North Carolina Innocence Inquiry Commission Brief

STATE v. LEROY SPRUILL

Washington County – 94 CRS 1984; 94 CRS 1566

STATE v. WALLACE BRANDON JONES

Washington County – 94 CRS 1973; 95 CRS 1565

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I. Format for Brief and Hearing

On October 1-4, 2018, the North Carolina Innocence Inquiry Commission ("Commission") will conduct a hearing in this case. Pursuant to statute, this hearing is open to the public.[1] A court reporter will be present at the hearing.

This brief is submitted to the Commissioners prior to the hearing with the request that each Commissioner carefully read it in preparation for the hearing. This brief covers investigations and legal proceedings that occurred in this case prior to the investigation by the Commission staff. However, some of **the information presented herein was not previously presented at trial or considered at a hearing granted for post-conviction relief. At the beginning of each section, the brief will indicate if the information was presented at trial or considered at a hearing granted for post-conviction relief.** Information that was not presented at trial or considered at a hearing granted for post-conviction relief may be considered as "new evidence."

This brief is formatted to be read from start to finish with any attachments inserted directly into the body of the brief. Any attachments that have notes or highlights were received by Commission staff with these notes or highlights and no other copy was available. This brief also contains appendices that will be referenced throughout the brief. Any cited material within the brief that is not provided in full can be made available to Commissioners upon request. Also, where a document is included in full in the brief, the brief itself will not contain a citation to the record.

[1] N.C.G.S. § 15A-1468(a) and NCIIC Rules and Procedures Article 7(E).

At the conclusion of the hearing, the Commission will be asked to consider the following three (3) options:

1. Conclude that there is sufficient evidence of factual innocence to merit judicial review and refer the case to a three-judge panel pursuant to N.C.G.S. § 15A-1468(c). All documents considered by the Commission and the transcript of the proceedings shall become public record once filed with the Clerk of Superior Court in Washington County.[2]
2. Conclude that there is not sufficient evidence of factual innocence to merit judicial review and close the investigation pursuant to N.C.G.S. § 15A-1468(c). Evidence favorable to the convicted person would be disclosed to him and his attorney pursuant to N.C.G.S. § 15A-1468(d).
3. Direct the staff to conduct further investigation into this case and continue the hearing to a later date[3].

[2] N.C.G.S. §§ 15A-1468(c) and 15A-1468(e) and NCIIC Rules and Procedures Article 7(G).

[3] The hearing can be continued as long as that is completed prior to December 3, 2018 without the need for a full rehearing. However, District Attorney Britt will retire effective December 3, 2018 and his alternate, Seth Edwards, has a conflict in this case. Therefore, to continue the hearing beyond December 3, 2018 will require a full rehearing on the matter.

II. Standard of Review

This case arises from the convictions of Leroy Spruill (Spruill) and Wallace Brandon Jones (Jones) for the murder and robbery of Victim William Frank Swain which occurred on December 18, 1993. Jones, tried separately, was found guilty by a jury on September 18, 1995 for First Degree Murder and Robbery with a Dangerous Weapon. Jones was sentenced to Life for First Degree Murder and 40 years for Robbery with a Dangerous Weapon, to run consecutively to his life sentence. After Jones' trial, on October 5, 1995, Spruill pled guilty through an Alford Plea to Second Degree Murder and Robbery with a Dangerous Weapon. Spruill was sentenced to 40 years for Robbery with a Dangerous Weapon and Life for Second Degree Murder to run consecutively to his robbery conviction.

A third individual, Dana Maybin (Maybin), pled guilty to Accessory after the Fact to First Degree Murder, Common Law Robbery, and Felony Breaking and Entering for the same murder and robbery. Maybin was sentenced to nine (9) years for the First Degree Murder charge and her other convictions were consolidated with that conviction for sentencing. Maybin **has not** applied to the Commission.[4]

The Commission's governing statute provides that a "claim of factual innocence" is a claim "on behalf of a living person convicted of a felony" in North Carolina, "asserting complete innocence of any criminal responsibility for the felony for which the person was convicted and for any reduced level of criminal responsibility relating to the crime, and for which there is ***some***

[4] The Commission's governing statute changed in 2016 to require notification of codefendants regarding their requirement to file a claim once formal inquiry is granted. Per the statute, failure to do so "may" result in any claim by a co-defendant being barred from investigation by the Commission. That law only applied to claims made on or after the effective date of the statute in 2016 and so does not apply to Maybin.

credible, verifiable evidence of innocence that has not previously been presented at trial or considered at a hearing granted through postconviction relief." N.C.G.S. § 15A-1460(1). *Also see* the *Commission's Rules and Procedures,* Article 2(A). In addition, the Commission's Rules and Procedures provide that in guilty plea cases, "in order for a claim that arose from a guilty plea to be considered by the Commission, there must be credible, verifiable evidence of innocence ***that was not reasonably available to the claimant at the time that he/she pleaded guilty or scientific testing that was not completed.***" *Commission's Rules and Procedures*, Article 2(B).

When a case is presented to the Commission during a hearing, all eight voting members are required to participate in the vote to determine whether there is "sufficient evidence of factual innocence to merit judicial review." N.C.G.S. § 15A-1468(c). For cases ***where defendant was found guilty after trial***, "if ***five or more of the eight*** voting members of the Commission conclude there is sufficient evidence to merit judicial review, the case shall be referred to the senior resident superior court judge in the district of original jurisdiction." *Id.* "For cases ***where the convicted person entered and was convicted on a guilty plea***, "if ***all of the eight voting members*** of the Commission conclude there is sufficient evidence of factual innocence to merit judicial review, the cases shall be referred to the senior resident superior court judge in the district of original jurisdiction." *Id.*

In the present case, Jones was convicted after trial, so ***five or more of the eight*** voting members must conclude his case contains sufficient evidence to merit judicial review. Spruill pled guilty in the present case and so ***all eight*** of the voting members must conclude his case contains sufficient evidence to merit judicial review. Spruill's plea was pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970). The Commission's Rules and Procedures provide that "all rules

relating to guilty pleas will also apply to pleas entered pursuant to North Carolina v. Alford, 400 U.S. 25 (1970), or pleas of no contest and nolo contendere." *Commission Rules and Procedures,* Article 2(C).

III. Introduction to Case

Wyatt Spruill (Wyatt) found the Victim, William Frank Swain, deceased in Swain's trailer off of Folly Road in Plymouth, NC at some time around 10:00pm on December 18, 1993. After finding the Victim, Wyatt ran across the street to the home of Tim Swain (Tim), the Victim's cousin, to call the police. Wyatt and Tim went back into the trailer before calling the police, but each said they did not touch the Victim. Tim did not have a phone, so they called from another neighbor's house.

According to Wyatt, he had been with the Victim throughout the day, leaving him alone sometime around 7:15pm in his trailer and returning to find him deceased.

The Victim had approximately twelve blunt force wounds to the head as well other stab wounds on his chest and hands. His throat was slashed and he had numerous defensive wounds on his hands. The medical examiner eventually narrowed down the time of death to between 8:30pm and 9:30pm on December 18, 1993. The crime scene indicated an intense struggle. Blood was visible in the kitchen, the living room (where the Victim was found), and on the exterior of the front door. A bloody tire iron was found wrapped in a plastic bag in the kitchen near a pool of blood. There was no sign of forced entry. There was money found in the Victim's pockets (although the amount varies depending on the source), but no wallet. Wyatt also stated that the Victim, who was known as a drug dealer in the area, kept drugs on his person in a Life Saver container, but no container was found.

This case was initially investigated by the Washington County Sheriff's Office with assistance from the North Carolina State Bureau of Investigation, which resulted in the arrest and

convictions of the claimants and their co-defendant, Dana Maybin. Maybin testified at Jones' trial that she saw Spruill and Jones murder the Victim, but both prior to Jones' trial and even after trial, Maybin provided several different versions of events.[5]

Jones appealed his conviction to the North Carolina Supreme Court, but was unsuccessful in his appeal. Jones also pursued a Motion for Appropriate Relief (MAR), for which there was a hearing on October 19, 1998. Jones' MAR was subsequently denied on November 14, 2000. Jones further sought a Petition for Writ of Certiorari with the North Carolina Supreme Court on October 9, 2001 which was denied on December 18, 2001.

Spruill filed a Petition for a Commutation on October 22, 2001. Spruill's Petition for Commutation was denied on February 19, 2007.

In November 2004, the North Carolina State Bureau of Investigation (SBI) opened a re-investigation into the case. This re-investigation was closed on February 22, 2011 with the closing report stating that the SBI was unable to prove that Spruill and Jones did not commit the crime and so there were no further avenues to pursue. North Carolina Prisoner Legal Services (NCPLS) and the North Carolina Center on Actual Innocence (Center) were both involved at various points in post-conviction investigation on behalf of Spruill and/or Jones. NCPLS handled Jones' MAR. the Center has not yet filed any motions or presented any evidence at a hearing on behalf of Spruill or Jones related to this case. Ultimately, the Center referred the case to the Commission for investigation. In reviewing these agencies' investigations, the Commission did not find any recordings of interviews and so all information provided here is from written reports concerning

[5] It is important to note here that during this timeframe Dana Maybin used the alias Nikki Tarkington and Jones used the alias Robert Solis. Throughout the files, there are references to these individuals using both their correct legal names and their aliases. The brief always refers to the individuals using their correct legal names.

interviews that were completed.

The Commission opened this case on December 16, 2009 and began its investigation. The Commission conducted a thorough investigation in this case, including, but not limited to, extensive DNA testing, interviews, and exclusion of possible alternate suspects. More detail regarding the specifics of the Commission's investigation will be presented at the upcoming Commission hearing on this matter.

IV. Individuals Named In Brief (By Category)

As this case involved multiple investigations and numerous individuals, below please find a chart of individuals named in the brief organized by category. You may also wish to refer to Appendix A of the brief, which is a chart of individuals named in the brief in alphabetical order.

CLAIMANTS
Jones, Wallace Brandon
Spruill, Leroy
CO-DEFENDANT
Maybin, Dana
VICTIM
Swain, William Frank
WITNESSES – BIG ED'S BAR
Allen Stacy
Bell, Steven
Bell, Terry
Calloway, Tony
Champ, Ed, Jr.
Champ, Ed, Sr.
Champ, Gail
Champ, Lisa
Champ, Lottie
Martinez, Angela
Perry, Margie
Rogers, Lynn
Sawyer, Russell
Skittletharpe, Billy
Skittletharpe, Jean
Spruill, Kelvin "Smarty"
WITNESSES RELATED TO DANA MAYBIN
Craddock, Jackie (in jail with Dana Maybin)
Honea, Sherry (provided information Dana Maybin gave her about murder)
Mills, Leslie Nichole (in jail with Dana Maybin)
Davis, Phoenicia (in jail with Dana Maybin)
Nowarah, Mitchell (friend of Dana Maybin)
Stokes, Debbie (worked for jail while Maybin was incarcerated)

ALTERNATE SUSPECTS
Armstrong, Alfred “Ducon”
Furlough, Curtis
Garrett, Thomas
Hill, Kevin
Hurst, Ray
Knowles, Russell “Buffy”
Lassiter, Michael
Lynn, Joseph
McNair, Willie Joseph “Jojo”
McPhatter, Lee “Toby”
Mixon, David
Spruill, Wyatt
Wilkins, Maurice
WITNESSES RELATED TO ALTERNATE SUSPECTS
Armstrong, Cookie Morris (Wyatt Spruill)
Armstrong, David (Wilkins, Lynn, McPhatter)
Armstrong, Denise “Niecy” (Michael Lassiter)
Armstrong, Priscilla “PJ” (Wyatt Spruill)
Arnold, Avis (Maurice Wilkins)
Carter, Herman “Fellow” (Wyatt Spruill)
Covel, Bennie (Maurice Wilkins)
Cummings, Michael (Michael Lassiter)
Davenport, Judy (Michael Lassiter)
Downing, Bert (Wyatt Spruill)
Furlough, Sharon (Curtis Furlough’s mother)
Furlough, Virginia (Curtis Furlough’s wife)
Hill, Mona (wife of Kevin Hill, having affair with Victim)
Hudson, Edward (Wyatt Spruill)
McCormick, Gloria (Wyatt Spruill)
McNair, Billy (Wilkins, Lynn, McPhatter)
Midgette, Sherrod (Wilkins)
Norman, Ernest (Ray Hurst)
Underwood, Pauline (aunt of Lee McPhatter)
Wood, Raymond (Wyatt Spruill)
Young, Mann (Wyatt Spruill)
VICTIM’S FAMILY
Baldwin, Kerry (Brother-In-Law)
Carter, James “Duke” (Cousin)
Swain, Mary (Sister)
Swain, Tim (Cousin, 2nd to see Victim’s body after murder)

OTHER WITNESSES
Barber, Tommy (Jones falling down stairs)
Clark, James Travis (in jail with Jones)
Costin, Bessie Talkington (provides information on Spruill and Maybin)
Day, Sonja (Victim's girlfriend, sister of Wyatt Spruill)
Davis, Erma (heard noises from Victim's trailer)
Downing, Maxine (went to Victim's trailer before murder)
Furlough, Kevin (took Jones out of Plymouth)
Harris, Stan (Medical Examiner)
Hinson, Linda (sister of Leroy Spruill)
McGowan, Debbie (girlfriend of Leroy Spruill)
McNair, Janice (mother of Billy and Jojo McNair)
Moore, Scott (Spruill's dad's truck)
Polk, Charles (interviewed by Plymouth Police Department)
Respass, Marty (went to Victim's trailer before murder)
Spruill, Jack (father of Leroy Spruill)
Spruill, Patty (mother of Leroy Spruill)
Spruill, Robert (directed law enforcement to Sherry Honea)
Ward, Tommy (in jail with Wallace Brandon Jones)
DISTRICT ATTORNEYS/ATTORNEY GENERAL'S OFFICE
Coman, James
Norton, Mitchell
DEFENSE ATTORNEYS/INVESTIGATORS
Boston, Joe (PI)
Edwards, Seth (Leroy Spruill)
Everhart, Constance (Wallace Brandon Jones
Harrell, Maynard (Leroy Spruill)
Maguire, Marti (Center)
Moore, Regina (Dana Maybin)
Mumma, Chris (Center)
Ogletree, Charles (Dana Maybin)
Skinner, John (Wallace Brandon Jones)
Vosburgh, James (Wallace Brandon Jones)
LAW ENFORCEMENT
Floyd, John (Plymouth Police Department))
Honeycutt, Dennis (State Bureau of Investigation)
Inscoe, Kent (SBI)
Spruill, Janice (Washington County Sheriff's Office)
Varnell, Donnie (SBI)
Ward, Preston (PPD)
Warner, Mac (SBI)
Williams, Willie

V. Timeline

Date and Time (if known)	Event / Description
12/18/1993 10:15pm	Murder reported to WCSO by Wyatt Spruill and Tim Swain. (WCSO 1).
12/24/1993 4:10pm	Spruill is first interviewed by WCSO. (WCSO 121).
12/18/1993-April 1994	WSCO/SBI investigated various suspects.
1/12/1994	Spruill polygraphed. Passed. Interviewed after polygraph. (WCSO 122-123, 126; SBI 871).
4/25/1994 5:30pm	Acting on information from Sherry Honea, law enforcement interviewed Dana Maybin for the first time in Westminster, SC. (WCSO 195-202). At this interview, Maybin reports Spruill and Jones leaving the bar with Curtis Furlough, but does not provide that she is with them at the scene of the crime.
5/11/1994 7:00pm	Search warrants obtained and searches conducted of Spruill's home and the camper trailer at the Champ residence where Jones was living. (WCSO 274-281, 480 -- Spruill; SBI 414-415 – Spruill; WCSO 78 – Jones, SBI 418-420 – Jones).
5/17/1994 8:35pm	Search warrant issued for Spruill's blood samples. (WCSO 291-294).
6/25/1994 11:00am – 6:50pm	Dana Maybin interviewed by law enforcement a second and third time. Took two polygraph exams. (WCSO 210-214, 500-502 – polygraph). The first test indicated deception and the second test was inconclusive.
11/22/1994	Warrant issued for Jones' arrest. (WCSO 512).
12/7/1994	Jones arrested at his mother's house in Milan, TN. (WCSO 520, SBI 732).
12/8/1994	Jones waived extradition back to North Carolina. (SBI 730).
12/10/1994	Warrant issued for Maybin's arrest. (WCSO 232).
12/10/1994	Maybin is arrested in South Carolina and waives extradition back to North Carolina. (WCSO 522).
12/12/1994	Jones is polygraphed. Failed polygraph with -12 numerical evaluation. Interviewed by law enforcement after polygraph. (WCSO 521, SBI 859).
12/13/1994	Warrant issued for Spruill's arrest. Spruill arrested at his home in North Carolina. (SBI 713-715).
12/20/1994	Spruill's probable cause hearing held. Judge Paul found probable cause. (WCSO 522, Jones PLS 219-240).
12/27/1994	Jones probable cause hearing held. Judge Paul found probable cause. (WCSO 522, transcript in Center B-9 Center).
1/3/1995	Maybin probable cause hearing held. Continuance requested and granted by Maybin's attorney Regina Moore based on a letter from Maybin letter recanting her statements implicating Spruill and Jones (NOTE: which letter Moore was referring to was not specified). (WCSO 522).

Date and Time (if known)	Event / Description
1/9/1995	Spruill and Jones indicted for murder. (SBI 1416; Center A-48).
2/21/1995	Maybin's 2nd probable cause hearing held. Judge Paul found probable cause. (Jones PLS 241-251).
5/8/1995	Maybin indicted for murder and robbery. (DA 5446).
8/21/1995	Spruill and Jones indicted for Robbery w/Dangerous Weapon. (SBI 1419).
8/21/1995	Maybin pled guilty to Accessory After the Fact (Murder), Common Law Robbery, and Breaking and Entering. Prayer for Judgement is continued for sentencing purposes. Maybin also signs an Agreement for Truthful Testimony. (DA 1425-1432 and 2002; Maybin Clerk 2).
9/20/1995	Jones' trial began.
9/29/1995	Jones' convicted of 1st Degree Murder, 1st Degree Burglary and Armed Robbery. (Center A-16).
10/5/1995	Jones sentenced to life plus 40 years, to be run consecutively. Spruill pled to 2nd Degree Murder and Robbery w/Dangerous Weapon and sentenced to life plus 40 years, to be run consecutively. Maybin sentenced to nine (9) years in prison.
4/29/1996	Maybin is released from prison on parole. (Maybin DPS).
6/5/1996	Spruill's case is opened with Prisoner Legal Services. (Spruill PLS 10).
11/7/1996	Jones filed appeal to North Carolina Supreme Court. (Center Box #3).
2/7/1997	Spruill's case with Prisoner Legal Services is closed due for failure to return questionnaire. (Spruill PLS 10).
10/3/1997	NC Supreme Court issued opinion in Jones' case. Found no error. (Center Box #3).
11/12/1997	Jones case is opened with Prisoner Legal Services for assistance with his case. (Jones PLS 530).
3/9/1998	Spruill's case is re-opened with Prisoner Legal Services. (Spruill PLS 10).
9/30/1998	Maybin's parole is completed. (Maybin DPS).
10/19/1998	Jones files Motion for Appropriate Relief (MAR). (SBI 996-1047).
10/22/1998	Spruill's case closed with Prisoner Legal Services. (Spruill PLS 10).
8/28/2000	Jones' MAR hearing held. (SBI 1456-1530).
11/14/2000	Order issued denying Jones' MAR. (SBI 1110-1118).
10/9/2001	Jones filed *pro se* Petition for Writ of Certiorari with North Carolina Supreme Court. (AG 1917-1939).
10/22/2001	Attorney Carl Stewart filed Pet. for Commutation for Spruill. (Spruill clemency 122-6).
12/18/2001	NC Supreme Court denied Jones' Petition for Writ of Certiorari. (DA 54-55).
2002-2004	Plymouth Police Chief John Floyd conducted independent investigation.
8/2003	UNC-Chapel Hill journalism students began working on Spruill and Jones' case as part of a class. (Center B-49). This appears to be the Center's initial involvement with this case.
2004	Jones speaks to two attorneys regarding a Petition for Clemency and Jones' mother writes to Senator Marc Basnight's regarding a Petition for

Date and Time (if known)	Event / Description
	Clemency. Although there is file with the Clemency Office, no petition was ever filed.
2004	SBI began a re-investigation into the case based on the John Floyd investigation and information provided by Spruill and Jones.
12/16/2009	Commission opened investigation.
2/22/2011	SBI closed re-investigation into case.

VI. Initial Law Enforcement Investigation

This case was originally investigated by the Washington County Sheriff's Office (WCSO) with assistance from the North Carolina State Bureau of Investigation (SBI). The lead investigators were Investigators Janice Spruill (no relation to Spruill) and Willie Williams from WCSO and Agent Donnie Varnell from the SBI. The Commission reviewed both the Washington County Sheriff's Office records related to this matter as well as records from the SBI, and investigator testimony from Jones' trial to form the basis for the below summary of the initial law enforcement investigation in this case.

Initial Incident Report and Evidence Collected at the Scene

The police were initially dispatched at 10:15pm on December 18, 1993 and arrived at 10:19pm to the Victim's home. The initial responders called for assistance from Sgt. Roughton with the Plymouth Police Department (PPD) and Investigator Janice Spruill with WCSO. Investigator Spruill requested the assistance of the SBI almost immediately. The Medical Examiner arrived around 12:10am. SBI Crime Lab Analyst Dennis Honeycutt and SBI Agent Donnie Varnell arrived around 12:30am. The report provided below outlines the details of the scene by the responding officers. In addition, Officer's Notes outlining the scene are provided below as well.

SBI Agent Honeycutt's report outlines the crime scene and the evidence collected at the scene. Ultimately, collected at the scene were the following: 18 latent prints; one plastic bread bag from the Victim's kitchen (which is described as being "over" the tire iron); a tire iron; blood scrapings from the exterior front of the Victim's front door; curtains from the Victim's kitchen

window; a jacket found on the floor near the Victim; three papers collected from the jacket pocket; powder residue; an aluminum packet containing razor blades and powder residue; and hair and fiber samples from around and on the Victim and on the Victim's jacket. Cash found in the Victim's left and right front pants' pockets was removed by Honeycutt and was ultimately seized by WCSO. Nothing was found in the Victim's rear pants' pockets. The Victim's clothes, additional money found in the Victim's shirt pocket, and the Victim's leg brace were collected by Honeycutt from the medical examiner's office after the autopsy was completed. The reports referenced here are attached in full below.

INCIDENT/INVESTIGATION REPORT

01/14/94 09:57

PCIBASE North Carolina

Agency Name: WASHINGTON CO. SHERIFF'S DEPT.
ORI: NC09400

OCA: 93120023
Date/Time Reported: Month 12 Day 18 Yr. 93 Time 2215 Hrs.

Incident Data

	Crime/Incident(s)		At Found	Last Known Secure
#1	HOMICIDE 0110	☐ Attempt ☒ Complete	Month 12 Day 18 Yr 93 Time 2210 Hrs.	Month 12 Day 18 Yr. 93 Time 1930 Hrs.
#2	Crime Incident		Location of Incident: VICTIM'S RESIDENCE; LIVING ROOM FLOOR	Offense Tract
#3	Crime Incident		Premise Type: 01 HOME OF VICTIM - SIN	Victim Residence Type: ☒ Single Family ☐ Multi Family

MO

How Attacked or Committed: BY CUTTING VICTIM'S THROAT

Forcible: ☒ Yes ☐ No ☐ N/A

Weapon/Tools: 12 KNIFE

VICTIM

of Victims: 01

Type: ☒ Person ☐ Business ☐ Society ☐ Government ☐ Financial Institute ☐ Religious ☐ L.E. Officer Line of Duty ☐ Other/Unk

Injury: ☐ None ☐ Minor ☐ Loss of Teeth ☐ Broken Bones ☒ Severe Lacerations ☐ Internal ☐ Unconscious ☐ Other Major

Drug/Alcohol Use: ☒ Yes ☐ No ☐ Unknown ☐ N/A

V1	Victim/Business Name (Last, First, Middle)	Victim	DOB / Age	Race	Sex	Relationship To Offender	Resident Status
	SWAIN,WILLIAM FRANK	0110	07/29/56 / 37	B	M	UN	☒ Resident ☐ Non-Resident ☐ Unknown

Home Address: P.O. BOX 448/FOLLY RD., ROPER, NC 27970
Home Phone: 919-793-9423

Employer Name/Address: B.E.&K. CONSTRUCTION CO. PLYMOUTH NC 27962
Business Phone:

VYR	Make	Model	Style	Color	Lic/Lis	Vin

OTHERS INVOLVED

CODES: V-Victim (Denote V2,V3) O-Owner (if other than victim) R-Reporting Person (if other than victim)

Type: ☐ Person ☐ Business ☐ Society ☐ Government ☐ Financial Institute ☐ Religious ☐ L.E. Officer Line of Duty ☐ Other Unknown

Code	Name (Last, First, Middle)	Victim	DOB / Age	Race	Sex

Home Address:
Home Phone:
Employer Name/Address:
Business Phone:

Type: ☐ Person ☐ Business ☐ Society ☐ Government ☐ Financial Institute ☐ Religious ☐ L.E. Officer Line of Duty ☐ Other Unknown

Code	Name (Last, First, Middle)	Victim	DOB / Age	Race	Sex

Home Address:
Home Phone:
Employer Name/Address:
Business Phone:

PROPERTY

Status Codes: L-Lost S-Stolen D-Damaged Z-Seized B-Burned C-Counterfeit/Forged F-Found
(Check 'OJ' column if recovered for other jurisdiction)

Victim #	DCI	Status	Value	OJ	QTY	Property Description	Make/Model	Serial Number
01	61	Z	106		0	CURRENCY		

Number of Vehicles Stolen: 0
Number Vehicles Recovered: 0

ID

Officer Name: PEAL J W
ID#: 00106
Officer Signature:
Supervisor Signature:

STATUS

Complaint Signature:

Case Status: ☒ Further Investigation ☐ Inactive ☐ Closed/Cleared ☐ Closed/Leads Exhausted

Case Disposition: ☐ Unfounded ☐ Cleared by Arrest ☐ Cleared by Arrest by Another Agency ☐ Death of Offender ☐ Juvenile/No Custody ☐ Refuse to Cooperate ☐ Prosecution Declined ☐ Extradition Declined

INCIDENT/INVESTIGATION REPORT

OCA 93120023

Status Codes: L-Lost S-Stolen R-Recovered D-Damaged Z-Seized B-Burned C-Counterfeit/Forged F-Found

DRUGS

DCI	Status	Quantity	Type Measure	Suspected Type	Check up to 3 types of activity for each: Possess	Buy	Sale	Mfg.	Importing	Operating

OFFENDER

Offender Used Alcohol/Drugs: ☐ Yes ☒ Unk ☐ No ☐ N/A

Computer: ☐ Yes ☒ Unk ☐ No ☐ N/A

Offender 1: Age: 00 Race: U Sex: U

Offender 2: Age: Race: Sex:

Offender 3: Age: Race: Sex:

Offender 4: Age: Race: Sex:

Offender 5: Age: Race: Sex:

Offender 6: Age: Race: Sex:

Primary Offender Resident Status: ☐ Resident ☐ Non-Resident ☒ Unknown

SUSPECT

Name (Last, First, Middle): ,UNKNOWN

Alias or Nickname:

Home Address: , ,

Occupation: UNKNOWN OR NOT

Business Address:

DOB / Age	Race	Sex	Height	Weight	Build	Hair Color	Hair Style	Hair Length	Eye Color	Glasses
/ / 00	U	U		0						No

Scars, Marks, Tatoos, other distinguishing features (i.e. limp, foreign accent, voice characteristics):

Hat	Jacket	Shirt/Blouse	Tie/Scarf	Coat/Suit	Pants/Dress/Skirt	Socks	Shoes

Was Suspect Armed?	Type of Weapon	Direction of Travel	Mode of Travel
Y	KNIFE		

VYR	Make	Model	Style	Color	Lic/Lis	Vin

WITNESS

Name (Last, First, Middle)	DOB / Age	Race	Sex	OCA

Home Address	Home Phone	Employer	Phone

Suspect Hate / Bias Motivated: Yes ☐ No ☒

NARRATIVE

HOMICIDE [Narrative ID = 93120023 IN_OFF001]
Added 01/14/94 - 09:09:15 By SPRUILL L C
RECEIVED CALL FROM DISPATCHER AT 10:15P.M. TO GO TO FREEMAN'S TRAILER PARK ON FOLLY ROAD, REFERENCE TO SOMEONE HAD THERE THROAT CUT. ARRIVED TO THE LOCATION AT 10:19P.M. UPON ARRIVAL, MYSELF AND DEPUTY JOHNSTON FOUND THE VICTIM LAYING ON HIS BACK ON THE LIVING ROOM FLOOR. VICTIM HAD A LACCERATION TO THE THROAT AND IT APPEARED A STRUGGLE HAD TAKEN PLACE IN THE ROOM IN WHICH VICTIM WAS LOCATED. I IMMEDIATELY CALLED FOR ASSISTANCE FROM SGT. ROUGHTON OF THE PLYMOUTH POLICE DEPARTMENT AND INVESTIGATOR JANICE SPRUILL WITH THE WASHINGTON COUNTY SHERIFF'S DEPARTMENT.
DEPUTY JOHNSTON, SGT. ROUGHTON AND MYSELF (D/S PEAL) SECURED THE CRIME SCENE UNTIL INVESTIGATOR JANICE SPRUILL COULD ARRIVE. AT 10:40P.M., INVESTIGATOR JANICE SPRUILL ARRIVED AND ADVISED ME TO CONTACT THE SBI AND MEDICAL EXAMINER FOR ASSISTANCE. SBI INVESTIGATORS, CRIME LAB AND DR. HARRIS WITH THE MEDICAL EXAMINER'S OFFICE WERE ADVISED BY THE WASHINGTON COUNTY SHERIFF'S DEPARTMENT DISPATCHER.
AT APPROXIMATELY 12:10A.M., DR. HARRIS WITH THE MEDICAL EXAMINER'S OFFICE ARRIVED AT SCENE. DENNIS HONEYCUTT WITH SBI CRIME LAB ARRIVED AT APPROXIMATELY 12:30A.M., ALONG WITH DONNIE VARNELL, SBI AGENT.
AT 1:15A.M., DR. HARRIS ADVISED THAT VICTIM'S BODY COULD BE MOVED TO WASHINGTON COUNTY HOSPITAL AND THEN TRANSFERRED TO THE MEDICAL EXAMINER'S OFFICE LATER SAME DAY. AT 2:05A.M., WASHINGTON COUNTY

HOSPITAL WAS NOTIFIED TO PICK-UP VICTIM'S BODY. INVESTIGATION OF HOMICIDE IS CONTINUING BY THE WASHINGTON COUNTY SHERIFF'S DEPARTMENT AND SBI.

OFFICER'S NOTES

On 12-18-93 at approximately 10:19 P.M. I was contacted by Jailer Reggie McDowell at the Sheriff's house and was advised that Deputy Sheriff Peal and Patrolman Roughton was requesting assistance in reguards to a murder at Frank Swain's residence on Folly Road.

I arrived at the crime scene at approximately 10:40 P.M. I requested SBI crime scene technician and SBI agents to assist in the investigation and also the Medical Examiner to be notified. Upon my arrival Patrolman Roughton and Deputy Sheriff Peal was standing on the porch of the victims residence with the front door open. I went to the front door and saw Frank Swain laying face up in the living room area near the front door and in front of the couch. Mr. Swain's throat was cut and a cut on his chin area. Mr. Swain was dressed in a plaid shirt and blue jeans and shoes and socks. There was a large amount of blood under victim and on the victim. Also observed was various items strown in a disarray manner in the living room and kitchen area. Noticed telephone was off the hook, and part laying in the living room floor and part in the kitchen area. Phone had blood on same.

A cocktail table in living room was turned over, a metal chair near the front door was broken with screws laying on the floor near the chair. Seat cushion was torn away from the chair and blood was on legs of the chair. Blood spots on the wall to the left side of the front door approximately 5'6" tall, appeared to may have been caused by a head being pushed on the wall. Observed was a pair of jumper cables under one of the sofa pillows in the living room and also a tire tool with a Red Apple bread wrapper laying over same, was seen laying in kitchen floor near base of kitchen cabinet near the refrigerator. A kerosene heater was sitting in the kitchen area with a metal cooking pot sitting near same. Observed a $1.00 bill folded and in the kitchen sink with some dirty dishes. A pot was sitting on the left front burner of the stove in the kitchen. Blood spots were seen on the refrigerator and curtain area of the kitchen window.

T.V. was playing, control button pulled down. Noticed a lot of blood on the couch in the living room and a lot of blood on bottom area of sofa, where pillow had been removed from sofa. Blood was seen on the curtain's behind the couch area. A pack of Riverea cigarettes was seen laying on bottom of couch in area of blood. A Riverea cigarette lighter was seen laying in living room area of the residence.

Deputy Sheriff Johnston was sitting in his patrol vehicle with Wyatt Spruill and Tommy Swain talking with them. A crowd of people, family and friends were standing around in area of yard of residence. Ms. Minnie Swain, sister of victim was talked with to obtain permission to gain entry into the residence in an effort to obtain any information. Several people in area were talked with concerning date, time, location of when victim was last seen alive. Deputy Sheriff Peal, Deputy Sheriff Johnston was also interviewing various people in crowd. Mr. Le Vance Mitchell arrived at the crime scene at approximately 10:45 P.M. to assist in taking photos.

Crime scene was secured and no one allowed inside untill SBI and Medical Examiner could complete their jobs. Interviews were done with Wyatt Spruill and Timmy Swain, which reported the incident. There was a problem with some of the family and Wyatt Spruill concerning ownership of a brown vehicle.

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Willie Swain and other family members were saying car in the driveway belonged to Frank Swain and Wyatt was saying the car belonged to him, registered in the name of Mr. Spruill advised the license plates for the car had been paid for by frank Swain on 12-18-93 at True Value.

Mr. Swain's money approximately $106.00 was removed from jean pant pocket by SBI agent Dennis Honeycutt. Deputy Sheriff Stacey Johnston was present at the crime scene and he took custody of the money for inventory purposes. A blue coat soaked in blood was found in living area of residence believed to have been worn by victim. Mr. Spruill advised that Mr. Swain had been wearing the blue coat when he had left the trailer, but did not have the coat on when he returned and found him deceased. Both Mr. Spruill and Mr. Swain advised they did not touch Frank's body to attempt to obtain any vital signs. Stated they did not touch anything inside residence when they arrived. Tim Swain advised he did walk in the kitchen area and stood near the freezer when he went to residence.

Agent Honeycutt, Donnie Varnell, Flip Wilson of SBI arrived at crime scene at approximately 12:30 A.M. Dr. Stan Harris, Medical Examiner arrived at crime scene at approximately 12:10 A.M. EMT at scene was Elaine Britt and Andy Wilcox of Washington County Hospital. After initial exam by Ms. Britt, they left and returned to Hospital and returned after Agent Honeycutt and Medical Examiner finished their exams. After completion of crime scene search, house was searched by Deputy Sheriff Johnston.

On 12-19-93 at approximately 1:30 A.M. I went to Washington County Sheriff's Department and called Sonya Spruill at Women's Correctional Center. See copy of her statement in the file. On 12-19-93 Deputy Sheriff Peal and Agent Varnel went to Williamston and talked with Marty Respass. Copy of statment contained in Agent Varnell's file.

SBI FILE: 668-H-5
ACTIVITY: December 18 and 19, 1993
VICTIM: William Frank Swain
DICTATED: January 5, 1994
RECEIVED: January 31, 1994
TYPED: February 3, 1994
COPIES: (1) Records; (2) SA D. G. Honeycutt; (3) SAC W. E. Godley; (4) SA D. R. Varnell; (5) District Attorney M. D. Norton

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CRIME SCENE:

The crime scene in this case is the residence of the victim, William Frank Swain, which is a white with tan trim mobile home, name brand "Prince," which is located in Freeman's Trailer Park east of Plymouth, North Carolina. Proceeding east on US 64 from Plymouth, North Carolina, turn left onto Folly Road and proceed approximately two tenths of a mile and turn left into Freeman's Trailer Park. Turning right onto the first dirt drive, proceed to the last mobile home on this drive, this being the residence of the victim.

On Saturday, December 18, 1993, at approximately 10:53 p.m., crime scene search assistance was requested to conduct a search of a residence in Washington County in reference to a homicide. This request was received by SA Honeycutt via a telephone communication from SA J. M. Wilson.

SA Honeycutt arrived at the scene on Sunday, December 19, 1993, at approximately 12:30 a.m. Present at this time was Deputy Janice Spruill of the Washington County Sheriff's Department, among others. Further present was Dr. L. S. Harris, forensic pathologist. It was noted that the west side of the exterior of the mobile home had been roped off with "crime scene" tape. A large crowd of people was situated on the west side of the tape. The weather at this time was clear and cold with available illumination being fair.

SA Honeycutt approached the mobile home from the west side and proceeded to the west side, or front door. Noted to be on the ground and on the wooden porch leading to the front door were stains having the appearance of blood. Similar stains were also noted on the exterior of the front door. Continuing inside the mobile home, SA Honeycutt observed the body of a black male, identified by Deputy Spruill as being William Frank Swain, lying on the floor of the den. Slashing wounds to the neck were apparent at this time. Further observed at this time were bloodstains on the floor, several walls, the refrigerator, and the couch. The coffee table in the den had been turned over.

SA Honeycutt then continued throughout the remainder of the mobile home, with nothing apparent noted at this point.

SA Honeycutt then exited the dwelling and obtained photographic equipment and began the crime scene search by taking photographs of the exterior of the mobile home from several angles. During this procedure, tire impressions were noted on the south side of the dwelling. It should be noted that the ground was very wet at this time with standing water in many locations. The tire impressions were mostly nondescript although tread wear did appear on a very small portion. Contained within the northernmost impression was a shoe impression. SA Honeycutt photographed this impression with a scale included.

SA Honeycutt then proceeded to the area of the front door of the dwelling. Located on the ground approximately 6'6" west of the west exterior wall of the mobile home and approximately 2'3" north of the north side of the steps was an area of very diluted staining having the appearance of blood. This area was tested for the presence of blood with negative results being noted.

Visible on the bottom step leading to the front door of the victim's residence was a partial shoe impression. SA Honeycutt photographed this impression also with a scale present in the photograph.

On the small porch at the front door were several green car mats. On the mats were several diluted drops of blood. Examination of these drops yielded no conclusion as to the directionality.

On the exterior of the front door, SA Honeycutt noted the presence of smears of what appeared to be blood. SA Honeycutt photographed this area and then proceeded to scrape the blood from the door for further analysis. This item was marked for identification and later numbered as Item #8.

SA Honeycutt then processed the exterior of the front door for the presence of latent prints with seven latent lifts being made from this area.

SA Honeycutt then entered the front door of the mobile home and generally photographed the den and kitchen areas from several different angles.

Located on the floor of the den just inside the door was a Timex wrist watch on which the watch band had separated. This item was approximately 3' east of the west wall and 1'10" south of the north wall of the den. SA Honeycutt photographed this item

and then examined the watch, noting that the watch was still running.

SA Honeycutt then proceeded to the victim. It was noted that this victim was a black male with a black mustache and small goatee. The victim was wearing a bluish-green shirt on which the top several buttons were undone. The victim was further wearing a T-shirt, blue pants with a black belt, and black Reebok tennis shoes.

The victim was lying on his back and was situated between two couch cushions which were also on the floor. The left arm of the victim was lying out by his left side and on top of the easternmost couch cushion. The right arm was situated at the area of the stomach. Both legs were slightly bent with the right knee being up and the left leg being rotated to the left. The right foot of the victim was slightly on top of a set of jumper cables which was lying on the den floor. Several photographs of the victim were taken at this time from different angles.

Three very apparent slicing type wounds to the neck were noted with a great deal of blood on the floor directly below this area. A wound was also visible to the forehead of the victim. A slice in the shirt to the left chest of the victim was also apparent with blood soaking through the shirt at this area.

SA Honeycutt also noted the presence of a gold chain around the neck of the victim. Further examination of this chain revealed it to be broken.

SA Honeycutt, at this time, began to collect hair and fiber samples from the floor of the den immediately around the area of the victim with the use of alcohol soluble tape. These tapings were placed into a plastic bag, sealed, and marked for identification as Item #2.

SA Honeycutt then proceeded to collect hair and fiber samples from the front of the body of the victim also with the use of alcohol soluble tape. These tapings were placed into a separate plastic bag, sealed, and marked for identification as Item #3.

The location of the body of the victim was then measured. The head of the victim was located approximately 5'4" east of the west wall and 2'9" south of the north wall. The left foot was located 6'6" east of the west wall and 8'3" south of the north wall. The right foot was located 5'2" east of the west wall and 7'9" south of the north wall. The left hand was located approximately 6'7" east of the west wall and 5'1" south of the

north wall.

SA Honeycutt then searched the pockets of the victim locating $94 in United States currency in the left front pants pocket and $11.92 in the right front pants pocket. Further contained in the right front pants pocket was a set of keys. The currency was inventoried and later seized by the Washington County Sheriff's Department.

Around the victim on the floor were three cushions which belonged on the couch on the west side of the den. The cushion to the left of the victim was located approximately 5'6" south of the north wall and 7'4" east of the west wall. The cushion located on the floor to the right of the victim was approximately 5'6" south of the north wall of the den and 3'10" east of the west wall. A third cushion which was located south of the feet of the victim was approximately 12'4" south of the north wall and 5' east of the west wall.

SA Honeycutt then removed the cushions from the floor and noted the presence of a large amount of blood on the floor under the cushion located to the left side of the victim.

At approximately 2:31 a.m. on Sunday, December 19, 1993, the body of the victim was removed from the scene. The body was placed into a new disaster bag and was sealed by SA Honeycutt prior to leaving the residence. SA Wilson, who had arrived at the scene some time earlier, obtained the names of the persons removing and transporting the body of the victim.

After the removal of the body, SA Honeycutt continued with the search of the den. Just inside the door to the north was a metal louvered door which housed the heating unit to the mobile home. On the door was a bloodstain at a maximum height of 5'9" from the floor, this stain having the appearance of hair brushing against the side of the door, the hair containing blood. Further noted on this door were smears which were traveling from west to east and slightly downward. Further noted was the presence of what appeared to be cast-off spatters near the lower western portion of the door. SA Honeycutt photographed these areas and charted same.

Noted to be in the area of the body of the victim was a glass ashtray on the floor of the den approximately 3'2" west of the east wall and 5' south of the north wall. This item was photographed and then processed for the presence of latent prints with no prints of value being noted.

In the den, it was noted that the light over the dining table

was on at the time of the search, and that the television located in the southeast corner of the den was on and tuned to the "Home Box Office" channel.

SA Honeycutt then proceeded to the couch located against the west wall of the den. Three cushions were present on this couch, these three being the same color and design as the cushions located on the floor. Further, three cushions were missing from this couch. Two of the cushions were located leaning against the back of the couch and one cushion was on the seat of the couch, this cushion being at the south end of the couch. The northernmost cushion was saturated in blood.

The seat of the couch consisted of a wooden board. Noted to be present on this board was a pack of "Riveria" cigarettes. The top of the pack was not open, but a hole had been torn in the bottom corner of the pack. Further noted on the board was an impact blood spatter stain which traveled from north to south. SA Honeycutt photographed this stain as it then appeared.

Behind the couch was a set of curtains covering the window at this location. A blood smear was present on the curtain just above the height of the back of the couch. SA Honeycutt also photographed this area.

Further located on the floor of the den was a blue jacket with red trim which was partially under the previously mentioned third cushion. SA Honeycutt first photographed this jacket and then seized same, marking the jacket for identification as Item #4. A further inspection of the jacket revealed a cloth patch with the wording "Hyperperformer Asset." The jacket was noted to be turned inside out and was still buttoned at the bottom. A search of the contents of the jacket revealed the presence of three pieces of paper, copies of which are to be made a part of this investigative report. Each of these three papers was seized by SA Honeycutt, marking these items for identification as Item #5.

Also noted to be on the floor of the den were a set of jumper cables and three children shoes.

In the approximate middle of the den was a large wooden coffee table which had been overturned. SA Honeycutt photographed this area and then proceeded to process the table for the presence of latent prints with no prints of value being located.

Beneath this coffee table, SA Honeycutt located the following items:

1. Broken glass ashtray

2. Two photographs in frames

3. Plastic cup

4. Remote control

SA Honeycutt processed these items for the presence of latent prints with two latent lifts being lifted from the broken ashtray and six latent lifts being made from the plastic cup.

Against the east wall of the den was a stereo cabinet on which the front of the cabinet was open. SA Honeycutt photographed this area as it then appeared. On top of the stereo were a section of aluminum foil and two packs of razor blades. SA Honeycutt first photographed this area and then opened the aluminum foil to reveal the presence of a razor blade and white powder residue. SA Honeycutt then seized this item in its entirety and marked same for identification as Item #6.

Noted to be on a shelf under the television was a white powder residue. SA Honeycutt photographed this area and then proceeded to seize the powder for further examination, marking the container in which the powder was placed for identification as Item #7.

SA Honeycutt then proceeded toward the area of the dining table which was located in the northeast corner of the den. On top of this table were the following items:

1. Three butane lighters

2. Two blue vinyl cigarette cases

3. Brown bag

4. Children books

5. Steak knife

6. Two white cloth gloves

7. North Carolina vehicle registration card and plate, EZX-3877

8. Body powder

9. Body lotion

10. Scissors

11. Cassette tape

12. Letter to Frank W. Swain

13. Letter to William F. Swain

SA Honeycutt then proceeded to process the tabletop and items contained on the table for the presence of latent prints with one latent lift being made from the top of the table.

Further noted on the top of the table was a strike to the wood on the west side of the table. This area was also photographed by SA Honeycutt.

On the floor to the west of the dining table at the junction of the den and the kitchen was a dining chair which had sustained a great deal of damage. The back and the seat of the chair had both been broken from the frame of the chair. SA Honeycutt first photographed this area and then processed the chair for the presence of latent prints with no prints of value being noted.

On the floor beside the chair was a telephone on which the receiver was off the cradle. The telephone was covered with blood. Further noted was the blood that was present on the floor beneath the area of the chair. SA Honeycutt then processed the telephone for the presence of latent prints with one latent lift being made.

Also noted to be on the floor of the kitchen in the same general area as the chair was a butane lighter with the wording "Riveria," a pack of matches, and a broken pencil.

Traveling across the kitchen floor from south to north and upward on the door of the refrigerator was a blood spatter indicative of being impact related. SA Honeycutt photographed this area.

On the floor of the kitchen under the north cabinet and just to the west of the refrigerator was a plastic bread bag under which was a tire tool. SA Honeycutt photographed this area as it then appeared and then proceeded to seize the plastic bag for further processing. Upon the seizure of the bag, SA Honeycutt noted that the tire tool was located within a clear liquid, the identity of which is unknown. SA Honeycutt then photographed this tire tool and seized same, marking this item for identification as Item #9. It was noted at this time that a

portion of the box end of the tire tool was broken off and not present at the scene. The plastic bag was marked for identification as Item #10.

A further search of the kitchen noted the presence of cups and silverware in the sink along with a $1 bill. SA Honeycutt photographed this item as it then appeared. On the front of the cabinet below the sink, SA Honeycutt noted the presence of the blood spatter also indicative of impact spatter.

SA Honeycutt then proceeded northward into the hallway from the kitchen and proceeded all the way to the north end of the mobile home where the bedroom is situated. SA Honeycutt photographed this bedroom as it then appeared with nothing of apparent interest being observed.

Entering the bathroom of the residence, it was noted that the light was on in this room and the door was open. A cigarette butt (brand unknown) was noted to be in the toilet bowl. The water from the sink faucet was running slowly at the time of the search and a damp washcloth was present on the counter. On the shelf above the sink was a .32 caliber fired shell casing.

SA Honeycutt then exited the bathroom and approached the rear door of the residence. It was noted that the rear door of the mobile home was locked at the time of the search.

SA Honeycutt then proceeded into the middle bedroom of the residence and photographed this room in its entirety. Nothing of apparent interest was noted in this room.

SA Honeycutt then entered the south bedroom and photographed this room as it then appeared. On the bed in this room were four bags of groceries which appeared to be recently purchased. On the north wall of the bedroom, in a gun rack, was a New Haven 16 gauge shotgun. It was noted that his gun contained a shotgun shell, but that the bolt of the firearm was open.

On the dresser which appeared in the southeast corner of this room were 12 gauge, 16 gauge, and 20 gauge shotgun shells. Also present on this dresser was a small television.

SA Honeycutt at this time exited the residence and documented the presence of two vehicles present in the yard of the victim to the west of the trailer. The first vehicle was a Chevrolet Corsica, gray in color, VIN 1G1LT51W8JY534539. The second vehicle was a Nissan truck, blue in color, VIN 1N6D01S6GC352127. This vehicle was wrecked in the front. SA Honeycutt checked both vehicles and found them to be locked.

With this, the search of the scene was terminated on Sunday, December 19, 1993, at approximately 6:15 p.m.

DGH:lh

Medical Examiner's Report

The medical examiner ultimately narrowed down the time of the Victim's death to between 8:30pm and 9:30pm on December 18, 1993. The medical examiner's report noted an incised wound of the neck with exsanguination as the primary cause of death. There were multiple stab wounds in various areas and multiple blunt impacts to the head. The medical examiner opined that the instrument used for all the knife wounds "may well have been a single instrument" and that there was "no evidence…of a serrated edge." The medical examiner opined that the impact injuries were from a "firm linear object (consistent with a metal tire iron such as the one noted at the scene of death)." The Medical Examiner's Report is provided in full below.

DIVISION OF FORENSIC ' THOLOGY
SCHOOL OF MEDICINE
EAST CAROLINA UNIVERSITY
PITT COUNTY MEMORIAL HOSPITAL

Greenv 'e, NC 27858-4354
TEL. 800-682-8188
919-816-4655

SUMMARY REPORT OF AUTOPSY:

Name William Frank SWAIN Age 37

Address Rt. 2, Freeman's Trailer Park, Folly Rd., Plymouth, NC

Date/Time of Death: 12/18/93 at about 2100 - 2130 hours at home.

Autopsy Performed at Pitt County Memorial Hospital on 12/20/93 at 0830 hrs.

FINAL DIAGNOSES

1. Incised wound of the neck:
   a) Transections of larynx, both jugular veins and right coratid artery;
   b) Exsanguination.

2. Multiple stab wounds of head, neck, chest, abdomen and back:
   a) Perforations of the heart, right lung, liver, pancreas and left kidney with associated internal hemorrhage.

3. Multiple blunt impact to the cranium with large lacerations of scalp.

4. Cuts (2) of right hand.

5. Acute alcoholic intoxication.

6. Old, healed pulmonary granulomas (probably histoplasmosis).

7. Chronic pulmonary emphyzema.

TOXICOLOGIC ANALYSES:

Postmortem blood: Ethanol..... 200mg/dL
Other volatiles..... None detected
Cocaine..... Negative (RIA)

OPINION

CAUSE OF DEATH: Incised wound of the neck with exsanguination.

MANNER OF DEATH: Homicide.

COMMENT: -----

Forensic Pathologist L.S. Harris, M.D.

01/25/94

CIRCUMSTANCES OF DEATH

The discovery of the dead body of William Frank SWAIN was reported to Washington County Sheriff's officials at 2215 hours at 12/18/93 by a young white man who had just visited SWAIN's trailer residence. Police arrived at 2219 hours; accompanying rescue pronounced the man dead at the scene and, without further action other than taking photographs, contacted this medical examiner and the SBI. On my arrival at 0020 hours on 12/19/93, the body was lying on its back with a large pool of partially liquid and partially clotted blood surrounding a gaping neck wound. The clothing was heavily blood-soaked and the room had been "tossed". There were copious volumes of blood elsewhere in the room as well.

SWAIN is reported to have been an active crack/cocaine dealer and further to have been active through the day of 12/18/93 with various customers visiting his trailer residence. Deputy Spruill of the Washington County Sheriff's Department and Agent Honeycutt of the SBI are two officers involved in this investigation which proceeds at the time of this dictation.

I have authorized autopsy in the public interest.

DESCRIPTION

This autopsy is begun at 0830 hours on Monday, 12/20/93, in the morgue of Pitt Memorial Hospital in Greenville.

PERSONS PRESENT AT AUTOPSY: Mr. Patrick Bundy and Mr. Kenneth Willits of this staff. Also present is Agent Dennis Honeycutt of the SBI.

CLOTHING ON BODY: Blue jeans, t-shirt and undershorts, the shirt multiply perforated and heavily blood-stained along with the waistband of the jeans.

The body is that of a well-developed, wiry adult black male appearing approximately the given age of 37 years. Body length is 67 inches and the weight is within a pound or so of 140 pounds. When examined at the scene, at a postmortem interval of approximately 4 hours, the body temperature was peripherally cool and centrally slightly warm; rigor mortis; however, was nearly completely fully developed at that time. At this time rigor mortis is indeed fully present and the body is cold, having spent the night in our crypt. Neither at the scene nor in the morgue is there evident livor mortis.

EXTERNAL EVIDENCE OF INJURY:

KNIFE WOUNDS:

1. The anterior neck is completely slashed through nearly to the level of the vertebral column with complete transection of the upper larynx and esophagus. The right carotid artery is partially severed but the left remains intact. Both jugular veins have been completely severed. The deep portions of the wound are characterized by pockets of dark red congealed blood.

Satellite cuts of skin parallel to the single slash wound are present at the inferior margins of the wound itself at the base of neck, approximately three in number if continuity is assumed. In addition, the undersurface of the jaw on both sides of the midline display scalloped, scooped-out zones of recent slashing cuts, including one which extends upward into the angle of the mouth on the left.

2. Multiple stab wounds are present, two of which are located on the posterior left side of the neck and head; one of these overlies the base of the skull and the other lyes at the angle of neck and shoulder, both relatively shallow without incurring significant deeper damage.

A total of six additional stab wounds are found over the anterior chest and antero-lateral abdomen, each averaging 5/8 to 3/4 inch in length. One of these is sited over the left precordium and subsequently is shown to proceed to graze the heart internally. Another, located over the right upper quadrant of abdomen, is subsequently found to perforate the liver and to be associated with hemorrhage at that site. A third stab wound involves the left upper quadrant of abdomen and this wound is traced to a site of bleeding around the head of pancreas and at the lateral upper pole of left kidney. One of these also involves the left iliac crest of the hip and here there is an associated stub of partially cut muscle which protrudes from the wound itself.

3. A total of six additional stab wounds are found over the posterior chest and posterior back of the abdomen. One of these is traced through the right lower rib cage to involve the lower lobe of right lung. Others appear not to have involved vital organs.

THE BLADE: The instrument used for all of these cuts and stabs may well have been a single instrument. There is no evidence in these injuries of a serrated edge. Where the stab wound outline is sharply defined, the stabbing instrument can be described as 5/8 inch in greatest blade width with one sharp edge and one blunt edge. The deepest wounds lie at a depth of 3.4 - 4 inches. (The example best used for this dimension is that of the left upper quadrant of abdomen.)

IMPACT INJURIES: The forehead, top of head and posterior aspect of head has been repeatedly struck with a firm linear object (consistent with a metal tire iron such as the one noted at the scene of death). The scalp is reduced to a pulp by these impact injuries which consist of full-thickness lacerations of the scalp in linear dimensions measuring up to 1.75 inch in greatest dimension, particularly over the posterior aspect of the cranial vault.

In subsequent dissection the scalp is reflected in the usual manner, disclosing dense hemorrhage through the substance of scalp. The underlying cranium is free of evidence of fracture, however, in spite of the number of impacts evident over the surface of the head. Further, after removal of the bony vault of the cranium, the brain and its membranes show no evidence of significant bleeding.

DEFENSE WOUND: A classical complex of defense wounds is found in the skin of the right hand consisting of a deep cut at the thenar base and another over the lateral surface of the right index finger near its base.

SCARS: A well-healed old scar is located over the anterior aspect of the right medial chest wall, curved and flat and wider than usually seen in surgical scars. A clearly defined surgical scar is encountered over the midline of the abdomen. Finally, two old probable burn scars are located over the posterior aspect of the left calf.

SECTION: The body is opened with the usual incision. The musculature of the chest and abdominal wall is fairly well-developed.

INTERNAL EXAMINATION:

BODY CAVITIES: The body is opened with usual Y-shaped incision to display a hemorrhagic mediastinum. The pericardial sac is perforated at .4 cm from its apex. The pericardial sac contains 50 cc of blood.

CARDIOVASCULAR SYSTEM: The heart weighs 276 g. The epicardial surface is covered with reddish-purple blood. There is a single linear puncture on anterior septum 5 cm from the apex. Which is found to penetrate the right ventricular outflow tract. The coronary arteries display no stenosis or occlusions. The right ventricle measures 0.2 cm thick. The left ventricle measures 1.3 cm thick. The myocardium is red-brown and uniformly firm. The endocardial surface is smooth and glistening. The valve, cusp and leaflets are smooth and pliable. The aorta displays only sparse fatty streaks.

RESPIRATORY SYSTEM: The right pleural cavity contains 300 cc of clotted blood. The left pleural cavity contains 75 cc of liquid blood. The right lung weighs 519 g. The left lung weighs 443 g. The trachea epithelia of and mainstem bronchi are covered with blood. The right upper and middle lobes as well as the left upper and lower lobes are firm and borderline crepitant. Both lungs display apical bullae. The right lower lobe is hemorrhagic and displays a puncture wound on the diaphragmatic aspect which measures 4.0 cm deep x 1.6 cm wide. The hilar lymph nodes are enlarged. The largest measures 3.5 x 2.0 x 2.0 cm. On cut surface this lymph node displays multiple foci of calcification. The visceral pleura of both lungs display multiple small calcified nodules.

GASTROINTESTINAL TRACT: The esophagus is unremarkable. Upon opening the greater curvature of the stomach approximately 100 cc of beans and wieners in light tan stock are noted. There is no evidence of ulcerative disease in the pylorus. The mucosa displays a normal rugal pattern. The anterior surface of the distal and of the duodenum is hemorrhagic. The tail of the pancreas displays the same hemorrhage. The remainder of the bowel is unremarkable and appendix is present.

HEPATOBILIARY SYSTEM: The liver weighs 1248 g. Two puncture wounds are noted on the surface.

The first puncture wound is located in the right lobe of the liver and measures 2.2 cm wide and extends 3.0 cm deep.

The second wound transverses the parenchyma of the liver. It measures 2.2 cm in width. No hemorrhage is noted directly around the wound. The gallbladder contains approximately 7 cc of yellow-green viscus bile. The biliary ducts are patent.

LYMPHORETICULAR SYSTEM: The lymph nodes of the pulmonary system have been previously described. The spleen weighs 89 g and displays a wrinkled capsule. The red and white pulp are unremarkable.

GENITOURINARY SYSTEM: The right kidney weighs 136 g. Its capsule strips with ease to reveal a smooth and glistening cortex. The cut surface displays no lesions.

The left kidney weighs 146 g. The renal artery is intact but the renal vein displays a small laceration measuring 0.2 cm in greatest dimension. The hilar area of the kidney is filled with hemorrhage. The urinary bladder is tan, wrinkled and unremarkable. The genitalia are those of an uncircumcised male.

ENDOCRINE SYSTEM: The left adrenal weighs 12.0 g, the right adrenal weighs 9.0 g. The thyroid weighs 20 g and displays lateral hemorrhages bilaterally. Both jugular veins have been transected. The left carotid artery is intact. The right carotid artery is lacerated 7 cm from the take off of the right subclavian artery. Copious hemorrhage is found in the fascia surrounding the right carotid artery.

TOXICOLOGY: The usual sample of aortic blood is recovered and is submitted for alcohol and cocaine analysis. A serum sample is separated and frozen.

EVIDENCE: Clothing, blood samples and pocket contents ($65.00 U.S. in shirt) are delivered to Agent Dennis Honeycutt of the SBI with his receipt.

ORGAN WEIGHTS

HEART	276 g
RT. LUNG	519 g
LT. LUNG	443 g
LIVER	1248 g
SPLEEN	89 g
RT. KIDNEY	136 g
LT. KIDNEY	146 g
BRAIN	1155 g
THYROID	20 g

MICROSCOPIC DIAGNOSES:

HEART: Slight interstitial fibrosis, left ventricular wall.

LUNGS: Chronic emphysema. Pleural fibrosis. Old caseous granuloma in subpleural site.

Liver: Centrilobular pallor, focal coagulative necrosis of hepatocytes consistent with early circulatory shock.

KIDNEY: Autolysis of proximal tubules.

ADRENAL: Autolysis of cortical cells.

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DEPARTMENT OF CLINICAL PATHOLOGY &
DIAGNOSTIC MEDICINE
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EAST CAROLINA UNIVERSITY

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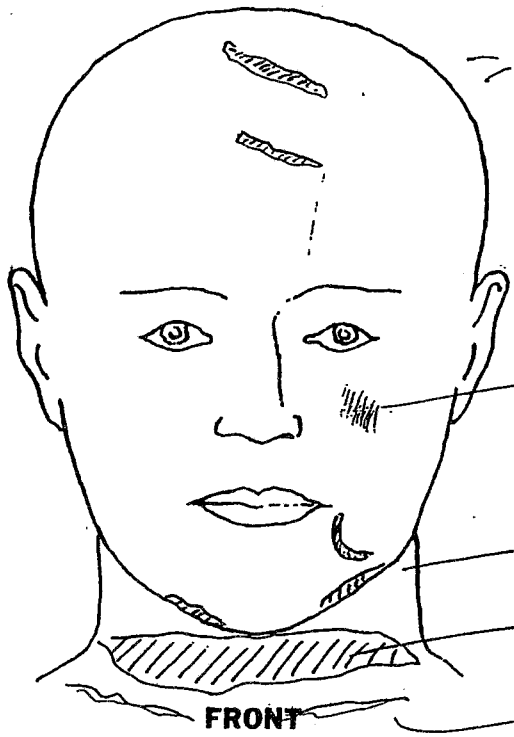
BODY DIAGRAM-HEAD



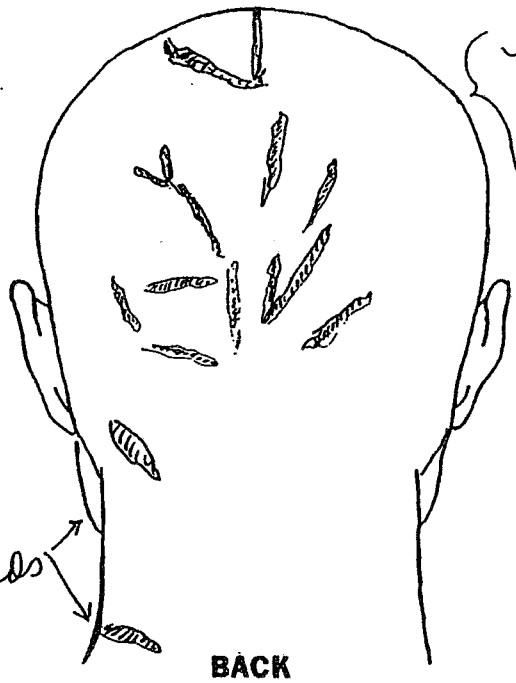
= Scalp lacerations (2)

pink abrasion

Cuts of lower face

slashed throat

Shallow cuts of skin



Multiple lacerations of scalp

Stab wounds (2)

000856

41 Name SWAIN, William Frank

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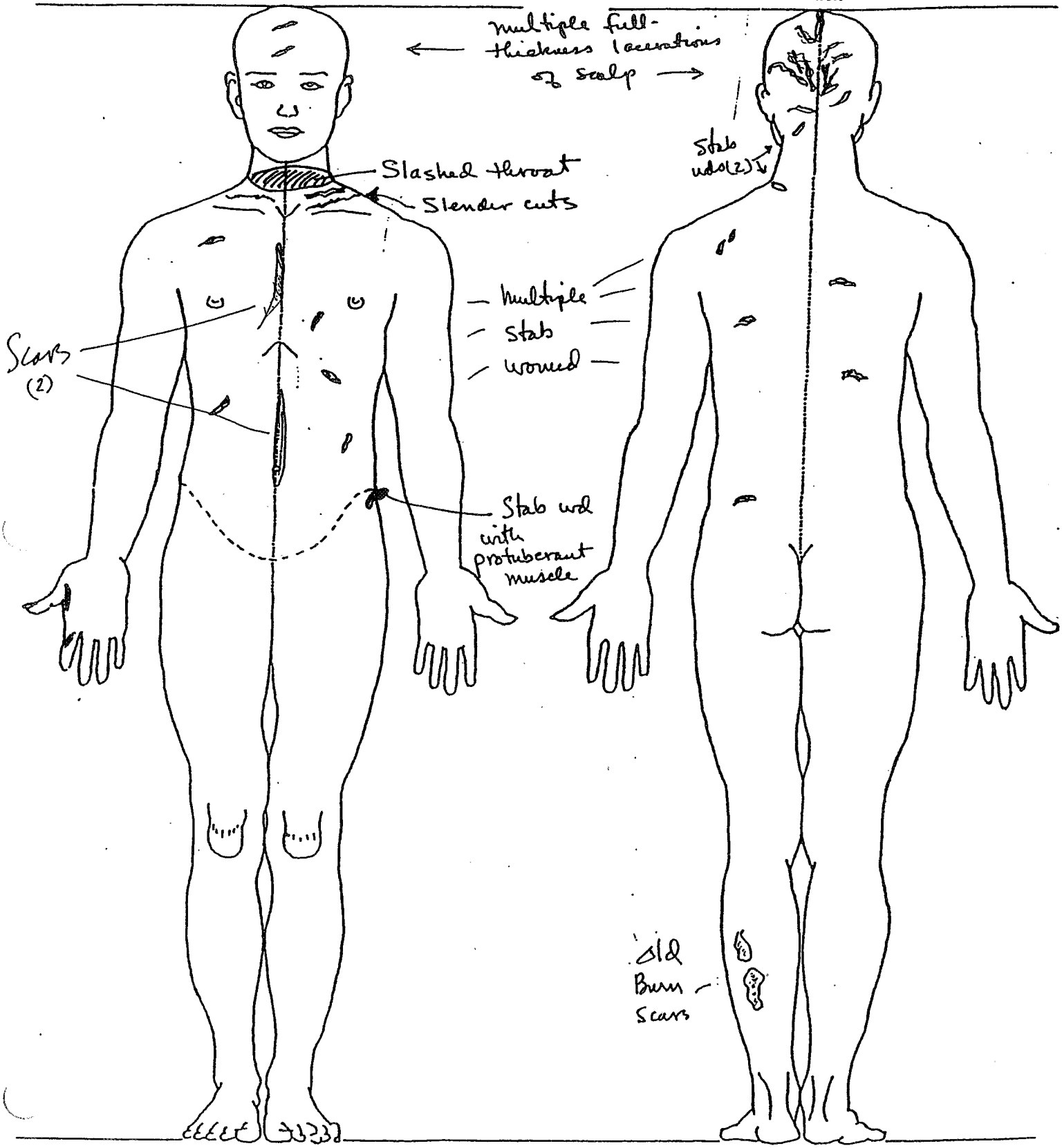
SCHOOL OF MEDICINE

BODY DIAGRAM



Decedent's Height 67.0 inches

Approx. Weight 140 lbs.

Name SWAIN William Frank

Examined By L. S. Harris MD Date 12-20-93

Victim's Timeline on the Day of the Murder

Law Enforcement interviews uncovered the Victim's whereabouts on the day of the murder. Wyatt Spruill (Wyatt) gave an outline of his activities with the Victim and reported that he and the Victim returned to the Victim's house sometime after 5:40pm after spending most of the day together. Maxine Downing, a family friend of the Victim and his sister Mary Swain (Mary), was interviewed by the SBI on December 19, 1993. She provided that she went to the Victim's trailer looking for Mary sometime between 7:30pm and 8:30pm. The Victim only opened the door far enough to see who she was and did not invite her in, however, she did see a man she later identified as Wyatt in the house with the Victim. (SBI 151-153). The investigation did not uncover any other individuals who saw or spoke with the Victim before his death except for Wyatt. The Victim's neighbor, Erma Davis, reported arriving home from Williamston between 8:30pm and 9:00pm and hearing "a lot of bumbling" from the Victim's trailer. (WCSO 119).

Wyatt reported leaving the Victim's home in Freeman's Trailer Park[6] on the day of the crime around 7:15pm and he provided that the Victim was asleep when he left. He returned around 10:00pm, which is when he said that he found the Victim deceased. (WCSO 111). The door to the Victim's house was closed when Wyatt arrived at 10:00pm. (SBI 184). A chart of Wyatt's statements from his various interviews with law enforcement regarding his whereabouts from the time he left the Victim's house to the time he discovered the body is provided below.

[6] Both Freeman's Trailer Park and Hudson's Trailer Park (mentioned below) are on Folly Road. The Victim's trailer was destroyed at some point before Jones' trial.

WYATT SPRUILL'S WHEREABOUTS AFTER LEAVING VICTIM, AS REPORTED BY HIM	
Time	**Description**
7:15-7:30 pm	Wyatt left the Victim's house after speaking with Sonja Day, his sister and Victim's girlfriend. The Victim was asleep and Wyatt was not sure if he locked the door behind him. He went to Hudson's trailer park and talked with P.J. Armstrong and Alfred Armstrong. NOTE: the range of time given accounts for the differences in times given by Wyatt in his various interviews).
After 7:30 pm (no specific times given, but given in the order provided by Wyatt).	• Wyatt and Alfred Armstrong went for a drive and he dropped Alfred Armstrong back off at P.J. Armstrong's. • Went to Highway 64 and saw Raymond Wood. • Rode to Roper and Millpond before coming back to Hudson's trailer park. • Saw Chub Carter at P.J. Armstrong's trailer at Hudson's trailer park. Walked up to the trailer until he heard someone talking. He waited until "Marty" came out of the trailer.
8:30 pm	• Left Hudson's Trailer Park and went back towards Mackey's Road. Picked up "Raymond" and went to Herbert's Store.
After 8:30 pm and after (no specific times given, but given in order provided by Wyatt	• Went to Dog Corner to see Sweet Pea McCray. Wyatt waited outside of Sweet Pea's house, but he didn't come out. • Went back to Hudson's Trailer Park to P.J. Armstrong's. Spoke to P.J. and Bert Downing until Sweet Pea showed up. • Left P.J.'s with Chub Carter and walked to the second trailer on the left and Chub bought liquor for them to split. Herman "Fellow" Carter and Mann Young came up and spoke to them. • Wyatt and Chub walked back to Nina Carter's trailer.
10:00 pm	Wyatt walked to his car and talked to a man named "Joseph" in a blue truck. Alfred Armstrong was waiting at Wyatt's car. Wyatt told Armstrong he was going to the Victim's to see if everything was okay and what time they were leaving to visit Sonja Day.
10:10 pm	Wyatt drove back to the Victim's house. Discovered the Victim's body.

Wyatt also reported talking with some other individuals, but he could not remember the full names of those individuals. Wyatt was polygraphed on December 23, 1993, with no deception detected. (WCSO 109, 111; SBI 875). A chart of Wyatt's whereabouts from the time he left the Victim's house to the time he discovered the Victim's body as reported by other individuals is provided below.

WYATT SPRUILL'S WHEREABOUTS AFTER LEAVING VICTIM, AS REPORTED BY OTHERS	
Time	**Description**
7:00 pm	Alfred Armstrong reported seeing Wyatt at P.J. Armstrong's house around 7:00pm. Wyatt said he was going back to the Victim's to see if he could get some rocks and Armstrong asked to go with. Wyatt said he needed to go alone. (WCSO 417, SBI 163-170)
7:30 – 7:35 pm	Sonja Day (Wyatt's sister and girlfriend of Victim) called the Victim's house, but only spoke to Wyatt. Wyatt said he could not wake the Victim up to get him on the phone. NOTE: Although Day, who was in prison at the time, reported that this phone call took place between 7:00 – 7:15pm, prison phone records indicate the call was actually placed between 7:30 – 7:45pm. (SBI 270, WCSO 256-257).
7:30 – 7:45 pm	Marty Respass reported seeing Wyatt at the Victim's house. (WCSO 411, SBI 154-157).
7:30 – 7:45 pm	Maurice Wilkins reported seeing Wyatt with Duke Carter and another black man at P.J. Armstrong's house (NOTE P.J. is Maurice Wilkins' mother). A few minutes later, Wilkins also saw Wyatt at the store. The black man with Wyatt was not identified during the investigation, but it should be noted that Wilkins knew the Victim. (WCSO 114). NOTE: Duke Carter did not report being with Wyatt at this time in his interview with law enforcement. (WCSO 426).
7:30 – 8:30 pm	Maxine Downing, a family friend, reported seeing Wyatt at the Victim's house. Downing went to visit Mary Swain, the Victim's sister, who had been living with the Victim. Downing said the Victim opened the door and she saw a white man was sitting in the chair beside the kitchen table. She identified that man as Wyatt while he was sitting in the patrol car after the Victim's body was discovered. Downing indicated that the Victim seemed to be "acting real nervous and much funnier than Frank had ever acted before." Downing reported that she usually just walked right into the trailer, but the Victim would not let her inside this time. He rushed her out saying he had to go. He also pulled the door closed so that she could not see inside. Downing walked home and called the Victim asking for Mary Swain, and the Victim said she had been gone since Thursday. Downing reported that the Victim rushed her off the phone and hung up. The Victim's sister, Mary Swain, had just moved out due to arguments with the Victim over him dealing drugs from the trailer. (SBI 151-153).
7:45 pm	Raymond Wood reported being picked up by Wyatt, being taken to purchase cigarettes, and then being dropped off. (WCSO 424).
8:30 pm	Marty Respass reported going back to the Victim's house, but no one came to the door. Wyatt's car was still in the front yard. (SBI 154-157).
8:30 – 8:45 pm	Maurice Wilkins reported seeing Wyatt again at P.J. Armstrong's house. (WCSO 114).
9:00 – 10:00 pm	Gloria McCormick reported seeing a vehicle she believed to be the same one Wyatt drove in front of P.J. Armstrong's trailer.
10:10 – 10:30 pm	Cookie Morris-Armstrong reported Alfred Armstrong being dropped off by Wyatt at Cookie's mother's house. (WCSO 415-416, 208).

Herman "Fellow" Carter, boyfriend of P.J. Armstrong, and Mann Young were mentioned by Wyatt as people Wyatt saw after leaving the Victim's house around 7:15pm. Herman Carter was interviewed by WCSO. He said he had been to Folly Road early in the night on December 18, 1995, and then took Mann Young home and went to bed. (WCSO 390). Mann Young confirmed he was with Carter on that night. (WCSO 31). Neither mention seeing Wyatt. P.J. Armstrong was also interviewed by law enforcement, but did not mention seeing Wyatt at her house on December 18, 1993.

Except for these individuals as outlined above, there was no indication that any other individuals mentioned by Wyatt were interviewed in the initial investigation to confirm his report concerning his whereabouts.

Other Investigative Avenues – Alternate Suspects

In addition to examining Wyatt Spruill, the initial law enforcement investigation focused on several other suspects.

Maurice Wilkins, Joseph Lynn and Lee "Toby" McPhatter: Maurice Wilkins (Wilkins), Joseph Lynn (Lynn), and Lee McPhatter (McPhatter) were investigated by WCSO based on information provided by Bennie Covel (Covel), the boyfriend of Mary Swain, the Victim's sister. Covel told WCSO that he saw one white man and two black men in a blue Chevrolet extended cab truck "peeping over" at the Victim's house. (WCSO 1489-1490). In another interview, Covel told WCSO that he saw the two black males going into the white house 100 yards from the Victim's house. (WCSO 14). Law enforcement determined this house belonged to McPhatter's aunt, Pauline Underwood, with whom McPhatter was staying. (WCSO 15). Wilkins and McPhatter are both black. Lynn, who is white, drove a dark blue truck Chevrolet truck with an extended cab (SBI 256)

and was at McPhatter's house with McPhatter and Wilkins. The law enforcement files do not indicate whether Covel was ever shown photographs or positively identified Wilkins, McPhatter, and Lynn as the men he saw "peeping over" at the Victim's house. McPhatter's house was near the Victim's trailer.[7] According to Wilkins, Lynn, and McPhatter, they were at all three of their houses at various points in the evening while getting ready and changing. Some of their interviews mention a man named David Armstrong being with them at various points in the evening, but some do not. David Armstrong reported going to McPhatter's between 8:00pm and 8:15pm and going with them to the Golden Skillet.

Wilkins, McPhatter, and Lynn agree that they went to The Golden Skillet between 8:45pm and 9:00pm to see Wilkins' girlfriend. McPhatter reported that Wilkins, Lynn, and McPhatter left the Golden Skillet, went to Lynn's to change, and then went to the Zodiac Club, where they stayed until the early morning of December 19, 1993. Lynn reported that he, Wilkins, and McPhatter went to the Golden Skillet, Lynn's house, Billy McNair's house, and then the Zodiac Club.

Lynn recalled that someone called his home while they were there to report that the Victim had been killed but there is no indication of who made that call. McPhatter also recalled a phone call at Joseph Lynn's home by a woman named Angela Davis who reported the Victim's murder to them. McPhatter also recalled that Wilkins called Billy McNair after the call from Angela Douglas to see if it was true the Victim had died, but no time was given for this call. Lynn also reported that one of McNair's brothers called Billy McNair's house while they were there and asked if they knew the Victim was dead. (WCSO 114, 433-434, 440-441 and SBI 252-255, 259-269, 295-299).

[7] The location of McPhatter's house can be seen on the maps provided in the section on Jones' trial below.

The day after the murder, on December 19th, Wilkins was seen with a cut on his hand that he said he had sewn up himself. Wilkins told the SBI he had cut his hand slicing an orange. Wilkins reported that he had put the stitches in his hand himself on Wednesday December 22, 1993. However, when SBI SA Varnell contacted his mother, PJ Armstrong, on December 23, 1993, she reported that Maurice had told her he cut his hand cutting some cord about two days ago. In addition, Wilkins provided that on the night of the crime he "showed his clothes off to his mother when he was ready to go" and he was wearing blue jeans over a pair of green jeans and a "greenish nice vest." The vest had gotten "messed up" by ruining it with Clorox. According to police, Wilkins was "unable to explain if the vest had any stains on it or how it got ruined with Clorox." (SBI 263-269). As to McPhatter, Avis Lashawn Arnold told WCSO that he saw McPhatter with a big knot on the side of his jaw on the night of December 18 or early morning of December 19, 1993. (WCSO 448).

Billy McNair was interviewed on December 31, 1993. He reported being at home with his mother Janice McNair, his girlfriend Frito, Gerald Swain, Howard Walker, and Avis Arnold. He said he received a phone call from McPhatter and was told in that call the Victim had been killed and stabbed. No time was provided for the phone call. However, he recalled that 40-50 minutes after the phone call, McPhatter, Lynn, and Armstrong arrived at McNair's home. Between 10:30pm and 11:00pm, they all went to the Zodiac Club. There is also mention of Willie Joseph "Jojo" McNair being present but the interview does not describe when he arrived. Billy McNair recalled general discussion of the murder happening but no other specifics. (WCSO 446-447).

Jojo McNair was interviewed on January 1, 1994. He recalled going to his girlfriend Lisa Allen's house on the night of the murder at approximately 8:30pm and leaving at 1:00am. He

went home at 1:00am and when he arrived, he did not see Wilkins, McPhatter, Lynn or Armstrong, but did see his mother Janice McNair, Billy McNair, Billy's girlfriend Frito, and Dennis McNair. (SBI 453).

Joseph Lynn's truck was searched on December 23, 1993 by SBI Special Agent Varnell. The report indicates that SA Varnell "did not seize any items or note anything at that time reference this investigation." (SBI 256). On January 5, 1994, McPhatter and Wilkins both consented to giving blood samples. (WCSO 272-273). Also on January 5, 1994, McPhatter and Wilkins were both polygraphed. McPhatter passed. Wilkins' results were inconclusive and the report indicated that Wilkins appeared to be attempting to control his breathing during the test. (WCSO 462-464; SBI 870). The law enforcement files do not indicate that Lynn was asked to provide a blood sample or was ever polygraphed. The law enforcement files do not indicate any further investigation into Wilkins, McPhatter, or Lynn.

Ray Hurst and Tommy Garrett: WCSO did not begin to investigate Tommy Garrett and Ray Hurst until after an interview with Maurice Wilkins on January 4, 1994. In that interview, Wilkins told law enforcement he had seen the same blue truck he had seen going towards the Victim's house on the night of the murder being driven at a later time by Ray Hurst. (WCSO 118). The initial investigation uncovered that Ray Hurst, in fact, had a blue truck that looked similar to Leroy Spruill's dad's truck. (DA 1772).

Maurice Wilkins also told WCSO about a story provided to him by Wyatt related to Ray Hurst owing the Victim money. When WCSO interviewed Wyatt about this story, he reported that on January 3, 1994 while he was at Leroy Spruill's house Leroy Spruill reported that Ray Hurst owed the Victim money for drugs and had pawned a gun with the Victim. Wyatt further stated

that in this same conversation, Leroy Spruill told him the Victim had gone to Tommy Garrett's house[8] on December 18, 1993 and pulled a gun on Ray Hurst to demand his money and Hurst had given him $60. (WCSO 33).

In his polygraph examination on January 12, 1994, Leroy Spruill also said that he heard the Victim had gone to Tommy Garrett's trailer to get money he was owed. (WCSO 123). Based on an investigation into this report that Ray Hurst and Tommy Garrett had pawned a rifle to the Victim and owed him money for drugs, WCSO determined that Hurst and Garrett had pawned a rifle loaned to Hurst, who was covered in blood, by James Green to someone named William Baxter. Baxter had gotten rid of the gun when he didn't get his money from Hurst and Garrett. (WCSO 150).

A man named Ernest Norman told WCSO that Kerry Baldwin, the Victim's brother-in-law, picked up Tommy Garrett, covered in blood, on US 64 Highway on December 18, 1993. However, Mr. Baldwin denied this when interviewed by WCSO. (WCSO 430, WCSO 18).

Ray Hurst admitted to going to the Victim's home to buy drugs on December 17, 1993, but denied having a charge account or owing the Victim money. (WCSO 139, 146). Ray Hurst was given a polygraph examination on January 12, 1994. The results were inconclusive. (WCSO 145-159; SBI 872). The law enforcement files do not indicate there was any further investigation into Ray Hurst or Tommy Garrett.

Michael Lassiter: WCSO also investigated Michael Lassiter based on information provided by Alfred Armstrong. According to Alfred Armstrong, he saw Lassiter (who he did not know by name), his sister Denise "Niecy" Armstrong, and Niecy's boyfriend, Michael Cummings, at PJ

[8] Wilkins reported that he was told the Victim sought out Hurst at Leroy Spruill's house.

Armstrong's house on December 18, 1993. In addition, on that evening, Alfred Armstrong said that Denise Armstrong had conned Lassiter out of $40 dollars that he had given her for drugs she was supposed to get from inside PJ Armstrong's house. Instead, Denise Armstrong left with the money, and asked Alfred Armstrong to tell Lassiter she had left. Alfred Armstrong told Lassiter about Denise Armstrong leaving with the money, and Lassiter was angry. Armstrong told Lassiter that Denise Armstrong had gone in the direction of the Victim's house and Lassiter left, going in that same direction. (SBI 163-170). Michael Cummings confirmed that he had been with Lassiter and Denise Armstrong that evening. He also confirmed that Alfred Armstrong told him and Lassiter that Denise Armstrong had left PJ Armstrong's house around 7:00pm to 7:10pm and had gone to the Victim's house with Lassiter's money and that Lassiter was upset. (SBI 171-175).

Lassiter admitted going to the Victim's house at around 5:30pm and to having money stolen from him by Denise Armstrong, but denied buying any drugs. He stated he had left the trailer park before it was dark and went to get his girlfriend, Judy Davenport, from work but she had already left. Davenport told WCSO that she and Lassiter got home between 6:30pm and 7:00pm and were together the rest of the night. (WCSO 420-422). Lassiter's boss reported to investigators that Davenport's mother, Judy White, called at around 7:00pm and asked "if she knew anything about where Mike was and if anybody was looking for him." (SBI 186-188). The law enforcement files do not indicate that there was any additional investigation done into Michael Lassiter.

<u>Alfred Armstrong</u>: Alfred Armstrong was a friend of the Victim's. Bertha Downing, who also lived on Folly Road, told WCSO that around 7:30pm on the night of the murder, Alfred Armstrong and his sister, Denise "Niecy" Armstrong, came to her house and said the Victim had been killed.

Alfred Armstrong was carrying a steak knife with a serrated edge that he said he had found in his sister's yard. Downing did not see blood on the knife. (WCSO 459). According to Alfred Armstrong, he did not hear about the murder until 11:40pm. Armstrong was in the area of the trailer park on the night of the murder and was with Wyatt for a period of time buying drugs. (WSBI 163-170). On December 18, 1993, Wanda Swain, the Victim's sister, called WCSO to say she had received a message from an unknown black male saying that Alfred Armstrong and William "Punkie" Chesson had killed the Victim and had overheard Armstrong and Chesson saying they "messed" the Victim up with a "car jack." The Victim's brother, Tony Swain, said he received a similar phone call. (WCSO 410). Alfred Armstrong told WCSO that he had seen Punkie Chesson on the work bus and they had talked about the murder, but were not bragging about committing it. (SBI 202). The WCSO file does not indicate that any additional investigation was done into Armstrong.

David Mixon: David Mixon was investigated by WCSO based on information provided by Rickie Weathersbee in an interview on December 28, 1993. Weathersbee told WCSO that on December 25, 1993, he was taking David Mixon to rehab. (WCSO 438-439). Wesley Warren was also in the car. During that trip, Mixon told Weathersbee that he had been to the Victim's trailer on a Saturday night to buy drugs and saw a white man having a confrontation with the Victim. Per Weathersbee, Mixon said the Victim swung a knife and the white man took it away and "cut him (the Victim) to death with it." Mixon said that the guy who cut the Victim's throat worked at B&E&K Construction, but Mixon had run away afterwards and couldn't provide a description. Mixon was interviewed by WCSO and denied knowing anything about the Victim's death or telling Weathersbee about the murder. (WCSO 29). The law enforcement files do not indicate there

was any additional investigation done into David Mixon.

Kevin Hill: The Victim was having an affair with a married woman, Mona Hill, who lived near the Victim. The Victim was also supplying Mona Hill with drugs. Mona Hill had been at the Victim's house on the night of December 17, 1993 and early morning of December 18, 1993. Her husband, Kevin Hill, had caught Mona Hill at the Victim's house around Thanksgiving and there was an argument between Mona Hill and Kevin Hill. Mona Hill indicated that her husband had been upset over her using drugs and did not know that she was having a relationship with the Victim. (WCSO 423, SBI 212-217). Kevin Hill was interviewed by WCSO and indicated that he finished work at 7:00pm and had gone home. He denied going to the Victim's house. (WCSO 455). The law enforcement files do not indicate any additional investigation was done into Kevin Hill.

Buffy Knowles: Sonja Day, Wyatt Spruill's sister and Victim's girlfriend, told WCSO on December 19, 1993 that the Victim had recently been arrested in New Jersey. Russell "Buffy" Knowles had been driving the Victim's car to get drugs in New Jersey in October 1993. Day believed that Knowles had set the Victim up. (WCSO 256-257). Mona Hill also told law enforcement that the Victim told her on December 17, 1993 that he was worried about having to go to New Jersey in January 1994 for court. (WCSO 423). WCSO interviewed Russell Knowles on January 10, 1994. Knowles stated that the Victim had hired him to go to Lakewood, NJ to visit a sick aunt and that they were arrested while leaving New Jersey. Knowles said that there was cocaine in the trunk of the Victim's car and the Victim had a stolen gun from him. Knowles told WCSO he "had some words" with the Victim over the Victim not paying the remainder of the money owed to Knowles for driving the Victim's car. (WCSO 465). The WCSO file does not indicate any additional investigation was done into Knowles.

Ultimately, the initial law enforcement investigation did not result in the arrest of any of these alternate suspects. Furthermore, once the investigation led to Dana Maybin, law enforcement focused on her confession, which implicated Spruill and Jones in the Victim's murder.

Spruill was interviewed December 24, 1993, early on in the investigation. (WCSO 121). Law enforcement was initially led to Spruill due to the report by Maurice Wilkins that he had seen a light blue pickup truck going up the path to the Victim's house around 8:00pm or 8:15pm on the night of the murder. (WCSO 115). Wilkins also reported seeing two people in the truck and believed the driver was Spruill. (WCSO 116). However, as more fully described below, law enforcement also was given an alibi for Spruill's whereabouts early on in their investigation by the owner of the bar where Spruill initially indicated he was all night on the night of the murder. (WCSO 20, 156--December 26, 1993 Interview Ed Champ). Law enforcement later refocused its investigation on Spruill and Jones following Maybin's confession.

Dana Maybin

Dana Maybin had moved to Washington County from South Carolina in November 1993 with a woman named Sherry Honea. Dana Maybin met and began to date Jones, who was using the alias Robert Solis, almost immediately upon arriving to Washington County. Both Maybin and Honea also used aliases, with Honea using Terry Hans[9] and Maybin using Nikki Tarkington. Jones and Maybin befriended Spruill sometime around Thanksgiving 1993 and Maybin even lived with Spruill for a period of time. Jones worked for a man named Ed "Big Ed" Champ, Sr. during

[9] Throughout the brief, as with Jones and Maybin, Honea will be referred to as "Honea."

this period both at Champ's bar and for his various other businesses. In addition, Jones lived in a trailer on Champ's property. Ultimately, the initial investigation led to Dana Maybin when Honea and Honea's boyfriend, Robert Spruill (unrelated to Spruill), had a fight. As a result, Robert Spruill contacted Investigator Janice Spruill on March 26, 1994 to say he wanted Honea arrested and also provided information on Jones and Maybin leaving town. (WCSO 37-38, 195-202, 210-211, 827-841).

Investigators arrested Honea first on April 24, 1994 on assault warrants related to Robert Spruill and probation violation warrants from South Carolina, and then interviewed Maybin in South Carolina the following day. Honea was interviewed on April 24, 1994, and again on May 3, 1994. (WCSO 43-44, WCSO 167-173, SBI 366-371). Honea also submitted to a polygraph on May 4, 1994, where she denied being involved in the murder of the Victim and said she was telling the truth about what she knew about the Victim, which indicated deception. (SBI 882).

Honea reported at her first interview on April 24, 1994 that Maybin told her about the murder and provided the following details: "Robert Solis", the alias being used by Wallace Brandon Jones, had killed the Victim, Leroy Spruill was holding the Victim, and Maybin had taken money and drugs from the Victim. Maybin reported that this occurred around Christmas "while they were at Big Ed's Bar." Maybin said she would need to buy Honea new shoes because the pair Maybin borrowed from Honea had been burned after the murder because they had blood on them. (WCSO 43-44). Honea said that someone would have had to drive Spruill, Jones, and Maybin to the Victim's house because they didn't have access to a car. She also said that Curtis Furlough usually drove Spruill, Jones, and Maybin around in his truck. (SBI 368).

Maybin was originally interviewed on April 25, 1994, again on June 25, 1994 (both before and after she submitted to her second polygraph), and then a third time on December 15, 1994. (WCSO 195-202, WCSO 211-230, WCSO 827-841). Dana Maybin was also polygraphed on April 26, 1994, but the test was stopped when she reported that she was pregnant. (WCSO 52; SBI 884). Maybin was polygraphed twice on June 25, 1994. The first test gave indications of deception. The second test was inconclusive. (WCSO 500-502; 93). There were also several other communications containing Dana Maybin's statements on what happened during the initial investigation, which include the following: (a) a letter she faxed from the Oconee County Sheriff's Department to WCSO on May 3, 1994 which stated she had lied in her previous statement from April 25, 1994 (SBI 986-987); (b) journal entries made by Maybin, letters written by Maybin; and (c) several additional interviews while she was in jail awaiting trial. The below summary is based on a review of these sources.

In her initial interview on April 25, 1994, Dana Maybin recalled going to the Victim's house for the first time with Leroy Spruill around late November 1993 to early December 1993. She also recalled at least two other visits to the Victim's home with Spruill before the date of the murder. (WCSO 831-832).

Also in her initial interview in April, Maybin provided that on the day of the murder, she, Jones and Spruill went in the afternoon to buy some crack from the Victim. At that afternoon visit, Spruill knocked on the door but nobody opened the door. Jones then went to the door, went inside and came back out saying "I got it." The three left and went to Big Ed's Bar. Maybin stated that they stayed at the bar until Spruill and Jones left around 9:30pm or 10:00pm with a man named Curtis Furlough, in Furlough's pickup truck. Jones returned with a knife she had not

seen before and Spruill and Furlough came in after Jones. She also stated that Spruill had changed clothes. She also reported in her initial statement that Jones mentioned killing someone who he referred to as "the crack man." Maybin said the bartender at Big Ed's Bar, Lynn Rogers, saw Spruill and Jones leave the bar. (WCSO 196-199).

On May 3, 1994, Maybin faxed a letter to WCSO that provided she lied in all her previous statements and that the truth was that she knew nothing about the Victim's death. (SBI 986-987). On May 5, 1994, SA Varnell met with DA Mitchell Norton, who advised SA Varnell that there was not enough evidence to issue a warrant for Maybin's arrest. (WCSO 70-71).

As to Curtis Furlough (Furlough), after the April interview, Maybin agreed to attempt to call Furlough and record their conversations. The WCSO file indicates that Maybin attempted to call Furlough from the Oconee County Sheriff's Office and record their conversation on April 29, 1994, however, Maybin was unable to get Furlough on the phone. (WCSO 63, DA file 2175 and 2177). On May 5, 1994, Furlough's wife, Virginia Furlough, called WCSO to say that her husband had been with her at the hospital because she had had a baby the night before the murder. (WCSO 70). Furlough contacted law enforcement on May 21, 1994 and indicated that he "heard" he was a person of interest and provided the alibi that he was with his wife at the hospital because their child had been born on December 17, 1993. (WCSO 83). Furlough's mother, Sharon Furlough, provided a video to WCSO of Curtis Furlough at the hospital with his wife on December 18, 1993 at 4:30pm and on December 19, 1993 at 12:15pm. Furlough was wearing the same clothes on both occasions. (WCSO 252). Furlough was, at the time of the murder, the owner of a light blue truck. Law enforcement later located that truck and performed testing as more fully described below. (WCSO 81; SBI 683).

Maybin was interviewed again on June 25, 1994 at 11:00am. Initially, Maybin stated again that Spruill, Jones, and Curtis Furlough had left the bar and were gone for a "long time." According to Maybin, Spruill and Jones returned wearing different clothes, but she could not recall what Curtis Furlough was wearing. Maybin agreed to take a polygraph exam at 2:00pm with an independent examiner. During the pre-test interview, Maybin denied involvement in the murder and said she suspected Spruill and Jones. The polygraph examiner told Maybin that she had "failed the first test and it was his opinion that she knew more about the murder than she had told." In the second exam, Maybin continued to deny any involvement in the murder and indicated Spruill and Jones did not tell her about their involvement in the murder of the Victim. The results of the second exam came back inconclusive. After the second polygraph exam, Maybin began crying and told the examiner she wanted the nightmares to stop and would tell the deputies who was involved in the Victim's murder because she was present at the scene. Maybin was then interviewed by law enforcement again at 6:50pm and stated that she saw Spruill and Jones commit the murder. She also stated that she went to Spruill's house after the murder and Spruill and Jones left to do drugs. Maybin took a bath and washed her clothes. Spruill and Jones returned to Spruill's house "hours later" and Jones had jeans with blood on them. Jones put the clothes in the wood heater and left. (WCSO 51-52, 91-96, 210-214, 500-502).

Maybin was arrested for this crime in South Carolina on December 10, 1994. She was transported back to Washington County on December 15, 1994 and interviewed along the way. In her December 15, 1994 interview, Maybin again stated that she had seen Spruill and Jones murder the Victim. In this interview, she stated that, after the murder, she, Spruill, and Jones went back to Spruill's house to change clothes and burned their clothes in the wood heater.

Maybin said she had gotten blood on her flannel shirt. Spruill returned his father's truck to his father's house and the three of them walked back to Big Ed's Bar. She stated that Ed Champ, Sr. offered them a ride home from the bar. However, only Spruill rode home with Ed Champ, Sr. and Smarty Spruill also rode with Ed Champ, Sr. She walked home with Jones. (SBI 734-748).

Maybin's various letters, journal entries, and interviews while she was incarcerated awaiting trial vacillate between indicating that Spruill and Jones committed the murder and indicating that Maybin is lying about their participation. A chart outlining Maybin's various statements, including any information needed to understand the context, is provided as Appendix B to this brief. This appendix outlines each statement by Maybin, the date of that statement and a summary of each statement.

Spruill and Jones

Law enforcement initially began investigating Leroy Spruill based on information provided by Maurice Wilkins, regarding a blue truck seen going towards the Victim's house on the night of the murder. Wilkins, who was also initially considered as a suspect, stated in an interview on December 23, 1993 that around 7:45pm on December 18, 1993 he saw a light blue truck go up to the Victim's house. He reported the driver was a white male and the passenger was a black male. Wilkins stated "he had seen the truck before and thought the driver was named Leroy (LNU) [Leroy Spruill]." Wilkins reported having seen the truck before "probably buying Cocaine." Wilkins stated that the "driver looked to be in his mid 30s" and "had a hat on, but he could not remember the color." (SBI p. 263-269).

In another, undated, interview with WCSO Wilkins indicated he saw the light blue truck turn up towards the Victim's house. He had seen the truck a lot. The interview states "Maybe

Leroy Spruill. White guy with hat going to Frank's." (WCSO 114). In a January 4, 1994 interview, Wilkins indicated he had seen the same truck the Thursday before in the evening being driven by Ray Hurst, but he reported it was dark blue in color with a dent near the tire on the driver's side. (WCSO 118).

In a May 6, 1994 interview, Wilkins confirmed that he was sure he saw Spruill driving a light blue truck towards the Victim's house with one other person in the truck. (WCSO 73). Wilkins was interviewed by law enforcement again on December 10, 1994. SA Inscoe and WCSO Deputy Willie Williams told Maurice Wilkins he was "identified as a witness who could identify Leroy Spruill being one of the people in a truck seen on a dirt path heading towards the Victim's (Frank Swain's) residence on the night he was killed." Wilkins said he was "sure of Leroy's identity as being the driver of the truck." (SBI 2221-2222).

As noted above, in his January 4, 1994 interview, Maurice Wilkins reported a story told to him by Wyatt which Wyatt heard from Leroy Spruill. The Victim had sought out Ray Hurst on December 17, 1993, the day before the murder, because Hurst owed the Victim money for a gun.[10] Spruill told Wyatt that the Victim had a gun with him and pulled it on Hurst and said he wanted money. Hurst did not have all of the money, but Hurst gave the Victim $60 and the Victim left. Wyatt thought Hurst had left town after this. (WCSO 118).

Hurst told investigators that Spruill, Jones, and Maybin walked to Hurst's mother-in-law's house and that Hurst then gave them a ride to Big Ed's Bar on the night of the murder. Hurst also told WCSO that Spruill reported to him on December 20, 1993 that he (Leroy Spruill) had been to

[10] Wilkins reported that the Victim sought out Hurst at Spruill's house. Spruill, however, reported that the Victim sought out Hurst at Garrett's trailer.

the Victim's house on December 18, 1993, the night of the murder with some guys from Big Ed's to buy drugs. Hurst said that Leroy Spruill told him that he saw the Victim and Sonja Day arguing out in front of the Victim's trailer and that there was a butcher knife on the hood of the car. (WCSO 144, 154). As noted above, Sonja Day was in prison at the time of the murder.

Spruill was interviewed several times and had several other interactions with law enforcement during the initial investigation. He was interviewed first on December 24, 1993. He was polygraphed and interviewed on January 12, 1994, he was interviewed again April 24, 1994. There are two additional notes from discussions between Spruill and WCSO investigator Janice Spruill on April 26, 1994 and April 27, 1994. (WCSO 121-127 and SBI 125-126).[11]

When Spruill was first interviewed on December 24, 1993 concerning his relationship with the Victim, he stated that the last time he went to the Victim's house was sometime around September 30 to October 1, 1993. Spruill recalled seeing the Victim at Winn Dixie on December 18, 1993, but did not speak to him. Spruill also admitted in this same interview to driving his father's truck to Winn Dixie but stated he took it back to his father's house. Spruill provided that Russell Sawyer, Ray Hurst's brother-in-law gave Spruill, Maybin and Jones a ride to Big Ed's bar on the night of the murder. In a subsequent interview with the SBI April 24, 1994, Spruill recalled that the last time he was at the Victim's house was in October or November, after Spruill split from his wife. In addition, Spruill stated that he never touched any knife at the Victim's house at any time. Spruill was polygraphed on January 12, 1994 and no deception was indicated.

[11] As with Maybin, throughout the brief, certain statements by the claimants given during the relevant portion being outlined at that point in the brief will be provided in full at that point. In addition, however, there is an appendix which outlines each statement by each claimant, the date of that statement, a summary, and where it can be found in full in the brief.

Spruill's statements varied on whether he was with Jones and Maybin the entire night at Big Ed's bar on December 18, 1993. Spruill's December 24, 1993 statement provided he was at the bar with Jones and Maybin the whole night. However, his April 24, 1994 statement indicated that Jones and Maybin left the bar on the night of the murder and Spruill did not know where they went. He further indicated that Jones and Maybin left the bar multiple times for 30 minutes at the time. Spruill later provided an explanation to his attorney concerning this April 24, 1994 statement in which he indicated that this statement was not factually accurate. (PLS 1290-1292). Spruill's December 24, 1993 statement, his January 12, 1994 statement,[12] his April 24, 1994 statement, as well as the notes from Spruill's explanation to his attorneys are provided here in full.

[12] Although though the attached statement that begins "Leroy Spruill Lewis Young" is undated, Commission staff has identified this statement as Spruill's statement given on January 12, 1994 based on other documents in the file.

LEROY SPRUILL 12-24-93
BUNCOMBE ST. 4:10 P.M.
ROPER, NC 27970
919-793-3770
W/M D.O.B.: 01-21-58
SOC. #[redacted]
WORKS WITH RAY PRICE

STATED LAST TIME BEEN TO FRANK'S WAS SOMETIME THE LAST OF SEPTEMBER, 1ST OF OCTOBER 1993. SAW FRANK AT WINN DIXIE ON SATURDAY AT THE PRODUCE COUNTER SOMETIME PRIOR TO LUNCH, APPROXIMATELY 10:30 A.M. DID NOT TALK WITH FRANK. DIDN'T SEE HOW FRANK ARRIVED OR LEFT. STATED HE WAS BUYING DOG FOOD, KIBBLE AND BITS, ONLY KIND DOG WOULD EAT.

STATED RAY HURST AND TOMMY GARRETT OWED FRANK $180.00 FOR A GUN, AN OLDER MODEL RIFLE, 333, HARD TO FIND BULLETS FOR IT. STATED THE GUN BELONGED TO RAY, THAT RAY LET FRANK HOLD THE GUN FOR DRUGS.

STATED HE HEARD THAT A W/M WITH A PONY TAIL DRIVING A BLUE TRUCK WAS SUPOSE TO HAVE BEEN AT FRANKS HOUSE AROUND 8:00 P.M. WOULD NOT SAY WHO HAD TOLD HIM THIS.

STATED THAT AFTER LEAVING WINN DIXIE, DRIVING DADDY'S TRUCK HE WENT TO HIS DADS HOUSE TO TAKE TRUCK HOOME. STATED HE WALKED BACK HOME TO HIS HOUSE ON BUNCOMBE ST. STATED NICKIE TARKINGTON FROM SOUTH CAROLINA WAS AT HIS HOUSE. STATED THEY COOKED SOME SHRIMP AND CRAB CAKES AND ATE, DRANK SOME ALCOHOLIC BEVERAGES. STATED ABOUT 7:00 P.M. HE AND NICKIE LEFT AND WALKED TO ED'S BAR AND STAYED THERE UNTILL SOME TIME AFTER 12:00 P.M. STATED THEY STAYED AT THE BAR THE WHOLE TIME, DIDN'T LEAVE FOR ANY REASON. STATED THAT ED CHAMP DROVE HIM AND NICKIE BACK TO HIS HOUSE SOMETIME AFTER 12:00 MIDNIGHT.

STATED MONDAY MORNING RAY PRICE TOLD HIM THAT FRANK WAS KILLED, AND MITCHELL NOWARAH STOPPED BY HIS HOUSE AND TOLD HIM HE HAD HEARD THAT HE (LEROY) WAS THE ONE THAT KILLED HIM. RAY WAS TELLING HIM MONDAY THAT SEVERAL PEOPLE WERE CALLING HIM AND ASKING IF HE WAS IN JAIL, HOW MUCH BOND, ECT. BEEN ASKED BY SEVERAL PEOPLE AROUND ROPER IF HE HAD BEEN ARRESTED FOR KILLING FRANK.

LEROY SAID HE DANCED WITH MEMBERS OF THE BAND AT ED'S BAR. HE SAID WOODY, A FORMER DEPUTY WAS AT THE BAR. SAID HE TALKED TO HIS WIFE AND DANCED WITH HER.

OFFICER's NOTES cont.

On 12-24-93, we talked with Leroy Spruill of Roper. He said the last time he had been to Frank's house was sometime the last of September or the first of October 93. He said he had last seen Frank at the Winn Dixie at approximately 10:30 a.m. on 12-18-93. He said he did not talk with Frank and did not know how Frank got there or how he left. Mr. Spruill said he went to the Winn Dixie to purchase dog food. Mr. Spruill said Ray Hurst and Tommy Garrett owed Frank $180 for a 333 rifle. Mr. Spruill said he had been told, but would not say by whom, that a w/m with a pony tail, driving a blue truck was seen at Frank's house at 8:00 p.m. on 12-18-93. Mr. Spruill said he had drove his dad's truck (a light blue old model Ford pick-up) to the Winn Dixie on 12-18-93. He said he took his dad's truck back to his father after leaving the Winn Dixie. He said he walked from his dad's house back to his house located on Buncombe St., Roper. Mr. Spruill said Nikki Tarkington from South Carolina was at his house and they cooked and ate and the drank some alcoholic beverages after he came home from Winn Dixie. Mr. Spruill said he and Nikki Tarkington left his house and walked to Big Ed's bar at about 7:00 p.m. and stayed until around 12:00 that night. Mr. Spruill said he stayed at the bar the whole time and he never left. Mr. Spruill said Ed Champ drove him and Nikki back to his house on 12-18-93 in the early morning hours of 12-19-93. Mr. Spruill said that on Monday morning, 12-20-93, he was told by his brother-in-law and other people that they had been told that he had killed Frank. Mr. Spruill said he had been asked by several people around Roper if he had been arrested for killing Frank Swain.

Leroy Spruill

Lewis Youn g

Has not been to Frank.s since Sept and Oct '93.

Ray took him to the bar on Sat night didn't know for sure if it was Sat Frank got killed or Sat. night prior.
Never made a statement to no one that his fingerprints were on a knife at Frank's house.
Told Leroy he had 33 gun, lever action, good shape.
Saw last gun Oct 20th hunting.
Ray possiby got rid of gun 1 week to 2 weeks prior to Frank.
Heard Frank had been to Tommy's trailer on Fri. night and wanted his money.

SBI FILE: 668-H-5
ACTIVITY: April 24, 1994
VICTIM: William Frank Swain
DICTATED: May 5, 1994
RECEIVED: May 9, 1994
TYPED: May 11, 1994
COPIES: (1) Records; (2) SA D. R. Varnell; (3) SAC W. E. Godley; (4) District Attorney M. D. Norton

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Leroy (NMN) Spruill, W/M/DOB: 01/21/58; Residence: Route 1, Box 426, Roper, North Carolina; Business: Steve Furlow Albemarle Roofing and Remodeling, Roper, North Carolina, Telephone: 919-793-4228; (Witness):

Prior to SA Varnell speaking to Mr. Spruill, Mr. Spruill had been transported to the Washington County Sheriff's Office by Washington County deputies at approximately 2:30 p.m.

Mr. Spruill was interviewed on Sunday, April 24, 1994, at 5 p.m., by SA Varnell and Deputy Jimmy Peel, of the Washington County Sheriff's Office, at the Washington County Sheriff's Office.

Prior to this interview, Mr. Spruill was advised that he had not been charged with any crime and was not under arrest at this time. SA Varnell also advised Mr. Spruill that he could leave at any time if he did not wish to speak with officers. Mr. Spruill stated that he would speak with officers at this time.

Prior to this interview, due to the length of time Mr. Spruill had been at the sheriff's office, SA Varnell advised Mr. Spruill of the following Miranda Rights and received the following replies:

"1. You have the right to remain silent. Do you understand? Reply: Yes.

2. Anything you say can be and may be used against you in a court of law. Do you understand? Reply: Yes.

3. You have the right to talk to a lawyer and to have a lawyer present while you are being questioned. Do you understand? Reply: Yes.

4. If you want a lawyer before or during questioning but cannot afford to hire a lawyer one will be appointed to represent you at no cost before any questioning. Do you understand?

Reply: Yes."

Mr. Spruill stated that he understood these rights and would speak to SA Varnell at this time without a lawyer present.

Mr. Spruill stated that they told him that they were from West Virginia. Mr. Spruill stated that by they he meant Robert Solis and Nikki Talkenton (Dana Maybin). Mr. Spruill stated that he had looked in Nikki's pocketbook and found out she was from South Carolina. Mr. Spruill stated that he knew that Robert and Nikki both had warrants on them from other states.

Mr. Spruill stated that when the law came to give Mr. Spruill a polygraph test he noticed that Nikki got real curious about what was going on. Mr. Spruill stated that Nikki got real nervous and wanted to know what the results of his polygraph test were. Mr. Spruill stated that Nikki also was very curious about what questions had been asked about Frank's murder.

Mr. Spruill stated that Nikki took off right after he took the polygraph test and left the state. Mr. Spruill stated that Robert Solis also took off and went to West Virginia for about a month and a half right after Mr. Spruill took the polygraph test.

Mr. Spruill stated that he would not be surprised if Nikki and Robert had killed Frank Swain. Mr. Spruill stated that it was just real suspicious to him that Robert and Nikki ran off after the law started coming around Mr. Spruill's house where they were living also.

Mr. Spruill stated that he was not at Frank Swain's that night. Mr. Spruill stated that Nikki and Robert left the bar that night and went somewhere to a location that was unknown to Mr. Spruill.

Mr. Spruill stated that he has not been to Frank Swain's since October or November when Mr. Spruill had broke up with his wife. Mr. Spruill stated that he did not touch any knife in Frank Swain's house at any time.

Mr. Spruill stated that Russell Sawyer took Mr. Spruill, Nikki, and Robert Solis to Big Ed's bar on the night that Frank was killed (December 18, 1993). Mr. Spruill stated that he did not leave Big Ed's bar all night until he went home at about 2:30 a.m. Mr. Spruill stated that Big Ed Champ took him home that night from the bar. Mr. Spruill stated that himself, Nikki, and Robert Solis left the bar after closing and that they stayed there between 7 p.m., and 2:30 a.m.

Mr. Spruill stated that he can remember cooking at his house that night and that everybody had sat around the house eating after he cooked. Mr. Spruill stated that there were times that Nikki and Robert were gone for 30 minutes at a time from Big Ed's bar on the night that Frank Swain was killed.

Mr. Spruill stated that Ray Hurst was not at Big Ed's bar that night. Mr. Spruill stated that Ray stayed with his kids that night. Mr. Spruill stated that he did not use or drive his father's car or truck that night.

Mr. Spruill stated that he had not had anything to do with killing Frank Swain. Mr. Spruill stated that he had passed the polygraph test and didn't know why he was being questioned again. Mr. Spruill stated he had been to prison before and would just have to go again if people were going to lie about him.

Mr. Spruill stated that he would not be surprised at all if Robert Solis and Nikki had killed Frank because they are wild kind of folks. Mr. Spruill stated that he knows that Sherry (Honea) had told all this stuff to the law enforcement.

Mr. Spruill stated that he has gone to jail before because everyone else had turned evidence against him when he would not roll over. Mr. Spruill stated that he was going to stay quiet over some breaking and enterings they had been charged with, but his so-called friends rolled over on him and he had to do 36 months in prison.

Mr. Spruill stated that the police could believe what they wanted to and that he had been to jail before and he could go back again if he was being lied on.

Mr. Spruill stated that he would allow deputies to search his ash and wood pile behind his house for any evidence of a crime. Mr. Spruill stated that he had emptied his wood heater from his house several times since December of 1993 into this wood pile. Mr. Spruill stated that deputies were welcome to look all they wanted to because they would not find anything.

This interview concluded at approximately 5:45 p.m.

DRV:lj

2-23/24-95 Cathy type (TPS)
2-23-95 J' listing & corrections. 4:30 - 5:15 Fm. JMO
2-24-95 4:15 - 5:00

Mur.doc

Addendums to the statements of Frank Swain which is coded I, under "D" ~~this is~~ D 8 - D10 is the 4/24/94 statement.

5. Paragraph on page D9 - "Mr. Spruill stated that he would not be surprised if Nickie and Robert had killed Frank Swain."

Add: the statement was made while being questioned and Mr. Spruill also went on to say in the new statement that he made friends with her as she did with him and that she is open minded about people and the reports of being in trouble over checks ~~&~~ other mistakes people made did not bother him.

Add: Spruill became familiar enough with her to have sex with her several times because she wanted to do so. Nickkie also had sex with Wallace Brandon Jones.

Add: Mr. Spruill based this opinion on no facts known to h In reality, Nickie and Wallace left because there were c charges and Wallace left and returned after he had vis his family over Xmas and that ~~he~~ had nothing to do with the murd

Paragraph 6 page D9 "Mr. Spruill stated that Nickie and Robert left the bar that night and went somewhere to a location that was unknown to Mr. Spruill."

Add: Mr. Spruill stated that they, Nickkie and Robert, were on foot, and at one point in time, leaving together, after the bar had closed and that he had a lot to drink. They were walking back (toward his house?) while he was riding with Big Ed who was taking him home.

Paragraph 8 on page D9: Maynard Harrell can corroborate with two witnesses, that Russell Sawyer drove them to the bar and he also has two witnesses that rode with L/S when he went home and these witnesses also saw no blood on the inside of the house as she has alleged.

Page D 10 first paragraph - Note that the two witnesses also remember what they ate sitting around the house when they went with Leroy. (MH)

First Paragraph on page D-10. "Mr. Spruill stated that there were times that Nickie and Robert were gone for 30 minutes at a time from Big Ed's Bar on the night that Frank Swain was killed."

Insert 2-24-95 Telephone notes fm MH
@ 4:15 p.

See next page

001290

surprised if the killing was done by somebody that was in the drug trade that Frank Swain had crossed or cheated, or that the Indians did it, and at times that I've wondered if Leroy Spruill did it. I was never asked about any other people except Wallace and Brandon by Janice Spruill.

Conclusion BR 4/24/94 earlier statement: These statements were made in ~~and on the 4/24/94 questions were~~ in response to leading questions asked to me by Janice Spruill and the responses were not prepared as advise to counsel.

12/24/93 Statement of Leroy Spruill which is coded as F1

Leroy Spruill ~~Lewis Smith~~ stated tht he heard that a white male with a ponytail- who was driving a truck was supposed to be at Franks house by 8:00 on 12/18/94. ~~Leroy Spruill~~ was not Wallace Brandon Jones because ~~this white male~~ Wallace never had a ponytail.

At the end of the forth paragraph, "Leroy Spruill ~~Lewis Smith~~ stated that they didn't leave for any reason-stated that Ed Champ drove him and Nickie back to his house some time after midnight"

Add: However, I would like to add that I do remember [illegible] taking me home and I do not remember wheather Nickk: picked up down the road or what exactly took place.

Add I made several corrections as I did to the other statements after filling in blanks by talking to others and that is because I was very drunk that night.

Add: I do remember ~~clowning~~ - dancing - ~~fucking~~ with Wallace Brandon Jones at the Bar on December 18, 1993.

Fifth paragraph - page F1, As an additional response to Ray Prices' telling Leroy Spruill that Frank was killed and that Mitchell Nowsrah stopped by his house and told him that Leroy had done it. It is my understanding that Mitchell Nowrah was the person who had contact with Nickkie in South Carolina and he wrote to her and forwarded newspapers clippings to her and he currently gives her money and is love with her now.

He has had the most contact with her about this case and it is through him that she learned of the reward money.

"Add: I danced with Wallace B. Jones on the same night that I danced with members of the band."

001291

Add: Mr. Spruill stated that he was drunk at the time this happened. The statement that they were gone 30 minutes is really a response to a suggestion by Deputy Janice Spruill because Mr. Spruill really has no good memory of time, especially when he is inebriated. In addition he knew that Nickie and Robert when in and out of the bar at different times and Robert had on same clothes all evening as best as I can remember.

Add: It is a custom for people to go to cars and to drink liquor in the parking area and on that particular night, although I did not include it in my original statement. I danced with Wallace Brandon Jones and Big Ed said something to me about this in a joking manner.

Add: We frequently dance together and people kidded us about it a great deal.

Second paragraph page D10 - Add: After talking to other people, and after filling in the blanks, I determined that Ray Hurst was not there that night and that I did not drive his vehicle nor my Father's truck that night. My memory was not clear when I made other statements.

Add: I talked with Ray about the night of 12/18/93 before making the 4/24/94 statement to the law enforcement. I did not drive a blue truck that night that belonged to my Father, to Ray Hurst nor did I drive the blue pick up truck driven by Beaver and Bobby the Lumbee Indians, who lived in the brown trimmed camper, on or about 12/18/93. I do not know what happened to Beaver and Bobby, however; I do know that they were big and mean and I was afraid of them, as was Wallace and many other people, and they left town shortly after 12/18/93 and I heard that one of them went to Canada. One of them lived with Wallace during December of 1993.

Fourth paragraph - page D 10- " Mr. Spruill stated that he would not be surprised if Robert Sollis and Nickkie had killed Frank because they are wild kind of folks. Mr. Spruill Stated that he knows that Sherry Hollea had told all this stuff to law enforcement. "

Add: "By Wild kind of folks - I want to clarify by saying that they enjoy drinking and were not against having a good time; however I never saw Wallace Jones assault anyone, and I know he may have had differences with Nickkie. and that Nickkie had it in for him later on and at times she got crazy about

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Ed Champ, Sr. (now deceased), the owner of Big Ed's Bar, was first interviewed on December 26, 1993. He stated that Spruill was at his bar with a guy "named Robert[13], from Tennessee." He also mentioned "a girl from Creswell that lives with Leroy,"[14] He did not say what time they arrived, but said he took them home between 1:00 – 1:30am. In his second interview on May 9, 1994, Ed Champ recalled Spruill, Jones, and Maybin arriving at Big Ed's Bar around 7:30pm. He also stated that Spruill and Jones may have come in and out of the bar for 30-40 minutes but he was not sure. Ed Champ's statements are provided in full below.

[13] Jones, as mentioned above, was going by Robert Solis at the time and is originally from Tennessee.
[14] During the five months Maybin resided in Washington County, she lived with Spruill for a period of time and also with Bessie Talkington for a period of time.

ED CHAMP 12-26-93
MILLPOND ROAD
ROPER, NC

ED SAID THAT LEROY WAS AT HIS BAR ON DECEMBER 18TH. HE WENT WITH A GUY NAMED ROBER, FROM TENN. THAT WORKS AT THE BAR. HE SAID SMARTY, A GIRL FROM CRESWELL THAT LIVES WITH LEROY, LARRY COMSTOCK, ANGELA MARTINEZ, SISTER OF ANGELA WERE AT THE BAR ALSO. HE SAID HE TOOK LEROY, GIRL, AND ROBERT HOME TO LEROY'S HOUSE AROUND 1;00 A.M. OR 1:30 A.M. SAID "GOOD TIMES COUNTRY BAND" WAS PLAYING. SAID WOODIES WIFE PLAYS THE KEYBOARD IN THE BAND AND HER EX-HUSBAND SINGS. SAID WOODY WOODS WAS THERE ALSO.

On Monday, 5-9-94, Sheriff Whitehurst and I talked with Ed Champ. Ed said Leroy, Robert and Nikki came to his bar around 7:30 on Dec. 18,'93 and he took Leroy home. He said Robert and the girl walked to Leroy's house. He said that Robert and Leroy may have went in and out of the bar that night. He said they may have stayed out of the bar for 30 or 40 minutes, didn't know for sure. He said he didn't know that Kevin had used his car to take Robert anywhere on April 24. He said he had let Kevin use his car Sunday and Kevin brought the car back sometime Monday night. He said he didn't know where Kevin went with the car. Ed said he didn't know his daughter took Robert anywhere in the Mustang. He said Robert may have called some of his family, he would try to find phone bills and would bring them to us. He said he would talk with Kevin and daughter and see if he could find out anything and would call us. He said his family him Robert left in a blue Toyota truck. He said Robert had called Little Ed, but he didn't tell Ed where he was. Ed said it was not unusual for people to go in and out of his bar while they were there. Ed said he could not say for sure that Robert and Leroy stayed at the bar all night, he did not keep his eyes on them all night.

Lynn Rogers, the bartender at Big Ed's, was interviewed on May 3, 1994.[15] Rogers had been mentioned by Maybin in her April 25, 1994 interview. Rogers told investigators that between approximately 8:30pm and 10:00pm on the evening of December 18, 1993, she heard Jones and Spruill tell Maybin that they had to "go do something and were leaving the bar." Maybin stayed at the bar but was upset. Rogers recalled that Spruill and Jones were gone for 1-1 ½ hours. When they returned, Rogers recalled Spruill's hair being wet and that both Spruill and Jones were in different clothes.

Rogers also provided that she could hear Spruill and Jones conversing at the bar after they returned and that they "were bragging about something they had done to somebody" sometime between 10:00pm and 11:00pm that night. Rogers said she overheard Spruill and Jones mention something about a knife and something about a black man getting stabbed a lot and "it sounded as though the black man had been walking down the side of the road and Spruill and Robert (Jones) had walked up to the black man, jumped him, and stabbed him." Rogers recalled that at the end of the night, Jones and Spruill left the bar for good about 20-30 minutes after Maybin.

Rogers also told the SBI that on Christmas weekend 1993, she heard Spruill and Ed Champ, Sr. have a conversation about what Ed Champ, Sr. had told law enforcement that day. Rogers heard Ed Champ, Sr. tell Leroy Spruill that Champ, Sr. had reported to law enforcement that Leroy Spruill had been at Big Ed's Bar all night on the night of the murder. Rogers said Spruill thanked Champ, Sr. Rogers said that Spruill told Champ, Sr. that he did not want his name mentioned in connection with the Victim's death and that Spruill was acting "jittery as if he were upset or

[15] Dana Maybin said in her April 25, 1994 interview that Lynn Rogers had seen Spruill and Jones leave Big Ed's. In her December 15, 1994 interview, Maybin stated that "the bartender, Lynn, probably did not see her leave." (SBI 734-748).

nervous." On May 6, 1994, Rogers called WCSO and said all of the information she had provided during her interview was hearsay and what other people told her. Lynn Rogers' statements are provided below in full.

SBI FILE: 668-H-5
ACTIVITY: May 3, 1994
VICTIM: William Frank Swain
DICTATED: May 16, 1994
RECEIVED: May 18, 1994
TYPED: May 18, 1994
COPIES: (1) Records; (2) SA W. K. Parrish, II; (3) SAC W. E. Godley; (4) SA D. R. Varnell; (5) District Attorney M. D. Norton

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Marguerite Lynn Rogers, W/F/DOB: 01/25/70; Residence: Route 1, Box 292, Pantego, North Carolina 27860, Telephone: 919-935-5475; Business: Unemployed; (Witness):

Marguerite Lynn Rogers was interviewed on Tuesday, May 3, 1994, at approximately 6:09 p.m., by SA W. K. Parrish, II, at her residence with SA D. R. Varnell and Washington County Sheriff's Deputies Spruill and Williams present and related the following:

Rogers stated that she began working at Big Ed's bar in Washington County, North Carolina, in December of 1993 and was working there on Saturday night, December 18, 1993.

Rogers stated that Leroy Spruill and a blonde female subject named Nikki, who has since left town, were present at Big Ed's bar on this occasion. Rogers stated that also present at Big Ed's bar on this occasion was Bobby Spruill. Rogers stated that a subject known to her as Robert (LNU), who worked for Big Ed, was also present at the bar that night, along with Roger's boyfriend, Steve Bell.

Rogers stated that on this Saturday night, December 18, 1993, she observed Leroy Spruill and Robert (LNU) dancing on the dance floor together and cutting up that evening at Big Ed's bar.

Rogers stated that she observed Leroy Spruill and Robert (LNU) to either be high on drugs or very intoxicated on this occasion and described them as being "hyped up."

Rogers stated that as she was behind the bar inside of Big Ed's serving beer that evening, Leroy Spruill and Robert (LNU) were both standing together at the end of the bar less than approximately 7' from her. Rogers stated that while in this position she overheard Leroy Spruill say that "he didn't like niggers." Rogers stated that Spruill was acting as if he were bragging about "killing a nigger." Rogers stated that during this activity, Nikki (LNU) was shooting a game of pool with Terry Bell.

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Rogers stated that based on her overhearing Spruill's and Robert's (LNU) conversation, it sounded to her as though Leroy Spruill had killed a black man and was getting an alibi together for this act on this occasion while at the bar.

Rogers stated that Leroy Spruill was wearing a pair of dark blue jeans and a button-up dress type shirt that evening. Rogers stated that Nikki (LNU), Leroy Spruill, and Robert (LNU) always stuck together and if one of them would leave the bar, the others would leave with them.

Rogers stated that Robert (LNU) was observed to be wearing a pair of faded light colored acid washed blue jeans and a nice button-up dress shirt on this occasion.

Rogers stated that as Leroy Spruill and Robert (LNU) conversed at the bar, they were bragging about something they had done to somebody. Rogers stated that this conversation occurred at approximately 10 to 11 p.m., on Saturday night, December 18, 1993.

Rogers stated that Leroy Spruill was observed to be very jittery and shaking all over, and was observed to have his hair wet as if Spruill had just taken a shower.

Rogers further stated that Robert (LNU) appeared to be ill and mad during this period of time. Rogers stated that Robert (LNU) was pulling out a handful of crumpled $20 bills from his right front pants pocket and purchased anywhere from a 12-pack to one full case of beer with this money. Rogers stated that she observed this to occur at approximately 1 a.m., near closing time on Saturday night, December 18, 1993. Rogers stated that the wad of crumpled money, which Robert (LNU) produced from his pants pocket was composed mostly of all $20 bills.

Rogers stated that Robert (LNU) was at this time buying "everybody" inside of Big Ed's bar beer with this money at this point. Rogers stated that "everybody" was composed of those people sitting at Big Ed's table, as well as others inside the bar that night.

Rogers stated that between approximately 8:30 and 10 p.m., that evening, Robert (LNU) and Leroy Spruill told Nikki (LNU) that they had to go do something and were leaving the bar. Rogers stated that Nikki (LNU) got upset and remained behind at Big Ed's Bar while Robert (LNU) and Leroy Spruill left. Rogers stated that the band for the evening (Stone Pony or Foreplay, Et Cetera) was just getting started.

Rogers stated that Robert (LNU) and Spruill told Nikki (LNU) that they would be back in a little while. Rogers stated that Robert (LNU), Spruill, and Nikki (LNU) were all arguing with each other near the door of the bar by this point.

Rogers stated that Spruill and Robert (LNU) stayed gone from Big Ed's bar approximately one to one and a half hours and had left the bar walking unless someone gave them a ride outside.

Rogers stated that when Spruill and Robert (LNU) later returned to Big Ed's bar, on December 18, 1994, she noticed Leroy Spruill's hair to be wet as if he had just taken a shower and noted that Spruill was wearing a dark blue long sleeve thermal underwear shirt with a dress shirt over.

Rogers stated that upon Spruill's and Robert's (LNU) return to Big Ed's bar, she observed Leroy Spruill to be doing all of the talking and remembers hearing Frank Swain's name come out of Spruill's mouth during conversation.

Rogers stated that when Spruill and Robert (LNU) returned to Big Ed's bar that evening, she observed Robert (LNU) to be wearing an old pair of blue jeans and a camouflage Army long sleeve shirt, having the sleeves rolled part of the way up.

Rogers stated that both Spruill and Robert (LNU) had initially come to Big Ed's bar that evening dressed nicely and were definitely dressed in different clothes when they returned, approximately one to one and a half hours after leaving earlier that evening.

Rogers stated that Robert (LNU) became upset because Rogers told Big Ed that he was drunk and then refused to service Robert (LNU). Rogers stated that she barred Robert (LNU) from Big Ed's bar, whereupon Robert (LNU) got mad at her and cussed her out. Rogers stated that Robert (LNU) then threw a wooden "Open and Closed" sign at her boyfriend, Steve Bell, and a subject known to her as "Smarty," landing near the doorway of Big Ed's bar.

Rogers stated that Robert (LNU) and Leroy Spruill then left Big Ed's bar for a second time on foot. Rogers stated that Nikki (LNU) was upset at Spruill and Robert (LNU) and had left Big Ed's bar approximately 20 to 30 minutes before Spruill and Robert (LNU) on foot also.

Rogers further stated that Robert (LNU) and Spruill carried two to three six packs of Michelob Light beer with them a piece as they left Big Ed's bar that evening for the final time. Rogers stated that she observed Robert (LNU) to drop some of this beer,

breaking it on the pavement outside of Big Ed's bar.

Rogers stated that prior to Spruill and Robert (LNU) leaving the bar on December 18, 1994, at approximately 8:30 to 10 p.m., she observed Robert (LNU) to be buying one beer at a time and had pulled out a $5 bill and said that he was broke and wanted a discount on his beer. Rogers stated that she heard Robert (LNU) to say that this money was all that he had.

Rogers stated that she never saw Robert (LNU) with the handful of crumpled $20 bills until after he and Spruill returned to Big Ed's bar approximately one to one and a half hours after leaving Big Ed's bar initially between 8:30 and 10 p.m., that evening. Rogers stated that she figured that Robert (LNU) obtained this money from Big Ed. Rogers stated that she said, "Dag, you've got some money," whereupon Robert (LNU) replied that Big Ed had given him some money.

Rogers stated that on the following weekend, which was Christmas weekend, 1993, she was again working at Big Ed's bar, and overheard Leroy Spruill conversing with Big Ed at the bar. Rogers stated that she overheard Big Ed say that he had spoken with police that day.

Rogers stated that Leroy Spruill then asked what Big Ed had told the police, whereupon Big Ed stated that he had told the police that Leroy Spruill had been at Big Ed's bar all night on the occasion they were speaking with him about and had not left the bar. Rogers stated that Leroy Spruill then thanked Big Ed for doing this.

Rogers stated that Big Ed and Leroy Spruill were discussing the death of Frank Swain and that she heard Leroy Spruill to state that he did not want his name mentioned as being connected with Frank Swain's death. Rogers stated that Leroy Spruill was acting jittery as if he was upset or nervous. Rogers stated that she would describe Leroy Spruill as "jumpy" on this occasion.

Rogers further stated that on December 18, 1993, while overhearing the conversation occurring between Leroy Spruill and Robert (LNU) at the bar, during the bragging conversation of having done something to somebody, she overheard either Leroy Spruill or Robert (LNU) mention a knife and something about a black man having been stabbed a lot. Rogers stated that this occurred when Leroy Spruill and Robert (LNU) had returned to Big Ed's bar after having been gone for approximately one to one and a half hours earlier.

Rogers stated that during this conversation regarding the black man having been stabbed, it sounded as though the black man had been walking down the side of the road and Spruill and Robert (LNU) had walked up on the black man, jumped him, and stabbed him.

Rogers stated that other persons present at Big Ed's bar on the evening of December 18, 1993, that saw the crumpled handful of $20 bills produced from Robert's (LNU) pants pocket were: Smarty, Bobby Spruill, and Steve Bell.

This interview was concluded at approximately 7:34 p.m.

WKP:lj

On 5-6-94, Jailor, Dwight Fenner, said Lynn Rodgers called the office requesting to speak to me. Dwight said Lynn left a message for me, that the person called last night. Lynn also said that all the information she had given us was hear-say. That was information other people had told her.

On 5-6-94, I talked with Lynn Rodgers again and she said that she had talked with Bobby Spruill and what Bobby had told her was hear-say. She said she would help us all she could.

Terry Bell, a patron at Big Ed's Bar on the night of the murder, told WCSO he saw Spruill, Jones, and Maybin walking home from Big Ed's around 12:30am on December 19, 1993 and also recalled playing pool with Maybin earlier in the evening and stated he "did not think Nikki left anytime that night, until she left to go home." Kelvin "Smarty" Spruill (not related to Spruill) was interviewed May 4, 1994. Smarty Spruill recalled that he arrived at the bar at 8:30pm and that Spruill, Jones, and Maybin got to the bar around 8:40pm. Smarty Spruill recalled getting a ride home with Spruill, Jones, and Maybin although no time was mentioned in the interview. (WCSO 469).

Angela Martinez, another individual at the bar on the night of the murder, was interviewed by WCSO on April 30, 1994.[16] She indicated that on the night of the murder, she and her sister picked Jones up around 6:30pm and they went to Big Ed's Bar together and stayed until midnight. (WCSO 66).

Margie Perry was interviewed by WCSO on May 5, 1994.[17] She provided no information regarding the night of the murder but did provide information about Jones leaving town (WCSO 71-72). Perry was interviewed by the SBI on March 7, 1995 and said that she saw Spruill and Jones leave the bar on "one night in particular" and come back wearing different clothes. When Jones returned to the bar, he had a blood spot on the back of his leg. (SBI 788-792).

After Sherry Honea's April 24, 1994 interview, WCSO attempted to locate Jones, who at that time was only known as "Robert Solis," at Ed Champ's house. Jones had been staying on Ed Champ, Sr.'s property. Ed Champ, Jr. turned over items belonging to Jones and told WCSO that

[16] Ms. Martinez was 16 years old at the time of the murder.
[17] Ms. Perry was 17 years old at the time of the trial in September 1995.

Jones had left earlier. An anonymous member of the Champ family later called WCSO to say that Jones was leaving town in a car belonging to the Champs and being driven by Kevin Furlough, Curtis Furlough's brother. WCSO searched for the car Kevin Furlough was said to have been driving on April 25, 1994 but did not find it. WCSO also spoke to Ed Champ, Sr. who told WCSO that he didn't know where Jones was and that Jones had not come back to the house. (WCSO 43, 46). On April 27, 1994, Kevin Furlough denied taking Jones anywhere and said he had been in Hopewell, VA. (WCSO 59-60). Curtis Furlough told WCSO that prior to leaving Plymouth in April 1994, Jones had left for a few weeks in January 1994 and then returned. (WCSO 250-251).

On April 27, 1993, WCSO contacted Gibson County, TN Sheriff Joe Sheppard and Milan, TN Police Chief James Braddon because of two newspaper articles that were found in a bag belonging to Jones which discussed two murdered girls from that area.[18] WCSO faxed copies of photographs of Jones to Sheriff Sheppard. Sheppard contacted WCSO the same day and identified Jones. Sheppard sent Jones' arrest record, fingerprint card, and photographs of Jones to WCSO. Sheppard agreed to help WCSO locate Jones. Efforts to locate Jones in Tennessee continued during this time. (WCSO 57-66).

On May 7, 1994, Janice Spruill responded to a domestic disturbance call at Gail Champ and Ed Champ, Jr.'s house. Gail Champ appeared to be intoxicated and told Janice Spruill that Ed Champ, Jr. and Kevin Furlough had helped Jones leave North Carolina. She also said she thought she had seen blood stains in the trailer Jones was staying in, but did not specify when she had seen the blood. (WCSO 74).

[18] The case involving the "murdered girls" mentioned in the article remains unsolved and nothing the Commission has reviewed indicates that Jones is a suspect in those cases.

A warrant was issued for Jones' arrest on November 22, 1994. (WCSO 512). On December 7, 1994, Jones was arrested in Milan, TN in a crawl space under his mother's house. (WCSO 520). He waived extradition on December 8, 1994 and was brought back to Washington County on December 9, 1994. Jones was not interviewed by law enforcement until after his arrest in Tennessee on December 9, 1994 and he maintained that he was at Big Ed's Bar all night on the night of the murder. Jones was polygraphed on December 12, 1994 and interviewed after the polygraph exam. He failed the polygraph with a -12 numerical evaluation. At the interview, he maintained that he was at Big Ed's Bar all evening and had nothing to do with the murder. However, the detective's notes indicate that on the way back from the SBI headquarters in Greenville, NC to the Washington County Jail after this polygraph and interview, Jones said to Deputy Willie Williams "that feels something was wrong with him, the girl had said he did it, that he must have done it, but he didn't remember doing it. Jones said he felt like he needed some help." The report from Jones' December 9, 1994 and the detective notes from Jones' December 12, 1994 interviews are provided below.

SBI FILE: 668-H-5
ACTIVITY: December 9, 1994
VICTIM: William Frank Swain
DICTATED: December 20, 1994
RECEIVED: December 27, 1994
TYPED: January 3, 1995
COPIES: (1) Records; (2) SA D. R. Varnell; (3) SAC W. E. Godley; (4) District Attorney M. D. Norton

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Wallace Brandon Jones, W/M/DOB: 09/27/72; Residence: 2061 Ellis Street, Milan, Tennessee, Telephone: 901-686-2533:

Interviewed Friday, December 9, 1994, at 11:20 a.m., en route to Plymouth, North Carolina, from Gibson County, Tennessee, by SA Varnell and Deputy Janice Spruill, of the Washington County Sheriff's Office.

Prior to this interview, Mr. Jones did read and sign an SBI 33, Advisement of Rights Form; see Attachment DRV-32. Mr. Jones agreed to waive these rights prior to this interview and speak to officers about this case without a lawyer present at this time.

Mr. Jones stated that he had a hundred witnesses to tell where he was that night and that he could not have killed Frank Swain. Mr. Jones stated that a mailman named Larry Tomstock saw him at the bar. Mr. Jones stated that he meant Tomstock had seen him at Big Ed's Bar the night that Swain was killed. Mr. Jones stated that he was at the bar all night on the night that Swain was killed and was in the company of Leroy Spruill, white male, and Niki (Dana Maybin, white female).

Mr. Jones stated that he was with Leroy Spruill and Dana Maybin all that night and could not have been the one to kill Frank Swain.

Mr. Jones stated that he was working in Arcadia, Florida, doing cheap labor. Mr. Jones stated that this was where he was working before he went up to North Carolina. Mr. Jones stated that the sheriff's office also came by where he was living in Arcadia because he had taken a lot of pills one night. Mr. Jones stated that when the sheriff's office came, he used the name Robert Jones for the report.

Mr. Jones stated that he was not arrested on this night and in reality did not actually take a lot of pills. Mr. Jones stated that his girlfriend at the time called the sheriff's department

because she thought he had taken a lot of pills. Mr. Jones stated that these pills were steroids that he had been taking while he was working out.

Mr. Jones stated that December 18 or 19 was a Saturday or Sunday and that was the night he was at Big Ed's Bar all night. Mr. Jones stated that he went with Leroy Spruill and Dana Maybin to the bar and stayed there all night. Mr. Jones stated that he got to the bar around 5:30 or 6 p.m. that evening.

Mr. Jones stated that when he arrived at the bar that Big Ed (Ed Champ) and the band were there and maybe a few other people. Mr. Jones stated that they all just hung out talking. Mr. Jones stated that he thought he had been in North Carolina since about August 1993.

Mr. Jones stated that when he came to North Carolina he came with Emmanuel Garcia, Mexican male, who took him to Roper. Mr. Jones stated that he met Mr. Garcia in Mexico doing cheap labor and Mr. Garcia is the one that transported him up to North Carolina.

Mr. Jones stated that he meant he had been working in Arcadia, Florida, since he left North Carolina and that is where he was talked to about taking too many pills.

Mr. Jones stated that when he came to North Carolina he came with a white female named Kelly Sealy from Texas. Mr. Jones stated that he met Ms. Sealy in Galveston, Texas, out on the street. Mr. Jones stated that he was kind of her boyfriend and she left North Carolina in September 1993 and went to his mother's house in Milan, Tennessee.

Mr. Jones stated that he stayed in North Carolina and worked for Ed Champ doing asphalt work. Mr. Jones stated that he met Ed Champ very early after arriving in North Carolina and began working with him and the gypsies doing asphalt work and other construction work.

Mr. Jones stated that he had never met Frank Swain and had never been in Frank Swain's house. Mr. Jones stated that he guessed he had never met Frank Swain or guessed he had never been in his house; he could not know for sure.

Mr. Jones stated that he met Leroy Spruill about four months after arriving in North Carolina. Mr. Jones stated that he knew

Dana Maybin as Niki and knew her less than he knew Leroy Spruill. Mr. Jones stated that he knew that Dana Maybin was from South Carolina somewhere.

Mr. Jones stated that he guessed that he had never known a Frank Swain and did not think he had been in Mr. Swain's house. Mr. Jones stated that the only black male he knew was a black male named Joe, who worked for Ed Champ.

Mr. Jones stated that he had been to Joe's house, which was located east of Big Ed's Bar, and that Joe is a big fat black man. Mr. Jones stated that Joe's father had a mental problem.

Mr. Jones stated that a number of people saw him at the bar that night, to include Lotty Champ; Tony Galloway; Curtis Furlough; Crystal and Angela, whom he knew as the Mexican Jumping Beans; Niki (Dana Maybin); Big Ed (Ed Champ); and Minnie Champ. Mr. Jones stated that the Mexican Jumping Beans are daughters of a deputy sheriff.

Mr. Jones may be thinking of an ex-police officer in Plymouth named Archie, who has two daughters that live in the area.

Mr. Jones stated that a white female named Patty, who was married and worked at the bar, also saw him that night.

Mr. Jones stated that he wanted to take a polygraph test as soon as possible. Mr. Jones stated that he also wanted to take truth serum so that he could answer questions about the murder.

Mr. Jones stated that he remembered doing a lot of dancing at the bar that night with Mazelly Smith and the Mexican Jumping Bean girls.

Mr. Jones stated that he does not remember having any arguments with the bartender or having any fights that night. Mr. Jones stated that he did not have arguments or fights with people and that everyone in the area liked him a lot.

Mr. Jones stated that he wanted to be put in with other people at the jail and did not want to be in a solitary cell.

Mr. Jones stated that he was at Big Ed's house getting dressed to go out that night before he left. Mr. Jones stated that this is what he did just before he went to the bar. Mr. Jones stated that he cannot remember what he was wearing that night.

Mr. Jones stated that he fell through Butch Champ's porch of an upstairs apartment earlier that day. Mr. Jones stated that Butch is Ed Champ, Jr., alias Butch. Mr. Jones stated that Butch is apparently Ed Champ's son.

Mr. Jones stated that he remembers seeing Leroy Spruill at the bar that night. Mr. Jones stated that he is sure of this because Big Ed kept getting on him and Leroy for dancing together. Mr. Jones stated that they were just acting crazy and Big Ed said they had to quit dancing together or he would throw them out.

Mr. Jones stated that he does not remember being at Leroy Spruill's that night.

Mr. Jones stated that everybody up there loved him. Mr. Jones stated that everybody that knew him loved him in the Roper area.

Mr. Jones stated that Big Ed did not throw them out. Mr. Jones stated that they were just acting foolish dancing together. Mr. Jones stated that Dana Maybin was there and was supposed to be his girlfriend at one time. Mr. Jones stated that Niki was not her real name.

Mr. Jones stated that he just knew that Niki was not her real name and that he knew this because she had told him so. Mr. Jones stated that she had also told him that she was in trouble in South Carolina over some checks or something like that.

Mr. Jones stated that Dana Maybin just was not good enough for him. Mr. Jones stated that she did not have a drug problem as far as he knew. Mr. Jones stated that Dana Maybin would have known where he was all that night. Mr. Jones stated that he was in her presence all night on the night that Frank Swain was killed.

Mr. Jones stated that he and Niki (Dana Maybin) were drifting apart from their relationship at that time.

Mr. Jones stated that he does not remember leaving the bar that night. Mr. Jones stated that if he did go out of the bar, it was to go and get a drink of liquor outside. Mr. Jones stated that sometimes he and Leroy Spruill kept a bottle of liquor outside so that they could get cheaper drinks that way.

Mr. Jones stated that he did not leave the bar until closing

that night. Mr. Jones stated that he was just regular drunk that night and not so drunk he could not walk. Mr. Jones stated that he was not falling down drunk.

Mr. Jones stated that he left the bar with Smiley, Leroy Spruill, and Niki (Dana Maybin). Mr. Jones stated that they all went back to Leroy's house and fried some sweet potatoes. Mr. Jones stated that they all walked to Leroy's house from the bar.

Mr. Jones stated that only he and Dana Maybin walked the whole way. Mr. Jones stated that Big Ed picked up Leroy Spruill and Smiley not too far from Leroy Spruill's house and drove them the rest of the way up to the house.

Mr. Jones stated that he did buy a couple of six-packs of beer at the bar before he left that night. Mr. Jones stated that he then busted the two six-packs on the road. Mr. Jones stated that he did not do it on purpose and that the bottoms of the cartons were weak and the bottles fell out and they all busted.

Mr. Jones stated that he was the one who had bought the two six-packs just before closing with his own money. Mr. Jones stated that he did get upset about the beer because he works hard for his money and hated to see the beer get busted.

Mr. Jones stated that Buddy Barber was also there at the bar for 10 or 15 minutes and would have seen Mr. Jones there also.

Mr. Jones stated that he does not remember what the weather was like. Mr. Jones stated that the money he had at the bar was from his pay from Big Ed. Mr. Jones stated that he cannot remember how much money he had that weekend. Mr. Jones stated that he did not have to pay full price for beer at the bar because he worked there sometimes. Mr. Jones stated that he only had to pay a dollar per beer for what he got at the bar.

Mr. Jones stated that Lynn (LNU), white female, is the other bartender that works at Big Ed's. Mr. Jones stated that Lynn was working there that night and saw him at the bar. Mr. Jones stated that Lynn would know what he had done that night.

Mr. Jones stated that when they got back to Leroy Spruill's house, they ate the sweet potatoes. Mr. Jones stated that then they all just went to bed. Mr. Jones stated that Niki (Dana Maybin) stayed with him that night and slept in the same area with him.

Mr. Jones stated that he heard about the man getting killed the next day. Mr. Jones stated that he might have heard it on TV. Mr. Jones stated that he heard some stuff about how the man was killed, but cannot remember what he had heard.

Mr. Jones stated that he heard Leroy Spruill and Wyatt Spruill talking about the man being killed one day. Mr. Jones stated that these two quit talking about the killing when he walked up to where they were at.

Mr. Jones stated that he left North Carolina in January and then came back to North Carolina about a month later. Mr. Jones stated that he cannot understand why he would come back to North Carolina if he had killed a man. Mr. Jones stated that he went home in January to see his mother.

Mr. Jones stated that he was using the name Robert Solis in North Carolina because he was in trouble in Tennessee. Mr. Jones stated that he had assault charges on him in Tennessee. Mr. Jones stated that it was assault charges that he had not been arrested for at that time that he was running from. Mr. Jones stated that he believes that these charges have been dropped.

Mr. Jones asked if he could smoke cigarettes while in the car and was given permission by the officers to smoke his cigarettes en route back to North Carolina.

Mr. Jones stated that he did not want to say where he was when the police came to talk to him about the murder some months ago. Mr. Jones stated that he had been told by Butch Champ that they wanted to question him about the murder.

Mr. Jones stated that he went to Bruce Smith's house after the deputies left the area looking for him.

Mr. Jones stated that he was hiding at Ed Champ's house upstairs when the police came to question him. Mr. Jones stated that he knew at that time they wanted to question him about the murder of Frank Swain and was hiding from them. Mr. Jones stated that the others at the house helped him hide and told officers he was not there so they would not find him.

Mr. Jones stated that Terry was a white female, who was in trouble in South Carolina. Mr. Jones stated that Terry was using the name of Terry Hand and he believes her real name was

Sherry Honena.

Mr. Jones stated that Terry was in trouble in South Carolina also and that is why she was with Niki.

Sherry Honena was the real name of the white female using the alias of Terry Hand.

Mr. Jones stated that he stayed at Bruce Smith's for about two or three hours after he left from Big Ed's house hiding from the law. Mr. Jones stated that he then went to Tennessee.

Mr. Jones stated that he went to Tennessee with Kevin Furlough. Mr. Jones stated that they went to Tennessee in a red Geo belonging to Big Ed. Mr. Jones stated that Kevin dropped him off in Nashville, Tennessee.

Mr. Jones stated that he and Kevin went to a bar in Nashville for a little while and then he got off at the bus station. Mr. Jones stated that he then got a bus from Nashville to where his mother lives in Milan, Tennessee.

Mr. Jones stated that he left Tennessee for Florida shortly after he got home. Mr. Jones stated that he got back up with Manuel Garcia and Elroda Garcia in Florida and worked doing cheap labor down there.

Mr. Jones stated that he got in trouble in Texas way before he got to North Carolina. Mr. Jones stated that he went to Mexico from Texas. Mr. Jones stated that from Mexico he then went to Waco and then to Live Oak, Florida, and from there he ended up in Roseville, North Carolina. Mr. Jones stated that he had also gone to Mexico from Texas and when he did, he left from El Paso.

Mr. Jones stated that he basically went to all these places with a bunch of Mexican males doing cheap labor.

Mr. Jones stated that when he got in trouble in Texas, he used Christopher Bass' identification card. Mr. Jones stated that Bass gave him this ID to use when he got in trouble.

Mr. Jones stated that the names in his photo albums are from friends and family that have died, been killed, or have killed themselves.

Mr. Jones stated that the two girls that have newspaper photos

in his album got killed in his hometown so he kept the photos. Mr. Jones stated that he was in prison when these two girls were killed at a convenience store. Mr. Jones stated that he was in Lake County Regional Jail when these two girls were murdered.

Mr. Jones stated that he was 18 at that time and was in jail for copper wire theft, aggravated assault, and arson.

Mr. Jones stated that his father was killed by a police officer at a bar. Mr. Jones stated that this happened in Milan, Tennessee. Mr. Jones stated that his father was killed by this police officer before he was even born. Mr. Jones stated that his mother was about seven months pregnant when his father was killed for no reason.

Mr. Jones stated that a police officer got knocked down at a bar and just came up shooting and happened to hit his father and kill him for no reason. Mr. Jones stated that his mother also got no money from anybody for his father being killed by the police.

Gibson County police officials stated that the police officer was attacked by Mr. Jones' father and was then attacked again by Mr. Jones' father wielding a weapon in his hand. Gibson County officers stated that the officer then shot and killed Mr. Jones' father defending himself.

Mr. Jones stated that he did not kill Frank Swain.

Mr. Jones stated that he could only think of two people who would want to get him. Mr. Jones stated that one of these two people was Robert Spruill from Creswell. Mr. Jones did not give another name at that time and stated that Robert Spruill was out to get him because they had been in a fight at Leroy Spruill's house.

Mr. Jones stated that the other person that would try to get him may be Ray Hurst. Mr. Jones stated that Ray Hurst is a guy that got his truck messed up behind Leroy Spruill's house. Mr. Jones stated that he was the one responsible for the truck.

Mr. Jones stated that he had been the one who messed up Ray Hurst's truck behind Leroy Spruill's house. Mr. Jones stated that Ray and some of his friends had broken into Leroy Spruill's house one day and Mr. Jones was paying them back for that. Mr. Jones stated that he broke out the windows of the truck and

tried to set the truck on fire.

Mr. Jones stated that he was with Leroy Spruill and Dana Maybin all night the night that Frank Swain got killed. Mr. Jones stated that he was with Dana Maybin and Leroy Spruill from the time they got to the bar until closing time of the bar around 2 a.m. at Big Ed's.

Mr. Jones stated that after they left the bar, they went back to Leroy Spruill's house and he was with Dana and Leroy Spruill at the house where they ate some food and then went to bed for the night.

Mr. Jones stated that Leroy Spruill and Dana Maybin would know where he was at all that night because he was with them all night.

Mr. Jones stated that the trouble he got in while in Texas was for some trouble he had with the local sheriff's department around Galveston. Mr. Jones stated that some people were at his house fighting and he called the police, who then came and ended up arresting him.

Mr. Jones stated that he was at no fault during this incident and that for some reason the three officers arrested him and then beat him before they took him to jail. Mr. Jones stated that he does not know how the three officers got hurt during the struggle, but he was not responsible for that. Mr. Jones stated that there was also an undercover DEA agent living with him at that time, who could testify to this. Mr. Jones stated that he does not know this agent's real name and does not know how to get up with this agent.

Mr. Jones stated that he has smoked Marijuana and smoked crack Cocaine while in North Carolina. Mr. Jones stated that in smoking these drugs, he does not get crazy and does not forget what happened. Mr. Jones stated that he certainly was not too drunk or too high on the night Frank Swain got killed to not remember what had happened. Mr. Jones stated that he would not have been under the influence of any drugs to the point where he would not remember what happened or know what was going on.

During this transport, Mr. Jones was allowed to go to the rest room on several occasions and also had several soft drinks and snacks purchased for him by the Washington County Sheriff's Office. Mr. Jones was also fed lunch and supper en route to

North Carolina from Tennessee.

Mr. Jones also stated that when he was arrested by Jimmy Hand in Tennessee, Deputy Hand treated him fairly and did not injure him or harass him in any way. Mr. Jones also stated that he had been treated very well by officers en route to North Carolina.

This interview concluded at approximately 5 p.m.

DRV:lm

ON DECEMBER 10, 1994 D/S SPRUILL AND D/S WILLIAMS WAS CONTACTED BY THE WASHINGTON COUNTY JAIL IN REGARDS TO TRANSPORTING WALLACE BRANDON JONES TO THE WASHINGTON COUNTY HOSPITAL FOR MEDICAL ATTENTION. MR. JONES WAS ASKING TO SEE A DOCTOR DUE TO HIS PENIS WAS LEAKING FLUIDS AND HE WAS IN GREAT PAIN. MR. JONES WAS TAKEN TO THE HOSPITAL AND UPON OUR RETURN TO THE JAIL, MR. JONES SAID HE WANTED TO TALK TO US. MR. JONES WAS UPSET AND CRYING AND NERVOUS ACTING AND HE SAID THAT IF WE WOULD LET HIM CALL HIS MOTHER THAT HE WOULD TELL US EVERYTHING WE NEEDED TO KNOW ABOUT THE NIGHT OF THE MURDER. MR. JONES WAS ALLOWED TO TELEHPHONE HIS MOTHER AND HE TALKED TO HER FOR A PERIOD OF TIME. AFTER MR. JONES FINISHED TALKING WITH HIS MITHER, HE SAID HIS MOTHER WAS GOING TO GET HIM A LAWYER, AND FOR HIM NOT TO SAY ANYTHING. MR. JONES ASKED FOR MAYNARD HARRELL'S PHONE NUMBER. MR. HARRELL'S TELEPHONE NUMBER WAS GIVEN TO MR. JONES AND ATTEMPTS WERE MADE TO TELEPHONE MAYNARD HARRELL. ON DECEMBER 12, 1994, WALLACE BRANDON JONES WAS TAKEN TO GREENVILLE TO TAKE A POLYGRAPH. AGENT VARNELL, INSCOE, D/S SPRUILL AND D/S WILLIAMS WERE PRESENT. MR. JONES FAILED THE POLYGRAPH AND HE WAS INTERVIEWED BY THE AGENTS AND EXAMINER. MR. JONES DENIED HAVING ANY KNOWLEDGE OF THE MURDER OF FRANK SWAIN. MR. JONES SAID HE NEVER WENT TO FRANK SWAIN'S HOUSE. MR. JONES SAID HE DID NOT KNOW FRANK SWAIN. MR. JONES SAID HE HAD NOT LIVED IN A CAMPER TRAILER, WHICH WAS PHOTOGRAPHED AT THE RESIDENCE OF ED CHAMP. MR. JONES SAID HE WAS AT BIG ED'S BAR ALL NIGHT, UNTIL CLOSING OF DECEMBER 18, 1993. HE SAID HE WAS WITH DANA MAYBIN AND LEROY SPRUILL ALL NIGHT, THE NIGHT OF DECEMBER 18, 1993. ON DECEMBER 12, 1994 AFTER LEAVING THE SBI HEADQUARTERS IN GREENVILLE, D/S WILLIAMS, D/S SPRUILL, AND BRANDON JONES WERE RIDING IN PATROL VEHICLE BACK TO COUNTY JAIL. WE STOPPED AT PARKERS BAR-B-QUE IN GREENVILLE FOR A MEAL. D/S SPRUILL WENT INTO PARKERS TO OBTAIN THE MEAL. D/S WILLIAMS AND BRANDON JONES WERE WAITING OUTSIDE IN THE PATROL VEHICLE. BRANDON JONES MADE A STATEMENT TO D/S WILLIAMS, "THAT FEEL SOMETHING WAS WRONG WITH HIM. THE [illegible] REMEMBER DOING IT. JONES SAID

ON DECEMBER 12, 1994 AFTER LEAVING THE SBI HEADQUARTERS IN GREENVILLE, D/S WILLIAMS, D/S SPRUILL AND BRANDON JONES WERE RIDING IN PATROL VEHICLE BACK TO COUNTY JAIL. WE STOPPED AT PARKERS BAR-B-QUE IN GREENVILLE FOR A MEAL. D/S SPRUILL WENT INTO PARKERS TO OBTAIN THE MEAL. D/S WILLIAMS AND BRANDON JONES WERE WAITING OUTSIDE IN THE PATROL VEHICLE. BRANDON JONES MADE A STATEMENT TO D/S WILLIAMS. THAT FEEL SOMETHING WAS WRONG WITH HIM, THE GIRL HAD SAID HE DID IT, THAT HE MUST HAVE DONE IT, BUT HE DIDN'T REMEMBER DOING IT. JONES SAID HE FELT LIKE HE NEEDED SOME HELP.

Other Investigative Avenues – Forensic Analysis[19]

In addition to the items collected at the crime scene, law enforcement also collected DNA standards from Spruill, Jones, Maybin, Wilkins, and McPhatter for comparison and did several other searches for forensic evidence. On December 22, 1993, law enforcement searched Wyatt Spruill's car for blood. Presumptive tests for blood on left exterior door handle, left interior door handle, steering wheel, gear shift lever, and light switch were negative. Presumptive tests on the right exterior door handle, right interior door handle, and several stains on the right front seat were also negative. Presumptive luminol reactions were noted on the right front floorboard on the floor mat 6" to the right of the transmission hump that were 4" in length and "S" shaped. Positive chemical reactions for blood were noted in this area. However, there is no indication any samples were taken and ultimately tested to confirm whether blood was present. (SBI 245-246).

A search of the light blue Ford truck owned by Spruill's father was completed on either July 22, 1994 (WCSO) or July 28, 1994 (SBI). No evidence of blood was detected. On May 19, 1994, the SBI also analyzed a truck that belonged to Curtis Furlough at the time of the murder. Presumptive luminol and phenolphthalein tests were performed and there were no results indicating the presence of blood. (WCSO 81; SBI 683).

McPhatter and Wilkins consented to giving blood samples, and Wilkins ultimately consented twice because his first sample was lost. (WCSO 271-273). The SBI collected evidence belonging to Jones from Ed Champ, Jr. on April 24, 1994, which included a gym bag containing

[19] Appendix I outlines all forensic testing done prior to the Commission's involvement in this case.

various personal items. On that same day, investigators collected a piece of lace and a sock from Spruill's woodpile and Spruill turned over pink high heel shoes, ladies' jeans, and a black and white blouse that he said belonged to Maybin. (WCSO 274-281, 476-477, 480 and SBI 414-415).

Luminol testing was also performed in Spruill's home on May 11, 1994, resulting in positive luminol reaction. Positive luminol reactions were on the floor near the sink and on the floor by the bed, however, no samples were collected for further analysis or to confirm that this was human blood. In addition, law enforcement seized a top sheet from Spruill's bed and a shirt from the first floor hall closet that had a "large amount of staining from a substance that tested positive for blood on it" using presumptive luminol testing. Transfer stains were located using luminol on the middle cushion of the couch in the living room and beside the chair nearest the rear entrance, and the entrance between the living room and the rear room of the first floor. No samples were collected for further analysis. These were all presumptive luminol testing done in the field, and full laboratory testing, including confirmatory testing, is outlined below. (WCSO 274-282; SBI 414-415).

Luminol testing was conducted during a search of a camper trailer on the Champ property on May 11, 1994. There was a positive reaction on the floor near the sink and the floor near the bed. (WCSO 78; SBI 418-420).[20]

Investigators also obtained a search warrant and collected blood, hair, and inked impressions from Spruill and Jones after their arrests. (WCSO 296-301, 307, 313, 524; SBI 751-752). Maybin consented to the collection of her blood and hair samples. (WCSO 302).

[20] Investigative work by defense investigators indicated that this trailer was not the trailer that Jones was living in at the time of the murder. That information is detailed more fully in the defense investigation portion of the brief below.

Several items collected in this case were sent to the SBI Crime Lab for analysis.[21] An outline of the testing is provided below. When summarizing the report, only those individuals named in the report as compared are provided. If an individual is not listed, they were not compared during the testing of that item.

1. January 3, 1994: Plastic Bag containing powder residue collected from Victim's house. Analyzed for controlled substances. No controlled substances were indicated.
2. January 6, 1994: January 6, Razor Blade containing residue from the Victim's house. Analyzed for controlled substances. Found cocaine – Schedule II, residue amount.
3. January 18, 1994: Analysis of the 18 latent lifts from the crime scene noted two (2) identifiable latent fingerprints and three (3) identifiable latent impressions (1-2 from the exterior of the front door, 1-10 from telephone, and 1-13, 1-14, and 1-17 from a plastic cup on the den floor). The five (5) identifiable latent lifts were compared to the inked impressions for the Victim, Lee McPhatter, and Maurice Wilkins. The report notes that the inked impressions for the Victim, McPhatter, and Wilkins were of insufficient detail for comparison purposes. The report states that major case inked impressions were needed with emphasis on certain areas. No major case inked impressions were collected for Wilkins or McPhatter. One of the latent prints from the telephone (1-10) was determined to be of AFIS value and was entered into AFIS with no identifications effected. No latent prints were found on a razor blade wrapped in aluminum foil or the tire tool found at the crime scene. No identifiable latent prints were obtained from the plastic bread bag.

[21] The initial investigation in this case occurred when the Crime Lab was still part of the SBI.

4. February 2, 1994: Blood grouping analysis was done on the blood scrapings from the Victim's front door, the tire iron, and the curtains from the crime scene. The blood grouping analysis showed that the blood on the curtains was consistent with both the Victim and McPhatter and may have originated from either. The scrapings were determined to be human blood but were insufficient in quantity for grouping analysis. The tire iron revealed the presence of human blood however the blood grouping results were inconclusive.
5. February 28, 1994: Blood grouping analysis was also done on suspect Wilkins' sample.
6. May 17, 1994: Two knives from Jones' bag found at the Champ residence and a piece of lace collected from a woodpile at Spruill's home were submitted to determine whether there was blood and none was found. The bench notes indicate that the presumptive phenolphthalein tests were negative on both knives. The bench notes also indicate that the presumptive phenolphthalein tests for the piece of lace was negative.
7. May 23, 1994: Smoking devices from Spruill's home were found to contain cocaine.
8. June 16, 1994: Charred items from Spruill's home were found to be mostly wood and unidentifiable materials.
9. June 29, 1994: The report stated that the shirt collected from Spruill's residence on May 11, 1994 revealed the presence blood but further analysis was unable to give any further conclusive results. The bench notes for this report indicated that the presumptive phenolphthalein test and takayama tests were positive and the confirmatory ouchterlony test, which was used to determine whether the blood came from a human or some other species, was inconclusive for "known cat," which was later confirmed to mean housecat.

The bench notes indicate that the shirt was negative for human blood. No human blood was detected on the shirt.

10. February 8, 1995: The Victim's clothing was submitted for analysis and comparison. The Victim's clothes all contained the presence of human blood. The blood grouping analysis done on the Victim's shirt provided that Jones and Maybin could not be contributors to the blood on the Victim's shirt. The remainder of the Victim's clothes had blood, but the bench notes state these items did not indicate a "second bleeder."
11. February 16, 1995: A comparison of the hairs and fibers collected from the crime scene with the known hair sample from Jones, Maybin and Spruill did not reveal a transfer of hairs at the crime scene from the suspects.
12. February 22, 1995: The fingerprint impressions submitted for Spruill, Jones, and Maybin were not sufficient for comparison to the impressions collected at the crime scene.
13. July 31, 1995: This report is a corrected version of a report originally issued June 1, 1994. Blood grouping analysis on the curtains found in the Victim's home showed ABO blood type O. Those blood stains could have originated from the Victim, Spruill, and McPhatter. The blood on the Victim's curtains could not have originated from Wilkins, Jones, or Maybin. The scrapings from Spruill's bathroom door and the top sheet collected from Spruill's home were tested for blood and gave chemical indications for the presence of blood. However, the bench notes for this report indicate that only presumptive phenolphthalein testing was done on the scrapings from the bathroom door in Spruill's home, which was positive. No confirmatory testing was done on those scrapings. The bench notes from Spruill's top sheet indicate that the takayama confirmatory testing was

negative for blood.[22] The pocketknife collected from Spruill's home was negative for blood. The bench notes indicate the presumptive phenolphthalein test was negative.

14. August 29, 1995: Major case inked impressions were collected from Spruill, Jones, and Maybin for comparison to the latent prints found at the crime scene. The report indicates that five out of the 18 latent prints were of identifiable value. No identifications were made to Spruill, Jones, or Maybin for the two identifiable latent prints and three identifiable latent impressions.

A copy of all lab reports and relevant bench notes described above are included below. The complete Crime Lab file is not included. The initial investigation in this case resulted in the arrest of Spruill, Jones, and Maybin in December 1994.

[22] An independent audit of SBI Crime Lab reporting policies found that between 1987 and 2003, negative or inconclusive results of tests to confirm the presence of blood were omitted from a final laboratory report. The audit also found that neither prosecutors nor defense attorneys routinely requested the disclosure of lab notes or questioned analysts regarding the test results. Both Spruill's and Jones' cases are included in this report as one of the cases in which this issue was present.

North Carolina

STATE BUREAU OF INVESTIGATION

Department of Justice
RALEIGH

LABORATORY REPORT

TO: Deputy Janice Spruill
Washington County Sheriff's Department
P. O. Box 969
Plymouth, N. C. 27962

DATE: January 3, 1994

SBI LAB NO.: R930025616

SBI FILE NO.: 668-H-5

TYPE OF CASE: Homicide/
Controlled Substances Act

LOCATION: Washington County

AGENCY FILE NO.:

EXAMINED BY: J. D. Sparks

SUBJECT: WILLIAM FRANK SWAIN (VICTIM)

MATERIAL SUBMITTED BY: D. G. Honeycutt

DATE OF OFFENSE: December 18, 1993

DATE SUBMITTED: December 23, 1993

ITEMS SUBMITTED:

Item #7: Plastic bag containing powder residue.

TYPE ANALYSIS REQUESTED:

Analyze for controlled substances.

RESULTS OF ANALYSIS:

Item #7: No controlled substances indicated.

DISPOSITION OF EVIDENCE:

The unconsumed portion of the evidence is being returned via first-class mail.

JDS:cmw
Attachment

I, Michael F. Easley, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

COPIES TO:

Mr. Mitchell Norton, D. A.
SAC W. E. Godley
S/A D. R. Varnell
S/A D. G. Honeycutt

THIS REPORT IS TO BE USED ONLY IN CONNECTION WITH AN OFFICIAL CRIMINAL INVESTIGATION.

James J. Coman, Director

This report represents a true and accurate result of my analysis on the item(s) described.

J. D. Sparks

CONFIDENTIAL. This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

000447
NCHC - SBI File

North Carolina

STATE BUREAU OF INVESTIGATION

Department of Justice
RALEIGH

LABORATORY REPORT

TO: Deputy Janice Spruill
Washington County Sheriff's Department
P. O. Box 969
Plymouth, N. C. 27962

DATE: January 6, 1994

SBI LAB NO.: R930025616

SBI FILE NO.: 668-H-5

TYPE OF CASE: Controlled Substances Act/ Homicide

AGENCY FILE NO.:

LOCATION: Washington County

EXAMINED BY: N. H. Gregory

SUBJECT: WILLIAM FRANK SWAIN (VICTIM)

MATERIAL SUBMITTED BY: D. G. Honeycutt

DATE OF OFFENSE: December 18, 1993

DATE SUBMITTED: December 23, 1993

ITEMS SUBMITTED:

Item #6: Razor blade containing residue.

TYPE ANALYSIS REQUESTED:

Analyze for controlled substances.

RESULTS OF ANALYSIS:

Item #6: Cocaine - Schedule II.
Residue amount.

DISPOSITION OF EVIDENCE:

Item #6 was examined in the presence of S/A R. L. Stills of the SBI Latent Evidence Section on December 23, 1993.

NHG:gh

I, Michael F. Easley, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

COPIES TO:

Mr. Mitchell Norton, D. A.
SAC W. E. Godley
S/A D. R. Varnell
S/A D. G. Honeycutt

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James J. Coman, Director

This report represents a true and accurate result of my analysis on the item(s) described.

N. H. Gregory NHG

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000433
NCIIC - SBI File

North Carolina

STATE BUREAU OF INVESTIGATION

Department of Justice
RALEIGH

LABORATORY REPORT

TO: Deputy Janice Spruill
Washington County Sheriff's Department
120 Adams Street
Plymouth, N. C. 27962

DATE: January 18, 1994

SBI LAB NO.: R930025616

SBI FILE NO.: 668-H-5

TYPE OF CASE: Homicide

AGENCY FILE NO.:

LOCATION: Washington County

EXAMINED BY: R. L. Stills

SUBJECT: WILLIAM FRANK SWAIN (VICTIM)

MATERIAL SUBMITTED BY: D. G. Honeycutt

DATE OF OFFENSE: December 18, 1993

DATE SUBMITTED: December 23, 1993

ITEMS SUBMITTED IN PERSON BY S/A D. G. HONEYCUTT ON DECEMBER 23, 1993:

Item #1: Eighteen (18) latent lifts.
Item #6: One (1) razor blade wrapped in aluminum foil.
Item #10: One (1) plastic bread bag.
Item #11: One (1) set of post mortem inked impressions of victim William Frank Swain.

ITEM RECEIVED IN PERSON FROM S/A J. A. ELWELL ON JANUARY 3, 1994:

Item #9: One (1) tire tool.

ITEMS SUBMITTED IN PERSON BY S/A D. G. HONEYCUTT ON JANUARY 13, 1994:

Item #17: Two (2) sets of inked impressions of suspect Lee Demetrius McPhatter.
Item #18: Two (2) sets of inked impressions of suspect Maurice Bernard Wilkins.

TYPE EXAMINATION REQUESTED:

Latent print examination; AFIS search and comparison.

I, Michael F. Easley, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

COPIES TO:

Mr. Mitchell Norton, D. A.
SAC W. E. Godley
S/A D. R. Varnell
S/A D. G. Honeycutt

THIS REPORT IS TO BE USED ONLY IN CONNECTION WITH AN OFFICIAL CRIMINAL INVESTIGATION.

James J. Coman, Director

This report represents a true and accurate result of my analysis on the item(s) described.

R. L. Stills

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000552
NCIC - SBI File

RESULTS OF EXAMINATION:

There were two (2) identifiable latent fingerprints and three (3) identifiable latent impressions noted on Item #1.

There were no latent prints obtained from Items #6 and #9.

There were no identifiable latent prints obtained from Item #10.

The five (5) identifiable latent prints noted on Item #1 were compared to Items #11, #17, #13, and the inked impressions on file of suspect Maurice Wilkins (SID NC0504457A) with no identifications being made.

The inked impressions as submitted of victim William Frank Swain and suspects Lee Demetrius McPhatter and Maurice Bernard Wilkins and those on file of suspect Maurice Wilkins are of insufficient detail for comparison purposes with some of the identifiable latent prints. Major case inked impressions are needed with emphasis on the extreme sides and tips of the fingers and all areas of the palms before this can be considered a conclusive comparison.

Based on the information provided this Bureau's Identification files do not contain inked impressions on suspect Lee Demetrius McPhatter.

One (1) of the identifiable latent fingerprints noted on Item #1 was determined to be of value for AFIS entry.

The identifiable latent print was searched by AFIS with no identifications being made.

DISPOSITION OF EVIDENCE:

The above listed items are being returned to addressee via United Parcel Service.

RLS/mjp
Attachment

000553
NCIIC - SBI File

North Carolina

STATE BUREAU OF INVESTIGATION

Department of Justice
RALEIGH

LABORATORY REPORT

TO: Deputy Janice Spruill
Washington County Sheriff's Department
120 Adams Street
Plymouth, N. C. 27962

DATE: February 2, 1994

SBI LAB NO.: R930025616

SBI FILE NO.: 668-H-5

TYPE OF CASE: Homicide

AGENCY FILE NO.:

LOCATION: Washington County

EXAMINED BY: J. A. Elwell

SUBJECT: WILLIAM FRANK SWAIN (VICTIM)
LEE DEMETRIUS MCPHATTER (SUSPECT)
MAURICE BERNARD WILKINS (SUSPECT)

MATERIAL SUBMITTED BY: See Below

DATE OF OFFENSE: December 18, 1993

DATE SUBMITTED: See Below

ITEMS SUBMITTED BY S/A D. G. HONEYCUTT ON DECEMBER 23, 1993:

Item #8: Blood scrapings.
Item #9: Tire iron.
Item #12: Liquid blood sample and bloodstain from the victim, William Frank Swain.

ITEMS SUBMITTED BY S/A D. G. HONEYCUTT ON JANUARY 13, 1994:

Item #16A and #16B: Two liquid blood samples from the suspect, Lee McPhatter.
Item #19: Two curtains.

TYPE ANALYSIS REQUESTED:

Blood analysis.

RESULTS OF ANALYSIS:

Examination and analysis of Items #8, #9, and #19 revealed the presence of human blood.

Blood grouping analysis of these items along with a known blood sample from the victim, Item #12, and the suspect, Item #16, gave the following blood group reactions:

I, Michael F. Easley, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

COPIES TO:

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SAC W. E. Godley
S/A D. R. Varnell
S/A D. G. Honeycutt

THIS REPORT IS TO BE USED ONLY IN CONNECTION WITH AN OFFICIAL CRIMINAL INVESTIGATION

James J. Corn

James J. Corn, Director

This report represents a true and accurate result of my analysis on the item(s) described.

J. A. Elwell

000526

NCIC - SBI File

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RESULTS OF ANALYSIS (CONTINUED):

ITEM	ABO
Item #9	INC
Item #12	O
Item #16	O
Item #19	O

INC = Inconclusive

Conclusions:

The blood found on the curtain, Item #19, is consistent with the blood of the victim and the suspect and may have originated from either individual.

Examination of Item #8 revealed the presence of human blood. There was an insufficient quantity of sample for blood grouping analysis.

DISPOSITION OF EVIDENCE:

Item #9 was transferred to S/A R. L. Stills of the Latent Evidence Section on January 6, 1994 for further analysis.

The remaining evidence is being returned via United Parcel Service in the attached package.

JAE:pg
Attachment

000527
NCIIC - SBI File

North Carolina

STATE BUREAU OF INVESTIGATION

Department of Justice
RALEIGH

Supplemental Report

LABORATORY REPORT

TO: Deputy Willie Williams
Washington County Sheriff's Department
120 Adams Street
Plymouth, N. C. 27962

DATE: February 28, 1994

SBI LAB NO.: R930025616

SBI FILE NO.: 668-H-5

TYPE OF CASE: Murder

AGENCY FILE NO.: 93-12-0039

LOCATION: Washington County

EXAMINED BY: J. A. Elwell

SUBJECT: WILLIAM FRANK SWAIN (VICTIM)
MAURICE BERNARD WILKINS (SUSPECT)

MATERIAL SUBMITTED BY: Addressee

DATE OF OFFENSE: December 18, 1993

DATE SUBMITTED: February 11, 1994

ITEMS SUBMITTED:

Item #3: A liquid blood sample from suspect, Maurice Wilkins.

TYPE ANALYSIS REQUESTED:

Blood grouping analysis.

RESULTS OF ANALYSIS:

Blood grouping analysis of Item #3 gave the following blood group results:

Item	ABO
Item #3	A

DISPOSITION OF EVIDENCE:

The evidence is being returned via United Parcel Service in the attached package.

JAE/mjp
Attachment

I, Michael F. Easley, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

COPIES TO:

Mr. Mitchell Norton, D. A.
SAC W. E. Godley
S/A D. R. Varnell

THIS REPORT IS TO BE USED ONLY IN CONNECTION WITH AN OFFICIAL CRIMINAL INVESTIGATION.

James J. Coman, Director

This report represents a true and accurate result of my analysis on the item(s) described.

J. A. Elwell

CONFIDENTIAL. This is an official file of the North Carolina State Bureau of Investigation. To make or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

North Carolina

STATE BUREAU OF INVESTIGATION

Department of Justice
RALEIGH

LABORATORY REPORT

TO: Deputy Sheriff Willie Williams
Washington County Sheriff's Department
P. O. Box 969
Plymouth, N. C. 27962

DATE: March 4, 1994

SBI LAB NO.: R930025616

SBI FILE NO.: 668-H-5

TYPE OF CASE: Murder

AGENCY FILE NO.: 93-12-0039

LOCATION: Washington County

EXAMINED BY: R. L. Stills

SUBJECT: WILLIAM FRANK SWAIN (VICTIM)
MAURICE BERNARD WILKINS (SUSPECT)

MATERIAL SUBMITTED BY: See Below

DATE OF OFFENSE: December 18, 1993

DATE SUBMITTED: See Below

ITEM SUBMITTED BY ADDRESSEE ON FEBRUARY 11, 1994:

Item #19: Two (2) sets of inked impressions of suspect Maurice Bernard Wilkins (Your Items #1 through #3).

ITEM SUBMITTED VIA FIRST-CLASS MAIL ON FEBRUARY 16, 1994:

Item #18: Two (2) sets of inked impressions of suspect Maurice Bernard Wilkins.

TYPE EXAMINATION REQUESTED:

Latent print examination and comparison.

RESULTS OF EXAMINATION:

As you were advised on February 14, 1994 the latent lifts previously submitted in this case will have to be resubmitted before a comparison can be made with Items #18 and #19.

DISPOSITION OF EVIDENCE:

Items #18 and #19 are enclosed and being returned to addressee via first-class mail.

I, Michael F. Easley, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

COPIES TO:

RLS/mjp
Attachment

Mr. Mitchell Norton, D. A.
SAC W. E. Godley
S/A D. R. Varnell

THIS REPORT IS TO BE USED ONLY IN CONNECTION WITH AN OFFICIAL CRIMINAL INVESTIGATION.

James J. Coman, Director

This report represents a true and accurate result of my analysis on the item(s) described.

R. L. Stills

CONFIDENTIAL. This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carol

000641
NCIIC - SBI File

North Carolina

STATE BUREAU OF INVESTIGATION

Department of Justice
RALEIGH

Supplemental Report

LABORATORY REPORT

TO: Deputy Sheriff Janice Spruill
Washington County Sheriff's Department
120 Adams Street
Plymouth, N. C. 27962

DATE: May 17, 1994

SBI LAB NO.: R930025616

SBI FILE NO.: 686-H-5

TYPE OF CASE: Murder

AGENCY FILE NO.: 93-12-0039

LOCATION: Washington County

EXAMINED BY: J. A. Elwell

SUBJECT: WILLIAM FRANK SWAIN (VICTIM)
WALLACE BRANDON JONES (SUSPECT)
SHERRY HONEA (SUSPECT)
LEROY SPRUILL (SUSPECT)
CURTIS FURLOUGH (SUSPECT)
DANA MAYBIN (SUSPECT)

MATERIAL SUBMITTED BY: Addressee

DATE OF OFFENSE: December 18, 1993

DATE SUBMITTED: May 2, 1994

ITEMS SUBMITTED:

Item #17: Two knives.
Item #18: Lace.

TYPE ANALYSIS REQUESTED:

Blood analysis.

RESULTS OF ANALYSIS:

Examination and analysis of Items #17 and #18 failed to reveal the presence of blood.

DISPOSITION OF EVIDENCE:

The evidence is being returned via United Parcel Service in the attached package.

JAE:cmw
Attachment

I, Michael F. Easley, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

COPIES TO:

Mr. Mitchell Norton, D. A.
SAC W. E. Godley
S/A D. M. Nance

THIS REPORT IS TO BE USED ONLY IN CONNECTION WITH AN OFFICIAL CRIMINAL INVESTIGATION.

James J. Coman, Director

This report represents a true and accurate result of my analysis on the item(s) described.

J. A. Elwell

CONFIDENTIAL. This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Caro

000497
NCIIC - SBI File

NCSBI Serology Section
Lab Notes

LAB FILE NO. R93 - 25616

ITEM NO. 17

PACKAGING:
[ ] SEALED BROWN PAPER BAG
[ ] SEALED ENVELOPE
[✓] OTHER 5 man env c

CONTAINING 2 knives/ wooden handle
5 man env c

RESULTS OF TESTING:

[ ] Not examined

Attach photos, sketches, or drawings here.

both knives

chemicals are working checked w/ known control

IDENTIFICATION OF BLOOD:
(-) - PHENOLPHTHALEIN
_____ - TAKAYAMA
(Enter results as + (Pos), - (Neg) or Inc.)

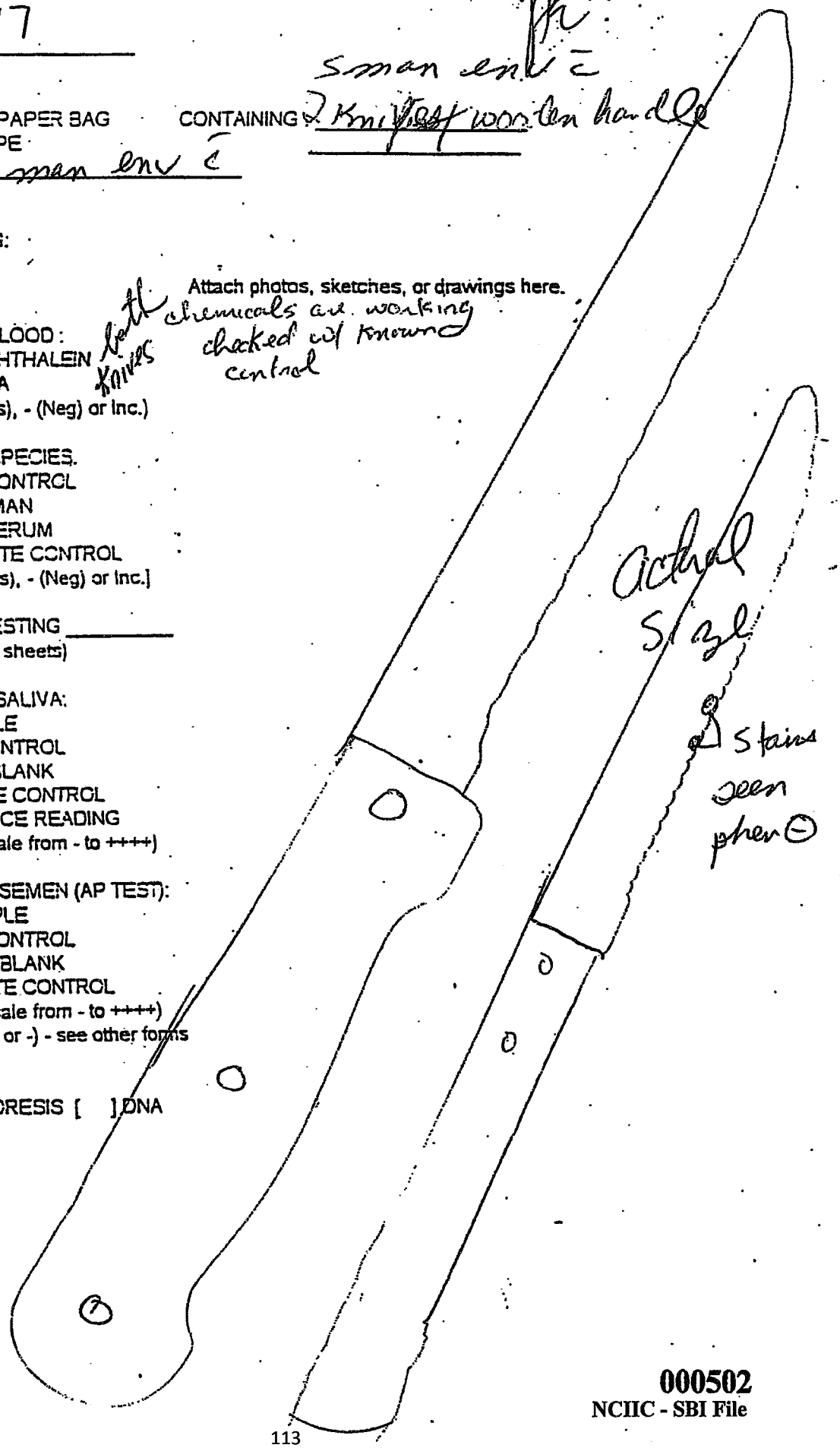
IDENTIFICATION OF SPECIES.
_____ - HUMAN CONTROL
_____ - ANTI -HUMAN
_____ - RABBIT SERUM
_____ - SUBSTRATE CONTROL
(Enter results as + (Pos), - (Neg) or Inc.)

RESULTS OF ABO TESTING _____
(See separate testing sheets)

IDENTIFICATION OF SALIVA:
_____ TEST SAMPLE
_____ KNOWN CONTROL
_____ REAGENT BLANK
_____ SUBSTRATE CONTROL
_____ ABSORBANCE READING
(Enter results on a scale from - to ++++)

IDENTIFICATION OF SEMEN (AP TEST):
_____ TEST SAMPLE
_____ KNOWN CONTROL
_____ REAGENT BLANK
_____ SUBSTRATE CONTROL
(Enter results on a scale from - to ++++)
_____ P30 test (+ or -) - see other forms

SAMPLES TO:
[ ] ELECTROPHORESIS [ ] DNA



000502
NCIIC - SBI File

NCSBI Serology Section
Lab Notes

LAB FILE NO. R98 25616

ITEM NO. 18

PACKAGING :
[ ] SEALED BROWN PAPER BAG
[ ] SEALED ENVELOPE
[✓] OTHER 5 man env

CONTAINING : hot pink lace

RESULTS OF TESTING:

[ ] Not examined

Attach photos, sketches, or drawings here.

IDENTIFICATION OF BLOOD :
_____ - PHENOLPHTHALEIN
_____ - TAKAYAMA
(Enter results as + (Pos), - (Neg) or Inc.)

IDENTIFICATION OF SPECIES.
_____ - HUMAN CONTROL
_____ - ANTI -HUMAN
_____ - RABBIT SERUM
_____ - SUBSTRATE CONTROL
(Enter results as + (Pos), - (Neg) or Inc.)

RESULTS OF ABO TESTING _____
(See separate testing sheets)

IDENTIFICATION OF SALIVA:
_____ TEST SAMPLE
_____ KNOWN CONTROL
_____ REAGENT BLANK
_____ SUBSTRATE CONTROL
_____ ABSORBANCE READING
(Enter results on a scale from - to ++++)

IDENTIFICATION OF SEMEN (AP TEST):
_____ TEST SAMPLE
_____ KNOWN CONTROL
_____ REAGENT BLANK
_____ SUBSTRATE CONTROL
(Enter results on a scale from - to ++++)
_____ P30 test (+ or -) - see other forms

SAMPLES TO:
[ ] ELECTROPHORESIS [ ] DNA

000503
NCIIC - SBI File

North Carolina

STATE BUREAU OF INVESTIGATION

Department of Justice
RALEIGH

LABORATORY REPORT

TO: Deputy Sheriff Willie Williams
Washington County Sheriff's Department
P. O. Box 969
Plymouth, N. C. 27962

DATE: May 23, 1994

SBI LAB NO.: R930025616

SBI FILE NO.: 668-H-5

TYPE OF CASE: Murder/Controlled Substances Act

AGENCY FILE NO.: 93-12-0039

LOCATION: Washington County

EXAMINED BY: N. H. Gregory

SUBJECT: WILLIAM FRANK SWAIN (VICTIM)
WALLACE BRANDON JONES (SUSPECT)
LEROY SPRUILL (SUSPECT)
CURTIS FURLOUGH (SUSPECT)
DANA MAYBIN (SUSPECT)
SHERRY HONEA (SUSPECT)

MATERIAL SUBMITTED BY: Addressee

DATE OF OFFENSE: December 18, 1993

DATE SUBMITTED: May 18, 1994

ITEMS SUBMITTED:

Item #6: Plastic bag containing metal smoking device.
Item #7: Plastic bag containing two metal smoking devices.

TYPE ANALYSIS REQUESTED:

Analyze for controlled substances.

RESULTS OF ANALYSIS:

Item #6: Cocaine base - Schedule II.
Residue amount.
Item #7: Cocaine base - Schedule II.
Residue amount.

DISPOSITION OF EVIDENCE:

The unconsumed portion of the evidence is being returned via first-class mail.

NHG:cmw
Attachment

I, Michael F. Easley, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

COPIES TO:

Mr. Mitchell Norton, D. A.
SAC W. E. Godley
S/A D. R. Varnell

THIS REPORT IS TO BE USED ONLY IN CONNECTION WITH AN OFFICIAL CRIMINAL INVESTIGATION.

James J. Coman, Director

This report represents a true and accurate result of my analysis on the item(s) described.

N. H. Gregory NHG

CONFIDENTIAL. This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

North Carolina

STATE BUREAU OF INVESTIGATION

Department of Justice
RALEIGH

Report #3

LABORATORY REPORT

TO: Deputy Sheriff Janice Spruill
Washington County Sheriff's Department
120 Adams Street
Plymouth, N. C. 27962

DATE: June 1, 1994

SBI LAB NO.: R930025616

SBI FILE NO.: 668-H-5

TYPE OF CASE: Murder

AGENCY FILE NO.: 93-12-0039

LOCATION: Washington County

EXAMINED BY: R. L. Stills

SUBJECT: WILLIAM FRANK SWAIN (VICTIM)
WALLACE BRANDON JONES (SUSPECT)
LEROY SPRUILL (SUSPECT)
CURTIS FURLOUGH (SUSPECT)
DANA MAYBIN (SUSPECT)
SHERRY HONEA (SUSPECT)

MATERIAL SUBMITTED BY: See Below

DATE OF OFFENSE: December 18, 1993

DATE SUBMITTED: See Below

ITEMS SUBMITTED, IN PERSON, BY ADDRESSEE ON MAY 2, 1994:

Item #1: Eighteen (18) latent lifts (Your Item #16).
Item #1A: One (1) set of inked fingerprints of suspect Brandon Jones (Your Item #1).
Item #2: One (1) Salem and two (2) Marlboro cigarette packs.
Item #3: One (1) bottle of Eternity men's cologne.
Item #4: One (1) container of Suave mousse.
Item #5: Two (2) Kool cigarette packs.
Item #6: One (1) container of Micatin foot powder.
Item #7: One (1) container of Faberge deodorant.
Item #8: One (1) container of Nuggett shoe polish.
Item #9: One (1) container of Jabon de Calabaze saddle soap.
Item #10: One (1) bottle of Tylenol.
Item #11: One (1) bottle of Mini Thin.
Item #12: Fourteen (14) photographs and one (1) envelope.
Item #13: Four (4) pieces of paper.
Item #14: One (1) tube of Crest toothpaste.
Item #15: Two (2) sets of inked impressions of suspect Sherry Anita Honea.

ITEM SUBMITTED, IN PERSON, BY ADDRESSEE ON MAY 18, 1994:

Item #17: One (1) Imperial lock blade pocketknife.

I, Michael F. Easley, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

COPIES TO:

Mr. Mitchell Norton, D. A.
SAC W. E. Godley
S/A D. R. Varnell

THIS REPORT IS TO BE USED ONLY IN CONNECTION WITH AN OFFICIAL CRIMINAL INVESTIGATION.

James J. Coman, Director

This report represents a true and accurate result of my analysis on the item(s) described.

R. L. Stills

CONFIDENTIAL. This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

000584
NCHC - SBI File

TYPE EXAMINATION REQUESTED:

Latent print examination and comparison.

RESULTS OF EXAMINATION:

There were no latent prints obtained from Items #6 through #11, #14 and #17.

There were no identifiable latent prints obtained from Items #2 through #5 and #13.

There were three (3) identifiable latent fingerprints and one (1) identifiable latent impression obtained from Item #12.

There were two (2) identifiable latent fingerprints and three (3) identifiable latent impressions noted on Item #1.

The nine (9) identifiable latent prints were compared to Items #1A, #15, and the inked impressions on file of suspects Leroy Spruill (SID NC0239014A) and Curtis Lane Furlough (SID NC0487073A).

One (1) of the identifiable latent prints obtained from Item #12 was identified as having been made by the right thumb of suspect Brandon Jones.

Eight (8) identifiable latent prints remain unidentified.

The inked fingerprints as submitted of suspect Brandon Jones did not contain inked palmprints.

Major case inked impressions are needed on all of the above listed suspects with emphasis on the tips, sides, joints of the fingers, and extreme sides of the palms before this can be considered a conclusive comparison with some of the identifiable latent prints.

DISPOSITION OF EVIDENCE:

Item #15 will be forwarded to this Bureau's Identification Section.

Items #1 through #15, #17, and the latent lifts obtained from Item #12 are enclosed and being returned to addressee via United Parcel Service.

RLS:cmw
Attachment

000585
NCIIC - SBI File

North Carolina

STATE BUREAU OF INVESTIGATION

Department of Justice
RALEIGH

LABORATORY REPORT

TO: Deputy Sheriff Willie Williams
Washington County Sheriff's Department
P. O. Box 969
Plymouth, N. C. 27962

DATE: June 16, 1994

SBI LAB NO.: R930025616

SBI FILE NO.: 668-H-5

TYPE OF CASE: Murder

AGENCY FILE NO.: 93-12-0039

LOCATION: Washington County

EXAMINED BY: W. E. Pearce

SUBJECT: WILLIAM FRANK SWAIN (VICTIM)
WALLACE BRANDON JONES (SUSPECT)
LEROY SPRUILL (SUSPECT)
CURTIS FURLOUGH (SUSPECT)
DANA MAYBIN (SUSPECT)
SHERRY HONEA (SUSPECT)

MATERIAL SUBMITTED BY: Addressee

DATE OF OFFENSE: December 18, 1993

DATE SUBMITTED: May 18, 1994

ITEMS SUBMITTED:

Item #1: A plastic bag containing charred debris.

TYPE ANALYSIS REQUESTED:

Examine the debris for burned particles of tennis shoes or other clothing.

RESULTS OF ANALYSIS:

Examination of the debris in Item #1 showed it to be composed mostly of charred wood. The additional material does not have sufficient characteristics to identify its origin.

DISPOSITION OF EVIDENCE:

The evidence is enclosed in the attached package and is being returned via first-class mail.

WEP:pg
Attachment

I, Michael F. Easley, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

COPIES TO:

Mr. Mitchell Norton, D. A.
SAC W. E. Godley
S/A D. R. Varnell

THIS REPORT IS TO BE USED ONLY IN CONNECTION WITH AN OFFICIAL CRIMINAL INVESTIGATION.

James J. Coman, Director

This report represents a true and accurate result of my analysis on the item(s) described.

W. E. Pearce

W. E. Pearce

CONFIDENTIAL. This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

North Carolina

STATE BUREAU OF INVESTIGATION

Department of Justice
RALEIGH

LABORATORY REPORT

TO: Deputy Janice Spruill
Washington County Sheriff's Department
120 Adams Street
Plymouth N. C. 27962

DATE: June 29, 1994

SBI LAB NO.: R930025616

SBI FILE NO.: 668-H-5

TYPE OF CASE: Homicide

AGENCY FILE NO.:

LOCATION: Washington County

EXAMINED BY: J. A. Elwell

SUBJECT: WILLIAM FRANK SWAIN (VICTIM)

MATERIAL SUBMITTED BY: D. G. Honeycutt

DATE OF OFFENSE: December 18, 1993

DATE SUBMITTED: June 2, 1994

ITEMS SUBMITTED:

Item DV-6: Shirt.

TYPE ANALYSIS REQUESTED:

Blood analysis.

RESULTS OF ANALYSIS:

Examination and analysis of Item DV-6 revealed the presence of blood. Further analysis failed to give conclusive results.

DISPOSITION OF EVIDENCE:

The evidence is being returned via United Parcel Service in the attached package.

JAE/mjp
Attachment

I, Michael F. Easley, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

COPIES TO:

Mr. Mitchell Norton, D. A.
SAC W. E. Godley
S/A D. R. Varnell

THIS REPORT IS TO BE USED ONLY IN CONNECTION WITH AN OFFICIAL CRIMINAL INVESTIGATION.

James J. Coman, Director

This report represents a true and accurate result of my analysis on the item(s) described.

J. A. Elwell

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000472
NCID - SBI File

NCSBI Serology Section
Lab Notes

LAB FILE NO. R9825616

ITEM NO. DV-6

PACKAGING:
[ ] SEALED BROWN PAPER BAG
[ ] SEALED ENVELOPE
[ ] OTHER _____

CONTAINING: blue & white ~~mesh style~~ shirt

RESULTS OF TESTING:

[ ] Not examined

Attach photos, sketches, or drawings here.

IDENTIFICATION OF BLOOD:
+ - PHENOLPHTHALEIN
+ - TAKAYAMA
(Enter results as + (Pos), - (Neg) or Inc.)

IDENTIFICATION OF SPECIES:
+ - HUMAN CONTROL
- - ANTI-HUMAN
- - RABBIT SERUM
- - SUBSTRATE CONTROL
(Enter results as + (Pos), - (Neg) or Inc.)

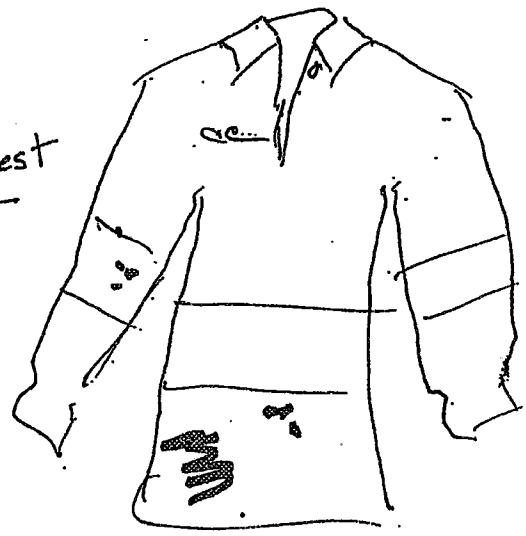
both ouch & ring test

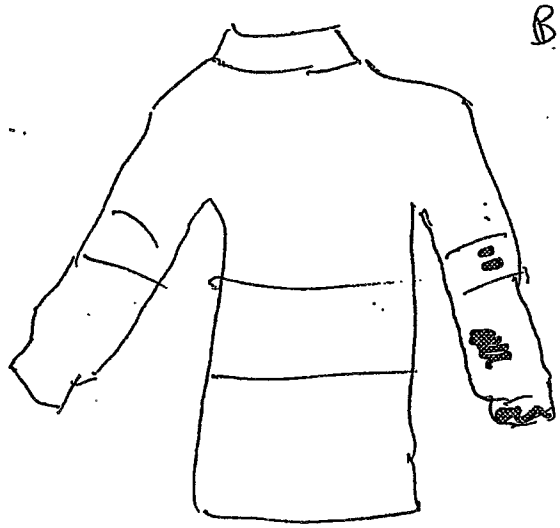
RESULTS OF ABO TESTING _____
(See separate testing sheets)

IDENTIFICATION OF SALIVA:
_____ TEST SAMPLE
_____ KNOWN CONTROL
_____ REAGENT BLANK
_____ SUBSTRATE CONTROL
_____ ABSORBANCE READING
(Enter results on a scale from - to ++++)

IDENTIFICATION OF SEMEN (AP TEST):
_____ TEST SAMPLE
_____ KNOWN CONTROL
_____ REAGENT BLANK
_____ SUBSTRATE CONTROL
(Enter results on a scale from - to ++++)
_____ P30 test (+ or -) - see other forms

SAMPLES TO:
[ ] ELECTROPHORESIS [ ] DNA





	DV-6		DV-6 cc
1.	-	α Sheep	-
2.	-	α Deer	-
3.	-	α Rabbit	-
4.	-	α Swine	-
5.	-	α horse	-
6.	-	α bovine	-
7.	-	α chicken	-
8.	inc	α cat	-
9.	-	α Dog	-
10	-	α Human	-

ouchterlony

nun	DV-6	+
ouch	DV-6 cc	-
on	known cat	+
cat		

000476
NCIIC - SBI File

North Carolina

STATE BUREAU OF INVESTIGATION

Department of Justice
RALEIGH

LABORATORY REPORT

TO: Deputy Willie Williams
Washington County Sheriff's Department
P. O. Box 969
Plymouth, N. C. 27962

DATE: February 16, 1995

SBI LAB NO.: R930025616

SBI FILE NO.: 668-H-5

TYPE OF CASE: Homicide

AGENCY FILE NO.: NC 93120018

LOCATION: Washington County

EXAMINED BY: J. D. Reavis

SUBJECT: WILLIAM FRANK SWAIN (VICTIM)
WALLACE BRANDON JONES (SUSPECT)
LEROY SPRUILL (SUSPECT)
DANA LYNN MAYBIN (SUSPECT)

MATERIAL SUBMITTED BY: Addressee

DATE OF OFFENSE: December 18, 1993

DATE SUBMITTED: January 19, 1995

ITEMS SUBMITTED:

Item #2: Tapings from floor around the victim.
Item #3: Tapings from the body of the victim.
Item #4A: Hairs from a coat.
Item #13: Head hairs from William Swain.
Item #14A: Hairs from the clothing of William Swain.
Item #22B: Head hairs from Wallace B. Jones.
Item #23B: Head hairs from Dana L. Maybin.
Item #24B: Head hairs from Leroy Spruill.

TYPE ANALYSIS REQUESTED:

Hair analysis.

RESULTS OF ANALYSIS:

The examination of the above listed evidence did not reveal a transfer of hairs.

DISPOSITION OF EVIDENCE:

The evidence is enclosed in the attached package and is being returned via first-class mail.

I, Michael F. Easley, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

COPIES TO:

JDR/mjp
Attachment
Mr. Mitchell Norton, D.A.
SAC [illegible]E. Godley
[illegible]R. Varnell

THIS REPORT IS TO BE USED ONLY IN CONNECTION WITH AN OFFICIAL CRIMINAL INVESTIGATION.

James J. Coman, Director

This report represents a true and accurate result of my analysis on the item(s) described.

J. D. Reavis

CONFIDENTIAL. This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

North Carolina

STATE BUREAU OF INVESTIGATION

Department of Justice
RALEIGH

upplemental Report

LABORATORY REPORT

TO: Deputy Willie Williams
Washington County Sheriff's Department
120 Adams Street
Plymouth, N. C. 27962

DATE: February 8, 1995

SBI LAB NO.: R930025616

SBI FILE NO.: 668-H-5

TYPE OF CASE: Homicide

AGENCY FILE NO.: NC 93120018

LOCATION: Washington County

EXAMINED BY: J. A. Elwell

SUBJECT: WILLIAM FRANK SWAIN (VICTIM)
WALLACE BRANDON JONES (SUSPECT)
LEROY SPRUILL (SUSPECT)
DANA LYNN MAYBIN (SUSPECT)

MATERIAL SUBMITTED BY: Addressee

DATE OF OFFENSE: December 18, 1993

DATE SUBMITTED: January 19, 1995

ITEMS SUBMITTED:

Item A-4: Jacket.
Item #12: Previously submitted liquid blood sample from the victim.
Item #14: Victim's clothing:
a. Shirt.
b. Pants.
c. T-shirt.
d. Briefs.
e. Socks.
f. Tennis shoes.
Item #22: An SBI Suspect Evidence Collection Kit containing the following articles of evidence identified as collected from the suspect, Wallace Jones:
a. Liquid blood sample.
b. Known head hair sample.
Item #23: An SBI Suspect Evidence Collection Kit containing the following articles of evidence identified as collected from the suspect, Dana Maybin:
a. Liquid blood sample.
b. Known head hair sample.
Item #24: An SBI Suspect Evidence Collection Kit containing the following articles of evidence identified as collected from the suspect, Leroy Spruill:
a. Liquid blood sample.
b. Known head hair sample.

I, Michael F. Easley, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

COPIES TO:

Mr. Mitchell Norton, D.A.
SAC W. E. Godley
S/A D. R. Varnell

THIS REPORT IS TO BE USED ONLY IN CONNECTION WITH AN OFFICIAL CRIMINAL INVESTIGATION.

James J. Coman, Director

This report represents a true and accurate result of my analysis on the item(s) described.

J. A. Elwell

CONFIDENTIAL. This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

000509
NCIIC - SBI File

TYPE ANALYSIS REQUESTED:

Blood analysis.

RESULTS OF ANALYSIS:

Examination and analysis of Item #14a revealed the presence of human blood. Blood grouping analysis of this item along with a known liquid blood sample from the suspects, Items #22a and #23a gave the following blood group reaction:

ITEM	ABO
Item #22a	B
Item #23a	A
Item #14a	O

The blood found on Item #14a is not consistent with the blood of #22a or #23a and could not have originated from these individuals.

Analysis of Item A-4 revealed the presence of blood.

Examination of Items #14b - 14f gave chemical indications for the presence of blood.

DISPOSITION OF EVIDENCE:

Hairs from Items #4 and #14 and Items #22b, #23b, and #24b were transferred to S/A J. D. Reavis of the Trace Evidence Section on January 24, 1995 for further analysis.

The remaining evidence is being returned via United Parcel Service in the attached package.

JAE:gh
Attachment

000510
NCIIC - SBI File

NCSBI Serology Section
Lab Notes

LAB FILE NO. R93-25616
JAE

ITEM NO. A-4

PACKAGING:
[✓] SEALED BROWN PAPER BAG
[ ] SEALED ENVELOPE
[ ] OTHER _____

CONTAINING: Navy & white jacket w red trim

RESULTS OF TESTING:

[ ] NOT EXAMINED

ATTACH PHOTOS, SKETCHES, AND DRAWINGS HERE

IDENTIFICATION OF BLOOD:
+ - PHENOLPHTHALEIN
+ - TAKAYAMA both areas

[ENTER RESULTS AS +(POS), -(NEG), OR INC]

inc

IDENTIFICATION OF SPECIES:
+ - HUMAN CONTROL
- - ANTI-HUMAN
- - RABBIT SERUM
~~+ - SUBSTRATE CONTROL~~

~~jacket is very bloody fully observed for control Supplement~~

[ENTER RESULTS AS +(POS), -(NEG), OR INC]

RESULTS OF ABO TESTING_____
(SEE SEPARATE TESTING SHEETS)

IDENTIFICATION OF SALIVA:
_____ - TEST SAMPLE
_____ - KNOWN CONTROL
_____ - REAGENT BLANK
_____ - SUBSTRATE CONTROL
_____ - ABSORBANCE READING

(ENTER RESULTS ON A SCALE FROM - TO ++++)

IDENTIFICATION OF SEMEN (AP TEST):
_____ - TEST SAMPLE
_____ - KNOWN CONTROL
_____ - SUBSTRATE CONTROL
_____ - REAGENT BLANK

(ENTER RESULTS ON A SCALE FROM - TO ++++)

_____ - P-30 TESTING (SEE OTHER FORMS)

SAMPLES TO:
[ ] ELECTROPHORESIS [ ] DNA

wpwin\labnotes

inside back is saturated

Back has a great deal of smearing

No visible indication in these regions of a 2nd bleeder

Front

000516
NCIIC - SBI File

NCSBI Serology Section
Lab Notes

LAB FILE NO. R93 25616

ITEM NO. 12

PACKAGING:
[ ] SEALED BROWN PAPER BAG
[ ] SEALED ENVELOPE
[✓] OTHER heat s bag

CONTAINING: 1 previously submitted sample from victim

RESULTS OF TESTING:

[✓] NOT EXAMINED

ATTACH PHOTOS, SKETCHES, AND DRAWINGS HERE

Not opened

IDENTIFICATION OF BLOOD:
_____ - PHENOLPHTHALEIN
_____ - TAKAYAMA

[ENTER RESULTS AS +(POS), -(NEG), OR INC]

IDENTIFICATION OF SPECIES:
_____ - HUMAN CONTROL
_____ - ANTI-HUMAN
_____ - RABBIT SERUM
_____ - SUBSTRATE CONTROL

[ENTER RESULTS AS +(POS), -(NEG), OR INC]

RESULTS OF ABO TESTING_____
(SEE SEPARATE TESTING SHEETS)

IDENTIFICATION OF SALIVA:
_____ - TEST SAMPLE
_____ - KNOWN CONTROL
_____ - REAGENT BLANK
_____ - SUBSTRATE CONTROL
_____ - ABSORBANCE READING

(ENTER RESULTS ON A SCALE FROM - TO ++++)

IDENTIFICATION OF SEMEN (AP TEST):
_____ - TEST SAMPLE
_____ - KNOWN CONTROL
_____ - SUBSTRATE CONTROL
_____ - REAGENT BLANK

(ENTER RESULTS ON A SCALE FROM - TO ++++)

_____ - P-30 TESTING (SEE OTHER FORMS)

SAMPLES TO:
[ ] ELECTROPHORESIS [ ] DNA

wpwin\labnotes

000517
NCIIC - SBI File

NCSBI Serology Section
Lab Notes

LAB FILE NO. R93 25610
JRC

ITEM NO. 14

PACKAGING:
[✓] SEALED BROWN PAPER BAG CONTAINING: victims clothing
[ ] SEALED ENVELOPE
[ ] OTHER _____

RESULTS OF TESTING:

[ ] NOT EXAMINED

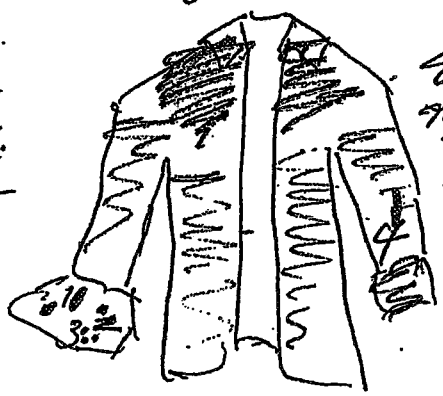
ATTACH PHOTOS, SKETCHES, AND DRAWINGS HERE

IDENTIFICATION OF BLOOD:
_____ - PHENOLPHTHALEIN
+ - TAKAYAMA All areas

a) left teal button up shirt very bloody

[ENTER RESULTS AS +(POS), -(NEG), OR INC]

IDENTIFICATION OF SPECIES:
+ - HUMAN CONTROL
+ - ANTI-HUMAN
- - RABBIT SERUM
~~+ - SUBSTRATE CONTROL~~
all areas of interest. No clean area on shirt



shirt has numerous ~~Too~~ holes very bloody

[ENTER RESULTS AS +(POS), -(NEG), OR INC]

RESULTS OF ABO TESTING_____
(SEE SEPARATE TESTING SHEETS)

IDENTIFICATION OF SALIVA:
_____ - TEST SAMPLE
_____ - KNOWN CONTROL
_____ - REAGENT BLANK
_____ - SUBSTRATE CONTROL
_____ - ABSORBANCE READING

back is completely saturated ~~w~~ no sign of a 2nd bleeder

(ENTER RESULTS ON A SCALE FROM - TO ++++)

IDENTIFICATION OF SEMEN (AP TEST):
_____ - TEST SAMPLE
_____ - KNOWN CONTROL
_____ - SUBSTRATE CONTROL
_____ - REAGENT BLANK

(ENTER RESULTS ON A SCALE FROM - TO ++++)

_____ - P-30 TESTING (SEE OTHER FORMS)

SAMPLES TO:
[ ] ELECTROPHORESIS [ ] DNA

wpwin\labnotes

000518
NCIIC - SBI File

NCSBI Serology Section
Lab Notes

LAB FILE NO. R93256/6

ITEM NO. 14 Continued

PACKAGING:
[ ] SEALED BROWN PAPER BAG
[ ] SEALED ENVELOPE
[ ] OTHER _____

CONTAINING: victims clothing cont.

RESULTS OF TESTING:

[ ] NOT EXAMINED

ATTACH PHOTOS, SKETCHES, AND DRAWINGS HERE

IDENTIFICATION OF BLOOD:
+ - PHENOLPHTHALEIN
_____ - TAKAYAMA

[ENTER RESULTS AS +(POS), -(NEG), OR INC]

IDENTIFICATION OF SPECIES:
_____ - HUMAN CONTROL
_____ - ANTI-HUMAN
_____ - RABBIT SERUM
_____ - SUBSTRATE CONTROL

[ENTER RESULTS AS +(POS), -(NEG), OR INC]

RESULTS OF ABO TESTING_____
(SEE SEPARATE TESTING SHEETS)

IDENTIFICATION OF SALIVA:
_____ - TEST SAMPLE
_____ - KNOWN CONTROL
_____ - REAGENT BLANK
_____ - SUBSTRATE CONTROL
_____ - ABSORBANCE READING

(ENTER RESULTS ON A SCALE FROM - TO ++++)

IDENTIFICATION OF SEMEN (AP TEST):
_____ - TEST SAMPLE
_____ - KNOWN CONTROL
_____ - SUBSTRATE CONTROL
_____ - REAGENT BLANK

(ENTER RESULTS ON A SCALE FROM - TO ++++)

_____ - P-30 TESTING (SEE OTHER FORMS)

SAMPLES TO:
[ ] ELECTROPHORESIS [ ] DNA

wpwin\labnotes

b) navy blue pants numerous blood smears but no obvious indications of a 2nd bleeder phen + NFA

c) blood soaked T-shirt no obvious 2nd bleeder NFA phen +

d) mens briefs blood stain & probable urine stain no signs of 2nd bleeder NFA phen +

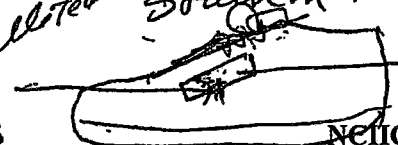
Stains are back area & could be where shirt would have been smeared

e) pair of Red & black table socks blood stained no obvious 2nd bleeder phen +

smears no drops seen

f) pair of Red & tennis shoes small stains on Rt shoe & thin smear on left no indication of a 2nd bleeder on left shoes phen +

collected stain on Rt shoe



cc

blood was coated w/ glue from shoe manufacturing not able to analyze

000519

NCIIC - SBI File

North Carolina

STATE BUREAU OF INVESTIGATION

Department of Justice
RALEIGH

LABORATORY REPORT

TO: Deputy Willie Williams
Washington County Sheriff's Department
P. O. Box 969
Plymouth, N. C. 27962

DATE: February 16, 1995

SBI LAB NO.: R930025616

SBI FILE NO.: 668-H-5

TYPE OF CASE: Homicide

AGENCY FILE NO.: NC 93120018

LOCATION: Washington County

EXAMINED BY: J. D. Reavis

SUBJECT: WILLIAM FRANK SWAIN (VICTIM)
WALLACE BRANDON JONES (SUSPECT)
LEROY SPRUILL (SUSPECT)
DANA LYNN MAYBIN (SUSPECT)

MATERIAL SUBMITTED BY: Addressee

DATE OF OFFENSE: December 18, 1993

DATE SUBMITTED: January 19, 1995

ITEMS SUBMITTED:

Item #2: Tapings from floor around the victim.
Item #3: Tapings from the body of the victim.
Item #4A: Hairs from a coat.
Item #13: Head hairs from William Swain.
Item #14A: Hairs from the clothing of William Swain.
Item #22B: Head hairs from Wallace B. Jones.
Item #23B: Head hairs from Dana L. Maybin.
Item #24B: Head hairs from Leroy Spruill.

TYPE ANALYSIS REQUESTED:

Hair analysis.

RESULTS OF ANALYSIS:

The examination of the above listed evidence did not reveal a transfer of hairs.

DISPOSITION OF EVIDENCE:

The evidence is enclosed in the attached package and is being returned via first-class mail.

I, Michael F. Easley, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

COPIES TO:

JDR/mjp
Attachment

Mr. Mitchell Norton, D.A.
SAC W. E. Godley
S/A D. R. Varnell

THIS REPORT IS TO BE USED ONLY IN CONNECTION WITH AN OFFICIAL CRIMINAL INVESTIGATION.

James J. Coman, Director

This report represents a true and accurate result of my analysis on the item(s) described.

J. D. Reavis

000461

CONFIDENTIAL. This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal its contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

North Carolina

STATE BUREAU OF INVESTIGATION

Department of Justice
RALEIGH

Report #4

LABORATORY REPORT

TO: Deputy Willie Williams
Washington County Sheriff's Department
P. O. Box 969
Plymouth, N. C. 27962

DATE: February 22, 1995

SBI LAB NO.: R930025616

SBI FILE NO.: 668-H-5

TYPE OF CASE: Homicide

AGENCY FILE NO.: NC 93120018

LOCATION: Washington County

EXAMINED BY: R. L. Stills

SUBJECT: WILLIAM FRANK SWAIN (VICTIM)
WALLACE BRANDON JONES (SUSPECT)
LEROY SPRUILL (SUSPECT)
DANA LYNN MAYBIN (SUSPECT)

MATERIAL SUBMITTED BY: Addressee

DATE OF OFFENSE: December 18, 1993

DATE SUBMITTED: January 19, 1995

ITEMS SUBMITTED:

Item #1: Eighteen (18) latent lifts.
Item #11: One (1) set of postmortem inked impressions of victim William Frank Swain.
Item #25: One (1) set of major case inked impressions of suspect Leroy Spruill.
Item #26: One (1) set of inked impressions of suspect Wallace Brandon Jones.
Item #27: One (1) set of inked impressions of suspect Dana Lynn Maybin.

TYPE EXAMINATION REQUESTED:

Latent print examination and comparison.

RESULTS OF EXAMINATION:

There were two (2) identifiable latent fingerprints and three (3) identifiable latent impressions noted on Item #1.

The five (5) identifiable latent prints were compared to Items #25 through #27 with no identifications being made.

The identifiable latent prints were compared to Item #11 on a previous date with no identifications being made.

I, Michael F. Easley, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

COPIES TO:

Mr. Mitchell Norton, D.A.
SAC W. E. Godley
S/A D. R. Varnell

THIS REPORT IS TO BE USED ONLY IN CONNECTION WITH AN OFFICIAL CRIMINAL INVESTIGATION.

James J. Coman, Director

This report represents a true and accurate result of my analysis on the item(s) described.

R. L. Stills

CONFIDENTIAL. This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Caro

000570

NCIIC - SBI File

RESULTS OF EXAMINATION (CONTINUED):

The inked impressions as submitted of suspects Leroy Spruill, Wallace Brandon Jones, and Dana Lynn Maybin are of insufficient detail for comparison purposes with some of the identifiable latent prints. Major case inked impressions are needed with emphasis on the extreme sides, tips, joints, and the delta area of the fingers along with the extreme sides of the palms before this can be considered a conclusive comparison.

DISPOSITION OF EVIDENCE:

The evidence is enclosed in the attached package and is being returned via first-class mail.

RLS:gh
Attachment

North Carolina

STATE BUREAU OF INVESTIGATION

Department of Justice
RALEIGH

Corrected Report

LABORATORY REPORT

TO: Deputy Sheriff Willie Williams
Washington County Sheriff's Department
120 Adams Street
Plymouth, N. C. 27962

DATE: July 31, 1995

SBI LAB NO.: R930025616

SBI FILE NO.: 1993-3368
668-H-5

TYPE OF CASE: Murder

AGENCY FILE NO.: 93-12-0039

LOCATION: Washington County

EXAMINED BY: J. A. Elwell

SUBJECT: WILLIAM FRANK SWAIN(VICTIM)
WALLACE BRANDON JONES (SUSPECT)
LEROY SPRUILL (SUSPECT)
CURTIS FURLOUGH (SUSPECT)
DANA MAYBIN (SUSPECT)
SHERRY HONEA (SUSPECT)

MATERIAL SUBMITTED BY: Addressee

DATE OF OFFENSE: December 18, 1993

DATE SUBMITTED: May 18, 1994

ITEMS SUBMITTED:

Item #1: Scrapings.
Item #2: Pocketknife.
Item #3: Top sheet.
Item #4: A liquid blood sample from the suspect, Leroy Spruill.

TYPE ANALYSIS REQUESTED:

Blood analysis.

RESULTS OF ANALYSIS:

Examination and analysis of Items #1 and #3 gave chemical indications for the presence of blood.

Analysis of Item #2 failed to reveal the presence of blood.

ABO blood grouping analysis of Item #4 gave reactions for an ABO group O.

The blood found on the curtains, (Item #19), was an ABO group O, which is consistant with the blood of Leroy Spruill (Item #4), William Frank Swain (Item #12), and Lee McPhatter (Items #16A and #16B).

The blood on the curtains (Item #19) could not have originated from Maurice Wilkins (Item #3), Wallace Jones (Item #22a), and Dana Maybin (Item #23a).

I, Michael F. Easley, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

COPIES TO:

Mr. Mitchell Norton, D.A.
SAC W. E. Godley
S/A D. R. Varnell

THIS REPORT IS TO BE USED ONLY IN CONNECTION WITH AN OFFICIAL CRIMINAL INVESTIGATION.

James J. Coman, Director

This report represents a true and accurate result of my analysis on the item(s) described.

J. A. Elwell

CONFIDENTIAL. This is an official file of the North Carolina State Bureau of Investigation. To make public or disclose the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

000477
NCHC - SBI File

DISPOSITION OF EVIDENCE:

The evidence is enclosed in the attached package and is being returned via United Parcel Service.

JAE/jf
Attachment

000478
NCIIC - SBI File

NCSBI Serology Section
Lab Notes

LAB FILE NO. R93 25616

ITEM NO. 1

PACKAGING:
[ ] SEALED BROWN PAPER BAG
[ ] SEALED ENVELOPE
[+] OTHER 5 gallon white box

CONTAINING: a few whitish flakes

RESULTS OF TESTING:

[ ] Not examined

Attach photos, sketches, or drawings here.

IDENTIFICATION OF BLOOD:
(+) - PHENOLPHTHALEIN – directly on flakes
_____ - TAKAYAMA
(Enter results as + (Pos), - (Neg) or Inc.)

IDENTIFICATION OF SPECIES.
_____ - HUMAN CONTROL
_____ - ANTI -HUMAN
_____ - RABBIT SERUM
_____ - SUBSTRATE CONTROL
[Enter results as + (Pos), - (Neg) or Inc.]

RESULTS OF ABO TESTING _____
(See separate testing sheets)

IDENTIFICATION OF SALIVA:
_____ TEST SAMPLE
_____ KNOWN CONTROL
_____ REAGENT BLANK
_____ SUBSTRATE CONTROL
_____ ABSORBANCE READING
(Enter results on a scale from - to ++++)

IDENTIFICATION OF SEMEN (AP TEST):
_____ TEST SAMPLE
_____ KNOWN CONTROL
_____ REAGENT BLANK
_____ SUBSTRATE CONTROL
(Enter results on a scale from - to ++++)
_____ P30 test (+ or -) - see other forms

SAMPLES TO:
[ ] ELECTROPHORESIS [ ] DNA

000492
NCIIC - SBI File

NCSBI Serology Section
Lab Notes

LAB FILE NO. R93 - 25616

ITEM NO. 2

PACKAGING:
[ ] SEALED BROWN PAPER BAG
[ ] SEALED ENVELOPE
[+] OTHER 5 3 lb

CONTAINING: a pocket knife w/ 3 blades

RESULTS OF TESTING:

[ ] Not examined

Attach photos, sketches, or drawings here.

IDENTIFICATION OF BLOOD:
(-) - PHENOLPHTHALEIN
_____ - TAKAYAMA
(Enter results as + (Pos), - (Neg) or Inc.)

Reddish stains on knife phen ⊖
I took the white handles off and phen. whole knife & handle phen ⊖

IDENTIFICATION OF SPECIES.
_____ - HUMAN CONTROL
_____ - ANTI -HUMAN
_____ - RABBIT SERUM
_____ - SUBSTRATE CONTROL
(Enter results as + (Pos), - (Neg) or Inc.)

RESULTS OF ABO TESTING _____
(See separate testing sheets)

ICENTIFICATION OF SALIVA:
_____ TEST SAMPLE
_____ KNOWN CONTROL
_____ REAGENT BLANK
_____ SUBSTRATE CONTROL
_____ ABSORBANCE READING
(Enter results on a scale from - to ++++)

IDENTIFICATION OF SEMEN (AP TEST):
_____ TEST SAMPLE
_____ KNOWN CONTROL
_____ REAGENT BLANK
_____ SUBSTRATE CONTROL
(Enter results on a scale from - to ++++)
_____ P30 test (+ or -) - see other forms

SAMPLES TO:
[ ] ELECTROPHORESIS [ ] DNA

000493
NCIIC - SBI File

NCSBI Serology Section
Lab Notes

LAB FILE NO. R93-25616

ITEM NO. 3

PACKAGING:
[✓] SEALED BROWN PAPER BAG
[ ] SEALED ENVELOPE
[ ] OTHER _____

CONTAINING: colored tag sheet

RESULTS OF TESTING:

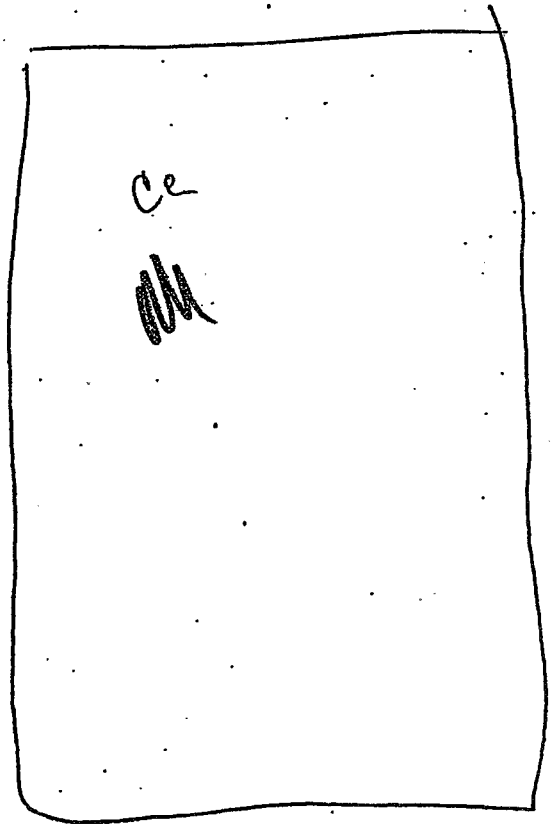
[ ] Not examined

Attach photos, sketches, or drawings here.

IDENTIFICATION OF BLOOD:
(+) - PHENOLPHTHALEIN
INC TAKAYAMA x2
(Enter results as + (Pos), - (Neg) or Inc.)

Very dirty
large quantity of hair

IDENTIFICATION OF SPECIES.
_____ - HUMAN CONTROL
_____ - ANTI-HUMAN
_____ - RABBIT SERUM
_____ - SUBSTRATE CONTROL
(Enter results as + (Pos), - (Neg) or Inc.)



RESULTS OF ABO TESTING _____
(See separate testing sheets)

IDENTIFICATION OF SALIVA:
_____ TEST SAMPLE
_____ KNOWN CONTROL
_____ REAGENT BLANK
_____ SUBSTRATE CONTROL
_____ ABSORBANCE READING
(Enter results on a scale from - to ++++)

IDENTIFICATION OF SEMEN (AP TEST):
_____ TEST SAMPLE
_____ KNOWN CONTROL
_____ REAGENT BLANK
_____ SUBSTRATE CONTROL
(Enter results on a scale from - to ++++)
_____ P30 test (+ or -) - see other forms

SAMPLES TO:
[ ] ELECTROPHORESIS [ ] DNA

Many very dilute stains not tect phen ⊖
the stain indicated gave a positive phen.

000494
NCIIC - SBI File

NCSBI Serology Section
Lab Notes

LAB FILE NO. R93-256112

ITEM NO. 4

bubble paper c 3 lb

PACKAGING:
[ ] SEALED BROWN PAPER BAG
[✓] SEALED ENVELOPE
[ ] OTHER _____

CONTAINING: 2 RTT & PTT

RESULTS OF TESTING:

[ ] Not examined

Attach photos, sketches, or drawings here.

IDENTIFICATION OF BLOOD:
_____ - PHENOLPHTHALEIN
_____ - TAKAYAMA
(Enter results as + (Pos), - (Neg) or Inc.)

IDENTIFICATION OF SPECIES.
_____ - HUMAN CONTROL
_____ - ANTI -HUMAN
_____ - RABBIT SERUM
_____ - SUBSTRATE CONTROL
[Enter results as + (Pos), - (Neg) or Inc.]

RESULTS OF ABO TESTING _____
(See separate testing sheets)

IDENTIFICATION OF SALIVA:
_____ TEST SAMPLE
_____ KNOWN CONTROL
_____ REAGENT BLANK
_____ SUBSTRATE CONTROL
_____ ABSORBANCE READING
(Enter results on a scale from - to ++++)

IDENTIFICATION OF SEMEN (AP TEST):
_____ TEST SAMPLE
_____ KNOWN CONTROL
_____ REAGENT BLANK
_____ SUBSTRATE CONTROL
(Enter results on a scale from - to ++++)
_____ P30 test (+ or -) - see other forms

SAMPLES TO:
[ ] ELECTROPHORESIS [ ] DNA

RTT & PTT stain made
(Gray Sponsill
(Elut. sum on blood stain)

000495
NCIIC - SBI File

North Carolina

STATE BUREAU OF INVESTIGATION

Department of Justice
RALEIGH

LABORATORY REPORT

TO: Deputy Janice Spruill
Washington County Sheriff's Department
P. O. Box 969
Plymouth, N. C. 27962

DATE: August 29, 1995

SBI LAB NO.: R930025616

SBI FILE NO.: 1993-3368
668-H-5

TYPE OF CASE: Homicide

AGENCY FILE NO.:

LOCATION: Washington County

EXAMINED BY: R. L. Stills

SUBJECT: WILLIAM FRANK SWAIN (VICTIM)
LEE ROY SPRUILL (SUSPECT)
WALLACE BRANDON JONES (SUSPECT)
DANA LYNN MAYBIN (SUSPECT)

MATERIAL SUBMITTED BY: D. G. Honeycutt

DATE OF OFFENSE: December 18, 1993

DATE SUBMITTED: August 15, 1995

ITEMS SUBMITTED:

Item #1 - Eighteen (18) latent lifts.
Item #28 - One (1) set of major case inked impressions of suspect, Lee Roy Spruill.
Item #29 - One (1) set of major case inked impressions of suspect, Wallace Brandon Jones.
Item #30 - One (1) set of major case inked impressions of suspect, Dana Lynn Maybin.

TYPE EXAMINATION REQUESTED:

Latent print examination and comparison.

RESULTS OF EXAMINATION:

There were two (2) identifiable latent fingerprints and three (3) identifiable latent impressions noted on Item #1.

The five (5) identifiable latent prints were compared to Items #28 through #30 with no identifications being made.

DISPOSITION OF EVIDENCE:

The evidence is enclosed in the attached package and is being returned via first-class mail.

I, Michael F. Easley, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

COPIES TO:

RLS:pg
Attachment

Mr. Mitchell Norton, D.A.
SAC W. E. Godley
S/A D. R. Varnell

THIS REPORT IS TO BE USED ONLY IN CONNECTION WITH AN OFFICIAL CRIMINAL INVESTIGATION.

James J. Coman, Director

This report represents a true and accurate result of my analysis on the item(s) described.

R. L. Stills

CONFIDENTIAL. This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

000630
NCIIC - SBI File

VII. Pre-Trial Investigation by Defense Attorneys

Jones was represented by attorneys James R. Vosburgh and John Skinner. Spruill was represented by attorneys Maynard Harrell and Seth Edwards. The information provided within this section is based on the Commission's review of the available defense files. The Commission received files from Seth Edwards and John Skinner. Skinner's file was essentially only a few pieces of paper, which was found after he allowed Commission staff performed a search of his office. Seth Edwards also indicated his remaining file was partial. Maynard Harrell provided an affidavit stating that he did not have a file. Commission staff requested James Vosburgh's file twice, but Mr. Vosburgh died in 2013 before providing his file or any affidavit concerning the status of any file he might still possess. The Commission did not receive a file from Mr. Vosburgh. In addition, the Commission received some parts of the original attorneys' files within the files maintained by both North Carolina Prisoner Legal Services (NCPLS) and the North Carolina Center on Actual Innocence (Center) related to their post-conviction work later in the case.

Defense attorneys conducted several interviews themselves the day of Jones' Probable Cause Hearing, December 27, 1994, and also used two private investigators, Hardison & Sons and Joe Boston, who conducted multiple interviews leading up to Jones' trial. This summary does not include every interview conducted by the private investigators, but only those which added additional relevant information to the overall investigation of this crime.

Victim's Timeline on the Day of the Murder

This portion of the defense investigation did not add any additional information concerning the Victim's whereabouts on the day of his murder.

Alternate Suspects

As with the Victim's whereabouts, the defense investigation did not provide any additional information concerning alternate suspects to the crime.

Dana Maybin

Interview of Stacy Allen 8/15/1995: Allen is the daughter of Bessie Talkington Costin and was Spruill's girlfriend for a short time between November and December 1993. She provided that Maybin lived with her for a short period and that Jones would stay with Maybin at Allen's residence. She also recalled Maybin having bruises all over her body and that Maybin reported that Jones "did not rape her but was rough during sex." (Hardison & Son's Investigative File 700-707).

Allen also received two letters from Maybin while Maybin was in jail. One letter she could no longer find and one she sent to Attorney Harrell, which is described in Appendix B. She recalled that one of the letters stated that Maybin lied and wanted to tell the truth. The letter from Maybin to Allen that Allen turned over to Harrell does indicate that she had lied about Spruill and Jones killing the Victim and wanted to tell the truth. She also had a phone conversation with Maybin during which Maybin stated that Janice Spruill had offered to pay Maybin to say Spruill had committed the murder and that Maybin "would get out of it" if she did. (Hardison & Son's Investigative File 700-707).

Interview of Lynn Rogers 5/12/1995: Rogers stated Spruill and Jones were originally at Big Ed's around 6:00pm – 6:30pm. They then returned to the bar around 8:00pm – 8:30pm with Maybin. They argued with Maybin because they were going to leave the bar again and did not want her

to go with them. Rogers said Maybin remained while Spruill and Jones left the bar. (Hardison & Sons Investigative File 626 -631).

Interview of Ed Champ, Sr. 3/2/1995: Champ, Sr. recalled Maybin arriving with Spruill and Jones at Big Ed's Bar around 7:30pm to 8:00pm and all three of them staying until the bar closed around 1:30am. He further stated Maybin walked to Spruill's house with Jones once the bar closed. (Hardison & Sons Investigative Services -- Center 632-637).

Interview of Sherry Honea [unknown date]: Honea was mostly unwilling to be interviewed but did reiterate that Maybin had told her that Spruill and Jones committed the murder while Maybin was present. (Hardison & Son's Investigative File 662-663).

Interview of Gail Champ and Ed Champ, Jr. 3/1/1995: The Champs confirmed that Maybin had a romantic relationship with Jones. Gail Champ's characterization of the relationship between Maybin and Jones was that "the bitch would not leave him alone." According to Gail Champ, she, Ed Jr. and Tommy Barber arrived at the bar the night of the murder starting at 9:00pm. Both Gail Champ and Ed Jr. recall Maybin, Spruill and Jones were at the bar and appeared to be there together. (Hardison & Son's Investigative File 671-686).

Interview of Mitchell Nowarah 3/2/1995: Nowarah met Dana Maybin the day after the Victim was murdered and they became friends. Nowarah did not have any personal knowledge concerning the night of the murder, but reported that Maybin had told him that she did not leave the bar on the night of the murder. (Hardison & Sons Investigative File 689-697).

Interview of Phonecia Davis 8/15/1995 and 9/9/1995: Davis was incarcerated with Maybin while Maybin was in jail in Edgecombe County related to this crime. Davis also was also incarcerated with Honea in July 1994. Davis reported that Honea told Davis that Honea stabbed a black man

named Frank Swain in the neck. Davis said that Honea told her that Frank Swain was Honea's boyfriend and a drug dealer. Davis also reported that Maybin said that was the same crime Maybin was in jail over and that Maybin indicated Honea had murdered the man, not Maybin. (Joe Boston 729-738).

Nichole Mills: Nichole Mills was housed with Maybin at the county jail during the pre-trial period and according to Nichole Mills, they became close friends. Mills and Maybin carried on correspondence with each other over the course of a year and several of Maybin's diary entries discuss Mills. The correspondence included indications from Mills that she was planning to live with Maybin when they were out of jail and that Mills "cherished" their friendship. Not all correspondence between Mills and Maybin was related to this case. Mills was being represented by attorney Vosburgh in an unrelated case. She was visited multiple times by defense attorneys, where she provided information about Dana Maybin's statements to her about the murder. Mills provided to law enforcement that she passed information between defense attorneys and Maybin during these visits.

Although not part of the defense attorney's investigation, it is relevant to note here that Mills was interviewed by law enforcement on January 24, 1995. In this interview, Mills reported that Maybin originally stated to her that Spruill and Jones committed the crime and she saw them murder the Victim, but later Maybin reported that she had made it up to "get back" at Jones. Mill also said that Jackie Craddock, who was being represented by Seth Edwards on unrelated charges, was in jail with Maybin and Mills. According to Mills, Jackie Craddock had heard several conversations between Mills and Maybin where Maybin said she lied about Spruill and Jones killing the Victim. (SBI 756-760, PLS 1148-1156). There are no documents outlining any

interviews with Craddock before Jones' trial.

In reviewing the Center's file, which contained documents from defense attorney files, there is a copy of Mills' interview with law enforcement with notes, the contents of which suggest that Mills reviewed this interview at some point and made comments about the statements contained in the interview. The interview with Mills notes are provided in full below.[23]

[23] Commission staff compared this version with the version of the interview from the SBI file. Save Mills notes, the versions are identical.

SBI FILE: 668-H-5
ACTIVITY: January 24, 1995
VICTIM: William Frank Swain
DICTATED: February 1, 1995
RECEIVED: February 8, 1995
TYPED: February 21, 1995
COPIES: (1) Records; (2) SA D. R. Varnell; (3) SAC W. E. Godley; (4) District Attorney Mitchell Norton

MAR 2 1995

45 min

Leslie Nichole Mills, W/F/DOB: 04/04/72; Residence: Route 2, Box 249A, Greenville, North Carolina 27858, Telephone: 919-752-4577; (Witness):

Leslie Mills was interviewed Tuesday, January 24, 1995, at 1:28 p.m., at the Beaufort County Jail, by SA Varnell.

not accurate

Ms. Mills is the cell mate of Dana Lynn Maybin, a suspect in this investigation.

SA Varnell advised Ms. Mills that he did not want to talk about her case in any way. Ms. Mills stated this was fine, and she figured SA Varnell was there to talk about Dana Maybin anyway. Ms. Mills stated she was willing to talk about Dana Maybin without a lawyer present, and that would not be a problem.

did not stipulated a lawyer present.

Ms. Mills stated that Defense Attorney Vosburgh had told her to tell Dana Maybin not to waive her probable cause hearing today. Ms. Mills stated she had also told Dana not to waive the PC hearing on her own. Ms. Mills stated that she was under the opinion that Dana should not waive the PC hearing and should try to find out what evidence the state had against her.

Ms. Mills stated that Vosburgh and Seth Edwards, another defense attorney, had been telling her things to pass on to Dana. Ms. Mills stated that she would tell and say these things to Dana and then see what her response would be. Ms. Mills stated she was not trying to influence Dana in any way. Ms. Mills stated she was just trying to see what Dana would say, and she would then pass this information on to Mr. Vosburgh and Mr. Edwards. Dana was aware of these conversations.

Ms. Mills stated she had been in jail with Dana during Dana's entire stay there. Ms. Mills stated she had been friends with Dana that whole time. Ms. Mills asked if Dana knew that SA Varnell was at the jail talking to her. SA Varnell advised

after Dana confession the lie.

758-3797 Aunt's Home
830-6767 Nicole's Home w/ mother

001563

Ms. Mills that Dana Maybin did not know that SA Varnell was there at that time.

Ms. Mills stated that when she would talk about information that Vosburgh and Edwards gave her, Dana would sometimes ask her how she knew these things. Ms. Mills stated that she would play it off and tell Dana she had gotten the information from her mother about the case. This was before I had talked to Vosburg he advised me to be upfront + honest.

this was the story that she told me after the letter she told me what she had told the investigators

Ms. Mills stated that for the first two weeks that Dana Maybin was in jail, she told the same story she had been telling the police. Ms. Mills stated that Dana was telling the story about killing Frank Swain. Ms. Mills stated that Dana said she, Leroy Spruill, and Robert Jones had left the bar (Big Ed's) and traveled to Frank Swain's house to buy crack Cocaine that night. Ms. Mills stated that Dana said she stayed in the truck while the men went inside. Ms. Mills stated that Dana then said she heard fighting going on in the trailer, went to look inside, and saw them (Spruill and Jones) on Frank Swain.

Ms. Mills stated that Dana said she saw Robert cut Frank Swain's throat, and Frank Swain had already been beaten and stabbed by the time that happened. Ms. Mills stated that Dana also talked about going back to the bar and taking care of their clothes. Ms. Mills stated that Dana also spoke about Frank Swain asking her for help before he was killed.

never said this!

~~had no reason to~~ had no reason not to.

Ms. Mills stated that she was completely convinced that this was the truth about the story. Ms. Mills stated that until Dana changed her story, she thought Dana, Leroy Spruill, and Robert Jones had been involved in the killing of Frank Swain.

I did not know the story until Dana changed it.

Ms. Mills stated that Dana said she had made this story up and was just doing it to get back at Robert Jones because she hated him. Ms. Mills stated that Robert Jones had done some terrible things to Dana, like burning her and beating her. Ms. Mills stated that Dana was making up the story to put Robert Jones behind bars.

Ms. Mills stated that Dana put Leroy Spruill in the story because she heard it took a big person to kill Frank Swain.

Ms. Mills stated that Dana was able to give a good confession because she was picking up information from Jan Spruill. Ms. Mills stated that Jan Spruill gave her leading information

about a tire tool being used to kill Frank Swain and that the trailer door had been left open.

Ms. Mills stated that Mitchell Norwarh had also told Dana some stuff about the case. Ms. Mills stated she could not explain how Dana would have known these details before Mitchell told her. Ms. Mills stated it did appear that Dana had this information about the case before Mitchell Norwarh told her. never said this not true

Ms. Mills stated that Dana got depressed one Sunday after a church service about liars. Ms. Mills stated that Dana then wrote a letter about the story she had told. Ms. Mills stated that Dana let her read this letter, and it told that Dana had been lying about the killing. Ms. Mills stated that Dana also said she had not even left the bar that night, and a lot of people saw her there all night. this is when I heard wholl Stou

Ms. Mills stated she read this letter and Dana wanted to get a copy of it made. Ms. Mills stated she took the letter to a jailer named Kim Mitchell and asked for a copy to be made. Ms. Mills stated they could not make a copy because the copying machine was locked up. Ms. Mills stated she asked Kim Mitchell to read the letter and she did. Ms. Mills stated she believes the letter is still in Dana Maybin's personal belongings in jail. - it was until she went to court.

Ms. Mills stated that when Dana told her she was lying, another girl overheard this conversation in jail. Ms. Mills stated that a white female named Jackie Smith heard Dana say the story about the killing was a lie also. Ms. Mills stated that Jackie Smith is a friend of Leroy Spruill.

Ms. Mills stated that Jackie said she was going to call Deputy Janis Spruill of the Washington County Sheriff's Office and tell her about the new story. Ms. Mills stated that Jackie really called up Linda Spruill, a deputy with the Washington County Sheriff's Office, who is also Leroy Spruill's sister. Ms. Mills [redacted].

Ms. Mills stated that Jackie told Linda Spruill about the story, and Linda Spruill then contacted Seth Edwards and passed the information on to him. Ms. Mills stated that Seth Edwards was at the jail the next day to talk to Ms. Mills and Jackie Smith about the story. - ~~think~~ Jackie went back to prison before I talked to Seth Edwards.

Ms. Mills stated that Dana keeps a journal of her daily thoughts in the jail. Ms. Mills stated that the journal is still in Dana Maybin's cell. Ms. Mills stated that Seth Edwards told her it would be nice if she would get Dana Maybin's journal and make copies of it for him. Ms. Mills stated that if she went into Dana's cell to get the journal, someone would tell Dana.

+ Yoebary told me not to.

Ms. Mills stated that she would not get the journal from Dana's cell because it would not be right.

She made a simple statement that she was involved in a mud but had killed no one. At that time I had no reason to believe otherwise.

Ms. Mills stated that Dana Maybin had convinced her that she was involved with the killing. Ms. Mills stated that now she was telling a convincing story about not being involved in the killing. Ms. Mills stated that she does not know which story is true now. Ms. Mills stated this shows that Dana is at least unstable and changeable.

True Dana told me nothing until the letter. Only info. I knew came from overhearing conversation in the phone.

Ms. Mills stated that Dana wants to get in touch with Ed Champ. Ms. Mills stated she thinks that Dana Maybin will try to get Ed Champ to lie for her about where she was all night. Ms. Mills stated that gypsies will lie for one another and for people wanted by the law. Ms. Mills stated that most gypsies are shady, and Ed Champ's people are worse than most.

Never said this.

↑ See page 5 of my testimony

Ms. Mills stated that Kim Mitchell, the jailer, took the letter and could not copy it because the copier was broken. Ms. Mills stated that gypsies are famous for hiding out fugitives and outlaws. Ms. Mills stated that if you were looking for "America's Most Wanted," you should check the carnivals and the gypsy camps. Ms. Mills stated that gypsies are crooked in general.

Never said this

Semi-accurate ↑ see page 5 of my testimony.

Ms. Mills stated that Ed Champ's crew and the Stanleys from Roper, North Carolina, are both crooked and scam people. Ms. Mills stated that they will do real shoddy construction (roof and pavement) jobs, then take the people's money and leave.

See page 5 of my testimony

Mentioned Evergreen Paving + running them out of S'ville for bad work + using our name as a reference.

Ms. Mills stated the reason they do not get caught and arrested is because they do all their work out of town.

Ms. Mills stated that gypsies always look after each other, no matter what. Ms. Mills stated that Robert Jones is a gypsy, and they will all look after him.

Never said this. I don't know Robert, so how could I make this assumption

not true

not accurate step-father is part gypsy.

Ms. Mills stated that she is part gypsy herself. Ms. Mills stated that her mother, Brenda Randolph, and her stepfather are part gypsy also. Ms. Mills stated they are distant relatives of Ed Champ. Ms. Mills stated that her family did not like other gypsies because they do quality jobs and do not cheat people. partly true

never met Leroy to my knowledge

Ms. Mills stated she does not know Robert Jones and has met Leroy Spruill only once. Ms. Mills stated that if Robert Jones and Leroy Spruill were involved with the killing, they should go to jail. Ms. Mills stated that she could not explain how Dana Maybin would know exact details about the crime if she was not there. - never said

Ms. Mills stated that she has been told by Mr. Vosburgh and Mr. Edwards that they would call her as a witness during the trial. Ms. Mills stated she was going to tell just what she had heard in jail. Ms. Mills stated that she had made notes on this incident in jail and had given this information to the lawyers.

This interview concluded at approximately 2:15 p.m.

DRV:cw

The DA's file contained a letter which appears to be authored by Mills based on the content and outlines the circumstances of Maybin's report to Mills that Maybin made up the story about seeing the Victim's murder. In addition, there is a memorandum to the file in the Jones case concerning an interview with Mills on September 16, 1995, although it is not absolutely clear which defense attorney interviewed Mills. The memorandum regarding this interview outlines Mills' reported relationship with Maybin and Maybin's report to Mills that Maybin, Spruill, and Jones had not murdered the Victim. Mills' letter and the defense Memorandum are provided in full below.

Page 1

I met Dana Maybin in the Beaufort County jail, where I was incarcerated for a drug charge and other drug related crimes. At first, Dana + I were not cell-mates or even friends. We merely co-existed in the same cell-block. I had been in jail for approx. 2 months, when Dana came in. At which time the only thing that Dana had said concerning her case was that she was involved in a murder case, but she had killed no-one. It was obvious to me that she had no desire to discuss her charges further, so that was the end of the discussion. During this time she had little to no contact with her attorney, Regina Moore.

Dana and I began our friendship thru attending church services together in jail, and that led to reading our Bible together + doing Bible Studies. Thats when our friendship began. We began to talk + share bits + peices of our lives with one another. We ended up having a lot in common. Bouts with drugs addiction, biker bars, + abusive relationship were in our pasts and we both wanted our futures to be diffrent.

After our friendship had grown, Dana + I began talking about my past - in detail. I was dealing with a lot of difficult issues & need someone to listen.

After about 3-4 weeks into our new friendship, Dana was very upset one Sunday night. We had went to church ~~on~~ that day and the ladies preaced on hell & how not to go there. They preached on many diffrent sins, but Dana seemed to pick up on all the scriptures about how liars would burn in the lake of fire + sulphur, unless confession & repentance was made. She even highlighted them all in her Bible. At about 9PM that night Dana came up to me with some papers in her hand, I thought they were letters that she had written & she needed an envelope. She told me to read them + not to stop or ask any questions until I had reached the end. She had been crying and was ~~very~~ upset, but she was very serious, so I read them.

At this time Dana felt she was able make clear decisions because her mind was free of the drugs that she had previously been using. She had not used drugs while she was in jail and she had been clean for at least a month. Where as before, she had been under the influence of drugs and or alcohol. I guess that's one of the reasons that she felt she ~~[illegible]~~ seemed to tell the truth. And and this whole lie or so she thought

The letter that Dana handed me to read contained information contradictory to Dana's original statement. She stated her reasons for lying on her first statement, which were for monetary gain & revenge on Robert. A reward was offered to her for $5000.00, along with the promise that all she had to do was come down here & make a statement, collect the money & she would be free to go. All of these promises were a lie, she stated. Then she went on to say how sorry she was for lying and for leading them on a goose-chase and that none of them could be guilty because the were all at a bar that night and in plain view of a lot of people, some of which had not been drinking & would remember them clearly because ~~Leroy~~ Leroy & Robert were dancing together on the dance floor. Dana said that she felt her lie was easy revenge for all the abuse the had suffered at the hands of Robert (Brandon Jones) and the $5000.00 would help her & her daughter to relocate & start a new life.

Dana had all intentions to give a copy of this to Janice Spruill & the DA & her attorney. But she could not have copies made. She pointed the

original handwritten copy to one of them & ~~the~~ have not seen it since.

At this time, Dana made great efforts to contact her attorney, Regina Moore by phone & by mail. None of her letters were answered & Regina would accept none of her calls when people on the outside would call her for Dana, she did not return their calls.

Dana felt a great need to talk to someone. And at the present time, I was the only one available. Never, did I ask to be confided in. Dana always came to me & said that she wanted to talk. I did not pry, only listen & console.

After this had come out, Jackie Smith overheard one of our conversations that were supposed to be in private, as private as you can get in jail. She then contacted someone she knew in Wash. Co, who contacted Leroy Spruill's attorney Seth Edwards. He came to see me the next day. A day or so later Jim Vosbourg came to see me. I then told them Dana's story Jan 5, 1995

Seth was trying to come up with ways to gather information. He suggested Dana's journal. I made no move on my own. I

decent thing to do. In my meeting with Vosbourg he firmly told me no. So I listened + did what he said. Dana knew nothing about my first conversations with the attorneys. When she asked me about how I'd heard about her case I told her that it was from my family - until Vosbourg told me to be upfront with her. I was afraid to because I did not want Dana to think I was trying to hurt her, when I was really trying to help her. At that time, I was the only one she trusted enough to talk to. She believed me about hearing of her case ~~[illegible]~~ from family because I told her that my step-father was part gypsy + we had to run Evergreen Paving out of our hometown because of his shabby work + using our family + company name as a refrence. I told her that the gypsies were basically good but like every other family, there were a few bad ones. And that our family did not associate with the ones who traveled around + did bad work + made us all look bad.

I told Dana that from what I had gathered from her about her case + what I had learned from personal experiences, that she should not initiate her PC

through
attorney
d her
waive
t.

hearing, to hold out to see if they had any evidence against her. This whole case sounded very funny to me. On the day of court, she was very nervous that morning. It was the day that she was going to present the letter that she had written. She told me that if anything happened to her that day or in the future to make ~~sh~~ sure the truth came out & that her family knew the truth. In my opinion she was scared & that was confirmed by her stating that she was terrified of what would happen to her when the prosecution & her attorney read her letter. This was why she wanted copies of the letter, in case something happened to her or the letter.

When she came back from court, she was very aggravated. She then started complaining about her attorney about wanting another one because she felt Ms. Moore was not treating Diana as she should, being neglectful. I then told Diana that I had been speaking to Jim Vosbang. And explained to her why & how I knew him. She was quiet at first & then became ~~curi~~ curious wanting to know who he was

I explained that I knew Mr. Vosbourg by him representing me briefly in a D/C case and that he had advised & counseled me about my drug addiction. He gave me valuable advice & made me think in terms of getting my life together & having a future. This was before either of us ever knew of Dana Maybin or the case of the murder of Frank Swan. I told Dana that Vosbourg was a good attorney with a true concern for justice. One of the few that I'd ever met.

Dana then started asking me to see Mr. Vosbourg & talk to him on her behalf. Mr. Vosbourg never asked me to compromise morals nor did he promise me anything for doing this. I did it because Dana asked me to & because I felt it was right. Dana needed help & advise (legal) & up until that time she felt that she was not getting it.

After a couple of meeting with Vosbourg, before Dana knew of our meetings, I talked with a Special Agent Varnell & told him the same things I had told Vosbourg. Nothing more & nothing less.

Dana later told me that she feared that something bad was going to happen, like them trying to move her - & they did. A time to another county jail & then she was so upset, they brought her back. She then again (before she left to go to Elizabeth City) if anything happened to her, make a promise to her that the truth would come out. She made this statement several times. The last time was when she was moved to safe-keeping in Raleigh.

After sometime, Dana then had me write down questions, in her exact words, to ask Vosburg. On the condition that I brought the paper back to her & we destroy it. I met with Vosburg & ask him the questions, wrote down his answers & returned the paper back to Dana & we destroyed it by tearing it up & flushing it. I explained Dana's wishes to Mr. Vosburg

Dana had no contact with the Chaps or the other 2 defendants - Leroy or Robert. I kept meeting with Vosburg when Dana asked me to because Regina did not permit Dana to until she was in Safekeeping in Raleigh.

When Dana was in safekeeping we corresponded by mail. I showed each letter to Mr. Vosberg. Mainly because I was worried about Dana. She was very upset + talked of ending the whole mess. Dana did not know from me telling her that I was showing the letter to anyone. I never shared them with some of the jailers who knew her.

On april 28, 1995 I went to Grace Home in Boona. I wrote Dana 3 letters, but never got a response. I still planned on keeping my promise to Dana re: the truth.

I have had two conversations with Asst. DA Tom Airglun (sp?). First when I was in jail - I was in court for a w/c case. It was very intimidating. He told me that by being involved that I was not helping myself. Then a second conversation in Sept 1995 in the Courthouse parking lot. I still remembered our conversation in the courtroom + did not have much to say to him. He asked me what I believed + I did not want him to know what I believed. I did not know until later that day that Tom was helping prosecute the murder case. I thought he was just curious because of legal affiliation. He asked me did I want to play a part in 2 murderers being set free. I told Jim Vosberg of this conversation the day it ~~to~~ took place.

MEMORANDUM TO FILE, STATE VS. WALLACE BRANDON JONES

I had an interview with Nicole Mills, 9/16/95.

I asked her if she knew Dana Maybin. She said, yes, she did.

I asked how she met her. She replied that she was incarcerated in the Beaufort County jail for drug charges and drug relates crimes. She further stated that she, Nicole, had been there since September 30, 1994 and that Dana Maybin came in right before Christmas of 1994, but she is not sure of the date.

I asked her how she happened to meet Dana and Nicole said she had been in court out of town and when she came back to the Beaufort County jail, Dana was in her bed and that Dana moved her stuff to another bed that was in the same cell and they became cell mates that way.

I asked her what, if anything, Dana said to her when she first met her. She said that Dana told her that she was in jail because she was involved in a murder case. Dana stated that she did not kill the man, but that she was involved in it, and that was all the details Dana told Nicole about her case. Nicole said she did not ask her any questions about it and that she did not have any reason not to believe what Dana was saying at that time because she had just met her.

I then asked her how long she was cell mates with Dana and she stated that she and Dana were cell mates until Dana was removed from the Beaufort County jail to Raleigh for safekeeping.

I then asked Nicole if she developed a friendly relationship with Dana and she said yes, the longer they were together, the better they got acquainted with each other. She said that each of them had some similar background and incidents in their lives which involved substance abuse and drugs and that each of them had created some very difficult circumstances for themselves because of the use of drugs and

they discussed their background and their past with each other and began to feel comfortable with each other. Nicole said that she and Dana attended the church services they had for the female inmates in the Beaufort County jail and that they shared things with each other and sort of looked out for each other between themselves and other inmates in the Beaufort County jail. I asked her then if Dana had ever talked with her in more detail about the charges for which she was being held in jail. Nicole stated that one Sunday night after they had been incarcerated together for approximately two months, it was after a church service they had in the Beaufort County jail, Dana came to her with two sheets of paper that she had been writing on and gave them to Nicole and told her that she was very scared, but she wanted Nicole to read the papers. She told Nicole to read the papers, not to ask any questions, that this was no joke and it was very serious and at that time Dana was very, very emotional. I asked Nicole if she knew what had happened to those two sheets of paper and she said she did not. She stated that Kim Mitchell was the jailer on duty and that Dana called Kim and asked her if she would make copies of the pages with the statement on it so that Dana could deliver the copy to Janice Spruill and retain the original for herself. Nicole said that at the time Dana asked her to read the pages with no questions or conversation until she had read them completely that Dana remained in a very severe emotional state and was crying.

I asked Nicole if she read the statement and she said that she had read it and says that her recollection of the paper was that in the first two paragraphs Dana had written down her reasons for telling to Janice Spruill the story she had told her about being involved in the murder. As she remembered it, there were four reasons that she gave for telling the story she did. 1. She felt it was a way to get back at Robert Jones (Soliss) for the manner in which he had abused her and that by implicating Robert and Leroy, she thought Janice Spruill would keep the promises she had made to her. 2. Janice Spruill informed Dana

1921

of a $5,000 reward for information leading to the arrest and conviction of the persons involved in the Frank Swain murder and she thought she could get that money and use it to relocate and get away from her circumstances with her child. 3. The paper also contained statements that Dana had not killed anyone and that Janice Spruill had told Dana that she knew she had not killed anyone and that if she would give them a statement, that she would not face any charges. 4. Janice Spruill had told Dana that they would pay for her and her boyfriend, Jeff Kelly, to return to North Carolina to make a statement and that Dana would only be here for twenty-four hours and it would be done after Christmas so as not to interfere with the Christmas holiday season.

I asked Nicole if she recalled anything further in the statement and she said she did. She said that all the promises that had been made to Dana by Janice Spruill had been broken and that Dana had told Janice Spruill that everything she had told her implicating herself, Robert and Leroy was a lie and that none of them had anything to do with the murder.

Nicole remembered that the statement then contained a paragraph which stated that Dana and Robert and Leroy were all three at Big Ed's Bar the entire night from about 6:30 or 7:00 until it closed on Saturday, December 18, 1993 and then it proceeded to list a whole group of people that were at the bar that evening who could establish the fact that Dana and Robert were there the entire time and never left until the bar closed.

I then asked Nicole if she had stayed in touch with Dana after Dana was moved from the Beaufort County Jail to Women's Prison in Raleigh. She replied that she had remained in touch with her; that she wrote letters to Dana and that Dana wrote letters to her. Nicole said that she had allowed me to take the originals and make copies of them for my files and that I returned the originals to her. However,

after she was released from the Beaufort County jail and went to the drug rehabilitation center in Boone, the originals of all the papers had been either lost or destroyed in her moving and that she does not know where the originals are, but that she could recognize copies of the letters she had received from Dana. Nicole stated that after she was released from the Beaufort County Jail and went to the drug rehabilitation center in Boone, she wrote to Dana three times from the facility in Boone, but she stopped writing to Dana because either Dana did not receive her letters or she had voluntarily quit corresponding with Nicole. I then asked Nicole if she discussed anything else with Dana and she said that she had.

Dana had told her that her biggest fear was that she would be punished by the state for telling the truth and that the truth would ruin the state's case to a murder they thought she had solved for them. One of the last things that Dana said to Nicole when she was being taken from the Beaufort County Jail was that if anything ever happened to her for Nicole to make sure that Dana's family in South Carolina knew the truth, which was that she had absolutely nothing to do with the murder and that everything she had told to the law enforcement officers that implicated her, Robert and Leroy was a lie.

I then asked Nicole if she had discussed the things Dana had told her with anyone else. She said she had discussed them with Seth Edwards and that Seth Edwards was the very first person she had told about her conversations with Dana and the things Dana had revealed to her. She also stated that she had related the things that Dana had told her to me and that Tom Anglim had asked her if she was going to appear as a witness in the case and she said that she was. She stated that Mr. Anglim addressed her about the matter one day after she had been a witness in a case in the Beaufort County District Court against her former boyfriend, Lee Moore, and on the following day, he prosecuted her in a case in which she was a defendant involving a check. She felt very intimidated by what Mr. Anglim had said to her

because he told her that she was doing nothing but hurting herself in testifying in any case and since was hoping to be placed on probation, she regarded that as an intimidating threat by Mr. Anglim. She further stated that Mr. Anglim had recently within the past week stopped her and addressed her about the same thing in the parking lot behind the courthouse and he informed her that she was going to testify in a fashion that would help two guilty men go free and his advice to her was not to testify. She informed him that she did not need his advice. (Based on my notes, I am not sure whether Nicole informed him of that after the first conversation or whether it was after the second conversation with Tom Anglim).

This interview lasted approximately 30 minutes and was conducted on Saturday, September 16. I have previously personally served a subpoena on Nicole Mills and told her that she would be on standby and that I would notify her on the date it would be necessary for her to be present in court to render her testimony.

Spruill and Jones

Interview of Stacy Allen 8/15/1995: Allen was Spruill's girlfriend for a short time between November and December 1993. "On one night" before the murder, she went with Spruill in his truck to a black male's residence. Spruill went inside the residence and returned with a black male. He gave the black male a ride to Roper, NC. She was later told by Spruill that "when he had taken Ms. Allen to the black male's residence that that was the same residence that the black male was killed."

On the night of the murder, Allen stated that she arrived at Big Ed's Bar between 6:00pm and 6:30pm, before the band started playing. She was with her mother, Betsy Coston and Smarty Spruill. Maybin was already at the bar and when Allen inquired about Spruill, Maybin said Spruill would be at the bar later. Allen was not sure if Jones was at the bar at that time. She recalled Spruill arriving at the bar around 7:00pm – 7:30pm. She also saw Jones at that time but did not know when he arrived. She tried, unsuccessfully, to talk with Spruill several times to find out why he broke up with her. She also saw Spruill and Jones go outside the bar to smoke or drink but stated they were not gone more than at most 15 minutes at a time. In addition, she remembered that by 9:00pm or 10:00pm Spruill was "wasted" and Jones was "intoxicated but not showing it as much as Leroy."

After the bar closed around 1:00am or 1:30am, Allen, Costin, Spruill, Jones, and Maybin went to Spruill's residence driven by Maybin in Costin's car. After they were at Spruill's residence, Costin left the group. Spruill, Jones, and Smarty Spruill made bacon and eggs. Spruill passed out on his bed and Allen went to sleep beside him. Allen did not see Spruill for several more weeks and when she did Spruill joked with her that the law though he killed a man and that "he did do

the killing; however, [Spruill] was joking." The notes from Allen's interview are provided in full below.

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95-CR-1006

Client: Attorneys John Skinner, Maynard Harrell, Jim Vosburgh and Seth Edwards

Subject: Pre-Trial Defense Investigation (Homicide)

Investigator: Clifton Hardison

On Tuesday, August 15, 1995, I continued with the Spruill/Jones Pre-Trial Investigation. Following is the list of activities as they occurred on that date:

10:58 A.M. - Starting time.

11:50 A.M. - I arrived at Stacey Allen's residence in Creswell, NC. Ms. Allen stated the following:

Interview with Stacey Allen

Stacey Allen
66 Alligood Road
Creswell, NC

- Stated that she had never been a Tarkington, that people assumed the name Tarkington was hers because Ms. Allen's mother (Betsy Costin) used to be a Tarkington.
- Stated that her maiden name was Keller and she used to be married to Jasper Allen.
- ~~Stated that she knew Leroy, Robert and Nikki.~~
- Stated she met Leroy in November of 1993 and a couple of weeks later met Robert.
- Further stated that a couple of days after meeting Leroy, she met Nikki.

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- Ms. Allen stated she liked Leroy a lot, that she and Leroy started dating soon after first meeting; however, Leroy broke off the relationship around the first of December 1993.
- Ms. Allen indicated that during this time she was living on the Spruill Ridge Road in the Creswell, NC area. She and her children were living together.
- Stated that Nikki moved in with Leroy Spruill during the first of December 1993, that this was the same night that Leroy told Stacey he did not want to see Stacey any more. That during this time Nikki was dating Robert.
- Stated that during November through the first of December of 1993, Robert and Nikki and Sherry Honey were living with Stacey Allen in the Creswell area. Stated that Robert actually had clothes at the Champ's residence but spent most nights at Stacey's residence. Further stated that Sherry Honey moved in with Robert Spruill within a couple of weeks after she moved in with Stacey Allen.
- Stated that while Nikkie was residing at her (Allen's) residence, Nikki would come into Ms. Allen's bedroom with bruises all over her body (arms, legs, stomach, etc.). Nikki made statements to Ms. Allen that Robert did not rape her but was rough during sex.
- At a later time, Nikki and Robert moved in with Leroy Spruill in Roper, NC. However, according to Ms. Allen, Robert still kept clothes at the Chamnps residence.
- Stated on one night before the murder, she (Stacey Allen) was with Leroy Spruill in Leroy's truck at a black male's residence. Stated that Leroy went inside the residence to see someone and told Stacey Allen to lock the doors and stay

How long b4 not running of murder

000701

inside the truck. Stated shortly thereafter a black male subject got into the truck with Leroy and Ms. Allen and Leroy gave the black male subject a ride to Roper, NC.

- Ms. Allen stated that after the murder, Leroy informed Ms. Allen that when he had taken Ms. Allen to the black male's residence that that was the same residence that the black male was killed.

- Stated that on the night that the Swain man was killed, she (Allen) arrived at Big Ed's Bar between the hours of 6:00 P.M. and 6:30 P.M. Stated she was with Smarty Spruill and her mother, Betsy Coston. Stated that Betsy Coston was driving.

- Stated that when she arrived at Big Ed's Bar, the band was not yet playing.

- Stated that when she and Smarty Spruill arrived at Big Ed's Bar, Nikki was sitting at the front of the bar and at that time, Ms. Allen engaged in a conversation with Nikki. Ms. Allen indicated she asked Nikki where was Leroy and Nikki stated Leroy would be at the bar later. Ms. Allen was not sure if Robert was there at that time or not.

- Ms. Allen indicated that as she was talking with Nikki, Leroy Spruill walked in the bar around 7:00 to 7:30 P.M. During this time Ms. Allen remembered noticing Robert in the area but did not remember exactly when Robert arrived.

- Ms. Allen stated she located her mother (Betsy Coston) in the restroom. Ms. Allen requested her mother to help find out what was wrong with Leroy since Leroy would not talk with Stacey Allen or have anything to do with Ms. Allen.

- Ms. Allen indicated that she just wanted to find out why Leroy didn't want to see her any more. Ms. Allen indicated that she remained in the bathroom for 4 or 5 minutes and upon exiting, came out and observed Leroy at the bar talking with Nikki. Ms. Allen approached Leroy Spruill and Leroy stated to Stacey Allen to stay away from him.
- Ms. Allen stated that she remained in the area of the bar around Smarty Spruill and her mother and Nikki the rest of the night. During this time Ms. Allen indicated she tried to talk with Leroy Spruill to find out why Leroy didn't want to see Ms. Allen any more.
- Ms. Allen indicated that she loved Leroy and still loved Leroy but not like she did at one time. Stated that she and Leroy now were best friends.
- Stated that the last time she talked to Leroy Spruill was a few days ago on the telephone. Stated Leroy telephones her quite often.
- Ms. Allen further indicated that Leroy has written several letters to her.

Investigator's Note: During this time Ms. Allen proceeded to retrieve many letters written by Leroy Spruill and a couple from Robert Jones. Basically the letters from Leroy Spruill indicated that he did not kill anyone and Janice Spruill could kiss his ass.

- Ms. Allen stated that she would not lie for Leroy even if he was headed to the gas chamber.
- Ms. Allen indicated that Leroy and Robert would go outside of the bar area to smoke and drink, but would be gone no

more than 5 to 10 minutes and at the most 15 minutes.

Ms. Allen stated that she knew every time Leroy exited the bar that night.

- Ms. Allen further stated that Robert and Leroy stayed in the same clothes the entire night.
- Ms. Allen stated that Nikki was drunk when Ms. Allen arrived initially at the bar. That Leroy was wasted by 9:00 or 10:00 P.M. Further stated that Robert was intoxicated but not showing it as much as Leroy.
- Stated that when Leroy got drunk, he would act crazy dancing with Robert, standing on head, etc.
- Stated during the night Leroy was talking with an unknown white male subject. That Leroy moved around throughout the bar a lot talking to several people. That at one occasion Ms. Allen remembered Leroy was sitting at Lottie Champ's table.
- Prior to the bar closing, Ms. Allen remembered Leroy started cutting the fool by dancing with Robert on the dance floor.
- Ms. Allen stated that after the bar closed (1:00 to 1:30 A.M.) Leroy, Robert, Nikki, Smarty and Ms. Allen proceeded to Leroy's residence. However, Ms. Allen's mother, Betsy Coston was going to give the group transport to Leroy's residence in the Coston vehicle. Ms. Allen indicated that her mother (Coston) wanted Ms. Allen to drive; however, Nikki ended up behind the driver's wheel.

During this time Nikki backed the Coston's vehicle into a ditch and the group had to assist in removing the vehicle from the ditch. At that time Ms. Allen got into the operator's

seat of the vehicle and transported the group to Leroy Spruill's residence.

- Ms. Allen stated that her mother, Betsy Coston, proceeded to Plymouth, NC after transporting the group to Leroy's residence. Ms. Allen stated that the entire group, except for Mrs. Coston, remained at Leroy's residence that night. Ms. Allen stated that someone may have been with Ms. Coston on that night but she (Allen) could not remember.
- Stated that upon arriving at Leroy Spruill's residence, Robert, Leroy and Smarty proceeded to the kitchen area where they started cooking bacon and eggs.
- Shortly thereafter, Leroy proceeded to his bedroom and Ms. Allen proceeded also, sitting on the bed trying to talk with Leroy Spruill. During this time, according to Ms. Allen, Leroy Spruill passed out. Ms. Allen stated she laid down beside Leroy Spruill and fell asleep. Stated everybody else was in the living room.
- Ms. Allen stated that in the morning, Leroy got out of bed and either went to work or to his mother's residence in Roper. Stated Betsy Coston later arrived at Leroy's residence, picking up Ms. Allen and Smarty Spruill and transporting them away from the area. Ms. Allen stated that Robert may have still been at Leroy's residence or he could have already left, she did not know.
- Ms. Allen stated that she didn't talk to Leroy for a couple of weeks after leaving his residence; however, Ms. Allen indicated that when she did see Leroy again that he and Ms. Allen started talking again in more friendly terms.

- Ms. Allen stated that Leroy would start joking and laughing at times and would state that the law thought he (Leroy) killed a man (Swain). At times Leroy would joke and say he did do the killing; however, Leroy was joking.
- Ms. Allen stated that later when Leroy was arrested for the murder, it was no longer a funny matter to Leroy.
- Ms. Allen stated that on one occasion she was present at Mitchell Nowarahs when Ms. Allen answered the phone and received a phone call from Nikki. During this time Nikki was in the Raleigh jail. Ms. Allen indicated that she works with Mitchell Nowarah part-time and that Nikkie telephoned Mitchell Nowarah quite often.
- During this telephone conversation with Ms. Allen, Nikki stated that Janice Spruill had offered to pay Nikki to state Leroy Spruill had committed the murder and that Nikki would get out of it.
- Ms. Allen further stated that she had received two letters from Nikki during Nikki's time in jail. That one letter had been given to Attorney Maynard Harrell and the other letter could not be found.
- Ms. Allen stated that one of the letters from Nikki was statements indicating that Nikki lied and wanted to tell the truth. However, Ms. Allen does not know if Attorney Harrell received that letter or the other letter. Stated that this letter was given to Attorney Harrell by Ms. Allen's boyfriend, Darrell.
- Ms. Allen stated that at one time her ex-boyfriend (Milton Evans) was growing pot near the Allen residence. The local

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law enforcement officials wanted Ms. Allen to testify; however, at the trial Ms. Allen recanted. Ms. Allen stated that Janice Spruill got very mad.

- Ms. Allen further indicated that she has not talked to Janice Spruill, that Deputy Spruill advised Ms. Allen that she wanted to talk with her. Ms. Allen stated that Janice Spruill has not made an attempt to interview her (Allen).

2:15 P.M. - End of interview.

2:39 P.M. - I arrived at Mitchell Nowarah's seafood business in Roper, NC. Mr. Nowarah stated the following:

Interview of Bessie Talkington Costin 5/11/1995[24]: Talkington stated that she was at Big Ed's Bar the night of the murder. When she arrived around 10:00pm, she saw Maybin, Spruill, and Jones dancing together on the dance floor. She also provided that once, at some later date after the murder, when Spruill was drinking, Spruill stated "he and they or him went in Swain's trailer. Spruill remained outside by the pump house. That he or they came out of Swain's trailer and threw a tire tool on the hood of the truck. That he or they had a lot of money and crack." Costin also told the investigator that Spruill "thought it was funny that the law had the times mixed up" because he told Costin he "was at Swain's closer to 6:00pm than the 9:00pm time the law had." However, Costin said Spruill later denied that story. She also stated that Spruill always used mousse so his hair always looked wet. (Hardison & Sons Investigative File 618-623).

Interview of Steven Bell, unknown date: Bell was Lynn Roger's boyfriend. He was at Big Ed's Bar on the night of the murder. He saw Spruill and Jones at the bar between 8:00pm and 8:30pm and then approximately an hour and a half later saw them again wearing different clothes. At closing time, Maybin left the bar 20-30 minutes before Spruill and Jones after an argument with Jones and told someone at the bar to tell Spruill and Jones that Maybin was going to the house if they wanted to know. Spruill and Jones left the bar during the time the band had stopped playing or at the time the band was packing up to leave. The bar closed between 1:00am and 2:00am. Bell believed Big Ed had already left because Jones "would not have given so much trouble if Big Ed had been there." Big Ed did not like Jones and Spruill dancing together. Bell said he left the

[24] This portion of Ms. Costin's statement is provided here because it is a report of what the Claimant Spruill allegedly told her. Ms. Costin made multiple reports to the law enforcement concerning various information about the crime and Claimant Spruill. The information she provided could not be confirmed through investigation and so is not included here. However, should a Commissioner believe a review of each of Ms. Costin's statements is necessary to their understanding of the case, those statements can be provided in full.

bar with Lynn Rogers when she closed the bar. (Hardison & Sons Investigative File 616-617).

Interview of Lynn Rogers[25] 5/12/1995: Rogers had worked at Big Ed's Bar since November 1993 as a bartender. She stated she had become familiar with Jones more recently but had known Spruill for several years. She recalled seeing Spruill and Jones arrive at Big Ed's between 6:30pm and 7:00pm on the night of the crime. She remembered that they made statements about needing to go home, shower and change, and that they appeared dirty like they had been at work. Rogers recalled them coming back to the bar around 8:00pm to 8:30pm and staying a short period of time before leaving again. When they returned at 8:00pm or 8:30pm, they were with Maybin and were in clean clothes.

She recalled Maybin arguing with Spruill and Jones because they would not let her go with them as they were preparing to leave the bar. She recalled Spruill and Jones then leaving the bar between 8:30pm and 9:00pm. She did not notice them back at the bar again until about 30 minutes to an hour later. She reported that Spruill and Jones were wearing different clothes at this time. Rogers said later in this interview that she remembered the change of clothes after her boyfriend, Steven Bell, mentioned it to her. She also said that Spruill's hair looked wet, but it always looked that way. She recalled that they remained at the bar for the rest of the evening.

She further stated that she could hear Spruill and Jones talking after they returned and overheard a comment of "I can't believe we just stabbed this nigger, offed this nigger." She believed Jones did most of the talking. The notes from Rogers' interview are provided in full below.

[25] In some places in the record, including this interview, Rogers' name is spelled "Rodgers." The Commission understands the correct spelling is "Rogers."

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Not BIG Ed about 5 Pm

95-CR-1006

Client: Attorneys John Skinner, Maynard Harrell, Jim Vosburg, and Seth Edwards

Subject: Pre-Trial Defense Investigation (Homicide)

Investigator: Clifton Hardison

On Friday, May 12, 1995 I continued with the Leroy Spruill/Wallace Jones Pre-Trial Investigation. Following is the list of activities as they occurred on that date:

6:30 P.M. - Starting time.

6:42 P.M. - I located the residence of Lynn Rodgers. Ms. Rodgers statement is as follows:

Interview with Lynn Rodgers

Lynn Rodgers
Pantego, NC
(White Female)
Date of Birth: 1/25/70

- Ms. Rodgers stated that she started working at Big Ed's Bar in November of 1993. Stated she was treated well during the time that she worked at Big Ed's Bar.
- Ms. Rodgers indicated that the first time she met Robert was at Big Ed's Bar. Stated that Robert showed Lynn the ropes on how to tend a bar. Stated that when she (Ms. Rodgers) first met Robert, he was nice but then Robert got forward (sexually) and at that time Ms. Rodgers would ignore Robert.

- Ms. Rodgers stated that Robert was more aggravating and flirtatious when he was drinking.
- Ms. Rodgers stated that she knew Leroy Spruill for a couple of years and that she first met Leroy at the Oasis Bar in Plymouth. Stated that Leroy always treated her kindly.
- Ms. Rodgers stated that she had seen Leroy and Robert dance together on several occasions; however, on those occasions Robert and Leroy were usually drinking.
- Ms. Rodgers stated that on the night of the homicide, she arrived at Big Ed's Bar in Roper at approximately 5:30 to 6:00 P.M. Ms. Rodgers indicated that she may have arrived earlier being that her main purpose was to open the bar up and to warm the place with heat. Ms. Rodgers was not sure if Big Ed was present at the bar at that time. Ms. Rodgers believes that she was the first one to arrive at the bar. Ed says other around.
- Ms. Rodgers stated that Robert and Leroy arrived at the bar at approximately 6:30 to 7:00 P.M. Stated that Robert and Leroy were dirty as if they had just gotten off work. Robert and Leroy both made statements to the effect that they were going home to change and shower and then return back to the bar. Robert had just been paid the day before 50.00 pd by the day $50 per week from girl friend in Tennessee Bank Acct gone at B&T.

Day before Friday. argued about money.

- Ms. Rodgers stated that Robert worked for Big Ed, so therefore she suspects that Big Ed was probably present at the bar during the time Leroy and Robert arrived. However, Ms. Rodgers was not positive on Big Ed's presence.
- Ms. Rodgers indicated that Robert and Leroy came back to Big Ed's Bar at approximately 8:00 to 8:30 P.M. Ms. Rodgers stated that Robert and Leroy stayed at the bar a short period of time and then left.
- Ms. Rodgers further stated that she believed that Robert and Leroy were by themselves when they first arrived at the bar when they had gotten off work. However, when Robert and Leroy returned to the bar after they had

Friday. Robert left Leroy stayed. Ed & Robt came back after leaving Roper.

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Nicki + Leroy were escorted out Robert + Leroy left the bar on Friday night

cleaned up, Nicki was with them. Ms. Rodgers stated that Nicki was dressed up with a white or red outfit (skirt and blouse or maybe jacket). Never saw Nicki wear anything but Blue Jeans At this time according to Ms. Rodgers, Leroy and Robert were dressed up in clean clothes. Leroy had on a long sleeve shirt and jeans and Robert had a light tan pair of trousers (jeans) and a nice dress shirt. Ms. Rodgers stated that she observed Leroy, Nicki, and Robert standing in the doorway of Big Ed's Bar. That Robert and Nicki were arguing because Leroy and Robert would not let Nicki go with them as they were preparing to leave the bar. Ms. Rodgers further stated that Robert and Leroy left the bar area and Nicki remained.

Fri. Night 1st old jeans white tee-shirt shoes old Gray + Black Hawaii Shirt Overflow Jacket.

Sat. White Blue that he has bleached Jack shoes button up. Sat. dressin Jack Shirt.

LeRoy Blue jeans shirt Jean Jacket

- Ms. Rodgers stated that Robert and Leroy left the bar together at approximately 8:30 P.M. The band had not yet begun to play. They were setting up. on Sat. Band got on to Lynn for not cleaning up
- Ms. Rodgers stated that when Robert and Leroy returned to Big Ed's Bar the band was preparing to take their first break. Never left the bar. Leroy and Robert walked in the bar as the band was playing the last dance before the first break. During that dance Ms. Rodgers stated that she observed Robert and Leroy cutting the fool on the dance floor by dancing together. Ms. Rodgers further indicated that Leroy and Robert continued to dance together throughout the night, making fools of themselves.
- Ms. Rodgers then stated that between 8:30 and 9:00 P.M. Robert and Leroy left the Big Ed's Bar. Ms. Rodgers stated that she did not notice Robert and Leroy back at Big Ed's Bar until approximately 30 minutes to one hour later. At that time Robert and Leroy started drinking heavily and dancing together. No.
- At the time that Ms. Rodgers noticed Robert and Leroy back at Big Ed's Bar, Ms. Rodgers stated that Leroy and Robert were wearing different clothes.

Friday

Stated that Robert was wearing blue jeans and a camaflouge sweatshirt and Leroy was wearing ?. Ms. Rodgers stated that she did not remember exactly what Leroy was wearing but she does recall that the clothes were different than the ones that she had seen on him earlier in the evening. Ms. Rodgers further stated that Leroy's hair looked wet; however, Leroy's hair always looked that way. Stated the Leroy complained that he was cold and Ms. Rodgers offered her coat to Leroy.

- Ms. Rodgers stated that Leroy was a nice guy (sweetheart) and that Robert was a jerk. Ms. Rodgers stated that she had other adjectives for Robert but she would not repeat them since they were so vulgar. Ms. Rodgers further indicated that Robert would hit on Lisa Champ. (The word "hit" used in the last statement is Ms. Rodgers referring to sexual advances.)
- Ms. Rodgers stated that she had not noticed that Leroy and Robert had changed clothes when they returned to the bar. However, she remembered the change of clothes when her boyfriend, Steven Bell, mentioned it at a later time. ?
- Ms. Rodgers stated that during the 30 minutes to one hour of time that Leroy and Robert were absent from the bar, she did not see them in the area. Stated that when Robert and Leroy returned to the bar, they were acting foolish and remained at the bar for the rest of the evening.
- Ms. Rodgers stated that Robert and Leroy may have come in and out of Big Ed's Bar during the 30 minutes to one hour absence; however, Ms. Rodgers did not notice. Ms. Rodgers stated that the usual habits of Robert and Leroy were that if they were in the bar they would repeatedly come up to the bar area. However, Ms. Rodgers further stated that someone could have purchased beer at the bar for Robert and Leroy and took the beverages to them. However, according to Ms. Rodgers, that would not be the usual activity concerning Leroy and Robert.
- Ms. Rodgers further stated that Nicki could have left the bar however,

during the time she was attempting to listen to Robert and Leroy's conversation, she was trying to make herself look like she was working. Ms. Rodgers further stated that Robert and Leroy acted very hyped up.

- Ms. Rodgers stated that what got her attention was when she overheard the comment, "I can't believe we just stabbed this nigger. offed this nigger." Ms. Rodgers stated that at this time both Leroy and Robert were talking and both bragging about how they got away with murder. However, Ms. Rodgers further indicated that Robert did most of the talking.
- Ms. Rodgers stated that she had been receiving threatening phone calls during May of 1994 onto the early part of 1995. Ms. Rodgers stated that the Champs had her phone number and that that number was unlisted. However, as soon as Ms. Rodgers changed her phone number, the threatening phone calls ceased.
- Ms. Rodgers stated that Big Ed had her phone number because she (Ms. Rodgers) had been working at Big Ed's Bar. Ms. Rodgers stated that her first phone number had been kept behind the bar and anybody could have seen it.
- Ms. Rodgers stated that Robert Spruill (not kin to Leroy Spruill) called and stated to Lynn Rodgers that Lynn's life was in danger and that Robert was going to get her. Ms. Rodgers stated that this comment from Robert Spruill was made during the middle of 1994. Further stated that Robert Spruill used to be her (Ms. Rodger's) boyfriend. However, the Champs messed things up a long time ago.
- Ms. Rodgers stated that during the night Robert and Leroy continued to make fools of themselves on the dance floor by dancing together. Ms. Rodgers stated that it appeared that Robert and Leroy wanted people to remember that they were present at Big Ed's Bar. Ms. Rodgers'

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personal opinion is that they may have been trying to establish an alibi.

Ms. Rodgers stated that at closing time at Big Ed's Bar that she cut drinks off from Robert. At that time Robert and Ms. Rodgers got into an argument and Robert called Ms. Rodgers a bitch. Friday At that time Ms. Rodgers barred Robert from the bar. Friday she did. Robert during the closing time of the bar was upset with Ms. Rodgers and threw a sign at Ms. Rodgers and Steven Bell, nearly hitting the windows at the front of the bar establishment. During this time Robert was outside when he hurled the sign. Friday night - Kicked the sign!

No further statements were made by Ms. Rodgers at this time. Since Mr. Steven Bell was present, at that point in time, I initiated an interview with Mr. Bell.

Interview of Gail Champ, Ed Champ, Sr. and Lottie Champ 12/27/1994: Gail Champ said she remembered the night in question because it was the same night her cousin had her baby. She said Spruill and Jones were at the trailer Jones was staying in before they went to the bar. She left the bar at 11:00pm and Spruill and Jones were still there. They were dancing together and horsing around. Jones walked home from the bar. Gail Champ also said that she knew Spruill did not have a car that night.

Regarding her interactions with Janice Spruill on May 7, 1994, Gail Champ denied telling Janice Spruill that she had seen blood in the trailer. She said that it could have been rusty water. Also according to Gail Champ, the camper trailer that was searched by WCSO was not the trailer Jones was staying in at the time of the murder. That trailer had been sold by the Champs in late February 1994. At that time, Jones moved into the second floor apartment Ed Champ, Jr. and Gail Champ had been living in and stayed there until leaving Plymouth in April 1994. The blue and white camper trailer that law enforcement searched on May 11, 1994 was purchased and put on the Champ's property in May 1994. (Center 671-686).

Ed Champ, Sr. remembered the evening of the crime because Spruill and Jones were dancing together, which bothered him. Spruill arrived at the bar at 7:30pm. Ed Champ, Sr. said that they were there the entire time except for 10 minute breaks because it would get hot in the bar. He and his wife Lottie Champ took Spruill home from the bar that night at 11:30pm and Jones and Maybin walked. According to Ed Champ, Sr., Spruill had a car at his disposal but didn't want to get a DWI and did something with the keys. Ed Champ, Sr. said he had talked to Lynn Rogers about what she told the law enforcement and she said she did not know anything.

Lottie Champ said that she got to the bar around 8:00pm and remembered Spruill and Jones dancing together. She left around 11:30pm or 12:00am. The notes from these interviews are provided in full below.

ALIBI WITNESSES

Statements on 12-27-94: Interviews

1. Gail Champ - Remembers that night because it was the same night her cousin had her baby. Curtis Furlough

2. She left bar at about 11:00 P.M. The two co-defendants were there. They were dancing with each other and horse playing around. Brandon was at the camper, which is a brown and white goose neck five-wheel camper. They were at the trailer before they were at the bar.

3. LS was without a vehicle that night. Gail knew about the Blue Ford, which was his father's. It was either in a garage or in a yard with transmission torn up.

4. Brandon walked home that night from the bar.

5. She has trusted him to watch the children. Has been a delight to be around.

6. He has been an abuser of alcohol. Never seen him do crack cocaine or anything else.

7. Her mother is a murder victim.

8. Verify showing account given by the D in her apartment

Conflicts with statements given to Janice Spruill, which she has furnished during investigation.

a. Statement said, "Seen blood".

Disagree: No, it could have been rusty water instead.

b. They searched a blue and white camper.

Disagree: No, it was the wrong one. Another person bought the brown goose neck one. The blue and white camper was bought later after the alleged crime.

See attachments/excerpts from the Search Warrant

ED CHAMP, SR.

He remembers that evening because he saw them dancing with each other. They were accustomed to doing that and he used to say something to them about it in jist because he didn't want people thinking it was a gay bar.

Contents of statement are follows:

1. They took Leroy home from bar that night. Leroy came to bar at about 7:30 P.M. They were there the whole time except for some 10 minute breaks they took. It gets hot in there but couldn't say whether it was hot or cold that particular night.

2. Both the men were drinking beer. He took Leroy home at about 11:30 P.M.

3. Jones and other girl walked home. We passed them. The direction was to the West towards Roper from his bar. Which is approximately 4 or 5 miles from Frank Swain's residence.

4. Leroy has a car at his disposal, but he didn't want to get a DWI, so he did something with the keys.

** 5. Leroy's vehicle was in the yard. The transmission was all torn up. Talked to Leroy's father about that.

** 6. Stated that he talked to Frankie and Vickie Hall. Testified that the truck did not move all that night from the location where it was parked.

7. Stated that he understands the State talked to a Lynn Rodgers, who is retarded and doesn't know what she said and she stated they had money on them and that they had changed clothes, she had seen it all. When he later confronted her about this, she didn't know anything.

This may be a weakness we need to bound home.

001208

NOTE: Interview Frankie and Vickie Hall and Lynn Rogers.

Run records on them.

LOTTIE CHAMP

1. Stated she went to the bar at around 8:00 P.M. and the two boys were there Dancing together. She was drinking some. She said she left at around 11:30 or 12:00 Midnight. She didn't know whether they were in or out. Knew that all this was out of character.

Ed in his camper

2. Jones lived with ~~Leroy~~ and they stayed there alot at his house. Frequently he took bathes in the upstairs garage apartment wh nd Ed Champ, Sr. owned, when it was cold.

Interview of Gail Champ and Ed Champ, Jr. 3/1/1995: The Champs confirmed that Jones was employed by Champ, Sr. and that he lived on the property for a period of time. Gail Champ and Champ Jr. were at Big Ed's bar starting at 9:00pm on the day of the murder. Spruill, Jones, and Maybin were present at the bar. Champ Jr. left at 10:30pm and indicated that for the time he was there, the three never left the bar for more than 5-10 minutes at a time. Both Champs were adamant that at most, Spruill and Jones were gone for 15 minutes at a time. They also were positive that Spruill and Jones did not change clothes.

Interview of Ed Champ, Sr. 3/2/1995: Ed Champ, Sr. briefly employed Jones and knew Spruill from the community. Champ, Sr. recalled again seeing Spruill, Jones and Maybin at the bar for the night. He arrived at 6:00pm and recalled Spruill, Jones, and Maybin arriving between 7:30pm and 8:00pm. Spruill, Jones, and Maybin never left the bar for more than a 15 minute span. They also remained in the same clothes and did not change. He gave Spruill a ride home when he closed the bar around 1:30am while Maybin and Jones walked but indicated they were going to Spruill's home. Champ, Sr. passed them walking in that direction on his way to take Spruill home. Notes from both of the above summarized interviews are provided in full below.

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95-CR-1006

Client: Attorneys John Skinner, Maynard Harrell, Jim Vosburgh, and Seth Edwards

Subject: Pre-Trial Defense Investigation (Homicide)

Investigator: Clifton Hardison

On Wednesday, March 1, 1995, I continued with the Spruill/Jones Investigation. Following is the list of activities as they occurred on that date:

2:06 P.M. - Starting time.

2:30 P.M. - I arrived at the residence of Edward Champ, Jr. and wife, Beverly Champ.

The Champs knew Leroy Spruill and Robert Solis. Robert Solis is the alias for Wallace Brandon Jones.

During this interview, Mrs. Gail Champ submitted the majority of the information. At times that Mr. Ed Champ, Jr. would submit information, I will indicate Mr. Champ's comments by reference to Mr. Champ's name.

Also during the interview, Mrs. Champ will be referred to as Gail Champ. It is noted however that Mrs. Champ's actual name of record is Beverly Gail E. Champ.

Beverly E. Champ
Edward Lee Champ, Jr.
600 West Mill Pond Road
Roper, NC 27970
793-2542

Employment:

Gail Champ - BE&K Construction at Weyerhaeuser, Plymouth, NC (Night Shift)

Edward Champ, Jr. - Self-employed with father, Edward Champ, Sr. Type of Work - pumping septic tanks and paving with asphalt

During this interview, Wallace Brandon Jones will be referred to as Robert or Robert Solis.

The interview is as follows:

- Ed Champ, Jr. and Gail Champ first met Robert Solis in 1993. Robert was living with a crew of Mexicans at a two-story old farmhouse located on the farm of Edward Champ, Sr. in the Roper area.
- Ed Champ, Sr.'s farm is located on Parrish Road in the Roper, NC area. This farm is not in production and is approximately 32 acres. This acreage is used for a horse pasture.
- Robert became associated with Ed Champ, Sr. and eventually moved out of the residence with the Mexicans and moved into a camper located at Ed Champ, Sr.'s residence. This camper was a goose neck (fifth wheel), brown and white faded old looking style camper. This camper was located directly beside Ed Champ, Sr.'s residence on the West Mill Pond Road.
- Later in the year of 1993, Ed Champ, Sr. had the old farmhouse located on the Champ farm burned down by the Roper Fire Department. This two-story house was vacant for approximately three months before it was burned.

- Robert moved over to the Champ's residence in October of 1993. At that time there was still some Mexicans living at the residence.
- The camper was setting perpendicular to West Mill Pond Road facing the hardtop. The fifth wheel (goose neck) of the camper was pointing toward Ed Champ Sr.'s residence. Ed Champ, Sr. residence was also setting perpendicular facing the roadway.
- During this time, Ed, Jr. and Gail Champ were living in the upstairs apartment located in a building behind the Ed Champ, Sr.'s residence. A drop cord was connected from the Gail Champ's apartment to Robert's camper for electric power for the camper.
- Robert had running water at times within the camper with the aid of the water hose that was used from the Champ apartment area in order for Robert to be able to flush his commode.
- The hose water line froze and Robert would use a bucket of water to flush the commode when needed. Robert had no hot water within the camper. Robert procured all of his bathing showers at Ed Champ, Jr. and Gail Champ's apartment.
- Gail Champ would routinely wash Robert's clothes when needed.
- Robert would not go inside of Gail Champ's apartment to get a shower or for any reason if Ed Champ, Jr. or Gail Champ was not home. Robert would always make sure someone was present before he entered the apartment.
- Robert worked with Ed Champ, Sr. and Ed Champ, Jr. This work involved pumping septic tanks and asphalt paving.
- Around Thanksgiving of 1993 is when the Champs first met

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Nicki (Dana Maybin). Nicki was with Robert at that time.

- Gail Champ indicated that the first meeting had to have been a Saturday or Sunday morning because Ed, Sr. had run the bar in Roper those nights and Robert had helped. (Big Ed's Bar is only open Friday and Saturday nights during that time.)
- Robert came over to Ed and Gail Champ's residence around 10:00 that Saturday or Sunday morning with a girl named Dana. At a later time the female subject stated that she went by the name of Nicki.
- According to Robert, he and Nicki had stayed at the camper together on the previous night.
- That morning (Saturday or Sunday) Ed Champ, Jr., Gail Champ, Robert, Nicki, and the two Champ children rode together in a vehicle and transported Nicki to a residence in Creswell. This residence belonged to Betsy Tarkington.
- According to Gail Champ, there is a possibility that Nicki may be associated through distant kinship or friendship to Betsy Tarkington by a third party, being a white female named Terry or Sherry.
- According to Ed Champ, Jr., Betsy Tarkington operates a strip joint at the Creswell residence.
- Gail Champ indicated that Betsy Tarkington's daughter, Tammy, is a professional stripper who resides in West Virginia.
- On the trip back from Creswell, Robert had stated to the Champs that he was intimate with Nicki in the camper on the previous night.
- At a later date Mrs. Ed Champ, Sr. (Lottie Champ) found out about Robert having Nicki at the camper overnight on the

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previous weekend. Mrs. Lottie Champ was upset and advised Robert that he had better not have any more female visitors to stay the night at any time in the future.

- Gail Champ indicated that Mrs. Lottie Champ is very strict, old fashioned and doesn't agree with immoral type activities.
- Gail Champ indicated that from Thanksgiving of 1993 to the end of that year Gail Champ had only seen Nicki at the Champ property when Nicki arrived operating a long red automobile. The purpose of Nicki arriving in this automobile was to pick up Robert.
- According to Ed Champ, Jr., this automobile belonged to Leroy Spruill.
- During this time it was common knowledge that Nicki was living with Leroy Spruill on Buncombe Street in Roper, NC. Also during this time Nicki was supposedly being the girlfriend of Robert.
- During the remainder of the 1993 year, the Champs indicated that life more or less moved on, stated that Robert was a fine fellow. Stated that the Champs felt very comfortable in trusting Robert on the property.
- The Champs indicated that their trust in Robert was assured enough that they would leave their children with Robert to be babysitted. Robert was very helpful and continuously was offering to be of a service.
- During the end of 1993 or the first of 1994, Robert had made the statement to the Champs that he had broke off the relationship with Nicki. However, "the bitch would not leave him alone."

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- The Champs knew Leroy Spruill and got along with Leroy Spruill fine. Leroy was seen at the Champ's property on some occasions talking to Ed, Sr. or Robert. Leroy Spruill and Nicki were never seen at the Champs residence together.
- From the fall of 1993 through the end of 1993 up to the first of 1994, Ed Champ, Jr. and Gail Champ were frequent visitors to Big Ed's Bar in Roper, NC.
- December 18, 1993 stands out specifically in Gail Champ's mind because the night before on December 17, 1993, her good friend and cousin to Ed Champ, Jr. had a baby.
- Virginia Furlough had her baby that Friday night, December 17, 1993 at the Pitt County Memorial Hospital in Greenville, NC. Virginia Furlough's husband is named Curtis Furlough. The baby was born approximately between the hours of 9:30 P.M. and 10:30 P.M. Gail Champ had repeatedly been phoning the hospital throughout the day to check on the condition of Virginia. Virginia Furlough is the second cousin of Ed Champ, Jr. and very close to the Champ family.
- The Champs did not go to Big Ed's Bar on that Friday night, December 17, 1993.
- According to Ed Champ, Jr., Robert went to Big Ed's Bar on that Friday night, December 17, 1993. This information was given to Ed Champ, Jr. by his father, Ed Champ, Sr.
- On December 18, 1993, Gail Champ, Ed Champ, Jr. and the two Champ children and Tommy Barber (cousin to Ed, Jr., approximately 10 years of age) went to the Wal-Mart Store in Williamston, NC. The time was approximately the early afternoon hours on that date.

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- Tommy Barber wanted a hampster so the Champs purchased the animal for Tommy.
- The Champs arrived back at their residence in Roper, NC at approximately 4:00 P.M.
- During this time Robert came over to the Ed Champ, Jr. and Gail Champ's residence and got a shower and dressed to go to Big Ed's Bar in Roper, NC. Robert placed his dirty clothes on top of the washing machine for Gail Champ to wash.
- After Robert got his shower, he proceeded over to Ed, Sr.'s residence. The Champs did not see Robert any more that afternoon until Ed and Gail Champ arrived at Big Ed's Bar in Roper. Robert was present at the Bar at that time.
- It was a common practice for Robert to go over to Ed, Sr.'s residence to sit and talk, drink coffee, eat a meal, etc.
- Ed Champ, Jr., Gail Champ and Tommy Barber arrived at Big Ed's Bar at approximately 9:00 P.M. The band that played that night was the Good Old Country Time Band. When the Champs arrived, Leroy Spruill, Robert, Nicki, and a girl named Sherry were present. According to the Champs, these individuals appeared grouped together.
- Other individuals were also seen at Big Ed's Bar on that night. Billy and Jean Skittlethorpe were present particularly because they sat at the same table at times with Gail Champ. Other individuals that were present and recognized by Gail Champ were placed on a list and submitted to Attorney Maynard Harrell.
- On that night of December 18, 1993, Lynn Rogers was bartending at Big Ed's.

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- There is an entrance way to Big Ed's and a doorway near the rear portion of the building. However, the back door to Big Ed's remains locked. The front door remains unlocked during the time of the night activities.
- On the date of December 18, 1993, Gail Champ, Ed Champ, Jr. were sitting together at a table near the entrance to Big Ed's Bar. At a point in time, Ed Champ, Jr. left the table area and proceeded to the game room area to play pool. Gail Champ would leave her table on a few occasions to see how Ed was doing (playing pool). Gail Champ indicated that she was gone no more than two minutes at a time when she left the table. Gail Champ indicated that Leroy Spruill, Robert, and Nicki never left the Big Ed's Bar during the times that she got up and went to see how Ed Champ, Jr. was playing pool.
- According to Ed Champ, Jr., the Champs had arrived at Big Ed's Bar at approximately 9:00 P.M. on December 18, 1993. When Ed Champ, Jr. arrived, Robert, Leroy Spruill, and Nicki were present at Big Ed's Bar.
- Ed Champ, Jr. further indicated that when he left Big Ed's Bar at 10:30 P.M., Robert, Leroy Spruill, and Nicki were still present. Ed Champ, Jr. further stated that from the time of 9:00 P.M. through 10:30 P.M., Leroy Spruill, Robert nor Nicki ever left Big Ed's Bar for no longer than five to ten minutes. Ed Champ, Jr. indicated that Robert, Leroy Spruill and Nicki would go outside as anyone else would in order to get fresh air or sneak a drink of liquor.
- Gail Champ indicated that she also arrived at Big Ed's Bar on 12/18/93 at 9:00 P.M. with her husband Ed Champ, Jr.

Upon arriving at Big Ed's Bar in Roper, NC, Leroy Spruill, Robert, and Nicki were present within the bar.

- Gail Champ indicated that Leroy Spruill, Robert, Nicki, and the girl named Sherry never left Big Ed's Bar more than five to ten minutes at a time. Stated that Leroy and Robert may have exited the bar together on certain occasions but never did Leroy, Robert, Nicki and Sherry exit together as a group.
- December 18, 1993 also stands out in the mind of Gail Champ because of the activities Leroy Spruill, Robert and Ed Champ, Jr. were conducting at Big Ed's Bar on that date. Ed Champ, Jr., Leroy Spruill and Robert were purposely trying to aggravate Ed Champ, Sr. by going onto the dance floor and dancing together which would bother Ed Champ, Sr. Ed Champ, Sr. had indicated to Ed Champ, Jr., Robert, and Leroy Spruill not to dance together because he (Ed Champ, Sr.) did not want people to think that he was running a gay bar.
- Ed Champ, Sr. is well liked by Leroy Spruill and Robert, and the dancing on the dance floor together was a way for Leroy Spruill and Robert to tease Ed Champ, Sr.
- Ed Champ, Jr. and Gail Champ strongly state that Robert, Leroy Spruill, or Nicki never left the bar for longer than five or ten minutes, and at the tops fifteen minutes. Both of the Champs indicate that Robert, Leroy Spruill and Nicki were never absent from Big Ed's Bar for an hour or hour and a half as was indicated by a statement made by Nicki in an affadavit to a search warrant that was served at Ed Champ Sr.'s residence in 1994.

- Gail Champ indicated that she left Big Ed's Bar at 11:00 P.M. with Tommy Barber. During this time Leroy Spruill, Robert, Nicki and Sherry were still present.
- Ed Champ, Jr. and Gail Champ stated that they did not know what Leroy or Robert were wearing as far as clothes on that night of December 18, 1993. However, the Champs are positive that Robert or Leroy Spruill did not change the clothes that they were wearing as of the time that the Champs arrived at Big Ed's Bar at 9:00 P.M.
- Gail and Ed Champ stated that Leroy Spruill always had a wet type look about his hair. It appeared that Leroy was using something (mousse) on his hair to give the wet type look.
- Gail Champ indicated that Robert's hair did not have the wet look but Robert would hang his hair down. Gail Champ was referring to the fact that Robert has fuzzy hair and would put something on his hair to make it more manageable.
- Ed Champ, Jr. indicated that Robert had fuzzy hair in the back.
- Gail Champ revealed that Robert had a can of mousse at one time that fell out of Robert's clothes. Robert was embarrassed and did not want anyone to know that he used mousse.
- On December 18, 1993, Gail Champ received a phone call from the sister of Ed Champ, Jr. This sister's name is Samantha Waterfield/husband, Durwood Waterfield. (The Waterfields are presently separated and Samantha Waterfield lives with her parents, Ed and Lottie Champ.)
- Samantha Waterfield had telephoned Gail Champ and stated that there was a murder on the Folley Road, the victim being a Frank Swain. Supposedly Ms. Waterfield received this information through her mother-in-law.

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- On the date of December 19, 1993, Robert visited Ed and Gail Champ as he usually did throughout the day.
- Later during the day Ed Champ, Sr. had informed Ed Champ, Jr. and Gail Champ that when he (Ed Champ, Sr.) had closed the bar last night (12/18/93), he (Champ Sr.) gave Leroy Spruill and a subject named Smarty a ride to Leroy Spruill's residence. Ed Champ, Sr. had stated that he saw Robert and Nicki walking towards Leroy Spruill's house on Buncombe Street in Roper, NC. Ed Sr. had stopped and asked if Robert and Nicki needed a ride, but they (Robert and Nicki) indicated that they would walk.
- Ed Champ, Sr. had indicated to Ed Champ, Jr. and Gail Champ that he (Champ Sr.) had closed the bar at 1:00 A.M. Ed Champ, Sr. gave Leroy Spruill and a subject named Smarty a ride to Leroy Spruill's residence on Buncombe Street in Roper, NC. Ed Champ Sr. saw Robert and Nicki walking towards Leroy's residence and offered a ride. However, Robert and Nicki declined and stated that they would walk.
- Ed and Gail Champ did not know if Robert came home on Sunday morning (12/19/93); however, Robert was at the Ed and Gail Champ's residence on Sunday morning at approximately 10;00 A.M. if not before.
- Robert would stay at Leroy Spruill's residence on some nights but would always be back at the Champ's property in the morning hours to see if any septic tanks needed to be pumped out.
- Ed and Gail Champ did not know Robert's real name until the search warrant was served at the Champ property on the Mill Pond Road.

- During the middle of January of 1994, Robert left the Roper area for Tennessee. Robert was uncomfortable, afraid and embarrassed because of his involvement in attempting to help Lisa Champ (daughter of Ed Champ, Sr.) in trying to run off with a male subject by the name of Kevin Furlough. Also involved in this runaway group was a Tony Calloway and Angie Calloway and a Margie Perry.
- Ed Champ, Sr. and Lottie Champ found out about the plan and were angry with Robert because Robert knew of the situation and did not inform the Champs.
- However, the Champs are not mad at Robert anymore, according to Ed and Gail Champ.
- Robert returned to the Roper, NC area during the middle of February of 1994. Robert moved back into his original camper located beside Ed Champ, Sr.'s residence.
- Gail Champ stated that when Robert came back from Tennessee in the middle of February 1994 Robert fell through the steps at Ed and Gail Champ's second floor apartment on the Ed Champ Sr.'s property on West Mill Pond Road in Roper, NC. Robert cut his knee severely in the fall.
- Soon after the fall, while Robert was at Big Ed's Bar in Roper, the scab came off and the wound bled through Robert's trousers. Robert was wearing white trousers which he had purchased on a shopping trip with Gail Champ during the first of the year of 1994.
- During the latter part of February of 1994, the camper that Robert was residing in was sold and moved off of the Ed Champ, Sr.'s property.

- Robert then moved into the apartment located in the building on the Ed Champ Sr.'s property. Ed Champ, Jr. and Gail Champ were no longer living in this apartment at that time.
- On March 1, 1994, Ed Champ, Jr. and Gail Champ had a mobile home placed on the exact spot that Robert previously had had his camper located beside Ed Champ, Sr.'s residence on the West Mill Pond Road in Roper, NC.
- During the last of March to the middle of April of 1994, Robert was living with two Indians in the upstairs apartment at Ed Champ, Sr.'s property on the West Mill Pond Road in Roper.
- Robert then again left the Roper area near the latter part of April 1994. Since that time Robert has not returned to the Champ property on the West Mill Pond Road in Roper, NC.
- According to the Champs, Robert did not return to the Washington County area until he was arrested and brought back to the jail facility.
- During the first of May of 1994, a blue and white camper was purchased and placed behind Ed Champ, Sr.'s residence. At that time a subject named Kevin Furlough was residing within the camper.
- During July of 1994 the blue and white camper was moved from behind Ed Champ, Sr.'s residence to a position behind Ed Champ, Jr.'s residence. Ed and Gail Champ live directly beside Ed Champ, Sr.
- During August of 1994 the blue and white camper was sold and removed from the Champ property on the West Mill Pond Road in Roper, NC.

- When the blue and white camper was moved from behind Ed Champ, Sr.'s to a location behind Ed Champ, Jr.'s residence, Ed Champ, Sr. then placed a different camper behind his residence. That camper was a newer model camper and a beige type color.
- When Deputy Janice Spruill came to the Champ property to serve a search warrant on the camper that Robert lived in, that camper was no longer present.
- Deputy Spruill had asked Gail Champ on a previous date, where did Robert live at. Gail Champ had replied, "At the camper where my trailer is at."
- When Deputy Spruill served the search warrant at the Champ property, she (Deputy Spruill) assumed that the camper located behind Ed Champ, Sr. residence was the actual camper that Robert was residing in. However, at this time the particular camper that Robert had been living in was no longer present on the Champ property located on the West Mill Pond Road in Roper, NC. Therefore, Deputy Spruill served the search warrant on the wrong camper.
- It is unknown at this time if Deputy Janice Spruill is even aware that she had served the search warrant on the wrong residence.
- According to Ed Champ, Jr., the blue and white camper at one time was owned by Ricky Weathersbe and Weathersbe was renting the camper to one of the Indians and a white male subject. At that time the blue and white camper was located on a camper space on Ed Champ, Sr.'s farm on the Parrish Road in the Roper, NC area.

- When Ed Champ, Sr. purchased the camper, he had placed it behind his residence. However, at this time the Indians did not reside in the camper, but resided in the apartment at the Champ property on the West Mill Pond Road.
- Jack Spruill (Leroy Spruill's father) had indicated to Gail Champ that one of the Indians used to date Nicki. Jack Spruill had indicated to Gail Champ that Nicki broke up with the Indian in order to pursue a relationship with Robert.
- Ed Champ, Jr. indicated that one of the Indians had made a statement that he (Indian) was leaving the area and was going back to Canada. Ed Champ, Jr. stated that the Indians did not owe any money for rent.
- The Champs did not know what date the Indians left the apartment and left the area.
- Gail Champ stated that in the affadavit in the search warrant, it indicated that she (Gail Champ) had made certain statements about seeing what appeared to be dry blood in a sink in the camper that Robert stayed in. The statement also indicated that Gail Champ stated that she (Gail Champ) suspected that Robert was involved in the Frank Swain murder.
- Gail Champ stated that it was rusty water stains in the tub. Gail Champ stated that she never made the statements that it was dry blood. Gail Champ further stated that she did not think Robert was involved in the Swain murder nor did she indicate that to the law enforcement officer. Gail Champ stated that she would let Robert watch her kids and that she would not let a murderer do that.
- Prior to terminating the interview, Gail Champ stated that

according to the affadavit on the search warrant, Nicki had made a statement that Curtis Furlough had left Big Ed's Bar with Leroy Spruill and Robert on the night that Frank Swain was murdered. Gail Champ stated that Curtis Furlough was not present at Big Ed's Bar on December 18, 1993. Curtis Furlough was present with his wife, Virginia Furlough, who had just had a baby on December 17, 1993. According to Gail Champ, Curtis Furlough produced video footage of him with his wife on December 18, 1993 as they were celebrating the birth of their child.

Gail Champ indicated that Curtis Furlough had stated that he was told by Deputy Janice Spruill that the video tape was the only reason that Curtis Furlough was not in jail.

5:10 P.M. - I terminated the interview with Ed Champ, Jr. and Gail Champ.

5:40 P.M. - Ending time.

End of Supplement.

Clifton Hardison
Investigator/Owner

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95-CR-1006

Client: Attorneys John Skinner, Maynard Harrell, Jim Vosburgh, and Seth Edwards

Subject: Pre-Trial Defense Investigation (Homicide)

Investigator: Clifton Hardison

On Thursday, March 2, 1995, I continued with the Spruill/Jones Pre-Trial Investigation. Following is the list of activities as they occurred on that date:

6:30 P.M. - I arrived at the residence of Ed Champ, Sr. on the West Mill Pond Road in Roper, NC.

Located at the Ed Champ Sr.'s residence is also Lottie Champ, the wife of Ed Champ, Sr. Also at this residence is the Champ's daughter, Lisa Champ. These three individuals will be interviewed at this time.

Mr. Ed Champ, Sr. will be interviewed first. Second will be Lottie Champ and third, Lisa Champ. Mr. Ed Champ, Sr. stated the following.

Interview with Ed Champ, Sr.:

Ed Champ, Sr.
582 West Mill Pond Road
Roper, NC 27970
793-3803
Employment: Self

- Mr. Champ, Sr. stated that Robert was with a group of Mexicans that lived together on his farm (Champ Farm). Mr. Champ

indicated that he would use Robert to help in Mr. Champ's business when extra help was needed.

- Mr. Champ indicated that he would go pick up Robert from the farm area and transport Robert back to that area when the work was concluded.
- Mr. Champ stated that Robert was a good worker and is a good boy. He indicated that Robert eventually moved from the Mexican crew and started to reside in a camper at Ed Champ, Sr.'s residence.
- Mr. Champ stated that Robert was a trustworthy individual and was on numerous occasions trusted with the children, money and also trusted with opening and closing the bar in Roper.
- Mr. Champ indicated that the first time he (Champ) saw Nicki was around the first of November of 1993. During that time Nicki was starting to come to the Bar located in Roper, NC. Mr. Champ indicated that Nicki may have started coming with a short fat girl that had frizzy hair.
- Mr. Champ stated that December 18, 1993 stands out in his mind because that was the night that Ed Champ, Jr., Leroy Spruill, and Robert were dancing together at Big Ed's Bar in Roper. Mr. Champ did not like the subjects dancing and did not want people to think that Mr. Champ operated a gay bar.
- Mr. Champ stated that he was aware that Ed Champ, Jr., Leroy Spruill and Robert were mainly teasing him (Ed Champ, Sr.) and were dancing together in order to joke with Mr. Champ.
- Mr. Champ stated that the Good Time Country Band was the band that played on that night.
- On that night Ed Champ, Sr. stated that he arrived at the bar at approximately 6:00 P.M. Stated that the band got there

between 7:00 and 8:00 P.M. Stated that the front door of the bar always remained unlocked during the time of business, that the two double doors at the rear of the building was used for the purpose of the band to unload and load their equipment. After the band unloads their equipment into the building, those double doors remain locked until the band is ready to load back up.

- Mr. Champ stated that between 7:30 P.M. and 8:00 P.M., Leroy Spruill, Robert, and Nicki arrived at the bar. Stated that this group entered through the double doors that the band uses. Mr. Champ indicated that Nicki, Robert and Leroy Spruill were probably 50/50 intoxicated. In other words, not completely drunk but on the way.
- During that night of December 18, 1993, Mr. Champ stated that Robert, Nicki, or Leroy Spruill never left the building more than a fifteen minute span. Stated that Robert, Leroy Spruill and Nicki remained in the same clothes and did not change. Stated that Leroy has a wet look in his hair all the time. Stated Leroy uses something on his hair but does not know what. Mr. Champ further stated that Robert does not use anything on his (Robert's) hair as far as Ed Champ, Sr. is aware.
- Mr. Champ indicated that he would have known if Robert, Leroy Spruill or Nicki had left the bar for any period of time other than the short periods of time people use to smoke a cigarette or to get some fresh air.
- Mr. Champ indicated that Leroy Spruill was a good boy and a fine fellow. Stated that he has known Leroy for several years.

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- Mr. Champ indicated that he was at the bar the entire night on December 18, 1993. Stated that the band stopped playing at approximately 1:00 A.M. on 12/19/93 and the band was packed up and had left the area by 1:30 A.M.
- Mr. Champ stated that he closed the bar at 1:30 A.M. and then gave Leroy Spruill a ride home. Robert and Nicki walked to Leroy's residence. Mr. Champ was told by Robert and Nicki that they were going to Leroy's residence. Mr. Champ passed Robert and Nicki as they were approximately half way from the bar to Leroy Spruill's residence on Buncombe Street.
- Mr. Champ stated that at that time that Robert, Nicki and Leroy Spruill were not drunk and not sober.
- Mr. Champ stated that he dropped Leroy off at the Buncombe Street residence.
- Mr. Champ stated that Robert and Nicki were boyfriend and girlfriend, that Nicki stayed at Leroy's and Robert also stayed there the majority of the time.
- Mr. Champ stated that the law gave Leroy a fit. Stated that Leroy had made the statement that they (law enforcement) could arrest him (Leroy Spruill) because he did not kill anybody. So therefore he (Leroy Spruill) did not worry about it (Frank Swain murder).
- Mr. Champ further indicated that he knew Wyatt Spruill. Stated that Wyatt Spruill was not a good person; however, Spruill was okay when he was not on drugs.
- Mr. Champ indicated that Wyatt Spruill's sister was killed sometime after Frank Swain was killed. A rumor was that this sister of Wyatt Spruill was the girlfriend of Frank Swain.

This subject was found by a child. The subject was tied to the bed with the throat cut.

- Mr. Champ stated that in January of 1994, Lynn Rogers ripped Ed Champ, Sr. off. Rogers supposedly had closed up the bar and kept the money and took the money out of the pool tables. Mr. Champ confronted Rogers at a later time; however, Rogers stated that she did not steal the money. Ms. Rogers did not return to work at the bar from that date forward.
- Mr. Champ stated that during the time that Frank Swain was murdered, a Connie Oliver was living behind the bar area in a two-story residence. Connie Oliver would come to the bar on weekends, but Mr. Champ does not remember if Connie Oliver was present at the bar on the night of Frank Swain's murder.
- Robert left during the middle of January of 1994 because Mr. Champ's wife, Lottie Champ, was mad with Robert.
- Mr. Champ indicated that Robert returned back to the Roper area around February of 1994.
- Robert then left again from the Roper area and supposedly traveled to Tennessee in April of 1994. Robert had not been back to the Champ residence since April of 1994. The next known time that Robert was in the Washington County area was when Mr. Champ learned that Robert was arrested and brought back.
- Mr. Champ indicated that Indians from Canada that worked at Weyerhaeuser were staying in the apartment on his residence. He stated the Indians paid a month advance on rent; however they only stayed a week.

- Mr. Champ stated that these Indians did rent a blue and white camper from Rick Weathersbe when the camper was parked on Mr. Champ, Sr.'s farm. Mr. Champ purchased the blue and white camper from Rick Weathersbe and placed that camper behind Mr. Champ's residence.
- Mr. Champ stated that the blue and white camper was never hooked up, that the Indians moved into the apartment behind the Champs and never stayed at the blue and white camper when it was parked at the Champs residence.
- Mr. Champ stated that the camper that Robert was living in was sold to a man by the name of David. Mr. Champ does not know the last name of that subject. Supposedly David is from Ohio and is working with BE&K.
- Mr. Champ stated that the camper that Robert used to live in is now present parked on the Champ Farm on the Parrish Road near Roper, NC. The subject from Ohio named David resides in the camper at that location.

NOTE: At this time Mr. Champ produced a polaroid photograph of the camper that Robert was living in. I kept the photograph for the file.

End of Statement.

Lottie Champ [unknown], Lisa Champ [unknown]: Lottie Champ arrived at Big Ed's Bar around 8:00pm on the night of the murder and left between 11:00pm and midnight. She sat at a table near the front entrance and recalled seeing Spruill and Jones dancing together on the dance floor. While she was at the bar, she did not see Spruill, Jones, or Maybin leave for more than five to 10 minutes at the time. Lisa Champ arrived at the bar around 10:15pm that night, transported Ed Champ, Jr. home almost immediately after arriving, and then returned to the bar around 10:30pm. She remembered seeing Spruill and Jones dancing on the dance floor. She left the bar with her mother, Lottie Champ, between 11:30pm and midnight. The notes from these interviews are provided in full below.

Interview with Lottie Champ:

Lottie Champ
582 West Mill Pond Road
Roper, NC 27970
793-3803
Employment: Housewife

Mrs. Champ made the following statements:

- Mrs. Champ stated that she arrived at Big Ed's Bar at approximately 8:00 P.M. Stated that during the evening she sat at the table near the front entrance of the bar. Stated that during this time she (Mrs. Champ) sat with the Skittletharpes and Gail champ after Gail Champ had arrived at the bar.
- Mrs. Champ stated that during the evening she and the Skittletharpes were laughing immensely at Robert and Leroy. During this time Robert and Leroy were on the floor of the bar dancing and their fooling around was humorous to Billy and Jean Skittletharpe and Mrs. Lottie Champ.
- Mrs. Champ stated that during the time she was present at Big Ed's Bar, she did not observe Robert, Leroy, or Nicki leave the bar more than five to ten minutes at a time.
- Mrs. Lottie Champ stated that she left Big Ed's Bar between the hours of 11:00 P.M. and 12:00 Midnight.
- Mrs. Lottie Champ further indicated that she arrived at her home residence at approximately 12:00 Midnight. During this time Mrs. Champ received a telephone call from her daughter (Samantha Waterfield) who informed Mrs. Champ that a murder had happened on Folley Road. Supposedly Samantha Waterfield had stated that a man was found dead in a trailer.
- Mrs. Lottie Champ stated that at times Nicki would get mad at other girls over Robert. Stated that Nicki would assault girls who she (Nicki) thought were interested in Robert. Stated that any girl that danced with Robert, Nicki would routinely brush past the female subject giving the "elbow".

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- Mrs. Lottie Champ indicated that Nicki had assaulted a Mexican girl and a girl named Angela.
- Mrs. Champ indicated that Nicki had a "filthy mouth". Mrs. Champ stated that on numerous occasions Ed Champ, Sr. had told Nicki not to come back to the bar in Roper. However, Nicki would return.
- Mrs. Lottie Champ also stated that Robert left the Roper area approximately during the middle of January, 1994 because she (Lottie Champ) was mad with Robert. This period of anger was due to the fact that Robert had prior knowledge about Lisa Champ (daughter of Lottie Champ) considering running away with a subject, Kevin Furlough. Lottie Champ was angry with Robert because Robert did not inform Lottie Champ of the predetermined plan. However, the Champs did find out beforehand.
- At a later time Mrs. Lottie Champ indicated that Robert did return to the Roper, NC area. Mrs. Champ had forgiven Robert and Robert had asked to come back through other relatives. Supposedly this mediator was Gail Champ.
- Robert returned to the Roper area during the time frame of the end of February, 1994
- Mrs. Lottie Champ further stated that Robert left again approximately April of 1994 and had not been back in the Roper area until he was arrested and brought back by law enforcement.
- Mrs. Champ indicated that she did not know when Robert left but just realized during April that he was not around.
- Mrs. Champ also stated that Robert was staying sometime with a subject named Kevin. ~~He~~ He was staying in a camper

near the Champ residence. However, when this camper was sold, Robert had nowhere else to live; therefore, this motivated Robert to leave.

End of Statement.

Interview with Lisa Champ:

Lisa Champ
582 West Mill Pond Road
Roper, NC 27970
793-3803
Employment: Shirt Factory and Winn Dixie

Following is information supplied by Lisa Champ during the interview:

- Ms. Champ stated that she arrived at Big Ed's Bar in Roper, NC at approximately 10:15 P.M. on December 18, 1993. Ms. Champ proceeded to the table near the entrance of Big Ed's Bar and sat with her mother (Mrs. Lottie Champ) and Jean and Billy Skittletharpe.
- Ms. Champ stated that Ed Champ, Jr. asked her (Lisa Champ) to transport him (Ed Champ, Jr.) home.
- Ms. Champ indicated that the time frame was still approximately 10:15 P.M. when she transported Ed Champ, Jr. to his residence.
- Ed Champ, Jr. is the brother of Lisa Champ.
- Ms. Lisa Champ arrived back at Big Ed's Bar in Roper at approximately 10:30 P.M. Upon entering the bar, Ms. Champ observed Leroy and Robert dancing on the dance floor.
- Ms. Champ stated that between the time frame of 11:30 P.M. and 12:00 Midnight, she left Big Ed's Bar with her mother (Lottie Champ). Lisa and Lottie Champ arrived back at

Champ residence on West Mill Pond Road in Roper and shortly thereafter, Mrs. Lottie Champ received the telephone call from Samantha Waterfield. Mrs. Waterfield indicated that a murder had happened on Folley Road.

End of Statement.

8:10 P.M. - The interviews with Ed Champ, Sr., Lottie Champ, and Lisa Champ were terminated.

End of Supplement.

Clifton Hardison
Investigator/Owner

Interview of Billy and Jean Skittletharpe 3/3/1995: The Skittletharpes also arrived at Big Ed's around 10:15pm, stayed for about 15 minutes, and saw Spruill dancing with another male individual. They sat at a table with Lottie Champ and Ed Champ, Sr. They briefly left the bar to take their dog home, and returned around 11:30pm. They saw Spruill, but did not remember seeing Champ, Sr. at that time. They left the bar around 1:00am. Mr. Skittletharpe also provided that he could not be totally positive but believed that almost all the occupants at the bar that night were wearing jeans. However, he did state that "he was sure that if the subject that was dancing with Leroy Spruill had been wearing white jeans, he would have noticed."

Interview of Patty and Jack Spruill 3/1/1995: Patty and Jack Spruill are Spruill's parents. The Spruills reported that Spruill and his former wife had a dependency problem with "crack cocaine and therefore sold practically everything within their home to support the habit." Spruill and his wife separated in August 1993. They did not have any firsthand knowledge of what happened on the night of the murder, but did offer statements concerning what they had been told about that evening by Spruill. Spruill provided to them that he left his home and started walking to Big Ed's Bar with Jones and Maybin around 6:30pm. While walking to the bar, Spruill, Jones, and Maybin stopped to talk to Russell Sawyer. Ray Hurst arrived and gave Spruill, Jones, and Maybin a ride to the bar in a blue truck and that they arrived to the bar around 7:00pm. Spruill indicated to them that he and Jones were at the bar all night with Maybin.

The Spruills saw Spruill the Thursday before the murder and not again until the Monday after the murder when Spruill came for breakfast. Spruill routinely came to his parents for breakfast because Spruill's brother in law, Ray Price, would pick him up for work from the Spruills' residence. Patty and Jack Spruill also reported that Spruill had used Jack Spruill's truck the

Thursday before the murder to purchase medicine for Maybin for a "supposedly miscarriage." The Spruills also reported that Spruill indicated Maurice Wilkins may have committed the murder. Jack Spruill also reported that Calvin Hill told him that Maurice Wilkins killed the Victim. Calvin Hill was Mona Hill's husband. (Hardison & Sons Investigative File 719-728).

Interview of Angela Martinez 12/27/1994: Martinez stated that the "two boys" were regulars at the bar. "Was there between 8:00pm and 1:30am or 2:00am on that particular night." She could not remember when Spruill or Jones left. (Defense attorneys -- Center 1214).

Interview of Angela Martinez (undated): Ms. Martinez was present at Big Ed's Bar on the night of the murder. The band was already playing when she got there. She did not see Maybin but did see Spruill and Jones. She saw them sitting outside smoking when she arrived. Shortly after arriving at the bar, Spruill and Jones left the "area" and she did not see them again until she was leaving the bar. She arrived home around 12:30am that night. (Hardison & Sons Investigative Services -- Center 698-699).

Interview of Margie Perry 12/27/1994: Perry said she was at the bar that night, but did not remember anything. (Defense attorneys -- Center 1214).

Interview of Margie Perry 3/3/1995: Perry stated that she was at the bar on the night of the murder. Perry also stated that "on a weekend, either a Friday or Saturday night in December of 1993," she was at Big Ed's Bar and Jones was there. Jones was initially wearing jeans. He left the bar and would have returned before she left, which was always at 11:00pm. When he returned to the bar, Jones was wearing white jeans with blood on the right back calf area. Jones told Perry he had fallen through the steps at Gail Champ's house. She did not know if this incident happened the same night as the murder. The notes from Ms. Perry's interview are included in full below.

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95-CR-1006

Client: Attorneys John Skinner, Maynard Harrell, Jim Vosburgh, and Seth Edwards

Subject: Pre-Trial Defense Investigation (Homicide)

Investigator: Clifton Hardison

On Friday, March 3, 1995, I continued with the Spruill/Jones Pre-Trial Defense Investigation. Following is the list of activities as they occurred on that date:

5:08 P.M. - I arrived at the residence of Margie Perry in Plymouth, NC. Ms. Perry submitted the following information with regards to her knowledge of Robert Solis (Wallace Brandon Jones) and Leroy Spruill,

Interview with Margie Perry:

Margie Perry
Route 2, Box 121
Plymouth, NC 27962
793-2326
Date of Birth: 11/8/77
Employer: Hardees Fast Food Restaurant
Williamston, NC

Investigator's Note: Upon arrival at Margie Perry's residence, I met with Ms. Perry's mother, a Ms. Margie Brabble. Ms. Brabble was apprehensive about me talking with her daughter (Margie Perry); however, allowed the interview to start. When I initially arrived at the Perry residence, Margie Perry was not present. Margie Perry was enroute from her place of

employment at Hardees in Williamston, NC during that time.

During the short period of time that I waited for Ms. Perry, Margie Brabble and myself talked as we stood in the garage area of the residence.

When Margie Perry arrived at the residence, Margie Brabble and another male subject (name unknown), entered back into the residence. Margie Perry and myself remained outside in the garage area during this initial interview.

Ms. Perry requested that we remain outside during the interview, stating that she would feel uncomfortable answering questions inside the residence around others. It is noted that during this interview the weather was cold and uncomfortable to Ms. Perry. This was not the ideal environment to interview anyone.

Ms. Perry stated the following:

- Ms. Perry stated that she did not know Leroy Spruill but eventually met Leroy Spruill during the times that she (Margie Perry) was visiting Big Ed's Bar in Roper, NC.
- Ms. Perry stated that she met Robert in the beginning of December of 1993. Stated that she (Margie Perry) was introduced to Robert by Ed Champ, Jr. and Gail Champ.
- Ms. Perry indicated that she and Gail Champ and Angela Martinez were riding around the Plymouth area in Gail Champ's vehicle. That during this same time Robert was riding with a girl named Robin Lee of the Plymouth area. Supposedly that night was the first night that Robert met Robin Lee and according to Ms. Perry, this was Robin Lee's only contact with Robert.

- Ms. Perry stated that later in the evening Gail Champ, Robin Lee and Ed Champ, Jr. met in the vicinity of the Ames parking lot in Plymouth, NC. During this time Robert exited Robin Lee's vehicle and started riding with Ed Champ, Jr. It was also indicated that Ed Champ, Jr. has a nickname of "Butch".
- During that initial introduction the first of December of 1993 Gail Champ eventually transported Margie Perry and Angela Martinez to their respective home residence. Ms. Perry indicated that this was the first time that she had seen Robert. Ms. Perry stated that this incident was the first of December of 1993 and had to be either a Friday or Saturday night.
- Ms. Perry stated that after her first introduction to Robert that she did not see Robert the following night.
- Ms. Perry stated that the next time she saw Robert was when Robert was at Gail Champ's residence. Ms. Perry doesn't remember the exact time span but suspects that it was the following week.
- Ms. Perry indicated that Robert was always at Gail Champ's residence when Margie visited there.

  NOTE: It was apparent to myself that during this comment, Ms. Perry appeared to be flustered to the fact that Robert was constantly at Gail Champ's residence.
- Ms. Perry indicated that she and Gail Champ were good friends back during December of 1993. However, Ms. Perry indicates now that she is not a friend of Gail Champ's because Gail Champ lies so often.
- Ms. Perry then stated that she feels certain that she did not

visit Big Ed's Bar on that weekend that she (Margie Perry) met Robert.

- Ms. Perry then stated that the time frame could have been September of 1993 that she first met Robert. Ms. Perry further indicated that she wasn't sure, that it still could be December of 1993.
- Ms. Perry stated that she remembers Robert wearing white pants before December of 1993; however, she (Margie Perry) had been informed by Gail Champ that Robert had purchased white pants after December of 1993.
- Ms. Perry stated that on a weekend, either a Friday or Saturday night in December of 1993 she (Margie Perry) was present at Big Ed's Bar in Roper, NC. During this time Robert was also present at the bar.

Ms. Perry stated that on this particular weekend night Robert left Big Ed's Bar and that time Robert was wearing blue jeans. Ms. Perry indicated that she wasn't certain what time Robert left the bar; however, Ms. Perry was certain that Robert returned before 11:00 P.M. because she (Margie Perry) always left the bar before or right at 11:00 P.M.

Ms. Perry stated that when Robert returned back to Big Ed's Bar, Robert was wearing white jeans and there was blood on the right back calf area of the jeans. Ms. Perry indicated that the blood appeared to have saturated through the jeans from the inside. When Ms. Perry asked Robert about the blood stain, Robert stated that he fell through the steps at Gail Champ's residence.

Ms. Perry stated that she does not know if this incident

happened on the night of Frank Swain's murder. Ms. Perry indicated that this incident could have happened before the Frank Swain murder or after.

- Ms. Perry further stated that Robert wore white pants every day. However, after Christmas of 1993 Robert did go purchase more clothes.
- Ms. Perry stated that the Champs were trying to push Robert on her (Ms. Perry).
- Ms. Perry stated that Robert, Angela Martinez, and herself traveled to Williamston, NC on January 20, 1995. The purpose of this trip was to purchase a birthday present for Margie Perry's brother, January 20, 1994 being the actual birthday. The group shopped at the Wal-Mart store.
- Ms. Perry indicated that Robert was very nice and actually purchased Margie Perry's brother's birthday present on that date.
- In 1994 during the time of the arrest of Robert, Gail Champ stated to Margie Perry that she (Gail Champ) had seen what appeared to be blood in the shower at Gail Champ's residence.
- Margie Perry then indicated that Gail Champ changed that story at a later date.
- Ms. Perry stated that Gail Champ is married into a family of gypsies and that the gypsies stick together. Ms. Perry further indicated that on many occasions the gypsies have thrown Gail off of the Champ property and Gail would come up to Margie Perry's residence to stay the night. However, Margie Perry's mother (Margie Brabble) would not allow Gail to stay the night because Margie Brabble did not want her

family to get involved.

- Ms. Perry stated that on the night of Frank Swain's murder, she and Angela Martinez were dropped at Gail Champ's residence in Roper, NC. Ms. Perry indicated that she, Gail Champ and Angela Martinez, along with Ed Champ, Jr. rode to Big Ed's Bar together.
- Ms. Perry indicated that she did not remember how she and Angela Martinez arrived to the Gail Champ's residence or who transported them.
- Ms. Perry indicated that during that night at Big Ed's Bar Gail Champ had left the bar and returned home because a pet hampster had escaped from its caged area. Ms. Perry stated that Gail Champ did not return back to Big Ed's Bar on that date. Ms. Perry further stated that she was uncertain what time Mrs. Champ left.
- Ms. Perry stated that on the night of the Frank Swain murder that she left Big Ed's Bar before 11:00 P.M. Ms. Perry indicated that was not sure how she got home.

NOTE: During this time in the interview, Margie Brabble (mother of Margie Perry) exited the residence and offered her opinions in reference to Margie Perry being involved in this investigation. Ms. Brabble was apprehensive about the interview; however, she wanted her daughter to be truthful. At this time Margie Perry indicated that she wanted to go inside of her residence, that she was cold and hungry.

Upon entering the Brabble residence I was informed that a subject named ~~Marge~~ Smarty Spruill was present. This subject is an individual that is presently on my witness list [illegible] interview.

Upon entering the Brabble residence I asked Ms. Perry only a few more questions.

- Ms. Perry stated that on the night of Frank Swain's murder she does not remember Robert or Leroy Spruill dancing together on the dance floor. Ms. Perry indicated that she would have remembered that incident because of it being unusual.
- Ms. Perry does not remember if Robert, Leroy or Nicki left Big Ed's Bar on the night of Frank Swain's murder. However, Robert, Leroy or Nicki could have left the bar and Ms. Perry would have been unaware. Ms. Perry further indicated that she does not know if that night of Frank Swain's murder was actually the night that Robert left the bar and changed clothes.
- Ms. Perry indicated that December of 1993 is when she visited Big Ed's Bar frequently.

NOTE: At this time I concluded the interview with Margie Perry. It was apparent that Margie did not feel comfortable inside the residence talking with me since Smarty Spruill was also sitting in the same room. Ms. Perry seemed confused on her times and dates during the interview.

End of Statement.

Interview of Tony Calloway 12/27/1994: Calloway remembered getting to the bar at 9:00pm and seeing "them" at the bar. He recalled at the time of his arrival that "they were there dancing with each other" and that "he knew they do that a lot." However, Calloway did not know if "they left" as he was in the pool room, which is a separate room and he could not see the dancing area from there. He never saw Spruill's truck there. Calloway left at 11:00pm or 12:00am. (Defense attorneys -- Center 1212).

Forensic Analysis

On May 23, 1995, an Ex Parte Order Authorizing the Appointment of Expert or Scientific Examination of Fingerprint and DNA and/or Blood Grouping Evidence was issued by the Honorable William C. Griffin, Jr. for both Leroy Spruill and Wallace Brandon Jones. (SBI 677-679). On July 2, 1995, an Order was issued by William C. Griffin, Jr. to transport the following items to LabCorp: the tire iron, the blood scrapings from the Victim's front door, the top sheet from Spruill's house, and the curtains from the Victim's house. (DA 815). The evidence was transported to LabCorp on August 4, 1995. (WCSO 609). Per a note dated August 7, 1995, no report was to be issued until requested by Harrell. (SBI 676).

An evidence inventory dated August 7, 1995 by Meghan Clement of LabCorp indicates that the tire iron was swabbed just below the head of the rounded portion of the tire iron and there was a positive reaction to the phenolphthalein presumptive test for blood. There was no visible evidence in the envelope with the blood scrapings from the Victim's exterior front door. The top sheet from Spruill's home was described as "extremely dirty" with animal hair and small bugs crawling around. "Very smelly and stiff as if urinated or defecated on." The phenolphthalein presumptive test done on the largest stain was positive, but no confirmatory testing was

completed. The curtains from the Victim's home were examined in four areas and the phenolphthalein presumptive test was negative. (SBI 685-686). On September 25, 1995, a blood sample for Leroy Spruill was submitted to LabCorp. (SBI 693).

On October 5, 1995, Maynard Harrell contacted LabCorp by phone and requested that "all analysis be terminated as his client has accepted a plea offer." A handwritten note on this memo states "Informed of results verbally – MEC." (SBI 667). No official report regarding any testing was issued.

During the SBI re-investigation, which is outlined more fully below, there is documentation that these 1995 results excluded Spruill from the DNA profile developed from the tire iron found in the Victim's home. In this testing, Leroy Spruill was the only reference sample provided. In addition, there was testing done on the top sheet collected from Spruill's bed, which was negative for DNA. (SBI 666).

VIII. Murder of Sonja Day

Sonja Day, the Victim's girlfriend and the sister of Wyatt Spruill, was murdered in her apartment in Plymouth, NC on September 26, 1994. Day's son, age 11, and his two friends discovered her body upon entering the apartment through the unlocked second floor sliding glass doors off of the back of the apartment. The front door to the apartment had been locked and dead bolted. Day was tied to her bed by her hands to each side of the headboard using electrical wire cut from a lamp and her throat had been cut. There were also stab marks on her neck and chest. There were no signs of forced entry, but there was evidence of a struggle having taken place throughout the apartment. (SBI Day p. 2, SBI p. 47-58).

Day was involved in drugs and had recently returned to Plymouth after getting into some kind of trouble in New York. Willie Joseph "Jojo" McNair and Billy McNair were among the suspects investigated by the Plymouth Police Department. The McNair brothers lived next door to Day with their mother, Janice. The SBI file for the Day case indicates that Jojo, Billy, and Janice McNair suspected Day of stealing Janice McNair's purse shortly before her murder. A confidential informant told WCSO Dep. Willie Williams that Jojo McNair said he was going to get revenge on Day for stealing the purse. No one was ever arrested in relation to this crime and it remains unsolved. Possible connections between the Victim's murder and Day's murder are discussed more fully below in the 2004 SBI Re-Investigation section. (SBI Day p. 2, 84-87. 189).

IX. Jones' September 1995 Trial

The State's presentation focused on the Victim's whereabouts on the day of the murder, the law enforcement investigation, the medical examiner findings, the State's allegation that Jones attempted to flee the jurisdiction, Lynn Rogers' account of Spruill and Jones' whereabouts, and Dana Maybin. The State also presented evidence concerning alleged attempts by the Champs to intimidate Maybin. The Defense presentation of evidence focused on the witnesses who provided alibis for Spruill and Jones on the night of the murder, the light blue truck owned by Spruill's father, and questions about Maybin's truthfulness. The information provided below is from the review of the trial transcript of Jones' trial, which was held September 18, 1995 through September 28, 1995. The trial ultimately resulted in a jury finding Jones' guilty of First Degree Murder and Robbery with a Dangerous Weapon.

This case was tried under different discovery laws than are currently in place in North Carolina. The prosecutor's office produced discovery to Jones as outlined in multiple "Notices of Intent to Introduce Evidence at Trial." In addition, based on the review of the defense attorney files and the interviews with the defense attorneys who were available, Commission staff confirmed that the attorneys for Jones and the attorneys for Spruill shared information freely and completely between each other at least through the point of Spruill's plea.[26] A chart provided below outlines the discovery as produced to defense attorneys based on documentation from the District Attorney's file.

[26] Vosburgh also testified at the MAR hearing that the attorneys shared everything amongst each other (MAR p. 1462-1481)

Summary of Documents Provided in Discovery to Spruill and Jones by DA's Office:
Autopsy Report
Undated WCSO report for interview of Spruill.
12/24/1994 WCSO report for interview of Spruill.
1/12/1994 SBI report for interview of Spruill
1/12/1994 Spruill polygraph report.
1/12/1994 SBI report for Spruill polygraph.
2/8/1994 SBI Lab report. Bench notes not attached.
4/24/1994 SBI report for interview of Spruill.
4/26/1994 WCSO Officer's Notes for contacts with Spruill.
5/11/1994 SBI report for interview of Spruill.
5/17/1994 SBI Lab report. Bench notes not attached.
5/23/1994 SBI Lab report. Bench notes not attached.
6/1/1994 SBI Lab report. Bench notes not attached.
6/1/1994 SBI Lab report. Bench notes not attached.
6/16/1994 SBI Lab report. Bench notes not attached.
6/29/1994 SBI Lab report. Bench notes not attached.
11/24/? Letter from Nichole Mills to Maybin. NOTE: letter is dated 11/24/1995, but based on when this discovery was provided, that may be a typo.
12/8/1994 Extradition waiver form signed by Jones.
12/9/1994 Rights waiver form signed by Jones.
12/9/1994 SBI report from interview of Jones.
12/12/1994 Polygraph rights waiver form signed by Jones.
12/13/1994 SBI cover page and rights waiver form read to Spruill (Spruill did not sign).
2/16/1995 SBI Lab report. Bench notes not attached.
2/22/1995 SBI Lab report. Bench notes not attached.
3/4/1995 letter from Nichole Mills to Maybin.
3/6/1995 letter from Nichole Mills to Maybin.
3/22/1995 letter from Nichole Mills to Maybin.
3/27/1995 letter from Nichole Mills to Maybin.
5/7/1995 letter from Nichole Mills to Maybin.
8/29/1995 letter from Nichole Mills to Maybin.
Two (2) undated letters from Nichole Mills to Maybin.
7/3/1995 Lab Report. Bench notes not attached.
Typed pages of with quotes attributed to defendants. Source of quote and full interviews containing those quotes not provided.
Spruill's criminal record
Jones' criminal record.
DCI record of Victim.
DCI record of Maurice Wilkins.
DCI record of Ray Hurst.

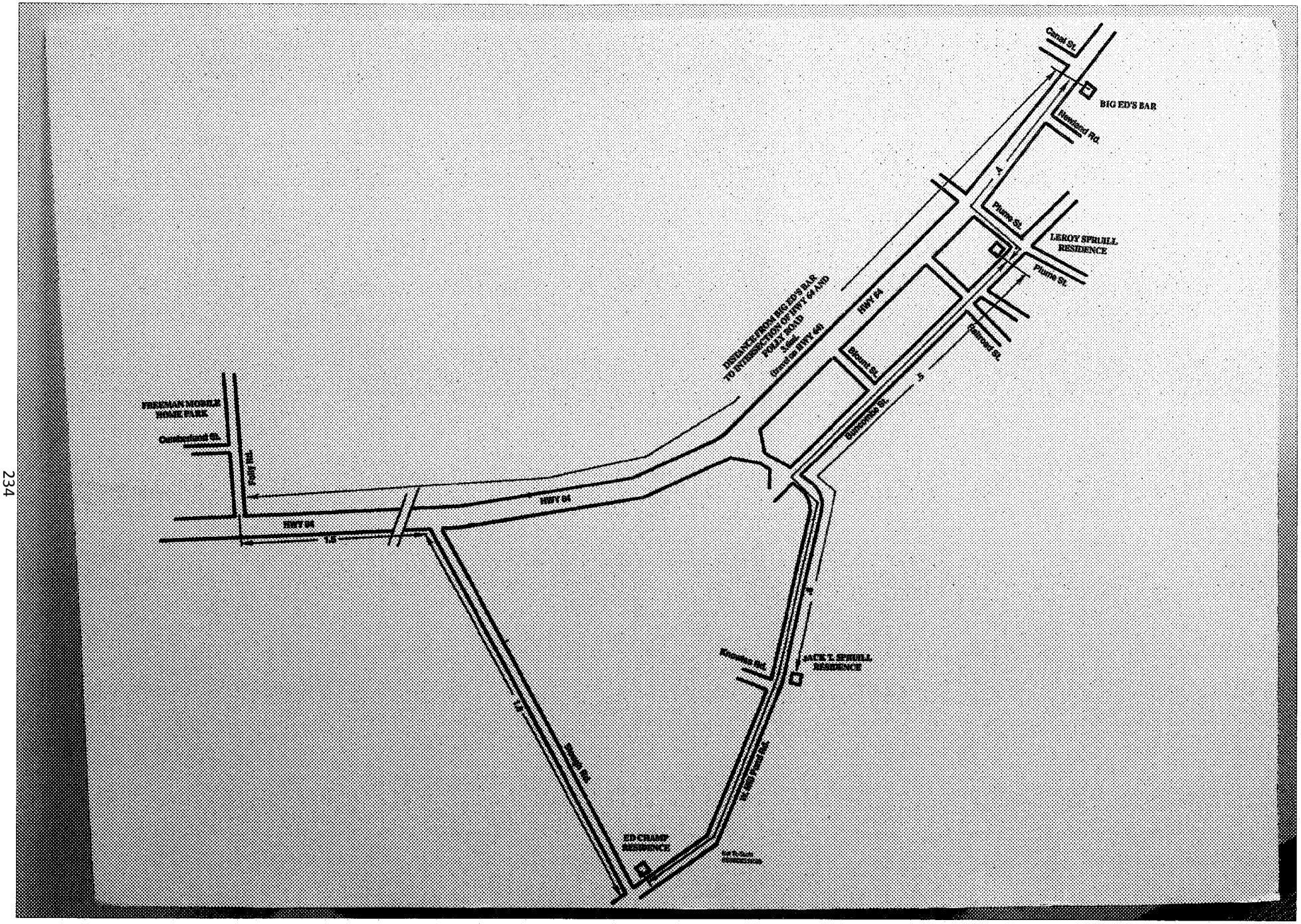
Summary of Documents Provided in Discovery to Spruill and Jones by DA's Office:
DCI Record of Herman "Duke" Carter
During Jones' trial, Maybin's statements were provided to the defense before they had the opportunity to cross-examine her

Spruill wrote a series of letters to Jones while they were in jail together and during Jones' trial. The letters were not entered at Jones' trial and the files provided to the Commission do not include any responses from Jones. In the letters, Spruill repeatedly stated that he and Jones are innocent. In a letter dated June 24, 1995, Spruill denied killing anyone, but said he knows who did. In another letter, dated July 14, 1995, Spruill told Jones that he thinks black men killed the Victim and that Janice Spruill knew that, but did not want to be wrong. (Center B-11; Jones PLS 185) (B-11).[27]

Jones also wrote a letter to Dana Maybin on June 24, 1995 while awaiting trial. Jones expressed concern over the possibility of being given the death penalty and said "I don't know what in this world I have ever done to you to make you mad enough at me to tell such a lie on me that my life may very well be over with…" Jones asked Maybin to tell the truth. (John Skinner file).

Provided below is a map showing the major locations involved in the case. An additional map of the trailer park where Victim lived, a chart of the Victim's home, and photos of the crime scene are also provided later in this section with the testimony of SBI Agent Dennis Honeycutt.

[27] Spruill was a prolific writer throughout the case. In some instances, the letters are provided in full but in others, the letters do not contain information that is relevant to the inquiry. All of Spruill's letters are included in the chart outlining Spruill's and Jones' statements in the case attached as appendices. Letters that are not included in full in this brief can be provided to Commissioners upon request.


Canal St.
BIG ED'S BAR
Hazelwood Rd.
.4
Plume St.
LEROY SPRUILL RESIDENCE
Plume St.
DISTANCE FROM BIG ED'S BAR TO INTERSECTION OF HWY 64 AND FOALLY ROAD
HWY 64
Railroad St.
Second St.
Supertown St.
.5
FREEMAN MOBILE HOME PARK
Cumberland St.
Pine Hill
HWY 64
HWY 64
1.5
HWY 64
.4
Plume St.
JACK T. SPRUILL RESIDENCE
1.0
Dogwood Rd.
ED CRAMP RESIDENCE

Victim's Timeline on the Day of the Murder

Timothy LaShane Swain: Mr. Swain testified that he recalled Wyatt Spruill (Wyatt) coming over to say the Victim was dead, running over to the trailer, and finding the Victim deceased. He confirmed that the crime scene photos depicted the scene essentially as he found it. He recalled running to another residence to call 911 and then returning to the Victim's home to wait for the Sheriff. He testified that he was only at the home for approximately 2-3 minutes before the arrival of the Sheriff and recalled that no one entered the home after he and Wyatt returned from calling 911. He only recalled seeing one vehicle at the Victim's house the night of the murder, a dark-brown, orange-ish looking Buick.[28] (TT 370-395).

Dr. Stan Harris: Dr. Harris, the medical examiner, testified that when he arrived at the scene, he was "most impressed" with the presence of spilled blood both on the Victim's body, on the floor, near and beneath the Victim's body, and in the room. Dr. Harris testified that the Victim was face up lying across a cushion on the floor, and that beneath his head and neck was a large pool of congealed blood. In addition, Dr. Harris testified that there was another large pool of very bright red congealed blood soaked into the carpet, and a separate area of blood on a "louvred-like door which was a vertical door with blood on it from a height of at least six feet draining downward."

As to the blood on the "louvred" door, Dr. Harris testified that "whatever hit this door…had to have been blood-soaked and the first thing that came to my mind was the head of the deceased, which as I could see, was blood soaked." Dr. Harris reported that there were 12

[28] This description matches Wyatt Spruill's vehicle at the time.

wounds to the Victim's head that he characterized as blunt impact and were "consistent with tire iron impacts." There were several cutting wounds concentrated "about the neck" with the fatal wound being a neck wound across the Victim's windpipe at the level of the voice box which "produced a gaping, open wound of the neck from side to side." This wound cut through the Victim's voice box, esophagus, both jugular veins, and the carotid artery. There were also various stab wounds on the body and hands. In summary, Dr. Harris testified to finding 10 cuts on the Victim's body plus two cuts on the right hand, 14 stab wounds, and a minimum of 12 impacts to the Victim's head.

Dr. Harris opined that the tire iron collected at the scene could have caused the injuries to the Victim's head. Dr. Harris testified that the appearance of the neck wounds evidenced a struggle while those wounds were being inflicted. Dr. Harris also opined that the throat wound would have prevented the Victim from speaking and that the Victim could not have lived for more than two minutes of heart action after that wound. Dr. Harris opined that the stab wounds occurred before the cuts to the neck. He testified that in his opinion the blows to the head would have caused unconsciousness. Dr. Harris was also asked about whether the head wounds occurred prior to or subsequent to the neck wounds. He responded that although his opinion was not "based on any good biology," he had "not seen head wounds follow knife wounds ever in 30 years." Dr. Harris opined that the Victim was intoxicated at the time of his death. He also opined that the time of death was approximately 8:30pm-9:30pm[29] on December 18, 1993. (TT 869-908).

[29] Dr. Harris' autopsy report indicates that he arrived at the crime scene at approximately 12:20 AM on December 19, 1993. At that time, he believed that the "postmortem interval" had been approximately four hours.

Wyatt Spruill: Wyatt Spruill (Wyatt) testified for the defense. He testified he was with the Victim on the day of the crime. Wyatt testified he had known the Victim since the 7th grade and that they were friends. He testified that he was with the Victim from the early morning hours of Saturday December 18, arriving around midnight to the Victim's trailer and spending the night there. Wyatt described his day with the Victim including errands and visits to various other people's homes. He and the Victim were planning a trip to see Wyatt's sister at Women's Prison in Raleigh, North Carolina the following day, Sunday December 19, so many of the errands were related to obtaining items needed for that trip.

Wyatt admitted that the Victim sold drugs at some points during the day on Saturday and that the Victim was very intoxicated. Specifically, he recalled visiting Collie Swain's trailer around 4:30pm-4:45pm and leaving the Victim briefly to go to Hudson's Trailer Park on Folly Road for about ten minutes. When Wyatt returned to Collie Swain's, the Victim was "passed out" and it took some effort to get the Victim up. Wyatt reported several trips to various places during the day, including Hudson's Trailer Park, which were short in duration. Although he was questioned on cross-examination about whether those were opportunities for him to buy and use drugs, Wyatt only admitted to drinking and using cocaine one time on December 18. Wyatt reported that after he returned from Hudson's Trailer Park to Collie Swain's trailer, because he was unable to wake the Victim, the two stayed at Collie Swain's home for a bit longer and Wyatt watched a football game while the Victim slept.

He recalled that it was dark when he and the Victim returned to the Victim's home around 5:50pm or 6:00pm. Wyatt testified that the Victim went to sleep in a chair in the living room wearing a blue work coat, though on cross-examination he would not agree that the coat

found on the floor of the Victim's home after he was found murdered was the same coat the Victim was wearing that night. Wyatt also testified that he spoke with his sister, Sonya Day, on the phone around 7:00pm or 7:30pm and then that he left the Victim. Wyatt's testimony as to his whereabouts in the time frame between when he left the Victim around 7:30pm until he returned to find the Victim murdered around 10:00pm is as follows:

WYATT SPRUILL'S WHEREABOUTS AFTER LEAVING VICTIM PER HIS TRIAL TESTIMONY	
Time	**Description**
7:30pm	Wyatt left the Victim's house after speaking with Sonja Day on the phone. The Victim was asleep.
After 7:30pm (no specific times given, but given in the order provided by Wyatt).	• He went to Hudson's trailer park for 5-10 minutes • He picked up a passenger and rode down to Woodlawn Road which is about 15 minutes away from Hudson's trailer park • He returned to Hudson's trailer park and dropped off his passenger about 15-20 minutes later • He "sat in the car for a little while" at Hudson's trailer park and then went to Roper.
8:00 pm	• Went to Roper which took him back towards the Victim's house – he did not see anything but testified "you can barely just can see the trailer" from the road
After 8:00 pm and after (no specific times given but given in order provided by Wyatt)	• Went to "Back Woods" to "see" Sweet Pea (in Roper) but actually did not stop at Sweet Pea's house. Wyatt testified that he "just rode in that direction and rode back past his house, turned around, and rode back up Mackey's Road and proceeded back to Hudson's Trailer Park." • He stayed at Hudson's trailer park another 30 minutes or so
9:00pm-9:30pm	Wyatt went to PJ Armstrong's house in Hudson's trailer park and saw a Forerunner with several people. He understood that Maurice Wilkins was inside Priscilla Wilkins' trailer and the people in the Forerunner were waiting for him.
10:00pm	Wyatt drove back to the Victim's house. Discovered the Victim's body.

Wyatt's testimony also included that he found the Victim, immediately recognized the Victim was deceased, and so went to several trailers until he found someone home to call the police. He could not recall the name of the person who he found, but recalled that they went back to the Victim's trailer because the person did not have a phone, and that the man went into

the Victim's trailer, and Wyatt said "Come on, man…we got to call for some help." They left and went to another woman's house close to the Victim's residence and Wyatt called 911. (TT 998-1023).

Alternate Suspects

Jones' trial did not focus on the presentation of any alternate suspects in the case, although Maurice Wilkins was questioned on cross regarding the blood sample he provided and the cut on his hand. Wilkins indicated there was a cut on his hand that he sewed up himself with two stitches using a needle and thread. Wilkins testified that he knew how to sew up the wound and could not afford to go to the hospital. He did not indicate how he had received the cut. (TT 782-784).

Dana Maybin

Dana Maybin pled guilty to Accessory After the Fact (Murder), Common Law Robbery, and Breaking and Entering on August 21, 1995, prior to the beginning of Jones' trial. She also signed an Agreement for Truthful Testimony. Sentencing was continued until the end of Jones' trial. Below is a copy of her plea transcript and Agreement for Truthful Testimony.

STATE OF NORTH CAROLINA

File No.

Washington County

In The General Court Of Justice
☐ District ☒ Superior Court Division

STATE VERSUS

Name Of Defendant: Nana Lynn Maylin

DOB: 10-28-72 | Age: 22 | Highest Level Of Education Completed: (9th) GED - 1994

TRANSCRIPT OF PLEA

G.S. 15A-1022

The defendant, having offered a plea of guilty and being first duly sworn, makes the following answers to the questions set out below:

	Answers
1. Are you able to hear and understand me?	yes
2. Do you understand that you have the right to remain silent and that any statement you make may be used against you?	yes
3. At what grade level can you read and write?	12th
4. (a) Are you now under the influence of alcohol, drugs, narcotics, medicines, pills, or any other intoxicants?	no
(b) When was the last time you used or consumed any such substance?	7 months ago
5. Have the charges been explained to you by your lawyer, and do you understand the nature of the charges, and do you understand every element of each charge?	yes
6. (a) Have you and your attorney discussed the possible defenses, if any, to the charges?	yes
(b) Are you satisfied with your lawyer's legal services?	yes
7. (a) Do you understand that you have the right to plead not guilty and be tried by a jury?	yes
(b) Do you understand that at such trial you have the right to confront and to cross examine witnesses against you?	yes
(c) Do you understand that by your plea(s) you give up these and your other constitutional rights relating to a trial by jury?	yes
8. Do you understand that, if you are not a citizen of the United States of America your plea(s) of guilty or no contest may result in deportation, the exclusion from admission to this country, or the denial of naturalization under federal law?	N/A
9. *(if applicable)* Do you understand that upon conviction of a felony that you automatically forfeit any licensing privileges as defined by G.S. 15A-1331A for the full term:	
☒ *(FSA cases only occurring on or after May 1, 1994.)* of the maximum sentence of imprisonment imposed at the time of conviction if: (1) you are offered a suspended sentence on condition that you accept probation and you refuse probation, or (2) your probation is revoked or suspended and the Court makes findings that you failed to make reasonable efforts to comply with the conditions of probation.	yes
☐ *(Structured Sentencing cases committed on or after October 1, 1994)* of the period you are placed on probation if: (1) you are offered a suspended sentence on condition you accept probation and you refuse probation, or (2) your probation is revoked or suspended. G.S. 15A-1331A(b).	yes
10. Do you understand that you are pleading (guilty) (no contest) to the following charges, which carry the total punishments listed below:	

Plea (G=Guilty NC=No Contest)	Offense(s)	G.S. No.	F/M	Class	Maximum Punishment
G	Breaking & Entering	14-54	F	H	10 years
G	Common Law Robbery	14.87.1	F	H	10 years
G	Accessory After the Fact to Murder	14.7	F	H	10 years

TOTAL MAXIMUM PUNISHMENT 30 years

MANDATORY MINIMUM FINES & SENTENCES *(if any)*

	Answers
11. Do you now personally plead (guilty) (~~no contest~~ am)?	yes
12. (a) *(if applicable)* Are you in fact guilty?	N/A
(b) *(if applicable)* Do you understand that upon your plea of no contest you will be treated as being guilty whether or not you admit your guilt?	am ~~[illegible]~~
(c) ~~*(if applicable)*~~ *(Alford plea)*	
(1) Do you now consider it to be in your best interest to plead guilty?	yes
(2) Do you understand that upon your "Alford Plea" you will be treated as being guilty whether or not you admit that you are in fact guilty?	yes
13. Have you agreed to plead as part of a plea arrangement? Before you answer, I advise you that the Courts have approved plea negotiating, and if there is such, you may advise me truthfully without fear of incurring my disapproval?	yes
14. *(if applicable)* The District Attorney and your lawyer have informed the Court that these are all the terms and conditions of your plea: Upon the defendant's plea of guilty to Common Law Robbery; Breaking & for entering; and accessory after the fact to murder the state will dismiss the charges of murder and Robbery with a dangerous weapon prayer for judgment will be continued; Judge Stephens will retain jurisdiction of this case.	
(a) Is this correct as being your full plea arrangement?	yes
(b) Do you now personally accept this arrangement? Defendant will testify truthfully In State vs Spruill & State vs Jones, the B&E & Common Law Robbery chgs will be consolidated for sentencing.	yes
15. (Other than the plea arrangement between you and the prosecutor) has anyone made any promises or threatened you in any way to cause you to enter this plea against your wishes?	no
16. Do you enter this plea of your own free will, fully understanding what you are doing?	yes
17. Do you have any questions about what has just been said to you or about anything else connected with your case?	no

I have read or have heard all of these questions and understand them. The answers shown are the ones I gave in open court and they are true and accurate. Neither my lawyer nor anyone else has told me to give false answers in order to have the Court accept my plea in this case. The conditions of the plea as stated above, if any, are accurate.

SWORN AND SUBSCRIBED TO BEFORE ME		Date August 21, 1995
Date 8/21/95	Signature [illegible]	Signature Of Defendant Dana Maybin
☐ Deputy CSC ☐ Assistant CSC ☒ Clerk Of Superior Court		Name Of Defendant (Type Or Print) DANA MAYBIN

CERTIFICATION BY LAWYER FOR DEFENDANT

As lawyer for the defendant named above, I hereby certify that the conditions stated above, if any, upon which the defendant's plea was entered are correct and they are agreed to by the defendant and myself. I further certify that I have fully explained to the defendant the nature and elements of the charge(s) to which he is pleading.

Date Aug 21, 1995	Signature Of Lawyer For Defendant [illegible] Regina Moore

CERTIFICATION BY DISTRICT ATTORNEY

As District Attorney for this Prosecutorial District, I hereby certify that the conditions stated above, if any, are the terms agreed to by the defendant and his/her lawyer and myself for the entry of the plea by the defendant to the charge(s) in this case.

Date 8/21/95	Signature Of District Attorney [illegible]

PLEA ADJUDICATION

Upon consideration of the record proper, evidence presented, answers of defendant, and statements of the lawyer for the defendant and the District Attorney, the undersigned finds:

1. That there is a factual basis for the entry of the plea.
2. That the defendant is satisfied with his/her lawyer.
3. That the defendant is competent to stand trial and that the plea is the informed choice of the defendant and is made freely, voluntarily and understandingly.

The defendant's plea is hereby accepted by the Court and is ordered recorded.

Date 8-21-95	Signature Of Presiding Judge [illegible]

AOC-CR-300, Side Two
Rev. 5/94

FILE NO. 94-CRS-1994 and 95-CRS-887

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

WASHINGTON COUNTY

SUPERIOR COURT DIVISION

STATE OF NORTH CAROLINA

VERSUS

DANA MAYBIN

AGREEMENT FOR
TRUTHFUL TESTIMONY

The following constitutes an agreement pursuant to G.S. 15A-1054 between the State of North Carolina and Dana Maybin, by and through her attorneys, Regina Moore and Charles Ogletree:

1. Dana Maybin will plead guilty to accessory after the fact of murder and common law robbery in file number 94-CRS-1994 and to felonious breaking and entering in file number 95-CRS-887.

2. Dana Maybin shall testify truthfully at any and all trials of any codefendant or codefendants charged in connection with the murder of William Frank Swain. The state will recommend that prayer for judgment be continued in Dana Maybin's case until such time as the trial or trials of all codefendants are concluded in order to allow her to testify truthfully as aforesaid.

3. The sentence imposed again Dana Maybin in these cases shall be in the discretion of the judge.

4. Dana Maybin understands that if she fails to abide by this agreement, then the agreement shall be null and void and she will face trial on the original charges.

5. This agreement includes all terms, conditions, rewards, promises, and expectations of any rewards or promise given by the State to the defendant in return for her truthful testimony. SUBJECT TO CONDITIONS STATED IN THE TRANSCRIPT OF PLEA. KA DM RM

This the 21st day of August, 1995.

Robert E. Hensley
Assistant District Attorney

Dana Maybin
Defendant

Regina Moore
Attorney for Defendant

Charles Ogletree
Attorney for Defendant

At Jones' trial, Maybin testified that she went to the Victim's trailer to buy drugs with Spruill and Jones in Spruill's dad's truck around dusk on the night of the crime. Jones got out of the car to purchase the drugs, however, when they went to pick Jones up at the Victim's driveway, Jones said he didn't want to go up because there were a lot of black people in the driveway. Spruill said he would get it and forced Maybin's head down in the truck so that no one else could see her. [30] Spruill knocked on the Victim's door and said he could not get the Victim up. Jones then got out of the truck, went up to the Victim's, and came back with the drugs. After leaving the Victim's trailer, they went to Big Ed's Bar for the first time that night.[31]

Maybin testified that Spruill and Jones later left Big Ed's Bar with her between 8 and 8:30 pm. The three of them traveled to the Victim's trailer together in Spruill's father's truck and she initially stayed outside. She testified that while waiting in the truck, she heard a sound that "sounded like somebody gettin' thrown up against the wall" and got out of the truck and saw some movement like someone passing in front of the lamp from the Victim's trailer. She went up to the door, which was cracked, and pushed it open. The Victim was on the floor with his back to the couch. Spruill was on the Victim's left side. There was blood all over the Victim's face and neck. Jones had a baggie in his hand, of the type she had seen with marijuana in them before. The Victim looked at Maybin and "lifted his hands a little like he wanted me to help him." She also testified that the Victim said "Help me" while looking at Maybin, but didn't say it out loud.

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[30] This was the first time Maybin indicates that her head was "forced down" so that nobody could see her in the truck. Wilkins was consistent throughout the law enforcement investigation in reporting that he saw two individuals in a light blue truck headed towards the Victim's house on the night of the murder.

[31] The law enforcement files indicate that no one other than Maurice Wilkins identifies Leroy Spruill as being in the trailer park at any time during the day of the murder. During the initial law enforcement investigation, no other witnesses mentioned seeing Spruill, Jones, and Maybin, or anyone matching their descriptions. Also, according to Wyatt Spruill, he and the Victim were not in the trailer park between 1:00pm and 5:30pm (WCSO 107-108). A google search provides that sunset was at 4:56pm that day.

While Spruill was holding the Victim, Jones cut the Victim's throat. Maybin testified she was forced by Jones to take money from the Victim, which she took from his left pocket along with a small baggie that fell out with a wad of money from the left pocket. Maybin testified that the lining was lifted out of the pocket. Maybin indicated she did not go through any other pockets at that time and that she was threatened by Jones to not tell anyone.

In addition, Maybin testified that the three returned to Spruill's house, changed clothes, and burned the clothes they were wearing at the crime scene. Spruill then returned his father's truck and they all three returned to Big Ed's bar. Maybin did not give specific times, but did testify that she estimated they were gone from the bar for about two hours. Maybin also testified that she refused to testify at Jones' probable cause hearing because she was threatened by Gail Champ and some of the other Champ family members in the women's bathroom.[32]

When Maybin was questioned about her diary entries and letters that recanted Jones and Spruill's involvement, she claimed that she was told to write those entries and letters by her cellmate, Nichole Mills, and defense attorney James Vosburgh. (TT 535-758).

The Defense called attorney Maynard Harrell, Spruill's attorney, to outline his conversations with Maybin. At the time of trial, Harrell had been an attorney for 22 years. He was appointed to represent Spruill on December 16, 1994. He was in Maybin's "presence" on three occasions. He interviewed Maybin himself "on two occasions." His first interview was March 7, 1995 at Women's Prison in Raleigh with Jones' attorney, Vosburgh. He then returned on March 10, 1995 alone for a second interview. His second interview was 45-50 minutes and

[32] Several times during the trial testimony, the Champ family is referred to as the "gypsies." Based on the Commission's investigation in this case, it appears that the Champs were considered to be part of a community of "gypsies" in the area, which was also known by law enforcement involved in the case.

he recorded that interview. Harrell testified that Maybin was not given the questions he asked during the March 10, 1995 interview in advance and that he did not tell her what her answers were supposed to be. In addition, nobody ever instructed Maybin in his presence as to any answers she should give. Harrell was invited to come to a meeting with Maybin and her attorneys by Maybin's attorney on August 20, 1995. This meeting occurred in the courtroom with just Harrell, Maybin, and her two attorneys. Harrell testified that at that meeting, which lasted for approximately three hours, Maybin went over the transcript of the March 10, 1995 interview with her attorneys and acknowledged that it was true and correct. (TT p. 917-933).

On cross-examination, Harrell provided that the first interview, March 7, 1995, also lasted approximately 45-50 minutes and was not recorded or taped. Harrell also testified that he had two other "contacts" with Maybin. One was at Maybin's probable cause hearing and consisted of nothing more than a "hello" exchange. The other is not detailed. He also testified that he had received several phone calls prior to his March 1995 interviews with Maybin but did not speak to her on the phone after. Harrell also testified to having several conversations with Maybin's mother, once before he met with Maybin on March 7, 1995 and then once after that March 7, 1995 interview. On redirect, Harrell testified he had received a phone call from Maybin while she was incarcerated but that once he realized who she was, he told her he had to have the consent of her attorneys to speak with her and terminated the call. Harrell testified he then got Maybin's attorney's consent and made arrangements to talk with Maybin.

The March 10, 1995 conversation between Maybin and Harrell was presented to the jury at trial through an audio recording. The transcript of that interview is provided below in full.

EXAMINATION OF DANA MAYBIN

BY

MAYNARD HARRELL, ESQUIRE

S. GRAHAM & ASSOCIATES
600 W. MAIN STREET
ELIZABETH CITY, NC 27909
(919) 335-0317

1 **EXAMINATION OF DANA MAYBIN CONDUCTED BY MAYNARD**
2 **HARRELL, ESQUIRE:**
3 This is Maynard Harrell, and I am recording this
4 conversation. Dana, you realize that I'm recording this
5 conversation, do you not?
6 A. Yes, sir.
7 Q. You don't have to say sir. And it's with your
8 permission; is that correct?
9 A. Yeah, that's true.
10 Q. Okay, thank you. Mr. Vosburg, Jim Vosburg and I
11 talked with you a couple of days ago; You remember that.
12 A. Uh-huh.
13 Q. And you just told us in general basically what
14 you had been through.
15 A. Yeah.
16 Q. And what had happened and then in essence how
17 you got in the situation that you're in and what all had
18 happened.
19 You understand that you and Leroy Spruill and
20 Robert are charged with the murder of Frank Swain.
21 A. Yes.
22 Q. You understand that.
23 A. Yes.
24 Q. You understand that I represent Leroy Spruill,
25 along with another attorney, Seth Edwards, who you have

never met.

A. Uh-huh.

Q. First off, generally, let me just ask you this, Dana: What, if anything, did you have to do with the murder of Frank Swain?

A. What did I have to do with it?

Q. What did you have to do with it? Did you have anything to do with the murder of Frank Swain?

A. No.

Q. No.

A. No. Definitely, no.

Q. Definitely no. Okay. You know Leroy Spruill?

A. Yes.

Q. And how long have you known Leroy?

A. I met Leroy in '93, probably -- well, I stayed with him for a little over a month, almost two months.

Q. So you knew him as a friend and you personally --

A. Yeah.

Q. You obviously knew who he was and were a friend of his for a certain period of time.

A. Well, he let me live with him because I didn't have nowhere else to go.

Q. Did y'all live as boyfriend and girlfriend?

A. No.

1 Q. Or he just gave you a place to stay.
2 A. Yeah.
3 Q. What, if anything, did Leroy Spruill have to do
4 with the murder of Frank Swain?
5 A. Nothing at all.
6 Q. Absolutely nothing. Okay. Now you know Robert
7 Jones?
8 A. Uh-huh.
9 Q. How long have you known Robert?
10 A. Well, about -- I knew him for three months while
11 I was in North Carolina, and I come up here in '93.
12 Q. I think with Robert there was some time you were
13 kind of boyfriend and girlfriend with Robert; is that
14 right?
15 A. Yes.
16 Q. What, if anything, did Robert have to do with
17 the murder of Frank Swain?
18 A. Nothing at all.
19 Q. Absolutely nothing at all. Okay. Now, that
20 brings up the question of how does everybody get arrested
21 in this thing that nobody had anything to do with. Do you
22 know how Janice Spruill eventually got to you or found out
23 about you and went to South Carolina to talk to you?
24 A. From what I understand, a statement that Sherry
25 made.

Q. Sherry ~~O'Neal~~? Honea

A. ~~O'Neal~~. Honea

Q. And that Sherry had made some statements that supposedly you had told her some things about being there and the others being involved. And she told a lot of things like you burned his --

A. See, we wasn't even friends, on friendly speaking terms at that time.

Q. Okay. All right. How did you know Sherry ~~O'Neal~~? Honea

A. I'm from South Carolina. I came up here with her.

Q. Did you ever have any discussion with Sherry about anything to do with Frank Swain's death?

A. No, 'cause we wasn't talking.

Q. Okay. So if she told Janice Spruill or anybody that you made statements concerning you, Leroy or Robert involved in Frank Swain's death, she is lying about that; is that correct?

A. That's correct.

Q. Now at some point Janice Spruill shows up in South Carolina to interview you; isn't that right?

A. Uh-huh.

Q. Do you remember when that was?

A. The beginning of -- let me think. I believe it

1 was in May last year.
2 Q. May of '94?
3 A. I'm not sure if it was May or not, but it was --
4 Q. Some time around May.
5 A. Around May.
6 Q. She came to South Carolina with Willie Williams,
7 I believe, didn't she?
8 A. Uh-huh.
9 Q. And when she got there, what did she tell you
10 that she was there to do?
11 A. To question me.
12 Q. About -- did she tell you who she was there --
13 I'm not going to try to put any words in your mouth. Did
14 she try to tell you -- did she tell who she was there to
15 question you about?
16 A. About Robert Brandon.
17 Q. Robert Brandon.
18 A. Yeah.
19 Q. What did she want to know about him?
20 A. She wanted to know his whereabouts. If I knew
21 where he would be.
22 Q. Did you tell her where he was?
23 A. I told her that Stacy had some phone calls on
24 her phone bill --
25 Q. Stacy who?

1 A. Stacy Allen --
2 Q. Okay.
3 A. -- had some phone calls on her phone bill where
4 he had used her phone to call Tennessee to talk with some
5 family, and that she could try him that way, plus I knew
6 that he had been in Texas, but I didn't know where at in
7 Texas, so --
8 Q. At that point did she ask you anything about
9 Leroy Spruill?
10 A. No.
11 Q. Now did she begin to question you further about
12 why she was there?
13 A. Because of the murder that happened.
14 Q. Of Frank Swain?
15 A. Of Frank Swain, yeah.
16 Q. Did she ask you if you knew anything about that
17 murder?
18 A. Uh-huh.
19 Q. And the first time she asked you that, what did
20 you tell her?
21 A. I told her no.
22 Q. Told her you did not. Okay. And was that the
23 truth?
24 A. Yes.
25 Q. Did she keep on questioning you?

1 A. Yes.
2 Q. And what if anything did she make you do?
3 A. She -- well, she just kept on questioning me and
4 telling me I knew anything I'd better tell her.
5 Q. Did she make you take a lie detector test?
6 A. Yeah.
7 Q. And where was that lie detector test taken?
8 A. They took me to Raleigh, brought me here to
9 Raleigh to do a lie detector test. Then they found out
10 that I could be pregnant so they didn't give it me. And
11 then when I went back home and then they sent another man
12 down.
13 Q. When you say "back home", you mean back to South
14 Carolina?
15 A. Back to South Carolina, uh-huh.
16 Q. So a lie detector test was done in South
17 Carolina?
18 A. Yeah.
19 Q. Did the person that gave you the test, did he
20 indicate to you in any way whether you passed, failed or
21 anything?
22 A. No.
23 Q. After the lie detector test, did Janice Spruill
24 talk to you again?
25 A. Yes, and she told me I had lied, that I did know

1 something about Frank Swain.
2 Q. And what did you tell her?
3 A. I told her I didn't. So they took me and give
4 me another lie detector test.
5 Q. The second one.
6 A. Uh-huh. And it's in the same day in the same
7 room, and he re-hooked me up and he asked me again. And
8 then Janice kept saying that I did know Frank Swain. And
9 I kept trying to tell her I didn't.
10 Q. Well, let me ask you this: Did you know Frank
11 Swain?
12 A. I've never met the man before in my life.
13 Q. So what did Janice keep doing?
14 A. Questioning, questioning me knowing Frank.
15 Because I kept saying that I didn't know him, and she kept
16 saying well, you know, your lie detector test says that
17 you do know him.
18 Q. Did she mention anything about Sherry O'Neal's
19 statement to you at any time?
20 A. Yeah, well, she told me that Sherry had made a
21 statement and that's why they were there.
22 Q. Now, how many times did you deny to Janice or
23 tell Janice that you didn't know anything about Frank
24 Swain's murder?
25 A. Several. Several times.

1 Q. At some point, though, however, you changed that
2 story; is that right?
3 A. Uh-huh.
4 Q. Can you tell me why you changed the story?
5 A. They had two -- I don't know what you'd call
6 them -- agents, some type of agents --
7 Q. Okay.
8 A. -- come in and question me; and they kept on and
9 on, and on and on, that I knew it, you know, I knew about
10 the murder, and they wanted to know where the shoes was.
11 And I kept trying to tell them the shoes -- I had the
12 shoes when I come home, the only pair of shoes I had when
13 I come home and that Jeff made me throw them away, Jeff
14 Kelly, my boyfriend. And they just kept on and on and on
15 and on pushing me and then I just finally said, well, you
16 know, I'll tell you what you want to hear.
17 Q. Okay, now, did they promise you anything or
18 threaten you in any way or give you anything to get you to
19 talk?
20 A. They said that there was a $5,000 reward --
21 Q. Now who said this, if you remember?
22 A. Janice.
23 Q. Janice Spruill?
24 A. Yes, on Robert and that if I helped them that I
25 was -- I could possibly get the reward.

1 Q. Now did that have any influence on you going
2 ahead and telling them what you say "they wanted to hear"?
3 A. Yeah, plus they also told me that they would
4 take me and Jeff, my boyfriend at the time, that I
5 wouldn't have to go to jail. The only thing that would
6 happen would be they would take me up here, bring me to
7 North Carolina, put me and him in a motel for the trial,
8 and that I wouldn't get no time and if I did get any time,
9 it would be less than 30 days.
10 Q. And who told you this?
11 A. Donny Parnell.
12 Q. Donny Varnell, a special agent.
13 A. Varnell. Varnell, yeah.
14 Q. He told you that first off he didn't think you'd
15 get any time --
16 A. That's right.
17 Q. -- or promised you you wouldn't get any time, --
18 A. That's right.
19 Q. -- but if you got any, it would be less than 30
20 days.
21 A. Less than 30.
22 Q. Now after they told you about the $5,000 reward
23 and that you wouldn't get anymore than 30 days, is that
24 when you talked to them?
25 A. Uh-huh.

1 Q. Tell me what you told them, their story, that
2 they wanted to hear. What did you tell them?
3 A. I told them that me and Robert and Leroy had
4 went to the bar, we left the bar and well, first of all --
5 that ain't exactly it, but we went, you know, we went to
6 Frank's house and that they went in and I seen the lights
7 flicker and I heard some scuffling around. And I went in
8 to see what happened and she told -- she said --
9 Q. Now who is she?
10 A. Janice Spruill. She asked me if when I walked
11 up on the porch -- when I walked up to the door, put it
12 that way, when I walked up to the door, did -- was the
13 door open, she said, because you know the door opens to
14 the outside.
15 Q. In other words she told you it opened outside.
16 A. She -- yeah.
17 Q. Did you know it opened to the outside?
18 A. I had -- I never been to his house.
19 Q. And so she gave you this information.
20 A. Yeah.
21 Q. Okay.
22 A. And then she said --
23 Q. Go ahead.
24 A. -- asked me if I seen the Christmas tree.
25 Q. Had you seen a Christmas tree?

1 A. No.
2 Q. So the first you had heard about a Christmas
3 tree came from Janice Spruill.
4 A. That's right.
5 Q. Okay.
6 A. Which it was Christmas time, so I knew there had
7 to be a Christmas tree anyway.
8 Q. That makes sense.
9 A. And plus her just telling me.
10 Q. Okay.
11 A. Well, then she asked me what did I see? And I
12 told her I seen Frank laying -- sitting on the floor with
13 his back against the couch and with Robert standing on --
14 I forgot which side I said -- one on the left and one on
15 the right. But then when I walked up to the door, the man
16 -- that Frank held his hand out and was going, you know,
17 trying to get me to come help him and then Robert cut his
18 throat. And then she said, well, did you see blood
19 everywhere?
20 Q. And so she --
21 A. Well, of course, you'd see blood.
22 Q. -- she brought up the blood?
23 A. Yeah. Of course, you'd see blood everywhere, I
24 mean if a man's being killed, you're going to see blood
25 somewhere. So that put that there. And then I told her

1 that Robert made me get the money out of Frank's pocket.
2 The reason I knew he had money stolen because right after
3 he was killed Mitchell come over to Leroy's --
4 Q. Mitchell who?
5 A. Norwar (phonetic). He come over there and asked
6 Leroy if he had heard about, you know, that man getting
7 killed on Folly Road. And he had all of his drugs and all
8 of his money stolen.
9 Q. So up until that time, you didn't even know
10 anything about the money being stolen.
11 A. Well, because Mitchell told me.
12 Q. Till after Mitchell told you.
13 A. Yeah, yeah.
14 Q. Okay. And was that before you talked to Janice?
15 A. Yeah.
16 Q. Okay.
17 A. Yeah, that's right before I left.
18 Q. Okay.
19 A. So I told her that Robert made me take the money
20 out of Frank's pocket. I don't remember which pocket; I
21 said a certain pocket. And I give it Robert. Robert said
22 I was going to end up the same way he was if I told
23 anybody, if I didn't do what he wanted me to do. And then
24 I went back out to the truck, which the truck we wasn't
25 even supposed to be in, but we went out to the -- I went

1 out to the truck and then Leroy and Robert come out.
2 Q. And that's basically what you told Janice
3 Spruill.
4 A. Yeah.
5 Q. Is any of that true?
6 A. No.
7 Q. Not any of it true.
8 A. No.
9 Q. It's all made up.
10 A. And you know, I can't -- to be honest with you,
11 I can't remember half the stuff I told her.
12 Q. Was there any particular reason for that? I
13 mean were you --
14 A. Because of what Robert did. Because he was so
15 violent.
16 Q. I was going to ask you, why -- why would you say
17 something about that -- about Robert who had been a
18 boyfriend of yours? Why would you say that?
19 A. Because I hate him.
20 Q. At that time -- you hated him then?
21 A. Yeah.
22 Q. Do you hate him now?
23 A. I still hate him, but I don't want him to be in
24 jail the rest of his life for something he didn't do.
25 Q. So that's why you -- because she was asking you

1 about Robert to start with, right?
2 A. Yeah.
3 Q. And you had some reason to kind of get back at
4 him then?
5 A. Yeah.
6 Q. Okay, now, what about Leroy Spruill? Did you
7 hate Leroy Spruill?
8 A. No.
9 Q. Have you ever hated Leroy Spruill?
10 A. No, he's been good to me.
11 Q. How did Leroy Spruill's name come up in this
12 mess?
13 A. Because Janice told me that Frank -- since Frank
14 was big man that I knew that more than one person had to
15 have done this and she wanted to know who was with Robert.
16 That was, you know, way back in the beginning when she
17 first questioned me. When she first told me, you know.
18 And so I had to use Leroy because transportation --
19 Q. Why did you use his name? I mean just --
20 A. Well, first I said Curtis Falaw (phonetic.)
21 Q. Okay, you first Curtis Falaw (phonetic).
22 A. First said Curtis because, you know, he had
23 transportation and everything. She told me no, that I was
24 lying and all that, so then I used Leroy.
25 Q. Then you came up with Leroy's name.

1 A. Yeah.
2 Q. And that was because you were looking for
3 somebody that had transportation.
4 A. Uh-huh, and somebody that was, you know, at the
5 bar that night.
6 Q. Okay. All right, let's talk about that
7 particular -- that afternoon. What time did y'all go to
8 the bar?
9 A. About -- it's hard to say because I was really
10 drunk. So it's kind of hard to say.
11 Q. Okay.
12 A. Uh -- I don't really remember. It was around
13 maybe seven I'd say.
14 Q. Okay.
15 A. It was around seven.
16 Q. How did you get to the bar?
17 A. Ray Hurst.
18 Q. With Ray Hurst?
19 A. Uh-huh.
20 Q. Okay. What about Leroy Spruill's daddy's truck.
21 You didn't use it?
22 A. No, not all day.
23 Q. Where did you see Ray Hurst? How did you get up
24 with Ray?
25 A. We was walking to the bar, and he just lives

1 right -- well, his mama lives right around the --
2 Q. When you say "we", you're talking about you and
3 Leroy and Robert?
4 A. Me and Leroy. No, just me and Leroy.
5 Q. Oh, just you and Leroy at that time.
6 A. Uh-huh.
7 Q. Okay, so y'all go to the bar.
8 A. Yeah.
9 Q. Okay. And you get to the bar about what time?
10 A. It was about 7:30.
11 Q. When did you see Robert?
12 A. He come in the bar.
13 Q. After y'all came in?
14 A. Yeah, after we was already there.
15 Q. Okay. How long -- and this would have been
16 about what time?
17 A. Between 7:30 and eight.
18 Q. Okay.
19 A. 'Cause it wasn't long after we got there.
20 Q. How long did y'all stay at the bar?
21 A. All night. I think two o'clock is what time he
22 closed up.
23 Q. Okay. Now, did either of you, you individually
24 or you with Leroy or you with Robert or any combination of
25 the three of you, ever go out for any reason whatsoever?

1 A. Yeah, because we brought liquor with us.
2 Q. And where were you keeping the liquor?
3 A. Well, we had it beside the bar.
4 Q. You had it where?
5 A. Beside the bar.
6 Q. Beside the bar. So you'd go out occasionally
7 and get a drink of liquor.
8 A. Yeah, 'cause Leroy got caught sneaking some in
9 inside a Michelob bottle.
10 Q. And you couldn't have liquor inside.
11 A. Huh-uh.
12 Q. Okay. Now, how many times you reckon you went
13 out to get a drink?
14 A. Well, I think I went out about three times I'd
15 say.
16 Q. And what about Leroy and Robert? How often did
17 they go out?
18 A. I have no idea to tell you the truth. In and
19 out because I set at the bar most of the time.
20 Q. When you'd go out to get a drink, how long would
21 y'all stay?
22 A. Oh, about a few minutes; enough to take a big
23 gulp.
24 Q. And go back inside.
25 A. Yeah.

1 Q. Did you ever see Robert or Leroy absent from the
2 bar for any extended period of time?
3 A. No.
4 Q. Even 15 or 20 minutes?
5 A. No. No, no, just long enough to go out and get
6 a drink and come back in.
7 Q. And so then when the bar closed y'all left.
8 A. Uh-huh.
9 Q. Who left?
10 A. Well, me and Robert left first.
11 Q. Okay.
12 A. And -- well, Robert was ill with me because I
13 got on to him for him and Leroy dancing. And they busted
14 beer on the highway on the way home. We was kind of
15 fussing. And big Ed stopped and asked us if we needed a
16 ride; we told him no, and we kept walking. We walked on
17 to Leroy's house. We got there and about -- I'd say about
18 ten minutes later --
19 Q. Okay.
20 A. -- Leroy and Smarty come in.
21 Q. Okay. Anybody else?
22 A. Stacy, she come in.
23 Q. Stacy Allen?
24 A. Allen.
25 Q. Okay. Why is it that you and Robert left the

1 bar separate, you know, different from Leroy and Smarty
2 and Stacy leaving the bar?
3 A. Because everybody was still getting their stuff
4 together. We just went ahead and walked on home.
5 Q. Oh, okay. Had y'all agreed, arranged to meet at
6 Leroy's house?
7 A. Well, yeah, everybody was. Just, you know, us
8 because we were going to drink.
9 Q. When you got to Leroy's house, what did y'all
10 do?
11 A. Drank.
12 Q. Just drank, huh?
13 A. Then Smarty and Leroy fixed some salmon patties.
14 Q. Some salmon patties?
15 A. Because I hate salmon.
16 Q. So you were -- you, of course, knew where
17 Leroy's house was.
18 A. Yeah.
19 Q. You had lived there for some period of time.
20 A. Yeah.
21 Q. When you got there, did you notice anything
22 unusual about Leroy's house?
23 A. No, it was the same as always I guess.
24 Q. Had you left Leroy's house to go to the bar?
25 A. Yeah.

1 Q. Is that where you had left from?
2 A. Yeah.
3 Q. Did it look just like it did when you came back?
4 A. Yeah, there ain't much there to change.
5 Q. Okay. You didn't see anything unusual?
6 A. No.
7 Q. You didn't see any blood all over the floor?
8 A. No.
9 Q. Bloody clothes?
10 A. No.
11 Q. Wet clothes?
12 A. No.
13 Q. Nothing?
14 A. There was nothing there but a couch and a chair.
15 Q. So when you left to go to the bar and you got
16 back from the bar, it looked just like it did when you
17 left.
18 A. Yeah.
19 Q. And it was you and Leroy and Robert and Smarty
20 and
21 Stacy.
22 A. Stacy.
23 Q. All right. How long did y'all stay at Leroy's
24 house that night?
25 A. Oh, I don't know how long they really stayed

because me and Robert was asleep on the couch. We went to sleep on the couch, so I have no idea.

Q. When did you first hear about Frank Swain's murder?

A. When Mitchell told me and Leroy.

Q. Mitchell ~~Norton?~~ Nowarah

A. Yeah.

Q. You hadn't heard anything about it until that time?

A. Huh-uh.

Q. Before you left North Carolina and went back to South Carolina, had anybody talked to you about Frank Swain's murder, any deputies or any police officers or anybody?

A. No. They come to get Leroy, to question Leroy a few times.

Q. Do you know why they came and picked up Leroy?

A. I have no idea why.

Q. Where was Robert during this period of time?

A. We had split.

Q. Okay, but was he still in North Carolina? Do you know?

A. Yeah, I guess.

Q. Okay.

A. Me and him didn't talk.

1 Q. When was the last time you saw him after that
2 night?
3 A. We dated up until Christmas. We dated up until
4 Christmas.
5 Q. And he was still in North Carolina at Christmas
6 time.
7 A. Uh-huh.
8 Q. Okay. Do you know whether or not anybody ever
9 questioned Robert?
10 A. I have no idea. He never said anything.
11 Q. But you know that somebody questioned -- do you
12 know who questioned Leroy?
13 A. They didn't question him; they kept coming to
14 the house to question him, and he wasn't never there.
15 Q. Okay.
16 A. Every time I'd go to the door -- I know one time
17 Willie and Janice come. And one time a small black
18 officer came.
19 Q. Did you ever see them talk to Leroy?
20 A. Uh -- no. No.
21 Q. Did they tell you why they were there?
22 A. No.
23 Q. Did you have any idea why they were there to
24 talk to Leroy?
25 A. No. All I know is they come to talk to Leroy.

1 Q. Did Leroy ever say anything to you about them
2 coming to talk to him or talking to him?
3 A. Yeah, he said they questioned him.
4 Q. About Frank Swain?
5 A. About Frank Swain, and said something about Ray
6 Hurst, too. They was going to question him.
7 Q. Now did Janice Spruill ever indicate any other
8 names to you, other than Robert Jones -- of course, I
9 understand how you gave Leroy's name, but did she ever
10 bring up any other names?
11 A. Ray's.
12 Q. Okay, Ray's?
13 A. Yeah.
14 Q. Okay. Now, once you were brought back to North
15 Carolina, they scheduled you for some court hearings two
16 or three different times, and they would get continued and
17 get put off.
18 A. Yeah.
19 Q. Now at some point you realized or you knew
20 already that what you'd told Janice was a lie; is that
21 correct?
22 A. Uh-huh, that's correct.
23 Q. At some point did you make a decision that, hey,
24 I can't go on with this lie, that I've got to straighten
25 this mess out?

1 A. Well, when I first got here, they promised me
2 they was going to get me a bond. The first --
3 Q. Who promised you this?
4 A. On my way here -- Janice Spruill.
5 Q. Okay.
6 A. On my way to jail she promised me that I
7 wouldn't be in there but maybe the weekend. They was
8 going to try to get me a bond. But, of course, you see
9 I'm still here --
10 Q. Right.
11 A. So shows how much they mean. But about -- I
12 can't remember when I wrote my note, but I did write a
13 note to --
14 Q. Who'd you write a note to?
15 A. To my lawyer, Regina Moore.
16 Q. And what did you tell her in that note?
17 A. And I told her that I had lied and that I
18 wanted, you know, to tell the truth. I didn't want nobody
19 to go down for something they didn't do. And she told Mr.
20 Norton, Mitchell Norton.
21 Q. She told Mr. Norton. Did she tell you that she
22 told Mitchell Norton?
23 A. Well, she went out to the courtroom and brought
24 him into the little room behind the courtroom.
25 Q. The jury room.

1 A. Yeah.
2 Q. Were you in there at that time?
3 A. Yeah.
4 Q. Okay. What happened then?
5 A. She brought him in and, you know, he set his
6 glasses down on the table; and she handed him the letter,
7 and he looked at it. And he said, well, I don't want to
8 have nothing to do with this until you get your story
9 straight. And he said -- and he was upset -- he was
10 upset.
11 Q. Did he ask you what your story was?
12 A. No. He didn't say nothing to me, but for me to
13 get my facts straight.
14 Q. Okay. Did you ever talk to him again and tell
15 him what the truth was? Mitchell Norton?
16 A. No, but then that afternoon they scheduled a
17 conference at three o'clock --
18 Q. Uh-huh.
19 A. -- with the SBI agents.
20 Q. Okay. Do you remember who those were?
21 A. Donny Varnell.
22 Q. Donny Varnell was one of them?
23 A. He came up there, and it was Donny Varnell and
24 Janice Spruill and Willie --
25 Q. Williams.

1 A. -- Williams and Mitchell Norton was up there.
2 Q. Okay.
3 A. And they all was like questioning me, hounding
4 me.
5 Q. At that time did you tell them that what you had
6 told was a lie?
7 A. Yeah, I tried to.
8 Q. When you say you "tried to", what do you mean?
9 A. Well, when I started to say it, they kind of cut
10 me off and told me that, you know, I would end up holding
11 the bag if I didn't -- if these guys got off, that I'd be
12 the one that ended up holding the bag, that I would go
13 down for what they did, which scared me.
14 Q. All right. And you were telling them, and it
15 was Mitchell and Varnell and Willie Williams. Was Janice
16 present that time?
17 A. Uh-huh, she come in.
18 Q. Was your lawyer present at that time?
19 A. She was earlier.
20 Q. Okay, but not at this time.
21 A. Not at --
22 Q. And you were trying to tell them that what you'd
23 said was a lie and you wanted to tell the truth.
24 A. Yeah.
25 Q. Would they listen to you about that?

1 A. No. Well, they told me that they knew what the
2 truth was.
3 Q. They knew what the truth was.
4 A. They knew what the truth was.
5 Q. All right. Did they ever ask you what the truth
6 was?
7 A. No.
8 Q. How much -- how close did you get to telling
9 them that this is all a lie; I want to tell the truth?
10 A. Well, I come right out and told Regina with
11 Mitchell in there.
12 Q. With Mitchell in there.
13 A. Yeah, but that was earlier.
14 Q. Okay. So at least at one point you told
15 Mitchell Norton in the presence of your lawyer --
16 A. Yeah.
17 Q. -- this is a lie. This is a lie.
18 A. That's right.
19 Q. Okay. What about --
20 A. And he told me he didn't want to hear it.
21 Q. He didn't want to hear that.
22 A. That's right.
23 Q. Because he knew what the truth was.
24 A. That's right.
25 Q. What about when you were all the others, though?

1 Willie and Varnell and Mitchell, did you ever tell them
2 that it was a lie?
3 A. I didn't get a chance to because when they come
4 in, they just started hounding me. They started telling
5 me, you know, you'll get this and you'll get that, and
6 you'll have to do time for something they did which
7 obviously would scare somebody, you know.
8 Q. Sure. So they wouldn't listen to you?
9 A. No.
10 Q. Who else have you told that this story that you
11 told Janice that it's not true, that it's a lie?
12 A. I told Jeff Kelly, which is my ex-boyfriend.
13 Q. Okay.
14 A. And I told my grandmother that I was going to
15 tell the truth, but I never told her what the truth was.
16 I wrote mama a letter and told mama. I don't know if she
17 ever got it or if she will get it. I told them to call
18 Mills in jail. I told Joy Bland, which was in jail with
19 me at the time, Monica Bland. I told LaShanda. I'm not
20 sure of LaShanda's last name, just a black girl that's in
21 jail now.
22 Q. Was she in jail in Beaufort County with you?
23 A. Yes.
24 Q. Okay.
25 A. I told them three, because I couldn't handle it

1 no more. I had to tell somebody. And since my lawyer
2 wouldn't never come visit me or accept my calls, you know,
3 I had to do something. I had to talk to somebody.
4 Q. But every time you tried to tell officers, they
5 didn't want to hear any of it.
6 A. That's right.
7 Q. You know, they knew the truth and didn't want to
8 --
9 A. That's right.
10 Q. -- hear anything you had to say.
11 A. And Regina was the same way.
12 Q. They didn't want to hear anything that didn't
13 fit their story.
14 A. That's right.
15 Q. In other words they had what they wanted, and
16 they didn't want it changed in any way.
17 A. That's right.
18 Q. And you wanted to tell the truth.
19 A. Uh-huh.
20 Q. And what you've told me here today is the truth.
21 A. Yes.
22 Q. That you, Leroy, Robert, none of the three of
23 y'all had a thing to do with Frank Swain's death.
24 A. No, we sure didn't.
25 Q. None whatsoever.

1 A. And we were just so blasted out of our mind, we
2 were so drunk -- you know we had to be drunk to be dancing
3 -- them two dancing together, fools.
4 Q. Well, let me ask you this: You weren't so drunk
5 that you couldn't have gone out there and killed Frank
6 Swain and not know it, were you? You weren't that drunk
7 were you?
8 A. I didn't have no way of getting there.
9 Q. Okay.
10 A. I couldn't walk.
11 Q. Okay. Has anybody been up here to talk to you
12 here, women's prison?
13 A. No. No.
14 Q. Any of the officers, deputies or attorney or
15 anybody other than Jim Vosburg and myself?
16 A. No, Gina don't even accept my calls.
17 Q. Have you tried -- well, you wrote Gina a letter
18 and told her that what you said was a lie, right?
19 A. No, because I have no way to get in touch with
20 her.
21 Q. I thought you said you wrote her a letter.
22 A. Oh, yeah, earlier.
23 Q. Okay.
24 A. Earlier when I went to court that time, I give
25 her the letter that said that I lied and --

1 Q. Has she ever asked you what the damned truth
2 was?
3 A. No, I don't believe so.
4 Q. So face to face you've never had the chance to
5 tell Regina, hey, this is all a lie. Or have you?
6 A. I had the chance to, yeah. I didn't because I
7 was scared.
8 Q. Oh, okay. Okay.
9 A. But she's never come right out and asked me, you
10 know, was this the truth?
11 Q. So she's never even asked you what happened or
12 anything. In other words, your side of the story, she's
13 never even asked you.
14 A. No.
15 Q. The information that you had about Frank Swain's
16 residence such as the door, the Christmas tree, that type
17 of information, where did it come from?
18 A. Janice.
19 Q. Janice Spruill?
20 A. Janice Spruill, and let me tell you something
21 else I do remember her saying. She said, do you not -- uh
22 -- remember --uh -- there being some type of chemical
23 plant -- is there a chemical plant?
24 Q. Uh-huh, right next door to the trailer park.
25 A. And she said the name of it.

1 Q. It's Helena or Helena Chemicals.
2 A. Something like that. It's something chemicals.
3 It's some chemical plant.
4 Q. It's right next door.
5 A. She asked me if I remembered seeing a chemical
6 plant because it was right beside the park.
7 Q. The trailer park.
8 A. Yeah, the park where Frank lived. And
9 obviously, you know, with me trying to lie and get Robert,
10 you know, to have to do time for all the shit he's put me
11 through --
12 Q. Uh-huh.
13 A. -- of course, I said yeah, because she just sat
14 there and told me that there was a chemical plant there.
15 Q. So you knew nothing about a chemical plant.
16 A. I don't even -- I don't even know where Frank
17 lived. I'm not even sure where Folly Road is.
18 Q. So the Christmas tree, the door, the blood, the
19 chemical plant --
20 A. And asked me --
21 Q. -- all of that came out of Janice's mouth, and
22 you didn't know anything about it until she told you.
23 A. That's right. Plus she asked me if there was a
24 heavy object brought out of the trailer and put in the
25 back of the truck. Did I hear a heavy object. And I

said, you know, obviously, I'm going to say, yeah. It sounded like a tire tool.

Q. Did you, in fact, hear a heavy object or a tire tool being put --

A. No, because we wasn't there.

Q. Okay. All right. Okay. But this type of information, the heavy tire tool or heavy object, that came from Janice.

A. And plus the burning of the clothes and the heater.

Q. Okay, tell me about the burning of the clothes and the heater.

A. She asked me what stuff we burned in the heater. So that right there made me say, you know, well -- done heard Sherry said we burned shoes in the heater. She done told me that. So I said, well, our shoes and stuff. You know, I told her that I went to the bathroom and changed and when I come out, Robert told me I better put my clothes in the heater because he didn't want to have to do time for something that I get, you know, get him in trouble for. So I put my clothes in the heater.

Q. And originally that came from Sherry ~~O'Neal~~ Honea saying that you had burned your shoes.

A. That's right.

Q. And Janice Spruill told you that.

1 A. And asking me where my shoes was.
2 Q. Okay. And you told her you burned them in the
3 heater.
4 A. Yeah.
5 Q. And the other clothing.
6 A. Yeah.
7 Q. Did she say anything to you about burning the
8 clothing in the heater before you told her that?
9 A. No, because I had no idea they knew anything
10 about no burning no clothes. We never burned nothing in
11 the heater, but the flag that time.
12 Q. Right. We know about the flag that was stole
13 from next door and then it was burned.
14 A. Yeah, and smashed a pumpkin.
15 Q. So all you really know about it is what's been
16 told to you.
17 A. And what -- the paper, the newspaper.
18 Q. And then you read something in the paper.
19 A. I read that he had stab wounds in his neck.
20 Q. Okay.
21 A. You know, that's -- that's one thing I didn't
22 even know. I didn't even think to say nothing. And then
23 I didn't know that. Of course, you know that if I would
24 have walked in on them and the man was sitting in the
25 floor, he obviously had the stab wounds before he got his

1 neck cut.
2 Q. Right.
3 A. You know that, and if you got stab wounds in
4 your neck, you ain't going to be able to talk.
5 Q. Yeah.
6 A. And you probably bleeding to death and ain't
7 going to be able to move. You know, she should have
8 thought about something like that.
9 Q. So the stab wounds, you read that in the paper.
10 A. Yeah.
11 Q. And so Janice didn't put that in your mind.
12 A. Huh-uh.
13 Q. And you weren't there to see it, but you read it
14 in the paper.
15 A. Yeah, I read it in the paper.
16 Q. Do you recall anything else that you read in the
17 paper?
18 A. That he was a construction worker.
19 Q. Okay, but I mean about the facts or supposedly
20 what had happened.
21 A. No. I just remember the stab wounds because
22 that's something I left out when I was telling my little
23 lies.
24 Q. Did Janice or anyone ever give you any money to
25 help you out or anything of that nature?

1 A. No. No, they promised me a lot.
2 Q. They promised you a lot of things or a lot of
3 money?
4 A. A lot of things like, different things like I
5 wouldn't get time and they wouldn't going to come get me.
6 Q. Like the 30 days in jail and you weren't going
7 to be locked up and --
8 A. Uh-huh.
9 Q. But they never promised you any money.
10 A. No. Well, she told me that the DA was working
11 on getting me some clothes and going to get my hair done
12 for court. Promised me I wouldn't be here.
13 Q. But you are here.
14 A. That's right.
15 Q. When is the last time you talked to Janice
16 Spruill?
17 A. When I had my tooth pulled.
18 Q. Were you still in Beaufort County at that time?
19 A. My last court date.
20 Q. Okay. Have you told Janice that what you told
21 her originally was a lie?
22 A. No, I haven't told her yet.
23 Q. You haven't told her yet.
24 A. I can't in touch with nobody but you.
25 Q. When you were in jail in Beaufort County, did

1 any officers come to see you down there, any police
2 officers, sheriff deputies, SBI agents, anybody?
3 A. Yes.
4 Q. Who came to see you down there?
5 A. An SBI agent. It's not Donny, but it's the
6 other one.
7 Q. Jim Hensco?
8 A. Yeah.
9 Q. Kind of a short, heavier set fellow?
10 A. Yeah, that's him. And we was up in Ron --
11 what's his last name, the DA. He's kind of got the bald
12 spot on top of his head.
13 Q. Okay, that must be Rob Hensley.
14 A. Rob Hensley.
15 Q. Okay.
16 A. He was in office; they took me up there.
17 Q. What did he ask you about?
18 A. Well, he, you know, just stated that he wanted
19 to keep me in Beaufort County because he -- because, you
20 know, I asked him about Raleigh. I said, well, what's
21 this Raleigh thing? He said what you mean? I said, well,
22 they had some kind of safe keeping order on me, and he
23 said he didn't know nothing about it and that he would
24 take care of it because he wanted me to stay in Beaufort
25 County so he could put me on the stand and have me used to

1 the stand, so he could give me the questions he's going to
2 ask me.
3 Q. Did he say that?
4 A. Yeah.
5 Q. That he wanted to keep you there so he could put
6 you on the stand so you could get used to testifying.
7 A. Yeah.
8 Q. And tell you the questions he was going to ask
9 you.
10 A. Yeah.
11 Q. And what about the answers you were supposed to
12 give?
13 A. I don't know; he didn't say nothing about that.
14 Q. Did he ever ask you what happened? Did he ever
15 interview you about what happened?
16 A. No, not really. All he did was ask me how I was
17 doing and, you know, stuff like that. It was more of like
18 a friend meeting. It wasn't like --
19 Q. So you never told him supposedly what you told
20 Janice.
21 A. No.
22 Q. Did you ever tell him what you told Janice was a
23 lie?
24 A. No.
25 Q. So as far as he knows what Janice is telling is

still the truth.

A. Yeah.

Q. And Janice does too, because you haven't told her unless she's heard from some other source.

A. That's right.

Q. Is there anybody -- well, now you said that Mitchell in this conference y'all had in which you wanted to tell them about it, there was Mitchell, Janice, Willie Williams and Varnell. And you were trying to tell them that what you had said was a lie; is that right?

A. First it started off, it was behind the courtroom. It was me, Regina and Mitchell.

Q. Okay.

A. All right. I told both of them that it was a lie.

Q. You Mitchell and Regina it was --

A. Yes.

Q. So Mitchell Norton knows --

A. That's right.

Q. -- that what you told Janice is a lie.

A. That's right.

Q. Okay.

A. But he got mad.

Q. No question about that.

A. That's right. He got mad, and said that, you

1 know, I better get my facts straight and that he didn't
2 want to have nothing to do with it, nothing to do with
3 that piece of paper that I wrote. So he walks out. Well,
4 Regina and them said that they was going to have a
5 meeting. Well, about three o'clock, it was right around
6 three o'clock, Regina come up there and come into the room
7 with me and she was just sitting there waiting on
8 everybody. And Mitchell come in and asked me if I was
9 okay, and I said yeah, and he said, well, you know they
10 going to have a meeting at three and the SBI is coming up
11 and everything. So I said okay. And he said you don't
12 need to be lying because it will get you in deeper and I
13 said okay. You know, I was upset because I knew they was
14 going to badger me.
15 Q. And they did.
16 A. Yeah. And he walked out. Then Regina had to
17 leave because SBI wasn't there on time, but I did have --
18 Q. She just left you there?
19 A. Yeah, well, she wasn't there when I had my
20 meeting.
21 Q. The meeting now we're talking about is the one
22 with Janice --
23 A. Willie and the SBI.
24 Q. Willie and the SBI agents.
25 A. That's right.

1 Q. How close did you come to telling them that what
2 I've said is a lie?
3 A. I told -- well, when I was sitting in there, I
4 told them, I said, well, you know, it's just a lie; I said
5 I made it up. And Janice said, well, we know the truth.
6 She said, what's going on? She said, who's harassed you?
7 Q. So you've told them then, actually to their face
8 that it was a lie, you made it up.
9 A. That's right.
10 Q. But they didn't want to hear any about that.
11 A. That's right.
12 Q. But you did make the statement to them it's a
13 lie; I made it up.
14 A. Yeah.
15 Q. But they wouldn't pursue that.
16 A. They wouldn't listen to it.
17 Q. They didn't want to hear that.
18 A. That's right.
19 Q. And they said they knew what had happened.
20 A. That's right.
21 Q. Did they tell you anything else about the
22 (inaudible)?
23 A. That I wasn't in it by myself, that they had
24 other witnesses.
25 Q. Did they say who those witnesses were?

1 A. No.
2 Q. Of course --
3 A. Oh, well, they did --
4 Q. -- in our opinion they don't have any witnesses.
5 A. -- they did say there was a man that seen Robert
6 and Leroy in the truck.
7 Q. Well, you knew that couldn't be true, obviously.
8 A. Because the truck wasn't even there; we wasn't
9 even there.
10 Q. Well, not only that, but you weren't there, but
11 you knew the truck was broke down anyway.
12 A. That's right; it was at his daddy's house.
13 Q. So you knew Janice was lying to you about that.
14 A. Yeah.
15 Q. Okay.
16 A. But she said, you know, she still told me that
17 that guy had seen them two, but didn't see me and it must
18 have been because I was ducked down in the truck like I
19 told her in the beginning because you know I had to duck
20 down so they could go in. Well -- let's see what else
21 they said. He told me that I better quit changing my
22 story all the time because then they wouldn't believe me
23 at all when I did tell them what I wanted to tell them.
24 Q. Okay.
25 A. And that if Robert and Leroy -- he said you do

1 know -- Donny Varnell --

2 Q. Uh-huh.

3 A. -- said, you do know that if these two guys get

4 off of this, you're going to be left holding the bag. He

5 said you're going to do time for something they did.

6 Q. All right. Now a moment ago you said something

7 about they asked you had anybody harassed you.

8 A. Uh-huh.

9 Q. Had anybody harassed you about --

10 A. No, no. But I, you know, after all that they

11 had done, all the questioning and everybody coming down on

12 me and telling me I was lying, you know, and telling me

13 that I would be ending up doing time for something that

14 somebody else did, it scared me, so I used the Champs.

15 Because the Champs were always in the courtroom. So I

16 just -- it just popped in my head just to, you know, use

17 the Champs, because they're always there. So I told them

18 that the Champs had been -- you know they scare me, you

19 know --

20 Q. But that's not true either.

21 A. No.

22 Q. All right. They're going to cut our time short

23 here in just a minute. Is there anything else you want to

24 say, you want to tell me about this that you haven't told

25 me or just anything you want to tell me?

1 A. No, just that I lied.
2 Q. Okay.
3 A. But I know now it's -- I shouldn't have done it.
4 Q. Okay. But what you have told me here today is
5 the truth; is that correct?
6 A. Yes.
7 Q. Have I in any way or Jim Vosburg in any way
8 threatened you or promised you anything to get you to make
9 this statement?
10 A. No. I'd told somebody else if they'd come seen
11 me.
12 Q. But nobody ever would come see you. Okay, so,
13 well, at this point then, if you don't have anything
14 further, we'll be talking with you again. And so this
15 interview will terminate at 2:02, and I thank you, Dana.
16 A. You're welcome.
17 **********
18 WHEREUPON, the interview with Dana Maybin was concluded at
19 2:02 p.m.
20
21
22
23
24
25

Spruill and Jones

Margie Louise Perry: Perry testified that she arrived at the bar around 7:00pm and left around 11:00pm on the night of the crime. She testified that she recalled seeing Jones, Spruill, and Maybin at the bar and dancing a few times with Jones at the bar that night. Perry further testified that she did, at one point, go back to the area with the pool tables. Perry also recalled that Jones and Spruill would go in and out during the night. She remembered Jones coming back in the bar at one point with different clothes on and testified that he had a spot on the back of his pants that looked like blood.[33] She also remembered asking Jones what happened to his leg and his telling her that he had fallen through the steps at Ed Champ's apartment. Perry testified that she understood the fall to have happened that evening and that when he was dancing with someone else that person was "playing around" and kicked him so the cut started to bleed. She also testified that she had been at the apartment Jones was staying in both before and after the murder but had not noticed any damage to the steps, but she did admit seeing some boards on the landing of the stairs that were different in color from the others. Although Perry testified she recalled the above information about the night of the crime, she could not provide any times that the events occurred other than the approximate time of her arrival to and departure from the bar. (TT 459-478).

Lynn Rogers: Rogers testified that she arrived at Big Ed's bar between 5:30pm and 6:00pm on the night of the murder. Rogers was consistent with her earlier statements in testifying that she saw Spruill and Jones leave the bar around 8:00pm or 8:30pm and that just before they left, she

[33] This differs from her interview with Defense private investigators where Perry was unsure of whether the night that Jones had a spot on the back of his pants from allegedly falling through the stairs was the same night as the murder.

overheard a discussion with Maybin during which Spruill and Jones were saying Maybin could not go with them. Rogers also stayed consistent with her prior statements that Spruill and Jones returned to the bar around 9:30pm or 10:00pm and that they were wearing different clothes. She testified that Spruill's hair looked wet and it had not looked that way previously. However, inconsistent with her prior statements, Rogers also testified at trial that during the time between 8/8:30pm and 9:30/10pm when Spruill and Jones were gone, she also did not see Maybin. She admitted that she did not remember Spruill and Jones being in different clothes that night until her boyfriend mentioned it to her.

Rogers further testified that when Jones arrived to the bar "earlier" he bought only one beer from 6:30/7:00pm when he arrived to 8:00/830 pm when Rogers saw him leave. In addition, Rogers testified that during this time period, Jones said that he only had five dollars. Rogers testified that when she saw Jones again around 9:30pm/10pm, Jones made three separate purchases of six beers at each purchase, which he paid for with "some crumpled up money in his hand that he pulled out of his pocket." Rogers also recounted the conversation she overheard between Spruill and Jones after they returned to the bar in which Jones said to Spruill "I can't believe we just got away with offing a nigger."

Rogers testified that Jones had an "attitude" with her because she wanted to "cut him off" due to his intoxication around the time the bar was closing (between 1:00am and 2:00am). She testified that she called Ed Champ, Sr., the owner of the bar, and Champ told her to "go ahead and sell him the beer and maybe he would leave." Rogers then testified that she sold Jones "six six-packs," which he paid for in cash, and then Spruill and Jones left. However, on cross-examination, Rogers admitted that Ed Champ, Sr. was present when the bar closed.

Rogers agreed that she could not see everywhere in the bar from her location behind the bar. Rogers was ultimately fired from her job at Big Ed's Bar on January 25, 1994 because she had a birthday party in the bar with underage children present. Rogers' testimony is provided in full below.

20 MR. NORTON: Lynn Rogers.

21 LYNN ROGERS, being first duly sworn, testified as follows during

22 DIRECT EXAMINATION by MR. MITCHELL NORTON:

23 Q. You're Lynn Rogers?

24 A. Yes, sir.

25 Q. How old are you, Ms. Rogers?

FORM SMI-25 PENGAI

1 A. I'm 25.
2 Q. How are you employed?
3 A. Donnelley Marketing in Washington.
4 Q. Directing your attention back to December of 1993, how were
5 you employed at that time?
6 A. Big Ed's Bar.
7 Q. How were you employed there at Big Ed's?
8 A. I was bartending.
9 Q. If you will, speak up real loud so that everyone here can
10 hear you. How long had you been working--when did you start
11 working at Big Ed's Bar?
12 A. November of '93.
13 Q. Prior to that, had you worked at any other establishment or
14 tavern of any type?
15 A. Yes, I have.
16 Q. What taverns were they?
17 A. I worked at the Covered Wagon for a short period of time, and
18 I worked at the Oasis up here in Plymouth.
19 Q. The Covered Wagon, where is it located?
20 A. I don't know the name of the road.
21 Q. Is it here in Plymouth?
22 A. Yes, it's here in Plymouth.
23 Q. What about the Oasis; where is the Oasis located?
24 A. It's here in Plymouth. It's changed.
25 Q. You say you now work at Donnelley Marketing in Washington.

1 A. Yes, sir.
2 Q. Now, did you know the Defendant in this case, Mr. Wallace
3 Brandon Jones?
4 A. Yes, sir, I do.
5 Q. By what name do you know him or did you know him?
6 A. Robert.
7 Q. How was it that you knew him as Robert?
8 A. When I went to work at Ed's Bar, Robert showed me the ropes
9 of that bar.
10 Q. You say "...showed me the ropes of that bar..." What do you
11 mean by that?
12 A. Showed me where everything was and how to do everything.
13 Q. Can you explain to the jury why it was that he was showing you
14 the ropes of that bar at that time?
15 A. Because I never worked there before, and he knew where the
16 beer was; he knew where the money was; he knew where the keys
17 were to the pool tables; he knew where everything was. He was
18 just basically showing me everything.
19 Q. Now, how long had you been working in bars prior to this
20 time, Ms. Rogers?
21 A. Anywhere from two to three years.
22 Q. Now, did you know what his last name was at that time?
23 A. I believe it was Solis or something similar to that.
24 Q. Robert Solis?
25 A. Something like that, Solis.

1 Q. Is that how he introduced himself to you?
2 A. Yes.
3 Q. Do you also know an individual by the name of Leroy Spruill?
4 A. Yes, I do.
5 Q. How long had you known Mr. Spruill?
6 A. When I worked in the Oasis, he used to go in there. When I
7 tended bar there, he was a customer.
8 Q. Did you see him on a regular basis when you were working there
9 at the Oasis?
10 A. Yeah; weekends, something like that.
11 Q. So you knew who he was.
12 A. Yes.
13 Q. Now, did you also know an individual by the name of Dana
14 Maybin, known to you as Nikki?
15 A. I knew her as Nikki.
16 Q. When was it that you first met Nikki?
17 A. When I was working at Ed Champ's bar.
18 Q. What relationship did Nikki and Robert Solis have, if you know?
19 A. Boyfriend/girlfriend or--I don't know.
20 Q. State how often it would be that you would see them during the
21 months of November and December of '93.
22 A. Weekends.
23 Q. Was that when you were normally working at Big Ed's?
24 A. Yes, sir.
25 Q. Now, directing your attention to the 18th of December, were you

1 working at Big Ed's Bar in December of 1993?
2 A. Yes, sir, I was.
3 Q. First of all, I'll show you what's been marked for
4 identification as State's Exhibit No. 24, Ms. Rogers, and ask you
5 to look at that and see if you can recognize and identify that for
6 us, please.
7 (Witness complies.)
8 A. It was the bar where I was working that night, Ed Champ's bar.
9 Q. Does that fairly and accurately show it and depict it the way
10 it was back then with the exception of the little blue building
11 there on the side?
12 A. Yes, sir, same thing.
13 Q. I'll show you what's been marked for identification as State's
14 Exhibit No. 23 and ask you to look at that and see if you can
15 recognize and identify that for us, please.
16 (Witness complies.)
17 A. Right here (indicates) is the entrance to the bar.
18 Q. First of all, this is a drawing or a diagram, is it not?
19 A. Yes.
20 Q. Does this diagram fairly and accurately show and depict the
21 bar area where some of the booze, tables, pool tables--?
22 A. Somethin' similar, yes, sir.
23 Q. Does it fairly and accurately show and depict it the way it
24 was back on the 18th of December of '93?
25 A. Yes, sir.

FORM SMI-25 PENGAD/INDY 1-800-' '989

1 Q. Now, this area here (indicates), can you describe for us what
2 is in this area?
3 A. Yes. This is the bar itself, and this is where I was working
4 at (indicates). The coolers were here and here (indicates).
5 Q. Was there anyone else working the bar that night?
6 A. Ed would walk back there occasionally, you know, help out if
7 I got busy or something.
8 Q. Was Mr. Solis, was he working the bar that night?
9 A. I can't recall.
10 Q. Now, the area back up in here, what's up in this area
11 (indicates)?
12 A. Pool tables; video games.
13 Q. And this area in here (indicates), what is back in here?
14 A. The dance floor; seats; tables.
15 Q. Where are the bathrooms, the men's and women's bathrooms?
16 A. The ladies' is back here (indicates). You have to go in like
17 this (indicates). You have to go in here and then go in the
18 ladies' room.
19 Q. The men's room, where is it?
20 A. It's right before the ladies' room. You go in and go there
21 (indicates).
22 Q. But they're all back in this area (indicates) of the bar.
23 A. Uh-huh.
24 Q. This area here (indicates) that separates the dance floor from
25 where the pool tables are, is there a doorway or an opening in

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 between those two sections of the bar?
2 A. Yes. There's a door right here (indicates) that goes in and
3 out. Anybody can go through there.
4 Q. Do you recall whether or not that way was open the night of
5 the 18th or not?
6 A. No, sir, I can't recall.
7 Q. But there is a door there?
8 A. Yes, sir, there is.
9 Q. How about here (indicates)? Is there a doorway here leading
10 from the bar area into the dance floor?
11 A. It's just an opening that you walk through to the dance floor
12 area.
13 Q. Now, do you recall when it was that you first--when did you
14 first go to open up the bar? When did you get there?
15 A. 5:30, 6:00, 'cause it was cold, and I would go down there in
16 time to turn the heat on so it would be pretty warm.
17 Q. So you arrived at 5:30 or 6:00?
18 A. Yes.
19 Q. What time did the bar itself open? What time did you open
20 for business?
21 A. Like, if I was there at 5:30, 6:00, if anybody come in, I
22 was open then. Basically.
23 Q. When you walked in, the door was open, and anyone could go in?
24 A. Yes.
25 Q. Do you recall when it was that you first saw Mr. Solis,

FORM SM1-25 PENGAD/INDY-1-800-631-6989

1 Wallace Brandon Jones?
2 A. It was not too long after I'd gone in. If I'm right, him,
3 Big Ed, and I can't think of--I don't recall if Leroy was with him
4 or not.
5 Q. But, at least he and Big Ed--
6 A. Yeah, they had walked in for a little while. They had just
7 gotten off work.
8 Q. You say "...a little while..." How long did they stay?
9 A. Not long. Just a little while, you know. I guess 15 or 20
10 minutes or so, if that long.
11 Q. Fifteen or 20 minutes, if that long?
12 A. Yeah. I mean, somethin' like that.
13 Q. What did you observe about him at that time?
14 A. Like I said, he looked like he had just gotten off work.
15 Q. After the 15 or 20 minutes, where did he go, if you know?
16 A. I don't know.
17 Q. But did he leave the bar?
18 A. Yes.
19 Q. When was the next time that you recall seeing him?
20 A. Somewhere around 6:30, 7:00.
21 Q. Where was it that you saw him at this time?
22 A. In the bar.
23 Q. Who was with him at that time?
24 A. Leroy.
25 Q. Did you see anyone else there with him at that time?

FORM SM-25 HENGAD/INDY 1-800-6?

1 A. Yes. Nikki was with them.
2 Q. Nikki?
3 A. Yes.
4 Q. Do you recall where in the bar they were when you first were
5 aware or noticed that they were there in the bar?
6 A. No, sir; I don't recall.
7 Q. Do you recall how both he and Mr. Spruill were dressed that
8 night?
9 A. Dress shirts and nice jeans.
10 Q. Which one had on the dress shirt?
11 A. Both.
12 Q. Both of them?
13 A. Both of them.
14 Q. And, you said they had on nice-looking jeans.
15 A. Yes, sir.
16 Q. Do you recall anything about the color of the jeans at that
17 time?
18 A. Maybe they were acid-washed.
19 Q. Acid-washed--?
20 A. Acid-washed is like a blue and a white mix type of jeans.
21 Q. You say both of them were dressed nice at that time.
22 A. Yes, sir.
23 Q. Now, when they came into the bar area at that time, when you
24 saw them there at the bar, when you first observe them to be
25 doing at that time, 6:30, 7:00? What were they doing when you saw

Form SMI-25 PENGAD/INDY 1-800-69

1 them at that time?
2 A. They come up to the bar and got a beer.
3 Q. How about Nikki? Where was she at that time?
4 A. I don't remember.
5 Q. And, how much beer did they get at that time?
6 A. Robert purchased himself one, and Leroy purchased him and
7 Nikki one.
8 Q. He and Nikki one?
9 A. Yes.
10 Q. You say this occurred somewhere around 6:30, 7:00?
11 A. (Witness nods.)
12 Q. Now, did they stay right there in the bar area where you were
13 at that time?
14 A. I don't remember.
15 Q. And, at the time that he came up to purchase the first beer,
16 did you have any conversation with Mr. Solis at that time?
17 A. Yes, I did.
18 Q. If you will, tell us about that conversation, please.
19 A. He said he only had $5, and he wanted a discount on his beer.
20 Q. What did you tell him at that time?
21 A. "I don't give discounts."
22 Q. Of course, you knew that he had worked for Big Ed.
23 A. Yes.
24 Q. And, had worked at the bar at some time.
25 A. Yes.

FORM SMI-25 PENGAD/INDY 1-800-631 19

1 Q. So you told him that you couldn't give him a discount on the
2 beer.
3 A. Right.
4 Q. Did you run up a tab for him or anything? Was he getting beer
5 on a credit?
6 A. I never had a tab for him at all.
7 Q. And, you say that he told you that he just had $5.
8 A. Yes.
9 Q. Now, later, did you have an occasion to see Nikki there in the
10 bar?
11 A. Yes, I did.
12 Q. Where was Nikki at that time?
13 A. Um--
14 Q. Where did you see her, and what was she doing?
15 A. She was sitting at the end of the bar drinking a beer with
16 Smartie.
17 Q. Now, Smartie, who is Smartie?
18 A. That's the only name I know him by is Smartie, and that's it.
19 Q. You say that she was at the end of the bar. With reference to
20 State's Exhibit No. 23, could you point out to us, please, what
21 area of the bar that she was sitting with Smartie.
22 A. Somewhere in this area (points) right here.
23 Q. Along here in this corner area of the bar (indicates)?
24 A. Yes, sir.
25 Q. What was she and Smartie doing at that time?

FORM SMI-25 PENGAD/INDY 1-800-4" '89

1 A. They were just drinkin' a beer is all I know.
2 Q. How long did they sit there, if you know?
3 A. I didn't really notice. A little while.
4 Q. Now, did you know where Robert Solis, Wallace Brandon Jones,
5 or Mr. Spruill were at that time?
6 A. Yes, I did.
7 Q. Where were they?
8 A. They were at the front door.
9 Q. You're talking about the front door up here (indicates)?
10 A. Uh-huh.
11 Q. Can you describe for us, please, what you saw and observed
12 there at the front door.
13 A. Him and Leroy were at the front door, and Nikki walked over
14 there, and; I don't know what the discussion was about, but they
15 were leaving, and she was staying behind. That's all I know.
16 Q. What did you hear at that time?
17 A. It was a discussion about her staying or her going.
18 MR. VOSBURGH: Objection, Your Honor.
19 THE COURT: Overruled.
20 Q. Could you tell at that time whether it was that she wanted to
21 go or whether she wanted to stay?
22 A. I don't have any idea.
23 Q. But it had something to do with her either staying or going?
24 A. Yes, sir.
25 Q. Now, this conversation that you saw take place or heard over

FORM SMI-25 PENGAD/INDY 1-800-4 389

1 near the doorway, what did you see Leroy and Mr. Jones do at that
2 time? After they talked there at the door, what happened? What
3 did you see take place?
4 A. They walked out.
5 Q. Did Nikki leave with them just at that time?
6 A. I didn't see Nikki walk out behind them.
7 Q. But, after they left, did you ever see Nikki anymore around
8 the bar area?
9 A. For a little while, and then I didn't see her.
10 Q. When you say "...a little while...," how much time are you
11 talking about that you saw her there in the bar for a little
12 while and then you didn't see her?
13 A. I saw her walk away from the door and go back over by
14 Smartie, and I didn't pay any attention where she went from there.
15 Q. But did you ever see her anymore?
16 A. Yes, I did.
17 Q. When was it that you saw her again?
18 A. 9:30, 10:00.
19 Q. What time was it, roughly, that you saw her and Leroy Spruill
20 and the Defendant, Wallace Brandon Jones, over by the doorway
21 talking about leaving; about when was that?
22 A. About 8:00, 8:30.
23 Q. You say it was about 8:00 or 8:30?
24 A. (Witness nods.)
25 Q. Now, you said that the next time that you saw her and Robert

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 and Leroy was what time now, after they left?
2 A. After they left?
3 Q. Uh-huh.
4 A. It was 9:30, 10:00, was the last time I seen them.
5 Q. And, during that period of time, from 8:00 until 9:30 to
6 10:00, did you see either Nikki, Dana Maybin, known to you as
7 Nikki, or Leroy Spruill or Wallace Brandon Jones, known to you as
8 Robert Solis, at any time during that period of time from roughly
9 8:00 until 9:30 or 10:00?
10 A. No, sir.
11 Q. Now, during that period of time, did you stand behind the bar
12 all of the time, Ms. Rogers?
13 A. If I wasn't behind the bar, I was around picking up bottles
14 and things like that.
15 Q. Was that one of your duties there at the bar?
16 A. Yes, sir.
17 Q. When you say, "...pickin' up bottles...," are you talking
18 about--?
19 A. Empty bottles; trying to keep the place neat.
20 Q. When you would go out and patrol around to pick up the empties,
21 what area of the bar would you go to patrol to pick up the empty
22 bottles?
23 A. I would go around the dance floor and then back out here
24 (indicates) by the pool tables and then back to the bar.
25 Q. So you would make a complete circle around.

FORM SMI-25 PENGAD/INDY 1-800- '989

1 A. Yes.
2 Q. So you never saw them anymore until 9:30 or 10:00.
3 A. Right.
4 Q. When you did see them again at 9:30 or 10:00, did you notice
5 anything unusual about them at that time?
6 A. Yes, sir, I did.
7 Q. What was it that you first noticed that was unusual or
8 different about Mr. Solis or Mr. Spruill or Ms. Maybin?
9 A. Robert Solis, his clothes were changed--different pants,
10 different shirt. Leroy, a thermal blue shirt and a dress shirt
11 over it, buttoned up. His hair was wet. I mean, it looked wet.
12 Q. That's Mr. Spruill's hair?
13 A. Yes.
14 Q. And, when he had been there earlier, from the time that you
15 saw him at 6:30, 7:00, on up to 8:00, was his hair--did it look
16 the same at that time?
17 A. No, sir.
18 Q. In addition to Mr. Solis having changed shirts and pants, did
19 you notice anything else that he was wearing at that time that was
20 different when you saw him at 9:30, 10:00?
21 A. No, sir.
22 Q. Did he have any jacket or anything with him at that time?
23 MR. VOSBURGH: Objection, Your Honor.
24 THE COURT: Overruled.
25 Q. Did he have a jacket or anything with him that you recall?

FORM SMI-25 PENGAD/INDY 1-80 9989

1 A. No, sir.
2 Q. How many shirts did he have on, if you know?
3 A. I don't know.
4 Q. Now, in addition to the clothing that had been changed on
5 Mr. Solis and Mr. Spruill and wet hair with Mr. Spruill, was there
6 anything else different about them at that time, Ms. Rogers?
7 A. The way they were acting was different.
8 Q. How was it that they were acting different when they came back
9 at 9:30, 10:00?
10 A. Leroy was acting kind of fidgety. What I mean is, he was,
11 I don't know, uptight and everything.
12 Q. How about--
13 MR. VOSBURGH: Your Honor, I'd move to strike the
14 conclusion of the witness.
15 THE COURT: Overruled; motion denied.
16 Q. What about Mr. Solis? What was he doing when he came back to
17 the bar at 9:30, 10:00?
18 A. Explain yourself.
19 Q. What was he doing? Did you notice anything else different
20 about him besides his clothes, anything that he was doing when
21 he got back that he was not doing when he was there earlier?
22 A. He was acting different. I don't know how you would say he
23 was acting different.
24 Q. In what way was he acting different? Can you explain in what
25 way he acted different?

FORM SMI-25 PENGAD/INDY 1-800-989

1 A. His attitude. His acting like he was either high or on some
2 type of drug or something.
3 Q. Now, you say that he was acting different from the way he
4 appeared when you first saw him?
5 A. Yes.
6 Q. Now, you said earlier that he came up to the bar, and he told
7 you--and bought one beer.
8 A. Uh-huh.
9 Q. And he told you that he only had $5.
10 A. Uh-huh.
11 Q. How many beers did he buy from the time that you first saw
12 him there, 6:30, 7:00, until you saw him leave at around 8:00,
13 8:30?
14 A. That one beer.
15 Q. Just one beer during that period of time?
16 A. Somebody could have come up and bought one for him. I have
17 no idea.
18 Q. Is that the only one you sold him?
19 A. Yes.
20 Q. How about when he returned to the bar? He and Leroy Spruill
21 and Nikki, you saw them again at 9:30 or 10:00. Did he make any
22 purchases at that time?
23 A. Yes, sir, he did.
24 Q. Can you tell us what purchases he made and roughly how many of
25 them.

FORM SMI-25 PENGAD/INDY 1-800 1989

A. He made a few purchases, about six beers each time.

Q. Six beers each time.

A. (Witness nods.)

Q. Who was he buying beer for at that time?

A. Himself, Dana, Leroy, and a couple of people at Ed's table.

Q. You say, "...at Ed's table..." Does Ed Champ, the owner of the bar, did he have a separate table or space there where he usually sat in the bar?

A. Yeah.

Q. Could you point that out to us, please, where Robert was buying beer for Ed's table.

A. This little table right here (indicates).

Q. Back out here right before you go on to the dance floor.

A. Right.

Q. Now, you said that he was buying on--on how many occasions was he buying upwards of six beers at a time?

A. About three.

Q. About three times.

A. (Witness nods.)

Q. How did he pay for the beer?

A. He had some money.

Q. Tell me how it was that you came to see the money and how much money that he had, Ms. Rogers.

A. He had some crumpled-up money in his hand that he pulled out of his pocket, 20's, 10's, something like that.

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 Q. Now, you're going to have to speak up. This gentleman back
2 over here, I'm sure he can't hear because I just can. How much--
3 can you describe for me, please, how he pulled this money out.
4 You say it was crumpled.
5 A. Yes.
6 Q. Tell me what it looked like.
7 A. It was crumpled and in his hand about like that (indicates).
8 Q. A roll of it, all crumpled up--
9 MR. VOSBURGH: Objection.
10 THE COURT: The objection is sustained. The jury is to
11 disregard the prosecutor's statement.
12 Q. How much money--could you tell about how much money it was,
13 Ms. Rogers?
14 A. No, sir.
15 Q. When you say, "...crumpled up...," what do you mean by that?
16 A. Balled up.
17 Q. Show me again--you said that it was how high in his hand?
18 MR. VOSBURGH: Objection.
19 THE COURT: Overruled.
20 Q. Please show me about how high--
21 A. It was about like this (indicates).
22 Q. Now, the three large purchases of beer he bought, upwards of
23 six beers--
24 MR. VOSBURGH: Your Honor, I'd object to the--
25 THE COURT: Objection is sustained.

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 Q. Was that the only purchases of beer that he made, the three
2 large purchases of beer--?
3 MR. VOSBURGH: Objection.
4 THE COURT: Sustained.
5 Q. How much beer did he buy?
6 A. Are you talking about at one time or--?
7 Q. No. During the course of the evening after he came back.
8 Well, would you state whether or not he always bought six beers at
9 a time?
10 MR. VOSBURGH: Objection.
11 THE COURT: Overruled.
12 A. I don't think so.
13 Q. Would you state whether or not he bought any single beers?
14 A. He bought a single beer for himself.
15 Q. For himself.
16 A. Uh-huh.
17 Q. Do you recall about how many times he bought beer for
18 himself, singles?
19 A. No, sir.
20 Q. More than once?
21 A. More than once.
22 Q. Now, you said that you observed him with Mr. Spruill. What
23 was it that you noticed about Mr. Spruill at the time that you saw
24 him?
25 A. To me, it looked like he had just jumped out of the shower.

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 MR. VOSBURGH: Objection; move to strike.
2 THE COURT: Objection is sustained; the jury will
3 disregard the witness' statement.
4 Q. What did you observe about his behavior? That's what I'm
5 asking you.
6 THE COURT: You've already asked her that once. Ask
7 her another question.
8 Q. Did you hear a conversation between Mr. Spruill and Mr. Solis?
9 A. Yes, sir.
10 Q. Where did this conversation take place?
11 A. At the bar.
12 Q. Now, again, with reference to State's Exhibit No. 23, can you
13 show me where this conversation took place?
14 A. Right here (indicates.)
15 Q. Right up here at the first two chairs listed at the counter
16 cooler here as you come in the entrance door on the diagram; is
17 that correct?
18 A. Yes, sir.
19 Q. Now, tell us, if you will, just in your own words, what
20 happened when you saw Mr. Spruill and Mr. Solis up there at those
21 two tables.
22 A. Leroy was sitting down, and Robert was over him, standing.
23 Q. What did you do when you saw them standing there at the bar
24 at that time?
25 A. I just--I observed, you know.

FORM SMI-25 PENGAD/INDY 1-800 '989

1 THE COURT: Keep your voice up, Ma'am.
2 A. I observed them sitting and standing.
3 Q. Did you walk over there to them at that time?
4 A. Yes. I asked them if they would like a beer or anything.
5 Q. What did they say at that time?
6 A. They didn't make no comment--
7 MR. VOSBURGH: Your Honor, I'd object to the use of the
8 word "they."
9 THE COURT: Well, she said they made no comment.
10 Q. What did you do after you walked over and asked them about did
11 they want the beer? What did you do and what did you see and
12 what did you hear?
13 A. They were talkin' amongst theirselves. I overheard a little
14 bit of their conversation.
15 Q. What, if anything, did you hear Mr. Robert Solis say while you
16 were standing there at the bar?
17 A. Robert was acting as if he was bragging--
18 MR. VOSBURGH: Objection.
19 THE COURT: Did you understand the question?
20 A. No, sir.
21 THE COURT: Well, ask her again. Listen to the question
22 and answer the questions you're asked.
23 Q. What did you hear Robert Solis say to Leroy Spruill there at
24 the bar? Speak up so we can all hear you.
25 A. He said that he couldn't believe he'd just gotten away with

FORM SMI-25 PENGAD/INDY 1-800 1989

1 offin' a black man.
2 Q. Is that the way he said it, "...I can't believe we just got
3 away with offing a black man..."? What exactly did he say,
4 Ms. Rogers?
5 A. "Offing a nigger."
6 THE COURT: You've got to speak up, Ma'am. He's asked
7 you to repeat what you heard, and that's what I want you to do
8 and loudly enough so that everybody can hear you.
9 Q. So this gentleman over here at the back can hear you. Now,
10 what did he say?
11 A. He couldn't believe he got away with offing a nigger.
12 Q. What was Mr. Spruill doing at that time? What did you observe
13 about Mr. Spruill when Mr. Solis made that statement?
14 A. I seen him lookin' back and forth at the front door.
15 Q. How often did you see him doing that while Solis was talking?
16 A. Off and on.
17 Q. Looking back in the direction of the door.
18 A. Yes.
19 Q. What did you think about that at the time that you heard the
20 statement and observed Mr. Spruill looking and forth to the door?
21 MR. VOSBURGH: Objection.
22 THE COURT: Sustained.
23 Q. Can you describe for us what you observed about Mr. Solis'
24 behavior at the time that you heard him make that statement,
25 Ms. Rogers?

FORM SMI-25 PENGAD/INDY 1-800-631

1 A. As if he was braggin.

2 MR. VOSBURGH: Objection; move to strike.

3 THE COURT: Objection is sustained; the jury will

4 disregard the witness' answer.

5 Q. How long did they stay there at the bar, stand there at the

6 bar, after you heard this conversation between Mr. Spruill and

7 Mr. Solis?

8 A. Not long.

9 Q. Was Mr. Spruill also talking with him about offing a nigger--?

10 MR. VOSBURGH: Objection; move to strike.

11 THE COURT: Objection is sustained; the jury will

12 disregard the question.

13 Q. What, if anything, did you hear Mr. Spruill say?

14 MR. VOSBURGH: Objection.

15 THE COURT: Overruled.

16 A. I don't remember.

17 Q. Now, after that conversation, did you notice anything else at

18 a later time or then that was unusual about Mr. Spruill or

19 Mr. Solis?

20 A. Explain yourself.

21 MR. VOSBURGH: Objection.

22 THE COURT: He's asked you a question, and you answer

23 the question.

24 Q. Did you notice anything unusual about either one of them

25 either then or at a later time during the evening?

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 A. I don't know what you're asking.
2 THE COURT: He's asking if you noticed anything
3 unusual about them later on during that evening. That's what
4 he's asking you.
5 A. Robert had a attitude against me.
6 MR. VOSBURGH: Objection; move to strike.
7 THE COURT: Objection is sustained; the jury will
8 disregard the witness' statement.
9 Q. After they left the bar area, where did you see them go?
10 After they left from the corner of the bar, where did you see
11 Mr. Solis and Mr. Spruill go at that time?
12 A. In the dance floor--I mean, in that area.
13 Q. What did you see them doing, if anything, in the dance floor
14 area?
15 A. Dancing.
16 Q. Who were they dancing with?
17 A. Each other.
18 Q. What kind of dancing were they doing there in the dance room
19 area?
20 A. Fast. Fast dancing.
21 Q. Were they dancing out on the floor area at that time?
22 A. Yes, sir.
23 Q. Did you see them dance on more than one occasion?
24 A. Yes, sir.
25 Q. What was their attitude or demeanor at that time while they

FORM SMI-25 PENGAD/INDY 1-800-P '89

1 were out on the floor dancing with each other?
2 MR. SKINNER: Objection.
3 THE COURT: Objection is sustained as to attitude. She
4 can describe what she saw.
5 Q. What did you see them doing?
6 A. They were having a good time.
7 Q. When you say, "...having a good time...," what do you mean by
8 that?
9 A. I don't know. Dancin', drinkin', having a good time. I
10 don't know how you would describe it.
11 Q. Were they real quiet?
12 MR. VOSBURGH: Objection to the leading.
13 THE COURT: That objection is sustained.
14 Q. How many folks were back there in the dance hall area at that
15 time, Ms. Rogers?
16 A. I don't know the number of people that were there; but, there
17 were some people there.
18 Q. Do you have an opinion as to approximately how many? I know
19 you didn't count them.
20 MR. VOSBURGH: Objection.
21 THE COURT: Overruled.
22 A. Quite a few. I don't know the number I could give you or
23 anything.
24 Q. As many as 15 or more than 15--?
25 MR. SKINNER: Objection.

FORM SM-25 PENGAD/INDY 1-800-631-6989

1 THE COURT: That objection is sustained. She says she
2 does not have a number she can give you.
3 Q. Now, after you saw them dancing there in the room, when was
4 the next time that you recall seeing them, Ms. Rogers?
5 A. When I was gettin' ready to close up.
6 Q. What time was that that the bar closed?
7 A. Anywhere from 1:00 to 2:00 in the morning.
8 Q. Can you describe for us what occurred at that time?
9 A. Yes, sir. I barred Robert Solis for he being so rude and--
10 THE COURT: I can't understand what you're saying.
11 A. I barred Robert Solis for him being so rude towards me.
12 Q. What happened? Tell us what happened right before closing
13 time. What had caused you to bar him?
14 A. He was intoxicated, and, as me being a bartender and knowing
15 about intoxication, I know when to cut somebody off, and I wanted
16 to cut him off, and he got very rude with me.
17 Q. When you say, "...cut him off...," what do you mean by that?
18 A. I wasn't going to sell him any more beer.
19 Q. Would you state whether or not he had asked you to sell him
20 some more beer.
21 A. Ask it again.
22 Q. You said you'd cut him off. Had he come up and placed an
23 order for beer?
24 A. Yes.
25 Q. How much beer did he want?

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1 A. He wanted another beer.
2 Q. Another beer?
3 A. Yes.
4 Q. And you told him what?
5 A. No; that he was cut off.
6 Q. And that was because he was intoxicated.
7 A. Yes.
8 Q. At that time.
9 A. Uh-huh.
10 Q. Now, what happened then, after you told him that you weren't
11 going to sell him any more beer?
12 A. I called Ed at his house and--
13 Q. That is Ed--
14 A. Ed Champ, the owner of the bar. I told him that I'd barred
15 Robert, and I didn't want to sell him any more beer. He told me
16 on the phone to go ahead and sell him the beer and maybe he would
17 leave.
18 MR. VOSBURGH: Objection; move to strike.
19 THE COURT: Objection is sustained as to what Ed Champ
20 told her on the telephone.
21 Q. You can't tell us what Mr. Champ said; but, as a result--
22 MR. VOSBURGH: Your Honor, I'd object and ask the Court
23 to instruct the witness.
24 THE COURT: To do what?
25 MR. VOSBURGH: To instruct the witness as to how to

FORM SMI-25 PENGAD/INDY 1-800 1989

1 answer questions as opposed to Mr. Norton.

2 THE COURT: Well, it would be nice if he'd let the

3 witness answer.

4 Q. As a result of what Mr. Champ said to you, what did you do,

5 Ms. Rogers?

6 A. I sold Robert the beer, and Robert and Leroy left at that

7 time.

8 Q. How much beer did you sell him just as closing time?

9 A. Six six-packs. That's a case and a half.

10 Q. A case and a half?

11 A. (Witness nods.)

12 Q. How did he pay for the case and a half of beer right there at

13 closing time?

14 A. He gave me $20 or $25 for the beer.

15 Q. Where did he get the money from?

16 A. Out of his pocket in his jeans.

17 Q. What did you observe when he reached into his pocket and come

18 out with his hand?

19 A. It was crumpled as he give it to me and everything.

20 Q. Did he just have one 20 in his hand when it came out--

21 MR. VOSBURGH: Objection.

22 THE COURT: The objection is sustained.

23 Q. Did you see how much he had in his hand?

24 A. No, sir.

25 Q. Now, after you sold him the case and a half of beer, describe

FORM SMI-25 PENGAD/INDY 1-800 -6989

1 for me what you saw and observed take place at that time?
2 THE COURT: Well, she said they left after she sold
3 him the beer. Are you going to change that?
4 A. No, sir.
5 THE COURT: Did something else happen?
6 A. No, sir. Um--
7 Q. Who left with him at that time?
8 A. Leroy.
9 Q. What happened after they went outside the door?
10 MR. VOSBURGH: Objection, Your Honor.
11 THE COURT: Well, did you go outside the door?
12 A. Yes, sir. I was leaving. I was locking the door.
13 THE COURT: All right.
14 Q. Describe for us what occurred, what you saw and observe happen
15 outside the door.
16 A. Okay. There's an "open" and "closed" sign that sits out at
17 Big Ed's Bar. I don't know what was said or anything. All I know
18 is that the sign came close to hittin' my car.
19 Q. Where was Mr. Solis and Mr. Spruill at that time?
20 A. They were still in the parking lot, walking away.
21 Q. Do you recall who was carrying the beer?
22 A. Robert.
23 Q. What happened to the beer, if anything?
24 A. Some of it busted.
25 Q. How did the beer get busted, if you know?

FORM SMI-25 PENGAD/INDY 1-800- 1989

1 Q. Where was the beer busted?
2 A. On the parking lot.
3 Q. Now, did you know where Mr. Spruill lived at that time?
4 A. No, sir.
5 Q. After you locked up the door, where did you go and what did
6 you do?
7 A. Smartie was with me, and I took Smartie, on my way home, to
8 his house.
9 Q. Did you also talk with the members of the S. B. I. and the
10 Sheriff's Department?
11 A. Yes, sir, I did.
12 Q. Did you tell them what you had observed there that night
13 there in the bar?
14 A. Yes, sir, I did.
15 Q. Did you also talk to a private investigator of Mr. Solis, a
16 fellow by the name of Mr. Hardison?
17 A. Yes, sir, I did.
18 Q. Did you tell Mr. Hardison, the private investigator for the
19 Defendant, what you told us here today?
20 A. Yes, sir.
21 Q. Specifically, did you tell him about the conversation that
22 Mr. Solis had at the bar with Mr. Spruill--
23 MR. VOSBURGH: Objection, Your Honor.
24 THE COURT: Sustained.
25 MR. NORTON: That's all the questions I have at this

FORM SMI-25 PENGAD/INDY 1-800-6 19

1 time, if Your Honor please.

2 MR. VOSBURGH: Your Honor, at this time, we would

3 request copies of prior statements.

4 THE COURT: All right. Give them copies of her prior

5 statements.

6 (Mr. Norton furnishes paper-writings to defense counsel for their

7 examination.)

8 CROSS EXAMINATION by MR. VOSBURGH:

9 MR. VOSBURGH: May I hand it to the witness?

10 THE COURT: Yes.

11 Q. Would you read that statement in its entirety, please.

12 (Witness complies.)

13 (During the period of time the witness is reading the paper-

14 writings, Mr. Vosburgh exits and then re-enters the courtroom.)

15 THE COURT: Have you finished reading it?

16 A. Yes.

17 Q. Ms. Rogers, did you work at Big Ed's Bar on Friday night,

18 December the 17th, 1993?

19 A. Yes, sir, I did.

20 Q. What time did you go to the bar on that day?

21 A. I don't remember.

22 Q. Did you see the Defendant and Leroy Spruill and Dana Maybin;

23 did you see them on that Friday?

24 A. Yes, sir.

25 Q. What time was it when you saw them?

FORM SMI-25 PENGAD/INDY 1-800 1989

1 A. I don't remember that neither.
2 Q. You don't remember that?
3 A. No, sir.
4 Q. Did you have a key to the bar so that you could open it?
5 A. Yes, sir, I did.
6 Q. When you opened it on that Friday, did Mr. Ed Champ, or, Big
7 Ed as he's called, was he there when you opened it on Friday?
8 A. Yeah--I mean, he was there, yeah.
9 Q. He was there when you opened on Friday?
10 A. Like when I walked in the door? Is that what you're asking?
11 Q. Yes, I'm asking that.
12 A. I don't remember.
13 Q. Did the Defendant, Robert, come in with Mr. Big Ed that night,
14 on Friday?
15 A. I don't remember.
16 Q. Did you see Leroy Spruill or Dana Maybin that night?
17 A. Yes, sir.
18 Q. On Friday?
19 A. Yes.
20 Q. What time did you see them?
21 A. I don't remember that neither.
22 Q. Did Robert leave the bar with Ed on Friday night and go home
23 and change clothes?
24 A. Not to my knowledge.
25 Q. Do you know how he got there, how Robert got there on Friday

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1 night?
2 A. No, sir.
3 Q. Do you know whether Dana Maybin and Leroy Spruill were
4 already there when Robert came in that night?
5 A. No, sir.
6 Q. Do you know whether or not, on Friday, that Robert, the
7 Defendant, had been working, pumping out septic tanks with
8 Big Ed during that day?
9 A. No, sir.
10 Q. Do you know how Big Ed paid Robert when he worked for him?
11 A. No, sir.
12 Q. Do you know whether or not he got paid by the week or by the
13 day?
14 A. I don't know that.
15 Q. Now, didn't the incident that you described involving the
16 sign, didn't that happen as you were closing the bar on Friday
17 night, December the 17th?
18 A. No, sir.
19 Q. Are you sure about that?
20 A. Yes, sir.
21 Q. On Friday night, didn't you and the Defendant have an
22 argument about change that you gave him when he purchased a beer?
23 A. I can't recall.
24 Q. Isn't that what precipitated the sign business was because he
25 claimed he gave you a 20 and you gave him change for a five; isn't

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1 that what happened?
2 A. I don't remember.
3 Q. You don't remember that?
4 A. No.
5 Q. And, isn't Friday, December the 17th, the night of
6 December 17th, isn't that the night that you called Big Ed about
7 the Defendant, Robert, and your cuttin' him off; didn't that
8 happen on Friday, December 17th?
9 A. No, sir.
10 Q. It did not?
11 A. No, sir.
12 Q. On Friday, did you see the Defendant, Robert, did you see him
13 leave the bar with Big Ed?
14 A. No, sir.
15 Q. And, in fact, didn't he come with Big Ed dressed in one way,
16 and didn't he return later dressed in different clothes?
17 A. I don't remember that.
18 Q. Do you recall how he was dressed when he first came into the
19 bar on Friday night?
20 A. No, sir.
21 Q. Do you recall how he was dressed when he left the bar on
22 Friday night?
23 A. No, sir.
24 Q. Now, when the bar was opened on Saturday night, did you see
25 the Defendant and Mr. Spruill and Dana Maybin when you first

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1 opened the bar?
2 A. Saturday?
3 Q. Yes, on Saturday night, December the 18th.
4 A. I seen Leroy and Robert 'cause they had just gotten off work
5 when I first got there.
6 Q. On Saturday?
7 A. Yes.
8 Q. Did you see Big Ed when you first got there?
9 A. Yes, sir.
10 Q. Now, this table that's right here (indicates), that's close to
11 the entrance, is it not?
12 A. Yes, sir.
13 Q. And, it's also located right outside the door to the dance
14 hall, isn't it?
15 A. Yes, sir.
16 Q. Now, during that Saturday night--well, first of all, did they
17 have a band there on Friday night?
18 A. No, sir.
19 Q. Did they have a band there on Saturday night?
20 A. Yes, sir, they did.
21 Q. Now, during the entire course of the evening, wasn't either
22 Big Ed or his wife, Lottie, or Gail or Ed, Jr., or any combination
23 of those or one or more of those people at that table during the
24 entire night?
25 A. Yes, sir, they were.

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1 Q. And, they positioned themselves at that location so that they
2 could help maintain order and observe who comes and goes; isn't
3 that right?
4 A. Yes, sir.
5 THE COURT: I think it's time for us to go. So, sit
6 down, and we'll quit for the day. You can step down.
7 (The witness leaves the witness stand.)
8 THE COURT: The jury looks like it's ready to go home.
9 Remember, I've got to tell you about how you're to behave, and
10 then leave your badges in your seats, and they'll be there for you
11 tomorrow morning. In any event, during this recess, do not talk
12 about this case among yourselves. The only time you may talk
13 about the case is when I instruct you to begin your deliberations.
14 Do not talk about the case with anyone or allow anyone to talk
15 with you in your presence about the case. If anyone attempts to
16 communicate with you or in your presence about this case, you must
17 notify me immediately. Do not form or express any opinions about
18 the guilt or innocence of the Defendant. Keep an open mind
19 until you've heard all the evidence, the arguments of the
20 attorneys, and the Court's instructions as to the law. Do not
21 speak with any party participating in the trial of this case.
22 This includes any witness, the Defendant, the attorneys, or
23 anyone else who might have an interest in the outcome of the
24 cases, and this rule applies inside as well as outside the
25 courtroom, and it prohibits any type of conversation, whether about

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1 the issues in the case or about the weather. It's your duty not
2 to read, watch, or listen to any accounts of this trial or make
3 any investigation or attempt to obtain information outside of the
4 courtroom about the cases. If you violate these instructions, it
5 could result in personal punishment. I'm going to ask you to
6 leave at this time and be back at 10:00 tomorrow morning. If
7 you'll take your badges off, everyone else remain seated, and I'll
8 see you tomorrow morning.
9 (The jury is excused and departs from the courtroom at 5:17 p. m.)
10 THE COURT: Take a recess until 10:00.
11 (Evening recess is taken at 5:20 p. m.)
12 SEPTEMBER 21, 1995, 10:00 A. M.
13 (Mr. Norton, Mr. Anglim, Mr. Vosburgh, Mr. Skinner, and the
14 Defendant are present.)
15 (The jury is in the jury room.)
16 THE COURT: Ms. Rogers, come back up to the witness stand.
17 (Witness complies.)
18 THE COURT: Bring the jury back.
19 (The jury is present in the jury box.)
20 THE COURT: The witness is with Mr. Vosburgh.
21 CROSS EXAMINATION by MR. VOSBURGH CONTINUES:
22 Q. Ms. Rogers, do you know what time the band arrived on the
23 night of December the 18th of 1993 at Big Ed's Bar?
24 A. No, sir, I don't remember that.
25 Q. Do you remember the Defendant being there and helping the band

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1 set their equipment up?
2 A. I don't remember that.
3 Q. Do you remember when the band first started playing?
4 A. Not an exact time.
5 Q. Do you remember what time they took their first break?
6 A. Somewhere between 9:30 and 10:00.
7 Q. And, I believe in your testimony yesterday, did you say
8 yesterday that the Defendant, Robert, and Leroy were present there
9 at the bar during the time the band took their break--?
10 A. Yes, sir.
11 Q. --and that's between 9:30 and 10:00.
12 A. Yes, sir.
13 Q. And you saw them there then?
14 A. Yes, sir.
15 Q. Did you see Dana Maybin there then?
16 A. Yes, sir.
17 Q. Now, do you know how many people there were at Big Ed's Bar
18 on that night?
19 A. No, sir, I do not.
20 Q. Was it a large crowd?
21 A. Like I said, I don't know how many people were there.
22 Q. Was the crowd a big crowd in comparison to the size of the
23 building?
24 A. You could say that.
25 Q. I could say that.

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1 A. Not huge or anything.
2 Q. But haven't you yourself made the statement that Big Ed's was
3 packed that night?
4 A. I don't recall.
5 Q. Do you recall speaking with Mr. Cliff Hardison about this
6 matter on Friday, May the 12th of 1995?
7 A. Yes, sir, I spoke with Mr. Hardison.
8 Q. And, didn't you tell him that the bar was packed that night?
9 A. I don't remember.
10 Q. Ms. Rogers, you don't have any independent recollection of
11 Robert or Leroy or either one or both of them changing their
12 clothes, do you?
13 A. Yes, I do. I remember their clothes being changed.
14 Q. Well, now, did you tell Mr. Hardison that you did not
15 remember that until somebody by the name of Steve Bell told you
16 that?
17 A. Yes, sir.
18 Q. And that's how you remembered it, isn't it?
19 A. Yes, sir.
20 Q. Was because you heard it from Steve Bell.
21 A. Because he brought it to my attention, and I remembered it.
22 Q. When was the first time that he brought it to your attention?
23 A. I don't recall.
24 Q. Do you know what time the band stopped playing that night?
25 A. No, sir, I don't.

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1 Q. Do you know how long they stopped playing before you closed
2 the place up on Saturday night?
3 A. No, sir.
4 Q. Do you know who paid the band when they left?
5 A. Ed Champ, I believe.
6 Q. And, wasn't Ed Champ there when you closed the bar up on
7 Saturday night, December the 18th?
8 A. Yes, sir.
9 Q. As a matter of fact, didn't he close the bar himself or help
10 close it, the whole building? Didn't he help close up the whole
11 establishment?
12 A. I don't remember.
13 Q. Now, how long did you continue to work at Big Ed's Bar after
14 December the 18th of 1993?
15 A. Until January.
16 Q. Until January?
17 A. Yes.
18 Q. Do you recall when in January, or, was it on New Year's Day?
19 Did you quit on New Year's Day?
20 A. No.
21 Q. Did you actually quit or were you fired?
22 A. I was fired.
23 Q. Do you recall when in the month of January you were fired?
24 A. Yes, sir.
25 Q. When was that?

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1 A. January 25th, my birthday.
2 Q. Now, after December the 18th of 1993, and before January the
3 25th of 1994, did you see the Defendant and Leroy Spruill and Dana
4 Maybin; did you see them in and out of Mr. Ed's bar from time to
5 time?
6 A. Yes, sir.
7 Q. And, do you recall how many times after December the 18th that
8 you would have seen them there?
9 A. No, sir, I don't.
10 Q. How wide a surface area is there at the bar?
11 MR. VOSBURGH: May I approach the witness?
12 THE COURT: Yes. Are you talking about the bar itself?
13 MR. VOSBURGH: (Nods.)
14 Q. I'll refer you back to State's Exhibit No. 23 and ask you how
15 wide is this area right here (indicates)?
16 A. I don't know. I've never measured it.
17 Q. Now, the bar itself is about as wide as these two tables
18 standing side by side, is it not?
19 A. Somethin' similar.
20 Q. And then, in front of the bar, or behind the bar, I guess it
21 would be, there's a set of coolers there where the drinks and
22 beer and things are kept.
23 A. Yes, sir.
24 Q. Do you know how wide those coolers are that project out from
25 the bar?

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1 A. No, sir.
2 Q. It's on the inside of the beer coolers is where you work when
3 you're tending bar; is that correct?
4 A. Yes, sir, it is.
5 Q. What distance would you estimate that to be, Ms. Rogers?
6 A. What distance of what?
7 Q. The width of the bar plus the width of the beer coolers or
8 the drink coolers between the customer standing at the bar or
9 seated at the bar and the inside where you would be working; what
10 distance would that measure?
11 A. Some of the coolers are underneath the bar itself.
12 Q. I understand that, but--
13 A. I don't know how wide.
14 Q. You don't know how wide--
15 A. No, sir.
16 Q. When you're tending the bar in the bar area, you cannot see
17 all the way in the area of the dance floor, can you?
18 A. No, sir.
19 Q. And, when you're tending bar, even if you go over to the far--
20 as you're facing the dance floor, if you go to the far left-hand
21 side of the bar, you can't see that third pool table back down
22 there either, can you?
23 A. No, sir, you can't.
24 Q. As a matter of fact, you can't even see all of the second pool
25 table, can you?

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1 A. That's right.
2 Q. And, in order to get to the men's room or the ladies' room,
3 you can't see who's going and coming from the restrooms, can you?
4 A. No, sir.
5 Q. And, as far as you know, the Defendant and Leroy could have
6 been anywhere else on those premises where you couldn't have seen
7 him, either one of them, could you?
8 A. I don't know.
9 Q. Well, if they had gone outside in the parking lot for some
10 fresh air, you wouldn't have been able to see them there, would
11 you?
12 A. No, sir.
13 Q. And, if they'd gone back to that third pool table back there
14 and were shootin' pool, you wouldn't be able to see them there,
15 would you?
16 A. No, sir.
17 Q. Do you know whether or not they shot any pool that night?
18 A. No, sir, I don't.
19 Q. Did you actually see Leroy and the Defendant dancing with each
20 other?
21 A. Yes, I did.
22 Q. Where was that done?
23 A. On the dance floor.
24 Q. But it was done on the dance floor near where the opening is
25 so that you can see in there from the bar; isn't that right?

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1 A. That's right.
2 Q. Had you ever seen them do that before?
3 A. Yes, sir.
4 Q. Didn't they do it to tease Big Ed?
5 A. I don't know about that.
6 Q. Did you ever hear Big Ed to tell them to stop?
7 A. Oh, yes, sir, a number of times.
8 Q. What would he tell them when he told them to stop?
9 A. Basically, they needed to stop dancing with each other.
10 Q. Didn't he tell them that he didn't want them to build a
11 reputation of it being a gay bar?
12 A. Definitely.
13 Q. He said it would ruin his business, didn't he?
14 A. Yes, it would.
15 Q. Do you know how long the band took when they took their first
16 break that night?
17 A. Not to my knowledge, no.
18 Q. But you do know that they started their break about 9:30?
19 A. (Witness nods.)
20 Q. Do you know how long they played their next set?
21 A. No, sir.
22 Q. Do you know how many breaks they took that night before the
23 evening was completed?
24 A. No.
25 Q. Now, when the band comes, there are double doors on the front

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1 wall of the dance hall; are there not?
2 A. Yes, sir, there are.
3 Q. Those double doors are opened up, aren't they?
4 A. Uh-huh.
5 Q. Is that where the band loads and unloads their equipment?
6 A. Yes, sir, it is.
7 Q. What happens to those doors after the band is unloaded and set
8 up?
9 A. Well, then it was cold; the doors were shut.
10 Q. They were shut, and the band was backed right up against those
11 doors while they were playing, weren't they?
12 A. I don't know.
13 Q. After the band starts playing, those doors are locked so
14 nobody can sneak in or sneak out; isn't that correct?
15 A. Yes, sir.
16 Q. Anybody that comes in has got to go by that table and pay
17 their cover charge, don't they, for the dance?
18 A. Yes, sir.
19 Q. Did they have a way of marking them so that, when they went
20 outside, they could come back in?
21 A. I don't remember that.
22 Q. You don't remember that?
23 A. No, I can't remember that.
24 Q. Isn't that one of the reasons that Big Ed or Lottie or Gail or
25 Ed, Jr., isn't that the reason that one or more of them stayed at

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1 that table?
2 A. Yes, sir.
3 Q. They collected all the cover charge money, didn't they, at
4 that table?
5 A. No, not at the table.
6 Q. They did not?
7 A. No. At the bar.
8 Q. The money was collected at the bar.
9 A. (Witness nods.)
10 Q. Why were they sitting right there?
11 A. That's where they usually sat.
12 Q. And, from that position, you could observe anyone that comes
13 in and anyone that goes out; isn't that right?
14 A. Yes, sir.
15 Q. Now, there's a back door to the place, is there not?
16 A. Yes, sir, there is.
17 Q. Is it barred up and closed?
18 A. I know it's always been locked while I was working there.
19 Q. Have you ever seen anybody go in or out of that door?
20 A. I don't think so.
21 Q. So, once the band gets in and those double doors are closed,
22 there's only one way in and one way out of that building, isn't
23 there?
24 A. Yes, sir.
25 Q. Now, when Robert or Leroy or both of them would buy beer, you

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1 don't know whether they were--when they would buy it in a larger
2 amount, you don't know whether they were buying it for a whole
3 table, do you?
4 A. Yes, sir, because, when he bought beer, if he did buy it in
5 large quantities, he would take it to the table he was buying it
6 for.
7 Q. But you don't know where he got his money to buy that beer
8 for that table, do you?
9 A. No, sir, I don't.
10 Q. Now, you said Leroy's hair looked wet that night.
11 A. Uh-huh.
12 Q. Didn't it look wet every night?
13 A. Sometimes it looked wet.
14 Q. How was it styled?
15 A. He had a perm in his hair.
16 Q. When you say a perm, describe what a perm looks like.
17 A. Curls in his hair.
18 Q. It's real kinky, isn't it?
19 A. Yeah.
20 Q. And, you spray it with mousse, and it makes it kinkier,
21 doesn't it?
22 A. Yeah.
23 Q. And, it looks wet, too, when you do that, doesn't it?
24 A. Yes, sir.
25 Q. And, most people who style their hair that way, they do it for

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1 that look, that wet look, don't they?
2 A. Yes, sir, they do.
3 Q. I believe you said you worked at two other locations, the
4 Oasis and the Covered Wagon; is that right?
5 A. Uh-huh.
6 Q. How long did you work at the Oasis?
7 A. A long time. I don't know how long exactly. I worked for
8 Roger Allen. He had a bar in Belhaven and in Plymouth, so I
9 basically worked at both of them.
10 Q. What was your reason for leaving the Oasis?
11 A. Me and Roger had a disagreement.
12 Q. He fired you, didn't he?
13 A. No. I left.
14 Q. Ms. Rogers, do you know how Robert, Leroy, and Dana, do you
15 know how they got to the bar that night?
16 A. No, sir, I don't.
17 Q. Do you know how they got there Friday night?
18 A. No, sir, I don't.
19 Q. Do you know whether they all three came together on Friday
20 night?
21 A. I can't recall.
22 Q. Do you know whether or not they all three came together on
23 Saturday night?
24 A. They all came in the door at the same time Saturday night.
25 Q. When you closed up and left, do you know how they left the

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1 parking lot area; do you know how they left that area of the bar?
2 A. They were walkin' when I left.
3 Q. How many of them were walking?
4 A. Leroy and Robert.
5 Q. Just the two?
6 A. Yes.
7 Q. You didn't see Dana anywhere then, did you?
8 A. No. She walked out a couple of minutes before they did. She
9 said if they wanted to know where she went, she was headin' home.
10 MR. VOSBURGH: Judge, that's all the questions I have
11 at this time.
12 THE COURT: Anything further, Mr. Norton?
13 MR. NORTON: Yes, if Your Honor please.
14 REDIRECT EXAMINATION by MR. NORTON:
15 Q. Ms. Rogers, you were asked by Mr. Vosburgh about the hair of
16 Mr. Leroy Spruill. I believe you indicated that there were--
17 MR. VOSBURGH: Your Honor, I object to the statement of
18 counsel.
19 THE COURT: Objection is sustained.
20 Q. You were asked about the hair by Mr. Vosburgh.
21 A. Uh-huh.
22 Q. Had you seen Mr. Spruill on other occasions at the bar when
23 his hair was wet?
24 A. Yes, sir.
25 Q. Now, on the 18th of December, the time that you saw him at the

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1 bar, when he first came in, he and Mr. Spruill, was there any
2 difference in his hair at that time and the way it was when you
3 saw him later between 9:30 and 10:00 there at the bar?
4 A. It didn't look the same when he come back at 9:30, 10:00.
5 Q. How did it look different?
6 A. It was pushed back on the sides, and, I mean, it did look wet.
7 Q. Had it looked wet and in that same condition when you had
8 seen him earlier that night?
9 A. No, sir.
10 Q. Now, you were also asked about the change of clothes, and I
11 believe you were, in fact, interviewed by Mr. Hardison, a private
12 investigator for Mr. Jones, on Friday, the 12th of May, I believe.
13 A. Yes, sir.
14 Q. Where did this interview take place?
15 A. It took place in my home.
16 Q. Did you tell Mr. Hardison what you've told the Court here both
17 today and yesterday?
18 A. Yes.
19 Q. Do you recall seeing the change of clothes that you
20 described yesterday?
21 A. Yes, I do.
22 Q. Now, you were asked this morning about whether or not Steve
23 Bell mentioned it to you. Did you have a conversation with
24 Mr. Bell?
25 A. Yes, I did.

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1 Q. Did Mr. Bell have to tell you--

2 MR. VOSBURGH: Objection to the form of the question,

3 Your Honor.

4 THE COURT: Objection is sustained.

5 Q. Do you recall seeing the change of clothes?

6 A. Yes.

7 Q. Do you recall when it was that Mr. Bell mentioned it to you,

8 I believe, at a later time you said in your interview?

9 A. I can't recall in my statement what it said. I can't recall

10 what it said in my statement.

11 Q. Well, the statement says you "...remembered the change of

12 clothes when a boyfriend, Steve Bell, mentioned it at a later

13 time..." Was it three weeks later or that night when he came in

14 that you noticed it?

15 A. It was just later. I don't--

16 Q. You don't remember.

17 A. No, sir.

18 Q. The money that you saw, how was that different?

19 A. Well, earlier, he said he had $5, and; when he come back, he

20 had some money.

21 Q. Are you the one that took up the money at that time?

22 A. Either me or Ed did.

23 Q. But you saw the money.

24 A. Yes, sir.

25 Q. You were also asked about the distance between the bar and

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1 these coolers. Now, where were the coolers situated with
2 reference to the top of the bar?
3 A. They were more or less mostly under it. You slid the lid up,
4 and you got your beer out or whatever.
5 Q. So, part of the cooler where the beer was was up--if this
6 were the bar area here where my table is--
7 A. Uh-huh. The sliding door would be right there where you're at.
8 Q. Where I am?
9 A. Uh-huh.
10 Q. And the cooler itself would be up under it--part of it would
11 be up under the table.
12 A. Yes.
13 Q. Now, do you see anything from where you're sitting, Ms. Rogers,
14 to point out to us how far apart you were from Leroy and Robert
15 Spruill when you heard the statement made that you described
16 yesterday? From where you're sitting.
17 A. Maybe a little bit from this table to the edge of that
18 table (indicates). I don't--
19 Q. Are you talking about from this table (indicates) to this
20 table (indicates)?
21 A. About right here (indicates) to that table.
22 Q. From the location of where these photographs are to this
23 table (indicates)?
24 A. Something like that.
25 Q. Four, five feet.

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1 A. Yes, something like that.
2 MR. VOSBURGH: Well, objection; move to strike the
3 statement of counsel.
4 THE COURT: Overruled; motion denied.
5 Q. Now, you were also asked about when you left the employment
6 of Big Ed's Bar. I believe you said you were fired.
7 A. Yes, sir.
8 Q. You recalled that as being the 25th of January, your
9 birthday.
10 A. Yes, sir.
11 Q. How was it that you got fired, Ms. Rogers?
12 A. I was having a party, and there were some under-age kids in
13 there.
14 Q. Where were you having the party?
15 A. In the bar.
16 Q. Was the bar open at that time?
17 A. No, huh-uh.
18 Q. It was just a birthday party.
19 A. Yes.
20 Q. And, as a result of the under-age people that were there and
21 the beer license, you were terminated?
22 A. (Witness nods.)
23 Q. Had there been other occasions, Ms. Rogers, when there had
24 been under-aged people there inside the bar?
25 THE COURT: You don't have to answer that question.

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1 Q. You were also asked about whether or not you had seen
2 Mr. Spruill and Mr.--
3 MR. VOSBURGH: Your Honor, I'd object to the form of
4 the question. He's leading before he ever gets to the question
5 point.
6 THE COURT: Overruled at this point.
7 Q. Mr. Vosburgh asked you whether or not you had seen them dance
8 together before, Jones and Spruill.
9 A. Yes, sir.
10 Q. You said that you had.
11 A. Uh-huh.
12 Q. Was there anything different about the way they were dancing
13 and carrying on that night, the night of December the 18th, from
14 other occasions that you had seen them?
15 A. They were actin' more wild, crazy.
16 Q. More wild and crazy?
17 A. (Witness nods.)
18 MR. NORTON: That's all I have
19 THE COURT: Anything further?
20 MR. VOSBURGH: Nothing else from the Defendant, Your
21 Honor.
22 THE COURT: You may step down. Call your next witness.

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Maurice Wilkins: Maurice Wilkins testified that he saw Spruill driving his father's light blue truck past Lee McPhatter's trailer toward the Victim's house around 8:40pm on the night of the murder. McPhatter's trailer can be located on the map provided below with Dennis Honeycutt's full testimony. Wilkins was cross-examined regarding the wound on his hand and the fact that he was not originally forthcoming with investigators which he attributed to the fact that he was a suspect in the case at the time. (TT p. 758-788).

Jones' Trip to Tennessee: A large portion of the evidence presented by the State at trial also included the facts surrounding Jones leaving North Carolina for Tennessee and being captured there. The State presented several witnesses relating to the search for Jones following Maybin's confession. Law enforcement witnesses that testified regarding the search for Jones indicated they were explicit about looking for him in connection with a murder when they went to the Champs' on April 24, 1994. However, Ed Champ, Sr. testified that law enforcement only said they needed to ask Jones questions and did not mention the murder. Lottie Champ also testified that Janice Spruill did not say anything about a murder when she came looking for Jones.

Kevin Furlough, who was approximately 16 years old at the time of the murder, lived with Jones on the Champs' property. Furlough, who later married Lisa Champ, testified that after a WCSO deputy came to the Champs' property looking for Jones in connection with the Victim's murder, the Champs gave Furlough keys, car, and money to take Jones to the bus station in Rocky Mount, NC. Because Jones became nervous about buying a bus ticket, Furlough drove Jones all the way to Tennessee. The State brought several other law enforcement witnesses to outline the efforts made to locate Jones both in North Carolina and Tennessee. Ultimately Jones was found underneath a home in Tennessee after surveillance of the home. (TT 813-843).

Jack Spruill's Blue Truck: Based on the testimony and evidence that Spruill was seen driving his father's blue truck near the Victim's residence, the Defense brought in several witnesses to show that the truck was not available to Spruill on the night of the murder. Jack Spruill testified that Spruill borrowed his truck on the 15th or 16th of December but that after that date, he was sure nobody drove the truck. Jack Spruill was not asked and did not provide any further specifics on how he knew that nobody drove the truck. He testified that the truck was kept in his yard when it was not in use. Jack Spruill also testified that the transmission to the truck had been damaged and that it would run but it would not go into high gear because of the damage to the transmission. Jack Spruill indicated that the truck required 2-3 quarts of fluid per day because of a leak if it were driven any distance. Jack Spruill also testified that the only two keys to the truck's ignition were held by him and his wife and he did not allow anyone to use the truck on December 18, 1993. (TT 936-945).[34]

Pattie Spruill, Spruill's mother, testified similarly that she did not even see Spruill on December 18, 1993 and that she did not loan him her key to Jack Spruill's blue truck. (TT 947-952).

Additionally, Vickie Hall, who lived across from Jack and Pattie Spruill, testified that she saw Jack Spruill's blue truck in his yard on December 18, 1993. She also testified under cross-examination that the truck was in the yard the majority of the time. Ms. Hall considered Jack Spruill a good friend and had known him for approximately 25 years. (TT 992-998).

[34] This is inconsistent with Spruill's December 24, 1993 statement to law enforcement in which he indicates that he used his father's truck on December 18, 1993 to go to Winn-Dixie.

A mechanic, Scott Moore, testified that Jack Spruill's truck, while drivable, had a damaged transmission that required 2-3 quarts a day of fluid due to the leaking seal. He testified that the truck would go into high gear, but did indicate that there was an issue with the truck moving between the gears due to the damage. (TT 1041-1045).

Edward Champ, Sr.: Champ, Sr. testified consistently with his law enforcement interview that Spruill, Jones and Maybin were at Big Ed's Bar all night the night of the crime. In addition, he testified in contradiction to Rogers that he closed up the bar, not Rogers. Champ, Sr.'s testimony also includes information concerning his termination of Lynn Rogers, and his involvement in Jones' trip to Tennessee. Champ Sr.'s testimony is provided below in full for review.

Call your next witness.

MR. VOSBURGH: Mr. Ed Champ.

EDWARD CHAMP, SR., being first duly sworn, testified as follows during DIRECT EXAMINATION by MR. JAMES R. VOSBURGH:

Q. State your name, please.

A. Ed Champ.

Q. Mr. Champ, where do you live?

A. Mill Pond Road.

Q. How far is that from where Mr. Jack Spruill lives?

A. Oh, between two- to three-tenths of a mile.

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 Q. How far is your home from the intersection of Slough Road
2 and Mill Pond Road?
3 A. I measured it one time; but, between seven- and eight-tenths
4 of a mile, something like that.
5 Q. Do you know how far it is from Mr. Spruill's house to where
6 Leroy Spruill was living back in December of 1993?
7 A. I'd say about three-tenths of a mile.
8 Q. Do you know how far it is from Leroy Spruill's house to
9 the place known as Big Ed's Bar, where it's located?
10 A. About three-tenths of a mile.
11 Q. Is there a place that you own or operate that is known as
12 Big Ed's Bar in Roper?
13 A. Yes, sir.
14 Q. How long have you been operating that place?
15 A. About two years and two months.
16 Q. Now, I'll invite your attention back to the evening of
17 December the 18th of 1993 and ask you if your bar was open on that
18 day.
19 A. Yes, sir.
20 Q. Do you recall what time it was that the bar opened?
21 A. I got there about 15 'til 7:00 or 7:00, something like that.
22 Q. Say again.
23 A. I got there about 15 'til 7:00 or 7:00.
24 THE COURT: He asked you what time it opened.
25 A. Oh, about 7:00.

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 Q. Are you the one that opened the bar?
2 A. Yes, sir.
3 Q. On that day?
4 A. Yes, sir.
5 Q. Was there anybody else there when you opened the bar?
6 A. No, sir.
7 Q. Who was your bartender that night?
8 A. Lynn Rogers.
9 Q. Do you know what time it was that she came to work?
10 A. I'd say probably about between 8:00 and 8:30.
11 Q. Who tended bar until she got there?
12 A. I did.
13 Q. Did you see Leroy Spruill, Wallace Brandon Jones, and Dana
14 Maybin? Did you see those three people there in your bar?
15 A. Yes, sir.
16 Q. Do you recall what time it was when you first saw them there?
17 A. It was between 7:30 and 8:00.
18 Q. Where were they on the premises when you first saw them?
19 A. They come through the doors where the band comes in and sets
20 up. They come through the band doors.
21 Q. Were there many people there at the bar at that time of the
22 evening?
23 A. I think Leroy Spruill was there at the time. I think he was
24 about the only one--and the band people.
25 Q. Did you see where Leroy and Dana Maybin and the Defendant, did

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 you see where they went after they got there?
2 A. I think they went and stood around the bar and drank beer.
3 Q. Now, during the course of the evening, where do you generally
4 stay?
5 A. I've got a little family table just as you come in the door.
6 Q. Now, I'll show you what's been identified and introduced
7 into evidence as State's Exhibit No. 23 and ask you to look at
8 that and see if you recognize it.
9 (Witness complies.)
10 A. Yes, sir. That's the inside of my bar.
11 Q. What is it?
12 A. Ah--
13 Q. Is that a diagram?
14 A. Yes, sir.
15 Q. What is it a diagram of?
16 A. Inside the bar.
17 Q. Point out, if you would, where on the diagram it is that you
18 stay or have a table during the evening while the place is open.
19 A. It's this little room where you come in (indicates).
20 Q. Do you see the entrance to the bar?
21 A. Oh, yeah. I got turned around. Here's the entrance down
22 here toward the bottom (indicates). Here's the entrance, and
23 that's where the family table is at.
24 Q. Is that your family table?
25 A. Yes.

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 Q. Who generally sits there during the course of the evening
2 while the bar is open?
3 A. My wife and myself and sometimes my sister-in-law and maybe
4 one of my daughters.
5 Q. Why do you have your family table located in that location?
6 A. So I can see who's coming in and going out and see what's
7 going on on the dance floor and see what's going on in the bar
8 room.
9 Q. Did you spend some time at that table on the night of
10 December the 18th of 1993?
11 A. Yes.
12 Q. Do you know how much time you stayed there?
13 A. No, sir, I don't.
14 Q. What else did you do besides sit there at the table, at your
15 family table, by the door? What else did you do?
16 A. I keep a walk all around the dance floor, and I walk back
17 where the pool tables are at and back in the bathroom, just make
18 sure nobody's arguing or any trouble's startin'.
19 Q. After you saw Leroy and Dana and the Defendant come in, did
20 you see where they went?
21 A. They went and stood around the bar.
22 Q. Do you know how long they stayed there?
23 A. You mean at that time?
24 Q. At the bar at that time when you first saw them.
25 A. I seen them one time shootin' some pool.

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 Q. Which one of them was shootin' pool, or, how many of them
2 were?
3 A. I think it was Robert and Leroy shootin' pool.
4 Q. Did you see them do anything else there?
5 A. No, sir.
6 Q. What time did the band come that night?
7 A. Between 7:30 and 8:00.
8 Q. Had this particular band ever played at that site or played
9 a job at your place before?
10 A. I think one time before.
11 Q. Do you recall what time it was that night that they started
12 playing?
13 A. 9:00.
14 Q. Do you recall whether or not Leroy and Dana and Robert were
15 present when the band started?
16 A. Yes, sir.
17 Q. How do you know they were present then at 9:00?
18 A. 'Cause they was aggravatin' me all night.
19 Q. How were they aggravating you?
20 A. Dancin' with each other.
21 Q. Was that done during the first set that the band played?
22 A. Yes, sir.
23 Q. How long did the band play its first set?
24 A. They played about 45 minutes, and then they'll take a 15-
25 minute break.

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 Q. When was the first break that the band took?
2 A. About quarter 'til 10:00.
3 Q. Between 8:30 when you saw them come in and 9:00, did you ever
4 see them leave the building at any time?
5 A. They went out when the band took a break.
6 Q. Do you know what they were doing when they went outside?
7 A. No, sir.
8 Q. How long a period of time did they stay?
9 A. Ten to fifteen minutes.
10 Q. How many times did you see them leave the building?
11 A. Four or five times.
12 Q. What was the longest period of time that you recall that they
13 were gone from the bar?
14 A. I'd say 15 minutes.
15 Q. When it came to closing time that night, was Lynn Rogers
16 still working there?
17 A. No. As soon as the band quit, she left.
18 Q. Do you know what time it was that the band quit?
19 A. One o'clock.
20 Q. Who paid the band when they left?
21 A. I did.
22 Q. Who closed the place up?
23 A. I did.
24 Q. Did you see any altercation between the Defendant and
25 Ms. Rogers or anyone else there at the bar?

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 A. No, sir.
2 Q. Did you see either Dana Maybin or the Defendant or Leroy
3 Spruill, did you see them leave?
4 A. The band, by the time they got all their stuff packed up, it
5 was about 1:30. That's when I locked the doors and left. Leroy
6 and Smartie rode with me and--
7 Q. Rode with you in your vehicle?
8 A. --rode with me in my pickup. I dropped Leroy and Smartie off
9 at Leroy's house. Robert and the girl was walkin' down the
10 road and--
11 Q. Did you see them walking on the road after you left the
12 parking lot of your place of business?
13 A. Yes, sir.
14 Q. What did you do?
15 A. I stopped and asked them if they wanted a ride.
16 Q. Did they accept the ride?
17 A. No, sir.
18 Q. What did you do after that?
19 A. I just went and dropped Leroy and Smartie off and went on
20 home.
21 Q. Did you ever see the Defendant and Dana Maybin arrive at
22 Leroy's house?
23 A. No, sir.
24 Q. Now, on December the 18th of 1993, how long had you known this
25 Defendant?

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 A. I'd say about three months--close to three months.
2 Q. How did you happen to meet up with him?
3 A. He was living in a farm house with some migrant workers. I
4 went down there a couple of times, and he wasn't working. I had
5 a little work, so I just told him to come and help me off and on
6 as I needed help.
7 Q. Did he go to work for you?
8 A. Off and on.
9 Q. What kind of work did he do?
10 A. Septic tank work.
11 Q. Did he also tend bar for you there at Big Ed's Bar?
12 A. Yes, sir, a couple of times he run the bar for me.
13 Q. Do you recall whether or not he did any septic tank work for
14 you on Saturday, December the 18th?
15 A. Yes, sir, two days. He worked Friday and Saturday.
16 Q. He worked both that Friday and Saturday?
17 A. Yes, sir.
18 Q. Do you recall what time you finished working on Friday,
19 December the 17th?
20 A. It was probably 7:00 or 7:30.
21 Q. Where did you go when you got off work?
22 A. I stopped by the bar, and; Lynn Rogers, she had opened, and
23 she hadn't cut all the lights on. I went back through the bar
24 and finished doing what she hadn't done.
25 Q. Was the Defendant with you on that Friday night when you went

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 there?
2 A. Yes, sir.
3 Q. How long did you stay there that evening?
4 A. Maybe 10 minutes.
5 Q. Did the Defendant, was he there with you during that period
6 of time?
7 A. Yes, sir.
8 Q. When you left, was he with you?
9 A. Yes, sir.
10 Q. Where did you all go?
11 A. Up to my house.
12 Q. Did you see him that night anymore after you got up to your
13 house?
14 A. Yes, sir.
15 Q. Where was he when you saw him?
16 A. At my house?
17 Q. Yes.
18 A. I think he come over about a half hour or hour later and
19 drank a cup of coffee with me.
20 Q. Do you know what time he left on Friday?
21 A. No, sir.
22 Q. At what time did you go to work on that Saturday morning of
23 December the 18th?
24 A. Approximately 8:00.
25 Q. Do you know how long you worked that day?

1 A. We worked a couple of hours and then come home for a couple
2 of hours and then go back out again a couple of hours.
3 Q. Do you know what time it was that you quit work for that day
4 on that Saturday?
5 A. I'd say about 3:00.
6 Q. Where did you go when you quit work about 3:00 on that
7 Saturday?
8 A. Stayed home.
9 Q. Did the Defendant go to your home with you when you went
10 home?
11 A. Yes, sir.
12 Q. What did he do after he got home?
13 A. He was over to my son's.
14 Q. Do you know how long he stayed there?
15 A. No, sir, I don't.
16 Q. Did you see him leave after you got back to your home?
17 A. No, sir.
18 Q. During that period of time while he was working with you on
19 Saturday, had he consumed any alcoholic beverage at all of any
20 kind?
21 A. No, sir.
22 Q. Had he consumed any alcoholic beverage when you took him back
23 to your home that afternoon when you quit work?
24 A. No, sir.
25 Q. Did you see him at all anywhere after you took him to your

FORM SMI-25 PENGAD/INDY 1-800-62 19

1 home when you finished work on Saturday, the 18th?
2 A. I don't remember if I did or not.
3 Q. How was it that you paid him when he worked for you?
4 A. I'd just pay him mostly each day when I'd worked him.
5 Q. Did you pay him for the work that he did for you on Friday?
6 A. No, I don't think I'd paid Friday or Saturday.
7 Q. You don't think you'd paid him either day?
8 A. No, sir.
9 Q. Do you know whether or not he had done any other work for any
10 other person other than you?
11 A. No, sir. Well, he done some work for my son, too. He worked
12 some for him, too.
13 Q. What kind of business is your son in?
14 A. He's paving and asphalt.
15 Q. Do you know how he was paid when he worked for your son?
16 A. About the same way I did.
17 Q. Do you remember, when you went into the bar on Friday with
18 the Defendant, do you remember what he was wearing?
19 A. No, sir.
20 Q. Was he wearing--had you changed clothes from work that day
21 before you went--?
22 A. No. Work clothes.
23 Q. Do you know what he was wearing when he left that Friday
24 night, or, did you even see him leave?
25 A. No, sir.

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 Q. Did you see him leave late in the afternoon on the 18th?
2 A. From where?
3 Q. From your home.
4 A. No, sir.
5 Q. Mr. Champ, you indicated that Leroy Spruill and the
6 Defendant, Mr. Jones, were dancing with each other. Did you ever
7 see them dance on a table?
8 A. No, sir.
9 Q. Describe the tables there that are present in the place, if
10 you would.
11 A. The tables are approximately three foot wide and probably
12 eight foot long. I had two of them that big. They're of
13 approximately five-eights plyboard thick.
14 Q. Have you ever seen anybody dance on those tables?
15 A. No, sir.
16 Q. Did you see anybody dance on those tables on that night?
17 A. No, sir.
18 Q. Where actually were they when you did see them dance?
19 A. Out in the dance floor.
20 Q. Where there other people on the dance floor when they were
21 doing that?
22 A. Yes, sir.
23 Q. When you were tending bar there and before Lynn Rogers came,
24 did you serve either Leroy or Dana Maybin or the Defendant, did
25 you serve any one or any combination of them any drinks of any

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 kind?
2 A. I don't remember if they drank any beer at that time or not.
3 Q. Do you recall serving either one or any combination of them any
4 beer during the course of the night?
5 A. Yes, sir.
6 Q. When was that?
7 A. All during--all the time they was there.
8 Q. Did you do that yourself?
9 A. Lynn. Lynn Rogers and sometimes I'd go up and help her out.
10 Q. Do you recall actually serving them?
11 A. Yes.
12 Q. Did you know what they were doing when they went to the
13 outside of your place?
14 A. No, sir.
15 Q. You did not?
16 A. No, sir.
17 Q. Had you ever found Leroy Spruill with any whiskey on the
18 inside of your place of business?
19 A. No, sir.
20 Q. You had not?
21 A. No, sir.
22 Q. Now, when the band comes in and sets up, what's done with the
23 double doors that are on the front of the building?
24 A. They're locked back up.
25 Q. Did you lock them on that occasion?

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 A. Yes, sir.
2 Q. Once you locked them, did you permit anyone to leave out
3 those doors?
4 A. No, sir.
5 Q. Is there a back door to this establishment?
6 A. Yes, sir.
7 Q. Is that door usable?
8 A. Yes, sir.
9 Q. How do you go in and out of the back door?
10 A. By locking and unlocking.
11 Q. Does it have bars on the outside of it?
12 A. Yes, sir.
13 Q. Was that door so that anyone could go in or out on the night
14 of December the 18th?
15 A. No, sir. It stays locked all the time.
16 Q. Now, did you see the Defendant and Leroy Spruill and Dana
17 Maybin with any other people while they were there?
18 A. Talkin' to different ones, yes.
19 Q. Do you recall any of them specifically that they were talking
20 to?
21 A. No, sir.
22 Q. Did either one of them or any combination of them ever come
23 over and join you at the table where your family sits?
24 A. Yes, sir; they come over and talked to us.
25 Q. Did they actually come and sit with you, or, did they just

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 come over to talk with you?
2 A. Just stood and talked to us.
3 Q. Do you know how long they stayed there?
4 A. Maybe five, six minutes at a time.
5 Q. Do you have any recollection of what time it was that they
6 were there?
7 A. I think the first time was maybe 9:30, then again, maybe
8 10:00, going back and forth talkin' to us.
9 Q. Did you notice anything at all unusual about the manner in
10 which the Defendant or Mr. Spruill or Ms. Maybin conducted
11 themselves during the period of the time that you say that they
12 were there?
13 A. No, sir, not that I can think of.
14 Q. Did you see or notice anything unusual about the clothing or
15 anything that any of them were wearing?
16 A. No, sir.
17 Q. Do you have any recollection of what they were wearing that
18 night?
19 A. No, sir.
20 Q. Do you remember how Leroy Spruill had his hair styled on that
21 occasion?
22 A. Yeah. It's like real curly and wet.
23 Q. Had you seen him wear his hair in that style on other
24 occasions?
25 A. Every time he come there.

FORM SMI-25 PENGAD/INDY 1-800-P 989

1 Q. Did his hair always appear wet when he would come there?
2 A. Yes, sir.
3 Q. Did you ever hear or observe any argument or any altercation
4 of any kind between Dana Maybin and the Defendant on that night
5 of December the 18th?
6 A. No, sir.
7 Q. Were you there in the bar on New Year's Eve?
8 A. Yes, sir.
9 Q. Did you see Dana Maybin and the Defendant there together on
10 New Year's Eve?
11 A. They was there; but, I don't think they was together.
12 Q. Do you know a Ms. Connie Oliver?
13 A. Yes, sir.
14 Q. Where does she live with relation to your establishment known
15 as Big Ed's Bar?
16 A. Her property and mine join right in the back.
17 Q. Right behind there?
18 A. Right behind my bar.
19 Q. Mr. Champ, during the period of time, or, after December the
20 18th, did the Defendant continue to live there at your place?
21 A. He left--he stayed there for another couple of more weeks,
22 and I think he left sometime in January.
23 Q. Do you know where he went in January?
24 A. He said he went home.
25 Q. Did you help him get home?

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1 A. No, sir.
2 Q. Did you see him again after that?
3 A. Yes, sir.
4 Q. When was that?
5 A. February, March--I don't remember exactly when it was.
6 Q. Did he come back and do some more work for you during that
7 period of time?
8 A. Yes.
9 Q. How long did he work for you after he came back from
10 Tennessee?
11 A. Probably a month, month and a half.
12 Q. Did he stay right there at your home?
13 A. Yes, sir.
14 Q. Where was he living?
15 A. He lived a couple of weeks in the camper trailer, and I think
16 he lived a couple of weeks in an apartment I had up there.
17 Q. Did he live in an upstairs garage apartment with Kevin
18 Furlough?
19 A. Yes, sir.
20 Q. Did he actually live for at least part of the time in the
21 mobile home camper that you had behind your house?
22 A. Yes.
23 Q. When was it that he actually lived in the camper?
24 A. I can't tell you exactly when it was.
25 Q. Now, were you at home at any time when any law enforcement

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officers came to your home looking for the Defendant? Were you at home at any time?

A. No, sir.

Q. Did you see Jimmy Peal come there?

A. I didn't see him come to my house. He come to the farm while I was out on the farm.

Q. Do you remember what day it was when he came?

A. No, sir. It was a Sunday. That's all I know.

Q. On a Sunday?

A. I don't know what date it was.

Q. What did Mr. Peal ask you?

A. He asked me did I know where Robert was at.

Q. What did you tell him?

A. I told him he told me he was going to the laundromat and wash his clothes.

Q. Did you describe any type of a vehicle to Mr. Peal that he would have been riding in or driving?

A. No, sir.

Q. Now, did you ever on that day or any subsequent time, were you present at any time any law enforcement officers came to look for Robert?

A. I wasn't home. I was on the farm all that day. They come back and forth on the farm all day where I was at.

Q. How many times did they come out there on the farm to you?

A. I'd say three, maybe four.

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Q. When you say the farm, is that where your house is located?
A. No, sir. That's about three miles from my house.
Q. Did you ever see Deputy Sheriff Janice Spruill or Willie Williams, did you see either one of them on that day?
A. Yes, sir; they come to the farm where I was at.
Q. Did they talk with you there?
A. Yes, sir.
Q. Did any one of them tell you why they wanted to see the Defendant?
A. Janice told me that he had murdered two girls in Texas.
Q. Is that what she told you?
A. Yes, sir.
Q. Did you know anything about anything of that nature?
A. No, sir.
Q. Is that all she told you?
A. Just that I had a dangerous man--keepin' a dangerous man around me.
Q. Did you know anything of that nature about him?
A. Well, what I knowed about him, you know, he was just to me like one of my kids with him stayin' over there with me.
Q. Had he ever demonstrated any characteristics of that nature to you in your presence?
A. No, sir.

MR. NORTON: Objection, if Your Honor please.

THE COURT: Well, he's already answered it.

1 Q. What was the name of the band that played at your place on the
2 night of December the 18th?
3 A. Good Time Country.
4 Q. Do you remember the names of any of the people that were in
5 the band?
6 A. They lived right there on Folly Road, two of them does.
7 Woodley.
8 Q. Do you know his first name?
9 A. Woodley is all I ever knowed him by. I think his wife's
10 name is Shirley.
11 Q. Do you know whether or not the Defendant maintained any type
12 of a bank account either in Roper or in Plymouth during the time
13 that he worked for you?
14 A. I think he had an account at Branch Bank. I ain't for sure.
15 Q. Now, Kevin Furlough is your son-in-law now; is that correct?
16 A. Yes, sir.
17 Q. Is he married to your daughter, Lisa?
18 A. Yes, sir.
19 Q. What sort of a relationship do you have with him?
20 A. I don't.
21 Q. You do not?
22 A. No, sir.
23 Q. Why not?
24 A. Well, just the way he's done.
25 Q. What has he done that has caused that?

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 A. Well, the first time--
2 MR. NORTON: Objection, if Your Honor please.
3 THE COURT: The objection is sustained.
4 A. --he took my car--
5 THE COURT: Wait a minute. The objection is sustained.
6 Q. Do you know whether or not Kevin Furlough ever took a
7 vehicle of yours to Tennessee?
8 A. Yes, sir.
9 Q. Did he have your permission to do that?
10 A. No, sir.
11 Q. Did you know when he was doing that that that's where he was
12 going?
13 A. No, sir.
14 Q. Is that a part of the strained relationship that you have
15 with him--?
16 MR. NORTON: Objection.
17 A. Yes.
18 THE COURT: Overruled.
19 Q. Now, was your son-in-law, Kevin Furlough, was he at Big Ed's
20 Bar on the night of December the 18th?
21 A. I don't recall if he was or not.
22 Q. When was the first time that you found out that Kevin
23 Furlough had taken a vehicle of yours to Tennessee?
24 A. I'd say it was on a Tuesday.
25 Q. Was that Tuesday after he got back?

FORM SMI-25 PENGAD/INDY 1-800-631-6989

A. The deputies come down a huntin' for him like on a Sunday, and it was Tuesday before I seen him again.

Q. Saw Kevin?

A. Yes.

Q. Was it then that you found out that he had gone to Tennessee?

A. No, sir. It was probably on a Wednesday before I found out about it.

Q. Did you know at the time that he left to go to Tennessee, did you know that this Defendant was with him at that time?

A. No, sir.

Q. When was it that you found out that the Defendant was with him?

A. Probably on a Wednesday or Thursday. Probably a week afterwards.

Q. How long after December the 18th of 1993, how long after that period of time, did you continue to employ Lynn Rogers as a bartender?

A. It was about the last part of January.

Q. January of 1994?

A. Yes, sir.

Q. What was the reason for her leaving your employment?

MR. NORTON: Objection, if Your Honor please.

THE COURT: Overruled.

A. I'd let her have a birthday party down there for herself, and; she was supposed to have locked the doors and just have a

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 private party. I went down there, and the doors were unlocked,
2 and she had a bunch of kids in there. My wife went and run them
3 all out.
4 Q. Was that the reason for terminating her employment at the bar
5 at that time?
6 A. Well, that's some of it. A lot of it was what she'd done to
7 me before that.
8 Q. What had she done to you before that?
9 MR. NORTON: Objection.
10 THE COURT: Objection is sustained.
11 Q. Do you remember what the weather was like on the night of
12 December the 18th of 1993?
13 A. It was a clear night.
14 Q. Do you remember the temperature, what it was?
15 A. It wasn't cold.
16 Q. It was not cold?
17 A. No.
18 Q. Now, the camper that the Defendant stayed in, where was that
19 located with reference to your home?
20 A. It set on the opposite side of the driveway from my house.
21 Q. Would that put it right nextdoor to the second-story garage
22 apartment?
23 A. Yes, sir.
24 Q. Did anybody from the law enforcement, either Ms. Spruill or
25 any S. B. I. agents or anyone, did anybody ever come there with a

FORM SMI-25 PENGAD/INDY 1-800-6' 99

search warrant and search that mobile home?
A. No, sir.
Q. Were you ever present at any time whenever any law enforcement officer came to your property to search any portion of it?
MR. NORTON: Objection.
A. Yes, sir.
THE COURT: Overruled.
Q. What was your answer?
A. Yes, sir.
Q. When was that?
A. One of the deputies and two S. B. I.'s come down and said they had a search warrant to search my camper/trailer, a blue and white camper/trailer.
Q. Did you have a blue and white camper/trailer?
A. Yes, sir.
Q. Did they serve a search warrant on you?
A. Yes, sir.
Q. What did you tell them?
A. I told them to help theirself. I said, "Out there it sits."
Q. Did they in fact search the blue and white camper/trailer?
A. Yes, sir.
Q. Did you do anything to obstruct them or--?
A. No, sir.
Q. Did they take any items from the camper/trailer?

FORM SMI-25 PENGAD/INDY 1-800-6" '89

1 A. No, sir.
2 Q. Did you ever at any time leave the premises of Big Ed's Bar
3 on the night of December the 18th of 1993 after you arrived there?
4 A. Not until 1:30.
5 Q. Where did you go at 1:30?
6 A. I went home.
7 Q. Is that what time you closed?
8 A. Yes, sir.
9 Q. Do you recall whether or not you ever received a call at your
10 home on that night from Lynn Rogers?
11 A. No, sir.
12 Q. Did you receive a call from her on that night?
13 A. I couldn't, see, because I was there before she was and she
14 left before me.
15 MR. VOSBURGH: That's all I have.
16 CROSS EXAMINATION by MR. NORTON:
17 Q. Mr. Champ, how long had you known Leroy Spruill?
18 A. I guess practically all his life.
19 Q. You also know other members of his family, I take it?
20 A. Yes, sir.
21 Q. He's been a customer there at the bar.
22 A. Yes, sir.
23 Q. He's a friend of yours, is he not?
24 A. Yes, sir.
25 Q. Has he ever worked for you at any time?

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 A. Not that I can remember, no.
2 Q. But, Mr. Solis, Wallace Brandon Jones, what name did you know
3 him by?
4 A. What was that, sir?
5 Q. What name did you know him by?
6 A. Robert.
7 Q. Robert what?
8 A. Solis, I think it is.
9 Q. Robert Solis?
10 A. Yes.
11 Q. He didn't tell you he was Wallace Brandon Jones?
12 A. No, sir.
13 Q. Now, how long have you known him, Mr. Champ?
14 A. I'd say approximately three months, four months, something
15 like that.
16 Q. This was back three months prior to December, I take it?
17 A. Yes, sir.
18 Q. You got to know him how, sir?
19 A. Sir?
20 Q. How was it that you got to know him?
21 A. He lived in one of my farm houses with migrant workers.
22 Q. Do you know where he came from to get to Washington county to
23 be on your farm?
24 A. No, sir.
25 Q. You never discussed that with him?

FORM SMI-23 PENGAD/INDY 1-800-631-6989

1 A. No, sir.
2 Q. You didn't know that that was by way of Texas?
3 A. Sir?
4 Q. You didn't know that that was by way of Texas?
5 MR. VOSBURGH: Objection.
6 A. No, sir.
7 THE COURT: Overruled.
8 Q. Now, how long had he been staying there at your house?
9 A. I'd say off and on for a couple of months.
10 Q. This was in the camper.
11 A. The camper and the apartment.
12 Q. If you're facing your house, the apartment would be to the
13 left side of the driveway.
14 A. Yes, sir.
15 Q. And the camper was actually parked, back at that time,
16 somewhere--?
17 A. Between the apartment and the road.
18 Q. Between the apartment and the road?
19 A. Yes, sir.
20 Q. You stated to Mr. Vosburgh about the sheriff coming to search
21 a trailer at some time.
22 A. Yes.
23 Q. The trailer that they searched was not the trailer that he was
24 living in, was it?
25 A. No, sir.

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 Q. And, of course, you knew that at the time that they were
2 there, didn't you?
3 A. What was that?
4 Q. That that was not the trailer that Mr. Solis had been living
5 in.
6 A. They didn't tell me they wanted to search where he lived at.
7 They just said they had a warrant to search my camper, a blue and
8 white camper/trailer.
9 Q. Well, now, didn't you say earlier to Mr. Vosburgh that they
10 had been out there several times back in - actually, it was
11 April the 24th - to the farm and to your house, looking for him in
12 this murder case?
13 MR. VOSBURGH: Objection.
14 Q. Didn't you know that?
15 A. No, sir.
16 THE COURT: Overruled.
17 Q. Sir?
18 A. No, sir.
19 Q. Well, now, Mr. Champ, didn't they--you said you met Mr. Peal
20 out at the farm.
21 A. Yes. That was on a Sunday.
22 Q. Did Mr. Peal tell you at that time that he wanted to get up
23 with Robert Solis in regards to the investigation of the murder
24 of Frank Swain?
25 A. No, sir. He just wanted to ask him some questions.

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 Q. He told you he wanted to ask him questions about the murder,
2 didn't he?
3 MR. VOSBURGH: Objection.
4 THE COURT: Overruled.
5 A. No, sir. He just wanted to ask him questions.
6 Q. In fact, later on, didn't Deputy Sheriff Willie Williams and
7 Janice Spruill come up to your house, along with you, your wife,
8 Gail, and Ed, Jr. there at the house and tell you that they were -
9 and Mazie - looking for Robert Solis at that time?
10 A. She didn't say Robert Solis.
11 Q. Well, who was it--?
12 A. I mean, she said Robert Solis; but, she didn't say they was
13 looking for him for the murder of Frank Swain.
14 Q. Now, Mr. Champ, don't you know that they were up there, and
15 they told you they wanted to find Solis for an investigation with
16 this murder? Isn't that--
17 MR. VOSBURGH: Your Honor, he's arguing with the
18 witness.
19 THE COURT: Overruled.
20 Q. Isn't that what they told you?
21 A. No, sir.
22 Q. Didn't you, at that time, give them some clothes?
23 A. No, sir. They went to the apartment and took them. I didn't
24 give them to them.
25 Q. Didn't you tell them that it was all right for them to take

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 the clothes?
2 A. Yes, sir.
3 Q. And it was Solis' clothing, wasn't it?
4 A. No, sir.
5 Q. Well, it was partly his and part of it was your son-in-law,
6 Kevin's.
7 A. Right. That's right.
8 Q. But, the other part was Mr. Solis', wasn't it?
9 A. It's possible.
10 Q. You were actually moving them out of the apartment into one of
11 the campers; isn't that right?
12 A. No, sir.
13 Q. Sir?
14 A. I sold the camper, and I rented the apartment out. That's why
15 they had to move out of the apartment. I had it rented out.
16 Q. Yet, when Mr. Peal and Mr. Williams and Ms. Spruill asked
17 about where he was, you told them that he'd gone to the laundro-
18 mat, didn't you?
19 A. That morning, yes.
20 Q. Sir?
21 A. That was early that morning, yes.
22 Q. And, actually, he was gone to the state of Tennessee, wasn't
23 he?
24 A. I don't know at that time. All I know is he told me he was
25 going to the laundromat. That's all I knowed about.

FORM SMI-25 PENGAD/INDY 1-800-62

1 Q. Well, your car got this parking ticket in Tennessee, didn't
2 it?
3 A. Yes, sir.
4 Q. Your son-in-law, Kevin, is the one that drove the car up
5 there, isn't he?
6 A. Yes, sir.
7 Q. You say that the car was missing from--you told Mr. Vosburgh
8 that the car was missing from Sunday until Tuesday, I believe.
9 A. Yes.
10 Q. You didn't file any reports, did you?
11 A. No, sir.
12 Q. Any stolen car reports. And, the reason that you didn't file
13 the reports, Mr. Champ, is because that the car was supposed to
14 be going to Rocky Mount, isn't it?
15 A. No, sir.
16 Q. Isn't that what you told them--taking him to the bus station?
17 A. That ain't what I told nobody.
18 Q. Sir?
19 A. That's not what I told nobody.
20 Q. Well, didn't you give the keys to your son-in-law--?
21 A. No, sir, I didn't.
22 Q. --and your son, Ed, Jr., gave him a hundred dollars to take
23 him to Rocky Mount.
24 A. No, sir.
25 Q. What you were upset about was that they didn't stop at Rocky

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 Mount. They kept going to the state of Tennessee.
2 A. No, sir.
3 Q. So you were not aware of that?
4 A. No, sir.
5 Q. And, when Kevin Furlough, your son-in-law, says that, that's
6 not so.
7 A. Well, I don't know why he'd say it; but, he's not telling you
8 the truth.
9 Q. And, your daughter-in-law, her name is Gail, isn't it?
10 A. Yes.
11 Q. That's Ed, Jr.'s wife, isn't it?
12 A. Yes.
13 Q. Also known as "Butch."
14 A. Yes.
15 Q. Were you at home back on the 7th of May when she called the
16 Sheriff's Department out to the house?
17 A. No, sir.
18 Q. You weren't there at that time?
19 A. No, sir.
20 Q. You don't know anything about that.
21 A. I know something about it; but, I wasn't at home.
22 Q. At that time, that's when the first information came to the
23 officers about Kevin taking Solis to Tennessee, isn't it?
24 A. Yes, sir.
25 Q. Now, do you recall telling Officer Williams and Officer

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 Spruill on the 9th of May of '94 that you couldn't say for sure
2 whether Robert and Leroy stayed at the bar all night--;
3 A. No, sir, I didn't say that.
4 Q. --that you didn't keep your eyes on them all night?
5 A. No. No, sir, I didn't say that.
6 Q. Now, did you keep your eyes on them all that night?
7 A. No, not all night because I had too many people to keep my
8 eyes on.
9 Q. You told them at an earlier time there was about 40 folks
10 there, didn't you?
11 A. Yes, sir.
12 Q. That you didn't know where they were or what they were doing
13 --?
14 A. I seen well enough to know that they stayed at that bar.
15 Q. You did?
16 A. Yes, sir.
17 Q. But you say you didn't tell them back on the 9th of May that
18 you could not say for sure that they were at the bar all night
19 and that you didn't keep your eyes on them all night.
20 A. No, sir.
21 Q. Now, do you also recall a conversation on the 15th of August
22 with Mr. Robert Hensley and Mr. Tom Anglim from the D. A.'s
23 Office--excuse me, Mr. Anglim and Ms. Spruill on the 15th of
24 August of '95?
25 A. Yes, sir.

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 Q. You do recall that?
2 A. Yes, sir.
3 Q. Now, you told them at that time, did you not, that you didn't
4 hear any fight on the inside or there were no fights on the
5 outside of the bar, didn't you?
6 A. No, sir.
7 Q. Sir?
8 A. I said there wasn't no fight inside.
9 Q. Weren't any fights outside either, was there?
10 MR. VOSBURGH: Objection.
11 A. Not that I know of.
12 THE COURT: Overruled.
13 Q. And you told them again at that time about the laundromat,
14 didn't you?
15 A. Yes, sir.
16 Q. In fact, he left in a hurry, didn't he, that day, Mr. Champ?
17 A. Who?
18 THE COURT: What day are you talking about?
19 Q. On the 24th of April of '95, he left in a hurry, didn't he?
20 A. Who left in a hurry?
21 Q. Mr. Solis. Robert Solis.
22 A. Not that I know of.
23 Q. Sir?
24 A. I don't know. I wasn't at home.
25 Q. Well, now, you said that--you told the officers that he was

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 going to the laundromat.
2 A. That's where he was supposed to have went.
3 Q. Sir?
4 A. That's where he was supposed to have went. I was gone about
5 all that day. I was on the farm.
6 Q. When was the next time that you saw him from the 24th of
7 April, the day that you said he was supposed to go to the
8 laundromat?
9 A. When was the next time I seen him?
10 Q. Yes, sir.
11 A. I think one day when they had a hearing up here for him.
12 Q. Was that sometime after December of '94?
13 A. Yes, sir.
14 Q. He left his clothes there at your house, hadn't he, or at the
15 apartment?
16 A. Yes, sir.
17 Q. Just took off?
18 A. Yes.
19 Q. So he left in a hurry, didn't he?
20 THE COURT: Well, you don't have to answer that.
21 A. It's possible. I wasn't at home. I couldn't tell you if he
22 did nor didn't.
23 THE COURT: Just a minute. You don't have to answer
24 that.
25 Q. Didn't you receive some messages, telephone messages, from him

FORM SMI-25 PENGAD/INDY 1-800-531-6989

1 from the state of Tennessee?
2 A. No, sir.
3 Q. Never called you from Tennessee?
4 A. No, sir.
5 Q. Never had any more contact with him at all--
6 A. No, sir.
7 Q. --until December?
8 A. No, sir.
9 Q. How about after he was arrested? Have you been talking with
10 him since his arrest?
11 A. I come to jail one time and seen him.
12 Q. Has he called you on the telephone?
13 A. No. I come to the jail and seen him and talked to him over
14 at the jail.
15 Q. But has he ever talked with you or you talked with him over
16 the telephone since he's been in jail?
17 A. Approximately twice.
18 Q. How about Mr. Spruill? You've talked with Mr. Spruill, have
19 you not?
20 A. Yes, sir.
21 Q. On how many times would you say you have talked with
22 Mr. Spruill?
23 A. I'd say four or five.
24 Q. Mr. Vosburgh asked you whether or not you were at the bar on
25 New Year's Eve.

FORM SMI-25 PENGAD/INDY 1-800-531-5989

1 A. New Year's Eve?
2 Q. Yes, sir.
3 A. Yes, sir, I was there.
4 Q. Excuse me. Actually, it would have been New Year's Eve of
5 '94.
6 A. Yes.
7 Q. He asked you about whether or not you saw the Defendant,
8 Robert Solis, and Ms. Maybin at that time, and I believe you said
9 that they were together--or, that they were there, but they were
10 not together.
11 A. No, sir.
12 Q. They had broken up or had stopped seeing each other by that
13 time, had they not?
14 A. Yes, sir.
15 Q. Actually, they had stopped seeing each other before
16 Christmas, hadn't they?
17 A. I don't know when it was.
18 Q. Now, you also have a daughter, do you not, Lisa, who is
19 married to Kevin Furlough?
20 A. Yes, sir.
21 Q. What type of automobile does she have?
22 A. A '91 Mustang.
23 Q. What color is it?
24 A. Gray, silver.
25 Q. Do you know an individual by the name of Bruce Smith?

FORM SMI-25 PENGAD/INDY 1-800-631-6989

A. Yes, sir.

Q. Isn't it true, Mr. Champ, that on this day, the 24th of April, your daughter, Lisa, took Robert Solis over to Bruce Smith's house--

A. I don't know.

Q. --prior to him being transported to Tennessee?

A. I wasn't home that day. I don't know.

Q. You say you did not see Janice Spruill and Willie Williams in the yard of your house on the 24th day of April, the day that they were up there looking for Robert Solis in connection with this murder case?

A. That afternoon. That Sunday afternoon.

Q. So they were there looking for him, weren't they?

A. Yes. It was in the afternoon on Sunday.

Q. And they wanted to talk to him about the murder charge, didn't they?

A. About a murder charge of two girls in Texas.

Q. About the murder of Mr. William Frank Swain. Isn't that why they were there?

A. When they first come to me, she said he'd murdered two girls in Texas.

Q. That's the same day that you turned over the clothes to them, isn't it?

A. That's the same day she went to the apartment and got them.

MR. NORTON: Thank you, Mr. Champ.

FORM SMI-25 PENGAD/INDY 1-800-631-6989

THE COURT: Anything further on re-direct that's material?

MR. VOSBURGH: Nothing further.

Gail Champ: Gail Champ testified that she had seen Jones on December 18, 1993 in the morning and at around 5:00pm. He lived in a camper trailer below an apartment she lived in on Ed Champ, Sr.'s property. Gail Champ was also consistent with her prior statements that Spruill, Jones, and Maybin were at Big Ed's Bar the night of the crime when she arrived at approximately 9:00pm. Gail Champ testified that the band had just started playing. She was not drinking. She sat at the table closest to the door, but may have gotten up to take money at the door or serve some beer. She also went back by the pool tables for a few minutes at a time throughout the night. While at the pool tables, Gail Champ testified that she saw Spruill and Jones dancing together on the dance floor on and off the whole evening. Jones would come over to the table when he could get away from Maybin without Maybin "getting mad at him for speaking to us." She also saw Spruill and Jones go the bar to get drinks and walk outside. When asked if Spruill and Jones were drinking a lot, Gail Champ testified "I couldn't say it was a lot." She saw Jones buy beers for himself and Maybin about every 30-40 minutes.

She did not recall seeing Spruill, Jones, or Maybin in changed clothes. She testified, "I think I would recognize if Robert changed clothes because he got dressed in my apartment before he went to the bar." Jones was still in the same clothing by the time Gail Champ left the bar. She didn't notice that his pants had become soiled in any way. Gail Champ testified that Spruill kept a "wet look" to his hair every time she saw him in December 1993.

Lynn Rogers was bartending on the night of the crime. Gail Champ left the bar at 11:00pm. Ed Champ, Sr. was still at the bar when she left. Gail Champ testified that saw Rogers again between 12:30 or 12:45 am when Rogers came to Gail Champ's house to pick up her boyfriend, who had been babysitting Gail Champ's children.

When asked if she had ever seen Jones at Big Ed's Bar with soiled pants, Gail Champ testified that around the end of February or first part of March 1994, Jones had fallen through her apartment steps and cut his leg. The following weekend, he was at Big Ed's Bar, playing around with a girl who kicked Jones in the leg. This caused the scab to fall off and start bleeding. Gail Champ reiterated that this incident was after December 1993.

Champ also testified about Jones leaving town in mid-January 1994 and coming back mid-February 1994. She testified that law enforcement had come to their house three times in April 1994 to look for Jones, but did not say why they wanted to speak to him. She had not seen Jones on April 24, 1994 and did not see Jones after law enforcement came looking for him. She offered to let law enforcement in to look for Jones without the need for a search warrant. Gail Champ testified that law enforcement went inside her apartment to look for Jones the second time they came, but did not find him. Gail Champ left the house for 20-30 minutes after this second visit and stated Jones was not with her when she left. When she got home, Dep. Janice Spruill was at her apartment. Janice Spruill asked Gail Champ if she knew where Jones was and Gail Champ said no. She testified that she did not know that law enforcement was looking for Jones in connection with the Victim's murder until August 1994. During that same August 1994 conversation, Gail Champ testified that she told Janice Spruill that she had heard Kevin Furlough say that he had taken Jones out of town. She later supplied a phone number she had for Jones to Janice Spruill.

When asked about the alleged threats to Maybin during Jones' probable cause hearing, Gail Champ also denied intimidating Maybin at all or being in a bathroom with her at any time

during any court proceedings.[35] When asked on cross-examination why she moved her seat during Maybin's trial testimony, Gail Champ testified that she moved so she could hear better.

On cross-examination, Gail Champ was asked about the frequency of contact between her family and Jones after his arrest. She was specifically asked about a phone call from her phone number to Milan, TN on April 24, 1994 and testified that she was not the only person with access to her phone. Gail Champ also testified that she told Janice Spruill about Kevin Furlough taking Jones to Tennessee when law enforcement was at her house for domestic problems. She testified that she had been drinking during that incident. She also denied telling Janice Spruill that her sister-in-law, Lisa Champ, had taken Jones somewhere in a gray Mustang after law enforcement left on April 24, 1994 and testified that she had not seen any of her in-laws that day. Janice Spruill was called as a rebuttal witness to Gail Champ's testimony and testified that Gail Champ told her she had seen blood in the bathtub of the trailer Jones was staying in at one point. (TT 1053-1080).

Lottie Champ: Lottie Champ testified that she arrived at Big Ed's Bar at 8:00pm on December 18, 1993 and stayed until 11:30pm or 12:00am with her daughter, Lisa. Spruill, Jones, and Maybin were standing in front of the bar when she came in and she saw them the entire time she was at the bar. Spruill and Jones were dancing on the dance floor, playing pool, and came over to talk to her. Lottie Champ also testified she saw Spruill, Jones, and Maybin sitting at a table with Kelvin "Smarty" Spruill at one point. The band started playing around 9:00pm. Every time the band

[35] There is some back and forth during the trial concerning alleged threats from the Champ family toward Maybin. A WCSO deputy testified on rebuttal that Gail Champ was in the bathroom with Maybin at some point, but there is no evidence of what exact words, if any, were said to Maybin. Other than cross examination about the Champs moving from one side of the courtroom to the other during Maybin's testimony, there is no other further evidence of Maybin being intimidated by the Champs.

took a break, Spruill and Jones would go outside for 10-15 minutes. On cross-examination, Lottie Champ testified that she knew Jones to frequent Big Ed's Bar and that she usually only went on every other Saturday, when a band would play.

Lottie Champ also testified regarding Jones leaving town in mid-January 1994 and coming back towards the end of February or beginning of March 1994. Regarding law enforcement looking for Jones on April 24, 1994, Lottie Champ testified that she only spoke to law enforcement the last time they came. She had not seen Jones that day. On cross-examination, she denied that law enforcement told her they were looking for Jones in connection with the murder. (TT 1080-1097).

Stacey Allen: At trial, Allen testified that she arrived at the bar around 6:30pm -7:30pm. She testified that Maybin was already at the bar, and Spruill and Jones arrived at the bar shortly after Allen arrived. She also testified consistently with her previous statements that she left the bar around closing time with her mother. However, Allen's testimony was that she did not know how Maybin, Jones, Spruill, or Ed Champ Sr. left the bar that evening. This portion of her testimony was inconsistent with her previous interview with defense investigators. That interview is provided in full above in Section VI of the brief. (TT 1099-1107).

Forensic Analysis

Dennis Honeycutt: Honeycutt's testimony outlined the forensic investigation in the case, including the collection of evidence. His testimony is important in understanding both the testing that was completed and what was not done at this stage in the case. In addition, although Honeycutt's initial report indicates that he found money in the Victim's left front pocket, it does not indicate that this pocket was pulled out. At trial, Honeycutt testified that the left pocket was

partially out when he observed it at the crime scene. Honeycutt's testimony is provided in full below and includes the documentary exhibits that are referred to in his testimony.[36] Some of these photos are graphic in nature.

[36] These have been labeled by Commission staff as their appropriate exhibit number for reference.

MR. NORTON: Mr. Honeycutt.

DENNIS HONEYCUTT, being first duly sworn, testified as follows during DIRECT EXAMINATION by MR. MITCHELL NORTON:

Q. You're Special Agent Dennis Honeycutt with the State Bureau of Investigation?

A. Yes, sir, that's correct.

Q. How are you employed with the S. B. I., Mr. Honeycutt?

A. I'm employed as the Mobile Crime Lab Operator for the Northeastern District of North Carolina.

Q. How long have you been so employed with the S. B. I.?

A. Since January of 1982.

Q. Now, when you say that you're responsible for the Northeastern District, how big of an area does that cover, Mr. Honeycutt?

A. It covers 23 counties in northeastern North Carolina, basically

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1 from Interstate 95 to the Outer Banks and south as far as Wayne
2 County, Lenoir County, and north to Virginia.
3 Q. Were you so employed on the 18th of December of 1993?
4 A. I was.
5 Q. Did you have occasion to come to Plymouth or outside of
6 Plymouth on that evening, sir?
7 A. Yes, sir. I received the call, actually, on December the 18th
8 and did not arrive until December 19th, after midnight.
9 Q. What time did you first receive the call, Mr. Honeycutt?
10 A. I received my call at approximately 10:53 p. m.
11 Q. As a result of the--was that a radio message or a telephone
12 call?
13 A. That was a telephone call from Criminal Specialist Jim Wilson.
14 Q. Mr. Wilson is also an S. B. I. agent, is he not?
15 A. That is correct.
16 Q. Now, after you received the call from Mr. Wilson--I understand
17 he's a supervisor, is he not?
18 A. He is what we term a "criminal specialist." The old position
19 classification was assistant supervisor.
20 Q. After Mr. Wilson called, as a result of the call, what did you
21 do, Mr. Honeycutt?
22 A. At that time, I left my residence and proceeded toward
23 Washington County.
24 Q. Where were you living at that time?
25 A. In Greenville.

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1 Q. What time did you arrive here in Washington County?
2 A. I arrived at the scene at the trailer park at approximately
3 12:30 a. m. on December the 19th.
4 Q. If you would, please, describe for us what you saw and
5 observed at the time of your arrival and what you did there.
6 A. Upon driving up the road that the trailer park is located on,
7 there were numerous people out milling about at that time. Upon
8 reaching the trailer, which was the last one in this particular
9 trailer park, I observed that yellow, plastic tape had been put up
10 to prevent any unauthorized entry to the scene and that several
11 Washington County deputies were on hand at that time.
12 Q. Do you recall where this tape was located?
13 A. It was located along the west boundary of the trailer park.
14 If you would walk out the front door of Mr. Swain's residence,
15 it would be outside.
16 Q. Just outside that door?
17 A. No, sir. Actually, it covered the entire lot but to the
18 west of the trailer.
19 Q. I'll show you what's been marked for identification as
20 State's Exhibit No. 1 and I'll ask you to look at that and see if
21 you recognize and can identify that for us, please, sir.
22 (Witness complies.)
23 A. Yes, sir.
24 Q. What is that that you see there? How is it that you can
25 identify that, Mr. Honeycutt?

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1 A. State's Exhibit No. 1 is a diagram, basically, of Freeman's
2 Mobile Home Park. The path that I came down to reach Mr. Swain's
3 trailer (indicates), Mr. Swain's residence being the last one on
4 the left-hand side coming down the pathway.
5 Q. And, you said that, as you went down there, there were a
6 number of people out milling about. Could you point out on the
7 diagram where you saw these people milling about?
8 A. Yes, sir. The ones that I noted were through the mobile
9 homes here (indicates). The yellow tape was set up to the west
10 side and across this boundary, and there were a lot of people
11 located along the opposite side of the tape, away from Mr. Swain's
12 residence.
13 Q. Back outside the tape.
14 A. That's correct.
15 Q. Was the area inside the tape, was that secured by deputy
16 sheriffs at that time?
17 A. Yes, sir.
18 Q. Now, after you arrived and observed the tape, what was the
19 next thing that you did, Mr. Honeycutt?
20 A. The first thing that I did in this case is what I normally do,
21 and that's just to walk around and inside the crime scene to
22 determine exactly what equipment will be needed, and, basically,
23 where I can go and where I can't go without disturbing the
24 evidence at that particular time.
25 Q. If you will, please, just describe for us, first of all, just

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1 what you saw and observed there in the mobile home and around the
2 mobile home at that time.
3 A. Yes, sir. Actually, before even entering the mobile home, on
4 the steps and the porch outside of the front door, there were
5 several spots that appeared to be diluted blood at that time.
6 Also, on the front door, on the exterior of the front door of the
7 mobile home, there was also a small area of blood on the outside
8 of that. Entering the mobile home, you enter into the den area.
9 Almost directly in front of the door was the body of--who was
10 identified as being Mr. Swain lying on the floor. Also on the
11 floor in this area were several couch cushions; there was a watch
12 lying in the floor; a great deal of blood, and; I also noted in
13 the den area that the television was on at this time, and; also,
14 that the coffee table had been overturned. Looking toward the
15 area of the couch, there was blood noted to be in the area of the
16 couch and also on the curtains behind the couch. Continuing into
17 the area of the kitchen--excuse me. The kitchen and the den are
18 combined, an open area. There are no walls between them. A
19 kitchen chair was broken and lying on the floor in that area, and;
20 a telephone was also on the floor in that area, which also
21 contained blood. Continuing through the kitchen and back down the
22 hallway, in the first bedroom on left, there were four bags of
23 groceries sitting on the bed. I also noted at that time there was
24 a shotgun in a rack on the north wall of that room. Continuing
25 further, I went into several more bedrooms and a bathroom and

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1 really didn't see anything of any interest at that point in time.
2 Q. That was your initial walk-through to just sort of get a feel
3 for what was there at that time?
4 A. That's correct; yes, sir.
5 (State's Exhibit Nos. 9, 10, 11, 12, 13, 14, 15, and 16 are
6 marked for the purpose of identification.)
7 Q. Mr. Honeycutt, I'll show you, first of all, what's been marked
8 for identification as State's Exhibit No. 8 and ask you to take a
9 look at that and see if you can recognize and identify that.
10 MR. VOSBURGH: May we look at those?
11 THE COURT: You've not seen these exhibits--?
12 (Mr. Norton furnishes exhibit to Mr. Vosburgh.)
13 MR. VOSBURGH: I thought you had that new group.
14 MR. NORTON: I do. I haven't gotten to those yet.
15 MR. VOSBURGH: Excuse me. I'm sorry.
16 Q. State's Exhibit No. 8, Mr. Honeycutt, would you take a look at
17 that and see if you recognize and can identify that for me, please.
18 (Witness complies.)
19 A. Yes, sir.
20 Q. What is that that you have there?
21 A. State's Exhibit No. 8 is a color photograph showing the front
22 door and the front porch area of the Swain residence.
23 Q. Does that photograph fairly and accurately show and depict it
24 the way it appeared on the night of the 18th of December or the
25 early morning hours of the 19th of December when you arrived?

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1 A. Yes, sir, it does.
2 Q. Could you point out--
3 MR. NORTON: If Your Honor please, I would offer into
4 evidence State's Exhibit No. 8 at this time.
5 THE COURT: All right.
6 (Mr. Norton furnishes exhibits to the Defendant's counsel for
7 their examination.)
8 Q. I'll show you what's been marked for identification as
9 State's Exhibit No. 9 and ask you to take a look at that and see
10 if you can recognize and identify that for us, please.
11 (Witness complies.)
12 A. Yes, sir.
13 Q. What is that that you have there in your hand?
14 A. State's Exhibit No. 9 is a color photograph taken of some car
15 mats that were on the front porch area of the Swain residence
16 which contain areas of red spotting which appeared to be blood.
17 Q. Does State's Exhibit No. 9, does that appear as an enlarged
18 portion of what appears in State's Exhibit No. 8 laying there on
19 the front area?
20 A. It does.
21 Q. Does that fairly and accurately show and depict it the way it
22 appeared when you first arrived there in the early morning hours
23 of the 19th of December?
24 A. Yes, sir.
25 Q. I'll show you also what's been marked for identification as

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1 State's Exhibit No. 10, Mr. Honeycutt, and ask you to take a look
2 at that and see if you can recognize and identify that for us,
3 please, sir.
4 (Witness complies.)
5 A. Yes, sir.
6 Q. What is that that you have in your hand?
7 A. State's Exhibit No. 10 is a color photograph showing the
8 exterior of the front door of the Swain residence and also showing
9 blood stain on that exterior door.
10 Q. Does that photograph fairly and accurately show and depict the
11 door as it appeared when you arrived?
12 A. With the exception of some black powder which is shown above
13 the doorknob area which I placed there.
14 Q. That's fingerprint powder?
15 A. It is, sir.
16 Q. You were attempting to get fingerprints from the door; is that
17 correct?
18 A. Yes, sir.
19 Q. But, other than that, is that the way the door appeared?
20 A. Yes, sir, it is.
21 (Mr. Norton furnishes exhibits to the Defendant's counsel for their
22 examination.)
23 MR. VOSBURGH: Judge, we have objection to two of the
24 new group of photographs.
25 THE COURT: Those photographs that are right there in

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1 front of you on that notebook, I want to see those. Sheriff,
2 bring those to me.
3 (Sheriff complies, and the Court examines said photographs.)
4 THE COURT: You sat right there and looked at them
5 again, and I don't understand it. Take the jury out.
6 (The jury retires to the jury room and is not present in the
7 courtroom.)
8 THE COURT: Let me see the two photographs that he
9 objects to.
10 (The Court examines said photographs.)
11 THE COURT: All right. These appear to be color
12 photographs of the victim.
13 MR. VOSBURGH: That's correct.
14 THE COURT: What do you want to say about them?
15 MR. VOSBURGH: We object to those on the grounds that
16 there is sufficient photographic evidence to illustrate what those
17 depict, and; we think under the motion that we have filed that
18 these should be excluded. Now, Judge, I would like to put this in
19 the record. We were not permitted to examine photograph No. 10
20 before he questioned his witness about it, and I thought that he
21 was going into a new series of photographs, and that was the reason
22 I objected, because I knew that some of these others were going to
23 be coming up. I did not do that for purposes of delay, and I did
24 it because he examined him about a photo that he had not
25 permitted the Defendant to look at, and it's his duty and

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1 obligation to do that.

2 THE COURT: I thought under discovery you'd seen all the

3 photographs.

4 MR. VOSBURGH: I have seen all the discovery, but they

5 were not numbered, and; as a matter of fact, I think I saw

6 somewhere in the neighborhood of about a hundred of them. I

7 don't know which ones he's going to offer.

8 THE COURT: All right. You can object at the time,

9 and I'll rule on it. Do you want to look at these any more?

10 MR. VOSBURGH: No, sir, we don't.

11 THE COURT: Bring the jury back.

12 (The jury returns to the jury box.)

13 Q. (By Mr. Norton) I'll show you what's been marked for

14 identification as State's Exhibit No. 2 and ask you to take a

15 look at that and see if you can recognize and identify that

16 State's exhibit for us, please.

17 (Witness complies.)

18 A. Yes, sir.

19 Q. What is that that you have there in your hand?

20 A. State's Exhibit No. 2 is a color photograph showing the body

21 of the victim and also the contents of the den, including the

22 couch cushions on the floor, which I previously spoke of, and

23 also the overturned coffee table.

24 Q. Does that photograph fairly and accurately show and depict the

25 scene the way it appeared at that time?

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1 A. Yes, sir.
2 Q. Now, in State's Exhibit No. 2, in the area of the body, can
3 you describe for us what you saw and observed there around the
4 body at that time.
5 A. Yes, sir. At that time, there are two cushions, couch
6 cushions, which flank him on either side around the area of the
7 hip. Also in that area there is a set of jumper cables; there is
8 a red, white, and blue jacket, and; also, a third couch cushion
9 which is located near the area of the feet. Also in this same
10 general area is the overturned coffee table.
11 Q. Are there any specific locations or spots of blood that you
12 observed at that time?
13 A. Yes, sir.
14 Q. Where are those blood spots located?
15 A. In looking at State's Exhibit No. 2, both on the floor at the
16 cushion to the right of him, which also goes right up to the
17 cushion; there's a significant amount of blood beneath the head
18 area of the victim, and; also, in the foreground of State's
19 Exhibit No. 2, the photograph, which would be toward the kitchen
20 area.
21 MR. NORTON: If Your Honor please, at this time, I
22 would offer that and ask Mr. Honeycutt if he could step down to
23 the jury and point to them the location of these areas of blood
24 spots.
25 THE COURT: All right. Proceed.

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(The witness leaves the witness stand.)
A. In State's Exhibit No. 2, the body of the victim, of course, is located near the approximate center of the photograph. The areas of blood I referred to, the one at the right edge of this photograph (indicates), and; here's the couch cushion (indicates), and; the amount of blood directly beneath his head, and; also, in the foreground of this photograph, near the kitchen area, there is a third amount of blood. See the blood near the couch cushion here (indicates) and also the blood beneath the head of Mr. Swain here (indicates) and also the blood here (indicates), which is in the kitchen area.
(The witness returns to the witness stand.)
(Mr. Norton furnishes exhibits to Mr. Vosburgh for his examination.)
MR. VOSBURGH: Your Honor, Defendant objects to Nos. 11 and 12 which are next to be offered by the prosecution.
Q. Mr. Honeycutt, I'll show you what's been marked for identification as State's Exhibit No. 11 and ask you to take a look at that and see if you can recognize and identify that for us, please.
(Witness complies.)
A. Yes, sir, I can.
Q. What is that that you have there in your hand, sir?
A. State's Exhibit No. 11 is a color photograph showing the watch between the front door and the victim lying on the floor and

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1 also the upper body of the victim.
2 Q. What did you observe about the watch at that time?
3 A. The band had become separated from the watch by loss of a pin.
4 Q. Does that fairly and accurately show and depict the watch
5 where you had found it in the vicinity of the body on this
6 occasion?
7 A. Yes, it does.
8 Q. I'll show you what's been marked for identification as
9 State's Exhibit No. 12 and ask you to take a look at that and see
10 if you can recognize and identify that for us, please.
11 (Witness complies.)
12 A. Yes, sir, I can.
13 Q. What is that that you have there in your hand, sir?
14 A. State's Exhibit No. 12 is a color photograph of the upper
15 body and facial area of Mr. Swain, depicting wounds, or, actually,
16 cuts in the clothing and also wounds to the neck area.
17 Q. Does that fairly and accurately show and depict it the way
18 he appeared when you arrived?
19 A. Yes, sir.
20 Q. I'll show you what's been marked for identification as
21 State's Exhibit No. 6 and ask you to take a look at that and see
22 if you recognize and can identify that for us, please.
23 (Witness complies.)
24 A. Yes, sir, I do.
25 Q. What is that that you have there in your hand, sir?

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A. State's Exhibit No. 6 is a color photograph showing a blood smear just inside the front door on a louvered cover to a heating unit which is located inside the door.

Q. With reference to State's Exhibit No. 7, I'll ask you to take a look at that and see if you recognize and can identify that for us, please.

(Witness complies.)

A. Yes, sir.

Q. What is that that you have there, State's Exhibit No. 7?

A. State's Exhibit No. 7 is a diagram of the Swain residence.

Q. Does that fairly and accurately show and depict it the way it appeared that night?

A. Yes.

Q. With reference to State's Exhibit No. 6, would you point out to us on the diagram where you found or observed State's Exhibit No. 6.

A. Yes, sir. The blood smear that is contained in State's Exhibit No. 6, the photograph, is located on this wall of the heating unit, this wall being a metal louver right in here (indicates).

Q. What did you observe about that at that time, sir?

A. This blood stain that is depicted in State's Exhibit No. 6 was at a maximum height of approximately 5 feet 9 inches, and, at that time, there are also smears coming from that maximum height, trailing downward and also to the right as you're looking at the

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1 wall.
2 Q. Did you notice anything else significant about it at that
3 time, Mr. Honeycutt?
4 A. Yes, sir. It contained small strands of blood which dragged
5 across the surface of this louvered area.
6 Q. Do you have any opinion satisfactory to yourself as to how
7 that occurred?
8 MR. VOSBURGH: Objection.
9 THE COURT: Overruled.
10 A. I do.
11 Q. What is that opinion, Mr. Honeycutt?
12 A. That opinion that is what we commonly refer to as a "hair
13 swipe," that being hair that has blood on it is swiped against an
14 object leaving this type of pattern.
15 Q. Again, that's up and adjacent or to the left of the front
16 door, I believe.
17 A. Yes, sir. If you examine State's Exhibit No. 6, you can also
18 see the very edge of the front door which is located in there,
19 so they're right in the corner of where this wall meets the heating
20 unit.
21 Q. I'll show you, Mr. Honeycutt, what's been marked for
22 identification as State's Exhibit No. 3 and ask you to--
23 THE COURT: Have the lawyers seen it?
24 MR. VOSBURGH: Yes, Your Honor, we've seen No. 3.
25 Q. Can you identify State's Exhibit No. 3, Mr. Honeycutt?

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1 A. Yes, sir.
2 Q. What is that that you have there?
3 A. State's Exhibit No. 3 is a color photograph of the broken
4 kitchen chair and also the telephone which is located right at the
5 junction of the den and the kitchen.
6 Q. Does that fairly and accurately show and depict the telephone
7 and the broken chair there?
8 A. It does.
9 Q. And the blood that's associated with it and on the telephone?
10 A. That's correct.
11 Q. I'll show you what's been marked for identification as
12 State's Exhibit No. 4 and ask you to take a look at that and see
13 if you can recognize and identify that for us, please.
14 (Witness complies.)
15 A. Yes, sir, I can.
16 Q. What is that that you have in your hand, sir?
17 A. State's Exhibit No. 4 is a color photograph showing the west
18 wall of the den, depicting the blood around the area of the couch
19 and also on the curtains just above the couch.
20 Q. Does that fairly and accurately show and depict what you saw
21 and observed there at that time, sir?
22 A. Yes, sir.
23 Q. I'll show you now what's been marked for identification as
24 State's Exhibit No. 5 and ask you to take a look at that and see
25 if you recognize and can identify that for us, please.

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(Witness complies.)

A. Yes, sir.

Q. What is that that you have in your hand, sir?

A. State's Exhibit No. 5 is a color photograph of the--a closer photograph of the bloodstain located on the curtains above the couch.

Q. Does that fairly and accurately depict it the way it appeared at that time?

A. Yes, sir, it does.

Q. Do you have an opinion satisfactory to yourself as to what caused the blood spot on the curtain, Mr. Honeycutt?

A. Yes, sir.

Q. What is that opinion, sir?

A. This is indicative of a transfer stain; in other words, the transfer of blood from one object to another. What that object is, I have no opinion.

Q. Approximately how high up over the sofa did you find this stain to be?

A. Approximately a foot.

(Mr. Norton furnishes exhibits to defense counsel for their examination.)

THE COURT: We'll take a recess after they look at those pictures. I'll ask the jury to wear their badges during the time you're on this case. When you leave in the evenings, you can leave your badge in your seat. You can step down,

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1 Mr. Honeycutt.
2 (The witness leaves the witness stand.)
3 (Defense counsel has completed their examination of the exhibits
4 furnished by Mr. Norton.)
5 THE COURT: Ladies and gentlemen of the jury, during
6 lunch recess, remember not to talk about the case among yourselves,
7 and; again, the only time you may discuss the case is when I
8 instruct you to begin your deliberations. Do not talk about the
9 case with anyone or allow anyone to talk with you or in your
10 presence about this case. If anyone attempts to communicate with
11 you or in your presence about this case, you must notify me
12 immediately. You're not to form or express any opinion about the
13 guilt or innocence of the Defendant. Keep an open mind until
14 you've heard all of the evidence, the arguments of the attorneys,
15 and the Court's instructions as to the law. Do not speak with
16 any party participating in the trial of this case. This includes
17 any witness, the Defendant, the attorneys, or anyone else who
18 might have an interest in the outcome of this case. If you have
19 any matter that you need to call to the attention of the Judge,
20 you should report that to the bailiff, and he'll report that to
21 me. This rule applies inside as well as outside of the courtroom,
22 and it prohibits any type of conversation, whether about the
23 issues in the case or about the weather. It's your further duty
24 not to read, watch, or listen to any accounts of the trial or make
25 any investigation or attempt to obtain information outside of the

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1 courtroom about the cases. I'll ask everyone to remain seated
2 while the jury leaves, and be back at 2:00.
3 (Whereupon the jury is excused for lunch recess at 1:05 p. m.)
4 (Recess is had at 1:05 p. m. until 2:00 p. m.)
5 (Mr. Norton, Mr. Anglim, Mr. Vosburgh, Mr. Skinner, and the
6 Defendant are present in the courtroom.)
7 THE COURT: Mr. Honeycutt, come back to the stand,
8 please.
9 (Witness complies and returns to the witness stand.)
10 THE COURT: Bring the jury back in, please.
11 (The jury returns to the jury box; Juror No. 7 and Juror No. 9
12 are not present.)
13 MR. NORTON: Your Honor, while we're waiting, could we
14 approach the bench?
15 THE COURT: Yes, sir.
16 (Bench conference with all counsel present.)
17 (Juror No. 7 and Juror No. 9 enter the courtroom and take their
18 respective seats in the jury box.)
19 THE COURT: You may continue.
20 Q. (By Mr. Norton) Mr. Honeycutt, I'll show you what's been
21 marked for identification as State's Exhibits No. 13 and 14 and
22 ask you to take a look at those and see if you can recognize and
23 identify those State's exhibits, please.
24 (Witness complies.)
25 A. Yes, sir. State's Exhibit No. 13 and 14 both show the seat

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1 portion of the couch which was against the wall, the west wall, of
2 the den, underneath the cushions consisting of wood.
3 Q. Does it also show some of the blood droppings, blood spots,
4 there at that location?
5 A. Yes, sir, it does.
6 Q. Does it fairly and accurately depict it the way it appeared
7 when you first arrived and first saw it in the early morning hours
8 of the 19th of December of 1993, sir?
9 A. They do.
10 Q. I'll show you what's been marked for identification as
11 State's Exhibit No. 15, Mr. Honeycutt, and ask you to take a look
12 at that and see if you can recognize and identify that for us.
13 (Witness complies.)
14 A. Yes, I can.
15 Q. What is that that you have?
16 A. State's Exhibit No. 15 is a photograph of the front of the
17 refrigerator in the kitchen of Mr. Swain's residence, across the
18 front of the refrigerator being blood-spatters.
19 Q. What do you mean by "blood-spatters," Mr. Honeycutt?
20 A. Blood-spatter is actually a pattern of blood as it lands on an
21 object after a flight through the air, this particular pattern
22 being situated and most visible against the yellow background of
23 the refrigerator; but, it's also located on the floor in front of
24 the refrigerator and also the cabinets beside the refrigerator.
25 Q. Do you have an opinion satisfactory to yourself as to what

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1 caused this type of pattern, Mr. Honeycutt?
2 A. This particular one, yes, sir, I do.
3 Q. What is that opinion, Mr. Honeycutt?
4 A. This particular pattern, in my opinion, is what we term as a
5 "cast off." It results from an object having blood on it, and,
6 either the acceleration or deceleration of that object would cause
7 the blood to be thrown from that object onto another surface, and,
8 that surface in this case being the refrigerator.
9 THE COURT: Have you all seen State's Exhibit No. 15?
10 MR. SKINNER: Yes, sir.
11 Q. From swinging some object?
12 A. Yes, sir.
13 Q. I'll show you what's been marked for identification as
14 State's Exhibit No. 16, Mr. Honeycutt, and ask you to take a look
15 at that and see if you can recognize and identify that for us,
16 please.
17 (Witness complies.)
18 A. Yes, sir.
19 Q. What is that that you have in your hand?
20 A. State's Exhibit No. 16 is a photograph showing the floor area
21 of the kitchen, which has a--there is a tire iron, and, over the
22 tire iron, is a plastic bread bag that's located under the
23 cabinets between the refrigerator and the stove.
24 Q. What did you observe about that at that location?
25 A. In this particular location, although it's difficult to see in

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1 the photograph, there is a very clear liquid which envelopes that
2 area of the tire iron and the bag.
3 Q. Did you notice anything specific about the tire iron itself at
4 that time, Mr. Honeycutt?
5 A. No, sir, other than it contained what could be seen as some
6 blood.
7 Q. On the tire iron itself?
8 A. On the tire iron.
9 (State's Exhibit No. 17 is marked for identification and is
10 examined by defense counsel.)
11 Q. I'll show you now what's been marked for identification as
12 State's Exhibit No. 17 and ask you to take a look at that and see
13 if you can recognize and identify that for us, please.
14 (Witness complies.)
15 A. Yes, sir.
16 Q. What is that that you have in your hand?
17 A. State's Exhibit No. 17 is the tire iron which I took from the
18 floor of Mr. Swain's kitchen.
19 Q. Is that the tire iron that shows up in the bottom of the
20 photograph, State's Exhibit No. 16?
21 A. Yes, sir.
22 Q. Does it appear in roughly the same condition as it was when
23 you first observed it, except for the additional markings and
24 that it's now in the bag?
25 A. Yes, sir, it does.

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1 Q. Do you recall where the blood was that was on that tire iron?
2 A. No, sir. All that I could recall was, like I say, part of it
3 was in this clear liquid that was on the floor. In the position
4 that it was lying, it would have had to have been on top of that.
5 Q. Was this item seized at that time, Mr. Honeycutt?
6 A. It was.
7 Q. Do you have an opinion satisfactory to yourself as to whether
8 or not the swinging of that, an object like that, to the body or
9 the head of Mr. Swain would have caused the castoff, or was
10 consistent with causing the castoff, that you described on the
11 refrigerator?
12 A. Yes, sir.
13 Q. Did you find other areas throughout the--around the body or the
14 sofa area that also displayed this castoff pattern that you've
15 described?
16 A. Not--no, sir; not that I could determine as being a particular
17 pattern, no, sir.
18 Q. Nothing that you could get a pattern from?
19 A. That's correct.
20 Q. Did you find other blood droppings throughout that particular
21 area, Mr. Honeycutt?
22 A. Yes, sir. There were drops of blood also contained on the seat
23 of the couch and on numerous places on the carpet.
24 Q. After you had gone through that particular area where the body
25 was, the kitchen area, and the items that you've described, I

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1 believe you said you went into the rear portion of the mobile
2 home.
3 A. Yes, sir. As I recall, I believe I went all the way to the
4 end of the hall at the very north end of the trailer and worked
5 backwards, back towards the kitchen.
6 Q. Did you find anything back in these back bedrooms?
7 A. No, sir. The very north bedroom, I didn't really notice
8 anything at all. The only thing in the bathroom that was
9 noticeable was that the light was on at that time. In the middle
10 bedroom, I didn't notice anything unusual. On the closest
11 bedroom to the kitchen, what I believe I already testified to
12 was four bags of groceries on the bed and a shotgun and rifle on
13 the wall.
14 (State's Exhibit No. 18 is marked for identification.)
15 Q. I'll show you what's been marked for identification as
16 State's Exhibit No. 18 and ask you to look at that and see if you
17 can identify that for us, please.
18 (Witness complies.)
19 A. Yes, sir.
20 Q. What is that that you have in your hand, sir?
21 A. State's Exhibit No. 18 is a photograph of the bags of
22 groceries situated on the bed in the first bedroom to the north of
23 the kitchen.
24 Q. Do they appear exactly the way you found them there in the
25 residence at that time?

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1 A. Yes, sir.
2 Q. The bag that was over the top of the tire iron, do you recall
3 what type of bag that was?
4 A. Yes, sir. It was a bread bag, an empty bread bag.
5 Q. After you had gone through and observed the area, the things
6 you have already described for us, Mr. Honeycutt, what did you do
7 at that point?
8 A. Well, throughout the den, things that appeared to have been
9 moved, things that appeared to have been touched, each were
10 fingerprinted at that time for the possibility of any fingerprints.
11 Also during that time, I conducted an examination of attempting to
12 try to get a hair and fiber from both the body and around the body
13 on the floor.
14 Q. First of all, I believe you said you attempted to get some
15 fingerprints or attempted to find fingerprints. If you would,
16 describe for us in what areas. Would State's Exhibit No. 7 assist
17 you, Mr. Honeycutt?
18 A. Yes, sir. I don't remember specifically where I lifted
19 fingerprints without the fingerprint cards themselves; but, I'll
20 try.
21 Q. So, you did get some lifts at that time?
22 A. Yes, sir. As I recall, there were 18 lifts taken from the
23 residence.
24 (State's Exhibit No. 19 is marked for identification.)
25 Q. Mr. Honeycutt, I'll show you what's been marked for

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1 identification as State's Exhibit No. 19 and ask you to take a
2 look at that and see if you can identify that for us, please, sir.
3 (Witness complies.)
4 A. Yes, sir, I can.
5 Q. What is that that you have there in your hand?
6 A. State's Exhibit No. 19 is a manilla envelope in which I placed
7 the 18 latent lifts that I developed from Mr. Swain's residence.
8 Q. First of all, how is it that you can identify that,
9 Mr. Honeycutt?
10 A. It contains the S. B. I. case file number, which I placed on
11 there the date that these were taken, which was December 19th of
12 1993, and also my initials.
13 Q. Could you open that and tell us now where you obtained these
14 lifts?
15 (Witness complies.)
16 A. Yes, sir. On the first card, there are three what I term
17 "latent lifts," three pieces of tape contained on the front of the
18 card.
19 Q. For the jury, what is a latent lift, Mr. Honeycutt?
20 A. In processing a crime scene for the presence of fingerprints,
21 what we're looking for are termed as "latent lifts." Latent means
22 hidden or invisible. So, what we have to do, we have to process
23 these by whatever means. In this particular case, by applying a
24 fine powder with a brush over the surface that possibly someone
25 could have touched. In applying this powder, it makes the print,

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1 if it's there, visible. Once it becomes visible, we need a way to
2 take that print so an examination can be made of it. So, what we
3 do is put a piece of tape down over that print on whatever surface
4 it may be on and transfer what fingerprint there is from the
5 object onto the piece of tape. Then the piece of tape is placed
6 onto one of these backing cards. So, the print is transferred to
7 this area for examination by the folks.
8 Q. That particular card, could you tell us where in the mobile
9 home that you obtained that lift or that latent lift?
10 A. Yes, sir. These three latent lifts were taken from the
11 exterior front door of the Swain residence. The next three latent
12 lifts, which are also three lifts on this same card, are also from
13 the exterior of the front door of the Swain residence. The next
14 card, which contains only one latent lift, is also from the
15 exterior of the front door of the Swain residence. The next card,
16 which contains one latent lift, is from the interior of the front
17 door knob of the Swain residence. The next card, which is also
18 one latent lift, was taken from the top of the kitchen table inside
19 the Swain residence. The next card, which also contains one latent
20 lift, was taken from the telephone which was located on the floor
21 of the Swain residence near the kitchen table. The next card
22 contains two latent lifts. Each of these were taken from a broken
23 ashtray which was on the den floor near the coffee table. The
24 next card, which contains three latent lifts, were taken from a
25 plastic cup which was also located on the den floor in the area of

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1 the coffee table. And, the last card, which also contains three
2 latent lifts, was also taken from the plastic cup on the den
3 floor near the coffee table.
4 Q. Out of the 18 lifts, were there any prints that were taken,
5 identifiable prints, of value, Mr. Honeycutt?
6 A. Yes, sir.
7 Q. How many out of the 18 were of value?
8 A. Out of the ones that were there, there were two latent
9 fingerprints and three identifiable latent impressions.
10 Q. Did you also have a set of ink impressions from the victim,
11 Mr. William Frank Swain?
12 A. Yes, sir. I got these at a later time.
13 (State's Exhibit No. 20 is marked for identification and is
14 examined by defense counsel.)
15 Q. I'll show you what's been marked for identification as
16 State's Exhibit No. 20, Mr. Honeycutt.
17 (Witness examines State's Exhibit No. 20.)
18 A. Yes, sir.
19 Q. What is that that you have there in your hand?
20 A. State's Exhibit No. 20 is the manilla envelope in which I
21 placed the ink impressions, or the fingerprints, taken of
22 Mr. William Frank Swain immediately after the autopsy proceeding
23 on December the 20th of 1993.
24 Q. Was Mr. Swain's prints also sent up to be compared with the
25 lifts that were found there in the residence?

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1 A. They were.
2 Q. Were any of Mr. Swain's prints found on any of these items?
3 A. Mr. Norton, I don't know that I have that report.
4 (Witness refers to notes in his possession.)
5 A. Yes, sir, I do have it.
6 Q. You do have it?
7 A. I do. There were no identifications of Mr. Swain made.
8 Q. How about as to the Defendant in this case, Mr. Wallace Brandon
9 Jones?
10 A. His fingerprints were also compared to the latent lifts with
11 no identifications being made.
12 Q. Did you find any prints of Mr. Leroy Spruill at that time?
13 A. No, sir.
14 Q. Dana Maybin?
15 A. No, sir.
16 Q. Any other people that the prints were compared with at that
17 time?
18 A. No, sir.
19 Q. Are you aware that, at a later time, there were some
20 additional prints that were submitted--
21 A. Yes, sir.
22 Q. --from other people?
23 A. Yes, sir.
24 Q. Was there ever any identification made on any of these people:
25 Maurice Wilkins, Sherry Honea, or any of the others that were

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1 printed?
2 A. No, sir.
3 Q. Now, can you explain to the Court and to the jury,
4 Mr. Honeycutt, what kind of conditions will affect the leaving of
5 fingerprints?
6 A. A variety of conditions can exist that will hamper the leaving
7 of fingerprints. The main two are the surface that it's left on
8 and the amount of secretions that are left there to start with
9 from the fingers. Regarding the last condition, if you have powder
10 on your fingers or something that would dry out the fingers, then
11 it would tend not to leave as good as impression as someone that
12 secreted quite heavily. Then, on the other hand, there could be
13 too much secretions, causing smears of the fingerprint. Of course,
14 anything worn over the hands or anything that is located between
15 the object touched and the fingers will also inhibit the leaving
16 of fingerprints. The surface that it's left on has a great deal to
17 do with it. If that surface is extremely dirty or dusty, it will
18 hamper the leaving the fingerprints. If the surface is damp or
19 wet or covered with some other substance, this would also inhibit
20 it. Climatic conditions will play a part in it. If there's too
21 much heat or too much moisture, that may also hamper it.
22 Q. What did you find as the condition of the house at the time
23 that you went there, Mr. Honeycutt?
24 A. Very dirty.
25 Q. Out of the 18 lifts, I believe you said that you'd only found

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1 there were five prints that were of some value. What do you mean
2 by that, Mr. Honeycutt?
3 A. There were two fingerprints that were of value, in other
4 words, items that could be deemed to be latent fingerprints.
5 And, there were three impressions that there is some ridge detail,
6 and, by "ridge detail," I mean that, if you look at your fingers,
7 you can see the lines running through, which actually makes the
8 fingerprint. There was some ridge detail that was there, but I
9 really don't know what portion of the hand that it may have come
10 off of.
11 Q. There was no way to match it up with anything--
12 MR. VOSBURGH: Objection.
13 Q. They were not of value; could not be matched to anything;
14 is that what you're saying, Mr. Honeycutt?
15 A. They were not matched to anything.
16 Q. You also indicated that you attempted to obtain or checked to
17 determine if there were any hair transfers or any trace evidence,
18 I believe; is that correct?
19 A. Yes, sir.
20 Q. Tell us, if you will, what you did to see about checking for
21 trace evidence.
22 A. Yes, sir. One of the first processes that was done is to take
23 the hair and fiber samples from both the floor around where the
24 body was, encompassing about four to five feet on all sides of the
25 floor, including the cushions that were previously described, by

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1 using an alcohol-soluble tape. An alcohol-soluble tape looks a
2 lot like masking tape. It's about two inches wide. You would
3 tear off a strip of it, wrap it around your hand, and just
4 basically pat the area with the tape so that it picks up the hair
5 and fiber from the top area of what you're processing. In this
6 case, it would be carpet and cushions. These tapings are then
7 placed into a plastic bag, at which time they're sealed, and
8 they're sent to the laboratory for analysis. Upon finishing the
9 floor area around the victim, I then did the front of the body of
10 the victim utilizing the same method, taking the tape around my
11 hand and patting the front of the body in an attempt to collect
12 any hair or fiber which may be present.
13 Q. What type of conditions will affect that, Mr. Honeycutt?
14 A. Basically, if there is a lot of wind or something like that
15 which may blow the items that you're looking for away, or, if
16 there is, such as in this case, blood that is placed or dropped on
17 it afterwards, it may inhibit getting down to the material where
18 the hair and fiber would be.
19 Q. Would movement of the body from place to place, would that
20 also affect it?
21 A. It could, but not to a significant amount.
22 Q. Now, you said that you attempted to get the trace evidence,
23 checking for hair transfers and fiber transfers, from the chest
24 area of the victim in this case.
25 A. That's correct.

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1 Q. And also the floor around him.
2 A. That's correct.
3 Q. Was that also sent to the lab, Mr. Honeycutt?
4 A. It was.
5 Q. Was there any transfer of any hairs or fibers on the body
6 from that time?
7 A. The only analysis that could be made was that of a possible
8 transfer of hair. Due to the fact that we had no clothing from
9 any suspect to compare any fiber with, either one way or to the
10 other, either from the victim to suspects or suspects to the
11 victim, a fiber analysis was not possible. The hair analysis was
12 conducted, however. Was there some known samples sent to be
13 compared with the hairs at that time?
14 A. Yes, sir, there was.
15 Q. Whose samples were sent?
16 A. That would be the Defendant, Mr. Jones; Dana Maybin, and;
17 Leroy Spruill.
18 Q. Did you also send sample of head hairs from Mr. Frank William
19 Swain?
20 A. Yes.
21 Q. Did you find any transfer of hair on or in the area
22 immediately around the body at that time?
23 A. No, sir.
24 Q. Did you also conduct or take samples of any blood there at the
25 scene, Mr. Honeycutt?

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1 A. I did.
2 Q. Did you take a sample of blood from the victim, Mr. William
3 Frank Swain?
4 A. Yes, sir.
5 Q. Was that also sent to the lab?
6 A. It was.
7 Q. What was Mr. Swain's blood type?
8 A. As I recall, he was an O.
9 Q. Was it also compared with the--were the items that were there
10 compared with the blood type of Mr. Jones in the case?
11 A. Yes, sir, it was.
12 Q. And, do you recall what Mr. Jones' blood type was?
13 A. Mr. Norton, I want to say he was Type O, but I do not have
14 that report in front of me.
15 MR. VOSBURGH: Move to strike.
16 THE COURT: That motion is allowed. The jury will
17 disregard the answer of the witness.
18 (Mr. Norton furnishes paper-writing to the witness, and the
19 witness examines the same.)
20 THE COURT: Do you know the answer to that question now?
21 A. Yes, sir.
22 THE COURT: Answer the question.
23 Q. What was Mr. Jones' blood type?
24 A. His blood type would have been B.
25 Q. Blood Type B?

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1 A. Yes, sir.
2 Q. How about Ms. Maybin; was her blood type tested?
3 A. Yes, sir, it was.
4 Q. What was her blood type?
5 A. Ms. Maybin's blood type is A.
6 Q. Was Mr. Spruill's blood type also tested?
7 A. Yes, sir, it was.
8 Q. What was his blood type?
9 MR. VOSBURGH: Objection.
10 THE COURT: Overruled.
11 MR. NORTON: I'll withdraw that question, if Your Honor
12 please.
13 Q. Let me just ask you this, Mr. Honeycutt. Did you find any
14 blood type at the scene that was inconsistent with that of
15 Mr. William Frank Swain?
16 A. No, sir.
17 MR. NORTON: At this time, if Your Honor please, I would
18 offer into evidence State's Exhibits No. 8, 9, 10, 2--which may
19 have already been introduced--, 6, 4, 5, 3, 11,--
20 MR. VOSBURGH: Your Honor, we object to No. 11.
21 THE COURT: Overruled.
22 MR. NORTON: --12,--
23 MR. VOSBURGH: We'd object to No. 12, also.
24 THE COURT: Objection overruled.
25 MR. NORTON: --13, 14, and 18, along with State's Exhibit

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1 No. 16 and No. 15. I would ask that they be passed to the jury at
2 this time, if Your Honor please.
3 THE COURT: All right. Sheriff, pass these to the jury,
4 please.
5 (Sheriff complies, and said exhibits are passed to the jury.)
6 MR. NORTON: I would offer No. 17, 19, and 20, which are
7 the print cards, and I would ask that No. 17, the tire iron, be
8 passed to the jurors.
9 MR. SKINNER: The inside of No. 19, I believe, is a
10 series of nine cards, and I don't believe they were marked when he
11 was going through them. I don't believe I've seen those.
12 THE COURT: Well, he marked the envelope with the
13 contents.
14 MR. SKINNER: I just wanted to know what, if anything,
15 is shown on the cards.
16 THE COURT: Let him look at those. He's not asking that
17 they be passed to the jury, but you can look at them while they're
18 doing that.
19 MR. VOSBURGH: Your Honor, I understood he just
20 offered them into evidence but not to be--
21 THE COURT: He didn't ask that they be published to the
22 jury.
23 MR. NORTON: I would ask that the tire iron be passed.
24 THE COURT: He's just asked that the tire iron be passed.
25 He's only introducing those into evidence. You can wait until

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1 they finish with those pictures, and then you can let them look
2 at that.
3 THE COURT: Are you satisfied, Mr. Skinner?
4 MR. SKINNER: Yes, sir.
5 (The following exhibits are published to the jury: State's Exhibit
6 Nos. 8, 9, 10, 2, 6, 4, 5, 3, 11, 12, 13, 14, 18, 16, and 15, after
7 which time State's Exhibit No. 17 is published to the jury.)
8 Q. Mr. Honeycutt, in your examination of the residence and the
9 body of Mr. Swain, did you find any controlled substance there at
10 the residence?
11 A. Yes, sir.
12 Q. Where was it that you found the controlled substance?
13 A. As I recall, there was a razor blade which had a very small
14 amount of white powder on it on top of the stereo in the den.
15 Q. It was just a small amount on a razor blade?
16 A. Yes, sir.
17 Q. How about the body itself? Did you find any cocaine, any
18 crack cocaine, on the body itself?
19 A. No, sir.
20 Q. Did you find a knife on the body?
21 A. No, sir.
22 Q. Did you check the contents of Mr. Swain's pockets at that time?
23 A. Of the pants pockets, I did.
24 Q. What did you find?
25 A. The left pocket, there was $97 in U. S. currency.

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1 Q. How was that in the pocket? How was it packaged, if you will?
2 A. As I recall, it was folded over, one fold over.
3 THE COURT: Back or front pocket?
4 A. That was the left front pocket. In the right front pocket,
5 there was $11.92 and also a set of keys.
6 Q. Did you check the rear pockets to see if he had a wallet at
7 that time?
8 A. Yes, sir.
9 Q. Did he have a wallet on him?
10 A. As I recall, there was nothing in either rear pocket.
11 Q. Did you see a wallet, a little velcro-snap wallet, anywhere
12 in the residence?
13 A. I did not.
14 Q. You did not?
15 A. No, sir, I did not.
16 Q. Now, at a later time, did you find some additional money; in
17 other words, some additional money given to you from the body?
18 A. Yes, sir.
19 Q. Can you explain that to the jury, please.
20 A. Yes, sir. That was located during autopsy. It was in the
21 front shirt pocket of Mr. Swain. It was found by Dr. Ellis Harris
22 who was conducting the autopsy.
23 Q. Now, Dr. Harris, you're referring to Dr. Stan Harris?
24 A. Yes, sir.
25 Q. Was Dr. Harris--did he get there before you or after you,

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1 Mr. Honeycutt?
2 A. He was already on the crime scene prior to my arriving.
3 Q. Also, Mr. Honeycutt, you've mentioned earlier that there was a
4 coat that had blood on it. Where was this coat located?
5 A. This coat was located on the den floor just beyond the feet of
6 the victim.
7 Q. Any other objects around it at that time?
8 A. Yes, sir. It was partially covered, as I recall, by one of
9 the couch cushions.
10 Q. Did you later take a photograph of that, Mr. Honeycutt?
11 A. I did.
12 (State's Exhibit No. 21 is marked for the purpose of
13 identification.)
14 Q. With reference to State's Exhibit No. 2, can you see what the
15 objects were with and adjacent to the photograph that you took of
16 the coat?
17 A. Yes, sir. As previously described, there's a couch cushion
18 partially covering it, and there's also a set of car jumper cables
19 located in that area.
20 (Mr. Norton furnishes exhibit to defense counsel for their
21 examination.)
22 Q. I'll show you what's been marked for identification as
23 State's Exhibit No. 21, Mr. Honeycutt, and ask you to look at that
24 and see if you can identify that for us, please.
25 (Witness complies.)

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1 A. Yes, sir.
2 Q. What is that, Mr. Honeycutt?
3 A. State's Exhibit No. 21 is a photograph taken of the red, white,
4 and blue jacket and the jumper cables as found during that time
5 without the cushion covering it. The cushion had been removed at
6 this point.
7 Q. Does that photograph appear in the same condition now as it
8 was when you first observed it?
9 A. Yes, sir. After the cushion was removed, yes, sir.
10 (State's Exhibit No. 22 is marked for the purpose of
11 identification.)
12 Q. Mr. Honeycutt, I'll ask you to take a look at State's Exhibit
13 No. 22, and I'll ask you if you can recognize and identify that
14 for us, please.
15 (Witness complies.)
16 A. Yes, sir.
17 Q. What is that that you have there in your hand?
18 A. State's Exhibit No. 22 is a paper bag in which I placed the
19 red, white, and blue jacket from the floor of the den.
20 Q. Would you look and see if the jacket appears like it was when
21 you first observed it, sir--other than the fact it's dried.
22 (Witness complies.)
23 A. Yes, sir, with the exception it looks like to be three small
24 pieces of material taken out of it.
25 Q. Was that for testing purposes?

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A. That's correct.

Q. But, other than that, it appears in the same condition as it was, other than it's dried and there have been some snips taken out of it?

A. Yes, sir, and some markings.

Q. You can put that back in the bag, Mr. Honeycutt--

MR. VOSBURGH: May we see that item?

THE COURT: Please come up and view it.

MR. NORTON: If you'll just hold it up, Mr. Honeycutt, so everybody can see it.

(Witness complies.)

(Mr. Vosburgh and Mr. Skinner approach the witness stand and view State's Exhibit No. 22, including contents.)

Q. Mr. Honeycutt, did you notice anything unusual about the jacket at that time?

A. Yes, sir.

Q. What was that?

A. The jacket as I found it was inside out. Both arms were inside out, and, also, the jacket itself was inside out. Also, the bottom button of the jacket was still secured at this time.

Q. Was it a button or a snap; do you recall?

A. As I recall, it was a snap.

Q. In other words, the bottom one was snapped, and, otherwise, the jacket was inside out.

A. Yes, sir.

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1 Q. If you'll answer Mr. Vosburgh's or Mr. Skinner's questions,
2 please.
3 A. Yes, sir.
4 CROSS EXAMINATION by MR. SKINNER:
5 Q. Mr. Honeycutt, at the beginning of your testimony, you've
6 stated you were in charge of gathering evidence for the local lab;
7 is that correct? --local responsibility for the S. B. I. lab.
8 Excuse me.
9 A. Yes, sir, when requested.
10 Q. How long have you been with the S. B. I.?
11 A. Since January of 1982.
12 Q. What kind of training had you had in dealing with the taking
13 of blood samples?
14 A. Oh--it starts back a long time ago. I graduated from East
15 Carolina University in the field of Law Enforcement, Criminal
16 Justice, in 1976. From that point, I attended Basic Law Enforcement
17 Training in which some training was given in this area. I then
18 secured a job with the Grifton Police Department where I stayed
19 two years as a patrol officer, and; at that time, I went through
20 a few training courses but not very many. In 1978, I was employed
21 by the Lenoir County Sheriff's Department as an investigator, and;
22 at that time, I worked homicide cases, assault cases, and; during
23 that time, I took numerous hours of training in all sorts of
24 evidence collection. In 1982, I was employed by the State Bureau
25 of Investigation and immediately underwent over 700 hours of

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1 training as far as evidence collection and the laws of North
2 Carolina, and; since that time, I have taken in excess of 2,000
3 hours of training in the field of evidence collection.
4 Q. As far as collecting blood, what specific training have you
5 had?
6 A. Specific training. We are, as mobile crime laboratory
7 personnel, are assigned to different areas of the S. B. I.
8 laboratory during training times. This is done initially when
9 you're employed as an agent. It's also done on a sporadic basis
10 when any new developments come up.
11 Q. As far as your training to gather samples of blood and preserve
12 them to send to the lab.
13 A. As I've stated several times, yes, sir.
14 Q. What does that training involve? What's the technique involved
15 that you're taught?
16 A. It depends on what you're taking if off of.
17 Q. On the front door, for example, that you referred to in your
18 testimony, when you collected that blood sample, what did you do?
19 A. That was scraped off.
20 Q. After you scraped it off, you did what?
21 A. It was scraped off into, as I recall, probably a metal tin. I
22 don't remember the type of container right offhand. But it was
23 scraped off; it was sealed; it was labeled for identification, and;
24 then it was taken to the S. B. I. lab.
25 Q. As far as the gathering of blood samples in the house when you

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 got in, what did you do there? Start from when you went in the
2 door and the first place you went.
3 A. As far as collecting blood samples within the house, what I
4 was looking for was the possibility of a second bleeder. At that
5 particular point in time, everything that was observed at that
6 point seemed to stem from the injuries that had occurred to
7 Mr. Swain, which was the main reason that the scraping off the
8 front door was taken because that was exiting the door.
9 Q. What about the floor mats out there at the front?
10 A. That was diluted blood, and it was not seized. It was
11 photographed and documented. It was tested for the presence of
12 blood at that point.
13 Q. You said "diluted." What do you mean?
14 A. Wet.
15 Q. Is there any reason you didn't take that sample?
16 A. Only because the sample on the door was dry and it was not
17 diluted.
18 Q. So you're not trained to take wet samples?
19 A. I would rather take a full sample than one that's been wet or
20 rained on or that's diluted.
21 Q. Have you been trained in gathering evidence for DNA purposes?
22 A. It wouldn't make any difference for what purpose it was
23 gathered.
24 Q. So you can gather wet blood for DNA testing; you're qualified
25 to do that?

FORM SMI-25 PENGAD/INDY 1-800-6' '99

1 A. You can gather blood, yes, sir. You can gather wet blood.
2 Q. Mixed with water, you could still gather that?
3 A. Sure.
4 Q. But you chose not to collect that?
5 A. I did not.
6 Q. You stated, I believe, as far as the tire tool went, that the,
7 I believe it was a splatter on the refrigerator door that was
8 consistent with the blows struck with the tire tool.
9 A. It can be consistent with the tire tool or another object;
10 but, it is consistent with that.
11 Q. Where did you gather the blood off the tire tool?
12 A. I did not gather it. I gathered the tire tool.
13 Q. Where was the blood on the tire tool?
14 A. As I previously stated, on top of it was what I could observe.
15 Q. If you could demonstrate "on top of it."
16 A. As it was lying on the floor, if you look in the photograph,
17 on top of the tire tool. I don't know which position it was in.
18 Q. Was it up there on the big end where they use it to undo the
19 nuts and bolts?
20 A. It was pretty much consistently over the tire tool.
21 Q. Did you take any blood samples off of the jacket?
22 A. The jacket was taken.
23 Q. But you didn't lift any samples at that time off the jacket?
24 A. Not if I'm taking the jacket, no, sir. The whole jacket was
25 submitted.

FORM SMI-25 PENGAD/INDY 1-800-631-6

1 Q. And, again, you didn't take any samples off that closet door
2 area?
3 A. I did not.
4 Q. And, you didn't take any blood samples off of the cushions?
5 A. No, sir.
6 Q. And, neither did you take any off of the telephone?
7 A. No, sir, did not.
8 Q. And, you didn't take anything from the curtain?
9 A. Not that curtain.
10 Q. On these items that you didn't take anything from, did you
11 send samples of the items to the S. B. I. lab to have them test
12 them?
13 A. I'm sorry, sir. Could you repeat the question?
14 Q. Everything you did not lift samples yourself or direct, did
15 you take these items or samples from the items and send to the
16 S. B. I. for blood typing? The curtain, for instance.
17 A. No, sir.
18 Q. You did not?
19 A. No.
20 Q. In items in 13 and 14 on the photographs that Mr. Norton
21 showed you of the floor, couch seat area, and where the phone was,
22 you didn't take samples of that?
23 A. I did not.
24 Q. And, you did not take blood samples from the refrigerator
25 door in photograph 15?

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1 A. I did not.
2 Q. Did you go through the house entirely when you first got in
3 there?
4 A. On a very limited basis, yes, sir.
5 Q. Did you go in the bathroom?
6 A. Yes, sir.
7 Q. Did you check to see if any water had been turned on or if it
8 was wet in the sink?
9 A. I don't recall if the sink was wet or not. I do recall
10 checking to see if there may be any diluted blood stains around
11 it and did not see any.
12 Q. Did you later have a luminal test conducted on the sink area?
13 A. I did not.
14 Q. Did you check the kitchen sink for blood samples?
15 A. A visual examination, yes, sir.
16 Q. No further testing was done?
17 A. No, sir. There was a small blood stain that was located on
18 a curtain above the sink.
19 Q. You testified you saw a shotgun on the rack. Did you take that
20 shotgun down and see if it was loaded?
21 A. Didn't have to. No, sir. The action on it was open. There
22 was a shotgun shell inside of it, but it was not shucked.
23 Q. How far away was that shotgun from Mr. Swain's body when you
24 got there?
25 A. All the way through the kitchen, down the hall, first bedroom

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1 on the left. Approximately 25 feet.
2 Q. What kind of specific training have you had in lifting
3 fingerprints?
4 A. Specifically, sir, I can't recall specific instances. Again,
5 you receive training in B. L. E. T., or Basic Law Enforcement
6 Training, which I've gone through twice. I've received quite a
7 bit of training from our latent evidence section with regards to
8 processing latent prints, not only with powders but also with
9 chemicals. I currently teach Basic Law Enforcement Training in
10 which fingerprinting is taught, and I also teach our agents on
11 occasion on how to develop and lift fingerprints and also teach
12 courses at some of the local community colleges on how to lift
13 fingerprints.
14 Q. Specifically, what have you been taught as far as lifting
15 fingerprints?
16 A. It depends on the surface; it depends on what type of process
17 you're going to use.
18 Q. Have you had any training in reading fingerprints?
19 A. A long time ago; but, I do not do that anymore.
20 Q. You no longer do laboratory comparative work?
21 A. I do not.
22 Q. And, similar with the blood, you don't do serology tests?
23 A. I do not.
24 Q. No training in serology?
25 A. With the exception of a preliminary identification test.

FORM SMI-25 PENGAD/INDY 1-800-62 '99

1 Q. So you wouldn't know what percent of the population has AB, O,
2 A--?
3 A. No, sir, I do not.
4 Q. --or any type?
5 A. I do not.
6 Q. And, you're not qualified yourself to test and determine types;
7 is that correct?
8 A. That's correct.
9 Q. As far as the hair sampling training, what kind of training
10 have you had other than just gathering and putting the tape on it?
11 A. Again, that's gone through different periods. It began, again,
12 years and years ago when the primary method was taking each
13 individual hair, and taking that off of a body or off of a carpet
14 or whatever it may be, and submitting it in that way. It then
15 went through a period in which an evidence vacuum cleaner was used
16 which would basically just draw all the hair and fiber into a
17 filter, and then you would submit that. And, today, we're back to
18 using the alcohol-soluble tape which collects, basically, the most
19 recently deposited items that were there, whereas the evidence
20 vacuum cleaner tended to get everything that had been in the carpet
21 for years.
22 Q. Is there any reason why you can't do that tape test first and
23 then follow it up with the vacuum cleaner? Is there any reason
24 that's not done anymore?
25 A. The reason it's not done is because so many extraneous samples

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 were being taken in the--it's just like if someone would go into
2 your house. How many visitors have you had in your house over the
3 past, say, three months? It would be picking up all their hair
4 and everybody else's hair.
5 Q. So you're saying now that the standard thinking in gathering
6 hair samples is just to gather what is recent?
7 A. Or, what is deemed to be recent. That's the theory behind
8 it. I'm sure it gets more detailed than that. But, it's the best
9 show on the road right now.
10 Q. So, these conditions you described, such as the blood getting
11 down and inhibiting the gathering of hair, you force yourself, by
12 taking the sticky test, you force yourself to be stuck with
13 whatever you get on the top; is that correct?
14 A. Yes, sir.
15 Q. It is true that hair is small, and the carpet such as
16 Mr. Swain was lying on, the hair could work its way down.
17 A. It could work its way down in the crevices. It could be
18 covered over, and, in this case, as in covered over by blood and
19 not being able for the tape to even pick it up through the blood.
20 Q. If I've understood your testimony as far as the gathering of
21 hair was concerned, you gathered hair in two areas right around the
22 body?
23 A. No, sir. Basically, it was done all around the body, four to
24 five feet on both sides and around the foot of the body. That was
25 one item. The second item was directly from the body itself.

FORM SMI-25 PENGAD/INDY 1-800-6 '89

1 Q. About how large was the room that Mr. Swain was in, just
2 dimension-wise?
3 A. I don't recall specifically. A guess would be approximately
4 9 by 12.
5 Q. Out of that total area of 108 square feet, you took a sample
6 of approximately 12 square feet; is that accurate?
7 A. No, sir. It would be more than that.
8 Q. Well, what--
9 A. It would be five--you take Mr. Swain's body, go all the way
10 around it five feet, both sides and around the feet--
11 Q. 25 square feet?
12 A. Somewhere in that vicinity.
13 Q. It would be accurate then to say that you took about a
14 quarter of the area of the room.
15 A. Yes, probably so.
16 Q. And, from what you observed with the cushions and all the stuff
17 around it, didn't it appear that there had been a fight in the
18 whole room?
19 A. No, sir.
20 Q. It did not?
21 A. No, sir.
22 Q. Did you take any hair samples from around that broken chair
23 that was shown to you?
24 A. That would have been in the area of the carpet. The five feet
25 would have encompassed right on the edge of the carpet next to

FORM SMI-25 PENGAD/INDY 1-800-6 '89

1 where the phone was; yes, sir. The phone and the chair.
2 Q. Did you take a hair sample over there by that wall where that
3 tire tool and bag was?
4 A. I did not.
5 Q. Did you take any blood off of that broken chair that was shown
6 to you, I believe, in photograph 7--the one that had that copper,
7 bronze-type--
8 A. I did not.
9 Q. Was that chair completely dissembled?
10 A. As I recall, it was. The seat was completely off of it.
11 Q. Were all the parts of that chair in the room?
12 A. Yes, sir.
13 Q. Did you look inside the kitchen cabinets for any evidence?
14 A. As I recall, I did.
15 Q. Did you find any sandwich bags or small plastic bags?
16 A. They may have been there. I don't know.
17 Q. Did you find any small medicine bottles?
18 A. No, sir.
19 Q. The first picture Mr. Norton showed you of Mr. Swain shows the
20 front left pocket was turned outward; did you remember that?
21 A. It is out partially.
22 Q. This was after you searched and found the money in it?
23 A. No, sir.
24 Q. But the money was inside the pocket.
25 A. Yes, sir.

FORM SMI-25 PENGAD/INDY 1-800-6' '99

1 Q. When you were checking the area, did you notice whether any of
2 the cushions had been slashed?
3 A. Not that I recall. There was one that was torn, but I don't
4 think it was slashed.
5 Q. When you went in the bathroom, it didn't appear anybody had
6 gone through the cabinets?
7 A. No, sir. As I said, I didn't notice anything on the back side
8 of the hall.
9 Q. In the bedroom, you didn't notice any furniture turned over or
10 any slashed mattresses or anything like that?
11 A. No, sir.
12 Q. Did you find any textile fabric at the scene that would
13 indicate that it had been used--that that fabric had been used to
14 wipe blood from a flat object or from a wall inside the premises?
15 A. No, sir.
16 Q. Did you see any evidence on the outside or the exterior that
17 blood had been wiped off of the door?
18 A. No, sir.
19 Q. There was no evidence at all at the scene when you inspected
20 of any wiping of any blood by anything; would that be accurate?
21 A. None other than can be attributed to the movement of cloth
22 items that were there, such as couch cushions being moved that had
23 blood on them and sliding from one location to another, or,
24 clothing which had blood on it sliding from one place to another.
25 No, sir.

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1 Q. You described that house as filthy; is that correct?
2 A. As dirty.
3 Q. Did you see a vacuum cleaner in there when you were checking?
4 THE COURT: What has that got to do with it, Mr. Skinner,
5 whether he saw a vacuum cleaner or not?
6 MR. SKINNER: I'll withdraw the question.
7 Q. On the inside of the house, when you went in there, in the
8 area that Mr. Swain was, did you notice any footprints from shoes
9 of any kind?
10 A. No, sir, I did not.
11 Q. When you walked through the home, did you notice whether you
12 made any footprints?
13 A. I did not.
14 Q. And, in that first photograph of Mr. Swain, there's some white
15 powder that appeared in that photograph.
16 A. Not that I recall.
17 (Mr. Skinner approaches the witness stand.)
18 Q. Right there (indicates).
19 A. Yes, sir.
20 (Mr. Skinner returns to counsel table.)
21 Q. There were no footprints or anything through that powder?
22 A. No, sir. These are cigarette ashes; that's not powder.
23 Q. No footprints over in that substance?
24 A. No, sir.
25 Q. You've stated there was a plastic bread bag by the tire tool;

FORM SMI-25 PENGAD/INDY 1-800-6" '89

1 is that correct?
2 A. Yes, sir; over the top of a portion of it.
3 Q. What did you do with that bag?
4 A. That was also seized.
5 Q. Is it with you today?
6 A. I don't have it, no, sir.
7 Q. Did you conduct any tests on that bag?
8 A. No, sir. It was sent to the laboratory.
9 Q. Did you see any fingerprints on it?
10 A. No, sir, I didn't.
11 Q. Was it tested for latent prints?
12 A. As I recall, it was.
13 Q. You mentioned there was a substance of clear liquid, I believe,
14 around the tire tool and that bag.
15 A. That's correct.
16 Q. Do you know what that substance was?
17 A. Yes, sir. In dealing with homicides, it's--when some time has
18 passed, the blood begins to separate, that was on the floor. It
19 would separate into red, congealed substance, and then the clear
20 serum runs from that and to whatever area is lowest on the floor.
21 Q. That was, in your opinion, blood serum?
22 A. Yes, sir.
23 Q. How far away from the body was the blood serum?
24 A. That was approximately seven to eight feet.
25 Q. You tested for hair between that serum area, also--?

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1 A. I tested for hair up to the edge of the carpet. Once it got
2 into the serum area, no, sir, I did not because the tape would
3 not adhere.
4 Q. Did you take a serum sample and conduct a test--?
5 A. No, sir, I did not.
6 Q. Why not?
7 A. At that time, as I stated previously, everything appearing
8 there would be consistent with having come from Mr. Swain.
9 Anybody else that would have bled that much probably still would
10 have been there.
11 Q. Would you repeat that answer?
12 THE COURT: Why do you want him to repeat it? Did the
13 jury hear the answer?
14 (The jury responds affirmatively.)
15 THE COURT: The jury heard it, and he's answered the
16 question. Ask the next question.
17 Q. Did you test the watch on the floor for fingerprints?
18 A. Yes, sir.
19 Q. Was that sent to the S. B. I. lab?
20 A. No, sir.
21 Q. Why not?
22 A. Because I processed it on the scene.
23 Q. Were you able to take a lift off of that?
24 A. No, sir.
25 Q. Were you able to determine who owned the watch?

FORM SMI-25 PENGAD/INDY 1-800-631-

1 A. No, sir, I did not.
2 Q. When you were checking for the money in both pockets, could
3 you describe how the money was folded?
4 A. Yes, sir. As I recall, I believe I stated that it was folded
5 over once.
6 Q. How many bills was the $97 in?
7 A. I don't know, sir.
8 Q. How big was it; do you know?
9 A. When it was removed, approximately--maybe a half inch, as
10 folded.
11 Q. The money in the right front pocket, was that folded, also?
12 A. I don't recall, sir.
13 Q. The money that was in the shirt pocket, do you remember what
14 condition that was in, whether it was folded or--?
15 A. I do not recall seeing Dr. Harris remove that. I honestly do
16 not know.
17 Q. Did you check under the fingernails of the victim, take any
18 scrapings or anything?
19 A. As I recall, I looked under the fingernails and around the
20 fingernails of the victim and saw nothing except blood.
21 Q. Is it normal for you to take scrapings when you see blood on a
22 victim?
23 A. In some cases, yes, when there's a small amount of blood.
24 Yes, sir, that would be a possibility. When the hands are covered
25 with blood, it's kind of a different story.

FORM SMI-25 PENGAD/INDY 1-800-631

1 Q. On the outside of the mobile home, did you check for any tire
2 impressions?
3 A. Yes, sir.
4 Q. Did you take any photographs of tire tracks, in or out?
5 A. Yes, sir.
6 Q. What about footprints on the outside?
7 A. There was only one shoe impression that was observed, a very
8 obscure print that was located on the bottom step of the steps
9 going to the front door, and that was also photographed.
10 Q. You don't have that photograph with you today?
11 A. I don't.
12 Q. When you were comparing the prints you lifted, did you
13 compare them with Dana Maybin--and I think Mr. Norton asked you
14 that--and your answer was "yes"?
15 A. Yes, sir, they were compared with Dana Maybin.
16 Q. Leroy Spruill's, there was a comparison there?
17 A. Yes, sir.
18 Q. Any comparison with Wallace Brandon Jones'?
19 A. Yes, sir.
20 Q. And, Wyatt Spruill's?
21 A. I don't recall Wyatt Spruill.
22 Q. And, Sherry Honea?
23 A. Yes, sir.
24 Q. And, Maurice Wilkins?
25 A. Yes, sir.

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 Q. Duke Carter?
2 A. No, sir.
3 Q. Mr. McFatter?
4 A. Yes, sir.
5 Q. Ray Hurst?
6 A. No, sir.
7 Q. Is it part of your decision who to fingerprint and compare
8 them with or not?
9 A. No, sir.
10 Q. Who makes that decision?
11 A. Whoever is actually working the specifics of the case. I deal
12 solely with the evidence.
13 Q. I think you said there were three impressions and two latent
14 prints that you, after you did all of this, that you had that were
15 readable; is that correct?
16 A. That's correct.
17 Q. If you were to find a person or find a match out in the
18 population, could you match with those two latents?
19 A. Yes, sir, if these latent lifts do not belong to Mr. Swain.
20 There is not a conclusive elimination of Mr. Swain in this case.
21 Q. There's not a conclusive elimination of other people either;
22 is that correct?
23 A. That's correct.
24 Q. The three impressions you refer to in your testimony, you
25 stated other than Ms. Maybin, Leroy Spruill, Frank Swain, and the

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 Defendant, no other comparisons of those impressions were made;
2 is that correct?
3 A. No, sir. That was also done with the same list that you went
4 through, Mr. McFatter, Sherry Honea, and the group that you
5 mentioned.
6 Q. Beyond that list, if you found the right person, you'd be
7 able to make a match.
8 A. If not those of Mr. Swain, yes, sir.
9 MR. SKINNER: Thank you.
10 THE COURT: Anything further, Mr. Norton?
11 MR. VOSBURGH: Your Honor, we hadn't finished--
12 THE COURT: Well, he thanked him. You don't need to
13 thank a witness for his answer. I'll let him ask some more
14 questions; but, do not thank a witness for his answers. Ask the
15 next questions, and let's move along.
16 Q. (By Mr. Skinner) When you investigated the scene, there were
17 how many vehicles there?
18 A. There were a total of three vehicles. There was a blue Nissan
19 truck; there was a gray Chevrolet Corsica, and; there was a
20 vehicle in the back yard which was up on blocks. I don't recall
21 the make.
22 Q. Were you able to determine the owner of the Chevrolet vehicle?
23 A. As I recall, it was a relative of Mr. Swain. I don't
24 remember--
25 Q. The blue Chevrolet vehicle, the blue Nissan--?

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1 A. I don't recall, sir.
2 Q. Did you run a VIN number--?
3 A. I had the vehicle identification numbers which were turned
4 over to the investigators. I did not run them myself.
5 Q. Was the Nissan truck operable?
6 A. Neither of these vehicles were licensed; none of them were
7 licensed.
8 Q. Were they operable, though?
9 A. The doors were locked. I don't know.
10 Q. You don't know whether the motors worked--?
11 A. The doors were locked. I don't know.
12 MR. SKINNER: That's all the questions I have.
13 REDIRECT EXAMINATION by MR. NORTON:
14 Q. Mr. Honeycutt, in response to Mr. Skinner's questions, I
15 believe you said that, out of the 18 lifts, the five that were
16 valued, that Mr. Swain could not be conclusively eliminated from
17 having made those.
18 A. That's correct.
19 Q. Why was that, Mr. Honeycutt?
20 A. The inked impressions which I took of Mr. Swain were taken at
21 autopsy. During autopsy, the hands of Mr. Swain were in what's
22 referred to as "rigor mortis," or, the stiffening of the body at
23 that time. During this particular time, the hands are situated
24 somewhat like this (indicates) to where you actually have to
25 break the hands and actually force each finger up to try to

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1 fingerprint it. At best, what we could get at this time were the
2 fingerprints and I think a very partial palm print.
3 Q. You were also asked by Mr. Skinner about this pocket that was
4 turned out, and I believe you indicated--was it--did it appear
5 that way when you first arrived, Mr. Honeycutt?
6 A. Yes, sir.
7 Q. He also asked you about whether or not you were qualified to
8 do blood type. Is that why you sent the material to the S. B. I.
9 lab--?
10 A. Yes.
11 Q. --to have the typing done?
12 A. That's correct.
13 Q. Was there any indication that you found of any second bleeder
14 other than Mr. Frank Swain himself?
15 A. No, sir.
16 Q. He also asked you about the--you saw some tire impressions
17 out in the yard. Where was that?
18 A. Those were located at the south end of the trailer just off
19 the tongue. It would be--well, next to the road, the only road
20 coming to that area.
21 Q. What was their condition at that time, sir?
22 A. There wasn't a whole lot to them. There was a very small area
23 that had any tread design whatsoever, and the rest of them were
24 very nondescript.
25 Q. Were they in the area of a watery area, a mud hole, or

FORM SMI-25 PENGAD/INDY 1-800-631-6989

1 something of that nature?
2 A. Some of it was, yes, sir.
3 Q. Anything to match that up to?
4 A. I received no information on anything to compare it to.
5 Q. I believe you indicated that there was a shoe impression or
6 some type of impression on the bottom step.
7 A. Yes, sir.
8 Q. Do you know when that was placed there, Mr. Honeycutt?
9 A. I do not.
10 Q. You were also asked by Mr. Skinner, I believe, about footprints
11 in the room. I believe you indicated that there were no prints
12 there left in the room.
13 A. None that I observed, no, sir.
14 Q. Did you leave any footprints in the room when you walked
15 around in the room?
16 A. No, sir.
17 MR. NORTON: That's all the questions I have.
18 THE COURT: Mr. Skinner.
19 RECROSS EXAMINATION by MR. SKINNER:
20 Q. You stated it was wet and watery right around the front door?
21 A. No, sir.
22 Q. That was out on the road?
23 A. No, sir. That was on the--
24 Q. Did you find any mud inside the house?
25 A. No, sir.

FORM SMI-25 PENGAD/INDY 1-800-F '89

MR. SKINNER: Thank you.

THE COURT: You can step down.

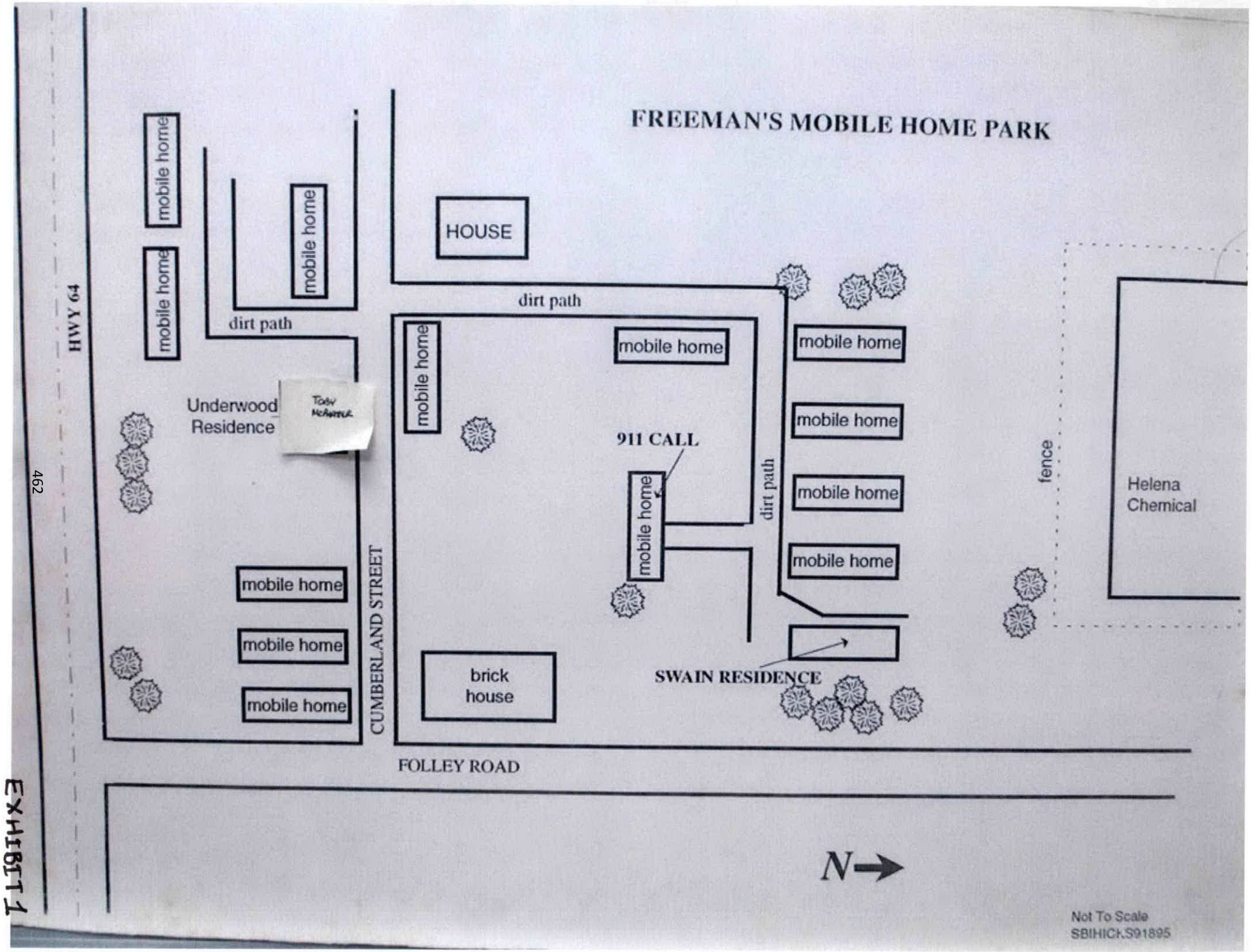
FREEMAN'S MOBILE HOME PARK
HWY 64
mobile home
mobile home
mobile home
dirt path
Underwood Residence
Toby McAuliffe
HOUSE
dirt path
mobile home
mobile home
911 CALL
mobile home
dirt path
mobile home
mobile home
mobile home
mobile home
mobile home
mobile home
mobile home
CUMBERLAND STREET
brick house
SWAIN RESIDENCE
FOLLEY ROAD
fence
Helena Chemical
N
Not To Scale
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EXHIBIT 1

This document was obtained during the Commission's investigation of State v. Leroy Spruill – 94 CRS 1984; 94 CRS1566 and State v. Wallace Brandon Jones – 94 CRS 1973; 95 CRS 1565 (Washington County). It was also used in the Commission's Hearing Brief. Due to the sensitive nature of this document the Executive Director is not making it available on the website.

If you wish to review this document, you may contact the Washington County Clerk's Office or you may make a Public Records Request through the North Carolina Administrative Office of the Courts.

EXHIBIT 3

EXHIBIT 4

EXHIBIT 5

EXHIBIT 6

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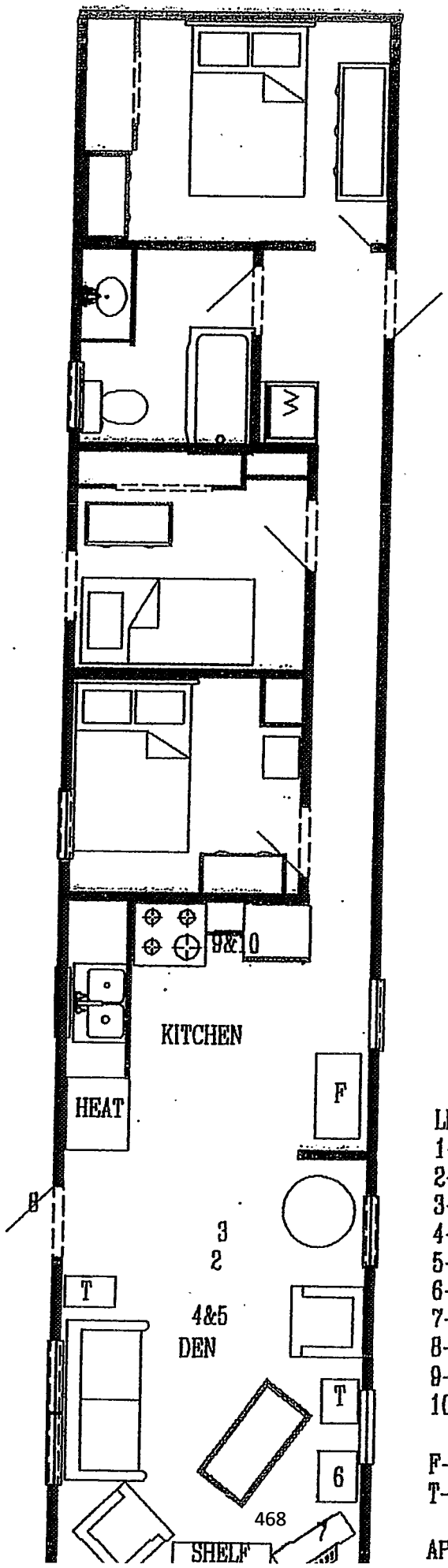

668-H-5
VICTIM: WILLIAM FRANK SWAIN
FREEMANS TRAILER PARK
PLYMOUTH, N.C.

LEGEND
1-LATENT LIFTS (NOT SHOWN)
2-TAPINGS (FLOOR)
3-TAPINGS (BODY)
4-JACKET
5-PAPERS FROM JACKET
6-FOIL AND RAZOR BLADE
7-POWDER RESIDUE
8-SCRAPINGS
9-TIRE TOOL
10-PLASTIC BAG

F-FREEZER
T-TABLE

APPROX. SCALE 1"=6'

000835

EXHIBIT 7

EXHIBIT 8

EXHIBIT 9

EXHIBIT 10

This document was obtained during the Commission's investigation of State v. Leroy Spruill – 94 CRS 1984; 94 CRS1566 and State v. Wallace Brandon Jones – 94 CRS 1973; 95 CRS 1565 (Washington County). It was also used in the Commission's Hearing Brief. Due to the sensitive nature of this document the Executive Director is not making it available on the website.

If you wish to review this document, you may contact the Washington County Clerk's Office or you may make a Public Records Request through the North Carolina Administrative Office of the Courts.

This document was obtained during the Commission's investigation of State v. Leroy Spruill – 94 CRS 1984; 94 CRS1566 and State v. Wallace Brandon Jones – 94 CRS 1973; 95 CRS 1565 (Washington County). It was also used in the Commission's Hearing Brief. Due to the sensitive nature of this document the Executive Director is not making it available on the website.

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EXHIBIT 13

EXHIBIT 14

EXHIBIT 15

EXHIBIT 16

EXHIBIT 18

EXHIBIT 21

Jones was convicted on September 29, 1995, the jury recommended life imprisonment on October 4, 1995, and he was so sentenced on October 5, 1995. On the same day, Maybin was sentenced to nine years in accordance with her plea.

X. Spruill's Plea

Spruill pled guilty to 2nd degree murder and armed robbery on the same day Jones was sentenced, October 5, 1995. There was no additional information provided at the sentencing hearing and no additional investigation between Jones' trial and Spruill's sentencing.

XI. Folly Road Letter

In July 1996, an anonymous letter authored by "Folly Road" was sent to then Washington County Sheriff Jim Whitehurst and Pastor David Hewitt. Hewitt had formed a relationship with Wallace Brandon Jones while doing ministry work while Jones was in jail awaiting trial. The letter states that the author of the letter knows who committed the murder but is scared to come forward. The letter also states that Leroy Spruill is innocent and the Victim's and Sonja Day's murders are related. Pastor Hewitt's wife, Sandra, provided this letter to Jones' defense attorney, Constance Everhart Widenhouse. (Center B-4). The letter is provided below for your review.

Sheriff Jim Whitehurst

I fully understand that your trying to help out Brandon Jones and Leroy Sprills! I don't really know Brando or the girl involved (NICKY OR DA
But I have known Leroy for a better part of my life! And I want you to know that I know all three of parties involved are very innocent people!

Mr. Hewitt I want you to know that I know who killed FRANK SUGGS on the night of his death! Then 5 or 6 months later Sandra Sprills gotta out of jail and was killed the same idential way Frank was slained!

On the morning of Sandra's death I was with her! And Sandra and myself spoke to each other that morning! And she was telling me while she was in jail she had talk to Frank on the telephone, and Frank told Sandra if he didn't come up with some drug money that he would be killed!

I would be willing to come forth with the truth and the story who killed Frank and Sandra! But I would be scared for my family & myself!

If you will look at the crime Sandra and Frank was slained the same way!

You see these two deaths shouldn't have occured, if only Frank would have paid a drug debt to Bo-Jack

It wasn't long after Bo-Jack got locked up that Frank was murdered!

And I want you to know that there are three innocent people who is now carcerated for a crime they didn't commit! Its a shame that this has to be like this! I'm just wishing I could come forth!

I'm going to close for now! But I want you to know that there are 3 innocent people doing time for someone else's crime!

And I want this to sink in and you give it some thought, and I'll be back in contact with you!

Sincerely
Folley Road

XII. Jones' Appeal

Commission staff reviewed both the appellate decision and the appellate attorney's file. Jones filed an appeal along with a motion to bypass the North Carolina Court of Appeals, which was granted. His appeal to the North Carolina Supreme Court was ultimately denied and the Court determined that he had received a fair trial. No additional investigation related to the facts of this case was done as a part of the appellate process. Below is a copy of the pages from the appeal that outline the issues considered.

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XII. Jones' Motion for Appropriate Relief

Jones was represented by North Carolina Prisoner Legal Services (NCPLS) in his Motion for Appropriate Relief (MAR), which was heard on August 28, 2000 by the Honorable J. Richard Parker. This portion of the brief is based on the review of the NCPLS file, the transcript of the MAR hearing, the Attorney General's file for this case, and the portion of the Clerk's file on the MAR. The investigation done by NCPLS in advance of filing did not include any new forensic testing, additional details about the claimants' whereabouts on the night of the crime, or uncover any significant evidence related to any alternate suspect. The investigation did provide additional evidence that Jones maintained his innocence to at least two of his cell mates.

PLS MAR Preparation

While preparing for the MAR, NCPLS interviewed several individuals, including Spruill, Jones, Tommy Ward, and James Travis Clark. In addition, Tommy Barber, who was 11 years old in 1993, provided a signed statement to NCPLS saying that he was coming down the steps behind Jones when Jones fell in February 1994. He said he had a cut on his knee. **This statement was not filed with the MAR or presented at the MAR hearing.** That signed statement is provided below in full.

RECD DEC 08 1998

This is to state that on or around about Feb, 1994. I was Comming down the steps behind Brandon when he had fell down through the steps. He had a bad Cut on his knee. This was at the location at Ed Champ Sr. apt..

Tommy Barber

Motion for Appropriate Relief (MAR)

Jones' MAR was filed on October 19, 1998. Exhibits attached to the MAR include an affidavit from Tommy Ward that was excluded at the MAR hearing, although Tommy Ward did testify about the contents of the affidavit. Jones and Spruill provided affidavits, included as exhibits to the MAR, maintaining their innocence. Spruill did not testify at the MAR hearing and the affidavit was not presented. Although Jones testified at the MAR hearing, he testified exclusively about the issue of a conflict of interest with his attorneys and his affidavit was not entered into evidence or discussed during his testimony. The affidavits of Spruill, Jones, and Tommy Ward are provided in full below.

STATE OF NORTH CAROLINA HALIFAX COUNTY

AFFIDAVIT OF LEROY SPRUILL

1. I, Leroy Spruill, am over the age of 18, have never been adjudged incompetent, and give this affidavit freely and voluntarily.

2. Dana Maybin accused me of participating in the murder of Frank Swain. She is lying. I am innocent of the charges.

3. Although I pleaded no contest to a charge of second degree murder, I did so only to save my family the stress of experiencing a capital trial.

4. On the night of December 18, 1993, I was at Big Ed's Bar for the whole time. I did not go to Frank Swain's house and commit murder.

5. I can prove my innocence. I was told that I passed several lie detector tests administered by the State Bureau of Investigation. These tests were administered in Greenville. In each test I denied any participation in, or knowledge of, the Frank Swain murder.

6. I wanted very much to testify in Wallace Brandon Jones' trial. People in the Plymouth community knew me, and knew that I am not a violent man. I had known Frank Swain since third grade, and he was a friend of mine. It is absolutely untrue that I helped kill him.

7. During the investigation, and while I have been in prison, I received much information that the people who killed Frank Swain were the same people who killed his girlfriend, Sonya Daye. I have even been given names of people who were suspected of being involved in the murder.

8. Recently, I was visited by the Washington County Sheriff's Department who were seeking information on the Sonya Daye murder. I told them that I was given names of people who were said to have been involved in her murder, as well as Frank Swain's murder.

9. If Mr. Jones' attorneys called me to testify, I would have willingly done so. I was told that the reason that the prosecution separated my trial from Mr. Jones was that they were scared that I would be acquitted if I was tried separately and before Mr. Jones. It was perceived that Mr. Jones was the most vulnerable defendant because he was from out of state and living in Washington County under an assumed name.

10. Wallace Brandon Jones is innocent, because he was with me for the entire night at Big Ed's Bar on the night of the murder.

11. I declare that the above is true and accurate under penalty of perjury.

This the 16 day of OCT, 1998.

Leroy Spruill

Leroy Spruill

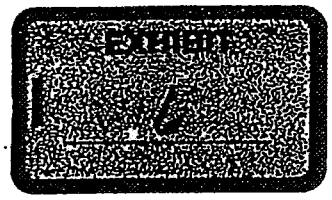
Sworn and subscribed to me

on the 16th day of October, 1998.

Patricia P. Sanchez

Notary Public

My commission expires: 11/21/99

STATE OF NORTH CAROLINA  WAYNE COUNTY

AFFIDAVIT OF WALLACE BRANDON JONES

1. I, Wallace Brandon Jones, make this affidavit freely and voluntarily.

2. In 1995, I was convicted of murdering Frank Swain.

3. I did not kill Frank Swain. I am totally innocent of all charges. Consistent with my assertions of innocence, I rejected all plea bargains offered to me by the State.

4. The case the prosecution built against me rested entirely on the testimony of Dana Maybin. There was absolutely

5. Dana Maybin's trial testimony was a lie. She had, in fact, prior to trial stated, time and time over, that I had nothing to do with Frank Swain's murder. This much is true.

6. At trial, Dana explained that she was being influenced by my attorney, James Vosburgh, to say things that were not true. According to Dana, Mr. Vosburgh was sending information to Dana, through Nicole Mills. Dana testified that Mr. Vosburgh was telling her that her testimony was the only evidence the prosecution had against me, and that he really needed her to help me. This testimony gave the impression that my lawyer was trying to get the state's main witness to tell a lie.

7. I wanted Mr. Vosburgh to take the stand and testify that he did not try to get Dana to tell a lie. I do not believe that Mr. Vosburgh did anything wrong in regard to interviewing Dana, and I believe that he would have made a more credible witness than Dana.

8. On the first day of trial, the court asked if I wanted Mr. Vosburgh to continue as my attorney. I said yes. However, I was not told by Mr. Vosburgh that I could keep him as my attorney only if he did not testify. Had I known this, then I would have asked the court for another attorney.

9. I was surprised that Mr. Vosburgh never testified at trial. I expected that he would, because I was under the impression he would testify.

10. I further believed that my attorneys should have called Leroy Spruill to testify. Leroy was local to the community and he had a reputation for not being violent. Leroy was willing to testify at my trial and he would have made a more credible witness than Dana Maybin.

11. During my pre-trial incarceration I was housed at various times with inmates James Travis Clark and Tommy Ward. After my conviction, I found out that Mr. Clark and Mr. Ward were offered favors if they would testify against me. Of course, because I am innocent, they had nothing incriminating to say against me. Neither I, nor my lawyers, knew about the attempt to secure jailhouse informants against me.

12. I did not kill Frank Swain. It is my belief that Frank Swain was killed by the same person or persons who killed Sonya Day. My attorneys did not present any evidence of the Sonya Day murder even though both were killed in a similar manner, they were boyfriend and girlfriend, and both had connections to the Washington County drug trade.

13. I state under penalty of perjury that the above is true and correct.

This the 7 day of October, 1998.

Wallace B. Jones

Wallace Brandon Jones

Sworn to and subscribed before me

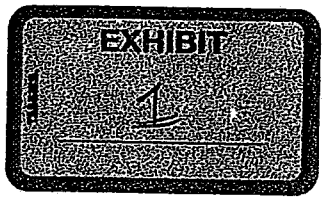
this 7th day of October, 1998.

Donna M. Hall

Notary Public

My Commission expires: 2-15-99

HALIFAX COUNTY



STATE OF NORTH CAROLINA

AFFIDAVIT OF TOMMY NATHANIEL WARD

I, Tommy Nathaniel Ward, being first duly sworn, now depose and say:

1) I am over the age of 18 and have never been adjudicated incompetent.

2) Between the months of February and June 1995, I was incarcerated in the Washington County Jail.

3) During my period of incarceration at Washington County Jail, I was a trustee in the cell area. While I performing my duties, I was approached by Deputy Sheriff Janice Spruill and asked if I was afraid to be moved into the same cell with Wallace Brandon Jones. I stated I had no concerns.

4) Approximately a week later, I was brought to the Sheriff's office from the cell area of the jail to meet with Deputy Sheriff Janice Spruill. Also present was the Jail Administrator, Ronnie Cherry and Deputy Sheriff Jim Williams.

5) After being in the office for about five minutes, a gentleman entered the office who identified himself as an agent of the State Bureau of Investigation, whose name I cannot recall.

6) After the SBI agent identified himself, Deputy Spruill asked me if Wallace Brandon Jones had told me anything about the Frank Swain murder.

7) I told Deputy Spruill that Brandon had not told me anything except that he didn't do it and he had been framed.

8) Deputy Spruill told me that based on the evidence they had, Brandon, Leroy Spruill and a girl named Nicky had committed the Swain murder.

9) I told Deputy Spruill that based on my experience with Brandon, he did not act like someone guilty of a murder.

10) Deputy Spruill repeated that based on the evidence they had, Brandon, Leroy Spruill and a girl named Nicky had committed the Swain murder.

11) I told Deputy Spruill that if Brandon was guilty, he was hiding it very well.

12) Deputy Spruill told me that I was facing 199 months under the new law. She stated if I could find any letter or overheard any statement made by Brandon incriminating himself in the Frank Swain case, that when I went to court they would see that I got a lesser charge and speak on my behalf.

13) During the front office visit, Sheriff Jim Whitehurst entered the office. Sheriff Whitehurst stated that they knew that Brandon, Leroy and Nicky had murdered Swain, but they just didn't have enough evidence to convict them.

14) Sheriff Whitehurst stated that if I could find a letter or overheard any incriminating statement made by Brandon about the Swain murder, to let him know and he would also speak to the district attorney on my behalf.

15) About two weeks later, I found a letter that Brandon had written to Leroy Spruill. The note contained language which basically indicated that Leroy knew that they did not commit this crime and that the Sheriff's Department was just trying to frame them for this crime.

16) A couple of days later, I gave that letter to Deputy Janice Spruill. Deputy Spruill said she appreciated me giving her the letter and she would get up with me in a couple of days.

17) A few days after I gave the letter to Deputy Spruill, I was taken down to the first floor of the courthouse to a back room in the courtroom area. Present was Mitchell Norton from the District Attorney's Office, another district attorney whose name I cannot recall, three gentlemen who identified themselves as agents of the SBI, Sheriff Whitehurst, Deputy Sheriff Janice Spruill, Deputy Sheriff Jim Williams, and a female who was taking notes during the meeting.

18) One of the SBI agents told me that they appreciated me sending the letter that I had taken from Brandon through Deputy Spruill. He asked me if I had been able to obtain any other letters, if I had heard Brandon say anything about the Swain murder, or if I had noticed Brandon acting in "funny" ways.

19) I said that I had not been able to learn anything more and that I had not noticed Brandon acting "funny."

20) Mitchell Norton, a District Attorney, told me that if I could obtain any information that would show that Brandon was involved in the Swain murder, either in a letter or in an oral statement, he would see to it that I received a lesser charge when my cases came up.

21) I told Mitchell Norton and the rest of the people present, that I had not seen any letters or heard Brandon say anything related to the Swain murder. I also said that Brandon still acted as if he was innocent of the Swain murder.

22) The other district attorney who was present (the same district attorney who prosecuted me in my cases for which I am presently incarcerated), told me that he believed that Brandon was guilty of the Swain murder because he was under suspicion in Tennessee for two similar murders. He also mentioned that Brandon's father, who was a Sheriff in Tennessee, had been the victim of a murder.

23) The other district attorney stated for me to be patient because Brandon would slip up and say or do something that tied him in with Swain murder. And, when Brandon slipped up, for me to bring the evidence to them. I told the district attorney that the only thing strange I had ever noticed was that Brandon had woke up one night and screamed someone's name in the middle of the night. I told him I was unable to make out the name.

24) This same district attorney asked me how well I knew Frank Swain. I told him that I was Frank Swain's cousin and that I knew him well. The district attorney told me, "Well, you know that Frank was good with a knife, and it took two good men to take Frank out that way. One man, we think it was Leroy, had to have held Frank while the other man, who we believe was Brandon, cut his throat."

25) One of the SBI agents started to hand me some photographs to show me what the district attorney had been talking about. Then, the other district attorney said, "No, we can't show him those yet. We'll get in trouble."

26) The meeting ended when one of the SBI agents said that if I found out anything else to let them know. Deputy Spruill took me to the elevator to take me back up the cell area on the third floor. While walking to the elevator, she told me that they were trying to help me in any way they could and if I stuck to my word, they would stick to theirs. She also said that I was doing good and if I heard anything else to let them know.

27) One night, Brandon appeared to be fighting someone in his sleep and he was saying, "Kill the motherfucker. Kill the motherfucker." I woke Brandon up and told him what I had heard and seen. He told me that he had had a bad experience growing up and he was dreaming about that. He told me it had nothing to do with Frank Swain.

28) The next day, Deputy Spruill came into the cell area to the soda machine. I told her that when she had a chance, I needed to talk to her later.

29) About one hour later, Deputy Spruill took me to the front area of the jail and I told her what I had seen and heard from Brandon when he was sleeping.

30) About three days later, I was taken to the first floor area of the courthouse for another meeting with Mitchell Norton, the other district attorney, one SBI agent, Deputy Spruill, and Deputy Jim Williams. Deputy Spruill asked me to tell them what I had told her three days earlier. I repeated the story that I had given Deputy Spruill three days earlier.

31) The SBI agent said that was all they needed. Now they had enough evidence to convict Brandon.

32) Mitchell Norton told me that he appreciated me telling them this and that when it came time for me to go to court, he would see that I got some help.

33) When my cases came up in court, Deputy Janice Spruill, Deputy Jim Williams, Sheriff Jim Whitehurst and the other district attorney (the one prosecuting my case) got together with my attorney, Maynard Harrell; I received a sentence of 13-16 months.

34) I did not testify against Wallace Brandon Jones at his trial. I had been asked by Mitchell Norton and Deputy Janice Spruill and the other district attorney that if they needed me to, would I testify against Brandon. I told them that I could only testify to what I heard; I wouldn't testify to anything else. I was never asked to testify.

I give this statement freely and voluntarily without threat, promise, or inducement of any kind.

This 16th day of October, 1998.

Tommy N. Ward

Tommy Nathaniel Ward

Sworn and subscribe before me
~~23rd day of September, 1998~~. 16th day of October, 1998.

Patricia A. Sanders

Notary Public

My commission expires 11/21/99

MAR Hearing

The MAR was based on (1) a claim of ineffective assistance of counsel[37] and (2) Whether there was a *Brady* violation regarding (a) the failure of the state to inform the defense of two witnesses who were in jail with Jones (James Travis Clark and Tommy Ward) and (b) an allegation that the defense was not told that Lynn Rogers initially denied having any knowledge or relevant information regarding the murder. Although the MAR did not provide any new forensic testing or additional details about the claimants' whereabouts on the night of the crime, it does offer additional evidence as to how the various statements by Dana Maybin unfolded at trial as well as evidence that Jones maintained his innocence to at least two of his cell mates. The MAR provides further support for the fact that the attorneys for Spruill and Jones worked together throughout and so each claimant had the same information available. The below is a summary of each of the grounds.

Conflict of Interest: The MAR hearing testimony regarding Vosburgh's alleged conflict of interest centered on his representation of Nichole Mills. Mills was integral in the investigation as Dana Maybin's cell mate, but was not called at trial. Jones testified at the MAR hearing exclusively about the issue of his conflict. Jones testified that he had not worked as closely with John Skinner and having Vosburgh taken off his case would have upset him. He also testified that he did not understand that keeping Vosburgh as his attorney meant that Vosburgh could not testify. Other

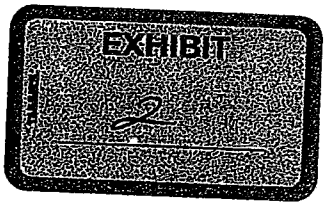
[37] The ineffective assistance of counsel claim in the filing listed the conflict arising from Vosburgh's contacts with Nichole Mills, not calling Spruill to testify, not introducing evidence regarding the Sonja Day murder, and not calling jailer Debbie Stokes to testify regarding Dana Maybin. The hearing mainly focused on the conflict issue. In addition, Spruill's sister, Linda Hinson, provided an affidavit which was attached to Jones' MAR filing. Although Debbie Stokes and Linda Hinson were not discussed at length during the MAR hearing, their proposed testimony was brought up again during Jones' Petition for Writ of Certiorari.

testimony at the MAR indicated that Jones was fully informed regarding the potential conflict and the trial judge discussed with Jones the potential conflict. Jones agreed at trial, after that discussion, to the continued representation. Vosburgh testified at the MAR hearing that he still did not believe there was a conflict issue, but testified at the MAR hearing that given hindsight and now knowing that Maybin's trial testimony would be completely different from her jailhouse letters, interviews with defense attorneys, and discussions with Mills, he would have withdrawn and appeared as a witness at Jones' trial. Judge Parker denied this ground, finding that Jones was adequately informed of the potential conflict at the time of trial.

Brady Violation: The *Brady* violation centered around the prosecution's production of statements made by Dana Maybin, Nichole Mills, and the timing of that production. There was also some question about the district attorney's decision to sever the trials of Spruill and Jones. Defense attorneys represented there was a joint trial scheduled for Spruill and Jones and that they were given the Motion to Sever just before Jones' trial, while District Attorney Norton represented he never intended to try the cases together. A transcript of a pre-trial motions hearing indicates that District Attorney Norton always intended to try Spruill, Jones, and Maybin separately. Ultimately the court determined there was no *Brady* violation.

Jailhouse Informants: James Travis Clark was cellmates with Jones at the Washington County jail in 1995. After Clark was convicted on his own charges and sent to Western Youth, he was contacted by the SBI in August or September 1995 regarding statements made by Jones. Clark said that Jones only ever said to him that Jones did not commit the crime. Tommy Ward, the Victim's cousin, who was cellmates with Jones in 1995, testified that he was asked to room with Jones by Janice Spruill. Ward admitted that he was given a deal on his own case to provide

information on Jones. His testimony indicated that he had found a note written between Spruill and Jones in which Jones had written that he was being framed. As mentioned above, Ward's affidavit was excluded from the MAR hearing but Ward did testify as to its contents. The affidavit of James Travis Clark was entered into evidence during the MAR hearing and is provided in full below.

STATE OF NORTH CAROLINA  RICHMOND COUNTY

AFFIDAVIT OF JAMES TRAVIS CLARK

1. I, James Travis Clark, am over the age of 18, have never been adjudged incompetent, and give this affidavit freely and voluntarily.

2. In 1995, I shared a cell with Wallace Brandon Jones at the Washington County Jail.

3. After my conviction, I was sent to Western Youth Institution in Morganton, NC.

4. After my arrival at Western Youth, I was paid a visit from an agent from the State Bureau of Investigation (SBI).

5. This SBI agent asked me if I had any information about Wallace Brandon Jones that could help the State convict him. I answered no.

6. The SBI agent said that he could get me a time cut if I said untrue things about Mr. Jones that could help the State convict him. I said I would not tell a lie on Mr. Jones.

7. The conversation did not last long after that and the SBI agent left.

8. While in the Washington County Jail, I encountered distant relatives and friends of Frank Swain. These friends and family of Mr. Swain told me that they did not believe that Brandon killed Frank Swain. Many people suspected Maurice Wilkins of committing the murder.

9. I declare that the above is true and accurate under penalty of perjury.

This the October 16 day of _____, 1998.

James Clark

James Travis Clark

Sworn and subscribed to me
on the 16th day of October, 1998.

Robert S. Brundrett Jr.

Notary Public

My commission expires: January 31, 2000

XIV. Jones' Petition for Writ of Certiorari

Jones' Petition for Writ of Certiorari was filed *pro se* on October 9, 2001. Commission staff reviewed the file from the Attorney General's office concerning this Writ and the information in this section comes from that review. Jones' Writ alleged the following:

1. Judge Parker erred in denying Jones' ineffective assistance of counsel and Jones' conflict of interest claims originally made in Jones' MAR.
2. Jones' constitutional rights were violated when trial judge failed to hold a hearing on the conflict of interest on the part of trial counsel.
3. Ineffective assistance of counsel for failure to call the following material witnesses: Leroy Spruill, Debbie Stokes, Linda Hinson.
    - Debbie Stokes proposed testimony: Debbie Stokes was a jailer in the Beaufort County jail where Maybin and Phoenicia Davis were being held. In a transcript from a conversation between Debbie Stokes and James Vosburgh dated August 30, 1995, Vosburgh tried to determine what Stokes knew about what Maybin might testify to now that she had taken a plea. Stokes indicated that her understanding from Davis was that Sherry Honea committed the murder. Stokes said that Regina Moore asked her if Phoenicia Davis was a trustworthy person and Stokes told Moore that Davis would "get into other's folk's business but she would tell the truth." Stokes also said that she asked Maybin why she took a plea since she had been proclaiming her innocence since she was in jail and Maybin said that

it was take the plea or get life. Stokes said that Maybin told her the evidence was piled up against her and there was no way she could get out. (SBI 1041-1047).

- Linda Hinson proposed testimony: Linda Hinson, Leroy Spruill's sister, was employed by WCSO during the course of the investigation. Hinson signed an affidavit on September 30, 1998 that was used in Jones' MAR. The affidavit stated that Janice Spruill initially suspected Maurice Wilkins and that the white man with Wilkins was beaten days afterward and left the country and "was never seen again."[38] She also stated in her affidavit that Janice Spruill told her that, when Lynn Rogers was first questioned, Rogers denied having any knowledge or relevant information about the crime. (SBI 1035-1036).

4. Failure to object to prosecution witnesses Maybin and Wilkins testifying regarding lie detector tests they took.
5. Failure to present information regarding the Sonja Day murder
6. Brady violations

Jones' Petition for Writ of Certiorari was denied without hearing by the NC Supreme Court on December 18, 2001. (DA 64-65).

[38] It appears that this "white man" is referring to Joseph Lynn based on other information in the file. A February 7, 1994 SBI interview with Lynn's mother, Patsy Lynn, indicates that Lynn was beaten up in January 1994 by Eddie Whitehurst, Billy McNair, Howard Walker, Billy Walker, and Jermarl or Jermain (LNU). Lynn went to stay with his brother, a Marine, in Okinawa. Patsy Lynn also said Lynn had already been planning to move before the fight and the fight did not cause him to move. She provided the SBI with Lynn's phone number. (SBI 339-341).

XV. Claimants' Petition for Executive Clemency

Commission staff reviewed the Clemency files for Spruill and Jones as maintained by the Clemency office.

Spruill's Petition for Executive Clemency was submitted on Spruill's behalf by attorney Carl J. Stewart, Jr. on November 16, 2001. Spruill's petition stated that he was at Big Ed's Bar on December 18, 1993 with Jones and Maybin until 2:00am.

The petition also implicated Maurice Wilkins in the crime and stated that DNA evidence obtained from Maurice Wilkins was "destroyed" by one of the investigating officers and "could have completely exculpated the Petitioner." However, based on the Commission's review of the law enforcement file, it appears that Wilkins initial sample was destroyed but he consented to a second sample which was used in forensic analysis during the initial investigation in the case as discussed above. The petition further asserted that Sonja Day was murdered "in a similar fashion" to the Victim (Spruill Clemency 123).

The petition also asserted that Spruill learned that Maybin told Sherry Honea that Jones and Curtis Furlough had murdered the Victim. However, because Curtis Furlough had an "ironclad" alibi, law enforcement looked to Spruill, instead. This information is not supported by the reports of the initial interviews of Sherry Honea and Dana Maybin by law enforcement, as described above. The petition also indicated that Maybin changed her story several times.

The petition stated that "The Petitioner has always denied, and still denies, under oath, that he committed or participated in the commission of the murder of Frank Swain" and that his attorneys "prevailed" upon him to take a plea. Attached to the petition were Spruill's polygraph

results which were from polygraphs taken during the initial investigation and are outlined above,[39] the transcript of the interview of Dana Maybin by Maynard Harrell that was entered at trial and is outlined above, and a petition and letters of support signed by Spruill's friends and family. A letter from Leroy Spruill to Governor Mike Easley in support of his petition is provided in full below.[40]

[39] As a reminder, Spruill's polygraph results concluded no deception indicated for all three tests administered.
[40] Although there was a handwritten version of this letter, it is difficult to read. A typewritten version of the letter was also provided. Commission staff has compared the letters and they are identical. The typewritten version is included in the brief.

Dear Governor Mike Easley, 8/3/01

My name is Leroy Spruill. I am writing to beg you to grant my petition for commutation.

I would like for you to know a few things about my family and about myself. I was born on January 21, 1958 to Jack and Pattie Spruill. I was born in Chowan County, Edenton, NC. I was raised in Washington County, Roper, NC.

I was brought up in a big family. I have one brother, Jerry Spruill, and three sisters, Jackie Spruill Price, Catherine Spruill Griffin, and Linda Spruill Hinson.

We were all brought up in a working class family that went to church every Sunday, Zion Chapel Church. My father worked for Weyerhaeuser Paper Company 40 years or so. And my mother was a good teacher. She stayed at home and looked after us. I grew up in an all American family. I attended Roanoke Christian Church camp every summer for at least 10 years. I was in the Weblon Scouts, the Cub Scouts, and the Boy Scouts of America.

My family is a very close knit family. We were all brought up to be this way. I grew up to believe in the American way of life, to love my fellow man, my family, my God, and my country. I have worked all my life. In 1975 I got out of high school and got a job with Tidewater Research Farm. I worked there for three years or so. Then I got a job building houses with my brother-in-law. I worked for him around eight years. After that I went to work with Steve Furlough building houses. I worked there up until my arrest.

I have always been a real active person. I played softball and basketball with my church. I also played high school football. I was on the Roper Volunteer Fire Department for years. I would always help the elderly people in my neighborhood with their yard work and cutting wood, things they couldn't do for themselves.

On December 18, 1993, I went to a Christmas party at Big Ed's Bar in Roper, NC. I went to the bar with Wallace Jones and Dana Maybin. I never left the bar until it closed at 2:00 in the morning. And the bar owner, Ed Champ, took me to my home after the bar closed.

The next thing I knew I was under investigation for a murder. I have passed lie detector tests and have done all I know to do to prove I never killed anyone.

My whole life I have been taught values. I believe if a man does something he should pay for his mistakes. I also believe that an innocent man shouldn't be put into prison. I understand it may be hard for you to believe, but nothing can change the truth. I know the truth. Wallace Jones knows the truth; my family knows; and most of all the good Lord knows we never killed any one.

Since I have been in prison I have gotten my GED, graduated from Beaufort County Community College Horticulture Program. I have also attended stress management, anger management, and ethics. Also I took DART and DART aftercare programs. I have taken a job readiness class as well. I have also attended different church groups that have come to the prisons I've been at.

I have worked from day one of my prison stay. At Central Prison I worked in the laundry. At the Farm I worked three years on maintenance, eight months in the cannery, and I worked on the fields planted outside the fence. At Hyde Correctional I worked on maintenance for two years or so. Now I'm getting my education. I start welding class August 15.

I have a home plan for when I get out; and three jobs waiting on me, one farming and two jobs building houses. I also am going to get married to Debbie McGowan. She has stuck with me from day one of all this. She has worked for the federal government for 22 years now.

I have seen the failing health of my father and mother who have stuck with me through all of this. And they need me out there to be with them to make life a little easier for them.

Governor, with all that I am, I beg you to have mercy on me. I'll do whatever it takes sir. Please help me to be able to help myself and my family. All I can do is beg you for help. And that's what I'm doing, begging you.

All my life I have believed in the American way of life, to love your family, fellow man, your country and God. I put my faith and all my hopes and prayers into your hands. I thank you for taking time to hear from me. May God bless you and your family.

Sincerely,

LeRoy Spruill

During the review of Spruill's Petition for Commutation, Ed Champ, Sr. signed a notarized letter upon request by Spruill's attorney Carl Stewart for purposes of the commutation, which again provided that Spruill was in his bar from 7:00pm – 7:30pm until closing time around 1:00am – 1:30 am. That letter is provided below in full.

Hand Delivered

12-10-01

RECEIVED
DEC 11 2001
GOVERNOR'S OFFICE

Mr. Carl Stewart
Gastonia, NC

Dear Mr. Stewart:

In December 1993 I owned and ran Biz Ed's Bar in Roper, NC. I have known Leroy many years.

On December 18, 1993 Leroy came into the bar at about 6-7:30 PM. He was around the bar all evening. When I closed the bar at about 1:00-1:30 AM, I gave Leroy a ride from the bar to his house.

I'll be happy to answer any questions you may have. Call me at 252-793-3803.

Ed Champ

Ed Champ
582 West Mill Pond Road
Roper, NC 27979

Mary Alice Page Weathersbee
3-13-2005

000102
NCIIC

There were also several statements provided from the Victim's family requesting that the Petition be denied. On February 19, 2007, Spruill's commutation was denied.

Jones' Petition for Executive Clemency was forwarded through Senator Marc Basnight's office based on correspondence from Jones' mother in 2004. The Governor's office rejected the petition on September 23, 2004, indicating that the information provided was not an appropriate basis for the Governor's clemency powers. A December 2008 letter received from Nolan Dahl, who was a volunteer at the prison where Jones was housed, provided a newspaper article concerning Plymouth Police Chief John Floyd's independent investigation into the case. This letter was added to Jones' clemency file but there was no further action taken on the Clemency Petition.

Although rooted in claims of innocence, neither petition provided any additional factual evidence related to Claimants' innocence that is not already outlined above.

XVI. Post-Conviction Investigations by Other Agencies

No post-conviction investigation outlined below resulted in any further legal process. Therefore, none of the information outlined below was heard for purposes of consideration by the Commission.

A. Plymouth Police Chief

After being visited by Spruill's father, Plymouth Police Department Chief John Floyd opened an investigation into this case in 2002. (AG 1104). Chief Floyd did not have jurisdiction over the case. His investigation was limited to interviews. The investigation focused on Maurice Wilkins as an alternate suspect, along with any other individuals who may have been with Wilkins on the night of the murder. In addition, Spruill wrote many times to Floyd as well. The summary of this investigation is recreated through handwritten notes from Chief Floyd and Lieutenant Preston Ward, who also worked at the Plymouth Police Department, as well as some documentation from the District Attorney's file, SBI file, and WCSO file.

Alternate Suspects

Floyd interviewed David Armstrong, Avis Arnold, Joseph Lynn, Sherrod Midgette, Charles Polk, Leroy Spruill, and James Vosburgh (Jones' trial attorney). Pursuant to his investigation, Floyd created a false SBI lab report containing the names of the suspects he focused on which indicated that there were "definite" matches to latent prints from the home of the Victim. (Floyd Investigation 1222). He used this report during some interviews and it is attached fully below.

North Carolina
State Bureau of Investigation
Department of Justice
Raleigh
Laboratory Report

To:	Chief J.H. Floyd Plymouth Police Department P.O. Box 806 Plymouth, NC 27962	Date: SBI Lab No: Agency No: Examined By: Submitted By: Date of Offense: Date Submitted: Tracking No:	March 10, 2003 R20023201 02PMA692 Timothy G. Suggs First-Class Mail December 18, 1983 November 22, 2002 R20023201

Location: Washington County
Type of Case: Murder

Suspect(s): Leroy Spruill, Billy McNair, Wallace Jones, Sherod Midgett, Joseph Lynn, David Armstrong, Maurice Wilkins

ITEMS SUBMITTED:

Item # 1 thru Item # 56: Latent prints lifted from the home of the victim.

TYPE EXAMINATION REQUESTED:

Compare latent lifts with suspect(s).

RESULTS OF EXAMINATION:

Item # 1 thru Item # 12: No match to either suspect(s) or victim.
Item # 13 thru Item # 32: Match victim, Frank Swain
Item # 33 thru Item # 40: Definite match suspect, Maurice Wilkins
Item # 41 thru Item # 42: Definite match suspect, Sherod Midgett
Item # 43 thru Item # 45: Definite match suspect, David Armstrong
Item # 46 thru Item # 48: Definite match suspect, Joseph Lynn
Item # 49 thru Item # 56: Definite match suspect, Billy McNair

DISPOSITION OF EVIDENCE:

All items of evidence is enclosed in the attached package and is being returned via first-class mail.

I, Roy Cooper, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

THIS REPORT IS TO BE USED ONLY IN CONNECTION WITH AN OFFICIAL CRIMINAL INVESTIGATION.

COPIES TO:

Mr. S. H. Edwards, DA

This report represents a true and accurate result of my analysis on the item(s) described.

Robin Pendergraft, Director

Timothy G. Suggs

Confidential: This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

David Armstrong was interviewed and provided that he was in Florida the day of the murder. Sherrod Midgette indicated he was with the Victim's family on the day of the murder. (AG 2449-2451 and 2421-2423, respectively). Joseph Lynn was shown the false SBI report and wanted to consult with an attorney so no interview was completed. (AG 2448). McNair and Wilkins were not interviewed.

Avis Arnold, who was also interviewed in the initial investigation, reported in his interview during Floyd's investigation that Jojo (Willie Joseph) McNair and Billy McNair confessed to killing the Victim and Sonja Day. Arnold was interviewed because he wrote a letter to Spruill's sister, Linda Hinson, requesting to speak to the "men you have been talking to about the cases of Frank Swain and Sonja Spruill Day." In addition, a person named Charles Polk called Floyd and reported hearing a conversation between two black men at a gas station regarding the case being reopened. He further reported that one of the men said he was there when the murder happened. (AG 2431).

Ultimately, this investigation did not go beyond these interviews, which were all conducted between 2002 and 2003. Floyd and Ward met with District Attorney Seth Edwards, Maynard Harrell and Jim Vosburgh concerning their investigation on May 8, 2003. (DA 621 – 622). There was some discussion regarding possibly offering a deal related to certain outstanding charges to Joseph Lynn in exchange for more information about this case but ultimately this was not pursued. A copy of a memo written by DA Edwards outlining this meeting is attached below in full.

95W7

Closed file

SETH H. EDWARDS
DISTRICT ATTORNEY

MEMORANDUM

5-12-03
To the file of Leroy Spruill, Brandon Jones
Washington County

On 5-8-03 I met in the Plymouth Police Dept with Chief John Floyd, Investigator Preston ---, Maynard Harrell and Jim Vosburgh. John Floyd then proceeded to tell me the sequence of events regarding this matter.

Some time in 2002 an inmate by the name of Avis Leshaun Arnold told Leroy Spruill in Hyde County Correction that he was doing time for a crime that he did not commit. On or about January 15, 2003, Floyd interviewed Arnold. Floyd has also interview JoLynn who is also in prison for trafficking and drugs. The substance of the story is as follows:

Jolynn, Maurice Wilkins, and others were at the home of Billy Ray McNair in Washington Co. They got in Maurice Wilkins' truck and were going to buy drugs. I believe the others involved were David Armstrong and Sharond Midgette. According to Arnold, there was not enough room in the truck for him to ride so he stayed at McNair's house. The others returned around 9 pm. Mcnair had his shirt off, was wired up, and stated "damn right I killed that MF, I would do it again".

Jolynn started to make statements, but stated he did not want to make further statements without the presence of a lawyer. He did state to Floyd that he was on the right track.

Maurice Wilkins' had was cut on this occasion, and testified at the trial that he had some type of freak accident and sewed it himself. Floyd believes that Maurice Wilkins was cut in the stabbing, and may have been holding down the victim, Frank Swain. Jolynn indicated that Maurice Wilkins came out of a house nearby the home of Frank Swain carrying a bag and wearing a hooded sweatshirt that had blood on it.

After this crime was committed, Maurce Wilkins threatened a number of the others with physical harm. Floyd believes this was intimidation to prevent them from telling anything.

Joseph M. Lynn is a white male dob 3-22-76. I believe the others involved were black males. Lynn is a long time drug dealer. Wayland represents him.

Floyd and the others agreed that I would talk with Wayland about possibly offering Lynn a deal that he would serve no more time than he is currently serving, which is

approximately 6 or 7 years if he tells what happened. Thereafter, Wayland and Floyd could go interview Lynn at Odom Correctional.

In discussing this with Tom Anglim, we were concerned about making Lynn a deal when he could in fact be the perpetrator in the crime or taken an active role in the crime. I intend to call Wayland and discuss this.

Floyd and Ward were indicted on charges related to misconduct in an unrelated case on March 9, 2005. The misconduct centered on destruction of evidence in a murder investigation. Floyd pled guilty to one felony count of solicitation to commit perjury and two misdemeanor counts of obstruction of justice. The charges against Ward were dismissed by a judge.

B. SBI Re-Investigation

In 2004, Seth Edwards[41], the elected District Attorney for Washington County, referred the case to the Attorney General's office and requested an investigation into the claims of new evidence indicating innocence as well as an investigation into the fake SBI report drafted by Floyd. (SBI 935). On July 26, 2004, James Coman wrote back to Edwards accepting the case on behalf of the Attorney General's office. (DA 600-601). Spruill, his girlfriend Debbie McGowan[42], and Jones were interviewed on November 15 and November 16, 2004 by the SBI. Spruill's interview focused on the similarities between Day's murder and this case, as well as Floyd's re-investigation. McGowan's interview focused on what documents she might have available to provide related to this case and she did not have anything to provide. Spruill and Jones' interviews are provided below in full along with the other relevant documents from the SBI re-investigation. (SBI 940-944; SBI 950; SBI 951-955, respectively).

The SBI initiated a preliminary re-investigation into the case on November 16, 2004. That re-investigation focused on alternate suspects as well as some additional testing in the case. The summary in this section comes from a review of the SBI file as well as the District Attorney's file

[41] Edwards was Spruill's attorney at the time of his plea. Edwards is an alternate Commissioner but is recused from this case due to the conflict.

[42] In McGowan's correspondence with others in the case reviewed by the Commission, she stated that she began dating Spruill after he had been charged with this crime, but before he took his plea.

and the Attorney General's file in this case. The summaries here outline the pertinent interviews and forensic testing that added **new** information to what has already been outlined above.

Victim Whereabouts

There was no additional information uncovered during this re-investigation concerning the Victim's whereabouts before his murder.

Alternate Suspects

Avis Arnold*:* Avis Arnold was interviewed as part of the SBI re-investigation. At that interview he indicated that he heard "someone on the street" say that he committed the murder but did not know the identity of the individual. In addition, Arnold provided that he was with Wilkins, Lynn, Billy McNair, and Jojo McNair on the night of the murder. (WCSO 529-531).

Edward Hudson*:* Edward Hudson, a fellow inmate in prison with Leroy Spruill at Hyde Correctional in 2005, wrote to James Coman on August 25, 2005 that Wyatt confessed to setting up the Victim to be robbed by Wilkins, Lynn, and Jojo McNair and that they had killed the Victim.

Hudson was interviewed by the SBI on September 14, 2005. He met Spruill in 2000 at Hyde Correctional Institution and then subsequently met Wyatt in 2001 or 2002 in a Newport prison facility. Hudson provided that Wyatt said he was Leroy Spruill's cousin and that three guys wanted to rob the Victim and wanted Wyatt to set it up. At the interview, Hudson could only remember the name of one of the three individuals, Jojo, but said his letter contains the names of all the individuals (the letter names Joseph Lynn, Maurice Wilkins, and Jojo McNair). Wyatt also told Hudson that "one of the guys got cut while cutting Frank's throat. The guy sewed it up with fishing line." Wyatt said the fingerprints between the Victim's crime scene and Wyatt's

sister's crime scene (Sonja Day) would match up. Hudson indicated that in August 2005 he "ran into" Leroy Spruill again at Hyde Correctional Institution and Leroy Spruill told him the "same story and used the exact same names" as Wyatt. Hudson also indicated he did not "want" anything for his testimony and was willing to take a polygraph.

The SBI discovered that Hudson was an informant for the FBI and so interviewed the FBI agent who was handling Hudson. The handler indicated that he had never received any information from Hudson concerning a North Carolina state murder but that Hudson had provided information on one other case and passed a polygraph related to the information he provided on that FBI case. (SBI 1592-1597; AG 2360). Hudson's criminal history includes multiple convictions for fraud and is provided below.

Edward Hudson Criminal Record (Up to 2005)

Conviction	Jurisdiction	DOO	Date of Conviction
Worthless Check	Pitt	01/03/2004	07/22/2005
Obtain Property by False Pretense	Pitt	01/08/2004	07/22/2005
Worthless Check (x2)	Pitt	01/10/2004	07/22/2005
Obtain Property by False Pretense	Pitt	01/15/2004	07/22/2005
Worthless Check	Pitt	01/15/2004	07/22/2005
Obtain Property by False Pretense	Pitt	01/16/2004	07/22/2005
Attempt Obtain Property by False Pretense	Pitt	01/20/2004	07/22/2005
Obtain Property by False Pretense	Beaufort	01/05/2004	08/16/2005
Obtain Property by False Pretense	Beaufort	08/19/2003	08/16/2005
Obtain Property by False Pretense	Beaufort	08/16/2003	08/16/2005
Obtain Property by False Pretense	Beaufort	08/15/2003	08/16/2005
Simple Worthless Check (M)	Beaufort	06/16/2003	06/03/2004
Simple Worthless Check (M)	Beaufort	06/05/2003	06/03/2004
Attempted Obtain Property by False Pretense	Beaufort	12/30/2000	08/07/2001
Obtain Property by False Pretense	Pitt	09/15/1998	04/25/2000
Obtain Property by False Pretense	Pitt	09/10/1998	04/25/2000
Simple Worthless Check (M)	Pitt	03/30/1996	04/17/2000
Obtain Property by False Pretense	Beaufort	03/07/1996	08/22/1997
Obtain Property by False Pretense	Beaufort	02/28/1996	08/22/1997
Fraud – Insufficient Funds Check (FL Conviction)	St. Lucie (FL)	04/19/1996	07/25/1996
DWLR	Mecklenburg	09/01/1994	11/15/1994

Wyatt Spruill (Wyatt): Wyatt was interviewed February 16, 2007. Wyatt denied ever telling anyone that he was approached by a black male named Jojo or any black male who wanted to rob the Victim. He did not remember an inmate named Edward Hudson and denied reporting that three black males wanted to rob the Victim to Edward Hudson. (SBI 1762-1765).

JoJo McNair: Spruill's interview with the SBI provides information about a conversation with JoJo McNair while they were together in prison at Hyde Correctional Institution. Based on Spruill's report about the timing of the interview, it happened the same day both he and McNair were interviewed by the Innocence Project[43] at Hyde, which was November 11, 2006. According to Spruill, McNair told him that day that he was not involved in the murder of the Victim, but his brother, Billy McNair was involved. (SBI 1753 – 1755). Per Spruill, McNair also said that the same people that killed the Victim killed Sonja Day. Jojo McNair was not interviewed by the SBI regarding this conversation.

Alfred Armstrong: Armstrong was interviewed on March 20, 2008. Armstrong admitted having an argument with the Victim over Armstrong's girlfriend a few weeks before the murder, but denied involvement in the murder. Armstrong's interview also discussed his interaction with a white male driving a tan car that looked like a Volkswagen Rabbit on the night of the crime. Alfred Armstrong was at his sister P.J. Armstrong's house that night. This white man came to P.J. Armstrong's house with Denise Armstrong.[44] When Alfred Armstrong got into the white male's car to smoke crack, he saw a tire iron. Although Alfred Armstrong had been previously

[43] The Innocence Project's investigation is outlined further below. This was a project at UNC-Chapel Hill which reported to the North Carolina Center on Actual Innocence concerning their investigations.

[44] Armstrong did not know this white male by name. The initial law enforcement investigation determined that the man who was with Denise Armstrong that night was Michael Lassiter.

interviewed in this case, including regarding his interactions with this white male, this was the first time he reported seeing a tire iron in this man's car. Armstrong said he saw a black tire iron in the backseat of the car with red stains on it that appeared to be dried. Armstrong said the white male indicated he had to beat a dog in the head with a tire tool. (SBI 1825-1828).

Dana Maybin

Maybin was interviewed by the SBI on August 17, 2005. In her interview with the SBI she still provided that she watched Jones cut the Victim's throat and that Spruill and Jones made her go through the Victim's pockets. In addition, Maybin reiterated her trial testimony that Maynard Harrell was giving her pieces of paper telling her what to say in the taped interview and that her story changed several times because she was scared and wanted to get off on the charges. She stated that Mills was a niece of Ed Champ, Sr. and also influenced Maybin about what to say in her journal entries. Maybin also said that no one had threatened to revoke her plea if she changed her story. In addition, she also stated that Deputy Janice Spruill never threatened her with perjury. Maybin's statements relevant to the above are provided below for review.

CONFIDENTIAL: This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

SBI CASE: 2004-03241 (583)
ACTIVITY: August 17, 2005
VICTIM: William Frank Swain
COPIES: (1) Case Records Management Section
(2) SA W. M. Warner
(3) SAC D. G. Honeycutt
(4) ASAC J. B. Tilley Jr.
(5) Senior Deputy Attorney General J. J. Coman

Dana Lynn Maybin, W/F/DOB: 10/28/1972 (Witness)
Residence: 480 North Horseshoe Bridge Road, Westminister, South Carolina 28693, Telephone: 864-647-7422
Business: Unemployed

Dana Lynn Maybin was interviewed on Wednesday, August 17, 2005, at her residence, at approximately 9:40 a.m., by Assistant Special Agent in Charge (ASAC) J. B. Tilley and SA W. M. Warner of the North Carolina State Bureau of Investigation.

Maybin was being interviewed because she was a co-defendant of Brandon Jones and Leroy Spruill in the murder of William Frank Swain. Maybin had given several statements to law enforcement officers and attorneys in this case.

This interview was being conducted surrounding her involvement in her statements. Maybin related the following information:

Maybin said that she went with Sherry Honea to Plymouth, North Carolina, back around November or December of 1993.

She met Brandon Jones at Big Ed's Bar. Jones was a bartender. On December 16, 1993, Maybin was present inside Frank Swain's residence when he was killed by Brandon Jones and Leroy Spruill.

Maybin said she actually watched Brandon Jones cut Frank Swain's throat.

Jones and Spruill made her go through Frank's pockets and take what he had in his pockets. They told her if she ever told anyone, they would do the same to her.

Within about a month and a half, she came back to South Carolina. She was later approached by the State Bureau of Investigation. They wanted her to take a polygraph. She denied knowing anything about the murder.

The second time someone talked to her was Janice Spruill and Willie (LNU). They asked her to take a polygraph, and she went to North Carolina to take a polygraph.

While in North Carolina, she confessed to her part in the murder and told law enforcement officers what she knew.

After the arrest, she became scared and changed her story.

One of her friends, Nicole, was talking to their (Brandon Jones and Leroy Spruill) lawyers and trying to get her to change her story.

There was a family, Ed Champs family, that were friends of Brandon Jones. She had actually seen one of them burn a house down. Just seeing them in the courtroom and the way they looked at her made her really scared.

She gave a taped interview to one of Brandon Jones and Leroy Spruill's lawyers. She changed her story in this interview because he told her that he was going to get her off on the charges. He had a piece of paper that he kept showing her and telling her what to say.

The lawyer kept sliding this piece of paper over to her during the interview. The paper was on the table next to the tape recorder.

She had changed her story several times because she was scared and wanted to get off the charges. She said that what she testified to in court was the truth. If she was called back to testify today, she would testify the same way because that was the truth.

She has never been threatened by Janice Spruill or anyone else that if she did not testify a certain way, her plea would be revoked.

Spruill never told her that if she came back to North Carolina, she would be charged with perjury or anything else.

She has not been banned from North Carolina or threatened for her not to come back. She has family in Hendersonville, North Carolina.

She had not faxed a letter to the Washington County Sheriff's Department saying that she had lied about what happened.

She does not remember talking to a chief of police, John Floyd, from Plymouth about anything.

A woman from North Carolina came to talk to her about this approximately one year ago. The woman told her she was a student studying law and came across her case, and she wanted to talk to her. Maybin told her she did not want to talk about it. Maybin thinks she followed her around for a couple of weeks.

The woman wanted to make her talk about this in front of her children, and she finally asked the woman to leave her home.

She may have written things in her journal or diary that were not true. If she did, this would be because she was scared and wanted to get out of trouble. She was also influenced by what Nicole Mills told her to write. Nicole was in jail with her and is a niece of the Ed Champs family. Maybin has not been in trouble since she got out of jail. She was charged with accessory after the fact of the murder, common law robbery, and breaking and entering. She pled guilty and received nine years. She served 10 months in the county jail and 18 months in prison. She was on parole for two years under intensive parole. She completed her parole in Asheville, North Carolina.

Maybin provided the agents with a copy of the letter received from Marti Anne Maguire, the woman identified earlier in this statement as coming to see Maybin about the case. Maybin could not remember her name until she found the letter. This letter is attached as Attachment #1.

The agents were also shown a release form signed by Maybin giving Marti Maguire permission to review her medical record which would include any mental health evaluations or psychological visits.

The interview ended at approximately 10:45 a.m.

WMW:vrc

(Attachment #1)

MARTI ANNE MAGUIRE

School of Journalism and Mass Communication • Campus Box #3365 • University of North Carolina • Chapel Hill, NC 27599 • Phone: 919-740-0409 • Fax: 919- 962-0620 • Email: mmaguire@email.unc.edu

May 21, 2004

Dear Ms. Maybin:

I want you to know that I fully understand your reaction to my phone call last night. I know you don't want to bring up a period in your life that was extremely painful. I am writing, however, because I did not get a chance to fully explain myself, and I want to make sure you understand the current situation and what is being asked of you.

First, you should know that a local official is investigating other suspects in the murder of Frank Swain. His work on the case has raised the question again of whether LeRoy Spruill and Wallace Brandon Jones are guilty. As I mentioned before, you're the only one who knows if Spruill and Jones killed Swain, so all the talk about this is bound to center on you.

Also, since I spoke to you in South Carolina, I have started writing a newspaper story about the Swain murder and the new investigation for *The News & Observer*, a major North Carolina newspaper. This newspaper has written a lot of stories about men who were convicted of crimes they did not commit, and the story will show why a lot of people doubt that Spruill and Jones killed Swain. When I spoke with you in Westminster, I was trying to see if Jones and Spruill might be innocent so that a non-profit group could help them. Now, I am more interested in telling this story.

You will play a big role in the newspaper story, and I would like to include your point of view. I can use your statements, and say that you have told different versions of events at different times. But it would be better if I talk to you so that you can explain what seems to be a habit of inconsistent statements over many years. If you did not see these men kill Swain, then this would be a good time for you to explain why you said you did. Your situation at the time will likely make your actions understandable. If you did see them do it, then you can explain why you said so many times that you didn't. Rather than just talk about you, which I will have to do no matter what, I would like to be able to include your recollections of what was clearly a terrible ordeal for you.

I know you are annoyed that this is being brought up again. At this point, however, I think getting your voice heard is going to be the best thing for you. I would gladly come to South Carolina again to talk to you any time you choose, or we could arrange another place to meet if you prefer. I hope to hear from you soon.

Sincerely,

Marti Maguire

#1
2004 3241
WMW

Spruill and Jones

Spruill and Jones were both interviewed in the SBI re-investigation. Their full interviews are provided below. Each maintained his innocence in the case and provided that they were at Big Ed's Bar the entire night with Dana Maybin. This re-investigation did not focus on Spruill and Jones' whereabouts on the night of the crime.

CONFIDENTIAL: This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

SBI CASE: 2004-03241 (583)
ACTIVITY: November 15, 2004
VICTIM: William Frank Swain
COPIES: (1) Case Records Management Section
(2) ASAC J. B. Tilley Jr.
(3) SAC D. G. Honeycutt
(4) Deputy Attorney General J. J. Coman

Leroy (NMN) Spruill, W/M/DOB: 01/21/1958 (Subject)
Residence: P.O. Box 426, Millpond Road, Roper, North Carolina 27970, Telephone: 252-793-3770
(Currently in Hyde County Correctional Facility, P.O. Box 287, Swanquarter, North Carolina 27885, Telephone: 252-926-1810)

Interviewed on Monday, November 15, 2004, at 1:15 p.m., at the Hyde County Correctional Facility, by Assistant Special Agent in Charge (ASAC) J. B. Tilley Jr. and SA W. M. Warner.

Spruill was being interviewed at the request of the Attorney General's Office reference a claim that Spruill had information showing that he and Wallace Jones were wrongfully convicted of the murder of Frank Swain.

Spruill stated he had been sentenced to 40 years for robbery and a life sentence for second degree murder in the death of Frank Swain. The sentences were to run consecutively. He stated that he and Wallace Jones did not kill this man.

Spruill stated that Frank Swain's girlfriend, Sonya Spruill Day, was killed after Frank Swain. Day was killed the exact same way. He stated she was tied up with a telephone cord. Day was stabbed in the chest and her throat was cut from ear to ear. Spruill provided ASAC Tilley with a copy of a Roanoke Beacon newspaper article written by Mike Pollard about the murder; see Attachment #1JT. The murder was in Washington County, and he stated they were connected.

Spruill had questions about what evidence was seized during a search warrant in the investigation. He showed ASAC Tilley a page from a search warrant and referred to paragraph 4. He wanted to know what evidence was collected and why it was not used in trial.

Spruill stated that Nikki Targeton, alias "Dana Maybin," testified and the way she testified, the crime could not have happened without any evidence being found.

Spruill knew of three other suspects. He identified them as Billy Ray McNair, Maurice Wilkins, and Joseph Lind. He stated that Janice Spruill, the investigator for the sheriff's office, testified that they were all original suspects. Janice testified that she got blood from Wilkins, but backed her car over the blood when it was in her pocketbook. The blood was never re-collected. Spruill stated that Wilkins had an injury to his left arm. There was a 7" cut. Wilkins testified that he got the cut while cutting an orange on the night of the murder.

Spruill stated he got a plea offer to testify against Wallace Jones. He stated he could not lie. He later pled no contest. Seth Edwards and Harold Maynor were his attorneys. Jones had a trial and was convicted. The district attorney (DA) offered 40 years and a life sentence to run together. The DA said he would try Spruill for his life and he would face the death penalty. Spruill stated he felt he had no choice but to plead.

John Floyd, the Plymouth chief of police, went to Odom Farms and talked with Joseph Lind. Lind stated he was present at the murder with McNair and Wilkins. Wilkins and McNair did the killing. He stated that Lind's lawyer would not let him talk now. He stated that Floyd used the bluff that Billy McNair said Lind did it.

Stacey Allen, a friend of Spruill's, met him at Big Ed's Bar in Roper around 5 p.m., on the night of the murder. She stayed with him until closing. Ed, the owner of the bar, took him home that night.

Spruill stated that Avis Arnold told him that he was the lookout in the Swain murder. Arnold said that he saw Maurice Wilkins with his arm around Frank Swain's throat and Wilkins cut Swain's throat. Billy Ray McNair was there too. Spruill had Arnold write a statement and then had it notarized. Spruill sent it to his attorney, Carl Stewart.

Another person he sent Arnold's statement to was Marti McGuire, of the Innocent Project. Spruill showed ASAC Tilley a letterhead paper with the following address and telephone number:

Innocent Project
School of Journalism and Mass Communication
Campus Box 3365
University of North Carolina
Chapel Hill, North Carolina 27599-3365
Telephone Number: 919-740-0409

Spruill stated he had trouble with Janice Spruill. He stated his sister, Linda Hinson, worked with Janice. He stated he had gone to Maurice Wilkins to buy some dope. He got there and saw some cars coming behind him and thought it was the cops raiding. He went to the bedroom and Janice was there.

Spruill stated that after he was convicted, Sonya Day told him she knew who killed Swain and knew Spruill did not do it. Day was later killed the same way.

Spruill stated he knew there had been a lot of corruption in Washington County law enforcement.

Spruill stated that a black female named Downey testified that she saw a dark blue truck that night coming from the murder scene. He owned a Dodge truck, but it was not running that day. Spruill's father had a Carolina blue truck. Spruill's parents, Patty and Jack Spruill, testified that he did not have the truck that night.

Spruill stated he wanted some correspondence from Jim Coman when the investigation was completed. He wanted Coman to tell him his decision.

On December 18, 1993, Spruill was living in a two-story house on Bunkum Street in Roper in Washington County. He was living by himself. He was working for Steve Furlough, a contractor. Spruill was a carpenter for Furlough and had worked for him for seven years. Spruill was 35 or 36 years old at the time. He had just separated from his wife, Donna Patrick.

Spruill had been in prison before. He broke into a business when he was about 20 years old. He had never had a drug charge or a DWI. He did get arrested for fighting before.

Spruill woke up on the 18th around 10 a.m. Spruill and Lewis Jarvis, an electrician, left to go put up a power pole. He stated they never made it, that they stopped at the liquor store in Plymouth. Jarvis got a fifth of whiskey and Spruill got a fifth of Two Fingers Tequila. They went in Jarvis' green Dodge van.

Spruill stated that he and Jarvis went back to Spruill's house around 11 a.m. They sat in Spruill's back yard and drank. He stated they pretty much got drunk. They stayed there until about 3:30 p.m., drinking. Jarvis left between 4:30 p.m. and 5 p.m.

Dana Maybin, alias "Nikki," had come over between 11 p.m. and 12 noon. She drank with Spruill and Jarvis. Around 5 p.m., about when it was getting dark, Brandon Jones walked up the driveway. He was sober. Jones had been working with Ed Champ.

Spruill stated that they decided to go to Big Ed's Bar. They decided to walk. They left on foot on Bunkum/Main Street. They got in front of Russell Sawyer's mom's, Ida Dean's, place. Russell saw Spruill and came over to talk. Russell did not know Brandon or Nikki.

Spruill stated that he was a loud drunk and Ida had come out to see. Ray Hurst came by and gave the three of them a ride. They were in a blue Ford truck. It was darker blue than Spruill's father's truck. Hurst dropped them off at Big Ed's. Spruill's best guess was that it was around 6 p.m. The three of them went into the bar.

Ed Champ and his wife Lottie were in the bar along with their two daughters, Samantha and (FNU). Betsy (LNU), Stacey Allen, and Dwight Williams were also present at the bar.

Spruill stated from the time he got to the bar until 1:30 a.m., the three of them were at the bar the whole time. He stated they went out into the parking lot to drink whiskey. He did not know the name of the guy they went drinking with. He stated that was done several times. Spruill stated that Brandon and Nikki were at the bar the whole night too.

Spruill stated that Brandon and Nikki were fighting. They left together around 1 a.m. or so. Ed gave Spruill a ride home and they tried to pick up Brandon and Nikki, but they would not go. Ed took Spruill and "Smarty" Spruill to Spruill's house. Nikki and Brandon came up and Spruill cooked salmon patties.

Spruill stated that December 18th was a Saturday night. The following Monday morning, Spruill went to Baker Allen Lumber with Steve Furlough. He stated that was the first time he heard of the killing. Ray Hurst told him.

Spruill stated he went to school with Frank Swain. He knew all of Swain's family. Spruill had been at Swain's trailer where Swain had been killed seven or eight times before.

Spruill stated the last time he was there was over a year before Swain was killed. Spruill denied he made an earlier statement to law enforcement that it was the October or November before Swain's death when he was last there. He stated the statement from law enforcement where he said that Brandon and Nikki left the bar was incorrect. He did not say they left 30 minutes at a time.

Spruill stated he was not going to deny that he said it would not surprise him that Brandon and Nikki killed somebody. He did deny telling Ray Hurst that he had gone to Frank Swain's that night.

Nikki was now living in Westminster, South Carolina. Stacey Allen, who was with Spruill that night, was still in contact with Nikki. Allen said that she was told by Nikki that Janice Spruill went to see Nikki. Janice told Nikki that if she came back to North Carolina, she would get a purgery charge.

Spruill stated he knew of a tape made by Jim Vosberg, Maynard Harrell, and Seth Edwards with Nikki. She recanted her statement. Spruill stated that his girlfriend, Debbie McGowan, had a copy and a transcript of this tape. He stated Debbie's telephone number was 252-797-7195. Her address was 351 Main Street, Creswell. He believed John Floyd, Carl Stewart, and Marti McGuire all had a copy of the tape.

Spruill was asked if there was anything else he wished to say or add. Spruill's stated a preacher, David Hewitt, gave Spruill's mom and dad a letter from an anonymous source claiming to know something about the murder. The man said he knew Spruill did not have anything to do with the murder. Spruill did not know what the man's information was.

Spruill provided the following listed documents:

Attachment #3JT - Partial statement from Billy McNair

Attachment #4JT - Statement by Leroy Spruill

The interview concluded at 3:56 p.m.

JBT:lg

(Attachments #1JT, #3JT and #4JT)

CONFIDENTIAL: This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

SBI CASE: 2004-03241 (583)
ACTIVITY: November 16, 2004
VICTIM: William Frank Swain
COPIES: (1) Case Records Management Section
(2) SA W. M. Warner III
(3) SAC D. G. Honeycutt
(4) ASAC J. B. Tilley Jr.
(5) District Attorney S. H. Edwards
(6) Senior Deputy Attorney General J. J. Coman

Wallace Brandon Jones, W/M/DOB: 09/27/1972 (Subject)
Residence: Inmate, Hyde Correctional Institution, P.O. Box 278, Swan Quarter, North Carolina 27885

Wallace Brandon Jones was interviewed on Tuesday, November 16, 2004, at approximately 9:15 a.m., at the North Carolina Department of Corrections, Hyde Correctional Institution, by SA W. M. Warner III and Assistant Special Agent in Charge (ASAC) J. B. Tilley Jr.

Jones was serving a life sentence for the murder of William Frank Swain in Plymouth.

Jones was being interviewed about any information and allegations of wrongdoing during his investigation and trial.

Jones believes that if the DNA and fingerprints were run from the crime scene, this will set him free. This is all that Jones asked of law enforcement.

Jones believes that Janice Spruill was covering for the Wilkins boy when she ran over the blood. He knows that when blood is taken, the tube is put in a box and the box is taped up.

Jones believes that Billy Lee McNair, Maurice Wilkins, Joseph Lind, and Avis Arnold were involved in the murder of William Frank Swain. He also believes that they were involved in the murder of Sonya Day, Frank's girlfriend.

Jones understands that Joseph Lind told the chief of police that he was present when the boys killed Frank Swain and that he would only testify if he was given a deal by the State.

In 1985, James Vosberg and John Skinner were the attorneys who represented Jones. He was convicted of first-degree murder and robbery with a dangerous weapon and given life. The prosecutors in the case were Mitchell Norton and Tom Anglim. Jones talked to Avis Arnold one day when Arnold was here at Hyde Correctional. Arnold told Jones that he would be the "angel that got him out." Jones asked if he would tell his attorney about this and he said he would.

Jones sent $1000 from his account to Attorney Carl Stewart. Stewart came to talk to Jones but he never talked to Avis Arnold. Attorney Stewart wrote Jones back and told him that he needed $1000 more to come back.

Jones began hearing that Maurice Wilkins was involved from day one in the county jail. He has always heard that Maurice Wilkins was involved.

Back in 1993, Jones and Dana Maybin were friends. He met Dana at Big Ed's Bar when he worked there. He found out that Dana was from South Carolina. She was just someone that he could party with and have fun. She wanted more out of the relationship but he did not.

Jones believes that police just pressured Maybin into saying what she said. He knows how they pressured him to try to get him to say something, but he could not say he killed someone when he did not.

On December 18, 1993, he was staying in a camper trailer there at Big Ed's Bar. He lived next door to Ed and his wife, who lived in a brick house.

He got up and went to Little Ed's house to take a shower. He then went and pumped septic tanks with Big Ed.

Around 4:30 to 5 p.m., they went to the bar and had a drink. He then walked home and took a shower and walked to Leroy Spruill's house. It was about a quarter mile walk. When he got there, Leroy and Dana were there. They left and walked to some man's house and then got a ride from Ray Hearst to Big Ed's Bar.

He recalls Big Ed, Lottie Lynn Rogers, Connie (LNU), a lady behind the bar, and he believes Curtis and Kevin Furlough being present. Jones and Dana had an argument and Dana sat at the end of the bar with another guy named Smarty Spruill. He actually went out into the parking lot a couple of times to drink whiskey

but never left the bar. Jones remembers seeing Louis Jarvis pull up in a van outside the bar at one point.

Around 2 a.m., he and Dana left the bar, walking to Leroy's. Jones bought two six-packs of beer and they started walking.

Jones dropped some beer on the highway and broke some. Big Ed then came along and picked them up and took them to Leroy's where Leroy and Marty were.

They ate sweet potatoes and salmon cakes while at Leroy's. Leroy and Smarty left and Jones and Dana spent the night at Leroy's. Dana was actually living there at the time.

The first time he heard about the murder was on either Sunday or Monday night on TV.

He did not know Frank Swain and had never met him. He had never been to his house.

Jones learned in April that the police were looking for him to talk to him about the case. He knew back in December or January that the police had talked to Leroy.

While staying at Big Ed's, he was using the name Robert Solis. He was wanted in Tennessee for arson, transporting explosives, robbery, theft of property, and attempted robbery with a dangerous weapon. Jones used this name to keep him from being caught.

In April, the police showed up at Big Ed's, looking for him to talk about the murder. He knew that he could not go to the police and talk about this because he was wanted on Tennessee charges. Jones then fled to Tennessee and then went to Florida.

He later went back to Tennessee and the police caught him at his mother's house. The Tennessee authorities told him that if he would go back to North Carolina, they would drop the charges pending against him in Tennessee. He also had an outstanding warrant for assault on a police officer in Texas, which was dismissed.

Jones said he had never been to Frank Swain's house before and did not know him. He had been on the Folly Road before to Margie Perry's house, whom he met in Plymouth. He had also been to Bruce Smith's house on Folly Road.

Jones admits that he was with Leroy Spruill and Dana Maybin at Big Ed's Bar on the night of the murder.

Jones gave hair and blood after he was brought back to North Carolina. Jones said he has used Marijuana, powder Cocaine, and crack Cocaine in the past.

Jones said he took a polygraph during this investigation. He was told by the man who gave him the test that he was not the man they were looking for and that he had done the best of anybody they had tested.

Later, another investigator came in and told him that he had failed the polygraph. They then played "good cop, bad cop" with him.

Greg Hassel, a probation/parole officer who was on a drug task force in Washington, told his attorney, Marcus Jamison, with prison legal services, that Janice Spruill had been tipping off a black male named "Bo Jack," who is now in federal prison. Every time they went to get him, he was tipped off.

Jones knows that Maurice Wilkins' blood was run over by Janice Spruill and that his blood was never compared.

Maurice Wilkins testified at his trial that he saw Leroy Spruill in a blue pickup in Frank Swain's trailer park on the night he was killed.

Wilkins had cut his arm and had it in a bandage. He told the jury that he cut his arm peeling an orange.

He understands that Dana Maybin faxed a note to the sheriff's department in Washington after the police talked to her in South Carolina, saying that she lied to them about what had happened. This was before anyone was arrested.

Jones said he would like any blood of Maurice Wilkins that is in the case to be compared with any blood that the Department of Correction may have now. He believes that something is not right.

Jones said there was a tape of Dana Maybin played in the trial where Leroy Spruill's attorney talked to Dana Maybin and that she changed her story and said that she had lied about what happened.

He understands that Chief John Floyd has talked to Dana Maybin and she told him she lied about what happened.

This was all the information that was related and this interview ended at approximately 10:30 a.m.

WMW:jbp

CONFIDENTIAL: This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

SBI CASE: 2004-03241 (667)
ACTIVITY: February 6, 2007
VICTIM: William Frank Swain
COPIES: (1) Case Records Management Section
(2) ASAC W. M. Warner III
(3) SAC B. M. Robinson
(4) Senior Deputy Attorney General J. J. Coman

Leroy (NMN) Spruill, W/M/DOB: 01/21/1958 (Subject)
Residence: Inmate, North Carolina Department of Correction, Hyde Correctional Institution, P.O. Box 287, Swan Quarter, North Carolina, Telephone: 252-926-1810

Leroy Spruill was interviewed on Tuesday, February 6, 2007, at approximately 10:15 a.m., at the Hyde County Correctional Institution, [illegible] sistant Special Agent in Charge (ASAC) W. M. Warner and [illegible] House of the North Carolina State Bureau of Investigati[illegible]

Spruill was interviewed concerning information passed along to Senior Deputy Attorney General J. J. Coman by Charlie White, a friend of the Spruill family.

Senior Deputy Attorney General Coman had been told by Charlie White that Leroy Spruill had a conversation with Joe-Joe McNair about a conversation Joe-Joe had with Billy McNair about the murder of William Frank Swain.

During this interview, Leroy Spruill gave the following information:

Leroy said the Friday after Thanksgiving 2006, Sonya Phiffer and an attorney from the Innocence Project came to see him and Joe-Joe McNair.

After the Innocence Project left, he and Joe-Joe had a conversation about the murder of Frank Swain.

Spruill said before that day, he did not know Joe-Joe McNair. He knew his brother, Billy Ray McNair, but he did not know that Joe-Joe was even at this camp.

001753

Spruill had seen Joe-Joe McNair coming out of the visitors room after talking to the Innocence Project.

Spruill asked the people if that guy had anything to do with his case. They told him yes, he did.

In the conversation with Joe-Joe, they started talking about the murder of Frank Swain and what had been talked about with the Innocence Project.

Leroy told Joe-Joe that he knew who had killed Frank Swain, that it was Billy McNair, Joseph Lind, Maurice Wilkins, and Joe-Joe McNair.

Joe-Joe spoke up and said, "No, I am Joe-Joe McNair and my brother Billy McNair killed Frank Swain."

Joe-Joe said that the same ones that killed Frank killed that white girl.

Leroy said that the white girl is Sonya Spruill, Leroy's fourth cousin, who was the girlfriend of Frank Swain.

Joe-Joe said he was present in the apartment complex when Sonya Spruill was killed.

Joe-Joe told Leroy that he had talked to the SBI before about this case and told them everything he knew about the Frank Swain case.

Leroy asked Joe-Joe why he was going to tell on his brother and Joe-Joe said because Billy Ray raped their grandmother.

Joe-Joe claims to have seen a nicely-dressed black man from Dardens up in Martin County at Sonya's house the night before she was found. He was a tall, light-skinned black male with a nice car.

Joe-Joe was standing out in the housing project with a black lady that "kinda" ran the housing authority. Her last name was Downing, maybe Mary Downing.

Leroy has not talked to Joe-Joe since then. He has passed him before in the hall and Joe-Joe would not even look at him.

Joe-Joe never told Leroy exactly what he told the Innocence Project but he said that he told them the same thing he told Spruill.

This was all the information related by Leroy Spruill. This statement was reviewed with Spruill and no corrections or additions or additions were made to the statement.

This interview ended at approximately 11:45 a.m.

WMW:jbp

Forensic Analysis

On October 4, 2005, the SBI collected certain items of evidence from WCSO and the Clerk, including the Victim's blood sample; blood scrapings from the Victim's front door; the blue curtains from the Victim's kitchen; the suspect kits from Spruill, Jones and Maybin; the tire tool; and the latent lifts from the crime scene (SBI 1683 and 1685). On the same day they also collected all the latent lifts from the Sonja Day crime scene from the Plymouth Police Department. (SBI 1687).

The Crime Lab compared the latent prints from the Sonja Day crime scene to the latent prints from the Frank Swain crime scene to determine if there were any common prints between the two scenes. On April 12, 2006, a lab report issued that found no latent to latent print identification effected between the latent prints from the Swain crime scene and the latent prints from the Day crime scene. (WCSO 532-533). That lab report is provided in full below.

On October 18, 2006, the SBI collected Spruill's bed sheet from WCSO. (SBI 1752). As mentioned above, attorney Maynard Harrell authorized the release of the LabCorp file from the defense testing described above in 1995 to the SBI for purposes of the re-investigation. (SBI 1864)[45].

[45] This is more fully outlined and described above in the defense investigation section of the brief.

On April 20, 2007, the lab report for testing completed on the tire tool, curtains, sheet and blood scrapings from the exterior front door was issued. That report is provided in full below. The results from this testing were as follows:

- As to the tire iron
    - It was confirmed that blood existed on the tire iron.
    - As to the DNA on the tire iron, the profile developed was a mixture.
    - The Victim could not be excluded as a contributor.
    - Spruill, Jones, Maybin, Wilkins and McPhatter were excluded as contributors.
    - That profile was uploaded into the CODIS database with no matches observed and the lab report indicates that the mixture would be routinely queried in the CODIS database.
- As to the curtains from the Victim's kitchen and the top sheet from Spruill's home, both items failed to reveal the presence of blood.
- As to the blood scrapings on the Victim's door, the lab report indicated that there was no evidence remaining to analyze when the SBI opened the envelope. (SBI 1864).

North Carolina
State Bureau of Investigation
Department of Justice
Raleigh

Amended Report: CC Section

Laboratory Report

Cross Reference: R93-25616, R94-21646, R94-20102 & 1994-00716

TO:	Mr. Jay Tilley P. O. Box 1307 Clinton, NC 28328	DATE:	April 12, 2006
		SBI LAB NO.:	R20065573
		SBI FILE NO.:	2004-03241
		AGENCY NO:	Not stated
		EXAMINED BY:	Nikkola C. Russell
		SUBMITTED BY:	Addressee
LOCATION:	Washington County	DATE OF OFFENSE:	December 18, 1993
TYPE OF CASE:	Homicide	DATE SUBMITTED:	March 09, 2006
		TRACKING NO.:	235158

SUBJECT(S): Leroy Spruill (suspect)
Wallace Brandon Jones (suspect)
Dana Lynn Maybin (suspect)
William Frank Swain (victim)

ITEMS SUBMITTED:

Item 1 (Your Item 8): Eighteen (18) latent lifts.
Item 2 (Your Item 9): Twenty-one (21) latent lifts.

TYPE EXAMINATION REQUESTED:

Latent print examination; AFIS search and comparison.

RESULTS OF EXAMINATION:

One (1) identifiable latent fingerprint and one (1) identifiable latent palmprint were noted on Item 2. The identifiable latent fingerprint was not of sufficient detail for entry into the Automated Fingerprint Identification System (AFIS). The North Carolina AFIS is only capable of searching identifiable fingerprints; therefore, the identifiable latent palmprint could not be searched.

As requested by ASAC J. Tilley, the identifiable latent prints in Item 2 were compared to the previously examined identifiable latent prints in Item 1. There was no latent print to latent print identification effected.

DISPOSITION OF EVIDENCE:

The evidence is enclosed in the attached package and is being returned via first-class mail.

I, Roy Cooper, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

THIS REPORT IS TO BE USED ONLY IN CONNECTION WITH AN OFFICIAL CRIMINAL INVESTIGATION.

COPIES TO:

Jim Coman, Deputy AG
Acting SAC Pam Tully

This report represents a true and accurate result of my analysis on the item(s) described.

Robin Pendergraft, Director

Nikkola C. Russell

Confidential: This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

North Carolina
State Bureau of Investigation
Department of Justice
Raleigh

Laboratory Report

TO:	Agent W. M. Warner State Bureau Of Investigation P. O. Box 6807 Ocean Isle, NC 28469	DATE: SBI LAB NO.: SBI FILE NO.: AGENCY FILE NO.: EXAMINED BY: SUBMITTED BY:	September 20, 2007 R20065573 2004-03241 Jenny Elwell See Below
LOCATION: TYPE OF CASE:	Washington County Homicide	DATE OF OFFENSE: DATE SUBMITTED: TRACKING NO.:	December 18, 1993 See Below 235158

SUBJECT(S): Leroy Spruill (suspect)
Wallace Brandon Jones (suspect)
Dana Lynn Maybin (suspect)
William Frank Swain (victim)

ITEM SUBMITTED BY DHL ON JULY 12, 2007:

Item # 3: DNA extracts samples prepared by LabCorp from a tire iron and Leroy Spruill.

ITEM SUBMITTED BY FIRST-CLASS MAIL ON JULY 20, 2007:

Item # 4 (Your Item 7): Previously examined tire tool from crime scene.

ITEMS SUBMITTED BY FIRST-CLASS MAIL ON JULY 27, 2007:

Item # 5 (Your Item 2): Previously examined blood scrapings from exterior door.
Item # 6 (Your Item 1): Previously submitted liquid blood sample from Swain.
Item # 7 (Your Item 3): Previously examined blue curtains from crime scene.
Item # 8 (Your Item 4): Previously submitted SBI Subject Evidence Collection Kit containing a liquid blood sample from B. Jones.
Item # 9 (Your Item 5): Previously submitted SBI Subject Evidence Collection Kit containing a liquid blood sample from D. Maybin.
Item # 10 (Your Item 6): Previously submitted SBI Subject Evidence Collection Kit containing a liquid blood sample from L. Spruill.
Item # 11 (Your Item 10): Previously examined sheet from L. Spruil.

ITEMS RETRIEVED FROM THE DNA FREEZER ON AUGUST 17, 2007:

Item # 12 (Your Item 4): Two bloodstains from Spruill.
Item # 13 (Your Item 12): Two bloodstains from Swain.
Item # 14 (Your Item 22a): Two bloodstains from Jones.
Item # 15 (Your Item 23a): Two bloodstains from Maybin.
Item # 16 (Your Item 3): Bloodstain from Wilkins.
Item # 17 (Your Item 16): Bloodstain from McPhatter.

I, Roy Cooper, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

THIS REPORT IS TO BE USED ONLY IN CONNECTION WITH AN OFFICIAL CRIMINAL INVESTIGATION.

COPIES TO:

Mr. S. H. Edwards, DA
SAC B. M. Robinson
S/A J. B. Tilley, Jr.

This report represents a true and accurate result of my analysis on the item(s) described.

Robin P. Pendergraft

Robin Pendergraft, Director

Jennifer H. Elwell

Jenny Elwell
Forensic Biologist II

Confidential: This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

ITEM GENERATED BY S/A J. A. ELWELL ON AUGUST 31, 2007:

Item # 18: DNA extracts from Items 4, 12, 13, 14, 15, 16 and 17.

TYPE EXAMINATION REQUESTED:

Blood and STR/DNA Analysis.

RESULTS OF EXAMINATION:

Examination of the previously examined tire tool (Item 4) gave chemical indications for the presence of blood.

Analysis of the previously examined curtains and the previously examined sheet (Items 7 and 11, respectively) failed to reveal the presence of blood. There was no evidence remaining in the previously examined blood scrapings collected from the exterior door (Item 5) for further analysis.

The extracts prepared by Lab Corp. and the liquid blood samples (Items 3, 6, 8, 9 and 10) were not examined.

DNA extractions were performed on Item 4 as well as on the bloodstains of the suspects (Items 12, 14 and 15), the subjects (Items 16 and 17) and the victim (Item 13). These extracts were then quantitated, amplified, and tested with DNA genetic markers Amelogenin, CSF1PO, D13S317, D16S539, D18S51, D19S433, D21S11, D2S1338, D3S1358, D5S818, D7S820, D8S1179, FGA, TH01, TPOX, and vWA.

The DNA profile obtained from the previously examined tire tool (Item 4) is CONSISTENT WITH A MIXTURE. The victim, William Frank Swain, (Item 13) cannot be excluded as a contributor to the mixture. The suspects, Spruill, Jones and Maybin (Items 12, 14 and 15, respectively) and the subjects, Wilkins and McPhatter (Items 16 and 17, respectively) were excluded as the contributors to the mixture. This mixture with as many of the alleles as could be eliminated from the victim, was searched against the CODIS (combined DNA Index System) database and no high stringency matches were observed. This mixture will be routinely queried against the CODIS Database in search of a match to another forensic case or a convicted offender.

DISPOSITION OF EVIDENCE:

The remaining evidence and extracted DNA (if any) is being returned to the investigating agency via First Class Mail.

Page 1
Total No. Of Pages Attached 54 + 53a, 13a

North Carolina State Bureau Of Investigation
Crime Laboratory Division

FORENSIC BIOLOGY SECTION

CASE NOTES COVER SHEET

SBI LAB FILE NUMBER	R20065573
ANALYST	JJH
DATE ANALYSIS STARTED	8/11/07
DATE ANALYSIS COMPLETED	~~8/31/07~~ 9/6/07

ADMINISTRATIVE REVIEW	
MOB (Initials)	9/12/07 (Date)
TECHNICAL REVIEW	
See last page of the attached notes	

000026

PAGE NUMBER	2
SBI LAB FILE NUMBER	R2006 5573
ANALYST	[illegible]
DATE	8/17/07

SBI FORENSIC BIOLOGY - LAB NOTES

ITEM NO. 3

CONTAINING: DNA extracts prepared by Lab Corp from a ~~[illegible]~~ Tire iron from Leroy Sprui ll

PACKAGING:
[ ] SEALED BROWN PAPER BAG
[ ] SEALED ENVELOPE
[✓] OTHER SBI Box C Sealed

RESULTS OF TESTING:

[✓] NOT EXAMINED

[ ] NOT OPENED
[ ] VISUALLY EXAMINED ONLY/ NO CHEM ANAL.

[ ] Sample Submitted For DNA Testing
Sample Not Submitted For DNA Testing
[ ] Identity not in question
[ ] Per officer's instructions (date:___)
[ ] All standards not available
[ ] No sample for DNA
[ ] Redundant
[ ] _____

ATTACH PHOTOS, DRAWING, AND SKETCHES HERE

BLOOD TESTING:
_____Phenolphthalin
Pos Control _____ Neg Control _____
Enter Result as + (Pos), - (Neg), or Inc

SPECIES ORIGIN TESTING:
ABAcard Heme Trace Anti-human hemoglobin
_____ - Test Sample
Enter Result as + (Pos), - (Neg), or Inc

AMYLASE TESTING FOR INDICATIONS OF SALIVA:
_____ - Test Sample
_____ - Known Control
_____ - Reagent Blank
_____ - Substrate Control
_____ - Absorbance Reading (Optional)
Enter Results on Scale from + to ++++

SEMEN TESTING:
_____ - Test Sample
_____ - Known Control
_____ - Substrate Control
_____ - Reagent Blank
Enter Results on Scale from + to ++++
Examined with Crime Scope [ ]Yes [ ] No
Slides Made Area # : Sperm Seen [ ]
No Sperm Seen [ ] Other [ ]
Est. Quantity of sperm _____

p30 TESTING: ABAcard p30
_____ - Test Sample
Enter Results as + (Pos), - (Neg), or Inc

forms/casenotes/bodyfluid/labnotes1.wpd

000027

PAGE NUMBER	3
SBI LAB FILE NUMBER	R20065573
ANALYST	JDS
DATE	8/17/07

SBI FORENSIC BIOLOGY - LAB NOTES

ITEM NO. 4

CONTAINING: a previously examined tire tool

PACKAGING:
[ ] SEALED BROWN PAPER BAG
[ ] SEALED ENVELOPE
[+] OTHER 5 env c 5 zlbl c 5 zlbl c

RESULTS OF TESTING:

[ ] NOT EXAMINED
[ ] NOT OPENED
[ ] VISUALLY EXAMINED ONLY/ NO CHEM ANAL.

[✓] Sample Submitted For DNA Testing Swabs of Item 4
Sample Not Submitted For DNA Testing
[ ] Identity not in question
[ ] Per officer's instructions (date:___)
[ ] All standards not available
[ ] No sample for DNA
[ ] Redundant
[ ] _____

BLOOD TESTING: See side
+ Phenolphthalin
Pos Control + Neg Control –
Enter Result as + (Pos), - (Neg), or Inc

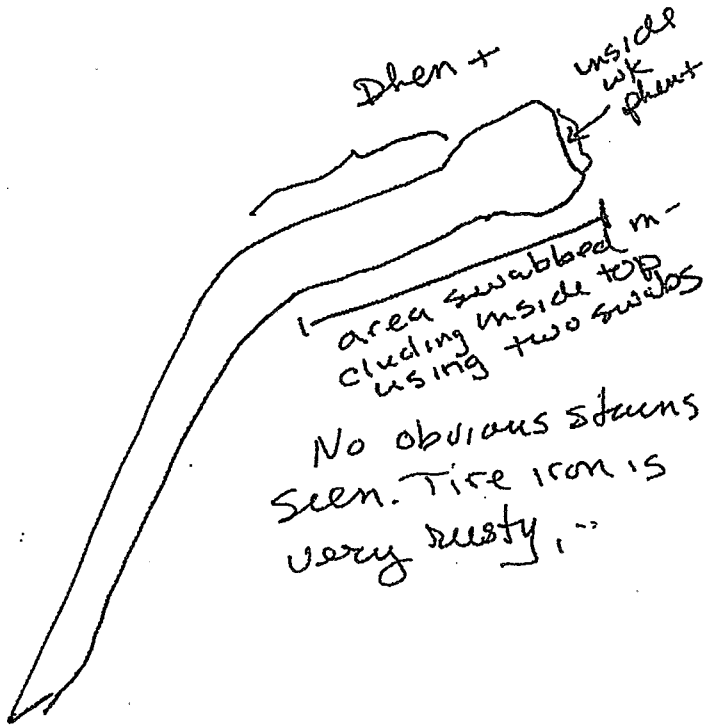
SPECIES ORIGIN TESTING:
ABAcard Heme Trace Anti-human hemoglobin
_____ - Test Sample
Enter Result as + (Pos), - (Neg), or Inc

AMYLASE TESTING FOR INDICATIONS OF SALIVA:
_____ - Test Sample
_____ - Known Control
_____ - Reagent Blank
_____ - Substrate Control
_____ - Absorbance Reading (Optional)
Enter Results on Scale from + to ++++

SEMEN TESTING:
_____ - Test Sample
_____ - Known Control
_____ - Substrate Control
_____ - Reagent Blank
Enter Results on Scale from + to ++++
Examined with Crime Scope [ ]Yes [ ] No
Slides Made Area # : Sperm Seen [ ]
No Sperm Seen [ ] Other [ ]
Est. Quantity of sperm _____

p30 TESTING: ABAcard p30
_____ - Test Sample
Enter Results as + (Pos), - (Neg), or Inc

ATTACH PHOTOS, DRAWING, AND SKETCHES HERE



No obvious stains seen. Tire iron is very rusty.

forms/casenotes/bodyfluid/labnotes1.wpd

000028

PAGE NUMBER	4
SBI LAB FILE NUMBER	R2006 5573
ANALYST	JJE
DATE	8/17/07

SBI FORENSIC BIOLOGY - LAB NOTES

ITEM NO. 5

CONTAINING: previously examined "blood scrapings from exterior front door.

PACKAGING:
[✓] SEALED BROWN PAPER BAG 5 envs
[ ] SEALED ENVELOPE
[ ] OTHER _____

RESULTS OF TESTING:

[✓] NOT EXAMINED

[ ] NOT OPENED
[ ] VISUALLY EXAMINED ONLY/ NO CHEM ANAL.

[ ] Sample Submitted For DNA Testing
Sample Not Submitted For DNA Testing
[ ] Identity not in question
[ ] Per officer's instructions (date:___)
[ ] All standards not available
[ ] No sample for DNA
[ ] Redundant
[ ] _____

ATTACH PHOTOS, DRAWING, AND SKETCHES HERE

folded piece of paper which is empty no analysis no sample left

BLOOD TESTING:
_____Phenolphthalin
Pos Control _____ Neg Control _____
Enter Result as + (Pos), - (Neg), or Inc

SPECIES ORIGIN TESTING:
ABAcard Heme Trace Anti-human hemoglobin
_____ - Test Sample
Enter Result as + (Pos), - (Neg), or Inc

AMYLASE TESTING FOR INDICATIONS OF SALIVA:
_____ - Test Sample
_____ - Known Control
_____ - Reagent Blank
_____ - Substrate Control
_____ - Absorbance Reading (Optional)
Enter Results on Scale from + to ++++

SEMEN TESTING:
_____ - Test Sample
_____ - Known Control
_____ - Substrate Control
_____ - Reagent Blank
Enter Results on Scale from + to ++++
Examined with Crime Scope [ ]Yes [ ] No
Slides Made Area # : Sperm Seen [ ]
No Sperm Seen [ ] Other [ ]
Est. Quantity of sperm _____

p30 TESTING: ABAcard p30
_____ - Test Sample
Enter Results as + (Pos), - (Neg), or Inc

forms/casenotes/bodyfluid/labnotes1.wpd

000029

PAGE NUMBER	5
SBI LAB FILE NUMBER	R2004 5573
ANALYST	JDG
DATE	8/17/07

SBI FORENSIC BIOLOGY - LAB NOTES

ITEM NO. 6

CONTAINING: previously submitted liquid blood sample

PACKAGING:
[✓] SEALED BROWN PAPER BAG Splastic bag c sgbb
[ ] SEALED ENVELOPE
[ ] OTHER _____

RESULTS OF TESTING:

[✓] NOT EXAMINED

[ ] NOT OPENED
[ ] VISUALLY EXAMINED ONLY/ NO CHEM ANAL.

[ ] Sample Submitted For DNA Testing
Sample Not Submitted For DNA Testing
[ ] Identity not in question
[ ] Per officer's instructions (date:___)
[ ] All standards not available
[ ] No sample for DNA
[ ] Redundant
[ ] _____

ATTACH PHOTOS, DRAWING, AND SKETCHES HERE

BLOOD TESTING:
_____ Phenolphthalin
Pos Control _____ Neg Control _____
Enter Result as + (Pos), - (Neg), or Inc

SPECIES ORIGIN TESTING:
ABAcard Heme Trace Anti-human hemoglobin
_____ - Test Sample
Enter Result as + (Pos), - (Neg), or Inc

AMYLASE TESTING FOR INDICATIONS OF SALIVA:
_____ - Test Sample
_____ - Known Control
_____ - Reagent Blank
_____ - Substrate Control
_____ - Absorbance Reading (Optional)
Enter Results on Scale from + to ++++

SEMEN TESTING:
_____ - Test Sample
_____ - Known Control
_____ - Substrate Control
_____ - Reagent Blank
Enter Results on Scale from + to ++++
Examined with Crime Scope [ ]Yes [ ] No
Slides Made Area # : Sperm Seen [ ]
No Sperm Seen [ ] Other [ ]
Est. Quantity of sperm _____

p30 TESTING: ABAcard p30
_____ - Test Sample
Enter Results as + (Pos), - (Neg), or Inc

Sample was drawn in 1993 not suitable for analysis.

forms/casenotes/bodyfluid/labnotes1.wpd

000030

PAGE NUMBER	4
SBI LAB FILE NUMBER	R2006 5573
ANALYST	JJR
DATE	8/17/07

SBI FORENSIC BIOLOGY - LAB NOTES

ITEM NO. 7

CONTAINING: previously examined blue curtains (2 total)

PACKAGING:
[✓] SEALED BROWN PAPER BAG 2 stpl
[ ] SEALED ENVELOPE
[ ] OTHER _____

RESULTS OF TESTING:

[ ] NOT EXAMINED

[ ] NOT OPENED

[ ] VISUALLY EXAMINED ONLY/ NO CHEM ANAL.

[ ] Sample Submitted For DNA Testing
Sample Not Submitted For DNA Testing
[ ] Identity not in question
[ ] Per officer's instructions (date: ___)
[ ] All standards not available
[ ] No sample for DNA
[ ] Redundant
[ ] _____

ATTACH PHOTOS, DRAWING, AND SKETCHES HERE

2 holes seen on one curtain from previous analysis

both curtains were rubbed completely and tested phen E

BLOOD TESTING:
— Phenolphthalin both curtains
Pos Control + Neg Control —
Enter Result as + (Pos), - (Neg), or Inc

SPECIES ORIGIN TESTING:
ABAcard Heme Trace Anti-human hemoglobin
_____ - Test Sample
Enter Result as + (Pos), - (Neg), or Inc

AMYLASE TESTING FOR INDICATIONS OF SALIVA:
_____ - Test Sample
_____ - Known Control
_____ - Reagent Blank
_____ - Substrate Control
_____ - Absorbance Reading (Optional)
Enter Results on Scale from + to ++++

SEMEN TESTING:
_____ - Test Sample
_____ - Known Control
_____ - Substrate Control
_____ - Reagent Blank
Enter Results on Scale from + to ++++
Examined with Crime Scope [ ]Yes [ ] No
Slides Made Area # : Sperm Seen [ ]
No Sperm Seen [ ] Other [ ]
Est. Quantity of sperm _____

p30 TESTING: ABAcard p30
_____ - Test Sample
Enter Results as + (Pos), - (Neg), or Inc

forms/casenotes/bodyfluid/labnotes1.wpd

000031

PAGE NUMBER	7
SBI LAB FILE NUMBER	R20065573
ANALYST	JC
DATE	8/17/07

SBI FORENSIC BIOLOGY - LAB NOTES

ITEM NO. 8

PACKAGING:
[ ] SEALED BROWN PAPER BAG
[ ] SEALED ENVELOPE
[✓] OTHER 3 SBI Suspect Evidence collection kit ē s glbē
5 bpbē

CONTAINING: 2 previously examined liquid blood samples from Wallace Brandon Jones

RESULTS OF TESTING:

[✓] NOT EXAMINED

[ ] NOT OPENED
[ ] VISUALLY EXAMINED ONLY/ NO CHEM ANAL.

[ ] Sample Submitted For DNA Testing
Sample Not Submitted For DNA Testing
[ ] Identity not in question
[ ] Per officer's instructions (date:___)
[ ] All standards not available
[ ] No sample for DNA
[ ] Redundant
[ ] _____

ATTACH PHOTOS, DRAWING, AND SKETCHES HERE

Drawn on Jan 1995
not suitable for analysis

BLOOD TESTING:
_____Phenolphthalin
Pos Control _____ Neg Control _____
Enter Result as + (Pos), - (Neg), or Inc

SPECIES ORIGIN TESTING:
ABAcard Heme Trace Anti-human hemoglobin
_____ - Test Sample
Enter Result as + (Pos), - (Neg), or Inc

AMYLASE TESTING FOR INDICATIONS OF SALIVA:
_____ - Test Sample
_____ - Known Control
_____ - Reagent Blank
_____ - Substrate Control
_____ - Absorbance Reading (Optional)
Enter Results on Scale from + to ++++

SEMEN TESTING:
_____ - Test Sample
_____ - Known Control
_____ - Substrate Control
_____ - Reagent Blank
Enter Results on Scale from + to ++++
Examined with Crime Scope [ ]Yes [ ] No
Slides Made Area # : Sperm Seen [ ]
No Sperm Seen [ ] Other [ ]
Est. Quantity of sperm _____

p30 TESTING: ABAcard p30
_____ - Test Sample
Enter Results as + (Pos), - (Neg), or Inc

forms/casenotes/bodyfluid/labnotes1.wpd

000032

PAGE NUMBER	8
SBI LAB FILE NUMBER	R20065573
ANALYST	GPA
DATE	8/17/07

SBI FORENSIC BIOLOGY - LAB NOTES

ITEM NO. 9

CONTAINING: 2 liquid blood samples from Dana May bin (previously submitted

PACKAGING:
[ ] SEALED BROWN PAPER BAG
[ ] SEALED ENVELOPE
[✓] OTHER 5 bpbc 3 suspect Evidence Collection kit 3 lb

RESULTS OF TESTING:

[✓] NOT EXAMINED

[ ] NOT OPENED
[ ] VISUALLY EXAMINED ONLY/ NO CHEM ANAL.

[ ] Sample Submitted For DNA Testing
Sample Not Submitted For DNA Testing
[ ] Identity not in question
[ ] Per officer's instructions(date:___)
[ ] All standards not available
[ ] No sample for DNA
[ ] Redundant
[ ] _____

ATTACH PHOTOS, DRAWING, AND SKETCHES HERE

BLOOD TESTING:
_____Phenolphthalin
Pos Control _____ Neg Control _____
Enter Result as + (Pos), - (Neg), or Inc

SPECIES ORIGIN TESTING:
ABAcard Heme Trace Anti-human hemoglobin
_____ - Test Sample
Enter Result as + (Pos), - (Neg), or Inc

AMYLASE TESTING FOR INDICATIONS OF SALIVA:
_____ - Test Sample
_____ - Known Control
_____ - Reagent Blank
_____ - Substrate Control
_____ - Absorbance Reading (Optional)
Enter Results on Scale from + to ++++

SEMEN TESTING:
_____ - Test Sample
_____ - Known Control
_____ - Substrate Control
_____ - Reagent Blank
Enter Results on Scale from + to ++++
Examined with Crime Scope [ ]Yes [ ] No
Slides Made Area # : Sperm Seen [ ]
No Sperm Seen [ ] Other [ ]
Est. Quantity of sperm _____

p30 TESTING: ABAcard p30
_____ - Test Sample
Enter Results as + (Pos), - (Neg), or Inc

drawn in 1995 not suitable for analysis

forms/casenotes/bodyfluid/labnotes1.wpd

000033

PAGE NUMBER	9
SBI LAB FILE NUMBER	R2006 5573
ANALYST	JFG
DATE	8/17/07

SBI FORENSIC BIOLOGY - LAB NOTES

ITEM NO. 10

CONTAINING: 2 liquid blood samples previously submitted from Lucy Sprull

PACKAGING:
[ ] SEALED BROWN PAPER BAG
[ ] SEALED ENVELOPE
[✓] OTHER sbpb ē Suspect Evidence Collection kit ē & bubble bag ē

RESULTS OF TESTING:

[✓] NOT EXAMINED

[ ] NOT OPENED
[ ] VISUALLY EXAMINED ONLY/ NO CHEM ANAL.

[ ] Sample Submitted For DNA Testing
Sample Not Submitted For DNA Testing
[ ] Identity not in question
[ ] Per officer's instructions (date:___)
[ ] All standards not available
[ ] No sample for DNA
[ ] Redundant
[ ] _____

ATTACH PHOTOS, DRAWING, AND SKETCHES HERE

BLOOD TESTING:
_____Phenolphthalin
Pos Control _____ Neg Control _____
Enter Result as + (Pos), - (Neg), or Inc

SPECIES ORIGIN TESTING:
ABAcard Heme Trace Anti-human hemoglobin
_____ - Test Sample
Enter Result as + (Pos), - (Neg), or Inc

AMYLASE TESTING FOR INDICATIONS OF SALIVA:
_____ - Test Sample
_____ - Known Control
_____ - Reagent Blank
_____ - Substrate Control
_____ - Absorbance Reading (Optional)
Enter Results on Scale from + to ++++

SEMEN TESTING:
_____ - Test Sample
_____ - Known Control
_____ - Substrate Control
_____ - Reagent Blank
Enter Results on Scale from + to ++++
Examined with Crime Scope [ ]Yes [ ] No
Slides Made Area # : Sperm Seen [ ]
No Sperm Seen [ ] Other [ ]
Est. Quantity of sperm _____

p30 TESTING: ABAcard p30
_____ - Test Sample
Enter Results as + (Pos), - (Neg), or Inc

Blood drawn on Jan 1995 not suitable for analysis

forms/casenotes/bodyfluid/labnotes1.wpd

000034

PAGE NUMBER	10
SBI LAB FILE NUMBER	R20065573
ANALYST	JJC
DATE	8/17/07

SBI FORENSIC BIOLOGY - LAB NOTES

ITEM NO. 11

CONTAINING: bpc ē previously examined multi colored sheet cnw cutting.

PACKAGING:
[✓] SEALED BROWN PAPER BAG & unsealed env
[ ] SEALED ENVELOPE
[ ] OTHER _____

RESULTS OF TESTING:

[ ] NOT EXAMINED

[ ] NOT OPENED
[ ] VISUALLY EXAMINED ONLY/ NO CHEM ANAL.

[ ] Sample Submitted For DNA Testing
Sample Not Submitted For DNA Testing
[ ] Identity not in question
[ ] Per officer's instructions (date: ___)
[ ] All standards not available
[ ] No sample for DNA
[ ] Redundant
[ ] _____

ATTACH PHOTOS, DRAWING, AND SKETCHES HERE

BLOOD TESTING:
⊖ Phenolphthalin entire sheet + cutting cutting phen ⊖
Pos Control + Neg Control —
Enter Result as + (Pos), - (Neg), or Inc

SPECIES ORIGIN TESTING:
ABAcard Heme Trace Anti-human hemoglobin
_____ - Test Sample
Enter Result as + (Pos), - (Neg), or Inc

AMYLASE TESTING FOR INDICATIONS OF SALIVA:
_____ - Test Sample
_____ - Known Control
_____ - Reagent Blank
_____ - Substrate Control
_____ - Absorbance Reading (Optional)
Enter Results on Scale from + to ++++

SEMEN TESTING:
_____ - Test Sample
_____ - Known Control
_____ - Substrate Control
_____ - Reagent Blank
Enter Results on Scale from + to ++++
Examined with Crime Scope [ ] Yes [ ] No
Slides Made Area # : Sperm Seen [ ]
No Sperm Seen [ ] Other [ ]
Est. Quantity of sperm _____

p30 TESTING: ABAcard p30
_____ - Test Sample
Enter Results as + (Pos), - (Neg), or Inc

Forms/casenotes/bodyfluid/labnotes1.wpd

The SBI closed its re-investigation, finding that "there was no newly discovered evidence that would cause a reasonable person to believe that either of these individuals have been wrongly convicted or are innocent of the charges as they relate to the death of Frank Swain." A letter from James Coman to Seth Edwards and Coman's Memorandum regarding the re-investigation are included in full below.

State of North Carolina

ROY COOPER
ATTORNEY GENERAL

Department of Justice
PO Box 629
Raleigh, North Carolina
27602

Reply to:
James J. Coman
Law Enforcement & Prosecutions Division
(919)716-6500
Fax: (919) 716-6760

December 7, 2009

Mr. Seth H. Edwards, District Attorney
Second Prosecutorial District
Post Office Drawer 1705
Beaufort County Courthouse Annex
Washington, North Carolina 27889

Re: Request for Assistance
State v. Wallace Jones Washington County, 94 CRS 1973
State v. Leroy Spruill Washington County, 94 CRS 1984

Dear Seth:

I am sure when you asked me on July 26, 2004 if we would review the above-referenced cases and allegations that were being made by supporters of these two defendants that they had been wrongfully convicted, that it would not take as long as it has to run down every issue that they have raised to determine whether or not it appears they are entitled to a new hearing. The SBI has spent hundreds of man hours in essentially reinvestigating this particular case. In addition, to the many hours that I myself have personally spent talking to individuals, we sought and received the assistance of both SBI field agents and agents from the lab to review materials that had already been through the lab. The reason we spent such a great deal of time reviewing these matters was to determine whether or not there was any newly discovered evidence that would point to the fact that either of these defendants were innocent. I also believe that an attempt will be made to refer this matter to the Innocence Commission, and for that reason I wanted the review to be as extensive and thorough as possible.

Once all the information had been collected, I asked Senior Deputy Attorney General William P. Hart, Sr. to review the information to see if I had overlooked something or he had concerns about any of the issues raised that I might not have

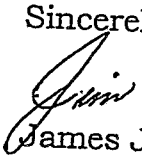
thought about. He concurred with my assessment that we had not been provided any newly discover exculpatory evidence that would support the contentions of the two defendants and their supporters. At the same time I had our interns do additional research on all the information that had been compiled by our office. In spite of all the efforts of everyone involved, the collective conclusion was that we had not been presented with any newly discovered evidence that would cause a reasonable person to believe that either of these individuals have been wrongly convicted or are innocent of the charges as they relate to the death of Frank Swain. For that reason, I am advising you by this letter that I have found no credible evidence that would warrant this matter proceeding further.

In addition, I have made extensive findings based on the new information that we have discovered and I have attempted to address every issue raised by these defendants and their supporters and answered those particular matters and reached a conclusion. I have attached a copy of those findings which is 32 pages for you to review. I am sorry that this matter took as long as it did, but I am satisfied that we have diligently looked at everything that the supporters of these two defendants have asked us to consider and there is no credible evidence to support their claims of innocence.

If after receiving and reviewing these materials you have any additional questions, please do not hesitate to contact me and I will be glad to discuss the matter with you. I hope that you and your family have a wonderful holiday season I look forward to working with you in the future.

With best personal regards, I remain

Sincerely,



James J. Coman
Senior Deputy Attorney General
Law Enforcement/Special Prosecutions Division

JJC:kj
Attachment

MEMORANDUM

In Re: State v. Wallace Jones, Washington County (94 CRS 1973)
State v. Leroy Spruill, Washington County (94 CRS1984)

OVERVIEW OF THE FACTS

On December 18, 1993, between approximately 9:00pm and 10:00pm, William Frank Swain was murdered in his home. Swain lived in a trailer located in the Folly's Trailer Park near Plymouth, North Carolina. Swain was found to have been struck numerous times in the head with a blunt object. The medical examiner during the autopsy found that approximately twelve such blows were inflicted. Additionally, Swain suffered several stab wounds to his torso and neck. What is believed to have been the final and fatal injury was a deep cut across Swains throat which severed his juggler vein, carotid artery and windpipe. A large pool of blood was found on the floor beneath the victim. Additional blood stains and spatter were found on the front door of the trailer, on curtains inside the living room and also in the kitchen area.

Swain was reported to have been a dealer of crack cocaine in the greater Washington County area. The crime scene search did find residue amounts of cocaine in Swain's home. Friends of Swain said that he was known to carry large amounts of cash, usually in his front pants pocket and also sometimes in his wallet. Additionally, Swain was known to carry a pocket knife usually in his shirt pocket. As a result of Swain's involvement with drugs, numerous people visited Swain's trailer at different hours of the day and night. In fact, Swain's sister Mary told investigators that she and Swain often fought about Swain's many visitors and the irregular hours that they appeared. The Washington County Sheriff's Department requested SBI assistance in the investigation and both agencies canvassed the area and spoke with a dozen potential witnesses in the days following the murder. Witnesses reported seeing various people in the area of Mr. Swain's trailer on the night of the murder. Many witnesses speculated as to the involvement of those reported to have been in the area. SBI agents and local law enforcement officers tried to follow up on all of these leads. A few witnesses reported seeing a woman named "Rhonda" running from Frank's trailer on the night of the murder. Agents located a woman named Rwanda Lewis who matched the description witnesses had given of a person called "Rhonda". However, several people confirmed that Lewis was at a Christmas

party at a friends home between 9:00 and 10:00 pm on December 18th. Other witnesses interviewed near the crime scene reported that James Carter was likely involved. Carter claimed to have been attending a church service in Robersonville with a friend. Carter's friend and others confirmed that he was in Robersonville on December 18th. These are but two examples of the numerous leads and statements given to law enforcement in the early stages of the investigation. It appears that agents attempted to follow up on all leads which appeared credible. On investigation, most leads proved to be misinformed or purely speculative, as was the case with the above cited examples.

During the course of the investigation, several suspects were considered including Maurice Wilkins, Lee McPhatter (a/k/a Toby) and Joseph Lynn. Early on it was noted that Wilkins had a suspicious cut on his hand, this was made even more suspicious by the fact that Wilkins had not sought medical treatment for the wound but stitched it up himself. Wilkins, McPhatter and Lynn all claim to have been at the Golden Skillet Restaurant and then a local dance club, the Zodiac Club around the time of the murder. Janice Spruill who at the time of the murder was a Deputy Sheriff but at the time that this matter was referred to the Attorney General's Office had become the Sheriff of Washington County, was assigned as one of the investigators on the case. Deputy Sheriff Spruill reported that she questioned employees and patrons of the Zodiac Club and found that several people remembered seeing Wilkins, McPhatter and their friends at the club around the time of the murder. However, Wilkins and McPhatter remained suspects and samples of their blood were obtained and turned over to authorities for further analysis.

Some months into the investigation the agents and officers received a tip that a woman named Sherri Honea had information concerning the Swain murder. Law enforcement officials learned that Honea's friend, "Nikki Talkington", reportedly confessed to Honea that Talkington was involved in Swain's murder. An investigation determined that Talkington was in fact Dana Maybin of South Carolina. (Hereinafter Dana Maybin a/k/a Nikki Talkington will be referred to by her correct and legal name Maybin. However, throughout the course of the investigation and in the statements taken, some witnesses continue to refer to Maybin by her alias Nikki Talkington). Maybin had also implicated the involvement of her boyfriend "Robert Solis". Investigators later learned that Robert Solis was in fact Wallace Brandon Jones of Milan Tennessee. (Hereinafter Wallace Brandon Jones, a/k/a Robert Solis a/k/a Chris Bass, will be referred to by his correct legal name Wallace Brandon Jones, however during the course of the investigation some of the witnesses continue to refer to Jones by his alias Robert Solis and

Chris Bass). Additionally Maybin implicated another friend of hers Leroy Spruill. As law enforcement began investigating this lead they learned that Maybin had left the Washington County area and was reported to have returned to reside in South Carolina where she was originally from.

Officers went to South Carolina and questioned Maybin, who gave police some information. After further investigation law enforcement developed sufficient probable cause to arrest Maybin. Law enforcement returned to South Carolina and Maybin was in fact arrested. Maybin was transported back to North Carolina. Maybin provided law enforcement with a full confession, stating that she went with Leroy Spruill and Brandon Jones to Swain's trailer on the night of the murder. Maybin stated that she, Jones and Spruill had been drinking at Big Ed's Bar on the evening of the murder. None of the three of them had much money. Spruill and Jones approached Maybin about going to Swain's trailer. The three left the bar in a truck. During the short ride to the trailer Jones told Maybin that he intended to take crack cocaine from Swain. When they arrived at Swain's trailer, Maybin waited in the truck while Jones and Spruill went inside. Maybin heard loud noises coming from inside the trailer and decided that she wanted to see what was happening. Maybin ran to the trailer. Once inside she stated that she saw Spruill holding the victim down. Jones took a knife and slashed the victim's throat from ear to ear. Maybin watched as blood ran everywhere. Jones ordered Maybin to go through Swain's pockets and take any money or drugs off of the body. Maybin complied with this directive. Maybin then returned to the truck. A few moments later Spruill and Jones joined her. They left Swain's lifeless body lying on the floor in a pool of his own blood. Swain's blood was spattered on the walls and streaked across the door. Maybin, Jones and Spruill drove to Spruill's home where they cleaned up and burned their bloody clothes in a wood stove. The three then returned to Big Ed's Bar. While Spruill and Jones drank and danced at the bar a friend of Swain's came upon the grizzly scene at Swain's trailer and called police.

Initially, Maybin, Spruill and Jones were all charged with First Degree Murder for the death of Frank Swain. However, because Maybin provided testimony against Spruill and Jones the District Attorney reduced her charge and recommended a lessor sentence. Using Maybin's testimony and the testimony of other witnesses, the prosecution successfully convicted Brandon Jones of First Degree Murder. Jones was not given the maximum possible punishment, a death sentence, but was sentenced to life in prison plus forty years. Following Jones' conviction Spruill entered into a plea agreement with the District Attorney's Office whereby he pled No Contest to Second Degree Murder. However, Spruill received the

same sentence as Jones, life in prison plus forty years. Maybin pled to a count of Accessary After the Fact to First Degree Murder and was initially sentenced to nine years. However, Maybin was released after approximately 18 months.

OVERVIEW OF THE CLAIMS OF SPRUILL AND JONES

During the review of the materials I read various correspondence from Leroy Spruill, Debbie McGowan (Spruill's girlfriend), Marti McGuire, an intern at the News and Observer who later wrote an article for the newspaper and other individuals who corresponded on behalf of Spruill. I have tried to consider those issues or complaints which appear common among these letters or are otherwise the most frequently cited reasons as to why Spruill and Jones are innocent of what they have been convicted of. In reviewing the materials I attempted to keep an open mind regarding the validity of these complaints and to make a fair and impartial judgment as to whether or not these assertions constitute new evidence of the defendant's innocence or could lead to new evidence of the defendants innocence. In conjunction there with I have sought to address four main assertions raised by Spruill, Jones and their supports:

1. Inability to access the crime scene: Both Spruill and Jones claim that they could not have committed the murder because on the night of the murder, they had no way to get to or from Spruill's house or Bid Ed's Bar to the crime scene. They claim that Spruill's father's truck, the truck that law enforcement believed that Spruill and Jones used to drive to Swain's trailer, was unuseable on the night of the murder. They argue that because they were unable to get transportation to get to the crime scene they therefore could not have committed the crime.

2. Lack of real evidence from the investigation: Spruill and Jones claim that there is no real evidence such as blood, fiber or hairs that link them to the murder or the crime scene. They claim that no blood was ever found at the residence that would have come from Spruill or Jones. Both have called for DNA testing. Spruill and Jones have claimed that fingerprint evidence or DNA evidence would exonerate them and would most likely also show a link to the Sonya Spruill Day murder case which remains unsolved to this day.

3. The testimony used to convict the defendants was false: Spruill, Jones and their supporters claim that the only evidence of Spruill and Jones' involvement in the murder of

Frank Swain was the testimony of Dana Maybin. They claim that Maybin is an unreliable and vindictive witness who had reason to want to frame Jones. They claim Maybin has changed her story so many times that it cannot be trusted and it should be disregarded. They frequently cite that Maybin is a known drug user and that she has emotional problems. On other occasions they have even implied that Maybin has cognitive impairments which would further undermine any credibility to be given to her statements. As such it is asserted that her testimony is false and cannot be trusted and should not be the underpinnings on a conviction in these cases.

4. Other suspects were not and have not been seriously considered: Spruill and Jones have made numerous claims that others than themselves are responsible for the murder of Frank Swain. A suspect they most frequently cite is Maurice Wilkins. Wilkins was, in fact an early suspect in the case. Spruill in particular further claims that Deputy Janice Spruill (now the Sheriff of Washington County) through either malice or incompetence destroyed Wilkins blood sample and failed to properly pursue Wilkins as a suspect.

   A. Leroy Spruill and Wallace Brandon Jones claim that there is "talk" in the community that others were involved in the murder. The person most cited as the alleged culprit is Maurice Wilkins. However some claim that a drug dealer known as "Bo Jack" was involved. It was learned during the course of the investigation that the individual identified as "Bo Jack" is an individual named Alton Flagon or Alton Claggon who is the same person only the spelling of the last name is in question.

   B. Additionally, Spruill has offered the statements of at least two inmates; Edward Hudson and Avis Arnold who both claimed to have information regarding the Swain murder which according to Spruill exonerates he and Jones. It is alleged that Arnold claimed to have been "the lookout" for Wilkins and Billy McNair when they murdered Swain.

The true issue is whether or not there are legal reasons or anomalies in this investigation which would justify reopening and reinvestigating the murder of Frank Swain. Spruill's plea and Jones' conviction and subsequent denial of his Motion for Appropriate Relief, militate against the reopening of this investigation. In Jones case, the jurors had an opportunity to hear and see the witnesses that were offering testimony and to observe evidence offered by the District Attorney. As to the defendant Spruill, when he entered his plea arrangement, he was

informed by entering this plea, even though it was a no contest plea, he acknowledge to the court that he realized that he would be treated as guilty and would lose his right to confront the witnesses against him. Despite the deficiencies the defendants alleged existed in the investigation and in the case itself, Jones was convicted by a jury hearing all of the evidence and Spruill nonetheless accepted the plea arrangement.

Additionally, several of the allegations presented by Spruill and Jones and their supporters appear to this writer to be based on mere speculation and are not supported by concrete evidence. Other arguments are based on inaccurate representations of the facts. Where the proffered new evidence is nothing more than speculation, it seems inappropriate that grounds exist in this case for the granting of a new trial to either defendant. In fact permitting such a reinvestigation could set a dangerous precedent for future appeals by convicted criminals.

III. ASSERTION #1 SPRUILL AND JONES DID NOT HAVE TRANSPORTATION TO THE CRIME SCENE AND THEREFORE THEY COULD NOT HAVE COMMITTED THE CRIME.

One of the first assertions offered by Spruill and Ms. McGowan in his defense is that the defendants had no means of transportation on the night of the murder. They insist that the truck Spruill was alleged to have driven, a truck owned by Spruill's father, had a faulty transmission and was not driveable. (This was stated in a letter from Debbie McGowan forwarded to a number of people dated October 25, 2000 and a copy of this letter was forwarded to Senior Deputy Attorney General James J. Coman on September 1, 2004).

Apparently at some point during Jones' trial, the testimony of a mechanic was offered along with the testimony of Leroy Spruill's father concerning the elder Spruill's truck. However even Ms. McGowan and Spruill's supporters acknowledge that the time of the murder the truck would have been "driveable at low speeds". See letter from McGowan forwarded to numerous people dated October 25, 2000. Frank Swain's trailer was noted to be close to the Helena Chemical Plant in Plymouth, North Carolina. A few statements implied that Swain's house abutted a fence which surrounded the Helena Chemical Plant. People wishing to purchase crack from Swain would sometimes park at the Helena Chemical Plant parking area and walk to his trailer. The address of the Helena Chemical Plant on Folly Road is 327 Folly Road, Plymouth, North Carolina 27962. To approximate the location of Mr. Swain's trailer on Folly Road, we used the address of the Chemical Plant. The search warrant for Leroy Spruill's home indicates that Spruill's home is located on

Buncombe Road and that it is approximately 6 miles from the intersection of Hwy 64 and Roper Road. (See Search Warrant in the Matter of Leroy Spruill dated May 16, 1994). A review of the general map areas indicates that Mr. Spruill's street address is 399 Buncombe Street, Roper, North Carolina 27970. The distance from the approximated address of Mr. Spruill on Buncombe Street to the address of the Helena Chemical Plant near Mr. Swain's trailer at 327 Folly Road is 3.62 miles. Because these addresses are approximate it is quite possible that Spruill's home may have been a further distance away then is originally thought. In any event, the distance between the two residences are certainly much less than 10 miles. Even if the truck could only be driven at low speeds it is very likely that the truck could have traveled the approximate 4 mile distance between Spruill's home and Swain's trailer. Witnesses confirm to law enforcement that a blue truck similar to the one that would have been driven by Spruill and likely driven by Spruill on the night in question was in the area of Swain's trailer around the time that Swain was murdered.

The first statement made by Dana Maybin to SBI Agents which appears in the file is dated April 25, 1994. In this statement, Maybin said that she went with Jones and Spruill to Swain's trailer on the afternoon of December 18, 1993. Maybin stated that they were in Leroy's daddy's truck, a blue or baby blue pickup truck that looks just like Ray Hurst's truck. In that same statement Maybin informed agents that "Ray Hurst might have had a tire tool with his truck". Because Maybin stated that the truck was "blue or baby blue" and "looks just like Ray Hurst's truck", it is entirely possible that Maybin was not exactly sure
who owned the vehicle in which they were traveling. In the same statement, Maybin said that Spruill and Jones later left Big Ed's Bar with Curtis Furlow in Furlow's vehicle. Maybin described Furlow's vehicle as "a dark colored truck." There are reports elsewhere in the SBI file that Furlow's truck was blue in color. Because Hursts' truck, Furlow's truck, and Spruill's truck were all of similar color and description, it is quite conceivable that Maybin was not able to exactly identify who owned the truck in question. However, Maybin's statements consistently say that the group traveled to Swain's trailer in a blue colored pick-up truck.

On December 23, 1993, about four days after Swain's body was discovered, law enforcement interviewed Maurice Wilkins. Wilkins had became a suspect during the course of the investigation. However, it is not for certain that Wilkins was considered a suspect at the point in the investigation when this particular interview was conducted. During this interview, Wilkins stated that he was in Hudson's Trailer Park visiting his mother on December 18th near the time of the murder was committed. Wilkins

said that he and his friends were getting ready to go out to the club. Wilkins was waiting on one of his friends when he "saw a blue truck turn down towards Frank Swain's house. Mr. Wilkins stated that it looked like this truck went up to Frank's house. Mr. Wilkins stated that it was a blue pick up truck. Mr. Wilkins stated that it was an ugly light blue truck that looked like an older model. Mr. Wilkins stated that one guy was a white male and one was a black male. Mr. Wilkins stated that the driver was white. Mr. Wilkins stated that he had seen the truck before and thought that the driver was Leroy (Last name unknown). See SBI investigative report statement of Maurice Wilkins dated December 23, 1993.

Other witnesses who were interviewed claimed to have seen a dark blue truck near Swain's trailer. Some identified the truck as belonging to Ray Hurst. In fact, such statements prompted law enforcement to question Hurst as a suspect and to administer a polygraph. An SBI report dated January 12, 1994 states that agents " confronted Hurst with the fact that his blue truck, driven by a white male with a ponytail (Hurst wears his hair in a ponytail) was seen going to Frank's trailer on Saturday night, December 18th. See: SBI Investigation Report, Statement of Ray Hurst, dated January 12, 1994. Hurst claimed that both he and his truck were at the home of Ivadeen Sawyer, Hurst's mother-in-law, on the night in question because it was his weekend to have visitation with his children. Law enforcement confirmed that Hurst was at Sawyer's house. However, it should be noted that Sawyer's house is but a few blocks from Big Ed's Bar in Roper.

Additionally, it is important to note that both Spruill and Hurst told law enforcement that Hurst had given Spruill a ride to Big Ed's Bar on the night of December 18, 1993. In an interview on January 12, 1994, Hurst told SBI agents that he and his blue truck were at the Sawyer residence that whole evening of December 18th except for three to five minutes when he drove Leroy Spruill, Spruill's girlfriend (Nikki), and another friend of Spruill's to Ed's Place, which is a bar located in Roper, not far from the Sawyer house. He states the bar is located just a few blocks away. Hurst then went on to say Spruill told him that he [Spruill] was at Swain's house the night of the murder. That Spruill told him that he had seen an argument occurring between Swain and another unidentified person. That Spruill told him he had picked up a knife and tried to move it away from the area of the fight and for this reason Spruill was concerned that perhaps his fingerprints would be found at the scene. The SBI report goes on to say that "Hurst states that he is scared of Spruill, not for himself but because of his kids and his ex-wife live in Roper and that Spruill might find out that he (Hurst) gave some information to the police

concerning Spruill and this murder and that he is very suspicious of Spruill concerning this murder." In the same interview, Hurst noted that on December 24, 1993, he went to Leroy Spruill's house. Hurst said that his truck had broken down around that time and he left it at or very near Leroy Spruill's house. Hurst said that when he got to Spruill's house on December 24, he found that all the windows in his truck had been broken out and an attempt had been made to set the truck on fire. In an interview on December 9, 1994, Wallace Brandon Jones told SBI agents "the other guy that would try to get him [meaning Jones] may be Ray Hurst. Jones stated that Ray Hurst is a guy that got his truck messed up behind Leroy Spruill's house. Jones stated that he was the one responsible for damaging the truck. Jones stated that he had been the one who messed up Ray Hurst's truck while it was parked behind Leroy Spruill's house. Jones stated that Hurst and some of his friends had broken into Leroy Spruill's house one day and Mr. Jones was paying them back for that. Jones stated that he broke out the windows of the truck and that he also tried to set the truck on fire." See the SBI Investigation Report, Statement of Wallace Brandon Jones, dated Dec. 9, 1994.

Based on the statements it appears a white male driving a blue truck was seen near Swain's home around the time of the murder. Maurice Wilkins stated that he saw a blue truck on Folly Road on the night in question. Wilkins further identified the driver of that truck as "Leroy" and SBI agents believed this "Leroy" was more likely than not Leroy Spruill. In her confession, Dana Maybin stated that she had gone with Jones and Spruill in a blue truck. Maybin stated that she believed this truck was the truck that belonged to Leroy's father. Though Spruill's truck did have transmission problems, it is acknowledged that it would have been drivable at low speeds. The distance between Spruill's residence and Swain's was approximately 4 miles. It seems more than plausible that a truck, even one with transmission problems, could have driven that distance if it were driven at slow speeds.

In the alternative, it is possible that Spruill may have borrowed Ray Hurst's truck. Both Spruill and Hurst acknowledged that Hurst had given Spruill a ride that night. According to Hurst's statement, he picked up all three defendants on the night in question. Additionally, Hurst was staying at his mother-in-law's house, which it is said to be a few blocks away from Big Ed's bar, the bar where Spruill, Jones and Maybin were known to have been prior to the murder and than later that evening following the murder. Though Hurst was at his mother-in-law's residence with his children, he stated that they stayed there all night. They did not go anywhere and did not use the truck. When questioned about the murder, Hurst's polygraph scored a -3 and was considered

inconclusive. In his statements to the SBI, Hurst suggested that Spruill may have been involved in the murder and was noted by agents to have been suspicious and fearful of Spruill. Possibly, Hurst loaned the vehicle to Spruill to obtain crack cocaine (Hurst was reputed to be a crack cocaine user), or loaned the vehicle to Spruill knowing that Spruill intended to harm Swain (Hurst and Swain had apparently had some conflict over a weapon that Hurst "pawned" to Swain for crack cocaine). Alternatively, it is possible that Hurst innocently loaned the vehicle to Spruill, later learned of the crime and became suspicious of Spruill. Not wanting to implicate himself in the crime, Hurst simply denied knowledge of the events when questioned by police. On December 24, 1993 about five days after Swain's body was discovered, Wallace Brandon Jones vandalized and attempted to burn Hurst's truck. See: SBI Investigation Report, Statement of Wallace Brandon Jones dated December 9, 1994. Hurst apparently never reported the vandalism of his truck to the police, or if he did, no report has been found in the file. Assuming the truck could have been used in the murder, it is possible that Wallace Brandon Jones vandalized and burned the truck in an attempt to damage or destroy evidence concerning the murder of Swain.

In either case, it is entirely possible that Spruill, Jones and Maybin were able to travel to the crime scene, either in Spruill's truck or Hurst's truck. The information regarding the condition of Spruill's truck was known at the time of Jones' trial. A jury heard testimony regarding the condition of Spruill's truck and the transmission difficulties it was experiencing. Nonetheless, the jury convicted Jones of first degree murder. The jury necessarily found that Jones and Spruill were able to travel to the crime scene. No new evidence has been presented to the contrary. The purposed theory about the use of Hurst's truck certainly does not constitute new evidence and is purely speculative as an explanation of how they could have been in a blue truck. Additionally, it does not provide any exculpatory theory. Though Hurst's truck potentially could have been used, Hurst himself had an alibi for the night of the murder. Investigators were satisfied that Hurst was at Ivadeen Sawyer's home with his children on the night that Frank Swain was murdered. In conclusion, I believe it was reasonable for the jury in the Jones trial to conclude that the three defendants Jones, Spruill and Maybin had transportation that provided them with access to the crime scene. In the absence of any new evidence, this does not appear to be grounds for a new trial on behalf of Spruill or Jones.

IV. ASSERTION 2: THERE IS AN ABSENCE OF REAL EVIDENCE IMPLICATING SPRUILL AND JONES IN THE SWAIN MURDER. REAL EVIDENCE WOULD PROVE THE SWAIN AND DAY MURDERS ARE RELATED.

The second major allegation made by Spruill and Jones is that no real evidence has been found to link Leroy Spruill and Wallace Brandon Jones to the murder of Frank Swain. Here I use the term "real evidence" as defined by Black's Law Dictionary: "physical evidence (such as clothing or a knife wound) that itself plays a direct part in the incident in question," also called physical evidence. Spruill and his supporters allege that no finger print evidence, blood, or DNA was found to connect Spruill and Jones to the murder. Additionally, Spruill and his advocates frequently cite to the fact that Spruill took a lie detector test and passed it. Finally, it is alleged that if real evidence from the Swain case was compared with real evidence from the murder of Sonya Spruill Day, it would become apparent that the two murders are related.

In terms of fingerprint evidence, some eighteen latent lifts were taken from the Swain crime scene. Additionally, major case impressions of Spruill, Jones and Maybin were submitted for comparison with the latent lifts. See: SBI Laboratory Report, prepared by S/A R.L. Stills, dated February 22, 1995. Two sets of fingerprints were submitted for suspects Lee McPhatter (a/k/a Toby) and Maurice Wilkins. See: SBI Laboratory Report, prepared by S/A R.L. Stills, dated January 18, 1994. Though the latent lifts were compared with all five suspects, no conclusive match was ever found. However, the lab report concerning McPhatter and Wilkins stated that "major case inked impressions are needed with emphasis on the extreme sides and tips of the fingers and all areas of the palms before this can be considered a conclusive comparison." See: SBI Laboratory Report, prepared by S/A R.L. Stills, dated January 18, 1994. The lab report concerning Spruill, Maybin and Jones stated that "major case inked impressions are needed with emphasis on the extreme sides, tips, joints, and the delta area of the fingers along with the extreme sides of the palms before this can be considered a conclusive comparison." See: SBI Laboratory Report, prepared by S/A R.L. Stills, dated February 22, 1995. While it is likely that the latent prints did not match any of the five suspects, the lab stated that additional inked impressions were required to make it absolutely certain. If these additional inked impressions were taken, it is not indicated so in the file. Agents attempted to run the latent lifts from the Swain murder through the North Carolina Automated Fingerprint Identification System (AFIS). See: SBI Laboratory Report, prepared by Nikkola Russell dated April. 12, 2006. The latent lifts from Frank Swain's

murder were not of sufficient detail to be submitted to AFIS or to generate a match.

It appears that none of the fingerprints taken from any of the five suspects matched the latent lifts taken from the Swain crime scene. However, this does not automatically support the conclusion that Spruill, Maybin and Jones are innocent of the crime. The latent lifts may not have included the fingerprints of the actual murderers. Friends and family members of Frank Swain acknowledge that he had frequent visitors at different hours of the day and night and that this was an issue with his sister. Mr. Swain was known in the community as a dealer of crack cocaine, and as such, numerous customers came to his trailer each day to purchase crack cocaine. Because there is no way of knowing how long fingerprints had been at the scene, it is entirely possible the prints were left hours or days before the crime occurred by friends or customers of Frank Swain.

In terms of blood evidence, Spruill alleges that no blood was ever found in his home during the search conducted by SBI agents in 1994. However, this claim is inaccurate. A crime scene diagram of the luminal search of Leroy Spruill's home indicated that luminal reactions occurred in the living room near the door, near an armchair, and on the couch. See: Crime Scene Diagram of Leroy Spruill's Residence created by S/A D.G. Honeycutt, dated July 6, 1994. A luminal reaction also occurred in one of the rooms located off of the kitchen in Spruill's home. Luminal is a chemical agent used by law enforcement to detect trace evidence of blood. Luminal will react to the presence of blood, even if attempts have been made to clean up the blood. Based on the luminal reactions in Spruill's residence, blood was present at some point in Spruill's living room and in the room off of Spruill's kitchen. A luminal search was also made of the camper where Wallace Brandon Jones had been known to reside at the time of the murder. See: Crime Scene Diagram of Camper Trailer Belonging to Edward Champ by S/A D.G. Honeycutt dated July 6, 1994. The crime scene diagram of Jones' residence also indicated luminal reactions. This would indicate the presence of blood in Jones' residence as well. The presence of blood in the homes of both defendants could be viewed as evidence which might link them to the murder of Swain. However, it is not in any way conclusive.

In the search of Spruill's residence, agents recovered a bloody shirt. See: Crime Scene Diagram of shirt seized from the residence of Spruill by S/A D.G. Honeycutt dated July 6, 1994. According to the heading of the diagram, the shirt was found in a closet in Leroy Spruill's residence. The shirt showed stains which appeared to be spatters and smears. The shirt was noted to have several

tears and cuts on it. Laboratory analysis of the shirt revealed that the dark stains which were spattered and smeared on the shirt were in fact blood stains. See: SBI Laboratory Report, by S/A J.A. Elwell, dated June 29, 1994. Based on the information presently in the file, Spruill and his advocates have never offered an explanation for the presence of a blood spattered, torn shirt hanging in Spruill's closet at Spruill's home. This shirt could be seen as linking Spruill to the murder of Frank Swain.

DNA testing was in fact conducted on the tire tool which was recovered from Swain's residence. Testing was initially begun by LabCorp in 1995. However, pursuant to the request of Attorney Maynard Harrell, one of Spruill's defense attorney's, DNA testing was terminated. See: Certificate of Analysis, from Laboratory Corporation of America, dated October 5, 1995. In 2005, the State requested that DNA testing of the tire tool be resumed. The test results revealed that there was no DNA matching Leroy Spruill on the tire tool. See: SBI Investigation Report, Statement of Dr. Marcia Heisenberg of LabCorp, dated April 13, 2005. In 2007, the DNA from the tire tool was again tested. See: SBI Laboratory Report, by S/A Jenny Elwell, dated September. 20, 2007. This reexamination revealed that the DNA on the tire tool was consistent with a mixture. The DNA from the mixture was tested against blood samples previously taken from Jones, Maybin, McPhatter, Spruill and Wilkins. According to the lab report, "suspects Spruill, Jones, and Maybin and the subjects, Wilkins and McPhatter were excluded as the contributors to the mixture". The victim, Frank Swain, could not be excluded as contributing to the mixture. The lab attempted to exclude as many alleles belonging to the victim as possible, in order to run the remaining alleles through the combined DNA Index System (CODIS). However, CODIS yielded no high stringency matches.

Although DNA testing of the tire tool has excluded Jones and Spruill as contributing to the mixture, this testing has not produced any new suspects or shown that neither Jones nor Spruill could have wielded the weapon in an attack on Swain. Though the DNA has been submitted to CODIS, no other potential matches have surfaced as of yet. Additionally, during the original crime scene search, it was noted that "the tire tool was located with a clear liquid, the identity of which is unknown." See: SBI Investigative Report, Original Crime Scene Report, dated December 18 and 19, 1993. It is possible this clear liquid could have depleted or otherwise affected the presence of DNA or other evidence from the tire tool. It is clear that Frank Swain's blood is present on the tire tool. As Swain may have been the only person struck with the weapon that night, it is possible that Swain's blood is the greatest contributor to the DNA mixture, and that the presence of

Swain's blood makes it extremely difficult or impossible to identify other, lesser contributors to the DNA mixture. The fact that Swain's blood is present on the tire tool matches the scenario developed by investigators: Swain was bludgeoned with the tire tool, then stabbed and slashed with a knife. This theory is also seemingly confirmed by the fact that Swain's autopsy results indicate that he was struck repeatedly in the head with a blunt object. See: Summary of Report of Autopsy of William Frank Swain, produced by the Division of Forensic Pathology, East Carolina University, dated December. 20, 1993. The fact that Swain's DNA has been confirmed to be present on the tire tool does not indicate that the defendants are innocent or that other suspects remain at large. In summary, the only confirmed DNA on the tire tool is that of the victim, testing has not revealed other suspects and the presence of Swain's DNA seems to confirm theories presented by the investigators. Therefore, the DNA testing does not constitute new evidence which would justify granting Jones and Spruill new trials.

Spruill further alleges that an investigation into the real evidence at the Swain crime scene would uncover a link to the Sonya Spruill Day murder. The basic fact pattern behind the Sonya Spruill Day murder is as follows: Sonya Day was found murdered in her home approximately a year and a half after Frank Swain was murdered. Day's hands and feet were bound with a chord or wire. Day was tied to her bed. Day's throat had been cut in a manner similar to the way that Frank Swain's throat was cut. The absence of semen and seminal fluid from various swabs taken from the victim suggests that Day was not sexually assaulted at the time of her murder. Because Swain and Day were in a relationship at the time of Swain's murder and because both victims had their throats cut, many have considered the possibility that the two murders were related. During the investigation of the Day murder, law enforcement considered this possibility. A newspaper article appeared from The Roanoke Beacon, which was presumably published shortly after the Day murder, and releases significant details of the Day murder and draws many parallels for the reader. See: Mike Pollard, Woman Murdered in her Apartment; Body found by young son; Circumstances similar to 1993 stabbing death of her former boyfriend, The Roanoke Beacon (September 28, 1994). In an attempt to explore possible connections between the Swain and Spruill killings, the SBI conducted comparisons of the eighteen latent lifts taken from the Swain crime scene and the twenty-one latent lifts taken from the Day crime scene. See: SBI Laboratory Report prepared by Nikkola Russell, dated April 12, 2006. The identifiable prints from the Swain crime scene were compared with the identifiable prints from the Day crime scene with no matches found between prints in the two cases. Laboratory technicians also attempted to run latent prints from both the Day crime scene and

the Swain crime scene through AFIS. However, only one print, a print from the Day crime scene was of sufficient detail to be submitted to AFIS. The print did not yield a result.

Finally, though polygraph tests are not conclusive and are not admissible at trial, Spruill and his supporters have frequently cited to the fact that Spruill passed a polygraph test. It is true that Spruill was administered a polygraph on January 12, 1994. See: SBI Polygraph Report for Leroy Spruill, dated January 12, 1994. It is also true that Spruill scored a +3 and his test was regarded as having no deception indicated. However, Wallace Brandon Jones, who was Spruill's co-defendant, also took a polygraph exam. See: SBI Polygraph Report for Wallace Brandon Jones dated December 12, 1994. Jones' polygraph was scored a -12 and indicated deception. Since the two men were charged with the same crime and each cited the other in their alibi, if one is going to give credence to one polygraph exam, it appears necessary to consider both polygraph exams. Though Spruill may have "passed" a polygraph examination, it is equally important that Wallace Brandon Jones certainly did not pass a polygraph exam. Most importantly, neither polygraph examination would be admissible in court. However, as Spruill has frequently cited his polygraph exam as bolstering his claim of innocence, I feel it necessary and important to include this information to demonstrate that Jones failed a polygraph exam during the same time that each was using the other as an alibi.

In conclusion, there is real evidence which suggests at least circumstantially, that Spruill and Jones were involved in the murder of Frank Swain. Luminal searches of the residences of Jones and Spruill yielded luminal reactions indicating the presence of blood. A shirt which was torn, cut, and spattered and smeared with blood was recovered from Spruill's residence. Real evidence was in fact taken from both the Swain and Day crime scenes. This evidence included blood samples of both victims and latent prints from both crime scenes. A comparison of the latent prints from the two crime scenes revealed no common prints. An examination of the real evidence in the Swain case does not present any new evidence which would justify the granting of a new trial for Spruill and Jones. A comparison of the latent prints from the Sonya Spruill Day crime scene and the Frank Swain crime scene do not appear to reveal any link between the two crimes. As was previously stated though not admissible evidence, both Spruill and Jones were given polygraph examinations. While Spruill's polygraph did not indicate deception, Jones' polygraph examination clearly did indicate deception. Neither the real evidence collected from the Swain crime scene nor real evidence collected from the Sonya Spruill Day

crime scene has yielded any new usable evidence which would justify the granting of a new trial for either Spruill and Jones.

V. ASSERTION 3: DANA MAYBIN'S STATEMENTS ARE INCONSISTENT AND UNTRUE. BECAUSE THE DISTRICT ATTORNEY RELIED ON THESE STATEMENTS, SPRUILL AND JONES SHOULD BE FREED OR GRANTED NEW TRIALS.

Jones and Spruill have both made allegations against the prosecution's main witness, Dana Maybin. Specifically, they claim that Maybin wanted to seek revenge on Jones, her former boyfriend. Spruill and Jones claim that Maybin was so angry with Jones that she would say or do anything to punish him, including framing Jones for the murder of Frank Swain. Spruill and Jones point to inconsistencies in Maybin's statements to SBI agents. They also note that Maybin gave an interview to Maynard Harrell, one of Jones' defense attorneys, in which she claimed to have been lying to police all along in an effort to frame Jones. There are in fact, contradictions between Maybin's first statement to SBI agents and her subsequent statements. It is also true that Maybin met with Attorney Harrell and allowed him to tape record their conversation. During this conversation, Maybin does indicate that she lied to police and that she framed Jones and Spruill for the murder. These conflicting statements are problematic and create issues with Maybin's credibility. However, an examination of Maybin's statements, the statements of impartial witnesses, and a consideration of Maybin's possible motives are helpful in determining which of Maybin's statements are likely to be truthful and which are likely to be false.

What is not in dispute is that Maybin and Jones were in a relationship prior to Swain's murder. It was shortly after the time of the murder and close to Christmas when Maybin and Jones had a falling out. Maybin, who had been living with Spruill, moved out of his house and moved into a friend's house. Shortly thereafter, Maybin returned to South Carolina where she was originally from. However, Jones, Spruill and Maybin disagree as to what happened next. Jones and Spruill claim that Maybin came up with a plan to frame them. Maybin claims that she was suffering a guilty conscious and confessed her involvement in this gruesome crime to a friend.

According to investigative records, sometime following the murder, Maybin confessed her involvement in the crime to a friend, Sherri Honea. Apparently, Honea either told her boyfriend (Honea) what Maybin said or the boyfriend overheard the two women talking. In any event, sometime thereafter Honea and her boyfriend had a falling out. The boyfriend then went to police and advised them

that Honea had information about Frank Swain's murder. On April 24, 1994, Honea was questioned by SBI agents. See: SBI Investigative Report, Statement of Sherry Annette Honea dated April 24, 1994. Honea told law enforcement that she and Maybin had traveled from South Carolina to Washington County, North Carolina together. Both women apparently had some legal troubles (outstanding warrants) and traveled to North Carolina to escape them. Initially, the women planned to visit a friend of Honea's, a Betsy Talkington. The two women stayed for awhile with Ms. Talkington and then stayed with Talkington's daughter. Honea said that shortly after their arrival in Plymouth, Honea met Robert Spruill and began dating him. Not long after that, Honea moved in with Robert Spruill. Honea said that Maybin met Wallace Brandon Jones on the night they got into town and soon thereafter began dating him. According to Honea, Maybin moved in with Leroy Spruill in December 1993, about a month after the two women had arrived in town.

Honea's statement about the events surrounding the murder is quite similar to the statement that Maybin ultimately gave the SBI. Honea's version of the story was as follows: Several days after the murder, Maybin told Honea that she (Maybin) felt bad about something and needed some advice. Maybin then began to talk about the murder. Maybin said that she, Spruill and Jones had gone to the home of a black man, a man they regularly bought drugs from and bought some crack cocaine. Based on what Honea told them the investigators believed that the man in question was Frank Swain. The three Maybin, Jones and Spruill, smoked the crack and then Jones developed a plan. Jones thought that they should tell Swain that they were expecting a large amount of money and they wanted to buy more crack later that night. Jones believed that this would cause Swain to go out and get a large amount of crack cocaine. Then Jones, Spruill and Maybin could return and steal Swain's drugs and money. At this point in the narrative, Honea told agents that she knows Jones, Spruill and Maybin didn't have regular transportation and would most likely have had to get someone drive them to Swain's residence. Honea theorized that this person may have been Curtis Furlow who also uses crack cocaine. Maybin told Honea that she (Maybin) Jones and Spruill returned to Swain's house. Maybin watched while Spruill held Swain down and Jones cut Swain's throat. Swain had been badly cut up and with the final blow Jones had nearly cut Swain's head off. Jones told Maybin to empty the man's pockets which she did. Maybin took drugs and a significant amount of money from the victim. Then Maybin, Jones and Spruill left and returned to Spruill's home. Once back at Spruill's home, they burned their clothing and cleaned up. This would seem to indicate that the shirt found by the SBI that was torn and had blood on it during the search of Spruill's residence

had no relationship to the killing of Frank Swain. This statement by Sherri Honea matches the statement Maybin ultimately gives SBI agents. Though Honea, as Maybin's friend, may be an interested witness, the similarities are worth noting.

Three statements by Maybin, statements made on April 25, 1994, December 15, 1994, and August 17, 2005, all of which appear in the SBI file. These statements are consistent with regard to a number of significant details. Additionally, Maybin's testimony during the trial of Wallace Brandon Jones was largely consistent with the last two statements. Notable similarities in Maybin's statements include statements that Spruill and Jones left the bar on the night of December 18th that Spruill and Jones changed their clothes, that Jones made comments to the effect that he intended to take crack cocaine from Swain and that Jones and Maybin argued in the bar parking lot at the end of the night. Some specific details offered by Maybin in both her April 25, 1994 statement and the December 15, 1994 statement include the color of Jones' shoes when they first arrived at the bar, that Spruill started the night in a light-colored button up shirt and that Jones said he would "take care of" getting crack even though he had no money. If Maybin simply fabricated these details in her first statement to the SBI, it is unlikely that she would have been able to remember these lies over a period of some eight months. The consistency of the details in her various statements, her description of the crime scene and her knowledge concerning the placement of the victim's body and the nature of his wounds, suggest I would contend to a reasonable person, that Maybin was present when the crime occurred. It further suggests that Maybin was telling the truth about her involvement in the murder.

However, it is true that there is a major discrepancy between Maybin's first and second statement. In Maybin's first statement to SBI agents, she said that she went to Big Ed's Bar with Jones and Spruill on the night of the murder. Jones and Spruill left the bar with Curtis Furlow. However, Maybin remained at the bar and drank with friends. When Spruill and Jones returned sometime later, Maybin noticed that they were wearing different clothing and acting strangely. Later when Maybin went back to Spruill's home, she found numerous drink cans which had been used to smoke crack cocaine. She asked Jones how he had gotten the crack and Jones replied he had taken it. Jones told Maybin he had killed the crack man Frank Swain. Maybin became frightened that Jones could kill her too and soon broke up with him. In her second statement to the SBI agents, Maybin confessed that she had not stayed behind. Jones and Spruill apparently did not leave the bar with Curtis Furlow rather they left with Maybin. She rode with Jones and Spruill to Frank Swain's trailer. Jones told Maybin to get down in the truck,

and in fact pushed her down so that Swain would not see an unfamiliar person in the truck. Maybin waited in the truck but heard loud noises coming from the trailer. She went to see if Spruill and Jones were alright and found the two men in the process of murdering Swain. Jones ordered Maybin to take money from the victim's pockets which Maybin did. Jones, Spruill and Maybin then left Swain's trailer, changed clothes at Spruill's home and returned to Big Ed's Bar. The first statement essentially denies any involvement or first hand knowledge on Maybin's part. In the second statement, however, Maybin confesses to her presence and participation in the events and includes her first hand observations of the murder of Frank Swain

It is also true that Maybin recanted her confession both in a taped interview with Jones' and Spruill's defense attorneys and in certain diary entries. In the interview with Maynard Harrell, Maybin states that she was essentially coerced by then deputy Janice Spruill and SBI agents into saying that she, Spruill and Jones had been involved in the murder of Frank Swain. See: Interview of Dana Maybin by Maynard Harrell, undated. Maybin told Harrell that her confession was untrue and that she could not "remember half the stuff she told Janice Spruill" because it was all made up. She said that she lied because she "hated" Jones because of what he had done to her and "because he was so violent" towards her when the two were dating. After asking Maybin why she lied and falsely testified against Jones and Spruill, Harrell proceeded to ask Maybin if she "had some reason to get back at him (Jones)." Maybin replied that she did. Harrell's implication is that for purposes of revenge, Maybin essentially framed Jones and Spruill. In her diary, Maybin extrapolates on the idea that she framed Jones and Spruill in order to get her revenge. In an entry dated March 4, 1995, Maybin wrote, "I lied about all this stuff from the start because I wanted the reward money and to get back at him (Jones) for all the hurt he cause me. I hate (Jones) but when I saw his mom's face in the courtroom I so wanted to tell them I was sorry for lying and wish that I had never done it." See: Diary of Dana Maybin, March 4, 1995. Later in the same entry Maybin wrote, "I just figured I have to go to big court tell my lie get Robert life in prison for being such an asshole and I'd get to go on home to get on with my life."

The inconsistencies between Maybin's first and second statement and Maybin's recantations call Maybin's truthfulness into question. It seemingly forces the trier of fact to accept one of these two scenarios: 1) That Maybin lied to police and confessed to being an accessory to the robbery and murder of Frank Swain, exposing herself to potential imprisonment. Spruill and his supporters have advanced this idea and Maybin's diary recantations indicates that

Maybin did this because she was angry with Wallace Brandon Jones for the way he had treated her; Maybin accepted imprisonment to obtain revenge? Highly Unlikely. 2) Maybin initially lied about her involvement in the crime and later lied when she told defense attorneys she wasn't involved in the crime. The most likely motive for both would be to avoid prison time.

It is necessarily true that Maybin either lied in her confession to the police or lied in her interview with the defense attorneys. Common sense is the main tool available to the trier of fact in deciding which of these scenarios above is true and which is false. It seems to be contrary to human reason that a person would be so invested and interested in revenge as to falsely confess to their own involvement in a crime in the hopes of implicating an ex-boyfriend as well. Why would a person send themselves to prison, risk a conviction for felony murder and a possible life sentence in order to gain revenge? If Maybin was going to lie about Jones' involvement in a crime for the sake of revenge, why would she admit to robbing Swain and helping to conceal evidence? Why would she ever confess her own involvement at all? Why wouldn't she stick to her first version of the story or try to frame Jones for some other crime? Common sense seems to tell us and apparently consistent to the common sense exhibited by the jury in Jones' trial, the scenario that Maybin would lie, implicate herself in a most serious crime and risk a life sentence of her own just to get revenge on Jones does not make sense to the reasonably prudent person.

After reviewing all this material I feel that the inconsistencies between Maybin's first and latter statements to law enforcement and the fact that she recanted to defense attorneys can be explained by a very simple, logical motive: Maybin wanted to stay out of jail. Initially, Maybin told police parts of what she knew and strategically distanced herself from the murder; Maybin was at that time on the run from an outstanding warrant in South Carolina. Maybin knew she was in trouble because the police were questioning her. She knew Sherri Honea had already talked. So Maybin first said that Leroy Spruill and Brandon Jones left the bar to go and buy crack cocaine from Swain but she stayed behind. She told police that before Spruill and Jones left the bar she asked Jones how he intended to pay for crack since he had no money. As she has consistently said in her statements, she informed police that Jones responded that he "would take care of it." Maybin further told police that Spruill and Jones changed clothes between the time they left the bar and the time that they returned to Big Ed's. She noted that Spruill and Jones appeared to be high on crack when they returned and that they had a lot of money. She was careful to say they had not had money earlier in the night. If Maybin's motive is

to stay out of jail, then this makes sense. Maybin knew she had to tell the police something, but minimized her own involvement in order to avoid the possibility of being charged or facing any type of prison time.

As to why Maybin implicated Curtis Furlow, her actions can again be explained by the motive of avoiding prison. It is possible that Jones and Spruill wanted Maybin to serve as the "lookout" for the Swain robbery. Swain was known to have customers come in and out of his trailer at various hours of the day and night. Additionally, the trailer park in which Swain lived contained several other trailers and there was a potential that one of Swain's neighbors could have been around and seen something. According to Maybin's subsequent statements to police, Jones insisted she come with him and Spruill that night. While on the way to Swain's trailer, Jones told Maybin that he and Spruill intended to "take" crack from Swain. According to Maybin, Spruill heard Jones say this and appeared to be in agreement. If Jones and Spruill intended to rob Swain, knowing that Swain had frequent visitors, knowing that Swain was sometimes armed with a knife or gun, and knowing that other people could be in the vicinity, it would only make sense for them to have a lookout. In the event that someone arrived at the trailer or in the event that the struggle alerted one of the neighbors, Maybin could have warned Spruill and Jones and the three could have fled. Maybin needed to implicate someone else as having filled the "lookout" role and so she selected someone she thought she saw at the bar that night and who was known to associate with Spruill and Jones. That person was Curtis Furlow. Maybin's original story contained significantly fewer details regarding Furlow. She could not remember what type of clothes Furlow was wearing or if he too had changed his clothes. She noted that Furlow seemed to be high on crack but did not comment about his having money or buying anything. Compared to what she had to tell about Spruill and Jones, any information that Maybin provided on Furlow was scant at best. It seems logical that Maybin lied about Furlow's involvement to save herself from being implicated. Her motive again , I would argue to any reasonable prudent person, was her desire to stay out of prison.

Once Maybin knew that she was going to be arrested, she confessed everything to police. It is not uncommon for attorneys to offer plea arrangements to co-defendants in exchange for their truthful testimony against others. Particularly if the defendant in comparison to their co-defendants has played a minor role in the crime. Maybin knew she would have to face some time in prison but it was either cooperate and hope for a reduced sentence or run the risk of going to trial and possibly being convicted of murder herself and all that would entail. If she had to go to prison,

Maybin wanted as short a sentence as possible. Again, her actions can be explained by this simple motive. Maybin took the plea with the reduced sentence in exchanged for her testimony against Jones and Spruill.

While Maybin was serving her sentence she was approached by another inmate about her willingness to speak with Maynard Harrell and Jim Vosburg, attorneys who were involved in the representation of Jones and Spruill. According to Maybin, the inmate implied that the prosecution had no real evidence connecting Jones and Spruill to the murder. The inmate said that the only evidence in the case was Maybin's testimony. The inmate suggested that if Maybin changed her testimony, then the charges against Spruill and Jones would have to be dismissed. It appears that Maybin concluded if the charges against Spruill and Jones were dismissed then her sentence would necessarily be overturned. Maybin hadn't wanted to go to prison in the first place and she had tried all along to avoid it. If her motive was staying out of prison, it would only make sense that she would jump at an opportunity to have her sentence set aside.

The interview with Maynard Harrell is peppered with leading questions. In several places it appears that Harrell seems to be leading or helping Maybin along with answers. In many of Maybin's statements her motive of avoiding prison time is palpable. Maybin complains that no one has visited her in prison and that she cannot get anyone to come and see her. Maybin tells Harrell, "Deputy Spruill promised me that I wouldn't be in there but maybe the weekend. They was going to try to get me a bond. But, of course, you see I'm still here, so shows how much they mean." See: Interview of Dana Maybi, by Maynard Harrell, undated. Additionally, Maybin contradicts herself several times within this same interview. She alternately tells Harrell that she told District Attorney Mitchell Norton that she lied in her statements to police. Then Maybin says, she intended to tell Mitchell Norton that she lied in her statements to the police but didn't have the opportunity or the time to do so. Maybin claims that she began telling Mitchell Norton and Regina Moore, her attorney, "the truth" meaning that she had lied about Jones' and Spruill's involvement. Then she said that she was going to tell them, but "they told me that they knew what the truth was" and didn't want to listen to her. Maybin's statements are unclear and at times they are contradictory. Harrell seems to prod and lead her throughout the conversation. However, Maybin's frustration with being in prison and her desire to be released are clear. It seems logical that this motive would lead her to cooperate with Harrell and Vosburg by giving the interview and by keeping diary entries.

Not only can Maybin's statements to the defense attorneys be explained by the simple motive of avoiding prison time, but parts of the statements implicating Spruill and Jones can be corroborated by other witnesses. Though Maybin may have credibility issues, the two witnesses appear to be disinterested observers who had no reason to mislead the police. Their statements corroborate Maybin's confession to police which strongly supports the conclusion that Maybin's final story to law enforcement was truthful.

Maybin reported hearing loud noises coming from Frank Swain's trailer shortly after Leroy Spruill and Brandon Jones went inside. The December 15, 1994 SBI Report concerning Dana Maybin's statements contains the following, "Ms. Maybin stated that she was lying in the front seat until she heard what sounded like fighting going on in the trailer. Ms. Maybin stated that she could not tell if it was people hitting against the wall or if they were throwing things against the wall, but that is what she heard in the trailer." See SBI Investigative Report, Statement of Dana Maybin, December 15, 1994. A neighbor of Swain's, Erma Davis, was interviewed by SBI agents a few days after the murder took place and she also reported that she could hear loud noises coming from Swain's trailer from inside of her own trailer. The report reads, "Ms. Davis stated that she heard what was sounding like a knock at Frank's door. Ms. Davis stated that a little while later she heard a lot of 'bumbling' that sounded like thunder in Frank's house. Ms. Davis stated that she usually looks out her window when she hears something but on this occasion she did not do that. Ms. Davis stated that she heard the loud noises in Frank's trailer sometime between 9:30 and 10:00 p.m. Ms. Davis stated that after she heard the noises she went to bed and did not get out of bed until she saw the blue lights outside of her trailer." See SBI Investigative Report, Statement of Erma Davis, dated December 19, 1993. Both Maybin and Davis reported hearing loud noises, rumbling noises like the sound of thunder or the thud of something being thrown against the wall of the trailer.

In both the April 25, 1994 and December 15, 1994 statements, Maybin offered fairly detailed descriptions of what Jones and Spruill were wearing, noted that they changed clothes, and described them as acting high or acting foolish. The statement that the two men left Big Ed's bar, changed clothes and returned acting strangely is corroborated in a statement by Marguerite Lynn Rogers, the bartender from Big Ed's. See SBI Investigative Report, Statement of Marguerite Rogers dated May 3, 1994. It is interesting to note that there are significant similarities between the description of Jones' and Spruill's clothing offered by both Rogers and Maybin.

Additionally, both women comment on Jones' and Spruill's strange behavior that night.

Rogers appeared to be truthful and had no reason to mislead police. However, at Jones' trial, contradictory testimony was offered by Ed Champ. Champ also implied that Rogers could not have observed Jones and Spruill as she claimed due to her responsibilities at the bar. However, Mr. Champ was arguably a biased witness in favor of Jones and against Maybin. Champ not only employed Jones at the bar but he also allowed Jones to live in a trailer that Champ owned which was situated on Champ's property. It was a member of Champ's family, his son-in-law, who took Jones home to Tennessee when the police began investigating Jones for his potential involvement in the death of Frank Swain. Champ clearly liked Jones enough to employ him, allow him to live on his property and to help Jones elude police during the course of the investigation. Unlike Champ, Rogers has nor has the investigation revealed any known connection to Maybin, Jones or Spruill. Rogers appears to have no motive to lie and no reason to harm Jones or Spruill. Rogers was by all accounts a disinterested witness. At the time, the agents believed she was a reliable and trustworthy person. Therefore, I would argue that Rogers can be presumed to be telling the truth. There is nothing that contradicts her. It is unlikely that through coincidence, a story invented by Maybin could match the details of the story told by Rogers. The fact that Maybin's statement matched the statement of an unbiased witness strongly suggests that Maybin's second account to agents and her subsequent testimony based upon that statement was truthful.

In conclusion, the contradictions between Maybin's original statement to agents and her later statements, and the contradictions between Maybin's statements to agents and her interview with Maynard Harrell, can all be explained by the same simple motive. Maybin wanted to stay out of prison if at all possible and in the alternative, if she had to go to prison at all she wanted out as quickly as possible. The motive prompted her to initially lie about her involvement in the murder. This motive also prompted her to write diary entries and make statements to defense attorneys which contradicted her statements to law enforcement. However, it should be noted that Maybin's statements to the SBI and (apparently) her testimony at Jones' trial contain consistent statements regarding the events of the murder. Key details of Maybin's statements can be corroborated by the statements of impartial witnesses. These suggest that Maybin was truthful in her statements to SBI agents and in her testimony at trial.

If the trier of fact must rule either Maybin's statements to SBI agents or her interview with Maynard Harrell false, common sense seems to favor finding the statements true and the interview untrue. In fact, the jury in Wallace Brandon Jones' trial apparently reached this same conclusion. At the time of the trial, it was known that Maybin made inconsistent statements. It appears that part of the transcript of the conversation between Maybin and Harrell may have been entered at trial. The jury was largely aware that Maybin had claimed at least to Vosburg and Harrell, that she had lied to police. The jury in Jones' trial was afforded the opportunity to observe witnesses as they testified and to assess their credibility. Because they were able to see and hear witnesses in court, the jury was able to make judgments with regard to the witness' sincerity and credibility. These are things which a trial transcript cannot reflect. Based on the evidence presented at trial, including Maybin's testimony, the jury found Jones guilty. This suggests that they found Maybin's testimony to have been credible and truthful. Our system of justice relies on the ability of jurors to assess the credibility of witnesses. In part because they have the opportunity to observe and hear witness testimony, we are cautious in questioning the jury's assessment of an individual witnesses credibility. Jones' jury found Maybin credible. Spruill knowingly waived his right to a trial by jury. Allowing a new trial based on their claims that Maybin was not credible is not justified and does violence to the well established, time tested concept of trial by jury.

VI. ASSERTION 4: MAURICE WILKINS WAS NOT SERIOUSLY CONSIDERED AS A SUSPECT. THERE IS EVIDENCE TO IMPLICATE WILKINS OR ANOTHER INDIVIDUAL COMMITTED THE CRIME.

Finally, Spruill and Jones claim that law enforcement officers, specifically then Deputy Sheriff Janice Spruill and at the time of this follow-up investigation she was serving as the interim Sheriff of Washington County, that their investigation focused solely on Jones and Spruill and did not take into consideration other possible suspects. Spruill and Jones claim that through either maliciousness or incompetence that Janice Spruill failed to investigate other viable suspects and proceeded in an unjustified pursuit of Jones and Spruill alone. In making these claims, they most often reference Maurice Wilkins who was a suspect early in the case and a drug dealer referred to as "Bo Jack". Spruill and Jones claim that law enforcement officers have not seriously investigated other possible suspects or all sources of information. Statements from two inmates, Edward Hudson and Avis Arnold have been offered by Spruill as evidence that someone else is responsible for the murder of Frank Swain.

First, Maurice Wilkins was seriously pursued as a suspect in the murder of Frank Swain. In fact, it appears Wilkins and his friends were at one point considered the main suspects in the murder. Joseph Lind, a friend of Wilkins was known to have a blue pickup truck. See: SBI Investigative Report, Statement of Janice Spruill dated March 14, 2005. However, Janice Spruill reported that in her initial investigation, she found several witnesses who put Wilkins and Lind along with Lee McPhatter and Billy McNair at a local restaurant around 9:00 pm on the night of the murder. In addition, Janice Spruill also found witnesses who put Wilkins and his group at the Zodiac Club for the rest of the evening. This matched the explanation that Wilkins and his friends had given police concerning their whereabouts that night in question. Also, based on Janice Spruill's statements they did not rely on just one witness to confirm that Wilkins, McPhatter and the others were at the club and the restaurant, but rather they checked with several witnesses to confirm that the men were actually where they claimed to be. It should also be pointed out that Janice Spruill and the Washington County Sheriff's Department did not rest on those witnesses' statements; they also obtained blood samples from both Wilkins and McPhatter and had them compared to blood found at the crime scene of Frank Swain's murder.

It is true that Wilkins' first blood sample was inadvertently destroyed by Janice Spruill. However, a second blood sample was taken from Wilkins and an SBI Lab Report dated February 28, 1994, indicates that Maurice Wilkins' blood sample was received by the lab and was found to be Type A. See SBI Laboratory Report, Blood Sample of Maurice Wilkins dated February 28, 1994. This is significant because most of the blood evidence recovered from the crime scene was Type O. Wilkins with type A blood could not have contributed the type O blood from the crime scene. To date, it appears no type A blood has been recovered from the crime scene. Additionally, both Wilkins and McPhatter were fingerprinted and those prints were compared to latent lifts from the crime scene. See SBI Laboratory Report, Analysis of Crime Scene Evidence and Inked Impressions, dated January 18, 1994. Neither Wilkins' prints nor McPhatter's prints were found to match the latent lifts from the crime scene. However, the lab requested either more detailed latent prints or more detailed inked impressions of Wilkins and McPhatter. Additionally, during the reinvestigation blood samples from Wilkins and McPhatter were compared in a DNA analysis of the tire tool found at the crime scene. See SBI Laboratory Report, DNA Analysis of Tire Tool, dated September 20, 2007. During this DNA analysis Wilkins and McPhatter were both excluded as having contributed to the DNA found on the tire tool. That fact alone may not be conclusive; Spruill, Jones and Maybin were also excluded as having contributed to the DNA mixture on the tire tool. In fact,

it is likely that the victim Frank Swain is the main contributor to blood and DNA found on the tire tool. Wilkins and McPhatter were seriously pursued as suspects during the course of the investigation. However, a combination of alibi witnesses and physical evidence seems to clear both men of any involvement in the death of Frank Swain.

A second man who is commonly cited by Spruill and Jones as someone who should have been pursued by law enforcement is a drug dealer called "Bo Jack". An anonymous letter was received by law enforcement signed only as "Folly Road" which claimed Frank Swain and his girlfriend, "Sandra" (presumably a reference to Sonya Spruill Day), owed Bo Jack a large drug debt. According to this letter, Swain was killed because he failed to repay Bo Jack and Sonya Spruill Day was killed so she could not name Bo Jack as Swain's murderer. See Letter from "Folly Road" to Mr. Hewitt, undated. Little information was found in the file related to a Bo Jack. However, Bo Jack has identified both by Janice Spruill and Alfred Armstrong as Alton Plaggon or Claggon. See SBI Investigative Report, Interview of Janice Spruill dated March 14, 2005. See also SBI Investigative Report, Statement of Alfred Armstrong dated March 20, 2008. A search of the North Carolina Department of Corrections indicates that there was an inmate named Antonio Claggon who was convicted in the early 1990s in Washington County (where Plymouth and Roper are located) for several counts of robbery, burglary and breaking and entering. Claggon was also charged with second degree murder for which he received a life sentence. On October 5, 1993, Claggon was convicted of felony breaking and entering, possession of a firearm, larceny after breaking and entering, second degree burglary, robbery with a dangerous weapon, first degree burglary, and second degree murder. Based on this criminal history it appears that Claggon may be capable of perpetrating the robbery and murder of Frank Swain. However, Claggon's conviction date was October 5, 1993. Swain's murder occurred on December 18, 1993. Presumably, Claggon was already in prison serving his sentence on the date that Swain was murdered. Assuming that Antonio Claggon from Washington County is the same person as "Bo Jack" it appears highly unlikely if not absolutely impossible for him to have murdered Frank Swain.

To rebut this evidence, Spruill has offered the statements of Edward Hudson and Avis Arnold, both inmates who had at one time or another been incarcerated with Leroy Spruill. In March 2005, Arnold was interviewed because he had claimed to know information about Frank Swain's murder. See SBI Investigative Report, Statement of Avis Arnold dated March 21, 2005. It appears that investigators learned about Arnold through Leroy Spruill. Spruill informed agents that Arnold had information about the Swain murder.

Spruill implied that Arnold was involved in the murder, possibly as the lookout for Wilkins and his associates. Spruill claimed that Arnold had written this information in an affidavit which was being held by Attorney Carl Stewart who had been retained by Spruill's family to try and get him a new trial. See Letter from James Coman, Senior Deputy Attorney General, to Carl Stewart, Jr., Attorney at Law dated February. 15, 2005. However, it appears that Attorney Stewart was not in possession of any such affidavit. In the interview with SBI agents, Arnold stated he did not write a letter to the Attorney General's Office claiming to have information. See SBI Investigative Report, Statement of Avis Arnold dated March 21, 2005. Arnold said that Leroy Spruill had written a letter and asked Arnold to sign it. Arnold signed the letter after Spruill wrote it. Arnold told agents that he did know Billy McNair. Arnold told agents "he heard a guy say that he had stabbed a girl. (Arnold identified that man) as Billy McNair and said McNair had stated he took a screwdriver and stabbed her." Arnold here implied that this information related to the Sonya Spruill Day murder. Arnold then stated that he did not have information about Frank Swain's murder, only Sonya Spruill Day's murder. However, Arnold later stated that he had been with McNair, Maurice Wilkins and Joseph Lynn on the evening that Frank Swain was murdered. Arnold said he had not been with McNair, Wilkins and Lynn at the time Swain was murdered that night. Arnold then stated that the day after Swain was murdered, he was with McNair and Wilkins when they got a phone call about Swain's death. According to Arnold, both Wilkins and McNair began acting very strangely. Agents asked Arnold if he would take a polygraph concerning Swain or Spruill. Arnold refused and apparently remarked to agents that he'd gotten himself "in some shit trying to help someone". Arnold denied having ever signed a statement or an affidavit concerning the Swain murder. No affidavit was found concerning this information and Arnold himself denies ever having written one. In short, Arnold did not present the agents with new evidence concerning Swain's murder and in fact denied having any knowledge concerning Frank Swain's death.

Spruill and Jones have also advanced the testimony of Edward Hudson another inmate, as new evidence for trial. In August 2005, Hudson wrote a letter to the Special Prosecutions Division stating that he had been incarcerated with one Wyatt Spruill, a relative of Leroy Spruill. See Letter from Edward Hudson, to James Coman, Senior Deputy Attorney General dated August. 25, 2005. Hudson claimed that Wyatt Spruill confessed to helping murder Frank Swain. According to Hudson's letter, Wyatt Spruill said he, Maurice Wilkins, JoJo or Billy McNair and Joseph Lynn all planned to rob Swain of his money and drugs. On the night of the murder, Wyatt Spruill called Wilkins, McNair and Lynn and told them he was

leaving Frank Swain alone in his trailer. Wilkins, McNair and Lynn then went to Swain's trailer and attempted to rob him. When Wyatt Spruill returned, he found that the robbery had gone wrong and Wilkins and his crew had killed Frank Swain. According to Hudson, Wyatt stated that Wilkins, McNair and Lynn had threatened Wyatt Spruill and told him not to talk to police. Wyatt believed the murder of his sister Sonya Spruill Day, was a message to him that if he (Wyatt Spruill) talked that he too would be killed. Hudson's letter does include some details from the Sonya Spruill Day murder noting that the murder of Sonya Spruill Day was similar to the murder of Frank Swain in many ways. Hudson claimed that he learned the details of Day's murder from Wyatt's confession.

A few weeks later, the SBI followed up on this letter by interviewing Edward Hudson at Southern Correctional Institution. During this interview, several problems surfaced with regard to Hudson and the information that he proffered. First, at the time of the interview Hudson was in prison on "a false pretense charge". See SBI Investigative Report, Statement of Edward Hudson dated September14, 2005. During the interview, Hudson stated that he had run into Leroy Spruill at Hyde County Correctional about a month prior to writing the letter to Coman. Hudson stated that he talked with Leroy Spruill and told Spruill about his contacts with Wyatt Spruill, including Wyatt's alleged admissions. Hudson said he told Spruill that Wyatt Spruill confessed to planning the murder along with Wilkins, McNair and Lynn. Hudson also told Spruill he heard from Wyatt that one of the men involved in the robbery and murder of Swain cut himself and later sewed up his own cut with fishing twine. The SBI followed up with an interview of Wyatt Spruill in which agents specifically questioned Wyatt Spruill about Hudson's allegations. See SBI Investigative Report, Statement of Wyatt Spruill dated February 16, 2007. During this interview, Wyatt Spruill gave SBI agents essentially the same information he gave the police at the time of Swain's murder. Wyatt acknowledged that he spent the night at Frank Swain's house on December 17, 1993 and explained what he and Swain did during the day of December 18, 1993. Wyatt Spruill said that he is not aware of who killed Frank Swain, but is suspicious of Maurice Wilkins and Duke Carter. Wyatt Spruill told agents that he was not aware of anyone who wanted to rob Frank Swain. He did not remember any inmate named Edward Bryant Hudson that he was in Newport Prison with, but he does know that he did not tell him that he was approached by three black males who wanted to rob Frank Swain. It is apparent that Wyatt Spruill's statement to the SBI agents stands in direct contradiction to Hudson's claims.

A check of the North Carolina Department of Corrections reveals that Edward Hudson (DOC Number 0582562) has a long history of

crimes related to false pretenses, cheating people out of property and worthless checks. These charges all involve some form of fraud or deceit, a fact which tends to completely undermine Hudson's credibility. Further, since Hudson acknowledges that he met and conversed with Leroy Spruill prior to writing the letter and meeting with SBI agents, it is more than reasonable to conclude that Hudson's information came entirely from Spruill himself. It should be noted that at the same time Hudson wrote to Mr. Coman, Hudson was assisting FBI agents in another investigation. See SBI Investigative Report, Statement of Mike Sutton, Special Agent for the FBI dated September 16, 2005. An FBI agent informed investigators that Hudson wanted to get out of prison and was using his role in assisting the FBI investigation as a basis for accomplishing that. However, Hudson was told that the FBI could not release him from prison. Hudson's weak credibility combined with his incentive to get out of jail and the fact that he had met and conversed with Leroy Spruill during a period of time when Spruill has been reassigned from the Hyde Correctional Institution where he was serving his time to the Craven Correctional Institution where Hudson was being housed at the time that he ran into Leroy Spruill create the very real possibility that Hudson is lying and that the letter was written as a favor to Leroy Spruill. As such, Hudson's statements are hardly grounds for reopening the Spruill and Jones' cases.

The statements of Avis Arnold and Edward Hudson are both of questionable origin. Arnold denies having written a letter to investigators and denies giving an affidavit to Attorney Carl Stewart. Upon contact from this writer to Attorney Carl Stewart he indicated that he had never received an affidavit from Avis Arnold. Rather, Arnold said that Leroy Spruill wrote the letter which he signed. Arnold denied having any knowledge concerning the Swain murder. Hudson said that he did write a letter to the Attorney General's Office, however, Hudson acknowledged that he wrote this letter after talking with Leroy Spruill. Hudson's prison record indicates that his entire adult life he as been engaged in actions which are both fraudulent and deceitful and raise serious questions about any credibility that he might have. Additionally, Hudson was assisting the FBI with an investigation and was operating under the mistaken belief that if he helped the FBI that he would then be set free for his cooperation. However, Hudson was informed by the FBI that this would not occur. The information in statements from both Arnold and Hudson are believed to have come about only after having had contact with Leroy Spruill. The circumstances under which both provided information are the very least suspicious and cast Spruill and his motives in a bad light. The fact that Arnold plainly told agents he did not have information about Frank Swain and had not written an affidavit regarding Swain's murder makes the information

in the Arnold letter irrelevant as well as dishonest. The fact that Hudson could easily have obtained the information after contact from Leroy Spruill, and has a motive for assisting in investigations and has extremely poor credibility makes the any information contained in the Hudson letter more than questionable at best.

The only additional piece of information to surface in the case was an SBI Laboratory Report which claimed the latent fingerprints from the Swain crime scene were a positive match to Maurice Wilkins and Toby McPhatter. This laboratory report was proven to be fraudulent and had been created by the former Police Chief in Plymouth as an effort to try and help Spruill. Subsequently that individual was prosecuted and removed from office. The phoney laboratory report was not proffered by Spruill or Jones, but rather one of their supporters. As such, that person is responsible for the attempt to offer fraudulent information, not Spruill and Jones. No other credible information has been advanced by either Spruill or Jones or their supporters.

V. CONCLUSION

In conclusion, the chief complaints issued by Spruill, Jones and their supporters I believe have been addressed. The SBI investigation into Frank Swain's murder began in December 1993. The investigation of the crime has continued until the present, nearly 16 years after the commission of the crime. As of yet, no new evidence has been uncovered which would justify the reopening of this case. Spruill, Jones and their supporters frequently cite to their lack of transportation, the lack of physical evidence and the questionable credibility of witness Dana Maybin as grounds for reopening their case. However, all of this information was presented at the trial of Wallace Brandon Jones and was rehashed at the Motion for Appropriate Relief that he filed. Knowing that the defendants had questionable transportation, knowing that no DNA had confirmed the defendants were at the scene, and knowing that Dana Maybin had made contradicting statements, all that was heard by the jury and the jury still convicted Wallace Brandon Jones of First Degree Murder. Granting a new trial based on any of these claims would do violence to our concept of trial by jury. The jury carefully weighed the facts and found against Jones. It is not the role of the Attorney General's Office or the State Bureau of Investigation to substitute their judgment for the judgment of this jury particularly when the issues here had been presented to the jury for their consideration. These issues are closed as to the defendant Wallace Brandon Jones both as to the findings of the Appellate Courts and the denial of his Motion for Appropriate Relief.

As to defendant Leroy Spruill, Spruill accepted a plea agreement. The plea agreement which Spruill signed informed him that in accepting the agreement he was waiving certain rights. See Plea Transcript of Leroy Spruill. During the plea agreement, Spruill had to respond to the following questions: "Do you understand that you have the right to plead not guilty and be tried by a jury?" "Do you understand that at such trial you have the right to confront and to cross examine the witnesses against you?" "Do you understand that by your plea you give up these and your other constitutional rights relating to a trial by jury?" "Do you understand that upon your 'Alford Plea' you will be treated as being guilty whether or not you admit that you are in fact guilty?" To each of these questions, Spruill responded, "Yes." Spruill then signed the form. Spruill had the opportunity to raise all of these issues in his own trial. Spruill knowingly elected to waive his right to trial in hopes of obtaining a better deal for himself. Perhaps Spruill now feels that he would have done better with a trial. However, granting a new trial to every defendant who decides in favor of a plea but is later unhappy with their sentence would simply defeat the entire purpose of taking plea agreements. Spruill was given his choice and he made it. These issues are closed as to the defendant Leroy Spruill.

A great deal of time and energy has been expended both by the State Bureau of Investigation and the Special Prosecutions Division of the Attorney General's Office in reviewing these allegations raised by Spruill and Jones and their supporters. Absent these claims, the only new information which Spruill and Jones have offered are two statements from inmates both of which were obtain under highly questionable circumstances. SBI agents at the direction of the Senior Deputy over the Law Enforcement and Prosecutions Division interviewed both witnesses only to find that one witness, Avis Arnold, claimed to have no information and the other witness, Edward Hudson was not credible and his statements were directly contradicted by Wyatt Spruill. In short, there is no new evidence that has been offered which appears to be credible which would warrant reopening either Spruill or Jones' case. In the absence of any such evidence I am considering this matter to be closed.

C. North Carolina Center on Actual Innocence and other Post-Conviction Defense Investigation

The North Carolina Center on Actual Innocence's involvement appears to have been through multiple avenues, including a Wrongful Convictions class and the Innocence Project. Chris Mumma, Director of the North Carolina Center on Actual Innocence (Center) now represents Jones as his attorney. Originally, Ms. Mumma represented both Spruill and Jones as evidenced by her Notice of Appearance filed with the clerk on June 22, 2007.[46]

The Commission requested the Center's file and the file was produced to the Commission in total as the Center's file without particular distinction between student reviews versus work by Center staff.[47] Therefore, within this brief, all information as outlined by the file produced by the Center is referred to as work done by the Center, without distinction between student reviews versus work by Center staff. The summary here is from the review of the file produced by the Center related to its work in this case as well as from review of other files which have information concerning the Center's involvement, such as the SBI file and the District Attorney's file. Center reports on interviews include the interviewer's impressions, strategies, and opinions.

At one point a UNC-Chapel Hill graduate journalism student, Marti Maguire, was working with the Center. She conducted interviews and wrote a news article about the case. The news article that was published has been provided here in full (Center A-16). In addition, an email

[46] There was no pending legal matter at the time Ms. Mumma filed her NOA. The Center has not ultimately filed any motions or promulgated any legal action on behalf of Spruill or Jones as of yet. Former Commission Chair, the Honorable Quentin T. Sumner, determined pursuant to the Commission's process that Ms. Mumma could not represent both Spruill and Jones as it was a conflict of interest for purposes of the Commission's process. Ms. Mumma currently represents only Jones.

[47] As the referring attorney, Ms. Mumma provided her file initially and has provided updates as requested by the Commission.

correspondence between Ms. Maguire and Seth Edwards is also provided here in full related to his impressions concerning the case.

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LeRoy Spruill, left, and Wallace Brandon Jones are serving life sentences at Hyde Correctional Institution for murdering a man in Washington County. Plymouth Police Chief John Floyd says fairness extends to closed cases.

STAFF PHOTOS BY JOHN L. WHITE

Chief probes murder to help free two convicts

Washington County lawman thinks jury may have been wrong in '95 trial

BY MARTI MAGUIRE
AND MATTHEW EISLEY
STAFF WRITERS

PLYMOUTH – LeRoy Spruill and Wallace Brandon Jones aren't the only convicted murderers in North Carolina who say they're innocent. But they're the only ones with a police chief trying to prove they're right.

For the past two years, Plymouth Police Chief John Floyd has unofficially investigated the 1993 slaying of Frank Swain in nearby Roper, even though a jury found Jones guilty of the murder and Spruill pleaded no contest soon after.

"It all falls back to reasonable doubt," said Floyd, whose inquiry has led him to several men he suspects were involved in the murder. "I don't think my conscience could stand it if these guys are innocent of what they were convicted of, and I sat back and didn't do anything."

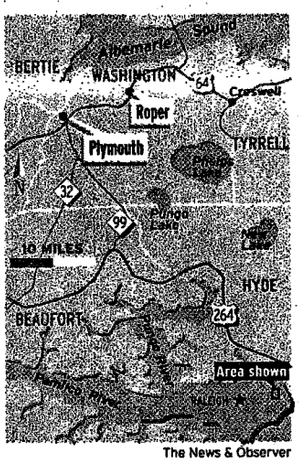
Swain's murder occurred outside Floyd's jurisdiction, but the chief has good reason to investigate. Less than a year after the murder, Swain's girlfriend Sonja Day was killed in Plymouth in a similar way — her throat slit at her home. The crime is unsolved.

The Swain case is one with more questions than answers, and not just for Floyd and the two convicted men. Recent misfires in the justice system have prompted some leading lawyers and judges in North Carolina to confront the reality that innocent people are sometimes convicted of crimes.

But Spruill's and Jones' case for innocence is not clear-cut. No DNA evidence has emerged that would exonerate them, for example, nor is there any suggestion that evidence that might clear them has been suppressed.

There is, however, a widely shared belief

SEE CHIEF, PAGE 12A



The News & Observer

'I don't think my conscience could stand it if these guys are innocent of what they were convicted of, and I sat back and didn't do anything.'

JOHN FLOYD, CHIEF OF POLICE IN PLYMOUTH, IN NORTHEASTERN NORTH CAROLINA

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CHIEF

CONTINUED FROM PAGE 1A

in and around Plymouth and Roper that the jury might have gotten the verdict wrong, and that other men could be Swain's killers — a possibility the community's top three law enforcers concede.

Frank Swain was a drug dealer, according to the trial testimony of those who knew him. He was slain Dec. 18, 1993, in his trailer in Roper, a town of about 600 people in Washington County in northeastern North Carolina. His killer or killers beat him with a tire iron, stabbed him 14 times, then cut his throat.

Spruill and Jones were arrested a year later. They have claimed for more than a decade that they spent the entire night of the murder at Big Ed's Bar in Roper.

"We were more or less at a bar for a Christmas party and ended up with a murder charge for something we never done," Spruill said in an interview at Hyde Correctional Institution, where he and Jones are serving life sentences.

Jones, now 31, was a drifter from Tennessee who had come to town four months earlier. He was using an alias to elude a Tennessee arrest warrant for violating probation on 10 charges ranging from writing bad checks to arson.

Spruill, now 46, had served prison time for theft a decade before and admits having used drugs. But he also was a carpenter and volunteer firefighter who was well-liked in Roper, where he lived, and Plymouth, the county seat.

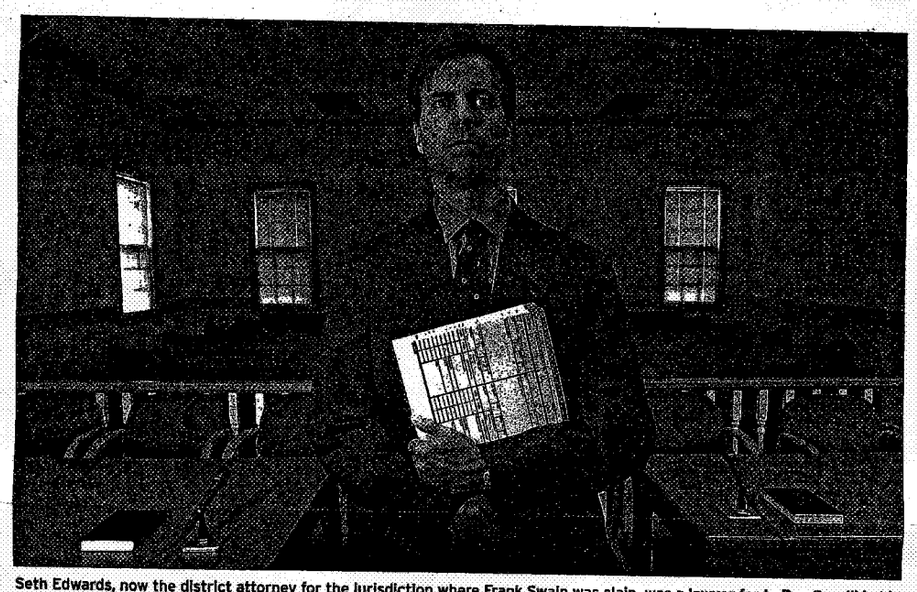
Spruill cooperated with police by voluntarily taking and passing a lie-detector test about the killing. Jones fled the state when he was sought for questioning; he said it was to avoid being arrested on the Tennessee warrant.

Shortly before jury selection began on Sept. 18, 1995, then-District Attorney Mitchell Norton sidestepped local sympathy for Spruill with a surprise announcement that the two men would be tried separately, Jones first.

The principal witness against Jones was his ex-girlfriend, Dana Maybin, who said she saw Jones slit Swain's throat while S[illegible]ill held him down. But Maybin [illegible] a troubled 22-year-old with a history of drug abuse, had given conflicting accounts. In letters, diary entries and a taped statement — all presented at trial — Maybin said she knew nothing of the cri[illegible] but that police pushed her to [illegible]e did.

Investigators Willie Williams and Janice Spruill, who is not related to LeRoy Spruill, disagree.

"[Maybin] knew details of the crime only someone who was there could know," Williams said.



Seth Edwards, now the district attorney for the jurisdiction where Frank Swain was slain, was a lawyer for LeRoy Spruill in his murder trial. He says he is willing to ask another prosecutor to consider reopening the case.

STAFF PHOTO BY JOHN L. WHITE

KEY PLAYERS

FRANK SWAIN, reputed drug dealer, slain in his mobile home in Roper, N.C., in December 1993.

WALLACE BRANDON JONES, 31, convicted of first-degree murder in 1995 and sentenced to life in prison; eligible for parole in 2021.

LEROY SPRUILL, 46, pleaded no contest to second-degree murder after Jones' conviction; sentenced to life in prison; eligible for parole in 2011.

JOHN FLOYD, chief of police in Plymouth, N.C.

SETH EDWARDS, Washington County district attorney

STANLEY JAMES, Washington County sheriff

DANA MAYBIN, onetime girlfriend of Jones who testified at trial that she saw Jones and Spruill commit the murder; pleaded guilty to being an accessory; served 19 months in prison.

"To my knowledge, she never changed her mind once she told the whole story."

In three police interviews over eight months, Maybin's statements implicating Spruill and Jones evolved from secondhand knowledge to a detailed eyewitness account — which she provided only after she, too, had been charged with the crime. She also implicated another man who had an ironclad alibi and was excluded as a suspect.

Maybin testified at trial that she had given the false statements in hopes the case would be dropped.

In a letter to the sheriff's department after her first interview with deputies Spruill and Williams, Maybin said she was pressured to confirm another witness's assertion that Maybin had witnessed the murder.

"I told you the truth and you said I was a liar," she wrote. "I told you the lie and you thought that it was the truth. Now tell me who can you believe?"

In exchange for her trial testimony, Maybin was allowed to plead guilty to being an accessory to the crime. She was sentenced to nine years in prison but was released after 28 months.

Conflicting stories

Since the trial, Maybin's story has continued to change. In 2003, Chief Floyd said, she told him she had lied on the stand. In an interview for this article, she stood by her trial testimony.

"Why would I lie and put myself in prison?" she asked.

No physical evidence backed up Maybin's testimony — none of the fingerprints, blood or hair collected from Swain's trailer matched Jones or Spruill.

Four defense witnesses said Spruill and Jones never left the bar that night. Two other women, however, said the men left and returned in different clothes.

Among the prosecution witnesses was Maurice Wilkins, who acknowledged at the trial that he was once a suspect in the murder. He testified that he saw Spruill at Swain's trailer park with another man he couldn't identify.

Shortly after the murder, Wilkins had a cut on his left hand he had stitched himself with fishing line. He said he had cut himself while eating an orange. Authorities took his blood sample, but trial testimony indicated that it was lost.

The jury deliberated for more than two days before finding Jones guilty of first-degree murder.

"There was nothing clear-cut about anything in this case," jury foreman Ken Griffin said in a recent interview. "No two stories fit together perfectly. You had to put them together the way that made the most sense."

T[illegible]entencing decision was eas[illegible] the jury took only a few hours to reject the death penalty and give Jones life in prison.

Jones was stunned. The verdict defied his understanding of the justice system, based on his many pre[illegible] arrests, he said.

"[illegible] if you've done something, you done it," he said. "Go in there, do your little plea bargain, do your time, and get out. They ain't gonna just put something on you you ain't done. I know better than that now."

The conviction didn't surprise many locals. But the subsequent no-contest plea from Spruill on a charge of second-degree murder fueled debate over the men's guilt.

Jones juror Carolyn Spruill, who is not related to LeRoy, is among those who believe Spruill could have escaped conviction.

"I had to remember I wasn't trying the Spruill boy, I was trying the Jones boy," she said. "But I didn't think the Spruill boy would have done that."

Spruill said he accepted a guilty judgment on the lesser charge to avoid facing the death penalty. It also makes him eligible for parole earlier.

Because Spruill and Jones were sentenced under old laws, both will be eligible for parole, Jones in 2021, Spruill in 2011.

"I was convicted with Wallace [Jones], you might as well say," Spruill said.

Lingering doubt

The verdict remains a divisive subject in Washington County.

Some say justice has been done. "They got what they deserved, and they need to stay where they're at," said Minnie Swain, Frank's sister. "They killed my brother like a dog in the street."

James Vosburgh, Jones' trial lawyer, called the case the worst injustice he has seen in his 35-year career. "I still wake up at night in a cold sweat thinking about that trial," he said.

torney both acknowledge that the men could be innocent, but they also have little reason to act on a case that was closed years before they took office.

By law, prosecutors have the authority to reopen cases in their jurisdictions. But with limited staff and money, they generally prefer to focus on new cases. And reopening a case often means second-guessing a jury or admitting prosecutorial mistakes.

The Swain murder is in the jurisdiction of Washington County District Attorney Seth Edwards, who, before he was elected to that office, helped represent Spruill. He said he is willing to ask another prosecutor with no conflict of interest to consider reopening the case — but he is reluctant to step in without strong new evidence.

"A jury of 12 people from Washington County found Wallace Jones guilty," he said. "I don't have the authority to go back on what they did."

Washington County Sheriff Stanley James, whose office investigated the murder before James was sheriff, said he agrees that Spruill and Jones might be innocent. But he likewise won't make the first move without persuasive new information.

"It would take ... some hard factual evidence," James said. "Not what Joe Blow said, not 'What I've heard is ...' That's not enough."

A chief's search

When Spruill went to prison, his father, Jack, started lobbying local officials to look into the case. In 2002, one of them bit.

Floyd, 43, had taken over as Plymouth's police chief in 1999 after 16 years on the force.

An unassuming Plymouth native, Floyd chain-smokes and swears freely as he works in his office overlooking the Roanoke River, where his family has fished for generations. His grandfather, father and brother all worked at the nearby Weyerhaeuser paper mill. Floyd's father worked there with Jack Spruill, whom Chief Floyd has known since childhood.

The elder Spruill told Floyd that a fellow inmate had told LeRoy Spruill in prison that he knew who killed Swain.

Floyd agreed to interview the inmate. The inmate told Floyd he had stayed behind at a nearby apartment when five men went to buy drugs from Swain the night of his murder. When they returned, the inmate said, one man was raving about having killed someone.

Maurice Wilkins, the suspect-turned-state's witness, was among the men the inmate named, Floyd said. Another man named by the inmate was a suspect in the murder of Sonja Day, Swain's girlfriend. Jones had left the state before Day was killed, and Spruill was not considered a suspect.

Wilkins could not be located to

EDITOR'S NOTE

Staff writer Marti Maguire, who is working at The News & Observer this summer as an intern, began an inquiry into the case of LeRoy Spruill and Wallace Jones as a journalism graduate student at UNC-Chapel Hill. She and other students at UNC-CH and Duke University have investigated claims of innocence for the N.C. Center on Actual Innocence, a nonprofit organization not connected with the N.C. Actual Innocence Commission.

"I have a funny feeling that if we close the Swain murder," Floyd said, "the other one will open up."

But Floyd's investigation goes slowly as he works on other cases. "My primary responsibility is to the people of Plymouth," he said.

Nobody's job

A decade later, the officials who prosecuted Spruill and Jones have been succeeded by others more open to the possibility that the two are innocent. Edwards, the new DA, defended Spruill in the Swain murder. Sheriff James has known Spruill since grade school.

But each of the three lawmen — Edwards, Sheriff James and Chief Floyd — also works closely with someone connected to the original Swain murder prosecution. The two investigating officers and an assistant prosecutor who worked on the case are employed in the offices of Floyd, James and Edwards, who are reluctant to question their work.

"I am 100 percent for trying to make it right," James said. "At the same time, I don't want to not support the officers that did the original investigation. We need more facts."

Vosburgh, Jones' trial attorney, also has close ties with Edwards, who was the first Eagle Scout in Vosburgh's troop. The former scoutmaster said he thinks Edwards will act correctly as DA and go by the facts at hand.

"He's got new information about people who might have been involved," Vosburgh said, "but he doesn't have anybody who can tie it all together, and he's got to have that. It puts him in a hell of a spot."

It doesn't help that C[illegible]loyd and Sheriff James don't g[illegible] along.

"We don't see eye to eye," said Floyd, who is considering running against James for sheriff in 2006.

Though their offices are a block apart, the two haven't discussed the case. Their overlap[illegible] jurisdictions — and conflic[illegible] ambitions — breed turf wars. Floyd said they disagree about such things as whose office should make drug arrests in Plymouth and how to handle domestic-violence cases.

"If he knows something, I wish he would tell me," James said of Floyd. "We just don't communicate like we should."

Edwards said that if solid evidence emerges, such as a new witness, he would ask another district attorney or the state attorney general to initiate an independent review of the case.

He said he would also need new evidence to authorize testing of blood samples from the murder scene, which he believes are still kept in Washington County, against a DNA database of state prison inmates.

"We don't have the resources to go back and test every single case," Edwards said.

Edwards said he respects Floyd's pursuit of the case.

"Presupposing that these two men didn't do it, it's not just about getting them off the hook," the district attorney said. "It's also about getting the real killers."

Floyd agrees.

"If the person who committe[illegible] the crime is not incarcerated o[illegible] other charges, then he's still in th[illegible] community," he said. "Maybe no[illegible] our community, but somebody's.

Floyd said he thinks law en[illegible]forcers' duty to ensure fairnes[illegible] extends to closed cases.

"Not only is it our obligation t[illegible] put people away," he said, "it' just as equally our obligation t[illegible] straighten out mishaps. It's justice plain and simple."

Staff writer Marti Maguire can be reached at 932-2014

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From: Seth.H.Edwards@NCAOCISD
To: mmaguire@email.unc.edu
Cc: James.R.Vosburgh
Sent: Wednesday, 14 April 2004 1:55pm ET
Subject: Leroy Spruill/Wallace Jones

COPY

Marti Anne Maguire
107 Plant Road
Chapel Hill, NC 27514

Dear Ms. Maguire,

I am in receipt of your letter dated April 9, 2004. My goal is that justice be served in every case. If evidence exists that would exonerate either or both of these defendants, it should be brought to the attention of their attorneys and/or a Superior Court judge. I will not stand in the way of the "truth" coming out, even if we assume the truth has not been told in this matter (for now I am not conceding this point.)

Unfortunately, I do not feel it would be appropriate to honor your request at this time, because I believe the appropriate forum is the Superior Court of Washington County. Although there has been a great deal of "talk" about the innocence of the defendants, no real evidence has been presented to me to support these claims. I am sending a copy of your letter and this email to Jones' trial counsel, James R. Vosburgh.

Seth H. Edwards
District Attorney-2nd District
PO Drawer 1705
111 West 2nd Street
Washington, NC 27889
252.946.0141

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It is not entirely clear when the Center first opened this case, but there were interviews conducted between 2003 and 2008. The summaries here outline the pertinent interviews and forensic testing that added **new** information to what has already been outlined above.

Alternate Suspects

Jojo McNair: There are notes from an interview in the Center file related to Jojo McNair from November 10, 2006. In this interview, McNair recalled being with his brother Billy McNair, Dennis McNair, and Billy's girlfriend at Jojo McNair's house (also his mother's home) on the night the Victim was murdered. He recalled "somebody" calling his house but does not detail the call. After the phone call, Maurice Wilkins, Joseph Lynn and another unnamed male came to Jojo's house and those three individuals expressed a desire to go to the trailer park and find out who killed the Victim. (Center 1881-1882).

Billy McNair: McNair was interviewed by attorney David Rudolf on November 3, 2006. McNair provided that he was not involved, but was at his girlfriend's house the night of the murder. He heard about the murder when Maurice Wilkins called him and told him the Victim had been killed. He did not provide a time for this call. An hour after the call, Maurice Wilkins, Jojo McNair, Joseph Lynn, Howard Walker, David (last name unknown) and Jermaine (last name unknown) came to Billy McNair's girlfriend's house, but there was no discussion while they were there about the Victim's murder. (Center 1879-1880)

Avis Arnold: Arnold was interviewed and reported being with Billy McNair, Jojo McNair, Wilkins and Lynn on the night of the murder at the McNair brothers' home. He did not report McPhatter being present. He reported that the McNairs, Wilkins and Lynn all left him at the McNair

brothers' house and they left in Lynn's truck.[48] Both McNair brothers came back later, alone and Billy McNair was "all messed up" and said "Joseph Lynn did it to him." Sometime after the McNairs came back home, there was a phone call to the McNair house reporting the Victim's murder. After that phone call, Lynn and Wilkins came back to the McNair's house and mentioned that the Victim was deceased. (Center 1878).

Dana Maybin

There is an indication in the initial status report for the case that attorney Maynard Harrell had spoken to Dana Maybin "recently" and that she had recanted her testimony and agreed to speak out in order to clear Spruill and Jones.[49] (Center Status Report dated 11/21/2003). Maguire, a journalism student, spoke to Maybin on April 18, 2004 and provided that Maybin stated that "her testimony said everything she would say anyway" as well as that "she talked to so many people, she doesn't remember what she told these guys."[50] The Center also interviewed Dana Maybin on October 28, 2008. The reports from these interviews are provided here in full for review.

[48] Lynn's truck is blue in color and the initial investigation included a search of Lynn's truck with no items seized.

[49] In a December 13, 2017 affidavit for the Commission, Maynard Harrell stated that he does not recall telling students that Maybin had recanted her testimony and wanted to come forward on behalf of Spruill and Jones. Furthermore, the affidavit states that he could not recall whether he had contact with Maybin since Spruill and Jones were convicted. In her deposition with the Commission, Maybin also stated she had not had contact with defense attorneys since they were sentenced.

[50] Although it is not clear from the face of the interview itself if Maguire was the actual interviewer here, based on other information in the file it appears that she conducted this interview.

Dana Maybin, 314 Cleveland Pike Road, April 18, 2004

She didn't want to talk, and basically said her testimony said everything she would say anyway. She was visibly shaken. She wouldn't let me inside, and said she really had nothing else to say. She was flat-out defiant, a stand-up-for-herself attitude. This was in such contrast to everything else I had heard about her before (Doug saying she's scared, Floyd saying she wanted to help), it kind of caught me off guard. I tried to get as much out of her as I could, but she only answered a few questions.

She was wearing jeans and a sleeveless top. It had strawberries on it. She had a few tattoos (heart with spear and a rose), and was pretty muscular. She was clearly trying to intimidate me, and I think this was one of the reasons for her acting so defiant. When I asked if she was scared Robert would get out of jail. She said, "nothing that a double-barreled shotgun wouldn't fix."

"I served my time. I don't need to say anything else."

She said she had lost a baby over all this, that she was pregnant when they came around to question her, and the stress made her lose her baby.

She said she didn't tell the police anything until she was arrested. Why would she tell them anything? She wanted to be left alone. When they arrested her, she told them everything.

She said she had no outstanding warrants, that they had just arrested her in the murder. They did the whole interrogation thing, and told her she would take the rap for the murder if she didn't talk. "You know how they do." I told her the court documents say she had told them some information before then, but she said, "I don't remember telling them nothing. I don't see why I would."

She said she didn't trust Janice Spruill and Willie Williams, but they didn't mistreat her. They just acted how cops act, trying to get her to say something, and threatening to put her away if she didn't cooperate. They came and left a few times before they came back and arrested her.

When they arrested her, they brought Sherry Honea's statement. That was what they had on her. She read it when she got to jail, but she doesn't remember what it said.

I asked her about Harrell's statement, and she said she talked to so many people, she doesn't remember what she told these guys. I told her the basics, that she had said she didn't see them murder Swain, that it was a lie. She said she'd have to see what it was she said. When I showed her the statement, she refused to look at it.

She said Jones was crazy. He had burned her on her stomach (she showed me the scar), and that he tried to get her and Sherry to burn off their fingers so they couldn't get prints.

At one point, they told us we should watch out because someone would shoot us doing this (veiled threat).

She said she went to NC with Sherry, and that Sherry had ratted her out. She doesn't know where Sherry is, and hopes she is in prison. They haven't spoken since then, and she's still pretty mad about the whole thing.

It's very surprising that she signed the release. I phrased it as an alternative to talking to me, and she might have done it because of that. Maybe on some level she does want to help. Her boyfriend said he would never sign something like that.

Her boyfriend was very mistrustful of the law, and other folks in general. He says he keeps to himself and doesn't want anyone messing with him. He tried to tell us to leave, but we ignored him and he eventually started talking to us about other things, a lawsuit he was involved with mainly.

Without any prompting, they offered that they have no friends, which was kind of weird.

October 28, 2008
Interview of Dana Maybin
Living with mother – 135 Welcome Church Road, Westminister, SC
864-647-2054

Dana came out of the trailer and walked down the stairs as I pulled up. I told her who I was and gave her my card. She said she did want to talk, but I asked her to just give me a few minutes. She was in shorts and a t-shirt and it was cold. I gave her my coat.

I explained that I was investigating Leroy's innocence claim. We talked generally about the case. When I asked who was with her that night, she said "they were the only two with us." I asked who "us" was and she said Leroy's girlfriend was with them. She couldn't remember her name. Maybe Cheryl? (Note: this inconsistent with prior statements.)

Jones sent Nicole in to talk to her and threaten her to be quiet about what happened. Nicole was gypsy lady.

She says Leroy and Jones weren't in the house very long. Maybe 5 min. She heard shuffling and went in. She said the door was cracked and she pushed it open. She saw the three of them. "Swain was sitting on the ground leaning up against the coach and she thought he looked over at her." "Brandon was holding a knife, but maybe he had pulled it out of swain's neck." "I've thought about it and wondered if maybe they went in after someone beat swain and the other ones went out the back." "Maybe swain was beaten before they got there."

She had a heart attack during the investigation from an overdose and it impacted her memory. Pieces come and go, but she remembers exactly what she saw when she went up to the door (Note: which is different than what she testified to at trial). The door was only open a crack, but when she pushed it open she could see Swain leaning up against the couch.

Dana became much more willing to talk the longer we sent together. I think she will be willing to talk with me again. She is going to court nov 17th for meth. Her 18 yr. old daughter is pregnant. I will contact her after her meth trial and maybe we can talk again.

Birthday is today – October 28.

The Center interviewed Jackie Craddock on September 30, 2009. She indicated that she had been in jail with Dana Maybin and Nichole Mills. Craddock also stated that Maybin told her that her (Maybin's) boyfriend had killed the Victim and threatened her into framing Spruill and Jones. (Center B-55).

Spruill and Jones

The Center interviewed both Spruill and Jones. The documents outlining their interviews are provided in full below. Both men maintained their innocence and said that they were at Big Ed's Bar for the entire night with Dana Maybin. There are also notes from meetings with Spruill, which are also included below.

Spruill and Jones, 3/25/04

Stanley James came by, and he had been by before. Spruill doesn't trust him, and didn't tell him everything. This visit was no different. James said he was going to talk to Edwards to see if he'll help.

Sherry was trying to get out of trouble. They found her in Pea Ridge, hiding. She was dating a guy from Creswell, Robert Spruill.

Carl Stewart said he talked to Lynn Rogers.

LS was in Manteo for a while, and gave blood and hair samples to a Dare county deputy. He spent a weekend in the Washington County jail. He remembers being questioned by Varnell and Honeycutt.

When Jones was arrested, he spent the weekend in Greenville. On Monday morning, he was questioned by WW, JS and 4 SBI agents, including Varnell, who was also with them in TN.

Wallace took the name Robert Solis when he left Texas for Mexico. Solis had married his sister's daughter, and have him his birth certificate and social security card when Wallace went to Mexico. His grandmother lived in Chihuahua.

Texas: assault on a police officer in Galveston. Photo album they found in his house had picture of two girls who were killed in his hometown. They were shot at a convenience store.

He served a year for the bicycle accident, attempted robbery for $1. He said the knife was a cheap Wal-Mart knife and couldn't have hurt him anyway. **[Where was this?]**

The warrant out on Jones was for probation violation for 10 charges in TN: bad checks, theft of copper wire, breaking and entering **[what did he steal?],** transporting explosives (dynamite), arson (he was shooting a rifle at the dump and some garbage caught on fire; he served a year for this one.)

He was planning to leave Roper before the cops were looking for him. He was putting things into the pumphouse, and when the cops came looking for him, he left. He went to TN for a week or two to get money, then went to **Arcadia, FL.** He remembers being there September 27, 1994.

His dad was a cop, and was killed by another cop in 1972.

Jones didn't want to talk to Arnold, because he didn't want people to say he had given him any information about the crime. He paid Stewart to talk to him, but he never did.

Wallace had never been to Swain's. LeRoy had, but probably not for two months before the murder. Frank worked at the Red Apple.

Something about Griffin and a motion for discovery. Jack had talked to him about it.

LeRoy: "I never asked anyone for nothing more than to do what's right."

James per LeRoy: He kept Matthew for a while. James told LeRoy, "You're just trying too damned hard."

WBJ: "I've gotta have some kind of help somehow or I'm going to die in here."

Jimison left and Echols and Carter took over his case at Prisoner Legal Services. Things really went downhill at that point.

LS said he'll file an MAR if clemency is denied. **Mary Lou Rogers,** of parole office in Raleigh, said they're going to make a decision on it. Clemency board talked to Vosburgh.

Drugs: LS said he did do crack, but not much. He said he worked a lot. WBJ did smoke around there.

Margie Perry's mother was trying to get information from him, being all friendly with him at Ed's before he was arrested. She was going with Margie's mom at the time of the trial.

Rebecca has two kids and lived across the street from LS. He didn't see her before he left that night, but went by later that night. Around 1 a.m., he went to Eugene Basnight's, then to Rebecca's after he took Smarty home. He doesn't remember Stacy being at the house that night.

WBJ: Vosburgh told him there was no reason to take the stand. He said, "We've got them beat. I was in a stunned state. I did what he told me."

Seth said LR couldn't testify. He remembers a motion for discovery in Williamston; didn't hear anything before the trial.

WBJ: He didn't beat Dana. He thinks she was jealous because she couldn't come to his house, and thought he was messing with the gypsy girls. He tried to mess with Sherry, and he gave Sam Champ a ring Dana had given him. When Dana asked for it back, she was pissed. She wrote him a lot of crazy letters. He said they didn't fight. "She didn't mean enough to me for us to brawl." They dated from around Thanksgiving until January. Sherry was a 'midnight rendevous' thing. "I didn't treat her like a queen or nothing, but I never hurt the girl."

He saw Jo Jo McNair in the Washington County jail before he was convicted, spring or summer.

LS: She said that son of a bitch will pay for what he done to me.

Offers

LeRoy said he was offered 10 instead of 20 years to say Jones did it by JS, WW, Inscoe, Varnell and Honeycutt. He also said he was offered a deal as soon as he was arrested, before Dana had gotten her deal.

Jones said Norton offered him 20 instead of 40 years during deliberations if he would testify against LeRoy.

LeRoy had a Lincoln Continental. He totaled the car in a canal when he was drunk. He was thrown out of the car and left the scene. Stacy had followed him and she took him home. The couldn't put nothing on him. The law got him three days later, but he said he'd hit a deer.

Janice came to the house once when Dana and Wallace were there. Another time, Stacy was there and they followed her to his house because she was driving his car. He was standing in the hedging. They took him to the hospital and he gave them blood.

When it first happened it was a joke. "It turned from a joke into a nightmare."

LeRoy and blade story? Roofing Peale's house.

WBJ: He kept saying everyone could testify for him.

LS: Stripped him looking for bruises (Varnell).

The Saturday night before he left, cops came to Ed's looking for Sherry. They spoke to him and told him not to leave, that he shouldn't be driving. There was a big fight, with Billy Ray Davis, Sherry, Betsy, Robert Spruill. Sherry hit Robert with something. Ed kicked them out. Betsy asked for the phone and called the sheriff. The next night they came in and called Ed to the back. Betsy was working with Janice at the time.

Interview with Wallace Brandon Jones
Hyde Correctional Institution, 10/10/03
Interviewed by Meaghan Hannan, John Kuka and Marti Maguire, UNC Chapel Hill

Wallace Brandon Jones: Impressions
Jones' behavior was quite different than Spruill's. While he was less communicative, and at times needed prompting to answer questions, he was far more discouraged and outraged by his predicament. He was despondent and soft-spoken, and sat slightly hunched over in his chair. Near the end of the interview, he appeared to be on the verge of tears. Clearly the fact that Spruill has family and many other supporters just a few miles away has kept Spruill more optimistic. Jones complained that while many people come to speak with Spruill, no one seems to visit him or be concerned with his incarceration.

Regarding the "Interviewing for Innocence" suggestions, he argued both actual innocence and injustice right away. His nuanced explanation of his situation was both compelling and believable: through his previous arrests, he had come to the understanding that "If you're guilty, you plea. If not, you don't," a tactic that he said failed him this time. His attitude toward Maybin did show objectivity, as he seemed confused by her claim that she implicated him because she hated him, but he did not show malice toward her. He conceded that his behavior toward women offended people and might have affected his case, as he had had relationships with several of the women who testified against him.

He was far less forthcoming than Spruill with alternate theories, which he attributed to his relative ignorance of the area, since he had only been there a month before the murder, and did not spend even a whole year there before he was put in jail. He conceded his faults readily, admitting to being arrested several times (though not for violent crimes), drinking heavily and doing drugs most of his life, and having sexual relations, or trying to, with numerous women in the Plymouth area. Much of this commentary on this behavior was followed with "I ain't gonna tell a lie," showing that he realized his conduct might be judged to be damning. He did, however, claim that he was not the type of person would could have committed this crime. He could also be considered guilty of over-exclusion, which as in Spruill's case could be due to his alibi. He also exhibited a tendency to place the blame elsewhere. The police, his lawyers, lying witnesses and cowardly neighbors took more blame than he did for his situation. He conveyed a feeling that everyone was against him in this, and he clearly harbored a deep disdain for law enforcement even before his recent conviction. He also seemed to understand little of the legal maneuverings of his case, and therefore mistrusted his lawyers. Particularly troubling is that he also claimed he wanted to testify at trial, while Vosburgh said he refused to testify because he was scared of the cross-examination. This is much harder to explain than Spruill's similar claim. Other minor inconsistencies stemmed from his attempts to explain various facts.

Inconsistencies (Between their interview responses and Dana Maybin, March 1995)

- Going to Ed's bar: Spruill said Jones had been at his house beforehand. Jones said he met them as they were walking. Both agreed Jones had been at work,

while Spruill and Maybin drank at Spruill's house. (Maybin said she and Spruill met Jones at the bar.)

- Timing of leaving bar: Spruill said midnight, while Jones said at closing, 2 a.m.
- People at house after bar: Spruill said Smarty stayed over. Jones said lots of people in were in the truck, but Smarty went home. (Maybin said it was the three of them, plus Smarty Spruill and Stacy Allen Willoughby.)
- Spruill said Margie Perry was not there that night. (Ed Champ said this, too.) Jones said she was probably there, and he thinks he danced with her.
- Spruill said Rogers was fired because she stole from the bar. Jones said she was fired because she had minors in the bar.
- How could Jones have forgotten they ate salmon cakes that night? He said, "Maybe it was mackerel." It is understandable to forget this detail, but this came up at trial, as well, as Maybin mentioned salmon cakes specifically.
- Jones claimed he did not do drugs because "money was tight," then goes on to say he had all the money he needed.
- There are consistencies with Maybin and Rogers' testimony at trial about dropping the beer, throwing a sign at Rogers, who closed the bar, and other details of going home the night of the murder.
- Spruill said he did not buy drugs the day of the murder because he was not doing drugs. He had quit doing drugs and had met Debbie McGowan. But he and McGowan both said they met between the murder and his arrest.

Wallace Brandon Jones: Interview

Maguire: I know you've probably done this before…explain situation.

Kuka: Do you have any questions for us…?

Jones: Not really…I've been telling the truth going on ten years, and I'm still in prison. [Maguire comment on whether it will help to tell the story again.] I hope it does…I've been told this and that before, and I'm still sitting here. Every lawyer I've had said we're going to do this and that, but when it comes time to get it done, they crash. I don't understand that part. I'm just hoping….

Maguire: Start from beginning….where you came from, where you met people involved…

Jones: I came to NC with some migrant workers, and I stayed in NC two months before I came to Plymouth. I came from Florida.

Kuka: What were you doing in FL?

Jones: Working.

Kuka: Farming?

Jones: That, construction. I was in Texas before that, and Alabama.

Hannan: Did you come with Dana Maybin then?

[No, he met her here, in Plymouth. Established that he knew her as Nikki, but now he calls her Dana. He came to NC with Mexican guys from Mexico to work. He's from TN. Explains he had done prison time in TN, then got in a fight and went to Texas, then got in trouble there for talking to a police officer ("That was nothing. I should have stayed there and faced the music." Then went to Mexico with a note in Spanish, where he met the Mexicans, who took care of him.]

Jones: In December, that when we got here...we went to Roper, Cresville area. [Mexicans were leaving, but he had met the Champs and decided to stay.]

Maguire: How'd you meet the Champs?

Jones: They had rented a house to some of the Mexicans guys with me, and I met them through them. We talked a little bit here and there. I'd only done one job with them and I told them I was going to leave. It was in October, and I was going to go to TN and turn myself in...that was my plan. They said "don't go to TN, stay here and we'll help you out." I could have gone, but I stayed. [Got to NC in August of 1993. Left TN in 1991. In between was in TX, Mexico, FL]

Maguire: How'd you meet Dana?

Jones: [Was working at Ed's bar and she came in.] The sad thing about it is I had a girlfriend, who had come from TX with me. We'd been traveling and stuff, but I wanted to whore around a little so I sent her to my mamma's house. It's the biggest mistake I ever made. I didn't have nothing, nothing for Dana really, just having fun and that was it, but she took it more seriously than I thought she did. Like a fatal attraction, I don't know. I don't understand how it all came about, to tell you the truth.
[Dated just a few months off and off, he got to Roper in Sept. or Oct., met her about the week before Thanksgiving, about the same time he met LeRoy (met her one night after him).]

Maguire: Did you break up before or after the murder?

Jones: I never really figured we was together. She was living with LeRoy. I wouldn't even let her come to my apartment. The Champs were real restrictive about that. They didn't like me messing with people like her...she was just a barroom person, you know. [Ask about reputation.] She was new there. [Asked why Champs didn't want her around.] They didn't want me around nobody. [Took him in like a son?] Yes, they were good to me.

Kuka: LeRoy said he was going through a wild time in his life. Were you part of that?

Jones: Somewhat.

Kuka: Were you doing drugs at the time?

Jones: Not at that time. I drank pretty much every other day, probably every day. [Drugs?] Not that time when I was with him, but afterwards when I came back, I got some drugs, yeah. I was in Fayetteville then, though. When I was with LeRoy, at the time, work was slow and money was tight, and alcohol was about the best thing you could get. [Staying with the Champs, finances?] A place to stay, no bills, nothing. They bought me breakfast, lunch, dinner, anything I wanted, and at the time I had a lot of money. I could go out there and get a brand new Mustang, whatever…they never questioned me about money. They trusted me and I trusted them. [He was 20 or 21 at the time, between the ages of Ed's kids.]

Maguire: Drugs? Not doing them? [No.]… Was it a wild time in your life?

Jones: I ain't gonna lie to you. It wasn't a wild time in my life. It was standard. I ain't gonna tell you no lie. I was out there.

Maguire: Drugs during your travels?

Jones: I'd done just about everything. Almost, except for needles and crazy stuff like that.

Maguire: Went to Folly Road in Roper?

Jones: Never.

Maguire: LeRoy said he had.

Jones: He had. I never even knew Frank Swain. The only time I seen him was the picture the SBI showed me, and that's the truth.

K: So you never went down to Folly Road.

J: I'd been to Folly Road, but I didn't know it was Folly Road. The Champs had some family down there, and there was this girl I'd mess with now and then…Margie Perry.

H: Related to Champs or Spruills? No.

J: I never even went in their house. I went down there one time to pick up a truck with Ed for work, but I didn't know it was Folly Road. I didn't know till later. People kept saying you know where Margie Perry lives? I said yeah. Well that's Folly Road. I didn't know it was Folly Road. I been down to her house twice, maybe three times. The only two people I knew…was to pick up the truck at Nellie's house, and to Margie's.

K: We met Ed. Wants to help.

M: Margie Perry at bar that night?

J: I think she was there. I believe she was there. There were a lot of people there, a lot of people I didn't know. I just drank there and danced with a bunch of people that I knew. [Knew Margie then? Yes. Did you dance with her?] I think so.

M: Talking about how Spruill knew so many people who were there, but Jones didn't.

J: Margie was the only one in court who told halfway the truth. She didn't tell all the truth. [What was the half-truth?] She said she seen blood on my pants, and she did, but it wasn't that night. I know it wasn't that night, because the pants I had on…I went to a …I'd left NC right after….I think it was January or February…to see my family. And I came back and I went shopping and bought some new clothes. And before I went to the bar one night, I was coming down the steps of the apartment at the Champs house, and the bottom level thing, it fell through and I cut my leg. So I went back up to get dressed or re-dressed it but I didn't have nothing to put on it so I put some tape and some toilet paper on it, and I went back to the bar. It was February or March, and I was dancing with some girl….she was alright, she had some love handles on her….[he grabbed them, she kicked him, made it bleed again.] My lawyers talked to her and [Margie Perry] didn't remember nothing, how she got to the bar, when she left the bar or nothing. A day or two before court she remembered this. But her mother was real good friends with the deputy, Janice Spruill, and that's how it came about. No, she told half the truth, but it wasn't that night. I have to give her some credit…but it just wasn't that night. I didn't have those pants on that night because I remember.

H: Do you remember what you were wearing?

J: Uh huh. A pair of white tight pants.

K: The night of the murder?

J: Oh no, I don't remember that. I remember the other because I couldn't get the blood out of 'em…I had to get Ed to get it out for me.

M: Do you think she just mixed it up in her memory, or lied on purpose?

J: Oh, I know she mixed it up. I know for a fact.

M: Could she have seen the pants in the bar?

J: It was dark. But it wasn't that big of a spot. It was just a scratch. But if she seen it, it was that night. Now I don't know if she seen it that night, but I remember falling down those steps and I remember cutting my leg and I believe she was there at the bar that night. Me and her had a little thing for a little bit.

[H: When? Was a few months before the murder. Back to when he came. His relationship was "on and off" with Maybin. To day of murder: Do you remember waking up that day?]

J: Oh yeah. That murder was a big thing in that town. It was just a little bitty town…that day, I know I worked all day [helped Ed pump septic tanks, all day job, and he gave him half the wages, about $150 or $200, it was a Saturday. He only took half of what he was owed because he didn't want to spend all his money on beer. Beers at Ed's bar were a quarter or 75 cents, but bottled beers were more, and that's what he drank. He got done about dark, about 4:30 or 5:00, showered got dressed and went to LeRoy's house. Spruill and Maybin were pretty buzzed, had been drinking. They were just coming out of the house when he got there. He doesn't think there was anyone else there. They stopped by someone's house (preacher, LeRoy knew him), and they gave him a ride. Turned out to be Hurst. Got to bar about 5:30 or 6 p.m.] I'm not really sure on times, you know. [They were there all night. Band hadn't gotten there when they got there. Not many people when they got there. Said he thinks signed in Ed's book, but he's not sure if it was there that night.]

K: Drinking beer?

J: And whiskey. They had the whiskey. I didn't have nothing with me.

M: Was it a normal thing to hang out at LeRoy's?

J: No, not really. I went over there to talk…I knew he'd be drinking or something. I had just gotten off work. [He was just drinking at the bar, having some whiskey.]

K: But you did have some cash….?

J: I believe it was $150. I went to him the next day, and I got some more money. I ain't positive now….but it was some money. Plus my girlfriend in TN, she would send me a check every week. [How many beers did you have?] A bunch. [How many?] A case, case and half. They had a table in the front of the bar for the family members, and I'd go back and forth and get beers for them.

H: Relationship with Lynn Rogers?

J: I really didn't have a relationship with her.[Knew her?] Yeah, I knew her so so. [Would know her by name, worked at bar with her.]

H: She said you asked about a special on beer.

J: Yeah, she lied. [How?] Never happened. A lot of times I would buy a case of beer and put them in the cooler for myself….[asking about $5, price of beer, buying beers for others…was there some reason you asked for a deal, or did she just lie?] She just flat out

lied. I wouldn't even go to that bar with $5. I think she just said what she said because her boyfriend had got in trouble....an investigator had talked to her about it, and she didn't know nothing, but her boyfriend got in trouble. He shot somebody, and next thing you know, she's saying she heard me tell LeRoy, "I can't believe we got away with offing some...you know," and that's a lie. The only time I ever said anything to LeRoy Spruill about that murder was we come to that bar and the police had called again...everybody was talking about it...I told him, I said don't worry about it, if it comes down to it I'll testify for you. I was with you. And I never should have said that. And that's the only time she could have ever heard me say anything about that man getting killed. [This was months after the murder.]

H: Why did people think LeRoy did it?

J: I don't know. Let me tell you, the whole time they questioned him they never said a word to me. Never. They never said nothing.

H: Why you?

J: I guess cuz I was using a fake name, running across states. I don't know. I wish I knew.

K: Back to night at bar...what time did you leave?

J: [About 30 minutes or less before the bar closed (2 a.m.), he bought 2 six packs of bottled beer. Walked with Maybin to Spruill's house; they were arguing and Spruill and Champ stopped to see if they wanted a ride. Some of the beer busted in the road and he was mad. Smarty was in the truck with lots of other people, all drunk, Ed was taking them home. Spruill cooked "sweet potatoes, something I'd never eaten in my life, mackerel or something, that's about it." Stayed there that night with Maybin. They went right to bed after they ate. Smarty was there, but went home; he wasn't there when they woke up.]

M: Back to Rogers. Who was the boyfriend who was in trouble?

J: Michael, Michael Bell. I couldn't believe when she got on the stand and said what she said. It was a shock. [This is why he never took the stand.]

K: Ever get in an argument with her?

J: [Knows Ed fired her for serving under age people at a bar. He wasn't there. Doesn't think Perry had anything against him either. Maybin he knew was mad. He knew there was something wrong when he checked her license at the bar. He didn't look at the name, just the age. She was over 21. Asked about other people at the bar: Connie Olliver and her daughter, use to live behind the bar, are pissed at him, too, because he had a thing with her mom...Angela and Crystal Martinez, dad was police officer in Plymouth. Lawyer called them and they said they didn't know anything. Says there are lots of problems in that town.]

I've been in trouble, and if I done it, I'd take a plea bargain, but I ain't crazy. Cuz I didn't do it and I wouldn't. I ain't never been the kind that would kill and rob a man for a little bit of money, and I was with Ed Champ and had as much money as I wanted. It doesn't make so sense...I even had a bank account...I ain't going to kill no man and rob him for the money.

H: Asking about burned car....

J: [Dana said they (He and Spruill) did it, but this was a lie. He saw it after it was supposed to be burned, and it looked okay. He doesn't know when it was supposed to have burned or anything else about it. Thinks it was January or February. Other people who were there: Larry Comstock, but he denied being there. Other people drinking outside with them? No, just three of them, or not all three, he wasn't always there. Guy in a van came by and talked to Spruill and Maybin, a man named Jones. He also said he knew nothing. Lots of people said they knew nothing, they didn't want to get involved. Deputy involved in case (J. Spruill), was involved in drugs with Bo Jack. "It may sound crazy, but I had my lawyer go talk to Bo Jack." Bo Jack "all but admitted to Marcus Jimison about Janice. Marcus told me he said 'They take care of their own in Plymouth.'" Main suspect was Wilkins, but blood run over by police car. "I don't know how that happened, but that's what they say happened." Bo Jack is father of Wilkins. Bo Jack is in Raleigh testifying at a capital trial. Talked with H: about appeals. He said Echols was a bad lawyer. Vosburgh "thought it was a slam dunk." They had discussion of conflict of interest and "after that he wasn't worth nothing." Asking him about details of trial. Took blood?]

Look, they took blood from me so many times, I told them you have to get a court order next time. They fingerprinted me very week that I was in that county jail, every week...they took palm prints, knuckle prints...I took lie detector tests for them...I did everything they wanted me to do. [Wilkins' testimony?] He said he saw LeRoy's daddy's truck...he lied. Vosburgh got on him about that cut, but he said he had cut it that day and had it wrapped up so the jury couldn't see the cut.

M: Did you ever carry a knife?

J: Yeah, sure, a couple of times. [Regularly?] No, I was just out to have a good time. I'd carry a knife if I was going hunting...

K: Heard about murder?

J: Next day, it was on the news, in the newspaper.

M: Did you think of who did it?

J: Who cares? Everyone was talking about it, but I didn't care. [Any theory about it?]

No… didn't know about killers, murderers, robbers, stuff like that. [Joking about Champs not going down to Folly Road much.]

M: Rumors about Spruill doing it?

J: I really heard about it from Big Ed, from the police talking to Ed.

K: Went to TN, January of February. [Yes.] When you left, did you know LeRoy was suspected? [Knew he was questioned.]

H: Were you questioned before you left?

J: No, you see I left and came back. I wasn't gone but two weeks. [Why LeRoy?] I don't know. [When he left Maybin was still in town.] I want to say I seen her one more time, I think she cussed me out, and I never seen her again. Last time I seen her was at trial. [Had questioned Champ?] Yeah, but they never said nothing to me. I went to visit and came back. [Girlfriend was still in TN. He took a bus. Went back to live with Champs, worked for Ed.] In April, it was on a Saturday night, they came to Ed's bar looking for Dana's friend Sherri (Hornea), and I talked to them, they told me I shouldn't be driving that night. That was supposed to be my last night. I already had my stuff packed to go back. [The day he was leaving, the police came to talk to him. A guy came to get the key to the trailer. When it came around the police were there to talk to him, he was worried, so he went to a friend's house, then left for TN (and FL for a while). He avoided the police "like the plague." He was putting stuff in the warehouse (not hiding), but when he knew they were there, he left. He didn't know what they wanted, but he wanted to leave. Kevin told him they wanted to talk, but he knew he would go to jail because of warrant in TN. Didn't he think if LeRoy was questioned, it would be about that? "It never dawned on me. They never said a word to me. They'd seen me with 'em, and there was nothing. I would have taken all my stuff the first time, I ain't lyin'." Kevin Furlough said that's what they wanted, and he left. Furlough was going to take him to the bus station, but instead he took him to Nashville.]

K & H: In TN couple of weeks, talk to Champ?

J: No. Nobody. [Ever back in touch with Champ?] No. [Ever in touch with LeRoy?] No. [Still hanging out with LeRoy between murder in jail?] No, we weren't really friends, to tell you the truth. We was alright. We went out drinking. I didn't know anyone else. He was one of the only people I met outside of the Champ family and they didn't party. [On second trip, he was in FL until June or July, summer of '94, met girl, and had to leave, kids called him dad, then he went back home in September. Stayed with parents.] I was gonna come back to NC. I didn't think it was a big thing. It would have blown over. They would have found somebody. I never thought they was after me. I just thought there was a warrant. If I'd have known they were after me for that, I wouldn't have gone to my mamma's house… [They arrested him in December. Mom wanted him to stay until Christmas. They found him in the cellar. He could have gone, but it was cold and he figured he "hadn't done nothin'," thought they were coming about warrant for parole

violation, got under the house and stayed, and they were there for three hours before they found him. TN police told him he was going to jail, and when he got there they said it was first-degree murder in NC.] I said you're crazy, you better check that again. [They said they're dropping charges in TN and extradite him to NC, and he signed the papers: "Let me get the paper. It's just a free ride to NC and when I get there they'll know I ain't done it. But that ain't what happened. I could have fought it in court, the extradition. It would have prolonged it." Brought him to NC the next day, didn't question him in TN. Asked to talk to sheriff, who he knew, but he hadn't seen the warrant and didn't know anything. "I told them, I didn't kill nobody, or rob nobody, I told them everything I knew. Everything I told them. I told them I'd take truth serum for them, a lie detector, anything they got, hypnosis, cuz I knew I didn't kill nobody. It ain't been nice. It ain't been nice." Came back and saw Skinner, and he said they didn't think they had killed him, they already knew he wasn't the man. Then they appointed Vosburgh, and he hardly saw Skinner after that. "Skinner, I don't know how he got a law license. When we went to court, they thought he was the defendant and I was the lawyer, cuz of the way he was dressed. I couldn't believe it." Vosburgh handled it, and saw him on weekends. (How was he in touch with Tyndall?) Year ago, lawyer came to see him and said he'd file clemency, and said he'd work for travel expense, $2500. (Vosburgh had sent him.) Two weeks later, he had to drop the case to go to ministry, passed it to Tyndall. Jimison left for another job, Echols took over. Wrote UNC and Duke, sent big packets. We explained how we got there.]

M: Back to jail. How, when did you find out about charges, from your lawyer?

J: Before I got my lawyer they gave me a polygraph. I stayed over there from seven o'clock in the morning till 12 o'clock at night. [H: Who? SBI. Before he had a lawyer? Yes.] I passed it the man told me. He took it three or six times, back to back, back to back. Then he came back and said "You're not the man we're looking for." And I knew right there in my head, I'm going home. I said, "You need to tell these morons out here that." That's what I told him. I said "I'm sick of this." Then some more guys came and they started doing good cop bad cop role, you know this and that, you missed your own name, and I said the guy had just told me I passed it. I know I ain't failed nothing. But they never told Vosburgh they gave me a lie detector test, but I know I did. I can tell you the room I was in. I can tell you what colors the walls was, had white carpet walls, had a two-way mirror, had a camera. Had a machine sitting on a big long desk like this. I know the whole deal.

H: Do you know who took you out there?

J: Janice Spruill and Willie Williams, from the sheriff's department. [H: Told Vosburgh you hadn't taken one? Yes. H: says we have Spruill's test, but not his. Confirmed that he met Vosburgh after this, told him about test, but sheriff's office denied it took place. He said Vosburgh tried to get record of test, but couldn't. He doesn't remember who did the test.] I saw so many officers that day and that night, I don't remember. [Questioned again? No.] I went to court for a preliminary hearing or something and they appointed a lawyer. I got Skinner and then a few weeks later I got Vosburgh. [Not a public defender,

a private lawyer appointed to his case. Skinner was a court-appointed lawyer. "He wasn't no lawyer." H: Was Vosburgh any good?] Yeah, decent until the judge got on his ass a few times, then he clammed up…I told him I need to take the stand. He said they're going to bring up your past, and I said I don't care. I ain't done nothing. I told him, you know, if I've done something, I'll plead guilty to it. And I will, but I didn't do it…[Confirm that he wanted to take the stand, but Vosburgh said no M: Tell us about offers from prosecution.] They offered me…when I took the test over in Greenville…see, I wasn't the killer, when this came out, when I was in Greenville, I wasn't the killer. LeRoy was the killer. They told me this. They said all I gotta do is sign a paper and they brought the paper in there…I don't remember all it said…They said I was there. They said they knew I wasn't the killer, and they kept on all day and all day, and I told 'em, I'm not going to tell that man killed somebody, and he ain't killed nobody…I couldn't live with myself…I raise hell and I party, but I couldn't live with myself doing that. Then about 11 o'clock that night, they said LeRoy ain't the killer no more, you are. I said okay.

H: Did they ever say LeRoy had said you were there? LeRoy said you were the killer?

J: Oh yeah, you know how they do the good cop bad cop thing. Yeah. But I knew he hadn't. I knew he wasn't gonna tell a lie on me. Even if he had, I was gonna beat it cuz it's a lie. I did have a little faith in the criminal justice system. I'm serious. I know if you've done something, you done it. Go in there, do you little plea bargain, do your time and get out. They ain't gonna just put nothing on you you ain't done. I know better than that now.

M: So they were saying you were an accomplice, you held him down?

J: They didn't say that. They said they knew I was there when it happened, that he did it, this and that. They showed me some pictures that made me sick. They showed me one fingerprint like this big on a…they said this is your print. I said damned if that's my print. I ain't never been there. I know it ain't mine. That picture disappeared too of course. I told Vosburgh I knew they had it…[Spruill and Williams?] Yes, ma'am, them and some SBI guys, big pictures. [Tell you anything else about crime? No, just that he did it.] I told them I didn't do it. I ain't gonna lie, I was real emotional with 'em. They even had me crying. I ain't never seen nothing like that in my life, not even in the movies. It was a pretty gruesome sight. And I know I hadn't been involved in that, I know…I never seen nothing like that…I told them what do you want me to do? Truth serum? Anything…[Then it went to you as the killer?] Yeah, from him to me. He was the killer, now I'm the killer. [Did they mention Dana?] No, never heard a word about her.

K: First time you heard about Dana?

J: When I got my lawyers.

H: Why did they say you did it?

J: For money and dope.

H: What else did they say they had on you?

J: It's been a long time…I think that's all they said. Statements. All these people saying this and that. They didn't know Lynn Rogers was at that bar that night. I told them she was there. I told them Margie Perry was there. Everybody I could think of, I told them. You can read the report. I said these people love me down there. And pretty much they did. Pretty much those people liked me, except for a few girls…I told them everything I knew…I cooperated fully, 100 percent, everything I knew, anything.

M: They told Vosburgh this never happened.

J: Yeah, it never happened. The lie detector never happened. They questioned me from the time I left…[inaudible]

M: Is there anything else specific you told them? [No, just what he told us.]

J: I didn't know what to tell them. I wasn't going to lie…say yeah, I was there. Even if I had done it, I wouldn't have told them. I ain't crazy. But I would have taken that plea bargain. I ain't gonna tell you no lie.

M: I'm sure it was an enticing offer. Why not take it?

J: Hell yeah…because I didn't do it. I wasn't going to give my life to them. If you're going to kill me, you're going to take it. If you're going to put me in prison for something I didn't do, you're gonna do it. I'm not gonna do it.

H: Were you sure LeRoy didn't do it?

J: Yeah, I'd roll the dice on it.

H: But did you know he didn't do it or just thought so because he's a nice guy?

J: There ain't no way. I didn't even know him good enough to know he's a nice guy. But I know there wasn't no way. There just wasn't no way. And I rolled the dice on 'em. I know if you do something, you're going to jail. If you didn't, you're not.

H: Any theories on who did do it?

J: Maurice Wilkins, from what I've heard. [He said sheriff and others had come to talk to Spruill, but haven't spoken to him. He hears from Harrell about the new investigation, said they've spoken to his mother and said they're turning something over to the attorney general's office. He has not heard from Maybin.] I don't understand what's going on. They're doing something but they're not telling me. My lawyer, I told him about it, but he said they haven't told him about it either. [He's frustrated with Tyndall because he

gave him money for nothing, and doesn't have any more money. Vosburgh offered to pay him to see Maybin.]

M: When did you first hear of Dana's testimony?

J: Vosburgh done told me. I couldn't believe it. I didn't know if she was smoking crack or drunk, or what she was doing…

M: Did she do drugs?

J: She took pills, I know for a fact. [Spent time on Folly Road or buy drugs from Swain?] Not that I know of. She was as new there as I was. I know she did some pills. [Prescription pills or recreational.] Probably the second one. I don't know, I didn't take 'em.

M: Do you know what her original story was? She changed it…

J: She changed it so many times. I don't know how they let her on the stand. Where I'm from in TN, if you do that, they're doing to send your ass to the nuthouse.

M: But she said it was….

J: [First she said it was Curtis Furlough, then all three of them, then just he and Spruill.] I don't understand, how can you send a man to prison…? My parole date is 2021. I'm never getting out of here. I don't know how they can do that to me.

K: The knife? They never found it.

J: No, there was no weapon found.

H: Tire iron linked to you or Spruill?

J: Nope.

H: But they found it?

J: Yeah, in the house. [Talk of how they tested the truck. He wanted them to test the truck or anything else. They took his hair from his head and his arms, and his blood, but he never heard of results from tests. He did not know Maurice Wilkins, only knew one black person, who worked for Big Ed.]

K: Anything else you want to tell us.

J: [Jack Spruill told Spruill that a woman on the jury was forced to agree to a guilty verdict. She is a local, white woman. (Carolyn Spruill) Maurice Wilkins' cousin was also on jury. He told Skinner to get him off jury, but Skinner said, "Don't worry about it. He

knows the street talk. He knows you didn't do it." (Idea was that he would know, based on talk around the neighborhood, that Jones didn't do it.) Sonja Day's murder is still unsolved. He did not know Day, and as far as he knows was never a suspect. Heard of another unsolved murder (Rosa Brooks). Said he's friends with Spruill now.] I'm hoping I get to stay here after y'all leave. I don't know if they're going to separate us or not. I don't know. They were acting funny about it. Maybe not, though.

[Discussion of legal options, strength and weakness of his appeals, whether Maybin has anything to gain from claiming she's innocent now. Jones asked how we got involved, and Kuka explains. Jones said Tyndall claims to have gotten us involved. We asked if he knew of anyone else to talk to, or if he knew some of the people who Spruill gave us to contact. He gives us his mother's name and number.]

A lot of people just don't want to get involved. I don't know how they sleep at night.

[He did not know Janice Spruill prior to his arrest. He said he paid Carl Stewart $1,000 to get a statement from Arnold, but he never got one. The new county sheriff, Stanley James, found a bunch of letters about the case in the old sheriff's office. Prisoner Legal Services tried to get these to use in court, but he said he had turned them over to Willie Williams.]

Interview with LeRoy Spruill
Hyde Correctional Institution, 10/10/03
Interviewed by Meaghan Hannan, John Kuka and Marti Maguire, UNC Chapel Hill

LeRoy Spruill: Impressions
Spruill was clearly excited to see us. It was apparent he was heartened to have more support in his case for innocence, and toward the end of the interview he asked us several questions regarding the nature of our class investigation and our plans for the case. He sat up straight, asked us to excuse his long beard, and was literally at the edge of his seat for much of the time. We were all struck by how intelligent and well spoken he was, and he had clearly given much thought to alternate theories of the killing. He was also heartened by recent developments on the case due to the efforts of John Floyd, but was frustrated that the various efforts on his behalf, which he seemed to honestly believe would end in his release, were taking so long.

Following the suggestions for "Interviewing for Innocence," Spruill had many of the characteristics of an innocent man. He argued absolute innocence and made allowances for Maybin, who he said lied out of understandable fear. He explained in detail all the evidence we brought up and theorized extensively on the actual events of the murder. While overall upbeat, he was clearly outraged by the behavior of Janice Spruill, as well as his years of incarceration despite the many people who protest his innocence. He exhibited no signs of projection or lying by referral. He did, at times, argue good character, but mainly in reference to the fact that they prosecuted Jones first, whose character was more in doubt, and he was candid in admitting his use of drugs and alcohol. Over-exclusion could be argued, but the "I was nowhere near the crime" claim is central to the story he and Jones have always told.

Among his most troubling statements was that he wanted to testify on behalf of Jones, as Vosburgh claims he refused to testify. It is likely that Spruill's lawyer strongly advised him not to testify, which Spruill interpreted as not being "allowed" to testify. Other than that, several contradictions appeared between his account of events and Jones' (see "Contradictions" below), albeit largely minor details that could be explained by the length of time that had passed. Considering how much time they have spent together at Hyde, however, one might suspect they had discussed that a "perfect story" between two drunk men would be unbelievable. Jones' statement that they ate "mackerel or something" the night of the murder also gave us this impression.

Inconsistencies (Between their interview responses and Dana Maybin, March 1995)

- Going to Ed's bar: Spruill said Jones had been at his house beforehand. uones said he met them as they were walking. Both agreed Jones had been at work, while Spruill and Maybin drank at Spruill's house. (Maybin said she and Spruill met Jones at bar.)
- Timing of leaving bar: Spruill said midnight, while Jones said at closing, 2 a.m.

- People at house after bar: Spruill said Smarty stayed over. Jones said lots of people in were in the truck, but Smarty went home. (Maybin said it was the three of them, plus Smarty Spruill and Stacy Allen Willoughby.)
- Spruill said Margie Perry was not there that night. (Ed Champ said this, too.) Jones said she was probably there, and he thinks he danced with her.
- Spruill said Rogers was fired because she stole from the bar. Jones said she was fired because she had minors in the bar.
- How could Jones have forgotten they ate salmon cakes. He said, "Maybe it was mackerel." It is understandable to forget this detail, but this came up at trial, as well, as Maybin mentioned salmon cakes specifically.
- Jones claimed he did not do drugs because "money was tight," then goes on to say he had all the money he needed.
- There are consistencies with Maybin and Rogers' testimony at trial about dropping the beer, throwing a sign at Rogers, who closed the bar, and other details of going home the night of the murder.
- Spruill said he did not buy drugs the day of the murder because he was not doing drugs. He had quit doing drugs and had met Debbie McGowan. But he and McGowan both said they met between the murder and his arrest.

LeRoy Spruill: Interview

[Kuka explains our interest in the case. Asks about Jones' name (Brandon or Wallace). Spruill offers that Jones also went by an alias, and adds that he only met him at Thanksgiving, shortly before the murder took place.]

Spruill: We were more or less at a bar for a Christmas party, and ended up with a murder charge for something we never done, and it's been nine years. And it's been hard coming here and do what I done, stay clean and things like that. But I'll never give up on it, cuz I didn't do it.

K: [More explanation of our investigation.]

S: [Says his girlfriend and Floyd have information for us. On Floyd:] That man has done a lot for me, and I told him y'all were coming. I don't want to go behind his back, but it's been nine months with those people coming here five or six times to talk to me. They know who done it, they know all this, but they say they have to go through this red tape…I'm not going to give up on this. We're talking nine months…something's wrong. [He doesn't know how much Floyd will tell us. Talking about new D.A., Seth Edwards, his accent, his beard, where he works. He said he manages money for his job at the prison. Edwards was his attorney, now D.A. They have new information, but haven't done anything. He said he spoke with a black man, a younger man from Roper, at the prison who knew Spruill was doing time for a murder he didn't commit. He said he got the man to write to Carl Stewart, who was filing his clemency petition (10/11/01), which is held up because of the new investigation. (Gives us list of addresses and paperwork.) Hannan asking about clemency petition; he hasn't gotten an answer on it. Said Vosburgh has also tried to help them. He thinks they don't know how to go about using the new

information. "I'm not going to lay down on this." He said he plead "no contest," not guilty. He took a plea because Jones went first.] He was from out of state. His girlfriend was from out of state. I was a home town boy. They told me, LeRoy, if you go ahead and testify against them, you'll walk free today. I said I can't go on that stand and lie on a girl and guy, eve though I didn't know them but 38 days, I couldn't go on that stand and lie for nobody and give them the death penalty for something I know we didn't do. I was convicted with Wallace, you might as well say...They wanted to try him first. They didn't want to try me first because everybody knew me there. They might not have got a conviction...They offered me this plea and I couldn't do it. I sat right there with my mom, my dad and my sister and said I can't go on that stand and lie on this guy...[Who wanted you to testify against him? Mitchell Norton.] I hate to say it like this, but he's crooked...Do you know about John Floyd calling this girl after all these years? [Dana Maybin.] She's willing to tell that it's a lie. They steered her because she was young and she had done drugs...they told her they were going to get her free. [from warrant in South Carolina] Now she's changed her mind. She told John Floyd that it was all a lie, and we've been knowing this for nine years now. [Ask about police first approaching Maybin.] They come to me because...here was the story...the girl had outstanding warrants, and I didn't know that. From what I understand, Wallace had a misdemeanor charge, but it wasn't nothing big. So they both were here with warrants. Well I didn't know that. [Were they violent crimes?] No, it was just misdemeanor charges. For her, from what I understand, it was strong-arm robbery on an older guy, took all his credit cards, so she had a fugitive warrant. But I didn't know that. I knew her as Nikki. I didn't even know her real name until I was arrested. It's a difficult case...so when the law started questioning me, they leave, because they don't want the law talking to them. They say I'm going to have this misdemeanor charge in TN, or I'm going to have this charge in SC, so they split. It was a year later before they arrested them. So the girl told them I drove my daddy's truck. They had a forensic DNA test on my daddy's truck, six hours DNA test on my house: nothing. I passed six lie detector tests, no murder weapon was found. If they'd have had fingerprints on that scene, don't you think they'd present that at trial? They didn't, but they had an eyewitness. They never proved no fingerprint there, or they did but they wasn't ours. [Blood sample?] Yes, three or six times, blood, hair...[He wants a DNA test. He heard there were two types of blood, but there was nothing presented at trial. Hannan asked about tire iron, but he said he doesn't know about it. The crime scene was destroyed. The tire iron was found a year and a half later, and they said it was his. Swain's brother destroyed the trailer for scrap metal, and tire iron showed up later.] You listen to this...say me and Wallace and this girl goes and does it...she testified that we went there and she changed her story three times on the stand. But say we went there, and we killed that man. I got this autopsy picture right here...this man was cut from ear to ear, both jugular veins cut. I seen it on TV and read enough books to know you cut someone's jugular blood's spraying to that wall, right? What I got here, he was stabbed 18 times...The autopsy man said he was killed from trauma to the head before his throat was cut. But now she testified on the stand that I was holding him, Brandon was cutting him and he was reaching out saying "Don't kill me." Now, who are you going to believe, a girl with outstanding warrants or an autopsy man with 20 years experience? It's just so much that was...I get to talking about this, and I keep talking...the lady Janice Spruill, she's not kin to me, she's had it out for me from day

one. [Why?] Well, I never lied to nobody, as far as, I did party. I've worked since I was 18 years old, out of high school. I did party. I got high a bunch of times, I snorted cocaine, I did party. I never had to rob, steal, nothing like that. If you'd have told me I got in a fight in a bar with somebody, I'm guilty of that, but I'm not a killer or a drunk. But this lady has been after me for 20 years ago, because I knew a lot of drug dealers that was high up drug dealers and then she got caught up with them to where...they arrested Bo Jack, the head drug dealer, they all knew that they were giving her money to get these nice homes and this and that, and she was kind of covering for him. Whenever they were going to bust him, she would clear him where he would be straight. And she knew this. [He said we should talk to his sister, because she knows about all this. They told her not to come to the trial, wanted her to take leave with pay, but she went anyway. She quit and finished her 20 years, and now she works for the D.A. in Morehead City] It seems like where I get to the point where everything looks like this, people just drop it. [Prisoner Legal Service wanted to help them, were "gung ho" about motion for a appropriate relief. The next morning, they dropped it. He thinks Norton has something to do with it. He said he was not allowed to testify at Jones' trial. "I don't understand that." Hannan asking about MAR. He said they were "ready to go. When we got to the courtroom, they just fell apart." Maguire: back to Janice Spruill. Anyone who can corroborate? Rebecca Armstrong and Jennifer Swain. Janice came to their house and asked if they would help them put Spruill away. Swain's husband didn't want her to get involved, but now she's willing to talk. A lot of people are willing to talk now. Carolyn Spruill was on the jury, and she's willing to talk about being forced to say guilty. He said Wallace doesn't know many people here.

One night when he was buying drugs at the trailer, a car pulled up and the owner of the trailer told him to run, that it was the law. He went to the back bedroom.]

You know who was sitting on that bed, eyes this big? Janice Spruill. She wasn't in no uniform. She was there getting high. Or getting paid, or whatever. But I've done enough dope...you can look at someone with eyes this big and know. I told my sister that and she said there was no way. Then my sister approached her with it and she said you have a smart-assed brother. My sister didn't believe me until all this many years later.

[This incident took place at P.J.'s house. Her boyfriend is Bo Jack, and their son is Maurice Wilkins. He agrees that Wilkins probably left town. Joseph Lynn (doing seven years in Odom Farm) and Avis Arnold both said they were there, as was Maurice Wilkins. He said Lynn was offered immunity, so he wouldn't do any more time, then his family hired a lawyer. Edwards also believes he did it. Arnold was at the end of the road. He sent a notarized affidavit to Carl Stewart. Why haven't they tried to match the fingerprints to these guys? He can't get anyone to test Wilkins' blood. County hospital has no record of her having taken Wilkins' blood. He thinks she lied on the stand, because there should be a record.]

But there's so much new stuff that's come up now...We knew it was crooked the first time, but with all this new stuff that's come up now...[Janice protecting Bo Jack? Yes. Relationship between Bo Jack and Swain?] He owed Bo Jack a lot of money, and Bo

Jack had threatened...This weren't no killing for to rob someone. If I'd have gone there to rob a drug dealer, I'd have took his dope money and all. This man had dope left there, he had $180 in his shirt pocket, he had a wallet they said with money in it, he had two guns there. If I'd have gone up there to rob this man, I'd have taken every bit of money and dope and everything. Well to start with, I wouldn't have went there and taken all that time to kill a man like that. I'd have went there with a pistol and took his stuff. I wouldn't have brutally murdered a man like this...that was hate, they went there to prove to somebody...this wasn't no robbery. [How much money taken? He's not sure exactly. Drugs still in the house? He's heard they did. They were kept in jail and not told. He and Jones only talked to one another, until Arnold told him the other story. Bo Jack was the top man selling drugs in Roper. Spruill heard rumors about the money. He was about the only white guy who could go buy drugs from them, and Bo Jack would tell him that Swain needed to pay him the money, and that they were going to rough him up to make him pay. Then Bo Jack goes to prison, and Wilkins, his son, is cut, and Swain is dead. Sonya Day Spruill is a relative of his, but his family didn't associate with her because she "ran with black people," and had a child by a black man. She was his second or third cousin of Spruill. She dated Frank for five or six years. Her murder is still unsolved.

M: Does anyone else know about debt?

S: I don't think nobody is going to talk to you about that. [People who were at the Christmas party knew stuff, but wouldn't talk, and now people don't want to get involved. He doesn't want to push it because he fears for his parents, but he thinks if he were out, he could find a lot out. A lot of people know that they're innocent, but won't help. He is upset that people pick up the case and drop it.] I want to get of here, because my parents are getting old...I want my name cleared. I want to get out of here and go to work.

K: Talk about background, marriage, etc.

S: [When he got of high school, he went to work as a carpenter with is brother in law. He was married for eight years to a girl named Dana. He did drugs from time to time, like powdered cocaine, since high school. He would work, and lived alone, but would do drugs after work: cocaine, pot. He has tried crack, but didn't do it much. He would also drink. Asked about what type of drugs Bo Jack sold, he said all types, though Bo Jack did not sell them directly; others sold for him. When Bo Jack was arrested, Janice Spruill pointed out where the drugs and money were. He lived in Roper, partied, got married, but she said he didn't spend enough time with her, and they were divorced in 1991. He got a little more wild after the divorce, was wild. He's learned a lot in prison, had done a lot of classes. He's certified in welding, horticulture, maintenance, and had only one minor write-up in prison. Jones has also done well, is in his last year of college. They are well known in the prison. More discussion of the recent work by Vosburgh, Harrell, Floyd and Stewart. He's afraid that Maybin will not testify again for fear of perjury charges. He thinks Edwards should go talk to Maybin. Again he claims he plead no contest. Discussion of his sentence, and difference between his and Jones' sentences. Discussion of his documents.

Harrell did all the talking at his hearing. He claims he plead no contest, but the document said he plead guilty. Right after Jones was convicted, Norton said in front of his family that he was "in the driver's seat," and that he would try to get the death penalty in Spruill's trial. Spruill said he could not plead guilty. To help Spruill's family, Norton said, he would allow Spruill to plead no contest to second degree murder, 40 years concurrent, class C. But when he got the papers, he thinks they lied to him. They scared him, telling him if didn't go before the judge that day to plead, he would be given a different lawyer and judge, and they may try the death penalty. His parents had already been through the trial, and he didn't want to put them through another trial. "I was tried right along with [Jones]." Harrell told the judge that his client wanted to plead no contest, though he protested the way Jones' trial was carried out. Later he was told that he had plead guilty. He is eligible for parole in 2009. Theresa Tuck, his case manager, had been very helpful to him. He talks more about his work in the prison.]

[Hannan asks about the charge for having a knife. He said it's part of his robbery with a dangerous weapon charge. Kuka asks if he carried a knife. He said he hunts a lot, but usually carried a gun. He didn't carry a knife, though he used a skinning knife after hunting. He left that in the barn. He didn't have trouble with anyone in town, and did not carry a weapon for self-protection.]

M: Step by step through the night.

S: After nine years, Brandon was telling me…can you remember everything? I said have you forgot? He said I won't never forget. I said I haven't forgotten. When you tell the truth about something, it goes right on through…If you tell a lie about something, sooner or later down the road, you're gonna back up…[and change your story.]

M: Did you know Frank Swain? [Yes, he went to school with him.]

K: Did you buy drugs from Swain? [Yes, but not in the last six months or so. He had gone to Waterby Jones treatment center in Greenville. He had come home and met Debbie McGowan. He left treatment about three months before he was arrested, in 1994.

[Hannan asked about writing on plea document. He said he had not written it, or anything on the paper. He was just asked if he understood what happened, if he was on any drugs, etc.]

M: Did he always buy drugs from Swain? [He said he had bought from Swain an others: Sam Patrick, Tony Wilkins (Bo Jack colleague), all within a ten mile area, powder or crack, though he did powder more. He was making $600 to $700 a week, so he could afford powder cocaine. When he thinks of the money he spent, he would have had money in the bank. Before he went to prison, he was wild, but now he has learned a lot.]

S: I put myself in that position. Like at that bar, partying…Back then, I didn't realize that. Mamma and daddy would day, boy, you keep messing around like that you're going to get in trouble. Boy was she right…

M: Time before murder particularly wild? [Yes, he would go to Greenville and to Big Ed's. Champ took him home that night.]

S: It was a Saturday. Brandon and his girl was in a break-up period. I'd met him a couple weeks prior to Thanksgiving. [They were dating, but was in a spat. She didn't have a place to live when they broke up, so he let her stay with him. He was not involved with her. He got up early Saturday, and Lewis Jarvis, an electrician who testified for Jones, came by to put a service pole in, and asked Spruill to go with him. They went to the liquor store and bought two fifths of tequila (or two fingers?), and they drank about a fifth in the backyard with Nikki. About five p.m., Jones came by. They met him in the driveway, and they were going to go to the bar. Spruill didn't want to drive because he was drunk, so they walked. Jarvis didn't to go the bar. Russell Sawyer, a friend of his, was on his porch, and his mom came out. Ray Hurst was also there. Hurst has the same color truck as Spruill's father. He took them to the bar and dropped them off. The three of them went in, and stayed from about five or six p.m., going outside sometimes to drink from the second fifth, which he had stashed behind the bar (about half of it was left). (Whisky and tequila are the same thing.) There was a band playing, and they were pretty drunk. He wouldn't have driven, but he wasn't "falling down drunk." He could have driven. Swain lived about five miles away, and he admits he could have driven. He lived close to the bar, though, so they walked. Nikki stayed with a lot of people, such as Connie Olliver, but also stayed with him. Discussion of Ed Champ. Samantha and Marzella Champ were also at the bar. Jones and Maybin weren't fighting, but he wanted to be with her one night, but party without her another. He was probably more drunk than the others. He did have a truck at the time, a black '85 Dodge, but he had taken the license and insurance off it, so he didn't drive it much. He drove his father's truck, which was older, to do work and to go hunting. He said he couldn't have driven his dad's truck that night. It would only go in low gear, and he was getting ready to put a new transmission in it. It would need new fluid every 20 miles. He was waiting until the first of the year to put the new transmission. (Scott Moore, who is dead now, testified to this.) It was less than half a mile from his house to the bar, and about a mile from his parent's house to the bar. His address was Roper Street. He used P.O. Box 426, and got his mail at his mom's house.

Three of them drank from the first fifth. Then he brought about half of a fifth to the bar.

K: Band playing, people drinking…

S: [The bar was packed, about 50 people or so. When they first got there, though, they were talking to Ed and his wife before people arrived. They got to the bar just as it was getting dark, about 5:30. People started arriving around seven, and by nine p.m., the crowd was there. He danced with a lot of girls, and older women in their 50s. Everyone knew him there. They were playing country music. Sometimes Champ would cook and

people would pay to come eat, but not that night. When asked, he said he did not eat at all that day. He started drinking about 10:30 a.m., after they had done the work. A lot of people went outside when the band took breaks because it was smoky, and they weren't the only ones going out to drink whiskey. He had left his behind the bar, and Champ knew that they did it. Around 12 or 12:30, he was "pretty well wasted," and Champ said he would take him home after he closed the bar. Lottie and Ed Champ took Spruill and Smarty Spruill, who was sober and playing pool, to Spruill's house, dropped them all around 12:30 or one. (Smarty is not his real name. People say Smarty is crazy, and he couldn't testify at trial. He thinks is slightly retarded.) Jones and Maybin walked home. Champ stopped to see if they wanted a ride, but they didn't, even though it was cold, about 30 degrees. The bar wasn't far, and they got to his house around the same time. He cooked fried sweet potatoes and salmon cakes.]

I'm not saying I wasn't pretty loaded, but I weren't drunk enough that I didn't know how to cook, you know...We ate, Brandon and Nikki slept on the couch. Me and Smarty laid on the carpet and the floor. [Smarty goes home in the morning. The others are at the house, hungover.] Monday morning, I get up and go to work. I hadn't heard nothing about no killing, no murder no nothing...[His boss, who is his brother-in-law (Ray Price), picked him up and told him people were talking about Spruill already. Price said five people had called that morning saying Spruill had been arrested for the murder of Frank Swain. Spruill did not even know Swain was killed until Price told him.]

H: Why did they think it was you?

S: I think because they were looking for somebody with a blue truck, and my daddy had a blue truck, I drove a blue truck. Ray Hurst, he had a blue truck like my daddy's. [They didn't come to get him right away. They looked at Hurst's truck and his truck.]

H: What happened to Hurst's truck?

S: Somebody knocked the windows out of it and set it on fire. That's been a big thing. [On a Thursday night, he was at his house, Hurst said his truck had broken down, and he wanted to put it in his yard while he goes out of town. The truck was there for a few days. This was long after the murder, and someone knocked out the windows and set in on fire. He doesn't know, but he's heard that Hurst did it himself. Spruill is not sure if it relates to the case.] At first, I thought about everything, but since all this new stuff I'm hearing...[A lady who testified at Jones' trial said a truck was speeding out of the trailer park the night of the murder. Vosburgh asked her what color, and she said it was the same color as the lawyer's suit, navy blue. His dad's truck was Carolina blue, but at night it would look white. Hurst's truck was darker, but the black lady who described it said it was navy blue. Joseph Lynn owned a navy blue S-10 Ford, and he kept it behind his father's shed. Spruill's father and his lawyer went and saw it and said it fit the description, but then they couldn't find it. He is convinced that the truck would have DNA in it, but they couldn't find the truck. He doesn't think the burning of Hurst's truck is related to the murder. He thought so at first, though.]

K: Did you see Swain on the day of the murder?

S: Yes. [Wyatt Spruill, who is a relative of Spruill, was living with Swain at the time of the murder, and called 911 that night.

K: That Saturday, you didn't buy drugs from Swain? [He was off drugs. He had been to rehab and was seeing Debbie McGowan.]

M: But the night of the murder you hadn't met Debbie, had you?

S: No, uh huh. I saw him and Wyatt Spruill in Food Lion...[Ray Price and his sister were also there.] I was up there buying dog food. I saw Frank and Wyatt in Food Lion, talked to them. They were buying a bunch of something because Sonja was in prison...they were buying like, women's...Sonja was in there when Frank was killed. [She got out shortly after Swain was killed. They were buying things for her because they were going to see her that Sunday, the next day. This was Saturday morning, on the same trip he went to buy the liquor. He didn't know what they were buying until it came out in the trial. Wyatt Spruill is Spruill's father's brother's boy's boy.] I bought a big thing of Kibbles and Bits with Lewis... [Then they bought the whiskey and went to the house.] I was clean...I mean, I was...[Maguire asking when he got clean.] The morning when I saw them, I was out there as far as drinking and partying then. I hadn't met Debbie then...I went to rehab on October, and I was arrested...

M: Night of murder, any drugs?

S: I never did no drugs that day. [But in that time period, you were doing drugs?] Yes. But the night...when all this happened, I did no drugs. [Why not?] I was drinking the whiskey...I'm not saying if someone had come up to someone in that bar that had some that I wouldn't have done it. [But they were drinking whiskey and going to the bar, and didn't need it.] I shouldn't have even been at the bar, to tell you the truth. The way I'm thinking now, I don't never want to see no Christmas party, no bars...[It was the 18th, so it was a Christmas party. Maguire asking about people at bar. Was there anyone he spent a lot of time with? A woman named Betsy, no last name. We should talk to Stacy Allen. He had the address and she's willing to talk. She testified for Jones. Betsy is her mother, and he was kind of seeing Allen. A girl named Terry Hanicken (sp?), who was a friend of Maybin. It is a small bar, and it was crowded. Ed and Lottie, Smarty, Larry Comstock, and others were there. An older lady who was with the band, and whose husband was a deputy sheriff, told someone that he couldn't have left the bar, because he danced with her three or four times. He doesn't remember her name, but Harrell may know her. He was dancing "off and on." He's not sure how many times they went outside, maybe seven or ten or twelve times for less than 20 minutes each time. Guys went outside to pee sometimes, also. His father and Harrell and Vosburgh drove the route they supposedly took, and thought it was impossible to do this in the time they were supposedly gone. The first story said he rode a bicycle to his father's house, drunk, then pushed the truck out of the driveway and took the truck. His mom and dad had two dogs that would have heard him, too. He said "you couldn't do it in 45 minutes," much less half an hour.

M: Why wouldn't you use your truck? [Not sure.] Or why would Dana say that you used your dad's truck if yours was working?

S: Her story changed three times. [The first story she told was that he and Jones went to bar, and left with her. They went in and saw them killing Swain. The second story was that she and Jones did it (Brandon killed him and she took the money), and he drove the truck. The third story is the one she told at trial. She also said they burned the clothes in the wood heater. He had taken the ashes and put them in the garden when he cleaned the stove. They (police investigators) dug up his backyard looking for ashes. They came by a few times, took his clothes once.

H: Maybin originally implicated someone else?

S: [Jones spent a lot of time with Curtis Furlough, and would know more about Maybin having implicated him. The hospital had called the bar and told Furlough his wife was having a baby, so he went to the hospital.] When Janice Spruill went there, his mom and daddy said 'hold up, you can't get him at no 8:15. He was at the hospital. I have him on video camera.' Janice said you got to give me somebody and she said LeRoy. [Curtis also drove a blue truck, and since he had an alibi, Maybin had to name someone else. She told the truth on the taped interview with Harrell. He heard it and she "more or less told the truth on that tape. I heard it before I went to jail. She told the truth one time."] If Curtis hadn't been at that hospital, where his people had him, Curtis would be here and I wouldn't never been here...It would have been Curtis. I fault the girl for lying because I'd have…If anybody went to trial first, I would have gone to trial like Brandon, for the death penalty. That's how far I was willing to go, to death row. [But since he didn't go first, and Jones was convicted, he didn't. They got Maybin from SC, and they were going to get Jones convicted. He was not going to tell a lie on Jones. If they would have tried him first, it would have been different. His parents wanted to hire another "good" lawyer, but he told them not to spend their money because he was innocent. He doesn't think his lawyer was very good. If he'd have let his parents spend the money, he might not be there.] Brandon's gonna tell you about how Harrell and Vosburgh went to talk to this girl…She called my lawyer, Maynard, and said, "I want to talk to you." Her lawyer, Regina Moore, wouldn't talk to her. Weren't nobody who would talk to her. So Maynard and Vosburgh went down and that's when they get this confession tape and all that…but when she gets to court, no. You went behind my lawyer's back. So they were going to disbar them [Harrell and Vosburgh for interviewing her.] But Regina Moore said talk to her all you want to...That was just a set-up thing there…They played that tape in court and Norton gets up there and said hold up, I didn't say they can go behind my back. So they stopped the whole trial right there. They went behind her lawyer and got all this…there was a big thing about it. [The judge asked Jones is he wanted a new lawyer.] He said this man has helped me here for a whole year, more or less, in jail. He knows everything. They were about to disbar Maynard and Vosburgh…[He kept him as a lawyer.] This man believed in us…I'd have done the same thing. But as far as his lawyer and my lawyer…he's [Harrell] lived here his whole life and he's a member of that courthouse up there, that's where he gets his bread and butter, he gets a lot of court-

appointed things that they give him, so he's not going to give up on that thing. I don't want to talk about him bad, but...

M: What about others who testified against Brandon, the woman who worked at the bar?

S: Lynn Rogers. This was later when she testified, but Ed had fired her from the bar...[Brandon worked at the bar during the day and Champ fired her for stealing money, so she didn't like them.] Here's what she told on the stand...she said me and Brandon left the bar for about 15 or 20 minutes and we came back in all joking and laughing about how we had killed a nigger. That's the exact words. [This story came out a year later.] Really they had nothing but Dana, that was the main thing. [K: Trouble with Rogers before?] No. If you listen to that tape, she said LeRoy's a sweetheart. I danced with her a bunch of times...I think she was out to tell on Brandon because the Champs had fired her for stealing money and lost her bar job and this and that. She didn't actually say anything bad about me, but she said she had heard Brandon say this stuff. [He doesn't remember Margie Perry being there that night, and she thinks she is very close with Janice Spruill. A few months later, she started "getting real friendly" with him, and Champ told him to watch out for her. This was when Janice Spruill was trying to put together a case, and she thought she could talk to him and go back to J. Spruill.] You see, people used to joke with me about this...It was a joke...Everybody knew I didn't kill anybody. It was so funny, for about two or three months, it was a joke...It was funny to me at first, because they were out for everybody. They were talking to everyone, they were investigating. Because I knew I ain't done nothing like that, but it kind of all over town that somebody killed this man. Boy, was I wrong. [More questions about Rogers. She was in and out from behind the bar because Champ would run the bar for a while and she would dance and walk around and go back to the bar. Question: buying beer?] As far as I remember, I don't think I drank no beer. I think Brandon did bring a six-pack home when they went back to my house. Nikki said they brought a bunch of beer. I don't really mix beer with liquor. [He would order a can of soda and put whiskey in it.]

K: Rogers said Brandon didn't have money when he went to the bar...?

S: [Brandon will tell you more about that. They wouldn't let him and the courtroom and he doesn't know what she said at trial. Question: did you have money?] I always had money. I'd worked all week long. I paid to get in. I'm not saying I didn't buy some lady a beer or something, I wasn't slinging money all over the place or nothing. [Remember Brandon buying beers?] I can't remember that to be truthful. [They weren't together all night, he would dance and Brandon might be on the other side of the bar.] It wasn't like wherever I went he went.

K: And you weren't really good friends with Brandon?

S: No, in 38 days, you can't be but so close to somebody. And this boy, 20 years old [at the time], and her 21. He has two girlfriends, Terry and Nikki, she's 21, and I'm 34. Everybody around Roper knows I'm not the craziest person. I'm not going to go meet someone and take someone I don't hardly know to see a drug dealer. [He's not sure if it is

Terry or Sherri. They met on the day before Thanksgiving at the Oasis in Plymouth, and met Dwight Reynolds, Betsy's boyfriend. He knew Reynolds, and met Betsy, Nikki and Sherri. "They were nice looking girls and I danced with them." They invited him for Thanksgiving, but he ate at his parents' and went to Reynold's house afterwards and met the rest of them, including Jones. He didn't know Jones had an alias or what kind of charges he had against him in TN. "It couldn't have been too bad or they wouldn't have dropped them." When the investigators first came asking if he knew Dana Maybin or Wallace Brandon Jones, he said he didn't, because he did not know them by those names.]

M: Tell us about the investigation.

S: I'd say…it happened on a Saturday and Monday was the first time I heard about it. Then it started happening…little bit, little bit…and Janice came to see me, she said I need a blood sample from you. I said I got no problem with that, but don't you need a court order? She said she could do that, but I said it's no problem, I'll give it to you. So I told my dad I was going to the hospital to give blood for Janice Spruill, the deputy and Willie Williams. [He had Stacy Allen Willoughby with him so he'd have a witness that he did it.] I gave three vials of blood like they do and they boxed it up like they do. I don't know where it went or nothing. But I wasn't under arrest or nothing. That was the first time. Then they needed to carry me to Greenville to the SBI place. I did this on my own. I missed a day of work to go to Greenville, and sat there and took six lie detector tests in one day. And the man, I don't know his name, but he said, "This ain't the man y'all are looking for." Later they arrested Wallace, and they took him over there and did the same thing. [When they took him there, he had been arrested.] My first one, I took a lie detector test later, but the first one I did voluntarily. The blood test, I volunteered. Now if I was worried about it, I would have never done that without a court order. [He thinks they went to S.C. and told Maybin they would get her out of her S.C. charges if she came to N.C. Then when they crossed the state line, they told her she was under arrest for first-degree murder and armed robbery.] Once they got her here, they had her. She's 21 years old, she's got a kid… They told her you're going to death row if those boys walk free. Well, after nine months in jail, they coached her and this and that to where they just broke her right down. That's why I don't fault her. I do fault her, but I fault the law because the law made her tell this and do this. That's what I fault. [Questions about timing of arrest. They arrested Maybin, Jones and Spruill in that order.] She must have known where he was at, because I didn't even know where he was from. I didn't even know she was from S.C. Next thing I know, Ed called me and said you know they got Robert Solis and that girl for that murder? I said no. Well, I didn't even go to work that day. I sat right at mom and dad's house, and here they come, about 10 o'clock. They done put me through all that interrogation, I knew they would come…I told my boss I didn't want to go to work and have all those cops make a big scene…[That's when they asked him if he knew Wallace Brandon Jones, and he didn't, but he recognized him when he saw him.]

M: Offers of immunity?

S: Maynard told me they had told Brandon, "if you say LeRoy was the mastermind behind this and killed…you won't do six years." Brandon said, "I'll see you in hell." That's the exact words Maynard told me. I'd have done the same thing. [Since then, they've talked about it. They were separated at the county jail so they couldn't talk. They had him in a holding cell and Jones in the main hall, but they could see one another. Then they sent Spruill to Maneo. Then during the trial they were in the same holding cell together. They spent some time in a maximum-security prison, "a terrible place." He had a misdemeanor in 1979 for cutting down trees at a school. It was a prank among kids.]

K: Do you ever get in fights?

S: I probably been in one bad fight. [Someone had grabbed at his girlfriend while she was driving alone, and he found the man and beat him up. He has been kicked out of a bar for being too drunk.] There are people who will tell you that LeRoy don't take no junk from anybody…I walk away from trouble when I can, but in here, just like out there, if you put your hand on me, or I think you're going to hit me or cut me with a knife, I'll defend myself. [He said Hyde is much better than maximum security. Prisoners who have been in jail for 10 or 15 years are focused on getting out. They don't cause trouble. He is focused on getting work release and getting out on parole.]

M: Was this murder a really big deal?

S: There's been murders before around that area, but what was so bad is this guy got killed and they're trying to put this together. And six months from the time he was killed, Sonya Day was killed. She hadn't been out of jail but a few days, and she was killed just like he was: throat cut, bashed in the head. She was naked but she hadn't been raped. The only thing different in that murder was her hands were tied behind her with a telephone cord. [He thinks the same person killed both of them, and he thinks she knew who killed Swain and that he owed Bo Jack money.] That girl knew something, even if she was in prison…When her boyfriend Frank got killed, when she got out…they knew she knew something. That girl wasn't going to let me go to prison for killing that man and she was my cousin. She wasn't going to let me go to prison over a lie. I never mistreated that girl, but her family and my family did her hanging with black people. When I saw her, I'd talk to her. I never put her down. If that's the way you want to go, that's fine. I'm not real prejudiced…[One time he went with Ray Hurst to P.J.'s house to buy drugs, and Day was there; she had just gotten out of prison. She came out to the truck and told Spruill that he should leave because "they think you killed Frank, and I know better." This was a Tuesday or Wednesday, and on Monday she was dead.] If Maurice knew that she knew something, he thought she had to die. [Asking about who called 911. He thinks Wilkins called 911. The first investigating officer, Jimmy Peele, quit after this happened. He lives right behind the Red Apple in Plymouth. He was the first investigating officer on the scene, and they took him off the case. Peele questioned other officers as to why he was taken off the case. He thinks it's odd that Wyatt Spruill, who lived with Swain, left for twenty minutes and found Swain dead. He thinks the real killers may have paid Wyatt Spruill to leave so that they could rob Swain and he could come back and call it in. He doesn't know, but is guessing. Sonya Day was Wyatt Spruill's sister. He doesn't think

Wyatt Spruill would have wanted to hurt him, but he was so involved in drugs, he would do anything. That area, around Folly Road, was a serious center for drugs at that time.

[Brandon can tell us more about the trial, but Spruill knows more about the area and the people in Roper and Plymouth. More talk of how Jones was easier to convict because he was an outsider with a record and an alias.] Here's the thing about Brandon. People said he had an alias and this and that…I have no problem with that…Not knowing me from Adam but for 38 days and they offered him a plea bargain, and he's from TN and 20 years old…You know what most 20-year-olds would have done? They would have rolled me down the river. I'd have been on death row. But he wouldn't do it. [They also thought Jones would win at trial. Their lawyers told them all the prosecution had was Maybin's testimony.] I knew I didn't do it and I knew all they had was that girl, with a record and lying all the time. I really wasn't that worried, even when I was in jail. Boy, were we wrong. [He said the lawyers said it would "be a breeze," that the charges might be dropped for lack of evidence. After Jones was convicted, his lawyers said they would go to trial, but they did not think he would win, so he might as well take the no contest plea. Now he and Jones are very close.] He's a trooper to me, because that man could have rolled on me and I'd be on death row. And that man took that chance of going to death row because he didn't do it. That's why I stand up for him like I do. To me that's a true friend…I'd go to bat for him any time.

[Maybin told a correctional officer at Fountain (?) that she was about to lie on the stand and didn't want to do it shortly before she testified. Brandon may know her name. Spruill only knows about the trial from McGowan and Jones.]

M: Do you remember what you were wearing the night of the murder?

S: [He used to wear mousse in his hair, which may account for why people said it looked wet. He always wore Levis, a long-john undershirt with a flannel over it and white Nike tennis shoes, which is what he thinks he was wearing that night. He was not wearing a jacket. When asked, he said he doesn't remember if witnesses from the bar were drunk, but many people were drinking. He explains that even though he drank a lot of whiskey, he has a high tolerance and was not "falling down drunk." He thinks it's inconsistent for Maybin to say that they were all very drunk, but they managed to do this murder and not leave fingerprints, ride a bike to get the car, etc. He doesn't know if Margie Perry is in town. He has tried to get his father not to investigate the murder because it's dangerous, so he hasn't pushed them for information. Spruill asks about our investigation and we explain.] What I'll tell you and what I tell everyone who comes to see me is, "Don't give up on me."…I lay down at night with a satisfied mind. I was raised in church with my family. I didn't kill that man, and I'm satisfied…As many times as y'all need to come back here and go over this again, I have no problem with it.

Meeting with Leroy Spruill
Hyde Correctional
11.10.06 @3p-4p

- Updated Spruill on our progress; told him about interviews and described the motion to preserve
- Spruill is up for honor grade review on December 9 – hoping to do MAPP
- Talked through DNA info again; explained motion to preserve
- Explained evidence situation again – why we haven't been able to test anything
- Leroy's father will know Bo-Jack's real name – Bo-Jack's wife's name is P.J.
- Leroy's friend Charlie White talks with Coman regularly – Coman told him to tell Leroy not to work with the IP because we don't get along
- White said Coman told him that prints found at Sonja Day's match prints found at Frank Swain's
- Need to follow up with White; also need to call Spruill's father

Meeting with Leroy Spruill
2.15.2007

- Met with Spruill at Hyde after he had Debbie call last week and tell us that he had two visitors
- **On Tuesday, February 6, 2007 two men from SBI [Spruill said they told him they were with the AG's office] came to Hyde – Warner and House**
- Visit lasted almost 3 hours – 10a-12:45p
- They asked Leroy to tell them what happened the night of Swain's murder – had him go through the story and Leroy did
- Leroy told them after he went through the details that his story wouldn't change because it was the truth
- Mack Warner told Leroy that evidence exists – some evidence has been tested that does not link Leroy to Swain's murder; some evidence is currently being tested
- Warner: "You're right, no evidence links you to it."
- Warner said Coman is on the case, and tests are going on now. Says Coman will get to the bottom of it
- Leroy asked why not tell the Innocence Project about the work you've done and the evidence that exists – they had no answer
- They asked Leroy if he'd take a lie detector test, he said he would and they said they'd set it up – they told Leroy that Coman wants the lie detector test done
- When Leroy told them that he'd already passed six of them, they told him the other tests were done by Washington Co and Coman wanted his people to do it
- Leroy remembered the name of the guy who came with Warner about2 years ago – Tilley
- They asked if he knows the McNairs brother; asked if he knows Maurice Wilkins
- Warner went through several questions about night of the murder – how did they all get to the bar? how did ray hurst's truck get burned in Leroy's backyard?
- Then – could Brandon have done it? Can you say he had nothing to do with the murder? Was he with you all night? Could Brandon and that girl have done it? Do you think they were running from the law?
- Spruill said he did not take the bait and flip on Brandon – in fact, he told the agents that his story hasn't changed and won't ever change because it's the truth. He told them that Brandon and Nikki (Dana Maybin) did not have anything to do with Swain's murder and he was with the two of them all night until the bar closed down around 2a
- They asked why the trailer was taken away from the scene so quickly? Leroy said he had no idea
- They asked about when Leroy talked to Donnie Varnell and Kent Inscoe – did Leroy strip down for them voluntarily? Did he talk with them voluntarily? Did Leroy voluntarily give a blood sample – to the blood sample he said yes and told them he had a witness present when he gave blood (Stacey)
- They suggested that they have 9 prints that match - unclear if they were referring to a match between prints found at Sonja Day's and Frank Swain's

- Said a few times there was "a lot of stuff at the lab being tested." But said it's taken so long because "we've got to jump through a lot of hoops and we've got to clear things and go through other people's lawyers."
- They also asked Spruill what he's going to do when he gets out – he told them he'd go see his mom and dad, he plans to marry Debbie, get a job. He told them about making honor grade at the end of April
- **On Wednesday, February 14, 2007 O'Neal and Edmonds. O'Neal is new Plymouth police chief? Edmonds might be from SBI (indications from Sawyer at Hyde)**
- O'Neal and Edmonds spent about an hour, Leroy estimates. They said they were there to see someone else and thought they'd see Spruill while in the area. Leroy asked if they were there to see JoJo McNair and they didn't answer him
- McNair has moved from Leroy's section to a different section so Leroy hasn't seen him in the yard
- O'Neal asked whether Leroy knew anything about a well dressed black guy from Martin County who stayed with Sonja – Leroy said he knew nothing about it
- O'Neal heard on the street that the McNair brothers did the murders – also knew the rumor well that the McNairs, Lynn and Maurice did the Swain murder
- Edmonds indicated that he had spoken with Coman about the case; O'Neal said he planned to talk to Coman about the case
- O'Neal said he's ready to get Lynn again because Lynn is "up to his old tricks" Leroy suggests that means he's trucking marijuana alon with other deliveries
- Edmonds asked Qs about many of the players – Wilkins, Lynn, the McNairs – O'Neal answered all of his Qs; Edmonds didn't know about Janice Spruill and Bo Jack or J. Spruill and her drug use but O'Neal acted as though he was well aware of all that
- Edmonds told Leroy he didn't give a crap about what happened or happens in Washington County, he was from Martin County and he had a job to do
- **Separate bits unrelated to visits**
- Mentioned that Sonja was his 3rd or 4th cousin and she had told him once that she knew who killed Frank – Spruill intimated that Sonja was referring to the McNair brothers but never came out and said this. He did talk about a dress or purse belonging to the McNair's mother being found in Sonja's apartment (their mother apparently did Sonja's hair)
- After my last visit with Spruill, where we also saw Joseph McNair, Spruill said McNair came up to him on the yard as soon as Spruill got out from talking with us. JoJo brought up Frank and Sonja's murders and Spruill said that's what I'm in for but I know who did it – the McNair bros, Joseph Lynn and Maurice Wilkins. JoJo said no, no I'm Joseph McNair and I didn't do it. My brother Billy Lee did it! Leroy asked why he was turning on his brother and JoJo said because he's in for raping my grandmamma and we don't see eye to eye
- NOTE that the guards brought Leroy in right as they were taking JoJo out so the two saw each other. Leroy did not know who McNair was – and despite JoJo knowing who Leroy was he never intro'd himself before that day. Jojo could have gotten nervous when he figured we'd tell Leroy who he was and what was

going on – Leroy said that JoJo came up to him straight away – as soon as Leroy finished talking with us and went out to the yard.

April 7, 2008
Spruill, Leroy
Prepared by Rebecca Key, Luke Everett, and Sherry Everett, UNC School of Law
Re: Spruill, Leroy
NC DOC Inmate #:

Summary of 4/4/2008 Interview With Spruill

We met with LeRoy Spruill at Hyde County Correctional Facility at 1:30 on April 4, 2008. The purpose of the visit was largely to meet with Mr. Spruill in order to get to know him, but also to ask his opinion about Mr. Armstrong (who we also interviewed today).

We talked generally about the case. LeRoy was anxious to know how things were progressing with his case. We told him that we couldn't give him any firm indications of exact time frames, but assured him that we were all still working on his case. He had talked recently to his friend Charlie White, who had said that Chris Mumma had advised him not to talk to Jim Commen anymore without first talking to her. LeRoy expressed that he and Mr. White had wanted to talk to "anyone who could help them," but that he would try to take the suggestion seriously.

We also talked about his sister, Linda, who has been helping him with his case. She worked for the Janice Spruill and the sheriff's office for 17 years prior to his conviction, and resigned after his trial she resigned and now works in the DA's office in Morehead City. LeRoy gave us her phone number (525-793-3770) and suggested we call her to talk about her time working with Janice Spruill and any other insight that she might have into the case.

LeRoy is preparing for his parole. He has been working in the prison canteen for 11 years, and has had no infractions aside from a radio antenna that was too long, and has taken every available class offered at the prison (from welding to stress management). He hopes that he'll be able to get a MAP plan worked out, and perhaps be moved to another prison in preparation for his parole eligibility.

Luke and Sherry described their trip to Plymouth to LeRoy, and he asked if anyone had changed their stories. Sherry said that Lynn Rodgers was maintaining her story, and LeRoy said that he wasn't surprised. He speculated that Lynn developed her story due to a grudge that she had with Big Ed. Immediately prior to the murder, Lynn was fired because Big Ed suspected her of stealing money from the bar.

LeRoy mentioned several times that he knows everyone at the Center is busy, but that he wants to make sure that his case isn't forgotten. We assured him hat everyone is still working as hard as we can, and that Chris Mumma will be in touch with any developments.

SPRUILL'S KNOWLEDGE OF ARMSTRONG:

Mr. Spruill says that he did not know Mr. Armstrong before coming to prison, but that he did know Armstrong's family. He knew of him because of connections to Armstrong's family, but he was not friendly with Armstrong himself. In particular, Spruill spent time with Armstrong's older brother.

According to Mr. Spruill, Armstrong's story is that Armstrong was riding his bike down the street on Folly Road the night that Frank Swain was murdered. As he was riding a car pulled up to him, and he got in. They wanted to go buy dope. Armstrong says that he then saw a tire iron in the car. The tire iron was bloody. He asked the driver about it, and the driver said that he had used it to "knock an old dog in the head."

Champ Interviews: Gail Champ was interviewed by the Center in November 2003. Ed Champ, Sr. was interviewed first by the Center on October 16, 2003. He was interviewed again, along with Lottie Champ and Samantha Champ in 2004. Champ, Sr. was interviewed a third and fourth time on March 5, 2008 and March 13, 2008. Notes from these interviews are provided below for review.

Interview with Gail Champ, testified for the defense, also daughter-in-law of bar owner Ed Champ
Marti Maguire, 11/21/03

Gail Champ supports Jones and Spruill, and was very knowledgeable on the case. She also, however, seemed prone to pass on any bit of gossip she had heard regarding the case or the people involved, and to exaggerate to make her side of the story seem more credible. I was particularly interested in speaking to Gail Champ after speaking with the elder Margie Perry, who said Champ was going to testify for the prosecution, but was pressured by her husband to support Jones, who was a friend of the Champ family. Champ denies these rumors. She said they arose from statements she made about the apartment where Jones lived and which she had visited, which were purposefully misconstrued by investigator Janice Spruill and D.A. Mitchell Norton.

She had mentioned to her brother-in-law that after Jones had gone to TN (this would be the first trip, before he was a suspect), the bathtub in the apartment where he lived had rust stains, and she couldn't figure out how they could be so bad. Later, Janice Spruill approached her, asking if she had seen blood in the bathtub in Jones' apartment. Champ explained that they were rust stains. Later, she claimed Mitchell Norton threatened to "pick her up" for something if she did not cooperate. After that, she refused to speak to J. Spruill or Norton, referring them to Harrell, who represents the Champ family on various matters.

J. Spruill also told her that "they were lucky" to be alive after befriending Jones, as he had murdered someone in Texas and presented a threat to the community. Champ said a man named Robert Solis, who was wanted in Texas, was featured on an episode of America's Most Wanted. (I looked this up, and this man was much older and of Mexican descent. He was wanted for bank robbery in Nevada, but had previously been convicted for murder and released. This was clearly a poor choice of alias.)

Champ confirmed Jones' account of the blood on his pants having come from a fall on the stairs of the apartment. She also confirmed his account that Angela Martinez had kicked him at the bar and made it bleed. She said this did not happen the night of the murder, but could not remember if it happened before or afterwards.

Champ testified for the defense as a witness at the bar, and J. Spruill brought up the bloody washtub, which she said was rusty. She also attended most of the trial, despite being eight months into a difficult pregnancy. She had several of Ed Champ's guest sign-in books, though not the one for the night of the murder. She showed me one, from New Year's Eve that year, when Maybin signed in with Spruill, pointing out that if Maybin was truly scared of the suspects, as she mentioned at trial, it is illogical that she would have been purposefully going out with them.

She also denied that she had threatened Perry not to testify against Jones, though she does believe Perry lied on the stand. Another daughter-in-law of Ed Champ was accused of threatening Dana Maybin in a bathroom in jail, which Champ also denied happened. She

also said that Jack Spruill had heard Tina Cahoon, who worked at the jail where Maybin was kept during the trial, being coached by Janice Spruill. She thinks Janice Spruill was a drug addict, and had been to rehab before the murder (though she didn't know where). She said Willie Williams, who worked on the case with Janice Spruill, was a good friend of Frank Swain. I asked her about Wyatt Spruill, and she said he was still around, but to be careful as he is "a very bad man." I also asked her about Curtis Furlough, who she said lived in a cream colored trailer on the left past the Red Apple, with a gray pickup in front.

SPRUILL/JONES INTERVIEW

Prisoner #1:
Wallace Brandon Jones
Hyde Correctional Center
620 Prison Rd.
Swan Quarter, NC 27885
(252) 926-1810

Prisoner #2:
LeRoy Spruill
Hyde Correctional Center
(Address as above)

Meaghan Hannan
John Kuka
Marti Maguire

INTERVIEW WITH ED CHAMP
Oct. 16, 2003

Ed Champ no longer has the log book he kept the night of Frank Swain's murder. He likes Jones and said he would do anything to help in the investigation. Jones worked for him as a field hand and then as help with Champ's septic tank business in the fall of 1993.

Champ said he is sure he paid at least half of what Jones was owed the day of the murder, and estimated half would be more than $100. He also said he would have noticed if Jones and Spruill were gone from the bar for more than half an hour.

Champ said he spoke with both men throughout the night. He said he couldn't remember them changing clothes or looking different.

He said he fired Lynn Rogers for having a party at the bar. Apparently, she hosted a party for an underage friend and several underage drinkers attended.

Champs: Ed, Lottie and Samantha (divorced, last name Miller, but goes by Champ) **2/12/04**

Samantha said Phyllis called her on the night of the murder, she was a dispatcher.

The Champs were happy to see me. I bet Pattie called before I came. They were talkative and forthcoming. Lottie straightened out Ed's memory quite a bit. If they were lying, it seemed to be on established points of their story, like that Ed did not speak with Jones when he was in TN – or when they were passing on the local gossip.

Ed said he'd paid Jones the Friday night before the crime. He didn't remember working that day. They loved Jones and considered him part of the family. Samantha said Jones would watch her 2-year-old; he was good to her and spoiled her. He'd take her out and she'd come back with all kinds of candy. Lottie said she would boss him like he was one of her kids (he's about the same age as them); He was "like part of the family."

The first time he talked to the police, he spoke with J. Spruill, Norton and an SBI agent **(who?)** after they called him to the courthouse. J. Spruill had upset him during the questioning, and the SBI agent followed him to the parking lot and apologized. **(Exactly what did they say to him?)** She had threatened him, "You better tell me or you're in trouble." They were questioning him about Jones having left town. He said he had loaned Jones the car because he was supposed to do laundry. **(Didn't Gail do his laundry?)** Instead, he took it to Tennessee. Some officers had come to the house. Lottie told them Ed was out in the fields with Jones. When they got to where Ed was working, he told them Jones wasn't there because he had taken the car to do laundry.

Lottie had gotten onto Jones for having Maybin stay at the house, not because of her, but because she didn't want him bringing girls there. It was bad for their reputation.

At the first interview, J. Spruill asked most of the questions. Norton came to the house asking questions right before the trial started. **(What did he ask?)** He also spoke with Hardison. Jimmy Peale and J. Spruill spoke with Gail Champ first, then came to the house, and went to the farm when Lottie said he's not there. They came back later.

J. Spruill and Williams came one night with a search warrant, but searched the wrong trailer. When they were done, they said they had evidence, but didn't say what. Ed told them they had just bought that trailer, and destroyed the other one. Ed told them who they had bought it from, Ricky Weatherby (now deceased), and the officers checked with him.

Ed said, "They know who killed him," and talked again about Wilkins' blood sample. JS had also been in rehab. Hardison checked on it, and believed it was true, but she had done it under a different name, and he couldn't trace it. It would probably be one in Greenville or Washington. One guy she busted for drugs, she had taken a lot from him, and when they showed him the seized drugs at trial, he asked where the rest was. When JS came to the farm, she asked if he knew that Jones had killed someone in Texas. He only talked to the cops after they arrested Jones, about flight.

Jones left that night, after they had gone to the farm. He doesn't know why. Someone may have told him about the charges. Lottie added that he had left earlier, to visit his family, and came back. Ed said they he did not talk to him while he was in Tennessee.

Samantha: JS took her to the courthouse, showed her a picture album, and said he killed and raped two girls. JS showed her a picture album that was supposedly Jones'. There were pictures of his family and friends, and newspaper clippings of some people who had died. JS said that Jones had raped and killed two women in Texas, the ones in the articles. **(Make sure the articles were about rape/murders.)** She thinks only Janice was there. At that time, she was married to Jimmy Peale's stepson **(who is this? Bobby Spruill?),** who overheard her talking about the murder on the phone **(with who?),** and had told the police that she knew something about the murder. **(What were people saying at that point?)**

Night of murder: Lottie had gone home earlier. Ed closed the bar. LS, WBJ and DM were walking and didn't want a ride. He's sure he closed the bar, said he closed it every night of the four years it was open. Rogers never closed the bar. Rogers told him way after it was over that JS had told her what to say. She worked at a convenience store, and he talked to her there.

Margie Perry used to stay with them. Samantha said she took her to the courthouse, to a room. At that time, Perry was staying in the apartment with Samantha. She came back after it was over. Samantha thought she would be on their side, but she was on the other. **(Talk more about how this affected this friendship, and her marriage.)**

Lottie testified, too. After she came home the night of the murder, Sam called her and told her about the murder (Sam was with Curtis and his family, and heard about it through Phyllis, dispatcher friend). She was scared, and locked the doors.

SBI in Raleigh and Bo Jack: They planned a drug bust, and twice went to the sheriff's department to help. Each time they found nothing. The third time, they did not tell WCSD, and they busted him.

Lottie: There were a lot of people at the bar who didn't testify, who said they weren't there. Ed said the judge wouldn't take any more alibi witnesses from the bar. Long after the case, Swain's own family has said they don't think LS and WBJ did it. **(Which members of the Swain family?)**

Courtroom: One side had families of LS and WBJ and Champs. Other side had Swain's family and others. The room was split down the middle black and white, with just as many of each. The jury was also half and half.

Angela Martinez is a dispatcher in Washington, married to state trooper. Krystal Martinez married Jeremy Ambrose. Stanley James moved Janice when he became sheriff. JS also works at Makin' Tracks, has for many years. She is a nice woman, but not a very good

cop. Sam thinks maybe it was just too much. Patty (another daughter) used to go out with JS. Sam: JS is "nice, she just gets messed up sometimes." **Samantha's ex-husband seems to have been close to the cops. Maybe talk to him or see from her if he was asked to help.**

Ed said JS and WW came by the bar that night, following up on a tip that there was underage drinking going on at the bar. He said they could look around and they did, but saw no minors drinking, so they left. Samantha said she was the one who was in the bathroom with DM, not Gail, but she didn't say anything to her. She wanted to, but didn't. **Maybin should remember which it was; Gail was very pregnant.**

Wrongful Convictions
Lee Roy Spruill/Brandon Jones
Investigators: Sherry Honeycutt Everett, Rebecca Key, Luke Everett

Telephone Conversation with Ed Champ
3.5.08

- Called Ed Champ at 252-793-3803 on 3.5 at 1 pm
- He greeted me warmly when he heard what I was doing.
- We spoke briefly about the case. He maintains absolute faith in Spruill and Jones's innocence.
- Said that they were at his bar the entire night. Everyone's story lines up like lockstep: the three of them kept going outside to drink liquor together -- Big Ed didn't allow liquor in his bar, only beer. Said that the boys were not gone at any time long enough to commit the murder.
- Also said they didn't have transportation -- walked and rode bicycle to his bar.
- Lynn Rogers was his bartender and one of the prosecution's main Ws.
- He said that he testified for the defense at the trial, and after the trial he went to Lynn and asked why she said what she did.
- He said that she told him that the investigator told her what to say on the stand, and it was all made up. (!!!!)
- I asked if he had any ideas about why Lynn would have agreed to lie on the stand. He said yes and he'll tell me when we meet next week.
- He asked me to call at the beginning of next week and set a time and place for meeting with him. He didn't want to talk too much on the phone but assured me he would tell me everything when we meet.
- He hates the fact that Spruill/Jones are still locked up for this.
- Gave me his cell # to call, he keeps it on him all the time. 252-217-8676.

Ed Champ - Interview Notes 3.13.08

-This interview took place in Plymouth, NC at the McDonalds. Present - Sherry and Luke Everett, interviewers, and Ed Champ, defense witness at trial.
-Mr. Champ is slight, drove red Pontiac and waited until we called at approximately 12:25 to come to McDonald's. Initial impressions: not 100% credible. He clearly is in the ring with Lee Roy and was close to Lee Roy's father Jack Spruill.
-Ed. didn't know any of the "alternate suspects" names or stories and never mentioned anything about them. The only information or alternative theory he had about the case was that there was no way that Jack's truck worked at the time (which was supposedly how they got to the murder scene) and also that there was another person in town with a similar blue truck which got burned up a few days later. This truck belonged to Ray Hurst, and Ed said that some in the community had speculated that Ray Hurst had something to do with the murder.
-Thinks that Janice was dating one of Frank Swain's cousins at the time of the murder. Didn't have a name.
-When asked about Lynn Rogers and Margie Perry, Ed told me that Lynn Rogers worked at Kerr Drug in Plymouth and that Margie Perry's mother lived over on Foly Road but he doesn't know Margie's wherabouts. Thinks that Janice Spruill threatened/intimidated those two women into testifying, as well as Janice.
-Told us he wasn't aware of any reason Lynn would have to lie. Said she had remarried and is now Lynn Spruill. (We already had that info.)
-Told us Janice is now retired and works at a Plymouth convenience store named "Makin' Tracks."
-Interesting story: told us that Brandon lived in a trailer out behind his house at the time, which we already knew, and that shortly after the murder he got rid of the old trailer and replaced it with a new trailer. Said that after that, Janice and other officers came and said they had a search warrant for the "trailer," and he said, go right ahead. He then said they tried to come back to him and claimed that there was all kinds of physical evidence linking Brandon to the murder and that if Ed didn't talk he would be in trouble for obstruction/harboring/etc. He then told her that the trailer was one that Brandon had never lived in or been in and he said that shut her up really fast, and he never heard anything more about that evidence.
-He then said that the SBI agent who had been with Janice when she said these things came back out and apologized for Janice's interview tactics. (!) - **who was this? Dennis Honeycutt? Could we find and interview for evidence re - Janice lying to everyone?**

Lynn Rogers: Rogers was interviewed twice by the Center, one interview is undated and the other interview was March 13, 2008. The notes from these interviews are provided in full below.

Lynn Spruill (formerly Rogers)

Wow. This interview was like pulling teeth, and I still didn't get anything out of it. She remembered little, saying she tried to forget these events. She didn't want to talk, but could not bring herself to be rude. She had heard from Margie Perry that I'd be coming. **(Margie said she had heard from Lynn.)** She essentially stuck to the story she said at trial, but she did not remember detail. She did not even recall what she had testified to until I volunteered that she had overheard them bragging about the murder. Then "offing a nigger" came up. I had to remind her about the money, changed clothes, and the fact they had left and returned. She seemed very sincere, could look me in the eye when she said she remembered them saying that, but her memory was so poor, it's hard to believe. She also claimed that she has never done drugs or drank, which doesn't seem to fit with Margie's statement that Lynn had "cleaned up her act" since the time of the murder. Before I left, when she was crying, she said, "I'm not what I was then now," which seems to imply that she had changed for the better. But from her statements, it would seem she was always a pretty good person. Her attempts to explain this by having worked at bars, etc. seemed pretty weak. **Her relationship with Steven Bell, who is clearly a shady character, needs to be explored further. I need to do background checks on both of them, to see what they were up to around the time of the murder.**

"I was scared," was a big refrain. She probably said it a thousand times. The first name she remembered was Tom Anglim. It seems he was her main contact, along with Janice Spruill. When asked, she said she had put two and two together as far as their statements at the bar and Swain's murder, but did not come forward because she was scared and didn't want to be involved. She said the whole thing was "bad news" and she just tried to forget. She could not remember how her contact with the police and prosecutors began. She said one day, when she came home, there were four or five officers at her house (she was living with her parents), and she was very scared. She said she may have spoken with Janice Spruill before then, but she could not remember. She said they did not search the house, but had come to talk to her. **I don't understand why so many would come to talk to her if they had no idea what she would say. It makes more sense that Janice had already gotten some idea of what she might testify to.**

Lynn Rogers Spruill interview
Plymouth 3.13.2008

-This interview took place in the Kerr Drug store in Plymouth, NC. Interviewer - Sherry H. Everett, interviewing Lynn Rogers Spruill

-I found this interview to be decidedly unhelpful for Leroy and Brandon.
-This woman is the most credible person I've met to date in this case. Extremely nice, somewhat shy and soft-spoken, looks you directly in the eye the whole time, and generally I found her to seem incapable of having lied on the stand and put two completely innocent men in jail. (Men she didn't even know)
-I surprised her by just walking in and telling her I was in a class studying different cases where inmates claimed innocence. She was quite sweet and took a few minutes' break to talk to me. We sat in the pharmacy waiting room and talked for about ten minutes.
-I asked her what she remembered about that night. She pretty much repeated her exact testimony at trial, that she remembered thinking it was weird that they changed clothes in the middle of the night, and that she overheard Brandon saying that they had messed someone up. She did not repeat the line that she said at trial, that they couldn't believe they had gotten away with "offing a ni**er," but she did say the seemed to be bragging.
-I asked her how confident she was that her hearing and memory were accurate, and she said very.
-I asked her about the prosecutors and the investigators who interviewed her. She said they were all very nice to her. I asked her if she ever felt pressured at any time to say any certain thing or to testify, and she said yes -- by the defense. Described herself as being in fear for her life from the Champs and thought they were going to be really upset with her for testifying.
-Has not heard from Ed Champ in a long time or seen him; was surprised to hear from me that he was the source of how I found her working at the drug store as she has not worked there for very long.
-Gave me the phone number to the Eckerd and told me I could call her there if we wanted to talk to her further -- 252-793-1175

Assessment:
She is the opposite of helpful for Leroy and Brandon. There is no doubt in my mind that this woman believes every word she is saying. She was so shy and sheet that when I showed up out of the blue and told her what I wanted to talk to her about, I feel absolutely certain she would have become disconcerted/flustered/nervous if she'd had anything to hide. One possibility: she was so very sort of meek and nice that I could definitely see how a pushy investigator such as Janice or a skilled prosecutor could have implanted thoughts/memories and she ended up fully believing them herself. Otherwise no luck.

Angela Martinez: Ms. Martinez was 16 years old at the time of the murder and was interviewed as part of the initial investigation on April 30, 1994, and also by defense investigators on December 27, 1994. Both interviews are outlined above. Her recollection at this interview is that on the night of the murder, she remembered seeing Jones and Spruill smoking crack in Spruill's car.[51] She was sure that it was not a truck. She also recalled Jones coming into the bar with blood on his pants and limping.[52] She remembered Jones reporting that he fell down some stairs. She recalled Jones wearing tan or white pants and does not remember whether he changed clothes. None of this was reported in her interview with law enforcement during the initial investigation or in her interview with defense investigators. She also recalled Spruill and Jones leaving the bar, but does not say when they left and only indicates that they were "not gone long at all." (Center 2301-2).

Stacy Allen: The date of Allen's interview is not clear from the notes. The notes from this interview suggest that Allen's recollection of the night of the murder include that she went home with Spruill and Jones after the bar closed and slept in Spruill's bed.[53] The notes from this interview are provided below. (Center 2359-2362).

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[51] Maybin's trial testimony at Jones' trial indicates that Spruill purchased a maroon Cadillac around Christmas 1993, after the murder.

[52] Jones, Tommy Barber, and Gail Champ have all indicated that the night Jones fell down the stairs and had blood on his pants was at some point after the murder. Although in her early statements, Margie Perry was unsure of the night that she saw Jones with blood on his pants, she testified that this occurred on the night of the crime.

[53] Allen's original statement was that she went home with Spruill and Jones after leaving the bar on the night of the crime. At trial, Allen testified that she went to her own home and not with Spruill and Jones on the night of the crime.

Stacy Allen Willoughby, 5/11/68

Ask her more about her mom, and if I can talk to her. Also ask more about Sherry Honea. Did she say she saw LeRoy in his red car outside the bar? Angela said this, too. LeRoy said he had a truck at that time.

She said she has tons of letters between her and LeRoy, and she will show them to me if I ever want to see them. She's known LeRoy 11 years. She thinks she met him in November of 1992. In 1993, she was living in Creswell. She lived by herself, and her mother lived up the road.

Some girls lived at her mom's place, including Terry Hand (Sherry Honea). She was told she was in town from West Virginia. Sherry's father was dating and living with Stacy's mother. Stacy left her mom's house about the time they moved in there. Then they moved in with her. Her three brothers were living at her mom's house. They were just staying with her, they were not her friends.

They met LeRoy at a bar, then he came to her mom's house for thanksgiving. She and LeRoy started dating shortly afterward. It could have been the same year as the murder.

Sherry met someone and moved out. Dana moved in with LeRoy. Stacy told LeRoy not to do it. He was trying to get out of trouble, and Dana would get him back into trouble, with drugs, etc. He had also said he didn't want to see her, and she thought this may have been because he was getting back into drugs, which he had stopped doing.

She remembers that night because she was following him around saying, "Talk to me." She walked home with him from the bar and talke dot him. Dana, Brandon and Smarty were also at his house, and LeRoy passed out. She slept in his bed.

She can't remember if it was the same night, they got eh neighbor's flag and burned it. It was wearing out. It was LeRoy, Brandon, Dana and Sherry there that night.

Sherry was also hanging out with a guy named Beaver, who was a biker and was back and forth between her and Dana.

Both of them did drugs. LeRoy was trying to get out of it. His house was the party house, though. He'd tell them not to come around then he'd get drunk and do it again. Sometimes after the party broke up, he'd call. He didn't want that to be a part of his life and he didn't know how to make it stop.

He did smoke crack. She had gone with him to buy it. The first time, she went to Plymouth with him, and she thinks they went to Frank Swain's house. She remembers one time LeRoy making her stay in the car with the doors locked while he went in.

In December, they got rid of the other group – Dana, Sherry and Robert – and then he was drinking a lot, which was an even bigger problem for LeRoy. Basically if they kept

to themselves, he had no problem. If he was around people, he'd start doing it and do it for a while.

She never saw WBJ or DM do drugs, but she did see LS. They all came to her house to party. It was fun. Stacy was drinking a lot at the time. She had lost her kids because she had seizures. They would play cards, mess around, party.

They didn't find out the names of Dana, Brandon and Sherry until they were arrested. Brandon made up stories of how he was on the run for killing someone. They didn't believe him, and she still doesn't. He was just kidding, and the story changed all the time.

She went to Big Ed's with her mom sometimes. There were lots of people there the night of the murder. She doesn't remember the band. She was focused on trying to get him to talk to her. She thinks someone dropped her off. Jones and Spruill were outside when she got there, she thinks doing drugs. LeRoy acted arrogant when he did drugs, and she thinks he was high.

She remembers Lynn Rogers didn't like LS because he would cut up and pick on people. She would talk to him, but thought he was obnoxious. She was a serious type.

They left at 2 or 2:30 when the bar closed. She was not drinking. They walked. Dana and Smarty and Brandon came later. They ate and she slept in LeRoy's bed.
A few days later, she had stopped by his house to play with his dog. LeRoy came to the house and said, "You're not going to believe this. This guy was killed and I did it." He was joking. Stacy knew he didn't do it, "but you shouldn't joke about it because others don't know."

Janice had said she'd get LeRoy for drunk driving, she just couldn't get him yet. JS stopped Stacy when she was driving LeRoy's car, asking where he was. Stacy was going to school in Williamston, and the police followed her to the house. The god didn't bark, which Stacy thought was weird because he always did. Stacy knocked and they waited, and when he didn't come out, they told her to knock again. They were annoyed he wasn't there, and told Stacy they knew she knew something. They left and LeRoy snuck up from behind the house. A little while later, the police showed up again and told him they wanted him for questioning. He said yes and went.

After the murder, she started talking to LeRoy again. He started working and his partying died down. They were friends again. She'd stop by and talk to him a lot. The first time he was questioned, soon after the murder, he wasn't worried about it. He was hiding just to spite Janice. He knew she had it in for him.

Stacy heard Janice tell him she was going to get him for DUI. He had run his car into a canal because he was drunk. They were at her mom's house, and she took his keys, but he got them back. He took off drunk, and she had a bad feeling about it. She took her mom's car and picked him up after he'd wrecked. He left the car and hid out for a few days to

sober up. Around this time, when Janice came to question him about that, she said: "I may not have been able to catch you for that, but I'll get you."

Janice: "She's a nice person, but not always straight and narrow. She plays the law her own way."

She also thinks Janice was in rehab, and she thinks it was paid for by the sheriff's department.

She works on different and opposite sides of the law. She wants to be super cop and conquer the world's problems.

Stacy went to trial, and said of Maybin: "If I'd witnesses the same thing she said she'd witnessed, I couldn't say it so calmly." Stacy tried to talk to her after the murder and after the trial and she wouldn't talk. She worked with Mitchell, who didn't want to be involved.

The police talked to her before the trial, asking how she could be so sure LeRoy never left the bar. She told them it's because she was watching him the whole time. That's why she was there. She could only really vouch for LeRoy, and wasn't sure Brandon was there all night.

She also talked to JS and WW on the phone, shortly before the trial. They asked the same basic questions, but with more of an attitude, asking if she's covering for him. She said, "Why would I cover for someone who killed someone?" They were trying to say she wasn't sure of the night, and they tried to confuse her, asking, "Isn't it true that _____ happened?" They didn't say much about Jones, but they asked if he knew about his past. "They were trying to convince me that I had it all wrong." She doesn't remember them asking about Maybin.

Stacy met her husband in August. He didn't want her to testify, afraid that the real killers would come after her. They were been together for 10 years, were engaged and then broke up.

Her current boyfriend is **Darryl Hayes.**

She thinks this "Beaver" is the key.

She talked to Harrell in April or May of 1994. After June, 2 detectives from the SBI talked to her. They asked how she knew LeRoy and general questions about him. They wanted to know if he acted strangely at the bar. How did she know it was that night? A few days later, he told her. [Who? What?]

Darryl Hayes: The sheriff's department is under investigation for involvement with drug trade. JS worked undercover. Whitehurst was also investigated, and several deputies were dismissed. Check the Roanoke Beacon, and **Hugh Maxwell** is a good person to talk to

about the sheriff's department. He said he knows who did it, and thinks the money is buried somewhere in Roper.
She was frustrated when he went outside that night, and thought he was high or getting high. After they questioned him, he stopped talking to her for a while. He didn't want her involved.

She thinks Robert beat on Maybin. She'd get upset, and they'd fight. She saw the mild incidents, and saw marks on Dana that she thought were from worse episodes. Dana and Robert were inseparable for the time they were together, seriously dating.

LeRoy went to rehab shortly before he went to jail. She has a lot of letters between them. He said he hadn't even been to Swain's. She thinks he had been there, but she doesn't know if it's true. It was his red car that was in the canal, it was impounded.

She thinks they walked home from the bar. It was another night that her mom was there in her car, like she said in her statement.

She doesn't remember if Nikki wrote her. She does remember that Nikki wanted to tell the truth. She thinks the letter was short and sweet. She didn't want Stacy to hold it against her. She wanted to tell the truth, and was scared of JS.

She told a story about a guy who stayed with her mom and planted pot behind the house. A helicopter spotted it, and they took her mom to jail. JS and WW told her mom that if she told on him, she wouldn't have to testify. Later she said she had never said that.

"Janice Spruill is crooked, she schemes against people. She knows how she wants things to be and she makes it that way."

WW is friendly and nice, but he has Janice's back.

Beaver had been at LeRoy's and he had a curved knife like the one used to kill Swain. Dana had taken some money from him, and he said he'd get his money back one way or another.

Forensic Analysis

LabCorp performed testing on behalf of the Center. This testing used the DNA extracts from the tire iron testing completed in 1995 by Meghan Clement at LabCorp. A DNA profile was obtained from the extracts. Spruill was excluded as the source of the genetic material on the tire iron. Spruill's standard was the only one submitted for this testing. This report is provided in full below.

Laboratory Corporation of America® Holdings
P.O. Box 13973
1912 Alexander Drive
Research Triangle Park, North Carolina 27709

Telephone: 800-533-0567
Fax: 919-361-7737

CERTIFICATE OF ANALYSIS

July 13, 2007

North Carolina Center on Actual Innocence
3124 Surrey Road
Durham, NC 27707
Attn.: Ms. Christine Mumma

Agency #: 94-CRS-1984

Victim(s): Swain, Frank

FS Lab #: F95-461

Subject(s): Spruill, Leroy

Evidence Tested:

Item 1	Previously extracted DNA from a tire iron.
Item 264-3	Previously extracted DNA from a reference blood sample from Leroy Spruill.

Results:

The previously extracted deoxyribonucleic acid (DNA) from the above listed evidence was characterized through the polymerase chain reaction (PCR) at the following genetic systems using the AmpF*l*STR® Identifiler™ kit:

F95-461

Alleles Detected

System	1-Tire iron	264-3 L. Spruill
D8S1179	12	13, 15
D21S11	29, 30	29, 31
D7S820	8, 10	9
CSF	8[a]	11, 12
D3S1358	14, 16	16, 17
THO1	8, 9	7, 9.3
D13S317	11, 13	10, 11
D16S539	11, 12	12
D2S1338	NR	21, 25
D19S433	11, 15.2	12, 13
vWA	15, 18	14, 15
TPOX	10, 11*	8, 9
D18S51	NR	18
D5S818	11, 12	10, 12
FGA	NR	20, 24
Amelogenin	XY	XY

NR= No reportable activity detected.
a= Additional activity detected, however, it fails to meet reporting standards.
*= Alleles designated with an asterisk are less intense than non-designated alleles.

Based on the results listed above, the DNA profile obtained from the tire iron (Item 1) is different than the DNA profile obtained from the reference sample from Leroy Spruill (Item 264-3). Therefore, Leroy Spruill is excluded as a source of the genetic material on the tire iron.

Disposition of Evidence:

Unused evidence was previously returned to the submitter.

The results have been reviewed independently by the undersigned and are correct as reported.

Sworn to and subscribed
before me this 17 day
of July, 2007
at Research Triangle Park, NC.

Shawn M. Weiss
Shawn M. Weiss, BS
Associate Technical Director, Forensic Identity Testing

Meghan E. Clement
Meghan E. Clement, MS
Technical Director, Forensic Identity Testing

Sonnette Holley Jones

XVII. Proposed Hearing Agenda

The Commission anticipates presenting evidence concerning DNA and other forensic analysis as well as information from witnesses that has not been previously presented or considered at trial or a post-conviction hearing and that was also not reasonably available at the time Spruill pled guilty. The Commission anticipates presenting testimony concerning that evidence through multiple witnesses including, but not limited to, Commission lead investigator Catherine Matoian, two forensic experts, and claimants.

In addition, provided in Appendix H and Appendix I to the brief, in full, are the Commission's interviews and deposition of Dana Maybin. Maybin is a resident of South Carolina and expressed at her deposition that she would not come willingly to testify at the Commission hearing. The Commission's Director does not intend to call Maybin to testify. If a Commissioner should desire to hear live testimony from Maybin at the hearing, that Commissioner should reach out to the Commission's Director no later than **August 31, 2018** so that the Director can discuss the request with the Commission Chair and Commission staff can follow the necessary legal process to attempt to compel her attendance if directed by the Commission Chair. However, please note that summoning a witness from out of state could involve a hearing before a judge in that state and so Commission staff cannot guarantee that Maybin will be commanded to attend, even if efforts are made to compel her attendance.

XVIII. Conclusion

A hearing will be conducted before the North Carolina Innocence Inquiry Commission on October 1-4, 2018. At that time, the Commission's Executive Director will present in detail the evidence uncovered during the Commission's investigation.

The Commission is charged with considering "credible, verifiable evidence of innocence that has not been previously presented at trial or considered at a hearing granted through post-conviction relief."[54] At the conclusion of the hearing, each Commissioner shall determine whether "there is sufficient evidence of factual innocence to merit judicial review."[55] Commissioners should consider the standards for each claimant as outlined in Part II of this Brief. All eight Commissioners are required to participate in this vote.

[54] N.C.G.S. § 15A-1460.
[55] N.C.G.S. § 15A-1468(c).

XIX. APPENDICES

A. Individuals Named in Brief (Alphabetical)

B. Maybin Statements Chart

C. Jones Statements Chart

D. Jones Letters Chart

E. Spruill Statements Chart

F. Spruill Letters Chart

G. Forensic Testing Prior To Commission

H. Maybin Interviews with Commission

I. Maybin Deposition by Commission

APPENDIX A – INDIVIDUALS NAMED IN BRIEF (ALPHABETICAL ORDER)

NAME	ROLE
Allen, Stacy	Witness – Big Ed's Bar
Armstrong, Alfred "Ducon"	Witness/Alternate Suspect
Armstrong, Cookie Morris	Witness – Wyatt Spruill
Armstrong, David	Witness – Wilkins, Lynn, McPhatter
Armstrong, Denise "Niecy"	Witness – Michael Lassiter
Armstrong, Priscilla "PJ"	Witness – Wyatt Spruill/mother of Maurice Wilkins
Arnold, Avis	Witness - Wilkins
Baldwin, Kerry	Brother-In-Law of Victim
Barber, Tommy	Witness – Wallace Brandon Jones
Bell, Steven	Witness – Big Ed's Bar
Bell, Terry	Witness – Big Ed's Bar
Boston, Joe	Private Investigator for defense
Calloway, Tony	Witness – Big Ed's Bar
Carter, Herman "Fellow"	Witness – Wyatt Spruill
Carter, James "Duke"	Witness – Victim's cousin. With him day of the murder.
Champ, Ed, Jr.	Witness – Big Ed's Bar
Champ, Ed, Sr.	Witness – Big Ed's Bar
Champ, Gail	Witness – Big Ed's Bar/Wife of Ed Champ, Jr.
Champ, Lisa	Witness – Big Ed's Bar
Champ, Lottie	Witness – Big Ed's bar/Wife of Ed Champ, Sr.
Clark, James Travis	Witness – Wallace Brandon Jones
Coman, James	Assistant Attorney General
Costin, Bessie Talkington	Witness
Covel, Benjamin "Bennie"	Witness – Maurice Wilkins
Craddock, Jackie	Witness – Dana Maybin
Cummings, Michael	Witness – Michael Lassiter
Davis, Phoenicia	Witness – Dana Maybin
Davenport, Judy	Girlfriend of Michael Lassiter
Day, Sonja	Witness – girlfriend of Victim, sister of Wyatt Spruill
Davis, Erma	Witness – heard noises from Victim's trailer
Downing, Bert	Witness – Wyatt Spruill
Downing, Maxine	Witness – saw Victim prior to murder
Edwards, Seth	Attorney of Leroy Spruill/Current Washington County District Attorney

NAME	ROLE
Everhart, Constance (Widenhouse)	Attorney of Wallace Brandon Jones
Floyd, John	Plymouth Police Chief
Furlough, Curtis	Alternate Suspect
Furlough, Kevin	Witness – Jones leaving Plymouth
Furlough, Sharon	Mother of Curtis Furlough
Furlough, Virginia	Wife of Curtis Furlough
Garrett, Thomas "Tommy"	Alternate Suspect
Hardison, Clifton	Private Investigator for Defense
Harrell, Maynard	Attorney of Leroy Spruill
Harris, Stan	Medical Examiner
Hill, Kevin	Alternate Suspect/Husband of Mona Hill
Hill, Mona	Wife of Kevin Hill/Having Affair with Victim
Hinson, Linda	Sister of Leroy Spruill
Honea, Sherry	Witness – provided information given to her by Dana Maybin
Honeycutt, Dennis	Special Agent with SBI
Hudson, Edward	Witness – Wyatt Spruill
Hurst, Ray	Alternate Suspect/Witness – Leroy Spruill
Inscoe, Kent	Special Agent with SBI
Jones, Wallace Brandon	Claimant
Knowles, Russell "Buffy"	Alternate Suspect
Lassiter, Michael	Alternate Suspect
Lynn, Joseph	Alternate Suspect
Maguire, Marti	UNC journalism student
Martinez, Angela	Witness – Big Ed's Bar
Maybin, Dana	Co-Defendant
McCormick, Gloria	Witness – Wyatt Spruill
McGowan, Debbie	Girlfriend of Leroy Spruill
McNair, Billy	Witness – Wilkins, Lynn, McPhatter
McNair, Janice	Mother of Billy and Jojo McNair.
McNair, Willie Joseph "Jojo"	Witness/Alternate Suspect
McPhatter, Lee "Toby"	Alternate Suspect
Midgette, Sherrod	Witness - Wilkins
Mills, Leslie Nichole	Witness – Dana Maybin
Mixon, David	Alternate Suspect
Moore, Regina	Attorney of Dana Maybin
Moore, Scott	Witness – Spruill's dad's truck
Mumma, Chris	NC Center on Actual Innocence
Norman, Ernest	Witness – Ray Hurst
Norton, Mitchell	District Attorney
Nowarah, Mitchell	Friend of Dana Maybin

NAME	ROLE
Ogletree, Charles	Attorney of Dana Maybin
Perry, Margie	Witness – Big Ed's Bar
Polk, Charles	Witness – interviewed by Plymouth PD
Respass, Marty	Witness – went to Victim's trailer before murder
Rogers, Lynn	Witness – Big Ed's Bar
Sawyer, Russell	Witness – Leroy Spruill
Skittletharpe, Billy	Witness – Big Ed's Bar
Skittletharpe, Jean	Witness – Big Ed's Bar
Spruill, Jack	Father of Leroy Spruill
Spruill, Janice	Investigator with WCSO
Spruill, Kelvin "Smarty"	Witness – Big Ed's Bar
Spruill, Leroy	Claimant
Spruill, Patty	Mother of Leroy Spruill
Spruill, Robert	Witness – directed law enforcement to Sherry Honea
Spruill, Wyatt	Alternate Suspect/Last person to see Victim alive
Stokes, Debbie	Witness – Dana Maybin
Swain, Mary	Witness – Victim's sister
Swain, Tim	Witness – second to see Victim's body
Varnell, Donnie	Special Agent with SBI
Skinner, John	Attorney of Wallace Brandon Jones
Swain, William Frank	Victim
Underwood, Pauline	Aunt of Lee McPhatter
Vosburgh, James	Attorney of Wallace Brandon Jones
Ward, Preston	Plymouth Police Lieutenant
Ward, Tommy	Witness – Wallace Brandon Jones
Warner, Mac	Special Agent with SBI
Wilkins, Maurice	Alternate Suspect/Witness – Wyatt Spruill, Leroy Spruill
Williams, Willie	Investigator with WCSO
Wood, Raymond	Witness – Wyatt Spruill
Young, Mann	Witness – Wyatt Spruill

APPENDIX B – DANA MAYBIN TIMELINE

DATE	DOCUMENT	DESCRIPTION	FILE LOCATION
4/24/1994	SBI Report/WCSO Report	Sherry Honea interviewed by law enforcement regarding Maybin. According to Honea, Maybin came up to her around Christmas and said that, after the murder, she had burned shoes Honea had given Maybin previously.	WCSO 43-44, SBI 366-371
4/25/1994	SBI Report	Maybin interviewed in South Carolina by law enforcement. Implicates Spruill, Jones, and Curtis Furlough. Signs single party consent forms to record conversations between herself and Bessie Talkington, Curtis Furlough, and others.	WCSO 195-202
4/26/1994	SBI Polygraph Report	Maybin is taken to Asheville, NC for a polygraph examination. Report states that the test was stopped when Maybin said she was pregnant.	SBI 884
4/26/1994	WCSO Report	Bessie Talkington tells law enforcement that Maybin called her that day. Maybin told her that Spruill, Jones, and Curtis Furlough killed the Victim.	WCSO 54
4/28/1994	WCSO Report	Maybin attempts to call Curtis Furlough and record the conversation. No one answers.	WCSO 63
5/3/1994	Letter	Maybin faxes letter from Oconee County Sheriff's Office to WCSO. She says that when she lied in her first interview (4/25/1994). She says that she was at the bar with Spruill and Jones the entire night on the night of the murder. NOTE: This letter was entered at trial as State's Exhibit #27.	SBI 986-987
6/25/1994	WCSO Report	1st Interview with Law Enforcement in South Carolina – 11:00 AM • Maybin again implicates Spruill, Jones, and Curtis Furlough. Two Polygraph Examinations by Independent Examiner in South Carolina – 2:00 PM • 1st Polygraph - Maybin initially denied involvement and suspected	1st Interview – WCSO 210-211 Polygraph – WCSO 51-52, 500-502

DATE	DOCUMENT	DESCRIPTION	FILE LOCATION
		Spruill and Jones. Report indicates she exhibited physiological signs of deception and examiner tells Maybin she failed. Maybin said she would tell the deputies who was involved. • 2nd Polygraph – Results were inconclusive. 2nd Interview with Law Enforcement in South Carolina – 6:50 PM • Maybin tells law enforcement that she was present when Spruill and Jones murdered the Victim. She says they went back to Spruill's house after the murder and she stayed there the rest of the night.	2nd Interview – WCSO 91-96, 212-214
12/10/1994	Warrant/WCSO Report	Warrant issued for Maybin's arrest. Maybin arrested in South Carolina and waives extradition.	WCSO 232, 522
12/15/1994	SBI Report	Maybin is taken into custody in South Carolina and is interviewed by law enforcement while en route to North Carolina. Maybin says she was present when Spruill and Jones murdered the Victim. Maybin says they went back to Big Ed's Bar after the murder.	WCSO 827-847
12/21/1994	Journal Entry	Maybin makes journal entry the day after Spruill's 12/20/1994 PC hearing. She says she only saw a man get murdered, she did not kill him. NOTE: Discussion of this entry was excluded at trial because of the content related to Maybin's violent dreams.	WCSO 891-893
12/26/1994	Letter	Maybin writes a letter to her boyfriend, Jeff Kelley, and her daughter in South Carolina. She says that she has asked for protection and was told nothing was going to happen to her.	WCSO 904-905
12/26/1994	Journal Entry	Maybin writes about her concerns related to her charges getting reduced and what that would mean for her relationship with Jeff Kelley.	WCSO 901-902

DATE	DOCUMENT	DESCRIPTION	FILE LOCATION
12/27/1994	Journal Entry	Maybin makes journal entry after Jones' PC hearing. She states she is scared of Jones. She also says she looks stupid because Spruill and Jones are denying everything.	DA 1391-1392
12/29/1994	Letter	Maybin writes a letter to Mitchell Nowarah. She states that Spruill and Jones did not commit the crime and she lied to law enforcement to hurt Jones. She also names people who were at the bar and know they were there all night ("Lynn (bartender), Big Ed, Smarty, Terry (Lynn's boyfriend's brother), Stephen (Lynn's boyfriend), Curtis Fallaw (sic), Kevin Fallaw (sic), Stacy Allen, Cottie + Kim, and a lot others…"). NOTE: Entered into evidence at trial as State's Exhibit #29.	WCSO 238-240
12/31/1994	Journal Entry	Maybin writes in her journal that she plans to tell the truth the next time she goes to court. Prays for help with her testimony and that she can make people understand why she lied. NOTE: Entered into evidence at trial as State's Exhibit #30.	SBI 983
1/1/1995	Journal Entry	Maybin writes in her journal that she lied so that Jones could be put behind bars for the pain he caused her. Says Spruill and Jones are in jail for something they didn't do. Says she will explain why she lied in court. NOTE: Entered into evidence at trial as State's Exhibit #31.	SBI 974-975
1/2/1995	Journal Entry	Maybin writes in her journal that she is going to tell the truth in court because Spruill and Jones are in jail for a crime they didn't commit. NOTE: Entered into evidence at trial as Exhibit #32.	SBI 978-979
1/3/1995	WCSO Report	At Maybin's PC hearing, her attorney asks for a continuance based on letter Maybin wrote recanting her statements. Her	WCSO 522

DATE	DOCUMENT	DESCRIPTION	FILE LOCATION
		attorney felt someone had "got to" Maybin. Maybin told Willie Williams that she was wrong to write the letter and that "It was wrong what they had done…"	
1/4/1995-1/7/1995, 1/12/1995	Journal Entries.	Maybin writes in her journal. These do not mention Spruill or Jones at all. NOTE: Entered into evidence at trial as State's Exhibit #33.	Clerk's Exhibits Envelope.
1/19/1995	Letter	Seth Edwards writes to Maynard Harrell regarding information provided by Nichole Mills about Maybin. Maybin told Mills she was not involved in any way. Maybin said that she and "a female named Sherry" made up the lie about the murder because of something Jones had done to Sherry. Edwards asked Mills to look at Maybin's journal.	Jones PLS 1065
1/20/1995	Fee Application/Jail Records	James Vosburgh visits Mills in jail. He also calls ADA Rob Hensley and says that he should go speak to Mills.	DA 5953; Center 1519
1/24/1995	SBI Report	Nichole Mills is interviewed by law enforcement while in jail. Maybin originally told her that she, Spruill, and Jones had committed the murder. After a church service about liars, Maybin wrote a letter about the story she told and how a lot of other people saw her that night.	SBI 756-760
2/7/1995	Fee Application	James Vosburgh meets with Maybin in the jury room of the Washington County Courthouse. She said she was ill but would like to talk to Vosburgh later.	Center 1520
2/7/1995	SBI Report	Phone call between SA Inscoe and ADA Hensley re: John Skinner and James Vosburgh interviewing Maybin. Maybin's attorney, Regina Moore said the interview would not happen and she still planned for Maybin to testify truthfully. Consented to interview of Maybin.	SBI 778
2/8/1995	SBI Report	Maybin meets with ADA Hensley and SA Inscoe at Beaufort County Jail. Maybin said she was going to testify truthfully for the	SBI 779-780

DATE	DOCUMENT	DESCRIPTION	FILE LOCATION
		state about what she did and saw during the murder.	
2/9/1995	Memo	Vosburgh approaches Regina Moore about speaking to Maybin. Moore spoke with Maybin and told Vosburgh that Maybin was afraid of him. Vosburgh then spoke to Nichole Mills, who said that Maybin said to Regina Moore that she wanted to speak to Vosburgh. Maybin said she knew the SBI did not want her speaking to Vosburgh. Mills also gave Vosburgh a document written by Mills that Vosburgh copied down by hand. The document discusses meeting Maybin had with law enforcement and DA Mitchell Norton where Norton was angry at her. She says she was told you would be left "holding the bag" if she changed her story now and that it was best for her to stick to her story and not change it all the time.	Jones PLS 1305-1308, Jones PLS 1207-1209
2/21/1995	Transcript	Dana Maybin's PC hearing.	Jones PLS 241-251
2/22/1995	DPS Records	Maybin sent to NCCI Women's Prison as a Safekeeper.	Maybin DPS 17
		Note: Maybin and Nichole Mills stayed in contact with each other through letters after Maybin was transferred to Women's Prison and after Maybin was convicted. Approximately seven (7) letters not discussing case specifics were sent between the date of Maybin's transfer, with the last letter in the file being dated 11/24/1995. The letters that did discuss the case are outlined below.	
2/23/1995	Letter	Maybin writes to Nichole Mills and asks for help. She says she will kill herself if she doesn't get out of Women's Prison. She asks her to get in touch with Mitchell to see what the DA said.	DA 1437-1438
3/3/1995	Letter	Maybin writes to Nichole Mills. She says that Washington County will see what a	DA 5894-5895

DATE	DOCUMENT	DESCRIPTION	FILE LOCATION
		mistake they made when she gets out. She says she's not going to be forgotten in her cell.	
3/4/1995	Journal Entry	Maybin writes in her journal that she lied for the reward money and to get back at Jones for hurting her. She wished she hadn't lied. She also says she was told by the SBI that she would be the one "holding the bag" and Spruill and Jones would go free. Says she was kept at the courthouse until 7 pm by the DA and law enforcement. Says she needs to speak to Spruill and Jones' attorneys. NOTE: Entered into evidence at trial as State's Exhibit #34.	SBI 969-971
3/6/1995	Letter	Nichole Mills writes to Maybin. She says that people have information to clear Maybin, but it will take time.	Center 1309-1310
3/6/1995	Letter	Maybin's mother writes to Maybin. Indicates she has been in contact with Spruill and Jones' attorneys and they think they can help her. Her mother also tells her that she should request another attorney and to tell the truth if she lied.	DA 131-132
3/7/1995	Letter	Maybin writes to Nichole Mills that Regina Moore is not accepting her calls. She says she is going to request a new lawyer and is going to tell the truth.	DA 5897-5898
3/7/1995	Letter	Maybin writes to the Washington County Clerk of Court requesting another attorney. She indicates that Regina Moore is doing what is best for the state, not for Maybin.	SBI 270
3/7/1995	Fee Application	Vosburgh gets a phone call from Mills in jail. Mills says she has received a letter from Dana Maybin indicating she is suicidal. Vosburgh gets permission from Regina Moore to interview Maybin.	DA 1521
3/7/1995 or 3/8/1995	Trial Testimony/Letters	Vosburgh and Harrell go to interview Maybin in Women's Prison to find out what her testimony will be.	SBI 1469-1470

DATE	DOCUMENT	DESCRIPTION	FILE LOCATION
3/8/1995	Journal Entry	Maybin writes in her journal that she met with attorneys for Spruill and Jones. She said it felt good to talk to someone about the case as it had been bothering her.	SBI 971
Undated	Stacy Allen	Maybin writes a letters to Stacy (presumably Allen based on content of the letter). She states she told the attorney the truth, which is that they were all at the bar all night and "so drunk we couldn't tell our butthole from a hole in the ground."	Center 265
3/10/1995	Transcript/Recording	Maybin interviewed by Maynard Harrell in jail. States that Spruill and Jones had nothing to do with the murder of Frank Swain. She also indicates that she was given information about the crime by law enforcement. The transcript and recording entered into evidence at trial. The transcript is provided in full in Section VII of the brief.	Center 1058-1103
3/10/1995	Letter	Nichole Mills writes to Maybin that Maybin did the right thing by speaking to Vosburgh and Harrell.	DA 367
3/14/1995	Letter	Nichole Mills writes to Maybin. She tells Maybin to remember what Washington County did to her and tell the truth on the stand.	DA 5995-5996
3/16/1995	Letter	Maybin writes to Nichole Mills. She says that Maynard Harrell and James Vosburgh came to visit her and she told them the truth. "Mr. Harrell recorded our interview so no one would say that he made me say it."	DA 1354
3/22/1995	Letter	Mills writes to Dana Maybin. She states that when Vosburgh told Regina Moore he wanted to interview Maybin, Moore told Vosburgh that Maybin would "burn him" and that Maybin had been telling people Vosburgh was telling her what to say. Mills indicates she doesn't believe Maybin said these things. NOTE: Introduced at trial as State's Exhibit #40. Three other cards/letters from Mills	SBI 972-973

DATE	DOCUMENT	DESCRIPTION	FILE LOCATION
		to Maybin marked State's Exhibit #41-43 were introduced. Objection to their entry was sustained.	
3/22/1995	Journal Entry	Maybin writes in her journal that she lied on "them" and the law lied to her. She states she got what she deserved for putting Spruill and Jones through this. Regina Moore is not accepting her calls. NOTE: This entry was entered at trial as State's Exhibit #36.	SBI 972-973
3/23/1995	Letter	Maybin writes to Nichole Mills. She says that Regina Moore still won't speak to her and that Moore also prevented Vosburgh from talking to her. Says she is writing a statement that she wants to speak to Vosburgh.	DA 1351-1352
3/23/1995	Letter	Maybin writes a letter stating she would like to see James Vosburgh and Maynard Harrell whenever possible since she cannot get in touch with her lawyer.	DA 1353
3/24/1995	Journal Entry	Maybin writes in her journal regarding what Mills said in her 3/22/1995 letter about the rumors that Maybin was being told what to say by Vosburgh. Maybin says she told Vosburgh the truth and lied to the others. She wants to know who told Sherry Honea about the murder, because she (Maybin didn't). The only information she had about the murder came from law enforcement and Mitchell Nowarah. She says she is a good liar "when it comes to getting what I want." NOTE: Entered into evidence at trial as State's Exhibit #37.	SBI 976-977
Undated	Letter	Nichole Mills writes to Maybin telling her to write a letter requesting another attorney and an interview with the PI and other defense attorneys and Mills will get it into the right hands.	Center 1310
3/27/1995	Journal Entry	Maybin writes in her journal that she has been telling the truth since she had been locked up, even if other people thought	SBI 980

DATE	DOCUMENT	DESCRIPTION	FILE LOCATION
		she was just saying what the defense attorneys wanted her to say. Says people believed her when she lied. Says all they had was "hearsay from the start from a crackhead crazy girl that wanted to stay out of jail." NOTE: Entered into evidence at trial as State's Exhibit #38.	
3/27/1995	Letter	Nichole Mills writes to Maybin that she will pass a letter Maybin sent her on to Vosburgh.	DA 377-379
3/28/1995	Journal Entry	Maybin writes in her journal that she prays for forgiveness for lying about the murder and putting Spruill, Jones, and their families through this. NOTE: Entered into evidence at trial as State's Exhibit #39.	SBI 980
4/5/1995	Letter	Nichole Mills writes to Maybin and says she wishes she could do more to tell her. She just wants Maybin to "beat this crap, so we all can laugh at those screw-ups from Washington County."	DA 376
5/8/1995	Indictment	Maybin is indicted for murder and robbery.	DA 5446
5/10/1995	Letter	James Vosburgh writes to Charles Ogletree that Ogletree has been appointed as Maybin's second chair. Indicates that Maybin has recanted her statement to law enforcement and that Regina Moore has not spent a lot of time on Maybin's case.	Jones PLS 1097-1098
6/24/1995	Letter	Jones writes a letter to Maybin asking her to tell the truth.	John Skinner file.
7/19/1995	Letter	Charles Ogletree writes to Mitchell Norton regarding filing Notice of Intention to Subpoena District Attorney as necessary Witness. Indicates he has been informed that Norton and Rob Hensley have had contact with Maybin outside of her attorney and have heard her attempt to recant earlier statements and assert her innocence.	DA 3616

DATE	DOCUMENT	DESCRIPTION	FILE LOCATION
8/2/1995	PI Boston Report	Cottie Oliver is interviewed by PI Joe Boston. When asked about statements made by Dana Maybin, she says that Maybin never said anything about the murder to them and didn't know if Jones had killed anyone.	DA 2560
8/11/1995	PI Hardison Report	Jennifer Spruill tells PI Cliff Hardison that she visited Maybin in jail (date not given). Maybin put a note up to the window stating that Janice Spruill had made promises to Maybin if Maybin "kept to her story" but was not keeping them, and Maybin was going to tell the truth in court.	Center 623-625
8/15/1995	PI Boston Report	Phoenicia Davis interviewed regarding conversations with Maybin while they were in jail together. Davis told Maybin what Honea was saying and Maybin said she was in jail for the same crime and that Honea must have done it because she (Maybin) did not know the Victim.	Center 734
8/20/1995	MAR Testimony/Fee Application	Harrell testifies at Jones' MAR that the Sunday before Maybin's trial was set to begin, he and Maybin's attorney, Charles Ogletree, bring Maybin to the courtroom and direct and cross-examined her. Her statements at that time were "compatible" with her recorded interview with Maynard Harrell. NOTE: Harrell's fee application indicates that Regina Moore was present.	MAR transcript 89-90
8/21/1995	Plea Transcript/Agreement	Maybin pleads guilty and signs agreement for truthful testimony. The plea transcript and agreement are provided in full in Section VII of the brief.	DA 1425-1432
8/30/1995	Transcript	James Vosburgh interviews jailer Debbie Stokes regarding her interactions with Maybin while Maybin was in jail. She said that Maybin proclaimed her innocence while she was in jail.	SBI 1041-1046
9/16/1995	Memo	James Vosburgh interviews Nichole Mills regarding her interactions with Maybin. Maybin initially said she didn't kill the	DA 1971-1976

DATE	DOCUMENT	DESCRIPTION	FILE LOCATION
		Victim, but was involved. She later said that she had lied to Janice Spruill to get back at Jones. She said Maybin also told her that Janice Spruill had made her promises that were broken. Maybin said she was at the bar with Spruill and Jones from 6 or 7 pm until closing. Mills also wrote a handwritten statement about her involvement in this case. This memo and letter from Mills are provided in Section VI of the brief.	Jones PLS 1148-1156
9/22/1995-9/29/1995	Trial Transcript	Jones' trial. Maybin testifies. Testimony provided above.	TT 536-757
10/5/1995	Judgment	Maybin sentenced.	SBI 138
10/13/1995	Letter	James Vosburgh writes to Charles Ogletree. Discusses Maybin's testimony and indicates that Janice Spruill showed Maybin the crime scene photographs multiple times until Maybin was able to come up with testimony that fit the circumstances of the crime.	Jones PLS 1122
10/24/1995	Letter	Nichole Mills writes to Maybin. Says that people are working for Maybin, but she can't say much in a letter.	DA 6035-6037
1/25/1996	Letter	Jones writes to John Skinner that Spruill's sister received a letter from Dana Maybin she had been "tricked into all of this" and wanted to talk to someone. NOTE: No letter matching this description has been produced to the Commission in the files reviewed.	Jones PLS 39
1/6/1997	Mental Health Assessment	Spruill tells DPS that he recently received a letter from the "person that testified against him, admitting that she had lied in court." NOTE: No letter matching this description has been produced to the Commission in the files reviewed.	Spruill DPS 26-28
8/25/2003	Letter	Jones writes a letter to Amos Tyndall saying that the Chief of Police has gotten	Tyndall 3-4

DATE	DOCUMENT	DESCRIPTION	FILE LOCATION
		in touch with Dana Maybin and she is now telling the truth. NOTE: PPD Chief John Floyd did not interview Dana Maybin during his investigation.	
11/21/2003	Status Report	Memo in Center File indicates that Maynard Harrell recently spoke to Maybin and she recanted her testimony and agreed to speak out in order to clear Spruill and Jones. NOTE: This will be discussed more at the hearing.	Center 2201-2213
1/6/2004	Letter	Marti Maguire writes to Spruill that Amos Tyndall and a student attempted to interview Maybin, but Maybin left town right before.	SBI 1104
2/17/2004	Letter	Vosburgh writes to Spruill that he has been told Maybin may not cooperate in telling the truth, but that she will not put forth any special effort.	SBI 1098
4/17/2004 or 4/18/2004	Report	Marti Maguire interviews Maybin. This interview is provided in full in Section XV of the brief.	Center 2309-2310
8/17/2005	SBI Report	Maybin interviewed by the SBI. This interview is provided in full in Section XV of the brief.	SBI 1239-1241
10/28/2008	Report	Maybin interviewed by the Center. This interview is provided in full in Section XV of the brief.	Center 2093
9/30/2009	Report	Center interviews Jackie Craddock, who was in jail with Maybin and Mills. She says that Maybin told Craddock that her (Maybin's) boyfriend killed a man and threatened her into framing Spruill and Jones.	Center 2174

APPENDIX C – WALLACE BRANDON JONES TIMELINE

DATE	DOCUMENT	DESCRIPTION	FILE LOCATION
12/9/1994	SBI Report	Jones interviewed by SBI after his arrest. He stated he had "a hundred witnesses" to say where he was that night and that he could not have killed Frank Swain. He was at the bar all night with Spruill and Maybin. Gives background on coming to Plymouth area. Denied knowing the Victim or ever going to his house. He could not remember what he was wearing that night, but did remember falling through the steps earlier that day. He admitted to hiding in Ed Champ Sr.'s house on the day law enforcement came looking for him and knew that they were there about the Frank Swain murder. Gives more information about leaving town. This interview is provided in full in Section V of the brief.	SBI 716-725
12/12/1994	WCSO/SBI Reports	Jones polygraphed. Failed polygraph with a -12 numerical evaluation.	WCSO 521; SBI 859
12/12/1994	WCSO Report	Jones interviewed by SBI and WCSO after polygraph. Denied any involvement in murder. Didn't know Victim and had not been to his house. At Big Ed's bar the night of the murder. On the way back from the interview, Jones told DS Williams "Must be something wrong with me. This girl says I did this stuff, I must of done it, but I don't remember. I think I need some help." This interview is provided in full in Section V of the brief.	WCSO 1318-1320
8/3/1995	Handwritten notes	Jones is interviewed by John Skinner regarding Phoenicia Davis. Indicates the "Robert" referenced in the Davis statement is Robert Spruill, Sherry Honea's boyfriend.	Tyndall 995
4/28/1995	Handwritten Notes	Jones interviewed by PLS regarding his MAR. Gives information on his interactions with his attorneys and other individuals related to the case.	Jones PLS 740-741
7/7/2002	Letter	Letter indicates that Jones met with Attorney Dennis Kilcoyne to discuss clemency petition.	Tyndall 418

DATE	DOCUMENT	DESCRIPTION	FILE LOCATION
2/25/2003	Handwritten notes	Jones is interviewed by Attorney Amos Tyndall. Gives an overview of what Jones believes to be new information about case. Denies ever meeting the Victim. Gives information about John Floyd.	Tyndall 54-58
10/10/2003	Center Report	Jones interviewed by UNC Chapel Hill Students. Includes opinions and impressions of students. Gives his background, explains how he came to the Plymouth area, and how he met Spruill and Maybin. Indicates that the incident with blood on his pant leg Margie Perry referred to in her trial testimony was actually from when he fell through the stairs in February or March. Discusses his interviews with law enforcement and his polygraph. This interview is provided in full in Section XV of the brief.	Center 2267-2280
3/25/2004	Center Report	Jones interviewed by unknown individuals at the same time as Spruill. Provides background information on his prior crimes and travel prior coming to Plymouth. Denies abusing Maybin and thinks she was jealous. This interview is provided in full in Section XV of the brief.	Center 2356-2358
11/16/2004	SBI Report	Jones interviewed by the SBI. He believes that physical evidence will set him free. Presents theory that Billy McNair, Maurice Wilkins, Joseph Lynn, and Avis Arnold were involved in the Frank Swain murder and Sonja Day murder. Says he was told by John Floyd that Lynn confessed and asked for a deal to testify. Maintains that he was at the bar all night, and only went outside for a few minutes at a time to drink liquor. This interview is provided in full in Section XV of the brief.	SBI 951-955
9/29/2006	Letter	A letter from Sonya Pfeiffer of the Center to Jones indicates they met in person on the previous Friday (which would have been 9/29/2006). The letter also indicates he provided information about SBI agents coming to visit him in November 2004.	Center 890

APPENDIX D – LETTERS WRITTEN BY JONES

DATE	Addressed To	DESCRIPTION	FILE LOCATION
"Easter Sunday"	James Vosburgh	Asks Vosburgh to get case into court. Says everyone knows he didn't do it but the State trying to send him to Death Row.	Jones PLS 1232-1233
6/24/1995	Dana Maybin	Says he does not know what he did to Maybin that she would tell "such a lie" about Jones that he is facing the death penalty. He is praying for her to tell the truth.	John Skinner file.
Undated	Evangelistic Church of Deliverance	Asks them to pray for him as his trial is about to begin. Claims innocence.	Jones PLS 2-3
Undated but faxed 10/12/1995	John Skinner	Claim innocences. Asks for help on his appeal. Says he never lied to Skinner.	Jones PLS 1127
"Friday 13"	John Skinner	Asks for name of lawyer and trial transcript. Says his witnesses did not get to take the stand. Page missing.	Jones PLS 812
"Saturday 7"	James Vosburgh	Says Dana Maybin lied on him. Spruill said he would testify for Jones if he went back to court. Asks for help. Says he is innocent.	Jones PLS 1124-1125
11/1/1995	John Skinner	Maintains his innocence. "The SBI once told me no matter if I was innocent or not I would go to prison."	Jones PLS 21-23
11/29/1995	John Skinner	Asks for contact information for appellate attorney. Asks for copy of trial transcript.	Jones PLS 20
Undated	Governor James B. Hunt, Jr.	NOTE: response from Gov. Hunt is dated 1/6/1996 Asks for help with his case. Claims innocence. Says Victim's girlfriend was murdered the same way a few months later. Discusses Maurice Wilkins and the destroyed blood sample.	Jones PLS 214-215
1/25/1996	John Skinner	States that Spruill's sister received a letter from Dana Maybin stating that she was	Jones PLS 39

DATE	Addressed To	DESCRIPTION	FILE LOCATION
		"tricked into all of this" and wanted to talk to someone.	
2/1/1996	Unsolved Mysteries	Claims they are both innocent. No physical evidence. Discusses Dana Maybin's changing stories. Thinks there is a connection with the Sonja Day murder. NOTE: letter also signed by Spruill.	Tyndall 817-818
6/6/1996	Barry Scheck	Asks for assistance with his case. Feels there is a cover up and physical evidence that can free him.	Tyndall 819
3/25/1996	John Skinner	Says the Cardozo School of Law is going to help with his case. Asks for documents.	Jones PLS 5
3/26/1996	James Russ (Attorney)	"The real bad thing is that the authorities new (sic) I was innocent of this crime from the very start… I'm 100% innocent of this crime."	Jones PLS 841-843
3/26/1996	Clerk	Requests trial transcripts, lab reports.	Jones Clerk 1065
6/24/1996	James Vosburgh	Indicates Vosburgh sent him Maybin's letters. Asks for documents, including a letter from Sherry Honea.	Jones PLS 28
7/29/1996	John Skinner	Requests discovery documents, including a letter from Sherry Honea.	Jones PLS 16
10/10/1997	Prisoner Legal Services	Asks for assistance with case. Discusses Maybin's changing stories and Sonja Day murder.	Jones PLS 530-531
11/12/1997	Prisoner Legal Services	Regarding investigation for gambling while in prison.	Jones PLS 512
11/17/1997	Prisoner Legal Services	Additional information for questionnaire (SS #) and asks for copy of previous letter he sent.	Jones PLS 523
12/8/1997	Prisoner Legal Services	Informing them of move in prisons.	Jones PLS 510

DATE	Addressed To	DESCRIPTION	FILE LOCATION
12/22/1997	Marcus Jimison	States that David Hewitt received an anonymous letter that the person knew about the murder and who committed it (and also who killed the Victim's girlfriend). Also discusses other issues he feels are present in the case.	Jones PLS 497-501
1/20/1998	Marcus Jimison	Confirms he got 12/22/1997 letter. Says Spruill wrote letter as well.	Jones PLS 495
2/2/1998	Marcus Jimison	Tells him where he can get documents.	Jones PLS 494
3/13/1998	Clerk	Asks for a copy of the Maybin/Harrell tape and a copy of the transcript.	Jones Clerk 1075
6/24/?	Marcus Jimison	Tells him about various issues (jury issues, says Maybin was in an Outlaw Biker magazine in May 1994, Janice Spruill has been in rehab).	Jones PLS 488-489
6/29/1998	Marcus Jimison	Sends various documents (newspaper clipping, Maybin letter from 12/12/1993, Maybin polygraph).	Jones PLS 789-790
9/21/1998	Marcus Jimison	Provides contact information for Alex Sims. Says that someone named Jermaine Purvis told him about Wilkins killing the Victim.	Jones PLS 478
10/27/1998	Letitia Echols	Jimison got new job and case transferred to Echols. Discusses the bar log sheet that proves Maybin didn't leave town when she said. Says Tommy "Buddy" Barber was with him when he fell down the stairs. Says they can get information from the Champs.	Jones PLS 471-472
11/1/1998	Marcus Jimison	Ed Champ, Sr. and Tommy Barber willing to write affidavits.	Jones PLS 706
11/30/1998	Letitia Echols	Discusses errors he found in MAR.	Jones PLS 771-772
12/22/1998	Letitia Echols	He's located a new witness that will testify in his case. Says his mother has the	Jones PLS

DATE	Addressed To	DESCRIPTION	FILE LOCATION
		witness (a woman's) name and information. NOTE: mom provides information on Terry Bullick	421-422
1/24/1999	Letitia Echols	Says Wilkins' cousin was on his jury and Vosburgh wouldn't take him off because he "knew the street talk."	Jones PLS 614
3/3/1999	Letitia Echols	Informs her of the murder of Rosa Brooks. Says she was friends with Sonja Day. Discusses someone named Alex Sims "This is the man that told me in jail that Sonja Day called Frank Swain's sister the night before she was killed and tried to tell her who killed her brother. But before she could get over there the next day, Sonja was killed." Says that Vosburgh allowed Maurice Wilkins' cousin to be on the jury.	Jones PLS 695
3/30/1999	Letitia Echols	"Oh yea the Sheriff and David Hewitt came to see Leroy Spruill. And the Sheriff said in front of Mr. Hewitt that he didn't believe we killed anyone. Said he believed the Day murder and the Swain murder where (sic) related.	Jones PLS 386-387
4/21/1999	Letitia Echols	Provides contact information for Alex Sims. Says a woman from the jury said she was pushed into guilty verdict. Sherriff told Jones and Spruill that Day murder and Swain murder were related and he believed they were innocent. Margie Perry told Gail Champ that someone told her the dates and things about the night of the bar. She didn't really know anything.	Jones PLS 375-376
5/5/1999	Letitia Echols/James Carter	States Jimmy Peele is willing to speak with her. He was first officer on the scene and "he knew we didn't do this." Duplicate of letter addressed to James Carter on pg. 640	Jones PLS 638

DATE	Addressed To	DESCRIPTION	FILE LOCATION
8/29/1999	Letitia Echols/James Carter	Asks her to research a case from 10th Circuit. Asks if she spoke to the woman from the jury. Duplicate of letter addressed to James Carter on pg. 693	Jones PLS 691
10/12/1999	Letitia Echols	Asking if she has gotten letters from WCSO and talked to witnesses found by Gail Champ and the woman from the jury. Duplicate of letter addressed to James Carter on pg. 701	Jones PLS 689
11/1/1999	Letitia Echols	Discusses Folly Road letters. Sheriff said he turned them over to Willie Williams. Sends newspaper articles re: Norton DUI and a Maybin letter. Duplicate of letter addressed to James Carter on pg. 621	Jones PLS 617
1/24/2000	Letitia Echols	Asks several questions regarding his case (finding letters, talking to woman from the jury, witnesses ID'd by the Champs).	Jones PLS 609-610
4/30/2000	Letitia Echols	Requests for hearing date (having woman from jury testify about Jones telling Vosburgh to take Victim's cousin off the jury and having new sheriff testify about the letter found in his desk).	Jones PLS 585
4/16/2001	Letitia Echols	Asks how he can appeal his MAR. Requests paperwork.	Jones PLS 552
4/16/2001	Center for Death Penalty Litigation	Asks for help with his case. Claims innocence. Provides information on Maybin.	Center18-19
4/23/2001	Prisoner Rights Project	Asks for help with his case. Claims innocence. Says there was no physical evidence. Provides information on Day murder and Maybin.	Center 15-16
5/13/2001	Richard Rosen	Asks for help with case. "I'm in prison for a murder and robbery that I did not do. I am	Center 12-13.

DATE	Addressed To	DESCRIPTION	FILE LOCATION
		100% innocent of this crime." Provides information on Maurice Wilkins and Dana Maybin.	
5/29/2001	Theresa Newman	Told to contact her by Rob Warden of Northwestern. "I am in prison for a murder and robbery that I did not do. Are (sic) know anything about." Says he passed blood, hair, fingerprint, and 3 different lie detector tests. Provides information on Maurice Wilkins and Dana Maybin.	Center 10-11
Undated Letter	Carl Stewart	Asks for assistance with his case. "I'm in prison for murder an robbery crime's that I am 100% innocent of."	Jones 845-847
6/18/2002	Dennis Kilcoyne	"I want you to know that I did not kill Mr. Swain and that I didn't know anything about this crime. I didn't even know Mr. Swain never seen him before in all my life."	Tyndall 29
7/6/2002	Dennis Kilcoyne	Discusses Kilcoyne transferring case to Tyndall.	Tyndall 27
7/22/2002	Dennis Kilcoyne	Money for fee. Says Champ family is going to assist.	Tyndall 28
10/20/2002	Amos Tyndall	Discusses clemency petition.	Tyndall 13-14
Undated	Amos Tyndall	Gives list of individuals Tyndall should speak to (juror, Gail Champ, the Hewitts, Avis Arnold).	Tyndall 23-25
2/17/2003	Amos Tyndall	"The SBI and the Plymouth Chief (sic) of police have new evidence a witness and confesson (sic) from a person that was involved in the murder." "I've been in prison for a long time for something I did not do."	Tyndall 9-10.
8/25/2003	Amos Tyndall	Asks on status of clemency petition. Heard that Seth Edwards turned Floyd's	Tyndall 3-4

DATE	Addressed To	DESCRIPTION	FILE LOCATION
		"findings" over to the AG's office. "Also, the chief of police has gotten in touch with Dana Maybin and she is now telling the truth."	
2/27/2006	Sonya Pfeiffer	Sending copies of warrants. "I don't know why the state keeps lying. They know they got fingerprints and DNA that can set me free. Please don't let them get away with covering this up." Asks her what can be done about the statements made to John Floyd. Thinks Maybin is scared.	Center 918-919
9/15/2006	Sonya Pfeiffer	Asks about lab reports he sent and following up on what Floyd was told by witnesses. Asks her to write to Spruill as he knows the key players.	Center 894-895
10/1/2006	Sonya Pfeiffer	Sending letters from Vosburgh and DA re: meeting they had. Provides information on the two times he left in North Carolina (mid-January 1994 and April 1994). Maybin told lies to get back at him. "She (Dana) told Chief Floyd she lied on us when he talked to her in 2004. Then she changed her story again but I believe that's because someone from Washington County called her and scared her again, or she was scared she would get a perjury charge."	Center 897-898
10/2/2006	Sonya Pfeiffer	Says Lynn was arrested on federal charges for drugs and guns. Says he had a blue truck at the time of the murder. A guard told him a woman named Terry Faye used to live with Sherry Honea and Terry said that she knew Spruill and Jones were innocent. Greg Hassel told their attorneys that Janice Spruill was tipping off Bojack every time they were about to arrest him for selling drugs.	Center 903-904
5/16/2007	Chris Mumma	"I do believe that the ex-police chief John Floyd needs to be interviewed because	Center

DATE	Addressed To	DESCRIPTION	FILE LOCATION
		Dana Maybin told him she lied on us. Plus he also interviewed some guy he believed to have been involved in the murder. One guy wanted a deal to testify against the rest of them." Thinks DNA would free them.	1932-1933
5/21/2007	Sonya Pfeiffer	Provides information he thinks the Commission needs to know (Maurice Wilkins, Sonja Day, Folley Road letter, John Floyd, meeting between John Floyd and Seth Edwards, Maybin's changing stories)	Center 1925-1926
2/27/2008	Chris Mumma	Asks for update on case. Says she is his only hope.	Center 1917
1/27/2009	Chris Mumma	Asks for update on case.	Center 1942
7/13/2009	Chris Mumma	Discuss Commission immunity from perjury statute. "Maybe then someone can explain to Dana Maybin that she doesn't have to be scared to tell the truth that she won't get in trouble for it. Hopefully then she will finely (sic) tell the truth."	Center 1913-1914
8/17/2009	Chris Mumma	Thanks her for update. Wants to truth about his case to come out.	Center 1912

APPENDIX E – LEROY SPRUILL TIMELINE

DATE	DOCUMENT	DESCRIPTION	FILE LOCATION
12/24/1993	WCSO Report	Leroy Spruill is interviewed by WCSO because of Maurice Wilkins statements about seeing Spruill in a truck going to the Victim's house. Spruill says that he had been drinking with the Dana Maybin at his house. They left around 7:00 PM to go to Big Ed's Bar and stayed until after 12:00 AM. Ed Champ, Sr. drove them back. This interview is provided in full in Section V of the brief.	WCSO 121
1/12/1994	WCSO/SBI Reports	Leroy Spruill polygraphed and interviewed by the SBI. Three tests were given. Denied any involvement in the murder. Passed with a +3 numerical evaluation. During the interview, he says that Ray Hurst took him to the bar on Saturday night. He denies telling anyone that his fingerprints were on a knife at the Victim's house (in response to information provided in an interview of Ray Hurst). He heard the Victim had been to Tommy Garrett's trailer on Friday night wanting his money. This interview is provided in full in Section V of the brief.	WCSO 35, 122-123; SBI 871
4/24/1994	WCSO/SBI Reports	Spruill interviewed by the SBI. He denied being at the Victim's on the night of the murder. Russell Sawyer took Spruill, Jones, and Maybin to the bar. He also stated that Maybin and Jones left the bar that night and went somewhere for 30 minutes at a time. He indicated it was suspicious that Jones and Maybin left town and he wouldn't be surprised if they had killed the Victim because they were wild. Consents to search of wood pile in his home and provides items that Maybin had left at his house.	WCSO 125-127

DATE	DOCUMENT	DESCRIPTION	FILE LOCATION
		NOTE: A typed document from the defense files gives Spruill's comments and clarifications to this interview. This interview, and Spruill's comments, are provided in full in Section V of the brief.	
4/26/1994	WCSO Report	Spruill goes to Dep. Janice Spruill's side job at Makin' Tracks gas station to ask if Jones had "run" and if WCSO had found Maybin. He said he heard that Jones left and would maybe find out where he went. He said he may get in touch, but would not make any promises.	WCSO 126
4/27/1994	WCSO Report	Spruill goes to WCSO to speak to Dep. Janice Spruill to provide information about Jones' and Maybin's whereabouts.	WCSO 124
5/11/1994	SBI Report	Spruill's home searched pursuant to a search warrant. Luminol testing done. Collected a shirt, a top sheet, and a bag of burned material from Spruill's wood heater.	SBI 414-415
8/2/1994	WCSO Report	Spruill calls WCSO requesting to speak to Dep. Janice Spruill. Janice Spruill and Dep. Willie Williams go to Spruill's residence and interview Spruill in patrol vehicle. He said he had been telling the truth all along and had not been there and did not know anything about the murder. Janice Spruill and Willie Williams told Spruill he should tell the truth and not wait for other people to turn on him. Spruill reiterated that he didn't know anything.	WCSO 99
12/13/1994	SBI Report	After Spruill's arrest. He declines to give a statement until he speaks to an attorney.	SBI 712
1/11/1995	SBI Report	Blood and hair samples collected from Spruill.	SBI 751
4/28/1998	Handwritten notes	Spruill interviewed by Letitia Echols of PLS. He gives information on his attorneys and procedural issues. Says	Jones PLS 742-743

DATE	DOCUMENT	DESCRIPTION	FILE LOCATION
		that Tommy Ward told him that Billy McNair, Jojo McNair, Carlton Thigpen, a guy named Swain, and a guy named Rowson were involved.	
2/23/2001	SBI Report	Spruill interviewed in prison and states that the Victim was stabbed by Maurice Wilkins and set up by Wyatt Spruill. Presents his theories about Bojack, a drug dealer from Washington County, being involved in the murder and the similarities between the Sonja Day murder and the Victim's murder. Maintains that he, Jones, and Maybin are innocent. NOTE: The information provided in this interview is similar to the information ultimately provided by Edward Hudson.	DA 61-63
12/19/2002	Handwritten Notes	Spruill interviewed by John Floyd and Preston Ward of PPD. Gives background on individuals involved in case and his plea. Says Victim's trailer was destroyed two weeks after the murder.	WCSO 1291
1/15/2003	Handwritten Notes	Spruill interviewed by John Floyd and Preston Ward of PPD. He gives names of individuals he wants Floyd to speak to.	WCSO 1288
10/10/2003	Center Report	Spruill interviewed by UNC Chapel Hill Students. Report includes impressions and opinions of students. Says that John Floyd called Dana Maybin and she was willing to say that she lied. Maintains his innocence and gives detailed information about his whereabouts the night of the murder. Presents his theories regarding "Bojack" and Sonja Day. This interview is provided in full in Section XV of the brief.	Center 2283-2296
3/25/2004	Center Report	Spruill interviewed by unknown individuals at the same time as Jones. Provides background information on individuals involved in the case. He indicates that he was told by his	Center 2356-2358

DATE	DOCUMENT	DESCRIPTION	FILE LOCATION
		attorneys that he couldn't testify. Discusses plea offers. This interview is provided in full in Section XV of the brief.	
11/15/2004	SBI Report	Spruill interviewed by the SBI at the request of the AG's Office. Presents his theory that Sonja Day was murdered "in the exact same way" as the Victim and that Day had told Spruill that she knew who killed the Victim and that she knew Spruill did not. Presents Wilkins, Billy McNair, and Joseph Lynn as suspects. Discusses information provided by Avis Arnold. Maintains his innocence and reiterates that he, Jones, and Maybin were at Big Ed's bar all night.	SBI 940-944
11/10/2006	Center Report	Spruill interviewed by unknown individuals. He is provided a status update on Center investigation and issues with testing. Spruill indicates that his friend, Charlie White, is in contact with Assistant Attorney General James Coman and that Coman told White that the prints at the Sonja Day crime scene matched the prints at the Victim's crime scene. This interview is provided in full in Section XV of the brief.	Center 1883
2/6/2007	SBI Report	Spruill interviewed by the SBI after information was passed to James Coman from Charlie White. He is asked about a conversation he had with Jojo McNair. Spruill only provided that he had a conversation with Jojo McNair about the murder after he and McNair were interviewed by the Center in around Thanksgiving 2006. This interview is provided in full in Section XV of the brief.	SBI 1753-1755
2/15/2007	Center Report	Spruill interviewed by unknown individuals about the SBI interview from	Center 1884-1886

DATE	DOCUMENT	DESCRIPTION	FILE LOCATION
		2/6/2007. He indicates that Mac Warner said that no evidence linked Spruill to the crime. The new Plymouth Police Chief came to speak to him with someone, possibly from the SBI, on 2/14/2007. They asked Spruill questions about Sonja Day. He indicates that after their last visit, he spoke to Jojo McNair about the case. Jojo said that his brother, Billy McNair, had committed the murder. This interview is provided in full in Section XV of the brief.	
4/7/2008	Center Report	Spruill interviewed by UNC Chapel Hill students. He is provided with an update about the case. Provides information on what he knows about Alfred Armstrong and what Armstrong told Spruill about the tire iron in Michael Lassiter's car (NOTE: although Michael Lassiter isn't named in the interview, Spruill's description of what Armstrong told him matches up with other interviews Armstrong gave about Michael Lassiter). This interview is provided in full in Section XV of the brief.	Center 1898-1899

APPENDIX F – LETTERS WRITTEN BY SPRUILL

DATE	Addressed To	DESCRIPTION	FILE LOCATION
6/22/1995	Jones	Says he can't believe they are into this because Maybin was mad at Jones. Denies committing the murder.	Jones PLS 156
6/24/1995	Jones	Denies killing anyone, but says he knows who did.	Jones PLS 169-170
7/1/1995	Jones	Believes Janice Spruill is behind their arrest.	Jones PLS 177-178
7/8/1995	Ann (Jones' mother)	"Brandon told me he did not do it and I believe him." Talks about his previous court situation.	Jones PLS 172-174
7/14/1995	Jones	Believes that "black men" committed the murder and Janice Spruill knows it, but doesn't want to be wrong about Spruill and Jones. "I'm not telling a lie, to just go free."	Jones PLS 174-175
7/20/1995	Jones	"Don't let nobody tell you I'm going against you… you know where we are at no matter what happens. I not going to lie about anything… But I didn't kill no one so, so I'm not going to say something I didn't do just to get out… The good lord no's (sic) we didn't do it."	Jones PLS 185
8/7/1995	Jones	"The good Lord no's (sic) we didn't kill no-one (sic) so hang in there." Thinks there is more to this than law enforcement is telling them about.	Center 1276
8/21/1995	Jones	Says he knows that he and Jones didn't kill anyone and that Maybin didn't kill anyone either. Thinks Maybin is being paid.	Jones PLS 157
9/18/1995	Jones	Asks him what happened in court. Denies committing the murder.	Jones PLS 154
9/21/1995	Jones	Wants Jones to tell him what has been happening in his trial. Says not to worry about him taking a plea because he's going to go "all the way." Denies committing the murder.	Jones PLS 149
9/21/1995	Jones	Talks about being in the paper. Says he will not take a plea bargain no matter what.	Jones PLS 155

DATE	Addressed To	DESCRIPTION	FILE LOCATION
9/23/1995	Jones	States he is going to testify next week. They went over his testimony, what the DA would ask, and that he had to "be cool."	Jones PLS 152
9/26/1995	Jones	Asks him how the trial is going and what his lawyers said.	Jones PLS 151
9/26/1995	Jones	Denies committing the murder. Thinks law enforcement is out to get him.	Joes PLS 148
9/27/1995	Jones	Asks how long jurors have been out.	Jones PLS 150
Undated	Jones	Asks what happened. Wants to see his lawyer. Wishes Jones never met Maybin. "Why don't' she just tell the truth it would all be over now and we would be out there."	Jones PLS 153
10/17/1995	John Skinner	He took the plea after seeing the injustice done to Jones and was scared of a death sentence. Knows he, Jones, and Maybin did not kill the Victim. Gives his statement about what happened that night.	Jones PLS 138-143
Undated	John Skinner	Provides his statement about what happened the night of the murder.	Jones PLS 146-147
11/16/1995	Illegible	Mostly illegible. "It's hard doing time for something I never done. And y'all no (sic) it."	WCSO 560-
Undated	No addressee	Talks about prison work schedule. Hopes the addressee will come visit. Signed "LeeRoy Spruill Life + 40 for nothing." "P.S. Brandon + I never done what they said we done.	Center 1287
5/29/1996	Patricia Cagle (Jones' sister)	"We never killed nobody and that's the truth."	Jones PLS 163
6/3/1996	Prisoner Legal Services	Asks for help with case. Says his attorneys scared him into taking the plea. "I didn't do this crime." Wants to go to trial and "let the Truth be known."	Jones PLS 133
6/10/1996	Jones	"Just remember, we never killed nobody + we will get help." Page missing from letter.	Jones PLS 788

DATE	Addressed To	DESCRIPTION	FILE LOCATION
6/27/1996	Ann Cagle	"Brandon + I never killed nobody and that's the truth." "No matter how long I do, I never told a lie about it…"	Jones PLS 164
7/16/1996	Jones	Denies committing the murder.	Jones PLS 160
7/29/1996	The Hewitts	"the letter that Nikki or Dana wrote, about telling the truth." "We never killed no-one and that's the truth."	Jones PLS 144-145
8/20/1996	Jones From "Debbie + Leroy"	Gives updates on family. Everhart believes them. "Tell your mom hi + what we found out about Nikki."	Jones PLS 189
12/2/1996	Jones	"Just remember, 95+94 we never done, what they say we done."	Jones PLS 793
7/20/1997	Jones	"I don't know (sic) if we will ever get any help. But, I tried… (Connie Everhart) no's (sic) we never killed nobody + she believes in us." Says there is a lot he wants to tell Jones but can't "because of the law."	Jones PLS 786
12/29/1997	Prisoner Legal Services	Writing on Jones' behalf. Says Jones did not commit the murder. "I no (sic) who did it + is willing to tell the truth."	Jones PLS 508
1/9/1998	Kathryn Vandenberg	Contact information for Jones and family. "All I ask is for you to give me, chance, to tell something I never got chance to tell in court."	Jones PLS 509
2/9/1998	Marcus Jimison	Says it was an error in Jones' trial that Spruill never got to testify. DNA would show the blood at the scene wasn't theirs. "I can't write what I want to, because my mail don't get to where it's going a lot of times… I tell the truth… and it will tell who killed his girlfriend. See the man, Brandon + I are locked up for, his girlfriend was killed the same way + never solved. And I no who killed her + the man, we are in prison for something we never did do."	Spruill PLS 118-119
4/19/1998	Susan Pollitt	"Brandon Jones + I Leroy Spruill never killed that man + that's the God's truth." Asks her to find	Spruill PLS

DATE	Addressed To	DESCRIPTION	FILE LOCATION
		the Maybin tape. Says Jimmy Peele will tell them Spruill and Jones couldn't have committed the murder. Gives other names of witnesses (Champs, Rebecca Armstrong, Stacy Allen, the Hewitts. Dad's truck wasn't working. Sonja Day was murdered the same way.	90-92
6/22/1998	PLS/Susan Pollitt	Has a letter written by Maybin. "I can show you, their's (sic) no way Brandon + I could have do (sic) this." "I'll go to my grave noing (sic) I told the truth. Brandon + I never killed nobody. I've got at least ten people that will even tell you the same thing."	Spruill PLS 38-39
6/28/1998	Susan Pollitt	"I've got evidence, it's just nobody will listen to me." Sending her documents about Dana Maybin. "We never killed nobody + that's the God's truth." Discusses Sonja Day murder. "I'll never just give up Susan, I can't because I no (sic) we never killed that man."	Spruill PLS 32-33
7/9/1998	Constance Everhart	Asks if she has spoken to his lawyer. Indicates he wants help and will not give up. This letter is provided in full in Section XI of the brief.	Everhart 5
8/7/1998	David Irvine	Gives facts regarding what he believes is an IAC claim and other issues with his case. "One point no one ever considered, Swain's ladyfriend (Day) conspired with an unknown person to and did kill Mr. Swain. She (Day) was later tortured to see if she had told anyone and then she (Day) was also killed." No "DNA match" taken to see if her blood was at the crime scene." NOTE: letter later switches into third person but is addressed as from Spruill and in first person in the beginning.	AG 1329-1332
1/18/1999	Letitia Echols	Wants to talk one-on-one. "Brandon + I never killed nobody. And that's the God's truth." "I need to tell you a storie (sic). The truth, something I never got to tell.	Jones PLS 408

DATE	Addressed To	DESCRIPTION	FILE LOCATION
2/9/1999	Letitia Echols	Wants to tell her "the real truth." Says his story if the same as Jones', but he knows a lot more. "I even no (sic) who killed Frank's girlfriend. Nobody will listen to me." "I no (sic) Brandon + I never killed Frank Swain. And that's the God's truth."	Jones PLS 775
2/19/1999	Letitia Echols	"Brandon Jones + I were convicted of Frank Swain's murder. Something we never did do." Links Swains murder with Day's and Rosa Brooks. "I no (sic) who killed Frank Swain. And it wasn't Brandon Jones + I. The same people who killed Frank killed Sonja Day." Asks her to come see him in person.	Jones PLS 404
3/23/1999	Letitia Echols	"I'll never just give up. Because I no (sic), Brandon + I never killed Frank Swain. That's the god's truth."	Jones PLS 390
10/25/2000	General Letter	Typed letter from Spruill that says the following information was written by Debbie McGowan. Asks for help. Gives information about case.	AG 2574-2577
6/17/2001	Theresa Newman	Asks for help with his case. Claims innocence.	Center 55
6/27/2001	Innocence Project	Discusses questionnaire. Says he was pushed by his attorneys into taking the plea. Says he was scared for his life.	
8/3/2001	Governor Mike Easley	Discusses his family life. Maintains he was at the bar all night. "I know the truth. Wallace Jones knows the truth; my family knows; and most of all the good Lord know we never killed anyone." Asks for help with his case. This letter is provided in full in Section XIV of the brief.	Spruill Clemency 127-128
9/5/2001	Carl Stewart	Asks why DNA testing cannot be done. State didn't have anything other than Maybin.	Center 741
10/1/2001	Carl Stewart	Prison will give records if he request them. Asks why DNA can' t be tested.	Center 743

DATE	Addressed To	DESCRIPTION	FILE LOCATION
10/25/2001	Carl Stewart	Discusses issues with his attorneys and being forced into his plea.	
12/7/2001	Carl Stewart	Asks Stewart to speak to Ed Champ about taking him and Smarty Spruill home. Also says Stacy Allen was with him the whole night.	Center 435-436
12/8/2001	Carl Stewart	Says a man (Avis Arnold) just came to Hyde CI and said he knows the people who killed Day and the Victim. Wants to tell the truth and is "willing to sign anything you have." Said Billy McNair, Jojo McNair, and Maruice Wilkins were there when Wilkins was sewn up. Also gives contact information for Linda Hinson.	Center 437-438
1/?/2002	Carl Stewart	Jones' family sending money for Carl Stewart to come see Avis Arnold. Asks Stewart to speak to Hinson. "The boy even knows about the girls murder. He wanted to talk to you."	Center 440-441
6/26/2002	Dennis Kilcoyne	"We need to get the truth out. It's real hard doing time for somebody else's doing. Just like the lady that was killed. They know whoever killed her, killed her boyfriend."	Tyndall 426
6/26/2002	Dennis Kilcoyne	Says he wants to help Jones. "Wallace Brandon Jones, and I Leroy Spruill never killed nobody that's the God's truth. I'll go to my grave knowing that.	Tyndall 425
7/16/2002	John Floyd	Spruill's father told him that Floyd would come see him with a "new man" from Greenville, either SBI or FBI.	WCSO 1278
7/19/2002	John Floyd	Asks Floyd and the "SBI or FBI man" to come talk to him. Needs to ask and tell them things.	WCSO 1257
8/13/2002	John Floyd	"I just want to tell you the truth about something. Something I think you need to know." States he knows who killed the Victim and Sonja Day and tells Floyd he will be able to solve Sonja Day murder.	WCSO 1211
9/1/2002	John Walsh	Asks America's Most Wanted to help him. Includes list of witnesses/people to speak to.	AG 2545-2548

DATE	Addressed To	DESCRIPTION	FILE LOCATION
10/4/2002	John Floyd	Says he has somebody that knows the whole story, but he doesn't know who is willing to listen.	WCSO 1279
10/24/2002	John Floyd	Says he is waiting to hear from him.	WCSO 1275
11/4/2002	Amos Tyndall	Willing to do anything he can to help. Gives permission for Tyndall to get any documents. "Mr. Jones and myself are innocent, and we need the help we can get."	Tyndall 437-438
11/13/2002	Amos Tyndall	Asks Tyndall to come speak to him if he ever goes to visit Jones. "I have come a long ways here in prison for a murder we never did do. That's the God's truth." "There is a lot I never got to tell that I need to tell you."	Tyndall 433
11/18/2002	John Floyd	Asks him to come visit. Indicates Floyd had written him a letter asking him to trust him.	WCSO 1274
12/11/2002	John Floyd	"I'll not bother you anymore… I don't think y'all want to know who really killed Frank Swain and Sonja Spruill Day… I didn't think you would be like the other ones there in Plymouth but I guess I was wrong about you." Says that Floyd knows Victim and Day were killed by the same person. Says he would tell Floyd the truth if Floyd came to visit him. Says he will go to his grave knowing he didn't kill the Victim.	WCSO 1276-1277
12/25/2002	John Floyd	Indicates Floyd has visited him recently. Says he is sending him something to read, including the letter from Avis Arnold to his sister.	WCSO 1256
1/21/2003	John Floyd	Asks him to speak to various people.	WCSO 1280
1/21/2003	Carl Stewart	Asks if Arnold has written to him. Asks for his thoughts on Spruill's case.	Center 444
1/30/2003	John Floyd	Asks him to talk to Justice Lake. Asks if he has interviewed several people.	WCSO 1260
2/5/2003	John Floyd	Says that John Ford from Washington County told Jones' mom that Maurice Wilkins told him (Ford) that he (Wilkins) helped kill Frank Swain. Says he has something to tell him in person and	WCSO 1259

DATE	Addressed To	DESCRIPTION	FILE LOCATION
		asks him to come visit.	
3/24/2003	John Floyd	Asking for update on Floyd's investigation.	WCSO 1258
5/20/2003	John Floyd	Mostly illegible.	
8/19/2003	Carl Stewart	Asks for cost to get in touch with individuals listed on attachment. "The same people have been to see me 5 times since February and are aware of the overwhelming evidence that points to our innocence." Anglim is the only person standing in their way.	Center 448-450
8/22/2003	John Floyd	Wants their former attorneys (Spruill's and Jones') to go to SC and confront Dana Maybin. Wants new evidence presented to the courts.	WCSO 1268-1269
9/1/2003	Amos Tyndall	Thinks it's a good idea for Tyndall to go to SC and talk to Maybin. "We have always both stated our innocence and we continue to to this day."	Tyndall 50-51
2/8/2004	Seth Edwards	Asks Edwards to come to see him in person. "…there is a lot that I have to say that I've never said before. I know I can shed some light on the other murder that took place in 1994."	DA 618-619
2/11/?	Tom Anglim	Asks him to come visit him in person. "…There are a few things I would like to discuss with you that I've never said before… there is a murder from 1994 I can shed some light on."	DA 5218-
2/18/2004	Amos Tyndall	Discusses what he knows about Tyndall's work through Jones. Discusses money. "The Chief of Police and the Sheriff of my county now know who the real killers are, so we don't understand why it's so hard to get the ball rolling on this."	Tyndall 30-31
7/11/2004	Seth Edwards	Thanks him for everything he has done on their behalf. Discusses what Joseph Lynn told Floyd. Asks why DNA can't be checked on Wilkins and McNair. Asks why DNA can't be checked from Swain crime scene to Day crime scene.	DA 606-607
7/20/2004	Barry Jenkins	Sending letters from various individuals regarding "our innocence." Asks for update on	Spruill Clemency

DATE	Addressed To	DESCRIPTION	FILE LOCATION
		status of clemency petition.	30
7/20/2004	James Coman	Send documents related to his case.	AG 1047
9/7/2004	James Coman	"I was told that you wanted me to write you a letter…" Indicates he knows Coman and White speak on the phone. Asks Coman to come see him and to speak with his sister, Linda Hinson. Says Joseph Lynn told John Floyd "he was there during the murder of Frank Swain, but was not involved with the killing" and that Lynn now has an attorney. Says Avis Arnold told Floyd "He was not in the house, but was a lookout. He said after the murder he was picked up and everybody went to Jojo McNair's house." Arnold also said they sewed up Wilkins' arm with fishing line. Says Arnold wrote an affidavit to Carl Stewart saying that he, Jojo McNair, Maurice Wilkins, and Joseph Lynn were involved in the murder. Wants DNA testing done.	AG 1091-1095
9/14/2004	Richard Rosen	Confirming Rosen received the information he sent previously. Wants to hear what Rosen thinks of his case.	Center 1129
9/14/2004	James Coman	Waiting for a reply to previous letters.	AG 1375
9/23/2004	James Coman	Authorization to release files from Carl Stewart.	AG 1372-1373
3/3/2005	James Coman	Thanks him for his help. Denies killing anyone. All he and Jones want is for what wasn't done before to be done now. Asks Coman to come speak to him in person. Provides newspaper articles and Arnold notarized letters to Carl Stewart and Linda Hinson.	AG 1135
3/18/2005	Justice I. Beverley Lake	Asks for help with his case. Asks him to contact James Coman and ask him about the case. "I (sic) doing life in prison for killing somebody I never did kill."	Center 1108
5/12/2005	Center	Asks for help with his case. Clemency petition in process. Sends documents.	Center 1107

DATE	Addressed To	DESCRIPTION	FILE LOCATION
8/30/2005	Chris Mumma	Wants to speak to her. Denies committing the murder. Asks her to speak to Debbie McGowan.	Center 1104-1105
11/15/2005	James Coman	Asks for update. Denies committing the murder. "What lie did the lady tell y'all this time. I'm talking about the lady from South Carolina." NOTE: portion appears to be missing.	AG 2362
10/11/2005	Sonya Pfeiffer/Chris Mumma (Center)	Asks them to come see him in person. Says he has things to tell them he didn't have a chance to tell Marti Maguire. "I never did kill that man, that's the God's truth. I'll go to my grave knowing that's the truth." "There's three men that I know killed that man + his girlfriend and got away with him and Brandon Jones + I are doing there (sic) time for it."	Center 925
2/2/2006	Sonya Pfeiffer/Chris Mumma	"I've got a lot of things I want to tell y'all." Says he has a lot of things he wants them to read but can't put them in a letter. "But I don't think y'all are coming to see me so I guess I don't know what to do." Says he has new things that Marti Maguire didn't know.	922
3/21/2006	Sonya Pfeiffer/Chris Mumma	Says he has more information to tell them. "Just go back and do what wasn't done."	Center 916
7/25/2006	Sonya Pfeiffer	Asks for update on case.	Center 909
10/5/2006	Sonya Pfeiffer	Gives names of SBI Agents that talked to him. Provides information he knows about Joseph Lynn. Charlie White was talking to James Coman about DNA.	Center 906-907
8/13/2007	James Coman	Thinks DNA testing will show they didn't kill the Victim. Says Charlie White told Spruill he believed in Coman. Says he was talked into his plea and wouldn't take it if he could do it over. Thanks him for his help.	AG 1412-1413
Undated	James Coman	Discusses parents' health issues. No DNA was found in his dad's truck. Wants his name to be cleared. "Charlite White tells me your (sic) a	AG 1131

DATE	Addressed To	DESCRIPTION	FILE LOCATION
		man of your word."	
Undated	James Coman	List of questions Spruill has about the case. NOTE: Previous letter indicates Spruill was giving this document to White to give to Coman.	AG 1132-1134
2/12/2007	Sonya Pfeiffer	Visit from two people from Coman's office on 2/6/2007. "They told me a lot of things." Doesn't elaborate.	Center 1941
3/15/2007	Sonya Pfeiffer and Chris Mumma	Asks if the motion worked and wants to know the next steps. "Wyatt Spruill's dad told my mom + dad he knows who killed Sonja Day. He lived in an apartment across from her."	Center 1937
4/4/2007	Chris Mumma	Asks how motion is going and if it has been filed. "I really don't think anybody will come back to visit me, or try and give me a polygraph, you know why, because they all ready (sic) know the truth, they know we never killed that man."	Center 1936
4/26/2007	Chris Mumma	Asks for update on case and what is happening with a motion.	Center 1934
5/17/2007	Chris Mumma	Asks if Mumma has filed a motion or spoken to James Coman. Asks for update on case.	Center 1391
7/19/2007	Chris Mumma	Asks for update on case. Thanks her for believing in them and asks her not to give up.	Center 1923
12/19/2007	Chris Mumma	Asks for update on case and testing.	Center 1921
2/25/2008	Chris Mumma	He has not received any correspondence from her in a while. Asks if she has given up and where the case stands.	Center 1919
11/12/2008	Chris Mumma	Asks for update on case. Asks her to call Charlie White because Coman will not talk to him anymore.	Center 1915

APPENDIX G – FORENSIC TESTING CHART

Note: All testing on this chart was conducted prior to the Commission's investigation

Item Tested	Results
FIELD TESTING: PRESUMPTIVE FIELD TESTING FOR BLOOD	
Camper Trailer on Ed Champ Sr.'s Property	Field Tested by SBI on 5/11/1994: • Positive presumptive luminol reactions noted on the floor near the sink and the floor near the bed.
Leroy Spruill's Home	Field Tested by SBI on 5/11/1994: • Positive presumptive luminol reactions were noted on the floor near the sink and the floor near the bed. No samples taken for confirmatory testing. • Luminol indicated transfer stains on the middle cushion of the couch in the living room, beside the chair nearest the rear entrance, and the entrance between the living room and the rear room of the first floor. No samples taken for confirmatory testing. • Top sheet collected. • Shirt collected that showed a large amount of staining from a substance that had a positive luminol reaction.
Leroy Spruill's Dad's Truck	Field Tested by SBI on 7/22/1994: • No evidence of blood was detected.
Wyatt Spruill's Car	Field Tested by SBI on 12/22/1993: • Presumptive tests for blood on left exterior door handle, left interior door handle, right exterior door handle, left interior door handle, steering wheel, gear shift lever, light switch, and several stains on front seat were negative. Presumptive luminol reactions were noted on the right front floorboard on the floormat 6" to the right of the transmission hump that were 4" in length and "S" shaped. No samples taken for confirmatory testing.
Curtis Furlough's Truck	Field Tested by SBI on 5/19/1994: Presumptive luminol and phenolphthalein tests were performed and there were no results indicating the presence of blood.
LAB TESTING	

Tire Tool from Victim's Kitchen	• Testing conducted at Crime Lab and LabCorp.
	• 1994: Examined for latent prints by Crime Lab.
	  ○ No latent prints obtained.
	• 1995: Serology conducted by Crime Lab.
	  ○ Revealed presence of human blood. Blood typing results were inconclusive.
	• 1995: DNA profile developed by LabCorp. No report issued.

	○ Profile excludes Leroy Spruill (Leroy Spruill was only reference sample provided). • 2007: DNA profile consistent with mixture developed by Crime Lab. ○ The Victim could not be excluded as a contributor to this mixture. ○ Crime Lab comparisons exclude Wallace Brandon Jones, Leroy Spruill, Dana Maybin, Maurice Wilkins, and Lee McPhatter. ○ This mixture was searched in the CODIS system with no matches observed. It has been routinely queried in the CODIS system. • 2007: DNA profile developed from DNA extracts from 1995 testing by LabCorp. ○ Profile excludes Leroy Spruill (Leroy Spruill is only reference sample provided).
Bread bag found over tire tool in Victim's kitchen.	• 1994: Analyzed for latent prints at the Crime Lab. ○ No identifiable latent prints obtained.
Envelope Containing Scrapings from Victim's Exterior Front Door	• Testing conducted by the Crime Lab and LabCorp. • 1994: Blood analysis conducted at the Crime Lab. ○ Revealed the presence of human blood. The amount was insufficient for grouping analysis. • 1995: Blood analysis conducted at LabCorp. ○ Lab notes indicate the envelope appeared to be empty. No testing conducted. • 2007: Blood analysis and DNA analysis conducted at the Crime Lab. ○ No evidence remained for further analysis.
Blue Curtains from Victim's Kitchen Window	• Testing conducted by the Crime Lab and LabCorp. • 1995: Blood analysis conducted at the Crime Lab. ○ Revealed presence of human blood, Type O. ○ Type was consistent with Victim, Spruill, and McPhatter, but could have originated from another individual. ○ Blood could not have originated from Wilkins, Jones, or Maybin. • 1995: Blood analysis conducted at LabCorp. ○ Four areas examined. Presumptive phenolphthalein tests were negative. • 1997: Blood analysis conducted at the Crime Lab. ○ Failed to reveal the presence of blood.
Victim's Jacket (found on floor near Victim)	• 1995: Blood analysis conducted at the Crime Lab. ○ Revealed presence of human blood. No grouping given.

	○ Bench notes indicate that the presumptive phenolphthalein and confirmatory takayama tests were positive.
Victim's Shirt	• 1995: Blood analysis conducted at the Crime Lab. ○ Revealed presence of human blood, Group O. ○ Report indicates blood could not have originated from Jones or Maybin. ○ Bench notes indicate that the confirmatory takayama test was positive.
Victim's Pants	• 1995: Blood analysis conducted at the Crime Lab. ○ Gave chemical indications for the presence of blood. ○ Bench notes indicate numerous blood smears, presumptive phenolphthalein positive, and no indication of second bleeder.
Victim's T-Shirt	• 1995: Blood analysis conducted at the Crime Lab. ○ Gave chemical indications for the presence of blood. ○ Bench notes indicate shirt was blood soaked, presumptive phenolphthalein positive, and no indication of second bleeder.
Victim's Underwear	• 1995: Blood analysis conducted at the Crime Lab. ○ Gave chemical indications for the presence of blood. ○ Bench notes indicate blood and probable urine stains, presumptive phenolphthalein positive, and no indication of second bleeder.
Victim's Socks	• 1995: Blood analysis conducted at the Crime Lab. ○ Gave chemical indications for the presence of blood. ○ Bench notes indicate socks were blood stained, presumptive phenolphthalein positive, and no indication of second bleeder.
Victim's Shoes	• 1995: Blood analysis conducted at the Crime Lab. ○ Gave chemical indications for the presence of blood. ○ Bench notes indicate small stain on right shoe and thing smear on left, presumptive phenolphthalein positive, and no indication of second bleeder.
Tapings From Floor Around Victim	• 1995: Hair analysis conducted at Crime Lab. ○ Examination did not reveal a transfer of hairs. No hairs found for comparison.
Tapings From Victim's Body	• 1995: Hair analysis conducted at Crime Lab.

	○ Examination did not reveal a transfer of hairs. No hairs found for comparison.
Hairs From Jacket Near Victim's Body	• 1995: Hair analysis conducted at Crime Lab. ○ Examination did not reveal a transfer of hairs. No hairs found for comparison.
Hairs From Victim's Clothing	• 1995: Hair analysis conducted at Crime Lab. ○ Examination did not reveal a transfer of hairs. No hairs found for comparison.
18 Latent Lifts from Crime Scene	• 1994: Latent print examination conducted at the Crime Lab. ○ Two identifiable latent fingerprints and three identifiable latent impressions from the front door, telephone, and plastic cup on den floor. ○ Latent print from telephone was uploaded into AFIS with no identifications effected. ○ Post-mortem inked impressions of Victim and inked impressions of Wilkins and McPhatter were submitted but were insufficient for comparison. No inked impressions of Wilkins and McPhatter sufficient for comparison were ever submitted to the Crime Lab. • 1995: Latent print examination conducted at the Crime Lab. ○ Previously determined identifiable latent prints were compared to major case inked impressions of Leroy Spruill and inked impressions of Wallace Brandon Jones and Dana Maybin with no identifications made. ○ Report notes that the inked impressions for Spruill, Jones, and Maybin were insufficient for comparison with some of the identifiable latent prints. • 1995: Latent print examination conducted at the Crime Lab. ○ Previously determined identifiable latent prints were compared to major case inked impressions of Leroy Spruill, Wallace Brandon Jones, and Dana Maybin with no identifications being made. • 2006: Latent print examination conducted at the Crime Lab. ○ Latent lifts from crime scene were compared to the 21 latent lifts from the Sonja Day crime scene with no matches.
Top Sheet From Spruill's Residence	• Testing conducted by Crime Lab and LabCorp • 1995: Blood analysis conducted at the Crime Lab. ○ Gave chemical indications for the presence of blood.

	○ Bench notes indicates the presumptive phenolphthalein test was positive and the takayama confirmatory testing was negative. • 1995: Blood analysis conducted at LabCorp. ○ Presumptive phenolphthalein test on largest stain was positive, no confirmatory testing done. • 1995: DNA testing conducted at LabCorp. ○ Negative for DNA. • 2007: Blood analysis conducted at the Crime Lab. ○ Failed to reveal the presence of blood.
Shirt from Spruill's Residence	• 1994: Blood analysis conducted at the Crime Lab. ○ Revealed the presence of blood. Further analysis failed to give conclusive results. ○ Bench notes indicate that the the takayama and phenolphthalein tests were positive, and the confirmatory ouchterlony test was inconclusive for "known cat" (housecat) blood. No human blood detected on the shirt.
Piece of Lace From Wood Pile at Spruill's Residence	• 1994: Blood analysis conducted at the Crime Lab. ○ Failed to reveal the presence of blood. ○ Bench notes indicate that phenolphthalein was negative.
Scrapings from Bathroom Door of Spruill	• 1995: Blood analysis conducted at the Crime Lab. ○ Gave chemical indications for the presence of blood. ○ Bench notes indicate that the presumptive phenolphthalein test was positive, but no confirmatory testing was conducted.
Charred Debris from Wood Heater of Spruill	• 1994: Examined for burned particles of tennis shoes or other clothing by the Crime Lab ○ Mostly charred wood. The additional material did not have sufficient characteristics to identify origin.
Ivory and Black Pocketknife from Bathroom Shelf of Spruill	• 1995: Blood analysis conducted at the Crime Lab. ○ Failed to reveal the presence of blood. ○ Bench notes indicate that the presumptive phenolphthalein test on reddish stains on the knife were negative. The white handles were taken off and the presumptive phenolphthalein test on the entire knife was also negative. No confirmatory testing was done.
Imperial Lock Blade Knife from Tommy Barber	• 1994: Latent print examination conducted by Crime Lab. ○ No latent prints obtained.

Two Knives From Black Gym Bag of Wallace Brandon Jones	• 1994: Blood analysis conducted at the Crime Lab.
	  ○ Failed to reveal the presence of blood.
	  ○ Bench notes indicate that phenolphthalein was negative for both.

Plastic Bag Containing Powder Residue From Victim's Residence	• 1994: Analysis for controlled substances conducted at the Crime Lab. ○ No controlled substances found.

Razor Blade Containing Residue from Victim's Residence	• 1994: Latent print analysis conducted at the Crime Lab.
	  ○ No latent prints obtained.
	• 1994: Analysis for controlled substances conducted at the Crime Lab.
	  ○ Residue amount of cocaine found.

Metal Smoking Device from Residence of Leroy Spruill	• 1994: Analysis for controlled substances conducted at the Crime Lab. ○ Residue amount of cocaine found.
Two Metal Smoking Devices from Residence of Leroy Spruill	• 1994: Analysis for controlled substances conducted at the Crime Lab. ○ Residue amount of cocaine found.

APPENDIX H – MAYBIN INTERVIEW BY COMMISSION

STATE OF NORTH CAROLINA

COUNTY OF WASHINGTON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NOS: 94 CRS 1984, 1994
94 CRS 1973, 1995, 1565

STATE OF NORTH CAROLINA,]
Petitioner,]
vs.]
]
LEROY SPRUILL,]
WALLACE BRANDON JONES,]
Defendants.]
]

T R A N S C R I P T

Interview
DANA MAYBIN

Transcript of a telephone interview conducted of Dana Maybin by Catherine Matoian, on March 24, 2014 as part of an investigation by the North Carolina Innocence Inquiry Commission.

APPEARANCES:

Catherine Matoian
Staff Attorney
North Carolina Innocence Inquiry Commission
Raleigh, North Carolina

Dana Maybin

Terri Tizzard Ryan
201 Amy Drive Camden, North Carolina 27921
(757) 438-7272
cerksmom@aol.com

1 [The interview commenced on March 24, 2014.]

2 MS. MATOIAN: Hi, is this Dana Maybin?

3 MS. MAYBIN: Yes, it is.

4 MS. MATOIAN: Hi. My name is Catherine

5 Matoian with the North Carolina Innocence Inquiry Commission.

6 Thank you for calling me back.

7 MS. MAYBIN: Yes, ma'am.

8 MS. MATOIAN: I just want to explain who the

9 Commission is. I know you've spoken to a lot of people about

10 this case before, but I want to explain who I am. The ----

11 MS. MAYBIN: Okay.

12 MS. MATOIAN: ---- Innocence ----

13 MS. MAYBIN: You wasn't the one that come

14 last time, right?

15 MS. MATOIAN: Yes, I was.

16 MS. MAYBIN: Okay.

17 MS. MATOIAN: Or, I'm sorry.

18 MS. MAYBIN: I don't completely ----

19 MS. MATOIAN: I'm sorry, you mean ----

20 MS. MAYBIN: ---- remember that's why I'm

21 asking.

22 MS. MATOIAN: You mean a really long time

23 ago, like years ago?

24 MS. MAYBIN: Yeah. It was like the last

25 person that came because I was like really tore up and it was

1 my birthday, and whoever that was.

2 MS. MATOIAN: No, that wasn't me.

3 MS. MAYBIN: Okay.

4 MS. MATOIAN: The Innocence Inquiry

5 Commission is a State Agency in North Carolina, so I work for

6 the Government. And what we are is a neutral fact-finding

7 Agency that investigates claims of innocence by people who've

8 been convicted of crimes. So, because we're neutral, I don't

9 represent Leroy Spruill or Wallace Brandon Jones; I never

10 will. I just care about the truth.

11 So, I'd like to be able to speak to you about this

12 case, if you're willing.

13 MS. MAYBIN: Well, I mean, there's not a

14 whole lot to tell. I mean, I was there, I see it. I done my

15 time. Now, I can't even get a damn job, you know? I suffer

16 just as much as they do. I can't even get a fricken' job

17 nowhere because I got this felony on me.

18 MS. MATOIAN: Uh-huh (yes).

19 MS. MAYBIN: You know, and I have no reason

20 to lie. It's -- I know the last time that whoever that came

21 was, I was messing with them. I don't even know if it was

22 the paper or what it was. But I was pretty much lit because

23 I had been drinking ----

24 MS. MATOIAN: Uh-huh (yes).

25 MS. MAYBIN: ---- and it just pisses me off

1 because I've told them and told them over and over, the
2 newspaper people; I've told everybody what happened. This
3 has been like 20 years ago. I just want to get on with my
4 life. If y'all let him loose, you're gonna be letting a
5 killer loose. He's crazy and he's mean. That's all I got to
6 say about him.
7 MS. MATOIAN: Is that Wallace Jones or Leroy
8 Spruill?
9 MS. MAYBIN: Yes, yes.
10 MS. MATOIAN: Okay.
11 MS. MAYBIN: Wallace.
12 MS. MATOIAN: And what about Leroy?
13 MS. MAYBIN: As far as Leroy, I don't fear
14 for my life, but you know, I am kind of scared, but.
15 MS. MATOIAN: Uh-huh (yes).
16 MS. MAYBIN: Brandon would kill me.
17 Wallace, whatever his real name is now.
18 MS. MATOIAN: Yeah. So, you're -- you were
19 there when Frank Swain was killed?
20 MS. MAYBIN: Yes, ma'am.
21 MS. MATOIAN: And Leroy ~~Roy~~ Spruill and
22 Wallace Brandon Jones killed him?
23 MS. MAYBIN: Yes, ma'am.
24 MS. MATOIAN: Okay.
25 MS. MAYBIN: Well, actually Brandon killed

1 him, but ----

2 MS. MATOIAN: And what was Leroy doing?

3 MS. MAYBIN: ---- Wallace -- ma'am?

4 MS. MATOIAN: And what was Leroy doing when

5 Brandon went ----

6 MS. MAYBIN: He was there with him. He was

7 -- you know, he was just -- he was, like, right there with

8 him. But as far as seeing a weapon, I didn't see a weapon in

9 Leroy's hand.

10 MS. MATOIAN: Okay.

11 MS. MAYBIN: You see what I'm saying?

12 MS. MATOIAN: Uh-huh (yes); and, what did

13 Brandon do?

14 MS. MAYBIN: He cut his throat. He killed

15 him.

16 MS. MATOIAN: And what happened after that?

17 MS. MAYBIN: Okay. After that, it was kind

18 of a blur. You know, everything happening at once, but after

19 that, I -- you know, I was pushed down and told if I ever

20 said anything he would fucking kill me.

21 MS. MATOIAN: Uh-huh (yes).

22 MS. MAYBIN: Exact words. And I just -- I

23 don't know, it was a -- it's something that you hope you

24 never see again.

25 MS. MATOIAN: Uh-huh (yes).

1 MS. MAYBIN: Took me a long time to get over
2 it. I got on Xanax real bad. Right now I'm -- I don't even
3 want to talk about now 'cause I know I'm gonna -- I'm gonna
4 have dreams tonight. I tried to let this shit go, but it
5 seems to be coming up every few years.
6 MS. MATOIAN: I understand, and I don't -- I
7 don't want to cause you ----
8 MS. MAYBIN: It's so hard.
9 MS. MATOIAN: I understand.
10 MS. MAYBIN: I'm sorry.
11 MS. MATOIAN: Oh, it's -- don't apologize.
12 MS. MAYBIN: All I can really say is that
13 they did it and there's nothing else I can say.
14 MS. MATOIAN: Okay. Okay. Well, I do
15 appreciate you talking with me. I don't -- you know, I don't
16 mean to bring up the past for you but I appreciate you
17 speaking with me.
18 MS. MAYBIN: Thank you.
19 MS. MATOIAN: Thank you. All right, well, I
20 guess if -- if there's nothing else that you wanted to tell
21 me about what happened then I'll let you go.
22 MS. MAYBIN: Okay. Thank you.
23 MS. MATOIAN: All right. Thank you.
24 **[The recording ended on March 24, 2014.]**
25 **[END OF TRANSCRIPT]**

STATE OF NORTH CAROLINA

COUNTY OF WASHINGTON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NOS: 94 CRS 1984, 1994
94 CRS 1973, 1995, 1565

STATE OF NORTH CAROLINA,
Petitioner,
vs.

LEROY SPRUILL,
WALLACE BRANDON JONES,
Defendants

C E R T I F I C A T E

Interview
DANA MAYBIN

I, Terri Tizzard Ryan, having been assigned to transcribe the above-captioned interview from **March 24, 2014** do hereby certify that said hearing, pages 1 through 7 inclusive, is a true, correct and verbatim transcript of said proceeding to the best of my ability.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was heard; and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, and am not financially or otherwise interested in the outcome of the action.

Terri Tizzard Ryan

Terri Tizzard Ryan
Transcriptionist

APPENDIX I – MAYBIN DEPOSITION BY COMMISSION

STATE OF NORTH CAROLINA
COUNTY OF WASHINGTON

IN THE GENERAL COURT
OF JUSTICE
SUPERIOR COURT DIVISION

STATE OF NORTH CAROLINA,
Plaintiff,

vs.

WALLACE BRANDON JONES
and LEROY SPRUILL,
Defendants.

CIVIL ACTION NO.
94 CRS 1973 and
95 CRS 1965 (Jones)
94 CRS 1566 and
94 CRS 1984 (Spruill)

VIDEOTAPED DEPOSITION OF DANA LYNN MAYBIN

DATE TAKEN: February 9, 2018

TIME BEGAN: 9:30 a.m.

TIME ENDED: 1:00 p.m.

LOCATION: Oconee County Magistrate Court
208 Booker Drive
Walhalla, South Carolina

REPORTED BY: Eileen Thompson, CCR
EveryWord, Inc.
P.O. Box 1459
Columbia, South Carolina 29202
803-212-0012

APPEARANCES:

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Representing the North Carolina Innocence Inquiry Commission

Also Present: Stan Rollins

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(It is hereby stipulated and agreed by and between counsel for the respective parties that this deposition is being taken in accordance with the South Carolina Rules of Civil Procedure, and that the deponent reserves reading and signing of this deposition transcript.)

- - -

EXAMINATION

- - -

BY MS. MATOIAN:

Q. All right, Ms. Maybin. My name is Catherine Matoian, and I'm an attorney for the North Carolina Innocence Inquiry Commission, a state agency that investigates post-conviction innocence claims. You've been subpoenaed here today in the matter of State versus Leroy Spruill and Brandon Jones. Both were convicted of the murder of Frank Swain and are claiming innocence.

You've been subpoenaed here today, because you are Mr. Spruill's and Mr. Jones' co-defendant in this case. I'm going to hand you Exhibit 1, which is a copy of your Subpoena to appear for this deposition today.

(Whereupon, the court reporter marked Maybin Exhibit

Number 1 for identification.)
EXAMINATION RESUMED BY MS. MATOIAN:
Q. Have you ever been deposed before?
A. What?
Q. Have you ever been deposed before? Have you ever testified in a deposition before?
A. No.
Q. The purpose of a deposition is just so that I can find out what I need to know about what you know about the facts surrounding this case.
MS. MATOIAN: Would you mind swearing her in now.
DANA LYNN MAYBIN, after having been first duly sworn, was examined and testified as follows:
EXAMINATION RESUMED BY MS. MATOIAN:
Q. So I just have a few things to go over with you. Please know that a deposition is similar to testimony in court. You are under oath and are expected to answer completely and truthfully. Do you understand that?
A. Yes, ma'am.
Q. Now, I understand that you may want to answer questions before I have completed them. However, please wait until you hear the entire

question before you answer. Do you understand that?

A. Yes.

Q. And because inaudible responses are sometimes difficult to record, can you please provide audible responses to my questions?

A. Yes.

Q. And if you don't understand a question, that's okay, please just let me know that you do not understand a question, and ask me to clarify. Will you agree to do that?

A. Yes.

Q. And if you do not ask me to clarify a question, I will assume that you understood the question and that you gave a complete response. Is that understood?

A. Yes.

Q. And after you have given an answer, you may remember more information later on in the deposition that responds to an earlier question. If this is the case, please stop me, tell me you remember more information that is responsive to the earlier question, and provide the information. Will you do that?

A. Yes.

Q. And if I believe that I have a document

that will help you respond to a question, I will label it as an exhibit and ask you to review it. If you believe that I have a document that will refresh your memory and help you respond, please ask to see it, and I will provide it to you, if I have it. Do you understand that I want you to review records that may help you refresh your memory?

A. Yes.

Q. Will you ask me for any records you believe may be available?

A. Yes.

Q. And if you find yourself getting tired at any time during this deposition, please let me know, and we'll talk about taking a break. I do ask that you answer any questions pending before we take that break. Is that okay?

A. Yes.

Q. Is there any reason you can't give full, complete responses today?

A. No, except for things that I can't remember.

Q. Okay.

A. Other than that, I'll tell you everything honestly.

Q. Are you currently under the influence of

alcohol or drugs, whether illegal or prescription?

A. No, no medications.

Q. No medications?

A. (Witness shaking head.)

Q. All right. Do you have any current medical conditions that require ongoing treatment by a physician?

A. Not at this moment.

Q. Are there any other circumstances or issues preventing you in any way from giving truthful, accurate, and complete testimony today?

A. Uh-uh.

Q. Have you examined or reviewed anything in preparation for this deposition today?

A. No, ma'am.

Q. Did you bring any documentation with you?

A. I don't have any. I looked in the cabinet and I didn't see anything. I probably threw them away years ago.

Q. Have you talked to anyone about this deposition?

A. No.

Q. Have you been asked --

A. The only person that knew about it is my boyfriend.

Q. Okay. Is that Mr. Rollins?
A. Yes.
Q. Have you been asked by anyone to withhold information or misrepresent any facts during the deposition today?
A. No.
Q. Is there any other reason why you would withhold information or misrepresent any facts during the deposition today?
A. No.
Q. All right. Can you please state your full name, for the record.
A. Dana Lynn Maybin.
Q. And what's your date of birth?
A. 10-28-72.
Q. And what's your current address?
A. 441 Moore Farm Road, Westminster.
Q. And who lives with you?
A. Mr. Rollins.
Q. And how long have you lived at that location?
A. About two years.
Q. What is the best phone number for you?
A. The one that y'all have, the 864-557-2709.
Q. Okay. Do you have an e-mail address?

A. Yes. I hardly ever check it, but I will give it to you.

Q. Okay.

A. dogwoodconstruction@live.com.

Q. Are you currently working?

A. No, my friend got cancer. I had to quit my job to help take care of him, but he died.

Q. Sorry to hear that.

A. Thank you.

Q. Do you have an attorney in this matter today?

A. No.

MR. ROLLINS: Hold on a just second. Do we need to get an attorney?

THE WITNESS: Yeah, I didn't know if I needed an attorney.

MR. ROLLINS: We just got this like a week ago.

MS. MATOIAN: I cannot provide you any legal advice, Ms. Maybin.

THE WITNESS: If I feel at any time I need one, I can say stop, you know, that I feel like I need one?

MR. ROLLINS: Yeah, I feel like we need one right now.

THE WITNESS: Because every few years, this happens and I just need to know.

MR. ROLLINS: If it's been 20 years ago, I'm sorry.

MS. MATOIAN: Sir, I've agreed to let you stay with the deposition, but you are not part of this deposition or under oath, so I would ask you if you're going to stay to please to not speak while we're in session.

THE WITNESS: But I mean I can ask for one if I feel like I need one? Like if y'all started getting on me or something and I felt very uncomfortable?

MS. MATOIAN: I am not law enforcement. I cannot give you any legal advice. I am not law enforcement, I cannot charge you with anything, so you will have to make your own best judgment. I can't give you advice.

THE WITNESS: So if I get to that point, I can stop?

MS. MATOIAN: We will have to deal with it when we get to it.

THE WITNESS: Okay.

EXAMINATION RESUMED BY MS. MATOIAN:

Q. Ms. Maybin, are you still in contact with

anyone that you knew regarding this case?

A. No.

Q. Anyone from the Plymouth area?

A. No, I haven't even been back that way, don't care to.

Q. I'm going to start with, in your own words, please tell me everything you remember happening the day of Mr. Swain's murder.

A. Well, I don't really recall a whole lot. I remember, you know, being at the bar; I remember him pitching a fit; we was in the truck; I remember going to the trailer; I remember them getting out of the truck.

Q. And who got out of the truck?

A. Brandon and Leroy -- of course, I knew him as Robert, so you'll hear me refer to both, but that's the same person.

Q. And what happened after they got out to go to the trailer?

A. They went in and I could see lights moving or something, and I could hear a struggle or -- it sounded like they were fighting. So I got out of the truck and went up to the door. The door was partly open, and I just pushed the door open and went in, and I wished I'd never went in ever, it

just totally ruined my life.

Q. You pushed the door open?

A. (Witness nodding head.)

Q. And what did you see when you pushed the door open?

A. Well, I can't remember everything. It's -- it's hard to say. I remember Robert was over the guy that was laying there -- partially laying there, he was up against a chair, or a couch, or something, and Leroy was on the other side. And -- and lots of blood, I seen lots of blood. I remember being pushed down into some blood. I don't -- I don't remember exactly where I was, but I can remember that.

I don't remember the leaving part. I remember being at Leroy's house, and they were making me take my clothes off to burn my clothes, and tried to grab my hands and stick them to the heater, it was like a wood heater. I remember the cops coming and asking me if I knew anything, and I told them, "No."

(Whereupon, the court reporter marked Maybin Exhibit Number 2 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. Ms. Maybin, I'm going to hand you what is

marked as Exhibit 2. This is a partial diagram of Mr. Swain's home, the den area. I will mark out to you that this is the door. I'm going to hand you --

MS. MATOIAN: Derek, do you have an extra pen?

THE WITNESS: Oh, if you're asking me to diagram the house, God, I don't remember.

EXAMINATION RESUMED BY MS. MATOIAN:

Q. I'm going -- I'm going to ask you a few questions, okay?

A. Okay.

Q. Do you remember what the doorway to the victim's house looked like?

A. Not exactly, I really don't. I remember it was open a little ways, you know what I'm saying, because I could see the light and I could see stuff going on in there.

Q. Can you estimate in inches how many -- how wide you think it was open?

A. Maybe about this far (indicating).

Q. Would you estimate that to be about three or four inches?

A. I guess, yeah. It was just enough I could see the light and see movement.

Q. Was the door flush with the ground, or was

it raised at all?

A. I don't remember. I don't remember.

Q. Do you remember any steps?

A. It seems like I do.

Q. I'm going to ask you to take that pen and at the point where you were standing at the door and you think it was open about four inches, and you said you could see things inside, can you mark on that diagram where you were standing at the doorway and mark that with a letter D?

A. I don't remember. Y'all are asking me to remember something over 20 years ago that I didn't even want to remember, you know what I'm saying? This is -- this is so hard, I can't.

Q. I understand that. If you don't remember, then your answer is that you don't remember.

A. I really don't.

Q. Okay. I will continue to ask you questions, and if you don't remember, you don't remember. From where you were at the doorway, can you mark on the inside what you could see in the house? If you can remember where you saw Mr. Jones, please mark that with a J; if you remember where you saw Mr. Spruill was, please mark that with an S; if you remember where you saw the victim, please mark

that with a V.

A. That's what I'm saying. Y'all don't understand, this happened like that (indicating). You know, it's like a car wreck, it's boom, it happened. I cannot remember who was sitting where, and who was doing this, and who was doing that, and where the TV was. I don't. As I told you a while ago, that's all I remember. If y'all had asked me 20 years ago, I probably could have told you this. I don't understand what you want. I just -- I can't remember, I really can't. I can only tell you what I can remember.

Q. Ms. Maybin, you were saying earlier that you could -- from your position outside of the door, you could see movement inside Mr. Swain's house?

A. Yeah, like shadows, and stuff, and lights.

Q. At what point could you see -- what point did you walk into the house?

A. Well, I heard the struggle, I heard a struggle, and that's when I went in.

Q. Were Mr. Spruill and Mr. Jones wearing gloves that night?

A. I don't remember that. I don't -- I don't remember if they were. I wasn't.

Q. I'm going to go just back a little bit to

earlier in the day before you went to Mr. Swain's house. Do you remember anything you did earlier that day?

A. No.

Q. Were you living with Mr. Spruill at the time?

A. I think so. I'm not sure if I had moved into Ms. Oliver's yet or not. I did move in with her.

Q. And is Ms. Oliver, Cottie Oliver?

A. Yes

Q. Is she still living? Do you have any contact with her today?

A. Uh-uh, I don't know. I don't even remember the daughter's name or anything.

Q. Do you remember a man named Lewis Jarvis?

A. I don't know, I don't think so. Did he have a nickname?

Q. Not that I'm aware of.

A. Okay.

Q. Do you remember the first time you saw Mr. Jones that day -- or Robert, as you knew him?

A. No.

Q. Do you remember going to Mr. Swain's house another time that day?

A. I don't remember. I do remember going to that place before, but I don't know if that was the same day.

Q. Do you remember who you went with when you went before?

A. I remember we was in a truck.

Q. Okay. Do you remember who was with you?

A. No, ma'am.

(Whereupon, the court reporter marked Maybin Exhibit Number 3 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. I'm going to hand you -- this is your trial testimony. I won't ask you to read all of it. I'm going to mark that Exhibit Number 3, and I may ask you to refer to specific pages if I think it may help.

Ms. Maybin, can you please turn to page 560.

A. (So complied with request of counsel.)

Q. And please read pages 560 to 562 and let me know when you're finished.

A. (So complied with request of counsel.) Okay.

Q. Does that refresh your recollection as to going to the victim's house the first time that day?

A. I didn't remember until I read it. And that's what gets me is like you're asking me stuff and you've already got what you need. I don't understand how you can expect me to remember all this after 24 years.

Q. Ms. Maybin, do you know who paid for the drugs that you guys bought that night?

A. I have no idea, I don't remember.

Q. Do you remember if Mr. Jones was working at that time?

A. As far as I know, I don't -- not unless he worked for the people he lived over there next to.

Q. Was Mr. Spruill working at that time?

A. I don't remember if he was.

Q. Were you working?

A. No, I don't guess. I worked some for the seafood guy, Nowarah, Mitchell I think.

Q. Mitchell Nowarah?

A. Yeah, I worked in the seafood house for him some.

Q. On page 560, you indicated that Mr. Jones was reluctant to get out at the driveway of the victim's house, because there were a lot of people there, and a lot of black people in the trailer park, and he didn't want to go up there. But to

your understanding, you were there to buy drugs from a black man, correct?

A. Yeah, as far as I knew. Yeah.

Q. Do you know why Mr. Jones would have been uncomfortable getting out in the driveway because of black people if he was there to buy drugs from a black man?

A. I don't know, I don't know. Maybe because he was using an alias, I don't know. Maybe he done something, who knows.

Q. When you were discussing the driveway, was that driveway directly in front of the victim's residence, do you remember?

A. I can't really remember, to be honest with you. It seems like it might have went around or something, I can't remember. I just remember being in the truck.

Q. From the driveway --

A. Most of the time, I was ducked down, you know. I don't know.

Q. From the driveway, could you see Mr. Swain's house from where you were in the driveway?

A. Yeah, it seems like -- it seems like you could, but, you know, I can't be for sure, but it seems like you could, I mean, because it was right

there.

(Whereupon, the court reporter marked Maybin Exhibit Number 4 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. I'm going to hand you Exhibit Number 4, which is a diagram of the trailer park where Mr. Swain lived.

A. Sure.

Q. And you'll see where Mr. Swain's residence is marked down at the bottom.

A. Sure.

Q. If you're able to, can you indicate where that driveway is in relation to Mr. Swain's house?

A. I don't remember, I really don't. I just remember -- I just remember it was like a dirt road.

Q. You remember that it was a dirt road?

A. Or like a -- like a -- like a gravel, or dirt, or something. It made sounds, but I don't remember where it was, I don't know.

Q. In re-reading your testimony about going to the victim's house the first time to buy drugs and you testified that this was around dusk, why would one of the people who was with the victim all day say the victim was not home at dusk?

A. I don't know.

Q. And why would one of the people who was with the victim that day say he did not see Mr. Jones, Mr. Spruill, or you either in the trailer park or in the victim's house all day?

A. I don't know, you should ask them that. You know, I don't know.

Q. Do you know who Marty Respass is?

A. No, never heard that name.

Q. Do you remember going to Big Ed's Bar that night?

A. I remember being at the bar.

Q. Do you remember how you got there?

A. Uh-uh. No.

Q. Were you in the same truck you were in when you went to buy drugs from Mr. Swain's house?

A. Most likely, because I didn't have a way of going.

Q. And do you remember whose truck that was?

A. It had to be Leroy's daddy's truck or -- because that's the only one I ever went anywhere in.

Q. Do you remember what that truck looked like?

A. No, ma'am.

Q. Do you know who Ray Hurst is?

A. I remember that name.

Q. Do you know who someone named Russell Sawyer is?

A. No.

Q. Do you remember seeing Ray Hurst on the day of the murder?

A. No.

Q. Do you know why Russell Sawyer and Ray Hurst would say that you, and Mr. Spruill, and Mr. Jones walked to Sawyer's parents' house, and that Ray Hurst gave you a ride to Big Ed's Bar in Sawyer's car?

A. I don't know. I don't even remember them, you know. I remember that one name.

Q. Are you certain that you got a ride to the bar in Mr. Spruill's dad's truck?

A. Well, I mean today, I'm not sure, but I'm sure if I said I did, that's what I done.

Q. Can you name every person you remember seeing at the bar that night?

A. The only person I remember is the guy, Shorty. I remember setting at the bar with him.

Q. Do you remember what Shorty's last name was?

A. Uh-uh.

Q. Do you remember a man named Smarty

Spruill?

A. I don't know if that was his last name or not. He had a brain tumor. He was a really nice guy, that's how I remember him.

Q. And you said you sat at the bar and talked to him?

A. Yeah.

Q. Do you remember seeing or speaking to anybody else?

A. No, I can't remember. I just remember him, because he was so nice.

Q. Was he buying your drinks?

A. Oh, he might have. You know, he might have. He was a really nice guy.

Q. Do you remember seeing anyone else from the Champ family there? Big Ed? Little Ed?

A. I don't remember.

Q. Gail Champ?

A. I don't remember.

Q. Lottie Champ?

A. (Witness shaking head.)

Q. Do you remember someone named Tommy or Buddy Barber?

A. No.

Q. Do you remember doing anything else at the

bar rather than speak to Shorty?

A. No, that's all I remember. There was a bartender, but I don't remember the lady's name.

Q. She was a woman?

A. Yeah, there was a lady. There was a dude there, too, that was serving drinks, but I don't remember his name. The lady --

Q. Do you know if he was related to the Champs?

A. I don't know. I know the lady served us a time or two, because I remember her, I think she had dark hair.

Q. Do you remember seeing what Mr. Spruill and Mr. Jones were doing while you were at the bar?

A. No. I know Brandon had left once, but I don't remember nothing else, because there was nobody setting there but me and Smarty, or Shorty, or whatever they called him.

Q. You said Mr. Jones left once?

A. Yeah, I knew he wasn't there when I was setting at the bar, so...

Q. Do you know how long he was gone?

A. I don't remember.

Q. Did you see him leave with anyone?

A. Uh-uh, I don't remember.

Q. Did you see Mr. Spruill and Mr. Jones drinking?

A. I don't know.

Q. Did you leave the bar at any point that night?

A. I don't -- I don't know, I don't remember. All I remember is when he come in and pitched a fit and told me I was leaving, and that's the only time I can remember.

Q. And when he told you you were leaving, is that when you went and went back to Mr. Swain's house?

A. Yes, that was -- that's the only time I remember leaving the bar.

Q. Do you remember either that night or any other night at Big Ed's Bar Mr. Spruill or Mr. Jones leaving some liquor outside the bar to go out and take drinks of?

A. I don't remember.

Q. Was there any music at the bar that night?

A. I don't know. I'm pretty sure there was, it was a bar, you know.

Q. Do you know if it was a band or a jukebox?

A. I don't know.

Q. Was it already dark by the time you guys

had arrived at the bar that night?

A. God, I don't remember.

Q. Do you remember what time you left the bar?

A. Uh-uh.

Q. And you said that Mr. Jones pitched a fit and told you you were leaving. Do you remember what he was upset about?

A. He was mad because I was setting there talking to the guy at the bar, and he got mad about it.

Q. When he said you were leaving, did he tell you you were going to go back to Mr. Swain's house?

A. I don't remember.

Q. When did you become aware that you guys were heading back to Mr. Swain's house?

A. Oh, God, I don't know. I don't know how I felt then. I don't know when I realized stuff, I really don't.

Q. Did you want to leave the bar?

A. Probably not. Most likely not.

Q. Did you decide to leave with them or were you forced to leave?

A. Forced to leave. I'm pretty sure I wanted to stay.

Q. Did you tell Shorty or Smarty why you were leaving?

A. I don't remember.

Q. Do you remember how you got back to Mr. Swain's house?

A. I just remember being in the truck.

Q. Was that still Spruill's dad's truck?

A. Yeah, that's the only truck I ever went anywhere in besides Mitchell's, and that was just to work.

Q. Do you remember any conversations between the bar and going back to Mr. Swain's house?

A. No.

Q. What happened when you got back to Mr. Swain's trailer park?

A. I've done told you all that I remembered.

Q. What happened when you got back to Mr. Swain's trailer park?

A. Well, they made me duck down, and we went down this road, and everything happened, just like I told you a while ago.

Q. Were you sure that that was the same place you had gone to earlier that day?

A. Not in -- not really, you know, until I got out and realized what was going on. You know, I

knew it was the same general area, because the way we were going, you know, but I can't remember the actual drive there, I don't know who said what, I can't remember all that little stuff like that, I just -- I can't remember it.

Q. When you got out of the truck and walked up to the door, did you see anybody else in the trailer park at that time? Was there anyone outside?

A. Not that I noticed, no.

Q. Do you remember ever going to that trailer park at any other time, did you know?

A. I know we had been there before, but I don't remember the date, and I don't remember who was doing what, and who said what, I don't -- I don't know all that.

Q. Did you know anyone besides Mr. Swain, who lived in that trailer park?

A. I didn't actually know him.

Q. How did you -- what name did you know him by?

A. If I'm not mistaken, they called him either it was the drug man or the crack man, it was one or the other, you know. It was -- he was the guy that sold them drugs.

Q. Do you know of anyone else they had bought drugs from?

A. Uh-uh.

Q. When you were standing outside the victim's house and indicated that you thought the door was open about four inches, how much inside the house could you see?

A. Just shadows and light.

Q. And you mentioned earlier that you saw a lot of blood. Did Mr. Jones have blood on him?

A. I don't remember, I just remember there was blood. It was -- there was blood, you know, just -- I don't know how to explain it. There was blood.

Q. Was it on people, or was it on --

A. It was on people. It just basically was, in my mind, it's like a flash, you know, of blood. And I know I had some blood on me, you know, and that was why he made me take my clothes off and burn them.

Q. How long did you stand at the doorway before walking into the trailer?

A. I don't know.

Q. Can you describe, from your memory, anything you saw in the victim's house, including

furniture, anything like that?

A. No, I don't remember anything. I don't remember the room.

Q. And when you walked inside, where in -- and if you're able to on the diagram I've handed you previously, when you walked inside, where in relation to you walking inside were Mr. Spruill, and Mr. Jones, and Mr. Swain? Were they to your right or to your left?

A. I'm not sure.

Q. What did Mr. Spruill and Mr. Jones do when they saw you?

A. I don't remember what they done, like their reactions or anything like that, I don't remember. I remember being grabbed by my hair, and being pushed down, and was told if I ever said anything that I would be the same, but I don't remember the -- like what they were discussing or whatever, you know, I don't know, before I walked in or whatever.

Q. Was Mr. Swain alive when you first walked into the house?

A. No, I'm -- I'm -- all I know, I seen the knife in Robert's hand, and he was standing -- he was like over him, he wasn't like standing, he was

like knelt, standing over this man. And he had the knife in his hand, and there was blood everywhere, and the man's arm moved this way (indicating) toward me it seemed like -- it seems like it was this way, and that's all I remember. I don't know if, you know -- I don't know if it's because it was -- it just happened (indicating) like that, you know. I don't -- This ain't something that somebody wants to always remember. God.

Q. Ms. Maybin, can you describe what the -- what hand the knife -- do you know what hand Mr. Jones was holding the knife in?

MR. ROLLINS: Hold on. You're trying to put --

MS. MATOIAN: Sir? Sir?

MR. ROLLINS: We'll all walk out and we will get an attorney. I can see it right now. Y'all are trying to put the knife in the girl's hand or something. Baby, we need an attorney immediately. That's it. That's enough.

MR. MATOIAN: Sir, I'm going to have to ask you to leave because you are not a part to this deposition. She has not been released from her subpoena.

THE WITNESS: No, I will finish this.

I'll finish it.

MR. ROLLINS: Don't say nothing else. They're trying to put it on you.

THE WITNESS: Go out, please.

MR. ROLLINS: Everybody can see that.

THE WITNESS: Please, just go out.

MR. ROLLINS: Don't answer no questions. Let's go get a lawyer. Let's go get a lawyer, Baby. We have a legal right to an attorney, now, I know that much. Is this not true? Don't answer no questions, Baby. You better get a lawyer.

(Whereupon, Mr. Rollins left the deposition room.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. Ms. Maybin, I want to be clear again that the Commission is a neutral state agency. We do not represent Mr. Spruill or Mr. Jones. Our job is to get to the truth, and my questions that I'm asking you today are designed to get at the truth. We are not trying to prove that they are innocent, we are not trying to prove that anyone else is guilty.

A. I understand that, but you-all do have to understand it's been a long time.

Q. And, Ms. Maybin, like I said --

A. I've had a lot of issues over this. I

lost my nursing career, I have lost a lot.

Q. Ms. Maybin, I've said previously and I will say to you again, I have my questions that I need to ask you.

A. I understand.

Q. If you do not remember, you can, as you have been doing, say that you do not remember.

A. I understand.

Q. All I ask is that you answer truthfully. Would you like to take a moment before we begin?

A. I'm good. I just want to get this over with.

Q. Do you know which hand of Mr. Jones he was holding the knife in? The right or left?

A. I just remember seeing the blade, I just remember seeing the knife, I don't remember which hand it was.

Q. Can you describe anything about the knife?

A. I just seen metal, I just seen the blade.

Q. Was the blade serrated or straight?

A. I can't remember, just the reflection of the metal.

Q. Do you recall about how long it was?

A. (Witness shaking head.)

Q. Was it a folding knife?

A. I can't remember.

Q. In recalling seeing the blade, can you recall whether or not Mr. Jones was wearing gloves?

A. I can't, I can't remember.

Q. Ms. Maybin, I'm going to ask you on your trial testimony to flip to page 582 and read from page 582 to 584. Let me know when you're finished.

A. (So complied with request of counsel.) Okay.

Q. Ms. Maybin, does that refresh your recollection as to what you saw inside Mr. Swain's house?

A. Yeah, a little bit. I mean, yeah -- yeah.

Q. Is that -- is it still accurate, to your memory, that you saw Mr. Jones slit the victim's throat with a gun -- with a knife?

A. Yeah. I mean, -- yeah, I remember seeing the metal, I remember seeing a glimmer, you know what I'm saying? I remember like a glitch, you know, I seen metal, but I hadn't remembered that.

Q. Did you know Mr. Jones to carry a knife around with him?

A. Most guys do, you know. I don't know.

Q. Can you remember specific to Mr. Jones?

A. (No verbal response.)

Q. If you're able to on the diagram that I handed you previously of the victim's den area, can you indicate where Mr. Swain was after his throat had been cut and where you, Mr. Jones, and Mr. Spruill were?

A. No, I don't know.

Q. Do you remember touching Mr. Swain at all?

A. I remember being pushed down on him at some point or -- it seems like I had my hair pulled, and I was pushed down or something.

Q. Ms. Maybin, I'm going to ask you now to read pages 584, which you've just read, through 586, and please let me know when you're done reading.

A. (So complied with request of counsel.) I even forgot that, it's been so long. Is that to 86, you said?

Q. Through 86, yes. Ms. Maybin, does that refresh your recollection as to you touching Mr. Swain after he had been killed?

A. Well, yeah, I remember the money, and I remember a money roll. I forgot about that until I seen that.

Q. Was it rolled into a cylinder?

A. Yeah, it was like round.

Q. And can you estimate about how big it was?

A. About this big, I guess, (indicating).
Q. So would that be about two inches?
A. I guess, as much as I can remember, because it was like -- it was like that (indicating).
Q. And, Ms. Maybin, on page 585, line 21 through 24, you testified that you got that roll of money from Mr. Swain's left pocket, is that correct?
A. I would -- yeah, if that's what I said, yeah. I mean I wasn't -- I wouldn't have any reason to lie about it.
Q. Do you remember going in any of Mr. Swain's other pockets?
A. I don't remember.
Q. And on page 586, line 1 and 2 --
A. Yeah.
Q. -- you testified that a small Baggie fell out --
A. Yeah.
Q. -- of the money. Did that Baggie have anything in it?
A. I don't know, I don't remember. It seems like it would have had something in it, probably drugs, I don't remember.
Q. Do you recall feeling anything else in Mr.

Swain's pocket?

A. I don't remember.

Q. And at the time that you got this money and the small Baggie fell out of Mr. Swain's left pocket, was the lining completely pulled out of the pocket?

A. I don't know.

Q. Do you remember anything about the fabric of the lining?

A. No, ma'am.

Q. Ms. Maybin, can you explain why the SBI located $97 in folded-up money in the same pocket you took that roll of money from?

A. I don't know, not unless, you know, it was folded in the bottom of the pocket or something, I don't know, or got caught in a flap, I don't know.

Q. At the time you were going into Mr. Swain's pocket, can you remember what Mr. Spruill and Mr. Jones were doing?

A. No, only what these papers say, I don't remember.

Q. Were they close to you, while you were going through the pockets?

A. I would say they were, that would be my guess.

Q. You mentioned earlier that you had blood on you after you left. Can you indicate where you remember that blood being?

A. It seems like it had to have been on my shirt somewhere, you know what I'm saying, because he made us take our clothes off and burn them in that wood heater thing.

Q. Do you remember what you were wearing that night?

A. No.

Q. Did Mr. Spruill have blood on him as you were leaving?

A. I don't remember. I know we all had to burn our clothes, so I'm guessing we all did.

Q. Did you, Mr. Spruill, or Mr. Jones have any visible injuries?

A. I don't remember.

Q. Were you, or Mr. Spruill, or Mr. Jones bleeding at all?

A. Not that I remember. I mean -- I don't remember.

Q. When you left Mr. Swain's house, was the door -- what was the condition of the door when you left? Was it open or shut?

A. Oh, God, I didn't pay no attention to

that, I don't know.

Q. Can you estimate about how long in total you were in Mr. Swain's house?

A. I don't know, it felt like a split second, you know. It just felt like time -- it was like that (indicating).

Q. Did anyone use the phone at Mr. Swain's house?

A. I don't think so, not that I can recall.

Q. Can you name everything you remember you touching at Mr. Swain's house?

A. I don't remember touching anything except for him.

Q. And when you -- earlier you said you pushed the door open. Did you push that open with your hand?

A. I can't remember. I don't know if I used my elbow, or my hand, I don't know what I -- I can't remember that.

Q. Can you name everything you saw Mr. Jones touch at Mr. Swain's house?

A. No, I don't -- I don't know.

Q. Can you name everything you saw Mr. Spruill touch at Mr. Swain's house?

A. I don't know.

Q. Do you remember what happened when you left?

A. I remember getting in the truck, and I remember going to Leroy's.

Q. Did you go straight there, or did you go anywhere else?

A. I don't know.

Q. While you were in the car going to Mr. Spruill's house, did you have any conversation about what had just happened at the car -- or at Mr. Swain's house?

A. I don't remember. I'm pretty sure they was talking, but I don't remember.

Q. Do you remember going to Ed Champ's house so Mr. Jones could get clothes?

A. No. But I've been to there a few times, a couple of times, but I don't remember that night.

Q. Do you remember what Mr. Spruill was wearing that night?

A. Lord, no.

Q. Do you remember what Mr. Jones was wearing that night?

A. No.

Q. When they were making you take your clothes off, do you remember anything about what you

were wearing that night?

A. (Witness shaking head.)

Q. Do you remember owning any item of clothing with lace on it?

A. Probably.

Q. Do you remember any item of clothing with pink lace on it?

A. I remember there was a shirt that I liked, but I don't remember what color it was and stuff.

Q. What about your sneakers -- or your shoes?

A. What about them?

Q. Were you -- do you remember what shoes you were wearing that night?

A. Uh-uh. No.

Q. Did you ever borrow any shoes from Sherry Honea?

A. Probably, you know, it's possible.

Q. If you had borrowed shoes from Sherry Honea, were you wearing them the night of Mr. Swain's murder?

A. Now, I can't remember, I don't know. We wore each other's clothes a lot, so...

Q. Where was Mr. Spruill's wood heater?

A. I don't remember. I remember you walking -- when you walked in the door, his sink and stuff

was right there on the right, and there was a table in front of you. But you went around the table into the living room area, like that little area, and then there was a closed-off area, but that's all I remember. The wood heater was somewhere in that area in -- I can't remember if it was right there or if it was in that next little room.

Q. Was it inside the house then?

A. Yes. Yeah, it seems like it was.

Q. Do you know what Mr. Spruill would do with the debris in the wood heater, the items that had burned?

A. I don't remember, I don't know. It seems like there was a barrel outside, but I don't remember what that was for.

Q. Did you physically see your clothes get burned in the wood heater?

A. I don't remember that, but I remember him grabbing my hands and like trying to push my hands down on top of the heater, but I don't remember about clothes. I remember me taking my clothes off, but I don't -- I don't remember everything.

Q. Do you remember what you did after you burned the clothes -- or after the wood heater?

A. (Witness shaking head.)

Q. Did you go back to Big Ed's Bar that night?

A. Most likely. It seems like, you know, that's probably what I would have done besides just setting at the house, I'm not sure.

Q. Do you know how you got back to the bar?

A. No. So I went to the bar, because I can't remember? I must have.

Q. After you had left Mr. Swain's house, did you see Mr. Spruill or Mr. Jones with any drugs?

A. I don't recall, I don't remember.

Q. Did you see them do any drugs that night?

A. I don't remember, because I didn't smoke crack, you know. So if they did, they most likely wouldn't have done it right there in front of me, unless I walked up on it.

Q. Did you know them to use any other drugs besides crack?

A. I don't know.

Q. Were you using any drugs at the time?

A. I think I smoked a little marijuana then, but I never did that other stuff. I tried it one time and didn't like it, and it wasn't me.

Q. Did they ever smoke crack in front of you?

A. I don't remember.

Q. While you were at Mr. Spruill's house, did you have any conversations about the murder?

A. I don't know. I don't know, not that I can recall. I don't know.

Q. I'm going to ask you to read pages 593 to 594 and let me know when you're finished.

A. You said to 90 --

Q. Through 94.

A. Okay.

Q. Ms. Maybin, does that refresh your recollection as to going back to Big Ed's Bar?

A. No.

Q. Do you know why Mr. Spruill took his dad's truck back to him?

A. No, I'm not sure. No.

Q. Do you remember what you did when you got back to Big Ed's Bar?

A. No.

Q. Do you remember who you were talking to?

A. No.

Q. Do you remember who you saw there?

A. No.

Q. Did Leroy Spruill have a ponytail at the time?

A. I can't remember.

Q. Did Mr. Jones have a ponytail?
A. Not that I remember.
Q. Did Mr. Jones keep his hair short or long?
A. Shoulder length.
Q. Above his shoulders?
A. Well, like right in here (indicating) somewhere.
Q. Do you remember in between the time you first left Big Ed's Bar, and going to Mr. Swain's house, and going back to Big Ed's Bar, do you recall their hair changing at all?
A. I don't remember. It seems like something is different besides our clothes, but I can't remember.
Q. How were you paying for drinks when you got back to the bar?
A. I don't know, I don't remember. I'm sure Robert probably bought me some, but I'm not sure.
Q. I want to go back to Mr. Swain's house for a second.
A. Sure.
Q. After you pulled the roll of money out of the pocket, what did you do with that roll of money?
A. I remember -- it seems like I give it to Robert, maybe I put it in his pocket or -- it seems

like I put it in his pocket.

Q. Did you see him count the money?

A. No, not that I remember. I normally just did what he told me.

Q. Did you see Mr. Jones or Mr. Spruill buying drinks when they were back at Big Ed's Bar?

A. I don't remember. I'm pretty sure Robert was, you know.

Q. Do you remember when you left Big Ed's Bar for the last time that night?

A. No.

Q. Do you remember how you got home?

A. No.

Q. Ms. Maybin, I'm going to ask you to read pages 599 through 600, and you can let me know when you're finished.

A. You said --

Q. 599 through 600.

A. Okay.

Q. After reading your testimony, Ms. Maybin, do you remember Mr. Jones getting into an argument with the bartender, Lynn Rogers?

A. I didn't remember.

Q. Do you remember after reading that?

A. Not really, no.

Q. Was it normal for the bar to sell people six packs?

A. I suppose, I don't know.

Q. Did you see Lynn Rogers, the bartender, make a phone call at the bar that night?

A. I don't know.

Q. Did you see Mr. Jones use the phone at Big Ed's Bar that night?

A. I don't remember.

Q. Had you ever seen him use the phone at the bar?

A. I don't know.

Q. Do you remember what you did after you left the bar?

A. Uh-uh.

Q. After the night of Mr. Swain's murder, did you have any conversation with Mr. Spruill or Mr. Jones about the murder?

A. I don't remember. I remember, you know, later on I tried to basically stay away from him.

Q. And how soon was that after the murder that you --

A. Not long.

Q. Can you estimate in days or weeks?

A. I don't remember. Eventually, you know, I

moved in that Cottie lady's house.

Q. Did you talk to anyone about Mr. Swain's murder?

A. Not that I remember.

Q. Did you own a gold necklace at that time?

A. I did own a gold necklace, I think it was a rope chain, but I'm not sure.

Q. Was it a thick or thin rope?

A. I don't remember.

Q. Was it short on your neck or long on your neck?

A. It was probably shorter or medium, because I don't like long necklaces.

Q. Did it have a pendant on it?

A. I don't know.

Q. Do you remember Mr. Jones giving you a gold necklace?

A. No. He might have, I don't remember.

Q. Do you remember giving either the gold necklace you remember or any necklace to a man named Allen Hassell?

A. Was that the guy I dated? It seems like -- because I dated a guy named Allen. And he got in a fight -- Robert tried to beat me up one night or something, and I remember him knocking him down some

stairs, he was a karate guy.

Q. Mr. Hassell was?

A. I think so, yeah, the guy named Allen that I dated, because he was more like my protector.

Q. Do you know when you started dating Allen?

A. I don't remember. He was so nice.

Q. The stairs that Mr. -- or that Allen kicked Mr. Jones down, do you remember where those stairs were?

A. No, it must have been at -- I keep thinking it might have been at Allen's house, but it couldn't have been. It was like some stairs or something, it went way up.

Q. Do you remember it being at a home though?

A. Yeah, it was at a house, but I don't remember what the whole -- what it was all over.

Q. Besides Allen, who else do you remember dating while you were in Plymouth?

A. That's the only person I remember dating.

Q. Were you ever in a relationship with Mitchell Nowarah?

A. No, lord, no, he was just my boss. He was a super sweet guy.

Q. Do you remember someone named Edward Fields or Beaver?

A. From Lumberton? Yes, we were basically just good friends, you know. We wasn't like in a relationship. We hung out and, you know, but he wasn't like a major boyfriend.

Q. Was he living in Plymouth at the time?

A. I don't remember. I knew he was from Lumberton, but I can't remember where he was at.

Q. What do you know about Mr. Fields, if anything?

A. I don't remember anything about him.

Q. Is the only thing that you remember is that he was from Lumberton?

A. Yes.

Q. Do you remember when you met him?

A. No, ma'am.

Q. Do you know if it was before or after Mr. Swain's murder?

A. It seems like it was before, but I'm not sure, you know.

Q. Did you ever talk to Mr. Fields about this case?

A. Not that I recall.

Q. Does he have any involvement in this case?

A. No. Uh-uh. I think they were construction workers or something and might have

been staying at a motel when I met him, him and it might have been his brother.

Q. Does the name Bobby Pittman ring a bell?

A. Uh-uh. See, I only knew him as Beaver. I didn't know his real name until you said it, you know.

Q. Okay.

A. I'm sure he told me, but, you know, that didn't stick.

Q. Can you remember any other men that you dated while you were in Plymouth?

A. Uh-uh.

Q. Did you ever talk to Sherry Honea about this murder?

A. No.

Q. If Sherry Honea had said that you told her you would have to buy her new shoes, because you got blood on them and burned them up in Spruill's wood burner, would that be accurate?

A. I don't remember. We were talking then, you know, when I was in North Carolina. I haven't spoke to her since I have been in South Carolina.

Q. You did not tell Sherry Honea that you were involved in this murder?

A. Oh, I don't remember if anything was even

said. I'm -- you know, we were friends, so I possibly could have, I just don't remember. I just know I haven't spoke to her since I have been in South Carolina.

Q. Do you remember someone named Bessie Tarkington?

A. That was the lady that we stayed with once, yes.

Q. Did you tell her that you were involved or that Mr. Spruill or Mr. Jones had killed -- or had killed the victim?

A. Not that I recall.

Q. Prior to you leaving Plymouth and coming back to South Carolina, did anyone in Plymouth ask you if you were involved in this murder?

A. I remember the police asked me.

Q. Before you left Plymouth?

A. Yeah. Well, they came and asked if Leroy and them was there, and I said, "No," which I had lied because I think they were, but I don't remember them coming out and asking me about the murder.

Q. Do you recall where you were when the police spoke to you?

A. No. I remember I was standing outside, but I don't remember where.

Q. And the police asked you if Leroy --

A. If Leroy was at home. But other than that, I don't remember them saying anything about the murder.

Q. And when you said you lied, why did you lie?

A. I don't remember. I don't remember if Leroy asked me to tell them he wasn't there or -- I don't remember.

Q. Was that your only interaction regarding the murder, before you left Plymouth?

A. I don't know, I don't remember.

Q. Do you recall an incident where Ray Hurst's truck was damaged?

A. I remember that name, but I don't -- I don't remember anything.

Q. Do you recall ever seeing Mr. Jones damage someone's truck or try to set it on fire?

(Whereupon, Mr. Rollins entered the deposition room.)

MR. ROLLINS: Baby, Mr. Julius says you need an attorney. He's right here.

THE WITNESS: Stan, please leave.

MR. ROLLINS: You need an attorney.

THE WITNESS: Leave.

(Whereupon Mr. Rollins left the deposition room.)

THE WITNESS: You have to understand, I can't remember a lot. And he's scared, he don't want nothing to happen to me.

EXAMINATION RESUMED BY MS. MATOIAN:

Q. And I'm just going to be clear with you again that we're a neutral state agency, we are not law enforcement.

A. He thinks you're against me.

Q. We're not prosecutors, we're neutral. I'm trying to get to the truth of this case.

A. Yes, ma'am.

Q. And that is why we're here. Do you remember taking money out of the pocket of a man who was passed out at Mr. Spruill's house one night?

A. I do not recall, I don't remember.

Q. Do you remember when you left Plymouth?

A. No, ma'am.

Q. Do you know how you left Plymouth?

A. I don't remember even how I left.

Q. I'm going to ask you about three phone numbers, and then we can take a break for a few minutes.

A. Do we have to take a break?

Q. That's up to you.

A. I would rather just get this over with.

Q. I'm going to read three numbers to you and the cities that the numbers came from, and please let me know if you recall who these numbers belong to, okay?

A. Okay.

Q. 919-809-0321 in Williamston, North Carolina.

A. I don't know.

Q. 919-798-2681 in Hamilton, North Carolina.

A. I don't know.

Q. 919-795-4133 in Robersonville, North Carolina?

A. I don't know.

Q. If you will give me one second.

MR. D'ORAZIO: Do you want a glass of water or anything?

THE WITNESS: No. Thank you.

EXAMINATION RESUMED BY MS. MATOIAN:

Q. Ms. Maybin, I'm going to jump ahead in time a little bit to after you were convicted of this crime and released from prison. Do you remember anyone coming to speak to you about this case, after you were convicted?

A. Oh, yeah, lots of people, every couple of

years.

Q. But can you remember any of them specifically?

A. No, ma'am.

Q. Did a police chief from Plymouth named John Floyd ever come and speak to you, after you had been released from prison?

A. I don't remember. That's something, I don't remember him.

Q. Do you remember Mr. Spruill and Mr. Jones' attorney named Maynard Harrell?

A. I remember the name.

Q. Do you remember speaking to him after you were released from prison?

A. No.

Q. If someone said that Mr. Harrell had spoken to you and you had recanted your testimony and agreed to speak out to clear Mr. Spruill and Mr. Jones, would that be accurate?

A. No.

Q. Do you remember somebody named Marty McGuire?

A. No.

(Whereupon, the court reporter marked Maybin Exhibit Number 5 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. I'm going to hand you Number 5, a report dated April 18, 2004. And this is a report from an interview between you and Marty McGuire, who was a journalism student at the University of North Carolina at Chapel hill.

A. Oh, God, yeah, I remember that, I still got a scar. Okay.

Q. Is the information in this interview accurate?

A. I don't know, I didn't read it to -- enough to say that.

Q. Did the police tell you that you would take the wrap for the murder if you didn't talk?

A. Well, I don't remember if they did or not. I don't remember if they did or not. I know they got mad, you know, when I wouldn't tell them in the beginning, but I don't remember if they did that. Okay.

Q. Ms. Maybin, I'm going to go off topic for just a second, and then we'll get back to what happened after you were released from prison. The way that the commission process works is that we investigate a claim, and if we find new credible evidence of innocence, we then present that

information to our commissioners. It's an eight-member commission. It's made up of a judge, prosecutor, defense attorney, law enforcement, a whole cross section of the community. And we present the information that we find, good, bad, everything to our commissioners, and they will make a determination as to whether or not that the case goes forward to what's called a three-judge panel. And the three-judge panel process is what determines whether or not someone is eventually exonerated.

If Mr. Spruill and Mr. Jones' case were to go to a hearing, would you be willing to come to Raleigh and testify at that hearing?

A. Uh-uh, I don't want to be around them.

Q. They would not be in the room during that hearing.

A. It don't matter. Their families will be there, everything. Y'all don't understand, he'll kill me if he ever gets out.

Q. Is that Mr. Jones or Mr. Spruill?

A. Mr. Jones.

Q. Why do you think that?

A. He's an evil man. He's a very evil man.

Q. Are you scared of Mr. Spruill?

A. No, I'm scared of Robert.

Q. Has Mr. Jones threatened you?
A. Uh-uh.
Q. And the other thing I wanted to ask you, Ms. Maybin, do you remember your defense attorneys?
A. Uh-uh.
Q. Does the name Regina Moore ring a bell?
A. Regina, I remember that name.
Q. And what about Charles Ogletree?
A. No.
Q. Would you be willing to sign a release for the commission to look at your defense attorney's files for your case?
A. I thought y'all could already do that.
Q. We're able to get certain files, but you obviously know that attorney-client privilege is very important and without a release from you, we would not be able to look at your attorney's files.
A. I guess. I mean I'm not trying to hide nothing.
Q. I'm not accusing you of withholding.
A. I don't want y'all to let him out, so anything that would help me.
Q. I'm not accusing you of lying, it's your choice whether or not you would like to sign those releases for us.

A. I got you (indicating.)

MS. MATOIAN: Are you a notary, ma'am?

THE COURT REPORTER: Yes.

THE WITNESS: Let me read what it says.

EXAMINATION RESUMED BY MS. MATOIAN:

Q. Yes, you can read those and decide whether or not you would like to sign them.

A. I don't see why there would be any problem. I mean --

Q. Ms. Maybin, have you ever received any mental health treatment?

A. No. No, not -- I've thought about it, I just never did. I was on Xanax for years, and I got off of them.

Q. Hold on one second. Would you be willing to sign a HIPAA release for the commission for any medical treatment you've seen -- you've received?

A. I haven't received anything that I would need to sign for.

Q. Medical treatment?

A. Just surgeries and stuff.

Q. In particular, in regards to the Xanax?

A. No, that doctor, she's not in business anymore.

Q. Would you be willing to sign a release for

that?

A. I don't want to.

Q. Okay. All right. Ms. Maybin, I'm going to get back to the people who have spoken to you after your release from prison. Thank you for that. Do you remember agents from the State Bureau of Investigation coming to speak to you in 2005?

A. There is so many different people that I've seen. This lady came from y'all's place, too, at one time; and a newspaper lady at one time, you know. Usually I'd get mad and -- just get mad, I'm sick of it.

(Whereupon, the court reporter marked Maybin Exhibit Number 6 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. I'm not going to ask you to read this at this -- read the whole thing at this time. I am going to hand you Exhibit 6, which is a report from an August 17th, 2005 interview with the State Bureau of Investigation. Ms. Maybin, could you please turn to page 3.

A. (So complied with request of counsel.)

Q. And read the third paragraph down.

A. (So complied with request of counsel.). Okay.

Q. Ms. Maybin, is that paragraph accurate as to things that you had written in your journal or diary?

A. That was when I was in jail.

Q. Is that accurate though?

A. Yeah.

Q. These agents from the SBI that interviewed you, did they tell you prior to them coming down that they were coming to interview you?

A. Uh-uh. No, usually people just show up.

(Whereupon, the court reporter marked Maybin Exhibit Number 7 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. Ms. Maybin, I'm going to hand you Exhibit 7.

A. Okay.

Q. Which is a report dated 10-28-2008, and I'm going to ask you to read paragraph four.

A. (So complied with request of counsel.) I remember this.

Q. What do you remember about that?

A. That was on my birthday, yeah. That's when I was sick of it. That's when I told them to leave and I didn't want them there.

Q. In paragraph four, you stated to them --

A. Yeah, right there (indicating).

Q. "Brandon was holding a knife, but maybe he had pulled it out of Swain's neck."

A. Yeah.

Q. "I've thought about it and wondered if maybe they went in after someone beat Swain and the other ones went out the back. Maybe Swain was beaten before they got there."

A. Yeah, that's the woman -- I think it was a lady. And I told her if she wanted to be -- she didn't write all this down. That if she wanted to be Nancy Drew, then she could find her own story, you know. That I was tired of this. They had been bothering me for years, I've already given my testimony. And if she wanted to know anything, she could look it up in this (indicating), and here is you something to go on, how about you look at this, you know, kind of thing, and I was pissed, and I was so sick of it. Every time I've got to where I'm about leveled out and things is going good, something will pop up like this. Yeah.

Q. Going back to those statements that I just read from you, is that accurate?

A. No.

Q. Why did you say that?

A. Because I was pissed at her, and I wanted her to go away, and leave me alone, and never come again, and that's pretty much what I kind of told her.

(Whereupon, the court reporter marked Maybin Exhibit Number 8 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. I am going to hand you Exhibit Number 8, and this was an interview that I did with you over the phone on March 24th, 2014. And I'm going to ask you to read lines 19 through 23 on page 3.

A. Yeah.

Q. And when you say you were messing with them, are you referring to this interview that we just discussed?

A. Yes. I mean it was on my birthday, you know. The one day that you get to have to be happy and there they are, go away. Yeah, that was who it was.

Q. And also, going back to that 2008 interview for just a second, the third paragraph down, it says, "Jones sent Nichole in to talk to her and threaten her to be quiet about what happened. Nichole was gypsy lady." Who was Nichole?

A. She was somehow kin to the Champs, or

1 friends with them, or something.
2 Q. And when you said, "Jones sent Nichole
3 in," where did he send her?
4 A. I don't know. I don't know what I was
5 referring to. She was in jail with me.
6 Q. Did she threaten you?
7 A. No, but she would tell me what I needed to
8 do. I think all that's in my testimony.
9 Q. Besides -- go ahead.
10 A. Go ahead.
11 Q. Besides the 2004 interview I've shown you;
12 the 2005 interview I've shown you; the 2008
13 interview; and the 2014 interview, can you recall
14 anyone else coming to speak to you about this case?
15 A. No, that's probably about it. It's every
16 few years.
17 Q. All right. Ms. Maybin, I'm going to go
18 now to when the police came to speak to you when you
19 were back in South Carolina.
20 A. Is this going to be like all day?
21 Q. It will go as long as we need to, and
22 we're welcome to take breaks whenever you need them.
23 A. I just want to get it over with.
24 Q. I will try to be as efficient as I can.
25 (Whereupon, the court reporter marked Maybin Exhibit

Number 9 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. Ms. Maybin, I am not going to ask you to read the whole statement at this time. I may direct you to certain portions of it, but I'm going to hand you the April 25th, 1995 -- 1994 report of the SBI's interview with you the first time they came to speak to you. When they came to talk to you, do you remember who was there?

A. I don't remember.

Q. Did they tell you why they were there to speak with you?

A. I don't remember.

Q. Did they tell you anything about Mr. Swain's murder beforehand?

A. I don't know.

Q. Did they ask you about any names beforehand?

A. I don't know.

Q. Do you recall, saying in this interview, that you saw Mr. Jones and Mr. Spruill leave with Curtis Furlough?

A. I don't remember that. I don't know.

Q. Can you turn to page 3 of that interview and read the second paragraph.

A. (So complied with request of counsel.) I don't even -- I don't remember. I don't remember none of this. I don't even remember talking to these people.

Q. You don't remember saying that you saw Mr. Spruill and Mr. Jones leave with Curtis Furlough?

A. No, I don't remember -- I don't know.

Q. Do you know who Curtis Furlough is?

A. No.

Q. Do you know why you would have named him in this interview?

A. Uh-uh, I don't -- I don't remember that name. I don't remember that name.

Q. And if you will read that next paragraph down, the third paragraph, second full paragraph that starts with, "Ms. Maybin stated that when they left the bar."

A. See, I don't remember.

Q. If you'd like to read the whole interview, you certainly can. From your recollection in this interview, did you tell the police the truth?

A. I don't even remember making this interview, you know what I'm saying? I don't -- I don't remember.

Q. If you will turn to the last page that

says, "polygraph report."

A. The last one? Okay.

Q. Hold on. Can I see that? Sorry, that page (indicating).

A. Okay.

Q. And if you will read down by "Remarks," it says, "Subject pregnant, test stopped for medical reasons." Do you recall this polygraph?

A. I remember going and taking a polygraph. I mean I was pregnant, and I did lose the baby. Is that what you was wanting to know?

Q. I'm asking this polygraph is dated the day after this statement from -- that you gave to the SBI. I'm asking you if you recall.

A. I remember going and taking one, but I don't remember giving a statement. And if I did, I probably didn't want to be involved at the time, you know what I'm saying? I probably -- it was a -- it was a tough time. I was trying to go to nursing school. I lost my nursing career, I lost my home, and my baby.

Q. Sorry for your loss. Going back to page 3 in that paragraph where you had indicated that Curtis Furlough left with Mr. Spruill and Mr. Jones, were you intending to implicate Curtis Furlough in

Mr. Swain's murder?

A. I don't think so. I think -- I think maybe I just didn't want to be involved.

Q. Can you think of any reason why you would have named Mr. Furlough?

A. Uh-uh, I sure can't. I don't remember.

Q. And going back to the paragraph regarding Cottie Oliver, did you stay at the bar all night with Cottie Oliver?

A. I don't know. I can't remember if I did or not.

Q. Was Cottie Oliver there that night?

A. I don't remember.

Q. Was Sherry Honea?

A. I don't remember. It seems like she was, but I can't remember.

Q. Were you shown any crime scene photos during this interview?

A. I don't remember being shown any.

Q. After the police came to speak to you on April 25th, did you talk to anybody about the murder?

A. I don't think so.

Q. Did you talk to your mother about it?

A. I tried not to talk to anybody about it.

Q. Did you tell Jeff Kelly about it?
A. I don't think I ever told Jeff. That's what -- I should have, because that's what ruined our relationship. I don't think I ever told him even afterwards.
Q. Did you know Jeff Kelly before you had gone to Plymouth?
A. I don't think so.
Q. You met him after Mr. Swain's murder?
A. Yeah, I think that's when I got back home.
Q. Do you remember signing a consent form for recording conversations?
A. Uh-uh.
(Whereupon, the court reporter marked Maybin Exhibit Number 10 for identification.)
EXAMINATION RESUMED BY MS. MATOIAN:
Q. Ms. Maybin, I'm going to hand you Exhibit 10. These are officer's notes from the Washington County Sheriff's Office file, and I'm going to ask you to read the middle paragraph on 4-29-94.
A. No, I don't -- yeah, I don't know about all that.
Q. You don't remember --
A. No.
Q. -- trying to call Curtis Furlough?

A. No. Uh-uh.

Q. Do you remember going to the sheriff's office here in Oconee County for any reason?

A. No.

Q. Did Curtis Furlough have anything to do with Mr. Swain's murder?

A. No, I don't even -- I don't know where that come from. I don't remember that name.

Q. Do you recall faxing a letter from the Oconee County Sheriff's Office to the Washington County Sheriff's Office?

A. I don't remember.

(Whereupon, the court reporter marked Maybin Exhibit Number 11 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. Ms. Maybin, I'm going to hand you Exhibit 11 and ask you to read this.

A. (So complied with request of counsel.) Okay. Yeah, that's where I was trying to get out of everything. Yeah. I didn't want to be there, I didn't want -- I didn't want nothing to do with it. Yeah.

Q. Ms. Maybin, did anyone tell you to write this letter?

A. No, I wrote it because I was wanting to

get out of everything, and I wanted it to all go away, I just wanted it to disappear, just leave me alone.

Q. Is the information in this letter true?

A. I think it's frank.

Q. Ms. Maybin, in this letter, you state, "When I first talked to you, I told you I didn't know anything about Frank's death. The two of you called me a liar." Did they call you a liar?

A. I don't know.

Q. In this letter, you state, "For at least an hour, you told me that I knew what happened and that I needed to stop lying to you and tell you the truth. I said, I can tell you what everybody else has told you - a lie. I could tell you that I know nothing - the truth." Did they tell you that you knew what happened?

A. I don't remember. I remember I didn't want to be a part of it, I wanted it all to go away.

Q. Was it true, that you knew nothing?

A. I was there, I seen it happen.

Q. Ms. Maybin, in another part of this letter you state, "Sherry's got to be telling the truth because she has nothing to lose, right? Wrong! Did you ever think that maybe she had something to do

with it. Maybe she's pissed and wants everyone to go to jail because she got caught." Did Sherry Honea have anything to do with this murder?

A. No, but, you know, I was mad at her, because we were always friends. And she took me to North Carolina, and she got me involved in all this stuff. But no, she wasn't -- she wasn't there that night.

Q. Why were you mad at Sherry?

A. Because she took me down there and got me stranded, and got me mixed up in a bunch of bad stuff, like the people. I wished I had never even went to North Carolina.

Q. When was the last time you had spoken to Sherry Honea?

A. I guess before the murder.

Q. In another part of this letter, you stated, "I told the truth and you said I was a liar. I told you a lie and you thought it was the truth."

A. Yeah.

Q. Is that true?

A. No, no. Like I said, that was because I didn't want to be involved, I didn't want to be there, I didn't want to be interviewed, I didn't want to go to jail, I don't want to go to prison, I

don't want to lose my nursing career, I just wanted it to disappear.

Q. Was Mr. Kelly aware of your involvement in the crime at the time you wrote this letter?

A. Mr. -- not that I know of at that time. I never discussed it with him.

Q. When did you first discuss it with him?

A. No, never.

Q. Never?

A. Never, no.

Q. If you'll give me just one second. After you sent this letter, Ms. Maybin, did anyone from the Washington County Sheriff's Office contact you?

A. I don't remember if they did or not.

Q. Do you remember the police coming to you a second time on June 25th, 1994.

A. (Witness shaking head.)

(Whereupon, the court reporter marked Maybin Exhibit Number 12 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. Ms. Maybin, I'm going to hand you Exhibit 12. This is a polygraph report from 6-25-1994. Can you read that first page and let me know when you're finished.

A. (So complied with request of counsel.)

Okay. What now?

Q. On that first page of the polygraph report, the third paragraph down, it says, "During pre-test interview, Ms. Maybin denied being involved in any way in the death of Frank Swain." Is that accurate?

A. No, I was involved. I didn't want to be involved. Like I said, this is at the same time. This is, you know, when I was going into nursing. I was trying to do right.

(Whereupon, the court reporter marked Maybin Exhibit Number 13 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. Ms. Maybin, I'm going to hand you Exhibit 13, and this is the Washington County Sheriff's report from the 6-25-94 interview.

A. Yes, ma'am.

Q. I'm going to ask you to read paragraph four and five -- I'm sorry. Also, read paragraph three.

A. (So complied with request of counsel.) Okay.

Q. Ms. Maybin, in paragraph three, you stated that you, Mr. Jones, and Mr. Spruill walked down the street to a house where Ray Hurst was to talk to him

and a guy named Russell. "She said Ray took her, Robert, and Leroy to Big Ed's Bar at dusk dark. She said they went in Russell Sawyer's vehicle thought to be a Bronco, cause she had sat in the back seat." Is that accurate?

A. I don't remember that. It can't be accurate. I might have the dates wrong or something, but it couldn't have happened on the night of the murder.

Q. And in paragraph four and five, you indicated again that Curtis Furlough left the bar with Jones -- Mr. Jones and Mr. Spruill.

A. Yeah, I don't remember, I don't remember that, not unless I got the dates mixed up or something.

Q. When you said that Mr. Furlough left the bar with Mr. Jones and Mr. Spruill, was that a lie?

A. I don't remember that guy. I mean I don't -- I don't remember him.

Q. Were you shown any crime scene photos that day?

A. I don't remember seeing any.

Q. Ms. Maybin, if you could read page 2 and page 3 of that interview. This was a second interview the sheriff's office did with you that day

at 6:50 p.m.

A. How far?

Q. Through page 3. And on page 3, you can just read through the first five paragraphs on that page -- sorry sixth paragraph.

A. (So complied with request of counsel.) Okay.

Q. Ms. Maybin, why did you decide to tell the sheriff's office about your involvement in Mr. Swain's murder?

A. Basically, I don't know no other way to say it, but I knew that I couldn't run from it my whole life, that eventually I, you know, would have to tell.

Q. Is this statement true in that you witnessed Frank Swain being murdered?

A. Yes, ma'am.

Q. Is this statement true in regards to what happened after the murder?

A. As in?

Q. On page 3, you indicate that after leaving Mr. Swain's house, that -- I'm going to go to the second paragraph on page 3. It said, "They got half the way home and she" -- meaning you -- "said, "I hope we are going home," and Leroy said, "We will

take you home," and she asked Robert why was he not going to the house. Robert said you stupid bitch you know we can't do crack at the house. Said they took her to the house and she took a cold shower because they didn't have hot water."

A. I remember we didn't have hot water, but I don't remember a whole lot of it.

Q. This statement does not indicate that you went back to Big Ed's Bar that night?

A. I don't remember -- you know, I don't remember at what time I took a bath, if it was when I came home late that evening, I don't know. I don't understand this (indicating).

Q. What are you indicating?

A. I'm just saying because, you know, there ain't -- this ain't exactly the way it went. I don't understand if I was just confused at the time. I don't understand.

Q. If you had decided to tell the truth about witnessing Mr. Swain's murder, why wouldn't you tell the truth about what had happened afterwards?

A. I don't remember, I don't know -- I don't know what was going on in my head. I don't -- I don't know, I really don't.

Q. And then going down to the sixth paragraph

where it says, "Said Sherry and Robert Spruill came by Leroy's house that afternoon 12-19-94 at around 3:00 p.m. Said they told Robert Spruill" -- "said told Robert Spruill she needed to talk to Sherry, and she and Sherry went outside. She said she told Sherry what happened. Said she asked Sherry what should she do and Sherry told her to wait until she got the money to go back home. Sherry told her they would leave in a couple of months or so. Said Sherry and Robert left." Did you tell Sherry Honea about the murder?

A. I don't remember telling Sherry anything, I really don't.

Q. In between this interview on June 25th and when you were arrested, did you have any additional contact with the police?

A. I don't recall.

Q. During these -- this interview and the April 1994 interview, did the police make any threats to you?

A. Not that I remember.

Q. Did they make any promises to you?

A. Not that I remember.

Q. Were you offered any deals or agreements in relation to this case?

A. No.
Q. Did you speak to anybody about this interview after you talked to the police?
A. I don't think so.
Q. Did you talk to your mom about it?
A. I didn't tell Mama details or nothing.
Q. Did she know, in general, that the police from Plymouth were coming to talk to you?
A. Yeah.
Q. But you didn't tell her why?
A. No, I mean -- no.
(Whereupon, the court reporter marked Maybin Exhibit Number 14 for identification.)
EXAMINATION RESUMED BY MS. MATOIAN:
Q. Ms. Maybin, I am going to hand you a statement dated December 15th, 1994, this is Exhibit 14. This is an SBI report, and the report indicates that this interview took place after your arrest and while they were transporting you back to Plymouth. I'm going to ask you to read the whole thing at this time. Do you need to go to the restroom or anything, Ms. Maybin?
A. I will after we get through with this.
Q. Ms. Maybin, can you go to page 8 for me.
A. (So complied with request of counsel.)

Q. And go to the third full paragraph and read that.

A. Okay.

Q. Ms. Maybin, in this paragraph, you state that, "The bartender, Lynn, probably did not see her leave." Do you remember what prompted you to make that statement?

A. I don't remember. I don't remember, I don't know.

Q. Were you talking to Lynn Rogers at the bar that night?

A. I didn't know that was even her name, you know. You just said it. I don't remember. I don't know what was going on at that point.

Q. Were you shown any crime scene photos during this interview?

A. Not that I remember.

Q. Do you recall ever seeing crime scene photos?

A. Uh-uh.

Q. Do you remember someone named Herman Carter?

A. I don't remember that. I seen it wrote here, but I don't remember that name.

Q. Do you remember ever buying drugs from

him?

A. Uh-uh.

Q. Do you remember Mr. Spruill or Mr. Jones buying drugs from him?

A. I don't remember.

Q. Were you still in contact with Mitchell Nowarah at this time?

A. On and off.

Q. Do you remember writing a letter to him?

A. No, I don't remember.

(Whereupon, the court reporter marked Maybin Exhibit Number 15 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. I'm going to hand you Exhibit 15, which is a letter that you wrote to Mitchell Nowarah that's dated 12-29-1994.

A. Okay.

Q. If you could take a look at that for me --

A. Okay.

Q. -- and let me know when you're finished.

A. (So complied with request of counsel.) Oh, yeah, we're still in '94. I'm still trying to get out of it. Yeah. Sorry. I ain't even got to read it to tell you. I'm still trying to get out of having anything to do with it.

Q. Do you remember someone named Jennifer Spruill?

A. That sounds familiar.

Q. Did she ever come visit you in jail?

A. I don't recall, but the name sounds familiar, but I don't --

Q. Do you know if she was related to Leroy?

A. I don't know.

Q. Did you put a note up to the window saying that Janice Spruill had made promises to you, and was not keeping them, and you were going to tell the truth in court?

A. Not that I remember, no.

Q. Had Janice Spruill made promises to you?

A. Uh-uh, she was like a transporter. She would like take me back and forth.

Q. Do either of you need a bathroom break?

A. Yes.

MS. MATOIAN: Go ahead.

(Whereupon, a recess was taken.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. Ms. Maybin, do you recall going to the courthouse in December 1994 for a probable cause hearing for Mr. Jones?

A. No, ma'am.

Q. Do you remember -- do you know who Gail Champ is?

A. No, I know the Champs, but I don't know their names.

Q. Do you recall an incident in the courthouse in the bathroom involving Gail Champ?

A. No.

Q. Did anyone threaten you at the courthouse that day?

A. I don't remember. I do not have no idea, I can't remember.

Q. Going back to the Mitchell Nowarah letter, I think we marked that.

A. Yeah, I got it.

Q. Did anyone pressure you to write that letter?

A. No, not that I remember. No.

Q. Did anyone threaten you into writing that letter?

A. No, I don't guess.

Q. In that letter, you said, "Lynn, bartender, big Ed, Smarty, Terry, Lynn's boyfriend's brother, Steven, Lynn's boyfriend, Curtis Furlough, Kevin Furlough, Stacy Allen, Cottie, and Kim, and a lot of others know that the three of us never left

the bar that night." Is that accurate?

A. No.

Q. Who is Kim?

A. I don't know. It had to be somebody at the bar, someone I had met maybe.

Q. Do you know who Kevin Furlough is?

A. (No verbal response.)

Q. Did you see him at the bar that night?

A. I don't know. I don't know. I had to know that name from the bar, but I don't know.

Q. Why would you say in this letter that Mr. Spruill and Mr. Jones did not commit this murder?

A. I wanted it all to go away, I wanted everything to go away, I wanted it to stop, I wanted everybody to just leave me alone.

(Whereupon, the court reporter marked Maybin Exhibit Number 16 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. I'm going to hand you Exhibit 16. These are officer's notes from the Washington County Sheriff's Office. It's a bit difficult to read, but I'd like you to read from right here starting, "On January 03, 1995."

A. (So complied with request of counsel.)

Q. Ms. Maybin, do you know what letter

they're referring to?

A. No.

Q. Did someone get to you?

A. I don't know what that means.

Q. In this -- in what I've asked you to read, it says, "Mrs. Moore said she felt someone had got to Dana and scared her and she wanted D/S Spruill and agents to talk with Dana concerning why she was changing her statements." Did someone get to you?

A. The only person that told me to change what I was saying and stuff in jail was Nichole.

Q. Was Nichole -- are you referring to Nichole Mills?

A. Yes.

Q. Was she already in jail when you got there?

A. No, not that I remember.

Q. Were you cell mates?

A. I think so.

Q. And when did you start talking to Ms. Mills about this case?

A. I don't remember.

Q. Do you know why you started talking to Ms. Mills about this case?

A. I can't remember if she asked me about it

or -- I don't remember how it came about.

Q. Do you remember what you told Ms. Mills?

A. No.

Q. Did you tell her that you were involved in the murder?

A. I don't remember.

Q. And when did you become aware that Ms. Mills knew Mr. Spruill and Mr. Jones' defense attorneys?

A. I don't remember when it was.

Q. And when you say she told you what to say, what was she telling you?

A. I don't remember what she done, to be honest with you. I don't remember the way it come out.

Q. Why did you agree to do what Ms. Mills was telling you -- what Ms. Mills was telling you to do?

A. I can't remember. I remember it was something about the other attorneys, but I can't remember what it was all about. Something about my statements, you know.

Q. Do you remember what about your statements?

A. No, ma'am.

(Whereupon, the court reporter marked Maybin Exhibit

Number 17 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. Ms. Maybin, I'm going to hand you Exhibit 17, which is a letter dated January 19, 1995. And this is a letter from Seth Edwards, who is one of Mr. Spruill's defense attorneys, to Maynard Harrell, who was another one of Mr. Spruill's defense attorneys.

A. Okay.

Q. Is this letter accurate as to what you were telling Ms. Mills?

A. No, I don't remember -- I don't remember any of this. I do remember, you know, something about Nichole was trying to get me to change my stuff -- to change my story, but I don't remember all that was involved. Does that make any sense to you? I don't remember how all this happened, and I don't remember the dates, I don't remember -- I don't know.

Q. Ms. Maybin, it says in this letter that you were also claiming that she -- meaning you -- and a female named Sherry concocted this entire story because Robert Jones had burned Sherry and possibly attempted to rape her in the past. Is that accurate?

A. No. No, I never said that. No. No.

Q. Do you remember telling Nichole Mills that you didn't leave the bar the entire night, but that Mr. Jones and Mr. Spruill had left for a short period of time?

A. No, I don't remember telling her that.

Q. And going back to the letter, it says "Maybin remembers this night because a friend had a baby, and the father came into the bar on this particular night to celebrate." Do you know who that is?

A. I have no idea, no.

Q. Do you remember any of the other women you were in jail with?

A. No.

Q. Do you remember someone named Fenisha Davis?

A. No.

Q. Did you tell anyone in jail that Sherry Honea must have committed the murder because you didn't know Mr. Swain?

A. No.

Q. Do you remember someone named Jackie Craddock or Jackie Smith?

A. No.

Q. Did you tell her that your boyfriend killed a man and threatened you into framing Mr. Spruill and Mr. Jones?

A. No, I don't remember talking to these people, I don't know who they are. Where were they incarcerated with me?

Q. Do you remember talking to anyone else in the jail besides Ms. Mills about your case?

A. No.

Q. Does the name Monica Joy Bland seem familiar to you?

A. No.

Q. When did you first speak to defense attorneys for Mr. Spruill and Mr. Jones?

A. I don't know. I remember talking to one of them while I was in prison, like safe-keeping, I think, or something. That was the one that kept trying to get me to change everything, but I don't remember what lawyer he was.

Q. And what do you mean by trying to get you to change everything?

A. He was trying to tell me what to say.

Q. How was he doing that?

A. In some kind of interview. He was like sliding stuff and getting me to say stuff on -- on a

recorder or something.

Q. When you say sliding stuff, what do you mean by that?

A. Like papers. I remember him writing, and I remember him trying to get me to say stuff.

Q. And why did you agree to do that?

A. I think because I thought maybe he might get us all out of there, you know, on something, anything, just to get me out of there.

Q. And at that point, you had told the police the truth about what happened?

A. I don't remember if I had told them at that point. Probably, probably had by then.

Q. Do you ever recall speaking with a defense attorney named Jim Vosburgh in the jury room at the courthouse?

A. No, I don't remember.

(Whereupon, the court reporter marked Maybin Exhibit Number 18 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. I'm going to hand you Exhibit 18, which is a memo dated February 9th, 1995. If you'll read that for me and let know when you're finished.

A. (So complied with request of counsel.) This is ridiculous. Okay.

Q. Ms. Maybin, did Regina Moore ever ask you if you wanted to speak to the defense attorneys for Spruill and Jones?

A. I don't remember that, no.

Q. Do you remember telling her you were afraid of the attorneys and didn't want to talk to them?

A. I don't remember telling her that.

Q. Then did you later tell Nichole Mills that you had told Regina Moore you wanted to speak to Mr. Vosburgh, were looking forward to it, but that the SBI did not want you to speak to him?

A. I don't remember.

(Whereupon, the court reporter marked Maybin Exhibit Number 19 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. In that memo, Mr. Vosburgh indicates he had copied down a document that Ms. Mills had given him that you had written. I'm going to hand you Exhibit 19, and this is not in your handwriting. Can you please --

A. I was going to say that ain't my handwriting.

Q. If you're not able to read any of it, ask me and I will try to see if I can. But if you're --

have you ever written a document that contained that information?

A. I didn't know this about Sherry.

Q. Didn't know what about Sherry?

A. All this (indicating). I don't see how they could have got that from me.

Q. Can you be more specific when you say "all this about Sherry"?

A. Well, I didn't -- I didn't know this about -- I knew she had a DUI, but that's all I really knew. So I don't see how he could have got it from something I wrote. And yes, he was abusive, you know, but -- and they did get in fist fights, but I don't --

Q. Was Mr. Jones ever abusive to Sherry Honea?

A. Oh, yeah.

Q. Were they ever dating?

A. No.

Q. Was he abusive to any other women, that you saw?

A. That's the only ones I ever seen him with was us. But yeah, I don't recall any of this other stuff here. I don't...

Q. You don't remember a meeting where the

district attorney, Mitchell Norton, got mad at you?

A. I don't remember.

Q. Were you told that if you changed your story, Mr. Spruill and Mr. Jones would get off, and you would be left holding the bag?

A. No, no -- no, not that I can recall.

Q. Did they tell you that if Mr. Spruill and Mr. Jones got off, it would make you look guilty, because you knew too much about the murder and the D.A. would break you down and charge you with murder?

A. I don't remember none of that being said.

Q. Is the information that's in that handwritten statement in that memo accurate?

A. No, I mean there's a lot of that that I didn't even know.

Q. Is there anything else besides the information about Sherry Honea that you didn't know?

A. Well, I mean I can tell you right now, most likely I did not -- I don't know where this even came from, you know.

Q. Do you remember ever writing anything like that that had that information in it?

A. No.

Q. Did you ever give Nichole Mills any

handwritten documents to give to the defense attorneys for Mr. Spruill and Mr. Jones?

A. Not that I can remember, no.

Q. Going back to Nichole Mills, you said earlier that she was telling you what to say. Was she telling you to say things that weren't true?

A. Well, she told me several things. At one point, she wanted me to change my story. And then I would, you know -- I'd get upset with her, and it was just a big mess. She tried to get me to change my story. And then she, you know -- she wouldn't be there for a day or two, and then she'd show up again. It was just a big mess.

Q. Why would you agree to say things that were not the truth?

A. Because I thought maybe I could go home.

Q. Was Nichole Mills ever threatening you?

A. I can't remember her threatening me.

Q. Were you scared of her?

A. Yeah, yeah.

Q. Why were you scared of her?

A. Because of the family, the Champs that she knew, and she knew people I didn't know.

Q. Did she ever say anything specifically to you to make you scared of her?

A. No, it was just her deposition (as spoken), the way she toted herself.

Q. Do you remember being moved to women's prison in Raleigh as a safe-keeper in February, 1995?

A. I remember going there.

Q. And did Nichole Mills go to women's prison as well?

A. I can't remember, I can't remember if she did or not.

Q. If you were scared of Nichole Mills, why would you continue to have contact with her after being moved jails?

A. Well, because she said she was going to try to help me.

Q. But you were scared of her?

A. Yes. You got to think, I was on my own and didn't know nobody, trying to reach out to anybody that would help me try to get back home.

(Whereupon, the court reporter marked Maybin Exhibit Number 20 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. Ms. Maybin, I'm going to hand you Exhibit 20. This is dated March 3rd, 1995. Can you tell me if that's your handwriting?

A. It looks like it.

Q. In this letter, Ms. Maybin, to Nichole Mills, you state, "Wait until I get out of here. It was the biggest mistake that Washington County could have ever made. They put you in a cell and just forget about you. Well, not me. They will remember me when I'm gone. I'm not the type to put up with a bunch of bullshit. These other girls can do it if they want to, but Ms. Dana will not." Do you know what you meant by that?

A. Yes, they were very rude, very, very rude. I thought about suing them at one time.

Q. Who was very rude?

A. The people at the jail, they were rude. I guess because I wanted my way and they wouldn't let me have my way.

Q. So that refers to the people in the jail?

A. Yeah.

Q. Does it refer to anyone who was involved in this case?

A. No, no, I don't -- no.

Q. Do you remember your mother having contact with anyone involved in this case?

A. No, I don't remember. I don't remember if she did or not.

(Whereupon, the court reporter marked Maybin Exhibit Number 21 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. Ms. Maybin, I'm going to show you a letter.

A. Okay.

Q. It's Exhibit 21. This is dated March 6th, 1995. Can you tell me if this is your mother's handwriting?

A. Let me see. Yes, it looks like it.

Q. Ms. Maybin, in this letter, your mother states, "I've talked to the lawyer for the other two and he thinks he can help you and I also think he can. He tells me that fills (as spoken) that you are scared and so do I. Dana, if anyone is telling you to say things where you will be in trouble, that's wrong. No one has anything on you that can keep you there. All you have to do is tell the lawyer that you want a new one." Do you know why she was speaking with defense attorneys?

A. Uh-uh, I have no idea.

Q. Did you tell your mother that you were scared?

A. Probably, I was scared.

Q. Later on in the letter, your mother says,

"They think they can help all of you. And Dana, if you did tell them a lie, please tell them and you can make them give you a new lawyer. I don't want you to stay in there for something you or the other two did in order for you to get a new lawyer. They don't have anything on you or the other two. Dana, you don't have to stay in there if you just tell the truth. If you lied, tell them you did." Is that accurate?

A. What? That she said that?

Q. Did you lie?

A. No. I mean I did in the beginning, you know, because I didn't want to be there.

Q. Did you ever tell your mother you lied?

A. No, I don't think I ever really talked to Mama about the case. I don't remember talking to her about it.

MS. MATOIAN: Ms. Maybin, that letter from Nichole Mills was dated March the 3rd. That letter from your mother is dated March the 6th. I'm going to hand you some diary entries from March the 3rd through March the 8th. I'm going to mark that Exhibit 22.

(Whereupon, the court reporter marked Maybin Exhibit Number 22 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. Can you read those diary entries, please, and let me know --

A. (So complied with request of counsel.) Now, this was when I was in jail with Nichole. Yeah. Okay.

Q. Just to clarify, you had been moved to women's prison by March 1995.

A. Okay. All right. So what's the question?

Q. My question is is the information in these diary entries accurate?

A. No. Uh-uh.

Q. Can you turn to the last page of that exhibit.

A. Okay.

Q. The last page of the entry for March 8th, 1995 says, "Today I met with Robert and Leroy's lawyers this morning and it felt good to finally talk to somebody about the case because it has been bothering me." Was that accurate?

A. I don't -- I don't recall. I don't remember that day.

Q. Did you feel pressured in your interview with the defense attorneys?

A. No, I mean...

Q. Did anyone threaten you during your interview?

A. No, the only thing that I was ever told is if I changed my statement a lot, that I would, you know, be an incompetent witness, which was what I was hoping for, so I wouldn't have to testify to nothing.

Q. You said earlier that you decided to tell law enforcement the truth about the murder, because you knew it would follow you around your whole life.

A. (Witness nodding head.)

Q. Why were you trying to get out of it while you were waiting in jail?

A. I was scared. I'd never been in trouble before, and I wanted it all to stop, I just wanted to go home.

Q. When they were telling you that if you changed your story, they could make it go away, did you tell them that you would be telling a lie if you did that?

A. I don't remember.

Q. Did you ever tell the defense attorneys that you had, in fact, been there when Mr. Spruill and Mr. Jones killed Frank Swain?

A. I don't remember if I -- what had happened

at that time.

(Whereupon, the court reporter marked Maybin Exhibit Number 23 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. I'm going to give you Exhibit 23. This is a letter. Can you tell me if this is your -- it's unsigned. Can you tell me if that's your handwriting?

A. Yeah, but who is this Stacy?

Q. Do you remember someone named Stacy Allen?

A. No.

Q. Did you -- did you -- in this letter, you said, "I talked to Mr. Harrell, who is Leroy's lawyer, and told him the truth. We were at the bar all night and so drunk we couldn't tell our butthole from a hole in the ground. I sat at the bar with you and Smarty, played a little pool." Is that accurate?

A. No.

Q. Were you that drunk?

A. No. No.

Q. Were you so drunk, you wouldn't remember what happened that night?

A. No. No.

Q. Do you remember writing this letter to

Stacy?

A. No. Uh-uh.

Q. Did anyone tell you to write a letter like this?

A. I don't know, but I don't remember writing it.

(Whereupon, the court reporter marked Maybin Exhibit Number 24 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. Ms. Maybin, I'm going to hand you Exhibit 24. This is a transcript of an interview between you and Maynard Harrell, who is Mr. Spruill's defense attorney. Can you tell me if that's the interview you were discussing earlier where you were told what to say through a piece of paper?

A. Was this done while I was in the prison?

Q. It was. It is dated March 10th, 1995.

A. My dates -- I don't remember the dates. Yeah, I think this is the -- yes.

Q. Did you tell the truth in this interview?

A. No.

Q. I direct you to page 10.

MR. D'ORAZIO: Can we stop here a minute? The video stopped. The memory card might be full.

(Whereupon, a recess was taken.)

MR. D'ORAZIO: The video is back on.

EXAMINATION RESUMED BY MS. MATOIAN:

Q. Continuing on, we had gone to page 10, lines 8 through 16. Can you read that for me and let me know when you're done.

A. (So complied with request of counsel.)

Q. Did Jeff Kelly ever make you throw out a pair of shoes?

A. (Witness shaking head.)

Q. Can you give an audible answer, please.

A. No.

Q. So that statement is not accurate?

A. No.

Q. Did the defense attorney tell you to say that?

A. I was supposed to play along.

Q. To play along with what?

A. With what he was telling me, and how to answer things, and expressions.

Q. In lines 24 and 25 of page 10 and going on to page 11 through line 9, can you read that, please -- I'm sorry, read through the whole page 11.

A. (So complied with request of counsel.)

Q. Were you told about a reward?

A. No.

Q. Were you told that you would be brought up for trial and then taken home again?

A. No.

Q. Were you told that you would do more than -- do no more than 30 days in jail?

A. No.

Q. Go to pages -- page 12. Can you start reading at line 9 and read through page -- or read through line 9 and page 13 as well.

A. Okay.

Q. Did Janice Spruill tell you which way the door at Mr. Swain's house opened?

A. Not that I can recall.

Q. Do you remember seeing a Christmas tree at Mr. Swain's house?

A. No, ma'am.

Q. Go to page 16 and read lines 13 through -- excuse me, read lines 13 through 16.

A. (So complied with request of counsel.) Okay.

Q. Did Janice Spruill tell you that more than one person had to be there because the victim was a big man?

A. No.

Q. Was Mr. Swain a big man?
A. I don't know. I couldn't really tell that night, it's hard to say. If you would have asked me that next day, maybe I could have told you, but I can't remember that.
Q. Can you go back to page 15.
A. (So complied with request of counsel.)
Q. And read from line 10 to the bottom of the page.
A. (So complied with request of counsel.) Okay.
Q. Did you make everything up?
A. No.
Q. Was it true that you couldn't remember half of the things you had said to Janice Spruill?
A. I don't remember saying none of this stuff to Ms. Spruill. I don't remember talking to Ms. Spruill.
Q. Okay. Do you remember anyone in particular you talked to from law enforcement?
A. No, I -- no. I remember talking to this man here (indicating).
Q. Okay. Did you tell law enforcement that Mr. Jones committed the murder, because you hated him?

A. No.

Q. Did you hate him?

A. No, I didn't hate him, I was scared of him.

Q. What happened to the paper that Mr. Harrell was writing answers on?

A. I don't know.

Q. Did you feel pressured by Mr. Harrell during this interview?

A. In a way. I mean --

Q. What did he do to make you feel pressured?

A. He told me if I would just do as he told me, you know, that we could all get out of this, and I believed it.

Q. Did you tell him that he was asking you to tell a lie?

A. I don't remember if I did. I don't remember us discussing it.

(Whereupon, the court reporter marked Maybin Exhibit Number 25 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. Ms. Maybin, I'm going to hand you Exhibit 25, and this is dated 3-23-1995, this is after your interview with Mr. Harrell. Can you read that for me, please?

A. (So complied with request of counsel).

Q. If you felt pressured by Mr. Harrell during that interview on March 10th, why would you write a letter saying that Mr. Harrell and Mr. Vosburgh were welcome to visit you whenever they pleased?

A. Because they were going to help me.

Q. And you wanted their help, even though you felt they were pressuring you?

A. Well, yes, that was the only people that was speaking to me.

Q. After that interview with Mr. Harrell, did you continue to have contact with Mr. Spruill and Mr. Jones' defense attorneys?

A. I can't remember if I did or not.

Q. Did I just give you 25? I'm sorry, I just don't remember.

A. Yes.

(Whereupon, the court reporter marked Maybin Exhibit Number 26 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. I'm going to hand you Exhibit 26, which is a journal entry dated March 24th, 1995, and ask you to read from the beginning up until this line (indicating) right here that ends with "Court."

A. (So complied with request of counsel.)
Q. Is what you wrote in this entry accurate?
A. No, this must have been part of that incompetent thing.
Q. Ms. Maybin, these diary entries that I've shown you where you indicate that you had not told the truth to police but have been telling the truth to the defense attorneys, when you wrote these, was there a plan between you and Ms. Mills to write these and give them to someone, or what was the purpose of writing these in a diary?
A. That they would be taken -- that it would be taken eventually.
Q. And who was going to take them?
A. The lawyers.
Q. Did you give them to the lawyers as you wrote them or --
A. I don't think so. I don't remember how this happened, but it had something to do with being an incompetent witness.
Q. And was that a plan between you and Ms. Mills, or did you speak to the defense attorneys about it directly?
A. It started with Ms. Mills, and then that one lawyer talked to me about it, the one that

slipped me the paper and was telling me to say things, but I don't remember how these -- you know, how they got surrendered or whatever.

(Whereupon, the court reporter marked Maybin Exhibit Number 27 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. I'm going to show you Exhibit 27, which is another journal entry dated March 27th, 1995. Is the information in this diary entry accurate?

A. No, I -- no, I don't have to read it. No.

(Whereupon, the court reporter marked Maybin Exhibit Number 28 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. Ms. Maybin, I'm going to show you -- this is Exhibit 28. This is a document titled, "Questions I'd like to be asked at the SBI office when I am taking the lie detector test." Can you look at that and tell me if it's your handwriting?

A. It looks like it.

Q. Do you remember writing a document like that?

A. Uh-uh. No.

Q. Do you remember --

A. Did they ask me to write it?

Q. That's my question. Did someone ask you

to write that?

A. I don't know. I don't remember this.

(Whereupon the court reporter marked Maybin Exhibit Number 29 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. I am going to hand you Exhibit 29. It's another part of that document that has your answers to those questions. I'd like you to read through the questions and --

A. Do you have a date on there? I mean --

Q. I do not. That was one of my questions for you, if you knew when you had written that.

A. No. I mean there ain't no sense in looking at this. I don't even remember this. I don't know if I was put up to writing this or -- there's no way I could explain anything on this.

Q. Okay.

A. I don't even know where it come from.

Q. Did anyone in law enforcement promise to give you anything in order to give the statement you gave in South Carolina?

A. No.

Q. Were you told by anyone in law enforcement that you would not be arrested for murder if you gave a statement that they wanted you to?

A. No, not that I recall.

Q. Were you promised to be given a bond as soon as they got you to the North Carolina jail?

A. Not that I recall.

Q. Did anyone in law enforcement promise you that you and Jeff Kelly would go to North Carolina for the trial to stay in a hotel?

A. No.

Q. Did you know Frank Swain before you had heard about the murder?

A. I had never met him personally.

Q. Did you leave the bar at any time to go to the home of Frank Swain?

A. Yeah.

Q. Did you know of any wounds inflicted on Frank Swain before being questioned by Janice Spruill and Willie Williams?

A. Well, I knew that he was killed.

Q. Have you ever been into any home other than the home of one of the Champs on Foley Road?

A. Not that I can recall.

Q. Did you tell Sherry Honea that you were present at the time of the murder of Frank Swain?

A. I can't remember.

Q. Did you go back to South Carolina on

1 February 11th, 1994 because you wanted to be with
2 your child?
3 A. Most likely.
4 Q. Did you kill or help in any way to kill
5 Frank Swain?
6 A. No, but I was there.
7 Q. Had you ever seen Frank Swain before?
8 A. No.
9 Q. Did you smoke crack?
10 A. No.
11 Q. Did Mr. Spruill or Mr. Jones and you drive
12 a truck to Frank Swain's house to buy crack any time
13 on the night of the murder?
14 A. Yeah.
15 Q. Did Mr. Jones ever give you a gold
16 necklace when the two of you first started dating?
17 A. I don't remember.
18 Q. Did Mr. Jones get the necklace while
19 working out of town with Ed Champ?
20 A. I don't remember.
21 Q. Did Janice Spruill tell you that a crowbar
22 was used in the murder?
23 A. No, not that I can remember.
24 Q. Has anyone mentioned any other item
25 involved in the murder other than a knife?

A. There was the crowbar in the back of the truck, but I just heard it, I never really seen anything done with it.

Q. Did you see any other weapons in Mr. Swain's house besides the knife in Mr. Jones' hands?

A. I didn't pay no attention, I don't think. I don't remember anything.

Q. Did Janice Spruill tell that you there was a chemical plant near Mr. Swain's house?

A. No.

Q. Did Janice Spruill tell you that the door of Mr. Swain's house opened to the outside?

A. No.

Q. Did the door open to the outside?

A. I can't remember, I just remember an opening.

Q. Earlier you indicated that you pushed the door in, is that accurate?

A. I don't -- I don't remember if it was -- it seems like I did. It's hard to remember. Like when I come up, I remember seeing the light, movement, shadows, and I can't remember if I pushed it or if I pulled it, I don't remember. At this moment, I can't remember.

Q. Did you know that Frank Swain had been

stabbed in the neck before you read it in the paper while in the Beaufort County Jail?

A. Yes.

Q. Were you extremely interrogated by law enforcement officials from North Carolina while you were living in South Carolina?

A. I can't recall.

Q. Did you tell Regina Moore, Mitchell Norton, Janice Spruill, Willie Williams, Donnie Varnell that you wanted to tell the truth, that you, Leroy, and Robert did not murder Frank Swain?

A. No.

Q. Did Donnie Varnell tell you that if you changed your story, that the group in the case -- that the guys in the case would go free and you'd be the one in jail?

A. Uh-uh.

Q. Did you give the statement that Janice, Willie, and Donnie wanted you to so they would leave you alone?

A. What?

Q. Did you give the statement that law enforcement wanted you to give so that they would leave you alone?

A. No, I just wanted it all to go away.

Q. Did you tell Nichole Mills that Mr. Spruill, Mr. Jones, and you did not kill Mr. Swain?

A. No.

Q. Did you tell law enforcement officials from North Carolina that you didn't know Mr. Swain, when they first questioned you?

A. I can't remember.

Q. Did Janice Spruill offer to show you pictures of Frank Swain so that you would know what he looked like?

A. No.

Q. Are you prejudiced against black people?

A. No.

Q. Are you a Satanist or perform rituals?

A. No.

Q. Do you know why Satanism would have been brought up in this case?

A. I found out later on that Robert was into it.

Q. Mr. Jones?

A. Uh-huh.

Q. Did he ever do anything like that around you?

A. No, but when they searched his home, supposedly they found a lot of satanic books, and

drawings, and stuff.

Q. Okay. And that was in Mr. Jones' home?

A. Yeah.

Q. Had any clothes ever been burned in the wood heater of Leroy Spruill's house?

A. Yeah.

Q. Had any shoes ever been burned in the wood heater of Leroy Spruill's house?

A. I can't remember the shoes.

Q. Did Leroy Spruill's house have any water in it on the night of the murder?

A. I think so. I think we didn't have hot water, but I can't remember.

Q. Did Mr. Jones ever beat you?

A. Oh, yes.

Q. Did Mr. Jones ever rape you?

A. Tried.

Q. Was that before or after the murder?

A. Before.

Q. Were you living with Leroy when Robert -- when Mr. Jones gave you the gold chain necklace?

A. I can't remember.

Q. Were you living with Stacy Allen when Mr. Jones gave you the gold chain necklace?

A. I don't even know who this Stacy Allen is.

Q. Okay.
A. I can't remember them.
Q. Did Bessie Tarkington and Sherry Honea want you to change your name so Sherry's father would not find her?
A. Yes.
Q. And what name were you going by when you lived there?
A. Nicky.
Q. Did Mr. Jones ever tell you he was wanted for murder in Mexico and Texas?
A. No, he told me he had a sick son that was dying with cancer in Texas.
Q. In Texas?
A. Uh-huh.
Q. Were you -- go ahead.
A. That's all he ever said about it.
Q. Were you and Ms. Honea communicating at the time of Mr. Swain's murder?
A. I don't think so, I don't remember. We might have, you know, I don't remember.
Q. Were you in communication with each other after Mr. Swain's murder?
A. No, not since I have been home. No.
Q. Did you and Ms. Honea stop talking,

because she accused Mr. Jones of making sexual advances towards her?

A. No.

Q. Did you go to the home of Mr. Swain on the night of his murder?

A. Yes.

Q. If the answers you've given me to those questions today are different than the answers you wrote in Exhibit, I think, 29 that I gave you --

A. Uh-huh.

Q. -- which answers would be the truth?

A. What I've said. I don't even know where that come from.

(Whereupon, the court reporter marked Maybin Exhibit Number 30 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. I'm going to hand you Exhibit 30. I would again just like you to look at this and tell me if that's your handwriting.

A. It seems to be.

Q. It's a document entitled, "Influence of Men." Do you recall writing that?

A. I don't remember writing it.

Q. Do you know why you would have written something like that?

A. I don't know.

Q. Do you recall writing that after reading it?

A. I don't recall writing it, but it's true -- I mean every bit of it is true.

Q. Do you remember someone asking you to write a document like that?

A. No. It might have just been on my mind, I don't know.

Q. Do you remember giving anyone something like that?

A. Uh-uh.

(Whereupon, the court reporter marked Maybin Exhibit Number 31 for identification.)

EXAMINATION RESUMED BY MS. MATOIAN:

Q. Ms. Maybin, I'm going to hand you an undated letter, it appears to be to Cottie. Can you tell me if that's your handwriting?

A. It looks like it.

Q. Can you read the last paragraph?

A. (So complied with request of counsel.) Okay.

Q. Do you know who Wyatt is?

A. I have no idea. Obviously, I didn't like him.

Q. Do you remember anyone named Wyatt Spruill?

A. Uh-uh.

Q. And in this letter when you say about Wyatt, "You was at home that night so you know what really happened," do you know what night you're referring to?

A. It could have been anything.

Q. Does any of the information in this paragraph about Wyatt have anything to do with the murder of Frank Swain?

A. No, not that I know of. No.

Q. Ms. Maybin, in going through these documents, and diary entries, and letters, and interviews from the time that the police came to speak with you in South Carolina until the time that you were convicted, is it accurate to say that you were telling Mr. Spruill and Mr. Jones' defense attorneys that law enforcement was telling you what to say and making promises to you?

A. I don't remember telling them that any promises were made to me.

Q. Did you tell them that law enforcement was telling you what to say about Mr. Swain's murder?

A. No.

Q. What did you tell defense attorneys?

A. I just wanted to go home. They were going to help me get home.

Q. My question is, did the defense attorneys know that you were lying to them so that you could go home?

A. They knew that I was there and that I had seen it. I mean, I told them that.

Q. At this time, is it also accurate to say that you were telling law enforcement that the defense attorneys were telling you what to say and making promises to you?

A. I don't know if I -- I don't know if I told anybody they were making promises.

Q. Would you agree that you've made several conflicting statements about what happened the night that Frank Swain was murdered?

A. Oh, yeah. I mean my whole point of it was I wanted to be an incompetent witness, because I wanted to go home.

Q. Would you agree that you also did not tell the truth before you had been arrested?

A. Oh, yeah, yeah. I didn't want to go to jail. Nobody wants to go to jail.

Q. Ms. Maybin, how do I know today that what

you're telling me is the truth, given the conflicting statements you've given in the past?

A. All you can do is believe in me. I mean that's all I can say. I've explained everything to you to the best of my knowledge.

Q. Ms. Maybin, were you present when Frank Swain was murdered?

A. Yes.

Q. Were you present when Frank Swain was murdered by someone other than Leroy Spruill and Brandon Jones?

A. No.

Q. Was Mr. Spruill there?

A. Yes.

Q. Did he participate in the murder?

A. Well, that's hard to say. I mean he was over on the other side. It's hard for me to say what was going on before I come in there.

Q. Was he touching the victim?

A. Yeah.

Q. Was he touching the victim while Mr. Jones cut his throat?

A. I can't remember, but I think so.

Q. Was Wallace Brandon Jones there when Frank Swain was murdered?

A. Yes.
Q. Did he participate in the murder?
A. Yes.
Q. What did he do?
A. He cut his throat.
Q. Was anyone else in Mr. Swain's house when the murder happened?
A. No.
Q. Was anyone besides you, Mr. Spruill, or Mr. Jones involved in this murder?
A. No.
Q. Have you ever heard or been told about anyone else committing the murder?
A. No.
Q. Was Sherry Honea involved in the murder?
A. No.
Q. Was Robert Spruill?
A. Yeah.
Q. Robert Spruill?
A. Leroy.
Q. I'm talking about Robert Spruill.
A. Oh, Robert? You're talking about her boyfriend?
Q. Ms. Honea's boyfriend.
A. No, no.

Q. Was Edward Fields?
A. I don't know that name.
Q. Beaver?
A. Oh, no. No.
Q. Ms. Maybin, I'd like you to just give me a second to look through my questions and make sure I've asked you everything that I want to ask you.
A. Okay.
Q. If you'd like to take a bathroom break and a recess for about five minutes, and then hopefully we can finish up as soon as we can.
A. I'll just sit here, if that's okay.
MS. MATOIAN: That's fine.
(Whereupon, a recess was taken.)
(Whereupon, the court reporter marked Maybin Exhibit Number 32 for identification.)
EXAMINATION RESUMED BY MS. MATOIAN:
Q. Ms. Maybin, I'm going to hand you Exhibit 32, and this is a partial diagram of the victim's house showing the den area. It's similar to the one that I showed you earlier. I'll again say this is the door. Ms. Maybin, can you tell me whether that diagram indicates that the victim's door opened outwards?
A. Ma'am?

Q. Can you tell me on that diagram if it indicates how the victim's door opened?

A. I guess, maybe. I see a line.

Q. Ms. Maybin, on that diagram with the furniture labeled in it, can you tell me what you saw as you were standing outside the door of Mr. Swain's house?

A. Well, I already said, all I could see was like light and movement.

Q. And when you went inside the door, can you tell me how far you walked into the house?

A. It wasn't far.

Q. If you're able to, can you indicate on the diagram how far you walked into the house?

A. Well, I don't know. Right around the couch here. It was somewhere around the couch.

Q. And in relation to -- and can you mark just the general area that you're speaking to? If you want to put a circle and just put a D beside it.

A. It had to be in this area (indicating). I hate to put a big circle, but it's somewhere in that area.

Q. That's all right. Make it as big as you need to.

A. (Indicating.)

Q. And can you indicate where you saw Mr. Jones with a J?

A. Ma'am?

Q. Do you remember in relation -- when you're standing there and -- could you see Mr. Jones from where you were standing?

A. Yeah.

Q. Can you indicate where you saw Mr. Jones?

A. It was by the couch, but I don't know exactly.

Q. Can you indicate the couch area and put a J next to that?

A. This (indicating).

Q. Yes. If you need to draw a circle around the couch, that's fine.

A. It was somewhere in this area (indicating).

Q. And where was Mr. Spruill?

A. He was on the other side.

Q. The victim was in between them?

A. Yes, ma'am, so I guess he would be over here (indicating).

Q. And can you -- where you think Mr. Swain was, can you draw a V?

A. Somewhere in here (indicating).

Q. And were they facing you?
A. No, not that I can remember. I can't remember. I know Robert wasn't facing me.
Q. He was not. Okay. Was Mr. Swain facing you?
A. No, he was -- no, I can't remember.
Q. Do you know if Mr. Swain saw you that night?
A. I think maybe he might have, but I don't know, I'm not for sure. I don't know.
Q. Had any of you moved away from that area at the time that Mr. Jones cut Mr. Swain's throat?
A. I don't remember.
Q. Had any of you moved from that area when you went into Mr. Swain's pocket?
A. It was in that general area somewhere, but I don't remember the exact movements.
Q. Do you remember anything being on the floor around Mr. Swain?
A. No, I -- I honestly can't remember now.
Q. Do you remember what the general condition of the house was? Was it neat? Was it --
A. I really didn't stop to look around. I don't remember all -- what it looked like.
Q. Did it look like there had been a struggle

in the house?

A. I know there had been a struggle, I could hear a struggle.

Q. Did it appear that way, as you walked into the house?

A. I can't remember, I don't know. Let's see.

Q. Ms. Maybin, would you mind signing that diagram in that same ink that you wrote on it at the bottom just so that we know that you were the one making the notations?

A. (So complied with request of counsel.)

Q. Bear with me for one second. Ms. Maybin, can you go back to your trial testimony and go to page 578, and can you read from page 13 down to the bottom of the page.

A. (So complied with request of counsel.) Okay.

Q. Ms. Maybin, you were asked what you could see when you were right there at the door, and you had testified that you could see Mr. Swain, Mr. Spruill, and Mr. Jones standing at the couch?

A. Yeah, I don't know why it says that, because they wasn't standing there. I don't know why that was said.

Q. Ms. Maybin, my question to you is --
A. Yes, ma'am.
Q. -- if the door opens to the outside and you had indicated previously it was only open approximately four inches, my question to you is how were you able to see what was happening at the couch, given the positioning of the couch and the door opening to the outside?
A. You know, I don't know, unless -- it was like I could see like a lamp and stuff, you know what I'm saying? I could see movement and light, but I don't know. Was there something propped in front of the door? Was something stuck in the door? I don't know. I do not know, so...
Q. All right, Ms. Maybin, were you completely truthful when answering my questions today?
A. Yes.
Q. Is there any reason why you did not tell me the truth today?
A. I've told you the truth to the best of my knowledge.
Q. Is there any reason why you would not tell me the truth today?
A. No.
Q. Do you remember any additional information

about any questions I've asked you?

A. No.

Q. All right. One of the purposes of this deposition was to determine the extent of your knowledge of the facts involved in this case. So with that in mind, and so that I won't be surprised later on when investigating this case, is there anything that you believe is significant in this case that you have not told me about?

A. No.

Q. Is there any other topic we have not explored that you think would be important to my understanding of the case?

A. No.

Q. Do you have any additional information to provide to the commission related to this case that you have not mentioned?

A. No, ma'am.

MS. MATOIAN: All right, Ms. Maybin. I'm going to conclude the deposition at this time. I appreciate you sitting with us today, and we can conclude at this time.

- - -

(Witness excused.)

- - -

(Deposition was concluded at 1:00 p.m.)

SIGNATURE OF DEPONENT

I, the undersigned, DANA LYNN MAYBIN, do hereby certify that I have read the foregoing deposition transcript and find it to be a true and accurate transcription of my testimony, with the following corrections, if any:

PAGE	LINE	CHANGE

_____ _____
DANA LYNN MAYBIN {Date}

CERTIFICATE OF REPORTER

I, Eileen Thompson, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify:

That the foregoing deposition was taken before me on the date and at the time and location stated on page 1 of this transcript; that the deponent was duly sworn to testify to the truth, the whole truth and nothing but the truth; that the testimony of the deponent and all objections made at the time of the examination were recorded stenographically by me and were thereafter transcribed; that the foregoing deposition as typed is a true, accurate and complete record of the testimony of the deponent and of all objections made at the time of the examination to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 12th day of February, 2018 at Liberty, Pickens County, South Carolina.

Eileen Thompson

Eileen Thompson,
Registered Professional Reporter
Notary Public
State of South Carolina at Large
My Commission expires:
October 17, 2024