

State v. Kenneth Manzi Kagonyera
00 CRS 65086
Buncombe County

State V. Robert Wilcoxson, III
00 CRS 65088
Buncombe County

KAGONYERA
DEPOSITION
TRANSCRIPT

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 00 CRS 65086 & 65088

STATE OF NORTH CAROLINA,]
]]
vs.]]
]]
KENNETH M. KAGONYERA and]
ROBERT WILCOXSON, III,]
Defendants.]]

T R A N S C R I P T

Kenneth M. Kagonyera
Deposition

Transcript of deposition conducted of Kenneth M. Kagonyera, by Kendra Montgomery-Blinn, Executive Director and Jamie T. Lau, Staff Attorney, April 8, 2011 as part of an investigation by the North Carolina Innocence Inquiry Commission.

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1 [The deposition commenced at 1:40 p.m., April 8, 2011.]

2 MS. BLINN: All right. So, we just turned
3 the video camera on and an audio recorder, and what time is it
4 right now? It is twenty 'til two, right? 1:40 p.m.

5 In the room are Staff Attorney, Jamie Lau, from the
6 North Carolina Innocence Inquiry Commission, Executive
7 Director, Kendra Montgomery-Blinn, from the North Carolina
8 Innocence Inquiry Commission, Administrative Assistant
9 Aschante Pretty, from the North Carolina Innocence Inquiry
10 Commission, Mr. Kenneth Kagonyera and his Attorney Frank
11 Wells. Those are the only people in the room. We've got a
12 video recording and an audio recording.

13 We're about to do a deposition. Does anybody have
14 any questions before we start? Does everybody understand why
15 we're here today?

16 MR. KAGONYERA: Yes, ma'am.

17 MS. BLINN: Okay. All right.

18 Aschante is a notary, and she's gonna go ahead and
19 swear you in.

20 **SWORN WITNESS: KENNETH M. KAGONYERA**

21 MS. BLINN: All right. Well, Mr. Kagonyera,
22 my name is Kendra Montgomery. I'm the Director of the
23 Innocence Inquiry Commission, and I know that you've been
24 interviewed before by Mr. Lau, and that, you've answered a lot
25 of questions about this case. What I want to do today is

1 we've got you under oath and ask some questions as though you
2 were testifying before the Commission. So, this essentially
3 your testimony to the Commission. If -- if I don't ask you
4 something that you want to tell me, that's all right. You
5 don't have to only answer the questions. If you think of
6 something else you're welcome to tell me.

7 The North Carolina Innocence Inquiry Commission, as
8 I think you already know, is a state agency. We do not
9 represent you. We do not represent the prosecutors. We're
10 just neutral fact-finders. It's our job to investigate your
11 innocence claim that you've sent to us and look at evidence
12 that wasn't available at the time that you pled and
13 investigate that evidence fully. If I ask you a question and
14 -- well, all I want you to do is tell me the truth to every
15 single question that I ask you and if I ask you a question and
16 you do not know the answer, then, the truth is I do not know,
17 and I want you to tell me that. I don't want you to tell me
18 what you think I want to hear. If I ask you a question and
19 you cannot remember, that's -- that -- that's the truth.
20 That's what I -- I want ----

21 MR. KAGONYERA: Okay.

22 MS. BLINN: ---- you to tell me. Tell me
23 what you can remember, but if you can't remember it, please
24 don't try to fill in the blanks from what you think. Tell me
25 what you can remember versus what you think.

1 MR. KAGONYERA: Okay.

2 MS. BLINN: Does that make sense?

3 MR. KAGONYERA: Yes, ma'am.

4 MS. BLINN: Okay. Great. All right. Let

5 me just start out with asking you to state your name and spell

6 your name.

7 MR. KAGONYERA: Kenneth Kagonyera. K-E-N-N-E-T-

8 H K-A-G-O-N-Y-E-R-A.

9 MS. BLINN: Okay; and, I'm gonna ask you

10 about a couple other people whose names you've heard before,

11 who were involved with the claim that you're in here for, but,

12 I want to know how -- how you know them -- and how you have

13 known them in your past ----

14 MR. KAGONYERA: Uh-huh.

15 MS. BLINN: ---- in the past. Robert

16 Wilcoxson. Can you tell me how you know Mr. Wilcoxson?

17 MR. KAGONYERA: We were friends.

18 MS. BLINN: Okay.

19 MR. KAGONYERA: I've known him maybe two years.

20 MS. BLINN: Okay. Two years prior to 2000?

21 MR. KAGONYERA: Prior -- prior to get

22 incarcerated.

23 MS. BLINN: Okay.

24 MR. KAGONYERA: Yes -- yes, ma'am.

25 MS. BLINN: Okay; and, you said you were

1 friends?

2 MR. KAGONYERA: Yes -- yes, ma'am.

3 MS. BLINN: And did you hang out?

4 MR. KAGONYERA: Yes.

5 MS. BLINN: Okay. What did you guys do when
6 you hung out?

7 MR. KAGONYERA: Oh, ride around in his car or
8 either my car. We did drugs.

9 MS. BLINN: What kind of drugs?

10 MR. KAGONYERA: Marijuana.

11 MS. BLINN: Okay.

12 MR. KAGONYERA: We went to clubs or played video
13 games.

14 MS. BLINN: Okay.

15 MR. KAGONYERA: That's basically it.

16 MS. BLINN: Okay. How about Larry Williams?

17 MR. KAGONYERA: He was a friend of mine, too.

18 MS. BLINN: Okay. How long do you think you
19 knew him before you were incarcerated?

20 MR. KAGONYERA: Four years.

21 MS. BLINN: And, when you say friends, same
22 kinds of things?

23 MR. KAGONYERA: Yes, ma'am.

24 MS. BLINN: Okay. How about Damian Mills?

25 MR. KAGONYERA: That was my cousin.

1 MS. BLINN: Okay.

2 MR. KAGONYERA: He was -- is my cousin.

3 MS. BLINN: Was he also your friend,
4 somebody you hung out with?

5 MR. KAGONYERA: Yes -- yes, ma'am.

6 MS. BLINN: Okay. How's he related to you?

7 MR. KAGONYERA: He's my -- well, he's my
8 stepfather's sister's son.

9 MS. BLINN: Okay. So, he's kind of a distant
10 cousin.

11 MR. KAGONYERA: Yes, ma'am.

12 MS. BLINN: Okay. All right; and, same type
13 of way that you guys hung out? I mean, did you ride around,
14 do drugs together, those kinds of things, or ----

15 MR. KAGONYERA: Yeah.

16 MS. BLINN: ---- Okay.

17 MR. KAGONYERA: Yeah, we were raised together,
18 so ----

19 MS. BLINN: Okay. How about Teddy Isbell?

20 MR. KAGONYERA: We were -- we -- I considered
21 him a friend, too.

22 MS. BLINN: Okay; and, you seem to hesitate
23 a little bit more, what's the difference with him than the
24 other guys?

25 MR. KAGONYERA: Well, -- I really met him -- he

1 did drugs, hardcore drugs, cocaine, and I kind of provided it
2 for him.

3 MS. BLINN: Okay.

4 MR. KAGONYERA: And he did like -- small tasks
5 like maybe -- mechanic work or -- any -- any -- any -- you
6 know, hard like -- like cutting grass sometimes. So, you
7 know, we didn't really hang out like socializing or with, you
8 know. From time to time we interacted, you know.

9 MS. BLINN: Okay. So, not as much friends
10 as the -- this other kind of drug-dependent relationship?

11 MR. KAGONYERA: Yes, ma'am.

12 MS. BLINN: And -- and if that's not the
13 right -- I'm not trying to put words in your mouth.

14 MR. KAGONYERA: No.

15 MS. BLINN: I'm just trying to understand.
16 Okay. How about Aaron Brewton?

17 MR. KAGONYERA: I -- I can't really consider him
18 a friend. I use to see him in passing ----

19 MS. BLINN: Uh-huh.

20 MR. KAGONYERA: ---- in the neighborhood --
21 Pisgah View Apartments. I used to see him in passing ----

22 MS. BLINN: Uh-huh.

23 MR. KAGONYERA: ---- and we would speak from
24 time to time, but we never really hang -- you know, hung out
25 like that on a everyday basis like the other guys. You know,

1 I would see him out -- out and about in the neighborhood.

2 MS. BLINN: And if you saw him would you
3 speak -- you would speak to him and know who he was, or not?

4 MR. KAGONYERA: Yes ----

5 MS. BLINN: Okay.

6 MR. KAGONYERA: ---- yes, ma'am.

7 MS. BLINN: And -- you said Pisgah View. Is
8 that where you were living in 2000?

9 MR. KAGONYERA: Yes, ma'am.

10 MS. BLINN: And were these guys living in
11 Pisgah View?

12 MR. KAGONYERA: Yes, ma'am.

13 MS. BLINN: Okay. Or ----

14 MR. KAGONYERA: All of them.

15 MS. BLINN: ---- hanging around?

16 MR. KAGONYERA: Hanging around, yes. All of 'em
17 -- all of 'em stayed out there ----

18 MS. BLINN: And ----

19 MR. KAGONYERA: Besides ----

20 MS. BLINN: Go ahead.

21 MR. KAGONYERA: ---- besides Mr. Williams. He -
22 - he hung out everyday, but his father and mother -- they
23 stayed in another area.

24 MS. BLINN: Okay.

25 MR. KAGONYERA: But, he stayed, you know, from

1 house to house out there anyway.

2 MS. BLINN: All right; and, Pisgah View,
3 where is that?

4 MR. KAGONYERA: West Asheville -- west -- west
5 side of Asheville.

6 MS. BLINN: Okay. Is it in Fairview or is
7 it close to Fairview?

8 MR. KAGONYERA: Oh, no, ma'am. It's maybe 30
9 minutes away -- for -- 30, 40 minutes away.

10 MS. BLINN: Okay. All right; and, let me
11 ask you a couple -- about other people. How about Robert
12 Rutherford; do you know him?

13 MR. KAGONYERA: I met him for the first time in
14 the county jail when I -- when I got locked up on this ----

15 MS. BLINN: On this charge?

16 MR. KAGONYERA: ---- on this charge, yes, ma'am.

17 MS. BLINN: And when you say you met, what
18 kind of interaction did you have?

19 MR. KAGONYERA: We would play cards, we would
20 play dominos. That's when I first learned, you know, I -- I
21 never knew his whole name, I just knew his name. They call
22 him Rob, you know.

23 MS. BLINN: Uh-huh.

24 MR. KAGONYERA: That's how I met him.

25 MS. BLINN: Okay. Did you ever talk to him

1 about your case?

2 MR. KAGONYERA: No, ma'am.

3 MS. BLINN: Did you ever tell him what you
4 were in for?

5 MR. KAGONYERA: Yes. He knew what, you know, I
6 was locked up for for.

7 MS. BLINN: Did you ever show him any of the
8 Discovery that you had?

9 MR. KAGONYERA: No, ma'am.

10 MS. BLINN: Did you ever tell him what
11 people thought you had done?

12 MR. KAGONYERA: Yes, ma'am.

13 MS. BLINN: Okay; and, when you say that
14 what do you mean?

15 MR. KAGONYERA: He would, you know, he --
16 basically knew at the time who got -- who got killed, you know
17 -- you know, everybody would be sitting at the table, and
18 then, they would say, "Well, what happened," or, "What's been
19 said?" You know ----

20 MS. BLINN: Uh-huh.

21 MR. KAGONYERA: ---- and it kinda basically
22 briefed everything, you know, from there and never really got
23 in any details or anything. Just saying, you know, I'm locked
24 up. They said, you know, "I did this," you know. That's
25 pretty much -- guys didn't really get into any details and

1 specifics about their case.

2 MS. BLINN: Okay. So, would you have, in
3 talking about details -- or what -- what little details you
4 talked about, would you have told them the names of the
5 victims, or would somebody have told them that?

6 MR. KAGONYERA: He probably -- he probably would
7 be familiar more with his son, 'cause he was more of our age -
8 ---

9 MS. BLINN: Okay.

10 MR. KAGONYERA: ---- and he probably -- probably
11 thinking about it, he probably would remember, oh, they called
12 -- they called Shawn Bowman -- they called him "Dirty" on the
13 streets, so they would probably associate Dirty's father was
14 killed, you know -- I guess that's how he probably remembered
15 it.

16 MS. BLINN: How about some of the details,
17 you know, that you talked - have talked in the past about
18 having been in your Discovery, like what -- what Shawn Bowman
19 said happened, what the other people that were in the home
20 said happened; would those details have been relayed to Mr.
21 Rutherford?

22 MR. KAGONYERA: No, ma'am.

23 MS. BLINN: Okay. How about from other
24 people? Were any of the other guys talking to Mr. Rutherford;
25 do you know?

1 MR. KAGONYERA: I don't believe he was on the
2 floor, 'cause I was on the floor with him on, I think, it was
3 five west and, you know, everybody was on different --
4 different areas, and we couldn't interact. So, he was -- we
5 was always on the floor together. So, I don't -- I don't
6 think he ever inter -- interacted with anyone.

7 MS. BLINN: The other guys were not in the
8 same floor as ----

9 MR. KAGONYERA: No.

10 MS. BLINN: ---- your other co-defendants
11 were.

12 MR. KAGONYERA: No, ma'am.

13 MS. BLINN: Okay. Well, let me just ask it,
14 I mean, you know that Mr. Rutherford confessed later on and
15 said that he had been involved and named other people. You
16 know about that.

17 MR. KAGONYERA: Yes.

18 MS. BLINN: You do now.

19 MR. KAGONYERA: Yeah.

20 MS. BLINN: Could Mr. Rutherford have gotten
21 that information from you in jail when you were telling him
22 about your case; the information that he relayed in his
23 confession?

24 MR. KAGONYERA: I've -- I don't think he got any
25 specifics. He just knew what I was locked up for and probably

1 a couple other guys who were locked up and the -- the name, or
2 in the area. I don't think he could know any -- any details.
3 I never told him any details.

4 MS. BLINN: Okay.

5 MR. KAGONYERA: So, if any details that he --
6 you know were written on -- in the statement, I don't -- he
7 never got any from me.

8 MS. BLINN: Okay. How about Lacy Pickens;
9 did you know Lacy Pickens?

10 MR. KAGONYERA: Yes, I've known him since I
11 probably was 12 or 13.

12 MS. BLINN: Okay.

13 MR. KAGONYERA: Yeah, I've seen -- seen him
14 around.

15 MS. BLINN: Did you know him as Lacy or as
16 JJ?

17 MR. KAGONYERA: JJ.

18 MS. BLINN: So, is JJ his street name or is
19 Lacy his street name, or do you know?

20 MR. KAGONYERA: I guess depending on -- how
21 close you were to him, if - if you call someone by their real
22 ----

23 MS. BLINN: Uh-huh.

24 MR. KAGONYERA: ---- name. I just knew him by
25 JJ.

1 MS. BLINN: Okay.

2 MR. KAGONYERA: You know, so I guess depending
3 on who you were.

4 MS. BLINN: Was he somebody that you would
5 considered a friend?

6 MR. KAGONYERA: No, ma'am.

7 MS. BLINN: Okay. Just knew him from
8 around.

9 MR. KAGONYERA: Just knew him. Yeah, I knew him
10 from around.

11 MS. BLINN: All right. How about a man
12 named Bradford Summey; I think he went by Brad Summey.

13 MR. KAGONYERA: Yeah, I knew Brad. We stayed in
14 the same neighborhood, maybe, when I was 13.

15 MS. BLINN: Okay. Was he a friend?

16 MR. KAGONYERA: He was older, so, we never
17 really could relate. So, I -- I've been around him, but we
18 never really actually hung out on a everyday basis.

19 MS. BLINN: Okay. Did you know the Bowman
20 family?

21 MR. KAGONYERA: I knew -- I -- I'm closer to the
22 youngest daughter.

23 MS. BLINN: What's her name?

24 MR. KAGONYERA: Evita. She's more of my age so,
25 I knew her, but not really personally, but I know her because,

1 you know ----

2 MS. BLINN: Would you recognize her if you
3 saw her somewhere, know who she was?

4 MR. KAGONYERA: Yeah.

5 MS. BLINN: Okay.

6 MR. KAGONYERA: Well, then -- then at the time.

7 MS. BLINN: Right.

8 MR. KAGONYERA: But, now, you know, not now.

9 MS. BLINN: How about Shawn Bowman; did you
10 know him? You said ----

11 MR. KAGONYERA: Yeah, I could recognize him in
12 passing if I see him, you know, out and about.

13 MS. BLINN: Would you have stopped and had a
14 conversation with him, or just thought, "Hey, that's Shawn
15 Bowman."

16 MR. KAGONYERA: No, I've never had a
17 conversation with him.

18 MS. BLINN: Okay. What did you know about
19 him? You already said that you knew his street name was
20 Dirty.

21 MR. KAGONYERA: Uh-huh. I knew that he was
22 affiliated with the drug gang, well the drug activity. So, I
23 knew that he did choose or did some type of drugs at some time
24 or another, so -- but I've never had any dealings with him,
25 so, I pretty much knew that much.

1 MS. BLINN: Okay. But you and he never --
2 your paths as -- with drugs never crossed?

3 MR. KAGONYERA: No.

4 MS. BLINN: You weren't dealing with him,
5 and he wasn't dealing with you?

6 MR. KAGONYERA: No, ma'am.

7 MS. BLINN: Okay. How about -- his brother,
8 Leon Bowman; did you know him?

9 MR. KAGONYERA: I knew him, I've seen him and
10 heard that he used drugs, but I've never had any dealings with
11 him either.

12 MS. BLINN: Okay. How about the dad who was
13 the victim in this case, Walter Bowman?

14 MR. KAGONYERA: Yeah, I -- I've heard -- I've
15 seen him out and about. I know that he's drank and used heavy
16 drugs like cocaine and stuff, but never -- never had ----

17 MS. BLINN: Did you know him? Like, if you
18 saw him would you have recognized him?

19 MR. KAGONYERA: If I -- if I saw him -- I knew
20 they called him -- Hot Rod, and he was an older gentleman, but
21 I -- I would know him if I saw him.

22 MS. BLINN: Okay.

23 MR. KAGONYERA: Yeah.

24 MS. BLINN: Did you ever hear of Shawn or
25 Walter, or Leon having, or anybody in the Bowman family having

1 a lot of money in their house?

2 MR. KAGONYERA: I've never really known, like
3 his status, so to speak, as far as him having a lot of money
4 or, you know, what he had, but I just always kind of seen him
5 out and about. And you kind of recognize someone who's doing,
6 you know, what you're doing, but I've never heard, you know,
7 an amount of money that he might have or anything.

8 MS. BLINN: Have you ever heard of anybody
9 trying to rob them before for drug money, or for any reason?

10 MR. KAGONYERA: No, ma'am.

11 MS. BLINN: Okay. Let's talk about
12 September 18, 2000; that was the night of the -- the breaking
13 and entering in which Mr. Bowman was shot and killed.

14 MR. KAGONYERA: Yes, ma'am.

15 MS. BLINN: Do you remember that day?

16 MR. KAGONYERA: Do I remember that night?

17 MS. BLINN: Uh-huh. When I say September
18 18, 2000, do you remember what you did that day and that
19 night?

20 MR. KAGONYERA: I can remember to be in -- in my
21 neighborhood, but I can't remember -- like, what I had on or
22 who I actually spoke to. I can remember, basically I was
23 where I was at that night ----

24 MS. BLINN: Okay.

25 MR. KAGONYERA: ---- you know.

1 MS. BLINN: Okay. Well, tell us what you
2 can remember.

3 MR. KAGONYERA: Okay. Basically what I can
4 remember is being at home, because I know I had a court date.

5 MS. BLINN: Uh-huh.

6 MR. KAGONYERA: So, I kind of tried to stay home
7 -- kind of wind down, you know, and not to be really running
8 around getting into too much -- any trouble -- any type of
9 trouble.

10 MS. BLINN: Uh-huh.

11 MR. KAGONYERA: So, I stayed in my neighborhood.
12 I mainly walked around. I -- I didn't drive anywhere. I left
13 my car parked at my grandmother's house, so, I ----

14 MS. BLINN: What car -- what car was that?

15 MR. KAGONYERA: I had -- well, I had different
16 cars, but the mainly [sic] one I drove around in was a
17 Chevrolet. You know, I was driving different cars at
18 different times, but I made it a point not to really drive
19 anywhere or go anywhere, so I just stayed and walked around my
20 neighborhood ----

21 MS. BLINN: Okay.

22 MR. KAGONYERA: ---- and didn't go anywhere. I
23 was in and out the house -- my girlfriend's house.

24 MS. BLINN: Your girlfriend -- what is your
25 girlfriend's name?

1 MR. KAGONYERA: Tisha Lee.

2 MS. BLINN: And you said her house and your
3 grandmother's house?

4 MR. KAGONYERA: Yes, I was between those.

5 MS. BLINN: And were those both in Pisgah
6 View?

7 MR. KAGONYERA: No, ma'am. My grandmother
8 stayed in 46 White Farm Drive.

9 MS. BLINN: Okay.

10 MR. KAGONYERA: It's across town.

11 MS. BLINN: In the same town that Pisgah
12 View's in?

13 MR. KAGONYERA: Yes, ma'am.

14 MS. BLINN: Okay.

15 MR. KAGONYERA: In Asheville, yes, ma'am.

16 MS. BLINN: Did you go out to Fairview that
17 day?

18 MR. KAGONYERA: No, ma'am.

19 MS. BLINN: Did you go out to Fairview
20 regularly? Had you been out there before?

21 MR. KAGONYERA: No, ma'am.

22 MS. BLINN: You've never been out to
23 Fairview?

24 MR. KAGONYERA: I've been out there. I was like
25 -- I used to go out there and run track in the summertime in

1 like '94. I was young -- real young. I used to go out there
2 to the high school. It's like right there in Fairview.

3 MS. BLINN: So, around the time of
4 September, even not the 18th, but weeks before, weeks after,
5 did you ever go out to Fairview?

6 MR. KAGONYERA: No, ma'am.

7 MS. BLINN: Did you know where the Bowman
8 house was in Fairview?

9 MR. KAGONYERA: No, ma'am.

10 MS. BLINN: And; so, you've said that night
11 you're - you're hanging out around -- you're with -- at your
12 grandmother's house, and then, you're with Tisha Lee in her
13 apartment, right?

14 MR. KAGONYERA: [No audible response heard.]

15 MS. BLINN: How about earlier in the day on
16 the 18th?

17 MR. KAGONYERA: Earlier in the day -- I didn't
18 really go anywhere, 'cause I didn't have a vehicle, so I just
19 stayed walking around the neighborhood.

20 MS. BLINN: How about Lewis's apartment; can
21 you tell me about that?

22 MR. KAGONYERA: Lewis?

23 MS. BLINN: Lewis -- Beth

24 MR. KAGONYERA: Bethea, okay, ----

25 MS. BLINN: Uh-huh.

1 MR. KAGONYERA: ---- Bethea. That was the
2 following week -- the morning of the -- was that the 19th,
3 like the Tuesday following -- because I had a court -- I had a
4 court date that morning, too. But, yes, breaking and entering
5 happened that morning, and.

6 MS. BLINN: When you say a breaking and
7 entering happened. Do you mean you did a breaking and
8 entering?

9 MR. KAGONYERA: Yes, ma'am. I -- I was there
10 when a breaking in occurred, and that's when that all
11 occurred, and I was -- charged -- well, I didn't -- I didn't
12 get charged until I got locked up, and then, I got charged
13 with that and everything. All that happened, and then, I went
14 to court that morning, but he stays in Pisgah View Apartments,
15 too.

16 MS. BLINN: Now, I mean, I need you to be
17 really honest with me. You just said you were there when the
18 breaking and entering occurred. Do you mean you were there
19 because you were a witness in the house, or you were there
20 because you were doing the breaking and entering?

21 MR. KAGONYERA: I was there in the break -- part
22 of the breaking and entering.

23 MS. BLINN: Okay. You were participating in
24 the breaking and entering?

25 MR. KAGONYERA: Yes, ma'am.

1 MS. BLINN: Okay. Now, you just told me
2 that, that day you were trying not to get into trouble 'cause
3 you had to go to court. Did you think doing a breaking and
4 entering didn't count as getting in trouble?

5 MR. KAGONYERA: That was like -- the was the
6 next day -- the following day, but, yeah, it could, you know -
7 - I guess I consider it a really -- thinking about it, I
8 considered it, "Okay. Well, I can go in here. No one's home
9 and -- and come back out." You know, it's just that simple.
10 That's -- that's how I thought at that time. You know, I
11 didn't feel like it was really any -- anything, you know, like
12 going out and -- robbing a bank or something. You know, I
13 felt like it was, you know, just, you know, walking in and
14 walking out, you know. That how -- that's how I ----

15 MS. BLINN: It was just a little thing.

16 MR. KAGONYERA: Yeah, that -- that's how I
17 thought of it at the time ----

18 MS. BLINN: Okay.

19 MR. KAGONYERA: ---- yes, ma'am.

20 MS. BLINN: Well, tell me, I know when you
21 talked with Mr. Lau before you explained to him, in your mind,
22 the difference between that kind of breaking and entering,
23 like you just said, going in when somebody's not home, and you
24 had told him it was different than the type of breaking and
25 entering that was happening at the Bowman's home. I -- can

1 you explain to me what -- what you think is the difference and
2 -- and how you consider that a little thing and this a big
3 thing?

4 MR. KAGONYERA: Well, for one, you don't have to
5 actually interact with anyone or -- or you don't have to --
6 you don't have to think or just worry about someone harming
7 you or you harming them. You know, you just gonna go in and
8 kind of hurry up and get back out. Like, to go into someone's
9 house while they're there, you're gonna have to deal with so
10 many different people, you know, and you never know what could
11 happen. You could be killed or someone else can be killed,
12 you know. Putting yourself in that situation, you know, is
13 dangerous.

14 MS. BLINN: What about weapons? Did you
15 take any weapons when you did the breaking and entering the
16 Lewis Bethea one?

17 MR. KAGONYERA: No, ma'am.

18 MS. BLINN: Did you normally have weapons
19 when you did?

20 MR. KAGONYERA: No, ma'am. I've -- I've had
21 weapons before, but at that point in my life, I was trying to,
22 you know, stay away from, you know, stay away from weapons and
23 stuff, because I -- I had a charge dealing with a weapon. So,
24 at that point in my life I was going to court for it and I was
25 like, well, you know, that's -- that's not what I want to do,

1 you know, and you know, I was trying to get all that behind me
2 and I was like, "Well, you know, that's, you know, happen to
3 harm someone or someone harming you." So, I was still at kind
4 at that point in my life where that incident happened, and I
5 never knew, you know, if someone, you know, if he's gonna, you
6 know, try to harm me or something, you know. So, I kind of,
7 you know, left that alone, you know, dealing with weapons and
8 stuff.

9 MS. BLINN: How about anything to disguise
10 who you were so if witnesses saw you, like, gloves, masks,
11 bandanas?

12 MR. KAGONYERA: Did I -- did I own any?

13 MS. BLINN: Well, did you -- when you did
14 the breaking and entering -- we're talking specifically about
15 that one earlier in the day -- the Lewis -- the Bethea one in
16 Pisgah View?

17 MR. KAGONYERA: Uh-huh.

18 MS. BLINN: Did you conceal your identity?

19 MR. KAGONYERA: No -- no, ma'am.

20 MS. BLINN: So, did you -- had you -- did
21 you know nobody was home?

22 MR. KAGONYERA: Yes, ma'am.

23 MS. BLINN: How did you know that nobody was
24 going to be home?

25 MR. KAGONYERA: Well, I know that he went to

1 school. He was still in high school, and I knew that it was
2 only him and his mother, and she took him to school, and I was
3 standing out there. People -- guys stand out there on the
4 hill and sell drugs right out there. So, we -- I saw him, you
5 know, go to school that morning.

6 MS. BLINN: All right. Did you own any
7 gloves or bandanas?

8 MR. KAGONYERA: Not a bandana. I owned like a -
9 - I wanna consider -- it's like -- it had Velcro on it and it
10 was like -- nylon like. It was like a -- I wanna say a -- a
11 half like mask kinda sort of. It goes over your nose and your
12 mouth. Yeah, I had one of those, you know.

13 MS. BLINN: What'd you use that for?

14 MR. KAGONYERA: Like, if I was out there selling
15 drugs or something, I would have it on kinda sometime, not on
16 a everyday, but I just had it. I can't even recall where I
17 got it from, but I had it.

18 MS. BLINN: So, you used it to conceal your
19 identity when you were committing crimes?

20 MR. KAGONYERA: No, I didn't use -- I had it,
21 but I -- I didn't -- didn't even have it that day.

22 MS. BLINN: Okay. But, I mean, that's what
23 that was for? That's what that ----

24 MR. KAGONYERA: Oh, yes -- selling drugs or
25 something like -- yeah, yes, ma'am.

1 MS. BLINN: And who was with you when you
2 did that earlier breaking and entering.

3 MR. KAGONYERA: It was me, Mr. Brewton, and Mr.
4 Mills.

5 MS. BLINN: Okay; and, not just that one,
6 but it -- it sounds like that's not the first and only time
7 you ever tried to go into somebody's apartment or go into
8 their home and do a breaking and entering. Did you ever use
9 weapons any of the other times?

10 MR. KAGONYERA: Oh, no, ma'am. I've never used
11 a weapon or anything.

12 MS. BLINN: How about masks?

13 MR. KAGONYERA: A mask? No, ma'am.

14 MS. BLINN: Just for when you were selling
15 drugs on the street.

16 MR. KAGONYERA: Yes, ma'am.

17 MS. BLINN: How about gloves?

18 MR. KAGONYERA: No, ma'am, I didn't.

19 MR. BLINN: Did you ever break into
20 somebody's home when they were present -- when you knew they
21 would be present?

22 MR. KAGONYERA: No, ma'am.

23 MS. BLINN: Did you ever rob anybody at
24 gunpoint?

25 MR. KAGONYERA: No, ma'am.

1 MS. BLINN: Okay. Now, you mentioned
2 vehicles, and I'd like to ask you more about that. You said
3 that the day -- on the September 18th, that you were driving a
4 Chevrolet; is that right?

5 MR. KAGONYERA: No, I said I owned a Chevrolet,
6 but, I -- I wasn't driving around in it, 'cause my car was
7 kind of ----

8 MS. BLINN: Well, okay. Well, tell me about
9 all the vehicles that you had access to.

10 MR. KAGONYERA: I had access to - a blue
11 Chevrolet, a yellow Cutlass, and a -- I had a green Mustang,
12 but it was in the shop. That -- that green mustang and the
13 black Altima, they were in Rice's Towing; they were
14 inoperable.

15 MS. BLINN: Okay. Let me just make sure I
16 got them all -- during this time, in September of 2000, there
17 were four cars you had access to; a blue Chevrolet, a yellow
18 Cutlass, a green Mustang, and a black Altima; is that right?

19 MR. KAGONYERA: Uh-huh; and, I had a gray
20 Chevrolet Corsica, too.

21 MS. BLINN: You had a lot of cars. Okay.
22 So, the green Mustang and the black Altima were in the shop?

23 MR. KAGONYERA: Yes, ma'am.

24 MS. BLINN: Okay. The blue Chevrolet, the
25 yellow Cutlass, and the gray Corsica, were they functioning on

1 that day in September?

2 MR. KAGONYERA: Yes.

3 MS. BLINN: You could have driven them, if
4 you wanted to.

5 MR. KAGONYERA: Yeah -- yes, ma'am.

6 MS. BLINN: Okay. Where were they? Where
7 did you keep these cars?

8 MR. KAGONYERA: I had the -- gray Chevrolet was
9 in Pisgah View Apartments 'cause I was in the process of
10 selling it, so, I was letting ----

11 MS. BLINN: The gray Corsica or the blue
12 Chevrolet?

13 MR. KAGONYERA: ---- the gray Corsica.

14 MS. BLINN: Okay.

15 MR. KAGONYERA: And the blue Chevrolet and the
16 yellow Cutlass, they were at my grandmother's house in the
17 driveway. Well, one of 'em was on the -- on the street, and
18 one of 'em was in the driveway.

19 MS. BLINN: Okay; and, the other two were in
20 the shop at the time?

21 MR. KAGONYERA: Yes, ma'am.

22 MS. BLINN: What -- what -- year were these?
23 Do you remember the years on any of these?

24 MR. KAGONYERA: '76 on the yellow Cutlass, '93
25 on the Mustang, '94 on the Altima, and -- which one's left?

1 MS. BLINN: Gray Corsica and blue Chevrolet.

2 MR. KAGONYERA: Blue Chevrolet was a '83 -- I

3 wanna say -- '83 -- '83.

4 MS. BLINN: Okay; and, if you don't know,

5 tell me.

6 MR. KAGONYERA: Okay. It was '83.

7 MS. BLINN: An '83?

8 MR. KAGONYERA: I can't remember on the Corsica.

9 MS. BLINN: Okay. Do you know roughly, like

10 what decade; 70's, 80's, 90's?

11 MR. KAGONYERA: I'm -- I'm not even ----

12 MS. BLINN: Okay.

13 MR. KAGONYERA: ---- yeah, I'm not even sure.

14 MS. BLINN: All right. Now, tell me, you've

15 given me the colors. Were they one color all over or were

16 they, you know, a different -- a hard top with a different

17 color to the top and a different color to the body of the car?

18 MR. KAGONYERA: All of 'em all colors all over -

19 - all of them solid colors.

20 MS. BLINN: They're all one color?

21 MR. KAGONYERA: Yes, ma'am.

22 MS. BLINN: The blue Chevy -- what -- it was

23 blue on the top and on the bottom?

24 MR. KAGONYERA: All over, yes, ma'am.

25 MS. BLINN: Okay. Was there a different --

1 was it a different kind of material on the top than the
2 bottom?

3 MR. KAGONYERA: No, ma'am, it was all solid
4 [indecipherable].

5 MS. BLINN: How about that yellow Cutlass?

6 MR. KAGONYERA: It had a white half -- vinyl --
7 vinyl top?

8 MS. BLINN: The yellow Cutlass or the
9 Chevrolet?

10 MR. KAGONYERA: The yellow Cutlass.

11 MS. BLINN: Okay. It had a vinyl top, and
12 you said that was white?

13 MR. KAGONYERA: Yeah, white top, yes, ma'am.

14 MS. BLINN: And it was yellow on the bottom?

15 MR. KAGONYERA: Yes, everything else was yellow.

16 MS. BLINN: Was it -- was it a one door -- I
17 mean, a two-door or four-door?

18 MR. KAGONYERA: Two-door.

19 MS. BLINN: How about the blue one; was that
20 a two-door?

21 MR. KAGONYERA: Four-door.

22 MS. BLINN: All right. Now, when you pled
23 guilty to this -- to the murder of Walter Bowman, you also
24 pled to a couple other charges; an assault with a deadly
25 weapon with intent to kill, inflicting serious injury -- that

1 was a shooting, a drug charge, a breaking and entering, the
2 one we just talked about, and a dog fighting or an animal
3 cruelty charge, right?

4 MR. KAGONYERA: [No audible response heard.]

5 MS. BLINN: And you have only claimed
6 innocence for us to the murder. Are you taking responsibility
7 for the other cases?

8 MR. KAGONYERA: Yes, ma'am.

9 MS. BLINN: Okay. Do you want to say
10 anything about those? I'm -- I'm not gonna -- I -- if you
11 want to talk about them you can. If you don't want to we can
12 move on.

13 MR. KAGONYERA: Yeah, we can move on.

14 MS. BLINN: Okay. All right. Did you shoot
15 Walter Bowman?

16 MR. KAGONYERA: No, ma'am.

17 MS. BLINN: Did you go into the Bowman home
18 on September 18th, 2000?

19 MR. KAGONYERA: No, ma'am.

20 MS. BLINN: Did you ever go into the Bowman
21 home?

22 MR. KAGONYERA: No, ma'am.

23 MS. BLINN: Did you go to the Bowman home
24 and stay outside of the Bowman home on September 18th, 2000?

25 MR. KAGONYERA: No, ma'am.

1 MS. BLINN: Did you ever go to the Bowman
2 home and stay outside on any day?

3 MR. KAGONYERA: No, ma'am.

4 MS. BLINN: Did you ever rob Shawn or Walter
5 Bowman?

6 MR. KAGONYERA: No, ma'am.

7 MS. BLINN: Did you ever plan to rob Shawn
8 or Walter Bowman?

9 MR. KAGONYERA: No, ma'am.

10 MS. BLINN: Did you ever talk about robbing
11 Shawn or Walter Bowman?

12 MR. KAGONYERA: No, ma'am.

13 MS. BLINN: Did you know Shawn Bowman to
14 have drug money?

15 MR. KAGONYERA: Yes, ma'am.

16 MS. BLINN: Okay. Did you ever know
17 specific times when he had it?

18 MR. KAGONYERA: No, ma'am.

19 MS. BLINN: Did you ever go -- we talked
20 about you went to Fairview, did you ever go to Fairview in the
21 fall of 2000?

22 MR. KAGONYERA: No, ma'am.

23 MS. BLINN: Did you have anything at all to
24 do with this case, the murder of Walter Bowman?

25 MR. KAGONYERA: No, ma'am.

1 MS. BLINN: Did you know about people
2 planning it?

3 MR. KAGONYERA: No, ma'am.

4 MS. BLINN: Do you know anything -- did you
5 know anything about people on the street talking about it?

6 MR. KAGONYERA: No, ma'am.

7 MS. BLINN: All right. So, why did you
8 plead guilty to this murder that you had absolutely nothing to
9 do with?

10 MR. KAGONYERA: Well, it was my -- really my
11 first time really spending that much time, and they kind of --
12 I kind of felt -- I kind of felt like my lawyers didn't have
13 my best interests because at every turn -- at every -- every -
14 - every -- every visit it was never like we're here to prepare
15 a defense a for you. It was like, well, we're coming and
16 someone -- so and so said this. Why would they say this? You
17 know, and they were constantly trying to find ways to coerce
18 me into taking a plea or -- or -- or force me into taking a
19 plea, you know. They would set up the visit like set up a
20 visit with me and one of my co-defendants, which was my
21 cousin, Damian Mills, and they -- they -- him and his lawyer
22 sat there and they -- they wanted to -- they wanted me to
23 adopt what they were saying and say well, you need to do this
24 and take a plea bargain or you're gonna get a life sentence.
25 I promise you we're gonna, you know, testify against you, you

1 know, and then his lawyer set there and he tried to advise me
2 on -- on, you know, what I needed to do. So, you know ----

3 MS. BLINN: Damian Mills' lawyer was telling
4 you ----

5 MR. KAGONYERA: Yeah, Bill McDowell, you know, I
6 kind of -- I did not, you know, I didn't ask to come down here
7 to speak with him. You know, I kind of -- kind of was --
8 didn't -- didn't like him, you know. And I told him, you
9 know, why would I, you know, plea bargain to something, you
10 know, at the time, why would I plea bargain for something --
11 with -- for something I didn't do, you know. And I just
12 didn't, you know, see any sense in it, you know. I kind of,
13 you know, still held hope. Then, you know, my lawyer, Mr.
14 Devereux, you know, they set up an appointment, and we talked
15 to Mr. Moore, you know. They sat over there and, you know,
16 well, we're gonna give you twenty-five years, we're gonna give
17 you thirty years, and, you know, they just ----

18 MS. BLINN: Who was saying that?

19 MR. KAGONYERA: Mr. -- Mr. Moore, you know.

20 MS. BLINN: The District Attorney?

21 MR. KAGONYERA: Yes, ma'am. And it was just
22 always a meeting throwing either large numbers or a life
23 sentence, you know, constantly, you know. And then, you know,
24 it just kind of, you know, got down to one day when Mr.
25 Devereux come to see me and he said I got a good mind to go

1 over and withdraw as your lawyer, and, you know, he was threat
2 -- threatening me with, you know, quitting. So, you know, I
3 kind of felt like, you know, like left alone. Like, well, you
4 know, he's gonna quit, you know, then I'm gonna have to go to
5 court, you know, and I just felt like alone, basically. You
6 know, like, you know, at every turn there was just something
7 new, you know, and it just always -- it -- it never even,
8 besides the first time when he came to see, we never even set
9 there to prepare any defense. It was just always, you know,
10 well this was said or this was said. You need to take this
11 plea bargain, you need to take this plea bargain, you know, it
12 just kind of wore down on me, and then, towards the end,
13 before I took the plea bargain, you know, they used my family
14 to come speak with me. And then, that kind of led to, you
15 know, me taking the plea bargain.

16 MS. BLINN: They used your family?

17 MR. KAGONYERA: Well, yeah, at first, you know,
18 my family always, you know, my family was always like, you
19 know, well, you know -- you know we're with you, we're behind
20 you. And then, it seemed like they used my, you know, talked
21 to my family and it was like, well, you know, and kind of
22 pulled my family away from me. So, now they're like, well,
23 are you sure you don't, you know, now -- now they're
24 questioning me, you know.

25 MS. BLINN: Who -- who is they? You said,

1 they used your family.

2 MR. KAGONYERA: Oh, my grandmother, and my aunt,
3 and my mother.

4 MS. BLINN: Uh-huh.

5 MR. KAGONYERA: So, now they're all questioning
6 me like, "Are you sure you don't know what happened?" or "Are
7 you sure you want," you know ----

8 MS. BLINN: But, who, when you say, who was
9 it that was getting your family to talk to you ----

10 MR. KAGONYERA: Oh, Mr. ----

11 MS. BLINN: ---- your attorneys, or the ----

12 MR. KAGONYERA: My attorney and Mr. -- Mr. Ron
13 Moore, 'cause they -- she -- she had a meeting with the
14 District Attorney, so.

15 MS. BLINN: Who did?

16 MR. KAGONYERA: I found that peculiar -- my
17 aunt.

18 MS. BLINN: Your aunt had a meeting ----

19 MR. KAGONYERA: Yeah.

20 MS. BLINN: ---- with the District Attorney?

21 MR. KAGONYERA: And -- and my -- my lawyer.

22 MS. BLINN: And your lawyer?

23 MR. KAGONYERA: Yeah, so I found that, you know,
24 -- and then, I had a special visit, so she came on the special
25 visit that day to see me. She came from DC, came all the way

1 down here to and then, you know, they called me down for a
2 special visit, and she talked to me and was like, you know,
3 you don't need to go in there, you know, they gonna give you a
4 life sentence, you know. It just -- at every turn, you know,
5 it was just always, you know, that was the issue, you know,
6 just -- just ----

7 MS. BLINN: Did you know your aunt was going
8 to meet with Mr. Moore and your attorneys?

9 MR. KAGONYERA: [No audible response heard.]

10 MS. BLINN: Was that something they talked
11 to you about ahead of time?

12 MR. KAGONYERA: She was supposed to come to see
13 me, and then there was, you know, she went and talked to my
14 lawyer, yeah. So, it wasn't like I authorized him to go talk
15 to them, so.

16 MS. BLINN: And, so, after she met with them
17 she came and talked to you ----

18 MR. KAGONYERA: She came and talked to me.

19 MS. BLINN: ---- and pressured you?

20 MR. KAGONYERA: Yes, ma'am.

21 MS. BLINN: What about -- you -- you
22 mentioned, I think, you said your grandmother and your mother
23 as well for ----

24 MR. KAGONYERA: Yes, ma'am.

25 MS. BLINN: ---- your family. What -- what

1 -- what do you mean? Were they doing the same thing, or?

2 MR. KAGONYERA: Yes, ma'am. You know, they
3 spoke to my lawyer, and it was always -- he was always giving
4 them, you know, the negative aspects, you know, of -- well,
5 this is -- this possibility, you know, this is -- this is
6 what's going to happen to him. He's gonna spend the rest of
7 his life in prison, you know, and you know, they don't know --
8 know the law, you know, they don't -- they don't know, you
9 know. So, they -- they just -- they believe what he told 'em.

10 MS. BLINN: Okay. Did they talk to you
11 about the death penalty?

12 MR. KAGONYERA: Yes, ma'am.

13 MS. BLINN: Who talked to you about that?

14 MR. KAGONYERA: Well, Mr. Devereux and Al
15 Messer. It was always -- that was always, you know, there
16 too, you know.

17 MS. BLINN: What did you think about that?

18 MR. KAGONYERA: Well, it was, you know, it was,
19 you know, it was always a, you know, big thing. You know, it
20 was always that in the back of my mind, you know. Well, you
21 know, it came -- it came, you know, it can -- I can receive
22 the death penalty. That's -- that's one of the two options,
23 you know. It was always there.

24 MS. BLINN: Did you think that you could
25 receive that, 'cause you were saying earlier life -- they were

1 talking to you about life and you could spend the rest of your
2 life in prison? Was that your worst-case scenario; that you
3 were going to spend the rest of your life in prison if you
4 didn't take this plea?

5 MR. KAGONYERA: Well, I -- at one point that was
6 always what they would -- would always use the life sentence,
7 you know. And then, I remember after -- the September 11th
8 attacks happened and everything, they were like, well, you
9 know, they gonna try to label ya'll as terrorists. You might
10 get the death penalty. I'm like ----

11 MS. BLINN: Who was saying that?

12 MR. KAGONYERA: Mr. Deveraux. So, then, you
13 know, that came into play, you know, we're gonna use, you
14 know, so, I was like, well, you know, at the -- at -- towards
15 the end before he withdrew I kind of was like, well, you know,
16 this -- this is gonna have to go trial. You know, I want to
17 go to trial, you know, I was always telling them that, but
18 then he withdrew, you know, stating conflicts of interests of
19 some sort.

20 MS. BLINN: What did you think would happen
21 if you went to trial?

22 MR. KAGONYERA: At first, I -- I just -- they
23 would always tell me hearsay, you know, you could be convicted
24 on hearsay, you know. You have guys coming in here with you
25 that are your friends or -- and your family and they're saying

1 this and this about you. You can be convicted and even used
2 other case history. Okay, I've represented this gentleman or
3 this gentleman and they were convicted on hearsay. So, it
4 always, you know, by him not building any defense for me I
5 always felt like -- like well, you know, okay, all I have is
6 hearsay against me, and I, you know, I don't have anything in
7 my corner, so, you know. It was always, you know, I felt, you
8 know, the emptiness of him not, you know, we're not preparing
9 anything, you know, so, I always felt on the worse end, you
10 know.

11 MS. BLINN: Did you feel like there was a
12 realistic possibility that you would be convicted if you went
13 to trial?

14 MR. KAGONYERA: Yes, ma'am. Yeah, I felt like I
15 could be convicted.

16 MS. BLINN: Do you think, like you said, you
17 didn't feel like there was much for you, I think you just
18 said, what did you ever -- maybe you didn't get this far in
19 thinking -- think about what you present if you'd gone to
20 trial?

21 MR. KAGONYERA: I kinda always, you know, by me
22 never even experiencing a trial or being really been locked up
23 like that, I always felt like, well, you know, you're a pretty
24 decent, you know, I felt -- I looked at him as a good lawyer,
25 you know. I've heard decent, you know, good things about him,

1 you know. So, I felt like well, you know, being that their
2 lying, you know, you can go in there and cross-examine these
3 guys and you could pick apart what's being said, you know.
4 And, I -- I felt like, you know, I had a halfway chance, you
5 know, but -- but he said they would -- they would have their
6 stories airtight before it came to that point and -- and it
7 would be -- it would be hard, you know?

8 MS. BLINN: Well, did you ever tell your
9 attorneys that you were innocent?

10 MR. KAGONYERA: Yes, ma'am.

11 MS. BLINN: Did you tell them, you know, I
12 don't want to plead to this?

13 MR. KAGONYERA: Yes, ma'am.

14 MS. BLINN: Did you -- I mean, did you stake
15 your ground on that, or was it something that you kind of said
16 in passing with them and moved on toward plea negotiations?

17 MR. KAGONYERA: No, I kind of stood -- I stood
18 firm for like the whole -- like the whole first year I was in
19 -- in the county jail, then I believe it was like towards the
20 end of 2001 after -- and then, that's when I entered a -- pre-
21 sentencing -- I went to a pre-sentencing hearing. Then I
22 entered like a guilty plea.

23 MS. BLINN: Did you tell them, I mean, even
24 up to the time when you were pleading guilty, were you telling
25 them I'm innocent?

1 MR. KAGONYERA: Yes, ma'am. I just told them,
2 you know, I asked them -- I was like well, I went over there
3 had another -- another meeting with Mr. Ron Moore, and I -- I
4 told him -- I was like, "Well, how can you even pursue if I'm
5 sitting here telling you I'm innocent and you pursue this and
6 you've seen what's before you. You bringing me these
7 statements and this gentleman's saying one thing and he's
8 saying one thing and he's saying another thing and they're
9 inconsistent. I said, "How can you even pursue this and --
10 and -- and try someone if they're innocent?"

11 MS. BLINN: Did you say that to Ron Moore or
12 ----

13 MR. KAGONYERA: Yeah.

14 MS. BLINN: ---- to your attorney?

15 MR. KAGONYERA: I said -- I told -- both. They
16 were all in there.

17 MS. BLINN: To everybody

18 MR. KAGONYERA: It was -- it was a meeting.
19 Yeah. So, they kind of sit there, you know, they made it a
20 point, you know, just, you know, everybody was sitting there
21 and then well, we want you, you know, they -- they still
22 insisted. Well, we want you to, you know -- you have to say -
23 say what happened, you know. And they -- they wanted pretty
24 much everything to go with what was already being said, you
25 know, as far as what happened. Just, well, tell us what

1 happened, you know. That's ----

2 MS. BLINN: Do you think they listened to
3 you when you said you were innocent?

4 MR. KAGONYERA [No audible response heard.]

5 MS. BLINN: Do you think they believed you?

6 MR. KAGONYERA: I believe at one point another
7 they kind of believed it. I really did, because the called me
8 over one day and they asked me about Mr. Brewton. It's like -
9 - and I told them. They was like, "Well, do you think Mr.
10 Brewton was there?" I was like, "Well, I mean, why are you
11 asking me?" You know? Well, was he there or was -- you know,
12 what happened? And then, that's when they had eventually let
13 him go, you know. But, if someone is saying that we're all
14 guilty and he's guilty too, you know, why are you letting him
15 go? But they called me over again and questioned and asked
16 me, "Well, wasn't ----

17 MS. BLINN: Was that after you pled, you
18 mean?

19 MR. KAGONYERA: Yeah, this - this was like after
20 ----

21 MS. BLINN: After you pled?

22 MR. KAGONYERA: ---- they had done pled. They
23 was like, well, was he actually there? You know, so I'm like,
24 you know, why are you asking me, you know?

25 MS. BLINN: So, you told them I -- I don't

1 know because I wasn't there?

2 MR. KAGONYERA: Yeah, I told 'em. I was like --
3 --

4 MS. BLINN: And who's they? Who was asking
5 you?

6 MR. KAGONYERA: Oh, Ron Moore and my - my
7 attorney's. The called me back over there again.

8 MS. BLINN: Okay.

9 MR. KAGONYERA: That was like just before they
10 had let -- just before they let him out.

11 MS. BLINN: Why do you think they let him
12 out?

13 MR. KAGONYERA: I guess because he never
14 actually -- he never actually plead and he probably didn't
15 want to try him, I guess. Just -- rather just say, well, I
16 got five out of six. So, I guess he just said I don't know.

17 MS. BLINN: What would you do now if you
18 were doing it over again?

19 MR. KAGONYERA: Well, probably -- I -- I know I
20 would go to trial now, because, you know, I know more about
21 the law, and I know a little more about, you know, your -- my
22 rights, so, you know. It would be -- I would do things a lot
23 different, you know.

24 MS. BLINN: So, before you entered the plea,
25 you had a couple of different interviews, and the last one was

1 on November 30th a couple days before you entered the plea,
2 but before you were sentenced and it was at the district
3 attorney's office and your attorneys were there as well and I
4 know you've seen this before, but I'm going to hand you this
5 statement and will you -- you don't have to read it out loud,
6 just take a look at it and get familiar with it again and let
7 me know when you're ready to talk about it.

8 **[Pause]**

9 MR. KAGONYERA: Uh-huh. Yes.

10 MS. BLINN: Is that -- I mean, that's a
11 summary. That's not your ----

12 MR. KAGONYERA: Yes, ma'am.

13 MS. BLINN: ---- verbatim statement, and
14 it's not your handwriting. It's somebody else who was there
15 wrote that summary, but is that pretty much what you told --
16 your attorney's and Mr. Moore and the district attorney's
17 investigator on that day?

18 MR. KAGONYERA: Yes, ma'am. I just pretty much
19 told 'em, I guess, kind of what they wanted, you know.

20 MS. BLINN: And you know that, that matches
21 what the victim said happened on that day?

22 MR. KAGONYERA: Yes, ma'am.

23 MS. BLINN: And where did you get that
24 information from?

25 MR. KAGONYERA: I had -- took me awhile. They

1 didn't really want to give me my Discovery from sometime, but
2 I had had my Discovery for sometime before then. So, I kind
3 of know what was -- I knew pretty much what was being said
4 and, you know.

5 MS. BLINN: So, you pieced together what you
6 think happened?

7 MR. KAGONYERA: What I thought they wanted to
8 hear, you know, 'cause they was saying that, "Well, if you
9 don't write a statement, then we're not going to accept your
10 plea bargain." So, at the time, I was like, well, you know,
11 I've plead guilty, so, you know, I -- they pretty much said,
12 well, you know, you have to, you know that you have to do it,
13 you know.

14 MS. BLINN: Well, why didn't you tell 'em
15 some different things or some wrong things and see what they
16 would catch?

17 MR. KAGONYERA: And then, I felt like, you know,
18 and then they wouldn't accept it. They would be like, well,
19 no, we're not going to accept this, you know.

20 MS. BLINN: So, what were you thinking when
21 you were in there doing this statement and they were listening
22 and writing it down and ----

23 MR. KAGONYERA: I was thinking -- kind of trying
24 to, you know, well, it has to be somewhat sort of what was
25 already said, you know, that kind of, you know, make it, you

1 know, what they want to hear, you know, and that's basically
2 what I was thinking. Like, well, what, you know, what was
3 already said or what I had read or who said what, you know.
4 Try to make it sound kinda sort of close to what was what I
5 had -- scenario they had.

6 MS. BLINN: Well, did you ever talk to your
7 attorney's about accepting a plea, but not admitting guilt,
8 something that's called an Alford plea? Did you ever talk
9 about that?

10 MR. KAGONYERA: They said that wasn't -- wasn't
11 an option.

12 MS. BLINN: Okay. What do you think would
13 have happened if you refused to give that statement?

14 MR. KAGONYERA: Probably wouldn't have -- they
15 probably wouldn't -- wouldn't accept, you know, I probably
16 would have never -- they probably would never give me
17 opportunity to plea again.

18 MS. BLINN: You would have gone to trial?

19 MR. KAGONYERA: Probably would have, yes, ma'am.

20 MS. BLINN: Do you think it would have been
21 a capital trial

22 MR. KAGONYERA: Yes, ma'am. I'm still first-
23 degree murder.

24 MS. BLINN: And you -- do you think you
25 could've won that trial? Or at the time did you think you

1 could've won that trial?

2 MR. KAGONYERA: At the time I felt like I had a
3 chance. Yes, ma'am. I didn't, now at the time I didn't think
4 it was 100 -- you know, oh, I'm going to go to trial and win.
5 You know, I felt like I had somewhat of a chance, but, you
6 know, I didn't know, because I've never been in that situation
7 before.

8 MS. BLINN: All right. You said that your
9 family came in and was pressuring you to take the plea. What
10 about -- what about Latisha Lee, your girlfriend that you
11 talked about earlier? Did she talk to you about whether you
12 should go to plea or trial or any of that?

13 MR. KAGONYERA: She didn't really -- no, she
14 never really tried to pressure me. Like, I would tell her,
15 like, what was going on, like, well, they're gonna try to give
16 me this much time, or that much time and then, you know, that
17 pretty much was it. Like, well, wow, that's a lot of time,
18 you know.

19 MS. BLINN: Were - were you and she still
20 together?

21 MR. KAGONYERA: I -- I believe we might've been
22 -- I got locked up and might've stayed in -- in contact
23 probably a year and a half -- a year and then it was ----

24 MS. BLINN: What -- what happened?

25 MR. KAGONYERA: ---- quits. I believe basic --

1 towards the end -- it was -- we had a -- argument over my --
2 our -- our child, my daughter. She had -- fell and scraped
3 her face and, you know, it was kind of a -- well, she was on
4 the sliding board, and then, I kind of found out she fell out
5 the door, and they were outside drinking or something. She
6 was in there unattended and it was kind of -- we had an
7 argument, and it got blown all out of proportion. She was
8 like, well, you never gonna see her again. You're not her
9 father, and then, that was the last time we spoke, you know.

10 MS. BLINN: So, it did not end well?

11 MR. KAGONYERA: It didn't end well. No -- no,
12 ma'am.

13 MS. BLINN: Okay. What about Freddy
14 Wadsworth? He's Latisha Lee's father, right?

15 MR. KAGONYERA: Yes, ma'am.

16 MS. BLINN: And was he somebody that, around
17 the time of September of 2000, you considered a friend?

18 MR. KAGONYERA: I considered him a friend until
19 he -- he -- they set -- Mr. Moore and Mr. Devereux set up a
20 meeting and they brought him to the meeting, and he proceeded
21 to tell me that he felt that it was in my best interest to
22 take a plea bargain. So, I'm like, why are you here?

23 MS. BLINN: So, you had a meeting and in the
24 room, or in the meeting, were the district attorney, Mr. Moore

25 ----

1 MR. KAGONYERA: Yes, ma'am.

2 MS. BLINN: ---- your -- one of your
3 attorneys, Mr. Devereux ----

4 MR. KAGONYERA: Yes, ma'am.

5 MS. BLINN: ---- and Freddy Wadsworth was
6 there. Do you know why he was there?

7 MR. KAGONYERA: Mr. Moore, at the time, said --
8 'cause I -- I -- I arrived before -- right just before he did,
9 Mr. Wadsworth arrived. He said, "You know why you're here?"
10 I said, "No, I don't -- I don't know why I'm here." They say,
11 "Well, there's been a meeting requested by Mr. Walls --
12 Wadsworth. He saw me in court, and then, he said that he
13 wanted to have a meeting, me you and him and your attorney.
14 He felt like he could get you to plea bargain." So, I'm like,
15 you know, when I was on the streets he always was the type of
16 person, you know, he was an older gentleman ---

17 MS. BLINN: Uh-huh.

18 MR. KAGONYERA: ---- he was always the type of
19 person that kind of, somewhat. give you advice on certain
20 things. You know, and then, when he came in and did that,
21 I've never saw that side of him, you know. So, when he came -
22 ---

23 MS. BLINN: Was he kind of a father figure
24 to you, your girlfriend's father?

25 MR. KAGONYERA: No, he wasn't really a father

1 figure.

2 MS. BLINN: Just someone who gave advice,
3 but not fatherly.

4 MR. KAGONYERA: He -- he -- he -- he kind of
5 felt like he had a little -- little -- common -- you know, he
6 kind of felt like he was smarter than others, you know.

7 MS. BLINN: Okay. Mr. Wadsworth?

8 MR. KAGONYERA: Mr. Wadsworth. So, he kind of
9 felt like he was knowledgeable on a lot of subjects. So, you
10 know -- you know at certain times, you know, he -- I've --
11 I've seen him, you know, guide his kids along, you know, so I
12 kind of felt like, you know ----

13 MS. BLINN: Did you think that he was
14 somebody that look -- would look out for you, look out for
15 your best interest?

16 MR. KAGONYERA: He made it like that to her when
17 I called home, but after when -- when I got there to the
18 meeting, I was like, you know, what's going on, you know.

19 MS. BLINN: So, what happened at ----

20 MR. KAGONYERA: I saw he ----

21 MS. BLINN: ---- the meeting?

22 MR. KAGONYERA: Well, when we arrived, he said,
23 "We're gonna give ya'll two time to talk", me and Mr.
24 Wadsworth. So, they sent us ----

25 MS. BLINN: Who said that?

1 MR. KAGONYERA: Mr. Ron Moore.

2 MS. BLINN: Okay.

3 MR. KAGONYERA: So, they sent us to another room

4 -- we went to the other room.

5 MS. BLINN: Just you and Mr. Wadsworth?

6 MR. KAGONYERA: Me -- me and Mr. Wadsworth.

7 MS. BLINN: What about your attorney? Did

8 he go with you?

9 MR. KAGONYERA: No, he didn't come.

10 MS. BLINN: Okay; and, Mr. Moore didn't come

11 either?

12 MR. KAGONYERA: No, ma'am.

13 MS. BLINN: So, it was just you and Mr.

14 Wadsworth?

15 MR. KAGONYERA: Just me and Mr. Wadsworth.

16 MS. BLINN: Okay.

17 MR. KAGONYERA: So, and then, he began to say,

18 "Well, won't you just -- I spoke to Ron Moore, and he said if

19 you just go ahead and, you know, basically get with the

20 program and confess, and we're gonna get you five years and

21 just implicate everyone else and just go ahead and come home,

22 you know." So, I was like, you know, I had -- I hadn't -- I

23 hadn't been locked up, but maybe a -- I think a month at the

24 time; not even a month.

25 MS. BLINN: Uh-huh.

1 MR. KAGONYERA: Well -- well, it took them like
2 -- well, I had been charged for like a month, you know, so, I
3 had been locked up like 90 days or so, you know. So, I was
4 like, what are you talking about, you know? So, at the -- at
5 the time I was like, well, you know, you don't have my --
6 you're not my friend, you know. So, and then, it ended.

7 MS. BLINN: Okay.

8 MR. KAGONYERA: You know, then they called me
9 back into the room, and they was like well, what are you going
10 to do? I'm -- I'm willing to give you 25 years right now if
11 you tell us what we want to hear. So, I was like no, and then
12 -- then the -- the meeting ended, and then, I went back.

13 MS. BLINN: Okay; and, so, that was -- you
14 said when you talked with Mr. Wadsworth, that was about a
15 month after you'd been charged; about three months after you'd
16 been locked up, because you'd been locked up on other charges
17 first, right?

18 MR. KAGONYERA: Yes, ma'am.

19 MS. BLINN: Okay; and, was that the last
20 time you talked with Mr. Wadsworth?

21 MR. KAGONYERA: Yes, ma'am.

22 MS. BLINN: So, would you consider him a
23 friend, now?

24 MR. KAGONYERA: No, ma'am.

25 MS. BLINN: Just going back to this

1 statement really quickly. Is there anything in there that is
2 true?

3 MR. KAGONYERA: No, ma'am.

4 MS. BLINN: Not a word of it, other than
5 that you're Kenneth Kagonyera.

6 MR. KAGONYERA: That's it, my name.

7 MS. BLINN: These other guys that you
8 mentioned and you talk about what they did, do you know what
9 they did that night?

10 MR. KAGONYERA: No, ma'am.

11 MS. BLINN: Were they with you that night?

12 MR. KAGONYERA: No, ma'am.

13 MS. BLINN: So, they could've done it, but
14 you don't know?

15 MR. KAGONYERA: To say that I know that they
16 did? I -- I can't say that I know they did it and I can't say
17 -- I can't say that I don't know they did it, but I -- the
18 thing -- I don't think they did it, you know, but to say that
19 [indecipherable] I saw them that night, I know they didn't do
20 it, I can't say that. But, I don't think they did it, you
21 know.

22 MS. BLINN: They weren't with you that
23 night?

24 MR. KAGONYERA: No, ma'am.

25 MS. BLINN: Now, you were doing drugs in

1 September, 2000.

2 MR. KAGONYERA: Yes, ma'am.

3 MS. BLINN: What kind of drugs were you
4 doing?

5 MR. KAGONYERA: Marijuana.

6 MS. BLINN: Okay. What about drinking?

7 MR. KAGONYERA: I was kind of slowing down on
8 the drinking, 'cause it kind of -- I didn't -- I didn't feel,
9 you know -- I was drinking too much.

10 MS. BLINN: Okay.

11 MR. KAGONYERA: And, you know, I didn't like the
12 feel ----

13 MS. BLINN: So, a little of everything ----

14 MR. KAGONYERA: ---- I didn't like the feel -- I
15 didn't like the feeling.

16 MS. BLINN: A little bit of drinking, a lot
17 of marijuana?

18 MR. KAGONYERA: [No audible response heard.]

19 MS. BLINN: Any other drugs?

20 MR. KAGONYERA: That's it.

21 MS. BLINN: What about your memory? I mean,
22 could you have blacked out? Could you have done this when you
23 were high and not remember it now?

24 MR. KAGONYERA: No, ma'am.

25 MS. BLINN: Why not?

1 MR. KAGONYERA: Well, I kind of used marijuana -
2 - I used -- I did use marijuana everyday, but I've never
3 experienced where marijuana made you do something and -- where
4 you didn't remember, you know, or you blacked out or something
5 like that. I've never experienced that with marijuana or
6 anything. I've never heard of it.

7 MS. BLINN: You've never had blackouts,
8 holes in your memory, thinks like that?

9 MR. KAGONYERA: No, ma'am.

10 MS. BLINN: All right; and, you know what
11 you were doing that night? You -- you're not saying, "I don't
12 know what I was doing that night, but I wasn't robbing them."
13 You're saying -- what were you doing that night?

14 MR. KAGONYERA: I was at home in the -- in my
15 neighborhood -- in that vicinity.

16 MS. BLINN: Are there any holes in your
17 memory from that night?

18 MR. KAGONYERA: I can't -- I can't remember
19 every, like every minute detail of what I've done, because
20 being that so much time has passed and, you know, all these
21 years have passed, but I know I would remember, you know, if
22 you know, something like that would happen.

23 MS. BLINN: Uh-huh.

24 MR. KAGONYERA: You know, would -- would have
25 happened.

1 MS. BLINN: There's no blank spots or
2 blackouts in your memory from that time?

3 MR. KAGONYERA: No -- no, ma'am. That's
4 something right there that would just -- you would never
5 forget it. Yeah.

6 MS. BLINN: Okay. So, in this statement
7 here, you implicate the other people, your codefendants. You
8 say that they did it, too. You point the finger at yourself
9 and you point it at them. They did the same thing. Why do
10 you think that they told cops and some of them way earlier on
11 than you did ----

12 MR. KAGONYERA: Yes, ma'am.

13 MS. BLINN: ---- that they did it and that
14 you did it?

15 MR. KAGONYERA: I felt like it was, basically,
16 just pressure, you know. They -- the pressure was applied and
17 it was save yourself, you know, and they would -- felt like --
18 excuse me -- they felt like they were gonna actually, I guess,
19 go home. Well, I'm gonna say this and they're gonna let me go
20 not knowing what they were getting themselves into, and then,
21 after the charges were brought about then it was just, you
22 know ----

23 MS. BLINN: And just to clarify, this is
24 what you presume; you're -- you're speculating.

25 MR. KAGONYERA: Exactly.

1 MS. BLINN: This is why you think, I mean,
2 you don't know for sure.

3 MR. KAGONYERA: Exactly. Exactly.

4 MS. BLINN: Okay; and, when you say
5 pressure, what kind of pressure do you think was brought on
6 them and what was brought on you?

7 All right. We're gonna just take a break to switch
8 the tape. We're going to leave the audio recording on just to
9 make sure we don't run out of videotape. So, if everybody
10 could just sit tight for a second. It is -- I'll just say the
11 time. It's 11:36 -- I mean, sorry, 1:36 p.m.

12 MR. LAU: That's not accurate.

13 MS. BLINN: Oh, well, that is not accurate
14 at all, is it.

15 MS. PRETTY: It's -- 2 -- it's 2:30 p.m.

16 MS. BLINN: It's 2:30 p.m. Let's try that
17 again. 2:30 p.m. Okay, if you can stop and switch it.

18 **[Begin second portion of recording.]**

19 MS. BLINN: Okay? All right. We were just
20 talking about pressure, and you had said that you felt that
21 your codefendant's implicated you because they were pressured,
22 and I was asking you just to explain what you meant by
23 pressure.

24 MR. KAGONYERA: I felt like they were either
25 given -- given, you know, the ultimatum of, you know, "You

1 either tell us what happened, or we give you the life
2 sentence" you know. And, basically, everyone's not knowing
3 how the system works or, you know, just being scared, you know
4 -- initially started, I guess they -- what they call the
5 domino effect, you know, and then people just started, you
6 know, writing these statements and plea bargaining.

7 MS. BLINN: What were those interviews like?
8 I mean, you've just described one where you were with your
9 attorneys and the District Attorney, but you got interviewed a
10 number of times, you know, even before you were charged and
11 before you had attorneys, by the Sheriff's ----

12 MR. KAGONYERA: Uh-huh.

13 MS. BLINN: ---- Department. What were
14 those -- what were those interviews like?

15 MR. KAGONYERA: They would come in, and I
16 remember one where they came in, they had a recorder, and they
17 say -- and -- and immediately stopped because I asked, you
18 know, for my -- you know, for an attorney, and then, you know
19 they left and everything. But the meetings were -- they would
20 tell you, you know, what was said and they saying, "You're the
21 one that pulled the trigger, and we're gonna give you the --
22 you know, a life sentence." You know, they basically just
23 outlined what was already said, you know, from someone else,
24 and then, try to scare you or, you know, about something in
25 someone else's statement implicating you.

1 MS. BLINN: And just to go back, real
2 quickly, you had talked about that your -- your aunt came to
3 talk to you, and she had met with the District Attorney and
4 your attorneys, and then, you said your mother and your
5 grandmother, also, talked to you. Had they met -- I just
6 wasn't clear, had they met with the District Attorney as well
7 or just your attorney?

8 MR. KAGONYERA: No -- no, ma'am.

9 MS. BLINN: Just your attorney?

10 MR. KAGONYERA: Yes, ma'am.

11 MS. BLINN: Okay. You tried to withdraw you
12 plea shortly after you entered it; is that correct?

13 MR. KAGONYERA: Yes, ma'am.

14 MS. BLINN: Why?

15 MR. KAGONYERA: I just -- I've never really --
16 like -- like -- like I said, even when I took the plea and
17 everything transpired -- I just kind of told, you know, them
18 this isn't really what I want to do, you know, this isn't --
19 this isn't right, this is a lie, you know, I told them. And
20 they was like, "Well, if you go in here they're gonna do this
21 to you, it's gonna be worse." You know, and they would always
22 advise me -- advise me even -- and, you know, I wanted --
23 before I actually was sentenced, I wanted him to file like a
24 written -- written motion of some sort to withdraw my guilty
25 plea, and I wanted to get him, you know, him to give some kind

1 of grounds, you know.

2 MS. BLINN: This was your attorney?

3 MR. KAGONYERA: This was me asking.

4 MS. BLINN: When you say, him, you're
5 talking about your attorney?

6 MR. KAGONYERA: Yes, ma'am, and I wanted him to
7 give some types of ground, you know, of the reason why, you
8 know, I wanted to withdraw my plea.

9 MS. BLINN: What do you think those grounds
10 would have been?

11 MR. KAGONYERA: At the time, I was like,
12 basically I wanted to go to trial, you know, like -- like --
13 like he -- like it -- like it was said at my sentencing, you
14 know, it wasn't an informed choice. You know, it wasn't
15 voluntarily, knowingly, and willing, you know. Just basically
16 let -- letting the -- letting the Judge know, you know, this -
17 - this wasn't what I wanted to do at the time, you know.

18 MS. BLINN: Did you get more time than you
19 thought you were gonna get?

20 MR. KAGONYERA: Yes, ma'am. You know, there was
21 never anything in writing, but they told me being that I was
22 never actually convicted of anything that I could receive -- I
23 think they called -- they met with me one day and showed me a
24 book saying seven years, 10 months, or something like that to
25 nine and a half years, or something like level -- level one or

1 something or another.

2 MS. BLINN: How much time did you get?

3 MR. KAGONYERA: 144 to 188.

4 MS. BLINN: And that was more than you
5 thought you were gonna get?

6 MR. KAGONYERA: Yes, ma'am.

7 MS. BLINN: And you -- then, you were trying
8 to withdraw your plea -- although you were trying to withdraw
9 your plea before you got your sentence?

10 MR. KAGONYERA: Prior to that, yes, ma'am.

11 MS. BLINN: And you continued to try to
12 withdraw your plea?

13 MR. KAGONYERA: Yes, ma'am.

14 MS. BLINN: When -- when your attorneys
15 first got the case, you submitted to a polygraph, right?

16 MR. KAGONYERA: [No audible response heard.]

17 MS. BLINN: And that -- that was deceptive?

18 MR. KAGONYERA: Yeah, that's what they said.

19 MS. BLINN: Your -- you tested deceptive?

20 MR. KAGONYERA: That's what they said.

21 MS. BLINN: Do you know why -- why do you
22 think you tested deceptive? Were you telling the truth or
23 where you lying?

24 MR. KAGONYERA: I was telling the truth. I was
25 asked -- I think -- I can't remember the common point -- or

1 something that just get -- gets the gage of everything and
2 then, you know, they would go from there, but he said that it
3 -- it registered some type of deception or something another,
4 you know.

5 MS. BLINN: Do you know what question --
6 what were the questions that you were asked that you were
7 deceptive to?

8 MR. KAGONYERA: Basically, did I commit the
9 crime, or was I there, did I know anything about it? Like the
10 first ones they ask you where -- your name and everything like
11 that -- that's basically the main questions surrounding, you
12 know, was I there?

13 MS. BLINN: And who told you that your
14 answers were deceptive?

15 MR. KAGONYERA: My lawyer.

16 MS. BLINN: Your lawyer did? Did they tell
17 you right then, at the polygraph, or later on?

18 MR. KAGONYERA: Later on 'cause I -- I -- I had
19 to pay for it. And I paid for another one, and then -- same
20 gentleman.

21 MS. BLINN: You had two polygraphs?

22 MR. KAGONYERA: Yes, ma'am.

23 MS. BLINN: With the same examiner?

24 MR. KAGONYERA: Yes, ma'am, and then, I can't --

25 --

1 MS. BLINN: And your attorney's the one
2 that, afterwards, would tell you it was deceptive?

3 MR. KAGONYERA: Yeah.

4 MS. BLINN: Were -- were they both
5 deceptive?

6 MR. KAGONYERA: From what he -- from what I was
7 told. I never seen anything in writing or nothing.

8 MS. BLINN: Did you ever see a report?

9 MR. KAGONYERA: No, ma'am.

10 MS. BLINN: Why do you think you scored
11 deceptive if you're telling the truth?

12 MR. KAGONYERA: If -- if that was really the
13 truth and I actually scored deceptive -- I feel -- I chalk it
14 up, like, well, my nerves, you know, I kind of felt like well
15 maybe I was real nervous or something or another. You know,
16 'cause that was my first polygraph, you know, and the whole
17 ordeal was kind of, you know, tremendous to me. You know,
18 I've never been in any -- any trouble like that, you know, to
19 that magnitude. And it was kind of, you know, I was real
20 nervous that day, you know, going down there 'cause ----

21 MS. BLINN: Where did you have it at;
22 where'd you go?

23 MR. KAGONYERA: Downstairs on -- on a medical
24 floor in the County jail.

25 MS. BLINN: You were in the jail?

1 MR. KAGONYERA: Yes, ma'am.

2 MS. BLINN: Both times -- for both
3 polygraphs?

4 MR. KAGONYERA: Yes, ma'am.

5 MS. BLINN: Did you own a gun; you said you
6 have owned guns?

7 MR. KAGONYERA: Yes, ma'am.

8 MS. BLINN: How about in September of 2000?

9 MR. KAGONYERA: September, 2000, yes, ma'am.

10 MS. BLINN: What kind of gun did you have?

11 MR. KAGONYERA: I owned a Smith and Wesson,
12 like, 40 cal.

13 MS. BLINN: Is that it?

14 MR. KAGONYERA: Yes, ma'am.

15 MS. BLINN: What other guns did you have
16 access to?

17 MR. KAGONYERA: That I had access to?

18 MS. BLINN: Uh-huh.

19 MR. KAGONYERA: I mean, if -- other than knowing
20 someone with a gun, you know, I didn't have any other access.

21 MS. BLINN: Did you store a gun at Freddy
22 Wadsworth's daughter ----

23 MR. LAU: Anita Finly's.

24 MS. BLINN: ---- Anita Finly's house?

25 MR. KAGONYERA: No.

1 MS. BLINN: You didn't have any guns stored
2 there? Did you know Anita Finly and ----

3 MR. KAGONYERA: Yes, I knew her ----

4 MS. BLINN: ---- and her boyfriend, Matt?

5 MR. KAGONYERA: ---- I knew her and her
6 boyfriend.

7 MS. BLINN: Did they ever hold a gun for
8 you?

9 MR. KAGONYERA: No, ma'am.

10 MS. BLINN: Never?

11 MR. KAGONYERA: Never.

12 MS. BLINN: Did you have any shotguns?

13 MR. KAGONYERA: No, ma'am.

14 MS. BLINN: Why do you think Mr. Wadsworth
15 would have told law enforcement that Anita Finly and her
16 boyfriend, Matt, kept a shotgun for you?

17 MR. KAGONYERA: From -- you know, at the time he
18 was basically trying to -- I believe he had some other
19 charges. He was trying to concoct something to get himself
20 out of his charge, you know. So, he felt like if -- "Well, if
21 I can concoct this story of this of this murder than I can get
22 out of this" I believe -- I can't remember exactly if he had a
23 drug charge, but then from that statement they ended up giving
24 him a gun charge or something or another; of -- of what I've
25 heard. I don't -- I don't know -- I don't know exactly. But

1 I -- I always felt like he was just trying to save himself. I
2 mean, I'm pretty sure if he'd seen me over the years --
3 knowing me with guns or something or around and about with a
4 gun, but, I guess, he just put -- you know, well, I'm just
5 putting a story together, you know.

6 MS. BLINN: So, it is just flat out a lie?

7 MR. KAGONYERA: Yeah.

8 MS. BLINN: You did not have a shotgun that
9 you stored ----

10 MR. KAGONYERA: No.

11 MS. BLINN: ---- at Anita Finly's home?

12 MR. KAGONYERA: No, no.

13 MS. BLINN: Why do you think that Teddy
14 Isbell would have said the same thing?

15 MR. KAGONYERA: Teddy Isbell -- that's -- I
16 thought that's who you said the first time, you said Mr.
17 Isbell?

18 MS. BLINN: Did Mr. Isbell say that ----

19 MR. KAGONYERA: Oh, yeah, Mr. Isbell ----

20 MS. BLINN: ---- he had to go get a shotgun
21 for you ----

22 MR. KAGONYERA: Yeah -- yeah that's -- he's the
23 one that said it and went and got it and brought me a shotgun.

24 MS. BLINN: Oh, I'm sorry, I was talking
25 about -- I was talking about Freddy Wadsworth. So, you're

1 talking about Teddy Isbell?

2 MR. KAGONYERA: Oh, yeah, I was talking about
3 Mr. Isbell, yeah.

4 MS. BLINN: Okay, so you think Mr. Isbell
5 made it up completely because of his charges?

6 MR. KAGONYERA: Yeah -- yeah.

7 MS. BLINN: What about Freddy Wadsworth?

8 MR. KAGONYERA: I don't know how he found out.

9 I don't know if I even knew about him making a statement about
10 anything about a gun. But, yeah, I read his statement and he
11 said he was going to get a gun, he could produce a gun, and --
12 --

13 MS. BLINN: Uh-huh.

14 MR. KAGONYERA: ---- and I guess no gun was ever
15 produced. You know, if he knew about some gun being stored or
16 -- you know, where was it, you know?

17 MS. BLINN: So, Teddy Isbell was lying and
18 Freddy Wadsworth was lying?

19 MR. KAGONYERA: Yes. He said that some gun was
20 stored under his daughter's mattress.

21 MS. BLINN: That would be a lie ----

22 MR. KAGONYERA: Yeah.

23 MS. BLINN: --- if he said that? You had no
24 guns being stored like that?

25 MR. KAGONYERA: No gun, no. I would have my own

1 gun if I, you know.

2 MS. BLINN: And where -- where did you keep
3 your gun?

4 MR. KAGONYERA: At a -- apartment in Pisgah
5 Apartment.

6 MS. BLINN: You were, at the apartment that
7 you stayed at with -- with Tisha?

8 MR. KAGONYERA: Yes, ma'am.

9 MS. BLINN: Okay. When did you first hear
10 that Walter Bowman had been killed?

11 MR. KAGONYERA: When did I first hear -- I want
12 to say -- I want to say maybe three to four days later -- two
13 to three days later; somewhere in that period.

14 MS. BLINN: Okay; before the police came to
15 you or before law enforcement came to you?

16 MR. KAGONYERA: [No audible response heard.]

17 MS. BLINN: And how did you hear about it?

18 MR. KAGONYERA: I heard about it from -- I heard
19 about it twice. I heard about once from Mr. Wadsworth ----

20 MS. BLINN: Uh-huh.

21 MR. KAGONYERA: ---- and I heard about it
22 another time from a -- a girl that stayed down the street from
23 me.

24 MS. BLINN: Do you remember who she was?

25 MR. KAGONYERA: Her name was Tangy Harper

1 [phonetic] -- I don't know if it's Tangela -- I know her last
2 names Harper. Tangy -- I think it's Tangela.

3 MS. BLINN: Did you ever tell police that
4 you saw Leon crying about it?

5 MR. KAGONYERA: Crying -- no, ma'am.

6 MS. BLINN: Did you see Leon?

7 MR. KAGONYERA: No, ma'am.

8 MS. BLINN: Did you ever hear about it from
9 Leon?

10 MR. KAGONYERA: No, ma'am.

11 MS. BLINN: You didn't talk to Leon about
12 the murder?

13 MR. KAGONYERA: No, ma'am.

14 MS. BLINN: So, you heard about it a couple
15 days later from Freddy Wadsworth and another girl down the
16 street?

17 MR. KAGONYERA: Yes, ma'am.

18 MS. BLINN: Did you -- when you were in --
19 did you ever hear anymore about it?

20 MR. KAGONYERA: No, ma'am.

21 MS. BLINN: What did you hear on the street?
22 Were there people talking about it on the street then and who
23 did it and who was involved?

24 MR. KAGONYERA: It's 'cause I only -- only
25 stayed out, what, four days -- three or four days later. Not

1 that I can remember -- not that I can recall.

2 MS. BLINN: Okay. So, when did you know
3 that you were a suspect?

4 MR. KAGONYERA: They first picked me up -- I
5 turned myself in for a -- the breaking and entering and my
6 other charges and then -- then they -- they issued warrants
7 out for my other charges because I was already going to court
8 for, and then, when they picked me up I turned myself in and
9 then, you know, I'm thinking I'm going in -- into the jail and
10 they take me to the detectives -- Sheriff's Office and that's
11 when I got in the car, they were like, "Where were you at last
12 night?" you know. I'm like, "What -- what do you mean" you
13 know. Or "Where -- where -- where have you been or where was
14 you at?" and then, they began to question me. So, I'm like,
15 "What are you talking about?" and that's when they said, okay,
16 "This gentleman's got killed" you know?

17 MS. BLINN: That's the first time you knew
18 you were a suspect ----

19 MR. KAGONYERA: Yeah.

20 MS. BLINN: ---- was from them ----

21 MR. KAGONYERA: Yeah.

22 MS. BLINN: ---- when they questioned you?

23 MR. KAGONYERA: Yeah, and they was like, yeah --
24 "We heard you had something to do with it" or "We believe you
25 had something" you know.

1 MS. BLINN: What did you think then when you
2 found out you were a suspect?

3 MR. KAGONYERA: I was like, "No." That's when I
4 told them, I said, "No, I'm turning myself in for breaking and
5 entering. Yes, I admit to that" you know, I was like, "but
6 I'm getting this over -- getting this behind me." I was like,
7 but, "No. You have the ----

8 MS. BLINN: You didn't know when you were
9 turning yourself in for the breaking and entering that they
10 were looking for you on the other stuff?

11 MR. KAGONYERA: No, I told them, "You have the
12 wrong person."

13 MS. BLINN: We're you scared when you found
14 out that you were a suspect?

15 MR. KAGONYERA: Yeah, yes, ma'am.

16 MS. BLINN: Have you ever heard of people
17 named Wilton, Trey, and Vaughn?

18 MR. KAGONYERA: Yes, ma'am.

19 MS. BLINN: What do you know about that?

20 MR. KAGONYERA: I don't -- I don't actually -- I
21 know a gentleman name Vaughn. I don't -- I just know his name
22 and probably his face, if I -- at the time I knew his face.

23 MS. BLINN: Uh-huh.

24 MR. KAGONYERA: I spoke to Mr. Wilcoxson's
25 girlfriend -- like -- I want to say, like, right -- I want to

1 say, like, two or three weeks after we were locked up.

2 MS. BLINN: Uh-huh.

3 MR. KAGONYERA: And she was saying that -- that
4 -- those were the names that she said, that's what she heard.

5 MS. BLINN: That where you heard it from ---

6 -

7 MR. KAGONYERA: Those names ----

8 MS. BLINN: ---- was her?

9 MR. KAGONYERA: Yeah, from her.

10 MS. BLINN: What's her name?

11 MR. KAGONYERA: Dea Johnson.

12 MS. BLINN: And what did she say about them?

13 MR. KAGONYERA: You know, basically, she's out,
14 you know, she's in the -- in the streets, too. So, she was
15 like, "Well, I heard they had something to do with it because
16 one of those gentlemen's" -- one of those gentleman were
17 Evita's, which was his daughter and Shawn's sister ----

18 MS. BLINN: Uh-huh.

19 MR. KAGONYERA: ---- had a relationship with one
20 of them.

21 MS. BLINN: Okay.

22 MR. KAGONYERA: So, she felt like that they were
23 close to the family and would know, you know, his dealings or
24 something or another.

25 MS. BLINN: Okay.

1 MR. KAGONYERA: And that's what was ----

2 MS. BLINN: And you don't know where she
3 heard that from, she just heard it off the streets?

4 MR. KAGONYERA: I don't know -- I just heard it
5 on the streets.

6 MS. BLINN: And you don't know, other than
7 that, maybe you know a guy named Vaughn ----

8 MR. KAGONYERA: Yeah.

9 MS. BLINN: ---- but you don't know ----

10 MR. KAGONYERA: Yeah, no.

11 MS. BLINN: ---- first, last names; you
12 don't know who they are?

13 MR. KAGONYERA: No, I didn't know. I didn't
14 know at the time, yeah, no, ma'am.

15 MS. BLINN: All right. Do you know Tyrell
16 Dickie?

17 MR. KAGONYERA: Tyrell -- no, ma'am. Tyrell
18 Dickie?

19 MS. BLINN: Uh-huh. Tyrell Dickie.

20 MR. KAGONYERA: No, ma'am.

21 MS. BLINN: Tyrell Dickie told the Sheriffs'
22 that you came to him, the night of the murder, and that, you
23 wanted to stay at his house, and that, you told him you'd done
24 it. Does that sound familiar?

25 MR. KAGONYERA: No, ma'am. I remember reading

1 his statement, but mine -- the one I had all the names were
2 blacked out. The name was blacked out on that one, that
3 particular one ----

4 MS. BLINN: Okay.

5 MR. KAGONYERA: So, I've never even heard of the
6 name. I don't know who -- I don't even know ----

7 MS. BLINN: You don't know who that person
8 is?

9 MR. KAGONYERA: I may know him, but I may know
10 him by a nickname. I've never even heard that name in my
11 life.

12 MS. BLINN: Okay; so, when you read the
13 statement, the name was blacked out?

14 MR. KAGONYERA: Yes, ma'am.

15 MS. BLINN: And you didn't know who it was?

16 MR. KAGONYERA: Yeah -- yeah, all the
17 information was blacked out.

18 MS. BLINN: Okay. You know which statement
19 I'm looking at then, 'huh?

20 MR. KAGONYERA: I believe -- I believe it might
21 have said like to the 11th grade education something or
22 another. I -- it's so many of them, but I remember it saying
23 like, I came and spoke with them, and if I'm not mistaken,
24 asked to stay with them or something another ----

25 MS. BLINN: Uh-huh.

1 MR. KAGONYERA: ---- and that he said he had a
2 daughter or something another -- newborn.

3 MS. BLINN: And you don't know who that is?

4 MR. KAGONYERA: No -- no, I don't know who it
5 is.

6 MS. BLINN: Okay; so, if somebody came to
7 the police and said that, said that you wanted to say with
8 them and admitted you had done the murder and could you hide
9 with them for a couple of days and you were with Robert
10 Wilcoxson would that be a lie?

11 MR. KAGONYERA: Yes, ma'am.

12 MS. BLINN: Okay. Who goes by Engine; is
13 that you?

14 MR. KAGONYERA: They tried to coin me as that
15 was my nickname, but I've never went by anything ----

16 MS. BLINN: Okay.

17 MR. KAGONYERA: ---- I just go by my name.

18 MS. BLINN: I'm going to show you a letter -
19 - I'm just label it as Exhibit 2 so, we can refer to it, and
20 take a look at it and see if you recognize it, and if you do
21 you can just tell me who it's to and who it's from.

22 **[Pause]**

23 MS. BLINN: Do you that -- is that letter
24 looking familiar to you?

25 MR. KAGONYERA: No, I've never seen it.

1 MS. BLINN: It came from your Defense
2 Attorney's file.

3 MR. KAGONYERA: Okay.

4 MS. BLINN: Is that a letter ----

5 MR. KAGONYERA: He must of -- I guess, he might
6 have turned this in to his lawyer or something, and it might
7 end -- entered it in as ----

8 MS. BLINN: But Engine is you?

9 MR. KAGONYERA: Yeah, he -- I see where he
10 called me that, but, no, they've never really -- I've never
11 gone by that name.

12 MS. BLINN: So, whoever wrote that letter,
13 you think, was addressing it to you?

14 MR. KAGONYERA: Yeah.

15 MS. BLINN: Was attempting to be ----

16 MR. KAGONYERA: Yes.

17 MS. BLINN: ---- do you know who wrote it --
18 can you tell who wrote it?

19 MR. KAGONYERA: Let's see, it don't say -- it
20 doesn't say on here -- I doesn't ----

21 MS. BLINN: It doesn't look like familiar
22 handwriting to you?

23 MR. KAGONYERA: No.

24 MS. BLINN: Do remember ever seeing that
25 letter before?

1 MR. KAGONYERA: I can't even recall seeing a
2 letter, no, ma'am.

3 MS. BLINN: Okay. It doesn't look familiar?

4 MR. KAGONYERA: [No audible response heard.]

5 MS. BLINN: Have you talked to any of your
6 codefendants since the day that you pled?

7 MR. KAGONYERA: I spoke to Mr. Williams, and I
8 spoke to Mr. Wilcoxson, that's it.

9 MS. BLINN: How did -- well, tell me about
10 speaking to -- let's talk about Mr. Williams first; where were
11 you, and when was it?

12 MR. KAGONYERA: We were at a facility, Morrison
13 Correctional.

14 MS. BLINN: In the Department of
15 Corrections?

16 MR. KAGONYERA: Yes -- yes, ma'am.

17 MS. BLINN: Okay. Do you remember when this
18 was?

19 MR. KAGONYERA: 2006.

20 MS. BLINN: Okay; and, did you talk to each
21 other about this -- about the murder that you're both
22 convicted of?

23 MR. KAGONYERA: Yeah, yes, ma'am.

24 MS. BLINN: And tell me about that
25 conversation.

1 MR. KAGONYERA: Well, basically when he got
2 there he was like, "Well, I know you probably mad at me."

3 MS. BLINN: He said that -- Mr. Williams
4 said that to you?

5 MR. KAGONYERA: Yeah, it kinda started off like
6 -- well, you know, 'cause the whole ordeal and everything and
7 I was like, well, you know, my grandmother told me don't be
8 mad at him 'cause he was young, you know, that he, you know,
9 made a mistake or whatnot and, you know, and we kind of spoke,
10 and I told him -- you know, it wasn't really you know, I
11 forgive you type thing, but it was just like we talked about
12 it and how everything was messed up and we pretty much talked
13 about moving on, you know, with our lives, you know. But we
14 spoke -- we actually spoke, and I told him that, you know, I
15 was still, you know, everything was open, you know, I was
16 still, you know, fighting it. And he was just was going on
17 with his life.

18 MS. BLINN: He wasn't fighting?

19 MR. KAGONYERA: No, he was just going on with
20 his life, like, you know, I'm pretty much stuck, you know.

21 MS. BLINN: Was he -- was he saying -- was
22 he still saying that he was innocent?

23 MR. KAGONYERA: Yeah.

24 MS. BLINN: And was that the only time that
25 you talked to him, or did you have multiple conversations.

1 MR. KAGONYERA: Oh, yeah -- yeah, we -- we was
2 there together three months -- three months together.

3 MS. BLINN: Okay.

4 MR. KAGONYERA: And then, they got -- you know,
5 shipped him.

6 MS. BLINN: And so, you talked about this
7 more than one time? You talked about the -- the murder ----

8 MR. KAGONYERA: Yes.

9 MS. BLINN: ---- and your convictions. And
10 that was the gist of the conversation each time?

11 MR. KAGONYERA: Oh, no, I mean, we talked about
12 different things. We talked about different things, but yeah,
13 we've talked about it more than once.

14 MS. BLINN: And you said you also talked to
15 Mr. Wilcoxson; is that right?

16 MR. KAGONYERA: Yeah, we spoke the day I
17 received my -- or the next day we went to Central Prison
18 together in the -- in the van.

19 MS. BLINN: Okay. When you were sentenced?

20 MR. KAGONYERA: Yes, ma'am. We was in the same
21 van together and went to Central Prison together, we were in
22 the same dorm at Central Prison together for maybe a week, two
23 weeks, maybe.

24 MS. BLINN: For processing?

25 MR. KAGONYERA: For processing, and then, they

1 moved him upstairs, and I was still downstairs. And I think I
2 saw him once after they moved him out the dorm, at church, and
3 then that was it.

4 MS. BLINN: So, tell me about the
5 conversations you and he had.

6 MR. KAGONYERA: We didn't -- we didn't really
7 have, I mean, we mainly talked about past experiences, you
8 know, past things we've done in, you know, in life, but we
9 never really talked much about -- besides the -- the night
10 when we were coming to Central Prison, about our time and the
11 situation and everything. That's the only time we really
12 talked about our time or anything.

13 MS. BLINN: Okay; so, tell me about that
14 night.

15 MR. KAGONYERA: Coming down, in the van, they
16 were just talking about, like who -- who basically said what
17 and what was said, and how everything was, you know, just --
18 everything was all -- you know, how it went down, you know,
19 how everything was kind a crazy about not being, you know, a
20 part of it and then, you know, actually being sentenced and
21 everything, you know, that's basically what we talked about.

22 MS. BLINN: So, was he saying he was
23 innocent?

24 MR. KAGONYERA: At the -- yes, ma'am, at the
25 time, yes, ma'am.

1 MS. BLINN: And you haven't talked to him
2 since being sent to prison?

3 MR. KAGONYERA: No, I haven't talked to him
4 since.

5 MS. BLINN: Anybody else; any of the other
6 codefendants?

7 MR. KAGONYERA: No, ma'am.

8 MS. BLINN: What about Robert Rutherford;
9 have you talked to him since ----

10 MR. KAGONYERA: No, ma'am.

11 MS. BLINN: How about Lacy Pickens? I know
12 he's not alive anymore, but before?

13 MR. KAGONYERA: No, ma'am.

14 MS. BLINN: How about Bradford Summey? Have
15 you ever talked to him?

16 MR. KAGONYERA: No, ma'am.

17 MS. BLINN: What about any of the Bowman's?
18 Have you talked to the Bowman Family?

19 MR. KAGONYERA: No, ma'am.

20 MS. BLINN: After -- after the murder, but
21 before you were arrested on the other stuff -- before you went
22 into custody on the other stuff who did you stay with?

23 MR. KAGONYERA: After -- say after the -- my
24 other charges?

25 MS. BLINN: Uh-huh -- uh-huh; before --

1 before -- between the murder and going into the jail who where
2 -- who did you stay with; where did you live?

3 MR. KAGONYERA: Before -- okay, I was between --
4 with my girlfriend and my grandmother.

5 MS. BLINN: Okay; and, were those the only
6 places you ever stayed?

7 MR. KAGONYERA: Yes, ma'am.

8 MS. BLINN: So, you stayed with Tisha Lee
9 and your grandmother?

10 MR. KAGONYERA: Yes, ma'am.

11 MS. BLINN: And that's from September 2000
12 up until you started being in jail, and then, the Department
13 of Corrections?

14 MR. KAGONYERA: [No audible response heard.]

15 MS. BLINN: And you never made bond while
16 you were in jail?

17 MR. KAGONYERA: No, ma'am.

18 MS. BLINN: When you were in jail you talked
19 about your case. You said you did; right, when you were
20 playing cards with people or just in general, you talked about
21 your case?

22 MR. KAGONYERA: Just in -- yes, ma'am.

23 MS. BLINN: Did you ever try to take credit
24 for it, to try to say you had done it?

25 MR. KAGONYERA: No, ma'am.

1 MS. BLINN: Maybe get a little bit of jail
2 credit?

3 MR. KAGONYERA: No -- no, ma'am.

4 MS. BLINN: No? Ever tell anybody that the
5 other guys had done it?

6 MR. KAGONYERA: No, ma'am.

7 MS. BLINN: What kinds of things did ----

8 MR. KAGONYERA: I might have said something to
9 the extent like, "I don't know what they did." You know,
10 basically saying I don't -- I can't -- I can speak for myself,
11 but I can't speak for anybody else, you know. And I might
12 say, you know, that's -- that's about it. I can't -- I can't
13 say I actually implicated anyone.

14 MS. BLINN: So, in your entire life other
15 than the time that you were in the room with your attorneys
16 and Ron Moore and you made this statement have you ever told
17 anybody that you were involved in the Bowman homicide, even if
18 you were lying, have you ever told anybody you were involved?

19 MR. KAGONYERA: No, ma'am.

20 MS. BLINN: This is the only time you ever
21 said, this statement here, which was our Exhibit 1, is the
22 only time that you've ever said you were involved in the
23 Bowman homicide?

24 MR. KAGONYERA: Yes, ma'am.

25 MS. BLINN: Do you remember talking to a

1 couple people in custody, we already talked about Mr. Dickie,
2 how about a person name Randy Hodge; do you remember talking
3 to him, he's a white guy?

4 MR. KAGONYERA: White guy, heavy set -- Hodge --
5 I -- I want -- I'm thinking it was a heavy set, white guy,
6 from Rutherford County, if I'm not mistaken.

7 MS. BLINN: Okay; so, you do remember him?

8 MR. KAGONYERA: I'm not sure, but I believe
9 that's him.

10 MS. BLINN: Okay; and, what about him?

11 MR. KAGONYERA: I just remember -- you know, you
12 basically associate when you talk to him -- okay what are you
13 locked up for, how much time do you got? You kinda remember
14 someone based on what they're locked up for or how much time
15 they got, you know. And I kinda remember he was, if I'm not
16 mistaken, a federal inmate, had tattoos.

17 MS. BLINN: Did you talk to him about your
18 case?

19 MR. KAGONYERA: Maybe saying that -- you know --
20 you know, that's basically when someone meets you they ask you
21 why are you locked up, and I might have told him why I was
22 locked up, you know, but never -- can't even recall have a
23 long drawn out conversation with him.

24 MS. BLINN: Did -- you never told him that
25 you did this crime?

1 MR. KAGONYERA: No -- no, ma'am.

2 MS. BLINN: Did you play dominos with him?

3 MR. KAGONYERA: We probably played board games

4 'cause we were up there probably -- what, eight months to a

5 year together.

6 MS. BLINN: Did you tell him that you and

7 DayDay went to rob a drug dealer and that he began choking

8 you?

9 MR. KAGONYERA: No, ma'am.

10 MS. BLINN: And that DayDay ran into the

11 room with a shotgun?

12 MR. KAGONYERA: No, ma'am.

13 MS. BLINN: Did you tell him that?

14 MR. KAGONYERA: No, ma'am.

15 MS. BLINN: You never told him anything like

16 that?

17 MR. KAGONYERA: No, ma'am.

18 MS. BLINN: Do you remember if your cousin,

19 Damian -- he went by DayDay; right, Damian?

20 MR. KAGONYERA: Yes, ma'am.

21 MS. BLINN: Do you know if he ever talked to

22 this person -- to Randy Hodge?

23 MR. KAGONYERA: I can't say for sure if he has

24 talked to him.

25 MS. BLINN: You were on separate cellblocks

1 though, right?

2 MR. KAGONYERA: We were on separate cellblocks
3 up until, I believe, after pre-sentencing, and then, somehow
4 or another after 2001 -- sometime in 2002 we were on the floor
5 together.

6 MS. BLINN: You and Damian were?

7 MR. KAGONYERA: Yeah, this was after -- after
8 the pre-sentencing.

9 MS. BLINN: Okay. How about a man, in jail,
10 named Millis Bryson; does that ring any bells?

11 MR. KAGONYERA: Yes, I know him.

12 MS. BLINN: Okay. Can you tell me about
13 him?

14 MR. KAGONYERA: I know him from my son's mother.
15 They're some type of relatives or something or another, but --
16 it's supposed to be his brother -- her brother or cousin or
17 something or other. So, that's how I know him -- that's how
18 -- that's how I spoke to him when he come -- came to the
19 county jail. That's how I know him.

20 MS. BLINN: Okay. So, you -- you did talk
21 to him at the jail?

22 MR. KAGONYERA: Yeah, I spoke to him -- me and
23 Mr. Brewton we were on the floor together just -- right before
24 we actually got actually charged -- we were on the floor for
25 two months, and that's when he came up ----

1 MS. BLINN: You were on the floor with Aaron
2 Brewton then, okay.

3 MR. KAGONYERA: Yes, ma'am, and he came up from
4 court on a writ or something or other, and he began to propose
5 to us some type of situation where he could be a
6 representative for us and go -- because he has some type of
7 clout with the District Attorney or some type detectives, and
8 he wanted us to confess and ----

9 MS. BLINN: Mr. Bryson was telling you this?

10 MR. KAGONYERA: Yes, ma'am.

11 MS. BLINN: Okay.

12 MR. KAGONYERA: And so, me and Mr. Brewton told
13 him at the time, you know, "No, we don't -- we don't know what
14 your into, and we're -- we're -- we're not gonna -- you know,
15 we're not gonna be a part of that." And he told us how he
16 came back to court and testified against his codefendant or
17 something or another and -- and then, after that, I think, he
18 had went downstairs and spoke with the detectives and wrote
19 some type of statement because an officer came and told me,
20 "Are you having problems with Mr. Bryson?" and I said, "No,
21 sir." you know. He's like, "Well, we're gonna move him off
22 the floor and they transferred -- him after -- after that.

23 MS. BLINN: Okay. So you -- did you ever
24 tell him, Millis Bryson, that you had done the murder with,
25 Detroit, who is Robert Wilcoxson, right?

1 MR. KAGONYERA: Uh-huh.

2 MS. BLINN: And Teddy Isbell?

3 MR. KAGONYERA: No, I never told him that.

4 MS. BLINN: You never told him that?

5 MR. KAGONYERA: No, ma'am.

6 MS. BLINN: And did you ever tell him that
7 you went over to fight dogs at the victim's house?

8 MR. KAGONYERA: No, ma'am.

9 MS. BLINN: Did you ever tell him that after
10 the murder the victim's were -- were looking for you in Pisgah
11 View; that Shawn Bowman was looking for you?

12 MR. KAGONYERA: No, ma'am.

13 MS. BLINN: Was Shawn Bowman ever looking
14 for you?

15 MR. KAGONYERA: No, not that I can recall. From
16 when I was locked up -- see we -- we got locked up, and then,
17 a couple of gentlemen posted bond because we didn't have --
18 actually have a charge, but I never posted bond. I heard that
19 they was supposed to been -- they was supposed to been looking
20 for them, but I never -- I never got back out, but.

21 MS. BLINN: And where did you hear that;
22 just on -- just around ----

23 MR. KAGONYERA: Yeah, just -- yeah -- yeah, you
24 talk to people -- talk to people, yeah.

25 MS. BLINN: All right. Now, you said when

1 you first went in, before you were charged, that you and Aaron
2 Brewton were on the same floor ----

3 MR. KAGONYERA: Yes, ma'am.

4 MS. BLINN: ---- or the same -- same block.

5 Is that -- what is it, floor or block or same thing?

6 MR. KAGONYERA: Block, it's two separate --
7 separate.

8 MS. BLINN: So, you're in your own cells,
9 but you have the same common area; is that right?

10 MR. KAGONYERA: Yes, ma'am.

11 MS. BLINN: Okay; so, was anybody else --
12 any of you codefendants on the same block as you?

13 MR. KAGONYERA: No -- no -- not at that time.

14 MS. BLINN: Until the very end when you were
15 on the same block with Mr. Mills?

16 MR. KAGONYERA: Mr. Mills.

17 MS. BLINN: What kind of conversations did
18 you and Aaron Brewton have when you were together on the same
19 block?

20 MR. KAGONYERA: We wouldn't have really -- we
21 didn't really have conversations. Like I said, we weren't
22 really friends like that. We kinda pretty much talked --
23 talked and -- about, you know, different things. You know, we
24 kinda talked about the situation about what's being said, but
25 it didn't -- we didn't really carry on a whole bunch of

1 conversation like that.

2 MS. BLINN: Did you have your Discovery at
3 that time?

4 MR. KAGONYERA: No, ma'am.

5 MS. BLINN: And did he have his?

6 MR. KAGONYERA: No, ma'am.

7 MS. BLINN: Do you remember -- was this case
8 -- the murder ever on the news?

9 MR. KAGONYERA: I don't -- they -- they didn't
10 allow us to watch the news.

11 MS. BLINN: You didn't watch it?

12 MR. KAGONYERA: No.

13 MS. BLINN: Okay. Did anyone ever talk to
14 you about it being on the news?

15 MR. KAGONYERA: No, ma'am.

16 MS. BLINN: Do you know if your family ever
17 saw it on the news or read it -- read it in the news?

18 MR. KAGONYERA: I don't -- not that I know of --
19 they never said anything to me about it.

20 MS. BLINN: What do you think proves that
21 you are innocent?

22 MR. KAGONYERA: What do I think?

23 MS. BLINN: Uh-huh. How do you prove that
24 you're innocent?

25 MR. KAGONYERA: How do I prove -- basically, now

1 -- just through -- through the evidence basically 'cause the
2 same evidence that, like, when they came and retrieved the DNA
3 they said that they would use that DNA to prosecute me and,
4 you know, he -- he came and he said -- one day he said, "We
5 got you, now." You know, I said, "What are you talking
6 about?" "Well, we come to get your hair and your saliva and
7 your blood, and we have evidence, and we're going to link you
8 to this crime. We have you now."

9 MS. BLINN: Who was saying that?

10 MR. KAGONYERA: SBI agent.

11 MS. BLINN: Okay; so, some law enforcement -
12 - the law enforcement.

13 MR. KAGONYERA: Yeah, and he -- he -- he -- you
14 know, he was standing -- stood there while the nurse took
15 everything and so, I said, " Well" -- and -- I said, well,
16 when does -- when does the results come back?" He said,
17 "Well, this -- this won't be back anytime soon. It'll be like
18 six months."

19 MS. BLINN: And you gave that voluntarily?

20 MR. KAGONYERA: Yeah, voluntarily -- yes, ma'am.
21 So, I was like, well, six months, you know -- you know, you're
22 gonna see, you know, that's what -- that's basically, you
23 know, all that was said, you know, and then, everything -- I
24 never heard anything else about it.

25 MS. BLINN: What do you think they were

1 gonna compare your DNA to?

2 MR. KAGONYERA: I never knew 'cause at the time
3 I didn't -- I didn't have any -- didn't have any Discovery. I
4 never knew, you know, what -- what -- what was going on. I
5 didn't know anything, you know. I just knew that they were
6 supposed to compare something. I say -- well, you know, at
7 the time I was like if you can compare something then you will
8 see, you know, it's -- it's not mine, you know.

9 MS. BLINN: Uh-huh.

10 MR. KAGONYERA: So, that should show you, you
11 know, but that never was -- that never was an option, I guess,
12 to them, you know.

13 MS. BLINN: Did -- did you know what
14 happened with that DNA?

15 MR. KAGONYERA: They were supposed to, I guess,
16 they were supposed to test at their lab or something or other.
17 I -- I don't -- I -- I never knew what happened.

18 MS. BLINN: Did you know when you pled
19 guilty what happened with that -- the comparisons?

20 MR. KAGONYERA: I never -- no -- no, ma'am. I
21 didn't know.

22 MS. BLINN: Do you know now?

23 MR. KAGONYERA: Yes, ma'am.

24 MS. BLINN: And when did you -- when did you
25 first find out?

1 MR. KAGONYERA: I first found out, I think, it
2 was 2004. I think it was 2004 and ----

3 MS. BLINN: What did you find out in 2004?

4 MR. KAGONYERA: Well, I -- I -- that's when --
5 that's when I first actually heard something about a results -
6 - the results or something or another.

7 MS. BLINN: How did you hear that?

8 MR. KAGONYERA: From a -- a inmate -- I was at a
9 prison, Mountain View Correctional, and an inmate transferred
10 in, and he said he was at another facility down the street
11 with Mr. Isbell, and Mr. Isbell was still in the County -- or
12 just -- no he had just left the County and came to the prison
13 and they were side-by-side in a dorm or something or another,
14 and I -- I -- I don't know what happened, but somehow or
15 another they -- he -- he never received a -- or they threw his
16 murder charge -- he doesn't have a murder charge. So, his
17 lawyer turned over all this paperwork, and it's in the
18 paperwork, it was some type of results or something like -- he
19 said he saw them with his own eyes.

20 MS. BLINN: So, this inmate told you that he
21 saw the DNA results in Teddy Isbell's Discovery?

22 MR. KAGONYERA: Yeah.

23 MS. BLINN: Okay.

24 MR. KAGONYERA: And there was something about
25 some results or -- and -- or -- and -- and a statement.

1 MS. BLINN: And this is the first time you'd
2 heard about the results?

3 MR. KAGONYERA: Yeah, and the statement. Yeah.

4 MS. BLINN: And the statement?

5 MR. KAGONYERA: Yeah.

6 MS. BLINN: What kind of statement?

7 MR. KAGONYERA: From Mr. Rutherford, and that's
8 when he was like, "Well, I read this" you know. That's when
9 he said, "I read the statement and everything." So, he knew
10 Mr. Rutherford, he knew Mr. Isbell, he didn't know me, but
11 another gentleman introduced him to me, and that's when -- he
12 was like, "You need to do -- man, you need to do something
13 about this."

14 MS. BLINN: What'd you think when you heard
15 about that?

16 MR. KAGONYERA: I already knew, you know, my --
17 you know, -- I don't -- I don't -- I can't match anything --
18 it's not -- it's not -- that's no possibility that I can match
19 anything because I wasn't there. So, I already knew in my
20 head, I just never -- I didn't have it my hand. I didn't know
21 any way to get it, you know, so.

22 MS. BLINN: What about the Rutherford
23 statement?

24 MR. KAGONYERA: Like -- I did -- I never saw it
25 -- I never had it, and -- and I don't know how to get this and

1 don't, you know -- and eventually on I've tried to write and
2 request information. I asked all type -- you know, anything -
3 - anything that I could, you know, I was told I to try, you
4 know, to receive it, you know.

5 MS. BLINN: Who all have you tried to
6 request that information from?

7 MR. KAGONYERA: The Sheriff's Department, the
8 District Attorney, the -- the -- the Magistrate. I think I
9 wrote the Magistrate one time, too.

10 MS. BLINN: Did you ever get any responses
11 from those requests?

12 MR. KAGONYERA: I got a response one time. I
13 wrote -- I wrote -- I wrote for the records, and they said
14 that I'd already received my Discovery, that I can't receive
15 another Discovery or something or another. That's what the --
16 that's basically what the -- the response said. The Sheriff's
17 Department wrote back and said they didn't have anything, that
18 the District Attorney had it; everything was turned over. I
19 wrote District Attorney, he never -- he never responded, and
20 that -- that was it.

21 MS. BLINN: So, how did you -- did -- I
22 mean, have you seen the statement and these results, now?

23 MR. KAGONYERA: I saw the statement. Did I --
24 did I -- I'm not exactly sure, but I think -- I -- I know it
25 was mentioned like when I first -- I filed a Motion for

1 Appropriate Relief, and Mr. Moore spoke about it to the Judge
2 in the -- to -- his response. He said, "Mr. Rutherford wrote
3 a statement, but he didn't really" -- and basically, I can't
4 remember word for word and he didn't really, you know, pay any
5 mind to it because he thought he was trying to curry some
6 favors ----

7 MS. BLINN: Uh-huh.

8 MR. KAGONYERA: ---- to get a time cut or
9 something or another from another charge -- a federal charge
10 or something. So, he basically said, "He didn't pay any mind
11 to it."

12 MS. BLINN: So, that's the first time you
13 actually saw -- read the statement.

14 MR. KAGONYERA: Actually -- that's the first --
15 I've actually admitted through the courts, and it wasn't, you
16 know, from another -- someone locked up, you know, another
17 prisoner or inmate.

18 MS. BLINN: Uh-huh.

19 MR. KAGONYERA: Yeah, that's the first time.

20 MS. BLINN: First time that you saw the
21 paper statement right there?

22 MR. KAGONYERA: I -- I still haven't seen it.

23 MS. BLINN: Or you still haven't seen it?

24 MR. KAGONYERA: Yeah, I still haven't seen this
25 one.

1 MS. BLINN: Okay. How about the DNA results
2 that you were talking about, have you seen those? Have you
3 read that report?

4 MR. KAGONYERA: Never -- never saw them.

5 MS. BLINN: Okay.

6 MR. KAGONYERA: They mentioned something in the
7 same thing saying they were either negative or inconclusive;
8 that's what he said.

9 MS. BLINN: Okay; so, it's when you filed a
10 MAR is the first time you're getting official conformation
11 that this is not just rumor, but real?

12 MR. KAGONYERA: Yes, ma'am.

13 MS. BLINN: Okay. What else do you know
14 about the evidence in your case or our investigation?

15 MR. KAGONYERA: That's -- that's basically it.

16 MS. BLINN: Okay. You know we've called the
17 case to hearing?

18 MR. KAGONYERA: To hearing?

19 MS. BLINN: To hearing before the Innocence
20 Inquiry Commission ----

21 MR. KAGONYERA: Oh, yes, ma'am.

22 MS. BLINN: ---- at the end of the month,
23 you know that?

24 MR. KAGONYERA: Yes, ma'am.

25 MS. BLINN: And you know we've done a

1 lengthy investigation on your case?

2 MR. KAGONYERA: Yes, ma'am.

3 MS. BLINN: And you know we've done DNA
4 testing?

5 MR. KAGONYERA: Yes, ma'am.

6 MS. BLINN: And you know -- you know the
7 results of the DNA testing that we've done?

8 MR. KAGONYERA: They were negative, I believe.

9 MS. BLINN: For you.

10 MR. KAGONYERA: Yes, ma'am.

11 MS. BLINN: They excluded you.

12 MR. KAGONYERA: Okay.

13 MS. BLINN: You -- you know that?

14 MR. KAGONYERA: Yes, ma'am.

15 MS. BLINN: Okay; and, you know that -- do
16 you know about the DNA hit on the bandanas?

17 MR. KAGONYERA: Yes, ma'am.

18 MS. BLINN: That for Bradford Summey?

19 MR. KAGONYERA: Yes, ma'am.

20 MS. BLINN: You know about that?

21 MR. KAGONYERA: Yes -- yes, ma'am.

22 MS. BLINN: Is there anything else that I
23 have not asked you about that you want to tell me?

24 MR. KAGONYERA: No, ma'am. Not at the time, no,
25 ma'am.

1 MS. BLINN: And as I told you before since
2 we can't bring you in to testify before the Commission, and
3 you don't have a right to be present at the Commission hearing

4 ----

5 MR. KAGONYERA: Okay.

6 MR. BLINN: We're going to use this
7 deposition as your testimony. Is there anything that you
8 would want the commissioner's to hear or to know?

9 MR. KAGONYERA: We pretty much basically touched
10 on -- touched on everything, you know, pertaining to it.

11 MS. BLINN: You think we covered it all?

12 MR. KAGONYERA: Yes, ma'am.

13 MS. BLINN: Do you have any questions for
14 me?

15 MR. KAGONYERA: No, ma'am.

16 MS. BLINN: Okay.

17 Do you have anything additional?

18 MR. LAU: Uh-uh.

19 MS. BLINN: Okay. What time is it? Anybody
20 got the time for me?

21 MS. PRETTY: It's 3:10.

22 MS. BLINN: It's 3:10, and we're going to
23 conclude the deposition, now. All right.

24

[END OF TRANSCRIPT]

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

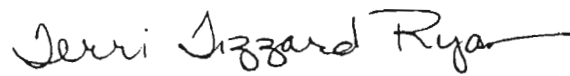
IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 00 CRS 65086 & 65088

STATE OF NORTH CAROLINA,]
]]
vs.]]
]]
KENNETH M. KAGONYERA and]
ROBERT WILCOXSON, III,]
Defendants.]
]

C E R T I F I C A T E

I, Terri Tizzard Ryan, having been assigned to transcribe the above-captioned interview from **April 8, 2011**, do hereby certify that said hearing, pages 1 through 100 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
Transcriptionist