phone?

581900496

Brittany: I don't know, I talked to him earlier.

ny: There ain't no service.

Brittany: He might be out of service.

Tony: These guys are fucking idiots. Look, tell Jamie to get a hold of me, tell him to go to a pay phone, something and call me and let me know if you get a hold of him or don't get a hold of him, either way I'm sitting right here waiting with my thumb up my ass.

Brittany: I'll call you right back

Tony: All right, thanks Brit.

Brittany: Bye.

Tony: Bye.

Phone Ringing

Brittany: Hello.

Tony: What's up.

ittany: Their phones must be like turned off like he didn't pay his bill or something because I don't know that's what it says, I mean it won't even let me try to get him. I called Rob and his girl and left a message for both of them to try to get a hold of him, so I'll get a hold of him somehow. I'll go to his house if I have to.

Tony: Yeah, yeah, its like extremely important.

Brittany: I'll find him for you.

Tony: Make sure when Jimmy calls you you call me on his three way.

Brittany: All righty

Tony: All right?

Brittany: Bye

Tony: All right, bye-bye.

ny: Is Shawn there?

Emily: Who's this?

Tony: Tony.

.nily: Tony, this is his girlfriend, Emily. He told me to tell you that he's playing basketball right now and he'll be here at 7:00.

Tony: Okay, well is my number on your phone?

Emily: No we don't have caller ID

Tony: Okay, well can you grab a pen real quick?

Emily: Okay. What is it?

Tony: 397-9607

Emily: Have him call you? Or do you want to call back here or what?

Tony: Yeah, just tell him to call me, like the minute he walks in the door, tell him to call me.

Emily: All righty.

Tony: Tell him its area code 614.

'ily: 614

Tony: Yeah, I'm in Columbus.

Emily: All right.

Tony: All right

Emily: All right

Tony: Bye.

Tony: Hello.

Hey what's up man?

Tony: What's going on bro?

Hey we got that phone shut off

'ony: Okay, what is this a new number?

000403

581196 - E38

No this is a pay phone.

Tony: Well I'm probably getting to go down the highway with Shawn

That's cool.

Tony: But what's up with the heat?

Inaudible.

Tony: Fuck, I don't know nobody that's got none

Inaudible.

Tony: All right well just try to have it like by the time I get back tonight.

Hey, look, a, look (inaudible) I gotta do something _____
And give it to you, you can keep _____

Tony: Okay, that's cool. Yeah, I wanna know how much you wanna other thing too.

All right.

Tony: We're ready, you now what I'm talking about?

Yeah, I got, hey I got (inaudible) all right?

Tony: All right.

All right, Tony.

Tony: Later.

Tony: Let him know I'm on my way

Recording: Your account has 212 minutes of talk time available.

Phone ringing

Female: Hello

Tony: Hi is Shawn there?

Female: No he ain't here. Him and Emily went somewhere.

Tony: Him and Emily went somewhere?

Female: I guess, they ain't here I don't know where they are.

Tony: All right if he comes in, just tell him that Tony is on his way?

Female: He ain't here, but I guess, yeah.

Tony: Okay, thanks.

Female: All right, bye.

Phone ringing

Female: Hello

Tony: What's up. Hey Jamie was supposed to give me his new number but he didn't give it to me.

Female: I don't have it yet either.

Tony: Well can you get a hold of him?

Female: Yes I can

Tony: Huh?

Female: I'm talking to Jim right now and I'll call you as soon as I get off the phone with him.

Tony: Well hang up and call me back on three-way with Jim.

Female: Okay.

Tony: All right.

Tony: Hello, hello, hello, I can't hear. Hello?

Jim: I can hear you fine.

Tony: Okay, what's up?

Jim: Nothing.

Tony: Look I'm just now on, I'm coming back from Chillicothe, dude its fucking crazy man, you gotta get with them boys, Jim. They got me down here for nothing, two days on the fucking road this is...(goes blank)

:w conversation:

Female: Hello

Tony: What's up?

Female: Can't get a hold of him, I don't know. Nobody answers the phone. I don't know, I'll probably be able to get a hold of him in ½ hour or something like that.

Tony: A half hour?

Female: Yeah because his girl's gonna be with him

Tony: His girl? Okay well just tell him to call me when he gets rid of his girl, just tell him to go...

Female: Its like that's the only way I can get a hold of him, because of her phone right now, but I'll tell him to get to a pay phone and call you.

Tony: Okay, tell him to try to make it before a half hour.

nale: I mean I can't get a hold of him until then because I called her phone and that's what her family said that they'd probably be together.

Tony: All right.

Phone ringing:

Brittany: Hello

Tony: What's going on?

Brittany: Nobody's got a hold of him

Tony: Don't Shawn have his new number, I think he does, I think Jamie gave it to him. I have to get a hold of him Brittany. I'm sitting out here in the country in the fucking parking lot.

Brittany: Hold on one second, okay?

Tony: All right.

ittany: I'll have to see where he's at and call you in about ½ hour.

Tony: You told me that ½ hour ago.

Brittany: No but I'm going to where he's at. I can't get a hold of him any other way. I'm just saying I'm about to go to where he's at

Tony: Okay, he's gonna meet you there?

Brittany: Well he's gonna be there, I'm going where he's at.

Tony: Are you for sure? I don't like sitting out here for no fucking reason.

Brittany: I'm positive, I'm 100% positive.

Tony: Okay, well make sure you call me.

Brittany: I'll call you as soon as I talk to him.

Tony: Tell them to get their fucking head out of their ass man, what the fuck.

Brittany: I already know.

Tony: Well, I hope somebody knows, I'm not enjoying this shit at all.

Brittany: I'm sure you're not, I'm gonna be where he's at in about ½ hour, I'm about to walk out the door. I'm going somewhere else, but I'll stop there...

ony: No don't stop there first.

Brittany: That's what I'm saying, I'll stop there first.

Tony: Okay.

Brittany: And get him on the ball on the go with you or whatever.

Tony: Well, when you get there, if he's not there, call me and I'll just get with him tomorrow. Either way, fucking call me because I need to talk to him like right now, I'm tired of sitting out here for nothing.

Brittany: All right, I'll call you

Tony: All right, later.

Tony: Hello

Jamie Hey man what's up man

ay: Man, what the fuck, what's up? Dude I'm getting pissed man.

581996_000407_F42

Jamie: At me?

ny: At every fucking body, Jamie, this shit's crazy dog.

Jamie: What the fuck am I doing?

Tony: Look, I come down here, I'm down here all fucking day, man. All fucking day for nothing, basically nothing. I didn't get to see shit, know what I'm saying? I thought he was gonna have some heat for me, he ain't got no fucking heat for me, I'm running around like a fucking idiot dog. I told you I didn't want to go through this shit man.

Jamie: I got something down here for you man.

Tony: Fuck dog, its fucking midnight man, I'm on my way to the house.

Jamie: That's cool man, but I got that _____Do you want it tonight or do you want it tomorrow?

Tony: I'll just get it tomorrow man, its fucking late and I'm tired dog.

Jamie The party's trying their best

Tony: Its not so much as you man, its just

nie: Is it Shawn man, is it Shawn, just say it.

Tony: It is dog, yeah

Jamie: Well what's happening man

Tony: Dude he makes me nervous, man

Jamie What's up then

Tony: I don't know, you tell me dog, you guys gotta get your shit together and figure it out man because I'm running around here like a fucking idiot, man, this shit ain't cool dog.

Jamie: I feel you man.

Tony: You know what I'm saying, just driving so fucked up, dude, I'm surprised I didn't get fucking pulled over. Then he takes me to his house and some dudes in his fucking house and he wants me to come in, you know what I'm saying, I'm...what the fuck.

Jamie: Hey, dude, I'm gonna go, you know what's wrong is(inaudible).

Tony: Look, check this out...

nie I'm gonna have a serious _____and see what the fuck's up man, because I gotta know

Jamie: because I'm gonna tell you its this way.

Tony: Jimmy knows I'm pissed dog.

Jamie: All right (inaudible)

Tony: I know you are dog, I'm just, I gotta ease the anger problem and right now everybody's affecting it man.

Jamie: All right just don't take this out on me.

Tony: I ain't gonna take it out on you dog, just fucking, you know what I'm saying, I mean...

Jamie: I'll fucking keep her straight all right

Tony: I don't got the new number, that's what I'm saying.

Jamie: All right fucking write it you ain't never had a pen to write this shit.

Tony: No, what is it, I'll remember it, what is it?

Jamie: The easiest to remember is 893-3099

Tony: 893-3099. All right, go see Jimmy at 1:00 tomorrow Jamie.

Jamie: Dude he always has somebody _____at 7:30.

Tony: Fuck that, you tell him your mom wants you there at 1:00 to get this bullshit straight man. I'm sleeping in tomorrow, I probably get up around about 2-2:30, 3:00.

Jamie: So you're, I mean I gotta talk to you in person dude, so we'll have a meeting about 12.

Tony: Yeah, because...

Jamie: Cause I gotta see where you're coming from and I gotta go to him where you're coming from and where I'm coming from. That way he understands because..

Tony: Yeah because, bro, you know what I'm saying. What I told you in the beginning I didn't want to be going through. So, its like what I told you in the beginning I didn't want to be going through, that's exactly what I'm going through man.

Jamie: All right. I got you straightened out down here for sure.

Tony: All right I'm about to pick my girl up, so I'm about to get off of here. I'll hit you up tomorrow man.

Jamie: Man, I'll fucking call you tomorrow, you don't even, I'll go to the basement

Tony: Make sure you do dog cause this is getting...

581296 - F44
000409

Jamie: Don't even call my number, I'm gonna be getting hold of you because I'm the one that getting the shit straight. I'm gonna do whatever I gotta do.

I mean I don't want to say if it comes down to whatever you know what I'm saying?

Tony: Right.

Jamie: I mean I'm gonna do everything in my power to make it happen, all right.

Tony: All right bro.

Jamie: All right man

Tony: Yeah we'll just, we'll holler tomorrow man.

Jamie: All right that's cool.

Tony: All right Jamie I'll holler at you.

Jamie: All right.

Tony: Later

Dude he is so fuckin scared its unbelievable. Its on tape.

58196. - F46

Franklin County Sheriff's Office
Detective Bureau
Progress of Investigation

Offense:	HOMICIDE
Report #:	200109704
Victim:	ANDREW DOTSON
Place of Occurrence:	FIELD S/O GALLOWAY ROAD
Date of Offense:	OCTOBER 10, 2001
Reporting Detective:	Z. SCOTT
Date:	May 30, 2002

INTERVIEW OF CI AND SHAWN NIGHTINGALE. DATE OF INTERVIEW MAY 22, 2002, THE FOLLOWING IS A REVIEW AND SUMMARY OF THE CONVERSATION BETWEEN CI AND SHAWN NIGHTINGALE WHICH OCCURRED ON MAY 22, 2002 IN CI'S VEHICLE IN ROSS COUNTY.

PAGE 7/ Shawn Nightingale shows CI the ball field where one of the victims plays ball all the time.

PAGE 10/ Shawn Nightingale takes CI to the house and describes the intended victim Alex.

*Nightingale talks about Jamie Horton having all the addresses.

PAGE 9/ Nightingale tells CI that he gave Jamie Horton the addresses two different times.

*Nightingale volunteers to do surveillance on one of the victims for CI.

*Nightingale admits that ~~the~~ He set up the robbery for the Rex robbery.

*Nightingale tells addresses of the intended victims, gives numbers 103 at apartment 8.

PAGE 13/ CI states he needs pictures of these intended victims.

EXHIBIT number 23

*Nightingale states that he has got to get them.

PAGE 15/ Nightingale shows Marcus's address one intended victims.

PAGE 16/ Nightingale talks about him and Mike Authors going to West Virginia but couldn't do it they couldn't find a good spot. Nightingale states that Jim said Mike would have to go. Nightingale talks about Andrew being dead stating he knew that Andrew was already dead before the other thing happened.

(1)

C.I.	NIGHTENGALE	Female	
Investigator 1	Investigator 2	Interview 1	Interview 2

TAPED INTERVIEW

OFFENSE:	HOMICIDE
REPORT#:	0109704
VICTIM:	ANDREW DOTSON
PLACE OF OCCURRENCE:	FIELD S/O GALLOWAY ROAD
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	CI AND SHAWN NIGHTENGALE
DATE OF INTERVIEW:	MAY 22, 2002
PLACE OF INTERVIEW:	
INVESTIGATOR:	ZACH SCOTT/CHRIS FLOYD

C.I. He's got a new number

NIGHTENGALE let me talk to him

C.I. Hold on

.GHTENGALE _____ on the phone, he's going to have to call you when we get to my house I ain't got no cell alright

C.I. I think your mom's on the other line

NIGHTENGALE I don't care

C.I. Hello, hello. So what are we doing, dropping this off

NIGHTENGALE Got to drop that off and this off

C.I. at?

NIGHTENGALE _____

C.I. We're going to drop his car off.

C.I. Yeah, hey, we're just going to drop his car off at his house, so that's the plan, we're going to drop off his car at his house and then he's going to get in mine. Alright.

C.I. Hey yeah, what's up, what's going on? shit follow my dude up here at his house and drop his car off. Uh, he's going to, we're just going to ride around a little bit, he's going to get in my car, we're just going to ride around. Do what? Yeah,

581 96 - E47

yeah, I'm with ya. Yeah, just don't, don't, don't follow, just call me in a little bit or I'll call you, I got it, it's under control bro. Alright? Alright. Hello, hello, fuck, This is crazy. (phone rings) Hello, hey what's up bro, my fault man, I hung it up instead of answering it. Alright, uh, hey man, it's cool, I followed him to his house to drop his car off. Well I'm just going to leave it, leave it on then..okay...later. Dude, I'd like to never found you.

NIGHTENGALE You CAN Come iN

C.I. Alright, who all's in the house?

NIGHTENGALE Just my mom

C.I. Well I thought some dude is in there? Hey, just how long you going to be Shawn

NIGHTENGALE (heard no response) Hold ON

C.I. Who is it?

NIGHTENGALE Her boyfriend

C.I. I mean it's cool, I can wait a couple minutes if you gotta

NIGHTENGALE I can page him to your phone number it dont matter

I. Uh, yeah okay, well it's run by minutes, that one is so...

NIGHTENGALE Alright, let me, it only takes one second He call right back

C.I. Well you can give him, you can give him my number to call.

NIGHTENGALE Want to get a room

C.I. Uh, You can get a room I mean, cause my other dude's coming down, know what I'm saying, I just need to get the addresses and just show me a little bit about how to get in and of this mother fucking place, I'm lost down here

NIGHTENGALE So you're going to get a room right, and I can just get it in the other guy's name

C.I. Yeah, we can do that

NIGHTENGALE I mean I don't care about this guy he's a crack head so it don't matter

C.I. Her boyfriend is

NIGHTENGALE No, the guy that I'm going to call, the one that owes me the money, I'll just have him go get a room for like two or three days whatever. He won't be there, he'll just go get it for us and I can tell him to leave at the front desk or something

Female – shawns mom — Who's here

NIGHTENGALE — Nobody, who, me mother fucker god damn I hate that fucking bitch

C.I. — Whatever you want to do dog, I really wasn't going to stay down here.

NIGHTENGALE — _____

C.I. — I mean it might be about like a hour and a half or something, but, it's what I'm saying, _____ I could wait.

NIGHTENGALE — NO _____ I could probably stop by this house and get the picture of this guy

C.I. — That's cool.

NIGHTENGALE — The black guy's friends basketball with some of his friends, he stays in Waverly

C.I. — Waverly

NIGHTENGALE — Yeah, it's like 15 minutes down the way

C.I. — You know where it's at though, I mean where he stays at?

NIGHTENGALE — His mom's All I know I mean, I don't know the actual address

C.I. — Right

NIGHTENGALE — I don't want to ask the guy

C.I. — Which way

NIGHTENGALE — Like, I could have my brother Shaak get it my brother _____

C.I. — Dude, I don't know nothing about down here man

NIGHTENGALE — You went left under the bridge?

C.I. — No man I fucking, I don't know what I did dog, fucking Jamie gave me _____ -dog he had me stuck and I'm lost, I was trying to save it for when

NIGHTENGALE — _____

C.I. — I was trying to save it for when we got together, I'm like fuck I smoked it

NIGHTENGALE — I don't smoke weed

C.I. Oh you don't

NIGHTENGALE I Just dein

I. Shawn got you a gun, Did Jamie give you one/ I mean he gave me one dog, but that's mother fucking, but you should have soon what he gave me, I'm afraid to shoot the fucker

NIGHTENGALE Black one?

C.I. Yeah that 38, what are you talking about, he gave me a 40 for the video

NIGHTENGALE _____

C.I. He gave me a 40 for the video , that was good, but I mean, once you use it, you can only use it once, you know what I'm saying

NIGHTENGALE _____but I got a 9_____that's mine_____

C.I. Hello, fucking dad just gave me this. Jamie spent two hours showing me how to work this mother fucker and I ain't got a clue dog

NIGHTENGALE _____

I. Dude, this is down in the fucking sticks ain't it?

NIGHTENGALE Yeah this is_____ they might just be telling you that too, because he's been going around saying a bunch of shit_____

C.I. Who the black dude?

NIGHTENGALE Yeah

C.I. I thought that was your boy man?

NIGHTENGALE He was_____introduced him To everbody as much as I did_____happened, then he got away with it And bragging about it to everybody

C.I. That's fucking crazy. It probably been better if I just came to your house and got you dog, cause I'd have probably remembered how to get, I remember how to get to your house easier then what the shit I just went through.

NIGHTENGALE You remember To come through town to get to my house?

I. Yeah. I started to just come to your house but I was like damn, if he ain't there, then

NIGHTENGALE I was sitting over there waiting

C.I. That's what your mom said when I called, I was like, tell him don't leave, I'll be there

NIGHTENGALE 40,000 caddy's kept turning in there, I kept going up to the car -and shit

C.I. (chuckle) Yeah, they ain't good

NIGHTENGALE _____

C.I. (phone rings) Hello, what's up I'm just well, I take, I'm taking care of some shit, do what, I can't hear you dad, you're breaking up....hello....fucking thing.....

NIGHTENGALE _____

C.I. I don't know none of that What's the speed limit down here dog?

NIGHTENGALE 55

C.I. On this road it is

NIGHTENGALE Yeah

C.I. God damn

NIGHTENGALE _____through here_____

C.I. _____get a hold of you guys

NIGHTENGALE _____he don't call my house anymore cause I told him not to man_____

C.I. phone sex got me spooked to though

NIGHTENGALE _____

C.I. Last two months_____

NIGHTENGALE Naw I mean I was there one time, they tried to aggravated robbery but went down there_____shit out of my house_____

C.I. Jimmy calls me all the time through Brittany, but I just don't like talking on the phone-- man

NIGHTENGALE you shouldn't

581996 000434 E51

C.I. I told him, I was like, man dog, I, know what I'm saying, I don't want to talk about this shit on the phone man, he said, well, there's some shit I need you to know, I said well does Jamie and Shawn know, he said yeah, I said then you don't need to tell me nothing

ʌGHTENGALE _____girlfriend's house_____

C.I. Them dudes are making me paranoid

NIGHTENGALE go the speed limit through here

C.I. What is it 35

NIGHTENGALE if they see me in this car, I might be in jail too

C.I. That wouldn't be good. Man you know about down here dog, you want to drive

NIGHTENGALE I don't have a license

C.I. Oh well yeah, you don't want to drive

NIGHTENGALE I don't have no fucking money AT All I JUST gave Jamie all my money I had man I Need TO get me some money saved up

C.I. Jamie didn't shoot you anything back last night

'GHTENGALE Oh he gave me some shit I aint done nothing with it cause down there all day_____like that

C.I. Think he knows something?

NIGHTENGALE I mean he's been, he's_____best friend, Danny, that's his best friend, he's been telling them shit about uh, the cops said you got fucking money out on his head

C.I. That who's got money on his head?

NIGHTENGALE Authors

C.I. who?

NIGHTENGALE Yeah that's what the cops have been telling him that they better watch out for, he better not talk to me because if I ever see him_____like that...

C.I. Get the fuck out of here

NIGHTENGALE _____

~ I. Well, I mean if it's done right dog, it don't got to come back to nobody.

000435

NIGHTENGALE Uh, I already know it's going to come back to me!

C.I. You think

NIGHTENGALE I know, fucking sure man

C.I. Well what the fuck, what do they, does Jimmy and them know that?

NIGHTENGALE Yeah, I mean Jamie, I tell Jamie, he knows it's fucking, _____knows as soon as it happens, I ain't going to be able fucking walk outta _____The house is up here_____ happen like that

C.I. Who said that, Jamie?

NIGHTENGALE Jamie_____mother fucker's giving me money

C.I. That's crazy

NIGHTENGALE _____

C.I. Is this the park where you said he plays ball at and shit

NIGHTENGALE Yeah I'll show you where he plays its where I play at

C.I. Shit, I'd be lost down here dog, I wouldn't know_____

NIGHTENGALE There's only fucking 3 roads you really need to know man, that's fucking 104, like Main Street

C.I. Right

NIGHTENGALE The road that they're on, they're both on the same road almost, but if they're in Waverly man, it's probably going to take me a couple days to find out where the fuck he is in Waverly, but that's a lot better if he is in Waverly_____

C.I. Yeah, I mean no body knows_____

NIGHTENGALE He plays over there

C.I. Yeah, he don't, I mean nobody knows nothing about me dog.

NIGHTENGALE I know, I don't even know about you

C.I. Right, I mean the only people that's ever even met that's got anything to do with this is you and Jamie, I mean, other than Jimmy, Jimmy's family, but other than that.

NIGHTENGALE You ain't got nothing to worry about with me.

I. That's what Jamie told me.

NIGHTENGALE back there's 104 right there we passed up

C.I. Right

NIGHTENGALE You could've come all the way up 104 and turned right right here, don't turn right right here, I'm saying whenever you come to 104 _____

C.I. Yeah, he took me by it once, it's on this street right Vine Street

NIGHTENGALE _____

C.I. I think it's on down there thought

NIGHTENGALE It is, you can't go left though, go down the alley

C.I. Fuck, I can't go down the alley

NIGHTENGALE Yeah, I don't even know what kind of car he has either man

C.I. Which one, who?

NIGHTENGALE The Chinese guy

C.I. Alex

NIGHTENGALE _____ I've ever seen

C.I. I didn't even know he had a car

NIGHTENGALE He's got a car, they took his car, but just, he got it back

C.I. Right

NIGHTENGALE A little Honda

C.I. See that's what I'm saying though, they just got me running around fucking blind, know what I'm saying, this is crazy

NIGHTENGALE _____ I don't know

C.I. I mean, you know what I'm saying, I know everything there is to know about, well almost everything, that's going on, but as far as this shit, I mean damn, this is crazy, this shit's supposed to be lined up.

NIGHTENGALE Heres the house

C.I. Yeah, that's what me and Jamie, but see Alex don't stay there no more does he?

NIGHTENGALE That's, that's his little Honda right there, that's the one I think he's driving right there, Yeah---

I. How the fuck am I going to get in there dog?

NIGHTENGALE Probably just wait and watch him for a minute, I mean I'll do that, I'll come here and fucking watch him for you I'll sit there all fucking day long, I don't care about that. If it'll help Jimmy out, fuck it find out apartment complex best way, bunch of old people straight all the way down

C.I. Main why did you guys do this shit, you know what I'm saying, didn't you know this type of shit, this would be the repercussions.

NIGHTENGALE I didn't really do nothing, I mean, I kind of set it up IT was cool until the fucking Marcus -started telling people. I'm sure he fucking told the kids around here, the family Did a shits cops got back to them Mike's supposed to be giving Danny a paper too saying that the paper that they gave him about Marcus -everything that he did and he is the one that ratted I know it wasn't Mike, I can almost guarantee it wasn't Mike --tell him that, but Mike's every time he was there and

C.I. Jimmy, Jimmy wants Mike gone because of that shit with Andrew

.GHTENGALE Yeah, I mean I really don't think he said anything about that, but if he told you exactly what happened dumb to fucking say something like that.

C.I. Well, I mean, he said it was him and Mike, I mean he said Mike didn't, know what I'm saying, actual shit. I know which one is it though

NIGHTENGALE 103

C.I. We can walk in there, yeah, that's cool yeah, this driveway

NIGHTENGALE Yeah see a little white Honda, a little white 4-door, real little Honda Sonata, park any, I'll show you which one it is

C.I. Which apartment it is, well, I mean do you know the number

NIGHTENGALE Yeah, it's apartment 8, it's on the left.

C.I. Apartment 8

'GHTENGALE

581196 - E55

000438

C.I. What's he look like

NIGHTENGALE Just a tall black guy with glasses, he's kind of chubby but he's kind of stocky too and he always wears a hat, I never seen him without a hat and he dresses like a white guy, he don't dress like no black, and he wears glasses, he's like 6'3", 6'4"

C.I. Where do you want to go?

NIGHTENGALE Right, to the right, should be the easiest way, you can keep going straight all the way to 104 on this road right here

C.I. This one does

NIGHTENGALE Yeah, this turns right, I'll show you which one to turn right on

C.I. When we get back to your people or whatever, just write the addresses down, know what I'm saying.

NIGHTENGALE I don't even know that address cause_____

C.I. Which one, which one_____

NIGHTENGALE Both of them, I don't their addresses, Jamie, he's got them wrote down, he's got everything wrote down, he didn't give them to you

I. No man, that's what I'm saying, he said he had to get them from you again, cause he didn't have them_____

NIGHTENGALE I gave em 2 different times at the time, stop at a gas station_____turn right

C.I. So what the fuck happened with the day of the robbery_____-that they was even in the position to get caught, I don't understand that

NIGHTENGALE _____I mean all I can_____is the shit that people told me Marcus fucking_____10 years or something like that. They just want Jimmy, they don't want nobody else.

C.I. Right

NIGHTENGALE go right & Mike I don't know, I don't really think he said anything man._____-that's all he ever told me to do_____

C.I. I think I know some Authors from the south end

NIGHTENGALE Yeah

That's who, he's one of them?

NIGHTENGALE Yeah Like Bobby, you know Bobby Author like he just got out there in probably like 6 – 7 months ago, real big mother fucker

I. That's probably, yeah, I probably know him, I probably did time with him____

NIGHTENGALE _____from here_____

C.I. What is, what is the purpose of fucking, I don't understand what purpose is this going to serve dog

NIGHTENGALE ~~Being here~~ doing this

C.I. Yeah, I mean, they already, I'm sure Jamie's probably told you, we got, I got, took care of one for him, know what I'm saying

NIGHTENGALE Yeah_____

C.I. So I'm just running around here killing people for the excitement

NIGHTENGALE Yeah_____that's why if you ask man, that's all I think it is. I don't really, I just think it's Marcus man, I mean, Alex, he don't, he don't really know nothing.

I. Right, well he's probably scared to death, I mean they said he took his fucking, his driver's license

NIGHTENGALE And if everything ever happened to this Marcus man, would be the end of every fucking little thing _____the other guy or Mike, Mike will be_____-

C.I. I thought, see that's what I don't understand, I thought fucking Marcus was was this your boy or did you just know him, I mean

NIGHTENGALE _____forever man, I mean_____shit and his dad would always tell me something's going to happen to you_____tell him to tell me_____ _____everything

C.I. Yeah Jamie_____right around here ain't it

NIGHTENGALE It's on 5th Street

C.I. Oh, cause Jamie showed me yesterday

NIGHTENGALE _____I don't really see no_____

581196 - E57
000440

Jimmy, I don't know Jimmy's fucking tripping dog, he thinks, he thinks that Mike is going to say something and that would be the dumbest mistake he ever fucking made in his life, I mean, he'd be in there forever if he said something

C.I. Well Jimmy thinks Mike might say it, tell him that but that Jimmy did it _____ that Jimmy did it, know what I'm saying

NIGHTENGALE He's too young to even know anything like that, to even think something like that. He told me if it even came down to Mike, I told him I was like _____ and Jimmy Jamie _____ -all three of them come up gone _____ papers and shit everything he had _____ I got like fucking two things, I burnt that shit

C.I. _____

NIGHTENGALE I got a washer and dryer in my house _____ serial numbers of that and shit, I even bought that _____ want a drink or something

C.I. No I'm cool, yeah, as a matter of fact, let me have a pepsi

NIGHTENGALE pepsi?

C.I. Yeah, they got a bathroom in this mother fucker

NIGHTENGALE huh?

C.I. They got a bathroom in here

NIGHTENGALE I doubt it

C.I. _____ I ain't got _____

NIGHTENGALE _____

C.I. Come on stupid mother fucker

NIGHTENGALE You want me to do it for you Tomorrow _____

C.I. uh yeah, I just don't, know what I'm saying, I don't want to see nobody else you know what I'm saying

NIGHTENGALE You wont ever see no-one else

C.I. Yeah I was telling Jamie, I was like man you guys, you guys brought this situation on man by being fucking sloppy man

'GHTENGALE Well I don't know exactly how they did _____ supposed _____

C.I. I tell Jamie, I said why the fuck didn't you just bury the dude man, know what I'm saying, you can't just leave him out there like that man

NIGHTENGALE Oh is that what you're looking for

C.I. Yeah, with Andrew I -said somebody bound to find to it. Their biggest, their biggest concerns right now this fucking Andrew and this uh, this Chillicothe shit with the robbery type whatever the fuck happened with that

NIGHTENGALE Oh you think there asking questions about Andrew.

C.I. Jimmy seems to think they are. I asked Jamie, Jamie said, he thinks, Jamie and Jim both said Mike should go

NIGHTENGALE _____ anything like that

C.I. I think, I mean Jimmy's just afraid that Jimmy's just afraid if worse come to worse, Mike will just tell them about that mother fucking shit with Andrew and say it was him.

.GHTENGALE I doubt it Thats up to you guys

C.I. How you see fucking see the address on these mother fuckers

NIGHTENGALE I already got it on apartment building

C.I. Yeah, I need pictures of these guys

NIGHTENGALE I'm going to get that I'll have -my brother

C.I. Which way?

NIGHTENGALE The right

C.I. I don't know man, I don't know Jimmy's fucking spooked though, I mean They ---made me do, I don't know if you know about that

NIGHTENGALE Aint my business

C.I. _____ I handled that and I still ain't got paid for that, know what I'm saying

3HTENGALE probably good money

E59 - 96185
000442

C.I. It's real good money in it. Lot quicker than robberies or the dope game

'GHTENGALE oh, no shit

C.I. I just don't like, know what I'm saying, I don't like fucking with people that I don't think they know what the fuck they're doing, you know what I'm saying.

NIGHTENGALE At the beginning_____Chris

C.I. Yeah right,

NIGHTENGALE He was Tellin ever body ~~with me~~ it was me

C.I. I know that's what Jimmy said, dog he was on the list first

NIGHTENGALE Really

C.I. Yeah, I mean I ain't going to lie to you

NIGHTENGALE _____I was ready for whatever I got I went and got 2 guns and shit_____I thought it was going to happen whenever Chris and Jess and Jamie wanted me to meet them over at K.F.C.

I. Right

NIGHTENGALE _____

C.I. That's what, I mean that's, that was_____Jamie, I'm going to be for real with you, me and Jamie talked know what I'm saying, and he pretty much put his life on the line and said you was solid

NIGHTENGALE I got nothin To lose nothing like that it ain't like prison or anything like that ain't going to fucking matter.

C.I. So I tell him, I said well if Jamie was like man, Shawn is not going to say nothing dog, I trust him with my life, I was like cool, I just told Jamie, I was like man, I thought you grew up with Shawn man

NIGHTENGALE Oh we got _____

C.I. Jimmy was like no, he's like we're just all Tight me, Jamie and Shawn, I said

NIGHTENGALE Maybe when I was 14 and stuff like that I was Just a Chillicothe punks_____

.. Is that it, that's it right there ain't

NIGHTENGALE You think, you see a red Honda right there

I. _____- right address

NIGHTENGALE pull right here, walk up right here

C.I. Alright, ~~this ought to be quick~~ just be quick

NIGHTENGALE I will

C.I. Did you get it

NIGHTENGALE Yeah I got it

C.I. That's, so okay, that's Alex's right, but he ain't there,_____

NIGHTENGALE Marcus I don't know about Alex_____this house, I mean, he's supposed to be down here sometime. go right_____this is a road_____ go right right here.

C.I. I mean, you don't think they would be following us do you?

NIGHTENGALE Who?

I. Them dudes, do them people know you that came out

NIGHTENGALE uh uh_____so what's Jimmy saying

C.I. Uh, I mean, yeah I keep it real dog, know what I'm saying, I ain't got nothing at all against you, I don't know you and uh, just so we get it out in the open, I ain't doing nothing to you, know what I'm saying, but that's what Jimmy wanted at first.

NIGHTENGALE What me?

C.I. Yeah, first they had me do the dude for the video first for confession to the Dockside for Jimmy, and then Jimmy was like and then come down here and take care of

NIGHTENGALE See Chris had him thinking all kind of shit_____

C.I. Chris told him the word down here is that you was snitching

NIGHTENGALE So I don't know what the fuck I would snitch about anyhow, I wasn't there whenever the snitch happened, nobody even thought about that, About Dockside shit or whate

C.I. No, he thinks, I'm going to tell you what it is dog, he thinks you're going to tell about the fucking, the fucking robbery that you did down here and about fucking Andrew dog, Andrew's got_____-

.GHTENGALE He does think that?

C.I. Yeah

NIGHTENGALE Jimmy thinks that?

C.I. Yeah, he said, he told me that he was supposed, you was originally supposed to take care of the dude

NIGHTENGALE Yeah, I wasn't There wasn't No place I could do it there wasn't nothing _____ me & Mike went ~~him~~ down there we just couldn't finde a good spot

C.I. _____

NIGHTENGALE _____ me and Mike and _____ went down there we just could ~~real~~ good finde a real good spot.

C.I. That's what he said, fuck it_____ shit dog

.GHTENGALE _____ I mean did a lot of shit with him_____

C.I. its Cicero _____ dog ____ but Jamie, me and Jamie talked about it dog, if I didn't trust you I wouldn't have you in my car _____ know what I'm saying_____--and I would never

NIGHTENGALE _____

C.I. I just look at the overall picture, who's got what to lose, you know what I'm saying, why would you tell, it wouldn't make no sense, cause you blow (phone rings) Hello, what's up baby girl what are you doing? Uh, well right now I'm still down here at one of my dude's house, yeah, but I'll call you as soon as I get back there, yeah, probably. Alright, tell Shorty I said good night and I love her, alright boo I love you, goodbye. He just, I don't know dog, he just, Jimmy's on other shit

NIGHTENGALE I'm ~~not~~ gonna talk to Jimmy

C.I. Well Jamie's got him pretty much, know what I'm saying, cause I guess, cause Jimmy was telling me too dude, Jamie was telling me like this first time I've dealt with him and I'm like well what the fuck you know what I'm saying, what the fuck do I do,

so I have Jimmy and Jamie talking, Jamie was like, no. Jimmy said, Jamie said Jimmy told him it was up to him and Jamie told me no

'GHTENGALE I Cant believe it I never thought he'd something like that about me, especially me I ain't fucking scared or nothing, I ain't fucking worried about shit He knows that -

C.I. I know sometime the mother fuckers, I mean, Jimmy's my cousin and I love him dog, but he should know who the fuck is telling and who ain't, otherwise he'd have doing that type of shit if it was going to come down to where you didn't trust each other

NIGHTENGALE He always told me at the beginning, he was like, already know, he used to tell me after that shit happened that Mike was going to have to go, He'd tell me to I think

C.I. Well it's kind of like this dog, if he wanted to have you killed do you think he'd let you know about it

NIGHTENGALE No

C.I. See what I'm saying

NIGHTENGALE they had me mad at fucking ~~Curt~~ Chris cause he kept telling all of them that, fucking worried about it

ID OF SIDE A, TAPE TURNED OVER

CI Mike was supposed to took care of that Shit then you ended up calling him and he had to come take care of it

Nightengale he -he was Already gone I don't care what anyone told you I Know

CI mean, I mean he told me that a dude is still on his Neck but he said that, that didn't do him, that's why

Nightengale I don't care what anybody says, He was gone -

CI I mean yeah I I mean cause I want to know exactly what the fuck Happened told Jimmy I need know exactly what happened and I want everybody's side of it, I don't want to me caught up in the middle of you guys and know what I'm saying, so-

Nightengale

CI everybody told me their side of it, know what I'm saying,

ghtengale I

581 96 - E63

000446

CI ___dude, I'm ready_____

ghtengale _____

Long pause

Nightengale _____

CI a, I mean I'm going to be, don't get me wrong it wasn't like he was just like yeah take out Shawn but he was like man_____I said ok, what's up with Shawn, he's like man I don't know dog, see I mean it wasn't like he was 100 percent go ahead, know what I'm saying, he was spooked dog_____I mean he questioned Jamie, you know what I'm saying, and that's a first, I mean _____Jimmy is face in death

Nightengale Jimmy is

CI yes, know what I'm saying,he, I mean_____

Nightengale

CI if_____ole boy, with Andrew, so I mean, know what I'm saying,he's gotta be worried

ghtengale I dont Know

CI I don't either but seem to think there is way

Nightengale _____

CI should a always_____,well, what hap, what started it dog was when I guess Mike got arrested down here for that shit for the robbery

Nightengale ____if he said anything to anybody_____

CI that's what Jamie seems to think happened dog,___he waited 10, he lasted up to 10 days And then_____

Nightengale _____

CI I don't have to no,if you're indicted on something dog, they can't just let you go just like that

Nightengale _____I don't know anything_____10 days_____jail

CI no,___it ain't like that

ghtengale

CI — it's not like that, it's for real

ghtengale — I just know

CI — if you get indicted man, you gotta fucking, you gotta answer to the indictment, know what I'm saying

Nightengale — I think I got a indictment on me last time

CI — no, when you're in jail together or whatever

Nightengale — _____fuck it_____got out

CI — yeah, I can't, cause I can't, know what I'm saying_____so fuck it, __nighttime_____that's why I wanted to come down early but I didn't know_____

Nightengale — _____

CI — I'm trying to get all this shit done and bounce myself dog

Nightengale — I_____year

CI — a last I heard, I guess it was you and Jamie in his office_____Jimmy's _____

ghtengale — I was fucking there with big Jim

CI — that's what I'm saying with Big Jim

Nightengale — _____nothing like that_____

CI — that's what I'm saying I mean, honestly if you want my honest opinion,I don't think Jimmy, I don't know_____he_____know what I'm saying, but he Definitely_told me to get in touch with you and you'd take care of everything down Here, so_____

Nightengale — He don't still think that does he

CI — naw, I don't know,dog I'm his cousin, you think he'd send me down here to fuck with You if he thought that

Nightengale — told me on the phone_____I___mean whenever I _____with Any other_____I was like_____talked to_____. Said he's scared too when he met you down here

CI — hey whatever dog

he was,I was like dude I ain't gonna do nothing to you man, I, I mean, if I was going to

581196 - F65

000448

Do something to you dog, we would never even called, know what I'm saying,I would Say fuck it

ghtengale I really don't ~~know~~ wanta die

CI I mean look dog, if you're solid,you're solid,if you're not, you're not, in the End it will come out either way you know what I'm saying, that's what I told him I Was like man, don't have me running around here fucking whacking mother Fuckers telling me to be whacked that ain't did shit

Nightengale if you do get ahold of Mike or whatever

S. K. oh, I don't know, I mean that would be a fucking lost cause right there I just trust Mike

Nightengale

CI he's lot of shit you and Mike

Nightengale I've never told anything

CI oh

Nightengale but he won't walk

right, after mean what he thinks up with that

Nightengale I mean he keeps fucking, him and Jimmy man fuckers

CI right,

I mean you ain't alone, I don't know for sure

CI you think that Jimmy

Nightengale I was talking to him, I'll go to a pay phone so you can talk to him

CI a cause he's got a call, you know what I'm saying 3 way to talk,

Nightengale He called her a few times, I told him to call back here but not on this phone for Sure

CI so what do you think, what, I don't know dog, what do you think I should do, what Should I be doing with these dudes

Nightengale I think Marcus, Marcus is the main one, that's up to you, I don't Know you enough to tell you what to do or anything I don't know, crazy shit

CI	well get with fucking
Nightengale	I'll get my brother to get what you want
	yeah, I_____
Nightengale	_____call me, he won't be back_____
CI	_____
Nightengale	_____in Columbus tonight___I'm going to be talking, talking to Jamie
CI	ok, well a
Nightengale	it won't be no later then fucking like 8 o'clock tomorrow night
CI	alright
Nightengale	for sure and I'll bring it back up there to you myself
CI	that's cool, yeah, cause when I come down here I want to be able to, I mean I might Come down tomorrow man so hey you can show me around in the daylight cause I, know what I'm saying
Nightengale	_____but I don't know
— Nightengale	you do whatever you think is right__its__up to you
Nightengale	but be careful man____last one_____you don't want to do man
CI	right, exactly
Nightengale	it dont go way
CI	a, Lucy____just holler at fucking Jamie man and then when you guys get Shit together, I'll get ahold of you tomorrow, you going to be down here tomorrow
Nightengale	no, I'm going up there tomorrow, I'll probably just stay the night at my girlfriends You know where Mandy lives don't you, Jimmy's x-girlfriend Holly, Holly _____
CI	yeah OK
Nightengale	that's where I live at ok
CI	alright well you got my phone number right
Nightengale	yeah I got that

CI	well just call me from her house whenever you get down there
Nightengale	I'll be up there like around 12 o'clock tonight, she should be there in about A half hour
CI	alright
Nightengale	I'll call tomorrow
CI	yeah that's cool, just call me like about 3 or 4 tomorrow
Nightengale	alright, I'll get ahold of you
CI	alright take care see you later
Nightengale	be careful, stay safe,
	Alright_____

NOTHING ELSE ON SIDE B

58196 - F69

Franklin County Sheriff's Office

Detective Bureau

Progress of Investigation

Offense:	Homicide
Report #:	0109704
Victim:	Andrew Dotson
Place of Occurrence:	Field w/o Galloway Rd
Date of Offense:	10-10-2001
Reporting Detective:	C. Floyd
Date:	

Taped telephone conversation between CI and known persons on 5-23-02:

Page 1: Jamie Horton refers to getting 5 "heaters".

Page 2: Jamie Horton refers again to getting "heaters".

Page 7: Shawn Nightingale refers to getting the "heat".

Page 8: Shawn Nightingale refers to dropping off the gun, stating, "it will be under the mower"

Page 11: CI tells Jim Conway that "Arthurs is done", referring to being killed.

EXHIBIT
tabbies 24

(1)

000452

Submitting Officer

Supervisor

TAPED INTERVIEW

'FENSE:	HOMICIDE
REPORT#:	0109704
VICTIM:	Andrew Dotson
PLACE OF OCCURRENCE:	Field s/o Galloway Road
DATE OF OCCURRENCE:	October 10, 2001
INTERVIEW OF:	CI, Jamie Horton, Jim Conway, Shawn Nightengale
DATE OF INTERVIEW:	May 23, 2002
PLACE OF INTERVIEW:	Phone
INVESTIGATOR:	Detectives Scott and Floyd

Floyd	Q	It is May 23, 2002. The following will be taped conversations with CI and various contacts. Case #0109704.
CI	A	Hello.
Contact 1 J. H	A	What's up?
CI	A	I am sitting here reading right now dog. Won't you get with me in like an hour. Call me in an hour.
Contact 1 J.H	A	It might be a little bit longer but I can get 5 of them.
CI	A	For sure.
Contact 1	A	5 of them Burners
CI	A	Ok.
Contact 1	A	I dont know what you wanted so I told him 10
CI	A	Right ok well look I am with my girl right now.
Contact 1	A	I will holler at your later.
CI	A	Holler at me in like an hour. Later.
CI	A	Hello. Hello. Hello
Contact 1 J. H	A	Hey what's up man.
	A	What's going on dog?

Contact 1	A	can you talk.
CI	A	What's happening.
ntact 1	A	_____.
CI	A	What are you on a payphone?
Contact 1	A	Yeah I bout to _____. I got you something lined up but I got to Go talk to Jim _____.
CI	A	What time you want to Jimmy?
Contact 1	A	I don't know, what time is it right now?
CI	A	Fuck I don't know it is probably like 3 o'clock or something.
Contact 1	A	No it's 4.
CI	A	Yeah it's like 4:30 or something like that.
Contact 1	A	Somewhere between 6:30 and 7 o'clock.
CI	A	Look hit me up right before you go see him because I might need to holler at you on something. You got the Heaters and shit for sure.
ntact 1	A	They're saying they got it for sure. _____.
CI	A	Alright. What's up with Ray Ellis. Your dude get you that address yet?
Contact 1	A	I haven't really talked to him. As soon as I talk to him I will let you know.
CI	A	Get on the ball dog, get this shit taken care of. I am tired of being run around Like a fuckin idiot.
Contact 1	A	I just don't talk to that guy everyday man, like I got certain occasions that I see him.
CI	A	Well make a special occasion.
Contact 1	A	Make one.
CI	A	Yeah make one, get with him today before the next time you talk to me.
Contact 1	A	Alright I'll holler at him
CI	A	Alright. Alright call me before you go see J. Later.
ittany	A	Hello.

CI	A	What's up?
Brittany	A	_____ what's up with you.
	A	Nothing. What's the matter?
Brittany	A	Nothing.
CI	A	Hey listen, get a hold of Jamie for me alright because he is suppose to go and See Jimmy tonight.
Brittany	A	Um I am about to go and meet up with Jamie and go see him.
CI	A	No don't go yet I need to see him.
Brittany	A	I am not going right now I've got to go and take and shower and stuff.
CI	A	What I am saying is this Brittany I need to see Jimmy. I've got something
Brittany	A	If you need to go down there then go.
CI	A	Well I am saying I am just going to meet Jamie down there like about 8:30 Because I need to talk Jamie.
Brittany	A	No he's planning on going at 6. You want to go.
	A	Tell him I said to go at 8:30 fuck what he's saying.
Brittany	A	He wants to see him early so you guys can do whatever you're doing.
CI	A	Brittany we can do that, just tell Jamie to call me.
Brittany	A	Alright.
CI	A	Alright. Bye.
Brittany	A	Hello.
CI	A	Hey, did you talk to Jamie yet?
Brittany	A	I told him to call you.
CI	A	What the fuck, is his new number 890-3099.
Brittany	A	Yeah.
CI	A	That's the number 890-3099.
ittany	A	Yeah.

(3)

CI	A	Alright. Did you tell him I said don't go down there yet?
Brittany	A	Yeah I told him and he said that's fine.
	A	Alright well I am getting ready to call him then.
Brittany	A	Alright bye.
CI	A	Later.

CI	A	Hello.
~~Contact 1~~ T. H	A	What's up.
CI	A	What's up.
Contact 1	A	are you going with me
CI	A	That's what I'm saying because I got something that I took care of.
Contact 1	A	what time you gonna be there
CI	A	Just meet me at the Lobby at 8:30.
Contact 1	A	AT 8:30
CI	A	Because I took care of something.
Contact 1	A	THATS COOL
CI	A	Alright.
Contact 1	A	Alright dog.
CI	A	Alright later.

Female Britnee	A	Hello.
CI	A	What's up chicken head?
Female	A	Laying the tanning bed.
CI	A	Laying in the tanning bed?
Female	A	Yeah.
CI	A	Maybe I will get lucky and it will short out or something. You know Emily's number?

(4)

Female	A	Uh no I don't know. Her cell phone number I know is shut off why?
CI	A	Because I need to get a hold of Shawn. Shawn was suppose to I guess he was suppose to be at Emily's or Mandy's or something.
Female	A	I could probably call somebody and get it but I don't know it, I don't have it.
CI	A	Why don't you call real quick and get it for me because I got to get with Shawn early before I get with Jamie.
Female	A	Does Shawn have your number?
CI	A	He should have it if not give it to him.
Female	A	Alright.
CI	A	Alright later.

~~Female~~ Britnee	A	Hello.
CI	A	What's going on?
Female	A	I just got a marriage proposal certified.
	A	A marriage proposal certified?
Female	A	Yes.
CI	A	Would you like to have an affair before you get married?
Female	A	No way jose.
CI	A	What were you doing?
Female	A	I am driving, Shawn's in Chillicothe.
CI	A	Where is he at at his house?
Female	A	Yes.
CI	A	What the fuck is that number, hold on let me check something.
Female	A	Got a poor ass girlfriend on the case.
CI	A	663-6763.
male	A	Yeah something like that I don't know.

581196 - E74
000457

CI	A	Alright. I though he was coming down here.
Female	A	I don't know. emilys getting ready TO go down there
	A	Unbelievable.
Female	A	Unfuckin believable.
CI	A	Unfuckin believable.
Female	A	Are you going to go and see my man is that what you're doing _____.
CI	A	Yeah that's what I'm doing.
Female	A	You're taking him away from me you got to see him for three months when I Didn't get to see him and now I can't even see him TODAY.
CI	A	Well his titties are bigger than yours.
Female	A	And.
CI	A	I got to get all of this shit together before I go and see him.
Female	A	If there is anything I can do for you don't hesitate to ask.
	A	If there is anything you can do for me don't hesitate to ask.
Female	A	Yeah.
CI	A	You are opening yourself up for a real live monosetua (?), anything?
Female	A	As long as Jim says it's ok I am down.
CI	A	Oh fuck it has got to be ok, I am in charge.
Female	A	I don't think that he will think if it comes TO me
CI	A	Let me get a hold of Shawn and them.
Female	A	Alright bye.
CI	A	Alright bye.
Shawn	A	Hello.
CI	A	Hey is Shawn there.
awn	A	Who is this?

CI	A	Tony.
Shawn	A	Hey what's up man.
	A	What's going on.
Shawn	A	it me _____.
CI	A	What's up did you get that heat or what?
Shawn	A	Oh I can get that, I can get that.
CI	A	I wanted it like yesterday.
Shawn	A	I could have got that yesterday. _____. I thought my brother. _____.
CI	A	Make for sure that you got it and call me right back.
Shawn	A	I can't call long distance _____.
CI	A	Ok you can't.
Shawn	A	No or Id of called you.
	A	Alright well how long do you need?
Shawn	A	Are you down here or something.
CI	A	I am in Columbus. See I thought last night when you said you were coming down here I figured you would be at Emily's.
Shawn	A	I was coming down there but she wouldnt drive down here
CI	A	Right. Well call and make for sure it's a go and I will call you back in like 5 minutes.
Shawn	A	Alright call me back in 10 because I have to page him first.
CI	A	Alright.
Shawn	A	Have you talked to Jamie?
CI	A	Yeah I talked to him a little bit last night not really a whole lot; I am suppose to go and see Jimmy with him tonight.
Shawn	A	Oh you are?
	A	Yeah.

581196 - E76
000459

Shawn	A	If you talk to him tell him to call here too. Call back in 10 minutes.
CI	A	Alright, later.
Shawn	A	Hello.
CI	A	What's up
Shawn	A	Yeah he said he is suppose to be here in like 10 minutes.
CI	A	Suppose to be at your house?
Shawn	A	Yeah. _____.
CI	A	Can you get it down here?
Shawn	A	Yeah. I CAN have em meet Jamie
CI	A	We are going to go and see Jamie at like 8:30 I guess.
Shawn	A	I could just have him drop it off to you or Jamie it don't matter JUST go over TO Emilys house
CI	A	Ok that's cool.
Shawn	A	_____.
CI	A	Let me get a pen. What's Emily's address?
Shawn	A	Jamie knows right where it is. _____.
CI	A	I am on my cell phone so.
Shawn	A	_____
CI	A	Oh you think it might be Tapped.
Shawn	A	I know it is.
CI	A	I will just get it from Jamie when I see him tonight. You are definitely going to have it down there though.
Shawn	A	Yes for sure.
CI	A	Is she coming to pick it up to take it back down there for you or what?
Shawn	A	No, I'm gonna have Josh bring it
	A	Alright. Just whenever it gets there. I will call you back and find out for sure That it's there.

Shawn	A	_____. Tell Jamie to look under the lawn mower.
	A	Look under one of the lawn mowers.
Shawn	A	Yeah he knows which one.
CI	A	Alright.
Shawn	A	What time is it right now?
CI	A	It's like 7.
Shawn	A	7.
CI	A	Yeah.
Shawn	A	He should be around here any minute. _____.
CI	A	Alright.

Female Britlee	A	Hello.
CI	A	Hey what's going on?
male	A	Nothing what's up.
CI	A	Can you be free tonight at about 9:30?
Female	A	Possibly why.
CI	A	I am going to need you to meet me over at Emily's. I have got to pick something up over there so. Alright.
Female	A	Yeah.
CI	A	Because I don't know where the fuck it's at. You will have to tell me where it's at. Shawn didn't want to say the address over the phone so he told me to call one of you guys and get it. I don't even fucking know Emily.
Female	A	Well do you want me to meet & you can follow me there
CI	A	Yeah we can do that I will just you at because me and Jamie are going to go and see Jim and I have to get with Jamie after that and then I got to get with you and get that.
Female	A	Alrighty.
	A	So when I call you just be ready to go.

581196 - E78
000461

Female	A	Ok.
CI	A	Alright bye.
J	A	Hello.
Unknown Caller J.C	A	whats up.
CI	A	What's going on. Let me turn my TV down I can't hear shit. Why don't you tell them to give you a better fucking phone.
Unknown Caller	A	are you comin down here
CI	A	Because I need to holler at you and I can't holler at you. I got something Else done.
Unknown Caller	A	is it safe to come down here
CI	A	It ain't no big deal I got it covered. I told you I'm not fucking stupid. What.
Unknown Caller	A	I know.
CI	A	Yeah you should apologize I am not stupid. I said yeah you should have apologized I am not stupid.
Unknown Caller	A	I know.
CI	A	Put you on a phone restriction how are you calling me.
Unknown Caller	A	They put me on 3 then moved me back
CI	A	Get the fuck out of here.
Unknown Caller	A	I swear on everything
CI	A	Did they shake your shit down? Did they shake your stuff down.
Unknown Caller	A	no I carried
CI	A	So they took you downstairs for an hour and brought you right back to the same cell.
Unknown Caller	A	
CI	A	What was there to pat?
known Caller	A	

CI	A	Check this out dog, I am going to need some money man.
Unknown Caller	A	I'll talk to you.
	A	I will just talk to you when I get down there. I am going to come down there with Jamie but me and Jamie are going to kick it for a minute and then I want Jamie to bounce so me and you can holler. Alright.
Unknown Caller	A	Yeah.
CI	A	Is Brittany calling for you?
Unknown Caller	A	Yeah.
CI	A	Alright. Well listen. Authors is done.
Unknown Caller	A	when you comin
CI	A	Alright I will see you tonight. I got something for you. We will be down there at 8:30.
Unknown Caller	A	I guess you got everything under control
CI	A	Believe me I got everything under control. Alright later.
	A	Hello.
Jamie	A	What's up.
CI	A	Eating pizza right now what's going on.
Jamie	A	Are you sure you coming down here.
CI	A	I am going to meet you down there at 8:30.
Jamie	A	I Thought 8:00.
CI	A	No 8:30.
Jamie	A	I'm already Here
CI	A	The reason I am a little late is because I took care of something.
Jamie	A	what you want me to wait on you
CI	A	Just wait on me to get there.
nie	A	

581196 - E80

000463

CI	A	I am going to finish this pizza and then I am on my way.
Jamie	A	I will be parked on the side.
	A	On the side where?
Jamie	A	The side of the Buiding
CI	A	Alright later.
CI	A	Hello.
Caller	A	Are you there yet.
CI	A	I will be there in like 5 minutes. I just had to take care of something else real quick.
Caller	A	I'll be There in 5 minutes to.
CI	A	Ok later.

58196 - F82

Franklin County Sheriff's Office

Detective Bureau
Progress of Investigation

Offense:	Homicide
Report #:	0109704
Victim:	Andrew Dotson
Place of Occurrence:	Field w/o Galloway Rd
Date of Offense:	10-10-2001
Reporting Detective:	C. Floyd
Date:	5-23-02

Taped wire conversation between CI, Jamie Horton, and Jim Conway during jail visit on 5-23-02:

Page 3: Jim Conway and CI talk about killing Mike Arthurs and the Jim Conway "look alike". CI shows Conway and Horton pictures of "dead" bodies of both victims. Horton gets nervous.

Page 4: Conway talks about killing Mike and Alex.

Page 6: Conway talks about killing 3 in Chillicothe.

Page 9: CI talks with Conway and Horton about the RG .38 they gave him.

Page 12: CI talks with Conway about needing more money.

Page 17: CI talks with Conway about Chris Cicero.

Page 20: Conway confirms hit on Shawn Nightingale.

Page 23: Conway talks about Andrew Dotson's murder, and him making sure Andrew was "done".

EXHIBIT
25

(1)

58196 - F83

CI	MALE 1	MALE 2	
nvestigator 1	Investigator 2	Interview 1	Interview 2

TAPED INTERVIEW

OFFENSE:	HOMICIDE
REPORT#:	200109704
VICTIM:	ANDREW DOTSON
PLACE OF OCCURRENCE:	FIELD S/O GALLOWAY ROAD
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	CI & MULTIPAL TARGETS
DATE OF INTERVIEW:	MAY 23, 2002
PLACE OF INTERVIEW:	WIRE
INVESTIGATOR:	SCOTT/FLOYD

CI — I'm standing in front of the County waiting on you alright later. Hello, hello yeah who is this okay no um Jamie just went in and he's coming around here in a second he's parked on um I forget where the fuck this yeah he's walking around here now later. Hello. What's going on

~~MALE 1~~ J. H. — I wouldnt mind getting pulled over by her ~~her~~ her shake me down & everything

CI — I wouldn't either I'd ~~rather tell you about everything~~

MALE 1 — I was really like _____ hey I got pulled over the other night by a sheriff he said man it smells like marijuana in here

CI — it was probably that dog ~~drove~~

MALE 1 — He said let me search your car

CI — What

MALE 1 — _____

CI — Who the chief was

MALE 1 — What else

CI — Oh Jimmy

~~MALE 1~~ deputy Whickham _____ hours later they called him right back out ~~the door~~ out ~~of gate north~~ side TO North & North right

[redacted]

CI He should let _____ everything upstairs dog

MALE 1 _____

Yeah well he knows me and ~~Danny~~ Jimmy and

MALE 1 Wonder why Jimmy was moved

CI I don't know it makes me nervous

MALE 1 are you nervous

CI Fuck yeah

MALE 1 _____

CI Got _____ If I got something to say number 6

MALE 1 _____ dog _____

CI He's like I'm out of here

MALE 1 C.I. Why do you think I was pissed last night

CI Well look when you ~~mouth~~ bounce out of here want to see ~~me~~ Jimmy for a few minutes go to um your crib when I call you we'll meet hook up and do that ~~You're loud~~ man dam, yo need Chill out Valiums or ~~do~~ something bro

MALE 1 whats up man

CI What the fuck where did they go to get him oh shit dog since like last Thursday I've had like 6 hours sleep.

MALE 1 _____

CI In a minute

MALE 1 What's up bad boy what's going on just look at your hair

MALE 2 J.C He's a bitch

MALE 1 What's going on

MALE 2 J.C Be cool I just want to know who the fuck called somebody called down here and put on the phone with me

CI That's right we was hollering at um Whickham come downstairs he said he didn't know what was up he didn't know what was up he said they moved you down here then moved you right back in like a hour

MALE 2 Yeah like a hour I know _____

I got some pictures of the kids, that's you so ~~she wanted my right~~ thats what you wanted right

MALE 2 yup, whats up

CI ~~She didn't but why~~ shit

MALE 2 whats up with that, is it done

CI Yeah but I want to get everything else done first I mean I'm going to holler at you but I'm going to let Jamie holler at you for a minute there

MALE J.C I'm ~~right out~~ might not _____ They might put me back down there ON phone restriction

CI If they do just call Brittany

MALE 2 I can't even call her

CI They got to let you call your family

MALE 2 Yeah they let me call family ~~bitch~~

CI She's your family

MALE 2 I don't know I don't know what they I never got to they told me I wasn't going to be able to call till this shit _____

CI dude would you tell him t calm down

MALE 2 I'm cool man

CI He's ready to piss his self

MALE 2 What's up

CI His hands are as wet as a washing machine dog

MALE 2 What's going on did you use fake ID

CI Yeah why do you see what I'm saying you keep ~~us all~~ insulting my intelligence _____ we been through this

MALE 2 _____

CI dont ask so many questions
It's cool ~~I'm asking too many questions~~

MALE 2 I don't care so whats up dow in

(3)

[redacted]

CI — Down in Chilly dude it's fucked up man

MALE 2 — What what's wrong

CI — It's just besides Jamie you know what I'm saying it's just Shawn knows

MALE 2 — What's wrong

CI — Makes me nervous man

MALE 2 — What's he doing

CI — Okay look let me tell you let me tell you how my journey started alright first I get with him and he's shook so then you know what I'm saying I talk to him and he gets everything cool but then it was like I talked up on Shawn you know what I'm saying do him or don't do him and you saying you know what I understand it was and he's saying nobody vouches for him so I'm like okay cool so I Holla at Shawn and Shawn's like don't do Mike

MALE 2 — Why

CI — I don't know he says Mike or um Alex

MALE 2 — The black dude

No the other dude I don't know and he ~~let him~~ left me he set in the country till like midnight though I'm sitting there with dude tell me it's not good dog it's not a good situation

MALE 2 — I dont know why, Hes stupid

CI — Okay so we know that that's why we're all three here so I ain't got to you know saying you say this he says this I know what am I doing what's up with it

MALE 2 — I think Mike ~~speaks~~ think about it I don't know I haven't talked to Shawn fucking long time

MALE 1 — I don't know

MALE 2 — I don't know why you wouldn't want to do mike well

MALE 1 — I don't know I can't call him

MALE 2 — Hugh

MALE 1 — I can't call him

MALE 2 — Why would he say that about Mike though, Mike has to be down there saying something (9)

CI Not now

MALE 2 Oh ____what ~~the fuck~~ do I have to do

You tell me

MALE 2 Hugh

CI You tell me that's what I'm saying though don't run around here blind man I don't know what the fuck I'm doing I showed you what I've done just that so what do I do I'm getting tired man

MALE 2 Oh I know

CI And see you know since last Thursday I've had like 6 hours sleep I'm getting tired and I'm broke I don't

MALE 2 Where do you turn
you aint in no type of release or _____whatever

CI Yeah I told you listen it ain't going to get I know what I'm doing though we've been through this

MALE 1 _____everyday

MALE 2 _____

CI Yeah but it wasn't there it wasn't with him

MALE 2 That where they took you

CI Yeah, yeah that was just a little cover thing for you but it wasn't there so I'm like fuck it don't need this shit I mean he said he said that um Brian goes home but he's always with a big no neck mother fucker

MALE 2 Really

CI Yeah so

MALE 2 Chris said he aint worried about him

CI What's up with him dog

MALE 2 I don't know why what's the matter

MALE 1 He playing keep away um he

[redacted]

CI Dog he don't want um he's just like I don't know what's up with him I mean I don't know it's like he don't trust me or something I feel like I feel like I just getting play. stupid dog and you know I don't like that.

ALE 2 Don't don't fuck with him I don't know you don't need his help

CI Okay so what's up with this phone restriction shit

MALE 2 I don't have no clue I don't know why they took me down ther.

CI I know they don't know nothing about him yet

MALE 2 Who Rick don't know nothing about _____ I think somebody called in here I think remember I told you about John Shorty

CI Yeah

MALE 2 I think what he saying somebody called from here to his house ___

CI And he thinks it was you

MALE 2 I think_____

CI When you ask me I'm like man I don't fuck that Broad I'm not thinking about that bitch

ALE 2 He was upset about it that's the first thing that popped in my head I don't know whats going on that's why I told Brittany to have my lawyer call & see whats going on

CI I just I'm just I'm running around blind dog and you know what I'm saying it's not it's not because of him it's just you know I go down to Chilly and I'm down there all day yesterday dog all day you know what I'm saying and first Shawn's got me going like 5 different places on the freeway you know what I'm saying I don't know he's doing some other shit though

MALE 2 Really

CI Yeah so I don't I don't trust him I'm not working with him period

MALE 2 What about what all, you still have them down there all three of them too do

CI No

MALE 2 Hugh

CI No all I got down there is mother fucking um them dudes from the fucking um robbery

ALE 2 Oh ~~what's his name~~ that was whats his name

CI Well yeah

~~ALE 2~~ ~~Alright~~ mike

MALE 1 But I thought he knows himself man

CI What are you talking about dude are you blind

MALE 2 mike

CI What the fuck

MALE 2 Okay alright

CI Fuck but you got it all back there you got it all back there, that's why I made him first you know what I'm saying (C.C I want mike)

MALE 2 why was shawn trying to not do that.

CI He says you guys are stupid that's what I'm saying dog you, you got me running around here like a chicken with my head cut off

MALE 2 I don't fucking do that I'm still _____

~~ALE 1~~ C.I Has anybody been punching on you lately

CI Why

MALE 2 Me & Quin been workin out

CI You and who

MALE 2 Quin

CI What's up with Bob Cat he's still chilling he's probably pissed at me ain't he oh

MALE 2 Yeah we got some going

CI Oh on the drink mother fuckers are crazy alright well um

MALE 2 _____ fucked up

CI My phone doesn't even work here

~~ALE 1~~ ~~Well hell anybody~~ _____

[redacted]

CI Alright well look I need to holler at you

~~MALE 1~~ J.C ~~Everybody that~~ Jamie what do you think about shawn

~~MALE 2~~ J. H I'm not saying I don't know

~~MALE 1~~ J.C your the one thats outhere
~~You ain't~~ _____ that

MALE 2 _____

MALE 1 Like you wouldn't _____

ALE 2 I don't know _____ I just told you if he goes broke that's all I'm saying I just say if he goes broke

CI He says he played him one night shit

MALE 1 _____

CI That's what he said he's like cause we went down there he wanted me to he wanted if one more person out of this crew ask me for money dog

MALE 2 _____

CI He listen he wanted Shawn wanted me to pay for a room for 3 days are yo[redacted] fucking kidding me man

MALE 2 does He know about _____

CI No

MALE 1 _____

CI As soon as he told me that don't take out Mike I took care of it this mother fucker here gives me a garbage ass R&G dog that

MALE 2 Hugh

CI He gave me a mother fucking he gave me a garbage ass heater right a fucking old ass 38 and I'm like get the fuck out of here

MALE 1 Hey that's all there was that's all there was there

MALE 2 At where

CI Alright well listen if um but I'll just let you leave ahead of me Then get that Nine for me whatever you can get.

~~ALE 1~~ J.C. What's up is everything else alright

[redacted]

MALE ~~2~~ J. H. Everything's cool man

CI Look _____ I had a thing for you today

MALE 2 Are you gonna wait to send that

CI Till I get everything wrapped up dog

MALE 1 See I couldn't talk to you like that I couldn't talk to you like on the phone like

CI This is I want to get everything wrapped up cause you know I'm out of here you know what I'm saying and I I'm going to need some money dog so

MALE 2 Whatever, whatever you can do I mean _____

CI You keep saying whatever you can do whatever you can do well who the fuck is running this I mean okay and I could use some money

MALE 2 How much

CI Well I can't watch the other two down there I can't watch them though and I can't get them at their house um what's the black dudes name

\LE 2 _____

CI Well okay well whatever he's gone nobody can find him he's in Waverly I know where he's at but I mean oh and them dudes my dudes they're in jail so what about that

MALE 2 what abaut the other thing

CI Yeah

MALE 2 _____

CI They going to have to but what I'm saying is I got to

MALE 2 How long are you going to be here

CI I don't know might be my dad don't really talk to them he just knows where they're at

MALE 1 Hey Jim we got um get this get a hold of that guy at the Bar so we can get some money.

MALE 2 All you have to do is

MALE 1 Me and him will go up there

MALE 2 Call Brittany and tell her what it is I'll call her at that time if I can I mean I thought just calling them but I don't know but if she is not every time I call

_____ @ (11)

[redacted]

CI Um cause see I got to um I mean I got to bring somebody in you know what I'm saying cause I can't I can't do this by myself it's just not going to work by myself I can't you know I'm doing what I can do for you Bro but

MALE 2 ~~Alright~~ oh I know

CI I'm fucking broke dog I had to borrow a grand from him from my dad he was fucking spasing we went all the way down there and my dad you know I picked a bag up for my dad right you know what was in that bag money

MALE 2 That's all

My dad called me The whole time where you at with my shit and I'm like dude I'm doing something he's like well stop doing what you're doing and get here I'm like I'm busy well get un-busy click. So what are the plans when am I getting some money and

MALE 2 I'll try to do something man can't do something right now but I will have it in a couple days though

CI Alright well get me um

MALE 2 How much do you need

MALE 1 Whenever I talk to that dude that's whenever I'll have money too so

CI who's that with Ray

MALE 2 No another dude

MALE 1 Yeah that yeah you know that thing we have yeah

CI We ain't got that address yet dude is

MALE 1 I haven't talked to the dude yet I only talk to him about giving money I mean I ain't going to get him for no other reason

CI What

MALE 1 Cause were I don't want nobody to know I even talked to this dude At all

CI Okay

MALE 1 You know what I mean I try to keep it low.

CI Well that's what I meant dog I need I got I don't even know how much money I got dog and I got to give dude some money for the day and I you know what I'm saying I got see like I got like $200.0 I got like $200.00 so I mean you know what I'm saying if you got to fucking if he ain't got none and you got to call somebody tap reserve something I need some money whenever you can tonight I need some money so

MALE 1 All I have to do is talk to that dude Im sure Hel have some money

CI I thought that was fucking riot

MALE 1 It a guy Jim was bout to go in business Bar

CI _____-Dude

MALE 2 I should be able to call him_____

MALE 1 I'll do it for you all you have to do is call cause they're working on the Bar everyday

MALE 2 Call him and_____

MALE 1 Okay 2 weeks Skippy's uncle _____has part of it too

MALE 2 I know I was suppose I was suppose to get some more and _____

MALE 1 Well if he don't like I said like a day or two I'll have it to give to you anyway I mean you know I do whatever

CI I mean I need to get through with something tonight or today not for just you know what I'm saying a little bit so I don't have this mother fucker on my back

MALE 2 What do you think about Shawn

MALE 1 Shawn's got mad loot right now he should have it he's been selling it

CI I'm not going back down there and fucking with him

MALE 1 Or I'll have him bring the money to you

CI When I go down there okay tell me right now what's up with Shawn dude

MALE 2 That's what I'm trying to figure out

ALE 1 Don't fuck I don't know man I said I'll vouch for you but I don't know about nobody I can't say I'll vouch for something

CI Dude I know people Jimmy change I'm not making the fucking decisions because I don't have there's nothing he can say about me nothing, nothing that's your decision dog you know what he knows about you that's your decision so

MALE 2 I don't know I hate to do that just like I Told you

CI Okay but shits kind of hot right now and it's going to get a lot fucking hotter

MALE 2 _____everyday

I had it all them fucking _____nothing when I got out nothing

MALE 1 Hugh

CI When I got out I had nothing my Cadillac is fucked up man it looks like a fucking getto Cadillac

MALE 1 _____crack at his Cadillac

CI It's fucked up man to me it's that bad so I'm a little upset they've affected my easy angry with that problem. How long is it going to take you to get to your crib and get that done

MALE 1 Hm how long

CI Okay well I'm saying I'll let you guys get ready and kick it or whatever and then you bounce and then I'll kick whatever by the time I leave _____

MALE 2 _____

CI And if you all you know what I'm saying I want him to leave so we can kick it and then he can go take care of that but when I leave here I can just shoot straight there and pick that shit up.

(16)

MALE 2 Alright

CI So what

MALE 2 About _____

CI No

MALE 2 _____

CI Worrying about _____right

ALE 2 _____

CI How well do you
Dude I ~~wouldn't even~~ trust Chris man

MALE 2 I Trust him with everything

CI I wouldn't but that's okay I mean I don't know dog

MALE 2 He said with that ill get found NOT GUILTY NOOO NO matter what

CI Well yeah with that yeah

MALE 2

Dude you make me nervous. Hello do what no it just now rang I'm just right now I'm just visiting hugh yeah no alright I'll call you in like 20 minutes okay Chris, Chrisy I'll call you in like 20 minutes alright

MALE 1 Fucking Chris

CI Chris okay I love you Chrisy stressing me out I ain't spending no time with her man I'm spending all my time with you mother fucking ass running around on wild goose chases dude I went down in the country last night I swear to god to like I was so pissed it was unbelievable dog I mean I was I was pissed and then I had to use one of my dad's cause I didn't want to fuck with the 38 dog I had to use one of my dad's for that so I got to give him one of those back

MALE 2 That shit tight

CI Cause I we definitely do not want him pissed definite he's like a take care or take care

MALE 2 He don't know when the dude gonna get out

CI Fuck them dudes I can handle this I'm just telling you I'm going to need a little money though you know what I'm saying to take care of them dudes ~~until the~~ in chillicothe I can't do it by myself so I got to have a little money to get me some help.

(18)

MALE 2 your dad cant get that money back

When you get out J I don't know what they're in there for you don't know what they're in there for He didn't take a call they just called and said their names then he hung up.

MALE 2 for real

CI Yeah so I don't even know what's happening with that situation I mean they don't know nothing they don't know nothing so it ain't no big deal I'm just saying it's a $40,000.00 loss but we'll get it back.

MALE 2 There probably in for some bullshit

CI Probably I mean it's nothing serious wasn't nothing on the News so it ain't nothing serious

MALE 2 _____

CI Yeah when they get out you don't understand about this whatever you want me to take care of I'll take care of alright we already know that it ain't no fucking mystery I don't give a fuck don't have me run around here and I don't know what I'm doing don't have me second guessing.

ALE 2 what do you wanta know (19)



CI I mean dog tell me right now let's stop bull shiting what's up with Shawn

MALE 2 He dont really know nothin

CI Hugh

MALE 2 whats He know about all this know about me

CI He knows what I'm here for

MALE 2 Does he know I mean does He Know anything that's what I'm saying I dont know

CI Don't get me caught up though because he you know what I'm saying cause you let your emotions get involved this ain't personal it's business so you know what I'm saying you need to cut your losses or you take a gamble I'm taking a gamble enough right now don't you

MALE 2 Yeah

CI I mean you ~~ain't~~ and him dog that's who I trust that's who I like and anything other than that is a causality

ALE 2 Then He goes

CI So okay that's what you want is that it is that it

MALE 2 _____

CI Who do you think you're talking to

MALE 2 Right_____

CI I just want to come see your face while I go play with myself no I just wanted to come I'll let you have some shit man but

MALE 1 I mean I'll roll out if you want

CI Yeah that way I can just _____

MALE 2 everything alright

CI Hold on before he goes dog will you let him I told him dog I'm not doing that to him man I mean you got to _____alright so _____

MALE 2 _____

Alright well then I'll call you as soon as soon as I leave here I'll call you



MALE 1 _____

CI Well I'll call you give you my number call me back _____dog we been to every pay phone in Columbus dog ain't here to eat dog I'm loosing weight drastically see my shit I lost so much fucking weight it's unbelievable

MALE 2 _____

CI Hey I'll cal you bro

MALE 2 Alright call me

Dude I can't work with these guys man running in circles J um man listen the only reason I got to fuck with you man you know what I'm saying anytime I need money you can get it from him dog

MALE 2 He dont have any

CI Have somebody give it to him and I'll pick it up from him however you want to work it.

MALE 2 Alright

CI Well then that's the only person you got and he was bull shiting me dog _____when you get out of here

MALE 2 About what

CI You know about what about mother fucking Andrew _____

MALE 2 _____it's not like I was lieing

CI Yeah you was

MALE 2 No I just had to make sure of it

Make sure of what of me

MALE 2 No that he was done

CI _____that's what I'm saying I'm getting different stories about that and I don't

_____

_____I'm not going to deal with that well you know what I'm saying it is not good.

MALE 2 _____

CI Yeah I am I'm having fun listen they check this out dog Shawn left me in the country with dude and my mother fucking car till after midnight last night I needed Shawn to give me my fucking heat you know what I'm saying I didn't have none so I had to drive all the way back to Columbus then all the way back out there to get rid of it I don't like that you know what

MALE 2 What

CI _____ for you all day I told you dog I got shit under control man I just don't like that you lied to me you know what I'm saying

MALE 2 I planned on telling you everything just not right now but at some point

CI You could of told me everything in there J you know that

MALE 2 I could of but I was _____ just like _____

CI That's why when I called Brittany and I was like I feel like you playing me like I'm half a bag that's when you know what I'm saying cause Jamie told me and I was like look dog if you don't want to tell me nothing _____

MALE 2 _____

CI That's none of my business but don't lie to me man because you make me nervous lik[redacted] that you know what I'm saying how do I know you guys are getting ready to take me out after I get all this shit done and I'm telling you now dog is that a plan it's not going to be happening you know what I'm saying.

MALE 2 Whos gonna do it besides you

CI Nobody it's not going to be easy whoever does it so I'm saying why lie to me dog I don't understand that J that's why I'm here right now dog to talk to you because I feel like I'm getting played I'm walking dude you know what I'm saying I'm out of here

MALE 2 you know better man

How do I know better J

MALE 2 _____

CI _____you know what I'm saying it wasn't like it was a little Thats a mother fucking lie that's a big lie dog and you got me right in the middle of some shit fucking with an idiot _____you know what I'm saying because I get fucking Jamie's side I get um Shawn's side you know what I'm saying.

MALE 2 Well Now you Know

CI Alright well look we need to holler dog so but we ain't got time to holler now

ALE 2 why are you swearing in for

CI Cause you know how I am for details

MALE 2 Well don't worry I'll talk to you when I get out

CI Alright so everything so far is the way you want it

MALE 2 yeah everythings right

CI Alright I'll let you run stay strong man. Alright fellows I'm on my way down

58196 - G10

TAPED INTERVIEW

:FENSE:	HOMICIDE
REPORT#:	0109704
VICTIM:	ANDREW DOTSON
PLACE OF OCCURRENCE:	FIELD S/O GALLOWAY ROAD
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	WIRE CI AND JAMIE HORTON
DATE OF INTERVIEW:	MAY 23, 2002
PLACE OF INTERVIEW:	WIRE
INVESTIGATOR:	ZACH SCOTT/CHRIS FLOYD

C.I. Just hit me when you're ready

J. HORTON I'll be ready as soon

C.I. Just hit me up, relax man, damn

J. HORTON _____

.I. Hey, hey, you ain't got no ~~horn~~ hard dog

J. HORTON _____

C.I. Just bring what you can bring for me To take care of shit know what I'm saying, whatever you can bring

J. HORTON _____ it ain't, I swear to go, _____ by tomorrow night, if I go, if I do what I gotta do, _____

C.I. That's what I'm saying, I, got to give me time (phone beeping) Hello, hello, listen, this is Brittany.....just get what you can get and hit me back, how many heaters are you going to bring

J. HORTON one

C.I. Alright, alright.....alright, well I got to get, hey

J. HORTON it a 9 tavors

C.I. Yeah, that's Phat that's about A 120.00 gun

HORTON I paid 200

EXHIBIT 26

(1)

J. HORTON _____200

I. Yeah_____-

J. HORTON _____

C.I. Hello, Brittany

J. HORTON _____-know what I'm saying_____keep my word with you_____

C.I. Alright well listen, I need 3

J. HORTON Three_____-

C.I. I got to give my dad 1 back, know what I'm saying, and I'm going to need 2 for the other two, so just get whatever you can get and hit me right back, try not to make it too late, cause I got something else I gotta do too

J. HORTON _____the only thing I'm going to have is money

C.I. Hello...alright, well whatever you can get together just holler at me

J. HORTON _____

I. No, I'm talking to Jamie

J. HORTON I'll go there right now TO the one spot

C.I. So what do you want me to do just follow you

J. HORTON Well come pull around, come to like uh

C.I. Hold on a second, I'm talking to Jamie

J. HORTON Gas station GO TO McDonalds, right there

C.I. On Mound Street

J. HORTON NO-ON-104

C.I. So what do you want me to do follow you there or what?

J. HORTON Go around_____soon as like, soon as I get off Lockbourne Just do a circle

(2)

C.I. Okay

J. HORTON Cause I dont bring NO-ONE TO my house

C.I. I feel ya. Hello, what's going on big baby? Yes I am Jay you know I am dog, you know when I'm going to quit it dog, when we have.....so don't have nobody come and see you Sunday....why? _____you want me to, huh? You only get one visit Jay, this is a little bit more important than that dog, alright, okay, well listen, I got, I got a couple runs I got to make, so uh, Jamie's getting ready to give me that fucking heat for you....hey, Brittany....hey are you going to be ready to meet me over Emily's? Alright, well I'll just call you when I'm ready, alright. Hey, Jay what's up, you need anything else dog? Well you know when I'm going to quit sweating it....alright dog, later. Hey we got to hurry up and do this shake down, I gotta go to 104 to meet Jamie then I'm going from there to get the other gun from Emily's house. Jimmy said that, Jimmy said_____

C.I. What's going on

J. HORTON It right here in the paper bag

C.I. in this bag _____uh, are you going to take it over to Emily's dog?

J. HORTON _____

C.I. Cause Shawn's got that gun over there for me, underneath the lawn mower, he said to tell you, so I need to go get that. Brittany was supposed to meet me over there but she's talking about_____she's gotta watch the kids or some shit so

J. HORTON You need it tonight

C.I. Yeah

J. HORTON _____

C.I. Yeah I had to go take, I had to drop them pictures off, what the fuck is that?

J. HORTON My phones goin dead

C.I. Aw, that's all digital shit

J. HORTON Yeah, that's_____

C.I. Damn I wouldnt Know how TO work that fucking thing

J. HORTON Just punch it

C.I. Oh, it's all on screen

HORTON Yeah

C.I. _____ that's bad shit. What um, _____ for tonight

HORTON I get you some you know I will

C.I. Well I'm just saying, I'm not getting___know what I'm saying, I don't have nothing to give dude What's up with the fucking…

J. HORTON What?

C.I. What's up with the prosecutor dog?

J. HORTON I gave you that

C.I. I know that, but I'm saying, what's up with it, I mean, I mean, know what I'm saying, Jimmy said something about Cheryl Pritchard, so just Ron O'Brien

J. HORTON Yea that's what I Heard

C.I. Works for me

J. HORTON when you gonna do that

C.I. Soon as I can, I got, somebody said, that's what I'm saying dog, I really don't have, I don't have the money to….dude, that thing makes me nervous, what the fuck is that?

HORTON The batteries went dead on it

C.I. Why don't you just shut that mother fucker up. I just don't, I don't have the money to do nothing, know what I'm saying…..so

J. HORTON I'll have you some money tomorrow. something you know do what I can

C.I. Who all's going to be over here fucking…is Shawn over Emily's…I just called the crib, he wasn't there…I don't know Emily's number

J. HORTON _____-

C.I. He didn't answer his phone_____-

J. HORTON Where'd he say it was

C.I. Said it was, said it would be under one of them lawn mowers

J. HORTON The Trailer at a -friend's house, he works for me-

C.I. Well who's Joey

HORTON One of Shawn's friends

000469 5819613

C.I. Well that's who Shawn had bring it down here so maybe Emily's just got it.

HORTON Turn my phone ~~on~~ off can I use yours

C.I. mines in the car go ahead and turn it on

J. HORTON _____

C.I. Alright well we'll just roll over there and see what's up _____ god damn bee, alright well I'll just go follow you over there then, alright. Alright, well we're going to Emily's...all he gave me was the gun, it's in a, it's on the seat beside me in a brown paper bag.

J. HORTON Shawn's on his way down here right now

C.I. I know, that's what Brittany just told me

J. HORTON Emily's not in there, is that why you tried to call me?

C.I. Yeah

J. HORTON My phone went dead, I don't know, as soon as I get a hold of him, I'll holler at you.

C.I. Well, if he's coming down here, I'll just come and get it from him?

HORTON Okay, that's cool

C.I. It ain't no big deal, you know what I'm saying

J. HORTON Alright

C.I. Just make sure one of them get a hold of me dog

J. HORTON Alright man

C.I. Uh, try to get me some uh, try to get me something tomorrow man..

J. HORTON Like, like how much am I looking at?

C.I. As much as you can get, in the end it's going to cost about 20

J. HORTON 20,000

C.I. Yeah, all things considered, that's not bad

J. HORTON I know, I'll have to get with that guy in that Bar man

I. That's what I say, just get whatever you can get tomorrow and then...

J. HORTON Alright

C.I. But make sure you get me, I need another heater though, cause I'm only going to have one, I'm going to give this one to my dad for his 32

J. HORTON That bitch's hard ain't it

C.I. Yeah, yeah. Hey uh, man, are you going to get that address for Ellis tomorrow or what?

J. HORTON When I talk to

C.I. That would alleviate a whole lot of

J. HORTON As soon as I talk to this dude, I'm going to do it man

C.I. when you going to talk to him?

J. HORTON I don't know, I hopefully, I don't know man, he's fucking been, he's some big time mother fucker man, he's just straight, whenever he wants to fuck with me, he fucks with me, if he don't want to, you know what I mean?

C.I. Right

HORTON Cause he's like fuck you. I'm out, I'm out gambling, I'm out whatever you know what I mean, I can't fuck with him like that.

C.I. Alright, well just uh

J. HORTON If I do though, I'll let you know

C.I. Yeah, just get with me man. Alright?

J. HORTON I'll talk to you man, be careful man

C.I. Alright dog.

C.I. Alright, I got Gary in front of me, let's go back to the bureau.

58196 - G16

Franklin County Sheriff's Office

Detective Bureau

Progress of Investigation

Offense:	Homicide
Report #:	0109704
Victim:	Andrew Dotson
Place of Occurrence:	Field w/o Galloway Rd
Date of Offense:	10-10-2001
Reporting Detective:	C. Floyd
Date:	

Taped Telephone conversations between CI and known persons on 5-24-02:

Page 2: Jamie Horton references that the gun is in the mailbox on Demorest Rd.

Page 9: Conversation with Atty. Chris Cicero. Without referring to what the item is, Cicero advises CI to "put it in the drop box" at his office.

Page 14: Shawn Nightingale refers to the gun being there.

EXHIBIT

tabbies 27

000523

(1)

Submitting Officer

Supervisor

5/31/06 - G17

SCOTT	FLOYD	CI	SUSPECTS
Investigator 1	Investigator 2	Interview 1	Interview 2

TAPED INTERVIEW

OFFENSE:	HOMICIDE
REPORT#:	200109704
VICTIM:	ANDREW DOTSON
PLACE OF OCCURRENCE:	FIELD W/O GALLOWAY
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	CI/VARIABLE SUSPECTS
DATE OF INTERVIEW:	MAY 24, 2002
PLACE OF INTERVIEW:	PHONE
INVESTIGATOR:	SCOTT/FLOYD

Scott — today's date is May 24, 2002 and we are approximately 3 o'clock generally start phone conversations with the Sheriff's know CI and sources.

Phone ringing

Female — you have reached the Sprint PCS voice mailbox of Billy Bob, to leave a voice message press one or just wait for the tone, to send a numeric page press 2 now.

oise

Female — 614-397-9607, to send a page, press l, to enter a different number, press 2, to cancel, your page has been sent. Thank you for calling, good bye

Phone ringing

CI — hello

Female — hey

CI — how you Ms._____,

Female — where you at

CI — _____what's up

JAMIE — I tried to call you earlier but your phone was off

CI — I didn't get up till like l o'clock

000524

JAMIE	Don't you remember where that house was on Demorest?
CI	yeah, huh
JAMIE	He never come down but it's in the mailbox
CI	it's in the mailbox
JAMIE	I think so
CI	so I can just go over there and pick it up
JAMIE	Yes
CI	alright well listen
JAMIE	_____
CI	_____
JAMIE	_____
CI	OK. Right, a, alright well look tell a, I'm trying to get ahold of fucking Brittney man to have Jimmy call me, I got, dude I got, are you at a pay phone
MIE	No
CI	ok, well look, a, man tell Brittney to get ahold of me as soon as she possibly can, this is like majorly important
JAMIE	For real
CI	yeah, because I got dude, it's sweet
JAMIE	It's sweet
CI	oh yeah, a go to a pay phone and call me
JAMIE	Alright
CI	alright, well just call me right back, alright later.
CI	hello,
JAMIE	What's up?
CI	hey, dude check this out, Shawn is going anyway, right
MIE	huh?

CI Shawn is going anyway right, what me and Jimmy talked about and we talked about, ok well look I need to holler at Cicero, definitely 100 percent for sure, I got a holler at him because a

JAMIE I guess

CI huh, yeah I got to talk to Cicero because I got, I got a plan but I need to run it by him, you know what I'm saying cause this could cover, this

JAMIE He don't want to talk to no one

CI well if he won't talk to me, then tell Jimmy I said fuck it, I'm done, cause I'm not, that's just the stage I'm at, so, you know what I'm saying,I mean what the fuck, I've done, you know what I'm saying, I've done showed you guys bodies and, well let me stop, but, you know what I'm saying, a I mean I'm tired of playing this cat and mouse game with those punk guys, so, you know what I'm saying, and it's, dog if I'm thinking that he wants to go the way I'm thinking, everything, and I mean everything will be straight.

JAMIE You should just mail it

CI well I was going to do that but I just, I want to run it, I want to run it by him anyway, you know what I'm saying

MIE I'll talk to Chris

CI hey a my dad what's up on the other thing

JAMIE It's there

CI huh

CI ok, cool, when I got the money and I'm ready to rock, I'll let you know. Yeah, call her and tell Jim to call me, tell her to forward the phone to my cell phone

JAMIE _____

CI well I'll holler at him about him because this, you know what I'm saying, this way it's like first hand

JAMIE _____

CI huh

JAMIE _____

CI just, just a, just tell Jimmy to call me, tell him to call me like as soon as he possibly can, alright and a, so what's up, what do I do just go over there and pick that gun up or what

JAMIE Shawn's on his way down here

right, a, alright well, yeah, just if he don't call me in a half hour I'll just hit you back and we'll go get it, alright

JAMIE Alright

CI hey, see what you can do on Ray Ellis' address too

JAMIE _____

CI alright, alright well just a, if he don't, if Shawn don't get me in a half hour, I'll just call you back, but make sure you get ahold of Brittney and tell her to forward the phone to my cell phone, alright, alright Jamie I'm out of here dude later.

Female Hello

CI what's up

Female hold on, oh my god I'm at work -what do you want

CI yeah, what did I want, well I'm trying to work

Female well, I'm not, I'm not a essential piece to your, your job am I

CI yes you are actually, you're my contact with a JimBo

Female well, what do you need, sike, I don't know

CI I know

Female I, I've been typing anymore, but, I_____

CI whatever, you's probably_____

Female yeah, shaking everytime that you called, you know

CI yeah, I, really, I mean you know you're man is locked up, you got to do something

Female yeah, yeah, yeah, I _____me, but_____seen him for a year

CI oh Calvin called

Female maybe I should call and check my messages

CI yeah that's a possibility, well look

male _____call you, what

CI	I need Jimmy to call me like yesterday
male	hey well as soon as he calls me,I'll call you
CI	you're telling me he ain't called you today
Female	No but I haven't talked to him_like_____
CI	ok
Female	I'm getting off of work at 5, so he'll, I mean, for sure he'll call me between 5 and 5:30
CI	well
Female	_____
CI	look tell him when he calls you, I want to talk to him like emergency like right now, alright
Female	ok_____that, did, what, he told you about them going up to his, trying to put him on phone restrictions right
	yeah, I mean
Female	Well I call down there and prosecution did that _____
CI	the prose
Female	Yes
CI	for what
Female	I don't know, I guess the prosecutor is on his case so they lifted it, so who knows, so just be real careful what you say
CI	I'm always careful
Female	I would imagine that, sure you are_____
CI	why does everybody in you guys.fucking crew say I don't know, it makes you guys sound like a bunch of idiots
Female	_____he says, he says that I started it
CI	Oh, well I sure if I could just talk to one of you guys without hearing I don't know, I might be ok

Female	you will never go without_____you'll never, you'll never, that's like a_____
CI	well listen, I don't know, when he calls you, call me the minute he calls you
Female	alright I'll call you
CI	alright bye
Phone ringing	
CI	yeah that's it
Phone still ringing	
JAMIE	hello
CI	hey what's up
JAMIE	What's up
CI	hey is a Shawn been down there yet
JAMIE	no, I called, I called and left a message on his phone
	on who Brittney.
JAMIE	Yeah
CI	yeah I just talked to her a, well man if Shawn don't get with me here pretty soon I'll just have to get with you and to over there and pick that up
JAMIE	Alright, that's cool
CI	alright later.
CI	hello
CI	Ronnie
CI	yeah, this is Sarah
CI	hello, let me turn the fucking water off, hello
CONWAY	what's up
CI	what's going on big guy
CONWAY	Nothing I just got a letter

CI huh

ONWAY The prosecutor or my lawyer

CI you did what now

CONWAY I got a letter

CI for what

CONWAY The witness in my case

CI huh

CONWAY The witnesses in my case is being threatened I understand that he's a_____he's not going to testify, he's going to they want to make a video some kind of video's or shit

CI Oh his testimony

CONWAY yeah_____testimony_____screwed, I just got it just like 5 seconds ago They are going to take me, they're probably gonna put me on phone restriction

CI well listen, who you ucalling me through

ONWAY Brittney

CI I need to have, dude I need to meet with Cicero

CONWAY do what

CI I got to talk to Cicero

CONWAY well_____I been trying to get ahold of him___home for the last couple days

CI cause I got a, I got a beautiful plan dog

CONWAY alright well, I don't know, you probably shouldn't come down here

CI do what now

CONWAY I mean you shouldn't come down here and see him you understand

CI it's not in my name so it ain't no big deal

CONWAY huh

CI it's not in my name, so it ain't no big deal

CONWAY	do what
CI	it's not in my name, so it's not a big
CONWAY	I know, I understand, they're on some other shit
CI	well, ok, well that's what I'm saying, I need to do stroke with Cicero, you know what I'm saying
CONWAY	well a, I don't know, I, I been trying to get, as soon as I get ahold of him I'll tell him
CI	tell him that I need to talk to him dog, it's like major league important
CONWAY	ok
CI	alright
CONWAY	yep
CI	so you'll gonna call me back later and let me know what's happening or what
CONWAY	yeah, I'll get, as soon as I get ahold of him, but I don't know,____that must be why they tried to put me on phone restriction cause of this shit
CI	probably, ain't no big deal, ain't no big deal, we'll take care of it
CONWAY	alright man, just
CI	huh
CONWAY	hey what's up
CI	what's up
CONWAY	is everything cool
CI	a, kinda light weight yeah
CONWAY	alright well a I don't know, I'll talk to you later___
CI	well _____
CONWAY	I just wanted to make sure everything was cool so
CI	well I mean it is but it ain't, that's what I'm saying got holler at Cicero

58 CONWAY G25	alright well I'll talk to you later
CI	well get ahold of him and then call me back either way and let me know something
CONWAY	huh
CI	get ahold of him and call me back either way and let me know something so I ain't just sitting around
CONWAY	I will
CI	alright
CONWAY	later,
CI	alright Jim be safe dog
CONWAY	alright man
CI	later
'I	yeah
MY BROTHER	_____
CI	what's up
MY BROTHER	what's up, hey I can't get in down there man
Female Voice	"based on where you are calling, your account has 7 hundred 77 minutes of talk time Available"
Phone ringing	
CI	is Chris Cicero there
CICERO	This is he
CI	ok, well a, I'm just, I'm a friend, I'm supposed to do something for Jimmy
CICERO	ok,_____I have a client drop off box or you can mail it, one or the other
~I	well was you gonna see Jimmy today

CICERO	tomorrow
CI	tomorrow
CERO	he waiting for a letter from me
CI	well he's got the letter today I believe
CICERO	alright, I just talked to his girlfriend___about an hour ago, she said he did which Is ok, I mean he can call me, but gonna see him either tomorrow or Sunday, have To definitely this weekend, we have court on Tuesday
CI	right, a, well it's, if you want to be honest about some shit, but I, I don't think
CICERO	alright, a,I'm getting ready to leave here, why don't you just give me a call back can you give me a call back here in a couple hours or so
CI	yeah, that's cool
CICERO	alright
CI	alright Chris, bye

	what's going on
female	what's up
CI	I'm just talking to Cicero
Female	what he'd say
CI	a, I'm going to be meeting with him in a couple hours
Female	area you
CI	yeah
Female	That's good I just talked to J a minute ago
CI	what's he talking about
Female	Nothing
CI	___I can't get, I just paged Jamie, is Shawn down here or what
male	I have no idea, I just to to Jan's from work so I don't really know

CI	well see if you, see if you can ahold of Mandy or Emily or one of em and see if Shawn's down there and have him call me
Female	ok
CI	call me back and let me know what's going on
Female	alright
CI	alright
Female	bye
CI	no it's me and Jamie_____
JAMIE	Hello
CI	hi what's up, is Shawn down there yet
JAMIE	I don't know
CI	alright well call and find out and call me right back so I can go pick that up man
JAMIE	_____
CI	right,well I just talked to Cicero, yeah I guess, he's wants me to get with him In a couple hours
JAMIE	couple hours
CI	yeah, so, get ahold of, see if you can get ahold Shawn and call me right back And let me know what's happening, alright
JAMIE	Alright
CI	alright dog later
CI	that was me and Jamie Horton it's 6:15
CI	hello
JAMIE	Hey, what's up manb
[illegible]	what's going on Bro was that you that just called

JAMIE Yeah, I just tried to call you

CI I was in the back, hey what's happening

JAMIE Not a lot I just talked to my boy

CI who did you holler at

JAMIE My dude_____

CI oh Ray Ellis, dude you're kidding me

JAMIE He's about to call me back in a minute

CI ok, you can just show me tonight

JAMIE YEP

CI what's up with Shawn

JAMIE He's still in Chillicothe

CI he still in Chillicothe

JAMIE Yeah

CI Man, he's bullshitting man

JAMIE Naw

CI yeah just grab him and call me, why, what he's scared ain't he

JAMIE Probably

CI probably

JAMIE Who wouldn't be

CI oh well, laughing

JAMIE Laughing

CI long as I'm on your side you ain't got nothing to worry about

JAMIE I'm driving around feeling like I'm on some mafia shit

CI well you're not far from it

JAMIE Hold on look I'm on the westside, can you get here quick

CI	a, well right now I'm helping my dad count some shit
MIE	How long you think it'll be
CI	a
JAMIE	Before you get down here
CI	right well a, won't take me long, give, what time is it right now
JAMIE	It's probably gonna take 10 minutes to get to the house
CI	right, give me, just give me like a half hour and call me right back
JAMIE	He should call me back in the next half hour
CI	ok well as soon as
JAMIE	_____special_____
CI	right
JAMIE	So it looks like somebody else dit it
	ok well just run it down to me when a when you holler at me hey look I need to Holler at you on on this prosecutor shit too man
JAMIE	I can't talk on the phone
CI	alright
JAMIE	Hey uh I talked to the person you were gonna meet in a couple hours
CI	yeah
JAMIE	He don't want to, he's not gonna meet you
CI	he doesn't have no choice, a, dog, I go myself, fuck him
JAMIE	_____
CI	he's, he's scared to death ain't he,_well he's a fucking, he's the_____one out Of the crew, what's he scared of. We'll holler about it, just, whenever you a, Whenever you get that man, get the information, just call me back
JAMIE	As soon as I get it you'll know
	alright just hit me up in like a half hour either way let me know what's

58196 - G30

	Happening
JAMIE	Okay, I'm gonna go get that gun right now
CI	ok
JAMIE	Alright
CI	alright dog, later
NIGHTINGALE	Hello
CI	hey is Shawn there
NIGHTINGALE	Who's this
CI	what's going on, what happened to you last night
NIGHTINGALE	It's there, it's been there
CI	it's been there
NIGHTINGALE	Yeah
CI	I don't know them people dog
NIGHTINGALE	I don't know why they was there_____uh Jamie can go get it. Right now I told hiim 10 o'clock this morning
CI	alright well what's up with dude down there
NIGHTINGALE	There's nothing, can't figure out anything at all_____my brother _____4 hours ago_____
CI	know where he is at
NIGHTINGALE	Yeah__
CI	well
NIGHTINGALE	right now
CI	see man we need to holler dog
NIGHTINGALE	_____

CI	_____
'GHTINGALE	I can't call_____can you call_____
CI	_____lots of noise, fucking son of a bitch_____is I mean fuck what number is it
NIGHTINGALE	351-8920
CI	_____
NIGHTINGALE	_____
CI	8920
NIGHTINGALE	Yeah____called and told_____call me right back_____
CI	whose number is this
NIGHTINGALE	Emily's
CI	ok
NIGHTINGALE	_____
CI	alright yeah I'd rather just wait cause I mean we need to __know what I mean Got figure out_____
NIGHTINGALE	_____right back_____
CI	alright, I'll just call her and tell her you're ready and___for you
NIGHTINGALE	call your cell phone whenever I get up there
CI	yeah you got it don't you
Male	yeah
CI	yeah, just call my cell as soon as you get here
NIGHTINGALE	Okay well whenever she leaves why don't you go over there and grab that
CI	ok, that's what I plan on doing
NIGHTINGALE	Alright, it's in the mailbox
CI	alright

58196 632

NIGHTINGALE	Altight just call her
CI	gonna call her right now.
I	that was me Shawn Nightengale, the time is 7:16.
CI	the conversation prior to this one was between me and Jamie Horton and the Time was I'd say around 6:30, between 6:30 and 7,
CI	I'm getting ready to call 451-8920 which is Shawn Nightengale's fiancée Emily.
Phone ringing	
Emily	hello
CI	Emily
Emily	who is this
CI	this is Tony
Emily	This is her
CI	is this Emily
nily	yeah
CI	hi, well I'm calling for Shawn, he said to tell you he's ready to foll
Emily	For me to get him
CI	yeah, cause I guess he can't call it's long distance or whatever
Emily	alrighty
CI	so he said for you to call him like right now if you could
Emily	ok
CI	alright, bye
CI	that was between me and Emily, Shawn Nightengale's fiancée. Time 7:17
NIGHTINGALE	Hello
CI	is Shawn there
IGHTINGALE	Who's this

CI	Tony
'GHTINGALE	What's up man
CI	hey what's going on,I talked to Emily, did she call you
NIGHTINGALE	Yeah, yeah, Jamie called me back, she_____over there
CI	alright, so they, they getting ready to come and get you
NIGHTINGALE	this was like 2 minutes _____
CI	alright, well what time you think you'll be down here
NIGHTINGALE	what time is it
CI	like 7:30
NIGHTINGALE	It takes like 50 minutes to get here
CI	ok, well just, whenever you get to Columbus, hit me up
NIGHTINGALE	did you give me that number
	my cell phone number
NIGHTINGALE	the number I wrote down was Jamie_____
CI	oh, no, I'll give you mine though
NIGHTINGALE	you did
CI	no, I'll give it to you now if you want it
NIGHTINGALE	_____
CI	alright, well I'll call Emily and give it to her
NIGHTINGALE	alright
CI	alright, later
CI	that was between me and Shawn Nightengale, time is 7:41.
Phone ringing	
'MILY	hello

CI	is Emily there
Emily	this is her
	hey this is Tony
Emily	um huh
CI	hey, you got caller ID
Emily	yeah
CI	is my number on your phone
Emily	um huh
CI	will you write it down and give it to Shawn for me
Emily	yes I will
CI	alright, I just talked to him, so whenever you get down there, just write it down And give it to him will you
Emily	yeah, I'm about to go get it right now
	ok, well what time you guys, when you think you'll be back, he said around 10
Emily	a, time is it
CI	about 7:30, something like that
Emily	yeah, that's right
CI	ok
Emily	is's on my caller ID so I'll have him call you
CI	hey is Jamie over there
Emily	yeah
CI	hey let me holler at him real quick
Jamie	what's up man
CI	what's going on dog
mie	Iit's here right now

CI	huh
Jamie	It's here right now
	I'm about to leave my dads
Jamie	Are you going to be close
CI	I'm coming to west side, I can just come over there
Jamie	_____alright, I'll just
CI	hey, can we go by that
Jamie	I don't know where it's at yet
CI	OK, alright later
CI	that was between me and Emily, Shawn Nightengale's fiancée and Jamie Horton
CI	hello
Female	_____I___gonna hang up right
	huh
Female	can you talk right now cause_____
CI	yeah,__just getting in my car
Female	Alright
CI	alright
Female	hello
CI	hello
CONWAY	what's up
CI	what's going on
CONWAY	nothing
CI	hey, look man,I talked to fucking Cicero and he wanted to get with Me in like a couple hours and then I guess Jamie talked to him tonight, he Don't want to get with me I need to get with him dog, I don't know if Jamie and them is fucking scaring him off or I'm trying to get Jamie and

58196 - G36 Them out of the picture so I can deal with this shit on my own, see what I'm saying

CONWAY Well I don't know, I, I mean, I mean just phone him and talk to him for a minute Go over there with Jamie

CI I_____something, I mean_____can't you get it done

CONWAY I mean I can try to call him if he answers the phone

CI he answered it for me 228-2600

CONWAY alright

CI I mean tell him that, that I have to get with him and talk to him man

CONWAY alright

CI alright

CONWAY yeah

CI so

CONWAY is that why you want to talk to talk to her or something

who

CONWAY Is that all is erything else alright

CI I mean really it's not, that's why I need to holler at Cicero man cause I got Some shit I'm gonna do but I need to holler at Cicero first, tell him to get his Fucking head out of his ass dog,_____out of the whole fucking crew, What's he afraid of

CONWAY I don't know what's going

CI ok, well I giving him his who you know what I'm giving him dog

CONWAY I know

CI so,

CONWAY I'll call him

CI yeah well just, yeah__it up and tell him

CONWAY _____I tried to talk to Jamie_____

he's over at Emily's

CONWAY Emily's is right behind his house

huh

CONWAY _____

CI well I just, I just talked to Emily and Jamie, they was both at Emily's.

CONWAY _____Emily's_____Emily is just at the pay phone here in Steubenville

CI well___well a little ago Jamie was at Emily's, so I don't know

CONWAY

CI that's what I'm saying,I don't like to keep going around and around, I'm Trying to get this to where it's me, you and fucking Cicero, so tell him To get off his fucking dick and get on his_____

CONWAY I will, I'll try to get ahold of him

CI well just call me back and let me know for sure

CONWAY alright, well, I will

CI alright

CONWAY _____alright, later

CI alright, later

CI that was between me and Jimmy Conway, the time is 8:03.

BRITTANY yes

CI hey, what's up, I thought he was calling me back

BRITTANY I don't knwo

CI huh

BRITTANY I mean he___I'll have him call you next time he calls me

CI last time he called you

BRITTANY yep

CI	alright
BRITTANY	what the fuck are you fucking with_____
	nothing
BRITTANY	what's so funny
CI	the words you use sometimes
BRITTANY	do what
CI	I said the words you use sometimes
BRITTANY	Excuse me
CI	huh
BRITTANY	what did you say to me
Phone ringing	
JAMIE	hello
CI	what's going on
JAMIE	____-over there,I'll in 5 minutes
CI	where was that from
JAMIE	Central Point
CI	oh yeah, oh ok yeah
JAMIE	_____
CI	ok that works for me
CI	that was just me and Jamie Horton.
Phone ringing	
Female	hello
CI	hi, is Shawn there
Female	Who's this
	this is Tony, who is this

Female	Mandy
	You was there when I left right
Female	yeah
CI	He ain't there yet?
MANDY	no, hold on a minute
CI	alright.
FEMALE	hello
CI	yeah
MANDY	yeah they, they left a long time ago to go get him
CI	alright, will you do me a favor_____Columbus
MANDY	sure
CI	Thanks
CI	BM34GA – Yukon plate at Elliot Oaks
CI	that was between Shawn Nightengale and myself. Time is 11:30.

END OF SIDE A.

58196 - G40

TAPED INTERVIEW

#02161

FENSE:	Homicide
REPORT NUMBER	0109704
VICTIM:	Andrew Dotson
PLACE OF OCCURRENCE:	Galloway Rd. S/O Hall Rd
DATE OF OCCURRENCE:	October 10, 2001
INTERVIEW OF:	CI Body Wire w/Calvin Horton
DATE OF INTERVIEW:	5-24-02
PLACE OF INTERVIEW:	772 Demorest Rd
INVESTIGATOR:	Floyd/Scott

CI — I'm going to holler at Cicero about it.

I don't have no way to get_____You know what I'm saying he's getting gone. He's getting done, right. Why not have him do the same thing with dude.

CI — I thought about it but I got shit to take care of_____

Horton — Hey I mean I have like 6 _____. It might have been more.

_____

CI — I know dog he's fucking spooked.

CI — What's up with the fucking, which Prosecutor does he want me to deal ~~with~~ do this to Pritchard or O'Brien. _____. Jims saying do OBrien.

CI — O'Brien? Why I mean cause I mean I fucking

Horton — STS All going to fall into place perfectly it will be alright I don't know either, I don't know Jimmy knows.

Horton — What the fuck is that a police helicopter?

CI — He don't know nothing bout me. I just like to ride around a lot. Man, dude I'd like to go buy ~~a sweatshirt~~ and check that out tonight

Horton — You know as soon as he shows me I don't give a fuck I'm dropping what I'm doing, that much money. I mean how we gonna do it Because I know hes gonna want some money

CI — I'll split with you and you take it from there.

Horton — You'll split with me and then I'll deal with him whenever. _____.

EXHIBIT 28

000622

CI — See I can work this out. But Cicero has got to be the go between between me and Jimmy on this on the Andrew shit because I can't talk to Jimmy and that phone.

'rton — What I'm saying is this when it does come up you gotta answer.

Horton — _____I mean dude from what I got it from Arthurs, he's already snitchin. It don't matter if you kill me or not, they already know.

CI — ~~After I call I'm like dude I just been down in the country all motherfucking night man.~~ I was out there all night. That's why I called like dude I'm down here at 12:30 at fucking night.

Horton — _____what did he do to you.

CI — Nothing that he did, right, it was just like a fucking, just like a bum.Just got a little bum. Do you know what I mean from what he told me he was like I already know.

CI — I was like I just acted like my car was fucked up, pulled over. _____.

CI — I was like man if you're gonna kill me, kill me but they already know anyway.

Like you know what.

Like ~~you~~ they know everything. Okay, I said well tell me what's up with Andrew, what happened with that dude. He told me and I was like I wish I had a fucking camcorder.

CI — You better be prepared. My thing is this he said something to the cops

Horton — Yesterday morning. I'm thinking if he's been talking to the police and if they can't get a hold of him they'll beat around on somebody's cage all the time.

Horton — _____they showed you, they showed me they make sure _____

See that's what I'm saying that why I want _____

Horton — Look Chris _____let him know everything, he's cool like that, so I would talk to him, I'd be like look that's all there is to it, you know what I'm saying but he just don't want nobody new nobody knew.

CI — That's cool man. Well this is what I'm saying, I need to either holler at Jimmy. All I need is what happened with fucking Andrew. Just tell Jimmy the thing to do like he told me exactly what happened that night, step for step, you know what I'm saying and that's why I had dude say he was on video. The only thing is when you're doing a confession you have to know exactly what happened, you know what I'm saying, you can't just.

'rton — see if I knew Did let you know

581 96 - G41
000623

CI That's what I'm saying.

Horton I don't know, so tell me.

That's why I need to holler at Jimmy. I need to know exactly what the fuck happened, you know what I'm saying, I can't just have him sit down and say a bunch of bullshit that he doesn't fucking know nothing about.

CI If I didn't trust you dog_____I wouldn't be fucking...

CI _____

_____

CI That was my whole thing, just let (know) Jimmy. But you want it done right.

I mean don't let me off the chain if you don't expect it to happen, shits gonna happen.

CI Man you can't call dude_____Go to a payphone, I'm trying to get this done. I gotta keep coming to you guys to get money.

Horton Once you get that money you'll be chillin

CI Yeah I'm gonna take care of my pals, you know what I'm saying Because I mean like last night when I told you I know all the shit that you gave me is to take care of them dudes down there you know what I'm saying. So I need more money to take care of these dudes and I can't do it by myself you know what I'm saying.

Horton _____. I'll at least give you like 4 or 5 of them, but I have to get that money first.

CI All right so what are we doing?

Horton I'll go talk to my dude and see what's up with that thing._____

CI All right well go ahead and grab that_____.

Horton We'll walk in together

CI You have the number to make a phone call anytime.

Horton I'll make a phone call _____.

CI Hey hound dog.

Horton I dont know what it is

What the fuck is this a fucking .38, if that's a Smith and Wesson it's a good gun.

Horton — It is.

CI — Huh?

orton — What one, that .32

CI — I didn't use it I was afraid to use that motherfucker. I haven't even tried.

Horton — _____.

CI — No, no, fuck man, so what time do you think you'll have that ~~bag~~ address dead Ray Ellis ____.

Horton — I dont know, I'll call

CI — All right. Just let him know that I mean a fucking body strip whatever he wants to do, you know what I'm saying. He's probably like this motherfucker got whacked 2 months ago fucker for these guys I don't want him in my office.

Horton — _____I was like why is he so worried about Marcus, Cicero, why is he so worried about Markus

CI — Find out. Holler at Cicero, you know find out exactly what the fuck I'm supposed to do, you know what I'm saying. I mean it ain't no big deal who I use this on, right? You guys got anybody you prefer _____. Laughter.

Hello, hello

Horton

~~Horton~~ C. I — Some people got a preference. Well man can you try to have that address for me by like 10:00 because I'm hooking up with Shawn at 10. I'm not gonna be like _____I just need to holler at Shawn. I guess he knows where Marcus is at. So I gotta find all that shit out. But I might not even do shawn

CI — Well just holler at him man.

CI — I'll holler at him. _____. I'll holler at him man, just fucking _____Get that Fucking address I need that address.

Horton — You don't think I'm gonna do it. I absolutely..

CI — I'm saying I know you can only holler at dude what I'm saying is talk to him Again, this is like important shit dog

Horton — No shit.

CI — Holler at him. I call now

orton — I don't want to keep fucking running around, around, around

G43 - 000585

Horton	Call him up
	I mean is he for sure that the shit is there
Horton	Oh yeah
Horton	All right well hit me up in the morning.
Horton	All right, I could probably have some tomorrow, probably not tonight. I got everything Out of my house. I got everything. All right, later.
	Unintelligible phone conversation.
CI	Dude its not like I get my fun on killing people, I just do what I'm paid to do. I mean the whole thing is this, you know, you guys pay me to do a job, I'll do a job, you know what I'm saying. _____
Horton	360 fucking two ways – that's 180 a piece. I mean even if I showed you, and I'll let you know, I mean, if I know for sure if you don't do that and you came backand you split that with to me I'll have nothing never have nothing ever, I will never say nothin
CI	Hello what's going on. Because I was talking to Jamie, I was kinda busy, I don't answer when I'm busy. All right. All right, well just tell Jimmy I'll do that then. Yeah you can, all right I thought about spending the evening with you but I didn't know if I could fit it in or not. Whatever. Well I'm over at your friend's right now. So, huh? No I I'm just over here sitting with Jamie, I don't even know where the fuck I'm at. All right? All right, bye bye.
	Inaudible conversation due to traffic sounds
CI	He's probably wondering
CI	Been busy, I ain't had time to go to a sunning tan. I might go down to the beach or something.
Horton	I should go too, I'd probably laying on the next beach over. All right, well look just hit me up brother. If nothing else, man, just see if you can give me the address for that bitches because I want to check it out for myself first. Yeah I'm not gonna run up in there. Just see if they give you the address so I can go by a see.
~~CI~~ Horton	He said the only reason why he ain't saying nothing else is he wants to be sure
~~Horton~~ C.I	Tell him Well, I mean [redacted] that's cool, but I'd rather know where its at now so I could just check it out, I know when you guys give me the word I'll just hand them my business. So just call them and see if they give you the motherfucking address tell them I'm not gonna do nothing right now till you guys give me the word. I want to check it out for myself. All right?

000626

Horton	Careful man
	Dog, I'd tear that bitch up before they ~~shot~~ stop me.
Horton	This is clean, right
CI	Shit, you don't know.
~~Horton~~	~~I gave it to you.~~
CI	Why is Shawn so fucking leery about uh, Alex.
	He's like he don't need to go.
Horton	think he's got a kinde heart
CI	Compassionate criminal? Imagine that a compassionate criminal.
CI	Look man call the dude and get the address. Just let him know I'm not gonna do nothing right now.
CI	_____Tell him I just want to check this shit out for myself.
CI	Try to _____do tomorrow, you know what I'm saying, that's what I'm saying Well look, like look. Just hit him back and tell him I just want to check this shit out for my friend. Bullshit, well what's he gonna want like 50 grand. Even if he wants 80 you'll still make 100 grand for yourself.
Horton	Even if you're saying, I'm not doing ~~it either way~~ nothin either though.
~~Horton~~ C.I.	It don't matter, you're part of crew. Part of the family you know what I'm saying
	_____
CI	yeah so we can get our own shit going, instead of all this bullshit you know what I'm saying. So fucking just call him, go over and see if you can get the fucking address real quick tell him I'm not gonna run up in there I just want to check shit out for myself. You don't have to give me the address right now, just give me the street.
Horton	Just so you can go check things out.
CI	Right
Horton	GMC Chevy has like a fake glove box and he has a safe and he says the only person that knows how to get into it is the girl. Weird shit. He'll open it. He'll open it. I know how to persuade him.
	Well man did you call him and see what street it is on.

581796 - G45
000627

~~CI~~ Horton I'm not doing that till 10:00 I can just roll up and check it out anyway you know what I'm saying.

~~Hon~~ C.I I'm not gonna move till you give me the word.

Sounds like a phone conversation:

~~CI~~ Horton Hey can you give me a hint about what neighborhood its in, I mean we ain't gonna do nothing tonight, we just want to go look at the neighborhood.

Response Cherry creek.

~~CI~~ Horton All right well I'll be by there in about what a half hour

Response All right

CI Want to roll by there a check it out

Horton Just jump in my truck, I'll drive out there and show me where its at.

CI All right well look, listen let me show you something dog, I know what to do with money, when you get a lot of money. I mean this is a bad-assed ride dog, but

Horton Its too slow

I mean what the fuck did you pay for this. I mean its fat but _____. You shouldn't even have nothing like this in your name.

Its in my mom's name

CI Well, I mean its gonna eat all your money. Let me see what the fuck that is, what is that like a computer? Everything is computerized? Okay got a CD player and all that? That's a lot of money. How many CDs can you put in there. I mean I wouldn't mind Having one of these. You put the tires and everything on it. It came with these tires

Unable to hear anything but traffic.

Phone ringing and phone conversation:

CI Hello yeah I'm fine What are you doing? Watching a movie? All right I'm fine. All right well I'll talk to you later. I mean I know for sure that's what I'm gonna need. I'll get back with you.

Horton Are you gonna be there in a half hour. All right well just hit me up and I'll meet you wherever. Lockbourne? Mound and Sullivant? Mound and Central

CI All right well man I'm out bro. I know, that's what I'm saying.

000628

Unable to hear anything but traffic.

CI Really you guys ain't taking no risks, I'm taking all the risks. I don't care Because of I value family and its family, you just gotta _____I try to get My gear back in order, get my jewelry. I'm trying to take care of a whole bunch of shit at once.

All right.

629000
381796 - G47

G48

TAPED INTERVIEW

OFFENSE: HOMICIDE
REPORT#: 0109704
VICTIM: AM 5/25
PLACE OF OCCURRENCE: TAPE 1 of 2 HALL RD.
DATE OF OCCURRENCE:
INTERVIEW OF: SATIONS
DATE OF INTERVIEW:
PLACE OF INTERVIEW:
INVESTIGATOR: SCOTT/CHRIS FLOYD

CI.	(Sound of phone ringing-Recording comes on – leave a message) Uh, yeah, this is Tony, just whenever you guys get this message, just call me back on my cell phone. (CI states, "that was between myself and I was trying to get a hold of Shawn Nightengale at Emily's house)
CI.	(Sound of phone ringing)
MALE	Hello, why do you think that you just cannot answer your fucking phone and leave it turned off
CI.	(Chuckle)
FEMALE	That shit ain't even cool.
CI.	When did you try to call me?
FEMALE	All fucking morning since 11:30 this morning
CI.	I was asleep girl_____
FEMALE	You piece of shit, you leave your phone turned on, you don't ever turn your phone off, that's the cardinal rule
CI.	I need my beauty rest.
FEMALE	_____No, but if you're phone's turned off that means that you're probably fucking doing something you're not supposed to be doing.
CI.	Exactly
FEMALE	I've learned that from experience.

EXHIBIT 29

000547

CI. Exactly

MALE That's why you never turn your phone off.

CI. I was getting my beauty rest.

FEMALE Well, you can sleep through your phone or turn it on silent, just leave it on, when it's off that's stressful, that's a very stressful thing

CI. Whatever

FEMALE Is there anything particular that you want as a matter of fact (Chuckles)

CI. Uh, other than just hearing your voice, no.

FEMALE Ahhhh, _____ just call and hear my voice

CI. Yeah

FEMALE _____ listening to this conversation _____ a lot like _____ I'm like yeah baby, I said they must want to hear my voice just as much as you do (chuckle)

CI. (laughing)

FEMALE He was like, yeah I guess, they want something

CI. So what was up?

FEMALE Nothing, I don't know, you're going to have to talk to him

CI. Huh?

FEMALE You're going to have to ask him, I don't know

CI. Oh, wait, who was trying to get a hold of me, you or him?

FEMALE Both

CI. Oh

FEMALE Why would I just be trying to get a hold of you on my own?

CI. Well _____ maybe you know, you just couldn't resist my sex appeal, who knows?

FEMALE (laughing) Somebody's been seriously been lying to you for real

CI. Is that right? Jesus Christ, so you mean all them notches under my belt are for nothing?

FEMALE Must have been

Jesus

FEMALE _____I know that if they _____t honest for sure

CI. (Chuckles) Well look when's he calling you

FEMALE _____got your well, he's calling me back, but I'm at the_____on the freeway, and I know he wants to talk to somebody else first, cause he was trying to talk to you all_____like_____

CI. Yeah well uh, tell him, tell him to call me first, tell him I got good news for him

FEMALE You got good news for him?

CI. Yeah

FEMALE Alright

CI. Alright

FEMALE I will relay the message

CI. So where you working out, are you doing like the thigh master

FEMALE Uh, yes I am

CI. Work it, work it

FEMALE Work it, work it, I think I'm getting beeped at as I walk through the fucking parking lot.

CI. Really

FEMALE Really

CI. huh?

FEMALE So are you going out with Jamie and everybody tonight?

CI. No, I doubt it, I might I don't know

FEMALE _____

CI. I might, I don't know, I don't do clubs.

FEMALE Well we're not going to the club, we're going to the bar

CI.	See, that's worse
MALE	Why is that worse
CI.	Cause, I'm a low profile kind of guy
FEMALE	Oh, that's all we are is low profile, I thought you knew
CI.	Yeah, right
FEMALE	Us girls _____but I mean all the guys are low profile, we_____we keep it down low, we keep_____(laughing)
CI.	Yeah
FEMALE	You, you know how we roll
CI.	Uh huh, sure I do
FEMALE	Uh huh, _____I'm about to call your girl and get her to go out with me
CI.	Really
MALE	_____
CI.	I haven't even seen her, I ain't seen her in like three days
FEMALE	Why, you're stupid, why? See if I were her, I'd take care_____(tape goes off)

CI.	Hello....
CONWAY	Hold on
CI.	Hello, let me turn my radio down
CONWAY	Hello
CI.	What's up
CONWAY	Hello

581196 - G51
000550

CI.	What's going on
)NWAY	Is everything alright?
CI.	Yeah, everything's cool. I'm I'm _____
CONWAY	I talked to Shawn today, he's all mad at me and shit
CI.	Is he?
CONWAY	Yeah
CI.	I told him_____it's not personal, it's just business
CONWAY	_____
CI.	huh?
CONWAY	It that didn't, If that didn't shake him, then obviously_____
CI.	Well, yeah, and they told you what we're doing right (Recording: _____Correctional Institution and is subject to monitoring and recording) They told you what we're doing right?
)NWAY	What now?
CI.	I said, they told you what we're doing?
CONWAY	No, they never told me.
CI.	Oh okay, well
CONWAY	Jamie's coming down here_____
CI.	Right
CONWAY	_____-
CI.	Huh?
CONWAY	If I need to know, they'll tell me
CI.	Right, are you still on 8?
CONWAY	Yeah
	Okay

CONWAY And uh, if uh, if not I'll talk to Chris

CI. Well I'm going to see him Tuesday anyway

CONWAY Alright

CI. So, he don't know it, but I am, I'm tired of playing his little fucking pussy boy games

CONWAY Alright, we he I mean, well he'll talk to you put in the middle of anything

CI. What

CONWAY He don't want to be put in the middle of anything that's for sure

CI. Right, well I mean, I'm not going to put him in the middle of nothing

CONWAY I know, I'm sure he'll talk to you

CI. Yeah

CONWAY Alright, well everything's cool then right?

CI. Yeah

CONWAY Alright, well I'll talk to you I'll call you when he comes down here, whatever

CI. Yeah, just call me as soon as he comes down to see you or whatever.

CONWAY Okay

CI. Alright

CONWAY Alright man, later

CI. Alright Jimmy, I'll holler at you

CI. Uh, that was me and Jimmy Conway through Brittany's 3-way, time is 3:46 p.m.

CI. Hey, what's up Jamie

JAMIE

CI. Shit, I just went and got a new car.

MIE You did

CI.	Yeah
JAMIE	What kind
CI.	uh, a Lincoln Towne Car
JAMIE	Shut the fuck up
CI.	For real
JAMIE	What year?
CI.	It's a '88
JAMIE	_____-
CI.	Do what?
JAMIE	It's like how, for how much
CI.	25
JAMIE	Ah man_____look, I could've got you a '77 Lincoln Town Car with 32,000 original miles
	Right
JAMIE	Air conditioner still blows out cold ass_____so fucking clean_____for probably like 31
CI.	Shit this mother fucker's nice dog, it's only got 60,000 original, it's like the original Goti mobile
JAMIE	(Chuckles)
CI.	For real, for real. So what's going on
JAMIE	_____
CI.	Uh, man I'm going to need to get with you and Shawn to go over some shit, so I already got a dude for that?
JAMIE	You did
CI.	Yeah, so I need to get with you guys and make sure we get it right, you know what I'm saying?
MIE	Yep

CI. So I tried to call Shawn, but is he still down here

JAMIE Yeah

CI. alright, uh, well what's up, when you guys want to hook up?

JAMIE Well _____go pick up my girl bitch so I'll probably be busy_____

CI. For like a couple hours?

JAMIE Yeah

CI. Okay, uh, well that's cool, what's, hey, you think we can do something on the car tonight?

JAMIE Oh, I _____but I don't know yet_____-see what's up man_____I've just been staying away from everything_

CI. Well, the reason I'm saying that is because, know what I'm saying, I got to have some for dude.

JAMIE _____-

CI. Huh?

MIE Said, I'm going to try to do something

CI. Yeah, cause I gotta, I need some hard and the heat, cause I got my dude ready and we're going to take care of this and take care of that shit in Chilli too.

JAMIE Alright, well I'll _____

CI. Alright, just uh, I'll just hit you back in a couple hours.

JAMIE Did you ever go talk, see what was up with_____

CI. On that other thing?

JAMIE Yeah

CI. I went by there early this morning, I didn't, I don't, I ain't seen nobody leave the house yet.

JAMIE Well,_____

CI. Well I'm going to go by and check it out, I just, I'm getting ready to go take my car and get it washed and shit.

AMIE I'm going to go wash my car too, where you going to be at?

555 - 96185

000554

CI. I don't know, probably, I thought about going right there on Sullivant, like Sullivant and Wilson

JAMIE Oh right there on the corner there?

CI. Yeah

JAMIE How long's that, how, how many_____there

CI. I don't know, I'm getting ready to go over some shit with my dad about that one thing first.

JAMIE _____then I'll, I'll let you know

CI. Alright dog

JAMIE Alright

CI. Alright later

CI. That was between me and Jamie Horton, the time is 4:22 p.m.

CI. Hey, is Shawn there?

SHAWN This is him

CI. Hey, what's up, this is Tony

SHAWN What's up man

CI. What's going on dog

SHAWN Shit_____

CI. How long is that going to be?

SHAWN About_____go over there and eat and shit_____

CI. Uh, you going to be free about 6?

SHAWN What time is it?

CI. 4:30

SHAWN Yeah I could do something

Okay, I just, well I need to get with you guys and holler at you about that shit and uh....

SHAWN	I talked to Jim a few times, I talked to him like 4 times man
CI.	Yeah, I just talked to him
SHAWN	Alright
CI.	So, I just need to get with you guys and get that shit straight of what I got to have dude say, you know what I'm saying
SHAWN	Alright
CI.	And uh, well right now, I just went and got me a new car so
SHAWN	Oh you did
CI.	Yeah, so,
SHAWN	What kind of car did you get?
CI.	Lincoln Towne Car
SHAWN	A nice one?
CI.	Yeah, it's slick, it's like, it's a real live gangster rod
SHAWN	Oh, it is
CI.	Yeah, so
SHAWN	Like an older one?
CI.	Yeah
SHAWN	_____-
CI.	Yeah, it's fat, but I'm probably just, well I was just talking to Jamie, he wanted to meet me at the car wash, I'm getting ready to just wash my shit, I don't think I'm going to go over there though so
SHAWN	_____I mean, I don't really know exactly what time I'll be back here
CI.	Well
SHAWN	I'll probably just sit over there cause I haven't seen them forever
CI.	Well try to be back like about 6, I'm trying to get everything taken care of

000556
581196 - G57

SHAWN Alright, Just_____Shawn knows_____phone_till like Monday or something so_____I'll give you, you want the number of there just in case I'm not back here

CI. Uh well, what's the

SHAWN _____Right on Harrisburg Pike___

CI. You going to get, well you just want to get together before 6

SHAWN I mean I got to go over there right now

CI. Okay, well you just want me to come over there and holler at you?

SHAWN Yeah, I mean, I could do that?

CI. Alright, well hold on, let me grab a pen and get the address.

SHAWN _____mom's number_____over there, alright. You got a pen

CI. Yeah, what's the number

SHAWN 274-7995

CI. Hold on....274

SHAWN 7995

CI. 7995

SHAWN Yeah, I'll be there in 25 minutes

CI. Okay well

SHAWN I'm going over there right now

CI. Alright well,

SHAWN It's 4:30

CI. Yeah, it's 4:30, I'm just gonna uh, just give me a few minutes, I'm going to run by and wash my car and shit and then I'll be over

SHAWN Alright, well just, just call that number first man

CI. Alright

SHAWN Alright

CI.	Hey
SHAWN	Yeah?
CI.	Hey that heat you gave me
SHAWN	Yeah
CI.	Can you get some more, can you get another one of those?
SHAWN	I can get fucking 40 of them probably man
CI.	Okay, well I'm going to need some to take care of the dudes in Chillicothe for you guys
SHAWN	Well let me talk, let me, this is, call me back in like 10 minutes, I'm going to page that guy right now and see what he can do for me real quick
CI.	Okay
SHAWN	Call me back here
CI.	Alright dog
SHAWN	Alright
	Later
CI.	That was between me and Jamie, or Shawn Nightengale, time is 4:26 p.m.
CI.	(sound of cell phone ringing)
CI.	Hello
SHAWN	Hey
CI.	What's up dog
SHAWN	Uh, he's going to call me back he won't no anything till about 8 o'clock
CI.	That's cool, well, I'll just, whenever I get over there on that side of town, I'll just hit you up_____-
SHAWN	Alright, you could probably call, I don't, I might be here till fucking,_____hop in the shower right now, so I don't even know if I'll be here.
CI.	Well just when I get ready to roll out, I'll just call both numbers and wherever you're at, that's where I'll come
SHAWN	Alright

000553

CI.	Alright
SHAWN	Hey, where's old Jamie at right now, do you know?
CI.	Uh, he's getting ready to go to the car wash right now
SHAWN	Oh, he is
CI.	Yeah
SHAWN	Alright, just call_____-and I'll be here
CI.	Alright Shawn
SHAWN	Alright
CI.	Later
CI.	Fucking phone is weird. Uh, that was between me and Shawn Nightengale, time is 4:31 p.m.
FEMALE	Hello
CI.	Is Shawn there?
FEMALE	Who's this?
CI.	Tony
FEMALE	Uh, hold on a minute
CI.	Alright.
CI.	Hello, is Shawn there?
SHAWN	Hello
CI.	Hey, what's up bro
SHAWN	What's up
CI.	You want me to come over that way?
SHAWN	Alright, you can come over, I'll just, I'll stay here
CI.	Alright
SHAWN	How long will it be?

CI.	About 10 minutes
HAWN	Alright
CI.	Alright later
SHAWN	Alright
CI.	That was between me and Shawn Nightengale, the time is 4:51
CI.	What's going on?
JAMIE	I'm pulling up here at Chris' right now
CI.	Pulling up to where?
JAMIE	Pulling up to Chris' office, he wants to talk to me for a second
CI.	Alright, well uh, hit me at a pay phone, as soon as you leave his office.
JAMIE	Alright
CI.	Alright
MIE	Alright
CI.	Later.
CI.	That was between me and Jamie Horton
CI.	Okay, do you know if he'll be there soon
MALE	I haven't a clue buddy
CI.	Okay thanks, bye

G61 - 96185
000560

58196 — G62

CI	NIGHTINGALE	HORTON	
Investigator 1	Investigator 2	Interview 1	Interview 2

TAPED INTERVIEW

OFFENSE:	HOMICIDE
REPORT#:	200109704
VICTIM:	ANDREW DOTSON
PLACE OF OCCURRENCE:	GALLOWAY ROAD S/O HALL ROAD
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	CI/SHAWN NIGHTINGALE/CALVIN HORTON
DATE OF INTERVIEW:	MAY 25, 2002
PLACE OF INTERVIEW:	WIRE CONVERSATIONS
INVESTIGATOR:	FLOYD/SCOTT

CI — What's up dog

NIGHTINGALE — I been working out so you better watch out

CI — whose that Cause ~~of~~ Jimmy Tell him I said rest his neck.

NIGHTINGALE — I know what they told me I wish they would of told me that _____what's up ~~bad~~ fat boy

CI — What's going on with you what did you guys have today better you than me yeah we're getting ready to get some shit taken care of so hugh yeah he's cool I mean I know everything is straight so I guess we're get _____see what _____car wash I gotta wash my car so no I just got here ain't ~~never~~ enough wait is it that ain't right I felt like the one's I got in The Joint

NIGHTINGALE — That's his that's his shit right there

CI — Hugh alright well I'll just probably call Jamie to see if he wants to meet us at the car wash or something alright well here's Shawn alright dog

NIGHTINGALE — Hello I was trying to get a hold of you. Going to the car wash with him

CI — Yeah I got to wash I ain't _____

NIGHTINGALE — What color is it call ~~Danny~~ Jamie or whatever

CI — Alright what's his number

NIGHTINGALE — _____893-3 I don't

EXHIBIT Number 30

(1)

CI	893-3099
'GHTINGALE	I don't remember _____get over to her Mom's be right back
FEMALE	What are you doing
NIGHTINGALE	What's going on
CI	Shit about to um ~~scoop~~ swoop Shawn and go over to the car wash I want to go to um Georgesville and Broad
NIGHTINGALE	Are you suppose to go back there like _____
CI	So what's up Dude _____meet me over there
NIGHTINGALE	I'll be right back
FEMALE	_____parking lot
CI	Alright well we'll about to go over there now
FEMALE	You already talked to Jim once
NIGHTINGALE	Yeah I tried our phone
	Yeah
FEMALE	Alright _____
CI	I ain't about to get out and wash so I'm just going to drive it and going to let them wash it
NIGHTINGALE	Let who wash it probably say me
CI	Yeah I thought I was talking about him alright well look I'm about to bounce yeah going about to go there right now.
FEMALE	Alright, alright let's cut the bull _____don't worry
CI	That's cool
NIGHTINGALE	It don't matter to you
CI	They clean ain't they
'GHTINGALE	No I mean _____before

CI It don't matter yeah it's cool I mean

NIGHTINGALE _____ car wasted

Yeah it's I'm just going to use it for um them Dudes there anyway

NIGHTINGALE What are you barking at _____

CI Yeah Jamie is

NIGHTINGALE How much did you pay for the car

CI Twenty-five

NIGHTINGALE _____

CI Yeah I need to get then um I'm going to have the fucking interior re-done

NIGHTINGALE C Player and some

CI Yeah

NIGHTINGALE Player working that good too

CI Yeah

NIGHTINGALE Shit maybe _____ poking head in there

CI Who Jimmy

NIGHTINGALE Yeah he said he called off this fucking sleeping All day like 8:00 o'clock in the morning

CI Yeah when I talked to him I told him to holler at you I was like man call Shawn and holler at him dude I guess he thought you was down in chilly late no he up here at um old girls

NIGHTINGALE What car wash he gonna meet you at

CI Georgesville and Broad

NIGHTINGALE Do these seats go back and shit

CI Yeah should be on your door um wasn't any power

NIGHTINGALE motherfucker clean for being a sold as it is

And it's only got 60,000 miles on it.

NIGHTINGALE Should of brought that one _____

CI No that's the one Jamie was probably telling me about got like a 78 or something

.GHTINGALE Fucking it's clean just a plain hood _____probably nicer

CI No this was fucking the Cadillac was getting hot man had to improvise

NIGHTINGALE Try to sell my shit _____

CI Yeah that's why I didn't get no new shit so when whose bringing ~~him~~ Them down Joey

NIGHTINGALE Yeah I mean I ain't going to see him or Nothin, I told him to drop him off somewhere _____

CI That's cool we'll just go get him

NIGHTINGALE He don't like _____

CI HEEEEEE

NIGHTINGALE I'm just _____he's bringing me this fucking um _____SKS _____

CI Oh yeah SKS them bitches are fat

NIGHTINGALE wants three hundred it's like it's a name brand name people pay more money got some dope I could trade him _____

CI Oh fucking Jamie get enough

NIGHTINGALE I don't know _____-I just can't do anything with all of it if I get it I use to get all kinds _____trade it for weed _____

CI Yeah I got um I got a Dude already for that video thing that's why I just need to go over every~~day~~ thing and make sure I got everything exactly

right, what is this fucking this idiot ~~though~~ doin

NIGHTINGALE Oh ~~he~~ you already ~~knew~~ do

Yeah I ain't got him like at the house but I got him lined up

NIGHTINGALE I just talked to him & he said we shouldn't ever talk about it.

CI Who ~~Jamie~~ Jimmi

NIGHTINGALE Yeah but he don't know anything anyway_____

CI I mean it's like I told him I understand what he's saying but I wasn't there so you know what I'm saying I don't know what the fuck he's saying I don't know what that Dude is saying

5 NIGHTINGALE 67 Don't you ever go out or nothing

I don't fuck with
~~Oh Bumper~~ Clubs and shit like that man

NIGHTINGALE I mean Bars

CI Oh every now and then I will I really don't drink man I mean once I get all this shit taken care of then I can you know what I'm saying I can chill and relax but I don't like when I do something I like to do it and get it done that way I don't get sloppy and make mistakes. Well fuck

NIGHTINGALE This old car runs like it's new don't it

Oh yeah all it's got 60,000 miles on it that's what I'm saying

NIGHTINGALE Oh

CI Yeah Jimmy shouldn't be saying nothing man over that mother fucking phone

NIGHTINGALE no, he acted like it was over a radio

CI They already had him on phone restrictions so

NIGHTINGALE Oh they do

(6)

CI Yeah they moved him from the 8th floor to the 3rd floor and put him on phone restrictions where he couldn't call nobody but his family then they moved him right back so you know what I'm saying

NIGHTINGALE He's always on our fucking phone ain't he

CI That's what I'm saying man he's

NIGHTINGALE Don't people ever say nothing to him like get off the fucking phone or something

CI Fuck no

NIGHTINGALE I didn't even know there was a ~~parole officer~~ car wash over here man

CI I didn't either my Dad told me there was one up there

NIGHTINGALE Um he's on that phone fucking in the morning till

CI He's on that bitch constantly dog so I told him I was like man rest your fucking neck

NIGHTINGALE *How many phones is in there*

CI Two

NIGHTINGALE And he stays on one of them

Constantly man how the fuck do I get in there man

NIGHTINGALE sure there the one hes talkin about

CI Yeah Georgesville and Broad

NIGHTINGALE can I use that phone real quick -care if I call my house

CI Go ahead you're cool

NIGHTINGALE How much you pay for a burn out phone or whatever

CI Just go buy them just buy the phone and then get minutes for them I was like that only cost like $60.00 all together how do you work this dam thing

NIGHTINGALE Oh I got to go in there and pay for it in person this don't even work man _____work

CI Somebody's got to be in this mother fucker

NIGHTINGALE Oh you got to enter a code then it will tell you to enter whatever did they come out there and what did you tell them are they open tomorrow I can't do

anything at all today I'm not even, I'll have them call okay walk in there

Theres gotta be someone in there.

CI Over here fucking ain't coming out and we're just sitting there fucking crack head

NIGHTINGALE I don't got no money on me

CI I got it car wash so what do I do with this okay shit don't fucking work what the hell was that

NIGHTINGALE I got a real nice Cadillac in my garage for sale for $400.00.

CI What year is it

NIGHTINGALE It's as clean as this right here um 83

CI Wish you had said something

NIGHTINGALE Got some three or four hundred worth of engine just get a new alternator and a battery something is wrong with the fuel injection thing and that's only like $80.00 it's clean cut inside of it all leather it's blue power everything _____

CI She's going to assist us

GHTINGALE Yeah right

CI What the fuck was that just half my car like that man

NIGHTINGALE Know anybody wants hey that bike our front

CI I was going to ask about that bike now what's up with that bike

NIGHTINGALE I'll sell it to you for twenty-five man _____fuck with that bike

_____

CI What's up with that

NIGHTINGALE _____4 wheel drive and everything there ain't no scratches or nothing on it

CI Hello what's going on I'm at the one at um Broad and Georgesville _____um it's the one you drive through I think it's BP yellow and black it might be Shell hold on I can't see nothing I'm inside the car wash right now oh no we're right across the street from BP we're at the Shell

NIGHTINGALE At the construction where they're doing construction

CI Alright

GHTINGALE You got caller ID and shit on that

CI It's got call waiting and caller ID am I suppose to let that hit my car

NIGHTINGALE Yeah water on the top _____

CI My airs ~~all fucked~~ off hu.

NIGHTINGALE _____--

CI He's probably getting ready to go through the car wash

NIGHTINGALE They got tums in there

I don't know need some money dog

NIGHTINGALE No I got some bucks dude

CI Alright

NIGHTINGALE I'm getting in Jamie's truck

CI Go ahead what are you doing go in there and get your money back

I need To Hear ar you guys get my shit straight man I got Dude's you know what I'm saying I got a dude lined up but I don't want to go in there fucking not knowing what the fuck I'm doing

HORTON What can I do

CI I just need to know exactly what the fuck I got tell dude I have this one pimp _____ you might have to holler at Jimmy cause he's fucking stupid he don't realize we're cutting shit off before it gets that far

HORTON Well he just told me that I shouldnt say nothin

CI Sunday you got warrants

NIGHTINGALE Yeah

CI You go to jail you go in there

NIGHTINGALE I know My Bonds only probably -if I go turn myself in is there a bond

CI I wouldn't do that _____ your warrants are in Chillicothe

NIGHTINGALE Up here

CI It's not like you're just going to sit in there and then you going to pay bond and get out you got to sit in there and go to court and you ain't going to court till Tuesday

HORTON Oh you can't just bond out

CI No they don't know it's not like that

NIGHTINGALE Well that's how it is in Chillicothe you just go in there and bond out

CI- Horton No it's not on the weekends you'll have to set there until Tuesday

~~HORTON~~ S.K. You will _____-

CI Stuck fucking with Jimmy he'd of been stuck

.ORTON Don't do it dude I didn't know this

CI Well what time is Dude going to have them down here

HORTON By 8:00, 9:00

NIGHTINGALE He said I could like give him some fucking dope man but I can't do it I could probably give him a half ounce for everything

HORTON _____buy the money

_____

(13)

5911 96 - G75 See you don't like the gangster ride though

.GHTINGALE I think he's clean though he's only got 60,000 miles

HORTON Oh I thought you were talking about Rick.

CI Yeah he told me that too but I mean he told me after I already got that so

NIGHTINGALE Take 30

HORTON No I want 35

NIGHTINGALE I could of gave you a deal on some one shit and you could of gave it to him and probably got it for like three

HORTON Oh he was ready for some dope

CI You got a screw in your tire

HORTON How much are you

CI Right there it's laying side ways it's not embedded in it's laying side ways

HORTON

CI You can get it out

JRTON _____--I spent the whole day down there _____

HORTON It's fucking Christmas _____

CI Luckily it went in side ways fucking _____like to drive

NIGHTINGALE I'll Burn this car right in front of you

CI Need a lighter

.GHTINGALE _____give me some more money_____

CI Out on the dogs out on the dogs I use to it _____

NIGHTINGALE _____

CI Hey man so what's the deal what am I doing with fucking dude

NIGHTINGALE _____

CI It doesn't really matter how many times he did it you know what I'm saying we'll just get it down to what he did it with okay just the first time like it's just some shit like me

and my dad was going over it you know what I'm saying like I had no first time it was _____I'm like well I don't I don't know which one it is you know what I'm saying so it's just little shit that I got to get done other than that I mean it everything is cool so it don't matter I guess he's got like a diner date

NIGHTINGALE _____

CI Who was that Cicero's secretary that's how you got to play him dog get with you when I get with you

NIGHTINGALE _____

CI When I was talking to Brittany earlier he was like you going to go out with us tonight I'm cool fuck with you guys

NIGHTINGALE _____Brittany took off

CI Yeah that's how he is calling through her 3-way

NIGHTINGALE _____get no dig

CI I told Jim that in the County I was like dude you actually believe she's not going to be out there fucking _____that's okay well if she was out there and you was out there would you be fucking he said yeah I said well then you answer your own question

NIGHTINGALE _____

CI Make sure you spell her name right

NIGHTINGALE _____

CI Jimmy did

NIGHTINGALE _____

CI You ain't got to worry about that one no more

.IGHTINGALE _____

CI Who Mike think he the only one that's got _____I mean Jimmy told me pretty much I'll look for it _____that tribal shit or whatever the fuck it is I don't know I whatever them _____

NIGHTINGALE _____

CI Whatever that shit is _____I mean I didn't stop and investigate and say what is that all you're on

GHTINGALE _____

CI You got something right here

NIGHTINGALE _____

CI Didn't do him much good did it see all these guys find _____doing pretty good

NIGHTINGALE I got _____

CI But what's up what are you doing dude

NIGHTINGALE _____

CI Alright where you at hugh alright well look I'm with um Jamie and Shawn when's Jimmy calling you back alright we're at the car wash hugh

HORTON _____

CI What did you say Brittany well actually we was waiting on you to come over and give us a lap dance yeah make sure he calls me as soon as he calls you alright later. Jimmy is suppose to be calling her back so when are you going to be done where we can just hook up Bro.

ORTON I don't know

CI Fuck I don't know I ain't got a watch

NIGHTINGALE Quarter of 6:00

HORTON _____

CI Dude I'm just like I told you I want to get everything _____first you guys are fucking stepping on your digs to hold me up Bro

NIGHTINGALE _____I don't care

CI Alright well what's the plan what's the deal we'll just I just I get with you when you um

HORTON I'll call your phone _____

CI Yeah we'll do that alright well we can do that

HORTON _____

CI No fucking way yeah

HORTON _____

CI Yeah _____you want to follow me to drop him off

JRTON _____

CI Well we can drop him off and then

NIGHTINGALE There's a car wash right by _____

CI I can leave my car at _____are you going to Emily's

HORTON I'm going to Emily's for awhile

NIGHTINGALE Emily's Mom's

HORTON I'm going to Emily's Mom's

HORTON _____

CI Okay well I'll just take him over there and drop him off _____

NIGHTINGALE _____

CI No fuck probably four hundred um just when we get together tonight man I'd like to get everything fucking straightened out though so I don't got to keep

HORTON I'll tell you everything I know _____

Alright well that's what I'm saying I really don't need you and Jamie both you know what I'm saying I mean I _____we hang out and do whatever but just all I need to do is like get what you know and get what he knows and go from there it don't really matter you know what I'm saying how many times he _____then again it might because that's something they would know you know what I'm saying

HORTON I don't _____

CI That's what I'm saying we'll have to get with Jimmy on that part

HORTON He never even _____

_____

_____on the phone he was like _____

CI He's fucking Jimmy's fucking stupid dog I mean look at it like this if he is so fucking worried about it that he had me take out Mike and you know what I'm saying and was talking about taking out you

HORTON Yeah

CI Then what the fuck why wouldn't you just let me do it my way so we ain't got to deal with none of that shit I mean I couldn't get in to tell Jimmy exactly what I was going to

do you know what I'm saying because I'm now getting ready to say that over the phone for no fucking body.

HORTON I just thought they could probably hear everything you say there in jail I always though that

CI I mean they can especially with Jimmy now they probably will you know what I'm saying they probably got every phone in his tank wired up.

HORTON I'm talking about whenever you go there

CI Oh no, no it's dude that's 8 stories up surrounded by concrete and steal it's impossible you couldn't even get a wire in there that's shy I like if I'm going to talk I like going through them car washes cause you can't tape nothing on it you know what I'm saying

HORTON Yeah

CI Yeah anytime you're in like concrete and steel is all around you they don't it won't transmit for them.

HORTON No I'm talking about them I thought they could um

CI On the county itself

JRTON Yeah I thought they could _____

CI Oh you mean like as far as having like a little switch they can hit

HORTON Yeah whatever you're saying recorded _____

CI No they can't do that I'm sure they wish they could cause I mean for real dog I don't even like I keep talking about it you know what I'm saying that's why I just want to that's what I was telling Jamie like look we'll get together get this shit down straight once and then fuck it it's done you know what I'm saying cause I don't want to keep running back and forth you know what I'm saying it's not that I don't it's not partial I don't trust you guys I just don't trust anybody you know what I'm saying.

HORTON Best way to be really I just _____

CI That's a good thing

HORTON There's people around here that Jamie Ill fix you up _____everybody in his family all of his brothers his mom his dad his cousin _____

CI He got a cousin in the south end

HORTON _____

CI I already know where they live at

HORTON Oh you do

Yeah

HORTON _____think it is

CI This mother fucker cleans up good man

HORTON Twenty-five hundred dollars you got a good ass deal on your car had a Cadillac up here with _____

CI A black one

.ORTON _____green wanted _____98_____

CI I had a 98

HORTON Oh you did

CI _____I wrecked it

HORTON _____something wrong with the engine or something _____

Um alright well what time you going to be done is that clock right

HORTON Yeah it can't be 5:30

CI That's what I was saying I suppose to be there at 6:00 you got like 10 minutes

HORTON _____

CI Yeah I think it _____Cadillac

HORTON _____I'll call you guys here in about a hour call here

CI Yeah just call me and then cause I want to hurry up and get this shit taken care of as far as this part tonight you know what I'm saying

HORTON UmHm

CI Then cause I mean really you know what I'm saying I don't want to keep being seen with you guys so

HORTON I don't even really want to stay at this house _____appointments somewhere

CI They probably are I mean all I see coming out of those mother fuckers is Lincolns and Cadillac's

58196- G87

HORTON I mean fucking they don't work or nothing they _____ like 3 or 4 days straight then all of a sudden you'll see something like _____ always got their windows shut _____

CI Alright yeah hey cause this let's just get this shit done dog so when ever we hook up just be ready have your mind set to tell me what I need to know so I can be down with it

HORTON I'll tell you everything that I should tell you

CI Alright

HORTON Do it

CI Alright Bro I'm going to follow you

NIGHTINGALE Who was at the car wash

CI Um I don't know I'm going down um Eakin Road right now

NIGHTINGALE Yeah

CI I'm coming up Eakin and um I believe it's Briggs let me make sure Brinker Ink I'm at I'm at Eakin and Brinker yeah I'm going straight we're, we're heading towards Harrisburg Pike I'd say well look um Shawn I really didn't get a lot out of Shawn but

he's going to go eat right and then his dude is bringing 2 nines down for them dudes in Chillicothe 2 nines and um well I'm going to pick him up when he's done eating and he's going to tell me everything I need to know again about Andrew well yeah come on dude I'm good at this um right now I'm at Eakin and Roys coming up on Eakin and Chestershire I'm on Eakin Road yeah Eakin and Wiltshire I'm coming up on Eakin and Hague Avenue yeah he's cool no not yet I really haven't talked to him so that's why I'm following him to the car wash see what I can get out of him yeah he's cool actually he played like he was wired so he just say the fucking he was like we got to talk about this and then he pulled out this big ass cord out of shirt he was like talk into this and started laughing like if you only knew well I'm going to see what's up with getting that dope from him tonight um see what I can get about Ron O'Brien I going to pick Shawn up _____so I got it under control boss um give me a second _____Harrisburg Pike _____I'm passing Hilltonia Park right now alright, alright bye. Harrisburg Pike_____on Harrisburg Pike _____hello, hello, hello, hello be about an hour I told him man I just need to I'm trying to get this shit done you know and out of the way Jimmy don't know what we're doing so I don't understand why he's saying don't talk about it you know what I'm saying I'm not stupid dog _____cost twenty dollars to wash this fucking van

NIGHTINGALE _____

CI You don't think it will

GHTINGALE _____

CI that's like a _____ball piss and I don't even drink

NIGHTINGALE Hugh

CI I said that look like a cight ball piss and I don't even drink

HORTON Shawn don't _____

CI Are you still a little married man

NIGHTINGALE He's thinking crazy shit he's thinking about _____and like that and I'm like there ain't no fucking way

CI What about me being a cop get the fuck out of here

HORTON _____

CI Well we've _____bottle of scotch that you didn't get rid of a long time ago couple 9 packs _____so

HORTON It's not even about that if you talk to a cop and you fucking talk about what we talk about and everything

CI Exactly we'd all be in jail well I mean it's like I told him I mean I kind of figured he was thinking that but I'm like dude if I was a cop just from what we talked about last night I wouldn't be talking to you today you know what I'm saying

NIGHTINGALE _____Federal _____Federal

CI I would imagine at the very least

NIGHTINGALE _____

CI Well at least you _____good time I got so what kind of a rim you think I should put on that man

.GHTINGALE I'd keep _____

CI Just like that

NIGHTINGALE _____he'll like get it on his credit card _____pay for it

CI Yeah

NIGHTINGALE 97 80 thousand on it Cadillac Dadeville_____

Dude you wouldn't believe all the fucking truck space that dude has got

NIGHTINGALE _____

CI Yeah when I went look when I went I said well let me see the trunk _____ he was probably like oh my god I just told Shawn after, after Shawn gives me the mother fucking um after he gives me the nines tonight man for them dudes in Chilly and fuck him he tells me what he knows about that shit I really don't even want to fuck with him no more you know what I'm saying I won't fuck with nobody that's scary like that man cause he's the type of dude that _____ you know what I'm saying I gave you my word I would so

HORTON Okay _____ suppose to do that last

What

HORTON This

CI Yeah everything running down on me

HORTON People going to stand together

CI Yeah they're like okay _____

HORTON _____

58196 - G92 Yeah that would be pretty much where you got to know me from I mean that's a good thing about me though I been locked up all my life _____don't nobody really know me

HORTON _____

CI Yeah _____that mother fucker I'm telling you though that fucking link over there that's why I want to get all this shit done Jamie that's why I'm trying you know what I'm saying

HORTON _____

CI And I ran that shit past _____last night and he was like well cause I got it fucked up and he was like okay well like when I got to the part to where you guys dumped that shit on me right

HORTON Yeah

CI I'm like I don't know why but I'm like they _____-on me that was like ____I said yeah and he's like are you sure _____I think he said why did the fuck dump tar on you I said well I said no wait cause Jamie told me it was cement I said it's cement he said why the fuck would they dump cement on you I said I don't know man I got to get with Jamie and _____so my dad was just like he's looking out for me you know what I'm saying and he's got a lot of money in this dog

He said how do you know these guys ain't cops or that and first time me and dude man we both went through a body shake down to where I said I don't think he is but you know we was just being safe

HORTON _____

CI That's what I say and I said well it's like this dad I said if they're fucking cops they're paying me to whack a mother fucker so what can they do to me I just said when the cops pay you to whack a mother fucker you got to _____

HORTON You got _____

CI Cause I got a _____my dad said boy you're out of your mind

HORTON _____you're a fucking maniac

CI I said well that's their new name gang for me is sick maniac he said _____what fucking time is it

HORTON _____not going to be done_____

CI He said like 7:00

HORTON _____I mean I really didn't look at them long and hard

CI You want to see them I mean that shouldn't even be his concern you know what I'm saying

HORTON _____Freaking out man I mean he, he goes one place he'll go like _____fucking you know what I mean an hour later it's like _____-you know _____-

CI Yes

JRTON _____

CI _____

HORTON Why's that

CI _____what's going on dog is that right see you buy me a new car and you're dies that's not a good thing well yeah I'm fine I'm just hanging out with my dudes watching this girl so no um I don't know hang on a second hey how long you going to be here _____you got soap all up in your hair

5811936 HORTON G95 I mean I can roll on the west side _____I mean I'll be around

I just need a do you want me to come and re-up or what ____okay well look I got to go re-up so alright well um what are you going to do after you leave here Jamie

HORTON _____I'll see

CI Alright I'm going to go take care of some shit with my dad it will probably take me like a half hour and I get you right back alright, alright hugh hold on hey what's up with the he said he's got the money when you're ready

HORTON Alright ____at least give me a day

Hey daddy you got at least give you a day on it so he can go get it cause he's _____alright well yeah _____you just got to give him like a day in advance alright, alright well I'm getting ready to come up so we can take care of that alright, alright, alright bye-bye alright well look I'm going to handle this with my dad real quick though

HORTON So what how long you going to be

CI Like a half hour he's on the way _____like a half hour

HORTON Alright I'll be around man

000653

Hey quit letting that bitch lead you around by the nose though

)RTON Who

CI Mandy

HORTON I can't help it man

CI You know what they say about pussy right

HORTON What's that

CI _____down fall right now this shit right here you got to understand you got to see the whole picture this shit right here though is more important than anything else we got going on in life

HORTON I know

CI We get this taken care of and then you do whatever you want to do take your bitch to the Bahamas you _____I mean really just tell her look you know you quit sweating me I'm doing something right now I'm busy

HORTON I will _____

000654

So, so when I hit you up be brief alright

HORTON I thought you was going to leave

CI I told you probably like about a half hour

HORTON Alright

CI Alright

HORTON _____

CI Alright bro hi look I need to run a different body mike because um I guess Shawn's kind of nervous about wires and shit like that is what Jamie is telling me yeah

58196 - G98

TA 5/25 Tape 2 of 2

:FENSE:	HOMI
REPORT#:	01097(
VICTIM:	ANDR
PLACE OF OCCURRENCE:	GALLOWAY RD. S/O HALL RD
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	CI PHONE CONVERSATIONS VARIOUS
DATE OF INTERVIEW:	MAY 25, 2002
PLACE OF INTERVIEW:	TELEPHONE
INVESTIGATOR:	ZACH SCOTT/CHRIS FLOYD

CI	Hey
FEMALE	What
CI	Has Jimmy called you back?
?EMALE	No, I haven't talked to him_____
CI	Huh?
FEMALE	Nothing, sister just set her purse down somewhere
CI	Oh that's not good
FEMALE	No, that's not good at all_____here, it's right here Sis_____
CI	When's he supposed to call you?
FEMALE	I mean, he said he was going to call me back in a few hours so, he'll call, I mean, I don't know, he'll probably call me, it's like, he'll call me within an hour I know that
CI	Alright, well make sure you call me as soon as he does, cause shit's getting fucked up
FEMALE	Aye Aye captain
CI	Alright
?EMALE	Alright
CI	Alright, thanks

EXHIBIT 31

(1)

000562

FEMALE	Bye
	Bye
CI	What's up, who's this
JAMIE	I'm at a pay phone
CI	Oh, what's going on?
JAMIE	_____
CI	Hey dude, I was just hollering at my dad man, fucking, I don't know, what's, what's up with Shawn
JAMIE	He's cool man, he just, I mean_____just told him to do something, that's what he's going to do
CI	Do what now?
JAMIE	Jim just told him not to talk about nothing until, until you _____
CI	Till we go down and talk to him?
JAMIE	Yeah
CI	What the fuck, why is Jim fucking shit up? What's Chris talking about?
JAMIE	He didn't say much_____ __like he's her dad or something
CI	For real
JAMIE	Yeah
CI	Hello
JAMIE	What's up[
CI	Uh, man fuck dog, I'm about to say fuck this whole thing man
JAMIE	_____
CI	Let me turn the radio down, do what now
JAMIE	Is today Friday

G99 00058595

CI Yeah, no today is Saturday

MIE I could talk to him tomorrow see what's up

CI Right

JAMIE _____-

CI I'm just saying man, mother fuckers thinking I'm all fucking cop, fuck it dog, I'll just let you guys deal with this shit, know what I'm saying, I'm going out of my way for you guys

JAMIE _____

CI So. I don't know, Jimmy's supposed to fucking call me here in a minute

JAMIE _____-

CI So, do what?

JAMIE _____

CI Yeah

MIE _____

CI Well I mean, it's not, it's not even that bro, I mean, okay as far as that shit goes, fuck that, you know what I'm saying, I'm just talking about in general man, I mean fuck man, I'm supposed to get them mother fucking, that heat from Shawn, know what I'm saying, I'm supposed to get some hard from you and it's like, I don't know, I don't know, I feel like I'm getting fucking ran around man, I just

JAMIE _____let me get my hands on_____-just can't do it right now____--as soon as I can

CI So, when's that supposed to be, like later, or what?

JAMIE I could probably have something_____by probably tomorrow afternoon_____I'll just bring it down there or something

CI No, no, don't bring it down there

JAMIE You scared

CI Little bit of that yeah

MIE _____-scared of some shit

CI That's because I'm not doing it right in their face, so, I'm going to holler at Shawn tonight when I go pick up them two knives.

MIE _____

CI That'll work dog, yeah

JAMIE _____

CI Just whatever you can do, you know what I'm saying

JAMIE _____

CI Huh?

JAMIE I mean if you need to borrow some money_____

CI Yeah that's cool, know what I'm saying, I just don't, it's just, I don't know, I'm starting to get feelings that I don't know

JAMIE Like what

CI I'm just starting to get feelings that shit's getting fucked up dog, I'm getting fucking played like I'm stupid or something

MIE My side of it

CI No not, I mean, not, know what I'm saying as far, I mean, just with the fucking, cause I tell my dude something, know what I'm saying, like last night it was that, know what I'm saying, you'd finally have some shit for me today, so I tell my dude's that and that's what they're looking for, that's what they're expecting.

JAMIE _____Yeah, I done tried to call three times

CI Even if, even if it's not hard dog, know what I'm saying, I just want some loot, it doesn't matter, money's money, know what I'm saying.

JAMIE __Probably come up with it tomorrow_____

CI Well I mean, that's slick, I'm going to holler at Shawn too man, I mean, fuck it dog, I mean I don't give a fuck, we can get naked before we talk you know what I'm saying

JAMIE (Chuckle)

CI Cause I'm not on that dog, that fucking for real man, for the mother fucker to even insinuate I'm a mother fucking cop dog, that_____my easy anger

MIE _____

CI Huh?

JAMIE _____-back

CI Fuck yeah

JAMIE _____I mean I don't, I mean I don't think that, I just, you know what I mean, I just know that_____money or whatever, know what I'm saying

CI Yeah, well I mean, I feel what you're saying dog, it's just, I mean, I know it's not even you on that aspect and that's why I say, I'll just holler at Shawn myself.

JAMIE _____he's going to think I've been saying shit to you to make you think

CI No, I'm just gonna, I ain't going to say that you said anything, I'm going to do the same thing I did with you dog, show him I'm not wired, I want to see he's not wired.

JAMIE _____

CI Know what I'm saying, so, uh, that's what I'm saying, I'm going to get this shit from him tonight dog and I'm done fucking with him, cause he's, he's, like he's getting on my mother fucking nerves, it's like he's playing two-face shit and I'm not on that

JAMIE _____

CI No, I keep everything real with you dog and you keep everything real with me and that's what I expect from everyone I fucking deal with

JAMIE _____meet with you_____if I could fucking tell you everything you need to know_____

CI Right, well I mean I already know, I mean, that's what I'm saying dog, I mean, god damn man, if I was a mother fucking cop, from what, just from what he told me last night dog, he'd be in jail, you know what I'm saying

JAMIE _____

CI I don't know, I mean, maybe it's just him thinking, I mean, cause I'm sure you probably thought that at first until we got to know each other

JAMIE _____

CI So I mean maybe that's just him thinking it, what I'm saying is I don't want mother fucker thinking I'm a cop and trying to whack me know what I'm saying

JAMIE _____

CI	I'm not down for that for real that ain't good, so, I don't know, I'll just, I'll holler at him dog so….
MIE	_____I'll call you later tonight after I get done_____
CI	Okay, yeah just try to make it early man, cause I'm getting tired dog with everything for real
JAMIE	Alright man
CI	Alright
JAMIE	Alright
CI	Alright bro, later
CI	That was between me and Jamie Horton, time is 6:58 p.m.
CI	Hey
JAMIE	Yeah
CI	Hey, can you get a hold of Shawn
IAMIE	Uh, I don't know the number_____car wash
⊃I	Yeah
JAMIE	You know the road that's right, right there by the_____
CI	Yeah
JAMIE	Just go all the way down that road till it dead ends in the circle, see back by the_____right as soon as you start to go around the circle, there's a little white house_____-
CI	Alright, well, I'll just, I just called, I think it's Emily's mom's number, 274-5995?
JAMIE	_____-
CI	Yeah
JAMIE	_____
CI	Huh?
IAMIE	Like 7995 or something real weird, I can't remember
⊃I	Well I mean, I called there and some dude said he wasn't there and he ain't seen him

H4 - 96185

000567

JAMIE	_____
	Alright, well I'll just roll by there
JAMIE	Alright
CI	Alright
CI	That was between me and Jamie Horton, time is 7:25 p.m.
CI	Went shopping?
FEMALE	Somewhere, I don't
CI	Okay
FEMALE	That's that's their plans when I left, I don't know_____the only one here when I left so
CI	I thought they was going to Emily's mom's for dinner?
FEMALE	Maybe they did, I don't know, that's what the plans were when I left like 5 o'clock
CI	Okay, I was with them since then, who is this?
FEMALE	This is Emily's roommate Mandy
CI	Oh okay, well this is Tony
FEMALE	Um I can call over there and have him call you
CI	Alright, well can you just call over there and call me back and let me know if he's there
FEMALE	Yeah
CI	Alright, I appreciate it
FEMALE	uh uh
CI	Bye Bye
CI	That was Mandy, Emily's roommate
JAMIE	Hello
CI	What's going on?
JAMIE	What's up man?

CI	What's happening, where you at?
MIE	At the drive through
CI	At a drive through
JAMIE	Yeah
CI	I'm on the west side, somewhere I can meet you?
JAMIE	_____
CI	Do what
JAMIE	Said_____I'm with my girl or whatever_____
CI	Right, okay, well
JAMIE	Is it something, I mean, I _____
CI	Okay, till like when
JAMIE	Just later, just around probably 9 o'clock_
	Alright
JAMIE	Alright
CI	Alright, well I'm about to roll by over there by Shawn and see what
JAMIE	Alright
CI	Alright
CI	That was me and Jamie Horton
JAMIE	Hello
CI	What's going on?
JAMIE	_____
CI	Do what
JAMIE	_____
	Yeah, cause I need to holler at you dog, I just hollered at Jimmy and Shawn

JAMIE _____

CI So, huh?

JAMIE _____I mean_____I mean, I'm chilling with my girlfriend_____

CI Well I mean, we can holler later, I just need to meet with you and pick that shit up man

JAMIE _____

CI Yeah

JAMIE Alright_____-

CI So, uh, well when do you want to do this?

JAMIE _____right now

CI Alright

JAMIE _____McDonald's_____

CI Which, the one over by your crib

JAMIE The one by the Shell Station

CI Okay

JAMIE The Shell McDonald's whatever

CI What the fuck is that noise man?

JAMIE _____

CI Alright yeah okay well do you just want me to get over by there and then hit you up or what?

JAMIE Uh yeah_____

CI Alright, alright later

CI That was with me and Jamie Horton, the time is 9:29 p.m.

CI Hello

FEMALE Hello

CI Who's this?

FEMALE	Who's this?
	This is Tony
FEMALE	_____
CI	Is Shawn over there Andrea
FEMALE	No
CI	Do you know, has Joey been by there
FEMALE	No
CI	Alright thanks
JAMIE	Hey what's up man
CI	Hey, dude, where the fuck is Shawn at?
JAMIE	He didn't come back yet?
CI	Where was he going, where am I supposed to meet him at?
MIE	I thought you was_____
CI	No, I called over there, he ain't been over there, is that where he's going
JAMIE	He's probably headed to_____Buckeye Lake or whatever, he said_____call me
CI	When
JAMIE	Whenever he gets down here I don't know when
CI	I mean is it going to be tonight
JAMIE	Yeah, it's going to be tonight, it's just
CI	For sure
JAMIE	_____I don't like how Shawn_____see what he does, what he does to me
CI	Dude, listen, Shawn has got me so pissed right now, it's unbelievable
MIE	I mean, I believe you, I, imagine being in my shoes now

CI	I don't know dog, this whole thing is getting fucked up Jamie
JAMIE	I know, but now, no matter what, I'm going to have to do _____know what I mean
CI	I need, listen bro, I feel you, and I understand what you're saying, but I need those tonight
JAMIE	Alright, as soon as they get here, you go my word that I will meet him, I will get them and I will meet you 15 minutes after I get them.
CI	Alright, for sure tonight dog.
JAMIE	As soon as he, I don't_____-so he's going to call me, okay
CI	Alright
JAMIE	_____I'll be there
CI	Huh?
JAMIE	I said as soon as he calls me, I'll call you
CI	Alright, make sure you do bro
JAMIE	Alright man
CI	Hey, don't keep me up all night dog, call me in like an hour if he ain't called you, call me and let me know what's happening anyway
JAMIE	Alright
CI	Alright
JAMIE	Alright man
CI	Alright bro, later
CI	Hello, Jamie
CI	Do what
JOEY	Is Shawn there?
CI	No, who's this Joey?
EY	Yeah

CI	No, hey, check this out, this is Tony, I'm supposed to be getting something from you but you can take it to Jamie and I'll get it from him if you want
'EY	Okay
CI	Either way or I can meet you, it don't matter
JOEY	I'm clear in Chillicothe
CI	Um, alright, well, would you bring it down tonight?
JOEY	I was supposed to bring some money up to Shawn, but I can't get a hold of him
CI	Well Shawn's on his way to Deer Creek
JOEY	I thought he was going to Buckeye Lake
CI	Yeah Buckeye Lake, that's it, with his brother
JOEY	Shit, I don't know what to do then, cause he didn't tell me nothing about that
CI	He didn't tell you nothing about the uh,heat
JOEY	Oh yeah, them things
	Yeah
JOEY	I ain't got a hold of no more of them yet
CI	Hmm, you can probably just call Jamie then
JOEY	Alright
CI	Alright, hey, you know his number
JOEY	Yeah
CI	Alright
JOEY	Alright
CI	Later
CI	That was between me and Joey, one of their friends
CI	Hey, what's going on
MIE	The dude still hasn't called me

OTH - 581986
000497

CI Dude, I

JAMIE I know_____

CI Look man, I'm fucking dude, dog, this is fucking crazy man

JAMIE I don't know why he would do something like that

CI All fucking day man, I've been ran around all fucking day like I'm a half a fucking fag or something, what's going on man, I mean, am I like fucking Mr. Bitch now or what

JAMIE _____

CI I mean, yeah, you're right, it's just, I mean damn dog, see it from my side man

JAMIE _____understand

CI I'm, look dog, I'm just about to, I don't know man, I'm about to just take a couple days and fucking figure some shit out man and just get to myself dog and see what's going on with the whole picture, cause it's getting crazy

JAMIE _____-

CI Man, you know what dog, I'm just, I, tomorrow dog, I'm just probably going to go chill with my family man, I'm tired of this fucking run around like a chicken with my head cut off

JAMIE Alright, well call me _____

CI Alright

JAMIE _____

CI Alright, well it'll probably, it'll be a couple days or so

JAMIE Alright

CI Alright, later

58196 - H12

TAPED INTERVIEW

OFFENSE:	HOMICIDE
REPORT#:	0109704
VICTIM:	ANDREW DOTSON
PLACE OF OCCURRENCE:	GALLOWAY ROAD, S/O/ HALL RD.
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	WIRE CONVERSATIONS CI/NIGHTENGALE
DATE OF INTERVIEW:	MAY 25, 2002
PLACE OF INTERVIEW:	VEHICLE
INVESTIGATOR:	ZACH SCOTT/CHRIS FLOYD

SCOTT	Today's date is May the 25th, it's on Saturday, getting ready to go meet with Shawn Nightengale in the CI's vehicle, tape is now running (various conversation testing equipment and covering the location followed)
CI	(phone rings) Hello, what's up girl? Huh? For real? Huh, why's that? You don't know
FEMALE	Cannot hear any of the other side of the conversation
CI	Okay, well you got your cell phone don't you? Alright, you gonna have it on? Okay. So how you doing? For real? Guess that was kind of a load off your mind huh? Yeah. Huh, where's Shorty at? Do what now? For real? I guess that would work, being that it's summer time, (chuckles)...then that would definitely work: Out and about, hell yeah, Nope..Alright beautiful, I love you, alright baby girl, alright bye bye
CI	Tried to call Jamie_____
NIGHTENGALE	He's with uh Mandy
CI	Oh he is?
NIGHTENGALE	Yeah, what's happening?_____
	Uh uh I just_____heard some shit

EXHIBIT
witness 32

NIGHTENGALE Well uh,what's up with your boy on the heat?

I'm bout to meet him I don't know, actually I don't really want to meet him, I want to meet him but I can have him put it somewhere, Just have Jamie get them or something.

NIGHTENGALE However you all work it, I mean I could get them you know. I guess Jamie's tied up with his girl, so.

CI

NIGHTENGALE He's gonna bring this 9, I dont Know if a 25 or not man, he's got a 25 and he's got a fucking is it called, I don't even know what the fuck it's called man, it's like that fucking big

CI Jesus Christ

NIGHTENGALE it only shoots 4 times

CI A handgun

NIGHTENGALE Yeah

CI Is it 50 cal

NIGHTENGALE I've never even seen a 50 caliber, I don't even know

CI That's probably what it is if it only shoots like 4

NIGHTENGALE what going on

CI Yeah you just got to keep it on that one now, the big one will roll down in a second

NIGHTENGALE I've got to be back there in like 15 – 20 minutes

CI We'll just swoop around

NIGHTENGALE He wants something like 250 for all three of them, so I'm just like tell Jamie give me some money or something

CI Jamie didnt

~~NIGHTENGALE~~ C.I He was fucking that broad Mandy

~~CI~~ NIGHT Where they at?

~~NIGHTENGALE~~ C.I They was eating when I talked to them, they was just getting ready to eat.

ETH 0006586

58196 - H14

Yeah me and Jamie hollered he was like man, I don't know, he's like, he said man, I was like what, Shawn acts like he's nervous, He seems like Shawn might think you're a cop of something, I was like get the fuck out of here

NIGHTENGALE Jamie said that?

CI No, he just said, he didn't say you said that, know what I'm saying, he said he's probably just thinking that, so I told him, I was like no, no, no, Shawn don't need to be down like that. Cause the first time me and Jamie met, know what I'm saying, I was like look dog, know what I'm saying, where's your shit, show me know what I'm saying you ain't wired I ain't wired

NIGHTENGALE _____

CI Yeah, I don't know, I don't know man, Jamie, I don't know what the fuck He doing

NIGHTENGALE he makes me nervous Know what I mean

CI That's what I told him,

NIGHTENGALE Know what I mean

CI Yeah like well, let's just keep, well I'm like man, I don't, know what I'm saying, I don't want to keep going over this bullshit,I want to get what he knows, get what you know, and then be done with it man, like I ain't got time to keep going over this shit.

NIGHTENGALE That's _____

CI _____I feel you

NIGHTENGALE _____fucking talking about whatever _____I can't explain it_____

CI Well I mean yeah, it's like I told Jamie, everybody's not a killer dog, know what I'm saying, some people just get caught up in situations where they ain't got no choice

NIGHTENGALE ___the only thing I like to do is fight _____if that ever came to, you know, I mean if I had to fucking do it_____

CI _____Yeah, that's all I want dog and then I get the mother fucking guns from you and then I holler at you on down the line somewhere, you know what I'm saying

NIGHTENGALE He took all Them pills _____must really_____

000573

CI — See this is what I'm saying, when I was_____-with my dad right, from the time he got taken out of the car until the time Jimmy hit him with that thing, what happened between_____-know what I'm saying

NIGHTENGALE — The only thing that I seen, I mean I can't say that I seen anything else was fucking, I seen fucking Mike grab him out, I mean I kind of turned my head, you know what I mean, I seen Mike grab him out, fucking, for at least a fucking half hour man he had him like this

CI — What choking him?

NIGHTENGALE — At least fucking, maybe not a half hour man, but it fucking seemed like it, you know what I mean, maybe fucking 15 minutes maybe

CI — You think, cause see when you choke somebody that long dog, it's, he should have been gone, know what I'm saying

NIGHTENGALE — That's what I thought

CI — You think maybe fucking Mike was just playing you guys, _____that he really didn't want to smoke him

NIGHTENGALE — _____I mean, he was doing everything he fucking could, had his fucking hand up like this pushing like_____-hard as he fucking possibly fucking could

CI — Alright, so alright let me just run, let me run over this one time.

NIGHTENGALE — _____

CI — Alright, so you all picked dude up, feed him the mother fucking

NIGHTENGALE — _____

CI — Well whatever, Vicadins whatever

NIGHTENGALE — _____

CI — Alright, so he ate that shit and then what

NIGHTENGALE — Fucking called Jim met him up, met up with him, went back to the fucking, where everything took place at

CI — That's what I'm saying dog, I don't, he can't just say, yeah we met up where everything took place at

NIGHTENGALE — _____yeah I told you about that House in front of -Big Bear

000574

SIH - 96185

Alright

NIGHTENGALE Then went down there to that where_____

Right

NIGHTENGALE And that's all the fucking_____-
out_____fucking turned my
head_____freaking out started crying

CI Mike did

NIGHTENGALE Yeah, not like crying like fucking_____and
I don't know what the fuck Jamie did I never_____I mean I know when
they told me _____-but I didn't see nothing at all_____I just
know that they fucking went back there
whatever_____

CI Alright well, I mean, that's what I'm saying, that's all I needed to know from you dog and I'm just getting tired man, cause it's like I'm getting the fucking run around, know what I'm saying

NIGHTENGALE I'll do whatever whatever with you, I'll help you, I CAN try to find him I mean I will, I don't care about that .

No I mean I can handle all that dog; just the guns, I need the guns tonight

NIGHTENGALE They'll be there I mean he owes me fucking money, he owes me like, right now, he owes me a fucking grand

CI The dude that's bringing them down does?

NIGHTENGALE Yeah, I was like, knock of like, I told him to knock of like 350 400
dollars for bringing em

CI I mean where do we got to go to get them though?

NIGHTENGALE Wherever you want to, I'll just tell him to leave them, he'll drop them off on the side of the road on 104 if you want him to

CI Don't do that

NIGHTENGALE Wherever. Don't want to bring him around like my girl's house, and I don't even want to go there with that

CI Alright, so where can he drop them off at?

NIGHTENGALE Wherever you want

000575

CI I don't know nothing about 104, that's what I'm saying, I can't, know what I'm saying.

NIGHTENGALE Uh, I can have him take them to Jimmy's fucking old house -where he where Jennifer. stays at

CI ON Dyer

NIGHTENGALE Yeah

CI Well I mean would that be cool?

NIGHTENGALE Yeah NOONE lives there

CI I mean would that be cool

NIGHTENGALE Under a trash can or something

CI And he'd definitely put them there if you tell him to?

NIGHTENGALE Yeah, just, I mean, that's what I told him, I was like put that shit under the lawn mower, the lawn mower But they weren't there I tried to call Jamie like fucking 40 times I didn't know your number, I was trying to tell him where the fuck it was, he just never answered the phone.

CI Alright, well call dude and make a hundred percent sure that

NIGHTENGALE I can page him if you want me to To your phone

CI We can, I don't care, I mean

NIGHTENGALE Supposed to be calling me back in there -

CI I know you're trying to chill with your family and shit

NIGHTENGALE That ain't my family, this is hers

CI What's up with that broad Mandy, who's chick is that

NIGHTENGALE That's Jimmy's old one, I gave her to Jimmy

CI (chuckle)

NIGHTENGALE nobody even stays there with her, I mean she's, she's as easy as hell to fuck probably she's not bad looking either

CI No, she's NOT

NIGHTENGALE Girls there every fucking night

000576
LTH - 96185

CI Uh, 397-9607

NIGHTENGALE I mean every single night they're there, every fucking_____-

CI _____

NIGHTENGALE _____-so many fucking different girls come in there, I've even tried to hit on like 3 of them_____

CI For real

NIGHTENGALE I know I could've fucked them

CI I don't, what's up with Jamie dog, I don't know, I don't know man. Jimmy's supposed to be calling me, I don't know what the fuck is going on.

NIGHTENGALE I just wish he was fucking out so we could all just sit down and fucking talk

CI Exactly, and just, I'm getting a headache from this shit dog, for real

NIGHTENGALE If I was in your shoes, I would too man

CI It's like I mean, you know, and really.I mean, I'm giving em love on the prices, know what I'm saying

NIGHTENGALE Thats NOT my buisness I don't need to know that

CI So what, what is dude bringing me?

NIGHTENGALE He's going to bring you a 9, a mother fucking 22 or 25 whatever, I don't know some big ass fucking HAnd gun kind of like a 44 or 50 whatever

CI So when dude calls me back what am I supposed to say, what's dude name

NIGHTENGALE I'll talk to him, he won't even talk to you

CI Okay yeah, cause

NIGHTENGALE He wouldn't say anything, he's like who's this_____I don't know who you are

CI That's what I'd be like, well who the fuck is this

NIGHTENGALE If I fucking, if I went down there man, I could get some different shit, cause I, Mike had 3 of my guns

Mike Authors did

NIGHTENGALE Yeah, he had two fucking 9's and a black either a 38

He didn't have it that night

NIGHTENGALE And I don't know where the fuck they're at now

CI I just want to get all this shit done man, so I can fucking chill, really I ain't, honest to god, I've never had this many problems

NIGHTENGALE ~~4-real~~

CI It's nuts, it's like you know Jimmy will tell me to do something and then Jamie tells me to do the fucking opposite, I'm like, what the fuck

NIGHTENGALE What

CI Yeah, I mean as far as that goes, yeah, but I mean, even now, see what I'm saying,

NIGHTENGALE I mean Jamie and me has never been in nothing like this man it always like I do the fighting, and Jimmy, I mean, he would do fucking whatever else and Jamie would watch and now it's like we're fucking taking Jimmy's place and making these decisions that, and neither one of us know anything about really

That's what I say, I mean I understand it's probably fucking, it's probably stressful for you guys

NIGHTENGALE I mean, it's no where near as stressful for us as you man

CI No cause I'm the one that's gotta fucking, I'm the one taking all the chances, know what I'm saying, don't nobody, don't nobody know I know you guys, you know what I'm saying, and they never will regardless of what happens

NIGHTENGALE I don't know man, but I'm starting to feel comfortable around you now so I dont even care now

CI That's what I thought, I told Jamie, I was like man, I just, know what I'm saying, he ain't spent no time with me, you guys, probably got him thinking I'm this fucking psycho killer, I mean, don't get me wrong dog, I'll whack a mother fucker if I need to, but it's not like I'm just out to gun, you know what I'm saying, I didn't know you dog, it was just business, and now that I know you

NIGHTENGALE I know what you mean

CI And I now that I know you, I'm going to be honest with you dog, it's a lot of fucking, I don't know, it's like, it's like you got a crew and there's too many chiefs and not enough Indians, know what I'm saying, everybody wants to be in charge

0005789 5819

581106H20

NIGHTENGALE Yeah, I know what you meant

CI And it's just, all it's doing is fucking shit up man.

NIGHTENGALE I love Jim

CI I mean I told Jimmy, when this originally started the understanding I had was, I'm in control of everything, know what I'm saying, all I need to get with you guys for is the guns and the money, know what I'm saying and who it is I need to take care of and now it's like I don't even know who the fuck it is I really need to take care of.

NIGHTENGALE I, I don't know man, I just thought maybe two of them would you make ~~their~~ your own choice

CI Yeah, the only two left right?

NIGHTENGALE Yeah, well I mean I could_____the first two

CI That's what, I mean

NIGHTENGALE if Mike said that I'm glad it happened know what I mean

CI I mean, but I'm starting to feel bad, know, maybe he was, maybe he was just saying that hoping I wouldn't fucking smoke him

NIGHTENGALE I would fucking, I mean, if he was hanging out with me and shit, I'd definitely couch for him, and I know if he was -around Jamie would too, and so would Jimmy too, know what I mean.

CI Yeah, I mean, he, he brought that on himself man

NIGHTENGALE I know

CI You know what I'm saying, he just quit talking to everybody, so he didn't leave him no choice man

NIGHTENGALE Yeah

CI And that's why the whole thing with you and I'm trying, _____like dude ain't, dude knows who I am, know what I'm saying, he knows what I'm here for, he's not hiding from me, I said fuck dog, he's giving me a gun, know what I'm saying

NIGHTENGALE I'm not, fuck I mean, fuck if I'm going todie, fuck it I'm going to die

CI That's what I thought_____fucking dog, I don't know he don't strike me as a fucking rat man, I don't know, I don't know what's going on, I don't know a fucking, I don't know.

NIGHTENGALE _____

000579

CI Jimmy, I'm waiting on Jimmy to call me, he ain't fucking called yet

'IGHTENGALE I think he called, he called over there, that's what Mandy said, said didn't you call over there, talk to Mandy

CI Yeah

NIGHTENGALE Oh maybe it was you then

CI Yeah, I jus called over there a few minutes ago, I didn't know where this place was at

NIGHTENGALE I told her if you called, to just call over here, she said that her mom said that you called twice but they don't have caller I.D. so I couldn't call you back. I tried to call Jamie TO tell him to have you call me over here. I didn't even take long MAN she didn't

CI No thats cool -

NIGHTENGALE Cause she's wanting to go to fucking Buckeye Lake tonight, that's where my brother's at right now, we're just going to ride up there, stay the night fucking party & shit up there

CI Jamie just, I don't know Jamie's on some other shit

'GHTENGALE Jamie, I mean, he's worried and shit, I mean he's scared & shit I mean I

CI I don't know

NIGHTENGALE so fucking comfortable man so I don't even fucking care

CI I don't know what the fuck he's scared of dog

NIGHTENGALE Just, if you think about it man, there's a lot of things to be scared of

CI Yeah there is but, I mean, know what I'm saying, if I was going to whack him dog, he'd have been gone

NIGHTENGALE It's not even just that, I mean dog you see this shit on FBI file and shit like that

CI Yeah, yeah, and I mean that's why I go through the whole process like look, know what I'm saying, I'm not mother fucking wired, you know wired so, we got that understanding, I'm not, I'm not on that shit for real dog, you know

NIGHTENGALE And like all them pictures and shit, I was like, man I seen that shit ON fucking FBI files myself

'I Yeah well

000580
H21 - 58196

581096H22

NIGHTENGALE And I don't, I don't need to see them or nothing, he just told me, I was like man, that's crazy

I didn't, dude, I didn't even want to take the mother fuckers and show them to Jimmy, know what I'm saying, but Jimmy wanted proof so, there's your fucking proof, and now you play me like I'm a fucking half a fag or something, just running me around in fucking circles and I'm not cool with that.

NIGHTENGALE if Hes out man, it wouldn't even be like that, he's just got me and Jamie, which don't really know anything, I'm not fucking trying to dick you around man, I promise I'm not.

CI I mean I know that, everytime, everytime, know what I'm saying me and you supposed to meet, we meet, know what I'm saying, everytime you're supposed to get me, you give it to me, so I ain't got no complaints with you dog, know what I'm saying, you told me what you know about the shit with Andrew, that's all I nced from you, it's just the shit, I mean, it's just like Jamie, I mean think about it dog, if I was a mother fucking cop, Jamie's done gave me a fucking over half key, know what I'm saying

NIGHTENGALE Oh he did

CI Yeah

NIGHTENGALE He told me I was like

And fucking and guns and shit, I mean dude if I was a fucking cop, he'd be in jail, know what I'm saying. I'm not on that dog, I don't like having to prove myself not to be. I was brought into this, I didn't try to get into this

NIGHTENGALE You're his family man, you the fucking family I mean

CI That's what I'm telling them, I'm like what, you know so I don't even know where the fuck that thought even come from dog, what the fuck are you thinking about, man I seen this shit on TV, I said dude, you watch too much TV man

NIGHTENGALE I mean, we talked about it a little bit last night when we was at O'Malley's, I'm going to be honest, I mean, man he started thinking, I was just like, that was Jimmy's fucking family, there's no way possible and Jamie he was like dont I know -

CI Yeah

NIGHTENGALE I was like whatever, I'm like whatever you want me to fucking say, I'll say it.

CI Cause I was fucking. I called and told Brittany, I was like look man, tell Jimmy I'm fucking done dog, tell him I'm glad fucking, good luck, cause I was just pissed man, cause I'm like, like I'm out here fucking, smoking mother fuckers for these dudes, know what I'm saying, running around doing this, doing that, and they got the audacity to think I'm a mother fucking cop, I was just, I was just pissed right then

000581

NIGHTENGALE ____it wouldn't I mean

CI But see he got to understand bro, I was raised in the penitentiary know what I'm saying

NIGHTENGALE Oh, I don't know anything about it, I never asked him, have not asked him a thing about you

CI Well the way I was raised dog, being a rat is the first worse fucking thing you can do, know what I'm saying

NIGHTENGALE I mean I know that

CI And just having that label can get you killed, know what I'm saying and dead ain't good

NIGHTENGALE Oh fuck no

CI NOT for me so it's not good, you know what I'm saying, so,

NIGHTENGALE I mean, he like, I never asked him anything about you, I don't need to know nothing about you man

CI I mean this is what I'm saying dog, it's not like, it's not like I'm just going to do this and we're done fucking each other, know what I'm saying, I mean for a minute, know what I'm saying we're going to put some distance, but dog, I'm talking about us being a family, you know what I'm saying, so if anything, if there's something about you I want to know, I'm going to ask you, know what I'm saying, if there's something about me you want to know, ask me, know what I'm saying, I don't have a problem telling you, cause I ain't got shit to hide from my family dog. The way I look at it is this, you know you guys got dirt on me, so I'd be a fucking idiot, it's like a neutral ground, you know what I'm saying

NIGHTENGALE Yeah

CI You know, I got dirt on you, you got dirt on me, so we both got the same thing to fucking lose. Dog, you realize they could, they would kill me STATE the fucking police they would just execute me dog, know what I'm saying

NIGHTENGALE I ain't got nothing on you man, I don't need nothing

CI Well yeah, I mean, I'm glad, know what I'm saying, I mean don't get me wrong, I mean, I'm just saying, I look at, I look at shit the same way you guys look at shit, know what I'm saying, don't question them. I question whether you guys are cops, know what I'm saying

NIGHTENGALE I AINT

CI Cause I'm like damn man, this is some shit on TV type shit, know what I'm saying, I'm like man, cause my dad is, my dad's an old school gangster dog, know what I'm saying

5817005823

NIGHTENGALE Is he

CI Yeah, and he's like, he's the one that

NIGHTENGALE Jimmy asked if I met your dad & I said fuck that I ain't going out, I was like have you ever met his dad, he's like uh uh and I don't want to either

CI (Chuckles) Cause I mean, know what I'm saying, just told me, he's the one that told me at first, that's how I found out at first that that Jimmy was bullshitting me and Jimmy's my cousin and I love him dog, know what I'm saying. I'm doing this shit because I got love for him really, but I told you look little dog, I'll tell you right now man, if you play me stupid, fuck you, you're on your own, know what I'm saying

NIGHTENGALE Yeah

CI Don't lie to me man, you can tell me, just tell me it's none of my business, if you don't want to tell me something, just say man, you know, that really ain't your business dog, I don't want to get into it and I'll leave it at that, I'll respect that, but don't lie to me, know what I'm saying

NIGHTENGALE I didn't lie, I just hate talking about it man I fucking feel like I'm in a bad luck for the rest of my life

CI I mean, I feel you dog but I got a job to do, know what I'm saying and I need what I need to know to do my job right

NIGHTENGALE I'm sure you got it all planned out, I just, I mean

CI Yeah

NIGHTENGALE -think about shit like if I was around you and shit, if I fucking, I mean, I turn, I'm like a fucking chameleon

CI You would learn a lot to fuck on me dog, know what I'm saying

NIGHTENGALE I believe it

CI I mean, obviously I know what I'm doing, I'm not in jail

NIGHTENGALE Oh, no shit

CI Know what I'm saying, I do what I want to do, I mean, I don't do clubs and bars

NIGHTENGALE I'm done with that

CI Because and the life I lead dog, I can't, I can't afford to get fucked up on humbug, know what I'm saying, I just can't afford that man, so I stay away from that shit and my, I can't be around loud stupid jump mother fuckers dog, I just can't, I can't be

around people like that, I end up doing something to them, so I try to just avoid the whole situation

'IGHTENGALE what you did like 9 years or whatever you said

CI Yeah, yeah and I was in a cell, I wasn't around a whole bunch of mother fuckers, know what I'm saying, so I got a select mother fuckers I hang with and that's it

NIGHTENGALE Oh, you just got out or something?

CI Yeah, I got out, well I just got out from doing 9 ½ like two years ago and then I went back and did 13 months, where I just got out so

NIGHTENGALE huh

CI You know I really, I really ain't been out man, I don't

NIGHTENGALE I Know what your saying

CI Yeah

NIGHTENGALE Can't be that old

CI Well I'm only 30 so, you know that's why I do shit the way I do it, to some people it might seem weird you know what I'm saying, but I do what I do because

'IGHTENGALE -

CI Yeah, I like to stay free and I'm not taking no unnecessary chances man. I mean we can hang out, kick it, know what I'm saying, go to you all's crib, you all come to my crib, we can do that (phone ringing) Jimmy, Hello. Yeah, what's up man? (Cannot hear the other half of the conversation) Nothing. Dude, you're fucking me up here Jay, because dog, I got, I got something I'm trying to do here man, you know what I'm saying and you know what I'm saying and you're giving other people instructions that's going against what the fuck I'm trying to do and you're making my job a hundred times harder than it has to be. Well I mean, that's not my understanding...Shawn's in the car right now, so, well, I mean, listen, you know the one thing right that was originally started, okay I'm going to do that same thing again with the other thing, you understand what I'm saying? I'm...just...trust...listen Jimmy, do you trust me dog? Okay, then that's all you need, you need to let these guys know that, that I'm not no mother fucking cop and I'm not no mother fucking idiot, I know what the fuck I'm doing

NIGHTENGALE I mean I know that, I never said nothing like that man

CI I mean, it's not Shawn dog, you know what I'm saying its just, I don't know what's going on right now, it's like shit is getting backwards and I'm about ready to say fuck everything and walk away but I love you but damn dog. Well listen, this is what I nee you to do dog, all I need you to do is let Shawn and Jamie know I know what the fuck I'm doing and to help me in whatever way they can, that's all I need you to do dog anc

581926 - H25
000584

no more change of plan and no more change of orders, no more change of instructions, that's all I need you to do, so can you do that? Well it's just shit that you, I mean, like I told you dog, it's shit I need to know, you know what I'm saying, to do what I need to do. Let's just say it's for insurance sakes, okay, I mean, I understand you feel there ain't no need for it right now, but what happens if there's a need for it later, I got it covered now. I'm not going to keep running around doing this for the rest of my life Jay. Okay, so, okay, listen, to alleviate all that shit, just do what I ask you to do bro, that's all and you know I'm going to take care of the rest, you already know that. It's not just insurance for me bro, it's insurance for every fucking body, what happens, what happens if fucking moth from now, year from now, when it comes up and I got to take care of it then, fuck that, I want to take care of it now so it's out of the way. I told you I'm trying to get out of here Jay. Okay, well just, then let these boys know that just do what I need them to do. Well it's not, I mean it's not Shawn, Shawn's sitting right here beside me, I don't know what the fuck, I don't know what the fuck is going on, I mean, I know pretty much what I need to know, you know what I'm saying, we went over it, but it's like you know what I'm saying, it, I don't know dog, well you know I, I mean just the thought of a mother fucker even thinking I might be a mother fucking cop, you know what I'm saying, you know how it gets me dog, you know how I am. Do what? What, exactly, but fuck that, I mean, you know how I am Jay, you feel me? Yeah, I understand that. Dog listen, I gave you my word I would do what I could do to get you out of there. You gave me your word I could do this the way I want to do it, so, so let's just stick to that alright. Alright, well that's all I need you to let these guys know, you feel me, alright big baby, I mean look man, I don't want to walk away from you dog, because I gave you my word and I got love for you man, but I get so fucking aggravated with this shit Jay you know how I am dog. It's, that's what I'm saying, it doesn't have to (Beep) Hold on for a second alright..you hear me...hold on. (Beep) Hello...hey what's going on girl? (Cannot hear the other side of the conversation) Can you hold on for a, yeah I'm on the other line, can you hold on for just a second, alright (Beep) Jay, well listen I got my girl on the other line man, you want to holler at Shawn right quick, alright hold on

NIGHTENGALE Hello, hello, okay, yeah what up man -yeah, everything's fine for me.

CI Hey ask him if it's cool

NIGHTENGALE I talk to you I mean I know

CI Ask him if it's cool if he has that shit dropped off over there. No don't say it, he's on the jail phone

NIGHTENGALE I don't know, huh, who me? Uh, man I can't really talk, I don't want to talk on the phone or nothing.. I mean I talked to Jamie and him and they'll both be coming down there to talk to you, alright I want to come down there man, but they told me fuck if I'd have came down there whatever I can't even get out till fucking probably Tuesday. I thought I could just bond out, but I thought different -alright, I'll do that for sure just uh, he's got his in the morning so. And I mean whatever I can do, I'm doing, so, then I mean, alright man, I love you man. Alright, bye Just hit that?

Yeah

NIGHTENGALE How many girls you got man

CI Hello, what's going on, what are you doing? Um, I'm just hanging out with one of my dudes right at the moment, Yep. Where you at? You're at Tammy's, you guys are getting ready to bump cats ain't you....whatever. Alright well listen, can I call you back at Tammy's, is her number still the same? What is it.

NIGHTENGALE You got fleas or something in your car

CI Do what? Yeah 8017? Okay, alright well I'll call you back in a little bit alright, yeah, alright, I love you, bye bye now.

NIGHTENGALE I'm probably going to leave like about 11, I'll be back tomorrow by uh, tomorrow night I'll hang out with my brother for a little bit

CI That's what I'm saying dog, I didn't', I didn't t think it was fucking Jimmy, know what I'm saying

NIGHTENGALE Fucking Jimmy what?

CI That was fucking, changing fucking orders and plans and shit?

NIGHTENGALE No man, but I told him whenever I talked to him earlier, I was like you know him right, he was like yeah, I was like, trust him, he was like, yeah, I was like, so that means I'll trust him, he was like I know that and I was like, do you think I should keep talking about this, or I asked him do you think I should talk about it, he was like yeah, I trust him, he said, you do whatever.

CI That's what I'm saying

NIGHTENGALE Said alright, fuck it

CI See and this is, this is what Jamie told me, he was like man, you know Jimmy said not to talk about it, I'm like what?

NIGHTENGALE He didn't say that, he just, he said there was no point in talking about it right now more or less with if you think there is, fuck it, I mean, you know more than he does.

CI I mean this....exactly this is what I'm saying dog. If this shit comes up, you know month from now or if Jimmy's still in jail, he's not going to get out just like uh...

NIGHTENGALE Yeah, I know

CI And if it comes up a month form now, then who's going to deal with it. Jimmy's in jail, that means I got to deal with it.

NIGHTENGALE Yeah

CI See what I'm saying, I don't want to keep bouncing back and forth, I want to do everything I got to do now man, then I ain't got to worry about this shit, so if it does come up I'm like well here, here it's taken care of, know what I'm saying.

NIGHTENGALE You know everything I know man, I'm not lying to you so, I promise___-that's everything that I fucking know.

CI Well I thought you guys was supposed to fucking left him down in the hills

NIGHTENGALE didn't happened didn't happen at all like that, I wish it would've

CI It's just a lot of this shit that don't make sense you know what I'm saying, I mean what, I mean just on the real why didn't you leave him down there dog, did you just not, was you not _____I mean I don't understand

NIGHTENGALE I really can't even_____ _____(must've have gotten a phone call) Hello, what's up? Yeah, I paged you from that number, I was out partying. Are you still at home? How long you think it'll be? Alright, just make sure you call me back within 20 minutes dude, alright,bye. He's going to call him right now, going try to get them. I know he can get one them for sure, I mean, that's, the other two he just, probably going to have to give him a little bit of time but

CI right

NIGHTENGALE But the one 9 is for definite sure

CI that's cool, just call me and let me know what's happening

NIGHTENGALE _____I can't I won't know

CI There's a pen in that glove box

NIGHTENGALE one of the hardest numbers I fucking I ever had to remember

CI (Chuckles) (Recording from somewhere comes on "Thursday, May 30th_____"

_____

NIGHTENGALE Hey she wants to know if you want to meet this girl Jenny tomorrow sometime man she looks good as fuck

CI Jimmy who, Jim's sister, Jimmy

NIGHTENGALE No This girl Jenny's like 22 she looks good as fuck

CI Oh okay, shit no I'm cool on that

NIGHTENGALE No this girl, she's like 22 years old_____

CI Yeah that's cool whatever

NIGHTENGALE What is that number

CI 397-9607

NIGHTENGALE Man where do you want me to tell him to take it to?

CI Uh

NIGHTENGALE Take em back to the house again, but I mean, that's where the daughter stays at and I can't...

CI Well just, I really don't know where else, know what I'm saying to take it, just have him take it in and just call me

NIGHTENGALE He'll meet Jamie cause he knows Jamie real well, if Jamie will meet him if you ask Jamie

CI I just tried to call Jamie, I just paged him, just um, it's cool, I mean if you want him to take them over there, where's that on Dyer?

NIGHTENGALE Ycah, you don't know where his house is

CI No, well there's two door He live across from his dad, close to you don't they

NIGHTENGALE I'm trying to think uh, _____fucking

CI Just uh, just have him take them fucking over to Mandy's, Emily's rather

NIGHTENGALE That's why I don't want to take them, cause I don wanr him going there

CI Alright

NIGHTENGALE Cause he's hot, he's really fucking hot_____

CI Uh

NIGHTENGALE ____More than likely I'm still going to be here_____I'll just tell him to fucking, if I'm note here

CI If you're not hear, know what I'm saying, I'd rather just have you get them for me dog, know what I'm saying, if you're not here just tell him to take them on Dyer

NIGHTENGALE Alright

I And I'll pick them up, where you going to put them at over there?

58196 - H29
000585

NIGHTENGALE	Put them under the trash can or something, cause they got a trash can right beside the garage
	And I'll just have, I'll have, I'll just have Jamie go over there with me or something
NIGHTENGALE	Alright
CI	Alright
NIGHTENGALE	Well you'll hear from me in like 20 minutes.
CI	Alright bro
NIGHTENGALE	See you later, be careful
CI	Alright dog.

58196 - H31

Franklin County Sheriff's Office

Detective Bureau

Progress of Investigation

Offense:	HOMICIDE
Report #:	200109704
Victim:	ANDREW DOTSON
Place of Occurrence:	GALLOWAY ROAD S/O HALL ROAD
Date of Offense:	OCTOBER 10, 2001
Reporting Detective:	S. SCOTT
Date:	May 30, 2002

THIS WILL BE THE INTERVIEW BETWEEN CI AND CALVIN HORTON. DATE OF INTERVIEW MAY 25, 2002.

The follow is a review/summary of the conversation between Calvin Horton and FCSO CI dated on May 25, 2002. Body wire used, conversation occurred in a vehicle.

Page 1/ CI refers to the second video for the Andrew Dotson Homicide requesting that he has additional details about Andrew Dotson so he can make another video.

Page 2/ Horton tells CI that he doesn't want to talk about Andrew Dotson anymore*

*Tells CI that the money that he is being given which was approximately $1,000.00 turned out to be $980.00 was only a loan, he is stating it that way to cover both of them he says.

Horton talks about this situation is serious.

Page 3/ Horton tells CI he doesn't want to talk about anything anymore because the cops can be listening. CI tells Horton he needs the guns to finish the job.

Horton replies that he has got some guns.

Horton states he doesn't want to know things anymore that he would prefer just to let the CI do it and him not know

*Horton reiterates he doesn't like to talk about things, that someone might be listening.

Page 6/ CI asks for the guns again and Horton talks about being like a Mafia.

(1)

EXHIBIT 33

Supervis

000590

CI	HORTON		
Investigator 1	Investigator 2	Interview 1	Interview 2

TAPED INTERVIEW

OFFENSE:	HOMICIDE
REPORT#:	200109704
VICTIM:	ANDREW DOTSON
PLACE OF OCCURRENCE:	GALLOWAY ROAD S/O HALL ROAD
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	CI/CALVIN HORTON
DATE OF INTERVIEW:	MAY 25, 2002
PLACE OF INTERVIEW:	WIRE CONVERSATION
INVESTIGATOR:	FLOYD/SCOTT

CI	What's up
HORTON	What's up man
CI	I talked to um Jimmy and ~~John~~ Shawn and I told Jimmy I told sec Jimmy didn't know exactly what was going on see what I'm saying as far as making with the video Angela shit so I hollered at him and told him.
HORTON	You told him on the phone?
CI	No I'm not come on dog I'm not stupid.
HORTON	Alright
CI	And um I told him I was like look dog I need to know what the fuck I need to know it's not because I'm curious it's because I'm doing something then I hollered at him and let him know why I was doing it and how I was doing it he was like oh okay well that's cool so I said well let Sean and them know that so I put Sean on the phone with him and he was like cool so I hollered at Sean I was like look dog he ain't got to worry about none of that bull shit man
HORTON	Just um I mean you know what I done told ya you know what I mean that's all I I've told you everything that I know so
CI	Right
HORTON	We'll keep it at Me & you can keep it like that from now on I mean there ain't no reason for us to talk about it no more is there?

581796 - H32
000591

CI Right no I mean that's what I'm saying though it's like from the beginning man if it's something you don't want to talk about

RTON I mean I don't I don't like Talking that's all

CI That's what I'm telling everybody I'm like look let's quit fucking and beating around the bush sit down with me tell me what the fuck I need to know so I can stop asking you guys and I can stop hearing this shit myself cause it's just all it is all this from the time like when Sean was telling me tonight from the time that he fucking from the time he got taken out of the car after that I don't know what the fuck happened so I can't you know what I'm saying what the fuck am I suppose to say you fail me I mean it's like where ever he was at is evidence you know what I'm saying I don't know if you know you guys said yeah okay it was on Galloway Road okay so fucking what on the side of the road you know what I'm saying and that's what I was telling him I was like just let these guys know to tell me what the fuck I need to know so we can be done with it.

HORTON _____ man I just

CI I mean I'll go see him tomorrow you know what I'm saying so that way we can just everybody can get everything out in the fucking open though cause I'm just tired I'm starting to feel like you guys are spinning me round and round and round man.

HORTON I'm just going to keep it like this in between me and you this is just I'm just giving I'm you're just borrowing money that's all this is you know what saying that's the way we'll keep it cause that's the way you know what I'm saying just to cover both of us you know what I'm saying I mean I know that you're good at what you do so you got a fucking head up there

CI Exactly

HORTON So I got a head too so we don't need to talk as much as we talk that's how I feel

CI That's cool you know what I'm saying

HORTON Me and you cause I mean I know you can probably say something and I'll know what you're talking about cause I got fucking I know you know what I'm saying.

CI Okay well see that's that's what I don't know I didn't know that from the beginning dog I don't know if you guys are just running around here fucking stupid or what.

HORTON No I ain't stupid

CI You know what I'm saying

HORTON I know I got you it's a serious feeling this is serious shit

CI That's what I want you guys to know this is not a game I mean I laugh and I joke and I kick it but I'm still the same person I was the first night I met you

HORTON That's what I'm saying

CI You know what I'm saying

ORTON It's not a fucking game and I don't want to ever make it look like I'm trying to make it a game so I mean cause

CI I mean cause that's just I mean that's just like

HORTON I mean if we got to set down fucking and whatever and just take the shit and I'll do this and you do that that's cool with me I don't care but we don't need a fucking they could be in that car they could be in that Van over there listen_____

CI This is what I told this is what I told um Jimmy you know what I'm saying I was like look as far as us talking about it we don't need to talk about it you know what I'm saying I say hi to the mother fucker have him have somebody write this shit down you know what I'm saying that way ain't nobody got to say nothing I got to say nothing to them I ain't got to ask no questions

HORTON Write down _____working for me too

CI I got to have them guns though

HORTON I know I got like 2 I got like 3 I got maybe 45 hundred you know what I'm saying I just gave you a thousand now I'm getting Shww 4 I'm not trying to cause no fucking _____cause I'll make money cause tomorrow I'm getting down and dirty tomorrow is on so call me later on in the day and I'm going to try have to do some running up for that one stuff that you been wanting

CI Alright

HORTON You know and I'm getting down tomorrow you know what

CI Well look this is the plan though we're going to see Jimmy tomorrow and I'll let him know what's happening tell him why I'm doing what I'm doing after that you guys you can get with Sean or Sean can get with you I don't give a fuck you know what I'm saying get me what I need to know you don't have to tell me nothing write down what I need to know that's it you know what I'm saying and I'll take it from there that way you ain't got to say nothing I mean you know I'm not wired I know you're not wired this way we ain't got to worry about it though

HORTON But and then you don't even have to talk about what you do I don't want to know no more you know what I'm saying I don't want cause the more shit you tell me that fucking leaves me at risk you know what I mean something might fucking happen to me or something so I want to just make I don't know what you're doing and I don't I don't need to know you know what I mean you're fucking you do what you do like you say and you're good at it so I don't need to know nothing about it you know what I mean do I

000593
58196 - H34

CI You don't

HORTON I sure don't

The only reason let me tell you the only reason I let you know anything

HORTON Just to show that you was

CI To show you I'm doing my business and so you can let my cousin know I'm taking care of business so

HORTON Don't worry nothing else you got to show me I am 100 percent trusting you if nothing else

CI Okay well then just get with Sean dog and fucking get me what I need you know what I'm saying I don't give a fuck if you got to type it write it whatever you do you know what I'm saying I mean seriously though get me what I need to know cause I'm ready to take care of this shit and between me and you dog I'm trying to get the fuck out of here man once I can get all this business taken care of for you guys and I fucking hit that lick over there split with you I'm gone you know what I'm saying so the sooner you guys get me what the fuck I need the sooner I can be away from you and you can be away from me you know

HORTON I don't care being around you

Well I mean for right now we shouldn't be you know what I'm saying but every time we meet we're taking a chance you know what I'm saying who knows what the fuck they, they don't know nothing about me but who knows what the fuck they know about you guys right

HORTON Mother fucking they really do have this thing they can set you fucking file they can listen to every word me and you saying right now you know what I'm saying

CI If they know we're meeting yeah

HORTON Yeah well _____I'm done with that man _____

CI Well that's what I tried to tell you before _____

HORTON _____but I still left them all there at the car wash

CI They probably no they're not still there now it's raining too late alright well look man when can you guys get me what I need dog and I can stop fucking asking you about it and stop feeling like I'm getting run around the fucking board you don't have to say nothing though.

HORTON I know well ~~Dean~~ shawn's leaving tonight he going to go to Buckeye Lake but he'll be back tomorrow

CI Well I mean I pretty much

HORTON But if you just want to go see Jim

Right

HORTON And then me and Sean's going to hook up after that and give us a hour and a half after that and I'll have it and a mother fucking sealed signed and delivered.

CI ~~Well where the fucking Sean at I was suppose to hooking up these guns right now~~

HORTON He's suppose to be going to my house to get $400.00

CI So that's what he's doing right now

HORTON Yeah so this I'll meet him over at my house

CI Well let me let you get back there then

HORTON See what I was wanting to do is I was going to wait till he pulled up I was just going to _____ his is like _____ fucking deal like that you know

CI Yeah I'd would rather keep what's between me and you between me and you and what's between me and him between not only am I right look dog I didn't tell him you know what I'm saying you said he thought I was a cop man I said look I realize you might be nervous around me cause you might think I'm a cop you know I did I got naked like look dog I'm not on that bull shit I'm here to do a job let me do my job and you ain't got to worry about me asking you nothing else

HORTON And then um I mean I schooled him once some shit about I mean he's um he's suppose to be hussling man he's you know what I'm saying he shouldn't be borrowing money from me man

CI No he shouldn't man I mean if just send me some shit down there the other night he said

HORTON And 5 give ~~me~~ him things for three

CI That's what I'm saying

HORTON He should be making fucking 4 or 5 hundred dollars off every one of them

CI I mean maybe he's using They I'm going to holler at him but

HORTON Now don't get ridicules man

581596H36 000596

58196 - H37

CI	Alright well that's why I can't get a hold of him right now so where's have will you call me when you get to your crib and so I'm not just out here fucking out here doing nothing.
HORTON	Call you when I get there
CI	Yeah if he's there and let me know where I got to go pick up these mother fucking guns cause I want to get this shit done tonight for sure fucking show me
HORTON	Yep
CI	So we got to understand everything straight
HORTON	Alright
CI	Alright
HORTON	Straight as long as we keep it like we're just talking about I'm cool with it alright I'm cool with it.
CI	That's yeah that's how we'll keep it
HORTON	Alright cause that's better for both of us man because
CI	Well I mean I was I was that's what I was telling Jim like look dog you know it seems like I got to keep asking and asking and asking I don't know if they're just having me ask them because they got some fucking wire I don't know if there fucking trucks wired I don't know what's going on you know what I'm saying I'm tired of steady asking these guys over and over and over what's going on man
HORTON	It could be anything
CI	It could be I mean somebody could be listening you could be anything you never know you know what I'm saying
HORTON	We'll get together we'll be like on some mafia shit like this
CI	Yeah well after this shit is all over 359-8920
HORTON	That's Sean
CI	What's up
HORTON	Ask him if he's on the way to my house man
CI	Um whose is this oh yeah I called there for Sean but I called to say hi to you too what's up is Sean over there okay no that's Mandy I guess I'm with Jamie you just now get home oh she just got home so she don't know what's up.

HORTON	Alright he's probably at my house by now right now
CI	Okay well look I'm going to have to let Jamie roll over there hold on well I'll still talk to you hey look Jamie call me when you get to your crib and let me know what's happening either way call me and let me know what's happening
HORTON	either way
CI	Either way
HORTON	Okay I got you Bro
CI	Alright Bro god dam it's raining out here I know so was I oh shit

5871956000 H38

58196 - H39

SCOTT	FLOYD	CI	
Investigator 1	Investigator 2	Interview 1	Interview 2

TAPED INTERVIEW

OFFENSE:	HOMICIDE
REPORT #:	200109704
VICTIM:	ANDREW DOTSON
PLACE OF OCCURRENCE:	GALLOWAY S/O HALL
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	CI CONVERSATIONS
DATE OF INTERVIEW:	MAY 28, 2002
PLACE OF INTERVIEW:	PHONE
INVESTIGATOR:	FLOYD/SCOTT

Recording with different suspects; Jamie Horton, Shawn Nightingale; and, possibly James Conway.

Phone ringing:	phone rings several times, female says something, sounded as if it were an answering machine.
Phone ringing:	
	_____did you call my cell phone _____
Female	maybe
CI	maybe, I mean through,___for Jimmy
Female	_____brother, why
CI	I just want to know who was on my cell phone, I just heard it, I'm thinking it was you and Jimmy cause you can't hang up when you call, it was just a long ass fucking _____and then no conversation
female	_____
CI	yeah, there was music playing whenever whoever tried to call my phone, and then, I think it was you and Jimmy, it was just talking
Female	oh yeah it was_____
CI	alright
Female	_____that_____was like on Thursday
CI	I don't know, I turned my phone off for a couple days

EXHIBIT 34

(1)

000606

Female	yeah I know_____
CI	I was just getting fed up _____, this just, know what I'm saying, you got to understand where I'm coming from
Female	_____
CI	I don't think you do, but
Female	_____tried_____
CI	yeah exactly
Female	no matter what the situation is_____I know what it is trying_____I _____I think Chris_____left
CI	yeah
Female	I, I was talking to him and he's like I got to go, I gotta go and a I haven't talked to him since_____I don't know.
CI	well
Female	__I'll call you if he wants me too alrighty
CI	alright, well just tell him that a I guess I'm_____go for this aggravation again
Female	you've had a break and you're ready to have at it again
CI	laughing yeah
Female	alright
CI	bye
Female	bye
CI	alright_____I'll holler at you
Female	alright
CI	bye.

THE ABOVE CONVERSATION WAS BETWEEN OUR CI AND BRITTNEY, JIMMY'S FINANCEE.

CI	what's up, I just tried to call you

581196 - H40
000607

58196 - H41

Female	you gotta quit asking _____
[illegible]	I don't know your extension
Female	I _____
CI	ok, well what's your extension
Female	it's 798-2342
CI	798-2342
Female	yeah_____and if it's busy, just wait and then when my line gets free it'll ring you right back_____
CI	_____
Female	Brittney
CI	_____you hear anything_____
Female	no I haven't
CI	I figure ole Shawn_____nobody
[illegible]emale	I haven't talked to anybody
CI	fuck, I don't page Jamie like three times
Female	I don't know, I_____and why_____I talked to him last night probably around 10:30; but, _____
CI	fuck, _____there's____what's up with_____-and them's phone
Female	I have no idea
CI	_____says disconnected
Female	I have idea, I mean it was working yesterday_____
CI	351-0920
Female	that's it
CI	says disconnected
[illegible]nale	_____

CI	I might have_____Shawn still staying there, Hello
Female	yeah
	Shawn still staying over there
Female	as far, he wasn't there last night, but I think he was_____
CI	OK, I might just go over there
Female	alright
CI	where the fuck____live at _____
Female	no,_____
CI	_____oh, ok, alright
Female	alright
CI	I just want to know if that's_____drop by and say_____
Female	ok
CI	alright
Female	bye
CI	bye.

THAT WAS CI AND BRITTNEY_____TIME WAS 4:41

CI	hello
Male	_____
CI	hey, what's going on, hey
Male	yeah
CI	what, when you was talking about_____boy's mom
Male	I, I don't even _____
	I'm saying, was it, what_____

581986 - H42 000609

Male	___I gotta, I gotta___make a report_____
CI	what
Male	I gotta make a report_____
CI	oh, I was gonna say what the fuck you talking about
Male	I got that_____
CI	yeah
Male	___make a report_____
CI	_____
Male	got it now_____
CI	oh, yeah yeah yeah, ok, I
Male	laughing
CI	was, I though you meant
Male	no_____
CI	oh
Male	_____
CI	ok, well I just, I didn't know who you was talking about, but now I know, well I mean What the fuck, yeah, yeah
Male	_____
CI	oh
Male	_____
CI	_____shit, huh,_____I'm up at dad's
Male	_____
CI	yeah
Male	where is he at Grove City
	no,_____

Male ___what kind, hey what type_____

CI say what

Male _____

CI an excavating company

Male _____

CI no, _____top soil

Male _____

CI oh

Male _____

CI oh, no,huh, so what's been going on

Male _____you get that message I left for_____

CI was that you

Male _____

CI I thought that was fucking Brittney and Jim

Male _____

CI yeah

Male _____

CI yeah I was like what the fuck is this

Male _____

CI hey, what happened with a Emily's phone man, it's disconnected

Male _____

CI yeah

Male _____

CI probably like later this evening

Male _____

581196 - H44
000611

CI ___A

Male _____my girl with me_____

CI well ok, what I'm saying, you know I need some_____right

Male yeah_____

CI yeah, cause I gotta get that fucking car finished

Male _____

CI _____

Male ___I like the way we're talking now_____hey___

CI yeah, well I mean yeah, yeah, cause that's why I had to back up from_____ Cause_____

Male _____

CI yeah you and me both

Male _____

CI that's what I was like man I'm just gonna chill for a couple days, man, that shit was Getting like hectic

Male _____walking the streets

CI oh that ain't no challenge

Male _____

CI come on dog, you know you ain't getting_____so

Male _____

CI I need fucking Shawn to show me where that_____is though man so I can go get it

Male alright, mean I just got_____

CI he's a fucking

Male _____

oh

Male _____

CI well I'm gonna a, I don't know, when I come down there, I'll try to stop by_____
Holler at her, so, they probably fucking freak out

Male _____

Both laughing

Male _____

CI yeah, probably I'll be pissed if he

Male _____looking over my shoulder

CI yeah

Male _____fucking think_____

CI laughing, yeah well, what you gonna do, alright well look man,_

Male _____

CI well I need them parts man so, I'm tired of fucking, fucking with this car, I
Ready to get it done

Male _____

CI alright well I'll hit you back up in an hour or so

Male it's just, I swear to god when I,_____

CI laughing, well

Male we don't even need _____

CI well I'll check, I'll check a few things, I mean if I can find a_____give
Me money to bond but

Male _____hey that's fucking_____

CI ok, well let me see what I can do

Male -alright-

CI and,I'll hit you back in like a hour

Male alright

581196 - H46

000613

CI	hey,I got that a tape from that party man, I'll try shoot you a copy of it
Male	_____I'll probably just _____
CI	that, that's fine
Male	_____
CI	yeah, that's cool
Male	_____
CI	alright dog I'll hit you in about like an hour
Male	alright
CI	alright later.

THAT WAS CI AND JAMIE HORTON, TIME IS 7:58 PM

CI	Hello
Male	hey
CI	what's up
Male	man_____crazy shit_____
CI	what
Male	_____
CI	yeah
Male	_____
CI	oh yeah, what's up with that
Male	_____
CI	oh, when was this
Male	_____
CI	really
Male	_____

CI	did, he had them ones down at_____didn't he
Male	_____
CI	hello
Male	_____
CI	yeah
Male	_____
CI	didn't he have them ones down_____
Male	_____
CI	fuck I don't know, what else could it be
Male	_____
CI	yeah, _____looking_____
Male	_____
	alright, well let me see what's happening, yeah I'll call you back or call me back, let Me know what's going on
Male	_____
CI	bye.

THAT WAS CI AND JAMIE HORTON.

CI	Hello
Female	_____hello
CI	hello
male	hey what's going on
CI	what's up
Male	nothing
	nothing

581296 - H48
000615

Male huh

CI nothing,

ıle I mean I don't know what_____Jamie and him, Jamie got picked up _____

CI for what

Male I don't know, see he, he, Jamie, what Jamie tell you Shawn got picked up, how did

CI Jamie just said that_____picked Shawn up

Male really

CI yeah really

Male well they said saw, Rob and them said they saw Jamie in the back of a police car, a, Franklin Township car or something, Channel 4

CI Really

Male yeah, what's going on

I don't know, I don't know what's going on

Male was you planning on_____or something

CI yeah, I was

Male when was you guys gonna do that over there

CI we was going to do it tonight

Male is everything alright with you

CI yeah, why wouldn't it be

Male I don't know

CI I mean, I, you tell me, is everything alright with me

Male I_____(female talking way in background)

CI huh

ıle I don't _____

CI	alright well listen,___check this out dog, a, look why don't I just give this Thing to Rob man and then I'm out of here
Male	a, that's cool, I don't know if they're gonna let you do, but
CI	well, where is he at
Male	a, he's,_____call him
CI	I have to call him
Male	a_____he wasn't, I think his phone was turned off
CI	well how does everybody get ahold of him
Male	a, he call, they got ahold of him earlier, but, must have a problem, phone was Turned off, a_____
CI	well, is he staying over there with Jamie
Male	I wouldn't, I definitely wouldn't go over there
CI	I'm not going to go over there, I'll send somebody over there, I don't know what Them dudes are going to say dog
ale	they ain't gonna say_____
CI	oh well, I don't
Male	_____you don't____but I know_____why don't you just a, if, if_____ Are you gonna still answer your phone_____over there
CI	yeah, you can't, you can't get ahold of Rob tonight
Male	I don't think I'll be able too or not, doubt it, but a
CI	well, what's the number
Male	I don't, you'll have_____I don't even know_____hello
CI	Brittney, what's Rob's number
Female	I'll call you when I get off the phone, I'll call you back
CI	alright well call me right back, hey J
Joe	yeah
J	I'm _____noon dog, man I'm, I'll holler at you dog, cause I don't

H50 - 96185
000617

Know what the fuck is, what, feel me

Male — yeah I know, I _____

well it's just awful funny, first Shawn just picked up and then Jamie just picked Up

Male — oh I, I know that's why I called you,_____I think that they picked Jamie _____they didn't___Franklin Township_____for questioning

CI — well

Male — _____but a (female talking) she'll call you with that

CI — alright well just, hey Brittney

Female — what

CI — well look, call me right back and give me that so I can get on this, I'm,I'm out of Here dog, I'm telling you, have him get with me tonight

Male — alright, hey

CI — alright

Male — alright a, if you can't get with him, just, can't you just do that whatever_____

CI — yeah, I can but that would make it a lot easier

Male — I know it would but___I don't____if he's turned his phone off_____

CI — cause I'm saying,_____live at dog, know what I'm saying

Male — yeah_____

CI — yeah well, you said that before

Male — _____they don't_____I don't_____
But if you_____thing

CI — yeah, I'll tell him what to do with it

Male — should just do it

CI — _____

Male — huh

CI	yeah right
Male	should_____I don't, they, I know_____
	_____fuck he is at
Male	no
CI	where the fuck he's staying at
Male	_____
CI	alright well, I'll just, I'll call and see if he's there and if he's there I'll just Shoot up by there
Male	alright, he still gonna be able to get in touch or whatever
CI	yeah, just a, man, have Brittney call me back and I'll tell her dog, I'm not Talking over that phone
Male	I know, I'm not saying that_____I'll call you_____
CI	yeah, don't worry about that man, just have him get ahold of me, alright
Male	alright (female talking way in background)
CI	just tell, hey Brittney
Female	yeah
CI	just call me right back and give me that shit
Female	yep
CI	alright
Male	alright
CI	I'll holler at you J
Male	_____
CI	alright dog.
CI	hello
male	hey

381196 - H52
000619

58196 - H53

CI	hello
Female	Rob says he, he doesn't want to talk to you right now,___tell you that _____
CI	alright, well what the fuck is Rob telling him
Female	I_____who knows_____everything____told me_____
CI	_____same problem
Female	_____he thinks you're, he thinks you're_____
CI	who does
Female	I guess that he does
CI	Rob does
female	yeah, I, I mean I guess, I_____I mean____information out of Jamie and _____
CI	_____the fuck out of here
Female	there's people over there watching their_____
CI	watching whose house
Female	Jamie's_____
CI	I don't know where Jamie lives
Female	and nobody knew where Shawn_____
CI	well it's awful funny that neither one of em, Shawn didn't get taken out of His house and Jamie didn't get taken his house, so what the fuck does that Mean
Female	well I_____who knows, it leaves it open
CI	huh,
Female	I don't know
CI	what the fuck_____
Female	___I'll get ahold of you
CI	right

58196 - H54

SHERIFF #3 - 000009

SCOTT Q.	TRENT A.	FLOYD Q.	SARA
Investigator 1	Investigator 2	Interview 1	Interview 2

TAPED INTERVIEW

OFFENSE:	MURDER
REPORT#:	200109704
VICTIM:	ANDREW DOTSON
PLACE OF OCCURRENCE:	GALLOWAY ROAD/HALL ROAD
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	RONALD TRENT
DATE OF INTERVIEW:	APRIL 25, 2002
PLACE OF INTERVIEW:	364 SOUTH 4TH STREET
INVESTIGATOR:	Z. SCOTT & C.A. FLOYD

SCOTT Q. Today is the 25th of April and it's about 10:54 AM and your name again is Ronnie Trent?

TRENT A. Correct

SCOTT Q. And you're being represented by Sara what's Sara's last name Beauchamp. One of the things that we're, we work homicides for the county my concern is somebody named Andrew do you know about Andrew you know on Norton Road yeah okay it was off Norton Road what about Andrew tell me about Andrew _____?

TRENT A. No um this is I mean what I know about it is what Jay told me what James ~~Thomas~~ Conway told me first of all James is my cousin so um

SCOTT Q. When did James tell you this information?

TRENT A. Um it was just um it's probably been like I don't know about a month or so ago um

FLOYD Q. In jail while you were in jail?

TRENT A. Yes um he said that um I guess he was being an investigator for racketeering or something he said that Chillicothe I think it was Pickaway and Franklin County was wanting to question Andrew I guess in regards to James Conway um that's one of the reasons the other reason he wanted to get rid of him was because he seen him shoot somebody I think at White Castle or something shoot him in the ass or something but um

SCOTT Q. When you say he saw him shot somebody you're saying that Andrew

TRENT A. Andrew

EXHIBIT 35

05-12-00026

Informal Complaint Resolution

Institution: CCI

Top section to be completed by inmate, within 14 days of incident.
Inmate will forward the White & Canary copies to the supervisor of the staff person or department most responsible for complaint; Forward Pink copy to the Inspector; and keep the Goldenrod copy.

Submitted To: AP Hook		Date Submitted: 5/22/12
Inmate's Name: Jim Conley	Number: 457-203	Housing Assignment: OR-2 327B

Complaint Regarding:

On Thursday, 5/17/12 sometime between 6pm and 9pm all the files on the computer were deleted. I don't know what happened, I think it was a malfunction rather than another inmate, but I need the legal stuff I was working on for when my lawyer comes down in a few weeks. I don't have time to do them all over again. The name of the folder was SETT and it contained two files: one called "3117" and the other called "log." It should not be difficult for the IT guy to restore them. That was what they did at OSP. Despite what anyone says, I know these file are backed up. If I had written something criminal I'm quite sure someone could figure out a way to restore them.

In addition there has to be a recovery procedure in place if you are going to limit our access to legal material to the computer. Even when a file has a password, any inmate can erase it without any sophisticated knowledge of computers. The password only prevents someone from reading the file. It doesn't prevent them from erasing it. They understood this very well at OSP and would have any erased files restored in a day or so. You are going to have to implement some similar process here because the time we have access to the computer is limited and everyone has deadlines. Missing a deadline can derail all of someones appeals. I don't know exactly when my attorney will be here, but he said within the next thirty days when I spoke with him on the 10th. I still have at least another two weeks of material to go through. So I can't go back and spend two weeks recreating some file that was deleted. And if an inmate decides to erase my files at some point in the future, I will need to be able to retrieve them as quickly as possible. You have to figure something out. Maybe you should contact Mr. Nowak, our case manager at OSP, and the IT guy at OSP and find out exactly what you can do.

Lower Section to be completed by the supervisor of the staff person or department most responsible for complaint.
Return Canary copy to inmate within 7 calendar days. Send White copy to the Inspector.

RECEIVED
MAY 23 2012
INSPECTORS OFFICE

Action Taken (*Cite appropriate policy, procedure or regulation in response*):

The computer is a typewriter replacement. The Department does not provide server storage for inmate files. If an inmate wants a copy of a document they can have a printed hard copy.

Those computer files are not backup therefore they cannot be retrieved.

Staff Member's Signature and Title:	Date: 5/24/12

Complaints not resolved may be addressed in accordance with 5120-9-31.

DRC4151 (Rev 11/01)

ACA 4271

58196 - H56

SCOTT Q. Saw Jimmy shoot somebody?

TRENT A. Right

SCOTT Q. Okay that's good okay

TRENT A. Um

SCOTT Q. We got the report on that day that's true

TRENT A. Um the way it was suppose to happen was James Conway told um Shawn Nightengale and Mike Arthurs

SCOTT Q. Whose Mike Arthurs?

TRENT A. Well he's obviously you don't know about him but he's one of the ones that was there when um Andrew was killed.

SCOTT Q. Mike Arthurs

TRENT A. Yeah

SCOTT Q. Now let me ask you this have you heard of Mike Fuller?

TRENT A. Yeah I know Mike Fuller.

SCOTT Q. But we're not talking about the same one with the name screwed up?

TRENT A. No

SCOTT Q. ... first name

TRENT A. Mike Arthurs yeah he was with him and Mike

SCOTT Q. Is he a male black?

TRENT A. No he's a white guy from the south end.

SCOTT Q. How old is he?

TRENT A. Oh I don't know he's probably in our age group about 29 or so

SCOTT Q. Mike and Shawn Nightengale

TRENT A. Yeah

SCOTT Q. And they were the ones that were present when

TRENT A. Yeah when he got killed yeah

SCOTT Q. I don't want to put words in your mouth so you continue.

TRENT A. Okay well the people that _____ was present when he was killed James Conway, Jamie Gordon, Shawn Nightengale and Mike _____.

SCOTT Q. Jamie _____ was there hugh how do you know that these 4 people were there?

TRENT A. That's what James told me

SARA Why don't you specify everything that James told you right

TRENT A. Unless I say differently this

SCOTT Q. Okay James told you that um how did they kill him?

TRENT A. Um well basically they just James told them to take him to West Virginia because Shawn's got family in West Virginia they was suppose to take him to Shawn and Mike Arthurs was suppose to take him to West Virginia OD him and leave him down there and when they took him down there I guess they fed him like 20 to 30 Valium and um he didn't die so they brought him back and called James Conway and stuff and they was look man we can't do it we can't do it you know you got to meet us so Jamie Gordon and James Conway met him I guess on Norton Road and um they told him they couldn't do it and you know he was like well James Conway was like well where's he at and he's like he's in the trunk and what do you mean he's in the trunk is he dead and he's like no he's not dead he's just passed out so um James Conway told Shawn and um Mike to get him out of the trunk and I guess they dragged him in a field or something and um Jamie, Jamie laid across his body to hold his arms and shit down and James Conway stood on his throat till he was dead and then he just told um Shawn and Mike he said you know _____ and that was that but I don't know

SCOTT Q. Okay

FLOYD Q. Did he say anything about what they did with him after he killed him?

TRENT A. Um they said that um Jay said they just left him there I guess he was found like a couple months later so I don't know they said they was suppose to bury him but I guess they didn't.

FLOYD Q. Say _____ where did they pick him up at

TRENT A. No they didn't say

SCOTT Q. Did they do anything else to

TRENT A. That's it I mean I didn't ask for you know specific details you know they just said that that's pretty much what they did I mean the way it is it's like you know if I was to say cause see Jay is under the impression right now this is the whole thing he's under the

impression that I'm getting out soon he wanted me to have somebody make a tape a video tape saying that they're the ones that did the other homicide he's charged with right now so

SCOTT Q. Slow down wait a minute here James wants you to make a tape

TRENT A. He wants me to get someone else to make a video tape

SCOTT Q. Of

TRENT A. Of them saying he that they killed the guy he's charged with now

SCOTT Q. So he's wanting you to basically kidnap somebody hold them down

TRENT A. Right, right

SCOTT Q. Make them confess while you guys are off camera your going to do something to him

TRENT A. Right well I mean he wants me to get rid of that _____

SCOTT Q. He's _____ has he got a person in mind that he wants you to

TRENT A. Yes um what was his name um Randy Price I think is his name said he kind of looks like him so

SCOTT Q. Randy Price okay _____

TRENT A. Just the one that was in Chillicothe that I guess set up the little inside job with the robbery down there.

FLOYD Q. Do you know who that is?

TRENT A. I don't know his name he's one of the employees that works at _____ when it got robbed.

SCOTT Q. Now what is this Dave mentioned to me something about McQuart, McQuater or something that Brian

TRENT A. Brian McQuarter

SCOTT Q. McQuarter yeah

TRENT A. I guess he's the high witness in im the _____ shooting

SCOTT Q. And so what's Jim want done with him?

TRENT A. He wants him dead.

SCOTT Q. Who is going to kill him?

TRENT A. He's under the impression that I'm going to have it done.

SCOTT Q. Okay who would you get to do that who is he telling you to get?

TRENT A. He doesn't care who I get.

SCOTT Q. How much money is he wanting to give you to get this done?

TRENT A. Um $30,000.00

SCOTT Q. $30,000.00

TRENT A. And that's he's wanting a lot of people killed.

SCOTT Q. How many does he want killed?

TRENT A. I mean he wants he wants the 2 guys from Chillicothe that was working the black guy that was in on it with him I guess because he knows too much he wants him killed the Oriental guy cause I guess working there with the black guy he wants him done um Brian McQuarter he wants him done, Shawn Nightengale he wants him done.

SCOTT Q. He wants Shawn killed?

TRENT A. Yeah cause he's afraid Shawn's going to _____ on him.

SCOTT Q. And Shawn was present when Andrew was killed?

TRENT A. Right um Shawn was present when the Dock Side Dolls _____ so I mean that's what I'm saying this you know he thinks he's got his own little mafia going and he's not _____.

SCOTT Q. No he's not because _____ I'll have to admit he's reckless but he's not done a bad job um okay so he's going to want the black guy done and the Asian guy Brian what the other guy _____.

TRENT A. Shawn he wants Shawn Nightengale done

SCOTT Q. Shawn done and who else the other guy you said I didn't recognize Richy what's his name.

TRENT A. How about Mike _____ or Rob

FLOYD Q. Either the black guy or the _____

SCOTT Q. No the guy they were going to use the video tape for

TRENT A. Oh um Randy _____

SCOTT Q. Randy _____ would Shawn Nightengale believe you if you told him I have to kill you because Jim wants me to kill you?

TRENT A. Well, well yeah he would believe me see this is the thing Jay's done called all of them and told them look you know when this when Ronnie gets out and calls you do whatever he tells you to do and tell him whatever he wants to know but I'm suppose to get a hold of Shawn when I get out and Shawn is suppose to show me where the black guy is and the Asian guy and then I'm suppose to do them then I'm suppose to do Shawn so I mean you know basically he's like look go into the lions den basically what he's sending Shawn on a death mission.

SCOTT Q. But he wants you to kill Shawn too?

TRENT A. Yeah and he's done told me to get with Jamie he done called Jamie and said look when Ron gets out and calls you tell him whatever he wants to know you know as far as the dope ring and shit like that I mean these guys are dealing like 30, 40, 50 kilos at a time that they're dealing with

FLOYD Q. _____

TRENT A. Yeah Jamie _____

SCOTT Q. Where is Jamie?

TRENT A. I don't know where he's at I got his phone number _____

SCOTT Q. _____ in town for awhile

TRENT A. Jamie yeah he was just in town last week

SCOTT Q. _____ made contact with our guys um what are you willing to do?

TRENT A. Whatever it takes

SCOTT Q. Okay

TRENT A. I mean it's like I told um the girl here you know I'll wear wires you know give you a recorded phone conversation whatever need to be done I'll just you know and I'm not asking for a lot you know it's like I told my Lawyer and the Prosecutor I'm not asking for a lot.

SCOTT Q. Whose got the case against him?

SARA _____

SCOTT Q. Okay um what do you think Shawn Nightengale would do if he found out that Jim wanted him dead?

TRENT A. Um being that it is Jim Conway's cousin that was _____ he'll probably do whatever he had to do to stay alive.

SCOTT Q. Do you think he would roll on Jim?

TRENT A. Probably I could probably persuade him to do it.

SCOTT Q. He was there when they killed Andrew?

TRENT A. Yeah he originally he was the one that started to kill Andrew it was him and Mike Arthur from what James is telling me.

SCOTT Q. Who is this Mike Arthur

TRENT A. Mike Author was

SCOTT Q. Do we have the name

TRENT A. I guess he just got out of jail in Chillicothe

SCOTT Q. Do you have a place where he's living

TRENT A. Well he's I guess he's in a motel room with Danny Horton they'll kind of like standing all alone so

FLOYD Q. You _____

TRENT A. It's got well I don't know I'm not going to say for sure.

FLOYD Q. Okay you go to Shawn Nightengale and you tell Shawn Nightengale that Jim Conway wants you killed do you think Shawn Nightengale is going to trust you or he's going to say Jim would never do that to me and he's going to go on back to Jim and say _____

TRENT A. Well I mean I think he would trust me because you got to look at the situation who wants you know numerous people killed whats one more on the list.

SCOTT Q. Well let me ask you this would you be able to make contact with Jim Conway again and say okay what I need to know exactly what you want me to do here?

TRENT A. Yeah because see this is how it is suppose to go he's under the impression right now that I'm at a Hearing to decide whether or not I'm getting out on Work Release.

FLOYD Q. You're in the same jail cells _____

TRENT A. Yeah

SCOTT Q. But how would you be able to communicate with him

58196 - H62

TRENT A. Well that's what I'm getting ready to tell you see his Lawyer is how he communicates

SCOTT Q. Oh well we know Chris real familiar

TRENT A. Okay well Chris comes down and lets him use his cell phone I'm suppose to get out get a burn out phone a burn out cell phone I'm suppose to call Conway's fiancée give her the phone number and she is suppose to give it to Chris Sissro Chris Sissro is suppose to come down to the Jail let Jimmy call me on his cell phone and that's how we do it.

SCOTT Q. And he's going to tell you who he wants you to hit?

TRENT A. He's going to tell me everything

SCOTT Q. Sitting there in front of his attorney

TRENT A. I'm just going to say yeah cause I asked him I said well you know Sissro cool up there he ran it by Sissro he ran it past Sissro as far as the video tape would that work and I guess Sissro said no hey you know if McQuarter disappears and you got a confession on video tape from somebody else saying they did it which is why he gave me exact

SCOTT Q. He's gut enough to talk on a phone like that though.

TRENT A. Well he it's not he trust his lawyer and he thinks on a cell phone it makes a difference I mean he does a lot of business on Sissero's cell phone you know as far as dope transactions with Jamie Horton you know picking up money dropping off money does a lot of different transactions.

SCOTT Q. Alright so here's what I'm trying to would he be more comfortable talking on that cell phone to be giving you specifics or would he be more comfortable you coming back and sitting in the tank and talking with him. Are you guys in the same tank right now?

TRENT A. We're in the same tank but it I mean he's pretty much told me

SCOTT Q. He already told you everything to do

TRENT A. Everything to do just when I get out you know I'm just going to call him and like look you know you know we got a problem who does he want me exactly what did you want done.

SCOTT Q. So you would prefer to do it on a cell phone?

TRENT A. It would be yeah

SCOTT Q. It would make more sense how are we suppose to use the cell phone?

TRENT A. I'm suppose to get a burn out you can buy a burn out you know

QYD Q. _____ right off the street they have them everywhere

TRENT A. Well I mean I know to do is like um cell phone shops that sell kelos

SCOTT Q. But we would give you a cell phone and then

TRENT A. Yeah was long as when I call it doesn't say you know um Franklin County or nothing like that

SCOTT Q. We're not that dumb

TRENT A. Well you know I'm just

SCOTT Q. That's alright I don't blame you but we definitely want you to talk about Shawn Nightengale on here.

TRENT A. Alright well if you going to have Jamie Horton um bring the $2,000.00 to um downtown

FLOYD Q. To put on your books

TRENT A. Yeah

SCOTT Q. Can you ask for more

TRENT A. Can I ask when I get out he said he give me whatever I want

SCOTT Q. Just maybe a little bit more money that you need other than the $2,000.00 to get him to talk about the money he's already funded you on tape we need that.

TRENT A. I got the receipt

FLOYD Q. _____ in jail.

SARA And ____ ID

SCOTT Q. I know but we got to specifically talk about that $2,000.00 was for the hit just not cause

SARA Find out here's something that's I want to get this out right now before from this time forward he's indicted on The Dock Side _____ Murder' _____ told anything about it I'm telling you specifically not to ask him any questions specifically abut the Dock Side Murder now if you want to talk to him about or get his request about what he wants to do because of that if there are witnesses and stuff that's fine but this one he's indicted for that and right now you're kind of working with us so you won't be a state agent as far as the law is concerned alright as far as the Dock Side ___ anything else

FLOYD Q. Well with him it's kind of like I don't ask you, you just it's kind of like everyone has a conscious you can talk about Dock Side Dolls you can ask about Andrew comes under indictment you just can't talk about it.

TRENT A. Well I didn't ask about the Dock Side Dolls he just

SCOTT Q. If he brings up Dock Side let him make his statements and then you just keep on moving to something else

TRENT A. That's pretty well what I did.

SCOTT Q. Would you be would this be uncomfortable to say to him on the phone maybe you really want me to do Shawn do you really think he's going to tell anybody

TRENT A. That was my plan I just be like look I don't think I don't think I need to get rid of Shawn

SCOTT Q. My way listen to what I'm saying I want you to make him acknowledge Andrew do you think that would be a hard for him to say I don't why should we kill Shawn, because do you think he's going to tell on you guys killing Andrew do you really think he'd do that would that be uncomfortable for you?

TRENT A. I suppose not

SCOTT Q. I want him to bring up Andrew I want him to say you know yeah we killed Andrew or whatever he's got to you got to get that connection with Andrew not just you want me to kill Shawn and he goes well maybe he won't tell. Tell them what I got to have that Andrew piece in there.

TRENT A. I understand what you're saying

SCOTT Q. You know cause he could be telling that _____

TRENT A. If I could just you know I understand that

SCOTT Q. He been coming to Columbus for several years seen some others we've worked with God but he's smart.

TRENT A. I mean it's just I know these guys and I know how to get their trust I've did this I've been in this crime circle all my life

SCOTT Q. _____ I was off on the one

TRENT A. I guess Mike Fuller is got a is under investigation for some type of murder but um Jimmy didn't say what but he said Mike Fuller is willing to pay a lot of money

SCOTT Q. How much was he saying how many bricks have you ever seen at one time?

TRENT A. Um as far as kilos _____

SCOTT Q. UmHm

TRENT A. Um about 70

58196 - H65

SCOTT Q. You saw 70 kilos where?

TRENT A. In the front room of the house I was at.

FLOYD Q. Which house?

TRENT A. Oh this was like this was years

FLOYD Q. You're not talking about _____

TRENT A. No I'm not talking about

SCOTT Q. This group here _____

TRENT A. Um yeah so

SCOTT Q. How much you ever seen Fuller with?

TRENT A. Probably I know for a fact that he's had at least 40 keys that's what I'm saying there is a lot of shit that you know is like you guys probably don't even know about you know that's behind the scenes and there's a lot of people that's getting ready to die if you heard of this case you know and I mean he just for one he trust me because I'm family he's got this fucking thing in his head that he's really really a Mafia you know and his family he just automatically trust family you know and that and the fact that um a detective come and see me one night at 2:00 o'clock in the morning and I was like get the fuck out of here I don't know who that was so you know I told him like get the fuck out of here I'm not talking to no cop so that pretty much you know and he was look what would it take

SCOTT Q. So the officer _ wasn't us

TRENT A. It was um Cone

SCOTT Q. Cone Mike

TRENT A. So um he just you know a lot of things added you know my dad had a ____ case before so I mean you know our family is just we been through it with the law and you know what I mean this he was I believe he will probably risk his life to say I wouldn't testify against him.

SCOTT Q. Let me ask you if you think it would do any good to go in and talk anymore in the tank about any of these things?

TRENT A. He's not going to say nothing else about it I already know I've not gotten

SCOTT Q. You know Okay so then it's the phone and you're going to have to you got to pull him out on some things on the phone with Sisscro setting there would be really interesting to hear.

TRENT A. Well that's the only way he'll be able to call me on a burn out because if he calls me you know trys to call me through his _____ I'm going to say look man call me on Chris's cell phone cause I know it's safe to talk on that.

SCOTT Q. But the thing of it is when are you going to do this?

TRENT A. Probably as soon as I get see this thing is once I get out I'll get a burn out phone I told him I said look you know it's looking good I'll probably be out today get work release today you know you can have Chris come down tomorrow I'll get the burn out tonight have Chris come down tomorrow and we'll work everything out so

SCOTT Q. But I have to have okay we have to have we have to start staying close contact with each other we've got to be accessible

TRENT A. And this is what I'm saying if I mean one of the things I want out of this is to be put on work release I mean I been in the jail for 8 months it's getting old so you know work release you know you would come everyday it's not like you know and work release you leave everyday I would leave everyday to go to work for 8 hours a day and I wouldn't have to be at work you know what I mean and we could be doing whatever we need to get done.

SCOTT Q. Let's go off tape let's talk for a minute Dave. We're back on tape and this is still on the office and we're having contact with Ronald Trent

RA The same remark that Devillars made applies to the

SCOTT Q. Yes when you get out we're going to be working with you I'm going to give you my number okay I don't want you talking to him about this stuff put him off until we can get what you need tape recorders and stuff like that so I will be controlling _____ I will try to spend as much time with you as we can we are going to adjust our hours and whatever we have to do you know best of how we can get this accomplished we're going to kind of stick to your schedule okay so we'll meet sometime tomorrow I will give you my name my number anything you need cell phone is on all the time and _____ off tape.

(Witness is sworn.)

THE COURT: Please be seated. And you can adjust that mike. Face the ladies and gentlemen of the jury, speak directly into the microphone. Yeah, just leave it in the sleeve, but you can move your chair up. You can get -- there you go, they can hear you better.

- - -

RONALD R. TRENT

called as a witness on behalf of the Plaintiff, State of Ohio, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. PRICHARD:

Q. Would you please state your name and spell your last name for the court reporter.

A. Ronald Ray Trent, T-r-e-n-t.

Q. Keep yourself close to that mike. Keep your voice up so everyone can hear.

THE COURT: Is that on?

THE REPORTER: Yeah, I think so.

THE COURT: Okay.

THE WITNESS: Is it on?

BY MS. PRICHARD:

Q. How old are you, Mr. Trent?

A. 30.

Q. And you have a prior record, don't you?

58196. - H68

SCOTT	TRENT	FLOYD	
Investigator 1	Investigator 2	Interview 1	Interview 2

TAPED INTERVIEW

OFFENSE:	HOMICIDE
REPORT#:	0109704
VICTIM:	ANDREW DOTSON
PLACE OF OCCURRENCE:	GALLOWAY RD. S/O HALL RD
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	RONALD TRENT
DATE OF INTERVIEW:	MAY 26, 2002
PLACE OF INTERVIEW:	DETECTIVE BUREAU
INVESTIGATOR:	ZACH SCOTT/CHRIS FLOYD

SCOTT — Today's date is May 26, 2002 and we're at the Sheriff's Office Detective Bureau and we're interviewing Ronnie Trent concerning the contract killings that he was contracted by Jimmy Conway to commit. Alright.

TRENT — Okay First of all this is still a continuance of the process_____

SCOTT — Right, you have no right, you're not in any kind of trouble or nothing

TRENT — I just wanted to get that on the tape

SCOTT — Right.

TRENT — Um, let me just take it from the beginning and we'll just do it like that

SCOTT — Alright

TRENT — Originally, the original plan was he wanted me to do the video of someone confessing to the Dockside Dolls for him

FLOYD — Now he wanted done

TRENT — Right, that was the original plan

FLOYD — When did this originally come up, when did this idea originally come up

TRENT — Uh, probably about two weeks after he was in jail

FLOYD — After he was first arrested on the Dockside Dolls murder

EXHIBIT
tabbies
36

002272

TRENT Right Right

FLOYD You were in that jail cell when he was arrested

TRENT Yeah, he come to my cell, he come to my tank rather, it was a 12 man, 12 man tank, individual cell, uh, he celled right beside me, he was in 3, I was in 4. Uh, the original plan was, I get somebody to do the confession, I get somebody to do the confession for the for the video for him

SCOTT Now originally you wanted somebody by the name of Randy

TRENT Randy Price right

SCOTT Right

TRENT But I couldn't find Andy Price, so I don't know where's he's at

SCOTT So anybody that looked like Jim would do is that correct?

TRENT Anybody that looked like him would do yes

SCOTT Okay

TRENT Um, after I had him make the video, I was supposed to kill him and get rid of the body. Okay

FLOYD Whose idea was that

TRENT Conway. Uh, that way he said that way that no one could find this guy to question him, to question his confession whatever. Um, then he come up with a plan about, we was talking about his case, he was telling me about Dockside Doll, and the only eyewitness they had

SCOTT One other thing, is there anything about the Dockside that he wanted you to tell, that he wanted you to have the guy tell in the video.

TRENT Yeah everything, he

SCOTT A specific thing

TRENT Yeah there was a live round at the scene, that he jacked, that he jacked, that he jacked the gun back and the bullet fell out of the gun

SCOTT Who jacked the gun back?

TRENT Conway jacked the gun

SCOTT I got to ask you these things

002279

TRENT Oh okay, I'm saying, I don't know if_____-

SCOTT Well you're looking at me like I'm crazy You have to be specific. _____Be very specific, that's what I told you, we keep looking at these tapes, there's all these references to this, to this, you're looking at me like I'm crazy, I've got to ask you specifics

TRENT Okay, he said, this is exactly what he said.

SCOTT Okay

TRENT Step for step. There was a fight at, first of all Jeff, Jimmy Conway's brother, Jeff, Shawn, Jimmy wasn't there, Shawn, Ricky, Jimmy Turner and Brian McWhorter was already there. There was a black guy that Jeff had been beefing with Emanuel Williams, so Jeff called Jimmy from his cell phone and said, look you know Emanuel's here, dude_____-ball bat, so Jimmy said okay, cool. They got with Jamie, they got, Jamie at this time was driving a little white Nissan I think, something like that, so he put the 45 in the trunk, loaded 45 in the trunk went to Dockside Dolls, they went in, they had a few drinks. Jimmy, I believe it was either, no Ricky, Ricky Turner knocked somebody out inside the bar, while he was in there partying, doing whatever, so the bar closes, they went outside there's a fight outside in the parking lot. Ricky Turner was getting choked out by one of the bouncers for Dockside Dolls and uh, I guess, Jimmy went over, reached over his shoulder and knocked the guy out. So then, in the midst of while they're fighting, Jeff Conway is fighting with Emanuel Williams and a couple of his dudes, so I guess he gets cuts, I guess, Jimmy Conway said Emanuel Williams stabbed Jeff, so Jeff comes up to Jimmy and says look, you know, this mother fucker just stabbed me, Jimmy says okay tell Jamie give him the 45 out of the trunk, so he gets the 45 out of the trunk, so he jacks it back to make sure it was_____and bullet fell out, he said, well, show me the mother fucker, Jeff showed him to him, he just starts shooting. Uh, this was like, this is like the right, the back of the bar, like the right corner of the bar or something. Emanuel was running, trying to get behind the bar and Jimmy kept shooting. Jimmy said Emanuel pulled Jarvis, a white guy named Jarvis in front of him, Jimmy said he just kept shooting.

FLOYD Did he know Jarvis?

TRENT No, he just said he, he said Emanuel pulled somebody in front of him, he said, fuck it I got a 45, I'm just going to keep shooting. So he kept shooting, he seen both of them go down, he got his crew together, they got in their cars and left

SCOTT Okay

TRENT So that's what happened at Dockside Dolls, and that's what he wanted me to have the guy say on the video

SCOTT Okay

TRENT Because that way, he knows only things that you guys and the killer could know, that way his confession is believable. So that was the plan for the video for Dockside Dolls.

SCOTT Okay

TRENT So then as time goes on, he says, well look, you know, we're discussing his case, and I said well, I said, a lot of it don't make sense Jimmy, I said, so what's the confession, you know; if nobody seen nothing, why do you need the confession, he said well, Brian McWhorter seen it I guess, Brian McWhorter are protective custody; he said_____said well what about, he said why don't you just go to the cops and tell them that you interchanged with me and I told you everybody about my case and you'll testify against me and they'll put you in protective custody where Brian is and you can just take Brian out and I'm like, wait minute, you want me to go under protective custody in a house full of cops and kill a protective custody witness and he's like yeah, he's like really, you know, just tell them, he said, you don't have to stay in protective custody, that's up to you, he said, they put you in there, once you find out where he is, just tell them you don't want protective custody and you can leave and then you know where he's at and you can just go back and kill him.

SCOTT How were you supposed to kill him?

TRENT He was going to give me a gun to kill him

SCOTT He told you that?

TRENT Yeah

SCOTT Okay

FLOYD How are you being paid for this

TRENT Uh, he had um Jeff bring me down $3,000

SCOTT Okay

TRENT Which I got the receipt for that as a matter of fact.

FLOYD We got records of it so go ahead

TRENT And he had Jamie Horton bring down $2,000

SCOTT And that was for payment?

TRENT That was for payment on the video and uh a down payment on Brian McWhorter

SCOTT Okay, continue, who else did he want you to kill?

TRENT So then he wanted me to kill, he got a robbery indictment while he was in the jail

SCOTT From where?

TRENT From Chillicothe

SCOTT Okay

TRENT So then he said well, look, you know, since you're going to do these g guys, I got a couple more guys I need you to do

SCOTT Okay

TRENT So I'm like Okay, well, what are you talking about? He said, well we did this robbery in Chillicothe, I said what robbery, he said Rex's, I said Rex's, he said yeah Rex's, I said okay, well what happened with that, he said that um, him, him, Mike, Mike Arthurs, him Mike Arthurs and Rob Myers went down there, they was the ones that did the actual robbery, Jimmy said he had a hat on, let his beard grow out a little bit, had a hat on pulled down low over his face, um, they went in, they had U-Haul truck, Jamie Horton drove the U-Haul truck, they went in, had a U-Haul truck, loaded everything up on the U-Haul truck. This Asian guy, Alex Mock, they went to him and took his driver's license and said look, you may think you know who we are, but we know who you are and we know where you're at so keep your fucking mouth shut and took his driver's license and I.D.

FLOYD Who did this Alex Mock_____

TRENT Mock, Alex Mock, he worked at the store, he was RX employee and the other RX employee

SCOTT Was he in on it

TRENT No

FLOYD Okay, he was not in

TRENT He was not a part of it. The other employee Marcus Simms was a part of it.

SCOTT Marcus Simms, okay

TRENT See the whole thing was, Shawn and Marcus Simms was good friends

SCOTT Shawn Nightengale

TRENT Shawn Nightengale and Marcus Simms was good friends, so they got together and Shawn said_____going to rob the store, so Shawn didn't go in because I guess he's known in Chillicothe, so Shawn got with uh Jimmy and the rest of their crew and they decided to go down there and rob it, so that's how that went down. So Jimmy wants Marcus and Alex, Marcus Simms and Alex Mock, he wants them killed because they can identify him at the robbery. Uh, so I said well, okay whatever, you know, give me the address or whatever you got to do. So that, that was to that extent and then he got to saying well, he started telling me about um, I guess Mike Arthurs got arrested for the robbery in Chillicothe and that's when he said he was afraid that Mike Arthurs was

008276

going to talk about Andrew Dotson, the killing of Andrew Dotson. He said well look, he said um, you know I might have a couple more people for you I need you to kill. So I look at him like okay, now the body count's going, it's getting kind of astronomical but okay, go ahead. So he said, well, Mike Arthurs he thinks is already talking. So he wants me to take out Mike Arthurs for Andrew Dotson shit and uh, originally he wanted his whole crew taken out, he was going to wipe out, he was going to kill his whole crew and start over.

SCOTT Jamie, Andrew, Shawn

TRENT Jamie, everybody. Uh, he wanted to kill his whole crew and start over and then he said no, I trust Jamie, just take out Shawn, everybody else and Shawn

SCOTT Now recently during our investigation, you have gotten information about the Andrew Dotson homicide, uh, what kind of information did you get?

TRENT Uh, I got exactly how he was killed. I got what happened from the time they picked him up um, I met with Shawn through Jamie, through Jimmy. See, first of all, Jimmy called all these people from jail and said look, when Tony calls you which is

SCOTT You

TRENT My alias, this for Jimmy's crew to know me by is Tony. He said look, when Tony calls you, tell him what he wants to know, give him what he wants, do whatever he tells you to do. So, the reason why I got out um, actually the first night I got out, I hooked up with Jamie Horton and got a 9 pack of salt, cocaine, which is 9 ounces of cocaine

SCOTT Did you pay any money for

TRENT I didn't pay nothing, I have not paid no money for no drugs, nothing, they gave me guns for the hits, dope for the hits and money for the hits. I've not, I've not given them nothing

SCOTT Okay

TRENT They, they all are under the understanding that it's for payment for the jobs I'm doing for them. Uh, okay, I met with Shawn. I ran by him like look okay I'm going to do this video, _____ I told Shawn first of all, Jimmy wants me to kill you. I don't want to kill you, so I come up with a plan that keeps you alive and makes him happy. I'll do another confession just like I did for Jimmy on the Dockside Dolls and that's when we was at I think it's 772 Demorest Avenue, um, me and Shawn was talking about this first and Jamie pulled up so we was out front talking and uh, I told him I need to know exactly what happened. Shawn said they picked him up, picked Andrew Dotson up, Shawn, Shawn Nightengale and Mike Arthurs picked Andrew Dotson up first, gave him 11 Zanex's, he said purple footballs, Zanex's, which is what purple footballs are on the street is Zanex, 11 Zanex's, 3 _____ and he said he gave him some red heart pills, I don't know, he just said red heart pills. Um, he said they was going to dump him when they took him for ride, they was going to dump him but they couldn't find a place to dump him. Jimmy said they was supposed to dump him in West Virginia, I

didn't ask Shawn specifics, but I'm just gathering that's where he took him and didn't dump him. They brought him back, it was a couple hours later, I'd say around 4 or so, they called Jimmy and Jamie and they met at a Big Bear parking lot

.COTT That would be Mike Arthurs and Shawn Nightengale

TRENT Mike Arthurs and Shawn Nightengale met Jimmy Conway and Jamie Horton

SCOTT Some Big Bear parking lot, is that what you said?

TRENT Yeah in a Big Bear parking lot and then they all went off of Galloway Road to a field because Shawn used to have a brother that lived over by there, so they went, got to this field off of Galloway Road, um, they pulled Andrew out of the car and uh Shawn said Mike Arthurs started choking Andrew, he said he choked him for like a half hour, which is

SCOTT long isn't it

TRENT That's extremely long, and that's what I told Shawn, I said, you know, I said that's a long time to choke somebody a half hour, think about it, that's a long time, you know and uh, he said yeah, he choked him for like a half hour, I said well dude, if he choked him for a half hour then he should've been dead. He said, I know, he said even stood on his neck and was pushing against the car pushing his body weight down on his neck and he said that's when Jimmy and Mike drug him back in the weeds and I guess Jimmy hit him, he said Jimmy hit him twice with some pick type thing is what Jamie said at first,, then he said it was a knife, something you use to break up concrete and loosen the dirt so. He said, Jamie said then they poured lime on him from his head to his toes.

FLOYD You know where they got the lime from?

TRENT No he didn't say

SCOTT Who had their vehicle

TRENT Didn't say

SCOTT Okay fine

FLOYD Who poured the lime?

TRENT I'm not....well I told, I said look, I said somebody had to be there, one of you guys had to be there when that was done, somebody's got to be able to tell me you know what the fuck was done to him after that and Jamie said, yeah, I was there, but he didn't say on_____he was just like, yeah me. I said, okay, what happened, he's like man you know he had lime from his head to his toes, so I'm gathering Jamie and Jimmy took care of that part, I don't know, so.

:OTT Okay, um, did he say anything about popcorn.

002278

TRENT Uh, Jimmy said that he bought the popcorn, he bought a trailer load of popcorn and um, he was going to sell it to some of his dudes that own stores

SCOTT He bought_____though

TRENT Yeah

SCOTT You don't know who he bought it from?

TRENT He didn't say

SCOTT Did Jimmy know he was buying hot popcorn

TRENT Yeah they bought all kind of hot shit

SCOTT Okay, so from this criminal activity that Jimmy Conway, this gang, for lack of a better word, he wanted you to kill Brian McWhorter, he wanted you to kill Mike Arthur, he wanted you to kill an Alex and a Marcus who were part of the robbery and he wanted you to kill

TRENT The guy from the video

SCOTT Brian McWhorter, did I say Brian

TRENT You said Brian, yeah

SCOTT The guy from the video that looked like Conway

TRENT Right

SCOTT We have approximately 5 people that he wanted you to kill

FLOYD Shawn and Jamie_____

TRENT Shawn and Jamie was>.....

SCOTT We don't, yeah. Uh, now there's some talk that he wanted you to kill Ron O'Brien

TRENT Yeah

SCOTT You know why?

TRENT Well originally it was, Jimmy told me it was Cheryl Pritchard

SCOTT Now Jimmy told you himself he wanted

TRENT Jimmy told me himself Cheryl Pritchard and he said he even had someone watching her, one day he gave me her license plate, and what she was driving, I believe it was a

Jeep, some kind of Jeep Cherokee Tahoe type thing, license plate number was AVN1160 is what he told me.

'OTT Now this dope money or this cash that he put on your books does that pay for her too or not?

TRENT No, because that was, that was discussed after that payment

SCOTT So what was

TRENT So, but once I got out and Jamie started paying me things, the 6 ½ hard was part of that payment

FLOYD 6 ½ hard what

TRENT Crack cocaine

SCOTT That was for Cheryl Pritchard?

TRENT It was for, see, it's not like you got, it's not like they're paying me one single amount for one single person, it's a whole picture and they're making payment on the whole picture

SCOTT Making payment I understand that

'ENT ..So that's, you see what I'm saying, so it's part of the payment on that and that's what I asked him, I said that's why I asked Jamie that one night, I said, okay, what's up with this prosecutor thing, you know, said I thought it was Cheryl Pritchard and he said no, it's Ron O'Brien, I said you're sure you want me to do Ron O'Brien, he said yeah, I said okay.

SCOTT Did you say why?

TRENT No, a couple nights later I did

SCOTT What happened when you said why?

TRENT I said well, why Ron O'Brien, he said man just, everything's going to be good, everything's just going to be good, just do it and I said okay.

SCOTT How many guns did you receive from this so far?

TRENT Um, I received a Glock 40 first from Jamie.

FLOYD You received a 40 caliber, but it wasn't a Glock was it

TRENT Okay well, 40 caliber, I received a 40 caliber first from Jamie and then I received a RG 38 from Jaime, then I received a Taurus 9 mm from Jamie and I received a 3i8 Smith & Wesson from Shawn through Jamie so.

FLOYD So Jamie's actually the one that delivered the last gun?

'ENT The 38?

FLOYD Yeah

TRENT Well I met him to pick it up yeah

FLOYD But you had already talked, had you already talked to Shawn about the arrangement with the weapon

TRENT Yeah, I talked to Shawn and Shawn said he was going to have his dude Joey bring it down to Emily's, at the 772 Demorest, he was going to bring it to Emily's and then I was either just going to go there and pick it, _____ originally I was going get it out of the mailbox, but I guess Jamie went and got it out of the mailbox and put it in the baby's room in the playpen so when I got there, that's where it was at, wrapped in a T-shirt in the baby's room in the playpen

FLOYD And that came from Shawn?

TRENT That came from Shawn because later I asked, I told Shawn I was like, hey thanks for that gun man, he was like yeah, he's like_____-yeah, he said well, I paid $40 for it, he said, I heard it didn't even have a hammer on it which it didn't and I said yeah, he said

.ott ___say hammer, you're talking about_____compac,it's more of a compac trigger, it has a hammer that will function

Trent right, it, it has a hammer, just made that way

Unknown _____

Scott ok, alright anything else you can tell us about the contract hit that a they were giving you money and drugs for_____

Trent a

Scott _____

Trent Jamie said that he, me, while me and Jamie, was one of our discussions was about a Mike_____and why he is so scared and Jamie said that a there is a dude RE___he might want me to take care of

Scott who told you that

Trent Jamie,cause he thinks he's working for the_____

.ott cause you already mentioned ___

002281

Trent _____

ott specifically bring it up again

Trent _____my_____knows _____

Scott OK_____

Floyd there is somebody named Ellis that _____

Trent yeah, that's a Ray Ellis, that's a, that's part of a, actually it ain't_____and part of Mike Foley's crew, but directly all of em, they deal drugs

Floyd what was_____what was the reasons taking by_____

Trent a I was supposed to rob it, it was supposed to be a 360 thousand dollars but on the last discussion with Jamie he said it was probably closer to 400 thousand counting what's in the Yukon, sitting in the blue Yukon sitting beside the house, I don't know the exact _____but it was a 840 Elliott is the address to the house

Floyd they were gonna go help you rob it

Trent no he wanted me to rob it

oyd he wanted you

Trent he wanted me, he wanted to send somebody with me, but I just told him I didn't want to Go with nobody so he by there and showed me the house, pointed out the house, the Yukon_____woman there and sometimes some little short stocky dude, and I Was supposed to say when I go in to rob em, I'm supposed to say "so you like ripping Off the Mexican Mafia mother fuckers", because my understanding from Jamie Is, Ray Ellis and them ripped off the Mexican Mafia, so this way it looks like I'm Just coming back to take back_____

Scott oh, OK, so I got ya

Trent so, it wasn't, at first I thought it was like a password

Scott right

Trent but, it's not, it was just they're playing with the idea that the Mexican Mafia is just Retaliating for them robbing them, so it takes the heat off of Jamie_____ Robbery. He said that, he said he didn't want me to kill her when I went in the House, he said just tie her up, so, cause she's the only one that's got the Combination to the safe, it's in the back of the house, comes up out of the Ground, so

oyd did your guys have conversation with you about that or just you

Trent — just us, so

›yd — ok

Scott — you went and saw him at the jail the other day, you showed of staged murders

Trent — yeah,I showed him the

Floyd — showed who

Trent — I showed Jimmy Conway, first I showed Jamie and then I showed Jimmy Conway the a staged murders of

Floyd — Look a Like

Trent — the look a like from the confessions_____and Mike Arthur and a he just smiled Real big, so

Scott — Jim Conway

Trent — and I said so this is what you wanted, right and he said yes

Scott — OK

ent — and I asked him then and I asked then about, you know, what's up with Shawn What do you want me to do with Shawn, cause Jamie and Jimmy discussed it And then I said well, you know, what's up and Jimmy said well, it's your call From now, no it's not my, it's your call, what do you want me to do, he said Well he goes, I said he goes that's what you're telling me, right, he goes, he said Yes and I said OK

Scott — ok

Trent — and a lot, a lot of, a lot of times when Jimmy is saying, you know, what I told You to do, do what I told you to do, he's talking about_____video and a Getting the_____ witness protection program because he had originally Thought I was going to come to you guys and tell you that I was _____ And you guys would place me in a witness protection with_____ And I could take him _____so he asked me about that and I said no, they Didn't put me there so, you know_____do, a,I don't know, oh Jamie Said that a if I hang out at, at Brian McWhorter's mom and dad's house,it's 2801 Oakwood, if I hang out there then I'll see him, Jamie said he does go home quite often but he's___some big_____dude

Floyd — who gave you the address

ent — originally it came to me from a Jimmy Conway for Chris Cicero

002283

002283

Scott — how _____through Chris Cicero

Trent — because Jimmy Conway did, he went to visit,_____so he went to Visit Chris Cicero, when he come back he had the address

Floyd — OK,_____, nothing to_____look a like

Trent — _____

Floyd — _____all

Trent — _____

Floyd — after we did the taped confession on the staged killing of the_____look a like Did you take that video and show it to Jamie Horton

Trent — yeah I took the video and the photo, I showed Jamie the video and he said,he Said that's _____

Floyd — and_____before, you'd have to show him pictures to _____

Trent — correct, yeah

Floyd — _____you showed _____

ent — I showed em to Jamie Horton that night yeah; and, then I showed it to Jim Conway after that

Unknown — _____

Scott — time is about 3:20 PM; and, that's it. Back on tape, 3:21 PM

Trent — a

Floyd — you originally had this conversation deal with Jim Conway about what your Plan was getting witness protection. When you first came _____ your Attorney_____-what was your intentions and

Trent — a, well I looked at it from both sides, you know first I'm thinking, ok I can get All this money and the plan that he come up with was, it was feasible; but, at The same time, you know I'm 30 years old and I've spent 20 years of my life Behind bars and _____you know, I pretty much at one point destroyed every Every relationship I had with every member of my family through drugs And you know heartache and you know emotionally and financial losses and I'm Just a, I tired of living that life and I seen this as an opportunity to get myself Straightened out you know, and a I took it, you know, so I mean, you know Yes, yeah I guess you could say in a way that you know I'm fucking Jimmy Conway but so what, you know I'm getting myself straightened out and Whatever happens you know,____happen, I've already made that known to

You guys, whatever happens, happens, you know and, and I've had more
Then ample opp, my lawyer told me quiet a few times to stop working, you
Know because I don't have no defendant's agreement signed yet

Floyd — have we made you any promises

Trent — no one has, no, there has been promises or deals made from no one by
Anyone because the defendant's agreement between myself and my
Lawyer and the prosecutor has still not been signed and I've done did
All this work, so I'm not, you know, I'm not getting any deals, I've not received
No deals, I've not received any promises, threats no way, I'm doing this
For me and my family because my dad is 54 years old and when he dies I
Want him to die happy, you know, and I've put him through hell all his life.

Floyd — throughout this, have we told you numerous times that you could quit

Trent — yeah, you've, I mean, both you and Zach have both have told me that
I could quit anytime I want; and, my lawyer told me to quit a few
Times and I said no I'm seeing this through because, you know, you
Guys got your reasons for doing what you do and I've thought of that
You know what I do helped you guys a great deal

Floyd — um huh

Trent — but, you don't understand the bond that it does for me and my dad, you
Know my dad and my little brother is all I got in this world

Scott — _____ok

Trent — no

Scott — ok

Trent — and a I just want to get myself straightened out and that's it.

Scott — good. Going off tape, it is 3:24PM.

Horton Case
Trent Pre-Trial (redacted)
Testimony

Q. LET ME ASK IT THIS WAY. CALVIN HORTON IS THE DEFENDANT. YOU KNOW CALVIN HORTON AS JAMIE, DO YOU NOT?

A. CORRECT.

Q. I'M GOING TO SKIP FORWARD BECAUSE WE ARE NOT IN FRONT OF THE JURY AND TRYING TO BE EXPEDIENT HERE.

YOU HAVE BEEN INVOLVED IN THIS CASE WITH SEVERAL DETECTIVES FROM THE FRANKLIN COUNTY SHERIFF'S DEPARTMENT, CORRECT?

A. CORRECT.

Q. WHO IS THE MAIN DETECTIVE THAT YOU WERE RESPONSIBLE TO ANSWER TO?

A. DETECTIVE SCOTT.

Q. IS THAT ZACHARY SCOTT?

A. CORRECT.

MR. MCGOWAN: I GUESS BEFORE I GO ANY FURTHER, THERE IS A SEPARATION OF WITNESSES, AND I DON'T KNOW IF ANYBODY IS HERE.

MR. LOWE: THEY ARE NOT WITNESSES.

Q. (BY MR. MCGOWAN) WHEN WAS YOUR FIRST CONTACT WITH MR. SCOTT?

A. I AM NOT SURE.

Q. WHEN WAS YOUR FIRST CONTACT WITH ANYONE EITHER FROM THE FRANKLIN COUNTY SHERIFF'S DEPARTMENT OR THE FRANKLIN COUNTY PROSECUTOR'S OFFICE REGARDING JAMIE?

LET ME STRIKE THAT.

REGARDING JAMIE, JIMMY CONWAY, SHAWN NIGHTINGALE,

EXHIBIT
Holder
37

ANY OF THOSE THREE PEOPLE?

A. I'M NOT SURE. THAT'S WHAT I JUST SAID.

Q. DID YOU HAVE ANY CONTACT WITH DETECTIVE ZACHARY SCOTT PRIOR TO TALKING TO HIM ABOUT THIS CASE OR THE OTHER TWO CASES?

A. WHAT DO YOU MEAN?

Q. THE OTHER TWO DEFENDANTS?

A. BEFORE THESE CASES?

Q. YES.

A. NO.

Q. SO YOU DID NOT KNOW HIM IN ANY WAY, SHAPE OR FORM PRIOR TO TALKING TO HIM ABOUT EITHER JAMIE HORTON, JIMMY CONWAY OR SHAWN NIGHTINGALE?

A. NO.

Q. WHEN YOU FIRST DID TALK TO THE FRANKLIN COUNTY PROSECUTOR'S OFFICE OR DETECTIVE SCOTT, IT WOULD HAVE BEEN AFTER YOU HAD SOME CONTACT WITH JIMMY CONWAY, CORRECT?

A. CORRECT.

Q. WHAT WAS IT THAT YOU RELAYED TO EITHER OF THOSE DEPARTMENTS ABOUT JIMMY CONWAY?

A. WHAT DO YOU MEAN?

Q. WHAT IS IT THAT YOU RELAYED TO THEM ABOUT JIMMY CONWAY? THAT'S WHAT I MEAN.

A. WHAT IS IT I RELAYED TO THEM?

Q. WHEN YOU FIRST MET WITH THEM, WHAT DID YOU RELAY

TO THEM?

A. IT WAS DOCKSIDE DOLLS.

Q. WHAT IS IT ABOUT DOCKSIDE DOLLS THAT YOU RELAYED TO THEM?

MS. PRICHARD: YOUR HONOR, I THOUGHT THE PURPOSE FOR THIS IS THE VOLUNTARINESS OF -- MAYBE WE SHOULD NARROW IT AND NOT TALK ABOUT EVERYTHING THAT HE HAS RELAYED ABOUT ALL OF THESE CASES, RATHER HOW THE POLICE --

MR. MCGOWAN: I AM NOT GOING TO ASK HIM ABOUT EVERYTHING, YOUR HONOR. I AM TRYING TO ESTABLISH WHEN HE FIRST TALKED TO THEM.

THE COURT: THE OBJECTION IS OVERRULED AT THIS POINT.

Q. (BY MR. MCGOWAN) WHAT IS IT THAT YOU TOLD THEM ABOUT THE DOCKSIDE DOLLS?

A. WHAT JIMMY HAD TOLD ME ABOUT HAPPENED AT DOCKSIDE DOLLS.

Q. WHAT WAS THAT?

MS. PRICHARD: AGAIN, OBJECTION, RELEVANCE. WHAT HAPPENED AT DOCKSIDE DOLLS, THAT CASE WAS TRIED --

THE COURT: THE DETAILS OF AN UNRELATED CASE, IS THERE RELEVANCY HERE? I AGREE THAT YOU SHOULD BE ALLOWED SOME LENIENCY WITH REGARD TO ESTABLISHING A TIME FRAME ON THOSE TYPE OF ISSUES, BUT WITH REGARD TO SPECIFICS OF EVERY CONVERSATION, THAT'S WHAT I WANT IT NARROWED TO.

MR. MCGOWAN: WHERE I'M GOING IS HOW THIS INVESTIGATION WAS STEERED AND WHAT HAPPENED, SO I DO THINK IT IS RELEVANT.

THE COURT: THAT'S WHAT I WANT TO GIVE YOU SOME LEEWAY TO GET TO --

MR. MCGOWAN: I DON'T HAVE ANY INTEREST IN THE DOCKSIDE DOLL CASE, OTHER THAN FOR THAT FACT, SO MAY I PROCEED WITH THAT?

THE COURT: YES.

Q. (BY MR. MCGOWAN) WHAT IS IT THAT YOU TOLD THEM THAT JIMMY CONWAY TOLD YOU ABOUT THE DOCKSIDE DOLL CASE?

A. THAT HE SHOT THE GUY.

Q. DID YOU TALK TO THEM AT THAT POINT IN TIME ABOUT THE IDEA OF YOU BEING A HIT MAN OR VIDEOS BEING MADE OR ANYTHING ALONG THOSE LINES?

A. I'M NOT EXACTLY SURE. IT HAS BEEN A LONG TIME AGO. I CAN'T REMEMBER EVERY CONVERSATION THAT WE HAD.

Q. YOU DON'T KNOW IF AT THAT POINT IN TIME YOU DID BRING UP THAT IDEA TO THEM?

A. NO, I'M NOT SURE.

Q. DO YOU REMEMBER IF THEY BROUGHT THAT IDEA UP TO YOU?

A. NO, THE WHOLE THING ABOUT THE HIT MAN WAS CONWAY'S IDEA. I KNOW IT WASN'T MY IDEA OR THE DETECTIVES.

Q. DID THEY GIVE YOU ANY INSTRUCTIONS ABOUT YOUR

FURTHER DISCUSSIONS WITH MR. CONWAY AT THAT POINT IN TIME WHEN YOU TOLD THEM ABOUT THE DOCKSIDE DOLLS CASE?

A. YEAH, THEY TOLD ME I COULDN'T DISCUSS THE DOCKSIDE DOLLS WITH THEM.

Q. WHAT ELSE DID THEY TELL YOU?

A. THAT I COULDN'T DISCUSS THE DOCKSIDE DOLLS WITH THEM.

Q. DID THEY SEND YOU ON YOUR WAY AND THAT WAS THE END OF THE CONVERSATION?

A. NO, I DON'T REMEMBER EXACTLY. I MEAN, IT WAS A LONG TIME AGO. I CAN'T REMEMBER EVERY CONVERSATION.

Q. THAT'S FINE. WHAT DID THEY TELL YOU TO DO?

A. THEY TOLD ME NOT TO TALK TO THEM ABOUT THE DOCKSIDE DOLLS.

Q. THAT'S THE ONLY THING THEY TOLD YOU WAS NOT TO TALK ABOUT SOMETHING; THEY DIDN'T TELL YOU WHAT TO DO?

A. NO.

Q. WHAT WAS YOUR AGREEMENT WITH THEM AS TO WHEN YOU WOULD TALK TO THEM NEXT?

A. I AM NOT SURE. I BELIEVE THEY WERE SUPPOSED TO GET IN CONTACT WITH ME THROUGH MY LAWYER.

Q. AND YOUR TESTIMONY HERE TODAY IS THAT AT THAT POINT IN TIME YOU WEREN'T INSTRUCTED ON ANY OTHER INFORMATION ON WHAT TO OBTAIN FROM MR. CONWAY?

A. I DON'T UNDERSTAND YOUR QUESTION. WHAT ARE YOU

ASKING?

Q. WERE YOU TOLD TO BEFRIEND HIM? WERE YOU TOLD TO ASK HIM QUESTIONS? WERE YOU TOLD ANYTHING ABOUT HOW YOU SHOULD CONDUCT YOURSELF WHEN YOU GOT PUT BACK IN THE JAIL WITH HIM?

A. NO, NOT REALLY.

Q. DID YOU THEN TELL THEM HOW YOU WOULD PROCEED?

A. NO. SEE, THAT'S WHAT I'M TRYING TO EXPLAIN TO YOU IS THAT I DID WHAT CONWAY WANTED ME TO DO. I DID WHAT CONWAY ASKED ME TO DO, NOT WHAT I WANTED TO DO OR WHAT THE DETECTIVES ASKED ME TO DO.

Q. YOU SAID THAT ONCE OR TWICE. WHAT I AM ASKING YOU IS WHAT THE DETECTIVES TOLD YOU OR WHAT YOU TOLD THEM.

A. I ALREADY TOLD YOU THAT.

Q. YOUR TESTIMONY IS THAT THEY DIDN'T TELL YOU WHAT TO DO OR HOW TO HANDLE ANYTHING; YOU DIDN'T TELL THEM HOW TO HANDLE -- HOW YOU WERE GOING TO HANDLE ANYTHING?

A. NO. AS I SAID, I AM NOT EXACTLY SURE OF THE CONVERSATION. IT HAS BEEN A LONG TIME.

Q. AT SOME POINT IN TIME AFTER THAT, YOU DISCUSSED WITH ZACHARY SCOTT THE IDEA OF YOU BEING A HIT MAN OR A SUPPOSED HIT MAN, CORRECT?

A. I DISCUSSED WITH ZACH SCOTT THAT CONWAY WANTED ME TO BE A HIT MAN.

Q. AND YOUR TESTIMONY IS THAT THAT WAS ALL

JIMMY CONWAY'S IDEA; YOU HAD NO CONTROL IN THAT DISCUSSION?

A. THAT IS CORRECT.

Q. SO HE, OUT OF THE BLUE, ASKED YOU TO BECOME A HIT MAN FOR HIM?

A. NO, NOT OUT OF THE BLUE. HE IS MY COUSIN.

Q. SO BECAUSE YOU ARE HIS COUSIN, HE ASKED YOU TO BECOME A HIT MAN FOR HIM?

A. BASICALLY, YEAH.

Q. AT THAT POINT IN TIME, JUST TO CLARIFY, YOU WERE IN JAIL FOR WHAT REASON?

A. AT THAT TIME I HAD A PAROLE VIOLATION AND GSI.

Q. WHAT WAS THE BASIS FOR THE PAROLE VIOLATION, THE GSI CHARGE OR WAS THERE SOME OTHER BASIS?

MS. PRICHARD: YOUR HONOR, I AM SORRY --

THE WITNESS: PAROLE VIOLATION.

MS. PRICHARD: I DON'T WANT TO HAVE A FISHING EXPEDITION ON WHAT HIS TESTIMONY WILL BE LATER. I WOULD LIKE TO CONFINE THIS TO HIS CONTACT WITH THE DEFENDANT TO DECIDE WHETHER OR NOT THESE WERE VOLUNTARY CONVERSATIONS AND WHAT IMPRESSION HE LEFT ON THE DEFENDANT.

THE COURT: THAT IS THE PURPOSE OF THE HEARING, BUT I THINK THIS QUESTION IS NOT IMPROPER, SO YOU MAY ANSWER THE QUESTION.

Q. (BY MR. MCGOWAN) WHAT WAS THE BASIS OF THE PAROLE VIOLATION, WAS IT JUST THE GSI CHARGE OR SOME OTHER

BASIS FOR IT?

A. I MEAN, IT WAS NOT REPORTING.

Q. BECAUSE YOU WERE BEING HELD IN THE FRANKLIN COUNTY JAIL ON THOSE TWO THINGS, THAT PUTS YOU IN CONTACT WITH MR. CONWAY?

A. I DON'T UNDERSTAND. WHAT DO YOU MEAN? DO YOU MEAN IS THAT WHY I WAS THERE, IS THAT WHAT YOU ARE ASKING?

Q. YES.

A. WELL, YEAH.

Q. WHAT WAS THE ACTUAL ARRANGEMENTS, AS FAR AS THE PROXIMITY YOU WERE TO HIS CELL OR YOUR CELL? CAN YOU DESCRIBE THAT TO THE COURT?

A. HE WAS IN CELL TWELVE AT FIRST, AND I WAS IN CELL FOUR.

Q. IS THAT HOW IT WAS PRIOR TO YOU GOING TO TALK TO ANYBODY FROM THE COUNTY, WHETHER IT BE A PROSECUTOR OR A DETECTIVE?

A. YEAH.

Q. AT THAT POINT IN TIME THERE WERE NO CHANGES MADE IN YOUR ARRANGEMENTS?

A. NO.

Q. DID THEY EVER THROUGHOUT THE COURSE OF THIS INVESTIGATION MAKE A CHANGE TO YOUR ARRANGEMENTS WITHIN THE JAIL? I KNOW AT SOME POINT YOU GOT OUT ON WORK RELEASE.

A. WHOEVER MADE THE ARRANGEMENTS?

Q. ANYONE FROM THE COUNTY?

A. NO.

Q. SO THESE DISCUSSIONS YOU HAD WITH MR. CONWAY, WERE THERE INMATES BETWEEN YOU AND HIM?

A. I MEAN, YOU COME OUT OF YOUR CELL. YOU ARE NOT LOCKED IN YOUR CELL. THAT'S JUST WHEN YOU GO IN YOUR CELL IS TO SLEEP, AND YOU COME OUT AND YOU SIT RIGHT NEXT TO EACH OTHER.

Q. THESE DISCUSSIONS TOOK PLACE WITH JUST YOU AND HIM PRESENT; NO ONE ELSE WAS PRESENT?

A. THAT IS CORRECT.

Q. WHAT WAS YOUR RESPONSE TO MR. CONWAY WHEN HE TOLD YOU THAT HE WANTED YOU TO BECOME A HIT MAN BECAUSE YOU WERE HIS COUSIN?

A. WELL, IT WASN'T JUST ON THE FACT THAT I WAS HIS COUSIN. HE WAS PAYING ME TO DO IT.

Q. WHAT DID HE SAY HE WOULD PAY YOU TO DO THAT?

A. WELL, HE DELIVERED $5,000 -- ACTUALLY, JAMIE HORTON BROUGHT IT DOWN AND PUT IT ON MY BOOKS.

Q. FIVE THOUSAND DOLLARS?

A. YES.

Q. WHO WERE YOU SUPPOSED TO BE A HIT MAN AND KILL?

A. AT THAT TIME IT WAS BRIAN MCWHORTER.

Q. AND DID YOU INFORM DETECTIVE SCOTT THAT YOU WANTED -- THAT JIMMY CONWAY WANTED YOU TO BE A HIT MAN; HE

WANTED YOU TO KILL BRIAN MCWHORTER?

A. YEAH..

Q. AT THE PLANNED TIME YOU TOLD HIM THAT, WAS THERE ANY OTHER PERSON THAT YOU TOLD HIM YOU WERE SUPPOSED TO KILL AS A HIT MAN?

A. WHAT, NOW?

Q. AT THE TIME YOU INFORMED HIM ABOUT JIMMY CONWAY'S STATEMENT TO YOU THAT HE WANTED YOU TO BE A HIT MAN AND KILL BRIAN MCWHORTER, WAS THERE ANYBODY ELSE YOU TOLD THE DETECTIVES HE WANTED YOU TO KILL?

A. YEAH, THE GUYS IN CHILLICOTHE WHERE THEY ROBBED AN ELECTRONICS SHOP.

Q. DO YOU REMEMBER THOSE NAMES?

A. MARCUS AND ALEX.

Q. I'M SORRY.

A. MARCUS AND ALEX.

Q. ANYBODY ELSE BESIDES BRIAN, MARCUS AND ALEX?

A. SHAWN NIGHTINGALE.

Q. WHY DID HE WANT YOU TO KILL SHAWN NIGHTINGALE?

A. BECAUSE HE THOUGHT HE WOULD TELL.

Q. ARE YOU TALKING ABOUT THAT ROBBERY?

A. I DON'T KNOW WHAT HE THOUGHT HE WOULD TELL.

Q. HE DIDN'T TELL YOU WHAT HE THOUGHT HE WOULD TELL?

A. NO. I ASSUME IT WAS A ROBBERY.

Q. I AM SORRY?

A. I ASSUME IT WAS THE ROBBERY. I AM NOT EXACTLY SURE.

Q. ANYBODY ELSE?

A. YEAH, A GUY THAT MADE A VIDEO FOR HIM.

Q. WHO WAS THAT SUPPOSED TO BE?

A. SUPPOSED TO BE RANDY PRICE.

Q. WHO BROUGHT THAT NAME UP, YOU OR MR. CONWAY?

A. CONWAY DID.

Q. DID YOU KNOW WHO RANDY PRICE WAS?

A. NO.

Q. DID YOU KNOW WHO MARCUS, ALEX, NIGHTINGALE OR MCWHORTER WERE?

A. I HAVE NEVER MET NONE OF THESE GUYS, STILL HAVEN'T MET ANY OF THOSE GUYS.

Q. YOU HAVE NEVER MET MR. NIGHTINGALE?

A. YEAH. YOU ASKED ME ALEX, MARCUS OR MCWHORTER.

Q. I SAID PRICE, MARCUS, ALEX, NIGHTINGALE AND MCWHORTER.

A. OKAY, NIGHTINGALE I HAVE.

Q. WHAT WAS THE RESPONSE -- WHO DID YOU FIRST TELL THAT TO, DETECTIVE SCOTT?

A. NO, ACTUALLY I BELIEVE IT WAS THE PROSECUTOR'S OFFICE THROUGH MY ATTORNEY AND THEN THE PROSECUTOR'S OFFICE.

Q. THROUGH YOUR ATTORNEY?

A. YEAH.

Q. WHO IS YOUR ATTORNEY?

A. SARA BEAUCHAMP.

Q. WHEN DID YOU FIRST HAVE A MEETING WITH ANYONE FROM THE COUNTY ABOUT THAT -- I SHOULDN'T SAY WHEN. WHO WAS IT WITH?

A. IT WAS WITH MY LAWYER, DAVE DEVILLERS, I THINK MS. PRICHARD WAS THERE, AND ZACH SCOTT, CHRIS FLOYD. I THINK THAT WAS IT.

Q. IN THAT MEETING, DID YOU SHARE WITH THEM YOUR STATEMENT THAT MR. CONWAY WANTED YOU TO BE A HIT MAN AND KILL ALL OF THOSE PEOPLE YOU ALREADY TESTIFIED ABOUT?

A. NO, I THINK THE FIRST TIME WE TALKED WAS ABOUT THE DOCKSIDE DOLLS.

Q. I AM MOVING PAST THAT. I AM TALKING ABOUT THE FIRST TIME YOU BROUGHT UP THE KILLING, THE HIT MAN.

A. OKAY, ONE MORE TIME, WHAT WAS THE QUESTION?

Q. AT SOME MEETING AFTER YOU TALKED ABOUT THE DOCKSIDE DOLLS, AFTER YOU WENT BACK TO THE JAIL AND YOU HAD ANOTHER MEETING, RIGHT?

A. CORRECT.

Q. I THINK WHAT YOU ARE TELLING ME WHO WAS PRESENT AT THAT MEETING WHERE YOU TALKED ABOUT THE PEOPLE WHO YOU WERE SUPPOSED TO KILL AS A HIT MAN?

A. CORRECT.

Q. ALL OF THOSE PEOPLE YOU JUST LISTED WERE PRESENT?

A. I BELIEVE SO. I AM NOT EXACTLY SURE.

Q. WHAT INSTRUCTIONS DID THEY GIVE YOU WITH REGARD TO THIS INFORMATION YOU WERE SHARING WITH THEM?

A. INSTRUCTIONS, AS FAR AS WHAT AM I SUPPOSED TO DO, YOU MEAN?

Q. YES.

A. THEY TOLD ME, BASICALLY, ACT NATURAL AND SEE WHERE IT GOES.

Q. DID THEY TALK TO YOU ABOUT WHAT FIGURE TO CHARGE MR. CONWAY?

A. ABOUT WHAT?

Q. WHAT FIGURE -- WHAT DOLLAR FIGURE TO CHARGE MR. CONWAY?

A. NO.

Q. DID THEY TALK TO YOU ABOUT HOW TO PREPARE OR HOW TO PROPOSE TO HIM THAT YOU WOULD, IN FACT, CARRY OUT THESE KILLINGS?

A. NO.

Q. WAS THERE ANOTHER MEETING AFTER THAT, ONE WHEN YOU DISCUSSED ANY OF THE DETAILS THAT I JUST ASKED YOU ABOUT?

A. AS FAR AS WITH THE DETECTIVES TELLING ME WHAT TO DO?

Q. YES.

A. THE DETECTIVES, NO, THEY DIDN'T TELL ME WHAT TO DO. ALL THEY DID IS WHATEVER CONWAY TOLD ME HE WANTED ME TO DO, I WOULD LET THE DETECTIVES KNOW.

AT SOME POINT CONWAY TOLD ME TO GET A HOLD OF JAMIE AND JAMIE WOULD BRING ME THE GUNS AND THE DOPE TO KILL THESE PEOPLE WITH.

Q. DID THE DETECTIVES TELL YOU TO, IN FACT, GO ALONG AND PRETEND YOU WERE A HIT MAN?

A. EXCUSE ME?

Q. DID THE DETECTIVES TELL YOU TO GO ALONG WITH THIS WHOLE THING AND PRETEND YOU WERE A HIT MAN?

A. YEAH.

Q. YOU ENDED UP DOING SO, DID YOU NOT?

A. CORRECT.

Q. YOU TOLD JIMMY CONWAY YOU WOULD BE A HIT MAN, RIGHT?

A. CORRECT.

Q. AT SOME POINT IN TIME YOU GOT OUT ON THE STREET AND TOLD JAMIE HORTON YOU WERE A HIT MAN, DID YOU NOT?

A. WELL, I DIDN'T TELL HIM I WAS A HIT MAN. I TOLD HIM I WAS TAKING CARE OF SOMETHING FOR CONWAY.

Q. DID YOU TELL HIM YOU WERE A GANGSTER?

A. YEAH.

Q. DID YOU TELL HIM YOU WERE RAISED BY GANGSTERS?

A. YEAH.

Q. DID YOU TELL HIM YOU DIDN'T HAVE A PROBLEM KILLING ANYBODY?

A. I MAY HAVE.

Q. DID YOU TELL HIM YOU DIDN'T HAVE A PROBLEM KILLING SOMEBODY, WHETHER THEY WERE A THUG, PROSECUTOR, SEVERAL OTHER DIFFERENT TYPES OF PEOPLE YOU NAMED?

A. I MAY HAVE.

Q. DID YOU TELL MR. HORTON THAT YOU WOULD TAKE -- THAT YOU WOULD KILL SOMEBODY AND TAKE THEIR BODY TO THE ANIMAL PLANT TO BE DISPOSED OF?

A. NO, I TOLD HIM THAT'S WHERE I WAS TAKING THE BODIES THAT HIM AND CONWAY WANTED KILLED.

Q. ISN'T IT TRUE YOU TOLD HIM YOU ALREADY USED YOUR CONTACT AT THAT PLANT BEFORE TO DO THE SAME THING?

A. NO, I DON'T THINK SO.

Q. IN YOUR OPINION, AFTER THE FIRST COUPLE OF CONVERSATIONS YOU HAD WITH MR. HORTON, WOULD HE HAVE BEEN CONVINCED THAT YOU WERE A CONTRACT KILLER OR A HIT MAN?

A. NO, ACTUALLY IT WAS A FEW CONVERSATIONS, BUT AT ONE POINT HE TOLD ME HE THOUGHT I WAS A COP.

Q. WHAT DID HE ASK YOU IN THAT REGARD?

A. NOTHING. JUST TO MAKE SURE I DIDN'T HAVE NO BODY MIKES ON, NO WIRES.

Q. WERE THERE, IN FACT, CONVERSATIONS YOU HAD WITH MR. HORTON WHERE YOU WERE NOT WIRED UP?

A. EVERY CONVERSATION.

Q. YOU WERE NOT --

A. NO, I WAS WIRED AT EVERY CONVERSATION.

Q. MY QUESTION IS, WAS THERE EVER A TIME THAT YOU WERE NOT WIRED UP?

A. NO, IT WAS EITHER -- IF I WASN'T, IF I DIDN'T HAVE A BODY MIKE ON, IT WAS ON THE PHONE AND I HAD A PHONE RECORDING.

Q. WHAT ABOUT THIS CONVERSATION WHERE YOU WERE TALKING ABOUT HE ASKED YOU TO SHOW IF YOU HAD A WIRE, WHERE WAS THE WIRE LOCATED AT THAT TIME?

A. ON MY BELT.

Q. WHAT DID MR. HORTON DO TO HAVE YOU PROVE THAT YOU DIDN'T HAVE A WIRE ON?

A. I JUST RAISED MY SHIRT.

Q. BUT THE WIRE WAS ON YOUR BELT?

A. CORRECT.

Q. YOU ARE ABSOLUTELY POSITIVE YOU NEVER TALKED TO MR. HORTON WITHOUT EITHER HAVING A BODY WIRE ON OR A PHONE TAP, A PHONE RECORDING SYSTEM?

A. TO THE BEST OF MY KNOWLEDGE, YES.

Q. DID YOU TELL MR HORTON THAT YOUR DAD -- WELL, STEP BACK.

DID YOU TELL MR. HORTON YOUR DAD WAS A GANGSTER?

A. I MAY HAVE.

Q. DID YOU TELL MR. HORTON THAT YOUR DAD HAD CONTACTS AT THE POLICE DEPARTMENT?

A. NO.

Q. DIDN'T YOU TELL MR. HORTON YOU HAD CONTACT -- THAT YOUR DAD HAD CONTACTS ON THE INSIDE OF GOVERNMENT?

A. NO.

Q. DIDN'T YOU TELL MR. HORTON THAT IF SOMEONE WERE TO BE ARRESTED OR THAT ARREST WAS IMMINENT, THAT YOUR DAD WOULD FIND OUT ABOUT IT BEFORE THE WORD HIT THE STREETS?

A. I DON'T THINK SO.

Q. WOULD IT REFRESH YOUR MEMORY IF I ATTEMPTED TO QUOTE SOME OF THE TRANSCRIPTS TO YOU, SUCH AS -- AND THIS IS IN REFERENCE TO THE QUESTION ABOUT WHETHER OR NOT YOU IMPLIED OR TOLD HIM YOUR DAD HAD CONTACTS IN THE GOVERNMENT.

"MY DAD IS OLD SCHOOL, DOG. AND WE GOT CONNECTIONS. I KNOW YOU ARE GOING TO BE ARRESTED BEFORE YOU GET ARRESTED. LET'S PUT IT LIKE THAT."

A. OKAY, THAT'S NOT SAYING HE HAS CONNECTIONS IN THE GOVERNMENT OR THE POLICE FORCE.

Q. "MY DAD IS OLD SCHOOL, DOG, AND WE HAVE GOT CONNECTIONS."

A. NOWHERE IN THERE DOES IT SAY POLICE OR GOVERNMENT.

Q. WHAT KIND OF CONNECTION WOULD ALLOW SOMEONE TO

KNOW YOU ARE GOING TO BE ARRESTED BEFORE YOU ARE ARRESTED IF IT WASN'T GOVERNMENT RELATED?

A. I DON'T KNOW, MOST OF WHAT I TOLD HIM I TOLD HIM JUST TO BE TELLING HIM. I AM NOT A HIT MAN. I HAVE NEVER KILLED ANYBODY.

Q. YOU ARE NOT A HIT MAN; YOU NEVER KILLED ANYBODY, SO EVERYTHING YOU TOLD HIM ABOUT YOUR BACKGROUND AS A HIT MAN WAS A LIE, WAS IT NOT?

A. BASICALLY.

Q. SO ESSENTIALLY, WHAT DID MR. HORTON KNOW YOU AS, WAS IT RONNIE TRENT?

A. NO, TONY.

Q. DID THE CHARACTER TONY HAVE A LAST NAME?

A. NO, I DON'T THINK SO.

Q. WHAT DID YOU TELL MR. HORTON, IF ANYTHING, ABOUT YOUR LAST NAME?

A. I DON'T THINK I TOLD HIM MY LAST NAME.

Q. YOUR IDENTITY WAS TO BE A SECRET, RIGHT?

A. I DON'T KNOW. I DON'T THINK HE EVER ASKED ME MY LAST NAME.

Q. AND ESSENTIALLY, THIS CHARACTER, TONY, THAT YOU CREATED AS THE HIT MAN, WAS DESIGNED TO BE PORTRAYED AS A FULL-BLOODED KILLER, WAS IT NOT?

A. I DON'T KNOW. I MEAN, I WOULDN'T KNOW NOTHING ABOUT THAT.

Q. WELL, WERE YOU ATTEMPTING TO CONVINCE MR. HORTON THAT YOU WERE, IN FACT, A HIT MAN?

A. NO, MY PURPOSE WITH MR. HORTON WAS HE WAS BRINGING ME GUNS AND DOPE TO KILL PEOPLE. THAT WAS MY PURPOSE, NOT TO CONVINCE HIM THAT I WOULD KILL ANYBODY. I HAD TO SHOW HIM A VIDEOTAPE OF SOMEONE SUPPOSEDLY BEING DEAD, SO I AM NOT, YOU KNOW -- OKAY, GO AHEAD.

Q. YOUR TESTIMONY IS THAT YOU WEREN'T, IN FACT, TRYING TO CONVINCE HIM THAT YOU WERE A HIT MAN?

A. NO, I WASN'T TRYING TO CONVINCE HIM I WAS A COLD-BLOODED KILLER. I WAS CONVINCING HIM THAT I WAS GOING TO DO THE JOB HE WAS PAYING ME TO DO, WHICH WAS TO KILL PEOPLE.

Q. THEN YOU WOULD AGREE THAT A COLD-BLOODED HIT MAN OR ANOTHER WORD FOR THAT IS A COLD-BLOODED KILLER, RIGHT, BEING HIRED TO KILL PEOPLE?

A. IF THAT IS THE WAY YOU WANT TO WORD IT, YEAH.

Q. AS YOU TALKED TO JAMIE IN THIS CHARACTER OF TONY, THE HIT MAN, DID YOU MAKE REFERENCE TO HIM ABOUT WANTING TO KNOW THINGS ABOUT HIM?

A. AS FAR AS WHAT?

Q. WELL, FOR EXAMPLE, AS FAR AS HIS ROLE IN ANY PENDING CRIMINAL INVESTIGATIONS?

A. I MAY HAVE.

Q. DID YOU TELL MR. HORTON YOU WANTED TO KNOW THINGS

ABOUT THE ANDREW DOTSON MURDER?

A. YES.

Q. AND AGAIN, ANY CONTACT YOU HAD WITH MR. HORTON WAS AS TONY, CORRECT?

A. YES.

Q. TONY, THE HIT MAN?

A. YES.

Q. DID, IN FACT, MR. HORTON PROVIDE YOU WITH SOME INFORMATION ABOUT THE ANDREW DOTSON MURDER?

A. YEAH, HE TOLD ME HE WAS THERE WHEN HE WAS KILLED.

Q. ISN'T IT TRUE THAT MOST OF THE TIME WHEN YOU POSED QUESTIONS TO HIM ABOUT THE DOTSON MURDER, YOU USED THE PHRASE, YOU GUYS, YOU GUYS, YOU GUYS, WHY DID YOU GUYS DO THIS; WHY DIDN'T YOU DO THIS AND THAT; IS THAT TRUE?

A. I MAY HAVE. I DON'T KNOW.

Q. ISN'T IT TRUE WHEN YOU WERE ASKED THOSE KINDS OF QUESTIONS, THAT HE ANSWERED YOU, HIS ANSWER WAS TO YOU GUYS, THINGS OF THAT NATURE?

A. WHAT?

Q. YOU NEVER ASKED JAMIE HORTON WHAT HE SPECIFICALLY DID, DID YOU?

A. YES, I THINK I DID.

Q. WHAT WAS THE PURPOSE OF YOU ASKING HIM THAT?

A. TO FIND OUT HIS ROLE IN THE MURDER.

Q. WHAT DID YOU TELL HIM YOUR PURPOSE FOR ASKING

THAT WAS?

A. I AM NOT EXACTLY SURE.

Q. ISN'T IT TRUE THAT YOU TOLD HIM THAT YOU WANTED TO KNOW THIS INFORMATION SO THAT YOU HAD SOMETHING OVER HIM?

A. I DON'T KNOW IF I DID OR NOT.

Q. IF MR. HORTON SAID YOU SAID THAT AND IF THE TRANSCRIPT REFLECTED THAT YOU SAID THAT, WOULD YOU AGREE -- WOULD YOU HAVE ANY REASON TO DISBELIEVE THAT?

A. IF THE TRANSCRIPT SAID THAT.

Q. DO YOU REMEMBER ANY OTHER REASON YOU TOLD MR. HORTON YOU WANTED TO KNOW THAT INFORMATION?

A. NO.

Q. DOES THAT REFRESH YOUR RECOLLECTION? ISN'T IT TRUE THAT THAT IS, IN FACT, HOW YOU POSED THAT QUESTION TO HIM IS THAT YOU WANTED SOMETHING OVER HIM?

A. NO, I DON'T REMEMBER.

Q. I WILL HAVE TO REFRESH YOUR MEMORY. I CAN'T GO ONTO THE NEXT QUESTION UNTIL I DO THAT, UNLESS YOU DO REMEMBER HAVING TALKED ABOUT THAT. I WILL FIND THAT IN THE TRANSCRIPT, BUT I WILL MOVE ONTO SOME OTHER AREAS TO TRY TO SAVE TIME. WE WILL COME BACK TO THAT ISSUE, MR. TRENT.

AT SOME POINT IN TIME AS YOU ARE HAVING CONTACT WITH MR. HORTON, YOU ARE ALSO HAVING CONTACT WITH OTHER PARTIES, WERE YOU NOT?

A. SUCH AS WHO?

Q. NON-POLICE OFFICER PARTIES?

A. SUCH AS WHO?

Q. SUCH AS ANY CIVILIANS RELATED TO THIS INVESTIGATION?

A. OTHER CIVILIANS, SUCH AS WHO?

Q. I AM ASKING YOU A QUESTION. AS PART OF THIS INVESTIGATION --

A. I MEAN --

Q. -- KNOWN AS TONY, THE HIT MAN, WERE YOU ALSO HAVING CONVERSATIONS WITH OTHER PEOPLE?

A. IN REGARD TO --

THE COURT: YOU NEED TO CLARIFY THE QUESTION.

Q. (BY MR. MCGOWAN) AS PART OF THIS INVESTIGATION, HE WASN'T THE ONLY PERSON YOU WERE TALKING TO AS PART OF THIS INVESTIGATION, WAS HE, JAMIE HORTON?

A. I DON'T UNDERSTAND WHAT -- WHO ARE YOU ASKING ME THAT I TALKED TO?

Q. I AM ASKING YOU THAT QUESTION, WHO DID YOU TALK TO, JAMES CONWAY, SHAWN NIGHTINGALE, A PERSON NAMED BRITTANY?

A. YEAH.

Q. WHO ELSE?

A. JAMIE, SHAWN, JIMMY, BRITTANY, I TALKED TO A LOT

OF PEOPLE. IF IT WAS IN REGARD TO THIS INVESTIGATION, IT IS DOCUMENTED.

Q. WE ARE HAVING A HEARING. I AM NOT JUST GIVING ALL OF THE DOCUMENTS TO THE JUDGE. I AM ASKING WHAT YOUR KNOWLEDGE IS.

A. I UNDERSTAND. I JUST CAN'T REMEMBER EVERYTHING.

Q. DID YOU EVER HAVE CONVERSATIONS WITH ANYBODY ABOUT THE FACT THAT JAMIE WAS GIVING YOU THE RUNAROUND?

A. YEAH, I BELIEVE I DID.

Q. WHO DID YOU HAVE THOSE CONVERSATIONS WITH?

A. JIMMY CONWAY, I BELIEVE.

Q. DID YOU HAVE CONVERSATIONS WITH JIMMY CONWAY THAT JAMIE WAS TREATING YOU LIKE A BITCH?

A. I MAY HAVE.

Q. AT SOME POINT IN TIME DID JAMIE HORTON CHANGE HIS CELL PHONE NUMBER WITHOUT TELLING YOU THAT?

A. I DON'T THINK SO.

Q. IF HE SAYS HE DID AND THERE IS EVIDENCE TO SUPPORT THAT, YOU DON'T HAVE ANY REASON TO THINK THAT IS A LIE, DO YOU?

MS. PRICHARD: OBJECTION.

THE COURT: SUSTAINED.

Q. (BY MR. MCGOWAN) YOU TOLD JIMMY CONWAY THAT JAMIE HORTON WAS TREATING YOU LIKE A BITCH, WHAT DID YOU MEAN BY THAT?

A. I DON'T THINK I SAID BITCH. I THINK I SAID, HALF A FAG.

Q. I'M SORRY?

A. I DON'T THINK I SAID BITCH. I THINK I SAID HALF A FAG.

Q. WHAT DID YOU MEAN BY THAT?

A. MEANING THAT HE KEPT GIVING ME THE RUNAROUND.

Q. WHENEVER YOU TALKED TO MR. HORTON ABOUT GUNS OR DRUGS, YOU WERE CALLING HIM, ASKING HIM TO PROVIDE YOU THOSE THINGS, WERE YOU NOT?

A. NO, I WASN'T ASKING HIM TO PROVIDE ME WITH NOTHING. JIMMY CONWAY WAS TELLING HIM WHAT TO PROVIDE ME, AND HE PROVIDED ME WITH IT.

Q. WHAT I AM ASKING YOU IS DO YOU RECALL WHEN YOU WOULD CALL MR. HORTON, ISN'T IT TRUE YOU WOULD ASK HIM TO PROVIDE YOU CERTAIN THINGS?

A. NO, I WOULD ASK HIM IF HE HAD WHAT I NEEDED TO TAKE CARE OF WHAT HE WANTED DONE.

Q. DID YOU EVER TALK TO MR. HORTON AND ASK HIM TO PROVIDE YOU WITH A NINE PACK?

A. A WHAT NOW?

Q. WITH A NINE PACK?

A. I THINK I CALLED HIM AND SAID THAT CONWAY SAID HE WAS SUPPOSED TO GIVE ME A NINE PACK.

Q. MR. HORTON DIDN'T CALL YOU AND TELL YOU, I HAVE

GOT A NINE PACK FOR YOU, DID HE?

A. HE HAS CALLED ME A COUPLE OF TIMES, YEAH.

Q. I AM TALKING ABOUT WITH REGARD TO THE THINGS THAT HE WAS GOING TO PROVIDE YOU.

A. HE MAY HAVE. I CAN'T REMEMBER EVERYTHING THAT HAPPENED.

Q. YOU CAN'T REMEMBER EVERYTHING THAT HAPPENED?

YOU WOULD ALSO CALL MR. HORTON AND ASK HIM IF HE HAD HEAT. DID YOU EVER USE THAT PHRASE?

A. THAT IS CORRECT.

Q. WHAT DID YOU MEAN BY HEAT?

A. GUNS.

Q. FOR THE JUDGE'S CLARIFICATION, WHAT DID YOU MEAN BY NINE PACK?

A. NINE OUNCES OF COCAINE.

Q. THESE REQUESTS WERE MADE AFTER THE POINT IN TIME WHEN YOU ESTABLISHED YOURSELF AS THE CHARACTER OF TONY, THE HIT MAN, CORRECT?

A. NO, THESE REQUESTS WERE MADE -- IT WASN'T MY REQUEST FOR -- FIRST OF ALL, THIS IS WHAT THEY WERE SUPPOSED TO GIVE ME TO TAKE CARE OF THIS. I DIDN'T MAKE NO SET AMOUNT OR SAY I WANT THIS OR THIS. THEY WERE SUPPOSED TO GIVE ME THE STUFF TO GET THESE PEOPLE KILLED. THAT'S WHAT THEY WERE SUPPOSED TO DO.

Q. WHAT DID DETECTIVE SCOTT TELL YOU TO -- WHEN HE

TOLD YOU HE WANTED -- JIMMY CONWAY WANTED YOU TO PROVIDE THESE THINGS, TO GO OUT AND --

A. HE TOLD ME TO GET THEM.

Q. WHO DID HE TELL YOU TO GET THEM FROM?

A. WHOEVER JIMMY CONWAY SAID TO DELIVER THEM.

Q. YOUR INSTRUCTION WAS TO OBTAIN THOSE THINGS THAT JIMMY CONWAY WAS SETTING UP FOR YOU?

A. HE TOLD ME THAT JAMIE WAS HIS GO TO MAN SINCE HE WAS LOCKED UP AND JAMIE WAS TAKING CARE OF THINGS. ACTUALLY, THAT'S WHAT JAMIE TOLD ME.

Q. DID THE IDEA OF YOU -- WELL, LET ME ASK THIS QUESTION FIRST. I THINK YOU HAVE ALREADY TESTIFIED THAT YOU ALSO ENDED UP IN CONVERSATIONS WITH SHAWN NIGHTINGALE AS PART OF THIS INVESTIGATION?

A. THAT IS CORRECT.

Q. AND AFTER YOU HAD THESE CONVERSATIONS WITH SHAWN NIGHTINGALE, YOU HAD DISCUSSIONS WITH JAMIE HORTON ABOUT YOU POTENTIALLY KILLING SHAWN NIGHTINGALE, DID YOU NOT?

A. THAT IS CORRECT. ACTUALLY, ME, JAMIE AND JIMMY CONWAY HAD THE DISCUSSION, AND JAMIE AND JIMMY DECIDED WHETHER TO KILL HIM OR NOT.

Q. ISN'T IT TRUE YOU HAD DISCUSSIONS WITH JAMIE OUTSIDE THE PRESENCE OF JIMMY CONWAY ABOUT KILLING SHAWN NIGHTINGALE?

A. YES.

Q. WAS THE NATURE OF YOUR INVOLVEMENT WITH SHAWN NIGHTINGALE AS YOU PORTRAYED YOURSELF THE SAME AS HOW YOU PORTRAYED YOURSELF TO JAMIE HORTON?

A. WHAT DO YOU MEAN?

Q. DID YOU PORTRAY YOURSELF TO SHAWN NIGHTINGALE AS TONY, THE HIT MAN?

A. YEAH.

Q. DID JAMIE KNOW THAT YOU WERE HAVING -- AS FAR AS YOU KNOW, DID JAMIE KNOW YOU WERE HAVING THOSE KIND OF CONVERSATIONS WITH SHAWN NIGHTINGALE?

A. YEAH, JAMIE IS THE ONE THAT GOT ME IN TOUCH WITH SHAWN WHEN I NEEDED TO GET IN TOUCH WITH HIM.

Q. AS FAR AS YOUR KNOWLEDGE GOES, JAMIE KNEW YOU HAD CONVERSATIONS WITH SHAWN AS TONY, THE HIT MAN, AND JAMIE THEN LATER KNEW THAT YOU WERE DISCUSSING POTENTIALLY KILLING MR. NIGHTINGALE, CORRECT?

A. I WASN'T DISCUSSING KILLING HIM. THEY WERE DISCUSSING KILLING HIM.

Q. I THOUGHT YOU JUST TESTIFIED A FEW QUESTIONS BACK THAT YOU DID TALK TO JAMIE ABOUT KILLING SHAWN NIGHTINGALE?

A. YEAH, BUT IT'S COMING ACROSS LIKE IT IS MY IDEA OR SOMETHING.

Q. THE JUDGE WILL FIGURE OUT HOW IT IS COMING ACROSS.

A. THAT'S HOW I AM UNDERSTANDING THE QUESTIONS.

Q. DID YOU TELL JAMIE HORTON, I AM TONY, THE HIT MAN, BUT I AM NOT GOING TO KILL SHAWN NIGHTINGALE?

A. NO.

Q. YOU TOLD HIM YOU WOULD KILL SHAWN NIGHTINGALE?

A. IF THAT'S WHAT THEY WANTED, YEAH.

Q. BACK WITH REGARD TO WHY YOU WERE JAILED IN THE FIRST PLACE, IF THIS THING DIDN'T WORK OUT AND YOU DIDN'T GET ANY INFORMATION FOR THE POLICE OR FOR THE DETECTIVES OR THE PROSECUTOR'S OFFICE, YOU WOULD HAVE BEEN BACK IN JAIL, CORRECT?

A. NO, I WOULD HAVE BEATEN MY CASE. AS A MATTER OF FACT, IT'S ALREADY BEEN PROVEN THAT MY CASE WAS SET UP ANYWAY.

Q. LET'S TALK ABOUT YOUR STATE OF MIND AT THE TIME THIS WAS GOING ON. YOU WOULD HAVE BEEN BACK IN JAIL, CORRECT?

A. WAS I IN JAIL? YEAH.

Q. YOU WOULD HAVE BEEN BACK IN JAIL HAD YOU NOT BEEN ABLE TO GET THIS INFORMATION?

A. NO, I PROBABLY WOULD HAVE BEEN OUT BY NOW.

Q. I AM TALKING ABOUT YOUR STATE OF MIND BACK THEN.

A. OH, YEAH.

MR. MCGOWAN: YOUR HONOR, IF I COULD TALK TO MY CO-COUNSEL?

THE COURT: YES.

Q. (BY MR. MCGOWAN) I WILL TRY TO POINT YOU IN THE RIGHT DIRECTION. THIS PURPORTS TO BE A CONVERSATION BETWEEN YOU AND JAMIE HORTON. AGAIN, I AM TRYING TO SPEED THINGS ALONG. MY UNDERSTANDING IS THAT CI REFERS TO YOU, TONY, THE HIT MAN?

A. CORRECT.

Q. CAN YOU READ THIS AND TELL ME -- YOU DON'T HAVE TO READ IT OUT LOUD, JUST READ IT AND SEE IF IT REFRESHES YOUR RECOLLECTION ABOUT THE IDEA OF YOU WANTING TO KNOW SOMETHING.

A. YEAH. YOU NEED THE PAGE BEFORE THAT.

Q. GO AHEAD. YOU CAN HAVE THE WHOLE THING IF YOU WANT IT.

A. OKAY. SO THIS IS IN REGARD TO WHICH QUESTION?

Q. THE QUESTION OF WHETHER OR NOT YOU, AS TONY, THE HIT MAN, TOLD JAMIE HORTON YOU WANTED INFORMATION ABOUT THE DOTSON CASE SO THAT YOU WOULD HAVE SOMETHING ON HIM.

A. I DON'T SEE WHERE IT SAYS THAT NOWHERE IN THERE.

Q. IT MIGHT NOT SAY EXACTLY LIKE THAT. THAT'S THE QUESTION.

A. I THINK WHAT IT IS SAYING IS WHAT I SAID WAS IF I AM TRUSTING YOU, THEN YOU ARE TRUSTING ME, AND THAT'S THE WAY IT WAS. IT IS NOT THAT I WILL HAVE SOMETHING OVER HIM. THAT'S EXACTLY WHAT IT SAYS.

Q. AREN'T YOU TELLING HIM THAT IN THE CIRCUMSTANCE OF ASKING HIM INFORMATION ABOUT THE DOTSON HOMICIDE?

A. NO, I WASN'T TRYING TO HAVE NOTHING OVER HIM.

Q. WHAT DID YOU TELL HIM WOULD HAPPEN -- WHAT DID YOU TELL HIM IT MEANT IF -- "WELL, IF YOU LIED TO ME ABOUT THAT, DOG," WHAT DID YOU SAY?

A. I SAID, "THIS AIN'T NO GAME".

Q. "THIS AIN'T NO GAME, MAN"?

A. YEAH.

Q. WHAT DID YOU MEAN BY THAT?

A. MEANING THEN THAT I COULD GO TO JAIL, TOO.

Q. DIDN'T YOU ALSO MEAN THAT IF YOU FOUND OUT JAMIE WAS LYING, THAT YOU WOULD KILL HIM?

A. NO.

Q. WHAT WOULD TONY, THE HIT MAN, DO IF JAMIE LIED TO HIM, NOT WHAT RONNIE TRENT WOULD DO?

MS. PRICHARD: OBJECTION.

THE COURT: SUSTAINED.

MR. MCGOWAN: YOUR HONOR, MAY I RESPOND?

THE COURT: NO, IT IS ASKING HIM FOR SPECULATION.

MR. MCGOWAN: I AM NOT ASKING HIM FOR SPECULATION. THIS WAS A CHARADE CREATED BY THE DETECTIVE AND HIM THAT HE WAS TONY, THE HIT MAN. I CAN'T ASK HIM WHAT HE WOULD DO BECAUSE THAT'S THE WHOLE POINT HERE. THIS

CHARADE WAS CREATED THAT HE WAS A HIT MAN AND THE WAY HE TREATED JAMIE HORTON WAS HE WAS A HIT MAN, SO I THINK THE FAIR QUESTION IS WHAT WOULD -- WHAT DID HE TRY TO CONVEY TO MR. HORTON HE WOULD DO IF THERE WAS A LIE TOLD OR IF HE DIDN'T HAVE SOMETHING ON HIM.

THE COURT: YOUR OTHER QUESTION WAS YOU SAID WHAT WOULD TONY, THE HIT MAN, DO, AND IT IS AN OBJECTIONABLE QUESTION.

MR. MCGOWAN: TONY, THE HIT MAN, IS WHO JAMIE HORTON IS DEALING WITH, AND THE POINT OF THIS MOTION IS TO TALK ABOUT THE VOLUNTARINESS OF IT AND WHETHER THERE WAS DURESS OR COERCION, SO TO ANSWER WHETHER OR NOT MR. TRENT WOULD DO SOMETHING LIKE KILL MR. HORTON ISN'T THE ANSWER. THE ANSWER TO THE QUESTION IS WHAT WOULD TONY, THE HIT MAN, DO; AND IF THAT IS NOT TRUE, THAT IS NOT WHAT I AM ALLOWED TO SEEK, THEN ANYTHING HE ANSWERED IN RESPONSE TO THAT CHARADE SHOULD BE EXCLUDED ANYWAY THEN BECAUSE ESSENTIALLY, I AM NOT ALLOWED TO ASK THOSE QUESTIONS.

THE COURT: YOUR QUESTION IS WHAT WOULD TONY, THE HIT MAN, DO IS SPECULATIVE, AND THE ISSUE MAY BE WHAT MR. HORTON THOUGHT, AND THIS WITNESS CANNOT ANSWER THAT QUESTION. SO THE OBJECTION IS SUSTAINED.

Q. (BY MR. MCGOWAN) WHAT DID YOU TRY TO CONVEY TO MR. HORTON WOULD BE A POSSIBLE RAMIFICATION IF HE DIDN'T COOPERATE WITH YOU?

A. IT WAS NO RAMIFICATION IF HE DIDN'T COOPERATE. I TOLD HIM IF HE -- DON'T BULLSHIT ME BECAUSE I COULD GO TO JAIL, TOO, AND IT WASN'T NO GAME. ACTUALLY, I BELIEVE WHAT I SAID IS THIS IS MY LIFE, TOO. HOW DO I KNOW YOU GUYS AREN'T GOING TO WHACK ME? I THINK THAT'S WHAT IT SAYS.

Q. AT SOME POINT IN TIME IT CERTAINLY BECAME CLEAR TO YOU THAT MR. HORTON WAS CONCERNED THAT YOU MIGHT KILL HIM, DID IT NOT?

A. NO.

Q. YOU NEVER TOLD HIM TO RELAX, CHILL OUT, DUDE, I AIN'T SMOKING YOU. YOU ACT LIKE YOU ARE WORRIED I AM GOING TO SMOKE YOU?

A. YEAH, HE SAID SHAWN WAS AFRAID THAT I WAS GOING TO WHACK HIM, NOT HIM. HE SAID HE WAS AFRAID OF THE POLICE AND GETTING CAUGHT IS WHAT HE SAID.

Q. YOU HAD A DISCUSSION WITH MR. HORTON ABOUT GOING DOWN TO CHILLICOTHE, DID YOU NOT?

A. CORRECT.

Q. ISN'T IT TRUE THAT MR. HORTON EXPRESSED THAT HE DID NOT WANT TO GO WITH YOU ON THAT TRIP?

A. NO, BECAUSE HE RENTED THE VAN TO GO DOWN THERE.

Q. PRIOR TO THE RENTING OF THE VAN, ISN'T IT TRUE HE EXPRESSED NOT WANTING TO GO WITH YOU ON THAT TRIP?

A. NO. AS A MATTER OF FACT, HE SAID, NO, IT AIN'T SHIT. IT'S COOL. I WILL GO DOWN THERE WITH YOU. I WILL

GET THE VAN.

Q. ISN'T IT TRUE YOU HAD A CONVERSATION WITH HIM ABOUT THE VERY SPECIFIC ISSUE, WHICH IS THAT HE DIDN'T WANT TO GO DOWN THERE BECAUSE HE WAS AFRAID YOU MIGHT KILL HIM?

A. YEAH, I THINK SO. HE WAS JOKING WITH THAT BECAUSE HE SAID THAT'S HOW SHAWN WAS.

Q. YOUR OPINION IS THAT HE WAS JOKING AT THAT POINT?

A. YEAH, HE WAS LAUGHING.

Q. LET ME ASK YOU THIS. IF MR. HORTON DIDN'T PROVIDE YOU ANY INFORMATION ABOUT THE DOTSON KILLING AND I GUESS I CAN'T ASK YOU -- WHAT DID YOU WANT TO CONVEY TO HIM WOULD HAPPEN IF HE WAS JUST A WITNESS TO THAT CASE, DIDN'T HAVE ANYTHING TO GIVE YOU THAT WOULD INCRIMINATE HIM?

A. THEN I WOULDN'T BE TALKING TO HIM.

Q. THEN YOU WOULDN'T BE TALKING TO -- WOULD IT BE REASONABLE FOR MR. HORTON TO ASSUME NOT TALKING TO HIM THAT YOU MIGHT, IN FACT, KILL HIM?

A. I DON'T KNOW WHAT HE WOULD ASSUME.

MS. PRICHARD: OBJECTION.

THE COURT: SUSTAINED.

Q. (BY MR. MCGOWAN) YOU DON'T KNOW WHAT HE WOULD ASSUME?

A. NO.

MS. PRICHARD: OBJECTION.

THE COURT: THE OBJECTION IS SUSTAINED AND

THE ANSWER STRICKEN FROM THE RECORD.

Q. (BY MR. MCGOWAN) AGAIN, YOU SHARED WITH MR. HORTON YOUR WILLINGNESS TO KILL SHAWN NIGHTINGALE, CORRECT?

A. NO, I WASN'T -- WHAT DO YOU MEAN BY WILLINGNESS? WHAT DO YOU MEAN, IF THAT IS WHAT THEY WANTED DONE?

Q. THAT'S THE QUESTION.

A. YEAH, IF THAT'S WHAT THEY WANTED DONE.

Q. AND THE WHOLE CHARADE ABOUT TONY, THE HIT MAN, AND THE CHARADE AND PICTURES -- WELL, LET ME ASK YOU THIS QUESTION.

YOU SHOWED JAMIE HORTON PICTURES OF PEOPLE THAT WERE SUPPOSED TO BE DEAD, CORRECT?

A. CORRECT.

Q. IS THAT TWO DIFFERENT PEOPLE?

A. YEAH.

Q. ONE WAS MIKE ARTHURS; THE OTHER ONE WAS A DEPUTY DESIGNED TO LOOK LIKE THIS MR. PRICE OR WHOEVER TOOK MR. PRICE'S PLACE?

A. CORRECT.

Q. YOU, IN FACT, TOLD MR. HORTON THAT YOU HAD KILLED THOSE PEOPLE, RIGHT?

A. THAT IS CORRECT.

Q. YOU DIDN'T KILL ANYBODY, DID YOU?

A. NO.

Q. YOU DIDN'T HAVE ANYBODY DISPOSED OF AT THE PLANT, DID YOU?

A. NO.

Q. THE WHOLE CHARADE WAS DESIGNED TO CONVEY TO JAMIE HORTON AND THE OTHERS -- ALL I AM TALKING ABOUT IS JAMIE HORTON. YOU WERE THE HIT MAN, THAT YOU WOULD KILL PEOPLE, THAT YOU DID, IN FACT, KILL PEOPLE AND THAT YOU WOULD BE WILLING TO KILL PEOPLE AGAIN, CORRECT?

A. NO, WHAT I WAS CONVEYING TO HIM WAS I WAS THERE TO DO A JOB THAT THEY WAS PAYING ME TO DO.

Q. AND DID THAT NOT INCLUDE FROM YOUR TESTIMONY EARLIER THAT YOU WOULD KILL PEOPLE, THAT YOU HAD KILLED PEOPLE AND YOU WOULD KILL PEOPLE AND THAT YOU HAD PREVIOUSLY KILLED PEOPLE?

A. I DON'T BELIEVE I SAID PREVIOUSLY, BUT I MAY HAVE, IF THAT'S WHAT THEY WANTED ME TO DO.

Q. AT THE POINT AFTER YOU SHOWED THOSE PICTURES, YOU ARE CONVEYING THAT YOU HAD ALREADY KILLED THOSE PEOPLE, RIGHT?

A. YES.

Q. THAT'S A POINT IN TIME WE ARE TALKING ABOUT. ALL OF THAT WAS A BIG PACK OF LIES, WASN'T IT?

A. CORRECT.

MR. MCGOWAN: YOUR HONOR, MAY I HAVE A MINUTE?

Q. (BY MR. MCGOWAN) I DON'T REMEMBER IF YOU ANSWERED THIS QUESTION. AT ANY POINT IN TIME DID YOU COME TO BELIEVE THAT JAMIE WAS AFRAID OF YOU?

A. NO.

Q. DO YOU REMEMBER SAYING ON OR ABOUT MAY 22, AFTER THE TAPE GOT TURNED OFF, AFTER YOU HAD BEEN TALKING TO JAMIE, "DUDE, HE IS SO FUCKIN SCARED, IT IS UNBELIEVABLE. IT'S ON TAPE."

A. I THINK THAT WAS IN REFERENCE TO SHAWN, BUT IF HE WAS SCARED OF ME, WHY WOULD HE GIVE ME A LOADED GUN?

Q. SIR, I APPRECIATE YOUR ADDITIONAL COMMENTARY. I AM ASKING THE QUESTIONS, OKAY.

A. THAT'S WHAT I WAS ANSWERING.

Q. YOU ASKED ME THE QUESTION. YOU SAID THAT MIGHT HAVE BEEN WITH SHAWN. I'M GOING TO SHOW YOU -- SHOWING YOU WHAT IS PURPORTED TO BE AN OFFENSE REPORT AND WAS PURPORTING TO BE A CONVERSATION BETWEEN YOURSELF AND JAMIE, DO YOU SEE THAT THIS IS PURPORTING TO BE THE LAST -- THIS IS THE LAST THING THAT IS ON THAT PARTICULAR TAPE. "DUDE, HE IS SO FUCKIN SCARED IT'S UNBELIEVABLE. IT'S ON TAPE."

YOU SAID THAT, DIDN'T YOU?

A. CAN I SEE THIS?

Q. YES. TAKE AS LONG AS THE JUDGE WILL ALLOW YOU TO.

A. ACTUALLY WE WAS TALKING ABOUT SHAWN NIGHTINGALE.

Q. THIS IS A WHOLE SET OF DIFFERENT CONVERSATIONS ON ONE TAPE?

A. ONE SECOND. YEAH, I BELIEVE THAT WAS IN REGARD TO NIGHTINGALE, NOT JAMIE.

Q. SIR, WHAT YOU ARE TELLING THE COURT IS THAT EVEN THOUGH YOU JUST GOT DONE TALKING TO JAMIE LITERALLY A SECOND BEFORE THE TAPE GETS SHUT OFF, THAT YOU ARE TALKING ABOUT SHAWN WHEN YOU SAY, "DUDE, HE IS SO FUCKIN SCARED IT'S UNBELIEVABLE. IT'S ON TAPE."

IF YOU WANT TO SEE WHERE IT STARTS WITH JAMIE, IT IS SEVERAL PAGES BACK.

A. YEAH, THIS IS WHEN HE WAS SCARED I WAS A COP, SO YEAH, YOU ARE RIGHT, I DID SAY THAT.

Q. SO YOUR TESTIMONY IS THAT WHAT YOU MEANT THERE WAS HE IS SO FUCKIN SCARED YOU WERE A COP, IT IS UNBELIEVABLE?

A. ALL OF THEM WAS, YEAH.

Q. THAT'S WHAT YOU MEANT RIGHT THERE?

A. I AM PRETTY SURE, YES.

Q. CAN YOU POINT TO ANYTHING NOW THAT YOU REVIEWED IN THIS TRANSCRIPT THAT SAYS ANYTHING ABOUT OR THAT INDICATES THAT JAMIE THINKS YOU ARE A COP IN THIS TRANSCRIPT RIGHT HERE?

A. NO.

Q. WITH REGARD TO THE QUESTION ABOUT SOME EARLIER

QUESTIONING, I DIDN'T HAVE THE TRANSCRIPT RIGHT HANDY ABOUT WHETHER OR NOT JAMIE THOUGHT YOU WERE GOING TO KILL HIM. I AM SHOWING YOU NOW WHAT PURPORTS TO BE A CONVERSATION AND INTERVIEW -- OR I WILL CALL IT AN INTERVIEW, BUT A CONVERSATION BETWEEN YOU, THE CI, AND JAMIE HORTON. ISN'T IT TRUE THAT ACCORDING TO THIS TRANSCRIPT, YOU SAY -- YOU CHUCKLE. "IT IS JUST A FIGURE OF SPEECH TO ME, DOG. IT IS JUST I TOLD JIMMY I WAS, LIKE, I THINK JAMIE IS GOING TO THINK I AM GOING TO FUCKIN WHACK HIM."

A. YEAH.

Q. WHAT YOU ARE TELLING JAMIE IS YOU HAD A CONVERSATION WITH JIMMY CONWAY WHERE YOU TOLD JIMMY CONWAY THAT JAMIE THINKS YOU ARE GOING TO WHACK HIM, MEANING HIM, MEANING JAMIE?

A. YEAH, I BELIEVE HE DID SAY THAT AT FIRST.

Q. AND JAMIE WOULDN'T HAVE HAD A FEAR THAT A COP WAS GOING TO WHACK HIM, WOULD HE?

A. WELL --

MS. PRICHARD: OBJECTION.

THE COURT: SUSTAINED.

Q. (BY MR. MCGOWAN) WHEN YOU MADE THAT STATEMENT TO JAMES CONWAY, IT WASN'T BECAUSE YOU WERE TRYING TO CONVINCE CONWAY THAT JAMIE THOUGHT YOU WERE A COP, WAS IT?

A. WHAT?

Q. YOU WEREN'T TRYING TO CONVINCE CONWAY THAT JAMIE

THOUGHT YOU WERE A COP, WERE YOU?

A. I THINK ME AND JIMMY DID HAVE THAT CONVERSATION, YEAH.

Q. TALKING ABOUT THAT STATEMENT WHERE YOU ARE TALKING ABOUT JAMIE THINKS I AM GOING TO WHACK HIM, WHAT WAS YOUR PURPOSE OF THAT STATEMENT TO JIMMY CONWAY?

A. THAT WAS IN REGARD TO SHAWN NIGHTINGALE BEING SCARED, TOO, BUT HE SAID -- NO, I THINK IT WAS BECAUSE JAMIE JUST DIDN'T KNOW ME THEN.

Q. YOU THINK THAT IS WHY IT WAS THAT HE THOUGHT YOU WERE GOING TO WHACK HIM BECAUSE HE DIDN'T KNOW YOU?

A. NO, THAT'S WHAT HE SAID. I DON'T KNOW WHAT HE THOUGHT.

MR. MCGOWAN: YOUR HONOR, FOR THE RECORD, THAT WAS A TRANSCRIPT PURPORTED TO BE MADE ON MAY 20, '02.

Q. (BY MR. MCGOWAN) I BELIEVE IN ONE OF YOUR ANSWERS THAT WAS IN REGARD TO BOTH NIGHTINGALE AND HORTON THOUGHT YOU MIGHT WHACK HIM, RIGHT?

A. NO, I SAID, JIMMY SAID HE JUST DIDN'T KNOW ME SO HE PROBABLY THOUGHT I WAS GOING TO WHACK HIM.

Q. THE EARLIER QUESTIONS ABOUT JAMIE CHANGING HIS PHONE NUMBER, DOES IT REFRESH YOUR RECOLLECTION IF I TELL YOU -- IF I REMIND YOU OF THE CONVERSATION WHEREIN WHEN YOU DID FINALLY GET A HOLD OF MR. HORTON, HE WAS VERY APOLOGETIC TO YOU IN SAYING YOU ARE NOT MAD AT ME, ARE YOU,

AND THINGS OF THAT NATURE?

A. I DON'T RECALL THAT. I DON'T KNOW.

MR. MCGOWAN: NOTHING FURTHER.

- - -

EXAMINATION

BY MS. PRICHARD:

Q. RONNIE, DID JAMIE EVER SEEM SCARED OF YOU THAT YOU INTERPRETED?

A. NO.

Q. DID HE EVER SEEM SCARED ABOUT OTHER THINGS?

A. YEAH, HE WAS AFRAID OF GETTING CAUGHT BY THE POLICE.

Q. DESPITE BEING SCARED OF BEING CAUGHT BY THE POLICE, DID HE CONTINUE TO TALK WITH YOU AND DELIVER GUNS AND DRUGS TO YOU?

A. YEAH.

Q. WHEN MEETINGS WERE SET UP BETWEEN YOU AND JAMIE HORTON, WHO SET THEM UP?

A. THE MEETING SPOTS?

Q. THE MEETING SPOTS, YES.

A. JAMIE.

Q. HE WOULD COME ALONE?

A. YEAH.

Q. THE TWO OF YOU WOULD BE ALONE AT THESE MEETING SPOTS?

A. THERE WERE DETECTIVES AROUND, YES, BUT ME AND HIM.

Q. HE DIDN'T KNOW THERE WERE DETECTIVES AROUND?

A. NO.

Q. DID YOU EVER HAVE, PRIOR TO GIVING HIM ANY WEAPONS, HAVE ANY WEAPONS ON YOU WHEN HE MET YOU?

A. NO, YOU GET STRIP SEARCHED BEFORE EVERY MEETING AND AFTER EVERY MEETING.

Q. DID YOU EVER THREATEN HIM?

A. NO.

Q. DID YOU EVER IN ANY TRANSCRIPTS TELL HIM YOU WERE GOING TO KILL HIM?

A. NO.

Q. DID YOU EVER TELL HIM YOU WERE GOING TO HURT HIM?

A. NO.

Q. YOU SAID THAT HE RENTED A VAN TO GO DOWN TO CHILLICOTHE?

A. CORRECT.

Q. WHOSE IDEA WAS IT TO RENT A VAN?

A. JAMIE'S.

Q. AND DID HE GO, DESPITE APPARENTLY SOME TALK ABOUT HIM NOT WANTING TO GO WITH YOU?

A. CORRECT.

Q. SO DID THE TWO OF YOU DRIVE DOWN THERE, THE TWO OF YOU TOGETHER?

A. CORRECT.

Q. DID YOU EVER VISIT THE DEFENDANT'S HOME OR THE HOME OF HIS RELATIVES?

A. YEAH, AFTER WE GOT BACK FROM CHILLICOTHE.

Q. WHERE DID YOU GO, IF YOU KNOW?

A. ON RYAN. (SIC)

Q. WHOSE IDEA WAS THAT?

A. IT WAS HIS DAD'S HOUSE. HE WENT THERE TO GET SOME WEED, I BELIEVE, SOME DRUGS.

Q. WHOSE IDEA WAS THAT?

A. JAMIE.

Q. HE TOLD YOU WHERE TO STOP AND EVERYTHING?

A. YEAH.

Q. YOU DIDN'T KNOW WHERE HE LIVED?

A. NO.

Q. HE TOOK YOU THERE?

A. CORRECT.

Q. WHEN YOU FIRST CALLED JAMIE, DID HE SEEM TO KNOW WHO TONY WAS AND EXPECTING YOUR CALL?

A. YEAH.

Q. WHEN YOU TALKED, DID HE SEEM TO KNOW WHAT HE WAS SUPPOSED TO DO WITH YOU?

A. YEAH.

Q. DID HE EVER TELL YOU NOT TO CALL HIM ANYMORE?

A. NO.

Q. DID HE EVER TELL YOU, I DON'T WANT TO MEET YOU ANYMORE; I DON'T WANT TO SEE YOU ANYMORE?

A. NO.

Q. WHEN YOU FIRST MET WITH HIM, WHAT DID HE TELL YOU HE WAS THERE TO DO, WHY WAS HE AROUND, WHY WERE YOU CONTACTING HIM?

A. HE SAID I WAS THE GO TO MAN SINCE JIMMY WAS IN JAIL, AND HE WAS SUPPOSED TO GIVE ME EVERYTHING I NEEDED TO TAKE CARE OF ALL THESE WITNESSES THAT THEY WANTED TO KILL.

Q. HE WAS THE MAIN CONTACT?

A. YEAH.

Q. WOULD HE PROVIDE YOU WITH INFORMATION ON WHO WAS SUPPOSED TO BE KILLED?

A. YEAH.

Q. THESE WEREN'T YOUR IDEAS?

A. NO.

Q. DID YOU TELL HIM WHETHER OR NOT YOU HAD ANY MONEY OR GUNS OR ANYTHING TO ACCOMPLISH THESE KILLINGS?

A. I TOLD HIM I DIDN'T HAVE NOTHING.

Q. SO HE WAS SUPPOSED TO GIVE YOU THESE THINGS?

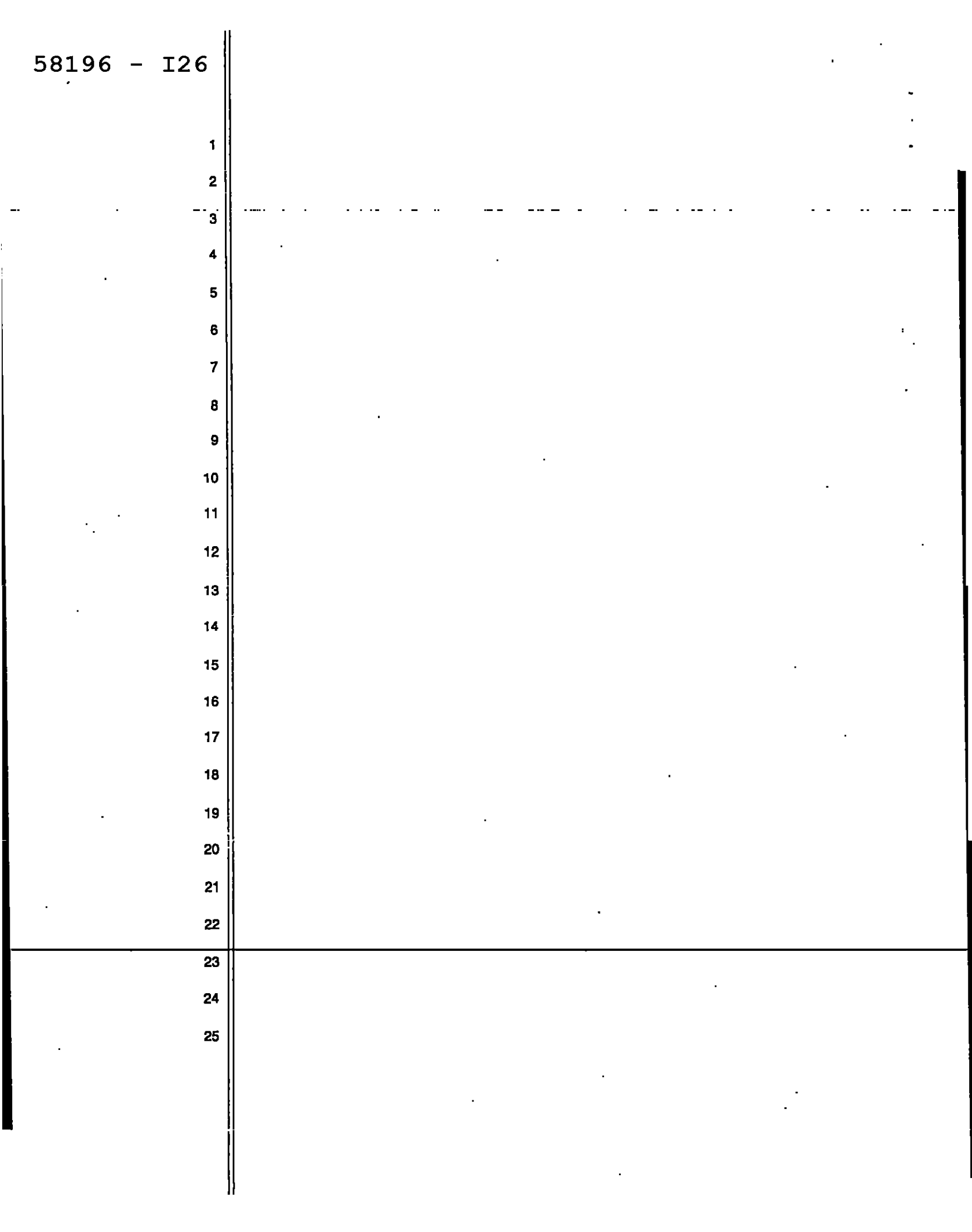
A. YEAH.

Q. DID HE EVER ASK YOU FOR MONEY?

A. AT ONE POINT I THINK HE DID.

Q. DID THAT UPSET YOU?

A. YEAH.


58196 - I26
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q. WHY?

A. BECAUSE WHY WOULD I PAY TO KILL SOMEBODY FOR THEM?

Q. WHEN YOU GOT UPSET AT SOMETHING LIKE THAT, WHAT WOULD YOU TELL THEM?

A. I TOLD THEM THAT I WAS JUST DONE FUCKIN WITH ALL OF THEM. I AM DONE WITH THE WHOLE THING.

Q. MEANING YOU ARE WALKING AWAY FROM THE WHOLE THING?

A. CORRECT.

Q. HOW MANY TIMES DID JAMIE HORTON BRING YOU GUNS?

A. I BELIEVE IT WAS THREE.

Q. WERE ANY OF THEM LOADED?

A. YEAH.

Q. HOW MANY TIMES DID HE BRING YOU DRUGS?

A. TWICE, I THINK.

Q. WHAT WERE THOSE THINGS SUPPOSED TO BE USED FOR?

A. THE FIRST TIME HE BROUGHT ME COCAINE, IT WAS TO GET THE GUY HIGH FOR THE VIDEO BEFORE I KILLED HIM.

Q. FOR WHAT VIDEO, WHAT CRIME?

A. FOR DOCKSIDE DOLLS.

AND THE SECOND TIME IT WAS THE SAME PURPOSE, TO USE AND KILL THE WITNESS.

Q. DRUG THE PEOPLE UP AND KILL THEM?

A. YEAH, EITHER THAT OR TO SELL THE DRUGS AND MAKE

MONEY, AND SO IT WAS PAYMENT FOR KILLING THE WITNESS THAT THEY WANTED KILLED.

Q. YOU SAID BEFORE YOU EVER GOT OUT OF JAIL, THERE WAS MONEY ON YOUR BOOKS, PUT THERE BY JAMIE HORTON?

A. YEAH, HE BROUGHT ME -- IT WAS EITHER THREE THOUSAND FIRST AND THEN TWO THOUSAND, OR TWO THOUSAND FIRST AND THEN THREE THOUSAND. IT WAS A TOTAL OF FIVE THOUSAND.

Q. WERE YOU SUPPOSED TO BE COMPENSATED WHEN YOU GOT OUT, ALSO?

A. CORRECT.

Q. THIS VIDEO THAT WAS CREATED, WAS JAMIE HORTON AWARE OF THIS VIDEO?

A. YEAH.

Q. IS THIS THE VIDEO YOU, IN FACT, LATER SHOWED HIM?

A. YEAH.

Q. WHEN YOU SHOWED IT TO HIM, WHAT WAS HIS REACTION?

A. HE STARTED LAUGHING AND SAID, HELL, YEAH, THAT'S PHAT.

Q. WHOSE IDEA WAS IT TO KILL MIKE ARTHURS?

A. JAMES AND JIMMY'S.

Q. YOU AGREED TO CARRY THAT OUT AS WELL?

A. YEAH.

Q. AND WERE THESE GUNS AND DRUGS PROVIDED TO DO THAT, ALSO?

A. YEAH.

Q. DID JAMIE ASSIST YOU IN ANY OTHER WAY IN TRYING TO FIND MIKE ARTHURS?

A. YEAH, HE TOOK ME DOWN TO CHILLICOTHE AND SHOWED ME WHERE MIKE STAYED IN A TRAILER, OR HIS FAMILY STAYED IN A TRAILER IN CHILLICOTHE, AND HE SHOWED ME WHERE ALEX AND MARCUS -- WE WENT DOWN THERE ONCE AND PICKED UP SHAWN, AND THEN WE WENT AND LOOKED AT THOSE PLACES.

Q. SO HE SHOWED YOU WHERE THREE DIFFERENT PEOPLE WHO WERE SUPPOSED TO BE KILLED LIVED AT SOME POINT IN TIME?

A. CORRECT.

Q. THE FIRST MEETING THAT YOU HAD WITH OUR OFFICE AND THE SHERIFF, THAT WAS THE MEETING WHERE YOU, BASICALLY, SAID WHAT YOU KNEW?

A. YEAH.

Q. AND WE SAID WE WILL GET BACK TO YOU, AND NO PROMISES WERE MADE AT THAT TIME?

A. CORRECT.

Q. A LATER MEETING WAS SET UP AND SOME INTERVIEWS AND THINGS DONE?

A. CORRECT.

Q. YOU PROBABLY HAVEN'T REVIEWED THE INTERVIEWS, HAVE YOU RECENTLY, THE TRANSCRIPTS?

A. NO.

Q. WOULD APRIL SOUND ABOUT ACCURATE, THE END OF APRIL WHEN MAYBE THAT OCCURRED?

A. IT'S POSSIBLE, YEAH.

Q. THEN DOES MID MAY SOUND ACCURATE FOR WHEN YOU STARTED WORKING WITH THE DETECTIVES ON THIS WORK RELEASE THAT WAS SET UP?

A. YEAH.

Q. THEN WAS THERE A DECISION MADE NOT TO KILL SHAWN NIGHTINGALE AT SOME POINT?

A. YEAH.

Q. AFTER THAT DECISION WAS MADE, DID YOU SAY YOU WERE STILL GOING TO GO AFTER HIM?

A. NO.

Q. WERE YOU JUST BASICALLY TAKING OUT WHOEVER THEY WANTED YOU TO?

A. YEAH.

Q. YOU WERE SHOWN A TRANSCRIPT, ON MAY 22, WHERE THERE WAS SOME KIND OF COMMENT ABOUT SOMEBODY BEING SO SCARED. AFTER THAT, DO YOU RECALL STILL HAVING CONTACT WITH JAMIE HORTON?

A. YEAH.

Q. DESPITE THOSE SORT OF STATEMENTS OR ANY CONCERNS THAT I GUESS COULD BE IMPLIED IN THAT, JAMIE HORTON CONTINUED TO WORK WITH YOU AND DELIVER THINGS TO YOU, CONTACT YOU?

A. CORRECT.

MS. PRICHARD: NOTHING FURTHER.

- - -

EXAMINATION

BY MR. MCGOWAN:

Q. YOU WERE ASKED ABOUT HE SET UP THE MEETING SPOTS BETWEEN YOU AND JAMIE?

A. CORRECT.

Q. YOU SAID JAMIE WHO --

A. YES.

Q. -- WHO ASKED FOR THOSE MEETINGS?

A. WHAT DO YOU MEAN?

Q. YOU CALLED HIM AND ASKED HIM TO MEET YOU, DID YOU NOT?

A. NO, I CALLED HIM AND ASKED HIM IF HE GOT WHAT JIMMY SAID HE WAS SUPPOSED TO, AND HE SAID, YEAH, WHERE DO YOU WANT TO MEET?

Q. YOU WERE CALLING HIM; HE WASN'T CALLING YOU AND SAYING, HEY, I NEED TO MEET YOU?

A. HE HAS CALLED ME, BUT I CALLED HIM, TOO.

Q. ISN'T IT TRUE YOU TESTIFIED ABOUT A STOP AFTER THE CHILLICOTHE TRIP, AND THAT WASN'T WHERE JAMIE LIVED, WAS IT?

A. BEG YOUR PARDON?

Q. THAT WASN'T WHERE JAMIE LIVED, WAS IT?

A. I DON'T KNOW. IT'S WHERE HE SAID HIS DAD LIVES, I BELIEVE.

Q. YOU ANSWERED MS. PRICHARD THAT IT WAS WHERE JAMIE LIVED.

YOU WERE ASKED A QUESTION ABOUT WHETHER OR NOT YOU EVER WERE ASKED TO PAY ANY MONEY, AND YOU SAID, YES. YOU SAID YOU GOT UPSET ABOUT THAT?

A. YEAH.

Q. WHY DID YOU GET UPSET ABOUT PAYING FOR DRUGS? WAS IT A PAY FOR DRUGS?

A. I DON'T REMEMBER EXACTLY WHAT IT WAS FOR. FIRST OF ALL, I WASN'T UPSET PERSONALLY. I WAS GIVING HIM THE PERCEPTION THAT I WAS UPSET.

Q. WHO WERE YOU GIVING THE PERCEPTION THAT YOU WERE UPSET?

A. JAMIE AND JIMMY AND SHAWN.

Q. WHY WAS THAT?

A. BECAUSE WHY WOULD I PAY TO KILL SOMEBODY FOR YOU GUYS.

Q. WHY WOULD YOU, RONNIE TRENT?

A. WHY WOULD I, RONNIE TRENT.

Q. OR WHY WOULD YOU, TONY, THE HIT MAN, CORRECT?

A. WHY WOULD I, RONNIE TRENT, PAY TO KILL SOMEBODY FOR ANYBODY?

Q. YOU JUST SAID YOU WEREN'T REALLY UPSET. WHO

WAS --

A. NO, I WAS --

Q. WHO SHOULD HAVE BEEN UPSET IN THEIR EYES?

A. WHOEVER IT WAS THEY WAS DEALING WITH.

Q. IF YOU PAID THEM FOR DRUGS, YOU WOULDN'T LOOK LIKE A HIT MAN, WOULD YOU?

A. I WAS NEVER PAYING THEM FOR DRUGS.

Q. YOU WERE ASKED BY MS. PRICHARD IF YOU GOT UPSET ABOUT IT.

A. SHE ASKED ME IF THEY ASKED ME FOR MONEY IS WHAT SHE ASKED ME.

Q. LET'S LEAVE THE DRUGS OUT OF IT. WHEN YOU WERE ASKED FOR MONEY AND GOT UPSET, WHY WAS THAT?

A. WHY WOULD I PAY TO KILL SOMEBODY FOR YOU GUYS?

Q. IT WAS SO THEY WOULD BELIEVE YOU WERE A HIT MAN?

A. BASICALLY, YEAH.

Q. ON MAY 20, '02, THIS RELATES BACK TO SOME OF THE CONVERSATIONS ABOUT WHETHER OR NOT HE WAS AFRAID TO GO TO CHILLICOTHE. THIS PURPORTS TO BE A MAY 20 DATE WITH THE CONVERSATION BETWEEN YOU, HORTON AND YOU AND SOME UNIDENTIFIED MALE. YOU MIGHT BE ABLE TO TELL THE COURT WHO THAT MALE IS, BUT IT DOESN'T SAY IT'S HORTON.

ISN'T IT TRUE THAT AS IT STARTED, THIS PARTICULAR PART OF THE CONVERSATION, YOU SAY, "THAT FUCKIN JIMMY, ACTING LIKE A BITCH MAN."

A. YEAH.

Q. AND THEN YOU GO ON TO SAY, "JUST TELL HIM I AM DOING NOTHING TONIGHT. YOU KNOW WHAT I'M SAYING." WHAT DID YOU MEAN BY THAT -- FIRST OF ALL, IS THIS JIMMY CONWAY?

A. YEAH, PROBABLY.

Q. WHAT DID YOU MEAN BY THAT WHEN YOU SAID, JUST TELL HIM --

A. HOLD ON ONE SECOND. I DON'T KNOW WHO THAT IS.

Q. I SUBMIT IT IS JAMES CONWAY. I DON'T KNOW IF YOU GUYS HAVE ANY INFORMATION TO ADD TO THAT, BUT IT SAYS MALE, RIGHT?

A. IT COULD BE ANY OF THEM.

Q. IT WAS SOMEBODY RELATED TO THIS INVESTIGATION?

A. YES.

Q. DEFINITELY NOT JAMIE BECAUSE YOU WOULDN'T SAY TO JAMIE, TELL JAMIE TO QUIT BEING A BITCH, RIGHT? "THAT FUCKIN JIMMY ACTING LIKE A BITCH," YOU WOULDN'T SAY THAT TO JAMIE, WOULD YOU?

A. NO.

Q. IT IS DEFINITELY NOT JAMIE, BUT YOU ARE NOT SURE WHO IT IS?

A. I MEAN, IT COULD HAVE BEEN ONE CONVERSATION AND ANOTHER CONVERSATION. IT COULD HAVE BEEN A CONVERSATION WITH SOMEBODY RIGHT HERE AND A CONVERSATION WITH JAMIE RIGHT HERE.

Q. IT SHOWS RESPONSES AND YOU RESPONDING TO THAT AND SHOWS IT IS ONE CONVERSATION RIGHT HERE, DOES IT NOT?

A. ON THERE IT SAYS, FEMALE. THE SAME WAY, IT DOESN'T STOP.

Q. WHO DID YOU CONTACT THROUGH FEMALES, IF EVER DURING THIS CONVERSATION? WASN'T IT JIMMY CONWAY THROUGH A GIRLFRIEND?

A. JIMMY CONWAY AND JAMIE.

Q. DO YOU HAVE ANY DOUBT IN YOUR MIND WHETHER OR NOT THIS IS JAMIE YOU ARE TALKING TO AT THIS POINT IN THE CONVERSATION RIGHT AFTER --

A. I DON'T KNOW WHO IT IS.

Q. LET'S KEEP GOING THEN. MAYBE YOU WILL FIGURE IT OUT.

THE COURT: MR. MCGOWAN, YOU HAVE ABOUT ONE MINUTE.

Q. (BY MR. MCGOWAN) ISN'T IT TRUE THAT YOU ALSO SAY, TELL HIM I AM NOT DOING NOTHING TONIGHT. YOU KNOW WHAT I'M SAYING. I WANT HIM TO GO DOWN THERE AND SHOW ME WHO THE -- I NEED TO TAKE -- YEAH, I KNOW I WILL TELL HIM. THAT'S THE ANSWER YOU GET BACK?

A. I THINK I AM NOT SURE. I THINK THAT WAS ME AND JAMIE RIGHT THERE TALKING ABOUT SHAWN.

Q. ISN'T IT TRUE THAT THIS COMES RIGHT AFTER YOU SAY JIMMY IS ACTING LIKE A BITCH? I'M TRYING TO SPEED THIS UP,

BUT YOU ARE OBVIOUSLY TRYING -- NOT TRYING TO -- DO YOU REALLY HAVE A LEGITIMATE REASON TO THINK THAT'S NOT JIMMY CONWAY?

A. I'M TRYING TO ANSWER YOUR QUESTION. I DON'T KNOW WHO THAT IS.

Q. WHY IN THE WORLD WOULD YOU EVER TELL JAMIE THAT JIMMY WAS ACTING LIKE A BITCH?

A. I'M NOT SAYING I DID. I'M SAYING THAT COULD BE A DIFFERENT CONVERSATION.

Q. IT IS A MALE AS INDICATED BY THIS TRANSCRIPT?

A. THAT'S TRUE.

Q. YOU ALSO SAY IT IS JUST GETTING -- DOG, I'M NOT JUST LIKE FUCKIN HOOPS AND JUMPING PEOPLE'S -- SOME BULLSHIT, RIGHT?

A. YEAH.

Q. FARTHER DOWN YOU SAY, TELL HIM -- TELL HIM QUIT BEING A FUCKIN PUSSY, GOD DAMN IT, DO YOU NOT?

A. YEAH.

Q. AND YOU ALSO SAY -- THERE'S SOME BLANKS IN HERE, BLANK, MAN. I MEAN, IT'S FUCKIN BLANK, FUCKIN SCARED. IT IS LIKE HE IS READY TO PISS HIMSELF WHEN I TALK TO HIM, BLANK, DOG, RIGHT?

A. YEAH.

Q. AND YOU ALSO SAY, NO, HE IS FUCKIN SPOOKED SO LOOK, MAN, JUST TELL HIM WE WILL GO DOWN THERE AND WE WILL

BE COMING BACK.

A. RIGHT.

Q. WHAT DO YOU MEAN BY TELL HIM WE WILL BE COMING BACK?

A. I BELIEVE I TOLD JAMIE ABOUT SHAWN BECAUSE HE SAID SHAWN DIDN'T WANT TO MEET WITH HIM BECAUSE HE THOUGHT I WAS GOING TO KILL HIM.

Q. YOU ARE MAINTAINING THIS IS A CONVERSATION WITH JAMIE?

A. I THINK BECAUSE WE HAD THAT CONVERSATION.

Q. SET UP THROUGH A FEMALE JUST PRIOR TO THAT AND RIGHT AFTER YOU SAID JAMIE IS ACTING LIKE A BITCH?

A. TRUE.

Q. YOU ALSO SAY, TELL HIM QUIT BEING A BITCH, MAN, GOD DAMN IT, I THOUGHT HE WAS A GANGSTER?

A. TRUE.

Q. AND RIGHT AFTER THAT LITTLE EXCHANGE ENDS, THERE IS A CONVERSATION THAT SAYS, CI, JAMIE, CI, JAMIE.

A. OKAY.

MR. MCGOWAN: NOTHING FURTHER, YOUR HONOR.

THE COURT: DOES THAT CONCLUDE YOUR QUESTIONS?

MS. PRICHARD: YES.

THE COURT: THANK YOU. YOU MAY STEP DOWN.

- - -

THEREUPON, THE HEARING OF THIS CAUSE WAS ADJOURNED UNTIL MONDAY, 9:00 O'CLOCK, APRIL 7, 2003.

- - -

- - -

RONNIE TRENT

CALLED AS A WITNESS ON BEHALF OF THE PLAINTIFF, STATE OF OHIO, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. PRICHARD:

Q. PLEASE, STATE YOUR NAME FOR THE JURY.

A. RONNIE TRENT.

Q. MR. TRENT, HOW OLD ARE YOU?

A. THIRTY.

Q. MR. TRENT, YOU HAVE A CRIMINAL RECORD, CORRECT?

A. YES, MA'AM.

Q. BACK IN 1991, WERE YOU CHARGED WITH SOME AGGRAVATED BURGLARIES?

A. YES, MA'AM.

Q. DID YOU DO SORT OF A PACKAGE DEAL AND DO SOME TIME ON THOSE CASES?

A. YES, I TOOK A PLEA BARGAIN.

Q. YOU WENT TO PRISON FOR THAT?

A. YEAH, I DID TEN YEARS.

Q. IN 1999, DID YOU HAVE TWO OTHER CASES THAT WERE PACKAGED UP TOGETHER?

A. YEAH, RECEIVING STOLEN PROPERTY AND I DON'T EXACTLY REMEMBER THE OTHER ONE, BUT IT WAS A VIOLATION OR SOMETHING.

EXHIBIT 38

Q. DID YOU DO SOME TIME FOR THAT?

A. YES, MA'AM.

Q. DO YOU KNOW HOW MUCH TIME?

A. THIRTEEN MONTHS.

Q. KEEP YOUR VOICE UP. YOU MIGHT WANT TO GET CLOSER TO THAT MIKE.

A. THIRTEEN MONTHS.

Q. WERE YOU IN JAIL BACK IN FEBRUARY, '02?

A. YES, MA'AM.

Q. WHAT WERE YOU IN JAIL FOR?

A. I BELIEVE THAT WAS GSI, I THINK.

Q. GROSS SEXUAL IMPOSITION CHARGE?

A. YES, MA'AM.

Q. WERE THERE TWO COUNTS?

A. YEAH.

Q. AND THAT WAS A FELONY?

A. YEAH.

Q. WERE YOU ON PAROLE AT THE TIME?

A. YES, MA'AM.

Q. HOW LONG WERE YOU IN JAIL AWAITING TRIAL ON THAT CHARGE?

A. ALTOGETHER?

Q. YES.

A. I DID, LIKE, ALMOST 18 MONTHS.

Q. AND THE CHARGE ITSELF, DO YOU KNOW WHAT THAT

WOULD HAVE CARRIED IF CONVICTED?

A. I WAS OFFERED 18 MONTHS TO PLEAD OUT TO IT.

Q. DID YOU END UP MAKING A PLEA BARGAIN WITH MY OFFICE?

A. YES, MA'AM.

Q. DID YOU DISCUSS THAT WITH YOUR ATTORNEY?

A. YES, HE ADVISED ME TO DO IT. I WANTED TO TAKE IT TO TRIAL BUT SHE ADVISED ME TO DO IT, TO JUST GET IT OVER WITH BECAUSE I ALREADY HAD 18 MONTHS DONE.

Q. SO YOU ENGAGED IN A PLEA BARGAIN PROCESS. WHAT WERE YOU REQUIRED TO DO FOR THE STATE OF OHIO?

A. I WAS REQUIRED TO GATHER EVIDENCE AND TESTIFY IN A CASE AGAINST CONWAY, JAMIE HORTON, SHAWN NIGHTINGALE AND ANY PARTIES THAT MIGHT BE INVOLVED.

Q. HOW IS IT THAT YOU GAINED SOME INFORMATION ABOUT THOSE INDIVIDUALS?

A. IT STARTED ORIGINALLY THROUGH JIMMY CONWAY ON AN UNRELATED INCIDENT.

Q. WERE YOU IN JAIL WITH MR. CONWAY?

A. YES, MA'AM.

Q. BACK IN FEBRUARY?

A. I THINK IT WAS FEBRUARY. I'M NOT EXACTLY SURE OF THE DATES BUT, YEAH.

Q. YOU HAD GLEANED SOME INFORMATION FROM MR. CONWAY TO CONVEY TO AUTHORITIES?

A. YES.

Q. DO YOU REMEMBER WHEN YOU FIRST TRIED TO CONVEY THAT YOU HAD INFORMATION TO SOMEBODY?

A. I DON'T REMEMBER EXACTLY, BUT I WENT TO MY LAWYER WITH IT FIRST.

Q. THEN EVENTUALLY DID YOU WRITE LETTERS TO ME?

A. YEAH, I WROTE YOU A LETTER.

Q. WE EVENTUALLY MET?

A. CORRECT.

Q. APRIL, 2002, SOUND ACCURATE WHEN WE MET?

A. YEAH.

Q. WHEN WE MET, WAS THERE ANY DEAL MADE BACK IN APRIL, '02?

A. NO.

Q. DID YOU PROVIDE INFORMATION ANYWAY?

A. YEAH.

Q. DID YOU MAKE ANY AGREEMENT TO VOLUNTARILY WORK WITH THE SHERIFF'S OFFICE AT THAT TIME?

A. YEAH.

Q. WHAT DID YOU AGREE TO DO?

A. I AGREED TO WEAR WIRES, SURVEILLANCE TAPES, WHATEVER IT TOOK, BASICALLY, TO GET THE GUYS THAT KILLED THESE KIDS.

Q. HAD YOU BEEN IN JAIL WITH MR. CONWAY?

A. YES, MA'AM.

Q. WERE YOU IN THE SAME CELL?

A. NOT THE SAME CELL, BUT THE SAME LOCATION WHERE THE CELLS ARE AT, YEAH.

Q. DID YOU HAVE AN OPPORTUNITY TO TALK WITH HIM IN JAIL?

A. EVERY DAY, YEAH.

Q. YOU WERE NOT LOCKED IN THE CELL -- SEPARATE CELLS ALL DAY?

A. NO, IT IS LIKE BEING KIND OF IN A ROOM AND YOU COME OUT OF YOUR ROOM AND THEY HAVE GOT, LIKE, A -- SORT OF LIKE A BIG LIVING AREA, AND YOU COME OUT THERE AND WATCH TV, PLAY CARDS, USE THE PHONE.

Q. SO THERE IS AN OPPORTUNITY TO TALK PRIVATELY?

A. YEAH.

Q. HOW IS IT THAT YOU AND MR. CONWAY BECAME ACQUAINTED?

A. HE POINTED OUT THE FACT THAT HE AND I WERE COUSINS.

Q. ARE YOU, IN FACT, COUSINS?

A. YEAH.

Q. DID YOU DEVELOP A RELATIONSHIP OF TRUST?

A. YEAH.

Q. DID HE START TALKING TO YOU ABOUT THINGS IMMEDIATELY OR AFTER HE REALIZED YOU WERE COUSINS?

A. IT WAS AFTER HE REALIZED WE WERE COUSINS.

Q. DID HE SPEAK PRETTY FREELY WITH YOU?

A. YES.

Q. THAT'S THE INFORMATION YOU TOOK TO THE POLICE?

A. CORRECT.

Q. LET'S GO BACK TO WHAT YOU AGREED TO DO WITH THE SHERIFF'S OFFICE. YOU AGREED TO WEAR A WIRE NOT WHILE YOU WERE IN JAIL, CORRECT?

A. CORRECT.

Q. WHAT WAS THE ARRANGEMENT?

A. THE ARRANGEMENT WAS I WAS PLACED IN A -- THEY SAID I HAVE TO MAKE IT LOOK LIKE IT WAS WORK RELEASE PROGRAM.

Q. EXPLAIN TO THE JURY WHAT WORK RELEASE IS?

A. WORK RELEASE IS LIKE WHERE YOU ARE HOUSED IN A LOCKUP FACILITY BUT YOU LEAVE BETWEEN EIGHT AND TWELVE HOURS A DAY TO GO TO WORK AND COME BACK.

Q. SO IT WAS ARRANGED THAT YOU WOULD DO A WORK RELEASE PROGRAM

A. RIGHT, AND I WAS WITH THE DETECTIVES ACTUALLY FOR THOSE HOURS THROUGHOUT THE DAY, WORKING ON THESE CASES.

Q. YOU WERE MOVED OUT OF THE CELL AREA WITH MR. CONWAY?

A. CORRECT.

Q. WHAT HOURS APPROXIMATELY WOULD YOU WORK WITH THE DETECTIVES?

A. TWO TO MIDNIGHT.

Q. AT TWO O'CLOCK WHEN YOU LEFT THE FACILITY, THE DETECTIVES WERE THERE TO GET YOU?

A. CORRECT.

Q. YOU STAYED WITH THEM THE ENTIRE TIME?

A. CORRECT.

Q. AND THEY WOULD BRING YOU BACK?

A. CORRECT.

Q. ABOUT HOW LONG DID THAT ARRANGEMENT LAST, IF YOU CAN RECALL?

A. I THINK IT WAS PROBABLY THREE MONTHS, I BELIEVE.

Q. LET ME TAKE IT A STEP BACK. WHEN YOU WERE IN JAIL, YOU SAID YOU HAVE THESE LIVING AREAS AND THERE IS AN ABILITY TO USE THE PHONE?

A. YES, MA'AM.

Q. IS THAT A FREE USE OF THE PHONE PRETTY MUCH?

A. YOU HAVE FREE USE BUT YOU HAVE TO CALL COLLECT. YOU CAN'T JUST PICK UP THE PHONE AND DIAL OUT.

Q. CAN THREE-WAY CALLS BE ARRANGED?

A. YES.

Q. WHY DID YOU DECIDE TO COME FORWARD WITH THIS INFORMATION TO THE POLICE?

A. BECAUSE JIMMY CONWAY LAUGHED IN ANDREW DOTSON'S MOTHER'S FACE WHEN SHE CAME TO VISIT HIM.

Q. MR. CONWAY TOLD YOU ABOUT THE VISIT?

A. YES.

Q. THAT'S WHAT BOTHERED YOU?

A. YES.

Q. LET ME SHOW YOU STATE'S EXHIBIT F-1. DO YOU RECOGNIZE THAT?

A. YEAH.

Q. WHAT IS THAT?

A. IT IS A DEFENDANT'S AGREEMENT.

Q. THAT'S THE AGREEMENT YOU MADE WITH THE STATE?

A. CORRECT.

Q. WHAT DID YOU GET OUT OF THAT AGREEMENT?

A. BASICALLY MY PAROLE DIDN'T GET VIOLATED.

Q. DID YOUR CHARGE GET REDUCED?

A. YEAH.

Q. TO WHAT?

A. IT WAS REDUCED TO SIMPLE ASSAULT, I THINK IT WAS.

Q. A MISDEMEANOR OF THE FIRST DEGREE?

A. CORRECT.

Q. WHAT DATE WAS THAT AGREEMENT MADE?

A. JUNE 11, '02.

Q. IS THAT AFTER YOU DID THIS WORK RELEASE FOR THE DETECTIVES?

A. YEAH, IT WAS WHEN EVERYTHING WAS DONE.

Q. I WILL SHOW YOU STATE'S EXHIBIT F-2. DO YOU RECOGNIZE THAT?

A. YEAH, IT IS A LETTER OF CONSENT FROM THE ALLEGED VICTIM IN MY CASE.

Q. CONSENTING TO THE DEAL THAT YOU GOT?

A. CORRECT.

Q. AND THE AGREEMENT WITH RESPECT TO YOUR PAROLE WAS THE AGREEMENT THAT WE ASKED THAT YOUR PAROLE NOT BE REVOKED FOR PLEADING GUILTY TO A MISDEMEANOR?

A. CORRECT.

Q. WAS THAT SOMETHING THE PROSECUTOR'S OFFICE HAD CONTROL OVER OR A RECOMMENDATION?

A. IT WAS JUST A RECOMMENDATION.

Q. DID THE PAROLE BOARD REVOKE YOU?

A. NO.

Q. YOU ARE STILL CURRENTLY ON PAROLE?

A. IT WAS EXTENDED FOR A YEAR.

Q. WHAT HAPPENS IF YOU DON'T FULFILL YOUR AGREEMENT AND TESTIFY AGAINST EVERYBODY?

A. IT IF DON'T TESTIFY?

Q. YES.

A. BASICALLY, EVERYTHING IS JUST LIKE VOID AND NULL, AND I GO BACK TO THE WHOLE PROCESS AGAIN AND MY PAROLE WOULD BE VIOLATED AS PART OFT HAT, OF NOT UPHOLDING MY AGREEMENT, AND I WILL PROBABLY GO TO THE PENITENTIARY.

Q. YOU START IN YOUR ORIGINAL POSITION WITH THE ORIGINAL CHARGES AND EVERYTHING?

A. CORRECT.

Q. IN THE PAST, DID YOU SEND A FALSE AFFIDAVIT TO THE COURT?

A. YEAH, AN UNRELATED CASE, YEAH.

Q. IT HAD NOTHING TO DO WITH ANY OF THIS CASE?

A. NO.

Q. HOW OLD WAS THE CASE YOU SUBMITTED AN AFFIDAVIT ON?

A. TWELVE YEARS.

Q. IT HAD NOTHING TO DO WITH THIS?

A. NO.

Q. WHEN YOU WERE IN JAIL -- FIRST OF ALL, WHAT WAS THE ARRANGEMENT OR WHAT WERE YOU SUPPOSED TO DO FOR JIMMY CONWAY?

A. I WAS SUPPOSED TO KILL WITNESSES.

Q. HOW WERE YOU SUPPOSED TO ACCOMPLISH THAT?

A. BY GETTING IN CONTACT WITH JAMIE HORTON.

Q. YOU ARE NODDING OVER TOWARDS YOUR LEFT?

A. TOWARDS JAMIE HORTON.

Q. WOULD YOU PLEASE, IDENTIFY WHAT POSITION HE IS SEATED AT TO YOUR LEFT FOR THE RECORD?

A. HE IS IN THE CENTER OF THE THREE GENTLEMEN TO MY LEFT.

MS. PRICHARD: I WOULD ASK THE RECORD TO REFLECT HE HAS IDENTIFIED THE DEFENDANT.

THE COURT: IT WILL.

Q. (BY MS. PRICHARD) YOU WERE SUPPOSED TO GET IN CONTACT WITH HIM?

A. YES.

Q. DID MR. CONWAY BELIEVE THAT YOU WERE GOING TO BE GETTING OUT OF JAIL IN ORDER TO DO THAT?

A. YEAH.

Q. IS THAT SOMETHING YOU MADE HIM BELIEVE?

A. YEAH.

Q. WAS ANY PAYMENT OR ANY SORT OF CONSIDERATION GIVEN TO YOU WHILE YOU WERE IN JAIL TO KIND OF START THE JOB?

A. YEAH, JAMIE HORTON BROUGHT TWO THOUSAND DOLLARS OUT AND PLACED IT ON MY BOOKS, AND JEFF CONWAY BROUGHT THREE THOUSAND DOLLARS DOWN AND PLACED IT ON MY BOOKS.

Q. YOU MEAN ON YOUR BOOKS, YOU MEAN IN THE JAIL WHERE YOU ACTUALLY HAVE AN ACCOUNT?

A. YEAH.

Q. SO THERE WAS FIVE THOUSAND DOLLARS IN YOUR ACCOUNT AT THE JAIL?

A. CORRECT.

Q. THAT WAS VERIFIED BY DETECTIVES?

A. CORRECT.

Q. DO YOU REMEMBER ABOUT WHAT MONTH THAT WAS?

A. NO, I DON'T.

Q. WOULD IT HAVE BEEN BEFORE THIS WORK RELEASE AND BEFORE YOU STARTED WORKING?

A. YEAH.

Q. WAS IT BEFORE YOU ACTUALLY MET WITH ME?

A. YEAH.

Q. WHEN WORK RELEASE WAS SET UP, DID YOU, IN FACT MAKE CONTACT WITH JAMIE HORTON?

A. YEAH, I DID.

Q. HOW DID YOU DO THAT?

A. THROUGH THE TELEPHONE.

Q. WERE YOU GIVEN A NUMBER OR DID HE INITIATE A CALL; HOW DID THAT WORK?

A. NO, JIMMY CONWAY GAVE ME HIS NUMBER AND TOLD ME TO SEE HIM WHEN I GOT OUT AND HE WOULD HAVE EVERYTHING I NEEDED.

Q. WHEN YOU GOT OUT OF JAIL AND YOU CALLED HIM -- FIRST OF ALL, DID YOU HAVE A NICKNAME OR A CODE OR SOMETHING YOU USED?

A. YEAH, TONY.

Q. TONY WAS THE NAME?

A. YEAH.

Q. WHEN YOU CONTACTED HIM, DID YOU NEED TO EXPLAIN WHO YOU WERE?

A. NO.

Q. HE SEEMED TO KNOW WHO YOU WERE AND WHAT YOU WERE

CALLING HIM FOR?

A. YEAH.

Q. LET'S JUST DISCUSS THE BASICS OF WHEN YOU WERE OUT MAKING THESE PHONE CALLS.

YOU GOT OUT FOR WORK RELEASE AND THE DETECTIVES PICKED YOU UP?

A. CORRECT.

Q. DID THEY TAKE ANY SAFETY MEASURES OR ANYTHING WITH YOU?

A. AS FAR AS WHAT?

Q. DID THEY CHECK YOU, PAT YOU DOWN OR ANYTHING LIKE THAT?

A. YEAH. I MEAN, I WAS STRIP SEARCHED BEFORE AND AFTER EVERY MEETING WITH ANY OF THEM.

Q. THEY WERE MAKING SURE THERE WAS NOTHING ON YOU?

A. CORRECT.

Q. WOULD THEY GIVE YOU SOME SORT OF SURVEILLANCE WIRES OR SOMETHING TO WEAR?

A. YEAH, IT IS CALLED A BODY MIKE. THEY ARE LIKE WIRES THAT YOU WEAR AROUND YOUR BODY TO RECORD A CONVERSATION BETWEEN YOU AND ANOTHER PERSON.

Q. YOU WOULD WEAR THESE BODY WIRES?

A. CORRECT.

Q. WHERE WERE THEY POSITIONED, UNDER YOUR CLOTHES?

A. YEAH, I GUESS TAPED AGAINST -- I MEAN, ONE OF

THEM WOULD BE TAPED LIKE TO YOUR BELT BUT, BASICALLY, THEY WAS TAPED TO YOUR SKIN.

Q. SO YOU COULD MOVE THEM AROUND TO HIDE THEM ON VARIOUS AREAS OF YOUR BODY?

A. RIGHT.

Q. WERE THERE ANY OTHER SORT OF RECORDING DEVICES THAT YOU USED?

A. YEAH, A PHONE RECORDING THAT, LIKE, RECORDED PHONE CONVERSATIONS.

Q. WOULD THIS BE A CELL PHONE?

A. YEAH, THERE WAS A POCKET RECORDER THAT YOU PUT IN YOUR POCKET TO RECORD CONVERSATIONS, FITS IN A CIGARETTE PACK.

Q. SO YOU USED VARIOUS RECORDING DEVICES?

A. CORRECT.

Q. WERE YOU ALWAYS WEARING SOME SORT OF A WIRE AND UNDER SURVEILLANCE WHEN YOU WERE DOING THIS WORK?

A. YES.

Q. ALL OF THESE CONVERSATIONS WERE TAPE RECORDED?

A. YEAH.

Q. HAVE YOU, IN FACT, SEEN A BUNCH OF TRANSCRIPTS AND TAPES?

A. YEAH.

Q. I ASSUME YOU PROBABLY HAVEN'T LISTENED TO THOSE TAPES IN A LONG TIME?

A. NO, I HAVEN'T.

Q. HOW MANY TAPES WOULD YOU SAY THERE ARE?

A. I GUESS, I WOULD SAY 50.

Q. DESCRIBE FOR THE JURY THIS INITIAL CONTACT YOU HAD WITH THE DEFENDANT, JAMIE HORTON?

A. I WAS TAKEN OUT OF JAIL BY THE DETECTIVES. I CALLED A NUMBER, JAMIE HORTON'S CELL PHONE THAT I GOT FROM JAMES CONWAY, AND TOLD HIM WHO I WAS. AND HE SAID, YEAH, YEAH, I KNOW WHO YOU ARE, I GOT YOU. I SAID, I AM SUPPOSED TO PICK UP A NINE PACK, WHICH IS NINE OUNCES OF COCAINE AS PAYMENT TO KILL ONE OF THE WITNESSES. AND HE SAID, OKAY, I HAVE GOT YOU, LET'S MEET. AND HE ASKED ME TO MEET HIM AT, I BELIEVE, MCDONALD'S WAS THE FIRST PLACE THAT WE MET. I MET HIM AT MCDONALD'S AND THE DETECTIVES STRIP SEARCHED ME AND STRIP SEARCHED MY CAR, AND WE WENT AND MET HIM. I WAS UNDER SURVEILLANCE THE WHOLE TIME AND THE BODY MIKE IS ON. I PICKED UP THE COCAINE AND A PISTOL, WHICH WAS FULLY LOADED, AND WE LEFT.

Q. LET'S BACK UP. THIS IS THE MONTH OF MAY?

A. YEAH.

Q. YOU CALLED HIM, AND DURING YOUR VERY FIRST MEETING, YOU SAID HE GAVE YOU COCAINE?

A. YEAH.

Q. THAT WAS PAYMENT?

A. YEAH.

Q. WAS THERE ANY DISCUSSION AS TO VALUE OR WORTH OR WHAT THAT WOULD BE WORTH TO YOU?

A. THERE WAS SOME DISCUSSION. I DON'T REMEMBER WORD FOR WORD, BUT STREET VALUE ON NINE OUNCES OF SOFT COCAINE IS ANYWHERE BETWEEN, PROBABLY EIGHT AND TWELVE THOUSAND.

Q. EIGHT AND TWELVE THOUSAND DOLLARS?

A. YES.

Q. WHEN YOU MET WITH MR. HORTON AND THIS WAS DELIVERED, WAS HE ALONE?

A. YEAH.

Q. WHO SET UP THE MEETING PLACE?

A. JAMIE HORTON.

MR. MCGOWAN: OBJECTION, YOUR HONOR.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) MR. HORTON SET THE MEETING PLACE?

A. CORRECT.

Q. WERE YOU EVEN FAMILIAR WITH THE AREA WHERE HE ASKED YOU TO MEET?

A. NO, ACTUALLY I GOT LOST ON THE WAY THERE. I GOT LOST.

Q. WHAT WOULD HAPPEN -- FIRST OF ALL, YOU SAID YOU WERE UNDER SURVEILLANCE THE WHOLE TIME?

A. CORRECT.

Q. WERE THERE ACTUAL DETECTIVES WATCHING AND

FOLLOWING YOU?

A. YEAH, THERE WAS, I BELIEVE, SEVEN CARS, SEVEN VEHICLES.

Q. IF YOU TOOK A WRONG TURN OR DID SOMETHING UNUSUAL, WHAT WOULD THE DETECTIVES DO?

A. THEY WAS GETTING READY TO RUN ME OFF THE ROAD.

MR. MCGOWAN: OBJECTION, YOUR HONOR.

THE COURT: SUSTAINED.

Q. (BY MS. PRICHARD) YOU WERE JUST UNDER CONSTANT SURVEILLANCE BY THE DETECTIVES?

A. CORRECT.

Q. WHEN YOU MET UP WITH MR. HORTON, DID YOU HAVE ANYONE WITH YOU?

A. NO. IN MY CAR?

Q. YES.

A. NO.

Q. WAS THERE ANYBODY VISIBLE NEAR YOU?

A. NO.

Q. WERE THE DETECTIVES STAYING BACK UNDER COVER?

A. YEAH.

Q. THEY HAD A RECORDING DEVICE?

A. CORRECT.

Q. YOU SAID HE GAVE YOU A PISTOL. IS THAT IN THE SAME MEETING?

MR. MCGOWAN: OBJECTION, YOUR HONOR.

THE COURT: OVERRULED.

THE WITNESS: I BELIEVE IT WAS, YEAH. I THINK IT WAS A GLOCK 40.

Q. (BY MS. PRICHARD) LOADED OR UNLOADED?

A. LOADED.

Q. WHAT WAS THAT TO BE USED FOR?

MR. MCGOWAN: OBJECTION, YOUR HONOR.

THE COURT: OVERRULED.

THE WITNESS: THAT WAS ORIGINALLY USED FOR BRIAN, TO KILL BRIAN MCWHORTER.

Q. (BY MS. PRICHARD) WAS THERE A PLAN TO KILL SOMEBODY BY THE NAME OF MIKE ARTHURS?

MR. MCGOWAN: OBJECTION, YOUR HONOR.

THE WITNESS: YES.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) WHY WAS MIKE ARTHURS TO BE KILLED?

MR. MCGOWAN: OBJECTION.

THE COURT: OVERRULED.

THE WITNESS: BECAUSE THEY THOUGHT THAT HE WOULD TELL ABOUT A ROBBERY IN CHILLICOTHE.

Q. (BY MS. PRICHARD) WHO ARE THEY?

A. JAMES CONWAY, JAMIE HORTON AND SHAWN NIGHTINGALE.

Q. AND YOU HAD CONTACT WITH SOMEBODY NAMED SHAWN NIGHTINGALE WHILE YOU WERE OUT ON WORK RELEASE?

A. CORRECT.

Q. AND WHY WERE YOU HAVING CONTACT WITH SHAWN NIGHTINGALE?

A. BECAUSE AT FIRST, THEY WANTED HIM KILLED AS WELL.

Q. LET'S TRY TO KIND OF EXPLAIN THIS AND BREAK THIS DOWN A LITTLE MORE FOR THE JURY.

MIKE ARTHURS WAS SUPPOSED TO BE KILLED?

MR. MCGOWAN: OBJECTION.

THE WITNESS: CORRECT.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) WHAT CONVERSATION WITH THE DEFENDANT DID YOU HAVE WITH RESPECT TO THAT?

MR. MCGOWAN: OBJECTION.

THE COURT: OVERRULED.

THE WITNESS: I BELIEVE IT WENT THAT I WAS TALKING TO HIM ABOUT WHAT WITNESSES THERE WAS THAT THEY WANTED ME TO KILL, AND HE SAID FOR SURE THE GUYS FROM CHILLICOTHE ON THE ROBBERY. I ASKED HIM ABOUT SHAWN NIGHTINGALE, AND HE SAID HE DIDN'T KNOW. AND MIKE ARTHURS, AND HE SAID, YEAH.

Q. SO THERE HADN'T BEEN QUITE A DECISION ABOUT SHAWN NIGHTINGALE?

A. CORRECT. WELL, JIMMY CONWAY WANTED ME TO, AND JAMIE HORTON SAID HE WASN'T SURE BECAUSE HE DIDN'T THINK SHAWN WOULD TELL.

Q. WHAT WAS THE CONCERN WITH SHAWN NIGHTINGALE ABOUT?

A. HONESTLY, I BELIEVE IT WAS THE MURDER AND ROBBERY BUT I DON'T HONESTLY KNOW.

Q. WERE THERE ANY STEPS TAKEN TO FURTHER THE PLAN TO KILL MIKE ARTHURS?

A. YEAH.

MR. MCGOWAN: OBJECTION.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) WHAT HAPPENED?

A. JAMIE HORTON RENTED A VAN AND WE DROVE TO CHILLICOTHE. I BELIEVE THE NAME OF THE STREET HE LIVED ON WAS YELLOWBUD, MIKE ARTHURS.

Q. IS THIS A DIFFERENT MEETING THAN YOUR FIRST MEETING WITH MR. HORTON?

A. YEAH, THIS WAS A COUPLE OF MEETINGS LATER, ACTUALLY.

Q. ABOUT HOW MANY MEETINGS TOTAL DID YOU HAVE WITH THE DEFENDANT?

A. I DON'T KNOW, I GUESS BETWEEN SIX AND TEN.

Q. SO THIS IS A FEW MEETINGS AFTER THE FIRST ONE?

A. CORRECT.

Q. THE DEFENDANT RENTED A VAN?

A. CORRECT.

Q. DID HE TELL YOU WHY HE RENTED A VAN?

A. YEAH, BECAUSE --

MR. MCGOWAN: OBJECTION.

THE COURT: OVERRULED.

THE WITNESS: HE DIDN'T WANT ANYBODY TO KNOW WHAT HE WAS DRIVING AND WHAT I WAS DRIVING.

Q. (BY MS. PRICHARD) DID YOU MEET SOMEWHERE IN THIS VAN?

A. YEAH, WE MET AT CENTRAL POINT.

Q. WHO SET THAT UP AS A MEETING PLACE?

MR. MCGOWAN: OBJECTION.

THE COURT: OVERRULED.

THE WITNESS: JAMIE HORTON.

Q. WERE YOU UNDER SURVEILLANCE AT THAT TIME?

A. YEAH.

Q. WEARING A WIRE?

A. YEAH.

Q. WHEN YOU MET, WHO HOPPED IN WHAT CAR?

A. I GOT IN THE VAN.

Q. DID YOU DRIVE OR DID HE DRIVE?

A. I DROVE.

Q. DID YOU HAVE ANY WEAPONS OR ANYTHING ON YOU AT THAT TIME?

A. NO.

Q. HAD YOU BEEN PATTED DOWN BY DETECTIVES?

A. YES.

Q. THE TWO OF YOU DROVE DOWN TO CHILLICOTHE?

A. CORRECT.

Q. ANYBODY ELSE WITH YOU?

A. NO.

Q. WERE DETECTIVES FOLLOWING YOU?

A. CORRECT.

Q. WHEN YOU WENT TO CHILLICOTHE, WHERE DID YOU GO?

A. WE WENT TO MIKE ARTHURS' -- I THINK IT IS HIS PARENTS' HOUSE OR RESIDENCE ON YELLOWBUD.

Q. YELLOWBUD, THAT IS A ROAD?

A. YEAH. THEN WE WENT BY A COUPLE OF LOCATIONS WHERE THE WITNESSES FROM THE ROBBERY DOWN THERE WERE SUPPOSED TO BE AT THAT THEY WANTED KILLED DOWN THERE.

MR. MCGOWAN: OBJECTION AND MOVE TO STRIKE.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) YOU JUST DROVE BY THESE LOCATIONS?

A. CORRECT.

Q. HAD YOU EVER BEEN DOWN THERE BEFORE?

A. NO, I HAVE NEVER BEEN THERE IN MY LIFE.

Q. WHO PROVIDED THE DIRECTIONS OF WHERE TO GO AND HOW TO GET THERE?

A. JAMIE WAS WITH ME.

Q. AFTER YOU DROVE BY THESE HOMES OF WITNESSES, WHAT DID YOU DO?

A. WENT TO SHAWN NIGHTINGALE'S HOUSE.

Q. WHERE DID SHAWN NIGHTINGALE LIVE, IF YOU RECALL?

A. I DON'T REMEMBER THE ROAD EXACTLY. IT IS LIKE OFF OF A COUNTRY ROAD.

Q. IT IS DOWN THERE IN CHILLICOTHE?

A. YEAH.

Q. DID YOU VISIT SHAWN NIGHTINGALE?

A. YEAH.

Q. WHAT WAS THAT MEETING ABOUT? WHAT DID THE DEFENDANT SAY YOU WERE GOING TO SHAWN NIGHTINGALE'S FOR?

A. SHAWN NIGHTINGALE WAS SUPPOSED TO -- HE WAS SUPPOSED TO KNOW WHERE MARCUS AND ALEX, WHICH ARE THE TWO WITNESSES FROM THE ROBBERY IN CHILLICOTHE, HE WAS SUPPOSED TO KNOW WHERE THEY PHYSICALLY WERE SO I COULD GO AND KILL THEM FOR THESE GUYS.

MR. MCGOWAN: OBJECTION, MOVE TO STRIKE.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) SO SHAWN WAS PROVIDING INFORMATION AS PART OF THIS PLAN THAT CONWAY HAD ORCHESTRATED?

A. CORRECT.

Q. DID ANYTHING HAPPEN DOWN THERE? ANY ACTUAL ACTS TAKE PLACE DOWN IN CHILLICOTHE?

A. NO.

Q. WHO DID YOU DRIVE BACK WITH?

A. JAMIE HORTON.

Q. JUST THE TWO OF YOU?

A. CORRECT.

Q. THAT CAME BACK THE SAME DAY?

A. CORRECT.

Q. WHERE DID YOU GO?

A. WENT BACK TO MY CAR. HE STOPPED BY HIS FATHER'S HOUSE TO PICK UP SOME WEED, AND THEN WENT BACK TO MY CAR.

MR. MCGOWAN: OBJECTION, MOVE TO STRIKE.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) HOW DID YOU KNOW WHO WAS AT HIS FATHER'S HOUSE?

A. HE SAID IT WAS HIS PARENTS' HOUSE.

Q. DID YOU KNOW WHERE HE LIVED BEFORE THAT?

A. NO.

Q. DID HE GIVE YOU THE DIRECTIONS ON HOW TO GET THERE AND WHERE TO STOP?

A. WHEN WE WAS DRIVING?

Q. YES.

A. YES.

Q. THIS IS ON THE WAY BACK FROM CHILLICOTHE?

A. YEAH.

Q. AFTER HE STOPPED AT HIS PARENTS' HOUSE, I BELIEVE YOU SAID --

A. YEAH.

Q. -- WHAT HAPPENED THEN?

A. NOTHING. WE WENT TO MY CAR AND I GOT IN MY CAR AND LEFT.

Q. THAT WAS THE END OF THE CONTACT THAT DAY?

A. CORRECT.

Q. HOW MANY OTHER MEETINGS DO YOU BELIEVE TOOK PLACE AFTER THAT?

A. I'M NOT SURE, THREE OR FOUR, MAYBE.

Q. DID YOU HAVE PHONE CONTACT ALMOST DAILY WITH MR. HORTON?

A. EVERY DAY, YES.

Q. WERE YOU ALSO IN CONTACT WITH MR. CONWAY?

A. YEAH.

Q. WERE THERE THREE-WAY CALLS AND THINGS GOING ON WHERE YOU WOULD ALL GET CONNECTED?

A. YEAH.

Q. WERE YOU ALSO HAVING CONVERSATIONS WITH SHAWN NIGHTINGALE?

A. YEAH.

Q. IS THERE ANYBODY ELSE WHO YOU WERE HAVING FREQUENT CONTACT WITH AS PART OF THIS PLAN?

A. JIMMY'S GIRLFRIEND, BRITNEY.

Q. WAS SHE ACTUALLY PARTICIPATING OR ASSISTING WITH CALLS?

A. SHE WAS JUST ASSISTING WITH THE CALLS.

Q. WHAT WAS SHE DOING TO ASSIST?

A. SHE WOULD, LIKE, CALL ME ON THREE WAY FOR JIMMY CONWAY FROM JAIL AND GET A HOLD OF ME AND DELIVER A MESSAGE FOR CONWAY, THINGS LIKE THAT.

Q. DID THE DEFENDANT INDICATE TO YOU THAT HE WAS IN CONTACT WITH MR. CONWAY DURING ALL THIS TIME?

A. YES.

MR. MCGOWAN: OBJECTION, MOVE TO STRIKE.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) BESIDES HAVING PHONE CONTACT WITH THE DEFENDANT, HOW FREQUENT WERE THE MEETINGS?

A. I AM NOT -- IT WASN'T LIKE IT WAS REALLY A SET OF FREQUENCY. IT WAS JUST WHENEVER WE NEEDED TO MEET, HE SET UP A MEETING SPOT AND WE WOULD GO MEET.

Q. BESIDES THE FIRST MEETING AND THE CHILLICOTHE MEETING, WHAT HAPPENED DURING THESE OTHER MEETINGS?

A. HE GAVE ME MORE DOPE AND GUNS TO KILL THESE OTHER WITNESSES, AND ONE MEETING HE GAVE ME SOME CASH, MONEY.

MR. MCGOWAN: OBJECTION, MOVE TO STRIKE.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) HOW MUCH CASH DID HE GIVE YOU?

A. NINE HUNDRED EIGHTY DOLLARS.

Q. YOU SAID DOPE. WHAT DO YOU MEAN BY DOPE?

A. CRACK COCAINE.

MR. MCGOWAN: OBJECTION, MOVE TO STRIKE.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) HOW MANY TIMES TOTAL WAS COCAINE GIVEN TO YOU?

A. THREE TIMES.

Q. HOW MANY TIMES WERE WEAPONS GIVEN TO YOU?

A. I BELIEVE IT WAS FOUR TIMES.

Q. FOUR DIFFERENT TIMES?

A. CORRECT.

Q. WITH RESPECT TO THE COCAINE, THREE DIFFERENT TIMES?

A. CORRECT.

Q. WAS THE MONEY A DIFFERENT DAY AS WELL?

A. CORRECT.

Q. DURING THE TIME ALL THOSE THINGS WERE BEING GIVEN TO YOU, WERE YOU UNDER SURVEILLANCE?

A. YES.

Q. WERE YOU WEARING A WIRE?

A. YES.

Q. THOSE THINGS WERE BEING RECORDED?

A. CORRECT.

Q. WHEN SOMETHING WAS GIVEN TO YOU, WHAT DID THE DETECTIVES DO?

A. AS SOON AS JAMIE HORTON LEFT THE MEETING, THE DETECTIVES WOULD COME -- EITHER ONE DETECTIVE WOULD GET IN MY CAR WITH ME AND WE WOULD RIDE BACK TO THE BUREAU, OR

THEY WOULD GET WHATEVER HE GAVE ME OUT OF THE CAR AND FOLLOW ME BACK TO THE BUREAU.

Q: DID THEY TAKE EVERYTHING FROM YOU IMMEDIATELY?

A. YEAH, DO A STRIP SEARCH ON ME ONCE THEY TOOK EVERYTHING TO MAKE SURE I HAD NOTHING ELSE.

Q. WOULD THEY KEEP CONTROL OF THAT PROPERTY?

A. CORRECT.

Q. DID YOU KNOW JAMIE HORTON BEFORE JIMMY CONWAY SET YOU UP WITH HIM?

A. I HAD NEVER SEEN HIM BEFORE IN MY LIFE.

Q. WHAT DID JAMIE HORTON TELL YOU HIS RELATIONSHIP WITH JIMMY CONWAY WAS?

A. HE SAID HIM AND JIMMY CONWAY WAS LIKE BROTHERS AND IF HE HAD TO LAY DOWN AND DIE FOR HIM, HE WOULD OR LAY DOWN THE REST OF HIS LIFE FOR HIM, HE WOULD.

MR. MCGOWAN: OBJECTION, MOVE TO STRIKE.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) WHAT EXACTLY WAS YOUR REASON FOR CONTACTING MR. HORTON WHEN YOU GOT OUT?

MR. MCGOWAN: OBJECTION.

THE COURT: OVERRULED.

THE WITNESS: HE WAS SUPPOSED TO BE THE GO TO MAN TO GET THINGS DONE FOR JIMMY CONWAY, AS FAR AS FINDING THESE WITNESSES, GIVING ME THE STUFF TO KILL THEM, THE MONEY IT TAKES TO GET RID OF THEM. THAT WAS MY PURPOSE FOR

CONTACTING HIM.

Q. (BY MS. PRICHARD) WHEN YOU CONTACTED HIM, DID HE SAY ANYTHING TO YOU THAT MADE YOU BELIEVE THAT THAT WAS TRUE?

MR. MCGOWAN: OBJECTION.

THE WITNESS: YEAH, HE TOLD ME --

THE COURT: OVERRULED.

THE WITNESS: -- THAT HE WAS THE GUY I NEEDED TO SEE FOR JIMMY. HE SAID HE HAS GOT WHATEVER I NEEDED FOR WHAT IS GOING ON AND HE HAS GOT ME --

Q. (BY MS. PRICHARD) DID THE DEFENDANT EVER SEEM WORRIED THAT MAYBE YOU WERE A POLICE OFFICER?

A. YEAH.

Q. WHAT DID HE DO TO INDICATE THAT?

A. BASICALLY, WE BOTH RAISED OUR SHIRTS TO MAKE SURE NEITHER ONE OF US WAS WIRED.

Q. WERE YOU TRYING TO CONVINCE HIM OF SOMETHING?

A. YEAH, I WAS TRYING TO CONVINCE HIM I WASN'T WIRED. I MEAN, I DIDN'T WANT TO GET KILLED SITTING IN THE GUY'S TRUCK.

MR. MCGOWAN: OBJECTION, MOVE TO STRIKE.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) WHEN YOU LIFTED YOUR SHIRT, DID THAT SEEM TO SATISFY HIM?

A. YES.

Q. WAS THERE EVER ANY OTHER TALK OR CONCERNS ABOUT POLICE BECOMING INVOLVED?

A. YEAH, HE SAID HE WAS AFRAID OF GOING TO JAIL.

Q. WHEN YOU WERE TOGETHER, WERE THERE EVER ANY CONCERNS THAT MAYBE THE POLICE WERE WATCHING?

A. YEAH.

Q. DID YOU MANAGE TO ALLEVIATE HIS CONCERNS?

A. YEAH.

Q. SO YOU WERE PLAYING A ROLE HERE?

A. YEAH.

Q. YOU WERE, ESSENTIALLY, I GUESS, A HIRED HIT MAN?

A. YEAH.

Q. WHO HIRED YOU?

A. JIMMY CONWAY AND JAMIE HORTON.

MR. MCGOWAN: OBJECTION, MOVE TO STRIKE.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) DID MR. HORTON EVER DISCUSS WITH YOU HIS FEELINGS ABOUT SNITCHES OR BEING A SNITCH?

A. YEAH.

Q. WHAT DID HE TELL YOU?

A. BASICALLY THAT SNITCHES -- THINGS HAPPEN TO A SNITCH, THIS IS WHY I AM THE --

MR. MCGOWAN: OBJECTION, MOVE TO STRIKE.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) WHAT DO YOU MEAN THIS IS WHAT

HAPPENS?

A. YOU GET KILLED.

Q. WHEN YOU AND MR. HORTON HAD PHONE CONVERSATIONS, WHO WOULD INITIATE CALLS?

A. SOMETIMES IT WAS ME AND SOMETIMES IT WAS HIM.

Q. DID YOU AND MR. HORTON EVER TALK ABOUT HAVING SOME SORT OF RELATIONSHIP AFTER YOUR WORK AS A HIT MAN WAS DONE?

A. YEAH, HE SAID THAT --

MR. MCGOWAN: OBJECTION.

THE COURT: I WILL SUSTAIN THE OBJECTION.

Q. (BY MS. PRICHARD) WERE YOU SUPPOSED TO REMAIN IN CONTACT WITH MR. HORTON AFTER THIS WORK RELEASE PROGRAM?

MR. MCGOWAN: OBJECTION.

THE WITNESS: YEAH.

THE COURT: OVERRULED AS TO THAT QUESTION.

Q. (BY MS. PRICHARD) WAS THAT A YES?

A. YEAH, ONCE I KILLED ALL OF THE WITNESSES, THEN JIMMY CONWAY WOULD GET OUT AND A WHOLE LOT OF PEOPLE WOULD BE IN SHIT AND WE WOULD HAVE OUR OWN FAMILY, A CRIME FAMILY.

Q. WHAT DO YOU MEAN?

MR. MCGOWAN: OBJECTION.

THE WITNESS: LIKE OUR OWN CRIME FAMILY.

THE COURT: SUSTAINED.

Q. (BY MS. PRICHARD) WERE THE THREE OF YOU SUPPOSED TO BE FRIENDS AFTER THAT?

A. YEAH.

Q. DID YOU DISCUSS THE ANDREW DOTSON CASE WITH THE DEFENDANT?

A. YEAH.

Q. DID HE INDICATE TO YOU WHETHER HE WAS PRESENT AT ANDREW DOTSON'S HOMICIDE?

A: YEAH.

Q. WHAT DID HE TELL YOU HE DID?

A. HE TOLD ME THAT HE STARTED TO DIG A HOLE BUT THE REST OF THEM DIDN'T WANT TO DIG IT, AND THAT IS WHY HE WASN'T BURIED. I ASKED -- I SAID, DIDN'T YOU PUT ANYTHING ON HIM? AND HE SAID, OH, YEAH, WE USED OLD SCHOOL STUFF, LIME.

Q. OLD SCHOOL STUFF?

A. YEAH.

Q. DID HE INDICATE WHETHER HE HAD SOME INVOLVEMENT WITH DOING THAT?

A. YEAH, HE SAID HE PUT THE LIME ON HIM.

Q. DID HE INDICATE WHY THAT HOMICIDE TOOK PLACE?

A. YEAH, BECAUSE THEY WAS AFRAID ANDREW DOTSON MIGHT SAY SOMETHING ABOUT JIMMY SHOOTING THE GUY.

Q. DID YOU KNOW ANDREW DOTSON?

A. NO.

Q. HAVE YOU EVER HEARD OF HIM BEFORE THIS?

A. NO.

Q. DID THE DEFENDANT INDICATE TO YOU WHETHER OR NOT HE KNEW WHAT WAS HAPPENING IN THE ANDREW DOTSON HOMICIDE?

MR. MCGOWAN: OBJECTION.

THE COURT: OVERRULED.

THE WITNESS: YEAH, HE TOLD ME THAT AT FIRST THEY HAD MIKE ARTHURS AND SHAWN NIGHTINGALE WERE SUPPOSED TO TAKE THIS KID TO WEST VIRGINIA AND KILL HIM AND LEAVE HIM IN THE WOODS; AND THEY FED HIM A BUNCH OF VALIUMS AND SPENT THE WHOLE DAY KILLING THIS KID.

Q. (BY MS. PRICHARD) SO HE INDICATED INFORMATION ABOUT, I GUESS, INITIAL STAGES OF THE CRIME?

A. THAT IS CORRECT.

Q. HOW MANY TIMES DO YOU THINK YOU HAD MET WITH THE DEFENDANT BEFORE YOU GUYS DISCUSSED THIS TOPIC?

A. IT WAS QUITE A FEW MEETINGS. I AM NOT SURE EXACTLY HOW MANY.

Q. DID YOU TELL HIM WHY YOU WANTED TO KNOW THIS INFORMATION?

A. YEAH.

Q. WHAT DID YOU TELL HIM?

A. I TOLD HIM THAT -- I SAID, YOU KNOW, I'M SUPPOSED TO BE KILLING GUYS FOR YOU -- FOR YOU GUYS, AND I WANT TO KNOW THAT I AM NOT WORKING WITH IDIOTS. I WANT TO KNOW

WHAT YOU DID SO I KNOW, YOU KNOW, WHAT YOU ARE DOING. AND HE SAID HE UNDERSTOOD. YOU KNOW, I SAID, THIS AIN'T NO GAME. THIS IS SERIOUS. THIS IS MY LIFE, TOO.

THAT IS WHEN HE TOLD ME WHAT HE TOLD ME.

Q. WERE YOU PLAYING A ROLE TO GATHER INFORMATION?

A. YEAH.

Q. DID MR. HORTON INDICATE ANY CONCERNS THAT THE POLICE MIGHT FIND OUT ABOUT HIM BEING AT THE HORTON SCENE?

A. YEAH.

Q. OR MR. DOTSON, I'M SORRY?

A. YEAH.

Q. DO YOU REMEMBER WHAT, IF ANYTHING, THAT HE SPECIFICALLY SAID ABOUT THAT?

A. YEAH, HE SAID HE DIDN'T REALLY WANT TO TALK ABOUT IT AND THAT HE HAD JUST TOLD ME MORE THAN HE EVER TOLD ANYBODY IN HIS LIFE.

Q. DID HE INDICATE WHETHER OR NOT HE FELT THAT TALKING TO YOU MIGHT ENDANGER HIM OR MIGHT CAUSE HIM SOME PROBLEMS IN THE FUTURE?

A. NO, HE TOLD ME THAT IF HE DIDN'T TRUST ME, HE WOULDN'T HAVE TOLD ME WHAT HE TOLD ME.

Q. WERE YOU SUPPOSED TO DO ANYTHING IN CONNECTION WITH THE ANDREW DOTSON CASE TO ANYBODY INVOLVED?

A. WHAT DO YOU MEAN?

Q. WERE THERE ANY OTHER ACTS THAT WERE SUPPOSED TO

OCCUR THAT RELATED TO WHAT HAPPENED AT THE ANDREW DOTSON SCENE?

A. YEAH, I WAS SUPPOSED TO KILL MIKE ARTHURS.

MR. MCGOWAN: OBJECTION.

THE COURT: OVERRULED. IF I CAN JUST ASK YOU TO WAIT UNTIL I RULE ON THE OBJECTION, PLEASE.

THE WITNESS: I APOLOGIZE.

MS. PRICHARD: WAS THAT OVERRULED OR SUSTAINED?

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) I'M SORRY, YOU WERE SUPPOSED TO --

A. KILL MIKE ARTHURS AND SHAWN NIGHTINGALE.

Q. DID THE SHAWN NIGHTINGALE PLAN EVER GET CARRIED THROUGH?

A. NO.

Q. WHY NOT?

A. BECAUSE THEY CHANGED THEIR MIND ABOUT IT AT THE LAST MINUTE, I GUESS. I DON'T KNOW WHY EXACTLY.

Q. DID YOU MAKE ANY DECISIONS AS TO WHO WOULD BE KILLED?

A. NO.

Q. IF THEY SAID THEY WEREN'T GOING TO GO AFTER SHAWN NIGHTINGALE, DID YOU GO AFTER HIM ANYWAY?

A. NO, I JUST SAID, OKAY, FINE, THAT'S YOUR CALL AND

LEAVE IT AT THAT.

Q. YOU MENTIONED A TRIP DOWN TO CHILLICOTHE. OTHER THAN THAT, WHAT OTHER STEPS WERE TAKEN TOWARDS KILLING MIKE ARTHURS?

MR. MCGOWAN: OBJECTION.

THE COURT: OVERRULED.

THE WITNESS: HE WAS ASKED TO DIG HIS OWN GRAVE AND LAY IN IT, AND PHOTOS WERE TAKEN LIKE HE WAS DEAD SO I COULD SHOW THEM TO JAMIE HORTON AND JIMMY CONWAY.

Q. LET ME STOP YOU FOR A MINUTE. THAT WAS INVOLVEMENT IN WORKING WITH THE POLICE, CORRECT?

A. CORRECT.

Q. DID JAMIE HORTON DO ANYTHING OR SAY ANYTHING TO FURTHER THAT?

MR. MCGOWAN: OBJECTION.

THE COURT: OVERRULED.

THE WITNESS: I MEAN, HE GAVE ME A PISTOL TO KILL MIKE ARTHURS WITH.

Q. (BY MS. PRICHARD) THEN YOU SAID MIKE ARTHURS WAS REQUIRED TO DIG HIS OWN GRAVE AND THINGS LIKE THAT?

A. CORRECT.

Q. WAS THAT A PLAN SET UP BY THE SHERIFF'S OFFICE?

A. YES.

Q. BASED UPON INFORMATION YOU HAD GIVEN?

A. YES.

Q. I WILL SHOW YOU STATE'S EXHIBIT G-3. DO YOU RECOGNIZE THIS PHOTOGRAPH?

A. YES.

Q. WHAT IS THAT?

A. IT IS MIKE ARTHURS LAYING IN HIS OWN GRAVE.

Q. DID YOU KNOW MIKE ARTHURS BEFORE THIS?

A. NO, I DON'T KNOW HIM NOW.

Q. DID YOU HAVE POSSESSION OF THIS PICTURE AT SOME POINT IN TIME?

A. YEAH.

Q. WHAT DID YOU DO WITH IT?

A. I SHOWED IT TO JAMIE HORTON.

Q. JAMIE HORTON?

A. YEAH.

Q. WHAT DID HE DO?

A. HE STARTED LAUGHING AND SAID, THAT WAS PHAT MEANING THAT IS COOL.

MR. MCGOWAN: OBJECTION, MOVE TO STRIKE.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) WHAT DID YOU DO WITH THE PICTURE AFTERWARDS, IF ANYTHING?

A. JAMIE AND I TOOK THAT PHOTO AND A PHOTO OF A DEPUTY THAT WAS ALSO PLAYING DEAD AND SHOWED IT TO JIMMY CONWAY ON A VISIT.

Q. YOU WENT TO THE JAIL AND MADE A VISIT?

A. YEAH.

Q. WAS THERE ANYONE ELSE WITH YOU AND THE DEFENDANT?

A. THE DETECTIVES WERE SURVEILLING BUT NOT OTHER THAN THAT.

Q. YOU HAD A WIRE THEN AS WELL?

A. YEAH.

Q. DID YOU AND MR. HORTON GO IN AND VISIT CONWAY AT THE SAME TIME?

A. YEAH.

Q. WERE EITHER OF YOU NERVOUS?

A. YEAH, JAMIE WAS A LITTLE NERVOUS.

Q. DID HE INDICATE WHY?

A. YEAH, BECAUSE WE WERE IN A POLICE STATION WITH PICTURES OF DEAD BODIES.

MR. MCGOWAN: OBJECTION, MOVE TO STRIKE, NOT AS A BASIS OF THE USUAL OBJECTION.

THE COURT: SUSTAINED WITH REGARD TO HIS KNOWLEDGE AS TO WHY MR. HORTON MAY HAVE BEEN NERVOUS.

MR. MCGOWAN: I WOULD MOVE TO STRIKE.

THE COURT: THE JURY IS INSTRUCTED TO DISREGARD THAT ANSWER AT THIS POINT.

Q. (BY MS. PRICHARD) DID MR. HORTON EVER SAY TO YOU WHY HE WAS NERVOUS?

A. YEAH, I AM SORRY. HE SAID HE WAS NERVOUS BECAUSE WE WERE IN A POLICE STATION WITH PICTURES OF DEAD BODIES.

Q. DID YOU STAY AND VISIT TOGETHER THE ENTIRE TIME?

A. PRETTY CLOSE TO THE ENTIRE TIME. HE LEFT THREE OR FOUR MINUTES BEFORE I DID.

Q. AND THESE VISITS, ARE THESE THROUGH LIKE GLASS OR SOMETHING LIKE THAT?

A. YEAH.

Q. WAS THIS AN ARRANGED VISIT OR DID YOU HAPPEN TO SHOW UP AT THE SAME TIME?

A. NO, IT WAS ARRANGED.

Q. WHERE DID YOJ AND MR. HORTON MEET BEFORE YOU WENT INTO THE JAIL?

A. IN THE FRONT OF THE COUNTER.

Q. YOU WALKED IN TOGETHER?

A. YEAH.

Q. DID YOU AND MR. HORTON EVER HAVE A DISCUSSION DURING THE INITIAL STAGES OF YOUR CONTACT ABOUT WHETHER OR NOT YOU HAD ACCESS TO ANYTHING TO COMPLETE THE JOB?

MR. MCGOWAN: OBJECTION.

THE WITNESS: YEAH.

THE COURT: OVERRULED.

THE WITNESS: I TOLD HIM I DIDN'T HAVE NOTHING. I TOLD HIM I JUST GOT OUT AND I DON'T HAVE NOTHING. HE SAID, YOU KNOW, WHATEVER YOU NEED, I GOT, JUST LET ME KNOW AND I HAVE GOT IT. AND I SAID, OKAY.

Q. (BY MS. PRICHARD) YOU LET HIM KNOW -- DID YOU

TELL HIM IF YOU HAD ANY MONEY?

A. YEAH, I TOLD HIM I DIDN'T HAVE ANY.

Q. DID YOU INDICATE WHETHER YOU HAD ANY GUNS OR DRUGS?

A. I TOLD HIM I DIDN'T HAVE ANYTHING IS WHAT I TOLD HIM.

Q. SHOWING YOU STATE'S EXHIBITS L-1 THROUGH L-6, TAKE A LOOK AT THOSE AND TELL ME IF YOU RECOGNIZE THOSE.

A. THIS IS ME AND JAMIE HORTON AT EMILY'S HOUSE.

Q. WHO IS EMILY?

A. I AM NOT SURE. IT IS SOMEONE WE WAS MEETING TO PICK UP A PISTOL THAT SHAWN NIGHTINGALE HAD GAVE JAMIE TO GIVE TO ME.

Q. THAT WAS THE MEETING LOCATION THAT IS DEPICTED IN THOSE PHOTOGRAPHS?

A. YEAH.

Q. WHO IS SHOWN IN SOME OF THOSE PHOTOGRAPHS?

A. JAMIE HORTON AND MYSELF.

Q. WOULD YOU TELL WHAT EXHIBIT NUMBERS THAT YOU CAN SEE THE DEFENDANT AND YOURSELF IN, PLEASE?

A. STATE'S EXHIBIT L-2, L-3, AND THAT'S IT.

Q. WHAT ARE YOU AND MR. HORTON DOING IN THOSE PHOTOGRAPHS?

A. IN L-2, BOTH OF US ARE ON CELL PHONES, AND L-3, HE IS ON HIS PHONE AND I AM STANDING THERE.

Q. WERE YOU WIRED UP AT THIS TIME?

A. YEAH.

Q. WOULD THESE BE SURVEILLANCE PHOTOS TAKEN BY THE POLICE?

A. YEAH.

Q. WOULD THAT BE ONE OF THE MEETINGS THAT YOU HAD?

A. YEAH.

Q. MR. TRENT, AS PART OF YOUR DEAL, YOU HAVE AGREED TO TESTIFY AGAINST ALL PARTIES INVOLVED?

A. CORRECT.

Q. I WILL SHOW YOU STATE'S EXHIBIT F-3.

MR. MCGOWAN: YOUR HONOR, WE WILL HAVE TO APPROACH ABOUT THIS.

THE COURT: YOU MAY.

- - -

THEREUPON, COURT AND COUNSEL CONFERRED AT THE BENCH OUT OF THE HEARING OF THE JURY AND THE REPORTER.

- - -

Q. (BY MS. PRICHARD) MR. TRENT, DO YOU STAND TO GAIN ANYTHING FROM TESTIFYING HERE TODAY?

A. NO. I MEAN, OTHER THAN THE FACT THAT MY PAROLE WON'T BE VIOLATED.

Q. YOU GOT A DEAL, AND THAT'S YOUR BENEFIT?

A. IF YOU CALL IT THAT, YEAH.

Q. DID YOU KNOW JAMIE HORTON AT ALL BEFORE THIS?

A. NO.

Q. DID YOU EVEN KNOW YOU WERE RELATED TO JAMES CONWAY BEFORE THIS?

A. NO.

Q. BASED UPON YOUR MEETING THERE AT THE JAIL WITH THE DEFENDANT AND JAMES CONWAY, WHAT WAS THE RELATIONSHIP, HOW WERE THEY ACTING AT THAT TIME TOWARDS ONE ANOTHER?

MR. MCGOWAN: OBJECTION, YOUR HONOR.

THE COURT: OVERRULED.

THE WITNESS: LIKE EVERYTHING WAS OKAY.

MR. MCGOWAN: OBJECTION, AND MOVE TO STRIKE.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) DID MR. HORTON EVER TALK TO YOU ABOUT HIS RELATIONSHIP WITH MR. CONWAY?

A. YEAH.

Q. WHAT DID HE TELL YOU THE RELATIONSHIP WAS LIKE?

MR. MCGOWAN: OBJECTION, ASKED AND ANSWERED.

THE COURT: SUSTAINED.

Q. (BY MS. PRICHARD) DID THE DEFENDANT INDICATE TO YOU WHAT HIS PURPOSE IN ALL OF HIS MEETINGS AND THINGS WITH YOU WAS?

MR. MCGOWAN: OBJECTION.

THE COURT: OVERRULED.

THE WITNESS: ONE MORE TIME, PLEASE.

Q. (BY MS. PRICHARD) DID THE DEFENDANT INDICATE

WHAT HIS PURPOSE IN ALL OF YOUR MEETINGS AND THINGS WAS?

A. YEAH, TO GET RID OF ALL OF THE WITNESSES AND TO GET JIMMY OUT OF JAIL.

MR. MCGOWAN: OBJECTION, MOVE TO STRIKE.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) DID THE DEFENDANT INDICATE THAT THERE WOULD BE ANY BENEFIT TO HIM?

A. YEAH, THAT WE WOULD ALL BE ON TOP.

Q. WHAT DO YOU MEAN BY THAT?

A. THAT WE WOULD HAVE WHATEVER WE WANTED.

MR. MCGOWAN: OBJECTION, MOVE TO STRIKE.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) I'M SORRY, WOULD YOU --

A. THAT WE WOULD HAVE WHATEVER WE WANTED.

MS. PRICHARD: NOTHING FURTHER AT THIS TIME.

THE COURT: GIVEN WHERE WE ARE AT THE LUNCH HOUR, WE WILL TAKE OUR LUNCH RECESS AT THIS TIME. YOU ARE INSTRUCTED TO REMEMBER YOUR ADMONITIONS. YOU ARE NOT TO MAKE UP YOUR MIND ON THIS MATTER NOR TO DISCUSS THE CASE WITH ANYONE OR TO SEE ANY NEWSPAPERS DURING THIS BREAK AND, ALSO, NOT TO CONDUCT ANY INDEPENDENT INVESTIGATION, AND WE WILL SEE YOU BACK AT 1:45. WE MAY NEED TO HAVE ADDITIONAL TIME. I JUST WANTED YOU TO BE AWARE THAT WE HAVE SOME OTHER MATTERS THAT ARE UNRELATED TO THIS CASE TO DEAL WITH, BUT IF YOU COULD BE BACK BY 1:45 ON THE FIRST FLOOR, WE

WILL SEE YOU AS SOON AS WE CAN.

- - -

THEREUPON, THE LUNCH RECESS WAS TAKEN.

- - -

WEDNESDAY AFTERNOON SESSION,

APRIL 9, 2003.

- - -

THEREUPON, THE JURY ENTERED THE COURTROOM AND THE FOLLOWING PROCEEDINGS WERE HELD:

RONNIE TRENT

CALLED AS A WITNESS ON BEHALF OF THE PLAINTIFF, STATE OF OHIO, HAVING BEEN PREVIOUSLY DULY SWORN, CONTINUED HIS TESTIMONY AS FOLLOWS:

CROSS EXAMINATION

BY MR. MCGOWAN:

Q. MR. TRENT, HOW ARE YOU TODAY?

A. I'VE BEEN BETTER.

Q. HOW TALL ARE YOU?

A. FIVE EIGHT.

Q. HOW TALL IS JAMIE HORTON?

A. I DON'T KNOW, PROBABLY SIX FIVE. I DON'T KNOW.

Q. WHAT IS YOUR GUESS?

A. I WOULD SAY ABOUT SIX FIVE.

Q. SIGNIFICANTLY TALLER THAN YOU?

A. YEAH.

Q. YOU ARE SURE YOU ARE FIVE EIGHT?

A. YEAH.

Q. YOU TESTIFIED I BELIEVE ON DIRECT TO TWO THINGS THAT YOU SAID IN YOUR DISCUSSIONS WITH JAMIE THAT HE SAID

HE DID AT THE ANDREW DOTSON HOMICIDE, IS THAT CORRECT?

A. PARDON ME?

Q. YOU TESTIFIED ON DIRECT EXAMINATION THAT JAMIE HORTON TOLD YOU TWO SPECIFIC THINGS HE DID AT THE ANDREW DOTSON HOMICIDE?

A. THAT IS CORRECT.

Q. AND THE FIRST OF THOSE THINGS WAS THAT HE STARTED TO DIG A HOLE?

A. THAT IS CORRECT.

Q. ARE YOU SURE THAT HE TOLD YOU THAT HE STARTED TO DIG A HOLE?

A. HE TOLD ME HE STARTED LOOSENING THE GROUND, YEAH.

Q. ON DIRECT, YOU SAID HE STARTED TO DIG A HOLE. HE TOLD YOU HE STARTED TO DIG A HOLE?

A. CORRECT.

Q. THEN YOU TESTIFIED THAT THE SECOND THING HE TOLD YOU HE DID WAS THAT HE PUT LIME ON THE BODY, CORRECT?

A. NO, I ASKED HIM WHAT HE PUT ON THE BODY, AND HE SAID, "OLD SCHOOL STUFF, LIME".

Q. ISN'T IT TRUE IS WHAT HE SAID IN THAT DISCUSSION IS THAT HE GOT LIME PUT ON HIM OR HE GOT OLD SCHOOL STUFF PUT ON HIM?

A. NO.

Q. WAS THE DISCUSSION ABOUT THE LIME BEING PUT ON THE BODY EARLY ON IN YOUR RELATIONSHIP WITH JAMIE HORTON?

A. I AM NOT SURE. IT MAY HAVE BEEN.

Q. I'M GOING TO SHOW YOU --

MR. MCGOWAN: MAY I APPROACH THE WITNESS, YOUR HONOR?

THE COURT: YOU MAY.

Q. (BY MR. MCGOWAN) I WILL SHOW YOU WHAT PURPORTS TO BE A TRANSCRIPT OF A CONVERSATION BETWEEN YOU AND JAMIE HORTON FROM MAY 20, 02. CAN YOU TELL ME WHAT THE DISCUSSION IS ABOUT THE OLD SCHOOL STUFF RIGHT HERE? WHAT DOES JAMIE HORTON SAY?

A. CAN I START BEFORE THAT? THAT'S WHERE IT STARTS ACTUALLY.

Q. YOU CAN START WHEREVER YOU WANT, BUT THE ONLY QUESTION POSED TO YOU IS ABOUT THE OLD SCHOOL STUFF.

A. I UNDERSTAND THAT, SIR. I DON'T MEAN TO BE ARGUMENTATIVE.

Q. CAN YOU START READING TO REFRESH YOUR MEMORY?

A. YEAH.

Q. READ FROM WHATEVER YOU WANT. I DON'T WANT YOU TO READ IT OUT LOUD. IF YOU NEED IT TO REFRESH YOUR MEMORY, I'M ASKING YOU ABOUT HIS ANSWER TO YOU ABOUT THAT.

A. THE ONLY WAY I CAN ANSWER THAT IS TO READ THIS. THAT'S WHAT I AM SAYING.

Q. NO, HIS ANSWER -- SO NO, YOU CAN'T READ THE OTHER STUFF.

MS. PRICHARD: YOUR HONOR, CAN WE APPROACH?

THE COURT: THE WITNESS MAY REVIEW WHATEVER HE NEEDS TO PUT THAT INTO CONTEXT TO THAT PARTICULAR QUESTION AND ANSWER.

THE WITNESS: CORRECT.

MR. MCGOWAN: I DON'T WANT HIM TO SIT HERE AND READ THIS WHOLE TRANSCRIPT.

THE COURT: HE DOESN'T NEED TO READ IT OUT LOUD. HE WANTS YOU TO READ IT TO YOURSELF.

THE WITNESS: JAMIE HORTON'S RESPONSE WAS, I MEAN, I MEAN, HE GOT SHIT THROWN ON HIM, THE OLD SCHOOL STUFF.

Q. (BY MR. MCGOWAN) AND THERE IS NO OTHER ANSWERS ON THIS PAGE WHERE HE SAYS HE THREW THE OLD SCHOOL STUFF ON HIM, IS THERE?

A. I DON'T KNOW, I HAVEN'T READ IT.

Q. WELL, IF YOU CAN FIND IT.

A. I MEAN, THE PARAGRAPH BEFORE THAT, HE DENIES EVEN BEING THERE SO --

Q. HE DENIES BEING THERE? ISN'T HE SITTING THERE AND TELLING YOU WHAT SOMEBODY DID THAT WAS THERE?

A. HE SAID, "I WAS NOWHERE AROUND. I DON'T KNOW EXACTLY WHAT HAPPENED. I MEAN, I'M NOT GOING TO TELL YOU SOMETHING THAT I DIDN'T SEE WITH MY EYES".

Q. IF YOU ARE GOING TO REFER TO THAT ONE, I WOULD

WANT YOU TO READ HIS WHOLE ANSWER RIGHT THERE, STARTING WITH THE VERY FIRST LINE.

A. OKAY.

Q. OUT LOUD, I MEAN.

A. THIS IS ME AND JAMIE HORTON. IT SAYS, "WHAT THE FUCK DID YOU ALL --" JAMIE'S RESPONSE IS "I DON'T KNOW. I MEAN, THIS IS MY QUESTION. I MEAN, I DON'T CARE, THOUGH, BUT LIKE I AM SAYING, IF I CAN'T ASK YOU ONE THING, THEN -- SOMETHING INAUDIBLE".

JAMIE SAYS, "I MEAN, I REALLY DON'T KNOW BECAUSE IT WAS -- IT WAS IN -- LIKE IT WAS IN A FIELD AND THEN JIMMY AND MIKE WENT BACK, YOU KNOW WHAT I AM SAYING, LIKE THEY PULLED BACK THE THING, SO I WAS NOWHERE AROUND, YOU KNOW WHAT I MEAN. SO I DON'T KNOW EXACTLY WHAT HAPPENED. TRUTHFULLY, I DON'T. I'M NOT GOING TO TELL YOU SOMETHING THAT I DIDN'T SEE WITH MY EYES. YOU KNOW WHAT I MEAN, BECAUSE I NEVER DO THAT BECAUSE THAT WOULD BE JUST, LIKE, LYING TO YOU. THAT'S WHY I TELL YOU WHAT I SEEN. THEN I DIDN'T SEE NOTHING AND --"

Q. WAIT A MINUTE. I DIDN'T SEE --

A. "I DIDN'T SEE NOTHING ELSE." I SAID, "WELL, WHY DIDN'T YOU BURY HIM, DOG". AND JAMIE SAID, "YOU KNOW, I TOLD YOU".

Q. LET ME FOLLOW UP WITH THAT. WHY DIDN'T YOU BURY HIM, DOG, YOU KNOW, I TOLD YOU, THAT IS IN REFERENCE TO HIS

EARLIER STATEMENT THAT HE TRIED TO START DIGGING A HOLE, CORRECT?

A. CORRECT, HE STARTED DIGGING A HOLE.

Q. THAT'S WHAT HE MEANS BY YOU KNOW, I TOLD YOU?

A. I DON'T KNOW. HE SAYS, YOU KNOW, I TOLD YOU.

Q. HE IS NOT DENYING BEING AT THE SCENE?

A. I DON'T -- I MEAN, I DON'T KNOW. THAT'S NOT UP TO ME, SIR.

Q. WELL, YOU SAID THAT HE IS DENYING BEING AT THE SCENE.

AGAIN, SO THE ANSWER ABOUT THE OLD SCHOOL STUFF IS, "I MEAN, I MEAN, HE GOT SHIT THROWN ON HIM, THE OLD SCHOOL STUFF".

A. OKAY.

Q. THE DIGGING OF THE HOLE, HE SAID HE DID HIMSELF, RIGHT?

A. CORRECT.

Q. YOU JUST READ SOME PARTS THAT HE SAID THAT MIKE AND JIMMY DID?

A. CORRECT.

Q. HE WAS REFERRING TO PULLING THE BODY BACK WHERE HE COULDN'T SEE IT?

A. THAT'S WHAT IT SAID.

Q. THAT'S WHAT HE SAID? YOU ALSO ASKED HIM IF IT WASN'T TRUE THAT -- I AM NOT TALKING ABOUT THAT TRANSCRIPT.

I AM TALKING ABOUT IN YOUR DISCUSSIONS WITH HIM, THAT MIKE ARTHURS STEPPED ON HIS NECK AND CHOKED HIM, AND THINGS OF THAT NATURE, CORRECT?

A. THAT IS CORRECT.

Q. HE DIDN'T DENY HAVING SEEN THOSE THINGS, DID HE?

A. I DON'T THINK SO, NO.

Q. HE SAID THAT WAS TRUE, DIDN'T HE?

A. HE MAY HAVE.

Q. YOU WERE ASKED ON DIRECT EXAMINATION ABOUT AN AFFIDAVIT OR GIVING SOME FALSE TESTIMONY IN A PREVIOUS CRIMINAL CASE. DO YOU REMEMBER THAT?

A. A FALSE AFFIDAVIT, YEAH.

Q. I BELIEVE YOU SAID THAT WAS ON A 12 YEAR OLD CASE?

A. YEAH.

Q. THE FALSE AFFIDAVIT YOU GAVE WASN'T 12 YEARS AGO, WAS IT?

A. NO, THE CASE WAS.

- - -

THEREUPON, AN AFFIDAVIT WAS MARKED FOR PURPOSES OF IDENTIFICATION AS DEFENDANT'S EXHIBIT 1.

- - -

Q. (BY MR. MCGOWAN) SHOWING YOU WHAT HAS BEEN MARKED FOR PURPOSES OF THIS TRIAL AS DEFENDANT'S EXHIBIT 1, I WOULD ASK YOU IF YOU RECOGNIZE THAT?

A. YEAH.

Q. IS THAT THE AFFIDAVIT YOU WERE TALKING ABOUT?

A. YEAH.

Q. THAT WAS IN A CRIMINAL CASE?

A. IT WAS NEVER USED BUT, YEAH.

Q. THAT WAS IN A CRIMINAL CASE IS MY QUESTION?

A. YEAH.

Q. DID IT INVOLVE A SHOOTING?

A. YEAH.

MS. PRICHARD: OBJECTION.

THE COURT: IT IS SUSTAINED AS TO WHAT IT INVOLVED.

Q. (BY MR. MCGOWAN) AND YOU HAVE ALREADY, I THINK, STATED ON DIRECT EXAMINATION THAT WHILE YOU SIGNED THIS AFFIDAVIT, IT WAS, IN FACT, A LIE OF WHAT YOU PURPORTED TO SAY WAS THE TRUTH, CORRECT?

A. THAT IS CORRECT.

Q. AND WHEN DID YOU SIGN THAT AFFIDAVIT AS BEING A TRUE STATEMENT?

A. IT SAYS SOMETHING DAY OF OCTOBER, 21ST, 2000.

Q. NOT 12 YEARS AGO?

A. NO, I DIDN'T SAY I SIGNED IT 12 YEARS AGO, SIR.

Q. YOU DIDN'T DO THIS 12 YEARS AGO, RIGHT?

A. NO.

Q. YOU TESTIFIED ABOUT YOUR CRIMINAL HISTORY?

A. CORRECT.

Q. I THINK YOUR TESTIMONY WAS IN 1991, YOU GOT CONVICTED FOR AGGRAVATED BURGLARY?

A. THAT IS CORRECT.

Q. HOW MANY COUNTS OF AGGRAVATED BURGLARY?

A. THREE, I BELIEVE.

Q. SO THOSE WERE ALLEGATIONS AROUND THREE DIFFERENT DATES OF BURGLARIES?

A. WHAT DO YOU MEAN?

Q. THE THREE COUNTS, DID THEY RELATE TO DIFFERENT DATES, EACH COUNT HAD ONE DATE ASSOCIATED WITH IT?

A. I DON'T KNOW. IT MAY HAVE.

Q. YOUR TESTIMONY IS THAT YOU DID A TEN YEAR SENTENCE ON THAT?

A. YEAH, NINE AND A HALF YEARS.

Q. A BALL PARK OF TEN YEARS?

A. CORRECT.

Q. ARE YOU CURRENTLY ON PAROLE FOR THAT CASE?

A. YES.

Q. WHAT WAS THE SENTENCE RANGE THAT YOU GOT? YOU DID NINE, NINE AND A HALF, TEN?

A. EIGHT TO 25.

Q. I'M SORRY?

A. EIGHT TO 25.

Q. EIGHT TO 25 YEARS?

A. CORRECT.

Q. YOU ARE STILL ON PAROLE FOR HOW LONG?

A. FOUR MORE MONTHS.

Q. IS THAT THE PAROLE YOU REFERRED TO EARLIER IN YOUR DIRECT EXAMINATION AS BEING EXTENDED BY A YEAR?

A. THAT IS CORRECT.

Q. SO ON THAT EXTENSION, THERE IS ONLY FOUR MORE MONTHS LEFT, OR IS THERE A YEAR LEFT?

A. THERE'S FOUR MONTHS LEFT.

Q. WHAT DOES IT MEAN WHEN YOU ARE ON PAROLE ON AN EIGHT TO 25 YEAR SENTENCE AND YOU HAVE DONE NINE OF THOSE YEARS?

A. IT DOESN'T MEAN ANYTHING. IT MEANS THAT I HAVE DONE NINE.

Q. WHAT DOES YOUR PAROLE MEAN, WHAT IS HANGING OVER YOUR HEAD?

A. PAROLE, BASICALLY, IS ESSENTIALLY IF YOU GET OUT.

Q. SIR, HOW MANY YEARS ARE HANGING OVER YOUR HEAD?

A. I AM TRYING TO EXPLAIN THAT, IF YOU ALLOW ME TO.

Q. IT IS A NUMBER ANSWER. HOW MANY YEARS ARE HANGING OVER YOUR HEAD?

A. THE REMAINDER OF THE 25.

Q. SO IT WOULD BE 25 MINUS NINE?

A. CORRECT.

Q. AND IN 1999, YOU PICKED UP AN RSP?

A. TRUE.

Q. YOU DID 13 MONTHS ON THAT?

A. CORRECT.

Q. WHAT IS RSP?

A. RECEIVING STOLEN PROPERTY.

Q. DID YOU ALSO HAVE A PAROLE VIOLATION AT THAT TIME?

A. YEAH.

Q. WHAT HAPPENED?

A. WHAT HAPPENED? I WENT TO PRISON.

Q. WHAT WAS THE RESULT OF THE PAROLE VIOLATION? DID YOU HAVE A HEARING?

A. YEAH, I WENT TO PRISON.

Q. WHAT WAS THE 13 MONTHS FOR, THE RSP OR FOR A PAROLE VIOLATION?

A. IT WAS COMBINED.

Q. PART OF THAT 13 MONTHS IS BECAUSE YOU VIOLATED YOUR PAROLE?

A. CORRECT.

Q. PART OF IT WAS BECAUSE YOU COMMITTED A NEW RSP?

A. CORRECT.

Q. AT THE TIME YOU FIRST HAVE CONTACT WITH JIMMY CONWAY IN THE JAIL, YOU ARE UNDER CHARGES FOR TWO COUNTS OF GROSS SEXUAL IMPOSITION?

A. THAT'S TRUE.

- - -

THEREUPON, COURT AND COUNSEL CONFERRED AT THE BENCH OUT OF THE HEARING OF THE JURY AND THE FOLLOWING PROCEEDINGS WERE HELD:

MR. MCGOWAN: YOUR HONOR, I INTEND TO ASK HIM ABOUT THE LEVEL OF THE OFFENSE AND WHY IT IS THAT LEVEL AND THE BASIS THAT HE IS CHARGED WITH F3'S IS BECAUSE IT WAS AN ALLEGATION OF A CHILD UNDER 13 YEARS OF AGE ON EACH COUNT. I BELIEVE THAT IS RELEVANT FOR A COUPLE OF REASONS. ONE, THAT'S THE TRUTH THAT IS THE CHARGE HE WAS FACING. TWO, SHE HAS INTRODUCED A LETTER FROM THE PERSON'S MOM OR THE VICTIM'S MOM, SO SHE HAS ALREADY BROUGHT IT INTO ISSUE, SO I WANT THE JURY TO KNOW SHE SHOWED HIM A LETTER FROM THE VICTIM'S MOM, SAYING SHE WAS OKAY WITH THAT.

I WANT THEM TO BE CLEAR AS TO WHAT WE ARE TALKING ABOUT.

AND THIRD, HE HAS GOT 16 YEARS OVER HIS HEAD. HE HAS ALREADY BEEN POPPED ONCE ON A PAROLE VIOLATION, AND HE IS UNDER POTENTIALLY A TEN YEAR SENTENCE IF HE GETS CONVICTED AND CONSEC'D ON THAT CASE, PLUS 16 YEARS ON A PAROLE VIOLATION. THAT ISSUE OF SENTENCING WILL BE PERTINENT TO WHATEVER JUDGE IS SEN[redacted] THE GSI IN THAT THIS WAS A CHILD UNDER 13 YEARS OLD. I THINK IT CERTAINLY GOES TO HIS BIAS AND CERTAINLY GOES TO THE HEART

OF THIS DEAL AND WHY HE SAID HE DID THIS OUT OF THE GOODNESS OF HIS HEART BECAUSE OF WHAT JIMMY TOLD HIM ABOUT ANDY DOTSON'S MOTHER. I THINK THERE ARE OTHER REASONS HE MIGHT HAVE DONE IT, AND I THINK THE JURY SHOULD HEAR THOSE THINGS.

MR. PRICHARD: I THINK IT IS APPROPRIATE TO ASK HIM WHAT HIS CHARGE WAS AND POSSIBLY EVEN ASK HIM FOR THE LEVEL OF THE OFFENSE AND THE POTENTIAL PENALTY. TALKING ABOUT THE FACTS IS COMPLETELY IMPROPER. IT IS DOING NOTHING OTHER THAN TO TRY TO ASSASSINATE HIS CHARACTER BEFORE THIS JURY AND TRY TO SHOCK THEM INTO THINKING THERE IS SOMETHING VERY DISTURBING HERE, LIKE HE IS SOME CHILD RAPIST.

THE LETTER THAT WAS SHOWN, HE TESTIFIED WAS A VICTIM CONSENT LETTER. WE WEREN'T TALKING ABOUT MOM AND CHILD. IT WAS PUT IN TO SHOW THINGS WERE DONE IN CONNECTION WITH THIS DEAL AND THAT TIME LINE THAT HAD TO BE DONE BEFORE HE GOT HIS DEAL. SO HE IS GOING TO ARGUE HE GOT THE DEAL OF THE CENTURY, AND HE IS FREE TO ARGUE THE GROSS SEXUAL IMPOSITION AND SAY THAT IS A GREAT DEAL. BUT TALKING ABOUT YEARS OVER HIS HEAD AND TALKING ABOUT SPECIFICS OF THIS CASE IS IMPROPER.

MR. MCGOWAN: YOUR HONOR, IT IS SOMETHING THAT WOULD BE CONSIDERED IN DECIDING HOW MANY YEARS HE GOT ON BOTH OF HIS PAROLE VIOLATIONS AND ON THE SENTENCE AND

THE GSI THEMSELVES, AND THAT SHOULD NOT BE KEPT OUT OF IT. I'M NOT GOING TO GET INTO ANY MORE FACTS EXCEPT THAT, AND THERE ARE SOME GROTESQUE FACTS ASSOCIATED WITH IT. I'M NOT GOING TO ASK HIM ANY OF THAT.

THE COURT: THE COURT HAS, WITH OTHER WITNESSES, ALLOWED YOU TO GO INTO THE LEVEL OF FELONIES AND WHAT IT HAS BEEN REDUCED TO BECAUSE I THINK THAT GOES INTO THE ABILITY FOR A JURY TO DETERMINE OR TO WEIGH THE BENEFIT TO A DEFENDANT IN DETERMINING CREDIBILITY. THE FACTS ARE NOT RELEVANT AND WILL NOT BE -- YOU WILL NOT BE ALLOWED TO GO INTO THE FACTS OF THE CASE AND SPECIFICALLY NOT ANYTHING TO DO WITH AGE RELATED FACTS ABOUT THIS VICTIM. IT IS IRRELEVANT TO THE ISSUES BEFORE THIS JURY, BUT YOU CAN TALK ABOUT HOW IT WAS CHARGED, HOW IT ENDED UP, AND SIMILAR QUESTIONS THAT WE DID WITH MR. ARTHURS.

MR. LOWE: WHEN YOU SAY HOW CHARGED, YOU DON'T MEAN THE VICTIM WAS UNDER 13, THOUGH?

THE COURT: NO, JUST THE LEVEL OF THE OFFENSE.

MR. MCGOWAN: I UNDERSTAND YOUR RULING. I WOULD LIKE THE RECORD TO REFLECT THAT RATHER THAN ASKING THE QUESTION FIRST, THAT I APPROACH COUNSEL AND THEN ASK TO APPROACH YOU AND JUST NOT BLURT IT OUT.

THE COURT: NO, I APPRECIATE THAT.

- - -

THEREUPON, THE FOLLOWING PROCEEDINGS WERE HELD IN THE HEARING OF THE JURY:

Q. (BY MR. MCGOWAN) MR. TRENT, I BELIEVE WE WERE TALKING ABOUT THE PENDING CHARGE YOU HAD AT THE TIME YOU WERE IN JAIL WITH JIMMY CONWAY, AND YOU TALKED ABOUT THE GSI. THAT STANDS FOR GROSS SEXUAL IMPOSITION, CORRECT?

A. YES.

Q. YOU HAD TWO COUNTS OF THAT?

A. CORRECT.

Q. WHAT LEVEL OF FELONY OFFENSE WERE EACH OF THOSE COUNTS?

A. FOUR.

Q. SIR, ISN'T IT TRUE THAT THOSE COUNTS WERE F5'S AS ORIGINALLY CHARGED OR -- EXCUSE ME, F3'S?

A. I DON'T BELIEVE SO.

Q. I AM UNDER THE ASSUMPTION THAT THOSE WERE F4'S. WHAT WAS THE RANGE OF THE SENTENCE, THE MINIMUM AND MAXIMUM ON EACH OF THOSE COUNTS?

A. I DON'T KNOW.

Q. ISN'T IT TRUE THAT IT WAS SIX MONTHS TO 18 MONTHS?

A. THAT SOUNDS ABOUT RIGHT.

Q. SO THE TOTAL YOU WERE LOOKING AT THERE WAS DEPENDING ON HOW THE SENTENCE CAME OUT, WAS 12 TO 36 MONTHS?

A. YES.

Q. ON THE PAROLE ISSUE, IT HAD 16 YEARS OR SO OVER YOUR HEAD, AND I KNOW YOU ARE NOT PRECISE ON THE NUMBER OF MONTHS, BUT ROUGHLY, 16 YEARS OR 15 YEARS?

A. NO, IT IS A GUIDELINE SYSTEM. IT IS NOT THAT IF YOU VIOLATE YOUR PAROLE THAT YOU ARE GOING TO DO 16 YEARS.

Q. YOU HAD ALREADY BEEN REVOKED ON YOUR PAROLE ONCE, RIGHT?

A. CORRECT.

Q. THE MAXIMUM YOU STILL HAD OVER YOUR HEAD WAS 15 TO 16 YEARS, WASN'T IT?

A. YEAH, BUT THAT'S NOT HOW IT WORKS. THERE IS A GUIDELINE.

Q. THAT'S THE MAXIMUM YOU HAD OVER YOUR HEAD?

A. YEAH.

Q. WHAT YOU ENDED UP PLEADING OUT TO, REGARDLESS OF WHAT THESE LEVEL OFFENSES WERE, YOU PLED OUT TO ONE MISDEMEANOR, IS THAT RIGHT?

A. YEAH.

Q. WHAT WAS THE AGREED UPON SENTENCE RECOMMENDATION?

A. I BELIEVE IT WAS 90 MORE DAYS.

Q. I AM SORRY?

A. I BELIEVE IT WAS 90 MORE DAYS.

Q. AND WASN'T THE PART OF YOUR DEAL ALSO THAT THERE WOULD BE A RECOMMENDATION TO THE PAROLE BOARD THAT YOUR

PAROLE BE EXTENDED FOR A YEAR OR NOT BE REVOKED, I SHOULD SAY?

A. CORRECT.

Q. YOU TESTIFIED ON DIRECT THAT YOU ESTABLISHED THIS CHARACTER WITH YOUR DEALINGS WITH JAMIE HORTON, CORRECT?

A. THAT IS CORRECT.

Q. ISN'T IT TRUE BEFORE YOU EVER LEFT THE JAIL AND UNDERTOOK THAT CHARACTER'S ROLE, THAT JIMMY CONWAY HAD GIVEN YOU INSTRUCTIONS TO HAVE PEOPLE KILLED OR TO KILL PEOPLE?

A. YEAH.

Q. PRIOR TO YOU LEAVING THE JAIL, YOU HAD NEVER MET JAMIE HORTON, HAD YOU?

A. NO.

Q. PRIOR TO YOU LEAVING THE JAIL, DID JIMMY CONWAY ORDER YOU TO KILL MIKE ARTHURS?

A. EXCUSE ME?

Q. PRIOR TO YOU LEAVING THE JAIL, DID JIMMY CONWAY TELL YOU HE WANTED YOU TO KILL MIKE ARTHURS?

A. NO, HE WANTED ME TO KILL BRIAN MCWHORTER.

Q. DID HE TELL YOU THERE WAS OTHER PEOPLE HE WANTED YOU TO KILL?

A. YEAH.

Q. DID HE TELL YOU THOSE PEOPLE WERE RELATED TO THE DOTSON CASE?

A. NO, AT THAT TIME THEY WERE RELATED TO A ROBBERY IN CHILLICOTHE IN ANOTHER CASE THAT HE WAS ON TRIAL FOR.

Q. WAS MIKE ARTHURS ONE OF THOSE PEOPLE?

A. EVENTUALLY HE BECAME ONE OF THOSE PEOPLE, YEAH.

Q. WHEN YOU GOT OUT, AND YOU GAVE JAMIE A CALL, DID YOU TELL HIM YOU WERE A HIT MAN?

A. NO.

Q. AT SOME POINT IN YOUR DISCUSSIONS WITH HIM, DID YOU TELL HIM YOU WERE A HIT MAN?

A. I DON'T THINK SO. I MAY HAVE, BUT I DON'T THINK SO.

Q. DID YOU TELL HIM YOU WERE RAISED BY GANGSTERS?

A. YEAH.

Q. DID YOU TELL HIM, I AM WILLING TO WHACK PEOPLE?

A. I MAY HAVE.

Q. DIDN'T YOU TELL HIM AT ONE POINT YOU DIDN'T CARE WHO IT WAS; YOU WOULD KILL ANYBODY, SNITCH, PROSECUTOR, AND YOU WENT ON TO NAME QUITE A FEW DIFFERENT PEOPLE?

A. I MAY HAVE TOLD HIM WHATEVER HE WANTED TO HEAR.

Q. YOU WEREN'T REALLY A HIT MAN, WERE YOU?

A. NO.

Q. YOU WEREN'T REALLY A KILLER?

A. NO.

Q. SO YOUR RELATIONSHIP WITH JAMIE STARTED OFF ON THE PREMISE OF A LIE, RIGHT?

A. THAT IS CORRECT.

Q. AT SOME POINT DID JAMIE START AVOIDING YOU OR START NOT RETURNING YOUR CALLS AS SOON AS YOU WANTED HIM TO?

A. NO.

Q. AT SOME POINT DIDN'T HE GO TO THE EXTREME OF CHANGING HIS PHONE NUMBER?

A. NO, I BELIEVE THAT WAS WHEN HE SAID HIS CELL PHONE WAS MESSED UP. HE CALLED ME AND GAVE ME THE NEW NUMBER.

Q. ISN'T IT TRUE THAT AT THE TIME WHEN HE HAD HIS NUMBER CHANGED, YOU CALLED ALL OVER TOWN, SIX OR SEVEN DIFFERENT PEOPLE, TRYING TO GET HIS NUMBER?

A. I DON'T THINK SO.

Q. ISN'T IT TRUE THAT YOU COMPLAINED TO JIMMY CONWAY THAT YOU WERE BEING TREATED LIKE A BITCH?

A. NO, WE WENT THROUGH THIS THE OTHER DAY, SIR.

Q. ISN'T IT TRUE THAT YOU COMPLAINED THAT YOU WERE BEING TREATED LIKE HALF A FAG?

A. YEAH.

Q. ISN'T IT TRUE YOU COMPLAINED ABOUT BEING GIVEN THE RUNAROUND?

A. YEAH.

Q. DID YOU TELL JIMMY CONWAY YOU WERE MAD AT JAMIE HORTON?

A. I DON'T THINK I SAID JAMIE HORTON IN GENERAL. I THINK I SAID I AM GETTING READY TO WALK AWAY FROM THIS WHOLE THING.

Q. BECAUSE JAMIE HORTON WAS GIVING YOU THE RUNAROUND?

A. BECAUSE ALL OF THEM WERE.

Q. ONE OF THOSE PEOPLE IS JAMIE HORTON?

A. CORRECT.

Q. YOU TALKED ABOUT A TRIP ON DIRECT TO CHILLICOTHE. JAMIE DIDN'T WANT TO GO ON THAT TRIP, DID HE?

A. YEAH, HE SAID HE WAS DOWN FOR WHATEVER.

Q. ISN'T IT TRUE THAT HE WAS AFRAID TO GO ON THAT TRIP?

A. AFRAID OF WHAT?

Q. HE DIDN'T WANT TO BE IN THE CAR WITH YOU?

A. I DON'T SEE WHY.

Q. ISN'T IT TRUE THAT YOU TOLD JIMMY CONWAY TO TELL HIM TO QUIT BEING A PUSSY?

A. NO, I DON'T REMEMBER EXACTLY WHO THAT WAS. WE WENT THROUGH THIS THE OTHER DAY, SIR.

Q. YOU TOLD SOMEBODY TO TELL JAMIE TO QUIT BEING A PUSSY, DID YOU NOT?

A. I THINK IT WAS IN REFERENCE TO SHAWN. WE WENT OVER THIS THE OTHER DAY, SIR.

Q. SIR, YOU CAN STOP SAYING THAT. WE ARE TALKING

ABOUT YOUR TESTIMONY HERE TODAY, OKAY?

A. OKAY.

MR. MCGOWAN: WOULD YOU SO INSTRUCT HIM, YOUR HONOR?

THE COURT: MR. TRENT, IF YOU WOULD ONLY ANSWER THE QUESTIONS THAT ARE ASKED TO YOU HERE TODAY, WHETHER OR NOT YOU EVER ANSWERED THESE QUESTIONS BEFORE.

THE WITNESS: I APOLOGIZE, YOUR HONOR.

MR. MCGOWAN: MAY I APPROACH, YOUR HONOR?

THE COURT: YOU MAY.

MR. MCGOWAN: AND MAY I HAVE A MOMENT, YOUR HONOR, BECAUSE WE MAY NEED TO APPROACH BASED ON THE NEXT QUESTION?

THE COURT: YOU MAY.

Q. (BY MR. MCGOWAN) AT SOME POINT IN TIME AFTER THE TAPE, AFTER YOU ARE DONE TALKING WITH JAMIE, YOU MAKE A STATEMENT TO THE POLICE, I BELIEVE, OR DIRECTED TO THEIR ATTENTION, "DUDE, HE IS SO FUCKING SCARED IT'S UNBELIEVABLE. IT'S ON TAPE". SOMETHING TO THAT EFFECT, DON'T YOU?

A. YEAH.

Q. IS IT STILL YOUR TESTIMONY THAT HE WASN'T SCARED OF YOU?

A. YEAH, HE BROUGHT ME LOADED PISTOLS. IT DOESN'T SOUND SCARED TO ME, SIR.

MR. MCGOWAN: YOUR HONOR, I ASK YOU TO INSTRUCT THE WITNESS TO QUIT ADDING HIS OWN COMMENTARY.

THE COURT: I WOULD LIKE TO INSTRUCT YOU AGAIN TO PLEASE ANSWER THE QUESTION THAT WAS ASKED.

THE WITNESS: I AM SORRY.

Q. (BY MR. MCGOWAN) ISN'T IT TRUE THAT WHEN HE CHANGED HIS NUMBER, YOU TRACKED HIM DOWN BY CALLING ALL KINDS OF DIFFERENT PEOPLE?

A. I DON'T BELIEVE SO.

MR. MCGOWAN: MAY I APPROACH THE WITNESS, YOUR HONOR?

THE COURT: YES.

Q. (BY MR. MCGOWAN) I AM SHOWING YOU WHAT IS -- IT HAS NOT BEEN MARKED BUT IT INDICATES AN INTERVIEW OF MAY 22, '02 BETWEEN THE CI AND HORTON. ARE YOU THE CI?

A. YEAH.

Q. YOUR NAME IS TONY?

A. ON THIS IT REFERS TO ME, YEAH.

Q. THAT IS YOUR CHARACTER'S NAME?

A. CORRECT.

Q. DIRECTING YOUR ATTENTION TO THAT STATEMENT, TALKING ABOUT THE FACT THAT YOU WERE NOT ABLE TO GET A HOLD OF HIM, RIGHT THERE?

A. YEAH, BUT IT DOESN'T SAY I AM LOOKING FOR HIS PHONE NUMBER.

Q. SIR, YOU HAVE BEEN INSTRUCTED BY THE JUDGE --

A. YOU ASKED ME IF I WAS LOOKING FOR HIS NUMBER.

Q. SIR, YOU ANSWERED MY QUESTION.

WHAT DO YOU SAY ABOUT THE FACT THAT YOU CAN'T GET A HOLD OF HIM RIGHT THERE? PLEASE TELL THE JURY.

A. IT SAYS, "THESE GUYS ARE FUCKING IDIOTS. LOOK, TELL JAMIE TO GET A HOLD OF ME, TELL HIM TO GO TO A PAY PHONE, SOMETHING, AND CALL ME AND LET ME KNOW IF YOU GET A HOLD OF HIM OR DON'T GET A HOLD OF HIM, EITHER WAY I'M SITTING RIGHT HERE WAITING WITH MY THUMB UP MY ASS".

Q. SO YOU WERE SITTING AROUND, AND YOU ARE MAD BECAUSE JAMIE IS NOT GETTING A HOLD OF YOU, RIGHT?

A. THAT WAS THE IMPRESSION, YEAH.

Q. YOU TRIED TO GET A HOLD OF HIM BUT YOU CAN'T BECAUSE HIS PHONE HAS BEEN CHANGED?

A. I DON'T KNOW THAT THAT'S RELATED.

Q. WELL, WHY WOULD YOU TELL SOMEONE ELSE TO GET A HOLD OF HIM IF YOU COULD JUST CALL HIM DIRECTLY?

A. BECAUSE AT ONE POINT ROB MYERS HAD HIS PHONE AND HE HAD ROB'S, SO I COULDN'T GET A HOLD OF HIM.

Q. WHAT ANSWER DOES SHE GIVE YOU ABOUT WHY THE PHONE --

MS. PRICHARD: OBJECTION.

THE COURT: SUSTAINED.

Q. (BY MR. MCGOWAN) I WILL DIRECT YOUR ATTENTION TO

THIS. WHY DON'T YOU REVIEW THAT AND SEE IF THAT REFRESHES YOUR RECOLLECTION.

A. OKAY.

Q. DID YOU READ THAT WHOLE PAGE?

A. YEAH, DOWN TO HERE.

Q. KEEP GOING. DOES THAT REFRESH YOUR RECOLLECTION WHETHER OR NOT HE CHANGED HIS PHONE NUMBER?

A. HE GOT A NEW PHONE.

Q. A DIFFERENT PHONE NUMBER, RIGHT?

A. WITH A PHONE, YEAH.

Q. I WILL DIRECT YOUR ATTENTION TO PAGE EIGHT. WHAT DO YOU SAY THERE?

A. I SAID, "TELL THEM TO GET THEIR FUCKING HEAD OUT OF THEIR ASS, MAN, WHAT THE FUCK".

Q. NOW, AT THE BOTTOM OF PAGE EIGHT, DO YOU END UP GETTING A HOLD OF JAMIE AFTER ALL OF THE PRIOR STUFF ABOUT NOT GETTING A HOLD OF HIM?

A. YEAH.

Q. WHAT DO YOU SAY TO HIM ABOUT THE FACT THAT YOU COULDN'T GET A HOLD OF HIM?

A. I SAID, "MAN, WHAT THE FUCK, WHAT'S UP, DUDE. I'M GETTING PISSED, MAN".

Q. SO YOU ARE TELLING HIM YOU ARE PISSED?

A. RIGHT.

Q. BECAUSE YOU ARE TRYING TO TRACK HIM DOWN AND YOU

CAN'T FIND HIM?

A. CORRECT.

Q. YOU TOLD -- YOU SPECIFICALLY IN CONVERSATIONS THAT WERE RECORDED TOLD JIMMY CONWAY THAT YOU WERE GETTING THE RUNAROUND BY THE PEOPLE LIKE JAMIE, RIGHT?

A. YEAH.

Q. WHEN YOU TOLD HIM YOU WERE GETTING THE RUNAROUND, WHAT DID YOU MEAN BY THAT?

A. I MEAN I WAS DOING WHAT I WAS SUPPOSED TO BE DOING.

Q. AT SOME POINT IN TIME, SOMEBODY ASKED YOU TO PAY FOR DRUGS, RIGHT?

A. SOMETHING TO THAT EFFECT, YEAH.

Q. WAS IT JAMIE?

A. YEAH.

Q. WHAT WAS YOUR REACTION?

A. I TOLD HIM, YOU WANT ME TO KILL PEOPLE FOR YOU AND GIVE YOU MONEY?

Q. SO YOU WERE PISSED AT HIM; HE WANTED YOU TO PAY FOR DRUGS?

A. YEAH. NO, IT WASN'T -- I DON'T BELIEVE IT WAS FOR DRUGS. IT WAS TO GET RID OF THE BODIES IS WHAT IT WAS FOR.

Q. YOU WERE PISSED AT HIM ABOUT THAT BECAUSE HE WANTED YOU -- WHY -- IT WAS ABOUT DRUGS, WAS IT NOT?

A. THE DRUGS WAS TO HELP --

Q. HE WANTED YOU TO PAY FOR DRUGS INSTEAD OF GIVING THEM TO YOU FOR FREE?

A. THE DRUGS WAS TO HELP ME GET RID OF THE BODY AND NEED MONEY FOR THE DRUGS.

Q. NOW I UNDERSTAND. YOU CLARIFIED WHAT YOU ARE TALKING ABOUT. WHY IS IT THAT -- BECAUSE YOU WEREN'T PISSED, RONNIE TRENT WASN'T PISSED ABOUT NOT HAVING TO PAY FOR DRUGS, WERE YOU?

A. NO.

Q. WHO WAS PISSED ABOUT IT?

A. WHAT?

Q. YOUR CHARACTER WAS PISSED ABOUT IT, RIGHT?

A. CORRECT.

Q. THE HIT MAN?

A. CORRECT.

Q. THIS WHOLE THING, YOUR WHOLE RELATIONSHIP WITH JAMIE WAS BUILT ON A LIE, AND YOU WERE A HIT MAN, AND YOU WERE WILLING TO KILL PEOPLE?

A. CORRECT.

Q. YOU INDICATED THAT YOU HAD ALREADY KILLED PEOPLE?

A. I MAY HAVE. I DON'T KNOW.

Q. YOU INDICATED YOU WERE RAISED BY GANGSTERS?

A. TRUE.

Q. YOU INDICATED THAT YOU HAD CONNECTIONS, AND YOUR

CONNECTIONS WERE SO GOOD THAT YOU WOULD KNOW IF SOMEBODY WAS GOING TO GET ARRESTED BEFORE IT EVEN HAPPENED, DIDN'T YOU?

A. I MAY HAVE SAID THAT.

MR. MCGOWAN: NO FURTHER QUESTIONS AT THIS TIME.

- - -

REDIRECT EXAMINATION

BY MS. PRICHARD:

Q. MR. TRENT, YOU PLAYED A ROLE. WHO WANTED YOU TO BE THE HIT MAN?

A. JIMMY CONWAY.

Q. WHO DID JIMMY CONWAY HOOK YOU UP WITH TO CONTINUE THAT ROLE?

A. JAMIE HORTON.

Q. WOULD YOU SAY MR. HORTON IS BIGGER IN SIZE THAN YOU?

A. YEAH.

Q. WEIGHS MORE THAN YOU?

A. YEAH.

Q. WAS MAY 20, THE DATE THAT TRANSCRIPT WAS SHOWN TO YOU, THE ONLY DATE JAMIE HORTON DISCUSSED THE ANDREW DOTSON HOMICIDE WITH YOU?

A. NO.

Q. SO OTHER THAN THAT PORTION YOU READ ABOUT THE OLD

SCHOOL STUFF, THERE ARE OTHER CONVERSATIONS?

A. CORRECT.

Q. LET'S GO THROUGH SOME OF THOSE.

MR. MCGOWAN: YOUR HONOR, I DON'T KNOW WHAT HER NEXT QUESTION IS, BUT SHE SAID LET'S GO THROUGH SOME OF THOSE, AND MAY WE APPROACH A MINUTE?

THE COURT: YOU MAY.

- - -

THEREUPON, COURT AND COUNSEL CONFERRED AT THE BENCH OUT OF THE HEARING OF THE JURY AND THE REPORTER.

- - -

Q. (BY MS. PRICHARD) DID MR. HORTON DISCUSS WITH YOU WHAT WOULD HAPPEN IF PEOPLE FOUND OUT HIS INVOLVEMENT IN THE DOTSON HOMICIDE?

MR. MCGOWAN: OBJECTION, YOUR HONOR.

THE COURT: OVERRULED. YOU MAY GO AHEAD AND ANSWER THE QUESTION.

THE WITNESS: YEAH.

Q. (BY MS. PRICHARD) DO YOU REMEMBER WHAT HE SAID?

A. NOT WORD FOR WORD. IF I COULD SEE A TRANSCRIPT, I WOULD.

Q. I WILL APPROACH YOU WITH THE MAY 17, '02 TRANSCRIPT, PAGE NINE, AND I WILL ASK YOU TO TAKE A LOOK AT IT AND IF YOU NEED TO FLIP THROUGH PAGES, FEEL FREE TO.

A. IT SAYS --

Q. DO YOU REMEMBER WHAT HE SAID?

A. IT SAYS, "I AM IN SO MUCH SHIT WITH JIMMY, THEY WILL GET ME DOWN THERE, LIKE WHAT HAPPENED, MAN. I AM FUCKED, YOU KNOW WHAT I AM SAYING".

Q. SO I MEAN, I GUESS IN ENGLISH, WHAT DID THAT MEAN?

MR. MCGOWAN: OBJECTION, YOUR HONOR.

THE COURT: YOU MAY REPHRASE YOUR QUESTION.

Q. (BY MS. PRICHARD) WHAT DID YOU TAKE THAT TO MEAN?

MR. MCGOWAN: OBJECTION, YOUR HONOR.

THE COURT: OVERRULED. YOU MAY ANSWER.

THE WITNESS: THAT IF HE CAME DOWN HERE IN REGARD TO THIS, HE WOULD GO TO JAIL.

MR. MCGOWAN: OBJECTION AND MOVE TO STRIKE.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) IN REGARD TO DISCUSSIONS ABOUT DIGGING UP THE GROUND OR BURYING HIM, DO YOU REMEMBER WHAT YOUR DISCUSSIONS WITH MR. HORTON WERE ABOUT WHY THEY DIDN'T DO THAT?

A. I ASKED HIM WHY DIDN'T THEY JUST BURY HIM. AND HE SAID HE WAS LOOSENING THE GROUND. THEY SAID IT WOULD TAKE TOO LONG. LET'S GET OUT OF HERE. I SAID, YOU DIDN'T COVER HIM. YOU DIDN'T PUT NOTHING ON HIM. AND THAT IS

WHEN HE SAID, YEAH, THE OLD SCHOOL STUFF.

MR. MCGOWAN: OBJECTION.

THE WITNESS: HE SAID THE OLD SCHOOL STUFF WAS THROWN ON HIM.

THE COURT: THE OBJECTION WAS TO --

MR. MCGOWAN: HE ALREADY TESTIFIED WHAT WAS SAID. HE ALREADY READ IT DIRECTLY FROM THE TRANSCRIPT VERBATIM, AND HE CHANGED IT TO HIM INSTEAD OF BEING DUMPED ON HIM. HE JUST CORRECTED HIS ANSWER.

THE COURT: THE OBJECTION IS SUSTAINED.

Q. (BY MS. PRICHARD) FROM THE VARIOUS DISCUSSIONS YOU HAD WITH JAMIE HORTON, AT SOME POINT DID HE TELL YOU THAT HE PUT THE LIME ON HIM?

A. YEAH.

Q. IN ALL OF THESE TRANSCRIPTS, ARE THE TAPES AUDIBLE?

A. YEAH.

Q. DID YOU HAVE TO LISTEN TO SOME OF THESE TAPES AND FILL IN BLANKS ON THE TRANSCRIPTS?

A. I LISTENED TO ALL OF THEM.

Q. IS IT DIFFICULT TO HEAR AND FILL IN THE BLANKS ON SOME OF THESE THINGS?

A. YEAH.

Q. YOU DIDN'T TRANSCRIBE THESE AND TYPE THESE OUT, RIGHT?

A. NO.

Q. DID YOU AND MR. HORTON DISCUSS WHETHER OR NOT HE FELT GOOD ABOUT WHAT HAPPENED OUT THERE AT ANDREW DOTSON'S HOMICIDE?

A. YEAH.

Q. WHAT DID HE SAY ABOUT THAT?

A. I DON'T RECALL EXACTLY, BUT SOMETHING TO THE EFFECT THAT HE FELT GOOD ABOUT IT. HE SAID I AM ALL FOR AN OLD-FASHIONED BURIAL, I BELIEVE WERE HIS WORDS.

Q. DID YOU EVER DISCUSS WITH HIM WHETHER OR NOT YOU BELIEVED THAT THEY SHOULD HAVE BURIED HIM?

A. I THINK SO.

Q. DO YOU RECALL WHAT HIS RESPONSE WAS?

A. NO.

Q. IF I SHOWED YOU A TRANSCRIPT, WOULD THAT REFRESH YOUR MEMORY?

A. YEAH.

Q. I WILL SHOW YOU THE MAY 17TH TRANSCRIPT -- MAY 11.

MR. MCGOWAN: I DO OBJECT.

THE COURT: IF THERE IS A SPEAKING OBJECTION, COME UP.

- - -

THEREUPON, COURT AND COUNSEL CONFERRED AT THE BENCH OUT OF THE HEARING OF THE JURY AND THE REPORTER.

- - -

Q. (BY MS. PRICHARD) GO AHEAD AND TAKE A LOOK AT PAGE 11 AND WHEN YOU ARE FINISHED, I'M GOING TO ASK YOU SOME QUESTIONS. READ IT TO YOURSELF.

MR. MCGOWAN: YOUR HONOR, I OBJECT. I THOUGHT -- WELL, EXCUSE ME. MAY WE APPROACH?

THE COURT: HE CAN READ THAT FIRST PAGE FOR PURPOSES OF RECOLLECTION AND WHAT WE DISCUSSED AT THE BENCH.

MR. MCGOWAN: ALL RIGHT.

Q. (BY MS. PRICHARD) ARE YOU FINISHED?

A. YEAH.

Q. DOES THAT REFRESH YOUR MEMORY ABOUT HIS RESPONSE TO YOU QUESTIONING THEM FOR NOT BURYING ANDREW?

A. YEAH.

Q. WHAT WAS HIS RESPONSE?

MR. MCGOWAN: OBJECTION.

THE COURT: THE OBJECTION IS GOING TO BE OVERRULED. DID YOU STATE YOUR MEMORY IS REFRESHED?

THE WITNESS: YEAH, MY MEMORY IS REFRESHED.

THE COURT: YOU MAY ANSWER THE QUESTION.

THE WITNESS: HE SAID, YOU TELL ME.

Q. (BY MS. PRICHARD) YOU TELL ME?

A. YEAH.

Q. WAS THERE A PARTICULAR TONE OR SOMETHING TO THAT

THAT HELPED YOU UNDERSTAND WHAT HE MEANT?

MR. MCGOWAN: OBJECTION.

THE COURT: SUSTAINED.

Q. (BY MS. PRICHARD) DID YOU AND MR. HORTON EVER DISCUSS HIM TELLING THE TRUTH ABOUT THINGS?

A. I AM SURE WE DID SOMETIME.

Q. AND WAS THERE ANY DISCUSSION ABOUT TALKING WITH THE POLICE?

A. YEAH.

Q. WHAT WAS THAT DISCUSSION ABOUT?

A. I'M NOT EXACTLY SURE. I MEAN, WHAT DO YOU MEAN, QUESTIONS AS FAR AS WHAT?

Q. I AM SORRY.

A. AS FAR AS TALKING TO THE POLICE ABOUT WHAT?

Q. WELL, DO YOU REMEMBER ANY DISCUSSIONS WHERE YOU AND MR. HORTON TALKED ABOUT WHETHER OR NOT HE TALKED TO THE POLICE?

A. JAMIE HORTON TALKED TO THE POLICE?

Q. YES, WHETHER OR NOT JAMIE HORTON LIKED TALKING TO THE POLICE?

A. HE DIDN'T LIKE TALKING TO THE POLICE.

Q. DO YOU REMEMBER ANYTHING SPECIFICALLY THAT HE SAID?

A. NOT EXACTLY, NO.

Q. DID YOU AND HE DISCUSS WHETHER OR NOT HE WOULD

LIE TO YOU?

A. YEAH.

Q. WHAT DID HE SAY ABOUT THAT?

A. HE SAID HE WOULDN'T.

Q. DID HE SAY HE WOULD LIE TO OTHER PEOPLE?

A. YEAH.

Q. DID HE INDICATE TO WHO?

A. YEAH, I THINK HE SAID HE WOULD LIE TO THE POLICE BUT HE WOULDN'T LIE TO ME.

Q. DO YOU RECALL TALKING WITH MR. HORTON ABOUT WHETHER OR NOT HE WAS AWARE OF WHAT HAPPENED AT THE SCENE, THE ANDREW DOTSON HOMICIDE?

A. YES.

Q. DO YOU REMEMBER ANY SPECIFICS OF THOSE DISCUSSIONS?

A. YEAH, THE FIRST TIME HE TOLD ME THAT HE DIDN'T KNOW, HE WASN'T AROUND.

MR. MCGOWAN: OBJECTION, YOUR HONOR.

THE COURT: OVERRULED.

MR. MCGOWAN: MOTION TO STRIKE.

Q. (BY MS. PRICHARD) DID HE TELL YOU SOMETHING LATER?

A. YEAH, HE TOLD ME THAT HE WAS THERE.

Q. DID HE TELL YOU ABOUT WHETHER HE HAD ANY CONCERNS ABOUT HAVING BEEN THERE?

A. AT ONE POINT --

MR. MCGOWAN: OBJECTION, YOUR HONOR, ASKED AND ANSWERED.

THE COURT: OVERRULED. YOU MAY ANSWER THE QUESTION.

THE WITNESS: AT ONE POINT HE TOLD ME THE WHOLE STORY ABOUT WHAT HAPPENED WITH ANDREW THAT DAY.

Q. (BY MS. PRICHARD) DID HE INDICATE AS TO WHETHER HE WAS UPSET ABOUT WHAT HAPPENED THERE?

A. NO, HE WASN'T UPSET.

Q. DO YOU REMEMBER ANYTHING SPECIFICALLY HE SAID WITH RESPECT TO THAT?

MR. MCGOWAN: OBJECTION, YOUR HONOR, ASKED AND ANSWERED.

THE COURT: SUSTAINED.

Q. (BY MS. PRICHARD) WHY IS IT YOU ARE SAYING HE WAS NOT UPSET?

A. BECAUSE HE WAS LAUGHING.

Q. DID HE EVER INDICATE TO YOU WHETHER HE WAS CONCERNED ABOUT CRIMINAL LIABILITY OUT OF WHAT HAPPENED AT THAT SCENE?

A. YEAH, HE WAS AFRAID HE WOULD GO TO JAIL.

Q. DID HE INDICATE WHAT STEPS HE WISHED TO TAKE TO AVOID GOING TO JAIL?

A. YEAH, THAT'S WHY HE WAS KILLING OR PAYING ME TO

KILL PEOPLE.

MR. MCGOWAN: OBJECTION, YOUR HONOR, MOVE TO STRIKE.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) DID HE EVER TELL YOU, STAY AWAY FROM HIM, HE DIDN'T WANT ANY PART OF YOU?

A. NO.

Q. DID HE EVER TELL YOU NOT TO CALL HIM ANYMORE?

A. NO.

Q. THIS ROLE YOU PLAYED THAT MR. MCGOWAN PUT UP THERE, WERE THE THINGS THAT WERE SAID IN THESE TRANSCRIPTS MADE UP?

A. AS FAR AS WHAT?

Q. THE THINGS THAT YOU HEARD, WERE THOSE ACCURATE?

A. THAT THEY TOLD ME? YEAH.

Q. THE THINGS YOU WERE SAYING --

MR. MCGOWAN: OBJECTION, MOVE TO STRIKE.

THE COURT: SUSTAINED.

Q. (BY MS. PRICHARD) I WILL ASK YOU THIS, MR. TRENT. WHAT IS THERE TO SUPPORT EVERYTHING YOU ARE TELLING THIS JURY?

A. EVERYTHING THAT THE STATE HAS. I MEAN, THERE'S WIRES. THERE'S TAPE RECORDINGS. THERE'S SURVEILLANCE PICTURES. THERE'S MONEY THAT IS IN EVIDENCE. THERE'S COCAINE IN EVIDENCE. THERE'S LOADED PISTOLS IN EVIDENCE.

YOU KNOW WHAT I MEAN, THERE IS A DEAD BODY, A 20 YEAR OLD KID.

MR. MCGOWAN: OBJECTION, AND MOVE TO STRIKE.

THE COURT: SUSTAINED.

MS. PRICHARD: AS TO JUST THE LAST PORTION, I PRESUME?

THE COURT: YES.

MR. MCGOWAN: MY OBJECTION IS TO THE WHOLE THING.

THE COURT: THE OBJECTION IS SUSTAINED AS TO THE COMMENT MADE BY THE WITNESS.

Q. (BY MS. PRICHARD) LET ME JUMP TO ANOTHER ISSUE. IF YOU HAVE A PAROLE VIOLATION AND YOU GET REVOKED, DO YOU AUTOMATICALLY DO THE MAX-16 YEARS THAT MIGHT BE LEFT?

A. NO.

Q. DOES THE PAROLE BOARD CHOOSE HOW MUCH EXTRA TIME YOU DO?

A. CORRECT.

Q. MR. MCGOWAN ASKED YOU IF MR. HORTON WAS AFRAID OF YOU. WHO RENTED THE VAN TO GO TO CHILLICOTHE?

A. JAMIE HORTON.

Q. WHO RODE WITH YOU TO CHILLICOTHE?

A. JAMIE HORTON.

Q. WHOSE IDEA WAS IT TO RENT THE VAN?

A. JAMIE HORTON.

Q. WHOSE IDEA WAS IT TO STOP AT JAMIE HORTON'S PARENTS' AFTERWARDS?

A. JAMIE HORTON.

Q. HE TOOK YOU THERE?

A. YEAH.

Q. DID SOMETHING ABOUT JAMIE HORTON'S CONDUCT TOWARDS YOU MAKE YOU BELIEVE HE WAS SCARED OF YOU?

A. NO.

Q. MAY 22, THERE WAS SOME DISCUSSION ON A TRANSCRIPT OF THE CELL PHONE NUMBER BEING CHANGED?

A. CORRECT.

Q. YOU REVIEWED PART OF THAT TRANSCRIPT. YOU DID EVENTUALLY TALK TO JAMIE HORTON ON THAT DAY?

A. CORRECT.

Q. DO YOU RECALL WHEN YOU DID TALK TO HIM ON MAY 22, WHAT KIND OF CONVERSATION YOU HAD, WHAT YOU TALKED ABOUT?

A. I DON'T RECALL. HE WOULDN'T LET ME SEE THE REST OF THE TRANSCRIPT.

Q. THAT WOULD REFRESH YOUR MEMORY?

A. YEAH.

Q. I WILL SHOW YOU MAY --

MR. MCGOWAN: ~~YOUR HONOR, SHE HAS TO ASK A~~ MORE DIRECT QUESTION THAN THAT.

THE COURT: ASK SOME ADDITIONAL QUESTIONS,

PLEASE.

Q. (BY MS. PRICHARD) DID MR. HORTON TELL YOU WHEN YOU FINALLY GOT A HOLD OF HIM WHETHER OR NOT HE WANTED TO MEET WITH YOU?

A. YEAH, HE DID.

Q. DO YOU REMEMBER WHY?

A. NOT EXACTLY SURE.

Q. IF YOU SAW THE TRANSCRIPT, WOULD THAT REFRESH YOUR MEMORY?

A. YEAH.

Q. AGAIN, I WOULD LIKE TO SHOW YOU MAY 22, PAGE NINE. IF YOU WILL LOOK AT THAT, TAKE YOUR TIME READING IT.

A. HE SAID HE WANTED TO MEET WITH ME BECAUSE HE HAS GO SOMETHING FOR ME.

Q. WHAT DID HE HAVE FOR YOU?

A. I BELIEVE IT WAS A PISTOL AFTER WE MET.

Q. A GUN?

A. YEAH.

Q. THAT WAS AFTER TRYING TO LOCATE HIS PHONE NUMBER?

A. CORRECT.

Q. AND IT WAS MAY 22. DO YOU REMEMBER WHETHER OR NOT YOU TALKED TO HIM ON MAY 23?

A. I AM SURE I DID.

Q. DO YOU REMEMBER WHO WOULD HAVE INITIATED THAT CALL?

A. I THINK HE CALLED ME. YEAH, HE CALLED ME THE FOLLOWING DAY, I BELIEVE.

Q. HE INITIATED A PHONE CALL TO YOU?

A. YEAH.

Q. THE NEXT DAY? THEN DID YOU MAKE A JAIL VISIT WITH HIM AFTER THAT?

A. YES.

Q. DID THAT TRANSCRIPT SAY ANYTHING IN THERE THAT HIS NUMBER WAS CHANGED?

A. NO.

Q. YOU SAID THERE HAD BEEN SOME CONFUSION BETWEEN HE AND ROB'S CELL PHONES. WHAT WAS THAT ABOUT?

A. HE HAD ROB MYERS' CELL PHONE AND ROB MYERS HAD HIS CELL PHONE.

Q. WHO IS ROB MYERS?

A. ONE OF THE OTHER GUYS THAT IS IN THEIR CREW.

Q. HAVE YOU EVER MET ROB MYERS?

A. NO, I TALKED TO HIM ON THE PHONE ONCE.

Q. DID YOU TALK TO HIM BECAUSE OF A CONFUSION WITH THE PHONES?

A. YEAH.

Q. DID YOU HAVE SPECIFIC HOURS YOU WOULD BE WORKING ON THIS WITH THE DETECTIVES?

A. YEAH, TWO TO MIDNIGHT.

Q. DID THAT LEAD TO ANY FRUSTRATION WITH TRYING TO

GET THINGS DONE?

A. YEAH, IT LED TO A LOT OF FRUSTRATION.

Q. DID THAT HAVE ANYTHING TO DO WITH YOU SAYING YOU ARE GETTING THE RUNAROUND?

A. YEAH.

Q. WHAT TIME DID DETECTIVES HAVE TO GET YOU BACK?

A. MIDNIGHT.

Q. TO THE JAIL?

A. MIDNIGHT.

Q. DID YOU AND JAMIE HORTON EVER DISCUSS WHETHER OR NOT ANDREW DOTSON HAD BEEN STABBED?

A. YEAH.

Q. WHAT DID JAMIE TELL YOU ABOUT THAT?

A. I ASKED HIM. I SAID, WHAT THE FUCK DID YOU GUYS STAB HIM WITH? AND HE SAID IT WAS A PICK TYPE THING.

Q. DID HE DISCUSS WITH YOU WHAT WOULD HAPPEN IF EVERYONE FOUND OUT ABOUT THIS?

A. YEAH, HE SAID HE WOULD GO TO JAIL, BASICALLY.

Q. MR. TRENT, DO YOU HAVE ANYTHING TO GAIN BY TESTIFYING HERE BESIDES YOUR DEAL?

A. I MEAN, IF I MAY, I HAVE LOST EVERYTHING THAT MEANS ANYTHING TO ME.

MR. MCGOWAN: OBJECTION, YOUR HONOR.

THE COURT: SUSTAINED.

Q. (BY MS. PRICHARD) TRY NOT TO GET INTO A LONG

RENDITION. BY TESTIFYING HERE, BESIDES YOUR DEAL, DO YOU GAIN ANYTHING?

A. I DON'T GAIN NOTHING.

Q. HAVE YOU LOST ANYTHING?

A. I HAVE LOST EVERYTHING. I HAVE GOT PEOPLE --

MR. MCGOWAN: OBJECTION.

THE COURT: YOU MAY ASK ANOTHER QUESTION.

Q. (BY MS. PRICHARD) HAS THIS POSED SAFETY CONCERNS FOR YOU?

A. YEAH, I HAVE GOT PEOPLE SHOOTING AT ME.

MR. MCGOWAN: OBJECTION, YOUR HONOR.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) YOU HAVE HAD SAFETY CONCERNS BECAUSE OF TESTIFYING?

A. YEAH.

MS. PRICHARD: NOTHING FURTHER.

- - -

RECROSS EXAMINATION

BY MR. MCGOWAN:

Q. GOING BACK TO THE ISSUE OF YOUR PENDING CHARGES, AT THE TIME YOU WERE IN THE FRANKLIN COUNTY JAIL, ISN'T IT TRUE THAT YOU HAD ONE COUNT OF A FELONY THREE, GROSS SEXUAL IMPOSITION, AND ONE COUNT OF A FELONY FOUR, GROSS SEXUAL IMPOSITION?

A. THAT MAY BE CORRECT.

Q. ON THE F3, IT IS YOUR UNDERSTANDING THAT THE RANGE OF SENTENCE IS ONE TO FIVE YEARS?

A. I DON'T KNOW. IT MAY HAVE BEEN.

Q. YOU DON'T KNOW WHAT THE RANGE OF SENTENCE WAS ON THE CRIMINAL CHARGE YOU WERE FACING?

A. NO.

Q. YOU ALREADY TALKED ABOUT THE EARLIER ONE BEING SIX MONTHS TO 18 MONTHS?

A. CORRECT.

Q. MS. PRICHARD ASKED YOU ON REDIRECT WHO WANTED YOU TO BE A HIT MAN, AND YOUR ANSWER WAS MR. CONWAY?

A. CORRECT.

Q. YOU TESTIFIED ON REDIRECT THAT AFTER YOU FINALLY GOT A HOLD OF MR. HORTON, HE TOLD YOU, I HAVE SOMETHING FOR YOU?

A. CORRECT.

Q. THAT WAS AFTER YOU TOLD HIM YOU WERE PISSED, RIGHT?

A. CORRECT.

Q. AFTER YOU TOLD JIMMY THAT YOU WERE PISSED, IN FACT --

A. RIGHT.

Q. I MUST HAVE MISSED SOMETHING BECAUSE I BELIEVE ON CROSS EXAMINATION YOU FOUND THE PART AND ACKNOWLEDGED THAT HE HAD, IN FACT, CHANGED HIS NUMBER, AND YOU SAID, YEAH, A

NEW PHONE, A NEW NUMBER? ISN'T THAT YOUR ANSWER?

A. NO, MY ANSWER WAS HE HAD A NEW PHONE, AND YOU ARE SAYING HE HAD A NEW NUMBER.

Q. I SAID, AND DID HE HAVE A NEW NUMBER, AND YOU SAID, YEAH, A NEW PHONE, A NEW NUMBER?

A. NO, I SAID, A NEW PHONE.

Q. YOU TALKED ABOUT JAMIE DISCUSSING WHETHER HE WAS STABBED OR NOT, WHETHER ANDREW DOTSON WAS STABBED?

A. CORRECT.

Q. YOU SAID, WHAT DID YOU GUYS DO; IS THAT HOW YOU ASKED IT?

A. I SAID, WHAT THE FUCK DID YOU GUYS STAB HIM WITH.

Q. YOU SAID YOU GUYS?

A. YEAH.

Q. AND HIS ANSWER WAS, SOME KIND OF A PICK AXE?

A. HE SAID SOME KIND OF A PICK THING.

Q. SOMEBODY HAD ALREADY TOLD YOU THAT THEY PERSONALLY HAD STABBED ANDREW WITH A PICK AXE, HADN'T THEY?

A. NO.

Q. DIDN'T YOU TELL THE DETECTIVES THAT JIMMY CONWAY TOLD YOU HE STABBED HIM WITH A PICK?

A. NO, I NEVER KNEW HE WAS STABBED WITH A PICK AXE UNTIL JAMIE HORTON TOLD ME THAT.

Q. DID YOU TELL THE DETECTIVES THAT JIMMY CONWAY TOLD YOU HE STABBED ANDREW DOTSON?

A. NO.

Q. DID YOU TELL THE DETECTIVES THAT JIMMY CONWAY TOLD YOU HE KILLED ANDREW DOTSON?

A. YES.

Q. AND SO WHEN YOU SAID YOU GUYS, HIS ANSWER TO YOU WAS A PICK AXE?

A. CORRECT.

Q. HE DIDN'T SAY, I HIT HIM WITH A PICK AXE?

A. NO.

Q. YOU TESTIFIED ON CROSS EXAMINATION THE TWO SPECIFIC THINGS HE TOLD YOU WAS DIGGING A HOLE AND PUTTING THE LIME, AND YOU HAVE NOW SINCE CORRECTED THAT ABOUT THE LIME, CORRECT?

A. I DON'T UNDERSTAND.

Q. ON CROSS EXAMINATION, YOU SAID THERE WERE TWO SPECIFIC THINGS THAT JAMIE HORTON SAID HE DID?

A. CORRECT.

MR. MCGOWAN: MAY I APPROACH THE WITNESS, YOUR HONOR, WITH THE TRANSCRIPT?

THE COURT: YES.

Q. (BY MR. MCGOWAN) WHAT DID YOU TELL -- AND I AM TRYING TO REFRESH YOUR RECOLLECTION. WHY DON'T YOU READ THAT AND SEE IF THAT DOESN'T REFRESH YOUR RECOLLECTION?

DOES THAT REFRESH YOUR RECOLLECTION?

A. YEAH.

Q. DIDN'T HE, IN FACT, GET A NEW NUMBER, AND THAT IS WHY YOU WERE CALLING ALL OF THE VARIOUS PEOPLE, TRYING TO FIND HIS NEW NUMBER?

A. I DON'T KNOW. IT DOESN'T SAY WHOSE NUMBER THAT IS.

Q. ISN'T THAT WHY YOU TOLD JIMMY YOU ARE PISSED?

A. WHY?

Q. BECAUSE YOU CAN'T GET A HOLD OF JAMIE, HIS NUMBER IS SHUT OFF?

A. YEAH, BUT THAT DOESN'T SAY THAT'S HIS NUMBER.

Q. SO YOU ARE MAINTAINING YOUR POSITION THAT YOU DON'T KNOW IF HE CHANGED HIS NUMBER OR NOT?

A. YEAH, I DON'T KNOW.

Q. YOU ALSO TESTIFIED ON REDIRECT THAT MR. HORTON NEVER DID ANYTHING THAT GAVE YOU THE IMPRESSION THAT HE WAS SCARED?

A. CORRECT. SCARED OF ME?

Q. SCARED OF YOU. ISN'T THIS THE VERY TRANSCRIPT WHERE YOU SAY, AFTER YOU ARE DONE TALKING TO JAMIE, TO THE POLICE, "DUDE, HE IS SO FUCKING SCARED IT IS UNBELIEVABLE. IT'S ON TAPE."

A. YEAH, BUT AS I SAID EARLIER, SIR, I AM NOT SURE THAT'S IN REFERENCE TO JAMIE.

Q. YOU ARE NOT SURE IF IT IS IN REFERENCE TO JAMIE?

A. RIGHT.

Q. DOESN'T IT SAY JAMIE RIGHT THERE ABOVE THAT?

A. NO, THAT IS AFTER THIS CONVERSATION -- THIS WAS MADE AFTER THE CONVERSATION WITH JAMIE. THAT'S WHAT YOU JUST SAID.

Q. YEAH, ISN'T THIS WHOLE CONVERSATION LEADING UP TO YOU SAYING THAT, TONY, JAMIE, TONY, JAMIE?

A. ALSO TALKING ABOUT SHAWN AND -- SO ME AND JAMIE BOTH SAID SHAWN WAS SCARED.

Q. WHO IS THIS STATEMENT DIRECTED TO, THE COPS?

A. I DON'T KNOW. IT DOESN'T SAY.

Q. WELL, WOULD YOU HAVE TOLD JAMIE IT IS ON TAPE?

A. I DON'T KNOW.

Q. YOU DIDN'T WANT JAMIE TO KNOW YOU HAD A TAPE -- I'M SORRY TO CUT YOU OFF. YOU DON'T WANT JAMIE TO KNOW YOU HAD A TAPE RECORDING OF YOUR CONVERSATIONS, DID YOU?

A. NO.

Q. ISN'T IT TRUE YOU WERE DIRECTING THAT STATEMENT TO THE POLICE, "DUDE, HE IS SO FUCKING SCARED, IT IS UNBELIEVABLE"?

A. I AM SURE IT WAS TO THE DETECTIVES, YEAH.

MR. MCGOWAN: NOTHING FURTHER.

THE COURT: ANY FURTHER QUESTIONS FOR MR. TRENT FROM THE STATE?

MS. PRICHARD: NOTHING FURTHER.

THE COURT: THANK YOU, MR. TRENT. YOU MAY

STEP DOWN.

- - -

THE COURT: MEMBERS OF THE JURY, IF YOU RECALL, WE DID MENTION THIS WOULD BE AN EARLY SESSION TODAY. WE TOLD YOU IN THE BEGINNING WE WOULD TRY YOUR PATIENCE. I AM SURE WE HAVE. I WANT TO THANK YOU FOR YOUR UNDERSTANDING AND TOLERANCE. I ALSO WANT TO TELL YOU WE ARE ON SCHEDULE, DESPITE ALL THE BREAKS IN THIS PARTICULAR CASE, AND WE ARE GOING TO BREAK FOR THE EVENING AS WELL.

PLEASE, REPORT TO THE FIRST FLOOR TOMORROW AT 1:30. IF YOU WILL REMEMBER, I MENTIONED WE WON'T BE IN SESSION TOMORROW MORNING ON THIS CASE. PLEASE, REPORT DOWN TO THE FIRST FLOOR AT 1:30 AND SHELLY WILL COME AND GET YOU WHEN WE ARE READY TO PROCEED.

REMEMBER YOUR ADMONITIONS, WHICH REMAIN EVER IMPORTANT. YOU ARE TO FOLLOW ALL OF THEM AND REMEMBER NOT TO FOLLOW ANY MEDIA ACCOUNTS THIS CASE MAY BE RECEIVING.

- - -

THEREUPON, THE TRIAL OF THIS CAUSE WAS ADJOURNED FOR THE DAY.

- - -

down. We're going to go ahead and reconvene at 11:15.

(Recess taken.)

THE COURT: I understand the next State witness is not available right now, so we're going to have a defense witness. You're calling Mr. Trent?

MS. PRICHARD: Correct. You're calling Mr. Trent.

MR. SUHR: Yeah.

THE COURT: Raise your right hand, please.

(Witness sworn.)

THE COURT: Please be seated. I've got the microphone turned on. I want you to adjust it and pull it down towards you.

- - -

RONALD TRENT

Called as a witness on behalf of the Defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SUHR:

Q. State your name, please.

A. Ronald Ray Trent.

THE COURT: Mr. Suhr, if you'd come up

EXHIBIT
Exhibit 39

here please. Thank you.

BY MR. SUHR:

Q. And you are a witness in this case entitled State of Ohio versus James Conway; is that correct?

A. Correct.

Q. As I understand it, some point in time you were incarcerated in the Franklin County Jail beginning in September of 2001; is that correct?

A. That's correct.

Q. At that time you were charged with several counts of gross sexual imposition with a 13 year old little girl; is that correct?

A. No, it's not. It's one count.

Q. What?

A. It was one count.

Q. One count. And an attempt?

A. Yeah.

Q. There were two counts, weren't there?

A. Yeah.

Q. And during that time that you were in jail, it's true, isn't it, that you had contact with some of the sheriff's department authorities?

A. I was in jail. They're all deputies there, yeah.

Q. And it's also true, isn't it, that at one time you were in a cell area with a person by the name of Orlando Wilson?

A. Yeah.

Q. And you were also in that cell there was a man by the name of Howard Guinn; is that correct?

A. I don't know. May have been.

Q. And with relation to Orlando Wilson, isn't it true that you talked to him at length and at some point you were promising to get him a lawyer. Do you remember that?

A. No.

MS. PRICHARD: Your Honor, can I object to the leading nature of all these questions? It's his witness.

THE COURT: Overruled.

MR. SUHR: Thank you.

BY MR. SUHR:

Q. And in fact, you promised him to get perhaps Mr. Shamansky and that you needed more information about his case to pass on to Shamansky so you could get him interested in

58196 - J35

Orlando's case?

A. No.

Q. And as a result of that, you got certain information which resulted in a further -- indictment of Mr. Wilson?

A. I don't know anything about that.

Q. Now, during that same time period when you're on the fifth floor with Howard Guinn and Orlando Wilson, you had in your possession a business card from a homicide detective from the sheriff's department, didn't you?

A. I may have had, yeah.

Q. And although you told people you threw it away, you later were seen to have had that same card when you were up on the eighth floor where Mr. Conway was?

A. I may have.

Q. When you were down on five, 5N3 specifically that's where you were; right?

A. Yeah. I was on every floor there.

Q. What?

A. Yeah.

Q. You had your second disciplinary hearing when you were there, isn't that correct?

A. That's correct.

Q. And you were found guilty by a panel of three corrections officers and you were given seven days in the hole; is that correct?

A. That's correct.

Q. And that prior to this, you told people in 5N3 that when you were out on the streets running a dope house, that you had a close connection to Sheriff Karnes himself?

A. I wouldn't know Jim Karnes if he was in this courtroom.

Q. And you told the people there in 5N3 and that all you did was turn over a few people on a regular basis and that you could -- that gave you free reign to have your drug house working. Didn't you brag about that?

A. No.

Q. Now, in fact, when you were taken off of 5N3 down to the third floor to do your time in the hole, you had appealed to Sheriff Karnes, didn't you?

A. Yeah.

Q. And the day that you were taken from five down to three, your appeal was granted by Sheriff Karnes?

A. Actually it was granted the day before

58196 - J37

that. But it never got processed.

Q. Were you taken to three?

A. Yeah.

Q. So you're taken to three and then you're taken from three up to eight because Sheriff Karnes had reversed -- had granted your appeal and dismissed the charges?

A. Correct.

Q. Was there ever a hearing on that?

A. Yeah. I went to the hearing and was found guilty.

Q. But there wasn't a hearing on the appeal?

A. No.

Q. Do you remember you were convicted in 1990 you had a sentence of eight to 15 years? Do you remember that?

A. Eight to 25.

Q. Eight to 25. And what was that for?

A. Aggravated burglary.

Q. And was there ever a GSI with mandatory time?

A. No.

Q. Now, while you were doing time on that, an individual by the name of Terry Mayle was

58196 - J38

convicted of shooting an individual, isn't that correct?

A. Yeah.

Q. And almost immediately you notified people that it wasn't him, he was wrongfully convicted and you swore you did it?

A. That's correct.

Q. That you shot the guy that Terry was convicted of?

A. That's correct.

Q. And that the prosecutor, Tim Braun, and John Cummins of Columbus Police Department came down and talked to you, didn't they?

A. I don't know who it was. Somebody came down, yeah.

Q. Couple guys came down and talked to you. And you later signed an affidavit swearing all that was true?

A. That's correct.

Q. And Terry Mayle is still in prison?

A. Yeah.

Q. And were you aware that several times that it came up about your alleged after-trial confession and that the prosecutors urged that no hearing not even be heard on your confession

58196 - J39

because you were totally unbelievable?

A. I wouldn't know nothing about what they thought.

Q. Well you were informed that they didn't believe you at all.

A. No.

THE COURT: Would you pull the mic a little bit closer to you?

BY MR. SUHR:

Q. In fact, the prosecutor in that case said that after you said your name and date of birth he believed nothing you had to say.

A. I guess that's his opinion.

Q. But that case most recently was decided on April 30th, 2002 in the Court of Appeals.

MS. PRICHARD: Objection. Are any of these questions?

THE COURT: I'll sustain the objection.

BY MR. SUHR:

Q. Now, when you were placed on the eighth floor, that's exactly where you'd come from because of the incident which you were found guilty; is that correct?

A. Yeah.

Q. It's true, isn't it, that the incident

with the being found guilty of the infraction by the panel occurred sometime prior to February 14th, 2002; is that correct?

A. I don't know.

Q. I mean, if your records would show that you were scheduled to do your seven days in the hole on February 14th, would you have any reason to dispute that?

A. If that's what it says, I mean.

Q. And that it was on that day that after you went to three then on February 14th, you were transferred up back to the eighth floor?

A. If that's what day it was, yeah.

Q. But I mean, that happened?

A. When I went from the hole I went to eight, yeah.

Q. Now, later that month Mr. Conway -- you were out on the eighth floor when Mr. Conway was placed on the eighth floor; is that correct?

A. That's correct.

Q. And did you, in fact -- was he wounded at the time?

A. Yeah. He was shot.

Q. And did you, in fact, help him clean his

wound and things like that?

A. Yeah.

Q. Now, at some point early in March, the first week, two weeks in March of this year, isn't it true that you described Mr. Conway that your brother, a girlfriend or some member of your family or some close friend was holding about $3,000 for your bond?

A. No.

Q. Isn't it further true that you requested of Mr. Conway to have someone pick up that money from them and put it on your books so that you could post bond on the case?

A. No. He had his family bring it down and put it on my books.

Q. But it came from your family?

A. No. It came from his family.

Q. I see. And that after they put it on the books, they were informed that you couldn't get out anyway because you had a parole holder, is that true?

A. I mean, I don't know. He didn't put no money on my books for bond.

Q. Excuse me?

A. He didn't put no money on my books for

bond.

Q. So you're saying the 3,000 was not for your bond?

A. No. It was to kill Brian McWhorter.

Q. So as of March 14th, you did not tell them -- tell Mr. Conway that you were on parole and couldn't get out on bond?

A. I don't know. I mean, it may have come up in one of the conversations. I don't know.

Q. Is it pretty much true that you would rap to him and say a lot of things that might not be true just to get him to open up to you?

A. No.

Q. Never told him anything that was false?

A. No. Not to my knowledge.

Q. Isn't it also true that when confronted about the bond situation, you explained that you had been working with the sheriff's office to work off charges and things like that, that you had given information to the sheriff?

A. Do what now?

Q. That you had given information to the sheriff?

A. No. I mean, I've told you twice there was no bond situation.

58196 - J43

Q. And I mean, well did you tell him that you'd given information to the sheriff?

A. No.

Q. That you were working with the sheriff's department?

A. No.

Q. That you had worked with them before?

A. No.

Q. Now, back when you were on the fifth floor prior to -- back in January of 2002, as a matter of fact, at that time you had in your possession a card from the sheriff's department homicide squad?

A. That's correct.

Q. And that you told people you disposed of that card, but you later had it up on the eighth floor, isn't that right?

A. I don't know. Yeah. I guess.

Q. I mean, you don't remember the floor or you just guess if people would say that that was true?

A. Do what?

Q. Strike that question.

A. Thank you.

Q. You have been since your release on --

58196 - J44

from the institution on parole, how many felony charges have you been charged with?

A. One.

Q. There was a burglary?

A. No.

Q. Was there a receiving stolen property felony?

A. Yeah. There was a receiving stolen property.

Q. Was there a gross sexual imposition?

A. Yeah.

Q. Was there an attempted gross sexual imposition?

A. Yeah.

Q. And all of those charges were reduced to misdemeanors, weren't they?

A. No. Actually the receiving stolen property I did 13 months for.

Q. Was that in jail over here?

A. It was in prison, yeah.

Q. And was that for the actual charge of RSP or did you go back on parole?

A. It was for both.

Q. And so you had a violation, you did 13 months and you got more charges?

58196 - J45

A. No. I got the 13 months for the violation.

Q. For the violation?

A. Yeah. I got, I think, six months for receiving and six months for the violation.

Q. Did the receiving go down to the misdemeanor receiving?

A. No. I don't think so. I don't think it did, no.

Q. Credit for time served?

A. No. I did 13 months.

Q. Well I wasn't asking about the parole.

A. It wasn't just the parole. It was both cases. The receiving and the parole.

Q. I see. It also is true, isn't it, that when you admitted that you -- when you were working for the sheriff's department, but you told Mr. Conway don't worry, it's just something that I can do, I'm not going to affect you? Didn't you tell him that?

A. No.

Q. And at that point in time, did you suggest certain things such as eliminating witnesses on the Dockside Dolls case?

A. No.

58196 - J46

Q. Specifically did you come up with a plan to eliminate Brian McWhorter?

A. Why would I?

Q. I'm not asking you that, sir.

A. Okay. No.

Q. Did you do that? And when Mr. Conway objected, isn't it also true that you said that, hey, I've got the ear of the sheriff's department and the prosecutor, you better go along with me or I'll tell them that you confessed all kinds of stuff?

A. No.

Q. You remember telling him that?

A. No.

Q. You gathered information for quite some time, didn't you?

A. Yeah.

Q. When do you think the first time was that you got some information you gathered from Mr. Conway?

A. What do you mean?

Q. Well what was the first date when you got in to talk about something that was relevant later on to these charges?

A. I never got him to talk about nothing.

58196 - J47

He just talked about it. I don't remember the date.

Q. So when did you collect the information? How long after he was in jail?

A. I'm not sure. I mean, it was -- we was probably there a month and he started telling me about the Dockside.

Q. A month. What about the robbery, the alleged robbery in Chillicothe? When did he start telling you about that?

A. I don't remember.

Q. Do you remember him telling you about that?

A. Yeah.

Q. And as a matter of fact, you turned that information over, didn't you?

A. Yeah.

Q. And you did that before you wrote a letter, didn't you?

A. No. I don't think so.

Q. Now, on March 22nd, the authorities in Chillicothe had the results of your statements about the events down there in Chillicothe?

A. It's impossible. I've never talked to anybody in Chillicothe.

58196 - J48

Q. Now, how many times did you talk to the homicide detective that you had his card?

A. Once.

Q. And what time of day or night is that, if you remember?

A. I don't remember exactly.

Q. And was that -- approximately when in this whole series of events was that?

A. What do you mean? It was before I even met Jimmy.

Q. So it was back when you were on the fifth floor?

A. Yeah.

Q. Weren't there several other occasions that you saw that individual?

A. Saw what, the detective?

Q. Uh-huh.

A. No.

Q. But you don't have an approximate date of when that would be that you saw him?

A. No.

Q. Now, we've heard other testimony. You're saying that you wrote a letter to the prosecutor's office; is that correct?

A. That's correct.

58196 - J49

Q. And that was your first communication; is that right, to the prosecutor?

A. No. Actually my lawyer was the first communications.

Q. And when was that?

A. I'm not sure. You'd have to ask her.

Q. It was sometime prior to that letter though?

A. Oh, yeah.

Q. Your first letter?

A. Yeah.

Q. And then at whose instruction did you write that letter?

A. I didn't have no instructions.

Q. Nobody told you? Your lawyer didn't tell you go ahead and write a letter?

A. No.

Q. Now, in that letter, all you talked about was the Dockside Dolls case, isn't that true?

A. Possibly, yeah.

Q. Is that true or not?

A. I don't know. I don't have the letter in front of me.

Q. Let me hand you what's been marked for

identification purposes as, I believe it's I1. Is that a copy of the letter that you first wrote?

A. Yeah.

Q. And in that letter, that copy of a letter, does it mention anything about the cornfield case or the Dotson case?

A. No.

Q. It purely has to do with the Dockside case; is that correct?

A. That's correct.

Q. And later you had a meeting; is that correct?

A. That's correct.

Q. Now, did you understand that Dockside was in Columbus and was a Columbus case?

A. Yeah.

Q. Excuse me?

A. Yeah.

Q. At that meeting, was there anyone there from the Columbus Police?

A. I don't remember who all was there.

Q. But you weren't introduced to somebody from CPD?

A. I think someone from CPD was there, but

I'm not for sure.

Q. And do you remember what the person would have looked like?

A. No.

Q. Do you remember being asked about Dockside Dolls there?

A. No.

Q. Were you asked about another case?

A. Yeah.

Q. And that was this case, the cornfield case?

A. Yeah.

Q. Now, you were at some point in time placed on an unusual kind of work release; is that correct?

A. That's correct.

Q. Which basically indicated that you were to be released at twelve o'clock noon; is that right?

A. I don't think so. I think it was 2:00 to 10:00 or 2:00 to midnight.

Q. It wasn't noon until 2:00 a.m.?

A. No.

Q. Well you say it was what?

A. Noon to midnight, I believe.

Q. Noon to midnight. And was that to go to some kind of job?

A. No.

Q. It was primarily to get evidence on Mr. Conway and other people he knew --

A. That's correct.

Q. -- is that true? And that at that time you knew that the more information you could produce could produce better results for you?

A. No.

Q. Well I suppose you weren't concerned at all about the GSI and the attempted GSI?

A. No. Actually I wasn't.

Q. And so this was all just part of your civic duty?

A. No. It wasn't part of my civic duty. It was about somebody killing somebody for no reason at all and laughing at their mother's face. That's what it was about to me.

Q. How about it being the same kind of thing you were trying to pull with Terry Mayle, trying to pull the wool over people's eyes?

A. Am I setting here saying I stuck somebody in the chest twice?

Q. No.

A. Okay. Then it's no way near the same.

THE COURT: Mr. Suhr, we're not going to do a discovery deposition here. We're going to talk about the things in the motion and let's deal with those things only.

MR. SUHR: Certainly.

BY MR. SUHR:

Q. Now, as a result of your activities, you revealed information about alleged plans to kill witnesses that's the subject of another indictment; is that correct, and those kinds of items? Also you revealed information regarding a certain possible sham, robbery in Chillicothe involving some folks; correct?

A. Correct.

Q. And certain information that will be used in this particular case; is that correct?

A. That's correct.

Q. And certain information that could be used in some manner in the Dockside Dolls case; is that correct?

A. I don't have any idea about that.

MR. SUHR: One moment, Your Honor. That's all we have.

THE COURT: Ms. Prichard?

58196 - J54

- - -

CROSS-EXAMINATION

BY MS. PRICHARD:

Q. Of all the information you gathered with respect to the Andrew Dotson case, that all happened before you had the meeting with us; right?

A. Yeah.

Q. Before the April 25th meeting of which we have a transcript that you looked at earlier; right?

A. Yeah.

Q. At the time of that April 25th meeting, were you working with anyone from the Franklin County Sheriff's Office? Did you have any sort of agreement?

A. No.

Q. Did you have an agreement with anyone from the prosecutor's office?

A. No.

Q. How about Columbus Police?

A. Nobody, period.

Q. No agencies?

A. No.

Q. And it just happened that you ended up

58196 - ~~J55~~

in the same tank with Jim Conway?

A. No. He came to the tank where I was at.

Q. You were there first; right?

A. Yeah.

Q. He came in later?

A. Correct.

Q. And you two, I guess, talked as most people in the cell do and he told you about what crimes?

A. The Dockside Dolls first and then the robbery in Chillicothe and then the Andrew Dotson case.

Q. So he told you about all three of those things?

A. (Witness nods head affirmatively.)

Q. Did all three of those things occur before you ever met with the sheriff's office and me on April 25th?

A. Yeah.

Q. So you knew all that back then?

A. Yeah.

Q. And you -- did you tell your attorney all that information and ask her to contact us?

A. Yeah.

Q. Do you know whether or not she contacted

us?

A. I don't believe she did. I mean, eventually -- I don't know -- I don't know. I don't think she did herself. I'm not sure. I think it was my letter to you, I believe, is what initiated the contact.

Q. So you had talked to your attorney about all this before you ever wrote me the letters?

A. Oh, yeah.

Q. And when you wrote the letters, they only mention Dockside Dolls. Why don't they mention the Andrew Dotson homicide in those April 4th and April 11th (sic) letters?

A. Well I mean, to be honest, I didn't know if he was just blowing smoke or if he was being for real.

Q. Did anything happen -- I leave you with Exhibit I3 if you need to refer to it, your April 10th letter, I believe. Would it have been after you wrote those letters that you would have found out about the Andrew Dotson homicide?

A. Yeah. It was after this. The day I found out about Andrew Dotson was when Andrew's mother come to visit Jimmy in jail.

58196 - J57

Q. Does April 16th sound accurate?

A. It may be, yeah. It sounds about right.

Q. And at that point after you'd written these letters you found out he committed the Andrew Dotson murder?

A. Correct.

Q. He told you that?

A. Yeah.

Q. At the time you were in jail had a pending trial on gross sexual imposition and attempted gross sexual imposition?

A. Correct.

Q. One incident?

A. Yeah.

Q. And you were on parole at the time?

A. Correct.

Q. At that April 25th meeting when you gave that information, were you promised anything in exchange for that information?

A. No.

Q. You gave this information and my office said we'll talk about what we might do for you; is that right?

A. Correct.

Q. During the time when you were on the

supposed work release and working with the sheriff's office, did you have any agreement, any promise that had been made to you?

A. No.

Q. You were just working because you thought it was the right thing to do?

A. Yeah. Well I mean, if I may, my GSI cases, I have audiotapes, they've already admitted that they set me up, it was a frame. I was never worried about my GSI case. That's what I'm trying to get across to everybody. I wasn't worried about it. I mean, as a matter of fact, I was willing to take my case to trial and take a lie detector test and everything. So that's not even an issue.

Q. So you were working without any promise that anything would happen on your case?

A. Right.

Q. Then in June -- on June 11th, Exhibit I5 here, we made this agreement with you anyway; right?

A. Correct.

Q. You already done all your work and it was over; is that right?

A. That's correct.

58196 - J59

Q. Information you had on the Chillicothe case, some of that information gleaned when you wore that wire?

A. Yeah.

Q. In fact, you gave information that led to the indictment of other people?

A. Correct.

Q. After your meeting with us on April 25th which is the subject of that transcript there, we told you not to talk to Conway, didn't we?

A. Yeah.

Q. Told you not to go eliciting any information; right?

A. Correct.

Q. In fact, you were told just to keep your ears open?

A. (Witness nods head affirmatively.)

Q. Did you ever threaten Conway to tell you information in any way?

A. No.

Q. The information he gave to you, was that just all volunteered?

A. Yeah.

Q. And at the time he first told you about the Dotson homicide, you weren't working with

58196 - J60

anyone?

A. No.

MS. PRICHARD: Nothing further.

THE COURT: Mr. Suhr?

MR. SUHR: Just very briefly.

- - -

REDIRECT EXAMINATION

BY MR. SUHR:

Q. Just to make sure I understand what you're saying, you just stated that at the time you wrote the letters to the prosecutor, which is I3 and I1, starting in April, two different letters, that you did not have any information other than Dockside Dolls at that time?

A. No. He told me about Dotson, but I didn't believe it until Andrew's mom come to visit him.

Q. Well didn't you just state that you didn't have that information, that's why it's not in the letters?

A. No. I stated I didn't put it in that and that's why I didn't put it in that.

Q. So now you're stating that you had information from when?

A. I mean, I'm not exactly sure when. I

mean, he didn't give names or nothing like that. He didn't get into particulars after Andrew's mom come to visit him.

Q. You didn't have enough to go on, so you didn't put it in the letter; is that right?

A. No. I didn't believe it so I didn't put it in the letter.

Q. So after you wrote the letters and before April 26th (sic) is when you gathered the information you gave them on April 26th (sic), isn't that correct?

A. I guess, yeah.

Q. Well is that correct or not?

A. I'm telling you I don't know.

Q. But you didn't put it in the prior letters, would you agree on that?

A. Obviously not, yeah.

Q. Now, it was clear to you in the interview on April 25th that they wanted you to gather information on this particular case, wasn't it?

~~A. Which particular case?~~

Q. On the cornfield case.

A. Correct.

Q. And was it stated by Scott, let him

58196 - J62

bring up Dockside and make your statements and you just keep on moving to something else; is that correct?

A. That's correct.

Q. You remembered that; right?

A. Yeah.

Q. And in fact, you kept moving to something else, didn't you?

A. That's correct.

Q. Now, you indicated that you weren't worried about this GSI and the attempted GSI. Heck, you could pass a polygraph, couldn't you?

A. Yeah.

Q. You bragged about that, didn't you?

A. About what?

Q. That you knew how to control and not get excited in a polygraph. Didn't you go back and say that to Howard Guinn?

A. No.

Q. Huh?

A. No.

Q. You don't remember saying that?

A. I didn't say that.

Q. And you weren't worried about the GSI and the attempted GSI because you can beat

58196 - ~~J63~~

that. But then why did you plead guilty to two misdemeanors after getting this deal?

A. So it would be done and over with.

MS. PRICHARD: Your Honor, I want to object to relevance.

THE COURT: I'll sustain the objection.

MR. SUHR: No further questions.

THE COURT: All right. Anything further, Ms. Prichard?

MS. PRICHARD: No, Your Honor.

THE COURT: Thank you. You may step down. Are you going have any other witnesses?

MR. SUHR: Yeah. We've got Orlando, we've got the other guy subpoenaed from the institution, Howard Guinn. They've got Mr. Braun under subpoena, but I haven't seen him appear yet.

THE COURT: Do you have the other witnesses here that he's talking about?

THE DEPUTY: Yes.

MS. PRICHARD: I guess my first concern:

~~A: I've never heard these names and~~ there's been no discovery, but,

B: It sounds like these people are being provided to impeach the witness that he

(Witness is sworn.)

THE COURT: Please be seated. And you can adjust that mike. Face the ladies and gentlemen of the jury, speak directly into the microphone. Yeah, just leave it in the sleeve, but you can move your chair up. You can get -- there you go, they can hear you better.

- - -

RONALD R. TRENT

called as a witness on behalf of the Plaintiff, State of Ohio, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. PRICHARD:

Q. Would you please state your name and spell your last name for the court reporter.

A. Ronald Ray Trent, T-r-e-n-t.

Q. Keep yourself close to that mike. Keep your voice up so everyone can hear.

THE COURT: Is that on?

THE REPORTER: Yeah, I think so.

THE COURT: Okay.

THE WITNESS: Is it on?

BY MS. PRICHARD:

Q. How old are you, Mr. Trent?

A. 30.

Q. And you have a prior record, don't you?

EXHIBIT 40

A. Yes, ma'am.
Q. Prior felony record?
A. Yes, ma'am.
Q. Please explain to the jury about your prior felony record. How many cases do you have?
A. When I was 18, I had, I was convicted of three aggravated burglaries.
Q. Okay.
A. And I did nine-and-a-half years.
Q. You went to prison for that?
A. Yes, ma'am.
Q. Nine-and-a-half years?
A. Yes, ma'am.
Q. Still on parole for that?
A. Yes, ma'am.
Q. All right. Do you also have a couple of receiving stolen property cases, one I think maybe a felony, one a misdemeanor?
A. Yes, ma'am.
Q. Did you serve any time for those?
A. Yes, served 13 months.
Q. Was that grouped in with the nine-and-a-half you did on the other case?
A. No, ma'am.
Q. That was split then?

THE COURT: Can we hang on. That mike is not on.

MS. PRICHARD: Okay, it's not on. I think we're on now.

THE COURT: There you go.

THE WITNESS: All right.

BY MS. PRICHARD:

Q. And, Mr. Trent, most recently, you were in jail on a case; correct?

A. Yes, ma'am.

Q. Do you remember when you were arrested?

A. October the 14th of last year.

Q. Okay. Is that gross sexual imposition charge?

A. Yes, ma'am.

Q. It was felony of the fourth degree, I believe?

A. Yes, ma'am.

Q. Was it one victim?

A. Yes, ma'am.

Q. And you ended up making a deal with my office; right?

A. That's correct.

Q. Ended up pleading to a misdemeanor of the first degree?

A. Yes, ma'am.
Q. An assault charge?
A. Yes, ma'am.
Q. And that was in exchange for some things you were supposed to testify in this case; yes?
A. That's correct.
Q. The victim in that case was consulted; correct?
A. Correct.
Q. And you're still on parole; right?
A. Yes, ma'am.
Q. When did you first come in contact with my office?
A. I tried to go and get in contact with you through my attorney, she wasn't doing nothing, so I wrote you a letter myself.
Q. What were you writing me about?
A. Information in regards to the Dockside Dolls case.
Q. How did you have information?
A. 'Cause James Conway was brought to the tank that I was already in.
Q. He was brought to the jail?
A. Yes, ma'am.
Q. And put in the same cell with you?

A. It's a tank with 12 cells, but, yeah.
Q. You were in the same area together in jail?
A. Correct.
Q. Were you free to go off in certain areas and talk together?
A. Yeah.
Q. So you were in jail before he got in jail; is that correct?
A. Correct. I had been there six months, I believe.
Q. You had been there six months?
A. Yes, ma'am.
Q. Okay. And he comes into the tank, and you said there are 12 people in a tank?
A. I believe that's it, yeah, 12 cells per tank.
Q. When he came in, did you know who he was?
A. No, I had no idea who he was.
Q. Did you request that he be put in your cell with you or anything like that?
A. I didn't even know who he was.
Q. Okay. When he comes into the same tank as you, did you develop some sort of rapport with him?
A. Well, when he first come in, he was shot and he needed somebody to help him change his bandages and

take care of his wound, and that's how he and I first became associated, I was helping him dress his wound.

Q. All right. Was that about February 23rd?

A. I'm sorry?

Q. Does that sound like about the time that he came into the cell with you, approximately February?

A. That sounds about right, yeah.

Q. And he was shot when he came in?

A. Correct.

Q. Was he in need of hospitalization or something?

A. I wouldn't say hospitalization, no, but he was shot.

Q. And you were helping him keep his wound clean?

A. Correct.

Q. Did you guys become friends?

A. Yeah.

Q. How often would you talk?

A. Every day.

Q. Would you talk just the two of you or in a group with other people?

A. Basically, just the two of us most times.

Q. How was it that when you're in the jail you have an opportunity to be alone to talk?

A. Well, it's not that -- first of all, there's not an officer, the officer's station is around the corner out in the lobby, so there's not an officer present, and they got tables where you watch TV at, you have your own cell that's open all day during not lock-down hours, so you can go out and congregate and talk then.

Q. So there are places where you can talk with someone else in private?

A. Correct.

Q. At some point did you realize that you had family members in common with the Defendant?

A. Yeah. Actually, he brought it to my attention.

Q. How long had he been in jail when he told you that?

A. Probably about two weeks, two-and-a-half weeks, something like that.

Q. And what did he tell you?

A. Actually, I think it's his grandmother Jean is my grandmother's sister, and she had asked him if I was there, he said yeah, I was in the same tank, and then that's when he told me he and I were cousins through that.

Q. Before that did you know you were cousins?

A. No.
Q. Had you ever met before?
A. I never met him before in my life.
Q. After that, did you two become closer?
A. Yeah.
Q. And did he start talking to you about the case he was in jail on?
A. Yeah.
Q. Now, at this point, when you realized you were cousins, had you talked to my office at all?
A. No, ma'am.
Q. When you started talking about this case, had you contacted my office or any police agency and come to some sort of agreement with them?
A. No, ma'am.
Q. What did he tell you about the case you're here in court on today?
A. He told me that his brother, his brother and a couple --
MR. RIGG: Objection, for the record.
THE COURT: Pardon me?
MS. PRICHARD: Just for the record.
MR. RIGG: Just for the record.
THE COURT: Overruled.
BY MS. PRICHARD:

Q. Go ahead.

A. He told me his brother and couple friends were at a bar, Dockside, and they called him and told him that the individual that they was beefing with before was there. So Jimmy Conway and one of his friends, I believe it was Rob, went there and there was a fight inside the bar where Ricky Turner sucker punched somebody, then the fight went to the parking lot, and Conway said he was trying to get everybody together, get in the cars, his brother come up to him and told him that he was stabbed, and Jimmy Conway had Rob get the gun out of the trunk, Jimmy Conway asked Jeff to point out who stabbed him, he pointed him out, Jimmy Conway cocked the gun back to make sure it was loaded, said a bullet fell out, he cocked it back to make sure it was loaded and he just started firing, said the guy was running towards the back of the building, he started firing, and he pulled some guy in front of him, but he said, it's .45, you know, it would go through him, so he kept shooting.

Q. It was .45 and would go through him, so he kept shooting?

A. Correct.

Q. Where did this conversation take place?

A. In the jail.

Q. Were you -- do you remember, were you

sitting alone in a particular room?

A. We were sitting at a table, he and I was, where the TVs are at, we was sitting there.

Q. Why is it that you guys were talking about this case?

A. Well, actually there was a witness in the case, Brian McWhorter, that was in protective custody, was, or whatever, but Conway wanted me to be put in protective custody to kill Brian McWhorter.

Q. Okay. Let's kind of take this slower.

Did he tell you -- is the first thing he asked you to do is to kill Brian McWhorter, or did he tell you about the case before that?

A. He told me about the case before that.

Q. Okay. And how long had you been in jail when he told you about that case, this case?

A. A total of probably, I'm not sure, a month, maybe, month-and-a-half, something like that.

Q. And he gave you that information, then he asked you to kill Brian McWhorter?

A. Correct.

Q. Now, if you were in jail, how were you supposed to kill Brian McWhorter?

A. 'Cause I was supposed to, I was supposed to come and tell you guys what I knew about his case, ask to

be put in protective custody, and then you guys would put me in the same place Brian McWhorter is at.

Q. Is this your plan?

A. No, that was his plan.

Q. That you were going to come to the police or the Prosecutor and try to get into protective custody with Brian?

A. Correct.

Q. And then you were going to kill him?

A. Correct.

Q. And what were you getting out of all this? If you were going to do that, what was he going to give you?

A. It was supposed to be over a period of time $30,000.

Q. Did you get any sort of down payment or money towards that?

A. Yeah, he brought me $5,000.

Q. Where did he bring you the money at?

A. To the jail.

Q. Who brought it there?

A. It was one of his friends, I believe Jamie Horton.

Q. When there's money brought to you at the jail, how do you become aware of it?

A. They leave it with the deputy downstairs and you get a receipt that night telling you there's money left in your account.

Q. Is that what they call a commissary, I guess?

A. It's -- well, they call it your books, but, yeah.

Q. Okay. So did you actually get a receipt that showed money was put on your books?

A. Yes, it was two different occasions, one was for 3,000, the other was for 2,000, from the same person.

Q. And that information got documented by the jail?

A. Correct.

Q. When were you supposed to get the rest of the money?

A. Once I got out, I was supposed to get it from Jamie Horton.

Q. Now, did the Defendant know what you were in on?

A. Yeah.

Q. Did he know you had a parole holder?

A. Yes, ma'am.

Q. How is it that you were supposed to get out and do that then?

A. By coming to you guys and telling you guys about his case, and then you put me in witness protection with the other witness that you had.

Q. Did you tell your attorney all of this?

A. Yes, ma'am.

Q. At what point?

A. Well, it was before I wrote you the letter myself.

Q. Okay. Did you bug her, I guess, essentially about getting in contact with my office?

A. Repeatedly.

Q. And when she didn't do that, what did you do?

A. I wrote you myself.

Q. Okay. Let me show you what's been marked as State's Exhibit I-1, State's Exhibit I-1 and I-2, I-1 being what appears to be a letter, and 2 being an envelope. What are those?

A. This is a letter I wrote to you.

Q. What date did you write that to me?

A. 4-4-02.

Q. April 4, 2002?

A. Yes, ma'am.

Q. And what was the purpose of that letter?

A. I wanted to talk to you about this case.

Q. Did you indicate in that letter that you had information on the Dockside Dolls case?

A. Yes, ma'am. It doesn't say Dockside Dolls, it says a murder case.

Q. Okay. Does it say which murder case?

A. Yeah, it's -- oh, I'm sorry, yes, it does.

Q. Which one?

A. It says, "Dockside Dolls, where the OSU student 'Jarvis' was killed and 'Williams' was wounded."

Q. "Where OSU" --

A. -- "student 'Jarvis' was killed and 'Williams' was wounded."

Q. Okay. And that's in that letter?

A. Yes, ma'am.

Q. You mailed that to me?

A. Yes, ma'am.

Q. Did we talk immediately at that point?

A. No, ma'am.

Q. Were you still telling your attorney you wanted to talk with us?

A. Yeah.

Q. Why did you want to share that information?

A. Basically because he laughed at someone else's pain from another killing.

Q. Did you write me another letter?

A. Yes, ma'am.

Q. Show you State's Exhibit I-3 and I-4. I-3 looks like a letter, I-4 being an envelope.

A. Okay.

Q. Do you recognize those?

A. Yes, ma'am.

Q. Take a minute to look at that. Is that a letter you wrote me?

A. Yes, ma'am.

Q. On what date?

A. 4-10-2002.

Q. April 10th. Also wrote that from the jail?

A. Yes, ma'am.

Q. And on the envelope do you indicate what floor and everything you were on?

A. 8 North Right 1.

Q. 8 North Right 1?

A. That's correct.

Q. Why did you write me that letter?

A. Because I wanted to talk to you about this, and they sent a detective to see me at 2:00 o'clock in morning about it, and I wasn't trying to get myself killed, I mean, I'm trying to do the right thing, but I don't want to die to do it.

Q. Why did you think having a detective come

talk to you would get you killed?

A. 'Cause I'm in a tank with multiple murderers, and the first thing --

MR. RIGG: Objection, Your Honor.

THE COURT: Sustained.

A. First thing --

THE COURT: Wait a minute, wait a minute, there's an objection.

MR. RIGG: Move to strike.

THE COURT: Jury will disregard -- that will be stricken, jury will disregard the witness's last statement. You may lead.

MS. PRICHARD: Thank you, Your Honor.

BY MS. PRICHARD:

Q. You were in jail with other people?

A. Correct.

Q. When people would get visits, do other people in the tank know that you're getting a visit?

A. Yeah.

Q. And what time was this visit?

A. 2:00 o'clock in the morning.

Q. Does a 2:00-o'clock-in-the-morning visit signal that it might be police?

A. It can't be no one but the police.

Q. Is that what concerned you?

A. Yeah.

Q. And when people come and get you out of your tank, do other people actually see you leave and know you're going for a visitor?

A. Yeah.

Q. When a detective came down to see you, did you agree to talk to him?

A. No.

Q. What did you do?

A. Told him I didn't want to see him.

Q. Why did you do that?

A. 'Cause I didn't want to get killed.

Q. Did you want to let everybody else in there know that there was nothing funny going on?

A. Yeah.

Q. Up until the point you had written this letter, had you met with me at all?

A. No, ma'am.

Q. How did you know that I was the Prosecutor on the case?

A. Conway told me.

Q. That's why you wrote to me?

A. Correct.

Q. Do you remember finally having a meeting with me or members of my office and some members of law

enforcement?

A. Yeah.

Q. Do you remember where that meeting was?

A. It was at the Sheriff's Office.

Q. And was your attorney there?

A. Yeah.

Q. At that meeting, did you tell us everything you knew about this case?

A. Yes, ma'am.

Q. Did you tell all of the information that you just shared with the jury previously?

A. Yes, ma'am.

Q. Do you recall that interview being tape-recorded?

A. Yes, ma'am.

Q. And a transcript was made of that; right?

A. Correct.

Q. Let me show you State's Exhibit I-7. Here is State's Exhibit I-7. Tape starts out by talking about the date of the interview?

A. That's correct.

Q. What date was that?

A. 25th of April.

Q. And you've seen this transcript before?

A. Yes, ma'am.

Q. And this is the day we all talked?
A. Correct.
Q. On April 25th, the day that we first spoke, did we have any sort of deal?
A. No, ma'am.
Q. Had I or anybody at that meeting made any promises to you?
A. No, ma'am.
Q. You were there hoping we would do something for you; right?
A. Somewhat, yeah.
Q. But at that point, no agreements?
A. No, ma'am.
Q. And we told you that; right?
A. Correct.
Q. Told us everything anyway?
A. That's correct.
Q. And after that interview -- first of all, on the date of that interview, were you still in a tank with Jim Conway?
A. Yes, ma'am.
Q. And just for the record, do you see him here in the courtroom today?
A. Yes, ma'am.
Q. Would you describe for the record where he

is seated?

A. Directly to my left at the table, in the middle of these three gentlemen.

MS. PRICHARD: I'd ask that the record reflect he's identified the Defendant.

THE COURT: Yes, record will so reflect.

BY MS. PRICHARD:

Q. Does he look any different now than he did then?

A. Yeah, he's lost about a hundred pounds, doesn't have the goatee.

Q. After that interview then you went back into the tank with the Defendant?

A. Yes, ma'am.

Q. And how long did you stay there?

A. I'm not sure exactly the date, but it's till I was moved to work release.

Q. At some point you got moved into work release because of an agreement that you had made with us?

A. Correct.

Q. What was it, what was the deal, what were you supposed to do?

A. I was supposed to work with Detective Scott, Detective Floyd and Franklin County Sheriff's Office on

getting information on Conway and his associates.

Q. You worked with members of the Sheriff's Office rather than Columbus police; correct?

A. Correct.

Q. And after you gave all this information, were you asked to be wired up or do any kind of recording to gain more information?

A. Yes, ma'am.

Q. At some point did detectives arrange for you to have what we'll call a work release program?

A. Yes, ma'am.

Q. What is traditional work release, what does that usually mean?

A. It consists basically of you're in jail but you get out for ten hours a day to go to work and come back.

Q. Now, when you were in work release, you weren't actually going out to work, you were meeting up with detectives and doing things in connection with the case; right?

A. I was never -- yeah, I was never actually at work release, I was in the hole and I was let out for however many hours a day I was with detectives and I was taken back to the hole.

Q. Hole, is that like isolation?

A. Solitary confinement, yeah.
Q. And you were moved as part of the, I guess, the job you were going to do --
A. Correct.
Q. -- right?
So you got moved at some point out of the tank that the Defendant --
A. That's correct.
Q. And when you got moved, what did your day consist, what would you do when you were being released?
A. I would work with Detective Scott and Floyd wearing body wires, videotapes, meeting with Conway. Whatever it was Conway wanted me to do via phone calls, he called me, I meet with whom all I need to meet.
Q. Did you have a cellphone that was also a recording device?
A. Yes, ma'am.
Q. And were you accompanied by detectives and under surveillance every time you did something?
A. Yes, ma'am.
Q. So you weren't ever out free to do your own thing?
A. No.
Q. When you got out, what was it you were supposed to do for the Defendant in connection with this

case?

A. I was supposed to kill Brian McWhorter.

Q. Okay. And what did you tell the Defendant about that?

A. I told him that I couldn't find him.

Q. Any particular reason why you told him you couldn't find him?

A. 'Cause I couldn't find him. I was supposed to make a video of someone else confessing to doing the shooting that he's presently on trial for.

Q. You need to keep your voice up because it's dropping a little bit.

So you're supposed to find Brian McWhorter?

A. Yes, ma'am.

Q. Did you truly go looking for him to kill him?

A. No.

Q. You were working with detectives on this issue?

A. Correct.

Q. And you said you were supposed to make a video?

A. That's correct.

Q. What was the video supposed to be for?

A. It's supposed to be for someone else

confessing to doing the shooting that we're on trial for here today.

Q. Who was supposed to confess?

A. At first it was supposed to be Randy Price.

Q. Do you know who Randy Price is?

A. No.

Q. Who told you to get Randy Price?

A. Conway.

Q. And why were you supposed to get Randy Price?

A. Because he looks like him.

Q. Who told you that?

A. Conway.

Q. So you were supposed to get Randy Price who looked like him to confess on video to this crime?

A. Correct.

Q. Did you go looking for Randy Price?

A. No.

Q. What did you do?

A. I told him that I couldn't find him. And then Detective Scott and Floyd got a deputy from the workhouse that resembled Conway and we used him for the video.

Q. How was it that you were letting the Defendant know what was going on, what you were doing out

on the streets for him?

A. He would call me through either his fiancee or his lawyer.

Q. Who was his fiancee?

A. Britnee. I don't know her last name.

Q. And how would he call from the jail?

A. Three-way. He called her, she would three-way me.

Q. Now, when you're in the jail, do you have the freedom to use a phone?

A. Yeah, you can call out, can't receive any calls.

Q. And can you call out as often as you want, or are there any restrictions on that?

A. No, you can call as often as you want.

Q. So he would call you through Britnee and she would arrange some sort of three-way call?

A. Three-way call is on your phone. He called you, then she would click over and call me and then click and we'd all three be on the same line.

Q. Okay. Would anyone else arrange telephone conferences between the two of you?

A. Yeah, Chris Cicero.

Q. And who's Chris Cicero?

A. He is or was his lawyer, I'm not sure.

Q. And how did calls get facilitated with him?
A. He would come down, see Conway, and Conway used his phone to call me.
Q. The Defendant would use Mr. Cicero's cellphone in the jail?
A. Correct.
Q. And he would call you directly?
A. Correct.
Q. Any other ways that you were able to get in touch with Mr. Conway while he was in jail and you were on this fake work release program?
A. We went to visit him once.
Q. Okay. You had one jail visit to him?
A. Correct.
Q. We'll get to that.
At the time you're doing all this, is there any sort of agreement that's been reduced to writing as to what would be done for you?
A. No, ma'am.
Q. Do you recall being told that things had to be worked out, victim had to be consulted and things of that nature before we could offer you anything?
A. Yeah.
Q. So you were working without a deal?
A. Correct.

Q. Why were you doing that?
A. It's not -- I mean, it's just a lot of things about it just wasn't right.
Q. Okay. Would you wear some sort of recording device every day and do something every day?
A. Yes, ma'am.
Q. And when you were out on the streets, what was the plan, how were you supposed to get things accomplished?
A. Well, he would call me through Britnee or his lawyer, and if not, then Jamie Horton usually brought me whatever it was I needed to do.
Q. And who was Jamie Horton?
A. A friend of Conway's.
Q. Had you ever met Jamie Horton before?
A. No, ma'am.
Q. And he wasn't locked up or anything; right?
A. No.
Q. So you'd get in touch with other people who would assist you with the things you were supposed to do?
A. That's correct.
Q. Now, before you left the jail, had you already gathered information about what it is you were supposed to do?
A. Yeah.

Q. When you were on these recorded conversations, would you try to get the Defendant to say things he had already told you?

A. Sometimes, yeah.

Q. Did you have any concerns about trying to get things on tape?

A. Yeah, because without it, it wasn't no good.

Q. The hope was to get things on tape?

A. Correct.

Q. Were you concerned about repeating things that you had already been told?

A. Yeah.

Q. Why were you concerned about that?

A. 'Cause I didn't want to be dead.

Q. Did you think it was suspicious --

A. Well, yeah.

Q. -- if you had done that?

A. Yeah.

Q. When you and the Defendant talked on the phone, did you talk openly or was it sort of in code?

A. It was in code most times.

Q. Why was that?

A. 'Cause he was afraid someone was listening, or just paranoia, basically.

Q. Whose paranoia?

A. Conway's.

Q. Did you also try to pretend that you were paranoid?

A. Yeah.

Q. You said you were supposed to kill Brian McWhorter and you told the Defendant you couldn't find him?

A. That's correct.

Q. What other conversation did you have about Brian McWhorter?

A. I asked him if Cicero could find out where he was at, and I was told he was living with SWAT officers.

Q. So was there something else you were supposed to do because of that information?

A. No. I was supposed to make that video. I was supposed to make the video, have somebody make the video, confess to this killing. At first, you know, he wanted Brian McWhorter dead, then he was like, well, don't worry about him right now because Cicero said he told five different stories so it won't stand up.

Q. Okay. So you were supposed to kind of drop the Brian McWhorter issue 'cause Mr. Cicero said he told a whole bunch of stories?

MR. RIGG: Objection, Your Honor, what

Mr. Cicero was telling Mr. Conway, who's telling Mr. Trent. I think that's hearsay.

MS. PRICHARD: It's not being offered for the truth of the matter, which will explain why he took a different avenue.

THE COURT: If it's not for the truth of the matter, it's not technically hearsay. If the information he said that the third party spoke caused this witness to do something or established his frame of mind, then it's not hearsay, you may use it.

MS. PRICHARD: Thank you, Your Honor.

BY MS. PRICHARD:

Q. Because of that information about McWhorter telling five different stories, did you stop pursuing that issue?

A. Yes, ma'am.

Q. And had you ever met Brian McWhorter before?

A. I never have met him, no.

Q. Still have never met him?

A. No, ma'am.

Q. You said you were also asked by the Defendant to make a video?

A. That's correct.

Q. And this is the one where you were originally supposed to look for this Randy Price?

A. Correct.
Q. And instead, a deputy was used?
A. Correct.
Q. Had you ever met that deputy before?
A. No, ma'am.
Q. What happened in the making of this video? How did that all occur?
A. I told the deputy what Conway told me to have him say for the video and that's what he said. And we acted like he made the video and I took pictures of him supposedly dead, and after the video and everything was made, I told Conway it was made, he told me to get with Horton, I come to visit him and brought him pictures of the deputy supposedly dead, asked him if that's what he wanted, he smiled, said, yeah.
Q. Let's slow down.
You made this video and told the deputy what he was supposed to say?
A. Correct.
Q. Did anybody else give any sort of a script or tell the deputy or tell you what should be said?
A. Other than Conway?
Q. Right.
A. No, ma'am.
Q. And who actually helped you set up the

making up this video?

A. Detective Scott and Floyd.

Q. From the Sheriff's Office?

A. Correct.

Q. And this was done while you were out on this work release program?

A. That's correct.

Q. You said you also took photographs?

A. Yes, ma'am.

Q. Whose idea was the photograph?

A. The photograph was Conway's idea so he would know.

Q. So that what?

A. So he would know.

Q. You're supposed to make a video and take a photograph?

A. Yeah.

Q. And what was supposed to happen to this guy after he confessed?

A. I asked Conway what he thought, and I asked him to ask Cicero. Cicero said he --

MR. RIGG: Objection, Your Honor. Again, going to be a continuing objection regarding what Mr. Cicero said.

THE COURT: That's three-time hearsay.

MS. PRICHARD: I'll lead, Your Honor.

THE COURT: Sustained on that basis. I don't think that's state of mind.

MS. PRICHARD: If I may lead the witness, Your Honor, at this point?

THE COURT: Yeah.

MS. PRICHARD: Just on this issue.

BY MS. PRICHARD:

Q. Was there talk about whether or not the look-alike who made the video was supposed to be killed?

A. Yeah.

Q. And so that's what the purpose of the photo was?

A. Correct.

Q. To prove that it was done?

A. Yes, ma'am.

Q. And was there any discussion about where the body should be taken?

A. Yes, ma'am.

Q. Who did you have that conversation with?

A. Conway.

Q. And what was the decision on what should happen to the body?

A. That it shouldn't be found.

Q. Show you State's Exhibit U and U-1. State's

Exhibit U, do you recognize that?

A. Yes, ma'am.

Q. What's that?

A. That's the staged confession of Deputy Shively.

Q. That's the video you made?

A. Yes, ma'am.

Q. State's Exhibit U-1, do you recognize that?

A. Yes, ma'am.

Q. What is that?

A. That's the picture of the same deputy.

Q. And what is that deputy doing in that picture?

A. Being dead.

Q. Pretending to be dead?

A. Yes, ma'am.

Q. Who helped make him look dead?

A. Detective Scott and Floyd.

Q. And when the deputy did this video -- is it a short video or a long video?

A. It's not long. It's rather short.

Q. After the video was made, were there any instructions as to what should happen with it?

A. Yeah. I was supposed to give it to Jamie Horton after it was done. But then Jamie Horton said I

was supposed to give --

MR. RIGG: Objection, Your Honor.

THE COURT: Sustained.

BY MS. PRICHARD:

Q. Let's not talk about what Jamie said. You were supposed to give it to Jamie?

A. Correct.

Q. Did you eventually give it to Jamie?

A. No. I took it to him to give it to him and he just watched it.

Q. Okay.

A. That's when --

Q. He watched it with you?

A. Correct.

Q. Was this all on recorded surveillance?

A. Yes, ma'am.

Q. Were you supposed to send it to anybody?

A. Yeah. I was supposed to send one to the Prosecutor's Office, one to his lawyer, and one to the news.

Q. And who said you should do that?

A. Conway.

Q. Why were you supposed to do that?

A. 'Cause then they couldn't hold this charge on him.

Q. Did you end up sending the video out to anybody?
A. No.
Q. What did you end up doing with the picture?
A. Brought it down and showed it to Conway.
Q. And that was at the jail?
A. Correct.
Q. Who did you show up at jail with?
A. Jamie Horton.
Q. Did you just walk in, were there any problems going into the jail?
A. No.
Q. Did you check yourself in as a visitor?
A. Yeah.
Q. So there's logs when you'd come in, you would log your name in?
A. Yeah.
Q. And when you sat down and visited with him, are there people around? Describe what it's like in there.
A. Well, it's actually, you have to stand up, you can only see from like here up, it's a glass window. There's booth right beside you. It's supposed to be like a privacy partition, but there's not --
Q. So numerous people can be sitting like in a

row and there's partitions?

A. Well, you can be standing --

Q. Standing?

A. -- in a row, yeah.

Q. All right. Were there other people there at that time?

A. There was one other female. She was like two partitions down.

Q. Were you wired up at that point?

A. Yeah.

Q. Detectives out listening on the wire?

A. Correct.

Q. And you took that picture with you?

A. Yes, ma'am.

Q. What did you do with it?

A. Showed it to Conway.

Q. How did you show it?

A. I told him that, I said, I brought those photos of the kids that you wanted to see.

Q. Of the kids?

A. Yeah.

Q. All right. Was that supposed to be some sort of code?

A. Yeah.

Q. And then did you like put it up against the

A. Yeah.

Q. At any point when you were in the jail with the Defendant or out on this work release program, did you go see any of the Defendant's family?

A. No.

Q. Do you know any of them?

A. No.

Q. Did you call any of them or talk to any of them?

A. I've talked to a sister a couple times on the phone, and his mother, I didn't call them myself, but he was on the phone with them and I spoke to them.

Q. Now, was that when you were actually in jail with him before you were wired up?

A. Yeah.

Q. You were talking on the phone to them?

A. Yeah.

Q. Anything about this case?

A. No.

Q. After you quit working, did you eventually sign what we call a defendant's agreement?

A. Yeah.

Q. That was after you had done all these things; right?

A. Correct.

Q. Do you remember the date of that?
A. No, not exactly.
Q. Let me show you State's Exhibit I-5. Do you recognize that as the agreement we made?
A. Yes, ma'am.
Q. And does that have a date there on the top?
A. Yeah.
Q. What date was that?
A. 11th day of June 2002.
Q. Okay. State's Exhibit I-6, do you recall seeing that?
A. Yes, ma'am.
Q. And what is that?
A. It's a letter from the victim of my case saying she does have a problem with the agreement.
Q. Okay. After you entered into that agreement, you entered a guilty plea to a misdemeanor assault charge?
A. That's correct.
Q. And they kept you on parole?
A. That's correct.
Q. And you got out of jail?
A. Correct.
Q. Did you have to serve some additional time before you could get out of jail still?

A. 90 days.
Q. And after the 90 days, you were released?
A. With an extended year's parole.
Q. So you haven't been cut loose yet, you still have supervision; right?
A. Correct.
Q. And if you violate the terms of your parole, you could still go back to prison?
A. That's correct.
Q. Do you have any concerns about participating in all of this and agreeing to testify?
A. Well, yeah. I mean --
Q. Explain.
A. -- this whole thing is, you know, I lost my job because of fliers that was put up, I've lost my house, I lost my car, my family, you know. I'm in constant fear over my shoulder for me and my family. So, yeah, it's pretty much destroyed me.
Q. You mention posters.
MR. RIGG: May we approach, Your Honor?
(Ms. Prichard and Mr. Rigg conferring off the record.)
MR. RIGG: Let's approach.
MS. PRICHARD: Okay.
THE COURT: Mrs. Shenk.

- - -

Thereupon, the following discussion was held at the bench with the Court and Counsel outside the hearing of the jury:

MS. PRICHARD: Your Honor, where I was going with this is that I wished to ask him if these are the posters he's referring to that were put up, where these things were, and if these caused him some concerns. Other than that, we can discuss its actual admissibility into evidence at some point later. But I want him to talk about these things all over town.

THE COURT: Does he know the source of these?

MS. PRICHARD: He suspects the source.

THE COURT: Does he know the source of them?

MS. PRICHARD: No. What I'm offering these for is to show these were up all over his neighborhood with his picture and caused a safety concern. Since there's going to be talk of his motive for testifying, the fact that he's got a lot to lose I believe is very important.

MR. RIGG: Two problems, Judge, is I've never seen this before today. I heard about them. I've never -- I've never seen it. I heard there was a poster. I can't remember who it was through. And second of all,

I don't want him to start testifying about any content, if you do allow him to testify about any of the content of the poster.

MS. PRICHARD: And I don't want to go into content other than there's a picture of you on a poster that's all over town that's causing you to fear for your life because you're testifying. That's about it.

MR. LOWE: That basically says you're a snitch.

THE COURT: Huh?

MR. LOWE: That basically says you're a snitch.

MR. SUHR: You don't have any proof that Jim Conway did that?

MS. PRICHARD: No.

MR. SUHR: He couldn't have; right?

THE COURT: Whether it comes from the Defendant or not, it does establish the state of mind of the witness.

MR. SUHR: How is that relevant to this?

MS. PRICHARD: It's relevant for, one, his motive for testifying. I mean, you're going to say you got a deal, that's why you're testifying.

MR. SUHR: How do you know what I'm going to say?

MS. PRICHARD: This is what he has to lose.

MR. SUHR: Maybe you ought to wait till we cross.

MS. PRICHARD: We were in motions hearing. I think this is admissible at this point.

THE COURT: Well, he's already testified without objection that he's in fear of his life.

MS. PRICHARD: Fear from what sources? Fear from the Defendant, fear from people in the neighborhood who see his picture.

THE COURT: He testified he's in fear of his life and he easily can explain that, but the problem is you have to guide him around these other not admissible things. But this is not pinpointing any of those. This is something for which he could establish that he's afraid of. You know why he's afraid. This is a real live piece of evidence as to why he's afraid as opposed to simply his opinion that I'm afraid because I'm a schizophrenic, I'm schizo. This establishes something concrete to establish what he's already testified to. It's corroborative of his, corroborative of the genuineness of his fear. In other words, it's independent corroborative.

MS. PRICHARD: It definitely goes to this case because it's talking about crimes against Conway and

the cases he's got the deal on with the complaint attached.

THE COURT: I'll allow it.

MS. PRICHARD: Thank you, Your Honor.

THE COURT: By the way, was it on the exhibit list?

MS. PRICHARD: Yeah. I mean, this isn't -- it's smaller, it's smaller size in discovery, I didn't copy the size, if you go through your discovery.

MR. RIGG: I don't remember seeing it.

MR. SUHR: I never saw it.

THE COURT: Aside from not having seen it, were you aware there was a poster?

MR. RIGG: Somebody told me. I don't think it came from the State. It may have came from conversations I had with Mr. Suhr or somebody else.

THE COURT: Was it on the witness list -- I mean the exhibit list?

MS. PRICHARD: I believe there's a copy on the discovery. Now, the discovery is all over at my office, the copy.

MR. SUHR: I don't remember seeing a copy anywhere in discovery I got.

MS. PRICHARD: Because it involves the other case, too. So I believe it's actually copied in two

different cases. We have mounds of discovery.

MR. RIGG: It could be in there, Judge. Maybe it was copied so small that I overlooked it.

THE COURT: But it's on the exhibit list, poster?

MS. PRICHARD: It's an attachment as discovery. It's this size, it's 8-1/2-by-11, it's not full size.

MR. SUHR: I want on the record, I've never seen it. I've never seen it, smaller copy or big copy, or anything in discovery. That may be because we have 2,000 pages of discovery.

THE COURT: They're saying it's in there.

MR. LOWE: We can break now and check, it's almost five to 5:00.

THE COURT: Yeah, and do it tomorrow morning.

Are you about done with him?

MS. PRICHARD: I'm getting there. I just wanted to do this part. Do you want me to try to conclude absent this issue?

THE COURT: No, I think we should establish whether there's discovery.

MS. PRICHARD: So we'll break now?

THE COURT: If there's discovery, see if you

can establish that. I mean, absent that, I don't see any problem with it.

MR. RIGG: It could be in there, Judge, there's a lot of paper.

MR. LOWE: It's five till 5:00 anyway.

MR. RIGG: I could have missed it.

- - -

Thereupon, the following proceedings were held in the hearing of the jury:

THE COURT: Ladies and gentlemen, at this point we're going to recess for the day, there is an issue we have to look into before we proceed with the testimony, and that just presents us a good time to break a few minutes earlier than our normal stopping time. We would not be able to complete this witness today anyway. So we might as well break at this time.

Please remember the admonition of the Court. Do not discuss the case, do not read any media accounts with respect to the case. Up until now I don't think that's been a problem with this jury. However, the Court does note there are members of the media that have been covering this trial today. So, do not read the paper with respect to this case or watch any newscasts or listen to any newscasts. That's a very important part of the admonition, all right. And put all this out of your

mind. We'll see you tomorrow morning at quarter to 9:00 downstairs.

- - -

Thereupon, at 4:58 p.m. the further trial of this cause was adjourned until 9:00 a.m., Friday, January 24, 2003.

- - -

point. So as you recall, we were in the middle of direct testimony of Mr. Trent.

Mr. Trent, you're still under oath, you understand?

MR. TRENT: Yes, sir.

THE COURT: Please proceed, Ms. Prichard.

MS. PRICHARD: Thank you, Your Honor.

- - -

RONALD R. TRENT

called as a witness on behalf of the Plaintiff, State of Ohio, being previously duly sworn, resumed the stand and testified further as follows:

DIRECT EXAMINATION (continued)

BY MS. PRICHARD:

Q. First of all, Ronnie, I need you to be sure to keep your voice up. I guess yesterday it was a little bit hard to hear. I may have to repeat a few things with you. All right?

A. All right.

Q. When we left off yesterday, we were talking about your concerns about being here testifying.

A. Correct.

Q. Would you explain what those concerns are again?

A. Well, I mean, like I said, it's just I never

know, I don't know if I walk outside this courtroom, be dead, you know. I mean, it's constant fear. Posters on me everywhere, my address is on it. My family is in danger, I'm in danger, you know, because of these fliers. I lost my employment, my family. I lost my car, my house. I've lost pretty much everything.

Q. Let me show you State's Exhibit I-8.

MR. SUHR: Again, Your Honor, we would object on the basis, no discovery of this.

THE COURT: Oh, I thought we recessed last night to discuss this matter, Mr. Suhr.

(Defense Counsel conferring off the record.)

MR. RIGG: We're going to withdraw the objection.

THE COURT: All right.

You may proceed.

BY MS. PRICHARD:

Q. Is this the poster you're referring to?

A. Yes, ma'am.

Q. Does it have your picture on it?

A. Yeah.

Q. And is this the thing you were referring to as being posted up about you?

A. That's correct.

Q. Have you seen these things posted?

A. Yes.
Q. What location are these things posted?
A. All over the west side of Columbus, the north side where I reside at.
Q. And you've seen more than one of those?
A. Yeah.
Q. At a prior hearing you were asked about a case involving a friend of yours, Terry Mayle?
A. Yes, ma'am.
Q. Do you recall that?
A. Yes, ma'am.
Q. How long ago was the Terry Mayle case?
A. Approximately ten years.
Q. And you signed an affidavit in connection with that case; right?
A. That's correct.
Q. Were you being truthful in that affidavit that you signed?
A. No.
Q. Does that case have any connection to this case here?
A. None whatsoever.
Q. How was it -- and I'm going to jump back to yesterday to clarify some things -- that you were supposed to get this Randy Price to confess to the crime?

A. Actually was supposed to do it by any means I could. I was supposed to do it with a gun, I was given a gun by Jamie Horton with nine ounces of cocaine.

Q. What was the cocaine for?

A. To use -- to get Randy Price to use while he made this confession.

Q. To get -- I'm sorry, you're talking fast.

A. To give it to Randy Price to use while he made the confession.

Q. To give Randy Price drugs to take?

A. Correct.

Q. Was that supposed to facilitate him in confessing?

A. Yeah, I would assume, yeah.

Q. And then that's when you couldn't find this Randy Price and used the deputy instead?

A. That's correct.

Q. And after the person confessed, you were to kill him?

A. That's correct.

Q. When this money was put on your books in the jail, you said it happened two times?

A. That's correct.

Q. Do you know who put them -- the money on your books?

A. Jamie Horton.

Q. Anybody else put the money on your books?

A. No.

Q. Yesterday you told this jury about what the Defendant told you about Dockside Dolls. Do you recall that testimony?

A. Yes, ma'am.

Q. You were talking very fast. I'm going to ask, if you would, to speak loudly and explain again what the Defendant told you happened with respect to this case.

MR. RIGG: Objection, asked and answered.

MS. PRICHARD: Your Honor, it may have been. I've been informed by my co-counsel that it was very difficult to hear, and there are fans blowing, and I'm concerned that perhaps other people didn't hear it as well.

THE COURT: Overruled.

You may proceed.

BY MS. PRICHARD:

Q. Go ahead. Speak loudly, please, this time.

A. Conway told me that his brother and a couple of their associates was at Dockside Dolls. They called him and told him that the guy that they had problems with before was there. He went there, there was fight inside

the bar that led outside. Conway said he was trying to get everybody together and his brother came to him and told him that he was stabbed. Conway got a .45 out of the trunk of the car, asked his brother to point out who it was. He cocked the .45 back to make sure it was loaded and started shooting at the guy. The guy was running away from him, he started shooting at him. He pulled somebody in front of him, but he said he kept shooting anyway, it's a .45 and it will go through both of them.

Q. When he cocked the gun back, did he say anything else that happened with respect to that?

A. Yeah, he said a bullet come out, a live bullet came out.

Q. Came out of the gun?

A. Correct.

MS. PRICHARD: May I have a moment, please.

(Assistant Prosecuting Attorneys conferring off the record.)

BY MS. PRICHARD:

Q. These posters, Exhibit I-8, did those posters depict you as a snitch, basically?

A. That's what it says right on them.

MS. PRICHARD: I have nothing further. Thank you.

THE COURT: Cross-exam.

- - -

CROSS-EXAMINATION

BY MR. SUHR:

Q. Mr. Trent, my name is Bob Suhr. We've had the same kind of discourse in an earlier motion hearing, do you recall that, a few weeks ago?

A. What do you mean?

Q. Do you recall me asking you some questions when you were under oath?

A. Yeah.

Q. Little bit ago. I mean few weeks ago, all right.

Now, I just need to go over what you've indicated. Now, you're saying today that, this morning, that a guy by the name of Jamie Horton brought you money and drugs to give to Randy Price to do a video; is that right?

A. No. I'm saying he brought me those to use to make him do the video.

Q. Okay. What did I say wrong in that?

A. You asked me if they was given to him to do the video.

Q. No. He gave you money and drugs for you to get Randy Price to do a video, is that what you said

today?

A. That's correct, yeah.

Q. Okay, that was my question.

Now, and then you said that as to what happened at Dockside, that Mr. Conway told you that his brother -- would that be Jeff?

A. Yeah.

Q. -- called Jim and said, come over, a guy he had trouble with or something was there?

A. I don't know exactly who called him, but he said he was called, yeah.

Q. Okay. Did you ever tell somebody that he said that he had, he had had prior problems with a guy named Emanuel Williams?

A. Do what now?

Q. Did you ever make a statement to officers, detectives in this case, that Mr. Conway had prior problems with somebody named Emanuel Williams?

A. All I said was what he told me.

Q. I'm just asking you if you made that statement to detectives?

A. I may have, yeah.

Q. Okay. And that it was this Emanuel Williams that was there, that that's why Mr. Conway was called to be there?

MS. PRICHARD: Your Honor, if I can object. Are we talking Mandel Williams or Emanuel?

MR. SUHR: No, we're talking Emanuel right now.

MS. PRICHARD: The name Emanuel --

THE COURT: Whoa, whoa. Counsel, approach here for a second. Approach, approach, approach, please.

- - -

Thereupon, there was a discussion at the bench among the Court, Ms. Prichard and Mr. Suhr, out of the hearing of the court reporter and the jury.

- - -

MR. SUHR: Thank you, Your Honor.

THE COURT: Yeah.

BY MR. SUHR:

Q. Now, in the statements you made, you've indicated that there must have been a prior conduct -- or contact between Mr. Conway and this Mr. Williams?

A. I wouldn't know if there was or not.

Q. That's right. But you indicated, didn't you, to Detective Scott that in fact that's what it was, that there was a guy that Jeff had been beefing with named Emanuel Williams or Mandel Williams or whatever, and that he called Jim to come over to Dockside; is that what you told Detective Scott?

A. Yeah.

Q. All right. And, of course, I guess for that to be, not that you wouldn't be accurate, but for what you claim that Mr. Conway said to you, then I guess Jeff Conway would have had to have been at Dockside Dolls before Jim Conway?

MS. PRICHARD: Objection, speculation.

A. I don't know.

THE COURT: Pardon me?

MS. PRICHARD: Speculative.

MR. SUHR: It's cross-examination.

THE COURT: Wait a minute. It is cross-examination, but what this witness has testified to what Mr. Conway told him, that's what he testified to.

MR. SUHR: Yeah.

THE COURT: So you want to cross-examine on what he told him.

BY MR. SUHR:

Q. I mean, the sense you got about it --

THE COURT: Wait a minute.

MR. SUHR: Okay.

THE COURT: What his testimony was was what he testified to as to what Mr. Conway had told him. Now, if you want to ask him everything that he had told him, you may do so. But what his testimony was was what

Mr. Conway told him. I don't know where the other facts are coming from. But that's what his testimony is.

MR. SUHR: I guess I don't understand. Can I just cross-examine this witness, if we get --

THE COURT: You can ask him about his testimony here. He's testified Mr. Conway told him some things, you may ask all about that.

MR. SUHR: Let's just pin down what the witness said.

BY MR. SUHR:

Q. You said that then Mr. Conway's there, that he got a .45 out of the trunk --

A. Correct.

Q. -- is that right?

I take it his car?

A. He didn't say whose car it was.

Q. All right. Did he say that he drove there?

A. No.

Q. He didn't say he drove there, okay.

Did you say that, who would have been driving?

A. I don't have any idea.

Q. Did you tell Detective Scott you thought Jamie was driving?

A. I said I thought it may have been, yeah.

Q. Okay. And did you think -- did you say he might have been driving a little white Nissan?

A. Yeah.

Q. But you're not sure of that?

A. That's correct.

Q. All right. And then there was a fight inside the bar that continued outside the bar, and that at some point Jeff got stabbed and that that's when the .45 was obtained and that Jim tried to shoot this Mandel or Emanuel or whatever his name was?

A. That's correct.

Q. And that this guy pulled someone in front of him, and then that he said that he just kept shooting 'cause he had a .45 and it would go through him?

A. Correct.

Q. Is that what you're saying?

Now, and in getting to what you brought up this morning, back in about -- you indicated that you were quite young when you went into prison; is that right?

A. I was 18.

Q. Okay. And that would have been in what year, '90?

A. '90, '89, '90, something like that, yeah.

Q. All right. And you went in and you knew

before you went in, I guess, somebody named Terry Mayle --

A. Yeah.

Q. -- is that right? Okay.

And that Terry -- isn't it true that Terry was then indicted for shooting someone?

MS. PRICHARD: Your Honor, I'm going to object. The Court's already ruled on this issue.

MR. SUHR: What?

- - -

Thereupon, there was a discussion at the bench among the Court, Ms. Prichard, Mr. Lowe, Ms. Coriell and Mr. Suhr, out of the hearing of the court reporter and the jury.

- - -

THE COURT: Mrs. Shenk.

- - -

Thereupon, the following discussion was held at the bench with the Court and Counsel outside the hearing of the jury:

THE COURT: I'll excuse the jury.

- - -

Thereupon, the following proceedings were held in the hearing of the jury:

THE COURT: Ladies and gentlemen, let's

take about five minutes, we have to put something on the record. Remember the admonition of the Court, please.

- - -

Thereupon, at 10:00 a.m. the jurors recessed to the jury room, and the following proceedings were held in open court outside their presence and hearing:

MS. PRICHARD: Judge, should I have the witness step out for a minute?

THE COURT: Yeah.

- - -

Thereupon, the witness left the courtroom.

- - -

THE COURT: Well, 611 is leading questions, scope of cross.

MR. SUHR: Scope of cross, yeah.

THE COURT: What I indicated here in my prior ruling yesterday was that you may introduce evidence that this witness has filed a false affidavit that he admits is a false affidavit in a court of law.

MR. SUHR: Well, the thing back in '90 --

THE COURT: The problem is extrinsic evidence on top of that. Once he's admitted that, all the details and that stuff gets into a totally collateral matter and he is impeached by that, that's your impeachment, is that he filed something in a court of law

under oath when he knew it was false. That's impeachment. It's like when you impeach with a felony offense. You bring out the fact that someone has been convicted in the past of a felony offense and that's it, but you're not permitted to bring in all the details of the felony offense, it's just that they've been convicted of a felony offense, and the jury can consider that for purposes of testing his credibility.

In this case, the jury can consider the fact that he filed a false affidavit in a court of law with respect to a case, a sworn statement that he represented was true that he knew was false, and the jury may consider that in testing his credibility. All the details of the statement or the collateral issues or facts about that are truly collateral and I don't think that you get into any purpose served by going into any of the details.

MR. SUHR: If it's a similar act, a similar kind of thing?

THE COURT: You're talking about other acts?

MR. SUHR: I'm talking -- that's what I'm talking about.

THE COURT: That's the Defendant.

MS. CORIELL: Judge, I would also like to put on the record, under 608 --

MR. SUHR: What we've got is a course of conduct here going back to 1990 that's been reiterated. He didn't sign the affidavit in '90, but he forwarded information saying that. Then the Prosecution went down to talk to him in 1992, along with Detective Cummings, and in the course of their interview there were many other things that he said at that time, at that time that were false. Everything about the whole story he told was false to authorities.

THE COURT: He's admitted that he lied, and it culminates in an affidavit that's false.

MS. CORIELL: Right.

MR. SUHR: No, not --

THE COURT: He admitted that he lied.

MR. SUHR: No, not until it comes back again in 1999 or 2001. Then they have him do another affidavit reaffirming that. And just three weeks ago, we referred him to the same thing under oath in a motion hearing, that you, I'm sure, have a copy of that, he said it was true then. So we've got three things on that. Plus, what comes up, the falsehoods he told in the course of his interrogation with the people down in -- when he was in jail.

MS. CORIELL: Judge, I think that Mr. Suhr may have misspoke. The witness at the motion hearing

stated that he did lie when he signed the affidavit --

MR. SUHR: What?

MS. CORIELL: -- in the Terry Mayle case.

MR. SUHR: He did what?

MS. CORIELL: He said on the stand that he lied when he signed the affidavit in the Terry Mayle case.

MR. SUHR: I didn't --

MS. CORIELL: Ronnie Trent said that.

MR. LOWE: Regardless, he signed an affidavit which he admitted was false. Whether he lied to the police ten years ago doesn't matter. We're talking about a sworn affidavit which he's already admitted that he lied to.

MR. SUHR: Also, course of conduct, manipulation of the courts, of the authorities through his lies and his colorful stories.

MR. LOWE: He didn't manipulate the Court other than in the affidavit, which he admitted to.

MS. CORIELL: And also under 608(B), "Specific instances of the conduct of a witness, for the purpose of attacking his character for truthfulness, other than a conviction, may not be proved by extrinsic evidence." And it's in this Court's discretion as to whether it will allow any extrinsic evidence.

THE COURT: What I've ruled is that you're allowed to bring out that affidavit, that he filed it in a court of law, that it was untruthful, it was a sworn statement. But as far as all the other details with respect to the affidavit that's the culmination of the untruthfulness and of all of the other things that led to it, I don't want to get into a whole collateral issue about that. The point is, he admitted it and that's very impeaching, that's very impeaching.

MS. CORIELL: Thanks, Judge.

MR. SUHR: One other thing.

THE COURT: That's the only purpose it would come in, no other purpose to come in.

MR. SUHR: 608, 608(A), "Opinion and reputation evidence of character. The credibility --"

THE COURT: The --

MR. SUHR: "The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations: the evidence may refer only to the character for truthfulness or untruthfulness...."

MR. LOWE: That's with another witness.

MR. SUHR: I intend to have a former prosecutor here in our case.

MS. CORIELL: The Judge has already ruled

that's not coming in.

MR. SUHR: Under 608 it does.

MS. CORIELL: No, it does not, Bob.

MR. SUHR: What are you talking about?

THE COURT: Wait a second, wait a second. Don't get into it with each other.

Here's the problem that you got here. You're saying under 608. The problem is, it's all the same evidence. What your former prosecutor will testify to is that he thinks that this witness lied when he said what he said in that affidavit to the Court. He thinks he lied. This witness is ready to admit what you're trying to prove. There's no -- besides the fact, I mean, you say he's going to testify to character. Character also is, he has to have knowledge of his reputation in the community and these things, come to an opinion of whether or not he has a basis to know his reputation. I don't know whether Braun has a basis to know his reputation at all in the community other than he dealt with him on a case where he believed he lied. And now the guy's willing to admit he lied. And he already has said that in direct examination in this trial. It's fully impeaching, the jury can gnaw on it, you can hammer on it all you want in final argument. The guy's lied to a court of law under oath, that is it. But to go into

anything beyond that, I think --

MR. SUHR: Can't I get into the details to show that it's similar detail as this?

THE COURT: No, because it's collateral.

MR. SUHR: Why not each and every instance of a lie, not just, you know --

THE COURT: The point is, it culminated --

MR. SUHR: My whole life is a lie. I can't ask him independently?

THE COURT: The point is, it culminated in a statement that -- the question is his credibility, the question is his credibility, and it all culminates in that affidavit. To get into a whole scenario of other facts that may go both ways, I don't know, there may be all kinds of collateral facts surrounding that other case that have nothing to do with this case. The crux of your cross is he was willing to lie under oath in a prior, you get that, you can get that, hammer that, you can ask him to admit that, that's fine, but to get into all that other case I think is collateral.

MR. SUHR: Come on back, let's put something else. I also intend to do one other thing.

In his statement when he was being asked about this, I shot the guy, not Terry Mayle, they asked him, well, now, didn't you tell one of our detectives

when you were first arrested that Terry Mayle's brother was your fence, you wanted to turn him in for some kind of consideration? And they asked him, didn't you say that? And his response to them was, well, you know, I was just under arrest, I would have told them anything to try and get out of it.

Now, are you saying I can't get into that either, or can I get into that?

THE COURT: He's already stated that he lied under oath.

MR. SUHR: But this was not the part --

THE COURT: He's talking to an officer, whether he -- whether he's saying anything he wants to to get out from underneath being charged with something is one thing, but the point is, he's already admitted the ultimate impeachable event here.

MR. SUHR: But that was an admission of a separate prior falsehood.

THE COURT: I mean, you can't -- look, there are limits on what you can do with respect to cross-examination. If you want to put on -- and when you put on reputation, character evidence to impeach a witness, there are limitations to it. The type witness you need is somebody who comes on and knows their reputation in the community as a whole, in which they

live.

MS. CORIELL: Judge, I believe Tim Braun testified at the motion hearing that he only spent about an hour, if that, with the witness. So he is not an appropriate person to call to testify as to his reputation because he would have no idea about his reputation in the community, he only met with him for an hour.

THE COURT: I don't know whether he does or not, he may not, but that's another battle to be fought.

MR. SUHR: What I'm saying is, are you saying that because this arose at the same time as the interrogation on the "I did it" statement and the guy says, well, the reason I said that before, that other statement before was that I would have said anything to get off my charges, I can't get into that?

THE COURT: You can ask him why, you can ask him why he lied, filed an affidavit lying.

MR. SUHR: Well, no, no, that's got nothing to do with the affidavit.

MS. CORIELL: It has to do with the Terry Mayle case though.

MR. SUHR: No, it has to do with his case.

THE COURT: Now you're talking about something ten years old where he's under arrest, talking

about he told the wrong story to a cop and got arrested?

MR. SUHR: No. He tried to inform on someone to give them other evidence even though that was false, and he admitted that he was falsely trying to put something on somebody else to get out of this charge. It seems to me like I should be able to get into that.

THE COURT: Have you ever falsely accused someone else of a crime to the police, is that what you're saying?

MR. SUHR: Yeah.

THE COURT: See what he says about it. You can ask him that because it's similar, I'll let you ask that.

MR. LOWE: Your Honor, would he be stuck with the answer? That's the question.

THE COURT: Yeah.

MR. LOWE: He's stuck with the answer.

MR. SUHR: What do you mean stuck with his answer?

MR. LOWE: Because you can't bring in extrinsic evidence.

MS. CORIELL: You can't bring in extrinsic evidence on a collateral matter, and that's collateral.

MR. SUHR: You mean the fact that he lied and admitted he lied? I've got it here.

MS. CORIELL: Yes.

MR. SUHR: How is that extrinsic?

MR. LOWE: 'Cause your guy's under the same Rules of Evidence like we are, that we can't prove with extrinsic evidence by collateral matters.

MR. SUHR: Well, what is this guy doing then, why aren't we just trying the case like out there at Dockside, not having this guy in? This isn't extrinsic?

MS. CORIELL: This isn't collateral.

MR. SUHR: That's your interpretation.

THE COURT: Mr. Rigg --

MR. RIGG: Yes, Your Honor.

THE COURT: -- since you were doing the objections on this, are you weighing in on this issue?

MR. RIGG: I'm looking at some other issues, Your Honor.

MR. LOWE: Your Honor, the only other thing I would like to bring up, if there's an objection, we'd ask at least to approach. When Mr. Suhr screams in front of the jury that it's a discovery issue, it wasn't given on discovery, one, it's inaccurate; two, it shouldn't be said in front of the jury, it should be addressed in front of the Court.

THE COURT: No speaking objections.

MR. SUHR: Okay.

THE COURT: All right, let's bring the jury out and proceed.

- - -

Thereupon, at 10:13 a.m. the witness returned to the courtroom and the jurors resumed their places in the jury box, and the following proceedings were held in open court:

THE COURT: All right, be seated.

Please proceed, Mr. Suhr.

BY MR. SUHR:

Q. Okay, Mr. Trent. You've indicated that you made a statement accepting responsibility for the shooting that --

MR. LOWE: Objection.

Q. -- Terry Mayle was convicted of in 1992?

MR. LOWE: Objection.

Q. And --

MR. LOWE: Objection.

THE COURT: Sustained.

BY MR. SUHR:

Q. Did you ever sign an affidavit saying that you shot anyone?

MR. LOWE: Objection.

A. Yeah.

THE COURT: Sustained.

MR. LOWE: Can we approach, please?

THE COURT: Yes.

- - -

Thereupon, there was a discussion at the bench among the Court and Counsel out of the hearing of the court reporter and the jury.

- - -

THE COURT: Jury will disregard the comments of Counsel included within his question, all right, not consider it for any purpose.

Go ahead, Mr. Suhr.

BY MR. SUHR:

Q. Mr. Trent, let me hand you what I've marked for identification purposes as Defendant's Exhibit 13. What is that?

A. It's an affidavit.

Q. And what's the affidavit about?

MS. PRICHARD: Objection, Your Honor.

THE COURT: Mr. Suhr, are you going into the facts?

MR. SUHR: No, I'm not.

THE COURT: Well, then --

MR. SUHR: Just what is it.

THE COURT: -- guide the question

appropriately. You know how to do it.

BY MR. SUHR:

Q. Is that an affidavit that you signed to be used in a court proceeding?

A. That's correct.

Q. Okay. And was it in a criminal case?

A. Yeah.

Q. It wasn't, for instance, like in a divorce case or anything like that?

A. No, it wasn't civil.

Q. All right. And what was the date of that, when you signed that affidavit, if you know?

A. October 21st. It says October 21st, 2000.

Q. Okay. When did you first make the claims public that were contained in that affidavit?

MS. PRICHARD: Objection. The Court's ruled on this.

THE COURT: Yeah. Go ahead, Mr. Suhr. Sustained. Go ahead, Mr. Suhr.

MR. SUHR: Okay. Can I approach the bench?

THE COURT: Yes.

- - -

Thereupon, the following discussion was held at the bench with the Court and Counsel outside the hearing of the jury:

THE COURT: Go ahead, Mr. Suhr.

MR. SUHR: Okay. I was requesting --

THE COURT: Whisper.

MR. SUHR: I was requesting the ability to ask him when the first time he made the statements that are contained in the affidavit. In other words, I proffer that I think it would be in 1992 that he made the statements and claimed responsibility.

THE COURT: Made statements to a police officer?

MR. SUHR: Yeah, to a police officer and a Prosecutor --

THE COURT: Right.

MR. SUHR: -- to be used in court.

THE COURT: My ruling has been that what evidence you're able to use for impeachment is the affidavit, not all the background leading up to it, but the fact that he was -- had filed an affidavit that he admits was false, in a court of law, 2000, and that's it, in a criminal case.

MR. SUHR: My position is, I think it's relevant that for ten years he maintained that.

THE COURT: You can say attempt by him to establish factual matters in a criminal case; then beyond that, we're not going into any details.

MR. SUHR: But over a ten-year period he maintained that?

THE COURT: No, no.

MR. SUHR: I can't get that?

THE COURT: The impeachable event is in 2000 with that affidavit, not what's going on before that.

MR. SUHR: Okay.

THE COURT: Not the facts.

MR. SUHR: Exceptions to that.

MR. LOWE: I think the Court's ruling is very clear, and this is now the third time that Mr. Suhr has attempted to go back into the facts on this case. We ask that, I mean, he stick to the facts.

MR. SUHR: It's important to me, you know, that --

MR. LOWE: Whether it's important or not, the Judge ruled, you have to follow the Judge's ruling. The Judge ruled you're not to get into the facts. It was an affidavit, it was false.

- - -

Thereupon, the following proceedings were held in the hearing of the jury:

BY MR. SUHR:

Q. Okay. Just so I see where we're going here, Defendant's Exhibit 13 you indicated was a lie?

A. Pardon?

Q. What you signed there when you signed and swore an affidavit to be used in a criminal case, you're telling the jury that when you did that, that was a lie?

A. That's correct.

Q. All right.

MR. SUHR: I want to proffer that.

BY MR. SUHR:

Q. Now, you indicated yesterday that you've been convicted of several felonies for other crimes of moral turpitude, and what did you say you've been convicted of?

A. When?

Q. In your lifetime.

A. I was sent to prison for three counts of agg. burglary.

Q. Of aggravated burglary?

A. Correct.

Q. All right. And what was your sentence on that?

A. 8 to 25.

Q. All right. And when did you get out of prison the first time?

A. '99.

Q. '99. And then did you have a subsequent

felony after that?

A. I had a receiving.

Q. Hmm?

A. A receiving stolen property, yeah.

Q. All right. And when did you catch that charge?

A. I'm not exactly sure.

Q. Okay. I take it it was sometime after you were released?

A. It would have had to have been.

Q. It wasn't something that happened in prison, was it?

A. No.

Q. All right. And I think you said you did how long on that?

A. Thirteen months.

Q. Thirteen months. And then were you charged with anything else?

MR. LOWE: Objection.

Q. I'm sorry. What was the next thing you told us yesterday about?

A. I don't remember.

Q. Did you tell us about a gross sexual imposition?

A. Yeah, I was charged with that.

Q. Was that two counts?

A. Yeah.

Q. All right. And what felony level did you say those were yesterday?

A. I believe they was 4.

Q. Isn't it true that they were 3's because the girl was under 13?

MR. LOWE: Objection.

MS. PRICHARD: Objection.

THE COURT: Sustained. Jury will disregard the comment of Counsel.

BY MR. SUHR:

Q. Well, is there a difference between an F-3 and an F-4 gross sexual imposition?

MR. LOWE: Objection.

MS. PRICHARD: Objection.

THE COURT: Sustained. Establish what he was charged with as per the testimony.

MR. SUHR: He told us yesterday --

THE COURT: Well, if you want to come up a second, I can tell you what it was.

- - -

Thereupon, there was a discussion at the bench among the Court and Counsel out of the hearing of the court reporter and the jury.

- - -

THE COURT: Ladies and gentlemen, thank you for your patience. We're ready to proceed at this point.

MS. PRICHARD: Judge, just to clear up the record, I believe --

THE COURT: Yeah.

MS. PRICHARD: -- we've agreed to enter into this stipulation: That Mr. Trent was originally indicted for gross sexual imposition, one count, a felony of the third degree, and one count attempted gross sexual imposition, which was a felony of the fourth degree, one of each.

THE COURT: All right. You can accept that as stipulation, Mr. Suhr?

MR. SUHR: Yes, thank you, Your Honor.

THE COURT: Thank you.

You may accept that as fact.

Please proceed.

MR. SUHR: All right.

BY MR. SUHR:

Q. Now, I believe that you stated yesterday that Jim Conway came up with all these ideas; right?

A. That's correct.

Q. And the first idea that he came up with was that he was going to give you information that would be

very useful to the Prosecution in this case, the Dockside Dolls case, and that you would then -- stop me if I'm going wrong -- that you then would contact the Prosecution or the detectives, or whatever, with the hope that they would be so impressed with your testimony and the need for your testimony that they would place you in protective custody, where you could kill a witness that was already in there. Is that the first thing you told us yesterday?

A. Correct.

Q. And then after, after Mr. Conway told you all this stuff you were supposed to tell them to get interested, then you wrote the Prosecutor or something a letter; right?

A. That's correct.

Q. Again, that's what Conway told you to do; right?

A. Correct.

Q. Contact them.

And then some kind of police officer or somebody comes down in the middle of the night and you refuse the visit and go on and on about, you want to get me killed? Is that what you told us?

A. That's correct.

Q. And you're saying this is exactly what

Mr. Conway told you to do; right?

A. Which one?

Q. To contact the police or the authorities with this story?

A. No. He told me to contact the Prosecutor's Office.

Q. Okay, I'm sorry.

So you contacted the Prosecutor's Office and they send you a cop?

A. No, no, they didn't send him.

Q. But you refused the visit with somebody in the middle of the night?

A. That's correct.

Q. Because you thought it was a cop?

A. Correct.

Q. Now, did you also explain to us yesterday that you didn't have to worry about, didn't have to worry about -- it may not have been yesterday, it may have been in a prior motion hearing -- that you really weren't worried about this gross sexual imposition charge because you had tapes?

A. That's correct.

Q. And those tapes that you had established that you had been framed on that case?

A. That's true.

MS. PRICHARD: Objection, Your Honor, if he's going into the facts of this case.

THE COURT: Pardon me?

MS. PRICHARD: I believe we're going into the facts of this case.

THE COURT: I don't know where it's going, but I'll allow an answer to that question.

BY MR. SUHR:

Q. And that you had caused the tapes to be made and they proved that you were innocent, you had been set up?

MS. PRICHARD: Objection. Again, Your Honor, this all goes to the case that he pled to and we have the agreement with respect to.

MR. SUHR: It's what he stated.

THE COURT: Go ahead.

MR. SUHR: Okay.

BY MR. SUHR:

Q. Now, you're not claiming that Jim Conway told you to make any tapes on your case, are you?

A. No.

Q. Now, the next thing that you said that Jim Conway wanted you to do was that somehow you were supposed to be released to get out of jail and then you were supposed to find somebody named Randy Price?

A. That's correct.

Q. And get him to confess to the Dockside Dolls shooting on tape?

A. Correct.

Q. Okay. And he came up with this idea because if you made the tape of somebody that looked like him doing that, then he would get off this case, is that it?

A. I don't know what he was thinking.

Q. Okay. And how was it that you were supposed to get out of jail?

A. We just went through that.

Q. Okay. So when he came up with the plan that you would turn over evidence or talk about stuff that would be very valuable to the Prosecution, that you could get out on -- get into essentially a witness protection something, kill the guy, but you also would be out and not only kill somebody who was allegedly a witness, but you could get this Randy Price then to star in the video where he took responsibility --

A. Correct.

Q. -- right?

Now, did he say that you were supposed to do this in the protective custody house?

A. Do what?

Q. Make this video.

A. No.

Q. Okay. So he must have told you there was some other way that if you're out of protective custody that what, you say you didn't think it was necessary and leave?

A. Yeah. He said his lawyer said you have that option once you're placed in protective custody.

Q. I see. So you'd get, get into protective custody and kill somebody and then say you didn't need it, leave, and make a video, that was the plan?

A. Something along those lines, yeah.

Q. Now, if that was the plan, what was it that you were going to tell the Prosecutor to get them so interested in this case?

A. Exactly what I've told them.

Q. So let me get this straight. You're claiming that Mr. Conway would come up with the plan where you would come in and testify, or you would tell the Prosecution that you'd be available to testify that he confessed to running somebody down, and -- after they cut his brother, and killing somebody, and then wanted you to kill a witness merely that said that he was holding a gun, and then make a video saying somebody else did it when he's telling you to go tell them that I said that I did this, is that what you're -- is that what the

plan was?

A. I don't know what he was thinking. I'm telling you what he told me to do. That's all I know.

Q. Now, you've been around the jail system, prison system for quite a while, haven't you?

A. Yeah.

Q. And it's not the nicest place to be, is it?

A. I've been better.

Q. You know, you got clanging of steel on steel and the bars and gates slamming around, you got people yelling, crying and screaming, it's a lot of noise, isn't it?

A. Sometimes.

Q. And it can be cold, there's no carpets, just concrete floors, it's cold on the floors, it's chilly, maybe too hot in the summer and too cold in the winter, or vice versa, it's not a pleasant place -- the food, is the food good?

A. I guess that depends on your taste.

THE COURT: Wait a minute, wait a minute. Do you have a question?

MR. SUHR: Isn't it true?

THE COURT: I mean, about all those prior things you asked, you made statements, Mr. Suhr, but you never asked a question till you got to food. Now, I

don't --

MR. SUHR: Isn't it true that --

THE COURT: Now wait a minute, wait a minute. I don't want you standing at the podium giving speeches. I want you to ask questions of this witness and it's his job to answer them.

BY MR. SUHR:

Q. Isn't it true that the food isn't good, you wouldn't feed it to a dog on the outside; isn't that true?

A. I guess that depends on the individual.

Q. All right. Well, it also is true that you've spent pretty close to ten years of your life behind bars and you're only 30?

A. That's true.

Q. And you don't want to go back there again, do you?

A. No.

MR. SUHR: One moment. One second.

(Defense Counsel conferring off the record.)

BY MR. SUHR:

Q. Do you remember towards the end of last month --

MR. SUHR: Can I approach the bench? I don't want to, you know, have a problem here.

- - -

Thereupon, there was a discussion at the bench among the Court and Counsel out of the hearing of the court reporter and the jury.

- - -

MR. SUHR: That's all the cross I have at this time.

THE COURT: Thank you.

Redirect.

- - -

REDIRECT EXAMINATION

BY MS. PRICHARD:

Q. Mr. Trent, who was supposed to be your contact person on the outside to help you carry out the plan of the Defendant?

A. Jamie Horton.

MR. SUHR: I'd object, improper redirect.

THE COURT: Yeah. Hang on a second, hang on a second.

Overruled. That was mentioned on cross at the very beginning.

BY MS. PRICHARD:

Q. And the drugs that were given to you, were those for you or were those for Randy Price?

A. They was for me to use towards Randy Price.

They was part of payment, part for me to use on him, the drugs and the gun.

Q. You weren't at Dockside Dolls that night; right?

A. No, I was in jail.

Q. All you know about is what the Defendant told you?

A. That's correct.

Q. You weren't there to see exactly what happened inside or outside the club?

A. No, ma'am.

Q. The visit from the police officer that I believe you mentioned in Exhibit I-3, you mention in Exhibit I-3 being concerned about a visit in the middle of the night?

A. That's correct.

Q. And, in fact, you were worried it was going to label you as a snitch to people in the tank?

A. That's correct.

Q. That other people would know or think you were a snitch?

A. Correct.

Q. Whose plan was this whole get out of jail, get in protective custody, kill people?

A. Conway's.

Q. Did you think it was a smart plan yourself?

A. No. Actually, I thought it was pretty stupid.

Q. And as part of that plan, you weren't supposed to come to the Prosecutor and cut a deal, were you?

A. No.

Q. And at that time did the Defendant know that you had cut a deal?

A. No.

Q. Had you gained his trust?

A. Yeah.

Q. You indicated that to us in the letters?

A. Yeah.

Q. According to the plan that the Defendant wished for you to orchestrate, after you did those things in his plan, what was to happen to you, what were you supposed to do?

A. Disappear.

Q. So you wouldn't be around?

A. Correct.

Q. And you weren't supposed to ever testify or anything?

A. No.

MS. PRICHARD: Can I have a moment?

(Assistant Prosecuting Attorneys conferring off the record.)
BY MS. PRICHARD:
Q. I believe you said you didn't even know Brian McWhorter?
A. I still don't.
Q. How did you know he was in protective custody?
A. Conway.
Q. Did you know how he knew?
A. His lawyer, I believe.
MR. RIGG: Objection.
A. He said it was his lawyer.
THE COURT: Whoa. Objection is overruled. As source of information, what the Defendant told this witness, you have to establish that foundation.
BY MS. PRICHARD:
Q. Did the Defendant tell you how he knew Brian McWhorter was in protective custody?
A. He said his lawyer told him.
Q. What happens, Mr. Trent, if you violate the terms of your agreement that you made with the State?
A. I go to prison.
(Assistant Prosecuting Attorneys conferring off the record.)

BY MS. PRICHARD:

Q. As part of this agreement, you have to be truthful; correct?

MR. SUHR: Object.

THE COURT: Overruled.

A. Correct.

Q. Are you being truthful today?

A. Yes, ma'am.

MS. PRICHARD: I have nothing further.

THE COURT: Mr. Suhr.

- - -

RECROSS-EXAMINATION

BY MR. SUHR:

Q. And you're under oath today; right?

A. Yeah.

Q. You were under oath when you signed that affidavit; right?

A. No.

Q. You weren't put under oath when you signed an affidavit?

A. No. I believe it was done at Doug Shaw's office.

Q. So you're saying that you weren't really under oath so that doesn't count?

A. No, I'm not saying that. You asked me a

question and I answered it, sir.

Q. Now, one of the things that happens when you're in jail is that, is it not true that you receive your motion of discovery from your lawyer?

MS. PRICHARD: Objection, beyond the scope.

MR. SUHR: No, it's not.

THE COURT: Let's hear what the question is.

BY MR. SUHR:

Q. And a lot of defendants get that motion of discovery, what the Prosecution tells somebody, their lawyer and themselves about their case and they have it in jail, don't they?

MS. PRICHARD: Objection.

A. It depends.

MS. PRICHARD: Beyond the scope.

THE COURT: Well, I don't know whether it is or not.

Mr. Suhr, you are limited to the questions on redirect.

MR. SUHR: Yeah, it's proper, she brought it up.

MS. PRICHARD: It's also speculative as to what other defendants get. That's what part of the question was.

THE COURT: Well, that will be sustained.

But you may ask questions pertaining to redirect.

BY MR. SUHR:

Q. And have you ever seen anybody's discovery when you've been in jail?

A. My own.

Q. All right. Now, discovery's got stuff about your case; right?

A. Correct.

Q. Now, what do you do with that discovery when you take a shower?

MS. PRICHARD: Your Honor, objection. This is all beyond the scope.

THE COURT: Let me --

MR. SUHR: Can we approach? Let's put it on the record.

THE COURT: Let me review redirect.

That will be overruled.

MR. SUHR: Thank you.

BY MR. SUHR:

Q. So what do you do with your discovery when you take a shower?

A. You are asking me personally?

Q. Yeah.

A. I don't do nothing with it.

Q. Stick it under your pillow?

A. Wherever it's at.

Q. Pass it around for everybody to read so to get some of the facts about your case, maybe contact the Prosecutor?

MS. PRICHARD: Your Honor --

THE COURT: You may come up, I'll explain the ruling.

MS. PRICHARD: Thank you.

- - -

Thereupon, there was a discussion at the bench among the Court, Ms. Prichard and Mr. Suhr, out of the hearing of the court reporter and the jury.

- - -

THE COURT: Please proceed, Mr. Suhr.

MR. SUHR: Okay.

BY MR. SUHR:

Q. I guess the point is, it's true, isn't it, that you can't protect your discovery every minute of every day from prying eyes in the jail; isn't that true?

A. I guess that depends on the individual.

Q. Well, I mean, it would be kind of weird for somebody to go into the shower with a bunch of papers rolled up; right?

A. I would assume, yeah.

Q. Have to leave it someplace; right?

A. (Witness nods head.)

Q. Or if you have a visit or any number of times when you're out of the cell; isn't that true?

A. In some instances, yeah.

Q. Okay. And isn't it true that the information that you got could have come from discovery or could have come from his lawyer, the guy's lawyer might have gotten it from discovery and passed it on?

A. No.

Q. Isn't that all true?

A. No.

Q. And as a matter of fact, before you went to the Prosecutor, Mr. Conway had already gotten his discovery from his lawyer; isn't that true?

A. No, I don't believe it is. I wouldn't know. I've never seen his discovery.

Q. Well, you're right there in the cell next to him?

A. I've never seen his discovery, so I wouldn't know when he got it.

MR. SUHR: All right. No further questions.

THE COURT: Ms. Prichard?

(Assistant Prosecuting Attorneys conferring off the record.)

- - -

FURTHER REDIRECT EXAMINATION

BY MS. PRICHARD:

Q. Mr. Trent, are you aware that when somebody gets discovery, it doesn't include everything in the Prosecutor's file, it's very limited?

A. Yes, I'm aware what discovery pertains.

MS. PRICHARD: Nothing further.

THE COURT: Mr. Suhr?

MR. SUHR: Nothing.

THE COURT: Thank you, sir, you may step down.

MS. PRICHARD: Next witness?

THE COURT: Yeah. Is it the --

MS. PRICHARD: Traveler.

MR. LOWE: Yeah. I don't know whether you want to break now or go straight in.

THE COURT: Folks, you need five minutes? Okay, they're ready to go on. I didn't poll everybody here. There is -- what do they call it -- a margin of error in the poll.

Right up here, sir, if you would. Would you raise your right hand.

(Witness is sworn.)

THE COURT: Please be seated, if you would, face the ladies and gentlemen of the jury, and you can

bearing the burden of proof in the case goes first in final argument, then the Defense will have an opportunity to argue, and then the State will have an opportunity for a rebuttal. Following -- we intend to go through and complete these final arguments before we have a lunch break, okay, so you might get a little hungry through these things, can't be helped, and it depends on how long or short people are. If it gets too long, we'll just split in the middle of it, but we try to avoid that. Once you go to lunch, we still will be preparing the written charge and we'll be working on that while you're at lunch, trying to get that completed. That is, the charge being the law, instructions of law that the Court's going to give you. We like to have that in written form, send it back with you. And, of course, a lot is involved with respect to that. A lot of this work could not be done until the last minute, till all the evidence is completed. I want you to understand that's why there's these delays.

But in any event, we're ready to proceed at this point with closing argument. And, Ms. Prichard, on behalf of the State.

MS. PRICHARD: Thank you, Your Honor.

There's no question that on January 19th, 2002, this Defendant fired eight shots, wounding Mandel

EXHIBIT 41

Williams and killing Jason Gervais, an innocent bystander. The question here really is, why? What was his intent when he fired those shots that night? And in order to determine that, the best way to do that is to examine the evidence, the witnesses. What did they testify to? What were the facts and circumstances at the time he fired those shots?

Now, you heard from more than a dozen State's witnesses and you heard from the Defendant and his brother. You heard vastly different versions of what happened that night. And in order to decide what happened, let's start by examining what we believe that the State has proved in our case.

Detective Jackson responded to the scene, crime scene search unit, prepared a diagram. He testified that diagram was accurate. He prepared it that night.

Detective Gravett confirmed that that diagram appeared to be accurate to him. He collected some casings, a live round, a spent bullet and a knife.

You heard from Tony Zara, a bouncer in the club. Tony told you he was working that night, he was familiar with the Defendant and his group. They had come in a lot and spent a lot of money. He said there were mostly male whites in the parking lot, some

African-American males, and the male whites initiated the fight outside. When he became involved at some point, he was restraining the Defendant until he got hit by someone he believed to be Rob. The next thing he heard is, "He's going for a gun," he was knocked unconscious, left there at the scene until his fellow bouncer carried him inside.

Troy Ankrum testified that he pretty much saw everything from start to finish. Troy told you at the beginning he tried to keep the Defendant and his group out of the club because of problems in the past. He knew there was going to be trouble that night. When he was outside, there were racial slurs being exchanged, it appeared to be a racial dispute; that Jeff, who he had picked out of a photo array, Jeff Conway, the Defendant's brother, started the fight, because he knocked out a male white who was left there laying by the curb who had been with the African-American group.

He said then he heard Jeff, who had been stabbed, yell -- I'm not going into the slurs -- basically that someone stabbed him. He said that the victim when he said that wasn't near his assailant anymore, there wasn't anyone standing over him with a knife at the time he yelled that he was stabbed. There was no one standing near him at the time the shots were fired either.

The bouncers had broken things up, groups appeared to be separated, and he said after the stabbing no one got near the man. No one got near Jeff Conway after the point where he was stabbed that initial, very first and only time. He heard yelling, "I'll kill you guys, I'll take your lives." And it was yelled by a guy who was headed for a gun. That guy went to the trunk of a car where Dallas, Becki Loar, was sitting. Becki Loar was sitting on that trunk, a gun was taken out, and Troy said a white guy, who he identified here in court as the Defendant, grabbed that gun, he took off with it and he shot gangster style, he shot sideways, and he continued shooting. He's shooting as Mandel Williams was running away, running towards the back of that building. He said he tried all he could to get away. The shots were fired even after Jason got pulled in the way. The Defendant walked up on them and continued to shoot at Jason and Mandel.

Becki Loar, Dallas, told you that she was a dancer that night. She had been out on the parking lot, a guy walked up to an area where she was standing and he was pumped up, and again I'll ignore the slurs, and said someone's stuck him and lifted his shirt up. She was sitting on the trunk telling Rob, "Don't do it, it's not worth it, there are bouncers out here." Rob slid her off

the trunk and went for a gun. When Rob got the gun, a white male walked up to Rob, grabbed the gun from him and took off with it, ran down the parking lot, ran northbound with it. And she started screaming, "He's got a gun."

People were trying to help the stab victim, who we know as Jeff now, into the sport utility vehicle when the shots were fired, she said. According to her testimony, the Defendant ran down with the gun and his brother, Jeff Conway, was being helped into a car, he wasn't anywhere near Mandel Williams. She said that when the shooter went up to that area before he started shooting, he was trying to be slick, she thought it was real slick the way he waited so Mandel Williams wouldn't see him as Jason, Jason Gervais walked past. And then as soon as Jason got past, he started shooting at Mandel, Jason got pulled in the way, and he still continued firing. Fired eight shots at least, at least eight trigger pulls, emptied that gun. She said she never saw Mandel with a knife. Mandel was along the wall, he was trapped against that wall, smashed along the side of the building, she said.

Paris Long, Becki's boyfriend, was out there, and if you recall, he testified he had Mandel's group along the wall. He was moving them, he had his

arms out. Mandel was at the front of the group, everybody lined up on the sidewalk, moving northbound. He said the fight had been broken up. The males who were white were kind of on the other side back by the cars on the east side of the lot. He heard some slurs, basically saying a black male stabbed him. That was Jeff. He heard that while he's getting this group moving against the wall. While Mandel Williams is against the wall, Jeff is telling his brother he's been stabbed. Two, two-and-a-half minutes later shots are fired.

Mandel Williams told you that he was there with Corey McCormick. We know Corey McCormick had some problems with the Defendant's brother. There was some racial slurs exchanged, there were fights going on in the lot. He said he took a knife from a male white and he made a slashing motion and he cut him. He said the manager was out there telling everyone to leave. He started heading for his car, which was parked back towards the north corner. He said he never went at anybody again, he never stabbed at anybody again. He's heading to his car, he heard someone say, "Get my gun," and the next thing he knows, there are shots being fired. And he recalls the first shot hitting him in the shoulder. He was shot four times. He said he and Jason became entangled. He said Jason tried to push him out of

the way, he believes, and Jason continued to be shot. They were both being shot as they were both entangled and falling to the ground.

Damien LeCaptain told you there were 35 to 40 people in the parking lot at the time all this happened, including some white guys, the Defendant's group, who he had seen before, and a couple of black guys. He saw a stab victim, who we now know as Jeff, who had a white shirt on, indicate that someone had a knife. And then he saw a heavy male white, who we now know as the Defendant, with a light shirt, going to the car. He heard, "I'm going to get my gun," and the guy went to a silver luxury-type vehicle, he believed, a car Dallas was sitting on. Again, consistent with Dallas's testimony and Troy's testimony. He goes to the car. The guy who gets -- the guy who stabbed somebody is running towards the back of the building, Mandel Williams, he's taking off, he's gone, away from the person he's stabbed. And then one to two minutes after he hears, "I'm going to get my gun," he hears shots.

Mike Small testified there were group fights, the Defendant's group and African-American group. They were separated, he thought everything was fine. Everything appeared to be under control. Then he heard someone again make a racial slur and basically indicate

that someone stabbed him. Guy pulled up his shirt. This happened before the groups were separated. Someone says they had been stabbed, the groups are separated, everything's under control. Mandel and his friends are walking towards the back. There are shots fired at the time Mandel's walking towards the back. He said the Defendant's group is on the east side of the lot near where the cars were. And he heard the guy that had been stabbed say, "That one, one in red," identifying Mandel Williams, who was wearing a red jacket.

Mike Arthurs told you he was friends with the Defendant. The Defendant basically told him he killed someone at Dockside Dolls. Of course, the Defendant claims to have never discussed this with anyone.

Earl Larimore, just a guy visiting the bar, went there on occasion, doesn't know anybody involved with the case. He's leaving, he said the fights looked broken up, it looks safe to go to his car, and he's walking northbound, going back to the parking lot. He's in the middle of the lot, he says a male white is stabbed, he says Jeff, Jeff's lifting his shirt. The guy walks past him, the guy heads southbound, Earl Larimore is headed northbound towards the corner, towards the back of the lot. Jeff's going the opposite way. And 15 to 30

seconds later he hears shots.

Mark Hardy testified that he compared the items found at the scene. He analyzed the casings. He analyzed the spent bullet, the bullets from the victims, two from Jason, one from Mandel, and a live round found at the scene, and he determined they were all fired from the same weapon, one weapon, which he believes to be a .45, and he indicated the Colt is the most common type, it may have been involved. He said at least eight shots were fired by the fact that there were eight casings left at the scene, and eight shots require eight trigger pulls.

You heard from Dr. Norton. He essentially said that Jason was shot four times, and the shot that went to his back and landed up at the base of his skull is the one that caused his death.

Brian McWhorter, friend of the Defendant's. He was friends with the Defendant and Jeff. He was at Dockside that night with them inside the club, with the Defendant and his brother and all their friends. He saw what happened that night, and because of it, he believes he got jumped. He got jumped for no reason after a meeting at the Defendant's former attorney's office. He was at Mr. Cicero's office. He had been carted in there, he had been questioned, he had a monitored phone call

with the police and was being handed notes on what he should say. People were watching Brian McWhorter. What does Brian know, what does Brian have to say? Trying to keep control of him. And that night, for no reason, he gets jumped.

He testified on this particular night at Dockside there were some fights in the lot. He was kind of standing near the doorway. That Jeff got stabbed and Jeff showed his brother he was stabbed, and then at that point, this Defendant walked past Brian McWhorter, walked to a car, got a gun, walked back past Brian McWhorter, headed northbound, saw him with a gun, shots are fired. And when Brian looks over northbound, he sees the Defendant lowering his arm. Everybody jumps in a car, everybody leaves and they go to Big Mike's Palace, place where they commonly went to party.

You heard from Ronald Trent. Yes, Ronald Trent, we cut a deal with Ronald Trent, there's no question about it. Now, when the deal was cut with Ronald Trent is very important because, as Ronald Trent testified, he was in jail with the Defendant. The Defendant was arrested February 23rd. When they were in jail, a friendship developed, they realized they were related, they were cousins. They talked, they had an opportunity to talk. The Defendant trusted him. The

Defendant told him things about this case and Ronald Trent used that information. He came to the police and he came to my office. You'll have letters. He wrote letters to our office in early April, April 5th and April 10th, I believe, saying, "Please come see me, I have information on the Dockside Dolls homicide because Jim Conway's my cousin and he's told me everything." He had information and he used it, used it against the Defendant and he got a plea bargain for it. He also got a life of looking over his shoulder in exchange for that information. Posters up around town with his picture on it because he's a snitch, because he's testifying in this case.

The information Ronald Trent told you was that the Defendant told him he had been called to the bar, there was some sort of problem. Well, we know that Corey McCormick, Cain, and Jeff did have some sort of a problem in the past. There was a fight as they exited, that Jeff got stabbed, he told his brother he was stabbed, and the Defendant went to the trunk, got a gun. He jacked one out, which explains the live round that's found there at the scene. Jeff pointed out the shooter and the Defendant began firing, he fired a .45. That when Jason Gervais got pulled in the way, the Defendant didn't care, he kept shooting because he knew a .45 would

go through him. The Defendant said he fled afterwards. And then he asked Mr. Trent to go get into protective custody with Brian McWhorter, who was in protective custody, try to collect some information and kill Brian McWhorter. And then when he wasn't able to find and kill Brian McWhorter, the plan was, well, make a video, let's find somebody who looks like me, make a video, we'll make this guy confess and then you'll kill him. And he was paid money. $2,000, $3,000 was put on his jail books by the Defendant's brother, Defendant's friend. Also was supposed to pay $30,000 to Ronald Trent for doing all these things.

Now, we can take Ronald Trent's testimony and corroborate it. It matches the physical evidence at the scene. There's a live round, there's casings. The witnesses say there was a car that the Defendant went to. There was a fight. We know he had the Defendant's trust, it's at that time they were in jail, cousins, they talked. Defendant even wrote Britnee saying he doesn't talk to anybody, he ignores everybody but his cousin Ronnie.

Then we have wired conversations. Those transcripts, those conversations that I cross-examined the Defendant about all confirm everything Ronald Trent said. Find Brian McWhorter. Can you find Brian? Then

it's, don't worry about Brian, my attorney says don't worry about him, he's changed his story so many times, it's all circumstantial bullshit. Those were the words he used in talking to Mr. Trent.

And he talked about the video. Ronald Trent said, I'm about to make a video. Good. I'm going to bring the video down. When? There's a conversation about that video. Video is supposed to be mailed, it's supposed to be sent to the Defendant's attorney at the time, Mr. Cicero. It's supposed to be given to the news and various people to clear the Defendant.

Mr. Trent had too much information for this to come from any other source, and he told this information to the police, to the Prosecutor's Office April 25th, in a meeting, a meeting which was tape-recorded, there was a transcript made. He had told all about this information before he cut any deal.

When he first walked in and met with the police, here's what I have to know, it was all tape-recorded, and afterwards, long afterwards, actually, a deal was cut with him. He stayed wired, phone conversations, he made a jail visit to see the Defendant with Jamie Horton, Defendant's friend, held up a picture of Deputy Shively, who looked to be dead in a trunk. You'll see that picture. Held it up to the glass, showed

it to the Defendant, said, these are pictures of the kids you wanted. They were talking in code. This is what you wanted; right? You heard about that from the transcript. All of those things were done to corroborate Ronnie Trent, and all of those wired conversations were done before he had any sort of a deal. And now, as he told you, he's in danger for having made that deal.

You heard from Ben Bechtel, friend of Jason Gervais, went to high school with him, said Jason wasn't doing anything wrong there that night, they were there celebrating because Jason had just got his first commission check from his new business that he had started. Ben was leaving for the military soon. And they were just celebrating. And then at closing time, Jason exited first and Ben was with his friends, they were paying their tab, thought he'd catch up with him, but Ben ended up being kept inside that club. And when he exited, Jason's car was still there and Jason wasn't there, and he learned that his good friend had passed away the following day.

Detective Gravett testified he looked at the videotape from Dockside Dolls, that the angle of the camera didn't show the crime, unfortunately; that the gun was never found; that he had some hurdles, they weren't cooperative witnesses, people associated with the

Defendant, there were missing witnesses, there were stage names, there were problems finding people. They took some time to investigate.

They conducted search warrants, and in those search warrants at the Defendant's home they found a lot of ammunition, including some .45 ammunition. They found an empty Colt .45 box, which the Defendant claims is just an empty box that someone gave him.

Dave DeVillers testified that he hadn't given out factual information in discovery, that summaries aren't included in discovery. So Ronald Trent wouldn't have been reading any factual summaries of what had happened in this case. That he carefully guarded the discovery in this case because there were witness issues. He sent it to the attorney, not to the Defendant. And that Mr. Trent wrote on April 6th and April 10th, and the first packet of discovery, which included witness names, some lab reports, some crime scene search unit logs, was mailed to Mr. Cicero on the 5th. Presumably, assuming a day's mail, arriving the next day. Mr. Trent's letter was out the door before the Defendant would have been sharing any discovery.

Now let's examine the Defense case, Defense witnesses.

Ron Edwards went out there about a month

ago, almost a year after the crime, took some photographs. We don't have a log to show the angle. We don't know where he was standing when he took the photographs. He also didn't take those photographs that were shown to Detective Jackson. Detective Jackson was cross-examined with some photographs where there's snow on the ground, asked if they were accurate. He refused to admit they were accurate. They weren't even the ones Ron Edwards took.

Jeff Conway testified. Jeff Conway's been previously convicted of attempted carrying concealed weapon. You can use that in determining whether or not he's credible or not. He said he got stabbed, he broke away from his assailant and he went to go tell his brother. At that point, he has broken free from the assailant, the danger is over. He's away from Mandel Williams, who cut him. No danger to him at that point. But he tells his brother. And then he claims he's very injured, so he's going to walk to his car. He thinks his innards are falling out, yet he's going to go walk to his car. So that's why he walks to the back. He claims he walks to the back and he just happens to encounter the assailant again and he points him out. He doesn't say it to his brother, I point him out to whoever, points him out, and then he says there's shots. And he to this day

has no idea who fired those shots. Is that reasonable testimony?

He goes to the club afterwards with the Defendant, nobody talks about the shooting. To this day he has no idea that his own brother claims to have been acting in his defense of saving his life. And then he goes home and he purportedly saves this bag of clothes for no apparent reason, just saved them, his mom kept them.

Let's talk about the threat to Jeff. Jeff testified Mandel started to come off the sidewalk but he didn't. Mandel was standing there with his arms down, he was looking at another guy, Jason Gervais, as if he was talking to him; that he was ten feet from Mandel Williams when the shots were fired. Now, does that suggest that there's a threat? Does Jeff's own testimony suggest that Mandel Williams is coming at him about to finish him off with some sort of a knife or an object? The Defendant even testified Mandel's hands were at his side and he's on the sidewalk. He never left that sidewalk. He never made a move towards Jeff Conway that night. Jeff's testimony does not match the testimony of any of the State's witnesses, who saw him walk over to his brother, who saw him lift his shirt, indicate he was stabbed, used a racial slur in identifying who stabbed him, and walked

over and pointed that guy out to his brother so his brother could take care of him.

We heard from the Defendant. Did you believe any of his testimony? You decide if you feel anything he said was reasonable. Look at the inconsistencies between his testimony and those of the other witnesses and the reason he doesn't admit to things that other witnesses do.

He denies hearing any racial slurs out in the parking lot. State's witnesses, I believe most of them, if not all of them, heard racial slurs. He says he didn't walk to the car to get a gun, he just turned and there happened to be a gun right there. He didn't see Becki on a trunk. He didn't hit Anthony Zara. And he says Mandel was coming at Jeff, despite the fact that Jeff says he never left the sidewalk, and despite the fact that all of the State's witnesses said Mandel Williams was on that sidewalk moving towards his car where Paris had that group under control. He also said he didn't see Jason. State's witnesses all saw Jason, State's witnesses indicated Jason was standing right there, Jason was walking by. And he also said that Jeff was near Mandel, ready to stab him, despite the fact that no one saw anything in Mandel's hand, including the Defendant and his brother. He says he didn't know where

the gun came from. He just turned and it was there. And he has no idea where the gun went after, after he shot. I don't know. It just disappeared.

The position of Mandel and Jeff, compare that in conjunction with the testimony of the State's witnesses. They put Mandel on the sidewalk and Jeff over by his brother showing people he's stabbed, being helped into a car, or over towards the east lot.

Defendant had no reasonable explanation for why he fled the scene and went to a bar afterwards. In fact, there wasn't a plan they were supposed to Nextel, decide where to meet, but he knew they would be there because there was a plan they were supposed to go to Big Mike's. They went to Big Mike's after, immediately after shooting and killing a man, never sticking around for an ambulance that the Defendant claims to have called. Never sticking around to tell the police anything.

He also said he was shooting at legs. First he said he was just shooting at the ground to try to prevent Mandel from approaching, and then he changed his testimony to say, oh, I was aiming at the leg, thigh area. And he couldn't explain how Mandel Williams had a shot to his shoulder.

He was pulled into a car by unknown people after. Some people just grabbed him and pulled him to

the car, despite the fact that he claimed to have been very upset and worried about his brother. And some guy named Storm, whose first name he doesn't even know, he figured would just take care of his brother because someone said Storm had him while he gets dragged into a car and flees the scene. Is that reasonable?

Says he never discussed the case afterwards with anyone. His brother went to the jail to visit him ten times. He's had family members there. He's had phone calls to his girlfriend, Jamie Horton, in the jail with Ronald Trent, and he refuses to admit he's discussed the case with anyone, although he's claimed he's been defending his brother, his brother nearly got killed and he was totally justified in what he was doing. However, then he had to admit he had told Mike Arthurs.

Defendant also said Jeff never pointed out the assailant but he knew who to shoot because he saw red. But he won't admit that he was ever, Mandel was ever identified. Nobody ever said to him, according to him, "That's the guy, it's the black guy, it's the guy in the red coat." Never pointed out. He just figured he saw red supposedly moving towards his brother, so that's the guy he was going to shoot.

He also said there was nothing in Mandel's hand, yet he knew that a guy with nothing in his hand and

his arms at his side was the person he was supposed to shoot. And he testified it was dark, but he could see. There was chaos, but then there wasn't anybody around.

He said that there had been a gun in a gun box, and then changed to say, well, maybe the gun was in a holster, and the gun was laying there already cocked when he turned to pick that gun up.

He talked about the empty Colt gun box at his house, said it was given to him without a gun in it. But he admits he did own a Colt at one time, but apparently it's supposed to have never been in that box.

Are those things reasonable? Was he consistent in his own testimony? He certainly wasn't consistent with the State's witnesses.

He said Ronald Trent did things on his own. He told Ronald Trent, knock yourself out. Ronald Trent is just going to go out looking for witnesses, try to kill witnesses, make a fake video confession just because. Does that make sense, that Ronald Trent's just going to go help him out, make up information and try to put together some sort of a video? And why does he bring the picture to the Defendant to show him? Well, he did it all on his own. I didn't really look at the picture, I didn't want him to visit. Well, it was a very long visit. He didn't refuse the visit. Consider all of

those things and determine whether or not Ronald Trent did any of that on his own. That makes no sense. Exhibit U-1, again, is the photo of Deputy Shively, which he says he didn't even really look at.

Claims he showed Ronald Trent a picture of a live round to get him off his back. Well, why does he say that? Well, he's got to find a way to explain how Ronald Trent knew there was a live round at the scene 'cause he told him. But in order to present something to explain that, he's got to say on the stand that Ronald Trent saw a picture. Well, how did Ronnie Trent see a picture? I pulled out a picture of a live round, I gave it to him to get him off my back. Does that make any sense?

Claims he had no information on Brian McWhorter, but then he admits he knew Brian was in protective custody and he did want Trent to collect some information. He was inconsistent in his testimony about what his purposes and intentions were with respect to Brian McWhorter.

He committed some acts which show consciousness of guilt. He left the scene afterwards. If you believe the State's witnesses, he attempted to kill Brian McWhorter and he enlisted the help of Ronald Trent to prepare a video of someone confessing to the

Dockside Dolls shooting who was supposed to be killed afterwards to get him off the hook.

You're going to be given jury instructions. Try not to get bogged down in legalese. Use your common sense. In an effort to try to explain this, I've tried to break down some of the counts and present a reasonable fashion in which you can go about looking at the case.

Count One is aggravated murder with specifications. Aggravated murder essentially is purposefully and with prior calculation and design causing the death of Jason Gervais. Purpose and intent mean the same thing. And you'll have instructions back with you. And the law states that when a wound is inflicted with a deadly weapon, a gun in this case, in a manner calculated to destroy life, the purpose to cause the death may be inferred from the use of that weapon. So the fact that the Defendant used a gun and fired it eight times, if you believe that that happened, then you can infer purpose.

Now, what's prior calculation and design? It's engaging in a distinct process of reasoning, where the Defendant formed a purpose to kill and planned the method he intended to use to cause death. And the law says there's no definite period of time, doesn't have to be two days, two hours, as long as it's not spur of the

moment. And we submit to you that when the Defendant saw his brother was stabbed, he was mad. Jeff showed him the stab wound, he walked to the car, he made a deliberate decision to go get a gun. He said, "Get my gun." He was asking for a gun. He retrieved a gun. He took steps and walked back over to seek out Mandel Williams because he was going to use the gun. He had planned to use the gun on Mandel Williams which he just retrieved and he held it up and he fired at Mandel Williams and he carried out that plan. That is, State submits to you, the prior calculation and design.

Now, there's something we're going to discuss later called transferred intent. We talked a little bit about it before. If the Defendant had the purpose to kill or attempt to kill Mandel Williams, that purpose to go after Mandel transfers to Jason Gervais. So if he's purposely going after Mandel, that same purpose gets imputed to Jason. It's just like he had been going after Jason himself.

There's Specification Number One, that the offense at bar was part of a course of conduct involving the purposeful killing or attempt to kill two or more persons. And, again, you rely on the doctrine of transferred intent. Do you believe he was attempting to kill Mandel Williams? If you believe that, you can

transfer that purpose to Jason Gervais, and then you can find he's guilty of aggravated murder of Jason Gervais, and you have purposeful killing or attempt to kill two or more people because of that transferred intent.

Specification Two is a firearm specification, that the Defendant had a firearm on or about his person or under his control when he committed the offense, and he used that firearm to facilitate the offense. Again, as I mentioned, the doctrine of transferred intent. If you find the Defendant had the purpose to cause the death of Mandel, even though he wasn't successful and that shot accidentally caused the death of another person, here Jason, the Defendant is just as guilty as if the shot had taken effect upon the intended person. And if the shot missed the person intended, Mandel, but caused the death of another, Jason, the element of purpose remains and the offense is complete as though the person for whom it was intended had died.

You will also have in Count Two attempted murder with a specification, in that the Defendant engaged in conduct that, if successful, would have resulted in murder, and murder is the purposeful -- purposely causing the death of another person. Here the State submits that the Defendant was attempting to

purposely cause the death of Mandel Williams.

There's a gun specification with this as well, that he had a gun on his person or under his control when he committed the offense and used that gun to facilitate the offense.

You will also be determining whether the Defendant's guilty of having a weapon while under disability, and that charge states that Defendant had carried or used a firearm, having been previously convicted of a felony offense of violence, which in this case was assault on a police officer, a felony of the fourth degree. That happened here in Franklin County. And you'll have a certified copy of the entry indicating that.

You will also have a lesser included offense. This lesser included offense goes to Jason Gervais. First you'll consider the aggravated murder charge of Jason Gervais, and if you don't find that the State has proved aggravated murder, you then will go on and determine whether or not the Defendant is guilty of murder with respect to Jason Gervais. Basically, that he purposely caused the death of Jason. And to get that purpose, you will rely on the doctrine of transferred intent again. There's a gun spec with that one as well, the same specification we've talked about with the prior

two counts.

The State has to prove that all these occurred in Franklin County. I don't believe there's any dispute on that. That the crime occurred January 19th, 2002. And that this Defendant, James Conway, III, is the person who did it. That standard is proof beyond a reasonable doubt for all elements of the offense. And as mentioned, the Defendant has admitted he fired the shots. We're looking at why.

The Defendant has raised an affirmative defense called defense of another, he was defending his brother Jeff. The Defendant has no greater rights than the person he is defending. He has no greater rights than Jeff. So whatever Jeff could have done --

MR. SUHR: Object. That's not the law.

THE COURT: Overruled, overruled.

MS. PRICHARD: Thank you.

So basically he stands in Jeff's position. To establish defense of another, the Defendant must prove that the person he was defending, Jeff, wasn't at fault in creating the situation. That's one prong. Did Jeff do something to create that situation? The State believes the fact that Jeff went over, if you believe the Defendant's own version, walked over, headed up northbound, that way again, he was putting himself in

harm's way again, according to his own testimony. That he had reasonable grounds to believe and an honest belief that Jeff was in imminent danger of death or great bodily harm, and that his only means of protecting Jeff was by the use of deadly force. You have to find that. You have to find that the Defendant had an honest belief that his brother was in imminent danger.

Look at the testimony of the witnesses. Was Mandel doing something to put Jeff in harm's way? Was he in imminent danger at the time when the Defendant shot at Mandel and Jason? He may have been in imminent danger when he was stabbed earlier, but at the point when he was shot, was Jeff in imminent danger, with Mandel standing on the sidewalk with his arms at his side? State submits he wasn't.

Then he has to show his only means of protecting Jeff was by the use of deadly force. There was nothing else. That was all he could do.

And he has to show that Jeff didn't violate any duty to retreat to avoid the danger. And there's a duty to retreat if you're at fault in creating the situation or if you have no reasonable grounds to believe or no honest belief that there is imminent danger, which the State submits is the case.

In deciding reasonableness, you have to

decide if the Defendant had reasonable grounds to believe, an honest belief that Jeff was in imminent danger of death or great bodily harm. And in order to do that, you have to put yourself in the position of Jeff and see if something Mandel did, if Mandel's conduct caused the Defendant to reasonably and honestly believe that he was about to be killed or about to be caused great bodily harm. Did Jeff honestly believe that in light of what was happening at that point in time?

The burden is on the Defense with respect to this affirmative defense. If you find -- you can find the Defendant guilty of aggravated murder and attempted murder and you still have to consider this affirmative defense, and you have to look at it and decide if the Defendant proved by a preponderance of the evidence, which is greater weight, it's not beyond a reasonable doubt standard that he's met the burden, that he's proven all those elements. The duty to retreat, the reasonableness, did he prove that to you?

The law also states that if the Defendant used more force than is reasonably necessary under the circumstances, and if that force used is so greatly disproportionate to the apparent danger as to show an unreasonable purpose to injure Mandel, then the defense is not available. Then you cannot rely on that

affirmative defense.

So if you believe that the Defendant unloading that gun, pulling that trigger eight times and shooting was disproportionate to the apparent danger, which according to the Defense is Mandel ready to step off the curb with his arms at his side, if that's greatly disproportionate and shows an unreasonable purpose to injure, then the defense fails, it's not available.

And we submit to you that unloading a gun, shooting it eight times, walking up, shooting two people falling to and laying on the ground, shows an unreasonable purpose to injure, to get at Mandel at all costs.

The evidence presented by all the State's witnesses shows that there was no imminent danger to Jeff. Mandel's on the sidewalk, his arms at his side. Nobody saw a knife, including the Defendant and his brother. Nobody saw an object in his hand. He was headed away from the lot. He never made it off the sidewalk and the Defendant shot him.

Just as a summary, we start from here. What was the Defendant's intent? Did he attempt to purposely kill Mandel? If he did, he's guilty, he's guilty of attempted murder. And you go on and consider the gun specification.

If he wasn't attempting to purposely kill Mandel, because either we didn't meet our burden or you found that he has proven his affirmative defense, then he's not guilty. If purpose was shown, if you believe he did act with purpose in raising that gun and firing those eight shots and committing those acts, then that purpose transfers to Jason, transferred intent. And when that purpose transfers, then you should start to consider the aggravated murder of Jason. And in considering the aggravated murder of Jason, if you find -- you already have the purpose because of transferred intent. If you also find prior calculation and design, he's guilty of aggravated murder, and you consider Specification One, purpose to kill or attempt to kill two or more people. And you use that transferred intent doctrine again, purpose to kill Mandel transfers into purpose with respect to Jason, and you then have purpose to kill or attempt to kill two or more people. And you consider the firearm specification.

If you find that the Defendant had purpose, which transfers to Jason, but there was no prior calculation and design, you don't believe that him walking to the car, getting the gun, walking back, seeking out Mandel and shooting is prior calculation and design, then you would find him only guilty of murder,

guilty of purposely causing the death of Jason Gervais, which is a lesser offense. You also consider a firearm specification with respect to that count.

And if you find no attempted murder on Mandel, you still have to look to the crime against Jason and decide if there's evidence to show that the Defendant acted purposely and with prior calculation and design in causing the death of Jason. This isn't a circumstance where you say he's off the hook with respect to Mandel. So don't have purpose, you don't have that transferred intent, you start looking at a crime against Jason Gervais separately in that instance, if you find no attempted murder. And then when you do that, you see if there's purpose and prior calculation and design.

The fact that the Defendant continued to fire through Jason to get at Mandel when Jason got in the way, he continued to fire, State believes that shows independent purpose even without transferred intent. You will decide that if you find prior calculation and design, he's guilty of aggravated murder. If no prior calculation and design and you just believe he purposely caused the death of Jason, he's guilty of murder. And then you consider the specifications that go along with that charge.

Or if you believe that the Defendant met his

burden of proof and he shows with respect to Jason that he's acting in defense of his brother, that something happened with respect to Jason, something Jason did put his brother in a position where he believed he was in imminent danger, consider whether or not that defense of another applies to Jason or not. And if you find that he's met his burden and shows he acted in defense of his brother with respect to shooting Jason, then he's not guilty with respect to the death of Jason Gervais.

However, when you consider defense of another with respect to Jason, innocent bystander, the Defendant cannot be acting negligently in his actions, in shooting, in shooting in that crowded parking lot, in order for him to assert defense of another with respect to the crime against Jason. Negligence is when because of a substantial lack of due care, he fails to perceive or avoid a risk that his conduct may cause a certain result.

And in this case, you have the testimony, this is a crowded parking lot, there are a lot of people around. Mandel and Jason are standing on the sidewalk, Paris is not far off the sidewalk. And the Defendant gets a gun, fires at least eight times in this crowded parking lot. He acted negligently in the State's opinion. We believe the evidence shows that the

Defendant cannot assert the defense of his brother with respect to the killing of Jason Gervais.

Finally you have having a weapon under disability, if it's proven beyond a reasonable doubt he's guilty. If not, he's not guilty.

The State's theory, as developed through the witnesses, is that the Defendant had a problem with Mandel's group. There was a racial fight that started that night. There was a fight that spilled onto the lot. Jeff got cut. Jeff showed the Defendant and his friends. At that point the fight was over. But the Defendant, he wanted to take care of the guy. He wanted to know who did it. He asked for his gun. He walked to the car to get the gun, he walked across the lot with the gun and Jeff pointed out the person who cut him. And because of that, the Defendant shot at Mandel. And Mandel, who was standing near Jason, became entangled with Jason and the Defendant didn't care. He could have stopped pulling that trigger at anytime. He testified he could have stopped after one shot, two. He unloaded that gun at least eight shots, didn't care that Jason was in the way, shooting through him, 'cause he knew it would go through him to get to Mandel.

Then the Defendant fled and tried to cover up the crime in numerous ways. Trying to kill Brian

McWhorter, trying to make a video. When all else failed, asserting that he was defending his brother, testifying in this court that he was acting with a reasonable, honest belief that his brother was in imminent danger.

If you believe the State's theory, the instructions should be easy. If you believe we've proven our case beyond a reasonable doubt and believe the facts as set forth by our witnesses, the Defendant is guilty of attempted murder of Mandel Williams with a gun, aggravated murder of Jason Gervais with both specifications, and guilty of having a weapon while under disability.

Look at the credibility and consistency of the witnesses. Look at the State's witnesses. Were they credible with one another? Do all of those witnesses presented by the State, do they all make sense? Does it fit? Does it match the physical evidence?

Use your reason and common sense. Eight shots were fired. Defendant continued to fire even after Jason was in the way. Defendant had a motive for this. He was mad, he was mad his brother got cut by Mandel. He wanted to kill Mandel. He shot Mandel the first time in the shoulder, a shot he can't explain, and fled after the crime.

Did Ronald Trent have information, valuable

information, information that hurts the Defendant's story?

And when you use your reason and common sense, you should find that the Defendant is guilty as charged.

Thank you.

THE COURT: Thank you.

Mr. Suhr.

MR. SUHR: Thank you, Your Honor.

MS. PRICHARD: Do you want the podium?

MR. SUHR: Yeah.

MS. PRICHARD: Let me move this.

MR. SUHR: It's still good morning.

Now, you've been permitted to take notes throughout this case and you'll have those in the jury room, and I dearly hope that you will refer to your notes when there's any dispute from what you've heard in here today, what you've heard in the arguments.

Remember that arguments, closing arguments are not evidence. The evidence didn't somehow change, say things are contrary to what you have written down. Don't think you made a mistake, all right?

If I do anything to misrepresent anything, raise your hand, do anything you want and I'll correct it. 'Cause, after all, this is a search for truth here,

ask you to recess for a few minutes while we again straighten out the charge and then give you the charge, all right. That will be the order of progress here.

Mr. Lowe.

MR. LOWE: Thank you, Your Honor.

Now everybody's back from lunch and ready to take a nap, I get you. Everyone involved in this case appreciates you being here, being a juror, it's very important. It's the most important civic duty we can think of. Everyone involved thanks you. And I know we talked about patience in the first part and throughout this trial, and I know we tested your patience, but I'm going to ask you to pay attention a little bit longer. I won't be doing my job if I don't stand up here and go over some of the things Mr. Suhr went over in his closing and make some points of my own. So just a little while longer and we'll be through this.

I'm going to apologize in advance for some of the language I may use in my closing, but I'm not going to sugarcoat this. Things that were said that night I'm going to repeat, and I just want everyone to keep that in mind. Last thing I'm going to do, ask you to do is use your common sense and reason, and we're going to go over a few things.

First thing I want to go over, as Mr. Suhr

told you about, is Becki Loar, Dallas. She was a stripper who worked at Dockside Dolls. Ask yourself, what bias does she have? She knows the Defendant. She knew his group. She was a stripper. She made a lot of money off them. She had no problem with these people. She came in here and told you what she had to say, what she remembered happening happening. Excuse me. She thought that Mandel used Jason Gervais as a shield, and Mr. Suhr made a big deal about that. Used him as a shield. Mr. Suhr would intimate to you that, shoo, the whole thing is Mandel's fault for grabbing Jason Gervais, that in fact Mandel Williams is a coward and it was a cowardly act of grabbing Jason Gervais and using him as a shield. Regardless, no matter what Mandel Williams did, no matter if it was a cowardly act doesn't change the fact what this Defendant did.

Mr. Suhr would like you to believe that if Mandel grabbed this person and used him as a human shield, that it's still okay for Mr. Conway to repeatedly, continually fire shot after shot after shot into this individual since he's being used as a shield improperly. That's ludicrous.

Mr. Suhr went on to talk about people at Dockside, how they're not really truthful because they're scared that they're going to get in some trouble, they're

trying to protect the bar.

Well, first of all, the only person -- only one person who testified in this trial still remains working at Dockside. They came in here and they told you the truth. They told you what they saw. They told you what they remembered. They have no bias. They're not for Mandel Williams. They didn't know Jason Gervais. They knew the Defendant, James Conway, they made money off him. They didn't have a reason to hate him. They weren't coming in here and lying on James Conway.

But then Mr. Suhr went on to tell you that some of the people told you what happened outside the bar is outside the bar. Well, those two theories are inconsistent. Either they're trying to keep the bar from getting in trouble or what happens outside we don't pay any attention to and we don't care. Those just don't go together. The fact is that people at Dockside came in here and told you how and what they thought they saw. And we're going to come back to that testimony later.

Mr. Suhr also made a big deal about Mandel Williams and about him not telling the truth. The State would agree wholeheartedly that Mandel Williams did not tell the entire truth the first time, the second time, even the third time he was interviewed. But he was interviewed and he did admit that he stabbed someone that

night. The Defense was aware of that weeks before we came in here. Mandel Williams 'fessed up and said, I stabbed someone. And he asked, why would he lie? Why do people lie? We all know why people lie. People lie for several reasons. One of them is to avoid getting into trouble. That's why Mandel Williams lied about stabbing someone. He stabbed someone that night. He was in a fight, a melee. There was fights everywhere, blacks, whites, racial slurs going back and forth. He said they were calling him names, he was calling them names. And he stabbed someone, found a knife in someone's hand, took it from them in the melee and stabbed someone. He lied because he didn't want to get in trouble. It made sense.

It's also the same reason why James Conway and Jeff Conway aren't telling the truth, to avoid getting into trouble. That makes sense and it adds up. That's why he came in here and told you, yeah, I didn't admit I stabbed someone, but the fact is I did. I'm not sure who I stabbed. I grabbed the knife out of someone's hand and I just cut him, just across here, came from top to bottom, one time. Then the fight broke up and I tried to go home. I was going to my car. That's the truth. That's what happened.

Mr. Suhr also talked about where Mandel Williams went, and I'll be referring to the diagram

occasionally. And you heard several witnesses testify to the diagram and where they thought people were.

Mandel Williams told you he was somewhere up here by 10 and 11, where he got shot. There was some testimony that he was trying to get away, some testimony that he was going north. The fact is, there's different testimony there, if he was actually running, walking, or just standing here at his car waiting for his friends. But what we know and what makes sense is, if someone's shooting at you, you may be moving upward, you may be moving away from where the bullets are coming. That makes sense. It makes sense with physical evidence, it makes sense with some of the testimony from the witnesses who were there, who stand to gain nothing in this case whatsoever. They told you that Mandel was moving away from the shooter. That's how he gets from his car up towards 10 and 11.

Mr. Suhr would have you to believe that he's up here because he's laying in wait for Jeff Conway. Does that make any sense at all? He's laying in wait for Jeff Conway? How does he know where Jeff Conway's car is parked? Is he sure Jeff Conway is coming out here to this parking lot that's not even on this diagram? That makes no sense whatsoever.

Mandel Williams told you what he was doing.

He was waiting for his friends before he left. That's what happened. Makes sense with the physical evidence, makes sense with the shell casings. That's what happened that night.

Mr. Suhr then talked about the black knife that Mandel Williams had. Where is this black razor, this mysterious razor that he cut Jeff Conway with? He gets shot and falls immediately where 10 and 11 are. You see in the picture, you'll see the picture, you've been out there. That's where he falls. We know that because Jason Gervais and himself were tangled up. They were laying on each other.

Witnesses such as Troy and Becki Loar told you they went up and they comforted Jason Gervais, they were speaking with Mandel. When the police arrived, where is this mysterious knife then? 'Cause they take him right away. They would have found the knife, this black razor blade, this mysterious razor blade there's no evidence of. It's 'cause it didn't exist that night. He told you where he got the knife.

Mr. Suhr made a huge deal about what cut this sweatshirt, Jeff's sweatshirt. State would submit to you that it has no idea what made this cut, this long, this giant cut. You are going to have this sweatshirt back with you and you'll have some gloves, but the State

58196 - L5

would submit to you that look through it, look at the bottom, compare it to the T-shirt. Ask yourself if there's any blood on this sweatshirt. Jeff Conway told you this is the sweatshirt he was wearing. He showed you this bloody shirt, this bloody, bloodstained, crusty, coagulated, bloodstained shirt. That's the T-shirt he was wearing. The testimony from Jeff and Jim Conway was that his innards were coming out, his guts were falling out of his stomach. Blood was pouring through his hands, couldn't stop it. Yet ask yourself if you find one ounce of blood on the black sweatshirt he's supposed to be wearing that night. And the giant cut, ask yourself if that comports with what was on his stomach.

Mr. Suhr also said that his brother couldn't take care of himself. He was in shock. He was wandering around. Does that comport with the testimony that you heard? Hey, I got cut, but you know what? I figured I'd go to my car. I leave my brother and his friends, the safety of my brother and large friends, and I'll wander off towards 10 and 11 by myself with my innards falling out, and just go to my car and drive away. No big deal. It doesn't make sense at all.

And he talked about the bullet not being above 30 inches, they were around the knees. And he tried to liken that and say that James Conway, this

Defendant, had no intent to kill. Does Mr. Suhr honestly believe, honestly have this jury believe that you cannot intend to shoot someone and kill someone when you're aiming in their waistline, you can't hit someone eight times and kill someone around the waist area? And what happens when you hit someone one time and they fall over and you continue to shoot?

Look at the pictures. Jason Gervais was hit in the back. He's hit in the back. If this Defendant had no intent to kill anybody, then why shoot more than once? If you're trying to stop someone who's immediately and about to stab your brother, why not fire a warning shot? Gun goes off in the middle of a parking lot, that's not going to stop this guy? Maybe you shoot one time at his foot. That's not going to stop this guy? But to repeatedly, bang, bang, bang, bang, bang, bang, bang, bang, bang. But no intent to kill anybody? Ask yourself if that makes sense.

The testimony that they gave and the evidence they tried to show and the theory they went with, these person -- people were falling down, they're falling down and you continue to shoot low at someone? Yes, then you're intending to kill them. Because everybody knows that when you fall over, you're no longer just exposing the bottom portion of your body, you fall

over, you're exposing your back, your vital organs. And if you were to believe the theory that they fell over, how does Mandel Williams get shot in the shoulder? You saw Mandel Williams testify. State would submit to you that his shoulder is a lot higher than 60 inches.

Mr. Suhr would have you believe that that was just a graze, it went through and through his shoulder, out one end, in one end and out the other side. That's not a grazing wound. He was shot in the shoulder because he was trying to be -- because James Conway tried to kill him. You'll have his jacket, you'll see the holes. You'll see the bullet holes that ripped up the jacket. Where is that 30 inches when someone's wearing this? It doesn't make sense at all.

What happened that night is what the witnesses said, is that Jeff Conway got stabbed, he went to his older brother and he said, "Hey, that nigger stabbed me." This was a racial thing. What did he do? He's not going to let his brother get stabbed by some nigger. "I'm going to kill him." He takes his gun, grabs it from the trunk after Rob gets it and he shoots and continues to walk up and continues to fire eight times into Jason's back, into Mandel's wrist, legs. That's what he did. He went to kill him. There was prior calculation and design. There was purpose. There

was intent. He tried to harm him. He didn't care if Jason was in the way or not, because a .45 would go through Jason and kill Mandel. Comports with the physical evidence. It's what happened that night.

Mr. Suhr made the comment, you'd be surprised how fast someone can pull the trigger when you're trying to accomplish something. State agrees with that. He pulled that trigger fast that night. He was trying to accomplish something. He was trying to kill Mandel Williams. Unfortunately, he killed Jason Gervais. He pulled that trigger eight times, at least eight times, possibly more, because his testimony was he was trying to unload the gun. So if it had more bullets in it, he would continue to fire. He fired until it was empty.

Couple that with the fact that he admitted, and Jeff admitted, they never saw a knife in Mandel's hands. The reason they thought that he was going to come get Jeff Conway was because he had his hands at his side and I saw something. Well, what's something? His keys? You're on a parking lot where there's 50 people out there in fights, left and right. There was racial fighting going on, blacks, whites, there was testimony Mexicans involved. It was a melee. How many witnesses described that scene as chaos? Chaos. People everywhere.

But he sees a person on a sidewalk -- and

keep in mind that he told you himself, James Conway told you himself, Jeff never pointed out the stabber to him, never mentioned anything about a red coat, and never pointed and said, "That's the guy." All he did was say, "That's him, that's who stabbed me." You're in a parking lot with 50 people, and yet you can determine that when he says, "That's the guy," someone ten feet away, that he's positive that's who stabbed his brother? That doesn't make any sense whatsoever.

What does make sense is, Jeff came over and said, "That nigger stabbed me, one in the red coat, that one right there."

James says, "Hold on, get in the SUV, I'm going to get my gun." Because the statement, "I'm going to kill all you guys, I'm going to take your lives" were heard from other witnesses. That's when he forms his prior calculation and design, that's when he knows what he's going to do. That's when he retrieves his gun and that's when he walks up on Mandel Williams, who is nowhere near his brother at this time. You heard testimony from two people that Jeff was getting back into an SUV and being helped away from the scene, walking southbound and Mandel is northbound. And that James Conway walks back on the scene to finish Mandel Williams. Ultimately, finishing Jason Gervais and just injuring

Mandel.

He also made a big deal about how this was Mandel's fault and Mandel wasn't charged. Well, it's hard to charge someone when the victim won't even admit that he was stabbed.

Detective Clark asked Jeff Conway after the incident, "Are you sick or injured?" And he said no. She made him pull up his shirt to see if he had been stabbed, and at that time she said, "We know what happened. You want to fill us in now?"

And he says, "I don't want to talk to you, want to talk to my lawyer."

She said, "You're not being charged with anything."

He said, "I don't care, don't want to talk to you."

Well, it's hard to charge someone or prosecute someone when the victim won't even tell you that he was hurt. Until Kathie Clark had him pull up his shirt, police didn't even know who had been stabbed that night.

You're going to see the jury instruction which regards excessive force. Keep in mind how many rounds were fired that night and what position those people were in. If someone's laying on the ground and

you continue to pump shot after shot in them, you don't get defense of another. That is definitely excessive force.

The last thing I'm going to talk about what Mr. Suhr said in his closing was, he tried to tell you that the State is making a big deal about all these other things that didn't happen on January 19th, that it's our intention to make you hate the other side, make jurors hate the other side.

Ask yourself if the evidence that was presented here about the video confession and things of that nature was designed to make you hate the other side, or did that have to do with this case, what this Defendant, James Conway, was doing to try to cover up his crime. It's relevant, it's important. It shows you his consciousness of guilt and what he's willing to do to get out of taking responsibility for his actions that night. It has nothing to do with making jurors hate the other side. The facts are the facts.

He also indicated that it's really strange that Ronnie Trent would contact our office and say, "Please don't send someone down here at 2:00 a.m. in the morning 'cause they know it's a cop." If it was all part of a plan with the Defendant, Ronnie, who cares if people know he's talking to cops? I tell you who cares. The

other people in the tank with him. Ronnie Trent is not worried about James Conway, he's worried about the other guys in their cells, in their pods labeling him as a snitch, 'cause everybody knows that when you're labeled a snitch, your life is in danger. You heard the testimony about the posters that were on the west side regarding Ronnie Trent. Well, when someone leaves their cell at 2:00 a.m. to speak to someone, the only professions that can see someone at 2:00 a.m., that means cop, and the other people in the pod, in the cells would then label Ronnie as a snitch and his life would be in danger. That was his testimony. He told you that was why, not what James Conway was worried about. He didn't want to be labeled a snitch by other people in the tank.

Now I'm going to get into some specific testimony. Basically I want to talk about Jeff's testimony and Jim's testimony. Jeff told you several things. And what I'm asking you is for you as jurors to recall the testimony and ask yourself if it made any sense at all to you.

Jeff told you several things. He said, one, there was no racial slurs that night. There was no problems. He wanted you to believe that he was an innocent victim. According to Jeff's testimony, he's at the bar watching strippers, drinking, having a great

time. He walks outside, closing time, he's jumped by three black guys. No reason, jumped by three black guys, beat repeatedly about the ribs and stomach and back. And you'll have the photos of his wounds. Those photos were taken some five days later. Ask yourself where the bruises were, where the evidence of that beating is, if there's any bruises around his midsection.

He would have you believe he was jumped for no reason, and then as soon as he got off the three gentlemen, he's stabbed for no reason. That's what Jeff would have you believe. He did nothing. There was no tension, no slurs, no pushing, no shoving, no shouting. He's jumped and stabbed.

And then, according to him, he's about to be gutted and killed and someone, he doesn't know who, but someone opened fire and saved his life. Well, he's awful lucky, because he was an innocent victim and he's about to get murdered, but somebody stepped up to the plate and saved his life. And he does the obvious thing, he waits for the police to tell them his story about how he was beaten, stabbed and about to be killed? Well, at least he goes to the hospital? Oh, no, no, he doesn't do any of those things. Does that sound like an innocent victim to you? Does that sound like someone who came in here and told you what happened to him, he was doing nothing,

was beaten, stabbed, and about to be murdered?

He didn't go to the hospital because he didn't have insurance. That's what he wanted you to believe. Yet his brother won the lottery and is willing to pay for strippers, drinks, but won't pay for him to get his innards sewed up. Does that make any sense?

And he told you he wasn't protecting his brother 'cause he didn't know who did the shooting. He had no idea. The State submits that makes absolutely no sense. An innocent victim who's stabbed and almost murdered goes to, A, the hospital; and, B, tells the police, I don't know who stabbed me, it was a guy in a red coat, and I don't know why he stabbed me. But someone stepped up right as he was about to gut me and saved my life. Not what he did, not only not telling anyone, refusing to talk to the prosecutors, refusing to talk to the police. And that might even make sense if he had agreed that he was protecting his brother. But he told you he wasn't protecting his brother because he didn't know who did the shooting.

But if you believed him, once James Conway got charged, then it would make sense for him to come forward and say, okay, I didn't want my brother to even answer any questions, don't even want him involved, but apparently you've charged him, you're alleging he is the

shooter, I have the information that's going to clear him, here I come. I can clear him now because I know he was trying to save my life. But he doesn't do that. He refuses to talk to the police. Ask yourself if that makes any sense at all.

Then look at James Conway's testimony. James told you what happened that night. He told you he wasn't involved in any fighting, there wasn't any racial slurs going on, nothing like that. His brother comes back and says, "I've been stabbed," doesn't point to anyone. He's going to help him to his car.

Now, keep in mind where they were according to different testimony. But most witnesses place them somewhere in the area of where the cruiser is here and Cruiser 181, somewhere in this area at that time.

James told you that he was disoriented, he couldn't take care of himself, so he's going to help him to his car. He starts to help him to his car but they get separated. And how does he tell you they get separated? Because the manager or owner comes to him and says, "Hey, what happened to one of my bouncers?"

What does he do? He lets Jeff go by himself and walk to his car by himself because, hey, I know my brother's been gutted and his innards are falling out, but I feel the need, I have to explain why this bouncer

got hit 'cause that's important to him at the time. So he diverts his attention from his brother, lets him go off by himself on the lot where his assailant still is and has this discussion with this manager, hey, your bouncer got hit, but, you know, that's what happened. And when he looks back up, his brother has made his way all the way over near the sidewalk 'cause he's going to his car, and Mandel is standing, as Mr. Suhr would have you believe, with his hand down at his side like this (indicating) like he's ready to come forward to get his brother.

It's at that time when he turns and miraculously sees his brother, Rob is standing there with this gun on a silver platter, apparently being held like this (indicating) in either a gun box or a holster. Now, does that make sense at all? And if it does, the manager would still be there when the shooting occurs. There was no testimony that a manager was still there at anytime.

But if that's how it happened, I'd like to take James's timing of the sequence for a second and look at that. He indicates that he looked up after talking to the manager, he hears "That's the guy," no pointing. Now, keep in mind that this is a crowded parking lot, people are screaming, yelling, there's fights everywhere, but he can hear "That's the guy" and know who his brother

Jeff is talking about, even though it hasn't been pointed to him.

He turns immediately, Rob is standing there with this gun like this waiting for him, already cocked, which is lucky; and James not only notices what kind of gun it is and in that split second that it's a Colt, he notices the insignia, but grabs the gun with one hand, comes back, and then the blurred vision theory. He has enough time to aim to get the sights lined up, front and the back, and blur the eye like he's target shooting so he can get in the background the right target and that being Mandel. Ask yourself if any of that, A, makes sense; B, could be accomplished in that short amount of time.

Secondly, when you do shooting and your sight is blurred, and the background, you can still see. And if Mandel's standing there by himself at that time, that's fine, but we know when the shooting starts, Jason Gervais had now gotten somehow in front of Mandel, either by Mandel grabbing him or Jason walking through the area or them getting tangled up. It doesn't matter. The fact is he was there, we know that. And this blurred vision would not preclude James Conway from seeing another human being. We're not talking about a can. We're not talking about a rock. We're talking about

another human being who is now entwined with Mandel Williams. And he would have you believe that while his sight is blurred, he doesn't shoot once and realize there's another human being there so I'll stop, that's not who I'm trying to save my brother from, he fires eight times. Ask yourself, does that make any sense? Does that make any common sense? The State submits that it does not.

This is not an accident. This was not an accidental shooting of Jason Gervais. He meant to pull the trigger, he meant to pull the trigger not once, not twice, not three times, but eight times. He could have stopped at anytime in between. He didn't.

Remember what Ronnie Trent said that James Conway told him. I had a .45. That's a big gun. I had a .45 and I knew that it would go through the white boy and get to Mandel. That makes sense, shows you what James Conway's mental state was, what his purpose was.

Next James told you about this charging, that Mandel Williams had his hand at his side and was charging. His words, charging towards Jeff Conway, and he was about seven feet away when he started. That's when he pulled the gun.

Now, ask yourself, if he's seven feet away when he starts and he's charging, in the act of charging,

James turns around, noticed that his friend has a gun and cocked, grabbed the gun, comes back, well, we know Mandel can't be seven feet away anymore in that time, you know how fast someone can move. Seven feet is not a great distance. When he comes back, if you were to believe his story, Mandel would have had to have been close enough to hit his brother, to stab his brother, to grab his brother, to be on top of his brother. But he just unleashes a volley of shots and never hits his brother, and he admits he never sees his brother after the shooting.

If that's the case, Jeff would have to be somewhere where Mandel was found, and James Conway after the shooting was done, because Mr. Suhr told you how quickly someone could unleash eight rounds, he would still have to be somewhere right here (indicating). James told you, I don't know where my brother was when -- after I did the shooting. It doesn't make any sense. If he was seven feet away and charging, he would have got to him, he would have stabbed him. The fact is he wasn't seven feet away. Jeff was on his way into that SUV and away from that scene and on his way to a bar, which is where everybody goes after they get stabbed.

What James's testimony does do, how it does help this jury, if you recall his testimony, the things

that helps you with is it corroborates other people's testimony. James's testimony corroborates Ronnie Trent's testimony. It corroborates Brian McWhorter's testimony. It corroborates Mike Arthurs' testimony. All these people that were put up to you and held in this, you should be suspectful of their testimony, everything that they told you was later corroborated with a few minor exceptions by the Defendant, James Conway.

Mike Arthurs told you he admitted the shooting to him. James took the stand, said, yeah, I told him I did it. That was corroborated.

Brian McWhorter took the stand, told you what happened, told you what he saw, told you what happened with James's attorney, Chris Cicero. The Defendant corroborated all that.

Ronnie Trent got on the stand. A lot was made about his GSI case, about he was a criminal and he shouldn't be trusted, can't believe anything he says, bought and paid for. State admitted he made a deal, and he did. There's no doubt about that. But what did he tell you? He told you a video was being made. Why? To get James Conway off the hook for this case. That there was a look-alike that was supposed to take the fall for James Conway, say he did it.

Well, those conversations were

tape-recorded, and when James Conway took the stand, he finally admitted, yeah, I knew about it. It wasn't my idea, but yeah, I agreed to that plan. He corroborated what Ronnie Trent got on the stand and told you. He told you that, yeah, I saw a picture. He first told you, I didn't know what it meant, didn't know what it was. He held a picture up to the glass and I had no idea what it was. But in the second day of his testimony, he finally admitted, yeah, I knew who it was supposed to be, I just didn't know he was supposed to be dead in that picture.

Well, recall Ronnie's testimony. Recall the evidence about the $5,000 that he was paid to do these things. Recall the evidence from Jeff Conway, who admitted he brought down two or three thousand dollars, I'm not sure which one he said, and ask yourself what is corroborated by their testimony.

The State would submit to you that everything they told you was corroborated. He talked about these transcripts and James admitted, yeah, I said that. He said, well, I don't really remember this part, but this conversation took place, it was me and Ronnie. 'Cause Ronnie was truthful. And ask yourself a couple questions.

James told you that he wanted to know what Brian McWhorter had to say, that he was curious, he

needed to know what he was going to tell the police. Why? Why would you be curious as to what one of your friends is going to tell the police? If he's telling the truth, you have nothing to worry about. If the truth is he was defending his little brother that night and doing nothing wrong, then what are you worried about him talking to the police for? Once you're charged, you'd say, "Brian, do me a favor. Go to the police, tell them what happened that night, get me off the hook. I didn't do anything wrong." But he doesn't do that.

He hires Ronnie Trent to kill him. He offered him 30,000, he paid him five. We already know he had lottery money, he had the money to pay him. But why would you even want to know what Brian said unless he was going to tell what happened that night and it wasn't what you were telling?

It's the same thing with the video. Why do you need to make a video having someone admitting to a crime that you were a part of? Why would you ever agree to that if you didn't do anything wrong? I don't care whose idea it was, if it was Ronnie Trent's idea to make the video, why would you go along with that? He had a video, faked, of a person saying it was him confessing to the murder at Dockside Dolls, yet he didn't do anything wrong that night. Ask yourself if that makes any sense

whatsoever. Ask yourself if that's just a few stupid kids, as Mr. Suhr put it.

Also ask yourself, who would volunteer to be the person on the videotape? Who's going to put a camera on them and say, hi, my name is so and so and I committed the killing at Dockside Dolls on January 19th, 2002? I jacked a bullet out and I shot Mandel Williams and I shot Jason Gervais. Who would do that unless they were threatened or drugged? But James Conway would have you believe, no, no, no, they were just going to do it to be nice. They were going to open themselves up to a murder charge to be nice for James Conway, even though they didn't know him. It doesn't make any sense whatsoever.

When you compare all those things with Troy Ankrum's testimony, Becki Loar's testimony, two unbiased witnesses who stand nothing to gain, we see the truth.

Troy told you what happened. He told you that he saw this individual that he knew as Jeff who he believed threw the first punch in this whole melee, yell, "That nigger stabbed me," and then walks southbound and gets into an SUV. He then saw the individual go and retrieve a gun and scream, "I'm going to take everyone's lives," and then continue to walk up on Mandel shooting round after round as he's walking. He saw Jason Gervais, he had no problem seeing Jason Gervais, but this

Defendant would have you believe he couldn't see him. Troy's the most accurate as to what happened that night, it makes sense and you can infer from the jury instructions what Mr. Conway's intentions were. Prior calculation and design. No definite period of time must elapse and no particular amount of consideration must be given.

The fact that James Conway goes to get the gun somewhere around where the first round is jacked, where the number 1 is on the diagram, and then walks up towards number 9, where the shell casing is, and continues to fire as he walks up on Mandel and Jason is time enough for him to form the plan to kill Mandel Williams and ultimately killing Jason Gervais. It's plenty of time.

Couple that with the fact saying, "I'll kill you all, I'll take all your lives;" followed by the statement to Ronnie Trent that, "I had a .45 and I knew it would go through the white boy and I didn't care."

You also get another instruction that says, if a wound is inflicted with a deadly weapon in a manner calculated to destroy life, the purpose to cause the death may be inferred from the use of the weapon along with all the other facts. The mere use of the weapon you can infer his purpose to kill.

I know I've been going on for a long time and I'm almost finished, I promise.

The fact is, you may hear the statement Jason Gervais was in the wrong place at the wrong time that night. Jason Gervais was not in the wrong place at the wrong time. He did nothing wrong. He was an innocent bystander standing by Mandel Williams.

The Defendant, James Conway, was in the wrong place at the wrong time. He chose to get that gun. He chose to unleash a volley of eight bullets. He chose to continue to shoot as these people are falling to the ground, laying on the ground. These were his intentional acts. He meant to do it. His brother got stabbed, and no one's saying he didn't. The right thing to do is call the police, who he knew they were already on their way, and tell them who stabbed him. Let the police deal with it. You don't take a weapon and decide to end someone's life because your brother was stabbed.

James Conway tried to kill Mandel Williams, he saw Jason Gervais in the way, he just didn't care. That's the bottom line. He didn't care. He was going to try and kill Mandel Williams no matter who was in his way. After all, what's the difference if he gets caught? He can just fake a video and pay to have witnesses murdered, the case should go away anyway. Unfortunately

for James Conway, the person he hired, Ronnie Trent, came to us instead of killing his witnesses for him.

State is confident if you look at the facts, look at the diagram, look at the shirt, the sweatshirt, Mandel's jacket, where the live round was found, where all the shell casings are, what makes sense to you? If you do all that, look at the testimony, compare all the physical evidence, the State is confident that you'll find the Defendant, James Conway, guilty of attempted murder with a gun spec as to Mandel Williams, and aggravated murder with the gun spec and a death spec as to Jason Gervais, as well as a weapons under disability.

And, again, thank you for your patience.

THE COURT: Thank you, Mr. Lowe.

Ladies and gentlemen, I'm going to ask you to recess at this point for a short time. We'll come knock on the door when we have the charge I can give you. And remember the admonition of the Court.

- - -

Thereupon, at 3:42 p.m. the jurors recessed to the jury room, and the following proceedings were held in open court outside their presence and hearing:

THE COURT: All right, be seated, ladies and gentlemen.

MS. CORIELL: We have a copy of the

FRANKLIN COUNTY PICS
...D BY THE
...UTION ATTORNEY
02 MAR 12 AM 10:24
FRANKLIN COUNTY

02CR-1155

MR. OBrien

I am writing you in regards to a murder / att murder case, I am in the main Jail with Tomes Conway, He is also my cousin, I have detailed information on this case, I am willing to work out a deal with your office, please come and talk to me at your earliest convience.

Thank you
Ronnie Trent

EXHIBIT
tabbies
42

Columbus Division of Police

To: COLE / GLADEIT

Date 3-11-02 Time 3:38 pm

While You Were Out

M SARA BEAUCHAMP

of DEFENSE ATTORNEY

Phone 459-6757
AREA CODE NUMBER EXTENSION

☐ Telephoned ☐ Urgent ☑ Please Call
☐ Returned Your Call ☐ Will Call Again
☐ Wants To See You ☐ Called To See You

Message

CLIENT- MR. TRENT
INFO ON Homicide (Shooting Vict.)
MR. TRENT GOING TO COURT IN A.M.
FOR SEX CHARGES - JUDGE MILLER.

Sandy

8-35.100 (10-91) Person Taking Message

PLEASE CALL when you get to work or in the A.M.

EXHIBIT 43

58196 - L29

Columbus Division of Police

To: ~~Det. COMBS~~ MIKE CONE

Date 3-13-02 Time 2:30A

While You Were Out

M RONNIE TRENT

of FRANKLIN CO MAIN JAIL

Phone
AREA CODE NUMBER EXTENSION

☐ Telephoned ☐ Urgent ☐ Please Call
☐ Returned Your Call ☐ Will Call Again
☐ Wants To See You ☐ Called To See You

Message

JAMES CONWAY DOCK SIDE DOLLS WAS TRENT SAYS HE HAS INFORMATION
CALLED JAIL 4-5-02 - SAID THEY HAVE NO RECORD OF HIM OR AN ESCAPEE FROM JAIL

8-35.100 (10-91) Person Taking Message

EXHIBIT
Exhibit 44

3-26-02

MIKE,

WHEN I WAS IN COURT ON MON. THE 25TH I RAN INTO DAVE DEVILLERS. HE HAD INQUIRED ABOUT THE CONWAY CASE. (GERUNIS HOMICIDE IF YOU FORGOT). HE WANTED US TO TALK TO RONNIE TRENT (ABOUT THE NOTE HE SENT TO DAVE).

IF YOU GET A CHANCE WHILE I'M GONE SEE IF MR. TRENT IS STILL IN THE COUNTY JAIL & TALK TO HIM. HE MAY HAVE GOOD INFO TO HELP OUR CASE.

HAVE A GOOD WEEK. I'LL BE THINKING ABOUT YOU WHILE I'M GOLFING, ON THE BEACH, AND DRINKING A BEER AT POOLSIDE.

JIM G.

EXHIBIT 45

58196 L31

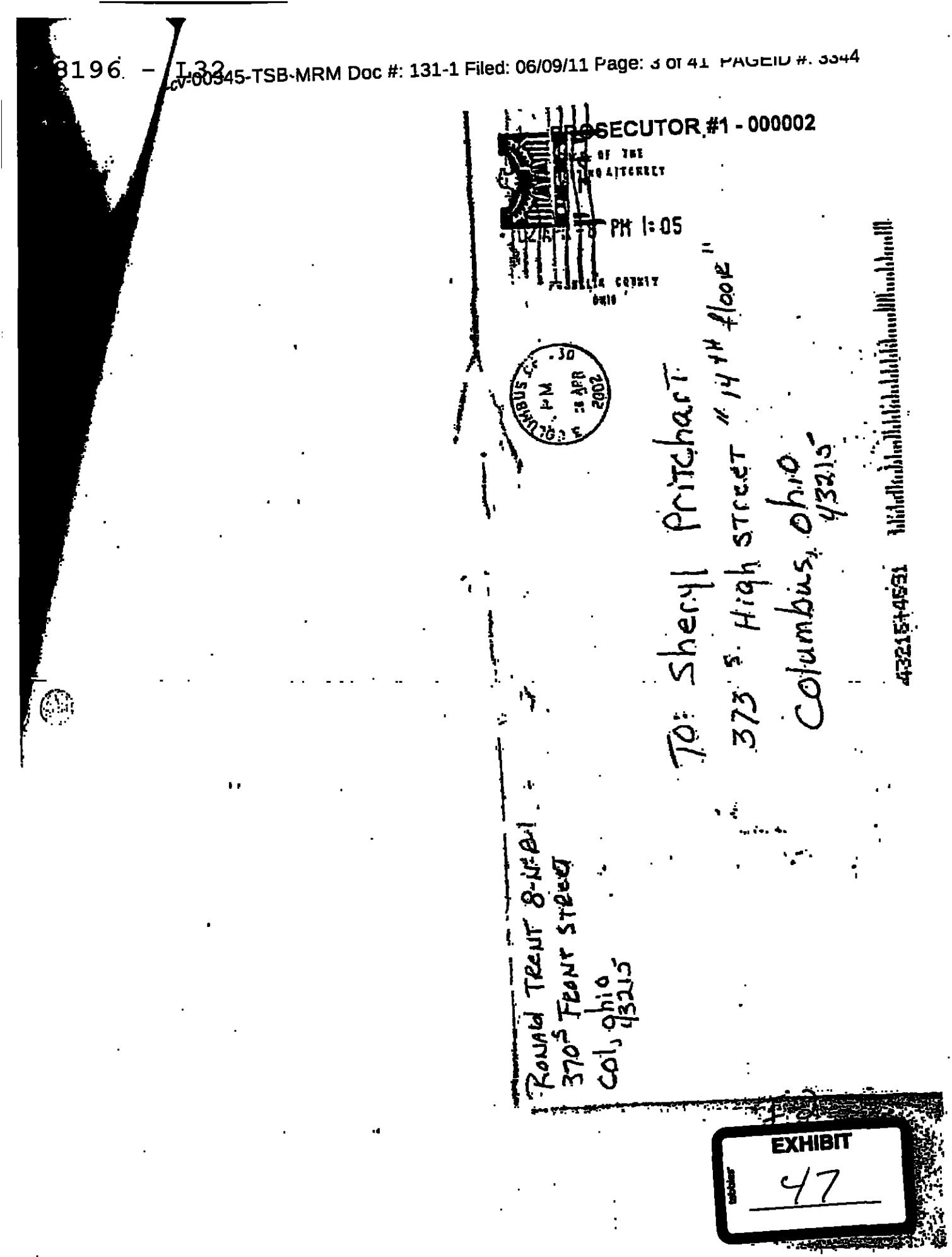
PROSECUTOR #1 - 000001

To: Sheryl Pritchart 4-4-02

I Am writeing This because I have information about a Murder case. I am in The main Jail with James Conway whom is my cousin & I know everything about his case because He Told me all about it; I would like To speax with someone about This information. This is about The shooting That Took place in January at Dockside Dolls where The O.S.U student "Tarus" was Killed and "Williams" was wounded! Please send someone To See me A.S.A.P

Thank You
Ronald Trent

EXHIBIT
46


PROSECUTOR #1 - 000002
PM 1:05
FRANKLIN COUNTY
OHIO
COLUMBUS
PM
APR
2002
TO: Sheryl Pritchart
373 S. High street "14th Floor"
Columbus, ohio
43215
43215+4631
Ronald Trent 8-Nabel
370 S Front Street
Col, ohio
43215
EXHIBIT
47

page 1 of 2

PROSECUTOR #1 - 000003

Approx 2:30 a.m.

Wednesday 4-16-02

Mr. Pitchaf

Hello once again, I am writing in regards to my Statement on James Conway. I spoke with my Lawyer "Sarah Beauchamp" yesterday 4-9-02 & told her I was willing to cooperate with you on this Dockside Docks shooting. I also sent you a letter telling you I would talk to you, then at approx 2:00 a.m. this morning a detective shows up to speak with me. I refused to see him because I am not trying to get myself killed in here. That was extremely stupid, I am in a tank with multiple murderers. do you honestly think these guys don't know who I would be seeing at 2:00 in the morning?!! My Cousin "James Conway" is in this tank. The first thing he said is "thats a cop, only cops come to visit people at 2:00 A.M.!" I'm sure you already know what Conway is capable of, if he knew he even thought I was talking to you. "Not only would he clam up on me, I might think myself in a great deal of danger." And so I don't want need Anyone that wants to speak with me needs to come down here during civilized hours.

I'm not saying this was your doing or your fault, but I'm not gonna get myself killed to help you out.

One of the guys testifying on Conway is Brian McWhorter I don't know him but I know he's in Protective Custody and that Conway has a contract out

[redacted]

EXHIBIT 48

F-3

pg #2 of 2

PROSECUTOR #1 - 000004

on his life, How do I know? because Conway told me! I told you previously James Conway is my Cousin & Trust me Completely, He has told me everything about this case; If you want to speak to me come during the daytime so its not obrigas I'm talking to the Police!

I am willing to speak to you, but not if it means getting myself whacked! If I am moved I will not speak to you or anyone else; if you or anyone else comes down here after 8:00 P.M or before 8:00 AM TO TALK TO me I will refuse to speak with you.

I'm no good to you or anyone else dead. Please contact me or my lawyer Sarah Beauchamp at 224-9919 in regardes to this matter A.S.A.P.

Respectfully
Ronald TRENT

58196 - L35

4-10-02
1:30 P.M.

CONE,

RONNIE TRENT CALLED AND SAYS TRYING TO REACH YOU REGARDING YOUR TUESDAY NIGHT VISITATION. HE WAS CONCERNED THAT YOU CAME DURING THE NIGHT AND EVERYONE WOULD KNOW WHO HE WAS TALKING TO. HE ASKED IF YOU COULD COME BACK AROUND 8 A.M. OR SOMETHING CLOSE SO OTHERS MAY THINK IT'S HIS ATTORNEY. IF SO HE IS MORE THAN WILLING TO WORK WITH YOU.

DENNIS GRAU
HOM. UCR

EXHIBIT
49

Franklin County Sheriff's Office
Detective Bureau

Progress of Investigation

Offense:	HOMICIDE
Report #:	0109704
Victim:	ANDREW DOTSON
Place of Occurrence:	GALLOWAY RD. S/O HALL RD.
Date of Offense:	OCTOBER 10, 2001
Reporting Detective:	CHRIS FLOYD
Date:	MAY 13, 2002

Summary:

On Monday, May 13, 2002, at approximately 2:45 PM, Det. Scott and I met with Mike Arthurs in the conference room of the Franklin County Prosecutors Office. Present were Assistant Prosecutor David Devillers, and representing Mike Authors were Attorneys Bill Meeks, David Thomas, and Lisa Tome.

Arthurs stated that he knew Andrew Dotson for approximately 2 months prior to his murder. He had known Jim Conway for 8 months to a year.

Sometime approximately August of 2001, Jim Conway had instructed Mike and Shawn Nightengale to kill Andrew. Conway had shot someone (Jesse James) and was afraid that Andrew would tell the police.

The "group" had rented a room at the Hampton Inn in Chillicothe. Andrew had returned to Columbus with Rick Hurt on their motorcycles. Andrew had left his motorcycle at Hurts house, and returned to Chillicothe the next day with Jim Conway. Hurt was later instructed by Conway to dispose of the motorcycle.

That day, Mike, Shawn and Andrew drove Andrew to West Virginia. They were driving Shaun's green Jeep Cherokee. Conway had provided a gun, and they were to shoot Andrew and leave the body. They visited Shauns brother in W. Virginia, but neither Mike nor Shaun were able to kill Andrew, so they drove back to Columbus. Shaun had given Andrew a bag of some type of pills, which Andrew had been taking and had passed out. Once in Columbus, they had contacted Jim Conway, who had met them at a shopping center believed to be on Harrisburg Pike. Conway had Jamie Horton with him. They were in Horton's fathers white Dodge pickup. Shaun and Mike had followed Conway and Horton. Andrew was still passed out in the backseat. Mike remembered seeing a sign that said "GALLOWAY" nearby. They had stopped, and pulled into a field. Conway had again instructed Mike to kill Andrew. Mike stated that he had acted like he was choking him, but still couldn't do it. He and Jamie had then drug Andrew's unconscious body out into the field, Shawn and Jamie had removed all of Andrews clothing except for his boxer shorts. No one wanted to touch those.

EXHIBIT
50

(This is consistent with the way the body was found).They also removed all of his jewelry. Conway had then gotten a pick axe from the truck, and went into the field, where he struck Andrew twice. Conway had returned stating that the first time he had missed, striking Andrew in the stomach, but indicated the second swing had struck the chest. (This is consistent with the autopsy report)

Jamie and Shawn had retrieved a bag of lime from Jamies Jeep, which they had poured onto Andrews body.

Afterwards, Conway removed the handle from the axe. He placed the axe head and Andrews clothing and belongings into a clear plastic bag. Conway had later stated that he burnt the handle.

Mike stated that he was extremely upset, and told them to drop him off. They then dropped Mike off at his cousins house. Conway gave the bag with the items to Mike, and told him to burn them. Mike said he would, but instead, had placed them into his cousin's trashcan. Conway, Jamie and Shawn had allegedly then gone to "Riads" bar, referred to as Big Mikes Palace, on S. High St. that night.

The next day, they had picked Mike up, and went to a Sutherlands store, where Conway had purchased 2 shovels, stating they were for "the next time". Conway had then taken Mike to Westland Mall, where he bought Mike all new clothes. His old clothing was placed in a bag, and Mike believed that Conway had burnt them at his fathers' house.

Mike stated that some time later, he had been with Conway, and Conway had jokingly stated that he had "relapsed". When asked what he meant, Conway stated that he had killed again, and referred to the Dock Side Dolls shooting.

Mike stated that Conway rules the group by respect, but he is also feared.

When asked about the order or "rank" in Conways group, Mike stated that Mike Fuller is at the top, being the drug supplier for everyone. Conway is at the top of the chain from there. Next, he felt would be Rob Myers and Jamie Horton, then Shawn Nightengale. Prior to Conways arrest, he had slowed down his drug dealing, suspecting he was being watched by the police. During that time, Jim Turner had begun buying directly from Mike Fuller. Apparently, Turner was then "cutting" the drugs, and had been selling poor quality drugs.

Arrangements will be made for Mike to take a polygraph examination..

Arrangements will be made through the prosecutor's office and the defense attorneys for future contact with Mike.

58196 - L38

FLOYD Q.	ARTHURS A	SCOTT A	MEEKS
Investigator 1	Investigator 2	Interview 1	Interview 2

TAPED INTERVIEW (no number)

OFFENSE:	HOMICIDE
REPORT#:	0109704
VICTIM:	ANDREW DOTSON
PLACE OF OCCURRENCE:	GALLOWAY RD.S/O/ HALL ROAD
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	MICHAEL LEE ARTHURS
DATE OF INTERVIEW:	MAY 23, 2002
PLACE OF INTERVIEW:	364 S. 4TH STREET, DET. BUREAU
INVESTIGATOR:	CHRIS FLOYD/ZACH SCOTT

FLOYD Q — The following will be a taped interview of Michael Lee Arthurs. Representing Mr. Arthurs are attorneys, Bill Meeks, Lisa Tome, T O M E, and David Thomas. It is Thursday, May 23, 2002, it's approximately 11:38 a.m.

SCOTT A — Mike, I want you to start back from when you first met Andrew

RTHURS A — Um, we first, I first met Andrew at a party that these, that he came to a party with, he came to a party with Jimmy and these guys and that's how I met Andrew and he just hung around basically and went to parties, you know, every once in awhile, they came to parties where we'd be like Sean Jimmy, and all of this. That's basically the only way I knew him.

SCOTT A — You don't remember how long back you met him?

ARTHURS A — Um, not like, not for sure, you know what I mean, it's probably, before his death, it was probably about I don't know, a month

SCOTT A — About a month.

ARTHURS A — Somewhere around in there maybe I'd say that.

SCOTT A — What did uh, what did Andrew do with this group

ARTHURS A — As far as I knew, he would just steal things and sell them to Jimmy and

SCOTT A — Jimmy Conway?

ARTHURS A — Yeah, Jimmy Conway, and you know that's the only thing I knew that Andrew did for him

EXHIBIT 51

58196A - L39 SCOTT A Sell any drugs for him?

THURS A Um, I only seen him, I've only seen him buy like an ounce before, that's it, I've never, it wasn't like he was always coming around doing it or anything, it wasn't, it was just one time thing, so I don't know if he bought for use or he bought it just to you know, sell or whatever, I don't know

~~SCOTT A Had you and him ever did anything together, criminal activity I guess.~~

ARTHURS A Me and Andrew?

SCOTT A Yeah

ARTHURS A uh uh

SCOTT A Okay, when you guys met where did you guys usually meet up?

ARTHURS A It was, um we didn't really, I don't know, it wasn't usually like a meeting spot here and there, um, just whenever we'd be at a party or something, he'd like maybe Sean or somebody would call him up and....

SCOTT A I'm going to show you a picture, these are family portraits, nobody's dead or anything, I just want you to tell me if this is Andrew Dotson, that's all I want you to do?

RTHURS A Yeah, yeah that's him

OTT A Which one, the one right here

ARTHURS A The one sitting in the chair, the one that's circled in the top picture.

SCOTT A He's sitting in a chair, what's he holding

ARTHURS A A baby

SCOTT A Okay, thank you sir. Alright, the decision to to kill Andrew, who made that decision?

ARTHURS A Jimmy Conway

SCOTT A Now how did this whole conversation come about that he would be killed.

ARTHURS A Um, Well, uh, shoot outs like happen, Andrew called Jimmy because he said these guys were coming over to fight with him or whatever, and he called Jimmy to know if he'd come over to help him out. Jimmy I guess went over there, I wasn't there that night, this is just what I was told and a shoot out you know, broke out and Jimmy shot one guy and then he was afraid that Andrew was going to tell on him cause I guess the detectives had got a hold of Andrew and they hadn't even talked to Andrew I guess and Jimmy was just afraid he was going to tell on him so he said that he wanted Andrew dead, and he asked me and Sean if we'd do it?

yet

58196 - L40

SCOTT A What did you say?

ARTHURS A We said yeah

SCOTT A What's your payment for this?

ARTHURS A None, there was no payment

~~SCOTT A You were going to kill somebody and not get any compensation?~~

ARTHURS A Yeah, it was, it was just him asking us to do it, like I had said before, when he asked you to something you just did it.

SCOTT A Do you remember when he asked you?

ARTHURS A Not the exact date, I remember we were um, at a hotel, the Hampton Inn in Chillicothe

SCOTT A Who all was present, just you and Sean.

ARTHURS A It was, there was a bunch of people at the party but....

SCOTT A I'm just talking about the actual conversation

ARTHURS A Oh yeah, it was me, Sean and Jimmy, we were walking to the bathroom, we were getting a beer and Jimmy asked me and Sean when we were in the bathroom.

SCOTT A Can you remember how he asked you, did he just say I want you to whack this dude, I want you to put a cap in him, I want you to bury to what, what did say

ARTHURS A He was like man, you got to take care of this dude for me and I just kind of, I was like, you know, why and he said you know cause these detectives suks get a hold of him, he said, he's gotta, he's gotta disappear.

SCOTT A Slow down just a little bit, okay now, he said, you got to take care of this guy, you think he meant that to be a killing

ARTHURS A Yeah you gotta, well, that's exact, he, you know what I mean

SCOTT A I need to know, to understand

ARTHURS A Yeah, that's what it meant, was a killing, that he wanted us to kill him

SCOTT A Okay, any other words he said that indicated to you that he wanted you to kill him as opposed to scare him?

ARTHURS A It was, well he said

SCOTT A maybe_____beat him up

58196 A L41 ARTHURS A Well he said, he said he had to disappear, that's what it was the whole thing about

SCOTT A He has to disappear

ARTHURS A Yeah, that's, he said he had to disappear he had to be gone, done

SCOTT A Those were his words

~~ARTHURS A Yeah, it's, so I mean, I wasn't....~~

SCOTT A I don't mean to, I'm not trying to beat you up, but it's important for me to understand

ARTHURS A Oh I know, it wasn't like, it wasn't like a broad statement, he put it out there like, well, you know, this guy needs to be you know took out and beat up a little bit, it was, he had to die is basically what the you know, the whole thing was about, it wasn't no little shitting around about you know this guy you know needs to be took care of kind of...you know, I don't know how to explain it

SCOTT A Did he tell you how he wanted you to kill him?

ARTHURS A Not at that time, the next day he, he I guess he told Sean and Sean you know, we took him to West Virginia, and we were supposed to take him down there and shoot him, he gave Sean a gun, it was under the seat of the Jeep, I didn't know about it till we got down there but um, we were supposed to

SCOTT A Who told you that Jim gave him a gun, gave Sean a gun?

ARTHURS A Sean did

SCOTT A Sean told you that?

ARTHURS A Yeah

SCOTT A Okay

ARTHURS A And whenever me and Sean took him down there we, we went and seen Sean's brother and then we went up some back road and we got out and Sean told him we were looking for marijuana plants and then we couldn't do it, we just, I don't know

SCOTT A Did anybody get the gun at that point?

ARTHURS A uh uh, I don't, you know, Sean got out, I got out and I go into the back cause we were in some weeds and I had shorts on and I put some pants on, because we were walking through the weeds and we just couldn't do it. I, like, on the way there and stuff you know we were thinking about it and you know, I already had a feeling before we got there we couldn't do it cause I had to stop and go to the rest room cause you know I was kinda, cause I wanted to let him call his Mom, that's the reason why you showed me that picture just now it kind of messed with me.

COTT A Alright, alright, so you guys go down there, this is Fall time? Talking about walking running, walking in the weeds

ARTHURS A _____remember how I was telling you about how whenever I told him about the months

IEEKS Yeah we told him that

ARTHURS A Okay

IEEKS Go ahead and tell him

ARTHURS A Um it was September, remember I told you that it was August, I had my months mixed, but um, it was September is the time it was, I can't remember exactly you know what day it was

COTT A How do you know it was September

ARTHURS A Because um, it was cause I remember whenever you told me when you found him, you k now what I mean I remembered how long it had been just about whenever it was done, and it was only, it was the day before Andrew died that we were, was the same day we were in West Virginia, so when we came back that night, is whenever Andrew died.

COTT A Okay

LOYD Q Hampton Inn motel in Chillicothe, a room was rented I believe, we've got the receipt, 9/11 to 9/14 I believe it was in your name?

ARTHURS A In my name

LOYD Q In your name

ARTHURS A _____I don't, maybe

LOYD Q Is that when this would have happened?

ARTHURS A No, I think it was after that because, I think I was in West Virginia on my, and when that

SCOTT A _____remember that day

ARTHURS A Yeah cause I woke up the next morning and I was in a hotel in West Virginia and remember seeing that on the news, I came home, so it was after that, so it was after that

LOYD Q So it was after the bombings

RTHURS A Yeah

SCOTT A It won't be a big deal Chris, it's fine_____issue. Alright, so we bring him back from West Virginia, what did we do to him on the way back

ARTHURS A Um. Sean had bought some pills because Andrew liked pills and he gave Andrew the pills and Andrew just kept taking them and taking them

SCOTT A Why

ARTHURS A Huh, it's just Andrew did that, Andrew liked to take pills, that was his thing, his choice of drug I guess you'd say

SCOTT A He didn't smoke crack?

ARTHURS A Not that I knew of

SCOTT A Coke

ARTHURS A He snorted Coke but you know

FLOYD Q Did you ever see him taking pills before

ARTHURS A Notice it well not that I can think of but he always talked about how he liked to take pills all the time and how he always done it and stuff so you know I don't know anyways he took the pills he just kept taking them he passed out and

SCOTT A How many pills ~~he take~~ do you think he took

ARTHURS A Probably around 10 or something like yeah I'm not real sure

SCOTT A Where did Sean buy the pills from?

ARTHURS A He bought them from a guy that he knew down there and

FLOYD Q Down there meaning West Virginia

ARTHURS A In West Virginia yeah and he just bought some pills from this guy and gave them to Andrew.

SCOTT A Did you ever see me pills?

ARTHURS A I seen them but it's like I you don't know ~~how~~ or what pills are

SCOTT A Can you describe them

ARTHURS A The only thing that I ever heard anything being said about it was something about pills purple pill I think was something I don't know

FLOYD Q Were they round or were they oval were they capsules or a large pill

ARTHURS A — No I think that like I seen some big ones that were round they were like that big or something like that I don't know exactly what, what do I think they was it's like I said I don't know I just know there were pills and he take them

FLOYD Q — Now we get back to the last area

ARTHURS A — On the way back Sean told Jim and I couldn't we did it didn't happen he couldn't do it and ~~Jimmy had this meeting at the shopping center over on 3C highway I think it is over~~ there on the west side and then when we met them there they told us to follow them to

FLOYD Q — Was anybody with Jimmy

ARTHURS A — Yeah Jamie Horton was with Jimmy.

FLOYD Q — What vehicle was he in?

ARTHURS A — They were in a white Dodge truck his dad's um Jimmy's dad's truck

FLOYD Q — Is that Jimmy or Jamie

ARTHURS A — Jimmy Conway it was his dad's truck his white Dodge pick-up and we followed them over to this corn field and I don't know what the name of the road is or nothing you know what I mean I just the only thing I seen was a sign that said Galloway we pulled back into this like opening of the corn field then I don't know how to say it like there was a little drive back just a little bit and it stocked with corn so and he told me to get him out Jimmy told me to get him out and I grabbed him out and pulled him out and Jimmy told me just go ahead and do it that way go ahead and choke him and I choked him and I make like I didn't want it to happen and he was breathing and it was me and Jamie dragged him back in the corn field and I even checked and I checked got down on my hands and knees and checked and he was still breathing.

FLOYD Q — Who stepped on his throat?

ARTHURS A — I did but you know what I mean it wasn't I wasn't trying to kill him I'll explain I know that he was

SCOTT A — _____how much do you weigh man

ARTHURS A — Um 230, 235

SCOTT A — That's on his throat _____

ARTHURS A — I had one foot on the ground it wasn't even I wasn't standing there like on one foot on his throat

Scott — got to make sure you tell us everything now ok

thurs — ok



Scott — you can tell us if ____ his brother

thurs — well, I'm telling you, you know what I mean ____ I didn't step out with ____ – Until

Scott — whatever, tell us everything

Arthurs — that's fine

Scott — we're going off tape, it is right now about 11:52 PM a ____ request

Male — AM

Scott — I'm sorry, AM per the request of Mr. Meeks.

Floyd — going back on tape now, it's approximately 11:53AM

Male — _____

Scott — you and, OK, let me just back up you're saying it was corn ____ field that was a Situation where you were, you were not putting a lot of weight on it now

Arthurs — yeah, I just had one foot on the ground and one foot, you know what I mean

ott — you did this for what reason

Arthurs — just cause I, I got tired, I couldn't, I was just wore out, my mind was, it's Just, I don't know

Scott — for ~~Karen~~ appearance's sake

Arthur — a maybe a little bit, know what I mean, I can't really sit here and, and, think Exactly everything, what, you know why I did it and everything, I did do that And I wasn't trying to ____ that's the reason I kept checking him seeing if he Was breathing and stuff, cause I didn't want ~~Karen~~ Jimmy, I even ask Jimmy, you Know, do we have to do this, he's said he's not going to tell you, he told me And Shawn both, we asked him, you know, would you ever say anything To the cops if you know they asked you about Jimmy, he said no and we tried To tell Jimmy that and Jimmy said no

Scott — you're talking about Andrew, you were asking Andrew this

Arthur — yes, Andrew on the way back from West Virginia

Scott — ok, there we go

rthur — we were like you know, are you going to tell on Jimmy if this would, he said no I'm not going to tell, I'm not going to say nothing because I'm not like that and we

58196 - L46 Tried to tell Jimmy that and Jimmy just, that wasn't what Jimmy wanted to hear, Jimmy wanted Andrew dead

ott — did he make any, when you got back into Columbus and you guys talked said we can't Do this is what [illegible] Jim [illegible]ing

Arthurs — that's when he was

Scott — what did Jim say

Arthurs — he said quit being bitches, he said this is going to be done, quit being bitches and You know, it's just we took it at that and went on, it wasn't argue, we couldn't, I don't know, we just don't argue and stuff about all that

Scott — alright so now we, we're back at the cornfield, anything else you did to him that We haven't ask you

Arthurs — I choked, had my arm under his nose, choked him

Scott — was that at the car or was that

Arthurs — this is, I pulled him out of the car by his neck like that, they told me to go ahead And choke him and they said this is honest with you, they said that they heard A pop like his neck was broke; but, I didn't hear, I even told em I said no I don't [illegible] there, know what I mean cause I never heard, I never heard and then you know I was tired, stepped on his throat then we drug him back in the field, me and Jamie drug him back in the field, me and Jimmy Horton, a, Shawn and Jamie took his clothes off of him, Jimmy wanted to make sure he was dead, so Jimmy went back with the pick

Scott — why did you take the clothes off

Arthurs — oh, I'll get to that, a they took his clothes of him cause they had lime that they Were going to pour on him but before that happened, they took his clothes off Took his necklace off of him, they left his glasses on him cause I guess they just ~~Just~~ didn't want to take those off of him, a Jimmy walked back, stabbed him In the chest with a pic cause he wanted to make sure he was dead

Scott — how did you know that Jimmy went back with a pic

Arthurs — well he, cause he grabbed it out of the back of the truck and

Male — [illegible]pick, you talking about

Arthurs — ax

Male — pick, ax

Arthurs — yeah and went back there and I was just standing by the cars, and I couldn't see

58196 - L47 Him, you know what I mean, it was dark and he was back in the corn a couple rows Where the body was and did that, then Jamie and Shawn

Floyd — Anyway with Jimmy right there at that point

Arthurs — I'm not sure, I don't think there was, I think Jim went back there and did it Because a I don't think

Scott — by himself

Arthurs — yeah, I don't think anybody wanted to see it to be honest with you

Scott — Oh so we got you, Jamie and Shawn

Arthurs — they were, that's what I'm saying, I was by the car, I can't remember exactly Where Jamie and Shawn was, just before I was, you know out of My mind, I couldn't believe this was going on, but I know that Jam or Jimmy Went back there stabbed him in the chest with a pic and then Shawn and Jamie Took this lime back there and put it on him, they took a full bag back there and Came back with an empty one so that, you know, I assumed that's what they Went back there and did that. Anyway Jimmy comes back, knocks the iron Piece off the pic, the wooden part of it cause they just slide on you know and He wrapped it up in this piece of plastic and he got, they put Andrew's clothes In this plastic bag and put the pic in there also and we all leave and we go back To Jimmy's dad's house, mom and dad's house, dropped his dad's truck off We get back into Shawn's car and we, they were wanting to go Reott's bar to get Drunk, that way they would have an alibi and I just

Scott — what car was used

Arthurs — the jeep, yeah, the green jeep and I couldn't, I don't know, I after what had Happened I couldn't go back and get drunk, it was just something I couldn't Do and I told em to drop me off and then I told em to drop me off at my Cousin's house, we pulled around the back alley, I got out and they took Off, I through the stuff in the trash can, went up, asked my cousin if I

Floyd — through what stuff in the trash

Arthurs — all the bag of clothes and the pic in it, the ax handle pic handle

Floyd — had someone told you to throw it in the trash can

Arthurs — no, they told me just to get rid of it, they didn't say what to do with it

Scott — where does your cousin live

Arthurs — he lives on Monett Avenue

thurs yeah

cott you know his address

nknown _____

---

rthurs no I don't

cott on the west side_____that alley and and put it in that dumpster

rthurs yeah, there is a trash cans there, they don't have big dumpsters, they have Trash cans,I just took it and kinda put it down in there and just put it in there

cott did anybody take with them anything that belonged to Andrew as a trophy

rthurs no, not that I know of

cott ok

rthurs a, they'd ask, like they was talking about it the next day if a somebody took The money out of. ask me if I took the money out of his pocket and I told him No, I said that's crazy, you don't do that shit, Shawn had asked me that and I was like yeah right, know what I mean;but

ott hold on a second; I got a question for you know what I'm saying,_____wrong but They took the clothes of him

rthurs um huh

cott then how would you have got the money

rthurs because when I got the stuff when everybody left, ask me if I

cott they did not get in his pants or

rthurs yeah left every_____

rthurs __never took it, you know I was

cott so they didn't take anything that you know of

rthurs no, not that I'm aware of

cott okay

oyd not a souvenir or trophy, nothing

Crown _____

Scott did you look at the MZ AX

Arthurs a yeah, whenever he, they was like, we wrapped it up I looked at it there was just Little specks of red on it and since he took it after he done that, he stuck it in The ground to get the stuff off of it several times or something like that, it wasn't, He didn't, no, I don't know how to explain it, not like he washed it off with anything Or anything,he just stuck it in the ground

Scott you know_____flashlights_____

Arthurs no

Scott _____

Arthurs um huh

Scott ok, now earlier report, you said he had walked out to you and indicated By himself

Arthurs oh, _____

Scott _____

Arthurs he told me that the first time that he he stuck him with it that it hit him in his Stomach, he hit his stomach, said he missed, he said but the second Time I got him,he tied it on his chest

Scott over the heart

Arthurs yeah, like yeah put his hands

Scott you're indicating you hand over your heart

Arthurs yeah

Scott this time

Arthurs yeah, that's what I'm saying, was in the chest, I don't know exactly where he hit Him but he said the chest, said he tied it on his chest

Scott and then his lower abdomen was bruised_____correct

Arthurs yeah, yeah and

Scott upper abdomen not the lower abdomen, upper abdomen

58196 - L50

Arthurs he, a just tied it on his stomach and his chest. Um then, anyways I asked my cousin To if I could stay the night and it wasn't that big of a deal, you know what I mean

Scott which cousin is that

Arthurs his name is Scott Johnson

Scott did you tell Scott about this incident

Arthurs no

Scott so, he doesn't know anything about his

Arthurs no

Scott whole crazy night

Arthurs no, that's what I'm saying, you know, I just went in and told him hey can I stay The night, said sure go ahead go in there and lay down and he had to work so He went back to bed

Scott how old is Scott

Arthurs a late 30's probably early 40's. not real sure; but, and then the next morning a Jimmy And Jamie and Shawn came and picked me up and we went to a hardware store *had to get something from the hardware store and a Jamie bought 2 shovels and was like this is for the cause he bought 2 so I guess they just* _____ and

Scott _____

Arthurs yeah, they were pointed shovels

Scott ok

Arthurs and said this is for the next time and. you know, we just kinda kept going, didn't really ask questions like you know, who you got planning on

Floyd ~~what did you~~ next time mean

Arthurs in case somebody else, it needed to be done to somebody else, a, you know for The next ~~this happened so he could~~

Scott did Jim ever tell you he killed anybody else

Arthurs no_____

Scott did you guys plan on killing anyone else like Shawn or Jamie or

Arthurs no

Scott — did Jim Conway's dad know about this incident

thurs — not that I know of, know what I mean, he could I don't know, he never told me that he told his dad anything like that, it was, you know, supposed to been kept between us, Just us

Scott — did Jim Conway's dad ever participate in any illegal activity

Arthurs — no not that, the only think know of his dad doing was working at some plant or something

Scott — when we talked to you last week, you said something about when he took the handle_____doing something with that handle

Arthurs — oh, that's what I was getting to, a, when Warren bought this stuff, they took me and also bought me new clothing and everything, a, and they took all my clothes, my shoes and everything, they burned it all + Jimmy told me he burnt the pic handle, I mean

Scott — where did he burn all this stuff at

Arthurs — behind Jimmy's house there was a little fire

Scott — you see that

thurs — I've seen the fire spot yeah

Scott — _____clothing_____

Arthurs — I didn't see him burn the handle, that's the reason_____I don't know what he really did with the handle but it, that's what he told me, it was burned, so_____anyway when they burnt my clothes and my shoes and everything and I went home, Shawn took me home, that's, basically that's all, up till now

Scott — how long did he plan this murder, you know ?

Arthurs — the only, the first I heard about it was I said who told me

Scott — don't you know how far in advance he actually started planning about

Arthurs — no, first I heard about it

Scott — let me, let me_____pin it down a little bit better. When you were told about it, but, till he actually died was it two days, three days, a week

rthurs — well it he told us that, told us that night, the next day he went to West Virginia, came back, he died that night

Scott told you about a 2 day period

Arthurs that was just

Scott 2 day period

Arthurs yeah

Scott ~~after this is all done and you got new clothes and you got Sydney back~~ when did you guys get back together again

Arthurs after what now

Scott when did you guys get back together here and hang out again, couple days, a week, month

Arthurs Jimmy but. it was probably a couple days, like I said, we hung out the time

Scott you guys talk about it anymore

Arthurs no we didn't go out and talk, I don't know, we just didn't really talk about it, it wasn't something

Male _____

Arthurs _____about

Scott maybe Shawn or Jimmy made a remark Jimmy remark

Arthurs oh you mean Shawn, the only time me and Shawn talked about it was just to say to each other man villain → villain for no reason, you know what I mean

Scott did Shawn bring it up

Arthurs yeah because you know, nothing ever came up about it, you know, that we ~~saw other~~ that A then, know now is Jimmy but it didn't before like as far as Jimmy shooting that guy, that, what Jesse James ~~is that~~ his name → Jimmy

Scott oh in his butt

Arthurs yeah and as far as that goes, we didn't hear anything else come up about it or anything so we just thought that he was gone for no reason basically

Scott Jimmy ever make mention that you talked_____for, you remember Casey Schuler

Arthurs nope

Scott a, think that about covers it don't you. I want to ask you, would you be willing to assist us as far as maybe talking to Shawn

thurs yeah, but we'll have to, know what I mean, it's something we'll have to make sure it's done right because, like you said, we'll, you know, [illegible]

Scott ok, that may be a possibility.

Floyd when I talked to you last _____ that a later year said where you were at. that a Jimmy Conway had made a comment about ~~said~~ he had to go community trail murder

Arthurs oh at the Galvin Apts that up and he took me over to his dad and ask him what was going on cause

Floyd where were you, where were you at

Arthurs we were at the BP station at Galvin 10 4 and I asking him what was going on cause Shawn had told me something bad had happened and you know, he wouldn't tell me on the phone or anything like that and I ask him, I said well what's going on man and he said I had a relapse, I said what do you mean you had relapse and he just kinda laughed about it and a said that he killed another person and it was the dockside doll thing

Scott how do you know that

rthurs how do I know that

.ott Galvin's doll 5

Arthurs cause he told me, he was like, you ain't been watching the news or nothing, I said no and he said yeah the dock side dolls, you know what I mean,I didn't even see it on the news, it's just what the ~~Feds~~ Feds told me, you know, Shawn and them, so that's, you know what I mean, as far as me being there, knowing, seeing it, whatever, I _____

Scott well I mean can you be a little more specific in his words _____

Arthurs _____

Scott did he tell you Galv side doll

Arthurs he said, did, you ain't been watching the news, I was like no, he said you know that You know when _____ dock side doll, ok, you know what I mean, I just kinda shut up at that, you know what I mean

Scott did he say how he did it

Arthurs no, that's the reason I didn't even know anything about what had happened until I was at Millerton ~~from~~ _____ he told my parents what had happened and that's when I knowd that supposedly he grabbed this guy around the neck and just shot

58196 - L54 somebody in the head. I never knew that at all, I don't know that's even what happened, you know what I mean, that's just what

Scott that's what you were told by a detective

Arthurs yeah, that's, I don't even know if that's what happened

Scott ok

Floyd did you or to your knowledge, did anybody [illegible] with, the body was [illegible]

Arthurs no, a, Jimmy had ask John and Jamie to go back and set it on fire, but they never did or nothing that I know of so as far as I know, nobody's ever went back there, I've never been back there [illegible] never been back there

FLOYD GOING OFF TAPE AT APPROXIMATELY 12:07 PM.

FLOYD Mr. Meeks has brought up another matter, going back on tape, approximately 12:09PM.

Scott alright, after the Andrew Dotson thing, robbery, a, was there any discussion about eliminating anybody

Arthurs yeah, a, Jamie called me up, wanted me to meet him and a Rob to go talk to this [illegible] Cicero, a lawyer and when we went over there to meet him, he a was telling us that a [illegible] Simmons

Scott who is that, who is he

Arthurs he was the manager of the drug store

Scott who was don't use words like he

Arthurs oh Chris Cicero was telling us that a Dr. Simmons was ratting on everybody, was the one telling on everybody and that he had to die and

Scott [illegible] had to die

Arthurs yeah

Floyd Chris Cicero [illegible] that [illegible] had [illegible]

Arthurs yeah, that he

Male

Arthurs yeah, he said, and I said look, I don't want no part of this and he was like ok then we need you in jail when this happens and Chris went and sat at Marcus's hearing or whatever to see what was going on and then

Scott — Slow down Chris and who said that they need you in jail

thurs — Chris did, Chris said well then we need you in jail when it happens because I live down there, I knew Marcus and I told em I didn't want no part of it anyway, they said well we want you in jail when this happens then

Scott — Chris is instructing, did Jim's not instructing

Arthurs — no, Jim's not doing it, this is Chris'

Floyd — where was this meeting taking place at

Arthurs — in Chris' basement

Floyd — of his office of his home

Arthurs — of his office cause there is a upstairs to it and a downstairs, we went downstairs and anyways a he, they talked about this a receiving stolen properties, thefts on these cameras that you know that these two brought Jamie and ro

Floyd — who all is at this meeting

Arthurs — it was me, Jamie, Horton, Rob a Myers and Chris Cicero

ott — ok

Arthurs — Sthn basement

Scott — OK, Sean Nightengale is not present

Arthurs — no

Scott — you guys were in Chris Cicero's basement

Arthurs — yeah, and

Scott — where does he live

Arthurs — where does who live

Scott — Chris Cicero's office, wheres

Arthurs — we were at his office, on Mound street

Scott — ok, alright go ahead

thurs — ok, and anyways they were talking about these warrants and whatever coming out for these cameras and Chris said that he was going to try to make it to where it just went on

58196 - L56 Jamie and not Rob cause Rob was the one that was going to go do it, Rob's was the one that was gonna kill a Marcus Simmons but; and, so they wanted to put the cameras and stuff onto Jamie, that way Rob would have no reason to be reason to be took to jail and you know what I mean he was fried at that point and

Meeks — how far after the robbery did this meeting take place

Arthurs — it was I can't remember the date; but, they searched my house but whatever, anyway it was a week

Floyd — who searched your house

Arthurs — the detectives searched my house

Floyd — Chillicothe detectives

Arthurs — Chillicothe_____

Floyd — searched your house a week later

Arthurs — yeah, it was about a week later after that we met and went over there, but uh, anyway that's all happened, you know, he said that Marcus had to die

Floyd — he did say those were words, Marcus has to die

thurs — yeah, Marcus is the one, ~~right~~ actin', Marcus has to die, if you guys want to get out of there

Floyd — and that again was said by who

Arthurs — Chris Cicero

Scott — ok so Rob supposed to do the killin, they gonna put all the a

Arthurs — Receiving Stolen Property

Male — on Jamie

Arthurs — on Jamie so that Rob didn't have anything on him and then it was just so they, you Know, whenever Marcus got out of jail I was turning myself in, that way I had nothing to do with it cause I didn't want anything to do with it and I told em that straight up I didn't want anything to do with it, so I turned myself in and that was the last, a, the day before I turned myself in, I called Jamie and he said that somebody ~~has~~ ____ up to do it basically telling me that I had to do it and I told him no, I said I'll just go do my time whatever I got to do, so

Scott — got to do what, what's he got to do

thurs — somebody has got to kill Marcus Simmons, but he said somebody has got to step up and do it on the phone cause, you know, me and him was sitting on the phone

Scott — did Marcus help plan this robbery or he just____

thurs — yeah, Marcus helped plan it

Scott: — ok, I couldn't remember_____picked you guys out right

Arthurs. — there's

Scott — ____

Arthurs — a no, _____

Floyd — _____correct

Female — yes

Scott — and then there was one guy who didn't know what was going on

Arthurs — yeah

Meeks — that's_____

Arthurs — yeah that's what I was trying

'ott — ok, I'm sorry

Arthurs — but, there was two guys that I guess picked me out or something, I don't know_____but anyways Marcus was the one that helped us out and Marcus helped plan _____and they said that Marcus was killing everybody

Scott — Marcus in jail right now

Arthurs — no, not that I know of

Scott — OK, is Cicero talked about killing anybody else

Arthurs — no, but I'm pretty sure that he's the reason why a like Andrew that came up dead because I think whenever Jimmy would get in trouble, he'd 2 way his lawyer and say look this is what's going on I got to talk to you and then they'd meet and talk and I think, you know me, that's one of the reasons that Jimmy got the dolls on us, a with Andrew

Floyd — were you ever present in any of these conversations with Jimmy and Cisero

Arthurs — no, first time I ever met Chris was the day that like I'm telling you right now about the 4th March ~~first~~ time I ever met him

50196 - L58 _____-three of you were present when Cicero in the basement of his office

thurs yes

Floyd and he said in front of you

Arthurs ~~Marcus Smith has to die because if not then he gonna rap on everybody, he's going~~ to tell on everybody, so and that I had to be in jail whenever it, all this got out so cause I told em I didn't want no part of this and plus it was like, I don't know, they said it was a good thing anyway that I didn't no part of it, cause I lived too close to him and stuff like that, so they said I had to be in jail so I went and turned myself in a, I don't know if it was the same day he got out or not but I turned myself in and that's the last day I talked Jamie or any of those guys

Scott _____his name

Arthurs who

Scott _____

Arthurs a is he a darker guy kinda heavier set, not like big but a kinda looks Mexican or something

ott I don't know, I've never seen what he looks like

Arthurs a. I know a_____

Scott _____

Arthurs a I think it's about this _____guy girlfriend because they told me

Scott who is they

Arthurs Jamie told me, Jamie Horton told me that a Brian had gave a statement that he gave like three different statements of something that they got_____or something, I don't know how_____with all that, never really got into it much but

Scott _____what you were told, that's all

Arthurs yeah, right, that's all, that's what I'm saying

Scott did you hear that they wanted to do anything _____

Arthurs no, no the only thing I heard is that Brian gave 3 _____ statements that they were going ~~to off anyway~~ so it didn't really matter,_____I don't know if anything_____to Brian so

21

58196 - L59

Floyd _____is Marcus the only person that you know they were supposed to kill

Arthurs yeah

Dale _____

Scott and Rob was supposed to do it

Arthurs yeah

Scott might need you to be _____point_____situation_____yeah we're done, we're done

Meeks I thank you for bringing it up

FLOYD GOING BACK OFF TAPE, APPROXIMATELY 12:16.

UNDERLYING THEORY OF THE PARTICULAR CASE AS PRESENTED BY THE PROSECUTION, THAT THIS EVIDENCE MAY GO TO MOTIVE, INTENT AND OTHER FACTORS ADMISSIBLE UNDER 404(B).

WITH THAT, THEN ARE WE READY TO PROCEED WITH THE WITNESS?

MR. LOWE: YES, YOUR HONOR.

- - -

THEREUPON, THE JURY ENTERED THE COURTROOM AND THE FOLLOWING PROCEEDINGS WERE HELD:

THE COURT: YOU MAY CALL YOUR NEXT WITNESS.

- - -

MICHAEL ARTHURS

CALLED AS A WITNESS ON BEHALF OF THE PLAINTIFF, STATE OF OHIO, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. LOWE:

Q. PLEASE, STATE YOUR FULL NAME AND SPELL YOUR LAST NAME FOR THE RECORD.

A. MICHAEL LEE ARTHURS. (SPELLING) A-R-T-H-U-R-S.

Q. IF YOU COULD KEEP YOUR VOICE UP FOR US, PLEASE: MR. ARTHURS, YOU ARE OBVIOUSLY INCARCERATED?

A. YES.

Q. HOW LONG HAVE YOU BEEN INCARCERATED?

A. RIGHT AROUND NINE MONTHS.

Q. YOUR INCARCERATION IS DUE TO THE FACT THAT YOU

EXHIBIT
52

MADE A DEAL WITH THE PROSECUTOR'S OFFICE?

A. YES, SIR.

Q. AND YOUR INCARCERATION, YOU PLED GUILTY TO A CHARGE OF ROBBERY?

A. YES.

Q. THIS WAS OUT OF CHILLICOTHE?

A. YES.

Q. DO YOU KNOW WHAT COUNTY THAT WAS IN?

A. ROSS.

Q. WHAT WAS YOUR SENTENCE ON THAT ROBBERY?

A. FOUR YEARS.

Q. AND IN PART OF THE DEAL THAT YOU MADE, DID YOU AGREE TO TESTIFY AGAINST INDIVIDUALS WHO ARE INVOLVED IN THAT ROBBERY?

A. YES.

Q. INCLUDING JAMES CONWAY?

A. YES.

Q. SHAWN NIGHTINGALE?

A. YES.

Q. ROB MYERS?

A. YES.

Q. JAMIE HORTON?

A. YES.

MR. MCGOWAN: OBJECTION.

THE COURT: OVERRULED.

Q. (BY MR. LOWE) THE ANSWER IS YES?

A. YES.

Q. YOU RECEIVED A FOUR YEAR SENTENCE FOR THAT?

A. YES.

Q. YOU ALSO, AS PART OF YOUR DEAL, AGREED TO PLEAD GUILTY TO AN ABDUCTION OUT OF THE ANDREW DOTSON HOMICIDE?

A. YES.

Q. HAVE YOU PLED GUILTY TO THAT YET?

A. NO.

Q. AS PART OF YOUR DEAL, ARE YOU AWARE THAT THERE WAS A RECOMMENDATION MADE BY THE PROSECUTOR'S OFFICE THAT YOU RECEIVE A FOUR YEAR CONCURRENT SENTENCE ALONG WITH YOUR ROBBERY CHARGE FROM CHILLICOTHE?

A. YES.

Q. YOU UNDERSTAND THAT IS A RECOMMENDATION?

A. YES.

Q. AND THE POSSIBLE TIME YOU COULD GET ON THAT CHARGE WOULD BE FIVE YEARS?

A. YES.

Q. WHICH COULD POSSIBLY RUN CONSECUTIVE, FOR A TOTAL OF NINE YEARS?

A. YES.

Q. BUT THERE WAS A RECOMMENDATION FOR FOUR YEARS TO RUN TOGETHER WITH THE CHILLICOTHE CASE?

A. YES.

Q. IS THERE ANY OTHER UNDERSTANDING OUT OF YOUR DEAL OR AS PART OF YOUR DEAL TO TESTIFY IN THE ANDREW DOTSON HOMICIDE?

A. NO.

Q. PART OF YOUR DEAL WAS YOU TESTIFY TODAY?

A. YES.

Q. AGAINST ANY AND ALL THE PEOPLE THAT I NAMED EARLIER?

A. YES.

Q. ANYBODY ELSE WHO MIGHT BE ASSOCIATED?

A. YES.

Q. WAS THERE ANY OTHER PART OF THE DEAL THAT YOU ARE AWARE OF?

A. NO.

Q. YOU, IN FACT, SIGNED AN AGREEMENT WHICH TALKED ABOUT YOUR DEAL?

A. YES.

Q. AND OUTLINED WHAT YOU HAD TO DO?

A. YES.

MR. LOWE: MAY I APPROACH THE WITNESS?

THE COURT: YOU MAY.

Q. (BY MR. LOWE) HANDING YOU WHAT HAS BEEN MARKED AS STATE'S EXHIBIT G-1, CAN YOU TAKE A LOOK AT THAT AND TELL ME IF YOU RECOGNIZE THAT?

A. YES.

Q. IS THAT THE DEAL THAT YOU SIGNED THAT WE SPOKE OF?

A. YES.

Q. DOES IT HAVE YOUR SIGNATURE ON IT?

A. YEAH.

Q. PART OF YOUR DEAL WAS TO TESTIFY TRUTHFULLY?

A. YES.

Q. HOW OLD ARE YOU, MR. ARTHURS?

A. TWENTY-ONE.

Q. THOSE NAMES THAT I MENTIONED, I WILL ASK YOU HOW YOU KNOW THESE PEOPLE. JAMES CONWAY, HOW DO YOU KNOW HIM?

A. I MET HIM THROUGH SHAWN NIGHTINGALE, AND WE SOLD DRUGS TOGETHER.

Q. WERE YOU FRIENDS WITH JAMES CONWAY?

A. YES.

Q. DID YOU HANG OUT WITH HIM SOCIALLY?

A. YES.

Q. SHAWN NIGHTINGALE, YOU WERE FRIENDS WITH HIM?

A. YES.

Q. HUNG OUT WITH HIM SOCIALLY?

A. YES.

Q. HOW LONG HAVE YOU KNOWN SHAWN?

A. ABOUT THREE OR FOUR YEARS.

Q. HOW LONG HAVE YOU KNOWN JAMES CONWAY?

A. UP UNTIL NOW, ABOUT TWO YEARS.

Q. WHAT ABOUT JAMIE HORTON?

A. THE SAME WITH HIM, ABOUT TWO YEARS.

Q. WERE YOU FRIENDS WITH JAMIE HORTON?

A. YES.

Q. SOCIALIZED WITH HIM?

A. YES.

Q. WHAT ABOUT ANDREW DOTSON?

A. YES, I KNEW HIM.

Q. WERE YOU FRIENDS WITH ANDREW DOTSON?

A. YES.

Q. HOW LONG DID YOU KNOW ANDREW?

A. PROBABLY ABOUT THREE MONTHS, TWO MONTHS, SOMETHING LIKE THAT. IT WASN'T A LONG TIME.

Q. IS IT SAFE TO SAY FROM YOUR TESTIMONY, YOU KNEW ANDREW -- YOU KNEW EVERYBODY ELSE LONGER THAN YOU KNEW ANDREW?

A. YES.

Q. YOU SAID ABOUT THREE MONTHS IS HOW LONG YOU KNEW HIM?

A. IT WAS A SHORT TIME. IT WASN'T A LONG TIME.

Q. BUT YOU WERE FRIENDLY WITH HIM?

A. YES.

Q. I WILL DIRECT YOUR ATTENTION BACK TO SEPTEMBER, '01. AT THAT TIME PERIOD WERE YOU HANGING OUT WITH JAMES CONWAY, JAMIE HORTON, ANDREW DOTSON AND

SHAWN NIGHTINGALE?

A. YES.

Q. DID YOU FREQUENTLY GO TO CHILLICOTHE WITH THOSE INDIVIDUALS?

A. YES.

Q. IN CHILLICOTHE, DID YOU OFTEN GO TO HOTELS?

A. YES.

Q. WHAT WOULD YOU BE DOING IN HOTELS?

A. JUST PARTYING, TAKING IT EASY, JUST STAYING THERE.

Q. I WILL DIRECT YOUR ATTENTION TO A NIGHT IN SEPTEMBER AT A HOTEL. DO YOU RECALL BEING AT A SPECIFIC PARTY WITH JAMES CONWAY?

A. YEAH, WE WENT TO C. J. STEVENS' BIRTHDAY PARTY THAT NIGHT.

Q. I WILL ASK YOU TO KEEP YOUR VOICE UP AND TRY TO SPEAK INTO THE MICROPHONE.

A. WENT TO C. J. STEVENS' BIRTHDAY PARTY THAT NIGHT BEFORE WE WENT BACK TO MY HOTEL ROOM.

Q. FOR THE RECORD, THE NAME WAS C. J. STEVENS, IS THAT CORRECT?

A. YES.

Q. IT WAS HIS BIRTHDAY PARTY?

A. YES.

Q. DO YOU RECALL WHICH HOTEL IT WAS?

A. IT WAS A HAMPTON INN IN CHILLICOTHE.

Q. IF YOU RECALL, WHO WAS PRESENT AT THE PARTY?

A. IT WAS ME, SHAWN NIGHTINGALE, JAMIE HORTON, JIMMY CONWAY, RICKY TURNER, ANDREW AND SOME GIRLS, BUT I DON'T REMEMBER WHO THE GIRLS WERE.

Q. ANDREW, ARE WE TALKING ABOUT ANDREW DOTSON?

A. YES.

Q. YOU MENTIONED JAMIE HORTON?

A. YES.

Q. I'M GOING TO ASK YOU TO LOOK AROUND THE COURTROOM TO SEE IF YOU SEE JAMIE HORTON IN THE COURTROOM TODAY, AND IF YOU COULD PLEASE POINT TO HIM AND DESCRIBE WHAT HE IS WEARING?

A. HE IS SITTING RIGHT THERE WITH A SUIT ON AND A TIE, IN THE MIDDLE OF THESE TWO.

MR. LOWE: PLEASE, MAY THE RECORD REFLECT THE WITNESS HAS IDENTIFIED THE DEFENDANT?

THE COURT: THE RECORD WILL SO REFLECT.

Q. (BY MR. LOWE) WAS ANYONE ELSE AT THIS PARTY, IF YOU CAN RECALL?

A. NOT OFF THE TOP OF MY HEAD RIGHT NOW.

Q. THESE GIRLS, YOU SAID YOU DIDN'T KNOW THEIR NAMES?

A. I JUST CAN'T REMEMBER WHO WAS THERE.

Q. AT SOME POINT DID YOU HAVE INTERACTION WITH

JIMMY CONWAY IN PRIVATE?

A. YES.

Q. CAN YOU EXPLAIN THE CIRCUMSTANCES BEHIND THAT?

A. WE WERE ALL DRINKING, AND ME AND SHAWN WENT INTO THE BATHROOM BECAUSE WE HAD THE BEER AND STUFF IN THE BATHTUB WITH ICE. AND JIMMY CAME IN AND ASKED ME AND SHAWN IF WE WOULD KILL ANDREW BECAUSE HE SEEN JIMMY SHOOT SOMEBODY BEFORE THAT.

Q. YOU INDICATED YOU HAD BEER IN THE TUB?

A. YES.

Q. AND A BUNCH OF ICE. WHO WAS IN THE BATHROOM WHEN YOU WERE TALKING?

A. JUST ME, SHAWN NIGHTINGALE AND JAMES CONWAY.

Q. AFTER JAMES CONWAY ASKED YOU TO KILL ANDREW, WHAT DID YOU GUYS SAY?

A. WE AGREED TO DO IT.

Q. APPROXIMATELY WHAT TIME OF NIGHT WAS THIS, DO YOU KNOW?

A. IT COULD HAVE BEEN MIDNIGHT TO TWO, MAYBE AROUND THERE.

Q. WAS IT DISCUSSED HOW YOU WOULD DO THIS?

A. NO, HE JUST ASKED US IF WE WOULD DO IT AND WE SAID, YES. THAT WAS BASICALLY THE END OF THE CONVERSATION.

Q. DID YOU HAVE ANY MORE CONVERSATION ABOUT KILLING ANDREW DOTSON THAT EVENING?

A. NO.

Q. DID YOU GO ABOUT THE PARTY THE REST OF THE NIGHT?

A. YES.

Q. AT SOME POINT DID YOU LEAVE THE HOTEL ROOM THAT NIGHT?

A. NO.

Q. DID JAMES CONWAY?

A. NOT THAT I REMEMBER, NO.

Q. DID JAMES CONWAY SPEND THE NIGHT IN THE HOTEL ROOM?

A. YES.

Q. WHAT ABOUT JAMIE HORTON?

A. YES, I THINK HE DID.

Q. WHAT ABOUT ANDREW DOTSON?

A. YES.

Q. WHAT ABOUT SHAWN NIGHTINGALE?

A. YES.

Q. WAS THERE ANY TALK OF WHEN YOU WOULD DO THIS TO ANDREW DOTSON?

A. NO, I DIDN'T EVEN -- HE DIDN'T EVEN SAY. HE JUST ASKED US TO DO IT.

Q. AT SOME POINT THE NEXT DAY -- DID YOU SPEND THE NIGHT THERE?

A. YES.

Q. THE NEXT DAY WHEN YOU GET UP, WHO IS IN THE ROOM?

A. I GET UP THE NEXT DAY, AND I KNOW I WAS THERE AND ANDREW WAS THERE, ANDREW DOTSON. I CAN'T REALLY REMEMBER WHO ALL WAS IN THERE WITH US, EVEN IF THERE WAS ANYBODY. IT HAS BEEN AWHILE.

Q. BUT YOU KNEW YOU AND ANDREW WERE IN THE ROOM?

A. YES.

Q. AT SOME POINT DID YOU LEAVE THE ROOM?

A. NOT THAT I KNOW OF.

Q. AT SOME POINT YOU HAVE TO LEAVE; YOU DIDN'T STAY THERE FOR THE NEXT --

A. OH, YES.

Q. HOW DID THAT COME ABOUT?

A. I GOT A PHONE CALL -- I'M NOT REAL SURE. IT WAS EITHER FROM SHAWN OR JIMMY OR IT WAS FROM THOSE GUYS. THEY TOLD ME TO MEET THEM OUT FRONT OF THE HOTEL, TOLD US TO COME OUT AND MEET THEM.

Q. AT THAT POINT WAS ANDREW STILL WITH YOU IN THE ROOM?

A. YEAH, HE WALKED DOWN AND OUTSIDE WITH ME.

Q. YOU AND ANDREW WALKED OUTSIDE, AND WHO DID YOU MEET?

A. WE MET JIMMY, JAMIE, SHAWN. THEY WERE IN JIMMY'S ESCALADE OUT FRONT, WAITING FOR US TO COME OUT.

Q. SO JIMMY CONWAY --

A. YES.

Q. -- AND HIS ESCALADE, THAT'S AN SUV?

A. YES.

Q. WHO WAS DRIVING?

A. JIMMY.

Q. WHO WAS IN THE FRONT SEAT?

A. I THINK JAMIE WAS.

Q. JAMIE HORTON?

A. YES.

Q. DO YOU RECALL WHERE SHAWN NIGHTINGALE WAS?

A. I THINK HE WAS ALREADY OUT OF THE TRUCK OR SOMETHING, WAITING ON ME TO COME DOWN THERE.

Q. DID YOU SEE ANYBODY ELSE OUTSIDE?

A. NOT THAT I CAN REMEMBER.

Q. DID YOU HAVE ANY CONVERSATION WITH JAMES CONWAY AT THAT TIME?

A. NO.

Q. DID YOU HAVE ANY CONVERSATION WITH JAMIE HORTON AT THAT TIME?

A. NO.

Q. DID YOU HAVE ANY CONVERSATION WITH SHAWN NIGHTINGALE AT THAT TIME?

A. HE JUST SAID WE WAS GOING TO WEST VIRGINIA.

Q. YOU TALKED TO SHAWN?

A. YES.

Q. AND HE TALKED ABOUT GOING TO WEST VIRGINIA?

A. YES.

Q. DID THIS CONVERSATION INCLUDE ANDREW DOTSON?

A. YEAH, HE WAS GOING TO COME WITH US TO GO DOWN AND COLLECT SOME MONEY THAT SHAWN HAD DOWN THERE.

Q. AT SOME POINT THERE WAS TALK ABOUT GOING TO WEST VIRGINIA IN FRONT OF ANDREW?

A. YEAH, WE ASKED, YOU KNOW, IF HE WAS GOING TO GO WITH US TO GO DOWN THERE.

Q. GO AHEAD.

A. HE WAS GOING TO GO WITH US TO GO DOWN TO WEST VIRGINIA.

Q. DID ANDREW VOLUNTEER FOR THIS OR WAS HE ASKED TO GO?

A. WE ASKED HIM TO GO.

Q. AT THIS TIME WHAT WAS YOUR UNDERSTANDING OF WHAT WAS GOING TO HAPPEN IN WEST VIRGINIA?

A. AT THIS TIME WE WERE GOING TO GO DOWN THERE AND GET MONEY. I DIDN'T KNOW WHAT WAS GOING TO -- WHAT WAS SUPPOSED TO BE GOING ON.

Q. DID YOU, IN FACT, GO TO WEST VIRGINIA?

A. YES.

Q. WHO WENT?

A. ME, SHAWN NIGHTINGALE AND ANDREW DOTSON.

Q. AT SOME POINT IS THERE TALK AS TO WHAT WAS GOING TO HAPPEN TO ANDREW DOTSON?

A. SOMETIME THERE WAS. I'M NOT SURE WHEN IT WAS, BUT IT WAS SOMETHING THAT LET ME KNOW WHAT WAS GOING ON, YES, THAT WE WERE GOING DOWN THERE TO KILL ANDREW.

Q. WAS THAT BETWEEN YOU AND SHAWN?

A. YES.

Q. DID YOU HAVE ANY WEAPONS ON YOU?

A. THERE WAS A GUN IN THE JEEP UNDERNEATH THE SEAT.

Q. HOW DID YOU KNOW THAT?

A. SHAWN TOLD ME.

Q. DID HE TELL YOU WHERE HE GOT IT?

A. YEAH, HE SAID JIMMY GAVE IT TO HIM.

Q. WHERE WERE YOU SEATED WHEN YOU WERE DRIVING TO WEST VIRGINIA?

A. I WAS IN THE DRIVER'S SEAT. I WAS DRIVING. SHAWN WAS IN THE PASSENGER SEAT AND ANDREW WAS IN THE BACK SEAT.

Q. WAS ANDREW AWAKE?

A. YES.

Q. IS THERE ANY DISCUSSION AT ALL BETWEEN YOU AND SHAWN ABOUT HOW OR WHERE OR WHAT IS GOING TO BE DONE?

A. NO.

Q. AT SOME POINT YOU STOPPED THE VEHICLE?

A. YEAH, I STOPPED BECAUSE I STARTED CRYING BECAUSE I FELT BAD FOR WHAT WAS GOING ON, AND I WANTED TO LET HIM CALL HIS MOM, AND I DIDN'T WANT ANDREW TO SEE ME CRYING SO

I WENT TO THE REST STOP TO CLEAN MYSELF UP AND CAME BACK OUT AND WE LEFT.

Q. WAS THIS IN WEST VIRGINIA?

A. BEFORE WE GOT TO WEST VIRGINIA.

Q. DID YOU SPEAK TO SHAWN NIGHTINGALE AT THAT TIME ABOUT WHAT WAS GOING ON?

A. HE JUST LOOKED AT ME AND HE SAID THAT HE KNEW HOW I FELT AND THAT WAS IT, AND WE JUST KEPT GOING.

Q. DID YOU, IN FACT, MAKE IT TO WEST VIRGINIA?

A. YES.

Q. AT SOME POINT DID YOU STOP THE VEHICLE IN WEST VIRGINIA?

A. YES, WE STOPPED AT HIS BROTHER'S HOUSE.

Q. WHEN YOU SAY HIS BROTHER, WHO ARE YOU TALKING ABOUT?

A. SHAWN'S BROTHER.

Q. WHAT HAPPENED AT SHAWN'S BROTHER'S HOUSE?

A. SHAWN TALKED TO HIM BUT I DON'T KNOW WHAT THEY TALKED ABOUT. I JUST KNOW THAT WE STOPPED THERE AND KNOW IT WAS HIS BROTHER, AND WE TOOK BACK OFF AND WE LEFT. THAT'S WHEN WE WENT AND WE WERE TRYING TO FIND A SPOT, I GUESS, TO DO THIS, AND WE DROVE UP THE SIDE OF, LIKE, A MOUNTAIN OR SOMETHING, A HILL. THEN WHEN WE GOT UP THERE, WE ALL GOT OUT AND WE TOLD ANDREW WE WERE LOOKING FOR WEED PLANTS.

Q. YOU TOLD ANDREW YOU WERE LOOKING FOR WEED?

A. YES.

Q. WAS THAT TRUE?

A. NO, AND THEN WHILE WE WERE WALKING, IT WAS ME AND SHAWN, YOU KNOW, WE WERE JUST LOOKING AT EACH OTHER, AND WE KNEW WE COULDN'T DO IT, SO WE JUST TOLD ANDREW, COME ONE, LET'S GO COLLECT THIS MONEY THAT WE HAVE TO GET AND GO BACK TO OHIO.

Q. THE THREE OF YOU GOT OUT OF THE VEHICLE?

A. YES.

Q. AND YOU SAID YOU LOOKED AT SHAWN AND SAID, WE COULDN'T DO IT. DID YOU ACTUALLY VERBALIZE THIS? DID YOU SAY IT OUT LOUD?

A. NO, I JUST LOOKED AT HIM AND I SHOOK MY HEAD AND JUST SHRUGGED MY SHOULDERS, AND HE DID, TOO, AND I SAID, LET'S JUST GO.

Q. AT THAT POINT YOU DECIDED NOT TO GO THROUGH WITH IT?

A. YES.

Q. YOU MENTIONED SOMETHING ABOUT GOING TO COLLECT MONEY. WHAT WAS THAT ABOUT?

A. SHAWN HAD TOOK SOME DRUGS DOWN THERE SOMETIME OR SOMETHING, AND A GUY DOWN THERE OWED HIM MONEY.

Q. NOT THE TRIP THAT YOU WERE ON?

A. NO.

Q. DID YOU, IN FACT, GO COLLECT MONEY FROM SOMEONE?

A. YES.

Q. DID YOU COLLECT ANYTHING FROM THAT PERSON?

A. YES, SHAWN HAD PICKED UP SOME PILLS FOR ANDREW BECAUSE ANDREW LIKED TO TAKE PILLS, AND HE PICKED UP A COUPLE OF PILLS FOR ANDREW AND THEN WE LEFT.

Q. WHERE DID YOU GO?

A. WE WERE ON OUR WAY BACK TO OHIO, BACK TO COLUMBUS. WE LEFT AND WAS ON OUR WAY BACK, AND WE CALLED JIMMY, AND I DON'T KNOW WHICH ONE OF US IT WAS, ME OR SHAWN, BUT WE CALLED HIM AND TOLD HIM THAT WE COULDN'T DO IT, AND HE TOLD US TO MEET HIM IN COLUMBUS, SO WE DID.

Q. YOU STATED THIS IN FRONT OF ANDREW?

A. I THINK HE WAS PASSED OUT AT THE TIME BECAUSE HE STARTED TAKING THE PILLS BEFORE WE EVEN LEFT THE GUY'S -- YOU KNOW WHAT I MEAN, ON THE WAY OUT OF THE DRIVEWAY HE ALREADY STARTED TAKING THESE PILLS.

Q. WHAT KIND OF PILLS ARE WE TALKING ABOUT? DO YOU KNOW WHAT KIND OF DRUGS THEY WERE?

A. I KNOW THAT ONE WAS, LIKE, NOT JUST ONE PILL BUT ONE KIND OF THEM WAS SOMAS, AND THE OTHER ONES WERE, I THINK PURPLE FOOTBALLS OR SOMETHING LIKE THAT.

Q. YOU BELIEVE ONE WAS SOMA, ONE KIND WAS WHAT?

A. WHAT PEOPLE CALL --

Q. PURPLE FOOTBALL?

A. YES.

Q. DID YOU SEE HOW MANY PILLS ANDREW TOOK?

A. I'M NOT SURE EXACTLY, BUT HE TOOK QUITE A FEW. HE TOOK A COUPLE.

Q. WHAT LED YOU TO BELIEVE THAT HE WAS UNCONSCIOUS?

A. HE FELL ASLEEP IN THE BACK SEAT.

Q. YOU INDICATED THAT YOU OR SHAWN HAD A CONVERSATION WITH JIMMY CONWAY?

A. YES, ON THE CELL PHONE.

Q. DO YOU KNOW WHICH ONE OF YOU HAD THE CONVERSATION?

A. I'M NOT EVEN REALLY SURE. I JUST KNOW THAT ONE OF US CALLED HIM TO LET HIM KNOW THAT WE COULDN'T DO IT.

Q. YOU SPECIFICALLY TOLD HIM YOU COULDN'T KILL ANDREW?

A. YEAH, WE TOLD HIM WE JUST -- IT CAN'T HAPPEN. WE CAN'T DO IT BECAUSE WE TALKED TO ANDREW BEFORE HE PASSED OUT AND ASKED HIM, YOU KNOW, WOULD YOU EVER TELL ON JIMMY FOR HIM SHOOTING THAT GUY? AND HE SAID, NO. HE SAID HE WASN'T LIKE THAT; HE WOULDN'T DO THAT.

Q. LET'S BACK UP. THIS CONVERSATION THAT YOU ARE TALKING ABOUT NOW WITH ANDREW, WHERE YOU ASKED WOULD HE EVER TELL ON JIMMY, WHEN DID THAT TAKE PLACE?

A. HE STARTED TAKING THE PILLS AND WE ARE ASKING HIM WHILE WE ARE DRIVING AND, YOU KNOW, WHAT I MEAN, THE PILLS

TOOK A LITTLE BIT TO KICK IN BEFORE IT KNOCKED HIM OUT, BUT WE ASKED HIM THAT WHILE WE WERE ON THE ROAD STILL; AND ON THE WAY BACK, AND HE JUST SAID, NO, THAT HE WOULDN'T.

Q. THIS WAS PRIOR TO HIM PASSING OUT?

A. YES.

Q. YOU OR SHAWN RELAYED THIS TO JIMMY?

A. YES.

Q. WHEN DID THAT CONVERSATION TAKE PLACE?

A. I AM THINKING. IT WAS SOMEWHERE AROUND TWO OR THREE HOURS BEFORE WE GOT BACK TO OHIO OR COLUMBUS. IT WAS WHILE ANDREW WAS PASSED OUT. HE DIDN'T HEAR.

Q. WAS A MEETING POINT ARRANGED BETWEEN YOU AND MR. CONWAY?

A. WE WERE SUPPOSED TO MEET HIM ON 3C HIGHWAY WHERE THE SHOPPING CENTER IS, THERE BY KROGERS.

Q. DID THAT HAPPEN?

A. YES.

Q. YOU WERE STILL DRIVING AT THIS POINT?

A. YES.

Q. DO YOU HAVE ANY IDEA WHAT TIME WE ARE TALKING ABOUT? IS IT DAY TIME OR NIGHT TIME?

A. NIGHT TIME. I'M NOT REAL SURE WHAT TIME IT WAS.

Q. YOU PULLED IN THIS PARKING LOT?

A. YES.

Q. DID YOU GET OUT OF THE CAR?

A. I DIDN'T GET OUT. SHAWN DID.

Q. WHERE DID SHAWN GO?

A. HE WALKED AROUND THE JEEP TO TALK TO JIMMY.

Q. THE JEEP IS THE CAR YOU ARE IN?

A. YES.

Q. JIMMY WAS IN SOMETHING ELSE?

A. HE WAS IN HIS DAD'S WHITE DODGE PICKUP.

Q. DID JIMMY STAY IN THE CAR OR GET OUT OF THE CAR?

A. HE STAYED IN THE CAR.

Q. WAS THERE ANYBODY ELSE IN JIMMY'S PICKUP TRUCK?

A. YES, JAMIE HORTON.

Q. WHERE WAS JAMIE HORTON SEATED?

A. HE WAS IN THE PASSENGER SIDE.

Q. WAS THERE A CONVERSATION AT 3C ABOUT ANYTHING?

A. I DON'T KNOW, REALLY, WHAT THEY WERE TALKING ABOUT. JIMMY, YOU KNOW, JUST TOLD US TO FOLLOW HIM TO WHERE WE WERE GOING TO THIS FIELD.

Q. WAS THERE ANY MORE CONVERSATION ABOUT YOU GUYS NOT BEING ABLE TO DO IT AT THE 3C PARKING LOT?

A. THERE WAS -- AT SOME TIME JIMMY TOLD US TO STOP BEING BITCHES AND JUST DO IT, GET IT DONE. I'M NOT SURE IF THAT'S WHEN IT WAS SAID THERE OR NOT, BUT HE TOLD US TO STOP BEING BITCHES AND DO IT.

Q. WHAT WAS YOUR RESPONSE TO THAT?

A. JUST GO ON AND JUST MEET HIM, GO TO WHERE WE HAD

TO GO.

Q. HE TOLD YOU TO FOLLOW HIM?

A. YES.

Q. AND DID YOU, IN FACT, FOLLOW HIM?

A. YES.

Q. YOU WERE STILL DRIVING?

A. YES.

Q. DID SHAWN GET BACK IN THE CAR?

A. YEAH, HE GOT BACK IN THE JEEP WITH ME.

Q. WHO WAS DRIVING JIMMY'S CAR?

A. JIMMY.

Q. IS THERE SOMEONE STILL IN JIMMY'S CAR?

A. YES, JAMIE.

Q. ANYBODY ELSE?

A. NO.

Q. WHERE DID THEY GO?

A. I AM NOT FAMILIAR WITH ALL OF THE ROADS ON THE WEST SIDE, BUT WE WENT TO SOME FIELD, SOME CORNFIELD. WE PULLED OFF IN SOME CLEARING. I DON'T KNOW, GALLOWAY ROAD, I GUESS IT IS. I DON'T KNOW MY WAY AROUND THERE. I JUST FOLLOWED JIMMY.

Q. AT SOME POINT DID JIMMY STOP HIS PICKUP TRUCK?

A. YEAH, WHEN HE PULLED OFF THE ROAD INTO THE CLEARING WHERE THERE IS A CLEARING IN THE CORN, AND WE PULLED OVER RIGHT THERE.

Q. WHERE DID YOU PARK YOU CAR IN RELATIONSHIP TO THE PICKUP TRUCK?

A. WE PARKED BEHIND HIM. HE PULLED IN FIRST AND WE PARKED IN BEHIND HIM.

Q. DID YOU GET OUT OF THE CAR?

A. YES, WE ALL GOT OUT OF THE CAR AND WE WERE STANDING BESIDE THE JEEP, AND JIMMY TOLD ME TO GET HIM OUT OF THE CAR, SO I PULLED HIM OUT OF THE CAR, AND JIMMY TOLD ME TO JUST CHOKE HIM, DO IT LIKE THAT.

Q. NOW, LET'S BE CLEAR. YOU SAID YOU WERE ALL OUTSIDE OF THE CAR. WHERE WERE YOU STANDING IN RELATION TO THE JEEP?

A. WE WERE STANDING ON THE DRIVER'S SIDE OF THE JEEP, JUST TWO OR THREE FEET AWAY FROM THE JEEP, STANDING THERE BESIDE IT.

Q. WHO WAS NEXT TO YOU?

A. I AM NOT -- I JUST KNOW WE WERE ALL STANDING IN KIND OF A CIRCLE.

Q. WHEN YOU SAY ALL, WHO WERE THE PEOPLE THERE?

A. ME, SHAWN NIGHTINGALE, JAMIE HORTON AND JIMMY CONWAY.

Q. AND JIMMY TOLD YOU TO GET HIM OUT OF THE CAR AND CHOKE HIM?

A. YES.

Q. WHAT DID YOU DO?

A. I GOT HIM OUT OF THE CAR AND I JUST HAD HIM AROUND HIS NECK, AND IT WAS LIKE I JUST -- I QUIT AND WHEN I LET HIM DOWN, HE WAS STILL BREATHING. HE WAS NEVER CONSCIOUS DURING NONE OF THIS BECAUSE OF THE PILLS. HE WAS STILL BREATHING, AND THEN I DON'T KNOW HOW IT WAS SAID TO DO, BUT HE TOLD ME TO STEP ON HIS THROAT, YOU KNOW WHAT I MEAN, BUT I NEVER STEPPED ON IT -- PUT MY FOOT UP AND ONE FOOT ON THE GROUND AND ONE ON THE JEEP SO I WASN'T PUTTING ANY PRESSURE, AND THEN I JUST -- I TOLD HIM, I CAN'T DO IT, AND HE WAS STILL ALIVE AND EVERYTHING, AND ME AND JAMIE PULLED HIM BACK TO THE CORN.

Q. I'M GOING TO SLOW YOU DOWN THERE AND LET'S GO A LITTLE BIT MORE IN DETAIL.

YOU GOT HIM OUT OF THE CAR, AND ANDREW IS STILL UNCONSCIOUS?

A. YES.

Q. YOU INDICATED YOU PUT -- YOU MADE A MOTION WITH YOUR ELBOW THAT HIS HEAD WAS IN THERE, IS THAT CORRECT?

A. YES, LIKE KIND OF A HEADLOCK.

Q. DID YOU, IN FACT, CHOKE HIM?

A. I DIDN'T PUT A WHOLE LOT OF PRESSURE ON IT TO TRY TO HURT HIM. I JUST HAD HIM LIKE THAT AND JUST FOR THE LOOKS OF IT, JUST SO THAT JIMMY COULD, YOU KNOW, SAY OKAY.

Q. HOW LONG DID YOU HAVE HIM IN THIS HEADLOCK?

A. I DON'T THINK IT WAS VERY LONG. I THINK IT WAS

JUST -- MY HEAD WAS CRAZY AT THE TIME BECAUSE OF WHAT WAS GOING ON, SO I AM NOT REAL SURE.

Q. YOU INDICATED YOU PUT HIM ON THE GROUND?

A. YEAH, I LAID HIM DOWN.

Q. HE IS STILL ALIVE?

A. YES.

Q. DID YOU HEAR HIM BREATHING?

A. YES.

Q. SO THERE WAS A DISCUSSION ABOUT STEPPING ON HIS NECK?

A. YES.

Q. ALL FOUR OF YOU ARE STILL RIGHT IN THAT SAME AREA?

A. YES.

Q. INCLUDING JAMIE HORTON?

A. YES.

Q. DID JAMIE SAY ANYTHING AT THAT TIME?

A. NO, NOT THAT I CAN REMEMBER.

Q. DID SHAWN SAY ANYTHING AT THAT TIME?

A. NO, WE WERE ALL PRETTY MUCH JUST STANDING THERE, JUST LOOKING AT EACH OTHER.

Q. AFTER A DISCUSSION OF STEPPING ON HIS NECK, YOU INDICATED THAT YOU DID THAT?

A. YES.

Q. EXPLAIN FOR US WHAT YOU DID.

A. I PUT ONE FOOT UP ON HIS NECK AND THE OTHER ONE I KEPT ON THE GROUND, AND I LEANED AGAINST THE JEEP WITH ONE HAND AND WAS LEANING ON MY WEIGHT OF MY OTHER FOOT, AND I STOOD THERE FOR A COUPLE OF MINUTES OR SHORTER; I DON'T KNOW, AND THEN WE HEARD HIM BREATHING AND EVERYTHING AND I SAID I COULDN'T DO IT.

Q. YOU SAID THAT PHRASE A COUPLE OF MINUTES AGO. WAS THAT HOW LONG IT WAS OR DO YOU KNOW?

A. I AM NOT SURE. IT FELT LONGER BECAUSE OF WHAT WAS GOING ON. I KNOW THAT IT COULDN'T HAVE BEEN A COUPLE OF MINUTES.

Q. WERE YOU ACTUALLY PUTTING ALL YOUR WEIGHT ON HIS NECK?

A. NO.

Q. AFTER YOU TOOK YOUR FOOT OFF HIS NECK, YOU INDICATED HE WAS STILL BREATHING?

A. YES.

Q. THEN YOU SAID, I CAN'T DO IT?

A. YES.

Q. DID ANYONE RESPOND AFTER YOU SAID YOU COULDN'T DO IT?

A. JIMMY SAID SOMETHING ABOUT SHOOTING HIM, AND ONE OF US, I DON'T REMEMBER WHICH ONE IT WAS, SAID THAT THAT WOULD BE TOO LOUD.

Q. SO THERE WAS DISCUSSION OF SHOOTING AND SOMEONE

SAID, IT'S TOO LOUD?

A. YEAH, IT IS TOO LOUD.

Q. DID JAMIE SAY ANYTHING AT THIS TIME, JAMIE HORTON?

A. I DON'T THINK SO.

Q. YOU INDICATED THAT YOU AND JAMIE DRAGGED THE BODY?

A. YES.

Q. DID ANYONE TELL YOU TO DRAG THE BODY?

A. WE JUST DID IT. I DON'T KNOW.

Q. DO YOU REMEMBER IF YOU HAD THE FEET AND/OR THE HEAD END OF THE BODY?

A. I HAD HIS HANDS.

Q. AND JAMIE HORTON HAD HIM BY THE FEET?

A. YES.

Q. WHERE DID YOU DRAG THE BODY?

A. STRAIGHT BACK IN FRONT OF THE VEHICLE, BACK INTO THE CORN.

Q. BACK INTO THE CORN?

A. YES.

Q. HOW FAR FROM THE VEHICLES WOULD YOU SAY THAT YOU AND JAMIE HORTON DRAGGED THE BODY?

A. IT WASN'T REAL FAR, MAYBE 15, 20 YARDS. IT WASN'T REAL FAR.

Q. WHAT DID YOU DO AFTER YOU GOT BACK TO THE

CORNFIELD?

A. AFTER WE GOT BACK THERE, I CAME BACK, AND THAT IS WHEN JAMIE AND SHAWN TOOK HIS CLOTHES OFF OF HIM.

Q. YOU SAID YOU CAME BACK. WHERE DID YOU GO?

A. I CAME BACK AND STOOD BY THE CARS, BY THE JEEP.

Q. WHO WAS THERE AT THAT TIME?

A. THAT IS WHEN JIMMY WAS STANDING THERE BY THE TRUCK, AND JAMIE AND SHAWN HAD ALREADY BEEN BACK THERE, BUT SHAWN WENT BACK THERE, AND THEY TOOK HIS CLOTHES OFF OF HIM AND PUT THEM IN A BAG, A PLASTIC BAG.

Q. WHEN YOU SAY YOU CAME BACK TO THE JEEP AND JIMMY CONWAY WAS STILL STANDING THERE, WHERE WAS JAMIE HORTON AT THAT TIME?

A. HE WAS STILL BACK WITH THE BODY.

Q. HE WAS STILL BACK BY THE BODY? WHERE WAS SHAWN NIGHTINGALE?

A. HE WAS BACK THERE WITH HIM.

Q. YOU INDICATED THEY TOOK THE CLOTHES OFF OF THE BODY. WHO ARE YOU TALKING ABOUT?

A. JAMIE AND SHAWN.

Q. HOW DO YOU KNOW THEY TOOK THE CLOTHES OFF OF ANDREW?

A. BECAUSE THEY PUT THEM IN A BAG AND BROUGHT IT BACK OUT OF THE CORN, BACK OUT TO THE TRUCK OR THE JEEP.

Q. WHO CAME BACK WITH THE CLOTHES?

A. I AM PRETTY SURE JAMIE CAME BACK WITH THE CLOTHES AND SET THEM IN THE BACK OF THE JEEP.

Q. WHAT KIND OF BAG ARE WE TALKING ABOUT?

A. IT WAS JUST A CLEAR PLASTIC BAG, ALMOST LIKE A TRASH BAG OR SOMETHING, BUT IT WAS A CLEAR BAG.

Q. CLEAR THAT YOU COULD SEE CLOTHES IN IT?

A. YES.

Q. DID JAMIE SAY ANYTHING AT THIS TIME?

A. NOT THAT I CAN REMEMBER.

Q. DID SHAWN SAY ANYTHING AT THIS TIME?

A. NO.

Q. WHAT ABOUT JIMMY CONWAY?

A. I DON'T REMEMBER HIM SAYING ANYTHING. HE GOT THE PICK OUT OF THE BACK OF THE TRUCK AND WENT BACK INTO THE CORN TO FINISH -- MAKE SURE THE JOB WAS DONE.

Q. YOU MENTIONED A PICK. WHAT KIND OF A PICK ARE WE TALKING ABOUT?

A. IT IS A PICK THAT YOU WOULD PICK UP DIRT WITH, TEAR UP THE GROUND WITH. I DON'T KNOW HOW TO EXPLAIN IT, A CONSTRUCTION TOOL.

Q. HOW BIG IS IT, ROUGHLY?

A. MAYBE TWO FEET LONG, THE METAL PART OF IT, AND THE WOODEN HANDLE WOULD BE PROBABLY THREE FEET OR FOUR FEET LONG.

Q. CAN YOU DESCRIBE THE END OF IT? IS IT SHARP; IS

IT BLUNT; WHAT IS IT?

A. ONE SIDE COMES DOWN TO A POINT AND THE OTHER SIDE COMES DOWN FLAT, AND IT WIDENS OUT WHEN IT'S FLATTENED.

Q. YOU INDICATED THAT JIMMY CONWAY GOT THIS OUT OF THE TRUCK. WHAT TRUCK ARE YOU REFERRING TO?

A. HIS DAD'S DODGE.

Q. WHERE IN THE TRUCK DID HE GET IT OUT OF?

A. OUT OF THE BACK OF THE TRUCK.

Q. YOU SAW HIM DO THIS?

A. YES.

Q. WHERE WAS JAMIE HORTON WHEN JIMMY GOT THE PICK OUT OF THE TRUCK?

A. WE WERE STILL STANDING BY THE JEEP, AND WE SAW JIMMY GO BACK INTO THE CORN.

Q. WAS ANYTHING SAID AT THIS TIME?

A. WE WERE JUST ALL STANDING THERE, JUST WATCHING WHAT IS GOING ON.

Q. WHERE WAS SHAWN?

A. HE WAS ALSO STANDING BY ME, RIGHT THERE BESIDE THE JEEP ON THE DRIVER'S SIDE STILL.

Q. AND THE BAG OF CLOTHES HAS ALREADY BEEN BROUGHT BACK TO THE JEEP?

A. THEY ARE EITHER -- I AM PRETTY SURE THEY WERE PUT IN THE JEEP, BUT THEY COULD HAVE BEEN ON THE GROUND FIRST; AND THEN WHEN JIMMY DID WHAT HE DID, HE CAME BACK AND TOOK

THE METAL END OFF AND PUT IT IN THE BACK.

Q. LET'S DISCUSS WHAT JIMMY DID. WHAT DID YOU SEE JIMMY DO?

A. I JUST SEEN HIM GET THE PICK OUT OF THE BACK OF THE TRUCK, AND HE WALKED BACK TO THE WOODS OR IN THE CORN, AND WE HEARD TWO THUDS, AND THAT IS ALL WE HEARD, AND THEN HE CAME BACK OUT AND HE STUCK IT IN THE GROUND TO GET THE BLOOD OFF OF IT, AND THEN HE KNOCKED THE METAL PART OFF THE TOP BECAUSE IT SLIDES DOWN, AND THAT IS WHEN HE PUT IT IN THE BAG.

Q. YOU INDICATED HE PUT IT IN THE DIRT TO GET THE BLOOD OFF OF IT. COULD YOU SEE BLOOD ON IT?

A. THERE WAS LITTLE SPECKS OF IT STILL.

Q. WHEN YOU SAY HE PUT IT INTO THE DIRT, EXPLAIN WHAT YOU MEAN BY THAT.

A. HE STUCK THE PART THAT HE HIT ANDREW WITH, I GUESS, INTO THE DIRT TO WIPE SOME OF THE BLOOD OFF AND CLEAN IT OFF A LITTLE BIT OR HIDE IT.

Q. HE DIDN'T DIG UP THE GROUND, THOUGH, DID HE?

A. NO.

Q. AT SOME POINT WAS THERE A DISCUSSION ABOUT BURYING ANDREW?

A. YEAH, THERE WAS A DISCUSSION ABOUT BURYING ANDREW, AND I TOLD THEM THAT YOU COULDN'T JUST PUT A HOLE IN THE MIDDLE OF THIS GUY'S FIELD; HE WILL NOTICE. SO WE

DIDN'T DO THAT.

Q. WHO WAS TALKING ABOUT BURYING ANDREW?

A. JIMMY.

Q. WAS JAMIE PRESENT DURING THAT CONVERSATION?

A. YES.

Q. SHAWN?

A. YES.

Q. YOU INDICATED HE KNOCKED THE TOP OFF. CAN YOU EXPLAIN WHAT YOU MEAN BY THAT?

A. THE WAY THAT THE HANDLE WAS SHAPED, IT STARTS OFF AT A CERTAIN SIZE AT THE BOTTOM AND GETS BIGGER AS IT GOES TO THE TOP. SO WHENEVER YOU SWING THE PICK, IT TIGHTENS UP INSTEAD OF GETTING LOOSER, AND THEN IF YOU WANT IT OFF, YOU JUST TURN IT OVER AND HIT IT, LIKE HIT IT ON THE GROUND, AND IT WILL SLIDE OFF THE BOTTOM OF THE HANDLE.

Q. YOU INDICATED HE PUT SOMETHING ELSE IN THE BAG. WHAT ARE YOU TALKING ABOUT?

A. HE PUT THE METAL PART OF THE PICK IN THE BAG.

Q. AFTER JIMMY CONWAY PUT THE METAL PART OF THE PICK IN THE BAG, WHAT WAS DONE WITH THE BAG?

A. IT WAS PUT IN THE BACK OF THE JEEP.

Q. WHO PUT IT IN THE BACK OF THE JEEP?

A. I AM PRETTY SURE THAT JAMIE DID.

Q. JAMIE HORTON?

A. YES.

Q. AND THE JEEP IS THE CAR YOU WERE RIDING IN?

A. YES.

Q. DID YOU SEE JAMIE HORTON DO ANYTHING ELSE WHILE YOU WERE STILL --

A. YES, HE GOT THE BAG OF LIME OUT OF THE BACK OF THE TRUCK -- OUT OF THE BACK OF THE JEEP AND TOOK IT BACK TO THE FIELD WHERE ANDREW WAS, AND HE COME BACK OUT WITH AN EMPTY BAG, AND I TOLD SHAWN, LET'S GO; I WANT TO GET OUT OF THERE, AND THAT IS WHEN ME AND SHAWN GOT IN THE CAR AND LEFT.

Q. YOU TALKED ABOUT A BAG OF LIME?

A. YES.

Q. DESCRIBE THIS FOR US. WHAT ARE WE TALKING ABOUT?

A. IT IS A BAG ABOUT THE SIZE OF A BAG OF MULCH, MAYBE A LITTLE SMALLER. IT WAS A WHITE BAG.

Q. WHERE WAS THIS BAG OF LIME?

A. IN THE BACK OF THE JEEP, IN THE VERY BACK OF THE JEEP.

Q. IN THE BACK OF THE JEEP THAT YOU WERE RIDING IN?

A. YES.

Q. WHO WENT AND GOT IT?

A. THAT NIGHT AS FAR AS TO TAKE IT BACK THERE?

Q. YES.

A. JAMIE DID.

Q. WHERE WAS SHAWN WHEN JAMIE HORTON HAD THE BAG OF

LIME?

A. HE WAS STANDING BY THE JEEP BY ME.

Q. AND YOU HAD A CONVERSATION WITH HIM AT THAT TIME?

A. YEAH, I TOLD HIM, LET'S GO. I WAS READY TO LEAVE. I WANTED TO GET OUT OF THERE, AND HE WAS WITH ME, SO HE GOT IN THE CAR AND WE LEFT.

Q. DID YOU HEAR ANYONE AT ANY TIME TELL JAMIE HORTON TO GET ANY LIME?

A. NO.

Q. DID YOU TELL JAMIE HORTON THERE WAS LIME IN THE BACK OF THE JEEP?

A. DID I TELL HIM? NO.

Q. DID YOU HEAR ANYBODY TELL HIM THAT?

A. NO.

Q. WAS THERE ANY DISCUSSION ABOUT THE BAG OF LIME PRIOR TO JAMIE GETTING IT OUT OF THE JEEP?

A. NOT THAT I CAN REMEMBER.

Q. DO YOU KNOW HOW THE BAG OF LIME GOT INTO THE JEEP?

A. THE ONLY THING I CAN THINK OF IS THE NIGHT OF --

MR. MCGOWAN: OBJECTION.

THE COURT: SUSTAINED.

Q. (BY MR. LOWE) DO YOU HAVE ANY KNOWLEDGE OF HOW IT GOT IN THE BACK OF THE JEEP?

A. LIKE I SAID, THE ONLY WAY I CAN THINK IT WOULD

BE --

MR. MCGOWAN: OBJECTION.

THE COURT: SUSTAINED.

Q. (BY MR. LOWE) NOT WHAT YOU CAN THINK OF, BUT DID YOU HAVE KNOWLEDGE FROM TALKING TO PEOPLE HOW IT GOT THERE?

A. SHAWN AND JIMMY WENT TO THE STORE, AT LOWE'S --

MR. MCGOWAN: OBJECTION.

THE COURT: SUSTAINED.

Q. (BY MR. LOWE) WHAT WAS YOUR UNDERSTANDING ABOUT THE BAG OF LIME? WAS IT PART OF YOUR PLAN?

A. YES, I GUESS WE WERE SUPPOSED TO POUR IT ON ANDREW WHILE WE WERE IN WEST VIRGINIA, BUT IT WAS NEVER DONE.

Q. IT WAS NEVER DONE BECAUSE YOU BROUGHT ANDREW BACK TO OHIO?

A. YES.

Q. AFTER JAMIE HORTON CAME BACK WITH THE EMPTY BAG OF LIME, WHAT DID HE DO WITH THAT?

A. HE PUT IT IN THE BACK OF JIMMY'S TRUCK, HIS DAD'S WHITE TRUCK.

Q. IS THAT THE SAME PLACE WHERE THE PICK HANDLE WAS?

A. YES.

Q. WAS THERE ANY DISCUSSION THEN BEFORE LEAVING?

A. NO, WE JUST -- LIKE I SAID, I WANTED TO HURRY UP AND GET OUT OF THERE, SO ME AND SHAWN LEFT FIRST; AND WHEN

WE LEFT, WE WENT THE WRONG WAY AND GOT LOST FIRST, AND JAMIE AND JIMMY GOT IN THEIR TRUCK AND WENT THE OTHER WAY, AND THEN WE MET AT JIMMY'S HOUSE.

Q. WHEN WAS IT DISCUSSED TO MEET AT JIMMY'S HOUSE?

A. I AM NOT EVEN -- YOU KNOW, SHAWN HAD TALKED TO JIMMY OR SOMETHING, BUT SHAWN TOLD ME TO GO -- WE WERE GOING TO JIMMY'S HOUSE.

Q. SHAWN TOLD YOU TO GO TO JIMMY'S HOUSE?

A. YES.

Q. DID YOU DO THAT?

A. YES.

Q. DID YOU MEET UP WITH JIMMY CONWAY AT HIS HOUSE?

A. YES.

Q. WHO ELSE WAS AT HIS HOUSE?

A. IT WAS ME, JAMIE HORTON, SHAWN NIGHTINGALE AND JIMMY.

Q. WHAT WAS DONE AT JIMMY CONWAY'S HOUSE?

A. HE LEFT HIS DAD'S TRUCK THERE, AND WE ALL GOT INTO THE JEEP, AND THEY SAID THAT WE WERE GOING TO REODD'S BAR TO GET DRUNK.

Q. LET'S BE CLEAR. YOU SAID YOU ALL GOT INTO THE TRUCK. WHO GOT INTO THE --

A. INTO THE JEEP.

Q. WHO GOT INTO THE JEEP?

A. IT WAS ME AND SHAWN, JAMIE AND JIMMY.

Q. AND YOU GOT IN THE JEEP AND WHERE DID YOU GO?

A. THEY WANTED TO GO GET DRUNK, AND I TOLD THEM I DON'T WANT TO GO GET DRUNK BECAUSE OF WHAT HAPPENED, DROP ME OFF AT MY COUSIN'S HOUSE.

Q. WAS THERE A DISCUSSION AS TO WHERE THEY WERE GOING TO GET DRUNK?

A. AT REODD'S BAR.

Q. REODD?

A. YEAH.

Q. WHO IS REODD?

A. THE ONLY THING I KNOW IS HE HAD A BAR THAT WE USED TO GO TO, AND THAT IS THE ONLY THING I KNEW HIM BY.

Q. WAS THERE A DISCUSSION AMONG THE FOUR OF YOU AS TO WHY YOU WERE GOING TO REODD'S BAR?

A. FOR AN ALIBI, SO WE HAD AN ALIBI OF WHERE WE WERE THAT NIGHT.

Q. DID YOU, IN FACT, GO TO REODD'S BAR?

A. NO.

Q. WHY NOT?

A. BECAUSE A MURDER JUST HAPPENED, AND I DIDN'T WANT TO BE AROUND IT NO MORE. YOU KNOW, I COULDN'T SEE GOING TO GET DRUNK AFTER SOMETHING LIKE THAT JUST HAPPENED.

Q. WHAT DID YOU DO IN RESPONSE TO NOT WANTING TO GO TO REODD'S BAR?

A. I HAD HIM DROP ME OFF AT MY COUSIN'S HOUSE, AND

WHEN THEY DROPPED ME OFF, THEY TOLD ME TO GET RID OF THE EVIDENCE BECAUSE IT WAS STILL IN THE BACK OF THE JEEP, ANDREW'S CLOTHES AND THE PICK, AND THEY DROPPED ME OFF, AND I THREW IT IN THE TRASH CAN UP BEHIND MY COUSIN'S HOUSE. THAT'S WHAT I DID WITH IT, AND THEY LEFT.

Q. WHAT IS YOUR COUSIN'S NAME?

A. SCOTT JOHNSON.

Q. YOU ASKED THEM TO DROP YOU OFF THERE?

A. YES.

Q. WERE YOU DRIVING AT THIS TIME?

A. NO.

Q. WHO WAS DRIVING?

A. JIMMY.

Q. WHERE WAS JAMIE HORTON IN THE CAR?

A. I THINK HE WAS IN THE PASSENGER SEAT.

Q. DID YOU GET DROPPED OFF AT YOUR COUSIN'S HOUSE? DO YOU HAVE ANY IDEA WHAT TIME THIS IS?

A. IT IS STARTING TO BE LATE INTO THE NIGHT.

Q. AND YOU GET OUT OF THE JEEP AND YOU ARE TOLD TO TAKE THE EVIDENCE WITH YOU?

A. YES.

Q. AND GET RID OF IT?

A. YES.

Q. WERE YOU SPECIFICALLY TOLD WHAT TO DO WITH IT?

A. NO, JUST GET RID OF IT.

Q. AND THE EVIDENCE WE ARE TALKING ABOUT, IS THIS THE CLEAR BAG?

A. YES.

Q. WITH WHAT IN IT?

A. IT HAD ANDREW'S CLOTHES, HIS SHOES, THE METAL PART OF THE PICK IN IT.

Q. WHAT DID YOU, IN FACT, DO WITH IT?

A. I THREW IT IN A TRASH CAN. MY COUSIN HAS TRASH CANS SITTING OUT BEHIND HIS HOUSE OR OUT BEHIND HIS GARAGE THAT THEY COME PICK UP, AND I PUT IT IN THERE.

Q. WHAT DID YOU DO AFTER THAT?

A. I WENT UP AND KNOCKED ON MY COUSIN'S DOOR AND WOKE HIM UP, AND HE LET ME COME IN. I TOLD HIM I WANTED TO STAY THE NIGHT, AND HE SAID OKAY.

Q. DID YOU, IN FACT, STAY THE NIGHT?

A. YES.

Q. DID YOU SEE WHERE JIMMY CONWAY, JAMIE HORTON AND SHAWN NIGHTINGALE WENT?

A. THEY JUST LEFT. I DON'T KNOW.

Q. AFTER YOU SPENT THE NIGHT, WHEN IS THE NEXT TIME YOU HAD CONTACT WITH EITHER JIMMY CONWAY, JAMIE HORTON OR SHAWN NIGHTINGALE?

A. THE NEXT MORNING.

Q. HOW DID THAT CONTACT OCCUR?

A. ONE OF THEM CALLED ME ON MY CELL PHONE; I AM NOT

REAL SURE WHICH ONE IT WAS, AND TOLD ME TO MEET THEM OUT FRONT; THEY WERE COMING TO PICK ME UP.

Q. WAS THIS IN THE MORNING?

A. YES.

Q. DID YOU, IN FACT, GO OUT FRONT AND MEET THEM?

A. YES.

Q. WHOSE CAR WERE THEY IN?

A. THEY WERE IN JIMMY'S ESCALADE.

Q. JIMMY'S ESCALADE?

A. YES.

Q. WHO WAS IN THE CAR?

A. IT WAS JAMIE, JIMMY AND SHAWN.

Q. JAMIE HORTON, JIMMY CONWAY AND SHAWN NIGHTINGALE?

A. YES.

Q. DID YOU GET IN THE CAR?

A. YES.

Q. WAS THERE SOME DISCUSSION AS TO WHAT YOU WERE DOING?

A. WE HAD TO GO BUY ME SOME MORE CLOTHES BECAUSE I STILL HAD THE SAME CLOTHES ON THAT I HAD ON LAST NIGHT -- WELL, THE NIGHT THAT THAT HAPPENED, AND THAT HE HAD TO STOP BY THE STORE TO BUY SOME STUFF FOR HIS DAD, SOME SCREWS OR SOMETHING FOR SOME DRYWALL.

Q. THE FOUR OF YOU WERE IN THE ESCALADE?

A. YES.

Q. IT IS THE MORNING AFTER THE MURDER?

A. YES.

Q. YOU ARE STILL IN THE SAME CLOTHES YOU WERE IN THE NIGHT BEFORE DURING THE HOMICIDE?

A. YES.

Q. WHERE DID YOU GO?

A. WE WENT TO GREAT SOUTHERN FIRST, AND JIMMY BOUGHT WHATEVER HE HAD TO BUY FOR HIS DAD, AND HE BOUGHT TWO MORE SHOVELS, I THINK IT WAS TWO OF THEM, AND THEY WERE SPADE SHOVELS. HE TOLD ME THAT WAS FOR THE NEXT TIME, AND HE JUST LAUGHED.

Q. WHAT KIND OF SHOVELS WERE THESE?

A. SPADE SHOVELS.

Q. SPADE SHOVELS?

A. YES.

Q. JIMMY TOLD YOU IT WAS FOR THE NEXT TIME?

A. YES.

Q. DID JAMIE HORTON HAVE A RESPONSE TO THAT?

A. HE JUST LAUGHED ABOUT IT, TOO.

Q. DID YOU ALSO BUY CLOTHES?

A. YEAH, AFTER WE LEFT THERE, WE WENT TO THE WESTLAND MALL AND BOUGHT ME SOME CLOTHES AND SOME SHOES, AND I CHANGED IN THE ESCALADE AND JUST LEFT ALL MY CLOTHES AND SHOES IN THE BAG.

Q. YOU PHYSICALLY CHANGED YOUR CLOTHES IN THE

ESCALADE?

A. YES.

Q. WAS JAMIE HORTON PRESENT?

A. YES.

Q. SHAWN NIGHTINGALE?

A. YES.

Q. JIMMY CONWAY?

A. YES.

Q. AND YOU PUT THEM IN A BAG. WHAT KIND OF BAG?

A. IT WAS JUST A BAG THAT I BOUGHT MY CLOTHES IN AT THE MALL THAT I PUT THE CLOTHES IN. IT WAS JUST A PLASTIC BAG.

Q. WHAT ABOUT YOUR SHOES?

A. THEY WERE ALSO IN THE BAG. THE BOX THAT I JUST GOT MY NEW SHOES IN, I PUT THEM IN THAT BOX AND I PUT THEM IN THE BAG.

Q. WAS THERE SOME DISCUSSION ABOUT YOUR SHOES?

A. HE TOLD ME HE WAS GOING TO BURN MY CLOTHES TO GET RID OF THE EVIDENCE OR WHATEVER, AND THAT IS WHEN WE WENT BACK TO HIS HOUSE, AND I ASKED HIM -- WE WERE TALKING ABOUT IT, AND HE SAID HE BURNED HIS LAST NIGHT. I ASKED HIM -- I SAID, EVEN YOUR TENNIS SHOES? AND HE SAID, YES. HE SAID IT ALL BURNS UP, SO THEY WERE GOING TO BURN IT ALL.

Q. WHOSE HOUSE WERE YOU TALKING ABOUT?

A. JIMMY CONWAY'S.

Q. DID YOU, IN FACT, GO BACK THERE?

A. YES.

Q. DID YOU SEE YOUR STUFF BEING BURNED?

A. NO.

Q. WHAT HAPPENED TO YOUR STUFF?

A. JIMMY TOOK IT AND PUT IT IN THE SHED.

Q. WHERE WAS JAMIE HORTON WHEN JIMMY TOOK YOUR CLOTHES?

A. HE WAS STANDING THERE. WE WAS ALL STANDING OUTSIDE.

Q. DID MR. CONWAY TELL YOU WHAT HE DID WITH THE PICK AX AND THE LIME BAG?

A. HE WAS SUPPOSED TO BURN THEM WITH HIS CLOTHES.

Q. DID HE TELL YOU HE HAD DONE THAT?

A. YES.

Q. THAT HE HAD BURNED THEM? DID HE TELL YOU HE HAD DONE THAT IN FRONT OF JAMIE HORTON?

A. YES.

Q. WHAT HAPPENED AFTER THAT? DID YOU STAY AT JIMMY'S HOUSE?

A. NO, ME AND SHAWN CAME BACK TO CHILLICOTHE, HE DROPPED ME OFF AT MY HOUSE WHEN WE CAME BACK.

Q. WHEN WAS THE NEXT TIME THAT YOU HAD CONVERSATIONS WITH JIMMY CONWAY OR JAMIE HORTON?

A. I DON'T KNOW. IT WAS PROBABLY SOON. WE PROBABLY

GOT BACK TOGETHER TO DO SOMETHING SOON. I AM NOT REAL SURE EXACTLY.

Q. DID YOU CONTINUE TO HANG OUT AND SOCIALIZE WITH JIMMY CONWAY?

A. YES.

Q. DID YOU CONTINUE TO HANG OUT AND SOCIALIZE WITH JAMIE HORTON?

A. YES.

Q. AFTER THAT INCIDENT, THINGS WENT ON AS USUAL?

A. YES.

Q. WAS THERE EVER ANY MORE DISCUSSION ABOUT ANDREW DOTSON'S MURDER BETWEEN THE FOUR OF YOU?

A. NO, WE JUST KEPT OUR MOUTHS SHUT ABOUT IT.

Q. AT SOME POINT LATER DID YOU EVER SPEAK TO ANYONE ABOUT THE HOMICIDE?

A. NOT UNTIL ALL THIS STUFF CAME UP WITH THE LAW AND EVERYTHING.

Q. YOU ARE TALKING ABOUT THE LAW, YOU SPOKE TO SOMEONE FROM LAW ENFORCEMENT?

A. YES.

Q. HOW DID THAT COME ABOUT?

A. THEY CONTACTED ME -- WELL, THEY CONTACTED MY FAMILY. I WASN'T EVEN HOME. HOMICIDE DETECTIVES CAME DOWN TO MY HOUSE IN CHILLICOTHE, AND THAT IS WHEN WE GOT MY LAWYER ON THE PHONE WITH THEM, AND LATER ON I MET WITH MY

LAWYER AND WE WENT THROUGH EVERYTHING, AND WE MET WITH THE DETECTIVES.

Q. WERE YOU ARRESTED OR DID YOU TURN YOURSELF IN?

A. I TURNED MYSELF IN.

Q. THEN YOU MET WITH THE DETECTIVES?

A. YES.

Q. DID YOU, IN FACT, GIVE THEM A STATEMENT?

A. YES.

Q. AT SOME POINT YOU WERE INFORMED BY THE FRANKLIN COUNTY SHERIFF'S OFFICE THAT THERE WAS AN ALLEGED PLOT TO --

MR. MCGOWAN: OBJECTION.

THE COURT: OVERRULED.

Q. (BY MR. LOWE) -- TO KILL YOU, AND ALLEGEDLY INVOLVED IN THAT PLOT WAS JIMMY CONWAY AND JAMIE HORTON?

A. YES.

MR. MCGOWAN: OBJECTION.

THE COURT: OVERRULED.

Q. (BY MR. LOWE) WHAT YOU WERE INFORMED BY THE POLICE, DID YOU DO ANYTHING TO HELP THEM OUT WITH THEIR INVESTIGATION?

A. YEAH, I THOUGHT THEY WERE GOING TO KILL ME BECAUSE I HAD SEEN THIS, SO I WENT AHEAD AND TOLD MY LAWYER THAT I WOULD WORK WITH THE DETECTIVES AND PROSECUTION.

Q. IN REGARD SPECIFICALLY TO WORKING WITH THE

DETECTIVES, DID YOU ENGAGE IN ANY KIND OF UNDERCOVER OPERATION?

A. THEY HAD ME RIP DOWN TO MY UNDERWEAR. FIRST I HAD TO DIG A GRAVE FOR MYSELF AND GET IN IT AND ACT LIKE I WAS DEAD, AND THEY TOOK A PICTURE OF ME, AND THEY TOLD ME THAT THAT WAS SHOWN TO JIMMY CONWAY.

Q. AND YOU DID THIS AT THE DIRECTION OF THE FRANKLIN COUNTY SHERIFF'S OFFICE?

A. YES.

Q. HANDING YOU WHAT HAS BEEN MARKED AS STATE'S EXHIBIT G-3, IT IS A SMALL MANILA ENVELOPE, AND INSIDE IS A PICTURE. CAN YOU TELL ME IF YOU RECOGNIZE THAT PICTURE?

A. YES.

Q. WHO IS IN THAT PICTURE?

A. ME.

Q. WHAT IS IT A PICTURE OF?

A. OF ME LYING IN THIS GRAVE IN MY UNDERWEAR, NO CLOTHES. I AM SUPPOSED TO BE DEAD.

Q. THAT'S THE PICTURE THAT YOU JUST TALKED ABOUT HELPING THE SHERIFF'S OFFICE WITH?

A. YES.

Q. DOES THAT APPEAR TO BE A TRUE AND ACCURATE DEPICTION OF THE PICTURE OF YOU?

A. YES, THAT IS THE PICTURE.

Q. YOU WERE ALSO COOPERATING WITH THE SHERIFF'S

OFFICE, AND YOU GAVE A DESCRIPTION OF THIS PICK AX?

A. YES.

Q. WERE YOU ALSO ASKED TO DO SOMETHING ELSE REGARDING THIS PICK AX?

A. THEY ASKED ME TO BUY ONE THAT WAS CLOSEST TO THE ONE THAT LOOKED LIKE THE ONE THAT NIGHT. I BOUGHT ONE AND TOOK IT TO MY LAWYER, AND HE GAVE IT TO THE DETECTIVES' OFFICE OR SOMEHOW HE GAVE IT TO SOMEBODY, THE DETECTIVES.

Q. YOU PHYSICALLY WENT OUT AND PURCHASED A NEW ONE?

A. YES.

Q. WHERE DID YOU GO TO DO THAT?

A. I WENT TO SEARS IN CHILLICOTHE AND BOUGHT ONE.

Q. SHOWING YOU WHAT HAS BEEN MARKED FOR IDENTIFICATION PURPOSES AS STATE'S EXHIBIT J, DO YOU RECOGNIZE THIS?

A. YES.

Q. WHAT IS THIS?

A. THAT IS A PICK.

Q. HAVE YOU SEEN THIS PICK BEFORE?

A. THAT LOOKS LIKE THE ONE THAT I BOUGHT.

Q. THAT APPEARS TO BE THE ONE THAT YOU BOUGHT AND GAVE TO YOUR LAWYER?

A. YES.

Q. IS IT IN SUBSTANTIALLY THE SAME CONDITION AS WHEN YOU PURCHASED IT?

A. YES.

Q. THIS IS THE SAME TYPE OF PICK THAT YOU BELIEVE THAT JIMMY CONWAY USED ON ANDREW DOTSON?

A. THE ONLY DIFFERENCE -- THAT'S WHY I JUST STARED LOOKING AT IT BECAUSE THAT'S GOT A YELLOW RUBBER, LOOKS LIKE A STOPPER ON THE END, AND THE OTHER ONE -- IT WAS ALL WOODEN AND IT WAS JUST SHAPED LIKE THAT.

Q. THE ONLY DIFFERENCE IS -- THE METAL APPEARS TO BE THE SAME?

A. YES.

Q. THE ONLY DIFFERENCE IS THE YELLOW STOPPER ATTACHED TO THE METAL?

A. YES.

Q. THE OTHER ONE WAS WOOD, YOU BELIEVE ALL WOOD?

A. YES.

Q. THE SAME TYPE OF POINTED END?

A. YES.

Q. THE PICTURE THAT WE ARE TALKING ABOUT EARLIER, WHERE WAS THAT TAKEN?

A. THAT WAS TAKEN IN CHILLICOTHE.

Q. CAN YOU GIVE US AN ADDRESS?

A. IT WAS JUST IN THE FIELD. I DON'T KNOW, MY HOUSE.

Q. DO YOU KNOW WHAT STREET IT WAS NEAR?

A. IT WAS BY SWEENEY ROAD -- OR NOT SWEENEY ROAD,

DUNCAN ROAD.

Q. HOW LONG WOULD YOU SAY THAT YOU HUNG OUT WITH JAMES CONWAY AND JAMIE HORTON?

A. WHEN I FIRST -- FROM THE TIME I FIRST MET THEM?

Q. YES.

A. FROM THE TIME I FIRST MET THEM UNTIL THE TIME WE ALL GOT IN TROUBLE, IT WAS RIGHT AROUND A YEAR, ABOUT A YEAR.

Q. WERE THEY CLOSE; WERE THEY FRIENDS?

A. YEAH.

Q. YOU INDICATED YOU HAD CONVERSATIONS WITH SHERIFF'S DETECTIVES?

A. YES.

Q. WERE YOU AWARE THOSE CONVERSATIONS WERE TAPED?

A. YES.

Q. AT ANY TIME WHEN YOU WERE WITH ANDREW BEFORE HE WAS KILLED, DID HE MAKE ANY PHONE CALLS FROM A PAY PHONE?

A. NOT THAT I CAN REMEMBER.

Q. YOU INDICATED SOMETHING ABOUT CALLING HIS MOTHER. DID HE HAVE A CELL PHONE ON HIM?

A. I HAD MY CELL PHONE. I WAS GOING TO LET HIM USE MY CELL PHONE.

Q. IF YOU KNOW, DID HE MAKE A CALL FROM THE CELL PHONE?

A. NO.

Q. YOU DON'T KNOW OR HE DIDN'T?

A. HE DIDN'T.

Q. AT ANY TIME THAT YOU WERE AT THE FIELD WITH JIMMY CONWAY, JAMIE HORTON, SHAWN NIGHTINGALE AND ANDREW DOTSON, DID YOU HEAR JAMIE HORTON ASK ANY QUESTIONS AS TO WHAT WAS GOING ON?

A. NO.

Q. DID HE PROTEST IN ANY WAY?

A. NO.

Q. THE PLASTIC BAG THE CLOTHES WERE PUT IN, DO YOU KNOW WHERE THAT CAME FROM?

A. I HAVE NO IDEA.

Q. DID YOU HAVE IT ON YOU?

A. NO.

Q. DID YOU SEE ANYBODY HAVE IT BEFORE JAMIE HORTON?

A. THAT IS WHEN I SAW IT IS AFTER THEY ALREADY PUT THE CLOTHES IN IT.

MR. LOWE: ONE MOMENT, YOUR HONOR.

Q. (BY MR. LOWE) IN CHILLICOTHE, MIKE, ARE YOU FAMILIAR WITH THE STREET CALLED YELLOWBUD?

A. THAT'S WHERE I LIVE.

MR. LOWE: YOUR HONOR, I HAVE NOTHING FURTHER. I BELIEVE THE DEFENSE COUNSEL WILL HAVE SOME QUESTIONS FOR YOU.

THE COURT: WE WILL TAKE A RECESS BEFORE

BEGINNING CROSS EXAMINATION. PLEASE, REMEMBER YOUR ADMONITIONS. TO THE EXTENT THAT SOME OF YOU MAY WANT TO GET OUT AND WALK AROUND A BIT, YOU WILL HAVE AN OPPORTUNITY TO DO THAT. IF SOME OF YOU WANT TO STAY IN THE JURY ROOM, YOU CAN DO THAT AS WELL. JUST REMEMBER YOUR ADMONITIONS, AND IF YOU CAN REPORT BACK TO THE FIRST FLOOR BY 20 AFTER.

- - -

THEREUPON, A RECESS WAS TAKEN.

- - -

THEREUPON, THE FOLLOWING PROCEEDINGS WERE HELD OUT OF THE PRESENCE AND HEARING OF THE JURY:

MR. MCGOWAN: I WANTED TO CLARIFY HIS RECORD. IF HE DOESN'T HAVE ANY OTHER ADMISSIBLE CONVICTIONS, I WON'T ASK HIM THAT QUESTION.

THE COURT: DID YOU PROVIDE IT?

MR. LOWE: YES.

MR. MCGOWAN: THEY DON'T BELIEVE HE DOES, BUT THOSE THINGS AREN'T ACCURATE. I WANTED TO ASK HIM OUTSIDE THE PRESENCE OF THE JURY IF HE HAS ANY FELONY CONVICTIONS IN THE LAST TEN YEARS OR IF HE HAS ANY --

MS. PRICHARD: YOU LOST HIS RECORD CHECK SO YOU WANT TO ASK HIM?

MR. MCGOWAN: I HAVE GOT IT, BUT THOSE THINGS ARE HARD TO READ, AND I WANT TO ASK HIM IF HE HAS ANY OTHER.

THE COURT: IS HIS LAWYER PRESENT?

MR. DAVID THOMAS: IF YOU WILL GIVE US ONE SECOND, WE WILL CHECK THAT.

MS. PRICHARD: A RECORD CHECK -- THEY ARE JUST QUESTIONING THE ACCURACY.

THE COURT: I AM SUGGESTING TO HAVE THE LAWYER CONFER WITH HIM AND ASK HIM THAT.

MS. PRICHARD: 16(B)(1)(g), MR. ARTHURS' RECORD HAS BEEN PROVIDED. THEY HAVE A TAPE, AS WELL AS A TRANSCRIPT OF THE TAPE MADE BY MR. ARTHURS, AS WELL AS THE DEAL WHICH WAS SHOWN TO MR. ARTHURS.

MR. MCGOWAN: THOSE THINGS I HAVE RECEIVED, YOUR HONOR. I DO HAVE SOME QUESTIONS, AND I THINK I RAISED THAT WITH THEM AND THEY WERE GOING TO INQUIRE OF THE DETECTIVE BECAUSE THERE IS REFERENCE ON THAT TRANSCRIPT OR ON THAT TAPE TO OTHER CONVERSATIONS, AND ONE OF THE REFERENCES TO REMEMBERING WHAT YOU TOLD ME A WEEK AGO OR SOMETHING LIKE THAT. SO CLEARLY, THERE WERE PRIOR MEETINGS AND AGAIN, IT IS OUR POSITION EVEN IF IT IS A NARRATIVE BY AN OFFICER, IF HE IS PURPORTING TO RECORD WHAT A WITNESS SAID, THAT IS PROPER 16(B)(1)(g) MATERIAL, AND IT IS MY UNDERSTANDING THEY ARE DOING A CHECK WITH THE OFFICER TO SEE IF THERE WAS, AND I HAVE NOT BEEN PROVIDED WITH ANY --

MR. LOWE: WE HAVE CHECKED WITH THE OFFICER, AS WELL AS MR. DEVILLERS, WHO WAS ON THIS CASE ORIGINALLY,

AND THERE IS NO OTHER STATEMENT. I LISTENED TO THE TAPE MYSELF AND I HEARD THE STATEMENT MR. MCGOWAN IS TALKING ABOUT. I BELIEVE THAT IS MR. MEEKS TALKING, WHO IS MR. ARTHURS' -- ONE OF MR. ARTHURS' ATTORNEYS. I BELIEVE HE WAS SAYING TO MR. ARTHURS, YOU TOLD US LAST WEEK THIS, YOU REMEMBER THAT, LEADING MR. ARTHURS TO TELL ABOUT NEW DETAILS. IT MAY SAY THE DETECTIVE IN THE TRANSCRIPT, BUT I BELIEVE IT IS MR. MEEKS.

MR. MCGOWAN: ATTRIBUTED TO A DETECTIVE IN THE TRANSCRIPT.

THE COURT: IF YOU WILL CHECK THAT OUT AND YOU CAN ASK MR. ARTHURS WITH REGARD TO HIS CONVERSATIONS THAT HE HAS HAD, AND WERE YOU ABLE TO HAVE A CONVERSATION WITH MR. ARTHURS? IF YOU COULD ENTER YOUR APPEARANCE FOR THE RECORD AND EXPLAIN WHAT YOU DISCUSSED WITH MR. ARTHURS?

MR. THOMAS: FOR THE RECORD, DAVID THOMAS. BILL MEEKS, LISA TOME, AND I REPRESENT MR. ARTHURS.

THE COURT HAS INQUIRED OF ME ABOUT MY CLIENT'S PREVIOUS CRIMINAL HISTORY, AND I HAVE HAD AN OPPORTUNITY TO DISCUSS IT WITH HIM. THERE IS SOME CONFUSION ABOUT RESOLUTIONS, BUT BASED ON MY DISCUSSIONS WITH HIM, I DON'T BELIEVE THERE IS ANYTHING, AS FAR AS I KNOW, ABOUT THIS CASE THAT IS ADMISSIBLE AND NO OTHER THAN WHAT I BELIEVE IS THE COMPUTERIZED CRIMINAL HISTORY WOULD SHOW.

THE COURT: YOU DO HAVE A COPY OF THE

COMPUTERIZED HISTORY?

MR. MCGOWAN: YES.

THE COURT: THANK YOU FOR HELPING WITH THAT, MR. THOMAS.

IS THERE ANYTHING ELSE FOR THE RECORD?

MR. MCGOWAN: NO, THANK YOU.

- - -

THEREUPON, THE JURY ENTERED THE COURTROOM AND THE FOLLOWING PROCEEDINGS WERE HELD:

THE COURT: YOU MAY BEGIN YOUR CROSS EXAMINATION, MR. MCGOWAN.

- - -

CROSS EXAMINATION

BY MR. MCGOWAN:

Q. GOOD AFTERNOON. HOW ARE YOU?

A. FINE.

Q. MR. ARTHURS, YOU TALKED QUITE A BIT ABOUT YOUR STATE OF MIND DURING THE NIGHT IN QUESTION, AND I WANT TO TALK ABOUT THE NIGHT OUT IN THE CORNFIELD. I BELIEVE YOU SAID THAT YOUR STATE OF MIND WAS AN ISSUE FOR YOU. CAN YOU DESCRIBE THAT A LITTLE BETTER TO THE JURY?

A. MY STATE OF MIND, THINGS WERE JUST HAPPENING SO FAST BECAUSE OF WHAT WAS GOING ON AND JUST SOMETHING I HAVE NEVER WENT THROUGH BEFORE, SO IT WAS A NEW EXPERIENCE THAT I HAVE NEVER HAD TO DEAL WITH.

Q. THINGS WERE HAPPENING FAST?

A. YES.

Q. WERE YOU SCARED?

A. YES.

Q. WERE YOU MIXED UP?

A. WHAT DO YOU MEAN?

A. WERE THINGS CONFUSING TO YOU?

A. I DON'T UNDERSTAND. WAS WHAT CONFUSING?

Q. ANY OF THE THINGS YOU WERE PERCEIVING, TALKING ABOUT YOUR STATE OF MIND?

A. IT WAS JUST ALMOST UNREAL TO BELIEVE. I DON'T UNDERSTAND AS FAR AS CONFUSION. THERE WAS REALLY NO THINKING, JUST WATCH TO SEE WHAT WAS GOING ON.

Q. DID YOU PROTEST AT ANY POINT -- YOU WERE ASKED BY MR. LOWE WHETHER OR NOT JAMIE HORTON PROTESTED DURING THIS. DID YOU PROTEST DURING ANY OF THIS?

A. NO.

Q. WHY NOT?

A. JIMMY IS A SCARY GUY TO BE OUT THERE IN THE MIDDLE OF A CORNFIELD WITH.

Q. SO YOU WERE AFRAID OF JIMMY?

A. YES.

Q. THAT'S WHY YOU DIDN'T PROTEST?

A. YES.

Q. DID THE STATE OF MIND THAT YOU ARE TALKING ABOUT

HAVING BOTHERED YOU, DID THAT ALSO ENTER INTO THE REASON YOU DIDN'T PROTEST?

A. YES.

Q. AT SOME POINT IN TIME YOU STARTED DISCUSSING WHAT YOU DID SEE OR DIDN'T SEE WITH DETECTIVES, CORRECT?

A. YES.

Q. AS YOU SAT AND TRIED TO RECALL THOSE THINGS, ISN'T IT POSSIBLE THAT YOU MIGHT HAVE BEEN MISTAKEN ON CERTAIN POINTS?

A. IT'S POSSIBLE.

Q. THE FACT IS ISN'T IT POSSIBLE THAT YOU MIGHT HAVE BEEN MISTAKEN ON WHAT VARIOUS PEOPLE DID OR DID NOT DO?

A. AS FAR AS WHO SAID WHAT EXACTLY OR SOMETHING LIKE THAT, YEAH, IT'S POSSIBLE BECAUSE IT'S BEEN SO LONG AGO. IT'S BEEN ALMOST TWO YEARS AGO.

Q. WELL, IT IS NOT JUST THE PASSAGE OF TIME THAT HAS MADE THAT POSSIBLE? ISN'T IT ALSO AGAIN RELATED BACK TO YOUR STATE OF MIND AT THE TIME YOU DID PERCEIVE THE THINGS?

A. YES.

Q. IS THAT ANOTHER REASON WHY IT WOULD BE DIFFICULT TO SOMETIMES PINPOINT SOME OF THE DETAILS?

A. YES.

Q. SO AGAIN, THE QUESTION IS ISN'T IT POSSIBLE WHENEVER YOU STARTED TELLING DETECTIVES EXACTLY WHO DID CERTAIN THINGS OUT THERE, THAT YOU WERE MISTAKEN ABOUT

THOSE THINGS?

A. IT'S POSSIBLE.

Q. I WANT TO TAKE YOU BACK NOW TO THE VERY BEGINNING. WHEN DID YOU FIRST MEET ANDREW?

A. I'M PRETTY SURE THAT HE CAME DOWN TO A PARTY IN CHILLICOTHE AND MET UP WITH SHAWN AND CAME TO THE PARTY WHERE I WAS AT.

Q. YOU MIGHT HAVE NOT UNDERSTOOD MY QUESTION. I AM TALKING ABOUT WHEN YOU FIRST ACTUALLY MET HIM, NOT THE FIRST MEETING HIM AROUND THE SITUATION.

A. THAT'S WHAT I AM TALKING ABOUT.

Q. HOW LONG PRIOR TO THE ACTIVITY IN THE CORNFIELD WAS THAT?

A. IT WAS A SHORT -- LIKE I SAID, EARLIER, IT WAS A SHORT PERIOD OF TIME. I ONLY KNEW HIM FOR, LIKE, TWO OR THREE MONTHS AT THE MOST.

Q. DID YOU EVER ENGAGE IN ANY STEALING WITH HIM?

A. NO.

Q. DID YOU EVER ENGAGE IN ANY TYPE OF CRIMINAL ACTIVITY WITH HIM?

A. NO.

Q. WHAT DID YOU GUYS DO SOCIALLY?

A. JUST WENT TO PARTIES AND DRANK.

Q. WHEN YOU WERE AT PARTIES AND DRINKING WITH ANDREW, WHO ELSE WAS THERE?

A. A BUNCH OF PEOPLE. IT WAS A PARTY.

Q. LET ME GIVE YOU A MORE DIRECT QUESTION. SOME OF THE PEOPLE YOU TALKED ABOUT HERE TODAY, WHICH OF THOSE PEOPLE WOULD BE THERE?

A. SOMETIMES JAMIE WAS THERE AND MOST OF THE TIME SHAWN WAS THERE BECAUSE ME AND SHAWN LIVED IN CHILLICOTHE.

Q. WHERE DID ANDREW LIVE?

A. IN COLUMBUS.

Q. WHERE DID JAMIE LIVE?

A. ON THE WEST SIDE OF COLUMBUS.

Q. WHO INTRODUCED YOU TO ANDREW?

A. I AM PRETTY SURE SHAWN.

Q. DO YOU KNOW WHO INTRODUCED ANDREW TO SHAWN?

A. I HAVE NO IDEA.

Q. WHAT DID YOU OBSERVE ABOUT JAMIE'S RELATIONSHIP WITH ANDREW DOTSON, JAMIE HORTON'S RELATIONSHIP WITH ANDREW DOTSON?

A. IT LOOKED LIKE THEY WERE FRIENDS TO ME.

Q. THEY SEEMED PRETTY GOOD FRIENDS, DIDN'T THEY?

A. THEY HUNG OUT AND EVERYTHING, NOT LIKE HE WAS AROUND ALL THE TIME BUT, YEAH, THEY WERE FRIENDS.

Q. WHO WAS CLOSER WITH ANDREW DOTSON, YOU OR JAMIE HORTON?

A. JAMIE.

Q. WHO WAS CLOSER WITH ANDREW DOTSON, JAMIE HORTON

OR SHAWN NIGHTINGALE?

A. SHAWN.

Q. SHAWN WAS CLOSER TO ANDREW?

A. YES.

Q. WHAT IS THE BASIS OF YOUR OPINION?

A. WHY DO I SAY THAT?

Q. YES.

A. BECAUSE THEY KNEW HIM LONGER THAN I DID.

Q. I'M SORRY?

A. THEY KNEW HIM LONGER THAN I DID.

Q. YOU MIGHT NOT HAVE UNDERSTOOD THE QUESTION. I WILL TAKE YOU OUT OF THE EQUATION. BETWEEN JAMIE HORTON AND SHAWN NIGHTINGALE, WHO WAS CLOSER TO ANDREW?

A. I'M NOT SURE. I DON'T KNOW.

Q. WHEN YOU GUYS WERE RUNNING AROUND TOGETHER -- AND AGAIN, I AM TALKING ABOUT YOU, JAMIE HORTON, SHAWN, JIMMY CONWAY, HE WOULD BE AT THE PARTIES, TOO, RIGHT?

A. NOT A LOT OF TIMES, HE WOULDN'T COME TO CHILLICOTHE TO THE PARTIES. THERE WAS A COUPLE OF TIMES THAT HE HAD BEEN TO SOME.

Q. IT WAS MAINLY JAMIE AND ANDREW THAT WOULD COME DOWN FROM COLUMBUS?

A. YES.

Q. AND THEY MET UP WITH YOU AND SHAWN IN CHILLICOTHE?

A. YES.

Q. WHAT WAS YOUR KNOWLEDGE OF THE EVENTS THAT TOOK PLACE PRIOR TO THE PARTY? IN OTHER WORDS, YOU TALKED ABOUT A BIRTHDAY PARTY, RIGHT?

A. YES.

Q. WAS ANDREW AT THAT BIRTHDAY PARTY?

A. YES.

Q. WHAT WAS YOUR KNOWLEDGE OF THE EVENTS THAT TOOK PLACE THE DAY BEFORE THAT, THE SHOOTING?

A. I GUESS THERE WAS A SHOOTING THAT ANDREW SAW JIMMY SHOOT A GUY NAMED JESSE JAMES, AND I GUESS ANDREW WAS THERE AND SEEN IT. I WASN'T THERE, SO I DON'T KNOW EVERYTHING THAT HAPPENED.

Q. WERE YOU WITH ANDREW AT ALL IMMEDIATELY AFTER THAT, AFTER THE SHOOTING?

A. HE COME DOWN TO CHILLICOTHE BECAUSE I GUESS HE WANTED TO HANG OUT OR SOMETHING, AND I MEAN JUST TO HANG OUT, YEAH.

Q. WERE YOU AND SHAWN NIGHTINGALE IN COLUMBUS AT ALL DURING THE DAY OF THE SHOOTING?

A. NO, I WASN'T EVEN WITH THEM AT ALL. I WAS IN CHILLICOTHE, AND I DON'T KNOW WHAT I WAS DOING.

Q. WHAT ABOUT THE NEXT DAY, WERE YOU IN COLUMBUS THAT DAY?

A. I AM NOT EVEN SURE. JUST -- THE ONLY REASON I

EVEN KNOW THAT JIMMY DID THIS IS BECAUSE I CALLED SHAWN AND HE SAID SOMETHING BAD HAD HAPPENED, AND HE SAID HE WOULD TELL ME LATER ABOUT THAT. SO THAT IS THE ONLY THING I KNOW ABOUT THAT.

Q. WAS SHAWN IN COLUMBUS WHEN YOU TALKED TO HIM?

A. I HAVE NO IDEA. I CALLED HIM ON HIS CELL PHONE.

Q. AND HE DIDN'T TELL YOU WHERE HE WAS?

A. NO.

Q. WHAT KIND OF CAR DOES SHAWN NIGHTINGALE DRIVE?

A. HE HAD TWO CARS. HE HAD AN INTREPID, A NEW INTREPID, AND HE HAD A JEEP GRAND CHEROKEE.

Q. WHAT COLOR WAS THE JEEP GRAND CHEROKEE?

A. GREEN.

Q. I BELIEVE YOU TESTIFIED THAT SHAWN NIGHTINGALE LIVED IN CHILLICOTHE, CORRECT?

A. YES.

Q. WHAT COUNTY IS THAT IN?

A. ROSS.

Q. AS FAR AS YOU KNOW, ARE HIS AUTOMOBILES REGISTERED IN ROSS COUNTY WHERE HE LIVES?

A. AS FAR AS I KNOW.

Q. LET ME MAKE SURE THAT THE JURY UNDERSTANDS THIS. ARE THERE TWO PARTIES AT ISSUE HERE AFTER THE SHOOTING? IS THERE A BIRTHDAY PARTY AND THEN ANOTHER PARTY WHERE THE BEER IS IN THE TUB OR IS THAT JUST ONE PARTY?

A. IT IS THE SAME NIGHT, BUT THERE WAS TWO DIFFERENT PARTIES, THE BIRTHDAY PARTY THAT WE WERE AT, WE WENT THERE AND EVERYBODY WAS THERE, AND A FIGHT BROKE OUT, AND WE LEFT, AND THAT IS WHEN WE WENT BACK TO THE HOTEL WHERE THE BEER WAS IN THE TUB.

Q. WAS IT AT A HOUSE, THE BIRTHDAY PARTY?

A. IT WAS ON BACK HOLLOW ROAD AND IT WAS A FIELD, BUT THERE WAS A HOUSE BY IT, SO I GUESS THEY OWNED THE FIELD WHERE THEY HAD IT.

Q. YOU TALKED ABOUT A FIGHT. DID YOU EVER GET IN ANY FIGHT IN FRONT OF JIMMY CONWAY?

A. WE HAD BEEN IN A COUPLE OF CLUBS BEFORE AND GOT INTO FIGHTS, YEAH.

Q. WHEN THOSE SITUATIONS AROSE, WHAT WOULD BE YOUR REACTION?

A. I WAS HELPING MY FRIENDS JUST TO NOT HAVE SOMEBODY BEATEN, THAT'S ALL.

Q. I'M SORRY?

A. JUST TO KEEP SOMEBODY FROM HITTING THEM IN THE BACK OF THE HEAD WITH SOMETHING OR SOMETHING LIKE THAT.

Q. DID YOU AND SHAWN EVER DISCUSS THE FACT THAT YOU ENJOYED TO FIGHT?

A. I'M NOT SURE.

Q. WERE YOU AND SHAWN IN A LOT OF FIGHTS TOGETHER?

A. WE WERE IN A FEW.

Q. DID JIMMY CONWAY OBSERVE ANY OF THOSE?

A. MAYBE A COUPLE.

MR. MCGOWAN: YOUR HONOR, MAY I HAVE A MOMENT?

THE COURT: YOU MAY.

Q. (BY MR. MCGOWAN) HAVE YOU EVER KNOWN OR SEEN JAMIE HORTON TO BE IN A FIGHT?

MR. LOWE: YOUR HONOR, MAY WE APPROACH?

THE COURT: YOU MAY.

- - -

THEREUPON, COURT AND COUNSEL CONFERRED AT THE BENCH OUT OF THE HEARING OF THE JURY AND THE REPORTER.

- - -

THE COURT: THERE WAS AN OBJECTION MADE DURING THE BENCH CONFERENCE. THE OBJECTION IS SUSTAINED. YOUR NEXT QUESTION.

Q. (BY MR. MCGOWAN) SO NOW YOU ARE AT THE PARTY AT THE HOTEL. THERE IS BEER IN THE BATHTUB, RIGHT, WITH ICE ON IT?

A. YES.

Q. YOUR TESTIMONY IS THAT YOURSELF AND SHAWN WENT TO GET A BEER, CORRECT?

A. YES.

Q. AND JIMMY CONWAY CAME IN BEHIND YOU, RIGHT?

A. YES.

Q. AT THAT POINT IN TIME WAS THAT THE FIRST MENTION

YOU EVER HEARD OF A PLOT TO KILL ANDREW DOTSON?

A. YES.

Q. AND JIMMY ASKED YOU AND SHAWN TO DO THAT, CORRECT?

A. YES.

Q. YOU GUYS AGREED TO DO IT?

A. YES.

Q JAMIE HORTON DEFINITELY WASN'T PRESENT DURING THAT MEETING?

A. NO.

Q. YOU SAID AT THAT POINT IN TIME THERE WAS NO SPECIFIC PLAN, JUST THE FACT OF KILLING ANDREW DOTSON, CORRECT?

A. YES.

Q. WHEN WAS IT THAT YOU CAME TO LEARN ANY MORE DETAILS? WHEN WAS THE FIRST TIME?

A. LIKE I SAID EARLIER, I'M NOT SURE. IT WAS LIKE EVERYTHING WAS JUST ON A ROLL. AS SOON AS I GOT UP THE NEXT MORNING, THEY CALLED ME AND WE GOT INTO THE JEEP AND WERE ON OUR WAY. I DON'T KNOW HOW IT CAME ABOUT, WHEN WE TALKED ABOUT IT OR ANYTHING LIKE THAT, AS FAR AS TAKING ANDREW TO WEST VIRGINIA.

Q. SO IT ALL CAME UP FAST, BUT WHAT DID COME UP FAST WAS YOU AND SHAWN AND ANDREW GETTING INTO SHAWN'S JEEP?

A. YES.

Q. THAT'S THE JEEP CHEROKEE THAT YOU TALKED ABOUT?

A. YES.

Q. DID SHAWN'S JEEP HAVE TINTED WINDOWS?

A. NO.

Q. DID IT HAVE TINTED WINDOWS ANYWHERE ON THE VEHICLE?

A. MAYBE THE BACK ONE.

Q. LIKE BACK WHERE THE PASSENGER SEAT IS?

A. NO, THE VERY BACK, THE HATCH ON THE JEEP.

Q. THAT WAS A JEEP GRAND CHEROKEE?

A. YES.

Q. WHEN DID YOU LEARN WHAT TOWN YOU WERE GOING TO IN WEST VIRGINIA? I WILL ASK YOU THIS QUESTION. WHAT TOWN WERE YOU GOING TO?

A. I AM NOT EVEN SURE WHAT TOWN IT IS. THERE IS A ROAD WHERE HIS BROTHER LIVES THAT WE WENT. I DON'T EVEN KNOW WHAT COUNTY IT IS OR ANYTHING.

Q. AT THE POINT IN TIME YOU DID LEARN THAT YOU WERE GOING TO THIS TOWN THAT YOU DON'T REMEMBER IN WEST VIRGINIA, WAS THAT WHEN YOU AND ANDREW AND SHAWN WERE IN THE CAR?

A. YES.

Q. HOW LONG DID IT TAKE YOU TO GET -- WELL, DID YOU LEAVE FROM COLUMBUS?

A. WE LEFT FROM CHILLICOTHE, AT THE HOTEL.

Q. YOU LEFT FROM CHILLICOTHE AT THE HOTEL. HOW LONG DID IT TAKE YOU TO GET FROM CHILLICOTHE TO THE TOWN YOU WERE GOING TO IN WEST VIRGINIA?

A. IT TAKES AROUND THREE, THREE AND A HALF HOURS.

Q. WHAT WERE YOU SUPPOSED TO DO WITH ANDREW ONCE YOU GOT TO WEST VIRGINIA?

A. WE WERE SUPPOSED TO KILL HIM.

Q. HOW?

A. WE WERE SUPPOSED TO SHOOT HIM.

Q. WHAT WERE YOU SUPPOSED TO DO WITH HIM AFTER YOU SHOT HIM?

A. I GUESS LEAVE HIM UP THERE IN SOME BACK WOODS PLACE.

Q. WAS THERE LIME IN THE BACK OF SHAWN'S CHEROKEE?

A. YES.

Q. ARE YOU SUPPOSED TO USE THAT SOMEHOW?

A. I DIDN'T EVEN KNOW ABOUT THE LIME UNTIL ON OUR WAY BACK.

Q. DID SHAWN MENTION ANYTHING TO YOU ABOUT THE LIME IN THE BACK?

A. NO.

Q. SO YOU TALKED ABOUT PULLING OVER AND YOU PRETENDED YOU WERE LOOKING FOR MARIJUANA PLANTS, IS THAT TRUE?

A. YES.

Q. DOES ANDREW EVER GET OUT OF THE CAR AT THAT POINT IN TIME?

A. YES.

Q. WHAT DOES ANDREW SAY AT THIS TIME?

A. HE IS JUST WALKING WITH US, ASKING US WHERE IT IS AT, OR WHEREVER WE ARE, JUST WALKING IN SOME WEEDS AND SOME TREES.

Q. ULTIMATELY, YOU ALL THREE END UP BACK IN THE JEEP?

A. YES.

Q. THE JEEP CHEROKEE? THEN WHAT DO YOU DO NEXT?

A. WE WENT AND COLLECTED THE MONEY THAT SHAWN HAD TO GET WHILE HE WAS DOWN THERE.

Q. WHAT ELSE WAS OBTAINED AT THAT LOCATION?

A. ALSO SOME PILLS THAT ANDREW WANTED.

Q. WHO BOUGHT THEM?

A. SHAWN.

Q. DID HE HAND THEM -- HOW MANY PILLS WERE BOUGHT?

A. I AM NOT SURE.

Q. WAS IT MORE THAN A COUPLE?

A. YEAH.

Q. CAN YOU TELL THE JURY AGAIN WHAT THINGS YOU REMEMBER, WHAT TYPE OF PILLS YOU DO REMEMBER?

A. THEY WAS SOMAS. I HEARD HIM SAY SOMAS, AND I DON'T KNOW IF IT IS THE RIGHT NAME FOR IT BUT PURPLE

FOOTBALLS.

Q. I THINK YOU SAID THAT ANDREW STARTED TAKING SOME OF THE PILLS LITERALLY AS YOU WERE HEADING TO THE CAR?

A. AS WE WERE LEAVING THE DRIVEWAY, SHAWN WENT TO THE HOUSE AND WE DIDN'T GO IN.

Q. AND THROUGHOUT THE COURSE OF YOUR TRIP, AT THAT POINT IN TIME DID YOU HAVE ANY OTHER DESTINATION BESIDES GOING BACK TO COLUMBUS?

A. NO.

Q. THROUGHOUT THE REST OF THAT TRIP THEN THAT YOU ARE TALKING ABOUT FROM WHEREVER YOU WERE IN WEST VIRGINIA, THE THREE AND A HALF HOURS -- ISN'T IT ROUGHLY THREE AND A HALF HOURS BACK TO COLUMBUS, ALSO?

A. NO, IT IS ANOTHER HOUR BECAUSE THEN YOU HAVE GOT FROM CHILLICOTHE TO COLUMBUS, SO IT MAKES IT ABOUT FOUR AND A HALF HOURS.

Q. YOU CAME BACK THROUGH CHILLICOTHE IN ORDER TO GET TO COLUMBUS?

A. YEAH, WE CAME UP 23.

Q. THROUGHOUT THAT PERIOD OF TIME, HOW OFTEN WAS ANDREW TAKING THE PILLS?

A. I AM NOT -- HE WAS JUST TAKING THEM, I GUESS, EVERY COUPLE OF MINUTES, EVERY 20 MINUTES OR SOMETHING HE WOULD TAKE ONE OR TWO; I DON'T KNOW.

Q. WAS SHAWN HANDING THE PILLS BACK TO HIM TO TAKE?

A. NO, SHAWN JUST GAVE HIM A LITTLE -- LIKE A THING THAT YOU WOULD HAVE -- IT HAD PILLS IN IT WHENEVER WE WERE LEAVING THE HOUSE WHERE HE GOT THEM.

Q. HE GAVE THEM TO HIM ALL AT ONCE?

A. YES.

Q. DID YOU GUYS DRINK ANY ALCOHOL?

A. SOME BEER IN THE BACK OF THE JEEP, AND WE WERE GETTING SOME -- IT WAS HOT, BUT WE WERE STILL DRINKING IT.

Q. DID YOU GUYS STOP ANYWHERE STARTING WITH THE TOWN IN WEST VIRGINIA THAT YOU DON'T KNOW THE NAME OF TO COLUMBUS, DID YOU STOP ANYWHERE TO EAT?

A. YEAH, WE STOPPED AT WENDY'S.

Q. WHERE WAS THE WENDY'S LOCATED?

A. I THINK IT IS ASHLAND, KENTUCKY.

Q. ASHVILLE?

A. ASHLAND.

Q. HOW FAR INTO YOUR TRIP WAS THAT?

A. IT WAS ON OUR WAY BACK. I DON'T KNOW HOW MANY HOURS IT WAS.

Q. YOU SAID THAT IT IS ABOUT FOUR AND A HALF HOURS, THREE AND A HALF AND THEN ADD AN HOUR, SO HOW FAR INTO THAT FOUR AND A HALF HOURS WAS IT?

A. MAYBE AN HOUR, HOUR AND A HALF, SOMETHING LIKE THAT.

Q. IS ANDREW STILL AWAKE?

A. YEAH.

Q. DID HE GO INTO WENDY'S WITH YOU?

A. NO, WE WENT TO THE DRIVE-THROUGH.

Q. DID HE ORDER ANY FOOD?

A. I CAN'T REMEMBER.

Q. DID YOU ORDER FOOD?

A. YEAH, I PROBABLY DID.

Q. WHO WAS DRIVING AT THIS POINT IN TIME?

A. ME.

Q. AND SHAWN WAS IN THE PASSENGER -- THE FRONT PASSENGER SEAT?

A. YES.

Q. ANDREW WAS IN THE REAR?

A. YES.

Q. IS THAT A BENCH SEAT IN THE BACK?

A. YES.

Q. HOW LONG AFTER YOU LEFT THAT WENDY'S DID ANDREW PASS OUT?

A. PROBABLY AN HOUR, HOUR AND A HALF.

Q. HAD YOU BEEN TALKING TO HIM PRIOR TO THAT?

A. YEAH, WE ASKED HIM IF HE WAS GOING TO TELL ON JIMMY FOR SHOOTING THAT GUY, AND HE SAID, NO.

Q. WHEN HE PASSED OUT, DID YOU THINK ANYTHING OF THAT?

A. JUST THOUGHT HE JUST WENT TO SLEEP.

Q. DID YOU MAKE ANY ATTEMPT TO TRY TO DETERMINE HOW MANY OF THE PILLS HE HAD TAKEN?

A. NO.

Q. DID SHAWN MAKE ANY ATTEMPT OF THE PILLS TO DETERMINE HOW MANY PILLS HE HAD TAKEN?

A. NOT THAT I KNOW OF.

Q. WERE YOU ALL CONCERNED THAT HE MIGHT HAVE HAD A REACTION OR A PROBLEM OR AN OVERDOSE TO THOSE PILLS?

A. NO, BECAUSE FROM WHAT I KNEW, HE TOOK PILLS ALL THE TIME. HE LIKED TAKING PILLS, SO I FIGURED HE KNEW WHAT HE WAS DOING.

Q. SO AT NO TIME PRIOR TO LEAVING WENDY'S AND GETTING TO COLUMBUS, DID YOU PULL OVER AND CHECK HIM TO SEE IF HE WAS ALL RIGHT OR ANYTHING OF THAT NATURE?

A. WE JUST DROVE BACK.

Q. FROM THAT POINT WHERE HE PASSED OUT TO THE EVENTS -- ALL OF THE EVENTS IN THE CORNFIELD, DID HE EVER WAKE UP OR TALK OR REGAIN CONSCIOUSNESS?

A. NO.

Q. YOU TESTIFIED THAT EITHER YOU OR SHAWN CALLED BACK TO JIMMY IN COLUMBUS, CORRECT?

A. YES.

Q. DID YOU CALL HIS CELL PHONE?

A. I CAN'T EVEN REMEMBER. I JUST KNOW WE CALLED JIMMY.

Q. AGAIN, HOW FAR AWAY FROM COLUMBUS WERE YOU AT THE POINT IN TIME THAT THAT CALL WAS MADE?

A. SOMEWHERE AROUND PORTSMOUTH, A LITTLE BIT PAST PORTSMOUTH ON THE WAY BACK.

Q. WAS THERE ANOTHER CALL TO JIMMY AFTER THAT ONE?

A. NOT THAT I CAN REMEMBER.

Q. ARE YOU SAYING THAT YOU MADE PLANS OR SHAWN MADE PLANS TO MEET JIMMY AT A PARKING LOT AT A GROCERY STORE WHEN YOU WERE STILL DOWN IN PORTSMOUTH, OHIO?

A. YEAH, ON OUR WAY BACK.

Q. ON YOUR WAY BACK FROM THE -- AND THE CALL WAS FROM PORTSMOUTH?

A. YES.

Q. HOW FAR AWAY IS PORTSMOUTH FROM COLUMBUS?

A. I WOULD SAY PROBABLY ABOUT TWO HOURS.

Q. AT THE TIME YOUR VEHICLE GOT TO THE GROCERY STORE PARKING LOT, DID YOU ARRIVE FIRST OR DID THE VEHICLE THAT JIMMY CONWAY WAS IN ARRIVE FIRST?

A. THE VEHICLE THAT JIMMY WAS IN WAS ALREADY THERE.

Q. I THINK YOU TESTIFIED THAT SHAWN WAS DRIVING AT THAT POINT IN TIME?

A. I DON'T THINK I DID.

Q. AS FAR AS YOUR MEMORY IS RIGHT NOW, WAS IT YOU DRIVING AND SHAWN IN THE PASSENGER SEAT?

A. YES, BECAUSE HE DIDN'T HAVE A LICENSE, I DID.

Q. AND HOW DID YOU POSITION THE VEHICLE WHEN YOU SAW JIMMY CONWAY'S VEHICLE SITTING THERE, HOW DID YOU PULL UP AND POSITION YOURSELF?

A. WE PULLED UP ON HIS DRIVER'S SIDE, I PULLED MY DRIVER'S SIDE UP TO HIS.

Q. WHY IS IT THAT SHAWN GOT OUT OF THE CAR?

A. BECAUSE I KEPT THE WINDOWS UP AND HE GOT OUT TO TALK TO JIMMY.

Q. YOU KEPT THE WINDOWS UP IN THE CHEROKEE?

A. YES.

Q. WHAT WAS THE PURPOSE OF THAT?

A. I THINK IT WAS COLD OUT THAT NIGHT.

Q. I GUESS THAT STILL DOESN'T ANSWER MY QUESTION, WHICH IS WHY DID SHAWN GET OUT OF THE CAR AND COME AROUND?

MR. LOWE: OBJECTION.

THE COURT: DON'T ASK THE WITNESS TO SPECULATE, PLEASE. I WILL SUSTAIN THE OBJECTION.

Q. (BY MR. MCGOWAN) DO YOU HAVE ANY KNOWLEDGE AS TO WHY SHAWN GOT OUT OF THE CAR AND TALKED TO JIMMY INSTEAD OF YOU?

A. I DON'T KNOW WHY HE GOT OUT INSTEAD OF ME. I DON'T KNOW.

Q. BECAUSE YOUR TESTIMONY IS YOU PULLED UP SO THAT YOUR WINDOW WAS FACING JIMMY CONWAY'S WINDOW, RIGHT?

A. YES.

Q. AND YOUR TESTIMONY WAS THAT YOU STAYED IN THE VEHICLE?

A. YES.

Q. AND SHAWN NIGHTINGALE GOT OUT OF THE PASSENGER SEAT?

A. YES.

Q. AND WALKED AROUND AND TALKED TO JIMMY CONWAY?

A. YES.

Q. WHEN ANDREW PASSED OUT, WAS HE LAYING DOWN IN THE BENCH SEAT IN THE BACK?

A. YES.

Q. LAYING COMPLETELY FLAT TO THE EXTENT YOU CAN IN A VEHICLE?

A. YEAH, AS MUCH AS HE CAN, I GUESS.

Q. AND SINCE YOU HAD THE WINDOWS ROLLED UP -- WELL, LET ME ASK YOU THIS.

HOW LONG DID THE CONVERSATION BETWEEN SHAWN AND JIMMY TAKE?

A. IT WASN'T BUT MAYBE FIVE MINUTES.

Q. SINCE YOU HAD THE WINDOWS UP, I TAKE IT YOU DIDN'T HEAR A SINGLE WORD OF THAT CONVERSATION, CORRECT?

A. I DIDN'T HEAR.

Q. DID JIMMY TELL YOU WHERE HE WAS WHEN YOU CALLED HIM FROM PORTSMOUTH OR I GUESS YOU DON'T KNOW IF IT WAS YOU THAT CALLED?

A. NO, I DON'T REMEMBER HIM SAYING OR EVEN TELLING US WHERE HE WAS OR ANYTHING LIKE THAT.

Q. I THINK YOU MADE SOME REFERENCE THAT YOU STARTED FOLLOWING CONWAY'S VEHICLE, RIGHT?

A. YES.

Q. I THINK YOU GAVE SOME TESTIMONY THAT JIMMY CONWAY SAID, QUIT BEING BITCHES?

A. YES.

Q. ISN'T IT TRUE THAT MUST HAVE BEEN OUT IN THE FIELD SINCE YOU SAID YOU COULDN'T HEAR ANYTHING?

A. I'M NOT SURE IF HE SAID IT ON THE PHONE TO US WHEN HE CALLED AND WE TOLD HIM WE COULDN'T DO IT, OR IF IT WAS IN THE FIELD. LIKE I SAID, I AM NOT SURE WHEN IT WAS SAID.

Q. THERE IS NO WAY IT COULD HAVE BEEN SAID WHILE YOU WERE AT THE GROCERY STORE PARKING LOT BECAUSE YOU COULDN'T HEAR ANY OF THAT?

A. NO.

Q. HEAR ANY OF THAT CONVERSATION?

A. NO.

Q. WHERE IS ANDREW WHEN YOU GET OUT TO THE FIELD AND PARK YOUR CAR?

A. STILL IN THE BACK SEAT.

Q. STILL LAID OUT?

A. YES.

Q. WHO GOT ANDREW OUT OF THE CAR?

A. I DID.

Q. HOW DID YOU GET HIM OUT OF THE CAR?

A. GRABBED HIM UNDERNEATH HIS ARMS AND PULLED HIM.

Q. HE WAS UNCONSCIOUS STILL?

A. HE IS UNCONSCIOUS.

Q. IS IT TRUE THAT YOU PULLED HIM OUT BY HIS HEAD AND NECK TO GET HIM OUT OF THE CAR?

A. NO.

Q. AT SOME POINT IN TIME YOU START CHOKING HIM, RIGHT?

A. I HAD MY ARM AROUND HIS NECK.

Q. DID YOU ALSO PUT YOUR ARM OR HAND OR ANY OTHER PART OF YOUR BODY OVER HIS MOUTH AND NOSE?

A. NO.

Q. HOW LONG WAS IT THAT YOU HAD YOUR ARM AROUND HIS NECK?

A. I AM NOT SURE.

Q. SEVERAL MINUTES?

A. NO. I AM NOT SURE.

Q. YOU DID IT LONG ENOUGH -- WHAT WERE YOU TRYING TO DO BY PUTTING YOUR ARM AROUND HIS NECK?

A. I WAS JUST TRYING TO MAKE JIMMY HAPPY AND JUST HAD HIM -- I DON'T EVEN KNOW WHAT I WAS TRYING TO DO, JUST THAT WAS IT.

Q. WERE YOU TRYING TO CONVINCE JIMMY CONWAY YOU WERE CHOKING HIM?

A. YES.

Q. IN ORDER TO CONVINCE HIM OF THAT, YOU WOULD HAVE TO DO IT FOR AT LEAST SOME PERIOD OF TIME, WOULD YOU NOT?

A. YOU KNOW, WHAT'S A PERIOD OF TIME, A MINUTE, TWO MINUTES?

Q. THAT'S WHAT I AM ASKING. I AM TRYING TO GET A BETTER IDEA.

A. I DON'T KNOW.

Q. WHAT WAS THE NEXT ACTION YOU TOOK WITH REGARD TO ANDREW?

A. I LAID HIM DOWN, AND LIKE I SAID BEFORE, I DON'T KNOW HOW IT CAME UP FOR ME TO STEP ON HIS THROAT, BUT I ALREADY WENT THROUGH IT. I HAD ONE FOOT ON THE GROUND, PUT ONE FOOT ON HIS NECK AND THEN I LEANED ONTO THE JEEP WITH ONE HAND.

Q. WHEN YOU SAY LEANED ON THE JEEP, WAS THAT TO BALANCE YOURSELF?

A. YES, I WAS LEANING ON THE JEEP WITH MY RIGHT HAND.

Q. THAT'S TO BALANCE YOURSELF?

A. YES.

Q. WHY DID YOU NEED TO KEEP YOUR BALANCE?

A. BECAUSE I WAS STANDING ON MY RIGHT FOOT.

Q. YOU COULDN'T BALANCE YOURSELF WITH YOUR LEFT FOOT?

A. IT WAS ON ANDREW. I WAS STEPPING ON ANDREW.

Q. WHICH OF YOUR FEET WERE STEPPING ON ANDREW'S NECK?

A. MY LEFT.

Q. WHERE WAS YOUR RIGHT FOOT AT THAT TIME?

A. IT WAS ON THE GROUND.

Q. I GUESS MY QUESTION IS COULDN'T YOU BALANCE YOURSELF WITH YOUR RIGHT FOOT?

A. I GUESS I COULDN'T BECAUSE I HAD MY HAND ON THE JEEP.

Q. AND AGAIN, WHY IS IT THAT YOU WERE TAKING THESE ACTIONS WITH REGARD TO ANDREW'S NECK?

A. BECAUSE JIMMY WANTED US TO.

Q. WELL, I'M TALKING A LITTLE MORE SPECIFIC.

A. BECAUSE JIMMY WANTED ME TO.

Q. WHAT WERE YOU TRYING TO CONVINCE HIM OF AT THE TIME YOU ARE DOING THIS?

A. I WAS KILLING ANDREW.

Q. SO WHATEVER YOU WERE DOING WITH REGARD TO PUTTING YOUR HAND ON THE CAR AND HOW YOU WERE BALANCING YOURSELF, YOU WERE TRYING TO MAKE IT LOOK LIKE YOU WERE STEPPING ON HIM, RIGHT?

A. YES.

Q. YOU WOULDN'T HAVE WANTED JIMMY TO BELIEVE YOU WERE PRETENDING TO STEP ON HIM, WOULD YOU?

A. NO.

Q. AT THIS POINT IN TIME ANDREW STILL IS UNCONSCIOUS?

A. YES.

Q. HE CAN'T DEFEND HIMSELF OR DO ANYTHING ABOUT WHAT IS GOING ON?

A. NO.

Q. AT THE TIME YOU PULLED HIM OUT OF THE CAR AND HAD YOUR ARM AROUND HIM, AS YOU TESTIFIED ABOUT, AND MOVED HIM TO THE GROUND, WAS HIS BODY LIMP?

A. YES.

Q. DID HIS HEAD AND NECK JUST FLOP AROUND FREELY?

A. YEAH, HIS WHOLE BODY. HE WAS ASLEEP.

Q. ISN'T IT TRUE THAT AT THE TIME YOU WERE MANIPULATING HIS NECK, HIS NECK MADE A POPPING SOUND?

A. THEY SAID THAT IT DID, AND I TOLD THEM I DIDN'T HEAR IT. I ASKED THEM -- BECAUSE THEY SAID IT POPPED AND I SAID, DID IT? AND I DIDN'T HEAR IT.

Q. AT SOME POINT IN TIME DID YOU TRY TO MAKE IT LOOK TO JIMMY CONWAY THAT YOU WERE TWISTING ANDREW'S NECK AROUND?

A. NO.

Q. TWISTING HIS HEAD AROUND?

A. NO.

Q. DID YOU EVER TRY TO MAKE IT LOOK LIKE YOU WERE BREAKING HIS NECK?

A. NO.

Q. HOW MUCH DID YOU WEIGH ON THIS NIGHT IN QUESTION?

A. TWO FIFTY.

Q. WERE YOU SIGNIFICANTLY BIGGER THAN ANDREW DOTSON?

A. YES.

Q. HE DIDN'T WEIGH OVER TWO HUNDRED, AS FAR AS YOU KNOW, DID HE?

A. AS FAR AS I KNOW.

Q. YOU KEPT MAKING REFERENCE IN YOUR DIRECT EXAMINATION THAT YOU STILL HEARD HIM BREATHING. HOW IS IT THAT YOU STILL HEARD HIM BREATHING?

A. BECAUSE I GOT DOWN ON MY HANDS AND KNEES, LISTENING TO HIM.

Q. DID ANYBODY ELSE DO THAT?

A. NO.

Q. WHILE YOU WERE THERE, DID YOU MAKE ANY ATTEMPT TO DIG UP ANY OF THE DIRT IN THAT AREA?

A. NO.

Q. DID JAMIE HORTON MAKE ANY ATTEMPT TO DIG UP THE DIRT IN THAT AREA?

A. NO.

Q. WHILE YOU WERE THERE, DID YOU MAKE ANY ATTEMPT TO

LOOSEN THE DIRT IN THAT AREA?

A. NO.

Q. DID JAMIE HORTON MAKE ANY ATTEMPT TO LOOSEN THE DIRT?

A. NO.

Q. IF SOMEONE SAID THAT JAMIE HORTON LOOSENED THAT DIRT --

MR. LOWE: OBJECTION.

THE COURT: SUSTAINED.

Q. (BY MR. MCGOWAN) I GUESS JUST TO ASK YOU THAT, WAS ANYONE ELSE ATTEMPTING TO DIG UP DIRT?

A. NO.

Q. NOT ONE OF THE FOUR OF YOU DUG UP ANY DIRT AT THAT SCENE?

A. NO.

Q. YOU WERE ASKED ABOUT THE LIME IN THE CAR, AS TO WHO PUT IT THERE, AND YOU DIDN'T HAVE ANY PERSONAL KNOWLEDGE AS TO WHO PUT IT THERE, DID YOU?

A. NO.

Q. AS YOU SIT HERE TODAY, YOU HAVE NO REASON TO BELIEVE THAT JAMIE HORTON PUT THAT LIME THERE, DO YOU?

A. I HAVE NO IDEA. I CAN'T SAY THAT HE DID. I DON'T KNOW.

Q. MY QUESTION IS A LITTLE DIFFERENT THAN THAT. YOU HAVE NO REASON TO BELIEVE THAT HE PUT IT THERE, DO YOU?

MR. LOWE: OBJECTION.

THE COURT: SUSTAINED.

Q. (BY MR. MCGOWAN) AFTER THINGS HAPPENED AND ANDREW'S BODY ENDED UP BEING DRUG BACK IN THE FIELD, YOU SEE JIMMY CONWAY GO BACK THERE, AND YOU HEAR SOME NOISE?

A. YES.

Q. AT THAT POINT IN TIME YOU ARE ANXIOUS TO GET OUT OF THERE?

A. AFTER HE GOT -- JAMIE GOT THE LIME OUT OF THE BACK OF THE TRUCK AND WENT UP THERE, AND WE SEEN HIM COME BACK, AND YEAH, I WAS ANXIOUS TO GET OUT OF THERE.

Q. AND LATER ON WHEN THINGS ARE BEING DISPOSED OF, WHO ENDS UP WITH ANDREW'S CLOTHES?

A. I HAD THE CLOTHES IN THE CLEAR BAG.

Q. YOU HAD ANDREW'S CLOTHES?

A. YES.

Q. WAS ANY OF THE THINGS THAT HAPPENED OUT IN THE CORNFIELD, APART FROM ANDREW DOTSON ACTUALLY BEING MURDERED, PART OF THE ORIGINAL PLAN THAT YOU TALKED ABOUT WITH JIMMY CONWAY?

A. I DON'T UNDERSTAND, WAS WHAT PART OF THE PLAN -- THERE WAS NO PLAN THAT I KNEW OF.

Q. YOU SAID THERE WAS A PLAN THAT YOU AND SHAWN WOULD GO AND KILL HIM IN WEST VIRGINIA, CORRECT?

A. I FOUND THAT OUT ON THE WAY TO WEST VIRGINIA,

YES, SOMETIME, I DON'T KNOW.

Q. AND YOU HAD AGREED WITH JIMMY CONWAY TO KILL ANDREW?

A. YES.

Q. BEFORE THE WEST VIRGINIA TRIP?

A. YES.

Q. SO YOU AND SHAWN, SHOWING BACK UP WITH ANDREW PASSED OUT IN THE BACK WAS NOT PART OF ANY PLAN?

A. NO.

MR. MCGOWAN: MAY I HAVE A MOMENT?

THE COURT: YOU MAY.

Q. (BY MR. MCGOWAN) YOU NEVER TOLD ANYBODY AFTER YOU GOT DOWN AND LISTENED THAT ANDREW WAS STILL BREATHING, DID YOU?

A. I AM NOT SURE. I JUST -- I KNOW THAT HE WAS BREATHING.

Q. IN FACT, IF YOU WOULD HAVE MADE THAT KIND OF STATEMENT, THE VERY THING YOU WERE TRYING TO PORTRAY THAT YOU WERE KILLING ANDREW TO JIMMY CONWAY WOULD NECESSARILY BE REFUTED, WOULD IT NOT?

A. I GUESS SO.

Q. YOU TESTIFIED ON DIRECT EXAMINATION THAT JIMMY CONWAY WENT BACK IN THE FIELD TO MAKE SURE HE WAS DONE, TO MAKE SURE HE WAS DEAD?

A. YES.

Q. GETTING BACK TO WHETHER OR NOT YOU MADE SOME MISTAKES, ISN'T IT TRUE THAT YOU PREVIOUSLY INDICATED TO A DETECTIVE THAT SHAWN AND JAMIE TOOK THE LIME BACK THERE?

A. YES.

Q. THAT'S NOT WHAT YOU TESTIFIED TO HERE TODAY, IS IT?

A. NO.

Q. DID YOU EVER TELL THE DETECTIVES THAT YOU MADE A STATEMENT AT THE SCENE THAT YOU COULDN'T DO IT?

A. YEAH, I COULDN'T DO IT.

Q. I AM ASKING YOU IF YOU TOLD THE DETECTIVES THAT?

A. YES.

MR. MCGOWAN: MAY I APPROACH THE WITNESS, YOUR HONOR?

THE COURT: YOU MAY.

Q. (BY MR. MCGOWAN) YOU MAY HAVE MISUNDERSTOOD ME. I DON'T UNDERSTAND MYSELF AT THIS POINT. WHAT I AM ASKING YOU IS DID YOU TELL THE DETECTIVES THAT YOU MADE A STATEMENT AT THE SCENE, I CAN'T DO THIS?

A. I AM PRETTY SURE I DID.

MR. MCGOWAN: MAY I APPROACH THE WITNESS, YOUR HONOR?

THE COURT: YES.

Q. (BY MR. MCGOWAN) THIS IS A TRANSCRIPT OR WHAT PURPORTS TO BE A TRANSCRIPT OF YOUR INTERVIEW WITH THE

DETECTIVES. I BELIEVE THE DATE IS MAY 23, '02. IT IS BETWEEN YOURSELF, CHRIS FLOYD, AND ZACH SCOTT. I KNOW IT IS KIND OF LENGTHY, BUT IS THERE ANY WAY YOU CAN POINT OUT TO ME WHERE IN THIS TRANSCRIPT IT SAYS THAT YOU MADE A STATEMENT AT THE SCENE OF THE CRIME THAT YOU COULDN'T DO IT?

A. I HAVE NO IDEA. THE INTERVIEW WAS, LIKE YOU SAID, LENGTHY.

Q. WELL, LET ME ASK YOU THIS. IS IT POSSIBLE THAT YOU DIDN'T, IN FACT, TELL THEM THAT? I THINK YOUR ANSWER EARLIER WAS I THINK I DID. IS IT POSSIBLE YOU ARE MISTAKEN ABOUT THAT?

A. IT'S POSSIBLE.

Q. AGAIN, IF YOU WOULD HAVE MADE A STATEMENT LIKE THAT, WOULDN'T THAT HAVE BEEN COUNTER TO EXACTLY WHAT YOU JUST TOLD THE JURY YOU WERE TRYING TO DO, WHICH IS TO CONVINCE JIMMY CONWAY THAT YOU ARE KILLING ANDREW DOTSON?

A. THAT COULD HAVE BEEN BEFORE I WAS SUPPOSED TO PUT MY FOOT ON HIS THROAT. SO IT COULD HAVE MEANT THAT I COULDN'T DO IT BY CHOKING HIM. I DON'T KNOW.

Q. YOU ARE CLARIFYING TO THE JURY THAT IF YOU DID, IN FACT, SAY THAT, THAT IT MAY HAVE BEEN BEFORE YOU DID THE REST OF THE ACTS YOU DID TO ANDREW DOTSON?

A. YES.

Q. AND AGAIN, BECAUSE OF YOUR STATE OF MIND BOTH AT

THE SCENE, THE STATE OF MIND THAT YOU HAVE DISCUSSED WITH THE JURY OR TESTIFIED TO IN FRONT OF THE JURY AND THE PASSAGE OF TIME BEFORE YOU EVER MADE STATEMENTS ABOUT WHAT YOU SAW OR WHAT YOU DID, YOU MAY HAVE MADE SOME MISTAKES ABOUT WHO DID WHAT AT THAT SCENE, CORRECT?

A. YES.

Q. YOU TESTIFIED ABOUT A DEAL THAT YOU MADE WITH THE STATE, CORRECT?

A. YES.

Q. WHAT IS THE FIRST THING THAT HAPPENED THAT LED YOU TO REACH A DEAL WITH THE STATE? WHAT IS THE FIRST CHARGE THAT WAS BROUGHT TO YOUR ATTENTION?

A. I WAS INVOLVED IN A ROBBERY IN CHILLICOTHE.

Q. WERE YOU INDICTED FOR THAT?

A. YES.

Q. WHAT WAS THE INDICTMENT OR WHAT WERE THE OFFENSES THAT YOU WERE INDICTED ON?

A. AGGRAVATED ROBBERY, AGGRAVATED KIDNAPPING AND GUN SPECIFICATION.

Q. WHAT WAS THE LAST PART?

A. A GUN SPECIFICATION.

Q. YOU UNDERSTAND A GUN SPECIFICATION IS THAT WHILE DOING THOSE OTHER ACTS, YOU HAD A GUN?

A. YES.

Q. OR USED A GUN.

WHAT LEVEL OF FELONY OFFENSES WERE THOSE?

MR. LOWE: OBJECTION.

THE COURT: OVERRULED. YOU MAY ANSWER THE QUESTION.

Q. (BY MR. MCGOWAN) WHAT LEVEL OF OFFENSE -- LET'S LEAVE THE GUN SPEC OUT. WHAT WAS THE AGGRAVATED ROBBERY AND THE KIDNAPPING?

A. I BELIEVE THEY ARE FELONY ONES.

Q. FELONIES OF THE FIRST DEGREE?

A. YES.

Q. AS PART OF YOUR DEAL WITH THE STATE -- WELL, LET ME BACK UP. THAT ROBBERY IS OUT OF ANOTHER COUNTY, RIGHT?

A. YES.

Q. OUT OF ROSS COUNTY?

A. YES.

Q. AS PART OF YOUR DEAL WITH THE STATE HERE IN THIS CASE, YOU ALSO INCLUDED THAT COUNTY'S PROSECUTORS IN THESE DISCUSSIONS, CORRECT?

A. I AM NOT SURE HOW -- MY LAWYER, HE DID ALL OF THE TALKING. I AM NOT SURE WHAT WAS -- HOW IT HAPPENED.

Q. DID YOU UNDERSTAND THAT THIS WAS A PACKAGE DEAL; THAT WHAT YOU DID DOWN THERE AND WHAT YOU PLED TO WAS ALL WHAT YOU PLED TO UP HERE OR WERE GOING TO PLEAD TO?

A. YES.

Q. WHAT LEVEL OF OFFENSE DID YOU END UP PLEADING TO

DOWN IN CHILLICOTHE?

A. A FELONY ONE, AGGRAVATED ROBBERY.

Q. IS THERE ANY KIDNAPPING?

A. NO.

Q. THAT WAS DISMISSED AS PART OF THE PLEA?

A. YES.

Q. WAS THERE ANY GUN SPECIFICATION?

A. NO.

Q. WAS YOUR SENTENCE DISCUSSED PRIOR TO YOU STANDING BEFORE THE JUDGE DOWN IN CHILLICOTHE AS TO WHAT SENTENCE YOU WERE GOING TO GET DOWN THERE?

A. YES.

Q. WHAT WAS THAT SENTENCE SUPPOSED TO BE?

A. THEY WERE GOING TO RECOMMEND FOUR YEARS.

Q. AT THE TIME YOU APPROACHED ANY REPRESENTATIVES FROM FRANKLIN COUNTY, WERE YOU MADE AWARE ABOUT MAKING A DEAL? WERE YOU MADE AWARE THAT YOU WERE A SUSPECT IN THE DOTSON HOMICIDE?

A. YES.

Q. IS THAT WHY YOU DECIDED TO TALK TO THE DETECTIVES?

A. NO.

Q. YOU TALKED TO THE DETECTIVES AFTER THE POINT IN TIME YOU WERE MADE AWARE THAT YOU WERE A SUSPECT, CORRECT?

A. YES.

Q. YOU DIDN'T GO TO THEM BEFORE YOU WERE MADE AWARE YOU WERE A SUSPECT?

A. NO.

Q. WHAT IS YOUR UNDERSTANDING OF WHAT THE DEAL IS WITH FRANKLIN COUNTY?

A. WHAT IS MY UNDERSTANDING OF WHAT I AM TO PLEAD OUT TO?

Q. YES.

A. AN ABDUCTION, A FELONY THREE, AND THE PROSECUTOR IS RECOMMENDING FOUR YEARS TO RUN CONCURRENT WITH MY CASE IN CHILLICOTHE.

Q. HAVE YOU BEEN INDICTED ON THAT CHARGE YET?

A. NO.

Q. ISN'T IT TRUE THAT YOU HAVE BEEN INDICTED BUT JUST NOT ARRAIGNED?

A. I HAVEN'T RECEIVED ANY PAPERS ON IT.

Q. SO FROM YOUR KNOWLEDGE, YOU HAVE NOT HAD ANY CHARGES PLACED AGAINST YOU IN REGARD TO THIS CASE, THE ANDREW DOTSON CASE?

A. NO.

Q. I BELIEVE YOU SAID THAT THE ABDUCTION THAT YOU AGREED TO PLEAD OUT TO IS A FELONY OF THE THIRD DEGREE?

A. YES.

Q. WHAT IS YOUR UNDERSTANDING OF WHAT IT MEANS AS PART OF YOUR AGREEMENT THAT THAT SENTENCE IS TO RUN

CONCURRENT -- LET ME REPHRASE IT.

YOU TESTIFIED THAT THE STATE IS GOING TO MAKE A RECOMMENDATION THAT THAT SENTENCE BE CONCURRENT WITH YOUR CHARGE IN CHILLICOTHE, CORRECT?

A. YES.

Q. WHAT IS YOUR UNDERSTANDING OF WHAT THAT MEANS?

A. THAT I AM SERVING TIME FOR BOTH CHARGES AT THE SAME TIME.

Q. HAVE YOU MADE ANY INQUIRY OR RESEARCHED OR DONE ANYTHING TOWARDS DECIDING IF YOU ARE GOING TO FILE FOR EARLY RELEASE?

MR. LOWE: OBJECTION.

THE COURT: SUSTAINED.

MR. MCGOWAN: YOUR HONOR, MAY WE APPROACH TO GET A CLARIFICATION?

THE COURT: YOU MAY.

- - -

THEREUPON, COURT AND COUNSEL CONFERRED AT THE BENCH OUT OF THE HEARING OF THE JURY AND THE REPORTER.

- - -

MR. MCGOWAN: YOUR HONOR, MAY I HAVE A FEW MOMENTS?

THE COURT: YES.

Q. (BY MR. MCGOWAN) YOU MAY HAVE ANSWERED THIS ALREADY, BUT AT ANY POINT IN TIME DID JAMIE HORTON MAKE ANY

STATEMENTS THAT INDICATED HE HAD ANY KNOWLEDGE OF THIS PLAN TO KILL ANDREW DOTSON?

A. NO.

MR. MCGOWAN: NO OTHER QUESTIONS AT THIS TIME, YOUR HONOR.

- - -

REDIRECT EXAMINATION

BY MR. LOWE:

Q. MR. ARTHURS, YOU WERE ASKED SOME QUESTIONS ON CROSS EXAMINATION ABOUT YOUR STATE OF MIND. YOU INDICATED THINGS HAPPENED FAST.

AT ANY POINT DID YOU ALWAYS KNOW WHAT YOU WERE DOING?

A. YES.

Q. I MEAN, YOU WEREN'T DRUNK, WERE YOU?

A. NO.

Q. HAD YOU TAKEN ANY PILLS?

A. NO.

Q. WHEN YOU SAY THINGS WERE HAPPENING FAST, IT IS NOT THAT YOU DIDN'T KNOW WHAT WAS GOING ON?

A. NO, IT'S NOT THAT I DIDN'T KNOW THINGS WERE GOING ON.

Q. I MAY HAVE HEARD THIS AND I AM NOT SURE, BUT IF YOU CAN CLARIFY THIS, DID YOU SAY THAT JAMIE DIDN'T COME DOWN TO CHILLICOTHE NORMALLY?

A. I SAID THAT HE DID.

Q. HE DID COME DOWN REGULARLY?

A. YES.

Q. WHO DID HE REGULARLY COME WITH?

A. HE WOULD COME DOWN WITH SHAWN OR SOMETIMES HE WOULD COME DOWN WITH ROB, BUT HE WAS DOWN THERE A GOOD BIT, YEAH.

Q. DID HE REGULARLY COME DOWN FOR PARTIES?

A. SOMETIMES HE WOULD COME DOWN FOR PARTIES AND SOMETIMES HE WOULD COME DOWN JUST TO HANG OUT WITH ME AND SHAWN.

Q. YOU ALSO WERE ASKED ABOUT THIS PLAN TO KILL ANDREW, AND YOU INDICATED THAT YOU DIDN'T KNOW THAT MUCH ABOUT THE SPECIFICS BUT, YET, YOU AGREED TO DO THIS?

A. YES.

Q. WERE YOU AWARE THERE WAS A GUN IN SHAWN'S CAR?

A. NOT UNTIL WE GOT DOWN THERE.

Q. BUT YOU WERE MADE AWARE THERE WAS A GUN IN SHAWN'S CAR?

A. YES.

Q. AND YOU WERE AWARE HOW IT GOT THERE?

A. JIMMY GAVE IT TO HIM.

Q. AND THE BAG OF LIME, AT SOME POINT DID YOU BECOME AWARE IT WAS IN SHAWN'S CAR?

A. YEAH, IT WAS SOMETIME AFTER WE LEFT WEST

VIRGINIA. I AM NOT SURE.

Q. AND YOU WERE AWARE THAT WAS SUPPOSED TO BE PART OF THE PLAN, ALSO?

A. YES.

Q. WAS JAMIE HORTON PRESENT THE NIGHT THAT YOU WERE ASKED TO KILL ANDREW DOTSON?

A. YES.

Q. WAS JAMIE HORTON PRESENT THE MORNING WHEN YOU LEFT WITH ANDREW DOTSON?

A. YES.

Q. WAS JAMIE HORTON PRESENT WHEN YOU GOT BACK FROM WEST VIRGINIA WITH ANDREW DOTSON ALIVE?

A. YES.

Q. WAS JAMIE HORTON PRESENT WHEN YOU TOOK ANDREW DOTSON OUT OF THE CAR AND WAS TOLD TO KILL HIM?

A. YES.

Q. DID JAMIE HELP YOU DRAG THE BODY BACK TO THE CORNFIELD?

A. YES.

Q. MR. MCGOWAN ASKED YOU IF THERE WAS SOME DETAILS THAT YOU MIGHT HAVE MADE A MISTAKE ON OR ANY DETAILS THAT WE JUST TALKED ABOUT THAT WERE UNCLEAR IN YOUR MIND. WERE ANY DETAILS --

A. HE ASKED ME IF THERE WAS SOME DETAILS, AND THE REASON I SAID YES IS BECAUSE OF WHEN I SAID THAT SHAWN AND

JAMIE ALSO DID POUR THE LIME ON HIM, BUT I WAS WRONG ABOUT THAT BECAUSE LIKE I TOLD YOU, ME AND SHAWN WANTED TO LEAVE. I WANTED TO LEAVE, AND SHAWN WAS WITH ME, SO I TOLD SHAWN TO COME ON. THAT'S THE REASON THAT I SAID THAT.

Q. WE ARE GOING TO CLEAR THAT UP IN A SECOND.

THE DETAILS THAT YOU HAVE TESTIFIED THAT JAMIE HORTON PARTICIPATED IN THE NIGHT OF ANDREW'S MURDER, ARE YOU UNCLEAR OF ANY OF THE THINGS JAMIE HORTON DID THAT NIGHT?

A. NO.

Q. DID YOU MAKE ANY MISTAKES WHEN YOU TOLD THE DETECTIVES ABOUT WHAT JAMIE HORTON DID THAT NIGHT?

A. JUST LIKE I SAID WITH HIM AND SHAWN.

Q. LET'S MOVE ONTO THAT. WE TALKED ABOUT SPECIFICALLY THE LIME, CORRECT?

A. YES.

Q. YOU MADE A STATEMENT TO SHERIFF'S DETECTIVES, AND WHAT DID YOU TELL THEM ABOUT THE LIME WHEN YOU TALKED TO THEM?

A. THAT I TOLD THE SHERIFF'S DETECTIVES THAT SHAWN AND JAMIE WENT BACK THERE TO POUR THE LIME ON HIM.

Q. DID YOU HAVE A CHANCE TO REVIEW WHAT YOU TOLD THE DETECTIVES PRIOR TO YOUR TESTIMONY TODAY?

A. YES.

Q. DID WE HAVE A DISCUSSION ABOUT THAT THIS

SUNDAY?

A. YES.

Q. DID YOU INDICATE THAT THAT WAS A MISTAKE?

A. YES.

Q. WHAT DID YOU TELL ME?

A. I TOLD YOU THAT JAMIE WAS THE ONE THAT TOOK THE LIME BACK THERE HIMSELF BECAUSE SHAWN WAS BESIDE THE TRUCK WITH ME, AND I WAS READY TO GO, AND I WAS IN A HURRY TO LEAVE, AND I TOLD SHAWN TO COME ON, SO WE LEFT. AND THEN JAMIE PUT THE BAG IN THE BACK OF JIMMY'S TRUCK.

Q. YOU ARE SURE ABOUT THAT?

A. YES.

Q. NOW, THIS CONVERSATION THAT TOOK PLACE AT THE SHOPPING CENTER, YOU INDICATED THAT YOU PULLED UP FACING JIMMY CONWAY'S CAR?

A. HE WAS ALREADY PARKED, AND WE JUST PULLED IN, SO IT WAS MY WINDOW TOWARD HIS KIND OF.

Q. BOTH OF YOUR WINDOWS, YOU TESTIFIED TO, WERE ROLLED UP?

A. YEAH, THE WINDOWS IN THE JEEP WERE ROLLED UP.

Q. WHAT ABOUT JIMMY'S WINDOWS?

A. HIS WAS ROLLED DOWN WHEN SHAWN TALKED TO HIM.

Q. SO YOU INDICATED SHAWN GOT OUT OF THE CAR AND WENT TO TALK TO HIM?

A. YES.

Q. WAS HE LEANING IN THE CAR WHEN HE WAS TALKING TO HIM?

A. I AM PRETTY SURE HE WAS JUST STANDING THERE BESIDE THE TRUCK, TALKING TO HIM.

Q. BUT THE WINDOW WAS ROLLED DOWN?

A. YES.

Q. YOURS WAS STILL UP?

A. YES.

Q. AND JAMIE HORTON WAS IN THE FRONT PASSENGER SEAT OF THAT VEHICLE?

A. YES.

Q. THAT CONVERSATION LASTED APPROXIMATELY FIVE MINUTES?

A. SOMEWHERE AROUND IN THERE.

Q. YOU WERE ASKED IF YOU DUG UP ANY DIRT, AND YOUR ANSWER WAS, NO, I BELIEVE?

A. CORRECT.

Q. DID YOU SEE ANYBODY DIG UP ANY DIRT?

A. NO.

Q. WAS THERE, IN FACT, TALK ABOUT BURYING THE BODY?

A. YES.

Q. WAS THERE ANYTHING ELSE BESIDES A PICK AX THAT YOU KNOW OF IN THE BACK OF JIMMY CONWAY'S PICKUP TRUCK?

A. THERE WAS SOME SHOVELS.

Q. YOU WERE ASKED ABOUT THE ORIGINAL PLAN TO KILL ANDREW DOTSON, AND TO YOUR KNOWLEDGE, THE REASON FOR THAT WAS BECAUSE HE WAS A WITNESS TO SOMETHING?

A. A WITNESS TO JIMMY SHOOTING ANOTHER GUY.

Q. AT THE CORNFIELD, THIS PLAN WAS CARRIED OUT, WASN'T IT?

A. YES.

Q. YOU INDICATED YOU SPOKE TO THE DETECTIVES?

A. YES.

Q. AND IT WAS AFTER YOU WERE TOLD THAT YOU WERE A POSSIBLE SUSPECT?

A. YES.

Q. WHEN YOU CAME FORWARD, THOUGH, WAS THIS A SOLVED CASE OR AN UNSOLVED CASE?

A. IT WAS AN UNSOLVED CASE.

Q. AND THAT IS WHEN YOU CAME FORWARD AND TOLD WHAT HAPPENED THAT NIGHT?

A. YES.

Q. YOU WERE ALSO ASKED IF YOU KNEW IF ANDREW DOTSON WAS STILL BREATHING?

A. YES.

Q. COULD YOU TELL WHEN HE WAS LYING ON THE GROUND IF HE WAS BREATHING?

A. YES, THAT'S WHAT I SAID. I GOT DOWN AND I MADE

SURE HE WAS BREATHING.

Q. AT WHAT POINT DID YOU DO THIS?

A. I JUST KNOW I DID IT. I'M NOT SURE WHEN EXACTLY IT TOOK PLACE.

Q. DID YOU DO IT IN FRONT OF JAMIE HORTON?

A. YES.

Q. YOU SAID YOU WEREN'T SURE IF YOU TOLD PEOPLE HE WAS BREATHING?

A. YEAH, I AM NOT REAL SURE.

Q. COULD YOU HAVE OR YOU DIDN'T?

A. I COULD HAVE, BUT LIKE I ALSO SAID, IT HAS BEEN A LONG TIME. I AM NOT COMPLETELY SURE WHAT EVERYBODY SAID, AS FAR AS WHAT PERSON SAID WHAT OR ANYTHING LIKE THAT.

Q. DID JAMIE HORTON EVER ASK IF HE WAS STILL BREATHING?

A. NO.

Q. DID JAMIE HORTON EVER GET DOWN AND CHECK TO SEE IF HE WAS STILL BREATHING?

A. NO.

Q. WHO DRAGGED ANDREW DOTSON IN THE BACK OF THE CORNFIELD?

A. ME AND JAMIE.

Q. WHO COLLECTED ANDREW'S CLOTHES, EXCEPT FOR HIS BOXERS?

A. JAMIE AND SHAWN.

Q. WHO GOT THE LIME FROM THE BACK OF SHAWN'S TRUCK?

A. JAMIE.

Q. WHO CAME BACK WITH AN EMPTY LIME BAG?

A. JAMIE.

Q. YOU WERE SHOWN A TRANSCRIPT AND ASKED ABOUT WASN'T IN IT, ABOUT THE STATEMENT, I BELIEVE, WHERE YOU TOLD JIMMY CONWAY YOU COULDN'T DO IT. DID YOU TELL JIMMY CONWAY YOU COULDN'T KILL ANDREW DOTSON?

A. I'M NOT SURE. I DON'T REMEMBER.

Q. IS IT YOUR RECOLLECTION THAT YOU TOLD JIMMY CONWAY AT SOME POINT THAT YOU COULDN'T KILL ANDREW DOTSON?

A. I KNOW WE TOLD HIM WE COULDN'T DO IT WHEN WE WERE IN WEST VIRGINIA. I KNOW THAT FOR A FACT.

Q. YOU WERE SHOWN A COPY OF STATE'S EXHIBIT G-2 AND ASKED TO SEE IF YOU COULD FIND THAT STATEMENT IN THERE. WHAT WAS YOUR ANSWER TO THAT?

A. I SAID THAT IT WAS A LONG INTERVIEW. I AM NOT SURE, YOU KNOW WHAT I MEAN, IF IT'S IN THERE.

Q. DOES THAT MEAN IT DEFINITELY DIDN'T HAPPEN?

A. I DON'T KNOW. I'M NOT SAYING IT DEFINITELY DIDN'T. I AM NOT SAYING THAT IT DID. I DON'T REMEMBER.

Q. YOU WERE ASKED ABOUT GOING TO WENDY'S?

A. YES.

Q. CAN YOU FLIP THROUGH THAT STATEMENT AGAIN AND SEE IF THERE IS ANYTHING IN THERE ABOUT YOU STOPPING AT WENDY'S ON THE WAY BACK?

A. I DON'T SEE IT.

Q. DOES THAT MEAN IT DIDN'T HAPPEN OR YOU POSSIBLY DIDN'T TELL THE DETECTIVES?

A. I JUST DIDN'T REMEMBER IT.

Q. SO IF IT'S NOT IN THERE DOESN'T MEAN IT DIDN'T HAPPEN?

A. YEAH.

Q. AFTER THIS MURDER HAPPENED, YOU INDICATED THAT YOU STILL SAW JAMIE HORTON, IS THAT RIGHT?

A. YES.

Q. YOU STILL SAW JIMMY CONWAY?

A. YES.

Q. YOU STILL SAW SHAWN NIGHTINGALE?

A. YES.

Q. DID JAMIE HORTON AND JIMMY CONWAY STILL HANG OUT?

A. YES.

Q. DID ALL FOUR OF YOU STILL HANG OUT?

A. YES.

MR. LOWE: THANK YOU. NOTHING FURTHER.

- - -

RECROSS EXAMINATION

BY MR. MCGOWAN:

Q. I THINK YOU CLARIFIED IN CROSS EXAMINATION WHY YOU BELIEVE YOU MADE THE STATEMENT THAT YOU CAN'T DO IT. YOU REALLY DON'T KNOW WHEN EXACTLY THAT WAS?

A. NO.

Q. AND AGAIN, I THINK YOU AGREE WITH ME IF YOU MADE THAT STATEMENT AFTER YOU ARE DONE DOING EVERYTHING YOU DID TO ANDREW, CERTAINLY THAT WOULDN'T CONVEY TO JIMMY CONWAY EXACTLY WHAT YOU WERE TRYING TO CONVEY TO HIM, THAT YOU WERE ATTEMPTING TO KILL ANDREW, CORRECT?

A. CORRECT.

Q. AND SIMILARLY, IF YOU WERE GETTING DOWN TO LISTEN IN FRONT OF JIMMY CONWAY WHETHER OR NOT SOMEONE WAS BREATHING, WEREN'T YOU TRYING TO CONVEY TO HIM, IN FACT, HE WASN'T BREATHING?

A. I DON'T KNOW IF I WAS DOING IT FOR HIM OR FOR ME TO SEE IF HE WAS BREATHING.

Q. AGAIN, KEEPING WITH WHAT YOU WERE TRYING TO PORTRAY AND REGARDLESS OF WHAT YOU WANTED TO DO IT FOR, THE IMPRESSION YOU WERE TRYING TO CREATE IS YOU WERE SEEING IF HE STOPPED BREATHING, CORRECT?

A. YEAH, I WAS MAKING SURE EVERYTHING WAS OKAY.

Q. IS IT YOUR TESTIMONY THAT THE FIRST TIME YOU INDICATED TO ANY OF THE STATE'S REPRESENTATIVES, BEING

DETECTIVES, ATTORNEYS, ANYTHING ALONG THOSE LINES, THAT THE PERSON YOU IDENTIFIED AS TAKING THE LIME BACK WAS AT A MEETING ON SUNDAY?

A. DO WHAT NOW?

Q. IS THE FIRST TIME YOU MADE AN INDICATION TO ANY AGENT FROM THE STATE THAT YOU WERE MISTAKEN ABOUT WHO TOOK THE LIME BACK, THE FIRST TIME THAT YOU MADE THAT STATEMENT WAS JUST THIS PAST SUNDAY?

A. YES, I HAVEN'T BEEN ABLE TO TALK TO NO ONE. I HAVE BEEN IN PRISON.

Q. YOU CERTAINLY HAD AN OPPORTUNITY TO TALK TO DETECTIVES AS YOU WERE GETTING YOUR PICTURE TAKEN IN A FAKE GRAVE, DID YOU NOT?

A. IT WAS ALL QUICK. THEY TOLD ME TO HURRY UP. THEY WASN'T EVEN THERE WHEN I WAS DIGGING IT.

Q. AND YOU NEVER WROTE A LETTER TO ANYBODY SAYING, WELL, YOU KNOW WHAT, I AM MISTAKEN; IT WASN'T SHAWN AND JAMIE; IT WAS JUST JAMIE?

A. NOT THAT I REMEMBER.

Q. SIR, ISN'T IT TRUE THAT AS TO EXACTLY WHO DID WHAT AND WHICH BODIES OR WHICH PEOPLE WERE DOING THINGS OUT THERE, THAT YOU WERE NOT EXACTLY CLEAR AS TO ALL THOSE THINGS?

A. NOT TO EVERY SINGLE EXACT THING, NO.

Q. ISN'T IT TRUE THAT YOU COULD BE MISTAKEN ABOUT

WHETHER OR NOT JAMIE HORTON HELPED YOU DRAG THE BODY BACK THERE?

A. I AM PRETTY SURE HE WAS THE ONE THAT HELPED ME.

Q. ISN'T IT TRUE THAT INITIALLY SHAWN NIGHTINGALE TRIED TO HELP YOU AND COULDN'T AND, THEREFORE, YOU JUST DID IT YOURSELF?

A. I DON'T REMEMBER THAT.

Q. DO YOU REMEMBER SHAWN TRYING TO HELP?

A. NO.

Q. SO YOUR TESTIMONY NOW IS THAT YOU WERE PRETTY SURE THAT JAMIE HELPED YOU TAKE HIM BACK THERE?

A. YES.

Q. ISN'T IT POSSIBLE THAT YOU WERE MISTAKEN ABOUT WHO PUT THE CLOTHES IN THE BAG?

A. I NEVER SAID WHO PUT THE CLOTHES IN THE BAG. I SAID THAT JAMIE AND SHAWN TOOK THE CLOTHES OFF OF HIM.

Q. I THOUGHT ON DIRECT EXAMINATION WITH MR. LOWE YOU TALKED ABOUT PEOPLE PUTTING THE CLOTHES IN A BAG?

A. I SAID THAT THE CLOTHES WERE PUT IN A BAG. THE CLOTHES WERE TAKEN OFF. I CAN'T REMEMBER WHICH ONE EXACTLY, LIKE, WHO HANDED THE CLOTHES TO THE OTHER ONE AND PUT THEM IN THE BAG. I DON'T REMEMBER THAT.

Q. THE CLOTHES WEREN'T TAKEN OFF UNTIL THE BODY WAS BACK IN THE FIELD, RIGHT?

A. RIGHT.

Q. YOU DIDN'T STAY BACK THERE, DID YOU?

A. NO.

Q. ISN'T IT TRUE THAT THEN YOU DON'T KNOW WHO TOOK THE CLOTHES OFF THE BODY?

A. THOSE TWO WENT BACK THERE. THAT'S WHY I SAID THOSE TWO.

Q. SO YOU ARE ASSUMING, BECAUSE THOSE TWO WERE BACK THERE, THAT THEY BOTH TOOK THE CLOTHES OFF THE BODY?

A. YES.

Q. ISN'T IT TRUE THAT AGAIN, BECAUSE OF THE ANXIETY CAUSED BY THE EVENTS YOU WERE PERCEIVING, THAT YOU MIGHT BE MISTAKEN AS TO WHO WAS PUTTING THE LIME ON THE BODY AND AGAIN, YOU NOW GIVE TWO DIFFERENT VERSIONS OF WHO DID THAT?

MR. LOWE: OBJECTION.

THE COURT: SUSTAINED, ASKED AND ANSWERED.

MR. MCGOWAN: MAY I HAVE A FEW MORE MINUTES, YOUR HONOR?

THE COURT: YES.

Q. (BY MR. MCGOWAN) I HAVE A FEW LAST QUESTIONS FOR YOU, SIR. THE CLOTHES ENDED UP IN YOUR POSSESSION AFTER THESE EVENTS, CORRECT?

A. YES.

Q. WITH REGARD TO SOME EARLIER QUESTIONING FROM MR. LOWE ON REDIRECT ON A QUESTION ABOUT BURYING

ANDREW DOTSON, THAT STATEMENT CAME FROM JIMMY CONWAY, DID IT NOT?

A. YES.

Q. DID YOU EVER MAKE ANY STATEMENTS TO ANYONE IN THE CORRECTIONAL FACILITY WHERE YOU WERE AT TO INDICATE YOU KILLED ANDREW DOTSON?

A. NO.

MR. LOWE: OBJECTION.

THE COURT: SUSTAINED.

MR. MCGOWAN: MAY WE APPROACH, YOUR HONOR?

THE COURT: IT IS OUTSIDE REDIRECT.

- - -

THEREUPON, COURT AND COUNSEL CONFERRED AT THE BENCH OUT OF THE HEARING OF THE JURY AND THE REPORTER.

- - -

MR. MCGOWAN: MAY WE APPROACH AGAIN? MY NEXT QUESTION INVOLVES A SIMILAR ISSUE.

THE COURT: IF IT IS OUTSIDE THE DIRECT, YOU ARE NOT ANSWERING THE QUESTION.

MR. MCGOWAN: I DON'T KNOW IF IT IS OUTSIDE. IT INVOLVES AN ISSUE THAT MR. LOWE RAISED.

THE COURT: AT THE BENCH?

MR. MCGOWAN: YES.

THE COURT: NO, YOU MAY ASK YOUR NEXT QUESTION.

MR. MCGOWAN: IT IS A WHOLE ANOTHER QUESTION THAT I JUST WANT CLARIFICATION FROM YOU.

- - -

THEREUPON, COURT AND COUNSEL CONFERRED AT THE BENCH OUT OF THE HEARING OF THE JURY AND THE REPORTER.

- - -

Q. (BY MR. MCGOWAN) YOU WERE ASKED ON REDIRECT WHETHER OR NOT THIS WAS A QUOTE, UNQUOTE, UNSOLVED CASE. YOU WEREN'T ONE OF THE INVESTIGATORS ON THIS CASE, WERE YOU?

A. NO.

Q. DID THE SHERIFF'S DETECTIVES OR ANYBODY ELSE YOU TALKED TO EVER CLUE YOU IN AS IF YOU WERE PART OF THE PEOPLE DECIDING WHO THE SUSPECTS WERE AND WHO TO CHARGE AND WHETHER OR NOT IT WAS A SOLVED CRIME OR NOT?

A. NO.

MR. MCGOWAN: I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

THE COURT: ARE THERE ANY OTHER QUESTIONS FOR MR. ARTHURS?

- - -

FURTHER REDIRECT EXAMINATION

BY MR. LOWE:

Q. JUST TO CLEAR UP A COUPLE OF THINGS, MR. ARTHURS, YOU WERE ASKED ABOUT THE STATEMENT AND WHEN YOU TOLD

SOMEONE THAT IT WASN'T ACCURATE ABOUT THE LIME, YOU SPOKE TO ME ON SUNDAY. WHEN WAS THE FIRST TIME YOU GOT TO REVIEW YOUR STATEMENT?

A. SUNDAY.

Q. HAVE YOU REVIEWED IT SINCE MAKING IT BEFORE SUNDAY?

A. NO, I HAVEN'T SEEN IT.

Q. WHO DID YOU TELL THE DETECTIVES IN THAT STATEMENT THAT WAS MADE SOME TIME IN MAY OF 2002 WHO HELPED YOU DRAG ANDREW DOTSON --

MR. MCGOWAN: OBJECTION, YOUR HONOR.

THE COURT: COULD YOU REPEAT YOUR QUESTION, PLEASE?

MR. LOWE: I WILL TRY TO, SINCE IT IS A POORLY PHRASED QUESTION THE FIRST TIME.

Q. (BY MR. LOWE) WHO DID YOU TELL THE DETECTIVES HELPED YOU DRAG ANDREW DOTSON'S BODY WHEN YOU MADE THE STATEMENT?

MR. MCGOWAN: OBJECTION, YOUR HONOR.

THE COURT: THIS WAS RAISED ON RECROSS. THE OBJECTION IS OVERRULED. YOU MAY ANSWER THE QUESTION.

THE WITNESS: JAMIE.

Q. (BY MR. LOWE) AND WHO DID YOU TELL THE DETECTIVES HAD A BAG OF LIME?

MR. MCGOWAN: OBJECTION, YOUR HONOR.

THE COURT: YOU MAY ANSWER THE QUESTION.

THE WITNESS: WHO POURED IT ON HIM?

Q. (BY MR. LOWE) YES.

A. I TOLD THE DETECTIVES THAT JAMIE AND SHAWN POURED IT ON HIM.

Q. NOW YOUR RECOLLECTION OF WHAT HAPPENED, WHO HAD THE BAG OF LIME?

A. JAMIE.

Q. AND THE BAG OF CLOTHES, DID YOU AT ANY TIME SAY YOU SAW ANYBODY TAKING THE CLOTHES PHYSICALLY OFF THE BODY?

A. I DON'T REMEMBER.

Q. WHO DID YOU SEE COMING BACK WITH THE BAG OF CLOTHES?

A. JAMIE.

MR. LOWE: NOTHING FURTHER.

THE COURT: MR. MCGOWAN, DOES THAT CONCLUDE YOUR QUESTIONS?

MR. MCGOWAN: TWO FOLLOW-UP QUESTIONS BASED ON REDIRECT.

I BELIEVE YOUR ANSWER ABOUT THE QUESTION OF WHO HELPED DRAG THE BODY BACK ON RECROSS WAS THAT YOU WERE PRETTY SURE IT WAS JAMIE. IS THAT YOUR TESTIMONY TODAY?

THE WITNESS: YES.

MR. MCGOWAN: I ALSO BELIEVE ON RECROSS, YOUR TESTIMONY ABOUT THE CLOTHES, WAS THAT YOU WEREN'T BACK

THERE WHEN THE CLOTHES WERE BEING TAKEN OFF?

THE WITNESS: NO.

MR. MCGOWAN: NOTHING FURTHER.

THE COURT: YOU MAY STEP DOWN, MR. ARTHURS.

- - -

THE COURT: MEMBERS OF THE JURY, I WANT TO TELL YOU OUR PLANS FOR THE NEXT COUPLE OF DAYS SO THAT YOU CAN PLAN WHEN YOU WILL BE WITH US. WE WILL CONCLUDE TOMORROW'S PROCEEDINGS BY FOUR O'CLOCK. WE WILL ASK YOU TO REPORT TO THE FIRST FLOOR BY 9:30. ONCE AGAIN, SHELLY WILL COME AND GET YOU WHEN WE ARE READY TO PROCEED. THE COURT DOES HAVE A FULL DOCKET ON THURSDAY MORNING. WE WILL NOT BE IN SESSION ON THIS CASE AT ALL THURSDAY MORNING. I WILL REMIND YOU OF THIS TOMORROW, BUT THURSDAY WE WILL ASK THAT YOU NOT REPORT UNTIL 1:30.

FOR TOMORROW'S PURPOSES, PLEASE REPORT BY 9:30 TO THE FIRST FLOOR.

OF COURSE, REMEMBER ALL OF YOUR ADMONITIONS. DO NOT DISCUSS THIS CASE WITH ANYONE, NOT EVEN AMONG YOURSELVES. DO NOT MAKE UP YOUR MIND ON THIS MATTER. YOU CAN CERTAINLY NOT CONDUCT ANY INDEPENDENT INVESTIGATION. AS YOU CAN TELL, THE MEDIA HAS BEEN IN THE COURTROOM TODAY. YOU ARE PROHIBITED FROM FOLLOWING ANY MEDIA COVERAGE THAT THIS CASE MAY RECEIVE, AS WELL AS THE OTHER ITEMS WE MENTIONED BEFORE. IT PROBABLY WOULD BE BEST TO AVOID ANY

IMPERMISSIBLE AND VIOLATE HIS CONSTITUTIONAL RIGHTS.

WE ARE ALSO ARGUING, YOUR HONOR, IN ANY EVENT, MR. TRENT'S TESTIMONY SHOULD NOT BE ALLOWED DUE TO THE STATE HAVING PREVIOUSLY TAKEN IN OTHER PROCEEDINGS THE POSITION THAT MR. TRENT IS UNRELIABLE.

THE COURT: THAT IS THE BASIS FOR THE MOTION BEFORE THE COURT. ARGUMENT WILL BE HEARD AT THE CONCLUSION OF THE EVIDENCE THEN.

WOULD YOU LIKE TO PRESENT YOUR FIRST WITNESS?

- - -

ZACHARY SCOTT

CALLED AS A WITNESS BY THE PLAINTIFF, STATE OF OHIO, FOR THE MOTION HEARING, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. PRICHARD:

Q. WILL YOU STATE YOUR NAME FOR THE RECORD?

A. ZACHARY SCOTT.

Q. YOU ARE WITH THE FRANKLIN COUNTY SHERIFF'S OFFICE?

A. THAT IS CORRECT.

Q. ARE YOU THE DETECTIVE THAT WAS ASSIGNED TO THE ANDREW DOTSON HOMICIDE?

A. I AM.

Q. AS PART OF YOUR INVOLVEMENT WITH THE

EXHIBIT 53

Zack Scott starts next page.

MR. MCGOWAN: THANK YOU, YOUR HONOR. I GUESS JUST SO WE ARE DOING IT ALL AT ONCE, I ALSO MAKE A MOTION FOR SEPARATION OF WITNESSES.

THE COURT: BOTH PARTIES HAVE MADE A SEPARATION OF WITNESSES, SO ALL WITNESSES WHO ANTICIPATE TESTIFYING IN THIS CASE WILL BE EXCLUDED FROM THE COURT PROCEEDINGS.

IS THERE ANYTHING PRELIMINARILY WITH REGARD TO MOTIONS BEFORE THE COURT?

MR. MCGOWAN: WELL, I GUESS I BETTER DO SOMETHING PRELIMINARILY JUST SO YOU UNDERSTAND WHICH MOTION WE ARE TALKING ABOUT AT THIS POINT IN TIME. IF YOU HAVE THE INDEX I GAVE YOU, IT IS MOTION NUMBER ELEVEN. IT IS A MOTION TO SUPPRESS STATEMENTS OBTAINED IN VIOLATION OF DEFENDANT'S CONSTITUTIONAL RIGHTS AND TO SUPPRESS TESTIMONY FROM AN UNRELIABLE WITNESS.

THE REASON WHY TESTIMONY IS NEEDED IS TWOFOLD: WELL, REALLY, THAT MOTION IS BASICALLY A TWO BRANCH MOTION, BUT FIRST IT IS ALLEGED THAT WE ARE ARGUING THAT NOTWITHSTANDING WHATEVER YOUR RULING IS ON THE SEPARATION MOTION, WHICH IS TO EXCLUDE EVIDENCE OF OTHER BAD ACTS, THERE ARE ALSO STATEMENTS THAT ONE OF THEIR WITNESSES IN PARTICULAR WOULD RELATE TO THE COURT OR TO THE JURY -- HIS NAME IS RONALD TRENT. WE ARE ARGUING ANY STATEMENT HE OBTAINED FROM MR. HORTON AS AN AGENT OF THE STATE ARE

ANDREW DOTSON HOMICIDE, DID YOU WORK WITH AN INDIVIDUAL BY THE NAME OF RONALD TRENT?

A. I DID.

Q. DO YOU RECALL APPROXIMATELY AT WHAT POINT YOU BEGAN WORKING WITH MR. TRENT?

A. IT WAS IN THE MONTH OF MAY. I AM NOT SURE OF THE EXACT DATE, MAYBE THE 15TH OR 16TH. IT WAS IN MAY OF '02.

Q. AT THE TIME THAT YOU WERE WORKING WITH MR. TRENT, HAD ANYBODY BEEN CHARGED WITH THE HOMICIDE OF ANDREW DOTSON?

A. NO.

Q. AN OPEN INVESTIGATION THEN?

A. CORRECT.

Q. DO YOU RECALL WHEN ANDREW DOTSON'S BODY HAD BEEN FOUND?

A. IT WOULD BE OCTOBER 10, '01.

Q. SEVERAL MONTHS HAD ELAPSED AND YOU CONTINUED TO INVESTIGATE THE CASE?

A. THAT IS CORRECT.

Q. HOW IS IT YOU CAME TO WORK WITH MR. TRENT?

A. I GOT A CALL FROM THE PROSECUTOR'S OFFICE THAT THERE WAS AN INDIVIDUAL IN JAIL THAT HAD INFORMATION CONCERNING THE DEATH OF ANDREW DOTSON.

Q. THE PROSECUTOR'S OFFICE ARRANGED A DEAL WITH MR. TRENT?

A. YES.

Q. IN WHAT WAY DID MR. TRENT WORK WITH YOU AND OTHER DETECTIVES?

A. HE WAS OUR C.I., CONFIDENTIAL INFORMANT. WE HAD ARRANGED FOR HIM TO GO OUT, AND HE WAS SUPPOSEDLY HIRED TO BE A HIT GUY, SO WE LET HIM GO OUT AND PLAY HIT MAN.

Q. WHO WAS HE HIRED BY?

A. JAMES CONWAY.

Q. WAS HE IN JAIL AT THE TIME THAT HE WAS HIRED?

A. YES.

Q. WHO WAS HE IN JAIL WITH?

A. JAMES CONWAY.

Q. ANYONE ELSE ASSOCIATED WITH JAMES CONWAY IN JAIL WITH HIM AT THAT TIME?

A. NOT TO MY KNOWLEDGE.

Q. HOW WAS IT THAT MR. TRENT WORKED WITH YOU IF HE WAS IN JAIL?

A. KIND OF WORK RELEASE THING WE DID WHERE HE WOULD LEAVE IN THE AFTERNOON WITH US, AND WE WOULD BRING HIM BACK LATE THAT NIGHT, SOMETIMES ABOUT -- IT VARIED, 10 TO 14 HOURS, DEPENDING ON WHAT WE WERE DOING, AND HE WOULD SPEND THE REST -- SPEND THE NIGHT IN JAIL, AND WE WOULD PICK HIM UP THE NEXT DAY.

Q. HE WAS RELEASED FROM JAIL TO YOUR CUSTODY SIMPLY TO WORK WITH YOU?

A. THAT IS CORRECT.

Q. THEN RETURNED TO JAIL?

A. THAT IS CORRECT.

Q. WHEN MR. TRENT WAS IN JAIL, WAS HE PROVIDED WITH ANY MONEY AS PART OF HIS HIT MAN SCHEME?

A. YES.

Q. WHO PROVIDED MONEY TO HIM?

A. I THINK IT WAS JEFF CONWAY AND JAMIE HORTON OR CALVIN HORTON.

Q. HOW MUCH MONEY ARE WE TALKING ABOUT?

A. A COUPLE THOUSAND EACH TIME, FOUR OR FIVE THOUSAND DOLLARS.

Q. WERE YOU ABLE TO VERIFY THAT THAT MONEY WAS ON MR. TRENT'S BOOKS?

A. IT WAS.

Q. WHEN YOU BEGAN WORKING WITH MR. TRENT, WHAT SORT OF SECURITY MEASURES WERE TAKEN WITH HIM?

A. AS FAR AS WHEN HE WENT OUT IN THE EVENING, WE WOULD ALWAYS SHAKE HIM DOWN OR ALWAYS SEARCH HIM TO MAKE SURE THAT HE DIDN'T HAVE ANY WEAPONS; HE HAD NO CONTRABAND OF ANY TYPE ON HIM. HE WAS UNDER CONSTANT SURVEILLANCE, AND WHEN HE WOULD BE TAKEN BACK, WE DID THE SAME THING.

Q. HE WOULD COME RIGHT OUT OF THE JAIL AND YOU WOULD PAT HIM DOWN ANYWAY TO MAKE SURE HE WAS FREE OF CONTRABAND?

A. WE ALWAYS CHECKED HIM, YEAH, ALWAYS MADE SURE.

Q. WAS HE WIRED WHEN HE WAS DOING THESE ACTIVITIES FOR YOU?

A. YES.

Q. WHAT WAS THE MECHANISM THAT WAS USED TO WIRE, A BODY WIRE OR WHAT?

A. A COMBINATION. WE DID BODY WIRES AT TIMES, AND SOMETIMES WE DID SMALL RECORDER JUST FOR BACKUP IF IT WOULD WORK. WE ENLISTED THE AID OF S.I.U. TO MAKE SURE THAT THE BODY WIRES WERE DONE PROPERLY. THEY USED THEM A LOT MORE THAN WE DID IN THE BUREAU.

Q. YOUR SPECIAL INVESTIGATIONS UNIT?

MR. MCGOWAN: YOUR HONOR, I'M SORRY TO INTERRUPT. I DID NOT REALIZE THAT HIS HANDS ARE CUFFED. HE HAS GOT THE LEG IRONS ON. CAN HE HAVE HIS HANDS FREE TO TAKE NOTES?

THE COURT: I ASKED FOR HIM TO BE RESTRAINED LIKE THAT WHILE NO JURORS ARE PRESENT. IS IT RESTRICTING HIM FROM WRITING?

MR. MCGOWAN: YEAH. I MEAN, HE WOULDN'T BE ABLE TO WRITE LIKE THAT, AND HE DOES HAVE --

THE COURT: SURE, IF YOU CAN REMOVE THE HANDCUFFS ON HIS WRISTS.

MR. MCGOWAN: THANK YOU. SORRY TO INTERRUPT.

Q. (BY MS. PRICHARD) I BELIEVE YOU SAID YOUR SPECIAL INVESTIGATION UNIT HELPED ASSIST WITH WIRING HIM?

A. CORRECT.

Q. DID HE HAVE A CELL PHONE THAT WAS WIRED AT ANY TIME?

A. HE HAD A CELL PHONE THAT WE USED AND TAPE RECORDED CONVERSATIONS, THAT IS CORRECT.

Q. WHEN MR. TRENT WAS OUT OF JAIL, WHO WAS HE SUPPOSED TO BE CONTACTING ON THE OUTSIDE TO WORK WITH?

A. CALVIN HORTON.

Q. DID YOU, IN FACT, MONITOR CONVERSATIONS AND CONTACTS BETWEEN RONALD TRENT AND CALVIN HORTON?

A. YES.

Q. IF YOU COULD JUST SORT OF ESTIMATE, HOW MANY TIMES DO YOU THINK THEY MET PERSONALLY?

A. THEY MET PERSONALLY? A HALF A DOZEN, AT LEAST.

Q. HOW MANY PHONE CONVERSATIONS THAT YOU CAN ESTIMATE TOOK PLACE?

A. TWENTY, THIRTY. IT WAS QUITE A FEW OF THEM.

Q. AND TRANSCRIPTS WERE MADE OF THESE CONVERSATIONS?

A. YES.

Q. AND TAPE RECORDINGS AS WELL?

A. CORRECT.

Q. DID YOU HAVE MR. TRENT UNDER SURVEILLANCE DURING ALL OF THOSE CONTACTS?

A. CORRECT.

Q. YOU PERSONALLY WERE LISTENING IN AND WATCHING

HIM?

A. ME AND MY PARTNER, CHRIS FLOYD, ONE OF US.

Q. WERE THERE ANY CHARGES AGAINST MR. HORTON AT THAT TIME?

A. NO.

Q. ANY ARRESTS OR ANYTHING THAT HAD BEEN MADE OF HIM BEFORE MR. TRENT STARTED WORKING WITH HIM?

A. NO.

Q. IN FACT, HAD YOU EVER HEARD OF MR. HORTON BEFORE THAT OR WERE YOU INVESTIGATING HIM FOR ANYTHING?

A. NO.

Q. WHAT WAS THE AVERAGE CONVERSATION, HOW WOULD IT OCCUR THAT MR. TRENT AND MR. HORTON WOULD END UP TALKING?

A. AS BEST I CAN RECALL, HE WAS GIVEN THE NUMBERS BY MR. CONWAY TO MAKE A PHONE CALL TO CALVIN HORTON, AND THEY WOULD JUST TALK THAT WAY. SOMETIMES HE WOULD CALL AND LEAVE A MESSAGE, AND THEN CALVIN WOULD CALL HIM BACK. IT VARIED. OR SOMETIMES CALVIN WOULD JUST CALL HIM ON HIS CELL PHONE. HE HAD A CELL PHONE WITH HIM ALL THE TIME WHEN HE WAS OUT WITH US.

Q. SO MR. TRENT INITIATED SOME CALLS TO HORTON, AND HORTON INITIATED SOME TO MR. TRENT?

A. CORRECT.

Q. WERE THERE MEETINGS THAT TOOK PLACE?

A. CORRECT.

Q. WHO WOULD SET UP THE MEETINGS?

A. THE LOCATION WOULD BE DETERMINED BY CALVIN HORTON.

Q. AND ALL THIS WAS MONITORED BY YOU?

A. ME AND A TEAM OF DETECTIVES.

Q. DURING THESE MEETINGS THAT WOULD TAKE PLACE, WHAT WOULD OCCUR?

A. WELL, SOMETIMES GUNS WERE GIVEN TO RONALD TRENT AND SOMETIMES DRUGS, MONEY. THEY WOULD SIT AND TALK ABOUT PLANS, THINGS THAT THEY WERE GOING TO DO OR THINGS THAT TRENT WAS SUPPOSED TO DO AT VARIOUS TIMES. SOMETIMES NOTHING HAPPENED; THEY JUST TALKED.

Q. WOULD YOU BE ABLE TO WATCH THEM WHILE THEY WERE AT CERTAIN LOCATIONS SPEAKING?

A. YEAH, WE COULD SEE THEM IN THE CAR, TALKING.

Q. WOULD THEY BE IN THE CAR WHEN THEY WERE TALKING, OUT OF THE CAR, OR WAS IT BOTH?

A. BOTH. MOST OF THE TIME IT WAS IN THE CAR. AT THE CAR WASH, THEY WERE OUT TALKING OUTSIDE, SO IT WAS A COUPLE OF TIMES, BUT THE MAJORITY OF THE TIME WOULD BE IN THE VEHICLES.

Q. DURING THESE TIMES WHEN MR. TRENT WOULD BE IN A VEHICLE, WOULD HE HAVE BEEN PREVIOUSLY PATTED DOWN?

A. YES, ALWAYS.

Q. NO GUNS, KNIVES, ANYTHING ON HIM?

A. NO.

Q. HOW BIG IS MR. TRENT?

A. RONNIE IS ABOUT FIVE-SEVEN, FIVE-EIGHT.

Q. THIN, HEAVY?

A. PROBABLY 145, 150, MAYBE. HE IS NOT VERY LARGE.

Q. WOULD YOU SAY THAT MR. HORTON IS SUBSTANTIALLY LARGER THAN MR. TRENT?

A. YES.

Q. DID YOU SEE MR. TRENT USE ANY WEAPONS AGAINST MR. HORTON DURING ANY OF THESE MEETINGS?

A. NO.

Q. DID YOU HEAR HIM MAKE ANY THREATS TO MR. HORTON DURING THESE MEETINGS?

A. NO.

Q. DURING ANY OF THE CONVERSATIONS THAT TOOK PLACE, DID YOU HEAR MR. TRENT THREATEN MR. HORTON IN ANY WAY?

A. NO.

Q. WHAT WAS THE, I GUESS, PERSONA THAT MR. TRENT WAS PORTRAYING?

A. HE WAS A HIT MAN HIRED BY MR. CONWAY AND MR. CONWAY'S ASSOCIATES, AND HE WAS HIRED TO PERFORM A FUNCTION OF ELIMINATING WITNESSES.

Q. HOW WAS HE SUPPOSED TO CARRY ALL OF THIS OUT?

A. HE WAS GIVEN MONEY; HE WAS GIVEN WEAPONS TO DO IT, AND THAT WAS BASICALLY DONE BY MR. CALVIN HORTON.

Q. SO HE WAS A HIT MAN WITHOUT RESOURCES, I GUESS?

A. YEAH, HE DIDN'T HAVE ANY MONEY OR ANYTHING LIKE THAT.

Q. WERE THERE ANY TRIPS TAKEN THAT WERE OUT OF COUNTY THAT MR. HORTON ACCOMPANIED MR. TRENT ALONG?

A. YES, MR. HORTON RENTED A VAN, AND THEY WENT TO CHILLICOTHE.

Q. MR. HORTON RENTED A VAN SO THAT HE COULD TAKE MR. TRENT TO CHILLICOTHE?

A. CORRECT.

Q. AND THEY, IN FACT, WENT DOWN TO CHILLICOTHE TOGETHER?

A. CORRECT.

Q. DID MR. TRENT AND MR. HORTON EVER GO TO THE JAIL TOGETHER?

A. YES.

Q. ON HOW MANY OCCASIONS DID THAT OCCUR?

A. I ONLY RECALL ONE THAT THEY WENT TO THE JAIL TOGETHER.

Q. WHAT WAS THEIR PURPOSE OF THAT?

A. THEY WENT AND TALKED TO MR. CONWAY.

Q. THE TWO MEETING TOGETHER WENT INTO THE JAIL TOGETHER?

A. YEAH.

Q. BASED UPON THE INFORMATION THAT YOU GATHERED FROM

MR. TRENT, THESE WIRED CONVERSATIONS AND STATEMENTS THAT YOU HEARD, WAS AN ARREST EVENTUALLY MADE OF MR. HORTON?

A. YES.

Q. DO YOU RECALL APPROXIMATELY WHEN THAT WOULD HAVE BEEN?

A. THE ACTUAL DATE, I DON'T RECALL IT. I CAN'T RECALL THE ACTUAL DATE.

Q. WOULD IT HAVE BEEN AFTER HE HAD DONE ALL OF THESE THINGS WITH MR. TRENT?

A. YEAH, THERE WAS A POINT WE FELT THAT THE OPERATION WAS PROBABLY COMING TO A CLOSE, YEAH.

Q. WHY DID YOU FEEL THINGS WERE COMING TO A CLOSE?

A. WELL, MR. HORTON WAS INSINUATING HE WAS A COP, AND THERE WAS SOME -- YOU KNOW, THERE WAS SOME, I DON'T KNOW, RESERVATIONS OF TALKING TO HIM BECAUSE HE THOUGHT HE WAS LAW ENFORCEMENT, AND SO WE FELT THAT FOR RONNIE'S OWN PROTECTION, IT WAS TIME TO JUST SHUT IT DOWN.

Q. HAD THERE BEEN ANY PRIOR INSINUATIONS BY MR. HORTON THAT MR. TRENT WAS A COP EARLIER ON?

A. THERE MAY HAVE BEEN. I DON'T RECALL THE SPECIFICS OF IT. I KNOW WHEN WE GOT TO THE END, IT WAS, YES, THERE WAS QUITE A FEW.

Q. DID THERE APPEAR TO BE CONCERNS THAT THE POLICE WERE WATCHING OR LISTENING IN THROUGHOUT THIS PERIOD WHERE MR. TRENT WAS TALKING TO MR. HORTON?

A. YES, THERE WAS ONE CONVERSATION THAT MR. HORTON SAID THAT WE NEEDED TO BASICALLY START SPEAKING IN CODE LIKE SO THAT THEY CAN'T HEAR US.

Q. SO THERE WAS SOME PARANOIA ABOUT WHETHER OR NOT POLICE WERE INVOLVED?

A. YEAH.

Q. DID MR. TRENT EVER INDICATE THAT HE WAS A POLICE OFFICER?

A. NO.

Q. WHY WAS MR. HORTON EVENTUALLY ARRESTED?

A. BECAUSE OF HIS INVOLVEMENT IN THE ANDREW DOTSON MURDER.

Q. WAS HE ALSO CHARGED WITH DELIVERING GUNS AND DRUGS AND THINGS TO WITNESSES?

A. YES, HE WAS.

Q. AT THE TIME WHEN MR. HORTON WAS ARRESTED, WAS ANYONE ELSE ARRESTED WITHIN A SHORT TIME SPAN OF THAT?

A. SHAWN NIGHTINGALE.

Q. WHY WAS SHAWN NIGHTINGALE ARRESTED?

A. FOR HIS PART IN THE ANDREW DOTSON MURDER AND THE CONSPIRACIES.

Q. SO MR. NIGHTINGALE HAD CONVERSATIONS WITH MR. TRENT AS WELL?

A. YES.

Q. AND PARTICIPATED IN THIS SCHEME?

A. YES.

Q. WHEN MR. HORTON AND MR. NIGHTINGALE WERE ARRESTED, WHERE WERE THEY TAKEN?

A. TO THE DETECTIVE BUREAU, THE OLD DETECTIVE BUREAU.

Q. WERE THEY HANDCUFFED AT THE TIME?

A. JAMIE WAS, AND I DON'T RECALL IF SHAWN WAS. HE MAY HAVE JUST CAME DOWN. I DON'T REMEMBER IF SHAWN WAS.

Q. WERE THEY IN YOUR CUSTODY?

A. YES, THEY WERE IN CUSTODY.

Q. WERE INTERVIEWS CONDUCTED OR ATTEMPTED TO FROM THEM?

A. YES.

Q. DID THAT OCCUR AT THE TIME AT THE BUREAU, ALSO?

A. YES.

Q. WERE MR. NIGHTINGALE AND MR. HORTON ALLOWED TO SPEAK TO ONE ANOTHER AT SOME POINT?

A. YES.

Q. WHERE DID THAT TAKE PLACE?

A. IN ONE OF THE INTERVIEW ROOMS, HOLDING CELLS.

Q. WHY DID THAT TAKE PLACE?

A. SHAWN FELT THAT HE COULD -- SHAWN HAD TOLD US QUITE A BIT OF WHAT OCCURRED, SO SHAWN FELT HE COULD TALK JAMIE TO TRY TO MAKE A DEAL AND TALK ABOUT IT. WE ALLOWED THEM TO TALK.

Q. THEY WERE IN A ROOM TOGETHER OR IN SOME SORT OF A HOLDING AREA WHEN THEY SPOKE?

A. YES.

Q. WAS THERE AN ABILITY FOR YOU AND SOMEONE IN YOUR OFFICE TO MONITOR THAT CONVERSATION?

A. YES, THE ROOM WAS WIRED AND VIDEOTAPED, AND IT HAS GOT THE ABILITY TO DO THAT.

Q. DID YOU AND ANY OTHER OFFICERS HEAR PARTS, IF NOT ALL, OF THAT CONVERSATION?

A. YES, IT WAS HEARD.

Q. BY WHO?

A. MYSELF AND DETECTIVE FLOYD.

Q. AND AT THE TIME THAT THEY WERE SPEAKING, WOULD THEY HAVE KNOWN YOU WERE LISTENING IN?

A. I WOULDN'T THINK SO. I DON'T KNOW.

Q. THEY WERE IN THE DETECTIVE BUREAU ROOM, A PLACE WHERE THEY HAD BEEN INTERVIEWED?

A. THAT IS CORRECT.

Q. WAS A SUMMARY THEN CREATED, INDICATING WHAT CONVERSATION THEY HAD AT SOME POINT?

A. YES.

Q. DO YOU RECALL ABOUT WHEN THAT SUMMARY WAS CREATED?

A. WHEN IT WAS CREATED? SHORTLY -- I DON'T REMEMBER. CHRIS WROTE IT, SO I DON'T KNOW EXACTLY HOW LONG

HE HAD IT, SO I CAN'T SPECIFICALLY SAY.

Q. WAS IT WRITTEN AT MY REQUEST?

A. YES, YOU REQUESTED IT.

Q. AND TURNED OVER TO ME SEVERAL DAYS AGO?

A. THAT IS CORRECT.

Q. WHAT WAS THE BASICS OF WHAT YOU HEARD JAMIE HORTON AND SHAWN TALKING ABOUT?

A. SHAWN WAS TRYING TO CONVINCE JAMIE TO COOPERATE, AND JAMIE WAS TRYING TO CONVINCE SHAWN TO KEEP HIS MOUTH SHUT AND NOT SAY ANYTHING, AND HE MADE STATEMENTS THAT, YOU KNOW, WHAT THEY DO TO GUYS WHO ARE SNITCHES IN JAIL, AND I AM GOING TO GO AND LIFT WEIGHTS, AND NO ONE IS GOING TO MESS WITH ME. I KNOW I AM GOING TO GO TO JAIL AND DO SOME TIME, BUT YOU KEEP YOUR MOUTH SHUT. BASICALLY, THAT WAS THE BASIC CONTENT OF IT.

MS. PRICHARD: NOTHING FURTHER.

- - -

MR. MCGOWAN: MAY I APPROACH?

THE COURT: YES.

- - -

THEREUPON, COURT AND COUNSEL CONFERRED AT THE BENCH OUT OF THE HEARING OF THE REPORTER.

- - -

THE COURT: SIR, ARE YOU A WITNESS IN THIS CASE? HAVE YOU BEEN SUBPOENAED?

A SPECTATOR: NO. I AM HERE ON ANOTHER CASE.

- - -

CROSS EXAMINATION

BY MR. MCGOWAN:

Q. GOOD MORNING, DETECTIVE. YOU TESTIFIED THAT YOUR FIRST CONTACT WITH RONNIE TRENT WAS MAY 15 OR 18, '02, IS THAT CORRECT?

A. I THINK THAT IS WHEN I STARTED WORKING WITH HIM. MY FIRST CONTACT PROBABLY WOULD HAVE BEEN APRIL. WE GOT A CALL AND WE ACTUALLY WENT AND MET WITH HIM AND DID AN INTERVIEW, AND ABOUT A WEEK LATER, PROBABLY THE END OF APRIL WAS THE FIRST TIME I ACTUALLY HAD CONTACT, BUT I THINK THE QUESTION WAS WHEN I STARTED WORKING WITH HIM.

Q. YOUR FIRST CONTACT WITH HIM WAS ACTUALLY THE END OF APRIL?

A. THE BEST I CAN RECALL.

Q. WAS THAT PURSUANT TO SOME KIND OF NOTIFICATION, SOME KIND OF CONTACT FROM THE PROSECUTOR'S OFFICE?

A. THAT IS CORRECT.

Q. PRIOR TO THE END OF APRIL, WHAT WAS THE EXTENT OF YOUR KNOWLEDGE OF RONNIE TRENT?

A. BEFORE I MET HIM?

Q. BEFORE THE END OF APRIL.

A. I DIDN'T KNOW WHO RONNIE WAS. I NEVER MET HIM OR TALKED TO HIM BEFORE APRIL.

Q. YOU NEVER EVER USED HIM AS A C.I.?

A. NO, NEVER USED HIM AS A C.I.

Q. HIS NAME HAD NEVER BEEN -- NEVER CAME UP IN ANY OF YOUR INVESTIGATIONS THAT YOU CAN RECALL?

A. NO.

Q. ONE OF THE THINGS THAT YOU SAID WAS THAT YOU LET HIM GO OUT -- HIM, REFERRING TO RONNIE TRENT, LET HIM GO OUT AND PLAY HIT MAN; IS THAT TRUE?

A. CORRECT.

Q. WHAT KIND OF QUESTIONS DID MR. TRENT ASK YOU OR ANY OTHER DETECTIVES IN YOUR PRESENCE THAT YOU HEARD HIM ASK AS TO HOW HE WAS TO PLAY HIT MAN?

A. I RECALL HIM ASKING HIM -- THE QUESTIONS WOULD BE -- WE GAVE HIM MOSTLY INSTRUCTIONS TO CERTAIN THINGS YOU CAN'T TALK ABOUT. FOR INSTANCE, YOU COULDN'T TALK ABOUT THE DOCKSIDE DOLLS HOMICIDE. WE DIDN'T WANT HIM TALKING ABOUT THOSE KIND OF THINGS. HE COULD TALK ABOUT OTHER THINGS BUT COULDN'T TALK ABOUT THAT. BASICALLY, JUST ASKED HIM WHAT THEY WANT YOU TO DO AND THEN TELL THEM THAT YOU WILL DO WHAT THEY WANT YOU TO DO.

Q. WAS HE EVER GIVEN ANYTHING IN WRITING OR ANY KIND OF MEMORANDUMS OR ANYTHING TO THAT EFFECT AS TO HOW HE IS TO UNDERTAKE THIS ROLE OF HIT MAN?

A. NO.

Q. HOW MANY MEETINGS DID YOU HAVE WITH HIM PRIOR TO

HIS ACTUAL UNDERTAKING THE -- LET ME REPHRASE IT.

THE MEETINGS TO DISCUSS HIS ROLE AS A HIT MAN, HOW HE WAS GOING TO DO THIS UNDERCOVER OPERATION FOR YOU, HOW MANY MEETINGS DID YOU HAVE WITH HIM ABOUT THAT?

A. WE MET, LIKE I SAY, IT WAS IN APRIL, AND WE HAD MAYBE ONE OR TWO. IT WAS JUST LIKE A SIT DOWN AND TALK, AND WE DISCUSSED EQUIPMENT, GOING OVER INSTRUCTIONS, THINGS YOU ARE NOT SUPPOSED TO ASK, CERTAIN THINGS YOU CAN'T TALK ABOUT, AND JUST TO FOLLOW THEIR DIRECTIONS AND DO WHAT THEY WANT YOU TO DO.

Q. WITH REGARD TO THIS LIST OF THINGS THAT YOU DID NOT WANT HIM TO ASK ABOUT, WHAT WAS THE BASIS OF THAT?

A. JIMMY CONWAY WAS UNDER INDICTMENT, AND HE WAS GOING TO BE HAVING CONVERSATIONS WITH JIMMY CONWAY, AND I TOLD HIM NOT TO DISCUSS THE DOCKSIDE DOLL SHOOTING.

Q. IS THAT THE ONLY THING YOU ASKED HIM NOT TO DISCUSS?

A. THE BEST I CAN REMEMBER BECAUSE THAT IS WHAT HE WAS INDICTED FOR.

Q. DID YOU EVER TALK WITH RONNIE TRENT ABOUT HOW TO CONVINCE MR. HORTON THAT HE WAS A HIT MAN?

A. SPECIFICALLY, NO, I DID NOT.

Q. WAS THERE ANY DISCUSSION ABOUT VIDEOTAPES BEING MADE?

A. YEAH.

Q. WERE THOSE VIDEOTAPES GOING TO PORTRAY SOMEONE THAT ALLEGEDLY MR. TRENT KILLED?

A. THAT IS CORRECT.

Q. DID YOU GIVE MR. TRENT ADVICE IN THAT REGARD?

A. NO, MR. CONWAY DID.

Q. WHO IS THE PERSON THAT ENDED UP IN THE VIDEOTAPE?

A. A DEPUTY.

Q. YOU ARE TELLING ME YOU DIDN'T GIVE MR. TRENT ANY ADVICE ON HOW THAT WAS GOING TO GO DOWN OR HOW THAT VIDEOTAPE SHOULD BE PORTRAYED?

A. NO, THAT WAS GIVEN TO HIM BY MR. CONWAY. MR. CONWAY HAD SPECIFIC THINGS HE WANTED HIM TO TALK ABOUT, LIKE DROPPING THE BULLET. THERE WAS A LIVE ROUND THAT WAS -- WHEN HE PULLED THE GUN OUT AND HE JACKED ONE, HE DIDN'T KNOW IF HE HAD ONE IN IT, SO A LIVE ROUND KIND OF FLIPPED OUT AND LAID ON THE GROUND. MR. CONWAY WANTED HIM TO TALK ABOUT THOSE KIND OF THINGS THAT ONLY COPS WOULD KNOW ABOUT, SO HE ALREADY HAD SPECIFIC INSTRUCTIONS OF WHAT HE WAS TO DO ON THIS VIDEO PER MR. CONWAY. SO THAT IS WHAT HE DID.

Q. WHEN YOU ARE TALKING ABOUT BULLETS FALLING TO THE GROUND, YOU ARE TALKING ABOUT THE DOCKSIDE DOLLS CASE?

A. CORRECT.

Q. WHAT ABOUT WAS THERE EVER A PHOTOGRAPH CREATED OF SOMEONE THAT WAS PORTRAYED TO BE DEAD?

A. CORRECT.

Q. WHO WAS THAT PERSON?

A. THAT'S THE DEPUTY.

Q. IS THIS SOMETHING THAT RONNIE TRENT WENT OUT AND ARRANGED ON HIS OWN, DECIDED, WELL, I'M GOING TO PORTRAY A PICTURE OF A DEAD PERSON HERE TO SHOW I AM A HIT MAN?

A. THAT WAS MY IDEA.

Q. THAT WAS YOUR IDEA?

A. THAT WAS MY IDEA.

Q. ARE YOU AWARE OF WHETHER OR NOT MR. TRENT SHOWED THAT PHOTOGRAPH TO CALVIN HORTON?

A. YES, HE DID.

Q. AND WHETHER OR NOT HE EVER SHOWED HIM A VIDEOTAPE?

A. YES, HE DID.

Q. AS FAR AS THE MONEY THAT WAS PLACED ON TRENT'S BOOKS THAT YOU TESTIFIED ABOUT, DO YOU HAVE ANY IDEA WHAT THE SOURCE OF THAT MONEY WAS? I KNOW YOU TESTIFIED WHO PUT IT ON THE BOOKS. DO YOU KNOW WHAT THE SOURCE OF IT WAS?

A. NO.

Q. WAS IT POSSIBLE ANY OF THAT MONEY CAME FROM TRENT'S FAMILY?

A. NO, IT DIDN'T COME FROM TRENT'S FAMILY. THAT WAS ALLEGED AT ONE TIME, AND WE CHECKED IT OUT, AND THEY DON'T HAVE ANY MONEY TO PUT FOUR OR FIVE THOUSAND DOLLARS

ARBITRARILY ON SOMEONE'S BOOKS WHO THEY THINK CAN'T GET OUT OF JAIL.

Q. YOU DON'T KNOW FOR SURE WHERE IT CAME FROM, BUT YOU ARE POSITIVE THAT IT DID NOT COME FROM TRENT'S FAMILY?

A. FROM MY KNOWLEDGE, IT DID NOT COME FROM TRENT'S FAMILY, CORRECT.

Q. YOU TESTIFIED THAT THROUGHOUT THE COURSE OF YOUR SURVEILLANCE AND MR. TRENT'S ROLE AS A C.I., THAT MR. HORTON WAS THE ONE SETTING UP MEETINGS, ET CETERA?

A. LOCATIONS.

Q. WHO WAS SETTING UP THE MEETINGS?

A. WELL, AT TIMES, RONNIE WOULD SAY, HEY, I AM SUPPOSED TO DO THIS; I DON'T HAVE ANY MEANS OF DOING IT. THEN SOMETIMES -- IT WAS SO MANY DIFFERENT TIMES. SOMETIMES HE WOULD GET A HOLD OF MR. CONWAY AND THEY WOULD DO THREE WAYS, AND RONNIE WOULD SAY, YOU GUYS WANT ME TO DO SOMETHING BUT I DON'T HAVE ANYTHING TO DO WITH IT, AND THEN CALL BACK, OKAY, THIS IS WHERE WE ARE GOING TO MEET. RONNIE WASN'T VERY FAMILIAR WITH CERTAIN LOCATIONS IN THE CITY, SO JAMIE ALWAYS SAID, WE ARE GOING TO MEET HERE, LIKE MCDONALD'S OR SHELL OR ROADHOUSE. HE WOULD PICK THE LOCATIONS, AND RONNIE WENT TO WHERE HE TOLD HIM TO GO.

Q. ISN'T IT TRUE THAT THROUGHOUT THE COURSE OF THIS SURVEILLANCE, RONNIE TRENT'S ROLE AS A C.I., THAT MR. HORTON WAS TRYING TO AVOID CONTACT WITH HIM?

A. NO.

Q. ISN'T IT TRUE THAT MR. HORTON OBTAINED A NEW PHONE DURING THIS COURSE OF TIME?

A. NOT THAT I RECALL.

Q. ISN'T IT TRUE THAT MR. TRENT COMPLAINED TO YOU AND OTHERS, AND I THINK INCLUDING JIMMY CONWAY, THAT MR. HORTON WAS TREATING HIM LIKE A BITCH?

A. ON ONE OCCASION, THAT IS CORRECT, HE DID SAY THAT.

Q. WHAT DID YOU TAKE THAT TO MEAN?

A. WELL, IT WAS ARRANGEMENTS THAT WERE MADE THAT RONNIE WAS TO GO AND GET MONEY UP FRONT, AND AT ONE TIME, I GUESS, JAMIE WANTED HIM TO PAY FOR SOME DOPE, AND THEN HE CALLED CONWAY AND SAID, YOU WANT ME TO PAY FOR DOPE THAT YOU ARE GIVING ME SO THAT I CAN GO DO THESE HITS FOR YOU? AT THAT POINT THERE MUST HAVE BEEN A CONVERSATION BETWEEN JAMIE AND JIMMY CONWAY BECAUSE THEN THAT WAS NEVER BROUGHT UP AGAIN, AND JAMIE GAVE HIM DOPE AND DIDN'T QUESTION HIM AGAIN. THERE WAS NO MORE DISCUSSION ABOUT IT.

Q. IS IT TRUE THAT MR. TRENT ALSO REFERRED TO MR. HORTON AS HAVING GIVEN HIM THE RUNAROUND?

A. PROBABLY WHEN HE GOT MAD AT HIM FOR WHATEVER.

Q. ISN'T IT TRUE THAT WHEN HE -- WHAT HE MEANT BY THAT, THAT HE WASN'T RETURNING HIS CALLS; HE WASN'T MAKING HIMSELF AVAILABLE TO HIM?

A. I DON'T KNOW EXACTLY HOW HE MEANT IT, BUT AT TIMES IF THEY DIDN'T -- LIKE WE ARE GOING TO MEET TODAY AND IT IS THREE HOURS LATER, THEY DIDN'T GET TO MEET UNTIL IT IS NOW EVENING, AND IT IS LIKE WHAT IS HE DOING, SOMETHING LIKE THAT PROBABLY.

Q. WHEN THOSE THINGS HAPPENED, MR. TRENT JUST DIDN'T COME TO YOU AND REPORT, WELL, MR. HORTON IS NOT MEETING WITH ME OR JUST SAY JAMIE, THAT'S WHAT YOU WERE REFERRING TO HIM AS?

A. THAT'S HOW I HAVE ALWAYS KNOWN HIM.

Q. WHEN WE ARE TALKING ABOUT JAMIE, WE ARE TALKING ABOUT THE DEFENDANT?

A. YEAH.

Q. JUST TO MAKE CLEAR TO THE JUDGE, HE DIDN'T COME BACK TO YOU AND SAY, JAMIE IS AVOIDING HIM; HE IS NOT FOLLOWING THROUGH WITH THIS STUFF, WHAT SHOULD I DO?

A. NO, WE JUST WAITED.

Q. ISN'T IT TRUE THAT WHAT MR. TRENT DID WAS USED SOMETIMES SUBTLE AND SOMETIMES OVERT THREATS AND IN A THREATENING MANNER TO CONVEY TO JAMIE IF HE DIDN'T COOPERATE, THAT HE MIGHT BE THE NEXT PERSON ON THE LIST?

A. NOT THAT I EVER RECALL THAT.

Q. ISN'T IT CLEAR THAT TRULY ON SOME TAPES AND SUBTLY ON OTHER TAPES, MR. HORTON WAS AFRAID OF RONNIE TRENT?

A. NOT TO MY KNOWLEDGE. HE MADE REFERENCE THAT HE WASN'T ON SOME OF THE TAPES.

Q. WELL, THIS WOULD BE AFTER A LENGTHY CONVERSATION WHEREAS MR. TRENT IS HEARING THAT MR. HORTON IS AFRAID HE IS GOING TO BE KILLED, RIGHT?

A. I AM SORRY, STATE THAT AGAIN.

Q. YOU SAID WHAT YOU HEARD HIM SAY IS HE WASN'T AFRAID OF HIM?

A. THAT WAS MY IMPRESSION, CORRECT.

Q. THAT WAS ONLY AFTER A DISCUSSION WHEREIN HE FIRST SAID HE WAS AFRAID OF HIM, WAS IT NOT?

A. I DON'T RECALL HIM EVER SAYING HE WAS AFRAID OF RONNIE.

Q. DO YOU RECALL HIM NOT WANTING TO GO ON THE TRIP THAT YOU TESTIFIED ABOUT TO CHILLICOTHE?

A. I DON'T RECALL HIM NOT WANTING TO GO. HE EVEN RENTED THE VAN TO GO TAKE HIM.

Q. YOU DON'T RECALL PRIOR TO THAT THAT HE EXPRESSED AND THAT MR. TRENT ACKNOWLEDGED AND STATED ON THE TAPES THAT MR. HORTON DID NOT WANT TO GO BECAUSE HE WAS AFRAID HE WAS GOING TO GO DOWN THERE AND GET KILLED?

A. I DON'T RECALL THAT STATEMENT.

Q. DO YOU RECALL MR. TRENT INDICATING TO MR. HORTON THAT HE GREW UP AROUND GANGSTERS?

A. YEAH, PROBABLY.

Q. THOROUGHBRED GANGSTERS, I THINK WAS ONE OF THE PHRASES?

A. SURE.

Q. CERTAINLY YOU WOULD ACKNOWLEDGE ALL THROUGHOUT THESE TAPES, MR. TRENT IS BUILDING HIMSELF UP AS A HIT MAN AND AS A COLD-BLOODED KILLER?

A. THAT'S TRUE.

Q. YOU SAID AT SOME POINT IN TIME, I THINK THAT MS. PRICHARD ESTABLISHED TWO DIFFERENT PERIODS OF TIME, SOME TIME TOWARD THE END OF THIS WHOLE OPERATION, MR. HORTON, JAMIE, MADE ALLUSIONS TO THE FACT THAT MR. TRENT MIGHT BE A POLICE OFFICER?

A. CORRECT.

Q. WORKING WITH THE COPS?

A. CORRECT.

Q. RONNIE TRENT LIED TO HIM ABOUT THAT, DIDN'T HE?

A. YES.

Q. HE SAID, NO, HE WASN'T?

A. CORRECT.

Q. THERE WAS NO POINT IN TIME THROUGHOUT THIS OPERATION WHERE RONNIE TRENT WASN'T WORKING WITH YOUR DEPARTMENT, IS THERE?

A. NO.

Q. YOU TALKED ABOUT THE ARREST OF JAMIE. AT THE

POINT RIGHT BEFORE JAMIE WAS ARRESTED, ISN'T IT TRUE THAT HE, IN FACT, MADE INDICATIONS TO RONNIE TRENT THAT HE DID NOT WANT TO GO FORWARD WITH ANY OF THE THINGS THAT WERE BEING PLANNED?

A. THAT'S AT THE TIME HE WAS ASKING HIM IF HE WAS A COP.

Q. SO THE ANSWER IS YES?

A. I'M SORRY, YES.

Q. SO SHORTLY THEREAFTER, AFTER JAMIE HAS INDICATED HE DOESN'T WANT TO GO TO THROUGH WITH THESE PLANS, YOUR TESTIMONY IS HE IS SUSPICIOUS THAT HE IS A COP, YOU DID, IN FACT, ARREST HIM?

A. YES.

Q. WHAT HAPPENED WHEN YOU ARRESTED HIM, CAN YOU TELL THE JUDGE THE CIRCUMSTANCES OF IT? WERE YOU THE ARRESTING OFFICER?

A. FRANKLIN TOWNSHIP ACTUALLY STOPPED HIM, AND I SHOWED UP, AND HE WANTED HIS ATTORNEY.

Q. AND HE MADE THAT VERY CLEAR TO YOU?

A. YES, HE DID.

Q. DID YOU ATTEMPT TO QUESTION HIM ANY FURTHER AFTER THAT?

A. NO, I DID NOT.

Q. DID YOU, PRIOR TO HIM EXERCISING HIS RIGHTS TO THE FIFTH AMENDMENT, INDICATE TO HIM THAT SOME KIND OF A

DEAL WAS POSSIBLE FOR HIM?

A. A DEAL? NO.

Q. YOU ALSO TALKED ABOUT SHAWN NIGHTINGALE BEING ARRESTED, CORRECT?

A. CORRECT.

Q. DID YOU ALSO HAVE AN OPPORTUNITY TO TALK TO SHAWN AFTER HIS ARREST?

A. I DID.

Q. AND SHAWN DID NOT WAIVE OR DID NOT ASSERT HIS FIFTH AMENDMENT RIGHTS, DID HE?

A. NO, HE TALKED TO US.

Q. DID HE TALK TO YOU IMMEDIATELY?

A. PRETTY MUCH, YEAH.

Q. SOMETIME AFTER HE -- AFTER MR. NIGHTINGALE HAD ALREADY GIVEN YOU A STATEMENT, THE IDEA WAS BROUGHT UP OF HIM TALKING TO JAMIE, CORRECT?

A. YEAH, SHAWN SAID THAT.

Q. AND THE IDEA OF MAYBE HE WOULD CONVINCE HIM TO TALK TO YOU GUYS?

A. THAT HE WOULD PROBABLY WORK OUT SOMETHING, YEAH.

Q ISN'T IT TRUE THAT YOU TOLD JAMIE PRIOR TO HIM -- PRIOR TO SHAWN BEING PLACED IN THE ROOM WITH HIM, THAT NOTHING HE SAID IN THAT CONVERSATION WITH SHAWN COULD BE USED AGAINST HIM?

A. NO.

Q. ISN'T IT TRUE THAT IF YOU DIDN'T SAY IT, THAT DETECTIVE FLOYD SAID IT?

A. I DON'T THINK DETECTIVE FLOYD EVEN TALKED TO HIM. I THINK HE STAYED BACK IN THE --

Q. DIDN'T YOU TELL MR. SHAWN NIGHTINGALE THAT THIS CONVERSATION WITH JAMIE WASN'T GOING TO BE MONITORED AND COULDN'T BE USED?

A. NO.

Q. YOU TESTIMONY IS PRIOR TO THEM TALKING, YOU DIDN'T GIVE EITHER ONE AN INDICATION THAT IT WAS GOING TO BE A PRIVATE CONVERSATION BETWEEN THEM WITH NO POLICE SURVEILLANCE WHATSOEVER?

A. NO.

Q. WERE THERE ANY RECORDINGS MADE OF THIS CONVERSATION BETWEEN MR. HORTON AND MR. NIGHTINGALE?

A. NO.

Q. WERE THERE ANY NOTES TAKEN RIGHT THERE THAT EVENING?

A. I DON'T KNOW IF DETECTIVE FLOYD DID. I DID NOT.

Q. YOU TESTIFIED EARLIER THAT THE SUMMARY OF THAT CONVERSATION WAS CREATED SHORTLY. DID YOU MEAN SHORTLY THEREAFTER, SHORTLY AFTER THE MEETING?

A. THE EXACT TIME, I THINK IT WAS JUST-- PROBABLY A COUPLE WEEKS AGO. AS FAR AS I CAN REMEMBER, I THINK THAT

DETECTIVE FLOYD DID IT.

Q. YOU SAID SHORTLY, YOU MEAN SHORTLY FROM TODAY, NOT SHORTLY FROM THAT CONVERSATION?

A. THAT WOULD BE RIGHT.

Q. I WANTED TO MAKE SURE THE JUDGE UNDERSTOOD THAT.

ISN'T IT TRUE THAT THIS -- WELL, I DON'T NEED TO SHOW YOU THE STATEMENT AT THIS POINT, BUT YOU UNDERSTAND THERE IS A WRITTEN SHORT SUMMARY PREPARED BY MR. FLOYD?

A. CORRECT.

Q. IS IT TRUE HE CREATED THAT ABOUT ONE WEEK AGO AFTER INQUIRY FROM MS. PRICHARD?

A. THAT WOULD BE ABOUT RIGHT.

MR. MCGOWAN: YOUR HONOR, I WILL GIVE YOU A COPY OF THIS. I WILL NOT HAVE THIS MARKED AS AN EXHIBIT AT THIS POINT. I JUST WANT TO SHOW THIS TO YOU.

Q. (BY MR. MCGOWAN) ON THAT DOCUMENT, IT INDICATES A DATE, DOES IT NOT?

A. CORRECT.

Q. WHAT DATE IS THAT?

A. THE TOP PART OF IT SAYS MAY 28, '02.

Q. IS THERE ANY INDICATION ON THAT DOCUMENT THAT IT WASN'T CREATED UNTIL APRIL OF '03?

A. NO, NOT THAT I SEE.

Q. YOUR TESTIMONY HERE TODAY IS THAT, IN FACT -- EXCUSE ME, MARCH, '03. IT DIDN'T SAY ANYTHING ABOUT BEING

CREATED IN MARCH, '03, DOES IT?

A. NO, IT DOESN'T.

Q. YOUR TESTIMONY IS THAT WHEN -- IS THAT WHEN THE DOCUMENT WAS CREATED?

A. YES, AS FAR AS I KNOW.

MR. MCGOWAN: YOUR HONOR, IF I MAY HAVE A MOMENT?

Q. (BY MR. MCGOWAN) I WOULD JUST HAVE ONE OR TWO MORE QUESTIONS, DETECTIVE.

YOU TESTIFIED THAT YOU DID NOT GIVE ANY KIND OF ASSURANCE TO JAMIE OR SHAWN THAT THAT WOULD BE A PRIVATE MATTER; ARE YOU POSITIVE ABOUT THAT, OR YOU JUST DON'T REMEMBER AS YOU SIT HERE TODAY?

A. I AM POSITIVE. I CAN'T RECALL EVER SAYING ANYTHING LIKE THAT TO EITHER ONE OF THEM. PART OF THE TIME CHRIS MONITORED IT. MOST OF THE TIME I WAS IN AND OUT, BUT NO, I DON'T RECALL EVER SAYING ANYTHING LIKE THAT.

Q. IF YOU HAD SAID SOMETHING LIKE THAT, HOW WOULD YOU REMEMBER IF YOU DIDN'T TAKE NOTES?

A. THAT'S WHAT I AM SAYING, I DON'T RECALL EVER SAYING ANYTHING LIKE THAT. THAT'S EXACTLY CORRECT.

Q. IF YOU WERE IN AND OUT, DETECTIVE FLOYD MAY HAVE, IN FACT, MADE SUCH A REPRESENTATION, CORRECT?

A. HE STAYED AND MONITORED AND LISTENED. THAT'S ALL HE DID.

Q. HE NEVER EVER TALKED TO EITHER ONE OF THEM?

A. I THINK HE TALKED TO SHAWN, BUT IT WAS LIKE BRIEFLY, AND IT WAS BEFORE WE ACTUALLY ARRESTED HIM BECAUSE WE GOT A CALL THAT THEY HAD FOUND MR. HORTON, AND THAT IS WHEN I LEFT AND PICKED HIM UP AND BROUGHT HIM BACK, AND THAT IS WHEN THEY WERE PUT TOGETHER. BUT, NO, THERE WAS NO MENTION OF IT.

Q. YOU ARE FAMILIAR WITH THE TAPED CONVERSATION WITH SHAWN NIGHTINGALE, CORRECT?

A. WHICH ONE?

Q. THE TAPED -- VIDEOTAPED ON THE DAY OF HIS ARREST?

A. YES.

Q. WHO WAS PRESENT DURING THAT INTERROGATION?

A. I WAS.

Q. WHO ELSE?

A. LIEUTENANT SPIRET.

Q. COULD LIEUTENANT SPIRET HAVE MADE THE INDICATION I HAVE ASKED YOU ABOUT OF IT BEING A PRIVATE CONVERSATION; IT WOULD NOT BE ABLE TO BE USED AGAINST ANYBODY?

A. I DOUBT IT. HE LEFT SHORTLY AFTER THAT. I DON'T RECALL HIM SAYING IT.

MR. MCGOWAN: THANK YOU.

THE COURT: ANY REDIRECT?

- - -

REDIRECT EXAMINATION

BY MS. PRICHARD:

Q. THE VIDEO THAT WAS MADE -- JUST SO WE CAN GIVE THE JUDGE A BACKGROUND, THE VIDEO WAS MADE WITH RESPECT TO THE DOCKSIDE DOLLS CASE?

A. CORRECT.

Q. WHAT WERE THE CONTENTS OF THAT VIDEO?

A. A PERSON CONFESSING TO THE DOCKSIDE DOLLS MURDER.

Q. WHY WAS THAT VIDEO MADE?

A. TO GIVE REASONABLE DOUBT FOR JIMMY CONWAY.

Q. WHO ORDERED THAT VIDEO?

A. JIMMY CONWAY.

Q. AND YOU ASSISTED WITH THE LOGISTICS IN GETTING IT MADE WITH MR. TRENT?

A. I DID.

Q. MR. TRENT SHOWED MR. HORTON THAT VIDEO AND A PICTURE OF SOMEBODY WHO PURPORTEDLY WAS DEAD?

A. THAT IS CORRECT.

Q. AND THE PERSON, IN FACT, WAS A DEPUTY POSING TO BE DEAD, IS THAT RIGHT?

A. THAT IS RIGHT.

Q. AFTER THOSE THINGS WERE SHOWN TO MR. HORTON, DID HE CONTINUE TO MEET WITH MR. TRENT?

A. YES.

Q. DID HE CONTINUE TO HAVE PHONE CONVERSATIONS WITH

MR. TRENT?

A. YES.

Q. ARE WE TALKING A COUPLE OR TALKING DOZENS?

A. NO, DOZENS, QUITE A FEW.

Q. WHEN MR. TRENT EXPRESSED FRUSTRATION WITH BEING RUN AROUND, WHO WAS HE FRUSTRATED WITH?

A. CONWAY MOST OF THE TIME. HE WAS A LITTLE UPSET WITH HIM.

Q. DID SHAWN NIGHTINGALE FRUSTRATE HIM?

A. I DON'T RECALL IF SHAWN DID OR NOT.

Q. DID MR. TRENT EVER TELL MR. HORTON HE WOULD KILL HIM?

A. DID MR. TRENT EVER SAY THAT? NO.

Q. DID HE EVER SAY HE WOULD HURT HIM IF HE DIDN'T GO ALONG WITH THE PLAN?

A. NO.

Q. I BELIEVE YOU TOLD MR. MCGOWAN YOUR IMPRESSION -- YOU DID NOT HAVE AN IMPRESSION THAT MR. HORTON WAS AFRAID OF MR. TRENT?

A. NO, NOT FROM LISTENING TO THE TAPES.

Q. IN FACT, YOU WITNESSED MR. HORTON GIVE GUNS TO MR. TRENT?

A. CORRECT.

Q. HOW MANY GUNS ARE WE TALKING ABOUT?

A. AT LEAST THREE, MAYBE FOUR, THREE OR FOUR. IT

WAS A SUBSTANTIAL AMOUNT OF GUNS.

Q. HOW OFTEN DID MR. HORTON PROVIDE DRUGS TO MR. TRENT?

A. THREE OR FOUR TIMES WITH THAT, ALSO.

Q. DID ANYTHING ABOUT THOSE TRANSACTIONS LEAD YOU TO BELIEVE THAT MR. HORTON WAS AFRAID OF MR. TRENT?

A. NO.

Q. DID MR. HORTON AND MR. TRENT SEEM TO JUST HAVE EVERYDAY CONVERSATIONS, LAUGH ABOUT THINGS, AND TALK?

A. I THINK THEY TALKED ABOUT GIRLS SOMETIMES, JUST GENERAL STUFF. BUT MOST OF THE TIME IT WAS BUSINESS RELATED, I THINK, BUT THERE WAS AN OCCASION, LIKE THE CAR WASH, AND A FEW THINGS THEY TALKED ABOUT, CARS OR SOMETHING.

Q. DID MR. HORTON EVER TELL MR. TRENT NOT TO CALL HIM ANYMORE?

A. NO.

Q. DID HE EVER TELL HIM, LEAVE ME ALONE; I DON'T WANT TO MEET YOU ANYMORE?

A. NO.

Q. AT THE POINT WHERE MR. HORTON WAS ARRESTED, HE HAD ALREADY DELIVERED THE GUNS AND DRUGS?

A. OH, YEAH.

Q. HAD HE PARTICIPATED IN A SCHEME TO KILL WITNESSES? BESIDES PROVIDING GUNS AND DRUGS, HAD HE TAKEN

ANY OTHER ACTIONS?

A. HE TOOK RONNIE TO CHILLICOTHE.

Q. WHAT WAS IN CHILLICOTHE?

A. WITNESSES THAT NEEDED TO BE KILLED BECAUSE OF A ROBBERY THAT THEY WERE INVOLVED IN.

Q. WHAT WAS HE SUPPOSED TO BE DOING IN CHILLICOTHE?

A. SHOWING HIM LOCATIONS WHERE THESE WITNESSES LIVED.

Q. WAS MR. HORTON INVOLVED IN ANY ACTS TO BE COMMITTED AGAINST MIKE ARTHURS?

A. HE SHOWED HIM WHERE HE LIVED.

Q. MR. HORTON SHOWED MR. TRENT WHERE MIKE ARTHURS LIVED?

A. THAT IS CORRECT.

Q. WHO IS MIKE ARTHURS?

A. HE IS A PERSON WHO WAS A WITNESS INVOLVED IN THE ANDREW DOTSON MURDER.

Q. WHO IS NOW, I GUESS, AN INFORMANT OR TESTIFYING?

A. TALKING ABOUT MIKE?

Q. YES.

A. YES.

Q. AT THE POINT WHEN SHAWN NIGHTINGALE WAS INTERVIEWED, WAS HE FORTHRIGHT WITH YOU?

A. NO.

Q. DID IT TAKE SOME COAXING TO GET HIM TO TALK?

A. ENCOURAGING HIM TO TELL THE TRUTH, QUIT PROTECTING PEOPLE. HE WAS TRYING TO PROTECT CONWAY.

Q. WAS IT HIS IDEA TO TALK TO MR. HORTON OR DID YOU PUT HIM UP TO THAT?

A. NO, THAT WAS SHAWN'S IDEA.

Q. THE GUNS THAT WERE GIVEN, THREE OR FOUR GUNS ALL GIVEN AT THE SAME TIME OR ON DIFFERENT OCCASIONS?

A. DIFFERENT OCCASIONS.

Q. DIFFERENT DAYS?

A. DIFFERENT DAYS.

Q. AND OF THESE MEETINGS THAT TOOK PLACE BETWEEN MR. TRENT AND MR. HORTON, DID MR. TRENT EVER SHOW UP AT MR. HORTON'S RESIDENCE?

A. RONNIE DIDN'T KNOW WHERE HE LIVED.

Q. THERE WERE NO MEETINGS AT MR. HORTON'S RESIDENCE?

A. NO.

Q. THEY WERE ALL LOCATIONS THAT MR. HORTON WOULD TELL HIM TO MEET AT?

A. THAT IS CORRECT.

Q. WITH RESPECT TO THIS VIDEO FOR DOCKSIDE DOLLS BEING MADE, DID MR. HORTON PARTICIPATE IN THAT IN SOME WAY?

A. GAVE HIM A GUN TO DO THE MURDER.

Q. TO DO THAT VIDEO?

A. YEAH, HE HAD GAVE HIM SOME DOPE. THE FIRST NIGHT OUT HE GAVE HIM SOME DOPE AND HAD A GUN BECAUSE

THERE WAS NO WAY TO KILL THE GUY, AND RONNIE HAD NO WAY OF THEORETICALLY KILLING THE GUY.

Q. WHAT WERE THE DRUGS TO BE USED FOR?

A. THAT WAS JUST COMPENSATION OR ADDITIONAL PAY FOR DOING IT AND, ALSO USED -- I GUESS THERE WAS A SCHEME OR SOMETHING THAT THE GUY WOULD WANT DOPE, HE WOULD DO IT. HE WOULD MAKE A FAKE VIDEO FOR DOPE OR SOMETHING LIKE THAT. THAT'S HOW JIMMY CONWAY WANTED IT DONE.

Q. THE THINGS THAT THE DEFENDANT WOULD PROVIDE WERE TO BE USED TO MAKE THAT VIDEO?

A. CORRECT.

Q. AND THAT IS THE VIDEO THAT WAS LATER SHOWN TO MR. HORTON?

A. THAT IS CORRECT.

Q. AND THAT PICTURE THAT WAS SHOWN OF THE PERSON WHO WAS SUPPOSED TO BE DEAD, THAT WAS ALL PART OF THAT SAME SCHEME?

A. YES.

MS. PRICHARD: NOTHING FURTHER.

- - -

RECROSS EXAMINATION

BY MR. MCGOWAN:

Q. DETECTIVE, BESIDES THE VIDEO AND ONE PICTURE THAT YOU ALREADY TESTIFIED ABOUT, THERE WAS ALSO A PICTURE OF MIKE ARTHURS PORTRAYING HIMSELF AS BEING DEAD?

A. YES.

Q. A HOLE DUG OUT ABOUT THE SIZE OF A COFFIN OR A BODY AND HIM LAYING IN IT WITH SOME BLOOD, FAKE BLOOD?

A. NO BLOOD ON HIM, JUST PUT HIM IN A GRAVE.

Q. WITH HIS EYES CLOSED AS IF HE WAS DEAD?

A. YEAH.

Q. WHOSE IDEA WAS THAT?

A. MINE.

Q. MS. PRICHARD HAS ASKED YOU ABOUT DRUGS AND GUNS BEING PROVIDED BY MR. HORTON TO MR. TRENT.

DID MR. HORTON EVER CALL MR. TRENT DURING THE TIME YOU WERE LISTENING TO SAY I AM GOING TO BRING YOU GUNS; I AM GOING TO BRING YOU DRUGS; OR IS IT A FACT THAT MR. TRENT WAS ALWAYS ASKING HIM TO PROVIDE THOSE THINGS TO HIM?

A. THAT IS CORRECT, HE WAS ASKED BY -- HE ASKED MR. HORTON TO PROVIDE HIM PER MR. CONWAY.

Q. THAT WASN'T ALWAYS SAID, WAS IT? I MEAN, MOST OF THE TIME MR. TRENT WAS JUST CALLING AND ASKING MR. HORTON FOR THOSE ITEMS, CORRECT?

A. AS BEST I CAN REMEMBER, YEAH, THAT PROBABLY WOULD BE CORRECT.

Q. ARE YOU TESTIFYING THAT YOU HAD NO INCLINATION WHATSOEVER THAT MR. HORTON WAS AFRAID OF MR. TRENT?

A. I DON'T RECALL HIM EVER BEING AFRAID.

Q. I AM GOING TO SHOW YOU THIS --

MR. MCGOWAN: AND AGAIN, I'M NOT GOING TO USE THIS AS AN EXHIBIT, YOUR HONOR, I JUST WANTED TO SHOW IT TO HIM TO REFRESH THE WITNESS' RECOLLECTION.

Q. (BY MR. MCGOWAN) ON MAY 22, '02, WAS THAT ONE OF THE DATES OF THE SURVEILLANCE?

A. CORRECT.

Q. WHEN THIS SAYS INVESTIGATOR CHRIS FLOYD, DOES THIS INDICATE YOU WOULD HAVE HEARD THIS TAPE AT SOME POINT?

A. YES.

Q. MR. TRENT WAS GOING BY THE NAME OF TONY, THE HIT MAN, CORRECT?

A. THAT IS CORRECT.

Q. WHAT DOES TONY SAY AT THE END OF THIS TAPE AFTER TALKING TO JAMIE?

A. DO YOU WANT ME TO READ IT?

"DUDE, HE IS SO FUCKIN SCARED IT'S UNBELIEVABLE." IT SAYS HE IS SCARED.

Q. WHAT ELSE DOES IT SAY?

A. "IT'S ON TAPE." HE DID SAY THAT.

Q. DOES THAT REFRESH YOUR RECOLLECTION AS TO WHETHER OR NOT MR. HORTON WAS AFRAID OF MR. TRENT?

A. THAT'S WHAT RONNIE SAID, BUT I THINK THE QUESTION WAS DID I HEAR HIM SAY IT, AND I NEVER HEARD HIM ACTUALLY SAY HE WAS SCARED, IS THAT CORRECT? I MEAN, I THINK THAT

- - -

ZACHARY SCOTT

CALLED AS A WITNESS ON BEHALF OF THE PLAINTIFF, STATE OF OHIO, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. PRICHARD:

Q. PLEASE, INTRODUCE YOURSELF TO THE JURY.

A. MY NAME IS ZACHARY SCOTT. I AM A DETECTIVE WITH THE FRANKLIN COUNTY SHERIFF'S OFFICE.

Q. HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S OFFICE?

A. TOTAL, GOING ON 18 YEARS.

Q. HOW LONG HAVE YOU BEEN WITH THE DETECTIVE BUREAU?

A. FOURTEEN YEARS.

Q. AS PART OF YOUR DUTIES, WERE YOU ASSIGNED TO THE HOMICIDE OF ANDREW DOTSON?

A. YES.

Q. HOW IS IT THAT THE CASE GETS ASSIGNED TO YOU?

A. JUST KIND OF A ROTATION BASIS. IT WAS MY TURN.

Q. RANDOM?

A. YEAH.

Q. WHEN YOU WORK ON A CASE, DO YOU WORK ALONE OR WITH ANOTHER DETECTIVE?

A. GENERALLY WITH ANOTHER DETECTIVE IF IT IS A HOMICIDE.

A. DID YOU WORK ON THE DOTSON CASE WITH ANOTHER

EXHIBIT 54

DETECTIVE?

A. YES

Q. WHO WAS THAT?

A. DETECTIVE CHRIS FLOYD.

Q. DO OTHER DETECTIVES ASSIST IN SORT OF PERIPHERY MATTERS AS WELL?

A. YES.

Q. WHAT SORT OF CASES DO YOU INVESTIGATE?

A. WE HAVE A CRIMES AGAINST PERSONS UNIT. WE HANDLE ROBBERIES, RAPES, HOMICIDES, FELONIOUS ASSAULTS, THINGS OF THAT NATURE.

Q. THOSE ARE ALL SORTS OF RANDOM ASSIGNMENTS, AS WELL?

A. YES.

Q. DO YOU JUST HANDLE ONE CASE AT A TIME OR CONSTANTLY HANDLING THEM?

A. SEVERAL AT A TIME, YEAH.

Q. DOES THAT INCLUDE SEVERAL HOMICIDES AT A TIME?

A. YEAH, ESPECIALLY WHEN YOU HAVE GOT, LIKE, TRIALS COMING UP AND YOU STILL GET CASES EVEN THEN.

Q. I WILL TAKE YOU BACK TO SEPTEMBER, '01. WERE YOU FAMILIAR WITH THE JESSE JAMES SHOOTING?

A. YES, I WAS FAMILIAR WITH IT.

Q. WERE YOU THE DETECTIVE ASSIGNED TO THAT CASE?

A. NO.

Q. DO YOU KNOW WHO WAS?

A. DETECTIVE MCDONALD.

Q. WHERE IS DETECTIVE MCDONALD CURRENTLY?

A. HE IS RETIRED.

Q. DID YOUR INVESTIGATION OF THE ANDREW DOTSON HOMICIDE CAUSE YOU TO LEARN SOME FACTS ABOUT THE JESSE JAMES SHOOTING?

A. YES.

Q. AND DID YOU RESPOND TO THE SCENE WHERE ANDREW DOTSON'S BODY WAS FOUND?

A. YES.

Q. THAT WAS THE VERY DAY HE WAS FOUND THEN?

A. YES.

Q. THAT WAS YOUR FIRST CONTACT OR INVOLVEMENT IN THE ANDREW DOTSON CASE?

A. YES.

Q. WHEN THE BODY WAS FOUND, DID YOU ASSIST WITH TRYING TO MAKE AN IDENTIFICATION?

A. YES.

Q. EVENTUALLY THERE WAS AN IDENTIFICATION MADE?

A. CORRECT.

Q. DID YOU HAVE CONTACT WITH THE VICTIM'S FAMILY IN DOING SO?

A. YES.

Q. DO YOU, IN FACT, STAY IN CONTACT WITH THE

VICTIM'S FAMILY THROUGHOUT A CASE?

A. YEAH, PRETTY MUCH SO.

Q. IN THIS CASE DID YOU ATTEND A FUNERAL?

A. YES.

Q. WHY DID YOU DO SO?

A. WE LIKE TO SEE WHO IS GOING TO SHOW UP.

Q. THE CASE WAS UNSOLVED?

A. THE CASE WAS UNSOLVED.

Q. DID YOU FEEL THAT WAS AN IMPORTANT PART OF THE INVESTIGATION?

A. YEAH.

Q. WAS SURVEILLANCE CONDUCTED AT THE FUNERAL?

A. YES.

Q. I WILL SHOW YOU STATE'S EXHIBITS K-1 THROUGH K-9. CAN YOU TELL ME IF YOU RECOGNIZE THOSE?

A. THOSE WOULD BE THE PHOTOS TAKEN AT THE FUNERAL, THE SHOWING.

Q. WAS THERE ANYTHING OF SIGNIFICANCE YOU NOTED THERE AT THE FUNERAL?

A. COULD YOU BE MORE SPECIFIC?

Q. I MEAN, DID ANYTHING HAPPEN AT THE FUNERAL TO SOLVE THE CASE?

A. NO.

Q. AT THAT TIME?

A. NO.

Q. WAS THERE A LOG KEPT OF PEOPLE WHO ATTENDED THE FUNERAL?

A. YES, THERE IS A LOG.

Q. AND DID YOU REVIEW THAT AS PART OF YOUR INVESTIGATION, ALSO?

A. YES, I GLANCED OVER IT.

Q. IN REVIEWING THE JESSE JAMES CASE AS PART OF YOUR INVESTIGATION, WERE YOU ABLE TO DETERMINE WHETHER OR NOT ANDREW DOTSON HAD BEEN CONTACTED FOR A STATEMENT?

A. YES.

Q. WERE YOU ABLE TO DETERMINE WHETHER OR NOT SUCCESSFUL CONTACT WAS MADE?

A. HE MADE CONTACT BUT NOT PHYSICALLY, JUST A PHONE CALL.

Q. WERE YOU ABLE TO DETERMINE WHETHER OR NOT ANDREW DOTSON RETURNED ANY PHONE CALLS TO THE DETECTIVE?

A. MY UNDERSTANDING IS THAT HE DID. HE MADE THE RETURN PHONE CALL.

Q. DO YOU RECALL HOW YOU DETERMINED THAT?

A. THAT WAS IN THE SUMMARY BY DETECTIVE MCDONALD.

Q. DID YOU ALSO REVIEW THE VICTIM'S CELL PHONE LOG?

A. THERE WAS A CELL PHONE LOG SHOWING THAT HE CALLED THE DETECTIVE BUREAU.

Q. OTHER THAN THAT, THERE WAS NO ACTUAL INTERVIEW OF ANDREW DOTSON?

A. NO.

Q. DID THERE EVENTUALLY COME A BREAK IN THE CASE?

A. IN THE ANDREW DOTSON CASE?

Q. YES.

A. YES.

Q. DO YOU RECALL APPROXIMATELY, MAYBE A MONTH OR WHAT TIME WE ARE TALKING ABOUT?

A. PROBABLY AROUND MAY, BEGINNING OF MAY OR THE END OF APRIL, SOMEWHERE IN THERE.

Q. PRIOR TO MAY, HAD YOU BEEN DOING LOTS OF INTERVIEWS?

A. WE HAD TALKED TO NUMEROUS PEOPLE, YES.

Q. AND IN MAY, DID YOU TALK TO SOMEONE BY THE NAME OF MIKE ARTHURS?

A. YES, I DID.

Q. WHAT WERE THE CIRCUMSTANCES AND WHY IS IT THAT YOU CAME IN CONTACT WITH MIKE ARTHURS?

A. HIS NAME CAME TO US AS BEING A PERSON WHO WAS PRESENT DURING THE KILLING OF ANDREW.

Q. DID HE, IN FACT, TALK TO YOU ABOUT WHAT HAPPENED?

A. EVENTUALLY, YES, HE DID.

Q. DID YOU SPEAK TO HIM WITH OR WITHOUT ATTORNEYS?

A. WITH ATTORNEYS.

Q. AT THAT TIME WAS THERE A DECISION MADE TO CUT A DEAL WITH MIKE ARTHURS?

A. YES, THERE WAS.

Q. AT THAT POINT WAS THE INFORMATION PROVIDED SUFFICIENT TO BREAK OPEN YOUR INVESTIGATION?

A. YES.

Q. DID YOU BECOME FAMILIAR WITH SOMEBODY BY THE NAME OF RONNIE TRENT IN LATE APRIL OF 2002?

A. YES.

Q. HOW DID YOU BECOME AWARE OF MR. TRENT?

A. THROUGH THE PROSECUTOR'S OFFICE.

Q. WERE YOU PRESENT AT A MEETING WITH THE PROSECUTOR'S OFFICE WHEN MR. TRENT WAS INTERVIEWED?

A. YES.

Q. MR. TRENT HAD INFORMATION ON A FEW DIFFERENT TOPICS; WOULD THAT BE ACCURATE?

A. THAT WOULD BE ACCURATE.

Q. DID YOU SET UP SOME SORT OF, I GUESS, WORK RELEASE PROGRAM SO THAT YOU COULD WORK WITH RONNIE TRENT?

A. I DID.

Q. PRIOR TO WORKING WITH MR. TRENT, DID YOU TAKE MEASURES TO VERIFY THINGS THAT HE WAS TELLING YOU?

A. YES.

Q. CAN YOU GIVE ME AN EXAMPLE OF SOMETHING YOU DID?

MR. MCGOWAN: OBJECTION, YOUR HONOR. CAN WE APPROACH?

THE COURT: THE OBJECTION IS SUSTAINED.

Q. (BY MS. PRICHARD) DID YOU REVIEW -- I WILL REPHRASE IT. DID YOU REVIEW ANY JAIL RECORDS OF MR. TRENT?

A. YES.

Q. WERE YOU ABLE TO VERIFY HIS LOCATION WITHIN THE JAIL?

A. YES.

Q. WAS HE IN CLOSE PROXIMITY WITH SOMEONE ELSE WHO HE WAS PROVIDING INFORMATION ON?

A. YES.

Q. WHO WAS THAT?

A. JIMMY CONWAY.

Q. WERE YOU ABLE TO REVIEW HIS BOOKS, HIS FINANCIAL COMMISSARY LOGS?

A. YES.

Q. WERE YOU ABLE TO VERIFY WHETHER OR NOT THERE HAD BEEN A SIGNIFICANT DEPOSIT OF FUNDS IN THERE?

A. YES.

Q. WHAT DID YOU FIND?

A. THERE WAS A COUPLE OF GRAND PUT ON HIS BOOKS BY TWO DIFFERENT PEOPLE.

Q. DID THE LOGS INDICATE WHO PUT THE MONEY ON THEM?

A. THAT IS CORRECT.

Q. WHO PUT MONEY ON RONNIE TRENT'S BOOKS?

A. THERE WAS A CALVIN HORTON AND JEFF CONWAY.

Q. YOU SAID THOUSANDS OF DOLLARS?

A. IT WAS A COUPLE THOUSAND, TWO OR THREE THOUSAND EACH TIME.

Q. DO YOU RECALL THE TIME PERIOD WE ARE TALKING ABOUT WHEN THIS WOULD HAVE HAPPENED?

A. I AM THINKING EARLY APRIL. I AM NOT SURE, THOUGH.

Q. IT WAS BEFORE MR. TRENT SPOKE WITH YOU IN MY OFFICE?

A. YES.

Q. IN SETTING UP A WORK RELEASE PROGRAM WITH MR. TRENT, DID YOU TAKE ANY SURVEILLANCE MEASURES?

A. YES.

Q. WHAT WAS THE ARRANGEMENT WITH MR. TRENT; WHAT WOULD YOU DO?

A. HE WAS GOING TO GO OUT AND WORK IN THE EVENINGS AND WE HAD SEVERAL PEOPLE FROM NARCOTICS, S.I.U. ASSISTING US WHEN HE WOULD MAKE CONTACT WITH PEOPLE THAT HE WAS SUPPOSED TO MAKE CONTACT WITH, AND HE WOULD BE UNDER CONSTANT SURVEILLANCE. HE WOULD BE WIRED. WE ALWAYS SHOOK HIM DOWN TO MAKE SURE -- PATTED HIM DOWN TO MAKE SURE HE DIDN'T HAVE ANYTHING ON HIM, THINGS OF THAT NATURE.

Q. HE WORKED SPECIFIC HOURS WITH YOU AND OTHER DETECTIVES?

A. THAT IS CORRECT.

Q. AND WIRED THE ENTIRE TIME, YOU SAID?

A. WHEN HE LEFT THE BUILDING, HE WAS WIRED, YES.

Q. OR HE HAD A RECORDING DEVICE?

A. CORRECT.

Q. AT WHAT POINT WOULD YOU PAT HIM DOWN?

A. WHEN WE LEFT AND WHEN WE RETURNED.

Q. ALSO, THERE WAS SURVEILLANCE CONDUCTED?

A. YES.

Q. THIS WAS DONE AT ALL TIMES?

A. AT ALL TIMES.

Q. WERE TAPES AND TRANSCRIPTS MADE OF CONVERSATIONS THAT MR. TRENT WOULD HAVE WITH VARIOUS SUBJECTS?

A. YES.

Q. THOSE WERE PREPARED AND KEPT BY YOUR OFFICE?

A. YES.

Q. HOW MANY TAPES WOULD YOU SAY EXIST?

A. I DON'T KNOW, 30 TO 40, SOMEWHERE UP IN THERE. QUITE A FEW.

Q. SOME BETTER QUALITY THAN OTHERS?

A. YES.

Q. AT THE TIME MR. TRENT WAS WORKING WITH YOU, HAD HE BEEN GIVEN ANY SORT OF A DEAL?

A. AT THE EXACT TIME HE STARTED WORKING WITH US, I DON'T KNOW IF IT WAS -- IT WAS TALKED ABOUT, BUT I DON'T THINK IT WAS EVER COMPLETELY FINISHED.

Q. THERE WAS SOME TALK OF POSSIBLY GIVING HIM A

DEAL, BUT IT WASN'T HAMMERED OUT?

A. NOT BEFORE HE STARTED WORKING WITH US.

Q. HE CONTINUED TO WORK ANYWAY?

A. YES, HE DID.

Q. WHEN MR. TRENT WAS OUT WORKING, WAS HE MEETING WITH VARIOUS PEOPLE?

A. YES.

Q. WHO WOULD YOU SEE HIM MEET WITH?

A. HE MET WITH CALVIN HORTON. AND HE MET WITH SHAWN NIGHTINGALE.

Q. ARE THOSE THE PRIMARY SUBJECTS?

A. YEAH. I'M TRYING TO THINK OF SOMEONE ELSE. I THINK THERE MAY HAVE BEEN SOME GIRLFRIENDS OF SOME OF THE INDIVIDUALS THAT HE MET WITH THAT MAY HAVE SHOWED UP AT DIFFERENT TIMES AT A RESIDENCE, AND THAT'S IT.

Q. DO YOU SEE CALVIN HORTON HERE IN THE COURTROOM?

A. YES.

Q. WOULD YOU, PLEASE, DESCRIBE WHERE HE IS SITTING FOR THE RECORD?

A. HE IS SITTING BESIDE MR. MCGOWAN IN THE GREEN SUIT.

Q. HE IS IN THE MIDDLE POSITION?

A. YES.

MS. PRICHARD: I WOULD ASK THE RECORD REFLECT HE HAS IDENTIFIED THE DEFENDANT.

THE COURT: IT WILL.

Q. (BY MS. PRICHARD) DID YOU HAVE RONNIE TRENT UNDER SURVEILLANCE WHEN YOU TOOK HIM ON OUT-OF-TOWN TRIPS?

A. YES.

Q. WHERE DID MR. TRENT GO OUT OF TOWN?

A. CHILLICOTHE.

Q. WHO DID HE GO TO CHILLICOTHE WITH?

A. MR. HORTON.

Q. WAS THAT IN ANY SORT OF VEHICLE THAT THE SHERIFF'S OFFICE PROVIDED?

A. NO.

Q. DO YOU KNOW WHERE THAT VEHICLE CAME FROM?

A. MR. HORTON.

Q. THE TELEPHONE CALLS, THE FLOW OF THEM, DID THEY PROCEED FROM ONE PARTY TO ANOTHER OR DID THEY GO BOTH WAYS?

A. BOTH WAYS.

Q. DID MR. HORTON INITIATE PHONE CALLS TO MR. TRENT?

A. YES.

Q. WERE YOU PRESENT WHEN ANY CONTRABAND WAS DELIVERED TO MR. TRENT?

MR. MCGOWAN: OBJECTION.

THE COURT: OVERRULED.

THE WITNESS: YES.

Q. (BY MS. PRICHARD) WERE YOU WATCHING HIM UNDER SURVEILLANCE AT THAT TIME?

A. YES.

Q. PRIOR TO ANY CONTRABAND BEING DELIVERED, WAS MR. TRENT PATTED DOWN?

A. ALWAYS.

Q. WHEN ITEMS WERE DELIVERED TO MR. TRENT, WHAT WOULD HAPPEN TO THEM?

A. THEY WOULD BE TAKEN BY OUR DEPARTMENT AFTER THE TWO SEPARATED.

Q. WHO DELIVERED CONTRABAND?

MR. MCGOWAN: OBJECTION.

THE COURT: OVERRULED.

THE WITNESS: MR. HORTON.

MR. MCGOWAN: MOVE TO STRIKE.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) AFTER HE WOULD DELIVER CONTRABAND, YOU WOULD WAIT FOR HIM TO DEPART THE AREA?

A. YES.

Q. THEN SPECIFICALLY WHAT WOULD YOU DO?

A. THEY USUALLY WOULD MEET AT A LOCATION THAT WAS DESIGNATED BY MR. HORTON. THEY WOULD DO THE TRANSACTION. MR. HORTON WOULD LEAVE. MR. TRENT WOULD LEAVE. ONCE WE GOT BACK TO THE OFFICE, MR. TRENT WAS THEN SHAKEN DOWN, PATTED DOWN AND HIS CAR WOULD BE SEARCHED, AND WE WOULD TAKE POSSESSION OF THE CONTRABAND.

Q. YOU WOULD PUT THAT IN YOUR PROPERTY ROOM?

A. CORRECT.

Q. WHERE IT IS KEPT FOR SAFEKEEPING?

A. THAT IS CORRECT.

Q. WHAT SORT OF ITEMS DID MR. HORTON DELIVER TO MR. TRENT?

A. WEAPONS, HANDGUNS, NARCOTICS, COCAINE.

MR. MCGOWAN: OBJECTION, MOVE TO STRIKE.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) THOSE ARE THE ITEMS KEPT IN YOUR PROPERTY ROOM?

A. THAT IS CORRECT.

Q. YOU MONITORED CONVERSATIONS?

A. THAT IS CORRECT.

Q. ARE YOU FAMILIAR WITH STATEMENTS MR. HORTON MADE REGARDING THE ANDREW DOTSON CRIME?

A. YES.

Q. DID MR. HORTON EVER INDICATE WHETHER OR NOT HE KNEW WHAT WAS HAPPENING AT THE ANDREW DOTSON SCENE?

MR. MCGOWAN: OBJECTION, YOUR HONOR.

THE COURT: OVERRULED.

THE WITNESS: YES.

Q. (BY MS. PRICHARD) WHAT DID HE SAY, IF YOU RECALL?

A. SPECIFICALLY, BASICALLY, BEING UPSET THAT IT WASN'T CARRIED OUT. HE WAS UPSET WITH SHAWN AND MIKE

BECAUSE THEY DIDN'T FINISH IT OFF. I DON'T KNOW SPECIFICALLY. IF I SAW THE TRANSCRIPT, I COULD TELL YOU SPECIFICALLY, BUT IT WAS BASICALLY THAT HE WAS NOT HAPPY WITH HIM FOR NOT FINISHING THE JOB.

Q. SO IF YOU SEE THE TRANSCRIPT, THAT WOULD REFRESH YOUR MEMORY TO THE SPECIFICS OF THAT CONVERSATION?

A. YES, MA'AM.

Q. GIVE ME JUST A MINUTE. SHOWING YOU THE MAY 21 TRANSCRIPT, PAGE 21, TAKE A LOOK AND REVIEW IT AND I WILL ASK YOU A FEW QUESTIONS.

MR. MCGOWAN: YOUR HONOR, MAY WE APPROACH BRIEFLY WHILE HE IS REVIEWING THAT ON THE RECORD?

THE COURT: YES.

- - -

THEREUPON, COURT AND COUNSEL CONFERRED AT THE BENCH OUT OF THE HEARING OF THE JURY AND THE REPORTER.

- - -

Q. (BY MS. PRICHARD) DETECTIVE SCOTT, I WILL LEAVE THAT FOR A MINUTE.

YOU MONITORED ALL OF THESE CONVERSATIONS?

A. YES, MA'AM.

Q. INCLUDING THE ONE YOU ARE LOOKING AT HERE IN FRONT OF YOU?

A. YES, MA'AM.

Q. HAS THIS REFRESHED YOUR MEMORY ABOUT WHAT

MR. HORTON SAID?

A. YES, MA'AM.

Q. IF YOU WOULD, PLEASE, TELL THE JURY WHAT HE INDICATED ABOUT WHETHER HE KNEW WHAT HAPPENED?

A. HE WAS TALKING TO MR. TRENT, SAYING THAT HIM AND JIMMY SHOULDN'T HAVE TO COME OUT THERE, THAT THEY SHOULD HAVE BEEN GETTING DRUNK SOMEPLACE; THAT IF YOU SAY YOU ARE GOING TO DO SOMETHING, YOU SHOULD DO IT. AND IF YOU ARE SCARED -- YOU KNOW, YOU SHOULDN'T SAY YOU ARE GOING TO DO IT IF YOU ARE TOO SCARED TO DO IT. SO THAT IS BASICALLY WHAT HE IS TELLING MR. TRENT.

Q. DO YOU RECALL WHETHER OR NOT MR. HORTON --

MR. MCGOWAN: YOUR HONOR, EXCUSE ME, OBJECTION AND MOVE TO STRIKE THAT ON THE GROUNDS WE TALKED ABOUT.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) DO YOU RECALL WHETHER OR NOT MR. HORTON TALKED ABOUT WHETHER HE KNEW WHAT HE WAS DOING AT THE SCENE?

A. YEAH, THERE WAS A STATEMENT. HE WAS TALKING ABOUT HE -- SOMETHING ABOUT NOT CRYING ABOUT IT. I DID WHAT I HAD TO DO. I DID IT, AND SOMETHING ABOUT NOT BEING UPSET ABOUT HAVING TO DO WHAT YOU HAD TO DO.

Q. DO YOU REMEMBER WHAT HE SAID SPECIFICALLY?

A. I WOULD HAVE TO GLANCE AT THE TRANSCRIPT, IF YOU

HAVE GOT IT.

Q. I WILL SHOW YOU THE MAY 17 TRANSCRIPT, PAGE 21. I WILL LET YOU REVIEW THAT AND SEE IF IT REFRESHES YOUR MEMORY.

A. YES.

Q. HAVE YOU REVIEWED THAT AND DO YOU NOW RECALL WHAT MR. HORTON SAID?

A. YEAH, HE SAID HE WASN'T GOING TO CRY ABOUT WHAT HAPPENED AND THAT HE KNOWS WHAT HE DID WHEN HE DID IT.

Q. THESE CONVERSATIONS THAT WERE OCCURRING WERE DISCUSSING THE ANDREW DOTSON HOMICIDE?

A. YES.

Q. WHY DID YOU QUIT WORKING WITH MR. TRENT?

A. WE WERE CONCERNED FOR MR. TRENT'S SAFETY.

Q. WHY WAS THAT?

A. HE WAS BEING ACCUSED BY MR. HORTON ON NUMEROUS OCCASIONS ABOUT POSSIBLY BEING A COP, AND WE WERE CONCERNED AND DIDN'T WANT HIM TO KNOW HE WAS WORKING WITH US, AND WE DIDN'T WANT TO GET HIM HURT.

Q. AT THE TIME WHEN YOU QUIT WORKING WITH MR. TRENT, IS THAT WHEN YOU ARRESTED THE DEFENDANT?

A. THAT IS CORRECT.

Q. DID YOU TAKE POSSESSION OF A PICK AX THAT WAS PROVIDED BY MIKE ARTHURS?

A. YES.

Q. I WILL SHOW YOU STATE'S EXHIBIT J. DO YOU RECOGNIZE THIS?

A. YES.

Q. WHAT IS THIS?

A. IT IS A PICK AX THAT MIKE ARTHURS GAVE TO ME.

Q. WHY WAS THIS GIVEN TO YOU?

A. I ASKED FOR MR. ARTHURS TO GET ME ONE THAT WAS AS CLOSE AS HE COULD FIND TO THE ONE THAT WAS USED TO KILL ANDREW.

Q. DID YOU, IN FACT, THEN SHOW THAT TO THE CORONER SO THAT HE COULD MAKE SOME COMPARISONS?

A. YES.

Q. IN FACT, WAS IT IMPORTANT TO MAKE A DEAL WITH MIKE ARTHURS IN THIS CASE?

A. YES, IT WAS.

Q. WHY WAS THAT?

A. AT THAT TIME WE DIDN'T HAVE ANY LEADS. THE CASE WAS GROWING STALE.

MS. PRICHARD: I HAVE NOTHING FURTHER.

THE COURT: WILL YOU BE ABLE TO COMPLETE YOUR CROSS EXAMINATION?

MR. MCGOWAN: NO.

THE COURT: WE WILL GO AHEAD AND BREAK, AS I HAD INDICATED PREVIOUSLY. PLEASE, REMEMBER YOUR ADMONITIONS DURING THIS RECESS AND REPORT TO THE FIRST

FLOOR BY 1:30 TOMORROW, AND WE WILL SEE YOU THEN. THANK YOU FOR YOUR PATIENCE TODAY.

- - -

THEREUPON, THE JURY LEFT THE COURTROOM AND THE FOLLOWING PROCEEDINGS WERE HELD:

THE COURT: MR. LOWE OR MS. PRICHARD, IF YOU COULD PLACE ON THE RECORD SOMETHING THAT YOU OBSERVED THAT OCCURRED IN THE COURTROOM THAT THE COURT DID NOT.

MR. LOWE: I CAN DO THAT, YOUR HONOR, SINCE I OBSERVED IT. THE JURY WAS STILL IN THE COURTROOM, AND I BELIEVE THE CORONER WAS JUST FINISHING UP, AND I SAW A HAND, WHICH I THINK MR. CONWAY WAS SEATED RIGHT THERE, COME OVER AND REACH UP TO CHARLIE MCGOWAN AND TAP HIM ON THE SHOULDER, PAT HIM ON THE BACK. I THINK IT WAS A TAP ON THE SHOULDER, AND I SAW CHARLIE APPROPRIATELY BRUSH HIM AWAY AND INDICATE IT WASN'T APPROPRIATE, BUT THE COURT HAD JUST ADMONISHED HIM SEVERAL HOURS AGO THAT HE WAS NOT TO HAVE CONTACT EXCEPT OUTSIDE THE COURTROOM.

THE COURT: MR. CONWAY BACK THERE IS SHAKING HIS HEAD TO WHAT YOU JUST DID ON THE RECORD.

MR. MCGOWAN, WERE YOU TAPPED ON THE SHOULDER BY AN INDIVIDUAL?

MR. MCGOWAN: YES, I WAS, YOUR HONOR.

THE COURT: TO YOUR KNOWLEDGE, WAS THAT INDIVIDUAL MR. CONWAY?

MR. MCGOWAN: YES, IT WAS MR. CONWAY, AND I INSTRUCTED HIM THAT HE SHOULDN'T DO THAT OR I SIGNALED TO HIM THAT HE SHOULDN'T DO THAT.

THE COURT: THANK YOU.

MR. CONWAY: YOUR HONOR, I DIDN'T TAP HIM ON THE SHOULDER. I TRIED TO GET HIS ATTENTION. I DIDN'T TAP HIM ON THE SHOULDER.

THE COURT: MR. CONWAY, YOU WERE ADMONISHED BY THE COURT NOT TO CROSS THAT BARRIER BETWEEN THE GALLERY AND THE COURTROOM AND, APPARENTLY, YOU HAVE DONE SO. I THINK THIS MAY HAVE HAPPENED WHEN A MEMBER -- WHEN A WITNESS WAS LEAVING BUT THE MEMBERS OF THE JURY WERE PRESENT. THERE IS GOING TO BE ONE LAST OPPORTUNITY BEFORE I KICK YOU OUT OF THIS COURTROOM FOR DISRUPTING THE COURT PROCEEDINGS; BUT IF YOU ARE GOING TO BE IN HERE, YOU WILL NEED TO SIT IN THE BACK ROW OVER HERE ON THE LEFT HAND SIDE SO THERE CAN'T BE ANY INTERFERENCE WITH ANYBODY INVOLVED IN THIS CASE, AND I AM SURE MR. MCGOWAN, IF I CAN SPEAK FOR HIM, DOESN'T APPRECIATE BEING INTERFERED WITH WHEN HE IS TRYING TO PERFORM HIS DUTIES HERE AS A LAWYER.

IS THERE ANYTHING ELSE THAT NEEDS TO BE PLACED ON THE RECORD WITH REGARD TO THOSE ISSUES?

MR. LOWE: NO, YOUR HONOR.

THE COURT: IS THERE ANYTHING ELSE FOR THE RECORD TODAY?

MR. MCGOWAN: YES, YOUR HONOR, THE OBJECTIONS. I GUESS AT THIS POINT THE OBJECTION IS THE OTHER BAD ACTS. I THINK SHE DID REHABILITATE WITH REGARD TO FOUNDATION AND I WASN'T CLEAR ON THAT. THE REASON FOR THE OBJECTION IS THE BASIS OF THE MOTION AND ET CETERA AS TO THE OTHER BAD ACTS.

THE COURT: ALTHOUGH WE WILL NOT BE IN SESSION WITH THE JURY, IF COUNSEL CAN BE PRESENT AT TEN TO DEAL WITH THE OTHER ISSUES BEFORE THE COURT, WE WILL DO IT THEN.

- - -

THEREUPON, THE TRIAL OF THIS CAUSE WAS ADJOURNED UNTIL 10:00 O'CLOCK, FRIDAY, APRIL 11, 2003.

- - -

FRIDAY MORNING SESSION,

APRIL 11, 2003.

- - -

THEREUPON, THE FOLLOWING PROCEEDINGS WERE HELD OUT OF THE PRESENCE AND HEARING OF THE JURY:

THE COURT: I BELIEVE THAT THERE ARE TWO WITNESSES THAT THE DEFENSE WOULD LIKE TO PRESENT IN THEIR CASE. BY AGREEMENT OF THE PARTIES, WE ARE ADDRESSING THOSE WITNESSES TODAY WITH REGARD TO THEIR INTENTION TO TESTIFY.

IS THAT HOW YOU WISH TO PROCEED WITH THESE WITNESSES, MR. MCGOWAN?

MR. MCGOWAN: YES, YOUR HONOR.

THE COURT: WHO WOULD YOU LIKE TO INQUIRE OF FIRST?

MR. MCGOWAN: JAMES CONWAY.

YOUR HONOR, ARE YOU GOING TO HAVE ME STEP UP AND -- I INTEND TO ASK HIM QUESTIONS.

THE COURT: I THINK PROCEDURALLY WHAT WE NEED TO DO IS FIRST IDENTIFY THE LAWYER AND WHO IS WITH HIM, HIS COUNSEL. I THINK CASE LAW REQUIRES THAT HE BE PLACED UNDER OATH TO ANSWER THESE QUESTIONS WITH REGARD TO WHAT HIS INTENTIONS ARE AND THE REPRESENTATION OF COUNSEL. IF YOU COULD PLACE ON THE RECORD WHAT IT IS YOU WANT TO ASK HIM ABOUT, AND THE COURT WILL TELL HIM HIS RIGHTS WITH REGARD TO THE FIFTH AMENDMENT AND ASK HIM HOW HE INTENDS TO

PROCEED.

IS THAT PROCEDURE SATISFACTORY TO EVERYBODY, AND YOU BELIEVE IT COMPLIES WITH THE LAW?

MR. LOWE: YES, YOUR HONOR.

- - -

THEREUPON, JAMES CONWAY ENTERED THE COURTROOM AND THE FOLLOWING PROCEEDINGS WERE HELD:

THE COURT: COUNSEL, IF YOU COULD ENTER YOUR APPEARANCE FOR MR. CONWAY?

MR. YOUNG: DAVID YOUNG APPEARING ON BEHALF OF MR. CONWAY.

MS. MENASHE: DIANE MENASHE ON BEHALF OF MR. CONWAY.

THE COURT: YOU ARE AWARE OF THE PURPOSES OF TODAY'S INQUIRY?

MR. YOUNG: YES, WE ARE, YOUR HONOR.

THE COURT: WOULD YOU LIKE TO STATE ON THE RECORD WHAT IT IS THAT YOU ARE GOING TO ANTICIPATE ASKING MR. CONWAY, IF CALLED AS A WITNESS IN THIS TRIAL.

MR. MCGOWAN: YES. DO YOU WANT TO SWEAR HIM IN FIRST OR --

THE COURT: I THOUGHT I WOULD SWEAR HIM IN BEFORE I WOULD ASK HIM ANY QUESTIONS BUT FOR YOUR REPRESENTATION.

MR. MCGOWAN: YES, THANK YOU, YOUR HONOR.

YOUR HONOR, I HAVE SUBPOENAED THIS WITNESS TO BE HERE IN COURT TODAY. I INTEND TO ASK HIM QUESTIONS ABOUT HIS INVOLVEMENT OR ANY KNOWLEDGE HE MAY HAVE SURROUNDING THE CIRCUMSTANCES OF THE HOMICIDE OF ANDREW DOTSON.

THE COURT: MR. CONWAY, I WILL NEED YOU TO RAISE YOUR RIGHT HAND, PLEASE.

- - -

THEREUPON, JAMES CONWAY WAS SWORN IN BY THE COURT.

- - -

THE COURT: MR. CONWAY, YOU ARE PRESENT WITH YOUR TWO LAWYERS.

MR. CONWAY: YES.

THE COURT: YOU, YOURSELF, ARE INVOLVED OR CHARGED WITH THE OFFENSE OF AGGRAVATED MURDER IN THIS PARTICULAR HOMICIDE INVOLVING ANDREW DOTSON. THE DEFENSE WISHES TO CALL YOU AS A WITNESS IN THIS CASE.

YOU HAVE JUST HEARD FROM MR. MCGOWAN, THE LAWYER FOR THE DEFENDANT, MR. HORTON, WITH REGARD TO THE QUESTIONS THAT HE WILL ASK YOU, IF CALLED IN THIS CASE. YOU HAVE A RIGHT TO REMAIN SILENT; AND AS YOU KNOW, I BELIEVE YOUR LAWYERS HAVE COUNSELED YOU THAT ANYTHING YOU SAY REGARDING THESE ISSUES MAY BE USED AGAINST YOU IN YOUR OWN TRIAL.

COUNSEL, IS THERE ANYTHING FOR THE RECORD THAT YOU WISH TO STATE WITH REGARD TO ANY ADVICE OR ANY

DISCUSSIONS THAT YOU HAVE HAD WITH REGARD TO MR. CONWAY'S RIGHTS?

MR. YOUNG: YES, YOUR HONOR, VERY BRIEFLY. WE HAVE HAD THE OPPORTUNITY TO DISCUSS WITH BOTH DEFENSE COUNSEL AND WITH MY CLIENT, AND WE HAVE STRONGLY ADVISED HIM TO INVOKE HIS FIFTH AMENDMENT RIGHT NOT TO TESTIFY, AND I BELIEVE THAT IS HIS INTENTION TO SO INVOKE THAT RIGHT.

THE COURT: YOU BELIEVE HE UNDERSTANDS HIS RIGHTS?

MR. YOUNG: YES, I DO, YOUR HONOR.

THE COURT: MR. CONWAY, YOU HAVE HAD THESE CONVERSATIONS, SIR, WITH YOUR COUNSEL?

MR. CONWAY: YES.

THE COURT: WHAT IS YOUR INTENTION WITH REGARD TO THE QUESTIONS THAT MR. MCGOWAN HAS INDICATED? WOULD YOU ANSWER THOSE QUESTIONS?

MR. CONWAY: NO.

THE COURT: WHAT WILL YOU DO IF HE ASKS YOU THOSE QUESTIONS?

MR. CONWAY: EXERCISE MY FIFTH AMENDMENT RIGHT.

THE COURT: IS THERE ANY TESTIMONY AT ALL THAT YOU CAN SEE YOURSELF GIVING IN THIS CASE OR ANY QUESTIONS THAT YOU WOULD ANSWER?

MR. CONWAY: NO.

THE COURT: DO YOU HAVE ANY FURTHER INQUIRY?

MR. MCGOWAN: NO.

THE COURT: I THINK THE RECORD DOES REFLECT THAT MR. CONWAY INTENDS TO AND WILL EXERCISE HIS FIFTH AMENDMENT RIGHTS IF CALLED TO TESTIFY IN THIS CASE.

IS THERE ANYTHING ELSE FOR THE RECORD?

MR. MCGOWAN: NO, YOUR HONOR.

THE COURT: THANK YOU.

IS THERE ANY ARGUMENT WITH WHETHER THAT WAS A LEGITIMATE RAISING OF THE FIFTH AMENDMENT RIGHTS?

MR. LOWE: NO, YOUR HONOR.

MR. MCGOWAN: NO, YOUR HONOR.

THE COURT: THE COURT DOES FIND THAT MR. CONWAY HAS INVOKED HIS FIFTH AMENDMENT RIGHTS.

WE WILL HAVE MR. NIGHTINGALE COME IN NEXT.

COUNSEL, IF YOU CAN ENTER YOUR APPEARANCE FOR THE RECORD AND STATE WHO IT IS YOU ARE HERE TO REPRESENT?

MR. SIMMONS: GERALD SIMMONS, REPRESENTING SHAWN NIGHTINGALE.

THE COURT: WOULD YOU LIKE TO STATE ON THE RECORD AS WELL THE PURPOSE FOR MR. NIGHTINGALE BEING HERE TODAY AND WHAT QUESTIONS YOU WOULD ASK HIM IF CALLED TO TESTIFY?

MR. MCGOWAN: THANK YOU, YOUR HONOR.

YES, I HAVE SUBPOENAED MR. NIGHTINGALE TO BE HERE TODAY. HE WOULD COME IN DURING OUR CASE. WE HAVE AGREED TO BRING HIM IN OUT OF ORDER, BUT I SUBPOENAING HIM FOR OUR CASE, AND I INTEND TO ASK HIM QUESTIONS ABOUT HIS INVOLVEMENT AND ANY KNOWLEDGE HE MAY HAVE REGARDING THE CIRCUMSTANCES OF THE ANDREW DOTSON HOMICIDE.

THE COURT: MR. NIGHTINGALE, IF YOU COULD, PLEASE, RAISE YOUR RIGHT HAND, SIR.

- - -

THEREUPON, SHAWN NIGHTINGALE WAS SWORN IN BY THE COURT.

- - -

THE COURT: YOU ARE SHAWN NIGHTINGALE, CORRECT?

MR. NIGHTINGALE: YES, MA'AM.

THE COURT: YOU HAVE BEEN CALLED HERE TO DETERMINE WHETHER OR NOT YOU WOULD BE EXERCISING CERTAIN RIGHTS. YOU HAVE BEEN CHARGED, AS YOU KNOW, WITH THE AGGRAVATED MURDER OF ANDREW DOTSON. THIS CASE DOES INVOLVE AN ALLEGED CO-DEFENDANT IN THAT PARTICULAR OFFENSE. DEFENSE COUNSEL HAS STATED ON THE RECORD WHAT IT IS HE INTENDS TO ASK YOU AT TRIAL.

HAVE YOU DISCUSSED WITH YOUR LAWYER YOUR FIFTH AMENDMENT RIGHTS?

MR. NIGHTINGALE: YES, MA'AM.

THE COURT: AND MR. SIMMONS, IF YOU COULD. PLACE ON THE RECORD ANY CONVERSATIONS YOU HAD WITH HIM AND IF YOU BELIEVE HE UNDERSTANDS HIS RIGHT TO INVOKE HIS FIFTH AMENDMENT?

MR. SIMMONS: YES, WE HAVE DISCUSSED THAT, YOUR HONOR, AND MOST RECENTLY AS OF 30 MINUTES AGO. AND UPON MY ADVISE, SHAWN HAS DECIDED THAT HE WOULD EXERCISE HIS FIFTH AMENDMENT RIGHT TO REMAIN SILENT.

THE COURT: IS THAT YOUR ADVICE WITH REGARD TO ANY QUESTIONS THAT HE WOULD BE ASKED?

MR. SIMMONS: OTHER THAN HIS NAME, YES.

THE COURT: MR. NIGHTINGALE, YOU HAVE HAD THIS CONVERSATION WITH YOUR LAWYER, AS HE STATED?

MR. NIGHTINGALE: YES, MA'AM.

THE COURT: YOU UNDERSTAND YOU DO HAVE A CONSTITUTIONAL RIGHT TO INVOKE THE FIFTH AMENDMENT IF YOU WERE TO TESTIFY AND TO REMAIN SILENT?

MR. NIGHTINGALE: YES.

THE COURT: MR. MCGOWAN INDICATED HE INTENDS TO AND DESIRES TO ASK YOU QUESTIONS INVOLVING CIRCUMSTANCES AND/OR KNOWLEDGE ABOUT THE DEATH OF MURDER OF MR. DOTSON. DO YOU INTEND TO ANSWER THOSE QUESTIONS?

MR. NIGHTINGALE: NO, MA'AM.

THE COURT: WOULD YOU ANSWER ANY OF HIS QUESTIONS?

MR. NIGHTINGALE: NO, MA'AM.

THE COURT: SO YOUR INTENTION IS WHAT, SIR, IF YOU ARE ASKED ANY QUESTIONS?

MR. NIGHTINGALE: TO PLEAD THE FIFTH. I AM NOT SAYING ANYTHING.

THE COURT: THANK YOU.

ANY OTHER QUESTIONS WITH REGARD TO THIS PARTICULAR WITNESS, MR. NIGHTINGALE?

MR. MCGOWAN: NO, YOUR HONOR.

MR. LOWE: NO, YOUR HONOR.

THE COURT: MR. SIMMONS, ANYTHING ELSE FOR THE RECORD?

MR. SIMMONS: NOTHING FURTHER, YOUR HONOR.

THE COURT: THANK YOU VERY MUCH.

IS THERE ANY ARGUMENT BY COUNSEL WITH REGARD TO WHETHER OR NOT THIS FIFTH AMENDMENT HAS BEEN RIGHTFULLY INVOKED?

MR. LOWE: NO, YOUR HONOR, NOT FROM THE STATE.

MR. MCGOWAN: NO.

THE COURT: THE COURT DOES FIND THAT MR. NIGHTINGALE HAS INVOKED HIS FIFTH AMENDMENT RIGHTS TO REMAIN SILENT AND THAT WILL BE THE CASE LAW OF STATE OF OHIO VERSUS KIRK. THE COURT FINDS THE DEFENSE WILL BE PREVENTED FROM CALLING THOSE WITNESSES.

MR. MCGOWAN: THANK YOU, YOUR HONOR.

THE COURT: MY UNDERSTANDING IS THAT COUNSEL DOES WANT TO WAIT FOR ARGUMENT WITH REGARD TO WHETHER OR NOT THE COURT SHOULD ADMIT -- IS IT JUST WITH MR. NIGHTINGALE, HIS STATEMENT?

MR. MCGOWAN: YES, BECAUSE IT IS MY UNDERSTANDING THERE IS NO STATEMENT FROM JAMES CONWAY.

MR. LOWE: CORRECT.

THE COURT: SINCE WE HAVE MR. SIMMONS HERE, IS THERE ANYTHING THAT YOU WANT TO STATE ON THE RECORD WITH REGARD TO THE ANTICIPATED REVIEW BY THE COURT OF NOT ONLY HIS STATEMENT TO THE OFFICERS BUT MY UNDERSTANDING IS THERE IS A PROFFERED STATEMENT AS WELL, AND THE COURT HAS NOT YET REVIEWED THE PROFFERED STATEMENT, BUT I HAVE REVIEWED BOTH THE TAPE AND THE TRANSCRIPT FROM HIS STATEMENT TO THE POLICE.

MR. SIMMONS: YES, I HAVE DISCUSSED THAT WITH MR. NIGHTINGALE THIS MORNING AND, ALSO, PREVIOUSLY. AS A RESULT OF THIS MORNING'S CONVERSATION, MR. NIGHTINGALE HAS INDICATED TO ME THAT IT WAS HIS UNDERSTANDING THAT AT THE TIME HE MADE THE PROFFER TO THE PROSECUTORS IN THE COUNTY JAIL, THAT THE ONLY PURPOSE WHICH THAT PROFFER WOULD BE PUT WAS IF HE WOULD TESTIFY IN HIS OWN TRIAL AND TO -- WITH THE INFORMATION HE GAVE IN THAT PROFFER COULD THEN BE USED IN CROSS EXAMINATION OF HIM. THAT IS HIS UNDERSTANDING OF THE

FULL EXTENT OF THE USE OF THAT PROFFER, SO HE DOES OBJECT TO ANYBODY REVIEWING ANY TRANSCRIPT OR TAPE, INCLUDING THIS COURT, OF THAT PROFFER ON THOSE GROUNDS.

THE COURT: SINCE WE HAVE MR. NIGHTINGALE HERE, IS THERE ANY DESIRE BY ANY PARTY TO QUESTION HIM WITH REGARD TO HIS UNDERSTANDING OF WHAT THE PROFFER IS USED FOR? THE COURT WOULD HAVE TO LIMIT IT TO THAT ISSUE.

MS. PRICHARD: YOUR HONOR, WE MIGHT NEED TO -- MAYBE IF MR. SIMMONS DISCUSSES IT WITH HIM, MR. NIGHTINGALE MIGHT RECALL THAT THE USE OF THE PROFFER IS IF HE TESTIFIES IN ANY TRIAL OR PROCEEDING INCONSISTENTLY, IT COULD BE USED AGAINST HIM. SO OTHER THAN THAT EXCEPTION, THAT IS WHAT THE UNDERSTANDING WAS.

THE COURT: IS THAT THE ONLY DISTINCTION AND BELIEF OF THE PROSECUTION THAT IS DIFFERENT THAN WHAT MR. SIMMONS HAS JUST STATED HERE TODAY?

MS. PRICHARD: THAT IS CORRECT.

THE COURT: SO WOULD YOU LIKE TO TAKE THE OPPORTUNITY, IF HE IS STILL HERE, I HOPE?

MR. SIMMONS: YOU CAN BRING HIM IN. I HAVE ASKED HIM ABOUT THAT. HE IS BACK IN LOCKUP. I ONLY PARTICIPATED IN PART OF THAT PROCESS OF THE PROFFER BEING MADE. MR. WILLIAMS WAS HIS OTHER ATTORNEY AND PARTICIPATED MORE THAN I DID. BUT IN THE CONVERSATIONS THAT I HAD WITH BOTH SHAWN AND THE PROSECUTORS AT THAT TIME, IT ONLY

RELATED TO THE USE OF THAT PROFFERED TESTIMONY IN THE EVENT THAT HE TESTIFIED IN HIS OWN TRIAL. I DIDN'T PARTICIPATE IN THE DISCUSSION, AND I DON'T THINK MR. NIGHTINGALE RECALLS ANY DISCUSSION ABOUT ITS POTENTIAL USE IN SOME OTHER TRIAL. THE ISSUE JUST NEVER CAME UP.

YOUR HONOR, I AM SORRY -- MY ONLY POINT THIS MORNING AND WHAT I DISCUSSED WITH SHAWN THIS MORNING IS WHAT HIS UNDERSTANDING WAS AT THE TIME HE MADE THE PROFFER, AND HE INDICATED TO ME THAT IT WAS HIS UNDERSTANDING THAT IT COULDN'T BE USED. THE SOLE PURPOSE OF THE PROFFER WAS TO GIVE THE PROSECUTORS A STATEMENT -- ACCURATE STATEMENT OF WHAT HAPPENED; AND THAT IF HE TESTIFIED DIFFERENTLY IN HIS OWN TRIAL, THAT WOULD BE USED TO CROSS EXAMINE HIM.

SO I KNOW THAT IS A LITTLE BIT -- I AM NOT SURE WHAT THE DISTINCTION IS FROM WHAT CHERYL AND I REMEMBER, BUT THAT IS HIS UNDERSTANDING. IF YOU WANT HIM TO COME OUT AND TESTIFY TO THAT, THAT IS FINE.

THE COURT: THIS WOULD PROBABLY BE THE ONLY OPPORTUNITY TO DO SO, SINCE HE IS HERE AT LEAST.

MR. MCGOWAN, IS THERE ANYTHING YOU WANT TO PLACE ON THE RECORD?

MR. MCGOWAN: YES, YOUR HONOR. I WANTED TO MAKE SURE THAT THE RECORD WAS CLEAR ON A FEW THINGS. ONE IS THAT I WAS NOT GIVEN THAT PROFFER AND AN EXPLANATION FOR -- LET ME REPHRASE THAT.

I HAVE BEEN GIVEN THAT PROFFER VERY RECENTLY, A TAPE OF THAT PROFFER. FROM THE MINUTE I LEARNED THE PROFFER WAS MADE, THOUGH, UNTIL VERY RECENTLY WHEN I WAS GIVEN IT, I WAS TOLD -- I ASKED FOR IT BECAUSE I WANTED IT. I WAS TOLD WE ARE NOT GOING TO GIVE IT TO YOU. YOU ARE ONLY GOING TO GET THAT IF HE, IN FACT, ENTERS A DEFENDANT'S AGREEMENT, AND I INQUIRED A LITTLE FURTHER, AND IT WAS THAT WE CAN'T USE IT UNLESS HE DOES A DEFENDANT'S AGREEMENT OR IF HE TESTIFIES INCONSISTENTLY. I WAS TOLD THAT'S WHY I COULD NOT HAVE THAT.

SO I THINK THAT I UNDERSTAND WHAT MS. PRICHARD IS SAYING, BUT HE IS NOT GOING TO TESTIFY. HE HAS JUST ASSERTED HIS FIFTH AMENDMENT RIGHT, SO I THINK IT IS A DISTINCTION WITHOUT A DIFFERENCE. WHETHER IT IS BECAUSE HE BELIEVED IT WAS BECAUSE IT COULD ONLY BE USED AGAINST HIM OR BECAUSE IT COULD ONLY BE USED AGAINST ANY ONE OF THE DEFENDANTS IS IRRELEVANT, BECAUSE WHAT I WAS TOLD WAS THAT I WAS NOT GOING TO GET THAT UNLESS HE DID A DEFENDANT'S AGREEMENT OR UNLESS HE TESTIFIED AND IT WAS, IN FACT, INCONSISTENT BECAUSE THAT'S WHAT THEIR AGREEMENT WAS.

I DON'T THINK THERE IS ANY NEED TO INQUIRE OF THIS WITNESS BECAUSE IT IS A DISTINCTION WITHOUT A DIFFERENCE AND, AGAIN, I WOULD LIKE TO STATE OR EXPLAIN WHY, IN FACT, I DIDN'T GET IT WAY BACK WHEN HE MADE IT, IF THAT WASN'T THE REASON.

MS. PRICHARD: MR. MCGOWAN IS CORRECT, AND HERE IS THE ISSUE. IF HE TAKES THE FIFTH AND HIS STATEMENT TO THE POLICE COMES IN, THAT IS HIS TESTIMONY AND HIS STATEMENT FROM OUR PERSPECTIVE FOR ALL INTENTS AND PURPOSES. THEREFORE, BECAUSE THE PROFFER IS INCONSISTENT WITH WHAT HE TOLD THE POLICE, WE WOULD BE OFFERING THAT TO REBUT HIS TESTIMONY. WHAT IS REALLY HAPPENING NOW AND MAYBE WE ARE JUMPING AHEAD BECAUSE WE ARE ASKING THAT THE COURT REVIEW THIS PRIVATELY IN ORDER TO DETERMINE WHETHER OR NOT INCONSISTENCIES EXIST IN ORDER TO DETERMINE THE RELIABILITY OF MR. NIGHTINGALE'S STATEMENT TO THE POLICE TO SEE IF IT EVER WOULD EVEN COME IN AS SOME SORT OF, I GUESS, STATEMENT AGAINST INTEREST OR SOME HEARSAY EXCEPTION, WHICH THE DEFENSE IS OFFERING IT FOR.

SO I THINK RIGHT NOW THE ISSUE IS WHETHER ANYBODY HAS A PROBLEM WITH THE COURT PRIVATELY REVIEWING THIS IN ORDER TO MAKE A LEGAL DECISION; AND IF WE NEED TO DISCUSS IT FURTHER, I GUESS WE COULD AT THAT POINT.

THE COURT: WHAT I BELIEVE MR. SIMMONS HAS STATED IS THAT YOU AND YOUR CLIENT DO OPPOSE THE COURT REVIEWING THAT STATEMENT?

MR. SIMMONS: YES.

THE COURT: I DO ATTEND TO AGREE WITH MR. MCGOWAN. HOWEVER, THE ISSUE IS WHETHER OR NOT CERTAIN CONDITIONS HAVE ARISEN FOR THAT PROFFER TO BE UTILIZED BY

THE STATE.

SO AT THIS POINT IN THE PROCEEDINGS, THE COURT IS NOT GOING TO REVIEW THAT PROFFERED STATEMENT. THE ISSUE IS WHETHER YOU WANT MR. NIGHTINGALE BROUGHT INTO COURT JUST TO ADDRESS HIS UNDERSTANDING OF WHAT THE PROFFERED STATEMENT WAS FOR, AND MR. SIMMONS INDICATED THAT HE WOULD ANSWER THOSE QUESTIONS. IS THAT ACCURATE?

MR. SIMMONS: I WILL GO ASK HIM, AND I THINK IF I ASK HIM TO TESTIFY, I'M SURE HE WOULD. I WILL GO TALK TO HIM ABOUT HIS WILLINGNESS TO TESTIFY ABOUT THAT.

THE COURT: JUST SO EVERYBODY IS CLEAR, VERY LIMITED, VERY SHORT DIRECT QUESTIONS WITH REGARD TO THAT CONVERSATION AND HIS UNDERSTANDING WITH REGARD TO THE PROFFER AND NOT ANYTHING WITH REGARD TO THE SUBSTANCE OF THE PROFFER.

MR. SIMMONS: CAN I GO TALK TO HIM?

THE COURT: YES, YOU MAY.

- - -

THEREUPON, MR. SIMMONS LEFT THE COURTROOM TO TALK TO HIS CLIENT.

- - -

THE COURT: WHILE WE ARE WAITING, LET'S ADDRESS A 16(B)(1)(g) ISSUE BEFORE THE COURT. THE COURT HAS REVIEWED THE SUMMARIES OF DETECTIVE SCOTT AND HAS DISCLOSED TO DEFENDANT'S COUNSEL, MR. MCGOWAN, WITH REGARD

TO ONE INCONSISTENCY THAT THE COURT THOUGHT THERE MAY HAVE BEEN, AND THAT WAS THAT ALL CONVERSATIONS HAD BEEN RECORDED, AND THE NOTES DID INDICATE THAT THERE WAS ONE UNRECORDED CONVERSATION DUE TO A MALFUNCTION, AND THE COURT DISCLOSED THAT TO MR. MCGOWAN.

MY UNDERSTANDING IS THAT MR. MCGOWAN WAS AWARE OF THAT THROUGH THE TAPES. SO THIS WAS NOT SOMETHING THAT HE HAD BEEN UNAWARE OF, BUT IT WAS AN INCONSISTENCY, AND THE COURT DID DISCLOSE THAT.

THERE HAS BEEN A REQUEST, BECAUSE THERE HAS BEEN ONE OTHER PLACE THAT MR. MCGOWAN BELIEVES -- HE WANTS THE COURT TO AT LEAST LOOK INTO IT WITH REGARD TO INCONSISTENT STATEMENTS, AND THAT IS WHETHER OR NOT THERE WERE LEADS THAT THEY DID NOT TESTIFY TO IN DIRECT. CERTAINLY, THE COURT HAS SAID HE WOULD NOT BE RESTRICTED TO GO INTO THOSE ISSUES WITH THE DETECTIVE ON CROSS EXAMINATION, AND I WAS ALSO GOING TO REVIEW THE TRANSCRIPT TO DECIDE WHETHER OR NOT TO DETERMINE EXACTLY WHAT HE SAID WITH REGARD TO THAT ISSUE.

MR. MCGOWAN, IS THERE ANYTHING ADDITIONAL WITH THAT?

MR. MCGOWAN: YEAH, I GUESS THE REQUEST IS, YOUR HONOR, I THINK THAT, AGAIN, I INTEND TO RAISE IT. YOU HAVE ALREADY, MORE OR LESS, RULED THAT THAT IS FAIR CROSS EXAMINATION, BUT MY ISSUE GOES TO THE NEXT STEP, WHICH IS

FOR THAT CROSS EXAMINATION TO BE EFFECTIVE, I NEED TO SEE WHAT IT IS HE PUT IN HIS NARRATIVES, IN HIS REPORT ABOUT THE LEADS HE HAD. I BELIEVE THERE IS PROBABLY SOME IN THERE, AND I DO HAVE SOME DOCUMENTS FROM HIM THAT MAY HAVE SOME INDICATIONS OF THAT. I JUST DON'T KNOW WHAT IT IS THAT THEY GAVE YOU AND WHETHER OR NOT IT HAS DIFFERENT OR ADDITIONAL THINGS THEN WHAT I ALREADY HAVE.

THE COURT: THAT'S GOING TO BE THE PURPOSE OF THE REVIEW, SO WE WILL READDRESS THAT AT 1:30.

- - -

THEREUPON, MR. NIGHTINGALE RETURNED TO THE COURTROOM AND THE FOLLOWING PROCEEDINGS WERE HELD:

THE COURT: MR. NIGHTINGALE HAS BEEN RETURNED TO THE COURTROOM FOR A SPECIFIC INQUIRY ONLY INTO YOUR UNDERSTANDING WITH REGARD TO HOW A PROFFERED STATEMENT BY YOU WOULD BE USED BY THE PROSECUTION AND, THEREFORE, YOU ARE BEING BROUGHT IN FOR QUESTIONS ONLY AS TO THOSE ISSUES AN NOT AS TO THE SUBSTANCE OF THE PROFFER.

SO YOU ARE WILLING TO ANSWER THOSE QUESTIONS?

MR. NIGHTINGALE: YES, MA'AM.

THE COURT: AND YOU ARE STILL UNDER OATH. AND WHO HAS QUESTIONS FOR HIM?

MS. PRICHARD: I DO, YOUR HONOR.

MR. NIGHTINGALE, DO YOU RECALL ON JUNE 26, 2002, MEETING AT THE JAIL WITH MR. DEVILLERS OF MY OFFICE?

MR. NIGHTINGALE: YES, MA'AM.

MS. PRICHARD: MR. SIMMONS AND MR. WILLIAMS -- ALTHOUGH I DON'T KNOW THAT MR. SIMMONS AND MR. WILLIAMS WERE BOTH THERE AT THE SAME TIME.

MR. NIGHTINGALE: YES.

MS. PRICHARD: AND THAT WAS A PREARRANGED MEETING?

MR. NIGHTINGALE: YES.

MS. PRICHARD: DO YOU REMEMBER A LETTER THAT YOU SIGNED, EXPLAINING THE PURPOSE OF THAT MEETING?

MR. NIGHTINGALE: YES, MA'AM.

MS. PRICHARD: A PROFFERED LETTER?

MR. NIGHTINGALE: CORRECT.

MS. PRICHARD: DO YOU REMEMBER REVIEWING THAT LETTER?

MR. NIGHTINGALE: IT HAPPENED SO LONG AGO BUT I REMEMBER REVIEWING MOST OF IT.

MS. PRICHARD: DO YOU REMEMBER MR. DEVILLERS EXPLAINING THAT ANYTHING YOU SAID COULDN'T BE USED AGAINST YOU AND WOULDN'T BE DIVULGED UNLESS YOU TESTIFIED INCONSISTENTLY AT ANY PROCEEDING?

MR. NIGHTINGALE: RIGHT.

MS. PRICHARD: DO YOU REMEMBER MR. DEVILLERS INDICATING THAT DERIVATIVE USE COULD BE MADE OF INFORMATION?

MR. NIGHTINGALE: EXPLAIN THAT TO ME.

MS. PRICHARD: I THINK THAT AN EXAMPLE THAT MR. DEVILLERS MAY HAVE USED WAS IF YOU SAID THERE WAS A GUN SOMEWHERE OR A BODY, WE COULD GO FIND IT AND NOT USE YOUR INFORMATION AND GO INVESTIGATE BASED ON THAT?

MR. NIGHTINGALE: RIGHT.

MS. PRICHARD: DO YOU REMEMBER TALKING ABOUT THINGS LIKE THAT?

MR. NIGHTINGALE: YES, MA'AM.

MS. PRICHARD: BASED UPON THE LETTER AND A REVIEW OF THAT INFORMATION, YOU AGREED TO SPEAK WITH US?

MR. NIGHTINGALE: YES, MA'AM.

MS. PRICHARD: I DON'T HAVE ANYTHING FURTHER.

THE COURT: YOU WERE NOT PRESENT AT THIS TIME SO YOU HAVE NO QUESTIONS, IS THAT CORRECT?

MR. MCGOWAN: NO, YOUR HONOR, I THINK THE TESTIMONY BEARS OUT WHAT I ARGUED EARLIER.

THE COURT: I THINK THAT WOULD THEN RESOLVE THE QUESTIONS FOR MR. NIGHTINGALE. THANK YOU, SIR.

- - -

THEREUPON, MR. NIGHTINGALE LEFT THE COURTROOM.

- - -

THE COURT: THEN WHAT WE WILL DO IS SINCE THE DEFENSE HAS ASKED FOR ADDITIONAL TIME TO PREPARE THEIR ARGUMENTS, THE COURT WILL GO AHEAD AND READDRESS THIS ISSUE

AT 1:30 WHILE YOU WILL BE IN YOUR CASE, AND AN OPPORTUNITY TO CALL THESE INDIVIDUALS, AND I AM STILL GOING TO SAY THAT I DO NOT NEED TO REVIEW THAT PROFFER AT THIS POINT.

THANK YOU, COUNSEL.

- - -

THEREUPON, THE LUNCH RECESS WAS TAKEN.

- - -

FRIDAY AFTERNOON SESSION,

APRIL 11, 2002.

- - -

THEREUPON, THE FOLLOWING PROCEEDINGS CONTINUED TO BE HELD OUT OF THE PRESENCE AND HEARING OF THE JURY:

THE COURT: I WOULD LIKE TO ASK THE COURT REPORTER TO READ BACK THE RELEVANT TESTIMONY YESTERDAY FROM THE DETECTIVE FOR THE REMAINING INQUIRY BEFORE THE COURT.

- - -

THEREUPON, THE FOLLOWING TESTIMONY IN DETECTIVE SCOTT'S DIRECT WAS READ BACK BY THE COURT REPORTER:

"IN FACT, WAS IT IMPORTANT TO MAKE A DEAL WITH MIKE ARTHURS IN THIS CASE?

"YES, IT WAS.

"QUESTION: AND WHY WAS THAT?

"ANSWER: AT THAT TIME WE DIDN'T HAVE ANY LEADS. THE CASE WAS GROWING STALE.

MS. PRICHARD: I HAVE NOTHING FURTHER."

- - -

THE COURT: THAT IS THE TESTIMONY THAT THE COURT HAS REVIEWED. IS THERE ANYTHING ELSE THAT YOU WANTED TO REVIEW?

BASED ON THAT, THAT IS THE AREA YOU WANTED US TO GET TO?

MR. MCGOWAN: YES, YOUR HONOR.

THE COURT: BASED ON THAT TESTIMONY BEING REVIEWED BY THE COURT, THERE IS NOTHING CONTRADICTORY TO THAT STATEMENT WITH REGARD TO THAT PARTICULAR TIME AND ANY LEADS, AND THE COURT HAS ALREADY DETERMINED THAT YOU MAY INQUIRE AS TO ANY LEADS AND THE TIMING OF THOSE ISSUES AND THEN UPON REQUEST AT THE END OF THE DETECTIVE'S TESTIMONY, THE COURT WILL RE-REVIEW THAT TO MAKE SURE THERE IS NO INCONSISTENT STATEMENTS WITH HIS CROSS EXAMINATION.

- - -

THEREUPON, THE JURY ENTERED THE COURTROOM AND THE FOLLOWING PROCEEDINGS WERE HELD:

THE COURT: DETECTIVE, YOU ARE STILL UNDER OATH.

- - -

ZACHARY SCOTT

CALLED AS A WITNESS ON BEHALF OF THE PLAINTIFF, STATE OF OHIO, HAVING BEEN HERETOFORE DULY SWORN, CONTINUED HIS TESTIMONY AS FOLLOWS:

CROSS EXAMINATION

BY MR. MCGOWAN:

Q. GOOD AFTERNOON. HOW ARE YOU.

A. GOOD, SIR. THANK YOU.

Q. YOU TALKED A LOT ABOUT YOUR INVESTIGATION OF THIS PARTICULAR HOMICIDE IN YOUR DIRECT EXAMINATION, CORRECT?

A. CORRECT.

Q. WHEN EXACTLY DID YOUR ROLE AS LEAD DETECTIVE START IN THIS HOMICIDE?

A. OCTOBER 10, '01.

Q. WHAT DID YOU DO ON THAT DAY?

A. THAT IS WHEN THE BODY WAS FOUND.

Q. I BELIEVE YOU TESTIFIED YOU WENT TO THE SCENE?

A. YES.

Q. WHAT TIME DID YOU ARRIVE AT THE SCENE?

A. IT WAS IN THE EVENING HOURS. THE EXACT TIME, I WILL HAVE TO LOOK AT THE SUMMARY. IT WAS STARTING TO GET KIND OF DARK, I THINK.

Q. DID YOU EVER RETURN TO THE SCENE IN THE DAYLIGHT?

A. IN THE DAYLIGHT -- IT WAS DAYLIGHT KIND OF WHEN I GOT THERE BUT, NO, I DID NOT RETURN TO THE SCENE THAT I CAN RECALL EVER.

Q. WHO WAS IN CHARGE OF GATHERING ANY EVIDENCE IN THE PERIPHERY OF THIS CRIME SCENE?

A. GARY WILGUS, WHO WORKS FOR BCI AND I. HE HANDLES ALL OF OUR CRIME SCENES.

Q. AS LEAD DETECTIVE, WOULD HE ANSWER TO YOU?

A. HE WOULD INFORM ME OF WHAT WAS GOING ON, YEAH.

Q. AT THE SCENE, DID YOU NOTICE ANY EVIDENCE THAT ANY HOLES HAD BEEN DUG OR ANY GROUND LOOSENED?

A. WELL, THE GROUND WAS LOOSE EVERYWHERE. IT WAS A

CORNFIELD. SO WERE THERE HOLES THERE? I DON'T REMEMBER SPECIFICALLY SEEING A HOLE. THERE WAS A LOT OF LOOSE DIRT EVERYWHERE. IT IS A CORNFIELD.

Q. WELL, THE CORN HADN'T BEEN HARVESTED YET, HAD IT?

A. AS BEST I CAN REMEMBER, A LOT OF IT WAS DRY. YEAH, IT WAS A CORNFIELD.

Q. DID YOU NOTICE ANY EVIDENCE OF ANYBODY DIGGING ANY HOLES?

A. NO.

Q. PART OF YOUR TRAINING WOULD BE TO ANALYZE THE CRIME SCENE, AT LEAST TO THE EXTENT THAT YOU COULD BEFORE IT GOT DARK TO SEE WHAT MIGHT BE IN THE SURROUNDING AREA BECAUSE THERE MIGHT BE CLUES AS TO HOW THIS PERSON WAS KILLED?

A. YEAH, THAT WOULD BE TRUE.

Q. WHAT OTHER DUTIES DO YOU HAVE AS LEAD DETECTIVE IN A HOMICIDE CASE; CAN YOU DESCRIBE THAT TO THE JURY?

A. WHEN I AM PLACED IN CHARGE OF IT, I KIND OF OVERSEE ALL THE INFORMATION THAT COMES IN AND I PROCESS IT. I AM LOOKING AT ANYTHING THAT COMES IN AS POSSIBLY IS THIS A CREDIBLE LEAD OR NOT. I TRY TO ASSESS ITS VALUE AND THEN WHATEVER LEADS COME FORTH, THEN I TRY TO MOVE THAT WAY TO BRING THE CASE TO A CLOSE.

Q. ARE YOU RESPONSIBLE FOR REVIEWING THE THINGS THAT THE PEOPLE BELOW YOU DO?

A. WELL, I WOULDN'T SAY THEY ARE BELOW ME. I DON'T HAVE RANK OTHER THAN I AM A DETECTIVE BUT, YEAH, I TRY TO REVIEW EVERYTHING THAT COMES THROUGH THAT CASE FILE, YES.

Q. THAT WAS A POOR CHOICE OF WORDS. I WILL ASK YOU THIS. YOU WERE THE LEAD DETECTIVE?

A. I AM.

Q. SO IN THE SENSE THAT THE OTHERS THAT WERE WORKING ON IT WEREN'T THE LEAD DETECTIVE, YOU WERE KIND OF THE SUPERVISOR IN SOME WAY, SHAPE OR FORM; YOU WERE IN CHARGE?

A. OKAY, THAT'S FINE, YEAH.

Q. BACK TO THE QUESTION THEN, IN THAT ROLE, WOULD IT BE ONE OF YOUR DUTIES TO REVIEW THOSE THINGS THAT THEY CAME UP WITH?

A. YES.

Q. IN ADDITION TO THAT ROLE, YOU ALSO KIND OF HAD A HANDS-ON ROLE IN THIS CASE WITH RESPECT TO THE THINGS THAT WERE TALKED ABOUT; YOU WERE MONITORING TAPES AND THINGS LIKE THAT?

A. YES.

Q. MONITORING SCENARIOS WHERE PEOPLE ARE TALKING TO EACH OTHER?

A. I WILL MONITOR; I WILL PLAN OUT, USE STRATEGY, YEAH, A LOT OF THAT STUFF.

Q. NOW, WITH RESPECT TO -- LET ME ASK YOU THIS. DID YOU, YOURSELF, EVER PRESENT ANDREW DOTSON'S MOTHER WITH A

PHOTO ARRAY OR ANY KIND OF PHOTOS FOR HER TO IDENTIFY SOMEONE THAT SHE MAY HAVE SEEN ON SEPTEMBER 15?

A. NO.

Q. 2001?

A. NO, I CAN'T RECALL EVER -- I WOULDN'T KNOW THAT SHE WOULD KNOW THIS GROUP, SO I WOULD HAVE TO SAY NO.

Q. DO YOU RECALL ANYBODY THAT HELPED YOU ON THIS INVESTIGATION EVER DOING SUCH A THING?

A. NO.

Q. DO YOU RECALL RECEIVING INFORMATION ABOUT A LICENSE PLATE AND A MAKE AND MODEL OF A CAR?

A. ON THIS PARTICULAR CASE?

Q. YES.

A. PROBABLY QUITE A FEW VEHICLES NUMBERS IN THERE.

Q. I AM TALKING ABOUT FROM ANDREW DOTSON'S MOM?

A. I DON'T RECALL IF I RECEIVED IT, BUT I HAVE SOME RECOLLECTION THERE WAS ONE THAT WAS PUT OUT, BUT I DON'T RECALL ME GETTING IT.

Q. AS OPPOSED TO THE PICTURE WHERE YOU DON'T BELIEVE ANYONE HAD ANY SUCH CONTACT, YOU DO BELIEVE THERE WAS SOME KIND OF INTERACTION ABOUT A LICENSE OR A MAKE OR MODEL?

A. AS FAR AS THE PICTURE, I HAVE NO RECOLLECTION OF HER EVER SEEING ANY PICTURES OF ANYTHING; BUT AS FAR AS THE LICENSE PLATE, I DO RECALL SOMETHING ABOUT A VEHICLE THAT SHOWED UP TO PICK UP ANDREW. THERE WAS TALK ABOUT IT.

Q. WHAT STEPS DID YOU TAKE TO FOLLOW UPON THAT?

A. I AM SURE IT IS IN THE CASE FILE. I WOULD HAVE TO LOOK AT THE SUMMARIES TO SEE EXACTLY WHAT WE DID WITH THAT.

Q. MAYBE LATER ON YOU CAN TAKE A MOMENT TO DO THAT.

DO YOU RECALL EVER COMING UP WITH A MATCH OR A TITLE TO -- WELL, I WILL ASK YOU ABOUT THAT AFTER YOU HAVE HAD A CHANCE TO LOOK AT IT.

YOU TESTIFIED QUITE A BIT ABOUT THE INVESTIGATION AND THE DIFFERENT METHODS THAT YOU USED TO TRY TO GET AN IDEA OF WHAT HAPPENED OUT THERE THAT NIGHT, CORRECT?

A. THE METHODS?

Q. WELL, THE TAPING OF PEOPLE.

A. OKAY.

Q. TALKING TO CONFIDENTIAL INFORMANTS?

A. YES.

Q. I BELIEVE YOU TESTIFIED THAT ALL OF THE CONVERSATIONS WITH REGARD TO CONFIDENTIAL INFORMANTS WERE RECORDED?

A. AS BEST WE COULD, YEAH.

Q. THERE WAS AN EXCEPTION ON THE 24TH OF MAY?

A. YEAH, THE RECORDER WAS ON THE WRONG MODE.

Q. DO YOU RECALL ANY THINGS THAT WERE COMMENTED UPON BY THE CONFIDENTIAL INFORMANT OR THE TARGET TO THE INVESTIGATION ON THAT DATE?

A. THE DATE THE TAPE MALFUNCTIONED AND DIDN'T RECORD; IS THAT WHAT YOU ARE REFERRING TO?

Q. YES.

A. THEY WERE TALKING ABOUT ANDREW DOTSON.

Q. WELL --

A. HOW HE WAS KILLED.

Q. DO YOU REMEMBER ANY SPECIFICS THAT WERE SAID? IT IS JUST A YES OR NO ANSWER. DO YOU REMEMBER ANY SPECIFICS?

A. NOT SPECIFICS, NO.

Q. DO YOU REMEMBER WHETHER OR NOT SHAWN NIGHTINGALE WAS INVOLVED IN THAT CONVERSATION?

A. YES, HE WAS THERE.

Q. DO YOU REMEMBER WHETHER OR NOT SHAWN NIGHTINGALE INDICATED THAT HE AND MIKE ARTHURS HAD GIVEN ANDREW DOTSON XANAX, SOMA AND HEART MEDICATION?

A. YEAH, I REMEMBER HIM SAYING SOMETHING ABOUT THAT AFTER YOU SAID IT. YEAH, HE DID TALK ABOUT GIVING HIM A CERTAIN AMOUNT OF PILLS.

Q. AND MORE SPECIFICALLY, XANAX, SOMA AND HEART MEDICATION.

A. IF YOU SAY SO.

MS. PRICHARD: OBJECTION.

THE COURT: SUSTAINED.

MR. MCGOWAN: I AM ASKING IF HE RECALLS THAT SO I CAN ESTABLISH -- I NEED TO TRY TO REFRESH HIS

RECOLLECTION.

THE COURT: IF YOU CAN GO AHEAD AND SAY THE QUESTION AGAIN AND LET HIM FINISH THE QUESTION BEFORE YOU ANSWER IT.

Q. (BY MR. MCGOWAN) YOU TESTIFIED THAT YOU DO REMEMBER SOME KIND OF DISCUSSION LIKE THAT. NOW, MY SPECIFIC QUESTION IS DO YOU REMEMBER XANAX, SOMA AND HEART MEDICATION?

A. NO, NOT THOSE SPECIFICS.

MR. MCGOWAN: MAY I APPROACH THE WITNESS, YOUR HONOR?

THE COURT: YES.

Q. (BY MR. MCGOWAN) I WILL USE THIS TO TRY TO HELP REFRESH YOUR RECOLLECTION. IF YOU WILL NOTICE AT THE BOTTOM, I BELIEVE THIS MAKES REFERENCE TO THE DATE THAT THIS RECORDING DIDN'T WORK, AND THERE'S SOME STATEMENTS HERE?

A. THAT WAS PREPARED BY OUR S.I.U. GUYS AND THEY SAID, XANAX, SOMA AND HEART MEDICATION.

Q. AND THEY ATTRIBUTED THAT STATEMENT TO SHAWN NIGHTINGALE?

A. YES.

Q. AND HE INDICATED THAT HE AND MIKE ARTHURS WERE THE ONES THAT DID THAT?

A. THAT IS CORRECT.

MR. MCGOWAN: CAN I STAY HERE FOR THE NEXT COUPLE OF QUESTIONS THAT RELATE TO THIS?

THE COURT: IF YOU KEEP YOUR VOICE UP BECAUSE IT IS HARD FOR THE JURY TO HEAR IF YOU ARE RIGHT THERE BUT, YES.

Q. (BY MR. MCGOWAN) DO YOU REMEMBER HEARING SHAWN NIGHTINGALE DESCRIBE MIKE ARTHURS TAKING MR. DOTSON OUT OF THE VEHICLE AND CHOKING MR. DOTSON?

MS. PRICHARD: OBJECTION, YOUR HONOR. CAN WE APPROACH?

THE COURT: YOU MAY.

- - -

THEREUPON, COURT AND COUNSEL CONFERRED AT THE BENCH OUT OF THE HEARING OF THE JURY AND THE REPORTER.

- - -

Q. (BY MR. MCGOWAN) DO YOU RECALL IN THAT SAME LINE WHERE MR. NIGHTINGALE WAS SAYING MR. ARTHURS TOOK MR. DOTSON OUT OF THE VEHICLE AND BEGAN CHOKING MR. DOTSON?

A. DO I RECALL HEARING IT? NOT SPECIFICALLY, BUT YOU JUST READ IT, SO I JUST KIND OF REMEMBER SOMETHING OF THAT NATURE.

Q. AND ADDITIONALLY, MR. NIGHTINGALE SAYING THAT MR. ARTHURS STOOD ON MR. DOTSON'S NECK?

THE COURT: CAN YOU HEAR? YOU WILL NEED TO KEEP YOUR VOICE UP.

Q. (BY MR. MCGOWAN) IN ADDITION, THAT MR. ARTHURS STOOD ON MR. DOTSON'S NECK?

A. BY SHAWN NIGHTINGALE, IS THAT WHAT YOU ARE SAYING?

Q. YES.

A. OKAY, YES.

Q. AND AN INDICATION BY JAMIE HORTON THAT MR. CONWAY HIT MR. DOTSON WITH A PICK THING?

A. YES.

Q. WITH REGARD TO YOUR MEMORY OF THE XANAX AND THE SOMA, DO YOU RECALL THERE BEING ANY SPECIFIC NUMBERS GIVEN BY SHAWN NIGHTINGALE AS TO HOW MANY?

A. NO.

MS. PRICHARD: YOUR HONOR, WE NEED TO APPROACH AGAIN.

THE COURT: IS THIS THE SAME CONVERSATION?

MS. PRICHARD: THIS IS AN ENTIRELY DIFFERENT STATEMENT.

THE COURT: OKAY.

- - -

THEREUPON, COURT AND COUNSEL CONFERRED AT THE BENCH OUT OF THE HEARING OF THE JURY AND THE FOLLOWING PROCEEDINGS WERE HELD:

MS. PRICHARD: ACTUALLY, THERE HAVE BEEN TWO PARTS, ONE THAT I DIDN'T FEEL THE NEED TO PUT ON THE

RECORD, BUT I THINK IT TIES INTO THIS NOW.

DETECTIVE SCOTT JUST TESTIFIED AS TO SOME STATEMENTS THAT WERE BEING USED TO REFRESH HIS RECOLLECTION AS TO WHETHER SHAWN NIGHTINGALE THAT MIKE ARTHURS DID CERTAIN THINGS. I OBJECTED TO THAT AS HEARSAY. I UNDERSTAND THE COURT'S RULING THAT IT WAS A CO-CONSPIRATOR STATEMENT; BUT AS TO THIS NOW, WE ARE GETTING INTO A CONTINUING QUESTIONING ABOUT THE DRUGS THAT WERE GIVEN TO THE VICTIM.

MR. MCGOWAN NOW HAS IN FRONT OF HIM A SUMMARY, A STATEMENT THAT RONNIE TRENT WROTE OUT, INDICATING THAT THE VICTIM WAS FED 11 XANAX AN THREE SOMAS AND CUT OFF, AND I DON'T KNOW WHAT IT SAYS THEN. IT IS PURPORTING TO ASK THIS WITNESS WHETHER OR NOT, APPARENTLY, RONNIE TRENT, AS AN AGENT, RECORDED THIS AND LISTED THE AMOUNT OF DRUGS. I AM OBJECTING THAT THIS IS HEARSAY. RONNIE TRENT SHOULD HAVE BEEN CROSS EXAMINED ABOUT THIS MATTER AND IT ALL COULD HAVE COME IN THROUGH MR. TRENT, AND NOW IT IS HEARSAY. IT IS SOMETHING THAT WE CAN'T CROSS EXAMINE OR ALLOW THE WITNESS TO EXPLAIN BECAUSE HE IS NOT HERE.

MR. MCGOWAN: YOUR HONOR, THE ISSUE ISN'T WHETHER OR NOT RONNIE TRENT IS HERE OR NOT. THAT HAS NOTHING TO DO WITH HEARSAY. HEARSAY, OUT OF COURT STATEMENT DOESN'T MATTER WHAT WITNESSES BRING IT IN OR NOT, AND THE PERSON SITTING THERE OR NOT SITTING THERE DOESN'T

MATTER.

WHAT I AM SAYING IS THAT HE WAS AUTHORIZED BY THE STATE TO BE PART OF THIS INVESTIGATION. ON THIS DAY THERE WAS NO TAPE. HE WROTE OUT A STATEMENT SAYING WHAT WAS SAID THAT DAY, AND HE WAS VERY SPECIFIC AS TO WHAT THE NUMBERS ARE, 11 XANAX, THREE SOMAS, AND THE STATE HAS NOT PROVIDED ME THE OTHER SIDE OF THIS. IT SAYS IT IS TWO PAGES.

MS. PRICHARD: HAD YOU TOLD ME BEFORE THIS MOMENT, I WOULD HAVE FOUND THAT FOR YOU.

MR. MCGOWAN: I DIDN'T REALIZE IT.

MS. PRICHARD: I JUST FOUND THAT OUT THIS MOMENT THAT HE WAS LOOKING FOR THE SECOND SIDE OF IT. I HAVE NO RECOLLECTION THAT WE HADN'T DONE THAT.

THE COURT: ARE YOU STILL LOOKING FOR THE HEARSAY EXCEPTION?

MR. MCGOWAN: YOUR HONOR, ESSENTIALLY, THE FIRST ARGUMENT ABOUT IT IS THAT IT IS NOT HEARSAY, AND THE REASON BEING THIS: THE STATEMENT IS NOT HEARSAY IF IT IS AN ADMISSION BY A PARTY OPPONENT, WHICH IS 801(D)(2)(c) -- NO, I WILL SAY (C) AND (D). I GUESS IT IS NOT (D). BUT IT IS (C) AND (D); AN AUTHORIZED STATEMENT. HE IS ACTING AS AN AGENT. THIS WITNESS HAS ALREADY TESTIFIED ABOUT THAT. RONNIE TRENT TESTIFIED HE WAS AN AGENT. (D), A STATEMENT BY A PARTY'S AGENT CONCERNING THE MATTER WITHIN THE SCOPE OF EMPLOYMENT. AND YOUR HONOR, THAT'S JUST THAT ARGUMENT.

I HAVE ADDITIONAL ARGUMENT TO WHY IT SHOULD COME IN, BUT THAT IS JUST THAT ARGUMENT.

MS. PRICHARD: IF I CAN RESPOND TO THAT ARGUMENT, THIS IS NOT A PARTY OPPONENT. WHERE IS THE ADMISSION AGAINST PARTY OPPONENT? THAT IS SOMETHING THAT YOU ARE OFFERING AGAINST A PARTY. ZACH SCOTT IS NOT A PARTY.

MR. MCGOWAN: A PARTY IS THE STATE OF OHIO, AND RONNIE TRENT IS AN AGENT OF HIM. I MEAN, WHAT ARE YOU TALKING ABOUT?

MR. LOWE: I THINK GETTING INTO ANY STATEMENT ANY DETECTIVE MADE AT ANY TIME, AND IT WORKS FOR THE DEFENDANT -- THE PARTY OPPONENT IS THE DEFENDANT, NOT THE STATE.

MR. MCGOWAN: YOU ARE MY PARTY OPPONENT. WHAT ARE YOU TALKING ABOUT THAT IT WORKS FOR THE DEFENDANT? I THINK WE NEED TO HAVE THE JURY TAKEN AWAY SO WE CAN RESOLVE THIS ISSUE.

MR. LOWE HAS PURPORTED THAT THE RULE ONLY WORKS FOR THE STATE AGAINST THE DEFENDANT BUT NOT THE OTHER WAY AROUND.

MR. LOWE: YOU CAN'T USE IT FOR THE DETECTIVE BECAUSE YOU WOULD BE ABLE TO GET INTO ANY POLICEMAN'S STATEMENT THAT WOULD BE HEARSAY AND CLEARLY, THAT IS NOT THE RULE.

THE COURT: ARE YOU SAYING IT IS (D) OR (C)? THAT'S WHAT I ASKED YOU, IF THIS WAS THE SAME.

MR. MCGOWAN: LOOK AT THE LETTERHEAD. IT CERTAINLY IS AN AUTHORIZED STATEMENT. I MEAN, IT IS PART OF THIS INVESTIGATION AND THE ADMISSION THAT -- AS TO WHO, ADMISSIONS AREN'T TECHNICALLY ADMITTED. YOU DON'T HAVE TO BE ADMITTING ANYTHING. IT IS ANY STATEMENT. IT IS TITLED ADMISSIONS, BUT IT IS ANY STATEMENT.

MR. LOWE: UNDER THAT THEORY, THEN ANYTHING THAT ANYBODY -- I COULD GET HIM IN ANYTHING RONNIE TRENT SAID TO THIS DETECTIVE UNDER THIS THEORY, AND WE COULD CIRCUMVENT A TRIAL.

MR. MCGOWAN: NO, BECAUSE HE IS MY PARTY OPPONENT.

MS. PRICHARD: THEN PUT ON ALL OF SHAWN NIGHTINGALE'S STATEMENT EVEN THOUGH HE IS NOT HERE AND NOT CROSS EXAMINE HIM.

MR. MCGOWAN: HE IS NOT AUTHORIZED TO SPEAK ON BEHALF OF MY CLIENT?

MS. PRICHARD: I DON'T KNOW YOUR AUTHORIZATION. THIS IS A STATEMENT OF A WITNESS.

MR. MCGOWAN: THERE WAS NO TAPE THIS DAY. IF THERE WAS, I COULD JUST PLAY THE TAPE. HE IS RECORDING WHAT WAS SAID, AND YOU HAVE GOT TO PROVE -- THIS RELATES TO THIS WHICH GETS TO MY NEXT ARGUMENT, WHICH IS DUE PROCESS

AND --

THE COURT: I BELIEVE THAT THOSE STATEMENTS OF MR. TRENT AT THIS POINT ARE NOT STATEMENTS THAT WILL COME IN UNDER 801(D) OR (C).

MR. MCGOWAN: (C) AND (D)?

THE COURT: SO MY UNDERSTANDING IS THAT THIS IS IMPORTANT TO YOUR CROSS EXAMINATION, SO WHAT I WANT YOU TO DO IS TO GO INTO OTHER AREAS, IF YOU CAN DO SO, AND THEN WE CAN TAKE A BREAK TO LOOK AT THIS MORE THOROUGHLY, BUT I THINK AT THIS POINT I DON'T REALLY SEE YOUR ARGUMENT, BUT I UNDERSTAND IT IS AN IMPORTANT ISSUE AND CAN ALSO SEE, DEPENDING ON WHAT ADMISSIONS MEANS, YOU MAY OR MAY NOT HAVE AN ACCURATE STATEMENT. THERE HAS GOT TO BE SOME CASE LAW ON THIS.

MR. MCGOWAN: I WILL NOT TELL YOU I KNOW EVERY SINGLE CASE OUT THERE. WHAT I DO KNOW IS ADMISSIONS DO NOT MEAN ADMISSIONS AS IN THE SENSE OF A CONFESSION OR GUILT OR INNOCENCE OR LIABILITY OR NOT LIABILITY. IT IS ANY STATEMENT. I AM CONFIDENT TO TELL YOU THAT.

THE ONLY THING I WANT TO BRING UP AS THIS RELATES TO ME MOVING ONTO OTHER QUESTIONS, THIS IS THE ONLY DAY THAT THERE WAS NO TAPE AND ANYTHING ELSE I ASKED HIM ABOUT WHAT RONNIE TRENT IS CONTAINED WITHIN A TAPE. IT IS THE SAME THING. HE HAS TALKED ABOUT THIS INVESTIGATION, WHAT THEY WERE TRYING TO DO.

THE COURT: I THINK AS I STATED BEFORE, YOU HAVE TO CHOOSE YOUR WITNESSES THAT YOU BRING IN INFORMATION FOR AND --

MR. MCGOWAN: THAT'S NOT TRUE, THOUGH. IF THE OBJECTION IS HEARSAY, IT DOESN'T MATTER BECAUSE THE WHOLE POINT OF HEARSAY IS THAT IT DOESN'T MATTER. IT IS WHETHER IT IS HEARSAY OR NOT, NOT WHO IS SITTING ON THE STAND TO SAY IF THE STATEMENT WAS MADE.

THE COURT: CAN YOU MOVE ON?

MR. MCGOWAN: THERE'S SOME OTHER THINGS I WILL BE ABLE TO MOVE ONTO.

THE COURT: IF IT DOESN'T INTERRUPT YOUR FLOW, I WOULD LIKE YOU TO TAKE SOME TIME TO LOOK INTO IT MORE THOROUGHLY, AND AT THIS POINT I WILL SUSTAIN THE DISCUSSION. I JUST DON'T SEE HOW THEY CAN TALK ABOUT WHAT OTHER PEOPLE SAID FOR THE TRUTH OF THE MATTER ASSERTED WHEN THERE IS SOMEBODY HERE WHO COULD HAVE TESTIFIED TO THAT.

MR. MCGOWAN: DO YOU SEE WHAT I AM SAYING, YOUR HONOR?

THE COURT: YES.

MR. MCGOWAN: IF IT IS HEARSAY, IT DOESN'T MATTER. RONNIE TRENT CAN'T SAY IT EITHER. THAT'S WHAT I AM SAYING. HEARSAY IS -- EXCEPT FOR SOME OF THE OTHER EXCEPTIONS --

THE COURT: OKAY, THAT WILL BE ALL.

- - -

THEREUPON, THE FOLLOWING PROCEEDINGS WERE HELD IN THE HEARING OF THE JURY:

Q. (BY MR. MCGOWAN) DETECTIVE, MOVING ALONG TO SOME OF THE OTHER THINGS YOU TALKED ABOUT IN YOUR TESTIMONY YESTERDAY, ONE OF THE THINGS YOU TESTIFIED ABOUT WAS SOME REFERENCE TO -- LET ME GET THE TRANSCRIPT SO I DON'T MISQUOTE WHAT YOU SAID.

I BELIEVE YOU TESTIFIED, UPON REFRESHING YOUR RECOLLECTION, THAT MR. HORTON MADE A STATEMENT TO THE EFFECT, I AM NOT GOING TO CRY ABOUT WHAT HAPPENED BECAUSE I KNOW WHAT I DID AND SO ON AND SO FORTH. DOES THAT RING A BELL WITH YOU?

A. YES, SIR.

MR. MCGOWAN: MAY I APPROACH THE WITNESS?

THE COURT: YOU MAY.

Q. (BY MR. MCGOWAN) CAN YOU TELL ME WHERE IN ANYWHERE NEAR THAT STATEMENT THAT YOU TALKED ABOUT YESTERDAY THAT IT MENTIONS ANDREW DOTSON IN ANY WAY, SHAPE OR FORM? IF YOU NEED TO --

A. DOES IT HAVE HIS NAME, IS THAT WHAT YOU ARE ASKING SPECIFICALLY? CAN I LOOK AT IT?

Q. SURE. THE QUESTION ISN'T THAT NARROW. IT'S ANYTHING HAVING TO DO WITH ANDREW DOTSON'S HOMICIDE.

A. IT DOESN'T SAY HIS NAME ANYWHERE, YOU ARE

CORRECT.

Q. WELL, THE QUESTION IS A LITTLE MORE BROAD THAN THAT. DOES IT SAY ANYTHING ABOUT THE ANDREW DOTSON HOMICIDE?

A. IT IS BROADER THAN THAT, IS THAT WHAT YOU ARE SAYING, SO I CAN ELABORATE?

Q. THE QUESTION IS, IS THERE ANYTHING MENTIONED IN OR NEAR THAT STATEMENT THAT YOU TESTIFIED ABOUT YESTERDAY THAT TALKS ABOUT THE ANDREW DOTSON HOMICIDE BEFORE IT, LEADING UP TO THAT STATEMENT OR EVEN RIGHT AFTER IT?

A. BEFORE AND AFTER, NO, SIR, THERE'S NOT.

Q. SO YOUR RECOLLECTION THAT THAT STATEMENT WAS ABOUT THE ANDREW DOTSON HOMICIDE MIGHT HAVE BEEN INACCURATE?

A. YOU ARE ASKING ME IF THAT'S POSSIBLE? SURE, I GUESS IT'S POSSIBLE.

Q. I AM ASKING YOU, WAS IT INACCURATE, NOT IF IT'S POSSIBLE.

A. I DON'T FEEL THAT IT WAS INACCURATE.

Q. YOU DON'T FEEL IT WAS INACCURATE, BUT YOU CANNOT FIND IN THE IMMEDIATE AREA BEFORE THAT OR AFTER IT WHERE IT REFERS TO THE ANDREW DOTSON HOMICIDE?

A. THAT IS CORRECT.

Q. THANK YOU. NOW, YOU ALSO TESTIFIED ABOUT -- BEAR WITH ME A MINUTE.

YOU ALSO TESTIFIED ABOUT A TRANSCRIPT FROM MAY 21. WELL, LET'S STEP BACK. THAT TRANSCRIPT I JUST SHOWED YOU, I MIGHT HAVE TO -- DO YOU RECALL THE DATE OF THAT LAST TRANSCRIPT THAT YOU JUST TALKED ABOUT?

A. NO.

Q. WAS IT MAY 17?

A. IF YOU SAY.

Q. LET'S JUST BE SAFE HERE SO THE JURY IS NOT CONFUSED. THE ONE YOU JUST TALKED ABOUT, THAT WAS MAY 17, CORRECT?

A. CORRECT.

Q. YOU TESTIFIED, I BELIEVE, ABOUT A TRANSCRIPT FROM MAY 21, AND YOU TESTIFIED ABOUT JAMIE MAKING THE STATEMENT -- JAMIE HORTON MAKING STATEMENTS TO THE EFFECT OF HIM AND JIMMY SHOULDN'T HAVE BEEN THERE. IF YOU SAY YOU ARE GOING TO DO SOMETHING, YOU HAVE GOT TO DO IT AND THINGS OF THAT NATURE. DOES THAT RING A BELL?

A. YES.

Q. ISN'T IT TRUE THAT NOTHING IN THIS TRANSCRIPT INDICATES -- JAMIE HORTON NEVER SAYS IN ANY OF THOSE THINGS THAT YOU WERE ATTRIBUTING TO HIM THAT HE KNEW OF THIS PLAN AHEAD OF TIME?

A. WELL, THAT WOULDN'T BE TRUE. I MEAN, HE IS TALKING ABOUT THEY SHOULD HAVE TAKEN CARE OF IT BEFORE, SO THAT WOULD INDICATE TO ME THAT HE HAD KNOWLEDGE OF IT

BEFORE HE WAS CALLED, AND THEY WENT AND MET WITH THE REST OF THEM TO GO AHEAD AND DO IT.

Q. WHEN WAS THIS STATEMENT MADE?

A. WHEN WAS THE STATEMENT MADE?

Q. THE ONE YOU ARE TESTIFYING ABOUT, MAY 21, 2002, THAT WE JUST TALKED ABOUT THAT, RIGHT?

A. RIGHT.

Q. WHEN WAS ANDREW DOTSON KILLED?

A. OCTOBER 10. WELL, I DON'T KNOW THE DATE HE WAS KILLED. THE DATE HIS BODY WAS FOUND WAS OCTOBER 10.

Q. HIS BODY WAS FOUND OCTOBER 10, '01?

A. CORRECT.

Q. SO THIS IS SEVEN MONTHS OR SO LATER?

A. THAT IS CORRECT.

Q. I GUESS WHAT I AM ASKING YOU IS YOU ARE, ESSENTIALLY, STATING AN OPINION TO THE JURY THAT THE THINGS THAT ARE SAID HERE INDICATE THAT HE HAD SOME KNOWLEDGE PRIOR TO OCTOBER 10, '01, OR PRIOR TO WHEN THE HOMICIDE OCCURRED, CORRECT?

A. FROM THE STATEMENTS, THAT WOULD BE WHAT I WOULD INFER, CORRECT.

Q. YOU ARE INFERRING THOSE THINGS?

A. FROM THE KNOWLEDGE I HAVE OF THE CASE, YES.

Q. AND NEVER IN THIS STATEMENT DOES HE SAY SOMETHING TO THE EFFECT OF I KNEW THAT WAS GOING TO HAPPEN

BEFOREHAND; I CAN'T BELIEVE THEM GUYS DIDN'T DO IT OR ANYTHING OF THAT NATURE?

A. THAT THOSE GUYS -- I CAN'T BELIEVE THOSE GUYS DIDN'T DO IT? I MEAN, I SEE THE STATEMENT BUT I AM NOT SURE WHICH ONE YOU ARE REFERRING TO.

Q. MY QUESTION IS -- I WILL LET YOU LOOK AT IT.

A. IT SAYS, "DON'T GET SCARED. YOU KNOW, IF YOU SAY YOU ARE GOING TO DO SOMETHING, THEN YOU SHOULD F'ING DO IT IF YOU SAY YOU ARE GOING TO DO IT." SO THAT IS HOW I AM INFERRING THAT HE HAD KNOWLEDGE BECAUSE HE KNEW SHAWN AND MIKE WERE SUPPOSED TO DO SOMETHING, AND THEY DIDN'T DO IT.

Q. ON MAY 21, '02, HE IS MAKING THAT STATEMENT?

A. THAT IS WHEN THE DATE WAS WHEN THIS WAS RECORDED, THAT IS CORRECT.

Q. IS IT POSSIBLE FOR SOMEBODY TO FIND OUT LATER THAT THERE WAS SOME PLAN AHEAD OF TIME?

MS. PRICHARD: OBJECTION, SPECULATION.

THE COURT: OVERRULED. YOU MAY ANSWER THE QUESTION.

THE WITNESS: SURE, POSSIBLE.

Q. (BY MR. MCGOWAN) SO AGAIN, WHAT YOU ARE REALLY DOING IS INTERPRETING WHAT HE SAID TO MEAN THAT HE HAD SOME PRIOR KNOWLEDGE OF IT?

A. OKAY.

Q. CLEARLY IN THE EIGHT MONTHS OR SEVEN MONTHS WE SAID FROM OCTOBER -- OR MAYBE EVEN SEPTEMBER TO MAY OF '02, JAMIE HORTON COULD HAVE LEARNED THINGS ABOUT WHAT HAPPENED OUT THERE, RIGHT, AND THE PLAN?

A. THAT'S POSSIBLE.

Q. AND AGAIN, JUST SO THE JURY IS CLEAR, NONE OF THE STATEMENTS HE TESTIFIED ABOUT YESTERDAY DOES HE SAY THAT HE KNEW OF THE PLAN PRIOR TO IT HAPPENING?

MS. PRICHARD: OBJECTION.

THE COURT: OVERRULED.

THE WITNESS: SPECIFICALLY, NO.

Q. (BY MR. MCGOWAN) NOW, I BELIEVE YOU TESTIFIED THAT YOU WERE IN A POSITION TO HEAR ALL OF THESE CONVERSATIONS?

A. THE MAJORITY OF THEM, YEAH.

Q. I WOULD DIRECT YOUR ATTENTION TO APPROXIMATELY MAY 20, '02.

A. OKAY.

Q. WAS THERE SURVEILLANCE CONDUCT ON OR ABOUT THAT DATE?

A. PROBABLY.

Q. SO THE JURY IS NOT CONFUSED, THE PERSON THAT WAS CALLED THE C.I., WHO WAS THAT PERSON?

A. RONALD TRENT.

Q. C.I. STANDS FOR CONFIDENTIAL INFORMANT?

A. CORRECT.

Q. AND HE WENT BY A DIFFERENT NAME AS HE DEALT WITH JAMIE HORTON, DID HE NOT?

A. YES.

Q. WHAT WAS THAT NAME?

A. TONY.

Q. HIS CHARACTER, HIS PERSONA THAT HE ADOPTED IN DEALING WITH JAMIE HORTON WAS A HIT MAN, RIGHT?

A. THAT IS CORRECT.

Q. SO HE WAS TONY, THE HIT MAN?

A. HE WAS TONY, THE HIT MAN.

Q. WAS HE INSTRUCTED TO BEHAVE LIKE A HIT MAN IN THIS ROLE?

A. YES.

Q. WHO INSTRUCTED HIM TO DO SO?

A. THAT PROBABLY WOULD BE ME.

Q. DO YOU REMEMBER ON MAY 20, THAT TONY, THE HIT MAN, TELLING JAMIE TO QUIT BEING SPOOKED?

MS. PRICHARD: OBJECTION DUE TO PREVIOUS ISSUES.

THE COURT: THE OBJECTION IS OVERRULED. YOU MAY GO AHEAD AND ASK THE QUESTION.

Q. (BY MR. MCGOWAN) DO YOU REMEMBER THE HIT MAN TELLING JAMIE, QUIT BEING SPOOKED?

A. SPECIFICALLY, NO.

Q. DO YOU REMEMBER HIM SAYING, I AM NOT GOING TO DO NOTHING TO YOU, MA'AM?

MS. PRICHARD: SAME OBJECTION.

THE COURT: OVERRULED.

THE WITNESS: HE MAY HAVE, IF I CAN LOOK AT THE TRANSCRIPT.

Q. (BY MR. MCGOWAN) ONE MORE QUESTION BEFORE I SHOW YOU THAT TRANSCRIPT. DO YOU REMEMBER JAMIE SAYING, I JUST WANT TO LEAVE IN RESPONSE TO THE THINGS THAT THE --

MS. PRICHARD: SAME OBJECTION.

THE COURT: THE OBJECTION AS TO THE STATEMENT FROM MR. HORTON IS SUSTAINED.

MR. MCGOWAN: MAY WE APPROACH, YOUR HONOR?

THE COURT: YES.

- - -

THEREUPON, COURT AND COUNSEL CONFERRED AT THE BENCH OUT OF HEARING OF THE JURY AND THE REPORTER.

- - -

THE COURT: MEMBERS OF THE JURY, OUR SIDEBAR WILL BE SOMEWHAT LENGTHY, SO WE WILL ASK YOU TO MOVE AT THIS TIME AND TO GO BACK INTO THE JURY DELIBERATION ROOM AND REMEMBER YOUR ADMONITIONS.

- - -

THEREUPON, THE JURY LEFT THE COURTROOM AND THE FOLLOWING PROCEEDINGS WERE HELD:

THE COURT: AT SIDEBAR THERE WERE SEVERAL DISCUSSIONS. NUMBER ONE IS WHETHER OR NOT THE CONFIDENTIAL INFORMANT'S STATEMENTS ARE AN EXCEPTION TO THE HEARSAY, AND THE DEFENDANT HAS PLACED HIS POSITION TO THE COURT AT SIDEBAR WITHOUT THE REPORTER PRESENT. WE ARE TRYING TO GET AROUND THAT ISSUE SO THAT WE COULD GET A GOOD PERIOD OR GOOD PORTION OF THE WITNESS' TESTIMONY DONE IN FRONT OF THIS JURY BEFORE TAKING A BREAK. IT HAS RAISED IT AGAIN WITH REGARD TO TAPES OF MR. HORTON'S STATEMENTS, AND THE COURT IS PREPARED TO RULE ON ANY STATEMENTS MADE BY MR. HORTON ON THESE TAPES, AND I WOULD LIKE TO START OFF WHERE WE LEFT, AND I GUESS, AND THAT IS TO ASK MR. MCGOWAN -- AND THIS IS IN OUR OFF THE RECORD DISCUSSIONS -- YOU SEEM TO THINK THAT BECAUSE THIS IS TAPED CONVERSATIONS, THAT THERE IS SOME FLEXIBILITY IN THE EVIDENCE RULES. CAN YOU TELL ME WHY YOU THINK THAT AND WHAT YOU BASE THAT ON?

MR. MCGOWAN: YES. INITIALLY, THERE ARE SEVERAL BASES. THE INITIAL ONE, THOUGH, IS THAT THESE ARE NOT TAPES. THIS ISN'T WHERE HE CAME IN AND GAVE A STATEMENT. THIS WAS THEIR INVESTIGATION. THEY SENT RONALD TRENT OUT TO OBTAIN RECORDINGS OF MY CLIENT'S VOICE. THIS IS SUBSTANTIATIVE EVIDENCE IN THIS CASE. IT IS THE SAME ISSUE WE TALKED ABOUT WITH PLAYING THE TAPES. THE TRANSCRIPT IS SPEEDING THINGS ALONG AND ALLOWING IT TO BE

DONE QUICKER, BUT THE TRANSCRIPT IS REALLY JUST REFLECTING WHAT IS IN THE RECORDING.

SO THE IDEA, YOUR HONOR, IS IT IS NOT HEARSAY; IT IS SUBSTANTIATIVE EVIDENCE IN THIS CASE. THIS IS THE BASIS UPON WHICH THEY INDICTED THIS MAN. THEY SENT THE GUY OUT TO SPECIFICALLY OBTAIN STATEMENTS FROM HIM IN A PRETEXT OF A HIT MAN OVER MY OBJECTION, AND ALLOWED THEM TO GET INTO OTHER FACTS AND AT THE VERY LEAST, DUE PROCESS DICTATES, AND THERE IS A CASE THAT I CAN CITE TO YOU IF YOU WOULD GIVE ME A MOMENT, AND IT IS CHAMBERS VERSUS MISSISSIPPI, IN WHICH UNITED STATES COURT HELD THE STATE'S EVIDENTIARY RULES THAT PRECLUDE THE ADMISSION OF RELIABLE EVIDENCE DENIED THE DEFENDANT DUE PROCESS. IF THEY ARE SAYING THAT THE THINGS HE SAID WEREN'T RELIABLE, THEN THIS CASE SHOULD BE DISMISSED BECAUSE THAT IS THE VERY POINT THAT THEY ARGUED STRENUOUSLY THAT ALL OF THIS OTHER ACTS EVIDENCE CAME IN.

IF THEY ARE SAYING THAT HIS STATEMENTS ARE UNRELIABLE, I THINK THERE IS A PROBLEM WITH THEIR PROSECUTION.

THE COURT: THE ISSUE AND VIEWS OR CLARIFICATION IS THE COURT IS NOT SAYING NONE OF MR. HORTON'S STATEMENTS CAN COME IN. I AM SAYING UNLESS YOU FIND AN EXCEPTION TO THE HEARSAY RULE SUCH AS WHAT THE PROSECUTION HAS PRESENTED SO FAR, USING MR. HORTON'S

STATEMENTS ARE STATEMENTS AGAINST INTEREST AND AN EXCEPTION TO THE HEARSAY RULE.

SO WITH WHAT YOU ARE JUST TRYING TO SUBMIT REGARDING MR. HORTON SAYING HE WAS AFRAID OR SOMETHING ALONG THOSE LINES, THAT IS NOT A STATEMENT AGAINST INTEREST UNDER THE RULES. SO I AM ASKING WHAT EXCEPTION IS THERE TO THE RULES THAT YOU ARE ASKING FOR THAT TESTIMONY TO BE, OR THAT STATEMENT TO BE BROUGHT INTO COURT?

MR. MCGOWAN: YOUR HONOR, BECAUSE THIS IS SUBSTANTIATIVE EVIDENCE IN THIS CASE, THEY WOULDN'T HAVE BEEN ABLE TO PRESENT ANY OTHER ACTS EVIDENCE UNLESS THIS TAPE RECORDING -- THEY SET OUT TO DO AN INVESTIGATION. THEY HAVE PRESENTED PARTS OF IT AND DUE PROCESS DICTATES THAT I AM ALLOWED TO PRESENT THE OTHER PARTS OF IT. IT WOULD DEFY LOGIC TO SAY THAT, AND WHAT I OFFERED TO DO, YOUR HONOR, WAS TO LAY A BETTER FOUNDATION, AND MAYBE THAT IS THE PROBLEM. I AM PREPARED TO ASK THE WITNESS, WHO IS NOT IN HERE, I AM PREPARED TO ASK THE WITNESS IF HE BELIEVES THAT MR. HORTON WAS AFRAID OR IN FEAR OF THIS HIT MAN. HE SAYS, NO TO THAT, AND I THINK THEN I HAVE AN OPPORTUNITY TO AGAIN, SINCE HE IS THE LEAD INVESTIGATOR AND HE HEARD ALL OF THESE TAPES OF RONNIE TRENT, THESE RECORDINGS ARE SUBSTANTIATIVE. THIS ISN'T HEARSAY. THESE WERE RECORDINGS MADE CONTEMPORANEOUS WITH THIS WHOLE FACADE OF A HIT MAN AND A KILLING, AN ALLEGED KILLINGS.

SO TO EXPLAIN SOME OF THE STATEMENTS THAT THEY HAVE GOT IN THERE THAT THEY HAVE OFFERED, SUCH AS THE ONES I AM TALKING ABOUT -- THAT I JUST GOT DONE TALKING ABOUT, HE SHOULD BE ABLE TO SHOW THAT HE MAY HAVE HAD A MOTIVE TO MAKE THESE STATEMENTS, APART FROM WHAT THE TRUTH MAY OR MAY NOT HAVE BEEN.

AGAIN, AT THE VERY LEAST, DUE PROCESS DICTATES IT, BUT I BELIEVE EVEN FURTHER, YOUR HONOR, THAT THE ONE THOUSAND SERIES OF RULES, THESE ARE RECORDINGS. THESE ARE SUBSTANTIATIVE EVIDENCE IN THIS CASE BASED ON YOUR RULING THAT THE OTHER ACTS EVIDENCE CAME IN.

THE COURT: FOR PURPOSES OF THE 801 ANALYSIS, THE PERSON WHO IS MAKING THIS STATEMENT HAS TO BE UNAVAILABLE. SO IF ANYONE WOULD LIKE TO ADDRESS THOSE ISSUES, AND IF THE PROSECUTION WOULD LIKE TO STATE THEIR POSITION ON THE RECORD, YOU MAY.

MS. PRICHARD: SEVERAL THINGS THAT I WOULD LIKE TO COVER HERE. THE MATTERS THAT MR. MCGOWAN SEEKS TO INTRODUCE ARE BEING OFFERED FOR THE TRUTH OF THE MATTER ASSERTED. HE IS SEEKING TO INTRODUCE STATEMENTS TO SHOW EITHER HIS CLIENT WAS SCARED THAT SHAWN NIGHTINGALE AND MIKE ARTHURS DID, IN FACT, GIVE THE VICTIM A CERTAIN NUMBER OF PILLS, AND THOSE ARE SOME OF THE THINGS WE DISCUSSED AT SIDEBAR, AND THE SOLE PURPOSE IS SO THAT THE JURY BELIEVES THAT THAT'S THE TRUTH OF THE MATTER ASSERTED. NONE OF

THESE THINGS ARE FALLING UNDER ANY EXCEPTION. RONALD TRENT WAS AVAILABLE FOR CROSS EXAMINATION. THE DEFENSE CAN'T CIRCUMVENT THE HEARSAY RULES TO AVOID PUTTING THEIR CLIENT ON. IF THE WANT TO GIVE THE OTHER HALF OF THE STORY, THEY STILL NEED TO COMPLY WITH THE RULES. IT NEEDS TO FIT WITHIN AN EXCEPTION OR THEY NEED TO PUT ON THEIR CLIENT OR OTHER WITNESSES. BUT REGARDLESS OF WHETHER IT IS A TAPE OR NOT, STILL THE MATTERS WITHIN IT ARE HEARSAY. DEPENDING ON HOW THEY ARE BEING OFFERED AND IN THE WAY MR. MCGOWAN SEEKS TO OFFER THEM MEETS ABSOLUTELY NO EXCEPTION. HE IS TRYING TO PUT IN STATEMENTS OF HIS OWN CLIENT THAT ARE SELF-SERVING. THE STATEMENTS THAT WE PUT IN THAT MR. HORTON MADE WERE STATEMENTS AGAINST INTEREST.

YOUR HONOR, THIS IS AKIN TO IF THE DEFENDANT GAVE A STATEMENT TO THE POLICE AND SAID, I DIDN'T DO IT; I WASN'T THERE, AND THE DEFENSE TRIED TO PLAY THIS VIDEOTAPE WHERE THE DEFENDANT SAID, I DIDN'T DO IT; I WASN'T THERE. THEY CAN'T DO THAT.

MR. MCGOWAN: THAT IS NOT WHAT THIS IS, YOUR HONOR. THIS WAS AN UNDERCOVER STING TYPE OPERATION WHERE THEY ARE TRYING TO RECORD MY CLIENT. THIS ISN'T HIM COMING IN AND SAYING, I DIDN'T DO NOTHING, AND THE FACT THAT IT IS SELF-SERVING, HE DIDN'T KNOW HE WAS BEING RECORDED, HOW COULD HE HAVE MADE A DECISION IT WAS SELF-SERVING IF HE SAID HE WAS AFRAID; HE WAS AFRAID? I

THINK THE REAL ANSWER IS TO ESTABLISH -- ASK THIS WITNESS IF HE BELIEVES THAT, IF HE HEARD ANY INDICATION OF THAT.

MR. TRENT ALSO MAKES STATEMENTS ABOUT THIS PERSON, DESCRIBING HIM AND HIS MENTAL CONDITION AND HIS MENTAL STATE OF MIND DURING THIS WHOLE INVESTIGATION. THOSE SHOULD COME IN AS WELL BECAUSE, AGAIN, THE HEARSAY RULES SHOULD NOT APPLY TO TAPE RECORDINGS THAT ARE SUBSTANTIATIVE EVIDENCE IN THIS CASE. THEY HAVE USED THE TRANSCRIPTS AT WILL WHEN THEY WANTED TO, AND THEY HAVE TALKED ABOUT THIS INVESTIGATION, HOW MANY TAPES THERE ARE, AND THERE ARE 40 SOME, AND THEY HAVE USED THAT AS A WAY TO TRY TO SHOW THERE WAS A LOT OF EVIDENCE OUT THERE.

WELL, I INTENDED TO SHOW SOME OF THE EVIDENCE THAT IS IN MY CLIENT'S DEFENSE, AND IT IS SUPPORTED BY RELIABLE INDICATORS BECAUSE OF THE FACT THIS WAS A STING OPERATION. HE WASN'T COMING INTO THE POLICE AND SAYING, I DIDN'T DO ANYTHING.

AGAIN, YOUR HONOR, IF I QUOTE CHAMBERS SPECIFICALLY IN LIGHT OF YOUR RULING THAT THESE OTHER ACTS CAME IN, THIS OTHER ACTS EVIDENCE CAME IN, CHAMBERS SPECIFICALLY SAYS --

THE COURT: WHAT IS THE CITATION OF THAT CASE?

MR. MCGOWAN: IT IS CHAMBERS VERSUS MISSISSIPPI, 410 U.S. 284, 302, 1973.

THE OHIO SUPREME COURT IN STATE VERSUS SUMLIN, 69 OHIO STATE 3D, 105, A '94 CASE, THE COURT IN THAT CASE FOUND THAT CHAMBERS DIDN'T APPLY BUT ACKNOWLEDGED THAT OHIO IS BOUND TO FOLLOW THAT.

YOUR HONOR, IT IS A FRANKLIN COUNTY CASE, STATE VERSUS PATTERSON, A '96 CASE, AND THAT IS 110 OHIO APPELLATE 3D, 264, WHICH THE QUOTE IS, "CHAMBERS DOES NOT STAND FOR THE PROPOSITION THAT A DEFENDANT IS ENTITLED TO INTRODUCE ALL EXCULPATORY AND INCULPATORY MATTER IN OUT OF COURT STATEMENTS; RATHER CHAMBERS STANDS FOR THE BROAD PROPOSITION THAT THE HEARSAY RULE 'SHOULD NOT BE APPLIED MECHANISTICALLY' TO EXCLUDE HEARSAY TESTIMONY THAT IS TRUSTWORTHY IN CASES WHERE AN ACCUSED'S CONSTITUTIONAL RIGHTS ARE IMPLICATED."

THE COURT: WHAT IS THAT AGAIN?

MR. MCGOWAN: 110 OHIO APPELLATE 3D, 264. THAT IS FRANKLIN COUNTY '96.

SO ASSUMING THAT THE COURT AGREES WITH THE STATE THAT THIS IS QUOTE-UNQUOTE HEARSAY, AND I THINK THAT IT WOULD BE EXCEPT FOR THE FACT THAT THIS IS THEIR INVESTIGATION. IT IS AN OUT OF COURT STATEMENT. SOME OF THE STATEMENTS I AM GOING TO ASK HIM ABOUT ARE NOT NECESSARILY OFFERED FOR THE TRUTH OF THE MATTER ASSERTED. IT IS REALLY GOING TO GO TO HIS STATE OF MIND AT THE TIME THEY WERE CONDUCTING THEIR STING OPERATION, AND WE ARE NOT

EVEN TALKING ABOUT HEARSAY. I HAVEN'T GOT TO SOME OF THOSE YET BECAUSE WE HAVE AGREED WE ARE GOING TO KIND OF ADDRESS THAT ISSUE BEFORE I COMPLETE MY CROSS EXAMINATION.

YOUR HONOR, AT THE VERY LEAST DUE PROCESS REQUIRES YOU ALLOW THIS STUFF TO COME IN. I MEAN, I CAN SHOW THE COURT HOW MUCH I INTEND TO QUESTION THE SPECIFIC HIGHLIGHTED AREAS AND THE TABBED AREAS. IT'S, LIKE, TWO PAGES IN THAT WHICH IS WHEN YOU TOLD ME TO MOVE ON. SO THERE'S TWO MORE, IF THAT, TWO MORE PAGES.

THE COURT: MR. MCGOWAN, WHILE YOU ARE EXPLAINING THAT, IT APPEARS THAT AT LEAST THE BULK OR THE LEAST OF WHAT YOU ARE BRINGING TO MY ATTENTION IS THE FACT THAT EITHER MR. TRENT'S STATEMENTS OR YOUR CLIENT'S STATEMENTS OR CO-DEFENDANT'S STATEMENTS ARE SOMETHING THAT YOU WANT TO GET INTO WITH THIS PARTICULAR WITNESS; IS THAT ACCURATE?

MR. MCGOWAN: YES, YOUR HONOR, BECAUSE THEY PUT HIM ON THE STAND ON DIRECT AND ASKED HIM IF HE HEARD ALL OF THEM AND ASKED HIM IF HE WAS THE LEAD INVESTIGATOR, AND HE SAID, YES TO THOSE TWO QUESTIONS.

THE WITNESS THAT IS ON THE STAND, WHEN I INTRODUCED IT HAS NO BEARING ON IT. THE QUESTION IS WHETHER OR NOT THE STATEMENT EXISTS. THE WITNESS IS ON THE STAND, UNLESS HE SAID HE HAD NO KNOWLEDGE OF IT -- HE SAID HE HAS KNOWLEDGE OF IT. HE SAID HE HEARD THEM ALL, AND HE

IS THE LEAD INVESTIGATOR. HE SAID THAT HE SENT TONY, THE HIT MAN, THERE AND INSTRUCTED HIM TO ACT LIKE A HIT MAN.

THE COURT: UNDER YOUR SCENARIO, IS THERE EVER ANYTHING THAT IS HEARSAY IN AN INVESTIGATION?

MR. MCGOWAN: I WOULD IMAGINE THERE IS HEARSAY IN AN INVESTIGATION, YEAH. THIS IS TAPE RECORDINGS DESIGNED TO LISTEN TO AND LATER PRESENT TO A JURY OF WHAT MY CLIENT SAID. YES, I AGREE THAT THERE'S CERTAINLY GOING TO BE HEARSAY CONTAINED WITHIN CERTAIN INVESTIGATIONS, BUT HERE WE ARE TALKING ABOUT A SERIES OF RECORDINGS THAT WERE SPECIFICALLY DESIGNED TO PICK UP NOT JUST HIS -- NOT JUST THE STATEMENTS HE SAID THAT WERE DAMAGING, BUT HE IS ENTITLED TO EXPLAIN THOSE TO THE JURY BY SHOWING OTHER STATEMENTS THAT WERE MADE AND HIS STATE OF MIND POTENTIALLY, IF IT IS APPLICABLE, AND IT IS IN THIS CASE AND WHEN HE MADE THOSE STATEMENTS.

SO DUE PROCESS, AGAIN, I DON'T KNOW HOW THEY CAN BE ALLOWED TO TALK ABOUT -- THERE ARE 40 TAPES AND TO PICK OUT A FEW SNIPPETS THAT THEY WANT THE JURY TO HEAR AND TO HAVE MY HANDS TIED AND NOT BE ABLE TO EXPLAIN THAT THROUGH EITHER HIS STATEMENTS THEMSELVES, WHICH, AGAIN, MOST OF IT REALLY GOES TO STATE OF MIND, WHICH WOULD MAKE IT NON HEARSAY ANYWAY, EVEN THOUGH I DISAGREE THAT'S THE ANALYSIS WE SHOULD BE APPLYING WITH THESE TAPE RECORDINGS. THIS IS SUBSTANTIVE EVIDENCE IN THIS CASE.

BUT IN ANY EVIDENCE, YOUR HONOR, THE THINGS THAT GO TO A STATE OF MIND AND THE STATEMENTS THAT ARE CONTAINED WITHIN THESE RECORDINGS THAT SHOW THAT SHOULD BE ADMISSIBLE SO THE JURY CAN MAKE A DETERMINATION ABOUT THAT. THE REASON FOR THE HEARSAY RULE IS RELIABILITY CONCERNS AND ABILITY TO CROSS EXAMINE. SO IF GOES TO HIS STATE OF MIND, THE JURY CAN DECIDE THEIR OWN CONCLUSIONS AS TO WHAT HE MEANT WHEN HE SAID THOSE THINGS. IT IS NOT A SUBJECT OF CROSS EXAMINATION. THAT'S NOT THE POINT HERE. THE REASON THEY DID THESE TAPES WAS TO ESTABLISH AND OBTAIN INFORMATION. THE RISK THAT THERE IS UNRELIABLE INFORMATION BEING GIVEN TO THE JURY AND THEREFORE IT SHOULD BE EXCLUDED UNDER HEARSAY ARE NOT THERE, AND THAT IS THE VERY PURPOSE FOR WHAT THE HEARSAY RULE IS FOR. THEY HAVE ALREADY BEEN TOLD BY THE PROSECUTORS THROUGH QUESTIONS TO THIS WITNESS AND OTHER WITNESSES THAT THESE TAPES EXIST AND THINGS WERE SAID ON THESE TAPES. RELIABILITY IS NOT THE ISSUE WHEN A STATEMENT IS MADE WHERE HE CAME IN AND TALKED TO THE POLICE. THE FACT FOR THE JURY TO DECIDE IS DID THAT STATEMENT GET MADE. THAT IS WHAT IS IMPORTANT. IT IS WAS THIS STATEMENT MADE. YOU HEARD ABOUT THIS INVESTIGATION AND SOME STATEMENTS WERE MADE AND THEY WERE INTRODUCED BY THE STATE AND SOME STATEMENTS WERE MADE AND INTRODUCED BY THE DEFENSE. THAT IS A QUESTION FOR THE JURY, WERE THOSE STATEMENTS, IN FACT, MADE.

THEY CAN DECIDE WHAT IT MEANS AND THEY CAN ARGUE IN CLOSING WHAT IT MEANS, AND I CAN ARGUE IN CLOSING WHAT IT MEANS, BUT THE QUESTION IS REALLY WERE THE STATEMENTS MADE, WHAT DID THEY SHOW ABOUT HIS STATE OF MIND, AND IT SHOULD BE ADMISSIBLE AGAIN AT THE VERY LEAST UNDER DUE PROCESS IN THE CASES I JUST CITED.

THE COURT: I WILL REVIEW THOSE CASES. I DON'T KNOW WHETHER THE STATE HAS ANYTHING SPECIFICALLY TO PRESENT TO THE COURT FOR CONSIDERATION AS WELL, BUT MY REAL FOCUS HERE IS THAT HAD THERE BEEN CERTAIN OBJECTIONS, POSSIBLY CERTAIN STATEMENTS WOULD NOT HAVE BEEN ADMISSIBLE BECAUSE THE COURT WAS LOOKING FOR CERTAIN EXCEPTIONS TO HEARSAY RULES TO ALLOW TESTIMONY IN BY ANY CERTAIN WITNESS. SO THAT IS WHAT THE COURT IS ASKING YOU TO DO AS WELL IS TO ACCEPT OR TELL ME AN EXCEPTION TO THE HEARSAY RULE, AND WHAT I AM TELLING YOU IS UNLESS AT LEAST THE ONE THAT YOU TRIED TO SUBMIT AT THIS POINT, 801 DOESN'T APPLY TO THAT PARTICULAR STATEMENT AS A STATEMENT AGAINST INTEREST.

IF THERE ARE OTHER STATEMENTS, WHICH IS WHY I AM SAYING LET'S TAKE THIS BREAK NOW SO WE DON'T HAVE TO STOP WITH EVERY STATEMENT HERE SO THAT THERE IS SOMETHING OF A LITTLE BIT OF SMOOTHNESS TO THIS EXAMINATION, THAT IS WHY I WANTED TO INTERRUPT IT AT THIS POINT. IF YOU HAVE GOT ANYTHING ELSE FOR ME TO CONSIDER, YOU CAN SUBMIT IT. OTHERWISE, I WILL LOOK AT MR. MCGOWAN'S CITATIONS AND COME

OUT AND MAKE A RULING.

MS. PRICHARD: CAN WE HAVE FIVE MINUTES TO GET IT?

THE COURT: YES.

MR. MCGOWAN: YOUR HONOR, AGAIN, REMEMBER, I HAVE CITED THAT FOR THE DUE PROCESS ARGUMENT. WHAT I AM SAYING IS THAT, AGAIN, IT IS NOT -- IT IS NOT HEARSAY. THIS IS THEIR INVESTIGATION. THEY HAVE BROUGHT IN PARTS OF IT. THESE ARE RECORDINGS UNDER THE ONE THOUSAND SERIES OF RULES, AND THESE ARE WRITINGS OR RECORDINGS, IN THIS CASE RECORDINGS, AND THEY HAVE BROUGHT IN PARTS OF THEM. HOW CAN THE DEFENDANT BE DENIED BRINGING IN OTHER PARTS OF THEM TO EITHER EXPLAIN OR CLARIFY AND HELP THE JURY MAKE A DECISION AS TO WHAT THE THINGS THEY HAVE ALREADY HEARD ABOUT MEAN?

THE COURT: AS I SAID, MR. MCGOWAN, IT IS AN INDIVIDUAL ANALYSIS OF THE WITNESS THAT IS TRYING TO BRING IN THAT EVIDENCE, AND THE ISSUE IS WHETHER IT IS HEARSAY EVIDENCE WITH THIS PARTICULAR WITNESS OR NOT. THAT'S WHAT THE COURT WILL EXAMINE. YOU CAN CONTINUE TO ARGUE, BUT I HAVEN'T READ YOUR CASES, SO GIVE ME A MOMENT TO DO SO.

MR. MCGOWAN: CAN I ARGUE THAT ONE POINT WHEN YOU ARE TALKING ABOUT THE WITNESSES? YOUR HONOR, AGAIN, IF HEARSAY IS THE ISSUE, THAT'S NOT -- THAT ISN'T PART OF IT.

THE QUESTION OF WHETHER IT IS HEARSAY OR NOT IS IMMATERIAL TO THE WITNESS THAT IS ON THE STAND. IT COULD BE THE PERSON, LIKE RONNIE TRENT, WHO IS ACTUALLY THERE, OR IT COULD BE THIS DETECTIVE WHO HAS FIRST HAND KNOWLEDGE OF IT. THE QUESTION OF WHETHER IT IS HEARSAY OR NOT DOESN'T MAKE A BEARING ON -- EXCUSE ME, THE WITNESS THAT IS ON THE STAND HAS NO BEARING ON WHETHER IT IS HEARSAY OR NOT. THE QUESTION IS THE HEARSAY DEFINITION AND OUT OF COURT STATEMENT OFFERED FOR THE TRUTH OF THE MATTER ASSERTED. IT DOESN'T MATTER THE WITNESS IS ON THE STAND, EXCEPT FOR THE EXTENT IF HE DIDN'T HAVE PERSONAL KNOWLEDGE, I WOULD AGREE WITH YOU, YOUR HONOR, THAT I COULDN'T ASK THOSE QUESTIONS; HE HAS NO KNOWLEDGE OF IT.

THE ONLY QUESTION SHOULD BE DOES HE HAVE KNOWLEDGE, AND THEY HAVE HELD HIM UP TO HAVE KNOWLEDGE, SO I THINK THAT IS, MORE OR LESS, STIPULATED. I WANTED TO MAKE THAT CLEAR, YOUR HONOR, THAT I DON'T THINK THE QUESTION IS WHETHER OR NOT THE WITNESS ON THE STAND IS THE PERSON WHO MADE THE OUT OF COURT STATEMENT. THE QUESTION OF WHETHER OR NOT THE PERSON HAS KNOWLEDGE OF IT AND CAN TELL THE JURY ABOUT IT AND, AGAIN, THEY ASKED -- THEY PUT HIM ON THE STAND. HE CERTAINLY WASN'T SAYING ANYTHING THAT HE SAID OR THAT RONNIE TRENT -- EXCUSE ME, THAT HE SAID WHEN THEY ASKED HIM THOSE QUESTIONS, WAS HE? HE WAS SAYING WHAT HE HEARD OTHER PEOPLE SAY.

THE COURT: ACTUALLY, THE PROSECUTION'S DIRECT OF THIS WITNESS WAS VERY LIMITED, AND THEY DID NOT GET INTO PEOPLE'S STATEMENTS, EXCEPT FOR ONE OR TWO OCCASIONS. I DISAGREE WITH THAT PARTICULAR STATEMENT.

MR. MCGOWAN: THEY OPENED THE DOOR TO IT, THOUGH. THEY LIMITED IT TO THOSE COUPLE OF PLACES THERE WHERE THAT IS FAVORABLE TO THEM, OF COURSE. THEY DID OPEN THE DOOR TO IT AND, AGAIN, YOUR HONOR, THE QUESTION WHETHER IT IS HEARSAY HAS NOTHING TO DO WITH THE WITNESS THAT IS ON THE STAND. THEY ARE PURPORTING THAT THE EXCEPTION WAS THE HEARSAY EXCEPTION STATEMENT AGAINST INTEREST BY A PARTY OPPONENT, WHATEVER IT IS, AND THAT DOESN'T TELL YOU WHETHER IT IS HEARSAY OR NOT, I MEAN THE WITNESS ON THE STAND.

THE COURT: THE COURT UNDERSTANDS HEARSAY, AND IT ONE OF THE MOST COMPLICATED PARTS OF EVIDENCE RULES, AND THIS IS, OBVIOUSLY, A VERY BIG PART OF THIS CASE. THAT IS WHY I AM ASKING TO TAKE THIS OPPORTUNITY TO LOOK AT WHAT YOU HAVE PROVIDED TO SEE IF THERE IS ANYTHING ELSE THE STATE WANTS TO PRESENT AND THEN TO GET A RULING AND A GENERAL RULE OF THUMB OF HOW WE WILL DO THE REST OF THIS CROSS EXAMINATION WITH REGARD TO THESE TAPES AND WHAT MAY BE HEARSAY STATEMENTS.

MR. MCGOWAN: THAT'S WHAT I MEAN WHEN I SAY THE TYPES OF THINGS THAT SHOW THE STATE OF MIND BY TRENT.

THE COURT: WE WILL TAKE A RECESS NOW.

- - -

THEREUPON, A RECESS WAS TAKEN.

- - -

THE COURT: BEFORE THE JURY COMES IN, THERE WAS A LINE OF QUESTIONS THAT THE COURT HAD ALLOWED THE DEFENSE TO PURSUE OVER THE OBJECTION OF THE PROSECUTING ATTORNEY.

THE COURT'S RULING AT THIS POINT WITH REGARD TO THAT LINE OF QUESTIONING AND MR. TRENT'S STATEMENTS, AS WELL AS THE STATEMENTS OF MR. HORTON, I BELIEVE WE ARE TALKING ABOUT TRANSCRIPT SEVEN, IS THAT WITH REGARD TO RONNIE TRENT'S STATEMENTS, THAT THAT IS ADMISSIBLE UNDER 801.1; AND WITH REGARD TO THE STATEMENT MADE BY MR. HORTON HIMSELF, IT GOES TO PRESENT SENSE IMPRESSION, AND THAT WOULD BE ADMISSIBLE AS WELL UNDER THE EXCEPTION UNDER THE HEARSAY RULE. THE COURT HAS, IN GENERAL, TOLD COUNSEL WHERE WE ARE GOING WITH OBJECTIONS -- I'M SORRY, WITH PARTICULAR EVIDENCE THAT THE DEFENSE WANTS TO ADMIT INVOLVING OTHER STATEMENTS BY MR. TRENT AND HAS MADE PRELIMINARY RULINGS ABOUT THAT WITH REGARD TO CO-CONSPIRATOR STATEMENTS, AS WELL AS BY AGREEMENT OF THE PARTIES; AND IN AN EFFORT TO EXPEDITE THIS WITNESS' TESTIMONY IN FRONT OF THE JURY TODAY, THE PARTIES HAVE AGREED TO PUT ALL THAT ON THE RECORD AFTER THE JURY IS RELEASED TODAY SO THAT WE CAN GET BACK TO THE TESTIMONY OF

THE DETECTIVE.

FOR PURPOSES OF WHERE WE ARE RIGHT NOW IN THE QUESTIONING, DOES THAT APPROPRIATELY SUMMARIZE OUR DISCUSSIONS IN CHAMBERS?

MS. PRICHARD: YES, YOUR HONOR.

MR. MCGOWAN: YES, YOUR HONOR.

- - -

THEREUPON, THE JURY ENTERED THE COURTROOM AND THE FOLLOWING PROCEEDINGS WERE HELD:

THE COURT: MR. MCGOWAN, YOU MAY CONTINUE WITH YOUR LINE OF QUESTIONING.

MR. MCGOWAN: MAY I HAVE A MOMENT TO FIND THE TRANSCRIPT WE WERE TALKING ABOUT AT THE TIME WE LEFT OFF WITH THE WITNESS?

THE COURT: YOU MAY.

Q. (BY MR. MCGOWAN) SORRY ABOUT THE CONFUSION, DETECTIVE. I THINK WE WERE TALKING ABOUT WHETHER OR NOT YOU HAD ANY INDICATION AS TO WHETHER OR NOT JAMIE HORTON WAS AFRAID OR APPEARING TO BE AFRAID TO YOUR CONFIDENTIAL INFORMANT IN ANY OF THESE TRANSCRIPTS, TO YOUR RECOLLECTION?

A. DO I REMEMBER, NO.

Q. I WILL DIRECT YOUR ATTENTION -- I THINK I ALREADY SHOWED YOU THIS. THIS IS THE MAY 20TH TRANSCRIPT. DO YOU REMEMBER THAT?

A. YES.

Q. YOUR NAME APPEARS AT THE TOP, CORRECT?

A. CORRECT.

Q. I DIRECT YOUR ATTENTION TO THE CONVERSATION BETWEEN JAMIE HORTON AND THE C.I., WHO IS TONY, THE HIT MAN, CORRECT?

A. RIGHT.

Q. CAN YOU TELL ME IF THAT REFRESHES YOUR RECOLLECTION AS TO THE QUESTION OF WHETHER OR NOT THE C.I. HAD INDICATED THAT JAMIE WAS AFRAID OF HIM?

A. IT MAKES REFERENCE TO BEING SPOOKED, THINKING JAMIE MIGHT BE A COP -- OR THINKING TONY MIGHT BE A COP.

Q. CAN YOU TELL THE JURY WHAT MR. TRENT SAYS ABOUT BEING SPOOKED?

A. "YOU KNOW WHAT I AM SAYING, YOU AIN'T -- JUST QUIT BEING SPOOKED. I'M NOT GOING TO DO ANYTHING TO YOU."

Q. "I'M NOT GOING TO DO ANYTHING TO YOU, MAN?"

A. YEAH, THIS IS WHERE THE COP PART IS -- TALKING ABOUT WORRIED ABOUT HIM BEING A COP.

Q. SO YOUR TESTIMONY IS THAT I AM NOT GOING TO DO NOTHING TO YOU, MAN, IS REFERRING TO HIM NOT GOING TO ARREST YOU?

A. THEY WERE JUST TALKING ABOUT HIM BEING WORRIED ABOUT BEING A COP, SO THAT IS HOW I WOULD TAKE IT, I GUESS.

Q. SO WHAT ABOUT LATER WHEN THEY TALK ABOUT VOUCHING

FOR PEOPLE AND THINGS OF THAT NATURE? DOES THAT CHANGE YOUR OPINION ON THAT?

A. I AM NOT UNDERSTANDING HOW THE VOUCHING RELATES TO THE STATEMENT.

Q. LET ME ASK YOU THIS. YOU JUST TALKED ABOUT YOUR OPINION IS THAT I AM NOT GOING TO DO NOTHING TO YOU, MAN, IS REFERRING TO HIM, WORRIED ABOUT HIM BEING A COP?

A. I GUESS.

Q. TO DO NOTHING TO YOU, ARE YOU TALKING ABOUT HE THINKS HE MIGHT BE ARRESTED IF HE BELIEVES HE WOULD BE A COP, HE WOULDN'T BE TALKING TO HIM IN THIS WHOLE SCENARIO THAT IS SET UP?

A. YOU ARE ASKING ME TO SPEAK FOR HIM. I DON'T KNOW WHAT HE IS THINKING.

Q. FAIR ENOUGH. DO YOU REMEMBER ANY OTHER REFERENCE THAT TONY, THE HIT MAN, MADE THAT MR. HORTON WAS AFRAID?

A. THAT HE WAS AFRAID OF -- JUST AFRAID IN GENERAL.

Q. AFRAID OF YOUR HIT MAN, TONY?

A. NO, I DON'T REMEMBER ANY REFERENCE THAT HE WAS AFRAID OF TONY.

MR. MCGOWAN: MAY I APPROACH, YOUR HONOR?

THE COURT: YOU MAY.

Q. (BY MR. MCGOWAN) I AM GOING TO SHOW YOU WHAT IT SAYS ON -- IT IS A COVER PAGE, MAY 2002, AND I BELIEVE IT IS SOME LATER CONVERSATIONS BETWEEN YOUR CONFIDENTIAL

INFORMANT AND SOME OTHER PEOPLE.

A. CORRECT.

Q. I WILL DIRECT YOUR ATTENTION TO PAGE TEN AND HAVE YOU READ THAT.

A. OKAY.

Q. ISN'T IT TRUE THAT -- WELL, FIRST OF ALL, WHO DID TONY, THE HIT MAN, COMMONLY TALK TO THROUGH A FEMALE IN A THREE-WAY CALL SITUATION?

A. JAMES CONWAY.

Q. AND HE TALKED TO HER THROUGH SOMEONE NAMED BRITNEY?

A. CORRECT.

Q. DOES THIS REFRESH YOUR RECOLLECTION AS TO WHETHER OR NOT THIS TRANSCRIPT -- AT THIS POINT IN THE TRANSCRIPT, AT LEAST, IS REFLECTING A CONVERSATION BETWEEN TONY, THE HIT MAN, BRITNEY, AND JAMES CONWAY?

A. THAT WOULD BE CORRECT.

Q. ISN'T IT TRUE THAT AFTER THE MALE, WHO YOU SAID IS JAMES CONWAY, SAYS WHAT IS UP, THAT TONY, THE HIT MAN, SAYS, "THAT FUCKING JAMIE ACTING LIKE A BITCH, MAN"?

A. THAT'S WHAT IT SAYS.

Q. ISN'T IT TRUE THAT HE THEN SAYS, THERE IS SOME -- JUST AND A BLANK FROM JAMES CONWAY. ARE ALL OF THE MALE REFERENCES TO THIS CONVERSATION JAMES CONWAY?

A. YEAH, ON THAT PART OF THE PAGE.

Q. AND THE C.I. REFERENCES ARE TONY, THE HIT MAN?

A. THAT IS CORRECT.

Q. AND THE FEMALE, VERY SPORADIC, BUT THAT IS BRITNEY, RIGHT?

A. CORRECT.

Q. DOESN'T TONY, THE HIT MAN, ALSO SAY "DO WHAT, I MEAN HE'S SUPPOSED TO, HE'S ACTING, JUST TELL HIM I'M NOT DOING NOTHING TONIGHT, YOU KNOW WHAT I'M SAYING"?

A. THAT'S WHAT IT SAYS.

Q. DOESN'T HE THEN -- THE MALE RESPOND, "YEAH". AND DOESN'T HE GO ON TO SAY, "I JUST WANT HIM TO GO DOWN THERE AND SHOW ME WHO THE FUCK I NEED TO TAKE, YOU FEEL ME"?

A. THAT'S WHAT IT SAYS.

Q. AND DOESN'T HE THEN GO ON TO SAY --

MS. PRICHARD: YOUR HONOR, I'M SORRY, I WOULD LIKE TO OBJECT BASED ON THE MANNER THAT THESE QUESTIONS ARE BEING ASKED.

THE COURT: OVERRULED. YOU MAY GO AHEAD.

Q. (BY MR. MCGOWAN) DOESN'T TONY, THE HIT MAN, GO ON TO SAY, "IT'S JUST GETTING AGGRAVATING, DOG, I'M NOT -- I'M NOT LIKE I'M JUST FUCKING HOOPS AND JUMPING PEOPLE FROM BULLSHIT"?

A. THAT IS CORRECT.

Q. AND THIS CONVERSATION CONTINUES ON TO PAGE 11, DOES IT NOT?

A. IT DOES.

Q. AND DOES TONY, THE HIT MAN, INDICATE, "TELL HIM, TELL HIM QUIT BEING A FUCKING PUSSY, MAN, GODDAMN?"

A. THAT IS CORRECT.

Q. HE IS REFERRING TO JAMIE STILL IN THIS CONVERSATION?

A. I ASSUME SO, THAT HE IS TALKING ABOUT JAMIE, CORRECT.

Q. AND JIMMY CONWAY SAYS, "HE WAS TELLING ME THAT WHEN HE --" AND TONY, THE HIT MAN, SAYS, "MAN, I MEAN IT'S FUCKING, FUCKING SCARED HE'S -- IT'S LIKE HE'S READY TO PISS HISSELF WHEN I TALK TO HIM"?

A. THAT IS CORRECT.

Q. HE IS REFERRING TO JAMIE HORTON?

A. TONY IS REFERRING OR RONNIE IS REFERRING TO CALVIN HORTON, CORRECT.

Q. AND WHAT DOES -- AND DOWN HERE HE SAYS, HE DOESN'T KNOW HOW TO DEAL WITH THAT. WHAT IS THE RESPONSE FROM JAMES CONWAY?

A. HE SAYS HE DOESN'T KNOW HOW TO DEAL WITH THAT. HE JUST REPEATS HIM.

Q. AND AFTER HE REPEATS HIM THAT HE DIDN'T KNOW HOW TO DEAL WITH THAT, DOESN'T TONY, THE HIT MAN, SAY, "NO, HE'S FUCKING SPOOKED, SO LOOK MAN, JUST TELL HIM WE'LL GO DOWN THERE AND WE WILL BE COMING BACK"?

A. THAT'S WHAT IS SAYS.

Q. AND TOWARD THE END OF THE CONVERSATION, THE LAST SUBSTANTIVE THING HE SAYS AT THE END OF THE CONVERSATION, WHAT DOES HE TELL JAMES CONWAY IN THAT LINE RIGHT THERE?

A. IT SAYS "TELLING HIM QUIT BEING A BITCH MAN, GODDAMN, I THOUGHT HE WAS A GANGSTER."

Q. AND THE DATE OF THIS CONVERSATION BETWEEN JAMES CONWAY AND THE HIT MAN IS WHAT DATE?

A. MAY 20, '02.

Q. DO YOU RECALL THAT AT SOME POINT IN TIME AFTER THAT CONVERSATION, TONY, THE HIT MAN, TOLD JAMIE THAT JIMMY KNOWS THAT I AM PISSED?

A. HE MAY HAVE.

Q. IN THE TESTIMONY YOU GAVE YESTERDAY, AND I ASKED YOU A LITTLE BIT ABOUT IT TODAY WHERE YOU EXPRESSED YOUR OPINION AS TO WHAT IT MEANT, THAT HAPPENED AFTER THIS CONVERSATION, DIDN'T IT?

A. WHAT SPECIFICALLY THAT HE SAID?

Q. THE THINGS YOU TESTIFIED ABOUT WITH REGARD TO THINGS THAT JAMIE SAID, IN YOUR OPINION, AS TO WHAT THOSE THINGS MIGHT HAVE MEANT. IT HAPPENED ON MAY 21, DIDN'T IT?

A. WHAT ARE YOU ASKING ME SPECIFICALLY?

Q. I WILL SHOW YOU THE TRANSCRIPTS. I AM TALKING ABOUT YOUR EARLIER DIRECT EXAMINATION FROM YESTERDAY AND MY EARLIER CROSS EXAMINATION WHERE YOU TALKED ABOUT YOUR

OPINION AS TO WHAT JAMIE HORTON MEANT WHEN HE WAS TALKING ABOUT WHETHER OR NOT PEOPLE SHOULD FOLLOW THROUGH WITH THE THINGS THEY SAY AND THINGS LIKE THAT?

A. OKAY.

Q. THIS IS --

A. MAY 21?

Q. AND THE TESTIMONY IS THAT YOU JUST -- OR THE TRANSCRIPT YOU JUST TALKED ABOUT WAS ON MAY 20?

A. THAT IS CORRECT.

Q. YOU TALKED A LITTLE BIT ON DIRECT EXAMINATION ABOUT THE STATUS OF THE LEADS IN THIS CASE AT THE TIME YOU TALKED TO MIKE ARTHURS, CORRECT?

A. OKAY.

Q. IS THAT CORRECT?

A. YEAH, IT WAS MENTIONED, YEAH.

Q. I BELIEVE YOU SAID AT THE TIME YOU TALKED TO MIKE ARTHURS, THERE WERE NO LEADS?

A. CREDIBLE LEADS. WE GET CALLS ALL THE TIME, BUT WHAT I DEEMED CREDIBLE LEADS, WE DIDN'T HAVE ANY AT THAT TIME.

Q. WHEN IS THE FIRST TIME YOU HAD A LEAD THAT JAMES CONWAY'S NAME MIGHT BE ASSOCIATED WITH THE DEATH OF ANDREW DOTSON?

A. VERY EARLY IN THE INVESTIGATION.

Q. CAN YOU BE A LITTLE MORE SPECIFIC?

A. THE EXACT DATE, PROBABLY WITHIN A FEW DAYS AFTER WE FOUND THE BODY THAT HE WAS A POSSIBLE SUSPECT.

Q. WHAT STEPS DID YOU TAKE AS THE LEAD INVESTIGATOR TO FOLLOW UP ON THAT LEAD?

A. I DID A BACKGROUND ON HIM.

Q. WHAT ELSE?

A. FROM THE BACKGROUND, I ELICITED THE ASSISTANCE OF NARCOTICS, S.I.U.

Q. WHAT ELSE?

A. THEY THEN WENT AND STARTED WORKING AREAS WHERE HE WAS KNOWN TO HANG OUT.

Q. DID YOU EVER TRY TO QUESTION HIM?

A. NO.

Q. DID YOU EVER TRY TO QUESTION ANY OF THE PEOPLE AROUND HIM?

A. PEOPLE AROUND HIM? I MEAN --

Q. ASSOCIATES OF HIS?

A. ARE YOU REFERRING TO MR. HORTON AND -- I TALKED TO A LOT OF PEOPLE THAT SAID THEY KNEW HIM. I TALKED TO A LOT OF PEOPLE WHO SAID THEY KNEW HIM.

Q. DID YOU MAKE ANY EFFORT TO TRY TO TALK TO ANYBODY THAT YOU KNEW TO BE AROUND HIM A LOT OR CLOSE TO HIM?

A. NO.

Q. YOU HAD AN OPPORTUNITY TO TALK TO BOBBI HANNAH, DID YOU NOT?

A. CORRECT.

Q. ISN'T IT TRUE THAT SHE, IN FACT, GAVE YOU THE LEAD OF JIMMY CONWAY?

A. SHE MENTIONED HIS NAME.

Q. WHEN WAS THAT?

A. I DON'T KNOW A SPECIFIC DATE. LIKE I SAID, WITHIN A COUPLE OF DAYS OF WHEN WE FOUND ANDREW'S BODY.

Q. DID YOU EVER TALK TO ANYONE NAMED JESSE JAMES?

A. I ATTEMPTED TO.

Q. YOU NEVER TALKED TO HIM?

A. HE WOULDN'T TALK TO ME.

Q. DID YOU REVIEW ANY RECORDS THAT HE MIGHT HAVE FILED WITH REGARD TO YOUR INVESTIGATION IN THIS HOMICIDE?

A. ARE YOU TALKING ABOUT HIS SHOOTING?

Q. YES.

A. YEAH, I LOOKED OVER THE CASE FILE.

Q. DID THAT GIVE YOU ANY KIND OF LEADS TO PURSUE?

A. IN REFERENCE TO ANDREW DOTSON?

Q. YES.

A. LEADS TO PURSUE -- IT GAVE ME AN IDEA. I MEAN, IT GAVE ME SOME BACKGROUND OF WHAT COULD POSSIBLY HAVE HAPPENED. IT WASN'T ANYTHING THAT WAS CONCRETE THAT I COULD CORROBORATE AND FOLLOW UP AT THAT TIME, NO.

Q. WHAT WAS IT THAT CAME OUT OF THAT THAT GAVE YOU A LEAD?

A. I JUST SAID IT DIDN'T.

Q. WELL, YOU SAID IT GAVE YOU A LEAD AND YOU FOLLOWED UP ON IT AND IT DIDN'T PAN OUT TO BE CONCRETE. I AM SAYING, WHAT IS IT ABOUT THAT INFORMATION THAT WAS A LEAD?

A. IT WAS BACKGROUND INFORMATION IS WHAT I JUST CALLED IT.

Q. IT WASN'T INFORMATION THAT JAMES CONWAY WAS AT THE SCENE OF THAT SHOOTING?

A. YEAH, IT WAS BACKGROUND INFORMATION THAT HE HAD BEEN INVOLVED IN A FELONIOUS ASSAULT, THAT HE WAS PROBABLY THE INDIVIDUAL THAT SHOT JESSE JAMES.

Q. WHO ELSE WAS -- DID YOUR INVESTIGATION UNCOVER WHETHER OR NOT ANDREW DOTSON WAS ALSO AT THE SCENE OF THAT SHOOTING?

A. YES, HE WAS SUPPOSED TO BE THERE, TOO, CORRECT.

Q. BASED ON THE STATE OF DECOMPOSITION OF THE BODY THAT YOU FOUND, WAS THERE ANY RELATIONSHIP TO THAT AND THE SHOOTING THAT YOU ARE TALKING ABOUT?

A. TO THE DECOMPOSITION OF THE BODY?

Q. WHEN DID YOU TELL THE JURY THAT YOU ARRIVED AT THE SCENE? WAS IT THE DAY THE BODY WAS DISCOVERED OR WHAT DATE WAS THAT?

A. OCTOBER 10.

Q. WHAT DATE WAS THE JESSE JAMES SHOOTING?

A. I DIDN'T HANDLE THE INVESTIGATION. I WOULD HAVE TO LOOK AT IT AGAIN. I WANT TO SAY SEPTEMBER, BUT I AM NOT A HUNDRED PERCENT SURE.

Q. IS IT TRUE IT WAS SEPTEMBER 14?

A. IT PROBABLY IS.

Q. SO YOU HAD JAMES CONWAY AND ANDREW DOTSON PRESENT AT A SHOOTING ON SEPTEMBER 14, AND YOU FOUND ANDREW DOTSON'S BODY ON OCTOBER 10. ARE YOU TELLING THE JURY THAT WASN'T A CONCRETE LEAD?

A. I DIDN'T HANDLE THE INVESTIGATION OF THE SHOOTING. IT WAS A DIFFERENT DETECTIVE. AFTER WE FOUND THE BODY, WE DID, AT A LATER POINT, GET THE INFORMATION THAT THESE INDIVIDUALS WERE ALL INVOLVED IN A SHOOTING POSSIBLY. THAT WAS NOT IN SEPTEMBER OR LEADING UP TO OCTOBER. THAT WOULD HAVE BEEN IN THE MONTH OF OCTOBER AFTER WE FOUND THE BODY.

Q. IN MARCH OF '02, DID YOU RECEIVE A CONFIDENTIAL CALL -- EXCUSE ME, A CALL FROM A CONFIDENTIAL INFORMANT, RELATING TO THE ANDREW DOTSON HOMICIDE?

A. I MAY HAVE. WE RECEIVED A LOT OF CALLS.

Q. DID YOU RECEIVE A CALL -- WOULD IT REFRESH YOUR RECOLLECTION IF YOU RECEIVED A CALL THAT RELATED TO JIMMY CONWAY AND SOME ATV'S AND FOUR WHEELERS THAT WERE STOLEN ALLEGEDLY?

A. YES, THAT SOUNDS FAMILIAR.

Q. CAN YOU TELL THE JURY ABOUT THAT LEAD OR WAS THERE A LEAD?

A. IT'S INFORMATION. I WOULD CONSIDER THAT INFORMATION, BACKGROUND INFORMATION. I GUESS YOU WOULD CALL IT A LEAD. I WOULD LIKE TO LOOK AT LEADS WHEN THEY ARE CREDIBLE, SOMETHING I CAN CORROBORATE AND FOLLOW UP ON. JUST BECAUSE I GET INFORMATION DOESN'T NECESSARILY MEAN IT'S GOOD INFORMATION. I HAVE TO FIGURE OUT IF IT IS GOING TO BE GOOD OR NOT.

Q. WELL, WHEN YOU RECEIVED THAT LEAD, IT WAS ABOUT STOLEN FOUR WHEELERS, RIGHT?

A. THAT IS CORRECT.

Q. WAS THAT THE FIRST TIME YOU EVER HEARD ABOUT STOLEN FOUR WHEELERS WITH REGARD TO THE ANDREW DOTSON CASE?

A. I DON'T KNOW WHAT DATE THAT WAS THAT YOU ARE REFERRING TO.

Q. I WILL SHOW YOU THIS TO SEE IF IT REFRESHES YOUR RECOLLECTION AND THEN I HAVE SOME QUESTIONS FOR YOU ABOUT IT.

A. NO, I THINK WE HEARD -- WE HEARD ABOUT IT BEFORE THIS. DETECTIVE FLOYD TOOK THIS CALL. WE HAD HEARD ABOUT IT THROUGH SOMEONE ELSE THAT THERE WAS POSSIBLY SOME ATV'S INVOLVED EARLIER THAN MARCH, EARLY MARCH.

Q. THIS DOCUMENT I AM SHOWING YOU TO REFRESH YOUR RECOLLECTION, WHAT IS THE CAPTION? WHO IS THE VICTIM?

A. ANDREW DOTSON -- YOU ASKED -- I THOUGHT YOU WERE ASKING ME IS THIS THE FIRST TIME I EVER HEARD ABOUT THIS. AM I MISUNDERSTANDING?

Q. ONE OF THE QUESTIONS I POSED TO YOU WAS THAT THE FIRST TIME YOU EVER HEARD ABOUT THIS?

A. NO, THIS WOULD NOT BE THE FIRST TIME I HEARD ABOUT THE ATV'S BEING STOLEN.

Q. RELATING TO ANDREW DOTSON'S CASE?

A. YES.

Q. WHEN DID YOU FIRST HEAR THAT KIND OF THING?

A. IT WOULD BE SHORTLY AFTER WE FOUND THE BODY.

Q. NOW, THE DATE THAT YOU CREATED THIS REPORT IS WHAT?

A. DETECTIVE FLOYD CREATED THE REPORT ON MARCH 5.

Q. THE DATE THAT HE REFERS TO YOU HAVING RECEIVED THE CALL IS WHAT DATE?

A. MARCH 5.

Q. '02?

A. THAT IS CORRECT.

Q. WHO IS THE SUBJECT OF THE LEAD?

A. JIMMY CONWAY.

Q. AND THERE IS MENTION OF --

A. ATV'S BEING STOLEN AND LOCATED IN GROVE CITY.

Q. WHAT DID YOU DO IN MARCH OF '02 TO FOLLOW UP ON THIS LEAD IN THE ANDREW DOTSON CASE?

A. WE PREPARED A SEARCH WARRANT AND WENT DOWN AND LOOKED AT THE STORAGE FACILITY THAT SUPPOSEDLY THEY WERE AT.

Q. WHAT DID THAT TURN UP?

A. NOTHING.

Q. THEN WHAT DID YOU DO WITH THIS LEAD?

A. WITH THAT LEAD -- WELL, THERE WAS NO ATV'S THERE, WE DIDN'T HAVE ANY OTHER, I GUESS, LEAD TO FOLLOW UP ON FROM THAT REFERENCE OF INFORMATION WE HAD THERE.

Q. THE CONFIDENTIAL INFORMANT THAT GAVE YOU THE LEAD WAS SOMEBODY YOU FELT TO BE RELIABLE, CORRECT?

A. YEAH.

Q. SO ONCE YOU DID THE SEARCH WARRANT AT THE ADDRESS, THAT WAS THE END OF IT; YOU WEREN'T GOING TO FOLLOW UP ON THAT LEAD ANY MORE THAT RELATED TO THE ANDREW DOTSON HOMICIDE?

A. WAS I STILL INVESTIGATING JIMMY CONWAY; IS THAT WHAT YOU ARE SAYING?

Q. YES.

A. ABSOLUTELY.

Q. WHAT STEPS WERE YOU TAKING TO DO THAT?

A. I HAD BACKGROUND INFORMATION ON MR. CONWAY'S BASIC CHARACTER. I KNEW IT WOULD BE NO GOOD FOR ME TO GO AND TALK TO HIM, SO I DIDN'T.

WHAT I DECIDED TO DO IS CONTACT S.I.U. AND ASK

THEM TO PUT S.I.U. DETECTIVES AROUND THE AREA AND SEE IF THERE WAS ANY NARCOTIC TRAFFICKING GOING ON, IF THERE WAS AN ATTEMPT TO MAKE A BUY AND AN ATTEMPT TO DEVELOP A C.I. ON THAT.

Q. WERE THOSE EFFORTS SUCCESSFUL?

A. YES, THEY WERE.

Q. CAN YOU DESCRIBE THAT TO THE JURY? LET ME BE MORE SPECIFIC THAN THAT.

WHAT DATE DID YOU SUCCESSFULLY COMPLETE THAT UNDERCOVER BUY?

A. I DON'T KNOW THE DATE. WE HAVE SO MANY SUMMARIES, IT IS HARD TO KNOW THE DATE SEVEN MONTHS AGO. IF YOU WILL GIVE ME A SUMMARY, I CAN -- I'M THINKING IT WAS FEBRUARY FOR SOME REASON. I DON'T KNOW. I CAN'T REMEMBER.

Q. SO THAT PREDATED THIS LEAD WHICH CAME IN MARCH OF '02?

A. SURE, IF I'M CORRECT, I JUST DON'T RECALL THE EXACT DATE OF THAT.

Q. DID YOU RECEIVE A LEAD ABOUT JIMMY CONWAY AND HIS POSSIBLE INVOLVEMENT IN THE ANDREW DOTSON CASE FROM JARED DILLEY?

A. I TALKED TO JARED ONCE, AND HE FELT THAT JIMMY HAD PROBABLY BEEN INVOLVED.

Q. WHAT OTHER INFORMATION DID HE PROVIDE YOU ABOUT THAT LEAD? LET ME STEP BACK.

DO YOU REMEMBER WHEN IT WAS YOU TALKED TO HIM?

A. NO. HE WAS IN JAIL. IT WAS IN THE JAIL.

Q. WHAT WAS THE DATE OF THAT CONTACT WITH JARED DILLEY AS REFLECTED BY THIS REPORT?

A. APRIL 8, '02.

Q. YOU SAY THAT WAS AT THE JAIL?

A. YEAH.

Q. IS THAT WHAT IS 370 SOUTH FRONT?

A. THAT IS CORRECT.

Q. THIS WAS AGAIN IN RELATION TO THE ANDREW DOTSON HOMICIDE?

A. THAT IS CORRECT.

Q. DID HE GIVE YOU ANY OTHER INFORMATION ABOUT WHAT HAPPENED TO ANDREW DOTSON BESIDES JUST THE PURE NAME OF JAMES CONWAY?

A. NOT THAT I RECALL.

Q. I WANT YOU TO LOOK AT THAT AND SEE IF IT REFRESHES YOUR RECOLLECTION.

A. IT'S A LITTLE BROKEN. IT IS JARED TALKING ABOUT SOME DEAL AND GOING TO WEST VIRGINIA, PICKING UP MONEY, AND THAT IS HOW HE GOT KILLED.

Q. SO IT'S ABOUT ANDREW DOTSON; IT IS ABOUT GOING TO WEST VIRGINIA TO PICK UP MONEY?

A. YES.

Q. AND THAT IS HOW HE GOT KILLED?

A. THAT'S WHAT JARED SAID.

Q. THAT WAS ON WHAT DATE?

A. APRIL 8.

Q. '02?

A. THAT IS CORRECT.

Q. AT SOME POINT IN TIME RONNIE TRENT, WHO BECAME TONY, THE HIT MAN, APPROACHED THE PROSECUTORS OR YOUR AGENCY ABOUT INFORMATION ABOUT THE ANDREW DOTSON HOMICIDE, DID HE NOT?

A. CORRECT.

Q. DO YOU REMEMBER WHEN THAT WAS?

A. LATE APRIL, APRIL 25, I WANT TO SAY.

Q. AFTER YOU TALKED TO MR. TRENT, DID YOU FORM AN OPINION AS TO WHETHER OR NOT HE HAD KNOWLEDGE OF THE ANDREW DOTSON HOMICIDE?

A. IT WAS POSSIBLE, JUST DUE TO THE FACT OF WHO HE WAS WITH, AND WE WANTED TO CORROBORATE SOME STUFF HE SAID BEFORE WE MADE THAT -- DEFINITELY HE KNEW SOME INFORMATION AND WE WANTED TO CORROBORATE SOME STUFF.

Q. YOU SAID IT WAS POSSIBLE BASED ON WHO HE WAS WITH. WHO WAS THAT?

A. HE WAS IN A CELL WITH MR. CONWAY.

Q. DO YOU REMEMBER HAVING A A CONVERSATION WITH RONALD TRENT AT THE DETECTIVE BUREAU ON OR AROUND APRIL 25, '02?

A. YES.

Q. AFTER THAT CONVERSATION, DID YOU HAVE A BELIEF THAT MR. TRENT HAD KNOWLEDGE OF THE ANDREW DOTSON HOMICIDE?

A. HE POSSIBLY COULD HAVE SOME. I MEAN, HE WAS INACCURATE IN SOME OF THE THINGS HE SAID.

MR. MCGOWAN: CAN WE APPROACH, YOUR HONOR?

THE COURT: YES.

- - -

THEREUPON, COURT AND COUNSEL CONFERRED AT THE BENCH OUT OF THE HEARING OF THE JURY AND THE REPORTER.

- - -

Q. (BY MR. MCGOWAN) WITH REGARD TO THAT APRIL 25 MEETING, I BELIEVE YOU INDICATED OR THE REST OF YOUR INVESTIGATORS INDICATED THAT TRENT HAD KNOWLEDGE AND WAS, IN FACT, WILLING TO WORK WITH YOU TO HELP ASSIST IN THIS INVESTIGATION; IS THAT TRUE?

A. THAT'S TRUE.

Q. THAT WAS ON APRIL 25, '02?

A. THAT'S TRUE.

Q. DO YOU REMEMBER ON APRIL 26, '02, INSTRUCTING THE JAIL OR HAVING ONE OF YOUR INVESTIGATORS INSTRUCT THE JAIL THAT IF THERE WAS ANY MOVEMENT OF TRENT FROM THAT JAIL, THAT YOU WERE TO BE NOTIFIED?

A. IF THERE WAS ANY MOVEMENT FROM THE JAIL?

Q. MOVEMENT OF TRENT WHERE HE IS LOCATED WITHIN THE

JAIL OR HE GOT OUT OF JAIL, OR IF HE BONDED OUT, ANY NUMBER OF THINGS?

A. IT'S POSSIBLE, I GUESS, IF I COULD SEE THE SUMMARY.

YES, YOU ARE CORRECT.

Q. AND THE PURPOSE OF THAT WAS BECAUSE MR. TRENT WAS GOING TO ASSIST YOU IN SOLVING THE ANDREW DOTSON HOMICIDE, CORRECT?

A. WELL, THAT WAS THE HOPE.

Q. THAT WAS APRIL 26?

A. CORRECT.

Q. WHEN IS THE FIRST TIME YOU MET WITH MIKE ARTHURS?

A. THE DATE, I DON'T KNOW.

Q. COULD IT HAVE BEEN MAY 13, '02?

A. VERY POSSIBLY. OKAY, CORRECT, MAY 13 IS THE FIRST TIME I MET HIM.

Q. WHO WAS PRESENT WITH MR. ARTHURS WHEN YOU HAD THAT MEETING?

A. HIS ATTORNEY.

Q. WERE THERE EFFORTS TO TALK TO HIM BEFORE THAT DATE?

A. THAT IS CORRECT.

Q. WAS IT MADE CLEAR TO YOU THAT HE WOULDN'T TALK TO YOU AT ALL WITHOUT HIS ATTORNEY THERE?

A. AT THE LOCATION WHERE WE TRIED TO TALK TO HIM?

Q. AT ANY POINT IN TIME ONCE YOU TRIED TO TALK TO HIM?

A. I NEVER GOT TO SPEAK TO HIM. I SPOKE WITH HIS PARENTS, AND THEY SAID THEY WOULD GIVE HIM THE MESSAGE.

Q. WHAT WAS THE STATUS OF HIS -- WAS HE UNDER ANY CRIMINAL INDICTMENT AT THAT TIME?

A. I THINK HE WAS. I AM NOT A HUNDRED PERCENT SURE, BUT I THINK HE WAS.

Q. AT SOME POINT IN TIME DO YOU HAVE KNOWLEDGE THAT HE BECAME INDICTED ON ANOTHER CHARGE IN ANOTHER COUNTY?

A. THAT IS CORRECT.

Q. DO YOU RECALL WHAT THOSE CHARGES WERE?

A. I THINK THEY WERE --

MS. PRICHARD: OBJECTION.

THE COURT: AND YOU ARE TALKING ABOUT MR. ARTHURS? THE OBJECTION IS OVERRULED.

THE WITNESS: I THINK IT WAS ROBBERY.

Q. (BY MR. MCGOWAN) AT THE TIME YOU HAD THE MEETING WITH HIM, I THINK YOU TESTIFIED ON DIRECT THAT THERE WERE NO PROMISES MADE TO HIM OR ANYTHING OF THAT NATURE?

A. WELL, I DON'T KNOW IF THERE WAS ANY PROMISES. THEY WERE TRYING TO WORK OUT A DEAL, I GUESS.

Q. THERE WERE NEGOTIATIONS?

A. THAT'S WHAT I UNDERSTOOD. I WASN'T ACTUALLY IN THE ROOM FOR THAT PART OF IT.

Q. AND REPRESENTING HIM, YOU WEREN'T REPRESENTING THE STATE IN THOSE NEGOTIATIONS, BUT DO YOU KNOW WHO WAS REPRESENTING HIM IN THOSE NEGOTIATIONS?

A. MIKE? HIS ATTORNEY.

Q. SO AT SOME POINT, SOME KIND OF A DEAL WAS WORKED OUT?

A. THAT IS CORRECT.

Q. AT SOME POINT HE CAME DOWN AND GAVE A STATEMENT THAT WAS RECORDED, CORRECT?

A. THAT IS CORRECT.

Q. AT SOME TIME YET LATER AFTER THAT AGREEMENT WAS REACHED WITH HIM AS TO WHAT THE STATE WOULD RECOMMEND, ET CETERA, IF HE DID ACCEPT THE DEAL, CORRECT?

A. THAT'S MY UNDERSTANDING.

Q. IF HE WASN'T HAPPY WITH THAT DEAL, DO YOU KNOW WHETHER OR NOT ANY OF THE STATEMENTS HE MADE COULD HAVE BEEN USED AGAINST HIM?

MS. PRICHARD: OBJECTION.

THE COURT: SUSTAINED.

Q. (BY MR. MCGOWAN) WAS PART OF THE DEAL WITH MIKE ARTHURS THAT HE WAS GOING TO GIVE A STATEMENT AND ONLY IF -- AND ONLY IF HE ENDED UP REACHING A DEAL WITH THE STATE AS TO A SENTENCING RECOMMENDATION, ET CETERA, WOULD THAT STATEMENT THEN BE ABLE TO BE USED AGAINST HIM?

A. I WASN'T IN THE ROOM FOR THE NEGOTIATIONS OF THE

DEAL.

MR. MCGOWAN: YOUR HONOR, MAY I HAVE A MOMENT?

Q. (BY MR. MCGOWAN) ARE YOU FAMILIAR WITH THE DEAL THAT WAS REACHED WITH MIKE ARTHURS?

A. I HAVEN'T REVIEWED IT.

Q. YOU HAVE NEVER REVIEWED IT EVER?

A. NO, I JUST WAS TOLD THAT HE WOULD BE COOPERATING BY HIS ATTORNEY.

Q. DO YOU HAVE ANY KNOWLEDGE AS TO WHETHER OR NOT THAT DEAL WOULD BE VIOLATED IF HE DIDN'T PROVIDE TESTIMONY IN THE ANDREW DOTSON SERIES OF CASES?

A. I WOULD IMAGINE IT WOULD BE. I DON'T KNOW THAT FOR SURE.

Q. WHEN YOU STARTED WORKING WITH RONNIE TRENT AS TONY, THE HIT MAN, WERE YOU AWARE THAT IN OCTOBER OF 2000, HE PROVIDED AN AFFIDAVIT THAT HE LATER ADMITTED WAS A LIE?

A. NO.

Q. WITH REGARD TO RONNIE TRENT, THERE WAS A DEAL REACHED, ALSO, WASN'T THERE?

A. CORRECT.

Q. AND AGAIN, A SIMILAR QUESTION, IF HE DIDN'T TESTIFY IN THESE CASES, WOULD HIS DEAL BE VIOLATED?

A. THAT WOULD BE MY UNDERSTANDING.

MR. MCGOWAN: YOUR HONOR, MAY I HAVE A

MOMENT?

THE COURT: YOU MAY.

Q. (BY MR. MCGOWAN) SO, DETECTIVE, WITH REGARD TO THE STATUS OF YOUR LEADS, WHEN YOU MADE THESE DEALS AND -- OR EXCUSE ME, DEALS WITH MIKE ARTHURS AND THE DEALS THEMSELVES, IT WASN'T AN ENTIRELY TRUE STATEMENT THAT YOU DIDN'T HAVE ANY ACTIVE LEADS AT THE TIME YOU MADE THE STATEMENT AND THE AGREEMENT WITH MIKE ARTHURS, IS IT?

A. MY DEFINITION OF LEADS IS SOMETHING I KNOW I CAN CORROBORATE, OKAY. I GET LEADS ALL THE TIME, BUT IT DOESN'T MEAN THEY ARE GOOD LEADS. IT MEANS THEY DON'T -- FOR LACK OF A BETTER TERM IN LEADS, I WOULD SAY, OKAY, WE HAVE LEADS, BUT IT'S NOT A CREDIBLE LEAD. WE HAVE A GUY THAT CONFESSES TO KILLING PEOPLE ALL THE TIME. THAT'S NOT A LEAD IF SOMEONE SAYS THEY DID SOMETHING.

SO AT THE TIME WHEN THESE DEALS, WHICH I SAID I WASN'T IN THE ROOM FOR, WHEN THEY MADE THOSE DEALS, WE HAD NOTHING TO CORROBORATE. WE HAD NOWHERE WE WERE REALLY GOING WITH THAT INVESTIGATION AT THAT TIME.

Q. WELL, THE FIRST TIME YOU TALKED TO MIKE ARTHURS WAS MID MAY, '02, RIGHT?

A. CORRECT.

Q. AND YOUR TESTIMONY IS THAT YOU HAD NOTHING TO GO WITH AT THAT TIME?

A. TO FOLLOW UP ON SPECIFICALLY THAT I COULD DO

SOMETHING WITH, NO.

Q. HADN'T YOU ALREADY MADE A DECISION, AS REFLECTED BY YOUR EARLIER TESTIMONY, THAT YOU ARE GOING TO HAVE -- THAT RONNIE TRENT PROVIDED IN THE INTERVIEW THAT HE HAD KNOWLEDGE OF THE CRIME AND WAS WILLING TO COOPERATE IN GOING FORWARD?

A. I BELIEVE THAT HE HAD SOME KNOWLEDGE. HOW VALUABLE IT WAS, I HAD NO IDEA AT THAT TIME. THAT'S WHY WE WERE GOING TO GET HIM TO WORK TO SEE IF IT WAS A GOOD LEAD OR NOT.

Q. SO MY POINT IS THAT IT WASN'T ENTIRELY TRUE THAT YOU DIDN'T HAVE ANY ACTIVE LEADS TO PURSUE AT THE TIME YOU MADE THE AGREEMENT WITH MIKE ARTHURS?

A. I GUESS UNDER YOUR TERMS OR YOUR DEFINITION OF LEADS, THAT WOULD BE INACCURATE, I GUESS, WITH HOW YOU ARE DEFINING LEADS.

Q. AND AS ESTABLISHED BY YOUR TESTIMONY THROUGH MY CROSS EXAMINATION, YOU HAVE HEARD JAMES CONWAY'S NAME SINCE OCTOBER OF '01 WHEN HIS BODY WAS FIRST FOUND AND THROUGHOUT THE WHOLE PERIOD OF TIME LEADING UP TO APRIL WHEN YOU TALKED TO RONNIE TRENT?

A. I HAD HEARD HIS NAME, THAT IS CORRECT.

Q. AND YOU HEARD ABOUT WEST VIRGINIA AND PICKING UP CASH, AND THAT IS WHEN ANDREW WAS KILLED FROM JARED DILLEY?

A. FROM JARED DILLEY, THAT IS CORRECT.

Q. THAT IS BEFORE RONALD TRENT EVEN CAME FORWARD, WASN'T IT?

A. YEAH.

MR. MCGOWAN: NO FURTHER QUESTIONS AT THIS TIME.

- - -

REDIRECT EXAMINATION

BY MS. PRICHARD:

Q. DETECTIVE, DURING THE COURSE OF THIS INVESTIGATION, DID THE EBERHARD FAMILY STAY IN CLOSE CONTACT?

A. YES.

Q. THEY DROPPED BY THE OFFICE OFTEN TO CHECK ON THE STATUS OF THE INVESTIGATION?

A. YES, THEY DID.

Q. DID THEY HAVE CONTACT WITH MORE DETECTIVES THAN JUST YOU?

A. YES.

Q. THE DATE -- THERE WAS, I GUESS, THE TAPE RECORDING THAT DIDN'T WORK ON MAY 24, YOU SAID?

A. THAT IS CORRECT.

Q. WAS THERE STILL A SURVEILLANCE LOG MADE AND STILL MONITORED?

A. YES.

Q. WHAT STEPS WERE TAKEN TO RECORD THAT CONVERSATION

SINCE THE TAPE FAILED?

A. DETECTIVES WERE ALL TOLD TO REDUCE IT TO WRITING.

Q. WHEN YOU SAY S.I.U. PREPARED SOME THINGS THAT YOU WERE SHOWN, IS THAT WHAT YOU MEANT?

A. THAT IS CORRECT.

Q. I WILL SHOW YOU THE MAY 17 TRANSCRIPT THAT WAS REFERENCED. I BELIEVE MR. MCGOWAN ASKED YOU IF IT MENTIONED ANDREW DOTSON'S NAME.

MR. MCGOWAN: OBJECTION, YOUR HONOR, ASSUMES FACTS NOT IN EVIDENCE.

THE COURT: THE QUESTION IS WHETHER YOU ASKED HIM ON CROSS EXAMINATION, SO FOR NOW IT IS OVERRULED.

Q. (BY MS. PRICHARD) TAKE A LOOK AT PAGE 23 AND PAGE 24 IN THAT TRANSCRIPT, AND I WILL ASK YOU IF THERE IS AN INDICATION THAT ON MAY 17 THEY WERE TALKING ABOUT THE DOTSON CRIME?

A. I WOULD HAVE TO READ THE WHOLE THING HERE. IT HAS SOME WRITING. OKAY, YES, ANDREW'S NAME IS MENTIONED HERE IN THE LAST PART OF IT, THAT IS CORRECT.

Q. IF YOU FLIP AGAIN TO PAGE 21, WHICH IS THE QUOTE YOU READ, I BELIEVE, WOULD YOU CONFIRM THAT?

A. OKAY, DO YOU WANT ME TO REPEAT IT?

Q. NO, YOU DON'T NEED TO. THAT IS THE QUOTE YOU READ, I BELIEVE, TALKING ABOUT NOT GOING TO CRY ABOUT WHAT I DID?

A. RIGHT, AND I WAS ASKED BEFORE AND AFTER WAS HIS NAME MENTIONED IN THE VERY PRECEDING PART OF IT, AND NO, IT WASN'T UNTIL THE NEXT PAGE.

Q. SO IT WAS MENTIONED?

A. THE NAME, ANDREW, WAS MENTIONED, THAT IS CORRECT.

Q. LET ME REFER YOU TO THE MAY 21 TRANSCRIPT. I BELIEVE YOU WERE ASKED IF THIS HAS SOMETHING TO DO WITH WHETHER JIMMY CONWAY AND JAMIE HORTON SHOULD HAVE BEEN THERE AND IF YOU SAY YOU ARE GOING TO DO SOMETHING, DO IT. DO YOU REMEMBER THAT CONVERSATION?

A. YES, MA'AM.

Q. IF YOU WILL TAKE A LOOK AT THIS TRANSCRIPT AND AS MUCH AS YOU NEED TO LOOK AT IT, START ON PAGE 16 --

MR. MCGOWAN: OBJECTION, YOUR HONOR.

THE COURT: I DON'T HAVE THE TRANSCRIPT. I AM NOT AWARE OF IT. IF YOU WILL COME UP HERE AND LET ME LOOK AT IT FOR A SECOND, YOU MAY DO SO.

- - -

THEREUPON, COURT AND COUNSEL CONFERRED AT THE BENCH OUT OF THE HEARING OF THE JURY AND THE REPORTER.

- - -

Q. (BY MS. PRICHARD) DETECTIVE, I GUESS BEFORE I SHOW YOU THAT, DO YOU RECALL ON THE MAY 21 DATE WHAT RONALD TRENT AND JAMIE HORTON WERE DOING WHEN THAT CONVERSATION OCCURRED ABOUT MAYBE SHOULDN'T HAVE BEEN

THERE?

A. SPECIFICALLY WHAT THEY WERE DOING, NO.

Q. CAN YOU LOOK AT THAT TRANSCRIPT AND REFRESH YOUR MEMORY, AND IF YOU LOOK THROUGH IT TO SEE WHAT THEY WERE DOING AT THE TIME?

A. STARTING ON PAGE 16?

Q. START WHEREVER YOU FEEL YOU NEED TO.

A. IT LOOKS LIKE THEY WERE GOING TO CHILLICOTHE.

Q. DO YOU RECALL WHOSE HOUSE THEY WERE GOING TO?

A. THEY WERE GOING TO SHAWN NIGHTINGALE'S, BUT, ALSO, PICKING OUT ADDRESSES, AND THEY WENT TO MIKE ARTHURS FIRST.

MR. MCGOWAN: JUDGE, I WILL MOVE TO STRIKE.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) AND THEY WERE HEADED TO MIKE ARTHURS' HOUSE?

A. CORRECT.

Q. AT THE TIME THAT STATEMENT WAS MADE?

A. CORRECT.

Q. THANK YOU.

YOU WERE ASKED ABOUT YOUR INTERPRETATION OF WHETHER THIS QUOTE FROM THAT TRANSCRIPT INDICATED TO YOU THAT JAMIE HORTON HAD PRIOR KNOWLEDGE OF THE DOTSON HOMICIDE. DO YOU RECALL THAT QUESTION?

A. CORRECT.

Q. WAS THERE SOMETHING ABOUT THIS INVESTIGATION THAT CAUSED YOU TO BELIEVE JAMIE HORTON HAD PRIOR KNOWLEDGE?

A. JUST CONSTANT CONVERSATIONS ABOUT ANDREW DOTSON AND GOING TO KILL OTHER PEOPLE AND THINGS OF THAT NATURE.

MR. MCGOWAN: JUDGE, MOVE TO STRIKE.

THE COURT: THE OBJECTION IS SUSTAINED AND THE JURY IS INSTRUCTED TO DISREGARD THE LAST STATEMENT.

Q. (BY MS. PRICHARD) WAS THERE MORE THAN JUST THAT QUOTE THAT HELPED YOU FORM THIS OPINION YOU WERE ASKED ABOUT AS TO WHETHER THERE WAS PRIOR KNOWLEDGE? AND YOU CAN JUST ANSWER THAT YES OR NO.

A. YES.

Q. THANK YOU.

WHO HIRED RONALD TRENT TO PLAY HIT MAN?

A. JAMES CONWAY.

Q. WHO WAS SUPPOSED TO BE JAMES CONWAY'S RIGHT-HAND MAN?

A. CALVIN HORTON.

MR. MCGOWAN: OBJECTION, MOVE TO STRIKE.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) THERE WAS SOME TALK OF THE MAY 20 TRANSCRIPT. MR. MCGOWAN ASKED YOU ABOUT A QUOTE OF JAMIE HORTON BEING SPOOKED. DO YOU RECALL THAT QUESTION?

A. YES.

Q. DO YOU REMEMBER ON MAY 20 WHAT JAMIE HORTON AND

RONALD TRENT WERE DOING?

A. IF I COULD LOOK AT THE TRANSCRIPT, IT WOULD HELP REFRESH MY MEMORY.

THEY WERE MEETING TO DO A TRANSACTION.

Q. WHAT DO YOU MEAN A TRANSACTION?

A. RECEIVING NARCOTICS AND GUNS.

Q. DID THEY --

MR. MCGOWAN: OBJECTION, MOVE TO STRIKE.

THE COURT: SUSTAINED.

Q. (BY MS. PRICHARD) WERE THEY PREPARING FOR ANY TRIPS THAT DAY?

A. I THINK THEY WERE JUST TALKING ABOUT GOING TO CHILLICOTHE. I THINK THAT'S WHAT THEY WERE TALKING ABOUT, YEAH.

Q. DID YOU SEE ANY CONDUCT BY MR. HORTON THAT INDICATED HE WAS NOT, IN FACT, SPOOKED?

MR. MCGOWAN: OBJECTION AS TO FORMAT.

THE COURT: OVERRULED. YOU MAY ANSWER THE QUESTION.

THE WITNESS: COULD YOU SAY IT AGAIN, PLEASE?

Q. (BY MS. PRICHARD) DID YOU SEE ANY CONDUCT BY MR. HORTON THAT INDICATED HE WASN'T SPOOKED?

A. HE WASN'T SPOOKED?

Q. YES.

A. I DIDN'T SEE ANY CONDUCT THAT HE WAS SPOOKED,

THAT HE WAS SCARED OF ANYTHING.

Q. YOU ARE SAYING YOU NEVER SAW ANY CONDUCT THAT HE WAS SPOOKED?

A. I THINK THERE WAS REFERENCE TO A HELICOPTER BEING OVER TOP, SOMETHING OF THAT NATURE. I THINK THERE WAS A REFERENCE TO COPS AGAIN, AS BEST I CAN REMEMBER, IF THIS IS THE RIGHT TRANSCRIPT.

Q. DO YOU RECALL, IF YOU CAN APPROXIMATE THE NUMBER OF REFERENCES MR. HORTON MADE TO BEING CONCERNED ABOUT THE POLICE?

A. NUMEROUS.

MR. MCGOWAN: OBJECTION.

THE COURT: OVERRULED.

Q. (BY MS. PRICHARD) DO YOU REMEMBER ANY EXACT QUOTES?

A. EXACT QUOTES, NO, JUST NUMEROUS REFERENCES OF AFRAID OF GETTING CAUGHT OR AFRAID THAT RONNIE WAS A COP.

Q. IF I SHOWED YOU THE TRANSCRIPT, WOULD YOU BE ABLE TO TELL US THE DATE OF SOME OF THOSE COMMENTS?

A. THAT WOULD HELP.

Q. SHOWING YOU A TRANSCRIPT MARKED MAY 19, CAN YOU TELL ME IF THAT REFRESHES YOUR MEMORY?

A. CORRECT, YEAH. IT IS MAKING REFERENCE TO BEING A COP AGAIN. IT JUST SAYS, "AT LEAST YOU KNOW I AM NOT TRYING TO BE SCARED OR NOTHING".

Q. I BELIEVE YOU WERE INDICATING THE COMMENTS THAT MR. HORTON MADE THAT INDICATED THERE WAS A POLICE CONCERN?

A. CORRECT. IT MAKES REFERENCE THAT, "I MEAN, I DIDN'T SAY THAT I THINK HE IS A COP, BUT I SEE SHIT LIKE THIS ON TV, YOU KNOW WHAT I AM SAYING".

Q. THESE SORT OF COMMENTS WERE ON MORE THAN ONE OCCASION?

A. YES.

Q. DID MR. HORTON CONTINUE TO MEET WITH RONALD TRENT AFTER THE MAY 20 CONVERSATION ABOUT BEING SPOOKED?

A. YES.

Q. HOW MANY DAYS AFTER -- I MEAN, WERE THERE CONTINUOUS DAYS AFTER MAY 20?

A. YES, QUITE A FEW.

Q. DO YOU REMEMBER WHEN MR. TRENT QUIT WORKING AND MEETING WITH THE DEFENDANT?

A. THE EXACT DAY, NO. IT WAS JUST WHEN WE THOUGHT -- MAY 28 OR MAY 27, I CAN'T REMEMBER EXACTLY, BUT IT WAS QUITE A BIT OF TIME LATER.

Q. TOWARD THE END OF MAY?

A. CORRECT.

Q. DID MR. HORTON MAKE A JAIL VISIT WITH MR. TRENT AFTER MAY 20?

A. DID HE GO TO THE JAIL? YES, THAT IS CORRECT, THEY WENT TOGETHER.

Q. AND WERE CALLS STILL CONTINUING AFTER MAY 20?

A. ABSOLUTELY.

Q. THERE WAS SOME TALK ABOUT THE INVESTIGATION WITH RESPECT TO JIMMY CONWAY. IF YOU QUESTIONED JIMMY CONWAY OR HIS ASSOCIATES, WOULD THAT HAVE COMPROMISED WHAT S.I.U. WAS DOING?

A. ABSOLUTELY.

Q. CAN YOU EXPLAIN TO THE JURY WHY?

A. THEN HE WOULD HAVE KNOWN THAT HE WAS A PERSON WE WERE LOOKING AT AND I DIDN'T WANT HIM TO KNOW WE WERE LOOKING AT HIM AT THAT TIME. I WANTED HIM TO RELAX AND HAVE HIS GUARD DOWN.

Q. AND YOU SAID YOU BELIEVE IT WAS ABOUT FEBRUARY WHERE YOU HAD S.I.U. TAKING STEPS TO KIND OF MONITOR HIM?

A. I THINK THAT WAS THE MONTH.

Q. AT THAT TIME WAS THERE ANYTHING TO CORROBORATE ANYTHING YOU HAD HEARD FROM ANY SOURCES THAT WOULD, I GUESS, PROVE THE CASE AGAINST JIMMY CONWAY?

A. NO.

Q. YOU DIDN'T BECOME INVOLVED -- YOU WEREN'T INVOLVED IN THE JESSE JAMES SHOOTING?

A. NO.

Q. YOU FIRST MET WITH MR. TRENT, I BELIEVE YOU SAID, APRIL 25?

A. I THINK THAT IS CORRECT.

Q. ARE YOU AWARE OF WHETHER OR NOT OUR OFFICE HAD CONTACT WITH HIM PRIOR TO THAT?

A. IT IS MY UNDERSTANDING THAT YOU DID.

Q. WHEN YOU SPOKE TO MR. TRENT, DID HE PROVIDE INFORMATION ON MORE THAN JUST THIS CASE?

A. YES, HE DID.

Q. WAS HE BEING WORKED, I GUESS, ON SEVERAL CASES?

A. YES, HE WAS.

Q. DID YOU TAKE STEPS TO CORROBORATE WHAT MR. TRENT HAD TOLD YOU?

A. YES, I DID.

Q. RONALD TRENT WASN'T AT THE SCENE OF THE ANDREW DOTSON HOMICIDE, CORRECT?

A. NO, HE WAS NOT.

Q. UNLESS MR. TRENT GOT INFORMATION FROM MR. CONWAY, WAS HE GOING TO BE ABLE TO ASSIST YOU IN THE CASE?

A. NO.

Q. AND HE DIDN'T BEGIN WORKING WITH YOU UNTIL APPROXIMATELY WHAT DATE?

A. IT WAS A LITTLE WHILE AFTER. IT WAS A WEEK OR SO AFTER, I THINK.

Q. WOULD THAT BE AFTER MIKE ARTHURS CAME FORWARD?

A. YES, THAT PROBABLY WOULD BE CORRECT.

Q. ARE YOU AWARE OF WHETHER OR NOT THE PROSECUTOR'S OFFICE MET WITH MIKE ARTHURS BEFORE YOUR INTERVIEW?

A. IT IS MY UNDERSTANDING THEY DID.

Q. THE DAY YOU WENT OUT TO MIKE ARTHURS AND I GUESS LEFT A MESSAGE WITH HIS PARENTS, HOW CLOSE IN TIME WAS THAT TO THE DAY YOU MET MIKE ARTHURS?

A. WITHIN A WEEK OR SO. IT WASN'T VERY LONG.

Q. WHO REPRESENTED THE STATE OR YOUR OFFICE IN THE NEGOTIATIONS WITH MIKE ARTHURS?

A. MY CHIEF WAS THERE. BASICALLY, MY CHIEF AND --

Q. CHIEF MARTIN?

A. CHIEF MARTIN.

Q. DO YOU KNOW WHO FROM THE PROSECUTOR'S OFFICE?

A. DAVE DEVILLERS.

Q. DO YOU RECALL WHETHER ANYBODY ELSE WAS PART OF THOSE NEGOTIATIONS?

A. MICHAEL'S ATTORNEY, I GUESS.

Q. WERE THERE ANY DISCUSSIONS WITH RON O'BRIEN ABOUT THAT MATTER?

A. OKAY, I'M SURE THERE WAS.

Q. ARE YOU AWARE OF WHETHER OR NOT RON O'BRIEN GOT INVOLVED IN THOSE NEGOTIATIONS?

A. I DON'T KNOW FOR SURE.

Q. AND DID YOU TAKE STEPS TO CORROBORATE WHAT MR. MIKE ARTHURS SAID?

A. THAT IS CORRECT.

Q. WAS THAT PRIOR TO GIVING HIM A DEAL, IF YOU KNOW?

A. THAT WOULD BE CORRECT.

Q. WAS THERE ANY INDEPENDENT EVIDENCE TO CORROBORATE RONNIE TRENT WHEN YOU VERY FIRST TALKED TO HIM ABOUT THE DOTSON CASE?

A. NO.

Q. WHEN WORKING WITH HIM, DID YOU TAPE CONVERSATIONS TO, I GUESS, DOCUMENT THINGS AND ADD TO HIS CREDIBILITY?

A. YES.

Q. WHO WAS THE FIRST PERSON TO COME FORWARD, WHO HAD ACTUAL EVIDENCE OF WHAT HAPPENED AT THAT ANDREW DOTSON HOMICIDE SCENE?

A. MIKE ARTHURS.

Q. WHEN YOU FIRST HEARD THE CONWAY NAME ASSOCIATED WITH THE CASE, DID THAT GIVE YOU ENOUGH TO JUST GO AND ARREST HIM?

A. NO.

Q. DID YOU NEED FIRSTHAND INFORMATION TO SOLVE THIS CASE?

A. ABSOLUTELY.

MS. PRICHARD: NOTHING FURTHER.

- - -

RECROSS EXAMINATION

BY MR. MCGOWAN:

Q. YOU WERE ASKED ON REDIRECT ABOUT WHETHER OR NOT ANDREW DOTSON'S NAME SHOWED UP ANYWHERE IN THAT ONE

TRANSCRIPT?

A. CORRECT.

Q. THAT WASN'T THE QUESTION I ASKED YOU, WAS IT? DIDN'T I ASK YOU IMMEDIATELY BEFORE THAT OR IMMEDIATELY AFTER THAT IF ANYTHING WAS DISCUSSED ABOUT THE DOTSON HOMICIDE?

A. I THINK THAT WAS YOUR QUESTION.

Q. SO THE FACT THAT HIS NAME POPPED UP SOMEWHERE IN THAT TRANSCRIPT DOESN'T TELL THE JURY ANYTHING ABOUT THAT STATEMENT YOU TESTIFIED ABOUT?

MS. PRICHARD: OBJECTION.

THE COURT: OVERRULED.

THE WITNESS: I THINK IT DOES BUT --

Q. (BY MR. MCGOWAN) THE FACT IS THAT DOTSON'S NAME APPEARS SOMEWHERE IN THAT TRANSCRIPT?

A. IN REFERENCE TO WHAT THEY WERE TALKING ABOUT, I THOUGHT SO.

Q. YOU TOLD THE JURY THAT IT WAS ONE PAGE LATER. WASN'T IT TWO PAGES LATER?

A. IT COULD HAVE BEEN. I JUST FLIPPED THROUGH QUICKLY.

Q. IT WAS PAGE 21 VERSUS PAGE 23?

A. OKAY.

Q. AGAIN, WHAT DOES IT SAY ON PAGE 23 ABOUT ANDREW DOTSON?

THE COURT: YOU MAY APPROACH THE WITNESS.

MR. MCGOWAN: THANK YOU, YOUR HONOR.

THE WITNESS: IT JUST SAYS, "HE IS FREAKING OUT BECAUSE OF THE WAY ANDREW WAS KILLED, YOU KNOW WHAT I AM SAYING".

Q. (BY MR. MCGOWAN) NOW, THAT IS TWO PAGES AFTER THAT STATEMENT YOU TALKED ABOUT, RIGHT?

A. THAT IS CORRECT.

Q. WHICH IS ON PAGE 21?

A. YES.

Q. IS THAT THE FIRST TIME ANYTHING IS SAID ABOUT ANDREW AFTER THAT STATEMENT?

A. IT SAYS HIS NAME SPECIFICALLY, YES. THAT SAYS HIS NAME.

Q. CAN YOU TELL THE JURY ANYTHING ELSE IN THIS TRANSCRIPT THAT WOULD INDICATE THAT THIS STATEMENT THAT YOU TALKED ABOUT JAMIE HORTON MAKING HAD ANYTHING IN THE WORLD TO DO WITH ANDREW DOTSON'S HOMICIDE?

A. I CAN LOOK IT OVER. HIS NAME COMES UP ON PAGE 11.

Q. HIS NAME COMES UP ON PAGE 11?

A. ABOUT BURYING HIM.

Q. SO THAT TELLS YOU THAT THE STATEMENT MADE BY JAMIE TEN PAGES LATER WAS ABOUT THAT?

A. YOU ASKED ME IF HIS NAME CAME UP.

Q. NO, THAT IS NOT WHAT I AM ASKING. I AM ASKING YOU WHAT IN THERE TELLS YOU THAT STATEMENT YOU ARE ATTRIBUTING TO JAMIE HORTON RELATES TO ANDREW DOTSON'S HOMICIDE, NOT JUST HIS NAME APPEARS IN THERE ANYWHERE.

A. OKAY. THAT IS HOW I INTERPRET IT. IT'S WHAT I SAID.

Q. SO BECAUSE ANDREW DOTSON'S NAME IS IN THERE SOMEWHERE, YOU ARE INTERPRETING THAT TO APPLY TO ANDREW DOTSON'S HOMICIDE?

A. YES.

Q. NOWHERE ELSE IN HERE CAN YOU POINT TO SOMETHING THAT JURY CAN FIGURE OUT THE CONTEXT OF THAT STATEMENT JAMIE MADE?

A. I CAN SHOW YOU HIS NAME. THAT'S ALL I CAN DO.

Q. OKAY. NOW, YOU WERE SHOWN A TRANSCRIPT BY MS. PRICHARD THAT PURPORTS TO BE MAY 19, '02?

A. THAT IS CORRECT.

Q. THAT WOULD BE BEFORE THE MAY 20 TRANSCRIPT WHERE THE QUOTE IS ABOUT BEING SPOOKED, RIGHT?

A. CORRECT.

Q. MAY 19. WHAT DOES TONY, THE HIT MAN, SAY RIGHT THERE?

A. YOU WANT ME TO REPEAT IT?

Q. YES.

A. "I FEEL YOU. THE MOTHER FUCKER JUST SHOWED ME A

VIDEO OF A DEAD MOTHER FUCKER AND WOULDN'T WANT TO RIDE WITH HIM EITHER."

Q. ISN'T IT, "I WOULDN'T WANT TO RIDE WITH HIM EITHER"?

A. THAT'S WHAT HE SAYS.

Q. WHAT RIDE IS HE TALKING ABOUT TO? THIS IS A CONVERSATION WITH JAMIE HORTON, RIGHT?

A. THAT IS CORRECT.

Q. WHAT RIDE IS HE TALKING ABOUT WITH JAMIE HORTON?

A. GOING TO CHILLICOTHE.

Q. WHAT DID JAMIE HORTON SAY ACCORDING TO THIS TRANSCRIPT RIGHT BEFORE HE EXPLAINS THAT STATEMENT ABOUT, "I WOULDN'T WANT TO RIDE WITH HIM EITHER"?

A. HE SAYS, "I MEAN, I DON'T SAY NOTHING BAD BUT DUDE, I JUST GOT SCARED".

Q. "I JUST GOT SCARED"?

A. CORRECT.

Q. THERE IS NOTHING, NO REFERENCE THERE TO BEING ARRESTED OR FEARING SOMEBODY IS A COP, IS THERE?

A. YEAH, TONY, RONNIE, JUST SAID I AM NOT A COP. HE JUST SAID, "HOOK ME UP, DUDE". THAT'S ALL.

Q. WHERE DOES IT SAY THAT --

A. "I AM NOT A COP."

Q. THEN WHAT DOES HE SAY HERE ABOUT -- WHAT DOES TONY SAY AFTER HORTON SAYS HE IS SCARED?

A. THEN HE MAKES A REFERENCE TO THE VIDEOTAPE, ABOUT NOT WANTING TO RIDE EITHER WHEN HE SAW THE VIDEOTAPE.

Q. IT SAYS, "IF THE MOTHER FUCKER JUST SHOWED ME A VIDEO OF THE DEAD MOTHER FUCKER, I WOULDN'T WANT TO RIDE WITH HIM EITHER".

A. THAT IS CORRECT.

Q. DO YOU THINK WHAT TONY MEANT THERE IS THAT A COP SHOWED JAMIE A VIDEO OF A DEAD MOTHER FUCKER?

MS. PRICHARD: OBJECTION.

THE COURT: SUSTAINED.

Q. (BY MR. MCGOWAN) SO THAT IS ON THE 19TH, RIGHT?

A. CORRECT.

Q. AND AGAIN, ON THE 20TH, WHAT DOES TONY, THE HIT MAN, SAY WITH REFERENCE TO JAMIE HORTON BEING SPOOKED ON THE 20TH?

A. HE TELLS HIM TO QUIT BEING SPOOKED. HE SAYS, "YOU KNOW WHAT I AM SAYING, JUST QUIT BEING SPOOKED. I AM NOT GOING TO DO NOTHING TO YOU, MAN."

Q. "I AM NOT GOING TO DO NOTHING TO YOU, MAN"?

A. RIGHT.

Q. THAT'S THE DAY AFTER HE JUST SAID I WOULD BE SCARED ALSO IF SOMEONE JUST SHOWED ME A VIDEO OF SOMEBODY GETTING KILLED?

A. THAT IS CORRECT.

Q. NOW, YOU TALKED ABOUT THIS WHOLE ISSUE OF LEADS

AND WHETHER YOU HAD ACTUAL LEADS, AND MIKE ARTHURS AND THE DEAL HE GOT AND EVERYTHING ELSE.

IS WHAT YOU ARE TELLING THE JURY IS THAT BECAUSE YOU DIDN'T HAVE ANYTHING YET ON JAMES CONWAY, THAT YOU WERE GOING TO TAKE WHATEVER MIKE ARTHURS SAID AS BEING ABSOLUTELY THE TRUTH ABOUT WHAT HAPPENED OUT THERE THAT DAY?

A. I HAD TO CORROBORATE WHAT HE SAID. AGAIN, I DIDN'T MAKE THE DEAL.

Q. WELL, YOU TESTIFIED THAT HE WAS NEEDED TO SOLVE THIS CASE, RIGHT?

A. THAT IS CORRECT.

Q. AND THAT IS YOUR OPINION, NOT ANYBODY ELSE'S THAT MADE A DEAL WITH HIM?

A. NO, THAT PROBABLY WOULD BE MY CHIEF'S OPINION SINCE HE MADE THE DEAL.

Q. YOU TESTIFIED ON DIRECT THAT THAT WAS YOUR ANSWER?

A. THAT'S MY OPINION, TOO.

Q. THAT IT WAS NEEDED?

A. YES, IT WAS.

Q. WHAT IF MIKE ARTHURS WASN'T TELLING THE TRUTH?

A. I ASSUME HE --

MS. PRICHARD: OBJECTION. CAN WE APPROACH?

THE COURT: YOU MAY.

- - -

THEREUPON, COURT AND COUNSEL CONFERRED AT THE BENCH OUT OF THE HEARING OF THE JURY AND THE REPORTER.

- - -

Q. (BY MR. MCGOWAN) DO YOU REMEMBER THE QUESTION, DETECTIVE?

A. NO, IF YOU COULD ASK ME AGAIN.

Q. PROBABLY THE SHORTEST QUESTION I HAVE EVER ASKED YOU SO FAR.

WHAT IF MIKE ARTHURS WASN'T TELLING THE TRUTH?

A. I ASSUME THAT HE WOULDN'T HAVE GOT A DEAL.

Q. THAT'S PROBABLY HOW IT SHOULD BE, RIGHT?

A. YES.

MR. MCGOWAN: NO FURTHER QUESTIONS.

- - -

FURTHER REDIRECT EXAMINATION

BY MS. PRICHARD:

Q. DID JAMIE HORTON GIVE RONALD TRENT A GUN ON MAY 23 AND MAY 24?

A. YES.

MR. MCGOWAN: OBJECTION, MOVE TO STRIKE, YOUR HONOR.

THE COURT: OVERRULED.

MS. PRICHARD: NOTHING FURTHER.

MR. MCGOWAN: NOTHING FURTHER.

THE COURT: YOU MAY STEP DOWN. THANK YOU, SIR.

- - -

THE COURT: MEMBERS OF THE JURY, THIS HAS BEEN A LONG AFTERNOON AND HOT IN HERE. WE DO WANT TO THANK YOU FOR YOUR PATIENCE. WE ARE GOING TO ASK YOU TO REPORT TO THE FIRST FLOOR ON MONDAY AT TEN O'CLOCK. AGAIN, SHELLY WILL COME DOWN AND GET YOU WHEN WE ARE READY TO PROCEED.

FOR PURPOSES OF PLANNING, WE DO BELIEVE THAT WE ARE ON SCHEDULE FOR DELIBERATIONS TO BEGIN TUESDAY EVENING. WE WILL LET YOU KNOW AS WE GET CLOSER ON MONDAY TO MAKE SURE THAT IS WHERE WE ARE, BUT THAT'S WHEN SEQUESTRATION WOULD BEGIN IF, IN FACT, WE STAY ON THAT SCHEDULE. I WANTED TO GIVE YOU THAT INFORMATION SO THAT YOU CAN PREPARE FOR THAT.

WHILE WE ARE IN A RATHER LENGTHY RECESS BECAUSE OF THE WEEKEND, AND I KNOW THAT YOU HAVE HEARD A LOT OF EVIDENCE, YOU CERTAINLY CANNOT MAKE UP YOUR OPINION ON THIS MATTER. YOU CANNOT DISCUSS THE CASE WITH ANYONE OR EVEN AMONG YOURSELVES. YOU ARE PROHIBITED FROM CONDUCTING ANY INVESTIGATION AND, ALSO SHOULD THIS CASE RECEIVE ANY MEDIA ATTENTION, YOU KNOW THAT YOU ARE NOT TO FOLLOW ANY OF THOSE MEDIA ACCOUNTS.

SO WE THANK YOU AGAIN, AND WE WILL SEE YOU MONDAY. HAVE A NICE WEEKEND.

- - -

THEREUPON, THE JURY LEFT THE COURTROOM AND THE FOLLOWING PROCEEDINGS WERE HELD:

THE COURT: WITH REGARD TO THE STATEMENT THAT YOU ARE WANTING TO QUESTION THE DETECTIVE ON WITH REGARD TO THE STATEMENT HANDWRITTEN OUT BY MR. TRENT, IS THERE ANY ARGUMENT YOU WISH TO STATE ON THE RECORD WITH REGARD TO THAT ISSUE?

MR. MCGOWAN: YES, YOUR HONOR. I WOULD JUST PROFFER, AND I BELIEVE YOU ALREADY SAW THE DOCUMENT, THAT THAT DOCUMENT DID INDICATE SOME SPECIFIC QUANTITIES OF DRUGS THAT TRENT WAS REPRESENTING SHAWN NIGHTINGALE INDICATED MR. DOTSON WAS -- AND USED THE WORD FED, I BELIEVE, 11 XANAX, THREE SOMA, AND IT TRAILED OFF AND -- APPARENTLY, THERE IS ANOTHER PAGE THAT I HAVE NOT SEEN BUT AT LEAST WANTED TO ESTABLISH THAT POINT BECAUSE AGAIN, THE WHOLE ISSUE THERE WAS THERE WAS NO TAPE THAT DAY, AND THAT IS ONE OF THE ISSUES IN THE CASE AS TO WHAT DRUGS HAD BEEN INGESTED BY MR. DOTSON ON THE DATE OF HIS DEATH, AND I THINK THAT WAS RELEVANT AND IT WAS ADMISSIBLE FOR THAT PURPOSE.

THE COURT: FROM THE PROSECUTION, PLEASE?

MR. LOWE: IN REGARD TO THE STATEMENT THAT RONNIE TRENT WROTE OUT, THE STATE'S POSITION IS THAT MR. TRENT WAS NOT UNAVAILABLE. IN FACT, HE TESTIFIED

ZACHARY SCOTT

Called as a witness on behalf of the Plaintiff, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. PRICHARD:

Q. Your name, please.

A. My name is Zachary Scott.

Q. And you work for the Franklin County Sheriff's Office?

A. I do.

Q. Were you one of the detectives assigned to the Andrew Dotson homicide?

A. I was.

Q. Do you remember about what date the homicide occurred?

A. Well the time we found the body I think was October 10th of 2001.

Q. And the case, was it solved in any way?

A. No.

Q. At what point, just an approximation, was the case solved?

A. It would be in -- well how do you define solved. I guess would be we had enough to go forth with an indictment I guess would have been in May of 2002.



Q. And how is it that information came to you to implicate James Conway?

A. We had several people tell us they thought he was involved. But before we got actual substantial information would be through an informant.

Q. And that informant is Ronnie Trent?

A. That's correct.

Q. How is it you first spoke with Ronald Trent?

A. Your office called me and apparently he had information and you wanted to have a meeting.

Q. Let me show you State's Exhibit I1 and I2. Tell me if you've seen those documents?

A. Yes, I have.

Q. And are those documents that I, in fact, shared with you?

A. Yeah.

Q. And then based on that information, was a meeting set up to talk with Ronald Trent?

A. That is correct.

Q. Were members of the prosecutor's office present at that meeting?

A. Correct.

Q. Do you recall if Ronald Trent was represented by an attorney at that meeting?

A. He was.

Q. And did he indicate he had information on the Andrew Dotson homicide?

A. Yes, he did.

Q. How did he inform you that he had some information? How did he gather his information?

A. He told us that he was in the same cell with Mr. Conway and that they'd been talking and Mr. Conway had told him certain aspects of the homicide.

Q. Did you or anybody from your agency place Ronald Trent in the same cell with James Conway?

A. No.

THE COURT: Just one second, sir. Can you see all right or is the podium --

MR. SUHR: No.

THE COURT: Just go ahead and slide the podium back.

BY MS. PRICHARD:

Q. When Mr. Conway was in jail, was he in jail on any charges lodged by any agency for

the Andrew Dotson homicide?

A. No.

Q. Do you recall what case he was in jail on?

A. We've referred to it as the Dockside Dolls shooting which I think was Jurvis -- Mr. Jurvis, Jarvis. I may be stating the name wrong.

Q. And was Mr. Conway in jail before or after Ronald Trent was in jail?

A. I don't recall that. I don't remember when Ronnie Trent was arrested. I think Mr. Conway was arrested in February, if I can remember correctly.

MR. SUHR: Excuse me?

THE WITNESS: It may have been February he was arrested. I don't remember exactly.

BY MS. PRICHARD:

Q. So Mr. Conway got arrested and he ends up in the same cell with Ronnie Trent?

A. That is correct.

Q. By no doing of yours or anybody with your agency?

MR. SUHR: Object.

THE COURT: Overruled.

THE WITNESS: That's correct.

THE COURT: Let's not lead the witness.

MS. PRICHARD: Okay, Your Honor. I'm trying to move things.

BY MS. PRICHARD:

Q. Let me show you State's Exhibit I3. Do you recognize that?

A. This is another letter, yes. Another letter written by Ron Trent.

Q. And what's the date of that letter?

A. Wednesday, April 10th, 2002.

Q. Those two letters, were those shared with you by the prosecutor's office?

A. That's correct.

Q. Did you use that information in any way in deciding whether or not you wanted to interview Ronnie Trent?

A. Well, yeah. He had information, so we wanted to actually set up an interview and see if his information was good or if he was just making things up. We didn't know at the time. We wanted to see what he actually knew.

Q. Did something about those letters indicate to you that he might have information?

A. Yeah. Some of the stuff did. Just some

of the comments he made in here.

Q. And steps were made to interview him?

A. Correct.

Q. Do you recall the date of that interview?

A. April 25th, I think.

Q. Was that interview tape-recorded?

A. Yes, it was.

Q. Show you State's Exhibit I7. Do you recognize that?

A. This will be the transcript of the interview on April 25th of 2002.

Q. You were present at that interview?

A. Yes, ma'am.

Q. Prior to that interview, had anyone your agency made any sort of agreement with Ronald Trent?

A. No.

Q. You promised him anything when he gave you that information?

A. No.

Q. You conducted that information and tape-recorded it?

A. Yes.

Q. And at the time you gathered that

information, his attorney was present?

A. Correct.

Q. And the prosecutors were present?

A. Correct.

Q. Were any promises made directly after he gave you that information?

A. No.

MR. SUHR: Excuse me. You said his attorney was present. Are you talking about the Defendant's?

MS. PRICHARD: Ronald Trent.

BY MS. PRICHARD:

Q. The Defendant was not present at this meeting?

A. The Defendant, Jim Conway, no, he was not.

Q. This is Ronald Trent we're talking about?

A. Correct.

Q. What was the purpose of that interview?

A. To see how much information Mr. Trent actually had.

Q. And did he give you information?

A. Yes, he did.

Q. Did he give you information about the

Andrew Dotson homicide?

A. Yes, he did.

Q. Did he give you information about any other crimes?

A. Yes, he did.

Q. What other crimes?

A. Plans to kill other people.

Q. In relation to the Andrew Dotson homicide?

A. Well it was in relation to the Andrew Dotson homicide, in relation to the Dockside Dolls homicide. There's other crimes that it was all related to the killings were the information we were getting.

Q. So Mr. Trent had information related to several different cases?

A. That's correct.

Q. And when that meeting was over, after the tape-recorded interview, what instructions did you give to Mr. Trent?

A. I told him to stop talking to Mr. Conway. Avoid talking about anything to do with the investigations.

Q. Did he indicate to you whether that would be a problem?

A. He said that Conway brings it up to him all the time. I said avoid him. I don't want him talking about it because it doesn't do you any good when you're talking about it and when you're out of jail we asked you to corroborate what you're saying, Mr. Conway's going to look at you and say I just told you. I told him to stop talking about it until you're out of jail.

Q. Did you have plans to get him out of jail?

A. Yes.

Q. And what needed to be done before you could get him out of jail?

A. Work-release-type program had to be set up for him.

Q. Did other people in agencies have to be contacted?

A. Yes, they did.

Q. About how long did that process take?

A. Well we took him out for a polygraph. I can't remember all the dates exactly. There was several dates. The actual first date we got him out may have been like May 16th, maybe.

Q. And this interview is April 25th?

A. Yeah. So it took a while.

Q. You said you polygraphed Mr. Trent?

MR. SUHR: Objection.

THE COURT: Overruled.

THE WITNESS: Yes.

BY MS. PRICHARD:

Q. And that happened before the May 16th date you're referring to?

A. Yes, it did.

Q. So that had to be done?

A. It was contingent. It had to be done before we'd get him out.

Q. And at some point in May, you said you believe the 16th, you got him out of jail. What do you mean by that?

A. He was is down doing work release. We had a step where he was work release he had to be down at the Jackson Pike facility and that's where he stayed and when he came out to work. We took him out of the jail and took him back.

Q. So May 16th he would have been moved out of the cell with James Conway?

A. The actual date that he moved out was probably before May 16th I'd imagine, but I don't know for sure. But I wanted to get him away from Mr. Conway.

Q. When he got moved to Jackson Pike, did he begin working with your agency?

A. Yes.

Q. What did that entail?

A. We gave him his own phone and we take him out and then he would attempt to make contact with Mr. Conway. He made contact with some members of what we labeled at that time Mr. Conway's associates to get instructions for criminal activities that he was told to do by Mr. Conway according to him.

Q. The information that he was getting or I guess the work he was doing, did that relate to the Andrew Dotson homicide?

A. Yes, it did.

Q. In what way?

A. Just trying to obtain corroborative information that was already told to us. We just had basic information we wanted to corroborate that was, in fact, true.

Q. And by that, do you mean corroborating what Ronnie Trent had told you?

A. Correct. By statements made by Mr. Conway.

Q. What was the goal in having these wired

conversations when Ronald Trent was out of jail?

A. Obtain enough information for an indictment.

Q. How long did Ronnie Trent work with your office wired and having these conversations?

A. I don't recall the last date. Started May 16th. Maybe May 28th or something like that we made a stock of the last tapes.

Q. And how would this transpire when he was out working with you? How did that all occur? What would you do?

A. He would call like someone -- like there was -- at that time there was a girlfriend of Mr. Conway's. Sometimes they would get ahold of him that way and he would make a phone call to them. Or is it okay to say the guy's name, he called Jamie, sometimes he called Shawn and he actually went and visited Mr. Conway at jail one time, things of that nature.

Q. Were all of these conversations taped in some fashion?

A. Yes. To the best of our ability, yes.

Q. Was Mr. Trent under any sort of surveillance when all this occurred?

A. Yes.

Q. What was the purpose for taping Ronnie Trent's conversations besides corroboration?

A. Just to get additional information, too, about what was going on.

Q. And then at some point did you cease the wiring of Ronnie Trent?

A. Yeah.

Q. Why was that?

A. They were catching on. They were accusing him of being a cop, all kinds of stuff and I was concerned for his safety at that time.

Q. During any of that period of time, May 16th to approximately May 28th, was there any written agreement, any promises made to Ronnie Trent?

A. Not to my knowledge. No. I can't remember around those dates.

Q. Do you know why an agreement hadn't been made?

A. I don't recall exactly why the agreement hadn't been made. Some problems with attorneys or something, people getting the right information.

58196 050

Q. So was Mr. Trent essentially working for you without a deal?

A. Yeah. Yeah, he was.

Q. Show you State's Exhibit I5. It's a three-page document. Do you recognize that?

A. Yes. This is the agreement.

Q. What agreement is that?

A. For Ronnie Trent for his assistance working with the sheriff's office.

Q. What date was that agreement made?

A. 6/11 of 2002.

Q. So after he had worked for you?

A. Yeah.

Q. Show you State's Exhibit I6. Do you recognize that document?

A. Yes.

Q. What is that?

A. That was from Ron O'Brien's office to the adult parole authority office.

Q. What was the purpose of that document?

A. Tell them about the agreement.

Q. To tell them about the agreement?

A. Yeah. The adult APA. This is for the hearing, I'm sorry. This is also reference to the hearing.

Q. What's the date of that letter?

A. June 10th, 2002.

Q. Does it say in June an agreement was formalized with Ronald Trent?

A. That is correct.

Q. Prior to that April 25th meeting, have you ever met Ronald Trent before?

A. No.

Q. Any idea who Ronald Trent was at that time?

A. No idea.

Q. Had you ever spoken to James Conway as of that April 25th date, to your recollection?

A. No. Never spoke to him.

Q. After the April 25th meeting with Mr. Trent, was he returned to the jail?

A. Yes. Yes, he was.

Q. And did you give him instructions on that particular day for what would happen when he got returned to the jail?

A. You talking about the first initial interview; correct?

Q. This initial interview that you have a transcript of.

A. That's when we were getting with him and

58196.052

he'd have to take a polygraph, see if he could pass one concerning the information he gave us. If he passed that, we'd probably go forward with trying to set up a work-release program to get him out to start actually working with us. Instructed him to stop talking to Mr. Conway if at all possible about any of this stuff. He indicated to me it was very difficult in his cell and I said just don't talk about it. Again I don't want you getting instructions from him and then when you get out he said I just told you what to do, why are you asking me. I said it would look bad, so stop talking about it. He said he'd do his best.

Q. And as of April 25th, did you have sufficient information about how Andrew Dotson was killed based upon what Ronald Trent told you?

A. Yeah. I had good information on the 25th.

Q. When you met with Ronald Trent, did you know he had a record?

A. The first day when we initially met I didn't look at his. I think my partner may have. I didn't actually look at it.

Q. At some point you learned he had a criminal record?

A. He was in jail at that time, so I was assuming.

Q. Did you take any precautions because you thought issues of credibility might be raised with him?

A. Yes, we did. We were very cautious with him. We couldn't figure out why he was going to help us. So we were concerned about maybe he was trying to pull something off to injure one of us or something. We didn't know what was up with this guy. But turned out he was very credible and he did a good job.

MR. SUHR: Object.

THE COURT: Overruled.

BY MS. PRICHARD:

Q. Did you take any steps to independently verify some of the information he told you on April 25th?

A. Yes. As far as talking to other people?

Q. Anything. Do you recall anything you did to corroborate what Ronnie Trent had told you on April 25th?

A. We went and spoke to another guy whose

first name -- it was the first time I ever heard the guy's name and it was verified that Ronnie was starting to be credible every time we checked on something, yes.

Q. Were the conversations wired to prevent any later credibility issues?

MR. SUHR: Object.

THE COURT: Overruled.

THE WITNESS: Yes.

BY MS. PRICHARD:

Q. Did they serve any other purpose? What's the main purpose you wired him up when he got out of jail?

A. Corroboration, get evidence -- testimony and evidence to show that Mr. Conway was the one that -- actually involved in killing Andrew Dotson.

Q. The information that was gathered by Ronald Trent during these wired conversations, did some of that deal with other crimes that had not been indicted?

A. That's true. Dealt with the conspiracies to commit murder.

Q. So I guess there was a mix of information, unindicted crimes and indicted?

A. Correct.
Q. Which case was indicted at the time Ronald Trent was working for you?
A. Dockside Dolls.
Q. That was the only one?
A. Right.
Q. And when Ronald Trent was finished working, is that when you sought an indictment on the Andrew Dotson homicide?
A. That is correct.
Q. And indictment on some other charges?
A. That is correct.
Q. Detective Scott, on what date exactly did Mr. Trent start working being an informant for you?
A. May 16th is the best I can remember. That's when we got him out.
Q. And that's 2002?
A. Yes. 2002. I'm sorry.
MS. PRICHARD: Thank you.
THE COURT: Sir?

- - -

CROSS-EXAMINATION

BY MR. SUHR:
Q. Detective Scott, you're indicating that

you had no prior contact -- you yourself had no prior contact with Ronnie Trent before the meetings you described here this morning; is that correct?

A. That is correct.

Q. And you also, I believe, indicated over objection that no one else in your agency had any contact with Ronnie Trent before that?

A. As far as I know, that is correct.

Q. Well you say as far as you knew?

A. Maybe not. As far as I know, nobody did.

Q. Now, specifically relating to a day or so prior to March 22nd of 2002, isn't it a fact that the Franklin County Sheriff's Office took information obtained from Ronnie Trent to the officials in Chillicothe, Ross County, concerning an alleged armed robbery of a TV store down there?

A. Not to my knowledge.

Q. Not to your knowledge?

A. No, sir.

Q. And that pursuant to that on March 22nd, the information was turned over to Ross County authorities and they then arranged to interview

Mr. Trent regarding his information. You know nothing about that; is that right?

A. I don't recall anybody using Ronnie Trent to do that. That is -- no. That is incorrect.

Q. You say it's incorrect or you don't know?

A. It has to be incorrect because nobody that I know of, and I was in charge of the Andrew Dotson case, no one that I know of had spoken to Ronnie Trent and no one brought it to my attention until April 25th. The information concerning Chillicothe would have had to be given by someone else.

Q. And did you have anything to do with that case in Chillicothe?

A. Can you be more specific? What do you mean?

Q. Did you ever go down to Ross County and talk to authorities there?

A. Concerning that specific case?

Q. Yeah.

A. No. I didn't go down to talk about that specific case.

Q. And the Ross County authorities said

that it was Mr. Trent, you would say that they were incorrect?

A. I would say they were incorrect if they thought it was Mr. Trent.

Q. If they talked to Mr. Trent and talked to Franklin County investigators about it?

A. I have no knowledge of that.

Q. Now, in your investigations here, you did find, didn't you, that Mr. Trent had indicated that on March 15th of 2002 he claimed that certain money was put in his account by one of Mr. Conway's associates, put on his books in the jail account?

A. Yes. He did claim that.

Q. And did he also tell you that he had arranged for that, for Conway's associates to get the money from his brother on the pretext of posting bond on his case?

A. I think that's what was stated.

Q. And did he also tell you at that time that the person that posted the bond was informed well this won't do any good because there's a parole holder on Mr. Trent?

A. I don't recall.

Q. And that did you also -- did Mr. Trent

tell you that on the 16th of March, Mr. Conway inquired of Mr. Trent about bond money when he had a parole hold and at that time he admitted he was working for the authorities?

A. I have no knowledge of that.

Q. Did he tell you that?

A. No. I have no knowledge of that.

Q. Mr. Trent is not unknown to the sheriff's office, is he?

A. I don't know. That's my first dealing with him.

Q. Did you ever hear that Mr. Trent had signed a false affidavit claiming to have been the person responsible for a shooting of a person that was convicted here in Franklin County Common Pleas Court claiming responsibility for the shooting for which a Terry Mayle was convicted some years ago?

A. No.

Q. And that the Franklin County Prosecutor's Office had ridiculed this sworn statement of Trent on the basis that he had no credibility and urged the trial courts not to even have a hearing on there?

A. Was there a question there?

Q. Were you aware of that?
A. No, sir.
Q. Now, you say that in this meeting in Exhibit I7 is an interview in which you were present on April 25th of 2002; correct?
A. Correct.
Q. And you've stated that your statement to Mr. Trent was not to ask him any questions whatsoever, to stay away from him so that after you got Trent out, you'd be able to get these conversations on tape or wire or whatever. Is that what your testimony is?
A. That's correct.
Q. And that he was not to ask or get any information on any alleged crimes, for instance, the case we're here about today, Dotson?
A. I don't know if I stated it like you just stated it. I said I'd prefer you not to talk to him about it until we get you out so we could.
Q. Well did you say prefer in your direct testimony here or did you say you instructed him not to say anything because he could be dangerous, he could be wanting to know why he

was repeating it on a phone when he'd already talked about it in jail? Did you say that to him?

A. I said put him off.

Q. Put him off.

A. That's the last page of the transcript. That's what I said. Put him off.

Q. I'm not asking you to read your testimony.

A. You're asking me for the specifics.

Q. I asked you what you stated on direct.

A. To not talk to him about it. I'm speaking in general. Not to talk to him about it.

Q. And specifically, wasn't it a fact that what you stated was just don't talk to him about Dockside? Didn't you say that?

A. Do you know what page that's on?

Q. Well it's towards the end there. Didn't you say if he brings up Dockside, let him make his statements and then you just keep on moving to something else?

A. Probably did because Dockside was an indicted crime at that time.

Q. So then you just keep on moving to

something else. Did you say that in a question?

A. Moving to something else. If you can show me what page we're on.

Q. The exhibit's not numbered, but it's approximately -- looks like the third page from the back.

A. I got you. Move on to something else. If you see where it says move on to something else. I'm saying deflect, talk about something else.

Q. Move on to something else?

A. Talk about the TV, talk about what's on TV.

Q. Did you ever say in here anything about refraining from getting him to talk about the Dotson killing?

A. Refraining from talking?

Q. Yeah. Anywhere in here did you tell him not to ask about Dockside?

A. No. I never told him not to ask about Dockside.

Q. Did you tell him to talk about anything else that was not indicted at the time?

A. Try that again. Ask me the question

again.

Q. When you said if he brings up Dockside, let him make his statements. This is in the future, isn't it, from when you're talking here?

A. Correct.

Q. Let him make a statement and then you just keep moving on to something else.

A. Okay.

Q. At any time did you say don't talk to him while he's in jail because then he'd wonder why he was being asked again on the phone or whatever to repeat those. Did you ever say that in here?

A. Yeah.

Q. Where?

A. The last paragraph. My last instruction.

Q. And what exactly?

A. I don't want you to talk to him about this stuff. Just put him off until we can get like tape recorders and stuff like that so we can control it. And there's no controlling there.

Q. Earlier didn't you say to go on to other

things?

A. Okay. Let's try this again. I'm telling you --

Q. Just one more question.

A. Okay.

Q. Now, you've heard these tapes; correct?

A. Okay.

Q. These alleged tapes. And can you independently verify what's on those tapes, the information?

A. What do you mean independent, corroborate stuff?

Q. Yeah. We've listened -- have you listened to the hundred hours of tapes?

A. Yeah.

Q. Other than Ronnie Trent leading and giving narratives and things like that, what percentage of the information from other people is understandable?

A. Percentage, I have no idea. Are there things that have occurred that only Mr. Conway would know about and the people that he worked with that are on that tape? Yes, sir, there are.

Q. But it comes down to it, you have to

rely on the truthfulness of Ronnie Trent exclusively, don't you?

A. No, sir.

Q. Now, the things that, for instance, you didn't know, that he had informed the Defendant that he was working for the sheriff's department and the prosecutor to get his charges reduced; is that correct, you didn't know that?

A. You're stating that he said that?

Q. Yes.

A. No.

Q. And I'm saying you didn't know that.

A. That is correct.

Q. Before Mr. Conway was arrested on February, I believe, 23rd is it, were you aware of Mr. Trent cooperating with the authorities before that time period on other cases?

A. No, sir.

Q. Now, specifically, were you aware that he gave information regarding Orlando Wilson --

A. No, sir.

Q. -- which led to a further indictment on Mr. Wilson?

A. Okay.

Q. Were you aware?

A. No.

Q. And were you aware that he carried a card from before Mr. Conway's arrest?

A. He carried a what?

Q. Carried a business card from a Franklin County homicide detective that he'd been given during one of his interviews?

A. Before Mr. Conway was arrested?

Q. Before Mr. Conway was arrested.

A. No. He may have. I don't know. Because we spoke to him in April.

Q. I'm talking back in February.

A. No. I had no idea.

Q. Were you aware that he claimed to have close connection to Sheriff Karnes?

A. No, sir.

Q. Were you aware that he'd been charged with a disciplinary violation by being in a fight and was convicted by disciplinary panel, sentenced to seven days in the hole that he was to begin on February 14th and when he was taken out of one cell to be put in disciplinary, immediately by order of Sheriff Karnes that was removed, his appeal was granted and he was

taken off that? Were you aware of that?

A. No, sir.

Q. So when you say that neither you nor your agency had any prior contact with Ronnie Trent, as far as you're concerned, you didn't have any prior contact?

A. I did not.

Q. But you can't speak for the rest of the sheriff's agency and officials of the jail, including Sheriff Karnes?

A. No. I cannot for them. Correct.

Q. Now, you have, I suppose, at some point checked out Mr. Trent's record?

A. Yeah. I glanced over his record. That's correct.

Q. And it appears that back in 1990 he was convicted of burglary and GSI?

A. Maybe. I don't know. I did not memorize his record.

Q. And is it also true that you checked and found that he was -- he had done an original sentence of eight to 15 years?

A. I recall that he did some time. The exact amount I don't remember.

Q. And after about seven years he was

released on parole; is that correct?

A. It sounds right.

Q. And that after and while he was on parole -- and this was the same parole he was on while he was dealing with you, was it not, for those original charges?

A. I think so.

Q. And while he was on parole, did you also discover that he had a receiving stolen property indictment, felony, another burglary and then two GSIs?

A. I know about the GSI for sure. The other stuff I don't know about that.

Q. And for those -- all offenses during his release while he was on parole, all those charges have been reduced to misdemeanors. Were you aware of that?

A. The GSI one I was aware of.

Q. How about the ones before that?

A. No.

Q. Did you know that he bragged in jail about working with Sheriff Karnes on the outside when he had his dope house and that every now and then he would give them some people and that would keep them off his neck?

Were you aware that he made those statements?

A. No, sir. I was not.

Q. You were aware that he bragged in jail about knowing how to beat polygraph tests?

A. No, sir. I was not aware of that.

Q. That all you have to do is know how to control your heartbeat? Were you aware of that?

A. I do polygraphs for the department. I haven't met anyone that could control their heartbeat.

Q. Obviously if they're successful you wouldn't know.

A. I've never known anyone that could control a heartbeat, sir, I'm sorry.

Q. Do you know it's regularly taught in various CIA functions?

A. It's pretty much physically impossible.

Q. Yeah. Okay. Do you know that he bragged about doing that?

A. I don't know anything about that.

MR. SUHR: Excuse me, Your Honor. One second.

BY MR. SUHR:

Q. Now, when these letters from Ronnie

Trent came in, they were referred to you; is that correct?

A. They actually were going to the prosecutor's office. I saw them and actually had our first meeting.

Q. So when you had your first meeting, who all was there?

A. Myself, Detective Floyd, Sheryl Prichard was there, I don't remember if she had someone else with her. Ronnie Trent and Ronnie Trent's attorney, Ms. Beauchamp.

Q. So if I understand what your testimony is, until you met, nobody had actually talked to Ronnie Trent? He had sent a couple letters and that was it?

A. That's correct.

Q. And Detective Floyd is with the sheriff's department?

A. Correct.

Q. And you're with the sheriff's department?

A. That's correct.

Q. Was anybody present from the Columbus Police Department?

A. On our first meeting? I don't think so.

Q. Isn't it true that Mr. Trent's communications only concerned Dockside?

A. Could you be more specific about the dates of communication?

Q. The letters that he wrote that we're referring to right here only refer to Dockside Dolls?

A. As best I can remember, that is probably correct.

Q. And Dockside Dolls is a Columbus case?

A. That is correct.

Q. Isn't it a little unusual that if that was the only information you had, that the sheriff's department would be called in rather than the Columbus Police Department since it was their case?

A. Well we had information that Mr. Conway was involved in Andrew's homicide. It was known to the prosecutor's office.

Q. So what you're claiming is that because of that connection, you didn't bring in -- nobody brought in Columbus, but only the sheriff on the basis that if he knows about Dockside maybe he knows something about this case?

A. No. We had spoken with Columbus prior to April concerning Mr. Conway's involvement in our homicide. We met with Detective Cohen, we met with quite a few people. They had common knowledge, too, that we felt Mr. Conway was involved in Dotson's homicide. But we didn't have anything to corroborate.

Q. How far back did that go?

A. I don't recall how far back we were talking about detectives. I found out they were interviewing Mr. Conway and some of his associates.

Q. They interviewed Mr. Conway?

A. I thought Mr. -- Detective Cohen attempted to.

Q. Didn't he invoke his Miranda rights and ask for a lawyer?

A. He might have. But that was more of him being a victim or something. Don't know the whole case. I just know that they had information and we had information.

Q. Well now, as a matter of fact, somebody provided a lot of background information to Mr. Trent from the get-go about the Dockside case. Were you aware of that?

A. No, sir.
Q. Even before the arrest of Mr. Conway?
A. If you say so.
Q. Now, were you aware that Columbus Police had Mr. Conway under surveillance for a period of time before he was arrested?
A. Yes.
Q. And you knew that any time they wanted, they could go out and bring him in because they knew where he was, they had him under surveillance; right?
A. For the most part.
Q. And when they brought him in, they put him in a cell where Mr. Trent was already located up on eight north; right?
A. I have no idea.
Q. You don't know that they were -- all these conversations allegedly arose out of eight north?
A. You're asking me do I know Ronnie was already in there prior to Mr. Conway getting in there. I have no knowledge of that.
THE COURT: Anything further?
MR. SUHR: Nothing further.
THE COURT: Ms. Prichard?

- - -

REDIRECT EXAMINATION

BY MS. PRICHARD:

Q. Do you recall whether Dave DeVillers was at the meeting April 25th?

A. Dave DeVillers was there.

Q. Did Mr. DeVillers have conversations with Mr. Trent as well that aren't in the transcript?

A. Correct.

Q. When those letters that are addressed to me were given to you, is that the first information you had that Ronald Trent had some information?

A. Yes.

Q. And you were assigned to which case?

A. Andrew Dotson homicide.

Q. And who's the person who contacted you to set up this Ronald Trent meeting?

A. Best I can remember it was you.

Q. When Mr. Trent was brought to that meeting, what were the topics that were discussed? Which crimes?

A. He talked a little bit about Dockside and then we asked him about the Andrew Dotson

homicide and he had knowledge of both of them actually. And future crimes that he was told -- hired to do.

Q. Did you have to ask about Andrew Dotson or did he tell you he knew something about Andrew Dotson?

A. I don't recall if I brought it up or if he told me.

Q. Why would you have just brought that up? If you brought it up, why would you have just brought that up?

A. Because of his association with Jim Conway. I had prior knowledge -- prior information. Like I said, nothing that I could corroborate at that time that Mr. Conway was involved in the Andrew Dotson homicide.

Q. Did you and I discuss Ronald Trent before this meeting?

A. On the phone.

Q. Based on that information, did you think it was appropriate to talk to him about the Andrew Dotson homicide?

A. Correct.

Q. Because of our discussions?

A. Correct.

58196 076

Q. Were you aware of discussions between his attorney and the prosecutor's office before you ever met him?

A. Before I ever met him?

Q. Were you aware that Sarah Beauchamp had been in contact?

A. With you. We talked on the phone. But I don't know -- I can't remember the content of the conversations.

Q. Is it fair to say based on information from me we asked you to interview Ronald Trent?

MR. SUHR: Object.

THE WITNESS: That's true.

THE COURT: Overruled.

THE WITNESS: You did.

BY MS. PRICHARD:

Q. And that's when discussions of the Andrew Dotson homicide evolved?

A. That is correct.

Q. And in this transcript on April 25th, does that contain information about the Andrew Dotson homicide?

A. Yes, it does.

Q. As well as some other crimes?

A. Yes, it does.

Q. And at the time of this, there was no indictment on James Conway for the Andrew Dotson homicide?

A. No. There was not.

Q. Is this the only case you've dealt with Ronald Trent on?

A. Yes.

Q. You personally?

A. Yes.

Q. When there's information on a particular case that somebody has in the sheriff's office, how does that get to the right person? Does anybody take information or does it get routed?

A. You mean just like a tip called in, is that what you mean?

Q. A tip, somebody in the jail, prosecutor's office has information.

A. What would happen is if it's a specific type of crime, secretaries would get the information or whatever, would get the information, they would look up the offense report pertaining to that crime, find out who's assigned to that case and then that would be routed to that detective.

Q. So when someone like Ronald Trent has

information on your case, it gets looked up and it comes to you?

A. Yes.

Q. So any other -- if Ronald Trent had information on some other cases, would that come to you?

A. No.

Q. Not unless it's your case?

A. Not unless it's my case. That's correct.

Q. And as far as you knew on April 25th, Ronald Trent was not working with any homicide detective that you knew from the sheriff's office?

A. No. Not to my knowledge.

Q. Anything that the Columbus Police Department might have been doing with respect to James Conway, would you have been involved prior to all of these indictments? Do you and the Columbus Police work together?

A. Not usually.

MS. PRICHARD: I have nothing further.

THE COURT: Mr. Suhr?

MR. SUHR: Just a couple things.

- - -

RECROSS-EXAMINATION

BY MR. SUHR:

Q. So I guess the import of the questions you were just asked basically is Mr. Trent wasn't working with any other homicide detective in the sheriff's office; is that correct, prior to your knowledge?

A. Correct.

Q. And that he could have been working with, for instance, a robbery detective; correct?

A. Well we're not segregated as much as Columbus. We have a crimes against persons and a crimes against property. Our area usually handles robberies, rapes and homicides and I know most of the guys in there. Is it possible someone could have been working with him, I'm sure it's possible. But at roll call we try to share notes and I never heard Ronald Trent before that meeting.

Q. But that would just be happenstance before you happen to hear it or not?

A. That's true.

Q. There isn't any procedure where if someone wants to become an informant that you

go on a computer and find out how many other cases that he's given information on?

A. No.

Q. Or what kind of information or what his contacts were or anything?

A. No, sir.

Q. So again, with the relation to March 22nd, '02 by Thomas Hewitt down at Chillicothe Police Department when they said that they were called in reference to a subject that had information pertaining to a robbery down there and that person is Ronnie Trent, you wouldn't have any independent information about that?

A. Do I know who gave them the information?

Q. Right.

A. Yes.

Q. Who?

A. It wasn't Ronnie Trent.

Q. Wait a minute. Who gave who the information?

A. About a robbery. It was not Ronnie Trent.

Q. And that's to Thomas Hewitt?

A. I don't know who it was given to because

I only was on the peripheral side of this, but it was not Ronnie Trent. I know what you're referring to now.

Q. You do?

A. I do know who you're referring to.

Q. And who was the officer that was in charge of that?

A. In Chillicothe?

Q. No. Here.

A. In charge of Chillicothe robbery?

Q. Who provided the information to Chillicothe? It had to come through an officer.

A. Through SIU, our narcotics bureau.

Q. Who was that person?

A. I don't know. If you're asking me specifically, I don't know, sir.

Q. So if the Chillicothe Police Department revealed information to you, lawyers on that case that it was Ronnie Trent, then they would have been mistaken?

A. In my opinion, yeah.

Q. In your opinion.

MR. SUHR: That's all.

THE COURT: Thank you. You may step

Friday Afternoon Session,

December 27, 2002.

- - -

Thereupon, the further trial of this cause was resumed pursuant to adjournment.

- - -

(Witness sworn.)

- - -

DAVID DEVILLERS

Called as a witness on behalf of the Plaintiff, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. PRICHARD:

Q. Your name for the record, please and spell your last name.

A. David DeVillers, D-E-V-I-L-L-E-R-S.

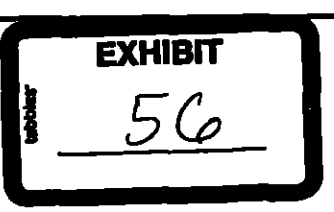
Q. And Dave, where are you currently employed?

A. With the US Attorney's Office.

Q. And when did you leave the prosecutor's office?

A. In July of this year.

Q. When you worked at the Franklin County Prosecutor's Office, were you assigned to the James Conway case?



A. I was.

Q. Which cases?

A. The cases that were indicted at the time would have been the Dockside Dolls homicide. But I was also working some possible other cases that he may have been involved with.

Q. Would that include the Andrew Dotson homicide?

A. Yes.

Q. Would that include the conspiracy to commit the murders of witnesses?

A. Yes.

Q. Do you recall approximately when James Conway was arrested for the Dockside Dolls case?

A. Early this year, I believe in 2002. I believe around February.

Q. And do you recall any of the circumstances of that arrest?

A. I believe he was -- there was a shooting at another bar a short time, maybe a month or a few times after the Dockside Dolls homicide. And I believe he was actually arrested for a weapons transaction or something involving that incident. And I'm not positive, I think it may

have directly indicted him. I'm not sure if we actually arrested him for the homicide itself via the complaint, but I can't recall.

Q. Do you recall receiving letters at the prosecutor's office from an individual named Ronald Trent?

A. Yes. I believe it was actually mailed to Mark Wodarcyk, who was the attorney prosecuting Ronald Trent the first time I heard about it. Mark Wodarcyk approached me, said there's a guy that may have some information on one of my Defendants, that being Mr. Conway.

Q. Is that the first time you would have heard of Mr. Trent.

A. It was the first time I heard of Mr. Trent.

Q. Let me show you State's Exhibit I1 and I3. Do you recall seeing those letters?

A. Yes to I1. Yes to I3.

Q. And would those letters, which are dated early April, have been around the same time that you had a conversation with Mark Wodarcyk?

A. I believe so.

Q. Did you speak with Mr. Trent or his attorneys in early April?

ALREADY DID, BUT WERE JIMMY CONWAY AND JAMIE HORTON FRIENDS?

A. YEAH.

Q. THEY WERE TOGETHER?

A. YEAH.

Q. WHEN ANDREW WOULD SOMETIMES MEET UP WITH JIMMY CONWAY, WOULD JAMIE HORTON BE THERE?

A. SOMETIMES.

Q. WHAT SORT OF THINGS DID ANDREW DO WITH JAMIE HORTON?

A. I DON'T KNOW, HE WOULD GO OUT WITH HIM SOMETIMES OR HE WOULD STOP BY THE APARTMENT SOMETIMES. THAT'S ALL I KNOW.

Q. WHEN JAMIE WOULD STOP BY THE APARTMENT, WOULD YOU BE PRESENT DURING ANY MEETINGS OR DISCUSSIONS?

A. I WOULD BE IN THE LIVING ROOM AND SOMETIMES THEY WOULD BE OUTSIDE, OR THEY WOULD GO BACK IN THE BACK BEDROOM.

Q. THEY WOULD GO IN THE BEDROOM AND TALK OR DO THINGS WHEN YOU WEREN'T AROUND?

A. YEAH.

Q. WERE THERE TIMES THAT THEY TRIED TO SEPARATE THEMSELVES FROM YOU AND TALK?

A. YEAH.

MS. PRICHARD: NOTHING FURTHER.

transcript from April 25th. Would that be the first interview you had with Ronald Trent?

A. Yes.

Q. And at the time of that meeting, what topics were you going to discuss with Ronald Trent?

A. We were going to discuss anything that he knew about Mr. Conway. Specifically the Dockside Dolls homicide. We also had Mr. Conway was a suspect in another homicide involving Andrew Dotson and we did inquire as to that.

Q. And did Sarah Beauchamp inform you that Mr. Trent might have information on that?

A. I believe she did, yes.

Q. Is that, in fact, why you set up a meeting involving the sheriff's office?

A. Yes.

Q. It was their case?

A. Right. The Andrew Dotson homicide was their case.

Q. At the time of that April 25th meeting, did you make any promises or have any deal with Ronald Trent?

A. No.

A. I believe it was early April, yes.
Q. Do you remember who you spoke with?
A. Sarah Beauchamp was his attorney at the time and we agreed to meet and proffer. We did a proffer letter and myself, I believe Chief Martin, Detective Zach Scott, I believe you were there and I believe Sarah Beauchamp was there, met with Mr. Trent in regards to initially what was the Dockside Dolls homicide.
Q. And were there any members from Columbus Police there?
A. I don't believe there were the first time.
Q. Do you recall why not?
A. I want to say that they were on -- the two detectives were on vacation. But I'm not sure. I believe they were on vacation. I believe we told them that they were meeting with a CI on the case, a possible CI, but that's about it.
Q. And at the time that the meeting was set up with Sarah Beauchamp, had you ever talked to Ronald Trent before?
A. No.
Q. Let me show you State's Exhibit I7, a

Q. What did you tell Mr. Trent after that meeting?

A. We told -- I told Mr. Trent after that meeting, as I do with most people we proffer, especially that are in jail, that we're not making any promises, he's going to have to take a polygraph, I believe. At that point that when he goes back to the jail not to ask any questions or inquire anything from Mr. Conway, to listen to what he has to say, but don't initiate any conversation and that we would check what we had to check, we wanted to verify some of the things he said to see if they corroborate with the homicide of Andrew Dotson, specifically via the coroner's report, which we did. Some of the other things that he said that we could corroborate through other witnesses and crime scene details.

That's basically where we were at. We made no promises or deals with him at that time.

Q. And the information that you had gleaned from Mr. Trent before, that is the tape-recorded information on the transcript; right?

A. Yes.

Q. He told you everything he knew about the cases up to that point?

A. I believe so.

Q. And then at what point did you make a deal with Mr. Trent?

A. It was quite a while later. In fact, he was doing the things for us proactively without any promises because we didn't have the power at that point to actually make him a deal. I was in conversations with Ron O'Brien and Mark Wodarcyk over what we could offer and we were trying to get ahold of victims. They were kind of wishy-washy, the victim on Mr. Conway's case, on whether they wanted us to cut a deal or not. We also had a problem with adult parole authority who had a holder on him. So we couldn't make any deal as far as if he'd be revoked on his parole.

I was talking to -- my conversation with Ms. Beauchamp was she didn't want him to really do anything until we cut him a deal. He apparently disagreed with Ms. Beauchamp, that being Mr. Trent, but he worked anyway before we could cut him a deal. Eventually we did. I

believe it was in -- it was after the tape-recorded conversations with the Defendant when Mr. Trent was out working proactively for us. It was well after that.

Q. He had completed his work being wired up and having those conversations, then he got the deal afterwards?

A. Yes. It was already -- they already knew he was a CI at that point before he had a deal.

Q. Here's State's Exhibit I5 and I6. Do you recognize those?

A. Yes. I5 is the Defendant's agreement that we made with Mr. Trent. I6 -- yes. This is -- I believe this is -- this is a letter written by the victim or the victim's mother involved in Mr. Trent's case basically giving us the green light and informing the adult parole authority that they're agreeing with our plea agreement.

Q. So all those things had to be done before a deal was made?

A. That's right.

Q. And then on I5 the date is June 11th. Would that be the date of the Defendant's

agreement with Mr. Trent?

A. That's the date it was typed. I'm not sure when it was signed. Yeah. June 11th of 2002.

Q. And then do you recall the date the Defendant was indicted actually on the Andrew Dotson homicide? Would June 7th sound accurate?

A. That would be about right. I don't recall exactly when.

Q. After Mr. Trent had done the work?

A. Oh, yeah. We didn't -- it wasn't until after the tape-recorded conversations that we got from Mr. Trent and his co-Defendants that anyone was indicted.

Q. Prior to that April 25th meeting, had you used Ronald Trent as a confidential informant on any other case?

A. No. I never used him either before or after as a confidential informant on any case.

Q. Were you a ware of him working on behalf of any other police agencies at the time you met with him on April 25th?

A. No.

MS. PRICHARD: I have nothing further.

- - -

CROSS-EXAMINATION

BY MR. RIGG:

Q. Good afternoon, Mr. DeVillers.

A. Good afternoon, Mr. Rigg.

Q. So the first time that you knew of Mr. Trent and his involvement or his information that he had about the homicide of Mr. Jarvis, I believe, at Dockside Dolls bar, that was the first part of April of 2002?

A. Correct.

Q. And you didn't cut him any deals until after he did the work he said he was going to do, meaning get out of jail, get people on tape. And that's when you gave him a deal, after the indictment of Mr. Conway and other individuals?

A. That's right.

Q. And also I believe you said in the April 25th interview of Mr. Trent, he was told not to ask any questions of Mr. Conway because he was still incarcerated with Mr. Conway at that time; is that right?

A. That's right.

Q. But just to listen if he may say

something, but don't elicit any conversation?
A. Right. And also I think we said not to -- no. I'm sorry. Go ahead.
Q. So approximately is it fair to say sometime in the first part of May 2002 when Mr. Trent got out of the county jail he started working as an informant, at least on a full-time basis being wired for the Franklin County Sheriff's Department and ultimately for your office?
A. I think that's accurate. Although there wasn't a deal cut at the time, he was clearly working doing things for us.
Q. And he was let out of jail on the pretense of a work release sometime, I believe, in May of 2002 so he could meet up with people including Mr. Conway if he had to to get information. Was that part of his duties?
A. Yeah. Yes. That's accurate. I don't think it was actually work release, but we worked it out with Judge Miller to have him released in the custody of the Franklin County Sheriff.
Q. Now, if Mr. Trent could have worked -- could Mr. Trent have worked for other police

agencies prior to you meeting him in April of 2002? Could he have worked for other police agencies as an informant without your knowledge?

A. I suppose he could have, yes.

Q. And a lot of times -- you've been a prosecutor a long time, do people at the county jail, meaning prisoners, brag a lot that they know information or talk about how they are working on cases, et cetera, for the State or for the government?

A. Do they brag about being snitches?

Q. Not really snitches, but being -- have contacts with the police department or know different people. Maybe it's a lie, maybe it's the truth, but a lot of stories go around the county jail.

A. I think a lot of stories go around the county jail. I don't think it would be very wise for someone say that they're in a county jail that they're working for the police.

Q. So from your understanding then, at least from your contact with this case, Mr. Trent began working as an agent or at least as a source of information for the government

approximately May 16th and that's when the first wires were being conducted with Mr. Trent when he was out of the county jail?

A. That's the first time he proactively worked with us. And let me say this: When he was out, we informed him not to talk at all in any way and try to dissuade if he tried to talk any way about the Dockside Dolls homicide because there was an indictment already on that case.

Q. Have you reviewed any of the transcripts or any of the tapes on that?

A. Not lately. When they were going on I would. I get some as the sheriff's -- as they were coming through I review those.

Q. Since you brought that up, didn't he discuss, meaning Mr. Trent, with other people, meaning Mr. Nightingale, et cetera, putting together a videotape of somebody confessing that they actually did the shooting at Dockside Dolls?

A. Yes.

Q. So there was some relationship regarding the Dockside Dolls homicide regarding this video?

A. Yes. While -- before he was released, the Defendant, Mr. Conway, according to Mr. Trent, had asked him. In fact, I think as early as our first meeting he said look, I want you to go out and take care of some witnesses for me. I'm not sure -- I don't recall exactly it was involving the Dockside Dolls homicide specifically. But maybe it was. That he approached Mr. Trent, that meaning Mr. Conway approached Mr. Trent and wanted him to kill a Conway look-alike, someone Mr. Conway had in mind at the time. As such, we had a new crime, new conspiracy to commit murder. And we did as far as that's concerned, as far as that aspect of the case was concerned, yes, we did have him proactively work that case because it was a new crime being committed.

Q. Whether or not you recall this or not, and again there's a lot of tapes, a lot of transcripts involving these conversations, but is it fair to say there is some information in those tapes regarding the homicide at the Dockside Dolls bar ejecting a shell casing, I believe, out of a gun, who was there to see what happened, those kinds of information that

Mr. Trent was trying to elicit from Mr. Conway after May 16th, 2002?

A. If I recall and I do recall that tape because I listened to it a great deal, Mr. Trent didn't know what he was talking about. On the tape you could hear Mr. Conway say remember about that one thing and Mr. Trent is what are you talking about, what one thing. And I think he really didn't know what he was talking about. And he said the one thing about oh, about the shell casing being on the ground or something to that fact. Is that what you're referring to?

Q. Yes. And other matters, too, regarding Dockside?

A. I don't think that -- well I recall Mr. Trent eliciting that other -- eliciting the fact of what do you want me to do with this body of the person you want me to kill. I don't remember him specifically eliciting information from the homicide itself, just the tangential new crime of conspiracy to commit murder.

Q. So is it fair to say then that Mr. Conway was the one that was more proactive

in the conversations with Mr. Trent regarding any type of activity not only just the conspiracy to commit murder, but the other cases involving this case here, Mr. Andrew Dotson homicide?

A. From my reviewing of that particular transcript, as far as the new case, the new conspiracy to commit murder, it was Trent to a large extent eliciting information from Mr. Conway. As far as what happened at the Dockside Dolls homicide in that brief few statements and that particular tape, I believe it was Mr. Conway in telling Mr. Trent what to have this guy say. Remember to have him say this.

Q. Regarding the case we're involved here today, the Dotson homicide, is it fair to say that a majority or at least half of the tapes involve conversations concerning the Dotson homicide in attempting to get either Mr. Conway to make statements or some of the other Mr. Nightingale or Mr. Horton make statements while they're riding around in cars, in cell phones? Is that fair to say about half the tapes?

A. That Mr. Trent is trying to elicit?
Q. Yeah. As regards the Dotson homicide?
A. Yeah. I think that's fair to say.
Q. Who was there, what happened?
A. Sure.
Q. Those kinds of things?
A. Uh-huh.
Q. Whether it's Mr. Conway; is that right, on the cell phone?
A. Uh-huh.
Q. Or maybe Mr. Nightingale?
A. Yes. Definitely Mr. Nightingale and Mr. Horton.
Q. Jamie Horton?
A. Yes.
Q. So about half. And again this is a ballpark figure, about half the tapes involved the case as to what happened to Mr. Andrew Dotson?
A. Of all the tapes, yeah, about half or a third. Chillicothe robbery, that and then the other one.
Q. Then the conspiracy?
A. Right. And then what happened was Mr. Trent told us what Mr. Conway said about

the Andrew Dotson homicide while he was in jail before we ever met him, what he told him about. And then I think he was to some extent rehashing that especially with Nightingale and Horton. And from our direction we told him from my direction I said try to find out what you can find out from Mr. Horton and Mr. Nightingale about the Andrew Dotson homicide.

Q. And also fair to say a lot of those tapes that you reviewed, very little of it involves conversations directly with Mr. Conway. I'm talking about the taped conversations after May 16th.

A. Yeah. The vast majority of them are with Mr. Horton and Mr. Nightingale, yes. Mostly Mr. Horton.

MR. RIGG: Thank you. I have no further questions.

THE COURT: Anything else?

MS. PRICHARD: No, Your Honor.

THE COURT: Thank you. Anything further from the State?

MS. PRICHARD: No, Your Honor.

MR. RIGG: No, Your Honor.

58196 - P2

MARGULIS, GUSSLER, HALL AND HOSTERMAN
ATTORNEYS AT LAW
50 BORTZ STREET
P O. BOX 5
ASHVILLE, OHIO 43103

126 SOUTH COURT STREET
CIRCLEVILLE, OHIO 43113

HARRY L. MARGULIS (1901-1982)
STEPHEN S. GUSSLER
LEO J. HALL
JOHN W. HOSTERMAN

ASHVILLE 740-983-2557
CIRCLEVILLE 740-474-6084
COLUMBUS 614-464-0908
ASHVILLE FAX 740-983-2685
CIRCLEVILLE FAX 740-474-3990
E-MAIL : MARGJL'S_LAWFIRM@ZRAGCNBBS.COM

October 24, 2003

Mr. James T. Conway III
#457203
MAN CI
Post Office Box 788
Mansfield Ohio 44901

Dear Mr. Conway:

At the final pretrial today in Ross County, the prosecutor chose to dismiss your case rather than try it. The Court consented to the dismissal.

At your mother's request, I have made a copy of the pertinent section of the Chillicothe Police Department Report, and I have marked the section referring to the information from the informant.

As you can see from the dates on the various entries in the report, the investigation was at a six weeks stand still until the information was received from Franklin County.

Sincerely,

MARGULIS, GUSSLER,
HALL AND HOSTERMAN

Leo J. Hall

LJH/as
cc. Janice Conway

Scott	Spiert	Nightingale	Floyd
Investigator 1	Investigator 2	Interview 1	Interview 2

TAPED INTERVIEW

OFFENSE:	Homicide
REPORT#:	0109704
VICTIM:	Andrew Dotson
PLACE OF OCCURRENCE:	Galloway Rd. s/o Hall Rd
DATE OF OCCURRENCE:	October 10, 2001
INTERVIEW OF:	Shawn E. Nightingale
DATE OF INTERVIEW:	May 28, 2002
PLACE OF INTERVIEW:	364 S.Fourth St.
INVESTIGATOR:	Scott/Spiert/Floyd

Scott — It is not on okay. Let me tell you something, eventually we're gonna have to turn it on. If we're gonna play games I'm gonna get up and leave and you go to jail and then we got other things we're gonna do. We're spending time with you. I have read you your constitutional rights, you understand your rights. Now Shawn, don't play with me time is of the essence. Time is ticking right now. The longer you're in here and the less time or the longer you're in here the more time you're sitting in here the more time they're gonna stay out there and wonder where the fuck is Shawn.

Nightingale — I would say Chris

Scott — _____

Nightingale — Not really, just how if you sit down and talk how he talks.

Scott — You gotta explain it to me, we don't know.

Nightingale — All right, we'll be sitting, he never really talked about it around me because we really don't get along that well, okay, we'll be sitting there talking and I'll hear him talking and he's just like you know what do you want _____.But he does say that.

And he says they don't Its like he needs to be gone, needs to disappear more or less.

Scott — Okay, Chris said this in front of who

Nightingale — You talking about he did say that whenever fucking

ott — Try to remember

EXHIBIT 57

Nightingale I just can't remember, I know what he said

Scott Okay, lets do this, where would you have been, in his office, you were at his office

ghtingale Yeah

Scott You were in his office, where at

Nightingale Downstairs

Scott Who would've been present that normally you let downstairs.

Nightingale Jamie and his parents that's it

Scott Okay, all right, so do remember approximately when this conversation would've occurred. Let me tell you something, everything that you remember accurately is for you. If you sit here and go I don't remember, I don't remember you're starting to be not worth anything helping us and then you cannot help yourself. So be accurate, be truthful and lets get busy.

Nightingale You give me around what time

Scott He was found on 10-10-2001. October 10 was when he was found.

ghtingale I would say like the night before that. I just can't think who would be there. Either me Jamie and Jr. or maybe even fucking _____.

Scott So maybe Mike was, but you don't know. But you're trying better, that's what I want you to do, try.

Nightingale I just can't think

Scott That's all right, okay, so what did he say, how did he say it.

Nightingale Just anything like we wanted to ask him, like well what do you think we should do and he'll say it'll be a lot easier if the guy is not around, anything to worry about, that he would more or less tell you, he would say what to do. He would say this guy needs to disappear. I mean I always thought Chris was in the Mafia or something was how he would talk. I don't know him that well.

Scott But he just said it'd be better if this guy would disappear.

Nightingale Yes.

Scott We're talking about Andrew?

ghtingale Yeah

Scott	Why, why did they kill Andrew?
Nightingale	Well, you might not believe this, but I swear to God you're not gonna believe this, but I really felt, really never felt why the fuck they would want him gone. He didn't really fucking do anything but steal shit.
Scott	So why would Jim want him killed?
Nightingale	We never talked to him, you're not gonna believe me man, but we just never fucking talked.
Scott	I believe you Shawn, if you're being truth....
Nightingale	I'm being honest
Scott	So the decision was made to kill Andrew and you feel that that came from Cicero
Nightingale	I'm saying Chris, I mean that's...
Scott	And what did Jim say about this whole situation? Chris is saying he's insincere, what did Jim say to you?
Nightingale	He never fucking said nothing to me at that time or just fucking as far as this thing right now
Scott	Go ahead
Nightingale	Can I get a glass of water please.
Spiert	Let us wrap up here and then we'll take care of that.
Nightingale	What do you guys want from Chris. Whatever I can do for Chris man I will be right there.
Spiert	Do you know what you're telling me, that there's a fucking attorney that's telling you guys to kill how serious do you think that is?
Nightingale	Its gotta be serious.
Spiert	Its real fucking serious
Nightingale	I swear to God if, I woulda known
Spiert	It happened
Scott	Lets have a chronological discussion here, dude, lets keep the things moving, what we're talking about. After that did Jim say something to you, what did he tell you to do?

Nightingale I was supposed to go down to _____. I couldn't fucking move.

Scott What do you want in W. Va.

Nightingale I could've never fucking...

Scott Who were you supposed to see in W. Va.

Nightingale Mike

Scott Mike?

Nightingale Mike Arthurs

Scott You just say it

Nightingale Okay Mike Arthurs and there was just fucking nobody and I just came fucking home and was like no I can't find them because I didn't want to fucking...

Scott Who told you to take to W. Va.

Nightingale The first person was man Chris was saying stuff like this guy needs to be gone. Where in the fuck did you guys really go and more or less I came to fucking mind because I'm from W. Va. and I mean I told them I knew a lot of places around there and Jimmy and Chris really didn't say you gotta take me down to W.Va. but Jimmy was like yeah let's go down there and take care of W. Va.

Scott Who had the idea for W. Va.

Nightingale Probably me because that's where I'm from

Scott So they came to you and said here take him to W. Va. So you guys go down when did you go down

Nightingale I swear to God I don't remember.

Scott Was there football games going on? Was there..

Nightingale It was like we got the motel. We got phone call at the motel. They left, I didn't even know they left

Scott Who left

Nightingale Him and somebody, I don't even know

Scott Who's him

Nightingale	The manager, some call from my wife or something and they came back. We got drunk and shit like that just having fun, I wasn't going down, I'm not gonna whack him.
Scott	Did you have a gun
Nightingale	No
Scott	There was no gun in the car
Nightingale	If there was a gun in the car I did not know about a gun. And I'm not lying
Scott	How are you supposed to do it
Nightingale	The easiest way to get caught is a gun
Scott	Well how are you supposed to kill him
Nightingale	Like what happened to him
Scott	What happened to him, say it.
Nightingale	Mike choked him up, fucking kill him
Scott	Mike choked him up, kill him, that's how you're supposed to do it.
Nightingale	That's just what Mike wanted to be my fucking, trying to be fucking part of us is what he said and that's just how it happened.
Scott	So Mike was gonna kill him
Nightingale	He wanted me to fucking give him a spot to do it and that's what I was doing.
Scott	Why didn't you guys kill him
Nightingale	We didn't have the balls. He didn't do anything. There was no point in fucking seeing this guy fucking gone.
Scott	You're right, you're 100% right. Okay what car did you take him down in?
Nightingale	A jeep
Scott	All right so you bring him back and what do you do then when you bring him back
Nightingale	Just try to make up a bunch of shit like we couldn't find any place.
Scott	When you come back where did you go
Nightingale	To a pay phone, maybe I called him from my cell phone. I called Jim, came back, he met us at Big Bear and they met us at Big Bear, first, you guys said I gave him coke, I

mean I said that, but I did not give him, if you knew Andrew, you know that he loved pills. I mean he just took the pills.

ott — Where did you get them

Nightingale — He had valium, they call them purple footballs or something like that. I bought them, I mean I did buy them. I mean he gave me half the money. He had like $18.00 or something like that, I had like I think $300.00 or something, I needed something like $40.00. I mean he took I mean I took like 2 of them and Mike took 1 I think and he took a bunch of pills and he was passed out and we went out there on Galloway Rd and you ask fucking Mike, which I'm sure he told you and fucking Mike just grabbed him like that and God it had to be at least a fucking half hour.

Scott — So he chokes him, right?

Nightingale — Yeah and then he does more than that.

Scott — He steps on his back or something?

Nightingale — Yeah he was grabbing him like fucking, I turned my head there was no way I can't even fucking sleep with all this shit. I didn't want any fucking thing to do with it.

Scott — You brought his body back

Nightingale — And then we drove his fucking body back. If you God, man, damn, I know Mike did it. It was Mike, nobody helped Mike.

Scott — He did it all by himself

Nightingale — Yeah .

Spier — Who all was there with him, you, Mike

Nightingale — Me and Jimmy

Scott — So you drug his body back, you're saying that Mike drug his body back

Nightingale — Mike did drug, I can't even talk.

Scott — Well, he's not dead yet.

Nightingale — I know he's not dead, there's no way Mike's dead.

Scott — No not Mike, I'm not talking about Mike. No Andrew, he's not dead.

Nightingale — Please tell me you're telling the truth

ott — He's not, he wasn't dead. He was not dead. Wait a minute, hold on. He didn't die from being choked, he's dead, he didn't die from being choked.

Nightingale Oh God.

ott No what Jim did to him is what killed him

Nightingale I swear to God man, I fucking did not see nothing, I fucking come straight around with Mike and he was like, come on, let's go right now. He got in the car and I jumped in and I left.

Scott Okay, what did you have in your vehicle, anything that helped put on the body or anything. Are you gonna play be like I'm stupid..

Nightingale Yes sir I...no I'm not. I'm not

Scott Well how did that happen, if you just got in your car and left immediately, how did that fucking happen Shawn?

Nightingale We got that fucking shit up

Scott Now do you want to try this again with me,

Nightingale I'm not lying to you man, I'm not lying.

Scott You told me you got in the car and leave.

ghtingale No I'm saying after, you didn't say when, details, details.

Scott You were doing dope Shawn

Nightingale That's exactly what the fuck happened man, its exactly, I swear to God I'm not lying to you man. I was right here in the passenger seat and Mike was right here in the driver's seat Andrew was in the back passed out. Opened up the back door, grabbed him and just fucking got him out like this and fucking had him and Mike was like this or something, this is what I remember, fucking was choking him for fucking ever man, fucking, forever, then he was just going (makes sound) like fucking breathing. Got him by his fucking neck, did that and he fucking stepped on him a long-assed time too.

Scott Okay

Spiert Do you mean he was twisting his head or something

Nightingale You can see his fucking neck, man

Spiert What like he was breaking his neck

Nightingale Like it was nothing but fucking like a piece of Play-Doh.

ott The problem we got here is he has no damage to his neck.

Nightingale — There's no way.

Scott — Okay,well he doesn't, so the coroner don't know what they're doing evidentially. Tell me what happened after that.

Nightingale — Okay, what happened after that, Mike, this is what Mike did. Mike fucking grabbed him, I swear to God, I really this is what I tried to do, I tried to fucking pick him up, but I was shaking so fucking much that I couldn't do anything and Mike fucking grabbed him and he said get the fuck out of my way. Grabbed him by both his fucking legs and pulled him back. I swear to God, Mike came running back up and said lets get the fuck outta here, well, actually, no hang on. Fucking he did, he got that shit out of the back of the trunk. He did.

Scott — What shit

Nightingale — The _____

Scott — Okay, where is Andrew at

Nightingale — He pulled him back there

Scott — Where's Jim at

Nightingale — Jim is standing right beside the truck at that time.

Scott — So you're telling me.

Nightingale — I turned around and I fucking, he did, he threw the shit out, God dammit, I gotta stand up, he fucking he pulled him back. He came back real fast and got in, actually it was already open, popped the trunk open, the trunk was already open. He dropped the fucking _____off, he said lets get the fuck outta here is what he said. He got in the car, I got in the car and we took off. We went by like fucking five cops and it took for like fucking 20 minutes before we even seen fucking Jimmy leave.

Scott — So you're telling me Mike Arthurs dragged him back there and Jim just stood there and didn't go back there.

Nightingale — I did not see Jim go back there sir, no I did not.

Scott — Okay and...

Spiert — Did you see anything, so how would see him if he did?

Nightingale — That's what I'm saying, I didn't see him.

Scott — Who took the clothes off

Nightingale — His clothes, Mike and Jim took his clothes off

Scott	Mike and Jim took his clothes off.
Nightingale	Yeah: Yes.
Spiert	Was he still gurgling then?
Nightingale	Took his clothes off if I remember before anything.
Scott	It wasn't before, you're fucking
Nightingale	I'm not, its just hard to think about, man, I'm not lying.
Scott	Well, the way he died you would've known, there's no way you are fucking yourself
Nightingale	I'm not lying to you though man, I'm not lying. Please man I'm not fucking lying.
Scott	I getting ready to leave
Nightingale	I swear to God I'm not
Scott	I'm not gonna mess with you because I'm not gonna sit here and put up with this shit and you're sitting here lying. You're telling me you don't know how he died, don't look over there look at me.
Nightingale	I didn't see it, but I'm
Scott	You're standing out in the field, I've been in the field, I can see the distance. You're telling me the act that he did on him you couldn't see? Or hear? Or when he got it out of the car? You think I'm stupid, is that what you think Shawn?
Nightingale	I just didn't think about it
Scott	You're fucking with me is what you're doing and its really making me mad. Now I'm gonna give you one more chance, that's it, one more and if you forget to tell me one other detail, I'm gonna leave and then you can go to jail with the needle. I'm not gonna fuck with you any more. I'm giving you an opportunity to help yourself and you're jerking my chain around. Now come off of it and stop it. Last chance Shawn.
Nightingale	Everything got...am I gonna be going upstairs?
Spiert	You're not gonna see him.
Nightingale	I'm saying I'm not going over there if
Spiert	You're not gonna see him, you're not gonna see
Scott	I'm about fucking done with you, I'm about done with him. I'm sorry. I gave you the fucking opportunity at 21 years old and you're sitting here lying to me. Yeah.

Nightingale	Your telling me something I'm not remembering, shit.
Scott	You don't forget something like this Shawn, you never forget this.
Spiert	You're a young man, you gotta watch your back. This is for you.
Scott	You are protecting Conway, that's fine. I'm gonna let you protect him. I'm gonna get up and walk out and you protected him. I hope its worth it to you.
Nightingale	What would that get me, he tried to kill me. I'm not trying to fucking protect him.
Spiert	You gotta tell us everything.
Scott	Then you're afraid of him or something, because you're not telling the truth, you're negating things, you're playing games, you remember a little bit and then you don't. Hey you don't want to talk to me, I don't have to talk to you. I can leave, I got other people I can talk to. Other people want to make a deal for themselves. You want to fucking sit here and do this, do it.
Nightingale	I do want to talk
Scott	Then one more time, we're gonna run this one more time. I swear. If you mess with me one more time we're done. You can sit over here and we'll go this route. Last chance.
Nightingale	Well, I'm telling you, what am I gonna get out of it, that's all I want to know.
Spiert	Shawn did you kill him?
Nightingale	No, sir. I did not kill him.
Spiert	Okay, you didn't kill him. If they get up here and they say you killed him...
Nightingale	There's no way
Spiert	But they can say it. You've got to tell the truth now. You're the guy
Nightingale	I'm not
Spiert	Okay, who killed him?
Scott	Who killed him? Who killed him?
Nightingale	I swear to God on my fucking everything in the world I thought Mike, I thought he was dead.
Scott	Okay,who abused the corpse?
Nightingale	What do you mean, abuse the, what do you mean by that? What do you mean by that, explain that to me and I'll fucking tell you what do you mean by that? Who abused it? I

	seen Mike fucking choke him up. If you're asking me if I see fucking Jimmy do anything. I did not, I heard something.
ott	What did you hear?
Nightingale	Like a pop, like a
Scott	Like a what?
Nightingale	Like a pop. like something popped.
Scott	Okay, did you see Jimmy take anything back there?
Nightingale	Yes
Scott	What
Nightingale	Fucking, I don't even know what its called man he had shit with him, he had
Scott	Describe it to me
Nightingale	Pointed shit, to a fucking point, pointed thing, I don't know what its fucking called man.
Spiert	So when you heard the pop what did you think?
..ott	Who was back there, wait a minute, who was back there when you heard the pop?
Nightingale	Jimmy
Scott	Who was with him? Anybody? Or was he by himself?
Nightingale	By himself.
Scott	Who was with you and where were they standing?
Nightingale	Me and Mike. Mike was already in the car and I was just about to shut the door.
Scott	Where was Jamie
Nightingale	Jamie he was standing beside the truck, just more or less to help the _____.
Scott	You disrobed him then
Nightingale	Took the clothes off of him?
Scott	Yeah
ghtingale	The clothes had been off

Scott	Before Jim did this what he had to do.
ghtingale	Yeah
Scott	So the clothes were gone. Who had the clothes?
Nightingale	The clothes was in the back of the truck.
Scott	When Jim got done doing what he did, who did he give that item to?
Nightingale	It was in the back of the truck. His truck.
Scott	The thing you said that hits rocks.
Nightingale	He give that to Mike and Mike took it to his cousins house and they burned it. Mike burned it at his cousin's house.
Scott	Okay. Don't you think that stuff is kind of important.
Nightingale	I just need you to help me man, I'm...
Scott	I can't help you, I cannot help you in that. You have to remember that stuff. How can you forget that?
ghtingale	I man, I block, you don't understand, I pray every fucking night, I do everything I fucking can to forget about that. Everything I can and it fucking helps, its been blocked out some of it. Its hard. I was happy as hell whenever you said he's not dead you know I thought...
Scott	No he's dead, he did die from choking. He didn't die from stepping on his neck. How many times did he get hit?
Nightingale	I heard one pop was all I heard.
Scott	How many times did Mike say he got hit? How many times did Jim say he hit him?
Nightingale	Like I told you, Jim never fucking told me about this shit. He's not stupid. He never talked about that? I don't know why Mike would say that he fucking heard anything, I didn't think that he did. One time a heard a fucking pop.
Spiert	Why did they do it
Nightingale	If I knew, I'm not, its just like it just fucking came out of fucking nowhere. Chris makes you fucking think shit. He makes you fucking want to. He sits there and he'll fucking. Its how you talk to him. Like fucking me, they told me exactly what he said about me. Fucking his words came out Shawn does not need to be around anymore, Shawn is going down there. He's fucking said that I was writing statements and everything to show what he said and I was going _____.



Scott	Were you
ghtingale	Hell no and I'm sure you guys will know about that.
Scott	Tell me about the robbery you planned. About this Rex thing.
Nightingale	You're saying that I planned it
Scott	You bragged about doing it, and planning it. Said you planned it. Tape saying it.
Nightingale	Its not like
Scott	What's that mean, you didn't plan it? Or you did plan it?
Nightingale	Mark just told me he was like this place would be easy as hell to rob.
Scott	So you got a hold of who?
Nightingale	I called Jamie and Jimmy and I just told them about it.
Scott	Told them it would be a good place to hit?
Nightingale	I let them talk to Marcus
ott	So you hooked them up
Nightingale	Yeah, they talked to Marcus about it
Scott	How much of the goods did you get.
Nightingale	I swear to God, sir, I did not take none of that shit at all because I thought that I was about to fucking go to jail. The cops came to my fucking house, the SWAT or whoever the fuck they was came to my house, I would never fucking touch none of that. I never sold none of it, I never had nothing to do with it.
Scott	You got the money out of it.
Nightingale	Nothing. No money whatsoever. I told Marcus I did just so I wouldn't...because he wasn't getting no money out of it.
Scott	Why would you guys do this and don't get nothing out of it? I don't understand.
Nightingale	I didn't think it was fucking nothing big just because I told somebody about it. I didn't even want no money out of it.
Scott	What's Marcus gonna say that you did?

Nightingale	Marcus probably won't say anything, that I did anything. I don't know how he would. You think I'm lying and I'm not lying
ott	I gotta pull everything out of you to get you to tell me things.
Nightingale	But I'm not lying. I don't mean to...
Spiert	When the jury hears you say I planned the whole fucking thing...
Nightingale	But I didn't.
Scott	Why did you say it.
Spiert	When the jury hears it what are they gonna think
Scott	Why'd you say it
Nightingale	I don't know why I said it. I didn't plan it, I gave them a fucking number, they talked. I went to fucking _____with that number with fucking Chelsea _____is why I wrote that number.
Spiert	So you hooked up the people to get it done.
Scott	But you didn't get anything out of it
ghtingale	No, nothing, no money, no anything. I swear to God I didn't.
Spiert	What about the popcorn
Nightingale	Don't ask me nothing about popcorn, there's nothing I know about that. I had five fucking pieces of popcorn, boxes of popcorn.
Scott	$3.00, 3-4 dollars or something like that
Nightingale	That's all I know about the popcorn. I seen it on TV. I laughed about it.
Scott	Tell us about some dope. How much dope Jamie sell. How much dope you sell in an afternoon down there.
Nightingale	Inaudible
Scott	Whose dope did you get
Nightingale	Just dope. What am I gonna get outta all this man, you guys aren't helping me out here.
Scott	I want all you can do, that's what I'm trying to hear.
ghtingale	I sitting here telling you, I don't know if you're listening.

Scott — Look at it.

Nightingale — This room isn't fucking bugged or anything.

Scott — What do you want to do, what do you want to do

Nightingale — I want to be able to tell my girlfriend I love her is what I want to fucking I don't want to fucking get life. If I do 2-3 years, I don't fucking want to go to jail for over three.

Scott — We're looking at not 2-3 years, you're looking at possibly lethal injection here. This is a planned out murder. You guys talked about it, you took him down. You couldn't do it. So you brought him back.

Spiert — He had a gun

Nightingale — I didn't have a gun.

Scott — You were with your boys, you wanted to be with the boys, okay, that's what you wanted to be in the in crowd with the boys. Well the in crowd group murdered a guy. You're with em. Guess what that makes you? One of the murderers, so you are looking at aggravated murder.

Nightingale — Its serious, I know that.

Scott — They're gonna take your life Shawn

Nightingale — I wanted the_____, but I don't it to take so long, I just wish...

Spiert — You love your girlfriend and you want to die.

Nightingale — What am I gonna do, I mean, I can't, I'm not even gonna get out and see her or nothing_____

Spiert — Its not the end of your life

Nightingale — It is the end of my life, I'm going to be in jail forever. She's gonna fucking leave me.

Scott — Let me ask you what you can do, could you order up a lot of dope if we wanted it?

Nightingale — Inaudible.

Scott — Who would you get it through Jamie

Nightingale — _____

Scott — is that your only connect.

Nightingale — _____

Scott — who's your, who is a connective_____

ghtingale — _____a I think M_____is better then_____

Scott — can you order dope from Mike_____

Nightingale — it would take me probably 3 or 4 days, but yeah

Scott — why would it take_____

Nightingale — just cause _____I'd have to try____he, he would never just come right out_____it would probably take 3 or 4 days, I can just, if I was talking to him. Are you listening to this

Spiert — just keep in mind, we have access_____

Scott — _____

Nightingale — yeah

Scott — _____

Nightingale — I mean I couldn't just go

iert — the guy still in business

Nightingale — yeah

Spiert — when was the last time you talked to him

Nightingale — I haven't talked to him for probably 3 weeks ago in his office, I didn't really talk to him, I was in there_____I mean he's really changed a_____but I, I know he still does that, I know for a fact that he does

Scott — what do you mean he changed a lot

Nightingale — he is trying to change_____

Scott — _____

Nightingale — yeah,he makes_____shit like that._____trust me, so

Spiert — what do you usually get from him

Nightingale — I've never bought it from him, but he's gave people stuff to where I got rid of it for him_____he knows that I, if I really had to I could push it

iert — what kind of amounts

Nightingale probably a key_____12, which is a lot I think

Spiert _____the front

Scott did you have to pay for it_____

Nightingale I'd have to pay for at least half of it

Spiert _____that's funny if you all of a sudden had

Nightingale yeah

Spiert money for half a key

Nightingale not a half

Spiert see you're talking like 10 gran

Nightingale yeah

Spiert so, think it funny if you suddenly had that kind of money

Nightingale if I had enough for all the key_____

Spiert _____10

Nightingale _____

Spiert no 10 thousand is not a lot of money

Nightingale he thinks I got money, so

Scott if he's got religion and everything to make you pray that you call him, then you better go_____

Nightingale I mean I can't call him, he would never talk to me on the phone or nothing like that

Scott ___side, this is your side dude_____

TERRIBLE NOISE OF DOOR OPENING

Nightingale I just wish somebody_____in there_____understand_____

TERRIBLE DOOR NOISE AGAIN

Nightingale _____not me, I didn't fuck do anything, I know I did some fucking shit man but I didn't, I would never_____kill_____fucking do it

Scott — what did you and Mike talk about when you got in the van, ok you got in your jeep, who bought the, who bought the lime

.ghtingale — that was, they put it in my fucking jeep.I don't know who

Scott — who is they

Nightingale — fucking whenever.I was___-down there fucking_____

Scott — down where

Nightingale — to West Virginia

Scott — you_____going down to West Virginia and someone

Nightingale — _____no is was already, they_____put it in there, Jamie and Jimmy I think put it in there

Scott — so they knew that were_____gonna kill him

Nightingale — they thought, that was the plan_____Jamie_____Jamie felt the same way I did about all this_____

Scott — how did Mike feel about it

.ghtingale — Mike just wanted to fuck him, he would always____say well fuck him, you know I don't really care cause I don't have anything to go_____I don't have any money, he was arguing with his girlfriend and shit, he just didn't really, he didn't care, he wanted to do him and it fucking scare_____he wanted to fucking do it so bad, he wanted to use a fucking gun is what he wanted to do

Scott — __had no gun

Nightingale — no, there wasn't a gun_____

Scott — and who else_____

Nightingale — _____fucking gun

Scott — who else was gonna, ok

Nightingale — Mike, Mike_____

Scott — what is Michael saying, there is a gun here

Nightingale — mean Mike had a gun, but I didn't know about it_____he'd wanted to use a gun is what he said, I was supposed to go down there and fuck_____just dig a fucking

hole somewhere but. There are so many places down there I_____now, I_____fucking do it

ott talk to him about some dope for a second

Spiert is Jamie holding anything

Nightingale no_____

Spiert does he hold stuff

THERE GOES THE DOOR AGAIN AND A BIG SLAM

Nightingale fucking, whenever I go over there they, they really don't talk to me about a lot of things_____but sometimes I'd say he does yeah_____

Spiert a. but you deal directly with _____

Nightingale no, I could easily

Spiert have you ever

Nightingale _____

piert and you have also dealt through Jamie, Jimmy

ghtingale yeah

Spiert Jimmy or Jamie

Nightingale Jimmy

Spiert was that through Jamie_____nothing

Nightingale not really, I mean it's not

Spiert what's the most you ever got

Nightingale just some bullshit stuff like maybe 10 or some stuff that fucking_____it wasn't nothing but just bullshit

Spiert we know _____

Nightingale yeah_____big

Spiert he keeps it or

OUND OF DOOR AND NOTHING ELSE ON SIDE A.NOTHING ON SIDE B.

FLOYD		NIGHTINGALE	
Investigator 1	Investigator 2	Interview 1	Interview 2

TAPED INTERVIEW

OFFENSE:	HOMICIDE
REPORT#:	200109704
VICTIM:	ANDREW DOTSON
PLACE OF OCCURRENCE:	GALLOWAY RD S/O HALL
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	SHAWN NIGHTINGALE
DATE OF INTERVIEW:	MAY 28, 2002
PLACE OF INTERVIEW:	364 S. FOURTH
INVESTIGATOR:	CHRIS FLOYD

Floyd	trying to find him, Jamie_____
Nightingale	thought they already had him
Floyd	they had him followed. they got to get a car off everybody else, that's where they went right after you
Nightingale	I'm sure_____need to talk with him, I know
Floyd	well he w_____
Nightingale	_____
Floyd	you don't think he's going to try to play hard ass and, here's your chance
Nightingale	I don't think he would
Floyd	you know him, we don't
Nightingale	I mean if I, I don't, he might, he's got a little bit of money and I don't have any fucking money, I couldn't even
Floyd	we're gonna give him a chance first to fuck himself
Nightingale	___if he works
Floyd	_____himself, we're give him a chance_____

Nightingale I mean if he don't talk to you_____if you guys, let me talk to him, if you will

Floyd _____we'll give that chance. Shawn what's the, what about Marcus and a

.ione ringing

Floyd yeah_____know where she's at, ok, ____do that right now. Your girlfriend is running her mouth, we don't know where she's at, got anyway of getting ahold of her

Nightingale yeah, but what am I going to say her

Floyd tell her shut up, I mean, listen to you and to shut up right now, you're going to call her later

Nightingale _____

Floyd _____

Nightingale alright

Floyd _____number

Nightingale I got it,phone dialing, why who else has she_____

)yd I don't know who all she's calling, but she's, evidently she's really running her mouth right now, tell her you will call her later, but right now, just shut up, to trust you

Nightingale Emily, quit calling people right now please, I'm try, I'll call you later alright, I love you

_____

Nightingale I'm gone right now, I'll, I'll talk to you later on, just don't call no one else at all, just stay there alright, I love you and I'll talk to you later, bye.

Floyd alright, get your head together right now Shawn. Get yourself together, right now you got more important things to think about, will she listen to you. What's the stuff about the guys at the _____stores

Nightingale what, is nobody else saying anything or something

Floyd everybody has said a lot of things, right now I'm asking you Shawn

Nightingale _____

Floyd what's with the _____stores

'ghtingale I mean___that I'd fuck___

Floyd — I don't know what all happened to them

Nightingale — Marcus told me that, he told me everything about it, where the camera was and shit like that would be a good place

Floyd — you're talking about at the store

Nightingale — at_____I mean I

Floyd — we're starting in the middle of a conversation, I think you had started talking to Det. Scott

Nightingale — and he told

Floyd — I don't know what all it was that was said_____so

Nightingale — he said it would be a good place to fuck_____cause they don't have any cameras, they don't_____security_____or something like that, he said a they don't_____might do it and I, so I I mean I fucking gave Jimmie his number, they talked, I was, I went to Portsmouth is what I did

Floyd — is that_____

Nightingale — yeah

Floyd — on purpose or

Nightingale — yeah I didn't, well I don't want anything to do

Floyd — _____told you that was gonna happen, you

Nightingale — I_____around it and I___the cops came to my house like, all that shit and I didn't really have nothing fucking to do with it and they came there and fucking scared the shit out of mom, took stuff out of my house that was mine_____I can't really say anything about the drug store, I can't, they, they sat there and told me that I fucking, that I had shit that I sold stuff that I got money and I didn't

Floyd — who set up the robbery, who did the initial part to set it up, what about the_____-

Nightingale — _____-set it up

Floyd — what about the hits on Marcus

Nightingale — __hit on fucking,mean I know, I knew where Marcus really was but I told that guy that I, that I didn't know that I had to fucking, that I had to find out, but I, and I thought that I knew where he was_____say

Floyd — why were you down there

Nightingale — I went down there to show em where fucking Marcus' dad lived, Mar, me and Marcus play basketball all the time,___together, I never fucking, he never said anything to me, he, I mean the guy said I'm going to need a gun, so I.I mean I could get him a gun and I, I don't how I can get in trouble for that, I never fucking said here, here Mar, or here a what, whatever_____something Trent, I don't know his real name,I never said here's a gun go and fucking kill Marcus, I mean if I really

Floyd — did you get him a gun

Nightingale — I didn't get, I never handed him no gun or nothing

Floyd — did you get a gun Shawn

Nightingale — I called somebody if they, I asked them if they had a gun to bring it up

Floyd — and____gun_____you

Nightingale — no

Floyd — you never saw the gun, never touched the gun

Nightingale — _____

yd — I'm asking you

Nightingale — no_____

Floyd — I'm asking you

Nightingale — I never touched that gun

Floyd — it never went through your hands

Nightingale — never

Floyd — ok, who is the guy_____-

Nightingale — I call this guy Joey

Floyd — what's Joey's last name

Nightingale — Joey Spencer, but he never, he didn't know anything, it's not like he really

Floyd — ok, Joey Spencer, is he from Chilli

ightingale — yeah____didn't care

Floyd	ok and he got you a gun
Nightingale	yeah
Floyd	get you just one gun
Nightingale	_____yeah, one gun
Sounds like door	
Floyd	so Joey Spencer gets you one gun, where did Joey take it to
Nightingale	he put it under a lawnmower at my girlfr__Jimmy's girlfriend's house
Floyd	_____
Nightingale	yeah
Floyd	Jimmy's girlfriend
Nightingale	__-before a long time ago_____
Floyd	your girlfriend_____where does she live at
Nightingale	no, that's not, that's not my girlfriend
Floyd	Emily
Nightingale	Emily is my girlfriend, Mandy is not
Floyd	right, I know Mandy___Mandy lives in the house
Nightingale	yeah
Floyd	doesn't Emily live there too
Nightingale	she don't now, she used to_____
Floyd	puts the gun underneath the lawnmower
Nightingale	yeah, that's
Floyd	did you get it out from underneath the lawn mower
Nightingale	huh
Floyd	did you take it out from underneath the lawnmower
Nightingale	no

Floyd — who got it out from under the lawnmower

ghtingale — he did I guess, that guy___asked, I don't know_____

Floyd — but you never touched the gun

Nightingale — never touched_____

Floyd — you're talking about Marcus, what about Alex

Nightingale — I never knew anything about Alex

Floyd — you didn't take, take these guys by Alex's house too

Nightingale — that's not his house

Floyd — what house did you take him by

Nightingale — _____

Floyd — that's the _____house

Nightingale — yeah, I mean__it's obvious that's not his fucking house, I mean I know some of _____people fucking know me, if I really wanted to fucking find out_____I think, unless you guys had_____but no, that's the only address I kept telling_____road_____I even made up this fucking bullshit ___that was his Honda, I don't think it was, that little red Honda_____or something, I just kept saying well I thought you had a little Honda_____and I knew_____I knew_____

Floyd — who initiated that conversation for you to be there, taking this guy there anyway

Nightingale — what do you, what do you mean by that

Floyd — whose idea was it to take these two guys out

Nightingale — that fucking guy Tony, whatever the fuck

Floyd — Tony's idea to kill these people

Nightingale — he's the one that told me about it

Floyd — nobody else, Jimmy, Jamie

Nightingale — I never, I never talked to him, I didn't talk to Jimmy about nothing like that

oyd — how about Jamie

Nightingale never talked to Jamie about nothing like that, that guy_____and he talked to me he was like, he was asking me shit about_____something about fucking Andrew, I don't know_____put it on anybody_____guy Tony_____ I don't fucking, I got his name in my pocket, I just hunted it out today

Floyd _____name you find out

Nightingale his real name

Floyd you got his name on you

Nightingale yeah unless they took it, no I don't have it

Floyd did they take something out of your pockets or

Nightingale no, I_____

Floyd you said unless they took it

Nightingale I was thinking that_____everytime that I get arrested, they take all the stuff from my pockets

Floyd nobody took anything out of your_____

Nightingale no sir

Floyd you don't have his name

Nightingale no

Floyd where did you get the name at

Nightingale heard it from_____

Floyd _____Shawn

Nightingale I mean that's not

Floyd Shawn

Nightingale that's not that big of a deal

Floyd Shawn, when we first started talking, what did I say

Nightingale don't bullshit

Floyd exactly

Nightingale _____your ass, I got one chance

Floyd	exactly, so don't fuck with me
ghtingale	he was in jail
Floyd	don't play____game
Nightingale	_____jail, and, I mean nobody really said it, but, I, if you, if you look at is fucking photo in on the internet, it's got his real name in there
Floyd	you looked on the internet
Nightingale	_____
Floyd	Shawn_____
Nightingale	first_____fucking
Floyd	who brought it up, who told his picture is on the internet Shawn, you ever get amnesia_____
Nightingale	no man
Floyd	this is about to end
ghtingale	because of that, because I
Floyd	yeah, cause I'm not going to sit here and have you play me dumb
Nightingale	I'm not playing you
Floyd	yes you are
Nightingale	dumb, I'm
Floyd	you can sit here and be silent, you can lay on a gurney and be silent, I don't care
Nightingale	I know
Noises	
Floyd	_____
Nightingale	alright, alright
Unknown	_____get to talk to
ghtingale	wanting to talk

Scott	you think
·oyd	Shawn is still having Amnesia
Nightingale	no I'm not really, he's asking about the fucking_____guy. is how I got it, it was on the internet
Unknown	_____
Nightingale	that guy Tony
Scott	when you took him down there and showed him the address' what were you showing him the address' for
Nightingale	I talked to him about that
Scott	then what are you talking about
Floyd	he said when they went down there to the address' that he was showing him bullshit address'
Nightingale	oh it's not, I mean I just knew that he wasn't there, I knew that he wasn't there, I knew they weren't there
ott	then why would you show him that
Nightingale	_____
Scott	_____-go there
Nightingale	I_____
Floyd	twice
Nightingale	I was scared
Floyd	twice Shawn
Nightingale	I was scared of him because I___not
Floyd	twice
Scott	Shawn you went there twice, you even wrote the address
Nightingale	but I was scared
ott	_____

Nightingale	_____wouldn't you if you didn't know somebody_____
Scott	I'd a left em in fucking_____I wouldn't talk to _____
ghtingale	I had to live with my girlfriend, I mean it's like_____I don't have any
Scott	let me ask you this, how would you have felt, you showed em correct address'
Nightingale	but I knew that
Scott	you even write down
Floyd	_____
Unknown	_____
Scott	what if he had killed, how would you have felt
Nightingale	I would have fucking marched right here
Floyd	we get, oh just like you did on Andrew
Nightingale	I would have marched right here
Floyd	only 7 months late
Scott	did you want to talk to Jamie
Nightingale	yeah, if you would, why can I talk to him by myself
Scott	yeah,yeah
Floyd	and you've got nothing_____
Nightingale	_____
Noises	
Scott	well then, what are we going to talk about
Nightingale	_____
Scott	alright if that's what you want, I'll let you do it._____
Long pause	
Door opens or shuts	
Long pause	
Floyd	didn't _____

Nightingale ____that's guys a prick man

Floyd huh

Nightingale that's guys a prick

Floyd who is that

Nightingale guy out there

Floyd who

Nightingale the guy that arrested me man

Floyd who the detective

Nightingale I mean nobody talked____

Floyd ____talking to me

Nightingale I just talked to him and he

Floyd Shawn, you have one person to think of

Nightingale myself, I know, but then I also got to think about what he told me, no matter what ____if I say anything

Floyd think so, how many people who are in prison do you think honestly

Nightingale yeah but I'm sure that____

Floyd how many people do you think in prison, honestly think about it, that either A. never talked about somebody else

Nightingale ____

Floyd or B, given an opportunity to talk about something to save their ass wouldn't do so

Nightingale I, I mean

Floyd I doubt if there is one percent in prison that has never talked or wouldn't talk to save their own ass, when it gets down to it, there is one person who is going to look after you, outside your mom, there is one person to look out for you for your entire life and that's you

Nightingale I mean no matter what, I'm getting a lot of time of this,____said so

Floyd ____get time, absolutely

Nightingale	_____
Floyd	you participated in a murder, so the only think you can do right, you can't correct this
ghtingale	he's freaking me out saying I fucking had a conspiracy for_____
Scott	you are
Nightingale	_____address' I know
Floyd	I've got a piece of paper in your handwriting, you've got 540 _____street, whose address is 540_____Street
Nightingale	_____fuck I talked to his brother, his brother____
Floyd	whose address is 540_____street
Nightingale	what his brother said_____
Floyd	whose address is 540 _____street
Nightingale	I know, I know,
Floyd	it's not 580_____street, it's not 520 Miller Street, it's 540_____street
ghtingale	how would that guy say_____time or something
Floyd	doesn't really matter_____, but right now Shawn you've got one person to think about, one person to look out for you and you've got chance to do it
Nightingale	it's not matter what_____
Floyd	that's_____-way it is Shawn
Nightingale	_____mean I know it for sure but my girlfriend told me_____20 fucking years man, I don't have anything now so me saying anything
Floyd	you're looking at life
Nightingale	that's 25 right,
Scott	you're looking at life
Nightingale	25 years
Scott	you're looking at life
ghtingale	life that's 25 years

Floyd	no, life is life, life with no parole, you're looking at death penalty, look at_____is, when we say_____you understand that's_____
Nightingale	how long does it take_____
Floyd	_____deals and things like that,_____10 years, _____20 years
Nightingale	_____
Phone ringing	
Floyd	_____-hello, hello_____
Nightingale	how long_____take
Floyd	_____probably talking a minimum of 10 years
Nightingale	it will take 10 years_____there is no way _____
Floyd	_____volunteered_____a year ago, all over the news, first_____20 years, whatever, they called him the_____15_____you have mandatory, by law. mandatory
ghtingale	*talk to a public defender*_____shit____
Floyd	_____case_____
Nightingale	_____
Floyd	been reduced, what_____-here is how you get things reduced Cooperate, _____asshole saying ____I'm a man, I'm gonna take what I got ' coming_____you're gonna get what you got coming
Nightingale	_____I mean I want to know what I_____-
Floyd	what is going to hurt you
Nightingale	_____
Floyd	is if you don't talk and I'm not, I_____said you're gonna walk out of here, you're not going to
Nightingale	
loyd	you're not dumb,I'm not gonna, don't play me as dumb and I'm also not going to play you as dumb, you're not going to walk out the door, you're not going to skipping down

the street. this is all over with, but you've got one chance to help yourself, you've got_____you've got life without parole, you've got life_____

ghtingale so I can get out in_____years

Floyd _____all depends on the case, all depends on what all you_____

Nightingale _____

Floyd yes you are

Nightingale _____

Floyd yes I will

Nightingale tell me

Floyd you are the least, why_____quick as we got him think we didn't know where he was at

Nightingale _____I knew what I knew, I seen _____

Floyd as quick as we got him Shawn, from the time_____talking, we had him in here in 15 minutes, 20 minutes

ghtingale _____

Floyd who did we take down first

Nightingale _____

Floyd we did that for one reason, A, we're looking at your history and we're looking at things we've heard about both of you and you're the_____

Nightingale all I'm asking_____think, what do you think is going to happen

Floyd what do I think is going happen to you, I think you're going to be convicted of agg. Murder, cause that's a planned murder, you know the difference between aggravated murder and murder

Nightingale _____

Floyd murder is we're in an argument and I kill you

Nightingale _____last time_____

oyd this, aggravated murder is I don't like you and I go out and I look for you and I kill you, that's a planned murder, Andrew was a planned murder, you understand that_____

Nightingale	_____
›yd	that's not an answer
Nightingale	that's all I can say, but I just wish_____talk
Floyd	Andrew_____so is his mom, so does your mom_____
Nightingale	_____that's, my mom's_____so that's the least of my worries but I mean_____
Floyd	so you gonna talk
Nightingale	sorry
Floyd	don't be sorry to me, be sorry to yourself
Nightingale	_____I got this_____
Floyd	so you're gonna listen to Jamies' advice
Nightingale	I love Jamie man
'loyd	well maybe you should hold hands_____
..ghtingale	now I know who is scaring me, that's the least of it_____I just, if I had a choice right now I would_____fucking gun and blow my brains out to tell you the truth, not worried about dying, long, it's gonna take a long time to do it but just wish it would happen soon
Noise	
Floyd	you're not very smart Shawn, take everything out of your pockets.Put your necklace._____
	2_____and a fifty, 270, 275, 276____correct
Nightingale	yeah, I don't even get that do I.
Floyd	nothing else in your pockets. Just put your right hand up on the wall. Take your earrings off
Lots of noise	
Floyd	_____
"ghtingale	I ain't gonna be seeing him_____anyway.

581.96 ← P37

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

State of Ohio,

Plaintiff,

Case No. 02 CR 3117

-v-

Judge Crawford

James Conway,

Defendant.

SUPPLEMENTAL DISCOVERY

Pursuant to Rule 16(D), Ohio Rules of Criminal Procedure, the Prosecuting Attorney provides the following additional information regarding the above styled case.

Transcript of Shawn Nightingale proffer.

Respectfully submitted,

Ron O'Brien
Prosecuting Attorney
Franklin County, Ohio

S. Prichard 0064868
Assistant Prosecuting Attorney
373 South High Street, 14th Floor
Columbus, Ohio 43215
(614) 462-3555

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing was mailed by U.S. mail, postage prepaid to David Young at 495 S. High St., Suite 400, Columbus, Ohio 43215 and Diane Menashe at 536 S. Wall St., Columbus, Ohio 43215 on this 27th day of August, 2003.

S. Prichard 0064868
Assistant Prosecuting Attorney

EXHIBIT
58

58196 - P38

Franklin County Sheriff's Office

Detective Bureau
Columbus, Ohio 43215

Tape Log Slip

Case Number: 0109704

Offense: Homicide

Victim: Andrew Dotson

Date of Occurrence: October 10, 2001

Place of Occurrence: Field w/o Galloway Rd.

Person Interviewed: Shawn Nichtengale

Place of Interview: 410 S. High St.

Date of Interview: August 12, 2003

Time Interviewed: 10:20am

Investigator: Scott/ Rick Gibson, Lou Williams(Attorney) Sheryl Prichard (Pros)

Number of Tapes: 2

Approval for Transcribing: _____ _____
Supervisor Signature Date

Impounding Officer: Sherese Deon 8/18/03 9am
Date Time

Tape Storage Location: SAFE #03261

Investigator Signature: _____

SHR-DB-14

Stored in Seattle Folder
(Nightetengale 03)

SCOTT Q.	Nightengale A.	GIBSON Q.	PRICHARD Q.
Investigator 1	Investigator 2	Interview 1	Interview 2

TAPED INTERVIEW

OFFENSE:	HOMICIDE
REPORT#:	200109704
VICTIM.	ANDREW DOTSON
PLACE OF OCCURRENCE:	FIELD W/O GALLOWAY ROAD
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF.	SHAWN NIGHTENGALE
DATE OF INTERVIEW:	AUGUST 12, 2003
PLACE OF INTERVIEW:	410 SOUTH HIGH STREET
INVESTIGATOR:	ZACHARY SCOTT

SCOTT Q. Today's date is the 12th of August 2003 and it's about 10:20 AM, conducting an interview with Shawn Nightengale and present is Rick Gibson the Assistant Prosecutor in Hamilton County and myself Detective Scott and shortly we're expecting Sheryl Prichard my come in and Lou Williams will probably be in a little bit later. I'll let you go ahead and hit up on some of the questions Rick.

GIBSON Q. Alright, Shawn first off tell me how you came to know um Jimmy Conway?

Nightengale A. It's a long time ago um when I moved up to Columbus um

GIBSON Q. You moved up from where from Chillicothe?

Nightengale A. From Chillicothe yeah I moved in with my um Mom she had a house on Ryan or an apartment actually and um when I started going to Briggs High School I met Jamie Horton and he introduced me to him.

GIBSON Q. So you met Horton first?

Nightengale A. Yeah

GIBSON Q. Okay

Nightengale A. And it was probably about 8 months after I met or after I moved up here.

GIBSON Q. And um Horton introduced you were you in high school at the time?

Nightengale A. Yeah 9th grade.

GIBSON Q. Do you remember give us a year approximate a year could you tell us that about?

Nightengale A. Probably 97 or 96 I don't know I was in 9th grade and I'm 22 now I can't

GIBSON Q. Don't remember what you had for breakfast?

Nightengale A. No not right now I don't.

GIBSON Q. How about those guys were they your age were they older than you?

Nightengale A. Jimmy is a couple years older than me Jamie was one year older than I was.

GIBSON Q. Okay so they were high school students too.

Nightengale A. No I don't Jimmy he might be he might be 3 years older than me then cause I don't think he was even in high school.

GIBSON Q. Okay so

Nightengale A. I should have been in 10th grade but I was only in 9th so

GIBSON Q. Okay so he might have been out?

Nightengale A. He was out

GIBSON Q. So you're introduced to Conway through Horton and this goes back probably 5, 6 years ago?

Nightengale A. Six

GIBSON Q. Okay and what kind of stuff were these guys into at that time?

Nightengale A. Nothing then everybody was working.

GIBSON Q. Okay so you guys just hung out together and that kind of stuff?

Nightengale A. Yeah for a couple years.

GIBSON Q. Now as time went on um that changed didn't it?

Nightengale A. Yeah

GIBSON Q. Tell me about that tell me how your relationship with these guys changed as time went on?

Nightengale A. Well after a couple years my Mom got a house back in Chillicothe.

GIBSON Q. Okay

Nightengale A. And um I moved back down there and um I found out there was a lot of money to be made and um and me and Conway and Horton all had a good talk and we decided that um you know maybe if I can get some coke who knows um I might be able to run Chillicothe after awhile so I that's what happened um

GIBSON Q. Were those guys into doing drugs here in Franklin County?

Nightengale A. No I don't know where they was getting it

GIBSON Q. Well you're talking about a lot of money they make you're talking about in the drug trade aren't you?

Nightengale A. Yeah

GIBSON Q. Okay so you're talking about moving back to Ross County

Nightengale A. I already moved back what I'm saying they was going to get it for me and bring it to me and stuff.

GIBSON Q. And that's my question if they're going to get you the drugs and you're going to then sell down in Ross County?

Nightengale A Right

GIBSON Q. They're ding that kind of thing here right?

Nightengale A. I'd say I never asked them where they got it then.

GIBSON Q. Well when they said they would make you the, the guy down there get you the drugs to sell down there

Nightengale A. Yeah

GIBSON Q. You didn't question that or doubt that did you?

Nightengale A. No I didn't even know what coke was then so

GIBSON Q. Okay so did that start to happen?

Nightengale A. Yeah I started um they started bringing me down a ounce a week and um I know everybody in Chillicothe anyway and it just wasn't enough so after awhile you know 10, 15, 20 ounces a week and that just got to where that wasn't enough and I started going to West Virginia and that's when it blew up um.

SCOTT Q. How many keys did Jimmy move?

Nightengale A. Something maybe two a month or something like that.

SCOTT Q. Did you ever actually get a real key?

Nightengale A.	Yeah not a good dope it wasn't good.
SCOTT Q.	Was it cut?
Nightengale A.	Yeah real bad
GIBSON Q.	So we're talking powder
Nightengale A.	Yeah
SCOTT Q.	Where did they get the shit from do you know who his connection was are we talking is Mexican ____?
Nightengale A.	I thought he was white but it probably wasn't
SCOTT Q.	Oh Fulier
Nightengale A.	But I doubt it now that I been thinking about it I really don't know for sure.
GIBSON Q.	Nick brought it down to who actually brought it one, one of them both of them?
Nightengale A.	I would usually meet them somewhere either Jamie or Jimmy or I would go pick it up or have some girl go pick it up for me.
GIBSON Q.	So you're selling it around Chillicothe and you're building up a pretty big business down there?
Nightengale A.	Yeah
GIBSON Q.	And you're also driving to West Virginia and selling it there?
Nightengale A	Yeah I went down to West Virginia
GIBSON Q.	Where would you go down there to sell it?
Nightengale A.	Um Fort Gay that's what it's called I just knew a couple I actually only knew their fist names I don't think they ever really trusted me so they didn't tell me their last names two older men they'd usually buy ounces for about $1700.00 and I was getting it for five so and they would buy 20 at a time.
SCOTT Q.	Good days work
Nightengale A.	Yeah I could make anywhere from $10,000.00, $15, $20,000.00 a day sometimes.
GIBSON Q.	Um did you bring other people into this or are you doing all this selling yourself?
Nightengale A.	After awhile I let Mike start doing it with me.

GIBSON Q. Okay and Mike had been a long time friend right?

Nightengale A. Well at first you know me and him both liked to fight we was always had that fear of each other if we ever met we'd so every time we'd meet we wouldn't talk we'd usually walk away from each other and then after about probably I'd say 5, 4 and a half 5 years ago you know we actually had a real good talk he knew I was making money I had nice cars and stuff like that she he just asked me how I do it he said that he lived out in ___ ___ ____ and he went to um Zane Trace he just knew a lot of people that snorted coke he just asked me if I could you know give him something for free at first see what he can do with it and he had a license I never had a license so he was driving everywhere for me like I introduced some people in West Virginia and he would go down there stay a couple weeks whatever and just with all the profit usually he kept a lot of it and I just wanted half of it I wasn't greedy so I don't know.

GIBSON Q. That's plenty of money to be to go around right?

Nightengale A. Yeah

GIBSON Q. So that's how Arthur's gets into this right he didn't know these guys before you?

Nightengale A. No

GIBSON Q. You brought him in and that's how he got to know Conway and those guys you guys would come up to Columbus and party with them and that from time to time too?

Nightengale A. Yeah

GIBSON Q. How long is this going on?

Nightengale A. Before _____

GIBSON Q. Yeah

Nightengale A. 2 years about

GIBSON Q. Okay and did you guys ever start to get into other stuff besides moving cocaine?

Nightengale A. No we really didn't do anything like I didn't rob nobody or nothing I didn't

GIBSON Q. Do you know if other people did?

Nightengale A. I mean I have always heard that maybe Conway was out there doing things robbing people and stuff but it wasn't none of my business really cause I wasn't with him so

GIBSON Q. Did you know whether there were weapons that those guys carried?

Nightengale A. Yeah they always had guns everybody always had a gun.

GIBSON Q. Did you have a gun when you were doing when you were moving this cocaine?

Nightengale A.	Hell no not when I was doing that I always had one at my house or something.
SCOTT Q.	You got to remember something now everything is on the table okay you got to remember that don't negate something cause you're worried you're going to get into trouble.
Nightengale A.	I'm not telling
SCOTT Q.	I'm just making sure I'm just making sure I don't want you to be nervous about it okay cause you're, you're completely covered in here now alright.
GIBSON Q.	The only requirement you got here is the truth is
SCOTT Q.	That's it
GIBSON Q.	We got to hear all the truth Okay.
SCOTT Q	If you were going to do something to incriminate yourself we would stop and say alright we need to get your attorney or something if you thought there was something like you going to tell me you killed 15 people before you came in then we'd have to say
Nightengale A.	I didn't kill
SCOTT Q.	Alright we got to stop so just relax.
GIBSON Q.	Now this is going on and it went on for at least a couple years right?
Nightengale A.	Yeah

GIBSON Q. Okay tell me about tell me about what led up to Dotson's thing?

Nightengale A. What do you mean about what led up to it?

GIBSON Q. Well what happened before that?

Nightengale A. Before why do you actually why I think it happened you want to know?

GIBSON Q. Yeah, yeah

Nightengale A. Well um you know after um Jimmy had shot Jessie

SCOTT Q. Was you there for that?

Nightengale A. Yeah

SCOTT Q. Okay you were there okay.

Nightengale A. And um

SCOTT Q. Who all was there you, Jamie, Jimmy and Andrew?

Nightengale A. And um

SCOTT Q. Was anybody else there?

Nightengale A. Ricky Turner I think might have been there

SCOTT Q. There was 5 of you guys?

Nightengale A. And maybe even Rick Hart.

SCOTT Q. What kind f a car did you guys take?

Nightengale A. We had um

SCOTT Q. You guys are kind of big to be in a all you guys in one car.

Nightengale A. It was a big ass Intrepid it was the same Intrepid that I had but it wasn't mine it was the same like I think maybe a 96 or something like that.

SCOTT Q. Okay oh there is Sheryl okay we're going to off tape again it's about 10:42 AM.

SCOTT Q. We are back on tape and it is about 10:49 AM and Sheryl Prichard has entered the room. We left off saying actually we were talking about you guys going over to um Jessie James for the shooting and there was um you and Jamie, Jimmy and Jim Turner and somebody else in the car who else was in there?

Nightengale A. It was um Rick Hart

SCOTT Q. Rick Hart okay so you guys all went over there and you had your incident with

Nightengale A. Jessie James

SCOTT Q. Jessie James

Nightengale A. Yeah and after um after Jimmy had shot him um

SCOTT Q. Well Andrew was in the car too I forgot right Andrew

Nightengale A. He we might have had 2 cars or something cause I don't

SCOTT Q. I don't know how you got that many people over there

Nightengale A. Yeah there had to be 2 cars yeah and then after you see somebody you hear gunshots you know you can't really think about what's next.

SCOTT Q Your old tunnel vision all of sudden kicks in I understand.

Nightengale A. Yeah and I just remember taking off up the alley and that Jessie guy following us and went through some apartment complexes and um everybody just took off running me and Ricky took off running together and um Jennifer Conway picked us up.

PRICHARD Q. Ricky Turner

Nightengale A. Yeah

GIBSON Q. So Jessie James gets shot?

Nightengale A. Yeah

GIBSON Q. And what's the concern after that what concern was expressed when you guys all got back together in the days and

Nightengale A. Well after awhile probably after 2 or 3 days of actually probably the next day Jimmy was kind of scared that um that um Andrew might say something I guess he trusted everybody else.

GIBSON Q. Who, who was he worried about?

Nightengale A. Andrew Dotson might say something you know that um Jimmy just shot Jessie.

GIBSON Q. Did he tell you what caused him to be worried about Dotson why all of a sudden is he worried about Dotson?

Nightengale A. He didn't really know him like us you know

GIBSON Q. Okay so he wasn't as close to him?

Nightengale A. No not that I know of

GIBSON Q. Okay

Nightengale A. But I didn't really ever meet him so I wouldn't know him I know Dotson use to sell dope for them and steal all kinds of stuff for him and that's all I know.

GIBSON Q. And do what for him?

Nightengale A. Steal anything ATV's, Trailers

GIBSON Q. I asked you about that before what other kind of stuff were they into so their stealing stuff and selling it on the street or what?

Nightengale A. Jimmy's not stealing anything Andrew Dotson is

GIBSON Q. Okay but you say he's doing it for them.

Nightengale A. And for everybody else yeah I mean I even actually bought a couple 4-wheels off of him.

GIBSON Q. Did you

SCOTT Q. How do you know he was doing it for Jimmy

Nightengale A. Well not he would do it for anybody that would buy it I guess

SCOTT Q. Okay

Nightengale A. But Jimmy would buy most of it.

GIBSON Q. was you guys. were you guys partying in this hotel, was that the purpose of getting the hotel

Nightengale A. yeah

SCOTT Q. what was the name of the motel

Nightengale A. Hampton Inn

SCOTT Q. Hampton

PRICHARD Q. was it in your name

Nightengale A. no, it was in Mike's name, I never had any motels

SCOTT Q. _____

Nightengale A. yeah

GIBSON Q. so you guys got a hotel room to party in and a Conway comes down

Nightengale A. right

GIBSON Q. and you guys were partying and then this, do you discuss this incident before the party or during the

Nightengale A. no, hell no

GIBSON Q. ok

Nightengale A. that was just out of the blue, ..I thought maybe he was just saying it cause he was drunk

GIBSON Q. oi.

Nightengale A. but, I a. he meant it

GIBSON Q. tell me how this thing. how this

Nightengale A. it was about 2 o'clock, maybe one or two o'clock and a

SCOTT Q. am

Nightengale A. yeah. this was like..

GIBSON Q. ...how does it get brought up

Nightengale A. either, either we was already in the bathroom, I might already been in the bathroom, I don't know that really happened, I just know we were all three ended up in the bathroom

SCOTT Q. who was all three again, I'm sorry

Nightengale A. me, Mike and Jimmy

SCOTT Q. ok

Nightengale A and Jimmy

GIBSON Q. Horton is not there

Nightengale A. no, Horton wasn't there at all

GIBSON Q. ok

Nightengale A. and I just want to mention that right now, you guys need, I want you guys to kill him

GIBSON Q. so. why did you end up in the bathroom, are there other people still in the apartment

Nightengale A. yeah, there's a

GIBSON Q. ok, so there's a 3rd party going on so you guys move into the bathroom where you can talk privately

Nightengale A. yes

PRICHARD Q. wasn't the beer being kept in the bathroom

Nightengale A. yeah, that's where it was

GIBSON Q ok. and, what's, as nearly as you can remember it Shawn, what did, what specifically does Conway tell you

Nightengale A. I want you guys to kill Andrew, he said that

GIBSON Q. he say why

Nightengale A. well probably, I mean he didn't, he didn't really say it but I mean [illegible] said it and probably because he knows if he did it he would get in trouble [illegible] didn't know me, Andrew's...you know his family didn't know me, we could [illegible] when Conway was up in Columbus and nobody would even know

GIBSON Q. so Conway tells you, you guys he wants you to kill Dotson

Nightengale A. yeah

GIBSON Q. what specifics do you get into at that point

Nightengale A. none, till the next day

GIBSON Q ok, no specifics then

Nightengale A. I, I walked out

GIBSON Q. ok

Nightengale A. then him and Mike talked for maybe 5 – 10 minutes. I don't, I don't know what they said

GIBSON Q. ok, so the next day is the first time you actually get into here's how it's going to happen

Nightengale A. yeah

GIBSON Q. I mean tell me what, what's said then

Nightengale A. well right after, well ..right after that I left, I went with this girl Chelsea Patton and whenever I showed back up maybe about 10:30 or something like that

GIBSON Q. the next..

Nightengale A. Conway was already out in the parking lot. in the parking lot at Hampton Inn and told me to get in the car so i got in my car and I followed him and Jamie over to Lowe's across the street

GIBSON Q. ok

Nightengale A. and a whenever..

GIBSON Q. Jamie is there

Nightengale A. yeah. Jamie is there now, he's with Jimmy, not with me

GIBSON Q. ok, you went to Lowe's

Nightengale A. yeah

GIBSON Q. ok

Nightengale A. we got out and we talk in the parking lot for a minute, I'm asking em, you know why we're here more or less and they said a

GIBSON Q. who says, try to say a name if you can

Nightengale A. ...Jimmy and, actually just Jimmy, not Jamie

GIBSON Q ok

Nightengale A. Jamie looked scared to death, I in my, you know

GIBSON Q. ok

Nightengale A. and a Jimmy kinda started laughing talking about good fellers or something like that and a

GIBSON Q. did you know what he was talking about

Nightengale A. well yeah, I always watch the movie

GIBSON Q. he was big on that movie wasn't he

Nightengale A. yeah, too big. like and a so we came over here to get some shovels and a some lime and they asked me to buy it, I remember Jimmy saying that like will you buy it cause it might be on camera and stuff and they might a, and they said since I did landscaping it wouldn't like it was a big deal

GIBSON Q. ok

Nightengale A. then I really knew that they was really wanting me to kill Andrew, I was like look, you..I try not to cuss and he said you fucking nutt. I said you're a fucking nutts, I'm not

going to buy this shit, especially if it will be on camera, so I didn't, then we went in and a Jamie, Jamie was in....got it, bought the lime, I bought a couple, like a lamp,a shovel or something

GIBSON Q. what all did you buy, you bought lime

Nightengale A. well they bought, they bought shovels, a rakes, garden utensils, lime and

GIBSON Q. said something about a lamp

Nightengale A. yeah. I think I bought a lamp and a little a, little garden shovel, little tiny

GIBSON Q. ok

Nightengale A. I don't remember exactly what we bought. but

GIBSON Q. alright and then you talked, did you talk more about how this was going to happen. what they wanted you

Nightengale A. when we got back to the Hampton Inn

GIBSON Q. ok

Nightengale A then a, he just, he asked me, you know, if I could really think of any place to do this and I was like well you know I've been down in West Virginia, that's where I live and they'd never find his body down there, all that

GIBSON Q. ok

Nightengale A. and a he gave me some money to buy Andrew some clothes so Andrew wouldn't have to go back home to get any clothes or anything like that and a it just like I agreed to do it, a Mike might have even walked out and we both might have been talking him but I don't remember

GIBSON Q. ok

Nightengale A. it might have just been just me too, but I know that I was like alright, yeah, we'll do it, then after two or 3 hours, we had to check out at 2 o'clock I remember that

END OF SIDE A

SCOTT Q. turned the tape over and it's about 11:04 AM

GIBSON Q Shawn at this meeting at the Hampton Inn, you agreed to kill Dotson

Nightengale A yeah

GIBSON Q. the idea is you're going to take him to West Virginia

Nightengale A. yeah but we didn't know how, and, you know I remember saying I, that we had a gun, that I had a gun in the back of my car, now, I don't even know, I can't even remember how it even got there

GIBSON Q. ok

Nightengale A. now I'm, I keep thinking that there wasn't a gun there, but there might have really been a gun. I just, I can't remember how it got there if there was

GIBSON Q. and you guys even bought Dotson some clothes so he wouldn't have to go home

Nightengale A. yeah

GIBSON Q. did he live in Columbus

Nightengale A. yeah he lived in Columbus

GIBSON Q. alright, so you're just going to leave right from

Nightengale A. well he, I think he wasn't, might have not even been back yet cause they went down in Chillicothe or to Columbus, up to Columbus to get a bike or something like that

GIBSON Q. you're a, who's going with you Arthurs is going with you

Nightengale A. yeah me and Mike

GIBSON Q. just the two of you and Dotson

Nightengale A. right

GIBSON Q. did you just

Nightengale A. obviously, you know that night whenever they was talking, him and Mike had to have the same conversation me and Jimmy was having

GIBSON Q. um huh

Nightengale A. cause he knew exactly what was going on

GIBSON Q. ok, a, did you guys give Dotson some kind of a line, some kind of a story about where you're going, where you're taking

Nightengale A. well honestly the truth was you know, we, I was going to pick up money and so I mean that's what we told him and something about some weed I want to check on weed, find some weed or something

GIBSON Q. did he know you sold cocaine down there

Nightengale A yes

GIBSON Q. so he's just going along for the ride while you're picking up money

Nightengale A. righ

GIBSON Q. ok

PRICHARD Q. inaudibl

GIBSON Q. yes

PRICHARD Q. you said they went up to Columbus to get a mik, a bike

Nightengale A. yes him and Rick Hart

PRICHARD Q. Andrew and Rick

Nightengale A. Andrew and Rick Hart

PRICHARD Q. and they

Nightengale A. but Mike took em, Mike might have took em because it, I don't know else they would get up there

PRICHARD Q. you think they went

Unknown inaudible

PRICHARD Q. early that morning before check out or

Nightengale A. well it had to be cause they didn't get back until one o'clock and remember I said I didn't get up till like 11:00 o'clock that morning or something like that, 10, maybe 10, 10:30, 11

GIBSON Q. alright so the three of you are going to West Virginia and the theory behind this is you're just going to pick up some money

Nightengale A. yeah and some weed

GIBSON Q. you and Mike Arthurs both knew or in you minds you're going there to kill Dotson

Nightengale A. yeah

GIBSON Q. because Conway said so

Nightengale A. yeah

[illegible] about Chris

Nightengale A. no

GIBSON Q. know anything like that

Nightengale A. no he didn't say anything like that

GIBSON Q. a, did. on the way down there do you guys do anything to kind of make

Nightengale A. we pull over

GIBSON Q. Dotson resist less

Nightengale A. no, on the way down there

GIBSON Q. yeah

Nightengale A. no

GIBSON Q. well, let me be. let me be a little more specific. is there any drinking or taking drugs or anything like that

Nightengale A. we was. me and him was drinking

GIBSON Q. ok

Nightengale A. not much, not on the way down there, I don't, no I don't think so. that's when they wasn't no tools or anything. that was on the way back if that's what you're talking about

GIBSON Q. that was what I'm getting at. so you go down there, did you pick up some money and weed down there

Nightengale A. yeah I pick up money

GIBSON Q. ok

Nightengale A. we go to my brother's house and talk for a little bit, we actually have a couple beers and then whenever we go to that a, we pulled up in this lane it went a couple miles back in the woods and we all got out, me and Mike, you know, we, we're already decided on the way there we wasn't going do it when we pulled over in the rest area but then when we got there the same thing happened, we just got back in and

GIBSON Q. had you jus. had you and Arthurs talked about it before you got

Nightengale A. hadn't really talked about it just looked at each other

SCOTT Q. I'm going to ask you a question...when he said, when you guys were in the Lowe's parking lot and he makes reference to good fellows, ok, what did he say about the good fellows, you recall

Nightengale A. I just, I remember saying do you remember that movie, you remember what they put on the body or something like that, you know

SCOTT Q. ok, did he ever make reference to, do you, ok in the movie, a Jim Conway is played by Robert DeNero

Nightengale A. um huh

SCOTT Q. Pauls Reveno (?), you remember Pauls Revenos (?) name in the movie, a, it's not Pauls Reveno (?), that's really his first name who plays the guy named Cicero, do you know what

Nightengale A. I didn't even know that, I mean that's kinda of a coincidence, I have no idea about that

SCOTT Q. ok, didn't know if it was ever brought up, sorry

GIBSON Q. so you guys start back, you didn't do what you went, really the real reason you went there

Nightengale A. yeah and we wasn't going to do it anyway on the way down there

GIBSON Q. told Conway you were, right

Nightengale A. yeah told him that

SCOTT Q. when did you plan on doing it then

Nightengale A. whenever we got in the cornfield, that's when it happened, we never actually planned on doing it, we probably planned it but

GIBSON Q. I mean you told Conway you were going to do it, you told him you were going to do it in West Virginia

Nightengale A. yeah

GIBSON Q. and the whole idea, him not going home is to make sure he goes to West Virginia with you

Nightengale A. right

GIBSON Q. so I mean at some point how did it happen that you didn't do the, what you were really going there for

Nightengale A. it was, it was definitely in my mind I know it was in Mike's before we even left that it wasn't going to happen

GIBSON Q. alright

Nightengale A. so I don't even know, I mean I had to go down there anyway to pick up money, maybe we might have got down there and changed our minds and actually did it, nobody knew

GIBSON Q. ok, on the way back, I don't know about you guys but Dotson's taking pills right

Nightengale A. yeah, I took some too

GIBSON Q. you took em, what. what are you taking

Nightengale A. a, sylvan(?) I remember taking some sylvan(?), there is some purple footballs, that's, that's all I remember what they are called

GIBSON Q. who had these

Nightengale A. I had bought em, he spent some money too on em

GIBSON Q. ok, where did you get em or buy em

Nightengale A. one of the guys that I was selling to, I don't remember his name so

GIBSON Q. is that down in West Virginia, get em down there

Nightengale A. yeah, in West Virginia, it was in Ft. Gay(?) West Virginia. I just don't know the guys name

GIBSON Q what was your, you say he took these pills, what was your condition on the way back, you ok

Nightengale A. not really, I mean I really didn't take a lot of pills, I was almost drunk by then

GIBSON Q. you know what

Nightengale A. not completely drunk but

GIBSON Q. you know what was going on

Nightengale A. yeah, I was coherent, I mean, I drove him up to, I always got drunk so I mean it wasn't something I wasn't used to

GIBSON Q. alright. how about Mike, did he take any pills, he get

Nightengale A. he act. he said he acted like he did, but I don't know if he really did or not

GIBSON Q. did he seem alright to you

Nightengale A. other then being nervous, yeah

GIBSON Q. what about Dotson, what was his condition

Nightengale A. after maybe an hour after we was driving, he passed out so

GIBSON Q. alright so he's passed out, that would have been where in the car

Nightengale A. in the back seat

GIBSON Q. alright now Conway thinks that when you guys come back, you're not going to have Dotson with you

Nightengale A. yeah

GIBSON Q. I guess two questions I've got that relate to that, if that's the case, why, where were all, what was the purpose of buying all the shovels and the lime and all the stuff, did you take, guys take that with you

Nightengale A. yeah

GIBSON Q. that was in the trunk

Nightengale A. yeah

GIBSON Q. so it was to use in West Virginia

Nightengale A. yeah

GIBSON Q so you guys have Dotson in the car, you've also got all that stuff you bought to bury him and cover him up with

Nightengale A. right

GIBSON Q. ok

Nightengale A. the only there is is a shovel and lime and a bunch of clothes

GIBSON Q. ok

Nightengale A. but I, I said that there was a gun, I just can't remember it, it might have

GIBSON Q. alright

Nightengale A. really been one I don't

GIBSON Q. on the way back Dotson is passed out and at some point you and Arthurs have this discussion, I guess we got to tell Conway we didn't do it

Nightengale A. we had the discussion on the way down there, me Andrew and Mike, you know, asking if he's going to say anything about Jessie James shooting and all that, said no

GIBSON Q. but you didn't tell him you was going to kill him

Nightengale A. no

GIBSON Q. you're just kinda saying hey, you know are you going, are you going to rat on

Nightengale A. yeah

GIBSON Q. Jimmy and all that stuff, right

Nightengale A yeah

GIBSON Q. ok, but on the way back when he's passed out, I take it at some point, you and Mike are, are what are we going to do here, right

Nightengale A. whenever we first left, we didn't know what we was going to do

GIBSON Q. well

Nightengale A we had the intentions on, we thought we was going to go down there and kill him yeah

GIBSON Q. on the way back don't you have to now talk to Jimmy and tell him, hey, Dotson is still alive, he's here in the back seat

Nightengale A. yeah

GIBSON Q. tell me how that came about, how did you tell Jimmy, how did you let him know

Nightengale A. either, either I called or Mike called, but it was probably me that called on the cell phone and a he's like look, know, we went down there, we couldn't find a spot and just kinda started laughing causing he knew that I'd taken him down there before and he knew these spots down there and a he was like well whenever you get back into Columbus meet me at 3 C or something, I, we might even have been in Columbus when I called him, Portsmouth, somewhere, I don't, I don't even know where it was when I called, he just a, he kinda got mad, he called me a bitch and a

GIBSON Q. where he'd tell you to meet

Nightengale A. at 3, at the big bear on 3C

GIBSON Q. ok

Nightengale A. whenever we got back into Columbus

GIBSON Q. say he was mad at you

Nightengale A. yeah, and Mike, Mike lied to you guys when he said that he didn't get out and talk to Conway, he said he pull, somehow he pulled up to the window, the window or whatever. that's a big lie

GIBSON Q. yeah, alright

Nightengale A. cause Mike got out and talked with him too. so

GIBSON Q. ok. alright we'll get to that. A but he's. he's pissed, he's not happy that you guys are bringing Dotson back

Nightengale A. he's real mad. you know

GIBSON Q. ok. so he tells you to get the guys where to meet him

Nightengale A. yeah

GIBSON Q. you go there and meet him

Nightengale A. yeah

GIBSON Q. a, when you pull up is Dotson still passed out in the back seat

Nightengale A. yeah, he's still passed out

GIBSON Q. so he, he's been out this whole time

Nightengale A. correct

GIBSON Q. a tell me about the conversations, you guys get out of the car

Nightengale A yeah

GIBSON Q. you

Nightengale A. a they was parked, they was parked up here and we pulled up maybe, you know how in a parking lot you always got the lane where you can go between and there's a parking lot right here

GIBSON Q. yeah

Nightengale A. we parked on the other side and me and Mike both got out and walked over to a Jimmy's truck and I remember there was a brand new Escalade, like maybe 20 yards away from us, we's talking about that at first, then a, Jimmy is like so what happened more or less and, know, we told him like look, we talked to, we talked to Andrew, he's not going to say anything anyway and we talked maybe for 10 minutes and he just kept getting even worse, you know. he, his face

GIBSON Q. mad

Nightengale A. but yeah his face was getting real red like

GIBSON Q. you guys are trying to tell him, hey we don't need to kill this guy, he won't talk

Nightengale A. yeah. we was trying to think of any way, you know that to change his mind but it just didn't happen, then a Jimmy, Jamie said something. I remember he said a you guys shouldn't say that you want to do something and I don't, man I can not..I don't know exactly what it was he said

GIBSON Q. continue doing that thought though

Nightengale A. I can't, I don't know how to word it because I

GIBSON Q. just give it your best shot

Nightengale A. he said you know. don't say that you're going to do something you're not going to do or something like that, maybe that's what

GIBSON Q. don't say you're going to do something and then not do it

Nightengale A. that's, that's really all he said

GIBSON Q. so, I mean you said this went on, this is about a 10 minute conversation with Conway and he's getting angrier and angrier

Nightengale A. yeah, he's getting pissed, and, then a

GIBSON Q. and, you, you guys are telling him hey we don't have to do this, we talked to him, he's not going to say anything, he'll keep his mouth shut

Nightengale A yeah

GIBSON Q. that's not, Conway is not buying any of that right

Nightengale A. no he's not buying it, he just

GIBSON Q. what's he saying to you guys, what you

Nightengale A. he called us all kind of bitches and pussy's and everything he could think of that, then he. then we started talking about we used, we used to play hide and go seek at out in Galloway and he, that's just how it happened, he just said well follow me out here

GIBSON Q. ok, when. when

Nightengale A. we even..I. I even actually said I, Mike might even, he, he probably said the same thing, but I didn't tell them this so.I was like well why don't you guys just take Andrew or something like that I remember saying that

GIBSON Q. um hul:

Nightengale A. and he, he was like no I want everybody to be involved in this cause if anybody goes down we're all going down more or less so

GIBSON Q. ok, so you suggested. he's right there, you guys can take him

Nightengale A. yeah, I mean he's passed out

GIBSON Q. Conway wanted everybody involved

Nightengale A. yeah

GIBSON Q. that way there is no, no more snitches

Nightengale A. well that's when I knew he didn't trust me or Mike cause, you know, he wanted everybody to be involved

GIBSON Q. alright, so he didn't trust anybody at this point

Nightengale A. no

GIBSON Q. when he, when he's mad and he's calling you these names and you know, what you said you were going to do this, why didn't you, is he telling you anything about the legal ramifications, don't you know what he can pin on me and all this stuff, that, it never

Nightengale A. no

GIBSON Q. why he wants this done, how, why it's important

Nightengale A. that was before

GIBSON Q. ok but it's not, when, I thought maybe when he got mad that would have come up again

Nightengale A. ___ _

GIBSON Q. send me to prison or anything like that

? _____

Nightengale A. when Conway got mad, he, he's not, he don't talk a lot, you can just seen when he's pissed off

GIBSON Q. so logic's out the window, now he's just pissed

Nightengale A. yeah, he, he's upset that we lied to him, that's really the main thing, that's all I can think of

GIBSON Q. ok, the same thing Horton said, you told me you'd do this and you didn't do it

Nightengale A. yeah

GIBSON Q. ok, alright so he says follow me

Nightengale A. right

GIBSON Q. and you guys do

Nightengale A. yeah, we even, on the way there, there was about 6 or 7 cops on Norton road at this gas station and I even told Mike I was like man I, I was like swerve or something, maybe we'll get pulled over, I even told him that and he just, I mean he started getting little tears in his eyes and stuff, you know, I I remember that too

GIBSON Q. ok, so you get to this, this field

Nightengale A. yeah

GIBSON Q. tell me

Nightengale A. well first, you know, we pulled in, this is when I thought everything was actually going to stop cause with the place where we was actually supposed to go

GIBSON Q. yeah

Nightengale A. you couldn't get in there, so, I thought god's getting, god just not going to let it happen period, but then a Jimmy did, he stuck his hand out like this like we'll just go out and go west or something like that cause I remember we went left

GIBSON Q. ok, so he points out a spot

Nightengale A. well we just, we start driving, he don't know if there is any spot anywhere

GIBSON Q. ok

Nightengale A. and after we go down maybe a half a mile or something he, he pulls in this little lane in the cornfield

GIBSON Q. Dotson is still in you car

Nightengale A. yeah

GIBSON Q. still not making a sound

Nightengale A. he's passed, snoring actually

GIBSON Q. alright, so you follow him in, a, Horton and and Jimmy get out of their car or their truck

Nightengale A. yeah, yeah

GIBSON Q. you get out of your car

Nightengale A. yeah me and Mike both get out of the car

GIBSON Q. tell me what happens from there

Nightengale A. well nobody believe me but I'll tell you what happened

GIBSON Q. tell me, the only thing we want is the truth, you tell us exactly what happened ok

Nightengale A. a, first there was a little bit of a conversation about, I remember it was either, he had to be Jimmy, he was saying that a, you can't, nobody should shoot him because we just passed them cops and they, I don't, Norton road was really that far and they was where you could hear a gunshot. I don't even really know how it came to be what, you know, lets choke this guy. whatever, I, I don't remember that

GIBSON Q. ok

Nightengale A. but a I remember I opened up the back door and Mike, Jimmy might have said Mike choke him or something, I don't know, but whenever Mike grabbed him, I know what those, his intentions was to kill him then, he

GIBSON Q. because do you feel he had a choice at that time, Jimmy is saying he wants it done, he wants everybody involved

Nightengale A. no. because they hadn't, I, whenever the said lets shoot him I knew that they had guns. so it was either you do it then or, I'm not here making this conversation with you now

GIBSON Q. ok

Nightengale A. so

GIBSON Q. so you open the door, Mike reaches in and grabs Dotson

Nightengale A. yeah

GIBSON Q what happens then

Nightengale A. he gets him in a headlock for, and like I said before, it's 15 minutes, but is wasn't, it probably only 2 or 3 minutes and the guys hands were going like doing like you know twitching and shit like that,then whenever he let, I know he did it long enough, I mean the guy's face was swelling up, his eyes was already closed but it, it looked like his whole face, I don't know, it looked like his face was swelling up when he was doing it, maybe I was just seeing shit I don't know

GIBSON Q. yeah

Nightengale A. and after he let go you could hear like aah. like something like that and I, I thought he was dead then and I, I remember Jimmy is like well he's still breathing, he's still breathing and then a. cause whatever Mike was doing at first. he, he was down like this on the ground and then he just laid him completely down on the ground and my jeep was right. it was right dead beside my jeep and he put his a, he put his left foot on his neck, and have you ever seen Mike

GIBSON Q. yeah

Nightengale A. you know how big he is, right

GIBSON Q. yeah, big guy

Nightengale A. ok. well he put his left foot on his neck and he was, he couldn't really get enough pressure I guess that's what he was thinking to just use his body weight and stuff on this guys neck so he, he put his, both of his hands on my jeep and whenever he did that, he, he pushed so hard, he, he was saying that he had his other foot, I ...that, that he was just, he had his other foot on the ground. well he didn't, his foot was pinched up like this

GIBSON Q. ok, he's got his full weight on the, on..neck

Nightengale A. he...half of my jeep cause he's pushing my jeep and my jeeps almost coming up. you know, and whenever he gets off of him, his neck is flat and there's, there's imprints. his necklace is stuck down inside his skin, you can see where it, his necklace was but you can't really see the full necklace, you can just, I can't really explain, it's like this, you know, pinch you skin and the necklace is down in there and he had a the imprint of a shoe. this guy's, he was dead then, I don't care what anybody says, he was dead, you could even see the front of his pants where they was wet and I. I've heard enough stuff, you know, whenever somebody shits and piss', you know, that's, that's they are dead then, that's what I think, this is the way I assume it

GIBSON Q. so whatever, whatever anybody says in your mind, Dotson is dead at this point

Nightengale A. he is dead

GIBSON Q. ok

Nightengale A. and if he's not dead then it's not over because Mike's not done

GIBSON Q. ok

Nightengale A. he then, after that, I don't even know why he keeps going, he kinda starts shaking. Mike does, know he's like oh man, I don't real, I don't know exactly what he said, but he acts like he, he's exhausted, so then he takes a. he takes Andrew and he, as hard as he can, he keeps trying to snap his neck and you can hear it like (Nightengale makes the noise saying that's exactly how it sounds almost, just cracking, like bones breaking right in half and then he takes his neck and sq, just takes it almost all the way around

and all, you ever seen the exorcist(?) this is the same example I used in court, all the way around, if he wasn't dead whenever he was stepped on his neck he was dead then

GIBSON Q. ok

Nightengale A. and a, that's

GIBSON Q alright, what happens next, does that satisfy Conway

Nightengale A. yeah, Mike even gets down and you know he can hear him breath, gets down to see if he's breathing, he's like well I don't hear any breathing or anything like that and he checks his pulse and like, nobody ever knows how to do that, that's on TV, I don't think he really knew what he was doing

GIBSON Q. ok

Nightengale A. and a kinda, Mike kinda pulled him out a little bit and they, and Jimmy ask me to take his clothes off, he might have ask me and Jamie, but I said no, I said hell no, I mean I was shaking so bad I didn't do it and a, I don't even really remember who took his clothes off, I know Mike helped take em off but and it might have been Jamie but I don't know for sure and after that a he's like we'll pull him, somebody said pull him on back in the corn, back further and a he told me to help him again, I said alright well I'll help him and I, I went to grab his leg and I just, I lost it, you know, I kinda like trembling, I almost fell down but I didn't fall all the way down, I just let go and Mike was like get the fuck out of my way and grabbed both of his hands and just drag him back

GIBSON Q. who said that to you:

Nightengale A. Mike did

GIBSON Q. ok

Nightengale A. and a he then dragged him on back there, further back there, then when he came back, I don't even know why in the hell Jimmy would, the guy was dead and everybody knew it so I don't know why he even took the pick ax back there and did that

GIBSON Q. so once he was back there Conway took a pick ax back where he was

Nightengale A. yeah

GIBSON Q. that come out of your trunk

Nightengale A. well, no mean there was something else, my trunk was open before that, they might have been talking about the lime before, before they stabbed him, I don't know, but I remember I was by my door I seen Conway get that pick ax out of the back of his, it was in a truck that white truck that he had.

GIBSON Q. That came out of Conway's truck?

Nightengale A. He got it out of the back of his truck. Whenever we went back there you could hear like a like a pop like a balloon-popping. I didn't see him do it but I knew

GIBSON Q. You knew what he was doing back there?

Nightengale A. I mean I didn't exactly I didn't know he was hitting Andrew until I got arrested cause he never really said anything about what happened that night but now I know what he was doing.

GIBSON Q. Did you go back there at all?

Nightengale A. No, no I never went back there Jamie did.

GIBSON Q. Who took the lime back?

Nightengale A. Jamie took that lime back there said he pored it on him then when he came back up they wanted me to put all the stuff in my Jeep and just they knew that I wasn't doing anything so they wanted something to be pinned on me if anything that's the way I, I get it now but at the time I didn't think_____.

GIBSON Q. Said he put all this stuff in your Jeep?

Nightengale A. Well some of it he kept maybe a shovel or some

GIBSON Q. Where did the pick ax go?

Nightengale A. Pick ax the handle of it they put it in a bag and Andrew's clothes and they put it in the back of my Jeep and um then Mike took that to his cousin's or something like that said he burned it and threw it in the river but I don't know what he did.

GIBSON Q. So the pick ax and the clothes left there in your Jeep or in Conway's car?

Nightengale A. Yeah, in my Jeep.

GIBSON Q. When did Conway get them?

Nightengale A. What do you mean get them he never got

GIBSON Q. You said he took them somewhere and burned them?

Nightengale A. No I said Mike did.

GIBSON Q. Oh Mike did okay I'm sorry.

PRICHARD Q. _____you're saying Andrew's clothes were off before he ever got dragged back in the field he got undressed in front of all 4 of you before he went back in the field or did his clothes get taken off

Nightengale A. They got taken off of him when he was we was always in the field before he got pulled all the way back in the corn his clothes got taken off of him.

PRICHARD Q. So you saw when his clothes are being taken off?

Nightengale A. Yeah

PRICHARD Q. And you said you think Jamie and Mike were taking his clothes?

Nightengale A. Yeah

PRICHARD Q. And what was he left wearing?

Nightengale A. His boxers

PRICHARD Q. And then

Nightengale A. And a necklace and glasses

PRICHARD Q. And then they dragged him back?

Nightengale A. Yeah that's that's when Jimmy, Jimmy said um to grab him help grab him and pull him back there cause he, he was too heavy I guess then whenever I tried to grab him I couldn't Mike told me to get out of his way and dragged him back there.

SCOTT Q. Well Jimmy must have been confident that he was dead.

Nightengale A. I don't know how I still can't figure that out it doesn't make any sense.

GIBSON Q. You and Mike left in your car?

Nightengale A. Yeal

GIBSON Q. And Jimmy and Jamie Horton left in Conway's

Nightengale A. Right we, we um I went back to Jimmy's house first and dropped off his truck then we went back to um to drop Mike off at his cousins house on the west side and that's we dropped off Andy's clothes with him and that handle for the pick ax the metal piece of it.

GIBSON Q. So you dropped off Conway's truck at his place?

Nightengale A. Right

GIBSON Q. And he joined you guys?

Nightengale A. Yeah he started driving me and Mike was in the back seat ther..

GIBSON Q. Alright where did you go after you dropped off Conway's truck?

Nightengale A. To um Mike's cousins house Scott or whatever his name is I don't know what for sure.

GIBSON Q. And then Arthurs got out with the pick ax and the clothes?

Nightengale A. With the bag full of stuff and the clothes and the metal pan.

GIBSON Q. Okay did he get back in or is that the last you saw of Arthurs?

Nightengale A. No I didn't see him the rest of the night then we went to _____ I went there for about 20 minutes and I had Emily pick me up and they stayed there nobody really said much when we got there you know so.

GIBSON Q. So you guys aren't is there any talk about what just happened between you guys?

Nightengale A. No

GIBSON Q Did you ever meet again and talk about this afterward?

Nightengale A. No we've never really talked about it at all until _____drinking

PRICHARD Q. Wait the next day didn't you go pick Mike up the next morning?

Nightengale A. We met yeah, yeah

PRICHARD Q. Okay what happened then?

Nightengale A What did happen then I can't cause I don't really remember everything I

PRICHARD Q. Do you remember going and getting like new clothes?

Nightengale A. Yeah we all got new clothes I think we got new shoes too or something.

PRICHARD Q. What do you recall about that?

Nightengale A. Yeah I didn't mention that well we took all the me and Jimmy and Jamie and Mike said that he wasn't with us but he was we went back to Jimmy's house and burnt everything that we had on the shoes the shirt and the pants I mean everything I don't that was after we picked him up I'm pretty sure and um I remember Jimmy gave us all some old ass shoes he had and some sweat pants or something and then we all went and got some clothes at the Westland Mall I don't remember where we went but we didn't really talk about anything.

SCOTT Q. Why did you do that?

Nightengale A. Why did we burn the clothes so there wasn't any evidence I guess.

SCOTT Q. Who told you to do that?

Nightengale A. I'd say Jimmy said that.

SCOTT Q. Did he say why I mean

Nightengale A. Everybody probably knew

SCOTT Q. Okay I thought maybe someone told him he needed to do that.

PRICHARD Q. Is it possible the 3 of you went and got your new clothes and burned stuff and then pick Mike up and took him to do the same thing and you did it in 2 steps?

Nightengale A. No, no that's not possible cause we all went and all got new clothes at the same time and new shoes

SCOTT Q. Where did you go?

Nightengale A. To um the Westland Mall

SCOTT Q. Specifically where

Nightengale A. Where the Oriental people that I don't know what they are they own that um that clothing store in there I don't know what it's even called I thought then cause I remembered but I don't know what it's called now.

PRICHARD Q. Did somebody pay for everyone's clothes or did you guys pay for your own?

Nightengale A. Yeah Jimmy paid for everybody's clothes.

GIBSON Q. Do you know how he paid him?

Nightengale A. Cash I don't want to say the wrong thing cause I don't really I know that we all went together and we all bought new clothes.

PRICHARD Q. I'm just asking you what you recall everybody might recall it a little differently.

Nightengale A. That's it about that

GIBSON Q. Did you guys ever talk about this afterwards?

Nightengale A. No Jimmy _____say anything me and Mike kind of we might say a couple words about it but nothing cause I don't really know what we would say.

SCOTT Q. Was there any conversation when it came on the News when we found Andrew's body?

Nightengale A. Oh yeah I think I call I called yeah I did I called um Mike and I was like I said I watch turned on the News or something like that that's all I said to him cause I thought my phone was tapped at the time I might of said more but probably not about the same thing.

58196 - P71

SCOTT Q. Did Jimmy ever say anything to you about it after the News he was found on Octobe: 10th.

Nightengale A. I, I don't know I can't think of anything that he

SCOTT C. Did Jimmy ever know it was on the News?

Nightengale A. Didn't he get arrested wasn't he arrested whenever it happened.

SCOTT Q He didn't get arrested till like March we found Andrew's body in October we're talking 4 or 5 months so that's what I'm saying

Nightengale A. Yeah he had to know it was on the News he probably yeah Jimmy yeah Jimmy called me and told me to look on the News and that's why I called Mike and told him to watch the News.

SCOTT Q. [redacted]?

Nightengale A. I don't know I don't know if he knew it was on the News or not.

SCOTT Q. Okay

Nightengale A. I don't know about that probably seen it on the News it was on the west side it was that's where he's from so I was like

GIBSON Q. You guys never had talks about what we ought to say if somebody comes to ask you know what we ought to do or anything like that?

Nightengale A. No cause we didn't think anything would ever come about it I guess.

GIBSON Q. Was there any talk about who you could trust or who you couldn't trust or about talking about it to anybody else?

Nightengale A. Yeah, yeah there was um that was that's always anybody would probably say that you know don't tell anybody else but I know that me and yeah **END OF TAPE 1**

SCOTT Q. **START OF TAPE 2** We're back on tape and it's around 11 this is the second tape and it's around 11:40 AM and I don't remember where we left off.

GIBSON Q. I think the last thing we said is Shawn you told us you had told Mike Authors he asked you if you told anybody about it and you said you told Emily a little bit about it.

Nightengale A. I told I just um whenever I got home that night I asked her what she thought about me cause I thought maybe something might happen that night we might get arrested and we had a little conversation about how we felt about each other and all that then um

GIBSON Q. Did you get into specifics with her?

Nightengale A. No. no I never told anybody about it I mean I always wanted to tell my Mom but I would of been the one getting the 4 years first if I had told my Mom cause she would of come straight to you guys and not I wish I would of you know but um but now I do mean but I know that he told me that he told um his cousin Scott his Mom and all of his brothers and his Dad about it.

SCOTT Q. Mike did?

Nightengale A. Yeah that's really the only thing we talked about and that was only one time so I always looked at him kind of different after that too you know i he was a big guy you know he can fight a little bit I was always kind of afraid of that cause I like to fight too but now I know that he's a little bit crazier than I thought he was and we talked about that too and I told him I can't believe you could actually do something like that he just said he don't even know what happened he just kind of flipped out you know kind of blacked out but other than that nothing else.

PRICHARD Q. Did you guys talk about how your luck had been all bad since then something like that the things your life everything has kind of gone bad since that day?

Nightengale A. Yeah, yeah we had yeah man I forgot all about that too because it didn't seem like you know I stopped making money as much money as I was I don't just little things has happened my luck was changing and so was his he stopped making money but other than that I can't really think about what else was going bad but our life was hell after that.

PRICHARD Q. Really

Nightengale A. It wasn't the same after that night but I don't know any other conversations we had.

GIBSON Q. Didn't talk to Conway about it anymore at all?

Nightengale A. No he didn't want to talk to anybody about it.

GIBSON Q. [redacted]

Nightengale A. No

GIBSON Q. When was um when was um the um the appliance store robbery _____?

Nightengale A. I don't know what date it was I just

GIBSON Q. After or before?

Nightengale A. It was after.

GIBSON Q. How much after?

Nightengale A. Maybe 3 months, 4 months

SCOTT Q. I can get that report if you want it.

GIBSON Q. That's okay I guess the point is you told us kind of the money stopped coming in

Nightengale A. Well for me

GIBSON Q. Things had dried up for you

Nightengale A. I kind of tried to quit me and Jamie was going to buy our own company Landscaping company.

GIBSON Q. Alright

Nightengale A. I was trying to get out of all of it you know I

GIBSON Q. But, but you told me earlier that um Mike Authors or somebody came to you about um I guess it was Simmons Marcus Simmons

Nightengale A. Right

GIBSON Q. Came to you cause you said you knew Marcus?

Nightengale A. Yeah I've known him for 10 years played basketball everyday that's 5 years ago.

GIBSON Q. Okay so Marcus came to you and wanted you to said hey talk to you about hey this would be a good place to rob the cameras and stuff

Nightengale A. Yeah he kind of he kind of took me around a little bit like look you know there ain't no cameras in here you know everybody that works there anyway he ask me why don't I why don't I rob the place I mean I told him you know at the time I didn't need the money and I don't if I did it, it would have been obvious cause he was one of my best friends.

GIBSON Q. And he was somebody that wasn't connected to Chillicothe?

Nightengale A. Yeah

GIBSON Q. Alright so you pitched the deal to Conway right?

Nightengale A. Yeah I just told him you know I'll get back to him later somebody might be calling him whatever all I did was told Conway I gave him a phone number to call cause he knew Marcus too he already knew him.

GIBSON Q. Conway did?

Nightengale A. Um just a little bit.

GIBSON Q. Okay but you, you must of he didn't know him well enough that he could call Conway and say hey why don't you rob this place but the person he talked to about doing it was you.

Nightengale A. Yeah he had to tell me I had to tell him

GIBSON Q. So then you tell Conway

Nightengale A. Tell him that I could trust Marcus you know that Marcus wouldn't say anything and all that.

GIBSON Q. Alright did were you and so you tell Conway and are you involved in any of the planning of it or anything that's going to happen or what how's that go down?

Nightengale A. No I wasn't involved in any of that stuff.

GIBSON Q. Alright do you know did you know about it did you know what was what was going on did you know from talking to Mike or anybody?

Nightengale A. I knew what how it was I mean I knew where it was happening I was at Applebee's me and my brother Shane right before I was going to Portsmouth this was 15 minutes before I went to Portsmouth and um it was probably 10:30 or something like that and I seen 2 it might have been 2 those big U-Haul trucks pull in on Rex TV and I just I knew what was going on then so I left.

GIBSON Q. Okay who all did that robbery?

Nightengale A. Mike and um Jimmy and Rob

GIBSON Q. Myers

Nightengale A. Marc yeah

GIBSON Q. And Simmons was in on it right?

Nightengale A. Jamie was yeah he was in on it Jamie was going to do it at first but he, he was too scared so I guess he just stayed in the Motel with _____

GIBSON Q. Okay um wasn't there was there another employee there besides Marcus that night?

Nightengale A. Yeah Alex Maters, Motters or whatever his last name.

GIBSON Q. He didn't have anything to do with that did he?

Nightengale A. No I've known him my whole life too he, he was probably scared to death.

GIBSON Q. As you sit here today you're sure he had nothing to do with it?

Nightengale A. Nothing he, he definitely he wouldn't even of been there if he knew anything about it this guy is in college and everything he wouldn't ruin his life over something like that.

GIBSON Q. Alright so these guys go in there they've got how many trucks?

Nightengale A. 2 that I seen

GIBSON Q. 2 big trucks

Nightengale A. They might have had more than that but I only seen 2 so

GIBSON Q. The idea is they go in they tie Alex and Marcus Simmons up in the bathroom or in a store um an office or something?

Nightengale A. I guess

GIBSON Q. That's what you understand

Nightengale A. Yeah

GIBSON Q. Okay

SCOTT Q. Where did they rent the U-Hauls from or do you know?

Nightengale A. Colum it would have to be Columbus it wasn't Chillicothe it was somewhere here.

GIBSON Q. Alright and they do this robbery they get a bunch of appliances?

Nightengale A. Right

GIBSON Q. What do you find out about that afterwards what information do you get about that?

Nightengale A. Um Marcus told me whenever I talk to him that um he kind of explained what happened that there was 2 people that he didn't even know that they was kind of treating him real nice you know but he kind of explained it it's where he didn't want them to um beat his ass or I guess they might of hit him or something like that did they hit him at all Marcus.

GIBSON Q. I don't know did he tell you that?

Nightengale A. I think he might of said that I think he said they faked it cause they wanted Alex to think that he didn't know what was going on in case anybody asked any questions. Um he just told me how much like the amount the what the money value would be

GIBSON Q. What did he tell you?

Nightengale A. Four or Five hundred thousand dollars that's what he told me.

GIBSON Q. I think that might be a little high but anyway

Nightengale A. That's what he told me.

GIBSON Q. What kinds of stuff did they get?

Nightengale A. Everything big screen TV's and Sweepers, Dryers

GIBSON Q. Okay

Nightengale A. I don't know I didn't see none of it so.

GIBSON Q. Do you know where it ended up?

Nightengale A. In a storage place somewhere in Columbus.

GIBSON Q. Who put it there?

Nightengale A. I'd say Jimmy

GIBSON Q. Well do you know who this storage place gets tied to do you know?

Nightengale A. No I have no idea.

GIBSON Q. Do you know where it is?

Nightengale A. No

GIBSON Q. Do you know what how this probably ended up being disposed of?

Nightengale A. He sold it I'd say but I don't know to who.

GIBSON Q. Do you know some people who got arrested on the street with it or selling it?

Nightengale A. I heard Jamie got in trouble with a couple Camcorders.

GIBSON Q. Now when Jamie got arrested all of sudden there is some more concerns right about whether they can tie anybody to this?

Nightengale A. I'd say there was but not with me

GIBSON Q. Along as you weren't involved in it but do you know of Conway being I mean it's just like what happened

Nightengale A. Well I knew Conway was involved in it but

GIBSON Q. Did you ever were you ever around him that he expressed any concerns about what's going on here?

Nightengale A. No

GIBSON Q. Okay

Nightengale A. He didn't say anything it wasn't none of my business I, I didn't ask him questions about actually I asked if I could buy a TV and then I thought about it I mean he was going t let me have one but then I decided not to

GIBSON Q. Okay but sometime after this sometime after the time Jamie Horton got arrested there is some concerns with Conway isn't there about who knows what and who might talk and that sort of thing and there are some concerns particularly about

Nightengale A. Marcus

GIBSON Q. Marcus Simmons tell me about that?

Nightengale A. Jamie is the one that told me about that

GIBSON Q. Tell me what you know

Nightengale A. Um Jimmy was already arrested by then I know that for sure right

GIBSON Q. Okay

Nightengale A. And um

GIBSON Q. He's sitting in jail on a murder charge?

Nightengale A. Yeah he's already in jail and um Jamie comes to me and um he asked me if I will meet some guy named his name they called him Tony whenever we was out there but that wasn't true but anyway he said that he was telling me how Jimmy met him in here in jail that was suppose to be his cousin that we could all trust him he finally he told me that he was a some guy in the mafia he was he was a hit man that um his Dad was some real big Mafia guy all kinds just little stuff like that you know um it took after, after about a week after he told me that I finally met the that Ronald Trent guy came down to Chillicothe to my house with Jamie and that, that's the fist time I actually ever heard him say you know we need to find out well Jamie knew where everybody lived so I don't even know why he got me involved in it and I'm kind f mad about that he um he asked me that Ronald Trent guy could meet me and so he came into my house and we talked for a minute he just he told me who he was how he knew Jimmy what he would start asking me questions then actually about Andrew Dotson's murder but, but I just looked at him I just walked away from him then we got in the car.

GIBSON Q. So the purpose of you meeting this Ronald Trent is to show him where these people live?

Nightengale A. Yeah and he was going to kill them I guess that's what he said.

GIBSON Q. Where did this come from where did this idea to kill these witnesses come from?

Nightengale A. I thought it came from that Ronald Trent guy that's my opinion but after awhile I thought it was from Jimmy so

GIBSON Q. So what did you do when you met up with him he asked about the Dotson murder you don't tell him anything about that?

Nightengale A. No not at fist no

GIBSON Q. But you guys end up driving around don't you?

Nightengale A. Yeah

GIBSON Q. Tell me about that?

Nightengale A. He tells me that um Jamie tells me that Jimmy is worried about the robbery case cause he knew that somebody might be saying something he thought it was at first he thought it was me saying something about it and so um Jamie asked me if I would take him by Marcus's house and um and Alex's house but we didn't do it that day we just went for a little ride out in the country that day for about 10 or 15 minutes and came back.

GIBSON . Q. He told you more than that he was worried about you I mean there was some

Nightengale A. Oh yeah I'm saying but I just brought that up he was worried about me

GIBSON Q. In fact there was some talk about that you might even be one of the guys he wants killed right?

Nightengale A. Yeah he told me that about

GIBSON Q. Who told that Jamie

Nightengale A. No Ronnie

GIBSON Q. Ronald Trent

Nightengale A. Ronald Trent told me that when he came to Columbus this is a week after this conversation came in my house and told me that.

GIBSON Q. Alright where did so eventually did you take this Ronald Trent did you drive him around?

Nightengale A. Yeah, yeah I showed him where um Marcus didn't actually live there his Dad did _____ I know that his Dad was a security guard or something he worked for the prison he was a gigantic black guy they got a couple guns there so I know if Ronald Trent actually would of went there and asking for him Ronnie Trent probably would of got shot you know some guy coming up in the middle of the night asking for his son and he said he didn't know and after I took him there we went to supposedly suppose to be Alex's house but the only way that I knew that is cause his

address is said on his ID they showed me half of his ID I guess they took that from Alex whenever they robbed him at the _____

GIBSON Q They had his ID?

Nightengale A. UmHm

PRICHARD Q. Who showed you _____.

Nightengale A. That was Rob, Rob showed me that ID

GIBSON Q. Rob Meyers

Nightengale A. Yeah and um I knew that Alex was in College you know he didn't go there he went somewhere I think in maybe Dayton whatever that college is up there so I mean that he wouldn't be there that night either I thought he might of even been doing it that night cause I was making sure that nobody was home I even got out of the car and walked up to the house and looked around for his car his car wasn't out there but I lied to Ronnie Trent and hopefully it's on tape but it don't matter now but I told him I said this is his car which it wasn't I just told him that to make him think he was there like I don't know

SCOTT Q. Remember you wrote down the address on a piece of paper?

Nightengale A. Yeah

GIBSON Q. Have you talked to Jamie since his conviction [illegible]

Nightengale A. Letters yeah just letters

GIBSON Q. And what kind of stuff has he said _____

Nightengale A. That he should of _____-he wishes he would of never got me into this and he wishes we weren't friends with Conway and all kind of he just he feels bad for what he did_____-he wants me to come where he's at in um Ross that's why I'm hoping to get down there um I don't have any hard feelings against him really you know.

GIBSON Q. Said he had wished he had taken the deal?

Nightengale A. Yeah

SCOTT Q. Who said that Jamie?

Nightengale A. Jamie

SCOTT Q. Your kiddin

Nightengale A. It is just that Conway is really convincing cause they always go up to see him and they even try to come here to see me like this last 5 or 6 months.

GIBSON Q. Try to come see you at the jail?

Nightengale A. Yeah and I always decline the visits every time they come up Jennifer Conway and Jim Conway they even tried to come up one time and say that I was actually the one that killed Andrew.

SCOTT Q. Yeah she did but wait I'll ask _____going to wait until Sheryl gets back

GIBSON Q. No would um would Jamie talk to us if we try to talk to him.

SCOTT Q. Here let me just go off tape just for a second. We're going off tape and it's about 11:58.

TAPED INTERVIEW

OFFENSE:	HOMICIDE
REPORT #:	200109704
VICTIM:	ANDREW G. DOTSON
PLACE OF OCCURRENCE:	FIELD W/O GALLOWAY ROAD
DATE OF OCCURRENCE:	OCTOBER 10, 2001
INTERVIEW OF:	ROBERTA JO HANNAH
DATE OF INTERVIEW:	OCTOBER 17, 2001
PLACE OF INTERVIEW:	364 SOUTH 4TH STREET
INVESTIGATOR:	ZACHARY SCOTT/ROBERT MCDONALD

SCOTT Q. Today's date is October 17, 2001 it is approximately 2:25 PM and I'm conducting an interview with Robert

HANNAH A. Roberta

SCOTT Q. Oh Roberta Jo Hannah and Detective McDonald and myself are doing this interview and we are presently at 364 South 4th. Make sure you speak up for me you have a very soft voice okay you need to speak up a little bit for me okay.

HANNAH A. Do you want me to start over.

SCOTT Q. Yes I want to start over you told me that try to remember the time what date was this was there something going on in your life

HANNAH A. It was Friday it was um the first Friday after the New York Terrorist stuff.

SCOTT Q. So that happened on the 11th of September which was a Tuesday so you're telling me this happened on Friday the 14th of September?

EXHIBIT
59

HANNAH A.	Yes, yes Friday the 14th and um
SCOTT Q.	Tell me what happened?
HANNAH A.	Okay um well Andrew was calling me all day long like trying to start trouble with me at first and then he was like just running his mouth talking about all these girls and everything and um
SCOTT Q.	Are you two broke up?
HANNAH A.	We were fighting.
SCOTT Q.	But were you broke up?
HANNAH A.	Well we fight a lot so I mean we was just fine just like any other time we would of argued
SCOTT Q.	So it's normal?
HANNAH A.	Yeah
SCOTT Q.	Okay
HANNAH A.	And um he kept calling me and running his mouth and everything and then somehow he found out that this guy named Jarred likes me so he um called Jarred and oh no he called Jessie and he was like where is your friend Jarred at and um he was like oh you're not going to mess with Jarred or whatever and so Andrew kept calling him all day long and he kept calling me all day long like oh I just want to talk to Jarred I just want to I'm not going to do anything I just want to talk to him and all this so Jarred wouldn't talk to him and then the next thing I know well it happened all day long and I just thought he always runs his mouth and saying stupid stuff you know so I just thought it was like any other time and then he um calling on the phone and he said oh it's on now Jim Conway and Jamie is on their way over here and
SCOTT Q.	Okay slow down a little bit for me who called Andrew and told him this?
HANNAH A.	Andrew called me and told me he said he said Jessie's running his mouth and now it's on because me or cause Jim Conway is on his way over there.
SCOTT Q.	Jim Conway?

HANNAH A.	Yeah and Jamie I'm not sure what Jamie's last name is.
SCOTT Q.	Jamie
HANNAH A.	Yeah and _____
SCOTT Q.	Okay give me a description of Jim Conway?
HANNAH A.	I've never really seen Jim I've just heard about him he drives a um big white maybe it's a Navigator or something.
SCOTT Q.	Okay big white Navigator
HANNAH A.	It might me I'm not sure it's a big white it's real big it might be a Navigator and um
SCOTT Q.	What year do you know is it new, old?
HANNAH A.	It's new and it has um rims on it and has a system in it and I don't know well so then I didn't think anything of it and I'm sitting at my house and
SCOTT Q.	Wait a minute hold it is Jim Conway male white?
HANNAH A.	Yeah
SCOTT Q.	How old approximately?
HANNAH A.	I don't know I know he is in his 20's.
SCOTT Q.	So he's in his 20's?
HANNAH A.	Yeah
SCOTT Q.	Tell me anything about him that stands out does he have like gold teeth has he got a scar on his face?
HANNAH A.	He's chubby

SCOTT Q.	Okay how tall approximately?
HANNAH A.	I have no
SCOTT Q.	Is he taller than Andrew?
HANNAH A.	I mean I've seen him I don't know I've seen him like I've seen him drive by I mean like when Andrew would go meet him he'd drive by I've never seen him like
SCOTT Q.	Just chubby
HANNAH A.	He's chubby he's probably about Andrew's height he's not short and I know exactly where he lives
SCOTT Q.	We need to find out where that you know where he lives?
HANNAH A.	I don't know the address but I know exactly
SCOTT Q.	If I put you in my car you could take me to the house?
HANNAH A.	I could take you exactly I could take you there.
SCOTT Q.	Okay so you do know where he lives?
HANNAH A.	Yeah
SCOTT Q.	Okay don't pay any attention to me writing you just keep on talking so
HANNAH A.	Okay
SCOTT Q.	That's Jim Conway he is male white he's chubby he drives a big white Navigator with new rims he's in his 20's you know where he lives?
HANNAH A.	Yeah
SCOTT Q.	Tell me about James?

HANNAH A.	Um Jamie is
SCOTT Q.	Can you take me there?
HANNAH A.	I could take you to his house too yeah.
SCOTT Q.	Okay describe Jamie to me?
HANNAH A.	Um he's tall um he's not fat but he's cubby too but not as chubby and Jim but he's not skinny either.
SCOTT Q.	As tall as me?
HANNAH A.	He's probably I think he is taller than Andrew but he's pretty tall.
SCOTT Q.	Okay what's he drive?
HANNAH A.	Um man I don't know what kind of car it is it's silver I know that much.
SCOTT Q.	Is it big, small?
HANNAH A.	It's kind of long and
SCOTT Q.	Is it an older car?
HANNAH A.	Yeah it's not brand new and
SCOTT Q.	Do you consider it boxy like a big boxy car?
HANNAH A.	No it might kind of maybe it could be a Cadillac maybe.
SCOTT Q.	That could be considered a big car.
HANNAH A.	Yeah
SCOTT Q.	But we can go look you're going to show me tonight where these two live?

[redacted]NNAH A.	Yeah
SCOTT Q.	Okay
HANNAH A.	And um
SCOTT Q.	But you don't know Jamie's last name?
HANNAH A.	No I don't
SCOTT Q.	Okay all right so he called you back on the 14th do you remember approximately what time?
HANNAH A.	It was almost dark it was um
SCOTT Q.	So we're talking 6:00 or 7:00, 6:00 or 7:00ish somewhere in there?
[redacted]ANNAH A.	Yeah
SCOTT Q.	And he tells you that it's on now Jim's coming over and Jamie Jim called me and Jamie's coming over continue with that thought?
HANNAH A.	So I didn't think anything of it so I just hang up the phone and I'm sitting there talking on the phone in my kitchen and I hear gunshots and then I thought I just heard gunshots and I didn't I mean I was like well maybe
SCOTT Q.	On the phone or outside?
HANNAH A.	Outside because it happened like right over by my house.
SCOTT Q.	And you live on Clairbrook?
HANNAH A.	Yeah and I heard like I heard maybe like 5 gunshots maybe I just heard gunshots and I thought well maybe it wasn't gunshots and then like 10 seconds further Andrew calls and says all your all your Dudes are laying dead in the road and I said yeah right whatever you know.
[redacted]OTT Q.	Andrew called you and told you this all your Dudes

[redacted]NNAH A.	Yeah
SCOTT Q.	Did Andrew carry a gun?
HANNAH A.	He had a gun well I never seen him with a gun but he had a gun on him that day I mean everybody told me that he had a gun on him.
SCOTT Q.	But you never seen him with a gun?
HANNAH A.	I've seen him with guns in his house but I mean I never he just bought a gun and sold it the next day just to make some money.
SCOTT Q.	Where did he sell it at?
HANNAH A.	He sold one to Jason _____the gun that he had that night he sold to Jason Besmen.
[redacted]OTT Q.	Jason do you know how to spell Besmen?
HANNAH A.	I don't I'm not even sure if I'm pronouncing it right so I never um I think I can get a hold of him too but.
SCOTT Q.	You got a phone number?
HANNAH A.	I don't have a phone number but he, he hangs around with my friends he's the one that told me that Andrew sold him that gun.
SCOTT Q.	What kind of gun 9mm, 38, revolver, semi-automatic?
HANNAH A.	Maybe I don't know
SCOTT Q.	Did you ever see it?
HANNAH A.	No I saw one gun he had but I don't know nothing about guns so
[redacted]OTT Q.	Okay all right so he called you that evening now he calls you at 6:00 to say it's on how much later did you hear gun fire?

[redacted]NNAH A.	Probably about 10, 15 minutes later.
SCOTT Q.	Could he have gotten off the phone that fast?
HANNAH A.	He was on his cell phone.
SCOTT Q.	Oh okay I'm sorry
HANNAH A.	And um and then he called me back and he said all your Dudes are laying dead in the road and I'm like yeah right and I'm talking in this phone and then and I said call Jessie's cell phone and see what's going on so she calls Jessie's cell phone and no one answered and she called _____no one is answering and then they come and got her so she called I'm like well call it again to see if they answer so she called him again and she's like what just happened and he Jessie says well I got shot in the butt and I'm on my way to the hospital and then Andrew kept calling me back like he said that him and Jim was going to Cancun for 2 weeks and he was with Jim that day and just like running his mouth and everything and um
SCOTT Q.	Jim Conway
[redacted]NNAH A.	Yeah
SCOTT Q.	I'm confused
HANNAH A.	He was with Jim Conway Andrew's friend supposedly.
SCOTT Q.	So I misunderstood
HANNAH A.	He called
SCOTT Q.	Okay so Jim Conway and Jamie were coming over to help Andrew?
HANNAH A.	Yes
SCOTT Q.	Okay so and the only person that um okay these two guys were going over to take care of Jessie James?
[redacted]NNAH A.	Yeah

[redacted]TT Q.	And Jessie James boys?
HANNAH A.	Yeah
SCOTT Q.	And Jarred
HANNAH A.	Yeah
SCOTT Q.	And Jarred now who is what is Jarred's last name?
HANNAH A.	Dilly
SCOTT Q.	Dilly
HANNAH A.	Dilly
SCOTT Q.	D I L L Y
[redacted]McDonald Q.	D I L L E
SCOTT Q.	Okay so I know you talked to Andrew after the shooting what did he tell you what happen?
HANNAH A.	He just and um
SCOTT Q.	Who shot Jessie in the butt?
HANNAH A.	Well I talked to Jessie and Jessie said um he saw Andrew while the shooting was going on while they were shooting he saw Andrew and he said Andrew wasn't shooting that the only person that was shooting was Jim and then um Andrew's friend said that Andrew was hiding in the garage shooting everybody is saying a different story so I don' know some people say Andrew had a gun other people say he didn't have a gun.
SCOTT Q.	What did Andrew tell you?
[redacted]ANNAH A.	Andrew told me that he shot at him he said I shot at him and I said and they yeah he sai he shot at them and then when he told somebody else that he didn't even shoot I don't

	know it's crazy but I know for sure he did have a gun that day and I know for sure that Jim was shooting cause they said that Jim and Jamie pulled up and they had black gloves on and they were shooting at them.
McDonald Q.	You mean Jamie had a gun?
HANNAH A.	Probably
McDonald Q.	Okay
SCOTT Q.	So everybody had guns?
HANNAH A.	But I know for sure Jim Conway was shooting I know for sure.
SCOTT Q.	So all these guys were going to try to talk to _____and they got guns.
HANNAH A.	Hugh
SCOTT Q.	Everybody that we are going to get ready to go talk to got guns?
HANNAH A.	Yeah, yeah
SCOTT Q.	Okay all right so after the incident cooled down and Jessie goes gets the bullet out of his butt what's going on then what's Andrew doing what's he into?
HANNAH A.	Well I kept trying to get a hold of him cause um I kept calling his phone and he's like he's on something cause he was acting all weird and um he just said like he's going to Cancun and all this he's going he and Jim is going to Cancun taking a plane there and all this but then the next day he called me um
SCOTT Q.	Called you on the 15th?
HANNAH A.	Yeah
SCOTT Q.	This would be a Saturday?
HANNAH A.	Yeah

SCOTT Q.	Okay
HANNAH A.	He called me and he said um he said um I'm going to he said cause I had been getting no sleep that night and he said um I want to see Jacob and I said well you can come over here and see him I don't really want you taking him to your apartment after everything that happened yesterday I said you can come here and see him I said plus I'm tired and you can watch him while I take a nap or something and he said alright well I'll be over to um watch him while you sleep and I said okay and then like maybe about
SCOTT Q.	Where's he living at?
HANNAH A.	Andrew
SCOTT Q.	Yeah what's his address?
HANNAH A.	Um he lives off of um
SCOTT Q.	You don't know
HANNAH A.	Leap Road
SCOTT Q.	But you don't know the address?
HANNAH A.	Apartment E Leap Road.
SCOTT Q.	But you don't know the numbers?
HANNAH A.	No
SCOTT Q.	You're going to have to take me there?
HANNAH A.	Yeah
SCOTT Q.	Okay you and I are going to spend a little time together tonight we have got to come up with some addresses okay.
HANNAH A.	And um so then he called me back maybe 4 hours later and I said I thought you was coming over and he said well I went to my house and I can't go home right now and I said why and he said I don't want to talk about it I just can't go home right now. I said

	well where are you at he said I came back to Chillicothe he said I'm on my brother's bike and I came back to Chillicothe. I asked him well when are you coming back and he was like I don't know I'm just going to stay here for awhile cause I can't go home right now and I'm like Andrew why can't you go home and he wouldn't tell me wy he couldn't go home.
SCOTT Q.	Who lives in Chillicothe?
HANNAH A.	Shawn Nightingale
SCOTT Q.	Shawn is it Sean
HANNAH A.	I don't even know these guys I just hear him talk about them I've never been around them and have conversation with them.
SCOTT Q.	Where does Shawn live or phone number?
HANNAH A.	I understand he lives in Chillicothe.
SCOTT Q.	What is his phone number at the apartment?
HANNAH A.	Andrew
SCOTT Q.	Andrew's
HANNAH A.	He had his cell phone.
SCOTT Q.	He didn't have an apartment phone?
HANNAH A.	No
SCOTT Q.	What was his cell phone number?
HANNAH A.	740- I'm sorry 778-7074
SCOTT Q.	778-7074 who did he have that with Ameritech?
HANNAH A.	It was a Nextel phone

[redacted]TT Q.	Nextel and it's with Nextel you don't know what office he got it out of or store do you?
HANNAH A.	Um somebody said that he had a phone through Jim's sister because that something I don't know she got him the phone.
SCOTT Q.	Is he into drugs?
HANNAH A.	Andrew
SCOTT Q.	Yes
HANNAH A.	Jim into drugs big time and he sells drugs for Jim.
SCOTT Q.	Okay so he sells drugs for Jim?
HANNAH A.	Yes
[redacted]TT Q.	Okay so this is Saturday he talks to you says he can't come back home he's going to hang out in Chillicothe with Shawn Nightingale for a little while correct this is the 15th what time did he call you on the 15th?
HANNAH A.	Um it was early in the day maybe around 12:00 or 1:00, 2:00 around in there.
SCOTT Q.	Alright when did you hear from him again?
HANNAH A.	Um it was like it was a few hours afterwards that I started to worry why isn't he here yet.
SCOTT Q.	The same day?
HANNAH A.	Yeah
SCOTT Q.	Well why are you worrying he just told you he wasn't coming back?
HANNAH A.	No oh I thought you meant after
[redacted]TT Q.	Now I'm back on the 15th

[redacted]NAH A.	Okay after that oh he didn't call me after that but Andrew he if me and him is fighting but he acted nice that day that's why I didn't get why he wouldn't call me back.
SCOTT Q.	So the 15th after this initial phone call
HANNAH A.	I haven't talked to him since then
SCOTT Q.	That was the last time you spoke to him?
HANNAH A.	That was the last time I spoke to him.
SCOTT Q.	Okay since he has not come around anymore and disappeared who have you spoken to that runs in his circles?
HANNAH A.	His cousin Brett was the last person that talked to him his cousin Brett talked to him maybe 3 weeks ago and he
SCOTT Q.	Cousin
HANNAH A.	See this is the thing he
SCOTT Q.	Brett
HANNAH A.	After um
SCOTT Q.	Brett's last name
HANNAH A.	Eberhard
SCOTT Q.	Eber
HANNAH A.	Eberhard
SCOTT Q.	Where's he live?
[redacted]NNAH A.	He lives in Marysville um his Mom would know more about that

SCOTT Q.	We've got to make sure we get that information cousin Brett Eberhard do you know the phone number?
HANNAH A.	No
SCOTT Q.	Okay but how do you know they had this conversation?
HANNAH A.	Because I talked to Brett.
SCOTT Q.	And what did Brett tell you?
HANNAH A.	Brett told me um that he talked to Andrew and Andrew was suppose to come back that weekend he was suppose to be back Friday.
SCOTT Q.	What weekend we talking about now this is the 15th so did the whole week go by?
HANNAH A.	That whole week went by
SCOTT Q.	So the 22nd he was suppose to come home?
HANNAH A.	Yeah
SCOTT Q.	So September 22nd he was suppose to come home?
HANNAH A.	Yeah he was suppose to be home that weekend and um
SCOTT Q.	Go ahead
HANNAH A.	He said that he was suppose to be home cause I talked I ran into Brett and I said have you talked to Andrew he said yeah he is suppose to be home this weekend and that was the weekend that my Grandma and Grandpa had left for Georgia so that I got a little scared that he was coming back then so I didn't tell anybody that my Grandma was leaving for Georgia cause I didn't want Andrew to come over there and start anything with me and he never showed up and um let me think
SCOTT Q.	You didn't hear from him anymore right since the 22nd have you heard from Jarred?

HANNAH A.	Yeah
SCOTT Q.	Are you seeing Jarred now?
HANNAH A.	Um I've been hanging out with Jarred
SCOTT Q.	You got to be honest with me?
HANNAH A.	I'm not I been
SCOTT Q.	If your sleeping with him I don't care
HANNAH A.	No I haven't been
SCOTT Q.	I just need to know stuff
HANNAH A.	I have been hanging out with him and Jessie and
SCOTT Q.	Have you slept with Jarred?
HANNAH A.	No
SCOTT Q.	Okay but you been hanging out with him and Jessie?
HANNAH A.	Yeah
SCOTT Q.	Okay you're going to have to help me here Bob I don't understand this, this is an arch enemy of the childs or the father of your child but you are hanging out with him I don't get it
HANNAH A.	I don't I thought Andrew was playing he plays games with me all the time that's why I didn't think anything of it
SCOTT Q.	Well somebody got shot okay if I was sitting in that chair and you were sitting in this chair what would you think this isn't looking good for you.
HANNAH A.	But I, I know but I've known Jarred since elementary school it's not like I just decided to talk to him one day.

[redacted]OTT Q.	Okay well
HANNAH A.	Plus my friend Allison lived across the street from Jarred and they've known each other forever and I started hanging out with Allison and that's how I met you know that's how I started talking to Jarred.
SCOTT Q.	When was the last time you talked to Jarred?
HANNAH A.	Yesterday
SCOTT Q.	Has his disappearance come up in your conversations?
HANNAH A.	Um I said Um Andrew's Mom was worried
SCOTT Q.	And what did he say?
HANNAH A.	He said um that's probably not him I don't know
[redacted]COTT Q.	What does Jessie say?
HANNAH A.	Jessie hasn't said I don't really talk to Jessie that much but Jessie hasn't said anything I mean them guys their like so their so into drugs that Jessie is like on drugs everyday he doesn't um
SCOTT Q.	If I find out I'm going to tell you right now I'm sitting here with you and I if I find out you talked to Jarred or Jessie about this I'm going to arrest you I'm going to do it for obstructing okay I find this very strange that you know these two people are shooting each other and you're hanging out with them that's very strange to me. It bugs me I don't know about you Bob.
McDonald Q.	_____
SCOTT Q.	Well if I had a girlfriend and she's got my baby I sure ain't going to hang out with the guys they have been shooting at I mean that's kind of weird.
HANNAH A.	Well you hang out with Andrew and he plays games with my head all the time he's like
[redacted]OTT Q.	Well let me ask you this did he say that him and his boys were coming over did you hear

	gun fire did somebody get shot doesn't sound like he played a game there did it.
HANNAH A.	No
SCOTT Q.	So dismissing that whole thing is like just a game doesn't work here Bobby that's real shit.
HANNAH A.	I know
SCOTT Q.	Okay so somebody
HANNAH A.	_____He was never acting like this before until he started hanging out with Jim.
SCOTT Q.	Somebody killed Andrew
HANNAH A.	I know
SCOTT Q.	And they didn't kill him by accident they meant to kill him the way he was killed this wasn't something that was done on just the spur of the moment they planned to kill him and they killed him for a reason now I know if I shot at somebody that person would probably want to kill me I can imagine if someone shot at me I'd want to kill them okay something is wrong with this picture here and I don't know what it is but it's bugging me. You don't think Jarred killed him?
HANNAH A.	No
SCOTT Q.	Why
HANNAH A.	Jarred wouldn't do
SCOTT Q.	With Andrew out of the way then maybe you two could strike up a relationship?
HANNAH A.	I don't think Jarred would do something like that.
SCOTT Q.	I mean why not is Jarred in love with you?
HANNAH A.	No

OTT Q.	Are you sure I'm going to ask him
HANNAH A.	As far as I know he's not I mean I don't think I really don't think Jarred would do something like that.
SCOTT Q.	What makes you think Jim Conway would do this?
HANNAH A.	Just the things I've heard about him like um when they started stealing 4-wheelers and
SCOTT Q.	Okay let's slow down here just don't say they let's use names.
HANNAH A.	Okay Andrew and Casey Schuller
SCOTT Q.	Andrew, Casey?
HANNAH A.	Casey Schuller he's in jail right now
SCOTT Q.	Schuller
HANNAH A.	Schuller
SCOTT Q.	That's Sho SCH
HANNAH A.	Schuller
SCOTT Q.	He's in jail?
HANNAH A.	Yeah he's in jail right now.
SCOTT Q.	How old is he?
HANNAH A.	19 I believe
SCOTT Q.	Male white do you know where he lives?
NNAH A.	Um he lives

[redacted]OTT Q.	If you can give me a street in that I might be able to look that up in the computer just the street don't have to have the numbers
HANNAH A.	He lives I use to know where he lived but he moved to um it's out by Circleville kind of kind of far away I've never been to
McDonald Q.	Ashville
HANNAH A.	Yeah
SCOTT Q.	Ashville or Circleville which one?
HANNAH A.	Ashville I know it was between Circleville and _____.
SCOTT Q.	Casey Schuller okay him and there is AJ um Andrew and Casey are stealing 4-wheelers from where?
HANNAH A.	Where ever they see them.
SCOTT Q.	How many did they steal?
HANNAH A.	A lot see when I was pregnant that's when he started doing it when he started stealing 4-wheelers and he never told me how he got his money and then um after I had Jacob and everything he started straighten up cause I didn't see him like the whole time I was pregnant he was out messing around with his friends and after I had Jacob he started to straighten up a little bit and then he told me about the 4-wheelers and um um that's how I found out that's where he got all of his money from.
SCOTT Q.	Casey in our jail or is he down in the Pickaway County Jail?
HANNAH A.	Probably in Pickaway County.
SCOTT Q.	Pickaway County Jail for what?
HANNAH A.	For what
[redacted]COTT Q.	What's he in jail for?

NNAH A.	Stealing the 4-wheelers.
SCOTT Q.	Why didn't Andrew go with him they were stealing them together?
HANNAH A.	Because um
SCOTT Q.	Andrew turn on him?
HANNAH A.	No when um they stole a 4-wheeler one night and the next day the detectives came to Casey's house and they was like when was the last time you had a 4-wheeler and I guess this is what Casey was saying and they said um and Casey said what are you talking about and after awhile he said well there are fresh 4-wheeler tracks in the back of your truck and um they went to Jim's house and they found the stolen 4-wheeler at Jim's house but they had no proof that Andrew was with Casey cause Andrew said he wasn't with him so that's and then um
McDonald Q.	Casey's got a truck
HANNAH A.	Yeah
Donald Q.	What kind of truck?
HANNAH A.	I think it's _____
McDonald Q.	Whose got the whose got the Cherokee that's in Chillicothe?
HANNAH A.	Andrew's Mom said that Shawn had got Andrew before all this happened um after it happened um Shawn had brought Andrew to um Andrew's Mom's house to pick up his brother's motor cycle and she looked at the license plate and it said Ross County so that was probably Shawn and I think she said that's what they were driving.
SCOTT Q.	Just a second here Shawn what was Shawn's last name?
HANNAH A.	Nightingale
SCOTT Q.	Oh that Shawn okay I got ya. Um Casey's red truck is it new or old?
NAH A.	Old

	say the name of it nothing.
SCOTT Q.	Does Jim still live with his dad in the same house?
HANNAH A.	I don't know who lives in that house there's a bunch of people that live in that house
SCOTT Q.	So he doesn't have his own place then does he?
HANNAH A.	I don't as far as I know no
SCOTT Q.	At 20 years old he probably doesn't okay
HANNAH A.	I think he's older than 21
SCOTT Q.	That don't mean he's not living at home though -
HANNAH A.	I know but I'm just saying he's older than that.
)onald Q.	What street does Jim live on?
HANNAH A.	Um there's a street that you go you know where that correctional center is
SCOTT Q.	On Harmon
HANNAH A.	Jackson Pike
SCOTT Q.	Okay Jackson Pike yes
HANNAH A.	You go down there and there is a street on your right and it might is it the one
McDonald Q.	Is it Dyer Road
HANNAH A.	Dyer that might be it
Donald Q.	_____

SCOTT Q.	Oh it's and old one?
HANNAH A.	Yeah
SCOTT Q.	How old
HANNAH A.	It's pretty beat up.
SCOTT Q.	It's a beat up old red truck?
HANNAH A.	Yeah
SCOTT Q.	Who out there do you know that works with cement concrete stuff like that?
HANNAH A.	Um Jim's dad and Jim Conway's dad cause there _____and took them there.
SCOTT Q.	His dad Jim Conway's dad had cement trucks or what would he have?
HANNAH A.	Just heard he worked for a cement company and Jimmy _____somebody and took them there.
McDonald Q.	Took them where?
HANNAH A.	To where ever he does the cement or whatever that's the rumor that was going around.
McDonald Q.	When was this rumor going around?
HANNAH A.	Um after all this stuff happened wit Casey because he threatened Casey basically becaus um he thought that Casey was ratting on him about the 4-wheelers because they took the 4-wheelers to Jim and sold them to Jim and Jim got keys made for them and sold them t other people so um
SCOTT Q.	Let me ask you this if Jim Conway would kill someone who would he take with him to get rid of the body?
HANNAH A.	He when he brought thought that um Casey was ratting on him Andrew said take me to Casey because I don't want to talk to him over the phone just take me where Casey's at

	I can talk to him to his face and Andrew had mentioned something to Jim that he was going to talk to Casey and Casey or Jim said well Jamie's going with you just to hear what Casey has to say so Jamie went with us to talk to Casey.
SCOTT Q.	So Jamie and Jim Conway hang out together then?
HANNAH A.	Yeah
SCOTT Q.	Okay if Jim killed somebody Jamie would know wouldn't he?
HANNAH A.	Yeah
SCOTT Q.	And what is the name if Jim Conway's dad's cement place?
HANNAH A.	I don't know all I know is
SCOTT Q.	Do you know where it's at?
HANNAH A.	No
SCOTT Q.	How do you know he even has a cement place who told you that?
HANNAH A.	Um I'm not even sure it's just so many rumors go around about Jim.
SCOTT Q.	Who gave you this rumor?
HANNAH A.	Um it could of been Andrew that said something it could of it was Erin Schuller Casey's sister cause they called me after all that the detectives were going around questioning people
SCOTT Q.	You're going too fast for me try again now who called you?
HANNAH A.	Erin Schuller that's Casey's sister Erin and Casey's girlfriend called me
SCOTT Q.	Erin Schuller
NNAH A.	Erin Schuller and Courtney's statistician

[redacted]TT Q.	Erin Schuller is
HANNAH A.	That's Casey's sister
SCOTT Q.	Okay Casey's sister and Erin Called you?
HANNAH A.	Erin and Courtney called me
SCOTT Q.	Both of them
HANNAH A.	Yeah they were both on the
SCOTT Q.	Courtney
HANNAH A.	Yeah Courtney's statistician
SCOTT Q.	Statistician
[redacted]ANNAH A.	Statistician
SCOTT Q.	Okay Courtney's statistician and they called and said?
HANNAH A.	They said Courtney said I gave the detectives um your name and address so if they come to your house don't say anything and Erin said that she's known Jim for a long time and she said if Jim finds out that you said anything Jim will come to your house and kill you and your baby.
SCOTT Q.	Where did the cement come in?
HANNAH A.	Um there was um she said something there was rumor going around we were just talking about it and I'm like do you think Jim would really do something like that cause I've seen him before and he doesn't look mean and um they said something about well there was a rumor going around that he had killed somebody and took them to that cement place to get rid of them.
SCOTT Q.	That cement place?
[redacted]NNAH A.	And they said his dad works for a cement place I don't know the name of it they didn't

SCOTT Q.	Anybody else have access to concrete cement anything like that?
HANNAH A.	Not that I know of
SCOTT Q.	Okay
HANNAH A.	Just what I heard from_____
SCOTT Q.	How much drugs were you actually moving how much did Andrew actually sell what was he selling first of all marijuana, coke, heroin?
HANNAH A.	Coke
SCOTT Q.	How much
HANNAH A.	He _____once in awhile he got the coke from Jim.
SCOTT Q.	How much coke
HANNAH A.	Um
SCOTT Q.	Do you ever use coke?
HANNAH A.	No I never I don't know anything about it.
SCOTT Q.	Have you ever seen it?
HANNAH A.	I've seen it Andrew showed it to me one time
SCOTT Q.	How much
HANNAH A.	He had a bunch of um little baggies and he has a it would be like that big and he had it in his car in separate little baggies.
SCOTT Q.	Were they hard or powder.
HANNAH A.	It was hard

SCOTT Q.	So it was crack
HANNAH A.	Oh was it _____crack
SCOTT Q.	If it's hard it's crack if it's soft powder it's going to be
HANNAH A.	It was like rocks
SCOTT Q.	Okay that's a good terminology for it so he was selling rocks?
HANNAH A.	Yes
SCOTT Q.	And that was Jim Conway's dope?
HANNAH A.	Yes
SCOTT Q.	How many baggies did you ever see?
HANNAH A.	I didn't pay I didn't want to see didn't pay no attention to all that _____he always hid it underneath his couch so
SCOTT Q.	Whose couch
HANNAH A.	Andrew's couch
SCOTT Q.	Andrew's couch have you been to Andrew's place since he disappeared?
HANNAH A.	No I haven't
SCOTT Q.	Who has?
HANNAH A.	His Mom and Brett and his brother
SCOTT Q.	They've all been there

HANNAH A.	Yeah
SCOTT Q.	Did they find dope there?
HANNAH A.	Not that I know of they didn't say anything. —
SCOTT Q.	They denied they saw it in his house
HANNAH A.	_____
McDonald Q.	You say he lives on Leap Road or off Leap Road?
HANNAH A.	Yeah it was like an apartment complex off of Leap Road but they still consider that Leap Road.
SCOTT Q.	You have to make arrangements tonight for a baby-sitter you and I got to spend some time together this evening.
HANNAH A.	Okay
SCOTT Q.	Okay
HANNAH A.	But when all that when Casey when Jim thought that Casey was ratting him out um Andrew was telling me about it I asked him what was going on and he was on the phone with Jim and he said well what are you going to do if you find out he's been ratting you out and he said I'm not saying anything over the phone in case Casey comes up missing and then that's when Casey went to jail because the detectives came into Jim's house and they knew everything about him and Jim said the only way that they could of found out that all is from Casey.
McDonald Q.	They couldn't of found it out from Andrew?
HANNAH A.	Right that was before Andrew even talked to the detectives _____cause Andrew was trying to hide from them.
SCOTT Q.	Andrew was trying to hide from
HANNAH A.	Andrew was trying to hide after all that stuff happened when Casey got caught and all that stuff happened me and him and the baby went to his Aunt's camper for like a week and stayed there so that he didn't have to talk to them SIDE A ENDED

[redacted]OTT Q.	ALRIGHT JUST TURNED THE TAPE OVER IT IS APPROXIMATELY 2:56 PM
McDonald Q.	How long before the shooting did Casey go to jail for his theft's?
HANNAH A.	It was summer time when Casey went to jail.
SCOTT Q.	So is he still in jail?
HANNAH A.	Yeah
SCOTT Q.	Now Andrew and Casey stole these things together and they gave them to Jim?
HANNAH A.	Yes
SCOTT Q.	Casey went to jail and didn't rat on Jim right Casey went to jail but Jim didn't go to jail?
[redacted]NNAH A.	Well um I think Jim got out on bond or something
SCOTT Q.	Jim actually went to jail?
HANNAH A.	That's what I heard I know 3 detectives went to Jim's house and they knew they found the stolen 4-wheeler in his yard.
SCOTT Q.	Because Casey sent them there?
HANNAH A.	Yeah
SCOTT Q.	Or did Andrew send them there?
HANNAH A.	That was before Andrew had talked to any detective.
SCOTT Q.	Okay did Andrew ever tell you that Jim wanted to hurt him or anything like that do you know?
[redacted]NNAH A.	No as far as I knew they were friends but everybody says that if you turn on Jim then if

	Jim thinks that you turn on him about anything
SCOTT Q.	He'll kill you?
HANNAH A.	Yeah
SCOTT Q.	Anything else you can think of right now? Okay we will take a break and then we are going to discuss things with our Chief and then you can go back there and sit with the family. Again you got to make arrangements
HANNAH A.	Okay
SCOTT Q.	Okay the time is approximately 2:58 PM.

IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY, OHIO

CRIMINAL DIVISION

- - -

STATE OF OHIO,	
PLAINTIFF,	
VS.	CASE NO. 02CR-3118
CALVIN J. HORTON,	VOLUME II
DEFENDANT.	

- - -

TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE LISA L. SADLER, JUDGE,
AND A JURY DULY IMPANELED AND SWORN,
BEGINNING ON MARCH 28, 2003.

- - -

APPEARANCES:

MR. JAMES L. LOWE AND MS. SHERYL L. PRICHARD,
ASSISTANT PROSECUTING ATTORNEYS,

ON BEHALF OF THE PLAINTIFF, STATE OF OHIO.

MESSRS. CHARLES W. MCGOWAN AND KYLE HUNTER,

ON BEHALF OF THE DEFENDANT.

- - -

EXHIBIT
60

THE COURT: AND MR. MCGOWAN, IF YOU CAN MAKE THAT DETERMINATION AS SOON AS POSSIBLE, WE WILL DO IT WHEN IT IS CONVENIENT FOR YOU.

MR. MCGOWAN: THANK YOU, YOUR HONOR.

THE COURT: IF THERE IS NOTHING ELSE PRELIMINARILY, WE WILL BRING THE JURY IN.

- - -

THEREUPON, THE JURY ENTERED THE COURTROOM AND THE FOLLOWING PROCEEDINGS WERE HELD:

ROBERTA HANNAH

CALLED AS A WITNESS ON BEHALF OF THE PLAINTIFF, STATE OF OHIO, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. PRICHARD:

Q. WILL YOU, PLEASE, STATE YOUR NAME AND SPELL YOUR LAST NAME FOR THE COURT?

A. ROBERTA HANNAH. (SPELLING) H-A-N-N-A-H.

Q. YOU WILL NEED TO GET REALLY CLOSE TO THE MICROPHONE OR JUST TRY TO KEEP YOUR VOICE UP.

HOW OLD ARE YOU?

A. TWENTY.

Q. DO YOU HAVE ANY CHILDREN?

A. YEAH.

Q. HOW MANY?

A. ONE.

Q. WHAT IS YOUR CHILD'S NAME?

A. JACOB DOTSON.

Q. WHO IS JACOB'S FATHER?

A. ANDREW.

Q. HOW LONG DID YOU DATE ANDREW?

A. ALMOST FOUR YEARS.

Q. IS THAT OFF AND ON OR CONSISTENTLY FOR FOUR YEARS?

A. OFF AND ON.

Q. LET ME TAKE YOU BACK TO SEPTEMBER, '01. WERE YOU DATING ANDREW BACK IN SEPTEMBER, '01?

A. YEAH.

Q. WERE YOU LIVING TOGETHER OR WERE YOU LIVING SEPARATELY?

A. SEPARATELY. I STAYED IN HIS HOUSE A LOT.

Q. HOW OFTEN WOULD YOU SEE ANDREW?

A. ALMOST EVERY DAY.

Q. DID YOU KNOW MOST OF ANDREW'S FRIENDS?

A. YEAH.

Q. IF YOU COULD, PLEASE, TELL THE JURY WHO WERE SOME OF ANDREW'S FRIENDS THAT HE SAW OR SPOKE OF OFTEN?

A. CASEY SCHULLER, JIM CONWAY, JAMIE HORTON -- I DON'T KNOW.

Q. DID YOU KNOW SOMEBODY NAMED MIKE ARTHURS?

A. NO.

Q. HAD YOU HEARD OF HIM?

A. NO.

Q. HOW ABOUT SHAWN NIGHTINGALE?

A. YEAH, I HEARD OF HIM.

Q. YOU HEARD OF HIM? DID YOU EVER MEET HIM?

A. NO.

Q. NOW OFTEN WOULD YOU SEE JAMIE HORTON?

A. JUST EVERY ONCE IN A WHILE.

Q. WOULD THAT BE OUT SOCIALLY OR OVER AT ANDREW'S OR BOTH?

A. SOMETIMES HE WOULD COME BY ANDREW'S APARTMENT, AND THEN SOMETIMES I WOULD SEE HIM OUT.

Q. I'M SORRY, WERE YOU FINISHED?

A. YEAH.

Q. YOU WOULD SEE HIM OUT, LIKE, WHERE, JUST SOCIALLY?

A. I SEEN HIM A FEW TIMES IN A CLUB.

Q. DID HE AND ANDREW SEEM TO SOCIALIZE TOGETHER?

A. YEAH.

Q. HOW OFTEN WOULD JAMIE HORTON COME OVER TO ANDREW'S APARTMENT?

A. NOT OFTEN, JUST EVERY ONCE IN A WHILE.

Q. DID THEY CALL EACH OTHER ON THE PHONE?

A. YEAH.

Q. DID THEY KEEP IN FAIRLY REGULAR CONTACT?

A. YEAH.

Q. DO YOU SEE JAMIE HORTON HERE IN THE COURTROOM TODAY?

A. HE IS RIGHT THERE. (INDICATING).

Q. IN WHAT POSITION IS HE SEATED AT THE TABLE YOU ARE POINTING AT?

A. HE IS RIGHT THERE IN THE MIDDLE.

Q. IN THE MIDDLE?

A. YEAH.

MS. PRICHARD: I WOULD ASK THE RECORD TO REFLECT SHE HAS IDENTIFIED THE DEFENDANT, YOUR HONOR.

THE COURT: IT WILL.

Q. (BY MS. PRICHARD) HOW OFTEN WOULD YOU SEE JIM CONWAY?

A. NOT OFTEN.

Q. LESS THAN OFTEN THAN JAMIE?

A. YEAH.

Q. WHERE WOULD YOU SEE JIM CONWAY?

A. SOMETIMES I WOULD PICK ANDREW UP FROM HIS HOUSE AND SEE HIM THERE, AND I SEEN HIM OUT AT A CLUB A COUPLE OF TIMES.

Q. WOULD YOU SEE JIM CONWAY WITH JAMIE HORTON?

A. YEAH.

Q. DID THEY SEEM TO BE TOGETHER?

A. YEAH.

Q. FREQUENTLY?

A. YEAH.

Q. HAVE YOU EVER BEEN TO JAMIE HORTON'S HOUSE?

A. NO. I HAVE BEEN OUT IN FRONT BUT I HAVE NEVER BEEN IN.

Q. SO YOU KNEW WHERE JAMIE HORTON LIVED?

A. YEAH.

Q. DID HE AND JIM CONWAY LIVE NEAR ONE ANOTHER?

A. NO.

Q. AND WHAT RELATIONSHIP DID ANDREW HAVE WITH JIM CONWAY?

A. THEY WERE FRIENDS.

Q. DID THEY TAKE ANY TRIPS TOGETHER?

A. YEAH, ANDREW WENT TO CHILLICOTHE WITH HIM A LOT.

Q. WENT WITH JIM CONWAY?

A. YEAH.

Q. WOULD ANYBODY ELSE GO DOWN TO CHILLICOTHE?

A. I DON'T KNOW. HE WOULD JUST SAY HE WAS GOING WITH JIMMY.

Q. LET'S GO BACK TO SEPTEMBER, '01. DO YOU REMEMBER TALKING WITH JARED DILLEY BACK IN MID SEPTEMBER?

A. YEAH.

Q. WHY WERE YOU TALKING TO JARED DILLEY?

A. I DON'T KNOW.

Q. WERE YOU FRIENDS WITH JARED?

A. YEAH.

Q. HOW LONG HAD YOU KNOWN JARED?

A. I WENT TO SCHOOL WITH HIM, SO I KNEW HIM FOR AWHILE.

Q. KEEP YOUR VOICE UP.

YOU WENT TO SCHOOL WITH HIM FOR AWHILE?

A. UM-HM.

Q. WERE JARED AND ANDREW FRIENDS?

A. NO.

Q. DID THEY KNOW ONE ANOTHER?

A. NOT THAT I KNOW OF.

Q. DID YOU HAVE A CONVERSATION WITH JARED INVOLVING ANDREW BACK IN MID SEPTEMBER?

A. YEAH.

Q. WHAT WAS THAT CONVERSATION ABOUT?

A. I TOLD ANDREW I HAD BEEN TALKING TO HIM.

Q. YOU HAD BEEN TALKING TO JARED?

A. UM-HM.

Q. WAS ANDREW UPSET BY THAT?

A. YEAH.

Q. WHAT HAPPENED AS A RESULT OF THAT?

A. HE CALLED JESSE'S CELL PHONE.

Q. WHO IS JESSE?

A. JESSE JAMES. THAT'S JARED'S FRIEND, AND HE STARTED RUNNING HIS MOUTH TO HIM AND HE WANTED TO FIGHT

JARED.

Q. SO ANDREW WANTED TO FIGHT JARED?

A. UM-HM.

Q. WAS A FIGHT SET UP?

A. YEAH.

Q. WERE YOU PRESENT AT THAT FIGHT?

A. NO.

Q. DID YOU LIVE NEAR THE LOCATION OF THE FIGHT?

A. YEAH.

Q. WHEN WAS IT IN RELATION TO WHEN YOU TOLD ANDREW THAT YOU HAD BEEN TALKING TO JARED THAT ANDREW CALLED JESSE? WAS THIS ALL WITHIN, LIKE, A COUPLE OF HOURS?

A. THE SAME DAY, YEAH.

Q. DID A FIGHT OCCUR SHORTLY THEREAFTER?

A. NO, THEY NEVER FOUGHT. ANDREW HAD CALLED AND SAID THAT JIM CONWAY AND JAMIE WERE ON THEIR WAY THERE, AND THAT'S WHEN JESSE GOT SHOT.

Q. THIS WAS ALL THAT SAME DAY?

A. YEAH.

Q. DID YOU HEAR A SHOOTING FROM WHERE YOU LIVED?

A. YEAH.

Q. WHAT HAPPENED AFTER YOU HEARD SHOTS?

A. ANDREW CALLED AND HE SAID, "ALL YOUR DUDES ARE LAYING DEAD IN THE ROAD".

Q. WHAT DID YOU DO?

A. I HAD MY FRIEND CALL JESSE'S CELL PHONE TO SEE WHAT HAPPENED.

Q. YOU ARE TRYING TO FIGURE OUT IF ANYBODY WAS HURT?

A. YEAH. JESSE ANSWERED HIS PHONE AND TOLD MY FRIEND THAT HE HAD BEEN SHOT IN THE BUTT AND HE WAS ON HIS WAY TO THE HOSPITAL.

Q. WHEN YOU TALKED WITH ANDREW, WAS HE ON A CELL PHONE?

A. YEAH.

Q. DID YOU HEAR ANY OTHER PEOPLE IN THE BACKGROUND OR ANY NOISE?

A. I HEARD OTHER PEOPLE TALKING, YEAH.

Q. COULD YOU HEAR ANYTHING THEY WERE SAYING OR DID YOU RECOGNIZE VOICES?

A. NO.

Q. IT SOUNDED LIKE HE WAS WITH PEOPLE?

A. YEAH.

Q. SO YOU CALLED AND VERIFIED JESSE HAD BEEN SHOT AND WAS GOING TO THE HOSPITAL?

A. YEAH.

Q. WHAT HAPPENED NEXT?

A. I DON'T KNOW.

Q. DID YOU HEAR FROM ANDREW AFTER THAT?

A. YEAH, ANDREW CALLED ME A COUPLE OF TIMES AFTER THAT AND HE SAID HE WAS GOING TO MEXICO.

Q. HE WAS GOING TO MEXICO?

A. YEAH.

Q. DID HE SAY WITH WHO?

A. HE SAID WITH JIM. THEY WERE GOING TO MEXICO FOR A COUPLE OF WEEKS.

Q. HOW WAS HE ACTING?

A. HE WAS ACTING REALLY WEIRD. I DON'T KNOW, HE ACTED SCARED.

Q. WAS HE ON A CELL PHONE OR A PAY PHONE OF COULD YOU TELL WHEN HE CALLED YOU?

A. YEAH, HE WAS ON HIS CELL PHONE.

Q. ON HIS CELL PHONE?

A. YEAH.

Q. AFTER HE INDICATED THAT HE AND JIM WERE GOING TO MEXICO, DID YOU HAVE ANY FURTHER CONVERSATIONS?

A. YEAH, HE CALLED THE NEXT DAY AND HE SAID HE WANTED TO COME OVER AND SEE ME AND JACOB, AND HE NEVER SHOWED UP.

Q. THIS IS THE DAY AFTER THE SHOOTING, HE SAID HE WAS GOING TO COME OVER?

A. YEAH.

Q. AND SEE YOU AND YOUR SON?

A. YEAH.

Q. HE NEVER SHOWED UP?

A. NO.

Q. DID HE EVER CALL?

A. YEAH, HE CALLED A FEW HOURS LATER AND SAID THAT HE WASN'T COMING. I ASKED HIM WHY, AND HE SAID --

Q. TAKE YOUR TIME.

A. HE SAID HE COULDN'T EVER GO HOME.

Q. HE SAID HE COULDN'T EVER GO HOME?

A. (NODDED).

Q. HOW DID HE SOUND, HOW WAS HE ACTING?

A. HE SOUNDED SCARED.

Q. DID YOU TALK ABOUT ANYTHING ELSE WITH HIM?

A. NO, I ASKED HIM WHY HE COULDN'T GO HOME, AND HE JUST SAID HE DIDN'T WANT TO TALK ABOUT IT.

Q. DID HE SOUND LIKE HE WAS ALONE OR COULD YOU HEAR PEOPLE IN THE BACKGROUND?

A. HE SOUNDED LIKE HE WAS ALONE.

Q. WAS HE ON HIS CELL PHONE, DO YOU KNOW?

A. WELL, HE SAID HE COULDN'T TALK LONG; IT WAS LONG DISTANCE. HE SAID HE HAD LOST HIS CELL PHONE.

Q. HE LOST HIS CELL PHONE?

A. YEAH.

Q. AND HE WAS CALLING LONG DISTANCE?

A. YEAH.

Q. THIS WAS A SHORT CONVERSATION?

A. YEAH.

Q. AFTER THAT, DID YOU HEAR FROM HIM AGAIN?

A. NO.

Q. DID YOU HAVE CONVERSATIONS WITH ANDREW'S MOTHER AFTER THAT AND MAKE SOME EFFORT TO TRY TO LOCATE ANDREW?

A. I DON'T REMEMBER.

Q. LET ME TAKE YOU TO THE FUNERAL. YOU WERE AT THE FUNERAL?

A. YEAH.

Q. DID JAMIE HORTON SHOW UP?

A. NO.

Q. DID JIM CONWAY SHOW UP?

A. NO.

Q. DO YOU THINK THAT WAS UNUSUAL?

A. YEAH.

Q. DID YOU EVER TALK TO JIM CONWAY OR JAMIE HORTON EVER AGAIN?

A. NO.

Q. I WILL SHOW YOU WHAT HAS BEEN MARKED AS STATE'S EXHIBIT B. DO YOU RECOGNIZE THAT PHOTO?

A. YEAH.

Q. WHO IS THAT?

A. ANDREW AND JACOB.

MS. PRICHARD: COULD I HAVE A MOMENT, YOUR HONOR?

THE COURT: YES.

MS. PRICHARD: NOTHING FURTHER.

DEFENSE MAY HAVE A FEW QUESTIONS FOR YOU.

- - -

CROSS EXAMINATION

BY MR. MCGOWAN:

Q. GOOD MORNING. HOW ARE YOU?

A. FINE.

Q. I HAVE A FEW FOLLOW-UP QUESTIONS FOR YOU.

AS MS. PRICHARD ASKED YOU, PLEASE TRY TO KEEP YOUR VOICE UP SO THE JURY CAN HEAR YOU.

A. UM-HM.

Q. YOU TESTIFIED ABOUT WHO YOU KNEW TO BE SOME OF ANDREW'S FRIENDS, CORRECT?

A. YEAH.

Q. YOU TESTIFIED THAT JAMIE HORTON WAS, IN FACT, ONE OF ANDREW'S FRIENDS?

A. YEAH.

Q. YOU SAW THEM SOCIALIZING TOGETHER SOMETIMES?

A. YEAH.

Q. DID THEY TALK ON THE PHONE FREQUENTLY?

A. YEAH.

Q. I BELIEVE YOU SAID THAT YOU HAD NEVER HEARD OF MIKE ARTHURS BEFORE, IS THAT CORRECT?

A. NO, I HAVEN'T.

Q. SO OBVIOUSLY, YOU NEVER HAD SEEN MIKE ARTHURS EITHER, HAD YOU?

A. NO.

Q. WITH REGARD TO SHAWN NIGHTINGALE, WHAT WAS THE EXTENT OF YOUR KNOWLEDGE OF HIM PRIOR TO ANDREW'S DISAPPEARANCE?

A. I HAD JUST HEARD PEOPLE TALK ABOUT HIM. I NEVER MET HIM.

Q. AS FAR AS YOUR KNOWLEDGE, WAS HE ONE OF ANDREW'S FRIENDS?

A. YEAH.

Q. YOU NEVER SAW HIM AROUND SOCIALIZING, LIKE YOU DID JAMIE?

A. NO.

Q. YOU HAD NEVER SEEN HIM IN PERSON EVER?

A. NO.

Q. WITH REGARD TO JAMIE OR JIMMY CONWAY -- JAMIE HORTON OR JIMMY CONWAY, OF THE TWO OF THOSE, IN YOUR OPINION, WHO WAS THE BETTER FRIEND WITH ANDREW?

A. JAMIE.

Q. AND WHAT ABOUT BETWEEN JAMIE HORTON AND SHAWN NIGHTINGALE?

A. JAMIE.

Q. YOU NEVER KNEW MIKE ARTHURS, SO AS TO YOUR OPINION AS TO WHO WAS THE BETTER FRIEND WITH HIM, BETWEEN JAMIE HORTON AND MIKE ARTHURS, THAT WOULD BE JAMIE ALSO, CORRECT?

A. YEAH.

Q. CAN YOU TELL THE JURY A LITTLE BIT MORE ABOUT WHY THIS INCIDENT BETWEEN ANDREW AND JESSE JAMES AND JARED DILLEY, WHAT WAS THE CAUSE OF THAT WHOLE CONFLICT?

A. ~~BECAUSE I HAD TOLD ANDREW THAT I WAS TALKING TO~~ HIM.

Q. WHEN YOU SAY TALKING TO HIM, WHAT DO YOU MEAN?

A. I DON'T KNOW, TALKING TO HIM, LIKE WE LIKED EACH OTHER.

Q. YOU JUST DON'T MEAN LITERALLY TALKING TO HIM, YOU MEAN IN THE SENSE OF ROMANTICALLY?

A. YEAH.

Q. AND OBVIOUSLY, YOU AND ANDREW HAD BEEN SEEING EACH OTHER OFF AND ON FOR FOUR YEARS, ACCORDING TO YOUR TESTIMONY?

A. YEAH.

Q. AND WOULD NATURALLY BE UPSET THAT YOU INFORMED HIM YOU WERE TALKING TO A MAN ROMANTICALLY?

A. YES.

Q. THE PERSON YOU WERE TALKING TO WAS JARED DILLEY, NOT JESSE JAMES?

A. YEAH.

Q. JESSE JAMES WAS ONE OF JARED DILLEY'S FRIENDS?

A. YEAH.

Q. WHO INSTIGATED THE WHOLE IDEA OF LET'S, YOU KNOW, HAVE A FIGHT?

A. ANDREW.

Q. HOW DID HE DO THAT?

A. HE KEPT CALLING JESSE'S CELL PHONE, TRYING TO GET HIM TO MEET HIM SOMEWHERE.

Q. WHY WASN'T HE CALLING JARED DILLEY?

A. BECAUSE JARED DIDN'T HAVE A PHONE AND HE WAS ALWAYS WITH JESSE.

Q. SO HE WAS CALLING JESSE BUT REALLY, THE FOCUS OF IT WAS JARED DILLEY?

A. YEAH.

Q. HE WAS TELLING JESSE, I WANT TO FIGHT JARED; YOU BRING HIM HERE OR WHATEVER?

A. YEAH.

Q. AS FAR AS YOUR KNOWLEDGE, HOW WAS IT THAT JIM CONWAY AND JAMIE HORTON ARRIVED AT THAT SCENE?

A. ANDREW SAID HE HAD CALLED THEM.

Q. DID HE GET INTO ANY MORE DETAIL THAN THAT?

A. NO.

Q. DID YOU HAVE AN UNDERSTANDING AS TO WHY HE CALLED? FIRST OF ALL, DID HE TELL YOU HE CALLED JIMMY OR JAMIE OR BOTH?

A. HE SAID HE CALLED JIMMY.

Q. JIMMY?

A. YEAH.

Q. MAYBE THAT JAMIE JUST HAPPENED TO BE WITH

JIMMY?

MS. PRICHARD: OBJECTION.

THE COURT: SUSTAINED.

Q. (BY MR. MCGOWAN) HE DIDN'T TELL YOU HE CALLED JAMIE, DID HE?

A. NO.

Q. HOW MUCH TIME ELAPSED FROM WHEN HE TOLD YOU THIS THAT HE CALLED JIMMY AND THE TIME THAT YOU TESTIFIED ON DIRECT THAT YOU HEARD SHOTS?

A. PROBABLY 20 MINUTES LATER.

Q. AFTER YOU HEARD THE SHOTS, HOW SOON WAS IT THAT ANDREW CALLED YOU?

A. RIGHT AFTER I DIDN'T HEAR ANY GUNSHOTS, HE CALLED.

Q. I AM SORRY?

A. RIGHT AFTER THE GUNSHOTS STOPPED, HE CALLED.

Q. SO LITERALLY WITHIN MOMENTS OF YOU HEARING SHOTS?

A. YEAH.

Q. WHAT IS IT THAT HE TOLD YOU ABOUT THE SCENE THAT HE WAS OBSERVING?

A. HE SAID, "ALL YOUR DUDES ARE LAYING DEAD IN THE ROAD".

Q. WHO DID YOU TAKE "ALL YOUR DUDES" TO MEAN?

A. JESSE AND JARED AND WHOEVER WAS WITH THEM.

Q. THIS IS ANDREW CALLING YOU MOMENTS AFTER THE SHOOTING WHILE STILL OBSERVING IT, AND HE IS TELLING YOU THAT ALL OF YOUR DUDES ARE LAYING DEAD IN THE STREET?

A. YEAH.

Q. WHAT ELSE DID HE SAY?

A. I DON'T REMEMBER.

Q. DID HE TELL YOU THAT HE SHOT SOMEONE?

A. NO.

Q. DID HE IMPLY TO YOU THROUGH HIS WORDS THAT HE SHOT SOMEONE?

A. NO, I DON'T KNOW.

Q. DO YOU HAVE AN OPINION AS TO WHETHER OR NOT HE HAD A GUN THERE AT THAT --

MS. PRICHARD: OBJECTION.

THE COURT: SUSTAINED.

Q. (BY MR. MCGOWAN) DO YOU HAVE ANY KNOWLEDGE AS TO WHETHER OR NOT HE HAD A GUN THERE WITH HIM THAT DAY?

A. NO.

Q. DID YOU EVER KNOW ANDREW TO HAVE GUNS?

A. YEAH.

MS. PRICHARD: OBJECTION.

THE COURT: SUSTAINED.

MR. MCGOWAN: MAY WE APPROACH, YOUR HONOR?

THE COURT: YOU MAY.

- - -

THEREUPON, COURT AND COUNSEL CONFERRED AT THE BENCH OUT OF THE HEARING OF THE JURY AND THE FOLLOWING PROCEEDINGS WERE HELD:

MR. MCGOWAN: YOUR HONOR, SHE HAS MADE STATEMENTS THAT HE DID HAVE A GUN THAT DAY, THAT SHE KNEW HE HAD A GUN THAT DAY. I DON'T KNOW THE BASIS OF THE OBJECTION. I GUESS I SAID DID YOU KNOW ANDREW TO HAVE GUNS? AND SHE SAID, YES. WHAT IS THE BASIS OF THE OBJECTION?

MS. PRICHARD: WELL, WHETHER HE HAD GUNS ON OTHER OCCASIONS HAS NO BEARING ON WHETHER HE HAD A GUN ON THIS OCCASION AND USING IT TO SHOW SOME PROPENSITY THAT MAYBE HE HAD A GUN ON THIS PARTICULAR DAY. I DON'T KNOW WHAT OTHER STATEMENT YOU ARE REFERRING TO, OTHER THAN IN HER TRANSCRIPT SHE INDICATES SHE HAS SEEN A GUN AT HIS HOUSE BEFORE.

MR. MCGOWAN: THAT DAY.

MS. PRICHARD: I DON'T THINK IT SAYS THAT DAY.

MR. MCGOWAN: ENDED UP SELLING IT TO SOMEBODY AFTER THAT.

THE COURT: THE OBJECTION WAS SUSTAINED BECAUSE YOU SAID, HAD YOU KNOWN HIM EVER TO HAVE A GUN OUTSIDE THIS VERY LONG TIME FRAME, AND IF SHE ANSWERED --

MR. MCGOWAN: I DIDN'T HEAR HER ANSWER.

THE COURT: I THINK IF YOU HAVE GOT STATEMENTS

OTHERWISE, THEN THAT IS INCONSISTENT STATEMENTS THAT YOU MAY WANT TO SHOW TO SEE IF YOU CAN USE IT. IF YOU WANT TO HONE IN ON THAT DAY AND HAVING A GUN --

MR. MCGOWAN: THAT'S WHERE I WAS GOING WITH IT.

THE COURT: THAT'S NOT WHAT THE QUESTION WAS.

MR. MCGOWAN: DID YOU KNOW HIM TO HAVE A GUN THAT DAY. IT WAS JUST A BACKGROUND QUESTION, REALLY, BUT THAT IS FINE, I GUESS.

THE COURT: I AM SUSTAINING THE OBJECTION TO THE QUESTION THAT WAS ASKED, AND IF YOU WANT TO LOOK AT THE -- DO YOU HAVE SOMETHING TO SHOW US NOW SO WE DON'T HAVE TO APPROACH?

MR. MCGOWAN: COULD I GO THROUGH THE REST OF MY CROSS EXAMINATION AND TAKE A RECESS OR COULD DO IT NOW SO THE JURY DOESN'T GET MIXED UP. I WILL BE RIGHT BACK.

THIS ISN'T THE PART I AM TALKING ABOUT. IT IS LATER WHERE SHE SAID SHE SAW A GUN AND ENDS UP SELLING IT TO SOMEBODY. BUT THIS IS ANDREW'S FRIEND THAT SAID THAT ANDREW WAS HIDING IN THE GARAGE, SHOOTING EVERYBODY, AND THAT IS A PRESENT SENSE IMPRESSION OF THE SHOOTING.

MS. PRICHARD: I TALKED TO JESSE AND HE SAID HE SAW ANDREW WHILE THE SHOOTING WAS GOING ON AND HE SAID ANDREW WASN'T SHOOTING. FIRST OF ALL, THIS IS DOUBLE HEARSAY ANYWAY.

MR. MCGOWAN: SAYS ANDREW'S FRIEND SAID THAT

ANDREW WAS HIDING IN THE GARAGE, SHOOTING EVERYBODY. I DON'T KNOW IF SOMEBODY SAID ANDREW HAD A GUN AND OTHERS SAY HE DIDN'T. WHAT DID ANDREW TELL YOU? ANDREW TOLD ME THAT HE SHOT AT HIM. HE SAID I SHOT AT HIM.

MS. PRICHARD: YOU CAN ASK HER ABOUT THAT STATEMENT, I GUESS, BUT SHE DIDN'T SEE HIM THAT DAY TO KNOW IF HE HAD A GUN.

MR. MCGOWAN: SHE GOES ON TO SAY, I KNOW FOR SURE HE DID HAVE A GUN THAT DAY AND I KNOW FOR SURE --

THE COURT: THE OBJECTION WILL REMAIN SUSTAINED AND THE JURY WILL BE INSTRUCTED TO DISREGARD HER ANSWER BECAUSE OF THE TIME FRAME. YOU HAVE SHOWN TO THE COURT A STATEMENT WHERE SHE SAID THAT ANDREW HAD SAID HE STATED THAT HE HAD SHOT HIM. YOU HAVE NOT ASKED THE WITNESS THAT QUESTION FOR THIS TO BE AN INCONSISTENT STATEMENT.

MR. MCGOWAN: I WILL ASK HER THAT QUESTION.

THE COURT: THAT WOULD THEN BE ESTABLISHED AS AN INCONSISTENT STATEMENT AND YOU CAN REFRESH HER MEMORY HOWEVER YOU WANT TO USE THIS AS AN INCONSISTENT STATEMENT, AS LONG AS A FOUNDATION IS SET, BUT THAT IS WHERE WE ARE HEADED WITH THE OBJECTION THAT IS BEFORE ME RIGHT NOW.

MR. MCGOWAN: NO PROBLEM, YOUR HONOR, I UNDERSTAND THE OBJECTION.

- - -

THEREUPON, THE FOLLOWING PROCEEDINGS WERE HELD WITHIN THE HEARING OF THE JURY:

THE COURT: THE COURT DID SUSTAIN THE OBJECTION TO THE LAST QUESTION ASKED BY MR. MCGOWAN. NOW THE WITNESS DID ANSWER AND THE JURY IS INSTRUCTED TO DISREGARD THAT ANSWER.

YOU MAY ASK YOUR NEXT QUESTION.

MR. MCGOWAN: YOUR HONOR, CAN WE INFORM THE JURY THE BASIS OF THE TIME FRAME?

THE COURT: NO. YOU MAY ASK YOUR NEXT QUESTION.

Q. (BY MR. MCGOWAN) MS. HANNAH, DID ANDREW TELL YOU THAT HE WAS SHOOTING A GUN THAT DAY?

A. NO.

Q. DID YOU GIVE A STATEMENT WITH REGARD TO THE INVESTIGATION OF THIS SHOOTING TO A DETECTIVE ZACHARY SCOTT?

A. YEAH.

Q. DOES THAT REFRESH YOUR MEMORY -- HAVING TALKED TO ZACHARY SCOTT, DOES THAT REFRESH YOUR RECOLLECTION AS TO WHETHER OR NOT YOU MAY HAVE TOLD HIM THAT ANDREW SAID HE SHOT A GUN THAT DAY?

A. NO.

MR. MCGOWAN: MAY I APPROACH THE WITNESS, YOUR HONOR?

THE COURT: YOU MAY.

Q. (BY MR. MCGOWAN) I WILL SHOW YOU A FRONT PAGE OF THIS JUST TO HELP YOU IDENTIFY IT. I AM SHOWING YOU WHAT PURPORTS TO BE A TRANSCRIPT OF AN INTERVIEW BETWEEN YOURSELF AND DETECTIVE ZACHARY SCOTT AND ROBERT MCDONALD ON OCTOBER 17, '01. DOES THAT SOUND ABOUT THE RIGHT TIME FRAME WHEN YOU GAVE THAT STATEMENT?

A. YEAH.

Q. I WILL DIRECT YOUR ATTENTION TO PAGE NINE OF THAT STATEMENT AND ASK YOU TO REVIEW THAT AND SEE IF THAT DOESN'T REFRESH YOUR RECOLLECTION, THE LAST QUESTION AND ANSWER. DOES THAT REFRESH YOUR RECOLLECTION?

A. I MEAN, I OBVIOUSLY SAID IT BUT --

Q. I GUESS THE QUESTION IS DID YOU TELL DETECTIVE ZACHARY SCOTT THAT ANDREW SAID HE SHOT AT PEOPLE THAT DAY?

A. YEAH, BUT I DON'T REMEMBER SAYING IT.

Q. YOU DON'T REMEMBER SAYING IT, BUT YOU DON'T DISPUTE THAT THIS TRANSCRIPT ATTRIBUTES THAT STATEMENT TO YOU?

A. NO.

Q. YOU DON'T DISPUTE THAT?

A. NO.

Q. YOU SAID THAT ON THAT SAME DAY ANDREW CALLED YOU NUMEROUS TIMES ON HIS CELL PHONE, CORRECT?

A. YEAH.

Q. ONE OF THE THINGS HE TOLD YOU WAS THAT HE AND JIMMY WERE GOING TO GO TO MEXICO?

A. YEAH.

Q. HE SAID THEY WERE GOING TO GO FOR A FEW WEEKS?

A. YEAH.

Q. DID YOU ASK HIM WHY?

A. NO.

Q. WHAT DID YOU THINK HE MEANT WHEN HE TOLD YOU THAT?

MS. PRICHARD: OBJECTION.

THE COURT: SUSTAINED.

Q. (BY MR. MCGOWAN) HE DIDN'T FURTHER EXPLAIN THAT AT ALL TO YOU OF WHY HE WOULD GO TO MEXICO FOR TWO WEEKS IMMEDIATELY AFTER THE SHOOTING?

A. NO, I JUST FIGURED IT WAS BECAUSE OF THE SHOOTING.

Q. THAT WAS IMPLICIT WHEN HE WAS TELLING YOU THAT?

A. YEAH.

Q. YOU TESTIFIED THAT HE CALLED YOU THE NEXT DAY, WHICH WOULD HAVE BEEN SATURDAY, CORRECT?

A. YEAH.

Q. AND HIS STATEMENT ABOUT THAT HE WAS GOING TO COME TO VISIT YOU AND YOUR SON AND HIS SON, THAT WAS GOING TO BE THE FOLLOWING DAY, WHICH WOULD BE SUNDAY, CORRECT?

A. HE SAID HE WAS COMING THAT DAY.

Q. THAT DAY BEING SATURDAY?

A. YEAH.

Q. IN THE VERY LAST -- LET ME ASK YOU THIS QUESTION.

YOU THEN TALKED TO HIM WHEN HE DIDN'T SHOW UP, CORRECT?

A. YEAH.

Q. WHAT DAY WAS THAT THAT YOU TALKED TO HIM?

A. THE SAME DAY.

Q. HOW LATE IN THE DAY WAS THAT?

A. I DON'T KNOW.

Q. ARE YOU SURE YOU DIDN'T ALSO TALK TO HIM ON SUNDAY, THE NEXT DAY?

A. I DON'T REMEMBER.

Q. YOU MAY HAVE?

A. YEAH.

Q. ISN'T IT TRUE THAT YOU TALKED TO HIM ON SUNDAY AND HE SAID HE LOST HIS CELL PHONE THE DAY BEFORE, WHICH WAS SATURDAY?

A. I DON'T KNOW.

Q. YOU TESTIFIED, AND I THINK THE PROSECUTOR -- FROM ONE OF YOUR ANSWERS, YOU SAID HE SAID HE COULDN'T GO HOME. YOU DIDN'T SAY HE SAID HE COULDN'T GO HOME EVER, DID YOU, WHEN YOU FIRST ANSWERED THAT QUESTION?

A. YEAH, HE SAID HE COULD NEVER GO HOME.

Q. DID YOU SAY THAT WHEN YOU FIRST ANSWERED OR DID YOU SAY THAT AFTER THE PROSECUTOR ASKED YOU IF THAT'S WHAT YOU SAID? I THOUGHT I HEARD YOU JUST SAY HE COULDN'T GO HOME.

A. I DON'T KNOW.

Q. YOU DON'T REMEMBER WHETHER HE SAID EVER OR NEVER?

A. HE JUST SAID HE COULDN'T GO HOME.

Q. THAT'S WHAT I THOUGHT YOUR ANSWER WAS, HE COULDN'T GO HOME. IS THAT WHAT YOUR ANSWER WAS?

A. YEAH.

Q. WITH REGARD TO HIS INVOLVEMENT WITH JAMES CONWAY OR JIMMY CONWAY, WHAT DID HE DO WITH JIMMY CONWAY?

A. SOMETIMES HE WOULD GO OUT TO THE CLUB WITH HIM OR HE STOLE FOUR WHEELERS FOR HIM.

Q. FOR HOW LONG A PERIOD OF TIME -- YOU TALKED ABOUT HAVING A FOUR YEAR RELATIONSHIP WITH MR. DOTSON. FOR HOW LONG OF A PERIOD OF TIME DURING THAT FOUR YEARS DID YOU KNOW HIM TO STEAL FOUR WHEELERS FOR JIMMY CONWAY?

MS. PRICHARD: OBJECTION, YOUR HONOR.

THE COURT: OVERRULED. YOU MAY ANSWER THE QUESTION.

Q. (BY MR. MCGOWAN) DO YOU REMEMBER THE QUESTION?

A. NO.

Q. THE QUESTION IS, OF THAT FOUR YEAR PERIOD, HOW LONG HAD YOU KNOWN THAT HE WAS STEALING FOUR WHEELERS FOR JIMMY CONWAY?

A. HE HAD STARTED DOING IT WHILE I WAS PREGNANT SO --

Q. WHAT ELSE DID HE DO WITH JIMMY CONWAY?

A. HE SOLD DRUGS FOR HIM SOMETIMES.

Q. SO WAS HIS RELATIONSHIP WITH JIMMY CONWAY MORE OF A BUSINESS RELATIONSHIP RELATING TO THESE ACTIVITIES OF STEALING DRUGS AND THINGS OF THAT NATURE?

A. THEY WENT OUT TOGETHER, TOO.

MR. MCGOWAN: ONE MOMENT, YOUR HONOR.

Q. (BY MR. MCGOWAN) DID YOU MAKE ANY STATEMENTS AS TO WHO IT WAS THAT HAD PICKED UP OR HAD BROUGHT ANDREW TO PICK UP THE MOTORCYCLE?

A. NO.

Q. AND YOU DID NOT MAKE A STATEMENT THAT IT WAS SHAWN NIGHTINGALE IN HIS JEEP CHEROKEE THAT BROUGHT ANDREW?

A. I WASN'T THERE.

Q. DID ANYONE ELSE DESCRIBE TO YOU HAVING SEEN SHAWN NIGHTINGALE AT THAT TIME?

MS. PRICHARD: OBJECTION.

THE COURT: SUSTAINED.

Q. (BY MR. MCGOWAN) DO YOU HAVE ANY KNOWLEDGE OF

WHETHER JIMMY CONWAY WOULD BE INVOLVED IN ANYTHING DEALING WITH CONCRETE OR CEMENT?

MS. PRICHARD: OBJECTION.

THE COURT: OVERRULED. YOU MAY ANSWER THE QUESTION.

THE WITNESS: I HAD HEARD A FEW THINGS ABOUT CONCRETE BUT --

Q. (BY MR. MCGOWAN) WELL, JUST TO MAKE SURE YOU KNOW WHAT I AM ASKING, ARE YOU AWARE OF WHETHER OR NOT HE WAS INVOLVED IN ANY BUSINESSES THAT DEALT WITH CONCRETE?

A. YEAH, I HAD HEARD THAT ONE OF HIS FAMILY MEMBERS --

MS. PRICHARD: OBJECTION.

THE COURT: SUSTAINED AS TO WHAT SHE HEARD.

Q. (BY MR. MCGOWAN) DO YOU HAVE ANY KNOWLEDGE?

A. NO.

MR. MCGOWAN: MAY WE APPROACH, YOUR HONOR?

- - -

THEREUPON, COURT AND COUNSEL CONFERRED AT THE BENCH OUT OF THE HEARING OF THE JURY AND THE REPORTER.

- - -

Q. (BY MR. MCGOWAN) DO YOU HAVE AN UNDERSTANDING THAT JIMMY CONWAY'S DAD IS INVOLVED IN THE CEMENT BUSINESS OF SOME SORT?

A. THAT'S WHAT I HEARD.

Q. DID THE PEOPLE THAT DESCRIBED IT TO YOU, DID THEY HAVE A KNOWLEDGE OF THE BUSINESS OR WHEN YOU SAY THAT'S WHAT YOU HEARD, WAS IT JUST THAT, GOING AROUND AS RUMOR THAT SOMEONE OWNED A CONCRETE BUSINESS?

MS. PRICHARD: OBJECTION, YOUR HONOR.

THE COURT: SUSTAINED.

Q. (BY MR. MCGOWAN) DID YOU HAVE ANY KNOWLEDGE OF WHETHER OR NOT JIMMY CONWAY, THE SON OF JIM CONWAY, HIS FATHER, WHETHER HE EVER WORKED IN THAT CONCRETE BUSINESS OR HELPED?

A. NO.

MR. MCGOWAN: NOTHING FURTHER AT THIS TIME.

- - -

REDIRECT EXAMINATION

BY MS. PRICHARD:

Q. IS IT SAFE TO SAY THERE WERE A LOT OF RUMORS GOING AROUND ABOUT THIS SHOOTING?

A. YEAH.

Q. SOME RUMORS INCLUDED THAT JAMIE HORTON HAD A GUN, RIGHT?

A. YEAH.

Q. SOME THAT JAMIE DIDN'T HAVE A GUN?

A. RIGHT.

Q. YOU MAY HAVE ANSWERED THIS AND I AM SORRY IF YOU

ALREADY DID, BUT WERE JIMMY CONWAY AND JAMIE HORTON FRIENDS?

A. YEAH.

Q. THEY WERE TOGETHER?

A. YEAH.

Q. WHEN ANDREW WOULD SOMETIMES MEET UP WITH JIMMY CONWAY, WOULD JAMIE HORTON BE THERE?

A. SOMETIMES.

Q. WHAT SORT OF THINGS DID ANDREW DO WITH JAMIE HORTON?

A. I DON'T KNOW, HE WOULD GO OUT WITH HIM SOMETIMES OR HE WOULD STOP BY THE APARTMENT SOMETIMES. THAT'S ALL I KNOW.

Q. WHEN JAMIE WOULD STOP BY THE APARTMENT, WOULD YOU BE PRESENT DURING ANY MEETINGS OR DISCUSSIONS?

A. I WOULD BE IN THE LIVING ROOM AND SOMETIMES THEY WOULD BE OUTSIDE, OR THEY WOULD GO BACK IN THE BACK BEDROOM.

Q. THEY WOULD GO IN THE BEDROOM AND TALK OR DO THINGS WHEN YOU WEREN'T AROUND?

A. YEAH.

Q. WERE THERE TIMES THAT THEY TRIED TO SEPARATE THEMSELVES FROM YOU AND TALK?

A. YEAH.

MS. PRICHARD: NOTHING FURTHER.

- - -

RECROSS EXAMINATION

BY MR. MCGOWAN:

Q. YOU JUST TESTIFIED ON REDIRECT ABOUT SOME RUMORS THAT WERE GOING AROUND WITH REGARD TO YOUR STATEMENTS TO THE DETECTIVE, BUT YOU ARE SAYING THAT ANDREW TOLD YOU THAT HE FIRED SHOTS, CORRECT?

A. YEAH.

Q. AND ANDREW TOLD YOU THAT HE AND JIMMY WERE GOING TO MEXICO FOR A COUPLE OF WEEKS?

A. YEAH.

Q. HE DIDN'T TELL YOU HE AND JAMIE WERE GOING TO MEXICO, DID HE?

A. NO.

Q. AND TO ASK YOU FURTHER ABOUT ANDREW AND JAMIE'S RELATIONSHIP, DID THEY PLAY CARDS TOGETHER FREQUENTLY AND THINGS LIKE THAT?

A. YEAH.

MR. MCGOWAN: NO FURTHER QUESTIONS.

THE COURT: DOES THAT CONCLUDE THE QUESTIONS FOR MS. HANNAH?

MS. PRICHARD: YES, THANK YOU, YOUR HONOR.

THE COURT: YOU MAY STEP DOWN.

- - -

THE COURT: THERE IS A MATTER THAT THE COURT

ZACHARY SCOTT

Called as a witness on behalf of the Plaintiff, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. PRICHARD:

Q. Your name, please.

A. My name is Zachary Scott.

Q. And you work for the Franklin County Sheriff's Office?

A. I do.

Q. Were you one of the detectives assigned to the Andrew Dotson homicide?

A. I was.

Q. Do you remember about what date the homicide occurred?

A. Well the time we found the body I think was October 10th of 2001.

Q. And the case, was it solved in any way?

A. No.

Q. At what point, just an approximation, was the case solved?

A. It would be in -- well how do you define solved. I guess would be we had enough to go forth with an indictment I guess would have been in May of 2002.

58196. - Q44

SHERIFF #1 - 00000649

Franklin County Sheriff's Office Official Report

369 S. High Street, Columbus, Ohio 43215

Entered | 1. Report Number 20018738

2. Offense Code | 3. Classification Felonious Assault | 4. Detective Assigned MC

5. Place of Occurrence Eastbill & Palmetto | 6. Date Occurred To 9-14-01 | 7. Time Occurred To 6:45PM | 8. District Where Occurred 32

9. Last Name (Or Firm Name) First Middle	Sex Race Age	14. Person Reporting Same As ? Relationship victim	Sex Race Age
JAMES JR JESSE	MW 19		
10. Address Zip		15. Address Zip	
1185 OAK Park DR Galloway 43119			
11. Residence Phone	12. Business Phone	13. DOB 6 12 83 SSN [redacted]	16. Residence Phone	17. Business Phone	18. DOB / / SSN [redacted]
325 4137					

19. Victim Taken To	20. Transported By	21. Treated/Pronounced By	Coroner Notified ☐ Yes ☐ No	22. Doctor in Attendance - Sign Death Certificate ☐ Yes ☐ No

23. DOA ☐ MISSING PERSON ☐	Height	Weight	Eyes	Hair	Identifying Scars / Tattoos	Missing Before?

Clothing Description	Reason for Absence	Possible Destination	Cause of Death	Funeral Home

24. VEHICLE ☐ SUSPECT ☐ STOLEN Year Make Model Body Style VIN License No. State Year

Color Top	Color Bottom	Value	Keys with Unit ☐ Yes ☐ No	Doors Locked ☐ Yes ☐ No	Insured ☐ Yes ☐ No

25. Recovered By Date Time Location Impounded ☐ Yes ☐ No

26. NARRATIVE Victim states That A Known Suspect Called Him About Messing Around with His Girlfriend And Threatened The Victim. The Victim went over To The Scene Exited His vehicle with A Ball Bat To Fight The Suspect. Victim States That While Approaching The Suspect, The Suspect Approached Him Pulled A Gun And Began Shooting At Him. Victim was shot In The Groin Area By The Suspect. PENDING

ROBERT McDONALD #405

27. STOLEN/DES/IMP PROPERTY	S	D	I	Brand	Model	Serial Number	Value	R

Property Released To: X Total Value

28. Will Prosecute? Yes If No - Victim Initial	29. Call if of Detective Notified ☐ On Scene	30. Referred to: Prosecutor ☐	31. This Report is True and Correct to the Best of My Knowledge X

32. Location of Dispatched Run ☐ Same as 5.	33. Report Date	Report Time	34. Insurance Company
Westwinds & Broad	9-14-01	8:00PM	N/A

35. Reporting Officer (Print) Badge Assignment	36. Supervisor Approval (Print) Badge
D. Blevins 256 Patrol	Cpl Rick Minerd

SHR-PT-17A 3/93

EXHIBIT Cola

58196 - Q45

SHERIFF #1 - 000002

Andrew Jackson Vini Conway

37. TARGET OF OFFENSE

101	As Individual	109	Bank/S&L	117	Drug Store	125	Pawn Shop	133	Utility	141	Mailbox
102	Single Family Dwelling	110	Bar/Restaurant	118	Fast Food	126	Public Transportation	134	Warehouse/Factory	142	Cemetery
103	Multi-Family Dwelling	111	Carry Out/Conv. Store	119	Gas Station	127	Retail Sales	135	Automobile	143	Aircraft
104	Hotel/Motel	112	Church	120	Government Facility	128	Retail Service	136	Bicycle/Moped	144	Farm
105	House Trailer	113	Vending Machine	121	Grocery	129	Safe	137	Boat	145	Yard/Field
106	Garage/Shed	114	Construction Equipment	123	Medical Facility	130	School	138	Commercial Trailer	146	Animal
107	Vacant Structure	115	Construction Site	123	Office Building	131	Storage Facility	139	Motorcycle	147	Jail Inmate
108	Amusement Facility	116	Auto Dealer	124	Deputy/Officer	132	Taxi Cab	140	Truck		

38. POINT OF ENTRY/EXIT

ENTRY	EXIT	ENTRY	EXIT	ENTRY	EXIT	ENTRY	EXIT	ENTRY	EXIT	ENTRY	EXIT
201 Front	251	204 Door	254	207 Door/Vent	257	210 Air Garage	260	213 Wing/Vent	263	997 East	997
202 Rear	252	205 Window	255	208 Wall	258	211 Basement	261	200 Other/Specify	250	998 South	998
203 Side	253	206 Sliding Door	256	209 Floor/Ceiling	259	212 Overhead Door	262	996 North	996	999 West	999

39. METHOD OF ATTACK

221	Bodily Force	224	Cut	227	Key	230	Open to Public	233	Punch	236	Type/Wire	239	Shot
222	Bolt Cutter	225	Deception	228	No Visible Force	231	Pliers/Vice Grips	234	Saw/Drill	237	Window Smashed	240	Other Specify
223	Burn/Explosive	226	Hid in Building	229	Not Locked	232	Pryed	235	Screwdriver	238	Kicked Door		

40. SUSPECT 1 Name - Last, First | Clothing/Additional Information | DOB: / / | SSN: [redacted] | Arrested By

Sex	Race	Age	Height	Weight	Hair	Eyes	Address	Stated	Summons	Citation
		to	to	to						

SUSPECT 2 Name - Last, First | Clothing/Additional Information | DOB: / / | SSN: - - | Arrested By

Sex	Race	Age	Height	Weight	Hair	Eyes	Address	Stated	Summons	Citation
		to	to	to						

41. SUSPECT DESCRIPTORS

1	2		1	2		1	2		1	2		1	2		1	2	
301		Short Hair	311		Mustache	322		Eye Missing	333		Speech Stutter	344		Scar/Mark Head/Neck	355		Unusual Clothes
302		Medium Hair	312		Sideburns	323		Eyes Afflicted	334		Deep/Raspy Voice	345		Scar/Mark Chest/Back	356		Unusual Jewelry
303		Long Hair	313		Wire Fr Glasses	324		Gold/Silver Teeth	335		High Voice	346		Scar/Mark Arms	357		Intoxicated
304		Balding	314		Plastic Fr Glasses	325		Teeth Missing	336		Lisp	347		Scar/Mark Legs/Feet	358		Body Pts Missing
305		Afro Style	315		Sunglasses	326		Teeth Decayed/Dirty	337		Tattoo Chest/Back	348		Thin Build	359		Deformities
306		Wavy Hair	316		Clear Lenses	327		Teeth Broken/Chip	338		Tattoo Arms	349		Medium Build	360		Cast/Bandages
307		Straight Hair	317		Light Complexion	328		Teeth Very White	339		Tattoo Hands/Fingers	350		Heavy Build	361		Right Handed
308		Braided Hair	318		Medium Complex	329		Absent-m Speech	340		Tattoo Legs/Feet	351		Muscular Build	362		Left Handed
309		Full Beard	319		Dark Complexion	330		Polite Speech	341		Tattoo Pictures	352		Neatly Dressed	363		Body Odor
310		Goatee	320		Acne	331		Apologetic Speech	342		Tattoo Symbols	353		Dirty/Ragged	364		Mentally Disturb
			321		Freckled	332		Speech Accent	343		Tattoo Names/Initials	354		Work Clothes/Uniform	300		Other/Specify

42. SUSPECT ACTIONS

1	2		1	2		1	2		1	2		1	2		1	2	
401		Deceive/Distract	406		Blindfolded Victim	412		Molested Victim	418		Smoked on Premises	424		Took Large Items	430		Wore Wig
402		Demanded Money	407		Bound/Gagged Victim	413		Rip/Cut Clothes	419		Disabled Alarm	425		Took Concealables	431		Displayed Weapon
403		Stall Conversation	408		Knew Absent Victim	414		Masturbated	420		Disabled Telephone	426		Wore Gloves	432		Fired Weapon
404		Used Demand Note	409		Knew Victim's Name	415		Suspect Disrobed	421		Knew Location Valuable	427		Wore Ski Mask	433		Implied Weapon
405		Took Victim's Car	410		Made Threats	416		Struck Victim	422		Ransacked/Vandalized	428		Wore Stocking Mask	434		Used Lookout
			411		Made Victim Disrobe	417		Ate/Drank	423		Used Victim's Tools	429		Wore Other Mask	435		Other Specify

43. SUSPECT WEAPONS

1	2		1	2		1	2		1	2		1	2		1	2	
501		Handgun	505		Blue Steel	509		Long Barrel	513		Double Barrel	517		Knife	521		Hands/Feet
502		Rifle	506		Chrome/Nickel	510		Short Barrel	514		Sawed Off	518		Other Cut/Stab Inst.	522		Explosives
503		Shotgun	507		Automatic	511		Pump Action	515		Altered Stock	519		Club/Blackjack	523		BB/Pellet Gun
504		Machine Gun	508		Revolver	512		Bolt Action	516		Missile/Rock	520		Mace/Chemicals	524		Ligature

44. WITNESS 1 Name	Sex	Race	Age	Address	Home Phone / Bus Phone	Can I.D. Yes / No
WITNESS 2 Name	Sex	Race	Age	Address	Home Phone / Bus Phone	Can I.D. Yes / No
WITNESS 3 Name	Sex	Race	Age	Address	Home Phone / Bus Phone	Can I.D. Yes / No

Franklin County Sheriff's Office
Detective Bureau
Progress of Investigation

OFFENSE:	Felonious Assault
REPORT #:	0108738
VICTIM:	Jesse James Jr.
PLACE OF OCCURENCE:	Palmetto Street Near Fernhill Ave.
DATE OF OFFENSE:	September 14, 2001
REPORTING DETECTIVE:	Semones for McDonald
DATE OF PROGRESS:	September 17, 2001

On September 14, 2001 at approximately 9:20 PM, I was requested by Corporal R. Minerd #C19 to accompany him to Grant Medical Center in order to interview a victim of a shooting. Upon our arrival at Grant Medical Center, we were met by Deputy D. Blevins , who handed me a report signed by a Jesse James Jr. Deputy Blevins also advised us that the victim was in room #710.

Corporal Minerd and I responded to this room, and met with the victim.

Jesse James Jr. told us he had received a telephone call on his cellular telephone PS# 778-9296 from a Andrew Dotson. Andrew Dotson accused Jesse James' friend Jarrod Dilley of messing with his girlfriend and wanted to fight Jarrod Dilley. Jesse James set up the fight, and went to where Andrew Dotson was at, being Palmetto Street near Fernhill Avenue.

Jesse James stated he got out of his vehicle, and approached the group of about four subjects with a baseball bat, when someone pulled out a handgun.

Jesse James, who cannot identify this person only to say he was about 6'00 tall, wearing a blue shirt, and had black hair, saw the subject with the weapon, and immediately turned around to run. The subject began firing the weapon toward his direction.

Jesse James stated that he fell while running, and he believes this is when he got shot in the right buttocks area.

Jesse James stated he got back up, again running, and made it to his vehicle where he had parked it. He climbed into the vehicle through the passenger side, over his friend, and drove away, until being stopped by Sheriffs Deputies.

Jesse James was then transported to Grant Medical Center by Prairie Township Fire Medics.

Submitting Officer: 1 Reviewing S

EXHIBIT C16

Jesse James stated another person was with him during the incident. He identified this person Justin Knisley PS# 870-8329.

Jarrod Dilley's PS# 878-5712

Jesse James did state he had received a telephone call from the Jennifer Doig. PS# 870-758, who is the sister to Allison Doig. Allison Doig is best friends with Andrew Dotsons girlfriend, who is Bobbi Hanna.

Jennifer Doig told Jesse James that Andrew Dotson was the shooter in this incident.

Jesse James could not provide any further on this incident, and the interview was concluded.

Investigation Continues

Submitting Officer

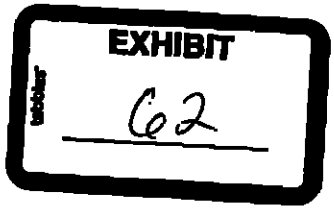
Reviewing Supervisor

06:52:59 94-NEED 47

Initial Report: As of 02/02/02 at 06:35 by BUCHANAN,DAVID A.-4294

While on patrol Ofcs were dispatched to the listed location reference to an armed robbery.
While enroute to the call Ofcs were advised by the dispatcher that the suspects were supposed to have left in a Tan Dodge Aries 4DR (OH CEA8013) that belonged to one of the employees. Ofc Teeters then arrived at the scene and reported that there were supposed to have been at least three male subjects, two black and one white, all armed with handguns. He then began checking the rear of the business as he had been informed that the suspects were possibly at the rear. This Ofc then arrived at the front of the store to make contact with the employees inside. As Ofc was exiting Ofc cruiser at the front of the doors, Ofc observed a tall B/M subject later identified as employee Marcus Simmons and a short A/M later identified as store employee Alex Matter inside of the business. As Ofc was walking toward the door Ofc observed Mr Simmons turn around and start walking back toward Mr Matter who was standing in the middle of the store. All of the interior lighting of the store was turned on. Ofc then contacted the two men and asked what had happened. They stated that three subjects had come into the store and tied them up and then robbed the business. Ofc asked them where they had been tied up and when. They stated that they had been tied up in a rear restroom at around 8:30-8:45PM and had just managed to get loose before calling the police. Ofc observed that both men were nervous and excited, both of them had their button-up dress shirts unbuttoned and the shirts were untucked from their pants. Ofc then had them show this Ofc where they had been tied up. They showed Ofc the bathroom and Ofc observed that there were several white plastic wire ties lying on the floor and on top of a cardboard box. Ofc also observed that this area of the business was as cold as the outside temperature as the back loading door had been left open by the perpetrators. Ofc noticed that neither Mr Simmons nor Mr Matter had dirt on their clothing even though they had been lying on the floor, which was covered in dirt, and Mr Matter had on a white dress shirt. Both of them did not appear to be cold and were drinking soda when speaking with this Ofc. They also stated that both of them had their Ohio O/L's taken along with some cash from their wallets and they had also taken Mr Simmons' keys to the business and Mr Matter's keys to his vehicle. Ofc then notified Sgt Bamfield of the situation. Capt Hewitt and Detective Weathersbee were then called to the scene which had been secured by this Ofc, Ofc Large, and Sgt Bamfield. When Capt Hewitt and Detective Weathersbee arrived the investigation was turned over to them.

Supplemental: As of 02/02/02 at 06:00 by BAMFIELD,LARRY E.-1471



Officer contacted the manager of Applebees, 820 N. Bridge St., to see if he or any of his employees had seen anything unusual at Rex TV. Officer contacted Mr. Clary who stated that they were busy during the times in question but he would contact each employee who worked on this date to see if they observed anything at Rex. He said that he would contacted Det. Weathersbee if he found out anything. He also said that his store has surveillence equipment and he would have that checked as well.

Supplemental: As of 02/02/02 at 06:50 by LARGE,LARRY F.-3408

Officer assisted Chillicothe Security employee (Richard Currier) who located a tan 1989 Dodge Aries 4dr (Ohio tag# CEA8013) parked in the parking lot of Affordable Dentures on N Plaza Blvd. This Officer notifed Detective Weathersbee of the location of the vehicle. As this Officer was waiting for a tow truck to tow the vehicle from the scene, this Officer and Richard Currier observed two black male subjects standing on the parking lot of the Christopher Inn watching this Officer. This Officer did make contact with the two black males who advised this Officer that they saw the cruiser and were just watching to see what was going on. Officer identified the subjects as Matthew Olaker and Donald Davis.

Supplemental: As of 02/03/02 at 08:50 by COTTRILL,TIMOTHY S.-7548

Mr Pamer called the Station to report that he may have information for the investigation of the robbery in this report. He said that he was driving in downtown Tarlton yesterday evening. He saw a dark colored pickup truck loaded with large appliances traveling north on SR 159, heading out of Tarlton. He said that he didn't get a better description of the truck or occupants, but the appliances were of a tall type such as refrigerators and there was at least two kitchen ranges. He witnessed this at approx. 8-9pm on 2-2-2002.

Supplemental: As of 02/04/02 at 07:00 by WEATHERSBEE,JOSEPH-6446

This officer was called-in as the Detective on call in reference to this robbery. The two employees working at Rex TV and Appliances that were tied up in the restroom were contacted at the scene. Both subjects were complaining that they had minor discomfort from being tied up. Both subjects stated that they worked themselves free from the nylon wire ties. Both subjects had already told responding uniformed officers as to what had happened and both were attempting to tell this officer. Both subjects were told that the statements should be in writing so as better record the events that took place. Both subjects were advised of their rights off of the blue statement forms. Both subjects stated that they understood those rights and were willing to discuss this matter and asked why they were advised of their rights.

They were told that they were not required to talk with this or any other officer and that if they falsified anything about the facts in this case that they could be criminally charged. Both subjects stated that they understood and that they were still willing to continue with the statements.

Alex Matter stated that he just started to work at Rex TV on Monday of this week (1/28/02). Alex said he has known Marcus, the other employee since he was 5 years old and that he has known Joe Johnson his manager for about 5 years. Alex stated that he went next door to Pizza Hut about 8:30PM to pick-up an order of food for Marcus and that when he returned, Marcus told him that there were three customers looking at big screens. Alex went over to that area of the store and started to wind-up the power cord on the sweeper when one of the subjects pulled a semi-automatic pistol out and pointed it at him. Alex stated that at first he thought it was a BB gun and that the guy was joking around but the guy said, "this ain't no joke". Alex stated that the three subjects were, one black male about 6'5", 278-280 pounds dressed in an orange fleece outfit, two white males, one was 6'3" about 260-270 pounds dressed in jeans and a gray hooded sweatshirt while the other white male he couldn't remember much about him other than he was dressed about the same as the other white male. All three subjects had on gloves. Alex stated that the subject took him to the employee restroom and had him remove all property from his pockets and told him that he would leave everything there. He also took Alex's car keys and told him that they would leave his car where he could find it. Alex stated that the subjects then tied him up in the restroom with zip strips (nylon wire ties). Alex stated that the subjects would check on them every 30 minutes or so and that each time he thought it was a different subject. Near the end of his time in the restroom there was a fourth subject that checked on them and he was not one of the original three subjects. Alex stated that he could hear big trucks being loaded and appliance dollies being moved back and forth. Then about 11:30PM the warehouse lights were turned off. Alex and Marcus freed themselves about 15 minutes later and then they called 911.

Marcus Simmons stated that he was alone in the business around 8:30PM or 8:45PM while Alex went next door to get his food. Marcus was shutting off all the televisions and starting to close the business. Three men walked in at which time Marcus asked if he could help them and they stated that they wanted to look at big screen TV's. Marcus showed them where they were and continued closing the store. Alex returned and Marcus advised him of the customers and to help him close the store. Alex was winding up the cord for the sweeper when one of subjects pulled a gun on him and started to the back room with him. One of the other subjects pulled a gun, possibly a .45 cal. Semi-automatic pistol, pointing it at Marcus' head and took him to the back room. His property was also removed. The subjects asked who was

the manager and Alex stated that Marcus was. The subjects then took Marcus back out to the showroom and had him tell them about the security cameras and recorders, lock the doors and turn out the lights. The subjects then took his keys including the keys to the store. Marcus was then returned to the restroom and restrained. Marcus gave the same description of the first two subjects as did Alex but added that the third subject was the one who pointed the gun at him. He described that subject as having blonde hair, white male about 6'0" tall and 245 pounds with a muscular build. Marcus stated that he too heard the trucks and saw a fourth subject. Neither Marcus nor Alex could give Officer any description of the four subject other than he was a white male.

Once freed the two employees called 911 and then looked around and were shocked to see the amount of products that had been removed. Three camcorders that worked as security cameras had been ripped from their mounts and two of the four VCR's used to record from them were taken; the other two had the tapes removed. All the cash had been taken from the cash drawer except a few dollar bills and some change.

Alex's car was located near the Christopher Inn and did not appear to have been tampered with other than being driven there and parked. The vehicle was found unlocked and without keys. That vehicle was towed by Best Towing to the Law Enforcement Complex where it will be processed for any additional evidence.

The Bureau of Criminal Investigation & Identification in London Oh was contacted and a request was made for assistance in processing the scene for evidence. Special Agent Douglas Caplinger was assigned to this matter.

Local Rex Store Manager, Joseph Johnson, was contacted by the employees after getting free and he arrived but stayed such a short time that this officer never made contact with him. Rex TV and Appliance, District Manager, J. Allen Dunbar who was in Chillicothe OH on routine business was contacted and asked to come to the scene.

Allen Dunbar arrived and was allowed to enter. Almost as soon as he entered,he stated that something wasn't right because only the security cameras were missing and none of the others. Dunbar was allowed to look at the warehouse to better determine what was missing. Dunbar was stunned and stated that there had to be several subjects involved and that with what all was missing that more that one truck would have been necessary to remove the bulk amount of items taken from the property. Dunbar guessed that the loss was no less that $60,000.00 and could be as much as $100,000.00 in inventory. Because the keys that Marcus Simmons and Alex Matter had taken from them by the robbers, a locksmith was called to the business and change the locks. Dunbar

also did a print out of the days business receipts and found that $679.14 cash was taken in and that there is usually $200.00 in start-up cash at the time that the business opens, which would have totaled $879.14 that should have been in the cash drawer. Upon checking the cash left in the drawer it was determined that about $865.00 in cash was taken during the robbery.

S/Agent Caplinger was able to get some shoe prints from the scene and those were collected and turned to this agency. They will be placed in evidence to be used if a suspect shoe is located. Other evidence collected was also turned over and placed in the evidence room at the Police Department.

This matter remains under investigation.

Supplemental: As of 02/14/02 at 08:00 by WEATHERSBEE,JOSEPH-6446

On February 13, 2002 Joseph Johnson, Store Manager for Rex TV and Appliances, 850 N. Bridge St. went to Waverly and took a Polygraph test. Michael Corwin gave the test and asked questions about involvement and knowledge of the Aggravated Robbery of the Rex TV store. Mr. Johnson passed all portions of that test and was no longer considered a suspect in the planning or execution of the robbery. This matter remains under investigation.

Supplemental: As of 02/15/02 at 11:00 by HEWITT,THOMAS L.-1234

On 2/15/02, Officer was contacted by Det.Gary Bedard, from the Franklin Co.S.O., who stated that while they were working an unrelated case, they were able to recover some stolen property from this case. Det.Bedard stated that recovered was one RCA Camcorder, Model/CC4352, Ser.#112630536 and one RCA Camcorder, Model/CC4393, Ser.#025530104. Det.Bedard was unable to give Officer any further information at this time due to their investigation. Det.Bedard did advise that the evidence is secured at the Franklin Co.S.O. Officer did remove the entered items from N.C.I.C.

Investigation continues.

Supplemental: As of 03/22/02 at 02:00 by HEWITT,THOMAS L.-1234

On this date, Officer was called in reference a subject (confidential informat) had information pertaining to this case. Upon contact with the informat, they had told Officer that one of the persons involved had been talking about the robbery at Rex T.V. They said that they heard that Marcus Simmons, who is an employee at Rex T.V. along with a subject named Shawn Nightingale, who lives locally had planned the robbery. This subject said that they heard from the subject responsible that Shawn contacted some of his friends, Mike

Arthurs from Yellowbud, Jim Conway III from Columbus, Ohio, who had just got arrested for Murder and was involved in some stolen popcorn, a subject by the name of Rick, possibly Turner from Columbus, Ohio and a black subject name Rob from Columbus Ohio and they were the ones that committed the robbery, using guns. The informat said that this subject talked about how they tied up the employees and use 3 or 4 Uhauls to rob the place. The informat stated that the subject then said that the merchandise (big screen TVs, stereos and camcorders) were then taken to Columbus, Ohio to be sold. This was all the information that the informat had at this time.

Investigation continues.

Supplemental: As of 03/22/02 at 15:00 by HEWITT,THOMAS L.-1234

After obtaining information about U-Hauls possibly being used in this robbery by the persons responsible, Officer checked with U-Haul to see if any of the suspects had rented a U-Haul on the date of the robbery. Contacted was made with Tammy Renusch, an employee for U-Haul, who checked their data base and found that on 2/1/02, James T.Conway III, 2005 Dyer Rd. Grove City, Ohio rented a 24' U-Haul truck, with dolly and furniture pads from their U-Haul Center at 550 Georgesville Rd. Columbus, Ohio. It was also noted that the truck was returned to the U-Haul Center, in Columbus, Ohio on 2/2/02, with a total of 122 miles driven. Ms.Renusch did fax Officer a copy of the transaction which a copy is attached to this report.

Investigation continues.

Supplemental: As of 03/25/02 at 14:00 by WEATHERSBEE,JOSEPH-6446

Because of the information gained by Capt.Hewitt, this Officer travelled to Franklin County Sheriff's Office and obtained several photo line-ups. One line-up did include, but was not limited to the suspect James Tildon Conway III, of 2005 Dryer Rd. Grove City, Oh.43123. Local photo line-ups were also obtained from the Ross County Sheriff's Office and those included, but not limited to Michael L.Arthurs, 644 Yellowbud Rd. Chillicothe, Ohio 45601 and Shawn E.Nightingale, 91 Trego Creek Rd. Chillicothe, Ohio 45601.
Alex Matter, victim of the Rex TV robbery on 2-1-02 was recontacted and asked to come on station and review the photo line-ups. After reviewing the line-ups, Mr. Matter identified a subject in a photo line-up provided by the Ross Co. Sheriff's Office. The photo was photo number 86539 in the #2 position of that line-up. That subject identified by Matter is Michael L. Arthurs of Yellowbud Rd. Matter stated that he only got a good look at two of the suspects who entered the Rex Store. Matter said that it was the black male suspect and the subject he picked out of the photo line-up, Michael Arthurs. Matter said that Arthurs is the subject who pointed the gun at him and secured him in the restroom. At this time, Officer has been

unable to obtain a photo line-up of the black male subject. Matter was unable to pick out anyone else at this time.
Investigation continues.

Supplemental: As of 03/27/02 at 15:00 by WEATHERSBEE,JOSEPH-6446

Officer later contacted Marcus Simmons who reviewed the same photo line-ups as did Mr. Matter. Simmons who pointed out Mike Arthurs as a subject that he knows well from High School days and as being a friend of Shawn Nightingale who is a friend of his (Marcus') also. Simmons did not point out Arthurs as one of the subjects involved in the robbery. Simmons also reviewed other photo line-ups and didn't ID anyone else. Officers advised Simmons that we knew that he was withholding information and that he knew some if not all the subjects involved in the robbery and then advised him of his rights. Officers told Simmons that he had helped plan the robbery and that we knew who was in the store that night. Marcus became somewhat upset and stated that he didn't help plan the robbery. Simmons stated that he had said "wouldn't it be funny if we "REX" got robbed" to some of his friends but that the actual robbery was never discussed. Simmons asked if he could leave because he wanted to discuss this matter with his father before saying anymore and that he would call back before three o'clock PM and tell investigators everything.

Marcus Simmons left the Police Station and at 3:00PM he was contacted by telephone and asked if he still wanted to talking or what? Simmons stated that he was just getting ready to call this officer back. Simmons asked if the meeting could occur at his residence and not at the police station. Capt. Hewitt and this Detective went to Arch St. and contacted Simmons. Simmons was again advised of his rights and again stated that he understood those rights and that he was willing to talk. Marcus gave a taped statement where he admitted that he might have had something to do with the robbery because he told people about the lack of security. He stated that he told Danny Stern this but stated that Danny would not do the robbery. He stated that he told Shawn Nightingale about the cameras and the alarm but that this was about a month before the robbery. Marcus stated that the night of the robbery when the one black male and the two white males entered the business, he did receive a phone call from Shawn Nightingale, who told him that he would be getting some visiters and that he had better cooperate so no one would get hurt. Simmons said that when they were first robbed, the two white males took Alex to the back of the store and the black male took him to the back. Simmons said then they asked who was in charge and Alex pointed to Marcus and the black gunman ordered Simmons back to the showroom. Simmons said he and the black gunman started to the front door / alarm panel area and a customer's truck pulled to the front door. It was a green F350 Pick-up and that truck waited for about five minutes. When Simmons started to the door the gunman stated "NO" and then ordered him to the back of the store

again. Simmons stated that was about all he knew. He stated that he had been threatened but that he didn't know by whom because the threat came over the phone from a male caller who know Simmons' children, girlfriend and where they live. The unknown caller threatened to kill him if he said anything.

Simmons was asked if he remembered looking at the photo line-ups earlier and he stated that he did. Simmons was asked if one of the subjects in those line-ups was involved in the robbery at which time he stated that he was scared. Simmons was again asked if he recognized any of the subjects involved in the robbery and he stated Mike Arthurs. Simmons again reviewed all the photos and picked out another male subject (photo #4) from a Franklin Co. Sheriff's Office line-up, line-up #562 as being responsible. Simmons stated that he didn't know that subject's name but that he did enter REX TV on 2-1-02 and that he was one of the robbers. Simmons said that the subject did have a firearm and that subject did threaten him with that firearm. Photo #4 in line-up #562 is that of James Tildon Conway III. Simmons was again shown the lineup that contained Mike Arthurs which was from a Ross County Sheriff's Office line-up and he picked out Michael Arthurs, stating that he was at the REX store and that he was one of the robbers. Simmons said he couldn't say if Arthurs was armed or not. (Alex Matter had already ID'd Arthurs and said he was armed.) Marcus Simmons was asked about Alex Matter's car being taken and then left nearby. Marcus could not advise who did that but when asked which of the subjects present at the robbery told them the car would be nearby he stated "the black guy". Marcus was asked if he knew the black guy and he stated, "Rob". Simmons didn't know Rob's last name. When asked about Jimmy (James Conway III) he stated that he had heard about him being down here at parties but he hadn't seen him. Marcus did advise that the first time he saw Jimmy was on the night of the robbery and on television later when his house was raided in Columbus for stolen popcorn. He stated that he had heard Shawn Nightingale talk about him, saying that Jimmy was his (Shawn's) best friend. Simmons was unable to pick out anyone else at this time.

Investigation continues.

Supplemental: As of 03/29/02 at 17:00 by WEATHERSBEE,JOSEPH-6446

As a result of information gained from Marcus Simmons, Franklin County Sheriff's Office Detectives and a confidential informant, this officer contacted Judge John B. Street and showed cause for two search warrants. Search warrants were obtained for the residence of Shawn Nightingale at 91 Trego Ck. Rd. and Michael Arthurs at 644 Yellowbud Rd. Those warrants were executed on that same day and are attached. Arrest warrants were also obtained for Marcus Simmons, James T. Conway III and Michael L. Arthurs. Simmons was arrested on station while the warrant for Conway was faxed to the Franklin Co. Jail where they served it on Conway who was being held on Murder charges. Michael Arthurs has

not been located for his service.
This matter remains under investigation.

Supplemental: As of 04/09/02 at 20:20 by CAMPBELL,CHARLES A.-1682

Ofc served a secret indictment on Michael L Arthurs at the LEC. He was placed under arrest and escorted to the Ross Co Jail. Here Arthurs was issued a copy of the indictment and held pending his appearance in court. The indictment was for Aggravated Robbery and Kidnapping. It was issued by the Ross Co Common Pleas Court after being handed down by the Grand Jury.

Supplemental: As of 05/05/02 at 14:00 by WEATHERSBEE,JOSEPH-6446

On 5/5/02 at 9:00AM Michael Arthurs came on station with his lawyers Mr. Thomas and Ms. Tome for a meeting with Ross County Prosecutor Scott Nusbaum, Capt. Thomas Hewitt and Detective J. Weathersbee. During the initial portion of that meeting the terms and limits of the interview were established between the Prosecutor and Mr. Arthurs' lawyers. After that was completed Mr. Arthurs gave a statement that was limited to the robbery of REX TV & Appliances 850 N. Bridge St. Chillicothe, OH on 02-01-02 and his involvement and knowledge of the involvement of others. Arthurs was advised of his rights and signed the waiver and that was witnessed by both lawyers representing him.

Mike Arthurs gave a statement that Shawn Nightingale and Marcus Simmons had planned the robbery at REX and that Marcus Simmons even let Shawn Nightingale and James Conway in the back door of REX to look around and plan what would happen during the robbery. Arthurs stated that Shawn Nightingale called him the night of the robbery and that Shawn had asked him if he wanted to go to Portsmouth with him to visit Chelsea Tatman (Shawn's girlfriend) and her friends to hangout. Arthurs stated that he went to the Hampton Inn where Nightingale had a room and that Jeremy Mallow met him in the hallway and showed him which room it was. Mallow then left while Arthurs waited in the room for Nightingale to shower and get ready.

While Arthurs and Nightingale were in the room James Conway, Calvin "Jamie" Horton and Rob arrived there. Arthurs stated that he didn't know Rob's last name but thought he might remember it if he heard it. He described Rob as 5'10" to 6', 260 pounds, shaved head, light skinned (black male) and that he had told Arthurs that he was Samoan. Arthurs stated that they, Conway, Horton and "Rob" were talking about getting ready to go to REX. Calvin "Jamie" Horton backed out at the last second and the others all tried to talk Arthurs into taking Jamie's place. They told him he could make $30,000.00 to $40,000.00 for his part. Shawn Nightingale told Arthurs that he

wouldn't ask him to go and do this if he weren't sure that there was no chance that he would get in trouble. Nightingale told him Marcus Simmons had let him and Conway in the warehouse part of the building so everything could be planned.

Arthurs stated that he was under the impression that it was just a rip-off because Simmons, the employee was in on the planning. Arthurs then agreed and Calvin "Jamie" Horton gave Arthurs a hooded sweatshirt and a pair of black jersey gloves. James "Jimmy" Conway, Rob and Mike Arthurs then got into Shawn Nightingale's car (Black Intrepid) at the Hampton Inn. Jimmy Conway drove them to the back lot of Applebee's Restaurant and parked. Then they walked around the back and then the north side of REX to the main entrance.

Arthurs said that they entered the business and Marcus Simmons told them to wait because Alex was getting his food at Pizza Hut. Arthurs stated that he didn't understand what was going on because everything was supposed to be all set up and he didn't think that anyone else was going to be there. The three waited on Alex to return to the business. Alex returns and Marcus tells him (Alex) to roll up the cord for the vacuum sweeper. Alex started rolling up the cord and Rob pulls a gun from somewhere on his person and tells Alex to get in the back. Alex thought that he was joking and Rob made it clear that he was very serious.

Arthurs stated he looked over at Jimmy (Conway) who was now holding a gun and was talking to Marcus. Conway walked Simmons to the back room then to the restroom where Rob had already taken Alex Matter. Jimmy asked who was in charge and Alex pointed to Marcus. Jimmy took Marcus back to the showroom while he, (Arthurs) stayed with Rob who secured Alex's hands and feet with zip-ties. Arthurs claimed that he waited for Conway and Simmons to return. When they returned Simmons entered the restroom and Rob secured him with the zip-ties then they shut that door. Jimmy said that the alarm to the back door was now off. Jimmy opened that back overhead door and exited the business. Conway then took Alex Matter's car and drove it to where the U-Haul truck was parked. Conway left Matter's car there and returned to the business with the first of three trucks.

They started loading Big Screen TV's and other expensive items first. According to Mike Arthurs, Jimmy Conway and Rob would roll the items to the rear of the truck on dollies then lift it up to Arthurs who would slide it to the side or front of the truck then place smaller items on top of the bigger ones. After the first truck was loaded Jimmy Conway took it and drove to where the other big truck was parked (the Ryder truck) and returned with the empty or 2nd truck and the same process was repeated. The smallest truck was the small U-Haul (3rd truck). Conway also drove the 2nd truck away and returned with the 3rd

one.

About half way through loading that last truck Arthurs stated that there were several police and or sheriff's cruisers that went by the business with lights and sirens on. Arthurs stated that he was scared and kept telling Jimmy and Rob he wanted to leave. Conway finally said "OK we're done". Arthurs said that he left and walked back to Nightingale's car and drove it back to the Hampton Inn. Arthurs thought that Rob and Conway were done also and would be there soon. Jamie Horton was still in the motel room when Arthurs returned but Nightingale was gone. Arthurs thought that Nightingale's girlfriend picked him up and they went to Portsmouth. When time had passed and the others had not returned, Arthurs was afraid that they had been caught so he and Horton went for a ride in Arthurs' car to check. Arthurs stated that when they went by the business, the police were not there and the truck was still there. Arthurs stated he and Horton returned to the Hampton Inn and waited. Conway and Rob returned to the motel shortly afterward. At that time Jimmy started talking about Arthurs driving one of the three trucks back to Columbus and Arthurs stated that he wasn't doing that. Conway told him if he didn't drive one back to Columbus then he would have to split his part of the money with Horton. Arthurs said he told Jimmy that he didn't care. Horton then drove the third truck back to Columbus with Conway and Rob driving the other two. Mike Arthurs stated that he did observe Calvin Jamie Horton actually drive one of the three truckloads of stolen merchandise. The trucks were parked at a shopping center parking lot for the night and Jamie "Calvin Horton" watched the trucks for the night. Arthurs stated he got a call about a week later and was told to come to Columbus because they had money for him. Mike Arthurs stated Jimmy Conway gave him $1,500.00 for his involvement in the robbery of the REX store. Arthurs stated that shortly after that Jimmy Conway got arrested for murder in Columbus and Jamie Horton told him that the rest of the items stolen from REX would be sold to raise bond money Arthurs stated that he told Jamie that he didn't care. Arthurs was asked about him having a firearm during the robbery and he denied that, stating that only Jimmy and Rob had guns.

Mike Arthurs identified James T. Conway III, Robert Lee Myers, Shawn Nightingale and Marcus Simmons from photographs after he explained each of their roles in the robbery.

A copy of the statement transcript is attached.

Investigation continues!

Supplemental: As of 05/09/02 at 14:30 by HEWITT,THOMAS L.-1234

On this date, Officer was contacted by Joseph Taylor, from Rex TV

Loss Prevention, Dayton, Ohio who faxed Officer a list of additional serial numbers for the RCA model CC4393 Camcorders which were taken in the robbery. This list also contained the serial number for the RCA model CC4393 Camcorder which was recovered by Franklin County Sheriff's Dept. earlier. The serial number for that unit was 025530104. Attached to this report is a copy of the list of those serial numbers and they will be entered into NCIC.

Also on this date, Officer contacted Kelly Post, the Assistant Manager at Hampton Inn, in Chillicothe, Ohio to obtain a guest list for the date of 2/1/02 after Officer received information from the interview of Michael Arthurs that Shawn Nightengale had a room at that location on that date. In checking the list, Officer noticed that no room was registered to Shawn Nightengale however there was one registered to Jeremy Mallow, 8613 SR 138 Frankfort, Ohio, who was in the room with Shawn Nightengale when Michael Arthurs arrived prior to the robbery. Attached to this report is a copy of the quest list.

Officers will contact Jeremy Mallow and the investigation continues.

Supplemental: As of 05/23/02 at 13:00 by WEATHERSBEE,JOSEPH-6446

Detective Chris Floyd, Franklin County Sheriff's Office called and advised that their office was working leads from one of their ongoing investigations and as a result they had additional information concerning the robbery investigation of REX in Chillicothe. Contact between that agency and this agency have been on a regular basis, as the subjects involved are the same subjects in both investigations.

As part of their investigation Franklin County Sheriff's Department had taped a conversation between Shawn Nightingale and a Confidential Informant (CI). That taped conversation was transcribed and a copy of that transcript was forwarded to this detective. During the conversation, Rex TV was mentioned by Shawn Nightingale. On page 9 of the transcript of that conversation, Shawn Nightingale made a statement that he didn't really do anything (concerning the robbery of Rex TV in Chillicothe) but that he kinda set it up. He went on to say that everything was cool until Marcus (Simmons) started telling everybody. A copy of that transcript will be attached to this report.

This report and all attachments will be sent to the Ross County Prosecutor's Office for consideration by the Ross County Grand Jury.

Case-Mgt: Div> DETECTIVE BUREAU Solvability>
Sec> DETECTIVE Assigned> 02/01/02
Sup> HEWITT,THOMAS L.-1234 Next Review> 04/08/02
Inv> WEATHERSBEE,JOSEPH-6446(PRIME) Next Report> 02/07/02

Westlaw.

factiva.

6/7/02 Columbus Dispatch (Ohio) 01A
2002 WL 21190982

The Columbus Dispatch
(c) Copyright 2002 Columbus Dispatch. All Rights Reserved.

Friday, June 7, 2002

NEWS

FAKE BLOOD PART OF PLOT TO STOP REAL BLOODLETTING

Bruce Cadwallader
Dispatch Police Reporter

Detectives staged two murders, using a ketchup-barbecue sauce concoction to imitate blood and even burying one "victim," to help an informant infiltrate a drug gang whose hit list included the Franklin County prosecutor, sources said.

A grand jury yesterday heard evidence against the alleged leader of the gang, James T. Conway III, 23, who has been charged in two killings, conspiracy to commit other murders and racketeering.

Investigators said Conway, of 2005 Dyer Rd. in Jackson Township, fancied himself to be a mob boss and was known to be a fan of actor Robert De Niro, who portrayed gangster Jimmy Conway in the 1990 movie GoodFellas. Among his favorite TV shows is another mob-related tale, The Sopranos, sources said.

Conway and two other gang suspects were arrested last month after the staged killings helped an informant gain their confidence and obtain evidence for prosecutors.

The informant had been hired by Conway to eliminate witnesses to crimes, but instead worked with Sheriff's Office investigators, who arranged the fake murders, sources said.

In one, a person who looked like one of the individuals on the list was posed as if slain and stuffed into the trunk of a car.

In the other, someone actually on the hit list agreed to pose for a photograph in a shallow, unmarked grave. Bloodstains were created using the ketchup and barbecue sauce mixture.

The informant then showed Conway photographs of the bodies and told him that he had disposed of them where police would never find them, Assistant Prosecutor David DeVillers said.

Conway's people bought the ruse, allowing the informant to become more involved

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

EXHIBIT
63

in gang activity, detectives said.

The nine names on the gang's hit list included Prosecutor Ron O'Brien and Assistant County Prosecutor Sheryl Prichard.

Prichard is a prosecutor in one of the two murder cases filed against Conway -- the Jan. 19 slaying of Ohio State University student Jason Gervais outside Dockside Dolls, 2210 E. Dublin-Granville Rd.

Detectives learned that the gang had obtained a license-plate number for Prichard and had followed her once. They apparently never learned where she lived because the the car was registered to someone else.

Measures were taken to protect O'Brien and his family, said officials, who refused to elaborate. O'Brien also refused to comment.

The individuals on the list and the informant have been relocated and have received other protective services. Investigators took the threats seriously, especially because one of the individuals on the list had been killed.

Andrew Dotson, 20, of Hilliard, was found dead last October in a Prairie Township cornfield. Clad only in his underwear, he had been stabbed in the chest, possibly with a pickax.

Prosecutors say Dotson had witnessed a shooting involving Conway's gang. Conway ordered Dotson taken to the field and killed, according to allegations in a complaint filed in Municipal Court.

According to the complaint, the other names on the list were:

* Marcus Simmons, the manager of a TV and appliance store in Chillicothe, and Alex Matter, a customer, who were victims of an armed robbery.

* Michael L. Arthurs, who was a witness to Dotson's slaying.

* Brian McWhorter, who was described as a witness to Gervais' slaying.

* Derek A. Shively. No information about him was available.

Conway even turned against his own, deputies and prosecutors say. Court documents state that Shawn Nightingale, 21, of Chillicothe, allegedly a member of the gang and involved in Dotson's slaying, was on the list.

Calvin "Jamie" Horton, 22, of 519 Catherine St., Columbus, also is accused in the murder plots. His cousin, Robert Lee Myers, 31, is charged with aggravated robbery.

Conway, Nightingale and Horton were all in custody. Myers remained at large last night.

Investigators have said more arrests are possible.

Conway's attorney Christopher T. Cicero had an emphatic response to the

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

accusations.

"If that's true and I find out my client in any way whatsoever initiated any activity to hurt Ron O'Brien or Sheryl Prichard, I will no longer be his attorney," Cicero said. "That is scary. That is so unconscionable."

bcadwallader@dispatch.com
TABULAR OR GRAPHIC MATERIAL SET FORTH IN THIS DOCUMENT IS NOT DISPLAYABLE

(1) James T. Conway III; (2) County Prosecutor Ron O'Brien was among nine people named on the hit list.; Photo

---- INDEX REFERENCES ----

NEWS SUBJECT: English language content; Page-One Story; Content Types; Front-Page Stories; Crime/Courts; Political/General News; Crime; Acts Of Terror (ENGL NPAG NCAT PAG GCRIM GCAT CRM GTERR)

REGION: United States - Ohio; Midwest U.S.; United States; North American Countries; Ohio; North America; United States (USOH USC USA NAMZ OH NME US)

Language: EN
SOURCE REGION: NME OH US USC

EDITION: HOME FINAL

Word Count: 674

6/7/02 COLDIS 01A

END OF DOCUMENT

Copr. © West 2004 No Claim to Orig. U.S. Govt. Works

58196 - Q64

On Sept 14th 2001, Jesse James Jr. was the victim of a Felonious Assault. The Franklin County Sheriff's Office investigated the complaint. The investigation revealed that a disagreement had occurred between Andrew Dotson and Jared Dilley. The argument progressed into an arranged meeting with friends of Andrew Dotson and friends of Jared Dilley (including Jesse James) for an assumed physical altercation between the two rivals.

As a result of this meeting Jesse James was shot in the buttocks by (at that time) an unknown gunman. It's was later uncovered that one of Andrew Dotson's friends who went with Andrew for this confrontation was James Conway III. James Conway was the gunman that shot Jesse James.

On October 10th 2001, the body of Andrew Dotson was found by a passer-by in a cornfield off Galloway Rd in the southern part of Franklin County. Andrew had been stabbed twice in the upper torso by an unknown weapon. Andrew was wearing only his boxer shorts. On top of his body was a white substance, later identified as lime.

The Franklin County Sheriff's Office was in charge of the investigation. After numerous interviews and the processing of available evidence the Sheriff's Office came up with a couple of suspects. One of these suspects was James Conway III. Sources had indicated to the Sheriff's Office that Jim had told people that he thought Andrew Dotson was going to tell on him for shooting Jesses James back on Sept 14th.

The Franklin County Sheriff's Office learned that in the month of August, 2001 the Pickaway County Sheriff's Office conducted an investigation involving Jim Conway III, Andrew Dotson, and Casey Schuler. On August 7th 2001 Casey was arrested for Receiving Stolen Property and was presently being housed at the Pickaway jail. Sources along with statements made by Casey lead the Franklin County detectives to believe that Casey and Andrew stole ATVs for Jim Conway. Jim would pay them for the ATVs and then sell the ATVs out of town. Pickaway County Detectives informed Franklin County Detectives that while they were serving a search warrant at 2005 Dyer Rd., the address of Jim Conway III, in Franklin County, Jim's attorney Chris Cicero showed up. Jim was not charged for any crimes related to the thefts of the ATVs. Casey Schuler is presently serving time for the thefts. The Pickaway County detectives for questioning concerning the thefts could not find Andrew Dotson.

On February 1st 2002, the Rex TV and Appliances store at 850 N. Bridge St. in Chillicothe OH was robbed. Three armed men entered the store and escorted the employees, Marcus Simmons and Alex Matter at gunpoint to the rear of the store. Another man stayed outside the store and acted as a lookout and driver. Three U-Haul trucks were used to load up the stores merchandise. Total amount of loss was $67771.73. It was later determined that Marcus Matter had participated in the planning of the Robbery.

After receiving the information from Pickaway County, the Franklin County Sheriff's Office decided to investigate Andrew's death covertly instead of overtly. The Sheriff's

EXHIBIT
tabbies
64

(1)

known how to contact her or follow her except through information given by law enforcement to Ronnie Trent so that this COULD HAVE OR MAY HAVE happened. Neither of these people has ever mentioned your name or Sheryl's name to me.

Chris

Next was Marcus Simmons and Alex Matter of the Rex store robbery due to Marcus might tell on him concerning the robbery, and Alex had picked Jim's photo out of a photo array.

Next was Shawn Nightingale. Shawn was weak and could tell on him for the different crimes.

CI2 states that Jim Conway had large amounts of money placed on CI2's, books so the CI2 could make bond and get out and kill for Jim. Jim also offered two individual as CI2 assistants to help him in any way necessary to complete the objective. The two helpers were Calvin "Jamie" Horton, and Shawn Nightingale.

S.O. detectives checked CI2 books and did find that on 3/15/2002, $3000.00 had been placed on his books by (Jeff) Conway, and on 4/9/02 (Calvin) Horton placed $2000.00 on his books.

On May 13, and 14, 2002 CI2 took two polygraphs concerning the two homicides. According to Cindy Ewing of B.C.I.&I, he passed both of them.

CI2 stated that Jim Conway told him the license number of assistant prosecutor Cheryl Pritchard and the type of vehicle she drove. CI2 was asked why they would want information about Sheryl Pritchard. CI2 stated that she was in charge Jim's case because Dave Devillers was living and going to the feds. Once detective returned to the office they checked with Cheryl Pritchard and CI2 had in fact been give correct information. CI2 later found out that Calvin Horton was the one following her.

From that point we started working with CI2 in a covert capacity. CI2 agreed to wear body wires and record taped conversations between himself and suspects. CI2 was placed on a court ordered work release status to assist the Franklin County Sheriff's Office.

On May 13th 2002, Sheriff's Detectives interviewed Michael Arthurs, in the presence of his attorneys. S.O. detectives going to Michael Arthurs residence and asking to speak to him prompted this. Michael stated that he and Shawn Nightingale took Andrew Dotson to West Virginia in Shawn's Jeep with instructions to kill him. Michael stated that Jim Conway gave the order that Andrew had to die. Shawn had a handgun they were to shoot and kill and leave Andrew's body in West Virginia. Michael stated that they could not do it, so they took Andrew back to Columbus and called Jim and told him. Mike states that Shawn had given Andrew a bunch of pills but he didn't know what they were. They met in the parking lot of a grocery store and followed Jim and Calvin over to the cornfield. Mike states he acted like he was choking Andrew, who was already unconscious from the pills, but wasn't hurting him. He states that he and Calvin drug Andrew back into the cornfield, and Jim hit him with a pickaxe twice. Shawn and Calvin took off his clothing and put lime on him. Mike took Andrew's clothing and the head of the axe and threw it away. Mike also state that he knew that Marcus Simmons was to be killed because Mike was present when Attorney Chris Cicero had told him, Robert Myers, and Calvin Horton

that Marcus needed to die. It was believed that Marcus might testify on Jim about the robbery in Chillicothe.

On May 16th 2002 Mike Arthurs took a polygraph test concerning the homicide and did pass it.

On May 16th the Sheriff's Office and CI2 started calling suspects and taping conversations
On May 16th CI2 met with Calvin Horton and was given 91/2 ounces of white powder substance reported by Horton to be cocaine. This was pre-payment for the taped video confession of Jim Conway's look a like and to get rid of the body. The conversations between CI2 and Calvin Horton were recorded, and transcribed. Segments of the conversation were as followed. CI2 refers to making the videotape under Jim's direction. Calvin Horton understood that he was to assist CI2 in anything he needed per Jim Conway. Calvin understood that the powder and the gun that was to be giving to CI2 the next night was for the purpose of killing a person to make the tape.

On May 17th CI2 talks to Jim Conway. Conway makes references to the video and payment and weapons through Calvin Horton. (Conversations recorded and transcribed)

On May 17th Calvin Horton gave CI2 a loaded Bersa .40 caliber handgun. Comments made by Calvin; he would assist in the disposal of bodies, and would provide additional drugs as payment the next night. Calvin comments about getting the gun used in the Dockside Homicide and possible retrieving it for a video confession for the dockside. (Conversations recorded and transcribed)

On May 18th CI2 again talks to Calvin Horton. Calvin talks about getting CI2 additional drugs. CI2 also talks to Jimmy Conway via three-way phone call from the jail. Jimmy is told that the tape is done and that CI2 will need additional money for the guys in Chillicothe (referring to Michael Arthurs, Alex Matters, and Marcus Simmons. Jim acknowledges the information and inquires about finding Brian McWhorter. Jim wanted CI2 to make sure the "look alike" didn't forget to mention in the tape about the live round that was left on the ground at the scene of the shooting. Jim felt that that information would make the tape believable. CI2 tells Jim, that money is needed for the animal plant in order to get rid of the bodies. Jim acknowledges. (Conversations recorded and transcribed)

S.O. detectives asked Dep. Shively to pose as the look alike for Jim Conway and to do a taped confession for the Gervais homicide, Dep Shively agreed After the taped confession was videotaped, Dep Shively then had catsup and barbeque sauce placed on the side of his head to look like he had been shot. Dep Shively was then placed in the trunk of a car and a Polaroid photo was taken of him pose as a dead corpse.

On the evening of May 18th the video and photo was shown to Calvin Horton. Horton inquires about anyone finding the body CI2 assures him no one will. Horton talks about

58196 - Q68

getting more drugs and a weapon for CI2 the next night and tells CI2 he (Horton) can also get money. Horton gives CI2 one-half ounce of crack cocaine. (Conversations recorded and transcribed)

On May 19th CI2 talks to Calvin Horton. Horton refers to getting the videotape to Attorney Chris Cicero. CI2 again tells Horton more money is needed if he is to get rid of bodies and to do the guys that live in Chillicothe. Horton acknowledges and presses CI2 for the videotape. CI2 talks to Jim Conway and tells him that Calvin was asking for money for one of the dope transactions. Jim tells him he will fix the problem. Jim refers to his stress and up and coming court date. That night, CI2 receives 6 ½ ounces of crack cocaine from Horton. (Conversations recorded and transcribed)

On May 20th, CI2 talked with Calvin Horton about purchasing 2 keys of cocaine for $40,000. Horton also discussed planning a home invasion robbery where $360,000 is supposedly stored. Horton was to get the address and provide it to CI2. Later that night, Horton gave CI2 a RG .38 caliber pistol for the future hits. Horton discussed the Andrew Dotson Homicide, a pick being used, and cement being placed on the body. (Conversation recorded and transcribed)

On May 21st, CI2 accompanied Calvin Horton to Chillicothe. Horton had rented a van for the trip. The intent of the trip was to show CI2 the residences of the intended victims. Horton first took CI2 past the residence of Mike Arthurs. Next, was the residence of Marcus Simmons, then Alex Matter. They then picked up Shawn Nightingale at his residence. (Conversations recorded and transcribed)

On May 22nd, CI2 returned to Chillicothe. He met with Shawn Nightingale, with the purpose of confirming the intended hit addresses. Nightingale took CI2 to the addresses of Marcus Simmons and Alex Matter. At one point, Nightingale got out of the car, and went up to a residence to get the address. He wrote down two addresses on an envelope, which he gave to CI2. They discussed Andrew Dotson's murder.

On May 23rd, S.O detectives contacted Mike Arthurs, and made arrangements to stage his murder. Polaroid photos were taken of Arthurs in a grave. That evening, CI2 and Calvin Horton visited Jim Conway at a the Franklin County Jail. CI2 showed the photos of the Conway "look alike" and Mike Arthurs to both Conway and Horton. This was met with approval. During this meeting, it is agreed upon by Conway that Shawn Nightingale does need to be killed. There is a discussion about payment. Later that night, Horton provided a Taurus 9mm pistol to CI2.

On May 24th, Horton provided CI2 with a Smith & Wesson .38 caliber pistol for the hits. This weapon had been obtained by Shawn Nightingale, but due to Nightingale going out of town, it was delivered by Horton (CI2 later thanked Nightingale for the pistol. Nightingale acknowledges him, and states how much he had paid for it). Later that night, Horton took CI2 to 840 Eliots Oak Pl. This is the address where the $360,000 was supposed to kept. Horton told CI2 not to kill the female resident, just to tie her up. There was also supposed to be cash kept in the vehicle parked at the address. CI2 then went to

58196 - Q69

772 Demorest Rd, where he met with Nightingale and Horton. During this conversation, both Horton and Nightingale discussed their involvement in Andrew Dotson's murder. Several, SIU units monitored the conversation over the wire. CI2 met again that night with Horton, who gave him $980.00 in cash

On May 28, it was felt that CI2 had been compromised. Shaun Nightingale was quietly arrested, and taken to the Sheriff's Office Detective Bureau. Nightingale did admit to his involvement in Andrew Dotson's murder. He stated that Mike Arthurs had choked Andrew to death. Jim Conway had then gone into the field with a pic, and Shawn had heard a thud sound. Shawn also spoke of lime being placed on Andrew's body after it was disrobed.

Calvin Horton called CI2 on the cell phone, and asked about Shawn being arrested. At that time, it was decided to arrest Horton. Horton was being followed by surveillance units, and was stopped. At the detective bureau, Horton refused to comment.

An attempt was made at the Franklin County Jail to interview Jim Conway. He also refused to comment.

(5)

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

- - -

JAMES T. CONWAY, III,

Petitioner,

vs. : CASE NO. 3:07 CV 345

MARC C. HOUK, WARDEN,

Respondent.

- - -

DEPOSITION

of RONALD J. O'BRIEN, taken before me, Mary E. White, a Registered Professional Reporter and Notary Public in and for the State of Ohio at Large, as on Cross-Examination, at the Franklin County Prosecutor's Office, 373 South High Street, 14th Floor, in the City of Columbus, County of Franklin, and State of Ohio, on Wednesday, the 6th day of January, 2010, beginning at 10:32 a.m.

EXHIBIT 65

- - -

APPEARANCES:

On Behalf of the Petitioner:

JAMES P. FLEISHER, ESQ.
BIESER, GREER AND LANDIS
400 National City Center
6 North Main Street
Dayton, Ohio 45402

and

MARC S. TRIPLETT, ESQ.
Attorney at Law
332 South Main Street
Bellefontaine, Ohio, 43311

On Behalf of Respondent:

STEPHEN E. MAHER, ESQ.
JUSTIN M. LOVETT, ESQ.
OHIO ATTORNEY GENERAL'S OFFICE
150 East Gay Street, Floor 16
Columbus, Ohio, 43215

On Behalf of the Witness:

NICK A. SOULAS, ESQ.
Franklin County Prosecutor's Office
373 South High Street
Columbus, Ohio, 43215

- - -

INDEX TO EXAMINATION

RONALD J. O'BRIEN PAGE

Cross-Examination by Mr. Fleisher 4

- - -

INDEX TO EXHIBITS

EXHIBITS INTRODUCED

A - 6/7/02 Fax from Cicero to O'Brien 29

B - Time Line 46

C - 5/27/02 E-mail from Cicero to O'Brien 49

- - -

MR. FLEISHER: Go ahead and swear the witness.

- - -

RONALD J. O'BRIEN,

a witness of lawful age, having been by me first duly cautioned and sworn, testified on his oath as follows:

- - -

CROSS-EXAMINATION

BY MR. FLEISHER:

Q Thank you. Good morning, Mr. O'Brien.

A Uh-huh.

Q My name is Jim Fleisher. I'm co-counsel for a petitioner in a case that's pending in US District Court for the Southern District of Ohio, Western Division in front of Chief Magistrate Merz. And co-counsel is Marc Triplett. And we represent James Conway.

I'm here today pursuant to a -- discovery request that we had posed to the court and -- had been granted and just so you have an idea of sort of the context of my questions, I'm -- I'm here to ask questions that concern any information that an attorney in Columbus by the name of Christopher Cicero may have provided to you or to your office concerning any alleged illegal acts of my client, James Conway, the petitioner in this action or Jamie Horton, Shawn Nightingale, Michael Arthurs, Rob Myers or any other person who had contact with Mr. Conway

or had any involvement in any of the offenses in which he had participated or was alleged to have participated.

So that -- as a preliminary matter, I wanted to sort of lay that out for you so you understood the context of my questions.

Could you state your full name for the record?

A Yes, Ronald J. O'Brien.

Q Okay.

MR. SOULAS: And Mr. Fleisher, I'm sorry. I apologize for interrupting but I did want to make clear and I appreciate your clarification of Judge Merz's order and we hope we'd keep it limited in view of the time and we do intend to object if it goes beyond the examination -- but other than some of the preliminary information, background information of Mr. O'Brien, if it goes beyond the scope of Judge Merz's order.

BY MR. FLEISHER:

Q Sure. I supposed we can deal with that if it comes up but Mr. O'Brien, what's your current employment address?

A Here in this building, 373 South High Street, 14th Floor, Columbus, Ohio, 43215.

Q And you are the Franklin County prosecutor, sir?

A Yes, sir.

Q How long have you served in that capacity?

A Continuously from January 6th of 1997.

Q And I apologize for not being familiar with your full biography. What did you do before you assumed the role of Franklin County prosecutor?

A I was the Columbus city attorney from January of 1986 until January 6th of '97.

Q All right. And can you just briefly describe your educational background?

A I'm -- don't understand that to be in the scope of the court's order and would ask you to limit your questions to the court's order.

Q Well, I'm just trying --

A I don't see any order that says you're asking me about my background. I'm the elected county prosecutor and you have the scope in the judge's order and I intend to answer your questions in that scope.

Q Okay. I understand that.

A So counsel can object and I'm asking my counsel to object to any further questions unless they're within the scope of information that Chris Cicero provided to me regarding the alleged illegal acts of Conway, Horton, Nightingale, Arthurs, Myers or other persons.

MR. FLEISHER: Okay. I understand that. Is there an objection on --

MR. SOULAS: There is an objection.

MR. FLEISHER: -- the record then?

MR. SOULAS: Yes.

MR. FLEISHER: All right. Just for the record, the proffered question is simply educational background of the witness which I would ordinarily ask in any deposition and I think it falls within the scope of Judge Merz's order but I'll move on.

THE WITNESS: Well, looking at your motion itself, Counsel, paragraph seven did not request background information. It requested very specific information that the Judge ordered.

So you could ask the Judge to -- permit examination on whatever you wanted to without notice to me and you did. And you didn't ask educational background. So this is your deposition, on your request, on your issue.

MR. FLEISHER: Okay. I'll just -- move on. That's on the record I suppose. Have you testified in depositions in the past?

MR. SOULAS: Objection. Same objection.

MR. FLEISHER: Are you instructing him not to answer that question?

MR. SOULAS: That's correct.

MR. FLEISHER: If you would, just if you're going to instruct him not to answer, if you just note that

on the record so that --

MR. SOULAS: Sure.

MR. FLEISHER: -- when we present it, we can --

THE WITNESS: Well, I think for the record, the witness would say there's a continuing objection to any questions outside the scope of Judge Merz's order, that was -- paragraph seven of your request.

MR. FLEISHER: Okay.

THE WITNESS: So it's outside of the scope of your request and the Judge's order.

MR. FLEISHER: I understand so I'll -- I understand there's a continuing objection, if you just want to raise continuing objection but I need to ask the questions for the record. I think that these are --

MR. SOULAS: Okay. Good.

MR. FLEISHER: -- fair questions.

MR. SOULAS: Go ahead.

MR. FLEISHER: Have you provided any testimony regarding Christopher Cicero before today in any context?

THE WITNESS: No.

MR. SOULAS: Objection. But -- well, he's already answered but please go ahead.

THE WITNESS: Yeah.

BY MR. FLEISHER:

Q Sir, what did you do -- as far as reviewing

documents to prepare for your deposition here today?

A I looked at several documents. I believe a motion to disqualify Mr. Cicero that was filed by Sheryl Prichard of this office, a Columbus Dispatch newspaper article from June 7th, 2002 and an e-mail that Mr. Cicero sent to me May 27th of 2002.

And I think -- and I don't know -- because it's under seal, a document that was filed with the court with respect to the appointment of Mr. Gibson.

I know Mr. Gibson is on your -- proffered list of witnesses but -- and so I don't know if you had that document or not. I know it was sealed.

Q Sealed by the Franklin County Court?

A Right.

Q All right. Any other documents that you recall reviewing in preparation for your deposition today other than those you've already enumerated?

A Not that I recall. I think there was some other documents that gave, you know, a brief time line or history of the case, you know, from the time of the Rex's robbery in Chillicothe to later times in the case but I believe that would have been the only other item.

Q All right.

A The file, I have not seen its entirety I don't believe ever and I believe is still retained in -- our

Appeals Section. I did not review that.

Q The documents that you did review, were those portions of the file that were extracted for you?

A Yes, yes, I believe so.

Q All right.

A I believe those were documents that are contained in that other file which I believe there was a records -- provided to you all and I think would have been many of them in the record of the original trial in front of Judge Crawford. I believe he was the judge.

Q Yes.

A So those are -- I think -- those other items I didn't review but I believe them to be in the file that you referred to.

MR. FLEISHER: Nick, do you know if we received a copy of the e-mail of -- from Mr. Cicero dated May 27, 2002? I don't recall seeing that.

MR. SOULAS: I -- I don't know specifically. I believe it was included but I don't know specifically.

MR. FLEISHER: Is it something that I could request be provided? I don't think it has been but if it has -- you know, I may be mistaken but if it is, is that something that you would produce to us?

MR. SOULAS: I'll take a look at that. If it -- I think it was provided and it was part of the record.

THE WITNESS: It was part of the record in front of Judge Crawford I believe. So -- I think it would be in the scope of the order. I don't have --

MR. SOULAS: I think so.

THE WITNESS: -- any objection to going to get it right now and providing it to you and -- if you want to review it and take a break.

MR. FLEISHER: I'd appreciate it if --

MR. SOULAS: You want to do that right now?

MR. FLEISHER: If we could.

MR. SOULAS: Sure.

THE WITNESS: Sure.

MR. SOULAS: Yeah.

MR. FLEISHER: Thank you.

(A brief recess was taken.)

BY MR. FLEISHER:

Q Thank you.

A And I believe when I got this document, as I did throughout this process, I believe I gave this to David DeVillers, who was handling the case, and I know that it should have been part of the things that Scott had from the sheriff's office which if that was provided to you, you would have I think seen.

Q Yes, it may very well have been provided. I just know that I didn't recall seeing it and I appreciate

that you provided it to us here today.

So if I'm correct then, those -- the documents you've outlined are those that you reviewed in preparation for your deposition?

A Uh-huh.

Q There are no other documents that you recall as you sit here that you may have reviewed in preparation --

A Not that I recollect. Other than the court's order and I believe your motion that I referred to earlier and -- that's the -- only ones related to the case I can think of.

Q Do you have any knowledge as to whether or not the Conway file that you referenced being held in the Appellate Division of the office contains any information that would suggest any contacts between Mr. Cicero and your office other than what you've provided us here today?

A I don't know because I haven't reviewed the file.

Q Okay.

A I would add I believe that -- Dave DeVillers and Sheryl Prichard were the ones that handled the case and whenever an issue arose, I would refer Mr. Cicero to them.

Q Okay. The e-mail that you've provided to me --

A Uh-huh.

Q -- I believe you said was dated May 27, 2002; is

that correct?

A Correct.

Q To your knowledge, were there any other e-mails that Mr. Cicero provided to you in the course of his representation of Mr. Conway?

A Not that I am aware of.

Q Is it your practice, sir, if --

A And I'm not sure that this is an e-mail in reference to his representation of Mr. Conway but -- Mr. Conway is mentioned.

Q Okay. Back to the basis of your knowledge for your testimony here today, I understand which documents you've reviewed.

As far as persons with whom you have spoken, have you spoken with Dave DeVillers in preparation for the deposition today?

A I have not.

Q Have you spoken with Sheryl Prichard concerning the subject of your deposition today?

A I'm sure I talked to her about the deposition.

Q Do you recall the contents of your communication with her?

A I'm not sure that's in the scope of the court's order but -- it didn't deal with the scope of the -- items in the scope of the court's order.

Q Did you have any discussions with Miss Prichard about conversations that -- or contacts that Mr. Cicero may have had with her as a representative of your office?

A No.

Q Did you have any conversations with Detective Zachary Scott, who was one of the Franklin County sheriff's department detectives on Mr. Conway's case concerning whether there was any contact between Mr. Cicero and your office?

A No, no, the only conversation I had with Mr. Scott was with reference to the scheduling.

Q Okay. Have you had any conversations with any members of the office of the Ohio Attorney General in preparation for your deposition today?

A I believe only in regards to scheduling and the scope of the court's order that we've talked about.

Q All right. Do you recall the nature of that conversation?

A Not really other than there was uncertainty about the time, date and location of these depositions and -- and that there was a limited scope.

Q Okay. Do you maintain any files of your own separate and independent from the main file that you've testified is in the Appellate Division concerning any contacts you had with Mr. Cicero?

A That's where this e-mail was.

Q Just that e-mail?

A Right.

Q Okay. Do you have any other e-mail archives on your computer that might contain e-mails between yourself and Mr. Cicero?

A No.

Q Is it your practice to save e-mails that are received on your computer?

A For a short period of time.

Q And I believe you indicated that with respect to the e-mail you provided, the May 27, 2002 e-mail, that that -- when that was received, you provided that to Mr. DeVillers --

A Yeah.

Q -- and/or Miss Prichard?

A Yes.

Q Thank you. You are aware that there was a records deposition subpoena served on your office earlier in 2009 seeking some of these records, correct?

A I don't know that I was.

Q Okay. Are -- let me ask you this. Are you aware if -- whether or not any documents, records, papers, communications of any sort are being withheld by your office on the grounds of privilege or -- work product or

anything of that nature concerning the prosecution of James Conway?

A I'm not aware of whether they are or if they are. Typically I think when those issues arise, the AG reviews our files and -- they're handling the habeas case and -- determination is made. I can't even say that was done in this case however but that's the normal practice.

Q So in your experience, the normal practice would be to provide the files to the office of the Ohio Attorney General and they would perform a review of the file to determine what was responsive to a particular subpoena or request and what was not?

A I believe so.

Q Would they, in your typical experience, also assert privilege or work product or other objections of that nature if those were appropriate?

A I can't say that I know that they ever have. I would assume that if there was something in that category and it was pointed out to them by the person that handled the case, that that would be done.

Q And just for clarification, that is -- that is what your understanding of the typical process would be. You've already indicated you don't have any specific knowledge of how any records production was handled in Mr. Conway's case; is that fair?

A That's correct.
Q Mr. O'Brien, what was your role if any in the prosecution of James Conway for the Andrew Dotson murder?
A I did not try the case. Periodically Mr. DeVillers and Miss Prichard would apprise me of the status of the case and various issues.
Q Mr. Cicero in particular -- you know an attorney by the name of Christopher Cicero, correct?
A Yes, sir.
Q How do you know him?
MR. SOULAS: Objection. Don't answer that please. Just keep it with -- he knows Mr. Cicero. Keep it in line with the -- order please.
MR. FLEISHER: For the record, I -- I just want to state that I think that the context of his knowledge of Mr. Cicero and his background with Mr. Cicero and how he knows Mr. Cicero is within the scope of Judge Merz's order so -- I mean I just want to put it on the record that -- and you're instructing him not to answer that question?
MR. SOULAS: Correct.
MR. FLEISHER: Okay. How long have you known Mr. Cicero?
MR. SOULAS: Same objection.
MR. FLEISHER: Are you instructing --
MR. SOULAS: Please don't answer.

BY MR. FLEISHER:

Q Okay. When if you recall was the first time that Christopher Cicero made any contact of any nature with you personally concerning his representation of James Conway or any other matter related to the Conway murder case involving Andrew Dotson?

A Would be on or within a several week period before and after this e-mail, which is dated May 27th of '02.

Q All right. This e-mail that's dated May 27, 2002, that would not be your first contact with Mr. Cicero concerning James Conway --

A No.

Q -- is that fair?

A It would not.

Q Do you recall your first contact with Mr. Cicero concerning any aspects of his representation of James Conway or the Conway murder trial involving Andrew Dotson?

A Not specifically, no.

Q Do you recall the method by which that contact would have been made, phone, e-mail, letter, personal contact?

A I don't recollect what contact would have been.

Q Without pinning it down to a date, I understand it's several years ago, do you remember just from your

independent recollection what your first recollection of Mr. Cicero coming to you and raising any issues that related to James Conway?

A No, I -- it would have been within, as I think I already said, several weeks before and after this e-mail.

Q Do you remember the nature of the concern or particular communication that he made to you? How did this -- how did your interaction with him begin if you remember?

A I don't remember.

Q Do you have any recollection of any communications that you had with Christopher Cicero with the exception of the -- this e-mail that's been provided dated May 27th, 2002, do you have any independent recollection of any communications you had with Mr. Cicero regarding James Conway?

A Yes.

Q Okay. Can you describe all of those communications that you recall for me?

A He called me the morning of June 7th of 2002, after the Columbus Dispatch newspaper story. I did not talk to him but I received a message that he had called and it related to Mr. Conway's alleged having a hit list of people that included myself and Sheryl Prichard.

And the communication was in the nature of Jim

Conway either denied that being the case or wouldn't discuss whether or not it was the case. And that was the nature of the communication which was via the message.

Q All right. So if I understand correctly, Mr. Cicero called your office on the morning of June 7, 2002, correct?

A Correct.

Q And left a message with a receptionist or some other person to that effect?

A Correct.

Q Do you know if that phone message was left on the voice mail or recorded or transcribed?

A I don't know if it was -- no, I don't.

Q All right. Do you recall how that message was communicated to you, who delivered that message to you?

A It would have been my secretary.

Q And who is that?

A Jean Lewis.

Q After you received that message from Mr. Cicero, did you make any efforts to contact him to respond?

A No.

Q Why not?

A I received his message and -- didn't call him back.

Q Had you -- well, apparently that happened about

ten or 11 days after you received this e-mail that you provided, correct?

A Uh-huh.

Q Do you recall any other communications that you had with Mr. Cicero of any nature beyond this e-mail and the June 7 phone message that you received that you've already described?

A Yes.

Q And what would the next such communication have been?

A It was a telephone communication that preceded this e-mail that related to -- and is referenced in the e-mail about some people I believe connected to the Rex robbery in Chillicothe.

Q And do you know what date that phone call occurred on?

A No.

Q Would it -- would it be fair to say that occurred sometime in May of 2002 --

A Yes.

Q -- or was it significantly before that?

A No, it would have been in May of 2002.

Q All right. And Mr. Con-- or Mr. -- excuse me, Mr. Cicero in that conversation spoke to you directly?

A Yes.

Q Do you recall if he had had any contacts with you in -- regarding Mr. Conway before that phone call where he discussed the Rex robbery in Chillicothe?

A I don't recollect.

Q So it's fair to say that this phone call that occurred sometime in May 2002 before this e-mail would be the first communication or conversation you had with Mr. Cicero that you independently recall?

A Correct.

Q Do you remember anything else about this phone call where he related those details to you about the Rex robbery in Chillicothe?

A He didn't relate any details to me about the Rex's robbery.

Q Okay.

A I didn't say that he did.

Q Okay. I'm sorry. What did he say?

A He was inquiring -- there was a deposition that had previously been taken of someone named McWhorter, whose first name escapes me, who was believed to be or actually a -- informant or a cooperating witness.

And the deposition was taken because of a concern about threat of harm to him and I can't remember what case it was taken in connection with, if it was the Rex's robbery or -- another related matter.

But the gist of his communication was that he understood that threats were being made back and forth about harm or potential harm to McWhorter and -- other people related to the Rex's robbery and he -- as I recollect, I took the phone call to mean he was trying to find out who the informants would be because he was seeking the names of people and -- my view was that, you know, you don't provide the names of informants. Especially to a defense counsel who may be related to the case even though that was not our case. It was a Ross County case.

But I think his concern was, as he expressed it in my recollection, was not necessarily to find out who the informants were but that he was hearing that some witnesses may be in danger and -- he wanted us to be aware of that so that whatever steps could be taken to protect them could be taken.

And the only other name besides McWhorter that I remember is Shawn Nightingale.

Q At that time he was not --

A And I think --

Q I'm sorry.

A -- that's what he references in the first line of this e-mail about him having given some names -- a couple weeks ago.

Q Okay. I see that.

A That -- he had called me several weeks ago as he relates in his e-mail, seeking the names of the people and when I didn't provide any names, he gave me some names of people he thought might be in harm.

He did not identify Jim Conway as the source of that information or the source of the names. In fact, my recollection is that he had heard that on the street is how he related it.

Which at that time the informant, Ron Trent, was talking to him or attempting to talk to him or talking to -- Conway, talking to -- Horton and -- I actually -- Trent likely was the source of that information. Not Jim Conway.

And I would say since I understand, for the record, that this deposition is about whether he threw Jim Conway under the bus by giving us information adverse to Conway, that never happened -- did he give me information he identified as coming from Jim Conway directly or indirectly or that I even speculated the source was Jim Conway.

I believe the source of anything he was relating to me was either himself or planted by the informant, Ron Trent, or perhaps his secretary who is Jamie Horton's girlfriend.

Q Do you know the name of Cicero's secretary?

A No. Bethany or -- something like that is the first name. She was Jamie Horton's girlfriend.

Q So --

A And if Horton was talking to Trent and Trent was talking about harming witnesses as part of -- the investigation and Horton tells his girlfriend and the girlfriend tells Con-- or tells Cicero, then Cicero may be getting information that way but that's my total speculation.

Q There was no point in time in this conversation in May of 2002 where Mr. Cicero specifically told you what his source of information was?

A Yes.

Q There was. And what did he tell you was his source?

A He was hearing it on the street.

Q On the street, okay. So those were his words and you recall them?

A Correct. Because I believe I asked him the source of the information and he did not give me the source. He said he was just hearing it on the street.

Q You indicated I believe that there were some other names of witnesses that he told you were -- or may be in danger in this conversation. I know you

specifically mentioned McWhorter and Nightingale. Do you recall any other names?

A I do not. He indicates that there were three names in this e-mail but I do not remember who that third name might have been.

Q Did he indicate who was the source of the danger that those witnesses might be in?

A No.

Q Do you have any understanding as to who might be threatening or placing those witnesses in danger in the course of this conversation with Mr. Cicero?

A From what I knew about the investigation, I concluded it was Ron -- or Ron Trent was the person who was working with the sheriff's office and talking to Jamie Horton who was talking to Cicero and Trent was talking to Conway.

Q Okay.

A But Ronnie Trent was the source of it.

Q Of those -- that information on the street so to speak?

A Correct.

Q Were there any other persons that participated in that phone conversation in May of 2002 other than yourself and Mr. Cicero?

A No.

Q Was it recorded?

A No.

Q Did you take any contemporaneous notes of the conversation as you had it?

A No.

Q Was it your practice to keep contemporaneous notes of conversations or -- or not or -- did you have any particular practice at that time?

A On occasion I would. On other occasions, I wouldn't. Whenever I received these kinds of phone calls or information from Mr. Cicero, I would exhort him to contact Dave DeVillers and advised him on more than one occasion it was not my case, it was Dave DeVillers' case.

Q And do you know if he in fact communicated with Mr. DeVillers from time to time?

A Yes, he did.

Q Did he ever indicate to you at any time --

A In fact, I referred him to Dave DeVillers about the harm to these witnesses because Dave would know if those witnesses were in harm or whether it was part of the sheriff's office investigation with Trent saying things to different people.

Because if I understood what was happening, Conway wanted a lookalike to confess on tape, to be killed and then use the tape as exculpatory evidence in his trial

and that Ronnie Trent was going to do that and did do something like that, that was given to Horton, who then conversed with Conway about it.

And then Conway had other people that he thought might be detrimental to his cases that he either himself, or as suggested by Trent, thought action should be taken against to harm.

Q Now you mentioned that when you had conversations with Mr. Cicero, you exhorted him to contact Mr. DeVillers because he was the lead prosecutor I guess who was --

A Correct.

Q -- going to be trying the case. Did Mr. Cicero ever express to you why he continued to contact you as opposed to or in addition to Mr. DeVillers?

A Not that I recollect.

Q If I understand correctly, you've said that -- you've described this phone conversation in May of 2002 in -- in good detail.

Do you remember any other conversations or communications with Mr. Cicero that would have preceded that conversation in May of 2002 by phone?

A Not that I recollect. I'm -- I recollect the call about the Rex's robbery and the previous deposition that with word on the street he had concern about

witnesses being harmed and wanted to put us on notice of that issue. And then there was the e-mail and then there was a phone call reference to the Dispatch newspaper article.

Those are the only three contacts that I recollect or communications. There likely were several others that I don't have any specific recollection about because at this time he did call me, as I say, a few times about the case. And -- I would refer him to Dave or Sheryl.

Dave was frequently in trial and that might be the reason he would be calling me. Dave maybe wasn't returning his calls. I mean I don't know.

MR. FLEISHER: Mary, could you mark this?

(Exhibit A was marked.)

THE WITNESS: Yeah, I've had a chance to look at exhibit A.

BY MR. FLEISHER:

Q All right. And earlier, in your testimony, you -- described a phone call on the morning of June 7, 2002 after the Columbus news story had come out and I believe you -- described that your secretary conveyed that message to you and that you didn't call Mr. Cicero back.

This petitioner's exhibit A is a three-page document, the first page of which appears to be -- well,

it's labeled Christopher T. Cicero, Attorney At Law and it appears to be a fax sheet cover sheet.

And then attached to that appears to be a two-page memorandum to Ron O'Brien from Chris, dated June 7, 2002. Do you have any recollection sitting here today having received that memorandum from Mr. Cicero?

A Yes, now that I have -- read it, I do recollect having received this -- the -- sometime. The stamp says it's shortly after noon on June 7th.

I do recollect getting this after the message that I referenced earlier about the phone call because this is the same day as the newspaper story and this referenced that I didn't return his calls.

And I do now recollect after looking at this that because those phone calls weren't returned, that he did fax this to the office and I did see it at the time.

And I would have given that to Dave DeVillers after I got it and don't recollect having seen it since but now that I see it, I do remember receiving it, seeing it back at around that time on June 7th.

Q Does it appear to be a true and accurate copy of the memorandum you received from Mr. Cicero on that date?

A I can't say that simply because I don't recollect it until I saw it.

Q Okay.

A But now that I see it, it appears to be --
Q Okay.
A -- I would say.
Q That's fair. I understand. The second page, the fax data at the very top references James Hall, Attorney. Does that have any significance to you?
A James Hall was the attorney with which Mr. Cicero practiced or shared space there on West Mound Street.
Q Okay. And that data appears to show -- and actually it's on all three pages at the top -- it appears to show that the fax was sent at 12:08 on that date?
A I assume that's what it says.
Q I assume that's 12:08 p.m. In the memorandum, Mr. Cicero begins by saying since you won't return my phone calls.

Do you recall -- other than the phone call you've already testified to that happened earlier that day, do you recall any other phone calls that he was making to you in the days preceding June 7th?
A No.
Q Okay. There is a --
A And I took this to mean -- and take it in reading this now that he means the phone calls of the morning of June 7th reference to his response to the

newspaper story about the so called hit list.

Q There's -- appears -- this is a copy obviously but there appears to have been some type of a post-it note or a sticky placed on the top right-hand portion of this page, that being page two of the exhibit, that reads in handwriting for the record, I have taken one phone call today from Chris. Do you see that?

A Yes.

Q Is that your handwriting?

A No, that I believe to be the handwriting of my secretary who was trying to relay that he had only called once and he seemed to be referencing that he called and he was being ignored.

Q Okay.

A So I would take that to mean he only called once that morning and she probably told him not to call again or I didn't want to talk to him or to talk to DeVillers or any of the above.

Q In the --

A And that might reference previous phone calls as well because I finally adopted -- as I mentioned earlier, I just said hey, talk to DeVillers on this.

And if he called, I might -- just not return any phone calls because -- if he was calling about that case. And I didn't personally have a case assigned where he was

opposing counsel so there would be no reason specifically relating to a case for him to be calling me.

I might have just ignored the phone messages on the presumption that it was about these matters and that I had previously told him look, you need to talk to DeVillers.

Q Okay. Fair enough.

A So that might be what it relates to as well.

Q In the memorandum itself, the first line reads since you won't return my phone calls, I hope your office has something, anything that indicated that my client other than through Ronnie Trent saying so, open parenths., himself, closed parenths., has you on some, quote, hit, closed quote, list. Do you see that?

A Yes.

Q What was your understanding of what he was conveying in that first sentence of the memorandum?

A I guess I can't read his mind.

Q It's fair to say at this time that there must have been some information from some source that said that you personally were on some hit list, is that fair?

A I don't know.

Q Okay.

A I mean that's what the newspaper said.

Q Okay. When was the first time that you had

heard from any source that -- your name might be on some quote, unquote, hit list that had been prepared?

A Probably about a week before this.

Q And from whom had you heard that?

MR. SOULAS: Objection.

THE WITNESS: I suppose that's not within the scope of the order.

MR. SOULAS: Yeah, it's not. I'll instruct him not to answer.

BY MR. FLEISHER:

Q Did you hear anything of that nature --

A I didn't --

Q -- from Mr. Cicero?

A -- hear it from Chris Cicero, no.

Q The second sentence of the memo says I talked to Jimmy Conway, III, today and although a lot of this does not sound good, your name was never uttered from his lips. Do you see that?

A Yes.

Q Jimmy Conway, III, is his client --

A Uh-huh.

Q -- correct? Younger --

A Correct.

Q -- Conway? He then goes on to say why would you or someone you know allow this to be leaked to the press

if it wasn't coming from my client.

And what was -- understanding you can't read his mind but what was your understanding at that time of what he was referring to in that sentence?

A I think what he was saying or referring to was that -- somewhat as he alluded to in the newspaper story itself.

I mean -- I think what he was trying to communicate or did then and/or later was that -- is that this was Ronnie Trent saying we were on a hit list and that Jim Conway and his people did not have me or Sheryl Prichard on any hit list, that this was a contrivance of Ronnie Trent I mean which was --

Q So is it fair to say he was telling you that this was not coming from his client, it was coming from some other source?

A I believe what he was saying was that Conway didn't have anything to do with trying to have me or Sheryl put on any hit list.

Q And he knew that because he had spoken to James Conway that day?

MR. SOULAS: Objection as to the form of the question. Go ahead and answer, Ron, if you know the answer.

THE WITNESS: I don't know the answer. All I

know is what he said then and has -- said in the newspaper in black and white that day was that he -- was not aware of and his client -- he couldn't believe would be involved in something like this and it was a contrivance of Ronnie Trent and the sheriff's office -- had put Ronnie Trent up to making this -- so called hit list that wasn't a hit list.

BY MR. FLEISHER:

Q Did Mr. Cicero ever tell you at any point in time that he had not been at the jail with James Conway on May 18th of 2002?

A I have no recollection of a conversation dealing with that.

Q Do you have any recollection of him denying to you that he had provided his cell phone to Mr. Conway at any visit during -- in the jail?

A I don't remember having any conversations with him about his cell phone. I know that there was a issue about him having taken the cell phone in to a professional visit and claims that -- that Trent was talking to Conway via Chris's cell phone while Chris was present at the jail on a professional visit and that was something that shouldn't be occurring.

And thereafter, I know the sheriff's office adopted a rule that no cell phones go into the jail even

with lawyers visiting clients to avoid the client using the lawyer's cell phone to call whoever or have conversations with whoever but -- I don't recollect ever talking with Mr. Cicero about that whole cell phone issue.

Q The reason I raise it is you had mentioned earlier that this memorandum that came to you that morning was shortly after a Columbus Dispatch article had been published; is that correct?

A It was the day of.

Q The day of, okay. Do you recall if that was the same Columbus Dispatch article in which Mr. Cicero denied having provided his cell phone to Mr. Conway at the Franklin County jail?

A That was not in that June 7th article.

Q Okay. Back to the memorandum, about halfway down that first page of the memo section, it says also since in your words, quote, this isn't your case, closed quote, but you were being protected, why were you bitching at me for giving you at least the names of Marcus Simmons and Alex Matter, Chinese male.

Do you have any recollection of Mr. Cicero providing you with the names of Marcus Simmons and Alex Matter?

A I do not. I can tell you I know independent from this document that Marcus Simmons and Alex Matter

were two employees of Rex's Appliance in Chillicothe and that one of them -- and I now think it would be Alex Matter was the inside man on the job, that is, that he was complicit with the ones that did the robbery down there of primarily plasma screen TVs and high end electronic items, that -- that Simmons and Matter were two people that -- that were perhaps suspects in terms of was there an inside job at the time.

Q And --

A And so those may have been -- although I have no independent recollection of it, I think what he is saying is those were two of the names that he had given me previously who may be at risk for harm because that phone call did deal with witnesses potentially at harm as it relates to the Rex robbery after the McWhorter deposition.

And those two names may have been Simmons and Matter and Nightingale because I know Nightingale was involved in the Rex's robbery so those may have been the three names, if there were three names, but I had no independent recollection. But reading this now, that's what I think that relates to.

Q Does this refresh -- in reviewing this memorandum, does it refresh your memory as to you being either -- and forgive the characterizations -- but upset or complaining or expressing some type of a negative

reaction to Mr. Cicero for giving you any of these names as he appears to describe in the memorandum?

A I think what he's describing in the memorandum is my bitching at him, don't talk to me about this case, this isn't my case, talk to DeVillers.

Q Okay.

A Both going back to the original phone call I referenced earlier about there are some potential witnesses that, word on the street, may be in harm's way.

Q Okay. He --

A And I did go -- as the next sentence in this indicates, what I did do with whatever names he -- was given to me because I considered at the time if DeVillers -- if I recollect, DeVillers was not available when that phone call happened for whatever reason, that if witnesses were at risk for harm, I would have taken their names if he was giving them so that we could take whatever steps that might be necessary to protect them if it was good. If it was accurate that they were at risk.

And I would have given those names to DeVillers so if -- the next sentence -- I would have given whatever names he gave to me, to Dave DeVillers.

Q Mr. O'Brien, do you recall any e-mails, interoffice memoranda or any other types of communication that you would have had with Mr. DeVillers in which you

would have -- transmitted information you received from Mr. Cicero?

MR. SOULAS: I'm sorry.

MR. FLEISHER: Let's go off the record for a second.

(An off-the-record discussion was held.)

THE WITNESS: I do not, I would typically walk down the hall to Dave DeVillers' office and say hey, DeVillers, Cicero just gave me three names that he said may be at risk, here they are or left them on his desk or -- whatever.

BY MR. FLEISHER:

Q Do you recall --

A Or are these witnesses -- you know -- at risk and if so, somebody needs to do something to -- see that -- they're not at risk.

Q Do you remember if there were any e-mails that you would have sent to Dave DeVillers that concerned any communications or contacts that you would have had with Chris Cicero?

A Not that I recollect or remember and typically I didn't send e-mails to Dave DeVillers. I would go -- just as I say, walk down the hall and talk to him.

Q Same question with respect to Sheryl Prichard?

A The same answer.

Q Okay.

A Typically I would -- talk to Dave because he was the senior person assigned to the case. And if he was not available and Sheryl was, then I might talk to her but -- typically I would talk to DeVillers.

Q So if I understand correctly then, you don't have any recollection and you don't have any knowledge as to whether or not you sent any e-mails or interoffice memoranda or any other kind of written correspondence to Mr. DeVillers or Mr. Prichard -- or Ms. Prichard? Excuse me.

A The only thing I would have done is if I did anything, which I don't have an independent recollection of, I would have written down the names that are referenced here and given them to DeVillers.

Q Okay. Did you come to know at any point in time if there was an actual threat -- verifiable threat against you as being part of this supposed hit list that Mr. Conway had?

MR. SOULAS: Objection. Beyond the scope of this examination.

THE WITNESS: I never took there to be a -- legitimate threat on me. From looking at the transcripts themselves, the first time I was mentioned was by Ronnie Trent. Ronnie Trent putting in to Jamie Horton's head my

name as someone who is the head motherfucker.

BY MR. FLEISHER:

Q Okay.

A Might -- might be somebody to address or have concern with and frankly I think Ronnie Trent was the one doing these various things, and not Jim Conway.

And at the time I believed it and I saw in your petition you somehow thought we should have disqualified ourself in this case if we were on a hit list and one of the reasons we didn't is I didn't take Jim Conway as the source of me being on a hit list.

Q Okay.

A So I didn't believe it was legitimate. I believe that came from Ronnie Trent. And someone did independently believe that the car had been in the circle where Sheryl Prichard lives and I think subsequently that was Jamie Horton -- was somehow -- at least I was advised and confirmed they had done a drive by past her house and Jamie Horton, probably at Trent's urging.

Q Okay. Do you have any recollection of Mr. Cicero ever telling you that Mr. Horton did anything of that nature at the request of James Conway?

A No. No, Chris Cicero never relayed to me any information that he identified as coming from Jim Conway or -- these people other than -- this item here where he's

trying to -- say that both he and Conway weren't involved with me being on some hit list.

Obviously when he says that he talked to Conway and we ain't on a hit list, that's -- he's saying I talked to Conway and Conway didn't put you on no hit list.

Q Okay.

A So I mean Conway is the source of that communication obviously but I can't remember anything else where he would say Jim Conway has told me this and you should know that or any of these other people.

Much of the information, because I was familiar with what the sheriff's office was doing, that he seemed to be interested in relating was -- efforts of Ronnie Trent, who was I think -- he -- the source of -- these items. And in particular, I was aware he had called Cicero and was trying to deliver this video.

Q Trent -- Trent was?

A Trent was. You know, that's the person that is referenced in this e-mail. Ronnie Trent had just called him wanting to drop off this video showing that they killed this lookalike of Conway's and Cicero was saying don't bring that to me, mail it or drop it off in my night box, I think he says in there.

And that's Ronnie Trent trying to do that so -- again, I didn't take him to be in harm's way because of

the -- what was in this e-mail because I knew that the person behind trying to deliver that videotape was Ron Trent.

Q So it was your -- it's your recollection that the source of those alleged threats against you personally were really Ronnie Trent putting that out on the street so to speak?

A Well, to Jamie Horton on tape --

Q Yeah.

A -- is what I read. What else he may have done, I don't know but --

Q So you did not view those threats as credible?

A No. And in fact, I was not under protection as he alludes to in this fax and I think that was stated in the newspaper story of the Dispatch which also was untrue in that regard.

Q So you have no knowledge of being any -- under any type of protection as Mr. Cicero identifies in this June 7 memorandum?

A Yes, I -- I was not. I was advised via a phone call from the sheriff's office that I was supposedly on this hit list but this information came from the sheriff's office that got it from Ronnie Trent.

Q Do you recall ever having a cruiser watch placed on your house after this contact from Mr. Cicero in June

of 2007?

A If that happened, it was not -- at my request and if that happened, it would have been before June 7th because the -- alleged hit list and my name being on it occurred back just before Memorial Day.

Because I know I had planned to go out of town on Memorial Day and didn't because of -- the phone call from the sheriff's office.

Q As part of our responses, we received from the Franklin County sheriff's office Special Investigation Unit in response to some record depositions, we received a document that appears to be a progress of investigation report dated June 10, 2002 which indicates that Lieutenant Speert (phonetic), I believe, spoke to you about a possible threat involving Mr. Horton talking to a CI about doing the Franklin County prosecutor, Ron O'Brien.

Do you recall any conversations with Lieutenant Speert from the Franklin County sheriff's department about that?

A That's the phone call that I referenced.

Q Okay.

A And like I said, that phone call would have happened before Memorial Day, not on June 7th or 10th.

Q Okay.

A Because they called me at home about 11:00 o'clock at night.

Q So --

A May 28th, 29th, right in that area, and said he wanted to -- at the direction of his chief deputy, Steve Martin, to notify me that my name was on some so called hit list on this investigation they were conducting.

And at that time, I was not privy to how it may have got on it or occurred so in the first instance, I took it serious.

But by June 7th, I took it to be not credible because I learned that my name first arose through Ronnie Trent's mouth. Not Jim Conway or anybody else's mouth. And I think the same to be true with Sheryl Prichard.

Q Okay. Can we take maybe a five minute break? Is that all right with you, sir?

A It's okay with me if it's okay with her.

(A brief recess was taken.)

(Exhibit B was marked.)

BY MR. FLEISHER:

Q Mr. O'Brien, you were kind enough to provide us with a copy of this -- what appears to be a time line of events that you referenced earlier in the deposition as being one of the documents that you reviewed before the deposition. Does this appear to be a true and accurate

copy of that time line that you described?

A Yes, it is, and this is a time line I believe to have been prepared at either -- Dave DeVillers or Sheryl Prichard, by them at my request so that -- you know, sometime ago, several years ago even, that kind of summarized the issues or time frame and the progress of this investigation.

Q All right.

A Because I -- would tell you this is not something prepared by the sheriff's office and I believe it is something that was prepared by Sheryl or Dave at my request.

Q Was it prepared as a result of -- or in preparation for potential testimony in this habeas action or was it before this -- you became aware of that aspect of these proceedings?

A Do you know when the habeas was filed?

Q I should.

A Because I believe it would have been done before that.

Q I believe it was late 2007 but I can give you a date.

MR. TRIPLETT: I don't have a date.

MR. SOULAS: It's 07-CV-345. It indicates fairly early.

MR. FLEISHER: In Dayton, that's not too early.

MR. SOULAS: Oh, good point.

MR. FLEISHER: In Columbus, it might be.

THE WITNESS: Yeah, I would say based --

MR. TRIPLETT: June 1st of '08.

BY MR. FLEISHER:

Q Oh, excuse me. The petition was filed June 1st of 2008.

A Yeah, I would say this document was prepared prior to June 1st of 2008 and that likely is why.

Q And your best recollection is it was either Miss Prichard or Mr. DeVillers who prepared this for you?

A I believe so.

Q Okay.

A Though it may have been prepared by the sheriff's office at their request but I recollect that this was prepared to outline the generic history of the case.

Q Okay. Thank you.

A And it might have been prepared for Rick Gibson.

Q Okay. Rick Gibson being the special prosecutor?

A Yes. But for sure, I would say it was prepared before June of '08.

Q Did you share with Mr. Gibson any communications that you had with Mr. Cicero?

A I have no specific recollection of that. My communications with Cicero either were -- you know, passed on to DeVillers and/or Zach Scott and would have been part of the file overall or part of the sheriff's file overall.

I don't think that there would be any communications from Mr. Cicero that Mr. Gibson was advised about that were not part of either the file, the e-mail or the phone call reference the -- Rex witness victims, informants that may be at harm.

Q And it's your recollection that those -- those portions of the file were provided to Mr. Gibson or -- do you know?

A I can't say for sure.

Q All right.

A But I would expect that they would have been.

Q Thank you. Would you mark this as petitioner's exhibit C please.

(Exhibit C was marked.)

BY MR. FLEISHER:

Q Mr. O'Brien, just some housekeeping but this is a copy -- a one page copy of an e-mail that you provided or -- Mr. Soulas provided on your behalf earlier today.

Does this appear to be a true and accurate copy of that May 27, 2002 e-mail that you've talked about that you received from Mr. Cicero?

A Yes, it does.

Q Are -- the document -- the to line in the heading says Rjob543. Whose e-mail identifier is that, do you know?

A That's mine.

Q That's yours. Is that your professional number or your personal e-mail address?

A That's a personal e-mail address.

Q Do you have any knowledge as to how Mr. Cicero had your personal e-mail address?

A I'm quite sure he -- I either gave it to him or -- I -- e-mailed him or he e-mailed me. I -- I don't know how he would have got it other than -- you know, either I would have e-mailed him and he would have had it that way or he would have -- e-mailed me.

Q The from line references CCICERO007. Do you know if that is Mr. Cicero's -- or was Mr. Cicero's business e-mail account identifier at that time or a personal identifier?

A I don't know. I do know that CCICERO007 was an e-mail address that he used. I don't know if it was personal or his business e-mail.

Q Had you seen that e-mail identifier in other e-mails that you received to and from him or how do you know -- how did you have a basis for knowing that that's

an e-mail address you'd seen him use in the past?

A Just because it's unusual, CCICERO007.

Q Right. After you received this e-mail from him on May 27, 2002, do you recall printing it out?

A Yes.

Q And did you then provide it to Mr. DeVillers or Miss Prichard?

A Yes.

Q The page indicates one of four at the top right-hand corner. Do you know if there were in fact three pages behind that that might relate to communications from Mr. Cicero or --

A No, this was the entirety of the communication. I don't know what the one of four is. I think that it's one of four e-mails in the in box of the -- computer. Not page one of four pages.

Q Okay.

A Because this is the entirety of the communication dealing with that issue which as I say arrived on a weekend and I gave it to DeVillers on Monday as I recollect or Tuesday, because that might have been -- this weekend in -- Memorial Day.

Q Do you have any knowledge as to whether Mr. Cicero's cell phone records were acquired by investigators as part of their investigation in the Conway

case?

A I do not have any independent knowledge whether they were or not.

Q Okay. Have you ever had an opportunity to review Mr. Cicero's cell phone records?

A I don't have a recollection of whether I have or not. The phone call you mentioned earlier on May 8th -- 18th, I know that both the sheriff's office and Mr. Gibson and perhaps DeVillers and Prichard was something that was looked into and -- I would expect that records would have been sought in connection with that phone call but I can't say that I saw them or that -- they were.

Q Okay. Just -- the reason I ask is that one of the sets of documents that were produced in response to the records deposition directed to your office included what appear to be Nextel cell phone records of Mr. Cicero and the reason I ask that is those records indicate that -- appear to indicate that the first communication that Mr. Cicero had with you on his cell phone at least from the records that were acquired, would have occurred on March 13 of 2002 in a phone call to a number (614)462-6393. Is that your direct line at the office?

A Yes.

Q All right. Would March 13, 2002 correlate with your recollection as to roughly when you first would have

communicated with Mr. Cicero about the James Conway matter?

A I wouldn't take that date as a call reference to James Conway because Mr. Cicero might call on other questions, issues, problems.

He had a habit, as is evidenced in this instance, of sometimes if he thought he wasn't getting a fair shake from someone in the office, he might call me and say, you know, so and so, you know, isn't giving me a misdemeanor and this ought to be a misdemeanor and they aren't giving me a misdemeanor because of this, that and the other thing.

So I wouldn't take that March 13th call as to being dealing with Conway specifically. Although it could have been. Looking at that time line earlier, I'm not sure at what point in time the sheriff's office --

Q The -- the sheriff's office appears to have identified a call to Jamie Horton about three days earlier on March 10, 2002 which would appear to indicate that Mr. Cicero was actively -- at least communicating with Mr. Horton and Mr. Horton obviously had some involvement in Mr. Conway's case.

Knowing that, does that refresh your recollection at all as to any communication you had in -- around March 13th with Mr. Cicero involving Mr. Horton and

Mr. Conway?

A Do you know when Mr. Conway was charged in the Dockside Dolls case?

Q I do not. Do you know?

MR. TRIPLETT: No, I couldn't tell you.

BY MR. FLEISHER:

Q Let me -- let me ask you this. You had had communications with Mr. Cicero on other unrelated cases, is that fair?

A Correct.

Q So this wasn't -- your communications with Mr. Cicero in this case involving Mr. Conway were not your sole communications with him?

A I think that's accurate.

Q You had dealt with him in the past on other cases?

A Correct.

Q Okay.

A And at least I would not -- the first time I think I knew anything about Jamie Horton, Jim Conway, et cetera, I think would have been -- probably not until sometime in April would be my guess looking at this time line.

Q In the documents we were provided, there is some reference to Mr. Horton wearing a wire at some point.

First of all, do you know if Mr. Horton ever wore a wire to record conversations with either Mr. Cic-- well, with Mr. Cicero?

A Not that I'm aware of. Where is there --

Q I don't know that there's any reference to that in the time line, sir. I just wondered if you recalled independently whether Mr. Horton ever wore a wire or some other type of recording device to record a communication that would have come from Mr. Cicero?

A No, my understanding was Ronnie Trent was making phone calls and wearing wires and talking to Horton, that Horton was not -- to my knowledge ever a cooperating witness.

Q Okay. Okay. Was there ever any point in time where Mr. Cicero spoke with you on the phone -- let's just stick with the telephone communication -- in which another party was present on the call?

MR. SOULAS: With respect to?

MR. FLEISHER: With respect to James Conway.

MR. SOULAS: Okay.

THE WITNESS: Not that I was aware of. Not that I was aware of. They were periodically -- if there was, I wasn't aware of it. And I can't recollect that ever having happened.

BY MR. FLEISHER:

Q Okay. Did you personally ever record any phone conversations that you had with Mr. Cicero?

A I did not.

Q To your knowledge, did any of the members of your office record any phone conversations that they had had with Mr. Cicero concerning the Conway matter?

A Yes.

Q And who would have done that?

A I believe Dave DeVillers.

Q Do you know why that was done?

A I think to preserve the nature and fact and contents of the communication.

Q Are you aware if there was ever a point in time where Mr. Cicero was a person of interest in the investigation and prosecution of James Conway?

A I don't believe at this stage.

Q At this stage being?

A When these conversations are occurring up through -- in May.

Q Do you know when he did become a person of interest in the investigation or prosecution of James Conway?

A No. As I alluded to earlier, we filed a motion with the court and sought the appointment of Mr. Gibson as a special prosecutor as it relates to any issue that would

concern any potential involvement since he was a lawyer. I don't know the exact date of that but I think -- that was probably mid June of '02.

And the motion to disqualify I alluded to earlier had sufficient facts and information in there that I believe justified asking for the appointment of Mr. Gibson and that he was a local lawyer who was under a shadow or a cloud and that someone independent should look at the merits of any issues.

Q You mentioned earlier that one of the documents you had reviewed in preparation for the deposition was the motion to disqualify that had been filed by I think --

A Sheryl.

Q -- Mr. DeVillers and Miss Prichard of your office; is that correct?

A Correct.

Q Why was that motion for disqualification filed?

A I think it was filed in front of Judge McGrath in order to disqualify Mr. Cicero based on the information that the sheriff's office was presenting to us at the time.

Q Do you recall specifically what information the sheriff's office was providing that led to the decision to move for the disqualification of Mr. Cicero?

A No, but it would be contained in the motion.

Q Okay. That motion was filed under seal I assume or -- I don't know.

A Don't know.

Q Okay.

A I don't know.

MR. SOULAS: I don't know that it was.

THE WITNESS: I don't know that it was. In fact, I think it was not.

MR. FLEISHER: Okay.

MR. SOULAS: I believe that was provided to you, was it not?

MR. FLEISHER: It was and --

MR. SOULAS: Okay.

BY MR. FLEISHER:

Q -- I just don't recall. Is it your recollection Mr. Cicero was identified as a potential witness for the prosecution as being one of the grounds for disqualification?

A I'm sure that was one of the grounds that was referenced. There were multiple grounds as I recollect. I looked at it yesterday but there were five or six different grounds or reasons I think that were listed.

Q Do you recall if you had any communication with Judge McGrath concerning Mr. Cicero's potential disqualification?

A No, I don't recollect any and I don't believe there would have been any. I -- both with Mr. Cicero and others, deferred to Mr. DeVillers who was handling the case.

He was an experienced prosecutor who was the head of our gang unit and -- had tried a lot of cases and was a very sharp trial lawyer. So I would have deferred almost entirely to him although he would keep me apprised of what was going on.

Q Okay.

A But I'm quite sure he -- before he filed the motion to disqualify, he said he wanted to and had me concur.

Q After the motion for disqualification was filed, do you remember speaking with Attorney Cicero about the matter again?

A No, I don't. My adopted policy then was close to still being in effect is that I don't talk to Mr. Cicero.

Q After that motion was filed?

A No, from the -- approximate time as he alludes to, I'm not returning phone calls, sometime in -- and I believe that's why this e-mail was sent is I was not returning phone calls into the third week of May.

Q Do you recall what your motivation or reason was

for deciding that you were not going to communicate with him anymore?

A Probably two-fold. One, that it was DeVillers' case. If he had anything to say, he needed to talk to DeVillers.

And secondly, this was getting so complicated with issues surrounding the investigation by the sheriff's office that I should not talk to him.

Q Okay. Have you had any communications with him since mid June of 2002?

MR. SOULAS: With respect to the Conway matter?

BY MR. FLEISHER:

Q With respect to the Conway matter.

A No, as I say, I think from probably late May 2002 until January 6th of 2010, I have rarely talked to him.

If I see him in an elevator, I may say hello but as I say, I have adopted a practice of not talking to him or -- and he -- doesn't call or e-mail.

Q Okay. Do you know if these communications that you had with Mr. Cicero, whether by e-mail or phone or memorandum or by fax or any other means, were provided to his defense counsel after Mr. Cicero was disqualified and new counsel came on board?

A I'm pretty sure they were, yeah.

Q I don't know the answer. That's why I'm asking. It's not that I know and I'm --

A In fact, I think Diane -- didn't Diane Menashe try the case in front of Crawford?

MR. MAHER: I believe that's accurate.

THE WITNESS: Yeah, I think she had all that and she I think for trial tactics reasons chose not to make Chris an issue in that case.

And she -- I know she had all that because -- I think the people that tried it expected them to adopt that tactic.

BY MR. FLEISHER:

Q Have you -- and this is specific to your conversations that you had with Mr. Cicero relating to Conway, have you ever been interviewed, deposed in any other context regarding those communications with Mr. Cicero specific to James Conway?

A No. Not that I --

Q And I did not know -- I'm not pulling anything here.

A Okay.

Q I don't know if there was disciplinary counsel or --

A Oh, I see.

Q -- or anything like that. Were you ever --

A No, I was never contacted by disciplinary counsel about any -- about this case or issues surrounding this case --

Q Okay.

A -- that I recollect at all. I mean I don't think that -- for sure I wasn't deposed and for sure I didn't give a statement. Whether I was contacted, I'm not sure I would go that far.

Q Okay. Fair enough. And just to wrap up, are there any other -- based on your independent recollection as you sit here today, any other communications, contacts that you remember having with Chris Cicero involving James Conway other than those you already described?

A You know, the only thing that pops into my mind -- I suppose Brother Maher doesn't want me sitting here having things pop into my mind but somewhere along the line, Jim Conway's father and sister were charged with receiving stolen property for having -- 10 tons of popcorn in their garage that was stolen in Marion.

And -- I -- it pops into my mind that Mr. Cicero somewhere communicated that that was a -- bullshit thing that was being done against Jim Conway, Sr. and his sister because of Jim Conway, Jr.

Q Okay.

A And that's the only other thing that -- that I

can recollect arises.

Q Okay. Fair enough.

A And I think the sister pled on that or actually -- maybe Dad pled to let sister off the hook or vice versa.

Q That concludes my questions for you at this point. I would only note for the record that it's subject to -- if there's any further production, I don't know -- yet whether or not there have been documents that were withheld on the grounds of privilege or work product but if there were and if those were determined by Judge Merz to be discoverable, they may -- they may lead to some further question but that it's speculative on my part at this point because I quite frankly don't even know if those documents exist.

But if they do and if they were discoverable and disclosed and led to relevant questioning that Judge Merz felt was appropriate, we might have to continue the deposition.

A And I think if they exist, they're not mine.

MR. SOULAS: And I understand your reservation and that's fine. We can take it up with Judge Merz both on the issue of the documents themselves and any further depositions but I understand.

THE WITNESS: And I believe this lady has very

diligently been taking down every word I'm going to say but I'd like to read before it's submitted.

(The deposition was concluded at 12:18 p.m.)

- - -

RONALD J. O'BRIEN

(mew)

STATE OF OHIO :

: ss C-E-R-T-I-F-I-C-A-T-E

COUNTY OF GREENE :

I, Mary E. White, a Registered Professional Reporter and Notary Public in and for the State of Ohio at Large, duly commissioned and qualified;

DO HEREBY CERTIFY that the above named RONALD J. O'BRIEN, was by me first sworn to testify to the truth, the whole truth, and nothing but the truth; that his testimony was recorded by me in stenotype and thereafter reduced to typewriting; and was taken at the time and place hereinabove set forth, by agreement of counsel as stated.

I FURTHER CERTIFY that I am not a relative or attorney of either party, nor in any manner interested in the event of the action.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my seal of office on the 18th day of January, 2010.

Mary E. White

MARY E. WHITE, RPR
NOTARY PUBLIC, STATE OF OHIO
My Commission Expires 03-02-11.

- - -

58196 - R36

CLERK'S COVER SHEET

58196	CR	3/25/2013
Microfiche Number	Division	Scan Date

	DATA ENTRY GROUPINGS	INITIALS	PAGE COUNT W/COVER SHEET
1	SUBPOENAS		51
2	SUBPOENAS		60
3	MISCELLANEOUS		73
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			
	TOTAL IMAGES		184

Scanned Annotated Data Entry _____ Batch

Friday Morning Session,

March 25, 2005.

- - -

THE COURT: I have advised everybody that we would deal with motions to dismiss.

What I'm going to do, I'm going to take whatever testimony they want to take today and also when we are finished with that, I'll hear arguments with respect to the Motion to Dismiss.

All right. You may proceed.

- - -

SHAWN NIGHTINGALE

called by the Defendant on direct examination being first duly sworn, testified as follows:

- - -

DIRECT EXAMINATION

BY MS. SANDFORD:

Q. Shawn, please state your name for the record and spell your last name.

A. Shawn Nightingale, N-i-g-h-t-i-n-g-a-l-e.

Q. Shawn, where are you currently living?

A. At a prison right now, Lebanon.

Q. Lebanon Correctional?

A. Lebanon Correctional Institution.

Q. Shawn, what's your criminal record? What does it

consist of?

A. As of right now?

Q. Yes.

A. Involuntary manslaughter, I think conspiracy to aggravated murder, possession of criminal tools, two drug traffickings and two aggravated robberies. I think that's it. I'm not real sure. I haven't seen it for a while.

Q. Those are the charges that you are currently incarcerated on; am I correct?

A. Right.

Q. Shawn, do you know Jimmy Conway?

A. Yes.

Q. How did you meet him?

A. I met him a long time ago, probably ten, 15 years ago, something like that.

Q. How did you meet him?

A. Through Jamie, through Calvin Horton in Columbus, Ohio.

Q. Would you see Jimmy Conway out socially?

A. Yes, ma'am.

Q. You were friends?

A. Yeah.

Q. How often would you say that you would see him or talk to him?

A. While I was in Columbus, every day when I was there, actually.

Q. Well, then, let's go back to that. Prior to being incarcerated, where were you living?

A. Columbus and Chillicothe both.

Q. You had homes in both places?

A. Yes, ma'am.

Q. Did you know -- obviously you did. But how did you meet Jamie, or Calvin Horton?

A. My first day at school. He went to Briggs High School with me.

Q. School, you mean what grade of school?

A. Started in the eighth grade there where I met.

Q. That was in Chillicothe?

A. No. This was in Columbus, Ohio, on the west side of Columbus.

Q. Okay. Did you know someone by the name of Mike Arthurs?

A. Yes, ma'am.

Q. How and roughly when did you meet him?

A. Probably around the same time maybe, maybe a year before that.

Q. Year before --

A. -- in Chillicothe.

Q. A year before what?

A. Before I met Jimmy.
Q. Okay. Of those three people, Jimmy Conway, Jamie Horton and Mike Arthurs, who were you closest to? Who were you closest friends with?
A. I was closest with all of them. But I'd say me and Jamie was close and me and Jimmy were definitely close. We all were close.
Q. You and Mike were close?
A. Yes, ma'am. Very close. He used to live with me so -- can't get much closer than that, I don't think.
Q. When did Mike live with you?
A. Probably '98 through -- '99 probably until 2001. Stayed off and on with me the whole time.
Q. Was this with you and your mom?
A. Yes. Wherever I was staying at, he would be with me.
Q. Okay. Did you also know Andrew Dotson?
A. Yes, ma'am.
Q. How did you know him?
A. I just met him a couple times through Jamie, Calvin Horton.
Q. Shawn, I just want to direct you to a certain point in time here. Was there a party in Chillicothe in the fall of 2001 that you went to that Andrew Dotson and the other people you just mentioned went to?

A. From what I was told, he was there, but I never got to see him.

Q. You never saw him?

A. I never saw Andrew Dotson.

Q. Okay. Did you see him after the party?

A. You mean the party -- are you talking about the party in Chillicothe that we actually all had?

Q. The party --

A. We had one at the motel and we had one at CJ Stephens.

Q. I'm talking about CJ Stephens.

A. Oh, yeah. Okay. Yeah. Yeah, I saw him there.

Q. Of your group of friends, who all do you remember that went to this party?

A. Probably me, Jimmy, Jamie, Ricky Turner, Jolene Reinhardt, Andrew. There was probably three or four other people. I just can't remember. That was a long time ago, so --

Q. Did you say Mike Arthurs?

A. Yeah. Mike Arthurs was definitely there, too.

Q. Okay. Now, this party you said was for CJ Stephens?

A. Right.

Q. What was it for?

A. His birthday, I guess.

Q. Okay. How did you get to this party?

A. I went with Conway.
Q. Did you stay at the party for very long?
A. No. Probably about a half hour, 45 minutes, something like that.
Q. Okay. Do you know what time -- do you know what time you got to the party roughly?
A. Be honest, I was drunk, so I can't tell.
Q. Would it have been in the nighttime?
A. Yeah. It might have been around 10:00, probably, something like that.
Q. And why did you end up leaving the party?
A. Fight broke out so they kicked us out.
Q. Who was the fight with, do you remember?
A. It was Ricky Turner and one of CJ Stephens' friends.
Q. Okay. So when you get kicked out of the party, what happens? I mean, who do -- where do you go?
A. We go back to a motel that me and Mike always got, Hampton Inn. We was a regular there so it was no big deal to get a couple rooms there if we want to have a good time.
Q. Who all left the party with you and Mike?
A. It was me, Jimmy, Mike, Jamie, Ricky Turner, that girl, Jolene. I can't remember who else would have been there. Andrew.
Q. Andrew Dotson?

A. Right. I don't know who else was there.
Q. How many rooms did you -- you said you and Mike got rooms there that night.
A. Right.
Q. How many rooms?
A. We got two combining rooms, one right beside the other.
Q. Those would be adjoining rooms that opened into each other?
A. Right.
Q. Okay. Did anybody sign for these rooms at the front check-in area?
A. You don't have to sign a form. I mean, I guess it was in Mike's name. He must have obviously went there and got them. I knew the guy that ran the spot. So for the two years that I went there, I never had to sign for it; neither did anyone else.
Q. So it's a pretty regular occurrence to go there to the Hampton Inn and get a hotel room?
A. Yes, ma'am, it was.
Q. What was usually the purpose for getting a room?
A. Honestly? Just to have fun. I used to have a lot of girlfriends so I'd take most of them there.
Q. On this particular night, what was the reason for getting the rooms?

A. Just to have a good time, really, no other reason.
Q. I mean, was there alcohol in the hotel rooms?
A. Yeah. Yeah. There was plenty of alcohol.
Q. Did you have alcohol kept in a certain spot in the hotel room?
A. Yeah, in the bathroom.
Q. Where in the bathroom?
A. This time -- at this time it was in the bathroom in the bathtub.
Q. Was there ice?
A. Ice. Probably five or six cases of Bud Light.
Q. Now, at some point when you're in this hotel room, did you end up being in the bathroom with Jimmy Conway?
A. Yes, ma'am, I did.
Q. Who else was in there at that time?
A. Mike Arthurs is also in there.
Q. Was Jamie Horton?
A. No.
Q. Were you asked to go into the bathroom; do you remember?
A. I really can't remember. But I mean, I went in there. I was attracted to beer, so I walked in there. I might have been called in there. I don't know. I'm not going to tell you that I wasn't.
Q. You said you had a lot to drink that night?

A. Yes, ma'am.

Q. Okay. From this meeting in the bathroom, were you left with any understanding of what you were supposed to do with respect to Andrew Dotson?

A. Yes, ma'am, I was.

Q. And what was that?

A. To take him to West Virginia and kill him.

Q. Okay. Prior to this meeting in the bathroom, and not having to do with the hotel, had you been instructed at a different meeting about what needed to happen with Andrew Dotson?

A. No, ma'am.

Q. Had you ever been at a meeting in Columbus with Jimmy Conway?

A. Well, we've actually talked about it before that, you know. It was with an attorney.

I don't know if I should mention his name or not.

THE COURT: You can go ahead.

A. Is that all right?

BY MS. SANDFORD:

Q. Yes.

A. It was with Chris.

Q. Chris?

A. Right.

Q. Last name?

A. Cicero.
Q. And where was this meeting?
A. It was on Sullivant Avenue at the office.
Q. At his office?
A. Right.
Q. Okay. And from that meeting at Chris Cicero's office, what was your understanding from that meeting about if anything needed to happen with Andrew Dotson?
A. Well, from what I remember, everyone was kind of paranoid about a shooting that happened before that. And we was actually told that he needed to disappear, more or less.
Q. What did that mean to you, that he needed to disappear?
A. Well, to me I've always said what it meant. I thought it meant to kill the guy.
Q. And who is it that said he needed to disappear?
A. It was the attorney who said that. Chris was his name. Not directly to me but, you know, it was said in the room.
Q. You were present when that was said?
A. Right.
Q. Okay. Let's go back to the hotel room now. Okay?
A. All right.
Q. At the Hampton Inn that night at the CJ Stephens'

party, did you stay at that hotel room for the rest of the night?

A. I left.

Q. Where did you go?

A. I went to Chelsea Taver's house in Portsmouth.

Q. How did you get there?

A. From my brother, Shane Egert.

Q. Was Shane also at the hotel party?

A. Yeah, he was there. He probably showed up maybe an hour after we got there.

Q. So then you and he both left from Chillicothe to go to Portsmouth?

A. Right.

Q. Okay. Who was still left in the hotel room or rooms when you left for Portsmouth? Just if you can remember.

A. I remember Jolene being left there and Andrew had to have been there. Mike. Everyone else that I went there with would had to have been there.

Q. Do you remember Jimmy Conway or Jamie Horton were there in the hotel room when you left?

A. They probably was, I mean, I don't remember.

Q. How long did you stay down in Portsmouth?

A. Until about 6:00 o'clock the next morning.

Q. Where did you go when you left there?

A. Back to the motel.

Q. Who took you there? Who took you back to the hotel?
A. Shane, my brother. And actually Chelsea, my ex-girlfriend, followed me back there.
Q. So what happened when you got back to the hotel? Did you see anybody outside or --
A. Yeah, well, I saw the girl that -- Jolene, she was there. She was outside. I saw Jimmy outside and Jamie. Mike might have been out there. I'm not real sure.
Q. Were they just out front, like out in front of the hotel then?
A. Yes.
Q. So what happens? I assume you got out of the car.
A. Yeah. We had a little conversation and --
Q. Who is "we"?
A. Me and Jimmy and Jamie.
Q. Okay.
A. And we talked about a couple things and -- you want me to tell you everything that happened?
Q. Sure.
A. All right. Well, we had a conversation. We ended up leaving there and going across the street to a hardware store.
Q. Do you remember what store that would be?
A. Lowes Hardware.
Q. Okay. You went with Jimmy and Jamie?

A. Correct.

Q. Did you have a car at the hotel?

A. Yes, ma'am. I had a Jeep Grand Cherokee, a green Jeep Grand Cherokee Laredo.

Q. Did you drive yourself to Lowes?

A. I drove over there in my car.

Q. There were two cars that went to Lowes?

A. Right.

Q. What items were purchased at Lowes; do you remember?

A. A shovel, maybe some mulch, and some concrete or lye or lime or something like that.

Q. What were these items supposed to be? Was there a purpose for getting these that night?

A. Yeah, there was a purpose for it.

Q. What was the purpose?

A. It was for me and Mike to -- you know, after we supposedly killed Andrew to use those utensils to get rid of him.

Q. Who purchased these items at Lowes?

A. I really can't remember who purchased each one. We all probably bought all of them separately.

Q. Where were these items put after they were purchased?

A. In the back of the Jeep.

Q. In the back of your Jeep?

A. Yeah.
Q. Where did you go after Lowes?
A. We went back to the motel, I think. And somehow Andrew and Mike had popped up. I don't even know where they came from.
Q. Popped up where? What do you mean?
A. They was in the front of the building there. In front of Hampton Inn.
Q. Did they look like they were waiting for you guys to come back?
A. I don't know what they was waiting on.
Q. Okay. And what happened when you got back to the Hampton Inn when you saw Andrew and Mike?
A. Well, me and Mike -- Mike had came over to talk to us a little bit, too. And Andrew was asking about, he wanted to get some clothes or something like that. So we got some money. And me, Mike and Andrew left to go to JC Penney's. We all bought some outfits and gave him some money and left. We was on our way to West Virginia then.
Q. Okay. When was it decided you were going to go to West Virginia?
A. That night. That night at the party.
Q. The night before --
A. Right.
Q. -- at the party.

Would that have been when you were in the bathroom with Jimmy Conway?

A. Right.

Q. Why was West Virginia chosen as a place to go?

A. It's just -- I knew a lot of family down there and it's a bunch of hills; so you would think if that's where you wanted to do something like that, you could get away with it there more or less, I guess.

Q. Now, you said after -- jumping around -- but after JC Penney's, you and Mike and Andrew were together in a car?

A. Right.

Q. Was it your Jeep?

A. Yes, ma'am, it was.

Q. Had you told -- how had you asked Andrew Dotson to go with you guys? Or was there --

A. Well, I had to pick up money down there. So, I mean, I didn't lie to him about it. I did actually go down there to get money. I think, just to visit my family, anything, I had to go down there to get the money. That was the main thing that I told him.

Q. When had you asked him if he was going to or wanted to go with you to West Virginia?

A. That morning. That's why he asked to buy the clothes and suff.

Q. Okay. Okay. So you're on your way to West Virginia -- you, Mike and Andrew in your Jeep. Did you stop anywhere along the way?

A. Yeah. Me and Mike pulled over at a rest area because we was crying and freaking out. You know, we actually knew we wasn't going to do this so. We tried to talk each other out of it, more or less. But I don't know what happened. We got back in the car and we still went to West Virginia.

Q. Was there any conversation in the car between you, Mike and Andrew when you were driving down to West Virginia?

A. Yeah. Actually, Andrew had said to Mike, because he saw Mike was crying and he was shaking a lot. He was asking him, you know, what was wrong with him and if he was -- why was he going to West Virginia really, because he could tell that, you know, something wasn't right. So he was asking if it was because of that shooting and if they were worried that if he might say anything. That's really the only conversation we had. And he convinced me that nothing was ever going to be said.

Q. Where did you next stop after the rest area and driving to West Virginia? Where was your next stop?

A. Well, actually in West Virginia at my aunt's house.

Q. What did you do at your aunt's house?

A. Well, he had wanted -- before that we stopped at a drive-through to get some alcohol, some beer. When we got there, he wanted some pills.

Q. Who is he, Shawn?

A. Andrew Dotson. I told him I could get some from my aunt if he wanted any. We went there for probably about an hour.

Q. Did you end up buying some pills from your aunt?

A. Yes, ma'am.

Q. Do you remember what kind of pills it must have been?

A. All I remember is Somas. He called something purple footballs, something like that.

Q. Did anyone end up taking these pills?

A. Andrew took some.

Q. Did you take in any?

A. No, I didn't take any. Mike might have taken like a half of a Soma, something like that.

Q. Were the pills taken at your aunt's house or in your car?

A. It was taken in my car at my aunt's house.

Q. What were those taken -- were those taken with any liquid or anything?

A. Alcohol, the beer -- Bud Light.

Q. So from your knowledge, was it unusual when for

Andrew Dotson to take pills?

A. I didn't really know him. But from what I've heard he --

MS. PRICHARD: Objection.

A. -- that was his choice of drugs.

THE COURT: Overruled.

BY MS. SANDFORD:

Q. So you're in the car. You're back in the car at your aunt's. Where do you go next?

A. To my brother's. He was at a car wash working on the roof of the car wash.

Q. What city are you in in West Virginia?

A. Kermit.

Q. I'm sorry?

A. Kermit. Kermit, West Virginia is where we were at.

Q. At this time do you notice -- okay. Where is Andrew Dotson in the Jeep?

A. He's in the back.

Q. Where are you?

A. I'm in the front passenger seat.

Q. And Mike Arthurs is driving?

A. He's driving, yeah.

Q. Was there any change in Andrew Dotson at this time?

A. Yeah. He was getting a little woozy, I guess that's the word for it. You could tell the pills kicked in.

Q. Was he able to speak?
A. Yeah, he could speak. Yeah.
Q. And, I'm sorry, you go to see your brother.
A. Right.
Q. And what do you do then?
A. We have a conversation about a couple things, about the money and if I was going to carry this out, you know, where might be a good spot to do it at.
Q. So you tell him what you're supposed to do in West Virginia?
A. Yeah. Kind of. I mean, I don't really say exactly what we was going to do. But he kind of got the hint.
Q. When you say you're supposed to go and get the money who has this money and why do you need --
A. Just guy that I knew. It was money for -- that he had owed me for a while.
Q. So someone else in Kermit, West Virginia that owes you money.
A. Yes, ma'am.
Q. Did you end up getting the money?
A. Some of it.
Q. Is that where you went after seeing your brother then?
A. Yeah. On the way back to Ohio -- no. No. Actually, before then we had -- we was coming back from

the car wash and we already had a couple beers in us by then. So kind of got to know we might be able to go ahead and do this.

Q. Do what?

A. Get rid of Andrew. Kill Andrew.

Q. Okay.

A. So we went along this path like a dirt road. It was up on top of this hill. And we pull up there and everybody -- Andrew is still all right. We all got a nice buzz and stuff. I tell -- well, actually I don't say it; Mike says that there's some marijuana or something growing that we need to get out and look for it. So we all do.

And there had been a gun pulled, but nobody saw this happen but me, on Andrew when he had turned around. You know, I thought it was going to end there but it didn't. It was put back where it was, underneath the driver's seat.

Q. When you say a gun was pulled, who pulled a gun?

A. Mike.

Q. Did you know that he had a gun?

A. I didn't know until then, no.

Q. And how is Andrew Dotson at this point from after taking the pills? Did you notice anything?

A. He was still like -- he was in the back seat. He's

not real coherent; but like anybody is when they got a buzz, you know. I can't really explain.

Q. He walked with you and Mike when you went supposedly looking for these marijuana plants?

A. Yes, ma'am.

Q. He was able to walk?

A. Yes. Yes.

Q. Then where do you go when you leave this location?

A. We leave. And on our way back, that's when I stopped at Rick's house and I picked up my money and we go all the way back to Columbus.

Q. And Rick was still someone who is in West Virginia?

A. Yeah, Kermit. This is all within ten minutes of each other, all these little spots.

Q. And where are you planning on heading to now?

A. Well, back to Columbus is where we were going.

Q. At some point along your trip back to Columbus is a phone call made?

A. Right. There was a phone call to Jimmy.

Q. Who called him; do you remember?

A. I really couldn't tell you. It was either me or Mike.

Q. Based on this phone call, what is it that you do next or where did you go next?

A. We went to Central Point at the Big Bear in Columbus.

Ohio.

Q. Is that on the west side of town?

A. Yes, ma'am.

Q. Do you have any idea what time it is when you make this phone call or someone makes this phone call to Jimmy?

A. It's probably around 11:00, 12:00 o'clock, or something, at night.

Q. And this is the day after the CJ Stephens' party, right?

A. This is the day after, right.

Q. And then you arrive at the shopping center.

A. Yes, ma'am.

Q. And Mike, is he still driving the car?

A. Yes.

Q. And Andrew Dotson is still in the back seat?

A. Yeah. By now he's passed out whenever we get back to Columbus.

Q. How do you know he's passed out?

A. I'm still in the same car with him. I looked back. And we listened to the radio, he'd open his eyes sometimes but he was more or less passed out.

Q. Okay. Do you see anybody at the shopping center when you got there?

A. Yeah. We met Jimmy and Jamie there.

Q. Is there any conversation with Jimmy or Jamie?
A. Yeah. There was some conversation. It wasn't a very long one, but --
Q. After this conversation, do you go somewhere else?
A. We go to Galloway out by Grove City in Columbus.
Q. Do you remember where in Galloway you go?
A. Galloway Road is all I remember, in this cornfield.
Q. Cornfield. Okay.

What do you do when you get to the cornfield?
A. Well, we pulled in and everyone gets out of the car. And we have a little discussion on, you know, what's really going to happen. I don't think anybody knows what's going to happen for sure; but someone had said that, you know, if anybody is going to do it, might as well shoot him since there was a gun already there; go ahead and just shoot him. And for some reason that didn't happen.

Mike kind of got this incredible halt. I don't know what it was. He just got this feeling that went through him. He just decided, screw it. I mean, I will go ahead and do it is what he said.
Q. Let me back up real quick. You said you got to this cornfield area everyone got out of the car.
A. Yeah. We all got out; but Andrew, he didn't get out.

Q. He didn't get out of car.

A. Yeah.

Q. What was his state?

A. He was asleep by then.

Q. I'm sorry. Please continue.

Mike, what does he do next?

A. He was always like that every time we go out to a club or something, we'd have a problem, he would be the one to take care of it. He wanted to feel kind of dominant around us, I guess. I'm not quite sure.

How it ended up is, he agreed that he would do it himself without nobody saying anything to him, like, yeah, you do it.

He had grabbed Andrew out of the back of the car while he was asleep still.

Q. Okay. Let's go over this. Let's do this a little bit slower. Go through like -- I assume he opens the car door.

A. He opened up the back driver's side door of the Jeep. And Andrew was kind of -- you know, he was laying on it and so he was passed out and whenever he opened the door, you know, he kind of fell a little bit. That's when Mike started, he had grabbed him.

Q. How did he grab him? Or where did he grab him?

A. I really can't do it here. I can't -- I could try

to explain it to you.

Q. Yeah. Try to explain it.

A. He just -- I remember his head going down like this. And Mike had kind of grabbed him by the hair a little bit and had him in a headlock to where his face is pointing towards us, you know, and he pulls him out and he gets him down on the ground. Mike gets down on one knee and Andrew -- Mike is, like, this is a big guy. He was about 300 pounds then. And he gets to choking him and choking him.

Q. How is he choking him?

A. Like this. I think it's called full nelson, maybe. But he's got him -- he's got his arm around his neck.

Q. Let's describe it so the court reporter can get this. Like where on Mike's body, his arm, whatever, where is Andrew Dotson's head?

A. Andrew Dotson's head is right here. His neck is in the crease of the arm.

Q. Around his elbow? Inside of his elbow area?

A. Yeah, inside here. Yeah.

And he chokes him. I remember a long time ago I said it was like two or three minutes. But it probably wasn't, maybe thirty, forty seconds. But after he does that, I thought he may have already been dead. But whenever he let go, I remember hearing like a breath

release or something, that you just hear one little breath come out.

And Mike got -- he started freaking out. Oh, man, he's still not dead. He's still not dead. And he went down to see if he could hear any breathing. And I guess he must have heard something because he had took his left foot and put his -- Andrew is actually still laying on the ground when this is going on.

Q. On his back?

A. Yeah. Right beside the door where he got pulled out at.

And Andrew -- Mike takes Andrew again with his left foot and picks his right foot up and puts his hand -- both his hands on my Jeep and is using all of his weight. He's using so much weight that the back of my car, you could see where the shocks is going up. This is a Jeep. This is an SUV. This is a heavy vehicle. I think he pushes so hard that when he gets up you could see that his neck was that flat. There was a Nike imprint, all of the tread, whatever is on the bottom of your shoes, that was all there.

And I guess he said -- he must have thought that he heard something else. I don't know. I don't know what happened. But he had got down on his same knee that he did the first time and he --

Q. This is Mike still?

A. This is Mike. He just took his head. He twisted it probably two or three times all the way around. All the way around like on that movie The Exorcist. It was all the way around. You could just hear snapping and cracking and -- the guy was dead then for sure.

Q. Okay.

A. I mean, I thought he was dead the second time after Mike had came up. Because I've never --

Q. The second time, meaning what?

A. When he put his foot on his neck, the guy -- you can't live past that. If you would have saw it, you would understand.

Q. Now, when you said -- the court reporter can't get this down. When you said his neck was that flat after Mike stepped on it, what do you mean? I mean --

A. It was like as thick as a sole of the shoe maybe. It was flat to the ground.

Q. Okay. I want to go back just a little bit.

After Mike had what you called a half nelson, had Andrew in a half nelson --

A. Yeah. Something like that.

Q. -- is that the same thing as a --

A. It's a choke hold. I can't --

Q. When he got done with that, did you notice any marks

or anything on Mike's arm?

A. Yeah. You could see a mark of -- he had a necklace, gold necklace on. You could see the impression of the necklace on his arm.

Q. Andrew had a necklace on?

A. Yeah.

Q. Now, from where you're standing during all of this, everything Mike was doing to Andrew, do you have -- how far away from them are you?

A. From here to her. I'm that close.

Q. Would you say like four feet?

A. Five. Yeah, four or five feet.

Q. So you can see everything that's going on?

A. Yeah. Very clear. I could see all of it.

Q. And through all of this, Mike, what he's doing to Andrew Dotson, does it ever appear to you that he's faking what he's doing?

A. No, he's not faking anything. Trust me. He even kind of got paranoid at the end. He heard like a snap. When everybody else -- I mean, it was loud, like a crack.

Q. Was this when the neck twisting --

A. Yeah, when he was twisting the neck.

Q. I want to ask you some more about that.

Andrew Dotson's body is on the ground still; is that right?

A. Right.

Q. Now, does Mike lay him down?

A. Yeah. When he lifts his head up -- it's sick. I really don't even want -- something that -- I always want to try to explain it like this. You know, when he lifted it up -- can I grab -- mind if I grab one of these, one of these wipes?

It's when he lifted it up, it's, like, that easy. It's like a piece of paper. I remember that. And then he just, he started twisting. And when he let go, it was like a crinkled-up piece of paper, if you twist at it and it all just comes back and did it real slow all the way back around.

Q. Now, when he twists his neck, is he twisting it side to side?

A. No. He's twisting it all the way around in a circle. His chin is here one time and another point it's going all the way -- it's here again, all the way back again.

Q. Okay. How long do you remember the neck twisting lasting for?

A. I mean, he kind of struggled a little bit after the second turn. So it might have took 15, 20 seconds.

Q. What happens next?

A. He obviously knows that he's dead by then. You can

even -- before that -- he asked me if I'd help pull him out a little bit, you know, away from the car. I tried. I tried to lift the guy's head up, but I'm freaking out by then. I can't even grab nothing. So he pulls him out a little bit.

And somebody asks to take off his clothes. Which I don't know who said that. But I remember that Mike -- it might have been Mike and Jamie, I'm not real sure, that took off his clothes. But his clothes got taken off, everything but his necklace and his boxers. And the reason why I know he was dead, because he had urine stains in the front and you could see where he had crapped, whatever. I don't know what word you want me to use. You could see that.

Q. Okay. So you have Andrew Dotson's body is on the ground now with his boxer shorts on. What happens at this point?

A. At that point --

Q. What happens to the clothes?

A. The clothes, they get thrown in the back of my car, I think -- or maybe right beside the Jeep. I don't remember.

Q. Okay. But then what happens after that.

A. Mike, he wants me to try to help him again to pull him back in the underbrush, you know, maybe [illegible].

20 feet back there. But I already tried again and I couldn't do it. So he gets mad. He tells me to get the fuck out of the way is what he says. And he drags him back there. And they come -- he comes back out. He's freaking out by then. He's wanting to leave and everything like that.

So we don't leave. We don't leave yet.

And you want me to tell you what else happened?

Q. Let me ask you this: What was the purpose for dragging Andrew Dotson's body in the cornfield?

A. I don't know. There really was no reason to pull him back there.

Q. Okay. And where are you standing at this point?

A. I'm right by the Jeep in the front of it.

Q. And where are Jimmy and Jamie?

A. Back there beside me.

Q. Okay. From where you're standing to where Mike dragged Andrew Dotson's body, can you still see the body?

A. No, I can't see anything back there.

Q. Why can't you see the body?

A. It's pitch black out there. And plus, you know, you drive back in the cornfield, it was thick. The corn was kind of thick then. I couldn't see anything.

Q. Was the corn pretty tall?

A. Yeah. It was ready to be harvested probably.

Q. Okay. Yes. I'm sorry. Please go on.

What happens next when Mike gets back to where you guys are at the Jeep?

A. Well, I mean, I can't -- I don't know for sure what happened. But what I saw was, I saw Jimmy had pulled the axe, the thing, I don't know what it was called, out of the back and he had walked back there. That's all I saw.

He came back and somebody decided pour that concrete on him. And that happened. We left after that.

Q. Was it concrete or lime?

A. Lye, lime, concrete. Same thing, I think, isn't it?

Q. Do you remember -- if you don't, that's okay. Do you remember who took the concrete or lime back to where Andrew Dotson's body was?

A. No. No. It definitely wasn't me. Jimmy or -- it was probably Jamie, I would say. I don't know for sure.

Q. Now, at this point are Andrew Dotson's clothes -- you said they might be on the ground or they might have been in the car. Do you know where his clothes are?

A. They are on the ground. But whenever we were leaving, we just put everything in a bag and thrown it back in the Jeep. That was really -- Mike drove there. Me and Mike drove there.

Q. Okay. I want to ask you that. Obviously -- what happens next? You don't stay at the cornfield all night.

A. No. We leave and go back to Jimmy's house.
Q. Who's riding with whom?
A. I'm still with Mike. It's the same, same people in the same car.
Q. Mike still driving with you?
A. Yeah.
Q. And Jimmy and Jamie are in another car?
A. Yes, ma'am.
Q. Where do you and Mike go?
A. We go to Jimmy's house.
Q. Okay. Do you do anything there?
A. We take the clothes that we had off and burned them.
Q. And then what do you do?
A. We drop -- Mike actually, he took the metal part of that axe. He wanted to take that to his cousin's house and he wanted to leave. So we dropped him off at his cousin's house and we went to this bar.
Q. Now, are you all in one car now?
A. Yeah, we are now. We are all in my Jeep.
Q. In the Jeep.
Okay. And Mike was still driving?
A. Yes, ma'am.
Q. Who's driving -- well, then, he gets dropped off somewhere?
A. He gets dropped off.

Q. Okay. And then it's just you Jimmy and Jamie in the car?
A. Yeah.
Q. Who's driving then?
A. I don't know.
Q. Where do you go?
A. To Ryod's, this bar in Grove City. Hammer Jack's, I think it's called.
Q. Hammer Jack's?
A. I think it's called.
Q. How long did you stay there?
A. Probably an hour, something like that. I had my girlfriend come pick me up.
Q. And again, we are still on basically the day after the Chillicothe party.
A. Yeah, same day.
Q. Okay. After this, is there -- after this happens, do you continue to see Jimmy and Jamie and Mike --
A. Yeah.
Q. -- socially?
A. Yeah.
Q. And you still talk to them often or --
A. Yeah. Like -- probably not as much as we did, but we talked enough. Three or four times a week.
Q. [illegible]

A. Three or four times a week we still see each other and go out, do things.

Q. Was there any conversation about the cornfield, Andrew Dotson and what happened?

A. No.

Q. Do you remember when you were arrested?

A. October, something like that probably. May. It might have been May.

Q. What year would that have been?

A. 2002. Pretty sure.

Q. On the date that you were arrested, do you remember if you were interviewed by any law enforcement people?

A. Yeah, I was. I was interviewed by Scott, Detective Scott and Floyd.

Q. Where was this interview?

A. At their station, the detective's station. I don't know what street it's on or anything.

Q. Do you know whether the interview was tape-recorded or videotaped?

A. I found out it was tape-recorded and videotaped, both.

Q. But you haven't -- do you remember having seen the videotape?

A. I saw a little bit of it at my motion to suppress the statement.

Q. Do you remember if you made a statement about who actually killed Andrew Dotson at that interview?
A. Yeah. I've always said the same thing. I know who killed him. I'm not -- I've always said Mike did it because I know he did. I was there. I saw what happened. So --
Q. Okay. I was going to say, and that's from your direct observation of what happened?
A. Yes, ma'am, it is.
Q. Between the time of this interview on the day that you were arrested and the day of your trial, were you ever interviewed again by law enforcement personnel when you were in the jail, for instance?
A. Yeah. They had came up there a couple times to try to get me to, you know, turn and testify against everyone. They tried to offer me some pleas and all that stuff.
Q. Did you ever speak with anyone while you were in the jail?
A. While I was in jail, I never really spoke to them. It was probably a year after I was arrested that they came back up there to talk to me.
Q. Okay.
A. I didn't really actually talk to anybody that much until after I took a plea agreement.

We talked. Me and her had talked.
Q. "Her" being?
A. The prosecutor, Sheryl.
Q. Ms. Prichard?
A. Yeah. We spoke. I can't remember when it was. But I was in the county jail, I remember that.
Q. Do you remember signing an agreement with the prosecutor's office?
A. Yeah, I remember it.
Q. Okay. Do you remember what that agreement entailed?
A. I was so messed up that day I had no idea what I was signing, but from what I was told, it was an agreement to testify against Jimmy.
Q. Were you supposed to testify -- or was it also an agreement that you testify against anybody else?
A. Yeah. But I didn't know that until after, you know, probably a month after that, until I actually settled down and was able to read it.
Q. Who else were you -- do you remember -- were there any names of anyone else you were supposed to testify against?
A. I really don't know.
Q. Okay. After you signed this agreement, were you interviewed again by law enforcement people?
A. Yeah. I had talked to them again. I had talked to

a couple people, a prosecutor out of Cincinnati and I spoke to her again.

Q. The prosecutor out of Cincinnati or Hamilton County. You just pointed to Ms. Prichard.

A. Yes, ma'am.

Q. Was there any detectives there?

A. Yeah, Zach Scott. He was there when I spoke to her.

Q. Shawn, do you remember, what was basically the focus of this particular interview of you?

A. It really wasn't about -- it was -- some of it was about Jimmy. The one with the prosecutor was about the attorney, Chris. That's mainly all it was. And with her, it was -- it was about Jimmy, from what I remember.

Q. Okay. So with Ms. Prichard, you're saying it was more about Jimmy or Andrew Dotson homicide?

A. Right.

Q. And with the Hamilton County prosecutor, what kinds of things were you asked?

A. Same questions I was just asked about, you know, going to the office with Chris and all of that. Almost the same exact, same questions.

Q. Do you know whether this interview was tape recorded or recorded in any way?

A. I don't know. It probably was. I don't know for

Q. Do you remember?
A. The guy had a tape recorder in front of him but I don't know if it was -- if he had it on or not.
Q. Okay. Do you remember at this interview, like the first interview, did you ever make any statements about who actually killed Andrew Dotson?
A. Yeah. Yeah. I said who did it. I've always said that.
Q. And who would that be?
A. Mike Arthurs.
Q. Did you ever write, do you remember when you were in the county jail? Did you ever write a letter to somebody named Joey Spencer?
A. Yes, ma'am, I did.
Q. Who is Joey Spencer?
A. He's a friend of mine from Chillicothe. We've known each other for a long time. But I had got word from somebody that he was down in prison with Mike. And I guess Joey Spencer's cousin had talked with Mike, or something like that. One of them spoke with Mike. And Mike actually -- he was kind of happy that he only got four years for killing somebody. He was bragging about it. That's what he was saying.
Q. Okay. Shawn, all the statements that you've made to deputies, prosecutors and any letters to other inmates,

et cetera, have you ever said that anyone other than Mike Arthurs killed Andrew Dotson?

A. No. I've never said that. I've always said that he killed him because I know he did.

MS. SANDFORD: Your Honor, may I have one moment?

BY MS. SANDFORD:

Q. Shawn, one last question. Are you getting any benefit for testifying here today?

A. No. It's probably going to actually be worse for me.

Q. Why do you say that?

A. I just say that, I guess, it's probably not a good choice that I did this. Probably from what I've heard that my plea is probably going to get taken back from a couple different people.

Q. But what you're testifying to here today is the truth.

A. Yeah. It's definitely the truth.

Q. Do you have any axe to grind with Mike Arthurs or some other motive to testify against him?

A. I'm still actually best friends with him. We write each other every week. I get letters from him every week.

I want to let everyone know what really happened.

That's the main thing. I don't have a grudge against anyone. I think it's wrong that we all got this time and he got four years for killing somebody that everybody else wants to blame on me, Jimmy and Jamie. I've always wanted to say that and that's the way I feel.

MS. SANDFORD: Thank you.

THE COURT: Ms. Prichard.

MS. PRICHARD: Thank you, Your Honor.

- - -

CROSS-EXAMINATION

BY MS. PRICHARD:

Q. Shawn, Mike went to the police first and told them what happened, right?

A. Yes, ma'am.

Q. And you told Mr. Lowe, Zach Scott and I that you should have told your mom because you would have gone to the police and then you would have been the first person that would have gotten four years, right?

A. I mean, I probably said that, but --

Q. In the conversations that you had with Mr. Lowe and I prior to entering into your plea, you wanted four years, right?

A. Yeah. I mean, anybody would. Yeah. I never actually -- I asked why would you guys want to give me 15 years for something that you guys actually knew that

Mike did it, you told me. Why was you going to give somebody four years for that and give us death penalty, life, 20 years? Why? Why would you want to do that? I always asked you that.

Q. Before we get into anything further, Shawn: You had previously indicated that you were going to be trying to withdraw your plea; is that right?

A. Yes, ma'am, after I found out a couple things.

Q. You're not doing that at this time? You have no intention of doing that at this time?

A. I don't know yet.

Q. You were brought into this courtroom, what, it's been maybe a year or more. Probably closer to two years.

A. I tried a couple times to talk my attorneys into doing it but they said it's not a good choice.

Q. You were brought up to testify in the Conway case in this courtroom about two years ago, I think it's been, right?

A. Yes, ma'am.

Q. You took the Fifth and refused to testify at that time?

A. Yes, ma'am.

Q. Why did you take the Fifth if you had this information to share?

A. What information? The same information that I --

Q. The information you disclosed today.
A. I told everyone that. I've never changed it. It's always the same.
Q. Why did you refuse to testify and tell that information?
A. I mean, a couple reasons. I was worried maybe if I did, I might -- something might happen. You never know.
Q. Were you scared of James Conway?
A. It's not me.
I mean, at one time, I mean, I probably was, yes.
Q. You told Mr. Lowe and I you were scared to testify against him; isn't that true?
A. Yeah, I probably did say that.
Q. Have you talked with Mr. Conway's present Defense counsel here prior to testifying here today?
A. I spoke to them once, yeah.
Q. Just talked about this hearing and what this was about. True?
A. Yeah. We talked about that with other things.
Q. When you first met --
MR. PORTER: Excuse me, Your Honor. So the record is clear, we have spoken to him twice, not once.
A. Yeah. Twice.
THE COURT: The record isn't clear

because you're not testifying right now.

Okay. So you can make whatever proffer you want to make.

Go ahead.

MS. PRICHARD: Thank you, Your Honor.

BY MS. PRICHARD:

Q. Shawn, you and Mr. Conway were in the drug business together. Yes?

A. Yes, ma'am.

Q. You sold cocaine for him?

A. For myself. And then actually it was mine, too, so --

Q. And you did this before you got arrested on this case?

A. Yes, ma'am, I did.

Q. It was pretty lucrative for you, wasn't it?

A. What do you mean by that?

Q. You told Detective Scott back in an interview about two and a half years ago that you could even make ten or twenty thousand dollars a day doing this, right?

A. Yeah, you could.

Q. So you relied on Mr. Conway for income. You weren't working at that time, right?

A. When I first met Mr. Conway, we did that together; but it got to where I was doing things by myself, so I

didn't rely on him.

Q. Initially he started you in the drug trade and then you kind of did your own thing.

A. He didn't start me. It was my choice that I made. He didn't pressure me into selling dope.

Q. Okay.

A. It's just life.

Q. Well, let's move on to this party in Chillicothe. It was James Conway's idea to kill Andrew. Yes?

A. Yes, ma'am.

Q. And that was because --

A. In the bathroom. I mean, you can say that it was his idea. You can also say it was Chris's.

Q. Okay. When you were at the Chillicothe party and he suggested to you and Mike that you should kill Andrew, you both agreed, right?

A. Yes, ma'am.

Q. And he indicated that it was because Andrew had witnessed him shoot Jesse James, correct?

A. Right.

Q. And you were at that Jesse James shooting?

A. Yes, ma'am.

Q. So you knew that's what was going on at the time?

A. Yeah, I did.

Q. And you and Mike agreed to kill Andrew Dotson for

Mr. Conway.

A. We agreed to kill him, yes.

Q. Then you, in fact, suggested West Virginia would be a good place. You were familiar with that area.

A. It got brought up, yeah.

Q. Was anybody else from West Virginia?

A. No. Half of them had been down there with me.

Q. You told --

A. I was actually from West Virginia. If it was me that brought it up. It might have been. I'm not going to say it wasn't. That was three years ago.

Q. You don't recall who brought it up?

A. No. Most likely it was me, though.

Q. And you knew that down West Virginia, you knew some spots and you could probably find somewhere to get rid of the body, correct?

A. Yes, ma'am.

Q. You were supposed to shoot him down West Virginia, correct?

A. I wasn't supposed to shoot anyone. If anyone was supposed to have shot him, it was going to be Mike. I've actually told you that before. I didn't even know there was a gun until we got down there.

Q. When you got down there is the first time you knew there was a gun in the car you're saying.

A. Yeah. That's what I'm saying, yeah.
Q. You indicated that you went with Conway before you ever left to West Virginia to go get lime and shovels.
A. Yes, ma'am.
Q. Mike wasn't there, right?
A. Right.
Q. And that was Conway's idea to go get some lime and some shovels, correct?
A. That's what we went to Lowes for, yeah.
Q. And those items were purchased and they were sent with you for your trip, right?
A. Yes, ma'am.
Q. There was a conversation about what that was supposed to be used for, wasn't there?
A. Yeah.
Q. And Conway wanted the body disposed of, or hidden, I guess, right?
A. If you want to blame it on him, you can. But it's --
Q. Well, whose idea was it?
A. To get the shovel and lye?
Q. Yes.
A. It might have been him or Jamie. I don't remember.
Q. Do you remember talking with me, Rick Gibson and Zach Scott on August 12, 2003. We were over at the

sheriff's office. There was a tape recorder out on the table. That was right after you had entered into your guilty plea.

A. Right.

Q. Day after.

A. That's the day that I said I wouldn't testify. Isn't that the same day that I told you that?

Q. No. The day you actually entered into an agreement. You agreed you were going to testify. You signed a plea agreement. You entered a guilty plea and then the next day you had an interview. Do you remember that?

A. With you and Scott?

Q. Right. And Mr. Gibson was there also.

A. Yeah. I remember that.

Q. Do you remember telling us that there was talk about going into Lowes. Jimmy kind of started laughing, talking about Good Fellas or something like that. Do you remember that conversation?

A. No. I can't remember that. But it's -- it sounds right. We was always talking about that movie.

Q. And that it was Conway's idea to go get the lime and shovels because you remembered Jimmy saying that, like, you'll buy it because it might be on camera and stuff and since you did landscaping it wouldn't be a big deal.

A. Probably did say that. I don't remember.

Q. If you listen to this tape, would that help you?
A. Yeah, I'm sure it would.
Q. When you had this interview, you said you told the police the truth about what has happened. You've been consistent, apparently, with Ms. Sandford.
A. Yeah.
Q. But you just now can't remember whether or not it was Conway's idea to go get lime and shovels.
A. Conversations we had over three years ago, I can't remember every conversation we had. You've got to thinking, you know, when I took this plea, you know how discombobulated I was. I was crying. I was freaking out.
Q. You were freaking out about doing 20 years, right?
A. Yeah. Yes, I was. I can't remember everything that I said.
Q. Shawn, let's talk about the basic concept. The basic concept of getting lime and shovels was Conway's idea, right?
A. You can say that. Yeah, it was.
Q. And the way it was supposed to be used, what it was supposed to be used for, it wasn't for landscaping, right?
A. No, ma'am, it wasn't.
Q. It was Conway's idea. How it was to be used for

Andrew was Conway's idea.

A. Yeah. Yeah.

Q. Then you go back to the hotel and that's when Mike is back in the picture. Mike and Andrew are there, correct?

A. Right.

Q. Let me jump back for a minute before this Chillicothe party. This meeting with Mr. Cicero, Mr. Cicero was James Conway's attorney, right?

A. Yes, ma'am. Well, actually he was mine too for a different case, though, like a year before.

Q. But for purposes of the meeting that you had, he was Conway's attorney?

A. Yes, ma'am.

Q. And Conway set up that meeting and asked you to come, right?

A. I don't know who set it up, but I was asked to come there by Jimmy and Jamie.

Q. And besides you and Conway being at the meeting, Jamie Horton was there.

A. Yeah.

Q. Was there anybody else there?

A. No. I thought there was, but there wasn't. That was it.

Q. And the topic of conversation there was, Conway was

concerned about the Jesse James shooting.
A. Right.
Q. And he expressed that to Mr. Cicero.
A. A whole lot of words wasn't said, but it was kind of -- that was the point that we was there because of what happened.
Q. And the discussion basically was, Conway wondering, how do I cover myself or what do I need to do, right?
A. Right. Should he get legal counsel, should he -- what should he do.
Q. And the plan became or I guess there was suggestion to kill Andrew Dotson.
A. Yes, ma'am, there was.
Q. All right. Now, let me move back into this Chillicothe party for purposes of timing here. You said that you, Andrew and Mike all bought some clothes, correct?
A. Actually, it wasn't me and Mike that bought him the clothes. I didn't mean to say that. It was just Andrew bought the clothes.
Q. And the purpose for making sure Andrew had clothes was to be sure he didn't return to Columbus, right?
A. Yeah. Yeah, it was.
Q. So you and Mike bought him clothes.
A. Yes, ma'am.

Q. And in fact, at some point you got rid of Andrew's cell phone, right?
A. Yeah. It was -- it got thrown out the door, something like that. I can't remember what happened with the phone. But he didn't have it.
Q. This is to prevent contact between Andrew and anybody else, essentially?
A. Yeah. If you wanted to call or anything.
Q. The lime that was purchased was in your car. And how did it get to your car?
A. It was put in my car whenever we got back to the motel.
Q. By Conway, right?
A. It was either me, Conway or him that got it out of the back of the car, out of the back of the car that was over there.
Q. And there was a gun in your car; although, you claim not to have knowledge of how it got there. Is that what you're saying?
A. I never knew there was a gun in there. I never said that I knew that.
Q. At some point you knew there was a gun in the car, right?
A. Yeah, when we got down there. We got to West Virginia, I found out there was a gun under his seat,

under Mike's seat.

Q. Prior to going down to West Virginia when the plan was being formulated, then, how was it you were going to kill Andrew down in West Virginia?

A. If any of us -- you go down there and get a gun if you had to.

Q. You were just left to figure it out for yourself how it would happen?

A. Yeah. More or less, yeah.

Q. And --

A. I mean, you gotta -- on the way there, we decided not to do it, so that kind of ended --

Q. You and Mike.

A. -- that ended everything. Until we had a couple beers in us and we felt maybe we might do it again. It still didn't happen.

So, I mean, we kind of knew the whole time we wasn't going it do it. Honestly.

Q. You and Mike were reluctant and thinking you really weren't going to do it.

A. Yes.

Q. And you never let Andrew know you were taking him down there because Conway wanted him dead, right?

A. No. And he kind of had -- he had said that a little bit. He was kind of paranoid that that's what it was

about, about the Jesse James shooting.
Q. And did you say to him, you're right? Or did you assure him everything was okay?
A. I never assured him. I mean, I told him. He kept saying, look, I'm not going to say anything. I'm not going to say anything. And we kept saying, look, we believe you, man. Don't worry about it. We did say that, not to worry about it.
Q. Okay. And --
A. That's actually when we decided to get the beer and the pills and stuff and we was just going to have a good time, more or less. But this all came up again when we got down there.
Q. So you told him not to worry about it. Then you travel a little further and you decide, well, maybe it will happen. Right?
A. Yeah. This is after we had been in West Virginia for a couple hours.
Q. And is that when you get out of the car and tell him you're looking for weed?
A. Yes, ma'am, it is.
Q. And that's the area you knew, right?
A. I didn't know it, we just -- it's around where my family lives. You can say that I knew where it was. I've never been --

Q. And you told Andrew, we are going to go look for some marijuana. And you and he and Mike got out and looked around.

A. Yes, ma'am.

Q. And that's at the point you realized there was a gun.

A. Yeah.

Q. And nobody killed Andrew at that point, right?

A. No. No.

Q. Mike didn't do it?

A. No.

Q. Mike had an opportunity to?

A. Yes, he did. We both started tearing up again, kind of freaked out again so --

Q. And you had been drinking at the time. You were drinking in the car that day.

A. Yeah. We was drinking halfway up there and all the way back.

Q. You had been drinking the night before.

A. Yes.

Q. When you and Mike decide that you can't do it, you call Conway, right?

A. Right.

Q. Why did you call Conway?

A. Said that it couldn't happen. It doesn't need to be

done, more or less.

Q. And you weren't able to convince him, were you?

A. But he didn't kill him. But, you know, I guess that's convincing him.

Q. When you called him --

A. When we called, he said he wanted to meet us at the Central Point --

Q. He didn't say don't worry about it --

A. -- Big Bear.

Q. -- no big deal, right?

A. No. He didn't say that.

Q. He said meet me.

A. Yes, ma'am.

Q. And you guys met him.

A. Yeah.

Q. Why did you meet him?

A. To tell him what happened; we couldn't do it.

Q. Were you worried about what might happen if you didn't go meet him?

A. I can't say that I was worried about that.

Q. You weren't scared of him?

A. Everybody scared of a lot of people. I'm not -- he might be able to beat me up. I'm not afraid of him like that.

Q. Were you or weren't you scared of him doing that

you and Mike didn't do what he asked you to do?

A. Not even being mad, it was the point that we might get looked down on, like we can't do something. I really can't explain it.

Q. You were worried about looking weak essentially?

A. Yeah, that may have been what it was.

Q. All right.

So you get to this spot on Three C, I think you said it was, right?

A. Yeah.

Q. And Conway is already there with Jamie Horton?

A. Yeah.

Q. You and Mike pull up and Andrew is unconscious, asleep, whatever it is, in the back seat, right?

A. Yeah.

Q. You get out and talk to Conway, correct?

A. No. I never said that I got out. When we pulled up, Mike had pulled up on the driver's side and Jimmy pulled up so that it was face to face, driver to driver.

Q. You were talking through the windows?

A. Yeah.

Q. And there's a conversation about why didn't you take care of this, right?

A. Yes, there was.

Q. And it was a pretty heated conversation, wasn't it?

A. Yeah, we had words. Not really serious words. But probably some name calling and cussing.

Q. Well, who was cussing?

A. Both of us. Me, Jimmy and Mike.

Q. And why was that?

A. We always did that. We always called each other bitches and stuff like that. But this kind of -- this wasn't the same kind of conversation, I guess.

Q. Well, let me back up. On the conversation on the ride up, Conway knew that you hadn't killed Andrew. That's what the topic was about, right?

A. Right.

Q. And he got mad and called you a bitch at that point, right?

A. Probably.

Q. That's what you told --

A. Probably did say that.

Q. -- Rick Gibson, myself and Zach Scott at the August 12, 2003 interview. Does that sound, right?

A. Yeah, that sounds right.

Q. He tells you to meet me on Three C and you pick a place and you meet him, right?

A. Yeah. It was right by my house so it was convenient anyway, I guess.

Q. And when you guys pull up, Conway is mad. He's

pissed off, right?
A. He's not that mad. He's not pissed off --
Q. Did you or didn't you tell --
A. -- like you're saying, I mean, I just told you, you just said that I said that he was mad on the phone. When we got there, he wasn't as mad as you're making it sound. He --
Q. Well, did you tell --
A. He was disappointed but not real pissed off, no.
Q. Did you tell Rick Gibson, myself and Zach Scott that when you pulled up, he's pissed, he's real mad, things to that effect? Might you have said that in the interview?
A. Yeah, I might have said that.
Q. And you get there and Conway is asking what happened, right?
A. Right.
Q. How long do you think that conversation lasted between you, Mike, Conway?
A. About five minutes.
Q. And during that time Conway is getting madder and madder, right?
A. No. He's not getting madder and madder. He actually started calming down.
Q. Did you tell me in the August 12, 2003 interview, "He just kept getting [illegible] worse? His face -- his face

was getting real red." Do you remember that?
A. I don't know why I said that at all if I did say that. It shouldn't have been. I don't think so.
Q. If it were on the tape and you said it at the time, would it be true or did you make something up?
A. I mean, I could have said -- no. I didn't make anything up that I remember, you know. I just don't remember him getting mad like that, like you're saying. He's never been like that. He's always been calm. He never got mad like that.
Q. So when you were there on Three C, were you there trying to change his mind; telling him you don't need to kill Andrew?
A. Yeah, I had said that. We had a conversation with him that the guy is not going to say anything, there's nothing to worry about.
Q. And he said something to the effect, you guys shouldn't say you're going to do something, not follow through. Do you remember that?
A. I can't say that I remember. But it sounds kind of right. But now that you're saying it --
Q. Okay. And then you indicated as the conversation is going on and you're saying you don't need to kill Andrew, he's getting pissed?
A. No.

Q. He's upset at that suggestion, right?
A. He's not upset, no.
Q. If you said that in the August 12, 2003 interview --
A. If I said that, Ms. Prichard, I don't know why I said that because I didn't -- now that I'm relaxed, you know, and I've had a lot of time to think about it, I've thought a lot about it at this time. He wasn't as mad as you're making it sound.
Q. I wasn't making it sound any way. This was your interview. Did you say those things?
A. I might have said it at the time. But he wasn't that pissed off.
Q. In your August 12, 2003 interview with me and the others, you said you were telling us the truth.
A. Okay. That's one sentence. That's one sentence about me saying that he's real mad. He's real mad. That's what you're saying I'm saying. I mean, I'm telling you now that's not what I remember. That's one line in five thousand words that I said that might not be true.
Q. Let me keep going then. Do you remember saying, "He called us all kinds of bitches and pussies and everything he could think of. Then he -- we started talking about -- we used -- we used to play hide and go seek out in Calloway and he -- that's just how it happened. He

said, 'Well, follow me out here.'" Do you remember saying that?

A. Yeah. I remember talking about the hide and go seek, going out there.

Q. Was he calling you those names, too?

A. We always did that. So, I mean, yeah, he probably was and I probably said the same thing back to him.

Q. Did you ever indicate --

A. It's not like he was saying, man, bitch, you better do it. He wasn't saying nothing like that.

Q. Well, do you ever remember saying to me in the interview what you're saying now that it's more of a joking matter that he would say these things?

A. No, I never said that to you at all. I didn't have time to think about it. I mean, I was pressured into saying all this stuff, you know. Not really pressured, but I felt like I didn't have a choice.

Q. And this interview we are talking about is after you entered into a defendant's agreement, after you pled guilty, after you consulted with your family, right?

A. Right.

Q. And consulted with your attorney who was present, right?

A. Yeah.

Q. Do you remember Conway saying that he wanted

everyone involved in it because if he was going down, everyone was going down together, everyone would take part in it?

A. I don't remember saying that at all. Did I say that?

Q. Do you remember saying, "He -- he was, like, no, I want everybody to be involved in this because if anybody goes down, we are all going down", more or less?

A. I don't remember saying that at all. He might have said we all need to be there. That might be it.

Q. If that's on the tape, then, you're not disputing you would have said that?

A. No, I'm not disputing it. If I would have said that. I had to have said it.

Q. At the point where you had that meeting before you went to the cornfield, Conway didn't trust you and Mike, right?

A. What do you mean by that?

Q. There was some suspicion there.

Well, you hadn't killed Andrew.

A. I guess not.

Q. He didn't trust you guys.

A. Probably not.

Q. Do you remember saying, "Conway got mad. He don't talk a lot. You can just see when he's pissed off?"

A. I probably did. I say that all the time, so --
Q. So you could see that night he was pissed off.
A. I'm not going to say that he was mad because I don't remember him being mad now. He might have.
Q. Moving on.

Conway says follow me and you guys follow him to the cornfield, right?
A. Correct.
Q. When you and Mike are on your way to the cornfield you saw police officers on the way, right?
A. Yeah. Me and Mike did. I made a comment to him about, you know, flashing lights or something like that, maybe we might get pulled over.
Q. And Mike was getting tears in his eyes at that point, wasn't he?
A. Yeah, we both were.
Q. And you didn't want to kill Andrew. You didn't want Andrew dead, right?
A. No.
Q. You were following Conway's orders and going to the field, right?
A. We was going to that field, yeah.
Q. You could have gone anywhere else, right?
A. Probably could have.
Q. You were in a separate car?

A. Yeah.
Q. And you chose to follow Conway?
A. Yes.
Q. Because you were scared of him.
A. I mean, at the time, yeah, I probably was. I was worried if I didn't go there.
Q. You'd get in your particular spot and Conway puts his hand out the window or something, kind of directs you. Do you remember that?
A. When we had pulled in, tried to go up into the driveway first but there was a fence or something up, so -- so we backed out and we had went down the road a little farther to this path.
Q. And Conway pointed out a spot.
A. Actually just pulled in.
Q. And everybody gets out of the car and there's a little bit of conversation there in the vehicle, correct?
A. Yes.
Q. Do you remember telling me in the August 12th interview that Conway was saying, nobody should shoot him because you just passed cops and they might hear them.
A. No. I never told you that Conway said that. I said that Jamie said that.
Q. Well, if you said on the tape --
A. Someone was speaking about shooting him. I'm

assuming Jamie or somebody.

Q. Did you previously say Jimmy?

A. Uh?

Q. Did you previously say Jimmy Conway said that?

A. Did I say that on the tape? Is that what you're saying?

Q. Yes. Did you say that at an earlier point of time, perhaps?

A. I don't think so. Did I say that? If it's on there, I mean, I must have said it.

Q. Let me quote a sentence and see if this rings a bell for you. "First there was a little bit of a conversation about -- I remember it was either -- it had to be Jimmy. He was saying that you can't -- nobody should shoot him.

A. Can you start that over again, please?

Q. "First there was a little bit of a conversation about -- I remember it was either -- it had to be Jimmy. He was saying that you can't -- nobody should shoot him because we just passed those cops and they -- I don't know. Norton Road was really that far and they was where you could hear a gunshot. I don't even really know how it came to be what, you know, let's choke this guy, whatever. I -- I don't remember that." Do you remember?

A. All I remember -- if you read that, I said either it could have been Jimmy. Because I'm not going to tell you

that it was him and say that it was. It wasn't.
Q. So now you're saying it might have been.
A. That I don't -- it could have been.
Q. Then you stated, "But I remember I opened up the back door and might -- Jimmy might have said 'Mike, choke him' or something. I don't know. But whatever, Mike grabbed him" --
A. That's not true. If I said that, it's not right at all.
Q. So if we play the tape and that's on there, that's not true. You made something up.
A. Didn't make it up. If you can see how I'm talking on there, I can't even keep a good sentence, you know. I'm not making it up.
Q. You're saying you weren't calm during this interview?
A. Does it sound like I was calm?
Q. I was there. Don't ask me. Were you calm during that interview?
A. No. I wasn't very calm at all.
Q. This is a 51-page transcript. That was a long interview, wasn't it?
A. Yeah, it was.
Q. You had lunch. We brought you some lunch in for that interview, right?

A. Yeah, but I didn't eat it. I remember that.
Q. You were sitting in a conference room.
A. I was sitting in a holding cell, all white cell.
Q. Over at the sheriff's office.
A. Right.
Q. Table with some cushion chairs, not like the jail holding cell, right?
A. Right.
Q. And having this conversation, right?
A. I'm having a conversation with people that's putting me away for the rest of my life. So I'm never going to be calm. I can't be calm around you.
Q. This is after you had agreed to do 20 years.
A. Yeah.
Q. Conway and Horton had guns there at that field there that night, right?
A. There was a gun there.
Q. Besides that gun, they had guns, right?
A. Probably. It's -- I don't know. I never did. I didn't say there was a gun there other than the one Mike had.
Q. Do you remember saying, "No. Because they hadn't -- I -- whenever they said let's shoot him, I knew that they had guns. So it was either you do it then or I'm not here making this conversation with you now." Do you

remember that?
A. I don't even understand what I just said in that.
Q. Do you remember telling us that you were concerned if you didn't do what Conway said, you could be next, basically; he had a gun that night.
A. Well, he had never said when we got to the cornfield to kill him. He didn't say that. This was --
Q. "Never said to kill him," who?
A. To kill Andrew. When we got to the cornfield, he never said to kill him. He never said to kill Andrew Dotson.
Q. Really.
A. I definitely didn't say nothing like that that he told me to kill somebody when I was at the cornfield.
Q. Were you concerned --
A. Prior to that, a day before -- a day before that, yeah. Not then, no.
Q. You were worried when you were at the field that you had to do what Conway said, right?
A. Nothing was said then at the cornfield. Nobody really said nothing about the guns and about the cops we just passed.
Q. Everybody just showed up at the cornfield and Mike Arthurs went crazy is what you're saying.
A. No. I'm not saying that at all. I'm telling you we

had a conversation. There was a conversation about the gun, about shooting Andrew, but then I think I might have even said, look, we just passed these cops. They're going to hear it. If I didn't say it, somebody else would have.

Q. And so today you're saying it was either Jimmy or Jamie that said something about shooting Andrew, right? You're not sure.

A. Right.

Q. Previously you said it was Conway. If that's on the tape --

A. I said it might have been Conway on the tape that you just read back to me. I said it might have been.

Q. And after Mike doing this choking and stepping and things like that, Conway indicated, you thought he was still breathing, right?

A. No. There's no way. We all saw what happened.

Q. Do you remember saying, "I thought he was dead. Then I -- I remember Jimmy is, like, well he's still breathing. He's still breathing. And then because whatever Mike was doing at first, he -- he was down like this on the ground and just laid him completely on the ground. My Jeep was right -- it was right dead beside my Jeep and he put his left foot on his neck." Do you remember saying that?

A. Right. This was before he died. That was probably the first time after Mike had had him in a headlock. I mean, everybody heard the gasp, or whatever it was, of air, just one thing of air.

Q. Well, I'm talking about one particular spot, the spot where he was saying, I remembcr Jimmy is, like, he's still breathing." Do you remember that now?

A. Yeah. I probably said the same thing. We all had to have said that.

Q. And then after this point where you think that Andrew is dead --

A. I don't think. I know that he's dead.

Q. Do you have any medical training, Shawn?

A. No. But I'm not retarded. I mean, I used to hunt. I hunt deer. I hunt rabbit.

Q. Are you aware that the coroner disputes your theory? You're aware of that, right?

A. Well, did he even check his neck? Do you know that for sure?

Q. Well, I'm not here to answer questions from you, Shawn. You are aware that the coroner disputes your theory. Yes?

A. Because I don't believe they actually checked his neck.

Q. Do you recall that Conway asked you to take Andrew's

clothes off?

A. Yeah. He might have said that to me.

Q. And you recall saying that "Mike dragged him back in the field and I don't even know why in the hell Jimmy would. The guy was dead. So I don't know why he took the pickax back there and did that." Do you remember saying that?

A. Yeah.

Q. So you saw Conway get a pickax, right? He got it from the back of his car.

A. Right.

Q. Walked back in the field and you heard some noise, correct?

A. Right.

Q. Then Jamie Horton went back and took some lime and he and Conway eventually came back from the field.

A. Conway was already back. Pretty sure.

Q. And he and Jamie came back out together with an empty lime bag.

A. I'm saying he was already -- Conway was already back. It was Jamie walking back by himself at the very end.

Q. And then Jamie walked back with the lime then.

A. Yeah.

Q. And then Conway wanted you to put some stuff in the

Jeep because you hadn't really participated enough; is that right?

A. It was right beside my Jeep anyway. Plus he had the bed. There was no cover on the bed and I had a hatch.

Q. So he asked you to take a few of the things and they were put in the back of your Jeep, right?

A. Right.

Q. And when Andrew was stripped of his clothing, he was left wearing his boxers, necklace, and I think some glasses; is that right?

A. Yes, ma'am, he was.

Q. And you didn't take the necklace off of him, right?

A. No.

Q. Nobody else took the necklace off of him, right?

A. No. Nobody touched anything else.

Q. When Mike took Andrew back in the field, that was at Conway's suggestion, correct?

A. No, I don't think so. I mean, he just pulled him back there. I mean, after he had did that, he still had all type of adrenaline. I even -- he even asked me to help him. He had so much gas still. He told me to get the fuck out of the way and pulled him back there himself.

Q. You don't remember saying, yeah, that -- that's when Jimmy -- Jimmy said, um, to grab him -- grab him and pull

him back there. He was too heavy, I guess. Then whenever I tried to grab him, I couldn't. Mike told me to get him out of the way and dragged him back there.

A. I may have said that.

Q. Then afterwards, you go back to Conway's house?

A. Right.

Q. And the clothes were burned, right?

A. Right.

Q. And that's Conway's idea?

A. No.

Q. No. Everybody decides that's a good idea --

A. -- decided what to do. We watch CSI and that. It came up, I guess.

Q. And you all go get new clothes, right?

A. Yes, ma'am. We don't all leave to get new clothes. We had clothes still around. We was always at each other's house. We didn't go buy new clothes. It was too late then, probably 10:00, 11:00 o'clock at night.

Q. The next day you went and bought some new clothes and shoes then, right?

A. Yeah, I did.

Q. And then after this event, you continued to associate with Conway, right?

A. Yes, ma'am.

Q. In fact, you met up at [illegible] down in Columbus.

A. I set up a robbery?
Q. You introduced Conway to Mark Fitzsimmons who worked at this appliance store so that they could develop a plan to set up a robbery, correct?
A. Whatever they did, that was on them. I introduced them to each other.
Q. For that purpose. You introduced them to each other for that potential purpose, right?
A. To talk.
Q. And then you also were in contact with Conway when he was in jail, correct?
A. Right.
Q. You even delivered a gun to Jamie Horton.
A. No, I never delivered any gun to anyone.
Q. Did you leave a gun for Jamie Horton to pick up to give to Ronald Trent at some point?
A. I never touched the gun. I told you that, too. I never touched the gun at all. I mean, Joey Spencer -- what I told you that it was left at my house. And Ronald Trent had went there to pick it up. But I never said that I had a gun in my possession, that I touched the gun. Because I didn't, so --
Q. When you were initially arrested for this, you gave a statement to the police, right?
A. Yes, ma'am, I did.

Q. And at that interview, you didn't tell all the details, correct?
A. No.
Q. Then you had another interview about a month later -- it was June -- down at the jail with your attorney who was trying to convince you to take a deal, right?
A. Right.
Q. I think for 15 years.
A. 15.
Q. And you gave a statement at that time, right?
A. That's when I spoke to you?
Q. Correct.
A. Right.
Q. You gave a little more detail at that point, right?
A. Yes, I did.
Q. And then after you entered into your plea, you made a statement at the August 12th interview we're talking about where you gave your longest, most detailed statement, correct?
A. Right.
Q. And would you agree with me that initially you minimized your involvement. You downplayed what you knew.
A. Right.

Q. Eventually you signed an agreement to testify against Conway --

A. Right.

Q. -- and others in exchange for 20 years.

A. I didn't know it was for others at the time. We never really talked about that, did we? Until I was --

Q. Did you sign --

A. Yeah, I signed it.

Q. So you don't really remember who you were testifying against.

A. I didn't really read it. I just remember it was him.

Q. You knew you were getting 20 years and you were going to testify against Conway, right?

A. That's correct.

Q. When it came time for trial, you came out here and refused to testify, right?

A. Yes, ma'am.

Q. When you were arraigned on this case, if you remember, you, Horton and Conway were all brought out together at arraignment. Do you remember that?

A. No, not really. You mean -- whenever -- wasn't Chris there?

Q. Right after you were arrested, you were brought out, brought out over in municipal court, the three of you,

and it was basically the first time you kind of heard the charges.

A. Yeah, I remember that. All right.

Q. And at that point, Conway basically told you to stay strong and told everybody to blame Mike. Do you remember that?

A. No. I never said that.

Q. If that statement is on the June 26, 2002 interview, are you saying that wasn't true?

A. That definitely wasn't true. He never said that to me.

Q. You don't recall saying something to the effect when all three of you were together for arraignment, Conway said, "Blame it on Mike. We will get Tom Tyack. We'll get out of this."

A. No. He told me to stay strong and keep my mouth shut.

Q. But never blame it all on Mike?

A. No. Not that I remember, no.

Q. You, Conway and Horton corresponded during your period of incarceration, right?

A. Right.

Q. And still correspond.

A. Right.

Q. And initially, weren't the Conways somehow being a

source of funding for your attorneys?

A. I mean, they gave me some money, not much, but to help me out.

Q. They gave you some money and helped you set up who was going to represent you, right?

A. Right.

Q. You became distrustful of those attorneys eventually because the Conways were paying them, right?

A. It wasn't because of that. It was because of stories that I was hearing from people. But it had something to do with that also.

Q. And the Conway family was following your case. They would be at your court appearances. They were visiting you in the jail, right?

A. Right.

MS. PRICHARD: May I have just a moment, Your Honor?

I have nothing further.

THE COURT: Do you have more than a couple minutes?

MS. SANDFORD: No.

THE COURT: Okay. We will go ahead. I was going to take a recess, but if you just have a couple minutes, that will be fine.

MS. SANDFORD: Maybe five minutes.

THE COURT: Well, let's go ahead and take a recess then.

Five of.

- - -

Thereupon, a recess was taken.

- - -

THE COURT: All right. Ms. Sandford, you may proceed.

- - -

REDIRECT EXAMINATION

BY MS. SANDFORD:

Q. Shawn, prior to the meeting in Chris Cicero's office where he said what he did that he needed Andrew to disappear.

A. Right.

Q. Pardon me?

A. I said right.

Q. Had anyone ever spoken about killing Andrew Dotson before that?

A. No.

Q. Shawn, today there has been, some of the statements that you've made before, some of the details, you're not as certain about today as you were back then; is that fair to say?

A. Right. That's why I -- I just can't remember it.

It's been a while ago, so --

Q. Does that change, though, the fact that Mike Arthurs killed Andrew Dotson?

A. That doesn't change anything at all.

Q. At the time that this happened, were things -- how would you describe things? Crazy? Would that be --

A. The night that it happened?

Q. Yeah.

A. Yeah. It was nuts. When it was -- when it was going on, I mean, I guess, what I was thinking, nobody is really believing it was really actually happening.

Q. It was shocking.

A. Yeah.

Q. Now, whether Jimmy was mad at you at some point during all of this, again, does that change the fact that Mike Arthurs killed Andrew Dotson?

A. No. It doesn't change anything.

Q. Shawn, you said you were arrested in May of 2002.

A. May, I think. I think May, May 28th. I'm pretty sure that's when I first got arrested.

Q. And that's the same day you gave a statement to sheriff's office.

A. Right.

Q. All right. And in that statement, you said that -- who did you say killed Andrew Dotson?

A. Mike, Mike Arthurs.

Q. And then you were arraigned in June. Does that sound about right?

A. Probably. Probably is right.

Q. I think the prosecutor said it was June you were arraigned.

A. I guess. I don't know.

Q. Now, when you say -- you said that the Conway family arranged for help to get some attorneys for you.

A. Right.

Q. Okay. That would have been after the May statement, the May 28th statement that you made.

A. Right.

Q. My last question for you, Shawn, is, what happened to Andrew Dotson, what Mike Arthurs did to Andrew Dotson, is that something that you will ever be able to forget?

A. No, it's not. And I have to live with it. We are all doing time for something that -- I know we was at fault -- should have never happened. But, no, I'll never forget.

I feel bad every day. I think about it. I feel bad for his family. I'm glad that I was actually able to tell them what really happened to their son. That's the only thing I cared about. That's what I wanted them to know.

Q. Actually, my last question to you, part of your agreement with the prosecutor's office, again, was that you will testify truthfully whenever you testify, correct?

A. Right. This is all the truth. If I forget a couple things, I'm not trying to do it on purpose. Trust me. I'm under oath. That's important to me. I'm a Christian. I'm not trying to lie about anything.

Q. Okay. So you're keeping that part of the agreement about testifying truthfully.

A. Yes. Very true.

MS. SANDFORD: Thank you. Nothing further, Your Honor.

THE COURT: Ms. Prichard.

- - -

RECROSS-EXAMINATION

BY MS. PRICHARD:

Q. Shawn, you've always been clear that Conway is the one that told you and Mike Arthurs down at the Chillicothe party to kill Andrew Dotson, right?

A. Right.

Q. And you were able to tell your story in September 2003 when you agreed to testify or brought into this courtroom and asked to testify, right?

A. The same day that I got my sentence? Is that what

you're talking about?

Q. No. The day you were sentenced, you made an agreement to testify and you were brought out about a month later to testify. You had an opportunity to tell your story, didn't you?

A. Well, I mean -- I didn't really know I could actually say what happened then. I mean, no. Well, you're right, I could have done it.

Q. But you chose not to.

A. I could have done it but I chose not to.

MS. PRICHARD: Nothing further.

THE COURT: All right. That's fine. Take him out.

Next witness.

MS. SANDFORD: We don't have any more witnesses, Your Honor.

MR. TAYLOR: We have no witnesses, Your Honor.

THE COURT: I'm sorry?

MR. TAYLOR: We have no witnesses, Your Honor.

THE COURT: Okay. Any comments?

MS. SANDFORD: No, Your Honor.

THE COURT: Any argument with respect to any of the issues now that we have pending in front of

us?

MS. SANDFORD: I'm sorry. Yes.

MR. PORTER: All right. It's their Motion to Dismiss so I guess I would defer to them at this time.

THE COURT: Well, no. It's your Motion for Post-Conviction Relief and it's their Motion to Dismiss. So why don't you deal with your Motion for the Post-Conviction Relief and then we will let them deal with their Motion to Dismiss. And we will let you go back and respond to that.

MR. PORTER: We have nothing to add to the petition at this time.

THE COURT: All right. Well, any comments, though, on any issues?

MR. PORTER: We would, with respect to -- and I don't know how the Court wants to work with or how the Court wants us to work on this; we have two additional exhibits that we would like to add in support of the petition.

We obtained -- there are two memos we believe that they were drafted by Attorney Cicero. We retrieved them from the records that by obtained from him. We would submit those after the hearing in support of --

THE COURT: Why don't you submit them now if you have them. This is the time to do the exhibits.

MS. PRICHARD: We have not seen these yet either, Your Honor.

THE COURT: I'm sorry?

MS. PRICHARD: We have not seen these either.

MR. PORTER: Permission to approach the bench.

THE COURT: Show them to the other side.

MR. PORTER: I was going to give them a copy. I have a copy for the Court if the Court wants one.

THE COURT: I don't want to see it before they have had an opportunity to look at it.

MR. TAYLOR: Your Honor, I've only scanned one of the memos and we would object on the grounds of hearsay and it hasn't been authenticated by anyone at this hearing. The same for the second memo.

MR. PORTER: We proffer them for the record for the appellate court and for the federal court, Your Honor.

THE COURT: All right. Let me see them.

MS. SANFORD: How would you like me to

mark them?

THE COURT: However you want to mark them.

MS. SANDFORD: Okay.

THE COURT: I have no idea what these memos are, who they are frcm, what they are dealing with. They are unidentified hearsay statements. The Court will not permit them to be introduced.

Comments from the State?

MR. PORTER: Will the Court permit them to be proffered for the record?

THE COURT: Sure.

MR. TAYLOR: Your Honor, I'll stand on the briefing as far as the Motion to Dismiss. I don't see any reason to go back over that ground unless the Court has any questions regarding the motion.

THE COURT: I don't have any questions.

MR. TAYLOR: As far as Shawn Nightingale's testimony here today, I think the Defense claim mainly is that the defense attorneys at the Conway trial should have called him to establish that Conway was not the principal offender, but was something else.

It seems to me though that the record shows that it was us, the prosecution, who wanted Nightingale to testify at the trial and it's clear why;

because Nightingale confirms the time line that Mike Arthurs testified to. Really, as far as I can tell, the only dispute between Nightingale and Arthurs in their testimony is, is who killed Andrew Dotson. For purposes of Mr. Conway's liability makes absolutely no difference. He was the kingpin who ordered this. It was his idea to kill Andrew Dotson and he's guilty as an aider and abettor and would have been just as liable for the death penalty under that theory as being the principal offender. So it makes absolutely no difference.

And I can see why the defense attorneys in Mr. Conway's trial did not try to call Nightingale. It was the prosecution who wanted Shawn Nightingale.

Nightingale took the Fifth at that trial. So the Defense really didn't have any choice. He took the Fifth. They couldn't force him to testify. So they didn't have an option in that regard any way.

Even if you take it to the next step and say, well, they could have called him, what would have been the outcome? Nightingale's testimony just reconfirms the defendant's guilt, no reasonable probability of different outcome. And they were reasonable in not trying to call him.

So those are my comments regarding Shawn Nightingale's testimony. I would be happy to try to

answer any questions regarding that.

I don't have anything else.

THE COURT: Anything further?

MR. PORTER: Very briefly.

Mr. Conway was charged as a principal offender in this particular case. The testimony of Mr. Nightingale establishes he was not the principal offender. If he was not available to Defense counsel to call, they should have put the prior statements in.

THE COURT: There are, I believe 19 and 20 separate claims with respect to the original motion. What I will do is at least go through each of them without saying anything in particular how I'm going to deal with it.

With respect to one, the Constitutional issues, that is dismissed. Actually, there's no merit to that argument.

Post-conviction petition procedure is not an appropriate post-conviction petition procedure. There is no merit in that argument.

Defendant didn't get appointed post-conviction counsel. There is no merit to that argument.

Conviction is void because there was not a full transcript. There's no merit to that argument.

Defendant has been denied certain public records. Defendant got all the records he is entitled to under Criminal Rule 16. And that's a matter obviously that can be raised on appeal. There is no merit to that argument.

And defendant was denied access to information. Obviously that could have been raised and can be raised on appeal. The Court has no evidence dealing with that. There is no merit to that.

The law enforcement -- I believe there's seven law enforcement -- employed a jailhouse informant. I find no merit to that.

With respect to, I believe, it's new number eight dealing with Mr. Cicero, the claim is that he was and is under investigation and somehow that should void this sentence. There is no merit to that argument.

Prosecutor's office had a vested interest in this case. I have no evidence of that. There is no merit to that argument.

Prosecutor's office talked to the news media. Obviously, that's a matter that can be raised on appeal. No evidence dealing with that. There's no merit to that argument.

The indictment contained two separate offenses. That's a matter that can be raised on appeal.

Also find no merit to that argument.

Improper use of subpoenas, particularly the Nextel phone records. I don't have any evidence dealing that. There is no merit to that argument.

Prosecution failed to provide exculpatory evidence. I don't know what exculpatory evidence they are referring to, other than maybe Shawn Nightingale, and obviously that evidence was provided. And the Court will find there is no merit to that argument.

Prosecution presented false testimony. I find that the prosecution did not present any false testimony. There's no evidence to that.

Argument of ineffective assistance of counsel, that's a matter that can be raised on appeal. I have no evidence in this hearing dealing with that issue. Ao I find there is no merit to that argument.

Prosecution failed to prove defendant's guilt beyond a reasonable doubt. That's a matter, obviously, that can be raised on appeal. And the Court finds no merit to that argument.

The Court failed to appoint a forensic pathologist, forensic psychologist. The Court never failed to appoint anybody. The Court did provide funds for the experts that were requested.

Anyway, the Court finds no merit to that argument. I don't have any evidence these experts would have helped in any way.

There's argument there's ineffective assistance of the expert in mitigation. I have no testimony dealing with that issue. I find no merit.

There's claim that the death penalty, lethal injection is cruel and unusual. That will be overruled.

And the cumulative effective errors is the last argument. And the Court finds no merit to that.

I will make a comment, though, the testimony of Mr. Nightingale strengthens this Court's belief that the defendant was guilty of capital murder. Because if you put Mr. Nightingale's testimony together with the witnesses who did in fact testify and it appears that the defendant's guilt is now not beyond a reasonable doubt, but beyond all. There is no doubt whatsoever with respect to the defendant's guilt based upon Mr. Nightingale's testimony.

Anyway, the Court will find against the petitioner on the merits. And I will not grant the Motion to Dismiss. I will just make a finding on the merits.

And if you will provide an entry within