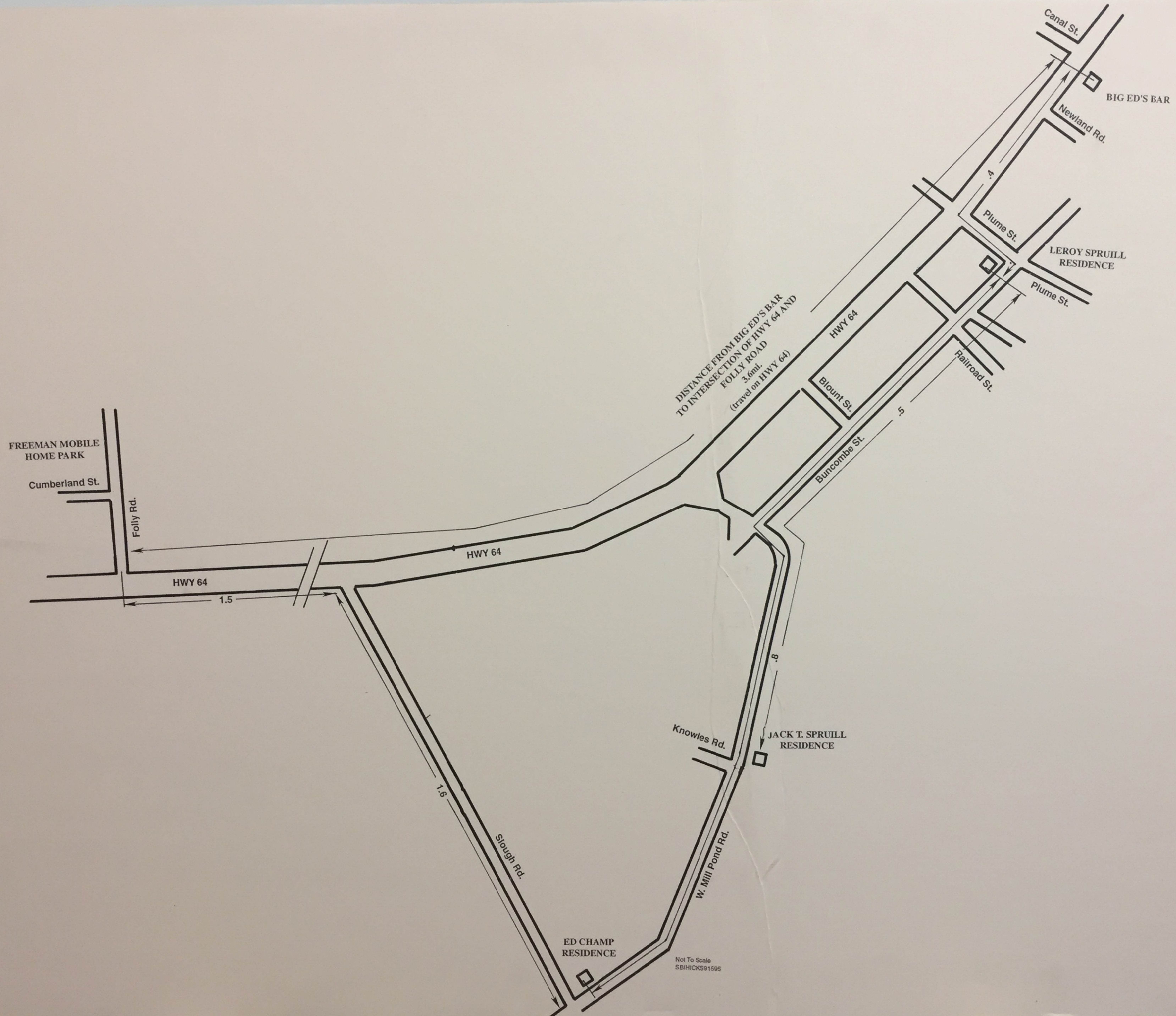


Handout 1



Handout 2

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MS. MATOIAN: Okay. Can you remember from your
conversations with Mr. Jones if he ever admitted guilt or did

1 he profess his innocence to you?

2 MR. SKINNER: He had -- he did not admit guilt but
3 he wasn't about to and they used flight. They used everything
4 that they had available on this. But Leroy Spruill, he
5 communicated at times I think and Leroy said, I ain't guilty,
6 and Leroy hung him out to see what happened first before he
7 entered a plea to second degree murder.

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Handout 3

STATE OF NORTH CAROLINA
COUNTY OF WASHINGTON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
94 CRS 1984 and 94 CRS 1566 (Spruill)
94 CRS 1973 and 95 CRS 1565 (Jones)

STATE OF NORTH CAROLINA,
v.
LEROY SPRUILL AND WALLACE
BRANDON JONES.

AFFIDAVIT OF ATTORNEY JOHN
SKINNER

NOW COMES John Skinner being first been duly sworn, who deposes and says the following:

1. I am an attorney, duly licensed to practice law in North Carolina. I have been practicing law in North Carolina since 1986.
2. I represented Wallace Brandon Jones, along with James Vosburgh, at trial. My representation of Mr. Jones centered on Phase II in capital case with expert mitigation witness, and primarily dealing with crime scene evidence in Phase I.
3. I was contacted by the North Carolina Innocence Inquiry Commission in 2017 regarding any statements made by Mr. Jones during my representation of him regarding his guilt or innocence.
4. My recollection of the trial is that the District Attorney told the jury in his closing statements in Phase I that Mr. Jones "had off'ed a nigger." The subpoenaed bartender witness made this statement in Phase I of trial. My recollection is that Mr. Jones' actual statement was that, while in a crowded bar in a conversation with Leroy Spruill, that "they think we off'ed a nigger." Mr. Jones did not testify at the trial. Leroy Spruill did not testify at the trial.
5. My recollection of statements made by Mr. Jones to me regarding his guilt or innocence is (a) crime scene evidence proved little to nothing against each defendant, (b) I tended to believe Mr. Jones' statements regarding saying that "they think we off'ed a nigger," however, immediately after Mr. Jones' case was completed, Leroy Spruill could not wait to take a second degree plea in lieu of facing the death penalty, which Mr. Jones initially faced, but received a life sentence as per the jury verdict.
6. The jury instructions regarding flight were detrimental to Mr. Jones' case.
7. My recollection is that Mr. Jones maintained to me that he and Mr. Spruill did not

commit this crime.

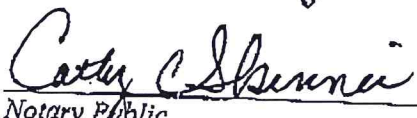
This the 14th day of August, 2017.


John Skinner

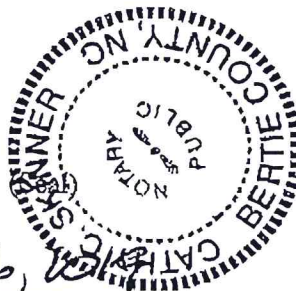
STATE OF NORTH CAROLINA
COUNTY OF _____

Sworn to and subscribed before me,

this 14 day of Aug., 2017.


Notary Public

My Commission Expires: Nov 16, 2017



Handout 4

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
94 CRS 1984 and 94 CRS 1566 (Spruill)
94 CRS 1973 and 95 CRS 1565 (Jones)

**AFFIDAVIT OF ATTORNEY
MAYNARD HARRELL**

Y.

LEROY SPRUILL AND WALLACE
 BRANDON JONES,

1. I am an attorney, duly licensed to practice law in North Carolina. I have been practicing law for 4.5 years.

2. I represented Leroy Spruill. On October 5, 1995, Leroy Spruill entered a plea to second degree murder and robbery with a dangerous weapon and received a sentence of life plus forty years.

3. I was contacted by the North Carolina Innocence Inquiry Commission in 2011 regarding my files related to this case and in 2017 related to statements made by Mr. Spruill regarding his guilt or innocence in this case.

4. I have searched my office and all other places in which I can recall storing files.

5. I am confident that there are no notes, files, records, documents, writings, memorandums, recordings or data compilations related to this case in my possession or custody or control.

6. I am confident that I am no longer in possession of any files related to the above referenced case and I do not know where these files may be.

7. I do not believe these files have been destroyed, however, based on the amount of time that has passed, I can not recall for certain.

8. As I recall, Mr. Spruill always denied any involvement in this crime.

9. As I recall, Mr. Spruill never made any statements indicating he had knowledge of who committed this crime.

10. Commission Grant Staff Attorney Catherine Matoian showed me a report dated November 21, 2003 indicated that I had informed University of North Carolina at Chapel Hill students that I had spoken to Dana Maybin and she had recanted her testimony and wanted to come forward on behalf of Mr. Spruill and Mr. Jones.

11. I do not recall telling students that Ms. Maybin had recanted her testimony or wanted to come forward on behalf of Mr. Spruill and Mr. Jones.

12. I do not recall whether I have had contact with Ms. Maybin since Mr. Spruill and Mr. Jones were convicted of this crime.

FURTHER THE AFFIANT SAYETH NOT.

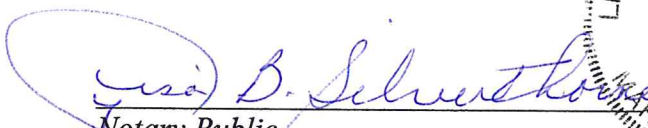
This the 13 day of December, 2017.



Maynard Harrell

STATE OF NORTH CAROLINA
COUNTY OF Martin

Sworn to and subscribed before me,

this 14 day of December, 2017.


Notary Public



My Commission Expires: 3/29/2021

Handout 5

COUNTY OF WASHINGTON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

94 CRS 1984 and 95 CRS 1566 (Spruill)

94 CRS 1973 and 95 CRS 1565 (Jones)

STATE OF NORTH CAROLINA,

V.

LEROY SPRUILL AND WALLACE
 BRANDON JONES

**AFFIDAVIT OF DISTRICT
ATTORNEY SETH EDWARDS**

NOW COMES Seth Edwards being first been duly sworn, who deposes and says the following:

1. I am an attorney, duly licensed to practice law in North Carolina. I have been practicing law for 28 years.
2. I am currently the elected District Attorney for Judicial District 2.
3. In 1994 and 1995, I represented Leroy Spruill.
4. On October 5, 1995, Leroy Spruill entered a plea to second degree murder and robbery with a dangerous weapon and received a sentence of life plus forty years.
5. I was contacted by the North Carolina Innocence Inquiry Commission in 2011 regarding my files related to this case and provided a partial file.
6. I have searched and have been unable to locate any additional documentation related to this case.
7. I am confident that there are no notes, files, records, documents, writings, memorandums, recordings or data compilations related to this case in my possession or custody or control that I have not already turned over to the Commission.

8. I do not recall Mr. Spruill ever admitting guilt in this case.

FURTHER THE AFFIANT SAYETH NOT.

This the 10th day of September, 2018.



Seth Edwards

STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT

Sworn to and subscribed before me,

this 10th day of September, 2018.



Notary Public (Seal)

My Commission Expires: 11-11-18

Handout 6

STATE OF NORTH CAROLINA
COUNTY OF WASHINGTON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
94 CRS 1984 and 95 CRS 1566 (Spruill)
94 CRS 1973 and 95 CRS 1565 (Jones)

STATE OF NORTH CAROLINA,

v.

LEROY SPRUILL AND WALLACE
BRANDON JONES

**AFFIDAVIT OF ATTORNEY
CONSTANCE WIDENHOUSE**

NOW COMES Constance Widenhouse being first been duly sworn, who deposes and says the following:

1. I am an attorney, duly licensed to practice law in North Carolina. I have been practicing law for 32 years.

2. In 1996, I represented Wallace Brandon Jones during his appeal to the NC Supreme Court.

3. In 2011, I was contacted by the North Carolina Innocence Inquiry Commission regarding a file for this case. I provided a partial file from the Appellate Defender's Office to the Commission.

4. During the course of my representation of Mr. Jones, I spoke to both Mr. Jones and his co-defendant, Leroy Spruill.

5. Wallace Brandon Jones denied involvement in this crime and did not admit guilt to me.

6. Leroy Spruill denied involvement in this crime and did not admit guilt in this crime to me.

This the 27th day of September, 2018.

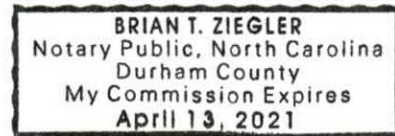
Constance Widenhouse
Constance Widenhouse

STATE OF NORTH CAROLINA
COUNTY OF Durham

Sworn to and subscribed before me,

this 27 day of September, 2018.

B. T. Ziegler (Seal)
Notary Public



My Commission Expires: April 13, 2021

Handout 7

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
94 CRS 1984 and 94 CRS 1566 (Spruill)
94 CRS 1973 and 95 CRS 1565 (Jones)

STATE OF NORTH CAROLINA,

V.


LEROY SPRUILL AND WALLACE
 BRANDON JONES,

**AFFIDAVIT OF
ATTORNEY LETITIA C. ECHOLS**

NOW COMES Letitia C. Echols being first been duly sworn, who deposes and says the following:

1. I am an attorney, duly licensed to practice law in North Carolina. I have been practicing law for over 23 years.
2. While employed as a Staff Attorney at Prisoner Legal Services, I represented Wallace Brandon Jones in a Motion for Appropriate Relief. Marcus Jimison and James Carter also worked on Mr. Jones' case while at PLS.
3. I left my position at Prisoner Legal Services in 2005.
4. In August 2017, I was contacted by Commission Grant Staff Attorney Catherine Matoian regarding any statements Mr. Jones made regarding his guilt or innocence in this case during the court of my representation.
5. Mr. Jones maintained to me that he was innocent of this crime. At no time did he admit any involvement in this crime.
6. During the course of my representation Mr. Jones, I also spoke to Leroy Spruill. Mr. Spruill also maintained that he and Mr. Jones were innocent of this crime.

This the 30th day of October, 2017.


Letitia C. Echols

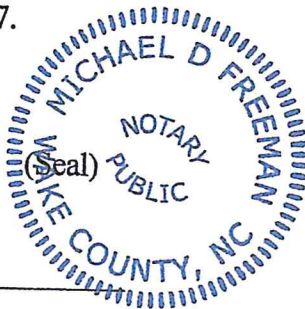
STATE OF NORTH CAROLINA
COUNTY OF Wake

Sworn to and subscribed before me,

this 30th day of October, 2017.

Michael D. Freeman
Notary Public

My Commission Expires: 7/5/22



Handout 8

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8 MR. JIMISON: Frank Swain -- I think
9 the feeling of the State's case was drug money,
10 drug deal gone bad kind of deal. And they was
11 looking to rob the guy because he had money or
12 drugs or both, I don't know. It's been so long,
13 but there was -- I believe this is the case if
14 I'm not -- I'm probably slandering some people
15 people, but there was a big-time drug dealer who
16 was in prison at the time from Washington,
17 Plymouth, that whole area, and -- Plymouth,
18 Washington, I can't kind of remember, was it
19 Plymouth?

20 MS. MATOIAN: It was Plymouth?

21 MR. JIMISON: Was it the Washington
22 County?

23 MS. MATOIAN: Yeah. Yeah.

24 MR. JIMISON: Yeah, okay, so yeah,
25 Little Washington's been Plymouth County, which

1 is, I think, or something.

2 MS. MATOIAN: It's in Beaufort County.

3 It always messes me up, too.

4 MR. JIMISON: Yeah, yeah. And is
5 there a Plymouth County? Beaufort is -- no,
6 Washington is in Beaufort County.

7 MS. MATOIAN: And then there's
8 Beaufort County (indiscernible).

9 MR. JIMISON: And then I think the
10 County -- then there's a Plymouth County in which
11 the town of Beaufort -- I don't know, but in any
12 event, this was near Plymouth, right, the city of
13 Plymouth?

14 MS. MATOIAN: Yes.

15 MR. JIMISON: Where the big paper
16 mill --

17 MS. MATOIAN: Yes.

18 MR. JIMISON: And apparently, there
19 was some guy, some drug dealer who was in prison
20 who was this sort of like big-time drug dealer
21 from all the days gone by, so to speak.

22 MS. MATOIAN: Yeah.

23 MR. JIMISON: And he was in prison,
24 and he was like -- I think he was in Central
25 Prison or maybe he was being in safe-holding in

1 Wake County for like the federal system. Maybe
2 he was a federal prisoner in Wake County. And I
3 think that maybe Letitia and I both went and
4 visited him or maybe it was just me. But there
5 was something that he had a relationship with a
6 police officer who was involved with
7 investigating the case. And I basically asked
8 him, I said, "Hey, can you tell me --," and he
9 wouldn't say. And then I said, "Well, can you
10 kind of give me a sign or sort of like, "Hey, can
11 you like kind of, you know, let me know whether
12 it was," you know. And he kind of like kind of
13 shrugged or kind of smiled and kind of winked his
14 eye at me, which I kind of took like, yeah, okay,
15 he's admitting to having a relationship with this
16 police officer.

17 And the reason that was important was
18 because I think there was an alternative theory
19 that, you know, this was a drug thing gone bad,
20 but that it was that Frank Swain owed money to
21 this larger drug dealer or supplier and that he
22 got murdered by people connected to him, and that
23 there was sort of -- that lead was never sort of
24 pursued because he was in a relationship with a
25 police officer, one of the local police people,

1 you know, in the area.

2 MS. MATOIAN: Okay.

3 MR. JIMISON: And so he was never
4 pursued or people he knew was -- that lead was
5 never pursued and -- but you know, that's sort of
6 fantastical.

7 I remember Letitia and I -- and if any
8 of that sounds remotely true, I don't know. Like
9 I said, I could be --

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Handout 9

STATE OF NORTH CAROLINA
COUNTY OF WASHINGTON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
94 CRS 1984 and 94 CRS 1566 (Spruill)
94 CRS 1973 and 95 CRS 1565 (Jones)

STATE OF NORTH CAROLINA,

v.

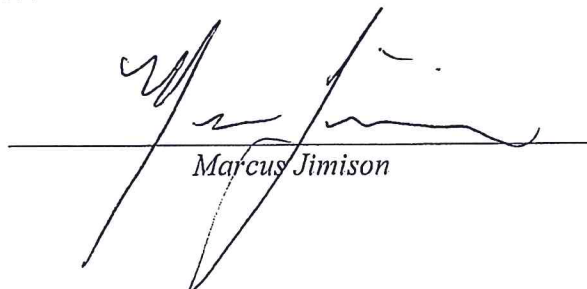
LEROY SPRUILL AND WALLACE
BRANDON JONES,

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) **AFFIDAVIT OF ATTORNEY MARCUS**
) **JIMISON**
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NOW COMES Marcus Jimison being first been duly sworn, who deposes and says the following:

1. I am an attorney, duly licensed to practice law in North Carolina. I have been practicing law for approximately 24 years.
2. While employed as a Staff Attorney at Prisoner Legal Services, I investigated Mr. Wallace Brandon Jones' request for assistance. Attorney Letitia Echols also worked on Mr. Jones' case while at PLS. I believe Attorney James Carter worked on the case after I left PLS.
3. I left my position at Prisoner Legal Services in 1998.
4. In July 2017, I was contacted by Commission Grant Staff Attorney Catherine Matoian regarding any statements Mr. Jones made regarding his guilt or innocence in this case during the course of my involvement in his case.
5. Mr. Jones maintained to me that he was innocent of this crime. At no time did he admit any involvement in this crime.

This the 10th day of July, 2017.



Marcus Jimison

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Sworn to and subscribed before me,

this 10th day of July, 2017.

Wanda A. Long (Seal)
Notary Public

My Commission Expires: 4-18-2020

Handout 10

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22 MS. MATOIAN: Yeah. So just -- obviously,
23 you know, we have the file from you, and that you had
24 met with him, and just kind of a standard question we
25 usually ask any attorneys involved in cases is whether

1 or not the claimant made any statements as to whether
2 or not he was guilty or innocent when you met with him.

3 And if you're not comfortable saying that
4 over the phone, I do have a waiver that he signed that
5 I can provide to you over e-mail.

6 MR. TYNDALL: You know, the only thing -- I'm
7 remembering a couple of things about this case. It
8 seems like I drove out to Hyde County or somewhere like
9 that and met with him, and I -- I feel, you know,
10 almost certain that he denied being involved.

11 MS. MATOIAN: Okay.

12 MR. TYNDALL: And I think it was one of those
13 where -- you know, I don't know if he denied -- no
14 involvement or whether he said, "I was there, but I
15 didn't participate." I just don't remember --

16 MS. MATOIAN: Okay.

17 MR. TYNDALL: -- anything about the facts.

18 But I do remember Vosburgh might have been
19 involved.

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Handout 11

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
94 CRS 1984 and 94 CRS 1566 (Spruill)
94 CRS 1973 and 95 CRS 1565 (Jones)

STATE OF NORTH CAROLINA,

V.

LEROY SPRUILL AND WALLACE
 BRANDON JONES,

**AFFIDAVIT OF ATTORNEY AMOS
TYNDALL**

NOW COMES Amos Tyndall, being first duly sworn, who deposes and says the following:

1. I am an attorney licensed to practice law in North Carolina. I have been practicing law for nearly twenty-five years.

2. In 2002 and 2003, someone contacted me on Wallace Brandon Jones' behalf requesting that I investigate the possibility of filing a petition for clemency. My memory is that the person who contacted me was a relative, possibly his sister or mother.

3. Someone hired me to review the file, meet with Mr. Jones, and discuss appropriate steps to obtain some sort of post-conviction relief. If Mr. Jones had exhausted his post-conviction remedies, I suspect they were requesting help with a clemency petition.

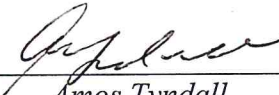
4. I reviewed the file and met with Mr. Jones. I remember having additional discussions with family members. My belief is that the family was unable to raise enough money to hire me to complete a thorough investigation and pursue relief, but I cannot be sure that is the reason I stopped reviewing the case.

5. I previously provided my file for Mr. Jones to the North Carolina Innocence Inquiry Commission.

6. In June 2017, Commission Grant Staff Attorney Catherine Matoian contacted me regarding any statements Mr. Jones made regarding his guilt or innocence during our meeting.

7. I cannot recall the specifics, but am fairly certain that Mr. Jones assured me of his innocence during our meeting, and possibly in writing.


This the 31st day of July, 2017.

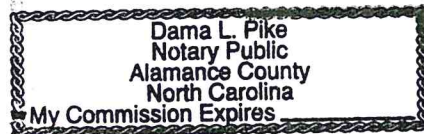

Amos Tyndall

STATE OF NORTH CAROLINA
COUNTY OF Orange

Sworn to and subscribed before me,

this 31st day of July, 2017.

 (Seal)
Notary Public



My Commission Expires: 4/20/20

Handout 12

STATE OF NORTH CAROLINA
COUNTY OF WASHINGTON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

94 CRS 1566

94 CRS 1984


STATE OF NORTH CAROLINA)
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LEROY SPRUILL)

))

Carl Stewart, having appeared before the undersigned notary and first been duly sworn, deposes and says:

1. I am an active attorney who is admitted to the practice of law in NC.
2. I practice law in Gastonia, NC.
3. I represented Leroy Spruill in connection with a Petition for Commutation filed with the Governor's Clemency Office in 2001.
4. On February 13, 2017, I was contacted by Catherine Matoian, Grant Staff Attorney for the North Carolina Innocence Inquiry Commission regarding my representation of Mr. Spruill. Ms. Matoian provided me with a copy of Mr. Spruill's rights waiver.
5. I purge my files after seven years of inactivity and have no files related to my representation of Mr. Spruill.
6. There are no additional locations where my file for this case may be located.
7. Mr. Spruill always maintained that he was innocent of this crime during my representation.

This the 1st day of March, 2017.



Carl J. Stewart, Jr.

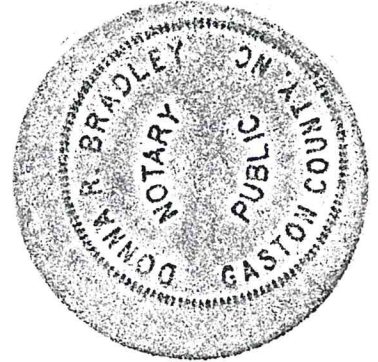
Sworn to and subscribed before me, this 1 day of March, 2017.

Donna R. Bradley
Notary Public

[Seal]

My Commission Expires:

DONNA R. BRADLEY
NOTARY PUBLIC
Gaston County
North Carolina
My Commission Expires Jan. 27, 2020



Handout 13

STATE OF NORTH CAROLINA
COUNTY OF WASHINGTON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
94 CRS 1566
94 CRS 1984

STATE OF NORTH CAROLINA

v.

LEROY SPRUILL

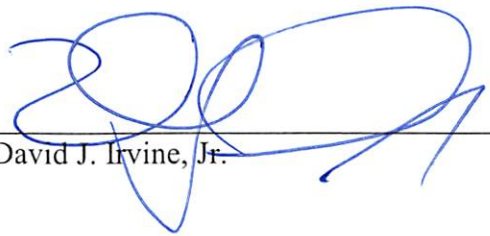
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**AFFIDAVIT OF
DAVID J. IRVINE, JR.**

David J. Irvine, Jr., having appeared before the undersigned notary and first been duly sworn, deposes and says:

1. I am an active attorney who is admitted to the practice of law in North Carolina.
2. I practice law in Williamston, NC
3. I represented Leroy Spruill during mid-1998 and I do not believe I provided any legal services before or after 1998.
4. At the time I represented Mr. Spruill, I was employed by the law firm Pritchett & Burch, PLLC in Windsor, NC.
5. On May 17, 2017, I was contacted by Catherine Matoian, Grant Staff Attorney for the North Carolina Innocence Inquiry Commission regarding my representation of Mr. Spruill. Ms. Matoian provided me with a copy of Mr. Spruill's rights waiver.
6. I left Pritchett & Burch, PLLC in July of 1999.
7. Any files I had for Mr. Spruill would have remained at Pritchett & Burch.
8. I have no files in my possession related to my representation of Mr. Spruill.
9. I have no recollection of what Mr. Spruill contended regarding his conviction beyond the terms set forth in my letter to him dated June 30, 1998.

This the 17th day of May, 2017.


David J. Irvine, Jr.

Sworn to and subscribed before me, this 17th day of May, 2017.


Notary Public

[Seal]



My Commission Expires: 9/28/17

Handout 14

STATE OF NORTH CAROLINA

COUNTY OF WASHINGTON

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION

94 CRS 1984 and 95 CRS 1566 (Spruill)

94 CRS 1973 and 95 CRS 1565 (Jones)

STATE OF NORTH CAROLINA,

v.

LEROY SPRUILL AND WALLACE
BRANDON JONES

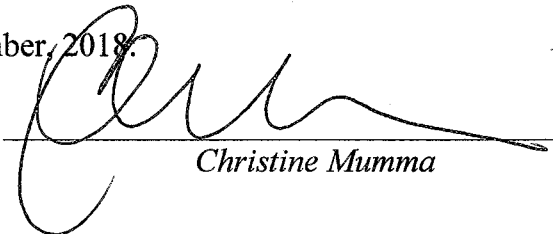
**AFFIDAVIT OF CHRISTINE
MUMMA**

NOW COMES Christine Mumma being first been duly sworn, who deposes and says the following:

1. I am an attorney, duly licensed to practice law in North Carolina in 1999.
2. I am the Executive Director of the N.C. Center on Actual Innocence (Center).
3. In June of 2001, both Leroy Spruill and Wallace Brandon Jones submitted applications to the Center for investigation of their claims of innocence.
4. Leroy Spruill and Wallace Brandon Jones both consented to having their cases investigated by the Center and waived conflict of interest.
5. Leroy Spruill and Wallace Brandon Jones have always maintained their innocence to me and, to my knowledge, all members of my staff and students volunteering with the law school innocence projects.
6. I referred the cases of Leroy Spruill and Wallace Brandon Jones to the North Carolina Innocence Inquiry Commission (Commission) in 2009 and provided the Center's file to the Commission.

FURTHER THE AFFIANT SAYETH NOT.

This the 17th day of September, 2018.


Christine Mumma

STATE OF NORTH CAROLINA
COUNTY OF Durham

Sworn to and subscribed before me,

this 17th day of September, 2018.

Rebecca O. Fortune (Seal)
Notary Public

My Commission Expires: May 13, 2023

Handout 15



North Carolina Department of Justice
North Carolina State Crime Laboratory
 Raleigh



Laboratory Report Cross Reference R200808767

TO:	W. M. Warner N.C. SBI-Coastal District 470 Dolphin Drive Jacksonville, NC 28546	DATE:	March 2, 2015
		CRIME LAB NO.:	R200605573
		SBI FILE NO.:	
		AGENCY FILE NO.:	2004-3241
		EXAMINED BY:	Erin M. Biggio
		DATE OF OFFENSE:	December 18, 1993
LOCATION:	Washington County		
TYPE OF CASE:	Homicide		
SUBJECT(S):	Leroy Spruill Wallace Brandon Jones Dana Lynn Maybin	William Frank Swain (Victim) Sonja Day (Victim)	

ITEM(S) SUBMITTED BY J. SNELL ON FEBRUARY 7, 2014:

Item # 19: Major case inked impressions bearing the name Avis Lashon Arnold. (Your item 1)
 Item # 20: Major case inked impressions bearing the name Lee Demetrius McPhatter. (Your item 2)
 Item # 21: Major case inked impressions bearing the name Billy McNair. (Your item 3)
 Item # 22: Major case inked impressions bearing the name Willi Joseph McNair. (Your item 4)
 Item # 23: Major case inked impressions bearing the name Joseph Martin Lynn. (Your item 5)
 Item # 24: Major case inked impressions bearing the name Dennis McNair. (Your item 6)
 Item # 25: Major case inked impressions bearing the name David Earl Armstrong. (Your item 7)
 Item # 28: One (1) set of known inked impressions bearing the name Maurice B. Wilkins.
 Item # 29: One (1) set of known inked fingerprint impressions bearing the name Wyatt Leland Spruill (NC0259943A), one (1) set of known inked impressions bearing the name Wyatt Leland Spruill (NC0259943A), and one (1) set of known inked fingerprint impressions bearing no name.
 Item # 30: One (1) set of known inked impressions bearing the name Willie Joseph McNair (NC0654700A) received from CIIS via SAFIS database on February 5, 2015.

ITEM(S) SUBMITTED BY W. M. WARNER ON FEBRUARY 26, 2014:

Item # 1: Eighteen latent lifts. (Your item 8)
 Item # 2: Twenty one latent lifts. (Your item 9)

TYPE EXAMINATION REQUESTED:

Latent Print Examination; SAFIS Search and Comparison.

I, Roy Cooper, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Crime Laboratory, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and G.S. 8-58.20 and approved by me in compliance with the said statutes.

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

COPIES TO:
 S. H. Edwards, DA, Jennifer L. Snell, A. G. Jernigan, SBI Records, Lindsey Guice-Smith

This report contains the opinions/interpretations of the examiner(s) who issued the report. All supporting documentation generated during the examination is released with the report.

Erin M. Biggio

Erin M. Biggio

Confidential: This is an official file of the North Carolina State Crime Laboratory. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

RESULTS OF EXAMINATION:

Four (4) identifiable latent fingerprints and one (1) identifiable latent impression were noted on Item 1.

One (1) identifiable latent fingerprint and one (1) identifiable latent palmprint were noted on Item 2.

Two (2) of the identifiable latent fingerprints noted on Item 1 were determined to be of sufficient value for entry into the North Carolina State Automated Fingerprint Identification System (SAFIS). As a result of being searched on SAFIS, two (2) of the identifiable latent fingerprints were identified as having been made by the left thumb of Wyatt Leland Spruill.

One (1) of the identifiable latent fingerprints noted on Item 1 was subsequently compared to Item 29 and was identified as having been made by the left middle finger of Wyatt Leland Spruill.

The first SAFIS hit was to a fingerprint card with no descriptors; therefore, a known-to-known comparison was conducted to verify that the fingerprint impressions on the card bearing no name originated from the same source as the known inked fingerprint impressions on the card bearing the name Wyatt Leland Spruill.

The one (1) remaining identifiable latent fingerprint noted on Item 1 was compared to Items 19, 23, 28, 29, and 30 and was excluded as having been made by the same source.

The one (1) remaining identifiable latent fingerprint noted on Item 1 was compared to Items 20, 21, 22, 24, and 25 with no identification being effected; however, the known inked impressions were insufficient to conduct a conclusive comparison. Major case inked impressions with emphasis on the entire rolled fingers, especially the sides of the fingers, will be required before a conclusive comparison can be conducted with these individuals.

The one (1) remaining identifiable latent fingerprint noted on Item 1 was determined to be of sufficient value for entry into the SAFIS and was entered into and searched by the SAFIS with no identification being effected.

The one (1) identifiable latent impression noted on Item 1 was compared to Items 19, 20, 21, 22, 23, 24, 25, 28, 29, and 30 with no identification being effected. However, the known inked impressions were of insufficient detail to conduct a conclusive comparison. Major case inked impressions with emphasis on the joints will be required before a conclusive comparison can be conducted.

The one (1) identifiable latent impression noted on Item 1 was determined to be of sufficient value for entry into the SAFIS and was entered into and searched by the SAFIS with no identification being effected.

The one (1) identifiable latent fingerprint noted on Item 2 was compared to Items 19, 20, 21, 22, 23, 24, 25, 28, 29, and 30 and was identified as having been made by the left little finger of Willie Joseph McNair.

The one (1) identifiable latent palmprint noted on Item 2 was compared to Items 19, 20, 21, 22, 24, 28, and 30 and was excluded as having been made by the same source.

The one (1) identifiable latent palmprint noted on Item 2 was compared to Items 23, 25, and 29 with no identification being effected; however, the known inked impressions were of insufficient detail to conduct a conclusive comparison. Major case inked impressions with emphasis on the palms will be required before a conclusive comparison can be conducted with these individuals.

The one (1) identifiable latent palmprint noted on Item 2 was determined to be of sufficient value for entry into the SAFIS and was entered into and searched by the SAFIS with no identification being effected.

An identification is defined as the decision by an examiner that there are sufficient features in agreement to conclude that two (2) areas of friction ridge impressions originated from the same source. Identification of an impression to one source is the decision that the likelihood the impression was made by another (different) source is so remote that it is considered a practical impossibility.

Handout 16

Curriculum Vitae

Joseph M. Ludas (Marty)
Forensic Press
112 North Avenue
Wake Forest, North Carolina 27587
martyludas@aol.com / tel: 919-671-3024

Forensic Evidence Examiner: Latent Fingerprint and Footwear Impression Analysis

2001-present

Forensic Press / Wake Forest, North Carolina

Latent print and footwear evidence defense expert for North Carolina Indigent Defense Services.
North Carolina Innocence Inquiry Commission Footwear and Fingerprint Evidence Consultant.
Duke Law School Innocence Project consultant.
Wake Forest Law School evidence consultant.
Forensic Press pro bono casework review and consultation.
Multimedia video production and instructional fingerprint tutorial development.

1982-2001

City/County Bureau of Identification / Raleigh, North Carolina

Latent fingerprint, automated fingerprint identification and footwear evidence examiner, retired 2001.
Primary duties consisted of fulltime casework analysis in latent print and footwear evidence.
Testified in state and federal courts in approximately 350 cases as an expert in the comparative analysis of latent print and footwear evidence. Retired in 2001.

1975-1982

North Carolina State Bureau of Investigation Crime Laboratory

Special Agent, latent print and footwear evidence examiner, assistant latent evidence section supervisor.
Testified in approximately 50 cases as an expert in the comparative analysis of latent print and footwear evidence.

1972-1975

Federal Bureau of Investigation / Washington D.C.

Fingerprint technician assigned to the Technical Section of the Identification Division.
Searched arrest fingerprint cards in FBI database utilizing the Henry Classification System.

Specialized Training, Professional Affiliations and Certifications

- 1972: FBI Science of Fingerprints Course: 540 hours
- 1979: SBI Latent Evidence Section Latent Print Apprenticeship Training, 18 months
- 1981: Awarded the North Carolina Advanced Law Enforcement Certificate
- 1993-present: Member of the International Association of Identification (IAI)
- 1994-2007: International Association for Identification Certified Latent Print Examiner (CLPE)
- 1996-2010: International Association for Identification Certified Footwear Examiner (CFWE)
- 1983-2002: North Carolina Basic Law Enforcement Certified Instructor (BLET)

Education

1972 Graduate of Carmel High School for Boys / Mundelein, Illinois
1977 Wake Technical Community College: Associate in Arts, Police Science Technology
1981 North Carolina Wesleyan College: Bachelor of Science Criminal Justice, cum laude and departmental honors

Academic Curricula Development and Publications

2013-present

- Authored the Fingerprint Paradigm Training Program for Wake Technical Community College
- Authored the Friction Ridge Examiner Competency Training Initiative certified by International Association for Identification for professional training certification and re-certification training credits.
- Published **Fingerprint Practitioner Workbook**, ISBN 0-9650202-3-1

2010-2012

Awarded DOJ earmark grant from Wake Tech for the *Friction Ridge Examiner Competency Training Initiative*. Designed digital classroom, latent print workstations, video-based tutorial lesson plans and PrintScore™ operative assignments and training exercises.

2007-2010

Developed and instructed fingerprint curriculum for the Wake Tech Criminal Justice Program: *Friction Ridge Analysis CJC 245 Introduction and CJC 246 Advanced*.

2004-2008

Developed forensic curriculum with operative exercises for college-level instruction and professional crime lab training. Publications with lesson plans:

- The Illustrated Lecture of Fingerprint Identification
- Fingerprint Comparison
- Latent Print Development with Magnetic Powder
- Latent Print Processing with Ninhydrin
- Cyanoacrylate Fuming
- Footwear Identification
- Mock Crime Scene Investigation

2004-present

Developed forensic evidence curriculum for Law Tech Custom Publishing, San Clemente, Ca.

Publication with lesson plans: **Fingerprint and Impression Analysis Workbook**, ISBN: 978-1-889315-95-9

2004-2007

Developed forensic evidence curricula for Holt, Rinehart & Winston science textbooks, Austin, Texas.

Publications and Lesson Plans: Classroom Forensics™ & Scientific Inquiry

1996-2007

Joint publication, training and product development with John Carrington at Sirchie Finger Print Labs, Inc. Youngsville, NC. Publications, lesson plans and operative assignments

- The AFIS Curriculum (Three day instructional workshop) 2000-2003
- The Science at Your Fingertips Educational Series
- PrintScore™ 100-300 Fingerprint Comparison Exercises
- TrakScore™ Footwear Comparison Exercises

1996

Established Forensic Press / Raleigh, NC.

Authored Classroom Forensics™ publications, lesson plans and operative assignments.

- **Fingerprint Discoveries: The Illustrated Textbook of Fingerprint Identification**. ISBN 0-9650202-0-7
- **Fingerprint Discoveries Workbook: Assignments, Projects and Tests**. ISBN 0-9605202-2-03

September 5, 2018

Handout 17

Kendra Montgomery-Blinn, JD

Executive Director

North Carolina Innocence Inquiry Commission

Administrative Office of the Courts

PO Box 2448

Raleigh, NC 27602

Joseph M. (Marty) Ludas

Latent Fingerprint and Footwear Examiner

Forensic Press

112 North Avenue

Wake Forest, NC 27587

919-671-3024

martyludas@aol.com

June 18, 2015

Spruill and Jones Commission Inquiry Report

94 CRS 1573, 1566,1984; 95 CRS 1565

Items Submitted for Comparison

NCIIC #68: Eighteen Latent Print Lifts from victim's residence.

NCIIC #69: Inked fingerprints and palm prints of Avis Lashon Arnold.

NCIIC #70: Inked fingerprints and palm prints of Lee Demetrius McPhatter.

NCIIC #71 Inked fingerprints and palm prints of Billy McNair.

NCIIC #72: Inked fingerprints and palm prints of Willie Joseph McNair.

NCIIC #73: Inked fingerprints and palm prints of Joseph Martin Lynn.

NCIIC #74 Inked fingerprints of Dennis McNair.

NCIIC #75 Inked fingerprints and palm prints of Dennis Armstrong.

NCIIC #76: Inked fingerprints and palm prints of Maurice Wilkins.

Item #77: Inked fingerprints and palm prints of Wyatt Leland Spruill. (WLS)

Item #78: Inked fingerprints and palm prints of Willie Joseph McNair.

Conclusions

I compared the latent prints to the above listed exemplars. During the comparison process, I noted that three identifications from a cup were previously attributed to Wyatt Leland Spruill. I concurred with those identifications. My analysis resulted in an additional seven latent prints identified to Wyatt Leland Spruill. These prints were marked as being removed from the exterior of the door and the cup from the den floor. Additionally, there was a latent print from the telephone that I compared to the left little finger of Wyatt Leland Spruill. Due to the poor quality of the live scan exemplar, specifically the white streaks from an improperly maintained laser printer, I was unable to render a con-

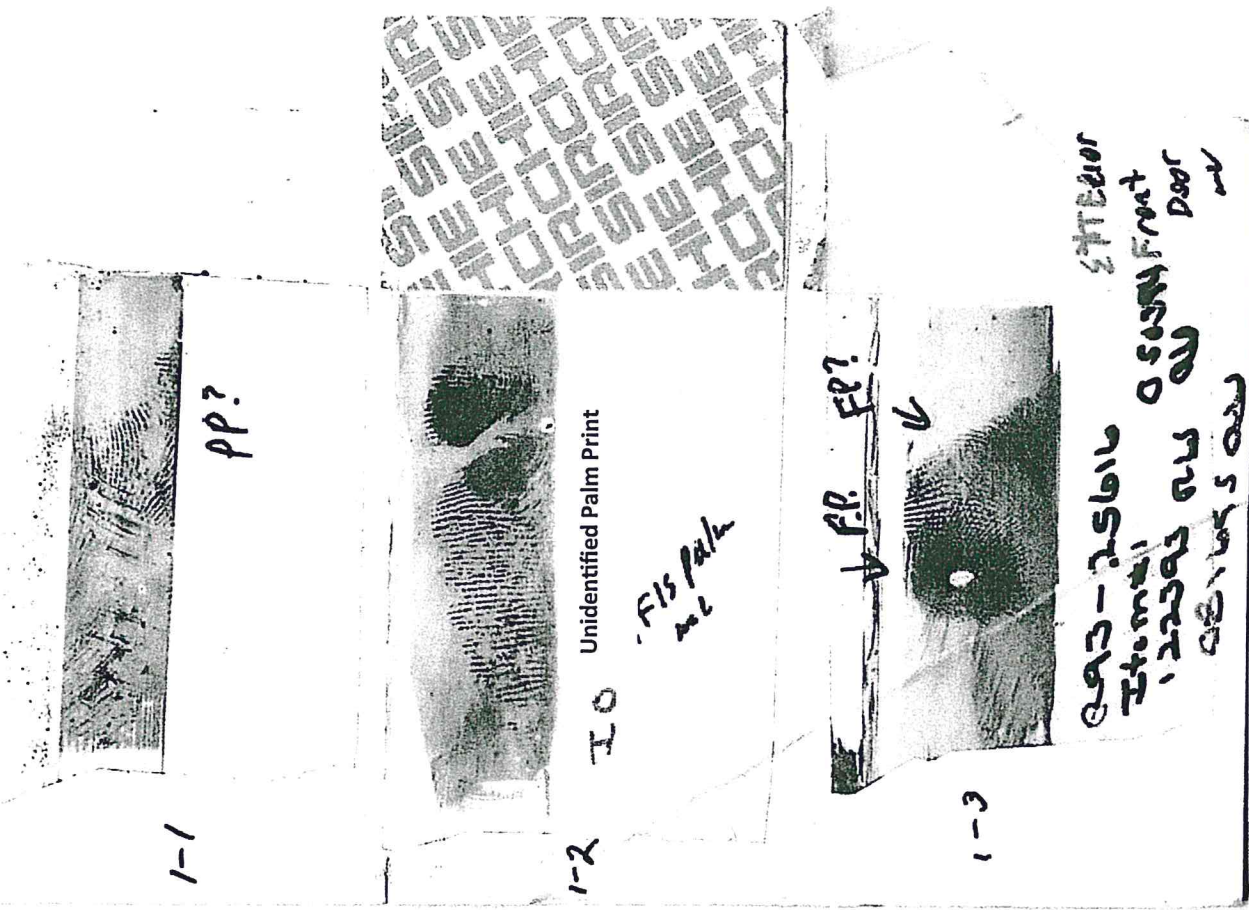
clusive opinion. If a better quality exemplar is acquired, I could make a conclusive determination as to the latent print's origin.

After my comparison of the Wyatt Leland Spruill's exemplars to all of the latent prints was completed, *I noted only one latent palm print from the outside door that I could not identify*. I compared this palm print to all of the inked palm prints and excluded the individuals as the source of that print. Though the print is quite fragmentary, I noted that it is a candidate for an automated search against palm print databases. My notes include a minutia plot for the ridge structures I recognized. In my opinion, the palm print is the only latent print not reconciled.

Documentation

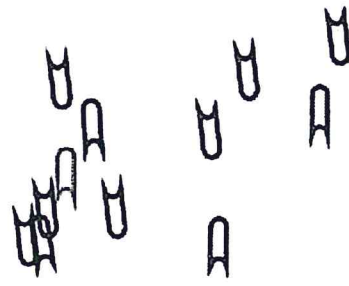
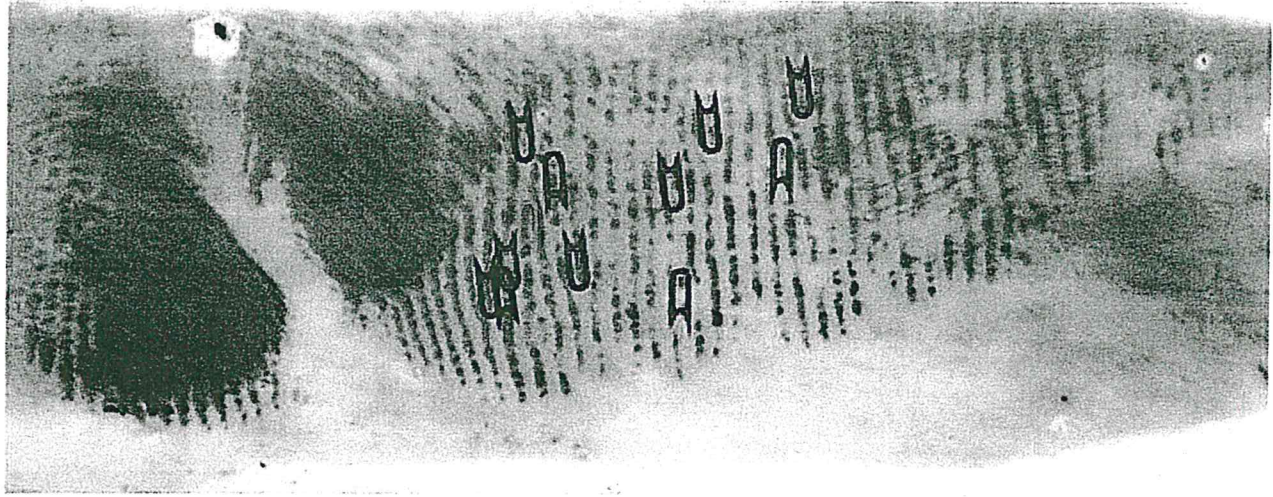
The seven new identifications I made, the unidentified palm print from the door and the unresolved fingerprint from the phone requiring new exemplars on Wyatt Leland Spruill are listed in this directory and further documented in the report.

Exterior of front door	Interior front door knob	
1-1: Palm print of insufficient quality to conclusively compare.	1-8: Fingerprint of insufficient quality to conclusively compare .	1-16A: New identification, left index finger of WLS.
1-2: Palm print suitable for identification and automated search.	Top of Kitchen Table	1-16B: Fingerprint of insufficient quality to conclusively compare .
1-3: Two fingerprints of insufficient quality to conclusively compare.	1-9: Fingerprint of insufficient quality to conclusively compare.	1-17A: Previous identification as left middle finger of WLS.
1-4A: New identification, left ring finger of WLS.	Telephone	1-17B: New identification, left middle finger of WLS.
1-4B: Fingerprint of insufficient quality to conclusively compare.	1-10A: Fingerprint of insufficient quality to conclusively compare.	1-17C: New identification, left ring finger of WLS.
1-4C: Fingerprint of insufficient quality to conclusively compare.	1-10B: Cannot eliminate left little finger of WLS.	1-18A: New identification, left middle finger of WLS.
1-4D: New identification, left index finger of WLS.	Broken ash tray on den floor	1-18B: New identification, left middle finger of WLS.
1-4E: Fingerprint of insufficient quality to conclusively compare .	1-11: Fingerprint of insufficient quality to conclusively compare .	1-18C: New identification of left index finger of WLS.
1-5: Fingerprint of insufficient quality to conclusively compare.	1-12: Fingerprint of insufficient quality to conclusively compare .	
1-6: Fingerprint of insufficient quality to conclusively compare.	Plastic cup on den floor	
1-7: Fingerprint of insufficient quality to conclusively compare.	1-13: Previous identification as left thumbprint of WLS.	Additional documentation to follow.
	1-14: Previous identification as left thumbprint of WLS.	
	1-15: Multiple depositions of insufficient quality to conclusively compare.	



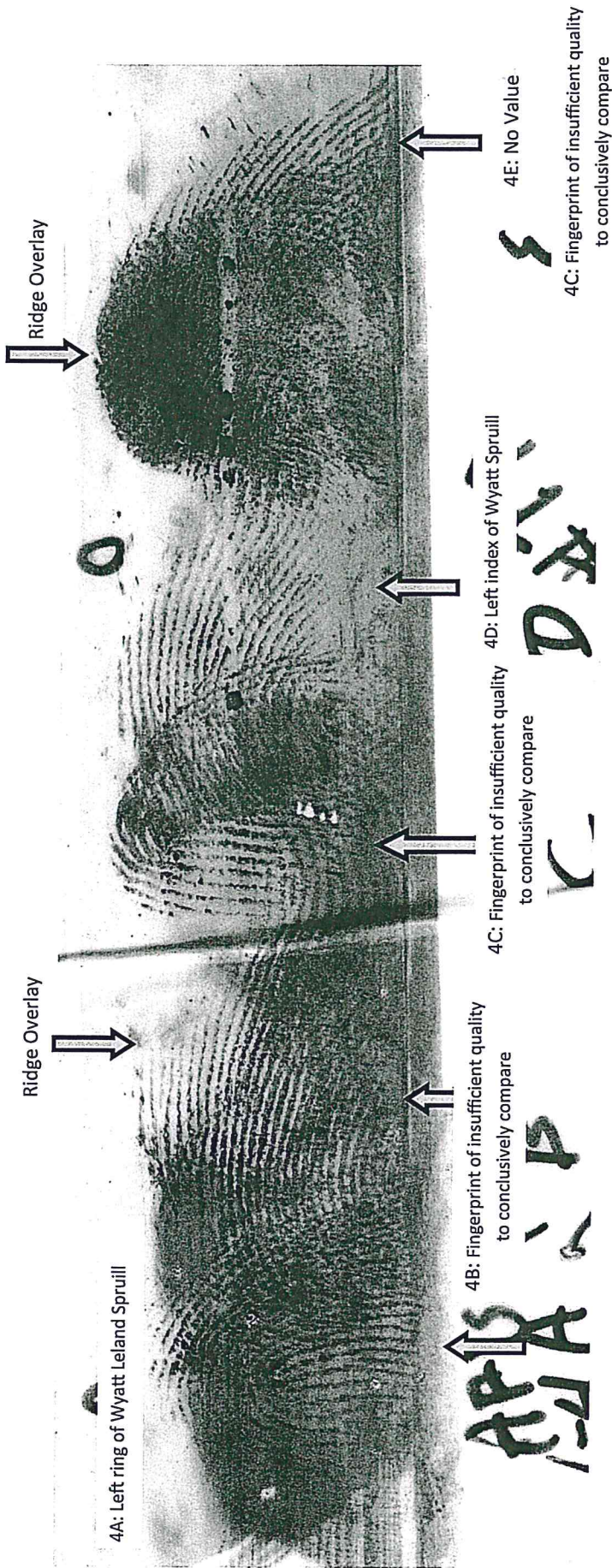
Exterior of front door

- 1-1: Palm print of insufficient quality to conclusively compare.
- 1-2: Palm print suitable for identification and automated search.
- 1-3: Two fingerprints of insufficient quality to conclusively compare.

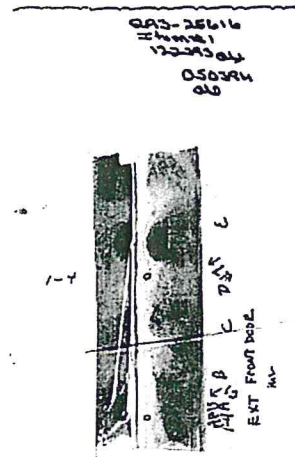


Suggested minutia plot for unidentified palm print from door. 1-2

This is the only unreconciled latent print that I could determine exists in this case.



Note: I see as many as eight different finger depositions, some of which I assess are slight movements of the finger which created doubletaps. It's my opinion that there is no purpose in comparing these prints further and the prints either cannot be excluded as originating from Wyatt Spruill or originated from him as in the left index finger identification.





1-5
N.V.



1-6

#62 (22)



1-7

(22)

Q93-25616
Thumb 1
122343 QW

Q50004
QW

Ext. Front Door m.v.

12-2-5
Excluded as minor
Date 12/19/90
Dw

NC State Crime Lab
R20040553 Item 1 8/10/94

14

Q9006-55013
Item 1
3/29/96
NOR

5

Exterior of front door

1-5 appears to be from a second or third joint finger. Fingerprint of insufficient quality to conclusively compare

1-6 appears to be a right thumbprint loop pattern but does not display ridge structure for comparison. Fingerprint of insufficient quality to conclusively compare

1-7 Fingerprint of insufficient quality to conclusively compare

093-25616
 Item 1
 12/23/21
 05450



INT Front Door
 knob w/ 1

1-8: Insufficient ridge structure to compare

12/23/21
 05450

NY State Crime Lab
 R21600453 Item 1

02000-5803
 Item 1
 3/2/22



12/19/20
 1-9
 Top kitchen table - 9

618-H-5
 TOP OF KITCHEN
 TABLE

12/19/20
 1-9

NC State Crime Lab
 R200605573 Item 1



22006-5573
 Item 1
 3/29/26
 NR

Q23-25616
 Item 1
 12-2-2023

05035424

1-9: Fingerprint of insufficient quality to conclusively compare

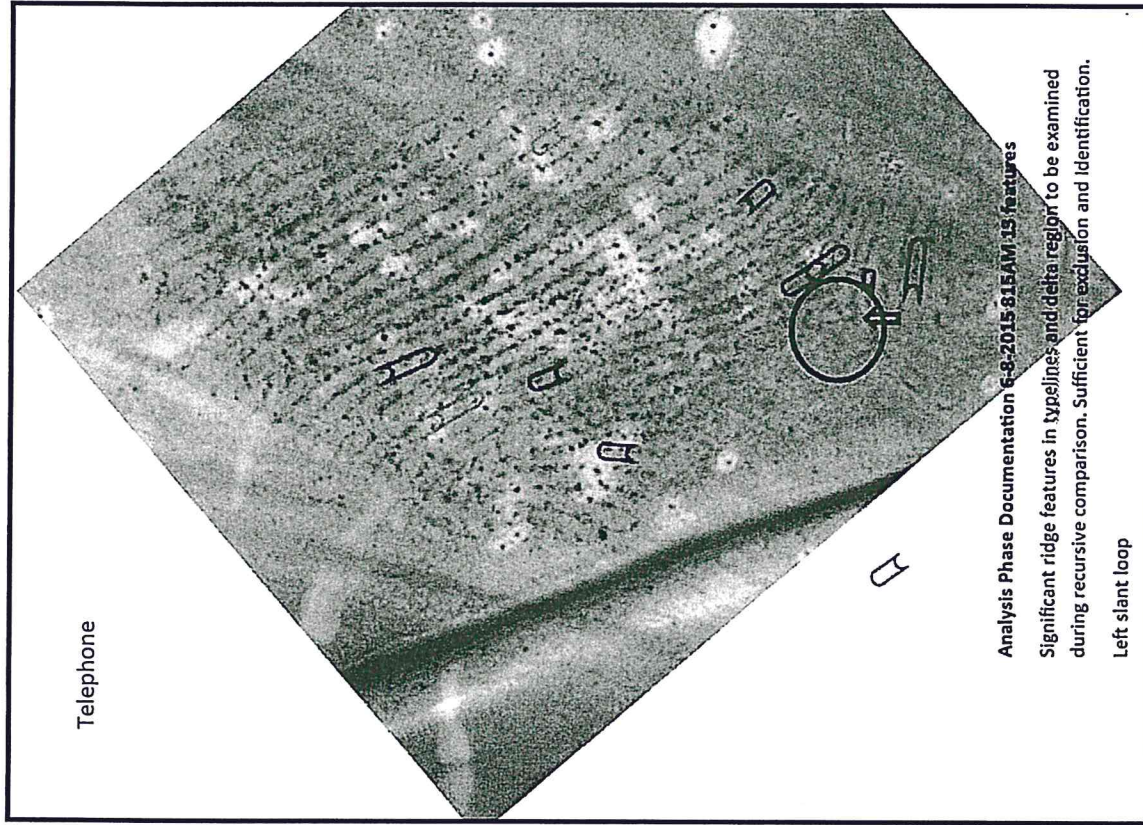


1-10: Cannot eliminate left little finger of Wyatt Leland Spruill.

Both cards defective, laser printer registration issues making streaks through pattern



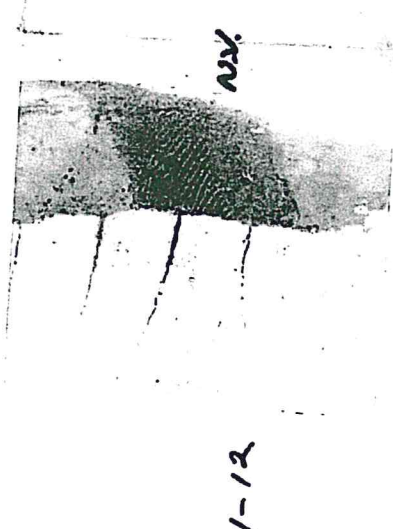
The yellow arrows designate the streaked white lines formed from the printer due to a probable maintenance issue. The white lines interfere with the the typelines and delta formation preventing me from conclusively comparing the print to the phone print. An exemplar printed from another printer would solve this issue.



Analysis Phase Documentation 6-8-2015 815AM 13 features

Can't eliminate WLS, need new FP card.

Left slant loop



Q93-25616
 Fingerprint
 12-23-93
 0503AM

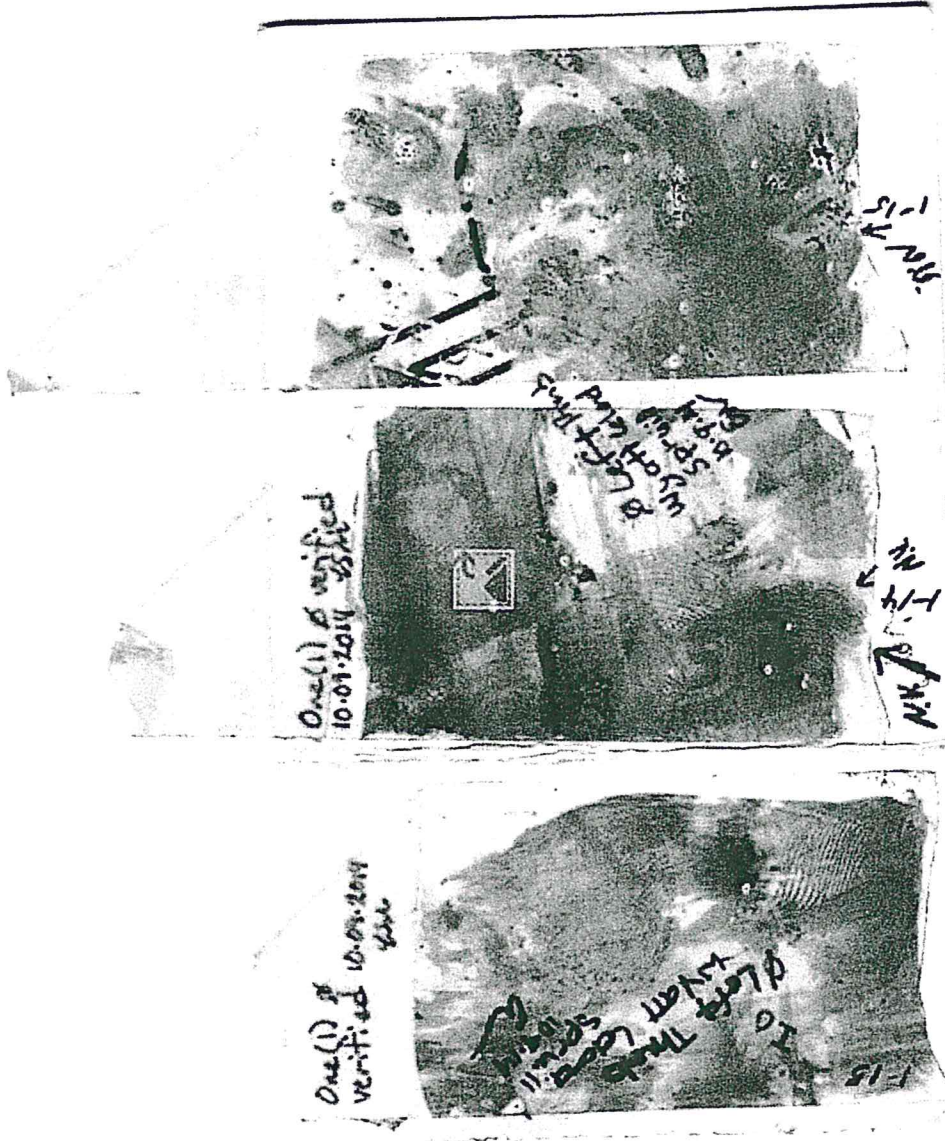
668-H-5-
 Broken Arrow on Den
 1-11
 12/18/93
 DGA

NC State Crime Lab
 R200605573 Item 1
 EN AM
 1-12

R2006-5573
 Item 1
 3/29/06
 NGA

2

1-11 and 1-12: Insufficient ridge structure to compare



1-13: Left thumb previously identified to Wyatt Leland Spruill

1-14: Left thumb previously identified to Wyatt Leland Spruill

1-15: Insufficient ridge structure to compare



1-16A: Additional identification, left index finger of Wyatt Leland Spruill

1-16B: Insufficient ridge structure to compare

1-17A: Previous identification, left middle finger of Wyatt Leland Spruill

1-17B: Additional identification, left middle finger of Wyatt Leland Spruill

1-17C: Additional identification, left ring finger of Wyatt Leland Spruill

1-18A: Additional identification, left middle finger of Wyatt Leland Spruill

1-18B: Additional identification, left middle finger of Wyatt Leland Spruill

1-18C: Additional identification, left index finger of Wyatt Leland Spruill

Handout 18

Lindsey Guice Smith
Executive Director
North Carolina Innocence Inquiry Commission
Administrative Office of the Courts
PO Box 2448
Raleigh, NC 27602

Spruill and Jones Commission Inquiry Fingerprint Report

94 CRS 1573, 1566,1984; 95 CRS 1565

Follow Up Comparison Supplement

Items Submitted in person on April 18, 2017

Multiple finger and palm print cards of Michael Lassiter NC0413915A (4)

Multiple finger and palm print cards of Sherry Anita Honea, AKA Gibson, aka Carroll
N0614046A (7)

Examination requested

I had previously examined the latent print in this case and was requested to compare the above subjects with the attempt to identify any of the remaining unidentified prints. I also was requested to compare any of the prints with the attempt to exclude the above subjects on any of the unidentified prints.

I made the comparisons requested and failed to identify any of the prints to the subjects above. Further, I was able to exclude numerous prints as originating from the above subjects. I listed each of the latent prints with my comparison results:

Exterior of front door

- 1-1 Exclusions for Gibson Honea and Lassiter
- 1-2 Exclusions for Gibson Honea and Lassiter
- 1-3 Exclusions for Gibson Honea and Lassiter
- 1-4 Exclusions for Gibson Honea and Lassiter
- 1-5 Fingerprint of insufficient quality to conclusively compare.
- 1-6 Exclusions for Gibson Honea and Lassiter
- 1-7 Fingerprint of insufficient quality to conclusively compare.

Joseph M. (Marty) Ludas
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May 2, 2017

Interior of front door

- 1-8: Fingerprint of insufficient quality to conclusively compare.

Top of kitchen table

- 1-9 Fingerprint of insufficient quality to conclusively compare.

Telephone

- 1-10 Exclusions for Gibson Honea and Lassiter


Broken ash tray on den floor

- 1-11 Fingerprint of insufficient quality to conclusively compare .
- 1-12 Fingerprint of insufficient quality to conclusively compare .

Plastic cup on den floor

- 1-13 Previously identified
- 1-14 Previously identified
- 1-15 Fingerprint of insufficient quality to conclusively compare.
- 1-16 Prints all already identified
- 1-17 Prints all already identified
- 1-18 Prints all already identified

Respectfully submitted


Joseph M. Ludas

Handout 19

Lindsey Guice Smith, Executive Director
North Carolina Innocence Inquiry Commission
Administrative Office of the Courts
PO Box 2448
Raleigh, NC 27602

Spruill and Jones Commission Inquiry Report

94 CRS 1573, 1566, 1984; 95 CRS 1565

Items Submitted for Comparison

NCIIC #68: Eighteen latent print lifts from victim's residence.
Inked fingerprints and palmprints of Alfred Armstrong.
Inked fingerprints and palmprints of Edward Fields.
Inked fingerprints and palm prints of Curtis Lane Furlough.
Inked fingerprints and palm prints of Thomas Elwood Garrett.
Inked fingerprints and palm prints of Ervin Ray Hurst.
Inked fingerprints and palm prints of David Ashley Mixon.
Inked fingerprints and palmprints of Frank Swain.
Inked fingerprints and palmprints of Timothy Lushane Swain.
Item #94: Inked fingerprints and palm prints of Wyatt L. Spruill
Item #96 Inked fingerprints and palm prints of Russell Buffy Knowles.

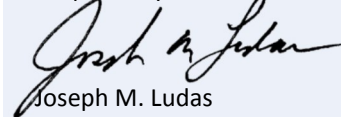
Joseph M. (Marty) Ludas
Latent Fingerprint and Footwear Examiner
Forensic Press
112 North Avenue
Wake Forest, NC 27587
919-671-3024
martyludas@aol.com
September 29, 2018

Conclusions

Based on my previous analysis, there were two unreconciled latent prints in this case: a palm print from the front door (lift 1-2) and a fingerprint from a telephone (lift 1-10B). I compared the door print to the preceding subjects and eliminated them as the source of the print. I also compared the fingerprint on the phone (1-10b) to all of the subjects. I was able to conclusively eliminate all of the subjects with the exception of Wyatt L. Spruill. I was not able to eliminate the left little finger of Mr. Spruill as the source of the fingerprint on the phone. Occasionally in latent print comparison examinations a conclusive identification or exclusion cannot be determined.

In conclusion, I determined that the latent print from the door is the only latent print remaining to be identified. Though the print is quite fragmentary, I noted that it is a candidate for an automated search against palm print databases.

Respectfully submitted



Joseph M. Ludas

Notes and Documentation

Exterior of front door

- 1-1: Palm print of insufficient quality to conclusively compare.
- 1-2: Palm print suitable for identification and automated search.
- 1-3: Two fingerprints of insufficient quality to conclusively compare.
- 1-4A: New identification, left ring finger of WLS.
- 1-4B: Fingerprint of insufficient quality to conclusively compare.
- 1-4C: Fingerprint of insufficient quality to conclusively compare.
- 1-4D: New identification, left index finger of WLS.
- 1-4E: Fingerprint of insufficient quality to conclusively compare .
- 1-5: Fingerprint of insufficient quality to conclusively compare.
- 1-6: Fingerprint of insufficient quality to conclusively compare.
- 1-7: Fingerprint of insufficient quality to conclusively compare.

Interior front door knob

- 1-8: Fingerprint of insufficient quality to conclusively compare .

Top of Kitchen Table

- 1-9: Fingerprint of insufficient quality to conclusively compare.

Telephone

- 1-10A: Fingerprint of insufficient quality to conclusively compare.
- 1-10B: Cannot eliminate left little finger of WLS.

Broken ash tray on den floor

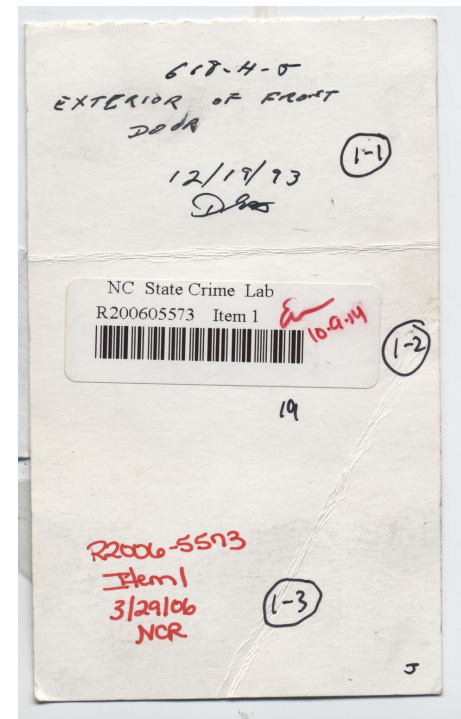
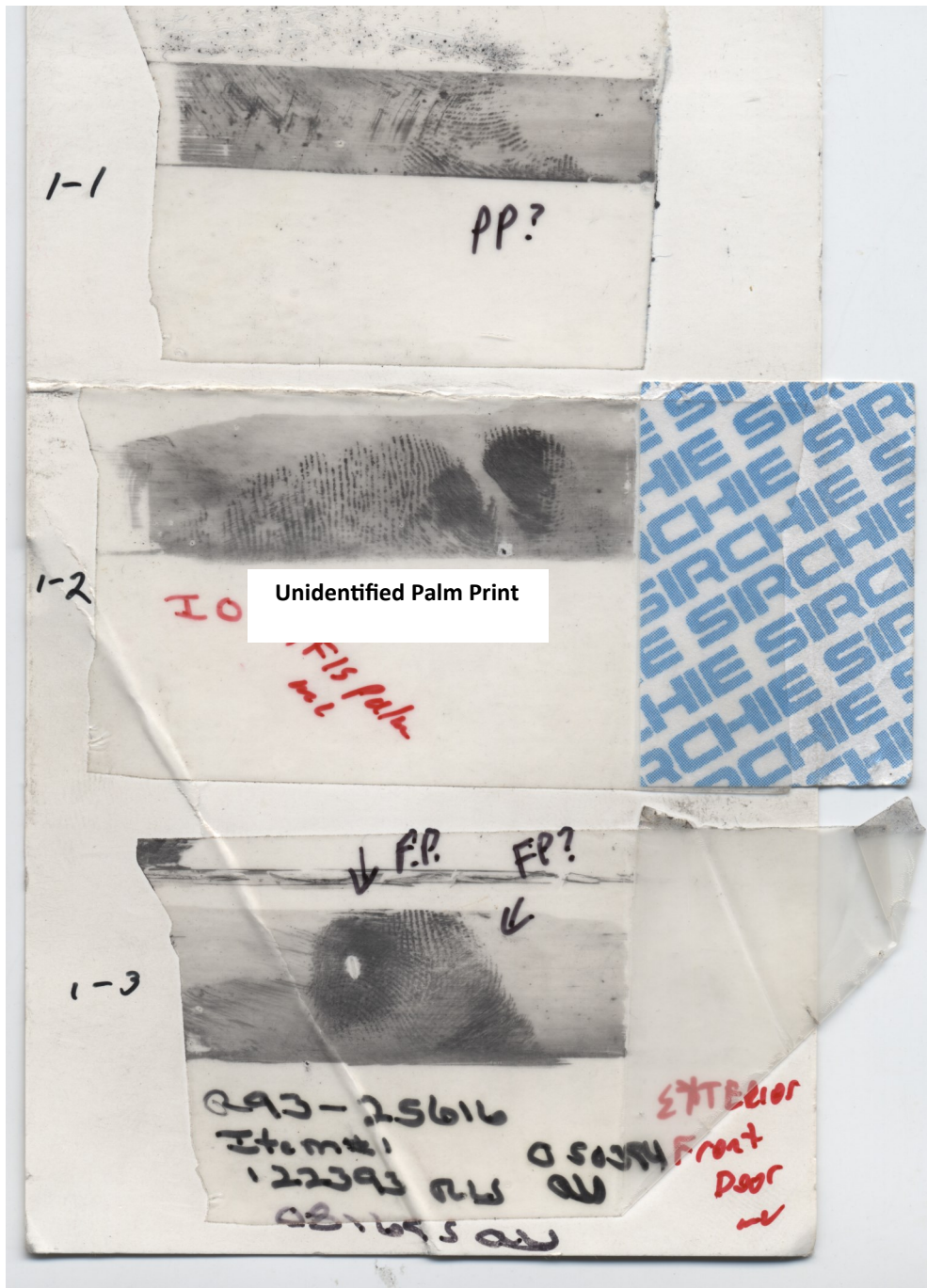
- 1-11: Fingerprint of insufficient quality to conclusively compare .
- 1-12: Fingerprint of insufficient quality to conclusively compare .

Plastic cup on den floor

- 1-13: Previous identification as left thumbprint of WLS.
- 1-14: Previous identification as left thumbprint of WLS.
- 1-15: Multiple depositions of insufficient quality to conclusively compare.

- 1-16A: New identification, left index finger of WLS.
- 1-16B: Fingerprint of insufficient quality to conclusively compare .
- 1-17A: Previous identification as left middle finger of WLS.
- 1-17B: New identification, left middle finger of WLS.
- 1-17C: New identification, left ring finger of WLS.
- 1-18A: New identification, left middle finger of WLS.
- 1-18B: New identification, left middle finger of WLS.
- 1-18C: New identification of left index finger of WLS.

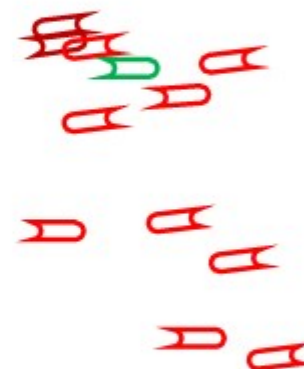
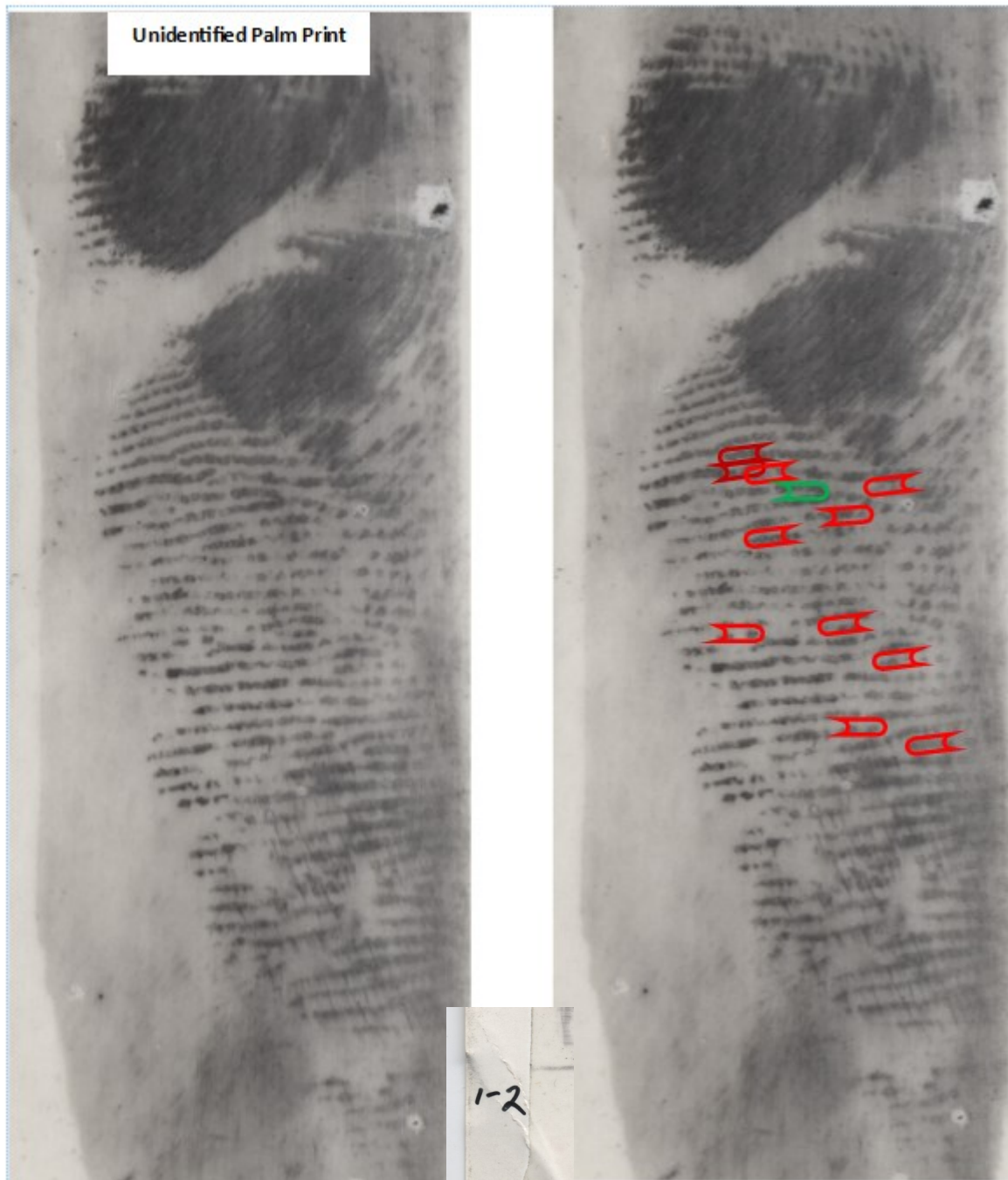
Additional documentation to follow.



Exterior of front door

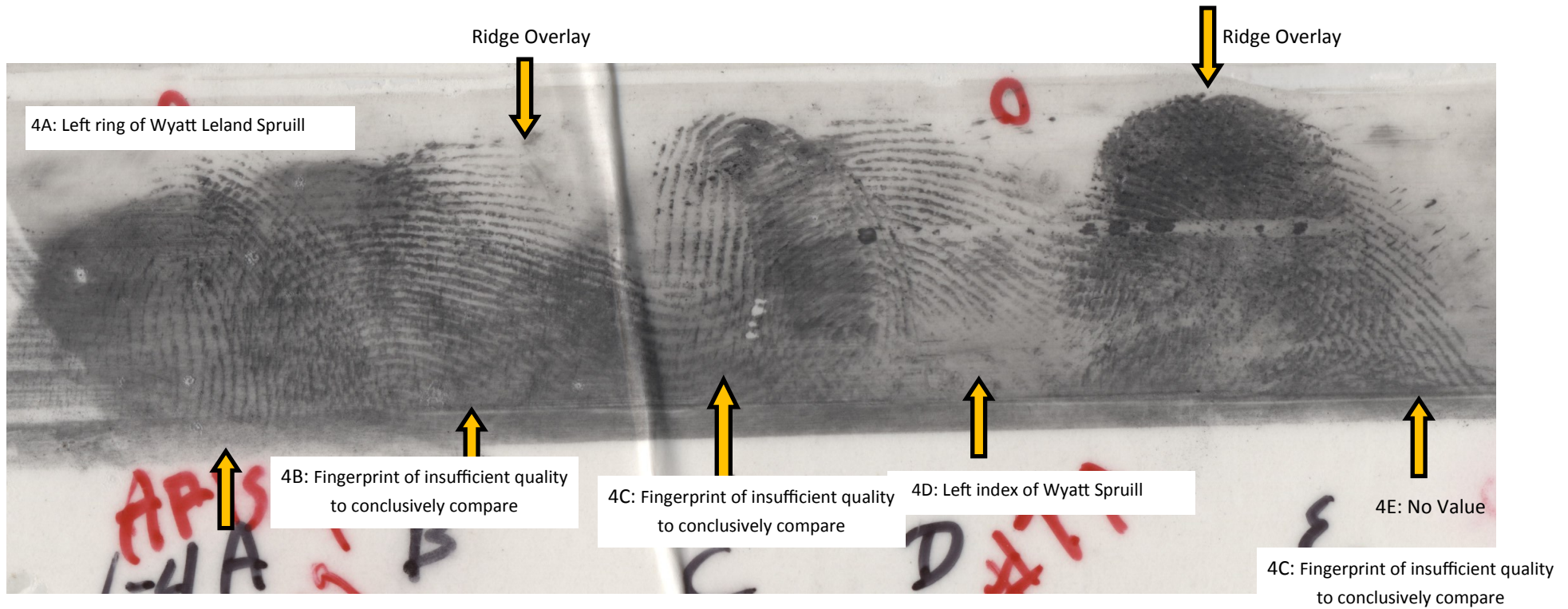
- 1-1: Palm print of insufficient quality to conclusively compare.
- 1-2: Palm print suitable for identification and automated search.
- 1-3: Two fingerprints of insufficient quality to conclusively compare.

Unidentified Palm Print

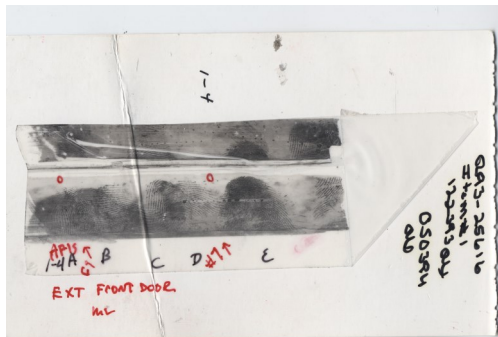


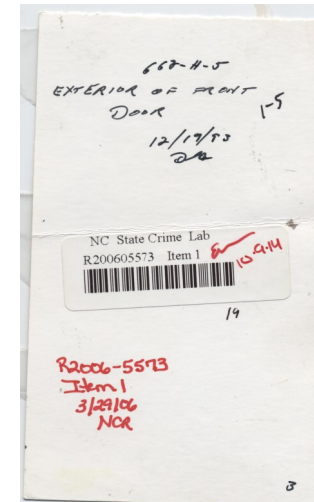
Suggested minutia plot for unidentified palm print from door. 1-2

This is the only unreconciled latent print that I could determine exists in this case.



Note: I see as many as eight different finger depositions, some of which I assess are slight movements of the finger which created double tap prints. It's my opinion that there is no purpose in comparing these prints further and the prints either cannot be excluded as originating from Wyatt Spruill or originated from him as in the left index finger identification.



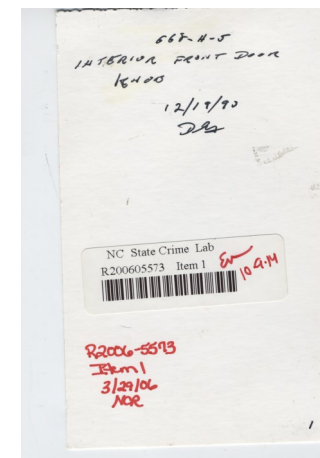


Exterior of front door

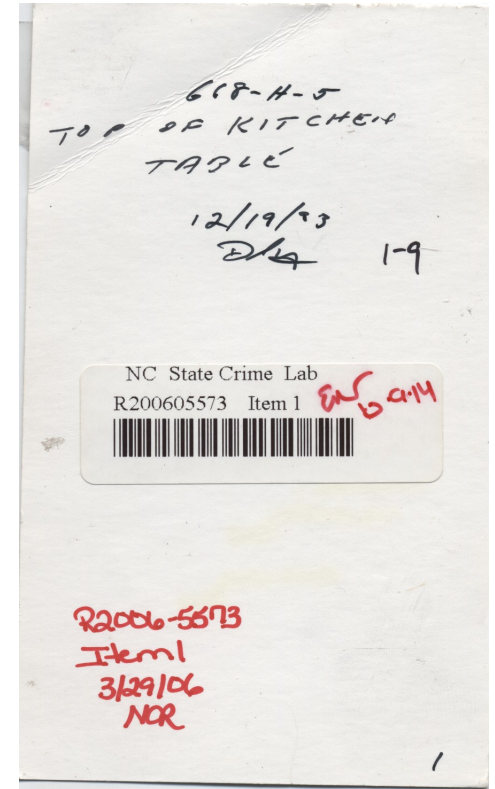
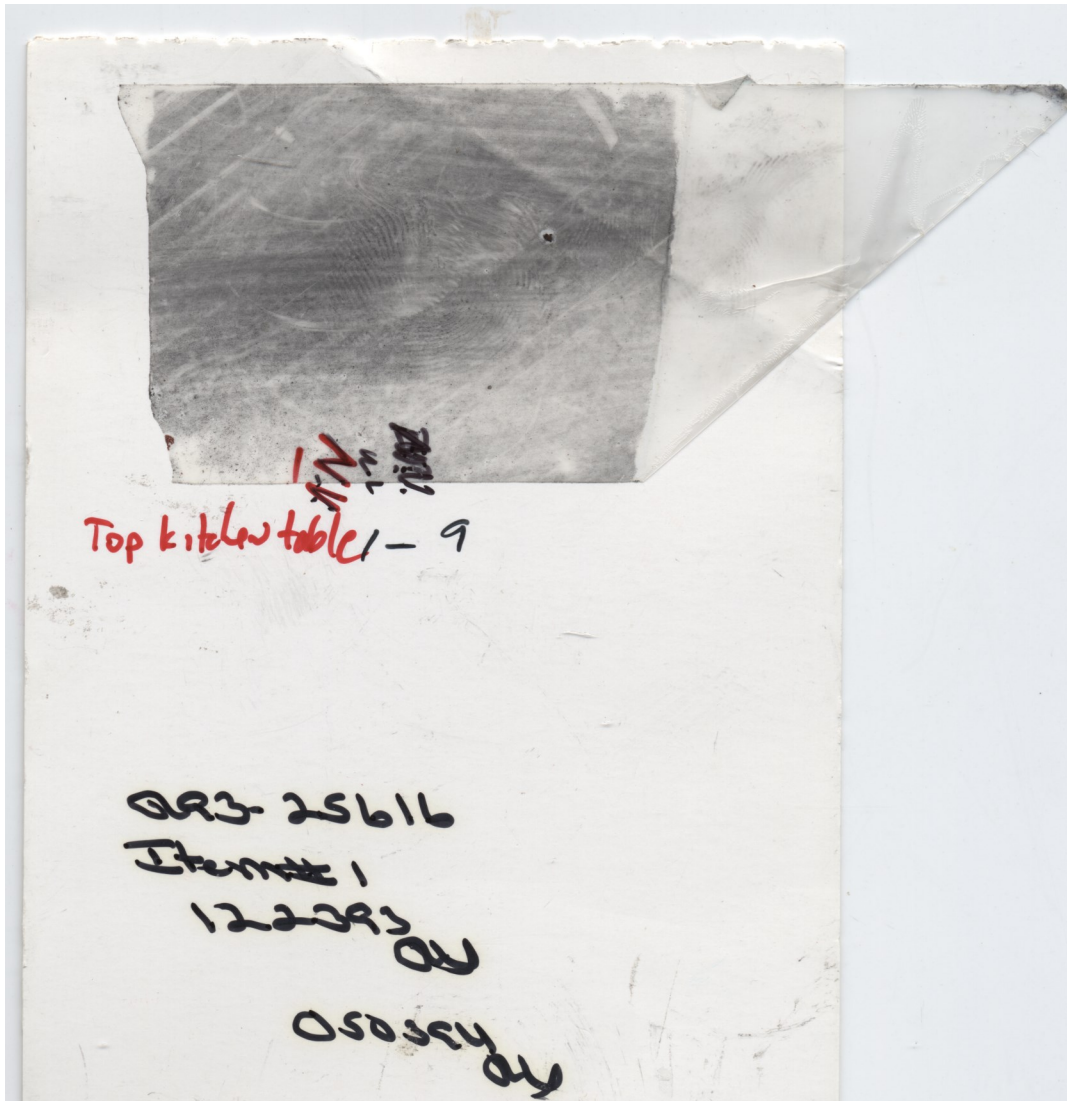
1-5 appears to be from a second or third joint finger. Fingerprint of insufficient quality to conclusively compare.

1-6 appears to be a right thumbprint loop pattern but does not display ridge structure for comparison. Fingerprint of insufficient quality to conclusively compare.

1-7 Fingerprint of insufficient quality to conclusively compare.



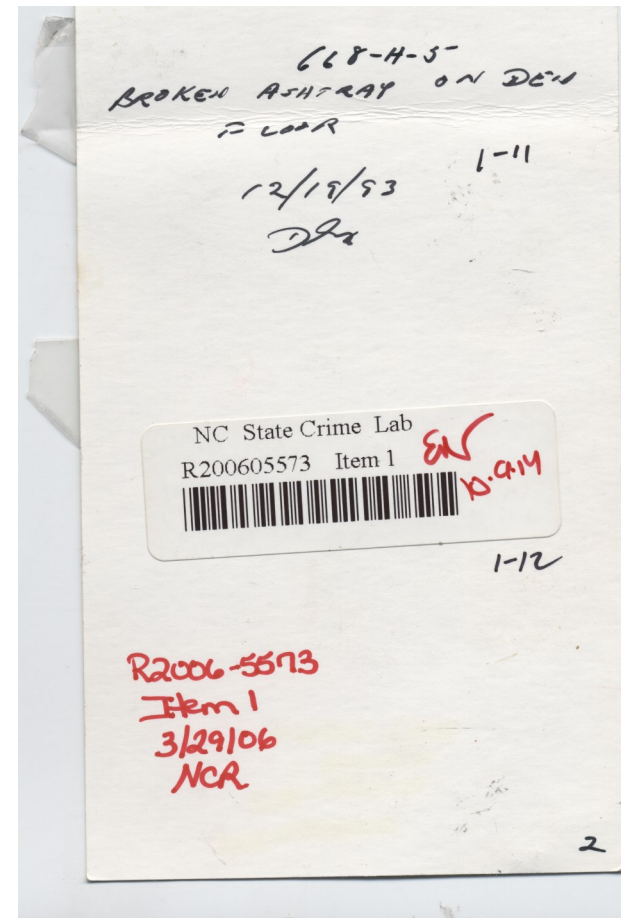
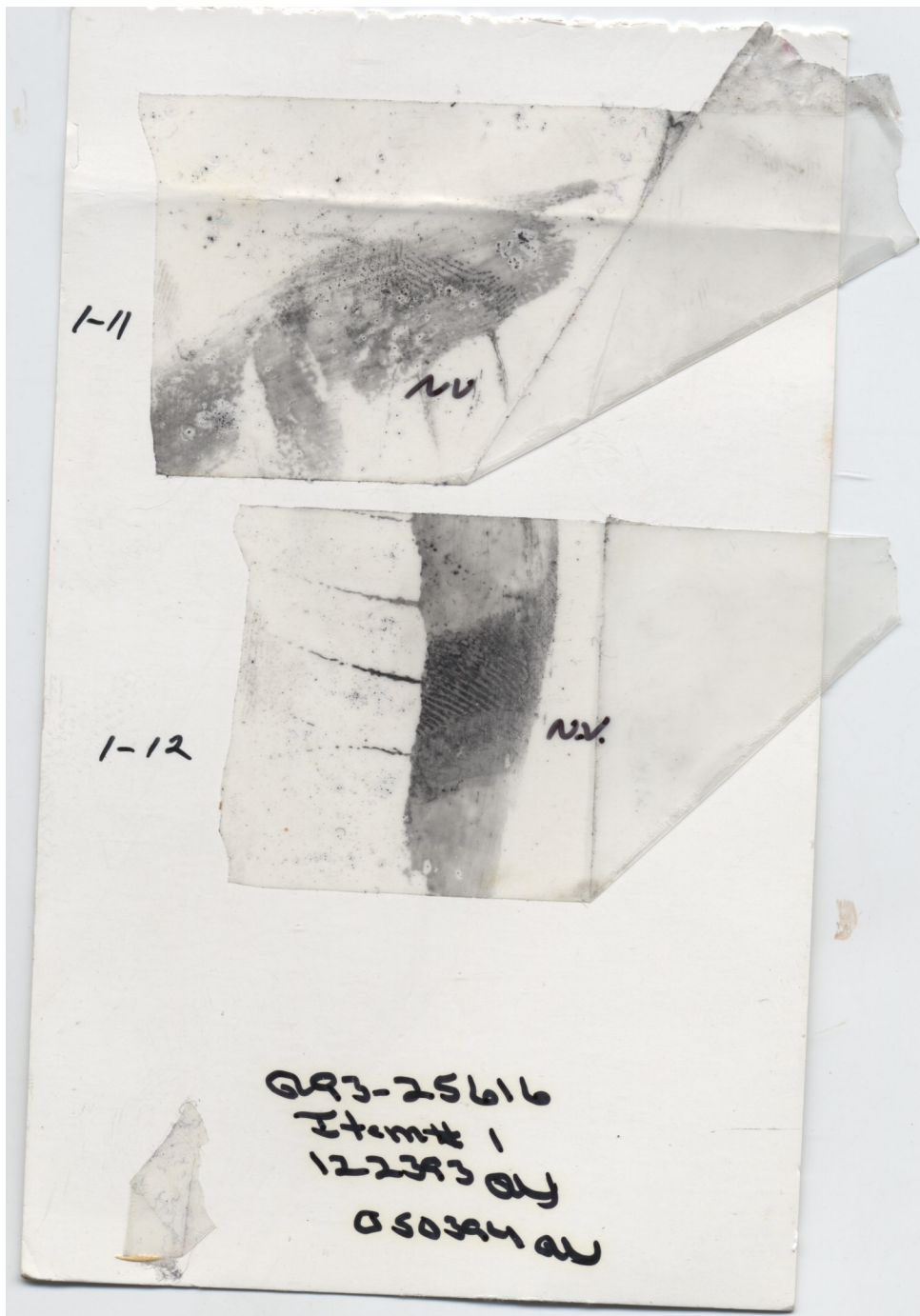
1-8: Insufficient ridge structure to compare.



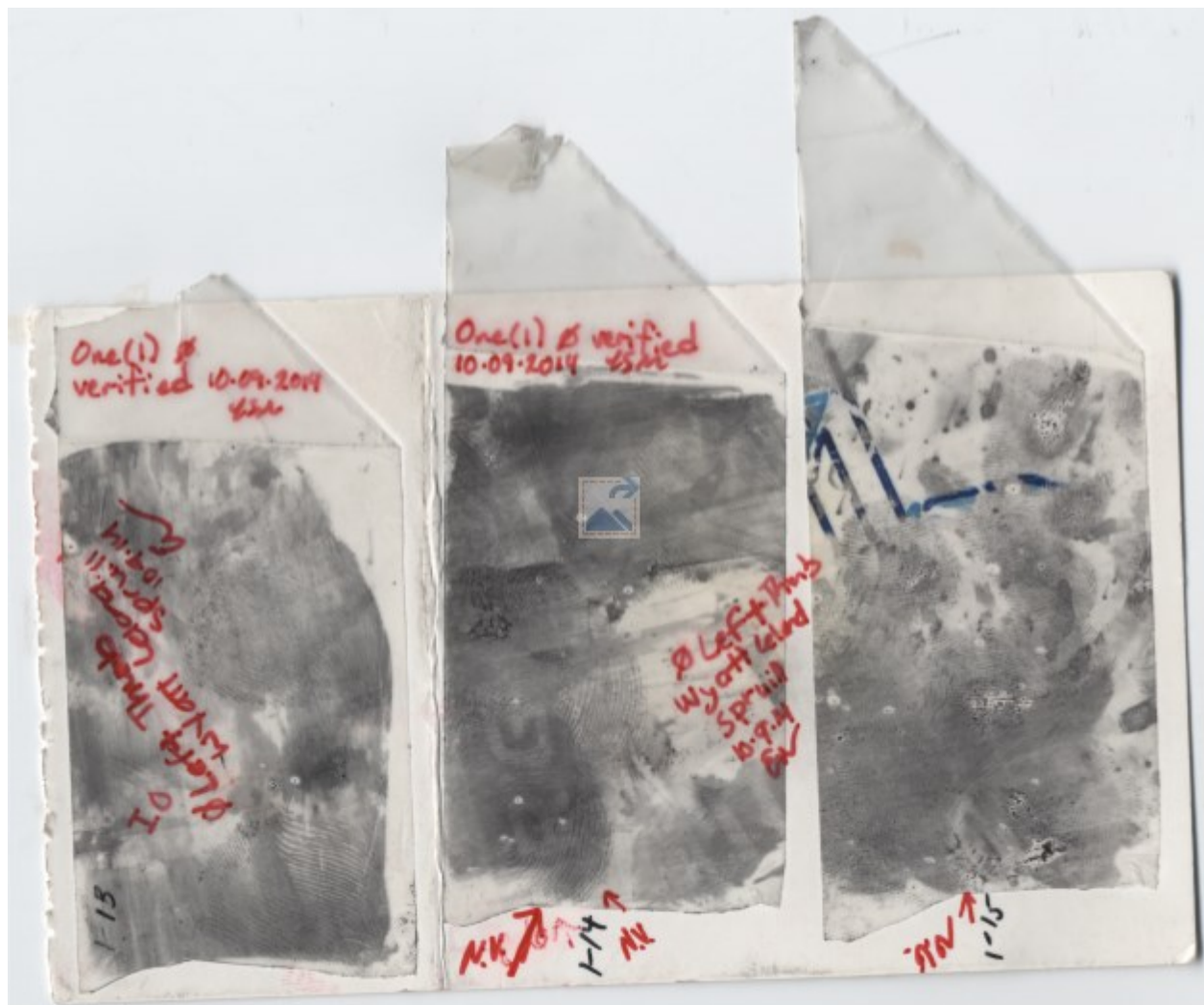
1-9: Fingerprint of insufficient quality to conclusively compare.



1-10: Cannot eliminate left little finger of Wyatt Leland Spruill.



1-11 and 1-12: Insufficient ridge structure to compare.



1-13: Left thumb previously identified to Wyatt Leland Spruill.

1-14: Left thumb previously identified to Wyatt Leland Spruill.

1-15: Insufficient ridge structure to compare.

Handout 20

NORTH CAROLINA INNOCENCE INQUIRY COMMISSION

Fingerprint Analysis Request

NCIIC FILE NO.

**Spruill and Jones - 94 CRS 1973, 95 CRS 1965
& 94 CRS 1566, 94 CRS 1984 (Washington)**

DNA testing on the following items is being considered, please avoid contamination

Priority Level:

NCIIC Item and Description	Analysis Requested
NCIIC #68: 18 latent lifts collected from the Frank Swain case	<input type="checkbox"/> Digitally preserve latent prints <input type="checkbox"/> Compare latent lifts to standards from <ul style="list-style-type: none"> • Avis Lashon Arnold • Lee Demetrius McPhatter • Billy McNair • Willie Joseph McNair • Joseph Martin Lynn • Dennis McNair • David Earl Armstrong • Maurice Wilkins • Wyatt Leland Spruill <input type="checkbox"/> Evaluate for AFIS value. <input type="checkbox"/> Evaluate for suitability for DNA testing.
NCIIC #69: Major case inked impressions - Avis Lashon Arnold.	<input type="checkbox"/> Use for comparison to NCIIC Items #68.
NCIIC #70: Major case inked impressions – Lee Demetrius McPhatter.	<input type="checkbox"/> Use for comparison to NCIIC Items #68.
NCIIC #71: Major case inked impressions – Billy McNair.	<input type="checkbox"/> Use for comparison to NCIIC Items #68.
NCIIC #72: Major case inked impressions – Willie Joseph McNair.	<input type="checkbox"/> Use for comparison to NCIIC Items #68.
NCIIC #73: Major case inked impressions – Joseph Martin Lynn.	<input type="checkbox"/> Use for comparison to NCIIC Items #68.
NCIIC #74: Major case inked impressions – Dennis McNair.	<input type="checkbox"/> Use for comparison to NCIIC Items #68.
NCIIC #75: Major case inked impressions – David Earl Armstrong.	<input type="checkbox"/> Use for comparison to NCIIC Items #68.
NCIIC #76: Known inked impressions – Maurice Wilkins.	<input type="checkbox"/> Use for comparison to NCIIC Items #68.
NCIIC #77: Two sets of known inked impressions – Wyatt Leland Spruill.	<input type="checkbox"/> Use for comparison to NCIIC Items #68.
NCIIC #78: Known inked impressions – Willie Joseph McNair.	<input type="checkbox"/> Use for comparison to NCIIC Items #68.

Handout 21

FINGERPRINT/DNA COMPARISON CHART

NAME	ROLE IN CASE	FINGERPRINT/DNA COMPARISON
Arnold, Avis	With Wilkins/Lynn/McPhatter on night of murder.	Fingerprint Only
Armstrong, Alfred	Alternate Suspect	Fingerprint/DNA
Armstrong, David	With Wilkins/Lynn/McPhatter on night of murder.	Fingerprint Only
Fields, Edward	Alternate Suspect	Fingerprint/DNA
Furlough, Curtis	Alternate Suspect	Fingerprint/DNA
Garrett, Tommy	Alternate Suspect	Fingerprint/DNA
Honea, Sherry	Alternate Suspect	Fingerprint/DNA
Honeycutt, Dennis	SBI Agent (Crime Scene)	DNA Only
Hurst, Ray	Alternate Suspect	Fingerprint/DNA
Jones, Wallace Brandon	Alternate Suspect	Fingerprint/DNA
Knowles, Russell	Alternate Suspect	Fingerprint/DNA
Lassiter, Michael	Alternate Suspect	Fingerprint/DNA
Lynn, Joseph	Alternate Suspect	Fingerprint/DNA
Maybin, Dana	Co-Defendant	Fingerprint/DNA
McNair, Billy	With Wilkins/Lynn/McPhatter on night of murder.	Fingerprint Only
McNair, Dennis	With Wilkins/Lynn/McPhatter on night of murder.	Fingerprint Only
McNair, Joseph	Alternate Suspect	Fingerprint/DNA
McPhatter, Lee	Alternate Suspect	Fingerprint/DNA
Mixon, David	Alternate Suspect	Fingerprint
Mixon, David, Jr.	Son of David Mixon. Buccal swab collected as Mixon is deceased.	DNA Only
Spruill, Leroy	Claimant	Fingerprint/DNA
Spruill, Wyatt	1 st person to see the Victim's body/Alternate Suspect	Fingerprint/DNA
Swain, Tim	2 nd person to see the Victim's body	Fingerprint/DNA
Swain, William Frank	Victim	Fingerprint/DNA
Wilkins, Maurice	Alternate Suspect	Fingerprint/DNA

Handout 22

Curriculum Vitae

Meghan E. Clement, MS, D-ABC

Education

- 1985 Master of Science, Forensic Science**
University of New Haven, West Haven, Connecticut
Honors: Graduate Fellow, 1984
- 1983 Bachelor of Science, Biology**
Westfield State College, Westfield, Massachusetts
Graduated Cum Laude

Professional Experience

FORENSIC SEROLOGY/ DNA CONSULTANT April 2017-Present

Clement Consulting, LLC
Owner

Provide Forensic Serology and DNA consultation to civil and military attorneys, law enforcement and civilian clients. Review case files and raw data to assist in understanding the serological and STR, Y-STR or mtDNA testing performed, suggest potential new and/or additional testing if applicable, educate as to what conclusions can and cannot be drawn by the testing results, explain the limitations of testing results and assist with trial preparation as well as cross-examinations.

DIRECTOR OF OPERATIONS June 2015- April 2017

Bode Cellmark Forensics, LabCorp Specialty Testing Group
Lorton, VA

Responsibilities: Oversee all forensic laboratory operations, quality assurance aspects, applied research endeavors and work closely with the General Manager on other aspects of the business, perform case consultations, case reviews and provide expert testimony.

SENIOR DIRECTOR July 2012- December 2015

Cellmark Forensics, LabCorp Specialty Testing Group
Dallas, TX

Responsibilities: Manage the daily responsibilities of laboratory personnel and flow of both contract and independent casework, manage implementation of new tests, participate in analysis of casework and interpretation of results of STR, Y-STR and mtDNA analysis, perform technical reviews and administrative reviews, provide expert testimony, participate in marketing and sales functions.

TECHNICAL DIRECTOR, FORENSIC IDENTITY May 2000- July 2012

Laboratory Corporation of America
Research Triangle Park, North Carolina

Responsibilities: Manage the daily responsibilities of laboratory personnel and flow of casework, as well as implementation of new tests, participate in analysis of casework and interpret results of DNA analysis, prepare reports, provide expert testimony, direct and coordinate marketing and sales functions.

ASSOCIATE DIRECTOR, FORENSIC IDENTITY Aug. 1998- May 2000

Laboratory Corporation of America
Research Triangle Park, North Carolina

Responsibilities: Direct and participate in the DNA analysis of samples submitted to the laboratory, prepare reports of results and provide expert testimony, supervise and direct laboratory technologists and lab clerk positions, direct and coordinate marketing and sales functions.

ASSISTANT DIRECTOR, FORENSIC IDENTITY Nov. 1994- Aug. 1998

Laboratory Corporation of America (formerly Roche Biomedical Laboratories)
Research Triangle Park, North Carolina

Responsibilities: Conduct forensic DNA analysis on biological samples using both RFLP and PCR techniques, oversee and direct the laboratory technologists in the production of forensic DNA casework, prepare reports of results and provide expert testimony, assist in laboratory operations to ensure timely handling of cases and QA/QC measures, assist in the marketing and sales aspects of the Forensic Identity department.

FORENSIC BIOLOGIST March 1991 - Nov. 1994

Tarrant County Medical Examiner's Office
Fort Worth, Texas

Responsibilities: Forensic analysis of biological samples using traditional serological techniques as well as RFLP DNA profiling, conduct research and validation of new techniques in the forensic biology field, provide expert testimony, provide training to officer's in various law enforcement agencies concerning the collection and preservation of evidence, crime scene investigation.

SENIOR CRIMINALIST March 1985 - March 1991

City of Albuquerque, Police Department, Criminalistics
Albuquerque, New Mexico

Responsibilities: Assisted in implementing a DNA section including setting up quality control measures and population data bases, as well as performing validation studies, traditional serological analysis, blood/breath alcohol concentration analysis, provide expert testimony, crime scene investigation, train new personnel, officers and detectives.

TEACHING ASSISTANT, FORENSIC SCIENCE Sept. 1984- Mar. 1985

University of New Haven, West Haven, Connecticut

Responsibilities: Assist in teaching serological techniques to graduate students in the Criminalistics laboratories, assist in research projects being conducted.

TEACHING ASSISTANT, BIOLOGY Sept. 1983 - Sept. 1984

University of New Haven, West Haven, Connecticut

Responsibilities: Set up and assist in teaching various biology laboratories to undergraduate students.

FORENSIC SCIENCE INTERNSHIP August 1984

New Mexico State Police Crime Laboratory,
Santa Fe, New Mexico

Observed and participated in case analysis under the supervision of New Mexico State Police forensic analysts in the serology, trace, drugs and firearms sections.

Affiliations

American Academy of Forensic Sciences, Member

Southwestern Association of Forensic Scientists, Member

ASCLD/LAB-Biology Proficiency Review Committee Member (2013-Present)

Expert Testimony and Depositions

Testified 360+ times in 33 states

Testified in local, state, military and federal courts

Forensic Laboratory Experience

Qualified

- RFLP

1989

- PCR Analysis and Interpretation 1990
- DQ Alpha + Polymarker Testing 1995
- Paternity Testing 1995
- Mitochondrial DNA Analysis 1997
- Commercial Kit STR Analysis 2002
- Y-STR Analysis 2003

Certifications

Molecular Biology Diplomate - American Board of Criminalistics (**ABC**)

Publications and Oral Presentations

Budowle, B., Monson, K., Anoe, K.S., Baechtel, S., Bergman, D.L., Buel, E., Campbell, P.A., Clement, M.E. et al (1991) A Preliminary Report on Binned General Population Data on Six VNTR Loci in Caucasians, Blacks and Hispanics from the United States. Crime Lab Digest 18:9-26.

Validation of Multiplex STR Profiling Systems for Forensic Casework Specimens
American Academy of Forensic Sciences, Feb. 1998

Developing a DNA Laboratory on a Shoestring Budget
Southwestern Association of Forensic Scientists, Spring Meeting 1991

Continuing Education

- July 2018 *Green Mountain Conference*, Burlington, VT
- Feb 2018 *AAFS Workshops: Moving from CPI to Probabilistic Genotyping for DNA Mixtures and Proposed Revisions to the FBI QA Standards*, Seattle, WA
- Feb 2017 *AAFS Annual Meeting*, New Orleans, LA
- Sept 2016 *International Symposium on Human Identification*, Minneapolis, MN
- Oct 2015 *International Symposium on Human Identification*, Grapevine, TX
- Feb 2015 *AAFS Annual Meeting*, Orlando, FL
- Sept 2014 *Genome ID Forum, Greensboro, NC*
Forensic Genomic Applications

May 2014	<i>ASCLD Annual Meeting</i> , Scottsdale, AZ <i>Workshop-Solving Mixtures Genome-wide: Practical, Measureable Solutions</i>
Feb 2014	<i>AAFS Annual Meeting</i> , Seattle, WA
Oct 2013	<i>International Symposium on Human Identification</i> , Atlanta, GA
Feb 2013	<i>AAFS Annual Meeting</i> , Washington, DC
June 2012	<i>2012 NIJ Meeting</i> , Arlington, VA
Feb 2012	<i>AAFS Annual Meeting</i> , Atlanta, GA
Oct 2011	<i>Mixture Interpretation Workshop-Promega International Symposium on Human Identification</i> , National Harbor, DC
Nov 2011	<i>CODIS Meeting</i> , Jasonville, FL
Feb 2010	<i>AAFS Annual Meeting</i> , Seattle, WA
Aug 2009	<i>HID Future Trends in DNA Technology</i> , Applied Biosystems, Richmond, VA
Ape 2009	<i>FBI DNA Auditor's Refresher Training</i> , Raleigh, NC
Feb 2009	<i>AAFS Annual Meeting</i> , Denver, CO
July 2008	<i>NIJ Meeting</i> , Arlington, VA
Feb 2007	<i>AAFS Annual Meeting</i> , San Antonio, TX
Aug 2006	<i>AFDAA Summer Meeting</i> , Austin, TX
May 2006	<i>ABI Human Identity University</i> , Research Triangle Park, NC
Feb 2006	<i>AAFS Annual Meeting</i> , Seattle, WA
Jun 2005	<i>6th Annual DNA Grantees Workshop</i> , Arlington, VA
Apr 2004	<i>FBI DNA Auditor's Training</i> , Quantico, VA
Feb 2004	<i>AAFS Annual Meeting</i> , Dallas, TX <i>Forensic Human mtDNA Analysis Workshop</i>

Oct 2003	<i>International Symposium on Human Identification, Phoenix, AZ Making Sense of Popstats Workshop</i>
Apr 2003	<i>ASCLD/LAB-Laboratory Inspector Training Course, Raleigh, NC</i>
Feb 2003	<i>AAFS Annual Meeting, Chicago, IL Low Copy Number DNA Analysis Workshop</i>
Jun 2002	<i>DNA Grantees Workshop, Arlington, VA</i>
Oct 2001	<i>7th Annual CODIS User's Conference, Arlington, VA</i>
Feb 2001	<i>AAFS Annual Meeting, Seattle, WA</i>
Feb 2000	<i>AAFS Annual Meeting, Reno, NV</i>
Oct 1999	<i>NIJ Meeting, Arlington, VA</i>
Apr 1998	<i>Mitochondrial DNA Analysis and Data Basing, presented by Mark Wilson and Clint Stauffer</i>
Feb 1998	<i>AAFS Annual Meeting, San Francisco, CA</i>
Sept 1997	<i>International Symposium on Human Identification, Phoenix, AZ</i>
Feb 1997	<i>AAFS Annual Meeting, NYC, NY</i>
Oct 1996	<i>English Speaking Working Group International Society for Forensic Haemogenetics</i>
Sept 1996	<i>International Symposium on Human Identification, Phoenix, AZ</i>

Specialized Schools and Training

Dec 2011	<i>ASCLD/LAB TECHNICAL ASSESSOR REFRESHER TRAINING (June 2011 revision-on line training)</i>
Apr 2009	<i>DNA AUDITOR REFRESHER TRAINING, Presented by the FBI, Research Triangle Park, NC</i>
Jan 2006	<i>ASCLD/LAB-International ASSESSOR TRAINING COURSE, Houston, TX</i>
Apr 2004	<i>DNA AUDITOR TRAINING, FBI Academy, Quantico, VA</i>

- Apr 2003 ***ASCLD-LAB INSPECTOR TRAINING***, Raleigh, NC
- Mar 1995 ***FORENSIC AMPLITYPE PM + HLA DQA1 PCR WORKSHOP***,
Perkin-Elmer Training Dept., Foster City, CA
- June 1991 ***ADVANCED FORENSIC DNA TYPING SCHOOL***, FBI Academy,
Quantico, Virginia
- Mar-Jun1990 ***VISITING SCIENTIST PROGRAM***, FBI Academy, Quantico,
Virginia
- Assisted in numerous DNA research projects being conducted by the
FBI Research and Training Center including data base compilation,
ethidium bromide use in DNA analysis, quantitation of human DNA
using slot blot techniques, effect of glycerol concentration on DNA,
studies on possible ladders for amplified fragment length
polymorphisms (amp-FLPs)/variable number tandem repeats
(VNTRs), and population data base compilation of amp-Flp MCT118.
- Dec 1989 ***FORENSIC APPLICATIONS OF DNA TYPING***, FBI Academy,
Quantico, Virginia
- Fall 1988 ***MOLECULAR GENETICS AND FORENSIC SCIENCE***, University
of New Mexico, Albuquerque, New Mexico
- May 1988 ***DNA POLYMORPHISM AND DNA TYPING***
COURSE/WORKSHOP, University of New Haven, West Haven,
Connecticut

Handout 23

FORENSIC TESTING CHART

Item Tested	Results
Bread Bag Found Over Tire Tool In Victim's Kitchen.	2013: Testing conducted at Cellmark Forensics <ul style="list-style-type: none"> No DNA profile was obtained from the swabbings of the outside or inside of the plastic bag due to an insufficient amount of DNA.
Plastic Bag That Contained the Bread Bag	2014: Testing conducted at Cellmark Forensics <ul style="list-style-type: none"> Due to an insufficient amount of DNA in the quant, DNA testing was not performed on this bag.
Blue Curtains from Victim's Kitchen Window	Testing conducted by the Crime Lab, LabCorp, and Cellmark. <ul style="list-style-type: none"> 1995: Blood analysis conducted at the Crime Lab. <ul style="list-style-type: none"> Revealed presence of human blood, Type O. Type was consistent with Victim, Spruill, and McPhatter, but could have originated from another individual. Blood could not have originated from Wilkins, Jones, or Maybin. 1995: Blood analysis conducted at LabCorp. <ul style="list-style-type: none"> Four areas examined. Presumptive phenolphthalein tests were negative. 2007: Blood analysis conducted at the Crime Lab. <ul style="list-style-type: none"> Failed to reveal the presence of blood. 2014: DNA Testing conducted at Cellmark <ul style="list-style-type: none"> Due to an insufficient amount of DNA in the quant, DNA testing was not performed on the curtains.
Victim's Jacket (found on floor near Victim)	Testing conducted at the Crime Lab and LabCorp <ul style="list-style-type: none"> 1995: Blood analysis conducted at the Crime Lab. <ul style="list-style-type: none"> Revealed presence of human blood. No grouping given. Bench notes indicate that the presumptive phenolphthalein and confirmatory takayama tests were positive. 2011: DNA testing conducted at LabCorp on waistband and stain from left sleeve area. <ul style="list-style-type: none"> The DNA profiles were all consistent with the Victim. He cannot be excluded as a source of the DNA. Nothing reportable that is foreign to the Victim was detected in these samples.
Victim's Shirt	Testing conducted at the Crime Lab and LabCorp. <ul style="list-style-type: none"> 1995: Blood analysis conducted at the Crime Lab. <ul style="list-style-type: none"> Revealed presence of human blood, Group O. Report indicates blood could not have originated from Jones or Maybin. Bench notes indicate that the confirmatory takayama test was positive.

	<ul style="list-style-type: none"> • 2011: STR DNA testing conducted at LabCorp on three stains. <ul style="list-style-type: none"> ○ The DNA profiles were all consistent with the Victim. He cannot be excluded as a source of the DNA. Nothing reportable that is foreign to the Victim was detected in these samples.
Victim's Socks	<p>Testing conducted at the Crime Lab and Cellmark.</p> <ul style="list-style-type: none"> • 1995: Blood analysis conducted at the Crime Lab. <ul style="list-style-type: none"> ○ Gave chemical indications for the presence of blood. ○ Bench notes indicate socks were blood stained, presumptive phenolphthalein positive, and no indication of second bleeder. • 2014: DNA testing conducted at Cellmark. <ul style="list-style-type: none"> ○ For both socks, partial single source profiles were developed. These were consistent with the Victim.
Victim's Shoes	<p>Testing conducted at the Crime Lab and Cellmark</p> <ul style="list-style-type: none"> • 1995: Blood analysis conducted at the Crime Lab. <ul style="list-style-type: none"> ○ Gave chemical indications for the presence of blood. ○ Bench notes indicate small stain on right shoe and thin smear on left, presumptive phenolphthalein positive, and no indication of second bleeder. • 2014: DNA testing conducted at Cellmark. <ul style="list-style-type: none"> ○ For both shoes, partial single source profiles were developed. These were consistent with the Victim.
Piece of Lace From Wood Pile at Spruill's Residence	<p>Testing conducted at the Crime Lab and Bode Cellmark Forensics</p> <ul style="list-style-type: none"> • 1994: Blood analysis conducted at the Crime Lab. <ul style="list-style-type: none"> ○ Failed to reveal the presence of blood. ○ Bench notes indicate that phenolphthalein was negative. • 2017: DNA testing conducted at Bode Cellmark Forensics. <ul style="list-style-type: none"> ○ Due to an insufficient amount of DNA in the quant, DNA testing was not performed on this piece of lace.
Two Knives From Black Gym Bag of Wallace Brandon Jones	<p>Testing conducted at the Crime Lab and Bode Cellmark Forensics</p> <ul style="list-style-type: none"> • 1994: Blood analysis conducted at the Crime Lab. <ul style="list-style-type: none"> ○ Failed to reveal the presence of blood. ○ Bench notes indicate that phenolphthalein was negative. • 2017: DNA testing conducted at Bode Cellmark Forensics. <ul style="list-style-type: none"> ○ Due to an insufficient amount of DNA in the quant, DNA testing was not performed on these knives.
Latent Lifts from Crime Scene	<p>2015: STR DNA testing conducted on 11 latent prints.</p>

	<ul style="list-style-type: none"> • Six from the exterior front door of the Victim's home; three from the interior front door knob of the Victim's home; and two from broken ashtray on den floor of the Victim's home. • Single male source profiles consistent with the same male were developed from three of the latent prints. Six latent prints resulted in a major profile from the same male source as the single male source samples. Two samples (from the ashtray) were mixtures where the major profile was the same male source as the other latent prints. • The unknown male profile seen throughout the latent prints was determined to consistent with Marty Ludas (independent expert used by Commission). • For the two latent prints from the ashtray, all other individuals tested would be excluded from the mixture: The Victim, Leroy Spruill, Wallace Brandon Jones, Dana Maybin, Alfred Armstrong, Edward Fields, Curtis Furlough, Tommy Garrett, Sherry Honea, Dennis Honeycutt, Ray Hurst, Russell Knowles, Michael Lassiter, Joseph Lynn, Joseph McNair, Lee McPhatter, David Mixon, Jr., Wyatt Spruill, Tim Swain, and Maurice Wilkins.
Hairs from Victim's Clothing	<p>Testing conducted at the Crime Lab and Bode Cellmark Forensics</p> <ul style="list-style-type: none"> • 1995: Hair analysis conducted at Crime Lab. <ul style="list-style-type: none"> ○ Examination did not reveal a transfer of hairs. No hairs found for comparison. • 2015: mtDNA testing conducted on six hairs. <ul style="list-style-type: none"> ○ All mtDNA profiles were consistent with the mtDNA profile of the Victim. All others compared were excluded.
Tapings From Floor Around Victim	<p>Testing conducted at Crime Lab and Bode</p> <ul style="list-style-type: none"> • 1995: Hair analysis conducted at Crime Lab. <ul style="list-style-type: none"> ○ Examination did not reveal a transfer of hairs. No hairs found for comparison. • 2015: mtDNA testing conducted on five hairs at Bode. <ul style="list-style-type: none"> ○ All mtDNA profiles were consistent with the mtDNA profile of the Victim. All others compared were excluded.
Hairs From Jacket Near Victim's Body	<p>Testing conducted at Crime Lab and Bode.</p> <ul style="list-style-type: none"> • 1995: Hair analysis conducted at Crime Lab. <ul style="list-style-type: none"> ○ Examination did not reveal a transfer of hairs. No hairs found for comparison. • 2015: mtDNA testing on two hairs conducted at Bode. <ul style="list-style-type: none"> ○ One hair was consistent with the Victim's mtDNA profile. ○ One hair was consistent with Wyatt Spruill's mtDNA profile.

Envelope Containing Scrapings from Victim's Front Door	<p>Testing conducted by the Crime Lab, LabCorp, Cellmark, and DNA Labs International. Additional standards for comparison tested at Bode Cellmark Forensics.</p> <ul style="list-style-type: none"> • 1994: Blood analysis conducted at the Crime Lab. <ul style="list-style-type: none"> ○ Revealed the presence of human blood. The amount was insufficient for grouping analysis. • 1995: Blood analysis conducted at LabCorp. <ul style="list-style-type: none"> ○ Lab notes indicate the envelope appeared to be empty. No testing conducted. • 2007: Blood analysis and DNA analysis conducted at the Crime Lab. <ul style="list-style-type: none"> ○ No evidence remained for further analysis. • 2014: STR DNA testing conducted at Cellmark. <ul style="list-style-type: none"> ○ A partial DNA profile that is a mixture of at least two individuals, including at least one male, was developed. ○ Leroy Spruill, Wallace Brandon Jones, Dana Maybin, Alfred Armstrong, Edward Fields, Curtis Furlough, Tommy Garrett, Sherry Honea, Ray Hurst, Russell Knowles, Michael Lassiter, Joseph Lynn, Joseph McNair, Lee McPhatter, David Mixon, Jr., Wyatt Spruill, and Maurice Wilkins were excluded from this mixture. ○ Assuming two contributors, Dennis Honeycutt would be excluded from this mixture. Assuming three contributors, Dennis Honeycutt would be inconclusive. ○ Assuming two contributors, Tim Swain would be excluded from this mixture. Assuming three contributors, Tim Swain would be included in this mixture.
Victim's Pants	<p>Testing conducted at the Crime Lab, Cellmark Forensics, and DNA Labs International.</p> <ul style="list-style-type: none"> • 1995: Blood analysis conducted at the Crime Lab. <ul style="list-style-type: none"> ○ Gave chemical indications for the presence of blood. ○ Bench notes indicate numerous blood smears, presumptive phenolphthalein positive, and no indication of second bleeder. • 2011: STR DNA testing conducted at LabCorp. <ul style="list-style-type: none"> ○ STR DNA testing conducted on stain on right leg of jeans below the knee. ○ Insufficient DNA profile obtained to make comparisons. • 2014: STR DNA testing conducted at Cellmark Forensics. <ul style="list-style-type: none"> ○ STR DNA testing conducted on the bottom three inches of both legs of the pants.

- Partial profile developed that was consistent with the Victim.
- STR DNA testing conducted on the two areas each of the Victim's front right and left pockets.
 - Area 1 of inside left pocket: A mixture profile of at least two individuals, including at least one male, was developed. The Victim could not be excluded as a possible contributor to the profile. Leroy Spruill, Wallace Brandon Jones, Dana Maybin, Alfred Armstrong, Edward Fields, Curtis Furlough, Tommy Garrett, Sherry Honea, Dennis Honeycutt, Ray Hurst, Russell Knowles, Michael Lassiter, Joseph Lynn, Joseph McNair, Lee McPhatter, David Mixon, Jr., Wyatt Spruill, Tim Swain, and Maurice Wilkins are excluded from this mixture.
 - Area 2 of inside left pocket: A mixture profile of at least two individuals, including at least one male, was developed. The major profile is consistent with the Victim. The minor profile is insufficient for comparison purposes.
 - Area 1 of inside right pocket: A partial DNA profile that is a mixture of two individuals, including at least one male, was developed. The Victim could not be excluded as a contributor. Leroy Spruill, Wallace Brandon Jones, Dana Maybin, Alfred Armstrong, Edward Fields, Curtis Furlough, Tommy Garrett, Sherry Honea, Dennis Honeycutt, Ray Hurst, Russell Knowles, Michael Lassiter, Joseph Lynn, Joseph McNair, Lee McPhatter, David Mixon, Jr., Wyatt Spruill, Tim Swain, and Maurice Wilkins are excluded.
 - Area 2 of the inside right pocket: A partial DNA profile that was a mixture of at least two individuals, including at least one male, was developed. The Victim cannot be excluded. Leroy Spruill, Wallace Brandon Jones, Dana Maybin, Alfred Armstrong, Edward Fields, Curtis Furlough, Tommy Garrett, Sherry Honea, Dennis Honeycutt, Ray Hurst, Russell Knowles, Michael Lassiter, Joseph Lynn, Joseph McNair, Lee McPhatter, David Mixon, Jr., Wyatt Spruill, Tim Swain, and Maurice Wilkins are excluded.

- 2018: STR DNA testing conducted at DNA Labs International using STR Mix technology.
 - Testing conducted on extracts from 2014 Cellmark extracts.
 - Extracts from Area 1 of Left Pocket: A mixture of at least two individuals, including at least one male, was developed. Due to the complex nature of this mixture, it is inconclusive for comparison purposes.
 - Extracts from Area 2 of Left Pocket: This extract was not retested on the advice of DNALI.
 - Extracts from Area 1 of Right Pocket: A mixture of at least two individuals, including at least one male, was developed. Due to the complex nature of the mixture, it is inconclusive for comparison purposes.
 - Extracts from Area 2 of Right Pocket: Partial mixture of at least three individuals, with at least one male, was developed. Wallace Brandon Jones is the only person able to be excluded based on visual examination from the entire mixture. All others were inconclusive.
 - Testing conducted on pockets using MVAC.
 - Right Pocket: A mixture of at least three individuals, including at least one male, was developed. The Victim could not be ruled out as a possible contributor. Leroy Spruill, Wallace Brandon Jones, Dana Maybin, Alfred Armstrong, Edward Fields, Curtis Furlough, Tommy Garrett, Sherry Honea, Dennis Honeycutt, Ray Hurst, Russell Knowles, Michael Lassiter, Joseph Lynn, Joseph McNair, Lee McPhatter, David Mixon, Jr., Wyatt Spruill, Tim Swain, and Maurice Wilkins are excluded.
 - Left Pocket: A mixture of at least four contributors, with at least one male, was developed. The Victim could not be ruled out as a possible contributor to this mixture. The unknown #1 profile from the MVAC right pocket is included in the left pocket.
 - Assuming the Victim is a contributor, the likelihood ratio supports that Dana Maybin, Dennis Honeycutt, Tim Swain, Ray Hurst, Edward Fields, and David Mixon, Jr. are not included in this mixture.
 - Assuming the Victim is a contributor, Leroy Spruill, Wallace Brandon Jones, Alfred Armstrong,

	<p>Curtis Furlough, Tommy Garrett, Sherry Honea, Russell Knowles, Michael Lassiter, Joseph Lynn, Joseph McNair, Lee McPhatter, Wyatt Spruill, Tim Swain, and Maurice Wilkins are excluded from the unknown #1 profile. However, they are inconclusive with respect to the unknown #3 and unknown #4 profiles. The software cannot explain these individuals as being part of the mixture.</p>
Tire Tool from Victim's Kitchen	<p>Testing conducted at Crime Lab, LabCorp, and DNA Labs International.</p> <ul style="list-style-type: none"> • 1995: Serology conducted by Crime Lab. <ul style="list-style-type: none"> ○ Revealed presence of human blood. Blood typing results were inconclusive. • 1995: DNA profile developed by LabCorp. No report issued. <ul style="list-style-type: none"> ○ Profile excludes Leroy Spruill (Leroy Spruill was only reference sample provided). • 2007: DNA profile consistent with mixture developed by Crime Lab. <ul style="list-style-type: none"> ○ The Victim could not be excluded as a contributor to this mixture. ○ Crime Lab comparisons exclude Wallace Brandon Jones, Leroy Spruill, Dana Maybin, Maurice Wilkins, and Lee McPhatter. ○ Commission testing excludes Ray Hurst, Tommy Garrett, Curtis Furlough, Joseph Lynn, Wyatt Spruill, Sherry Honea, Michael Lassiter, Alfred Armstrong, David Mixon, Jr. (for familial link to David Mixon), Joseph McNair, Russell Knowles, Tim Swain, Edward Fields, and Dennis Honeycutt. ○ This mixture was searched in the CODIS system with no matches observed. It has been routinely queried in the CODIS system. • 2007: DNA profile developed from DNA extracts from 1995 testing by LabCorp. <ul style="list-style-type: none"> ○ Profile excludes Leroy Spruill (Leroy Spruill is only reference sample provided). • 2011: STR DNA testing conducted at LabCorp on swabs marked as coming from the tire tool. <ul style="list-style-type: none"> ○ The reportable profile was consistent with the Victim. • 2018: Extract from the 2007 Crime Lab testing was quanted at DNA Labs International. <ul style="list-style-type: none"> ○ Commission was attempting to submit a subsample of the extract from the 2007 testing for genetic genealogy testing at Parabon Labs.

	<ul style="list-style-type: none">○ Due to degradation, no human DNA remained in the extract.
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Handout 24

DAVID MIXON

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
CRIMINAL CONTEMPT (M)	WASHINGTON	03/12/2009	03/12/2009
DV PROTECTIVE ORDER VIOLATION (M)	WASHINGTON	12/27/2008	03/12/2009
INJURY TO PERSONAL PROPERTY (M)	WASHINGTON	09/17/2008	09/25/2008
LARCENY (M)	WASHINGTON	09/17/2008	09/25/2008
HARASING PHONE CALL (M)	WASHINGTON	09/11/2008	09/25/2008
COMMUNICATING THREATS (M)	WASHINGTON	09/11/2008	09/25/2008
COMMUNICATING THREATS (M)	WASHINGTON	10/29/2003	02/05/2004
DWLR	WASHINGTON	01/31/2003	08/19/2003
DWI – LEVEL 1	WASHINGTON	01/31/2003	08/19/2003
DISORDERLY CONDUCT	WASHINGTON	07/28/2000	08/22/2000
ASSAULT ON FEMALE (M)	WASHINGTON	10/16/1999	11/09/1999
ASSAULT ON FEMALE (M)	WASHINGTON	10/16/1999	11/09/1999
DWI – LEVEL 2	WASHINGTON	06/21/1997	10/21/1997
COMMUNICATING THREATS (M)	WASHINGTON	06/21/1997	08/05/1997
ASSAULT ON FEMALE (M)	WASHINGTON	02/21/1997	03/04/1997
DWI – LEVEL 2	WASHINGTON	06/10/1994	09/06/1994

INJURY TO PERSONAL PROPERTY (M)	WASHINGTON	03/03/1990	03/27/1990
DISORDERLY CONDUCT (M)	WASHINGTON	03/03/1990	03/27/1990
UNAUTHORIZED USE OF MOTOR VEHICLE (M)	WASHINGTON	NONE PROVIDED	03/03/1987
ASSAULT (M)	WASHINGTON	NONE PROVIDED	03/03/1987
COMMUNICATING THREATS (M)	WASHINGTON	NONE PROVIDED	11/19/1985
ASSAULT ON FEMALE (M)	WASHINGTON	NONE PROVIDED	11/19/1985
DUI	WASHINGTON	NONE PROVIDED	03/06/1984
ASSAULT ON OFFICER (M)	WASHINGTON	NONE PROVIDED	03/06/1984
ASSAULT ON FEMALE (M)	WASHINGTON	NONE PROVIDED	03/06/1984
DRUNK AND DISRUPTIVE (M)	WASHINGTON	NONE PROVIDED	01/06/1983
ASSAULT ON LAW ENFORCEMENT (M)	WASHINGTON	NONE PROVIDED	01/06/1983
DUI	WASHINGTON	NONE PROVIDED	01/06/1983
RESISTING ARREST (M)	WASHINGTON	NONE PROVIDED	01/06/1983

Handout 25

EDWARD FIELDS

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
DWI – LEVEL 2	ROBESON	04/27/1999	02/07/2000
DWI – LEVEL 3	ROBESON	06/05/1999	11/23/1999
HIT – RUN PROPERTY FAIL INFO	ROBESON	11/27/1986	12/11/1986

Handout 26

RAY HURST

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
DRIVING WHILE IMPAIRED	WASHINGTON	03/11/1990	04/10/1990

Handout 27

THOMAS GARRETT

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
DRIVING WHILE IMPAIRED	WASHINGTON	04/11/1992	08/18/1992

Handout 28

CURTIS FURLOUGH

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
DWI – LEVEL 2	WASHINGTON	12/18/2013	08/12/2014
POSSESS MARIJUANA UP TO ½ OZ. (M)	PITT	11/27/2011	07/27/2012
FELONY POSSESSION OF COCAINE	WASHINGTON	03/01/2007	11/14/2007
POSSESS DRUG PARAPHERNALIA (M)	WASHINGTON	07/28/2007	10/16/2007
SIMPLE POSSESS SCH VI CS (M)	WASHINGTON	07/28/2007	10/16/2007
POSSESS DRUG PARAPHERNALIA (M)	WASHINGTON	03/03/2007	06/07/2007
LARCENY (M)	WASHINGTON	03/03/2007	06/07/2007
RECKLESS DRIVING TO ENDANGER	WASHINGTON	09/07/2006	11/21/2006
POSSESS DRUG PARAPHERNALIA (M)	WASHINGTON	12/11/2005	02/16/2006
ASSAULT ON A FEMALE (M)	WASHINGTON	12/11/2005	02/16/2006
DWI – LEVEL 5	WASHINGTON	09/02/2000	01/02/2001
ASSAULT ON A FEMALE (M)	WASHINGTON	09/09/2000	09/19/2000
SIMPLE AFFRAY (M)	MARTIN	04/07/1999	04/26/1999
POSSESS MARIJUANA UP TO ½ OZ. (M)	NEW HANOVER	01/22/1997	03/06/1997
OBTAIN PROPERTY BY FALSE PRETENSE	TYRRELL	01/01/1991	01/22/1992

OBTAIN PROPERTY BY FALSE PRETENSE	TYRRELL	01/01/1991	01/22/1992
OBTAIN PROPERTY BY FALSE PRETENSE	TYRELL	01/01/1991	01/22/1992
CARRYING CONCEALED WEAPON (M)	WAYNE	11/07/1990	12/05/1990
LARCENY (M)	HERTFORD	07/25/1990	12/31/1990

Handout 29

RUSSELL KNOWLES

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
FRAUD DISPOSAL MORTGAGE PROP (M)	WASHINGTON	06/03/2002	02/26/2003
POSS CDS/ANALOG – SCH I, II, III	SALEM (NJ)	10/13/1993	03/14/1994
CDS-MANU/DIST/PWID – HEROIN/COC	SALEM (NJ)	10/13/1993	03/14/1994
DISORDERLY CONDUCT	BRONX (NY)	07/13/1978	07/13/1978
GAMING	VIRGINIA (FEDERAL)	11/03/1967	NONE PROVIDED

Handout 30

NEW JERSEY STATE POLICE

D02093-305

INVESTIGATION REPORT

1. Station/Unit Moorestown		2. Code D020		3. Area Code, Phone Number and Extension 609-235-1000		4. Prosecutor's Case Number																															
6. Crime/Incident Poss CDS (Cocaine) Poss CDS W/Intent Poss CDW (Handgun) Poss Hollow Point Ammo		7. N.J.S.A. 2C:35-10a1 2C:35-5a1 2C:35-5b2 2C:39-5b 2C:39-3f		8. Weather Clear		9. Domestic Violence Yes: No: X		10. Bias Incident Yes: No: X																													
11. Municipality Carneys Point		12. County Salem		13. Date 1/13		14. Time XX		15. Between At		16. Hour WED.		17. Day & Code 4 10		18. Month 10		19. Date 13		20. Year 93																			
19. Municipality Carneys Point		20. County Salem		21. Date 1/13		22. Type of Premises Highway		23. Code CL		24. Weapons/Tools N/A		25. Victim's Complete Address N/A		26. Area Code, Phone Number and Extension		27. Victim's Complete Address N/A		28. Area Code, Phone Number and Extension																			
28. Social Security Number		29. D.O.B.		30. Sex		31. Race Code		32. Victim's Employer, City, State		33. Area Code, Phone Number and Extension		34. Person Reporting Crime/Incident Tpr. II E. Simpson #4340 NJSP Moorestown Mt. Laurel Rd Mt. Laurel N.J 10-13-93 1:25 A.M		35. Complete Address and Phone Number		36. Date and Time Reported																					
36. Modus Operandi - how Committed M.V. stop revealed CDS in trunk and weapon on the accused		37. Vehicle Known		38. Year 78		39. Make and Model Chev Caprice		40. Body Type 4Dr		41. Color Green		42. Registration No. & State ESC7279 N.C		43. V.I.N. or Distinguishing Marks #1169U8S216625		44. VALUE STOLEN		45. PROPERTY																			
46. Alarm Number/Year 272 File#3/93		47. Technical Services SBI Hamm		48. Evidence: None NJSP - SETS		49. Yes X		50. No ---		51. Retained X		52. Returned ---		53. Destroyed X		54. MV Summons/ Warning Number T851021		55. Statute Number 39:4-88b																			
56. Chemical Lab. Number 132105-1		57. Ballistics Lab. Number H62658		58. Status of: Arrest Report Pending X		59. Yes X		60. No ---		61. Prop./Veh. Report Pend. X		62. Yes X		63. No ---		64. T851022 T851022		65. 39:4-81																			
58. Alcohol Involved Yes: No: X Unk.		59. Other Drugs Involved Yes: X No: Unk.		61. Status of: Arrest Report Pending X		62. Yes X		63. No ---		64. Prop./Veh. Report Pend. X		65. Yes X		66. No ---		67. T851023 T851023		68. 39:3-76.2																			
63. VCCB Information and Phone Number Provided (1-800-242-0804) Yes: No: N/A: X		64. VCCB Information and Phone Number Provided (1-800-242-0804) Yes: No: N/A: X		65. Status of: Arrest Report Pending X		66. Yes X		67. No ---		68. Prop./Veh. Report Pend. X		69. Yes X		70. No ---		71. T851024 T851024		72. 39:4-49.1																			
73. No. Arrest/Summ. 2		74. No. Arrest/Summ. 2		75. No. Arrest/Summ. 2		76. No. Arrest/Summ. 2		77. No. Arrest/Summ. 2		78. No. Arrest/Summ. 2		79. No. Arrest/Summ. 2		80. No. Arrest/Summ. 2		81. DD Case Number 3		82. Accident Case Number 1																			
List Arrested/Summoned -- List and Identify Additional Victims -- Describe Perpetrators/Suspects -- Date Action Taken, Include Findings and Observations of Investigator -- Physical Evidence Found -- Where, by Whom -- Disposition and Technical Services Performed -- Interview of Victims, Witnesses, Persons Contacted -- Suspects -- Attach Victim Property Loss Report -- Attach Statements -- Court Action -- All NCIC Entry/Inquiries -- Prisoner Disposition.																																					
71. Name/Address of Arrested/Summoned William Frank Swain Folley Rd Roper N.C W927884																				72. Criminal Complaint Warrant/Summons No. 37		73. Age M		74. Sex 2B		75. Race Code 072956		76. D.O.B. Russell Earl Knowles Rt. #3 Bx108 Roper N.C W927874		77. Age 45		78. Sex M		79. Race Code 2B		80. D.O.B. 013148	
October 13, 1993 This date while patrolling the NJTPKE S/B with Tpr. G. Sandes #4830 a green chevrolet was observed exiting the T/L ramp outside interchange #1 without using a directional blinker. This same vehicle did then approach the intersection of S.H.#140 and C.R.#551 and did not stop at the red light. A motor vehicle stop was initiated on this same vehicle bearing North Carolina registration ESC/279 in the Pilot gas station parking lot on S.H.#140. I approached the vehicle from the passenger side and asked the driver for his license and a vehicle registration. I inturn was handed a North Carolina license in the name of Russell Knowles of Roper N.C and a registration in the name of																																					
77. Rank/Name (Print or Type) Tpr. II E. Simpson		78. Page 1 of 2		79. Date of Report 10-13-93		80. Reviewer & Badge Number 3300		81. Signature X Tpr. II E. Simpson #4340		82. Date 10-13-93		83. Reviewer & Badge Number 3300		84. Signature X Tpr. II E. Simpson #4340		85. Date 10-13-93		86. Reviewer & Badge Number 3300		87. Signature X Tpr. II E. Simpson #4340		88. Date 10-13-93		89. Reviewer & Badge Number 3300													

1. Station/Unit Moorestown	2. Code D020	4. Prosecutor's Case Number	5. Division Case Number D02093305
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William F. Swain, of Roper N.C. I then engaged the driver in conversation and did smell the odor of alcoholic beverage emanating from his breath. He was then asked to exit in order to determine his sobriety. Our conversation then turned to who the owner of the vehicle was. I was advised that he was the passenger of the vehicle. The driver was then asked where he was coming from? He did state that he and the passenger were coming from Lakewood, N.J., they had spent the day there visiting a Uncle of the passenger. I then reapproached the vehicle and began a conversation with the passenger seated in the front of the vehicle. He also did have the strong odor of alcoholic beverage on his breath. He did state that he and the driver had gone up to New York City on this day to visit a relative of his, a cousin. During this conversation a folding knife was observed in the glove box. After this observation was made the passenger was then asked to exit the vehicle where a PAT search was conducted for any offensive weapons. This search was negative with both of the vehicles occupants denying any weapons on thier person or in the vehicle.

However, due to the fact of the the presence of the knife in the glove box, the conflicting statements of both occupants and the odor of alcholic beverage, a NJSP Consent to Search form was prepared. This form was filled out in it's entirety and read to the owner of the vehicle William Swain. Once read, he inturn was handed the form to read and was again advised that he had the right to refuse the search and terminate it at any time. Mr. Swain did agree to the search and acknowledged same with his signature.

A search of the vehicles interior was negative for any contraband. However, located in the trunk of the vehicle inside a Uncle Ben's rice box filled with rice was a black container and two plastic bags conatining chunky white substance along with white powder all of which being cocaine. Both of the occupants were then placed under arrest advised of their rights per Miranda and re-searched. Located in the groin area of William Swain was a fully loaded .22 caliber semi-auto pistol with hollow point ammo. Once at the Moorestown station NCIC checks were conducted on both the accused and the weapon. The .22 caliber pistol bearing serial#674604 did return as a stolen weapon from Norfolk, VA. Same was confirmed NIC/G541903132 OCA/28037 and entered as evidence along with the cocaine in the Mini evidence locker of the Moorestown station.

Both of the accused were then processed and remanded to the Salem Co. jail upon default of bail.

77. Rank/Name (Print or Type) Tpr II E. Simpson	78. Badge No. #4340	79. Page 2 of 2	80. Date of Report 10-13-93	81. Reviewer & Badge Number AU 3300
Signature X <i>Tpr II E. Simpson</i>		82.	83.	

Handout 31

ALFRED ARMSTRONG

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
COMMUNICATING THREATS (M)	WASHINGTON	06/29/2009	08/27/2009
HABITUAL FELON	WASHINGTON	03/07/2001	10/09/2001
PWISD COCAINE	WASHINGTON	10/26/2000	10/09/2001
B & E	WASHINGTON	08/13/2000	10/09/2001
LARCENY AFTER B & E	WASHINGTON	08/13/2000	10/09/2001
DWLR	WASHINGTON	04/30/2000	11/08/2000
RESISTING PUBLIC OFFICER (M)	WASHINGTON	05/29/1999	11/08/2000
POSSESSION OF COCAINE	WASHINGTON	10/04/1997	03/31/1999
CONSP TO POSS W/I TO DIST COCAINE BASE	FEDERAL	05/25/1994	NONE PROVIDED
CONSPIRE TO DISTRIBUTE CRACK COCAINE	FEDERAL	08/31/1993	NONE PROVIDED
RESIST/OBSTRUCT PUBLIC OFFICER	MARTIN	06/01/1993	06/09/1993
RESIST/OBSTRUCT PUBLIC OFFICER	MARTIN	06/01/1993	06/09/1993
POSSESS DRUG PARAPHERNALIA	MARTIN	06/01/1993	06/09/1993
1 ST DEG TRESP ENTER/REMAIN (M)	WASHINGTON	03/31/1992	04/07/1992
POSSESSION OF COCAINE	WASHINGTON	05/01/1990	10/03/1990

POSS WITH INTENT TO SELL COCAINE	WASHINGTON	NONE PROVIDED	08/17/1990
SELL COCAINE	WASHINGTON	NONE PROVIDED	08/17/1990
DWLR	WASHINGTON	04/02/1990	06/05/1990
DWLR	WASHINGTON	03/25/1990	06/05/1990
POSSESSION INTENT TO SELL COCAINE	WASHINGTON	NONE PROVIDED	01/10/1990

Handout 32

MICHAEL LASSITER

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
DWLR	WASHINGTON	11/10/2009	10/13/2015
OPER COMM VEH COMM NOL	WASHINGTON	11/10/2009	10/13/2015
DRIVE C VEH C LIC DISQUALIFIED	WASHINGTON	11/10/2009	10/13/2015
FALSE REPORT TO POLICE STATION (M)	MARTIN	05/07/2005	08/17/2015
DV PROTECTIVE ORDER VIOL (M)	FORSYTH	12/05/2008	04/03/2009
ASSAULT ON FEMALE (M)	BEAUFORT	11/21/2004	01/18/2005
COMMUNICATING THREATS (M)	BEAUFORT	11/21/2004	01/18/2005
POSS LESS THAN ONE GRAM ICE/CRACK COCAINE	FLORENCE (SC)	02/22/2002	10/21/2002
RESISTING PUBLIC OFFICER (M)	DARE	08/23/1998	09/10/1998
INTOXICATED AND DISRUPTIVE	DARE	08/23/1998	09/10/1998
POSSES MARIJUANA UP TO ½ OZ (M)	DARE	08/23/1998	09/10/1998
COMMUNICATING THREATS (M)	MARTIN	01/22/1998	03/02/1998
INJURY TO PERSONAL PROPERTY (M)	MARTIN	01/16/1998	03/02/1998
LITTERING NOT >15 LBS (M)	BERTIE	10/03/1997	01/20/1998
ASSAULT ON FEMALE (M)	WASHINGTON	11/04/1996	11/19/1996

DOMESTIC CRIM TRESPASS (M)	WASHINGTON	04/02/1994	04/19/1994
DRIVING WHILE IMPAIRED	DARE	05/27/1989	08/22/1989
DRIVE-CONS MALT BEV PASS AREA	DARE	05/27/1989	06/23/1989
LARCENY	NORTHAMPTON	NONE PROVIDED	06/28/1989
LARCENY (M)	NORTHAMPTON	NONE PROVIDED	03/07/1988

Handout 33

ALTON CLAGON (Jr.)

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
CONSP TO POSS WDTD COC & COC BASE- CRACK FORF	FEDERAL	06/03/1994	UNKNOWN
CONSPIRACY TO DISTRIBUTE COCAINE AND CRACK COCAIN	FEDERAL	10/01/1993	01/31/1994
FORFEITURE	FEDERAL	10/01/1993	01/31/1994
COMMUNICATING THREATS (M)	WASHINGTON	08/22/1992	09/08/1992
B & E	FEDERAL	01/15/1969	UNKNOWN

Handout 34

JOSEPH LYNN

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
TRAFFICKING OPIUM OR HEROINE	WASHINGTON	05/19/2000	07/10/2002
PWISD MARIJUANA	WASHINGTON	05/19/2000	07/10/2002
RESISTING PUBLIC OFFICER (M)	WASHINGTON	07/06/2000	11/07/2000
CARRY CONCEALED WEAPON (M)	WILSON	03/18/1996	05/14/1996
OPEN CONT AFTER CONS ALC 1 ST	BEAUFORT	12/26/1995	04/01/1996
POSS WEAPON ON SCHOOL GROUNDS (M)	WASHINGTON	03/16/1993	03/30/1996

Handout 35

MAURICE WILKINS

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
DISORDERLY CONDUCT (M)	FAIRFIELD (CT)	11/24/2015	01/15/2016
BREACH OF PEACE (M)	FAIRFIELD (CT)	11/24/2015	01/15/2016
POSS DRUG (M)	FAIRFIELD (CT)	01/27/2012	04/02/2013
POSS W/INTENT	FAIRFIELD (CT)	01/27/2012	04/02/2013
POSS DRUG (M)	FAIRFIELD (CT)	03/17/2010	06/10/2010
RESISTING PUBLIC OFFICER (M)	WASHINGTON	07/01/2000	09/19/2000
DWLR	WASHINGTON	07/01/2000	09/19/2000
PWISD MARIJUANA	WASHINGTON	02/29/2000	08/29/2000
PWISD COCAINE	WASHINGTON	11/06/1999	08/29/2000
S/D COCAINE	WASHINGTON	11/06/1999	08/29/2000
SIMPLE ASSAULT (M)	WAKE	03/17/1997	04/21/1997
DISORDERLY CONDUCT	WASHINGTON	09/10/1993	09/28/1993
INTOXICATED AND DISRUPTIVE	MARTIN	01/10/1992	01/13/1992
DWLR	WASHINGTON	11/20/1991	12/17/1991
2 ND DEG TRESSPASS	WASHINGTON	01/11/1991	01/22/1991
2 ND DEG TRESPASS	WASHINGTON	09/14/1990	10/09/1990

LARCENY (M)	WASHINGTON	06/28/1989	06/26/1990
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Handout 36

LEE DEMETRIUS MCPHATTER

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
PWISD COCAINE	HOKE	02/27/1998	09/22/1998
POSSESS DRUG PARAPHERNALIA	HOKE	02/27/1998	09/22/1998

Handout 37

AVIS ARNOLD

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
PWISD COCAINE	WAKE	09/05/2008	08/21/2009
HABITUAL FELON	WAKE	02/03/1995	08/21/2009
PWISD COCAINE	WASHINGTON	05/04/2001	09/05/2001
SELL/DELIVER COCAINE	WASHINGTON	05/04/2001	09/05/2001
PWISD COCAINE	WASHINGTON	05/04/2001	09/05/2001
SELL/DELIVER COCAINE	WASHINGTON	05/04/2001	09/05/2001
PWISD COCAINE	WASHINGTON	05/04/2001	09/05/2001
SELL/DELIVER COCAINE	WASHINGTON	05/04/2001	09/05/2001
PWISD COCAINE	WASHINGTON	05/04/2001	09/05/2001
SELL/DELIVER COCAINE	WASHINGTON	05/04/2001	09/05/2001
PWISD COCAINE	WASHINGTON	05/04/2001	09/05/2001
SELL/DELIVER COCAINE	WASHINGTON	05/04/2001	09/05/2001
PWISD MARIJUANA	WASHINGTON	05/04/2001	09/05/2001
SELL/DELIVER MARIJUANA	WASHINGTON	05/04/2001	09/05/2001
PWISD COCAINE	WASHINGTON	07/15/1999	08/28/2000
SELL/DELIVER COCAINE	WASHINGTON	07/15/1999	08/28/2000
POSSESSION OF FIREARM BY FELON	WAKE	12/22/1998	09/11/1999
RESISTING PUBLIC OFFICER (M)	WAKE	09/20/1998	10/09/1998

POSSESS DRUG PARAPHERNALIA (M)	WAKE	09/20/1998	10/09/1998
POSSESS STOLEN GOODS (M)	WASHINGTON	02/07/1997	06/10/1997
POSSESS MARIJUANA UP TO ½ OZ (M)	WASHINGTON	09/23/1996	11/19/1996
PWISD COUNTERFEIT CS	WASHINGTON	02/04/1995	11/08/1995
SELL OR DELIVER COUNTERFEIT CS	WASHINGTON	02/04/1995	11/08/1995
SELL OR DELIVER COCAINE	WASHINGTON	02/03/1995	05/11/1995
SELL OR DELIVER COUNTERFEIT CS	WASHINGTON	12/31/1994	05/11/1995
ASSAULT INFLICT SERIOUS INJURY (M)	WASHINGTON	05/21/1992	06/30/1992

Handout 38

EDWARD B. HUDSON

CRIMINAL RECORD (2005 to Present)

Conviction	Jurisdiction	DOO	Date of Conviction
HABITUAL FELON	BEAUFORT	07/22/2005	11/03/2015
EXTORTION	BEAUFORT	07/16/2014	11/03/2015
HARASSING TELEPHONE CALLS (M)	ONSLOW	07/20/2014	10/29/2015
COMMUNICATING THREATS (M)	ONSLOW	07/20/2014	10/29/2015
HARASSING TELEPHONE CALLS (M)	HAYWOOD	11/22/2014	02/13/2015
CYBERSTALKING (M)	HAYWOOD	11/22/2014	02/13/2015
UNAUTHORIZED USE OF MOTOR VEHICLE (M)	MARTIN	09/12/2012	01/07/2013
SIMPLE WORTHLESS CHECK (M)	BEAUFORT	06/19/2003	01/27/2011
DWLR	BEAUFORT	10/05/2004	01/27/2011
WORTHLESS CHECK (x3)	WILSON	05/04/2009	10/12/2010
WORTHLESS CHECK	WILSON	05/22/2009	10/12/2010
SIMPLE WORTHLESS CHECK (M)	BEAUFORT	06/17/2003	05/11/2006
WORTHLESS CHECK	PITT	01/03/2004	07/22/2005
OBTAIN PROPERTY BY FALSE PRETENSE	PITT	01/08/2004	07/22/2005
WORTHLESS CHECK (x2)	PITT	01/10/2004	07/22/2005

OBTAIN PROPERTY BY FALSE PRETENSE	PITT	01/15/2004	07/22/2005
WORTHLESS CHECK	PITT	01/15/2004	07/22/2005
OBTAIN PROPERTY BY FALSE PRETENSE	PITT	01/16/2004	07/22/2005
ATTEMPT OBTAIN PROPERTY BY FALSE PRETENSE	PITT	01/20/2004	07/22/2005
OBTAIN PROPERTY BY FALSE PRETENSE	BEAUFORT	08/15/2003	08/16/2005
OBTAIN PROPERTY BY FALSE PRETENSE	BEAUFORT	08/16/2003	08/16/2005
OBTAIN PROPERTY BY FALSE PRETENSE	BEAUFORT	08/19/2003	08/16/2005
OBTAIN PROPERTY BY FALSE PRETENSE	BEAUFORT	01/05/2004	08/16/2005

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WILLIE JOSEPH MCNAIR

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
RESISTING PUBLIC OFFICER (M) (x2)	WASHINGTON	02/18/2018	04/12/2018
ESCAPE LOCAL JAIL (M)	WASHINGTON	02/18/2018	04/12/2018
INJURY TO PERSONAL PROPERTY (M)	WASHINGTON	02/18/2018	04/12/2018
CONSP ROBBERY WITH DANEROUS WEAPON	WASHINGTON	11/18/2013	03/05/2014
HABITUAL MISDEMEANOR ASSAULT	WASHINGTON	02/13/2010	11/17/2010
AWDW SERIOUS INJURY	WASHINGTON	01/01/2010	11/17/2010
INJURY TO PERSONAL PROPERTY (M) (x2)	WASHINGTON	03/24/2009	07/16/2009
2 ND DEG TRESPASS (M)	WASHINGTON	09/24/2007	10/11/2007
ASSAULT ON FEMALE (M)	WASHINGTON	09/24/2007	10/11/2007
BREAKING OR ENTERING (M)	WASHINGTON	11/11/2005	01/19/2006
LARCENY	WASHINGTON	06/14/2005	01/25/2006
B & E	WASHINGTON	03/08/2005	01/25/2006
LARCENY	WASHINGTON	03/08/2005	01/25/2006
COMMUNICATING THREATS (M)	WASHINGTON	06/17/2004	07/01/2004
ASSAULT ON FEMALE (M) (x2)	WASHINGTON	07/12/2003	12/11/2003

DWLR	WASHINGTON	03/05/2003	04/22/2003
SIMPLE ASSAULT (M)	WASHINGTON	06/03/2002	09/11/2002
INJURY TO PERSONAL PROPERTY (M)	WASHINGTON	06/03/2002	09/11/2002
DWLR	WASHINGTON	05/26/2002	08/21/2002
DWLR	WASHINGTON	05/18/2002	08/21/2002
INJURY TO PERSONAL PROPERTY (M)	WASHINGTON	05/18/2002	05/22/2002
ASSAULT ON FEMALE (M)	WASHINGTON	05/18/2002	05/22/2002
INTOXICATED AND DISRUPTIVE (M)	WASHINGTON	10/21/2001	11/14/2001
PWIMSD SCH II CS	MARTIN	12/28/1999	05/04/2000
SIMPLE ASSAULT (M)	WASHINGTON	03/24/1999	06/08/1999
ASSAULT ON FEMALE (M)	WASHINGTON	07/08/1998	07/14/1998
SELL OR DELIVER COCAINE	WASHINGTON	09/30/1994	08/23/1995

Handout 40

WYATT SPRUILL

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
LARCENY (M)	WASHINGTON	11/04/2017	03/01/2018
LARCENY FROM CONSTRUCTION SITE	PITT	11/06/2017	01/29/2018
ELUDE ARREST MV 2 AGRVTG FCTRS	PITT	11/06/2017	01/29/2018
LARCENY FROM CONSTRUCTION SITE	PITT	11/04/2017	01/29/2018
LARCENY	PITT	09/15/2017	01/29/2018
DRINK BEER/WINE WHILE DRIVING (M)	WASHINGTON	03/14/2016	05/10/2016
POSSESS DRUG PARAPHERNALIA (M)	PITT	03/24/2016	04/19/2016
LARCENY (M) (x2)	PITT	05/03/2015	01/13/2016
LARCENY (M)	PITT	06/19/2014	01/13/2016
2 ND DEG TRESPASS (M)	EDGECOMBE	04/03/2015	09/09/2015
LITTERING 15-500 LBS (M)	BEAUFORT	07/05/2015	08/04/2015
LARCENY (M)	EDGECOMBE	11/01/2010	12/08/2010
CONSPIRACY TO COMMIT FELONIOUS LARCENY (x2)	PITT	10/01/2010	12/07/2011
CONSPIRACY TO COMMIT FELONIOUS LARCENY	PITT	06/30/2010	12/07/2011
BREAKING AND OR ENTERING	PITT	12/02/2007	05/05/2008

LARCENY (M)	PITT	05/29/2007	05/05/2008
UNAUTHORIZED USE OF MOTOR VEHICLE (M)	PITT	04/21/2007	04/27/2007
POSSESS DRUG PARAPHERNALIA (M)	MECKLENBURG	06/13/2006	04/05/2007
DWLR	GASTON	04/05/2006	02/28/2007
FLEE/ELUDE ARREST WITH MV (M)	EDGECOMBE	08/11/2006	11/15/2006
DWI – LEVEL 3	EDGECOMBE	08/11/2006	11/15/2006
POSSESS STOLEN MOTOR VEHICLE	PITT	09/10/2004	11/19/2004
LARCENY OF HORSE/SWINE/CATTLE	WASHINGTON	08/25/2003	05/17/2004
UTTERING FORGED INSTRUMENT	MARTIN	09/09/2000	04/10/2001
FORGERY OF INSTRUMENT	MARTIN	09/09/2000	04/10/2001
UNAUTHORIZED USE OF MOTOR VEHICLE (M)	PITT	01/11/1997	02/28/1997
SIMPLE WORTHLESS CHECK (M)	PITT	04/13/1991	05/12/1995
SIMPLE WORTHLESS CHECK (M)	PITT	03/15/1991	05/12/1995
SIMPLE WORTHLESS CHECK (M)	PITT	03/14/1991	05/12/1995
WORTHLESS CHECK (M)	PITT	08/31/1988	05/12/1995
UTTERING FORGED INSTRUMENT	PITT	02/14/1994	08/09/1994
UTTERING FORGED INSTRUMENT	PITT	02/13/1994	08/09/1994

UTTERING FORGED INSTRUMENT (x2)	PITT	02/11/1994	08/09/1994
COMMON LAW ROBBERY	PITT	02/09/1994	08/09/1994
WORTHLESS CHECK CLOSED ACCOUNT (M)	BEAUFORT	09/21/1991	11/26/1991
SIMPLE WORTHLESS CHECK (M)	MARTIN	09/21/1991	10/31/1991
SIMPLE WORTHLESS CHECK (M) (x2)	PITT	04/14/1991	08/16/1991
SIMPLE WORTHLESS CHECK (M)	PITT	04/04/1991	08/16/1991
SIMPLE WORTHLESS CHECK (M)	PITT	03/28/1991	08/16/1991
SIMPLE WORTHLESS CHECK (M)	PITT	03/23/1991	08/16/1991
SIMPLE WORTHLESS CHECK (M)	PITT	03/08/1991	08/16/1991
SIMPLE WORTHLESS CHECK (M)	PITT	03/07/1991	08/16/1991
SIMPLE WORTHLESS CHECK (M)	PITT	02/28/1991	08/16/1991
SIMPLE WORTHLESS CHECK (M)	PITT	12/16/1991	08/16/1991
SIMPLE WORTHLESS CHECK (M) (x2)	WASHINGTON	06/03/1991	08/06/1991
SIMPLE WORTHLESS CHECK (M)	WASHINGTON	05/20/1991	08/06/1991
SIMPLE WORTHLESS CHECK (M)	WASHINGTON	05/09/1991	08/06/1991
WORTHLESS CHECK ACCOUNT CLOSED (M)	WASHINGTON	05/08/1991	08/06/1991
SIMPLE WORTHLESS CHECK (M)	WASHINGTON	05/08/1991	08/06/1991
SIMPLE WORTHLESS CHECK (M) (x3)	WASHINGTON	05/07/1991	08/06/1991

SIMPLE WORTHLESS CHECK (M)	WASHINGTON	05/06/1991	08/06/1991
LARCENY (M)	WASHINGTON	06/06/1991	07/30/1991
LARCENY (M)	WASHINGTON	05/30/1991	07/30/1991
DRIVING WHILE IMPAIRED	PITT	03/09/1985	03/25/1985

Handout 41

SBI FILE: 668-H-5
ACTIVITY: December 19, 1993
VICTIM: William Frank Swain
DICTATED: December 29, 1993
RECEIVED: January 3, 1994
TYPED: January 7, 1994
COPIES: (1) Records; (2) SA D. R. Varnell; (3) SAC W. E. Godley; (4) District Attorney M. D. Norton

Wyatt Spruill, W/M/DOB: 02/03/62; Residence: Route 1, Box 380, Plymouth, North Carolina, Telephone: 919-793-4238; (Witness):

Interviewed Sunday, December 19, 1993, at 1 a.m., at Henry Freeman's Trailer Park, Lot #18, by SA Varnell and Detective Janice Spruill, of the Washington County Sheriff's Office.

Mr. Spruill was the last person at this time known to see Frank Swain alive at Mr. Swain's residence. Mr. Spruill was also the person that discovered Mr. Swain's body at approximately 10 p.m. on December 18, 1993, and reported this incident to the police.

Mr. Spruill stated that he found Mr. Swain in Mr. Swain's trailer at approximately 10:05 to 10:15 p.m. on December 18, 1993. Mr. Spruill stated that he had come back to Mr. Swain's trailer to check on him because Mr. Swain was drunk and asleep on the couch when he left the residence at 7 p.m. on December 18, 1993. Mr. Spruill stated that when he found Mr. Swain on the floor, he ran to the second trailer south of Mr. Swain to call 911. Mr. Spruill stated that this trailer was occupied by Timothy Swain, black male, who is kin to Frank Swain.

Mr. Spruill stated that Cornelius McCray, alias "Sweet Pea", black male, owed Frank Swain \$100 for crack Cocaine.

Mr. Spruill stated that he did not know how much Cocaine had been in Mr. Swain's possession when Mr. Spruill left at approximately 7 p.m. Mr. Spruill stated that Frank Swain carried a blue cloth wallet that had a velcro closure on it. Mr. Spruill stated that Mr. Swain also had an Indiglo watch, which glowed very brightly in the dark. Mr. Spruill stated that Mr. Swain wore a gold rope chain that had a small gold cross on Mr. Swain's neck.

Mr. Spruill stated that Frank did have some drugs on his person and that it was crack Cocaine and that Frank carried it in a hard Lifesavers hole container. Mr. Spruill stated that he was not sure exactly how much crack Frank had on him on this night, but that he had seen probably eight rocks of crack Cocaine before he left on Frank's person.

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Mr. Spruill stated that he left Frank Swain's trailer at approximately 7:25 p.m. on December 18, 1993.

Mr. Spruill stated that Frank could have a real attitude and would cuss at people and do such things as that. Mr. Spruill stated that people said Frank could be a real pain and be real bad acting when Frank was drunk.

Mr. Spruill stated that Frank Swain was supposed to marry Sonya Spruill Day, white female, who was Mr. Spruill's sister. Mr. Spruill stated that Sonya was presently incarcerated at the Women' Prison in Raleigh, North Carolina.

Mr. Spruill stated that Frank carried a black pocketknife that opened with a button. Mr. Spruill stated that this knife was a lock-blade type knife and that Frank always carried it.

Mr. Spruill stated that he does not know about any crowbar being in the trailer or being left in the trailer. Mr. Spruill stated that there was a set of jumper cables in the trailer and that they had been in the trailer all day. Mr. Spruill stated that as far as he knows, there was not a crowbar in the trailer on December 18, 1993, and that he did not see one any other time in the trailer.

Mr. Spruill stated that he did try to light the kerosene heater that was in Frank's house on December 18, 1993, but that he was unable to do so. Mr. Spruill stated that Frank had been able to get it to work on the night of December 17, 1993.

Mr. Spruill stated that Frank Swain had spoken with Sweet Pea (Cornelius McCray) earlier on December 18, 1993, and that Mr. Spruill believes they were talking about the money that Sweet Pea owed Mr. Swain. Mr. Spruill stated that he does not believe Mr. Swain was able to get the money from Sweet Pea at this time. Mr. Spruill stated that he believes Sweet Pea owed Frank \$100 in payment for crack Cocaine.

Mr. Spruill stated that he had been back in the Washington County area since Thursday, December 9, 1993, or December 16, 1993. Mr. Spruill stated that he had started a new life while he was at a youth Christian group in Virginia. Mr. Spruill stated that this group was a combination reach-out program and rehabilitation program for drug and alcohol users. Mr. Spruill stated that he did undergo rehab for a drug problem at this location and that he also worked as a counselor and a speaker when this group would travel to other locations.

Mr. Spruill stated that when he found Frank dead in the trailer,

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that he did not touch anything but the doorknob. Mr. Spruill stated that all he did was open the door and see Frank lying on the floor and that he did not go in or touch anything else. Mr. Spruill stated that he went directly to Timothy Swain's residence to call the police.

Timothy Swain, date of birth October 10, 1970, lives in the second trailer south of Mr. Swain's front door.

Mr. Spruill stated that he tried to call the police from Timmy's (Swain) residence, but there was no phone there so Mr. Spruill and Timothy ran to another house. Mr. Spruill stated that before they went to call the police he and Timmy did run back to Frank's residence and that at this time Timmy Swain stepped into the residence and stood in the kitchen looking at Frank. Mr. Spruill stated that he believed Timothy Swain was trying to see if there had been a fight or not.

Mr. Spruill stated that after this he and Timothy ran to Verna Wilkins, black female, and called the police from her house. Ms. Wilkins' residence is approximately 50 yards from Mr. Swain's residence.

Mr. Spruill stated that Frank Swain lived with his sister, Mary Swain, and his brother, Allen Swain. Mr. Spruill stated that he believed the trailer belonged to Frank Swain and that Frank owned the trailer outright.

Mr. Spruill stated that last night on December 17, 1993, that Frank and Mary had words with each other at the trailer. Mr. Spruill stated that Mary became very angry and took all the Christmas presents in the trailer out of the trailer and went to stay at her boyfriend's house. Mr. Spruill stated that he believed Mary's boyfriend was named Benny (LNU), black male.

At this time, an unidentified group of black males came to the side of the patrol car which SA Varnell and Detective Spruill was using to interview Mr. Spruill. An unidentified black male stated that another white male named Tommy Lord/Ward had been at Frank's trailer with Mr. Wyatt Spruill. This black male stated that Tommy worked for Tyson Hog Farm, was about 28 years old, and had black hair. This black male stated that Tommy had been driving Wyatt Spruill's car earlier in the day in front of Mr. Swain's residence.

Detective Spruill exited the vehicle to try and identify the black male making these statements.

Mr. Spruill stated that nobody else had been driving his car on

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December 18, 1993. Mr. Spruill stated, "I know what it (Frank Swain's death) looks like, but we were tight." Mr. Spruill stated that he would never have done anything like this to Frank because he and Frank were very good friends and Frank had helped him financially in the past.

Mr. Spruill stated that the unidentified black males may have been talking about someone named Tommy Garrett, white male, who works on a hog farm. Mr. Spruill stated that Tommy Garrett lives on Railroad Bed Road in a double-wide trailer and that he works on a hog farm there. Mr. Spruill stated that Mr. Garrett drives a pickup truck. Mr. Spruill stated that Mr. Garrett has probably bought crack Cocaine from Frank in the past.

Mr. Spruill stated that no one had driven Mr. Spruill's car today other than Mr. Spruill and that the black males making this statement were incorrect.

At this time, Willie Swain, black male, came to the patrol car and stated that the car that Mr. Spruill was driving belonged to Frank Swain. Willie Swain stated that Frank told him that Frank had bought the car. Mr. Swain stated that Frank did not joke about money and buying things.

Mr. Spruill stated that the car belonged to him and that he had paid for it with a \$1000 check that his grandmother had given him. Mr. Spruill stated that he bought the vehicle from Albert Steel ("Whitey"). Mr. Spruill showed SA Varnell a DMV registration slip with the registration number 2876156 on the registration slip. This registration slip did show Wyatt Spruill as the owner of the vehicle.

At this time, Deputy Stacy Johnston, of the Washington County Sheriff's Office, entered the patrol vehicle with SA Varnell and Mr. Spruill.

Mr. Spruill stated that Frank had told him that Frank and Benny (LNU), Mary Swain's boyfriend, were battling. Mr. Spruill stated that he thinks Frank also made this statement in front of Duke Carter, black male. Mr. Spruill stated that Frank was saying that he and Benny had had a fight in the trailer and Mr. Spruill thought this fight took place last week.

Mr. Spruill stated that Frank called up to Duke Carter's house on December 18, 1993, at approximately 6 p.m. Mr. Spruill stated that at this time Frank told someone that if anything was going on tonight, Frank would be at the house. Mr. Spruill stated that he believes Frank was telling Duke Carter that if anyone was looking for Cocaine, that Frank would be at the house

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to sell it. Mr. Spruill stated that Frank could have also meant that if there was any trouble going on tonight, Frank would be home to help if Duke Carter needed any help. Mr. Spruill stated that Frank and Duke Carter had been driving around together with Wyatt Spruill on December 18, 1993.

Mr. Spruill stated that only he had backed up his vehicle in front of Mr. Swain's residence on December 18, 1993. Mr. Spruill stated that Benny (LNU) lives in the Henry Freeman's Trailer Park somewhere near the back. Mr. Spruill stated that Frank told him that Frank and Benny had been in a wrestling match inside the trailer. Mr. Spruill stated that this wrestling match may have taken place last week.

Mr. Spruill stated that when he washed his car at Frank's house on December 18, 1993, that William Chesham, black male, ("Punky"), Frank Swain, and Duke Carter were all at Frank's residence. Mr. Spruill stated again that nobody besides Mr. Spruill drove Mr. Spruill's car at that time.

Mr. Spruill stated that he spent the night on Friday night, December 17, 1993, at Frank's house. Mr. Spruill stated that he woke up at approximately 7:30 a.m. on December 18, 1993, because someone was knocking at the front door. Mr. Spruill stated that when he opened the front door it was Frank and that Frank had been at Priscilla Wilkins', black female, ("PJ"), to get a pinky ring back. Mr. Spruill stated that he does not know why the pinky ring was at PJ's or how it got there.

Mr. Spruill stated that he, Frank Swain, and Duke Carter hung out together all day on Saturday. Mr. Spruill stated that Duke Carter showed up at Frank's residence at about 8 a.m. Mr. Spruill stated that they all left in Duke Carter's car and went to the True Value in Plymouth, North Carolina, to purchase license tags for Mr. Spruill's car. Mr. Spruill stated that this occurred between 9 a.m. and 10:30 a.m. on December 18, 1993.

Mr. Spruill stated that Frank Swain paid for Mr. Spruill's license plates. Mr. Spruill stated that the license plates cost approximately \$100 with tags and taxes. Mr. Spruill stated that they then went to Tettleton's Cleaners to get Duke Carter's clothing. Mr. Spruill stated that Tettleton's Cleaners is located in Plymouth, North Carolina.

Mr. Spruill stated that they then went to an old white guy's house located on Highway 32 just outside of Plymouth. Mr. Spruill stated that it seemed that Frank and Duke knew this white male and that they went and spoke to him for a few

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minutes. Mr. Spruill stated that he just hung out outside at the car while this was going on.

Mr. Spruill stated that they then went to Advance Auto Parts and picked up William Chesham (Punky) and came back to Frank Swain's residence. Mr. Spruill stated that this was the time period that he washed and cleaned his car in front of Frank's trailer.

Mr. Spruill stated that Frank Swain told him that he was tired of hanging around with Duke and wanted to go get some stuff from the store. Mr. Spruill stated that this was when they left and went to the grocery store.

Mr. Spruill stated that he and Frank left Frank's house and went to the Winn-Dixie in Plymouth, at which time Mr. Spruill stated that he saw his mother, Jean Spruill. Mr. Spruill stated that they then went to Roper and looked at Bo Jack's white pickup truck that was located at Bo Jack's auto shop. Mr. Spruill stated that Frank paid Mr. Spence \$50 for the truck and that this was how much it cost to buy the truck. Mr. Spruill stated that Mr. Spence is a bail bondsman and apparently Bo Jack owes him money.

Mr. Spruill stated that they then went to Bethel and watched the UNC/Ohio State basketball game at Collie Swain's house. Mr. Spruill stated that he left the residence and came back on one or two occasions telling Frank that it was time to go and that he was ready to leave.

Mr. Spruill stated that they left Collie Swain's residence and went looking Sweet Pea (Cornelius McCray) at Sweet Pea's shop located outside of Roper.

Mr. Spruill stated that they then came back to Frank's trailer and saw Sweet Pea driving down the path going past Frank's trailer. Mr. Spruill stated that he stopped the car and Sweet Pea stopped also and at this time Frank and Sweet Pea got out of the vehicles and started talking about the money that Sweet Pea owed him. Mr. Spruill stated that he did not exactly hear what was being said, but it seemed like a normal conversation. Mr. Spruill stated that he did not hear Frank and Sweet Pea yelling at each other or anything like that. Mr. Spruill stated that when Frank got back in the car, that Frank stated, "It's the same old bullshit." Mr. Spruill stated that he believes that Sweet Pea did not give Frank any money at all.

Mr. Spruill stated that he and Frank then went to Frank's trailer and ate some sausage that Frank cooked. Mr. Spruill stated that Frank also called Duke Carter's house and told Duke

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about Frank would be home that night if anything was going on. Mr. Spruill stated that someone called Frank's house between 6 and 6:05 p.m., but would not talk on the phone. Mr. Spruill stated that Frank said hello a couple of times and asked who it was and when no one would answer Frank, Frank just hung up.

Mr. Spruill stated that at this time Frank sat down on the couch and started napping. Mr. Spruill stated that Frank would often nod off when Frank was drinking a lot and that Frank had drank quite a bit of alcohol on this date.

Mr. Spruill stated that at this time Marty Respass, white male, came to Frank's residence around this time and bought some crack Cocaine. Mr. Spruill stated that he does not know how much dope Marty bought, but it was probably less than \$100. Mr. Spruill stated that he saw Marty counting money out on the coffee table and that Frank then gave him the crack Cocaine.

Mr. Spruill stated that Marty lives in Williamston on Prison Camp Road. Mr. Spruill stated that he believes Marty was driving a light blue Buick four-door and was wearing a camouflaged coat and a black turtleneck. Mr. Spruill stated that he also saw Marty at PJ's residence later on in the night and he believes Marty was trying to buy Cocaine at that time.

Mr. Spruill stated that after Marty came to the residence and bought the dope, that Marty started smoking the dope in the trailer. Mr. Spruill stated that at this time someone knocked on the door and that Marty let this person in. Mr. Spruill stated that this person was a light skinned black male, wearing a light blue work shirt. Mr. Spruill stated that this black male also bought some crack Cocaine from Frank and then he left.

Mr. Spruill stated that after Marty bought his Cocaine, that he and Marty went outside and looked at Mr. Spruill's car for a little while. Mr. Spruill stated that he and Marty then went back inside Frank's trailer for a minute or two and at that time Marty left the residence. Mr. Spruill stated that he believes this was around 7 p.m.

Mr. Spruill stated that at around 7 p.m., Sonya Spruill Day called Frank's residence, but Mr. Spruill could not get Frank to wake up and talk to Sonya. Mr. Spruill stated that no one else was in the trailer at this time and it was only he and Frank. Mr. Spruill stated that Frank did grunt a few times on the phone, but Sonya could not tell what he was saying or understand him.

Mr. Spruill stated that he told Sonya that he and Frank would

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see her tomorrow during visitation hours at the prison. Mr. Spruill stated that he then hung up with Sonya and told Frank that he was leaving the trailer.

Mr. Spruill stated that he left the trailer and went to Hudson's Trailer Park and went to Priscilla Wilkins' (PJ) trailer. Mr. Spruill stated that he also saw Duke Armstrong at this location.

Priscilla Wilkins' residence is located in Hudson's Trailer Park, which is located approximately one-quarter mile north from Henry Freeman's Trailer Park on Folley Road.

Mr. Spruill stated that he and Duke Armstrong went to Woodlong Road. Mr. Spruill stated that he and Duke Armstrong just rode around for a little while and then he brought Mr. Armstrong back to PJ's. Mr. Spruill stated that he was saying Ducon, who is a different person than Duke Armstrong. Mr. Spruill stated that Ducon's last name is also Armstrong and that he is kin to PJ.

Mr. Spruill stated that he saw Raymond Wood, black male, walking on Highway 64 near Cherry's Auto Shop. Mr. Spruill stated that after he saw Raymond, he drove back to PJ's residence and at this time he saw Marty Respass. Mr. Spruill stated that Marty did not see Mr. Spruill, but Mr. Spruill did see Marty at PJ's house.

Mr. Spruill stated that he left PJ's and went back down Highway 64 where he stopped and picked Raymond Wood up and gave Raymond a ride to Sweet Pea's (Cornelius McCray). Mr. Spruill stated that Raymond went in Sweet Pea's residence and Mr. Spruill stayed out in the car. Mr. Spruill stated that Raymond knows Sweet Pea pretty good and that he thought he would just let Raymond go in there and talk to Sweet Pea for a while. Mr. Spruill stated that Sweet Pea later stuck his head out the door and told Mr. Spruill that Sweet Pea was taking a shower. Mr. Spruill stated that Raymond told him to go on and that Raymond was going to stay at Sweet Pea's house.

Mr. Spruill stated that he also saw Mann Young, black male, at Sweet Pea's at this time. Mr. Spruill stated that he did leave Raymond Wood at Sweet Pea's and that Mr. Spruill then left and went back to Frank's residence.

Mr. Spruill stated that he came back to Frank's residence and when he saw Frank, he said, "Oh my God." Mr. Spruill stated that he just opened the door and saw Frank lying on the floor. Mr. Spruill stated that he immediately ran to Timmy Swain's house to try and call the police.

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Mr. Spruill stated that he would be willing to take any kind of polygraph test to show that he had nothing to do with Frank being killed. Mr. Spruill stated that he felt like he was good friends with Frank and would never do anything to hurt him.

Interview concluded at 2:45 a.m.

DRV:lm

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NCHC - SBI File

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I'm going the tell you this right here. And I was -- I was doing like 120 days up at Dan River. And two SBI agents came and talked to me up there about some of the same stuff that was going on. It's been a few years ago. And -- and I told them, you know, what I thought, you know, and -- and tried to recant my testimony. You know, recanting your testimony, you know, 20-year-old testimony is -- it's gets pretty hazy, you know. So some of the things I might have said or didn't say, you know, I -- it's just hard to remember. You know, it's hard to remember.

And they asked me was -- you know, because I had

1 talked to somebody at Carteret. There was some guy at
2 Carteret that said -- I had mentioned something about
3 there was some -- a robbery. He tried to twist it around,
4 you know, and say that I knew something about a robbery.
5 And that, you know, he was getting ready to be robbed or
6 something and that I knew it. And -- and that's a lie,
7 you know.

8 MS. STELLATO: You didn't do that?

9 MR. SPRUILL: No.

10 MS. STELLATO: You didn't say that?

11 MR. SPRUILL: No. I mean I think that's -- I
12 think what that is is somebody had gotten together and --
13 pretty much and tried to come up with something, another
14 angle to, you know -- for whatever reason. To maybe get
15 out of -- get out of some time or -- or get out of a
16 sentence, you know.

17 MS. STELLATO: Would you have been involved in a
18 robbery of Frank Swain?

19 MR. SPRUILL: No. I had no reason to try to rob
20 Frank. Didn't want to rob Frank. Had no reason to. And
21 I -- I would advise against it if anybody would have tried
22 to rob Frank because --

23 MS. STELLATO: And Frank was good to you, right?

24 MR. SPRUILL: Frank was good to me. He was a
25 nice guy, you know. You know, I thought the world of

1 Frank, you know. So no, absolutely not, you know,
2 involved in no type of robbery, you know.

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Handout 43

TIMOTHY SWAIN

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
POSSESSION OF BURGLARY TOOLS	MARTIN	11/21/1999	06/28/2000
SIMPLE WORTHLESS CHECK (M)	WASHINGTON	03/20/1999	06/22/1999
DWLR	WASHINGTON	04/03/1996	04/16/1996
OBTAIN PROPERTY FALSE PRETENSE	BEAUFORT	10/30/1995	05/21/1996
B & E	BEAUFORT	10/27/1995	05/21/1996
LARCENY AFTER B & E	BEAUFORT	10/27/1995	05/21/1996
B & E	BEAUFORT	02/23/1995	05/21/1996
LARCENY AFTER B & E	BEAUFORT	02/23/1995	05/21/1996
B & E	BEAUFORT	11/14/1994	05/21/1996
LARCENY AFTER B & E	BEAUFORT	11/14/1994	05/21/1996
CARRYING CONCEALED WEAPON (M)	CHOWAN	03/31/1990	05/01/1990

Handout 44

LYNN ROGERS (MARGUERITE LYNN ROGERS SPRUILL)

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
COMMON LAW FORGERY (M)	BEAUFORT	12/10/1997	04/09/1999
COMMON LAW FORGERY (M)	BEAUFORT	06/03/1998	04/01/1999
COMMON LAW FORGERY (M)	BEAUFORT	05/22/1998	04/01/1999
COMMON LAW FORGERY (M)	BEAUFORT	05/18/1998	04/01/1999
COMMON LAW FORGERY (M)	BEAUFORT	05/18/1998	04/01/1999

Handout 45

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MR. SPRUILL: No, no. I just didn't go out and
get drunk and tell everybody about -- now, they joked
about it a lot. You know, as far as drinking, but I ain't
never -- I mean I even made a statement one night out in
front of my house and traffic was coming by and right
where I lived, on down the hill, there was a black family
lived there. And one of these guys was drunk he was half
laying in the road and laying half on it. And I said,
Somebody needs to pull him out the road right there. And
then someone, Go pull him out of the road. I said, Man,
they done think I killed one of them. I'm not messing
with him. We'd joke that. It's wrong.

Handout 46

NORTH CAROLINA
BEAUFORT COUNTY

GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

STATE OF NORTH CAROLINA,

Plaintiff,

vs.

FILE NOS.:

94 CRS 4973

95 CRS 1965

WALLACE BRANDON JONES,

Defendant.

STATE OF NORTH CAROLINA,

Plaintiff,

vs.

FILE NOS.:

94 CRS 1566

94 CRS 1984

LEROY SPRUILL,

Defendant.

RECORDED DEPOSITION

OF

MARGUERITE LYNN ROGERS SPRUILL

BEAUFORT COUNTY COURTHOUSE
112 W. 2ND STREET
WASHINGTON, NORTH CAROLINA

THURSDAY, FEBRUARY 9, 2017
PAGES 1 THROUGH 47

ROWE COURT REPORTING
ddrsteno@gmail.com - 919.649.1656

1 ATTORNEYS OF RECORD PRESENT

2

3 On behalf of the North Carolina Innocence Inquiry
4 Commission:

4

5 CATHERINE MATOIAN, ESQ.
6 JILL BRIDENSTINE

7 North Carolina Innocence Inquiry Commission:
8 Administrative Court Office
9 P.O. Box 2448
10 Raleigh, NC 27602

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1 I N D E X

2 Reporter's Note: This transcript may contain quoted
3 material. If so, such material is reproduced as read or
4 spoken.

5 INDEX OF EXAMINATIONS

6		PAGE
7	By Ms. Matoian	4

10 INDEX OF EXHIBITS

11	NUMBER	DESCRIPTION	PAGE
12	1	SBI File	29
13	2	Transcript Excerpt	36
14	3	Officer's Notes	39
15	4	Lynn Rogers Spruill Interview	41

1 P R O C E E D I N G S

2 WHEREUPON, the recorded deposition of Margarite
3 Lynn Rogers Spruill, having been called as a witness, was
4 duly sworn under oath by Jill Bridenstine, who was present
5 at the deposition and is a Notary for the State of North
6 Carolina and duly authorized to administer the oath, and the
7 witness testified as follows:

8 DIRECT EXAMINATION

9 BY MS. MATOIAN:

10 Q. Well, my name is Catherine Matoian. We spoke on
11 the phone last week. And this is Julie Bridenstine. We
12 both work for the North Carolina Innocence Inquiry
13 Commission. It's a state agency. And what we do is
14 investigate claims of negligence by people who have been
15 convicted of crimes in North Carolina. We do not represent
16 any claimants. We're a neutral state agency. We don't
17 represent claimants or the prosecution.

18 You've been subpoenaed here today in the matter of
19 State v. Wallace Brandon Jones and Leroy Spruill. And this
20 case involves the 1993 murder of William Frank Swain in
21 Washington County, North Carolina.

22 A. Excuse me.

23 Q. Oh, you're fine.

24 Mr. Jones and Mr. Spruill were convicted of this
25 case and are now claiming innocence.

1 Like I said, we're a neutral fact-finding agency.
2 We do not represent Mr. Jones or Mr. Spruill and we don't
3 represent the prosecution in this case.

4 You were a witness during the original
5 investigation, which is why you've been subpoenaed here
6 today. So I'm just going to go over a few things to start
7 with.

8 Please know that a deposition is similar to
9 testimony in court, so you are under oath and expected to
10 answer completely and truthfully. Do you understand that?

11 A. I understand that. But I have a question for you.
12 Am I the only one that got subpoenaed?

13 Q. You've been subpoenaed here today. Our
14 investigation involves --

15 A. Am I the only witness that was subpoenaed?

16 Q. Has somebody else told you that they were
17 subpoenaed today?

18 A. I'm not -- no, ma'am. I'm asking that question.
19 Was I the only one that was subpoenaed?

20 Q. You have not been the only person subpoenaed in
21 this case.

22 A. Okay. That's all I want to know.

23 Q. All right.

24 A. Now, what about protective custody? Because I was
25 threatened all these years ago they were going to kill me.

1 So if they get out -- I've got a family now. And I believe
2 I spoke with you about that on the phone. Nothing is going
3 to happen to me or my daughter. And if someone is let out
4 for something that they done and they're pleading innocent,
5 I'm not the only one that give testimony to put them where
6 they're at.

7 Q. Can you let me go through what I'm going
8 through --

9 A. Go ahead.

10 Q. -- and we can talk about that later?

11 A. Yes.

12 Q. All right. So I -- I understand you may want to
13 ask questions or answer questions before I've completed what
14 I'm saying; however, I just ask you to please wait for the
15 entire question to be finished. Do you understand? Does
16 that make sense?

17 A. Uh-huh. That makes sense.

18 Q. Okay. And just because inaudible responses, like
19 shaking your head, can be difficult to get on the recording,
20 can you please provide an audible response to my questions?

21 A. I can.

22 Q. Okay. If you don't understand a question, it's
23 okay, please just inform me that you don't understand it and
24 ask me to clarify. Will you do that if you feel the need
25 to?

1 A. I will.

2 Q. Okay. If you do not ask me to clarify, I'll
3 assume you understand what I'm saying and that you gave a
4 complete response; is that understood?

5 A. Yes, it is.

6 Q. Okay. So after you have given an answer, you may
7 remember more information later on that responds to an
8 earlier question. If that happens, please stop me and tell
9 me you remember more information that's responsive to the
10 earlier question and provide that information, okay?

11 A. Okay.

12 Q. And if I believe that I have a document that will
13 help you respond to a question, I'll label it as an exhibit
14 and ask you to review it. If you believe that I have a
15 document that may refresh your memory and help you respond
16 to a question, please ask to see it, and I will provide it
17 to you if I have it.

18 Do you understand that I may ask you to review
19 records that may help you refresh your memory?

20 A. I do.

21 Q. Okay. And will you ask me for any records you
22 believe might be helpful if I have them available?

23 A. I'll do that, too.

24 Q. Okay. And if you find yourself getting tired at
25 any time -- and I know you're having some coughing -- or you

1 need a break, just please let me know and we'll take a break
2 at that time.

3 A. That sounds good.

4 Q. Now, in response to your earlier question, I'll
5 ask you a little later on about threats that you said you
6 have received. But like I said, the Commission is a neutral
7 fact-finding agency. We do not represent Mr. Spruill or
8 Mr. Jones. We also don't represent the prosecution. So if
9 you have any concerns about your safety, law enforcement
10 would be the proper channel to go for those. The Commission
11 does not provide protective custody.

12 A. Okay.

13 Q. All right. And will you please state your full
14 name for the record?

15 A. It's Marguerite Lynn Rogers Spruill.

16 Q. Okay. And what's your date of birth?

17 A. 1/25/70.

18 Q. Okay. And your current address?

19 A. 9099 NC Highway 99 North Pantego, NC 27860.

20 Q. Okay. Are you currently under the influence of
21 alcohol or drugs, whether illegal or prescription?

22 A. No.

23 Q. Okay. Are you taking any medications at this
24 time?

25 A. No.

1 Q. All right. Do you have a medical condition that
2 requires ongoing treatment by a physician?

3 A. No.

4 Q. Are there any other circumstances or issues
5 preventing you in any way from giving truthful, accurate,
6 and complete testimony today?

7 A. No.

8 Q. Did you speak with anyone about this deposition
9 before today?

10 A. No. Well, no, except for you.

11 Q. Okay.

12 A. And the same with her this morning.

13 Q. Sure.

14 A. So you all are the two that I've spoke with.

15 Q. Okay. Have you been asked by anyone to withhold
16 information or misrepresent any facts during this
17 deposition?

18 A. No.

19 Q. Okay. Okay. How do you know Leroy Spruill?

20 A. I really don't. I mean, I worked in a -- a bar
21 and I didn't really know a lot of people, but I knew of him.

22 Q. You know of him. And what about Wallace Brandon
23 Jones?

24 A. I didn't know him until I went down there and
25 started working.

1 Q. And Dana Maybin?
2 A. Never knew her.
3 Q. Did you know Leroy Spruill by the name Leroy
4 Spruill?
5 A. No.
6 Q. What did you know him as?
7 A. No. Or -- oh, yes.
8 Q. Okay.
9 A. Yes. I -- I apologize.
10 Q. That's fine.
11 A. I misunderstood. When they say Leroy, yes.
12 Q. Okay.
13 A. I knew the name.
14 Q. What name did you know Wallace Brandon Jones by?
15 A. I don't recall.
16 Q. Okay.
17 A. That's been so long ago. I don't. But it
18 wasn't -- it wasn't that name, I don't believe.
19 Q. Does Robert Solis ring a bell?
20 A. There you go.
21 Q. And what name did you know Dana Maybin by?
22 A. I didn't.
23 Q. Okay. Does the name Nikki Talkington ring a bell
24 -- ring a bell?
25 A. It might -- it might have been Nikki.

1 Q. Sure.

2 A. I can't recall.

3 Q. How long did you know Leroy Spruill?

4 A. Not long because I didn't work at that -- that
5 facility very long. Like I said, I didn't know these
6 people. They just came in. It was a bar. You came in and
7 drank beer and shot pool, listened to music and danced.

8 Q. Okay.

9 A. So I mean, that's about all it was, so...

10 Q. Did you know Leroy Spruill, Wallace Brandon Jones
11 and Dana Maybin about the same amount of time?

12 A. Yes.

13 Q. Okay.

14 A. Know of them, yes.

15 Q. Sure. Can you please state in your own words what
16 you remember about the day that Mr. Swain was murdered,
17 that's December 18, 1993?

18 A. I was actually working. And --

19 Q. Where were you working?

20 A. Ed's Bar. And the three people that you spoke of,
21 Dana, Jones, Spruill, okay, they all came to the bar prior,
22 you know, before. When they came back, their clothes were
23 changed. They changed their clothes. They were not in the
24 same clothes they were in earlier. And they were bragging
25 or saying they had done something to someone. And that's

1 what I heard. I believe took the money, took the drugs and
2 killed him, so...

3 Q. Okay. And were you living in Plymouth at the
4 time?

5 A. No. I never lived in Plymouth.

6 Q. Where were you living at the time?

7 A. At my mother's address, which was -- back then I
8 think it was Route 1, Box 292. But now it's 9720
9 NC Highway 99 North. The same road --

10 Q. What town is that?

11 A. Pantego.

12 Q. Oh, Pantego, okay.

13 All right. Do you remember what time you arrived
14 at work that night?

15 A. No, ma'am.

16 Q. And how long had you worked at the bar prior to
17 that?

18 A. Maybe six months. Maybe. I'm not for sure.
19 You're bringing up stuff 24 years ago.

20 Q. I understand. And if you don't remember,
21 that's --

22 A. I don't.

23 Q. Okay.

24 A. I mean I worked for Ed a little while. I didn't
25 work for him long. I don't know the exact amount of time.

- 1 Q. What days did you usually work at the bar?
- 2 A. Sometimes during the week and mostly weekends.
- 3 Q. Mostly weekends. Okay.
- 4 A. Yes.. But I mean I worked pretty much when he
- 5 needed me to work.
- 6 Q. The night of the murder was that the first day you
- 7 had worked that week?
- 8 A. No. I had worked prior.
- 9 Q. Okay. Did you work the night before?
- 10 A. What night was the murder on?
- 11 Q. The murder happened on a Saturday night.
- 12 A. So it must -- I must have worked that Friday.
- 13 Q. Okay.
- 14 A. There's a possibility I did. Don't quote me.
- 15 Q. Do you remember if there was a band playing?
- 16 A. A band, a band, a band. Ed had bands from time to
- 17 time. I'm not sure.
- 18 Q. If there was a band at the bar, what time did they
- 19 usually start playing?
- 20 A. If I guess maybe 7, 8 o'clock.
- 21 Q. Okay.
- 22 A. But, again, I'm not sure.
- 23 Q. Do you remember when you first saw Mr. Jones and
- 24 Mr. Spruill that night?
- 25 A. It had to have been earlier. I don't know.

1 Q. And when you say "earlier," could you give a
2 ballpark of what time that might have been?

3 A. Anywhere between maybe 2:00 and 4:00 maybe.
4 Maybe. I'm not sure.

5 Q. Okay.

6 A. I mean, I can't recall. But it was earlier and --
7 sorry, that's all I can remember.

8 Q. Was Dana Maybin with them?

9 A. I don't remember.

10 Q. And what were Mr. Jones and Mr. Spruill doing in
11 the bar?

12 A. They just came in, I guess talking to some folks.
13 Might have been drinking a little beer.

14 Q. Do you remember anything about how they paid for
15 that beer?

16 A. No.

17 Q. Were there a lot of people in the bar that night?

18 A. If it was a band, I'm sure it was pretty packed.
19 You know, not like overpacked, but a few seats, you know.

20 Q. Would you consider it a busy night?

21 A. Not too busy.

22 Q. Okay.

23 A. Not like slammed packed, no.

24 Q. All right. Did you see them leave the bar at any
25 point?

1 A. I think I saw them leave. As far as walk out, no.
2 Q. Was that Mr. Jones and Mr. Spruill?
3 A. Uh-huh.
4 Q. Was Ms. Maybin with them?
5 A. She might have been with them at that time, yes,
6 ma'am.
7 Q. How do you know they -- they left?
8 A. I mean, well, I can't leave from out behind the
9 bar, you know. I mean, I walked around and picked up
10 bottles and things like that and trash and whatnot. I
11 walked to the door occasionally, but it won't -- you know, I
12 can't say I did that night, so I'm not sure. But I know I
13 heard them say they were leaving. So where they were going,
14 I don't know.
15 Q. From your vantage point at the bar, could you see
16 the entire bar?
17 A. Uh-huh.
18 Q. And so -- and that includes the door -- where
19 people --
20 A. Oh, where people -- the door --
21 Q. -- in?
22 A. -- came in and out, yes.
23 Q. Could you be -- are you sure that they left
24 completely?
25 A. I don't know.

1 Q. Okay. In the time that you didn't see them and
2 after they had talked about leaving, did you go outside of
3 the bar at any time?

4 A. That's what I'm saying, I don't remember.

5 Q. Okay. About how long were they gone?

6 A. I don't know. A couple of hours or so, maybe.

7 Q. And did you see Ms. Maybin in the bar during that
8 time?

9 A. No.

10 Q. Okay.

11 A. No, I did not.

12 Q. And you mentioned earlier, you said they came back
13 that they had changed clothes.

14 A. Yes.

15 Q. How did you know that they changed clothes?

16 A. Because when they came in earlier, they were
17 wearing different clothes than what they were when they came
18 back.

19 Now, for me to describe them clothes today, I
20 don't recall. I'm thinking camouflage was in there, maybe
21 pants or something, but I'm not 100 percent sure.

22 Q. Okay. And when you say they changed clothes, are
23 you talking about Mr. Spruill and Mr. Jones or Mr. Spruill,
24 Mr. Jones, and Maybin -- Ms. Maybin?

25 A. I'm not sure about her changing clothes, but it

1 was -- it was definitely Leroy and Brandon that had changed
2 clothes or Jones, whatever you all call him.

3 Q. Who was Steven Bell?

4 A. Steven Bell was my boyfriend at the time.

5 Q. Okay. Did Mr. Bell tell you anything about them
6 changing clothes?

7 A. I'm not sure.

8 Q. Do you remember telling anyone that it was
9 Mr. Bell who told you about them changing clothes?

10 A. No.

11 Q. Are you saying now you have your own independent
12 recollection that they were wearing different clothes from
13 the time you first --

14 A. They were wearing different clothes, yes. If he
15 reminded me, I mean, that could have been true at the time.
16 He could have reminded me. But I do remember them changing
17 clothes.

18 Q. Do you remember talking to Mr. Bell about this
19 night at any time?

20 A. I'm sure I did. I mean we were together. I'm
21 sure I did.

22 Q. And was he at the bar that night?

23 A. I believe he was.

24 Q. What was Mr. Jones, Mr. Spruill, and Ms. Maybin,
25 what was their behavior like when they got back to the bar?

1 A. Seemed a little, I don't know if you'd call it
2 pumped or hyped, but it seemed like they were -- to me it
3 seemed like they were high. So -- but, I don't know. I
4 don't do drugs, so I don't know what people are when they're
5 high, so -- and I talk with my hands, so forgive me.

6 Q. So do I. And was that behavior, being pumped or
7 hyped, was that different than how they were behaving
8 earlier in the night?

9 A. Yes, uh-huh.

10 Q. And how were they behaving earlier in the night?

11 A. They just came in and got a beer and just kind of
12 was walking around. Probably shooting pool and just kind of
13 hanging around for a little while.

14 Q. And the behavior that they were exhibiting when
15 they got back to the bar, had you ever seen them act like
16 that at any other time?

17 A. No. I mean not that I can remember.

18 Q. All right. Do you remember anything about how
19 they paid for drinks when they got back?

20 A. I mean cash probably both times, but...

21 Q. All right. And a few minutes ago you mentioned
22 hearing them bragging or talking about something they had
23 done to someone. Can you remember more specifically what
24 they were talking about?

25 A. Well, they were -- like I said, they were talking.

1 And they were -- the words I can recollect were they had
2 just went to somebody's place. They had to change their
3 clothes because they were covered in blood is what I heard.
4 Killed somebody. They stole drugs. They got money. They
5 said Dana didn't do anything; she watched it, so...

6 Q. Okay. Do you remember speaking to the SBI about
7 this case?

8 A. Yes. They came to my mother's home, yes. She was
9 very upset why so many law officers were in her home and I
10 was the only person there and she was not happy. Yes,
11 ma'am.

12 Q. Okay. Do you remember telling the SBI that from
13 their conversation it sounded like the man was walking down
14 the side of the road and Mr. Spruill and Mr. Jones jumped
15 him and stabbed him?

16 A. Is that what I said?

17 Q. Do you remember telling the SBI that?

18 A. No. I thought they said they were in his trailer,
19 too, so...

20 Q. They said that they were in his trailer?

21 A. I said they were in the trailer, too.

22 Q. Okay.

23 A. And if -- if I said that, I'll stick with it,
24 but...

25 Q. Were you familiar -- after the crime happened,

1 were you familiar with any of the details about -- of the
2 crime?

3 A. Ma'am, I just heard what they came back and said
4 in the bar. I don't know no other details. What I was told
5 was Dana -- is that her name, Dana?

6 Q. Dana Maybin, yes.

7 A. She's the one that put the icing on the cake. I
8 just verified what I knew.

9 Q. Okay.

10 A. So she's the one that put them in jail is what I
11 was told.

12 Q. Okay.

13 A. I mean she -- she was there. She was a witness,
14 accomplice, whatever, I don't know.

15 Q. Were you aware that the victim had been murdered
16 in his home?

17 A. No. Not until I was told. I'm saying I heard
18 them bragging, but people brag about all kinds of things.

19 Q. And I'm speaking of, you know, after the crime and
20 before the trial, did anyone tell you what happened?

21 A. Yeah. They told me he was murdered.

22 Q. What were you told happened to the victim? Not
23 from the conversation at the bar, but between that night and
24 the time you testified at trial.

25 A. They was thinking he was stabbed. He was killed,

1 so...

2 Q. And did they say where he was stabbed? And not
3 where on his body, but what location he was stabbed at?

4 A. I don't know if they said in the trailer or
5 outside.

6 Q. Okay. So after you heard Mr. Spruill and
7 Mr. Jones talking in the bar that night, did you tell
8 anybody about that conversation?

9 A. I think I kept my mouth shut. I might have talked
10 to Steven. I mean, I just -- I was -- I didn't know what to
11 think. I'd never been in a situation like that before. And
12 I didn't want to be in it, but I was drug in it anyway.

13 Q. Did anyone else around you hear that conversation?

14 A. I'm not sure. I mean I was at the bar. I was
15 close to them. I mean closer than what me and you are,
16 so...

17 Q. Were they the only two sitting at the bar?

18 A. They were right there at the bar and talking
19 amongst themselves. And I got them a beer and I was just
20 standing there. I just -- I overheard them saying.

21 Q. Was Ms. Maybin next to them while they were
22 talking?

23 A. Ms. Maybin was -- was she there? Was she there?
24 She had to have been there. She might have been right there
25 with them at the bar or something.

1 Q. Do you remember anything that she said during that
2 conversation?

3 A. No.

4 Q. And when they were -- they were sitting at the
5 bar, were there people on either side of them? Were they
6 the only two sitting at the bar?

7 A. Well, I think -- I didn't think you can really sit
8 at that bar. It's been so long. I think you stand. Might
9 have been stools there. But they were there in -- there
10 might have been some people at the other end. But
11 recollecting who they were, no --

12 Q. Okay.

13 A. -- don't know.

14 Q. After you heard that conversation, did you have
15 any action with Mr. Spruill or Mr. Jones after that?

16 A. No.

17 Q. Okay.

18 A. I mean if I went back to work. But I -- I don't
19 think I went back to work after that because they threatened
20 my life.

21 Q. I mean that night. The same night of the murder,
22 directly after that conversation, did you have any
23 interaction with them?

24 A. If they came -- if they came back, they might have
25 came back and got a beer or something.

1 Q. Do you recall getting into an argument with
2 Mr. Jones?

3 A. No.

4 Q. Okay. Do you remember Mr. Jones throwing a sign
5 at your car outside of the bar?

6 A. Dang. That's been a long time. And I want to say
7 yeah. It's been a long time.

8 Q. Was that that night or was that a different night?

9 A. I don't know if it was that night or not. It
10 probably was that night. I probably made a statement about
11 what I heard and he got mad with me and I left.

12 Q. Okay.

13 A. But being for sure, I don't know.

14 Q. Sure. What time did the bar usually close?

15 A. Right about 2:00.

16 Q. 2:00?

17 A. 2:00 in the morning, yes, ma'am.

18 Q. When did Mr. Spruill, Mr. Jones, and Ms. Maybin
19 leave the final time that evening?

20 A. I want to say they stayed until about closing.

21 Q. And were you closing the bar that night?

22 A. It was either me, Ed, or one of his children, but
23 I think so.

24 Q. Okay.

25 A. I think we were all closing that night, yeah.

- 1 Q. And what time would you usually leave when you
2 closed? How much time in between when the bar would close?
- 3 A. 2:30, 3:00 maybe.
- 4 Q. Okay.
- 5 A. But I also had somebody with me.
- 6 Q. Okay.
- 7 A. Yeah. I didn't want to be there by myself.
- 8 Q. Do you remember who Mr. Spruill, Mr. Jones, and
9 Ms. Maybin were with when they were leaving the bar the
10 final time that night?
- 11 A. Unless they went with the Champs.
- 12 Q. Do you remember how they left?
- 13 A. They probably was in his truck.
- 14 Q. Okay. But you don't know for sure?
- 15 A. No. That -- that's where they stayed with was the
16 Champs. So if they were leaving, I would say they were
17 going back to their -- where they were staying. But I don't
18 know.
- 19 Q. Okay.
- 20 A. Again, I didn't follow them.
- 21 Q. And like you said, you were never by yourself, so
22 you weren't the only employee there that night?
- 23 A. Right. There were a couple of people that helped
24 out, uh-huh.
- 25 Q. Do you remember if -- I'll call him "Big Ed" just

1 for clarity's --

2 A. Yeah. Big Ed is fine.

3 Q. -- clarity's sake. But that -- we're speaking
4 about Ed Champ, Sr.

5 A. Yes.

6 Q. Was Big Ed there that night?

7 A. Uh-huh.

8 Q. Okay.

9 A. Yeah.

10 Q. When did he leave that night?

11 A. He probably stayed with me to close, too.

12 Q. Stayed to close?

13 A. Yeah. Uh-huh. He probably did.

14 Q. Do you remember in your interview with the SBI and
15 your trial testimony saying that you had called Big Ed from
16 the bar that night about cutting Mr. Jones off and Mr. Jones
17 arguing with you about it?

18 A. Probably so. Oh, yes, yes, yes. Because I worked
19 at a bar previous. And I'm not going to serve someone
20 that's very beyond consumption (sic). How's that? So, yes,
21 ma'am. I do remember that.

22 Q. So if you called Big Ed that night about that, he
23 must have left at some point?

24 A. He must have. He must have left. He must have
25 went to the house or something.

1 Q. Do you remember what time he left?

2 A. No, ma'am.

3 Q. Were you aware that other witnesses said that Big
4 Ed gave at least Mr. Spruill and possibly others in the bar
5 a ride to Mr. Spruill's house after the bar closed that
6 night?

7 A. Probably so, yes. He was that kind of individual.

8 Q. Okay.

9 A. He made sure someone would get home. Especially
10 if they're at his residence, yes.

11 Q. Okay. So on that timeline, if you're calling him
12 because Mr. Jones is arguing with you about being cut off,
13 but Mr. Jones and Mr. Spruill are still there at the bar at
14 that time but Big Ed has left, how did Big Ed come to be
15 giving Mr. Spruill a ride home?

16 A. He probably rode back to the bar. See, his home
17 isn't -- wasn't far from the bar.

18 Q. About how far was it?

19 A. I don't know three, five minutes maybe. It might
20 have even been three to five miles. I'm not sure.

21 Q. Okay.

22 A. It wasn't far that I recall.

23 Q. Who did you leave the bar with that night?

24 A. Probably Steven.

25 Q. Do you remember telling the SBI that Smarty

1 Spruill was with you?

2 A. Smarty, yes. Smarty had a lot of health issues.
3 I believe it was seizures. And I probably give him a ride
4 home, yeah.

5 Q. Were you aware that other witnesses said that
6 Smarty Spruill was with Mr. Spruill and Big Ed and went back
7 to Mr. Spruill's house that night?

8 A. I'm not sure.

9 Q. When did you first find out that the victim
10 specifically had been murdered?

11 A. I believe when I was contacted by the police
12 department. Well, it was the sheriff's department in
13 Plymouth. Or someone called the home.

14 Q. And when were --

15 A. Someone in a lawful authority contacted.

16 Q. Do you remember when that was?

17 A. No.

18 Q. Was it shortly after the murder?

19 A. It might have been shortly; it might have been a
20 week; it might have been two weeks. I don't know.

21 Q. Okay. And what did they tell you?

22 A. They said that they needed me because someone had
23 died as far as a murder and did I know anything about the
24 people that were in the bar, what they did or -- I said -- I
25 told them what I knew.

1 Q. Did they tell you how they knew to come to you?

2 A. Probably because I was bartending. I'm sure of
3 that. So they said that I -- I'm going to put this in my
4 words. They probably thought I knew something because I was
5 bartending at the bar, so, yeah.

6 Q. And you didn't contact the police after you had
7 overheard that conversation?

8 A. I don't think so. I don't think so.

9 Q. And did you know Mr. Swain?

10 A. Uh-uh. No.

11 Q. So the murder happened on December 18, so about a
12 week later. It's Christmastime. Do you remember hearing a
13 conversation between Mr. Spruill and Big Ed about the night
14 of the murder that next week?

15 A. I'm not sure.

16 Q. Okay.

17 A. If they were speaking, I might have overheard. I
18 don't know. Say that question again.

19 Q. So the week after the murder, do you recall
20 hearing a conversation between Leroy Spruill and Big Ed
21 about the night of the murder?

22 A. I heard them say something about a murder.

23 Q. Do you remember anything else about that
24 conversation?

25 A. No. But -- no, no. No, I can't remember what was

1 said 100 percent.

2 Q. Okay.

3 A. I just -- I want to say that it was spoke that
4 they didn't do it or something and -- I don't know. They
5 threatened my life. Like I said, they threatened my life.

6 Q. I'm still going to get to that information.

7 A. I'm sorry to be jumping. I'm just trying to
8 remember (inaudible).

9 Q. I understand. I just don't want you to think that
10 I've --

11 A. No.

12 Q. -- that I'm ignoring that. I'm not meaning to.

13 A. No.

14 Q. So if you -- I'm going to hand you your SBI
15 interview. I'm going to mark it Exhibit Number 1 and hand
16 it to you. And I'll give you a few minutes to read that.

17 (DEPOSITION EXHIBIT NUMBER 1 WAS MARKED.)

18 A. Okay.

19 (The witness reviews the document.)

20 A. Oh, such an ugly word.

21 (The witness reviews the document.)

22 A. Why is this 1994?

23 Q. Excuse me?

24 A. Why was this changed from 1993 to 1994 on the back
25 page?

1 Q. Why was what changed?

2 A. The date.

3 Q. Can you tell me what page you're looking at?

4 A. Page 4. I apologize.

5 Q. Okay. I did not write this report. I can't say
6 why that -- that error is there.

7 A. Okay. All right.

8 Q. I think it has the correct date farther down on
9 that page.

10 A. Uh-huh.

11 (The witness reviews the document.)

12 A. Okay.

13 Q. So the date on this interview with the SBI is
14 May 3, 1994.

15 A. Okay. Like I said, I didn't recall how long it
16 was.

17 Q. So that's five months after the murder took place;
18 is that correct?

19 A. Somewhat.

20 Q. Okay. Do you remember speaking to the police at
21 any time before this?

22 A. I'm not sure. I mean they came to the -- oh,
23 that's when they came to the house, wasn't it? Is that when
24 you were saying was interviewed at our house?

25 Q. The first paragraph of the interview indicates it

1 was at your house.

2 A. Okay. If anything, I know Janice Spruill was
3 working then. She might have spoke to me. I think there
4 was another deputy. His name might have been in here, but I
5 remember Janice. But I don't recall a lot. But this right
6 here, sounds exactly like what I said.

7 Q. You -- the murder took place in December and this
8 interview happened in May. How did you know that the date
9 of the events that you described in the report in your
10 testimony here today, how do you know that that happened the
11 night of the murder?

12 A. Because they told me.

13 Q. Who told you?

14 A. Law enforcement. They let me know. And plus, I
15 heard them talking about it, meaning your -- the three
16 suspects, Dana, Robert -- not Robert, yeah, Robert and
17 Leroy. Right.

18 Q. But if you're interviewed five months after it
19 happened, how are you sure that --

20 A. I mean because I --

21 Q. How do you remember that night?

22 A. I was in my 20s. I had a lot better memory then.
23 When someone tells me something like that and then I'm
24 threatened, yeah, I'm going to keep my mouth shut. Because
25 they threatened to kill everybody in my family, so...

1 Q. Did they threaten you that night, December 18,
2 1993?

3 A. No. They didn't threaten me that night, but they
4 threatened me later. As far as the date, I don't occur -- I
5 don't recall, not occur. I don't recall. But I do remember
6 that was done.

7 Q. And you said the police told you?

8 A. The police told me what happened. Plus and then I
9 told them what happened. My dad told me point blank, he
10 said, "Don't lie to them. Tell them everything you heard.
11 Be truthful." So I did. I was raised in a christian home
12 to tell the truth, you don't lie. I know people who won't
13 do that, but anyway.

14 Q. And are you --

15 A. I mean I was young; I was scared. My daddy gave
16 me some good advice. He said, "Tell them -- tell them the
17 truth. Tell them everything." So I did. I told them what
18 I remembered and recalled everything I could to the best of
19 my knowledge.

20 Q. Are you sure that the events that you described
21 happened on December 18, 1993?

22 A. Am I sure of that? From the evidence that's
23 provided here, yes. From them coming to the bar and saying
24 what they done, I would say yes.

25 Q. But from your own independent recollection?

1 A. I'm not going to sit here and lie to get these
2 people off, okay.

3 Q. And I would never ask you to, ma'am. Like I said,
4 we are here --

5 A. And you all here -- you all are here to get these
6 people out of jail after being in there so long. I just sit
7 there and told you Dana put them in jail. I mean, she --
8 her testimony got them in jail, so...

9 Q. And I want to be clear with you that I am not
10 trying to get them out --

11 A. And I'm trying to tell you --

12 Q. -- my agency --

13 A. I know you all are what, pro bono or whatever?

14 Q. We're a state agency. We're neutral, so we don't
15 represent them. All we care about is the truth.

16 A. The truth. Well, they came in, said they murdered
17 somebody. I told the law just what they said, word for word
18 what I could remember.

19 Q. And all I'm asking you is if you're sure that that
20 conversation happened on December 18 --

21 A. Yes.

22 Q. -- 1993?

23 A. It happened that night.

24 Q. Okay. And you said earlier that you first heard
25 about the murder when the police came -- other than the

1 conversation --

2 A. I sure --

3 Q. -- between --

4 A. -- probably other than a conversation between Ed
5 and Leroy. And I'm sure I picked up a newspaper or somebody
6 pointed out to me that this had happened, so...

7 Q. Did you -- if, say you read it in a newspaper, did
8 you make the connection between what you read in the
9 newspaper and what Mr. Spruill and Mr. Jones were discussing
10 that night?

11 A. I don't know. But I'm saying if I picked up the
12 paper. I didn't really -- I didn't really look at a paper
13 then. But if I did, so -- but I just remember what he said
14 and I kept my mouth shut. I probably was wrong for doing
15 that, but I just -- I value my life. And when somebody
16 tells you what they're going to do to you and you heard what
17 they done to this person, you're going to be very careful to
18 say anything about anybody.

19 But when I was approached in my home and my dad
20 told me to tell them what happened, I told them exactly what
21 I was told; I told them what I remembered. I told them they
22 were dressed different when they came in than when they came
23 back. They were like casual when they came back.

24 I'll say 95 percent of the people that went when
25 the band was at Ed's Bar, they were dressed up. They're not

1 going to dress up, stay two hours, go to the house and
2 change and come back in come comfy clothes. No. No.

3 Q. And I just want to be clear with you again,
4 because of what you said a few minutes earlier, that the
5 Commission is not trying to get Mr. Spruill or Mr. Jones out
6 of prison.

7 A. But you all are here to say -- to find facts
8 saying that they're innocent. And, again --

9 Q. We are trying to find --

10 A. -- where's Dana? Where's Dana at?

11 Q. We're trying to find facts, period. We are not
12 trying to find facts that they're innocent. Our job is to
13 investigate their claim. And as part of that, we come back
14 and interview witnesses. And that is all we are doing
15 today. We do not have an agenda other than investigating a
16 claim and getting to the truth.

17 A. Okay.

18 Q. I want to be clear about that.

19 A. All right.

20 Q. Do you remember testifying at trial?

21 A. I do and I was scared.

22 Q. Do you recall what Mr. Jones' -- Mr. Jones'
23 attorney cross-examining you at the trial?

24 A. I recall, but not what was said.

25 Q. Sure. I'm going to mark this Exhibit Number 2.

1 This is your portion of testimony during the trial.

2 (EXHIBIT NUMBER 2 WAS MARKED.)

3 A. Okay.

4 Q. I'm going to ask you to turn to page 512 and read
5 from page 512 to 514.

6 A. Okay.

7 Q. I'll give you your whole testimony.

8 A. From 512 to 515.

9 And what was the question for me to have an
10 answer? I don't remember that name. It's all them. Okay.

11 (The witness reviews the document.)

12 A. Well, the testimony I'm giving and I'm sitting
13 here saying, no, I don't remember. I remember they changed
14 clothes. And it don't have nothing to do with this. But
15 when they're sitting here cross-examining me, like I said, I
16 was nervous and scared.

17 So that's probably why you all are looking at when
18 she's saying no, no, no, no, she don't remember. So that's
19 why you all are opening this.

20 A man is dead because of three people. Okay.
21 Whether all three of them stabbed the man and killed him,
22 the man is dead. He can't come back.

23 So the information I remember is the information
24 I'm giving today. The same thing as right here. I do
25 remember he had camouflage on. And my memory ain't that

1 bad, so...

2 Q. And I want to be clear that you are here because
3 you are a witness in this case. You are not here for any
4 reason or any agenda on our part other than to ask questions
5 that we may have about the case.

6 A. No. Was -- by chance, is this going to go back up
7 for retrial? I'm just asking.

8 Q. We don't know. Our job is to investigate the
9 claim.

10 A. Okay.

11 Q. If -- the way that the Commission works is if we
12 find new credible evidence of innocence, we would present
13 the case in front of our commissioners. And our
14 commissioners would make a determination as to whether or
15 not the case would move forward to a three judge panel. And
16 that three judge panel would decide whether or not Mr. Jones
17 and Mr. Spruill were innocent.

18 A. So I wouldn't have to go back in front of them
19 again?

20 Q. I can't say. I do not know. My director would
21 decide if we bring any witnesses to testify at a commission
22 hearing. If the case were to move forward to a three judge
23 panel, the prosecutor and the defense attorneys would decide
24 who would testify then.

25 A. Okay.

1 Q. Now, the question I wanted to ask you, the pages
2 that I asked you to read, Mr. Jones' attorney was asking you
3 whether or not the incident with Mr. Jones throwing the sign
4 at your car and you calling Big Ed about cutting Mr. Jones
5 off whether or not that happened on December 17th that
6 Friday or December the 18th that Saturday. Today, do you
7 remember what day those incidents occurred?

8 A. I cut him off because he was -- like I say, he was
9 drunk, so...

10 Q. Was that December the 17th or December the 18th?

11 A. I'm going to say the 18th because he didn't really
12 have a lot of cash. When you come in -- anybody, anybody
13 can get paid and crumble up money, so...

14 Q. Sure. I'm going to hand you -- this is a portion
15 of the Washington County Sheriff's Office file. And I'm
16 going to ask you to read for yourself this third paragraph
17 down that starts on 5/6/1994, "I talked with Lynn Rogers."

18 A. Okay.

19 (The witness reviews the document.)

20 A. Okay. So what is that asking? He talked to me?

21 Q. Do you remember -- do you remember what Bobby
22 Spruill told you?

23 A. That whole clan, between Bobby and the Champs,
24 they all told me that my life was in danger and I better not
25 say nothing. So I'm just telling you. The whole group was

1 together. So I didn't fit in no little group, so...

2 Q. And I'm sorry, I should have marked that Exhibit
3 Number 3.

4 (EXHIBIT NUMBER 3 WAS MARKED:)

5 A. Okay. But I'm going to -- like I said, I'm going
6 to tell the truth.

7 Q. And that's all that we're asking of you.

8 The reason for asking that question is that all --
9 it's just this note saying that you had talked with Bobby
10 Spruill and what he had told you was hearsay. And I'm
11 asking if you remember any more details about that
12 conversation?

13 A. Other than he said it was hearsay, I mean. But I
14 told him I heard, you know.

15 Q. So he said -- what did he say was hearsay?

16 A. I guess the murder, what happened was hearsay.
17 What Leroy and Brandon had done. Excuse me.

18 Q. And your last name is Spruill now. Did you and
19 Robert Spruill get married?

20 A. No.

21 Q. Okay.

22 A. No. No. Uh-uh.

23 Q. All right. And when you spoke with me on the
24 phone last week and a few times today, you said that you had
25 been threatened. Can you tell me who exactly threatened you

1 and what they said?

2 A. I was threatened by Leroy and I was threatened by
3 Brandon.

4 Q. Was that face to face?

5 A. It had to have been face to face.

6 Q. And what exactly did they say to you?

7 A. They said if I said anything, they'd kill me.

8 Q. And do you remember when that happened?

9 A. No, ma'am.

10 Q. Do you remember any more details about those
11 threats?

12 A. Other than the Champs covering up for everybody
13 and telling me that they didn't do nothing, don't say
14 nothing, don't say nothing. Nah. I ain't going to hell for
15 somebody else.

16 Q. And when you said the Champs were covering up for
17 people, what do you mean by that?

18 A. I heard that they said that they were with them
19 the whole time. And they weren't with them the whole time.
20 The Champs weren't with them the whole time. Not Little Ed,
21 not the wife, not the sisters, none of them.

22 Q. And how did you know that?

23 A. Because most of them were there at the bar. And
24 if they weren't at the bar, they were at Ed's house.

25 Q. And you don't remember when Mr. Spruill and

1 Mr. Jones threatened you?

2 A. It weren't too long after that, I'm sure.

3 Q. Was it before or after you spoke to the police?

4 A. I'm thinking both.

5 Q. So this happened more than once?

6 A. Uh-huh. That's why I stayed away from Roper.

7 Q. Have you talked to anybody about the murder since
8 the trial?

9 A. No.

10 Q. Do you remember speaking to somebody at the North
11 Carolina Center on Actual Innocence? It probably would have
12 been in 2008.

13 A. I don't recall that.

14 Q. I'm going to hand you -- I'm going to mark this
15 Exhibit Number 4. This is a narrative.

16 (EXHIBIT NUMBER 4 WAS MARKED.)

17 A. Unless someone brought it up to my attention and I
18 elaborated on it.

19 Q. Okay. And I want to be clear that the North
20 Carolina Center on Actual Innocence and the North Carolina
21 Innocence Inquiry Commission are two separate entities.
22 This person included their opinions in this report. These
23 are not the opinions of the Commission. We are two separate
24 entities.

25 (The witness reviews the document.)

1 A. This is when I was working at Kerr Drug.

2 (The witness reviews the document.)

3 A. It says she believed me. So what's wrong with
4 that?

5 Q. I'm not saying anything is wrong or right about
6 it. You said you didn't remember, so I was asking you --

7 A. Thank you.

8 Q. -- to refresh your recollection.

9 A. Thank you.

10 Q. Do you -- after reading that, do you remember that
11 conversation?

12 A. Uh-huh. Yes, ma'am.

13 Q. Is there anything in that report that is
14 inaccurate or that you would like to clarify?

15 A. Oh, in that report, no.

16 Q. Okay.

17 A. Everything is good.

18 Q. Okay. Do you know who killed Frank Swain?

19 A. I was told it was Brandon.

20 Q. Have you --

21 A. And -- and I don't know if Leroy watched or he
22 helped jump or what. And it could have been both of them
23 that killed him.

24 Q. Have you heard anything since Mr. Swain's murder?

25 A. No.

1 Q. No one else has ever mentioned anyone else killing
2 him?

3 A. Not to my recollection. I mean, I don't have any
4 follow-up on none of that. I've left that all behind.

5 Q. Were you completely truthful when answering my
6 questions today?

7 A. Yes, ma'am.

8 Q. Do you remember more information about any
9 questions I've asked you?

10 A. No.

11 Q. Okay. Do you have any additional information to
12 provide to the Commission related to this case?

13 A. No, ma'am.

14 Q. All right. Pursuant to statute, you have a right
15 to receive a copy of the sound and visual recording for
16 examination and review. Do you wish to waive this right or
17 would you like a copy of it?

18 A. No. I'd like a copy of it.

19 Q. A copy of it, okay. And should I send it to the
20 address you mentioned earlier?

21 A. Yes.

22 Q. Okay. And that's 90 --

23 A. 99 NC Highway 99 North, Pantego, NC 27860.

24 Q. Okay. And do you have a phone number where you
25 can be reached?

1 A. (252) 935-5258.

2 MS. MATOIAN: Okay. I'm going to go ahead and
3 conclude the deposition at this point.

4 THE WITNESS: Okay. I hope I was helpful.

5 MS. MATOIAN: If you were truthful, that is all
6 the Commission asks of you.

7 THE WITNESS: Yes, ma'am.

8 (The recorded deposition concluded.)

9 (Signature was reserved.)

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S I G N A T U R E

I have read the foregoing pages which contain a true and accurate transcription of the answers provided to the questions herein recorded and I do not desire to make any changes.

I have read the foregoing pages and wish to incorporate the changes that are delineated on the errata sheet to my deposition.

Marguerite Lynn Rogers Spruill

I, _____, Notary Public for the
County of _____, State of _____, do
hereby certify that the hereinabove named personally
appeared before me this the _____ day of _____,
2017, and that I personally witnessed the execution of this
document for the intents and purposes hereinabove described.

NOTARY PUBLIC

STATE OF _____

MY COMMISSION EXPIRES: _____

1 T R A N S C R I P T C O R R E C T I O N S
2 CASE NAME: State of North Carolina, v. Wallace Brandon Jones
3 State of North Carolina, v. Leroy Spruill
4 WITNESS NAME: Marguerite Lynn Rogers Spruill
5 FILE NUMBER: Wallace Brandon Jones-94 CR S1973, 95 CR S1965
6 Leroy Spruill - 94 CRS 1566, 94 CRS 1984
7 DATE: 2/9/17

8	PAGE	LINE	READS	SHOULD READ
9	_____	_____	_____	/ _____
10	_____	_____	_____	/ _____
11	_____	_____	_____	/ _____
12	_____	_____	_____	/ _____
13	_____	_____	_____	/ _____
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18	_____	_____	_____	/ _____
19	_____	_____	_____	/ _____
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23	_____	_____	_____	/ _____
24	_____	_____	_____	/ _____
25	_____	_____	_____	/ _____

CERTIFICATE

I, DONNA ROWE, do hereby certify:

The witness, Bobby Spruill, was sworn by Jill Bridenstine, a Notary and authorized by the State of North Carolina to administer oaths, in said cause;

The testimony was transcribed by me from a recording and the foregoing 47 consecutively numbered pages are a complete and accurate record of the recorded deposition testimony, to the best of my ability;

I certify that I am not counsel for nor in the employment of either of the parties of this action, nor am I interested in the results of this action.

This the 29th day of March, 2017.



DONNA ROWE
COURT REPORTER

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WKP:lj

1 A. Right. But it was shortly after 7:00.

2 Q. After that when you saw him--

3 A. Right.

4 Q. But he was somewhere in the bar at the time that you saw him.

5 A. Right.

6 Q. Now, was that the first time when he was dressed up, dressed
7 up nice?

8 A. Right.

9 Q. And after you had danced with him a while.

10 A. Right.

11 Q. And you said and then later, you missed him.

12 A. Right.

13 THE COURT: You've gone over every bit of that, and
14 you're not going over it again.

15 MR. NORTON: Thank you.

16 MR. VOSBURGH: I don't have any other questions, Your
17 Honor.

18 THE COURT: Thank you, Miss Perry. You may step down.
19 Call your next witness.

20 MR. NORTON: Lynn Rogers.

21 LYNN ROGERS, being first duly sworn, testified as follows during
22 DIRECT EXAMINATION by MR. MITCHELL NORTON:

23 Q. You're Lynn Rogers?

24 A. Yes, sir.

25 Q. How old are you, Ms. Rogers?

1 A. I'm 25.

2 Q. How are you employed?

3 A. Donnelley Marketing in Washington.

4 Q. Directing your attention back to December of 1993, how were
5 you employed at that time?

6 A. Big Ed's Bar.

7 Q. How were you employed there at Big Ed's?

8 A. I was bartending.

9 Q. If you will, speak up real loud so that everyone here can
10 hear you. How long had you been working--when did you start
11 working at Big Ed's Bar?

12 A. November of '93.

13 Q. Prior to that, had you worked at any other establishment or
14 tavern of any type?

15 A. Yes, I have.

16 Q. What taverns were they?

17 A. I worked at the Covered Wagon for a short period of time, and
18 I worked at the Oasis up here in Plymouth.

19 Q. The Covered Wagon, where is it located?

20 A. I don't know the name of the road.

21 Q. Is it here in Plymouth?

22 A. Yes, it's here in Plymouth.

23 Q. What about the Oasis; where is the Oasis located?

24 A. It's here in Plymouth. It's changed.

25 Q. You say you now work at Donnelley Marketing in Washington.

1 A. Yes, sir.

2 Q. Now, did you know the Defendant in this case, Mr. Wallace
3 Brandon Jones?

4 A. Yes, sir, I do.

5 Q. By what name do you know him or did you know him?

6 A. Robert.

7 Q. How was it that you knew him as Robert?

8 A. When I went to work at Ed's Bar, Robert showed me the ropes
9 of that bar.

10 Q. You say "...showed me the ropes of that bar..." What do you
11 mean by that?

12 A. Showed me where everything was and how to do everything.

13 Q. Can you explain to the jury why it was that he was showing you
14 the ropes of that bar at that time?

15 A.. Because I never worked there before, and he knew where the
16 beer was; he knew where the money was; he knew where the keys
17 were to the pool tables; he knew where everything was. He was
18 just basically showing me everything.

19 Q. Now, how long had you been working in bars prior to this
20 time, Ms. Rogers?

21 A. Anywhere from two to three years.

22 Q. Now, did you know what his last name was at that time?

23 A. I believe it was Solis or something similar to that.

24 Q. Robert Solis?

25 A. Something like that, Solis.

1 Q. Is that how he introduced himself to you?

2 A. Yes.

3 Q. Do you also know an individual by the name of Leroy Spruill?

4 A. Yes, I do.

5 Q. How long had you known Mr. Spruill?

6 A. When I worked in the Oasis, he used to go in there. When I
7 tended bar there, he was a customer.

8 Q. Did you see him on a regular basis when you were working there
9 at the Oasis?

10 A. Yeah; weekends, something like that.

11 Q. So you knew who he was.

12 A. Yes.

13 Q. Now, did you also know an individual by the name of Dana
14 Maybin, known to you as Nikki?

15 A. I knew her as Nikki.

16 Q. When was it that you first met Nikki?

17 A. When I was working at Ed Champ's bar.

18 Q. What relationship did Nikki and Robert Solis have, if you know?

19 A. Boyfriend/girlfriend or--I don't know.

20 Q. State how often it would be that you would see them during the
21 months of November and December of '93.

22 A. Weekends.

23 Q. Was that when you were normally working at Big Ed's?

24 A. Yes, sir.

25 Q. Now, directing your attention to the 18th of December, were you

1 working at Big Ed's Bar in December of 1993?

2 A. Yes, sir, I was.

3 Q. First of all, I'll show you what's been marked for
4 identification as State's Exhibit No. 24, Ms. Rogers, and ask you
5 to look at that and see if you can recognize and identify that for
6 us, please.

7 (Witness complies.)

8 A. It was the bar where I was working that night, Ed Champ's bar.

9 Q. Does that fairly and accurately show it and depict it the way
10 it was back then with the exception of the little blue building
11 there on the side?

12 A. Yes, sir, same thing.

13 Q. I'll show you what's been marked for identification as State's
14 Exhibit No. 23 and ask you to look at that and see if you can
15 recognize and identify that for us, please.

16 (Witness complies.)

17 A. Right here (indicates) is the entrance to the bar.

18 Q. First of all, this is a drawing or a diagram, is it not?

19 A. Yes.

20 Q. Does this diagram fairly and accurately show and depict the
21 bar area where some of the booze, tables, pool tables--?

22 A. Somethin' similar, yes, sir.

23 Q. Does it fairly and accurately show and depict it the way it
24 was back on the 18th of December of '93?

25 A. Yes, sir.

1 Q. Now, this area here (indicates), can you describe for us what
2 is in this area?

3 A. Yes. This is the bar itself, and this is where I was working
4 at (indicates). The coolers were here and here (indicates).

5 Q. Was there anyone else working the bar that night?

6 A. Ed would walk back there occasionally, you know, help out if
7 I got busy or something.

8 Q. Was Mr. Solis, was he working the bar that night?

9 A. I can't recall.

10 Q. Now, the area back up in here, what's up in this area
11 (indicates)?

12 A. Pool tables; video games.

13 Q. And this area in here (indicates), what is back in here?

14 A. The dance floor; seats; tables.

15 Q. Where are the bathrooms, the men's and women's bathrooms?

16 A. The ladies' is back here (indicates). You have to go in like
17 this (indicates). You have to go in here and then go in the
18 ladies' room.

19 Q. The men's room, where is it?

20 A. It's right before the ladies' room. You go in and go there
21 (indicates).

22 Q. But they're all back in this area (indicates) of the bar.

23 A. Uh-huh.

24 Q. This area here (indicates) that separates the dance floor from
25 where the pool tables are, is there a doorway or an opening in

1 between those two sections of the bar?

2 A. Yes. There's a door right here (indicates) that goes in and
3 out. Anybody can go through there.

4 Q. Do you recall whether or not that way was open the night of
5 the 18th or not?

6 A. No, sir, I can't recall.

7 Q. But there is a door there?

8 A. Yes, sir, there is.

9 Q. How about here (indicates)? Is there a doorway here leading
10 from the bar area into the dance floor?

11 A. It's just an opening that you walk through to the dance floor
12 area.

13 Q. Now, do you recall when it was that you first--when did you
14 first go to open up the bar? When did you get there?

15 A. 5:30, 6:00, 'cause it was cold, and I would go down there in
16 time to turn the heat on so it would be pretty warm.

17 Q. So you arrived at 5:30 or 6:00?

18 A. Yes.

19 Q. What time did the bar itself open? What time did you open
20 for business?

21 A. Like, if I was there at 5:30, 6:00, if anybody come in, I
22 was open then. Basically.

23 Q. When you walked in, the door was open, and anyone could go in?

24 A. Yes.

25 Q. Do you recall when it was that you first saw Mr. Solis,

1 Wallace Brandon Jones?

2 A. It was not too long after I'd gone in. If I'm right, him,
3 Big Ed, and I can't think of--I don't recall if Leroy was with him
4 or not.

5 Q. But, at least he and Big Ed--

6 A. Yeah, they had walked in for a little while. They had just
7 gotten off work.

8 Q. You say "...a little while..." How long did they stay?

9 A. Not long. Just a little while, you know. I guess 15 or 20
10 minutes or so, if that long.

11 Q. Fifteen or 20 minutes, if that long?

12 A. Yeah. I mean, somethin' like that.

13 Q. What did you observe about him at that time?

14 A. Like I said, he looked like he had just gotten off work.

15 Q. After the 15 or 20 minutes, where did he go, if you know?

16 A. I don't know.

17 Q. But did he leave the bar?

18 A. Yes.

19 Q. When was the next time that you recall seeing him?

20 A. Somewhere around 6:30, 7:00.

21 Q. Where was it that you saw him at this time?

22 A. In the bar.

23 Q. Who was with him at that time?

24 A. Leroy.

25 Q. Did you see anyone else there with him at that time?

1 A. Yes. Nikki was with them.

2 Q. Nikki?

3 A. Yes.

4 Q. Do you recall where in the bar they were when you first were
5 aware or noticed that they were there in the bar?

6 A. No, sir; I don't recall.

7 Q. Do you recall how both he and Mr. Spruill were dressed that
8 night?

9 A. Dress shirts and nice jeans.

10 Q. Which one had on the dress shirt?

11 A. Both.

12 Q. Both of them?

13 A. Both of them.

14 Q. And, you said they had on nice-looking jeans.

15 A. Yes, sir.

16 Q. Do you recall anything about the color of the jeans at that
17 time?

18 A. Maybe they were acid-washed.

19 Q. Acid-washed--?

20 A. Acid-washed is like a blue and a white mix type of jeans.

21 Q. You say both of them were dressed nice at that time.

22 A. Yes, sir.

23 Q. Now, when they came into the bar area at that time, when you
24 saw them there at the bar, what did you first observe them to be
25 doing at that time, 6:30, 7:00? What were they doing when you saw

1 them at that time?

2 A. They come up to the bar and got a beer.

3 Q. How about Nikki? Where was she at that time?

4 A. I don't remember.

5 Q. And, how much beer did they get at that time?

6 A. Robert purchased himself one, and Leroy purchased him and
7 Nikki one.

8 Q. He and Nikki one?

9 A. Yes.

10 Q. You say this occurred somewhere around 6:30, 7:00?

11 A. (Witness nods.)

12 Q. Now, did they stay right there in the bar area where you were
13 at that time?

14 A. I don't remember.

15 Q. And, at the time that he came up to purchase the first beer,
16 did you have any conversation with Mr. Solis at that time?

17 A. Yes, I did.

18 Q. If you will, tell us about that conversation, please.

19 A. He said he only had \$5, and he wanted a discount on his beer.

20 Q. What did you tell him at that time?

21 A. "I don't give discounts."

22 Q. Of course, you knew that he had worked for Big Ed.

23 A. Yes.

24 Q. And, had worked at the bar at some time.

25 A. Yes.

1 Q. So you told him that you couldn't give him a discount on the
2 beer.

3 A. Right.

4 Q. Did you run up a tab for him or anything? Was he getting beer
5 on a credit?

6 A. I never had a tab for him at all.

7 Q. And, you say that he told you that he just had \$5.

8 A. Yes.

9 Q. Now, later, did you have an occasion to see Nikki there in the
10 bar?

11 A. Yes, I did.

12 Q. Where was Nikki at that time?

13 A. Um--

14 Q. Where did you see her, and what was she doing?

15 A. She was sitting at the end of the bar drinking a beer with
16 Smartie.

17 Q. Now, Smartie, who is Smartie?

18 A. That's the only name I know him by is Smartie, and that's it.

19 Q. You say that she was at the end of the bar. With reference to
20 State's Exhibit No. 23, could you point out to us, please, what
21 area of the bar that she was sitting with Smartie.

22 A. Somewhere in this area (points) right here.

23 Q. Along here in this corner area of the bar (indicates)?

24 A. Yes, sir.

25 Q. What was she and Smartie doing at that time?

1 A. They were just drinkin' a beer is all I know.

2 Q. How long did they sit there, if you know?

3 A. I didn't really notice. A little while.

4 Q. Now, did you know where Robert Solis, Wallace Brandon Jones,
5 or Mr. Spruill were at that time?

6 A. Yes, I did.

7 Q. Where were they?

8 A. They were at the front door.

9 Q. You're talking about the front door up here (indicates)?

10 A. Uh-huh.

11 Q. Can you describe for us, please, what you saw and observed
12 there at the front door.

13 A. Him and Leroy were at the front door, and Nikki walked over
14 there, and; I don't know what the discussion was about, but they
15 were leaving, and she was staying behind. That's all I know.

16 Q. What did you hear at that time?

17 A. It was a discussion about her staying or her going.

18 MR. VOSBURGH: Objection, Your Honor.

19 THE COURT: Overruled.

20 Q. Could you tell at that time whether it was that she wanted to
21 go or whether she wanted to stay?

22 A. I don't have any idea.

23 Q. But it had something to do with her either staying or going?

24 A. Yes, sir.

25 Q. Now, this conversation that you saw take place or heard over

1 near the doorway, what did you see Leroy and Mr. Jones do at that
2 time? After they talked there at the door, what happened? What
3 did you see take place?

4 A. They walked out.

5 Q. Did Nikki leave with them just at that time?

6 A. I didn't see Nikki walk out behind them.

7 Q. But, after they left, did you ever see Nikki anymore around
8 the bar area?

9 A. For a little while, and then I didn't see her.

10 Q. When you say "...a little while...", how much time are you
11 talking about that you saw her there in the bar for a little
12 while and then you didn't see her?

13 A. I saw her walk away from the door and go back over by
14 Smartie, and I didn't pay any attention where she went from there.

15 Q. But did you ever see her anymore?

16 A. Yes, I did.

17 Q. When was it that you saw her again?

18 A. 9:30, 10:00.

19 Q. What time was it, roughly, that you saw her and Leroy Spruill
20 and the Defendant, Wallace Brandon Jones, over by the doorway
21 talking about leaving; about when was that?

22 A. About 8:00, 8:30.

23 Q. You say it was about 8:00 or 8:30?

24 A. (Witness nods.)

25 Q. Now, you said that the next time that you saw her and Robert

1 and Leroy was what time now, after they left?

2 A. After they left?

3 Q. Uh-huh.

4 A. It was 9:30, 10:00, was the last time I seen them.

5 Q. And, during that period of time, from 8:00 until 9:30 to
6 10:00, did you see either Nikki, Dana Maybin, known to you as
7 Nikki, or Leroy Spruill or Wallace Brandon Jones, known to you as
8 Robert Solis, at any time during that period of time from roughly
9 8:00 until 9:30 or 10:00?

10 A. No, sir.

11 Q. Now, during that period of time, did you stand behind the bar
12 all of the time, Ms. Rogers?

13 A. If I wasn't behind the bar, I was around picking up bottles
14 and things like that.

15 Q. Was that one of your duties there at the bar?

16 A. Yes, sir.

17 Q. When you say, "...pickin' up bottles...", are you talking
18 about--?

19 A. Empty bottles; trying to keep the place neat.

20 Q. When you would go out and patrol around to pick up the empties,
21 what area of the bar would you go to patrol to pick up the empty
22 bottles?

23 A. I would go around the dance floor and then back out here
24 (indicates) by the pool tables and then back to the bar.

25 Q. So you would make a complete circle around.

1 A. Yes.

2 Q. So you never saw them anymore until 9:30 or 10:00.

3 A. Right.

4 Q. When you did see them again at 9:30 or 10:00, did you notice
5 anything unusual about them at that time?

6 A. Yes, sir, I did.

7 Q. What was it that you first noticed that was unusual or
8 different about Mr. Solis or Mr. Spruill or Ms. Maybin?

9 A. Robert Solis, his clothes were changed--different pants,
10 different shirt. Leroy, a thermal blue shirt and a dress shirt
11 over it, buttoned up. His hair was wet. I mean, it looked wet.

12 Q. That's Mr. Spruill's hair?

13 A. Yes.

14 Q. And, when he had been there earlier, from the time that you
15 saw him at 6:30, 7:00, on up to 8:00, was his hair--did it look
16 the same at that time?

17 A. No, sir.

18 Q. In addition to Mr. Solis having changed shirts and pants, did
19 you notice anything else that he was wearing at that time that was
20 different when you saw him at 9:30, 10:00?

21 A. No, sir.

22 Q. Did he have any jacket or anything with him at that time?

23 MR. VOSBURGH: Objection, Your Honor.

24 THE COURT: Overruled.

25 Q. Did he have a jacket or anything with him that you recall?

1 A. No, sir.

2 Q. How many shirts did he have on, if you know?

3 A. I don't know.

4 Q. Now, in addition to the clothing that had been changed on
5 Mr. Solis and Mr. Spruill and wet hair with Mr. Spruill, was there
6 anything else different about them at that time, Ms. Rogers?

7 A. The way they were acting was different.

8 Q. How was it that they were acting different when they came back
9 at 9:30, 10:00?

10 A. Leroy was acting kind of fidgety. What I mean is, he was,
11 I don't know, uptight and everything.

12 Q. How about--

13 MR. VOSBURGH: Your Honor, I'd move to strike the
14 conclusion of the witness.

15 THE COURT: Overruled; motion denied.

16 Q. What about Mr. Solis? What was he doing when he came back to
17 the bar at 9:30, 10:00?

18 A. Explain yourself.

19 Q. What was he doing? Did you notice anything else different
20 about him besides his clothes, anything that he was doing when
21 he got back that he was not doing when he was there earlier?

22 A. He was acting different. I don't know how you would say he
23 was acting different.

24 Q. In what way was he acting different? Can you explain in what
25 way he acted different?

1 A. His attitude. His acting like he was either high or on some
2 type of drug or something.

3 Q. Now, you say that he was acting different from the way he
4 appeared when you first saw him?

5 A. Yes.

6 Q. Now, you said earlier that he came up to the bar, and he told
7 you--and bought one beer.

8 A. Uh-huh.

9 Q. And he told you that he only had \$5.

10 A. Uh-huh.

11 Q. How many beers did he buy from the time that you first saw
12 him there, 6:30, 7:00, until you saw him leave at around 8:00,
13 8:30?

14 A. That one beer.

15 Q. Just one beer during that period of time?

16 A. Somebody could have come up and bought one for him. I have
17 no idea.

18 Q. Is that the only one you sold him?

19 A. Yes.

20 Q. How about when he returned to the bar? He and Leroy Spruill
21 and Nikki, you saw them again at 9:30 or 10:00. Did he make any
22 purchases at that time?

23 A. Yes, sir, he did.

24 Q. Can you tell us what purchases he made and roughly how many of
25 them.

1 A. He made a few purchases, about six beers each time.

2 Q. Six beers each time.

3 A. (Witness nods.)

4 Q. Who was he buying beer for at that time?

5 A. Himself, Dana, Leroy, and a couple of people at Ed's table.

6 Q. You say, "...at Ed's table..." Does Ed Champ, the owner of
7 the bar, did he have a separate table or space there where he
8 usually sat in the bar?

9 A. Yeah.

10 Q. Could you point that out to us, please; where Robert was
11 buying beer for Ed's table.

12 A. This little table right here (indicates):

13 Q. Back out here right before you go on to the dance floor.

14 A. Right.

15 Q. Now, you said that he was buying on--on how many occasions was
16 he buying upwards of six beers at a time?

17 A. About three.

18 Q. About three times.

19 A. (Witness nods.)

20 Q. How did he pay for the beer?

21 A. He had some money.

22 Q. Tell me how it was that you came to see the money and how
23 much money that he had, Ms. Rogers.

24 A. He had some crumpled-up money in his hand that he pulled out
25 of his pocket, 20's, 10's, something like that.

1 Q. Now, you're going to have to speak up. This gentleman back
2 over here, I'm sure he can't hear because I just can. How much--
3 can you describe for me, please, how he pulled this money out.
4 You say it was crumpled.

5 A. Yes.

6 Q. Tell me what it looked like.

7 A. It was crumpled and in his hand about like that (indicates).

8 Q. A roll of it, all crumpled up--

9 MR. VOSBURGH: Objection.

10 THE COURT: The objection is sustained. The jury is to
11 disregard the prosecutor's statement.

12 Q. How much money--could you tell about how much money it was,
13 Ms. Rogers?

14 A. No, sir.

15 Q. When you say, "...crumpled up...", what do you mean by that?

16 A. Balled up.

17 Q. Show me again--you said that it was how high in his hand?

18 MR. VOSBURGH: Objection.

19 THE COURT: Overruled.

20 Q. Please show me about how high--

21 A. It was about like this (indicates).

22 Q. Now, the three large purchases of beer he bought, upwards of
23 six beers--

24 MR. VOSBURGH: Your Honor, I'd object to the--

25 THE COURT: Objection is sustained.

1 Q. Was that the only purchases of beer that he made, the three
2 large purchases of beer--?

3 MR. VOSBURGH: Objection.

4 THE COURT: Sustained.

5 Q. How much beer did he buy?

6 A. Are you talking about at one time or--?

7 Q. No. During the course of the evening after he came back.
8 Well, would you state whether or not he always bought six beers at
9 a time?

10 MR. VOSBURGH: Objection.

11 THE COURT: Overruled.

12 A. I don't think so.

13 Q. Would you state whether or not he bought any single beers?

14 A. He bought a single beer for himself.

15 Q. For himself.

16 A. Uh-huh.

17 Q. Do you recall about how many times he bought beer for
18 himself, singles?

19 A. No, sir.

20 Q. More than once?

21 A. More than once.

22 Q. Now, you said that you observed him with Mr. Spruill. What
23 was it that you noticed about Mr. Spruill at the time that you saw
24 him?

25 A. To me, it looked like he had just jumped out of the shower.

1 MR. VOSBURGH: Objection; move to strike.

2 THE COURT: Objection is sustained; the jury will
3 disregard the witness' statement.

4 Q. What did you observe about his behavior? That's what I'm
5 asking you.

6 THE COURT: You've already asked her that once. Ask
7 her another question.

8 Q. Did you hear a conversation between Mr. Spruill and Mr. Solis?

9 A. Yes, sir.

10 Q. Where did this conversation take place?

11 A. At the bar.

12 Q. Now, again, with reference to State's Exhibit No. 23, can you
13 show me where this conversation took place?

14 A. Right here (indicates.)

15 Q. Right up here at the first two chairs listed at the counter
16 cooler here as you come in the entrance door on the diagram; is
17 that correct?

18 A. Yes, sir.

19 Q. Now, tell us, if you will, just in your own words, what
20 happened when you saw Mr. Spruill and Mr. Solis up there at those
21 two tables.

22 A. Leroy was sitting down, and Robert was over him, standing.

23 Q. What did you do when you saw them standing there at the bar
24 at that time?

25 A. I just--I observed, you know.

1 THE COURT: Keep your voice up, Ma'am.

2 A. I observed them sitting and standing.

3 Q. Did you walk over there to them at that time?

4 A. Yes. I asked them if they would like a beer or anything.

5 Q. What did they say at that time?

6 A. They didn't make no comment--

7 MR. VOSBURGH: Your Honor, I'd object to the use of the
8 word "they."

9 THE COURT: Well, she said they made no comment.

10 Q. What did you do after you walked over and asked them about did
11 they want the beer? What did you do and what did you see and
12 what did you hear?

13 A. They were talkin' amongst themselves. I overheard a little
14 bit of their conversation.

15 Q. What, if anything, did you hear Mr. Robert Solis say while you
16 were standing there at the bar?

17 A. Robert was acting as if he was bragging--

18 MR. VOSBURGH: Objection.

19 THE COURT: Did you understand the question?

20 A. No, sir.

21 THE COURT: Well, ask her again. Listen to the question
22 and answer the questions you're asked.

23 Q. What did you hear Robert Solis say to Leroy Spruill there at
24 the bar? Speak up so we can all hear you.

25 A. He said that he couldn't believe he'd just gotten away with

1 offin' a black man.

2 Q. Is that the way he said it, "...I can't believe we just got
3 away with offing a black man..."? What exactly did he say,
4 Ms. Rogers?

5 A. "Offing a nigger."

6 THE COURT: You've got to speak up, Ma'am. He's asked
7 you to repeat what you heard, and that's what I want you to do
8 and loudly enough so that everybody can hear you.

9 Q. So this gentleman over here at the back can hear you. Now,
10 what did he say?

11 A. He couldn't believe he got away with offing a nigger.

12 Q. What was Mr. Spruill doing at that time? What did you observe
13 about Mr. Spruill when Mr. Solis made that statement?

14 A. I seen him lookin' back and forth at the front door.

15 Q. How often did you see him doing that while Solis was talking?

16 A. Off and on.

17 Q. Looking back in the direction of the door.

18 A. Yes.

19 Q. What did you think about that at the time that you heard the
20 statement and observed Mr. Spruill looking and forth to the door?

21 MR. VOSBURGH: Objection.

22 THE COURT: Sustained.

23 Q. Can you describe for us what you observed about Mr. Solis'
24 behavior at the time that you heard him make that statement,
25 Ms. Rogers?

1 A. As if he was braggin.

2 MR. VOSBURGH: Objection; move to strike.

3 THE COURT: Objection is sustained; the jury will
4 disregard the witness' answer.

5 Q. How long did they stay there at the bar, stand there at the
6 bar, after you heard this conversation between Mr. Spruill and
7 Mr. Solis?

8 A. Not long.

9 Q. Was Mr. Spruill also talking with him about offing a nigger--?

10 MR. VOSBURGH: Objection; move to strike.

11 THE COURT: Objection is sustained; the jury will
12 disregard the question.

13 Q. What, if anything, did you hear Mr. Spruill say?

14 MR. VOSBURGH: Objection.

15 THE COURT: Overruled.

16 A. I don't remember.

17 Q. Now, after that conversation, did you notice anything else at
18 a later time or then that was unusual about Mr. Spruill or
19 Mr. Solis?

20 A. Explain yourself.

21 MR. VOSBURGH: Objection.

22 THE COURT: He's asked you a question, and you answer
23 the question.

24 Q. Did you notice anything unusual about either one of them
25 either then or at a later time during the evening?

1 A. I don't know what you're asking.

2 THE COURT: He's asking if you noticed anything
3 unusual about them later on during that evening. That's what
4 he's asking you.

5 A. Robert had a attitude against me.

6 MR. VOSBURGH: Objection; move to strike.

7 THE COURT: Objection is sustained; the jury will
8 disregard the witness' statement.

9 Q. After they left the bar area, where did you see them go?
10 After they left from the corner of the bar, where did you see
11 Mr. Solis and Mr. Spruill go at that time?

12 A. In the dance floor--I mean, in that area.

13 Q. What did you see them doing, if anything, in the dance floor
14 area?

15 A. Dancing.

16 Q. Who were they dancing with?

17 A. Each other.

18 Q. What kind of dancing were they doing there in the dance room
19 area?

20 A. Fast. Fast dancing.

21 Q. Were they dancing out on the floor area at that time?

22 A. Yes, sir.

23 Q. Did you see them dance on more than one occasion?

24 A. Yes, sir.

25 Q. What was their attitude or demeanor at that time while they

1 were out on the floor dancing with each other?

2 MR. SKINNER: Objection.

3 THE COURT: Objection is sustained as to attitude. She
4 can describe what she saw.

5 Q. What did you see them doing?

6 A. They were having a good time.

7 Q. When you say, "...having a good time...", what do you mean by
8 that?

9 A. I don't know. Dancin', drinkin', having a good time. I
10 don't know how you would describe it.

11 Q. Were they real quiet?

12 MR. VOSBURGH: Objection to the leading.

13 THE COURT: That objection is sustained.

14 Q. How many folks were back there in the dance hall area at that
15 time, Ms. Rogers?

16 A. I don't know the number of people that were there; but, there
17 were some people there.

18 Q. Do you have an opinion as to approximately how many? I know
19 you didn't count them.

20 MR. VOSBURGH: Objection.

21 THE COURT: Overruled.

22 A. Quite a few. I don't know the number I could give you or
23 anything.

24 Q. As many as 15 or more than 15--?

25 MR. SKINNER: Objection.

1 THE COURT: That objection is sustained. She says she
2 does not have a number she can give you.

3 Q. Now, after you saw them dancing there in the room, when was
4 the next time that you recall seeing them, Ms. Rogers?

5 A. When I was gettin' ready to close up.

6 Q. What time was that that the bar closed?

7 A. Anywhere from 1:00 to 2:00 in the morning.

8 Q. Can you describe for us what occurred at that time?

9 A. Yes, sir. I barred Robert Solis for he being so rude and--

10 THE COURT: I can't understand what you're saying.

11 A. I barred Robert Solis for him being so rude towards me.

12 Q. What happened? Tell us what happened right before closing
13 time. What had caused you to bar him?

14 A. He was intoxicated, and, as me being a bartender and knowing
15 about intoxication, I know when to cut somebody off, and I wanted
16 to cut him off, and he got very rude with me.

17 Q. When you say, "...cut him off...", what do you mean by that?

18 A. I wasn't going to sell him any more beer.

19 Q. Would you state whether or not he had asked you to sell him
20 some more beer.

21 A. Ask it again.

22 Q. You said you'd cut him off. Had he come up and placed an
23 order for beer?

24 A. Yes.

25 Q. How much beer did he want?

1 A. He wanted another beer.

2 Q. Another beer?

3 A. Yes.

4 Q. And you told him what?

5 A. No; that he was cut off.

6 Q. And that was because he was intoxicated.

7 A. Yes.

8 Q. At that time.

9 A. Uh-huh.

10 Q. Now, what happened then, after you told him that you weren't
11 going to sell him any more beer?

12 A. I called Ed at his house and--

13 Q. That is Ed--

14 A. Ed Champ, the owner of the bar. I told him that I'd barred
15 Robert, and I didn't want to sell him any more beer. He told me
16 on the phone to go ahead and sell him the beer and maybe he would
17 leave.

18 MR. VOSBURGH: Objection; move to strike.

19 THE COURT: Objection is sustained as to what Ed Champ
20 told her on the telephone.

21 Q. You can't tell us what Mr. Champ said; but, as a result--

22 MR. VOSBURGH: Your Honor, I'd object and ask the Court
23 to instruct the witness.

24 THE COURT: To do what?

25 MR. VOSBURGH: To instruct the witness as to how to

1 answer questions as opposed to Mr. Norton.

2 THE COURT: Well, it would be nice if he'd let the
3 witness answer.

4 Q. As a result of what Mr. Champ said to you, what did you do,
5 Ms. Rogers?

6 A. I sold Robert the beer, and Robert and Leroy left at that
7 time.

8 Q. How much beer did you sell him just as closing time?

9 A. Six six-packs. That's a case and a half.

10 Q. A case and a half?

11 A. (Witness nods.)

12 Q. How did he pay for the case and a half of beer right there at
13 closing time?

14 A. He gave me \$20 or \$25 for the beer.

15 Q. Where did he get the money from?

16 A. Out of his pocket in his jeans.

17 Q. What did you observe when he reached into his pocket and come
18 out with his hand?

19 A. It was crumpled as he give it to me and everything.

20 Q. Did he just have one 20 in his hand when it came out--

21 MR. VOSBURGH: Objection.

22 THE COURT: The objection is sustained.

23 Q. Did you see how much he had in his hand?

24 A. No, sir.

25 Q. Now, after you sold him the case and a half of beer, describe

1 for me what you saw and observed take place at that time?

2 THE COURT: Well, she said they left after she sold
3 him the beer. Are you going to change that?

4 A. No, sir.

5 THE COURT: Did something else happen?

6 A. No, sir. Um--

7 Q. Who left with him at that time?

8 A. Leroy.

9 Q. What happened after they went outside the door?

10 MR. VOSBURGH: Objection, Your Honor.

11 THE COURT: Well, did you go outside the door?

12 A. Yes, sir. I was leaving. I was locking the door.

13 THE COURT: All right.

14 Q. Describe for us what occurred, what you saw and observe happen
15 outside the door.

16 A. Okay. There's an "open" and "closed" sign that sits out at
17 Big Ed's Bar. I don't know what was said or anything. All I know
18 is that the sign came close to hittin' my car.

19 Q. Where was Mr. Solis and Mr. Spruill at that time?

20 A. They were still in the parking lot, walking away.

21 Q. Do you recall who was carrying the beer?

22 A. Robert.

23 Q. What happened to the beer, if anything?

24 A. Some of it busted.

25 Q. How did the beer get busted, if you know?

1 Q. Where was the beer busted?

2 A. On the parking lot.

3 Q. Now, did you know where Mr. Spruill lived at that time?

4 A. No, sir.

5 Q. After you locked up the door, where did you go and what did
6 you do?

7 A. Smartie was with me, and I took Smartie, on my way home, to...
8 his house.

9 Q. Did you also talk with the members of the S. B. I. and the
10 Sheriff's Department?

11 A. Yes, sir, I did.

12 Q. Did you tell them what you had observed there that night
13 there in the bar?

14 A. Yes, sir, I did.

15 Q. Did you also talk to a private investigator of Mr. Solis, a
16 fellow by the name of Mr. Hardison?

17 A. Yes, sir, I did.

18 Q. Did you tell Mr. Hardison, the private investigator for the
19 Defendant, what you told us here today?

20 A. Yes, sir.

21 Q. Specifically, did you tell him about the conversation that
22 Mr. Solis had at the bar with Mr. Spruill--

23 MR. VOSBURGH: Objection, Your Honor.

24 THE COURT: Sustained.

25 MR. NORTON: That's all the questions I have at this

1 time, if Your Honor please.

2 MR. VOSBURGH: Your Honor, at this time, we would
3 request copies of prior statements.

4 THE COURT: All right. Give them copies of her prior
5 statements.

6 (Mr. Norton furnishes paper-writings to defense counsel for their
7 examination.)

8 CROSS EXAMINATION by MR. VOSBURGH:

9 MR. VOSBURGH: May I hand it to the witness?

10 THE COURT: Yes.

11 Q. Would you read that statement in its entirety, please.

12 (Witness complies.)

13 (During the period of time the witness is reading the paper-
14 writings, Mr. Vosburgh exits.. and then re-enters the courtroom.)

15 THE COURT: Have you finished reading it?

16 A. Yes.

17 Q. Ms. Rogers, did you work at Big Ed's Bar on Friday night,
18 December the 17th, 1993?

19 A. Yes, sir, I did.

20 Q. What time did you go to the bar on that day?

21 A. I don't remember.

22 Q. Did you see the Defendant and Leroy Spruill and Dana Maybin;
23 did you see them on that Friday?

24 A. Yes, sir.

25 Q. What time was it when you saw them?

- 1 A. I don't remember that neither.
- 2 Q. You don't remember that?
- 3 A. No, sir.
- 4 Q. Did you have a key to the bar so that you could open it?
- 5 A. Yes, sir, I did.
- 6 Q. When you opened it on that Friday, did Mr. Ed Champ, or, Big
- 7 Ed as he's called, was he there when you opened it on Friday?
- 8 A. Yeah--I mean, he was there, yeah.
- 9 Q. He was there when you opened on Friday?
- 10 A. Like when I walked in the door? Is that what you're asking?
- 11 Q. Yes, I'm asking that.
- 12 A. I don't remember.
- 13 Q. Did the Defendant, Robert, come in with Mr. Big Ed that night,
- 14 on Friday?
- 15 A. I don't remember.
- 16 Q. Did you see Leroy Spruill or Dana Maybin that night?
- 17 A. Yes, sir.
- 18 Q. On Friday?
- 19 A. Yes.
- 20 Q. What time did you see them?
- 21 A. I don't remember that neither.
- 22 Q. Did Robert leave the bar with Ed on Friday night and go home
- 23 and change clothes?
- 24 A. Not to my knowledge.
- 25 Q. Do you know how he got there, how Robert got there on Friday

1 night?

2 A. No, sir.

3 Q. Do you know whether Dana Maybin and Leroy Spruill were
4 already there when Robert came in that night?

5 A. No, sir.

6 Q. Do you know whether or not, on Friday, that Robert, the
7 Defendant, had been working, pumping out septic tanks with
8 Big Ed during that day?

9 A. No, sir.

10 Q. Do you know how Big Ed paid Robert when he worked for him?

11 A. No, sir.

12 Q. Do you know whether or not he got paid by the week or by the
13 day?

14 A. I don't know that.

15 Q. Now, didn't the incident that you described involving the
16 sign, didn't that happen as you were closing the bar on Friday
17 night, December the 17th?

18 A. No, sir.

19 Q. Are you sure about that?

20 A. Yes, sir.

21 Q. On Friday night, didn't you and the Defendant have an
22 argument about change that you gave him when he purchased a beer?

23 A. I can't recall.

24 Q. Isn't that what precipitated the sign business was because he
25 claimed he gave you a 20 and you gave him change for a five; isn't

1 that what happened?

2 A. I don't remember.

3 Q. You don't remember that?

4 A. No.

5 Q. And, isn't Friday, December the 17th, the night of
6 December 17th, isn't that the night that you called Big Ed about
7 the Defendant, Robert, and your cuttin' him off; didn't that
8 happen on Friday, December 17th?

9 A. No, sir.

10 Q. It did not?

11 A. No, sir.

12 Q. On Friday, did you see the Defendant, Robert, did you see him
13 leave the bar with Big Ed?

14 A. No, sir.

15 Q. And, in fact, didn't he come with Big Ed dressed in one way,
16 and didn't he return later dressed in different clothes?

17 A. I don't remember that.

18 Q. Do you recall how he was dressed when he first came into the
19 bar on Friday night?

20 A. No, sir.

21 Q. Do you recall how he was dressed when he left the bar on
22 Friday night?

23 A. No, sir.

24 Q. Now, when the bar was opened on Saturday night, did you see
25 the Defendant and Mr. Spruill and Dana Maybin when you first

1 opened the bar?

2 A. Saturday?

3 Q. Yes, on Saturday night, December the 18th.

4 A. I seen Leroy and Robert 'cause they had just gotten off work
5 when I first got there.

6 Q. On Saturday?

7 A. Yes.

8 Q. Did you see Big Ed when you first got there?

9 A. Yes, sir.

10 Q. Now, this table that's right here (indicates), that's close to
11 the entrance, is it not?

12 A. Yes, sir.

13 Q. And, it's also located right outside the door to the dance
14 hall, isn't it?

15 A. Yes, sir.

16 Q. Now, during that Saturday night--well, first of all, did they
17 have a band there on Friday night?

18 A. No, sir.

19 Q. Did they have a band there on Saturday night?

20 A. Yes, sir, they did.

21 Q. Now, during the entire course of the evening, wasn't either
22 Big Ed or his wife, Lottie, or Gail or Ed, Jr., or any combination
23 of those or one or more of those people at that table during the
24 entire night?

25 A. Yes, sir, they were.

1 Q. And, they positioned themselves at that location so that they
2 could help maintain order and observe who comes and goes; isn't
3 that right?

4 A. Yes, sir.

5 THE COURT: I think it's time for us to go. So, sit
6 down, and we'll quit for the day. You can step down.

7 (The witness leaves the witness stand.)

8 THE COURT: The jury looks like it's ready to go home.
9 Remember, I've got to tell you about how you're to behave, and
10 then leave your badges in your seats, and they'll be there for you
11 tomorrow morning. In any event, during this recess, do not talk
12 about this case among yourselves. The only time you may talk
13 about the case is when I instruct you to begin your deliberations.
14 Do not talk about the case with anyone or allow anyone to talk
15 with you in your presence about the case. If anyone attempts to
16 communicate with you or in your presence about this case, you must
17 notify me immediately. Do not form or express any opinions about
18 the guilt or innocence of the Defendant. Keep an open mind
19 until you've heard all the evidence, the arguments of the
20 attorneys, and the Court's instructions as to the law. Do not
21 speak with any party participating in the trial of this case.
22 This includes any witness, the Defendant, the attorneys, or
23 anyone else who might have an interest in the outcome of the
24 cases, and this rule applies inside as well as outside the
25 courtroom, and it prohibits any type of conversation, whether about

1 the issues in the case or about the weather. It's your duty not
2 to read, watch, or listen to any accounts of this trial or make
3 any investigation or attempt to obtain information outside of the
4 courtroom about the cases. If you violate these instructions, it
5 could result in personal punishment. I'm going to ask you to
6 leave at this time and be back at 10:00 tomorrow morning. If
7 you'll take your badges off, everyone else remain seated, and I'll
8 see you tomorrow morning.

9 (The jury is excused and departs from the courtroom at 5:17 p. m.)

10 THE COURT: Take a recess until 10:00.

11 (Evening recess is taken at 5:20 p. m.)

12 SEPTEMBER 21, 1995, 10:00 A. M.

13 (Mr. Norton, Mr. Anglim, Mr. Vosburgh, Mr. Skinner, and the
14 Defendant are present.)

15 (The jury is in the jury room.)

16 THE COURT: Ms. Rogers, come back up to the witness stand.
17 (Witness complies.)

18 THE COURT: Bring the jury back.

19 (The jury is present in the jury box.)

20 THE COURT: The witness is with Mr. Vosburgh.

21 CROSS EXAMINATION by MR. VOSBURGH CONTINUES:

22 Q. Ms. Rogers, do you know what time the band arrived on the
23 night of December the 18th of 1993 at Big Ed's Bar?

24 A. No, sir, I don't remember that.

25 Q. Do you remember the Defendant being there and helping the band

1 set their equipment up?

2 A. I don't remember that.

3 Q. Do you remember when the band first started playing?

4 A. Not an exact time.

5 Q. Do you remember what time they took their first break?

6 A. Somewhere between 9:30 and 10:00.

7 Q. And, I believe in your testimony yesterday, did you say
8 yesterday that the Defendant, Robert, and Leroy were present there
9 at the bar during the time the band took their break--?

10 A. Yes, sir.

11 Q. --and that's between 9:30 and 10:00.

12 A. Yes, sir.

13 Q. And you saw them there then?

14 A. Yes, sir.

15 Q. Did you see Dana Maybin there then?

16 A. Yes, sir.

17 Q. Now, do you know how many people there were at Big Ed's Bar
18 on that night?

19 A. No, sir, I do not.

20 Q. Was it a large crowd?

21 A. Like I said, I don't know how many people were there.

22 Q. Was the crowd a big crowd in comparison to the size of the
23 building?

24 A. You could say that.

25 Q. I could say that.

1 A. Not huge or anything.

2 Q. But haven't you yourself made the statement that Big Ed's was
3 packed that night?

4 A. I don't recall.

5 Q. Do you recall speaking with Mr. Cliff Hardison about this
6 matter on Friday, May the 12th of 1995?

7 A. Yes, sir, I spoke with Mr. Hardison.

8 Q. And, didn't you tell him that the bar was packed that night?

9 A. I don't remember.

10 Q. Ms. Rogers, you don't have any independent recollection of
11 Robert or Leroy or either one or both of them changing their
12 clothes, do you?

13 A. Yes, I do. I remember their clothes being changed.

14 Q. Well, now, did you tell Mr. Hardison that you did not
15 remember that until somebody by the name of Steve Bell told you
16 that?

17 A. Yes, sir.

18 Q. And that's how you remembered it, isn't it?

19 A. Yes, sir.

20 Q. Was because you heard it from Steve Bell.

21 A. Because he brought it to my attention, and I remembered it.

22 Q. When was the first time that he brought it to your attention?

23 A. I don't recall.

24 Q. Do you know what time the band stopped playing that night?

25 A. No, sir, I don't.

1 Q. Do you know how long they stopped playing before you closed
2 the place up on Saturday night?

3 A. No, sir.

4 Q. Do you know who paid the band when they left?

5 A. Ed Champ, I believe.

6 Q. And, wasn't Ed Champ there when you closed the bar up on
7 Saturday night, December the 18th?

8 A. Yes, sir.

9 Q. As a matter of fact, didn't he close the bar himself or help
10 close it, the whole building? Didn't he help close up the whole
11 establishment?

12 A. I don't remember.

13 Q. Now, how long did you continue to work at Big Ed's Bar after
14 December the 18th of 1993?

15 A. Until January.

16 Q. Until January?

17 A. Yes.

18 Q. Do you recall when in January, or, was it on New Year's Day?
19 Did you quit on New Year's Day?

20 A. No.

21 Q. Did you actually quit or were you fired?

22 A. I was fired.

23 Q. Do you recall when in the month of January you were fired?

24 A. Yes, sir.

25 Q. When was that?

1 A. January 25th, my birthday.

2 Q. Now, after December the 18th of 1993, and before January the
3 25th of 1994, did you see the Defendant and Leroy Spruill and Dana
4 Maybin; did you see them in and out of Mr. Ed's bar from time to
5 time?

6 A. Yes, sir.

7 Q. And, do you recall how many times after December the 18th that
8 you would have seen them there?

9 A. No, sir, I don't.

10 Q. How wide a surface area is there at the bar?

11 MR. VOSBURGH: May I approach the witness?

12 THE COURT: Yes. Are you talking about the bar itself?

13 MR. VOSBURGH: (Nods.)

14 Q. I'll refer you back to State's Exhibit No. 23 and ask you how
15 wide is this area right here (indicates)?

16 A. I don't know. I've never measured it.

17 Q. Now, the bar itself is about as wide as these two tables
18 standing side by side, is it not?

19 A. Somethin' similar.

20 Q. And then, in front of the bar, or behind the bar, I guess it
21 would be, there's a set of coolers there where the drinks and
22 beer and things are kept.

23 A. Yes, sir.

24 Q. Do you know how wide those coolers are that project out from
25 the bar?

1 A. No, sir.

2 Q. It's on the inside of the beer coolers is where you work when
3 you're tending bar; is that correct?

4 A. Yes, sir, it is.

5 Q. What distance would you estimate that to be, Ms. Rogers?

6 A. What distance of what?

7 Q. The width of the bar plus the width of the beer coolers or
8 the drink coolers between the customer standing at the bar or
9 seated at the bar and the inside where you would be working; what
10 distance would that measure?

11 A. Some of the coolers are underneath the bar itself.

12 Q. I understand that, but--

13 A. I don't know how wide.

14 Q. You don't know how wide--

15 A. No, sir.

16 Q. When you're tending the bar in the bar area; you cannot see
17 all the way in the area of the dance floor, can you?

18 A. No, sir.

19 Q. And, when you're tending bar, even if you go over to the far--
20 as you're facing the dance floor, if you go to the far left-hand
21 side of the bar, you can't see that third pool table back down
22 there either, can you?

23 A. No, sir, you can't.

24 Q. As a matter of fact, you can't even see all of the second pool
25 table, can you?

1 A. That's right.

2 Q. And, in order to get to the men's room or the ladies' room,
3 you can't see who's going and coming from the restrooms, can you?

4 A. No, sir.

5 Q. And, as far as you know, the Defendant and Leroy could have
6 been anywhere else on those premises where you couldn't have seen
7 him, either one of them, could you?

8 A. I don't know.

9 Q. Well, if they had gone outside in the parking lot for some
10 fresh air, you wouldn't have been able to see them there, would
11 you?

12 A. No, sir.

13 Q. And, if they'd gone back to that third pool table back there
14 and were shootin' pool, you wouldn't be able to see them there,
15 would you?

16 A. No, sir.

17 Q. Do you know whether or not they shot any pool that night?

18 A. No, sir, I don't.

19 Q. Did you actually see Leroy and the Defendant dancing with each
20 other?

21 A. Yes, I did.

22 Q. Where was that done?

23 A. On the dance floor.

24 Q. But it was done on the dance floor near where the opening is
25 so that you can see in there from the bar; isn't that right?

1 A. That's right.

2 Q. Had you ever seen them do that before?

3 A. Yes, sir.

4 Q. Didn't they do it to tease Big Ed?

5 A. I don't know about that.

6 Q. Did you ever hear Big Ed to tell them to stop?

7 A. Oh, yes, sir, a number of times.

8 Q. What would he tell them when he told them to stop?

9 A. Basically, they needed to stop dancing with each other.

10 Q. Didn't he tell them that he didn't want them to build a
11 reputation of it being a gay bar?

12 A. Definitely.

13 Q. He said it would ruin his business, didn't he?

14 A. Yes, it would.

15 Q. Do you know how long the band took when they took their first
16 break that night?

17 A. Not to my knowledge, no.

18 Q. But you do know that they started their break about 9:30?

19 A. (Witness nods.)

20 Q. Do you know how long they played their next set?

21 A. No, sir.

22 Q. Do you know how many breaks they took that night before the
23 evening was completed?

24 A. No.

25 Q. Now, when the band comes, there are double doors on the front

1 wall of the dance hall; are there not?

2 A. Yes, sir, there are.

3 Q. Those double doors are opened up, aren't they?

4 A. Uh-huh.

5 Q. Is that where the band loads and unloads their equipment?

6 A. Yes, sir, it is.

7 Q. What happens to those doors after the band is unloaded and set
8 up?

9 A. Well, then it was cold; the doors were shut.

10 Q. They were shut, and the band was backed right up against those
11 doors while they were playing, weren't they?

12 A. I don't know.

13 Q. After the band starts playing, those doors are locked so
14 nobody can sneak in or sneak out; isn't that correct?

15 A. Yes, sir.

16 Q. Anybody that comes in has got to go by that table and pay
17 their cover charge, don't they, for the dance?

18 A. Yes, sir.

19 Q. Did they have a way of marking them so that, when they went
20 outside, they could come back in?

21 A. I don't remember that.

22 Q. You don't remember that?

23 A. No, I can't remember that.

24 Q. Isn't that one of the reasons that Big Ed or Lottie or Gail or
25 Ed, Jr., isn't that the reason that one or more of them stayed at

1 that table?

2 A. Yes, sir.

3 Q. They collected all the cover charge money, didn't they, at
4 that table?

5 A. No, not at the table.

6 Q. They did not?

7 A. No. At the bar.

8 Q. The money was collected at the bar.

9 A. (Witness nods.)

10 Q. Why were they sitting right there?

11 A. That's where they usually sat.

12 Q. And, from that position, you could observe anyone that comes
13 in and anyone that goes out; isn't that right?

14 A. Yes, sir.

15 Q. Now, there's a back door to the place, is there not?

16 A. Yes, sir, there is.

17 Q. Is it barred up and closed?

18 A. I know it's always been locked while I was working there.

19 Q. Have you ever seen anybody go in or out of that door?

20 A. I don't think so.

21 Q. So, once the band gets in and those double doors are closed,
22 there's only one way in and one way out of that building, isn't
23 there?

24 A. Yes, sir.

25 Q. Now, when Robert or Leroy or both of them would buy beer, you

1 don't know whether they were--when they would buy it in a larger
2 amount, you don't know whether they were buying it for a whole
3 table, do you?

4 A. Yes, sir, because, when he bought beer, if he did buy it in
5 large quantities, he would take it to the table he was buying it
6 for.

7 Q. But you don't know where he got his money to buy that beer
8 for that table, do you?

9 A. No, sir, I don't.

10 Q. Now, you said Leroy's hair looked wet that night.

11 A. Uh-huh.

12 Q. Didn't it look wet every night?

13 A. Sometimes it looked wet.

14 Q. How was it styled?

15 A. He had a perm in his hair.

16 Q. When you say a perm, describe what a perm looks like.

17 A. Curls in his hair.

18 Q. It's real kinky, isn't it?

19 A. Yeah.

20 Q. And, you spray it with mousse, and it makes it kinkier,
21 doesn't it?

22 A. Yeah.

23 Q. And, it looks wet, too, when you do that, doesn't it?

24 A. Yes, sir.

25 Q. And, most people who style their hair that way, they do it for

1 that look, that wet look, don't they?

2 A. Yes, sir, they do.

3 Q. I believe you said you worked at two other locations, the
4 Oasis and the Covered Wagon; is that right?

5 A. Uh-huh.

6 Q. How long did you work at the Oasis?

7 A. A long time. I don't know how long exactly. I worked for
8 Roger Allen. He had a bar in Belhaven and in Plymouth, so I
9 basically worked at both of them.

10 Q. What was your reason for leaving the Oasis?

11 A. Me and Roger had a disagreement.

12 Q. He fired you, didn't he?

13 A. No. I left.

14 Q. Ms. Rogers, do you know how Robert, Leroy, and Dana, do you
15 know how they got to the bar that night?

16 A. No, sir, I don't.

17 Q. Do you know how they got there Friday night?

18 A. No, sir, I don't.

19 Q. Do you know whether they all three came together on Friday
20 night?

21 A. I can't recall.

22 Q. Do you know whether or not they all three came together on
23 Saturday night?

24 A. They all came in the door at the same time Saturday night.

25 Q. When you closed up and left, do you know how they left the

1 parking lot area; do you know how they left that area of the bar?

2 A. They were walkin' when I left.

3 Q. How many of them were walking?

4 A. Leroy and Robert.

5 Q. Just the two?

6 A. Yes.

7 Q. You didn't see Dana anywhere then, did you?

8 A. No. She walked out a couple of minutes before they did. She
9 said if they wanted to know where she went, she was headin' home.

10 MR. VOSBURGH: Judge, that's all the questions I have
11 at this time.

12 THE COURT: Anything further; Mr. Norton?

13 MR. NORTON: Yes, if Your Honor please.

14 REDIRECT EXAMINATION by MR. NORTON:

15 Q. Ms. Rogers, you were asked by Mr. Vosburgh about the hair of
16 Mr. Leroy Spruill. I believe you indicated that there were--

17 MR. VOSBURGH: Your Honor, I object to the statement of
18 counsel.

19 THE COURT: Objection is sustained.

20 Q. You were asked about the hair by Mr. Vosburgh.

21 A. Uh-huh.

22 Q. Had you seen Mr. Spruill on other occasions at the bar when
23 his hair was wet?

24 A. Yes, sir.

25 Q. Now, on the 18th of December, the time that you saw him at the

1 bar, when he first came in, he and Mr. Spruill, was there any
2 difference in his hair at that time and the way it was when you
3 saw him later between 9:30 and 10:00 there at the bar?

4 A. It didn't look the same when he come back at 9:30, 10:00.

5 Q. How did it look different?

6 A. It was pushed back on the sides, and, I mean, it did look wet.

7 Q. Had it looked wet and in that same condition when you had
8 seen him earlier that night?

9 A. No, sir.

10 Q. Now, you were also asked about the change of clothes, and I
11 believe you were, in fact, interviewed by Mr. Hardison, a private
12 investigator for Mr. Jones, on Friday, the 12th of May, I believe.

13 A. Yes, sir.

14 Q. Where did this interview take place?

15 A. It took place in my home.

16 Q. Did you tell Mr. Hardison what you've told the Court here both
17 today and yesterday?

18 A. Yes.

19 Q. Do you recall seeing the change of clothes that you
20 described yesterday?

21 A. Yes, I do.

22 Q. Now, you were asked this morning about whether or not Steve
23 Bell mentioned it to you. Did you have a conversation with
24 Mr. Bell?

25 A. Yes, I did.

1 Q. Did Mr. Bell have to tell you--

2 MR. VOSBURGH: Objection to the form of the question,
3 Your Honor.

4 THE COURT: Objection is sustained.

5 Q. Do you recall seeing the change of clothes?

6 A. Yes.

7 Q. Do you recall when it was that Mr. Bell mentioned it to you,
8 I believe, at a later time you said in your interview?

9 A. I can't recall in my statement what it said. I can't recall
10 what it said in my statement.

11 Q. Well, the statement says you "...remembered the change of
12 clothes when a boyfriend, Steve Bell, mentioned it at a later
13 time..." Was it three weeks later or that night when he came in
14 that you noticed it?

15 A. It was just later. I don't--

16 Q. You don't remember.

17 A. No, sir.

18 Q. The money that you saw, how was that different?

19 A. Well, earlier, he said he had \$5, and; when he come back, he
20 had some money.

21 Q. Are you the one that took up the money at that time?

22 A. Either me or Ed did.

23 Q. But you saw the money.

24 A. Yes, sir.

25 Q. You were also asked about the distance between the bar and

1 these coolers. Now, where were the coolers situated with
2 reference to the top of the bar?

3 A. They were more or less mostly under it. You slid the lid up,
4 and you got your beer out or whatever.

5 Q. So, part of the cooler where the beer was was up--if this
6 were the bar area here where my table is--

7 A. Uh-huh. The sliding door would be right there where you're at.

8 Q. Where I am?

9 A. Uh-huh.

10 Q. And the cooler itself would be up under it--part of it would
11 be up under the table.

12 A. Yes.

13 Q. Now, do you see anything from where you're sitting, Ms. Rogers,
14 to point out to us how far apart you were from Leroy and Robert
15 Spruill when you heard the statement made that you described
16 yesterday? From where you're sitting.

17 A. Maybe a little bit from this table to the edge of that
18 table (indicates). I don't--

19 Q. Are you talking about from this table (indicates) to this
20 table (indicates)?

21 A. About right here (indicates) to that table.

22 Q. From the location of where these photographs are to this
23 table (indicates)?

24 A. Something like that.

25 Q. Four, five feet.

1 A. Yes, something like that.

2 MR. VOSBURGH: Well, objection; move to strike the
3 statement of counsel.

4 THE COURT: Overruled; motion denied.

5 Q. Now, you were also asked about when you left the employment
6 of Big Ed's Bar. I believe you said you were fired.

7 A. Yes, sir.

8 Q. You recalled that as being the 25th of January, your
9 birthday.

10 A: Yes, sir.

11 Q. How was it that you got fired, Ms. Rogers?

12 A. I was having a party, and there were some under-age kids in
13 there.

14 Q. Where were you having the party?

15 A. In the bar.

16 Q. Was the bar open at that time?

17 A. No, huh-uh.

18 Q. It was just a birthday party.

19 A. Yes.

20 Q. And, as a result of the under-age people that were there and
21 the beer license, you were terminated?

22 A. (Witness nods.)

23 Q. Had there been other occasions, Ms. Rogers, when there had
24 been under-aged people there inside the bar?

25 THE COURT: You don't have to answer that question.

1 Q. You were also asked about whether or not you had seen
2 Mr. Spruill and Mr.--

3 MR. VOSBURGH: Your Honor, I'd object to the form of
4 the question. He's leading before he ever gets to the question
5 point.

6 THE COURT: Overruled at this point.

7 Q. Mr. Vosburgh asked you whether or not you had seen them dance
8 together before, Jones and Spruill.

9 A. Yes, sir.

10 Q. You said that you had.

11 A. Uh-huh.

12 Q. Was there anything different about the way they were dancing
13 and carrying on that night, the night of December the 18th, from
14 other occasions that you had seen them?

15 A. They were actin' more wild, crazy.

16 Q. More wild and crazy?

17 A. (Witness nods.)

18 MR. NORTON: That's all I have

19 THE COURT: Anything further?

20 MR. VOSBURGH: Nothing else from the Defendant, Your
21 Honor.

22 THE COURT: You may step down. Call your next witness.

23 MR. NORTON: If Your Honor please, the next witness I'd
24 planned to call, I've just been informed is at a doctor's office.
25 I'm going to have to pull a witness up out of turn. It's going to

Exhibit
#3

On 5-6-94, we talked with Maurice Wilkins. He said he was sure. it was the night Frank Swain was killed, he saw Leroy Spruill driving a blue pick-up truck. He said there was someone sitting on the passenger side of the truck. Maurice said it was approximately 8:30 p.m. when he saw the truck going to Frank's. Maurice said he never saw the truck come out because they left shortly after seeing him go in.

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

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

On 5-7-94, Lori Evans called me at my house. Lori told she went to the Oasis Club on Friday night. Lori said Leroy Spruill was there. She said Leroy began talking with her about him being questioned for murder by the cops. She said Leroy asked her if she was scared of him because of that and acted as if he got a thrill when she told him "yes, if he was involved, sure she was scared." Lori said she asked Leroy if he was involved in a murder and Leroy did not reply. Lori said she told Leroy that she had seen a picture of the man that was killed and she had said she thought it took more than 1 person to kill the man the way he was killed. Lori said Leroy never made any remarks concerning if he did or did not have anything to do with the murder. Lori said she asked Leroy if he was there or if he knew who had killed Frank and he made no reply. Lori said Leroy had told her that he was going to leave after his sister Linda's wedding. Lori said Leroy said he had promised his daddy that he would not go anywhere until

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Lynn Rogers Spruill interview
Plymouth 3.13.2008

-This interview took place in the Kerr Drug store in Plymouth, NC. Interviewer - Sherry H. Everett, interviewing Lynn Rogers Spruill

-I found this interview to be decidedly unhelpful for Leroy and Brandon.

-This woman is the most credible person I've met to date in this case. Extremely nice, somewhat shy and soft-spoken, looks you directly in the eye the whole time, and generally I found her to seem incapable of having lied on the stand and put two completely innocent men in jail. (Men she didn't even know)

-I surprised her by just walking in and telling her I was in a class studying different cases where inmates claimed innocence. She was quite sweet and took a few minutes' break to talk to me. We sat in the pharmacy waiting room and talked for about ten minutes.

-I asked her what she remembered about that night. She pretty much repeated her exact testimony at trial, that she remembered thinking it was weird that they changed clothes in the middle of the night, and that she overheard Brandon saying that they had messed someone up. She did not repeat the line that she said at trial, that they couldn't believe they had gotten away with "offing a ni**er," but she did say she seemed to be bragging.

-I asked her how confident she was that her hearing and memory were accurate, and she said very.

-I asked her about the prosecutors and the investigators who interviewed her. She said they were all very nice to her. I asked her if she ever felt pressured at any time to say any certain thing or to testify, and she said yes -- by the defense. Described herself as being in fear for her life from the Champs and thought they were going to be really upset with her for testifying.

-Has not heard from Ed Champ in a long time or seen him; was surprised to hear from me that he was the source of how I found her working at the drug store as she has not worked there for very long.

-Gave me the phone number to the Eckerd and told me I could call her there if we wanted to talk to her further -- 252-793-1175

Assessment:

She is the opposite of helpful for Leroy and Brandon. There is no doubt in my mind that this woman believes every word she is saying. She was so shy and sweet that when I showed up out of the blue and told her what I wanted to talk to her about, I feel absolutely certain she would have become disconcerted/flustered/nervous if she'd had anything to hide. One possibility: she was so very sort of meek and nice that I could definitely see how a pushy investigator such as Janice or a skilled prosecutor could have implanted thoughts/memories and she ended up fully believing them herself. Otherwise no luck.

Handout 47

MARGIE PERRY

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
RECKLESS DRVG – WANTON DISREGARD	PASQUOTANK	06/10/2017	08/03/2017
SHOPLIFTING CONCEALMENT GOODS (M)	MARTIN	08/14/2015	11/04/2015
LARCENY (M)	PITT	06/02/2003	03/12/2004
POSSESS DRUG PARAPHERNALIA	WASHINGTON	12/06/2002	01/22/2003

Handout 48

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Handout 49

TONY CALLOWAY

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
RESISTING PUBLIC OFFICER (M)	PERQUIMANS	09/03/2009	10/14/2009
POSSESS DRUG PARAPHERNALIA (M)	WASHINGTON	12/03/1999	12/14/1999
POSSESS MARIJUANA UP TO ½ OZ (M)	WASHINGTON	12/03/1999	12/14/1999
LARCENY (M)	DUPLIN	06/22/1999	02/29/2000
DWLR	WASHINGTON	08/17/1999	09/03/1996

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TONY CALLOWAY: I must have been there because -- I knew I was there like close to, I didn't know if it was the night before or the night after so according to this it was they called me and I said I pretty sure I was there.

MS. MATOIAN: Okay.

TONY CALLOWAY: I don't remember a whole lot. I do remember seeing them on the dance floor.

ANGIE CALLOWAY: You did see them there? Someone said they came in with wet hair, had changed clothes.

TONY CALLOWAY: Yeah. He just changed clothes.

ANGIE CALLOWAY: Changed the wardrobe.

MS. MATOIAN: You remember they changed their clothes?

TONY CALLOWAY: They left came back and I don't remember exactly what they had on before but when they came back they looked kind of fresh, you know, like they had changed clothes, looked like somebody, you know, look like they just took a shower or something.

1 MS. MATOIAN: Do you think that's the same night you
2 were talking about in there?

3 TONY CALLOWAY: Must be, yeah, yep, I think so.
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Handout 51

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MS. MATOIAN: Do you remember how long they were gone when they left?

TONY CALLOWAY: Not really. I can just remember, I do remember they left and come back but I couldn't swear to how long.

MS. MATOIAN: When you say they, do you mean Robert and Leroy Spruill or Robert Leroy Spruill and the woman you knew as Nikki Talkington?

TONY CALLOWAY: Not sure they were all together. See, I was with friends with Robert at one time.

MS. MATOIAN: Okay.

TONY CALLOWAY: And I do remember he left because we'd shoot pool and stuff like that. The reason I probably remember that because we were shooting pool or something. But I can't remember if they were all together or anything like that.

MS. MATOIAN: So when you say they left, you're talking specifically about Robert?

TONY CALLOWAY: Robert, yeah, that I can remember. They could have been together but I couldn't swear to that.

Handout 52

TOMMY BARBER

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
POSSESS DRUG PARAPHERNALIA	BERTIE	12/06/2016	06/07/2017
SIMPLE ASSAULT	WASHINGTON	09/20/2014	05/07/2015
DWI – LEVEL 2	WASHINGTON	02/16/2014	04/07/2015
DWLR NOT IMPAIRED REV	WASHINGTON	02/16/2014	04/07/2015
DWI – LEVEL 4	TYRRELL	03/13/2013	08/13/2014
DWLR NOT IMPAIRED REV	MARTIN	01/05/2014	07/21/2014
DWLR	MARTIN	11/18/2013	04/07/2014
POSSESS MARIJUANA UP TO ½ OZ (M)	WASHINGTON	01/26/2011	07/14/2011
CARRYING CONCEALED WEAPON (M)	MARTIN	04/07/1999	04/26/1999

Handout 53

COTTIE OLIVER

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
DWI – LEVEL 5	DUPLIN	09/02/1995	10/19/1995

Handout 54

NORTH CAROLINA
WASHINGTON COUNTY

GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

STATE OF NORTH CAROLINA,

Plaintiff,

vs.

WALLACE BRANDON JONES,

Defendant.

FILE NOS.:

94 CRS 4973

95 CRS 1965

STATE OF NORTH CAROLINA,

Plaintiff,

vs.

LEROY SPRUILL,

Defendant.

FILE NOS.:

94 CRS 1566

94 CRS 1984

This is the transcript of the recorded telephone interview taken of Cottie Oliver, which was conducted by Catherine Matoian from the North Carolina Innocence Inquiry Commission. The recorded interview took place on February 27, 2018.

APPEARANCES:

Catherine Matoian, Grant Staff Attorney
North Carolina Innocence Inquiry Commission
Administrative Office of the Courts
P.O. Box 2448
Raleigh, North Carolina 27602

1 P R O C E E D I N G S

2 MS. MATOIAN: This is Catherine.

3 MS. OLIVER: This is Cottie.

4 MS. MATOIAN: Hello, Ms. Oliver. How
5 are you doing today?

6 MS. OLIVER: I just got a cold.

7 MS. MATOIAN: I'm sorry to hear that.
8 Thank you for responding to my card. I work for
9 the North Carolina Innocence Inquiry Commission,
10 which is a state agency that investigates claims
11 of innocence by people who have been convicted of
12 crimes in North Carolina.

13 MS. OLIVER: Uh-huh.

14 MS. MATOIAN: And we're a neutral
15 agency, so we don't represent these people. We
16 just try to find out, you know, the truth. And
17 two men named Wallace Brandon Jones and Leroy
18 Spruill have applied to our commission. Do you
19 know either of those two men?

20 MS. OLIVER: Who again?

21 MS. MATOIAN: Leroy Spruill and
22 Wallace Brandon Jones.

23 MS. OLIVER: Not right offhand.

24 (Coughing) Excuse me. I've been in Greenville
25 for about 22 years.

1 MS. MATOIAN: Okay. Do you remember a
2 girl named Dana Maybin?

3 MS. OLIVER: I remember a Dana.

4 MS. MATOIAN: Okay. Do you remember
5 someone named Sherry Honea?

6 MS. OLIVER: Huh-uh.

7 MS. MATOIAN: You don't?

8 MS. OLIVER: No, I don't. Sherry, I
9 mean, Dana, I don't remember the other girl's
10 name.

11 MS. MATOIAN: Okay.

12 MS. OLIVER: But I -- excuse me, I'm
13 sorry.

14 MS. MATOIAN: No, go ahead. What were
15 you going to say?

16 MS. OLIVER: I forgot what I was going
17 to say now. Go ahead. Go ahead.

18 MS. MATOIAN: Dana Maybin was also
19 using the name Nikki Talkington at the time.

20 MS. OLIVER: Nikki, that's what it
21 was, Nikki.

22 MS. MATOIAN: Okay. Okay. So you
23 remember Nikki?

24 MS. OLIVER: Uh-huh, because she took
25 -- my youngest daughter was four at the time and

1 she took her birthstone ring.

2 MS. MATOIAN: Your youngest daughter's
3 birthstone ring?

4 MS. OLIVER: Yeah. She's 30-something
5 years old now, though. She probably wouldn't
6 even remember it.

7 MS. MATOIAN: Did -- so if -- I don't
8 know if you remember that Ms. Maybin was also
9 convicted of the murder of a man named Frank
10 Swain, and Leroy Spruill and Wallace Brandon
11 Jones were also convicted of that murder; do you
12 remember that happening in Plymouth around that
13 time?

14 MS. OLIVER: Yeah, I do remember that.
15 What I recall -- I had nothing to do with it. I
16 was -- the only thing I can think of is that they
17 were trying to set me up or either way
18 (indiscernible) because I didn't even -- I wanted
19 -- I (indiscernible). They went in a store. I
20 don't know if they went behind the building. I
21 don't know what took place. I was in the car,
22 and (indiscernible) called my name or what, I
23 don't know.

24 MS. MATOIAN: You thought who was
25 trying to set you up?

1 MS. OLIVER: To get me in trouble. I
2 don't know.

3 MS. MATOIAN: Did you think Ms.
4 Maybin, Nikki, was trying to get you in trouble
5 or someone else was trying to get you in trouble?

6 MS. OLIVER: I don't know. I don't
7 remember the guy.

8 MS. MATOIAN: Okay.

9 MS. OLIVER: Now, come to think about
10 it -- what did you say the guy's name was?

11 MS. MATOIAN: There were two men, and
12 one's name was Wallace Brandon Jones, but he was
13 going by the name Robert Solis.

14 MS. OLIVER: Okay. The other one was?

15 MS. MATOIAN: The other one was Leroy
16 Spruill.

17 MS. OLIVER: Leroy. If I remember
18 then he had a blue truck, and I was
19 (indiscernible) up and I was living in Vanceboro
20 because I lost my husband, could no longer do my
21 job, physically, and the people that were
22 (indiscernible) the house had a blue truck, went
23 up there. We had a bunch of saws and tools up
24 there we used for wood--cutting and all to make
25 crafts.

1 MS. MATOIAN: Uh-huh.

2 MS. OLIVER: And they just got a blue
3 truck. They told me a blue truck went up there
4 and got it.

5 MS. MATOIAN: A blue truck went up
6 there and got what?

7 MS. OLIVER: Mine and my husband's
8 tools --

9 MS. MATOIAN: Okay.

10 MS. OLIVER: -- that we used for
11 cutting wood and making wood crafts.

12 MS. MATOIAN: And you thought that was
13 Leroy Spruill's dad's truck?

14 MS. OLIVER: Yeah.

15 MS. MATOIAN: Okay.

16 MS. OLIVER: No, no, no, no. I don't
17 think his daddy would do that, and I don't know
18 that it was him. All know is they told me a blue
19 truck.

20 MS. MATOIAN: Okay.

21 MS. OLIVER: And said the guy went to
22 the back door and asked if he could get his stuff
23 out of the barn just like it was his, you know.

24 MS. MATOIAN: Okay.

25 MS. OLIVER: I don't know, you know.

1 I'm just assuming. I don't know.

2 MS. MATOIAN: Do you remember when
3 that incident happened?

4 MS. OLIVER: No, I don't, because like
5 I said, I've been over here 22 years.

6 MS. MATOIAN: Okay. Ms. Oliver, do
7 you remember going to Big Ed's Bar with Nikki
8 ever?

9 MS. OLIVER: Because that was right
10 behind my house.

11 MS. MATOIAN: Oh, Big Ed's was right
12 behind your house?

13 MS. OLIVER: I don't remember the name
14 of it, but that was the only one I went to
15 because to walk, you know, I walked right across
16 the yard.

17 MS. MATOIAN: Okay. Do you remember
18 if you were there on the night that Mr. Swain was
19 murdered?

20 MS. OLIVER: I don't know. Honestly,
21 I don't know. I stayed in the car.

22 MS. MATOIAN: Okay.

23 MS. OLIVER: I really -- honestly, I
24 don't know.

25 MS. MATOIAN: Okay. And when you said

1 you stayed in the car, what do you mean? What do
2 you mean by that?

3 MS. OLIVER: I stayed in the car.

4 MS. MATOIAN: Did you go to Mr.
5 Swain's house?

6 MS. OLIVER: No.

7 MS. MATOIAN: Okay.

8 MS. OLIVER: I don't know which house
9 it was. I've never seen the gentleman. I don't
10 know nothing about that. I had no part in it.

11 MS. MATOIAN: Okay. So when you say
12 you stayed in the car, which incident are you
13 talking about? Were you with Nikki?

14 MS. OLIVER: It was this one. It was
15 this one incident.

16 MS. MATOIAN: And can you explain that
17 for me one more time? I'm sorry, I just want to
18 make sure I understand you.

19 MS. OLIVER: It was in the car, and
20 Nikki and the other girl got out, which I don't
21 remember her name.

22 MS. MATOIAN: Okay.

23 MS. OLIVER: And the two girls, I
24 guess. I don't know no other men.

25 MS. MATOIAN: Were they in the car,

1 too?

2 MS. OLIVER: Leroy was in the car.

3 MS. MATOIAN: Okay.

4 MS. OLIVER: And now that you called
5 that Brandon by the second name --

6 MS. MATOIAN: Robert?

7 MS. OLIVER: Yes. I recognize that
8 because we, you know, we met at the bar, and I
9 remember his name, but I've been wanting to tell
10 his family that I am so, so sorry. I had nothing
11 to do with it.

12 MS. MATOIAN: Ma'am, are you telling
13 me that you stayed in the car while Nikki and the
14 other girl and Leroy and Robert got out and
15 committed the murder?

16 MS. OLIVER: I don't know what went
17 on. I honestly don't know what went on because
18 if that had went on and I had known it, Janice
19 Spruill would be the first one that I had
20 contacted that works with the police department
21 in Washington County.

22 MS. MATOIAN: Okay. So this incident
23 that you were talking about where you were in the
24 car with these other people and they got out of
25 the car and you stayed in the car, do you know

1 where they went?

2 MS. OLIVER: No, I don't, because like
3 I said, I wasn't even looking.

4 MS. MATOIAN: Okay.

5 MS. OLIVER: My husband's sister I
6 think is right there beside that road anyway, and
7 I won't look in that way. I don't know if it was
8 a convenience store (indiscernible). I don't
9 know.

10 MS. MATOIAN: And what was your
11 husband's sister's name?

12 MS. OLIVER: Emma Davenport.

13 MS. MATOIAN: So when they came -- did
14 they come back to the car at some point?

15 MS. OLIVER: Yeah.

16 MS. MATOIAN: And did any --

17 MS. OLIVER: Because -- I'm sorry.

18 MS. MATOIAN: No, keep going.

19 MS. OLIVER: Robert was driving, so
20 yeah.

21 MS. MATOIAN: Do you remember what car
22 you were in?

23 MS. OLIVER: I really don't. I really
24 don't. It's been like 11 of your 22 years, so I
25 don't remember.

1 MS. MATOIAN: I understand. And when
2 you said you had been wanting to tell the family
3 that you were sorry, you were talking about --

4 MS. OLIVER: I am so -- no, that I'm
5 sorry about their brother.

6 MS. MATOIAN: Okay.

7 MS. OLIVER: Yeah. You know, I just
8 -- I didn't have anything to do with it.

9 MS. MATOIAN: Do you think that Nikki
10 or Robert or Leroy had anything to do with it?

11 MS. OLIVER: Truly, I don't know --

12 MS. MATOIAN: Okay.

13 MS. OLIVER: -- because I wasn't
14 looking that way. I don't know where they went
15 because to be honest --

16 MS. MATOIAN: Did they go to a house
17 or a store?

18 MS. OLIVER: Honey, I don't know.

19 MS. MATOIAN: Okay.

20 MS. OLIVER: I don't know.

21 MS. MATOIAN: Okay.

22 MS. OLIVER: 'Cause wasn't looking
23 that way.

24 MS. MATOIAN: Did you ever go and tell
25 the police about this time that you were in the

1 car with them?

2 MS. OLIVER: No, because I didn't have
3 anything to do with it and, you know --

4 MS. MATOIAN: Okay.

5 MS. OLIVER: And I told Jane that I
6 didn't have anything to do with it.

7 MS. MATOIAN: When they got back into
8 the car, did anyone have blood on them or some
9 kind of weapon? I'm just trying to figure out
10 the significance of this time that you were with
11 them and they all got out of the car.

12 MS. OLIVER: No. It was dark. It was
13 cold, and I stayed in the car.

14 MS. MATOIAN: Okay.

15 MS. OLIVER: I don't know where they
16 went. I didn't see anything. Like I said, it was
17 dark. I don't know.

18 MS. MATOIAN: Okay. Did any -- did
19 Nikki or anyone ever tell you anything about
20 being involved in a murder?

21 MS. OLIVER: No.

22 MS. MATOIAN: Okay. Do you remember
23 bringing some of Nikki's clothes to the sheriff's
24 office?

25 MS. OLIVER: No.

1 MS. MATOIAN: Okay.

2 MS. OLIVER: Because I was living in
3 Vanceboro. I don't know. I never, never taken
4 clothes up there, huh-uh.

5 MS. MATOIAN: Ms. Oliver, I'm going to
6 read to you just a part of a letter that Ms.
7 Maybin wrote to you, and the sheriff's office.
8 had gotten a copy of this letter.

9 MS. OLIVER: Who's Ms. Maybin?

10 MS. MATOIAN: I'm sorry, Nikki, a
11 letter that Nikki wrote to you.

12 MS. OLIVER: Oh, okay. Oh, wrote to
13 me?

14 MS. MATOIAN: Yes. And I just want to
15 read a part of it to you and see if you can
16 remember what she's talking about, okay?

17 MS. OLIVER: Okay.

18 MS. MATOIAN: It says, "About Wyatt,
19 you was at home that night, so you know what --"

20 MS. OLIVER: Wait a minute. Who's
21 Wyatt?

22 MS. MATOIAN: I don't know who Wyatt
23 is talking about in this letter. I know there is
24 someone in that area whose name was Wyatt
25 Spruill.

1 MS. OLIVER: I don't know.

2 MS. MATOIAN: Okay.

3 MS. OLIVER: I don't know Wyatt.

4 MS. MATOIAN: It says, "About Wyatt,
5 you was at home that night, so you know what
6 really happened. I found out from Leroy that
7 Wyatt had got \$500 from some guy at Big Ed's Bar
8 to go get some crack, but instead of doing that,
9 he just took the guy's car and money --"

10 MS. OLIVER: Ooh, crack?

11 MS. MATOIAN: Uh-huh.

12 MS. OLIVER: Oh, my God.

13 MS. MATOIAN: And then it says, "--
14 and went out and got high with a buddy. The guy
15 that gave him the money has a warrant on him for
16 taking the car. I don't get high, and I never
17 plan on it. I don't even like Wyatt or trust
18 him. I would go nowhere with him, not even piss
19 on him if he was on fire."

20 Do you remember any -- what incident
21 Nikki was talking about in that letter?

22 MS. OLIVER: I have no idea. I didn't
23 know that (indiscernible). I didn't know none of
24 them was on crack because Nikki stayed with me,
25 and at the time my daughter was 12 years old

1 because she didn't want to stay with the guys.

2 MS. MATOIAN: Uh-huh.

3 MS. OLIVER: But as far as that
4 conversation that you just read --

5 MS. MATOIAN: Uh-huh.

6 MS. OLIVER: -- I don't know nothing
7 about it. I don't know what and I didn't know
8 nothing about a stolen car.

9 MS. MATOIAN: Okay.

10 MS. OLIVER: They didn't tell me
11 nothing (indiscernible) probably said, "Well, you
12 know this and (indiscernible)."

13 MS. MATOIAN: This letter also
14 mentions something about it being around the time
15 of your birthday. When is your birthday, Ms.
16 Oliver? I'm just trying to figure out when this
17 letter could have been written?

18 MS. OLIVER: February the 20th. I
19 just had a birthday.

20 MS. MATOIAN: Oh, just had a birthday?
21 Oh, well, Happy Birthday.

22 MS. OLIVER: Thank you.

23 MS. MATOIAN: So I just -- I want to
24 go back. The night where you were in the car
25 with Nikki and Robert and Leroy and the other

1 girl, do you know if that was the same night that
2 Mr. Swain was killed?

3 MS. OLIVER: Honey, like I said, I
4 wasn't looking that way. I don't know.

5 MS. MATOIAN: Okay.

6 MS. OLIVER: I honestly don't know
7 because it was dark. I didn't see whether they
8 went in the house. I don't know where they went.
9 I don't know if they went behind -- I don't know.
10 I honestly don't know.

11 MS. MATOIAN: I understand. I just --
12 is there a particular reason why that sticks out,
13 that incident sticks out to you?

14 MS. OLIVER: What's that?

15 MS. MATOIAN: Why you would remember
16 that incident with them all getting out of the
17 car and then coming back in and you stayed in.
18 Is there any reason why that sticks in your head?

19 MS. OLIVER: It was cold, for one
20 reason.

21 MS. MATOIAN: Okay.

22 MS. OLIVER: And it was dark.

23 MS. MATOIAN: Did you think they were
24 doing something bad, is that why you remember it?

25 MS. OLIVER: No. I don't have that

1 mentality. I had no earthly idea.

2 MS. MATOIAN: Okay.

3 MS. OLIVER: (indiscernible)

4 MS. MATOIAN: Okay. Okay.

5 MS. OLIVER: Huh-uh.

6 MS. MATOIAN: Just let me check

7 something real quick. I just want to make sure

8 I've asked you everything.

9 Do you remember any of the other

10 people who used to go to that bar that was behind

11 your house?

12 MS. OLIVER: No. I know that I went

13 three times.

14 MS. MATOIAN: Okay.

15 MS. OLIVER: I don't know, huh-uh.

16 MS. MATOIAN: And you don't remember

17 if you were there on -- Mr. Swain was killed on

18 December 18, 1993, which was a Saturday. Would

19 you know if you were there?

20 MS. OLIVER: If I was there?

21 MS. MATOIAN: Yeah, at the bar.

22 MS. OLIVER: At the bar? Like I told

23 you, I was out in the car.

24 MS. MATOIAN: Okay. So --

25 MS. OLIVER: And I had no idea of what

1 was going on.

2 MS. MATOIAN: Okay. So then are you
3 saying that the night that you were on the car
4 was on December 18, 1993?

5 MS. OLIVER: Yeah.

6 MS. MATOIAN: Okay.

7 MS. OLIVER: But I didn't have --

8 MS. MATOIAN: And you never went into
9 the bar?

10 MS. OLIVER: Maybe afterwards. I
11 can't remember. I don't want to tell you nothing
12 wrong, but I can't remember.

13 MS. MATOIAN: And you thought that
14 where you were at, you thought it was near where
15 your husband's sister lived?

16 MS. OLIVER: Yeah, because it couldn't
17 have been that far, very far because Thelma lived
18 right there on the corner and I assume she still
19 does.

20 MS. MATOIAN: Who still lives on the
21 corner?

22 MS. OLIVER: Thelma Davenport like I
23 was telling you a while ago.

24 MS. MATOIAN: Oh, Thelma, okay.

25 MS. OLIVER: And -- because her

1 husband passed away. I assume she lives right
2 down the corner.

3 MS. MATOIAN: Do you remember what was
4 around that area on what corner she lived on?

5 MS. OLIVER: I forgot the name of the
6 roads. One of them is, I call it the main road
7 that's going to Roper

8 MS. MATOIAN: Okay, main road to
9 Roper.

10 MS. OLIVER: I can't remember the name
11 (indiscernible). I can't remember. I'm sure --

12 MS. MATOIAN: But you think she still
13 lives in the same house?

14 MS. OLIVER: I would think so. I was
15 trying to remember her husband's name. The phone
16 might be in her husband's name.

17 MS. MATOIAN: Okay.

18 MS. OLIVER: I can't remember nothing.

19 MS. MATOIAN: Okay.

20 MS. OLIVER: And I'm 65.

21 MS. MATOIAN: I understand. And you
22 just had your birthday. So I just want to -- and
23 please correct me if I'm wrong. I just want to
24 make sure that I've understood you correctly, but
25 your memory is that on December 18, 1993, it was

1 dark and cold and you were in a car with Nikki,
2 Leroy, Robert, and another girl, and you think
3 Robert was driving; is that correct?

4 MS. OLIVER: Yes.

5 MS. MATOIAN: And you guys went to
6 somewhere near where your husband's sister,
7 Thelma Davenport, lived?

8 MS. OLIVER: Yes.

9 MS. MATOIAN: And everyone except for
10 you got out of the car?

11 MS. OLIVER: Yeah, I stayed in the
12 car.

13 MS. MATOIAN: Okay.

14 MS. OLIVER: I don't know if it's the
15 night he got killed or not. I don't know.

16 MS. MATOIAN: Okay.

17 MS. OLIVER: But I hated it, and I
18 still hate it for the family.

19 MS. MATOIAN: Absolutely. But you did
20 not see where they went when they got out of the
21 car?

22 MS. OLIVER: No. I wasn't looking
23 that way. I don't know where they went. I
24 honestly don't know.

25 MS. MATOIAN: Okay. And when they

1 came back into the car, you did not see blood or
2 a weapon on anybody?

3 MS. OLIVER: No. It was dark.

4 MS. MATOIAN: Okay. And nobody --

5 MS. OLIVER: And even if we went to
6 the bar, I didn't see nothing.

7 MS. MATOIAN: Okay. And so you didn't
8 see blood or a weapon on anyone, and then no one
9 who was in the car ever said anything to you
10 about committing a murder or being involved in a
11 murder; is that accurate?

12 MS. OLIVER: That's accurate.

13 MS. MATOIAN: Okay. Ms. Oliver, can I
14 get a good number for you if I think of any other
15 questions I need to ask you?

16 MS. OLIVER: 252 --

17 MS. MATOIAN: Okay.

18 MS. OLIVER: -- 314 --

19 MS. MATOIAN: Okay.

20 MS. OLIVER: -- 1383.

21 MS. MATOIAN: And have you had any
22 contact with Nikki since you've moved away from
23 that area?

24 MS. OLIVER: No. You know what?
25 About -- I don't even think it's been a year. It

1 was last summer (indiscernible). Are you from
2 Greenville?

3 MS. MATOIAN: I'm not from Greenville,
4 no, but I've gone there a couple times.

5 MS. OLIVER: They've got a Food Lion
6 up there by the Pizza Hut.

7 MS. MATOIAN: Uh-huh.

8 MS. OLIVER: At Pitt Community College
9 and I was sitting outside at Food Lion and I saw
10 somebody and I thought it looked just like her,
11 but I didn't say nothing. She smiled and spoke,
12 and I spoke back, but I don't know that it was
13 her.

14 MS. MATOIAN: Okay. It might have
15 been her.

16 MS. OLIVER: I don't know.

17 MS. MATOIAN: Okay.

18 MS. OLIVER: It's been so long, I
19 don't know.

20 MS. MATOIAN: Okay. Well, I really
21 appreciate you calling me back, Ms. Oliver. If
22 you think of anything else, feel free to call me
23 and then if I -- hopefully, I've asked you
24 everything I need to, but if I haven't, I'll give
25 you a call back, okay?

1 MS. OLIVER: Okay.

2 MS. MATOIAN: All right. Thank you,

3 Ms. Oliver.

4 MS. OLIVER: Thank you. Thank you.

5 MS. MATOIAN: Bye.

6 MS. OLIVER: Bye-bye.

7 (The recorded interview concluded.)

CERTIFICATION OF TRANSCRIPT

This is to certify that the 23 pages of this transcript of the recorded interview of Cottie Oliver was taken on February 27, 2018, is a true and accurate transcript to the best of my ability.

I further certify that I am not counsel for nor related to any party or attorney, nor am I interested in the results of this action.

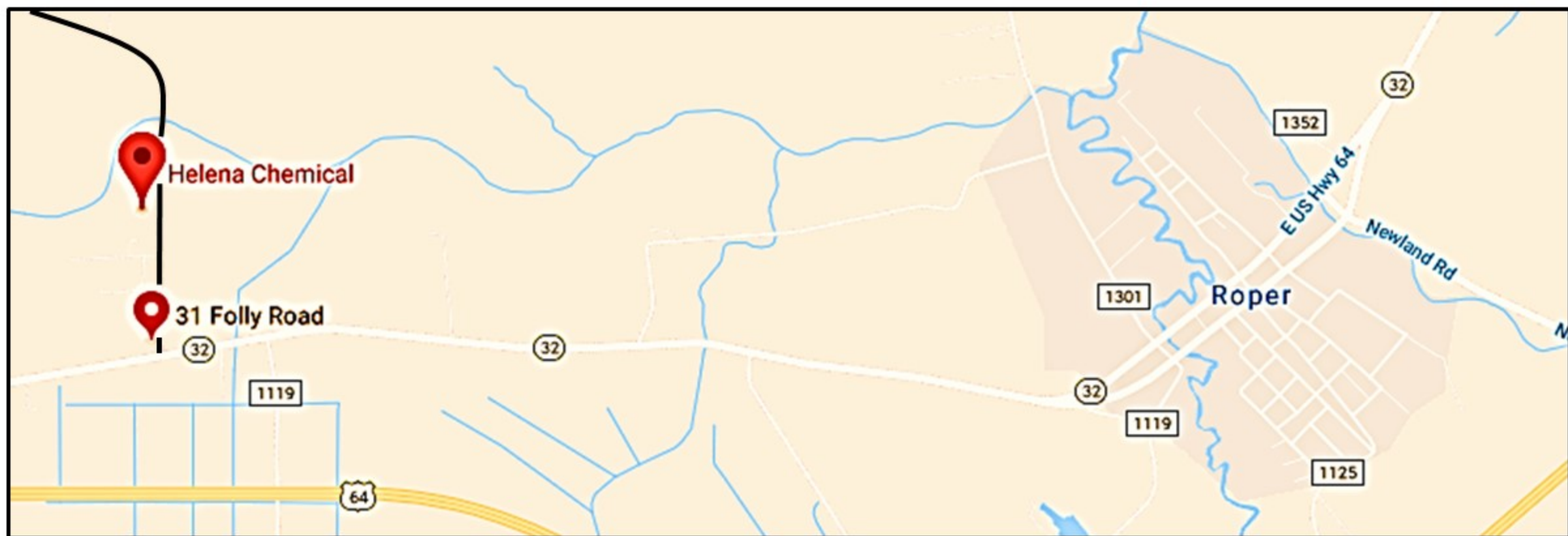
This is the 9th of March, 2018.

A handwritten signature in cursive script that reads "Gloria Veilleux".

GLORIA VEILLEUX
Notary Public

Handout 55

Map: 31 Folly Road



Handout 56

ROBERT SAMSON

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
DWLR IMPAIRED REV	WASHINGTON	11/20/2016	04/18/2017
DWLR IMPAIRED REV	WASHINGTON	09/19/2016	01/31/2017
DWLR IMPAIRED REV	WASHINGTON	08/28/2015	01/19/2016
DWLR	WASHINGTON	08/02/2009	01/12/2010
DWLR	WASHINGTON	03/21/2008	08/05/2008
MOTOR VESSEL W/O LIFESAVING DEV (M)	BERTIE	02/22/2006	05/24/2006
NO BIG GAME LICENSE (M)	WASHINGTON	10/10/2005	02/08/2006
POSSESS MARIJUANA UP TO ½ OZ (M)	WASHINGTON	01/20/2001	03/28/2001
DWI – LEVEL 5	WASHINGTON	04/13/1997	11/10/1997
POSS F-WN/LQ/MXBV <21 (M)	WASHINGTON	08/24/1995	10/10/1995
POSS MTBV/U-WN NOT 19/20 (M)	MARTIN	04/17/1995	05/09/1995
SIMPLE POSSESS SCH VI CS (M)	WASHINGTON	03/18/1995	04/10/1995
POSSESS DRUG PARAPHERNALIA (M)	WASHINGTON	03/18/1995	04/10/1995
POSS MTBV/U-WN NOT 19/20 (M)	WASHINGTON	09/09/1993	10/12/1993
POSS MTBV/U-WN NOT 19/20 (M)	WASHINGTON	06/12/1993	06/28/1993
INJURY TO REAL PROPERTY (M)	WASHINGTON	01/13/1993	02/02/1993

2 ND DEG TRESPASS (M)	WASHINGTON	01/13/1993	02/02/1993
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Handout 57

TERRI BULLOCK

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
SELL SCH II CS	MARTIN	04/29/2014	11/16/2015
PWISD OPIUM	MARTIN	06/01/2012	06/10/2015
ATTEMPT TO OBTAIN POSS OF SCH II CONTR SUBST (M)	MARTIN	01/27/2010	07/12/2011
SIMPLE WORTHLESS CHECK (M)	WASHINGTON	04/28/2007	08/24/2011
LITTERING 15- 500 LBS (M)	WASHINGTON	12/09/2008	01/19/2010
SIMPLE WORTHLESS CHECK (M)	WASHINGTON	05/24/2007	01/18/2008
SIMPLE WORTHLESS CHECK (M)	WASHINGTON	04/19/2007	08/09/2007
SIMPLE WORTHLESS CHECK (M)	WASHINGTON	04/26/2006	07/05/2006
FELONY POSSESSION OF COCAINE	WASHINGTON	01/19/2004	08/23/2004
POSSESS DRUG PARAPHERNALIA (M)	WASHINGTON	01/19/2004	02/26/2004
FINANCIAL CARD FRAUD (M)	WASHINGTON	04/28/2003	09/10/2003
FINANCIAL CARD FRAUD (M)	WASHINGTON	04/01/2003	09/10/2003

Handout 58

ED CHAMP, SR.

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
B & E	FEDERAL	12/13/1956	NONE PROVIDED

Handout 59

ED CHAMP, JR.

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
ATTEMPT TO TRAFFICK OPIUM	BEAUFORT	12/09/2010	10/15/2013
ATT OBTAIN PROP FALSE PRETENSE	BEAUFORT	12/09/2010	10/15/2013
ATT OBTAIN PROP FALSE PRETENSE	BEAUFORT	12/09/2010	10/15/2013
OBTAIN PROPERTY FALSE PRETENSE	BEAUFORT	11/22/2010	10/15/2013
FAIL RETN PROP RENTD PUR OPT	MARTIN	11/16/2009	04/27/2011
NO OPERATORS LICENSE	RICHMOND	01/30/1992	05/05/1992
FAIL TO GIVE RIGHTS (M)	FRANKLIN	02/22/1991	03/19/1991
OBTAIN ADVANCES UNDER PROMISE TO WORK (M)	NORTHAMPTON	05/11/1990	08/06/1990

Handout 60

SHERRY HONEA

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
FORGERY LESS THAN \$1,000	OCONEE (SC)	12/19/2012	04/23/2013
FRAUDULENT CHECK UNDER \$500 (M) (x10)	OCONEE (SC)	11/07/2011	05/24/2012
FRAUDULENT CHECK UNDER \$500 (M) (x2)	OCONEE (SC)	12/06/2011	04/18/2012
FRAUDULENT CHECK UNDER \$500 (M)	OCONEE (SC)	12/31/2007	NONE PROVIDED
2 ND DEG BURGLARY	ANDERSON (SC)	06/20/2007	09/23/2009
GRAND LARCENY >\$1,000 BUT < \$5,000	ANDERSON (SC)	06/20/2007	09/23/2009
2 ND DEG BURGLARY	OCONEE (SC)	06/09/2007	09/23/2007
GRAND LARCENY >\$1,000 BUT < \$5,000	OCONEE (SC)	06/09/2007	09/23/2007
RECEIVING STOLEN GOODS (M) (x2)	ANDERSON (SC)	06/20/2007	07/12/2007
BREACH OF TRUST W/ FRAUD INT (M) (x2)	ANDERSON (SC)	06/20/2007	07/12/2007
GIVING FALSE INFORMATION	ANDERSON (SC)	06/20/2007	07/12/2007
BREACH OF TRUST W/ FRAUD INT (M)	OCONEE (SC)	06/09/2007	07/12/2007
RECEIVING STOLEN GOODS (M) (x2)	OCONEE (SC)	06/09/2007	07/12/2007
BREACH OF TRUST W/ FRAUD INT (M)	OCONEE (SC)	06/09/2007	07/12/2007
GIVING FALSE INFORMATION	OCONEE (SC)	06/09/2007	07/12/2007

FINANCIAL TRANSACTION CARD FRAUD > 500 (M)	OCONEE (SC)	03/15/2006	07/27/2006
USE OF VEHICLE WITHOUT PERMISSION (M)	OCONEE (SC)	11/13/2005	12/12/2005
USE OF VEHICLE WITHOUT PERMISSION (M)	OCONEE (SC)	09/11/2005	12/12/2005
SHOPLIFTING	OCONEE (SC)	09/21/2005	10/13/2005
2 ND DEG. BURGLARY (M)	OCONEE (SC)	03/25/2003	06/03/2003
GRAND LARCENY	OCONEE	03/25/2003	06/03/2003
FORGERY (M)	OCONEE (SC)	11/19/1996	06/03/2003
WORTHLESS CHECK CLOSED ACCOUNT (M)	BEAUFORT	02/27/1999	12/30/2002
WORTHLESS CHECK CLOSED ACCOUNT (M)	BEAUFORT	01/28/1999	12/30/2002
WORTHLESS CHECK CLOSED ACCOUNT (M)	BEAUFORT	01/13/1999	12/30/2002
WORTHLESS CHECK CLOSED ACCOUNT (M)	BEAUFORT	01/03/1999	12/30/2002
WORTHLESS CHECK CLOSED ACCOUNT (M)	BEAUFORT	01/02/1999	12/30/2002
SIMPLE WORTHLESS CHECK (M)	BEAUFORT	01/17/1999	09/11/2000
WORTHLESS CHECK CLOSED ACCOUNT (M)	BEAUFORT	01/17/1999	03/30/1999
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	01/15/1999	03/30/1999
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	01/13/1999	03/30/1999
WORTHLESS CHECK CLOSED ACCOUNT (M)	BEAUFORT	01/12/1999	03/30/1999

WORTHLESS CHECK CLOSED ACCOUNT (M)	BEAUFORT	01/02/1999	03/30/1999
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	03/01/1999	03/29/1999
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	02/26/1999	03/29/1999
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	01/26/1999	03/29/1999
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	03/02/1999	03/22/1999
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	02/17/1999	03/22/1999
WORTHLESS CHECK CLOSED ACCOUNT	BEAUFORT	01/27/1999	03/22/1999
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	01/21/1999	03/22/1999
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	01/17/1999	03/22/1999
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	01/11/1999	03/22/1999
WORTHLESS CHECK CLOSED ACCOUNT (M)	BEAUFORT	01/07/1999	03/22/1999
WORTHLESS CHECK ACCOUNT CLOSED (M) (x2)	BEAUFORT	01/06/1999	03/22/1999
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	01/05/1999	03/22/1999
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	12/31/1998	03/22/1999
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	01/27/1998	03/22/1999
FORGERY OF INSTRUMENT	BEAUFORT	11/09/1996	05/12/1997
FORGERY OF INSTRUMENT	BEAUFORT	11/06/1996	05/12/1997

FORGERY OF INSTRUMENT	BEAUFORT	11/05/1996	05/12/1997
FORGERY OF INSTRUMENT	BEAUFORT	10/24/1996	05/12/1997
FORGERY OF INSTRUMENT	BEAUFORT	10/22/1996	05/12/1997
ESCAPE (M)	HALL (GA)	07/17/1994	10/13/1994
DEPOSIT ACCOUNT/BAD CHECKS	HART (GA)	11/14/1992	12/02/1992
DEPOSIT ACCOUNT/BAD CHECKS	HART (GA)	06/08/1990	09/25/1990
DRIVING UNDER INFLUENCE	OCONEE (SC)	10/30/1990	11/30/1993
FAIL TO RETURN RENTAL PROPERTY	OCONEE (SC)	12/21/1988	02/07/1989

Handout 61

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

Sherry Annette Honea, W/F/DOB: 09/23/70; Residence: Highway 64,
Pea Ridge, at the Pea Ridge Y, Washington County, North
Carolina, Telephone: 919-793-6781; (Witness):

Interviewed Sunday, April 24, 1994, at 3:20 p.m., at the
Washington County Sheriff's Office, by SA Varnell and Deputy
Janice Spruill, of the Washington County Sheriff's Office.

Ms. Honea had been arrested by the Washington County Sheriff's
Office on assault warrants and probation violation warrants from
South Carolina prior to this interview.

Prior to being questioned, Ms. Honea was advised of the
following Miranda Rights and gave the following replies:

- "1. You have the right to remain silent. Do you understand?
Reply: Yes.
2. Anything you say can be and may be used against you in a
court of law. Do you understand? Reply: Yes.
3. You have the right to talk to a lawyer and to have a lawyer
present while you are being questioned. Do you understand?
Reply: Yes.
4. If you want a lawyer before or during questioning but cannot
afford to hire a lawyer one will be appointed to represent
you at no cost before any questioning. Do you understand?
Reply: Yes."

Ms. Honea asked SA Varnell was she being advised of her rights
because she had been charged with the murder of Frank Swain.
SA Varnell advised Ms. Honea that she had not been charged with
the murder of Frank Swain at this time.

Ms. Honea stated that she was willing to talk to SA Varnell and
officers about the Frank Swain murder at this time without a
lawyer present.

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Ms. Honea stated that she and Dana Maybin, white female, alias: Nikki Talkenton, both came from South Carolina about the 17th of November up to North Carolina. Ms. Honea stated that they were from Westminster, South Carolina. Ms. Honea stated that they came to Betsy Talkenton's house who Sherry had met through her father, not too long ago.

Ms. Honea stated that she wanted to come up to North Carolina to get away from her surroundings in South Carolina. Ms. Honea stated that she was on probation for bad checks at the time. Ms. Honea stated that she was also waiting for trial on a DWI charge in South Carolina.

Ms. Honea stated that she had not been charged with assaulting a police officer and had not done so.

Ms. Honea stated that she met Robert Spruill on Thanksgiving in Creswell and started dating him at that time. Ms. Honea stated it was not very long after that before she started living with Robert Spruill.

Ms. Honea stated that Robert Solis went by several different names. Ms. Honea stated that he used the name Robert Johnathan, Robert Perry, Buddy, Robert Solis, and possibly Robert Tolis. Ms. Honea stated that Robert had a tattoo on his left leg or foot of a roadrunner. Ms. Honea stated that Robert probably also had burns on his hand, was a white male, about 23 to 24 years old, with light brown hair.

Ms. Honea stated that Robert supposedly had done time in Tennessee for other crimes. Ms. Honea stated that she believed Robert Solis' brother was also named Robert. Ms. Honea stated that Robert Solis had called his parents from Stacy Allen's house not too long ago. Ms. Honea also stated that she saw an identification card from Tennessee in Robert's wallet. Robert Solis may now have been identified as a Wallace Brandon Jones, white male, date of birth: September 27, 1972, of Milan, Tennessee.

Ms. Honea stated that Nikki (Dana Maybin) met Robert Solis the night they got into town in North Carolina and almost immediately started dating him. Ms. Honea stated that Nikki (Dana Maybin) moved in with Robert Solis in December of 1993. Ms. Honea stated that Dana moved in with Leroy Spruill in the middle of December. Ms. Honea stated that Robert Solis was also staying with Leroy Spruill and Dana during this time.

Ms. Honea stated that Robert Spruill did not like her hanging out with Dana because that Robert Solis was usually with Dana.

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Ms. Honea stated that she would go out with Robert Spruill to "Big Ed's" where Robert Solis worked as a bartender and she would also see Dana and Leroy Spruill there at the same time.

Ms. Honea stated that she and Robert Spruill were at Big Ed's right around Christmas time when Terry Fae Swain, white female, was also there. Ms. Honea stated that Robert Solis, Dana, and Leroy Spruill were also there at this time.

Ms. Honea stated that at this meeting Dana took her to the bathroom and told her what they (Dana, Solis, and Leroy Spruill) had been doing. Ms. Honea stated that they (Leroy, Dana, and Robert) had burned a man's truck that lived right at Leroy's house. Ms. Honea stated that Leroy had apparently taken a broom and erased their footprints from around the truck. Ms. Honea stated that this information was given to her by Dana Maybin.

Ms. Honea stated that Dana told her a couple of days after the murder of Frank Swain, Dana, Leroy, and Robert had went to Leroy's house and three guys were passed out drunk in the house. Ms. Honea stated that Nikki robbed the guy that was in the recliner of \$800 and some Marijuana. Ms. Honea stated that Dana and Leroy then used the money to go buy Christmas presents.

Ms. Honea stated that Dana said she bought her little girl some Barbie stuff, dolls, and make-up with the money.

Ms. Honea stated that Dana wanted to know what to do about something bad that had happened.

Ms. Honea stated that Dana said they had gone to this black guy's house and bought some rock and smoked it up. Ms. Honea stated that this location was where they (Robert Solis, Leroy Spruill, and Dana Maybin) normally would get their rock from.

Ms. Honea stated that Robert Solis came up with the idea that they tell Frank Swain that they had a large amount of money coming in and were coming back to get some more crack Cocaine. Robert said this to Frank so that Frank would be sure to have some more rock that they could come back and rob him of and to take his money.

Ms. Honea stated that after they went back and smoked the rock, they all went back to Frank's house. Ms. Honea stated that she knows that Leroy, Robert, and Dana did not have access to a car so that someone would had to carry them to Frank's residence.

Ms. Honea stated that the person that normally drove them around was Curtis Furlow, who drives a black and white truck and is

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married. Ms. Honea stated that Curtis also smokes a lot of crack Cocaine.

Ms. Honea stated that Dana told her when they got to the black guy's house, Robert Solis, Leroy Spruill, and herself went in the house. Dana told Ms. Honea that this action had been planned out before they got to the black guy's trailer.

Ms. Honea said that Dana told her Leroy held the black guy while Robert cut him up real bad. Ms. Honea stated that she has since heard that they almost cut the man's head off. Ms. Honea stated that Robert apparently then told Dana to empty the man's pockets. Ms. Honea stated that Dana then said she went to the man and emptied his pockets and put the money in her pockets. Ms. Honea said that Dana also said she had kicked the man a couple of times while he was lying on the floor bleeding. Ms. Honea said that they apparently got quite a bit of money off of this black man. Ms. Honea stated that she was told by Dana that they also took all the "rock he had off of him."

Ms. Honea stated that Dana was real scared at this time and wanted to get away from Leroy until all the heat died down. Ms. Honea stated that Dana has blonde hair that she often wears in a ponytail.

A witness in the trailer park had given a prior statement that he saw a truck full of people going towards Frank Swain's residence and one of the people in the truck had long blonde hair up in a ponytail.

Ms. Honea stated that Dana had had on new shoes during the conversation at the bar about the murder. Ms. Honea stated she asked Dana about her having new shoes and Dana started to laugh. Ms. Honea stated Dana told her she had got blood on her other shoes during the murder and had to burn them. Ms. Honea stated that Dana said they had put Dana's shoes in Leroy Spruill's wood heater and burned them up the night of the murder.

Ms. Honea said that this is the same wood heater that Robert Solis held her hands on. Ms. Honea stated that Robert did this to try and burn her fingerprints off so the law could not tell who she was. Ms. Honea stated that Robert had also tried to burn his own fingerprints off by holding his hands down on the heater also.

Ms. Honea stated that she heard a rumor that Dana left the area about one and a half months ago because she gave 13 men the "clap." Ms. Honea stated that Mitchell Nowrough took Dana to the bus station in Rocky Mount so she could go home. Ms. Honea

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stated that Dana went back to Westminster, South Carolina, where she lives at.

Ms. Honea stated that Cotty (LNU), white female, had received a couple of letters from Dana since Dana had left the area. Ms. Honea stated that Mitchell Nowrough also received letters from Dana. Ms. Honea stated that Mitchell had also sent Dana some money through money orders.

Cotty (LNU) was identified as Cotty Oliver, white female.

Ms. Honea stated that she has told Robert Spruill and Betsy Talkenton about the conversation she had with Dana reference the murder. Ms. Honea stated that she had heard that she was going to be questioned by the police one day while she was at Betsy Talkenton's house. Ms. Honea stated that at this time she was at a stripper party at Betsy's house and she freaked out.

Ms. Honea stated that she ran and hid in the woods until her boyfriend, Eric Reynolds and Ray (LNU), white male, from Norfolk, Virginia, took her to Columbia to the Sentells Motel. Ms. Honea stated that Eric and Ray rented the room for her.

Ms. Honea stated that Eric Reynolds came to the motel and stayed with her that night until they left the next day.

Ms. Honea stated that she had been ducking the law and did not tell about the murder because she knew she would go to jail over her probation violation if she went to the police. Ms. Honea stated that she was also afraid that the police would find out her real name if she tried to tell anything about the murder.

Ms. Honea stated that Robert Solis told her that he had also killed a man in Mexico. Ms. Honea stated that Robert said this murder took place near the border. Ms. Honea stated that this murder took place every bit of a year ago, but she was not sure of the exact date. Ms. Honea stated that Robert supposedly killed this man because the man kept messing with his girlfriend. Ms. Honea stated that Robert's girlfriend was supposed to have been a stripper down there (Mexico/Texas border). Ms. Honea stated that Robert supposedly cut this man to death also.

Ms. Honea stated that Robert led her to believe that a charge of murder had been placed against him for this killing and that they knew he had done it. Ms. Honea stated that Robert has some kind of charges on him in Tennessee also.

Ms. Honea stated that Dana was on probation in South Carolina at

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this time. Ms. Honea stated that Dana also had a child that was born without all its body parts and that this child had been taken away from Dana. Ms. Honea stated that Dana also had a normal child and that this child had been taken away from her also.

Interview concluded at 4:30 p.m.

DRV:lj

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Handout 62

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MS. MATOIAN: Sorry. Like I said, we don't -- we don't represent Mr. Jones or Mr. Spruill. They've -- they've applied to the Commission and we're investigating their claims. All we care about is the truth.

How did you know Dana Maybin?

MS. HONEA: Well, we grew up together.

MS. MATOIAN: Okay. And why did you and Ms. Maybin go to Plymouth, North Carolina?

MS. HONEA: To get away from here.

MS. MATOIAN: Okay. And do you remember when you -- when you left?

MS. HONEA: I don't.

MS. MATOIAN: Okay. Were either of you in -- in trouble with the law at that point?

MS. HONEA: Well, I mean, I had a few little outstanding warrants for bad checks.

MS. MATOIAN: Okay.

MS. HONEA: I don't know if she did -- I don't know if she did or not.

1 MS. MATOIAN: Okay.

2 MS. HONEA: What -- what -- what are you all
3 asking these questions for?

4 MS. MATOIAN: So like I said, Mr. Jones and
5 Mr. Spruill have applied to the Commission. We're
6 investigating their claim. You were a witness in the
7 original case. And sometimes as part of our investigation,
8 we just go back and talk to people and try to get some
9 clarification and see what you might remember about the
10 case.

11 MS. HONEA: Okay.

12 MS. MATOIAN: Do you know -- remember what name
13 you were going by when you went to Plymouth?

14 MS. HONEA: Sherry Hans.

15 MS. MATOIAN: And what was Ms. Maybin calling
16 herself?

17 MS. HONEA: Nikki Talkington.

18 MS. MATOIAN: Okay. And why did you guys use
19 different names?

20 MS. HONEA: Because we just was stupid. You know,
21 we -- at the time, we was young. We was on drugs. We went
22 to make a new -- new place, a name for ourself. And it was
23 just something that you do when you're stupid, when you're
24 just, you know...

25 MS. MATOIAN: How did you meet -- I think you know

1 him as Robert Solis. His real name was Wallace Brandon
2 Jones. How did you meet him?

3 MS. HONEA: I met him through Dana.

4 MS. MATOIAN: Do you know how she met him?

5 MS. HONEA: I'm -- I'm really not sure. I don't
6 remember how she met him. I'm sure it was at a bar.

7 MS. MATOIAN: Okay. What about Leroy Spruill?

8 MS. HONEA: I met him through Betsy Talkington.

9 MS. MATOIAN: Okay. And what about Robert
10 Spruill?

11 MS. HONEA: Actually, I lived with Robert.

12 MS. MATOIAN: Okay.

13 MS. HONEA: Yeah.

14 MS. MATOIAN: Did you know him prior to going to
15 Plymouth or did you meet --

16 MS. HONEA: No, I did not.

17 MS. MATOIAN: Okay. Who were you living with
18 while you were in Plymouth?

19 MS. HONEA: Well, when I was in Plymouth with
20 Robert or Betsy Talkington.

21 MS. MATOIAN: And was Dana Maybin living with you
22 at the time?

23 MS. HONEA: She did not live with me at Robert's,
24 but she did at Betsy's.

25 MS. MATOIAN: Okay. Now, going to December 1993

1 when the murder took place, were you Big Ed's bar the night
2 of the murder?

3 MS. HONEA: Yes.

4 MS. MATOIAN: You were, okay. Do you remember who
5 you saw at the bar that night?

6 MS. HONEA: I was a bartender. I seen -- I was --
7 I was working.

8 MS. MATOIAN: Oh, you were working that night?

9 MS. HONEA: Uh-huh.

10 MS. MATOIAN: Okay. And do you remember what time
11 your shifts usually were?

12 MS. HONEA: I really don't. I probably started
13 around 3:00 or 4:00. Yeah.

14 MS. MATOIAN: In the afternoon?

15 MS. HONEA: Yeah.

16 MS. MATOIAN: Okay. Did you see Ms. Maybin,
17 Mr. Spruill, or Mr. Jones at the bar that night?

18 MS. HONEA: I did.

19 MS. MATOIAN: Were they together?

20 MS. HONEA: They was.

21 MS. MATOIAN: Do you remember what time they got
22 there?

23 MS. HONEA: I really don't.

24 MS. MATOIAN: Do you remember what time they might
25 have left?

1 MS. HONEA: I really don't. I know it was around
2 9:00 maybe. I don't know. It was -- you know, it was dark,
3 but it hadn't been dark -- in wasn't -- in wasn't in the way
4 morning hours.

5 MS. MATOIAN: Okay.

6 MS. HONEA: Just, you know, regular hours.

7 MS. MATOIAN: Do you remember anything about how
8 they were behaving that night or anything they did?

9 MS. HONEA: I know -- I know they -- when they --
10 when they was first there -- they left and then they came
11 back. And when they came back, Dana, Nikki, Dana grabbed me
12 by the hand and pulled me in the bathroom with her and
13 started telling me in detail about what -- what -- about
14 this murder.

15 I did not believe her. I -- I was not -- the
16 only -- I was drinking. I was drinking at this point in
17 time. I was doing heavy drugs. Her -- she had got on crack
18 with -- with Robert. And I told her she needed to get that
19 stem out of her mouth and keep it out. I did not believe
20 anything she said; absolutely nothing.

21 I went home and I told Robert about it. He didn't
22 believe anything. We just did not believe it because it
23 wasn't something that was going around, you know.

24 Then me -- when me and Robert, we got into it.
25 And a week or so later -- I don't even remember how much

1 later -- and he went to police and told the police, from my
2 understanding. But what he told them, he told them that --
3 everything that I told him, the facts that I was told, you
4 know. And it just -- I -- I don't know. You know the whole
5 story. I mean you've got it.

6 MS. MATOIAN: Do you remember any of the details
7 about what Ms. Maybin told you while you were in the
8 bathroom?

9 MS. HONEA: She told me that she stayed out in the
10 truck. When she -- when she went in, she -- she went in --
11 she went in. They had -- there was -- she seen -- she seen
12 that one of them -- one of them was holding him; the other
13 one was cutting him. That they told her that she had to --
14 that she better not say anything. They threatened her. I
15 don't remember every thing. I mean I've tried to put it
16 totally out of my mind.

17 MS. MATOIAN: And we understand it's been a long
18 time.

19 MS. HONEA: Yeah.

20 MS. MATOIAN: And if you don't remember, just tell
21 us you don't remember.

22 MS. HONEA: I know -- I know she -- she -- she
23 had -- she said she emptied his pockets. I don't know. I
24 really -- I -- it's been a long time. I've been through a
25 whole lot since then. It's been a long time.

1 MS. MATOIAN: I -- I understand.
2 Did you know the victim, Frank Swain?
3 MS. HONEA: No.
4 MS. MATOIAN: No?
5 MS. HONEA: No.
6 MS. MATOIAN: Had you ever been to his house?
7 MS. HONEA: Uh-uh.
8 MS. MATOIAN: Did you ever go to his house with
9 Dana Maybin, Robert Spruill --
10 MS. HONEA: No.
11 MS. MATOIAN: -- and Leroy Spruill?
12 MS. HONEA: No.
13 MS. MATOIAN: Do you know why Ms. Maybin would
14 have said that?
15 MS. HONEA: Would have told me that --
16 MS. MATOIAN: Would have told someone else that
17 you had gone to the victim's house with her --
18 MS. HONEA: I didn't know she did.
19 MS. MATOIAN: -- Robert Spruill and Leroy Spruill.
20 MS. HONEA: I didn't know she did say that.
21 MS. MATOIAN: Do you know why she might have said
22 something like that?
23 MS. HONEA: No. I mean, I didn't -- this is the
24 first time that somebody said that she has said that.
25 MS. MATOIAN: Okay. So you said you -- you first

1 spoke to law enforcement after Robert Spruill had gone to
2 law enforcement?

3 MS. HONEA: Yeah. When -- when I got locked up,
4 had gotten -- yeah.

5 MS. MATOIAN: Okay. When you got locked up, how
6 did you come to talk to the police about what Ms. Maybin had
7 told you?

8 MS. HONEA: I don't remember if -- if they -- I
9 guess they had asked. I mean, I don't know. That's been so
10 long ago.

11 MS. MATOIAN: Okay.

12 MS. HONEA: I know there was one lady officer
13 that -- that believed me, you know. And I don't remember
14 her name.

15 MS. MATOIAN: Okay.

16 MS. HONEA: But that was -- that was -- that was
17 the only officer that really wanted to listen to what I had
18 to say it seemed like.

19 MS. MATOIAN: Was that Janice Spruill?

20 MS. HONEA: Uh-huh.

21 MS. MATOIAN: Does that sound familiar?

22 MS. HONEA: Uh-huh. Uh-huh.

23 MS. MATOIAN: And do you remember what you -- what
24 you told Ms. Spruill and the other deputies at the sheriff's
25 office?

1 MS. HONEA: Exactly what Dana told me.

2 MS. MATOIAN: What happened after you spoke to law
3 enforcement?

4 MS. HONEA: I know I went to -- somewhere -- and I
5 don't remember where -- and took a series of lie detector
6 tests. I know I was put in Dare County to be held in Dare
7 County for a while in protective custody out there.

8 MS. MATOIAN: Okay.

9 MS. HONEA: And that's really, you know, all I
10 remember about that.

11 MS. MATOIAN: Okay. Do you remember, did they
12 tell you what the results of your polygraph tests were?

13 MS. HONEA: Well, the first one, they said that
14 they had me that I wasn't -- I wasn't telling the truth.
15 And then on the second one, they said that I was telling the
16 truth, they just thought they could get more -- get me --
17 you know, get me to remember or say more or whatever.

18 MS. MATOIAN: Okay.

19 MS. HONEA: But I passed the -- I passed them.

20 MS. MATOIAN: Okay. And do you just remember that
21 two?

22 MS. HONEA: There was -- yeah. That's the only
23 time that I remember going.

24 MS. MATOIAN: Okay. Did law enforcement come and
25 talk to you about any other crimes outside of this while you

1 were in jail in North Carolina?

2 MS. HONEA: I don't remember. I know there was --
3 there was -- I was asked about -- about -- about some
4 other -- some other murder a couple of times, but I don't
5 remember. I mean it wasn't anything that I -- I really
6 don't remember.

7 MS. MATOIAN: And the other murder, was that one
8 that took place in North Carolina or --

9 MS. HONEA: I was -- I'm thinking that I was in
10 Georgia --

11 MS. MATOIAN: Okay.

12 MS. HONEA: -- when I was asked if I knew somebody
13 named the Boatman, you know.

14 MS. MATOIAN: The Boatman?

15 MS. HONEA: Yeah. And I don't know who that is.
16 Yeah.

17 MS. MATOIAN: Okay. Did anyone else ever tell you
18 anything about this murder besides that conversation with --

19 MS. HONEA: No.

20 MS. MATOIAN: -- Ms. Maybin in the bathroom?

21 MS. HONEA: Uh-uh.

22 MS. MATOIAN: You never talked to Mr. Jones about
23 it?

24 MS. HONEA: Uh-uh.

25 MS. MATOIAN: Or Leroy Spruill?

1 MS. HONEA: No.

2 MS. MATOIAN: Okay. Do you remember about what
3 time you and -- you and Robert Spruill ran into issues and
4 he went to the police?

5 MS. HONEA: We got into it and it was that time
6 when we got into it.

7 MS. MATOIAN: Okay.

8 MS. HONEA: So I imagine it was the next day.

9 MS. MATOIAN: While you were in jail in North
10 Carolina, did you talk to anybody else about the murder?

11 MS. HONEA: I don't know.

12 MS. MATOIAN: Okay. Do you remember a woman named
13 Phoenicia Davis?

14 MS. HONEA: Who?

15 MS. MATOIAN: Phoenicia Davis.

16 MS. HONEA: Uh-uh.

17 MS. MATOIAN: Okay. What about -- she would have
18 been a jailer, her name was Debbie Stokes?

19 MS. HONEA: I really don't remember. I really
20 don't remember. I -- I don't -- I don't -- I don't remember
21 hardly anything about that. I -- I know I was on medication
22 and I -- I don't know what they had me on. But I really
23 don't remember. I don't -- I don't remember.

24 MS. MATOIAN: Okay.

25 MS. HONEA: Is that -- what I do -- what I do,

1 it's like flashbacks --

2 MS. MATOIAN: Sure.

3 MS. HONEA: -- I was -- you know.

4 MS. MATOIAN: When you were in jail, did you tell
5 anyone that you had a boyfriend named Frank or Frank Swain?

6 MS. HONEA: No.

7 MS. MATOIAN: Okay. Did you tell anyone while you
8 were in jail that you had stabbed a boyfriend in the neck?

9 MS. HONEA: No.

10 MS. MATOIAN: Okay. Did you tell anyone that you
11 had stabbed a boyfriend in the neck, left town for a while,
12 came back to finish the job?

13 MS. HONEA: No.

14 MS. MATOIAN: Okay.

15 MS. HONEA: This is the first I've heard any of
16 this.

17 MS. MATOIAN: Okay. Were you and Ms. Maybin ever
18 in jail in North Carolina at the same time together?

19 MS. HONEA: I don't think so.

20 MS. MATOIAN: Okay. Have you spoken to her at all
21 since this?

22 MS. HONEA: I have.

23 MS. MATOIAN: Are you in contact with her now?

24 MS. HONEA: Absolutely not. I ran into her at a
25 convenience store and then at Ingles. Yeah.

1 MS. MATOIAN: What were -- you said you were in
2 contact with her for some period of time after this. Did
3 you guys ever talk about this murder again?

4 MS. HONEA: Absolutely not. No, we wasn't in --
5 in contact.

6 MS. MATOIAN: Okay.

7 MS. HONEA: I didn't -- we wasn't in any kind of
8 contact. The only contact we've had since this is at a --
9 at a convenience store and Ingles.

10 MS. MATOIAN: Okay. Do you know who killed Frank
11 Swain?

12 MS. HONEA: Do I know? I know what I was told.

13 MS. MATOIAN: Okay.

14 MS. HONEA: I know who was charged and I guess
15 found -- found guilty of it.

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Handout 63

LESLIE NICHOLE MILLS

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
SIMPLE WORTHLESS CHECK (M)	PITT	09/15/1994	06/30/1997
UTTERING FORGED INSTRUMENT	PITT	06/06/1996	10/15/1996
UTTERING FORGED INSTRUMENT	PITT	06/05/1996	10/15/1996
UTTERING FORGED INSTRUMENT	PITT	06/03/1996	10/15/1996
UTTERING FORGED INSTRUMENT	PITT	06/02/1996	10/15/1996
UTTERING FORGED INSTRUMENT	PITT	06/01/1996	10/15/1996
UTTERING FORGED INSTRUMENT (x2)	PITT	05/29/1996	10/15/1996
UTTERING FORGED INSTRUMENT (x4)	PITT	05/28/1996	10/15/1996
UTTERING FORGED INSTRUMENT	PITT	05/25/1996	10/15/1996
UTTERING FORGED INSTRUMENT	PITT	05/24/1996	10/15/1996
UTTERING FORGED INSTRUMENT (x4)	PITT	05/23/1996	10/15/1996
EMBEZZLEMENT (x3)	PITT	05/23/1996	10/15/1996
EMBEZZLEMENT (x2)	PITT	05/22/1996	10/15/1996
UTTERING FORGED INSTRUMENT	PITT	05/22/1996	10/15/1996
UTTERING FORGED INSTRUMENT	PITT	05/16/1996	10/15/1996

EMBEZZLEMENT	PITT	05/16/1996	10/15/1996
UTTERING FORGED INSTRUMENT	PITT	05/15/1996	10/15/1996
UTTERING FORGED INSTRUMENT	PITT	05/13/1996	10/15/1996
EMBEZZLEMENT	PITT	05/13/1996	10/15/1996
EMBEZZLEMENT (x2)	PITT	05/10/1996	10/15/1996
EMBEZZLEMENT	PITT	05/09/1996	10/15/1996
UTTERING FORGED INSTRUMENT	PITT	05/08/1996	10/15/1996
EMBEZZLEMENT	PITT	05/08/1996	10/15/1996
UTTERING FORGED INSTRUMENT (x2)	PITT	05/03/1996	10/15/1996
EMBEZZLEMENT (x3)	PITT	05/03/1996	10/15/1996
UTTERING FORGED INSTRUMENT	PITT	04/29/1996	10/15/1996
EMBEZZLEMENT	PITT	04/29/1996	10/15/1996
SIMPLE WORTHLESS CHECK (M)	PITT	09/28/1994	12/08/1995
SIMPLE WORTHLESS CHECK (M)	PITT	09/27/1994	12/08/1995
SIMPLE WORTHLESS CHECK (M)	PITT	09/16/1994	12/08/1995
SIMPLE WORTHLESS CHECK (M)	PITT	09/13/1994	12/08/1995
SIMPLE WORTHLESS CHECK (M) (x2)	PITT	09/09/1994	12/08/1995
SIMPLE WORTHLESS CHECK (M) (x2)	PITT	09/06/1994	12/08/1995
SIMPLE WORTHLESS CHECK (M)	PITT	09/05/1994	12/08/1995

SIMPLE WORTHLESS CHECK (M)	PITT	09/03/1994	12/08/1995
SIMPLE WORTHLESS CHECK (M)	PITT	09/02/1994	12/08/1995
SIMPLE WORTHLESS CHECK (M)	PITT	09/01/1994	12/08/1995
SIMPLE WORTHLESS CHECK (M) (x2)	PITT	08/31/1994	12/08/1995
SIMPLE WORTHLESS CHECK (M)	PITT	08/29/1994	12/08/1995
SIMPLE WORTHLESS CHECK (M) (x3)	PITT	08/28/1994	12/08/1995
SIMPLE WORTHLESS CHECK (M)	PITT	08/26/1994	12/08/1995
SIMPLE WORTHLESS CHECK (M)	PITT	08/25/1994	12/08/1995
SIMPLE WORTHLESS CHECK (M)	PITT	08/23/1994	12/08/1995
SIMPLE WORTHLESS CHECK (M)	PITT	08/22/1994	12/08/1995
SIMPLE WORTHLESS CHECK (M)	PITT	08/21/1994	12/08/1995
LARCENY (M)	PITT	09/30/1994	04/26/1995
LARCENY (M)	PITT	09/25/1994	04/26/1995
OBTAIN PROPERTY FALSE PRETENSE	PITT	09/24/1994	04/26/1995
UTTERING FORGED INSTRUMENT	PITT	09/21/1994	04/26/1995
OBTAIN PROPERTY FALSE PRETENSE	PITT	09/20/1994	04/26/1995
UTTERING FORGED INSTRUMENT (x3)	PITT	09/19/1994	04/26/1995
UTTERING FORGED INSTRUMENT	PITT	09/17/1994	04/26/1995

UTTERING FORGED INSTRUMENT	PITT	09/16/1994	04/26/1995
LARCENY (M)	PITT	09/16/1994	04/26/1995
OBTAIN PROPERTY FALSE PRETENSE	PITT	09/16/1994	04/26/1995
FORGERY OF INSTRUMENT	PITT	09/16/1994	04/26/1995
OBTAIN PROPERTY FALSE PRETENSE	PITT	09/15/1994	04/26/1995
UTTERING FORGED INSTRUMENT	PITT	09/15/1994	04/26/1995
UTTERING FORGED INSTRUMENT (x2)	PITT	09/14/1994	04/26/1995
UTTERING FORGED INSTRUMENT (x6)	PITT	09/13/1994	04/26/1995
LARCENY (M) (x2)	PITT	09/13/1994	04/26/1995
UTTERING FORGED INSTRUMENT (x2)	PITT	09/12/1994	04/26/1995
OBTAIN PROPERTY FALSE PRETENSE (x2)	PITT	09/11/1994	04/26/1995
OBTAIN PROPERTY FALSE PRETENSE	PITT	09/10/1994	04/26/1995
OBTAIN PROPERTY FALSE PRETENSE (x6)	PITT	09/09/1994	04/26/1995
OBTAIN PROPERTY FALSE PRETENSE (x3)	PITT	09/08/1994	04/26/1995
OBTAIN PROPERTY FALSE PRETENSE	PITT	09/06/1994	04/26/1995
OBTAIN PROPEPRTY FALSE PRETENSE (x8)	PITT	09/05/1994	04/26/1995
OBTAIN PROPERTY FALSE PRETENSE (x4)	PITT	09/04/1994	04/26/1995
OBTAIN PROPERTY FALSE PRETENSE	PITT	09/03/1994	04/26/1995

OBTAIN PROPERTY FALSE PRETENSE (x4)	PITT	09/02/1994	04/26/1995
OBTAIN PROPERTY FALSE PRETENSE	PITT	09/01/1994	04/26/1995
OBTAIN PROPERTY FALSE PRETENSE	PITT	08/29/1994	04/26/1995
POSSESS HEROIN	PITT	07/12/1994	04/26/1995
OBTAIN PROPERTY WORTHLESS CHECK (M)	WILSON	09/20/1994	04/18/1995
OBTAIN PROPERTY WORTHLESS CHECK (M)	WILSON	09/19/1994	04/18/1995
OBTAIN PROPERTY WORTHLESS CHECK (M)	CRAVEN	09/26/1994	04/05/1995
OBTAIN PROPERTY WORTHLESS CHECK (M)	CRAVEN	09/22/1994	04/05/1995
SIMPLE WORTHLESS CHECK (M)	CRAVEN	09/22/1994	04/05/1995
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	09/18/1994	03/30/1995
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	09/09/1994	03/30/1995
FORGERY OF INSTRUMENT	PITT	09/14/1994	03/29/1995
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	09/30/1994	03/21/1995
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	09/28/1994	03/21/1995
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	09/27/1994	03/21/1995
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	09/25/1994	03/21/1995

WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	09/22/1994	03/21/1995
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	09/19/1994	03/21/1995
LARCENY (M)	BEAUFORT	09/19/1994	03/21/1995
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	09/18/1994	03/21/1995
UTTERING FORGED INSTRUMENT	BEAUFORT	09/18/1994	03/21/1995
UTTERING FORGED INSTRUMENT	BEAUFORT	09/16/1994	03/21/1995
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	09/14/1994	03/21/1995
WORTHLESS CHECK ACCOUNT CLOSED (M) (x4)	BEAUFORT	09/11/1994	03/21/1995
WORTHLESS CHECK ACCOUNT CLOSED (M) (x3)	BEAUFORT	09/10/1994	03/21/1995
WORTHLESS CHECK ACCOUNT CLOSED (M) (x4)	BEAUFORT	09/09/1994	03/21/1995
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	08/31/1994	03/21/1995
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	08/19/1994	03/21/1995
UTTERING FORGED INSTRUMENT	BEAUFORT	08/11/1994	03/21/1995
SIMPLE WORTHLESS CHECK (M)	PITT	09/30/1994	03/10/1995
SIMPLE WORTHLESS CHECK (M)	PITT	09/24/1994	03/10/1995
SIMPLE WORTHLESS CHECK (M)	PITT	09/22/1994	03/10/1995
SIMPLE WORTHLESS CHECK (M)	PITT	09/01/1994	03/10/1995

SIMPLE WORTHLESS CHECK (M)	PITT	09/20/1994	03/10/1995
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	09/10/1994	02/16/1995
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	09/09/1994	02/16/1995
FORGERY OF INSTRUMENT	PITT	02/18/1993	09/27/1993
FORGERY OF INSTRUMENT	PITT	02/16/1993	09/27/1993
POSSESS DRUG PARAPHERNALIA (M)	PITT	02/11/1993	09/27/1993
POSSESS HEROIN	PITT	02/11/1993	09/27/1993
POSSESSION OF COCAINE	PITT	02/11/1993	09/27/1993
LARCENY (M)	BEAUFORT	07/18/1993	08/12/1993
OBTAIN PROPERTY FALSE PRETENSE	BEAUFORT	03/08/1993	05/25/1993
FINANCIAL CARD THEFT	BEAUFORT	03/08/1993	05/25/1993
FORGERY OF INSTRUMENT	BEAUFORT	02/20/1993	05/25/1993
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	10/20/1992	05/25/1993
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	10/12/1992	02/11/1993
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	10/08/1992	02/11/1993
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	10/09/1992	01/14/1993
SIMPLE WORTHLESS CHECK (M)	PITT	10/16/1992	01/06/1993
SIMPLE WORTHLESS CHECK (M)	PITT	10/14/1992	01/06/1993

WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	10/04/1992	12/03/1992
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	10/01/1992	12/03/1992
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	10/20/1992	11/20/1992
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	10/07/1992	11/20/1992
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	10/04/1992	11/20/1992
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	10/03/1992	11/20/1992
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	10/02/1992	11/20/1992
WORTHLESS CHECK ACCOUNT CLOSED (M) (x2)	BEAUFORT	09/29/1992	11/20/1992
WORTHLESS CHECK ACCOUNT CLOSED (M)	BEAUFORT	09/03/1992	11/20/1992
SIMPLE WORTHLESS CHECK (M)	BEAUFORT	08/29/1992	11/20/1992
WORTHLESS CHECK ACCOUNT CLOSED (M)	MARTIN	10/20/1992	11/19/1992
SIMPLE WORTHLESS CHECK (M)	PITT	10/16/1992	11/19/1992
SIMPLE WORTHLESS CHECK (M)	PITT	10/07/1992	11/19/1992
SIMPLE WORTHLESS CHECK (M) (x2)	PITT	09/07/1992	11/19/1992
SIMPLE WORTHLESS CHECK (M) (x3)	PITT	09/06/1992	11/19/1992
SIMPLE WORTHLESS CHECK (M) (x2)	PITT	09/05/1992	11/19/1992
SIMPLE WORTHLESS CHECK (M)	PITT	09/02/1992	11/19/1992

SIMPLE WORTHLESS CHECK (M)	PITT	09/01/1992	11/19/1992
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Handout 64

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MS. MILLS: There -- based on what I remember, I don't know that she even was at a place in her life where she would know what was true and what she -- you know, people tell lies long enough they actually start believing their own lies.

And I -- and that could have very well been the case with her, but I will tell you whatever is in the notes that y'all have is probably way more accurate than anything I ever remember. I mean, I know that's a bad thing to say.

I feel a lot of frustration and in some ways it's a blessing. I just -- I get -- you know, you get frustrated when you can't remember things, but, then, again, you have to wonder if it's God's way of protecting you against things you don't really need to remember because there are -- there's a lot about that time in my life, I mean years of time that is just very hazy, just no true, what I would -- what I would even go to say that could be even close to accurate.

MS. STELLATO: So, you don't know what she knew? You don't know if she was involved or if she knew who was involved?

MS. MILLS: No. The one thing I remember about her was that she was just bad. She had no -- no compassion, no

1 concern for anybody but her. And I remember meeting her and I
2 remember thinking just bad.

3 And, I mean, I've been around bad people in my life.
4 You know, I'm not saying that she was anything that I wasn't
5 -- that I thought she was bad because I'd never been around
6 people that, you know, weren't bad.

7 I was involved with a person who was just very
8 (inaudible) and he just had no moral foundation whatsoever and
9 I just remember thinking that she was kind of of that same
10 caliber.

11 She didn't care whether she told a lie or told the
12 truth. Sometimes I don't even know that the lies that I felt
13 like she was making up that she cared whether they were based
14 on truth or not. I just think she had little regard for how
15 -- what she did effected anybody.

16 I remember her doing that while we were in jail to
17 many people that we were in jail with. And I just don't know
18 that there were rhyme or reason for anything that she said. I
19 don't think she told lies to hurt people. I don't think she
20 told lies to help people. I just think she told lies because
21 she (inaudible). Did she do it with evil intent? Quite
22 possibly. But could she just have been telling lies for the
23 hell of it? Quite possibly. But I don't know.

24 She just -- she was not a good person. And she also
25 was a person that I don't -- I just don't know that there was

1 ever an accurate read on her, you know, not -- not -- at least
2 not in my limited capacity, not the things that I was dealing
3 with personally, you know.

4 I remember Jim asking me because he knew that we
5 were in jail together and I remember having several
6 conversations with him. I remember having conversations with
7 him. I'd gone -- I had gotten out of jail, and I think I was
8 even clean and sober at the time, but I still can't remember
9 specifically what he and I talked about other than I do know
10 that I was in jail with her, she's bad, you know, she's just
11 not a good person.

12 MS. STELLATO: So, you didn't maintain any kind of
13 relationship with her after -- like after you maybe got out of
14 jail --

15 MS. MILLS: No. No.

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Handout 65

JACKIE CRADDOCK SMITH

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
RECKLESS DRIVING TO ENDANGER	CRAVEN	01/15/2013	12/03/2014
2 ND DEG BURGLARY	BEAUFORT	01/04/1994	06/04/2006
LARCENY	BEAUFORT	01/04/1994	06/04/2006
2 ND DEG BURGLARY (x3)	BEAUFORT	11/21/1993	06/04/2006
LARCENY (x3)	BEAUFORT	11/21/1993	06/04/2006
OBTAIN PROPERTY FALSE PRETENSE	BEAUFORT	11/27/1993	01/03/1995
B & E	WASHINGTON	11/22/1993	10/05/1994
LARCENY OF A FIREARM	WASHINGTON	11/22/1993	10/05/1994
B & E	BEAUFORT	01/21/1994	09/28/1994
LARCENY	BEAUFORT	01/21/1994	09/28/1994
DWLR VIOL LIMITED DRIVE PRIV	BEAUFORT	01/15/1994	02/07/1994
FALSE REPORT TO POLICE STATION (M)	BEAUFORT	11/04/1993	01/18/1994
DWI – LEVEL 5	BEAUFORT	12/12/1992	07/15/1993
WORTHLESS CHECK CLOSED ACCOUNT (M)	BEAUFORT	03/31/1993	05/25/1993
WORTHLESS CHECK CLOSED ACCOUNT (M)	BEAUFORT	11/09/1991	03/03/1992

Handout 66

DANA MAYBIN

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
POSS < 1 GRAM OF METH OR COCAINE (M)	OCONEE (SC)	12/17/2007	11/20/2008
B & E	WASHINGTON	12/18/1993	10/05/1995
COMMON LAW ROBBERY	WASHINGTON	12/18/1993	10/05/1995
ACCESSORY AFTER THE FACT	WASHINGTON	12/18/1993	10/05/1995
FORGERY	OCONEE (SC)	03/22/1990	1/21/1991
FORGERY	OCONEE (SC)	03/22/1990	1/21/1991
FORGERY	OCONEE (SC)	03/22/1990	1/21/1991

Handout 67

APPENDIX B – DANA MAYBIN TIMELINE

DATE	DOCUMENT	DESCRIPTION	DISCUSS ED IN BRIEF	DOCUME NT IN BRIEF
4/24/1994	SBI Report/WCSO Report	Sherry Honea interviewed by law enforcement regarding Maybin. According to Honea, Maybin came up to her around Christmas and said that, after the murder, she had burned shoes Honea had given Maybin previously.	55	N/A
4/25/1994	SBI Report	Maybin interviewed in South Carolina by law enforcement. Implicates Spruill, Jones, and Curtis Furlough. Signs single party consent forms to record conversations between herself and Bessie Talkington, Curtis Furlough, and others.	56-57	N/A
4/26/1994	SBI Polygraph Report	Maybin is taken to Asheville, NC for a polygraph examination. Report states that the test was stopped when Maybin said she was pregnant.	56	N/A
4/26/1994	WCSO Report	Bessie Talkington tells law enforcement that Maybin called her that day. Maybin told her that Spruill, Jones, and Curtis Furlough killed the Victim.	N/A	N/A
4/28/1994	WCSO Report	Maybin attempts to call Curtis Furlough and record the conversation. No one answers.	57	N/A
5/3/1994	Letter	Maybin faxes letter from Oconee County Sheriff's Office to WCSO. She says that when she lied in her first interview (4/25/1994). She says that she was at the bar with Spruill and Jones the entire night on the night of the murder. NOTE: This letter was entered at trial as State's Exhibit #27.	57	N/A
6/25/1994	WCSO Report	1 st Interview with Law Enforcement in South Carolina – 11:00 AM	58	N/A

DATE	DOCUMENT	DESCRIPTION	DISCUSS ED IN BRIEF	DOCUME NT IN BRIEF
		<ul style="list-style-type: none"> Maybin again implicates Spruill, Jones, and Curtis Furlough. <p>Two Polygraph Examinations by Independent Examiner in South Carolina – 2:00 PM</p> <ul style="list-style-type: none"> 1st Polygraph - Maybin initially denied involvement and suspected Spruill and Jones. Report indicates she exhibited physiological signs of deception and examiner tells Maybin she failed. Maybin said she would tell the deputies who was involved. 2nd Polygraph – Results were inconclusive. <p>2nd Interview with Law Enforcement in South Carolina – 6:50 PM</p> <ul style="list-style-type: none"> Maybin tells law enforcement that she was present when Spruill and Jones murdered the Victim. She says they went back to Spruill's house after the murder and she stayed there the rest of the night. 		
12/10/1994	Warrant/WCS O Report	Warrant issued for Maybin's arrest. Maybin arrested in South Carolina and waives extradition.	58	N/A
12/15/1994	SBI Report	Maybin is taken into custody in South Carolina and is interviewed by law enforcement while en route to North Carolina. Maybin says she was present when Spruill and Jones murdered the Victim. Maybin says they went back to Big Ed's Bar after the murder.	58-59, footnote on 75	N/A
12/21/1994	Journal Entry	Maybin makes journal entry the day after Spruill's 12/20/1994 PC hearing.	59	N/A

DATE	DOCUMENT	DESCRIPTION	DISCUSS ED IN BRIEF	DOCUME NT IN BRIEF
		She says she only saw a man get murdered, she did not kill him. NOTE: Discussion of this entry was excluded at trial because of the content related to Maybin's violent dreams.		
12/26/1994	Letter	Maybin writes a letter to her boyfriend, Jeff Kelley, and her daughter in South Carolina. She says that she has asked for protection and was told nothing was going to happen to her.	59	N/A
12/26/1994	Journal Entry	Maybin writes about her concerns related to her charges getting reduced and what that would mean for her relationship with Jeff Kelley.	59	N/A
12/27/1994	Journal Entry	Maybin makes journal entry after Jones' PC hearing. She states she is scared of Jones. She also says she looks stupid because Spruill and Jones are denying everything.	59	N/A
12/29/1994	Letter	Maybin writes a letter to Mitchell Nowarah. She states that Spruill and Jones did not commit the crime and she lied to law enforcement to hurt Jones. She also names people who were at the bar and know they were there all night ("Lynn (bartender), Big Ed, Smarty, Terry (Lynn's boyfriend's brother), Stephen (Lynn's boyfriend), Curtis Fallaw (sic), Kevin Fallaw (sic), Stacy Allen, Cottie + Kim, and a lot others..."). NOTE: Entered into evidence at trial as State's Exhibit #29.	59	N/A
12/31/1994	Journal Entry	Maybin writes in her journal that she plans to tell the truth the next time she goes to court. Prays for help with her testimony and that she can make people understand why she lied.	59	N/A

DATE	DOCUMENT	DESCRIPTION	DISCUSS ED IN BRIEF	DOCUME NT IN BRIEF
		NOTE: Entered into evidence at trial as State's Exhibit #30.		
1/1/1995	Journal Entry	Maybin writes in her journal that she lied so that Jones could be put behind bars for the pain he caused her. Says Spruill and Jones are in jail for something they didn't do. Says she will explain why she lied in court. NOTE: Entered into evidence at trial as State's Exhibit #31.	59	N/A
1/2/1995	Journal Entry	Maybin writes in her journal that she is going to tell the truth in court because Spruill and Jones are in jail for a crime they didn't commit. NOTE: Entered into evidence at trial as Exhibit #32.	59	N/A
1/3/1995	WCSO Report	At Maybin's PC hearing, her attorney asks for a continuance based on letter Maybin wrote recanting her statements. Her attorney felt someone had "got to" Maybin. Maybin told Willie Williams that she was wrong to write the letter and that "It was wrong what they had done..."	N/A	N/A
1/4/1995- 1/7/1995, 1/12/1995	Journal Entries.	Maybin writes in her journal. These do not mention Spruill or Jones at all. NOTE: Entered into evidence at trial as State's Exhibit #33.	59	N/A
1/19/1995	Letter	Seth Edwards writes to Maynard Harrell regarding information provided by Nichole Mills about Maybin. Maybin told Mills she was not involved in any way. Maybin said that she and "a female named Sherry" made up the lie about the murder because of something Jones had done to Sherry. Edwards asked Mills to look at Maybin's journal.	808-809	N/A

DATE	DOCUMENT	DESCRIPTION	DISCUSS ED IN BRIEF	DOCUME NT IN BRIEF
1/20/1995	Fee Application/Jail Records	James Vosburgh visits Mills in jail. He also calls ADA Rob Hensley and says that he should go speak to Mills.	141	N/A
1/24/1995	SBI Report	Nichole Mills is interviewed by law enforcement while in jail. Maybin originally told her that she, Spruill, and Jones had committed the murder. After a church service about liars, Maybin wrote a letter about the story she told and how a lot of other people saw her that night.	141-142	143-147
2/7/1995	Fee Application	James Vosburgh meets with Maybin in the jury room of the Washington County Courthouse. She said she was ill but would like to talk to Vosburgh later.	N/A	N/A
2/7/1995	SBI Report	Phone call between SA Inscoe and ADA Hensley re: John Skinner and James Vosburgh interviewing Maybin. Maybin's attorney, Regina Moore said the interview would not happen and she still planned for Maybin to testify truthfully. Consented to interview of Maybin.	N/A	N/A
2/8/1995	SBI Report	Maybin meets with ADA Hensley and SA Inscoe at Beaufort County Jail. Maybin said she was going to testify truthfully for the state about what she did and saw during the murder.	N/A	N/A
2/9/1995	Memo	Vosburgh approaches Regina Moore about speaking to Maybin. Moore spoke with Maybin and told Vosburgh that Maybin was afraid of him. Vosburgh then spoke to Nichole Mills, who said that Maybin said to Regina Moore that she wanted to speak to Vosburgh. Maybin said she knew the SBI did not want her speaking to Vosburgh.	811-814	158-162

DATE	DOCUMENT	DESCRIPTION	DISCUSS ED IN BRIEF	DOCUME NT IN BRIEF
		Mills also gave Vosburgh a document written by Mills that Vosburgh copied down by hand. The document discusses meeting Maybin had with law enforcement and DA Mitchell Norton where Norton was angry at her. She says she was told you would be left “holding the bag” if she changed her story now and that it was best for her to stick to her story and not change it all the time.		
2/21/1995	Transcript	Dana Maybin’s PC hearing.	N/A	N/A
2/22/1995	DPS Records	Maybin sent to NCCI Women’s Prison as a Safekeeper.	816	N/A
		Note: Maybin and Nichole Mills stayed in contact with each other through letters after Maybin was transferred to Women’s Prison and after Maybin was convicted. Approximately seven (7) letters not discussing case specifics were sent between the date of Maybin’s transfer, with the last letter in the file being dated 11/24/1995. The letters that did discuss the case are outlined below.		
2/23/1995	Letter	Maybin writes to Nichole Mills and asks for help. She says she will kill herself if she doesn’t get out of Women’s Prison. She asks her to get in touch with Mitchell to see what the DA said.	59	N/A
3/3/1995	Letter	Maybin writes to Nichole Mills. She says that Washington County will see what a mistake they made when she gets out. She says she’s not going to be forgotten in her cell.	59	N/A
3/4/1995	Journal Entry	Maybin writes in her journal that she lied for the reward money and to get back at Jones for hurting her. She	59	N/A

DATE	DOCUMENT	DESCRIPTION	DISCUSS ED IN BRIEF	DOCUME NT IN BRIEF
		wished she hadn't lied. She also says she was told by the SBI that she would be the one "holding the bag" and Spruill and Jones would go free. Says she was kept at the courthouse until 7 pm by the DA and law enforcement. Says she needs to speak to Spruill and Jones' attorneys. NOTE: Entered into evidence at trial as State's Exhibit #34.		
3/6/1995	Letter	Nichole Mills writes to Maybin. She says that people have information to clear Maybin, but it will take time.	59	N/A
3/6/1995	Letter	Maybin's mother writes to Maybin. Indicates she has been in contact with Spruill and Jones' attorneys and they think they can help her. Her mother also tells her that she should request another attorney and to tell the truth if she lied.	59	N/A
3/7/1995	Letter	Maybin writes to Nichole Mills that Regina Moore is not accepting her calls. She says she is going to request a new lawyer and is going to tell the truth.	59	N/A
3/7/1995	Letter	Maybin writes to the Washington County Clerk of Court requesting another attorney. She indicates that Regina Moore is doing what is best for the state, not for Maybin.	59	N/A
3/7/1995	Fee Application	Vosburgh gets a phone call from Mills in jail. Mills says she has received a letter from Dana Maybin indicating she is suicidal. Vosburgh gets permission from Regina Moore to interview Maybin.	59	N/A
3/7/1995 or 3/8/1995	Trial Testimony/Letters	Vosburgh and Harrell go to interview Maybin in Women's Prison to find out what her testimony will be.	244-245	N/A

DATE	DOCUMENT	DESCRIPTION	DISCUSS ED IN BRIEF	DOCUME NT IN BRIEF
3/8/1995	Journal Entry	Maybin writes in her journal that she met with attorneys for Spruill and Jones. She said it felt good to talk to someone about the case as it had been bothering her.	59	N/A
Undated	Stacy Allen	Maybin writes a letter to Stacy (presumably Allen based on content of the letter). She states she told the attorney the truth, which is that they were all at the bar all night and “so drunk we couldn’t tell our butthole from a hole in the ground.”	652	N/A
3/10/1995	Transcript/Recording	Maybin interviewed by Maynard Harrell in jail. States that Spruill and Jones had nothing to do with the murder of Frank Swain. She also indicates that she was given information about the crime by law enforcement. The transcript and recording entered into evidence at trial. The transcript is provided in full in Section VII of the brief.	244-245	246-291
3/10/1995	Letter	Nichole Mills writes to Maybin that Maybin did the right thing by speaking to Vosburgh and Harrell.	59	N/A
3/14/1995	Letter	Nichole Mills writes to Maybin. She tells Maybin to remember what Washington County did to her and tell the truth on the stand.	59	N/A
3/16/1995	Letter	Maybin writes to Nichole Mills. She says that Maynard Harrell and James Vosburgh came to visit her and she told them the truth. “Mr. Harrell recorded our interview so no one would say that he made me say it.”	59	N/A
3/22/1995	Letter	Mills writes to Dana Maybin. She states that when Vosburgh told Regina Moore he wanted to interview Maybin, Moore told Vosburgh that	59	N/A

DATE	DOCUMENT	DESCRIPTION	DISCUSS ED IN BRIEF	DOCUME NT IN BRIEF
		Maybin would “burn him” and that Maybin had been telling people Vosburgh was telling her what to say. Mills indicates she doesn’t believe Maybin said these things. NOTE: Introduced at trial as State’s Exhibit #40. Three other cards/letters from Mills to Maybin marked State’s Exhibit #41-43 were introduced. Objection to their entry was sustained.		
3/22/1995	Journal Entry	Maybin writes in her journal that she lied on “them” and the law lied to her. She states she got what she deserved for putting Spruill and Jones through this. Regina Moore is not accepting her calls. NOTE: This entry was entered at trial as State’s Exhibit #36.	N/A	N/A
3/23/1995	Letter	Maybin writes to Nichole Mills. She says that Regina Moore still won’t speak to her and that Moore also prevented Vosburgh from talking to her. Says she is writing a statement that she wants to speak to Vosburgh.	59	N/A
3/23/1995	Letter	Maybin writes a letter stating she would like to see James Vosburgh and Maynard Harrell whenever possible since she cannot get in touch with her lawyer.	59	N/A
3/24/1995	Journal Entry	Maybin writes in her journal regarding what Mills said in her 3/22/1995 letter about the rumors that Maybin was being told what to say by Vosburgh. Maybin says she told Vosburgh the truth and lied to the others. She wants to know who told Sherry Honea about the murder, because she (Maybin didn’t). The only information she had about the	59	N/A

DATE	DOCUMENT	DESCRIPTION	DISCUSS ED IN BRIEF	DOCUME NT IN BRIEF
		murder came from law enforcement and Mitchell Nowarah. She says she is a good liar “when it comes to getting what I want.” NOTE: Entered into evidence at trial as State’s Exhibit #37.		
Undated	Letter	Nichole Mills writes to Maybin telling her to write a letter requesting another attorney and an interview with the PI and other defense attorneys and Mills will get it into the right hands.	59	N/A
3/27/1995	Journal Entry	Maybin writes in her journal that she has been telling the truth since she had been locked up, even if other people thought she was just saying what the defense attorneys wanted her to say. Says people believed her when she lied. Says all they had was “hearsay from the start from a crackhead crazy girl that wanted to stay out of jail.” NOTE: Entered into evidence at trial as State’s Exhibit #38.	59	N/A
3/27/1995	Letter	Nichole Mills writes to Maybin that she will pass a letter Maybin sent her on to Vosburgh.	59	N/A
3/28/1995	Journal Entry	Maybin writes in her journal that she prays for forgiveness for lying about the murder and putting Spruill, Jones, and their families through this. NOTE: Entered into evidence at trial as State’s Exhibit #39.	59	N/A
4/5/1995	Letter	Nichole Mills writes to Maybin and says she wishes she could do more to tell her. She just wants Maybin to “beat this crap, so we all can laugh at those screw-ups from Washington County.”	59	N/A

DATE	DOCUMENT	DESCRIPTION	DISCUSS ED IN BRIEF	DOCUME NT IN BRIEF
5/8/1995	Indictment	Maybin is indicted for murder and robbery.	N/A	N/A
5/10/1995	Letter	James Vosburgh writes to Charles Ogletree that Ogletree has been appointed as Maybin's second chair. Indicates that Maybin has recanted her statement to law enforcement and that Regina Moore has not spent a lot of time on Maybin's case.	N/A	N/A
6/24/1995	Letter	Jones writes a letter to Maybin asking her to tell the truth.	233	N/A
7/19/1995	Letter	Charles Ogletree writes to Mitchell Norton regarding filing Notice of Intention to Subpoena District Attorney as necessary Witness. Indicates he has been informed that Norton and Rob Hensley have had contact with Maybin outside of her attorney and have heard her attempt to recant earlier statements and assert her innocence.	N/A	N/A
8/2/1995	PI Boston Report	Cottie Oliver is interviewed by PI Joe Boston. When asked about statements made by Dana Maybin, she says that Maybin never said anything about the murder to them and didn't know if Jones had killed anyone.	N/A	N/A
8/11/1995	PI Hardison Report	Jennifer Spruill tells PI Cliff Hardison that she visited Maybin in jail (date not given). Maybin put a note up to the window stating that Janice Spruill had made promises to Maybin if Maybin "kept to her story" but was not keeping them, and Maybin was going to tell the truth in court.	N/A	N/A
8/15/1995	PI Boston Report	Phoenicia Davis interviewed regarding conversations with Maybin while they were in jail together. Davis told Maybin what Honea was saying and	N/A	N/A

DATE	DOCUMENT	DESCRIPTION	DISCUSS ED IN BRIEF	DOCUME NT IN BRIEF
		Maybin said she was in jail for the same crime and that Honea must have done it because she (Maybin) did not know the Victim.		
8/20/1995	MAR Testimony/Fee Application	According to Harrell's testimony at trial and at Jones' MAR, the Sunday before Jones' trial was set to begin, he and Maybin's attorney, Charles Ogletree, bring Maybin to the courtroom and direct and cross-examined her. Her statements at that time were "compatible" with her recorded interview with Maynard Harrell. NOTE: Harrell's fee application indicates that Regina Moore was present.	245	N/A
8/21/1995	Plea Transcript/Ag reement	Maybin pleads guilty and signs agreement for truthful testimony. The plea transcript and agreement are provided in full in Section VII of the brief.	239	240-242
8/30/1995	Transcript	James Vosburgh interviews jailer Debbie Stokes regarding her interactions with Maybin while Maybin was in jail. She said that Maybin proclaimed her innocence while she was in jail.	503-504	N/A
9/16/1995	Memo	James Vosburgh interviews Nichole Mills regarding her interactions with Maybin. Maybin initially said she didn't kill the Victim, but was involved. She later said that she had lied to Janice Spruill to get back at Jones. She said Maybin also told her that Janice Spruill had made her promises that were broken. Maybin said she was at the bar with Spruill and Jones from 6 or 7 pm until closing.	148	158-162

DATE	DOCUMENT	DESCRIPTION	DISCUSS ED IN BRIEF	DOCUME NT IN BRIEF
		<p>Mills also wrote a handwritten statement about her involvement in this case.</p> <p>This memo and letter from Mills are provided in Section VI of the brief.</p>		
9/22/1995-9/29/1995	Trial Transcript	Jones' trial. Maybin testifies. Testimony provided above.	243-245	N/A
10/5/1995	Judgment	Maybin sentenced.	480	N/A
10/13/1995	Letter	James Vosburgh writes to Charles Ogletree. Discusses Maybin's testimony and indicates that Janice Spruill showed Maybin the crime scene photographs multiple times until Maybin was able to come up with testimony that fit the circumstances of the crime.	N/A	N/A
10/24/1995	Letter	Nichole Mills writes to Maybin. Says that people are working for Maybin, but she can't say much in a letter.	59	N/A
1/25/1996	Letter	<p>Jones writes to John Skinner that Spruill's sister received a letter from Dana Maybin she had been "tricked into all of this" and wanted to talk to someone.</p> <p>NOTE: No letter matching this description has been produced to the Commission in the files reviewed.</p>	N/A	N/A
1/6/1997	Mental Health Assessment	<p>Spruill tells DPS that he recently received a letter from the "person that testified against him, admitting that she had lied in court."</p> <p>NOTE: No letter matching this description has been produced to the Commission in the files reviewed.</p>	N/A	N/A
8/25/2003	Letter	Jones writes a letter to Amos Tyndall saying that the Chief of Police has gotten in touch with Dana Maybin and she is now telling the truth.	N/A	N/A

DATE	DOCUMENT	DESCRIPTION	DISCUSS ED IN BRIEF	DOCUME NT IN BRIEF
		NOTE: PPD Chief John Floyd does not recall interviewing Dana Maybin during his investigation.		
11/21/2003	Status Report	Memo in Center File indicates that Maynard Harrell recently spoke to Maybin and she recanted her testimony and agreed to speak out in order to clear Spruill and Jones. NOTE: Please refer to Maynard Harrell's affidavit (Handout #4) for more information regarding this memo.	597	N/A
1/6/2004	Letter	Marti Maguire writes to Spruill that Amos Tyndall and a student attempted to interview Maybin, but Maybin left town right before.	N/A	N/A
2/17/2004	Letter	Vosburgh writes to Spruill that he has been told Maybin may not cooperate in telling the truth, but that she will not put forth any special effort.	N/A	N/A
4/17/2004 or 4/18/2004	Report	Marti Maguire interviews Maybin.	597	598-599
8/17/2005	SBI Report	Maybin interviewed by the SBI. This interview is provided in full in Section XV of the brief.	522	523-525
10/28/2008	Report	Maybin interviewed by the Center. This interview is provided in full in Section XV of the brief.	597	600
9/30/2009	Report	Center interviews Jackie Craddock, who was in jail with Maybin and Mills. She says that Maybin told Craddock that her (Maybin's) boyfriend killed a man and threatened her into framing Spruill and Jones.	601	N/A
3/34/2018	Transcript	Commission interviews Dana Maybin.	N/A	711-717

DATE	DOCUMENT	DESCRIPTION	DISCUSS ED IN BRIEF	DOCUME NT IN BRIEF
2/9/2018	Transcript/Vid eo	Dana Maybin Deposed by Commission	N/A	719-854

Handout 68

WALLACE BRANDON JONES

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
ROBBERY WITH DANGEROUS WEAPON	WASHINGTON	12/18/1993	10/05/1995
MURDER	WASHINGTON	12/18/1993	10/05/1995
BURG-OTHER THAN HABITATION	GIBSON (TN)	02/04/1991	05/24/1991
EXPOSIVE-TRANSPORT	GIBSON (TN)	02/04/1991	05/24/1991
THEFT OF PROPERTY (x2)	GIBSON (TN)	01/29/1991	05/24/1991
ARSON	GIBSON (TN)	01/28/1991	05/24/1991
ATT AGGR ROBBERY	GIBSON (TN)	01/22/1991	05/24/1991
AGGRAVATED ASSAULT	GIBSON (TN)	01/22/1991	05/24/1991
FORGERY	GIBSON (TN)	01/21/1991	05/24/1991

Handout 69

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sherry Honena.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

tried to set the truck on fire.

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

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

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

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

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

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

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

North Carolina from Tennessee.

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

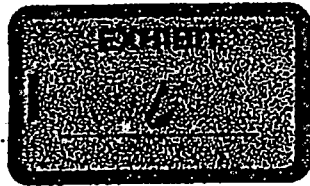
This interview concluded at approximately 5 p.m.

DRV:lm

ON DECEMBER 10, 1994 D/S SPRUILL AND D/S WILLIAMS WAS CONTACTED BY THE WASHINGTON COUNTY JAIL IN REGARDS TO TRANSPORTING WALLACE BRANDON JONES TO THE WASHINGTON COUNTY HOSPITAL FOR MEDICAL ATTENTION. MR. JONES WAS ASKING TO SEE A DOCTOR DUE TO HIS PENIS WAS LEAKING FLUIDS AND HE WAS IN GREAT PAIN. MR. JONES WAS TAKEN TO THE HOSPITAL AND UPON OUR RETURN TO THE JAIL, MR. JONES SAID HE WANTED TO TALK TO US. MR. JONES WAS UPSET AND CRYING AND NERVOUS ACTING AND HE SAID THAT IF WE WOULD LET HIM CALL HIS MOTHER THAT HE WOULD TELL US EVERYTHING WE NEEDED TO KNOW ABOUT THE NIGHT OF THE MURDER. MR. JONES WAS ALLOWED TO TELEPHONE HIS MOTHER AND HE TALKED TO HER FOR A PERIOD OF TIME. AFTER MR. JONES FINISHED TALKING WITH HIS MOTHER, HE SAID HIS MOTHER WAS GOING TO GET HIM A LAWYER, AND FOR HIM NOT TO SAY ANYTHING. MR. JONES ASKED FOR MAYNARD HARRELL'S PHONE NUMBER. MR. HARRELL'S TELEPHONE NUMBER WAS GIVEN TO MR. JONES AND ATTEMPTS WERE MADE TO TELEPHONE MAYNARD HARRELL. ON DECEMBER 12, 1994, WALLACE BRANDON JONES WAS TAKEN TO GREENVILLE TO TAKE A POLYGRAPH. AGENT VARNELL, INSCOE, D/S SPRUILL AND D/S WILLIAMS WERE PRESENT. MR. JONES FAILED THE POLYGRAPH AND HE WAS INTERVIEWED BY THE AGENTS AND EXAMINER. MR. JONES DENIED HAVING ANY KNOWLEDGE OF THE MURDER OF FRANK SWAIN. MR. JONES SAID HE NEVER WENT TO FRANK SWAIN'S HOUSE. MR. JONES SAID HE DID NOT KNOW FRANK SWAIN. MR. JONES SAID HE HAD NOT LIVED IN A CAMPER TRAILER, WHICH WAS PHOTOGRAPHED AT THE RESIDENCE OF ED CHAMP. MR. JONES SAID HE WAS AT BIG ED'S BAR ALL NIGHT, UNTIL CLOSING OF DECEMBER 18, 1993. HE SAID HE WAS WITH DANA MAYBIN AND LEROY SPRUILL ALL NIGHT, THE NIGHT OF DECEMBER 18, 1993. ON DECEMBER 12, 1994 AFTER LEAVING THE SBI HEADQUARTERS IN GREENVILLE, D/S WILLIAMS, D/S SPRUILL, AND BRANDON JONES WERE RIDING IN PATROL VEHICLE BACK TO COUNTY JAIL. WE STOPPED AT PARKERS BAR-B-QUE IN GREENVILLE FOR A MEAL. D/S SPRUILL WENT INTO PARKERS TO OBTAIN THE MEAL. D/S WILLIAMS AND BRANDON JONES WERE WAITING OUTSIDE IN THE PATROL VEHICLE. BRANDON JONES MADE A STATEMENT TO D/S WILLIAMS, ⁹⁶THAT FEEL SOMETHING WAS WRONG WITH HIM. 001518

... REMEMBERED NOTING IT. JONES SAID

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



AFFIDAVIT OF WALLACE BRANDON JONES

1. I, Wallace Brandon Jones, make this affidavit freely and voluntarily.
2. In 1995, I was convicted of murdering Frank Swain.
3. I did not kill Frank Swain. I am totally innocent of all charges. Consistent with my assertions of innocence, I rejected all plea bargains offered to me by the State.
4. The case the prosecution built against me rested entirely on the testimony of Dana Maybin. There was absolutely
5. Dana Maybin's trial testimony was a lie. She had, in fact, prior to trial stated, time and time over, that I had nothing to do with Frank Swain's murder. This much is true.
6. At trial, Dana explained that she was being influenced by my attorney, James Vosburgh, to say things that were not true. According to Dana, Mr. Vosburgh was sending information to Dana, through Nicole Mills. Dana testified that Mr. Vosburgh was telling her that her testimony was the only evidence the prosecution had against me, and that he really needed her to help me. This testimony gave the impression that my lawyer was trying to get the state's main witness to tell a lie.
7. I wanted Mr. Vosburgh to take the stand and testify that he did not try to get Dana to tell a lie. I do not believe that Mr. Vosburgh did anything wrong in regard to interviewing Dana, and I believe that he would have made a more credible witness than Dana.
8. On the first day of trial, the court asked if I wanted Mr. Vosburgh to continue as my attorney. I said yes. However, I was not told by Mr. Vosburgh that I could keep him as my attorney only if he did not testify. Had I known this, then I would have asked the court for another attorney.
9. I was surprised that Mr. Vosburgh never testified at trial. I expected that he would, because I was under the impression he would testify.
10. I further believed that my attorneys should have called Leroy Spruill to testify. Leroy was local to the community and he had a reputation for not being violent. Leroy was willing to testify at my trial and he would have made a more credible witness than Dana Maybin.
11. During my pre-trial incarceration I was housed at various times with inmates James Travis Clark and Tommy Ward. After my conviction, I found out that Mr. Clark and Mr. Ward were offered favors if they would testify against me. Of course, because I am innocent, they had nothing incriminating to say against me. Neither I, nor my lawyers, knew about the attempt to secure jailhouse informants against me.

12. I did not kill Frank Swain. It is my belief that Frank Swain was killed by the same person or persons who killed Sonya Day. My attorneys did not present any evidence of the Sonya Day murder even though both were killed in a similar manner, they were boyfriend and girlfriend, and both had connections to the Washington County drug trade.

13. I state under penalty of perjury that the above is true and correct.

This the 7 day of October, 1998.

Wallace B. Jones
Wallace Brandon Jones

Sworn to and subscribed before me:

this 7th day of October, 1998.

Donna V. Holt
Notary Public

My Commission expires: 2-15-99

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

SBI CASE: 2004-03241 (583)
ACTIVITY: November 16, 2004
VICTIM: William Frank Swain
COPIES: (1) Case Records Management Section
(2) SA W. M. Warner III
(3) SAC D. G. Honeycutt
(4) ASAC J. B. Tilley Jr.
(5) District Attorney S. H. Edwards
(6) Senior Deputy Attorney General J. J. Coman

Wallace Brandon Jones, W/M/DOB: 09/27/1972 (Subject)
Residence: Inmate, Hyde Correctional Institution, P.O. Box
278, Swan Quarter, North Carolina 27885

Wallace Brandon Jones was interviewed on Tuesday, November 16, 2004, at approximately 9:15 a.m., at the North Carolina Department of Corrections, Hyde Correctional Institution, by SA W. M. Warner III and Assistant Special Agent in Charge (ASAC) J. B. Tilley Jr.

Jones was serving a life sentence for the murder of William Frank Swain in Plymouth.

Jones was being interviewed about any information and allegations of wrongdoing during his investigation and trial.

Jones believes that if the DNA and fingerprints were run from the crime scene, this will set him free. This is all that Jones asked of law enforcement.

Jones believes that Janice Spruill was covering for the Wilkins boy when she ran over the blood. He knows that when blood is taken, the tube is put in a box and the box is taped up.

Jones believes that Billy Lee McNair, Maurice Wilkins, Joseph Lind, and Avis Arnold were involved in the murder of William Frank Swain. He also believes that they were involved in the murder of Sonya Day, Frank's girlfriend.

Jones understands that Joseph Lind told the chief of police that he was present when the boys killed Frank Swain and that he would only testify if he was given a deal by the State. (Exhibits 10, 11)

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000951

In 1985, James Vosberg and John Skinner were the attorneys who represented Jones. He was convicted of first-degree murder and robbery with a dangerous weapon and given life. The prosecutors in the case were Mitchell Norton and Tom Anglim. Jones talked to Avis Arnold one day when Arnold was here at Hyde Correctional. Arnold told Jones that he would be the "angel that got him out." Jones asked if he would tell his attorney about this and he said he would.

Jones sent \$1000 from his account to Attorney Carl Stewart. Stewart came to talk to Jones but he never talked to Avis Arnold. Attorney Stewart wrote Jones back and told him that he needed \$1000 more to come back.

Jones began hearing that Maurice Wilkins was involved from day one in the county jail. He has always heard that Maurice Wilkins was involved.

Back in 1993, Jones and Dana Maybin were friends. He met Dana at Big Ed's Bar when he worked there. He found out that Dana was from South Carolina. She was just someone that he could party with and have fun. She wanted more out of the relationship but he did not.

Jones believes that police just pressured Maybin into saying what she said. He knows how they pressured him to try to get him to say something, but he could not say he killed someone when he did not.

On December 18, 1993, he was staying in a camper trailer there at Big Ed's Bar. He lived next door to Ed and his wife, who lived in a brick house.

He got up and went to Little Ed's house to take a shower. He then went and pumped septic tanks with Big Ed.

Around 4:30 to 5 p.m., they went to the bar and had a drink. He then walked home and took a shower and walked to Leroy Spruill's house. It was about a quarter mile walk. When he got there, Leroy and Dana were there. They left and walked to some man's house and then got a ride from Ray Hearst to Big Ed's Bar.

He recalls Big Ed, Lottie Lynn Rogers, Connie (LNU), a lady behind the bar, and he believes Curtis and Kevin Furlough being present. Jones and Dana had an argument and Dana sat at the end of the bar with another guy named Smarty Spruill. He actually went out into the parking lot a couple of times to drink whiskey.

but never left the bar. Jones remembers seeing Louis Jarvis pull up in a van outside the bar at one point.

Around 2 a.m., he and Dana left the bar, walking to Leroy's. Jones bought two six-packs of beer and they started walking.

Jones dropped some beer on the highway and broke some. Big Ed then came along and picked them up and took them to Leroy's where Leroy and Marty were.

They ate sweet potatoes and salmon cakes while at Leroy's. Leroy and Smarty left and Jones and Dana spent the night at Leroy's. Dana was actually living there at the time.

The first time he heard about the murder was on either Sunday or Monday night on TV.

He did not know Frank Swain and had never met him. He had never been to his house.

Jones learned in April that the police were looking for him to talk to him about the case. He knew back in December or January that the police had talked to Leroy.

While staying at Big Ed's, he was using the name Robert Solis. He was wanted in Tennessee for arson, transporting explosives, robbery, theft of property, and attempted robbery with a dangerous weapon. Jones used this name to keep him from being caught.

In April, the police showed up at Big Ed's, looking for him to talk about the murder. He knew that he could not go to the police and talk about this because he was wanted on Tennessee charges. Jones then fled to Tennessee and then went to Florida.

He later went back to Tennessee and the police caught him at his mother's house. The Tennessee authorities told him that if he would go back to North Carolina, they would drop the charges pending against him in Tennessee. He also had an outstanding warrant for assault on a police officer in Texas, which was dismissed.

Jones said he had never been to Frank Swain's house before and did not know him. He had been on the Folly Road before to Margie Perry's house, whom he met in Plymouth. He had also been to Bruce Smith's house on Folly Road.

000953

Jones admits that he was with Leroy Spruill and Dana Maybin at Big Ed's Bar on the night of the murder.

Jones gave hair and blood after he was brought back to North Carolina. Jones said he has used Marijuana, powder Cocaine, and crack Cocaine in the past.

Jones said he took a polygraph during this investigation. He was told by the man who gave him the test that he was not the man they were looking for and that he had done the best of anybody they had tested.

Later, another investigator came in and told him that he had failed the polygraph. They then played "good cop, bad cop" with him.

Greg Hassel, a probation/parole officer who was on a drug task force in Washington, told his attorney, Marcus Jamison, with prison legal services, that Janice Spruill had been tipping off a black male named "Bo Jack," who is now in federal prison. Every time they went to get him, he was tipped off.

Jones knows that Maurice Wilkins' blood was run over by Janice Spruill and that his blood was never compared.

Maurice Wilkins testified at his trial that he saw Leroy Spruill in a blue pickup in Frank Swain's trailer park on the night he was killed.

Wilkins had cut his arm and had it in a bandage. He told the jury that he cut his arm peeling an orange.

He understands that Dana Maybin faxed a note to the sheriff's department in Washington after the police talked to her in South Carolina, saying that she lied to them about what had happened. This was before anyone was arrested.

Jones said he would like any blood of Maurice Wilkins that is in the case to be compared with any blood that the Department of Correction may have now. He believes that something is not right.

Jones said there was a tape of Dana Maybin played in the trial where Leroy Spruill's attorney talked to Dana Maybin and that she changed her story and said that she had lied about what happened.

He understands that Chief John Floyd has talked to Dana Maybin and she told him she lied about what happened.

This was all the information that was related and this interview ended at approximately 10:30 a.m.

WMW:jbp

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WMW:jbp

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WMW:jbp

Interview with Wallace Brandon Jones

Hyde Correctional Institution, 10/10/03

Interviewed by Meaghan Hannan, John Kuka and Marti Maguire, UNC Chapel Hill

Wallace Brandon Jones: Impressions

Jones' behavior was quite different than Spruill's. While he was less communicative, and at times needed prompting to answer questions, he was far more discouraged and outraged by his predicament. He was despondent and soft-spoken, and sat slightly hunched over in his chair. Near the end of the interview, he appeared to be on the verge of tears. Clearly the fact that Spruill has family and many other supporters just a few miles away has kept Spruill more optimistic. Jones complained that while many people come to speak with Spruill, no one seems to visit him or be concerned with his incarceration.

Regarding the "Interviewing for Innocence" suggestions, he argued both actual innocence and injustice right away. His nuanced explanation of his situation was both compelling and believable: through his previous arrests, he had come to the understanding that "If you're guilty, you plea. If not, you don't," a tactic that he said failed him this time. His attitude toward Maybin did show objectivity, as he seemed confused by her claim that she implicated him because she hated him, but he did not show malice toward her. He conceded that his behavior toward women offended people and might have affected his case, as he had had relationships with several of the women who testified against him.

He was far less forthcoming than Spruill with alternate theories, which he attributed to his relative ignorance of the area, since he had only been there a month before the murder, and did not spend even a whole year there before he was put in jail. He conceded his faults readily, admitting to being arrested several times (though not for violent crimes), drinking heavily and doing drugs most of his life, and having sexual relations, or trying to, with numerous women in the Plymouth area. Much of this commentary on this behavior was followed with "I ain't gonna tell a lie," showing that he realized his conduct might be judged to be damning. He did, however, claim that he was not the type of person who could have committed this crime. He could also be considered guilty of over-exclusion, which as in Spruill's case could be due to his alibi. He also exhibited a tendency to place the blame elsewhere. The police, his lawyers, lying witnesses and cowardly neighbors took more blame than he did for his situation. He conveyed a feeling that everyone was against him in this, and he clearly harbored a deep disdain for law enforcement even before his recent conviction. He also seemed to understand little of the legal maneuverings of his case, and therefore mistrusted his lawyers. Particularly troubling is that he also claimed he wanted to testify at trial, while Vosburgh said he refused to testify because he was scared of the cross-examination. This is much harder to explain than Spruill's similar claim. Other minor inconsistencies stemmed from his attempts to explain various facts.

Inconsistencies (Between their interview responses and Dana Maybin, March 1995)

- Going to Ed's bar: Spruill said Jones had been at his house beforehand. Jones said he met them as they were walking. Both agreed Jones had been at work,

while Spruill and Maybin drank at Spruill's house. (Maybin said she and Spruill met Jones at the bar.)

- Timing of leaving bar: Spruill said midnight, while Jones said at closing, 2 a.m.
- People at house after bar: Spruill said Smarty stayed over. Jones said lots of people in were in the truck, but Smarty went home. (Maybin said it was the three of them, plus Smarty Spruill and Stacy Allen Willoughby.)
- Spruill said Margie Perry was not there that night. (Ed Champ said this, too.) Jones said she was probably there, and he thinks he danced with her.
- Spruill said Rogers was fired because she stole from the bar. Jones said she was fired because she had minors in the bar.
- How could Jones have forgotten they ate salmon cakes that night? He said, "Maybe it was mackerel." It is understandable to forget this detail, but this came up at trial, as well, as Maybin mentioned salmon cakes specifically.
- Jones claimed he did not do drugs because "money was tight," then goes on to say he had all the money he needed.
- There are consistencies with Maybin and Rogers' testimony at trial about dropping the beer, throwing a sign at Rogers, who closed the bar, and other details of going home the night of the murder.
- Spruill said he did not buy drugs the day of the murder because he was not doing drugs. He had quit doing drugs and had met Debbie McGowan. But he and McGowan both said they met between the murder and his arrest.

Wallace Brandon Jones: Interview

Maguire: I know you've probably done this before...explain situation.

Kuka: Do you have any questions for us...?

Jones: Not really...I've been telling the truth going on ten years, and I'm still in prison. [Maguire comment on whether it will help to tell the story again.] I hope it does...I've been told this and that before, and I'm still sitting here. Every lawyer I've had said we're going to do this and that, but when it comes time to get it done, they crash. I don't understand that part. I'm just hoping....

Maguire: Start from beginning....where you came from, where you met people involved...

Jones: I came to NC with some migrant workers, and I stayed in NC two months before I came to Plymouth. I came from Florida.

Kuka: What were you doing in FL?

Jones: Working.

Kuka: Farming?

Jones: That, construction. I was in Texas before that, and Alabama.

Hannan: Did you come with Dana Maybin then?

[No, he met her here, in Plymouth. Established that he knew her as Nikki, but now he calls her Dana. He came to NC with Mexican guys from Mexico to work. He's from TN. Explains he had done prison time in TN, then got in a fight and went to Texas, then got in trouble there for talking to a police officer ("That was nothing. I should have stayed there and faced the music." Then went to Mexico with a note in Spanish, where he met the Mexicans, who took care of him.)]

Jones: In December, that when we got here...we went to Roper, Cresville area.
[Mexicans were leaving, but he had met the Champs and decided to stay.]

Maguire: How'd you meet the Champs?

Jones: They had rented a house to some of the Mexicans guys with me, and I met them through them. We talked a little bit here and there. I'd only done one job with them and I told them I was going to leave. It was in October, and I was going to go to TN and turn myself in...that was my plan. They said "don't go to TN, stay here and we'll help you out." I could have gone, but I stayed. [Got to NC in August of 1993. Left TN in 1991. In between was in TX, Mexico, FL]

Maguire: How'd you meet Dana?

Jones: [Was working at Ed's bar and she came in.] The sad thing about it is I had a girlfriend, who had come from TX with me. We'd been traveling and stuff, but I wanted to whore around a little so I sent her to my mamma's house. It's the biggest mistake I ever made. I didn't have nothing, nothing for Dana really, just having fun and that was it, but she took it more seriously than I thought she did. Like a fatal attraction, I don't know. I don't understand how it all came about, to tell you the truth.

[Dated just a few months off and off, he got to Roper in Sept. or Oct., met her about the week before Thanksgiving, about the same time he met LeRoy (met her one night after him).]

Maguire: Did you break up before or after the murder?

Jones: I never really figured we was together. She was living with LeRoy. I wouldn't even let her come to my apartment. The Champs were real restrictive about that. They didn't like me messing with people like her...she was just a barroom person, you know. [Ask about reputation.] She was new there. [Asked why Champs didn't want her around.] They didn't want me around nobody. [Took him in like a son?] Yes, they were good to me.

Kuka: LeRoy said he was going through a wild time in his life. Were you part of that?

Jones: Somewhat.

Kuka: Were you doing drugs at the time?

Jones: Not at that time. I drank pretty much every other day, probably every day. [Drugs?] Not that time when I was with him, but afterwards when I came back, I got some drugs, yeah. I was in Fayetteville then, though. When I was with LeRoy, at the time, work was slow and money was tight, and alcohol was about the best thing you could get. [Staying with the Champs, finances?] A place to stay, no bills, nothing. They bought me breakfast, lunch, dinner, anything I wanted, and at the time I had a lot of money. I could go out there and get a brand new Mustang, whatever...they never questioned me about money. They trusted me and I trusted them. [He was 20 or 21 at the time, between the ages of Ed's kids.]

Maguire: Drugs? Not doing them? [No.]... Was it a wild time in your life?

Jones: I ain't gonna lie to you. It wasn't a wild time in my life. It was standard. I ain't gonna tell you no lie. I was out there.

Maguire: Drugs during your travels?

Jones: I'd done just about everything. Almost, except for needles and crazy stuff like that.

Maguire: Went to Folly Road in Roper?

Jones: Never.

Maguire: LeRoy said he had.

Jones: He had. I never even knew Frank Swain. The only time I seen him was the picture the SBI showed me, and that's the truth.

K: So you never went down to Folly Road.

J: I'd been to Folly Road, but I didn't know it was Folly Road. The Champs had some family down there, and there was this girl I'd mess with now and then...Margie Perry.

H: Related to Champs or Spruills? No.

J: I never even went in their house. I went down there one time to pick up a truck with Ed for work, but I didn't know it was Folly Road. I didn't know till later. People kept saying you know where Margie Perry lives? I said yeah. Well that's Folly Road. I didn't know it was Folly Road. I been down to her house twice, maybe three times. The only two people I knew...was to pick up the truck at Nellie's house, and to Margie's.

K: We met Ed. Wants to help.

M: Margie Perry at bar that night?

J: I think she was there. I believe she was there. There were a lot of people there, a lot of people I didn't know. I just drank there and danced with a bunch of people that I knew. [Knew Margie then? Yes. Did you dance with her?] I think so.

M: Talking about how Spruill knew so many people who were there, but Jones didn't.

J: Margie was the only one in court who told halfway the truth. She didn't tell all the truth. [What was the half-truth?] She said she seen blood on my pants, and she did, but it wasn't that night. I know it wasn't that night, because the pants I had on...I went to a ...I'd left NC right after....I think it was January or February...to see my family. And I came back and I went shopping and bought some new clothes. And before I went to the bar one night, I was coming down the steps of the apartment at the Champs house, and the bottom level thing, it fell through and I cut my leg. So I went back up to get dressed or re-dressed it but I didn't have nothing to put on it so I put some tape and some toilet paper on it, and I went back to the bar. It was February or March, and I was dancing with some girl....she was alright, she had some love handles on her....[he grabbed them, she kicked him, made it bleed again.] My lawyers talked to her and [Margie Perry] didn't remember nothing, how she got to the bar, when she left the bar or nothing. A day or two before court she remembered this. But her mother was real good friends with the deputy, Janice Spruill, and that's how it came about. No, she told half the truth, but it wasn't that night. I have to give her some credit...but it just wasn't that night. I didn't have those pants on that night because I remember.

H: Do you remember what you were wearing?

J: Uh huh. A pair of white tight pants.

K: The night of the murder?

J: Oh no, I don't remember that. I remember the other because I couldn't get the blood out of 'em...I had to get Ed to get it out for me.

M: Do you think she just mixed it up in her memory, or lied on purpose?

J: Oh, I know she mixed it up. I know for a fact.

M: Could she have seen the pants in the bar?

J: It was dark. But it wasn't that big of a spot. It was just a scratch. But if she seen it, it was that night. Now I don't know if she seen it that night, but I remember falling down those steps and I remember cutting my leg and I believe she was there at the bar that night. Me and her had a little thing for a little bit.

[H: When? Was a few months before the murder. Back to when he came. His relationship was "on and off" with Maybin. To day of murder: Do you remember waking up that day?]

J: Oh yeah. That murder was a big thing in that town. It was just a little bitty town...that day, I know I worked all day [helped Ed pump septic tanks, all day job, and he gave him half the wages, about \$150 or \$200, it was a Saturday. He only took half of what he was owed because he didn't want to spend all his money on beer. Beers at Ed's bar were a quarter or 75 cents, but bottled beers were more, and that's what he drank. He got done about dark, about 4:30 or 5:00, showered got dressed and went to LeRoy's house. Spruill and Maybin were pretty buzzed, had been drinking. They were just coming out of the house when he got there. He doesn't think there was anyone else there. They stopped by someone's house (preacher, LeRoy knew him), and they gave him a ride. Turned out to be Hurst. Got to bar about 5:30 or 6 p.m.] I'm not really sure on times, you know. [They were there all night. Band hadn't gotten there when they got there. Not many people when they got there. Said he thinks signed in Ed's book, but he's not sure if it was there that night.]

K: Drinking beer?

J: And whiskey. They had the whiskey. I didn't have nothing with me.

M: Was it a normal thing to hang out at LeRoy's?

J: No, not really. I went over there to talk...I knew he'd be drinking or something. I had just gotten off work. [He was just drinking at the bar, having some whiskey.]

K: But you did have some cash....?

J: I believe it was \$150. I went to him the next day, and I got some more money. I ain't positive now....but it was some money. Plus my girlfriend in TN, she would send me a check every week. [How many beers did you have?] A bunch. [How many?] A case, case and half. They had a table in the front of the bar for the family members, and I'd go back and forth and get beers for them.

H: Relationship with Lynn Rogers?

J: I really didn't have a relationship with her. [Knew her?] Yeah, I knew her so so. [Would know her by name, worked at bar with her.]

H: She said you asked about a special on beer.

J: Yeah, she lied. [How?] Never happened. A lot of times I would buy a case of beer and put them in the cooler for myself....[asking about \$5, price of beer, buying beers for others...was there some reason you asked for a deal, or did she just lie?] She just flat out

lied. I wouldn't even go to that bar with \$5. I think she just said what she said because her boyfriend had got in trouble....an investigator had talked to her about it, and she didn't know nothing, but her boyfriend got in trouble. He shot somebody, and next thing you know, she's saying she heard me tell LeRoy, "I can't believe we got away with offing some...you know," and that's a lie. The only time I ever said anything to LeRoy Spruill about that murder was we come to that bar and the police had called again...everybody was talking about it...I told him, I said don't worry about it, if it comes down to it I'll testify for you. I was with you. And I never should have said that. And that's the only time she could have ever heard me say anything about that man getting killed. [This was months after the murder.]

H: Why did people think LeRoy did it?

J: I don't know. Let me tell you, the whole time they questioned him they never said a word to me. Never. They never said nothing.

H: Why you?

J: I guess cuz I was using a fake name, running across states. I don't know. I wish I knew.

K: Back to night at bar...what time did you leave?

J: [About 30 minutes or less before the bar closed (2 a.m.), he bought 2 six packs of bottled beer. Walked with Maybin to Spruill's house; they were arguing and Spruill and Champ stopped to see if they wanted a ride. Some of the beer busted in the road and he was mad. Smarty was in the truck with lots of other people, all drunk, Ed was taking them home. Spruill cooked "sweet potatoes, something I'd never eaten in my life, mackerel or something, that's about it." Stayed there that night with Maybin. They went right to bed after they ate. Smarty was there, but went home; he wasn't there when they woke up.]

M: Back to Rogers. Who was the boyfriend who was in trouble?

J: Michael, Michael Bell. I couldn't believe when she got on the stand and said what she said. It was a shock. ~~[This is why he never took the stand]~~

K: Ever get in an argument with her?

J: [Knows Ed fired her for serving under age people at a bar. He wasn't there. Doesn't think Perry had anything against him either. Maybin he knew was mad. He knew there was something wrong when he checked her license at the bar. He didn't look at the name, just the age. She was over 21. Asked about other people at the bar: Connie Olliver and her daughter, use to live behind the bar, are pissed at him, too, because he had a thing with her mom...Angela and Crystal Martinez, dad was police officer in Plymouth. Lawyer called them and they said they didn't know anything. Says there are lots of problems in that town.]

I've been in trouble, and if I done it, I'd take a plea bargain, but I ain't crazy. Cuz I didn't do it and I wouldn't. I ain't never been the kind that would kill and rob a man for a little bit of money, and I was with Ed Champ and had as much money as I wanted. It doesn't make so sense...I even had a bank account...I ain't going to kill no man and rob him for the money.

H: Asking about burned car....

J: [Dana said they (He and Spruill) did it, but this was a lie. He saw it after it was supposed to be burned, and it looked okay. He doesn't know when it was supposed to have burned or anything else about it. Thinks it was January or February. Other people who were there: Larry Comstock, but he denied being there. Other people drinking outside with them? No, just three of them, or not all three, he wasn't always there. Guy in a van came by and talked to Spruill and Maybin, a man named Jones. He also said he knew nothing. Lots of people said they knew nothing, they didn't want to get involved. Deputy involved in case (J. Spruill) was involved in drugs with Bo Jack. It may sound crazy, but I had my lawyer go talk to Bo Jack. Bo Jack all but admitted to Marcus Jimison about Janice. Marcus told me he said, "They take care of their own in Plymouth." Main suspect was Wilkins, but blood run over by police car. "I don't know how that happened, but that's what they say happened." Bo Jack is father of Wilkins. Bo Jack is in Raleigh testifying at a capital trial. Talked with H: about appeals. He said Echols was a bad lawyer. Vosburgh "thought it was a slam dunk." They had discussion of conflict of interest and "after that he wasn't worth nothing." Asking him about details of trial. Took blood?]

Look, they took blood from me so many times, I told them you have to get a court order next time. They fingerprinted me very week that I was in that county jail, every week...they took palm prints, knuckle prints...I took lie detector tests for them...I did everything they wanted me to do. [Wilkins' testimony?] He said he saw LeRoy's daddy's truck...he lied. Vosburgh got on him about that cut, but he said he had cut it that day and had it wrapped up so the jury couldn't see the cut.

M: Did you ever carry a knife?

J: Yeah, sure, a couple of times. [Regularly?] No, I was just out to have a good time. I'd carry a knife if I was going hunting...

K: Heard about murder?

J: Next day, it was on the news, in the newspaper.

M: Did you think of who did it?

J: Who cares? Everyone was talking about it, but I didn't care. [Any theory about it?]

No... didn't know about killers, murderers, robbers, stuff like that. [Joking about Champs not going down to Folly Road much.]

M: Rumors about Spruill doing it?

J: I really heard about it from Big Ed, from the police talking to Ed.

K: Went to TN, January or February. [Yes.] When you left, did you know LeRoy was suspected? [Knew he was questioned.]

H: Were you questioned before you left?

J: No, you see I left and came back. I wasn't gone but two weeks. [Why LeRoy?] I don't know. [When he left Maybin was still in town.] I want to say I seen her one more time, I think she cussed me out, and I never seen her again. Last time I seen her was at trial. [Had questioned Champ?] Yeah, but they never said nothing to me. I went to visit and came back. [Girlfriend was still in TN. He took a bus. Went back to live with Champs, worked for Ed.] In April, it was on a Saturday night, they came to Ed's bar looking for Dana's friend Sherri (Hornea), and I talked to them, they told me I shouldn't be driving that night. That was supposed to be my last night. I already had my stuff packed to go back. [The day he was leaving, the police came to talk to him. A guy came to get the key to the trailer. When it came around the police were there to talk to him, he was worried, so he went to a friend's house, then left for TN (and FL for a while). He avoided the police "like the plague." He was putting stuff in the warehouse (not hiding), but when he knew they were there, he left. He didn't know what they wanted, but he wanted to leave. Kevin told him they wanted to talk, but he knew he would go to jail because of warrant in TN. Didn't he think if LeRoy was questioned, it would be about that? "It never dawned on me. They never said a word to me. They'd seen me with 'em, and there was nothing. I would have taken all my stuff the first time, I ain't lyin'." Kevin Furlough said that's what they wanted, and he left. Furlough was going to take him to the bus station, but instead he took him to Nashville.]

K & H: In TN couple of weeks, talk to Champ?

J: No. Nobody. [Ever back in touch with Champ?] No. [Ever in touch with LeRoy?] No. [Still hanging out with LeRoy between murder in jail?] No, we weren't really friends, to tell you the truth. We was alright. We went out drinking. I didn't know anyone else. He was one of the only people I met outside of the Champ family and they didn't party. [On second trip, he was in FL until June or July, summer of '94, met girl, and had to leave, kids called him dad, then he went back home in September. Stayed with parents.] I was gonna come back to NC. I didn't think it was a big thing. It would have blown over. They would have found somebody. I never thought they was after me. I just thought there was a warrant. If I'd have known they were after me for that, I wouldn't have gone to my mamma's house... [They arrested him in December. Mom wanted him to stay until Christmas. They found him in the cellar. He could have gone, but it was cold and he figured he "hadn't done nothin'," thought they were coming about warrant for parole]

violation, got under the house and stayed, and they were there for three hours before they found him. TN police told him he was going to jail, and when he got there they said it was first-degree murder in NC.] I said you're crazy, you better check that again. [They said they're dropping charges in TN and extradite him to NC, and he signed the papers: "Let me get the paper. It's just a free ride to NC and when I get there they'll know I ain't done it. But that ain't what happened. I could have fought it in court, the extradition. It would have prolonged it." Brought him to NC the next day, didn't question him in TN. Asked to talk to sheriff, who he knew, but he hadn't seen the warrant and didn't know anything. I told them I didn't kill nobody or rob nobody. I told them everything I knew. Everything. I told them I told them I'd take truth serum for them, a lie detector, anything they got, hypnosis, cuz I knew I didn't kill nobody. It ain't been nice. It ain't been nice." Came back and saw Skinner, and he said they didn't think they had killed him, they already knew he wasn't the man. Then they appointed Vosburgh, and he hardly saw Skinner after that. "Skinner, I don't know how he got a law license. When we went to court, they thought he was the defendant and I was the lawyer, cuz of the way he was dressed. I couldn't believe it." Vosburgh handled it, and saw him on weekends. (How was he in touch with Tyndall?) Year ago, lawyer came to see him and said he'd file clemency, and said he'd work for travel expense, \$2500. (Vosburgh had sent him.) Two weeks later, he had to drop the case to go to ministry, passed it to Tyndall. Jimison left for another job, Echols took over. Wrote UNC and Duke, sent big packets. We explained how we got there.]

M: Back to jail. How, when did you find out about charges, from your lawyer?

J: Before I got my lawyer they gave me a polygraph. I stayed over there from seven o'clock in the morning till 12 o'clock at night. [H: Who? SBI. Before he had a lawyer? Yes.] I passed it the man told me. He took it three or six times, back to back, back to back. Then he came back and said "You're not the man we're looking for." And I knew right there in my head, I'm going home. I said, "You need to tell these morons out here that." That's what I told him. I said "I'm sick of this." Then some more guys came and they started doing good cop bad cop role, you know this and that, you missed your own name, and I said the guy had just told me I passed it. I know I ain't failed nothing. But they never told Vosburgh they gave me a lie detector test, but I know I did. I can tell you the room I was in. I can tell you what colors the walls was, had white carpet walls, had a two-way mirror, had a camera. Had a machine sitting on a big long desk like this. I know the whole deal.

H: Do you know who took you out there?

J: Janice Spruill and Willie Williams, from the sheriff's department. [H: Told Vosburgh you hadn't taken one? Yes. H: says we have Spruill's test, but not his. Confirmed that he met Vosburgh after this, told him about test, but sheriff's office denied it took place. He said Vosburgh tried to get record of test, but couldn't. He doesn't remember who did the test.] I saw so many officers that day and that night, I don't remember. [Questioned again? No.] I went to court for a preliminary hearing or something and they appointed a lawyer. I got Skinner and then a few weeks later I got Vosburgh. [Not a public defender,

a private lawyer appointed to his case. Skinner was a court-appointed lawyer. "He wasn't no lawyer." H: Was Vosburgh any good? Yeah, decent until the judge got on his ass a few times, then he clammed up...I told him I need to take the stand. He said they're going to bring up your past, and I said I don't care. I ain't done nothing. I told him, you know, if I've done something, I'll plead guilty to it. And I will, but I didn't do it...[Confirm that he wanted to take the stand, but Vosburgh said no M: Tell us about offers from prosecution.] They offered me...when I took the test over in Greenville...see, I wasn't the killer, when this came out, when I was in Greenville, I wasn't the killer, LeRoy was the killer. They told me this. They said all I gotta do is sign a paper and they brought the paper in there. I don't remember all it said. They said I was there. They said they knew I wasn't the killer, and they kept on all day and all day, and I told 'em, I'm not going to tell that man killed somebody, and he ain't killed nobody. I couldn't live with myself. I raise hell and I party, but I couldn't live with myself doing that. Then about 11 o'clock that night, they said LeRoy ain't the killer no more, you are. I said okay.

H: Did they ever say LeRoy had said you were there? LeRoy said you were the killer?

J: Oh yeah, you know how they do the good cop bad cop thing. Yeah. But I knew he hadn't. I knew he wasn't gonna tell a lie on me. Even if he had, I was gonna beat it cuz it's a lie. I did have a little faith in the criminal justice system. I'm serious. I know if you've done something, you done it. Go in there, do your little plea bargain, do your time and get out. They ain't gonna just put nothing on you, you ain't done. I know better than that now.

M: So they were saying you were an accomplice, you held him down?

J: They didn't say that. They said they knew I was there when it happened, that he did it, this and that. They showed me some pictures that made me sick. They showed me one fingerprint like this big on a...they said this is your print. I said damned if that's my print. I ain't never been there. I know it ain't mine. That picture disappeared too, of course. I told Vosburgh I knew they had it. [Spruill and Williams?] Yes, ma'am, them and some SBI guys, big pictures. [Tell you anything else about crime? No, just that he did it.] I told them I didn't do it. I ain't gonna lie. I was real emotional with 'em. They even had me crying. I ain't never seen nothing like that in my life, not even in the movies. It was a pretty gruesome sight. And I know I hadn't been involved in that. I know...I never seen nothing like that. I told them what do you want me to do? Truth serum? Anything. [Then it went to you as the killer?] Yeah, from him to me. He was the killer, now I'm the killer. [Did they mention Dana?] No, never heard a word about her.

K: First time you heard about Dana?

J: When I got my lawyers.

H: Why did they say you did it?

J: For money and dope.

H: What else did they say they had on you?

J: It's been a long time...I think that's all they said. Statements. All these people saying this and that. They didn't know Lynn Rogers was at that bar that night. I told them she was there. I told them Margie Perry was there. Everybody I could think of, I told them. You can read the report. I said these people love me down there. And pretty much they did. Pretty much those people liked me, except for a few girls...I told them everything I knew...I cooperated fully, 100 percent, everything I knew, anything.

M: They told Vosburgh this never happened.

J: Yeah, it never happened. The lie detector never happened. They questioned me from the time I left. [inaudible]

M: Is there anything else specific you told them? [No, just what he told us.]

J: I didn't know what to tell them. I wasn't going to lie...say yeah, I was there. Even if I had done it, I wouldn't have told them. I ain't crazy. But I would have taken that plea bargain. I ain't gonna tell you no lie.

M: I'm sure it was an enticing offer. Why not take it?

J: Hell yeah, because I didn't do it. I wasn't going to give my life to them. If you're going to kill me, you're going to take it. If you're going to put me in prison for something I didn't do, you're gonna do it. I'm not gonna do it.

H: Were you sure LeRoy didn't do it?

J: Yeah, I'd roll the dice on it.

H: But did you know he didn't do it or just thought so because he's a nice guy?

J: There ain't no way. I didn't even know him good enough to know he's a nice guy. But I know there wasn't no way. There just wasn't no way. And I rolled the dice on 'em. I know if you do something, you're going to jail. If you didn't, you're not.

H: Any theories on who did do it?

J: Maurice Wilkins, from what I've heard. [He said sheriff and others had come to talk to Spruill, but haven't spoken to him. He hears from Harrell about the new investigation, said they've spoken to his mother and said they're turning something over to the attorney general's office. He has not heard from Maybin.] I don't understand what's going on. They're doing something but they're not telling me. My lawyer, I told him about it, but he said they haven't told him about it either. [He's frustrated with Tyndall because he

gave him money for nothing, and doesn't have any more money. Vosburgh offered to pay him to see Maybin.]

M: When did you first hear of Dana's testimony?

J: Vosburgh done told me. I couldn't believe it. I didn't know if she was smoking crack or drunk, or what she was doing...

M: Did she do drugs?

J: She took pills, I know for a fact. [Spent time on Folly Road or buy drugs from Swain?] Not that I know of. She was as new there as I was. I know she did some pills. [Prescription pills or recreational.] Probably the second one. I don't know, I didn't take 'em.

M: Do you know what her original story was? She changed it...

J: She changed it so many times. I don't know how they let her on the stand. Where I'm from in TN, if you do that, they're doing to send your ass to the nuthouse.

M: But she said it was....

J: [First she said it was Curtis Furlough, then all three of them, then just he and Spruill.] I don't understand how can you send a man to prison? My parole date is 2021. I'm never getting out of here. I don't know how they can do that to me.

K: The knife? They never found it.

J: No, there was no weapon found.

H: Tire iron linked to you or Spruill?

J: Nope.

H: But they found it?

J: Yeah in the house. [Talk of how they tested the truck. He wanted them to test the truck or anything else. They took his hair from his head and his arms, and his blood, but he never heard of results from tests. He did not know Maurice Wilkins, only knew one black person, who worked for Big Ed.]

K: Anything else you want to tell us.

J: [Jack Spruill told Spruill that a woman on the jury was forced to agree to a guilty verdict. She is a local, white woman. (Carolyn Spruill) Maurice Wilkins' cousin was also on jury. He told Skinner to get him off jury, but Skinner said, "Don't worry about it. He

knows the street talk. He knows you didn't do it. (Idea was that he would know, based on talk around the neighborhood, that Jones didn't do it.) Sonja Day's murder is still unsolved. He did not know Day, and as far as he knows was never a suspect. Heard of another unsolved murder (Rosa Brooks). Said he's friends with Spruill now. I'm hoping I get to stay here after y'all leave. I don't know if they're going to separate us or not. I don't know. They were acting funny about it. Maybe not, though.

[Discussion of legal options, strength and weakness of his appeals, whether Maybin has anything to gain from claiming she's innocent now. Jones asked how we got involved, and Kuka explains. Jones said Tyndall claims to have gotten us involved. We asked if he knew of anyone else to talk to, or if he knew some of the people who Spruill gave us to contact. He gives us his mother's name and number.]

A lot of people just don't want to get involved. I don't know how they sleep at night.

[He did not know Janice Spruill prior to his arrest. He said he paid Carl Stewart \$1,000 to get a statement from Arnold, but he never got one. The new county sheriff, Stanley James, found a bunch of letters about the case in the old sheriff's office. Prisoner Legal Services tried to get these to use in court, but he said he had turned them over to Willie Williams.]

Handout 70

NORTH CAROLINA
WASHINGTON COUNTY

GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

STATE OF NORTH CAROLINA,

Plaintiff,

vs.

WALLACE BRANDON JONES,

Defendant.

FILE NOS.:

94 CRS 4973

95 CRS 1965

STATE OF NORTH CAROLINA,

Plaintiff,

vs.

LEROY SPRUILL,

Defendant.

FILE NOS.:

95 CRS 1566

94 CRS 1984

Recorded Interview

This is the transcript of the recorded interview taken of Wallace Brandon Jones, which was conducted by Sharon Stellato, Staff Investigator, from the North Carolina Innocence Inquiry Commission. The recorded interview took place on February 21, 2011.

APPEARANCES:

Sharon Stellato, Staff Investigator
North Carolina Innocence Inquiry Commission
Stormy Ellis, Staff Attorney
Catherine Matoian, Intern
Administrative Office of the Courts
P.O. Box 2448
Raleigh, NC 27602

Also Present: Wallace Brandon Jones
Angus Thompson, Attorney
Kristy Turner, Attorney

1 P R O C E E D I N G S

2 FEMALE: 1:10.

3 MS. STELLATO: It's 1:10 and we're here with
4 Wallace Brandon Jones and his attorneys starting an
5 interview.

6 What -- what do you go by? Do you commonly go
7 by Brandon or Wallace?

8 MR. JONES: Brandon.

9 MS. STELLATO: Brandon, okay.

10 I'm just going to ask you some questions about
11 what you remember from the time of the murder.

12 How long had you been in the area? How long had
13 you been in town when -- when you heard about this murder
14 happening?

15 MR. JONES: About four months. Three or four
16 months.

17 MS. STELLATO: And who were you living with?

18 MR. JONES: I was staying at Ed Champ's house.
19 At his -- on his property.

20 MS. STELLATO: And what were you staying in?

21 MR. JONES: A camper trailer.

22 MS. STELLATO: And were you the only one who
23 lived in the camper trailer?

24 MR. JONES: Uh-huh.

25 MS. STELLATO: Who did you come to town with?

1 MR. JONES: I came Manuel Garcia.

2 MS. STELLATO: And where was he at?

3 MR. JONES: They had went back to Florida.

4 MS. STELLATO: What were you doing for work at
5 the time?

6 MR. JONES: I was working with Big Ed. He --
7 doing some asphalt paving, working at the bar some, and
8 pumping septic tanks.

9 MS. STELLATO: And did you know Frank Swain?

10 MR. JONES: No.

11 MS. STELLATO: Had you ever met him?

12 MR. JONES: Never.

13 MS. STELLATO: Had you ever bought drugs from
14 him?

15 MR. JONES: Never.

16 MS. STELLATO: And how did you hear about the
17 victim being murdered?

18 MR. JONES: There was big talk around there.
19 It's just a small place and everybody was talking about
20 it. It was -- I think it was in the newspapers.

21 MS. STELLATO: When did you hear that you were a
22 suspect?

23 MR. JONES: I think it was the day that they
24 came to arrest me. I believe it was in April or May.
25 Something -- I can't remember the exact date.

1 MS. STELLATO: And where did they arrest you?

2 MR. JONES: They came and arrested me in
3 Tennessee, but I had -- was in North Carolina. I was
4 leaving North Carolina that same day they came and I just
5 went on and left. I didn't think nothing about it because
6 I knew that I hadn't did nothing.

7 MS. STELLATO: So had the police questioned you?

8 MR. JONES: No, never. They had came by Big
9 Ed's house that day looking for me, but I wasn't there at
10 that time.

11 MS. STELLATO: You were on your way to Tennessee
12 at that time?

13 MR. JONES: I was -- I was going home to
14 Tennessee.

15 MS. STELLATO: And so where did you go in
16 Tennessee when you -- when you went back?

17 MR. JONES: I went to my mom's house for about
18 two or three weeks and then I went to Florida.

19 MS. STELLATO: And what were you doing there?

20 MR. JONES: Working.

21 MS. STELLATO: So when -- and then did you go
22 back to Tennessee?

23 MR. JONES: Yes, ma'am.

24 MS. STELLATO: Okay. And --

25 MR. JONES: I stayed in Florida for about seven

1 months. Six, seven months, something like that.

2 MS. STELLATO: So during this time, did you know
3 that you were wanted?

4 MR. JONES: I knew that they wanted to talk to
5 me. I didn't -- I had knew, you know, they had talked
6 Leroy. I had -- I knew that. But they had never -- never
7 come talked to me, but I knew they had came and talked to
8 him a couple of times.

9 MS. STELLATO: So how long had you known Leroy?

10 MR. JONES: About four months. I had met him at
11 the bar.

12 MS. STELLATO: And you were just -- were you
13 friends?

14 MR. JONES: Yeah.

15 MS. STELLATO: Tell me about Dana Maybin.

16 MR. JONES: I met her at that bar, too.

17 MS. STELLATO: Okay. So you didn't know her
18 when you came to town?

19 MR. JONES: No, ma'am.

20 MS. STELLATO: And was she your girlfriend?

21 MR. JONES: In a roundabout kind of way.

22 MS. STELLATO: How long did you know her for?

23 MR. JONES: About four months.

24 MS. STELLATO: So the whole time you were there?

25 MR. JONES: (No verbal response.)

1 MS. STELLATO: And what -- how would you
2 describe your relationship with Dana Maybin?

3 MR. JONES: Oh, we just went out. She lived at
4 Leroy's house and we'd go out here and there.

5 MS. STELLATO: Did you date other people during
6 that time?

7 MR. JONES: I did, yeah.

8 MS. STELLATO: Did she, do you know?

9 MR. JONES: I don't know.

10 MS. STELLATO: What was her relationship with
11 Leroy?

12 MR. JONES: They were just friends.

13 MS. STELLATO: Okay. Did you ever live with
14 Dana Maybin?

15 MR. JONES: No.

16 MS. STELLATO: Did she ever stay with you?

17 MR. JONES: No. I could let nobody come over
18 there.

19 MS. STELLATO: To Ed Champ's camper?

20 MR. JONES: Well, I was staying -- I didn't stay
21 in that but a few months. I moved in his apartment,
22 garage apartment --

23 MS. STELLATO: Okay.

24 MR. JONES: -- on his property.

25 MS. STELLATO: So you worked at the bar --

1 MR. JONES: Yes, ma'am.

2 MS. STELLATO: -- Ed's bar?

3 What did you do there?

4 MR. JONES: Bartended.

5 MS. STELLATO: And how often would you say you
6 worked there?

7 MR. JONES: On the weekends, like maybe Thursday
8 and Friday night. Usually on Saturday night I went there
9 and drank beer and danced and...

10 MS. STELLATO: Okay. And would you normally go
11 there with Leroy or would you go there by yourself and
12 meet him there? I mean how did --

13 MR. JONES: Sometimes they would be there;
14 sometimes I'd go by his house and we'd all go.

15 MS. STELLATO: Okay. Do you remember what
16 happened on the night of the murder?

17 MR. JONES: Yeah.

18 MS. STELLATO: And how do you remember?

19 MR. JONES: Because it was big talk in the town.
20 And Big Ed said he was going to get him a logbook to put
21 in his bar for people to sign in.

22 MS. STELLATO: About who came in and out?

23 MR. JONES: Yeah.

24 MS. STELLATO: So what do you remember about
25 that night?

1 MR. JONES: I worked all day with Big Ed pumping
2 septic tanks. And I went over to my place, took a shower
3 and stuff. And I walked over to Leroy's house. And we
4 walked a couple -- I think a couple of houses down or
5 something and he seen somebody in the driveway that he
6 knew. I didn't know him. And he gave us -- me, him and
7 Dana a ride to the bar.

8 MS. STELLATO: And when did Dana -- was Dana at
9 Leroy's house?

10 MR. JONES: Yes, ma'am.

11 MS. STELLATO: Okay. So you walked over to
12 Leroy's house. Then you guys went somewhere else and you
13 got a ride to the bar?

14 MR. JONES: Yes, ma'am. It was like three or
15 four houses down from his house.

16 MS. STELLATO: And do you know approximately
17 what time you got to the bar?

18 MR. JONES: It was early, 6:00 or 7:30,
19 something like that.

20 MS. STELLATO: And what did you -- did you have
21 any money that night?

22 MR. JONES: Yes, ma'am.

23 MS. STELLATO: How much money do you think you
24 had?

25 MR. JONES: I don't -- I don't know, to tell you

1 the truth. I don't want to tell you no lie.

2 MS. STELLATO: Do you know where you got the
3 money?

4 MR. JONES: I worked every day. I had no bills.

5 MS. STELLATO: So did -- how did Big Ed pay you?
6 Would you pay you every day?

7 MR. JONES: In cash.

8 MS. STELLATO: He'd pay you in cash.

9 And do you know if he paid you that day or that
10 week?

11 MR. JONES: Yeah. Big Ed paid me that week.

12 MS. STELLATO: And what did you do at the bar
13 that night?

14 MR. JONES: We drank beer. Was, as I said,
15 there at the bar, dancing.

16 MS. STELLATO: Were you with Dana at that time?
17 And when I say with her, were you a couple at that time?

18 MR. JONES: Yeah.

19 MS. STELLATO: You were.

20 And is there anything else that you remember
21 about that night?

22 MR. JONES: We partied at Big Ed's and then we
23 went to Leroy's house. And Smarty Spruill or somebody --
24 I can't remember his last name. I think it was Smarty
25 Sпруill -- he came by there.

1 MS. STELLATO: Do you know how you got home that
2 night?

3 MR. JONES: Yeah.

4 MS. STELLATO: How?

5 MR. JONES: I walked over to Leroy's house.

6 MS. STELLATO: Okay. Was it within walking
7 distance?

8 MR. JONES: Yes, ma'am.

9 MS. STELLATO: Okay. So you walked over to
10 Leroy's house and then you remember someone else staying
11 there?

12 MR. JONES: I stayed there.

13 MS. STELLATO: You stayed there that night?

14 MR. JONES: Yes, ma'am. It was after the bar
15 closed that we went.

16 MS. STELLATO: And where was Dana Maybin?

17 MR. JONES: She was with me.

18 MS. STELLATO: Okay. So all three of you went
19 back to Leroy's house?

20 MR. JONES: Yes, ma'am.

21 MS. STELLATO: What time do you think you left
22 the bar?

23 MR. JONES: I believe it closed at 1 o'clock.

24 MS. STELLATO: So you left when it closed. You
25 don't know 1 o'clock, but you left when the bar closed?

1 MR. JONES: Yeah.

2 MS. STELLATO: Okay.

3 MR. JONES: Because Big Ed Champ and -- he had a
4 whole bunch of people he was giving a ride to. He stopped
5 us and he wanted to give us a ride. I told him, no, we
6 was all right.

7 MS. STELLATO: How far is it from the bar to
8 Leroy's house?

9 MR. JONES: Not very far.

10 MS. STELLATO: Walking distance?

11 MR. JONES: Oh, yeah.

12 MS. STELLATO: Okay.

13 MR. JONES: Yes. It's -- it's real close.

14 MS. STELLATO: Do you remember who the bartender
15 was that night?

16 MR. JONES: Lynn Rogers.

17 MS. STELLATO: And how well did you know her?

18 MR. JONES: I just knowed her through the bar
19 and her coming over to Ed and them's house.

20 MS. STELLATO: Did you get along with her?

21 MR. JONES: So so.

22 MS. STELLATO: Have you heard the statements
23 that she said about you?

24 MR. JONES: Yes, ma'am. In court.

25 MS. STELLATO: And what do you think about that?

1 MR. JONES: She lied. I also heard that she
2 told somebody else that Janice Spruill forced her to lie,
3 also. I told Ms. Mumma about it. I don't know if anybody
4 ever talked to her or not. But Ed Champ told me that she
5 had told him that.

6 MS. STELLATO: Ed Champ told you that Janice
7 Spreuill told him --

8 MR. JONES: No.

9 MS. STELLATO: No, I'm sorry.

10 MR. JONES: That Lynn Rogers --

11 MS. STELLATO: That Lynn Rogers told him Janice
12 Spreuill made her lie?

13 MR. JONES: Yeah. That she was going to get
14 charged with stuff and...

15 MS. STELLATO: Were you using drugs at that
16 time?

17 MR. JONES: No, ma'am.

18 MS. STELLATO: What was your past with drug use?

19 MR. JONES: I've used drugs before.

20 MS. STELLATO: While you were in that town or
21 no?

22 MR. JONES: No. One time. It was -- I had left
23 North Carolina in February, end of January, first of
24 February, and went home and came back.

25 MS. STELLATO: So let's talk about, why were you

1 in North Carolina? What made you come to North Carolina?

2 MR. JONES: I came with some immigrant workers.

3 I had got in trouble in Tennessee and I had left and I
4 ended up coming to North Carolina.

5 MS. STELLATO: So you didn't know where --

6 MR. JONES: I had been to Texas.

7 MS. STELLATO: -- you were coming at the time?

8 MR. JONES: No.

9 MS. STELLATO: You were just leaving?

10 MR. JONES: Just -- we were just riding,
11 working, going different places, different states.

12 MS. STELLATO: So what kind of trouble had you
13 been in in the past?

14 MR. JONES: Tennessee record?

15 MS. STELLATO: Uh-huh.

16 MR. JONES: I went to prison in Tennessee for
17 transporting explosives, burning a city shed down at the
18 city dump. I can't remember. It was a bunch -- they gave
19 me a list of charges. It was copper wire -- it was copper
20 wire, attempted robbery for a dollar. It was a bunch
21 of -- bunch of things. About five or six charges. And
22 bad checks. Stuff like that. They gave me a six-year
23 sentence for it.

24 MS. STELLATO: So all of those combined, you
25 took a -- did you take a plea?

1 MR. JONES: Yes, ma'am.

2 MS. STELLATO: Okay. And you got six years in
3 prison?

4 MR. JONES: Yes, ma'am.

5 MS. STELLATO: And did you serve that time?

6 MR. JONES: About a year.

7 MS. STELLATO: You served a year?

8 MR. JONES: About a year.

9 MS. STELLATO: And then were you released on
10 parole?

11 MR. JONES: Yes, ma'am.

12 MS. STELLATO: And then what?

13 MR. JONES: I left on my parole.

14 MS. STELLATO: You left on your parole?

15 MR. JONES: Yeah.

16 MS. STELLATO: Is that when you went to Texas?

17 MR. JONES: Yes, ma'am. They vacated all that
18 stuff and...

19 MS. STELLATO: The -- the Tennessee --

20 MR. JONES: The parole.

21 MS. STELLATO: Okay.

22 MR. JONES: Yeah.

23 MS. STELLATO: Yeah.

24 MR. JONES: Vacated that.

25 MS. STELLATO: How old were you -- how old are

1 you now?

2 MR. JONES: I'm 38.

3 MS. STELLATO: So how old -- do you remember how
4 old you were at time? If you need a calculator --

5 MR. JONES: 21. 20, 21.

6 MS. STELLATO: Okay. Aggravated assault in
7 Tennessee?

8 MR. JONES: Yes, ma'am.

9 MS. STELLATO: What was that about?

10 MR. JONES: It was for robbery for one dollar.

11 MS. STELLATO: And tell me about that.

12 MR. JONES: Well, me and a guy got into it. And
13 it was a big mess. The next thing you know, his little
14 brother went and signed a warrant -- everybody saw it --
15 for robbery on a dollar, for attempted robbery for a
16 dollar.

17 MS. STELLATO: What about attempted armed
18 robbery?

19 MR. JONES: That's what it is.

20 MS. STELLATO: Did you have a weapon?

21 MR. JONES: Yes, ma'am.

22 MS. STELLATO: What was it?

23 MR. JONES: A knife. It was one of those little
24 box cutter things on your key chain.

25 MS. STELLATO: Uh-huh. How did you find out

1 that they had vacated the sentence?

2 MR. JONES: They sent me the papers.

3 MS. STELLATO: And when was that? Since you've
4 been in prison?

5 MR. JONES: Oh, yeah. It's been a long time
6 ago.

7 MS. STELLATO: Okay.

8 MR. JONES: I've got all that stuff in my
9 locker, all the charges. It was about seven or eight of
10 them.

11 MS. STELLATO: What about an aggravated
12 burglary, do you remember that?

13 MR. JONES: Other than the habitation?

14 MS. STELLATO: It was on April 4th of '91. Do
15 you remember that?

16 MR. JONES: That's probably the same charges.

17 MS. STELLATO: Were you charged with anything in
18 Texas?

19 MR. JONES: Assault on a police officer.

20 MS. STELLATO: And tell me about that.

21 MR. JONES: Everybody got drunk. And the law
22 got called and they came in. They asked me if I had ever
23 been arrested in Texas. And I told them no. And they
24 told me yes, you have for a distillery in 1969.

25 And I told the guy, I said, I weren't even born

1 in 1969. And one thing led to another. And I slapped
2 three police officers.

3 MS. STELLATO: Did you drink a lot back then?

4 MR. JONES: Yes, ma'am.

5 MS. STELLATO: Would you describe yourself as an
6 alcoholic?

7 MR. JONES: On the weekends. Weekends. I
8 worked during the week.

9 MS. STELLATO: So during the weekends you --

10 MR. JONES: Yes, ma'am.

11 MS. STELLATO: You -- were you known to be
12 violent when you were drinking?

13 MR. JONES: Sometimes, I reckon. I have been in
14 a couple scuffles, you know. But I was a pretty nice
15 drunk.

16 MS. STELLATO: Would you describe them as bar
17 fights, that kind of thing or no?

18 MR. JONES: I have been in bar fight before.

19 MS. STELLATO: Okay.

20 MR. JONES: I broke some up before.

21 MS. STELLATO: But if you had to describe
22 yourself, you'd say you were a nice drunk?

23 MR. JONES: Pretty nice drunk.

24 MS. STELLATO: Tell me about Dana Maybin. How
25 was -- how was she with alcohol?

1 MR. JONES: I know she -- she drank more than I
2 did. She was taking some kind of medication or something.
3 I don't know what it was.

4 MS. STELLATO: Was it prescription medication?

5 MR. JONES: Yes, ma'am.

6 MS. STELLATO: What about other drugs, was she
7 using any other drugs?

8 MR. JONES: Not from my knowledge.

9 MS. STELLATO: What about Leroy?

10 MR. JONES: No, not to my knowledge. He wasn't
11 at that time.

12 MS. STELLATO: How would you describe him as
13 a -- drinking, when he was drinking, how would you
14 describe him?

15 MR. JONES: He was, what do you call it, gentle
16 giant. Yeah. He was all right.

17 MS. STELLATO: Have you been accused of other
18 murders?

19 MR. JONES: Not that I know of.

20 MS. STELLATO: Is -- is there any truth to the
21 story that your niece was molested by your uncle? Do you
22 know anything about that?

23 MR. JONES: I don't have no uncle.

24 MS. STELLATO: Is there any truth that you --
25 well, if you don't have any uncle, I guess there's no

1 truth that you got into an altercation with your uncle?

2 MR. JONES: I don't have an uncle.

3 MS. STELLATO: Okay.

4 MR. JONES: No. No truth to that.

5 MS. STELLATO: Why were you hiding under your
6 mom's house when the police found you?

7 MR. JONES: Because I -- I could have went out
8 the back, but I didn't -- I didn't think they was coming
9 to get me for no murder. I thought they were just looking
10 for me for a parole violation thing. I wasn't -- you
11 know. So I went under there and they came and got me.

12 MS. STELLATO: So you didn't know that they were
13 after you for the murder, you thought it was a parole
14 violation?

15 MR. JONES: Yes, ma'am. Usually if they come
16 look in your house, they look under beds and the closet.

17 MS. STELLATO: The police indicated that it
18 appeared underneath the home that you had been there for
19 some time based on --

20 MR. JONES: No.

21 MS. STELLATO: -- things they found, food and
22 things of that nature.

23 MR. JONES: No. They found a bunch of bags and
24 stuff. My mama let the dogs live under the house in the
25 wintertime and they would drag stuff under the house

1 through the fence. No, I wasn't living under my mom's
2 house.

3 MS. STELLATO: What do you think about what Dana
4 Maybin told the police? Or actually, what do you think
5 about what Dana Maybin said at your trial?

6 MR. JONES: I'll tell you right now, it's all --
7 it's all a big made-up -- big made-up lie, every -- every
8 bit of it, from day one until right now. Ain't nothing
9 changed. That's all a lie.

10 MS. STELLATO: Why do you think she did that?

11 MR. JONES: I believe that Janice Spruill
12 pressured her into doing it. You know, I heard her diary,
13 her telling she lied. And her tape on tape, they had her
14 on tape saying she lied. And the faxed letter that she
15 faxed the police department saying she lied and why she
16 was lying.

17 And I don't -- I don't understand all this, you
18 know. Am I just a scapegoat in this deal or -- I don't
19 understand it. I swear to God I don't. You know, if I
20 had been guilty, hey, I would have went up there and sung
21 like a canary. I ain't going to lie.

22 MS. STELLATO: On Leroy?

23 MR. JONES: Huh?

24 MS. STELLATO: On Leroy.

25 MR. JONES: If I would have been guilty, I would

1 have told it all. I would have took a plea bargain. I
2 wouldn't put my life on the line for nobody, you know.
3 We're talking the death penalty, capital case.

4 MS. STELLATO: Do you think at the time that
5 Dana Maybin was afraid of you?

6 MR. JONES: No. There's no reason to be afraid
7 of me.

8 MS. STELLATO: She didn't have any reason to be
9 afraid of you?

10 MR. JONES: No. I hadn't even thought about
11 Dana Maybin until they locked us up and they started
12 telling us all this stuff.

13 MS. STELLATO: Has the attorney general's office
14 come and talked to you about the Sonja Day murder?

15 MR. JONES: No.

16 MS. STELLATO: Have the -- has the attorney
17 general's office come and talked to you at all?

18 MR. JONES: Yes.

19 MS. STELLATO: Since you've been in prison?

20 MR. JONES: Yes, ma'am.

21 MS. STELLATO: And what have they told you?

22 MR. JONES: About this murder.

23 MS. STELLATO: About this murder?

24 MR. JONES: Yes, ma'am.

25 MS. STELLATO: To try to get you to say

1 something else?

2 MR. JONES: I reckon. They was asking me all
3 kind of questions, just like you're doing.

4 MS. STELLATO: When was that?

5 MR. JONES: It's been two years ago. It's been
6 about -- I believe it was in '04. It's when the chief of
7 police was talking to all them guys.

8 MS. STELLATO: Floyd?

9 MR. JONES: Yes, ma'am. Said he had some
10 suspects in the case and stuff like that.

11 MS. STELLATO: How do you know about that?

12 MR. JONES: Because he told us.

13 MS. STELLATO: Who told you?

14 MR. JONES: John Floyd.

15 MS. STELLATO: Okay.

16 MR. JONES: Dana Maybin had told him the truth
17 on the phone. He called to the prison down there in Hyde
18 County and told me and Leroy both just to hold on a little
19 longer.

20 MS. STELLATO: So you found out Floyd was
21 working on it because he -- you got a call from him?

22 MR. JONES: Yeah. Leroy -- Leroy had talked to
23 him before. I had never talked to him, never, you know.
24 And that's how I knew. And then it came all out in the
25 newspapers and stuff, "News and Observer".

1 MS. STELLATO: And then after that, do you
2 believe it was when the attorney general's office came?

3 MR. JONES: Yeah. It was right after that.

4 MS. STELLATO: Do you remember who it was that
5 came from there?

6 MR. JONES: No, ma'am. I just know it was two.

7 MS. STELLATO: It was two. Was it men?

8 MR. JONES: Two men, yes, ma'am.

9 MS. STELLATO: So they didn't talk to you about
10 the Sonja Day murder?

11 MR. JONES: No.

12 MS. STELLATO: Do you know Sonja Day?

13 MR. JONES: No.

14 MS. STELLATO: Did you know her then?

15 MR. JONES: No.

16 MS. STELLATO: You had no idea who she was?

17 MR. JONES: No, ma'am.

18 MS. STELLATO: And --

19 MR. JONES: I knew very few people. The only
20 people I knew around there I either worked for or met them
21 at that little bar.

22 MS. STELLATO: Had you ever bought drugs in that
23 town?

24 MR. JONES: No.

25 MS. STELLATO: Had you ever been in Frank

1 Swain's trailer?

2 MR. JONES: No, ma'am.

3 MS. STELLATO: So your DNA would not --

4 MR. JONES: Never.

5 MS. STELLATO: -- be in that house?

6 MR. JONES: DNA, fingerprint, nothing.

7 MS. STELLATO: Can you remember anything at all
8 that the attorney general's office asked you when they
9 were here?

10 MR. JONES: They asked me why I think --
11 questions like you're asking me, why I think Dana told
12 this; why she was doing that; and what John Floyd had told
13 me they wanted to know. And I told you, I've never talked
14 to the man. And they wanted to know so -- what was it?
15 I'm trying to think. So much they kept asking me. And he
16 was asking some questions about Janice Spruill. And it
17 was a bunch of -- it was a bunch of different questions.
18 They interviewed me and Leroy at the same time.

19 MS. STELLATO: In the same room together?

20 MR. JONES: Yes, ma'am.

21 MS. STELLATO: Where was that?

22 MR. JONES: At Hyde County Correctional Prison
23 down there at Hyde.

24 MS. STELLATO: So were you and Leroy there in
25 prison together?

1 MR. JONES: Yes, ma'am.

2 MS. STELLATO: For how long?

3 MR. JONES: About six years.

4 MS. STELLATO: And did you have communication
5 with each other during that six --

6 MR. JONES: Every day.

7 MS. STELLATO: Okay. So they interviewed the
8 two of you in one room together?

9 MR. JONES: Yes, ma'am. They had a good guy and
10 a bad guy.

11 MS. STELLATO: When you and Leroy were in Hyde
12 Correctional, did you talk about the case?

13 MR. JONES: We talked about it every day. I
14 mean, it was just -- it's like a nightmare. Now, we -- we
15 thought it was going to be over with when all that stuff
16 came out in the papers. We thought for sure it was over
17 with.

18 MS. STELLATO: What -- what came out in the
19 papers? Was it the John Floyd stuff that you're talking
20 about?

21 MR. JONES: Yes, ma'am.

22 MS. STELLATO: Okay. So when that happened, you
23 thought they were doing the investigative series and you
24 thought --

25 MR. JONES: Oh, I -- I thought they were just

1 going to arrest some people. Then I heard that they had
2 jammed John Floyd up on something and...

3 MS. STELLATO: And sent him to prison?

4 MR. JONES: Oh, did they send him to prison?

5 MS. STELLATO: He's out now, but he went to
6 prison, yeah.

7 MR. JONES: They told -- he told some people
8 that we ruined his career.

9 MS. STELLATO: Who did he tell that to?

10 MR. JONES: A bunch of people. You know, we
11 just hear it through the grapevine, you know.

12 MS. STELLATO: Were you ever offered a plea
13 agreement?

14 MR. JONES: Yes, ma'am.

15 MS. STELLATO: And what was it?

16 MR. JONES: I believe it was 40 years.

17 MS. STELLATO: And when were you offered that?

18 MR. JONES: John Skinner had came to my cell
19 and -- to jail, the county jail in Plymouth and asked me.
20 I told him I weren't taking no plea.

21 MS. STELLATO: What did he want you to do for
22 the plea agreement? Did he tell you that?

23 MR. JONES: He just asked me about a plea. I
24 told him, no, I'm not taking a plea.

25 MS. STELLATO: Okay. Have they ever tried to

1 get you to tell them that Leroy Spruill was involved?

2 MR. JONES: Yes, ma'am. From day one. I wasn't
3 even the killer from day one.

4 Let me tell how all this got started. The
5 whole -- how my name even got brought up in this whole
6 deal.

7 At that bar down there -- Leroy had went and
8 took a lie detector or something. And he came down to
9 that bar and he was telling everybody about it.

10 And I told him, I said, Don't worry about it. I
11 know where you was at. I'll testify for you.

12 Bam. The next thing you know, I'm involved in
13 it. I was not involved in this. But I remember it. And
14 that's how it got started. And here it goes.

15 They never talked to me. I've seen them. I've
16 seen Janice Spruill a hundred times. She gave me and Dana
17 a ride before, you know. One time her car had broke down.
18 They had never questioned me or talked to me. But they
19 had talked to him three or four times, maybe more. He
20 took lie detectors and everything.

21 And when he told us that at the bar, it was me,
22 Big Ed, that Lynn Rogers girl. And that's how she twisted
23 her little thing up somehow or another.

24 But I remember I told Leroy, I said, Ah, don't
25 worry about it. I'll testify for you. I know where you

1 was at. And it's gone from that to right now.

2 MS. STELLATO: Did you carry a knife on you at
3 the time?

4 MR. JONES: No.

5 MS. STELLATO: A pocket knife or anything like
6 that?

7 MR. JONES: No. I was trying to stay low and
8 out of trouble.

9 MS. STELLATO: Why were you going by an alias at
10 that time, Robert Solis?

11 MR. JONES: I was working with a bunch of
12 Mexican guys and I started using that name. I couldn't
13 use my name.

14 MS. STELLATO: Why?

15 MR. JONES: Because I had a warrant. I had made
16 it easy for them guys to talk to me and stuff.

17 MS. STELLATO: And your warrant, to your
18 knowledge, was violating parole?

19 MR. JONES: Yes, ma'am.

20 MS. STELLATO: Is that the warrant that you
21 believed?

22 MR. JONES: Yes, ma'am.

23 MS. STELLATO: Okay. What about the other
24 aliases that you went by? Did you do that for the same
25 reason?

1 MR. JONES: Yes, ma'am. I had went usually with
2 two.

3 MS. STELLATO: What was the other one?

4 MR. JONES: Chris Bass.

5 MS. STELLATO: And how did they get -- wasn't it
6 Chris Reid as well?

7 MR. JONES: That's the same name.

8 MS. STELLATO: It's the same name?

9 MR. JONES: Yes, ma'am. Chris Reed Bass.

10 MS. STELLATO: How -- how sure are you that you
11 had been in town four months?

12 MR. JONES: At the time of the murder?

13 MS. STELLATO: Uh-huh.

14 MR. JONES: October, November, December. It was
15 three or four months.

16 MS. STELLATO: So when had you got there to
17 your --

18 MR. JONES: I believe in the end of September.

19 MS. STELLATO: And when did you leave?

20 MR. JONES: April. I had left before that and
21 came back.

22 MS. STELLATO: So you -- when did you leave town
23 the first time?

24 MR. JONES: In February.

25 MS. STELLATO: Okay. And why did you leave town

1 that time? Was that the time that you believe the
2 police --

3 MR. JONES: No.

4 MS. STELLATO: No?

5 MR. JONES: No. I went to my mom's and I came
6 back.

7 MS. STELLATO: Okay.

8 MR. JONES: I went later. It might have been
9 two weeks later.

10 MS. STELLATO: So you left town in February and
11 went to your mom's?

12 MR. JONES: Yeah. And came back to North
13 Carolina.

14 MS. STELLATO: Okay.

15 MR. JONES: And went back to Big Ed's, Ed
16 Champ's.

17 MS. STELLATO: And when did you leave again?

18 MR. JONES: It was either April or May.
19 January, February, March, April, May. It was -- I believe
20 it was sometime after, I want to say, Easter. When is
21 Easter? April.

22 FEMALE: March, April.

23 MR. JONES: Sometime like that.

24 MS. STELLATO: How --

25 MALE: It was in April.

1 MR. JONES: But the night before they come to
2 question me, I had seen Janice Spruill. It was in the
3 bar. She was looking for that girl Sherry Honea -- Honea.

4 MS. STELLATO: Uh-huh.

5 MR. JONES: She was looking for her. She came
6 right up to me and talked to me and asked me if I had seen
7 her. I told her I hadn't seen her because, you know, they
8 was in the bar the night before and got in some -- got
9 into a fight up there at the bar. And her brother was
10 involved with it with Sherry and a bunch of -- and we
11 kicked them all out of the bar, me and Big Ed.

12 And she told me that night, she said, Don't be
13 driving nothing.

14 I said, I ain't driving.

15 MS. STELLATO: So I just want to be clear. I
16 hate to make you repeat this again, but --

17 MR. JONES: It's okay.

18 MS. STELLATO: So then the next day you're
19 leaving down and you're leaving to --

20 MR. JONES: It was already planned.

21 MS. STELLATO: It was already planned to leave
22 town?

23 MR. JONES: Oh, before they ever -- that
24 Saturday night was my last night because Ed was renting
25 that top apartment out. I had my stuff packed and

1 everything. It was already a done deal.

2 MS. STELLATO: So at that time, did you know
3 that they suspected you as being involved?

4 MR. JONES: No.

5 MS. STELLATO: You had no idea?

6 MR. JONES: No, ma'am.

7 MS. STELLATO: How did you leave town?

8 MR. JONES: I left in -- what's his face? I'm
9 trying to think of his name. Curtis Furlough and Bruce
10 Smith had took me to Tennessee.

11 MS. STELLATO: And why were you leaving?

12 MR. JONES: For one, I didn't have no place stay
13 really.

14 MS. STELLATO: Okay.

15 MR. JONES: I was going to go to Florida and,
16 what, with Manuel and them.

17 MS. STELLATO: So then you went to Tennessee.
18 And how long did you stay there that time?

19 MR. JONES: About a week or two.

20 MS. STELLATO: And then what did you do?

21 MR. JONES: I went to Florida.

22 MS. STELLATO: And how long did you stay there?

23 MR. JONES: Six or seven months.

24 MS. STELLATO: And then you went back to --

25 MR. JONES: To my mom's.

1 MS. STELLATO: Your mom's.

2 And whenever you talk about going to Tennessee,
3 do you always go to your mom's? Is that --

4 MR. JONES: Yes, ma'am.

5 MS. STELLATO: When the AG's office came and
6 interviewed you, did they -- when you've been in prison,
7 did they offer you any kind of deal?

8 MR. JONES: No, ma'am.

9 MS. STELLATO: I'm going to ask you about some
10 people and I think that there's a chance that some of them
11 you don't know based on how long you were there, but tell
12 me what you do know.

13 Wyatt Spruill?

14 MR. JONES: Yes, ma'am. I know him.

15 MS. STELLATO: How did you know him?

16 MR. JONES: He was kin to Leroy. I had seen him
17 at Leroy's house before.

18 MS. STELLATO: And what would you say about him?
19 Give you a chance to tell to kind of me what you knew
20 about him.

21 MR. JONES: I really knew nothing about him, but
22 I had heard he was -- he wasn't no good.

23 MS. STELLATO: You had heard that?

24 MR. JONES: Yeah. Don't give him no money
25 because he wouldn't pay you back. That's what I heard.

1 MS. STELLATO: Did he use drugs?

2 MR. JONES: Yes, ma'am. Not with me. But I
3 heard, you know.

4 MS. STELLATO: Obviously you know Curtis
5 Furlough. How do you know him?

6 MR. JONES: Curtis Furlough. He was married to
7 some -- married to some girl that was kin to Ed Champ and
8 them.

9 MS. STELLATO: Did you know Sherry -- we just
10 talked about her, Sherry --

11 MR. JONES: Honea.

12 MS. STELLATO: Honea. Yeah. Did you know her?

13 MR. JONES: Yes, ma'am.

14 MS. STELLATO: How did you know her?

15 MR. JONES: She was Dana's friend.

16 MS. STELLATO: How long had Dana been there? Do
17 you know?

18 MR. JONES: I don't know.

19 MS. STELLATO: You don't know.

20 So you just knew Sherry as being Dana's friend?

21 MR. JONES: Yes, ma'am.

22 MS. STELLATO: Is there anyone else that you
23 dated or had any kind of relationship with when you were
24 in this town?

25 MR. JONES: Oh, Lord. The lady that lived

1 behind the bar. I can't think of her name, though. Her
2 name -- yeah, her name was Connie. But I --

3 MS. STELLATO: Connie Everhart?

4 MR. JONES: No. I can't remember the last name.

5 MS. STELLATO: Okay.

6 MR. JONES: It's been so long.

7 MS. STELLATO: Did Dana -- was this when you
8 were in a relationship with Dana?

9 MR. JONES: Uh-huh.

10 MS. STELLATO: Did Dana know?

11 MR. JONES: Uh-uh.

12 MS. STELLATO: Did you know Maurice Wilkins?

13 MR. JONES: No, ma'am.

14 MS. STELLATO: Do you know him now? Do you know
15 who he is now?

16 MR. JONES: Oh, yeah. I know him now.

17 MS. STELLATO: How do you know him now? From --

18 MR. JONES: From what I've heard. Oh, yeah, I
19 know him now.

20 MS. STELLATO: Do you still talk to Ed Champ?

21 MR. JONES: Yes, ma'am.

22 MS. STELLATO: I've been trying to get ahold of
23 Ed Champ for a long time now. Do you know why he hasn't
24 returned my calls?

25 MR. JONES: Uh-uh.

1 MS. STELLATO: You don't?

2 MR. JONES: I talked to him, it ain't been two
3 weeks ago. He said somebody called and said that they was
4 going to call back and they never called him back.

5 MS. STELLATO: Ray Hurst --

6 MR. JONES: Yes, ma'am.

7 MS. STELLATO: -- do you know him?

8 And how did you know him?

9 MR. JONES: Through Leroy.

10 MS. STELLATO: Is there any chance that you had
11 been around the victim, Frank Swain, before and not known
12 it was him or you don't think you -- you ever crossed
13 paths with him?

14 MR. JONES: I --

15 MS. STELLATO: Yes?

16 MR. JONES: No.

17 MS. STELLATO: Did you talk to anyone else from
18 there now?

19 MR. JONES: No, ma'am. Just Ed and his
20 daughters.

21 MS. STELLATO: What about Gail Champ?

22 MR. JONES: I haven't seen her or heard from her
23 in a while. They live in Goldsboro.

24 MS. STELLATO: Was she married to one of his
25 boys or was she --

1 MR. JONES: Yes, ma'am.

2 MS. STELLATO: She was.

3 Have you heard what she said about you?

4 MR. JONES: No, ma'am. Lately or --

5 MS. STELLATO: At the time.

6 MR. JONES: Oh, at the time?

7 MS. STELLATO: Uh-huh.

8 MR. JONES: Yeah.

9 MS. STELLATO: You did hear it then. And what
10 do you have to say about that?

11 MR. JONES: What she said in the courtroom? I'm
12 confused now.

13 MS. STELLATO: Okay. She says that Kevin
14 Furlough took you to Nashville, Tennessee.

15 MR. JONES: That's true.

16 MS. STELLATO: He was supposed to take you to a
17 bus station in Rocky Mount, but you were scared that the
18 cops might be looking for you on the bus.

19 MR. JONES: Yeah.

20 MS. STELLATO: Why would you have been scared
21 that the cops were looking for you?

22 MR. JONES: Because they had come to Big Ed's
23 house looking for me. And I told them they was going to
24 go to the bus station. They was going to take me to the
25 bus station any way. But they wanted to get some beer and

1 ride. So I said, Well, just take me to Tennessee then. I
2 paid for it.

3 MS. STELLATO: So did you think that the cops
4 had figured out that you were Brandon Jones?

5 MR. JONES: Yes, ma'am. Honestly, to tell you
6 the truth, you know.

7 MS. STELLATO: So who was Gail with? Ed, Jr. is
8 that who she was married to?

9 MR. JONES: Yes, ma'am.

10 MS. STELLATO: Said she hated you because she
11 blamed you for the break-up of her marriage.

12 MR. JONES: I've not heard that.

13 MS. STELLATO: Why would she blame you for that?

14 MR. JONES: I guess because I wouldn't tell her
15 what was going on. I -- I don't know.

16 MS. STELLATO: What was going on?

17 MR. JONES: He was having a girlfriend on the
18 side. And I knew about it, but I didn't tell her. That
19 wasn't my place to tell.

20 MS. STELLATO: She said that she had asked you
21 two to three months prior to this if you had killed a guy
22 and you replied that you hadn't killed him but you knew
23 who had.

24 MR. JONES: No.

25 MS. STELLATO: You've never said you knew who

1 had?

2 MR. JONES: No.

3 MS. STELLATO: You said that the guy's name was
4 Tommy Garrett. Do you know Tommy Garrett?

5 MR. JONES: I know Tommy Garrett.

6 MS. STELLATO: Did you say that he killed Frank
7 Swain?

8 MR. JONES: No.

9 MS. STELLATO: She said the day that they came,
10 that the police came looking for you, you were actually
11 upstairs in the apartment. You came down and hid in Ed
12 Champ's house after the cops left.

13 MR. JONES: I was behind Ed Champ's house in
14 the -- putting some clothes in the -- that I couldn't take
15 with me because I had so much -- so much stuff, I was
16 pulling them in his wellhouse because he said I could put
17 them in there.

18 MS. STELLATO: So did you know the cops were
19 there?

20 MR. JONES: After I -- when I came around, they
21 had done left. Yeah, I knew then.

22 MS. STELLATO: Said Lisa Champ took you
23 somewhere in a gray Mustang after the cops left.

24 MR. JONES: Yeah. She took me to Bruce's house.

25 MS. STELLATO: So I have a couple of other

1 interviews that people have said that you told them that
2 you weren't involved but you know who was. Why do you
3 think people would say that?

4 MR. JONES: I don't know.

5 MS. STELLATO: Curtis Furlough said that you
6 told him you served time in the past for killing your
7 uncle because he had sexually molested your niece and you
8 had killed him because of that.

9 MR. JONES: No.

10 MS. STELLATO: You didn't say that?

11 MR. JONES: Nope.

12 MS. STELLATO: Did you ever try to embellish
13 your criminal record just with your -- with your friends?

14 MR. JONES: I didn't want nobody to never know I
15 had been in no trouble.

16 MS. STELLATO: So did people who thought you
17 were Robert Solis --

18 MR. JONES: But I -- I know where that story
19 came from.

20 MS. STELLATO: Okay.

21 MR. JONES: That story came from Janice Spruill.

22 MS. STELLATO: Okay.

23 MR. JONES: Because she asked me the same thing.
24 Because the guy's name I'm using, that happened to him.
25 His uncle molested his sister.

1 MS. STELLATO: Robert Solis?

2 MR. JONES: Uh-huh.

3 MS. STELLATO: His uncle molested his sister?

4 MR. JONES: Yes, ma'am.

5 MS. STELLATO: And that's where they got that
6 story from?

7 MR. JONES: Yes, ma'am.

8 MS. STELLATO: Okay.

9 MR. JONES: I know where that story came from.
10 But I never told it to nobody.

11 MS. STELLATO: So if I ask you something and
12 you -- you may not have said it, but you know something
13 about it, you need to go ahead and tell me that, okay?

14 MR. JONES: Oh, okay. But Robert wasn't the one
15 that did it. I think his brother -- one -- one of them
16 and his family -- his -- his sister got molested by his
17 uncle and they did something to his uncle and went to
18 prison for it.

19 MS. STELLATO: So did you actually know the
20 person -- you knew -- you knew Robert Solis?

21 MR. JONES: Yes, ma'am.

22 MS. STELLATO: You knew the person that you were
23 using their alias?

24 MR. JONES: Yes, ma'am.

25 MS. STELLATO: And who was -- how did you know

1 him?

2 MR. JONES: That was my niece's husband.

3 MS. STELLATO: And was it the niece that was
4 abused or molested?

5 MR. JONES: My niece, no. My niece married him.

6 MS. STELLATO: Okay.

7 MR. JONES: That was his sister.

8 MS. STELLATO: That was abused?

9 MR. JONES: Yes, ma'am.

10 MS. STELLATO: Okay. And where is he from?

11 MR. JONES: Texas.

12 MS. STELLATO: Texas?

13 MR. JONES: He's passed away now.

14 MS. STELLATO: Well, that makes a lot more sense
15 how they came to that story then.

16 MR. JONES: Oh, I know where it came because
17 they kept asking me about it. They wasn't sure who I was
18 when they -- when they came to Tennessee and got me. They
19 didn't know who I was. I kept trying to explain it to
20 them. But that story was told to Big Ed and a bunch of
21 other people to try to make me look bad.

22 MS. STELLATO: Was Gail having an affair
23 with some -- I don't understand this part -- with -- it
24 says someone said that you went home because Robert and
25 Gail were having an affair and you thought Ed, Jr., would

1 find out about it and be upset with you.

2 MR. JONES: No. I never messed with that woman.

3 MS. STELLATO: So you weren't having an affair
4 with her?

5 MR. JONES: No. No, no, no, no, no. No. Now,
6 it was a rumor now, but it was a lie. I never -- swear I
7 didn't.

8 MS. STELLATO: Okay.

9 MR. JONES: No.

10 MS. STELLATO: I don't care if you had an affair
11 with her.

12 MR. JONES: Oh, I know.

13 MS. STELLATO: I just need to get --

14 MR. JONES: But I -- I don't want to tell a lie
15 on nobody either. If it ain't true, it ain't true.

16 MS. STELLATO: Why do people say that you would
17 get upset every time you saw the police? Is that because
18 you were worried about your warrant?

19 MR. JONES: Yeah, I reckon. I wasn't -- I was
20 always telling don't be speeding.

21 MS. STELLATO: Do you have kids?

22 MR. JONES: No, ma'am.

23 MS. STELLATO: So there's no truth to you owing
24 back child support?

25 MR. JONES: No. I don't --

1 MALE: Excuse me. I'm going to need to excuse
2 myself.

3 MS. STELLATO: Okay. Do you want me to just --
4 we'll just put this on hold.

5 FEMALE: We're putting it on hold at ten to 2.

6 MS. STELLATO: It's hot in here.

7 FEMALE: It is.

8 MR. JONES: Can I say something? Can I talk?

9 MS. STELLATO: Uh-uh. Just wait. I mean I want
10 you to talk and I want you to tell stuff like that, but
11 you have to put it on the record, okay.

12 And you also need to remember that the more you
13 say that a lot of times the better. I don't -- I only
14 have so much information, so if there's --

15 MR. JONES: Some stuff you asked me, you
16 ain't -- it ain't clear until you ask me something else
17 and I'm like -- just like that right there, I knew where
18 that came from.

19 MS. STELLATO: Okay. Well, when we turn it back
20 on, you can tell us.

21 MR. JONES: Because they had told Big Ed I
22 killed three or four people.

23 MS. STELLATO: Okay.

24 MR. JONES: It's hot.

25 MS. STELLATO: What time is it?

1 MS. ELLIS: 1:50. Huh?

2 MS. TURNER: I was just repeating.

3 MR. JONES: I'll start asking you when I don't
4 understanding because the here and the now and the back
5 then and there, I'm confused.

6 MS. STELLATO: Remember, this is your chance to
7 put everything that you know or heard on -- on the record,
8 okay. And everything that you hear, every little thing is
9 going to make a difference, whether you might think it's
10 important or not.

11 MR. JONES: Can I ask one question?

12 MS. STELLATO: Uh-huh.

13 MR. JONES: Can they give me the truth serum
14 test or whatever that is?

15 MS. STELLATO: Uh-uh.

16 MR. JONES: They can't -- they can't do that?

17 MS. STELLATO: A polygraph or the truth serum?
18 They don't use truth serum very much.

19 MR. JONES: Which one -- which one works the
20 best? They say they've got a truth serum they -- they
21 give you, right?

22 MS. STELLATO: Sometimes, yeah.

23 MR. JONES: Hypnotics. Hypnosis.

24 MS. MATOIAN: Like the Harry Potter people use
25 their truth serum.

1 MR. JONES: I'm not saying -- the CIA use it.
2 What if -- our waterboarding or something. I don't know,
3 you know.

4 MS. TURNER: I don't think you want any
5 waterboarding.

6 MR. JONES: I don't know what it is. You know
7 what I mean? Whatever it takes.

8 MS. STELLATO: This chair needs some WD-40.
9 (Pause.)

10 FEMALE: Back on at five to 2.

11 MS. STELLATO: Okay. So going back to that
12 question about you owing child support. You don't have
13 any children?

14 MR. JONES: No, ma'am.

15 MS. STELLATO: You've never owed back child
16 support?

17 MR. JONES: No, ma'am.

18 MS. STELLATO: Do you have something that you
19 wanted to tell me during the break or no? Were you trying
20 to tell me something during the break that you wanted to
21 put on the record or no?

22 MR. JONES: I -- I was just -- I'm a little
23 confused about here, there and now, back then. That's
24 all. So if I'm missing something and I catch up with it
25 and I tell you, it ain't that -- I ain't trying to hide it

1 from you, I'm just -- I'm a little confused, you know.

2 MS. STELLATO: You're trying to put it all
3 together?

4 MR. JONES: I'm trying to put it all together as
5 best I can for you.

6 MS. STELLATO: Okay. Tell me about the truck
7 that was -- you know, Ray Hurst had his truck in the back
8 of Leroy Spruill's yard.

9 MR. JONES: Yes, ma'am.

10 MS. STELLATO: Do you remember that?

11 MR. JONES: Uh-huh.

12 MS. STELLATO: Do you know what happened to it?

13 MR. JONES: It got its windows busted and stuff
14 like that.

15 MS. STELLATO: Did you have anything to do with
16 that?

17 MR. JONES: No.

18 MS. STELLATO: When you knew Dana, did you know
19 her as Nikki?

20 MR. JONES: Nikki.

21 MS. STELLATO: You knew her as Nikki?

22 MR. JONES: What is -- her real name is Dana,
23 right?

24 MS. STELLATO: Yes.

25 MR. JONES: Yeah. I knew her as Nikki, yeah.

1 Okay. Everybody had a fake name.

2 MS. STELLATO: So Nikki said that Dana said that
3 you and her were walking home one night and you took a
4 board and broke all of the glass out of the truck in the
5 back of Spruill's car. You then took some gas and poured
6 the gas on the hood, tried to light it, but it didn't
7 light.

8 MR. JONES: No.

9 MS. STELLATO: You don't know why she would say
10 that?

11 MR. JONES: (No verbal response.)

12 MS. STELLATO: Has Leroy ever told you anything
13 over the years about his involvement?

14 MR. JONES: As in?

15 MS. STELLATO: If he was involved in the --

16 MR. JONES: No.

17 MS. STELLATO: -- murder or not?

18 Has he ever told you who he thinks who was
19 involved in the murder?

20 MR. JONES: Yes, ma'am.

21 MS. STELLATO: How confident are you that you
22 were with Leroy all that night?

23 MR. JONES: Confident enough I faced 12 -- I
24 faced 12 people in the jury box.

25 MS. STELLATO: And you're sure that Dana Maybin

1 was with you that whole night?

2 MR. JONES: Yeah. She was there at that bar
3 that whole night.

4 MS. STELLATO: So you don't think that she
5 witnessed a crime of someone else doing it?

6 MR. JONES: I just can't see it, no. No, ma'am.

7 MS. STELLATO: Did you date someone in Texas
8 named Kelly?

9 MR. JONES: Yes, ma'am.

10 MS. STELLATO: And who is that?

11 MR. JONES: Kelly Roy.

12 MS. STELLATO: Did she become pregnant --

13 MR. JONES: No.

14 MS. STELLATO: -- that you know of? You don't
15 know?

16 MR. JONES: Not that I know of. Last time I
17 seen her, she was -- and I had been in the jail for about
18 almost a year, like six, seven, eight months, something
19 like that. I seen her, she come to the jail.

20 MS. STELLATO: Did you ever have a gun when you
21 were in Texas?

22 MR. JONES: No, ma'am.

23 MS. STELLATO: Have you ever had a gun period?

24 MR. JONES: No. I couldn't. I'm a convicted
25 felon.

1 MS. STELLATO: Well, you could have.

2 MR. JONES: Well, you know, no.

3 MS. STELLATO: You didn't?

4 MR. JONES: No. When I was a boy, I had
5 shotguns and stuff. You know, we hunted and fished.

6 MS. STELLATO: When did you start using the name
7 Robert Solis?

8 MR. JONES: After I left Texas.

9 MS. STELLATO: So did Kelly ever go by the last
10 name Solis?

11 MR. JONES: No. Her name was Kelly Sealey
12 (phonetic). She was married to another guy, changed her
13 name to Roy.

14 MS. STELLATO: Did you ever have any violence
15 with Kelly?

16 MR. JONES: Fussing and arguing.

17 MS. STELLATO: Did you ever hit her?

18 MR. JONES: No. No.

19 MS. STELLATO: Were you known to use -- Lynn
20 Rogers said she heard you at the bar saying -- I don't
21 know the exact quote now, but I'm sure you do.

22 MR. JONES: Yes, ma'am.

23 MS. STELLATO: Were you ever known to use the
24 "N" word?

25 MR. JONES: No.

1 MS. STELLATO: Does Leroy?

2 MR. JONES: No. That's -- that's what I'm
3 trying to tell you a while ago. That's what happened.
4 That's what she heard that night at that bar when he was
5 in there talking about that lie detector test they had
6 given and then questioned three or four times.

7 And I told him, I said, Man, don't worry about
8 it. I'll testify for you. I know where you was at.

9 MS. STELLATO: So that's what Lynn Rogers heard?

10 MR. JONES: That's what she heard.

11 MS. STELLATO: Tell me about hurting your knee,
12 the blood on your pants. Do you remember that?

13 MR. JONES: I fell through Big Ed's porch. It
14 goes up. It's flat and then it goes back up. That bottom
15 part had a rusted spot on it.

16 MS. STELLATO: And where did you hurt yourself?

17 MR. JONES: On my left leg.

18 MS. STELLATO: Was it on the back or the front?

19 MR. JONES: The front.

20 MS. STELLATO: And did you have blood on your
21 jeans?

22 MR. JONES: That night?

23 MS. STELLATO: Uh-huh.

24 MR. JONES: No.

25 MS. STELLATO: Did you have blood on your jeans

1 another night?

2 MR. JONES: I've had blood on the jeans, yeah,
3 but I didn't wear them nowhere. I took them off and
4 washed them. I got Gail to wash them, matter of fact.

5 MS. STELLATO: If people in the bar saw you with
6 blood on your jeans, it wasn't from you falling?

7 MR. JONES: No.

8 MS. STELLATO: What was it from?

9 MR. JONES: It wasn't. They didn't see no blood
10 on my jeans.

11 MS. STELLATO: So if Leroy told me that he saw
12 blood on your jeans when you went to the bar on a
13 different night that wasn't the night of the murder --

14 MR. JONES: No. I can't -- I can't never
15 remember having blood on my jeans.

16 MS. STELLATO: Was Leroy there when you fell?

17 MR. JONES: Yes. That was in -- it had to be
18 after I came back from my house in Tennessee to North
19 Carolina. It was in February.

20 MS. STELLATO: So Leroy was there when you fell?

21 MR. JONES: Yes.

22 MS. STELLATO: And did you go somewhere after
23 that?

24 MR. JONES: We went to -- I believe we went to
25 the ATM machine.

1 MS. STELLATO: Did you go to the bar?

2 MR. JONES: Yes, ma'am.

3 MS. STELLATO: Okay. So did you have blood on
4 your jeans then?

5 MR. JONES: I changed my pants.

6 MS. STELLATO: Did you -- could the blood that
7 was on your body have leaked through those jeans?

8 MR. JONES: I don't -- yes, it could have.

9 MS. STELLATO: But you don't ever remember being
10 at the bar with blood on your jeans?

11 MR. JONES: No. Because I was trying to be
12 clean at the bar. I had -- most of the pants I had was
13 white, so you know -- I can't remember having no blood on
14 my pants at no bar.

15 MS. STELLATO: Have you come across anyone in
16 prison who's told you they know what happened?

17 MR. JONES: Yes, ma'am.

18 MS. STELLATO: Who?

19 MR. JONES: Avis Arnold.

20 MS. STELLATO: So did you come across him
21 personally or someone told you about that?

22 MR. JONES: Leroy told me about that.

23 MS. STELLATO: Okay. Did you know Avis Arnold?

24 MR. JONES: Yes, ma'am. He told me, he said --
25 he said, I'm going to be the angel that gets you out of

1 prison.

2 And I told him, I said, Let me tell you, hold
3 up, bud. Don't tell me nothing. I don't want to know
4 about it.

5 So I paid a lawyer \$1,000 to get his statement.
6 I told him I didn't want to talk about it. Because I
7 didn't want nobody saying I -- you know what I mean?

8 And I sent the lawyer the money and he kept my
9 money. He didn't come -- he didn't go see him. He came
10 to see me.

11 MS. STELLATO: Who is the lawyer?

12 MR. JONES: He's in -- I'm trying to think of
13 his name. Carl Stewart. I sent him \$1,000 out of my
14 account.

15 MS. STELLATO: So he came and interviewed you.
16 Did he interview Avis Arnold?

17 MR. JONES: He told me that he wasn't coming to
18 see him. He wanted to talk to me first, but that he would
19 come back and see Avis Arnold.

20 And I told him, I said, Look, I didn't pay you
21 \$1,000 to come see me. I paid you to come get this guy's
22 statement. You know, I explained it to him.

23 He said, Well, I'm going to be back and I'll
24 come back and see him and I'll charge you for it.

25 And in a couple of weeks I wrote him. He wrote

1 me back and said send him another \$1,000, he'd come. I
2 didn't have it. I didn't have another 1,000 to give him
3 and he kept my money.

4 MS. STELLATO: So did you ever talk about what
5 Avis Arnold knew?

6 MR. JONES: With Leroy.

7 MS. STELLATO: And what do you know about that?

8 MR. JONES: He said he was a lookout man. Yeah.
9 Now, I didn't want to talk to him because I was scared
10 that somebody would say I told him to do this or say that,
11 you know. I'd rather pay the \$1,000 to a lawyer.

12 MS. STELLATO: Did you talk to anyone else in
13 prison who told you they knew anything?

14 MR. JONES: Just in the county jail, the
15 jailhouse snitch people, all of them, that we didn't do
16 it.

17 MS. STELLATO: What did they tell you?

18 MR. JONES: They told us, said, We know you
19 didn't do it. We know who did it.

20 MS. STELLATO: They didn't know -- they did know
21 who did it?

22 MR. JONES: Yeah.

23 MS. STELLATO: What did they say?

24 MR. JONES: They wouldn't tell me. You know,
25 the word was Maurice Wilkins, Maurice Wilkins, Maurice

1 Wilkins.

2 MS. STELLATO: Can you remember the names of all
3 of your attorneys?

4 MR. JONES: Yes, ma'am.

5 MS. STELLATO: Okay.

6 MR. JONES: James Vosburgh, John Skinner,
7 Everhart, Constantine Everhart, Marcus Jimison. That was
8 a good attorney. They took him.

9 MS. STELLATO: Marcus what?

10 MR. JONES: Jimison. And Lita Echols.

11 MS. STELLATO: So who were -- who of these were
12 post-conviction? James -- those were -- your trial
13 attorney.

14 MR. JONES: Trials.

15 MS. STELLATO: Who were the rest of the people?

16 MR. JONES: Everhart did the appeal.

17 MS. STELLATO: Uh-huh.

18 MR. JONES: Jimison, he started the appropriate
19 relief.

20 MS. STELLATO: Okay.

21 MR. JONES: But he got a new job, so they gave
22 it to Ms. Lita Echols.

23 MS. STELLATO: Okay. Where did they work? Were
24 they at --

25 MR. JONES: Prisoner Legal Services.

1 MS. STELLATO: Prisoner Legal Services.

2 Then one day Prisoner Legal Services, they
3 denied your claim, right? Not now. I'm not talking about
4 now, but back then after they filed the MAR and the MAR
5 was denied, then Prisoner Legal Services --

6 MR. JONES: They wouldn't help me.

7 MS. STELLATO: Okay.

8 MR. JONES: No further. That Marcus Jimison, he
9 went to Raleigh. There was a guy named Bo Jack, a big
10 drug dealer from Plymouth, and he talked to him about this
11 murder case and --

12 MS. STELLATO: Bo Jack?

13 MR. JONES: Yes, ma'am. And Bo Jack -- this is
14 what Marcus Jimison told me that Bo Jack told him, you
15 know, he asked about Janice Spruill and -- you know, his
16 son is supposed to be Maurice Wilkins. And he told my
17 lawyer -- he told Jimison that they take care of their own
18 in Washington County.

19 MS. STELLATO: Did you ever tell your lawyers
20 that you were involved in the murder?

21 MR. JONES: No.

22 MS. STELLATO: You understand that because you
23 signed that waiver --

24 MR. JONES: Yes, ma'am.

25 MS. STELLATO: -- we'll be able to get all your

1 files and --

2 MR. JONES: Oh, yes. Yes, ma'am. I fine with
3 that. They knew the deal when I first come in. They'll
4 tell you. James Vosburgh will tell you right now. He's
5 called my mom at 3 o'clock in the morning.

6 MS. STELLATO: Do you have any contact with
7 Leroy now?

8 MR. JONES: No. I don't write him. We can't
9 write prison to prison.

10 MS. STELLATO: Who -- you said you have contact
11 with Ed Champ, right?

12 MR. JONES: Yes, ma'am.

13 MS. STELLATO: Who else do you have contact
14 with?

15 MR. JONES: My mother. My immediate family, my
16 mom and stepdad.

17 MS. STELLATO: Do you know who Nathaniel Ward
18 is?

19 MR. JONES: Can you tell me where he's from?

20 MS. STELLATO: Tennessee.

21 MR. JONES: Tennessee.

22 MS. STELLATO: What did your dad do?

23 MR. JONES: My dad. My real dad was a cop.

24 MS. STELLATO: He was a cop. Was he murdered?

25 MR. JONES: Yes, ma'am.

1 MS. STELLATO: When was that?

2 MR. JONES: '72.

3 MS. STELLATO: What year were you born?

4 MR. JONES: '72.

5 MS. STELLATO: Do they know who murdered him?

6 MR. JONES: Yes, ma'am.

7 MS. STELLATO: So there wouldn't be any truth to
8 you murdered your father?

9 MR. JONES: No. That wouldn't be true.

10 MS. STELLATO: Do you remember what cops -- what
11 police officers interviewed you or who you talked to when
12 you came back?

13 MR. JONES: To North Carolina?

14 MS. STELLATO: Uh-huh.

15 MR. JONES: Willie Williams, Janice Spruill and
16 Donnie Varnell, SBI.

17 MS. STELLATO: I think that's all the questions
18 I have for you. Do you have anything that you would like
19 to add?

20 MR. JONES: Just that I ain't kill him. I
21 didn't killed nobody. If I knew, I'd tell you right now
22 who did it, but I don't know. I can tell you who I think
23 did it.

24 MS. STELLATO: Okay.

25 MR. JONES: I think Maurice Wilkins did it.

1 MS. STELLATO: And why do you think that?

2 MR. JONES: Because that's what everybody says.

3 I mean everybody.

4 MS. STELLATO: Who is everybody?

5 MR. JONES: Everybody I've ever met that's from
6 the Plymouth area, you know.

7 MS. STELLATO: So what do you know about that?
8 What did you hear happened?

9 MR. JONES: I just heard that -- what I heard
10 was Janice Spruill was going with his daddy. And every
11 time they come to bust him, they couldn't never bust him.
12 Then one time they didn't call the sheriff's department
13 and they busted him, Bo Jack, and locked him up. And he
14 owed Bo Jack a bunch of money and wouldn't pay. That's
15 what I heard.

16 MS. STELLATO: So you think Bo Jack had Frank
17 Swain killed because he wasn't paying his debt?

18 MR. JONES: I think so. And Janice Spruill
19 covered it up.

20 MS. STELLATO: What do you know now about the
21 Sonja Day murder?

22 MR. JONES: Nothing. The same -- the same
23 people.

24 MS. STELLATO: That's what you've heard?

25 MR. JONES: That's what I hear, you know. I --

1 I don't know. That's what I heard.

2 MS. STELLATO: What time is it?

3 FEMALE: The time is --

4 MR. JONES: I --

5 FEMALE: -- 2 --

6 MS. STELLATO: Go ahead.

7 MR. JONES: They -- you know, I don't understand
8 why they can't get those tests and stuff, you know, those
9 fingerprints and -- they've got to have something. You
10 know, nobody can get killed like that and there's not
11 nothing, you know. I don't understand.

12 MS. STELLATO: We're going to go ahead and
13 conclude the interview at --

14 FEMALE: 2:10.

15 MS. STELLATO: -- 2:10.

16 (The recorded interview was concluded.)

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CERTIFICATION OF TRANSCRIPT

This is to certify that the 62 pages of this transcript of the recorded interview of Brandon Jones was taken on February 21, 2011, is a true and accurate transcript to the best of my ability.

I further certify that I am not counsel for nor related to any party or attorney, nor am I interested in the results of this action.

This the 31st day of May, 2017.



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Handout 71

STATE OF NORTH CAROLINA
WASHINGTON COUNTY

GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

STATE OF NORTH CAROLINA,

Plaintiff,

vs.

WALLACE BRANDON JONES,

Defendant.

FILE NOS.:

94 CRS 4973

95 CRS 1965

STATE OF NORTH CAROLINA,

Plaintiff,

vs.

LEROY SPRUILL,

Defendant.

FILE NOS.:

95 CRS 1566

94 CRS 1984

RECORDED TELEPHONIC INTERVIEW OF CATHY CAMPBELL

This is the transcript of the recorded interview taken of Cathy Campbell, which was conducted by Catherine Matoian, Grant Staff Attorney from the North Carolina Innocence Inquiry Commission. The recorded interview took place on January 12, 2018.

APPEARANCES:

Catherine Matoian, Grant Staff Attorney
North Carolina Innocence Inquiry Commission
Administrative Office of the Courts
P.O. Box 2448
Raleigh, NC 27602

Transcribed by: Victoria Pittman
AOC-Approved Transcriber

1 (Begins with voice mail messaging)

2 MS. CAMPBELL: Hello?

3 MS. MATOIAN: May I speak to Cathy Campbell,
4 please?

5 MS. CAMPBELL: You are speaking to her.

6 MS. MATOIAN: This is Catee Matoian with the North
7 Carolina Innocence Inquiry Commission returning your phone call.

8 MS. CAMPBELL: Okay. Are you the one that is
9 handling my brother, Wallace B. Jones --

10 MS. MATOIAN: I am.

11 MS. CAMPBELL: -- 048-7110 in Columbus Correctional
12 Institution in Brunswick, New York -- I mean North Carolina?

13 MS. MATOIAN: Yes, ma'am.

14 MS. CAMPBELL: Okay. I am his sister.

15 MS. MATOIAN: Okay.

16 MS. CAMPBELL: And I have no lost -- love lost for
17 him, but I will say when all this happened, he called me from a
18 bar, I could hear the music playing, and he told me, "I killed a
19 nigger."

20 I said, "Brandon, you shouldn't say that."

21 He said, "I killed a nigger. Merry Christmas and
22 Happy New Year."

23 I was never called to take the stand against him to
24 say that, but that's what he said to me. And I will tell you, I
25 will take a lie detector test to it, and I will take -- go to the

1 state and the federal government of North Carolina who prosecuted
2 him and say the same thing.

3 Brandon is a guilty man. He should stay right
4 where he's at.

5 MS. MATOIAN: Okay. How do you know that he was
6 calling from a bar?

7 MS. CAMPBELL: I could hear the music playing.

8 MS. MATOIAN: Did he say that he was at a bar?

9 MS. CAMPBELL: No. But I could hear it. I knew
10 where he was. He was drunk and (indiscernible) -- I know my
11 brother. I lived with him since he was 15 years old, since he
12 started being in jail since he was 15 years old.

13 MS. MATOIAN: You said he was drunk?

14 MS. CAMPBELL: Yes. I could tell he was drunk,
15 doped up. Yes, he was -- yeah. He was.

16 MS. MATOIAN: Did he give you any more specific
17 information?

18 MS. CAMPBELL: No, ma'am.

19 MS. MATOIAN: He just --

20 MS. CAMPBELL: I don't ask for stories. No, ma'am.

21 MS. MATOIAN: He just --

22 MS. CAMPBELL: That was --

23 MS. MATOIAN: He said, "I killed an N-word, Merry
24 Christmas"?

25 MS. CAMPBELL: He said, "I killed a nigger." It

1 wasn't no N-word. It was, "I killed a nigger."

2 And I said, "Brandon, you shouldn't say that.
3 That's not very nice." He was laughing, carrying on. It was
4 pretty late when he called me. I was in the bed.

5 MS. MATOIAN: Okay.

6 MS. CAMPBELL: I want you to know I have no love
7 lost for him. Me and him do not get along. He has weaseled my
8 mother out of money for \$240 a month out of her check every month
9 to go down there to that prison. We have no love lost. When he
10 calls me, I cuss him out and tell him don't call me no more.

11 He is a guilty man. He does not ever need to be
12 out. He was doing everything when he was out. And I will take
13 the stand to this to the State, do whatever I have to do to keep
14 him in there, I will keep them in there.

15 MS. MATOIAN: When you say that no one ever called
16 you to take the stand during his trial, did anyone ever come and
17 speak to you about this case prior to trial?

18 MS. CAMPBELL: No one ever. My mother went down
19 there and they tried to rob her and everything else. No. No one
20 ever asked me. He just called me on the phone and asked me, and I
21 said, "You better take a plea bargain because you're going to
22 spend the rest of your life in jail."

23 And he didn't, and that's when he got. But the
24 other boy took a plea bargain.

25 MS. MATOIAN: Okay.

1 MS. CAMPBELL: My brother is a sociopath. He can
2 get you to thinking that he could have never done nothing in his
3 life, but he has. I want him in jail, and as long as I can keep
4 him in jail, I will.

5 MS. MATOIAN: When he said -- you said he called
6 you and you told him he should take a plea bargain, he called you
7 to ask you to testify for him? Or why did he call you?

8 MS. CAMPBELL: No. No. After he was in jail, he
9 called me after that court date -- after he come out of court and
10 said they had asked -- asked him about taking a plea bargain. And
11 he said, "I'm not going to do it." And I said, "Well, you know,
12 you better because you're fixing to hang down there."

13 He didn't but the other boy did.

14 MS. MATOIAN: So were you to -- you say you have no
15 love lost for him now.

16 At that time, did the two of you --

17 MS. CAMPBELL: I hate -- no. No. I knew what he
18 was. I been dealing with him all my life. I knew what he was and
19 I knew what he did. I know he did it. I know him.

20 MS. MATOIAN: So you didn't -- you guys weren't
21 getting along at that time, but he called you from the jail to
22 talk about his court date?

23 MS. CAMPBELL: At that time, yes, we were getting
24 along. Yes.

25 But he has used my mother and used my mother -- my

1 mother lives with me now, but she is in a nursing home really
2 sick. He's a user, he's a manipulator, and he's a liar. Write
3 everything I said down and I will testify. I will take a lie
4 detector test, whatever you need to take, but I want him in jail.

5 MS. MATOIAN: How do you --

6 MS. CAMPBELL: Because he can't --

7 MS. MATOIAN: Have you ever told anyone that
8 Mr. Jones called you that night?

9 MS. CAMPBELL: No, I haven't. No one ever asked
10 me.

11 MS. MATOIAN: Did you ever come forward and talk to
12 anybody, ever call the prosecutor?

13 MS. CAMPBELL: No. No. They already had him.
14 When they dug him out from under my house where he was hiding,
15 under -- he was hiding under my house, he -- my mother's house.
16 He had been hiding there for several months. I -- over the years,
17 every time my mother would give him money, he would get on a bus
18 and run and hide. Then he'd come back.

19 He had a hole dug up under my mother's house when
20 they dug him out, and he did -- my mother was hiding him. They
21 had my mother in the police car and they told my mother, "You
22 either give him up or we'll put him in jail."

23 My mother said, "Well, I'll tell you where he's at.
24 He's under the house. If you don't hurt him and you don't hurt
25 me," and they brought him out in handcuffs.

1 MS. MATOIAN: So when the police were at the house
2 that day and they found your brother underneath the house, did you
3 tell the police that he had called you and confessed to this --

4 MS. CAMPBELL: No. They had me surrounded. They
5 had my house and my kids surrounded on a different street. We
6 wasn't even allowed over there. They lived two or three streets
7 over from us. We wasn't allowed over there. They had us
8 surrounded.

9 He goes by about ten different names.

10 MS. MATOIAN: So when the police had your house
11 surrounded, you were obviously speaking to them about your
12 brother.

13 Did you tell --

14 MS. CAMPBELL: No.

15 MS. MATOIAN: -- them that he had confessed?

16 MS. CAMPBELL: No. We -- they never spoke a word.
17 I was taking my little kids to a ballgame. We were not allowed to
18 leave in case he was hiding at our house. But he was hiding in a
19 hole up under my mother's house.

20 That's all -- and you can all read that, that they
21 found him digging -- you know they found him up under my house --
22 my mother's house. That ain't news.

23 MS. MATOIAN: Sure. I'm just --

24 MS. CAMPBELL: I never --

25 MS. MATOIAN: I'm just trying to determine if you

1 have ever told anyone else about this phone call other than --

2 MS. CAMPBELL: No. No. Just you.

3 MS. MATOIAN: Did you tell your mother?

4 MS. CAMPBELL: Yes, my mother knows I told her. My
5 mother would never speak a harm word about him if he killed 15
6 people. No.

7 He's been in jail since he's 15 years old on theft,
8 robbery, dynamite -- look it up. He's well known in Gibson
9 County. He's a criminal and that's right where he needs to be,
10 and I will tell everybody that.

11 MS. MATOIAN: Did he call anybody else in --

12 MS. CAMPBELL: Now, I don't know -- I don't know
13 about that. I can't speak to what he done to anybody else. I can
14 just speak to what he called to me.

15 MS. MATOIAN: Well, has anyone else in your family
16 ever told you that he said something similar to them?

17 MS. CAMPBELL: No, ma'am. No, ma'am.

18 MS. MATOIAN: Have you ever talked to him about
19 what he called and told you?

20 MS. CAMPBELL: Yes, I did. I told him, I said,
21 "You know what you told me? You said you killed a nigger." He
22 never would say nothing back.

23 MS. MATOIAN: Did you --

24 MS. CAMPBELL: And he didn't say "the N-word." He
25 said "nigger," n-i-g-g-e-r. And I will say that on the stand or

1 whatever. I don't -- I don't beat around the bush.

2 MS. MATOIAN: Okay. When did that conversation
3 take place?

4 MS. CAMPBELL: That was years ago, when he first
5 killed him. It was the night he killed him, at that bar -- when
6 he was celebrating at that bar. I could hear that music playing.
7 I knew where he was. He was at a bar. Of course, he would drink
8 some and then he would call you in the middle of the night on
9 Christmas and New Year's and tell you that he killed a nigger,
10 Merry Christmas, and Happy New Year.

11 Y'all are wasting y'all's innocent time on him
12 because he's not innocent.

13 MS. MATOIAN: But have you ever -- you said he made
14 that phone call. Have you ever talked to him about it since then?

15 MS. CAMPBELL: No. We don't talk because he tricks
16 my mother out of \$240 every month out of her Social Security
17 check, which I am trying to have that stopped.

18 MS. MATOIAN: When did you two start having your
19 issues?

20 MS. CAMPBELL: Years.

21 Now, I really don't care whether you believe me or
22 not, but I am going to take a stand if I have to to keep him in
23 jail. And if I have to take it with you or if I have to take it
24 with the North Carolina State, I will -- I will fly to North
25 Carolina somehow or another and I will get on the stand and take

1 it then.

2 MS. MATOIAN: I just want to be clear, ma'am. I do
3 not represent your brother. I am a neutral state agency.

4 MS. CAMPBELL: Yes, ma'am. They done dropped him
5 from several agencies, and he needs to say to stay right where
6 he's in, life plus 40 years, for cutting that man's head off like
7 he did. That's where he needs to be.

8 MS. MATOIAN: Do you know of any way that I could
9 corroborate this phone call that Mr. Jones made to you? Either
10 through somebody else you told or somebody else he might have
11 told?

12 MS. CAMPBELL: Twenty-something years ago he's been
13 in jail? No, ma'am. Just me and him was on the phone, no one
14 else.

15 MS. MATOIAN: Okay.

16 MS. CAMPBELL: Unless they know -- unless they can
17 go back 20 years on the court records from when I lived on
18 Anderson Street when he called me and woke me up in the middle of
19 the night to tell me. He was in a bar, dancing, doped up and
20 drunk.

21 MS. MATOIAN: How did you know that we were looking
22 into your brother's case?

23 MS. CAMPBELL: I heard it through my mother. I
24 heard that Debbie Hammett -- Debbie Hammett handles his affairs.
25 Debbie Hammett's daughter Patty and my brother were in jail

1 together. They were together for a long time. They lived
2 together. They broke in our house and wrote a bunch of checks
3 that my stepfather, who is recently deceased, had to go around and
4 tear up and get them out of that.

5 And then they put him in a juvenile penitentiary in
6 Somerville, Tennessee, for all that. He's been in jail all his
7 life. He has been a real (indiscernible). He's been to
8 Nashville. My brother is a criminal, he killed this man, and he
9 needs to be in jail.

10 MS. MATOIAN: So when did your mother tell you that
11 we were looking into your brother's case?

12 MS. CAMPBELL: It's been a while back, but she
13 accidentally told me when she was in the nursing home and whatever
14 her name is, Debbie Hammett, was up there's staying. Debbie
15 Hammett does all the keeping up with all of this mess.

16 And I want it written down. I hate his guts and I
17 will do anything I can to keep this sorry lowlife murderer in
18 jail.

19 MS. MATOIAN: So if you --

20 MS. CAMPBELL: And I am his sister.

21 MS. MATOIAN: If you were aware that the Commission
22 was looking into his case a while back, I mean, how long have you
23 been aware of us versus, you know, you calling yesterday and
24 today?

25 Has it a little bit of time or was this recently?

1 MS. CAMPBELL: No. About a week.

2 MS. MATOIAN: Okay.

3 MS. CAMPBELL: Well, he told my mother he was
4 getting out. I said, "Getting out? How can you get a murderer
5 out? He got life plus 40. He cut a man's head off, him and that
6 man and that girl. He shouldn't be getting out. And I'm calling
7 and telling them what I know, and I will call the State of North
8 Carolina. He should stay right where he's at."

9 I have no love lost for him. Put that down. I
10 don't (indiscernible) hearing about what I say and I'll say it to
11 any state, any judge, (indiscernible) judge to say -- he's nothing
12 but a compulsive liar, and he needs to stay in jail.

13 MS. MATOIAN: Is there anyone -- have you talked --
14 do you talk to anybody about your brother's case regularly?

15 MS. CAMPBELL: No. If you're talking about law
16 enforcement or other people? No.

17 MS. MATOIAN: Do you talk to anybody else in your
18 family about this case?

19 MS. CAMPBELL: No. Only that I hate his guts and I
20 hope he stays the rest of his life in prison for killing that poor
21 man he did. Even though he was a drug dealer and they had been
22 there twice, he shouldn't have killed him. They done bought dope
23 from him once. They shouldn't have killed when they went back the
24 second time.

25 You can read it on the Internet. Everybody knows

1 about what my brother did. It's a small town. Everybody knows
2 him. They even flew people down there to court against him that
3 he robbed or run over and done everything else to.

4 MS. MATOIAN: Do you have any other siblings?

5 MS. CAMPBELL: I have a sister that just died.

6 MS. MATOIAN: What was her name?

7 MS. CAMPBELL: And I have -- I have a sister that
8 died in October and I have another sister dead. No. I just have
9 him. And I hate his guts.

10 Please put that down. There's no -- there is
11 nothing kind about that. I hate his guts because of the way he
12 does my mother. I'm not mad just calling this; this is the truth.
13 I will take a lie detector test on it any day of the week.

14 And if I had known all of it was going down, I
15 would have flew down there myself and testified against him.

16 MS. MATOIAN: Do you have any other family members
17 you think I should speak to besides your mother?

18 MS. CAMPBELL: Just me. My mother is in the
19 nursing home with heart failure. She's been living with me. He
20 kept on and kept on her because I quit sending the 240 for the
21 last three months because she is trying to move out, but she's got
22 heart failure.

23 MS. MATOIAN: The family friend you were talking
24 about, Debbie, can you spell her last name for me?

25 MS. CAMPBELL: Hamm -- H-a-m-m -- y'all have it

1 down. Y'all send her all the paperwork. You should have it.

2 MS. MATOIAN: I have never sent Ms. Hammett any
3 paperwork.

4 Can you spell her last name for me?

5 MS. CAMPBELL: I think H-a-m-m-e-t-t. She lives in
6 Milan, Tennessee, but she gets all the paperwork from the
7 Innocence Project on him.

8 MS. MATOIAN: So we're not the Innocence Project.
9 That is a nonprofit agency. And he is represented -- Mr. Jones is
10 currently represented by someone at the North Carolina Center On
11 Actual Innocence, which is --

12 MS. CAMPBELL: Yeah. Well, they dropped him on the
13 other -- the other thing. I heard they dropped him on the other.

14 MS. MATOIAN: Sure, ma'am.

15 I am a state agency; so I am not --

16 MS. CAMPBELL: Yeah.

17 MS. MATOIAN: I don't represent your brother; so I
18 am not --

19 MS. CAMPBELL: Yeah.

20 MS. MATOIAN: -- in contact with his family.

21 So if he is receiving -- if anyone -- if your
22 mother is receiving correspondence, it would not be from the
23 Commission.

24 MS. CAMPBELL: She's not. This woman is a friend
25 of hers. Like I said, her daughter had got in trouble with my

1 brother before, breaking in houses and stealing checks and writing
2 checks on people. That was years -- years ago, before he got into
3 all of this.

4 MS. MATOIAN: Okay, Ms. Campbell. If you think of
5 anyone else that you may have talked about this to over the years
6 or anyone else that you think I should speak to, feel free to give
7 me a call.

8 And if I have any additional questions for you, is
9 this the number that I should call?

10 MS. CAMPBELL: You can call me anytime you want to.

11 MS. MATOIAN: Okay. All right. Thank you,
12 Ms. Campbell.

13 MS. CAMPBELL: I appreciate you. Bye-bye.

14 MS. MATOIAN: All right. Bye.

15 (The recorded interview concluded.)
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CERTIFICATE OF TRANSCRIPT

This is to certify that the 15 pages of this transcript of the recorded interview of Cathy Campbell was taken on January 12, 2018, is a true and accurate transcript to the best of my ability.

I further certify that I am not counsel for nor related to any party or attorney, nor am I interested in the results of this action.

This the 17th day of March, 2018.



Victoria L. Pittman
AOC-Approved Transcriber
PO Box 47
Wake Forest, NC 27588
919.931.6222
toriRDR@gmail.com

Handout 72

ON DECEMBER 10, 1994 D/S SPRUILL AND D/S WILLIAMS WAS CONTACTED BY THE WASHINGTON COUNTY JAIL IN REGARDS TO TRANSPORTING WALLACE BRANDON JONES TO THE WASHINGTON COUNTY HOSPITAL FOR MEDICAL ATTENTION. MR. JONES WAS ASKING TO SEE A DOCTOR DUE TO HIS PENIS WAS LEAKING FLUIDS AND HE WAS IN GREAT PAIN. MR. JONES WAS TAKEN TO THE HOSPITAL AND UPON OUR RETURN TO THE JAIL, MR. JONES SAID HE WANTED TO TALK TO US. MR. JONES WAS UPSET AND CRYING AND NERVOUS ACTING AND HE SAID THAT IF WE WOULD LET HIM CALL HIS MOTHER THAT HE WOULD TELL US EVERYTHING WE NEEDED TO KNOW ABOUT THE NIGHT OF THE MURDER. MR. JONES WAS ALLOWED TO TELEPHONE HIS MOTHER AND HE TALKED TO HER FOR A PERIOD OF TIME. AFTER MR. JONES FINISHED TALKING WITH HIS MOTHER, HE SAID HIS MOTHER WAS GOING TO GET HIM A LAWYER, AND FOR HIM NOT TO SAY ANYTHING. MR. JONES ASKED FOR MAYNARD HARRELL'S PHONE NUMBER. MR. HARRELL'S TELEPHONE NUMBER WAS GIVEN TO MR. JONES AND ATTEMPTS WERE MADE TO TELEPHONE MAYNARD HARRELL. ON DECEMBER 12, 1994, WALLACE BRANDON JONES WAS TAKEN TO GREENVILLE TO TAKE A POLYGRAPH. AGENT VARNELL, INSCOE, D/S SPRUILL AND D/S WILLIAMS WERE PRESENT. MR. JONES FAILED THE POLYGRAPH AND HE WAS INTERVIEWED BY THE AGENTS AND EXAMINER. MR. JONES DENIED HAVING ANY KNOWLEDGE OF THE MURDER OF FRANK SWAIN. MR. JONES SAID HE NEVER WENT TO FRANK SWAIN'S HOUSE. MR. JONES SAID HE DID NOT KNOW FRANK SWAIN. MR. JONES SAID HE HAD NOT LIVED IN A CAMPER TRAILER, WHICH WAS PHOTOGRAPHED AT THE RESIDENCE OF ED CHAMP. MR. JONES SAID HE WAS AT RIG ED'S BAR ALL NIGHT, UNTIL CLOSING OF DECEMBER 18, 1993. HE SAID HE WAS WITH DANA MAYBIN AND LEROY SPRUILL ALL NIGHT, THE NIGHT OF DECEMBER 18, 1993. ON DECEMBER 12, 1994 AFTER LEAVING THE SBI HEADQUARTERS IN GREENVILLE, D/S WILLIAMS, D/S SPRUILL, AND BRANDON JONES WERE RIDING IN PATROL VEHICLE BACK TO COUNTY JAIL. WE STOPPED AT PARKERS BAR-B-QUE IN GREENVILLE FOR A MEAL. D/S SPRUILL WENT INTO PARKERS TO OBTAIN THE MEAL. D/S WILLIAMS AND BRANDON JONES WERE WAITING OUTSIDE IN THE PATROL VEHICLE. BRANDON JONES MADE A STATEMENT TO D/S WILLIAMS, THAT FEEL SOMETHING WAS WRONG WITH HIM. THE
001318
JONES HAD SAID HE DID IT, BUT HE DIDN'T REMEMBER DOING IT. JONES SAID

ON DECEMBER 12, 1974 AFTER LEAVING THE SBI HEADQUARTERS IN GREENVILLE, D/S WILLIAMS, D/S SPRUILL AND BRANDON JONES WERE RIDING IN PATROL VEHICLE BACK TO COUNTY JAIL. WE STOPPED AT PARKERS BAR-B-QUE IN GREENVILLE FOR A MEAL. D/S SPRUILL WENT INTO PARKERS TO OBTAIN THE MEAL. D/S WILLIAMS AND BRANDON JONES WERE WAITING OUTSIDE IN THE PATROL VEHICLE. BRANDON JONES MADE A STATEMENT TO D/S WILLIAMS. THAT FEEL SOMETHING WAS WRONG WITH HIM, THE GIRL HAD SAID HE DID IT, THAT HE MUST HAVE DONE IT, BUT HE DIDN'T REMEMBER DOING IT. JONES SAID HE FELT LIKE HE NEEDED SOME HELP.

Handout 73

LEROY SPRUILL

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
ROBBERY WITH DANGEROUS WEAPON	WASHINGTON	12/18/1993	10/05/1995
2 ND DEG MURDER	WASHINGTON	12/18/1993	10/05/1995
SIMPLE WORTHLESS CHECK (M)	WASHINGTON	07/15/1991	08/20/1991
SIMPLE WORTHLESS CHECK (M)	WASHINGTON	05/17/1991	08/20/1991
SIMPLE WORTHLESS CHECK (M)	WASHINGTON	05/04/1991	08/20/1991
SIMPLE WORTHLESS CHECK (M)	WASHINGTON	05/06/1991	07/01/1991
SIMPLE WORTHLESS CHECK (M)	WASHINGTON	05/04/1991	06/24/1991
SIMPLE WORTHLESS CHECK (M)	WASHINGTON	04/28/1991	06/24/1991
SIMPLE WORTHLESS CHECK (M)	WASHINGTON	04/22/1991	06/24/1991
B & E & LARCENY	GATES	NONE PROVIDED	02/22/1982
POSS STOLEN PROPERTY	WASHINGTON	NONE PROVIDED	04/27/1981
LARCENY	WASHINGTON	NONE PROVIDED	02/25/1981

Handout 74

LEROY SPRUILL
BUNCOMBE ST.
ROPER, NC 27970
19-793-3770

12-24-93
4:10 P.M.

/M D.O.B.: 01-21-58
SOC. # [REDACTED]
WORKS WITH RAY PRICE

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

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

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

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

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

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

000121

OFFICER'S NOTES cont.

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

000020

Leroy Spruill

Lewis Young

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

Ray took him to the bar on Sat night didn't know for sure if it was Sat Frank got killed or Sat. night prior.

Never made a statement to no one that his fingerprints were on a knife at Frank's house.

Told Leroy he had 33 gun, lever action, good shape.

Saw last gun Oct 20th hunting.

Ray possiby got rid of gun 1 week to 2 weeks prior to Frank.

Heard Frank had been to Tommy's trailer on Fri. night and wanted his money.

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

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

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

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

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

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

- "1. You have the right to remain silent. Do you understand?
Reply: Yes.
2. Anything you say can be and may be used against you in a court of law. Do you understand? Reply: Yes.
3. You have the right to talk to a lawyer and to have a lawyer present while you are being questioned. Do you understand?
Reply: Yes.
4. If you want a lawyer before or during questioning but cannot afford to hire a lawyer one will be appointed to represent you at no cost before any questioning. Do you understand?

000125

Reply: Yes."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DRV:lj

2-23-95 2-23-95 2-24-95
C. M. type (HRS)
g' listing & connecting. 4:30-5:15
4:15-5:00

Mur.doc

7m. Jmo

13E

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

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

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

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

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

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

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

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

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

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

Insert
@ 4:15 p.

2-24-95 Telephone notes from MH
See next page
69

001290

d'ya wondered

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

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

12/24/93 Statement of Leroy Spruill which is coded as F1
Leroy Spruill stated that he heard that a white male with a ponytail- who was driving a truck, was supposed to be at Frank's house by 8:00 on 12/18/94. ~~He said~~ ^{Wallace} was not Wallace Brandon Jones because ~~this white male~~ never had a ponytail.

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

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

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

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

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

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

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

001291

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

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

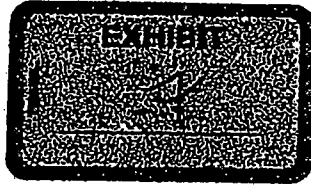
Add: We frequently dance together and people kidded us about it a great deal.

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

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

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

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



AFFIDAVIT OF LEROY SPRUILL

1. I, Leroy Spruill, am over the age of 18, have never been adjudged incompetent, and give this affidavit freely and voluntarily.
2. Dana Maybin accused me of participating in the murder of Frank Swain. She is lying. I am innocent of the charges.
3. Although I pleaded no contest to a charge of second degree murder, I did so only to save my family the stress of experiencing a capital trial.
4. On the night of December 18, 1993, I was at Big Ed's Bar for the whole time. I did not go to Frank Swain's house and commit murder.
5. I can prove my innocence. I was told that I passed several lie detector tests administered by the State Bureau of Investigation. These tests were administered in Greenville. In each test I denied any participation in, or knowledge of, the Frank Swain murder.
6. I wanted very much to testify in Wallace Brandon Jones' trial. People in the Plymouth community knew me, and knew that I am not a violent man. I had known Frank Swain since third grade, and he was a friend of mine. It is absolutely untrue that I helped kill him.
7. During the investigation, and while I have been in prison, I received much information that the people who killed Frank Swain were the same people who killed his girlfriend, Sonya Daye. I have even been given names of people who were suspected of being involved in the murder.
8. Recently, I was visited by the Washington County Sheriff's Department who were seeking information on the Sonya Daye murder. I told them that I was given names of people who were said to have been involved in her murder, as well as Frank Swain's murder.
9. If Mr. Jones' attorneys called me to testify, I would have willingly done so. I was told that the reason that the prosecution separated my trial from Mr. Jones was that they were scared that I would be acquitted if I was tried separately and before Mr. Jones. It was perceived that Mr. Jones was the most vulnerable defendant because he was from out of state and living in Washington County under an assumed name.
10. Wallace Brandon Jones is innocent, because he was with me for the entire night at Big Ed's Bar on the night of the murder.

11. I declare that the above is true and accurate under penalty of perjury.

This the 16 day of OCT, 1998.

Leroy Spruill
Leroy Spruill

Sworn and subscribed to me

on the 16th day of October, 1998.

Attna P. Sanchez

Notary Public

My commission expires: 11/21/99

Interview with LeRoy Spruill

Hyde Correctional Institution, 10/10/03

Interviewed by Meaghan Hannan, John Kuka and Marti Maguire, UNC Chapel Hill

LeRoy Spruill: Impressions

Spruill was clearly excited to see us. It was apparent he was heartened to have more support in his case for innocence, and toward the end of the interview he asked us several questions regarding the nature of our class investigation and our plans for the case. He sat up straight, asked us to excuse his long beard, and was literally at the edge of his seat for much of the time. We were all struck by how intelligent and well spoken he was, and he had clearly given much thought to alternate theories of the killing. He was also heartened by recent developments on the case due to the efforts of John Floyd, but was frustrated that the various efforts on his behalf, which he seemed to honestly believe would end in his release, were taking so long.

Following the suggestions for "Interviewing for Innocence," Spruill had many of the characteristics of an innocent man. He argued absolute innocence and made allowances for Maybin, who he said lied out of understandable fear. He explained in detail all the evidence we brought up and theorized extensively on the actual events of the murder. While overall upbeat, he was clearly outraged by the behavior of Janice Spruill, as well as his years of incarceration despite the many people who protest his innocence. He exhibited no signs of projection or lying by referral. He did, at times, argue good character, but mainly in reference to the fact that they prosecuted Jones first, whose character was more in doubt, and he was candid in admitting his use of drugs and alcohol. Over-exclusion could be argued, but the "I was nowhere near the crime" claim is central to the story he and Jones have always told.

Among his most troubling statements was that he wanted to testify on behalf of Jones, as Vosburgh claims he refused to testify. It is likely that Spruill's lawyer strongly advised him not to testify, which Spruill interpreted as not being "allowed" to testify. Other than that, several contradictions appeared between his account of events and Jones' (see "Contradictions" below), albeit largely minor details that could be explained by the length of time that had passed. Considering how much time they have spent together at Hyde, however, one might suspect they had discussed that a "perfect story" between two drunk men would be unbelievable. Jones' statement that they ate "mackerel or something" the night of the murder also gave us this impression.

Inconsistencies (Between their interview responses and Dana Maybin, March 1995)

- Going to Ed's bar: Spruill said Jones had been at his house beforehand. Jones said he met them as they were walking. Both agreed Jones had been at work, while Spruill and Maybin drank at Spruill's house. (Maybin said she and Spruill met Jones at bar.)
- Timing of leaving bar: Spruill said midnight, while Jones said at closing, 2 a.m.

- People at house after bar: Spruill said Smarty stayed over. Jones said lots of people in were in the truck, but Smarty went home. (Maybin said it was the three of them, plus Smarty Spruill and Stacy Allen Willoughby.)
- Spruill said Margie Perry was not there that night. (Ed Champ said this, too.) Jones said she was probably there, and he thinks he danced with her.
- Spruill said Rogers was fired because she stole from the bar. Jones said she was fired because she had minors in the bar.
- How could Jones have forgotten they ate salmon cakes. He said, "Maybe it was mackerel." It is understandable to forget this detail, but this came up at trial, as well, as Maybin mentioned salmon cakes specifically.
- Jones claimed he did not do drugs because "money was tight," then goes on to say he had all the money he needed.
- There are consistencies with Maybin and Rogers' testimony at trial about dropping the beer, throwing a sign at Rogers, who closed the bar, and other details of going home the night of the murder.
- Spruill said he did not buy drugs the day of the murder because he was not doing drugs. He had quit doing drugs and had met Debbie McGowan. But he and McGowan both said they met between the murder and his arrest.

LeRoy Spruill: Interview

[Kuka explains our interest in the case. Asks about Jones' name (Brandon or Wallace). Spruill offers that Jones also went by an alias, and adds that he only met him at Thanksgiving, shortly before the murder took place.]

Spruill: We were more or less at a bar for a Christmas party, and ended up with a murder charge for something we never done, and it's been nine years. And it's been hard coming here and do what I done, stay clean and things like that. But I'll never give up on it, cuz I didn't do it.

K: [More explanation of our investigation.]

S: [Says his girlfriend and Floyd have information for us. On Floyd:] That man has done a lot for me, and I told him y'all were coming. I don't want to go behind his back, but it's been nine months with those people coming here five or six times to talk to me. They know who done it, they know all this, but they say they have to go through this red tape...I'm not going to give up on this. We're talking nine months...something's wrong. [He doesn't know how much Floyd will tell us. Talking about new D.A., Seth Edwards, his accent, his beard, where he works. He said he manages money for his job at the prison. Edwards was his attorney, now D.A. They have new information, but haven't done anything. He said he spoke with a black man, a younger man from Roper, at the prison who knew Spruill was doing time for a murder he didn't commit. He said he got the man to write to Carl Stewart, who was filing his clemency petition (10/11/01), which is held up because of the new investigation. (Gives us list of addresses and paperwork.) Hannan asking about clemency petition; he hasn't gotten an answer on it. Said Vosburgh has also tried to help them. He thinks they don't know how to go about using the new

information. "I'm not going to lay down on this." He said he plead "no contest," not guilty. He took a plea because Jones went first.] He was from out of state. His girlfriend was from out of state. I was a home town boy. They told me, LeRoy, if you go ahead and testify against them, you'll walk free today. I said I can't go on that stand and lie on a girl and guy, eve though I didn't know them but 38 days, I couldn't go on that stand and lie for nobody and give them the death penalty for something I know we didn't do. I was convicted with Wallace, you might as well say...They wanted to try him first. They didn't want to try me first because everybody knew me there. They might not have got a conviction...They offered me this plea and I couldn't do it. I sat right there with my mom, my dad and my sister and said I can't go on that stand and lie on this guy...[Who wanted you to testify against him? Mitchell Norton.] I hate to say it like this, but he's crooked...Do you know about John Floyd calling this girl after all these years? [Dana Maybin.] She's willing to tell that it's a lie. They steered her because she was young and she had done drugs...they told her they were going to get her free. [from warrant in South Carolina] Now she's changed her mind. She told John Floyd that it was all a lie, and we've been knowing this for nine years now. [Ask about police first approaching Maybin.] They come to me because...here was the story...the girl had outstanding warrants, and I didn't know that. From what I understand, Wallace had a misdemeanor charge, but it wasn't nothing big. So they both were here with warrants. Well I didn't know that. [Were they violent crimes?] No, it was just misdemeanor charges. For her, from what I understand, it was strong-arm robbery on an older guy, took all his credit cards, so she had a fugitive warrant. But I didn't know that. I knew her as Nikki. I didn't even know her real name until I was arrested. It's a difficult case...so when the law started questioning me, they leave, because they don't want the law talking to them. They say I'm going to have this misdemeanor charge in TN, or I'm going to have this charge in SC, so they split. It was a year later before they arrested them. So the girl told them I drove my daddy's truck. They had a forensic DNA test on my daddy's truck, six hours DNA test on my house: nothing. I passed six lie detector tests, no murder weapon was found. If they'd have had fingerprints on that scene, don't you think they'd present that at trial? They didn't, but they had an eyewitness. They never proved no fingerprint there, or they did but they wasn't ours. [Blood sample?] Yes, three or six times, blood, hair...[He wants a DNA test. He heard there were two types of blood, but there was nothing presented at trial. Hannan asked about tire iron, but he said he doesn't know about it. The crime scene was destroyed. The tire iron was found a year and a half later, and they said it was his. Swain's brother destroyed the trailer for scrap metal, and tire iron showed up later.] You listen to this...say me and Wallace and this girl goes and does it...she testified that we went there and she changed her story three times on the stand. But say we went there, and we killed that man. I got this autopsy picture right here...this man was cut from ear to ear, both jugular veins cut. I seen it on TV and read enough books to know you cut someone's jugular blood's spraying to that wall, right? What I got here, he was stabbed 18 times...The autopsy man said he was killed from trauma to the head before his throat was cut. But now she testified on the stand that I was holding him, Brandon was cutting him and he was reaching out saying "Don't kill me." Now, who are you going to believe, a girl with outstanding warrants or an autopsy man with 20 years experience? It's just so much that was...I get to talking about this, and I keep talking...the lady Janice Spruill, she's not kin to me, she's had it out for me from day

one. [Why?] Well, I never lied to nobody, as far as, I did party. I've worked since I was 18 years old, out of high school. I did party. I got high a bunch of times, I snorted cocaine, I did party. I never had to rob, steal, nothing like that. If you'd have told me I got in a fight in a bar with somebody, I'm guilty of that, but I'm not a killer or a drunk. But this lady has been after me for 20 years ago, because I knew a lot of drug dealers that was high up drug dealers and then she got caught up with them to where...they arrested Bo Jack, the head drug dealer, they all knew that they were giving her money to get these nice homes and this and that, and she was kind of covering for him. Whenever they were going to bust him, she would clear him where he would be straight. And she knew this. [He said we should talk to his sister, because she knows about all this. They told her not to come to the trial, wanted her to take leave with pay, but she went anyway. She quit and finished her 20 years, and now she works for the D.A. in Morehead City] It seems like where I get to the point where everything looks like this, people just drop it. [Prisoner Legal Service wanted to help them, were "gung ho" about motion for a appropriate relief. The next morning, they dropped it. He thinks Norton has something to do with it. He said he was not allowed to testify at Jones' trial. "I don't understand that." Hannan asking about MAR. He said they were "ready to go. When we got to the courtroom, they just fell apart." Maguire: back to Janice Spruill. Anyone who can corroborate? Rebecca Armstrong and Jennifer Swain. Janice came to their house and asked if they would help them put Spruill away. Swain's husband didn't want her to get involved, but now she's willing to talk. A lot of people are willing to talk now. Carolyn Spruill was on the jury, and she's willing to talk about being forced to say guilty. He said Wallace doesn't know many people here.

One night when he was buying drugs at the trailer, a car pulled up and the owner of the trailer told him to run, that it was the law. He went to the back bedroom.]

You know who was sitting on that bed, eyes this big? Janice Spruill. She wasn't in no uniform. She was there getting high. Or getting paid, or whatever. But I've done enough dope...you can look at someone with eyes this big and know. I told my sister that and she said there was no way. Then my sister approached her with it and she said you have a smart-assed brother. My sister didn't believe me until all this many years later.

[This incident took place at P.J.'s house. Her boyfriend is Bo Jack, and their son is Maurice Wilkins. He agrees that Wilkins probably left town. Joseph Lynn (doing seven years in Odom Farm) and Avis Arnold both said they were there, as was Maurice Wilkins. He said Lynn was offered immunity, so he wouldn't do any more time, then his family hired a lawyer. Edwards also believes he did it. Arnold was at the end of the road. He sent a notarized affidavit to Carl Stewart. Why haven't they tried to match the fingerprints to these guys? He can't get anyone to test Wilkins' blood. County hospital has no record of her having taken Wilkins' blood. He thinks she lied on the stand because there should be a record.]

But there's so much new stuff that's come up now...We knew it was crooked the first time, but with all this new stuff that's come up now...[Janice protecting Bo Jack? Yes. Relationship between Bo Jack and Swain?] He owed Bo Jack a lot of money, and Bo

Jack had threatened... This weren't no killing for to rob someone. If I'd have gone there to rob a drug dealer, I'd have took his dope money and all. This man had dope left there, he had \$180 in his shirt pocket, he had a wallet they said with money in it, he had two guns there. If I'd have gone up there to rob this man, I'd have taken every bit of money and dope and everything. Well to start with, I wouldn't have went there and taken all that time to kill a man like that. I'd have went there with a pistol and took his stuff. I wouldn't have brutally murdered a man like this... that was hate, they went there to prove to somebody... this wasn't no robbery. [How much money taken? He's not sure exactly. Drugs still in the house? He's heard they did. They were kept in jail and not told. He and Jones only talked to one another, until Arnold told him the other story. Bo Jack was the top man selling drugs in Roper. Spruill heard rumors about the money. He was about the only white guy who could go buy drugs from them, and Bo Jack would tell him that Swain needed to pay him the money, and that they were going to rough him up to make him pay. Then Bo Jack goes to prison, and Wilkins, his son, is cut, and Swain is dead. Sonya Day Spruill is a relative of his, but his family didn't associate with her because she "ran with black people," and had a child by a black man. She was his second or third cousin of Spruill. She dated Frank for five or six years. Her murder is still unsolved.

M: Does anyone else know about debt?

S: I don't think nobody is going to talk to you about that. [People who were at the Christmas party knew stuff, but wouldn't talk, and now people don't want to get involved. He doesn't want to push it because he fears for his parents, but he thinks if he were out, he could find a lot out. A lot of people know that they're innocent, but won't help. He is upset that people pick up the case and drop it.] I want to get of here, because my parents are getting old... I want my name cleared. I want to get out of here and go to work.

K: Talk about background, marriage, etc.

S: [When he got of high school, he went to work as a carpenter with is brother in law. He was married for eight years to a girl named Dana. He did drugs from time to time, like powdered cocaine, since high school. He would work, and lived alone, but would do drugs after work: cocaine, pot. He has tried crack, but didn't do it much. He would also drink. Asked about what type of drugs Bo Jack sold, he said all types, though Bo Jack did not sell them directly; others sold for him. When Bo Jack was arrested, Janice Spruill pointed out where the drugs and money were. He lived in Roper, partied, got married, but she said he didn't spend enough time with her, and they were divorced in 1991. He got a little more wild after the divorce, was wild. He's learned a lot in prison, had done a lot of classes. He's certified in welding, horticulture, maintenance, and had only one minor write-up in prison. Jones has also done well, is in his last year of college. They are well known in the prison. More discussion of the recent work by Vosburgh, Harrell, Floyd and Stewart. He's afraid that Maybin will not testify again for fear of perjury charges. He thinks Edwards should go talk to Maybin. Again he claims he plead no contest. Discussion of his sentence, and difference between his and Jones' sentences. Discussion of his documents.

Harrell did all the talking at his hearing. He claims he plead no contest, but the document said he plead guilty. Right after Jones was convicted, Norton said in front of his family that he was "in the driver's seat," and that he would try to get the death penalty in Spruill's trial. Spruill said he could not plead guilty. To help Spruill's family, Norton said, he would allow Spruill to plead no contest to second degree murder, 40 years concurrent, class C. But when he got the papers, he thinks they lied to him. They scared him, telling him if didn't go before the judge that day to plead, he would be given a different lawyer and judge, and they may try the death penalty. His parents had already been through the trial, and he didn't want to put them through another trial. "I was tried right along with [Jones]." Harrell told the judge that his client wanted to plead no contest, though he protested the way Jones' trial was carried out. Later he was told that he had plead guilty. He is eligible for parole in 2009. Theresa Tuck, his case manager, had been very helpful to him. He talks more about his work in the prison.]

[Hannan asks about the charge for having a knife. He said it's part of his robbery with a dangerous weapon charge. Kuka asks if he carried a knife. He said he hunts a lot, but usually carried a gun. He didn't carry a knife, though he used a skinning knife after hunting. He left that in the barn. He didn't have trouble with anyone in town, and did not carry a weapon for self-protection.]

M: Step by step through the night.

S: After nine years, Brandon was telling me...can you remember everything? I said have you forgot? He said I won't never forget. I said I haven't forgotten. When you tell the truth about something, it goes right on through...If you tell a lie about something, sooner or later down the road, you're gonna back up...[and change your story.]

M: Did you know Frank Swain? [Yes, he went to school with him.]

K: Did you buy drugs from Swain? [Yes, but not in the last six months or so. He had gone to Waterby Jones treatment center in Greenville. He had come home and met Debbie McGowan. He left treatment about three months before he was arrested, in 1994.

[Hannan asked about writing on plea document. He said he had not written it, or anything on the paper. He was just asked if he understood what happened, if he was on any drugs, etc.]

M: Did he always buy drugs from Swain? [He said he had bought from Swain an others: Sam Patrick, Tony Wilkins (Bo Jack colleague), all within a ten mile area, powder or crack, though he did powder more. He was making \$600 to \$700 a week, so he could afford powder cocaine. When he thinks of the money he spent, he would have had money in the bank. Before he went to prison, he was wild, but now he has learned a lot.]

S: I put myself in that position. Like at that bar, partying...Back then, I didn't realize that. Mamma and daddy would day, boy, you keep messing around like that you're going to get in trouble. Boy was she right...

M: Time before murder particularly wild? [Yes, he would go to Greenville and to Big Ed's. Champ took him home that night.]

S: It was a Saturday. Brandon and his girl was in a break-up period. I'd met him a couple weeks prior to Thanksgiving. [They were dating, but was in a spat. She didn't have a place to live when they broke up, so he let her stay with him. He was not involved with her. He got up early Saturday, and Lewis Jarvis, an electrician who testified for Jones, came by to put a service pole in, and asked Spruill to go with him. They went to the liquor store and bought two fifths of tequila (or two fingers?), and they drank about a fifth in the backyard with Nikki. About five p.m., Jones came by. They met him in the driveway, and they were going to go to the bar. Spruill didn't want to drive because he was drunk, so they walked. Jarvis didn't to go the bar. Russell Sawyer, a friend of his, was on his porch, and his mom came out. Ray Hurst was also there. Hurst has the same color truck as Spruill's father. He took them to the bar and dropped them off. The three of them went in, and stayed from about five or six p.m., going outside sometimes to drink from the second fifth, which he had stashed behind the bar (about half of it was left). (Whisky and tequila are the same thing.) There was a band playing, and they were pretty drunk. He wouldn't have driven, but he wasn't "falling down drunk." He could have driven. Swain lived about five miles away, and he admits he could have driven. He lived close to the bar, though, so they walked. Nikki stayed with a lot of people, such as Connie Olliver, but also stayed with him. Discussion of Ed Champ. Samantha and Marzella Champ were also at the bar. Jones and Maybin weren't fighting, but he wanted to be with her one night, but party without her another. He was probably more drunk than the others. He did have a truck at the time, a black '85 Dodge, but he had taken the license and insurance off it, so he didn't drive it much. He drove his father's truck, which was older, to do work and to go hunting. He said he couldn't have driven his dad's truck that night. It would only go in low gear, and he was getting ready to put a new transmission in it. It would need new fluid every 20 miles. He was waiting until the first of the year to put the new transmission. (Scott Moore, who is dead now, testified to this.) It was less than half a mile from his house to the bar, and about a mile from his parent's house to the bar. His address was Roper Street. He used P.O. Box 426, and got his mail at his mom's house.

Three of them drank from the first fifth. Then he brought about half of a fifth to the bar.

K: Band playing, people drinking...

S: [The bar was packed, about 50 people or so. When they first got there, though, they were talking to Ed and his wife before people arrived. They got to the bar just as it was getting dark, about 5:30. People started arriving around seven, and by nine p.m., the crowd was there. He danced with a lot of girls, and older women in their 50s. Everyone knew him there. They were playing country music. Sometimes Champ would cook and

people would pay to come eat, but not that night. When asked, he said he did not eat at all that day. He started drinking about 10:30 a.m., after they had done the work. A lot of people went outside when the band took breaks because it was smoky, and they weren't the only ones going out to drink whiskey. He had left his behind the bar, and Champ knew that they did it. Around 12 or 12:30, he was "pretty well wasted," and Champ said he would take him home after he closed the bar. Lottie and Ed Champ took Spruill and Smarty Spruill, who was sober and playing pool, to Spruill's house, dropped them all around 12:30 or one. (Smarty is not his real name. People say Smarty is crazy, and he couldn't testify at trial. He thinks is slightly retarded.) Jones and Maybin walked home. Champ stopped to see if they wanted a ride, but they didn't, even though it was cold, about 30 degrees. The bar wasn't far, and they got to his house around the same time. He cooked fried sweet potatoes and salmon cakes.]

I'm not saying I wasn't pretty loaded, but I weren't drunk enough that I didn't know how to cook, you know... We ate, Brandon and Nikki slept on the couch. Me and Smarty laid on the carpet and the floor. [Smarty goes home in the morning. The others are at the house, hungover.] Monday morning, I get up and go to work. I hadn't heard nothing about no killing, no murder no nothing... [His boss, who is his brother-in-law (Ray Price), picked him up and told him people were talking about Spruill already. Price said five people had called that morning saying Spruill had been arrested for the murder of Frank Swain. Spruill did not even know Swain was killed until Price told him.]

H: Why did they think it was you?

S: I think because they were looking for somebody with a blue truck, and my daddy had a blue truck, I drove a blue truck. Ray Hurst, he had a blue truck like my daddy's. [They didn't come to get him right away. They looked at Hurst's truck and his truck.]

H: What happened to Hurst's truck?

S: Somebody knocked the windows out of it and set it on fire. That's been a big thing. [On a Thursday night, he was at his house, Hurst said his truck had broken down, and he wanted to put it in his yard while he goes out of town. The truck was there for a few days. This was long after the murder, and someone knocked out the windows and set in on fire. He doesn't know, but he's heard that Hurst did it himself. Spruill is not sure if it relates to the case.] At first, I thought about everything, but since all this new stuff I'm hearing... [A lady who testified at Jones' trial said a truck was speeding out of the trailer park the night of the murder. Vosburgh asked her what color, and she said it was the same color as the lawyer's suit, navy blue. His dad's truck was Carolina blue, but at night it would look white. Hurst's truck was darker, but the black lady who described it said it was navy blue. Joseph Lynn owned a navy blue S-10 Ford, and he kept it behind his father's shed. Spruill's father and his lawyer went and saw it and said it fit the description, but then they couldn't find it. He is convinced that the truck would have DNA in it, but they couldn't find the truck. He doesn't think the burning of Hurst's truck is related to the murder. He thought so at first, though.]

K: Did you see Swain on the day of the murder?

S: Yes. [Wyatt Spruill, who is a relative of Spruill, was living with Swain at the time of the murder, and called 911 that night.

K: That Saturday, you didn't buy drugs from Swain? [He was off drugs. He had been to rehab and was seeing Debbie McGowan.]

M: But the night of the murder you hadn't met Debbie, had you?

S: No, uh huh. I saw him and Wyatt Spruill in Food Lion... [Ray Price and his sister were also there.] I was up there buying dog food. I saw Frank and Wyatt in Food Lion, talked to them. They were buying a bunch of something because Sonja was in prison... they were buying like, women's... Sonja was in there when Frank was killed. [She got out shortly after Swain was killed. They were buying things for her because they were going to see her that Sunday, the next day. This was Saturday morning, on the same trip he went to buy the liquor. He didn't know what they were buying until it came out in the trial. Wyatt Spruill is Spruill's father's brother's boy's boy.] I bought a big thing of Kibbles and Bits with Lewis... [Then they bought the whiskey and went to the house.] I was clean... I mean, I was... [Maguire asking when he got clean.] The morning when I saw them, I was out there as far as drinking and partying then. I hadn't met Debbie then... I went to rehab on October, and I was arrested...

M: Night of murder, any drugs?

S: I never did no drugs that day. [But in that time period, you were doing drugs?] Yes. But the night... when all this happened, I did no drugs. [Why not?] I was drinking the whiskey... I'm not saying if someone had come up to someone in that bar that had some that I wouldn't have done it. [But they were drinking whiskey and going to the bar, and didn't need it.] I shouldn't have even been at the bar, to tell you the truth. The way I'm thinking now, I don't never want to see no Christmas party, no bars... [It was the 18th, so it was a Christmas party. Maguire asking about people at bar. Was there anyone he spent a lot of time with? A woman named Betsy, no last name. We should talk to Stacy Allen. He had the address and she's willing to talk. She testified for Jones. Betsy is her mother, and he was kind of seeing Allen. A girl named Terry Hanicken (sp?), who was a friend of Maybin. It is a small bar, and it was crowded. Ed and Lottie, Smarty, Larry Comstock, and others were there. An older lady who was with the band, and whose husband was a deputy sheriff, told someone that he couldn't have left the bar, because he danced with her three or four times. He doesn't remember her name, but Harrell may know her. He was dancing "off and on." He's not sure how many times they went outside, maybe seven or ten or twelve times for less than 20 minutes each time. Guys went outside to pee sometimes, also. His father and Harrell and Vosburgh drove the route they supposedly took, and thought it was impossible to do this in the time they were supposedly gone. The first story said he rode a bicycle to his father's house, drunk, then pushed the truck out of the driveway and took the truck. His mom and dad had two dogs that would have heard him, too. He said "you couldn't do it in 45 minutes," much less half an hour.

M: Why wouldn't you use your truck? [Not sure.] Or why would Dana say that you used your dad's truck if yours was working?

S: Her story changed three times. [The first story she told was that he and Jones went to bar, and left with her. They went in and saw them killing Swain. The second story was that she and Jones did it (Brandon killed him and she took the money), and he drove the truck. The third story is the one she told at trial. She also said they burned the clothes in the wood heater. He had taken the ashes and put them in the garden when he cleaned the stove. They (police investigators) dug up his backyard looking for ashes. They came by a few times, took his clothes once.

H: Maybin originally implicated someone else?

S: [Jones spent a lot of time with Curtis Furlough, and would know more about Maybin having implicated him. The hospital had called the bar and told Furlough his wife was having a baby, so he went to the hospital.] When Janice Spruill went there, his mom and daddy said 'hold up, you can't get him at no 8:15. He was at the hospital. I have him on video camera.' Janice said you got to give me somebody and she said LeRoy. [Curtis also drove a blue truck, and since he had an alibi, Maybin had to name someone else. She told the truth on the taped interview with Harrell. He heard it and she "more or less told the truth on that tape. I heard it before I went to jail. She told the truth one time."] If Curtis hadn't been at that hospital, where his people had him, Curtis would be here and I wouldn't never been here...It would have been Curtis. I fault the girl for lying because I'd have...If anybody went to trial first, I would have gone to trial like Brandon, for the death penalty. That's how far I was willing to go, to death row. [But since he didn't go first, and Jones was convicted, he didn't. They got Maybin from SC, and they were going to get Jones convicted. He was not going to tell a lie on Jones. If they would have tried him first, it would have been different. His parents wanted to hire another "good" lawyer, but he told them not to spend their money because he was innocent. He doesn't think his lawyer was very good. If he'd have let his parents spend the money, he might not be there.] Brandon's gonna tell you about how Harrell and Vosburgh went to talk to this girl...She called my lawyer, Maynard, and said, "I want to talk to you." Her lawyer, Regina Moore, wouldn't talk to her. Weren't nobody who would talk to her. So Maynard and Vosburgh went down and that's when they get this confession tape and all that...but when she gets to court, no. You went behind my lawyer's back. So they were going to disbar them [Harrell and Vosburgh for interviewing her.] But Regina Moore said talk to her all you want to...That was just a set-up thing there...They played that tape in court and Norton gets up there and said hold up, I didn't say they can go behind my back. So they stopped the whole trial right there. They went behind her lawyer and got all this...there was a big thing about it. [The judge asked Jones is he wanted a new lawyer.] He said this man has helped me here for a whole year, more or less, in jail. He knows everything. They were about to disbar Maynard and Vosburgh...[He kept him as a lawyer.] This man believed in us...I'd have done the same thing. But as far as his lawyer and my lawyer...he's [Harrell] lived here his whole life and he's a member of that courthouse up there, that's where he gets his bread and butter, he gets a lot of court-

appointed things that they give him, so he's not going to give up on that thing. I don't want to talk about him bad, but...

M: What about others who testified against Brandon, the woman who worked at the bar?

S: Lynn Rogers. This was later when she testified, but Ed had fired her from the bar...[Brandon worked at the bar during the day and Champ fired her for stealing money, so she didn't like them.] Here's what she told on the stand...she said me and Brandon left the bar for about 15 or 20 minutes and we came back in all joking and laughing about how we had killed a nigger. That's the exact words. [This story came out a year later.] Really they had nothing but Dana, that was the main thing. [K: Trouble with Rogers before?] No. If you listen to that tape, she said LeRoy's a sweetheart. I danced with her a bunch of times...I think she was out to tell on Brandon because the Champs had fired her for stealing money and lost her bar job and this and that. She didn't actually say anything bad about me, but she said she had heard Brandon say this stuff. [He doesn't remember Margie Perry being there that night, and she thinks she is very close with Janice Spruill. A few months later, she started "getting real friendly" with him, and Champ told him to watch out for her. This was when Janice Spruill was trying to put together a case, and she thought she could talk to him and go back to J. Spruill.] You see, people used to joke with me about this...It was a joke...Everybody knew I didn't kill anybody. It was so funny, for about two or three months, it was a joke...It was funny to me at first, because they were out for everybody. They were talking to everyone, they were investigating. Because I knew I ain't done nothing like that, but it kind of all over town that somebody killed this man. Boy, was I wrong. [More questions about Rogers. She was in and out from behind the bar because Champ would run the bar for a while and she would dance and walk around and go back to the bar. Question: buying beer?] As far as I remember, I don't think I drank no beer. I think Brandon did bring a six-pack home when they went back to my house. Nikki said they brought a bunch of beer. I don't really mix beer with liquor. [He would order a can of soda and put whiskey in it.]

K: Rogers said Brandon didn't have money when he went to the bar...?

S: [Brandon will tell you more about that. They wouldn't let him and the courtroom and he doesn't know what she said at trial. Question: did you have money?] I always had money. I'd worked all week long. I paid to get in. I'm not saying I didn't buy some lady a beer or something, I wasn't slinging money all over the place or nothing. [Remember Brandon buying beers?] I can't remember that to be truthful. [They weren't together all night, he would dance and Brandon might be on the other side of the bar.] It wasn't like wherever I went he went.

K: And you weren't really good friends with Brandon?

S: No, in 38 days, you can't be but so close to somebody. And this boy, 20 years old [at the time], and her 21. He has two girlfriends, Perry and Nikki. She's 21, and I'm 34. Everybody around Roper knows I'm not the craziest person. I'm not going to go meet someone and take someone I don't hardly know to see a drug dealer. [He's not sure if it is

Terry or Sherri. They met on the day before Thanksgiving at the Oasis in Plymouth, and met Dwight Reynolds, Betsy's boyfriend. He knew Reynolds, and met Betsy, Nikka and Sherrin. They were nice looking girls and I danced with them. They invited him for Thanksgiving, but he ate at his parents' and went to Reynold's house afterwards and met the rest of them, including Jones. He didn't know Jones had an alias or what kind of charges he had against him in TN. "It couldn't have been too bad or they wouldn't have dropped them." When the investigators first came asking if he knew Dana Maybin or Wallace Brandon Jones, he said he didn't, because he did not know them by those names.]

M: Tell us about the investigation.

S: I'd say...it happened on a Saturday and Monday was the first time I heard about it. Then it started happening...little bit, little bit...and Janice came to see me, she said I need a blood sample from you. I said I got no problem with that, but don't you need a court order? She said she could do that, but I said it's no problem, I'll give it to you. So I told my dad I was going to the hospital to give blood for Janice Spruill, the deputy and Willie Williams. [He had Stacy Allen Willoughby with him so he'd have a witness that he did it.] I gave three vials of blood like they do and they boxed it up like they do. I don't know where it went or nothing. But I wasn't under arrest or nothing. That was the first time. Then they needed to carry me to Greenville to the SBI place. I did this on my own. I missed a day of work to go to Greenville, and sat there and took six lie detector tests in one day. And the man, I don't know his name, but he said, "This ain't the man y'all are looking for." Later they arrested Wallace, and they took him over there and did the same thing. [When they took him there, he had been arrested.] My first one, I took a lie detector test later, but the first one I did voluntarily. The blood test, I volunteered. Now if I was worried about it, I would have never done that without a court order. [He thinks they went to S.C. and told Maybin they would get her out of her S.C. charges if she came to N.C. Then when they crossed the state line, they told her she was under arrest for first-degree murder and armed robbery.] Once they got her here, they had her. She's 21 years old, she's got a kid. They told her you're going to death row if those boys walk free. Well, after nine months in jail, they coached her and this and that to where they just broke her right down. That's why I don't fault her. I do fault her, but I fault the law because the law made her tell this and do this. That's what I fault. [Questions about timing of arrest. They arrested Maybin, Jones and Spruill in that order.] She must have known where he was at, because I didn't even know where he was from. I didn't even know she was from S.C. Next thing I know, Ed called me and said you know they got Robert Solis and that girl for that murder? I said no. Well, I didn't even go to work that day. I sat right at mom and dad's house, and here they come, about 10 o'clock. They done put me through all that interrogation, I knew they would come...I told my boss I didn't want to go to work and have all those cops make a big scene...[That's when they asked him if he knew Wallace Brandon Jones, and he didn't, but he recognized him when he saw him.]

M: Offers of immunity?

S: Maynard told me they had told Brandon, "if you say LeRoy was the mastermind behind this and killed, you won't do six years." Brandon said, "I'll see you in hell." That's the exact words Maynard told me. I'd have done the same thing. [Since then, they've talked about it. They were separated at the county jail so they couldn't talk. They had him in a holding cell and Jones in the main hall, but they could see one another. Then they sent Spruill to Manco. Then during the trial they were in the same holding cell together. They spent some time in a maximum-security prison, "a terrible place." He had a misdemeanor in 1979 for cutting down trees at a school. It was a prank among kids.]

K: Do you ever get in fights?

S: I probably been in one bad fight. [Someone had grabbed at his girlfriend while she was driving alone, and he found the man and beat him up. He has been kicked out of a bar for being too drunk.] There are people who will tell you that LeRoy don't take no junk from anybody...I walk away from trouble when I can, but in here, just like out there, if you put your hand on me, or I think you're going to hit me or cut me with a knife, I'll defend myself. [He said Hyde is much better than maximum security. Prisoners who have been in jail for 10 or 15 years are focused on getting out. They don't cause trouble. He is focused on getting work release and getting out on parole.]

M: Was this murder a really big deal?

S: There's been murders before around that area, but what was so bad is this guy got killed and they're trying to put this together. And six months from the time he was killed, Sonya Day was killed. She hadn't been out of jail but a few days, and she was killed just like he was: throat cut, bashed in the head. She was naked but she hadn't been raped. The only thing different in that murder was her hands were tied behind her with a telephone cord. [He thinks the same person killed both of them, and he thinks she knew who killed Swain and that he owed Bo Jack money.] That girl knew something, even if she was in prison. When her boyfriend Frank got killed, when she got out, they knew she knew something. That girl wasn't going to let me go to prison for killing that man and she was my cousin. She wasn't going to let me go to prison over a lie. I never mistreated that girl, but her family and my family did her hanging with black people. When I saw her, I'd talk to her. I never put her down. If that's the way you want to go, that's fine. I'm not real prejudiced. [One time he went with Ray Hurst to P.J.'s house to buy drugs, and Day was there; she had just gotten out of prison. She came out to the truck and told Spruill that he should leave because "they think you killed Frank, and I know better." This was a Tuesday or Wednesday, and on Monday she was dead.] If Maurice knew that she knew something, he thought she had to die. [Asking about who called 911. He thinks Wilkins called 911. The first investigating officer, Jimmy Peele, quit after this happened. He lives right behind the Red Apple in Plymouth. He was the first investigating officer on the scene, and they took him off the case. Peele questioned other officers as to why he was taken off the case. He thinks it's odd that Wyatt Spruill, who lived with Swain, left for twenty minutes and found Swain dead. He thinks the real killers may have paid Wyatt Spruill to leave so that they could rob Swain and he could come back and call it in. He doesn't know, but is guessing. Sonya Day was Wyatt Spruill's sister. He doesn't think

Wyatt Spruill would have wanted to hurt him, but he was so involved in drugs, he would do anything. That area, around Folly Road, was a serious center for drugs at that time.

[Brandon can tell us more about the trial, but Spruill knows more about the area and the people in Roper and Plymouth. More talk of how Jones was easier to convict because he was an outsider with a record and an alias.] Here's the thing about Brandon. People said he had an alias and this and that...I have no problem with that...Not knowing me from Adam but for 38 days and they offered him a plea bargain, and he's from TN and 20 years old. You know what most 20-year-olds would have done? They would have rolled me down the river. I'd have been on death row. But he wouldn't do it. [They also thought Jones would win at trial. Their lawyers told them all the prosecution had was Maybin's testimony.] I knew I didn't do it and I knew all they had was that girl, with a record and lying all the time. I really wasn't that worried, even when I was in jail. Boy, were we wrong. [He said the lawyers said it would "be a breeze," that the charges might be dropped for lack of evidence. After Jones was convicted, his lawyers said they would go to trial, but they did not think he would win, so he might as well take the no contest plea. Now he and Jones are very close.] He's a trooper to me, because that man could have rolled on me and I'd be on death row. And that man took that chance of going to death row because he didn't do it. That's why I stand up for him like I do. To me that's a true friend. I'd go to bat for him any time.

[Maybin told a correctional officer at Fountain (?) that she was about to lie on the stand and didn't want to do it shortly before she testified. Brandon may know her name. Spruill only knows about the trial from McGowan and Jones.]

M: Do you remember what you were wearing the night of the murder?

S: [He used to wear mousse in his hair, which may account for why people said it looked wet. He always wore Levis, a long-john undershirt with a flannel over it and white Nike tennis shoes, which is what he thinks he was wearing that night. He was not wearing a jacket. When asked, he said he doesn't remember if witnesses from the bar were drunk, but many people were drinking. He explains that even though he drank a lot of whiskey, he has a high tolerance and was not "falling down drunk." He thinks it's inconsistent for Maybin to say that they were all very drunk, but they managed to do this murder and not leave fingerprints, ride a bike to get the car, etc. He doesn't know if Margie Perry is in town. He has tried to get his father not to investigate the murder because it's dangerous, so he hasn't pushed them for information. Spruill asks about our investigation and we explain.] What I'll tell you and what I tell everyone who comes to see me is, "Don't give up on me."...I lay down at night with a satisfied mind. I was raised in church with my family. I didn't kill that man, and I'm satisfied...As many times as y'all need to come back here and go over this again, I have no problem with it.

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SBI CASE: 2004-03241 (583)
ACTIVITY: November 15, 2004
VICTIM: William Frank Swain
COPIES: (1) Case Records Management Section
(2) ASAC J. B. Tilley Jr.
(3) SAC D. G. Honeycutt
(4) Deputy Attorney General J. J. Coman

Leroy (NMN) Spruill, W/M/DOB: 01/21/1958 (Subject)
Residence: P.O. Box 426, Millpond Road, Roper, North Carolina 27970, Telephone: 252-793-3770
(Currently in Hyde County Correctional Facility,
P.O. Box 287, Swanquarter, North Carolina 27885,
Telephone: 252-926-1810)

COPIES: 11
Interviewed on Monday, November 15, 2004, at 1:15 p.m., at the Hyde County Correctional Facility, by Assistant Special Agent in Charge (ASAC) J. B. Tilley Jr. and SA W. M. Warner.

Spruill was being interviewed at the request of the Attorney General's Office reference a claim that Spruill had information showing that he and Wallace Jones were wrongfully convicted of the murder of Frank Swain.

Spruill stated he had been sentenced to 40 years for robbery and a life sentence for second degree murder in the death of Frank Swain. The sentences were to run consecutively. He stated that he and Wallace Jones did not kill this man.

Spruill stated that Frank Swain's girlfriend, Sonya Spruill Day, was killed after Frank Swain. Day was killed the exact same way. He stated she was tied up with a telephone cord. Day was stabbed in the chest and her throat was cut from ear to ear. Spruill provided ASAC Tilley with a copy of a Roanoke Beacon newspaper article written by Mike Pollard about the murder, see Attachment #1JT. The murder was in Washington County, and he stated they were connected.

Spruill had questions about what evidence was seized during a search warrant in the investigation. He showed ASAC Tilley a page from a search warrant and referred to paragraph 4. He wanted to know what evidence was collected and why it was not used in trial.

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Spruill stated that Nikki Targeton, alias "Dana Maybin," testified and the way she testified, the crime could not have happened without any evidence being found.

Spruill knew of three other suspects. He identified them as Billy Ray McNair, Maurice Wilkins, and Joseph Lind. He stated that Janice Spruill, the investigator for the sheriff's office, testified that they were all original suspects. Janice testified that she got blood from Wilkins, but backed her car over the blood when it was in her pocketbook. The blood was never re-collected. Spruill stated that Wilkins had an injury to his left arm. There was a 7" cut. Wilkins testified that he got the cut while cutting an orange on the night of the murder.

Spruill stated he got a plea offer to testify against Wallace Jones. He stated he could not lie. He later pled no contest. Seth Edwards and Harold Maynor were his attorneys. Jones had a trial and was convicted. The district attorney (DA) offered 40 years and a life sentence to run together. The DA said he would try Spruill for his life and he would face the death penalty. Spruill stated he felt he had no choice but to plead.

John Floyd, the Plymouth chief of police, went to Odom Farms and talked with Joseph Lind. Lind stated he was present at the murder with McNair and Wilkins. Wilkins and McNair did the killing. He stated that Lind's lawyer would not let him talk now. He stated that Floyd used the bluff that Billy McNair said Lind did it.

Stacey Allen, a friend of Spruill's, met him at Big Ed's Bar in Roper around 5 p.m. on the night of the murder. She stayed with him until closing. Ed, the owner of the bar, took him home that night.

Spruill stated that Avis Arnold told him that he was the lookout in the Swain murder. Arnold said that he saw Maurice Wilkins with his arm around Frank Swain's throat and Wilkins cut Swain's throat. Billy Ray McNair was there too. Spruill had Arnold write a statement and then had it notarized. Spruill sent it to his attorney, Carl Stewart.

Another person he sent Arnold's statement to was Marti McGuire, of the Innocent Project. Spruill showed ASAC Tillley a letterhead paper with the following address and telephone number:

Innocent Project
School of Journalism and Mass Communication
Campus Box 3365
University of North Carolina
Chapel Hill, North Carolina 27599-3365
Telephone Number: 919-740-0409

Spruill stated he had trouble with Janice Spruill. He stated his sister, Linda Hinson, worked with Janice. He stated he had gone to Maurice Wilkins to buy some dope. He got there and saw some cars coming behind him and thought it was the cops raiding. He went to the bedroom and Janice was there.

Spruill stated that after he was convicted, Sonya Day told him she knew who killed Swain and knew Spruill did not do it. Day was later killed the same way.

Spruill stated he knew there had been a lot of corruption in Washington County law enforcement.

Spruill stated that a black female named Downey testified that she saw a dark blue truck that night coming from the murder scene. He owned a Dodge truck, but it was not running that day. Spruill's father had a Carolina blue truck. Spruill's parents, Patty and Jack Spruill, testified that he did not have the truck that night.

Spruill stated that after he was convicted, Sonya Day told him Spruill stated he wanted some correspondence from Jim Coman when the investigation was completed. He wanted Coman to tell him his decision.

Spruill stated he knew there had been a lot of corruption in Washington County law enforcement. On December 18, 1993, Spruill was living in a two-story house on Bunkum Street in Roper in Washington County. He was living by himself. He was working for Steve Furlough, a contractor. Spruill was a carpenter for Furlough and had worked for him for seven years. Spruill was 35 or 36 years old at the time. He had just separated from his wife, Donna Patrick. Spruill's parents, Patty and Jack Spruill, testified that he did not have the truck that night.

Spruill had been in prison before. He broke into a business when he was about 20 years old. He had never had a drug charge or a DWI. He did get arrested for fighting before.

Spruill woke up on the 18th around 10 a.m. Spruill and Lewis Jarvis, an electrician, left to go put up a power pole. He stated they never made it, that they stopped at the liquor store in Plymouth. Jarvis got a fifth of whiskey and Spruill got a fifth of Two Fingers Tequila. They went in Jarvis' green Dodge van.

Spruill stated that he and Jarvis went back to Spruill's house around 11 a.m. They sat in Spruill's back yard and drank. He stated they pretty much got drunk. They stayed there until about 3:30 p.m., drinking. Jarvis left between 4:30 p.m. and 5 p.m.

Dana Maybin, alias "Nikki," had come over between 11 p.m. and 12 noon. She drank with Spruill and Jarvis. Around 5 p.m., about when it was getting dark, Brandon Jones walked up the driveway. He was sober. Jones had been working with Ed Champ.

Spruill stated that they decided to go to Big Ed's Bar. They decided to walk. They left on foot on Bunkum/Main Street. They got in front of Russell Sawyer's mom's, Ida Dean's, place. Russell saw Spruill and came over to talk. Russell did not know Brandon or Nikki.

Spruill stated that he was a loud drunk and Ida had come out to see. Ray Hurst came by and gave the three of them a ride. They were in a blue Ford truck. It was darker blue than Spruill's father's truck. Hurst dropped them off at Big Ed's. Spruill's best guess was that it was around 6 p.m. The three of them went into the bar.

Ed Champ and his wife Lottie were in the bar along with their two daughters, Samantha and (FNU). Betsy (LNU), Stacey Allen, and Dwight Williams were also present at the bar.

Spruill stated from the time he got to the bar until 1:30 a.m., the three of them were at the bar the whole time. He stated they went out into the parking lot to drink whiskey. He did not know the name of the guy they went drinking with. He stated that was done several times. Spruill stated that Brandon and Nikki were at the bar the whole night too.

Spruill stated that Brandon and Nikki were fighting. They left together around 1 a.m. or so. Ed gave Spruill a ride home and they tried to pick up Brandon and Nikki, but they would not go. Ed took Spruill and "Smarty" Spruill to Spruill's house. Nikki and Brandon came up and Spruill cooked salmon patties.

Spruill stated that December 18th was a Saturday night. The following Monday morning, Spruill went to Baker Allen Lumber with Steve Furlough. He stated that was the first time he heard of the killing. Ray Hurst told him.

Spruill stated he went to school with Frank Swain. He knew all of Swain's family. Spruill had been at Swain's trailer where Swain had been killed seven or eight times before.

Spruill stated the last time he was there was over a year before Swain was killed. Spruill denied he made an earlier statement to law enforcement that it was the October or November before Swain's death when he was last there. He stated the statement from law enforcement where he said that Brandon and Nikki left the bar was incorrect. He did not say they left 30 minutes at a time.

Spruill stated he was not going to deny that he said it would not surprise him that Brandon and Nikki killed somebody. He did deny telling Ray Hurst that he had gone to Frank Swain's that night.

Nikki was now living in Westminster, South Carolina. Stacey Allen, who was with Spruill that night, was still in contact with Nikki. Allen said that she was told by Nikki that Janice Spruill went to see Nikki. Janice told Nikki that if she came back to North Carolina, she would get a burglary charge.

Spruill stated he knew of a tape made by Jim Vosberg, Maynard Harrell, and Seth Edwards with Nikki. She recanted her statement. Spruill stated that his girlfriend, Debbie McGowan, had a copy and a transcript of this tape. He stated Debbie's telephone number was 252-797-7195. Her address was 351 Main Street, Creswell. He believed John Floyd, Carl Stewart, and Marti McGuire all had a copy of the tape.

Spruill was asked if there was anything else he wished to say or add. Spruill's stated a preacher, David Hewitt, gave Spruill's mom and dad a letter from an anonymous source claiming to know something about the murder. The man said he knew Spruill did not have anything to do with the murder. Spruill did not know what the man's information was.

Spruill provided the following listed documents: Debbie McGowan, Attachment #3JT - Partial statement from Billy McNair

Attachment #4JT - Statement by Leroy Spruill

The interview concluded at 3:56 p.m.

ATT:lg
(Attachments #1JT, #3JT and #4JT)

Meeting with Leroy Spruill

Hyde Correctional

11.10.06 @3p-4p

- Updated Spruill on our progress; told him about interviews and described the motion to preserve
- Spruill is up for honor grade review on December 9 – hoping to do MAPP
- Talked through DNA info again; explained motion to preserve
- Explained evidence situation again – why we haven't been able to test anything
- Leroy's father will know Bo-Jack's real name – Bo-Jack's wife's name is P.J.
- Leroy's friend Charlie White talks with Coman regularly – Coman told him to tell Leroy not to work with the IP because we don't get along
- White said Coman told him that prints found at Sonja Day's match prints found at Frank Swain's
- Need to follow up with White; also need to call Spruill's father

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SBI CASE: 2004-03241 (667)
ACTIVITY: February 6, 2007
VICTIM: William Frank Swain
COPIES: (1) Case Records Management Section
(2) ASAC W. M. Warner III
(3) SAC B. M. Robinson
(4) Senior Deputy Attorney General J. J. Coman

Leroy (NMN) Spruill W/M/DOB: 01/21/1958 (Subject)
Residence: Inmate, North Carolina Department of Correction,
Hyde Correctional Institution, P.O. Box 287, Swan
Quarter, North Carolina, Telephone: 252-926-1810

Leroy Spruill was interviewed on Tuesday, February 6, 2007, at approximately 10:15 a.m. at the Hyde County Correctional Institution, Assistant Special Agent in Charge (ASAC) W. M. Warner and House of the North Carolina State Bureau of Investigation. (4) Senior Deputy Attorney General J. J. Coman

Spruill was interviewed concerning information passed along to Senior Deputy Attorney General J. J. Coman by Charlie White, a friend of the Spruill family.

Senior Deputy Attorney General Coman had been told by Charlie White that Leroy Spruill had a conversation with Joe-Joe McNair about a conversation Joe-Joe had with Billy McNair about the murder of William Frank Swain.

During this interview, Leroy Spruill gave the following information:

Leroy said the Friday after Thanksgiving 2006, Sonya Phiffer and an attorney from the Innocence Project came to see him and Joe-Joe McNair.

After the Innocence Project left, he and Joe-Joe had a conversation about the murder of Frank Swain.

Spruill said before that day, he did not know Joe-Joe McNair. He knew his brother, Billy Ray McNair, but he did not know that Joe-Joe was even at this camp.

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Spruill had seen Joe-Joe McNair coming out of the visitors room after talking to the Innocence Project.

Spruill asked the people if that guy had anything to do with his case. They told him yes, he did.

In the conversation with Joe-Joe, they started talking about the murder of Frank Swain and what had been talked about with the Innocence Project.

Leroy told Joe-Joe that he knew who had killed Frank Swain, that it was Billy McNair, Joseph Lind, Maurice Wilkins, and Joe-Joe McNair.

Joe-Joe spoke up and said, "No, I am Joe-Joe McNair and my brother Billy McNair killed Frank Swain."

Joe-Joe said that the same ones that killed Frank killed that white girl.

Leroy said that the white girl is Sonya Spruill, Leroy's fourth cousin, who was a girlfriend of Frank Swain.

Joe-Joe said he was present in the apartment complex when Sonya Spruill was killed.

Joe-Joe told Leroy that he had talked to the SBI before about this case and told them everything he knew about the Frank Swain case.

Leroy asked Joe-Joe why he was going to tell on his brother and Joe-Joe said because Billy Ray raped their grandmother.

Joe-Joe claims to have seen a nicely-dressed black man from Dardens up in Martin County at Sonya's house the night before she was found. He was a tall, light-skinned black male with a nice car.

Joe-Joe was standing out in the housing project with a black lady that "kinda" ran the housing authority. Her last name was Downing, maybe Mary Downing.

Leroy has not talked to Joe-Joe since then. He has passed him before in the hall and Joe-Joe would not even look at him.

Joe-Joe never told Leroy exactly what he told the Innocence Project but he said that he told them the same thing he told Spruill.

This was all the information related by Leroy Spruill. This statement was reviewed with Spruill and no corrections or additions or additions were made to the statement.

This interview ended at approximately 11:45 a.m.

WMW:jbp

This was all the information related by Leroy Spruill. This statement was reviewed with Spruill and no corrections or additions or additions were made to the statement.

This interview ended at approximately 11:45 a.m.

WMW:jbp

This was all the information related by Leroy Spruill. This statement was reviewed with Spruill and no corrections or additions or additions were made to the statement.

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WMW:jbp

Meeting with Leroy Spruill
2.15.2007

- Met with Spruill at Hyde after he had Debbie call last week and tell us that he had two visitors
- On Tuesday, February 6, 2007 two men from SBI [Spruill said they told him they were with the AG's office] came to Hyde – Warner and House
- Visit lasted almost 3 hours – 10a-12:45p
- They asked Leroy to tell them what happened the night of Swain's murder – had him go through the story and Leroy did
- Leroy told them after he went through the details that his story wouldn't change because it was the truth
- Mack Warner told Leroy that evidence exists – some evidence has been tested that does not link Leroy to Swain's murder; some evidence is currently being tested
- Warner: "You're right, no evidence links you to it."
- Warner said Coman is on the case, and tests are going on now. Says Coman will get to the bottom of it
- Leroy asked why not tell the Innocence Project about the work you've done and the evidence that exists – they had no answer
- They asked Leroy if he'd take a lie detector test, he said he would and they said they'd set it up – they told Leroy that Coman wants the lie detector test done
- When Leroy told them that he'd already passed six of them, they told him the other tests were done by Washington Co and Coman wanted his people to do it
- Leroy remembered the name of the guy who came with Warner about 2 years ago – Tilley
- They asked if he knows the McNairs brother; asked if he knows Maurice Wilkins
- Warner went through several questions about night of the murder – how did they all get to the bar? how did ray hurst's truck get burned in Leroy's backyard?
- Then – could Brandon have done it? Can you say he had nothing to do with the murder? Was he with you all night? Could Brandon and that girl have done it? Do you think they were running from the law?
- Spruill said he did not take the bait and flip on Brandon – in fact, he told the agents that his story hasn't changed and won't ever change because it's the truth. He told them that Brandon and Nikki (Dana Maybin) did not have anything to do with Swain's murder and he was with the two of them all night until the bar closed down around 2a
- They asked why the trailer was taken away from the scene so quickly? Leroy said he had no idea
- They asked about when Leroy talked to Donnie Varnell and Kent Inscoc – did Leroy strip down for them voluntarily? Did he talk with them voluntarily? Did Leroy voluntarily give a blood sample – to the blood sample he said yes and told them he had a witness present when he gave blood (Stacey)
- They suggested that they have 9 prints that match - unclear if they were referring to a match between prints found at Sonja Day's and Frank Swain's

- Said a few times there was "a lot of stuff at the lab being tested." But said it's taken so long because "we've got to jump through a lot of hoops and we've got to clear things and go through other people's lawyers."
- They also asked Spruill what he's going to do when he gets out – he told them he'd go see his mom and dad, he plans to marry Debbie, get a job. He told them about making honor grade at the end of April
- On Wednesday, February 14, 2007 O'Neal and Edmonds. O'Neal is new Plymouth police chief? Edmonds might be from SBI (indications from Sawyer at Hyde)
- O'Neal and Edmonds spent about an hour, Leroy estimates. They said they were there to see someone else and thought they'd see Spruill while in the area. Leroy asked if they were there to see JoJo McNair and they didn't answer him
- McNair has moved from Leroy's section to a different section so Leroy hasn't seen him in the yard
- O'Neal asked whether Leroy knew anything about a well dressed black guy from Martin County who stayed with Sonja – Leroy said he knew nothing about it
- O'Neal heard on the street that the McNair brothers did the murders – also knew the rumor well that the McNairs, Lynn and Maurice did the Swain murder
- Edmonds indicated that he had spoken with Coman about the case; O'Neal said he planned to talk to Coman about the case
- O'Neal said he's ready to get Lynn again because Lynn is "up to his old tricks" Leroy suggests that means he's trucking marijuana along with other deliveries
- Edmonds asked Qs about many of the players – Wilkins, Lynn, the McNairs – O'Neal answered all of his Qs; Edmonds didn't know about Janice Spruill and Bo Jack or J. Spruill and her drug use but O'Neal acted as though he was well aware of all that
- Edmonds told Leroy he didn't give a crap about what happened or happens in Washington County, he was from Martin County and he had a job to do
- Separate bits unrelated to visits
- Mentioned that Sonja was his 3rd or 4th cousin and she had told him once that she knew who killed Frank – Spruill intimated that Sonja was referring to the McNair brothers but never came out and said this. He did talk about a dress or purse belonging to the McNair's mother being found in Sonja's apartment (their mother apparently did Sonja's hair)
- After my last visit with Spruill, where we also saw Joseph McNair, Spruill said McNair came up to him on the yard as soon as Spruill got out from talking with us. JoJo brought up Frank and Sonja's murders and Spruill said that's what I'm in for but I know who did it – the McNair bros, Joseph Lynn and Maurice Wilkins. JoJo said no, no I'm Joseph McNair and I didn't do it. My brother Billy Lee did it! Leroy asked why he was turning on his brother and JoJo said because he's in for raping my grandmamma and we don't see eye to eye
- NOTE that the guards brought Leroy in right as they were taking JoJo out so the two saw each other. Leroy did not know who McNair was – and despite JoJo knowing who Leroy was he never intro'd himself before that day. JoJo could have gotten nervous when he figured we'd tell Leroy who he was and what was

going on — Leroy said that JoJo came up to him straight away — as soon as Leroy finished talking with us and went out to the yard.

April 7, 2008

Spruill, Leroy

Prepared by Rebecca Key, Luke Everett, and Sherry Everett, UNC School of Law

Re: Spruill, Leroy

NC DOC Inmate #:

Summary of 4/4/2008 Interview With Spruill

We met with LeRoy Spruill at Hyde County Correctional Facility at 1:30 on April 4, 2008. The purpose of the visit was largely to meet with Mr. Spruill in order to get to know him, but also to ask his opinion about Mr. Armstrong (who we also interviewed today).

We talked generally about the case. LeRoy was anxious to know how things were progressing with his case. We told him that we couldn't give him any firm indications of exact time frames, but assured him that we were all still working on his case. He had talked recently to his friend Charlie White, who had said that Chris Mumma had advised him not to talk to Jim Commen anymore without first talking to her. LeRoy expressed that he and Mr. White had wanted to talk to "anyone who could help them," but that he would try to take the suggestion seriously.

We also talked about his sister, Linda, who has been helping him with his case. She worked for the Janice Spruill and the sheriff's office for 17 years prior to his conviction, and resigned after his trial she resigned and now works in the DA's office in Morehead City. LeRoy gave us her phone number (525-793-3770) and suggested we call her to talk about her time working with Janice Spruill and any other insight that she might have into the case.

LeRoy is preparing for his parole. He has been working in the prison canteen for 11 years, and has had no infractions aside from a radio antenna that was too long, and has taken every available class offered at the prison (from welding to stress management). He hopes that he'll be able to get a MAP plan worked out, and perhaps be moved to another prison in preparation for his parole eligibility.

Luke and Sherry described their trip to Plymouth to LeRoy, and he asked if anyone had changed their stories. Sherry said that Lynn Rodgers was maintaining her story, and LeRoy said that he wasn't surprised. He speculated that Lynn developed her story due to a grudge that she had with Big Ed. Immediately prior to the murder, Lynn was fired because Big Ed suspected her of stealing money from the bar.

LeRoy mentioned several times that he knows everyone at the Center is busy, but that he wants to make sure that his case isn't forgotten. We assured him that everyone is still working as hard as we can, and that Chris Mumma will be in touch with any developments.

SPRUILL'S KNOWLEDGE OF ARMSTRONG:

Mr. Spruill says that he did not know Mr. Armstrong before coming to prison, but that he did know Armstrong's family. He knew of him because of connections to Armstrong's family, but he was not friendly with Armstrong himself. In particular, Spruill spent time with Armstrong's older brother.

According to Mr. Spruill, Armstrong's story is that Armstrong was riding his bike down the street on Folly Road the night that Frank Swain was murdered. As he was riding a car pulled up to him, and he got in. They wanted to go buy dope. Armstrong says that he then saw a tire iron in the car. The tire iron was bloody. He asked the driver about it, and the driver said that he had used it to "knock an old dog in the head."

Handout 75

NORTH CAROLINA
WASHINGTON COUNTY

GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

STATE OF NORTH CAROLINA,

Plaintiff,

vs.

WALLACE BRANDON JONES,

Defendant.

FILE NOS.:

94 CRS 4973

95 CRS 1965

STATE OF NORTH CAROLINA,

Plaintiff,

vs.

LEROY SPRUILL,

Defendant.

FILE NOS.:

95 CRS 1566

94 CRS 1984

Recorded Interview

This is the transcript of the recorded interview taken of Leroy Spruill, which was conducted by Sharon Stellato, Staff Investigator, from the North Carolina Innocence Inquiry Commission. The recorded interview took place on February 9, 2011.

APPEARANCES:

Sharon Stellato, Staff Investigator
North Carolina Innocence Inquiry Commission
Stormy Ellis, Staff Attorney
Catherine Matoian, Intern
Administrative Office of the Courts
P.O. Box 2448
Raleigh, NC 27602

Also Present: Leroy Spruill
Robert Womble, Attorney

1 P R O C E E D I N G S

2 MS. STELLATO: Sharon Stellato is here today at
3 Hyde Correctional Facility with Leroy Spruill beginning an
4 interview at 1:15 on February 9, 2011.

5 Let me just tell you a few things before we
6 start asking questions. Go ahead and try to speak up so
7 that the recorder can pick up everything that you say.
8 It's pretty good. It should be able to get everything.

9 If you don't understand a question, just tell
10 me, you know, ask me to repeat it in whatever way is more
11 clear for you.

12 MR. SPRUILL: Yes, ma'am.

13 MS. STELLATO: As part of the process, don't
14 withhold any information. If I don't ask you something,
15 you know, specific but you feel like I need to know, go
16 ahead and tell me.

17 Remember that insignificant details a lot of
18 times make the most difference in cases like yours. So if
19 there's things out there that, you know, you need to
20 mention that you haven't, please do.

21 If you need a break, tell me. If you need to
22 talk to your attorney, go ahead and tell me, okay?

23 MR. SPRUILL: Yes, ma'am.

24 MS. STELLATO: So let's just start with a little
25 bit of the background of we're you're from, where you

1 lived at the time of the murder, and what was happening in
2 your life at that time.

3 MR. SPRUILL: Well, my name is Leroy Spruill.
4 And in 1993, I was living by myself in a house in Roper,
5 North Carolina. And I met this girl that was supposed to
6 have been Nikki Talkington and Robert Solis. And I knew
7 them about 18 days. And we partied some at this local bar
8 called Ed's Bar.

9 And that day, me and Lewis Jarvis, which he's
10 passed away now, had gone and put a power pole up for a
11 service thing. Stopped by the liquor store in Plymouth.
12 Bought some whiskey. Came home. In my backyard, we were
13 drinking whiskey. The girl that I supposed to have known,
14 Nikki, and me were drinking. Her boyfriend, I supposed to
15 have known as, Robert Solis, I found out later on my first
16 court appearance it was Robert Brandon Jones, Wallace
17 Brandon Jones.

18 And we all went -- started walking from my
19 house, which the bar was approximately, I don't know, 300,
20 400 yards. And we stopped at a friend's house that I
21 ain't seen. He had moved -- he's from Roper, but he had
22 moved to Virginia. His name was Russell Sawyer.

23 And I was kind of drinking, so I was loud. And
24 his mom come out and said, Leroy, this and that.

25 So Ray Hurst, a boy, said, I'll take you all on

1 to the bar. I'm going to store.

2 So we got in the truck with him. Carried us to
3 the bar.

4 MS. STELLATO: And who is "we"?

5 MR. SPRUILL: Me, Robert Solis -- I knew him as
6 Robert Solis name. I found out later it was Wallace
7 Brandon Jones -- and Nikki Talkington, which I found out
8 later was Dana Maybin.

9 So we go to the bar. We party. Never left the
10 bar. We never drove to the bar. We were carried to the
11 bar with Ray Hurst.

12 And the bartender -- actually, him and his wife,
13 she's dead, Lottie, but Ed Champ is still alive -- he
14 carried us home that night. Well, carried me home.
15 Wallace and his girlfriend, which Brandon -- I knew him as
16 Robert Solis -- they were fighting, so they walked from
17 the bar home. Ed carried me home. I went home. I cooked
18 salmon cakes, sliced sweet potatoes and all that at 1:30
19 in the morning.

20 MS. STELLATO: So 1:30 is when he took you home?

21 MR. SPRUILL: When he closed the bar, the band
22 was gone, this and that. And then from then on, it just
23 went from one thing to another.

24 The law just kept stopping me everywhere I went.
25 And they were talking about this black lady had said that

1 she had seen this truck come flying out this Foley Road
2 thing about 8:15. And then the murder. You know, talking
3 about the murder.

4 Well, they started investigating people with
5 blue trucks. Well, my daddy owned a blue truck. Kind of
6 a light color blue, but it was a blue truck. So they were
7 investigating this.

8 So Janice Spruill coming at me and said, Where
9 is the guy and girl that's been hanging around you for the
10 last -- I said, I don't know. Well, what's their name? I
11 told her, you know, their names.

12 So for a year went by, they dogged me.
13 Everywhere I got on the road with the truck, they were
14 pulling me over. They were trying to just do anything
15 they can. You know what I mean?

16 And finally, almost like in six days to that
17 year, they arrested Brandon in Tennessee and her in South
18 Carolina, the best I understand. Then I was the third one
19 to get arrested.

20 MS. STELLATO: So you only knew Brandon Jones
21 for 18 days?

22 MR. SPRUILL: Well, I say 18. Here's when I
23 actually met him. I met him at the Oasis in Plymouth on
24 the night before Thanksgiving, so that would be like
25 Thanksgiving's eve. And the murder happened, they said,

1 on the 18th of December in 1993 at approximately 8:15 is
2 what -- the best I understand.

3 MS. STELLATO: So where did he live?

4 MR. SPRUILL: Who, Brandon?

5 MS. STELLATO: Brandon.

6 MR. SPRUILL: Ed Champ had a place where he
7 worked on his trucks and it was like an apartment over
8 neath -- or over top, and that's where he was staying.

9 MS. STELLATO: And Nikki -- and if you -- if you
10 can, refer to her as Dana Maybin now just because it makes
11 it awful --

12 MR. SPRUILL: All right.

13 MS. STELLATO: If you can. Was she staying with
14 you at the time?

15 MR. SPRUILL: She weren't at the time. She was
16 living with a lady named Betsy Talkington. Supposed to
17 have been some of her kin. We find out down the road and
18 all, it ain't no kin. It weren't nothing, you know, the
19 best I understand. But she was staying there.

20 And Brandon and her, well, we'd go to the bar
21 and we'd go to my house and this and that. And Brandon
22 and her had a big fight and he kicked her out. So she did
23 come to stay at my house a couple of days. But then --

24 MS. STELLATO: Was that before the murder or
25 after the murder?

1 MR. SPRUILL: That was before the murder.

2 MS. STELLATO: Okay.

3 MR. SPRUILL: But then after -- after all this,
4 they split. So when they found out -- they carried me to
5 the courthouse -- let me see now. I'm not sure about if
6 it was a week after the murder. I'm not sure. They
7 carried me to the courthouse. And there was Donnie
8 Varnell -- Varnett, I think you pronounce that, SBI agent,
9 and Janice. And they asked me would I strip down, you
10 know.

11 So I stripped down and I turned around. And
12 they said, Well, it ain't him because he ain't got marks
13 on him and this and that. Was telling me about all about
14 this.

15 So when I got back to my house, I met Brandon
16 Jones and Dana Maybin again. And I said, I've been up
17 there at the courthouse -- and this is how I said it. I
18 said it just like this -- I said, "I've been up at the
19 courthouse all day. They think I killed a Nigger."
20 That's exactly the words I said.

21 And they said, Well, man, don't worry about it.
22 We'll testify for you. We was at the party all night. We
23 know you didn't do that. And bam, after that, they run.

24 MS. STELLATO: So was that the first time you
25 talked to the police that you're talking about?

1 MR. SPRUILL: That was actually the first time
2 they carried me in and questioned me.

3 MS. STELLATO: And how long after the murder was
4 that?

5 MR. SPRUILL: That's on the 18th. Matter of
6 fact, I think it was the day before Christmas. Christmas
7 Eve, somewhere along in there.

8 MS. STELLATO: Did they talk to you?

9 MR. SPRUILL: Who done it?

10 MS. STELLATO: Is it --

11 MR. SPRUILL: It was Janice Spruill, Willie
12 Williams, and Donnie Varnett (sic). I think you pronounce
13 it like that. Barnett, Darnett. He was the SBI man.

14 MS. STELLATO: So when did you find out about
15 the murder?

16 MR. SPRUILL: It was supposed to happen on
17 Saturday night at around 8:15. Monday morning, I go to
18 work with my brother-in-law and everybody is coming to the
19 job site talking about, Man, I heard you was arrested,
20 this and that and the other.

21 I said, What are you talking about?

22 Said, for killing Frank Swain. That was on a
23 Monday morning. I didn't even know he was -- had been
24 killed.

25 MS. STELLATO: So that's how you found out?

1 MR. SPRUILL: Monday morning. Everybody was
2 coming to the job site. I'll tell exactly where I was at.
3 My brother-in-law, Ray Price, we were building a church
4 right beside the old Henry Freeman's in Plymouth. We were
5 building that church right there. And it just went from
6 then, you know, right on to where I'm at.

7 MS. STELLATO: So did you know Frank Swain?

8 MR. SPRUILL: Oh, I knew him good. I went to --
9 I knew his whole family. I mean, I went to school with
10 him. His people live like a mile and a half from my daddy
11 and mama as far as raised up. I've known him real well.

12 MS. STELLATO: Did you buy drugs from him?

13 MR. SPRUILL: I have bought dugs from him.

14 MS. STELLATO: Did you buy drugs from him that
15 day?

16 MR. SPRUILL: I hadn't been up there in
17 probably -- probably two to three months maybe and bought
18 anything from him. Now, I'd been on the same Foley Road
19 area because there were some drug dealers up that way, you
20 know.

21 MS. STELLATO: Did you buy drugs that day
22 from --

23 MR. SPRUILL: No.

24 MS. STELLATO: -- anyone?

25 MR. SPRUILL: No, I didn't. I was under no

1 drugs that night besides just drinking tequila. Now,
2 before then or after then, yeah. But not the night, you
3 know, I wasn't doing no drugs.

4 Now, I had drank a lot of tequila. Matter of
5 fact, there were two things of tequila, you know. We even
6 carried some to the bar because we kept going out to the
7 parking lot and drinking it because you can't carry
8 whiskey in the bar, you know, just beer, you know, that
9 you can buy to drink on the premises.

10 MS. STELLATO: Do you know if Jones or Dana
11 Maybin were high, had drugs?

12 MR. SPRUILL: I knew she was as far as drinking
13 with me. Now, when Brandon -- when we went to leave
14 there, he was sober. He had been working that day where
15 he had -- he was sober. Me and her were pretty
16 intoxicated.

17 MS. STELLATO: Do you remember what they fought
18 about?

19 MR. SPRUILL: No. They fought so much, I can't,
20 you know.

21 But matter of fact, my sister -- going back to
22 where they had me at the courthouse that day before
23 Christmas. I think it was the day before Christmas. I
24 knew it was a couple of days or whatever right before
25 Christmas. My sister worked at the sheriff's department

1 for 17 years. Linda. She was there. She was the one
2 that -- the law was carrying me back to Roper. She
3 carried me back because she got off at 4:00. She worked
4 day shift. She worked at the sheriff's department.

5 MS. STELLATO: So when did the police actually
6 charge you with the murder? Do you remember that?

7 MR. SPRUILL: This happened on the 18th. And on
8 the 13th of the next year, it had been six days lacking a
9 whole year being arrested for it.

10 MS. STELLATO: And during that year, you were
11 aware, though, that they thought that it was you and --

12 MR. SPRUILL: Oh, yeah. They pulled me over. I
13 don't know how many times Janice Spruill pulled me over
14 and went in and done Breathalyzers and tried to get me on
15 drunk driving and this and that and, you know, you killed
16 that man. You know them people run. You know where
17 they're at.

18 And I -- I don't know what you're talking about.
19 I haven't killed nobody. I mean for a whole year they
20 dogged me, lacking six days.

21 MS. STELLATO: How do you know -- how are you --
22 how do you know that -- that Brandon Jones and you were
23 together that whole night?

24 MR. SPRUILL: God, we danced with so many people
25 in the bar. And I mean she played pooled. And we -- God,

1 we danced with several people in that bar.

2 The only time I left that bar -- and I didn't
3 even leave the bar. If they call it leaving the bar going
4 outside -- we had the whiskey out behind because you
5 couldn't have it with you. We would buy a Mountain Dew or
6 a Seven Up and we'd go outside and take a couple of shots
7 of that tequila, Two Finger tequila, and then we'd go back
8 in. Well, there's -- there's no way.

9 MS. STELLATO: But you know he didn't leave?

10 MR. SPRUILL: I know he didn't leave. Him and
11 her did not leave. I mean they tried -- the attorney
12 general people even come down here and talked to me about
13 that. And I said, No.

14 MS. STELLATO: When did they talk to you, do you
15 know?

16 MR. SPRUILL: The attorney general people, I
17 don't know, four years ago, three years ago.

18 MS. STELLATO: When they were looking into --

19 MR. SPRUILL: Well, matter of fact, they've been
20 down here three or four times. I mean we were just going
21 over that. One come down here and was like good cop and
22 bad cop, you know.

23 And, you know, one is telling me like, Well,
24 look, we want you -- we can help you and you can help us.

25 And, Well, what do you mean? You know.

1 Well, we want to solve the Sonja Day murder and
2 we know that you know who done this.

3 I don't know nothing. They offered me seven and
4 a half year plea bargain to testify against Brandon. And
5 I wouldn't take that. I could have took that seven and a
6 half year plea bargain and said, yeah, this man killed
7 that man. And I could have been home in two years under
8 the old law. And that ain't right. And I've done this
9 much time for killing somebody that I didn't kill and I
10 could have took that seven years.

11 I didn't know that man but 18 days, more or
12 less. And I could have sold him right under here and
13 said, yeah, man, they -- all I had to have done is go
14 along with that girl, Dana, and tell the same thing that
15 Mitchell Norton wanting me to tell and I would have been
16 home 14, 15 years ago.

17 Now, getting back to the attorney general
18 people. He said, I can fix for you, maybe, to help you,
19 you tell me.

20 It ain't right.

21 He said, What do you mean "it ain't right"?

22 It ain't right for me. I stood for something
23 for 17 years and I'm going to come in here and tell you,
24 yeah, I'm ready to go home now. I'm tired of doing this
25 time. I know who killed him. I was involved in it. I

1 can't do that. If I don't never get out.

2 MS. STELLATO: What do you know about the Sonja
3 Day murder?

4 MR. SPRUILL: I'm saying I don't know who done
5 it. But I know the same people that killed this man is
6 the same people that was involved with killing her.

7 And this is how I think it is. And this is just
8 my thinking. Bo Jack Clagon went to prison back pretty
9 soon right before me or something like that. I'm saying
10 Frank and Sonja owed that man money. And he went and got
11 somebody to make an example saying that is what we do.

12 If somebody went in there and robbed Frank, from
13 what I was told, they would have took his money and dope
14 and guns and all. And they didn't take all that. He had
15 money in his shirt pocket. They said he had money in his
16 wallet. I don't know that to be true.

17 I was left behind when they were trying Wally.
18 You know what I mean? I was left in the dark. All they
19 wanted me to do is tell a lie on him and take this, and I
20 wouldn't.

21 When that came up and I was tried right along
22 with Wallace -- might as well say I was tried. It was my
23 house, my truck. I'm the hometown boy. You know what I
24 mean? I was tried with him. They pushed me into this no
25 contest plea. Oh, you'll be out in 15 years. Life and

1 40. Yeah, I'm out all right.

2 MS. STELLATO: So tell me about Bo Jack, your
3 relationship with him. Did you have any relationship with
4 him?

5 MR. SPRUILL: I knew he was a bit drug dealer.
6 I never bought no dope from him because he had his little
7 boys to sell it.

8 MS. STELLATO: Right.

9 MR. SPRUILL: But now, I did find out something
10 later that I didn't know. It got back to Maurice Wilkins
11 saying that he had the cut on his arm by the arm that he
12 had cut his arm peeling an orange or something like that.
13 Well, come to find out that Bo Jack -- well, that's his
14 boy by marriage, but he don't go by the same name. His
15 mama is PJ.

16 And I just -- a boy that was here named Alfred
17 Armstrong, he told me. Right before he left here, he
18 said, You -- you know who killed that Frank and all.

19 I said, No, I don't know.

20 Well, the SBI came and saw him here and come
21 back and took blood from him here.

22 MS. STELLATO: Who?

23 MR. SPRUILL: I don't know who the people were
24 that come and took it, but they come and took --

25 MS. STELLATO: Who did they come talk to?

1 MR. SPRUILL: His name is Alfred Armstrong.

2 He's on the street right now in Plymouth. He's a black
3 guy.

4 But before he left here, here's what he told me.
5 He said, I got something to tell you before I get out,
6 Leroy. And I hope you the best and all. He said, If my
7 sister was still alive, she could tell you the same thing.

8 Well, I knew his sister, Niecey Armstrong. He
9 said, Some people from Williamston killed that man.

10 And I said, Well, how do you know that?

11 Said, Well, we were going to the Foley Road down
12 at PJ's and a guy stopped us and said, Where can we get
13 some drugs? And when we got in the back of the car, there
14 was a tire tool that had blood on it.

15 So I said, A tire tool? Because that's what
16 they said was -- this man was killed with, you know. And
17 I'm saying, Would you tell my attorney that?

18 He said, Yeah, I'll tell him.

19 So I'm going to call Charlie and get Charlie to
20 call Chris Mumma there.

21 Well, I guess Chris must have talked to somebody
22 at the attorney general's office. Because, hell, this was
23 on a Saturday, then Monday they were down here to talk to
24 him. And then they said they come back and took blood
25 from him.

1 Now, that's just happened here in the last year
2 and a half.

3 MS. STELLATO: So do you know -- do you know if
4 he gave an affidavit?

5 MR. SPRUILL: I don't know. Nobody never told
6 me what he --

7 MS. STELLATO: What happened after that, did he
8 leave here?

9 MR. SPRUILL: Yeah. He paroled out and he's
10 on -- he's in Plymouth and he's on parole, the best I
11 understand.

12 MS. STELLATO: So weren't you in prison with
13 someone else who gave an affidavit as well?

14 MR. SPRUILL: Alfred -- no. Avis Arnold. He's
15 a CP on protected custody or something. He's the one that
16 come in here and told me right out the blue -- I ain't
17 never known him. He come to me and he said, I was the
18 watchout man that night.

19 I said, Whatcha mean, the watchout man?

20 He said, They put me out in the Foley Road when
21 they went back there and going to rob Frank and take all
22 his dope.

23 I'm saying, Do what?

24 So he's telling me all this. And he said, I was
25 the watchout man, but they went up there and it must have

1 got out of hand because they killed him all up. When they
2 come out, they picked me up and we went up on Old Roper
3 Road. And that's where they sewed what's his name hand up
4 with fishing between.

5 Now, I don't know that that's true. I'm just
6 saying what he told me here.

7 And I'm saying, Wow. Would you tell my lawyer
8 that?

9 Paul Stewart was my attorney at the time. So
10 Paul Stewart come down here and all that, you know. But
11 now they say, well, Paul Stewart can't come talk to him
12 without an attorney or something, anyway, so, you know,
13 Stewart is in the past now.

14 Paul Stewart took eight grand from me. \$8,000
15 from me and didn't -- he knew all I was an inmate trying
16 to get help. And he took eight grand from me.

17 MS. STELLATO: So did he ever do an MAR with the
18 Arnold affidavit?

19 MR. SPRUILL: He -- here? Oh, what, come see
20 him?

21 MS. STELLATO: Yeah. When he met -- he met with
22 Avis Arnold and he did get an affidavit from him. Did he
23 ever --

24 MR. SPRUILL: I'm not -- I don't think he came
25 and got it. Alfred Arnold -- Arnold done it for me.

1 MS. STELLATO: Okay.

2 MR. SPRUILL: And I had it notarized here and
3 sent. And I'm not sure who I sent it to. It was the
4 Innocence Project at the time. I'm not sure. I've been
5 through Marti McGuire and I've been through a whole lot
6 more. And a lot of people has been down here. So I don't
7 actually know exact who I sent it to, you know.

8 MS. STELLATO: I have it.

9 MR. SPRUILL: Oh, you do have it. All right.

10 MS. STELLATO: So these -- it's what you've been
11 told, right? Over time you've been told --

12 MR. SPRUILL: Yeah.

13 MS. STELLATO: -- this one thing by Avis Arnold
14 and you've been told --

15 MR. SPRUILL: I mean, now, he told me this. I
16 didn't hear it. He told me this himself.

17 MS. STELLATO: He told you that himself?

18 MR. SPRUILL: Alfred Armstrong told me this, the
19 same thing. There was also a guy here. He's a -- I can't
20 think of the name. He just got out of here and went back
21 to Plymouth. I want to say Pilgreen (phonetic) or
22 something like that, but it ain't. I can't -- can't
23 remember his name.

24 But he was here. He told me, he said, Man, I'm
25 the one went that up to Washington, DC, with Sonja and she

1 ripped all them people off and came back to North
2 Carolina. That's where her mama, you know, picked her up.
3 Are you aware of all that? And he told me the story about
4 that, you know. That they went up north. She ripped some
5 people off. And she got on the first thing running down
6 the street; got on a bus. Come down here and called her
7 daddy and mama and said, Come get me. I'm in trouble.

8 So when she comes home, her mama said, Well,
9 just stay here and this and that.

10 The next morning, she was killed just like he
11 was killed. She was killed the same way Frank was and all
12 but she was tied to her bed they said. Stabbed, beat in
13 the head, and throat cut, the best I understand. I don't
14 know much about that.

15 You know, even though she's kin to me, like
16 third -- third or fourth down the -- her daddy -- my daddy
17 and her granddaddy were brothers. So that makes her daddy
18 my uncle. So it puts her like my third cousin.

19 MS. STELLATO: If you -- do this for me. Try to
20 remember his name and -- and send me a letter with his
21 name, okay?

22 MR. SPRUILL: And I know it good, too. I've got
23 all these notes. I've got that much of a book like that
24 right there in my locker with everything. I've never --
25 if anything, I've made copies. I made newspaper copies.

1 I've got everything. And what I haven't got, my girl has
2 got a file cabinet full of this. I kept everything. And
3 if I sit here long enough, I'll -- I'll tell you his name,
4 too.

5 But Alfred Armstrong and Avis Arnold. And I'll
6 tell you another boy that came through here that they come
7 down here to see. And he come right back from the yard
8 and told me, said, Man, you just had some people come see
9 me about your case. Brothers, Jojo McNair and Billy Ray
10 McNair is in Pasquotank. He's the one that raped his
11 grandma they said. Jojo is the one that was here. They
12 come and saw him about this.

13 He come right out in the yard and said, Man,
14 they come to see me about it. They think I was involved
15 with killing Frank.

16 MS. STELLATO: Who came, the AG's office?

17 MR. SPRUILL: I'm -- I'm not saying it was. I'm
18 saying that the SBI, you know, agent. Because he come out
19 in the yard and said, Man, they come and talked to me
20 about your case. They think me and my brother-in-law was
21 involved.

22 And I said -- and that was Jojo. We called him
23 Jojo. I don't know what his real name is. Joseph McNair.
24 I know his brother, Billy Lee.

25 And I heard that they were all involved in it.

1 But I can't sit here and tell anybody that I know these
2 boys done this. I'm just guessing they done it from what
3 all I've heard and been told. You know, I'm not sure of
4 that. I --

5 MS. STELLATO: So did you ever tell some people
6 that you worked with, prior to being arrested, that you
7 were there at the time of the murder and that you were
8 outside --

9 MR. SPRUILL: Here's the only thing I ever told
10 anybody that I remember telling anybody. This same girl
11 named Betsy and some more people -- people a week later
12 were joking at the bar and all about, Don't do that. They
13 think you killed that -- you know, I laughed and joked
14 with them.

15 The only thing I told somebody was, I buried all
16 the money in my backyard. And about four months later,
17 they come and dug my backyard up all the way. I'm talking
18 about dug it up like a swimming pool.

19 MS. STELLATO: So who did you tell that to?

20 MR. SPRUILL: Betsy. Don't know her last name.

21 MS. STELLATO: You never told any --

22 MR. SPRUILL: She's been married four times.

23 MS. STELLATO: -- one else that you --

24 MR. SPRUILL: Not -- not that I remember telling
25 anybody that I, you know -- I mean at first it was really

1 a joke. And then it got really serious. You know what I
2 mean? I mean from them just dogging me. You know, at
3 first it was -- and I'm sorry the man is dead. You know
4 what I'm saying? I am sorry for his family, but I didn't
5 kill nobody. And I mean we all joked about it.

6 And it weren't the thing about, you know,
7 somebody dying. They were just talking about joking with
8 me like, Well, hey, you know, they think you killed that
9 black man. Which they didn't say black man, you know,
10 but -- and I...

11 MS. STELLATO: So tell me about the knife that
12 they found in your house.

13 MR. SPRUILL: All right. This is another thing
14 I told Seth Edwards, Vosburgh. I went on trial -- Brandon
15 was on trial. You know what I mean? I was supposed to be
16 subpoenaed to testify for him, which I never got to do.
17 They wouldn't let me, they said. They sent me back
18 upstairs, said I wouldn't testify on his trial.

19 But they took a knife. They took a -- they
20 called it a crack can. It was a Mountain Dew that's been
21 crushed to where you could smoke reefer on it, whatever.
22 They took my camouflage suit, the pants and the shirt out
23 of my hamper. They took right much stuff.

24 And I never heard nothing. I asked Seth
25 Edwards, which is the district attorney now. He was my

1 lawyer at the time. Well, why'd they test all this and
2 this and that and I never got it back? Don't nowhere it's
3 at through today.

4 MS. STELLATO: Where did you get the knife?

5 MR. SPRUILL: They took it out of my house.

6 MS. STELLATO: But where did you get it?

7 MR. SPRUILL: Hell, I've got several knives
8 around there. I've hunted all my life. I've cleaned
9 deers, bears, I mean...

10 MS. STELLATO: So you don't know where the knife
11 that they say matched the victim's knife came from?

12 MR. SPRUILL: No. And I don't even know if it
13 -- I'm never told that. I was told his throat was cut and
14 beat in the head with a tire iron. They said -- I've
15 never heard that there was a knife that -- they never
16 found a knife that cut him. They took a knife from my
17 house, like an open-up blade. But they never said that
18 I'd go on trial that -- the best I understood, he was
19 killed with the tire iron.

20 MS. STELLATO: But they never said that the
21 knife that they took from your house belonged to the
22 victim? Not that it was used on the victim, but that it
23 belonged to the victim.

24 MR. SPRUILL: No. I've never heard that. None
25 of my -- now, they said they found a billfold that I was

1 supposed to have that belonged to him. But I don't know
2 that to be true. I've never seen no billfold. Nobody
3 never -- I know that they said -- Vosburgh said that him
4 and my daddy went and drove from the bar -- now, here's
5 what I was told.

6 They said that Brandon -- this is what she's
7 telling. They were at the party. I walked all the way
8 from the bar to my daddy's house, which is a mile. Pushed
9 my daddy's Ford truck out in the yard, out of the
10 driveway, crank it up and go pick them up and go all the
11 way halfway to Plymouth, which is seven and a half miles.
12 Kill this man. Come back. Go by Brandon's apartment.
13 Get him some clothes. Go to my house and wash and all
14 three of us clean up and go back to that bar in
15 approximately 30 minutes.

16 Now, Vosburgh drove this with my daddy at 55.
17 You know what I mean? He said, There's no way you could
18 have done it. There's not -- you know. And I don't know
19 that. I know my daddy went with him and they drove this
20 whole route. You know what I mean? But I'm --

21 MS. STELLATO: So this --

22 MR. SPRUILL: But I -- this is the first I know
23 about a knife. I don't --

24 MS. STELLATO: They took your -- your hunting
25 clothes?

1 MR. SPRUILL: A pair of camouflage pants,
2 camouflage top. I do know they took a knife. They took a
3 can that was supposed to have been smoked dope out of.

4 MS. STELLATO: Did they tell you they found
5 blood on your clothes?

6 MR. SPRUILL: Yeah. And they also told me they
7 found it on the bathroom door. And then they told me it
8 weren't human blood. Which I knew it weren't. It was
9 bear blood. Because the week before that was bear season
10 and I killed a big bear that weighed 300 and some pounds,
11 so I --

12 MS. STELLATO: Who -- who told you it was bear
13 blood?

14 MR. SPRUILL: Donnie Varnett (sic) and what's
15 his name; James Inscoe out of Martin County. He was in
16 the back seat with me when they was transporting me for a
17 motion on discovery in Williamston. It was Donnie Varnett
18 and him said, Well, we tested your clothes and there was
19 blood on it.

20 I'm saying, Well, I'm pretty sure. I said, I
21 killed a bear a week before that weighed 300 and some
22 pounds. I said, I'm pretty sure it was.

23 But they told me, they said, Well, it weren't
24 human blood. It was bear blood. Animal blood is what
25 they said. They didn't say bear blood. They said animal

1 blood.

2 And I knew, you know, if you took my clothes out
3 of my hamper, it had blood in it. I mean as far as the --
4 not the other clothes and all, but I'm not going to wear
5 no camouflage suit to no bar. You know what I mean?

6 MS. STELLATO: Are you sure that Dana Maybin was
7 with you guys the whole night?

8 MR. SPRUILL: Yeah. As much as I hate her. And
9 I'm not saying this in a hating way. But I can't see
10 somebody that dropped your charges in South Carolina
11 because you're going to go to prison to come down here to
12 interview you just on murder, not go to South Carolina,
13 Janice Spruill and Willie Williams, and say, Hey, look, we
14 just want you to come back to North Carolina.

15 So South Carolina had these charges on her.
16 They dropped their charges in South Carolina. And once
17 they got across that North Carolina line, they pulled off
18 the side of the road and read her her rights, you know,
19 you're under arrest first degree murder blah, blah, blah.
20 What you talking about? And then she was stuck here.

21 So she's going to drop all them charges to tell
22 this story that we went and killed this man. Yeah. I
23 don't like her.

24 I ain't -- I'm not saying nothing bad. But I
25 would hate to say anything wrong, but I'm just saying you

1 didn't have to do that. You know what I mean? If you
2 done --

3 MS. STELLATO: So she --

4 MR. SPRUILL: If you done something wrong, you
5 done it wrong; you pay for it; you done your time and you
6 go ahead on. But to put two boys in prison for the rest
7 of their life, like this right here, over a lie because
8 the law is going to make you do that; no, I -- that's
9 wrong.

10 MS. STELLATO: But what you're telling me is --
11 I just -- is this --

12 MR. SPRUILL: I know --

13 MS. STELLATO: Is this what you're telling me?
14 If Dana -- if you guys didn't kill him and Dana Maybin was
15 with you all night, she doesn't know who did it?

16 MR. SPRUILL: No, she don't know who done it.
17 She just guessed with straws just like I am if she's
18 telling that. And I would stick my neck out for her, as
19 much as I don't like her, but I know she was with us that
20 night.

21 Just like Brandon Jones, I didn't know him from
22 a hill of beans. Should I have took that plea and walked?
23 Yeah, I just seen a slight here from my minimum custody
24 and all and asked me the whole thing about my stuff and
25 all going on now. And I told him. He said, You should

1 have took that plea bargain.

2 Would you have took it?

3 MS. STELLATO: Tell me about Lynn Rogers.

4 MR. SPRUILL: She was the bartender. And she
5 didn't like Wallace because Ed caught her stealing money
6 out of the cash register, so he put Brandon working behind
7 the bar and she didn't like that. So she was -- and she
8 told somebody in the Innocence Project that went to see
9 her, something about the -- you know, Leroy, he was a
10 sweetheart. I danced with him. I got nothing against
11 Leroy. But Brandon, I don't like him.

12 Now, she also told that we left that bar that
13 night, come back, had changed clothes and we were in there
14 boosting about how we had killed a Nigger.

15 MS. STELLATO: Why do you think she'd say that?

16 MR. SPRUILL: I don't know. Not unless she just
17 didn't like him, you know. I just don't know.

18 MS. STELLATO: Do you think she overheard you
19 using that word?

20 MR. SPRUILL: I'm pretty sure. Like I say, I'm
21 sorry the man is dead. I'm sorry for his family. But it
22 was a joke. The first week or two, people used to go in
23 the bar and say, Hey, Leroy. They got you for killing
24 that -- it was a joke at first. And then it got real
25 serious, you know. I mean to where, Hey, wait a minute,

1 man. You all don't need to be doing this. You all don't
2 need to be saying this. They're dogging me over this.
3 You know what I mean? And this is what --

4 MS. STELLATO: Who is Stacey Ann Willoughby?

5 MR. SPRUILL: I don't know what her last name is
6 because Betsy's her mama. And they both been married four
7 or five times. I can't tell you. I think her last name
8 is Hayes. It is. She married Darrell Hayes. It's
9 Willoughby, Stacey Willoughby. It used to be, when I knew
10 her, as an Allen. Stacey Allen. Her real name is, God,
11 Stacey Keller, the best I understand.

12 She was with me from the time that they got to
13 the bar -- like we got to the bar right at dark, take or
14 give, 5:30. And she was with me up until I left the bar
15 when Ed and Lottie --

16 MS. STELLATO: She was with you?

17 MR. SPRUILL: And when Ed and Lottie -- she will
18 tell you the same thing. And I haven't talked to her in
19 eight years. It's been probably longer than eight years.

20 MS. STELLATO: Do you think she would tell me
21 the same thing?

22 MR. SPRUILL: Uh-huh.

23 MS. STELLATO: Tell me -- do you know, and you
24 might not, what do you know about Jones and his past?

25 MR. SPRUILL: I didn't until the Innocence

1 Project started getting involved in it.

2 MS. STELLATO: Okay.

3 MR. SPRUILL: You know, he told me -- and like I
4 say, I just knew him from them couple of days -- you know
5 what I mean -- by partying. I didn't know him as far as
6 Adam.

7 But I found out later when the Innocence Project
8 said, You be up front with us. And I've been up front.
9 Then they came back the next year and said, Mr. Spruill,
10 you've been pretty straight with us and all. Wallace, you
11 haven't.

12 And he said, What do you mean?

13 They said, Well, we've got you in Tennessee for
14 doing, you know, all kind of stuff. You know what I mean?
15 So that's how I found out about that.

16 MS. STELLATO: So you didn't know about any of
17 that?

18 MR. SPRUILL: Huh?

19 MS. STELLATO: You didn't know about any of that
20 before?

21 MR. SPRUILL: No. I mean, well, I met him
22 like -- I call it 18 days, but that period right there,
23 all we done was cook out and eat and go to the bar and
24 party. That's all I know him as and her.

25 And getting back, like Stacey, I don't know -- I

1 don't know no more else to tell than what -- she was with
2 me and danced and this and that. I don't -- I mean, she
3 didn't go home with me. She'd come to the jail when I was
4 in the Manteo jail and say, What do you want me to tell?

5 I said, I don't want you to tell nothing. You
6 tell exactly the truth. You know what I mean? I don't
7 want nobody to lie for me. You know, I told the same
8 story from the beginning. I'm going to go to my grave
9 with this same story no matter what nobody says.

10 MS. STELLATO: How did the police get your name?
11 How do you think the police got your name to begin with?

12 MR. SPRUILL: I don't know.

13 MS. STELLATO: You don't know why they came and
14 talked to you?

15 MR. SPRUILL: I don't know. The only thing I
16 know is some black woman told that she saw a blue truck
17 come shooting out of this dirt road that's real bad. And
18 they started looking for blue trucks. Now, that's the one
19 story I heard.

20 This Dana Maybin had a friend named Sherry,
21 Terry, Sherry Hans. She busted Robert Spruill in the head
22 at the bar right before everybody split, right. So they
23 go get her. And she tells Janice Spruill, I've got some
24 information. My girlfriend and Robert Solis and Leroy
25 Spruill went and killed this black man. Now, that's the

1 second story I heard.

2 I don't know that that's true. Nobody never
3 told me that. I mean as far as the law telling me this is
4 how we -- that's -- that's what I heard. I don't know
5 that that's true.

6 MS. STELLATO: Do you still talk to Ed Champ?

7 MR. SPRUILL: Oh, yeah.

8 MS. STELLATO: Why aren't the Champs returning
9 my calls, do you know?

10 MR. SPRUILL: Well, they're in trouble right
11 now. You know about that?

12 MS. STELLATO: I do not.

13 MR. SPRUILL: All right. Big Ed will talk to
14 you. Little Ed is not going to talk to you because
15 they're on charges right now. They went to Washington
16 down here, how long ago, three months ago, swindling all
17 these old people out of money, this and that. And they're
18 on some high dollar bonds and this and that and they ain't
19 going to talk to nobody.

20 But this is what we call Little Ed and his
21 cousin. Big Ed, you go to his house, he'll talk to you.
22 And I know he will. And I ain't talked to him in eight
23 years, if -- if longer.

24 And you want to get back to where somebody says,
25 well, Leroy, you're telling me about joking and all, Steve

1 Furlough. I was working with that man at the time that
2 this happened, supposed to have happened. And then I was
3 working on a house, a big house -- he knows the one I'm
4 talking about -- when Sonja got killed. We heard it that
5 morning at 10 o'clock.

6 But you want to ask about the joking part? You
7 talk to Steve how we joked. Any one of the guys at the
8 police department, Plymouth -- God, what's his name now?

9 MS. STELLATO: So you knew, you knew that you
10 told Steve?

11 MR. SPRUILL: Huh?

12 MS. STELLATO: You knew what I was talking about
13 when I asked you, you knew that you told Steve that you
14 did it?

15 MR. SPRUILL: Oh, so you -- that's -- well, I
16 knew you were asking questions. But getting back to
17 joking, ask Steve Furlough. Steve Furlough, the sheriff
18 man -- God, what's the two brothers? His daddy was a
19 sheriff there in Plymouth for --

20 MALE: Warren Peele.

21 MR. SPRUILL: Warren Peele. Jimmy Peele. We
22 were building Jimmy Peele's house and Steve said, Go get
23 that utility knife out of the thing and give it to me.

24 Jimmy Peele said, Don't let him get no utility
25 knife. You know what he done to that man.

1 That's how we joked, the people joked about
2 this. It started out like, you know, joking and all. I
3 said, Man, you all don't need to do that. Those people
4 are --

5 Oh, yeah, somebody you want to talk to, Steve
6 Furlough will tell you how people joked about this. I
7 even joked about it.

8 MS. STELLATO: Is he related to Curtis?

9 MR. SPRUILL: Yeah.

10 MS. STELLATO: How are they related, do you
11 know? Are they brothers?

12 MR. SPRUILL: His daddy and Curtis's daddy are
13 brothers.

14 MS. STELLATO: So you know Curtis was the
15 original suspect?

16 MR. SPRUILL: Yeah. If Curtis' wife ain't had a
17 baby and they didn't have him on video, Curtis would be
18 sitting where I'm sitting.

19 MS. STELLATO: You know this?

20 MR. SPRUILL: I know that to be true. So when
21 they asked Dana, said, You've got to give me somebody
22 besides Curtis -- that's who she first used -- she said,
23 Well, uh -- and what'd Janice Spruill tell her? Need
24 somebody with a vehicle. Leroy Spruill. That's how I got
25 involved. That's how I'm doing this.

1 MS. STELLATO: What do you know about any police
2 officers who worked on your case who aren't with the
3 department anymore? Do you know any --

4 MR. SPRUILL: Ronnie Cherry (phonetic). Well,
5 Ronnie Cherry didn't work on it, but he was a jailer at
6 the time. He come in there and told me a bunch of stuff.
7 They know you didn't do it. They know you didn't do it.
8 This and that.

9 He went to see David Hewett. Do you know of
10 them, Dave and Sandra Hewett? He went to their house one
11 night and wanted to tell them the whole deal after he got
12 fired, but he backed out.

13 MS. STELLATO: What's Ronnie's last name?

14 MR. SPRUILL: Cherry. Ronnie Cherry. The
15 sheriff of Plymouth -- the sheriff of Plymouth right now,
16 Smiley, that's all I know him as --

17 MALE: James Ross.

18 MR. SPRUILL: James Ross. My sister was working
19 up there. He used to let me out of jail up in the jail at
20 night before they shipped me to Manteo and get on and talk
21 on the phone. And he said, Leroy, they know you didn't do
22 that killing. But they know that you're going to help
23 them solve that.

24 MS. STELLATO: What's his name?

25 MALE: James Ross. R-O-S-S.

1 MR. SPRUILL: All right, you know John, John
2 Floyd? You smiled then.

3 MS. STELLATO: I know.

4 MR. SPRUILL: He -- I can't believe what they
5 done to me.

6 MS. STELLATO: Are you kidding?

7 MR. SPRUILL: I mean, this man told me that he
8 went to Odom Farm and had the Lynn boy almost broke. I
9 mean he had him broke to tell him, hey, hold on. I was
10 there, but I didn't participate in the murder. He had
11 him.

12 And then when they went back to talk with him
13 with -- the best I understand with Seth Edwards, he said,
14 You can't come back and talk to him. His daddy and mama
15 got a lawyer. You know what I mean?

16 But he had him broke. But I don't know what
17 happened. They said he withheld evidence on a murder,
18 something and all. But he had a paper. My picture from
19 the paper. You've seen that, the whole thing? I mean I
20 really thought that man was going to -- and he was. I
21 mean he was on top of doing a lot of stuff. And just bam,
22 he just --

23 Everybody in Washington County that's been on my
24 case, besides one, ain't had a job that's come to see me,
25 including Stanley James that was the sheriff. Everybody

1 that's come here and talked to me has lost their job. I
2 ain't saying they lost it about me, but it just -- they've
3 lost it. You know what I mean?

4 MS. STELLATO: So who are you talking to right
5 now?

6 MR. SPRUILL: As far as you?

7 MS. STELLATO: Everyone. Who are you talking to
8 from prison?

9 MR. SPRUILL: Nobody.

10 MS. STELLATO: You're friends? Your family?
11 Who are you --

12 MR. SPRUILL: I've been told not to even say
13 nothing to nobody. My girl, I don't even talk to her on
14 the phone about this. She comes to visit me every
15 Saturday. I sit at a table just like this. I'm allowed
16 to sit just like this and talk to her. But I don't tell
17 nobody nothing no more. I've heard so many lies and so
18 many stories.

19 I mean, even from -- and I'm not -- look, I'm
20 not putting the law down. You've got to have law. You
21 understand? I don't put these people down in here. I've
22 been right here 13 years. I manage \$60,000, God, a week
23 here. The canteen, I'm the canteen warehouseman. I've
24 been doing this for nine years. These people here has put
25 a lot of trust in me. But I'm in prison. I earn that.

1 You know what I mean? But I'm just saying this -- I've
2 been lied to so much from day one to here, I can't even
3 believe you. And I'm not saying that in a bad way.

4 MS. STELLATO: Well, I've not said anything for
5 to believe or not believe.

6 MR. SPRUILL: But -- but -- but I'm just saying,
7 you tell me something, it's hard for me. Everybody that's
8 come here and done this and we're going to do this and
9 we're going to do this. And then I believe you and
10 then -- and I'm not saying you're going to do this. You
11 know what I'm saying? But I'm just -- everybody has lied
12 to me and told me stuff that just -- well, I ain't going
13 to get no help. I can't get no help. You know what I
14 mean? To where I don't even talk to nobody. I don't
15 trust nobody.

16 And don't get me wrong. I'm not saying that in
17 a bad way as far as -- I just don't talk to nobody no more
18 besides -- my girl has been with me this long. And she
19 had a guy, too, but she -- I dated her twice. And she's
20 been with me -- coming to see every Saturday.

21 My dad did up until two years ago. He passed
22 away. And my mom's in real bad shape right now. She's
23 87, 89.

24 MS. STELLATO: Do you -- tell me the names of
25 every defense attorney that you've had.

1 MR. SPRUILL: Well, I had Maynard Harrell, Seth
2 Edwards. We hired Carl Stewart. And he said I'll come
3 see the boy for \$1,000. We done that. He said, I filed a
4 thing through the governor. What do you call it, clemency
5 pansy. It took it eight years for it to clear. Which
6 now, you know, I can't believe with a felony denied my --
7 what do you call it clemency? Hell, he's a felon just
8 like I am.

9 I mean, I ain't saying that in a bad way
10 neither. I'm just saying, how can a man turn down my
11 clemency. Didn't even hear it, Easley, and he's convicted
12 of a felony now. He's the same thing as I am or what they
13 say I am. You know what I mean?

14 But he took \$8,000 from me. And he said after
15 that we'll do an MRI, you know, the motion for appropriate
16 relief. He never come back. He never done nothing.

17 I wrote him and said I was going to send you to
18 the Bar Association. So I talked to Chris about it.
19 Chris said, Just don't mess with it right now. You know
20 what I mean?

21 But Seth Edwards, Maynard Harrell, Carl Stewart.
22 That's the attorneys I've had that -- now, my daddy tried
23 to hire Lloyd Smith, Pritchett, them out of Windsor. But
24 they said they wouldn't mess with Washington County cause
25 the (inaudible) cost them too much money and all. They

1 lost too much money on the deal with Washington County.

2 They couldn't deal with Washington County.

3 MS. STELLATO: So the Center on Actual Innocence
4 had your case. Did Prisoner Legal Services?

5 MR. SPRUILL: Yep.

6 MS. STELLATO: They did?

7 MR. SPRUILL: They took Brandon --

8 MS. STELLATO: What did they do?

9 MR. SPRUILL: They took Brandon back to court.

10 And they carried me back too on a writ.

11 MS. STELLATO: You too, okay.

12 MR. SPRUILL: Back in, I want to say, 2000. And
13 everything went good right up there -- you know, they were
14 telling us, Hey, you all got a good case and this and
15 that. And all of a sudden, they went to the bench and
16 talked to the judge and this and that. And it was like
17 they come back and didn't even know me.

18 It was -- I said, Washington County got to
19 somebody else. That's how I put it. I mean, it was like
20 six months of them working with us. And her name was
21 Letitia Echols. I mean we had a good case right up until
22 like 2 o'clock. They were talking and then, bam, it was
23 like they didn't even know us.

24 MS. STELLATO: When was that, do you know?

25 MR. SPRUILL: I want to say 2000.

1 MS. STELLATO: Do you know the names of the
2 people from the attorney general's office that came to
3 visit you?

4 MR. SPRUILL: No. My sister, Linda --

5 MS. STELLATO: Do you have any cards from them
6 maybe?

7 MR. SPRUILL: No. Linda -- my oldest sister can
8 tell you the man's name. In fact, she knows him because
9 she worked at the sheriff's department and he had been
10 there several times. She knows his name good.

11 MS. STELLATO: What's her name?

12 MR. SPRUILL: Linda Dickerson. She lives in
13 Morehead City.

14 MS. STELLATO: Do you know her number?

15 MR. SPRUILL: Not right offhand. I can get it
16 and mail it.

17 MS. STELLATO: Do you want to send it to me?

18 MR. SPRUILL: But she works for the DA's office
19 in Carteret County.

20 MS. STELLATO: Do you know the names of anyone
21 from the SBI that have come to interview you?

22 MR. SPRUILL: No. Because there have been so
23 many. There's been so many come down here. And I don't
24 know the officer that came with John Floyd. He got fired,
25 the best I understand, right along with John, so I don't

1 know who his name was.

2 MALE: Preston Ward.

3 MR. SPRUILL: I believe that was. Here's that
4 guy.

5 MS. STELLATO: I also want you to try to
6 remember the name of the inmate --

7 MR. WRENN: It's Ward, W-A-R-D. He works at
8 Perquimans Sheriff's Department.

9 MR. SPRUILL: Oh, God, what's his name? I'm
10 going to think of that boy's name.

11 MS. STELLATO: Which office?

12 MALE: Perquimans. Perquimans County Sheriff's.

13 MS. STELLATO: I just wrote down these two
14 things for you. And if we have anything else, that way
15 you can write me a letter when you get back that have --

16 MR. SPRUILL: Well, I -- I mean, I've got his
17 name written down in my stuff in there. I can get this
18 right there in the mail to you in two days. You know what
19 I mean?

20 MS. STELLATO: Okay.

21 MR. SPRUILL: Did you ever talk to Sonja's boy?

22 MS. STELLATO: I haven't interviewed him yet,
23 but he's on my list to interview.

24 MR. SPRUILL: Well, I sent you the paper
25 clipping.

1 MS. STELLATO: Yeah. I think -- yeah. He
2 doesn't know -- I mean he knows exactly what you told me.

3 MR. SPRUILL: Well, and he was young. I imagine
4 when he come home and found that right there, I imagine a
5 young boy like that, that's still -- that -- that's got to
6 be something. You know what I mean? I couldn't even
7 imagine, I mean...

8 MS. STELLATO: Do you have any contact with
9 Jones right now?

10 MR. SPRUILL: I can't. They won't --

11 MS. STELLATO: They didn't give you permission
12 to write?

13 MR. SPRUILL: No.

14 MS. STELLATO: And you never have had permission
15 to write?

16 MR. SPRUILL: They won't -- I mean best they
17 tell me here, I can't correspond with him. And I -- I
18 tried calling his mama. And some boys that come from
19 (inaudible) say, Look, Wallace said call him. Call his
20 mama.

21 I said, I -- I can't. I mean they monitor my
22 phone calls and I can't talk to him. So he don't know --
23 you know, the only thing I heard last, he said, Man,
24 don't go -- don't -- don't go down. You know, don't go
25 against me.

1 I said, Man, I went down with you before on
2 something I stand for and took the life sentence when I
3 could have sold you down the river for two years. I ain't
4 never going -- you know what I mean? And I don't even
5 know this cat except when I met him. And I wouldn't do
6 that to nobody. I mean there -- there's no way that --
7 just like that SBI man come in here and said, Listen,
8 Spruill now, you don't do this and you don't know this and
9 this and that. More or less wanting me to turn against
10 Wallace, said, Come on, you've done this time. I'm not
11 going to do that. I'm not going to sell him down the
12 river to get out of this penitentiary when I know that boy
13 didn't kill nobody. I can't do it. I mean, I'll go to --
14 like I said, I'll go to my grave before I do it.

15 MS. STELLATO: Did you serve time for a robbery
16 that you didn't do?

17 MR. SPRUILL: Did I what?

18 MS. STELLATO: Serve time for a robbery that you
19 didn't do.

20 MR. SPRUILL: A robbery? It's on this right
21 now. They give me -- that's what I got this --

22 MS. STELLATO: Right. But another one.

23 MR. SPRUILL: No. I --

24 MS. STELLATO: So you've never served time for
25 something you didn't do?

1 MR. SPRUILL: I served time for breaking in an
2 agricultural building in Creswell High School and stole
3 some chainsaws. And really I didn't steal them and take
4 them and sell them. We broke -- we didn't really break in
5 the place. The agricultural building, back when I was
6 going to school, they left it open. You could go in, turn
7 the lights on and play basketball. There were some
8 chainsaws there. We took them out and run them in the
9 dark and all. We carried them and put them back in there.
10 And they got me. I done time for that. Nine months at
11 Gates County Facility (inaudible).

12 MS. STELLATO: One of the people that I
13 interviewed told me that you did time for a robbery that
14 you didn't commit --

15 MR. SPRUILL: I've never --

16 MS. STELLATO: -- and you wouldn't turn in who
17 did.

18 MR. SPRUILL: The only thing I'm charged with, I
19 had a -- I had a misdemeanor charge in 1980 for breaking
20 into Creswell High School. They said I broke in. I lost
21 it because I took the chainsaws out. That's the only time
22 I've ever done -- any trouble I've ever been in. I've
23 never had a DUI. I think I've had a speeding ticket
24 before, but I've never --

25 MS. STELLATO: So you hadn't been to the

1 victim's house in probably two to three months?

2 MR. SPRUILL: I'll say two to three months.

3 MS. STELLATO: Two to three --

4 MR. SPRUILL: That's take or give. I'm not
5 saying that that's...

6 MS. STELLATO: When you were there, how much
7 time did you spend there when you were there?

8 MR. SPRUILL: Most of the time I didn't even go
9 in. I mean they didn't like people to come in and buy
10 dope. You went to the door or whatever -- and 90 percent
11 of the time, I met him on the little road right there.
12 You know, I'd pass; he'd stop, he'd give me the dope; I'd
13 give him the money.

14 But I have been to his trailer before. I have
15 never been in there and actually hung out in there. But
16 I've been to that door and give him money; he'd give me
17 dope. I'd get in my truck and leave.

18 MS. STELLATO: Do you think your --

19 MR. SPRUILL: I have done that.

20 MS. STELLATO: -- your DNA is going to be in the
21 trailer?

22 MR. SPRUILL: It can't be.

23 MS. STELLATO: Well, it can be if you've been
24 there.

25 MR. SPRUILL: Well, I'm just saying within two

1 or three months, I'm not saying in one. But I'm saying --
2 I'm saying it ain't. It can't be.

3 And another thing, if they tested that -- this
4 is how I say people ain't never -- and they got people
5 'cause they were trying to convict us.

6 But if Mitchell Norton would have had mine and
7 Brandon -- don't believe he didn't do that crime scene,
8 right. He done that crime scene. If he had had our DNA
9 there, he would have had on that.

10 MS. STELLATO: Well, I'm talking about now.
11 What -- what we're doing is we're going back and doing DNA
12 testing that wasn't done at the time of the crime.

13 MR. SPRUILL: No. It ain't there. Just like
14 the tire iron they said that they tested on either test
15 that had two types of blood on it. It ain't mine. It
16 ain't Wallace. It ain't that girl's. It can't be. They
17 never were there. It can't be.

18 MS. STELLATO: The blood that was on Jones, the
19 back of his knee the night of the bar that you were --

20 MR. SPRUILL: Well, let me tell that story then.
21 This weren't even the night of the blood. This right here
22 about the blood on his pants was not even the night that
23 Janice's friend got her daughter to say she danced with
24 him and saw blood on his pants. That's an entirely
25 different night than the murder.

1 The night that Brandon had pants -- blood on his
2 pants -- he'll tell you the same thing when you talk to
3 him or whoever -- we were upstairs at that apartment
4 partying. I went down the steps. These steps are steep.
5 Whoever built them in the building like that, they built
6 them steep. And he said, Let me lock the door. I was
7 already at the bottom at my car when he come out and fell
8 down them steps all the way down them. It's a wonder it
9 didn't kill him. If he ain't been drunk, it would have
10 killed him. And he skinned his knee and shin all the way.
11 And before we even got to the bar, it done bleed through
12 the pants right there. So I know that's an entirely
13 different night than what --

14 MS. STELLATO: How close to the night of the
15 murder do you think it was?

16 MR. SPRUILL: I don't know.

17 MS. STELLATO: I mean it had to be pretty close,
18 right?

19 MR. SPRUILL: It weren't even a month. It
20 couldn't have been a month. I mean I didn't even -- well,
21 just figure this right here. What is the 18th -- I mean
22 this is how long all this period happened in this period.
23 Say Thanksgiving is on the, what -- falls on the what,
24 25th, 24th, 27th. From there to the 18th, how many days
25 is that? All that happened in that period of time right

1 there. The night of the (inaudible). I didn't know him
2 long after that because they split. It couldn't have been
3 no more than 18, 25 days from Thanksgiving to the 18th.

4 MS. STELLATO: Did you know Janice Spruill
5 before all of this happened?

6 MR. SPRUILL: Oh, yeah.

7 MS. STELLATO: How do you know her?

8 MR. SPRUILL: I know her well. My grandmama,
9 she was raised up beside my grandmama. I played kickball
10 with that lady and I know her two brothers.

11 MS. STELLATO: So what do you know about her?

12 MR. SPRUILL: Well, I've run from her before.

13 MS. STELLATO: Okay.

14 MR. SPRUILL: And she's kind of chased me and
15 told my sister that I was a smartass, that I -- one day
16 she would catch me for doing something or another. And
17 was I was doing something or another, yeah, you know, I
18 was. We had some dope and the boy that was driving, he
19 stopped and I run. You know what I mean? If they had
20 caught me, what would it have cost; a misdemeanor charge.
21 But I still run. You know what I mean?

22 And she told my sister I was a smartass, that
23 she would get me off the street one day. She also has
24 told Rebecca Armstrong and Jennifer Swain -- now, that
25 this was after the murder -- she said, I will get him off

1 the street no matter what it takes.

2 Now, I ain't saying she ain't lying. She got me
3 off the street.

4 MS. STELLATO: Did you know Wyatt Spruill?

5 MR. SPRUILL: Know him good.

6 MS. STELLATO: How do you know him?

7 MR. SPRUILL: He's kin to me.

8 MS. STELLATO: He is kin?

9 MR. SPRUILL: That's his sister.

10 MS. STELLATO: Sonja?

11 MR. SPRUILL: Sonja is his sister. My third
12 cousin, if you want to say it like that. Because my daddy
13 and his -- yeah. Boy, wouldn't he be good to talk to.

14 MS. STELLATO: Do you think he's involved in the
15 murder?

16 MR. SPRUILL: Yep.

17 MS. STELLATO: You do?

18 MR. SPRUILL: Yep.

19 MS. STELLATO: What do you think?

20 MR. SPRUILL: I know him just as good to where
21 he is a drug addict. I mean would you say I was a drug
22 addict back then; no. I worked every day. Sometimes two
23 jobs. I worked for my brother-in-law and Steve Furlough.
24 Did I party; yeah. When it come Friday night, I spent
25 money; I partied.

1 He was a drug addict to where -- pull his record
2 up. You know what I mean? He's robbed. He's robbed. He
3 done this. He's got -- been to prison three or four times
4 and he's coming again.

5 But he -- I'm saying -- his granddaddy bought
6 him a car. He sold it to the same crack man that killed
7 Frank. He was living there.

8 Now, these boys were telling me here -- and this
9 is hearsay from all the boys, like Alfred Armstrong and
10 all them. They went up there to buy some dope from Frank
11 earlier. And Frank said, I ain't got no dope. I'm going
12 to reup about 8 o'clock.

13 Wyatt said he was the first one to call the
14 9-1-1 call in, right. He was living there. He said he
15 left and went to Red Apple to buy some beer. When he came
16 back, he found Frank down there and he run and got --
17 called 9-1-1. That's the story he told on the stand, the
18 best I understand.

19 MS. STELLATO: Have you seen the crime scene?
20 Have they showed you photos of the crime scene?

21 MR. SPRUILL: They never showed me nothing.
22 I've never seen -- I mean, I was left here. Now, here's
23 what they told me. Here's what Seth Edwards told me. He
24 said, What they're going to try to do, they've got this
25 girl telling this story. They're going to try Wally first

1 because he's out of state and he's got warrants. And once
2 they get him convicted, this girl tells this, Mr. Norton
3 said, You've either got to take this plea or you've got to
4 go to trial and be tried just like Wally.

5 So they got me in that back room with my mom and
6 dad in here. Said, Look, we already got your partner
7 convicted, this and that. And Mitchell Norton said, I'm
8 in the damn driver's seat. He said, You can plead no
9 contest to second degree murder and 40 years or I'll take
10 you to trial and try you for the death penalty. You're
11 going to have a different judge and you're going to have a
12 different jury than what Wally had. That's your choice.

13 I took a no contest plea. Shouldn't have never
14 took it, but I took it. Well, for one thing, I didn't
15 want to put my daddy and mama that whole -- back through a
16 stand. And they were -- I'm not saying my mama and daddy
17 were upstanding people. But there ain't nobody in
18 Washington County didn't know my daddy. Yes, sir. Am I
19 right? Nobody. And they made him look like they were
20 criminals up there on that stand. So, you know, I didn't
21 want to put them through that.

22 They told me, said, Look, you were tried when
23 Wally was tried. The best thing you can do is take this
24 no contest plea. You'll be out in 15 years.

25 All right. You know, I ain't never been all up

1 in the law like this. That's why I took what I took.
2 Should I have took it; no. I shouldn't have never took
3 it.

4 MS. STELLATO: Did you fight a lot back then?

5 MR. SPRUILL: Fight?

6 MS. STELLATO: Uh-huh.

7 MR. SPRUILL: No. I've been in -- I mean I've
8 been in some bar scrapes. You know, not no hospital and
9 the law coming and all that. But I have. I mean, I was
10 known if you got out of line with me, I would fight you.
11 Yeah.

12 MS. STELLATO: Would you threaten people?

13 MR. SPRUILL: No. I don't know that I've ever
14 threatened anybody.

15 MS. STELLATO: Who is Pinky Morrow?

16 MR. SPRUILL: He's dead now. He was my
17 next-door neighborhood. Did I threaten him?

18 MS. STELLATO: Yeah.

19 MR. SPRUILL: I didn't really threaten him. I
20 just told he weren't going to be coming up and peeping in
21 the bathroom when my wife and I were home. That's the
22 only thing I told him.

23 MS. STELLATO: Did you threaten him after the
24 murder?

25 MR. SPRUILL: After what?

1 MS. STELLATO: After the murder.

2 MR. SPRUILL: Not they know of.

3 MS. STELLATO: What -- I don't even know if
4 you're going to remember this. But on the day of the
5 murder, did you go to the grocery store?

6 MR. SPRUILL: Yeah.

7 MS. STELLATO: Tell me about that.

8 MR. SPRUILL: That was early. That was before I
9 met Lewis Jarvis and wanted to put in the power pole. I
10 went to the grocery store and I seen Frank and Wyatt in
11 there shopping. They were shopping to carry stuff --
12 Sonja was at Women's Correctional Center at the time. And
13 they were buying stuff to carry her there on Sunday. They
14 were going to go see her Sunday.

15 MS. STELLATO: And they told you that that day?

16 MR. SPRUILL: Yeah. And saw them. They said,
17 We're buying -- shopping because we're going to carry
18 Sonja this stuff on a Sunday. She was in Women's
19 Correctional Center. I even saw my sister and
20 brother-in-law, saw me there that morning. Ray Price and
21 Jackie Price. We all talk about that. They went there to
22 buy a thing.

23 I came home. Lewis Jarvis asked me would I put
24 the power pole up there. And we went and bought some
25 whiskey. Went to the backyard. Walked to the bar. The

1 man carried us from halfway to the bar, Ray Hurst, down to
2 the bar. And that's --

3 MS. STELLATO: So did you have any money that
4 day?

5 MR. SPRUILL: Oh, yeah. Hell, I've worked -- I
6 worked all week.

7 MS. STELLATO: Did you see any police officers
8 at the grocery store?

9 MR. SPRUILL: I can't remember that. I'm -- I'm
10 not sure of that. I mean I worked with Ray Price and he's
11 probably got the records. I don't know how far back they
12 keep records, but I was working with Ray Price. We were
13 building that church right beside Henry O. Freeman's.

14 MS. STELLATO: Who's Mitchell Nowarah?

15 MR. SPRUILL: He's dead now. He died about a
16 month ago. That was Nikki's -- they called it his -- his
17 sugar daddy or whatever.

18 MS. STELLATO: How did you know him?

19 MR. SPRUILL: How did I know him; he lived right
20 down five houses from me.

21 MS. STELLATO: Did you tell that you killed
22 Frank Swain?

23 MR. SPRUILL: No.

24 MS. STELLATO: Do you know why he would say that
25 you did?

1 MR. SPRUILL: Because of her. She was his --
2 they called it sugar daddy. You know, if she needed
3 money, she didn't have none -- and they didn't even have
4 clothes to wear. This girl and Brandon and them came
5 here, they didn't even have decent clothes and all. They
6 didn't have nothing to drive. They didn't have a place to
7 stay except while Betsy -- what little bit they stayed at
8 Betsy's and stuff.

9 MS. STELLATO: Ray Hurst?

10 MR. SPRUILL: Yeah. I know him good, too.

11 MS. STELLATO: What do you think of him?

12 MR. SPRUILL: Well, he's the one that carried us
13 from there to the bar. His blue truck and my daddy's blue
14 truck were exactly alike except two different year models,
15 right.

16 Well, you know, about three months after the
17 murder, he parked his truck in my backyard. I had a big
18 backyard. Somebody set it on fire and burnt the whole
19 inside of it up.

20 MS. STELLATO: But you were home then, right?

21 MR. SPRUILL: Yeah.

22 MS. STELLATO: You don't know who did it?

23 MR. SPRUILL: Nope. My backyard goes all the
24 way out from -- where my house was all the way out to the
25 back road of 64. But I do remember this. I do remember

1 him saying he's going to Virginia, could he leave his
2 truck in my backyard. And I said, Yeah, just leave it
3 toward the end.

4 Now, everybody's questioned me about that. I
5 said, No. I didn't have no reason. I mean I -- I knew
6 him good. I didn't have no reason to even do nothing to
7 his truck. Somebody said he tried to burn it up to try to
8 cover up the blood evidence in it.

9 Do I know that to be true; no, I don't know that
10 to be true. I don't know where the truck is. I don't
11 know what happened. But that's what was told to me, that,
12 you know, somebody -- when they got scared, they had me
13 and they were investigating trucks and doing all this.
14 His was the same color blue truck.

15 Now, when he carried it to that bar and he said
16 he was reporting it stolen. I went up to the bar. I had
17 no idea where this man went. They said, Well, do you
18 think he could have went ahead and killed that man? I'm
19 not saying he done it.

20 MS. STELLATO: So you don't know if he was
21 involved?

22 MR. SPRUILL: I don't know. I can't sit here
23 and tell you, well, I think he done it. I mean I don't
24 know that he didn't do it. All I know is he carried us to
25 the bar and we went to the bar. Where he went, I have no

1 idea.

2 I know about a month after that his truck was
3 set on fire in my backyard. Not the outside and all.
4 Everything inside was burned. I mean burnt.

5 MS. STELLATO: Did you tell him that you went to
6 the victim's house with two men and stabbed the victim?

7 MR. SPRUILL: Told who this?

8 MS. STELLATO: Ray Hurst.

9 MR. SPRUILL: No. The only thing I know about
10 Ray Hurst really is he sold a gun to Frank. And went out
11 there and threatened Frank about a gun he had pawned to
12 him for some dope, best I understand. A gun that belonged
13 to his boss man, Jimmy Green. That's the only thing I
14 know about that part.

15 MS. STELLATO: Why do you think there's so many
16 people saying that you told them you did it? Do you think
17 it's because you were out there joking about it?

18 MR. SPRUILL: It's got to be. I mean, I just --
19 all these people I've known, I've never done nothing to,
20 Mitchell, Ray. You know what I mean? I've never had no
21 enemies like that with them.

22 But like I say, you can ask Steve Furlough, we
23 joked about this. I'm telling you, for the first two
24 months, we joked about it like it was -- and I kept
25 saying, Man, you all need to stop this. They are dogging

1 people that wanted me to go -- to go against Wally and
2 her. And that's what I call him, Wally, here, but -- when
3 he was here with me. But, you know, I can't go against
4 somebody that I know didn't do something. If you done it,
5 I would have took -- I would have took the seven and a
6 half year plea bargain, you know. I mean I wouldn't even
7 have took a life sentence.

8 The only way I took a life sentence and not
9 told, if it had have been one of my family members. You
10 know, I can actually say, you know, look, I would have
11 stood up for this if I had done something like this for my
12 sister and my brother. But somebody that I don't know
13 done that, no, I would have never. But I'm not going to
14 sell nobody down no river over a lie that I know. No,
15 can't do it.

16 MS. STELLATO: So is Gail Champ alive or no?

17 MR. SPRUILL: Yeah, she's alive.

18 MS. STELLATO: She's alive?

19 MR. SPRUILL: Yeah. That's Little Ed's -- we
20 call him Little Ed. He's one of the boys who's in
21 trouble. His wife is Gail.

22 MS. STELLATO: Okay.

23 MR. SPRUILL: Now, the best I understand, she
24 told a bunch of mess.

25 MS. STELLATO: But Ed Champ, Sr., his wife is

1 dead?

2 MR. SPRUILL: Lottie, uh-huh.

3 MS. STELLATO: Okay. So you heard that Gail
4 Champ said a few things about you?

5 MR. SPRUILL: Oh, yeah. She said -- when her
6 and her Louis, we call him, had separated or something,
7 she was telling how they carried Brandon to Virginia and
8 this and that and know that he had killed this man.

9 So there was a lot of talk about it, you know.
10 It weren't he killed this man. They were just trying --
11 they knew that they were going --

12 Here's what Janice Spruill told me. She said, I
13 want to find out who -- the people who hung with you and
14 all. I want to interview them.

15 Well, when they found out they were going to
16 interview them, they were going to find out they were
17 running from the law. So they didn't run because they
18 killed nobody. They were running because they had
19 outstanding warrants in another state. They were going to
20 find out who they were.

21 That's why -- and it made it good. When they
22 left and, said, Well, I don't know where they went. Yeah.
23 I'm pretty sure, if that had been me, somebody, I said,
24 well, that looks good. They left, it might be.

25 They didn't run because of them killing nobody.

1 They run because they had outstanding warrants. She had
2 warrants in South Carolina. He had warrants in Tennessee.
3 I didn't know this.

4 I didn't know this until my first court
5 appearance. But they knew it. I mean they knew it. If
6 they talked to them, they were going to find out that they
7 were wanted. So they run. It made them look good.

8 But as far as Ray Hurst and Mitchell, I can see
9 Mitchell saying that because of her.

10 Well, have you talked to Stacey? Or you can't
11 answer that?

12 MS. STELLATO: I can't answer that.

13 So Alan Swain, do you know him?

14 MR. SPRUILL: Alan Swain, no, I can't --

15 MS. STELLATO: He lived on Foley Road at the
16 time.

17 MR. SPRUILL: It don't ring the bell.

18 MS. STELLATO: He was Frank Swain's brother.

19 MR. SPRUILL: I really don't know all -- he had
20 a slew of brothers and sisters, the best I understand. I
21 do know one of his sisters worked at Red Apple. And I
22 know what she told me one night in Red Apple. She said, I
23 know that you didn't kill my brother. That don't mean
24 nothing though, but...

25 MS. STELLATO: He says you told him you had

1 picked up one of Frank Swain's knives one time and that
2 your fingerprints would be on the knife. Do you remember
3 telling anybody that?

4 MR. SPRUILL: No.

5 MS. STELLATO: Did you know -- I know you're
6 related to her, but did you spend time with Sonja Day?

7 MR. SPRUILL: No. She was -- and I'll tell you
8 the story about that. Her mom and daddy didn't have a lot
9 to do with her even though that's their child. They
10 didn't have a lot to do with her because she run with the
11 black people and she had a black baby. So that side of
12 the family right there, that was a no-no.

13 MS. STELLATO: So did her dad say that he would
14 kill Frank Swain before they would ever get married?

15 MR. SPRUILL: That's possible. I'm not saying
16 yeah. That's possible.

17 MS. STELLATO: How did Wyatt feel about that?
18 Do you know?

19 MR. SPRUILL: Well, I guess he was all right
20 with it because as long as you're giving somebody dope,
21 you're living with a dope man, I -- you know, I don't
22 think it really matters. You know what I mean? The best
23 I -- you know.

24 But now, you take that and turn it around. I'm
25 saying he's involved in it because anybody that's lived

1 with Frank -- if I'm living with a guy and I've been
2 living with him two weeks, he done bought my car and I
3 gave him the title for it and I'm doing better and all and
4 I leave here 30 minutes and go get some beer and come back
5 and I find that man dead, that ain't just -- the Red Apple
6 is like two miles from Foley Road. Three miles at the
7 most, four miles. You're going to run down there. I'm
8 saying he left -- I'm saying he was in on it, you know.
9 And I may be far wrong from that. I may be.

10 MS. STELLATO: Who told you he left to go get
11 beer?

12 MR. SPRUILL: That's what they told me. Said he
13 left to go get beer from Red Apple. When he come back,
14 that's when he found Frank and he called a 9-1-1 call in.
15 And the same man that was -- Jojo and me working around
16 his house with Steve, Don't let Leroy have that razor
17 knife, he was a first officer on the scene. Jimmy Peele.
18 And then they say that Janice and Willie took him right
19 off the -- and they took over the --

20 MS. STELLATO: Is he still there, do you know?

21 MR. SPRUILL: Who?

22 MS. STELLATO: Jimmy Peele.

23 MR. SPRUILL: He's in Plymouth. I don't know if
24 he works with the sheriff's department or what, but he's
25 still around.

1 MS. STELLATO: Do you know Charles Polk?

2 MR. SPRUILL: Yeah. Well, he's dead now, but I
3 knew him.

4 MS. STELLATO: What was your relationship with
5 him?

6 MR. SPRUILL: I went to school with him.

7 MS. STELLATO: Were you close?

8 MR. SPRUILL: I wouldn't say close. He was a
9 friend. I mean I --

10 MS. STELLATO: Did you talk to him about the
11 murder?

12 MR. SPRUILL: I don't think so. I don't -- we
13 weren't that tight. I mean Eric Stallings (phonetic) and
14 him and a lot of people that we partied with was --

15 MS. STELLATO: You didn't tell him that you were
16 outside waiting in a truck when two guys went in and
17 killed him, killed the victim?

18 MR. SPRUILL: I don't remember telling him that.
19 I don't even -- I didn't -- I don't even get around him.
20 I didn't even get around him that much to even --

21 MS. STELLATO: How -- how drunk would you get
22 back then?

23 MR. SPRUILL: How drunk was I; I was drunk. I
24 mean how was I drunk then or did I do --

25 MS. STELLATO: Then, yeah.

1 MR. SPRUILL: Oh, I got drunk.

2 MS. STELLATO: I mean do you think you would say
3 something, like to all of these people, do you think you
4 would say something like that back then?

5 MR. SPRUILL: No, no. I just didn't go out and
6 get drunk and tell everybody about -- now, they joked
7 about it a lot. You know, as far as drinking, but I ain't
8 never -- I mean I even made a statement one night out in
9 front of my house and traffic was coming by and right
10 where I lived, on down the hill, there was a black family
11 lived there. And one of these guys was drunk he was half
12 laying in the road and laying half on it. And I said,
13 Somebody needs to pull him out the road right there. And
14 then someone, Go pull him out of the road. I said, Man,
15 they done think I killed one of them. I'm not messing
16 with him. We'd joke that. It's wrong.

17 MS. STELLATO: But you wouldn't say I waited
18 outside while they stabbed him?

19 MR. SPRUILL: No.

20 MS. STELLATO: Or I stabbed him, you wouldn't
21 say that as a joke, would you?

22 MR. SPRUILL: No. No, I wouldn't. No.

23 MS. STELLATO: So why are people saying that --
24 that they heard --

25 MR. SPRUILL: Well, I'm not saying they didn't

1 hear that. I mean, I -- I am -- I -- I'm not saying that
2 they didn't hear this. Certainly --

3 MS. STELLATO: From you?

4 MR. SPRUILL: No, not from me. I've never told
5 nobody. Never. Now, people joked about this, say, Well,
6 Leroy might have stabbed that guy or Leroy stabbed -- you
7 know, I ain't saying they didn't joke like that. I didn't
8 joke like that.

9 I mean you don't come down to killing somebody
10 and, you know, joking about something like that. You know
11 what I'm saying? That's just...

12 MS. STELLATO: So Steve Furlough -- Furlough, is
13 how you say it?

14 MR. SPRUILL: Well, they -- you can call it
15 Furlough, Furlough. I call him Furlough.

16 MS. STELLATO: Said that can't believe anything
17 you say. That you were charged with a breaking and
18 entering, along with some other guys, and you never told
19 on the other guys but took the wrap yourself.

20 MR. SPRUILL: That's true.

21 MS. STELLATO: Is he talking about the high
22 school thing?

23 MR. SPRUILL: That's true.

24 MS. STELLATO: So you never -- so that's what
25 he's talking about?

1 MR. SPRUILL: Yeah. I can tell you there was
2 five people went in that place and took the chainsaw and
3 all that. And everybody said we was going to plead not
4 guilty on it because they had it for larceny. So when I
5 go to the courthouse, they called for State's witness.
6 They tried me first. They called for State's witness and
7 they put them all up there and said he was the one that
8 went in there and stole the chainsaw. And they never went
9 to prison, I did. If that's what they're talking about I
10 took the wrap for. I did. I never went on stand and told
11 on nobody. They plead and testified against me. That's
12 true.

13 MS. STELLATO: So how old were you then?

14 MR. SPRUILL: 21. Yeah. That's true.

15 MS. STELLATO: So if you knew who did the
16 murder, would you tell me?

17 MR. SPRUILL: Yeah.

18 MS. STELLATO: Why, how is it different?

19 MR. SPRUILL: Why?

20 MS. STELLATO: Yeah.

21 MR. SPRUILL: How is it different? Because I'm
22 paying for something I didn't do. I mean somebody has
23 killed this man and turned around killed somebody else and
24 they're still out there. They could go to my mom's house
25 tonight and kill her. They could kill my sister. They

1 could kill anybody. They need to be caught. They need to
2 be punished. But I shouldn't have to do this time for
3 killing somebody I didn't kill.

4 MS. STELLATO: So if you knew who did it, you
5 would tell me?

6 MR. SPRUILL: I would tell you. I wouldn't
7 have wait -- well, you probably wouldn't be sitting here
8 where I tell you because I'd have probably told the SBI.

9 Well, to start with, I would have been home
10 because I'd took the seven and half year plea bargain.
11 Because you know what I would have said, listen, Brandon,
12 we got drunk. We were involved with this. Let's take
13 this plea. I wouldn't have never done the time I've done.

14 MS. STELLATO: I'm going to try to see if I have
15 a picture of the knife that I mentioned earlier.
16 Unfortunately, they're in black and white, so it's going
17 to be a little harder for you.

18 MR. SPRUILL: Well, I mean, I can even tell you
19 before you even show it to me. The one they took from my
20 house was like probably about that long and it opened up
21 it was about that long. It was a lock blade.

22 MS. STELLATO: So were any of these -- did they
23 take any of these from your house?

24 MR. SPRUILL: That one right there is the one.

25 MS. STELLATO: This one?

1 MR. SPRUILL: Yep. That's the one they took.

2 MS. STELLATO: Not these two?

3 MR. SPRUILL: Nope. That's the one they took
4 right there.

5 MS. STELLATO: And where did you have it?

6 MR. SPRUILL: In the bathroom where like where
7 your towel and all were. Right there where I had the can
8 where to smoke dope on it because I had the real sharp
9 point to poke the holes in it.

10 MS. STELLATO: And what did you use it for?

11 MR. SPRUILL: What, the knife?

12 MS. STELLATO: Yeah.

13 MR. SPRUILL: To poke holes in the -- like you
14 take a Mountain Dew can, you scrunch right there and you
15 poke holes in it and you put reefer on it and you smoke
16 the reefer.

17 MS. STELLATO: Can you just note on there that
18 he identified the third knife on page 24 of the picture of
19 knives from the sheriff's file.

20 Can you think of anything else that you need to
21 tell me?

22 MR. SPRUILL: No. I mean that's pretty much
23 covered everything that I've -- and like you say, I've --
24 I've talked to so many people about different things. You
25 know what I mean? I mean some of the questions you've

1 asked me ain't the first time that I've heard that. You
2 know what I mean?

3 MS. STELLATO: Uh-huh.

4 MR. SPRUILL: Not all of it. Some of it, yeah,
5 it's the first time I've heard it. All of it...

6 MS. STELLATO: What time is it?

7 FEMALE: It is 2:25.

8 MS. STELLATO: I'm going to go ahead and
9 conclude the interview at 2:25.

10 (The recorded interview concluded at 2:25.)

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CERTIFICATION OF TRANSCRIPT

This is to certify that the 73 pages of this transcript of the recorded interview of Leroy Spruill was taken on February 9, 2011, is a true and accurate transcript to the best of my ability.

I further certify that I am not counsel for nor related to any party or attorney, nor am I interested in the results of this action.

This the 31st day of May, 2017.



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Handout 76

NORTH CAROLINA
WASHINGTON COUNTY

GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

STATE OF NORTH CAROLINA,

Plaintiff,

vs.

WALLACE BRANDON JONES,

Defendant.

FILE NOS.:

94 CRS 4973

95 CRS 1965

STATE OF NORTH CAROLINA,

Plaintiff,

vs.

LEROY SPRUILL,

Defendant.

FILE NOS.:

95 CRS 1566

94 CRS 1984

Recorded Interview

This is the transcript of the recorded interview taken of Leroy Spruill, which was conducted by Sharon Stellato, Staff Investigator and Catherine Matoian, Intern, from the North Carolina Innocence Inquiry Commission. The recorded interview took place on August 4, 2011.

APPEARANCES:

Sharon Stellato, Staff Investigator
Catherine Matoian, Intern
North Carolina Innocence Inquiry Commission
Administrative Office of the Courts
P.O. Box 2448
Raleigh, NC 27602

Also Present: Leroy Spruill

1 P R O C E E D I N G S

2 MS. STELLATO: So we're going to go ahead and
3 get started. It is -- well --

4 MALE: 10:15.

5 MS. STELLATO: About 10:15 on August 4th. And
6 I'm here with Leroy Spruill and his attorney, Mr. Womble.

7 Leroy, let's just go back to a few of the
8 questions. I know we talked one other time, but I just
9 want to go back to a few questions from that night.

10 One of them is -- is an interview that I have
11 originally when the officers first talked to you. And at
12 that time, you were telling them that you didn't remember
13 where you were that night, the night of the murder. Do
14 you remember that?

15 MR. SPRUILL: No. That's wrong.

16 MS. STELLATO: You never told officers that?

17 MR. SPRUILL: I never told nobody that.

18 MS. STELLATO: Did you ever tell them that you
19 were so drunk that you didn't know what you did that
20 night?

21 MR. SPRUILL: No. I can remember everything I
22 done from the time I left my house to coming home.

23 MS. STELLATO: And how can you remember that?

24 MR. SPRUILL: I mean, I just -- it's been my
25 story since the first. I mean I'm not going to change

1 something just to tell -- you know what I mean?

2 MS. STELLATO: Uh-huh.

3 MR. SPRUILL: I left my house. I went to --
4 Walt, me, and Brandon and this girl stopped and talked to
5 Russell. His mom was there. Ray Hurst was there and went
6 to the bar. And Ed and Lottie carried me and Smarty
7 Spruill back to my house.

8 MS. STELLATO: Who carried you back?

9 MR. SPRUILL: Ed and Lottie.

10 MS. STELLATO: Okay.

11 MR. SPRUILL: That own the bar, that run the
12 bar.

13 MS. STELLATO: Okay. Tell me about that night
14 before you went to the bar.

15 MR. SPRUILL: The night before?

16 MS. STELLATO: I'm sorry. That same night but
17 prior to you going to the bar. Tell me about -- from
18 about the time that you get off work or -- did you work
19 that day?

20 MR. SPRUILL: Uh-uh.

21 MS. STELLATO: You didn't work that day?

22 MR. SPRUILL: In a way I did.

23 MS. STELLATO: Okay.

24 MR. SPRUILL: He's passed away now. His name
25 was Lewis Jarvis. He was an electrician. He come and

1 asked me would I help him put a power pole up.

2 MS. STELLATO: Uh-huh.

3 MR. SPRUILL: I don't even know -- I can't even
4 tell you where it was at. It was somewhere in Plymouth.
5 Like a temporary power pole where they're going to put a
6 trailer up. And I went and helped him.

7 And then when we got through doing that, I
8 borrowed my daddy's truck -- which you know about the
9 transmission thing and all. You've probably been through
10 it. It wouldn't even run but in a low gear. I went back
11 to Plymouth to the red -- well, the Winn-Dixie behind
12 McDonald's. There used to be a Winn-Dixie. I reckon it's
13 still there. And I bought dog food. That's where I saw
14 Wyatt Spruill and Frank Williams, the same guy -- I mean
15 Frank Swain, the same guy that got murdered.

16 And when we -- when I got back, me and Lewis
17 Jarvis went back to Plymouth. We bought tequila at the
18 liquor store. Went back in my backyard and we started
19 drinking this until me and him and Nikki were pretty good
20 and drunk.

21 And then Brandon come up and we walked from
22 there to the bar. And this is where it goes from seeing
23 Ray Hurst and Russell to walking to the bar. That's the
24 only --

25 MS. STELLATO: So you walked to the bar?

1 MR. SPRUILL: Walked to the bar.

2 MS. STELLATO: You didn't get a ride to the bar?

3 MR. SPRUILL: Well, we walked to Russell's house
4 where Ray Hurst and his mama and all -- well, the bar is
5 like 200 yards from there. Ray Hurst was going somewhere
6 and that's where he -- give us a ride onto the bar, which
7 it was 100 yards. Right across the creek. I mean, you're
8 right there where the Holiness Church is. Russell lived
9 here and it's like you drive here and turn here and
10 there's the bar. It ain't even 100 yards probably.

11 MS. STELLATO: When did you first find out about
12 Frank Swain being murdered?

13 MR. SPRUILL: Which he did to Mitchell Nowarah.
14 Came over Monday morning. I was ready to go to work with
15 my brother-in-law, Ray Price. We were building a church
16 right beside Henry Freeman's in Plymouth. The black
17 church. We were building that church.

18 MS. STELLATO: Who told you?

19 MR. SPRUILL: Mitchell Nowarah is the first one
20 that told me. He said, I thought you was already
21 arrested.

22 And I said, What are you talking about?

23 He said, Man, they think you killed Frank.

24 And I said, Frank? What do you mean? I didn't
25 even know he was murdered at the time.

1 Now, Steve Furlough -- this is where Steve
2 Furlough and his -- I don't even know who was working for
3 him at the time. When I got to the church and me and my
4 brother-in-law were working on it, he pulled up there.
5 And I don't know how he knew the -- about the murder and
6 me being arrested. And I tell you somebody that can
7 verify that. My brother-in-law, Ray Price, got a call
8 that morning about was I locked up.

9 MS. STELLATO: So Frank Swain gets murdered on a
10 Saturday and you find out about it on Monday morning?

11 MR. SPRUILL: On Monday morning.

12 MS. STELLATO: And who tells you that?

13 MR. SPRUILL: Mitchell Nowarah. He's dead now.

14 MS. STELLATO: And where does he tell you that
15 at?

16 MR. SPRUILL: Right in my backyard.

17 MS. STELLATO: And does he tell you at that time
18 that you're a suspect?

19 MR. SPRUILL: No. He didn't. Steve Furlough is
20 the one that said that actually that I was a suspect.
21 That I had been arrested. Now, how my brother-in-law knew
22 it, if someone called him, I never knew that.

23 MS. STELLATO: And so when did you find out you
24 were a suspect? Who told you that?

25 MR. SPRUILL: Steve Furlough told Ray Price.

1 Now, I don't know who called Ray Price first. But at the
2 church is when I first found out that they was saying I
3 was being arrested for Frank's murderer.

4 MS. STELLATO: When was the first time you
5 talked to police?

6 MR. SPRUILL: All right, let me -- let me think.
7 Let me get this right. This was supposed to have happened
8 on December the 18th, if I'm correct, on a Saturday. It
9 was like two days before Christmas, they come and got me,
10 if I'm right, and carried me up to the Washington County
11 Courthouse. Took me in a back room. And I'll tell you
12 who was there. Donnie Varnell. I reckon I'm pronouncing
13 it right. Donnie Varnell, Varnett, the SBI man, Janice
14 Spruill, Willie Williams. And I don't know if there was
15 anybody else. And I stripped down for them in front of
16 all them. They wanted to see if I have marks and all on
17 me. That's the first time I actually knew anything and
18 just, you know, as far as I was a suspect in it.

19 MS. STELLATO: Who did you hear -- when you
20 heard about the murder, who did you hear were suspects?

21 MR. SPRUILL: Who did I hear?

22 MS. STELLATO: Uh-huh.

23 MR. SPRUILL: Maurice Wilkins, Jojo McNair
24 (phonetic), Billy Lee and Joseph Lynn. That was my first
25 thing on the street of hearing who killed this man.

1 MS. STELLATO: When did you hear that?

2 MR. SPRUILL: I don't know. That was -- I
3 believe that was sometime after Christmas on into January.
4 I don't believe that was right first when I was -- that's
5 where -- like you say, as far as not hiding nothing, I
6 went to a lot of drug places. You know what I mean?
7 There was people who told me, said, Man, we know you
8 didn't do that. We know you didn't do that. We know who
9 killed him. And that was the names that kept coming up.

10 MS. STELLATO: So in your interview with police,
11 did you tell them that you had heard that a white male
12 with a ponytail driving a blue truck was supposed to have
13 been at Frank's house at 8 o'clock on the night of the
14 murder?

15 MR. SPRUILL: I believe I did because Ray Hurst
16 had borrowed -- this was Ray Hurst -- borrowed -- got dope
17 from him for a .30-30 rifle. And you can verify that
18 because Jimmy Green -- I reckon he's still in Plymouth.
19 Used do go carpenter work -- he was one Ray stole the
20 rifle from. You may be right on that.

21 MS. STELLATO: I just asked you who -- who was a
22 suspect. And you told me that you had heard Maurice
23 Wilkins and those other people. Why didn't you mention
24 that you had heard of a white male with a ponytail in a
25 blue truck going in the night of the murder?

1 MR. SPRUILL: I mean, I might -- I may have said
2 that knowing him. But Ray Hurst, I never even -- I mean
3 he's the one that give us a ride to the bar, you know, a
4 hundred yards.

5 MS. STELLATO: Well, where did you hear that he
6 had been at the --

7 MR. SPRUILL: It was all over town that --

8 MS. STELLATO: Why did you tell police that you
9 wouldn't tell them who had told you that?

10 MR. SPRUILL: I don't know that I told them
11 that. I'm not saying I didn't. I don't remember not
12 telling them that or telling them that.

13 Every time I got ready to tell somebody
14 something -- years ago, I had a woman right in my face
15 named Janice Spruill. I don't know if you've ever met
16 her. Have you?

17 MS. STELLATO: I have.

18 MR. SPRUILL: And she -- she -- you know, she
19 was going to tell me what I was going to say. They were
20 going to tell me what I was -- you know.

21 MS. STELLATO: But at the interview in December,
22 at that time, you know you're a suspect; you know that's
23 happening.

24 MR. SPRUILL: Oh, yes.

25 MS. STELLATO: So you tell police that you heard

1 that a white male in a blue truck was at the victim's
2 house at 8 o'clock, but you won't tell them where you
3 heard that from?

4 MR. SPRUILL: I can't -- I don't remember that.

5 MS. STELLATO: You didn't think it was important
6 that you're a white male with a blue truck and a ponytail?

7 MR. SPRUILL: But I didn't have a ponytail. I
8 was clean cut as that man right there.

9 MS. STELLATO: You didn't wear your hair in a
10 ponytail?

11 MR. SPRUILL: No. My hair was -- my hair was --
12 won't even collar length. And I didn't have a beard. I
13 didn't have none of this. I was clean cut. I mean my
14 hair probably weren't collar length good. It weren't
15 then.

16 MS. STELLATO: Did Ray Hurst -- or excuse me.
17 I'm sorry -- Ray Price tell you on that Monday that people
18 were calling and asking about you being in jail?

19 MR. SPRUILL: He didn't say people. He said
20 somebody had called him and asked me was I arrested. That
21 was early in the morning.

22 MS. STELLATO: He didn't say several people
23 around Roper had been asking if you were arrested for
24 killing Frank?

25 MR. SPRUILL: I don't know that he -- I don't

1 know that.

2 MS. STELLATO: Did you ever eat dinner at the
3 victim's house?

4 MR. SPRUILL: At Frank's house?

5 MS. STELLATO: Uh-huh.

6 MR. SPRUILL: No. But I've been there and
7 bought dope before.

8 MS. STELLATO: Were you friends with his family?

9 MR. SPRUILL: I've known them all my life. Like
10 we live on the Millpond Road and there's a dirt road that
11 comes around to Slough Road and they used to work for this
12 man that owned a milk farm, cattle farm. I've known him
13 all my life. I mean I went to school with this guy.

14 MS. STELLATO: But would you -- would you saw
15 you were friends?

16 MR. SPRUILL: No. But I'd give like his
17 brothers a ride that drank a lot. And they're staggering
18 on the road, I'd give them a ride to, you know, yeah.

19 MS. STELLATO: You wouldn't hang out with them
20 socially?

21 MR. SPRUILL: No, no.

22 MS. STELLATO: You wouldn't go over to their
23 house other than to purchase drugs?

24 MR. SPRUILL: No, no. I didn't have no
25 relationship with them like that as far as hanging out.

1 Now, I've sold them wood before, like, you know,
2 cut wood. But I've never been over like drinking. I've
3 bought dope from -- and really not from none of his
4 brothers and all, just him. He was the drug dealer.

5 MS. STELLATO: Let's go back to Ray Hurst and
6 Tommy Garrett, the gun issue. Let's talk about that.

7 MR. SPRUILL: Now, I did hear that. When I
8 was -- when they were investigating everybody, I was a
9 suspect; everybody was a suspect.

10 Janice Spruill had told me, said, Well, you know
11 Ray Hurst -- you know, and I do know that Ray Hurst said
12 he had been out there and traded a .30-30 rifle to Frank
13 for dope.

14 MS. STELLATO: But you don't know that it was on
15 the night of the murder?

16 MR. SPRUILL: I don't know -- I don't think it
17 was on the night of the murder. But then later on, I
18 heard that Frank wanted he -- Ray Hurst had to get Jimmy
19 Green's .30-30 back. So he said, you know, Well, you
20 ain't going to pay me. I ain't going to give you the
21 rifle back. Now, I heard they had a bunch of discussion
22 over that.

23 Now, I don't know that that's all true. I
24 weren't there and, you know. But I did hear that a lot
25 around town about that.

1 So everybody, you know. Just like Ray Hurst's
2 truck got burned up. You know, that was the talk of the
3 town. Well, they're trying to burn his truck up because
4 some black lady said she saw a blue truck or a dark blue
5 truck come shooting out the lane the night Frank was
6 killed.

7 Well, Ray had a blue truck. When it got set on
8 fire and not really burned up bad, but it got burned, you
9 know, they were saying, Well, that was the truck. Janice
10 said, Well, that was the truck. Well, I mean, it was a
11 lot of trucks --

12 MS. STELLATO: Well, you don't know if it was or
13 not, do you?

14 MR. SPRUILL: No. They were saying it was my
15 daddy's truck. They impounded my daddy's truck and
16 done a --

17 MS. STELLATO: But you knew Ray Hurst drove a
18 blue truck, right?

19 MR. SPRUILL: Oh, yeah.

20 MS. STELLATO: And you knew he wore his hair in
21 a ponytail?

22 MR. SPRUILL: Yeah.

23 MS. STELLATO: You knew he was a white male?

24 MR. SPRUILL: Yeah.

25 MS. STELLATO: But you didn't mention him as a

1 suspect?

2 MR. SPRUILL: No.

3 MS. STELLATO: Why?

4 MR. SPRUILL: I didn't -- I wouldn't even think
5 he'd be a suspect. I mean I've always heard -- I mean I
6 heard all kind of stuff. But Maurice and them was the one
7 that...

8 MS. STELLATO: So you didn't tell police that
9 you thought Ray Hurst did it?

10 MR. SPRUILL: If I do, I don't remember. If I
11 do, I don't remember. And I'm -- and I'm, you know,
12 sitting here being as honest as I can be. I'm not saying
13 that I didn't tell them that because it was talk around
14 town, everybody. I mean, the people that I just mentioned
15 were names everywhere I went I had heard, you know.

16 MS. STELLATO: If you knew who did it or if you
17 thought you knew who did it --

18 MR. SPRUILL: I'd of took a --

19 MS. STELLATO: -- would you tell me?

20 MR. SPRUILL: Huh?

21 MS. STELLATO: Would you tell me?

22 MR. SPRUILL: Well, let me put it like this,
23 when Mitchell Norton and them stood over the top of me and
24 offered me a seven and a half year plea bargain to tell
25 who done it, I would have sold Brandon right on down the

1 river.

2 MS. STELLATO: Well, you didn't do that the
3 first time you went to prison, did you?

4 MR. SPRUILL: No.

5 MS. STELLATO: Who were you covering up for the
6 first time you went to prison?

7 MR. SPRUILL: Well, I really didn't cover up for
8 nobody. This is how that went. We broke in an
9 agriculture building in Creswell High School. And really
10 didn't break in it. We were 21 years old. They left the
11 buildings open. We went in there and took some chain saws
12 out and run them in the dark and the chain. All right.
13 We put some of them back; we didn't put some of them back.

14 I can name the whole thing where everybody was
15 going to plead not guilty; we didn't do this.

16 Well, when they called the day of the trial, the
17 court and everything down front, I was the only one that
18 was called up there. The rest of them had done turned
19 state behind my back and --

20 MS. STELLATO: Well, that's because you wouldn't
21 tell police who you were with.

22 MR. SPRUILL: That's right.

23 MS. STELLATO: You didn't mention to me last
24 time that Wyatt Spruill was one of the people you were
25 with.

1 MR. SPRUILL: And I don't know if that came up.
2 I mean, as far as -- I mean I didn't -- I didn't try to
3 hide nothing by it. You know what I mean?

4 MS. STELLATO: You don't think it's important
5 that you told police in the interviews that you didn't
6 care about this murder, if they put you in jail for this,
7 because you've done time before for something that you
8 didn't do --

9 MR. SPRUILL: No.

10 MS. STELLATO: -- and didn't turn on people?

11 MR. SPRUILL: No. I don't remember saying that.
12 I'm not saying I didn't. I don't -- I don't remember
13 saying that.

14 MS. STELLATO: So if you didn't turn on people
15 then, you didn't tell them what you knew then, why would
16 you tell them what you knew now?

17 MR. SPRUILL: Why?

18 MS. STELLATO: Uh-huh.

19 MR. SPRUILL: Well, I wasn't going to do no life
20 sentence in prison.

21 MS. STELLATO: Well, you did time in prison last
22 time.

23 MR. SPRUILL: Yeah, but 12 months for breaking
24 in an agriculture building.

25 MS. STELLATO: Do you get that the only way for

1 you to get out of prison if you were innocent, the only
2 way for you to get out of prison is to figure out who did
3 do this? I mean you're not just going to get out.

4 MR. SPRUILL: No. And -- and I'm not saying
5 this in a bad way to you (inaudible), but you're not going
6 to beat Washington County. I mean, don't get me wrong.
7 I'm not saying this trying to say -- you're not going to
8 beat Washington County. I've said it from the day I got
9 put in here.

10 MS. STELLATO: It's not about -- it's not about
11 beating Washington County --

12 MR. SPRUILL: Well, I ain't saying --

13 MS. STELLATO: -- it's about getting to the
14 truth. That's my job.

15 MR. SPRUILL: And everything I've told you, I'll
16 try to tell the truth. And I don't remember everything.
17 I might have told some of this stuff. I mean, hell, I
18 went in Makin Tracks one night and asked Janice Spruill
19 that -- she was working there. I asked her what time she
20 got off -- because she stayed on me about this. I mean
21 everywhere I went, they were going to pull me over waiting
22 on this. See, I was arrested a year later, like in four
23 days. I got arrested on December 13th a year later.

24 I've been in Makin Tracks -- this is how far it
25 went as far as making people mad. I went in Makin Tracks

1 and asked Janice Spruill what time she'd get off work and
2 everything. Let's go do this 8 ball I had. And she
3 wouldn't even let me purchase the beer out of the store.
4 She run me out and told me she was going to call the law.
5 And she was the investigating thing on this.

6 MS. STELLATO: Let's talk about when you did go
7 see Janice Spruill at Makin Tracks. What else did you
8 tell her?

9 MR. SPRUILL: I don't -- well, she asked me
10 something about where was the guy and girl that hung with
11 me.

12 MS. STELLATO: Uh-huh. What did you tell her?

13 MR. SPRUILL: I'm not sure.

14 MS. STELLATO: You're not sure what you told
15 her?

16 MR. SPRUILL: I'm not sure what I told her.

17 MS. STELLATO: Did you tell her they were in
18 West Virginia?

19 MR. SPRUILL: I'm not sure.

20 MS. STELLATO: You knew they weren't in West
21 Virginia?

22 MR. SPRUILL: I didn't know where they were at.
23 I never knew their -- I never even knew their name until
24 their first court appearance. Everybody wouldn't believe
25 me on that. I knew them as Brandon -- like his name is

1 real -- his name is Brandon Wallace Jones, I think. I
2 knew him the whole time I partied with him and up to my
3 first court appearance as Robert Solis.

4 I didn't know he was from Tennessee. I didn't
5 know they was from South Carolina and had charges on them.
6 I didn't find out this until on my first court appearance.

7 When they hauled me up to Plymouth, they hauled
8 me right to the Manteo jail, which is an hour away, so I
9 couldn't talk to nobody. Because my sister worked up
10 there, too, for like 16 years.

11 MS. STELLATO: Why were you telling Janice
12 Spruill that Brandon Jones and Dana Maybin had run?

13 MR. SPRUILL: Well, that ain't true right there
14 because I didn't know their name.

15 MS. STELLATO: I called them by those names
16 because those are their names.

17 MR. SPRUILL: Oh, all right.

18 MS. STELLATO: You -- you would have called them
19 by Nikki and Robert.

20 MR. SPRUILL: Yeah.

21 MS. STELLATO: Yes.

22 MR. SPRUILL: Yeah.

23 MS. STELLATO: Why did you tell her that they
24 had run right after the murder?

25 MR. SPRUILL: The reason I think right there

1 because of Stacy. This is where Stacy comes in. Stacy
2 knew that -- had to know them people were on the run
3 living with her mama. And I may -- I may have -- I don't
4 think she had told me that. I'm not sure that she had
5 told me. I can't remember.

6 I mean if I were -- knew -- if I knew they was
7 on the run and this and that and they were partying with
8 me, I wouldn't have never carried them to my sister's
9 house, and her husband was a game warden and she was a
10 deputy sheriff living right there. If I had been partying
11 with somebody I knew was on the run for charges and all, I
12 wouldn't have never carried them up to -- I mean they went
13 everywhere I went.

14 MS. STELLATO: Did you hear that Frank Swain had
15 gone to Tommy Garrett's house the night before the murder?

16 MR. SPRUILL: Yep. Asked them for --

17 MS. STELLATO: When did you hear that?

18 MR. SPRUILL: I can't --

19 MS. STELLATO: After the murder?

20 MR. SPRUILL: Yeah. And I -- I can't tell you
21 exactly when. All I know is he wanted his money from Ray
22 and Tommy. Tommy and Ray was the ones supposed to went
23 and got the dope. Ray put up the rifle.

24 MS. STELLATO: So when I was talking to you last
25 time I came here and I was talking to you about, you know,

1 what do you know, what can you tell me, why weren't you
2 talking about Tommy Garret and Ray Hurst?

3 MR. SPRUILL: I don't know. There was so much
4 stuff we talked about. I mean I'm not trying to hide
5 nothing from nobody.

6 MS. STELLATO: Well, you seem pretty sure that
7 it's Maurice Wilkins and that crew.

8 MR. SPRUILL: Well, that's what everybody's told
9 me. I mean everybody from -- and like you say, this is
10 jailhouse and this. John Floyd, you know, all this work
11 he done and all, it always was coming back to this right
12 here, and said, I went to see Joseph Lynn over at Odom or
13 somewhere. And he almost told me who done this. And that
14 was the names that was coming to me.

15 I mean I heard it on the street. And then when
16 I get in prison years later, I'm still hearing these same
17 people's name.

18 I'm not saying them boys done that killing. I
19 can't tell you who done that killing. I mean it -- it
20 could turn out to be -- if they ever did solve it, it
21 could be some construction workers from Georgia. I can't
22 tell you.

23 MS. STELLATO: Did you --

24 MR. SPRUILL: It just keeps coming to me.

25 I'm --

1 MS. STELLATO: Did you tell police that you
2 weren't sure which night you were at the bar --

3 MR. SPRUILL: No.

4 MS. STELLATO: -- when Ray took you, it could
5 have been Friday or it could have been Saturday --

6 MR. SPRUILL: No.

7 MS. STELLATO: -- you didn't really know?

8 MR. SPRUILL: No. You know how I know it was
9 that night right there?

10 MS. STELLATO: How is that?

11 MR. SPRUILL: Because Ed always had the annual
12 Christmas party at that bar where everybody -- and that's
13 the night they had the big -- like we call it the annual
14 Christmas party. That's how I know so good about...

15 MS. STELLATO: Let's talk about the last time
16 you had actually been to Frank Swain's house. And before
17 you answer that, why don't you think real hard about when
18 that was. Because you've told police in about five
19 different interviews different times that you stopped
20 doing drugs, different times that you've been to his home,
21 and different times that you hadn't used.

22 MR. SPRUILL: Well, this is the best thing that
23 I can remember.

24 MS. STELLATO: Okay.

25 MR. SPRUILL: I hadn't been to his house in a

1 right good while because I got -- my mom and daddy, I went
2 to my mom and dad, and I got them -- I went to rehab at
3 Walter B. Jones, Walter B. Jones Treatment Center in
4 Greenville. Now, I don't know how long I was there, a
5 week or two or something like that.

6 But from the time I went there to that Walter B.
7 Jones and I got out, the girl that's coming -- still
8 coming to see me right now to today named Debbie McGowan,
9 I hung around with her probably two weeks after. So I
10 know it was almost a month before I had done any drugs and
11 been to Frank's house or anywhere else as far as doing
12 drugs.

13 MS. STELLATO: So that it was --

14 MR. SPRUILL: The best I can remember.

15 MS. STELLATO: -- a month, say, so --

16 MR. SPRUILL: Take or give, yeah.

17 MS. STELLATO: -- middle of November was the
18 last time you can recall doing drugs?

19 MR. SPRUILL: All right. I went in there, I
20 want to say it was around hunting season. That's October
21 the 15th. I want to say the middle of November. Yeah.
22 From the middle of October to middle of November. I'd
23 saying a month, take or give.

24 MS. STELLATO: So did you tell police the last
25 time you had been there was August, September, or October?

1 MR. SPRUILL: I don't remember that. I can't
2 remember that.

3 MS. STELLATO: Okay. Did you tell police that
4 you actually weren't sure that Ray Hurst was the one that
5 drove you to the bar that night?

6 MR. SPRUILL: No. I know he drove me to the
7 bar. And -- and I -- well, you all call him Brandon, too.
8 Brandon would say the same thing.

9 MS. STELLATO: Let's talk about Brandon and why
10 it is that you are so sure you were with him that night.

11 MR. SPRUILL: All three of us -- I mean from the
12 time we left my house until we went to the bar and partied
13 and drank. The only time we went outside that bar that I
14 didn't actually see him was I went around behind that bar
15 because I had a fifth of tequila that I had hid outside.
16 That's the only time I weren't in that boy and girl's
17 presence from I'm saying 5:00, 5:00/5:30 that afternoon
18 when it was getting dark that we walked to the bar until
19 we got to Russell's and talked talk to his mama, because
20 his mama was giving me hell about being loud. And here
21 goes the creek and here goes Ed's bar. It ain't 100 yards
22 or more, and Ray carried us there. Ed and Lottie carried
23 us home. And they weren't never out of my sight.

24 MS. STELLATO: Did you ever tell police that you
25 didn't know where they were that night?

1 MR. SPRUILL: No, no.

2 MS. STELLATO: Did you ever tell police that
3 they left the bar for a long period of time --

4 MR. SPRUILL: No.

5 MS. STELLATO: -- that night and you didn't know
6 where they were?

7 MR. SPRUILL: No.

8 MS. STELLATO: Did you tell police that you --

9 MR. SPRUILL: Now, I'm not saying I didn't tell
10 them back then. I can't remember that I told them that.

11 MS. STELLATO: Well, if you were -- if you were
12 with them that night, you're going to tell them --

13 MR. SPRUILL: Yes.

14 MS. STELLATO: -- that back then?

15 MR. SPRUILL: I mean that's what -- that's what
16 I know as far as that. Now, I'm not saying what the
17 police wrote or what I told them. I don't -- I'm not sure
18 about that. I'm not going to sit here and tell you, yeah,
19 I know. I know they were with me.

20 MS. STELLATO: Did you tell the police you
21 wouldn't be surprised if Nikki and Robert had killed Frank
22 Swain?

23 MR. SPRUILL: No.

24 MS. STELLATO: Did you state that it was
25 suspicious to you that Robert and Nikki had ran off --

1 MR. SPRUILL: No, no.

2 MS. STELLATO: -- after the police started
3 coming around?

4 MR. SPRUILL: Now, I may have told them that.

5 MS. STELLATO: Why would that be suspicious to
6 you? If they -- if you were with them, you knew they
7 didn't do it, right?

8 MR. SPRUILL: Yeah. And that's where it come in
9 right here is like when Janice started asking me where
10 were guy and girl that run with you and hung with you, I
11 couldn't tell her. I was trying to hide -- they kept
12 saying, You're trying to cover for them. You're trying --
13 I didn't even know him. I mean I knew them by their name,
14 but I don't even know that they was -- what town they were
15 from, what state they were from. I didn't know nothing
16 about them. I mean I couldn't tell -- make up a lie that
17 they were from here and there when I didn't know where
18 they were from.

19 MS. STELLATO: Did you tell the police that
20 Nikki and Robert left the bar that night and went to a
21 location that was unknown to you?

22 MR. SPRUILL: No.

23 MS. STELLATO: I think you did say that.

24 MR. SPRUILL: If -- if I did, I don't remember.

25 MS. STELLATO: Have you gotten -- you know, over

1 the years, you figured out that you need to be with
2 Brandon Jones and Dana Maybin in order to -- for all three
3 of you to be innocent, right?

4 MR. SPRUILL: Well, I mean I've been told that.

5 MS. STELLATO: Uh-huh.

6 MR. SPRUILL: But --

7 MS. STELLATO: But didn't I tell you last time I
8 talked to you that if you weren't with them, you needed to
9 tell me that?

10 MR. SPRUILL: I was with -- I mean I will go to
11 my grave with that.

12 MS. STELLATO: Did they leave the bar that
13 night?

14 MR. SPRUILL: No.

15 MS. STELLATO: They didn't leave -- they were
16 never out of your sight?

17 MR. SPRUILL: Never out of my -- well, yeah, for
18 15, 20 minutes maybe. I'm outside behind the bar drinking
19 whiskey. But there's no way they could have went down 64
20 all the way to the Foley Road and murdered a man up like
21 they showed me pictures and got back here and done that.
22 There's no way in the world they could have done it.

23 MS. STELLATO: Well, why did you tell the police
24 that they went to another location?

25 MR. SPRUILL: I don't remember telling them

1 that.

2 MS. STELLATO: In one of these interviews, you
3 said that Russell Sawyer was actually who took you guys to
4 the bar that night in his truck.

5 MR. SPRUILL: No. Ray Hurst took us.

6 MS. STELLATO: Okay. How do you know?

7 MR. SPRUILL: I know. He -- he had a blue Ford
8 truck. I mean I know he did. He was going whenever he
9 was going.

10 MS. STELLATO: Is it possible that you were
11 drinking so much that you just can't remember who was
12 driving that car?

13 MR. SPRUILL: It was a Ford truck, blue Ford
14 truck.

15 MS. STELLATO: But it wasn't Russell?

16 MR. SPRUILL: No. It was Ray Hurst.

17 MS. STELLATO: Why would you tell police that?

18 MR. SPRUILL: I don't know. I can't remember.
19 I mean I'm not saying I didn't tell him this. I'm just --
20 it...

21 Look, we were even going to get Vosburgh to
22 subpoena Ray Hurst. And I think he did. And Ray Hurst
23 went to Virginia and never came back. Wouldn't even come
24 back and testify. We wanted him to say he drove us from
25 the thing.

1 And best I can understand -- and that's through
2 Brandon's lawyer -- that he subpoenaed Ray Hurst. And he
3 never did show up on Brandon's trial -- it won't for my
4 trial. It was for Brandon's trial to tell that story and
5 tell the story about the truck being burned up and all.
6 He never -- they never could get him to come.

7 MS. STELLATO: So the 1994 interview that I'm
8 talking to you about, when you say that Nikki and Robert
9 left the bar that night and went somewhere to a location
10 that was unknown to you, you did not say that?

11 MR. SPRUILL: I don't believe I said that. I'm
12 not -- I'm not saying I didn't say that, but I don't
13 believe I said that.

14 MS. STELLATO: In 2004 when the SBI reopened the
15 case and came back and interviewed you, did you say that
16 you would not deny -- that -- did you say that it would
17 not surprise you if Brandon and Nikki had killed someone
18 that night?

19 MR. SPRUILL: I don't think I -- I just don't
20 remember saying that. I don't say -- I don't know why I
21 would say that. I mean...

22 MS. STELLATO: Well, I don't know why you would
23 either. I mean that's what I'm trying to figure out. I'm
24 trying to get you to tell me whether you were with them
25 all night or not.

1 MR. SPRUILL: I had to be with them all night.

2 MS. STELLATO: No, you didn't -- you didn't have
3 to be. You can't -- you can't make this into what you
4 want it to be. Either you were with them or they left you
5 and you know that they left you.

6 MR. SPRUILL: Well, then I don't know. If they
7 left me, I don't know then. I'll put it like that.

8 MS. STELLATO: So you didn't say that in two
9 separate interviews ten years apart?

10 MR. SPRUILL: Here's -- here's what I'm saying.
11 I'm saying I went to that bar with them people and we
12 drank beer and we went outside and drank whiskey. Ed
13 Champ even went out with us. If they left that bar over a
14 period of 15 to 20 minutes, there's no way.

15 MS. STELLATO: Did you tell Ray Hurst that you
16 were at Frank Swain's house that night?

17 MR. SPRUILL: No. Now, Mitchell Nowarah might
18 have told these people a lot of stuff like that where he
19 asked or something like that, but I -- I --

20 MS. STELLATO: Why would he do that?

21 MR. SPRUILL: I don't know. He helped the girl
22 out a whole lot. He bought her a bus ticket home when
23 she -- when she left Roper. He bought her clothes. I
24 don't know.

25 MS. STELLATO: Well, saying you were there that

1 night isn't helping Dana Maybin out.

2 MR. SPRUILL: Huh?

3 MS. STELLATO: I said that's not helping Dana
4 Maybin. That's --

5 MR. SPRUILL: I'm not --

6 MS. STELLATO: -- putting you with her.

7 MR. SPRUILL: I'm not trying to help nobody out.

8 I'm just telling you what my story was all the way down to

9 where -- I'm not saying I'm completely 100 percent right.

10 But the best I can understand, that's what happened from

11 the time I went to that bar until the time I went home and

12 Ed put me out and we cooked -- I cooked salmon cakes and

13 sweet potatoes. And this girl, I'll call Nikki, and

14 Robert Solis and Smarty Spruill and me stayed right there

15 at my house. That's the best I can understand.

16 MS. STELLATO: Did you say there were times that
17 night that Nikki and Robert were gone for 30 minutes or
18 more at a time?

19 MR. SPRUILL: If I do, I don't remember telling
20 nobody that.

21 MS. STELLATO: Did you go to Frank Swain's
22 earlier that day and buy drugs?

23 MR. SPRUILL: No. I saw Frank Swain and Wyatt
24 in the Winn-Dixie store early that morning and I did talk
25 to him.

1 MS. STELLATO: Did you buy drugs from him?

2 MR. SPRUILL: Nope.

3 MS. STELLATO: You didn't go to his house right
4 after that?

5 MR. SPRUILL: Nope. And they were telling me --
6 they were telling me they were buying food items and stuff
7 to carry to Central Prison in Raleigh, which is a women's
8 correctional center now, it ain't the men's, because Sonja
9 Day was there.

10 MS. STELLATO: Can you repeat that?

11 MR. SPRUILL: When I talked to Wyatt and Frank,
12 Sonja Day was in prison. And they were shopping -- they
13 were shopping and all. And that's exactly what he told
14 me. He said they were shopping for stuff because they
15 were going to see her on a Sunday and carry her this
16 stuff.

17 MS. STELLATO: Did Dana Maybin do drugs --

18 MR. SPRUILL: Yeah.

19 MS. STELLATO: -- around you?

20 MR. SPRUILL: Yeah.

21 MS. STELLATO: What did she do?

22 MR. SPRUILL: Crack cocaine, snorted. We drank.
23 I mean...

24 MS. STELLATO: What did Brandon do?

25 MR. SPRUILL: The same thing. I mean we --

1 MS. STELLATO: He did crack?

2 MR. SPRUILL: -- we partied. Yeah.

3 MS. STELLATO: Did you ever take Dana Maybin or
4 Brandon Jones to Frank Swain's house?

5 MR. SPRUILL: No. I took him to a good friend
6 of his on Millpond that was in a trailer park. And they
7 might have -- whoever they talked to might have got that
8 wrong, but he's a Carter. But I have took them there.

9 MS. STELLATO: But you never took them --

10 MR. SPRUILL: No.

11 MS. STELLATO: -- to Frank Swain's house with
12 you to buy drugs?

13 MR. SPRUILL: You didn't take -- you didn't take
14 nobody. The drug people I went to, there weren't but one
15 Carter boy that knew me good. You didn't take people that
16 they didn't know, see in your truck, to no dope house.
17 They wouldn't sell to you -- they wouldn't -- they
18 wouldn't sell me going there with somebody in my truck
19 that they didn't know from their hometown. You weren't
20 going to go in there and buy no dope from them.

21 MS. STELLATO: Is that why you made them crouch
22 down in the truck when you went there?

23 MR. SPRUILL: I don't remember making nobody
24 crouch down. And I know --

25 MS. STELLATO: Did you say --

1 MR. SPRUILL: -- I know that she told that.

2 MS. STELLATO: Did you say that you wouldn't be
3 surprised at all if Robert and Nikki killed Frank Swain
4 because they are the wild kind of folks?

5 MR. SPRUILL: Well, now, they're pretty wild,
6 but I don't believe I would tell them -- nobody that. All
7 them things that you're reading to me, telling that I said
8 this, I'm not saying I didn't tell the police that years
9 ago or whatever. But I just don't believe that. I mean
10 them people were with -- I mean I just don't believe that.

11 MS. STELLATO: So you're -- you're not saying
12 you didn't say it; is that right?

13 MR. SPRUILL: I'm -- yeah. I'm saying I'm
14 not -- I didn't say it. But I -- there's no way that them
15 people -- there's no way that them people could -- I mean
16 I'll go to my grave with that story right there.

17 MS. STELLATO: Well --

18 MR. SPRUILL: I mean --

19 MS. STELLATO: -- why -- why would you --

20 MR. SPRUILL: That's the best I know. I mean I
21 know it's the truth. I mean do you want me to sit here
22 and tell you, yeah, I told them people that, right?

23 MS. STELLATO: I want you to tell me the truth.

24 MR. SPRUILL: That's what I'm saying I can't --

25 MS. STELLATO: If you said it --

1 MR. SPRUILL: -- I can't --

2 MS. STELLATO: -- I want you to tell me that.

3 MR. SPRUILL: -- tell you that. Now, I tell you
4 I don't know. I'm not saying I didn't say it, but I just
5 don't believe I said some of that stuff. And I may have.
6 I'm not trying to tell you no lie or nothing. But I -- I
7 mean, if I said it, I don't remember saying it. I'm not
8 saying I didn't say some of that stuff over the years and
9 come -- I'm not saying I didn't.

10 MS. STELLATO: Did you tell police that you had
11 gone to jail before because everyone else had turned
12 evidence against you and you wouldn't roll over, that you
13 would stay quiet over some breaking and enterings that
14 they had been charged with, but your friends rolled on you
15 and you had to do the time?

16 MR. SPRUILL: Now, I'm not saying I didn't say
17 that. Because that's -- that's how it went down. I mean,
18 that's...

19 MS. STELLATO: Did you tell police you could --
20 they could believe what they wanted to, that you had been
21 in jail before and you would go back again if someone were
22 lying on you?

23 MR. SPRUILL: No. I don't believe I said that
24 because 12 months is a whole lot different than facing a
25 death penalty when they charged me with first degree

1 murder and armed robbery. That's a capital offense. I
2 believe that's a little different than 12 months, breaking
3 in and stealing a chain saw, you know what I mean, than
4 doing the death penalty thing.

5 But getting back to this right here that I'm
6 asking you. You were saying a while ago that I've got to
7 ride with Brandon and them in order to get help, right?

8 MS. STELLATO: No, I didn't say that.

9 MR. SPRUILL: But I mean that's more or less
10 what people is -- I understand. I'm just talking now --
11 but I'm not saying I'm going to get out of prison, but I
12 made it to green clothes. If I keep on going like I'm
13 going, eventually they're going to parole me out, not
14 unless somebody stops me, you know what I mean?

15 MS. STELLATO: Uh-huh.

16 MR. SPRUILL: Or I get a charge in here or
17 something like that. You know what I'm saying? I've got
18 a chance of getting out. That boy ain't got no chance of
19 getting out. He ain't never going to get out for
20 something I know he didn't do. You can sit here and say
21 this, these people in Raleigh can say this.

22 MS. STELLATO: I didn't say that. You did.

23 MR. SPRUILL: I understand. I understand. But
24 I'm not -- if I don't never get out of prison, never --
25 I'm not saying this in a bad way -- I will not tell these

1 people that Nikki and them went in there and killed that
2 man and this and that and all for me to get out of prison
3 if I don't never get out.

4 MS. STELLATO: I'm not asking you to tell me
5 that Nikki and Brandon went in there and killed that man.

6 MR. SPRUILL: I know. You want me to tell the
7 truth.

8 MS. STELLATO: I want you to tell me --

9 MR. SPRUILL: But I --

10 MS. STELLATO: -- if you said those things to
11 the police.

12 MR. SPRUILL: I'm not -- I'm not saying I didn't
13 tell them that. I can't tell you. I don't -- I don't
14 believe I told them some of that stuff. But I'm not
15 saying 100 percent I didn't say some of that.

16 MS. STELLATO: If you said that, if you did, it
17 doesn't mean that they killed Frank Swain.

18 MR. SPRUILL: No.

19 MS. STELLATO: It means that you were not all
20 together at the same time at the bar. All it means is
21 that you guys came up with a story because you had to to
22 defend yourselves. It doesn't mean that they killed Frank
23 Swain.

24 MR. SPRUILL: Well, I didn't come up with this
25 story just to defend myself in here.

1 MS. STELLATO: You don't think that your story
2 has gotten awful consistent over the years? Because it
3 certainly didn't start out that way.

4 MR. SPRUILL: Well, I'm just saying from what I
5 remember, the day I get out of prison or don't get out of
6 prison or they bury me, my story is going to be the same
7 that I told right here.

8 MS. STELLATO: Well, your story is not the same.

9 MR. SPRUILL: Well, I mean, I'm just saying the
10 best I can remember it. The best I can remember of it.

11 MS. STELLATO: Do you think that --

12 MR. SPRUILL: I mean, if you all help me or
13 nobody never helps me.

14 MS. STELLATO: Do you think that when they
15 interviewed you, you know, December, January, April, May,
16 the next year, the following year --

17 MR. SPRUILL: Some did change.

18 MS. STELLATO: -- that your memory would have
19 been better then than it is now, right?

20 MR. SPRUILL: I don't think so.

21 MS. STELLATO: You don't think so?

22 MR. SPRUILL: No. Because I'm just saying --
23 now, you're talking about how long ago?

24 MS. STELLATO: 1994.

25 MR. SPRUILL: No. No. Because I was pretty

1 well out there, now. I mean I -- I partied. I worked
2 every day, but I partied. I know it weren't as good as --
3 no. I wouldn't say that.

4 MS. STELLATO: Did you tell police that you were
5 drinking heavily that evening and you can't recall for
6 certain that it was that night that Ray Hurst gave you a
7 ride to the bar or if it was another night?

8 MR. SPRUILL: No. I was drinking pretty heavy.
9 I'll -- I'll agree with that. But I -- I know it was. I
10 mean it -- there's no other way. It's the night of the
11 Christmas party. I mean everybody planned for this for
12 two weeks. I mean...

13 MS. STELLATO: Did you tell police that you had
14 touched a knife that was -- that can be found in Frank
15 Swain's home?

16 MR. SPRUILL: No.

17 MS. STELLATO: You didn't say your fingerprints
18 were going to be on that knife?

19 MR. SPRUILL: The knife that was at my house
20 that they took, that actually was Chris -- it was actually
21 Chris Davenport's knife that he left at my house. The
22 knife that you showed me the last time I picked out, the
23 best I can remember.

24 Well, let me ask you something right here then.
25 And you probably can't tell me some of this. But let me

1 tell you, by me just talking, I'm asking this question.
2 If me -- or just say I didn't go. Brandon and Nikki went
3 to that crime scene and killed Frank like they did, right.
4 I'm not saying they did, but say they did, right, wouldn't
5 their fingerprints or something be there?

6 MS. STELLATO: Who said they're not there?

7 MR. SPRUILL: They're not.

8 MS. STELLATO: How do you know?

9 MR. SPRUILL: I know they're not.

10 MS. STELLATO: No, you don't.

11 MR. SPRUILL: Yeah, I do.

12 MS. STELLATO: No, you don't. Uh-uh. Do you
13 know that the comparisons they did against those
14 fingerprints were not valid comparisons?

15 MR. SPRUILL: They weren't what?

16 MS. STELLATO: They weren't valid.

17 MR. SPRUILL: So you -- you --

18 MS. STELLATO: The prints they had couldn't be
19 matched.

20 MR. SPRUILL: So it could have been them or
21 couldn't have been them, right?

22 MS. STELLATO: Sure. It could have been anyone.

23 MR. SPRUILL: That's right.

24 So they told us for the longest time while we in
25 jail -- how long we in jail right here -- that they were

1 our fingerprints. They were our fingerprints. The law
2 said they are y'all's fingerprints. On trial they didn't
3 say they were ours.

4 MS. STELLATO: Well, right. They were lying to
5 you to get you to tell them what they --

6 MR. SPRUILL: That's right.

7 MS. STELLATO: Right.

8 MR. SPRUILL: So the law and all them is going
9 to be right on everything, but somebody --

10 MS. STELLATO: But they're allowed to do that.
11 You need to -- they're allowed to do that.

12 MR. SPRUILL: That's right. But I'm going to be
13 the one lying in the law's eye. I'm always -- you know,
14 they're going to be right. They ain't always right.

15 MS. STELLATO: Well, they didn't -- they didn't
16 make up these statements.

17 MR. SPRUILL: Oh, I understand that. I'm not
18 saying that.

19 MS. STELLATO: I mean there's a difference
20 between what they tell you, which I understand what you're
21 saying --

22 MR. SPRUILL: That's right.

23 MS. STELLATO: -- what they tell you what
24 evidence they do or don't have and what you --

25 MR. SPRUILL: All right --

1 MS. STELLATO: -- do and what you say.

2 MR. SPRUILL: And then going right back to
3 Nikki. The best I understand, that she had outstanding
4 warrants in South Carolina. Now, she told this. They
5 brought her -- they dropped their charges in South
6 Carolina, something to come here and just investigate her
7 on the murder. When they got her across the North
8 Carolina line, they read her her rights. You're under
9 arrest for first degree murder and armed robbery.

10 I mean they to tricked that girl and lied to
11 that girl to come back here and kept us in jail this long
12 to say, hey, look -- she believed it to today that we went
13 in there and killed these people. She's going to stick by
14 that story. And I know that's wrong. That's a lie.

15 MS. STELLATO: But let me tell you, you have
16 been told a lot of things by --

17 MR. SPRUILL: True. True. And I'm not --

18 MS. STELLATO: -- inmates, lawyers, whoever --

19 MR. SPRUILL: -- I not saying some of this stuff
20 I didn't say. I'm not sitting here saying I didn't say
21 it. I don't remember saying some of this stuff. I sure
22 don't. I'm not --

23 MS. STELLATO: And I'm telling you that a lot of
24 information that you have or that you think you know is
25 not true. It's not how it is.

1 MR. SPRUILL: I'll go along with that. I will
2 go along with that.

3 MS. STELLATO: Well, let's talk about Ray
4 Hurst's truck in your backyard. Do you know how it got
5 there?

6 MR. SPRUILL: How -- how it got there? I know
7 the story how I was told it got there. Him and Tommy
8 Garrett and somebody else was going to Newport News to buy
9 some dope and got almost to (inaudible) and the truck
10 broke down. So they got Mitchell to pull it back and put
11 it in my backyard because I had a long backyard.

12 MS. STELLATO: That's the story you told?

13 MR. SPRUILL: That's -- that's the story that
14 I -- was told to me.

15 MS. STELLATO: That you were told?

16 MR. SPRUILL: And I'm not -- yeah. The story
17 that Ray told me how it got there. I don't know how it
18 got there. Now, I was always -- I was also told that me
19 and Nikki and Brandon set it on fire.

20 MS. STELLATO: So when did you find out the
21 truck was in your backyard?

22 MR. SPRUILL: I can't tell you that.

23 MS. STELLATO: I mean did you look out one day
24 and see it or did you know it was coming?

25 MR. SPRUILL: No. The next -- yeah, the next --

1 no, the next morning, it was in my backyard, yeah. But I
2 can't tell you when it was.

3 MS. STELLATO: Did Ray Hurst tell you he was
4 bringing the truck there?

5 MR. SPRUILL: No.

6 MS. STELLATO: Did anyone tell you?

7 MR. SPRUILL: No. But, hell, it weren't nothing
8 for somebody to leave a vehicle in my backyard. I had two
9 driveways that come in and we'd go party somewhere and
10 pick the truck up the next day or something. It weren't
11 nothing, you know.

12 MS. STELLATO: It wasn't a big deal?

13 MR. SPRUILL: No.

14 MS. STELLATO: And then when you looked out and
15 saw the truck, was it burned and the windows broke out of
16 it?

17 MR. SPRUILL: I don't think so.

18 MS. STELLATO: But you -- were you far away from
19 it that you don't know?

20 MR. SPRUILL: Yeah. My yard runs from 64 all
21 the way up to the next street in Roper. I mean, I can
22 look out my back door, I couldn't tell -- you know.

23 And the best I understand from what I seen it, a
24 day later he was putting glass in it. He done come and
25 got it. He was showing me how it was burned all inside,

1 like somebody had poured gas inside, beat the windows out
2 of it. Because he went to the salvage yard and bought
3 glass out of a same pickup truck to put back in it.

4 MS. STELLATO: So when he came back, he showed
5 you the damage to the truck?

6 MR. SPRUILL: Uh-huh. Because he had bought the
7 glass from Matthew Robert's Garage.

8 MS. STELLATO: Did he ask you how the damage got
9 there?

10 MR. SPRUILL: Yeah.

11 MS. STELLATO: And what did you tell him?

12 MR. SPRUILL: I told him I didn't know.

13 MS. STELLATO: But you do know?

14 MR. SPRUILL: Well, I think I know.

15 MS. STELLATO: Uh-huh.

16 MR. SPRUILL: I can't sit here and say, yeah, I
17 know who done this. This guy named Chris Davenport -- I
18 don't even know if he's around Roper or not here -- that
19 was owing some money dealing some dope. The best I
20 understand. I can't sit here and say that's true. I got
21 blamed for it though.

22 MS. STELLATO: Did he blame you?

23 MR. SPRUILL: Who?

24 MS. STELLATO: Did Hurst blame you?

25 MR. SPRUILL: Yeah.

1 MS. STELLATO: That's who -- okay.

2 MR. SPRUILL: Because Mitchell and that crew
3 said, look, Nikki, Brandon -- well, it was the other name
4 then -- done his truck there for leaving it in your yard.
5 Why -- I mean there were people that leave them in my yard
6 all the time. I mean I had nothing against Ray Hurst. I
7 mean nothing at all.

8 Now, I heard that Chris and somebody else burned
9 it up because he owed him money for dope. I don't know
10 that's true. It's just stuff I heard. I got blamed for
11 it though.

12 MS. STELLATO: So you understand that a week
13 after the murder a blue truck is in your backyard and it's
14 vandalized and burned, right?

15 MR. SPRUILL: Yeah.

16 MS. STELLATO: And so did you tell police that
17 you had actually looked outside and saw the windows broken
18 out of the truck and a can of gasoline sitting 10 to
19 15 feet away from the truck?

20 MR. SPRUILL: I don't remember saying that. I
21 remember Ray Hurst showing me it burned and he was putting
22 windows in it. I do --

23 MS. STELLATO: Did you see that?

24 MR. SPRUILL: Yeah.

25 MS. STELLATO: Did you see the can of gasoline?

1 MR. SPRUILL: No. I didn't see no gasoline. I
2 don't remember seeing no gasoline. Matter of fact, the
3 truck weren't even in my backyard when Ray showed me. He
4 had done come got the truck.

5 MS. STELLATO: Did you guys have the truck back
6 there because you were trying to destroy evidence?

7 MR. SPRUILL: No.

8 MS. STELLATO: You didn't say Brandon Jones and
9 Dana Maybin burned the truck because they were trying to
10 destroy physical evidence?

11 MR. SPRUILL: I'm -- I'm not saying I didn't say
12 it. I'm not saying I didn't say it.

13 MS. STELLATO: Leroy, you know whether you said
14 that or not, right?

15 MR. SPRUILL: I don't.

16 MS. STELLATO: I mean --

17 MR. SPRUILL: I know we didn't do it. I'm not
18 saying that -- you know, what they just said --

19 MS. STELLATO: Did you hear that Brandon and --
20 and Dana Maybin had done it?

21 MR. SPRUILL: Yeah. And I've heard that I done
22 it. We all three done it. Then I heard that Chris and
23 somebody done it. I've -- yeah. I'm not saying that I
24 ain't heard that. I'm not saying I didn't tell them that.
25 But I -- I don't --

1 MS. STELLATO: So you didn't know the truck was
2 coming to your house, right?

3 MR. SPRUILL: No.

4 MS. STELLATO: So you didn't tell me the last
5 time I interviewed you that, yeah, he had asked you to put
6 it back there and you told him it was okay?

7 MR. SPRUILL: I don't -- I can't remember. I
8 mean, I -- I don't -- I don't know. I can't answer that.

9 MS. STELLATO: Did someone tell you that Dana
10 and Brandon Jones got scared and they burned -- and burned
11 the truck and broke the windows out?

12 MR. SPRUILL: I'm not sure of that.

13 MS. STELLATO: You didn't tell me that last time
14 I interviewed you?

15 MR. SPRUILL: I don't know. Stacy told me so
16 much stuff, I can't remember what some of the stuff that
17 was.

18 MS. STELLATO: Did Ray Hurst destroy his own
19 truck?

20 MR. SPRUILL: Well, I've heard that, too.
21 Because I've heard he went over there and killed the man
22 over that right there. Got his gun back, this and that.
23 And I heard he put the truck in my backyard and set it on
24 fire and tried to get rid of evidence. I mean, I've heard
25 all kinds of stories.

1 MS. STELLATO: Did you buy drugs from
2 PJ Wilkins?

3 MR. SPRUILL: Yeah.

4 MS. STELLATO: Did you and Ray Hurst ever buy
5 drugs together?

6 MR. SPRUILL: Yep. Matter of fact, I can tell
7 you a story about that right there.

8 MS. STELLATO: You told me that you had stopped
9 doing drugs sometime probably in November, somewhere
10 around there.

11 MR. SPRUILL: Well, I know -- I know before --
12 within a two-week period or something like that, because I
13 went to Walter B. Jones Treatment Center. I'm not sure
14 really what that date was on that.

15 MS. STELLATO: So after you went to treatment,
16 from that time to the time that you were arrested for the
17 murder, did you do drugs in between that time?

18 MR. SPRUILL: Oh, yeah, yeah. I think I did.
19 Now, I went for about -- I went to Walter B. Jones about
20 two weeks. And then I met this girl right here. I'm not
21 saying I didn't slip around and do some dope, but I was
22 trying to get clean, yeah.

23 MS. STELLATO: But it's not really true that you
24 weren't doing drugs at the time of the murder because you
25 were?

1 MR. SPRUILL: Oh, yeah.

2 MS. STELLATO: When the police came to your
3 house and tried to search your house for -- you know,
4 after the murder, they took some things, your jacket and
5 stuff --

6 MR. SPRUILL: I can tell you everything they
7 took.

8 MS. STELLATO: Well, I know everything they
9 took, but did you try to hide a crack can?

10 MR. SPRUILL: Yep.

11 MS. STELLATO: So you weren't clean?

12 MR. SPRUILL: No. Not -- I mean I weren't out
13 there like I was, but I was trying to get clean, yeah.

14 MS. STELLATO: So why in all these interviews
15 are you saying you weren't using drugs during that period,
16 so it couldn't have been you because you didn't go to
17 Frank Swain's house to buy drugs?

18 MR. SPRUILL: Well, now, I didn't go to Frank
19 every time to buy drugs now.

20 MS. STELLATO: Where else did you buy them from?

21 MR. SPRUILL: Hell, everywhere. I could go
22 anywhere. I could go down to the crossroad; I could go
23 down to Pea Ridge, to Sam Patrick's. Hell, there was
24 20 people down there that I dealt with and went there.

25 Oh, yeah. Frank weren't the only -- hell, I

1 went everywhere. Uptown, in Plymouth on the corner. I
2 mean everybody knew me. I just didn't go to Frank and buy
3 drugs every time. He weren't the only dope man. I went
4 everywhere.

5 But I did try to hide a lot of -- where I had
6 been to Walter B. Jones. My daddy and mama spent that
7 money and this and that. I did try to, you know, get off
8 of drugs. I did try to hide to where I weren't really out
9 there like I was before.

10 MS. STELLATO: When you went to Makin Tracks to
11 talk to Janice Spruill, you were asking her what was going
12 on with the murder?

13 MR. SPRUILL: I may have. And then she said
14 something smart. And then I asked her when did she want
15 to go do this 8 ball I had. And then she wouldn't let me
16 purchase the beer and kicked me out of the store and said
17 she was going to call the law.

18 MS. STELLATO: Did you hear that the morning
19 after the murder several people called the police
20 regarding your involvement?

21 MR. SPRUILL: Say that again now.

22 MR. WRENN: The morning after the murder --

23 MR. SPRUILL: No, I didn't know that.

24 MS. STELLATO: -- people were calling the police
25 regarding your involvement.

1 MR. SPRUILL: No, I didn't know that.

2 MS. STELLATO: Did you know that people were
3 calling the police trying to figure out if you were in
4 jail for the murder?

5 MR. SPRUILL: I didn't know that until Monday
6 morning. That's when Mitchell Nowarah --

7 MS. STELLATO: Who do you know that called the
8 police?

9 MR. SPRUILL: I don't. Mitchell Nowarah -- I
10 don't know that. I can't tell you that.

11 MS. STELLATO: Did you know your brother-in-law
12 called Janice Spruill?

13 MR. SPRUILL: No.

14 MS. STELLATO: Did you know your sister called?

15 MR. SPRUILL: No.

16 MS. STELLATO: Do you think it's strange that
17 your family was calling police trying to figure out why
18 you were already in jail for a murder?

19 MR. SPRUILL: I don't know. I don't know that.
20 I mean I was pretty wild, too. But I wrecked my car and
21 they came to Hoke and there looking for me and I was
22 somewhere else where I had wrecked it and didn't get hurt
23 and got out of it and all.

24 I mean I'm not -- I do know that I knew Monday
25 morning about me being a suspect or arrested or something

1 like that. I heard that from Mitchell Nowarah and my
2 brother-in-law and Steve Furlough. And that was early,
3 early Monday morning, like I say 6:30, 7 o'clock.

4 MS. STELLATO: Why -- why would people have been
5 saying that?

6 MR. SPRUILL: I don't know. I mean I don't
7 know. If that was the case, I don't know why they didn't
8 have him on the stand in Brandon's trial. I mean if they
9 thought that -- you know what I mean? I don't know.

10 MS. STELLATO: Did you tell police when they
11 took the Mountain Dew can out of your house that it was a
12 can used to smoke pot?

13 MR. SPRUILL: Yeah. And I did smoke pot out of
14 it before.

15 MS. STELLATO: But it was a crack can?

16 MR. SPRUILL: Oh, you could do both things,
17 yeah.

18 MS. STELLATO: But it had crack in it?

19 MR. SPRUILL: Yeah, probably so.

20 MS. STELLATO: Was it a bear that you killed?

21 MR. SPRUILL: Yep. Probably a couple of days
22 prior to this murder supposed to have happened. I'm
23 wanting to say that was around November. It was around
24 bear season, the week or so of bear season and around
25 Thanksgiving or something like that.

1 MS. STELLATO: Why do you think that the Sonja
2 Day murder is connected with this murder?

3 MR. SPRUILL: I don't know. I can sit right
4 here and tell you that I'm not 100 percent sure it is.

5 MS. STELLATO: But that's -- when the case was
6 reinvestigated, it was reinvestigated based on you stating
7 that you had heard.

8 MR. SPRUILL: And that -- that's what I've
9 heard. I've heard it from John Floyd. I've heard it from
10 Stanley James. But, hell, can you believe them?

11 MS. STELLATO: You heard it from Stanley James?

12 MR. SPRUILL: Yeah.

13 MS. STELLATO: The sheriff?

14 MR. SPRUILL: Yeah. Stanley James kept her
15 little boy, Sonja's little boy, while she was in prison.
16 Matthew. Stanley James come to the Hyde County Prison two
17 or three times to talk to me.

18 But, hell, you can sit here and believe me or
19 you can believe Stanley and John Floyd. Everything they
20 say -- you can't sit here and actually say, well, they're
21 telling the truth because their law enforcement. Hell,
22 both them been convicted. Hell, they got felony charges
23 like I got.

24 I mean I'm not saying -- John Floyd really tried
25 to help me a whole lot from -- from the best I understand.

1 Or he sure covered up and told me a bunch of lies.

2 MS. STELLATO: Were you offered a plea deal to
3 testify against Jones?

4 MR. SPRUILL: Seven and a half years.

5 MS. STELLATO: That's what you were offered?

6 MR. SPRUILL: That's what I was offered.

7 MS. STELLATO: Who offered you that?

8 MR. SPRUILL: Mitchell Norton and I can't
9 remember who was with them. And I tried to get Maynard
10 Harrell -- I wrote him and wrote him so many times when
11 I'm in jail, you know, trying to get this information
12 because that's when Prison Legal Service took up -- took
13 Brandon and me back to court in 2000 or 2001 on this case.

14 MS. STELLATO: Why did you tell investigators in
15 2004 that Joseph Lynn had confessed to the murder and
16 being present with McNair and Wilkins?

17 MR. SPRUILL: I want to say what John Floyd had
18 told me.

19 MS. STELLATO: But he didn't confess?

20 MR. SPRUILL: No. But here's what John Floyd
21 told me. And I'm not saying I didn't say it. John Floyd
22 said that he went Odom -- and this is what he told me --
23 he went to Odom had Joseph Lynn almost to confess to where
24 he said, you know, I was there, but I didn't do the
25 killing. And that's the names he come up with.

1 So I got it more or less from what John Floyd
2 told me. And I thought that was later than '04, but I
3 believe it was '04 at Hyde Correctional when he told me
4 that. Because I had a lot of people come. I had the SBI
5 come from Bertie County, because you know Rosa Brookes got
6 found in the river. Well, her and Sonja and Frank, all
7 them palled around together. I mean, you know, they --
8 wherever you saw one, you saw the other one.

9 So here's Frank gets killed. I get charged for
10 it. Sonja gets killed, more or less the same way. Rosa
11 Brookes gets throat cut, throwed in the river. I mean,
12 I'm not saying they're related.

13 MS. STELLATO: So let's talk about what Avis
14 Arnold told you in prison.

15 MR. SPRUILL: He told me he was the watchout
16 man.

17 MS. STELLATO: Okay.

18 MR. SPRUILL: He said that they drove into Foley
19 Road and put him out and they went up there and they were
20 going to rob Frank Swain. He said when they came back
21 out, he told them, Get in the truck, let's go. They went
22 up to Plymouth, took on Old Roper Road. Went up there to
23 McNair's house and they said sewed -- I mean they sewed
24 Maurice up with fishing twine from here to here. Now --

25 MS. STELLATO: Did you write the affidavit for

1 Avis Arnold?

2 MR. SPRUILL: Yeah.

3 MS. STELLATO: You did write it?

4 MR. SPRUILL: Yeah.

5 MS. STELLATO: Did he sign it?

6 MR. SPRUILL: Yep.

7 MS. STELLATO: Did you sign it?

8 MR. SPRUILL: I'm not sure. And sent it to Carl

9 Stewart. Carl Stewart wanted it. But Avis Arnold said he
10 couldn't write. That's the reason I wrote that.

11 MS. STELLATO: Did you sign his name?

12 MR. SPRUILL: No.

13 MS. STELLATO: That's his name?

14 MR. SPRUILL: That's his name.

15 MS. STELLATO: His signature?

16 MR. SPRUILL: Yeah.

17 MS. STELLATO: Why would he tell you that?

18 MR. SPRUILL: I don't know. I mean, I don't
19 know. I didn't buy him no canteen. I didn't offer him
20 nothing. My people didn't send him no money. He just
21 come to me right out the blue playing volleyball and said,
22 I know who you are and this and that. That's what he
23 tells me. But, hell, that's been 20 people who's on state
24 that's come and told me stuff like that.

25 MS. STELLATO: Did you know that directly after

1 the murder there were people who said they saw a white
2 male in a blue truck going down the dirt road to Frank
3 Swain's house?

4 MR. SPRUILL: I have heard that before.

5 MS. STELLATO: Who do you think that was?

6 MR. SPRUILL: I'm not sure.

7 MS. STELLATO: Because you didn't go there to
8 buy drugs?

9 MR. SPRUILL: No. And had a ponytail or long
10 hair. I didn't --

11 MS. STELLATO: Did you know that there's people
12 who said they saw you earlier that day there at the house
13 buying drugs?

14 MR. SPRUILL: No. I didn't know that.

15 MS. STELLATO: Were you there --

16 MR. SPRUILL: No.

17 MS. STELLATO: -- earlier that day?

18 MR. SPRUILL: I was not there.

19 MS. STELLATO: Did Maurice Wilkins ever sell you
20 drugs?

21 MR. SPRUILL: I don't think so. His mama did.
22 She's PJ. And his daddy is Bo Jack. The one that went to
23 prison where Janice Spruill and them...

24 MS. STELLATO: So your whole theory on Janice
25 Spruill -- I just want to be sure I have this right -- is

1 that she is after you because you were running around and
2 whatnot. She wasn't a fan of yours. But then there was
3 another time that you saw her in a drug house?

4 MR. SPRUILL: Yeah. That's with PJ.

5 MS. STELLATO: Uh-huh. That's -- so you think
6 that Janice Spruill pinned a murder on you in order so
7 that you --

8 MR. SPRUILL: I'm not thinking she done that. I
9 mean, I'm not downing that lady. I don't hate that lady.
10 I think it worked -- I think it worked out to where when
11 it all came down in Roper, everybody talking and this and
12 that, and Brandon and Nikki leave, she kept right on
13 working it to where she put this story together to where
14 here's Leroy, a hometown boy, these two people are
15 running, let's get -- now, Maynard Harrell told me a lot
16 of this and Vosburgh. We try Brandon first. The girl is
17 telling this story. We try Brandon first. We get him
18 convicted. Leroy ain't got no choice but to follow behind
19 them and take a plea or whatever.

20 MS. STELLATO: Why did you take a plea?

21 MR. SPRUILL: Because I was -- they told me Seth
22 Edwards -- well, Maynard Harrell said I -- you know, I
23 might as well take this plea because I've already lost. I
24 got tried when Brandon got tried. Now, that's what they
25 told me.

1 MS. STELLATO: But you're telling me today, I'll
2 sit in prison for the rest of my life rather than say that
3 I did this. You know, I'm telling the truth. I'm not
4 going to say I did it --

5 MR. SPRUILL: Oh, yeah.

6 MS. STELLATO: -- I'm not going to say Brandon
7 did it --

8 MR. SPRUILL: Oh, yeah.

9 MS. STELLATO: -- that's what you're telling me
10 today?

11 MR. SPRUILL: Well, I --

12 MS. STELLATO: But you took a plea?

13 MR. SPRUILL: Yeah.

14 MS. STELLATO: And you said you did it?

15 MR. SPRUILL: Yeah.

16 MS. STELLATO: Why did you do that?

17 MR. SPRUILL: Because what Maynard Harrell and
18 my lawyer said, Seth Edwards. They said that I was tried
19 right along with Brandon. Hometown, my truck, my house,
20 my -- now, that's what they told me. And want me to come
21 in there and Mitchell Norton told me he was in the damn
22 driver's seat. He had my partner convicted. The girl was
23 going to tell the same story on him going to tell on me.

24 He said, I'll offer you a deal. Second degree
25 murder, 40 years running concurrent. 17 years you'll be

1 home. I took that plea. Than other -- take a choice, go
2 before this whole thing again. Put my mama and daddy
3 through the same thing they put them on the stand put them
4 through before, I took this plea right here. Instead of
5 taking that chance.

6 Like they said, You're going to have a different
7 jury. You're going to have to different judge. Just
8 because he didn't get the death penalty, don't mean you
9 ain't going to get it. And that's why I took that plea.
10 That's the honest to God's truth.

11 MS. STELLATO: So if you did it over again,
12 would you take the plea?

13 MR. SPRUILL: Would I? What I know now, no.
14 No. Because I would have stuck with Brandon this whole
15 way. It makes it look like what he done, this right
16 there, he didn't do it. He stuck it out. I didn't.
17 Yeah, have I ever thought about that? Yeah, I feel bad
18 about that. Yeah. I really do.

19 MS. STELLATO: So what you told me about seeing
20 Janice Spruill in the drug house, you're not trying to say
21 that that's why she pinned the murder on you?

22 MR. SPRUILL: Oh, no, no, no.

23 MS. STELLATO: You're just saying --

24 MR. SPRUILL: That's the other thing, look --

25 MS. STELLATO: -- Janice Spruill did drugs,

1 that's all you're saying?

2 MR. SPRUILL: Oh, yeah.

3 MS. STELLATO: Because it sounded like you were
4 trying to say --

5 MR. SPRUILL: And maybe -- I mean, I'm not --
6 this lady -- this lady ain't my favorite fan. Don't get
7 me wrong. But I'm not trying -- they could parole me out
8 tomorrow, I'd go right back to Washington County. I'd
9 speak to her and go on my way. I got no -- I'm not down
10 on her where I would want to hurt her for something she --
11 no.

12 I'm just saying you she done all this corruption
13 right here. I knew a lot of it. I don't think she just
14 come here and pinned this murder on me because I knew all
15 the places she went and all the money that she took under
16 the table. Oh, I knew a lot. I know --

17 MS. STELLATO: Did you know a lot or did you
18 just hear a lot?

19 MR. SPRUILL: No, I know a lot. Bo Jack --

20 MS. STELLATO: What do you know?

21 MR. SPRUILL: Huh?

22 MS. STELLATO: What do you know?

23 MR. SPRUILL: I know Bo Jack tracking had bought
24 stuff for her.

25 MS. STELLATO: But how do you know that?

1 MR. SPRUILL: Through other people.

2 MS. STELLATO: Did you see it?

3 MR. SPRUILL: No, no.

4 MS. STELLATO: So people told you that? So
5 that's a big rumor, Bo Jack and Janice Spruill, that's a
6 favorite rumor?

7 MR. SPRUILL: Well, rumors went around Plymouth
8 a lot. But when you see stuff, when you work -- well,
9 I'll put it like this. Just like my sister, I don't know,
10 she probably wouldn't -- she'd probably take up with
11 Janice more than she would me. And I'm not saying that
12 bad because, you know, I like my sister and all. But I
13 told her some things that she -- Leroy don't tell nobody
14 that. Don't tell nobody that, that you saw Janice in the
15 drug house.

16 I said, Well, why?

17 Well, you just don't need --

18 It's the truth. I mean, I didn't think of
19 putting this lie on Janice. I run because I thought the
20 law was coming to get me. You know, PJ said, Well,
21 go down -- I was going to go out the back thing of the
22 trailer and all. I said, Well, they surrounded this
23 trailer. I go in the back room, Janice Spruill is sitting
24 on the bed.

25 MS. STELLATO: Did you say that after you were

1 convicted, Sonja Day told you she knew you didn't do it
2 and she knew who did?

3 MR. SPRUILL: Yep. Yep. Now, that's where me
4 and Ray Hurst come in right there. PJ's trailer sat right
5 on the Foley Road up there. Ray Hurst -- the law was on
6 them so tight, Ray Hurst put me out. I'm going to go up
7 there and buy some dope. I'm going to come back down the
8 road. He's going to circle around up there and pick me
9 up.

10 When I go out there and knock on the door, PJ
11 and Sonja come out. Now, Maurice is there, too. They
12 followed me all the way to the truck and tell me, said,
13 You need to leave here. They think you killed Frank.

14 And Sonja said, Cuz, I know you didn't kill
15 Frank. We know who killed Frank.

16 And, hell, it weren't a week later, she went up
17 north, from what I hear, and she got killed almost the
18 same way he did.

19 Now, I don't think that's just a coincident that
20 all that went down like that.

21 MS. STELLATO: You don't think it's a
22 coincidence that people involved in drugs get murdered?

23 MR. SPRUILL: No. I'm just saying, here's Frank
24 get killed like this. She goes up north. She tells me
25 this right here. And, hell, two weeks later, she's killed

1 more or less like he is.

2 MS. STELLATO: She didn't tell you who did it?

3 MR. SPRUILL: No. Well, hell, Maurice was
4 standing right behind her and that's the whole thing --

5 MS. STELLATO: So Sonja Day was with Maurice
6 Wilkins that day?

7 MR. SPRUILL: That he told me this?

8 MS. STELLATO: Well, she probably doesn't think
9 it's Maurice Wilkins, right?

10 MR. SPRUILL: I don't know. I always looked at
11 it like this -- and this is what everybody else said when
12 they said it was all related and tied together. I'm not
13 saying it is. There might be two different sets of
14 killers or whatever. I'm just saying by thinking,
15 everybody think and all, there ain't no way that Frank got
16 killed, that Frank got killed like he did, and this girl
17 Sonja knows that I'm her cousin, that I ain't going to go
18 to jail for killing Frank.

19 So these people saying, Well, she's the only one
20 that can hurt us now. Them boys already -- you know what
21 I mean?

22 MS. STELLATO: Don't you think if your cousin
23 and Frank Swain's girlfriend knew who killed him, she
24 would have come forward before the day that you were there
25 buying drugs?

1 MR. SPRUILL: I don't know. I'm not saying --
2 when you're into drugs and doing drugs, people don't do a
3 lot of stuff. You know what I mean? I just don't know.
4 I can't answer that right there, you know. Hell, I've
5 done things with drugs that...

6 MS. STELLATO: Did you tell the investigators in
7 2004 that a black female named Downy testified she saw a
8 blue truck that night coming from the murder scene?

9 MR. SPRUILL: Yeah.

10 MS. STELLATO: Who's that?

11 MR. SPRUILL: I don't know. She was washing
12 dishes. She told it on Brandon's transcript or something
13 like that. I don't know if they put it in the thing, but
14 it was told on the thing.

15 MS. STELLATO: Okay. She didn't tell you.
16 You're saying she --

17 MR. SPRUILL: No.

18 MS. STELLATO: Okay.

19 MR. SPRUILL: Right, yeah. See, a lot of this
20 stuff that you asked me a while ago, you said, you've got
21 be truthful; do you remember saying this? Some of this I
22 don't remember saying it. I'm not saying I didn't say
23 some of this. I can't sit here and say, no, I didn't say
24 that. I don't remember saying this. I mean I'm not
25 saying some of the stuff I didn't say.

1 Over all these years right here, I've been told
2 all kind of stories, all this. Say, well, that don't make
3 no difference. A lot of this is hearsay. 80 percent of
4 it I'd say, you know, hearsay.

5 MS. STELLATO: Why did -- why did Nikki and
6 Robert run?

7 MR. SPRUILL: Now, this is what I heard out
8 later.

9 MS. STELLATO: It's not what you heard. You
10 knew them. Nikki lived with you and Robert was at your
11 house every day. So you know why they ran.

12 MR. SPRUILL: No, I don't.

13 MS. STELLATO: Nikki didn't -- you didn't come
14 home from a polygraph and Nikki took off?

15 MR. SPRUILL: Oh, yeah. But I didn't know at
16 the time that they were running from the law and all. You
17 know what I'm saying? I didn't --

18 MS. STELLATO: I don't -- I don't care what the
19 other stuff is, okay. I understand what you're saying. I
20 don't care about South Carolina and Tennessee.

21 MR. SPRUILL: Oh, yeah.

22 MS. STELLATO: I'm saying --

23 MR. SPRUILL: Oh, yeah.

24 MS. STELLATO: -- they were running from the
25 murder.

1 MR. SPRUILL: Yeah. I'd say that, yeah. I
2 took --

3 MS. STELLATO: And you said --

4 MR. SPRUILL: -- I took the polygraph test and
5 come home. Well, I -- it wasn't a polygraph test I took.
6 They weren't even here, I don't believe, when I took the
7 polygraph. When I came home that day about a week or so
8 after that before Christmas and I told them I'd been up
9 at -- this is the exact words I said. I said, I've been
10 up there at the sheriff's department all morning. They
11 think I killed this Nigger.

12 And they both said, Don't worry about that, man.
13 You was at the party with us. I'll testify for you. And
14 I always joke with Brandon because he got more time than I
15 got.

16 But when Janice Spruill started questioning and
17 this and that and the other, they left, they run. Then
18 Janice asked me, Well, where are the guy and the girl you
19 hung with? I don't know. I don't even know their name.
20 I didn't know all that.

21 MS. STELLATO: Well, you knew Nikki was leaving.
22 She told you she was leaving.

23 MR. SPRUILL: Oh, yeah. Mitchell bought her a
24 bus ticket. But I didn't say, well, she's running because
25 we killed somebody and this and that, no.

1 MS. STELLATO: Well, why did she run?

2 MR. SPRUILL: I don't know. Because the best I
3 understand later was the warrant she had South Carolina.
4 And they would find out here who she was and who he was.
5 The best I understand on that.

6 Now, I don't know why she went back to South
7 Carolina and Mitchell bought her a bus ticket. I have no
8 idea about that. Now, I do know that they were
9 questioning me for it. But I don't know that she'd run
10 because of that right there. I think she run because
11 later, as I heard, because of the warrant she had and all.
12 Janice and them would have found out who she was. But she
13 didn't run because of no murder. I just don't believe
14 that.

15 MS. STELLATO: So you didn't tell police that
16 you came home from the polygraph test and that she was
17 asking you all kinds of questions and started crying and
18 getting upset and then left?

19 MR. SPRUILL: No. I don't believe that.

20 MS. STELLATO: Did Brandon Jones ever hit her?

21 MR. SPRUILL: Yeah.

22 MS. STELLATO: You saw that?

23 MR. SPRUILL: Yeah. And I'll tell you something
24 else I done for this girl. When I actually kicked her out
25 of my house where she couldn't live there no more, she

1 went down behind Ed's bar to this lady's -- named Cottie.
2 I don't even know what her last name was. Cottie Oliver
3 or something like that.

4 One morning at 4 o'clock in the morning Cottie
5 come down to my house. It done snowed about that deep
6 talking about Nikki is on the floor. Nikki is on the
7 floor.

8 Well, I didn't know what was wrong. So I go and
9 get my daddy's truck. I had to go from my house to my
10 daddy's, which is a mile, skating on snow and ice early in
11 the morning and get her and drive her all the way to
12 Washington County Hospital. And they carry her in there.

13 And she's telling them who she is and I'm
14 verifying for her, Yeah, well, she's staying with me. You
15 know, they want the information for the thing.

16 They said that she had gallstones and all.
17 Somebody told me she had an abortion -- I mean had a
18 miscarriage.

19 MS. STELLATO: When did that happen?

20 MR. SPRUILL: I can't tell you.

21 MS. STELLATO: Was it after the murder?

22 MR. SPRUILL: I can't tell you. I don't know if
23 it --

24 MS. STELLATO: Did you kick her out of your
25 house before or after the murder?

1 MR. SPRUILL: After the murder on kicking her
2 out of the house. Now, I'm not sure. Washington County
3 should have records on that girl if they done something as
4 far as -- but I know I stayed over there two hours with
5 them. Me, Cottie, and you know...

6 MS. STELLATO: So you went and got your dad's
7 truck, the truck that didn't work?

8 MR. SPRUILL: Well, it -- it drove on snow. And
9 I mean just all the way to -- well, you've been from Roper
10 to Plymouth before with -- I don't even think it was four
11 lanes, but halfway then. And you couldn't drive.

12 MS. STELLATO: Was Brandon mean to Dana Maybin?

13 MR. SPRUILL: Yeah.

14 MS. STELLATO: What did you see?

15 MR. SPRUILL: Well, I mean he treated her dirty,
16 you know, like he --

17 MS. STELLATO: Was he physically mean to her?

18 MR. SPRUILL: Well, he'd put his hands on her
19 and slapped her before and this and that. But as far as
20 beat her down where her eyes are black, no, I've never
21 seen that.

22 MS. STELLATO: But you saw him hit her?

23 MR. SPRUILL: Yeah.

24 MS. STELLATO: Did he hold anyone's fingers to
25 the fire and burn them?

1 MR. SPRUILL: No. I don't know about that. I'm
2 not sure of that. I know he burned an American flag in my
3 living room one night.

4 MS. STELLATO: In your fire?

5 MR. SPRUILL: Yeah. He went next door and stole
6 an American flag. He stole an American flag off the
7 next-door neighbor's house, big. And my wood stove and
8 then -- I had a real big living room.

9 MS. STELLATO: Do you think she was scared of
10 him?

11 MR. SPRUILL: Well, here's what she told me
12 after Brandon actually -- I don't know if he left, gone to
13 Tennessee. I didn't know where he was from. I
14 didn't know if -- I ain't seen him in a couple of days.

15 She sat right at any bar in my house and told me
16 that son of bitch would pay for what he done to her. Now,
17 what -- what he done to her, I told you --

18 MS. STELLATO: She didn't tell you what it is?

19 MR. SPRUILL: No. So I'm putting two and two
20 together. You know, he's got her pregnant. She's lost
21 his baby from the hospital thing. Now, I'm not knowing
22 all this. I can't tell you truth about it today. I'm
23 just telling you she's told me, That son of bitch will pay
24 for what he done to me.

25 MS. STELLATO: Did he ever brand her on her

1 stomach?

2 MR. SPRUILL: I'm not -- I don't know about
3 that.

4 MS. STELLATO: You don't know anything about
5 that?

6 MR. SPRUILL: No.

7 MS. STELLATO: Did you know --

8 MR. SPRUILL: I know he was physical as far
9 as --

10 MS. STELLATO: Do you know Sherry Honea?

11 MR. SPRUILL: I know of her. She's the one that
12 more or less got this started, the best I understand.

13 MS. STELLATO: Do you know Robert Spruill?

14 MR. SPRUILL: Yeah. He's dead now.

15 MS. STELLATO: Are you related to him?

16 MR. SPRUILL: Nope. But she busted him in the
17 head with a beer bottle at Ed's bar. And I know Janice
18 drug her out from underneath a bed down in a house in Pea
19 Ridge or something like that.

20 And, I mean, I'm not sitting here telling you,
21 Ms. Stellato, that everything on that paper right there I
22 didn't say some of that. Say, Well, you've got to tell me
23 the truth. I mean I've told you the best I can tell you.
24 Some of it I may not remember. I might have said some of
25 that stuff. I don't remember saying it. But, you know, I

1 just don't --

2 MS. STELLATO: Do you know what time you left
3 the bar that night?

4 MR. SPRUILL: Well, I know it was after
5 1 o'clock because Ed closes up. And they had a band
6 there. So I'm saying it was after 1 o'clock.

7 MS. STELLATO: How did you get home?

8 MR. SPRUILL: Ed and Lottie took me -- me and
9 Smarty Spruill to my house. Now, that's another thing,
10 Brandon and Nikki walked from that bar. From there to
11 that bar ain't halfway the distance, I told you, from
12 Russell and them. It's like 250 yards probably from that
13 bar to my house. 100 yards from Russell's house to that
14 bar.

15 And they were arguing and a fighting, you know,
16 just like they normally do when they get drunk. Went to
17 my house. I cooked salmon cakes, sweet potato, I mean...

18 MS. STELLATO: What were they arguing over?

19 MR. SPRUILL: I have no idea. Hell, they argued
20 all the time. I mean they were good as long as they
21 weren't drinking.

22 MS. STELLATO: Would she hit him?

23 MR. SPRUILL: Yeah, she was rough, too. Them
24 girls were rough. Both them girls right there, they was
25 rough characters, too.

1 MS. STELLATO: Did you tell the police that --

2 MR. SPRUILL: I mean they'd fight in the bar.

3 I've seen them fight in the bar, other girls. Yeah,

4 they're pretty touch.

5 MS. STELLATO: How many times have you been to

6 Swain's house do you think?

7 MR. SPRUILL: Who, me?

8 MS. STELLATO: Uh-huh.

9 MR. SPRUILL: In a period of what, years?

10 MS. STELLATO: Ever. Yeah.

11 MR. SPRUILL: I don't know.

12 MS. STELLATO: Did you tell the police it was at

13 least a year before the murder was the last time you had

14 been to his house?

15 MR. SPRUILL: I probably said that.

16 MS. STELLATO: Did you tell other police that it

17 was two months before the murder?

18 MR. SPRUILL: And I probably -- I probably could

19 have sold -- I probably said that. And that was more or

20 less probably right because I was trying to get clean and

21 then I went to rehab. There's probably more to it.

22 MS. STELLATO: But you don't really know --

23 MR. SPRUILL: I don't really know.

24 MS. STELLATO: -- the last time you went?

25 MR. SPRUILL: No.

1 MS. STELLATO: So when people ask you these
2 questions and you're giving conflicting answers, you say
3 you left the bar at 1:00, when you say you left the bar at
4 2:30, when you say it was two months, it was one year --

5 MR. SPRUILL: I don't know -- I don't --

6 MS. STELLATO: -- do you don't know?

7 MR. SPRUILL: No.

8 MS. STELLATO: Why are you answering it that
9 way?

10 MR. SPRUILL: Well, I mean I just don't know. I
11 could say 1:00 because the bar closed down most the time
12 around 1:00 or 1:30. But as far as it to be a certain
13 time, I can't...

14 MS. STELLATO: Well, a year and two months is
15 pretty different though, right?

16 MR. SPRUILL: Well, yeah.

17 MS. STELLATO: But you don't know?

18 MR. SPRUILL: No.

19 MS. STELLATO: I mean that's what you need to
20 say. You need to say I don't know.

21 MR. SPRUILL: Yeah. I mean...

22 MS. STELLATO: Did you tell the police in 2004
23 that the last time you had been to Spruill's (sic) house
24 was actually a year ago, but you had told police it was
25 October or November?

1 MR. SPRUILL: I'm not saying I didn't say that.

2 MS. STELLATO: Do you remember every time you
3 talked to the police?

4 MR. SPRUILL: No. Hell, I've talked to so many
5 of them. I've been through Prison Legal Service. I've
6 been through SBI agents out of Bertie County asked me
7 about the Rosa Brooke murder. Let me see, Stanley James
8 has come a bunch of times. People from Martin County said
9 they had leads on stuff. SBI agent come from there. I've
10 had John Floyd, Stanley James. I've had O'Neal from
11 Plymouth Police Department because he want to try to solve
12 this Day because it's in his jurisdiction. I've had a lot
13 of people come and ask me questions and all. I mean...

14 MS. STELLATO: Why did you tell police in 2004
15 that you still would not be surprised to hear that Brandon
16 and Nikki had killed Frank Swain?

17 MR. SPRUILL: And I'm not saying I didn't say
18 that. I --

19 MS. STELLATO: Well, if you were with them that
20 whole night --

21 MR. SPRUILL: That whole thing, but I'm not
22 saying I didn't tell them.

23 MS. STELLATO: -- you would be surprised? Well,
24 why would you tell them that?

25 MR. SPRUILL: Hell, they were wild. I don't

1 know that they -- I didn't know that they were with me and
2 didn't do it that night.

3 MS. STELLATO: You wouldn't be surprised to hear
4 that Brandon and --

5 MR. SPRUILL: Surprised to hear it, no, I
6 wouldn't be surprised to hear it.

7 MS. STELLATO: Well, you --

8 MR. SPRUILL: But there's no way they could have
9 done it, what I'm saying. They were with me. They
10 weren't never out of my sight no -- long enough to --

11 MS. STELLATO: So it wouldn't surprise you -- is
12 this correct saying that it wouldn't surprise you to hear
13 they murdered someone, it would just surprise you to
14 hear they murdered someone --

15 MR. SPRUILL: Oh, no doubt.

16 MS. STELLATO: -- that night?

17 MR. SPRUILL: That wouldn't surprise me a bit,
18 no.

19 MS. STELLATO: That's totally different than
20 what you first said.

21 MR. SPRUILL: All right. All right. Well, that
22 right there, that wouldn't surprise me if they were
23 somewhere and somebody told me that the way they were
24 rough and all that they killed somebody. Yeah. I'll go
25 along with what you're saying there.

1 But as far as saying they were gone from me that
2 night and went and killed this man, there's no way in the
3 world. There's no way in the world.

4 MS. STELLATO: You signed an affidavit in 2004 I
5 think it is -- we're going to have to look at the date on
6 that -- that you said that you knew Brandon Jones and he
7 was not a violent person.

8 MR. SPRUILL: Well, I -- I'm not saying I didn't
9 sign it. But, you know, they had him on some murders in
10 Texas. They said he had killed a girl in a convenience
11 store in Texas and all. And turns out that was a lie.
12 But I had heard it a lot, you know.

13 MS. STELLATO: Did you know him to be a violent
14 person?

15 MR. SPRUILL: Well, I wouldn't say violent. I
16 mean, it -- and I would -- to -- as far as beating on a
17 girl, I never done it and all, yeah. If you want to say
18 that, yeah. He -- he was violent to her. I ain't saying
19 he beat her down where her eyes were shut and all that,
20 but I've seen him slap her around and beat on her, yeah.

21 MS. STELLATO: So that affidavit would be
22 untrue?

23 MR. SPRUILL: Yeah.

24 MS. STELLATO: Why did you sign it?

25 MR. SPRUILL: I don't know. But I -- I don't

1 think he's no violent person, from what little bit I've
2 been around him, just to say, you know, he's going to go
3 out there and murder this man at the convenience store, no
4 I don't...

5 MS. STELLATO: Do you know -- did you -- did you
6 make statements that you were outside when the murder took
7 place?

8 MR. SPRUILL: No.

9 MS. STELLATO: Do you know who killed Frank
10 Swain?

11 MR. SPRUILL: No.

12 MS. STELLATO: If you knew, would you tell me?

13 MR. SPRUILL: Yep.

14 MS. STELLATO: Did you want to testify at
15 Brandon's trial?

16 MR. SPRUILL: Yep.

17 MS. STELLATO: Why didn't you?

18 MR. SPRUILL: They wouldn't let me.

19 MS. STELLATO: Who wouldn't let you?

20 MR. SPRUILL: I don't -- I can't answer that.

21 MS. STELLATO: Well, you're sitting across from
22 me now saying I will spend the rest of my life in prison
23 before I'll let that man -- you know, before I'll say that
24 man did it.

25 MR. SPRUILL: I will.

1 MS. STELLATO: But you didn't testify at his
2 trial.

3 MR. SPRUILL: No. They wouldn't let me.
4 Vosburgh and them had me right in a room. I mean I was
5 telling Mitchell with like tears in the eyes. He said,
6 That's how I want you to tell it on that stand. Next
7 thing I know, they ain't let me in courtroom. Now, why or
8 how, I don't know.

9 But getting back to the part right there where
10 you said I'll spend the rest of my life in prison right
11 there for something that I say he done, there's no way
12 that boy could have done it because there's no way he was
13 out of my sight, him and her, over 15 minutes. They was
14 out back drinking whiskey. That man could have went and
15 drove to the Foley Road and killed that man up like I seen
16 pictures of come and back and cleaned up and came to that
17 bar. There's no way in hell he could have done it.

18 MS. STELLATO: Did you --

19 MR. SPRUILL: That's what I'm saying, there's no
20 way.

21 MS. STELLATO: Did you buy drugs from Alfred
22 Armstrong?

23 MR. SPRUILL: Alfred Armstrong. Yeah, I believe
24 I have.

25 MS. STELLATO: Has he ever told you anything

1 about the murder?

2 MR. SPRUILL: Yep.

3 MS. STELLATO: What did he tell you?

4 MR. SPRUILL: He -- well, hell, you can pick
5 one. He told me him and his sister, Niecey, was going
6 down there the same night Frank got killed and they saw
7 blue lights and rescue squad down there. And some guy
8 from Williamston picked him up and he had a tire tool in
9 the back of his truck. And he said, What in the hell is
10 this blood on here?

11 He said, I had to knock an old dog in the head.
12 Now, that's where Martin County SBI come and talked to me
13 about.

14 MS. STELLATO: You understand that the tire iron
15 that they used in the murder was found inside the house,
16 not inside somebody's car, right?

17 MR. SPRUILL: Yeah. But I'm just saying what he
18 told me. And then I asked him, I said, Well, will you
19 tell my -- and this is how I said it, I said, Will you
20 tell my attorney that? Said, Yeah.

21 So that's when Charlie called Chris Mumma and
22 told her that, you know -- so the next thing I knew,
23 there's some SBI down there at Hyde talking to Alfred.

24 MS. STELLATO: What did he tell them?

25 MR. SPRUILL: I don't know. Nobody never told

1 me nothing. I don't know what he told them.

2 MS. STELLATO: What was your relationship with
3 Margie Perry?

4 MR. SPRUILL: I didn't.

5 MS. STELLATO: You didn't have a relationship?

6 MR. SPRUILL: She tried to get me -- her and
7 Janice were real tight. And like right after this
8 murder -- right after this murder, she come down to Ed's
9 bar. Hell, her husband ain't been dead long, Terry
10 (inaudible), she tried to get me in the car with her and
11 going to carry me home to her house.

12 MS. STELLATO: Did you date her daughter?

13 MR. SPRUILL: No. Brandon did. Margie was --
14 Little -- Margie. I don't know what her daughter's name
15 was.

16 MS. MATOIAN: Margie Little.

17 MS. STELLATO: Margie Little?

18 MR. SPRUILL: Now, Brandon messed around with
19 her in between him and Nikki. But see, I didn't know
20 Brandon and these people but -- listen, I met them the day
21 before Thanksgiving, which is -- what day is that on?

22 MS. STELLATO: The end of -- I don't know.

23 MR. SPRUILL: The 25th. Just say the 24th,
24 Thanksgiving. And this happened on the 18th of December.
25 There ain't no way no 20-year-old girl and a 20-year-old

1 boy and I'm 34 years old I'm going to carry a man and a
2 girl down to this trailer park and kill this man with
3 somebody I ain't know but ten days. I mean I've done a
4 lot of stuff. I've gone a lot of drinking. No.

5 MS. STELLATO: Did Ray Hurst -- did his truck
6 look like your dad's truck?

7 MR. SPRUILL: Yeah. Well, my daddy's truck --
8 if you were to see my daddy's truck at night and pass it,
9 you'd swear it was white. It was like a Carolina blue.
10 Ray Hurst's was dark. It was a dark blue.

11 MS. STELLATO: Dark blue?

12 MR. SPRUILL: Dark blue. But it was a same make
13 of truck, Ford, same, you know...

14 MS. STELLATO: Have you ever talked to Sherry
15 Honea about the murder?

16 MR. SPRUILL: Who?

17 MS. STELLATO: Sherry Honea. What was her name
18 at the time?

19 MR. SPRUILL: No.

20 MS. MATOIAN: Terry Haynes.

21 MS. STELLATO: Terry.

22 MR. SPRUILL: Sherry, I knew her as Terry
23 Haynes.

24 MS. STELLATO: Right.

25 MR. SPRUILL: No. I don't know what -- she fell

1 off the face of the earth. The last I heard, she hit
2 Robert Spruill in the head with a beer bottle. And Janice
3 and all went down to Ed's bar.

4 Now, I wasn't even going to Ed's bar then. And
5 she was telling Janice -- this is -- this is hearsay now,
6 said, Listen, I know Janice was going to let her go for
7 busting him in the head with a beer bottle. She wanted to
8 know about the information.

9 That's when they found out, said, Look, I've got
10 some information on a murder. That's when she said Nikki
11 and Brandon and us done this murder. That's where it
12 actually got talking.

13 But -- said, Well, how'd she know about it?

14 Every everybody in the bar was joking about this
15 for two or three weeks about how I killed a -- you know,
16 this and that. Everybody joked about it. I mean, I
17 weren't joking about it because the man was dead. I'm
18 sorry he's dead. You know, I'm sorry for his family he's
19 dead. But damn, if I ain't sorry I've done 20 years for
20 killing somebody I didn't kill.

21 MS. STELLATO: Did you tell Steve Furlough --
22 Furlough -- how do you say his last name?

23 MR. SPRUILL: Furlough or Furlough, some
24 people --

25 MS. STELLATO: Furlough. Did you tell him that

1 you never left the bar that night, that Jones and one of
2 the gypsies did?

3 MR. SPRUILL: And I may have told him that. I'm
4 not saying I didn't.

5 MS. STELLATO: The gypsies are the Champs?

6 MR. SPRUILL: Yep. I'm not saying I didn't.
7 But, hell, like you say, Steve Furlough, I mean, he -- I
8 worked for him, he's a good friend, but I can't believe
9 nothing he told me. Just like he said the same thing, You
10 can't believe nothing Leroy Spruill said. He told the law
11 that. We talked about that before.

12 But he's not mad at me. And I don't know what
13 he would say now. But, hell, he wrote an affidavit,
14 things for me, trying to get my home plan, job plan, and
15 all this. He just --

16 MS. STELLATO: But did you tell him that?

17 MR. SPRUILL: I'm not sure. I can't tell you.

18 MS. STELLATO: Why would you say that?

19 MR. SPRUILL: I can't -- I don't remember saying
20 it. I'm not saying I didn't, but I -- I can't remember
21 saying that.

22 MS. STELLATO: Did he leave that night with a
23 gypsy?

24 MR. SPRUILL: Uh-uh. I'm going to tell you,
25 listen, no matter what was said and this and that, if I

1 said this back then, that boy and girl never got out of my
2 sight over 15 minutes all night long. There's no --

3 MS. STELLATO: Did you ever physically fight
4 with Jones?

5 MR. SPRUILL: Who? Yeah. Right out in my -- in
6 the street, yeah, right in front of my house.

7 MS. STELLATO: What happened?

8 MR. SPRUILL: Well, he didn't have hardly a
9 place to go or nothing. He had borrowed my clothes and
10 coats. Like, he'd be at my house and the next day, Hey,
11 let me borrow your coat. So he had a bunch of my clothes.

12 And I asked him, Man, I need my clothes back,
13 you know. And we got in a fight over that.

14 And he was in the truck getting ready to go home
15 with the gypsies. And he kept running his mouth. I said,
16 Well, let him out that truck. And they let him out that
17 truck. He went home all right.

18 MS. STELLATO: So you --

19 MR. SPRUILL: But I mean the next day we --

20 MS. STELLATO: -- you were kind of -- the last
21 time I interviewed you, you said you didn't get in fights
22 with people.

23 MR. SPRUILL: Well, I mean I didn't go out there
24 and just start and go to the bar and fight and -- I mean I
25 won't --

1 MS. STELLATO: It was a fight, right?

2 MR. SPRUILL: Yeah. It's a fight.

3 MS. STELLATO: Is there other fights you haven't
4 told me about?

5 MR. SPRUILL: Like over all my lifetime?

6 MS. STELLATO: Around the time of the murder.

7 MR. SPRUILL: No, no. I've been in two fights I
8 think in -- I'll say around the time of the murder. And
9 that was Brandon, me and him got in that scuffle. And one
10 of the gypsy boys, he's dead now, named Bruce. I got in a
11 little scuffle with him in the bar. But I mean, it ain't
12 nothing that -- no more than somebody drinking. It ain't
13 like it was no -- hurt nobody or nothing bad. I mean it's
14 still a fight. Yeah, it's a fight.

15 MS. STELLATO: Did Jones fight with a lot of
16 people?

17 MR. SPRUILL: No. Argued a lot with people, but
18 I wouldn't say fight. Hell, if you're talking about
19 fighting, he probably beat on her more than he beat on --
20 as far as fighting. You know what I mean? But, hell, he
21 couldn't do but so much. Hell, I mean he weren't here but
22 25 days. I mean you can do a lot in 25 days, but it
23 ain't, you know...

24 Now, I ain't saying that he weren't here longer
25 than 25 days. That's about how long here and there I'd --

1 you know, I ain't going to tell you where he went or
2 whatever.

3 MS. STELLATO: Did you get robbed in your house
4 after -- a few days after the murder?

5 MR. SPRUILL: No. Chris Davenport did.

6 MS. STELLATO: He got robbed?

7 MR. SPRUILL: Yeah.

8 MS. STELLATO: He was at your house and he got
9 robbed?

10 MR. SPRUILL: Yeah. That's where the knife come
11 from. Do you want me to tell you the story about the
12 knife?

13 MS. STELLATO: If you feel like I need to know.

14 MR. SPRUILL: Nikki took it out of his pocket
15 along with his money.

16 MS. STELLATO: So Nikki robbed him?

17 MR. SPRUILL: Yeah. Well, here's how it started
18 out. He was drunk in my house. We had partied all night.
19 Everybody left. A lot of people left. Chris was sitting
20 in a chair, like a recliner of mine. And he was right
21 here. Stuff was falling out of his pocket and laying back
22 in that recliner. So she got his knife. So she went in
23 his pocket. And I'm sitting right there. And she takes
24 20s, 5s, change. Everything he had in his pocket, even to
25 a bag of marijuana and a pipe. She took it all. Now,

1 that's --

2 MS. STELLATO: Kind of like how Frank Swain got
3 robbed?

4 MR. SPRUILL: Huh?

5 MS. STELLATO: Kind of like how Frank Swain got
6 robbed?

7 MR. SPRUILL: Yeah.

8 MS. STELLATO: Well --

9 MR. SPRUILL: Same -- I mean, if you look at
10 it -- if you look at it like that, yeah, that's exactly.

11 MS. STELLATO: How much money did she steal, do
12 you know?

13 MR. SPRUILL: I don't know. It was over \$60.

14 MS. STELLATO: She didn't give you some of it?

15 MR. SPRUILL: Uh-uh. I tell you what she done
16 is she went and bought -- it was right around
17 Christmastime. She was buying stuff to send home to her
18 kid, her daughter, a Barbie Doll and this and that. I
19 tell you, I remember it.

20 MS. STELLATO: How come you never told anyone
21 that?

22 MR. SPRUILL: I don't know.

23 MS. STELLATO: He had drugs on him, too?

24 MR. SPRUILL: Uh-huh.

25 MS. STELLATO: She took those? You used them?

1 MR. SPRUILL: It was pot. We probably smoked
2 it, yeah. That's where the knife came from. And they got
3 the knife out of my house. The same place they got the
4 can. Because I used the knife to punch the holes in the
5 can.

6 MS. STELLATO: So you and Dana Maybin robbed
7 someone in your own house?

8 MR. SPRUILL: No. Not -- not -- no, I didn't
9 rob. I was there.

10 MS. STELLATO: But you knew it was happening,
11 right?

12 MR. SPRUILL: Yeah. Uh-huh. Oh, yeah.

13 MS. STELLATO: You smoked the drugs, right?

14 MR. SPRUILL: Yeah. But it was like a funny
15 thing. Every time she'd go in his pocket and pull out a
16 20 or whatever, she'd laugh.

17 MS. STELLATO: It's really not funny.

18 MR. SPRUILL: Huh?

19 MS. STELLATO: It's really not funny.

20 MR. SPRUILL: I'm just saying it was funny at
21 the time.

22 MS. STELLATO: Kind of like the murder was funny
23 at the time?

24 MR. SPRUILL: No. I don't know nothing about
25 that.

1 MS. STELLATO: Do you know about Edward Hudson?

2 MR. SPRUILL: Who?

3 MS. STELLATO: Edward Hudson.

4 MR. SPRUILL: Edward Hudson. No. I know a
5 Garland Hudson. I don't know a Hudson.

6 MS. STELLATO: So did you tell Ray Hurst that
7 you had been -- that you had been at Frank Swain's house
8 or some other guy's buying \$190 worth of cocaine?

9 MR. SPRUILL: I don't -- I don't remember.

10 MS. STELLATO: Do you remember being at Frank
11 Swain's house buying cocaine, \$190 worth?

12 MR. SPRUILL: No. Hell, I'd been there -- I
13 don't know. I can't tell you that. I mean I can't tell
14 you no dates that I went there and bought dope. I mean I
15 just can't do it.

16 MS. STELLATO: Do you ever remember a time being
17 outside of Frank Swain's house an argument was going on
18 and there was a knife laying on the hood of a truck?

19 MR. SPRUILL: No. I don't remember that. No.
20 And I don't know where a lot of this come from, I mean...

21 MS. STELLATO: Did you tell him on Monday after
22 the murder that you had been to Frank Swain's house that
23 night to get cocaine with your friends?

24 MR. SPRUILL: No. Mitchell and Ray were pretty
25 tight. I mean, he let him live in the trailer behind his

1 fish market. They were pretty tight. So I mean, I don't
2 know what --

3 MS. STELLATO: So that never happened that --

4 MR. SPRUILL: What?

5 MS. STELLATO: -- that you were outside of Frank
6 Swain's house and there was a knife on a truck?

7 MR. SPRUILL: No.

8 MS. STELLATO: You don't remember that
9 happening?

10 MR. SPRUILL: No. I don't remember that
11 happening.

12 MS. STELLATO: You didn't tell someone else
13 that?

14 MR. SPRUILL: I'm not sure I did. But I -- I
15 don't remember telling them that.

16 MS. STELLATO: Did you say that you picked up a
17 butcher knife and moved it because you were scared and
18 that you believed your fingerprints could be on a knife
19 found inside --

20 MR. SPRUILL: No.

21 MS. STELLATO: -- Frank Swain's house?

22 MR. SPRUILL: No.

23 MS. STELLATO: You never picked up the knife?

24 MR. SPRUILL: No. And the only thing I ever
25 heard that Mitchell Norton told me, he had seven sets of

1 fingerprints that was at that crime scene, and two of them
2 belonged to me and two of them belonged to Brandon. Now,
3 I was told that by him.

4 I -- I -- you know. I said, There's no way
5 that -- because I mean I weren't there and my fingerprints
6 ain't there.

7 MS. STELLATO: Did you tell Ray Hurst later that
8 you took two guys that you didn't know who came up to you
9 at the bar that night and asked you where they could get
10 some rocks that you drove them to Frank Swain's house and
11 dropped them off?

12 MR. SPRUILL: No. That was -- that was a long
13 time before this even -- that's a long time before this
14 even happened right there.

15 MS. STELLATO: Before the murder?

16 MR. SPRUILL: Oh, that's a long time before
17 that. I know what he's talking about there. It was --
18 matter of fact, it was Steve Furlough's cousin and Curtis
19 Furlough. But that was like two months before this
20 happened.

21 MS. STELLATO: So you -- but you took them --

22 MR. SPRUILL: Yeah.

23 MS. STELLATO: -- you took these two guys to --

24 MR. SPRUILL: Yeah.

25 MS. STELLATO: -- to Frank Swain's house?

1 MR. SPRUILL: Yeah. But that was like --

2 MS. STELLATO: And then what?

3 MR. SPRUILL: Bought dope. Just like, you know,
4 I carried --

5 MS. STELLATO: They -- they bought dope?

6 MR. SPRUILL: Yeah.

7 MS. STELLATO: You just told me that you
8 couldn't bring anyone else.

9 MR. SPRUILL: But they knew them. They knew
10 Steve Furlough. Frank knew Steve Furlough's cousin and
11 Curtis Furlough.

12 MS. STELLATO: Well, then why did you have to
13 take them there?

14 MR. SPRUILL: Huh?

15 MS. STELLATO: Then why did you have to take
16 them there?

17 MR. SPRUILL: We were at the bar drinking. They
18 were going to turn me on. Do you know anybody that's got
19 in any dope? I said, Yeah, Frank. So we go out there and
20 get it. But that was like two months or more before this
21 murder or anything, this happened. Way before then. I do
22 remember that.

23 That's -- a lot of this stuff that -- that I'm
24 not saying I didn't say and all ain't put in right here
25 within the week of the murder and all.

1 MS. STELLATO: Did Dana Maybin ever tell you she
2 knew what happened to the Ray Hurst truck?

3 MR. SPRUILL: Yeah.

4 MS. STELLATO: What did she tell you?

5 MR. SPRUILL: The same thing I heard. That
6 Chris and somebody else had tore it up.

7 See, this is how that leads back right here. I
8 think it leads back to where he thinks Brandon and -- and
9 Nikki done this because of his money got missing while he
10 was at our house. You know what I'm saying? But then
11 Ray --

12 MS. STELLATO: So he was mad and he came back
13 and did that to his truck?

14 MR. SPRUILL: Now, that's the story. I'm not
15 saying that's true. I can't sit here and say that
16 happened. I don't know.

17 MS. STELLATO: Did Brandon ever tell you he knew
18 what happened to the truck?

19 MR. SPRUILL: No.

20 MS. STELLATO: He never told you he did it?

21 MR. SPRUILL: No. Now, I'm not saying he didn't
22 tell me. I don't remember him telling me that he done it.
23 No. I'm not saying he didn't tell me that. I don't
24 remember him telling me that.

25 I remember Ray Hurst -- I got blamed -- I got

1 blamed -- well, me, him, and Nikki got blamed for it. But
2 the story was Chris done it because he lost his money and
3 stuff at the -- my house. And he don't know who took his
4 money because there was 20 people there at my house that
5 night.

6 MS. STELLATO: Did you start changing your story
7 when you and Jones were sitting at the bar that night and
8 he told you, hell, you were with me, don't worry about it?

9 MR. SPRUILL: No. The only thing I know sitting
10 at a bar that I remember anything -- and this was -- they
11 said the night that this murder happened. And I don't
12 remember it, but this is what a girl named Lynn Rogers
13 that I was pretty tight with that run the bar, she said
14 that we left, which she's probably talking about -- I'm
15 not -- I ain't saying she told the law we didn't leave.
16 But as far as leaving, going out of the bar, we went out
17 behind and drank whiskey. We might have been gone 10 to
18 15 minutes back there bullshitting and drinking whiskey.
19 And she said we come back in and we were boosting about he
20 we had just killed a Nigger. Now, she told that. I mean
21 she told several people around the bar and all before we
22 even went to trial.

23 MS. STELLATO: But were you in the bar another
24 night after all of this, after all that happened and you
25 were in the bar with Brandon having a conversation about

1 the murder, and Brandon told you --

2 MR. SPRUILL: No.

3 MS. STELLATO: -- not to worry because he was
4 with you that night?

5 MR. SPRUILL: Well, now, both of them had told
6 me, you know, Don't worry about -- you know, but -- I
7 don't remember telling him that. Now, I remember about
8 the lie detector test and them -- well, not lie detector,
9 but them stripping me down. I remember them telling me
10 they don't --

11 MS. STELLATO: But before they told you that,
12 you didn't know you were with them that night?

13 MR. SPRUILL: No. But, you know, we all talked
14 about this, that and all. But I mean it was more or less
15 weren't trying to cover something to hide something.
16 Everybody was just talking about how this black guy got
17 killed. And then my name was in it and different people's
18 name was it.

19 Hell, Curtis Furlough, the same boy I carried up
20 there I told you two months before that, he even got
21 brought up in it because he had a blue truck. The same
22 kind of truck and all. But his mama said he was at the
23 hospital because his wife was having a baby. He got it on
24 video.

25 MS. STELLATO: Would you be surprised if Brandon

1 Jones said that he thinks you know who did it?

2 MR. SPRUILL: Say what now.

3 MS. STELLATO: Would you be surprised if Brandon
4 Jones said that he thinks you know who --

5 MR. SPRUILL: No. No. That I done it or --

6 MS. STELLATO: No. That he thinks you know who
7 did it.

8 MR. SPRUILL: I'm not surprised that he
9 wouldn't.

10 MS. STELLATO: Would you be surprised if he said
11 that you did it?

12 MR. SPRUILL: Yeah, I'd surprised at that.

13 MS. STELLATO: Why?

14 MR. SPRUILL: I just would. Because he -- I
15 just don't believe with the time he's done and the time
16 I've done and what we know the story was, no, I just don't
17 believe it.

18 MS. STELLATO: But -- but you do believe that he
19 would say you probably know who did it?

20 MR. SPRUILL: Yeah.

21 MS. STELLATO: Do you think that's weird?

22 MR. SPRUILL: No. Because he's going on what --
23 he's from this -- I'm from this hometown and he ain't.
24 And he knows I know all these boys, so I'll go along with
25 that.

1 MS. STELLATO: Did you tell him you knew who did
2 it?

3 MR. SPRUILL: No. And I ain't saying I ain't
4 told him because all I've heard about Maurice and all
5 this. I'm not saying I didn't, yeah. I'm not saying I
6 didn't.

7 MS. STELLATO: It's actually Brandon who's been
8 the most confident that he was with you all night, right?

9 MR. SPRUILL: Say that again now.

10 MS. STELLATO: I mean Brandon has never wavered
11 that he was with you all night?

12 MR. SPRUILL: I don't know.

13 MS. STELLATO: You have?

14 MR. SPRUILL: I have.

15 MS. STELLATO: Yes.

16 MR. SPRUILL: Yeah. I'm not saying he has, no.
17 I'm not saying he would tell you he was with me all night.

18 MS. STELLATO: Do you remember when Jones had
19 blood on his hands?

20 MR. SPRUILL: Yep.

21 MS. STELLATO: What -- what --

22 MR. SPRUILL: He got --

23 MS. STELLATO: -- day do you think that was? I
24 know you can't remember, but --

25 MR. SPRUILL: A week or so before the murder.

1 He fell down a set of steps where he was living up there
2 at Ed Champ's. And I mean I was sitting at the bottom of
3 the steps when he come all the way down it.

4 And we all went to the bar. And his whole pants
5 on the shin, I said, Man, you need to go in there. And he
6 said, Man, don't worry about it. I do know that.

7 MS. STELLATO: So it --

8 MR. SPRUILL: And Margie --

9 MS. STELLATO: -- was a lot of blood?

10 MR. SPRUILL: Yeah. He skinned his whole shin.
11 He come down a whole set of steps. I mean tore the bark
12 off his shin.

13 MS. STELLATO: Was it seeping through his
14 clothing?

15 MR. SPRUILL: Yeah. And he went to the bar and
16 he danced with Margie Perry, the same girl that turned
17 around on the trial thing and said she saw blood on his
18 pants. But that weren't -- that weren't the night that it
19 happened. This was a week before that.

20 MS. STELLATO: How do you know that?

21 MR. SPRUILL: I know. I was there when he fell
22 down the steps. Had a pair of brown pants on and it was
23 coming through the thing. Know it good. Hell, we had
24 been up there getting high and we were going --

25 MS. STELLATO: He doesn't really remember that.

1 MR. SPRUILL: Well, he don't. I remember it
2 good. I remember it real good.

3 MS. STELLATO: Did you have hedge clippers at
4 your house?

5 MR. SPRUILL: Yeah.

6 MS. STELLATO: Were they covered in blood?

7 MR. SPRUILL: No. I wouldn't -- I mean, I --

8 MS. STELLATO: What did you use them for? Did
9 you use them for your yard?

10 MR. SPRUILL: Yeah. I had a hedge that come all
11 the way down the side of my house and I kept it about that
12 high like a fence.

13 MS. STELLATO: That night --

14 MR. SPRUILL: Well, let me --

15 MS. STELLATO: Go ahead.

16 MR. SPRUILL: What -- yeah. And you might not
17 could tell me. What did they say -- actually say they
18 took from my house? All right. Let me see -- and see if
19 your -- they took a can, right? They took a knife; they
20 took some camouflage clothes of mine. And that's about
21 what I know they took. And then they done this luminol --
22 I reckon that's what they call it -- sprayed the doors and
23 all this and turned the lights out and all. Yeah. So
24 that's more or less what you know.

25 MS. STELLATO: You know that they took a top

1 sheet and they found blood on it?

2 MR. SPRUILL: Yeah. And they told me, back
3 before the trial actually started, it was animal blood.

4 MS. STELLATO: On the jacket.

5 MR. SPRUILL: On the -- well, they didn't say
6 what it was on. They just said it was animal blood.

7 MS. STELLATO: Do you have a dog?

8 MR. SPRUILL: Yeah.

9 MS. STELLATO: And did the dog sleep on that
10 sheet?

11 MR. SPRUILL: Yep. I had a big Chesapeake
12 Retriever.

13 MS. STELLATO: So the night of the murder, did
14 you have money?

15 MR. SPRUILL: Yeah.

16 MS. STELLATO: Did Jones have money?

17 MR. SPRUILL: I don't know.

18 MS. STELLATO: Did Dana Maybin have money?

19 MR. SPRUILL: I don't know. No. I know she
20 didn't have none. She didn't have nothing.

21 MS. STELLATO: So would you buy her things if
22 you --

23 MR. SPRUILL: I looked after that girl like she
24 was my sister.

25 MS. STELLATO: So if you went to the bar, would

1 you buy her beer?

2 MR. SPRUILL: Oh, yeah.

3 MS. STELLATO: Did you buy her beer that night?

4 MR. SPRUILL: I don't think so. Smarty Spruill
5 played a lot of pool with her. I think he was the one
6 buying her the beer and all. Now, I'm pretty sure she
7 went out back with us a couple of times and drank whiskey.
8 But I don't think I bought her beer, no. I think Smarty
9 pool was the one playing pool with her that bought her all
10 the beer.

11 MS. STELLATO: Do you remember how much money
12 you had?

13 MR. SPRUILL: Well, I know -- no. I can't -- I
14 can't tell you. I know I worked with Steve Furlough and
15 my brother-in-law off and on right here, I mean, every
16 week. I didn't --

17 MS. STELLATO: Did they pay you in cash?

18 MR. SPRUILL: Yeah -- no. Check.

19 MS. STELLATO: Check?

20 MR. SPRUILL: Check.

21 MS. STELLATO: We're almost done. Probably
22 about 15 more minutes.

23 MR. SPRUILL: Now, Steve would pay me sometimes
24 in check. And then like I'd go to his house like working
25 40 hours or 50 hours. I'd go to his house and I'd cut his

1 grass, wash his trucks, his wife's truck this and that.

2 He'd pay me cash on that. Steve paid --

3 MS. STELLATO: So you were saying Brandon Jones,
4 he was borrowing your clothes. So he didn't have much, I
5 take it?

6 MR. SPRUILL: Well, they were running -- I mean
7 I didn't know it then, but they didn't even have -- if Ed
8 ain't put them in a place, they'd have left -- they'd have
9 lived on the street except -- best I understand, this girl
10 Betsy, I don't know if you've talked to her, she was
11 supposed to be this girl -- one of these girls aunt and
12 all. But that turned out to be a lie, best I understand.
13 I don't know.

14 MS. STELLATO: Did Jones, did he usually have
15 money on him?

16 MR. SPRUILL: Yeah. Well, he worked at the bar
17 a little bit with Ed. And then Ed owned a septic tank
18 business and a paving thing. Now, I don't know how much
19 he paid him or if he had money that night.

20 MS. STELLATO: Did you buy things for Jones?

21 MR. SPRUILL: Yeah.

22 MS. STELLATO: Did you buy anything for him that
23 night?

24 MR. SPRUILL: I don't know. I know I bought
25 whiskey. I bought two fifths of whiskey earlier that day

1 with Lewis Jarvis. I do know that.

2 MS. STELLATO: What do you think about your
3 reputation in the community? Do you know what your
4 reputation is?

5 MR. SPRUILL: Well, I'll put it to you like
6 this, there's some people there that would say, hey, I
7 know that boy didn't do that. There's some going to say,
8 yeah, he's pretty wild. He could have done it. And then
9 there's some say I don't know if he did or not.

10 I can't go out there and change that. But I do
11 know, as far as my working reputation there, good. People
12 like in my family, as far as my daddy and all that, yeah.
13 Would they say I was wild and raised cane and all, yeah.
14 I mean...

15 MS. STELLATO: When people -- it's kind of a big
16 stretch for people to think that you'd kill someone
17 though?

18 MR. SPRUILL: Huh?

19 MS. STELLATO: It's a big stretch for people to
20 think you'd kill someone, right?

21 MR. SPRUILL: Yeah.

22 MS. STELLATO: But you believe there are people
23 who think you would?

24 MR. SPRUILL: Oh, yeah. I mean I -- definitely.
25 I mean just by -- not saying I would, but the places I

1 went and the partying I done, yeah. Yeah, I would say
2 that. Yeah.

3 Now, there's a lot of people would say ain't no
4 way that boy right there. You know what I mean? There's
5 no way.

6 MS. STELLATO: Do you know Charles Polk?

7 MR. SPRUILL: Yeah. He's dead now.

8 MS. STELLATO: Did you ever tell him that you
9 knew --

10 MR. SPRUILL: No. You asked me that last time.
11 I didn't even hang with him. I didn't even party with
12 him. I didn't even -- you know, now, I did up in high
13 school and some out of high school, but other than, no.

14 MS. STELLATO: Do you know Jimmy Thompson?

15 MR. SPRUILL: Yeah, I know Jimmy Thompson. I
16 partied with him.

17 MS. STELLATO: Did you talk to him about this
18 murder?

19 MR. SPRUILL: Hell, probably so. Everybody
20 around there talked about it.

21 MS. STELLATO: Do you know -- would you believe
22 that he said you changed your story so many times that he
23 doesn't know what the truth is anymore?

24 MR. SPRUILL: I can go along with that.

25 MS. STELLATO: So you have changed your story so

1 many times?

2 MR. SPRUILL: Well, I'm just saying it was
3 different things back then. You know, we joked about
4 killing him and -- I mean it was -- it sounds simple.
5 This ain't something to joke about. I understand that.
6 But it weren't like -- you know, people joked, like, Hey,
7 you all just went down there and did -- you know, I mean
8 we'd joke about different things.

9 I worked with Steve Furlough. There were people
10 that would see me -- look, even on Jimmy Peele's house,
11 the sheriff or deputy sheriff, tell me, Don't go get a box
12 razor. Don't let him have that box razor. You know what
13 he done.

14 Hell, I ain't even been convicted or even been
15 arrested and there were people were talking like that.
16 Just joking and talking about it.

17 But everybody that you meet -- not everybody,
18 but everybody that's in that thing right there that you
19 told me, like Jimmy Thompson, Charles Polk, Steve
20 Furlough, all these people right here, 90 percent of them
21 I drank and smoked crack and this and that with them.

22 MS. STELLATO: Did you tell Russell Sawyer that
23 you were at Frank Swain's house that night?

24 MR. SPRUILL: I don't remember saying that.
25 Matter of fact, Russell -- I don't know how I told him

1 that when he lives in Virginia and I ain't seen him in,
2 God almighty, the first night I hollered at him with his
3 mama right there. Because I was all loud the first time I
4 seen him in a while. And I ain't seen him no more. So I
5 don't know how I told him that.

6 MS. STELLATO: Did you know Betsy -- Betsy
7 Talkington?

8 MR. SPRUILL: Not beside when I first met these
9 people.

10 MS. STELLATO: You knew -- did you meet her
11 then?

12 MR. SPRUILL: Yeah. Now, I knew the boyfriend
13 she was staying with, Dwight Reynolds. I knew him because
14 he worked Lewis Jarvis as an electrician's helper.

15 MS. STELLATO: Did you brag to her that you
16 wouldn't get caught because your sister worked for the
17 sheriff's department?

18 MR. SPRUILL: No. The only thing I remember
19 telling her -- and this was a joke. We all laughed about
20 it. We was all standing in my backyard one night and they
21 were talking about this murder and joking. Now, Brandon
22 and Nikki done been gone then, right. I told her I had a
23 big place out the back burned where I burned leaves
24 because I had a big pecan tree and all and I burned leaves
25 and all. And I told her and Stacy and all them were

1 standing there, I said, All the money we stole from there,
2 I buried over there under that thing so they won't never
3 find it.

4 And the next day the SBI was there and dug that
5 whole thing up looking for money and stuff.

6 Now, you want to know why I said that?

7 MS. STELLATO: Did you tell her that you left
8 enough money on Frank Swain so they wouldn't think that
9 you robbed him?

10 MR. SPRUILL: No. I told her I buried a lot of
11 money in my backyard.

12 MS. STELLATO: Do you know how much money was
13 taken from Frank Swain?

14 MR. SPRUILL: No. Here's what -- the best I
15 understand -- and I got left out of this Brandon trial.
16 You know what I mean? Brandon was always had the lawyer
17 because he was going to trial first. I got left out of a
18 lot.

19 Somebody told me it was -- he had \$166 in his
20 shirt pocket. He had a Velcro wallet that had money in
21 it. Then I heard that he didn't have it. I don't know.
22 That's all new to me. I had heard this, but I don't know.

23 MS. STELLATO: Did you know Maurice Wilkins saw
24 you on the night of the murder going to --

25 MR. SPRUILL: He said he did.

1 MS. STELLATO: When did he say that, do you
2 know?

3 MR. SPRUILL: On the stand, the best I
4 understand.

5 MS. STELLATO: Do you know the first time he
6 said that?

7 MR. SPRUILL: No. I know the first -- the first
8 time I heard about it, Wyatt Spruill and him was
9 testifying on the stand. And he said he saw me and
10 somebody else at -- and then he come up to where Wyatt
11 said -- well, after the murder, Wyatt went down there and
12 told him after his girlfriend said, Where's what's his
13 name? He said, He's taking a shower. That's when they
14 said he was peeling an orange and cut his hand from here
15 to here. But if he was -- look, if he was peeling an
16 orange and cut his hand from here to here --

17 And then Avis Arnold said, Well, he cut it when
18 that happened because we sewed him up with fishing twine.
19 So I didn't know what to believe.

20 MS. STELLATO: Did you see that cut?

21 MR. SPRUILL: Huh?

22 MS. STELLATO: Did you see that cut?

23 MR. SPRUILL: No. I've never -- I don't know
24 what -- I was left out of all that. On Brandon's trial, I
25 was in the jail up there. They wouldn't even let me come

1 down and testify. Because Vosburgh wanted me to put
2 Janice out there, the dope houses and this and that. I
3 mean he had rehearsed me for I don't know how many times
4 to tell this when we went to the thing. They still --
5 they wouldn't let me go on that stand.

6 MS. STELLATO: Do you know if you did drugs that
7 day?

8 MR. SPRUILL: I don't think I did. I saw Wyatt
9 and him that morning. I bought them two fifths of whiskey
10 with Lewis Jarvis. I don't think I done no drugs that
11 day. I'm near about sure I didn't.

12 MS. STELLATO: What were you drinking out back?

13 MR. SPRUILL: Tequila. Two Finger (sic) Tequila
14 in a black bottle. I had bought two fifths earlier that
15 day. And I didn't carry but one to the bar because we had
16 pretty much drank one in my backyard, Lewis, Dana, and me.

17 MS. STELLATO: And I just want to clarify. In
18 some of these interviews, you indicate that you couldn't
19 have driven your dad's truck. But you did that morning
20 and you could drive the truck?

21 MR. SPRUILL: Yeah. And it wouldn't -- and I've
22 never denied that.

23 MS. STELLATO: Okay. You've never told people
24 that you couldn't have taken your dad's truck because it
25 wasn't running?

1 MR. SPRUILL: Well, I'm not saying I didn't say
2 that. Here's how my daddy's truck was. My daddy told it
3 on the stand. Everybody, even my mechanic, he's dead now,
4 but he run the -- where Big Al's Garage is in Plymouth.
5 His name is Scott Moore or something like that. He even
6 testified. That truck would go in low gear. The bands in
7 the transmission were gone. You could take in low gear --
8 like when you got in that truck and took off, you'd have
9 to put a quart or two of transmission fluid in it. And if
10 you drove 15 miles, you're going to have to put some more
11 in it because it would leak and it wouldn't come out of
12 low gear. You couldn't drive it over 30 miles an hour
13 because it would sound like the motor was blowing up in
14 it.

15 Oh, I'm not saying I didn't never deny driving
16 it. I drove it to Plymouth.

17 MS. STELLATO: Did you tell the center in an
18 interview that on that Monday Ray Price came to you and
19 told you that five people had said you were arrested?

20 MR. SPRUILL: Say this again now.

21 MS. STELLATO: On the Monday after the murder,
22 that Ray Price came to you and told you that five people
23 had called him saying you've been arrested.

24 MR. SPRUILL: No. The best I understand it was
25 Monday morning.

1 MS. STELLATO: Uh-huh. Yeah.

2 MR. SPRUILL: Yeah. But he didn't say "people."
3 He said somebody called me early this morning and said,
4 Was Leroy arrested for this murder? Yeah, now, he did
5 tell me that.

6 And then we were working that church. Here
7 comes Steve Furlough. And Jimmy Thompson was working with
8 Steve at the time. And they come out there and said,
9 Damn, man, I thought you was in jail from what people told
10 me this morning that you been arrested for Frank's murder.

11 And we joked and laughed. I said, Man, I ain't
12 arrested. I ain't killed nobody. I mean that's how it
13 was.

14 MS. STELLATO: Did you say that a person on the
15 jury named Carolyn Spruill was forced to say you were
16 guilty -- or excuse me, Jones was guilty?

17 MR. SPRUILL: Now, she said the "black people."
18 She told my daddy, that my daddy cut some trees down for
19 her years ago, she said, Jack, how is your boy doing?

20 He said, Well, the best he can do.

21 He (sic) said, I was persuade (sic) by black
22 people to find that boy guilty.

23 Now, I don't know -- my daddy weren't a lying
24 man. I mean he was a good -- he told me that. I mean,
25 now, will she deny that? I don't know if she will or not.

1 I don't know.

2 MS. STELLATO: Did you ever go to Bo Jack's
3 house?

4 MR. SPRUILL: I don't think his house. I've
5 been to his mana's house.

6 MS. STELLATO: Did you ever go to Bo Jack's
7 house in the middle of the night one night when he was out
8 there cooking a hog for a cookout?

9 MR. SPRUILL: No. I went to his mama's house
10 that lived down on Mackeys when they were cooking and this
11 and that and all.

12 MS. STELLATO: Okay.

13 MR. SPRUILL: And I carried -- he told me he
14 didn't want his mama to run out of wood. Put wood on her
15 porch any time it got low and I'll look at for you.

16 MS. STELLATO: That's what Bo Jack told you?

17 MR. SPRUILL: So that's what I done. I kept his
18 mama in wood. Whenever I'd see him right here, he'd pay
19 me in dope.

20 MS. STELLATO: Drugs.

21 So did you pull up one night, I guess at his
22 mother's house then, and Bo Jack was out there cooking a
23 pig?

24 MR. SPRUILL: I'm not sure of that. I can't
25 tell you.

1 MS. STELLATO: You don't remember that?

2 MR. SPRUILL: I do remember going to his mama's
3 house. And I do remember him being at his mama's house.
4 But as far as --

5 MS. STELLATO: You don't remember trying to rob
6 him in the middle of the night?

7 MR. SPRUILL: No. Bo Jack? That big man,
8 crazy? Shit, hell, no. That man was treacherous. I mean
9 I've seen him throw people through the front windshield of
10 a car.

11 MS. STELLATO: Did Bo Jack ever tell you to get
12 off his property?

13 MR. SPRUILL: Not at his house. His store. But
14 he didn't tell me in a way to get off his property. He
15 just said, You can't be coming out here because Janice
16 Spruill. But that was way before this right here. That
17 was back right when they first arrested him for all this
18 dope. Found all that money in a duffel bag on the car in
19 his garage.

20 No, I mean, I had no problem with Bo Jack. I
21 mean, but this man right here, he was a big -- I mean --

22 MS. STELLATO: Do you think he had a problem
23 with you?

24 MR. SPRUILL: Who me? No.

25 MS. STELLATO: You don't think he thought you

1 were a mean son of a bitch?

2 MR. SPRUILL: Oh, he -- I was tough, too. But
3 he was -- I mean I've seen him jam people through
4 windshields that didn't pay him money and stuff like that.
5 Yeah.

6 MS. STELLATO: Did you buy drugs from him?

7 MR. SPRUILL: Well, not really from him. Just
8 like when I carried the wood to his mama. He didn't want
9 her to run out. He had a run boy they call it. He would
10 always -- Bo Jack would never hand nobody no money or no
11 dope. No. He weren't going to do that. He had run boys
12 that did that.

13 But I knew him real good. My daddy worked at
14 the mill with him years ago. I've known him all my life.

15 MS. STELLATO: Did you get in an accident and
16 later tell the police it was from you hitting a deer?

17 MR. SPRUILL: Yep. That's when I told you --
18 right around that time right there when me and Janice
19 Spruill had words about -- she run me out of Makin Tracks.

20 Here's what happened. I wrecked my car on
21 Newland Road. And listen, that was a lie. They said I
22 was drunk and this and that. I was coming around this
23 curve on Newland Road and there was three deers standing
24 right here. And I pulled to this side of the road right
25 here because I thought they were going to run. But they

1 didn't run towards the canal, they run towards the land
2 way. And when I hit the side of the road where it was
3 slippery at 2 o'clock in the morning, my car went down the
4 side of the thing and flipped over in the canal.

5 Well, it didn't hurt me. I got out and crawled
6 up the road and walked all the way -- it was probably four
7 miles to Roper -- to my house and went to bed.

8 Somebody come by and seen where the car was
9 upside down in the canal and they called the law. So the
10 law come down there and they come to the canal and they
11 turned my car over with a wrecker. And they couldn't find
12 me in the car. And then they looked all up and down the
13 canal.

14 MS. STELLATO: So were you drunk?

15 MR. SPRUILL: Was I drunk? Yeah, I was drunk.
16 Well, I ain't going to say I was drunk. I knew what was
17 going on. I mean I knew I wrecked that car and got out
18 and walked all the way home. I mean...

19 MS. STELLATO: Did you tell people in 2004 that
20 you had totaled your car when you were drunk and you left
21 the scene; the police came three days later, but you lied
22 and said you had hit a deer?

23 MR. SPRUILL: Yeah. I probably did say that.
24 And they got me for, not leaving the scene of an accident
25 and all that. They got me for driving left of center.

1 Just one fine. Yeah.

2 MS. STELLATO: Why do you think Janice Spruill
3 was after you?

4 MR. SPRUILL: I don't know. And I'm not really
5 saying she was -- maybe a lot of it is me. But every
6 time -- every time like she'd see me, I'd see her, she
7 knew about drug places. I knew about her and drug things
8 and this and that. I don't say she was right out to get
9 me, you know.

10 MS. STELLATO: Did the police tell you that they
11 found Swain's wallet in your house?

12 MR. SPRUILL: No.

13 MS. STELLATO: They never told you that?

14 MR. SPRUILL: No. I mean I didn't even know
15 about the murder weapon until you said right then that --
16 the tire iron.

17 I heard that his brother when he moved -- that
18 his brother moved the trailer away, he was going to scrap
19 it -- scrap it down for scrap metal or whatever that he
20 turned the tire tool in. So that's the first I've heard
21 about the tire tool at the crime scene.

22 MS. STELLATO: Does it scare you to know that
23 they found the tire iron?

24 MR. SPRUILL: No.

25 MS. STELLATO: It doesn't scare you?

1 MR. SPRUILL: I mean I heard about it. Does it
2 scare me, uh-uh.

3 MS. STELLATO: Because you don't think your DNA
4 is going to be on it?

5 MR. SPRUILL: Uh-uh.

6 MS. STELLATO: You don't think Jones' is going
7 to be on it?

8 MR. SPRUILL: No. And you ought to already know
9 that.

10 MS. STELLATO: Did you tell people in 2004 that
11 it was actually Ray Hurst who robbed Chris Davenport at
12 your home?

13 MR. SPRUILL: I don't think -- I don't -- and I
14 ain't saying I didn't say it. I just don't --

15 MS. STELLATO: Was Ray Hurst there?

16 MR. SPRUILL: No. Nobody was there. Me and
17 Nikki. And everybody had got up that morning around
18 8 o'clock, 9 o'clock and was leaving my house. Because we
19 all stayed there that night because we were drinking and
20 this and that and people weren't going to drive. We had
21 come from Ed's bar then.

22 Well, let me ask you something right here. Say
23 me and Brandon and this girl goes to this man's house and
24 killed this man -- you've seen pictures of how he was
25 killed?

1 MS. STELLATO: Uh-huh.

2 MR. SPRUILL: So you've seen all that. Did they
3 say this trailer -- now, this is what my sister -- they
4 said this trailer was bloody from the back to the front
5 like he put up a real big struggle.

6 MS. STELLATO: I wouldn't say it was from the
7 back to the front, but he put up a struggle, yes.

8 MR. SPRUILL: All right. Now, you listen to
9 this. If me and this girl and this guy that went in there
10 and killed that man like that, right, as drunk as we were
11 supposed to be, correct?

12 MS. STELLATO: Uh-huh.

13 MR. SPRUILL: Don't you think there would have
14 been some -- if somebody would have done a real crime
15 scene there and all that we would have had hair and our
16 fingerprints or blood or something would have been -- been
17 there? Even though they said there was fingerprints there
18 that they inconcluded (sic) and this and that?

19 MS. STELLATO: He sold drugs in his house.

20 MR. SPRUILL: That's right.

21 MS. STELLATO: There's going to be fingerprints
22 all over his house.

23 MR. SPRUILL: So --

24 MS. STELLATO: Your fingerprints could be in his
25 house. It doesn't mean you killed him. It just meant you

1 went to his house --

2 MR. SPRUILL: I understand. I understand.

3 MS. STELLATO: -- just like every other drug
4 user did.

5 MR. SPRUILL: I understand that.

6 MS. STELLATO: Fingerprints don't mean anything
7 there. He was -- I mean he was selling drugs, you know.

8 MR. SPRUILL: I understand that. But I'm just
9 saying if you was to go in there and kill a man up, like
10 that they say we done this, like she said we done this,
11 there's no way if they had went right there that night and
12 done that crime scene, from what I'm hearing, that they
13 wouldn't have got -- from a struggle they said this man
14 went through that I wouldn't have had some hair there or
15 Brandon or something like that. There's no way. There's
16 no way.

17 And then this girl said we go out and get in my
18 daddy's truck and drive away. And then they do a forensic
19 DNA test, luminol on this right here. And you done gone
20 in there and killed a man up like this. There's no way in
21 the world that you're going to cut a man from here to
22 here, jugular vein and blood spraying from here to that
23 wall and bash his brains in and stab him all them times,
24 that they showed me pictures, that you're not going to get
25 in a truck and you ain't going to have blood. There's no

1 way in hell you can do it. There's no way.

2 MS. STELLATO: Did you ever see Frank Swain with
3 a gun?

4 MR. SPRUILL: No. I can't say I did.

5 MS. STELLATO: Did you ever know that he pointed
6 a gun at Ray Hurst?

7 MR. SPRUILL: I had heard that. I can't say
8 that's true.

9 MS. STELLATO: You weren't there for that?

10 MR. SPRUILL: No. I can't say that's true.
11 I've heard it. I don't know that.

12 MS. STELLATO: When is the last time you talked
13 to Stacy Allen?

14 MR. SPRUILL: God, it's been a long time.

15 MS. STELLATO: What was your relationship with
16 her?

17 MR. SPRUILL: I -- well, if you want to call it
18 date her a little bit. This is how it worked out. You
19 had Sherry Honea and Haynes, or whatever you want to call
20 it, and Robert. It was Nikki and Brandon. It was Dwight
21 and Betsy. So they kind of hooked me up like it was me
22 and Stacy. We'd all go to these bars and this and that.
23 And that's how it come about, you know.

24 MS. STELLATO: Did you ever tell her, you're not
25 going to believe this, this guy was killed and I did it

1 and then laugh?

2 MR. SPRUILL: No, I don't remember. No.

3 MS. STELLATO: She said you were joking.

4 MR. SPRUILL: Huh?

5 MS. STELLATO: She said you were joking.

6 MR. SPRUILL: I don't remember. I'm not saying
7 I didn't say it. I just don't remember saying that. I --
8 you know, we joked about a lot of stuff. That's why I'm
9 saying, you said, You've got to tell me the truth. You've
10 got to tell me these things. I'm not saying some of this
11 stuff I didn't say. But it weren't no thing, me trying to
12 cover nothing on killing nobody or I did kill this man. A
13 lot of it was in joking ways.

14 I know it's not a joking matter. But I mean
15 people joked at it like that. I'm not saying I'm glad the
16 guy was dead, but it was a joke-like thing. You know,
17 they were joking at me like, Well, man, they think you
18 killed this guy. We know you didn't kill this guy. But,
19 hell, look where it turned out.

20 MS. STELLATO: Did she use drugs?

21 MR. SPRUILL: Not never around me. Now, I had
22 heard she had years before but she had got clean and
23 everything. Matter of fact, she wouldn't even hardly
24 drink nothing. She was our designated driver all the time
25 wherever we went.

1 MS. STELLATO: She went with you to crack
2 houses?

3 MR. SPRUILL: I think she has been. Not like up
4 in them and all. But I mean, she has rode with me where I
5 pulled up there and stopped and went inside and come back
6 out five minutes later. I'm not saying she hasn't.

7 MS. STELLATO: Did the police one time follow
8 you back to the house when you were drunk and you didn't
9 answer the door and snuck out into the woods?

10 MR. SPRUILL: Yeah. And -- well, here's how
11 that went down. They were looking for me more or less --
12 like I say, every time I'd put my car on the road, they
13 were pulling me over. I let Stacy use my car to go to
14 Martin Community College because she was going to school
15 there. She stopped there at Red Apple in Roper and they
16 followed her all the way to my house. And it was Janice
17 and Willie wanting to try to find me, talk to me.

18 And I was hid in the bushes. I got hedging
19 beside me about that high and was I hid in the bushes
20 right there. And Stacy went in the door and come back out
21 and said, Well, he ain't here.

22 And about that time I walked right out in front
23 of them. I said, Yeah, I'm here. They wanted me to
24 question me. Every time -- I mean they stayed on me.

25 MS. STELLATO: Okay. That's all the questions I

1 have for you. And I don't want to make you miss lunch.

2 What time do you go to lunch?

3 MR. SPRUILL: They don't -- it don't matter
4 about that. They're going to give me a pack out. I've
5 got to go back to work at 1 o'clock anyhow, so...

6 MS. STELLATO: Okay. Okay. Well, I don't have
7 any other questions for you. Do you have anything else
8 you want to tell us?

9 MR. SPRUILL: No. Long, drawn out though.

10 MS. STELLATO: The interview?

11 MR. SPRUILL: No. I'm talking about the
12 whole -- ever since somebody's been trying to help me
13 years ago. It's been a long, drawn out thing.

14 MS. STELLATO: Oh, this ordeal?

15 MR. SPRUILL: I mean, I'm not just saying you
16 all, but I'm just saying ever since -- God.

17 MS. STELLATO: Ever since you went to prison,
18 it's been long. Uh-huh.

19 MR. SPRUILL: And I -- I'm not trying to help
20 Brandon. I mean, I'm not just trying to say this right
21 here to help that boy. But that boy ain't never going to
22 get out of prison. You know that, right?

23 MS. STELLATO: Oh, I don't know that, no.

24 MR. SPRUILL: Yeah, yeah. You know what I mean?
25 I'm just saying if he don't get some help, he's never

1 going to get out of prison because of the sentence he's
2 got.

3 And say, Well, why are you -- why are you
4 worrying about that and that? I know that boy didn't do
5 that. I've got a chance of getting out. I mean they're
6 talking to me right now about a map. Do you know what map
7 is?

8 MS. STELLATO: Uh-huh.

9 MR. SPRUILL: They've been talking to me, you
10 know.

11 MS. STELLATO: They've been talking to you for a
12 long time about that.

13 MR. SPRUILL: Well, they're about -- you know,
14 this is hearsay and all, but as good as I've done in here,
15 know right. You know what I'm mean? They're talking
16 about a 24-month map. You do 24 month, we'll guarantee
17 you out, you know. I got a chance. He don't.

18 And say, well, people told you this -- that boy
19 didn't do that murder.

20 MS. STELLATO: How do you know?

21 MR. SPRUILL: I know he didn't. There's no way
22 he could have done it. I'm telling you that boy weren't
23 from around me over 10, 15 minutes that whole night.
24 People can tell me this, well, you told this. I'm telling
25 you I know.

1 MS. STELLATO: You seem more worried about
2 Brandon than you do about you.

3 MR. SPRUILL: Well, and that may sound like to
4 you like I'm saying that. Saying, well, you're going get
5 out, he ain't. I know that boy didn't kill that man.

6 MS. STELLATO: I think you know who did.

7 MR. SPRUILL: The State said that. The attorney
8 general people come right to Hyde and told me sitting
9 right here, just like you are right now, and he said,
10 Mr. Spruill, he said, I ain't saying we didn't prove that
11 that you didn't kill him, but we know you didn't kill that
12 man. We know you didn't kill him.

13 I'm not saying this in a bad way, but I'm going
14 to say it. And you're going to say you know I didn't kill
15 this man. You know Brandon didn't kill this man. They're
16 saying I know who killed this man; is that correct?

17 MS. STELLATO: Uh-huh.

18 MR. SPRUILL: So you want me to do 20 years and
19 you want me to turn around and tell you who went and
20 killed this man?

21 Now, let me say -- I'm going to say this. You
22 want me to do 20 years -- and we done talked about this
23 before with the attorney general -- you want me to do
24 20 years for something I didn't do that you know I didn't
25 do. Help me walk out this door tomorrow. But you want me

1 to tell who done it and you want to put me on a stand to
2 help me and you're going to convict somebody else on this
3 same murder and probably put the Sonja Day murder on them
4 when I don't know. I wasn't there. But you want --

5 MS. STELLATO: I can't --

6 MR. SPRUILL: -- you want me to say that.

7 MS. STELLATO: I can't -- I can't prove you
8 didn't do this murder.

9 MR. SPRUILL: I know you can't. But everything
10 that has been done and tested -- in front the State, I
11 mean I've had the bad dogs and the good dogs sit here,
12 like he put me down; this one was on my side. They know I
13 didn't kill this man. They know I weren't there when this
14 man got killed.

15 But they're saying you know who went in there
16 and killed this man. You got arrested for it. The one
17 that knew it that was left was his wife, and she weren't
18 going to let you go down, you're cousins, so they had to
19 get rid of her and this is where you're out. You want me
20 to help you?

21 MS. STELLATO: Do you know why they're saying
22 that, because you -- because I just told you why. Because
23 you told 20 people 100 different stories.

24 MR. SPRUILL: I'll go along -- I understand
25 that.

1 MS. STELLATO: So if you're -- so you're sitting
2 across from me and saying believe me because I'm telling
3 the truth, but you haven't been telling the truth.

4 MR. SPRUILL: And I'll go along with that. But
5 I can't turn --

6 MS. STELLATO: So why would anyone believe you?

7 MR. SPRUILL: Well, and I'm just saying this
8 goes back right there, talking to Brandon. So what do
9 they want me to do? I mean I know you said tell the
10 truth, but I've told the best I could.

11 Some of this stuff I might have said. I don't
12 remember saying it. I'm not saying I didn't say some of
13 that stuff. We joked about it. I told you everything I
14 know that's true.

15 MS. STELLATO: Well, like you said, you -- you
16 know, I'm not the first to come here. You've done this
17 before. You're not going to tell me anything different
18 than you told other people.

19 MR. SPRUILL: I mean --

20 MS. STELLATO: But I'm telling you, you're
21 asking me the reason why, and I'm telling you, the reason
22 you're in prison is because you've changed your story all
23 of these times. That's why you're in prison.

24 MR. SPRUILL: So I'm going to do the rest of
25 this in prison and somebody on the street is going to go

1 free for two murders.

2 MS. STELLATO: If I know -- if I figure out who
3 that somebody is, no. No.

4 MR. SPRUILL: But you're never --

5 MS. STELLATO: If I figure out who that somebody
6 is, then you --

7 MR. SPRUILL: But you're never going to do that.
8 Do you know what --

9 MS. STELLATO: Well, I appreciate your
10 confidence in me. Thank you very much.

11 MR. SPRUILL: No. I'm not saying that in a bad
12 way. Look, look, I appreciate everything you all have
13 done for me. And say, well, I ain't just trying help you.
14 I'm going on stuff that -- I understand that. I'm not
15 crazy. You know what I mean? I know, and it's your job
16 and all, you ain't just going come here and believe me.
17 Yeah, you've changed your story over all these years and
18 all. But I know we didn't kill that man. I know that man
19 didn't Kim that man.

20 MS. STELLATO: It doesn't matter what I believe.
21 It matters what I can prove.

22 MR. SPRUILL: That's right. And everybody else.
23 But you're wanting me to say you know. You're lying to
24 me, you know.

25 MS. STELLATO: I want you to tell me truth. And

1 I think -- I do believe that you know more than you're
2 telling me. And the reason I think that is because I have
3 22,000 pages of documents that I've gone through --

4 MR. SPRUILL: And I can't --

5 MS. STELLATO: -- that have you telling, you
6 know, 50 people different stories. That's why I think
7 that.

8 MR. SPRUILL: And I can't tell you no different
9 than what I tell you right now if you don't never come
10 back and help me. I can't tell you no more.

11 MS. STELLATO: I understand.

12 MR. SPRUILL: I do not know who killed this man.
13 I do know that Wallace Brandon Jones and me did not kill
14 this man. Me and this girl and him did not kill this man;
15 didn't participate in it.

16 So if -- and I'm not saying this bad, if you
17 don't never come back, I can't sit here and tell you,
18 well, you know more; you know who killed that man. I
19 don't know.

20 MS. STELLATO: Okay.

21 MR. SPRUILL: I mean that's the best I can tell
22 you telling the truth.

23 MS. STELLATO: Okay.

24 MR. SPRUILL: I mean, am I sitting here, well,
25 let me tell you what I'm going to tell you. I want you to

1 help me all the way, I'll tell you just like -- you know
2 what I mean? I can't tell you no more.

3 MS. STELLATO: I'm going to go ahead and
4 conclude the interview at 12:15.

5 (The recorded interview concluded.)

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CERTIFICATION OF TRANSCRIPT

This is to certify that the 134 pages of this transcript of the recorded interview of Leroy Spruill was taken on August 4, 2011, is a true and accurate transcript to the best of my ability.

I further certify that I am not counsel for nor related to any party or attorney, nor am I interested in the results of this action.

This the 17th day of May 2017.

A handwritten signature in blue ink that reads "Donna Rowe". The signature is cursive and fluid.

DONNA ROWE
Rowe Court Reporting
1040 Lake Shore Drive
Wendell, NC 27591
919.649.1656
ddrsteno@gmail.com

Handout 77

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

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

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

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

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

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

- "1. You have the right to remain silent. Do you understand?
Reply: Yes.
2. Anything you say can be and may be used against you in a court of law. Do you understand? Reply: Yes.
3. You have the right to talk to a lawyer and to have a lawyer present while you are being questioned. Do you understand?
Reply: Yes.
4. If you want a lawyer before or during questioning but cannot afford to hire a lawyer one will be appointed to represent you at no cost before any questioning. Do you understand?

Reply: Yes."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DRV:lj

Handout 78



State of North Carolina

JOSH STEIN
ATTORNEY GENERAL

Department of Justice
PO Box 629
Raleigh, North Carolina 27602

September 28, 2018

North Carolina Innocence Inquiry Commission
c/o Lindsey Guice Smith, Executive Director
Post Office Box 2448
Raleigh, North Carolina 27602

RE: Commission Hearing on State v. Leroy Spruill and Wallace Brandon Jones

Dear Members of the Innocence Inquiry Commission,

Pursuant to N.C.G.S. § 15A-1468(a2), I write to provide a statement of the Special Prosecutions Section of the North Carolina Attorney General's Office, who became the District Attorney's designee in this matter in 2010. The question before you is whether there is sufficient evidence of factual innocence to merit judicial review, and whether this matter should be referred to a three-judge panel pursuant to N.C.G.S. § 15A-1468(c).

Prior to this hearing, we have been permitted to read the briefing books and handouts that will be presented to you, however we remain unclear about the exact testimony that will be provided. We understand that preparing the materials for these hearings is a large undertaking for Commission staff, however, we are concerned that we have not been afforded the opportunity to fully inspect the evidence that is to be presented to the Commission, as required by N.C.G.S. § 15A-1468(a2).

While the parties have been provided with a forecast of the evidence that will be produced during this hearing, it is difficult to predict what evidence will be presented. Perhaps the most striking new evidence uncovered by the Commission investigation is that Mr. Jones called his own sister following the murder, and confessed to her.

It appears that the most compelling arguments to support an assertion that Mr. Jones and Mr. Spruill were not involved in the gruesome homicide of Mr. Swain relates to 1) the eye-witness testimony of Ms. Maybin, and 2) the forensic testing (DNA/fingerprint) of the murder scene.

With respect to Ms. Maybin's testimony, it is my understanding that she has not been subpoenaed to appear before the Commission, because of the difficulty of enforcing a North Carolina subpoena in another state, which would require help from an out-of-state judge. It is also my understanding that you have not been provided with her sworn testimony from the trial of Mr. Jones, but rather you have been provided with a deposition of Ms. Maybin from 2018, some 25 years later.

This is a significant omission, as this testimony represents the clearest evidence of what happened in this homicide, from the same year it happened, under oath. In fact, during Ms. Maybin's deposition in 2018, Commission staff had to use this transcript to refresh Ms. Maybin's memory about specific details about the homicide and its aftermath. Ms. Maybin was cross-examined about how many inches the door was open in the house, whether she could recall individuals' phone numbers 25 years later, and about losing her baby. Throughout this, she remained consistent and honest with Commission staff, enhancing her credibility.

Both the deposition and trial testimony are clear; Ms. Maybin witnessed Mr. Jones and Mr. Spruill cut Mr. Swain's throat after a struggle inside Mr. Swain's home on December 18, 1993. It appears the catalyst for much of this 25 year investigation was Maynard Harrell, an attorney for Mr. Spruill, who told students at UNC that Ms. Maybin had recanted. Mr. Harrell now does not recall making this claim, one that appears to lack veracity.

As to the forensic testing of the murder scene, the only conclusion that can be rendered is that Wyatt Spruill was at the scene at some point. This is not surprising, because Wyatt Spruill was with the victim, his friend, prior to the murder. This contrasts with the Defendant's motive in this matter, which was to rob and harm Mr. Swain for his money and drugs.

As to the DNA testing of the victim's pockets and the tire tool, both swabs contain mixtures. The unknown profiles that comprise these mixtures inside the pockets do not match the unknown profile on the tire iron. Additionally, none of the 13 alternate suspects match these mixtures.

While the Defendants are excluded from the mixtures, this in no way exonerates them. Merely because the Defendant's DNA could not be found on the tire tool or on other swabs does not mean they were not at the murder scene. I believe the DNA expert will explain to you circumstances through which touch-DNA can be left or destroyed. The tire tool was located with a clear liquid, which could have degraded or affected the presence of DNA. There are countless scenarios to explain why the Defendants' DNA was not found in these specified swabs; despite wielding it, their DNA might never be found on the tire tool depending on a variety of environmental factors, or if they wore gloves.

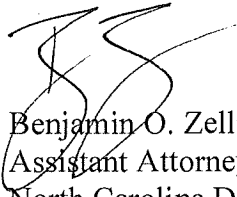
I would request that you read the attached memorandum, prepared by the former head of the NCDOJ Special Prosecutions Section, Jim Coman, highlighting the results of a detailed 16 year SBI investigation, which addresses Ms. Maybin's testimony and the forensic testing of the murder scene.

The new forensic testing reaches the same conclusions as the old forensic testing: that no alternate suspect was at the scene. Ms. Maybin's testimony remains credible 25 years later, and is corroborated by other evidence in the case, such as witnesses seeing blood on Mr. Jones at the bar, and the testimony of Lynn Rogers, who saw the Defendants leave the bar, and return later in different clothes. She also heard them bragging about doing something to someone with a knife, which was corroborated by other statements heard by the jury in this case, and the forensic evidence linking Mr. Spruill and Mr. Jones to the murder found inside their houses.

Questions about Ms. Maybin's statements and the lack of DNA evidence linking Mr. Jones and Mr. Spruill to the scene were presented at Mr. Jones' trial and rejected by the jury. The pocket swabs, swab from the tire iron, and hair of a friend of the victim who acknowledges being with him in his house prior to the murder does not constitute evidence of factual innocence, especially when considered with the evidence presented at trial. It certainly fails to constitute sufficient evidence of factual innocence to warrant judicial relief, and finding so would do violence to our concept of trial by jury.

Because the new evidence in this matter fails to constitute evidence of factual innocence, we respectfully request that you so find, and close this 25 year investigation.

Sincerely,

A handwritten signature in black ink, appearing to be 'B. Zellinger', written over the printed name.

Benjamin O. Zellinger
Assistant Attorney General
North Carolina Department of Justice
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Raleigh, North Carolina 27602
(919) 716-6520
bzellinger@ncdoj.gov

MEMORANDUM

In Re: State v. Wallace Jones, Washington County
(94 CRS 1973)
State v. Leroy Spruill, Washington County
(94 CRS1984)

OVERVIEW OF THE FACTS

On December 18, 1993, between approximately 9:00pm and 10:00pm, William Frank Swain was murdered in his home. Swain lived in a trailer located in the Folly's Trailer Park near Plymouth, North Carolina. Swain was found to have been struck numerous times in the head with a blunt object. The medical examiner during the autopsy found that approximately twelve such blows were inflicted. Additionally, Swain suffered several stab wounds to his torso and neck. What is believed to have been the final and fatal injury was a deep cut across Swain's throat which severed his jugular vein, carotid artery and windpipe. A large pool of blood was found on the floor beneath the victim. Additional blood stains and spatter were found on the front door of the trailer, on curtains inside the living room and also in the kitchen area.

Swain was reported to have been a dealer of crack cocaine in the greater Washington County area. The crime scene search did find residue amounts of cocaine in Swain's home. Friends of Swain said that he was known to carry large amounts of cash, usually in his front pants pocket and also sometimes in his wallet. Additionally, Swain was known to carry a pocket knife usually in his shirt pocket. As a result of Swain's involvement with drugs, numerous people visited Swain's trailer at different hours of the day and night. In fact, Swain's sister Mary told investigators that she and Swain often fought about Swain's many visitors and the irregular hours that they appeared. The Washington County Sheriff's Department requested SBI assistance in the investigation and both agencies canvassed the area and spoke with a dozen potential witnesses in the days following the murder. Witnesses reported seeing various people in the area of Mr. Swain's trailer on the night of the murder. Many witnesses speculated as to the involvement of those reported to have been in the area. SBI agents and local law enforcement officers tried to follow up on all of these leads. A few witnesses reported seeing a woman named "Rhonda" running from Frank's trailer on the night of the murder. Agents located a woman named Rwanda Lewis who matched the description witnesses had given of a person called "Rhonda". However, several people confirmed that Lewis was at a Christmas

party at a friends home between 9:00 and 10:00 pm on December 18th. Other witnesses interviewed near the crime scene reported that James Carter was likely involved. Carter claimed to have been attending a church service in Robersonville with a friend. Carter's friend and others confirmed that he was in Robersonville on December 18th. These are but two examples of the numerous leads and statements given to law enforcement in the early stages of the investigation. It appears that agents attempted to follow up on all leads which appeared credible. On investigation, most leads proved to be misinformed or purely speculative, as was the case with the above cited examples.

During the course of the investigation, several suspects were considered including Maurice Wilkins, Lee McPhatter (a/k/a Toby) and Joseph Lynn. Early on it was noted that Wilkins had a suspicious cut on his hand, this was made even more suspicious by the fact that Wilkins had not sought medical treatment for the wound but stitched it up himself. Wilkins, McPhatter and Lynn all claim to have been at the Golden Skillet Restaurant and then a local dance club, the Zodiac Club around the time of the murder. Janice Spruill who at the time of the murder was a Deputy Sheriff but at the time that this matter was referred to the Attorney General's Office had become the Sheriff of Washington County, was assigned as one of the investigators on the case. Deputy Sheriff Spruill reported that she questioned employees and patrons of the Zodiac Club and found that several people remembered seeing Wilkins, McPhatter and their friends at the club around the time of the murder. However, Wilkins and McPhatter remained suspects and samples of their blood were obtained and turned over to authorities for further analysis.

Some months into the investigation the agents and officers received a tip that a woman named Sherri Honea had information concerning the Swain murder. Law enforcement officials learned that Honea's friend, "Nikki Talkington", reportedly confessed to Honea that Talkington was involved in Swain's murder. An investigation determined that Talkington was in fact Dana Maybin of South Carolina. (Hereinafter Dana Maybin a/k/a Nikki Talkington will be referred to by her correct and legal name Maybin. However, throughout the course of the investigation and in the statements taken, some witnesses continue to refer to Maybin by her alias Nikki Talkington). Maybin had also implicated the involvement of her boyfriend "Robert Solis". Investigators later learned that Robert Solis was in fact Wallace Brandon Jones of Milan Tennessee. (Hereinafter Wallace Brandon Jones, a/k/a Robert Solis a/k/a Chris Bass, will be referred to by his correct legal name Wallace Brandon Jones, however during the course of the investigation some of the witnesses continue to refer to Jones by his alias Robert Solis and

Chris Bass). Additionally Maybin implicated another friend of hers Leroy Spruill. As law enforcement began investigating this lead they learned that Maybin had left the Washington County area and was reported to have returned to reside in South Carolina where she was originally from.

Officers went to South Carolina and questioned Maybin, who gave police some information. After further investigation law enforcement developed sufficient probable cause to arrest Maybin. Law enforcement returned to South Carolina and Maybin was in fact arrested. Maybin was transported back to North Carolina. Maybin provided law enforcement with a full confession, stating that she went with Leroy Spruill and Brandon Jones to Swain's trailer on the night of the murder. Maybin stated that she, Jones and Spruill had been drinking at Big Ed's Bar on the evening of the murder. None of the three of them had much money. Spruill and Jones approached Maybin about going to Swain's trailer. The three left the bar in a truck. During the short ride to the trailer Jones told Maybin that he intended to take crack cocaine from Swain. When they arrived at Swain's trailer, Maybin waited in the truck while Jones and Spruill went inside. Maybin heard loud noises coming from inside the trailer and decided that she wanted to see what was happening. Maybin ran to the trailer. Once inside she stated that she saw Spruill holding the victim down. Jones took a knife and slashed the victim's throat from ear to ear. Maybin watched as blood ran everywhere. Jones ordered Maybin to go through Swain's pockets and take any money or drugs off of the body. Maybin complied with this directive. Maybin then returned to the truck. A few moments later Spruill and Jones joined her. They left Swain's lifeless body lying on the floor in a pool of his own blood. Swain's blood was spattered on the walls and streaked across the door. Maybin, Jones and Spruill drove to Spruill's home where they cleaned up and burned their bloody clothes in a wood stove. The three then returned to Big Ed's Bar. While Spruill and Jones drank and danced at the bar a friend of Swain's came upon the grizzly scene at Swain's trailer and called police.

Initially, Maybin, Spruill and Jones were all charged with First Degree Murder for the death of Frank Swain. However, because Maybin provided testimony against Spruill and Jones the District Attorney reduced her charge and recommended a lesser sentence. Using Maybin's testimony and the testimony of other witnesses, the prosecution successfully convicted Brandon Jones of First Degree Murder. Jones was not given the maximum possible punishment, a death sentence, but was sentenced to life in prison plus forty years. Following Jones' conviction Spruill entered into a plea agreement with the District Attorney's Office whereby he pled No Contest to Second Degree Murder. However, Spruill received the

same sentence as Jones, life in prison plus forty years. Maybin pled to a count of Accessary After the Fact to First Degree Murder and was initially sentenced to nine years. However, Maybin was released after approximately 18 months.

OVERVIEW OF THE CLAIMS OF SPRUILL AND JONES

During the review of the materials I read various correspondence from Leroy Spruill, Debbie McGowan (Sпруill's girlfriend), Marti McGuire, an intern at the News and Observer who later wrote an article for the newspaper and other individuals who corresponded on behalf of Spruill. I have tried to consider those issues or complaints which appear common among these letters or are otherwise the most frequently cited reasons as to why Spruill and Jones are innocent of what they have been convicted of. In reviewing the materials I attempted to keep an open mind regarding the validity of these complaints and to make a fair and impartial judgment as to whether or not these assertions constitute new evidence of the defendant's innocence or could lead to new evidence of the defendants innocence. In conjunction there with I have sought to address four main assertions raised by Spruill, Jones and their supports:

1. Inability to access the crime scene: Both Spruill and Jones claim that they could not have committed the murder because on the night of the murder, they had no way to get to or from Spruill's house or Bid Ed's Bar to the crime scene. They claim that Spruill's father's truck, the truck that law enforcement believed that Spruill and Jones used to drive to Swain's trailer, was unuseable on the night of the murder. They argue that because they were unable to get transportation to get to the crime scene they therefore could not have committed the crime.
2. Lack of real evidence from the investigation: Spruill and Jones claim that there is no real evidence such as blood, fiber or hairs that link them to the murder or the crime scene. They claim that no blood was ever found at the residence that would have come from Spruill or Jones. Both have called for DNA testing. Spruill and Jones have claimed that fingerprint evidence or DNA evidence would exonerate them and would most likely also show a link to the Sonya Spruill Day murder case which remains unsolved to this day.
3. The testimony used to convict the defendants was false: Spruill, Jones and their supporters claim that the only evidence of Spruill and Jones' involvement in the murder of

Frank Swain was the testimony of Dana Maybin. They claim that Maybin is an unreliable and vindictive witness who had reason to want to frame Jones. They claim Maybin has changed her story so many times that it cannot be trusted and it should be disregarded. They frequently cite that Maybin is a known drug user and that she has emotional problems. On other occasions they have even implied that Maybin has cognitive impairments which would further undermine any credibility to be given to her statements. As such it is asserted that her testimony is false and cannot be trusted and should not be the underpinnings on a conviction in these cases.

4. Other suspects were not and have not been seriously considered: Spruill and Jones have made numerous claims that others than themselves are responsible for the murder of Frank Swain. A suspect they most frequently cite is Maurice Wilkins. Wilkins was, in fact an early suspect in the case. Spruill in particular further claims that Deputy Janice Spruill (now the Sheriff of Washington County) through either malice or incompetence destroyed Wilkins blood sample and failed to properly pursue Wilkins as a suspect.

- A. Leroy Spruill and Wallace Brandon Jones claim that there is "talk" in the community that others were involved in the murder. The person most cited as the alleged culprit is Maurice Wilkins. However some claim that a drug dealer known as "Bo Jack" was involved. It was learned during the course of the investigation that the individual identified as "Bo Jack" is an individual named Alton Flagon or Alton Claggon who is the same person only the spelling of the last name is in question.

- B. Additionally, Spruill has offered the statements of at least two inmates; Edward Hudson and Avis Arnold who both claimed to have information regarding the Swain murder which according to Spruill exonerates he and Jones. It is alleged that Arnold claimed to have been "the lookout" for Wilkins and Billy McNair when they murdered Swain.

The true issue is whether or not there are legal reasons or anomalies in this investigation which would justify reopening and reinvestigating the murder of Frank Swain. Spruill's plea and Jones' conviction and subsequent denial of his Motion for Appropriate Relief, militate against the reopening of this investigation. In Jones case, the jurors had an opportunity to hear and see the witnesses that were offering testimony and to observe evidence offered by the District Attorney. As to the defendant Spruill, when he entered his plea arrangement, he was

informed by entering this plea, even though it was a no contest plea, he acknowledge to the court that he realized that he would be treated as guilty and would lose his right to confront the witnesses against him. Despite the deficiencies the defendants alleged existed in the investigation and in the case itself, Jones was convicted by a jury hearing all of the evidence and Spruill nonetheless accepted the plea arrangement.

Additionally, several of the allegations presented by Spruill and Jones and their supporters appear to this writer to be based on mere speculation and are not supported by concrete evidence. Other arguments are based on inaccurate representations of the facts. Where the proffered new evidence is nothing more than speculation, it seems inappropriate that grounds exist in this case for the granting of a new trial to either defendant. In fact permitting such a reinvestigation could set a dangerous precedent for future appeals by convicted criminals.

III. **ASSERTION #1. SPRUILL AND JONES DID NOT HAVE
TRANSPORTATION TO THE CRIME SCENE AND THEREFORE THEY
COULD NOT HAVE COMMITTED THE CRIME.**

One of the first assertions offered by Spruill and Ms. McGowan in his defense is that the defendants had no means of transportation on the night of the murder. They insist that the truck Spruill was alleged to have driven, a truck owned by Spruill's father, had a faulty transmission and was not driveable. (This was stated in a letter from Debbie McGowan forwarded to a number of people dated October 25, 2000 and a copy of this letter was forwarded to Senior Deputy Attorney General James J. Coman on September 1, 2004).

Apparently at some point during Jones' trial, the testimony of a mechanic was offered along with the testimony of Leroy Spruill's father concerning the elder Spruill's truck. However even Ms. McGowan and Spruill's supporters acknowledge that the time of the murder the truck would have been "driveable at low speeds". See letter from McGowan forwarded to numerous people dated October 25, 2000. Frank Swain's trailer was noted to be close to the Helena Chemical Plant in Plymouth, North Carolina. A few statements implied that Swain's house abutted a fence which surrounded the Helena Chemical Plant. People wishing to purchase crack from Swain would sometimes park at the Helena Chemical Plant parking area and walk to his trailer. The address of the Helena Chemical Plant on Folly Road is 327 Folly Road, Plymouth, North Carolina 27962. To approximate the location of Mr. Swain's trailer on Folly Road, we used the address of the Chemical Plant. The search warrant for Leroy Spruill's home indicates that Spruill's home is located on

Buncombe Road and that it is approximately 6 miles from the intersection of Hwy 64 and Roper Road. (See Search Warrant in the Matter of Leroy Spruill dated May 16, 1994). A review of the general map areas indicates that Mr. Spruill's street address is 399 Buncombe Street, Roper, North Carolina 27970. The distance from the approximated address of Mr. Spruill on Buncombe Street to the address of the Helena Chemical Plant near Mr. Swain's trailer at 327 Folly Road is 3.62 miles. Because these addresses are approximate it is quite possible that Spruill's home may have been a further distance away than is originally thought. In any event, the distance between the two residences are certainly much less than 10 miles. Even if the truck could only be driven at low speeds it is very likely that the truck could have traveled the approximate 4 mile distance between Spruill's home and Swain's trailer. Witnesses confirm to law enforcement that a blue truck similar to the one that would have been driven by Spruill and likely driven by Spruill on the night in question was in the area of Swain's trailer around the time that Swain was murdered.

The first statement made by Dana Maybin to SBI Agents which appears in the file is dated April 25, 1994. In this statement, Maybin said that she went with Jones and Spruill to Swain's trailer on the afternoon of December 18, 1993. Maybin stated that they were in Leroy's daddy's truck, a blue or baby blue pickup truck that looks just like Ray Hurst's truck. In that same statement Maybin informed agents that "Ray Hurst might have had a tire tool with his truck". Because Maybin stated that the truck was "blue or baby blue" and "looks just like Ray Hurst's truck", it is entirely possible that Maybin was not exactly sure who owned the vehicle in which they were traveling. In the same statement, Maybin said that Spruill and Jones later left Big Ed's Bar with Curtis Furlow in Furlow's vehicle. Maybin described Furlow's vehicle as "a dark colored truck." There are reports elsewhere in the SBI file that Furlow's truck was blue in color. Because Hurst's truck, Furlow's truck, and Spruill's truck were all of similar color and description, it is quite conceivable that Maybin was not able to exactly identify who owned the truck in question. However, Maybin's statements consistently say that the group traveled to Swain's trailer in a blue colored pick-up truck.

On December 23, 1993, about four days after Swain's body was discovered, law enforcement interviewed Maurice Wilkins. Wilkins had become a suspect during the course of the investigation. However, it is not for certain that Wilkins was considered a suspect at the point in the investigation when this particular interview was conducted. During this interview, Wilkins stated that he was in Hudson's Trailer Park visiting his mother on December 18th near the time of the murder was committed. Wilkins

said that he and his friends were getting ready to go out to the club. Wilkins was waiting on one of his friends when he "saw a blue truck turn down towards Frank Swain's house. Mr. Wilkins stated that it looked like this truck went up to Frank's house. Mr. Wilkins stated that it was a blue pick up truck. Mr. Wilkins stated that it was an ugly light blue truck that looked like an older model. Mr. Wilkins stated that one guy was a white male and one was a black male. Mr. Wilkins stated that the driver was white. Mr. Wilkins stated that he had seen the truck before and thought that the driver was Leroy (Last name unknown). See SBI investigative report statement of Maurice Wilkins dated December 23, 1993.

Other witnesses who were interviewed claimed to have seen a dark blue truck near Swain's trailer. Some identified the truck as belonging to Ray Hurst. In fact, such statements prompted law enforcement to question Hurst as a suspect and to administer a polygraph. An SBI report dated January 12, 1994 states that agents " confronted Hurst with the fact that his blue truck, driven by a white male with a ponytail (Hurst wears his hair in a ponytail) was seen going to Frank's trailer on Saturday night, December 18th. See: SBI Investigation Report, Statement of Ray Hurst, dated January 12, 1994. Hurst claimed that both he and his truck were at the home of Ivadeen Sawyer, Hurst's mother-in-law, on the night in question because it was his weekend to have visitation with his children. Law enforcement confirmed that Hurst was at Sawyer's house. However, it should be noted that Sawyer's house is but a few blocks from Big Ed's Bar in Roper.

Additionally, it is important to note that both Spruill and Hurst told law enforcement that Hurst had given Spruill a ride to Big Ed's Bar on the night of December 18, 1993. In an interview on January 12, 1994, Hurst told SBI agents that he and his blue truck were at the Sawyer residence that whole evening of December 18th except for three to five minutes when he drove Leroy Spruill, Spruill's girlfriend (Nikki), and another friend of Spruill's to Ed's Place, which is a bar located in Roper, not far from the Sawyer house. He states the bar is located just a few blocks away.

Hurst then went on to say Spruill told him that he [Sпруill] was at Swain's house the night of the murder. That Spruill told him that he had seen an argument occurring between Swain and another unidentified person. That Spruill told him he had picked up a knife and tried to move it away from the area of the fight and for this reason Spruill was concerned that perhaps his fingerprints would be found at the scene. The SBI report goes on to say that "Hurst states that he is scared of Spruill, not for himself but because of his kids and his ex-wife live in Roper and that Spruill might find out that he (Hurst) gave some information to the police

concerning Spruill and this murder and that he is very suspicious of Spruill concerning this murder." In the same interview, Hurst noted that on December 24, 1993, he went to Leroy Spruill's house. Hurst said that his truck had broken down around that time and he left it at or very near Leroy Spruill's house. Hurst said that when he got to Spruill's house on December 24, he found that all the windows in his truck had been broken out and an attempt had been made to set the truck on fire. In an interview on December 9, 1994, Wallace Brandon Jones told SBI agents "the other guy that would try to get him [meaning Jones] may be Ray Hurst. Jones stated that Ray Hurst is a guy that got his truck messed up behind Leroy Spruill's house. Jones stated that he was the one responsible for damaging the truck. Jones stated that he had been the one who messed up Ray Hurst's truck while it was parked behind Leroy Spruill's house. Jones stated that Hurst and some of his friends had broken into Leroy Spruill's house one day and Mr. Jones was paying them back for that. Jones stated that he broke out the windows of the truck and that he also tried to set the truck on fire." See the SBI Investigation Report, Statement of Wallace Brandon Jones, dated Dec. 9, 1994.

Based on the statements it appears a white male driving a blue truck was seen near Swain's home around the time of the murder. Maurice Wilkins stated that he saw a blue truck on Folly Road on the night in question. Wilkins further identified the driver of that truck as "Leroy" and SBI agents believed this "Leroy" was more likely than not Leroy Spruill. In her confession, Dana Maybin stated that she had gone with Jones and Spruill in a blue truck. Maybin stated that she believed this truck was the truck that belonged to Leroy's father. Though Spruill's truck did have transmission problems, it is acknowledged that it would have been drivable at low speeds. The distance between Spruill's residence and Swain's was approximately 4 miles. It seems more than plausible that a truck, even one with transmission problems, could have driven that distance if it were driven at slow speeds.

In the alternative, it is possible that Spruill may have borrowed Ray Hurst's truck. Both Spruill and Hurst acknowledged that Hurst had given Spruill a ride that night. According to Hurst's statement, he picked up all three defendants on the night in question. Additionally, Hurst was staying at his mother-in-law's house, which it is said to be a few blocks away from Big Ed's bar, the bar where Spruill, Jones and Maybin were known to have been prior to the murder and then later that evening following the murder. Though Hurst was at his mother-in-law's residence with his children, he stated that they stayed there all night. They did not go anywhere and did not use the truck. When questioned about the murder, Hurst's polygraph scored a -3 and was considered

inconclusive. In his statements to the SBI, Hurst suggested that Spruill may have been involved in the murder and was noted by agents to have been suspicious and fearful of Spruill. Possibly, Hurst loaned the vehicle to Spruill to obtain crack cocaine (Hurst was reputed to be a crack cocaine user), or loaned the vehicle to Spruill knowing that Spruill intended to harm Swain (Hurst and Swain had apparently had some conflict over a weapon that Hurst "pawned" to Swain for crack cocaine). Alternatively, it is possible that Hurst innocently loaned the vehicle to Spruill, later learned of the crime and became suspicious of Spruill. Not wanting to implicate himself in the crime, Hurst simply denied knowledge of the events when questioned by police. On December 24, 1993 about five days after Swain's body was discovered, Wallace Brandon Jones vandalized and attempted to burn Hurst's truck. See: SBI Investigation Report, Statement of Wallace Brandon Jones dated December 9, 1994. Hurst apparently never reported the vandalism of his truck to the police, or if he did, no report has been found in the file. Assuming the truck could have been used in the murder, it is possible that Wallace Brandon Jones vandalized and burned the truck in an attempt to damage or destroy evidence concerning the murder of Swain.

In either case, it is entirely possible that Spruill, Jones and Maybin were able to travel to the crime scene, either in Spruill's truck or Hurst's truck. The information regarding the condition of Spruill's truck was known at the time of Jones' trial. A jury heard testimony regarding the condition of Spruill's truck and the transmission difficulties it was experiencing. Nonetheless, the jury convicted Jones of first degree murder. The jury necessarily found that Jones and Spruill were able to travel to the crime scene. No new evidence has been presented to the contrary. The purposed theory about the use of Hurst's truck certainly does not constitute new evidence and is purely speculative as an explanation of how they could have been in a blue truck. Additionally, it does not provide any exculpatory theory. Though Hurst's truck potentially could have been used, Hurst himself had an alibi for the night of the murder. Investigators were satisfied that Hurst was at Ivadeen Sawyer's home with his children on the night that Frank Swain was murdered. In conclusion, I believe it was reasonable for the jury in the Jones trial to conclude that the three defendants Jones, Spruill and Maybin had transportation that provided them with access to the crime scene. In the absence of any new evidence, this does not appear to be grounds for a new trial on behalf of Spruill or Jones.

IV. ASSERTION 2: THERE IS AN ABSENCE OF REAL EVIDENCE IMPLICATING SPRUILL AND JONES IN THE SWAIN MURDER. REAL EVIDENCE WOULD PROVE THE SWAIN AND DAY MURDERS ARE RELATED.

The second major allegation made by Spruill and Jones is that no real evidence has been found to link Leroy Spruill and Wallace Brandon Jones to the murder of Frank Swain. Here I use the term "real evidence" as defined by Black's Law Dictionary: "physical evidence (such as clothing or a knife wound) that itself plays a direct part in the incident in question," also called physical evidence. Spruill and his supporters allege that no finger print evidence, blood, or DNA was found to connect Spruill and Jones to the murder. Additionally, Spruill and his advocates frequently cite to the fact that Spruill took a lie detector test and passed it. Finally, it is alleged that if real evidence from the Swain case was compared with real evidence from the murder of Sonya Spruill Day, it would become apparent that the two murders are related.

In terms of fingerprint evidence, some eighteen latent lifts were taken from the Swain crime scene. Additionally, major case impressions of Spruill, Jones and Maybin were submitted for comparison with the latent lifts. See: SBI Laboratory Report, prepared by S/A R.L. Stills, dated February 22, 1995. Two sets of fingerprints were submitted for suspects Lee McPhatter (a/k/a Toby) and Maurice Wilkins. See: SBI Laboratory Report, prepared by S/A R.L. Stills, dated January 18, 1994. Though the latent lifts were compared with all five suspects, no conclusive match was ever found. However, the lab report concerning McPhatter and Wilkins stated that "major case inked impressions are needed with emphasis on the extreme sides and tips of the fingers and all areas of the palms before this can be considered a conclusive comparison." See: SBI Laboratory Report, prepared by S/A R.L. Stills, dated January 18, 1994. The lab report concerning Spruill, Maybin and Jones stated that "major case inked impressions are needed with emphasis on the extreme sides, tips, joints, and the delta area of the fingers along with the extreme sides of the palms before this can be considered a conclusive comparison." See: SBI Laboratory Report, prepared by S/A R.L. Stills, dated February 22, 1995. While it is likely that the latent prints did not match any of the five suspects, the lab stated that additional inked impressions were required to make it absolutely certain. If these additional inked impressions were taken, it is not indicated so in the file. Agents attempted to run the latent lifts from the Swain murder through the North Carolina Automated Fingerprint Identification System (AFIS). See: SBI Laboratory Report, prepared by Nikkola Russell dated April. 12, 2006. The latent lifts from Frank Swain's

murder were not of sufficient detail to be submitted to AFIS or to generate a match.

It appears that none of the fingerprints taken from any of the five suspects matched the latent lifts taken from the Swain crime scene. However, this does not automatically support the conclusion that Spruill, Maybin and Jones are innocent of the crime. The latent lifts may not have included the fingerprints of the actual murderers. Friends and family members of Frank Swain acknowledge that he had frequent visitors at different hours of the day and night and that this was an issue with his sister. Mr. Swain was known in the community as a dealer of crack cocaine, and as such, numerous customers came to his trailer each day to purchase crack cocaine. Because there is no way of knowing how long fingerprints had been at the scene, it is entirely possible the prints were left hours or days before the crime occurred by friends or customers of Frank Swain.

In terms of blood evidence, Spruill alleges that no blood was ever found in his home during the search conducted by SBI agents in 1994. However, this claim is inaccurate. A crime scene diagram of the luminal search of Leroy Spruill's home indicated that luminal reactions occurred in the living room near the door, near an armchair, and on the couch. See: Crime Scene Diagram of Leroy Spruill's Residence created by S/A D.G. Honeycutt, dated July 6, 1994. A luminal reaction also occurred in one of the rooms located off of the kitchen in Spruill's home. Luminal is a chemical agent used by law enforcement to detect trace evidence of blood. Luminal will react to the presence of blood, even if attempts have been made to clean up the blood. Based on the luminal reactions in Spruill's residence, blood was present at some point in Spruill's living room and in the room off of Spruill's kitchen. A luminal search was also made of the camper where Wallace Brandon Jones had been known to reside at the time of the murder. See: Crime Scene Diagram of Camper Trailer Belonging to Edward Champ by S/A D.G. Honeycutt dated July 6, 1994. The crime scene diagram of Jones' residence also indicated luminal reactions. This would indicate the presence of blood in Jones' residence as well. The presence of blood in the homes of both defendants could be viewed as evidence which might link them to the murder of Swain. However, it is not in any way conclusive.

In the search of Spruill's residence, agents recovered a bloody shirt. See: Crime Scene Diagram of shirt seized from the residence of Spruill by S/A D.G. Honeycutt dated July 6, 1994. According to the heading of the diagram, the shirt was found in a closet in Leroy Spruill's residence. The shirt showed stains which appeared to be spatters and smears. The shirt was noted to have several

tears and cuts on it. Laboratory analysis of the shirt revealed that the dark stains which were spattered and smeared on the shirt were in fact blood stains. See: SBI Laboratory Report, by S/A J.A. Elwell, dated June 29, 1994. Based on the information presently in the file, Spruill and his advocates have never offered an explanation for the presence of a blood spattered, torn shirt hanging in Spruill's closet at Spruill's home. This shirt could be seen as linking Spruill to the murder of Frank Swain.

DNA testing was in fact conducted on the tire tool which was recovered from Swain's residence. Testing was initially begun by LabCorp in 1995. However, pursuant to the request of Attorney Maynard Harrell, one of Spruill's defense attorney's, DNA testing was terminated. See: Certificate of Analysis, from Laboratory Corporation of America, dated October 5, 1995. In 2005, the State requested that DNA testing of the tire tool be resumed. The test results revealed that there was no DNA matching Leroy Spruill on the tire tool. See: SBI Investigation Report, Statement of Dr. Marcia Heisenberg of LabCorp, dated April 13, 2005. In 2007, the DNA from the tire tool was again tested. See: SBI Laboratory Report, by S/A Jenny Elwell, dated September. 20, 2007. This reexamination revealed that the DNA on the tire tool was consistent with a mixture. The DNA from the mixture was tested against blood samples previously taken from Jones, Maybin, McPhatter, Spruill and Wilkins. According to the lab report, "suspects Spruill, Jones, and Maybin and the subjects, Wilkins and McPhatter were excluded as the contributors to the mixture". The victim, Frank Swain, could not be excluded as contributing to the mixture. The lab attempted to exclude as many alleles belonging to the victim as possible, in order to run the remaining alleles through the combined DNA Index System (CODIS). However, CODIS yielded no high stringency matches.

Although DNA testing of the tire tool has excluded Jones and Spruill as contributing to the mixture, this testing has not produced any new suspects or shown that neither Jones nor Spruill could have wielded the weapon in an attack on Swain. Though the DNA has been submitted to CODIS, no other potential matches have surfaced as of yet. Additionally, during the original crime scene search, it was noted that "the tire tool was located with a clear liquid, the identity of which is unknown." See: SBI Investigative Report, Original Crime Scene Report, dated December 18 and 19, 1993. It is possible this clear liquid could have depleted or otherwise affected the presence of DNA or other evidence from the tire tool. It is clear that Frank Swain's blood is present on the tire tool. As Swain may have been the only person struck with the weapon that night, it is possible that Swain's blood is the greatest contributor to the DNA mixture, and that the presence of

Swain's blood makes it extremely difficult or impossible to identify other, lesser contributors to the DNA mixture. The fact that Swain's blood is present on the tire tool matches the scenario developed by investigators: Swain was bludgeoned with the tire tool, then stabbed and slashed with a knife. This theory is also seemingly confirmed by the fact that Swain's autopsy results indicate that he was struck repeatedly in the head with a blunt object. See: Summary of Report of Autopsy of William Frank Swain, produced by the Division of Forensic Pathology, East Carolina University, dated December, 20, 1993. The fact that Swain's DNA has been confirmed to be present on the tire tool does not indicate that the defendants are innocent or that other suspects remain at large. In summary, the only confirmed DNA on the tire tool is that of the victim, testing has not revealed other suspects and the presence of Swain's DNA seems to confirm theories presented by the investigators. Therefore, the DNA testing does not constitute new evidence which would justify granting Jones and Spruill new trials.

Spruill further alleges that an investigation into the real evidence at the Swain crime scene would uncover a link to the Sonya Spruill Day murder. The basic fact pattern behind the Sonya Spruill Day murder is as follows: Sonya Day was found murdered in her home approximately a year and a half after Frank Swain was murdered. Day's hands and feet were bound with a chord or wire. Day was tied to her bed. Day's throat had been cut in a manner similar to the way that Frank Swain's throat was cut. The absence of semen and seminal fluid from various swabs taken from the victim suggests that Day was not sexually assaulted at the time of her murder. Because Swain and Day were in a relationship at the time of Swain's murder and because both victims had their throats cut, many have considered the possibility that the two murders were related. During the investigation of the Day murder, law enforcement considered this possibility. A newspaper article appeared from The Roanoke Beacon, which was presumably published shortly after the Day murder, and releases significant details of the Day murder and draws many parallels for the reader. See: Mike Pollard, Woman Murdered in her Apartment; Body found by young son; Circumstances similar to 1993 stabbing death of her former boyfriend, The Roanoke Beacon (September 28, 1994). In an attempt to explore possible connections between the Swain and Spruill killings, the SBI conducted comparisons of the eighteen latent lifts taken from the Swain crime scene and the twenty-one latent lifts taken from the Day crime scene. See: SBI Laboratory Report prepared by Nikkola Russell, dated April 12, 2006. The identifiable prints from the Swain crime scene were compared with the identifiable prints from the Day crime scene with no matches found between prints in the two cases. Laboratory technicians also attempted to run latent prints from both the Day crime scene and

the Swain crime scene through AFIS. However, only one print, a print from the Day crime scene was of sufficient detail to be submitted to AFIS. The print did not yield a result.

Finally, though polygraph tests are not conclusive and are not admissible at trial, Spruill and his supporters have frequently cited to the fact that Spruill passed a polygraph test. It is true that Spruill was administered a polygraph on January 12, 1994. See: SBI Polygraph Report for Leroy Spruill, dated January 12, 1994. It is also true that Spruill scored a +3 and his test was regarded as having no deception indicated. However, Wallace Brandon Jones, who was Spruill's co-defendant, also took a polygraph exam. See: SBI Polygraph Report for Wallace Brandon Jones dated December 12, 1994. Jones' polygraph was scored a -12 and indicated deception. Since the two men were charged with the same crime and each cited the other in their alibi, if one is going to give credence to one polygraph exam, it appears necessary to consider both polygraph exams. Though Spruill may have "passed" a polygraph examination, it is equally important that Wallace Brandon Jones certainly did not pass a polygraph exam. Most importantly, neither polygraph examination would be admissible in court. However, as Spruill has frequently cited his polygraph exam as bolstering his claim of innocence, I feel it necessary and important to include this information to demonstrate that Jones failed a polygraph exam during the same time that each was using the other as an alibi.

In conclusion, there is real evidence which suggests at least circumstantially, that Spruill and Jones were involved in the murder of Frank Swain. Luminol searches of the residences of Jones and Spruill yielded luminol reactions indicating the presence of blood. A shirt which was torn, cut, and spattered and smeared with blood was recovered from Spruill's residence. Real evidence was in fact taken from both the Swain and Day crime scenes. This evidence included blood samples of both victims and latent prints from both crime scenes. A comparison of the latent prints from the two crime scenes revealed no common prints. An examination of the real evidence in the Swain case does not present any new evidence which would justify the granting of a new trial for Spruill and Jones. A comparison of the latent prints from the Sonya Spruill Day crime scene and the Frank Swain crime scene do not appear to reveal any link between the two crimes. As was previously stated though not admissible evidence, both Spruill and Jones were given polygraph examinations. While Spruill's polygraph did not indicate deception, Jones' polygraph examination clearly did indicate deception. Neither the real evidence collected from the Swain crime scene nor real evidence collected from the Sonya Spruill Day

crime scene has yielded any new usable evidence which would justify the granting of a new trial for either Spruill and Jones.

V. **ASSERTION 3: DANA MAYBIN'S STATEMENTS ARE INCONSISTENT AND UNTRUE. BECAUSE THE DISTRICT ATTORNEY RELIED ON THESE STATEMENTS, SPRUILL AND JONES SHOULD BE FREED OR GRANTED NEW TRIALS.**

Jones and Spruill have both made allegations against the prosecution's main witness, Dana Maybin. Specifically, they claim that Maybin wanted to seek revenge on Jones, her former boyfriend. Spruill and Jones claim that Maybin was so angry with Jones that she would say or do anything to punish him, including framing Jones for the murder of Frank Swain. Spruill and Jones point to inconsistencies in Maybin's statements to SBI agents. They also note that Maybin gave an interview to Maynard Harrell, one of Jones' defense attorneys, in which she claimed to have been lying to police all along in an effort to frame Jones. There are in fact, contradictions between Maybin's first statement to SBI agents and her subsequent statements. It is also true that Maybin met with Attorney Harrell and allowed him to tape record their conversation. During this conversation, Maybin does indicate that she lied to police and that she framed Jones and Spruill for the murder. These conflicting statements are problematic and create issues with Maybin's credibility. However, an examination of Maybin's statements, the statements of impartial witnesses, and a consideration of Maybin's possible motives are helpful in determining which of Maybin's statements are likely to be truthful and which are likely to be false.

What is not in dispute is that Maybin and Jones were in a relationship prior to Swain's murder. It was shortly after the time of the murder and close to Christmas when Maybin and Jones had a falling out. Maybin, who had been living with Spruill, moved out of his house and moved into a friend's house. Shortly thereafter, Maybin returned to South Carolina where she was originally from. However, Jones, Spruill and Maybin disagree as to what happened next. Jones and Spruill claim that Maybin came up with a plan to frame them. Maybin claims that she was suffering a guilty conscience and confessed her involvement in this gruesome crime to a friend.

According to investigative records, sometime following the murder, Maybin confessed her involvement in the crime to a friend, Sherri Honea. Apparently, Honea either told her boyfriend (Honea) what Maybin said or the boyfriend overheard the two women talking. In any event, sometime thereafter Honea and her boyfriend had a falling out. The boyfriend then went to police and advised them

that Honea had information about Frank Swain's murder. On April 24, 1994, Honea was questioned by SBI agents. See: SBI Investigative Report, Statement of Sherry Annette Honea dated April 24, 1994. Honea told law enforcement that she and Maybin had traveled from South Carolina to Washington County, North Carolina together. Both women apparently had some legal troubles (outstanding warrants) and traveled to North Carolina to escape them. Initially, the women planned to visit a friend of Honea's, a Betsy Talkington. The two women stayed for awhile with Ms. Talkington and then stayed with Talkington's daughter. Honea said that shortly after their arrival in Plymouth, Honea met Robert Spruill and began dating him. Not long after that, Honea moved in with Robert Spruill. Honea said that Maybin met Wallace Brandon Jones on the night they got into town and soon thereafter began dating him. According to Honea, Maybin moved in with Leroy Spruill in December 1993, about a month after the two women had arrived in town.

Honea's statement about the events surrounding the murder is quite similar to the statement that Maybin ultimately gave the SBI. Honea's version of the story was as follows: Several days after the murder, Maybin told Honea that she (Maybin) felt bad about something and needed some advice. Maybin then began to talk about the murder. Maybin said that she, Spruill and Jones had gone to the home of a black man, a man they regularly bought drugs from and bought some crack cocaine. Based on what Honea told them the investigators believed that the man in question was Frank Swain. The three Maybin, Jones and Spruill, smoked the crack and then Jones developed a plan. Jones thought that they should tell Swain that they were expecting a large amount of money and they wanted to buy more crack later that night. Jones believed that this would cause Swain to go out and get a large amount of crack cocaine. Then Jones, Spruill and Maybin could return and steal Swain's drugs and money. At this point in the narrative, Honea told agents that she knows Jones, Spruill and Maybin didn't have regular transportation and would most likely have had to get someone drive them to Swain's residence. Honea theorized that this person may have been Curtis Furlow who also uses crack cocaine. Maybin told Honea that she (Maybin) Jones and Spruill returned to Swain's house. Maybin watched while Spruill held Swain down and Jones cut Swain's throat. Swain had been badly cut up and with the final blow Jones had nearly cut Swain's head off. Jones told Maybin to empty the man's pockets which she did. Maybin took drugs and a significant amount of money from the victim. Then Maybin, Jones and Spruill left and returned to Spruill's home. Once back at Spruill's home, they burned their clothing and cleaned up. This would seem to indicate that the shirt found by the SBI that was torn and had blood on it during the search of Spruill's residence

had no relationship to the killing of Frank Swain. This statement by Sherri Honea matches the statement Maybin ultimately gives SBI agents. Though Honea, as Maybin's friend, may be an interested witness, the similarities are worth noting.

Three statements by Maybin, statements made on April 25, 1994, December 15, 1994, and August 17, 2005, all of which appear in the SBI file. These statements are consistent with regard to a number of significant details. Additionally, Maybin's testimony during the trial of Wallace Brandon Jones was largely consistent with the last two statements. Notable similarities in Maybin's statements include statements that Spruill and Jones left the bar on the night of December 18th that Spruill and Jones changed their clothes, that Jones made comments to the effect that he intended to take crack cocaine from Swain and that Jones and Maybin argued in the bar parking lot at the end of the night. Some specific details offered by Maybin in both her April 25, 1994 statement and the December 15, 1994 statement include the color of Jones' shoes when they first arrived at the bar, that Spruill started the night in a light-colored button up shirt and that Jones said he would "take care of" getting crack even though he had no money. If Maybin simply fabricated these details in her first statement to the SBI, it is unlikely that she would have been able to remember these lies over a period of some eight months. The consistency of the details in her various statements, her description of the crime scene and her knowledge concerning the placement of the victim's body and the nature of his wounds, suggest I would contend to a reasonable person, that Maybin was present when the crime occurred. It further suggests that Maybin was telling the truth about her involvement in the murder.

However, it is true that there is a major discrepancy between Maybin's first and second statement. In Maybin's first statement to SBI agents, she said that she went to Big Ed's Bar with Jones and Spruill on the night of the murder. Jones and Spruill left the bar with Curtis Furlow. However, Maybin remained at the bar and drank with friends. When Spruill and Jones returned sometime later, Maybin noticed that they were wearing different clothing and acting strangely. Later when Maybin went back to Spruill's home, she found numerous drink cans which had been used to smoke crack cocaine. She asked Jones how he had gotten the crack and Jones replied he had taken it. Jones told Maybin he had killed the crack man Frank Swain. Maybin became frightened that Jones could kill her too and soon broke up with him. In her second statement to the SBI agents, Maybin confessed that she had not stayed behind. Jones and Spruill apparently did not leave the bar with Curtis Furlow rather they left with Maybin. She rode with Jones and Spruill to Frank Swain's trailer. Jones told Maybin to get down in the truck,

and in fact pushed her down so that Swain would not see an unfamiliar person in the truck. Maybin waited in the truck but heard loud noises coming from the trailer. She went to see if Spruill and Jones were alright and found the two men in the process of murdering Swain. Jones ordered Maybin to take money from the victim's pockets which Maybin did. Jones, Spruill and Maybin then left Swain's trailer, changed clothes at Spruill's home and returned to Big Ed's Bar. The first statement essentially denies any involvement or first hand knowledge on Maybin's part. In the second statement, however, Maybin confesses to her presence and participation in the events and includes her first hand observations of the murder of Frank Swain

It is also true that Maybin recanted her confession both in a taped interview with Jones' and Spruill's defense attorneys and in certain diary entries. In the interview with Maynard Harrell, Maybin states that she was essentially coerced by then deputy Janice Spruill and SBI agents into saying that she, Spruill and Jones had been involved in the murder of Frank Swain. See: Interview of Dana Maybin by Maynard Harrell, undated. Maybin told Harrell that her confession was untrue and that she could not "remember half the stuff she told Janice Spruill" because it was all made up. She said that she lied because she "hated" Jones because of what he had done to her and "because he was so violent" towards her when the two were dating. After asking Maybin why she lied and falsely testified against Jones and Spruill, Harrell proceeded to ask Maybin if she "had some reason to get back at him (Jones)." Maybin replied that she did. Harrell's implication is that for purposes of revenge, Maybin essentially framed Jones and Spruill. In her diary, Maybin extrapolates on the idea that she framed Jones and Spruill in order to get her revenge. In an entry dated March 4, 1995, Maybin wrote, "I lied about all this stuff from the start because I wanted the reward money and to get back at him (Jones) for all the hurt he cause me. I hate (Jones) but when I saw his mom's face in the courtroom I so wanted to tell them I was sorry for lying and wish that I had never done it." See: Diary of Dana Maybin, March 4, 1995. Later in the same entry Maybin wrote, "I just figured I have to go to big court tell my lie get Robert life in prison for being such an asshole and I'd get to go on home to get on with my life."

The inconsistencies between Maybin's first and second statement and Maybin's recantations call Maybin's truthfulness into question. It seemingly forces the trier of fact to accept one of these two scenarios: 1) That Maybin lied to police and confessed to being an accessory to the robbery and murder of Frank Swain, exposing herself to potential imprisonment. Spruill and his supporters have advanced this idea and Maybin's diary recantations indicates that

Maybin did this because she was angry with Wallace Brandon Jones for the way he had treated her; Maybin accepted imprisonment to obtain revenge? Highly Unlikely. 2) Maybin initially lied about her involvement in the crime and later lied when she told defense attorneys she wasn't involved in the crime. The most likely motive for both would be to avoid prison time.

It is necessarily true that Maybin either lied in her confession to the police or lied in her interview with the defense attorneys. Common sense is the main tool available to the trier of fact in deciding which of these scenarios above is true and which is false. It seems to be contrary to human reason that a person would be so invested and interested in revenge as to falsely confess to their own involvement in a crime in the hopes of implicating an ex-boyfriend as well. Why would a person send themselves to prison, risk a conviction for felony murder and a possible life sentence in order to gain revenge? If Maybin was going to lie about Jones' involvement in a crime for the sake of revenge, why would she admit to robbing Swain and helping to conceal evidence? Why would she ever confess her own involvement at all? Why wouldn't she stick to her first version of the story or try to frame Jones for some other crime? Common sense seems to tell us and apparently consistent to the common sense exhibited by the jury in Jones' trial, the scenario that Maybin would lie, implicate herself in a most serious crime and risk a life sentence of her own just to get revenge on Jones does not make sense to the reasonably prudent person.

After reviewing all this material I feel that the inconsistencies between Maybin's first and latter statements to law enforcement and the fact that she recanted to defense attorneys can be explained by a very simple, logical motive: Maybin wanted to stay out of jail. Initially, Maybin told police parts of what she knew and strategically distanced herself from the murder; Maybin was at that time on the run from an outstanding warrant in South Carolina. Maybin knew she was in trouble because the police were questioning her. She knew Sherri Honea had already talked. So Maybin first said that Leroy Spruill and Brandon Jones left the bar to go and buy crack cocaine from Swain but she stayed behind. She told police that before Spruill and Jones left the bar she asked Jones how he intended to pay for crack since he had no money. As she has consistently said in her statements, she informed police that Jones responded that he "would take care of it." Maybin further told police that Spruill and Jones changed clothes between the time they left the bar and the time that they returned to Big Ed's. She noted that Spruill and Jones appeared to be high on crack when they returned and that they had a lot of money. She was careful to say they had not had money earlier in the night. If Maybin's motive is

to stay out of jail, then this makes sense. Maybin knew she had to tell the police something, but minimized her own involvement in order to avoid the possibility of being charged or facing any type of prison time.

As to why Maybin implicated Curtis Furlow, her actions can again be explained by the motive of avoiding prison. It is possible that Jones and Spruill wanted Maybin to serve as the "lookout" for the Swain robbery. Swain was known to have customers come in and out of his trailer at various hours of the day and night. Additionally, the trailer park in which Swain lived contained several other trailers and there was a potential that one of Swain's neighbors could have been around and seen something. According to Maybin's subsequent statements to police, Jones insisted she come with him and Spruill that night. While on the way to Swain's trailer, Jones told Maybin that he and Spruill intended to "take" crack from Swain. According to Maybin, Spruill heard Jones say this and appeared to be in agreement. If Jones and Spruill intended to rob Swain, knowing that Swain had frequent visitors, knowing that Swain was sometimes armed with a knife or gun, and knowing that other people could be in the vicinity, it would only make sense for them to have a lookout. In the event that someone arrived at the trailer or in the event that the struggle alerted one of the neighbors, Maybin could have warned Spruill and Jones and the three could have fled. Maybin needed to implicate someone else as having filled the "lookout" role and so she selected someone she thought she saw at the bar that night and who was known to associate with Spruill and Jones. That person was Curtis Furlow. Maybin's original story contained significantly fewer details regarding Furlow. She could not remember what type of clothes Furlow was wearing or if he too had changed his clothes. She noted that Furlow seemed to be high on crack but did not comment about his having money or buying anything. Compared to what she had to tell about Spruill and Jones, any information that Maybin provided on Furlow was scant at best. It seems logical that Maybin lied about Furlow's involvement to save herself from being implicated. Her motive again, I would argue to any reasonable prudent person, was her desire to stay out of prison.

Once Maybin knew that she was going to be arrested, she confessed everything to police. It is not uncommon for attorneys to offer plea arrangements to co-defendants in exchange for their truthful testimony against others. Particularly if the defendant in comparison to their co-defendants has played a minor role in the crime. Maybin knew she would have to face some time in prison but it was either cooperate and hope for a reduced sentence or run the risk of going to trial and possibly being convicted of murder herself and all that would entail. If she had to go to prison,

Maybin wanted as short a sentence as possible. Again, her actions can be explained by this simple motive. Maybin took the plea with the reduced sentence in exchanged for her testimony against Jones and Spruill.

While Maybin was serving her sentence she was approached by another inmate about her willingness to speak with Maynard Harrell and Jim Vosburg, attorneys who were involved in the representation of Jones and Spruill. According to Maybin, the inmate implied that the prosecution had no real evidence connecting Jones and Spruill to the murder. The inmate said that the only evidence in the case was Maybin's testimony. The inmate suggested that if Maybin changed her testimony, then the charges against Spruill and Jones would have to be dismissed. It appears that Maybin concluded if the charges against Spruill and Jones were dismissed then her sentence would necessarily be overturned. Maybin hadn't wanted to go to prison in the first place and she had tried all along to avoid it. If her motive was staying out of prison, it would only make sense that she would jump at an opportunity to have her sentence set aside.

The interview with Maynard Harrell is peppered with leading questions. In several places it appears that Harrell seems to be leading or helping Maybin along with answers. In many of Maybin's statements her motive of avoiding prison time is palpable. Maybin complains that no one has visited her in prison and that she cannot get anyone to come and see her. Maybin tells Harrell, "Deputy Spruill promised me that I wouldn't be in there but maybe the weekend. They was going to try to get me a bond. But, of course, you see I'm still here, so shows how much they mean." See: Interview of Dana Maybi, by Maynard Harrell, undated. Additionally, Maybin contradicts herself several times within this same interview. She alternately tells Harrell that she told District Attorney Mitchell Norton that she lied in her statements to police. Then Maybin says, she intended to tell Mitchell Norton that she lied in her statements to the police but didn't have the opportunity or the time to do so. Maybin claims that she began telling Mitchell Norton and Regina Moore, her attorney, "the truth" meaning that she had lied about Jones' and Spruill's involvement. Then she said that she was going to tell them, but "they told me that they knew what the truth was" and didn't want to listen to her. Maybin's statements are unclear and at times they are contradictory. Harrell seems to prod and lead her throughout the conversation. However, Maybin's frustration with being in prison and her desire to be released are clear. It seems logical that this motive would lead her to cooperate with Harrell and Vosburg by giving the interview and by keeping diary entries.

Not only can Maybin's statements to the defense attorneys be explained by the simple motive of avoiding prison time, but parts of the statements implicating Spruill and Jones can be corroborated by other witnesses. Though Maybin may have credibility issues, the two witnesses appear to be 'disinterested' observers who had no reason to mislead the police. Their statements corroborate Maybin's confession to police which strongly supports the conclusion that Maybin's final story to law enforcement was truthful.

Maybin reported hearing loud noises coming from Frank Swain's trailer shortly after Leroy Spruill and Brandon Jones went inside. The December 15, 1994 SBI Report concerning Dana Maybin's statements contains the following, "Ms. Maybin stated that she was lying in the front seat until she heard what sounded like fighting going on in the trailer. Ms. Maybin stated that she could not tell if it was people hitting against the wall or if they were throwing things against the wall, but that is what she heard in the trailer." See SBI Investigative Report, Statement of Dana Maybin, December 15, 1994. A neighbor of Swain's, Erma Davis, was interviewed by SBI agents a few days after the murder took place and she also reported that she could hear loud noises coming from Swain's trailer from inside of her own trailer. The report reads, "Ms. Davis stated that she heard what was sounding like a knock at Frank's door. Ms. Davis stated that a little while later she heard a lot of 'bumbling' that sounded like thunder in Frank's house. Ms. Davis stated that she usually looks out her window when she hears something but on this occasion she did not do that. Ms. Davis stated that she heard the loud noises in Frank's trailer sometime between 9:30 and 10:00 p.m. Ms. Davis stated that after she heard the noises she went to bed and did not get out of bed until she saw the blue lights outside of her trailer." See SBI Investigative Report, Statement of Erma Davis, dated December 19, 1993. Both Maybin and Davis reported hearing loud noises, rumbling noises like the sound of thunder or the thud of something being thrown against the wall of the trailer.

In both the April 25, 1994 and December 15, 1994 statements, Maybin offered fairly detailed descriptions of what Jones and Spruill were wearing, noted that they changed clothes, and described them as acting high or acting foolish. The statement that the two men left Big Ed's bar, changed clothes and returned acting strangely is corroborated in a statement by Marguerite Lynn Rogers, the bartender from Big Ed's. See SBI Investigative Report, Statement of Marguerite Rogers dated May 3, 1994. It is interesting to note that there are significant similarities between the description of Jones' and Spruill's clothing offered by both Rogers and Maybin.

Additionally, both women comment on Jones' and Spruill's strange behavior that night.

Rogers appeared to be truthful and had no reason to mislead police. However, at Jones' trial, contradictory testimony was offered by Ed Champ. Champ also implied that Rogers could not have observed Jones and Spruill as she claimed due to her responsibilities at the bar. However, Mr. Champ was arguably a biased witness in favor of Jones and against Maybin. Champ not only employed Jones at the bar but he also allowed Jones to live in a trailer that Champ owned which was situated on Champ's property. It was a member of Champ's family, his son-in-law, who took Jones home to Tennessee when the police began investigating Jones for his potential involvement in the death of Frank Swain. Champ clearly liked Jones enough to employ him, allow him to live on his property and to help Jones elude police during the course of the investigation. Unlike Champ, Rogers has nor has the investigation revealed any known connection to Maybin, Jones or Spruill. Rogers appears to have no motive to lie and no reason to harm Jones or Spruill. Rogers was by all accounts a disinterested witness. At the time, the agents believed she was a reliable and trustworthy person. Therefore, I would argue that Rogers can be presumed to be telling the truth. There is nothing that contradicts her. It is unlikely that through coincidence, a story invented by Maybin could match the details of the story told by Rogers. The fact that Maybin's statement matched the statement of an unbiased witness strongly suggests that Maybin's second account to agents and her subsequent testimony based upon that statement was truthful.

In conclusion, the contradictions between Maybin's original statement to agents and her later statements, and the contradictions between Maybin's statements to agents and her interview with Maynard Harrell, can all be explained by the same simple motive. Maybin wanted to stay out of prison if at all possible and in the alternative, if she had to go to prison at all she wanted out as quickly as possible. The motive prompted her to initially lie about her involvement in the murder. This motive also prompted her to write diary entries and make statements to defense attorneys which contradicted her statements to law enforcement. However, it should be noted that Maybin's statements to the SBI and (apparently) her testimony at Jones' trial contain consistent statements regarding the events of the murder. Key details of Maybin's statements can be corroborated by the statements of impartial witnesses. These suggest that Maybin was truthful in her statements to SBI agents and in her testimony at trial.

If the trier of fact must rule either Maybin's statements to SBI agents or her interview with Maynard Harrell false, common sense seems to favor finding the statements true and the interview untrue. In fact, the jury in Wallace Brandon Jones' trial apparently reached this same conclusion. At the time of the trial, it was known that Maybin made inconsistent statements. It appears that part of the transcript of the conversation between Maybin and Harrell may have been entered at trial. The jury was largely aware that Maybin had claimed at least to Vosburg and Harrell, that she had lied to police. The jury in Jones' trial was afforded the opportunity to observe witnesses as they testified and to assess their credibility. Because they were able to see and hear witnesses in court, the jury was able to make judgments with regard to the witness' sincerity and credibility. These are things which a trial transcript cannot reflect. Based on the evidence presented at trial, including Maybin's testimony, the jury found Jones guilty. This suggests that they found Maybin's testimony to have been credible and truthful. Our system of justice relies on the ability of jurors to assess the credibility of witnesses. In part because they have the opportunity to observe and hear witness testimony, we are cautious in questioning the jury's assessment of an individual witnesses credibility. Jones' jury found Maybin credible. Spruill knowingly waived his right to a trial by jury. Allowing a new trial based on their claims that Maybin was not credible is not justified and does violence to the well established, time tested concept of trial by jury.

VI. ASSERTION 4: MAURICE WILKINS WAS NOT SERIOUSLY CONSIDERED AS A SUSPECT. THERE IS EVIDENCE TO IMPLICATE WILKINS OR ANOTHER INDIVIDUAL COMMITTED THE CRIME.

Finally, Spruill and Jones claim that law enforcement officers, specifically then Deputy Sheriff Janice Spruill and at the time of this follow-up investigation she was serving as the interim Sheriff of Washington County, that their investigation focused solely on Jones and Spruill and did not take into consideration other possible suspects. Spruill and Jones claim that through either maliciousness or incompetence that Janice Spruill failed to investigate other viable suspects and proceeded in an unjustified pursuit of Jones and Spruill alone. In making these claims, they most often reference Maurice Wilkins who was a suspect early in the case and a drug dealer referred to as "Bo Jack". Spruill and Jones claim that law enforcement officers have not seriously investigated other possible suspects or all sources of information. Statements from two inmates, Edward Hudson and Avis Arnold have been offered by Spruill as evidence that someone else is responsible for the murder of Frank Swain.

First, Maurice Wilkins was seriously pursued as a suspect in the murder of Frank Swain. In fact, it appears Wilkins and his friends were at one point considered the main suspects in the murder. Joseph Lind, a friend of Wilkins was known to have a blue pickup truck. See: SBI Investigative Report, Statement of Janice Spruill dated March 14, 2005. However, Janice Spruill reported that in her initial investigation, she found several witnesses who put Wilkins and Lind along with Lee McPhatter and Billy McNair at a local restaurant around 9:00 pm on the night of the murder. In addition, Janice Spruill also found witnesses who put Wilkins and his group at the Zodiac Club for the rest of the evening. This matched the explanation that Wilkins and his friends had given police concerning their whereabouts that night in question. Also, based on Janice Spruill's statements they did not rely on just one witness to confirm that Wilkins, McPhatter and the others were at the club and the restaurant, but rather they checked with several witnesses to confirm that the men were actually where they claimed to be. It should also be pointed out that Janice Spruill and the Washington County Sheriff's Department did not rest on those witnesses' statements; they also obtained blood samples from both Wilkins and McPhatter and had them compared to blood found at the crime scene of Frank Swain's murder.

It is true that Wilkins' first blood sample was inadvertently destroyed by Janice Spruill. However, a second blood sample was taken from Wilkins and an SBI Lab Report dated February 28, 1994, indicates that Maurice Wilkins' blood sample was received by the lab and was found to be Type A. See SBI Laboratory Report, Blood Sample of Maurice Wilkins dated February 28, 1994. This is significant because most of the blood evidence recovered from the crime scene was Type O. Wilkins with type A blood could not have contributed the type O blood from the crime scene. To date, it appears no type A blood has been recovered from the crime scene. Additionally, both Wilkins and McPhatter were fingerprinted and those prints were compared to latent lifts from the crime scene. See SBI Laboratory Report, Analysis of Crime Scene Evidence and Inked Impressions, dated January 18, 1994. Neither Wilkins' prints nor McPhatter's prints were found to match the latent lifts from the crime scene. However, the lab requested either more detailed latent prints or more detailed inked impressions of Wilkins and McPhatter. Additionally, during the reinvestigation blood samples from Wilkins and McPhatter were compared in a DNA analysis of the tire tool found at the crime scene. See SBI Laboratory Report, DNA Analysis of Tire Tool, dated September 20, 2007. During this DNA analysis Wilkins and McPhatter were both excluded as having contributed to the DNA found on the tire tool. That fact alone may not be conclusive; Spruill, Jones and Maybin were also excluded as having contributed to the DNA mixture on the tire tool. In fact,

it is likely that the victim Frank Swain is the main contributor to blood and DNA found on the tire tool. Wilkins and McPhatter were seriously pursued as suspects during the course of the investigation. However, a combination of alibi witnesses and physical evidence seems to clear both men of any involvement in the death of Frank Swain.

A second man who is commonly cited by Spruill and Jones as someone who should have been pursued by law enforcement is a drug dealer called "Bo Jack". An anonymous letter was received by law enforcement signed only as "Folly Road" which claimed Frank Swain and his girlfriend, "Sandra" (presumably a reference to Sonya Spruill Day), owed Bo Jack a large drug debt. According to this letter, Swain was killed because he failed to repay Bo Jack and Sonya Spruill Day was killed so she could not name Bo Jack as Swain's murderer. See Letter from "Folly Road" to Mr. Hewitt, undated. Little information was found in the file related to a Bo Jack. However, Bo Jack has identified both by Janice Spruill and Alfred Armstrong as Alton Plaggon or Claggon. See SBI Investigative Report, Interview of Janice Spruill dated March 14, 2005. See also SBI Investigative Report, Statement of Alfred Armstrong dated March 20, 2008. A search of the North Carolina Department of Corrections indicates that there was an inmate named Antonio Claggon who was convicted in the early 1990s in Washington County (where Plymouth and Roper are located) for several counts of robbery, burglary and breaking and entering. Claggon was also charged with second degree murder for which he received a life sentence. On October 5, 1993, Claggon was convicted of felony breaking and entering, possession of a firearm, larceny after breaking and entering, second degree burglary, robbery with a dangerous weapon, first degree burglary, and second degree murder. Based on this criminal history it appears that Claggon may be capable of perpetrating the robbery and murder of Frank Swain. However, Claggon's conviction date was October 5, 1993. Swain's murder occurred on December 18, 1993. Presumably, Claggon was already in prison serving his sentence on the date that Swain was murdered. Assuming that Antonio Claggon from Washington County is the same person as "Bo Jack" it appears highly unlikely if not absolutely impossible for him to have murdered Frank Swain.

To rebut this evidence, Spruill has offered the statements of Edward Hudson and Avis Arnold, both inmates who had at one time or another been incarcerated with Leroy Spruill. In March 2005, Arnold was interviewed because he had claimed to know information about Frank Swain's murder. See SBI Investigative Report, Statement of Avis Arnold dated March 21, 2005. It appears that investigators learned about Arnold through Leroy Spruill. Spruill informed agents that Arnold had information about the Swain murder.

Spruill implied that Arnold was involved in the murder, possibly as the lookout for Wilkins and his associates. Spruill claimed that Arnold had written this information in an affidavit which was being held by Attorney Carl Stewart who had been retained by Spruill's family to try and get him a new trial. See Letter from James Coman, Senior Deputy Attorney General, to Carl Stewart, Jr., Attorney at Law dated February. 15, 2005. However, it appears that Attorney Stewart was not in possession of any such affidavit. In the interview with SBI agents, Arnold stated he did not write a letter to the Attorney General's Office claiming to have information. See SBI Investigative Report, Statement of Avis Arnold dated March 21, 2005. Arnold said that Leroy Spruill had written a letter and asked Arnold to sign it. Arnold signed the letter after Spruill wrote it. Arnold told agents that he did know Billy McNair. Arnold told agents "he heard a guy say that he had stabbed a girl. (Arnold identified that man) as Billy McNair and said McNair had stated he took a screwdriver and stabbed her." Arnold here implied that this information related to the Sonya Spruill Day murder. Arnold then stated that he did not have information about Frank Swain's murder, only Sonya Spruill Day's murder. However, Arnold later stated that he had been with McNair, Maurice Wilkins and Joseph Lynn on the evening that Frank Swain was murdered. Arnold said he had not been with McNair, Wilkins and Lynn at the time Swain was murdered that night. Arnold then stated that the day after Swain was murdered, he was with McNair and Wilkins when they got a phone call about Swain's death. According to Arnold, both Wilkins and McNair began acting very strangely. Agents asked Arnold if he would take a polygraph concerning Swain or Spruill. Arnold refused and apparently remarked to agents that he'd gotten himself "in some shit trying to help someone". Arnold denied having ever signed a statement or an affidavit concerning the Swain murder. No affidavit was found concerning this information and Arnold himself denies ever having written one. In short, Arnold did not present the agents with new evidence concerning Swain's murder and in fact denied having any knowledge concerning Frank Swain's death.

Spruill and Jones have also advanced the testimony of Edward Hudson another inmate, as new evidence for trial. In August 2005, Hudson wrote a letter to the Special Prosecutions Division stating that he had been incarcerated with one Wyatt Spruill, a relative of Leroy Spruill. See Letter from Edward Hudson, to James Coman, Senior Deputy Attorney General dated August. 25, 2005. Hudson claimed that Wyatt Spruill confessed to helping murder Frank Swain. According to Hudson's letter, Wyatt Spruill said he, Maurice Wilkins, JoJo or Billy McNair and Joseph Lynn all planned to rob Swain of his money and drugs. On the night of the murder, Wyatt Spruill called Wilkins, McNair and Lynn and told them he was

leaving Frank Swain alone in his trailer. Wilkins, McNair and Lynn then went to Swain's trailer and attempted to rob him. When Wyatt Spruill returned, he found that the robbery had gone wrong and Wilkins and his crew had killed Frank Swain. According to Hudson, Wyatt stated that Wilkins, McNair and Lynn had threatened Wyatt Spruill and told him not to talk to police. Wyatt believed the murder of his sister Sonya Spruill Day, was a message to him that if he (Wyatt Spruill) talked that he too would be killed. Hudson's letter does include some details from the Sonya Spruill Day murder noting that the murder of Sonya Spruill Day was similar to the murder of Frank Swain in many ways. Hudson claimed that he learned the details of Day's murder from Wyatt's confession.

A few weeks later, the SBI followed up on this letter by interviewing Edward Hudson at Southern Correctional Institution. During this interview, several problems surfaced with regard to Hudson and the information that he proffered. First, at the time of the interview Hudson was in prison on "a false pretense charge". See SBI Investigative Report, Statement of Edward Hudson dated September 14, 2005. During the interview, Hudson stated that he had run into Leroy Spruill at Hyde County Correctional about a month prior to writing the letter to Coman. Hudson stated that he talked with Leroy Spruill and told Spruill about his contacts with Wyatt Spruill, including Wyatt's alleged admissions. Hudson said he told Spruill that Wyatt Spruill confessed to planning the murder along with Wilkins, McNair and Lynn. Hudson also told Spruill he heard from Wyatt that one of the men involved in the robbery and murder of Swain cut himself and later sewed up his own cut with fishing twine. The SBI followed up with an interview of Wyatt Spruill in which agents specifically questioned Wyatt Spruill about Hudson's allegations. See SBI Investigative Report, Statement of Wyatt Spruill dated February 16, 2007. During this interview, Wyatt Spruill gave SBI agents essentially the same information he gave the police at the time of Swain's murder. Wyatt acknowledged that he spent the night at Frank Swain's house on December 17, 1993 and explained what he and Swain did during the day of December 18, 1993. Wyatt Spruill said that he is not aware of who killed Frank Swain, but is suspicious of Maurice Wilkins and Duke Carter. Wyatt Spruill told agents that he was not aware of anyone who wanted to rob Frank Swain. He did not remember any inmate named Edward Bryant Hudson that he was in Newport Prison with, but he does know that he did not tell him that he was approached by three black males who wanted to rob Frank Swain. It is apparent that Wyatt Spruill's statement to the SBI agents stands in direct contradiction to Hudson's claims.

A check of the North Carolina Department of Corrections reveals that Edward Hudson (DOC Number 0582562) has a long history of

crimes related to false pretenses, cheating people out of property and worthless checks. These charges all involve some form of fraud or deceit, a fact which tends to completely undermine Hudson's credibility. Further, since Hudson acknowledges that he met and conversed with Leroy Spruill prior to writing the letter and meeting with SBI agents, it is more than reasonable to conclude that Hudson's information came entirely from Spruill himself. It should be noted that at the same time Hudson wrote to Mr. Coman, Hudson was assisting FBI agents in another investigation. See SBI Investigative Report, Statement of Mike Sutton, Special Agent for the FBI dated September 16, 2005. An FBI agent informed investigators that Hudson wanted to get out of prison and was using his role in assisting the FBI investigation as a basis for accomplishing that. However, Hudson was told that the FBI could not release him from prison. Hudson's weak credibility combined with his incentive to get out of jail and the fact that he had met and conversed with Leroy Spruill during a period of time when Spruill has been reassigned from the Hyde Correctional Institution where he was serving his time to the Craven Correctional Institution where Hudson was being housed at the time that he ran into Leroy Spruill create the very real possibility that Hudson is lying and that the letter was written as a favor to Leroy Spruill. As such, Hudson's statements are hardly grounds for reopening the Spruill and Jones' cases.

The statements of Avis Arnold and Edward Hudson are both of questionable origin. Arnold denies having written a letter to investigators and denies giving an affidavit to Attorney Carl Stewart. Upon contact from this writer to Attorney Carl Stewart he indicated that he had never received an affidavit from Avis Arnold. Rather, Arnold said that Leroy Spruill wrote the letter which he signed. Arnold denied having any knowledge concerning the Swain murder. Hudson said that he did write a letter to the Attorney General's Office, however, Hudson acknowledged that he wrote this letter after talking with Leroy Spruill. Hudson's prison record indicates that his entire adult life he has been engaged in actions which are both fraudulent and deceitful and raise serious questions about any credibility that he might have. Additionally, Hudson was assisting the FBI with an investigation and was operating under the mistaken belief that if he helped the FBI that he would then be set free for his cooperation. However, Hudson was informed by the FBI that this would not occur. The information in statements from both Arnold and Hudson are believed to have come about only after having had contact with Leroy Spruill. The circumstances under which both provided information are the very least suspicious and cast Spruill and his motives in a bad light. The fact that Arnold plainly told agents he did not have information about Frank Swain and had not written an affidavit regarding Swain's murder makes the information

in the Arnold letter irrelevant as well as dishonest. The fact that Hudson could easily have obtained the information after contact from Leroy Spruill, and has a motive for assisting in investigations and has extremely poor credibility makes the any information contained in the Hudson letter more than questionable at best.

The only additional piece of information to surface in the case was an SBI Laboratory Report which claimed the latent fingerprints from the Swain crime scene were a positive match to Maurice Wilkins and Toby McPhatter. This laboratory report was proven to be fraudulent and had been created by the former Police Chief in Plymouth as an effort to try and help Spruill. Subsequently that individual was prosecuted and removed from office. The phoney laboratory report was not proffered by Spruill or Jones, but rather one of their supporters. As such, that person is responsible for the attempt to offer fraudulent information, not Spruill and Jones. No other credible information has been advanced by either Spruill or Jones or their supporters.

V. CONCLUSION

In conclusion, the chief complaints issued by Spruill, Jones and their supporters I believe have been addressed. The SBI investigation into Frank Swain's murder began in December 1993. The investigation of the crime has continued until the present, nearly 16 years after the commission of the crime. As of yet, no new evidence has been uncovered which would justify the reopening of this case. Spruill, Jones and their supporters frequently cite to their lack of transportation, the lack of physical evidence and the questionable credibility of witness Dana Maybin as grounds for reopening their case. However, all of this information was presented at the trial of Wallace Brandon Jones and was rehashed at the Motion for Appropriate Relief that he filed. Knowing that the defendants had questionable transportation, knowing that no DNA had confirmed the defendants were at the scene, and knowing that Dana Maybin had made contradicting statements, all that was heard by the jury and the jury still convicted Wallace Brandon Jones of First Degree Murder. Granting a new trial based on any of these claims would do violence to our concept of trial by jury. The jury carefully weighed the facts and found against Jones. It is not the role of the Attorney General's Office or the State Bureau of Investigation to substitute their judgment for the judgment of this jury particularly when the issues here had been presented to the jury for their consideration. These issues are closed as to the defendant Wallace Brandon Jones both as to the findings of the Appellate Courts and the denial of his Motion for Appropriate Relief.

As to defendant Leroy Spruill, Spruill accepted a plea agreement. The plea agreement which Spruill signed informed him that in accepting the agreement he was waiving certain rights. See Plea Transcript of Leroy Spruill. During the plea agreement, Spruill had to respond to the following questions: "Do you understand that you have the right to plead not guilty and be tried by a jury?" "Do you understand that at such trial you have the right to confront and to cross examine the witnesses against you?" "Do you understand that by your plea you give up these and your other constitutional rights relating to a trial by jury?" "Do you understand that upon your 'Alford Plea' you will be treated as being guilty whether or not you admit that you are in fact guilty?" To each of these questions, Spruill responded, "Yes." Spruill then signed the form. Spruill had the opportunity to raise all of these issues in his own trial. Spruill knowingly elected to waive his right to trial in hopes of obtaining a better deal for himself. Perhaps Spruill now feels that he would have done better with a trial. However, granting a new trial to every defendant who decides in favor of a plea but is later unhappy with their sentence would simply defeat the entire purpose of taking plea agreements. Spruill was given his choice and he made it. These issues are closed as to the defendant Leroy Spruill.

A great deal of time and energy has been expended both by the State Bureau of Investigation and the Special Prosecutions Division of the Attorney General's Office in reviewing these allegations raised by Spruill and Jones and their supporters. Absent these claims, the only new information which Spruill and Jones have offered are two statements from inmates both of which were obtained under highly questionable circumstances. SBI agents at the direction of the Senior Deputy over the Law Enforcement and Prosecutions Division interviewed both witnesses only to find that one witness, Avis Arnold, claimed to have no information and the other witness, Edward Hudson was not credible and his statements were directly contradicted by Wyatt Spruill. In short, there is no new evidence that has been offered which appears to be credible which would warrant reopening either Spruill or Jones' case. In the absence of any such evidence I am considering this matter to be closed.

Handout 79

SBF FILE# 668-H-5
ACTIVITY: February 8, 1995
VICTIM: William Frank Swain
DICTATED: February 10, 1995
RECEIVED: February 13, 1995
TYPED: February 21, 1995
COPIES: (1) Records; (2) Criminal Specialist J. K. Inscoe;
(3) SAC W. E. Godley; (4) SA D. R. Varnell;
(5) District Attorney M. D. Norton.

MEETING WITH ASSISTANT DISTRICT ATTORNEY ROB HENSLEY AND
DEFENDANT DANA MAYBIN:

On Wednesday, February 8, 1995, SA Inscoe traveled to Washington and met with Assistant District Attorney Hensley at his office at approximately 10:30 a.m. SA Inscoe and Assistant District Attorney Hensley first discussed the investigation and a meeting with Ms. Maybin. District Attorney Mitchell Norton briefly spoke with SA Inscoe and Assistant District Attorney Hensley.

At approximately 11:30 a.m., SA Inscoe went to the Beaufort County Jail which is located in the basement of the courthouse. SA Inscoe escorted Ms. Maybin from the jail to the district attorney's office. SA Inscoe and Assistant District Attorney Hensley spoke with Ms. Maybin. The meeting began at approximately 11:45 a.m.

During the meeting, SA Inscoe and Assistant District Attorney Hensley spoke to Ms. Maybin about how she was doing and about the fact that she would be testifying for the state. No specific questions about the homicide of Frank Swain were discussed. Ms. Maybin did say she was going to testify truthfully for the state and she was going to tell what she did and what she saw reference Mr. Swain's murder. It was agreed on that at a later date Ms. Maybin would be interviewed and her statement reviewed by Assistant District Attorney Hensley. Assistant District Attorney Hensley also stated he would go over questions she would be asked by him during the trial. Assistant District Attorney Hensley went on to say he would probably take Ms. Maybin to the courtroom in Plymouth to get her familiar with the court and court proceedings.

At the conclusion of the meeting, Ms. Maybin reaffirmed her commitment to testify. SA Inscoe escorted Ms. Maybin back to the Beaufort County Jail. Ms. Maybin was taken back into the jail at approximately 12:30 p.m.

SA Inscoe returned to Assistant District Attorney Hensley's office and further discussed the case. Assistant District Attorney Hensley did prepare a lead sheet for future work to be done in preparation of the case for trial.

UKI:lj

~~Wye~~ ~~Spvill~~ (tab page)
(Spvill, Wye)

002181

2125

Handout 80

Windows Live Home **Hotmail** Spaces OneCare MSN c_mumma@hotmail.com Sign out

Inbox nk
Drafts (10)
Sent
Deleted (103)
AJS and In...
Center email
Charlotte ...
Class mate...
commission
Durham Aca...
Durham Rou...
Dwayne Dail
Externship
FTI
Hunt case
ID study
Innocence ...
NCPLS
Orr
Personal (10)
Tarheel of...
Witness to...
Manage folders
Add an e-mail account
Today
Mail
Contacts
Calendar

New Reply Reply all Forward Delete Move to Options ?

RE: Spruill

From: **Christine Mumma** (c_mumma@hotmail.com)
Sent: Thu 10/09/08 11:25 PM
To: Coman, James (jcoman@ncdoj.gov)

Mr. Coman,

I hope you are well.

Were you able to have a conference call with Jenny and Jerry Richardson regarding the below? When I spoke with you on September 15th you were hoping to talk with them the next week. I look forward to hearing back from you.

Chris Mumma

From: c_mumma@hotmail.com
To: jcoman@ncdoj.gov
Subject: RE: Spruill
Date: Wed, 20 Aug 2008 09:54:27 -0400

Mr. Coman,

It's important to have any profile obtained from an extract from the grip end of the tire iron run through CODIS. Therefore, I would suggest the SBI take an extract, quantify it for their testing, and, if there is enough evidence, send a sample to LabCorp for testing to see what they are able to obtain. The Center will cover the costs of transfer to and testing by LabCorp. Does this sound ok to you? If so, can you make a call to the SBI lab to get the ball rolling?

Respectfully,

Chris Mumma

Subject: RE: Spruill
Date: Mon, 11 Aug 2008 08:25:14 -0400
From: Jelwell@ncdoj.gov
To: c_mumma@hotmail.com; Jcoman@ncdoj.gov

I have spoken with the CODIS administrator regarding this case. The only option you have, if you want to search a sample in CODIS, is to have the SBI run the sample. We do not store evidence. It would be dried down and sent back to the agency. I am sorry we can not help further in this matter but our hands are tied by the regulations set forth by the FBI

Regards,

Jenny Elwell

From: Christine Mumma [mailto:c_mumma@hotmail.com]
Sent: Sunday, August 10, 2008 10:13 PM
To: Coman, James
Cc: Elwell, Jenny
Subject: Spruill

Dear Mr. Coman,

I hope your trial in Polk County is going well.

I have learned some additional information regarding the testing in LeRoy Spruill's case that I wanted to share with you.

The miniSTR testing, available through LabCorp, that is sensitive and highly effective with degraded evidence is not currently approved by the FBI for upload to CODIS. Therefore, although results from testing might exclude LeRoy and the others as previous testing has done, the results can not be used to upload to CODIS for possible identification of the donor.

The benefit of using miniSTR is that the profile already obtained using STR from the weapon end of the tire iron is a mixture of the victim's profile and another profile that can not be completely determined within the mixture. Obtaining a profile from the gripped end of the tire iron may make it easier to distinguish that profile. Also, miniSTR might have been able to pick up loci that could not be picked up through standard STR testing.

One possibility might be for LabCorp to run the test using miniSTR and the SBI to use the results to do what's called a "key board search", which is basically a one time search and not a permanent upload. I don't think the FBI standards restrict this type of search, but Jenny Elwell, who I have copied on this e-mail would likely know or can get the answer to that.

Another possibility is for the SBI to do the extraction and, if enough DNA is present, try to obtain a profile that can be run through CODIS using regular STR. If the quantification shows insufficient DNA for regular STR's, they can store what has been extracted for possible future use with miniSTR's. It is my understanding the FBI is currently reviewing the upload criteria.

Bottom line....our first choice would be for the SBI to do a "key board search" with the profile obtained through LabCorp's testing of the grip end of the tire iron. Second choice is for the SBI to do the test using standard STR.

I'll wait to hear back from you and/or Jenny. Thank you for your continued professional review of this case. As you know, I remain convinced of LeRoy's innocence.

Respectfully,

Chris Mumma

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State of North Carolina

ROY COOPER
ATTORNEY GENERAL

Department of Justice
PO Box 629
Raleigh, North Carolina
27602

Reply to:
James J. Coman
Law Enforcement & Prosecutions Division
(919) 716-6500
Fax: (919) 716-6760

October 23, 2008

Ms. Christine C. Mumma
Attorney at Law
The North Carolina Center on Actual Innocence
Post Office Box 52446
Shannon Plaza Station
Durham, NC 27717-2446

Re: In Re: Leroy Spruill

Dear Ms. Mumma:

I apologize for the tardiness in responding to your earlier inquiry regarding the DNA issues generated around the tire tool which was an item of evidence when this matter was resolved back in 1995. I have spoken at length with both Assistant Director Jerry Richardson of the SBI Lab and Special Agent Jenny Elwell regarding your request for additional mini STR testing on the tire tool. My discussions with Assistant Director Richardson and Agent Elwell indicate the following position of the lab regarding your inquiry:

1. They believe that a complete profile was generated from the tire tool which as you know is listed at Item 4 in the retesting of this matter. As we all are aware, a mixture or combination DNA was obtained. Part of that mixture contained DNA from the deceased Frank Swain.
2. The position of the lab is that the suspect Leroy Spruill has been completely eliminated from this mixture and for that reason, they feel that as to the tire tool the present testing that has been done excludes him as having potentially handled the item as there is no DNA linking him to that item.
3. The mixture that was recovered with as much of the victims alleles removed as possible, has been entered into the State database and is being routinely searched through the database and CODIS. I have been assured by both


Assistant Director Richardson and Agent Elwell that it is their intention to continue to have that mixture searched on a regular basis in hopes that it may generate useful information in this matter. It is the position of the lab, and I cannot disagree with them, that they do not believe that any further testing would enhance the DNA profile or give any additional information. For that reason they are reluctant to agree to conduct any additional testing on the tire tool.

I believe that we have done a more than reasonable job to demonstrate that Mr. Spruill has been excluded as an individual who may have had contact with the tire tool. I know that this is not the answer that you are seeking but the SBI lab personnel feel very strongly about this and do not believe that any further testing is going to be useful in the case.

If you should have any questions regarding this decision, please give me a call and we can discuss this although I don't hold out much hope that I will be able to change their mind regarding additional testing, at least as far as the tire tool is concerned.

With best personal regards, I remain

Sincerely,



James J. Coman

Senior Deputy Attorney General

Law Enforcement/Special Prosecutions Division

JJC:kj

Handout 81

SEALED BY ORDER OF COURT

Handout 82

SEALED BY ORDER OF COURT

Handout 83

SEALED BY ORDER OF COURT

Handout 84

8/25/05

MR. COMAN,

PLEASE ALLOW ME TO FIRST THANK YOU FOR YOUR TIME AND EFFORT IN THIS MATTER. THIS LETTER IS IN REGARDS TO THE MURDER CASE INVOLVING BOTH LEROY SPRUILL & WALLACE JONES.

I HAVE INFORMATION THAT I BELIEVE WILL PROVE THAT SPRUILL AND WALLACE ARE INNOCENT OF THEIR CHARGES. WHILE AN INMATE AT CARTERET CORRECTIONAL FACILITY IN NEWPORT, NC I BECAME FRIENDS WITH AN INMATE NAMED WYATT SPRUILL. WYATT WAS A VICTIM TO A VERY BAD ADDICTION TO CRACK COCAINE THROUGHOUT MOST OF HIS ADULT LIFE, AS HIS CRIMINAL RECORD WILL PROVE. WHILE TOGETHER

AT NEWPORT WYATT BECAME AWARE THAT I KNEW OF HIS COUSIN LEROY AND HAD HEARD ABOUT HIS CASE, HE WOULD OFTEN BECOME VERY NERVOUS AND GUARDED WHEN I WOULD ASK HIM ABOUT LEROY'S CASE. AFTER SEVERAL MONTHS TOGETHER, ONE DAY WYATT BROKE SILENCE AND TOLD ME THAT HE HAD NO WHERE TO GO TO AND NO WHERE TO TURN UPON HIS RELEASE DUE TO HIS ADDICTIONS AND WHAT HE HAD DONE TO HIS FAMILY. AT THIS POINT I BEGAN TO GET CURIOUS AND ASK HIM WHAT HE MEANT. HE SWORE ME TO SECRETELY AND

PROCEEDED TO TELL ME THAT HE HAD BEEN INVOLVED IN THE INCIDENT THAT LEAD TO THE MURDER OF FRANK SWAIN. HE TOLD ME THAT UPON BEING ON A CRACK BINGE FOR SEVERAL WEEKS HE HAD MET FRANK SWAIN WHO WAS A LOCAL CRACK DEALER AND HAD INVOLVED ME WITH HIM FOR ABOUT A WEEK AND A HALF PRIOR TO THE MURDER.

HE SAID THAT HE HAD KNOWN JOSEPH LYNN, MAURICE WILKINS AND TO TO MENARD THAT HE CALLED BILLY AND THAT THE 3 OF THEM HAD

AMOUNT OF CRACK AND CASH AT HIS MOBILE HOME. THEY WANTED
WYATT TO LET THEM KNOW WHEN HE WOULD BE THERE, WYATT
SET UP A TIME FOR THEM TO BE THERE WHEN FRANK SWAIN WOULD
BE ALONE WHY WYATT WAS GONE. ACCORDING TO WYATT WHEN THEY
GOT THERE THE ROBBERY WENT BAD AND SWAIN ENDED UP DEAD,
WITH MAURICE WILKINS GETTING CUT UP PRETTY BAD ON HIS ARM
FROM THE INCIDENT WHEN THEY WERE ATTEMPTING TO CUT OFF SWAIN'S
HEAD. WYATT SAID THAT HE WAS TOTALLY FREAKED OUT BY WHAT
HAD HAPPENED, LATER WHEN THEY ALL MET UP AT A CENTRAL LOCATION
ONE OF THE GUYS WAS FORCED TO SEW UP THE LACER CUT ON WILKINS
ARM WITH FISHING LINE TO PREVENT HIM FROM HAVING TO GO TO
THE HOSPITAL. I ASK ^(WYATT) HIM WHY HE DID NOT GO TO THE POLICE, HE STATED
THAT HE FEARED THAT HE WOULD BE CONNECTED TO THE CRIME AND
THAT THE OTHER 3 HAD THREATENED HIM. SOMETIME LATER WYATT'S
SISTER WAS FOUND DEAD, KILLED THE SAME EXACT WAY, WITH THE EXCEPTION
THAT HER HANDS WERE TIED BEHIND HER BACK WITH A TELEPHONE CORD.
I SAID TO HIM THAT WITH ALL THE DETAILS OF THE CRIME BEING IDENTICAL
THAT IT HAD TO BE THE SAME PEOPLE. WYATT'S EYES IMMEDIATELY TEARED
UP AND HE TOLD ME, "THAT WAS A WARNING TO KEEP HIS MOUTH SHUT"
MEANING THAT IF HE SAID ANYTHING THAT THEY WOULD GET HIM THE SAME
WAY THAT THEY DID HER! I ASKED HIM HOW HE COULD TURN HIS
BACK ON HIS OWN FAMILY AND LET HIS COUSIN SET IN JAIL FOR ALL THESE
YEARS, HE STATED THAT HE WAS FEARFUL FOR HIS LIFE! FOR A LONG
TIME I NEVER HEARD HIM MENTION IT AGAIN EXCEPT THAT HE WAS
SORRY FOR WHAT HE HAD DONE

001593

NCHC - SBI File

JUST THIS PAST WEEK I WAS PROTESTING AT CRAVEN CORRECTIONAL
INST. A MAN NAMED TOLD ME THAT LEROY SPRUILL HAD JUST
BEEN TRANSFERRED IN FROM HYDE CO, I IMMEDIATELY WENT TO FIND
LEROY TO ASK HIM QUESTIONS CONCERNING THE THINGS THAT I HAD BEEN
TOLD TO SEE FOR MYSELF IF THEY MATCHED BEFORE I TOLD LEROY.
LEROY PROCEEDED TO TELL ME FACTS ABOUT HOW THE MURDERS
SUPPOSEDLY OCCURRED IN BOTH CASES WITH BOTH BEING IDENTICAL
RULING THROUGH THE CASE OF SONJA SPRUILL HAPPENED. I WENT LEROY
AFTER WALLACE TALKED WORK IN TAIL. LEROY SAID THAT THE SAME
3 SETS OF FINGER PRINTS WERE FOUND AT BOTH CRIME SCENES
AND STATED THE NAMES OF THE 3 GUYS THAT LYATE HAD TOLD ME
ABOUT. I HAD NOT TOLD LEROY THE 3 NAMES AT THAT TIME AND
HE HAD NO WAY OF KNOWING THAT I ALREADY KNEW. AFTER LEROY
EXPLAINED ALL THE FACTS AND HOW HE HAD FINALLY GOTTEN SOME
SUPPORT ON HIS CASE FROM A GROUP CALLED THE INNOCENT PEOPLE
I TOLD HIM WHAT I HAD BEEN TOLD BY LYATE SPRUILL, MR. COMAN.
HIS MOUTH LITERALLY DROPPED IN SHOCK! THE NEXT DAY HE CAME
TO ME AND ASKED IF I WOULD CONTACT YOU AND PROVIDE YOU
WITH THE INFORMATION THAT I HAD BEEN TOLD. PLEASE NOTE THAT
HE INSISTED THAT I IN NO WAY TELL YOU ANYTHING BUT THE
EXACT TRUTH AS IT HAPPENED. HE SAID THAT HE WOULD RATHER SIT
IN PRISON THEN HAVE SOMEONE LIE FOR HIM AND HAVE IT ON HIS
CONSCIENCE! I CAME TO YOU WITH THIS INFORMATION AND I AM
FULLY PREPARED TO SUBMIT TO A POLYGRAPH AND TESTIFY ON
LEROY AND WALLACE'S BEHALF IF NEEDED.

001394

NCHC-SBI File

I AM DUE TO BE TRANSFERRED TO A MINIMUM SECURITY
CAMP ANY DAY NOW HOWEVER, IF YOU WOULD LIKE TO INTERVIEW
ME ON THIS MATTER PLEASE FEEL FREE TO CONTACT ME.

Sincerely,
Edward B. Hedman

001595

NCIC - SBI File

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

SBI CASE: 2004-03241 (583)
ACTIVITY: September 14, 2005
VICTIM: William Frank Swain
COPIES: (1) Case Records Management Section
(2) ASAC J. B. Tilley
(3) SAC D. G. Honeycutt
(4) Senior Deputy Attorney General J. J. Coman

Edward Bryan Hudson, W/M/DOB: 02/09/1966 (Witness)
Residence: 300 Minute Man Lane, Apartment 112, Washington,
North Carolina 27889, Telephone: 252-946-9880
Business: Unemployed

Edward Bryan Hudson was interviewed on Wednesday, September 14, 2005, at 9:50 a.m. at the Southern Correctional Institute by Assistant Special Agent in Charge (ASAC) J. B. Tilley.

Hudson is being interviewed about a conversation that he had with Wyatt Spruill.

Hudson stated that he was incarcerated at the Southern Correctional Institute for a false pretense charge. He stated that he had been sentenced to 9 to 11 months, and a second charge sentence for 11 to 14 months out of Pitt County, which were "box carried." He also is serving a sentence of 44 to 56 months from Beaufort County, which is running concurrent.

Hudson stated that he was assigned to the Hyde County facility in 2000 when he ran into Leroy Spruill. He stated that was where he met Spruill.

Hudson stated that in 2001 or 2002, he was in a Newport facility and met with Wyatt Spruill. Wyatt slept next to him in a dorm. Hudson asked Wyatt about his last name, and Wyatt told him he was cousins with Leroy Spruill.

Wyatt told Hudson that he had been on "crack Cocaine badly." The more they talked, Hudson asked about Leroy's murder case. Hudson stated they talked several times about the murder. Wyatt talked about mistakes he had made and how he was trying to get along in this life.

Hudson is being interviewed about a conversation that he had with Wyatt Spruill. Hudson stated that he was assigned to the Hyde County facility in 2000 when he ran into Leroy Spruill. He stated that was where he met Spruill.

001596
NCHC SBI File

Wyatt told Hudson he was staying with Frank (LNU). Three guys got up with Wyatt. Hudson could not remember their names, but knew one of their names was "Jo Jo."

The three guys wanted to rob Frank. They wanted Wyatt to come up with a time and a place to rob Frank.

Wyatt told Hudson about his sister getting murdered. Wyatt thought maybe it was done to keep him from talking. Wyatt stated that her head was cut off, and she was tied up with a telephone cord. Wyatt stated that the fingerprints would be the same in both murders, if someone would look. Wyatt was afraid these people would come after him.

Hudson stated a month or so ago, he ran into Leroy Spruill at the Hyde County facility. He talked to Leroy about Wyatt. Hudson asked Leroy about the murder of Frank. Leroy told him the same story and used the exact same names.

Leroy said that Wyatt testified in the trial. Wyatt could have told the truth, and if he had, Leroy would have gotten off.

Hudson stated that he wrote the names in his letter to Coman from memory, right after he talked to Leroy. Hudson stated that if the names were put in a group, he would be able to pick them out. Leroy told Hudson to write Coman about this information, but not to lie.

Hudson stated that Wyatt set up the robbery. Wyatt was supposed to have left, but it happened too quickly. Wyatt stated that one of the guys got cut while cutting Frank's throat. The guy sewed it up with fishing twine.

Hudson stated that he did not know if it was true when Wyatt told him. He stated after talking to Leroy, he knew it was. Hudson stated that he would take a polygraph if needed.

Wyatt told Hudson about fingerprints being the same. Leroy stated there were three sets, and they would match up. Hudson asked Leroy about DNA. Leroy did not know if there was any.

Hudson stated that he was giving information to the Federal Bureau of Investigation (FBI) about a drug organization and a Patriot Act Violation. He was working with Agent Mike Sutton at 919-854-2430. He stated he took a polygraph test for them. He was asking the FBI for work release and protection for his information. Hudson was not looking for anything for the information on Wyatt and Leroy.

Hudson stated within one day of talking to Leroy, he wrote the letter to Coman. Leroy had told him about Project Innocense.

ASAC Tilley showed Hudson a photo from the North Carolina Department of Correction Offender Information Screen. He identified the photo as Wyatt Spruill. Hudson also identified the letter he wrote to Coman when ASAC Tilley presented it to him.

Hudson is eligible for parole in November of 2006.

Hudson stated that Leroy talked briefly about his case back in 2000 or 2001 when they were housed together. He mentioned Wallace Jones, who they called "Wally Gator." Hudson believed Jones is now in the Columbia Correctional facility.

Hudson wrote the letter to Coman the same night or next day, after talking to Leroy. Leroy told him over and over to tell the truth. Leroy did not tell him what to write nor did he read the letter.

Hudson is not sure he put in the letter about "Jo Jo" getting cut. Leroy was the one who said it was fishing line. Hudson stated that he did not tell Leroy, but Wyatt had told him about the fishing line too.

Hudson was asked did he have anything else to say or add. Hudson stated Leroy told him about the Innocense Project. Leroy told Hudson about the murder case and knew it matched what Wyatt had told him. Leroy knew of the second murder and fingerprints.

Hudson stated that Leroy or Wyatt said something about a bloody shirt and a truck or Jeep. Hudson was not sure of any other details. Leroy said he only knew Wallace Jones a month before his arrest.

The interview concluded at 10:20 a.m.

JBT:lw

Handout 85

Offender Information Screen

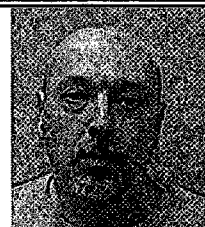
Show Side Menu Buttons

Back To Search Screen

Print

Refresh Screen

DOC Number: 0582562 Status: ACTIVE INMATE DNA Test: DOJ RECEIVED
 Name: HUDSON, EDWARD B. Birth Date: 02/09/1966
 SID: NC0707159A FBI#: 151430XA0 SSN: XXX-XX-2318



Active Inmate Specific Information # Infractions: 0 (N/A) Crime Type: FELON
 Custody: MINIMUM 3 Nxt Rev: 03/2018 Cur. Loc: 4865 - LANESBORO C.I. Bed: 6ADM-024
 Convicted: 11/03/2015 Admitted: 11/06/2015 SPL: L4
 Sp. Char: REGULAR Control: REGULAR POPULATION Nxt Rev:
 Projected Release Date: 06/20/2020 Case Manager: GRIMM, KIMBERLY A.
 Activity: ICP MINIMUM CREW Crime: HABITUAL FELON (PRINCIPAL)
 Last Movement: RECEIVED FROM SANFORD CC On: 01/03/2017
 Reason: SPECIAL CONST.CREW

SRG: N
 Victim: N Detain/PC: Y
 Alerts: Y Escapes: N
 Writs: N Warrants: N
 Conflicts: N

Offender's External Movements

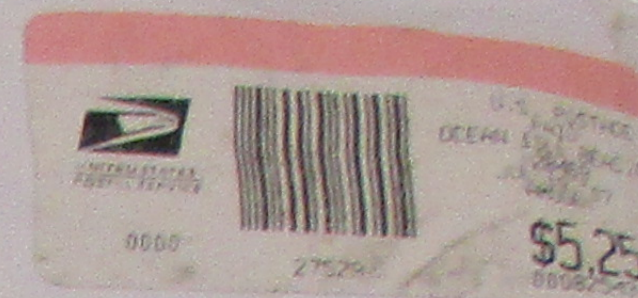
Date	Time	Reporting Location	Movement Type	Origin/Destination	Reason
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01/03/2017	07:26:00	SANFORD CC	TRANSFERRED TO	LANESBORO C.I.	SPECIAL CONST.CREW
07/12/2016	13:42:00	SANFORD CC	RECEIVED FROM	TYRRELL WORK FARM	SPECIAL CONST.CREW
07/12/2016	04:34:00	TYRRELL WORK FARM	TRANSFERRED TO	SANFORD CC	SPECIAL CONST.CREW
05/12/2016	17:14:00	TYRRELL WORK FARM	RECEIVED FROM	PAMLICO CI	FACL. CLASS. COMM.
05/12/2016	00:50:00	PAMLICO CI	TRANSFERRED TO	TYRRELL WORK FARM	FACL. CLASS. COMM.
03/22/2016	16:55:00	PAMLICO CI	RECEIVED FROM	PENDER CI	RETURN FROM SAP
03/22/2016	05:42:00	PENDER CI	TRANSFERRED TO	PAMLICO CI	RETURN FROM SAP
12/15/2015	15:49:00	PENDER CI	RECEIVED FROM	CRAVEN CI	SAP
12/15/2015	07:50:00	CRAVEN CI	TRANSFERRED TO	PENDER CI	SAP
11/06/2015	16:58:00	CRAVEN CI	RE-ADMISSION	BEAUFORT COUNTY	JUDGMT/COMMIT(FELON)
08/08/2011	10:06:00	GREENE CI	EXPIRATION	CRAVEN COUNTY	RELEASE
01/27/2011	13:28:00	GREENE CI	RETURN FROM COURT/JA	BEAUFORT COUNTY	RETRN W/ADL MISD TME
01/27/2011	07:42:00	GREENE CI	OUT TO COURT/JAIL	BEAUFORT COUNTY	COURT
01/25/2011	16:35:00	GREENE CI	RECEIVED FROM	TYRRELL WORK FARM	COURT
01/25/2011	04:44:00	TYRRELL WORK FARM	TRANSFERRED TO	GREENE CI	COURT
01/05/2011	09:39:00	TYRRELL WORK FARM	RECEIVED FROM	CRAVEN CI	PROCESSING
01/05/2011	08:48:00	CRAVEN CI	TRANSFERRED TO	TYRRELL WORK FARM	PROCESSING
11/24/2010	18:26:00	CRAVEN CI	RE-ADMISSION	WILSON COUNTY	JUDGMT/COMMIT(FELON)
11/15/2008	08:17:00	CRAVEN CI	EXPIRATION	BEAUFORT COUNTY	RELEASE
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02/26/2008	07:09:00	LINCOLN CC	OUT - COMM. HOSP.	CATAWBA MEMORIAL HOS	TREATMENT
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09/18/2007	11:06:00	GASTON CC	TRANSFERRED TO	LINCOLN CC	FACL. CLASS. COMM.
09/11/2007	14:32:00	GASTON CC	RECEIVED FROM	ALBEMARLE CI	RETURN FRM REST.HOUS
09/11/2007	07:16:00	ALBEMARLE CI	TRANSFERRED TO	GASTON CC	RETURN FRM REST.HOUS
08/24/2007	19:25:00	ALBEMARLE CI	RECEIVED FROM	GASTON CC	RESTRICTIVE HOUSING
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08/15/2005	08:29:00	CRAVEN CI	OUT TO COURT/JAIL	BEAUFORT COUNTY	COURT
07/28/2005	09:55:00	CRAVEN CI	RE-ADMISSION	PITT COUNTY	JUDGMT/COMMIT(FELON)
05/20/2003	12:26:00	MCCAIN HOSPITAL	EXPIRATION	GRAHAM COUNTY	RELEASE
02/13/2003	14:36:00	MCCAIN HOSPITAL	RECEIVED FROM	CRAVEN CI	PROCESSING
02/13/2003	06:30:00	CRAVEN CI	TRANSFERRED TO	MCCAIN HOSPITAL	PROCESSING
01/29/2003	15:18:00	CRAVEN CI	RE-ADMISSION	BEAUFORT COUNTY	JUDGMT/COMMIT(FELON)
04/05/2002	11:42:00	GREENE CI	EXPIRATION	BEAUFORT COUNTY	RELEASE
04/04/2002	06:53:00	GREENE CI	RECEIVED FROM	CARTERET CC	RELEASE
04/04/2002	03:53:00	CARTERET CC	TRANSFERRED TO	GREENE CI	RELEASE
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10/05/2001	18:39:00	CRAVEN CI	RE-ADMISSION	BEAUFORT COUNTY	JUDGMT/COMMIT(FELON)
09/12/2001	09:38:00	HYDE CI	EXPIRATION	BEAUFORT COUNTY	RELEASE
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03/06/2001	19:10:00	HYDE CI	RECEIVED FROM	PAMLICO CI	DUTY
03/06/2001	01:05:00	PAMLICO CI	TRANSFERRED TO	HYDE CI	DUTY
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12/16/1999	15:05:00	HYDE CI	RETURN FROM COURT/JA	PITT COUNTY	NO/UNKNOWN ADDL TIME
12/10/1999	05:50:00	HYDE CI	OUT TO COURT/JAIL	PITT COUNTY	COURT
12/03/1999	10:27:00	HYDE CI	RETURN FROM COURT/JA	PITT COUNTY	NO/UNKNOWN ADDL TIME
11/30/1999	10:07:00	HYDE CI	OUT TO COURT/JAIL	PITT COUNTY	COURT
06/24/1999	18:56:00	HYDE CI	RECEIVED FROM	CRAVEN CI	PROCESSING
06/24/1999	06:24:00	CRAVEN CI	TRANSFERRED TO	HYDE CI	PROCESSING
06/04/1999	15:30:00	CRAVEN CI	NEW ADMISSION	BEAUFORT COUNTY	JUDGMT/COMMIT(FELON)

Back To Search Screen

Handout 86

From: WM Warner
P O Box 6807
Ocean Isle, NC
28469



North Carolina Innocence Inquiry Commission
P.O. Box 2448, Raleigh, NC 27602
Tel: (919) 890-1580 Fax: (919) 890-1937

ITEM NO: 60
DESCRIPTION: SE containing tire tool
CLAIMANT: Spruill and Jones
CASE NO: Washington- 94 CRS 1973, 95 CRS 1965, 94 CRS 1566, 94 CRS 1984
DATE: 2/26/14
INVESTIGATOR: Catherine Matoian



LAB 4
R2006-5573
JAN 31/17/07

#1
2004-3241
WMW
FCM
1-25-2008

CCB1516-0273
lot 1
KMO 0218

Handwritten signature or initials.

Rec. SBI Crime Laboratory
Rec. Sealed by: ☒ US Mail ☐ Cert. Mail ☐ UPS
☒ Fed Ex ☐ Courier
Signature S. Clay Date 7-20-07

R2006-5573

United States Postal Service®
ELECTRONIC MAIL CONFIRMATION™



0307 0020 0003 0653 2249

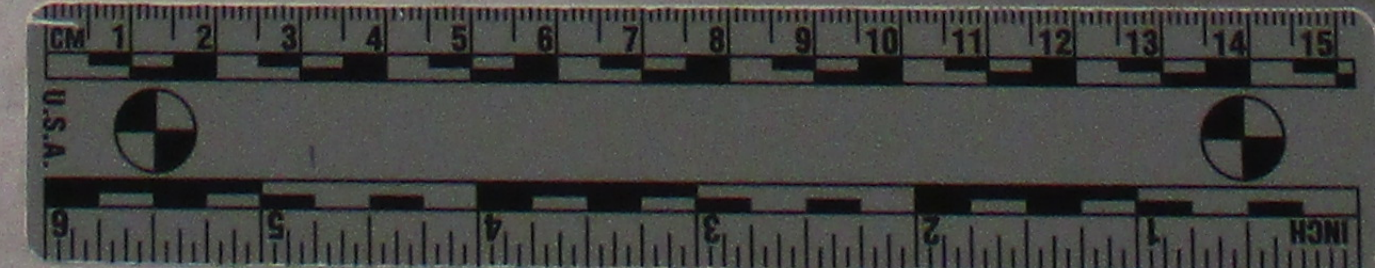
ReadyPost®

Cushion Mailer



N.C. STATE BUREAU OF INVESTIGATION
P. O. Box 29500
3320 GARNER RD.
RALEIGH, N.C. 27626-0500

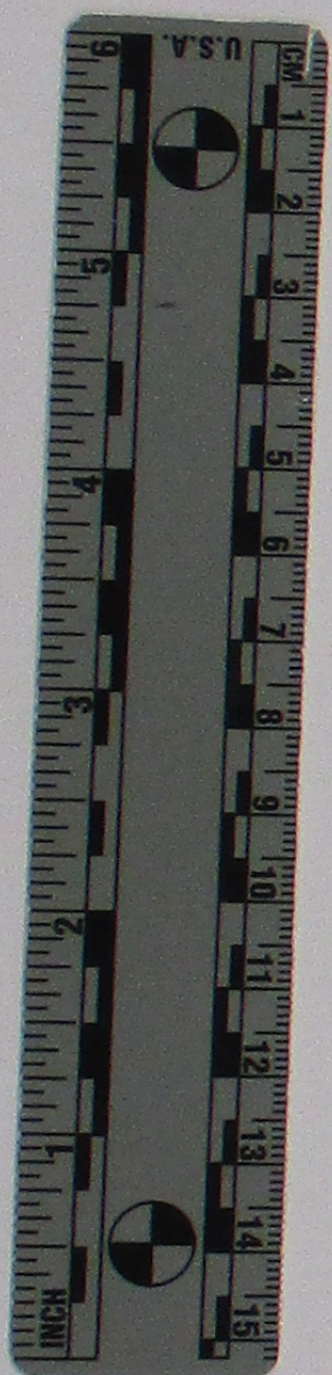
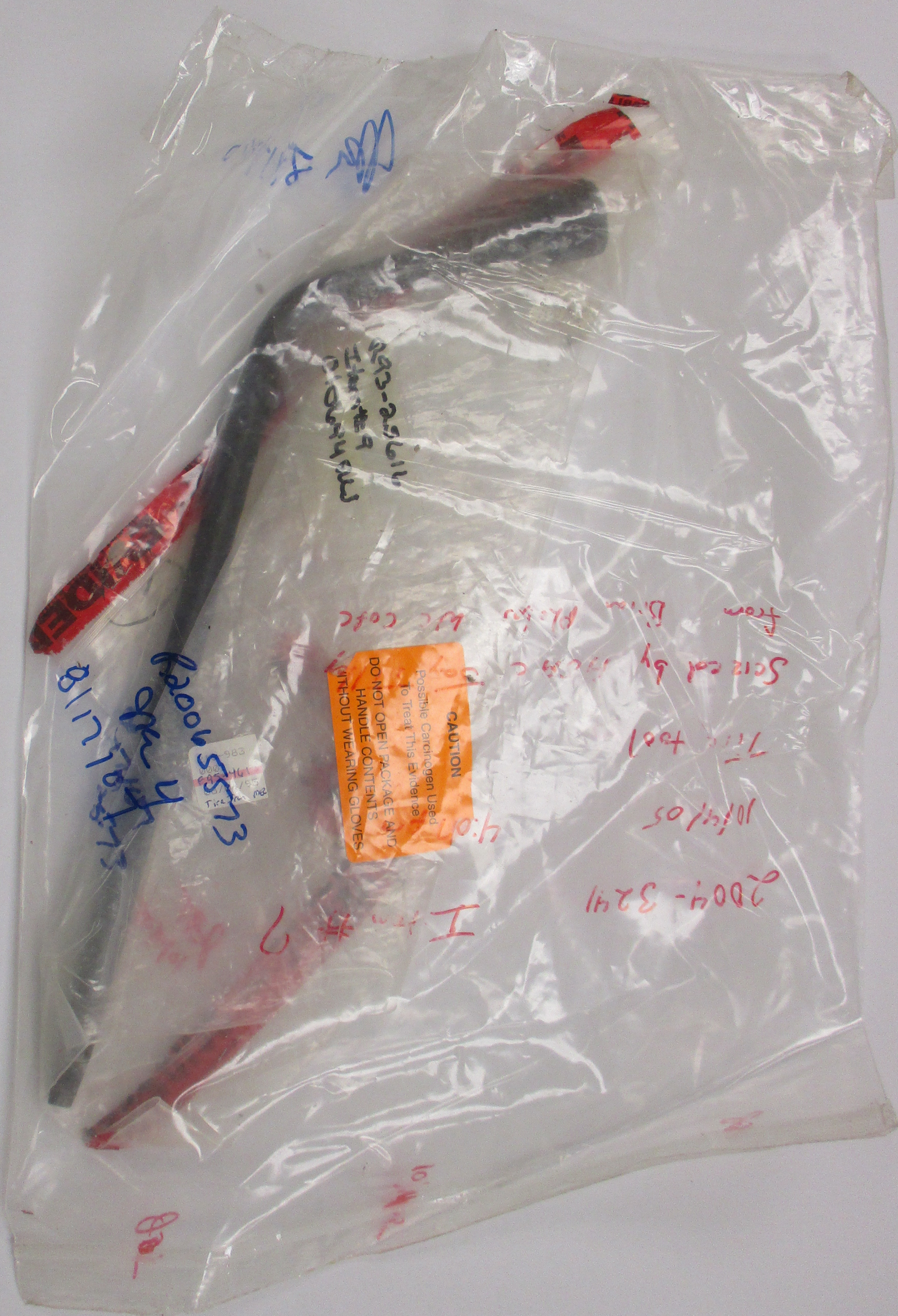
NC State Bureau of Investigation
Post office Box 2000
Garner, NC 27529-2000



CCB1516 - 0273

100218 LAW

Handout 87



CCB15110 - 0273

100218 (Am)

Handout 88

Handout 89

20/11/18

STATES
EXHIBIT
17

1/3/19

Q93-25616
Item 9
0106940W

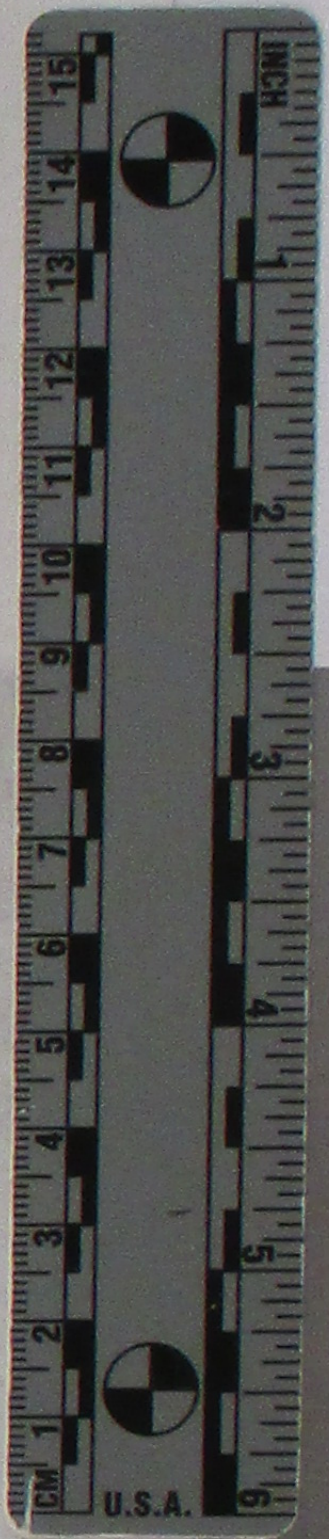
CAUTION
Possible Carcinogen Used
To Treat This Evidence
DO NOT OPEN PACKAGE AND
HANDLE CONTENTS
WITHOUT WEARING GLOVES

Q93-25616
Item 9
8/17/19

216-983
0001
Q93-25616
08/04/19
Fire Ins. Inc.

8/17/19
R20065573
Item 4

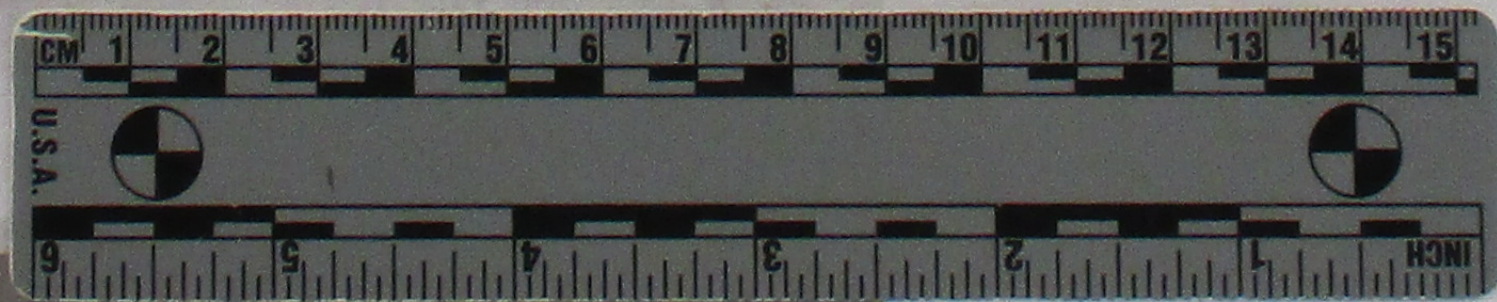
10/14/05



CCB 15119 - 0273
E32
100218 LAN

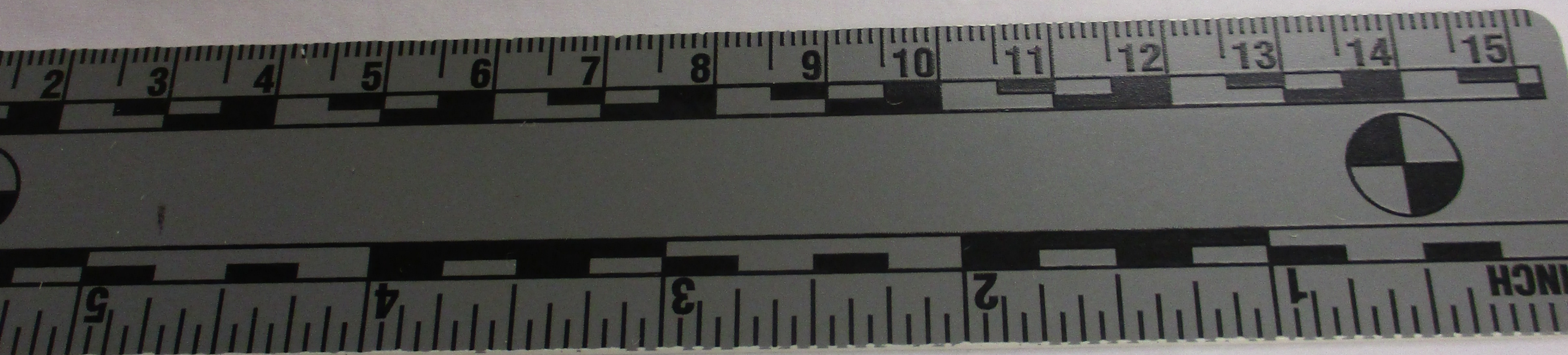
EVIDENCE EVIDENCE

Handout 90



100218 LAW

Handout 91



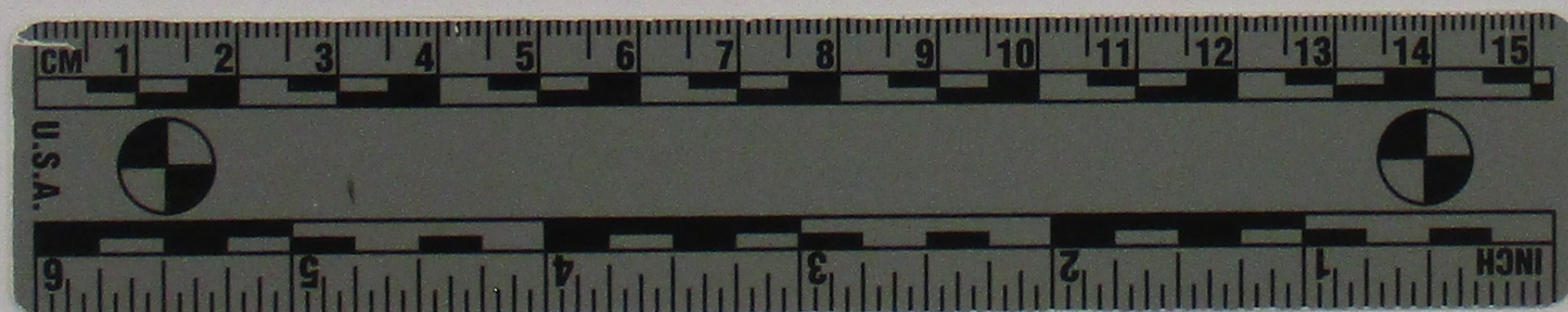
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E32

100218 LAM

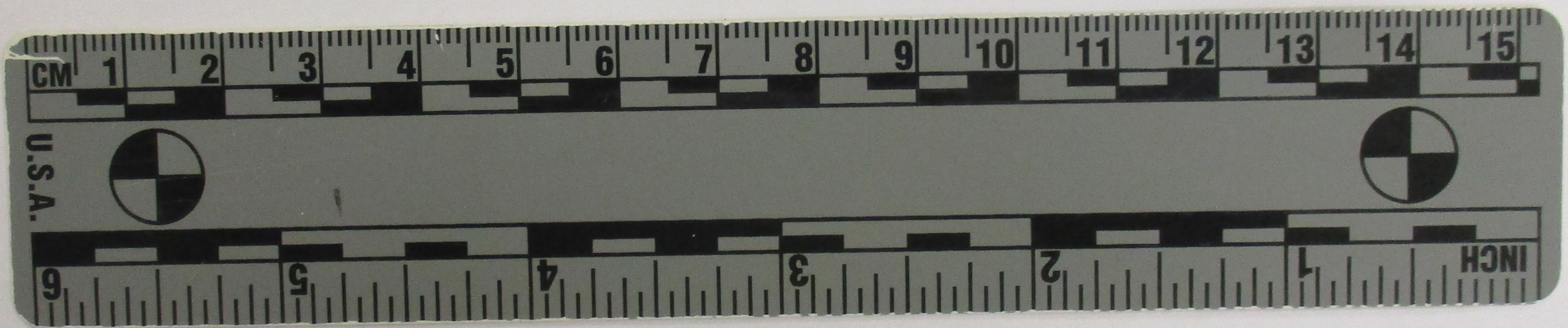
Handout 92

R2006573
gpc 4
8/17/07



CCB1516 - 0273
E32
100218 LAW

Handout 93

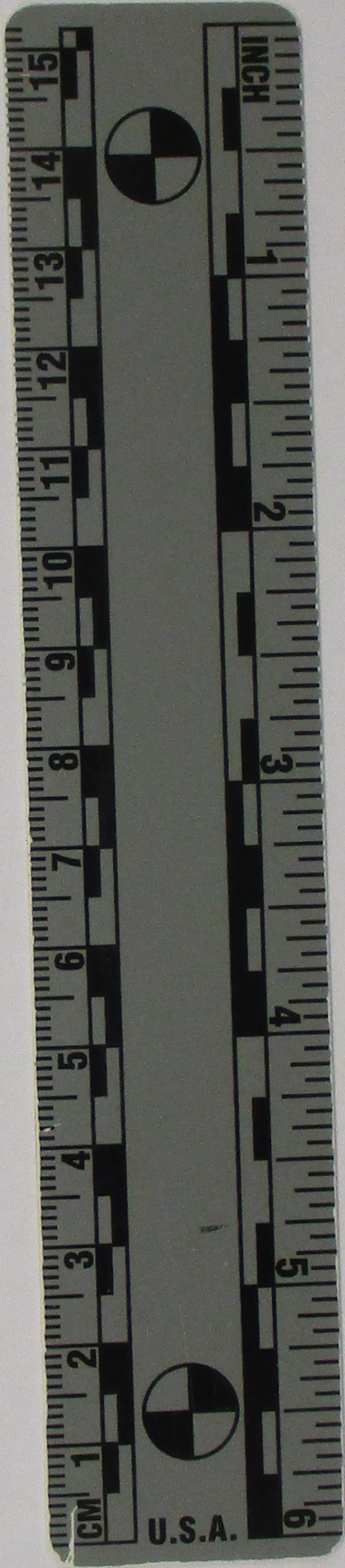


CCB1516 - 0273

E32

100218 LAW

Handout 94



CCB 15110 - 0273

E32

100218 (AW)

Handout 95

This document was previously entered as a trial exhibit in State v. Wallace Brandon Jones; 94 CRS 1973, 95 CRS 1565 (Washington County). It was also presented as Handout #95 at the Commission Hearing. Due to the graphic nature of this document the Commission Chair has ordered that it not appear on our website.

If you wish to view this document, you may contact the Washington County Clerk's Office or you may make a Public Records Request through the North Carolina Administrative Office of the Courts.

Handout 96

DPS HOUSING OVERLAP COMPARISONS

Leroy Spruill, Wallace Brandon Jones, Wyatt Spruill, and Edward Hudson¹

HYDE CORRECTIONAL INSTITUTION: 3/18/1999 – 3/7/2000

- Leroy Spruill and Wallace Brandon Jones.
- Bed assignment overlaps:
 - 4/6/1999 - 5/25/1999
 - 10/11/1999 – 11/15/1999
 - 11/29/1999 – 3/7/2000
- NOTE: Hyde Correctional Institution is a medium and minimum custody facility. It is all single cells and there is open movement amongst inmates.

HYDE CORRECTIONAL INSTITUTION: 6/24/1999 – 2/1/2000

- Leroy Spruill, Wallace Brandon Jones, and Edward Hudson
- Bed assignment overlaps: 12/3/1999 from 8: 49 AM to 9:00 AM
- NOTE: Hyde Correctional Institution is a medium and minimum custody facility. It is all single cells and there is open movement amongst inmates.

HYDE CORRECTIONAL INSTITUTION: 5/2/2000 – 8/16/2005

- Leroy Spruill and Wallace Brandon Jones
 - 8/20/2000 – 9/15/2000
 - 10/2/2000 – 12/28/2000
 - 8/11/2005 – 8/16/2005 (Note: Both in administrative segregation).

¹ No facility overlap between Leroy Spruill and Wyatt Spruill or Wallace Brandon Jones and Wyatt Spruill

DPS HOUSING OVERLAP COMPARISONS

- NOTE: Hyde Correctional Institution is a medium and minimum custody facility. It is all single cells and there is open movement amongst inmates.

HYDE CORRECTIONAL INSTITUTION: 3/6/2001 – 9/12/2001

- Leroy Spruill, Wallace Brandon Jones, and Edward Hudson.
- No bed assignment overlaps.
- NOTE: Hyde Correctional Institution is a medium and minimum custody facility. It is all single cells and there is open movement amongst inmates.

CRAVEN CORRECTIONAL INSTITUTION: 10/19/2001 – 11/1/2001

- Wyatt Spruill and Edward Hudson.
- No bed assignment overlaps.
- NOTE: Craven Correctional is a medium custody facility. It is all single cells and there is open movement amongst inmates.

CARTERET CORRECTIONAL CENTER: 11/1/2001 – 2/20/2002

- Wyatt Spruill and Edward Hudson.
- No bed assignment overlaps.
- NOTE: Carteret Correctional Center is a minimum custody field unit. There are only open dorms.

CRAVEN CORRECTIONAL INSTITUTION: 8/16/2005 – 9/1/2005

- Leroy Spruill and Edward Hudson.
- No bed assignment overlaps.
- NOTE: Craven Correctional is a medium custody facility. It is all single cells and there is open movement amongst inmates.

Handout 97

Duke Carter (James Earl Carter)

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
DWI – LEVEL 5	WASHINGTON	11/23/1997	04/14/1998
SIMPLE ASSAULT (M)	WASHINGTON	02/22/1994	03/08/1994

Handout 98

1 Q. What about Leroy?

2 A. Yeah, I've known him ever since--

3 MR. NORTON: No further questions.

4 MR. VOSBURGH: That's all, Your Honor.

5 THE COURT: You can step down. You can call your
6 next witness.

7 MR. VOSBURGH: Wyatt Spruill.

8 WYATT SPRUILL, after being duly sworn, testified as follows
9 during DIRECT EXAMINATION by MR. JAMES R. VOSBURGH:

10 Q. State your name, please.

11 A. Wyatt Spruill.

12 Q. Where do you live, Mr. Spruill?

13 A. West Mill Pond.

14 Q. Who do you live with at the present time?

15 A. John and Florence Spruill.

16 Q. Are they related to you?

17 A. They're my grandparents.

18 Q. Did you know a Frank Swain?

19 A. Yes, I did.

20 Q. How did you happen to know him?

21 A. Well, I've known him since I was in the 7th grade.

22 Q. Were you and he good friends?

23 A. We were friends.

24 Q. Did you see him on December the 18th of 1993, on that day?

25 A. Yes, I did.

1 Q. How do you recall that you saw him on December the 18th of
2 1993?

3 A. I was at his house.

4 Q. At what time of the day were you at his home?

5 A. Early that morning.

6 Q. At what time early that morning were you there?

7 A. Well, I was there all Friday night.

8 Q. Did you spend the night at his residence there?

9 A. Yes, I did.

10 Q. At what time did you get up?

11 A. About 5:00.

12 Q. What did you do after you got up on that Saturday morning of
13 December the 18th?

14 A. Frank had been up all that night pretty much, going and
15 coming. He got up, and, when he came in, he called Duke Carter.

16 Q. What did he do after--what happened after he called Duke
17 Carter?

18 A. Well, Duke's mom got Duke up, and he called back, and then
19 he came over.

20 Q. Who came over?

21 A. Duke Carter.

22 Q. Do you remember what time it was that Duke Carter arrived at
23 Frank Swain's?

24 A. About 8:00.

25 Q. What did you do after Duke Carter arrived at 8:00?

- 1 A. Really didn't do anything. They were in conversation.
- 2 Q. How long did Duke Carter stay there?
- 3 A. He stayed there for, I guess, about 15 or 20 minutes.
- 4 Q. Where did he go? Do you know?
- 5 A. Yeah. Frank sent him to get a bottle of wine.
- 6 Q. Did you go with Mr. Carter, or, did he leave alone?
- 7 A. He left alone.
- 8 Q. Do you remember when he got back?
- 9 A. It was about 15 to 20 minutes later.
- 10 Q. What happened after he got back?
- 11 A. They broke the seal on the wine and started drinking.
- 12 Q. Did you drink any of it?
- 13 A. No, I didn't.
- 14 Q. Do you recall whether or not anyone else came there to Frank
- 15 Swain's residence during the morning of December the 18th, anyone
- 16 other than Duke Carter?
- 17 A. When you say morning, I don't understand.
- 18 Q. Some time from the time you woke up until noon at 12:00.
- 19 A. Yes, sir.
- 20 Q. Who else came by there on that morning?
- 21 A. Well, several different people. William Chesson. I can't
- 22 remember the other one. Lonnie Mosby came by.
- 23 Q. Lonnie Mosby?
- 24 A. Uh-huh.
- 25 Q. What were they there for?

1 A. Well, Lonnie rode up on a bicycle. William was helping me
2 wash my car.

3 Q. William Chesson?

4 A. Uh-huh. When Duke came back with the car, we were washing
5 it. He probably drove it.

6 Q. Before you started washing the car, did you go anywhere to
7 get any materials or anything to wash it with?

8 A. No. I had it right there.

9 Q. You already had it there?

10 A. (Witness nods.)

11 Q. What did you use to wash the car?

12 A. Duke had some stuff in his car that we used. We used some
13 rags, and we used Frank's water hose.

14 Q. Did you or Frank Swain either one go with Duke Carter anywhere
15 to buy any materials to wash the car with?

16 A. No, we didn't.

17 Q. Did you go anywhere during that day with Frank Swain?

18 A. Yes, I did.

19 Q. Where was it that you went first?

20 A. Well, first, we went to Plymouth to True Value.

21 Q. Did anybody besides you and Frank Swain go to the True Value?

22 A. Duke Carter drove us up there in his car.

23 Q. What kind of a--what did you come up here to True Value for?

24 A. Frank bought tags to go on a car.

25 Q. Is that the place in Plymouth where the State of North

1 Carolina has an office where you can purchase license tags?

2 A. Yes, it is.

3 Q. Did Frank pay for the tags to go on your car?

4 A. Yes, he did.

5 Q. How long were you in Plymouth when you came up here to get the
6 tags?

7 A. About 40 minutes, 45 minutes.

8 Q. Had you finished washing your car by that time, or, did you
9 have to complete that when you went back to Frank Swain's?

10 A. We washed the car when we got back with the tags.

11 Q. After you had purchased the tags?

12 A. That's correct.

13 Q. Did you go anywhere else with Frank Swain on that day?

14 A. Yes, I did.

15 Q. Where else did you go?

16 A. Well, after we came back from getting the tags and washed
17 the car, we went to Red Apple.

18 Q. Where is the Red Apple?

19 A. In Roper.

20 Q. Is it on the west side of Roper as you first come into town?
21 Where is it?

22 A. It's right there when you come into Roper, west Roper, I guess.

23 Q. What did you do when you went to the Red Apple?

24 A. Got \$10 worth of gas.

25 Q. Did you make any other purchases while you were there at the

1 Red Apple?

2 A. We might have got some cigarettes or something. I can't
3 remember.

4 Q. Did you go anywhere else--or, do you recall about what time
5 it was when you left the Red Apple?

6 A. No, I don't.

7 Q. Did you go anywhere else after you left the Red Apple?

8 A. Yes, I did.

9 Q. Where did you go?

10 A. Winn Dixie. Well, we were going to Plymouth, and we stopped
11 by Henry Freeman's, and Frank paid a bill.

12 Q. What kind of a place is Henry Freeman's?

13 A. Henry Freeman's furniture.

14 Q. You say Frank paid a bill there?

15 A. He paid some kind of bill or something. He had to pay
16 something there.

17 Q. Did you go inside with him, or, did he go inside alone?

18 A. He went in alone.

19 Q. Did Duke Carter stay in the vehicle with you?

20 A. At this time, I was driving my car. It was just Frank and I.

21 Q. Duke Carter was not with you then?

22 A. No, he wasn't.

23 Q. Do you recall whether or not Duke Carter was with you and
24 Frank at any time when either you or Frank spent any money or paid
25 for anything?

1 A. Yes, when Frank bought the tags for the car. And, Duke
2 stopped and put some gas in his car on the way back from
3 Plymouth at Winneco.

4 Q. Did Frank pay for that gas for him? Or, did Duke Carter pay
5 for it?

6 A. I think Duke Carter paid for it.

7 Q. Do you know what time it was when you went to the Winn Dixie?

8 A. It was later in the afternoon, maybe around 3:00 or so,
9 2:30 or 3:00.

10 Q. Do you remember how long you were there at the Winn Dixie?

11 A. Yeah. We were there a right good while.

12 Q. Did you do any shopping while you were there at Winn Dixie?

13 A. Yes, we did.

14 Q. Do you recall what kind of purchases that either you or
15 Mr. Swain made?

16 A. I didn't make any purchases. Frank purchased candies and nuts
17 and, well, different candies and stuff.

18 Q. Were you and he making a trip to somewhere the next day? Is
19 that why he was making those purchases?

20 A. Yes, sir.

21 Q. Do you recall how long it was that you stayed at the Winn
22 Dixie?

23 A. Probably about 45 minutes to an hour.

24 Q. Do you know approximately when it was when you left there?

25 A. I guess maybe comin' on 4:00.

- 1 Q. Where did you go after you left Winn Dixie?
- 2 A. We went back to Roper. We went to Collie Swain's house.
- 3 Q. And who is Collie Swain?
- 4 A. Frank's cousin.
- 5 Q. Is Collie Swain a male or female person?
- 6 A. That's a male.
- 7 Q. Where does Collie Swain live in Roper?
- 8 A. He lives east of Roper in a little small community--I don't
- 9 know exactly what it's called.
- 10 Q. Do you recall how long you stayed there at Collie Swain's?
- 11 A. Well, I stayed there for a while, maybe 30 minutes or so.
- 12 Q. Did Frank stay there with you?
- 13 A. Yeah, Frank was there. He was sitting on a bar stool.
- 14 Q. Is this Collie Swain's, is that a retail establishment or
- 15 something?
- 16 A. No, that's his residence.
- 17 Q. But he was sitting at a bar stool?
- 18 A. Well, it's a bar stool at a counter.
- 19 Q. Were you and Mr. Swain consuming any alcoholic beverage at
- 20 that time?
- 21 A. I wasn't. Frank was.
- 22 Q. Do you know how long it was that you stayed at Collie Swain's
- 23 residence?
- 24 A. I stayed about 30 minutes, and then I left.
- 25 Q. How did you leave?

- 1 A. Driving my car.
- 2 Q. Did Frank Swain remain at Collie Swain's?
- 3 A. I left him there.
- 4 Q. Do you remember what time that was when you left?
- 5 A. About--I guess maybe 4:30, quarter 'til 5:00, in that
- 6 neighborhood.
- 7 Q. Where did you go when you left Collie Swain's house?
- 8 A. To Hudson's Trailer Park on Folly Road.
- 9 Q. Who?
- 10 A. Hudson's Trailer Park on Folly Road.
- 11 Q. Is that anywhere near Freeman's Trailer Park on Folly Road?
- 12 A. Yes, it is.
- 13 Q. How far away is it from there?
- 14 A. I guess about three-quarters of a mile apart.
- 15 Q. How long did you stay at Hudson's Trailer Park on Folly Road?
- 16 A. I guess about 10 minutes.
- 17 Q. Where did you go after you left there?
- 18 A. Back to Collie Swain's.
- 19 Q. Back to Collie Swain's?
- 20 A. That's correct.
- 21 Q. Was Frank Swain still at Collie Swain's when you went back
- 22 there?
- 23 A. Yes, he was.
- 24 Q. Do you remember when it was you got back to Collie Swain's
- 25 house?

1 A. No, I don't. Well, I just went to Hudson's Trailer Park and
2 stayed about 10 minutes and turned around and came back.

3 Q. Do you know about how long it took you to drive from Collie
4 Swain's to the trailer park and then back?

5 A. No--well, I mean, I could guess. Probably about seven minutes
6 or so.

7 Q. Well, is it seven minutes one way?

8 A. Maybe. It depends on how fast you're going.

9 Q. After you got back to Collie Swain's, what did you do then?

10 A. Frank was passed out, and I tried to wake him up, tried to
11 get him up. I was ready to go. He didn't want to cooperate too
12 good. I finally got him up, and I got him as far as the couch.
13 There was a football game on, so I started watching some of the
14 football game.

15 Q. Did you take Frank Swain home from Collie Swain's back to his
16 residence?

17 A. Yes, sir.

18 Q. Do you remember about what time it was when you got back there
19 to Frank Swain's residence?

20 A. It was gettin' on dark. As a matter of fact, it was dark.

21 Q. Do you know approximately what time it was?

22 A. I guess maybe 10 'til 6:00, 6:00, somewhere in that
23 neighborhood. I don't actually recall the exact time.

24 Q. Did you remain there watching the football game at Frank
25 Swain's?

1 A. Well, we weren't watching the game at Frank's.

2 Q. Where were you watching it?

3 A. At Collie Swain's.

4 Q. What time did you get back to Frank Swain's house is what
5 I'm trying to get at.

6 A. I guess in the neighborhood of 6:00, 6:10, something like that.

7 Q. What did you do after you got him back to his mobile home?

8 A. He had some sausage on the stove. We heated those up and ate
9 them. I kicked back on the couch. He turned the TV on, but I
10 don't remember what was on.

11 Q. Did he turn the TV on or did you?

12 A. If I remember correct, I couldn't get it--I couldn't turn it
13 on. I think he turned it on.

14 Q. Did he do the cooking of the sausage or did you?

15 A. I got up and fiddled around with the stove, and then he got
16 up out of the chair and heated them up. They were already cooked.

17 Q. What did you do after you heated up and ate the sausage or
18 whatever you did with it? What did you do then?

19 A. Well, after I ate the sausage, Frank was--as you come in
20 Frank's trailer, he had a chair directly across from the door.
21 He was sitting in the chair; he had his coat on. I was layin'
22 back on the couch.

23 Q. Do you remember what kind of coat it was that he had on?

24 A. Yeah. If I remember correctly, it was a blue--like a work
25 coat. It was like Dickie's work clothes, like a blue, short work

1 coat. I think it was a zip-up.

2 Q. How long did you remain there after you had eaten the sausage
3 and had something to eat there? How long did you stay?

4 A. Well, the reason I was staying was to wait--my sister was
5 supposed to be calling. She was supposed to call, if I remember
6 right, it was either 7:00 or 7:30. I can't remember if it was
7 7:30 that she called or if it was 7:00.

8 Q. Do you recall the phone call coming in from your sister?

9 A. Yes, I do.

10 Q. Did you take the call?

11 A. I was layin' on the couch, and Frank was asleep towards, you
12 know, laid over in the chair, and; the table was to his right.
13 I hollered to him to get the phone, and he didn't make too much
14 of a comment. So, I just got up and answered it, and it was my
15 sister.

16 Q. Do you remember how long it was that you spoke with her on the
17 phone?

18 A. I guess maybe about five or six minutes, five to seven
19 minutes.

20 Q. What did you do after you talked to her on the phone?

21 A. Well, after I--I explained to her what we were planning to do.

22 Q. What did you explain to her that you were planning to do?

23 A. I told her that Frank had put the tags on my car. She asked
24 me if Frank had been drinking, which, Frank had told me not to ever
25 tell her, you know, and I told her, yeah, that he had been

1 drinking. At that point, I said that we were coming to Raleigh.
2 She was in the Women's Prison at Raleigh. I told her that we
3 were coming up there, leaving early Sunday morning.

4 Q. How long after you talked to your sister over the phone, how
5 long did you remain there at Frank Swain's place?

6 A. After I finished talking to her?

7 Q. After you finished talking to her.

8 A. No time. I told her I was getting ready to leave. I took
9 the phone and put it to Frank's ear and tried to get Frank to say
10 something to her. I was pushing on Frank, you know, "My sister's
11 on the phone. What are you going to do? Are you going to talk
12 to her or what?" He was sort of mumbling, you know, something;
13 but, he was pretty much passed out. I told her that I was
14 getting ready to leave, and I did leave.

15 Q. When you left, do you recall approximately what time it was
16 that you left?

17 A. Like I say, it was about 7:30 more than likely.

18 Q. Where did you go when you left?

19 A. To Hudson's Trailer Park.

20 Q. Back to Hudson's Trailer Park?

21 A. That's correct.

22 Q. How long did you stay there?

23 A. I don't know. Maybe 10 minutes, five minutes. Five or 10
24 minutes.

25 Q. Where did you go after you left Hudson's Trailer Park?

1 A. Well, I picked up a passenger at that point, and we rode down
2 Woodlawn Road.

3 Q. Which way is Woodlawn Road in relation to Hudson's Trailer
4 Park and Freeman's Trailer Park?

5 A. Hudson's Trailer Park--as you go out of Hudson's Trailer Park
6 in relation to Freeman's, it's in the opposite direction.

7 Q. How long did you go down on the Woodlawn Road?

8 A. I guess we were going about 15 minutes.

9 Q. Where did you go after you went down to Woodlawn Road?

10 A. I came back to Hudson's Trailer Park and dropped that
11 passenger off.

12 Q. Do you remember about how long you were gone from the time you
13 left Hudson's to Woodlawn and then back to Hudson's? Do you recall
14 about how long that was?

15 A. Yes; about 15 or 20 minutes.

16 Q. What did you do after you got back to Hudson's Trailer Park?

17 A. I sat in the car, you know, just sat in the car for a little
18 while, and then I left.

19 Q. Where did you go when you left from Hudson's Trailer Park?

20 A. Rode to Roper.

21 Q. How long were you in Roper?

22 A. I left Hudson's and rode back towards Frank Swain's, back
23 towards 64.

24 Q. Do you remember about what time it was when you went back by
25 Frank Swain's headed towards Roper?

1 A. I guess maybe about 8:00.

2 Q. Did you notice anything at Frank Swain's house when you went
3 by?

4 A. No. You really can't--I mean, you can barely just can see the
5 trailer. You could see a part of the trailer, and that was the
6 back side of the trailer from there.

7 Q. Did you see any lights on in the mobile home?

8 A. I think there were lights on. That's hard for me to recall.

9 Q. Well, did you notice anything, any activity, any vehicular
10 or any vehicles moving about at his mobile home at that time?

11 A. Well, you can't see from just riding by.

12 Q. Did you see anything at all as you looked over there that
13 alarmed you in any way?

14 A. No, I didn't.

15 Q. Where in Roper did you go?

16 A. I went to Sweet Pea's. They call him--it's a fellow named
17 Sweet Pea. I went by his house.

18 Q. Where does Sweet Pea live?

19 A. East of Roper off of 64. They call it "Back Woods."

20 Q. Do you know what Sweet Pea's real name is?

21 A. I can't remember it. Cornelius or something.

22 Q. Do you remember what time it was when you were at Sweet Pea's
23 when you first got there?

24 A. I didn't actually stop at his house. That was the direction
25 of travel I was in. I just rode in that direction and rode back

1 past his house, turned around, and rode back up Mackey's Road and
2 proceeded back to Hudson's Trailer Park.

3 Q. How long did you remain at Hudson's Trailer Park before you
4 left again?

5 A. Well, I guess maybe 30 minutes.

6 Q. Do you recall what time it was that you left Hudson's Trailer
7 Park on this time, after you had been down to Sweet Pea's?

8 A. I guess it was probably 9:00 or so.

9 Q. Where did you go after that?

10 A. Well, on the first trip out, I saw this fellow walking down
11 the road out on 64 highway.

12 Q. Who was that?

13 A. I can't recall the guy's name. I mean, I'd know him if I
14 heard his name; but, I can't remember his name right off.

15 Q. Was he a white person or a black person?

16 A. A black person.

17 Q. Was it Maurice Wilkins?

18 A. No.

19 Q. Did you see Maurice Wilkins at all on that night?

20 A. Yes, I did.

21 Q. Where was it that you saw Maurice?

22 A. Hudson's Trailer Park.

23 Q. Where was he in Hudson's Trailer Park?

24 A. The way I was parked, there's a building right in front of his
25 mother's house, and that's where my car was parked, in front his

1 mother's. My headlights were pointing out towards the road, and
2 I saw a truck come up, a Toyota Forerunner, and; I got out of my
3 car and walked up to this Forerunner. Somebody got out of the
4 Forerunner and ran up to the house.

5 Q. Ran up to whose house?

6 A. P. J.'s. Pricilla Wilkins' house.

7 Q. P. J.'s house?

8 A. Yes, sir.

9 Q. Did you go in P. J.'s house?

10 A. No, I didn't. I got out and walked up to the Forerunner.

11 Q. Who was in the Forerunner?

12 A. There were several people in there. I don't know who was
13 sitting in the back seat. There was somebody sitting in the front
14 seat, also. There were two sitting in the front seat. There was
15 a white guy driving.

16 Q. Do you know what his name was?

17 A. I don't know his name; but, I know his face.

18 Q. Did you see Maurice Wilkins there at that time?

19 A. I never did get a chance to talk to Maurice.

20 Q. Did you see him there?

21 A. I did see somebody get out; but, I don't know if it--I assumed
22 it was Maurice because that's what they told me; that Maurice
23 went in the trailer.

24 Q. The people in the vehicle?

25 A. Right.

1 Q. Do you remember about what time that was?

2 A. Yeah. That was probably about 9:00, 9:30, 9:15. About
3 9:15, I guess.

4 Q. Did you ever go in P. J. Wilkins' house?

5 A. Not that night.

6 Q. How far is P. J. Wilkins' house from the mobile home where
7 Frank Swain lived?

8 A. About three-quarters of a mile.

9 Q. Did you go back to Frank Swain's that night?

10 A. Yes, I did.

11 Q. How long was it after you had seen Maurice Wilkins?

12 A. Excuse me?

13 Q. How long was it after you saw Maurice and that Forerunner,
14 how long after that was it when you went back to Frank Swain's
15 residence?

16 A. Well, I guess it was about 9:00-somethin' when I saw the
17 Forerunner pull up, and it was about an hour later that I went
18 back to Frank's.

19 Q. Are you the person who discovered Frank after he had been
20 killed in his mobile home?

21 A. Yes, I am.

22 Q. Do you remember what time it was when you went into the mobile
23 home first?

24 A. When I discovered Frank, it was about 10:00.

25 Q. What did you do after you discovered him?

1 A. Well, I opened the door and saw Frank laying on the floor.

2 I got sick, and I--

3 Q. Did you go inside the mobile home at all?

4 A. Not at that time. I looked in, and I could tell, you know, he
5 was passed away. I got sick, turned around, and went back to a
6 trailer. There's one trailer right beside his. I knocked on the
7 door, and nobody would come to the door.

8 Q. Did anyone come to the door?

9 A. No, sir.

10 Q. What did you do after you knocked on that mobile home?

11 A. I ran to the next trailer.

12 Q. Was there anybody home at that one?

13 A. Yes, sir.

14 Q. Do you know who that person was?

15 A. I remember the officer, you know, he'd told me what his name
16 was. I can't remember it now. He was in the back of the trailer.

17 Q. What did you do after you got to the next mobile home?

18 A. I told the fellow that somebody had killed Frank, and he said,
19 "You're lying. You're lying." I said, "No. Somebody killed
20 him." We proceeded to run out of the trailer, and we ran up to
21 Frank's trailer.

22 Q. When you went back there that second time, was the person you
23 were with, was that Tim Swain? Do you know his name?

24 A. I can't remember what his name was.

25 Q. What if anything did you do when you went back with this other

1 person? What did you do when you went back to Frank Swain's
2 residence?

3 A. Well, I asked the boy, you know, did he have a phone; that
4 we needed to call 9-1-1. Since he didn't believe it, we ran back
5 and went to Frank's. The door was left--I mean, when I went to
6 the door and saw what happened, the door was just--I had left the
7 door open. He went up the steps first. He looked in there and
8 saw it, and he turned and was kind of lookin' around in the
9 kitchen. He walked down the hall a little ways. I said, "Come
10 on. Come on, man," and, you know, "We got to call for some help."

11 Q. What did you do then?

12 A. I said, "Who's got a phone?" and he said, "Come on. I know
13 somebody that's got a phone."

14 Q. Where did you go?

15 A. We ran over to this lady's house. It was not far at all from
16 Frank's trailer. I don't know her name. She had a telephone,
17 a hand-held telephone. We knocked on the sliding glass and told
18 her what had happened. She got the telephone. She was shaking.
19 I said, "Give me the phone," and I dialed 9-1-1.

20 Q. You dialed 9-1-1?

21 A. Yeah. She turned the phone on, and I dialed it.

22 Q. Mr. Spruill, I'll show what's been marked for purposes of
23 identification and introduced into evidence State's Exhibit No. 1
24 and ask you, if you would, to look at that and see if you
25 recognize what it is.

1 (Witness complies.)

2 A. Yes.

3 Q. What is it?

4 A. It's the trailer park, Freeman's Trailer Park.

5 Q. Now, is Freeman's Trailer Park squared up like that diagram?

6 A. Pretty much.

7 Q. How about down in here? Is that a sharp corner there as it's
8 portrayed on this diagram?

9 A. No. It's a rounded corner.

10 Q. Now, can you locate the Folly Road on here?

11 A. Yes.

12 Q. Where is the Folly Road and where is the intersection where
13 you turn to go into Freeman's Trailer Park?

14 A. That's Folly Road (indicates), and that's the road we turn
15 in (indicates).

16 Q. Now, is that the way you gained access when you went to
17 Frank's trailer on each time on the 18th of December?

18 A. Yes.

19 Q. Can you find the mobile home where Frank lived on this
20 diagram?

21 A. Well, it says here that that's Swain's residence (indicates);
22 but, I know that there were two trailers like this (indicates),
23 and Frank's trailer was the last one, the very one in the back
24 on this dirt path.

25 Q. Do you know whether or not his mobile home was actually that

1 far down at that time in December of 1993?

2 A. Do I know if it was this far down this path?

3 Q. Yes.

4 A. Uh-huh. All I know is that it was at the end of that dirt
5 path. Actually, by looking at this, it doesn't look like it's
6 this close. It's probably not to scale.

7 Q. If that one down here (indicates) represents Frank Swain's
8 trailer on December the 18th of 1993, where is the mobile home
9 where you went first to try to knock on somebody's door?

10 A. Here (points).

11 Q. That's the first one.

12 A. Yes, sir.

13 Q. Where did you go after that?

14 A. Here (points).

15 Q. Is that where you were able to get some assistance?

16 A. Yes.

17 Q. And you just said you don't know the person's name?

18 A. I don't recall his name. I don't even recall him being Tim,
19 which is what you said.

20 Q. What did you do after you got him?

21 A. I got him, and we ran back to Swain's residence (indicates).
22 Like I said, he went in first. I stood on the steps. I never did
23 enter Swain's residence after, you know, at that point. From
24 here (indicates), he looked around, and I said, "Come on, " and
25 he led me 'cause I didn't know who had a phone. He led me back

1 over in this (indicates) general direction.

2 Q. Is that the location where you made the 9-1-1 call?

3 A. Yes, sir.

4 Q. Is the place where you saw Maurice Wilkins, is that
5 depicted on this diagram of Freeman's Trailer Park?

6 A. Where I saw Maurice Wilkins?

7 Q. Yes.

8 A. Not in this trailer park, no.

9 Q. Where in relation to this trailer park would the one be where
10 you--

11 A. Right here (indicates).

12 Q. Back this way?

13 A. Right.

14 Q. In the times that you were going either in or out, did you
15 ever see anybody at this residence up here (indicates)?

16 A. When Frank and I entered the trailer park when I was bringing
17 him home before my sister called, as we were coming in, I know
18 there were lights on there.

19 Q. Did you see anybody there?

20 A. I can't recall seeing anybody, no.

21 Q. Now, at any time during your comings and goings to and from
22 Frank's mobile home, did you see any vehicles at Frank Swain's
23 mobile home other than yours?

24 A. Well, before I ever left, before my sister called, two people
25 had come up to Frank's house.

1 Q. Do you know who they were?

2 A. I know who one of them was.

3 Q. Who was it?

4 A. Marty Respass.

5 Q. Did you see what they were driving? Did you see any vehicle?

6 A. Yeah, I saw Marty Respass. He wasn't at Frank's. He didn't
7 pull up at Frank's. He was parked out on the road there at the
8 chemical plant.

9 Q. Did you see what kind of vehicle he was driving?

10 A. Yes.

11 Q. What was it?

12 A. A Grand Am. A blue Grand Am. I had seen him driving that
13 vehicle before on a different occasion.

14 Q. Did you at any time see any other vehicular traffic in the
15 Freeman Trailer Park or at and close to Frank Swain's residence
16 while you were coming and going during the course of the evening?

17 A. Yeah. One time when I was passing by the Freeman Trailer
18 Park headed out to 64, one of the two times that I passed there,
19 I did see traffic.

20 Q. Did you recognize any vehicle of any kind of that traffic
21 that you saw?

22 A. I didn't recognize it. I saw taillights. That's pretty much
23 all I saw. It wasn't close enough to the road to recognize.

24 Q. Did you at any time make any identification of any person
25 who was driving any of the vehicular traffic that you saw?

1 A. As we came in the trailer park as we were first bringing Frank
2 home, Sweet Pea's car was coming out of Freeman's Trailer Park.

3 Q. Is this the same Sweet Pea whose place you had been to in the
4 Hudson's Trailer Park earlier?

5 A. Well, no. Sweet Pea, like I said, lives east of Roper in
6 Back Woods. I'd been by his house and came back. I'd picked up
7 this fellow in Roper that I had seen walking on the first trip
8 out. I picked him up on the second trip I made out. He had a
9 green Army coat on. I can't remember his name. But, anyway,
10 I carried him to Sweet Pea's. I think his sister married Sweet
11 Pea, and I dropped him off there. I left at that point and went
12 back to Hudson's Trailer Park. But, you know, I never saw--could
13 identify any kind of vehicle, as far as that goes.

14 Q. What was your sister's name?

15 A. Sonya Day.

16 Q. Had you spent any time with Mr. Swain on the preceding day,
17 which was Friday?

18 A. No, I hadn't.

19 Q. You had not?

20 A. Huh-uh.

21 Q. Did you see him at all on Friday afternoon or Friday night?

22 A. Early Saturday morning, after 12:00, yeah, I saw him. Well,
23 that would have been Saturday morning.

24 Q. Was Ray Hurst or anybody else there?

25 A. I don't recall Ray Hurst being there.

1 MR. VOSBURGH: That's all the questions I have.

2 THE COURT: Mr. Norton.

3 CROSS EXAMINATION by MR. NORTON:

4 Q. Mr. Spruill, you said that you had known Mr. Swain for how
5 long, sir?

6 A. Since I was in about the 7th grade.

7 Q. He was a friend of yours, I believe?

8 A. Yes, he was.

9 Q. And, on this occasion, you had actually spent the night there
10 early Saturday morning, I believe, after 12:00 midnight.

11 A. That's correct.

12 Q. Were you staying there regularly, Mr. Spruill?

13 A. No, sir, I wasn't.

14 Q. Was that the first time you had stayed there?

15 A. First time ever.

16 Q. Now, you said that the next morning, you got up, and some
17 people came over. It was Duke Carter, I believe.

18 A. That's correct.

19 Q. Duke had went out and got some wine and came back.

20 A. That's correct.

21 Q. Did you drink any of the wine either that morning or at any
22 time during the day?

23 A. No, sir.

24 Q. Now, you said that you left and came in to Plymouth. In
25 whose vehicle was that?

1 A. Duke Carter.

2 Q. The purpose of that was to buy some license plates.

3 A. That's correct.

4 Q. To go see your sister the next day.

5 A. That's correct.

6 Q. Actually, it was Mr. Swain that was going to see your sister,
7 wasn't it?

8 A. Yes, sir.

9 Q. He was putting the tags on your car so you could take him to
10 visit your sister.

11 A. That's correct.

12 Q. Now, I understand that they were going together and thinking
13 about getting married; is that correct?

14 A. That's correct.

15 Q. Now, when you got to the True Value Store, who was it that
16 paid for the tags?

17 A. Frank Swain.

18 Q. Do you recall how much it was?

19 A. I think it was in the neighborhood of about \$120.

20 Q. He paid for it at that time?

21 A. Yes, he did.

22 Q. Did all three of you go in the store there?

23 A. No. Just Frank and myself.

24 Q. Didn't Duke go in with you to get the tags at that time?

25 A. I don't think Duke went in. I think Duke sat in the car.

1 Q. Now, after that, didn't you stop at Advance Auto Parts and
2 buy some Armorall for the car?

3 A. Yeah, I believe we did.

4 Q. So, when you were questioned about buying materials to wash
5 the car, you didn't actually buy soap powder; but, it was
6 something to do with cleaning up the automobile.

7 A. Right. It's been so long ago. I think we did stop and get
8 some Armorall.

9 Q. After that, you came back to Mr. Swain's residence and
10 started cleaning or washing the car.

11 A. Not directly back, sir, no.

12 Q. Where else did you go besides Advance Auto?

13 A. Well, we went out on Highway 32. Frank wanted to visit a
14 fellow out there, a gentleman he wanted to stop and visit. We
15 did stop and visit and left from there and went to Winneco.
16 Duke got the gas, and then we went back to the trailer.

17 Q. While you were washing the car, I understand that you and
18 Mr. Chesson, known as "Punkie" Chesson, I believe--

19 A. That's right.

20 Q. You all washed the car.

21 A. Yes, sir.

22 Q. What was Frank doing at that time?

23 A. Frank was just talking to Duke and different ones as they
24 come up.

25 Q. Were they drinking some beer there at the time, too?

1 A. Yes, they were drinking.

2 Q. In fact, when Punkie got there, didn't they go to the store
3 and get some beer and come back and were drinking the beer while
4 you and Punkie were washing the car?

5 A. Frank didn't, but someone else--

6 Q. In fact, it was actually Duke that went and got the beer,
7 wasn't it?

8 A. If I recall, I think Duke did go get some.

9 Q. Frank was drinking during the course of the day, pretty much
10 the day, wasn't he?

11 A. Yes, sir.

12 Q. How about you, Mr. Spruill? What did you have to drink that
13 day?

14 A. I had a couple of swallows of a mixed drink leaving Collie
15 Swain's house the second time. I picked up his cousin. He had
16 some eggnog and Vodka or something. I took a couple of swallows
17 of it, of the mixed drink.

18 Q. Were you also using or smoking crack cocaine that day,
19 Mr. Spruill?

20 A. No, sir, I wasn't.

21 Q. Any other controlled substance that you were using at that
22 time, at any time during the day or night?

23 A. Yes, sir, later that night.

24 Q. What time was it that you started using the crack cocaine?

25 A. I used on one occasion. When I left Frank's house after my

1 sister called and went to Hudson's, this person that I picked up
2 had some.

3 Q. In fact, that was the reason during the course of the day that
4 you were going back and forth to Hudson's Trailer Park, wasn't it?

5 A. No, sir, it wasn't.

6 Q. Well, there are a number of dealers in that area, are there
7 not, around Hudson's Trailer Park?

8 A. There could be, sir.

9 Q. In fact, P. J. Wilkins sells, does she not?

10 A. She may or may not, sir.

11 Q. Haven't you purchased from P. J. before?

12 THE COURT: I don't see why that's relevant.

13 Q. Now, Mr. Spruill, you said when you went over to Collie
14 Swain's house, you went there somewhere between 1:00 and 1:30,
15 did you not?

16 A. Collie Swain's?

17 Q. Yes, sir.

18 A. I don't really recall exactly what time it was. I know it
19 was after we went to Winn Dixie. It was later on in the
20 afternoon.

21 Q. Do you recall telling the officers that it was somewhere
22 around 1:00, 1:30 that you went to Collie's?

23 A. I can't remember or recall telling them that, no.

24 Q. You watched the ballgame. Carolina was playing in the
25 ballgame, and that was the team that you watched play, wasn't it?

1 A. It very well could have been that game, sir. I don't
2 remember.

3 Q. You don't recall telling the officers that that's who it
4 was; that Carolina was playing and played Ohio State, I believe,
5 is what you told them?

6 A. I probably--a year or so ago, I could have remembered it;
7 but, after two years, I can't.

8 Q. The fact of the matter was that Mr. Swain, Frank Swain, he
9 was drinking rather heavily that day, wasn't he?

10 A. Yes, sir, he was drinking that day.

11 Q. He was over at Collie Swain's, and he passed out.

12 A. Yes, sir, pretty much.

13 Q. You left that area on several occasions, didn't you?

14 A. Twice, sir.

15 Q. Where was it that you went on both of these occasions?

16 A. Hudson's Trailer Park.

17 Q. Back over to Hudson's?

18 A. Yeah.

19 Q. Any particular reason for going over there at that time,
20 Mr. Spruill?

21 A. Yeah. There was a reason. Frank had told me that Sweet Pea
22 had owed him some money, and, you know, I just helped Frank out.
23 If I saw Sweet Pea, I was going to get Frank and go back over to
24 Hudson's--

25 Q. To tell him where Sweet Pea was?

1 A. Yeah, I was going to tell him where he was at.

2 Q. Isn't it true, Mr. Spruill, that when Frank had been drinking
3 quite a bit, he was sort of hard to get up, wasn't he?

4 A. Well, when Frank was up, he was up; but, when he was down,
5 you know, from what I saw that day, he was down. I never really
6 knew Frank to do a whole lot of--I mean, I knew Frank drank, but
7 Frank quit drinking for a long time. I think he had started
8 back.

9 Q. But, on this occasion, like you said, when he was down, he
10 was down; when he was up, he was up.

11 A. Yeah, pretty much.

12 Q. And, on this occasion, when you were over to Collie Swain's,
13 he was hard to get up, wasn't he?

14 A. Well, when he passed out, you couldn't get him up.

15 Q. In fact, when your sister called, Sonya, that was somewhere
16 around 7:30, wasn't it?

17 A. Yes.

18 Q. He was intoxicated at that time, could not or would not talk
19 with her, did he?

20 A. No, he didn't talk with her.

21 Q. Now, after she called, you left the residence pretty soon
22 after that, didn't you?

23 A. Very soon after that.

24 Q. Within four or five minutes after that.

25 A. As soon as I hung up the phone, sir.

1 Q. And you went back over to Hudson's Trailer Park, didn't you?

2 A. I went to Hudson's, yes, sir.

3 Q. Isn't that where you saw this four by four blue extend-a-cab
4 truck over in front of P. J.'s house?

5 A. I did see that truck there that night.

6 Q. And that was right there in front of Maurice Wilkins'
7 mother's.

8 A. Yes, sir.

9 Q. And, didn't you later, some few minutes after that, some
10 maybe 15 minutes after that, didn't you see the truck again and
11 talk with Maurice over at the Red Apple store?

12 A. I don't recall that, sir.

13 Q. You did go to the Red Apple store after you'd been back over
14 to Hudson's Trailer Park after you'd talked with your sister,
15 didn't you?

16 A. I may have. I just don't recall.

17 Q. Now, Frank, in addition to working construction work, he was
18 in another business, too, wasn't he, Mr. Spruill?

19 A. I don't understand.

20 Q. He sold drugs, too, didn't he? He sold cocaine.

21 A. Yes, sir, he was in that line of work.

22 Q. And you had seen him sell cocaine before.

23 A. Yes.

24 Q. In fact, he had sold some cocaine earlier that night, did he
25 not?

1 A. Yes, sir.

2 Q. Where did Frank carry his money? Where was he carrying his
3 money that day, Mr. Spruill?

4 A. I assume he was carrying it in his wallet. It could have
5 been in his pants. I don't know.

6 Q. What type of wallet did he have?

7 A. I don't know, sir.

8 Q. Can you describe the wallet?

9 A. I don't know what kind of wallet he had, sir.

10 Q. Do you recall telling the officers that he had a sort of
11 blue-colored nylon wallet with a velcro closure to it?

12 A. I could have very well told them that. He may have had a
13 velcro-closing wallet.

14 Q. You were also asked by Mr. Vosburgh about the jacket that
15 Frank was wearing. I'll show you what's been marked for
16 identification as State's Exhibit No. 22 and ask you to take a
17 look at that and see if that looks like the jacket that he was
18 wearing that night.

19 (Witness complies.)

20 A. I don't know. No--it could have been. It could have been.

21 Q. I'll show you what's been marked for identification as
22 State's Exhibit No. 2, Mr. Spruill, and ask you, is that what
23 you saw when you first went there to the house--

24 A. Yes, sir.

25 Q. --when you went back there at 10:00?

1 A. Yes, sir.

2 Q. So you don't recall if that was the jacket or not that he had
3 on?

4 A. No, sir. I don't remember the white being on the sleeves
5 like that.

6 Q. But he was wearing a--

7 A. He did have a coat on.

8 Q. --jacket on sitting in the chair.

9 A. (Witness nods.)

10 MR. VOSBURGH: Your Honor, I'd move to strike the last
11 statement by the district attorney.

12 THE COURT: Overruled.

13 MR. NORTON: I don't have any other questions at this
14 time, if Your Honor please.

15 THE COURT: Redirect?

16 MR. VOSBURGH: Nothing.

17 THE COURT: You can step down. Ladies and gentlemen,
18 during the evening recess, remember not to talk about the cases
19 among yourselves, and; the only time you may discuss the cases
20 is when I instruct you to begin your deliberations. Do not talk
21 about the cases with anyone or allow anyone to talk with you in
22 your presence about the case. If anyone attempts to communicate
23 with you or in your presence about the case, you must notify me
24 immediately. Do not form or express any opinion about the guilt
25 or innocence of the Defendant. Keep an open mind until you've

Handout 99

SONJA SPRUILL DAY

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
FORGERY OF INSTRUMENT	WASHINGTON	01/02/1992	11/04/1992
FORGERY OF ENDORSEMENT	WASHINGTON	12/31/1991	11/04/1992
FORGERY OF INSTRUMENT	WASHINGTON	12/27/1991	11/04/1992
FORGERY OF INSTRUMENT	WASHINGTON	12/26/1991	11/04/1992
FORGERY OF INSTRUMENT	WASHINGTON	12/24/1991	11/04/1992
FORGERY OF INSTRUMENT	WASHINGTON	12/23/1991	11/04/1992
FORGERY OF INSTRUMENT	WASHINGTON	12/13/1991	11/04/1992
FINANCIAL CARD THEFT	WASHINGTON	12/01/1991	11/04/1992
FINANCIAL CARD THEFT	WASHINGTON	12/01/1991	11/04/1992
LARCENY (M)	WASHINGTON	12/04/1991	02/11/1992
GRAND THEFT	SOUTH DAKOTA	06/16/1989	10/08/1989
FORGERY & UTTERING	WAKE	UNKNOWN	02/24/1983
FORGERY & UTTERING	WAKE	UNKNOWN	02/22/1983

Handout 100

STATEMENTS REGARDING BIRTH OF VICTORIA FURLOUGH

NAME	DESCRIPTION
Ed Champ, Sr.	Does not mention the birth of the baby in any of her interviews or trial testimony.
Lottie Champ	Does not mention the birth of the baby in any of her interviews or trial testimony.
Gail Champ	<ul style="list-style-type: none"> 12/27/1994 Defense Attorney Interview: She indicates she remembered the night of the murder because it was the same night her cousin had her baby. 3/1/1995 PI Interview: She remembered December 18, 1993 because Virginia Furlough had her baby on December 17, 1993. NOTE: Ed Champ, Jr. was present during this interview. Trial Testimony: She does not mention the birth of the baby in her trial testimony. Commission Interview: She indicated that she remembered the night of the murder because it was the same night Curtis Furlough's baby was born.
Ed Champ, Jr.	Other than being present for the March 1, 1995 interview where Gail Champ discusses the birth of the baby, Ed Champ, Jr. has never mentioned the birth of the baby in any of his interviews, except in relation to mentioning the video of Curtis Furlough shown to police.
Tommy Barber	<ul style="list-style-type: none"> Commission Interview: He stated he remembered the night of the murder because his sister, who was married to Curtis Furlough, had a baby and he remembered going to the hospital with Ed Champ, Jr.
Angie and Tony Calloway	<ul style="list-style-type: none"> Defense Interviews: Tony Calloway indicates that he believed the murder happened the day after the baby was born. Angie Calloway discusses going to the hospital, but does not indicate that it was the night of the murder. Commission Interview: Angie Calloway did not remember speaking to anyone before the Commission's interview, but did say she remembered that the night of the murder was the night Curtis' Furlough's child was born. Tony Calloway said he seemed to think that he was at Big Ed's Bar the day before the murder because his niece was born on the night of the murder and he had gone over to the hospital. Both Calloways then asked Commission staff what day the Victim died and Commission staff indicated it was December 18, 1993 and it was a Saturday. Angie Calloway stated that the baby was born December 17, 1993, but did indicate that it seemed to her that "they said" it was the same night the baby was born.

Handout 101

N.C STATE BUREAU OF INVESTIGATION

POLYGRAPH REPORT

POLYGRAPH FILE # (612)RPG94KM068 EXAMINER: KELLY MOSER
SBI INVESTIGATIVE FILE # 668-H-5 S/A
DATE OF EXAM: 12-12-94 EXAM LOCATION: PITT GREENVILLE
REQUESTING AGENCY: SBI & WASHINGTON CTY S. D. (COUNTY) (CITY) OCA# UNK
INVESTIGATORS: UNK
OFFENSE: HOMICIDE DATE: 12-18-93
V
CRIME LOCATION: WASHINGTON PLYMOUTH
VICTIM: WILLIAM FRANK SWAIN (COUNTY) (CITY)
RACE: BLACK SEX: MALE DATE OF BIRTH:
ADDRESS: PLYMOUTH, N.C.
EXAMINEE: WALLACE BRANDON JONES
RACE: WHITE SEX: MALE DOB: 09-27-72 HEIGHT: 6'1" WEIGHT: 230
ADDRESS: 2061 ELLIS STREET, MAYBAN, TENN.

TYPE: SUSPECT (VICTIM, WITNESS, SUSPECT, DEFENDANT, APPLIC)

NUMBER OF TESTS: THREE

OPINION	NDI	DI	XXX	I
	R	S		RE
	C	NS		

NUMERICAL EVALUATION: -12

REMARKS: 5. DID YOU CUT FRANK SWAIN? NO 7. ARE YOU THE ONE THAT
CUT FRANK SWAIN? NO 10. DO YOU KNOW FOR SURE WHO CUT
FRANK SWAIN? NO

000859
NCIIC - SBI File

RECEIVED
DEC 15 1994
NORTHEASTERN DISTRICT

Handout 102

N.C. STATE BUREAU OF INVESTIGATION

POLYGRAPH REPORT

POLYGRAPH FILE # (207)RPG94JA002 EXAMINER J.R. Adcox

SBI INVESTIGATIVE FILE # 668-H-5

DATE OF EXAM 01-12-94 EXAM LOCATION Pitt Greenville
(County) (City)

REQUESTING AGENCY Washington Co. Sheriff's Dept. OCA# 93 120023

INVESTIGATORS Janice Spruill, SA Dornie Varnell

OFFENSE Homicide 0999 OFFENSE DATE 12-18-93

CRIME LOCATION Washington Plymouth
(County) (City)

VICTIM William Frank Swain

RACE B SEX M DOB 07-29-56

ADDRESS Freeman's Trailer Park, Lot 18, Folly Rd., Plymouth

EXAMINEE Leroy MNM Spruill

RACE W SEX M DOB 01-21-58 HEIGHT 6'4" WEIGHT 214

ADDRESS Buncombe St., Roper, NC

TYPE Suspect (Victim, Witness, Suspect, Defendant, Applicant)

#TESTS 3

OPINION NDI XX DI I

R S RE

C NS

NUMERICAL EVALUATION +3

REMARKS: 5) Did you hit Frank Swain? NO

7) Did you stab Frank Swain? NO

10) Do you know for sure who caused Frank Swain's death? NO

000871

NCIC - SBI File

Handout 103

To: North Carolina Innocence Inquiry Commission

On behalf of the Swain Family, we suffered a tragic loss when our brother, Frank Swain was murdered and taken from his family. It is a constant reminder every year of his death that he is gone. Frank's birthday and the holidays are harder when they come around. His son and daughter were left fatherless and he has grandchildren that will never get to meet him. Even though incarcerated Mr. Jones and Mrs. Spruill still have a life to live. They get to see their families. We are still grieving the loss of our father, brother, cousin and friends. We try very hard not to dwell on what happened to our brother but Mr. Leroy and Mr. Brandon are constant reminders of a tragedy that never ends.

Sincerely,
The Swain Family

Handout 104

STATE OF NORTH CAROLINA

File No. 95 CRS
94 CRS 1984, 1566

In The General Court Of Justice

☐ District ☒ Superior Court Division

WASHINGTON

County

STATE VERSUS

Name Of Defendant

LEROY SPRUILL

TRANSCRIPT OF PLEA

DOB

1/21/58

Age

37

Highest Level Of Education Completed

GED

G.S. 15A-1022

The defendant, having offered a plea of GUILTY and being first duly sworn, makes the following answers to the questions set out below:

1. Are you able to hear and understand me? Answers
YES
2. Do you understand that you have the right to remain silent and that any statement you make may be used against you? YES
3. At what grade level can you read and write? 12TH
4. (a) Are you now under the influence of alcohol, drugs, narcotics, medicines, pills, or any other intoxicants? NO
- (b) When was the last time you used or consumed any such substance? 11/94
5. Have the charges been explained to you by your lawyer, and do you understand the nature of the charges, and do you understand every element of each charge? YES
6. (a) Have you and your attorney discussed the possible defenses, if any, to the charges? YES
- (b) Are you satisfied with your lawyer's legal services? YES
7. (a) Do you understand that you have the right to plead not guilty and be tried by a jury? YES
- (b) Do you understand that at such trial you have the right to confront and to cross examine witnesses against you? YES
- (c) Do you understand that by your plea(s) you give up these and your other constitutional rights relating to a trial by jury? YES
8. Do you understand that, if you are not a citizen of the United States of America your plea(s) of guilty or no contest may result in deportation, the exclusion from admission to this country, or the denial of naturalization under federal law? N/A
9. (if applicable) Do you understand that upon conviction of a felony that you automatically forfeit any licensing privileges as defined by G.S. 15A-1331A for the full term:

☐ (FSA cases only occurring on or after May 1, 1994.) of the maximum sentence of imprisonment imposed at the time of conviction if: (1) you are offered a suspended sentence on condition that you accept probation and you refuse probation, or (2) your probation is revoked or suspended and the Court makes findings that you failed to make reasonable efforts to comply with the conditions of probation. N/A

☐ (Structured Sentencing cases committed on or after October 1, 1994) of the period you are placed on probation if: (1) you are offered a suspended sentence on condition you accept probation and you refuse probation, or (2) your probation is revoked or suspended. G.S. 15A-1331A(b). N/A
10. Do you understand that you are pleading (guilty) (no contest) to the following charges, which carry the total punishments listed below: YES

Plea (G=Guilty NC=No Contest)	Offense(s)	G.S. No.	F/M	Class	Maximum Punishment
G	SECOND DEGREE MURDER	14-17	F		LIFE
G	ROBBERY W DANGEROUS WEAPON	14-87	F		40 YEARS

TOTAL MAXIMUM PUNISHMENT

LIFE + 40 YEARS

MANDATORY MINIMUM FINES & SENTENCES (if any)

14 YEARS (ROBBERY)

11. Do you now personally plead (guilty) (no contest)?

Answers

YES

12. (a) (if applicable) Are you in fact guilty?

N/A

(b) (if applicable) Do you understand that upon your plea of no contest you will be treated as being guilty whether or not you admit your guilt?

N/A

(c) (if applicable) (Alford plea)

YES

(1) Do you now consider it to be in your best interest to plead guilty?

YES

(2) Do you understand that upon your "Alford Plea" you will be treated as being guilty whether or not you admit that you are in fact guilty?

13. Have you agreed to plead as part of a plea arrangement? Before you answer, I advise you that the Courts have approved plea negotiating, and if there is such, you may advise me truthfully without fear of incurring my disapproval?

YES

14. (if applicable) The District Attorney and your lawyer have informed the Court that these are all the terms and conditions of your plea: IN LIEU OF ALL CHARGES IN 94 CRS 1984

DEFENDANT SHALL PLEAD GUILTY TO 2ND ° MURDER AND ROBBERY WITH A DANGEROUS WEAPON. DEFENDANT SHALL BE SENTENCED TO LIFE IN PRISON AT EXPIRATION OF 40 YEARS. DEFENDANT SHALL RECEIVE CREDIT FOR ALL PRE-TRIAL CONFINEMENT TIME.

(a) Is this correct as being your full plea arrangement?

YES

(b) Do you now personally accept this arrangement?

YES

15. (Other than the plea arrangement between you and the prosecutor) has anyone made any promises or threatened you in any way to cause you to enter this plea against your wishes?

NO

16. Do you enter this plea of your own free will, fully understanding what you are doing?

YES

17. Do you have any questions about what has just been said to you or about anything else connected with your case?

NO

I have read or have heard all of these questions and understand them. The answers shown are the ones I gave in open court and they are true and accurate. Neither my lawyer nor anyone else has told me to give false answers in order to have the Court accept my plea in this case. The conditions of the plea as stated above, if any, are accurate.

SWORN AND SUBSCRIBED TO BEFORE ME

Date

10-5-95

Date

10-5-95

Signature

Heilly L. Green

Signature Of Defendant

Leroy Spruill

Name Of Defendant (Type Or Print)

LEROY SPRUILL

☐ Deputy CSC ☐ Assistant CSC ☒ Clerk Of Superior Court

CERTIFICATION BY LAWYER FOR DEFENDANT

As lawyer for the defendant named above, I hereby certify that the conditions stated above, if any, upon which the defendant's plea was entered are correct and they are agreed to by the defendant and myself. I further certify that I have fully explained to the defendant the nature and elements of the charge(s) to which he is pleading.

Stephen H. Edwards

Date

10-5-95

Signature Of Lawyer For Defendant

M. A. Williams

CERTIFICATION BY DISTRICT ATTORNEY

As District Attorney for this Prosecutorial District, I hereby certify that the conditions stated above, if any, are the terms agreed to by the defendant and his/her lawyer and myself for the entry of the plea by the defendant to the charge(s) in this case.

Date

10-5-95

Signature Of District Attorney

Michael J. Smith

PLEA ADJUDICATION

Upon consideration of the record proper, evidence presented, answers of defendant, and statements of the lawyer for the defendant and the District Attorney, the undersigned finds:

1. That there is a factual basis for the entry of the plea.
2. That the defendant is satisfied with his/her lawyer.
3. That the defendant is competent to stand trial and that the plea is the informed choice of the defendant and is made freely, voluntarily and understandingly.

The defendant's plea is hereby accepted by the Court and is ordered recorded.

Date

10/5/95

Signature Of Presiding Judge

J. C. Smith

STATE OF NORTH CAROLINA

File No. 95CRS:

1566

WASHINGTON

County

PLYMOUTH

Seat of Court

In The General Court Of Justice

☐ District ☒ Superior Court Division

NOTE: (Use this form for: (1) offenses occurring before October 1, 1994, (2) DWI and G.S. 130A-25 offenses occurring at any time, and (3) other non-structured sentencing commitments.)

STATE VERSUS

Name Of Defendant

LEROY SPRUILL

JUDGMENT AND COMMITMENT

Race

White

Sex

M

DOB

01-21-1958

☐ Pre-FSA
Felony

G.S.15A-130

Attorney For State

MITCHELL NORTON

☐ Def. Found
Not Indigent

☐ Def. Waived
Attorney

Attorney For Defendant

MAYNARD HARRELL, SETH
EDWARDS

☒ Appointed ☐ Retained

☐ DWI
Offense

Level Of Punishment (G.S. 20-179)

Drivers License No. (DWI Only)

State (DWI Only)

The defendant ☒ pled guilty to: ☐ was found guilty by the Court of: ☐ was found guilty by a jury of: ☐ pled no contest to:

File No.(s) And Offense(s)	Date Of Offense	G.S. No.	Fel./M.	Class	Max. Term	Presumptive
95CRS 1566 ROBBERY WITH A DANGEROUS WEAPON	12-18-1993	14-87	F	D	40Y	7 MIN

The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was freely, voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be imprisoned

for a term of

40 FORTY YEARS

in the custody of the

☒ N.C. Department of Correction

☐ Sheriff of _____ County

The defendant shall be given credit for 296 days spent in confinement prior to the date of this Judgment as a result of this charge.

☐ The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.

☐ The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below:

(NOTE: List case number, date, county and court in which prior sentence imposed.)

(check all that apply)

- ☐ 1. The defendant shall serve as a committed youthful offender pursuant to G.S. Chapter 148, Article 3B.
- ☐ 2. The defendant should not obtain the benefit of release pursuant to G.S. 148-49.15.
- ☐ 3. The defendant shall pay the costs.
- ☐ 4. The defendant shall pay a fine of \$_____.
- ☐ 5. Immediate work release is recommended pursuant to G.S. 148-33.1.
- ☐ 6. Work release is recommended.
- ☐ 7. Work release is not recommended.
- ☐ 8. With the consent of the defendant, work release is ordered under the conditions set forth in the attached order (applies to misdemeanants only).
- ☐ 9. The Court does not recommend that the defendant be required to pay restitution or reparation, as a condition of parole if parole is granted, or from his/her earnings if work release is granted.
- ☐ 10. The Court recommends that the defendant be required to pay, as a condition of parole if parole is granted, or from his/her earnings if work release is granted, the items and amounts set out below.

Costs	Fine	Restitution*	Reimbursement For Attorney Fee(s) And Other Expenses	Total Amount Due
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Name(s), address(es), amount(s) & social security number(s) of aggrieved party(ies) to receive restitution:

The Court further recommends:

FOR USE WITH FAIR SENTENCING ACT FELONIES ONLY

1. The Court has considered the aggravating and mitigating factors in G.S. 15A-1340.4(a) and
- ☐ (a) makes no written findings because the prison term imposed does not require such findings.
- ☒ (b) makes no written findings because the prison term imposed is pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
- ☐ (c) makes written findings set forth on the attached Findings of Factors in Aggravation and Mitigation of Punishment (AOC-CR-303).

(Applicable for offense(s) occurring on or after May 1, 1994.)

2. The Court finds that the prison term imposed is:

☐ (a) for an enhanced firearm penalty [G.S. 14-2.2(a)]. ☐ (b) for an adjudication as a violent habitual felon. [G.S. 14-7.12].

AWARD OF FEE TO COUNSEL FOR DEFENDANT

- ☐ A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

ORDER OF COMMITMENT

It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
10-05-1995	FRANKLIN R. BROWN	

APPEAL ENTRIES

- ☐ The defendant gives notice of appeal from the judgment of the District Court to the Superior Court. The current pretrial release order is modified as follows:

- ☐ The defendant gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on form AOC-CR-350.

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge

ORDER OF COMMITMENT AFTER APPEAL

Date Remanded To District Court	Date Appeal Dismissed	Date Withdrawal Of Appeal Filed	Date Appellate Opinion Certified

It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the official named in this Judgment and furnish that official two certified copies of this Judgment and Commitment as authority for the commitment and detention of the defendant.

Date	Signature Of Clerk	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

CERTIFICATION

I certify that this Judgment and Commitment and the attachment(s) marked below is a true and complete copy of the original which is on file in this case.

- ☐ 1. Appellate Entries (AOC-CR-350)
- ☐ 2. Findings Of Factors In Aggravation And Mitigation Of Punishment (AOC-CR-303)
- ☐ 3. Determination Of Sentencing Factors In DWI Cases (AOC-CR-311)
- ☐ 4. Judicial Findings As To Forfeiture Of Licensing Privileges (AOC-CR-317)
- ☐ 5. Commitment Information Statement (DC-600)

Date	Signature And Seal
Date Certified Copies Delivered To Sheriff	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court

STATE OF NORTH CAROLINA

File No.

~~95CRS 1566~~ 95CRS 1566

Watauga County Alvir

Seat of Court

In The General Court Of Justice

☐ District ☒ Superior Court Division

NOTE: (Use this form for: (1) offenses occurring before October 1, 1994, (2) DWI and G.S. 130A-25 offenses occurring at any time, and (3) other non-structured sentencing commitments.)

STATE VERSUS

Defendant

Jeremy Spruill

Race

W

Sex

M

DOB

1-21-58

☐ Pre-FSA
Felony

JUDGMENT AND COMMITMENT

G.S. 15A-1301

Attorney For State

Mitchell Norton

Def. Found

☐ Not Indigent

Def. Waived

☐ Attorney

Attorney For Defendant

Margaret Harrell, Seth Edwards

☒ Appointed

☐ Retained

☐ DWI

Offense

Level Of Punishment (G.S. 20-179)

Drivers/License No. (DWI Only)

State (DWI Only)

The defendant ☒ pled guilty to: ☐ was found guilty by the Court of: ☐ was found guilty by a jury of: ☐ pled no contest to:

File No.(s) And Offense(s)

95CRS 1566 Armed Robbery

Date Of Offense

12-18-93

G.S. No.

14-87

Fel./M.

F

Class

D

Max. Term

40 Y

Presumptive

7 Y

The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was freely, voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be imprisoned

for a term of

40 Y

in the custody of the:

☒ N.C. Department of Correction

☐ Sheriff of _____ County

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☐ The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below:

(NOTE: List case number, date, county and court in which prior sentence imposed.)

(check all that apply)

- ☐ 1. The defendant shall serve as a committed youthful offender pursuant to G.S. Chapter 148, Article 3B.
- ☐ 2. The defendant should not obtain the benefit of release pursuant to G.S. 148-49.15.
- ☐ 3. The defendant shall pay the costs.
- ☐ 4. The defendant shall pay a fine of \$ _____.
- ☐ 5. Immediate work release is recommended pursuant to G.S. 148-33.1.
- ☐ 6. Work release is recommended.
- ☐ 7. Work release is not recommended.
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- ☐ 10. The Court recommends that the defendant be required to pay, as a condition of parole if parole is granted, or from his earnings if work release is granted, the items and amounts set out below.

Fine

Costs

Restitution*

Reimbursement For Attorney Fee(s) And Other Expenses

Total Amount Due

*Name(s), address(es), amount(s) & social security number(s) of aggrieved party(ies) to receive restitution:

000013

The Court further recommends:

FOR USE WITH FAIR SENTENCING ACT FELONIES ONLY

1. The Court has considered the aggravating and mitigating factors in G.S. 15A-1340.4(a) and
- ☐ (a) makes no written findings because the prison term imposed does not require such findings.
- ☒ (b) makes no written findings because the prison term imposed is pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
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- (Applicable for offense(s) occurring on or after May 1, 1994.)
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- ☐ (a) for an enhanced firearm penalty [G.S. 14-2.2(a)]. ☐ (b) for an adjudication as a violent habitual felon. [G.S. 14-7.12].

AWARD OF FEE TO COUNSEL FOR DEFENDANT

- ☐ A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

ORDER OF COMMITMENT

It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

Date <u>10-5-95</u>	Name Of Presiding Judge (Type Or Print) <u>Frank R. Brown</u>	Signature Of Presiding Judge
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APPEAL ENTRIES

- ☐ The defendant gives notice of appeal from the judgment of the District Court to the Superior Court. The current pretrial release order is modified as follows:

- ☐ The defendant gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on from AOC-CR-350.

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
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ORDER OF COMMITMENT AFTER APPEAL

Date Remanded To District Court	Date Appeal Dismissed	Date Withdrawal Of Appeal Filed	Date Appellate Opinion Certified
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It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the official named in this Judgment and furnish that official two certified copies of this Judgment and Commitment as authority for the commitment and detention of the defendant.

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CERTIFICATION

I certify that this Judgment and Commitment with the attachment marked below is a true and complete copy of the original which is on file in this case.

- ☐ Appeal Entries (AOC-CR-350)
- ☐ Findings Of Factors In Aggravation And Mitigation Of Punishment (AOC-CR-303)
- ☐ Determination Of Sentencing Factors In DWI Cases (AOC-CR-311)
- ☐ Judicial Findings As To Forfeiture Of Licensing Privileges (AOC-CR-317)
- ☐ Commitment Information Statement (DC-600)

Date	Signature And Seal
------	--------------------

Date Certified Copies Delivered To Sheriff	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court
--	---

Handout 105

1 take me just a moment.

2 THE COURT: All right.

3 (Mr. Anglim leaves the courtroom and then returns to the
4 courtroom.)

5 MR. NORTON: If Your Honor please, I'll call this
6 witness out of turn, Ms. Dana Maybin.

7 DANA MAYBIN, being first duly sworn, testified as follows during
8 DIRECT EXAMINATION by MR. MITCHELL NORTON:

9 Q. You're Ms. Dana Lynn Maybin?

10 A. Yes, sir.

11 Q. Speak up real loud, Ms. Maybin, so that everyone here can be
12 able to hear and understand you. How old are you?

13 A. Twenty-two.

14 Q. Where do you live?

15 A. Westminster, South Carolina.

16 Q. Is that your home?

17 A. Yes.

18 Q. Where are you currently staying right now?

19 A. In jail.

20 Q. In jail?

21 A. Uh-huh.

22 Q. Were you charged with the, along with Mr. Brandon Jones and
23 Mr. Leroy Spruill, for the murder of Mr. William Frank Swain?

24 A. Yes.

25 Q. Now, you said that you're from South Carolina, Westminster,

- 1 South Carolina.
- 2 A. Yes.
- 3 Q. Now, have you always lived in the state of South Carolina?
- 4 A. No.
- 5 Q. In what other areas have you lived in, Ms. Maybin?
- 6 A. Kentucky, Florida, North Carolina, Georgia, and South
- 7 Carolina.
- 8 Q. And, why was it that you had moved to those other areas?
- 9 A. 'Cause my mom's been married four times.
- 10 Q. Now, directing your attention to November of 1993, did you
- 11 have an occasion to be here in Washington County?
- 12 A. Yes.
- 13 Q. Why was it that you came to Washington County?
- 14 A. I came with a friend to visit some of her friends.
- 15 Q. To visit some of her friends?
- 16 A. Uh-huh.
- 17 Q. Who was it that you came to North Carolina with?
- 18 A. Sherry Honea.
- 19 Q. Do you recall who it was that she came to visit?
- 20 A. Bessie Tarkington.
- 21 Q. Ms. Honea, how was it that you knew her?
- 22 A. Grew up together.
- 23 Q. Same town?
- 24 A. Uh-huh.
- 25 Q. Go to school together?

1 A. Yes.

2 Q. How was it that you got here to North Carolina?

3 A. Well, I came up here with her in her car.

4 Q. In her car, her dad's car, or someone's car?

5 A. Yeah.

6 Q. Now, at the time that you came up here, how long had you
7 planned on staying at that time?

8 A. A week or so.

9 Q. Did you know Ms. Tarkington or anyone at that time in the
10 Washington County area?

11 A. No.

12 Q. Had you ever been to Washington County at any--

13 THE COURT: Wait a minute. Is there something funny to
14 you, young lady? Don't be turning around and talking to the lady
15 behind you who's also laughing. You laugh again, I'm going to
16 have you leave the courtroom. All right.

17 Q. Ms. Maybin, had you ever been here to Washington County?

18 A. No.

19 Q. Had you ever met Ms. Tarkington or any member of her family?

20 A. No.

21 Q. Now, do you also know the Defendant in this case, Mr. Wallace
22 Brandon Jones?

23 A. Yes.

24 Q. By what name did you know him?

25 A. Robert Solis.

- 1 Q. How was it that you learned him to be called Robert Solis?
- 2 A. When I met him. He was a bartender at Big Ed's.
- 3 Q. Is that the name that he gave you at that time?
- 4 A. Uh-huh.
- 5 Q. Did you come to know him by any other name?
- 6 A. I've heard him called several different names.
- 7 Q. What other names did you hear him referred to as, Ms. Maybin?
- 8 A. Robbie; Bobby; Perry; Christopher. He said his real name was
- 9 Roberto but to call him Robert.
- 10 Q. Christopher, did he tell you it was just Christopher?
- 11 Christopher Solis, did you know him by that name?
- 12 A. Bass.
- 13 Q. Christopher Bass?
- 14 A. Uh-huh.
- 15 Q. When was it that you first met Mr. Solis or Wallace Brandon
- 16 Jones?
- 17 A. Well, my second night in North Carolina.
- 18 Q. Where was it that you met him?
- 19 A. Big Ed's Bar.
- 20 Q. Where is Big Ed's Bar located?
- 21 A. Roper.
- 22 Q. Now, I believe you said that he was a bartender there.
- 23 A. Yes.
- 24 Q. Why were you at Big Ed's Bar at that time?
- 25 A. I'd went with Bessie and her friends.

1 Q. Bessie Tarkington?

2 A. Uh-huh.

3 Q. And some of her friends?

4 A. Well, yeah. I didn't know them at that time.

5 Q. Where were you staying at that time? Where were you living
6 at that time, Ms. Maybin?

7 A. I started off living with Bessie.

8 Q. Now, did you also know or come to know an individual by the
9 name of Leroy Spruill?

10 A. Yes.

11 Q. When was it that you first met Mr. Spruill?

12 A. I'd say the first of December.

13 Q. Where was it that you met Mr. Spruill?

14 A. Well, I moved in with him the first of December. Are you
15 saying when I first met him?

16 Q. Yes.

17 A. I met him at the Oasis.

18 Q. How long was that after you met Mr. Solis?

19 A. About a week.

20 Q. What type of place is the Oasis?

21 A. It's a bar here in Plymouth.

22 Q. Who were you with at the time that you met Mr. Spruill, if
23 you recall?

24 A. Bessie and Sherry Honea and Dwight Reynolds.

25 Q. These were friends of either Ms. Tarkington or Ms. Honea?

1 A. Yes.

2 Q. Now, what was your relationship with Mr. Solis?

3 A. He was my boyfriend.

4 THE COURT: Mr. Solis was your boyfriend?

5 A. Uh-huh.

6 THE COURT: Who'd you move in with the first of
7 December?

8 A. Leroy Spruill.

9 THE COURT: You moved in with Leroy, but this
10 Defendant was your boyfriend?

11 A. Uh-huh.

12 THE COURT: All right.

13 Q. When you first arrived, when you first came in with Ms. Honea,
14 where did you stay; where were you living at that time?

15 A. At Bessie Tarkington's.

16 Q. How long did you stay with Ms. Tarkington?

17 A. For almost two weeks.

18 Q. At the end of the two-week period of time, then where did you
19 move?

20 A. Stacy Allen.

21 Q. Who is Stacy Allen?

22 A. It's her daughter.

23 Q. Are you talking about Bessie Tarkington's daughter?

24 A. Yes.

25 Q. How long was it that you stayed with--stayed at the Allens'?

1 A. Almost two weeks.

2 Q. Why was it that you moved from the home of Ms. Tarkington?

3 A. I didn't have nowhere else to go, so I moved in with Leroy.
4 Personal reasons, really, I guess you could say. It was poor
5 living conditions.

6 Q. Now, at that time, you said that you moved in with Leroy.
7 Can you explain to the Court and to the jury why it was that you
8 moved in with Mr. Spruill, and you said that Mr. Solis was your
9 boyfriend.

10 A. Yes.

11 Q. Where was he living at that time?

12 A. He was living in the yard of Big Ed.

13 Q. Is that Mr. Ed Champ?

14 A. Uh-huh.

15 Q. Where did Mr. Champ live?

16 A. Walking distance. About two blocks or so.

17 Q. Was that two blocks from what location?

18 A. From Leroy's.

19 Q. Leroy Spruill's?

20 A. Uh-huh.

21 Q. Now, why was it that you didn't move in with Mr. Solis?

22 A. Champs didn't want me to stay there.

23 Q. The Spruill residence, Leroy Spruill, if you will, describe
24 for the jury how it was that you came to live with or stay in the
25 same house with Leroy Spruill?

1 A. I had met him at the Oasis, and he told me if I needed
2 somewhere to stay--because Bessie had a houseful. She's got,
3 I think, three or four kids and her daughter and her daughter's
4 kids. He said that if I needed somewhere to stay that I could
5 stay with him. So, I took him up on the offer.

6 Q. What was your relationship with Leroy Spruill at that time?

7 A. Just friends.

8 Q. What were the sleeping arrangements there at Mr. Spruill's
9 residence?

10 A. I slept on the couch, and he slept in his bed.

11 Q. Was there any contact between Mr. Spruill and Mr. Solis at
12 that time, during that whole period of time?

13 A. Yes.

14 Q. What contact was that?

15 A. Well, Robert would come over and see me--to get beer.

16 Q. Were he and Mr. Spruill friends at that time?

17 A. Uh-huh.

18 Q. How often were the three of you together, Ms. Maybin?

19 A. What do you mean?

20 Q. How often did you see each other, all three of you together?

21 A. A good bit, I guess you could say. I can't tell you exactly.

22 Q. Was a regular thing for the three of you to go out together?

23 A. Oh, yeah, yeah.

24 Q. Now, were you working anywhere at that time?

25 A. No.

1 Q. How long did you stay here in North Carolina?

2 A. From November until February the 10th.

3 Q. Was it '94--?

4 A. Of '94.

5 Q. Now, at the time that you were living with, both with Bessie
6 Tarkington, Stacy Allen, Leroy Spruill, until after the murder of
7 Frank Swain, were you working anywhere at all during that period
8 of time?

9 A. No.

10 Q. How were you able to live, Ms. Maybin?

11 A. Off of everybody else, I guess you could say. Like, if Bessie
12 would invite us over, we'd go over to Bessie's and eat; or, Robert
13 would buy me cigarettes. Just here and there.

14 Q. What about Mr. Spruill at that time? Were you eating there at
15 Mr. Spruill's, also?

16 A. Yeah, some.

17 Q. On the 18th of December of 1993, did you have an occasion to--
18 were you staying with Mr. Spruill at that time?

19 A. Yes.

20 Q. Do you recall what time you got up that day, the morning of
21 the 18th?

22 A. Around noon, I guess.

23 Q. Around noon?

24 A. Uh-huh.

25 Q. Do you recall what it was that you had done the night before,

1 where you had been and what you had done?

2 A. Drink. We went out a lot. Either we went to Big Ed's, or I
3 went to the Oasis.

4 Q. How many times would you say a week that you were going out
5 drinking?

6 A. Every time the bar opened.

7 THE COURT: What?

8 A. Every time the bar opened.

9 Q. How long have you been drinking, Ms. Maybin?

10 A. Since I was 13.

11 Q. You said your mom had been married four times. What type of
12 work does your mother do?

13 A. She's a bartender.

14 Q. Would you state whether or not that you grew up in and around
15 bars as you were growing up?

16 A. Yes.

17 Q. Is that the only type of work that your mother had done was
18 working in a bar?

19 A. And sewing plants.

20 Q: Textile manufacturing--?

21 A. Mills.

22 Q. Now, in addition to the alcohol, the drinking, were you using
23 any other type of controlled substance, Ms. Maybin?

24 A. Are you talking about--?

25 Q. Drugs.

1 A. From when?

2 Q. Well, first of all, at any time.

3 A. Yes.

4 Q. When was that? When did you first start using drugs?

5 A. When I was 13.

6 Q. What type of drugs were you using at that time?

7 A. Cocaine.

8 Q. How were you ingesting the cocaine back at that time?

9 A. I was shootin' up.

10 Q. Now, can you tell the jury what you mean by "shooting up?"

11 A. Needles.

12 Q. Did you receive treatment for that?

13 A. Yes. I spent almost six months in Texas.

14 Q. What was the facility in Texas that you went to?

15 A. Parkside Youth Center, I believe. It was in Wilbur, Texas.

16 Q. Did you complete that course of treatment?

17 A. Yes.

18 Q. Now, back in December of--November, December of 1994, were you
19 using cocaine at that time?

20 THE COURT: Is that November of '94?

21 MR. NORTON: I'm sorry, Judge.

22 Q. November, December of '93 and into January, February of '94,
23 were you using any cocaine at that time?

24 A. No. I'm happy to say I've stopped using cocaine.

25 Q. Did you ever use or smoke any cocaine, ingest any cocaine,

1 here in Washington County?

2 A. Once.

3 Q. When was that, that one time?

4 A. That was at Leroy Spruill's house.

5 Q. Who was present at that time?

6 A. Robert Solis, Sherry Honea, Robert Spruill, and Leroy.

7 Q. Where did you smoke the cocaine on this occasion?

8 A. In the bathroom.

9 Q. Why did all of you go in the bathroom inside of the residence
10 to smoke the cocaine?

11 A. Because it made them paranoid.

12 Q. Who is that?

13 A. Mostly Leroy. He thought the law was lookin' in the windows
14 and stuff.

15 Q. So you all clustered up in the bathroom to smoke it?

16 A. Uh-huh.

17 Q. You only did that one time?

18 A. Yeah.

19 Q. Why did you stop and only do it one time?

20 A. Because I don't like the high. It makes your heart race.

21 Q. Did it make your heart race at that time?

22 A. Yeah.

23 Q. You say you had gone through the treatment facility, but you
24 had tried it on that one occasion again--

25 A. Uh-huh.

1 Q. --and smoked it.

2 A. Yeah.

3 Q. Why did you do that, Ms. Maybin?

4 A. Everybody else was doing it, I guess.

5 Q. But, again, was that the only time that you used it in
6 Washington County?

7 MR. VOSBURGH: Objection, Your Honor. That's the third
8 time.

9 THE COURT: Objection sustained.

10 Q. Now, in addition to that one time, were you using any other
11 type of controlled substance besides alcohol during that same
12 period of time, November of '93 through February of '94?

13 A. Yes.

14 Q. What other type of controlled substance was it that you were
15 using?

16 A. Marijuana.

17 Q. How often would you be smoking marijuana?

18 A. As often as I could get it.

19 Q. How often would that be, Ms. Maybin, if you have an opinion,
20 to the best of your recollection?

21 A. I mean, I don't know. Just whoever had one and rolled it up,
22 I guess you could say.

23 Q. Now, directing your attention to the 18th of December of 1993,
24 after you awoke sometime around 12:00, what did you do? What did
25 you do after you got up that day?

1 A. Sat around. You know, there's nothin' to do.

2 Q. Where was Mr. Solis that morning when you got up?

3 A. That I don't know.

4 Q. Had he been there the night before?

5 A. Yeah. He stayed with me on weekends.

6 Q. He slept over there at your house.

7 A. (Witness nods.)

8 MR. VOSBURGH: Objection, Your Honor; move to strike
9 the statement of counsel.

10 THE COURT: Objection is sustained.

11 Q. When you say he had stayed there on the weekends, what do you
12 mean?

13 A. He would stay overnight. We'd go to the bar, and he'd stay
14 overnight.

15 Q. Had he done that on the weekend of the 17th, the 18th?

16 A. Yes.

17 Q. But, when you got up that morning, you say you did not know
18 where he was.

19 A. No.

20 Q. How about Mr. Spruill? Was he there that day?

21 A. Yes.

22 Q. Did anyone else come to the house that day?

23 A. Yes.

24 Q. Who was that?

25 A. Lewis Jarvis.

1 Q. Do you recall about what time Mr. Jarvis came?

2 A. I'd say around 2:00.

3 Q. What took place or what occurred around 2:00 that afternoon
4 when Mr. Jarvis came?

5 A. We drank.

6 Q. Who was drinking at that time?

7 A. Leroy and Lewis and I.

8 Q. What were you drinking at that time?

9 A. Well, I drank wine and beer, and we'd also drank liquor.

10 Q. Where did the liquor--do you recall what type of liquor it
11 was?

12 A. It was brown liquor.

13 Q. Brown liquor?

14 A. Uh-huh.

15 Q. Do you recall how much was consumed there at that time? How
16 much did you drink?

17 A. I don't know. We were all sharing. I can't tell you exactly
18 how much.

19 Q. How long did you stay there drinking the liquor and the beer
20 and the wine?

21 A. Until about 4:30 or 5:00. That's when Lewis left.

22 Q. Had you gone anywhere or done anything while Mr. Jarvis was
23 there?

24 A. What?

25 Q. Had you gone anywhere while Mr. Jarvis was there, or, did you

1 stay there at the house the whole time?

2 A. We went to the liquor store in Plymouth.

3 Q. What was the purpose of you going to the liquor store in
4 Plymouth?

5 A. Because we'd ran out of liquor.

6 Q. So you drank up the brown liquor that you had.

7 A. Uh-huh.

8 Q. Drank up the beer and wine.

9 A. Uh-huh.

10 Q. Who went with you to the liquor store?

11 A. Leroy and Lewis and me.

12 Q. Did you know where Mr. Solis was at that time?

13 A. No.

14 Q. Now, how did you get to the liquor store, if you recall?

15 A. In Lewis' van.

16 Q. Do you recall what it was that you bought or what was
17 purchased in at the liquor store in Plymouth?

18 A. Yeah. Tequila.

19 Q. Tequila?

20 A. Uh-huh.

21 Q. How much tequila was bought?

22 A. About that much (indicates.) I guess about a pint.

23 Q. A pint bottle?

24 A. I guess. About that tall (indicates).

25 Q. Did you drink the tequila?

1 A. Uh-huh.

2 Q. Who was drinking the tequila?

3 A. Me and Leroy and Lewis.

4 Q. Just the three of you.

5 A. Uh-huh.

6 Q. After you--where was the tequila consumed, Ms. Maybin?

7 A. Well, I was drinkin' it in the van. Leroy was driving Lewis'
8 van back.

9 Q. So you started immediately drinking the tequila after it was
10 purchased.

11 A. Yeah.

12 Q. Where did you go when you came back to the--or, after you left
13 the liquor store, where did you go?

14 A. Back to Leroy's.

15 Q. What occurred when you got back to Leroy's?

16 A. Lewis left.

17 Q. Do you recall about what time that was?

18 A. 4:30, 5:00, I guess.

19 Q. After Mr. Jarvis left, what occurred next?

20 A. Leroy went to get his daddy's truck.

21 Q. Do you know where Mr. Spruill's father lived?

22 A. Yes.

23 Q. How far was that, if you recall, from where Leroy lived?

24 A. About two blocks, I guess. It's right by Ed Champ's.

25 Q. Back off near the same road where Mr. Champ lived?

1 A. Yeah.

2 Q. How did he go get--you said that he, Leroy, left the house to
3 go get his father's truck.

4 A. Uh-huh.

5 Q. How did he go to get the truck, if you know?

6 A. I'm not sure. He usually drives his bicycle; but, he could
7 have walked. I didn't--

8 MR. VOSBURGH: Objection; move to strike.

9 THE COURT: Motion is denied; objection is overruled.

10 Q. How long was he gone?

11 A. I'm not sure. Fifteen minutes or so, I guess.

12 Q. When he returned to the house, did he have the vehicle at
13 that time?

14 A. Yes.

15 (State's Exhibit No. 25 is marked for the purpose of
16 identification.)

17 (Mr. Norton furnishes exhibit to defense counsel for their
18 examination.)

19 Q. Ms. Maybin, I'll show you what's been marked for
20 identification as State's Exhibit No. 25 and ask you to take a
21 look at that and see if you recognize and identify that for us,
22 please, Ma'am.

23 (Witness complies.)

24 A. Leroy's daddy's truck.

25 Q. Does that photograph fairly and accurately show and depict the

1 truck the way it appeared on the 18th of December of 1993?

2 A. Yes.

3 (State's Exhibit No. 26 is marked for the purpose of
4 identification.)

5 (Mr. Norton furnishes exhibit to defense counsel for their
6 examination.)

7 Q. Ms. Maybin, I'll show you what's been marked for
8 identification as State's Exhibit No. 26. I want you to take a
9 look at that and see if you can recognize and identify that for
10 us, please, Ma'am.

11 (Witness complies.)

12 A. That's Roper.

13 Q. First of all, it's a diagram, isn't it?

14 A. Yes.

15 Q. This diagram, does it fairly and accurately show and depict
16 where Mr. Spruill lived, Big Ed's Bar, the roads around Roper, and
17 the residence of Mr. Jack Spruill?

18 A. Uh-huh.

19 Q. Does that fairly and accurately show and depict it the way--
20 just the general layout of the town and these various locations
21 as it appeared back in December of 1993?

22 A. Yes.

23 Q. Does it fairly and accurately show and depict the houses and
24 locations and everything in the area at that time?

25 A. Yes.

1 MR. NORTON: If Your Honor please, I would offer into
2 evidence State's Exhibit No. 26.

3 MR. VOSBURGH: Your Honor, we would ask for a limiting
4 instruction.

5 THE COURT: Ladies and gentlemen, this diagram is
6 introduced for the purpose of illustrating and explaining the
7 testimony of this witness, if it does, and it's not to be
8 considered by you for any other purpose.

9 Q. Ms. Maybin, if you will, could you point on the diagram, first
10 of all, where Mr. Leroy Spruill's residence is located.

11 (Witness complies and indicates on diagram.)

12 Q. Right here at the corner of Plume and Buncombe Street, right
13 here at this block (indicates)?

14 A. Uh-huh, yeah.

15 Q. Where is Big Ed's Bar located?

16 A. Right here (indicates).

17 Q. Can you show us where Mr. Jack Spruill, the father of
18 Mr. Leroy Spruill, where he lived?

19 A. Right here (indicates).

20 Q. Now, you said that he was close to the Champs.

21 A. Uh-huh.

22 Q. Can you show us where the Champ residence was located?

23 A. Right here (indicates).

24 Q. And you say it's within walking distance, or, he normally
25 rode his bike.

1 A. Yeah.

2 Q. Now, do you recall about what time it was that Mr. Spruill
3 returned to the residence?

4 MR. VOSBURGH: Mr. Skinner just picked that chair up
5 and set it right down on my foot as I went behind him.

6 THE COURT: I'm sure it didn't hurt. Do you need to
7 walk a little bit?

8 MR. VOSBURGH: No. Thank you, Your Honor. It's all
9 right.

10 THE COURT: I believe that brought tears to your eyes.

11 MR. VOSBURGH: It hurt, Judge. Go ahead.

12 THE COURT: All right. He asked you what time did
13 Leroy Spruill get back with the truck.

14 A. Well, like I said, it was around 6:00, 5:00--well, are you
15 talkin' about what time--?

16 Q. In other words, he'd walked or got on his bike--you're not
17 sure--went and got the truck and came back. About what time was
18 it when he came back?

19 A. It took him about 15 minutes; but, I'm not really sure of the
20 time.

21 Q. How long was it after--approximately how long was it after
22 Mr. Jarvis left before Mr. Spruill went to get the truck?

23 A. It was right after he had left.

24 Q. When you say "right after," is that five, 10 minutes?

25 A. Five minutes.

1 Q. When did you first see Mr. Solis on that occasion, the 18th of
2 December?

3 A. He came in right after Leroy had left.

4 Q. Did he stay there until Mr. Spruill returned with the vehicle?

5 A. Yes.

6 Q. Now, after they got back, after Mr. Spruill came back with
7 the truck, where did you go or what did you do at that point?

8 A. Went to Clover Farm.

9 Q. What was the purpose in going to Clover Farm?

10 A. To get dog food and cigarettes and stuff.

11 Q. Who went to Clover Farm with you at that time?

12 A. Leroy and Robert and I.

13 Q. Who was driving the vehicle at that time, Ms. Maybin?

14 A. Leroy.

15 Q. Do you recall what in addition to the dog food that you bought?
16 Did you buy any beer or anything at that time?

17 A. No.

18 Q. Now, after you purchased the dog food and some other items,
19 where did you go and what did you do at that time?

20 A. Went to Folly Road.

21 Q. What was the purpose of going to Folly Road?

22 A. Because they wanted to go to the crack man's house.

23 Q. You say to the crack man.

24 A. Uh-huh.

25 Q. Did you know who it was that they were going to, to whose home

1 it was?

2 A. Not personally. I mean, I knew of him as Frank.

3 Q. Had you ever seen or talked to the crack man, the individual
4 known as Frank to you?

5 A. No.

6 Q. Had you ever been to that location prior to the 18th of
7 December of 1993, down Folly Road?

8 A. Yes, on two other occasions.

9 Q. Do you recall when these other occasions were?

10 A. It was after Thanksgiving, but I'm not sure exactly what day.

11 Q. It was sometime in November, the end of November of 1993.

12 A. Yes.

13 Q. And, who was it that you went with on the first occasion?

14 A. Sherry Honea and Robert Spruill and Leroy.

15 Q. And Leroy Spruill?

16 A. Uh-huh.

17 Q. Did you go up to the house or the trailer at that time?

18 A. No.

19 Q. Tell the Court, if you will, how it was that the crack was
20 purchased. What happened on this first occasion that you went
21 with Mr. Leroy Spruill, Robert Spruill, and Sherry Honea?

22 A. He let him out at the end of the driveway and go down to the
23 end of the road and come back and picked him up.

24 Q. Now, you say down to the end of the driveway.

25 A. Uh-huh.

- 1 Q. The end of the driveway of what location?
- 2 A. At the trailer park.
- 3 Q. Did you actually drive into the trailer park--
- 4 A. No.
- 5 Q. --or just there off of Folly Road?
- 6 A. Yeah, just right on--we stopped at the road, we let him out
- 7 and go to the end of the road.
- 8 Q. But you all went to the end of the road.
- 9 A. Uh-huh.
- 10 Q. Now, on that first occasion, who was let out of the vehicle
- 11 to go in to make the purchase of the drugs?
- 12 A. Leroy.
- 13 Q. Leroy Spruill?
- 14 A. Yes.
- 15 Q. After he was put out, you say you went to the end of the road.
- 16 A. Uh-huh.
- 17 Q. Was that back out to Highway 64 or further down Folly Road?
- 18 A. The other way.
- 19 Q. And, you say you went down and turned around and did what?
- 20 A. Come back to pick him up.
- 21 Q. Where was it that you picked him up at?
- 22 A. At the end of the driveway.
- 23 Q. The same place where you put him off?
- 24 A. Uh-huh.
- 25 Q. At that time, had you ever gone up to the residence of

1 Mr. Swain?

2 A. No.

3 Q. Ever seen him, have any conversation with him, know anything
4 at all about him up to that time?

5 A. No.

6 Q. Now, you said that you went on a second occasion.

7 A. (Witness nods.)

8 Q. Do you recall when the second occasion was that you went on
9 Folly Road to the crack man?

10 A. It was after that. It was with Ray Hurst and Leroy.

11 Q. You and Leroy and Ray Hurst.

12 A. Uh-huh.

13 Q. How did you get there on that occasion?

14 A. In Leroy's daddy's truck.

15 Q. Can you describe for us how that purchase went down? What was
16 the operation at that time?

17 MR. VOSBURGH: Objection.

18 THE COURT: Overruled.

19 A. We let Ray out and went down the road and come back and picked
20 him back up.

21 Q. Same as you'd done before.

22 A. Yes.

23 Q. Now, on the 18th of--was there any reason as to why you didn't
24 drive up into the driveway, Ms. Maybin?

25 A. Because he didn't know me, and he wouldn't sell them drugs.

1 MR. VOSBURGH: Objection; move to strike.

2 THE COURT: The objection is sustained; the jury will
3 disregard the witness' answer.

4 Q. Now, on the 18th of December, I think you said you went over
5 to the crack man's. About what time was that, the best you recall?

6 A. I'm really not sure. I'd say it was around--it was before
7 dark. I mean, dusk/dark.

8 Q. Who was driving the vehicle at that time?

9 A. Leroy.

10 Q. Do you recall where you were sitting in the vehicle?

11 A. In the middle.

12 Q. Now, when you got over off on Folly Road, can you describe for
13 us what happened and what took place at that time.

14 A. Well, we let Robert out in the driveway.

15 Q. Just like you had done on the prior two occasions.

16 A. Uh-huh. We went down the road, and, when we come back, he
17 was still standing there. He said he didn't want to go up the
18 driveway because there was a lot of people out. There was a lot
19 of black people because it's a trailer park, and he didn't want to
20 go up in there.

21 Q. He didn't want to walk up in there at that time?

22 A. Uh-huh, right.

23 Q: Again, with reference to State's Exhibit No. 26, can you show
24 us the route that you took at that time to go to the trailer park
25 there at the crack man's house?

1 A. Uh-huh. This is Folly Road (indicates). Are you talking
2 about the whole route or--?

3 Q. Yes. You were coming from the Clover Farm, and where did you
4 go?

5 A. I know Leroy lives here (indicates). Clover Farm would be
6 right here (indicates). We leave Clover Farm, and we go out this
7 way (indicates), and you hit the highway, and you go straight,
8 down the highway, all the way down to Folly Road.

9 Q. You say you put him out there.

10 A. Uh-huh.

11 Q. You left. When you came back, he was still there.

12 A. Uh-huh.

13 Q. What did you do after he was still there and told you that
14 there was some black people and he weren't going to walk down
15 there? What did you do?

16 A. Leroy got mad and said he was going to go up there and get it.

17 Q. What occurred at that time?

18 A. Leroy told me to duck down in the seat so nobody could see me,
19 and Robert, like, put his hand on my head and forced me down in
20 the seat.

21 Q. Down in the seat?

22 A. Uh-huh.

23 Q. Can you describe for us what happened then, after he had
24 pushed you down in the seat?

25 A. They went up to this man's trailer.

1 Q. What happened when you got there at the trailer?

2 A. Leroy got out and went and banged on the door. He come back
3 and said that he couldn't get him up. Then Robert gets out, and
4 he goes up to the door, and, a few minutes later, I guess, he
5 comes back, and he said he'd got it; that Leroy just didn't know
6 how to do it.

7 Q. And, during that whole period of time, where were you at that
8 time while you were at the trailer?

9 A. Ducked down with my head between my knees.

10 Q. Was that the first time that you had ever actually been up to
11 the trailer, actually to the location?

12 A. Yes.

13 Q. Now, after the--was a purchase made at that time?

14 A. I believe so. I can't be for sure. I didn't see it.

15 Q. You didn't see the dope?

16 A. Huh-uh.

17 Q. What was the statement that Robert Solis made to Leroy when
18 he got back?

19 A. That he got it, and Leroy just didn't know how to do it.

20 Q. After he got back into the vehicle, where did you go and what
21 did you do at that time?

22 A. We then went to Big Ed's.

23 Q. Did you drive straight to Big Ed's? How did you get back to
24 Big Ed's? Where did you go?

25 A. Well, I'm not sure how we got back to the bar. I know we were

1 in Leroy's daddy's truck. We went to the bar a lot, and I can't
2 really remember how I got to the bar. But, I remember certain
3 things.

4 Q. Did you end up back at Big Ed's Bar?

5 A. Uh-huh.

6 Q. Do you recall about what time it was that you got to the bar,
7 Ms. Maybin?

8 A. I know it was after opening; but, I'm not sure what time the
9 bar opened.

10 Q. Now, who went with you to Big Ed's Bar at that time?

11 A. Well, I know Leroy and Robert was there.

12 Q. When you got inside the bar, what did you do at that time?

13 A. I sat with Smartie Spruill.

14 Q. Smartie Spruill?

15 A. Yeah, uh-huh. Maybe Calvin?

16 Q. But you knew him as Smartie?

17 A. Uh-huh.

18 Q. Where was it that you sat with him? Where did you sit with
19 Smartie?

20 A. At the end of the bar.

21 Q. I'll show you, Ms. Maybin, what's been marked for
22 identification as State's Exhibit No. 23 and ask you to look at
23 that and see if you can recognize and identify that for us,
24 please, Ma'am.

25 (Witness complies.)

1 A. It's a diagram of Big Ed's.

2 Q. Does that fairly and accurately show and depict Big Ed's the
3 way it appeared on the 18th of December of 1993?

4 A. Yes.

5 Q. Now, if you would, please, if you would point out to us on the
6 diagram approximately where in the bar area you were sitting with
7 Smartie Spruill.

8 A. Down toward this end of the bar (indicates).

9 Q. Down in this area here (indicates)?

10 A. Uh-huh.

11 Q. Now, what were you doing down here at that time with
12 Mr. Smartie Spruill?

13 A. Drinking.

14 Q. Did you have any money at that time?

15 A. No.

16 Q. Who was buying the beer?

17 A. Smartie.

18 Q. What about Mr. Solis and Mr. Spruill? Did you know where they
19 were?

20 A. No.

21 Q. When you came in, did you see which area or which portion
22 of the bar that they went to?

23 A. Toward the dance floor.

24 Q. Back up in this area--?

25 A. Well, I think they stayed on the dance floor back here

1 (indicates).

2 Q. In this area (indicates)?

3 A. Uh-huh.

4 Q. Now, you said that you were talking to Mr. Spruill, Smartie
5 Spruill. Did you stay right there at the bar the whole time,
6 right there at the counter where you've described, the whole time
7 that you were there?

8 A. Yes, besides playing pool.

9 Q. So you did play some pool.

10 A. Uh-huh.

11 Q. Do you recall which one of the pool tables that it was that
12 you played on?

13 A. The one beside the bar.

14 Q. Again, with reference to State's Exhibit No. 23, would you
15 show us where you were playing pool.

16 A. Right there (indicates).

17 Q. Who was it that you were playing pool with at that time?

18 A. I played with Steven Bell; I played with Terry Bell; I played
19 with I think his name's Robbie Calhoun.

20 THE COURT: Point out the table again that you were
21 playing on.

22 A. Here (indicates).

23 Q. It would be the first table right at the end of the bar?

24 A. Uh-huh.

25 Q. Ms. Maybin, you've indicated that you were there; that you

1 were drinking with Mr. Spruill. How much did you have to drink
2 with Smartie Spruill when you first got to the bar?

3 A. A few beers.

4 Q. What was your condition at that time?

5 A. I wasn't drunk.

6 Q. Did you know what was going on?

7 A. Yeah.

8 Q. Able to walk all right, talk all right, and function properly?

9 A. Yeah, I believe so.

10 Q. Now, you said that Mr. Spruill, Leroy Spruill, and Mr. Solis
11 had gone back somewhere into the dance floor area. When was the
12 next time that you saw Mr. Solis and Mr. Spruill?

13 A. It was when Leroy come up and asked me if I wanted to go with
14 them back to the crack man's house.

15 Q. Back to the crack man's house.

16 A. Uh-huh.

17 Q. Where were you sitting or where were you at the time that he
18 asked you about did you want to go back to the crack man's house?

19 A. I was settin' at the bar in the same spot.

20 Q. Now, when you say, "...in the same spot," are you referring--
21 where are you referring to? Again, with reference to State's
22 Exhibit No. 23, could you point that out to us.

23 A. I was settin' at the corner.

24 Q. Back up in this area here (indicates) where you were talking
25 to Mr. Spruill?

1 A. Uh-huh.

2 Q. Who was there with you at that time?

3 A. Connie Oliver; Kim Ambrose; Smartie and me; Steven Bell and
4 them were playing pool.

5 Q. So they were back over here (indicates), and this other
6 group of people were around the bar---

7 A. Yeah.

8 Q. Now, you said that Leroy Spruill asked you did you want to--
9 that they were going back to the crack man's house.

10 A. Uh-huh.

11 Q. What did you tell him?

12 A. I told him I didn't want to go.

13 Q. What did Mr. Spruill do at that time?

14 A. He left, and, the next thing I know, Robert's comin'--he's
15 comin' this way (indicates) toward me. This is where I caught
16 him; really, is about right here (indicates).

17 Q. When you say that he was coming this way, are you referring
18 to Mr. Solis coming out of the dance floor area?

19 A. (Witness nods.)

20 Q. Which direction was he walking?

21 A. Toward me.

22 Q. Up towards the end of the bar.

23 A. Uh-huh.

24 Q. Now, when you saw Mr. Solis coming towards you, what did you
25 do, Ms. Maybin?

1 A. I got up and went toward him to stop him.

2 Q. Would you point out to us on the diagram where you met
3 Mr. Solis.

4 A. Like right in here (indicates).

5 Q. If you could just put a little "x" mark there, if you will,
6 somewhere along about where you met him.

7 (Witness complies.)

8 Q. What was said between you and Mr. Solis at that time?

9 A. Well, he told me that I was going to go with them.

10 THE COURT: He said what?

11 A. He told me that they were going to go and that I was going to
12 go with them to the crack man's house.

13 Q. Did you want to go at that time?

14 A. No.

15 Q. Did all of the conversation take place right here where the
16 "x" is?

17 A. No.

18 Q. Where else--?

19 A. We argued all the way from here (indicates) to here
20 (indicates).

21 Q. When you say, "...from here to here," would you just draw a
22 line to where you went to and where you continued the argument.

23 (Witness complies.)

24 Q. All right. And then would you put an "A" there.

25 (Witness complies.)

1 Q. When you got here to the doorway, who was around the door at
2 that time?

3 A. Just me and Robert.

4 Q. What had happened to Mr. Spruill, if you know?

5 A. He had left. While we were arguing, he had went out.

6 Q. So you observed Mr. Spruill come out first.

7 A. Un-huh.

8 Q. Now, when you got here to the doorway, what occurred there at
9 the doorway?

10 A. We argued.

11 Q. Was the argument again about going and staying?

12 A. Yes.

13 Q. What did you do at that time?

14 A. I then went back and told Smartie that I was leaving; and,
15 you know, thank you for the beer and that I'd be back.

16 Q. Why was it that you came back up to this area to tell
17 Smartie?

18 A. Because I felt like it was the best thing to do. He had been
19 buying me beer.

20 Q. And, while you had walked back up to this area, where did
21 Mr. Solis go at that time?

22 A. He was standing at the door.

23 Q. Did he stay right there at the door, or, did he come out--?

24 A. He was like on the outside waiting right here (indicates) on
25 me.

1 Q. He had come outside the bar.

2 A. Uh-huh.

3 Q. And, you say you went back up here (indicates), and then you
4 left.

5 A. Uh-huh.

6 Q. Did you come back out this way (indicates) yourself?

7 A. Uh-huh; yes.

8 Q. How long were you up here (indicates); do you know?

9 A. Just long enough to tell him I was leaving.

10 Q. Now, do you recall about what time that was, Ms. Maybin?

11 A. I'm really--I guess you could say 8:00; between 8:00 and 9:00
12 sometime because the band--I don't know. It's hard to say. I
13 mean, I'd say between 8:30, 8:00.

14 Q. 8:00, 8:30?

15 A. Uh-huh.

16 Q. Now, where did you go after you came out of the door of the
17 bar?

18 A. We had stopped by the Red Apple. I remember stopping by the
19 Red Apple because we had to get some cigarettes. Big Ed's don't
20 sell cigarettes.

21 Q. I thought--had you bought cigarettes earlier?

22 A. Uh-huh.

23 Q. At Clover Farm.

24 A. Uh-huh.

25 Q. Why was it that you were buying cigarettes the second time?

- 1 A. Because we were all smoking.
- 2 Q. Who are you referring to now?
- 3 A. Leroy, Robert, and I.
- 4 Q. So, you had to go back for some more cigarettes.
- 5 A. Uh-huh.
- 6 Q. How did you get from the bar out to get the cigarettes; do
7 you know?
- 8 A. In Leroy's daddy's truck.
- 9 Q. Was the truck there on the lot or was the truck somewhere
10 else?.
- 11 A. I don't remember.
- 12 Q. But you know you went in the truck.
- 13 A. Uh-huh.
- 14 Q. Now, after the cigarettes were purchased, where did you go?
- 15 A. To Folly Road.
- 16 Q. Did you have any conversation with Mr. Solis at that time,
17 either there at the bar or en route to Folly Road about where you
18 were going?
- 19 A. Well, yeah. I asked him, you know, what he was going to do
20 because--I said, "How are you going to pay for it?" He said he
21 was going to take it; that I didn't have to worry about it.
- 22 Q. Why were you asking him how was he going to pay for it?
- 23 A. Well, they hadn't been working, him or Leroy. Leroy's boss
24 had been comin' by.
- 25 Q. He'd been coming by the house?

1 A. Uh-huh.

2 Q. Did he have any money that you were aware of?

3 A. If he did, he borrowed it.

4 MR. VOSBURGH: Well, objection; move to strike.

5 THE COURT: Overruled; motion is denied.

6 Q. Was he--Solis, did he buy any beer for you or anything there
7 at the bar that night?

8 A. No, not our first time at the bar.

9 Q. Not at the first time.

10 A. Huh-uh.

11 Q. You had been going with him for how long?

12 A. A little over a month.

13 Q. You had been with him on other occasions to the bar?

14 A. Uh-huh.

15 Q. On the other occasions, would you state whether or not he
16 purchased you beer and other items?

17 A. Yes.

18 Q. But you say on this night he did not.

19 A. No.

20 Q. I mean, when you first got to the bar, he didn't.

21 A. No.

22 Q. Do you recall where the conversation took place where you
23 asked him, "How are you going to pay for it?"

24 A. We were right at--I guess you could say right at Folly Road.

25 We were almost there.

1 Q. Now, when the dog food was purchased at Clover Farm, what else
2 did you get? Do you recall exactly what you got at that time?

3 A. I know I got hair spray, and I got bottled water.

4 Q. Why did you recall the bottled water, Ms. Maybin?

5 A. Because Leroy don't have a refrigerator, and we didn't have
6 anything to keep anything cold. I'd buy drinks when I'd go out.

7 I like ~~drinking water.~~

8 Q. How about the water there at Leroy's house?

9 A. Well, we had cold water. We didn't have hot water.

10 Q. So you bought some bottled water there at Clover Farm.

11 A. Uh-huh.

12 Q. Who paid for all those items?

13 A. Leroy.

14 Q. Leroy?

15 A. Uh-huh.

16 Q. How about out at the crack man's house on the first time
17 around? Do you know who paid for the crack at that time?

18 MR. VOSBURGH: Objection, Your Honor.

19 THE COURT: If she knows.

20 MR. VOSBURGH: She's already testified she didn't see
21 the buy.

22 THE COURT: Well, if she knows who paid for it, I'll let
23 her say it.

24 Q. Do you know who paid for the crack the first time?

25 A. I believe Leroy did because they were--when I was leaned over

1 in the truck, they were doing something. I don't know if they
2 were exchanging money or what. But I know Leroy had money at the
3 Clover Farm.

4 THE COURT: I think we'll stop at this point. Ladies
5 and gentlemen, we'll take our recess now. Would any of you like
6 to go down to the vending machines? The bailiff will accompany
7 you. I'll ask the rest of you to go to the room and do not discuss
8 the case while you're waiting.

9 (The jury is excused to the jury room.)

10 THE COURT: We'll be in recess until 11:45.

11 (Recess is taken at 11:30 a. m. until 11:45 a. m.)

12 (Mr. Norton, Mr. Anglim, Mr. Vosburgh, Mr. Skinner, and the
13 Defendant are present.)

14 (The witness returns to the witness stand.)

15 THE COURT: Bring the jury back.

16 (The jury returns to the jury box.)

17 Q. (By Mr. Norton) Ms. Maybin, when you were first at the bar
18 when the bar opened that night, how was Mr. Solis dressed at
19 that time when you first went to the bar?

20 A. Well, dressed up like we normally do.

21 THE COURT: Well, we don't know how that is.

22 A. Okay. Well, he had on his deck shoes which he didn't wear
23 no socks with. That's how I know. His tatoos show. His acid-
24 washed pants.

25 Q. Are you talking about jeans?

- 1 A. Uh-huh.
- 2 Q. Go ahead.
- 3 A. A regular shirt, buttoned up.
- 4 Q. Was it like a dress shirt or was it--?
- 5 A. Yes.
- 6 Q. --a work shirt?
- 7 A. More like a dress shirt.
- 8 Q. He looked nice.
- 9 A. Uh-huh.
- 10 Q. Dressed up to go out.
- 11 A. Yeah.
- 12 Q. How about Mr. Spruill, Mr. Leroy Spruill?
- 13 A. Tennis shoes, like always; blue jeans. He had a button-up
- 14 shirt on under a sweater.
- 15 Q. That's when you first went to the bar.
- 16 A. Uh-huh.
- 17 Q. Was Mr. Spruill also dressed nice that evening?
- 18 A. Uh-huh.
- 19 Q. At the bar, Mr. Solis, was he wearing any type of jacket or
- 20 anything at that time?
- 21 A. No.
- 22 Q. Now, you said after you left the Red Apple, you started
- 23 towards the crack man's out on Folly Road.
- 24 A. (Witness nods.)
- 25 Q. Then you had the conversation with Mr. Solis about the money,

1 "How are you going to pay for it?"

2 A. Uh-huh.

3 Q. What was it that Mr. Solis told you at that time when you
4 asked, "How are you going to pay for it?"

5 A. He was going to take it.

6 Q. Going to take it?

7 A. Uh-huh.

8 Q. As you got down Folly Road, describe for us what happened as
9 you approached the entrance to Freeman's Trailer Park.

10 A. Well, they told me to get down in the seat, which it was
11 Leroy that told me, and Robert pushed me down, held me down,
12 while we went through the park, the trailer park. You got to go
13 up the driveway and--

14 Q. Speak up now so that the people over here in the corner can
15 hear you. We need to hear what you're saying.

16 A. We went down the driveway. It loops. We just pulled up in
17 front of the house--of the trailer.

18 Q. Now, during that time, you say your position was that you were
19 over in the seat--

20 A. Uh-huh.

21 Q. --with your head down.

22 A. Yeah.

23 Q. Again, why was it that you had your head down, pushed over
24 in the seat like you described?

25 A. Because he said they couldn't get nothin' if the crack man had

1 seen me because he wouldn't show it to them. He didn't know me.

2 Q. He did not know you.

3 A. Uh-huh.

4 Q. Now, you got to the trailer, and the vehicle came to a stop.
5 What happened then?

6 A. They got out. I heard somethin' hit the back of the truck.

7 I don't know exactly what it was. I never did see anything.

8 I heard somethin' that sounded like metal. You know how it
9 sounds when you throw somethin' metal in the back of the truck.

10 Q. It made some noise?

11 A. Uh-huh.

12 Q. And, you say they went up to the house at that time?

13 A. Yes.

14 Q. What took place at that time, after you heard the metal
15 sound?

16 A. I laid down, like, put my head beside the steering wheel and
17 was going to smoke me a cigarette, and; I cracked the window, and
18 I heard somethin' that sounded like somebody gettin' thrown up
19 against the wall.

20 Q. When you heard this noise about something up against the wall,
21 what did you do then, Ms. Maybin?

22 A. I got out.

23 Q. What did you see when you first opened the door and got out of
24 the truck?

25 A. Like a lamp was being hit or like somebody was walking in

1 front of it.

2 Q. You saw some movement or something of that nature?

3 A. Uh-huh.

4 Q. After you saw that, what did you do?

5 A. I went up to the door.

6 Q. Why was it you went to the door at that time?

7 A. Because I thought that maybe they were hurt or somethin'.

8 Q. You were concerned about Robert--?

9 A. Yeah.

10 Q. --and Leroy.

11 A. They told me--he told me they were going to take it, so I
12 figured they might have been hurt or somethin'.

13 Q. Now, when you got up to the door, what did you see when you
14 got right there at the door?

15 A. To my right was Robert, Leroy, and Frank.

16 THE COURT: I didn't hear what you said.

17 A. I saw all three of them standing at the couch. Well, Frank
18 was layin' half and half. He was like half on the floor and half-
19 way on the couch.

20 Q. When you got up to the door, was the door open or was it
21 closed at that time?

22 A. It was cracked.

23 Q. So, you heard the noise and saw the movement. When you got up
24 to the door, what did you do? How did you open the door?

25 A. I just--it was open about this (indicates) far, I guess.

1 I just pushed it open.

2 Q. Did you step inside the house at that time?

3 A. (Witness nods.)

4 Q. Now, you said that off to your right, you saw Frank. He was
5 half and half. Now, what do you mean "...half and half," Dana?

6 A. Like, the cushions had slid. You know how when somebody sits
7 down on a couch--like when somebody sits on a couch and the
8 cushions slide off?

9 Q. Where was his bottom at this time? Was he sitting on the
10 floor?

11 A. On the floor.

12 Q. What about the rest of his position, the rest of his body?

13 A. His back was on the couch.

14 Q. Where was Leroy Spruill standing at that time?

15 A. Away from me. His left side. On Frank's left side. He was,
16 like, the farthest away.

17 Q. I'll show you what's been marked for identification as
18 State's Exhibit No. 7. I want you to take a look at that and see
19 if you can recognize this for us, please.

20 (Witness complies.)

21 A. Yes. This right here (indicates), that was his living room,
22 I guess. That's where he was when I first walked in.

23 Q. Now, you say you recognize this portion of the trailer.

24 A. Yeah.

25 Q. In other words, from here (indicates) on back, did you ever go

1 back anywhere in the back portion of the trailer?

2 A. No.

3 Q. So you don't know what was back here?

4 A. (Witness shakes head.)

5 Q. Now, when you came in the door, you said that Mr. Swain was--
6 where was he? If you would, just point out where he was.

7 A. Right here (indicates).

8 Q. If you'll just put a "F" "S" where Mr. Swain was when you saw
9 him.

10 (Witness complies.)

11 Q. Can you show me where Leroy Spruill was at that time? Put an
12 "L" "S" over there on the side where Leroy Spruill was.

13 (Witness complies.)

14 Q. Now, Robert Solis, where was he when you first came in?

15 A. Standing up right here (indicates).

16 Q. If you'll put an "R" "S" for Robert Solis.

17 (Witness complies.)

18 Q. Now, you said that Frank was sort of half on and half off of
19 the sofa with his bottom down on the floor.

20 A. Yes.

21 Q. What else did you notice in this area at that time, Dana?

22 A. Cushions; a Christmas tree, and; the couch. That's all I
23 really paid attention to.

24 Q. At that time.

25 A. Uh-huh.

1 Q. What did you observe about Frank Swain when you first pushed
2 the door open and stepped inside the door?

3 A. Blood.

4 Q. Where did you see the blood on him?

5 A. All over his face and neck and (indicates).

6 Q. And across his chest?

7 A. Uh-huh.

8 Q. Now, when you first came in, you saw Leroy there. What was
9 Leroy Spruill doing at that time, Dana?

10 A. He had his hands on his shoulders.

11 THE COURT: What?

12 A. He had his hands on his shoulders.

13 Q. How was he holding him? Leroy Spruill, how was he holding
14 Mr. Swain at that time?

15 A. With both of his hands.

16 Q. He had both of his hands up on his shoulders.

17 A. Uh-huh.

18 Q. Now, Mr. Solis, Wallace Jones, you said he was down on this
19 side (indicates). What was Mr. Solis doing at that time? What
20 did you see him doing when you first stepped inside the room?

21 A. It happened fast. He reached around, like, the top of Frank.
22 He had a baggie or something in his hand, like a baggie.

23 Q. Who had the baggie or something in his hand?

24 A. Robert. I don't know if Leroy had handed it to him or if he
25 was going to hand it to Leroy or what; but, it was like they

1 stopped everything they were doing when I walked in and looked at
2 them.

3 Q. Looked back in the direction that you were?

4 A. Yes.

5 Q. Who had this baggie that you're talking about?

6 A. Robert.

7 Q. Had you seen baggies like that before?

8 A. Yeah.

9 Q. Under what circumstances had you seen baggies like that
10 before?

11 A. Marijuana.

12 Q. Have you seen other drugs in bags like that?

13 A. Yeah; but, it was big. I don't know how to explain it.

14 Q. Was it like a sandwich bag; is that what you're talking about?

15 A. Yeah.

16 Q. You ever seen cocaine or anything packaged in stuff like that
17 before?

18 A. Yeah; but, not large amounts.

19 Q. Now, you said that you saw Solis reach around behind him,
20 behind Frank. What happened then, Dana?

21 A. I walked in the door, and everybody looked at me, and, um,
22 (crying, hands over face) and Frank looked at me, and his hands
23 was out to the sides, and he lifted his hands a little like he
24 wanted me to help him, and I couldn't help him.

25 Q. Are you talking about Frank Swain did that?

1 A. Yes. Then Robert cut his throat.

2 Q. Dana, can you describe for us how it came to be that Robert
3 cut his throat?

4 A. He just reached around and cut it.

5 Q. Dana, I'll show you what's been marked for identification as
6 State's Exhibit No. 2.

7 (Witness examines exhibit.)

8 Q. Can you identify that?

9 A. Yeah.

10 Q. Is that what you saw when you came in or after his throat was
11 cut?

12 A. Yeah.

13 Q. Were you able to see a knife at that time, Dana?

14 A. (Witness shakes head.)

15 Q. You did not?

16 A. I knew he had a knife, but I didn't see it.

17 Q. You say he cut his throat. Can you describe for the jury what
18 you saw and observed? How did he go about cutting his throat?

19 MR. VOSBURGH: Your Honor, I'd object. She's answered
20 that.

21 THE COURT: Objection is sustained.

22 Q. What was Leroy doing at the time that Frank Swain's throat was
23 cut?

24 A. Holding him down.

25 Q. When his throat was cut, what did you see?

1 A. Blood.

2 Q. What happened at that point? Right after the throat was cut,
3 what occurred then?

4 A. He started jerking, and Leroy was holding him down, and he
5 fell. He fell on the floor, like, rolled.

6 Q. Now, you said he was jerking. Who was it that was jerking,
7 Dana?

8 A. Frank.

9 Q. Now, you said that Leroy Spruill was holding him. Was that
10 the time that he was jerking there on the floor?

11 A. Yes.

12 Q. What was Robert Solis doing at that time?

13 A. He was just standing there. Then Frank rolled to the floor
14 somehow. I don't know how he rolled. He fell on the floor.

15 Q. What did you do after you had seen that?

16 A. I was in shock. I didn't do nothin'. I just stood there.

17 Q. What happened after he rolled off to the floor?

18 A. Robert told me to get his money or whatever he had in his
19 pocket out.

20 Q. Did he say anything else to you at that time?

21 A. I can't remember.

22 Q. When he told you to get his money out of his pocket, what did
23 you do, Dana?

24 A. There was a roll of money. I took it out.

25 Q. Can you describe for us how you came about getting the money

1 out of his pocket?

2 A. It was the first one I come to. I just picked it up. I just
3 lifted it up and took the money out.

4 Q. Lifted what up?

5 A. The lining.

6 Q. Of the pocket?

7 A. (Witness nods.)

8 Q. Was that the first pocket that you went to?

9 A. (Witness nods.)

10 MR. VOSBURGH: I didn't hear her answer.

11 A. Yes.

12 Q. Can you describe the money that you found in that pocket?

13 A. Round. It was a wad.

14 Q. A wad of money.

15 A. Yeah.

16 Q. Was the money folded over at that time?

17 A. It was like this (indicates), like oval-shaped. It wasn't
18 round.

19 Q. Oval-shaped, folded over.

20 A. Uh-huh.

21 Q. Do you recall what pocket it was that you got it from?

22 A. Left.

23 Q. The left pocket?

24 A. Yeah, the left.

25 Q. Did you get anything else from the pocket?

- 1 A. A small baggie fell out of the money.
- 2 Q. Along with the money?
- 3 A. Uh-huh.
- 4 Q. What did you do with the money, this wad or roll of money,
5 and the baggie that came out at that time?
- 6 A. Put it in his pocket like he told me to.
- 7 Q. Put it in whose pocket?
- 8 A. Robert's.
- 9 Q. Now, at that time, did Mr. Solis say anything to you?
- 10 A. Yeah.
- 11 Q. What did he say to you at that time?
- 12 A. Well, when I bent over to get the money, he told me if I ever
13 told anybody, I'd end up the same way.
- 14 Q. Now, how did you feel at that time, Ms. Maybin?
- 15 A. Scared.
- 16 Q. After you took the money out of that pocket, did you go
17 through any other pockets of Mr. Swain at that time?
- 18 A. No, sir.
- 19 Q. After Mr. Solis made that statement to you, where did you go
20 and what did you do?
- 21 A. I went straight out to the truck.
- 22 Q. What occurred then? Did they come out directly behind you
23 at that time?
- 24 A. A few minutes or a minute or so later. I don't know what the
25 time was.

1 Q. How long did all this take place?

2 A. How long?

3 Q. How long did this take? When you stepped in, saw the throat
4 cut--

5 A. I couldn't tell you. It was like a minute was an hour. It
6 was slow motion.

7 Q. Now, you said that when you first stepped inside the door that
8 Mr. Swain made some motion towards you. Can you show me--

9 MR. VOSBURGH: Objection. She's been over that.

10 THE COURT: Overruled.

11 Q. Can you show me what kind of motion that he made towards you,
12 Ms. Maybin?

13 A. His hand was laying to his side. Like, there's the door
14 (indicates). As a matter of fact, it's just like that. You come
15 in, and here's the couch (indicates), and his hands were laid out
16 like this, and he--he said, "Help me," but he didn't say it
17 outloud. But, you know, I could read his lips. I knew what he
18 was saying. He wanted me to help him, but I couldn't. He moved
19 his hand like he wanted to lift it, but he couldn't.

20 Q. Now, you say that you went back to the truck, and; shortly
21 thereafter or sometime later, Robert and Leroy came out to the
22 truck.

23 A. Uh-huh.

24 Q. After you got in the truck, where did you go at that time?

25 A. Went back down this dirt road that goes around to Ed Champ's.

1 MR. VOSBURGH: I didn't hear that last part of the
2 answer.

3 A. Went down a dirt road that goes to Ed Champ's so Robert could
4 get some clothes.

5 Q. Who was driving the truck at that time, Ms. Maybin?

6 A. Leroy.

7 Q. I'll show you what's marked for identification as State's
8 Exhibit No. 26. You said you came down a dirt road. Can you
9 point out to us the route that you took after you left Mr. Swain's
10 residence?

11 A. This road (indicates) and back out and down the dirt road
12 like this (indicates) and then to Ed's.

13 Q. When you say, "...to Ed's," do you mean here (indicates)?

14 A. Uh-huh.

15 Q. Where was Mr. Solis staying at that time? What type of place
16 was it--?

17 A. In a camper.

18 Q. Was the camper parked somewhere there on the lot at
19 Mr. Champ's house?

20 A. Right beside it.

21 Q. When you got up to Mr. Champ's house or to near this trailer,
22 what did you do; you and Leroy, what did you do?

23 A. Parked right here (indicates) on that road, like off to the
24 side of the road, and he got out--Robert got out and went in and
25 got some clothes.

1 Q. You said that you were parked on the road. Are you talking
2 about the State road?

3 A. Uh-huh.

4 Q. So you did not come up into the driveway?

5 A. Huh-uh.

6 Q. Describe for me, please, what you observed Mr. Solis do at
7 that time.

8 A. He went in and come out with some clothes.

9 Q. How did he get out of the truck? I mean, did he get out and
10 walk up or run up? How did he get--

11 A. Run. Like, run to his camper and come back.

12 Q. With the clothing?

13 A. Uh-huh.

14 Q. Where did you go then after he got back in the vehicle?

15 A. Up this way (indicates) to Leroy's.

16 Q. Back to Leroy Spruill's house?

17 A. Uh-huh.

18 Q. When you got back to Mr. Spruill's house there in Roper, tell
19 me what happened when you got back to Leroy's house, Ms. Maybin.

20 A. Well, we went in and cleaned up.

21 Q. Now, you say, "...we went in..." Who are you referring to now?

22 A. Robert, Leroy, and me.

23 Q. Why was it that you had to clean up?

24 A. 'Cause I got blood on me.

25 Q. Where did you get the blood on you?

1 A. On my shirt when I leaned over to get the money.

2 Q. How did you go about cleaning up?

3 A. We didn't have hot water, so I couldn't take a shower. I went
4 in the bathroom and just wiped off with a towel.

5 Q. What about when you got in the house? What about Robert?

6 What did you see Robert do at that time?

7 A. Well, he was cleaning up just like I was.

8 Q. What about the clothes?

9 A. When I come out of the bathroom, he kept tellin' me that, you
10 know, to burn the clothes 'cause he didn't want to get caught.

11 He said he didn't want to go down for no stupid bitch. That's
12 what he said.

13 Q. Do you know why he said that to you?

14 A. Because I told him I wanted to keep my stuff because I didn't
15 have any clothes. I wanted to wash them out and keep them.

16 Q. And he said what to you?

17 A. He wasn't goin' to go down for no stupid bitch.

18 Q. What was Leroy doing at that time?

19 A. Cleanin'. They both went out to straighten up the truck 'cause
20 it had blood in it.

21 Q. You're going to have to speak up, Dana. You're dropping your
22 voice. I know I'm having difficulty hearing you.

23 THE COURT: What was the last thing you said about the
24 truck?

25 A. It had blood in it, so they went out to clean it up. The

1 groceries, they brought the groceries in--the dog food.

2 Q. So the groceries had never been taken out of the truck from
3 when you first went to Clover Farm.

4 A. Well, I remember them bringing them in right after we burned
5 the clothes.

6 Q. After you burned the clothes?

7 A. Uh-huh.

8 Q. This was after the murder of Mr. Swain?

9 A. Yeah.

10 Q. Now, you said they went out and did something to the truck.
11 Did you go out to the truck?

12 A. No.

13 Q. But you knew they were out there doing something to the truck.

14 A. (Witness nods.)

15 Q. Now, when they came back in, and they got cleaned up, and
16 you got cleaned up, what happened then? You said that Solis was
17 telling you to burn the clothes, and you wanted to keep them.

18 A. Yeah.

19 Q. What happened at that time?

20 A. Well, we got ready, and Leroy took his daddy's truck back.

21 Q. First of all, what happened to the bloody clothes?

22 A. Burned them.

23 Q. Where were they burned?

24 A. In the wood heater.

25 Q. Do you recall who actually threw the clothes into the wood

1 heater?

2 A. Robert.

3 Q. Now, how was Robert dressed after he got cleaned up and the
4 bloody clothes were burned?

5 A. His tennis shoes; his--like a tee-shirt. It wasn't a tee-
6 shirt. It's like a dress tee-shirt, an Adidas or Reebok. It
7 wasn't a dressy or fancy shirt.

8 Q. So he dressed down from what you had been earlier.

9 A. Yeah.

10 MR. VOSBURGH: Objection to the statement of counsel.

11 THE COURT: Objection is sustained.

12 Q. At this time, was he wearing any type of jacket that you
13 recall?

14 MR. VOSBURGH: Objection.

15 THE COURT: Overruled.

16 A. Yeah. He had the jacket on when we were at Frank's 'cause I
17 put the money in his jacket. It was kind of a camouflage jacket.

18 Q. Do you know if that was the same one he put back on or where
19 that jacket came from?

20 A. I don't know because I was in the bathroom when they were
21 changing.

22 Q. Now, had you ever seen Leroy Spruill with a jacket like that
23 before?

24 A. Yeah. He hunts.

25 Q. How about Mr. Spruill? What about his clothing after the

1 bloody clothes were burned?

2 A. He had on his tennis shoes and--are you talking about Robert?

3 Q. No. About Leroy now. What was Leroy--

4 A. He had on blue jeans and a dress shirt and a sweater over the
5 top of it. It was a gray/blue.

6 Q. This was after the murder?

7 A. Uh-huh.

8 Q. Now, you said that, after that was done, the truck was taken
9 somewhere.

10 A. Uh-huh.

11 Q. Who took the truck back?

12 A. Leroy.

13 Q. Where were you and Robert at that time?

14 A. In the house.

15 Q. How long was Leroy gone?

16 A. About 10, I guess, 10 minutes. Enough to take it and come
17 back.

18 Q. Then where did you and Mr. Solis and Mr. Spruill go after the
19 truck was taken back?

20 A. To Big Ed's.

21 Q. Back to the bar?

22 A. Uh-huh.

23 Q. Now, when you got back to the bar, describe for me what
24 happened when you got back.

25 A. I went back to the end of the bar where Smartie was.

1 Q. Did you all go in at the same time?

2 A. No. Me and Robert went in first. Then Leroy come in.

3 Q. Was there any reason for that?

4 A. Just that that way it wouldn't look like we had all been
5 together. We went in, and he waited--let's see. I don't know.
6 I was settin' at the bar when he come in.

7 Q. What happened to the drugs that were taken?

8 A. I don't know. I mean,--

9 Q. Did you smoke any of it?

10 A. No.

11 Q. Did you see or do you know whether or not Mr. Spruill or
12 Mr. Solis smoked any of the cocaine?

13 A. Well, I didn't see them.

14 Q. Now, at the time that you went to Mr. Swain's the second time,
15 you said that you had been drinking.

16 A. Yeah.

17 Q. Were you drunk when you went back the second time and saw the
18 murder?

19 A. No; I sobered up quick.

20 Q. But had you been drunk? Were you walking all right, talking
21 all right--?

22 A. Yes.

23 Q. What about the condition of Mr. Solis and Mr. Spruill?

24 A. Wasn't drunk. Leroy was driving.

25 Q. Was he driving all right?

1 A. Yeah.

2 Q. Did you carry on a conversation with them during that period
3 of time?

4 A. Yes.

5 Q. The conversation, was that responsive to your questions? In
6 other words, you would ask the question, and they would respond?

7 A. Yeah.

8 Q. Were they walking all right?

9 A. Yeah.

10 Q. Appeared to know what they were doing?

11 A. Yeah.

12 Q. Now, when you got back to the bar, you said that you went back
13 where in the bar?

14 A. Back towards where Smartie was sittin'.

15 Q. What did you observe Leroy and Robert Solis, Wallace Brandon
16 Jones, do at that time?

17 A. They went toward the other direction to the dance floor where
18 everybody was at. The band was playing.

19 Q. The band was playing when you got back?

20 A. Uh-huh.

21 Q. Do you recall about what time it was that you got back to the
22 bar, Ms. Maybin?

23 A. It was dark. I'm not sure exactly.

24 Q. How long did all this take? I understand you said earlier you
25 had left sometime between 8:00 and 8:30.

1 A. Yes.

2 Q. This was on December the 18th.

3 A. Uh-huh.

4 Q. You left the bar the first time, and you went to the Red
5 Apple to get the cigarettes, and you went to Mr. Swain's--

6 MR. VOSBURGH: Your Honor, I object to him recapitulating
7 the testimony. It's prejudicial.

8 THE COURT: The objection is sustained.

9 Q. All the places that you went to and back to the place and
10 changed clothes, do you know approximately how long that took?

11 A. About two hours. A couple of hours, I guess.

12 THE COURT: You said an hour or two hours?

13 A. Uh-huh.

14 Q. Now, when you got back to the bar, Dana, was there--Mr. Spruill
15 or Mr. Solis, were they doing anything differently when you got
16 back to the bar that they had not been doing earlier?

17 A. Yes.

18 Q. What was that?

19 A. Dancing together.

20 Q. Did you observe them dancing together?

21 A. Yes, after someone told me they were.

22 Q. As a result of what someone told you, what did you do?

23 A. I went to the dance floor and seen them dancing together.

24 Q. Where were they dancing at the time that you saw them?

25 A. Well, when I first walked in, they were on the table.

1 Q. On top of the table?

2 A. Yeah.

3 Q. What kind of dancing were they doing on top of the table?

4 A. Fast dancing. Acting stupid, I guess you could say.

5 MR. VOSBURGH: I didn't hear that last part.

6 A. Actin' stupid, I guess you could say.

7 Q. Any of them fall off the table at that time?

8 A. No.

9 Q. They were able to dance up on top of the table.

10 A. Uh-huh.

11 Q. Did you see them at any other time dancing together?

12 A. Yeah. Slow-dancing on the dance floor.

13 Q. Had you ever seen them at any other time prior to this dancing
14 together, cutting up?

15 A. No.

16 Q. You had not?

17 A. Huh-uh; no.

18 Q. Now, when you got back to the bar, were you drinking anything
19 when you got back to the bar?

20 A. Yeah.

21 Q. Do you know approximately how much you had to drink after you
22 got back to the bar the second time?

23 A. I'm not sure. It was a lot 'cause I was drunk when I left.

24 Q. Who was buying the beer for you when you came back after the
25 murder of Frank Swain?

1 A. Robert had bought me beer the rest of the night. I sat at the
2 bar with Smartie and drank.

3 Q. But Robert was buying the beer for you?

4 A. Yeah.

5 Q. Could you see whether or not he was buying any beer for
6 anyone else in the bar?

7 A. I wasn't payin' no attention.

8 Q. Why was it that you went back and sat at the--back at the end
9 of the bar with Smartie, and he and Leroy were back up on the
10 dance floor?

11 A. Because Robert and I wasn't gettin' along too well at that
12 time.

13 Q. What happened that you were not getting along well when you
14 came back that second time?

15 A. Well, I was scared of him for one thing.

16 Q. Because of what you had seen?

17 A. Yeah.

18 Q. Now, how long did you stay there at the bar that night,
19 Ms. Maybin?

20 A. Until closing time. Until everybody left.

21 Q. Do you know or have an idea about what time that was?

22 A. Approximately 2:00, I guess. It was late.

23 Q. 2:00 in the morning.

24 A. Yeah.

25 Q. As you were leaving the bar, when it got ready to close, d:

1 you all go out together, go out separately, or, explain to me how
2 that took place.

3 A. Me and Robert left first, and he got mad because Lynn, the
4 bartender, wouldn't sell him no beer.

5 Q. Were you able to see or hear that argument?

6 A. Yeah. I was standing at the door at the end of the bar toward
7 the door.

8 Q. Down at the door?

9 A. Uh-huh.

10 Q. Are you talking about the entrance doorway? First of all,
11 would you point out to us which door is it that you're referring
12 to that you were standing by when he was arguing with--?

13 A. Up here (indicates).

14 Q. You're referring now to the front entrance where you had the
15 lines drawn earlier where the "A" or in the area of the "A" where
16 you'd argued--

17 MR. VOSBURGH: Objection to the description of the
18 district attorney.

19 THE COURT: Objection is sustained.

20 Q. Point out so they can see where it was.

21 (Witness complies.)

22 Q. Ms. Maybin, would you point out to us where it was you were
23 standing and where you heard the argument over--the fussing over
24 the beer.

25 A. I was standing over here (indicates).

1 Q. Down in this area (indicates) near the door.

2 A. Right.

3 Q. Where were Mr. Solis and Ms. Rogers?

4 A. Up near--up here somewhere (indicates).

5 Q. In the center of the bar.

6 A. Uh-huh.

7 Q. Now, you said the fuss was over what?

8 A. Beer. He wanted some, and she wouldn't sell it to him.

9 Q. What occurred there at the bar?

10 A. Well, as we was leaving, he was cursin' her. He dropped his
11 beer, and then he turned around and threw the ones that didn't
12 fall out of the container.

13 Q. Did she ultimately sell him some beer?

14 A. He had it. He had three six-packs, and; one of them, the
15 bottom had fell out on the way out and some had busted. The ones
16 that were in there, he took and swung. Then he picks up this sign
17 that was outside and threw it at the bar, and he was cussin'.

18 Q. Now, at that point, where did you go at that point?

19 A. We were walking towards Leroy's.

20 Q. When you say "we," who are you referring to?

21 A. Robert and I.

22 Q. Where was Leroy?

23 A. Back at the bar.

24 Q. Did he later come on with you at that time?

25 A. Yeah. Well, we got to the house before he did.

IN THE GENERAL COURT OF JUSTICE
94 CRS 1973; 95 CRS 1565
SUPERIOR COURT DIVISION

T R A N S C R I P T

3 of 4

STATE OF NORTH CAROLINA
COUNTY OF WASHINGTON
STATE OF NORTH CAROLINA

VS

WALLACE BRANDON JONES,
AKA ROBERT SOLIS,
AKA CHRISTOPHER REED BASS

VOLUME III of VI
Pages 601 through 900



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1 had some eggs or somethin' with it. We were settin', and Robert
2 and I was on the couch, and; Leroy said that they wanted to go to
3 somebody's house, a man's house, that sold liquor, and he had come
4 up and asked Robert for some money. Robert said, you know, some
5 smart remark. I don't remember what he said. Leroy said, "Well,
6 hell, man, you got \$800," and they walked to the door, and Leroy
7 and Smartie left.

8 Q. So the figure of \$800 was given at that time.

9 A. That's what he said.

10 Q. Up until that time, did you have any idea how much money was
11 in this wad that was taken from Mr. Swain's pocket?

12 A. No. It just looked like a wad.

13 Q. Now, after the murder, how long did you continue going and
14 seeing Mr. Solis?

15 A. Not long.

16 THE COURT: What was that question?

17 MR. NORTON: I asked her, if Your Honor please, after the
18 murder, how long she continued to see or go with Mr. Solis,
19 I believe.

20 THE COURT: All right.

21 A. I'm really not sure, but I know it wasn't long. I don't
22 believe I was going with him even at Christmas 'cause I did not
23 see him Christmas.

24 Q. But did you continue to stay there at the residence of
25 Mr. Spruill?

1 A. No.

2 Q. How long did you stay with Mr. Spruill after the murder?

3 A. About a week or so. It was after Christmas when I moved.

4 Q. Pardon?

5 A. It was after Christmas when I moved.

6 Q. So it was a week or so?

7 A. (Witness nods.)

8 Q. Where did you move to at that time, Ms. Maybin?

9 A. Connie Oliver.

10 Q. Why was it that you left the residence and had stopped going
11 with Mr. Solis and left the residence of Mr. Spruill after the
12 murder?

13 A. I was scared to be around them. I didn't have nowhere else to
14 go, so Connie told me I could come stay with her.

15 Q. Why didn't you go back to South Carolina, Ms. Maybin?

16 A. I didn't have any money. Mom didn't have money. I didn't have
17 a car.

18 Q. She doesn't have an automobile?

19 A. She does, but she don't have the money to get up here. It's
20 eight hours. She just couldn't afford to take off from work.

21 Q. Now, you say you moved in with Connie Oliver.

22 A. Uh-huh.

23 Q. How long did you stay with Ms. Oliver?

24 A. Until February the 10th when I left.

25 Q. Now, during that period of time, from January, after

1 Christmas, January and into February, did you stay with Connie
2 Oliver during that whole period of time?

3 A. Yes.

4 Q. Now, did you--were you working anywhere at all during that
5 period of time, after you left Mr. Spruill's house?

6 A. I had started working at Roper Seafood. I'd work when he
7 needed me.

8 Q. Who was it that you were working for?

9 A. Mitchell Nowarah.

10 Q. What were you doing for Mr. Nowarah?

11 A. Tried to clean fish.

12 Q. Why was it that--I believe you said the 10th of February. Why
13 was it that you left Washington County at that time?

14 A. Because he had took me to the bus station, and I had enough
15 money to get a bus ticket to go home.

16 Q. Who took you to the bus station?

17 A. Ray Hurst and Mitchell Nowarah.

18 Q. Now, after the murder, although you were not seeing Mr. Solis,
19 did you know where he was at that time, where he was living and
20 what he was doing?

21 A. As far as I knew, he was staying on Big Ed's property.

22 MR. VOSBURGH: Objection; move to strike.

23 THE COURT: Overruled.

24 Q. State whether or not you knew whether or not he left the area
25 at any time during January or February of 1994.

1 A. Well, I heard he had kidnapped--

2 MR. VOSBURGH: Objection; move to strike.

3 THE COURT: Objection is sustained; the jury will
4 disregard the statement of the witness.

5 Q. You left on the 10th of February?

6 A. Uh-huh.

7 Q. The money that you used, where did you get the money to go
8 back to South Carolina?

9 MR. VOSBURGH: Objection; asked and answered.

10 THE COURT: Overruled.

11 A. Mitchell.

12 THE COURT: Where'd you get the money?

13 A. From Mitchell, workin' at the seafood house.

14 Q. Up until that time, Ms. Maybin, had any of the police or
15 anyone, the Sheriff's Department or anyone, talked with you about
16 what happened on the 18th of December?

17 A. No.

18 Q. Had you seen any of the police, or, were you aware of any of the
19 investigation that was going on at that time?

20 A. Well, they came to Leroy's house and asked to speak with him
21 one time. It was Janice Spruill and Willie Williams that had
22 come; but, he wasn't there.

23 Q. Did they have any conversation at all with you at that time
24 about the murder?

25 A. No.

1 Q. Now, you moved back to South Carolina. What did you do when
2 you got back to South Carolina?

3 A. I went back to my mom's with my little girl.

4 Q. You have a child?

5 A. Uh-huh.

6 Q. How old is that child?

7 A. She turned five last month.

8 Q. Now, after you went back to your mother's with your child,
9 did you continue to stay there in Westminster, South Carolina?

10 A. Well, I moved to Walhalla after I'd met someone.

11 Q. To Walhalla.

12 A. Uh-huh..

13 Q. Is that also in South Carolina?

14 A. Yes.

15 Q. Who was it that you met at that time?

16 A. Jeff Kelly.

17 Q. Jeff Kelly?

18 A. Uh-huh.

19 Q. How far is Wahalla from Westminster?

20 A. Ten minutes.

21 Q. What type of place was it that you were living with Jeff?

22 A. A ranch; a nice home; had horses, chickens--

23 Q. Did he own the place, or was it owned by his parents?

24 A. His parents.

25 Q. You said it was a nice place. What kind of house was it that

1 you stayed in?

2 MR. VOSBURGH: Your Honor, I object. It's not relevant.

3 THE COURT: Objection is sustained.

4 Q. How long did you stay with Jeff?

5 A. Ten months.

6 Q. Ten months?

7 A. Uh-huh.

8 Q. Now, did there come a time when you staying with Jeff that
9 you had occasion to talk with some police officers about what had
10 occurred on the 18th of December of 1993?

11 A. Yes.

12 Q. Was that in April of 1994?

13 A. Yes.

14 Q. In fact, April 25th of 1994.

15 MR. VOSBURGH: Your Honor, I object to the leading.

16 THE COURT: Objection is sustained.

17 Q. Where did the conversation take place, Ms. Maybin?

18 A. Oconee County Sheriff's Department.

19 Q. Do you recall who it was that came and talked with you at that
20 time?

21 A. Janice Spruill and Willie Williams.

22 Q. Did you also talk with an agent, a special agent with the

23 S. B. I., Mr. Donnie Varnell?

24 A. Uh-huh.

25 Q. And, a Mr. Parrish, I believe.

1 A. I don't remember his name, but I remember him.

2 Q. Now, at that time, when you talked with them in April, did you
3 tell them what you've told us here today in court?

4 A. No.

5 Q. Did you tell them the whole truth at that time?

6 A. No.

7 Q. Do you recall what you did tell them, Ms. Maybin?

8 A. The only thing I told them was that I'd went with Leroy and
9 Robert to Frank's one time that day. I didn't tell the rest.

10 Q. You didn't tell them about you actually seeing the murder?

11 A. (Witness shakes head.)

12 Q. Did you tell them at that time about them leaving the bar--

13 MR. VOSBURGH: Your Honor, I object to the leading.

14 THE COURT: Objection is sustained.

15 Q. Would you state whether or not you told them about Mr. Spruill
16 and Mr. Solis leaving the bar.

17 MR. VOSBURGH: Objection again.

18 THE COURT: Objection is sustained.

19 Q. What did you tell them about Mr. Solis and Mr. Spruill at
20 that time?

21 A. I basically told them that Robert had killed him; but, I
22 didn't want to get involved, so I didn't say anything about me
23 being there.

24 Q. Did you ever tell them at all that you were there at the
25 scene?

1 A. No.

2 Q. How was it that you came about telling them? In what manner
3 was it that you told them that Robert had killed him?

4 A. I just told them that Robert had cut his throat. Basically,
5 I just told them that he had killed the crack man.

6 Q. The crack man.

7 A. Uh-huh.

8 Q. Now, at that time, did you tell them who was with him at the
9 time?

10 A. Yes. I told them Leroy and Curtis Furlough.

11 Q. How did you come about telling them that Curtis Furlough and
12 Leroy was with him at that time, Ms. Maybin?

13 A. Well, because I knew Leroy was; but, it was just someone that
14 hangs around them. Him and Robert were right close.

15 Q. Did you tell them that you had actually seen the murder take
16 place?

17 A. No. I didn't want to.

18 Q. How was it that you explained to them that he, Robert, killed
19 him or cut his throat?

20 A. That Robert had said he killed the crack man.

21 Q. You told them that Robert told you that.

22 A. Uh-huh.

23 Q. Was that how you explained to them about the killing at that
24 time?

25 A. Yes.

1 Q. Why was it, Ms. Maybin, that you did not tell them that you
2 had witnessed it; that you had seen them cut the throat?

3 A. Well, because I was livin' a nice life. I mean, Jeff didn't
4 beat on me. He helped me with my child. I had a nice place, and
5 I didn't want to lose it. I was goin' back to school. I just
6 didn't want to lose everything. And, I knew Robert knew where I
7 lived, and I didn't want him to come back and get me for me tellin'
8 everything.

9 Q. You say Jeff didn't beat you?

10 A. No.

11 Q. Had you been beaten by other men?

12 A. Yeah.

13 Q. On how many times, Ms. Maybin?

14 MR. VOSBURGH: Objection.

15 THE COURT: Sustained.

16 Q. Now, you said that Robert knew where you lived.

17 A. Yes.

18 THE COURT: That was not a question. That was a
19 statement that was unnecessary for the prosecutor to make. If
20 you have a question, ask her the question.

21 Q. Why was it that you told them at that time that Mr. Solis and
22 Mr. Spruill were involved in the murder?

23 A. Because they were.

24 Q. Now, after the officers were there and took the statement, do
25 you recall how long it was that they talked to you, Ms. Maybin?

1 A. The day.

2 Q. During that day?

3 A. The day.

4 Q. Now, after you talked with the officers, what occurred after
5 you talked with them?

6 A. What do you mean?

7 Q. Were you placed under arrest or anything at all?

8 A. No.

9 Q. Had you told them of any involvement that you had at all with
10 the murder?

11 A. No.

12 Q. You lied to them about that.

13 A. Yes.

14 Q. Now, after the officers left, where did you go?

15 A. I went home.

16 Q. What do you mean?

17 A. To Jeff's.

18 Q. Did you continue to stay with Jeff at that time?

19 A. Yes.

20 Q. Who else was living there at the house with Jeff?

21 A. My little girl and his little boy on weekends.

22 Q. What type of work did Jeff do?

23 A. He was a truckdriver.

24 Q. Now, did you at some later time, in May, did you have an
25 occasion to send a letter to the--or, cause a letter to be sent

1 to the Washington County Sheriff's Department?

2 A. Yes. I faxed it from the Oconee Sheriff's Department.

3 Q. Did you actually fax the letter yourself?

4 A. No.

5 Q. How did you come about having the letter faxed, Ms. Maybin?

6 A. Mike Grenshaw, the investigator, I asked him to fax it.

7 (State's Exhibit No. 27 is marked for the purpose of
8 identification.)

9 MR. VOSBURGH: Your Honor, we haven't seen that yet.

10 THE COURT: You'll get to look at it in a minute. He
11 hasn't identified it as anything.

12 MR. NORTON: Judge, I think I have copies.

13 Q. Ms. Maybin, I'll show you what's been marked for identification
14 as State's Exhibit No. 27 and ask you to take a look at that and
15 see if you recognize and can identify that for us, please.

16 (Witness complies.)

17 A. Yeah; this is the one I faxed.

18 Q. That's the original of the letter, is it not?

19 A. Yes.

20 THE COURT: Let the defense counsel see it, if they
21 haven't already seen it.

22 MR. NORTON: They have a copy of it, if Your Honor
23 please.

24 MR. VOSBURGH: We got it on Monday afternoon.

25 (Mr. Norton furnishes exhibit to defense counsel for their

1 examination.)

2 Q. You say this is the original of the letter that you had
3 faxed; is that correct, Ms. Maybin?

4 A. Yes.

5 Q. If you will, please read State's Exhibit No. 27 for us.

6 A. "I, Dana Maybin, feel like now is the right time to tell
7 you the whole truth and explain my reasons for the lies I
8 told. I am still willing to take a lie detector test.
9 When I first talked to you, I told you that I didn't know
10 anything about Frank's death. The two of you called me a
11 liar. That did upset me because I have always made it a
12 point to tell the truth. A lie will catch up with you
13 sooner or later. At least an hour you all talked to me
14 and told me that I knew what happened and that I needed
15 to stop lying to you and tell you the truth. I said,
16 "I can tell you what everybody else has told you - a lie.
17 I could tell you that I know nothing - the truth. Sherry's
18 got to be telling the truth because she has nothing to
19 lose, right? Wrong. Did you ever think that maybe she
20 had something to do with it. Maybe she's pissed and
21 wants everyone else to go to jail because she got caught."
22 Well, I've lied about everything. I do not know what
23 happened that night. Lewis took me and Leroy to Big Ed's.
24 We were there all night until 2:00 a. m. Robert came in a
25 little later, around 8:30 p. m. We left the bar and went

1 home. That is when Robert beat up and burned Ray Hurst's
2 truck. I don't know why he did what he did. He's a
3 weird person. He then went into the house, and I cooked us
4 somethin' to eat. About 10 to 15 minutes later, Leroy and
5 Smartie came in. They ate then left. I don't know where
6 they went. I told the truth, and you said I was a liar.
7 I told you the lie, and you thought that it was the truth.
8 Now tell me who can you believe? Dana Lynn Maybin, 5/3/94."

9 THE COURT: We'll stop here. Take your exhibit back.
10 Ladies and gentlemen, during the recess, you're not to talk about
11 the case among yourselves. Remember, the only time you may
12 discuss the case is when I instruct you to begin your
13 deliberations. Do not talk about the case with anyone or allow
14 anyone to talk with you in your presence about the case. If
15 anyone attempts to communicate with you or in your presence about
16 these cases, you must notify me immediately. Do not form or
17 express any opinion about the guilt or innocence of the Defendant.
18 Keep an open mind until you've heard all of the evidence, the
19 arguments of the attorneys, and the Court's instructions as to the
20 law. You're not to speak with any party participating in the trial
21 of this case. This includes any witnesses, the Defendant, the
22 attorneys, or anyone else who might have an interest in the
23 outcome of the case, and this rule applies inside as well as
24 outside of the courtroom, and; it prohibits any type of
25 conversation, whether about the issues in the case or about the

1 weather. You're not to read, watch, or listen to any accounts
2 of this trial or make any investigation or attempt to obtain
3 information outside of the courtroom about the cases. I'll ask
4 you to leave. Everyone else remain seated. Be back at 2:00.
5 (The jury is excused at 12:55 p. m. and is not present in the
6 courtroom.)

7 THE COURT: You can remove the witness, Sheriff. Has
8 the Defendant received copies of all statements that this witness
9 has made; that the State says she's made?

10 MR. NORTON: No, sir. They've been given copies of
11 the letters; but, I have not turned over the statements--

12 THE COURT: Give them copies of all the statements.
13 I thought you were supposed to do that if the co-defendant was
14 going to testify. I order you to do it now in the interest of
15 time.

16 MR. NORTON: All right, sir.

17 THE COURT: So Mr. Vosburgh and Mr. Skinner can spend
18 their lunch hour reading them.

19 MR. VOSBURGH: That's great compliance with 15A, isn't
20 it.

21 MR. NORTON: ~~Perfect compliance with 15A.~~

22 THE COURT: Take a recess until 2:00.
23 (Recess is taken at 1:00 p. m. until 2:00 p. m.)
24 (Mr. Norton, Mr. Anglim, Mr. Vosburgh, Mr. Skinner, and the
25 Defendant are present.)

1 (The jury is in the jury room.)

2 MR. NORTON: If Your Honor please, do you want me to
3 bring Ms. Maybin back to the witness stand?

4 THE COURT: Yes..

5 (The witness returns to the witness stand.)

6 THE COURT: Bring the jury back.

7 (The jury returns to the jury box.)

8 THE COURT: All right.

9 Q. (By Mr. Norton) Ms. Maybin, again, I'll show you what's been
10 marked for identification as State's Exhibit No. 27, the letter
11 which was faxed. The reference to Sherry in that letter, who is
12 that, Ms. Maybin?

13 A. That's Sherry Honea. She's the one I came to North Carolina
14 with.

15 Q. Now, after the murder, had you talked to Sherry Honea about
16 the murder?

17 A. Yes.

18 Q. Had you told her what you had seen and observed there at the
19 residence?

20 A. Yes..

21 Q. Now, in the letter that you read that was faxed, why did you
22 write that letter, Ms. Maybin?

23 A. Well, 'cause I didn't want to have anything to do with the
24 murder, and; I thought it would go away. I wanted it to go away.

25 Q. Why did you think it would go away and wanted it to go away?

1 A. Well, I've never been in anything like this. I've never
2 even made a statement. That was the first time I'd ever had to
3 make a statement.

4 Q. Were you still living with Jeff at that time?

5 A. Yes.

6 Q. What was going on at that time, at the time that you wrote
7 the letter?

8 A. Well, his parents were trying to run me off because I'd been
9 talkin' to the law about a murder. They said I wasn't good
10 enough for him and--

11 MR. VOSBURGH: Your Honor, I'd move to strike this as
12 irrelevant.

13 THE COURT: Overruled.

14 A. They just didn't want me staying there. And, I didn't want to
15 lose everything I had. I didn't want to have anything to do with
16 a murder case. I didn't want to lose my little girl. So, I
17 wrote them a letter and told them that I didn't have nothin' to do
18 with it.

19 Q. You said that you didn't want to lose your little girl. What
20 else was it that you had or thought you had that you did not want
21 to lose that caused you to write the letter?

22 A. I was pregnant, and I didn't want to lose that baby. I've
23 done lost one baby, and I didn't want to lose another one. I'd
24 been having nightmares. I'd woke Jeff up many a nights. I've bit
25 him; I've screamed; I've woke him up, and; I just wanted it to all

1 go away. I mean, I didn't want to have nothin' to do with it.

2 Q. What had you been having nightmares about, Ms. Maybin?

3 A. The killing.

4 Q. Now, you said that you had the letter faxed.

5 A. Uh-huh.

6 Q. From the time that the officers were there in April until you
7 faxed the letter in May, did you have any other contact with the
8 officers at that time?

9 A. (Witness shakes head.)

10 MR. VOSBURGH: I didn't hear her answer.

11 A. No.

12 Q. After you wrote the letter, did you have an occasion to see
13 the officers again?

14 A. I believe so. They took me for a lie detector test.

15 Q. Now, you said that--do you recall who it was that you talked
16 to on this second occasion?

17 A. On the second--?

18 Q. On the second time that you gave them a statement.

19 A. Oh, that was Janice and Willie.

20 Q. Where did this conversation take place?

21 A. In the same place, Oconee Sheriff's Department.

22 Q. Now, do you recall what time it was that you first talked to
23 them?

24 A. That morning.

25 Q. Now, that morning, was that in June of 1994?

1 A. Yes.

2 Q. Now, at that time, you'd already written the letter.

3 A. Uh-huh.

4 Q. Now the officers are back.

5 A. Uh-huh.

6 Q. Did you give them a statement at that time, that morning?

7 A. Yeah.

8 Q. Did you tell them the truth at that time?

9 MR. VOSBURGH: Objection, Your Honor, to the form of the
10 question.

11 THE COURT: Objection is sustained.

12 Q. What did you tell them at that time; or, what happened in the
13 morning statement?

14 A. Well, I didn't tell them the truth.

15 Q. What did you tell them at that time?

16 A. I didn't tell them much of anything on that morning.

17 Q. Would you state whether or not you talked with them about
18 Leroy, Curtis, and Robert Spruill at that time.

19 A. Well, it was basically the same thing as the first statement.

20 Q. What happened after you told them that?

21 A. They told me I was lyin'.

22 Q. Did you go somewhere or do something after they told you that?

23 A. Yeah, we took a break. I had a lie detector test taken, and;
24 I went out, took my break, and that's when Jeff come up, my
25 boyfriend, Jeff. And, they told me Nikki almost got run over by a

1 bus, and she was screamin' and cryin'--

2 MR. VOSBURGH: Objection; move to strike.

3 THE COURT: Objection is sustained; the jury will
4 disregard the witness' statement.

5 Q. After you took the lie detector test--in between the first
6 statement, you took the lie detector test. Did you give a second
7 statement that day?

8 A. Uh-huh.

9 Q. Now, on the second statement in June, what did you tell them,
10 Ms. Maybin?

11 A. I went ahead and told them that we had went to Frank's and
12 that I'd seen Robert kill Frank.

13 Q. Was this the first time that you had talked with the officers
14 and told them about your involvement, about taking the money, and
15 about actually witnessing and viewing the murder of Frank Swain?

16 A. Yes.

17 Q. Now, at that time, while you were making that statement, did
18 you tell them everything at that time, follow through and tell
19 them everything that had occurred at that time?

20 A. Well, I didn't tell them about going to Frank's the first
21 time. But, I'd already told them that in the first statement.
22 I'd done told them that we'd went there one time.

23 Q. That was back in the April statement?

24 A. Uh-huh.

25 Q. Now, did you tell them at that time about going to the bar,

1 back to the bar, or anything of that nature, that you can recall?

2 A. I can't remember what--I can't remember.

3 Q. Now, you said something about that Jeff came and had your
4 child.

5 A. Yes.

6 Q. He had your little girl that the bus almost hit--

7 MR. VOSBURGH: Objection, Your Honor,--

8 A. Yes.

9 MR. VOSBURGH: --and move to strike.

10 THE COURT: Objection sustained.

11 Q. What did Jeff tell you when he got there?

12 A. That--

13 MR. VOSBURGH: Objection.

14 A. --he was ready to go--

15 THE COURT: That objection is sustained.

16 Q. As a result of what Jeff said, as a result of the child being
17 there, what happened then, or, what did you do then, Ms. Maybin?

18 A. I just told them that I witnessed the murder and I basically
19 was ready to go.

20 Q. Now, from that June of 1994 until December of 1994, did you
21 have any other contact with the officers at that time?

22 A. No.

23 Q. Now, sometime in December, did you see the officers again?

24 A. Yes. I was arrested December 10th of '94, and they picked me
25 up on the 15th.

1 Q. Now, you say that you were arrested on the 10th.

2 A. Uh-huh.

3 Q. And you were picked up on the 15th. Can you explain to the
4 jury what you mean by that?

5 A. 'Cause I live in South Carolina, they had to extradite me back
6 to North Carolina.

7 Q. Did you waive extradition back?

8 A. Well, I signed the papers saying that I would come.

9 Q. They had to get the paperwork done?

10 A. Yes.

11 Q. So, from the time that ~~you were arrested~~ until the 15th, where
12 were you?

13 A. In the Oconee County Jail.

14 Q. You were in jail from the 10th on through the 15th?

15 A. Yes.

16 Q. Now, when you say you were picked up, who do you mean came and
17 picked you up?

18 A. The Oconee County Sheriff's Department.

19 Q. Now, that was on the 10th.

20 A. Yeah.

21 Q. Now, on the 15th, who came and picked you up?

22 A. Janice, Willie, and Donnie Varnell.

23 Q. The S. B. I. agent?

24 A. Yes.

25 Q. Would you state whether or not you were transported back to

1 North Carolina at that time.

2 A. Yes. I was taken to Beaufort.

3 Q. Beaufort County?

4 A. Uh-huh.

5 Q. Is that the jail that you were placed in at that time?

6 A. Yes.

7 Q. Now, on the way back from South Carolina, did you give them
8 another statement--?

9 A. Yes.

10 Q. --on the 15th on the way back?

11 A. Yes.

12 Q. What did you tell them at that time, Ms. Maybin?

13 A. Everything.

14 Q. When you say "everything," are you talking about what you
15 told us here today?

16 A. Yes.

17 Q. Following the December statement in which you told them
18 everything, were you still being housed in the Beaufort County
19 Jail?

20 A. What do you mean?

21 Q. In other words, you were brought back to Beaufort County.
22 Did you continue to stay in the Beaufort County Jail?

23 A. No.

24 Q. Where else did you go?

25 A. To Raleigh safe-keeping, Raleigh Prison.

1 Q. But when was it that you went to Raleigh for safe-keeping?

2 A. It was after ma-ma's birthday. February 22nd.

3 MR. VOSBURGH: I didn't hear the answer.

4 THE COURT: What'd you say?

5 A. February 22nd.

6 Q. How is that you recall that day?

7 A. Well, it was right after my mom's birthday.

8 Q. Now, when you were in-housed in the Beaufort County Jail, who
9 was your roommate at that time?

10 A. Leslie Nichole Mills and Joy Bland, Monica Bland.

11 Q. When you got to the Beaufort County Jail, would you state
12 whether or not you started keeping a diary and making notes and
13 things?

14 A. Yes.

15 (State's Exhibit No. 28 is marked for the purpose of
16 identification.)

17 Q. Ms. Maybin, I'll show you what's been marked for
18 identification as State's Exhibit No. 28. Would you take a look
19 at that and see if you recognize and can identify that for us,
20 please, Ma'am.

21 (Witness complies.)

22 A. Yes. This was part of my diary.

23 Q. What part of the diary is it that you have there?

24 A. It's mostly about the bad dreams that I'd been having.

25 Q. What kind of dreams were you having when you were first brought

1 to the Beaufort County Jail?

2 MR. VOSBURGH: Objection.

3 THE COURT: Overruled.

4 A. I dreamed this Indian man got his throat cut, and he fell in
5 my arms. I dreamed--

6 Q. What day was it that you had that dream?

7 A. December the 16th.

8 Q. How many days had you been in jail at that time?

9 A. One.

10 Q. How about on the 17th? Did you have a dream--?

11 MR. VOSBURGH: Excuse me, Judge. May I ask--if I could
12 find where this is--

13 THE COURT: Let the lawyers see the exhibit. I don't
14 understand how this is relevant, so I want you to move along.
15 (Mr. Norton furnishes exhibit to defense counsel for their
16 examination.)

17 MR. VOSBURGH: Your Honor, I have lodged an objection to
18 this, and I'll renew it.

19 THE COURT: I will give you a continuing objection.

20 Q. On these dates, what kind of dreams were you having at that
21 time?

22 MR. VOSBURGH: Objection.

23 THE COURT: Objection sustained.

24 Q. On the 17th, what did you dream?

25 MR. VOSBURGH: Objection.

1 THE COURT: Take the jury out so Mr. Norton can explain
2 how this is relevant.
3 (The jury is excused to the jury room at 2:15 p. m. and is not
4 present in the courtroom.)

5 THE COURT: Let me see the paper you have in your hand.
6 I'll be glad to hear from you as to what this relates to and why
7 it's relevant.

8 MR. NORTON: If Your Honor please, it relates to the
9 testimony of Ms. Maybin that was given before and an attempt to be
10 given subsequent to that. She's testified that she talked with
11 the officers; that she wanted the dreams to stop; that she was
12 having bad dreams at that time. There were three statements that
13 were given. A statement was given on the 25th of April in which
14 she told a portion of the truth. There were statements on the
15 25th of June where she's told a portion of what had occurred on
16 the 18th, and; then you've got the December statement where she
17 says she told the same thing she's told us here. In between the
18 April and the May--April and June statements, you have the
19 State's Exhibit No. 27, the first recantation letter. Subsequent
20 to that, there are a number of recantation letters, and; I'm
21 attempting to show, if Your Honor please, through the recantation
22 letters, through the diary entries, and the dreams that she was
23 having, what prompted her to write the letters and take the
24 action that she did at the time that these entries were being made.
25 This case is going to depend, in large part, on Ms. Maybin's

1 credibility, and the State needs to be in the position to explain
2 why these various items were, various letters and various diary
3 entries, were being written.

4 THE COURT: At this point, I'm going to sustain the
5 objection. If it becomes relevant later on, I'll reconsider that
6 ruling. Bring the jury back.

7 (The jury returns to the jury box at 2:20 p. m.)

8 Q. (By Mr. Norton) Ms. Maybin, were you making diary entries or
9 entries while you were there at the Beaufort County Jail when you
10 were first brought back?

11 A. Yes.

12 Q. Now, do you recall when it was that you came to Plymouth to
13 the probable cause hearing for Mr. Jones, Mr. Robert Solis?

14 A. The 27th, I think.

15 MR. VOSBURGH: Excuse me?

16 THE COURT: The 27th of what?

17 A. Of December.

18 THE COURT: The 27th of December.

19 Q. Now, up until--on the 27th of December, did you have an
20 occasion to see Mr. Solis on that day?

21 A. Yes.

22 Q. Where was it that you saw him?

23 A. Here.

24 Q. What was your purpose of being here at the courtroom at that
25 time?

1 A. Probable cause hearing.

2 Q. Were you called to testify at that time?

3 A. Uh-huh.

4 Q. Did you testify at the probable cause hearing that day?

5 A. I didn't want to.

6 MR. VOSBURGH: Excuse me? I didn't hear you.

7 A. I didn't want to.

8 Q. Did something happen that day--?

9 MR. VOSBURGH: Objection; move to strike the answer.

10 THE COURT: I thought the question was did you testify
11 at that hearing. That's either "yes" or "no."

12 ~~A.~~ No.

13 THE COURT: All right. She said she did not.

14 Q. Did something unusual happen at that time?

15 A. Yes.

16 Q. What was that? Just explain to the jury in your own words
17 what happened when you were brought over here.

18 A. Tina Calhoun, one of the jailers, had took me to the bathroom,
19 and the Champs had followed me in the bathroom and made ugly
20 remarks toward me.

21 Q. Now, who are the Champs that you're referring to?

22 A. Ed Champ's family.

23 Q. The people who are sitting here in the--some of them who are
24 sitting here in the courtroom today?

25 MR. VOSBURGH: Your Honor, I'd object unless she

1 specifically identifies someone.

2 THE COURT: Overruled.

3 A. I just recall Gail Champ. That's the only one that's here
4 that I can recall.

5 Q. The only one that you can recall by name?

6 A. Yes.

7 Q. Approximately how many people was it that came into the
8 bathroom?

9 A. It was about six, I guess.

10 Q. What was it that was said to you at that time?

11 MR. VOSBURGH: Well, objection unless he identifies by
12 who.

13 THE COURT: Overruled.

14 A. They were sayin' that I was a lyin' bitch and that I was
15 goin' to get mine.

16 MR. VOSBURGH: Motion to strike, Your Honor.

17 THE COURT: Motion is denied.

18 Q. That you were going to get yours.

19 A. Uh-huh.

20 Q. As a result of that, what did you do? What did you do,
21 Ms. Maybin, after you heard those things and these six people
22 came into the bathroom where you were?

23 A. I walked out with Tina and went upstairs.

24 Q. How did you feel at that time?

25 A. I was scared. It was me against them.

1 Q. What were you scared of?

2 A. Well, Robert had threatened me before--

3 MR. VOSBURGH: Objection; move to strike.

4 THE COURT: Objection sustained.

5 Q. Would you state whether or not you had had any occasion
6 previously to talk to Mr. Solis about the Champs?

7 MR. VOSBURGH: Objection.

8 THE COURT: Overruled.

9 Q. Had you talked with him about the Champs previous to this date?

10 A. Yes.

11 Q. In what context was it that you had talked with him about the
12 Champs?

13 A. Well, he got mad one night and told me they was goin' to burn
14 my house down.

15 MR. VOSBURGH: Motion to strike, Your Honor.

16 THE COURT: Overruled.

17 Q. Did he make any other threats to you at any other time?

18 A. He said that they were going to come and beat me up one night
19 when we'd gotten in an argument at Leroy's house.

20 MR. VOSBURGH: Objection to the use of the word "they,"
21 Your Honor.

22 THE COURT: Overruled.

23 Q. And, specifically after the murder, did Mr. Solis make any
24 statement to you, other than what was said to you on the floor of
25 Mr. Swain's trailer that day?

1 A. Well, he just told me that, if I ever told anybody, I would
2 end up the same way and that, you know, the gypsies would get me.

3 MR. VOSBURGH: Objection; move to strike.

4 THE COURT: Overruled; denied.

5 Q. Now, did you know who he was referring to when he said that
6 the gypsies would get you?

7 MR. VOSBURGH: Objection.

8 THE COURT: Well, if he called any names, you can tell
9 the name of the person he said.

10 A. He didn't call any names.

11 THE COURT: He didn't call any names.

12 Q. Now, after you came down to the bathroom, you had the
13 confrontation in the bathroom, where did you go?

14 A. I went upstairs.

15 Q. You said you were afraid--

16 MR. VOSBURGH: Objection; move to strike.

17 THE COURT: Objection is sustained; the jury will
18 disregard the statement of the prosecutor. I'll caution you to
19 stop making statements, Mr. Norton.

20 MR. NORTON: If Your Honor please, I'm trying to come
21 back to where she was, but I understand the Court's ruling.

22 Q. What occurred when you went back upstairs, Ms. Maybin?

23 A. Well, I told them I didn't want to go back down to the
24 courtroom because I was scared because they were always in the
25 courtroom. They were always sittin' in the front row; they were

1 always outside when I would go outside. I was just scared, and
2 I didn't want to go back down to the courtroom.

3 Q. What were they doing every time you walked out of the
4 courtroom or out around the courthouse?

5 MR. VOSBURGH: Objection to the use of the word "they,"
6 Your Honor.

7 THE COURT: She's going to have to be specific as to
8 who she's talking about.

9 A. I don't know all their names.

10 THE COURT: The objection will be sustained.

11 Q. Did you see Gail Champ here that day?

12 MR. VOSBURGH: Objection to the leading.

13 THE COURT: The objection is sustained.

14 Q. Did you know any of the people's names?

15 A. Mazey--I think her name is Mazey.

16 Q. What, if anything, did Mazey do or say or gesture to you?

17 MR. VOSBURGH: Objection.

18 THE COURT: The objection is sustained.

19 Q. Did Ms. Mazey do anything, say anything?

20 A. Not physically.

21 Q. What did she do?

22 A. She stared. She sat right there in that front row. Her and
23 Gail Champ sat in the front row and stared at me all the time. If
24 I'd go out of the courtroom, they'd be comin' out. As a matter of
25 fact, Mazey was in the bathroom; but, I don't know who said what

1 because I was in a stall.

2 Q. Now, what did you tell Mr. Williams and Ms. Spruill at that
3 time?

4 A. That I was scared.

5 MR. VOSBURGH: Excuse me. I didn't hear your answer.

6 A. That I was scared.

7 Q. Now, that afternoon, after court was over, where were you
8 taken, Ms. Maybin?

9 A. To Beaufort County.

10 Q. Back to Beaufort County?

11 A. Uh-huh.

12 (State's Exhibit No. 29 is marked for the purpose of
13 identification.)

14 (Mr. Norton furnishes exhibit to defense counsel for their
15 examination.)

16 Q. Ms. Maybin, I'll show you what's been marked for
17 identification as State's Exhibit No. 29. I'd like you to take a
18 look at that and see if you recognize and can identify that for
19 us, please.

20 (Witness complies.)

21 A. Yeah. It's my letter to Mitchell Nowarah.

22 Q. Would you read State's Exhibit No. 29 for us, please.

23 A. "By the time you get this letter, you will know the truth.
24 I'm sorry I lied to everyone. I just wanted Robert to pay
25 for all the pain--"

1 MR. VOSBURGH: Excuse me, Your Honor. Could you ask
2 her could she slow down, please.

3 A. Well, it's a lot to read.

4 THE COURT: Read it slowly.

5 A. "By the time you get this letter, you will know the truth.
6 "I'm sorry I lied to everyone. I just wanted Robert to pay
7 for all the pain and hurt he put me through." He even told
8 all my friends that I had AIDS. "Robert hurt me in every
9 way he could, and I can't stand him for it." I've given my
10 heart and soul to God. It is not right to lie anymore.
11 When I get on the stand, I'm supposed to tell the truth,
12 the whole truth, and nothing but the truth, so help me God.
13 I cannot lie, and it is not right for Leroy and Robert to
14 do time for something that they didn't even do. I just
15 hope the judge believes me. No matter what happens, I know
16 that God has forgiven me of my sins and shall be with me at
17 all times to guide me. Lynn, the bartender, Big Ed, Smartie,
18 Terry (Lynn's boyfriend's brother), Steven (Lynn's
19 boyfriend), Curtis Furlough, Kevin Furlough, Stacy Allen,
20 Cottie, and Kim, and a lot others know that the three of us
21 never left the bar that night. Thank you for being there
22 for me and helping me through this. You mean the world to
23 me. I don't know what I would do without you. I've got to
24 go. I'll talk to you later."

25 Q. What day was it that you actually wrote that letter--?

1 MR. VOSBURGH: Your Honor, I'd object because she was
2 not permitted to continue to read the full--

3 A. Oh, the P. S.?

4 THE COURT: Read all the letter.

5 A. "P. S. I'm paying for my lie, and I deserve it. Always,
6 Dana."

7 Q. What day ~~was it that~~ you wrote that letter, Ms. Maybin?

8 A. December 29th of '94.

9 Q. Now, the letter there, you're recanting what you had told the
10 officers.

11 A. Uh-huh.

12 Q. Is that the truth?

13 MR. VOSBURGH: Objection.

14 THE COURT: Overruled.

15 A. Is this letter the truth?

16 Q. Yes, Ma'am.

17 A. No.

18 Q. Can you tell the jury why it was that you wrote that letter on
19 the 29th of December of 1994?

20 A. Because I just didn't want to have nothin' to do with it.

21 I mean, I didn't want to have nothin' to do with this at all. I
22 didn't want to be here today. I thought that, if wrote letters,
23 and, you know--I just wanted it to go away. I was scared.

24 Q. What was it that you were afraid of?

25 A. Well, I was charged with Murder, facing life plus 40. I had--

1 MR. VOSBURGH: Excuse me. What--?

2 A. I said I was facing Murder, life plus 40, and; I had the
3 Champs at me every time I turned around.

4 Q. Who was it that Robert was working with and living with at
5 the time that this murder occurred and subsequent to that?

6 A. Ed. Champ.

7 (State's Exhibit No. 30 is marked for the purpose of
8 identification.)

9 (Mr. Norton furnishes exhibit to defense counsel for their
10 examination.)

11 Q. Ms. Maybin, I'll show you what's been marked for
12 identification as State's Exhibit No. 30 and ask you to take a
13 look at that and see if you recognize and can identify that for
14 us, please.

15 (Witness complies.)

16 A. Yes. It's part of my diary.

17 Q. Now, the other letter, State's Exhibit No. 29, that was a
18 letter that was sent to Mitchell.

19 A. Yes, to Mitchell.

20 Q. Let me back up. Why was it that you sent the letter to
21 Mitchell?

22 MR. VOSBURGH: Your Honor, objection. She's just
23 answered that.

24 THE COURT: The objection is sustained.

25 Q. The diary entry that you have there, would you read that diary

1 entry for us, please.

2 A. "December 31st, Day 17."

3 Q. What does the "Day 17" signify?

4 A. That's, I guess you could say, days in jail.

5 Q. Go ahead.

6 A. It says,

7 "Unconditional love - that is what I have for Nikki and
8 Jeff--."

9 Q. Who is Nikki?

10 A. My little girl.

11 Q. All right.

12 A. "--and God. I only need Jeff to hold on and please don't
13 let our love just slip away. I love him so much that he is
14 all I feel in my heart. Today is New Year's Eve, and I
15 hope that Jeff and Nikki are safe. Today was so hard
16 because I started off a new year in jail. Thank God I'm
17 alive to see a new year. When I go to court on Tuesday,
18 I'll make a lot of people mad because I plan on telling the
19 truth, the whole truth. How could I have--"

20 MR. VOSBURGH: Your Honor, she has not read it all.

21 THE COURT: Read every word, Ma'am.

22 A. I did.

23 THE COURT: If she doesn't, you can ask her about it
24 when you cross-examine her.

25 Q. Please continue, Ms. Maybin.

1 A.. "How could I have been so mean and full of hatred for
2 someone. I hate myself for lying and letting it go on for
3 so long. God says a liar cannot be permitted into heaven
4 unless they repeat. So I did. I'll lie no more. My
5 prayer: Tonight I want to pray for--"

6 Do you want me to read all of this?

7 Q. Read the whole letter.

8 A. "--for the world as we go into a new year. Keep them safe.
9 Keep Nikki safe and warm. Watch over Jeff and guide him
10 into the right direction. Let them know that I do love
11 them. Help me with my testimony as I tell the courts the
12 truth. Help them to understand me and why I did lie about
13 everything. Amen. Dana."

14 Q. Now, the reference in this letter, about middle of the page,
15 when it says, "When I go to court on Tuesday...", what do you
16 have reference to there, Ms. Maybin?

17 A. Well, I think that Tuesday was my probable cause. I had a
18 friend in jail I thought was my friend, Nichole Mills, and she
19 was telling me--

20 MR. VOSBURGH: Objection; move to strike.

21 THE COURT: Objection sustained.

22 Q. Why did you write the letter?

23 A. Because she told me to.

24 MR. VOSBURGH: Objection; move to strike.

25 THE COURT: This thing right here?

1 MR. VOSBURGH: Yes, sir.

2 A. That's what I was trying to get to.

3 THE COURT: Are you saying you wrote that because
4 someone told you to write it?

5 A. Yes, sir.

6 Q. What did Ms. Mills tell you--?

7 MR. VOSBURGH: Objection.

8 THE COURT: Overruled.

9 Q. What did she tell you?

10 A. She told me that the more of these that I write, that I would
11 be declared an incompetent witness, and the case would be
12 dismissed, and; I didn't know--she said, you know, that these
13 would be used at the end of my trial.

14 MR. VOSBURGH: Motion to strike.

15 THE COURT: Motion is denied.

16 Q. And, as a result of what Nichole Mills was telling you,
17 what did you do during that period of time?

18 A. What do you mean?

19 Q. You said you wrote that letter--

20 A. I wrote several more.

21 Q. Did Ms. Mills say anything else to you at that time, other
22 than what you've just said about writing these letters?

23 MR. VOSBURGH: Objection unless he identifies the time.

24 THE COURT: Let's take the jury out. We're going in so
25 many directions now that I don't understand what you're doing.

1 (The jury is excused to the jury room at 2:35 p. m. and is not
2 present in the courtroom.)

3 THE COURT: I don't understand, Mr. Norton. The letter
4 she just read said she was coming to court to tell the truth.
5 Isn't that what the letter said?

6 MR. NORTON: That's what the letter said and--

7 THE COURT: And you interpret that to mean something
8 else?

9 MR. NORTON: Yes, sir.

10 THE COURT: Well, that's not what the letter says. She
11 said she was coming to court to tell the truth.

12 MR. NORTON: I understand that. But the letter, if
13 Your Honor please, what she was saying was that Ms. Mills had told
14 her to write this letter; that--

15 THE COURT: That says that she's going to tell the truth.
16 I don't see how that has any bearing on this case or any
17 indication that she was told anything improper. I don't
18 understand it.

19 MR. NORTON: Also in that same paragraph, if Your
20 Honor please, it read, the full sentence is,

21 "When I go to court on Tuesday, I'll make a lot of people
22 mad because I plan on telling the truth, the whole real
23 truth. How could I have been so mean and full of hatred
24 toward someone. I hate myself for lying and letting it go
25 on for so long. I'll lie no more."

1 What she is saying in the letter and what she is saying that
2 Ms. Mills told her was that--"...you go to court, tell them that
3 you lied about Solis and Jones being involved in that..."--

4 THE COURT: That letter does not say that. That letter
5 said she'd come to court and tell the truth, and she's going to
6 make a lot of people unhappy. That could be the Champs that she's
7 making unhappy. You're reading it to be somebody else..

8 MR. NORTON: Well, I know what she says that Ms. Mills
9 told her.

10 THE COURT: Well, go ahead and examine the witness, and
11 we'll see where you're going.

12 MR. NORTON: All right.

13 VOIR DIRE DIRECT EXAMINATION by MR. NORTON:

14 Q. Ms. Maybin, this statement here,

15 "When I go to court on Tuesday, I'll make a lot of people
16 mad because I plan on telling the truth."

17 What is that about? What did you intend in that letter?

18 MR. VOSBURGH: Your Honor, I'd object. The letter
19 itself is the best evidence as to what it said.

20 THE COURT: The objection is sustained; but, let him
21 make his record.

22 Q. What did Ms. Mills tell you about this particular letter?

23 MR. VOSBURGH: Do I have a continuing objection?

24 THE COURT: This is on voir dire. I have sustained
25 the objection; but; let her answer the question.

1 MR. VOSBURGH: All right, sir.

2 A. Nichole Mills told me that she was going out and talking with
3 Vosburgh. She thought that it would be best for me to do this.
4 I've never been locked up for murder; I know nothin' about it;
5 I did what she told me was best. I went to court that Tuesday,
6 and I wrote a letter sayin' that I didn't have nothin' to do with
7 the murder which was a lie; but, I did it so the case would be
8 dismissed.

9 Q. This statement that, when you were going to court on
10 Tuesday to tell the truth; is that why you put it in there -
11 because of what Ms. Mills told you?

12 A. Yes.

13 THE COURT: The Court is going to sustain the
14 objection to that testimony. The letter will speak for itself.
15 Bring the jury back.

16 (The jury returns to the jury box at 2:40 p. m.)

17 Q. (By Mr. Norton) Ms. Maybin, the statement that you made here
18 in court today about what you saw and observed there at Frank
19 Swain's, was that the truth or a lie?

20 MR. VOSBURGH: Objection.

21 THE COURT: Objection is sustained. The jury will
22 determine that.

23 Q. Did you tell the jury what you saw and observed at Frank
24 Swain's on the evening of December the 18th here in court?

25 MR. VOSBURGH: Objection.

1 THE COURT: I'm going to let her answer that one more
2 time, and that's going to be the last time.

3 Q. Did you do that?

4 A. Yes.

5 Q. These letters that you were writing, and, specifically, this
6 one, the December 31st letter, who was with you when you wrote
7 that letter, Ms. Maybin?

8 MR. VOSBURGH: Objection.

9 THE COURT: She can testify as to who was with her.

10 A. My roommate, Nichole Mills.

11 Q. Nichole Mills.

12 A. Uh-huh.

13 MR. VOSBURGH: Your Honor, I object to his having
14 referred to that as a letter. It is denominated at the top as a
15 diary entry of December 31, '94, Day 17.

16 THE COURT: You can ask her about that when you examine
17 her.

18 (State's Exhibit No. 31 is marked for the purpose of
19 identification.)

20 Q. Ms. Maybin, I'll show you what's been marked for
21 identification as State's Exhibit No. 31. If you will, please,
22 take a look at that and see if you can recognize and identify
23 that for us, please.

24 (Witness complies.)

25 A. It's one of the entries.

1 Q. One of your diary entries?

2 A. Uh-huh.

3 Q. Would you read that diary entry, please.

4 THE COURT: Let me see it.

5 (The Court examines paper-writing furnished by the witness, and
6 then returns said paper-writing to the witness.)

7 A. "January the 1st, 1995, Day 18. Today was wonderful. The
8 church ladies came and made me understand God much better.
9 I was having so many problems but now it all makes good
10 sense. I've been reading my Bible a lot because God has
11 called on me. I can feel him in my heart. He's pushing me
12 into the direction that I could have taken in the first
13 place. I'm so glad the church ladies come here every
14 Sunday because God knows we need Him in our hearts. He
15 led me to certain scriptures in the Bible that made me think
16 about what I am really doing. I lied to everyone just so
17 I could have Robert behind bars for all the pain he caused
18 me. I wanted him to feel my pain and hurt. That's not
19 right. Love thy enemies. Treat others as you would want
20 them to treat you. I wouldn't want to go to jail for
21 something that I didn't do. Why should Leroy and Robert.
22 I thank God for showing me the way. It feels so good to get
23 it out and off my chest. God has forgiven me and will show
24 me the way. He knows I have done wrong and is willing to
25 show me the way. My prayer: Lord All Mighty, I pray to you

1 tonight that you will continue to show me the right paths
2 in life, to help me with my hate, show me how to deal with
3 my enemies. Thank you, God, for giving me the strength and
4 courage to tell the truth about the day of the murder of
5 Frank Swain. Give me strength to tell it in court and
6 help them understand why I did what I did and let me know
7 that I know it was wrong to lie about such a thing. Dear
8 Lord, watch over these girls in here 'cause they have also
9 taken you into their heart and want to do better with your
10 help. Lord, please watch over and keep Nikki and Jeff and
11 my family safe and warm in these hard times. I also want
12 to thank you, Lord, for sending Mitchell to me. He's like
13 an angel. Keep him safe for me, dear Lord. Amen. Thank
14 you for letting me see another year and help me make it
15 through it. Amen. Dana

16 Q. Middle-way of the first page of the diary entry where you
17 state that you lied to everyone so you could have Robert behind
18 bars, is that true?

19 MR. VOSBURGH: Objection.

20 THE COURT: Overruled.

21 A. No. I mean, why would I lie about somethin'--

22 MR. VOSBURGH: Objection to the question by the witness--

23 A. --when I'm facing 20 years?

24 THE COURT: The objection is sustained. Answer the
25 question.

1 Q. Is that true; that you had lied to put Robert behind bars?

2 MR. VOSBURGH: Objection.

3 THE COURT: Overruled.

4 A. I'm sorry.

5 Q. I'll try it again. The statement that you lied to everyone
6 so you could have Robert behind bars for the pain he'd caused you,
7 is that true?

8 MR. VOSBURGH: Objection.

9 A. No.

10 THE COURT: Overruled.

11 MR. VOSBURGH: Motion to strike answer.

12 THE COURT: Motion denied.

13 Q. Now, this letter--, or diary entry--excuse me. Why was this
14 diary entry made, Ms. Maybin?

15 A. To go along with the other ones; to corroborate what was said
16 in the first one.

17 Q. Now, what did Ms. Mills tell you about this letter?

18 MR. VOSBURGH: Objection.

19 THE COURT: Objection is sustained.

20 Q. Or, this statement rather.

21 MR. VOSBURGH: Objection.

22 THE COURT: Objection is sustained.

23 Q. Who was present when you wrote this letter?

24 A. Nichole. She's the one that put it in there.

25 MR. VOSBURGH: Your Honor, again, it's a diary entry and

1 not a letter, and I object to him referring to it--

2 THE COURT: Well, maybe that's important to you. I
3 don't think that makes any difference. You can ask her about that
4 when you cross-examine her.

5 MR. VOSBURGH: All right, sir.

6 Q. The reference to prayers and God, why did you put those in
7 there?

8 MR. VOSBURGH: Objection.

9 THE COURT: Objection sustained.
10 (State's Exhibit No. 32 is marked for the purpose of
11 identification.)

12 Q. I'll show you what's been marked for identification as
13 State's Exhibit No. 32, Dana, and I want you to take a look at
14 that and see if you recognize that for us, please.
15 (Witness complies.)

16 A. Yes. This is the next day from the last one.

17 Q. Would you read that entry.

18 THE COURT: Let me see it.

19 (The Court examines paper-writing furnished by the witness, and
20 then returns said paper-writing to the witness.)

21 THE COURT: How many more of these diary entries do you
22 have. They all say the same thing.

23 MR. NORTON: If Your Honor please, there are--I think
24 of the diary entries, this is the--there are five more.

25 THE COURT: Well, I'm not sure I'm going to let you

1 introduce five more. Go ahead and read that one.

2 A. "I talked to Grandma today. She was so happy to hear from
3 me. She said that she was so worried about me. I assured
4 her that I was fine. She said she was sick and feeling
5 really bad. She said mom is still sick and still out of
6 work. Dave is paying the bills. Nikki is doing good. Mom
7 mailed me a letter and some of Nikki's pictures today. I
8 can't wait to get it so I can show these girls what a
9 beautiful baby girl I have. I told Mitchell that I was
10 going to tell the truth in court tomorrow. Jeff had called
11 him and Mitchell told him that I had something to tell him
12 but I really did not want Jeff to know what I was going to
13 do. I talked to Jeff. He's smoking pot pretty bad right
14 now. I thank God for helping me control my temper with him.
15 I was so upset, I started to cry. I'm so sorry for putting
16 him through such a hard time. I never meant to hurt him in
17 any way. I do know that God is there for me, and He has
18 forgiven me for hurting all the people that I have. He will
19 see me through this and guide me in the right direction.
20 He did show me that lying is only hurting me worse. I could
21 not live with knowing that there are men sitting in jail for
22 a crime that they didn't commit. I would never want it to
23 happen to me. Do unto others as you would have them do unto
24 you. I'm so afraid that they will not believe me because I
25 lied before; but, God knows that I'll be telling the truth.

1 That is what matters. My prayer tonight: I pray that you,
2 God, will see me through tomorrow and help the court to
3 understand my true reasons for such a lie. I pray that you,
4 God, will watch over Nikki and keep her safe from any harm.
5 I pray that you help Jeff with his drug problem and show him
6 the right way to go. I pray that you help my mom and my
7 grandmother in their times of sickness. Keep them safe. I
8 just pray that you do remain in my heart and show me which
9 paths to take as I go through life. Amen."

10 Q. Did you read all of it?

11 A. Well, basically. And,

12 "Praise you Lord All Mighty. Love, Dana."

13 Q. In that statement, that the men are in jail for a crime they
14 did not commit, is that true?

15 MR. VOSBURGH: Objection.

16 THE COURT: Objection is sustained.

17 Q. Why was this letter written, Dana? Diary entry, rather.

18 A. Well, because Nichole told me that's--

19 MR. VOSBURGH: Objection; move to strike.

20 A. --what I should do.

21 THE COURT: Overruled as to that.

22 A. Well, Nichole told me I should--

23 THE COURT: You answered the question, Ma'am.

24 A. Huh?

25 THE COURT: You answered the question.

1 A. Okay.

2 THE COURT: You said Nichole told you to do it.

3 A. I just didn't think you heard me.

4 THE COURT: I heard you.

5 A. Okay.

6 Q. Would you state whether or not she gave you any reason or
7 explanation for writing this letter?

8 MR. VOSBURGH: Objection.

9 THE COURT: Sustained.

10 Q. Now, prior to the first letter that was written on the 29th of
11 December, State's Exhibit No. 29, had there been any letters
12 saying that you had lied on Robert Solis or Leroy Spruill from
13 the 3rd of May until the 29th of December?

14 A. No.

15 Q. Now, you said you were picked up on what day in December?

16 A. The 10th.

17 Q. You were brought back to Beaufort County on what day--?

18 THE COURT: Let's not go over the same matters that you
19 have already asked her about.

20 Q. When you got back to Beaufort County, did you make the diary
21 entries from the period of time, Ms. Maybin, from the 21st through
22 the 29th?

23 A. Yeah.

24 Q. In those diary entries, did you ever write in those entries
25 that you had lied on Leroy Spruill or Robert Solis?

1 A. No.

2 Q. So, it was only after the 29th--

3 MR. VOSBURGH: Objection to the statement of counsel.

4 THE COURT: The objection is sustained.

5 Q. You say you did not?

6 A. No.

7 Q. So, after the exhibit that I just handed you, State's Exhibit
8 No. 32 that you have just read into evidence, the January 2nd
9 letter in which you indicated that you lied, did you continue to
10 make other diary entries?

11 A. I don't think I did for a few months, or, until I got to Raleigh.

12 Q. When you got to Raleigh?

13 A. Uh-huh.

14 Q. Now, did you make--would you state whether or not you made the
15 diary entries up through January the 12th.

16 A. Most likely because--

17 MR. VOSBURGH: Objection; move to strike.

18 THE COURT: Overruled.

19 Q. Were there other recantations or saying that you had lied on
20 Robert Solis or Leroy Spruill in these additional entries that
21 you made?

22 A. Uh-huh.

23 Q. You say there were?

24 A. Uh-huh.

25 Q. Where were you at the time you wrote these additional diary

1 entries?

2 A. In Raleigh Prison safe-keeping.

3 Q. Now, do you recall when your probable cause hearing was?

4 A. I believe the 21st of February.

5 Q. The 21st of February?

6 A. Yeah, 'cause I got sent to safe-keeping the next day.

7 (State's Exhibit No. 33 is marked for the purpose of
8 identification.)

9 (Mr. Norton furnishes exhibit to defense counsel for their
10 examination.)

11 Q. Ms. Maybin, I'll show you what's been marked for
12 identification as State's Exhibit No. 33. Will you just look
13 at them and see if you recognize and can identify those for me,
14 please, Ms. Maybin.

15 (Witness complies.)

16 A. It's part of my diary.

17 Q. What days does it cover?

18 A. January the 4th; 5th; 6th; 7th, and; then it says through the
19 12th.

20 Q. In any of those entries, is there any statement about having
21 lied or about Wallace Brandon Jones or Leroy Spruill in any of
22 those?

23 MR. VOSBURGH: Objection, Your Honor. The entries speak
24 for themselves, and they're the best evidence as to what they say.

25 THE COURT: Overruled.

1 A. No. It don't even mention their names.

2 Q. They're not mentioned at all in those?

3 A. Huh-uh.

4 Q. Now, you said that you had your probable cause hearing and
5 were shipped where?

6 A. To Raleigh safe-keeping.

7 Q. Is that Women's Prison?

8 A. Uh-huh.

9 Q. Do you recall when it was that you arrived in Raleigh?

10 A. The 22nd.

11 Q. Who was your lawyer at that time?

12 A. Ms. Regina Moore.

13 Q. Was she your only lawyer at that time?

14 A. Uh-huh; yes.

15 Q. When you got to Raleigh, did you continue to make diary
16 entries?

17 A. Well, on and off.

18 Q. During that period of time, directing your attention to the
19 first part of March of 1995, did you have an occasion to talk with
20 any other lawyer?

21 A. On what date?

22 Q. The first part of March.

23 A. I believe I talked with Maynard Vosburgh.

24 Q. Mr. Maynard Harrell?

25 A. Uh-huh.

1 Q. And, Mr. Vosburgh?

2 A. Uh-huh.

3 Q. Do you recall when that was?

4 A. I'm not sure of the exact date.

5 Q. How did you know Mr. Vosburgh or Mr. Harrell at that time?

6 A. Well, they introduced themselves as Robert and Leroy's
7 lawyers.

8 Q. Had you heard them discussed or did you know anything about
9 either one of them prior to them actually coming in and
10 introducing themselves to you?

11 MR. VOSBURGH: Objection.

12 THE COURT: Overruled.

13 A. Nichole had said she had been talkin' to Vosburgh.

14 MR. VOSBURGH: Objection; motion to strike.

15 THE COURT: That is denied.

16 Q. Is that all Nichole said to you; just that she had been talking
17 to Mr. Vosburgh?

18 THE COURT: Well, I'll sustain the objection as to that.

19 Q. What did Ms. Nichole Mills tell you about Mr. Vosburgh?

20 MR. VOSBURGH: Objection.

21 THE COURT: Sustained.

22 (State's Exhibit No. 34 is marked for the purpose of
23 identification.)

24 (The Court examines said exhibit and then furnishes the same to
25 the witness, and the witness examines said paper-writing.)

1 Q. Can you identify that State's Exhibit, Ms. Maybin?

2 A. Uh-huh.

3 Q. What is that that you have there in your hand?

4 A. It's part of the diary, like an entry.

5 Q. Would you read those entries for us, please.

6 A. All of it?

7 Q. Yes, please.

8 THE COURT: You know he does. You don't have to ask him
9 that.

10 A. "Why won't anyone listen to me! I lied about all of this
11 stuff from the start 'cause I wanted the reward money."

12 MR. VOSBURGH: Your Honor, I would ask you again to ask
13 her to read the full thing.

14 THE COURT: Read every word on that paper.

15 A. It is.

16 THE COURT: Well, there's something written up at the
17 top.

18 A. "March 4th, 1995. Page 1. Doing time that I shouldn't be
19 doing in the first place."

20 THE COURT: Read everything that's on the paper. That's
21 what Mr. Norton wants you to do.

22 A. "Why won't anyone listen to me! I lied about all this stuff
23 from the start 'cause I wanted the reward money and to get
24 back at him for all the hurt he caused me. I hate Robert,
25 but; when I saw the hurt on his mother's face in that

1 courtroom, I so wanted to tell them that I was sorry for
2 lying and wish I had never had done it. I've been trying to
3 call Regina, but she'll not accept any of my phone calls."

4 Q. Now, who is Regina that you're referring to?

5 A. My lawyer.

6 Q. Regina Moore?

7 A. Uh-huh.

8 Q. All right. Please continue.

9 A. "I needed to tell her that I am feeling so bad about not
10 telling the truth from the start. The reason I have not
11 told the truth yet was because the S. B. I. told me that if
12 I said what I say is the truth that Robert and Leroy would
13 go free, and I would be the one holding the bag; that it
14 would be turned around and be used against me. When I wrote
15 the letter to Regina and told her that I didn't want Janice
16 and Willie to know 'cause they would raise hell with me,
17 look what happened. They keep me at the courthouse until
18 7:00 p. m. to have the S. B. I., Regina Moore, Willie
19 Williams, Janice Spruill, Mitchell Norton, to run me down.
20 I'm not scared anymore because I don't want anyone to go
21 down for somethin' they didn't do. I could not live with
22 it, always on my mind. I can't even live with it in here.
23 All I can do is write, read, and think. I know I'll be
24 made a public liar, but I guess I'll just have to live with
25 it. I am telling the truth. How could they have any

1 evidence if we were at the bar all night. Why did I let it
2 go on--"

3 Q. Let me stop you there. "How could they have any evidence if
4 we were at the bar all night?" Where did that come from,
5 Ms. Maybin?

6 MR. VOSBURGH: Objection.

7 THE COURT: Well, I'll sustain it at this time. I
8 thought that this was her writing.

9 MR. NORTON: It is.

10 THE COURT: Okay. Then it came from her pen.

11 Q. Why did you put that in there?

12 MR. VOSBURGH: Objection.

13 THE COURT: Overruled.

14 A. Mr. Vosburgh and Maynard had told me that there was no
15 evidence and that the only thing they had was my testimony.

16 Q. Please continue.

17 A. "Why did I let it go on for so long and not tell the truth?
18 Why wouldn't the law just listen to me and try to find the
19 truth instead of going with what they think happened? I do
20 see that I am not the only liar in this case. First of all,
21 Sherry Honea lied 'cause--about me telling her that about
22 Frank's death 'cause I didn't even know what the man looked
23 like until Janice was questioning me."

24 Q. Now, did you tell Sherry Honea about the death of Frank Swain?

25 A. Yes, the next day.

1 Q. After the murder?

2 A. Uh-huh.

3 Q. You did in fact tell her that.

4 MR. VOSBURGH: Objection.

5 THE COURT: Objection is sustained.

6 Q. What about the statement about what he looked like? Did
7 Janice Spruill or anyone else tell you anything about the way--

8 MR. VOSBURGH: Your Honor, I object because she's in
9 the process of reading this.

10 THE COURT: That's correct; objection is sustained.

11 Q. Go ahead and read the whole letter.

12 A. "So just how did Sherry know about it? Could she have been
13 involved somehow or did Janice put the words in her mouth
14 like she did mine? Now let's see if we can get some answers
15 by July. I know my lawyer ain't going to do shit. She
16 ain't done nothing in three months. I'd love to have someone
17 to talk to about this. The only people I've told about this
18 is Grandma Essie, Jeff Kelly, mom, Nichole Mills, Joy Bland,
19 and Shonda. I know they will listen to me, not jump on me
20 and try to change my mind. Let me go ahead and tell the truth
21 so I can get it off my mind. Let me go ahead and say that I
22 was also lied to about a few things. When they came to
23 South Carolina to question me and give me the lie detector
24 test, they lied to me. I was told that if I told my lie
25 about the murder that I would not do--I would not go to jail.

1 They would put Jeff and I up in a motel for the trial. If
2 I got any time, it'd mostly be 30 days if not less. Now
3 the S. B. I. and Janice said that. I'm in a damn hotel
4 all right. I sure didn't have to go to jail, and I sure
5 didn't have to do no more than 30 days, did I! I'm in
6 Raleigh Prison for safe-keeping, being doing time for 58
7 days (no less than that) 53 days, I believe. The D. A. even
8 promised me I'd not be sent here. So who has been lied to?
9 Everybody in this case. So I'm not the only liar. You
10 know, I cannot even remember most of the stuff I lied
11 about in the beginning of this mess. I never thought that
12 I'd be here by the way the law talked to me. I just
13 figured I have to go to big court, tell my lie, get Robert
14 life in prison for being such an asshole, and I'd get to go
15 on home to get on with my life. Boy, was I wrong to believe
16 that! Maybe I need to talk to Robert or Leroy's lawyer
17 since no one else will listen. I'll try that Monday."

18 Do you want me to read the second one?

19 Q. Just hold that for just a moment. Now, what did the S. B. I.
20 officers tell you about how much time you were going to get?

21 MR. VOSBURGH: Objection.

22 THE COURT: Overruled.

23 A. They said that I would be arrested when Robert and Leroy was
24 arrested.

25 Q. This business about you would only get 30 days, did Donnie

1 Varnell or anybody with the S. B. I. say that to you--?

2 A. No.

3 Q. --that you would only get 30 days?

4 A. No. I knew I wouldn't.

5 Q. Did anybody ever tell you how much time you were going to get
6 in this case?

7 A. No; just that I was facing a good amount of time.

8 Q. Now, also, the statement about Janice Spruill putting words
9 in your mouth, did Janice Spruill put any words in your mouth
10 when she took these statements from you in June and December of
11 1994?

12 A. No.

13 Q. Why were these things put in there, Dana? Why was this diary
14 entry made in March?

15 MR. VOSBURGH: Objection.

16 THE COURT: Overruled.

17 A. Because--because it goes along with the other entries. I was
18 trying to make it look like I'd lied on down because I wanted it
19 all to go away; I wanted it to be dismissed, and; the more I wrote,
20 I thought I'd be declared an incompetent witness, and it would
21 be dismissed. That's what I was told, so I believed it.

22 Q. Now, the statement right at the very end, "...since no one else
23 will listen...", and "...I need to talk to Robert and Leroy's
24 lawyer since no one else will listen. I'll try that Monday,"
25 did you in fact talk with them later?

1 A. Yes.

2 Q. Do you recall when that was?

3 THE COURT: She just testified that part of this
4 March 4th statement was written as a result of her conversation
5 with the lawyers.

6 A. Uh-huh. I had talked with Maynard Harrell on the phone
7 several times.

8 Q. Where were you at the time that you talked to Mr. Harrell on
9 the phone?

10 A. In safe-keeping.

11 Q. This was before you'd ever actually sat down and met with him?

12 A. Yes. My mom had written me a letter and said that he had
13 contacted her to give me his number.

14 Q. Was Mr. Harrell your lawyer?

15 A. No.

16 Q. Was Mr. Vosburgh your lawyer?

17 A. No.

18 Q. Had you talked with Ms. Nichole Mills about either one of
19 these lawyers?

20 A. Yes.

21 Q. Can you explain to the jury how that came about, what that
22 was about?

23 MR. VOSBURGH: Objection.

24 THE COURT: Objection sustained.

25 Q. When was it you talked with Ms. Mills about either one of the

1 lawyers for Mr. Jones and Mr. Spruill?

2 MR. VOSBURGH: Objection.

3 THE COURT: Overruled as to when.

4 A. When I first got locked up in December.

5 MR. VOSBURGH: Excuse me. What year was that?

6 THE COURT: I don't know. What year are we talking
7 about?

8 A. We was arrested in December of '94.

9 Q. Now, the bottom of that, would you please read that. It's
10 off of that same page.

11 A. "March the 8th, 1995. Today I met with Robert and Leroy's
12 lawyers this morning, and it felt good to finally talk to
13 someone about the case 'cause it has been bothering me. I
14 sure don't want to talk to anyone in here. After that, I
15 got to see the doctor for the first time since I've been
16 here. Then I got letters from Nichole and my sweetheart
17 John Paul. Oh, it has been a good day considering where I
18 am--where I'm at. Thank God for sending me someone to talk
19 to! Dana Lynn Maybin."

20 Q. Who was it that you talked with at that time on March the 8th?

21 A. Maynard Harrell and Vosburgh.

22 Q. Tell us, if you will, what occurred at that time.

23 A. Well, they introduced themselves, and they told me--

24 MR. VOSBURGH: Well, objection.

25 THE COURT: Overruled.

1 Q. Go ahead.

2 A. Vosburgh and Maynard told me that they didn't have any
3 evidence in the case, and; I was trying to tell them what had
4 happened, you know, I was trying to tell them the truth, and he
5 took out--

6 Q. Which was--what were you trying to tell them at that time?

7 A. That Robert had in fact killed Frank Swain. And, he takes
8 out a book, like a notebook like that, and he flipped through it,
9 and he was goin', "Well, this person says you were at the bar all
10 night. This person says you were there. They have no evidence.
11 All they've got is your testimony." So--

12 Q. Did you in fact stay at the bar all night?

13 A. No.

14 Q. Now, after that, while you talked to them, after you heard
15 that there was no evidence except for your testimony, did you have
16 an occasion to see either one of them again?

17 A. Yes. I seen Maynard.

18 Q. When was that?

19 A. Not long after our meetin'.

20 (State's Exhibit No. 35 is marked for the purpose of
21 identification.)

22 Q. I'll show you what's been marked for identification as
23 State's Exhibit No. 35, Ms. Maybin. I want you to look through
24 that and see if you recognize and can identify that for us, please.
25 (Witness complies.)

1 A. It's the transcript of where we had a recording, Maynard and
2 I, had a recording session.

3 Q. Was there anyone else present at that time?

4 A. No.

5 Q. Can you tell me, first of all, how it came to be recorded?
6 What was the first thing that happened when you met with
7 Mr. Harrell?

8 A. Well, we sat down in this room, and; he told me the questions
9 that he was going to ask and just recorded it.

10 Q. Now, in that transcript, did you say that you had gone to the
11 bar that night?

12 A. Yeah.

13 Q. Did you say that you had gone to Mr. Frank Swain's and had
14 witnessed the murder of Mr. Swain?

15 A. No.

16 Q. And, in that transcript, did you indicate that you did not
17 know anything about the murder of Frank Swain, in so many words?

18 A. Yes.

19 Q. And, further, that the information that you had given on the
20 25th of June of '94, December of '94, and even April 25 of '94,
21 was the result of promises or threats made to you by the S. B. I.,
22 law enforcement officers, and even myself, I believe, in that?

23 A. Yes.

24 Q. Did any of that happen?

25 A. No.

1 Q. Now, you said that before that was done, that there was a
2 conversation about what the questions were going to be.

3 A. Uh-huh.

4 Q. What about the answers?

5 A. Well, we had done discussed that; that it would be easier to
6 go through this trial without my testimony because my testimony
7 is all they had. That's what he was sayin', no evidence.

8 Q. Is what's contained in this document what really occurred on
9 the 18th of December of 1993?

10 A. No.

11 Q. Why did you answer those questions in that way and say the
12 things that you did in those documents, in that document; and
13 the diary entries that you've mentioned to us?

14 A. Because I wanted the case to be dismissed. That's what I
15 thought would happen. If they didn't have anything but me, if I
16 changed my story, then everything would be okay, and I'd go home.

17 Q. Who had convinced you of that, Ms. Maybin?

18 A. Well, Maynard and Nichole, and Vosburgh was sending information
19 in through Nichole.

20 MR. VOSBURGH: Objection; move to strike.

21 THE COURT: Objection is sustained; the jury will
22 disregard the witness' statement.

23 (State's Exhibit Nos. 36, 37, 38, and 39 are marked for the
24 purpose of identification.)

25 MR. VOSBURGH: Judge, I've been advised that I have an

1 emergency message to call my office.

2 THE COURT: All right.

3 (Mr. Vosburgh departs and is no longer present in the courtroom.)

4 THE COURT: Let me look at those while we're waiting.

5 (Mr. Norton furnishes paper-writings to the Court.)

6 THE COURT: We'll take a short recess at this time.

7 Any of you need to go to the drink room, the bailiff will take
8 you. Do not talk about the case during this recess. I'll ask
9 the sheriff to show you to your room at this time.

10 (The jury is excused to the jury room at 3:25 p. m.)

11 THE COURT: You can take the witness, please. We'll be
12 in recess until 20 minutes of 4:00.)

13 (Mr. Norton, Mr. Anglim, Mr. Vosburgh, Mr. Skinner, and the
14 Defendant are present in the courtroom.)

15 MR. VOSBURGH: Judge, may I address the Court on a
16 matter before the jury comes back into the courtroom?

17 THE COURT: Yes.

18 MR. VOSBURGH: Judge, it's been brought to my attention,
19 and Mr. Skinner and I had both noticed it earlier, that some of the
20 strategy sessions that are taking place between Mr. Anglim and
21 Mr. Norton are done in a rather loud voice, and; the jury is paying
22 more attention to them when they're doing that than they are the
23 witness. I would ask you--.

24 THE COURT: I've not noticed that; but, I've noticed
25 Mr. Skinner talking to you, and I could hear him up here on the

1 bench. Try not to talk loud enough so the jury can hear you.

2 MR. NORTON: Yes, if Your Honor please.

3 THE COURT: And, Mr. Skinner, whisper when you talk to
4 Mr. Vosburgh.

5 MR. SKINNER: I will do my best. One stern look, and
6 I'll get the message.

7 THE COURT: I don't have any stern looks left today.

8 MR. VOSBURGH: I don't mind if you hear our
9 conversations; I don't want the jury to hear theirs.

10 THE COURT: Bring the jury in.

11 (The witness returns to the witness stand.)

12 (The jury returns to the jury box.)

13 THE COURT: All right.

14 Q. (By Mr. Norton) Ms. Maybin, I'll ask you to look at State's
15 Exhibit No. 36, 37, 38, and 39. Look at those and see if you can
16 recognize and identify those.

17 (Witness complies.)

18 A. They're all part of the entries in March.

19 Q. These are the diary entries that you made?

20 A. Uh-huh.

21 Q. With reference to just the diary entry dated March 24th, do
22 you have that?

23 THE COURT: What exhibit number is that?

24 A. Thirty-seven.

25 THE COURT: She said March the 24th was Exhibit No. 37.

1 Q. On that, would you please read the March 24th entry.

2 A. "Well, it's been just another depressing day in Raleigh
3 Prison. I got a letter from Nichole today. She said the
4 rumor is that I've been telling people that Vosburgh is the
5 one who has been telling me to say everything I've said.
6 That's a lie because I was only telling him the truth. I
7 would have stuck to my lie that I told about Brandon and
8 Leroy killing that man if they would have left me alone.
9 The only reason I went through with it was because they said
10 I wouldn't..."

11 "...they said..." is what it's supposed to be.

12 "...they said I wouldn't be picked up until the court date
13 to testify for the State. They said (S. B. I., Janice
14 Spruill, Willie) they would put Jeff and I up in a hotel for
15 court. If I did do any time in the end, it would be 30
16 days at the most and maybe less than that. So, I took what
17 Sherry supposedly told the law, what I heard after the
18 murder happened from town people, what Janice and the
19 S. B. I. said, and made up a believable lie to punish
20 Robert (Brandon) for the pain he caused me. One lie
21 deserves another, I guess. I lied to them, and I'm locked
22 up. They lied to me, and they didn't even have a case to
23 work with. Of course, they have no evidence against us. We
24 were never at the man's house. Never have been to his
25 house. Didn't even know what the man looks like or where

1 he actually lived. All I know is a few things that the law
2 told me about and Mitchell Nowarah said there was a murder
3 on Folly Road and a crack man was killed. No one put any
4 words in my mouth. I just can't live with the lie. It's
5 driving me insane. You can ask my mom. I'm a good liar
6 when it comes to gettin' what I want. I just went too far
7 on the murder deal. I could never live with myself if
8 those men went down for a crime that they never did. I do
9 want to know who told Sherry Honea about the murder because
10 I sure didn't. How did she know? Did she have something to
11 do with it, or, was she just trying to get out of jail?
12 She has pissed me off. We were best friends. She lied to
13 me about several things, but she really lied about this mess.
14 I know she hates Robert as much as I do; but, why did she
15 say those things (lies) about me. Well, I tried to tell
16 Regina that I wanted to come clean and tell the truth, but,
17 like others, she didn't want to hear it. So, I got scared
18 and gave up. I'm tired of giving up. If Brandon and Leroy
19 get set free, good 'cause they're innocent. If they (the
20 law) try to take me down, that's okay 'cause the real killer
21 or killers will be caught one day, and I'll be free again.
22 I only wish people would listen to me. They can't have
23 anything on us because we were at the bar and had no way of
24 going anywheres in the first place. Dana."

25 Q. Again, with reference--here on two occasions, there was no

1 other evidence but your testimony, where did that come from?

2 MR. VOSBURGH: Objection.

3 THE COURT: Overruled.

4 A. From the defense attorneys.

5 Q. The reference at the very front, where you've mentioned that
6 the rumor was that you had been telling people that Vosburgh was
7 the one who'd been telling you to say everything you said, and
8 that that was a lie because you were only telling the truth, and;
9 you mentioned a letter from Nichole. Why is that statement in the
10 letter--in the diary entry, rather?

11 MR. VOSBURGH: Objection.

12 THE COURT: Well, you'll have to ask that question again.
13 I don't understand the question.

14 Q. Why did you place that phrase in there about the rumor?

15 A. Because Nichole had written me a letter that said that--

16 MR. VOSBURGH: Objection; move to strike.

17 THE COURT: Overruled as to that. Now, you've answered
18 the question.

19 (State's Exhibit No. 40 is marked for the purpose of
20 identification.)

21 Q. I'll show you what's been marked for identification as
22 State's Exhibit No. 40, Ms. Maybin, and ask you to take a look
23 at that and see if you recognize and can identify that for me,
24 please.

25 (Witness complies.)

1 A. It's Nichole's letter.

2 Q. What's the date on that letter?

3 A. March the 22nd.

4 Q. Do you know when it was that you received that letter from
5 Nichole?

6 A. The 24th.

7 Q. Is that the same day as the diary entry?

8 A. Yes.

9 Q. Now, over on the back of page one, would you please, where it
10 starts about the third line down on page one, behind page one,
11 would you start reading that, please.

12 A. "...because my concern is not losing contact with you.

13 Vosburgh will also know where I am. He wanted to come see
14 you today or tomorrow; but, Regina said no."

15 Q. Again, who is Regina? Let me stop you there.

16 A. My lawyer, Regina Moore.

17 Q. Go back and read what Nichole wrote to you.

18 A. Okay. And, it says,

19 "...Regina said no. Why? She told Vosburgh that you would
20 burn him; that you had been telling people Vosburgh ""told
21 me this. He told me to do and say this."" I don't believe
22 it for a moment; but, just to be sure, you watch what you
23 say. Mr. Vosburgh is up in Raleigh for three days, until
24 Saturday. He maybe will get to see you the next time."

25 Q. Now, after you received that letter, what did you do relative

1 or with reference to your diary entry, Ms. Maybin?

2 A. I wrote it in my diary. I made it look like the opposite;
3 that he didn't make me think things.

4 Q. Again, the recantations in the letter again, why did you put
5 them in the diary entries?

6 A. Because everybody was sayin' it was the best thing to do, as
7 in defense attorneys and Nichole Mills.

8 MR. VOSBURGH: Move to strike, Your Honor.

9 THE COURT: Overruled; denied.

10 Q. How were you communicating with the other defense attorneys,
11 Ms. Maybin?

12 A. Maynard, I talked with Maynard on the phone a lot while I was
13 in Raleigh. I seen Vosburgh and Maynard, and then, when I first
14 got locked up, Nichole was having visitation with Vosburgh and
15 coming in and telling me what to do.

16 Q. Through Nichole Mills.

17 A. Uh-huh.

18 Q. Now, the other exhibits that you've identified there, they're
19 also diary entries. Would you please read the dates of those
20 other diary entries that I just handed you.

21 A. March the 27th...

22 Q. If you would, Dana, if you would read the date and then look
23 over on the back and tell us what the sticker number is, the
24 State Exhibit No. is.

25 A. March the 27th, Exhibit 38; March the 28th, Exhibit 39, and;

1 then there's March 22nd, which is Exhibit 36.

2 Q.. Now, in each of those letters, is the content of those letters
3 the same; that is, in various places throughout that letter, you
4 are recanting or saying that you had lied when you told Janice and
5 others about the involvement of Wallace Brandon Jones and Leroy
6 Spruill?

7 MR. VOSBURGH: Objection, Your Honor. The documents
8 speak for themselves.

9 THE COURT: Overruled.

10 A. Yes.

11 MR. VOSBURGH; Motion to strike.

12 THE COURT: Denied.

13 Q. Why were those entries made?

14 MR. VOSBURGH: Objection.

15 THE COURT: Overruled.

16 A. Because I was told it was the best thing to do.

17 MR. VOSBURGH: Motion to strike.

18 THE COURT: Denied.

19 (State's Exhibit Nos. 41, 42, and 43 are marked for the purpose of
20 identification.)

21 Q. I'll show you what's been marked for identification as
22 State's Exhibit No. 42 and ask you to take a look at that and see
23 if you recognize and can identify that for us, please.

24 (Witness complies.)

25 MR. VOSBURGH: What number?

1 MR. NORTON: No. 42.

2 THE COURT: Let her identify it.

3 A. It's a card from Nichole.

4 Q. Nichole Mills?

5 A. Yes.

6 (Mr. Norton furnishes exhibit to defense counsel for their
7 examination.)

8 Q. I'll show you what's been marked for identification as
9 State's Exhibit No. 41 and ask you to look at that and see if
10 you recognize and can identify that for us, please.

11 (Witness complies.)

12 A. It's also a card from her, Nichole Mills.

13 Q. Can you tell by looking at that about when you received that,
14 Ms. Maybin?

15 A. While I was in safe-keeping. I got both of these cards while
16 I was in Raleigh.

17 Q. And, State's Exhibit No. 27, I'll ask you to look at that and
18 see if you recognize and can identify that for us, please.

19 (Witness complies.)

20 A. Yes. It's from Nichole, a letter.

21 THE COURT: Twenty-seven was the letter she faxed to
22 the Washington Sheriff's Department by my notes.

23 MR. NORTON: If Your Honor please, that's my mistake.
24 It's Exhibit No. 43.

25 THE COURT: I want to see the exhibits, and then I might

1 want you to tell me why you're offering them.

2 (Mr. Norton furnishes said exhibits to the Court for examination.)

3 THE COURT: Take the jury out.

4 (The jury is excused to the jury room at 4:00 p. m. and is not
5 present in the courtroom.)

6 THE COURT: I'll be glad to hear you as to the
7 relevance of these exhibits.

8 MR. NORTON: The relevance, if Your Honor please, is
9 that she has testified that the letters, the diary entries, that
10 she wrote, not only the letters but the diary entries, were made
11 partially through requests of or the assistance of Ms. Nichole
12 Mills. She said that she was communicating with others through
13 Ms. Mills, and; in State's Exhibit No. 41, it corroborates that
14 because here's a letter from Ms. Nichole Mills, identified from
15 Ms. Mills, in the first paragraph of that letter indicating that
16 he will get a letter from her--

17 THE COURT: Well, I've heard enough. If the Defendant
18 objects, I'll sustain the objection. If they don't--

19 MR. VOSBURGH: We do object to these--

20 THE COURT: Objection is sustained. Bring the jury back
21 in.

22 (The jury returns to the jury box at 4:05 p. m.)

23 Q. (By Mr. Norton) These letters and diary entries that you were
24 making that you've identified, Ms. Maybin, all of them, involving
25 the recantation of the fact that you had observed Robert Solis

1. cut the throat of Mr. Frank Swain, why did you make those, all
2 of them?

3 MR. VOSBURGH: Objection.

4 THE COURT: Sustained. She has answered that question
5 several times.

6 Q. Ms. Maybin, you have entered a plea of guilty in this case,
7 have you not?

8 A. Yes, sir.

9 Q. Do you recall when that was?

10 A. Last month, I believe.

11 THE COURT: Do you have any objection to a copy being
12 used?

13 MR. VOSBURGH: No, sir, we do not.

14 THE COURT: Are you going to require the Clerk to
15 testify that it's part of the court record?

16 MR. VOSBURGH: No, sir. We have copies, and; we
17 stipulate that a copy can be substituted for the original.
18 (State's Exhibit No. 44 is marked for the purpose of
19 identification.)

20 Q. Ms. Maybin, I'll show you what's been marked for
21 identification as State's Exhibit No. 44, a judgment and the
22 attached transcript of plea, and I'll ask you to take a look at
23 that and see if you recognize and can identify it for us, please.
24 (Witness complies.)

25 A. It's my plea where I pleaded guilty.

1 Q. What date was it that you entered a plea of guilty?

2 A. September 8th, 1995. I guess. That's what it says at the
3 top. Oh, okay. On the next page, yeah. 8/21.

4 Q. Was that done here in the Washington County courthouse?

5 A. Yes.

6 Q. What did you enter a plea of guilty to at that time?

7 A. Accessory after the Fact; Breaking and Entering, and; Common
8 Law Robbery.

9 MR. VOSBURGH: Your Honor, I'd ask if you would have her
10 identify each of the offenses properly as it appears on the
11 transcript.

12 THE COURT: Just read what's on the transcript.

13 A. Breaking and Entering; Common Law Robbery; Accessory after
14 the Fact to Murder.

15 Q. Now, you were initially charged with First Degree Murder and
16 Armed Robbery, were you not?

17 A. Yes.

18 Q. You say you entered pleas of guilty to those offenses.

19 A. Yes.

20 Q. Who were your attorneys at that time?

21 A. At the time of plea?

22 Q. Yes.

23 A. Mr. Charles Ogletree and Regina Moore.

24 Q. Did their signatures also appear on the document?

25 A. Yes.

1 Q. Now, you entered into a plea arrangement, did you not?

2 A. Yes.

3 Q. What were the terms and conditions of your plea arrangement?
4 Just read those off.

5 A. It's hard to read, especially this part right here.

6 THE COURT: It's mighty hard for her to read that. Let
7 me see it.

8 (The Court is furnished with said exhibit by the witness.)

9 THE COURT: Does the Defendant have any objection to my
10 reading it?

11 MR. VOSBURGH: No, sir, we do not, Your Honor.

12 THE COURT: I'll try to read every word.

13 "Upon the Defendant pleading guilty to Common Law Robbery,
14 Breaking and/or Entering, and Accessory after the Fact to
15 Murder, the State will dismiss the charges of Murder and
16 Robbery with a Dangerous Weapon. Prayer for judgment will
17 be continued. Judge Brown will retain jurisdiction of this
18 case. The Defendant will testify truthfully in State versus
19 Spruill and State versus Jones. The Breaking and Entering
20 and Common Law Robbery charges will be consolidated for
21 sentencing."

22 Did I read it correctly?

23 MR. VOSBURGH: Yes, Your Honor.

24 Q. Now, Ms. Maybin, on the front, what was the amount of time
25 that you are facing at the present time?

1 A. Ten years, 10 years, and 10 years.

2 Q. A total of 30.

3 A. Yes.

4 Q. And, two of the cases were to be consolidated, that is, to
5 run together.

6 A. Yes.

7 Q. What is the sentence that you could receive in this case?

8 A. Twenty years.

9 Q. And the Judge Brown that's referred to there is the same
10 Judge Brown here today in court, is he not?

11 A. Yes.

12 Q. Now, other than the plea arrangement that the State would
13 reduce the charges to Accessory after the Fact to Murder, take
14 the Common Law Robbery instead of Armed Robbery, and the Feloneous
15 Breaking and Entering, and consolidate those two, have there been
16 any other promises made to you by anyone about this plea?

17 A. No.

18 Q. Has anyone told you how much time that you're going to get?

19 A. It's 20 years.

20 Q. Up to 20 years.

21 A. (Witness nods.)

22 Q. Who is the person that's going to determine the amount of
23 time that you receive?

24 A. The judge.

25 Q. Judge Brown?

But D.A. offer 2 yrs

1 A. That's right.

2 (State's Exhibit No. 45 is marked for the purpose of
3 identification.)

4 Q. I'll also show you what has been marked for identification as
5 State's Exhibit No. 45, Ms. Maybin, and ask you to take a look at
6 that and see if you can recognize and identify that.

7 (Witness complies.)

8 A. Truthful Testimony.

9 MR. VOSBURGH: We need to see that. I haven't seen
10 that.

11 (Mr. Norton furnishes paper-writing to defense counsel for their
12 examination.)

13 Q. Do you remember that State's Exhibit, Ms. Maybin?

14 A. Yes, sir.

15 Q. Would you read to us, please, what is on that State's Exhibit.

16 A. "Agreement For Truthful Testimony. State of North
17 Carolina versus Dana Maybin. The following constitutes an
18 agreement pursuant to G.S. 15A-1054 between the State of
19 North Carolina and Dana Maybin, by and through her attorneys,
20 Regina Moore and Charles Ogletree: 1. Dana Maybin will
21 plead guilty to Accessory after the Fact of Murder and
22 Common Law Robbery in File No. 94-CRS-1994 and to Felonious
23 Breaking and Entering in File No. 95-CRS-887; 2. Dana
24 Maybin shall testify truthfully at any and all trials of any
25 co-defendant or co-defendants charged in connection with the

1 murder of William Frank Swain. The State will recommend
2 that prayer for judgment be continued in Dana Maybin's case
3 until such time as the trial or trials of all co-defendants
4 are concluded in order to allow her to testify truthfully
5 as aforesaid; 3. The sentence imposed against Dana Maybin
6 in these cases shall be in the discretion of the judge;
7 4. Dana Maybin understands that if she fails to abide by
8 this agreement, then the agreement will be null and void
9 and she will face trial on the original charges; 5. This
10 agreement includes all terms, conditions, rewards, promises,
11 and expectations of any rewards or promise given by the
12 State to the defendant in return for her truthful
13 testimony subject to conditions stated in the transcript of
14 plea."

15 Q. Is it dated and signed?

16 A. (Witness nods.) The 21st.

17 Q. Who is it signed by?

18 A. It looks like Robert Hensley and Regina Moore and me and
19 Mr. Ogletree.

20 Q. And, where it says, "...subject to conditions...in the
21 transcript of plea," is that in reference to the transcript of
22 plea that you've previously identified in State's Exhibit No. 44?

23 A. Yes.

24 Q. After your pleas were entered, does this constitute the
25 judgment of the Court at that time?

1 (The witness examines paper-writing.)

2 A. Yes.

3 Q. Would you read to us, please, what the order, the judgment
4 was at the time that you entered into your pleas.

5 A. "Prayer for judgment is continued until the cases of
6 Brandon Jones and Leroy Spruill are tried. Jurisdiction
7 in the sentencing of this case shall remain before the
8 Honorable Frank R. Brown, Judge Presiding. The Court
9 recommends the Defendant be held in the Edgecombe County Jail
10 if arrangements can be made with the Sheriff for housing
11 there."

12 Q. Other than the agreements that are listed in both of those
13 State's exhibits, have there been any other promises, hope of
14 reward, anything at all that's promised you, Ms. Maybin, other
15 than what was on those two pages?

16 A. No.

17 MR. NORTON: If you'll answer Mr. Vosburgh or
18 Mr. Skinner's questions.

19 CROSS EXAMINATION by MR. VOSBURGH:

20 Q. Ms. Maybin, I'll invite your attention back, if you will, to
21 the date of Friday, December the 17th, 1993. Do you remember that
22 date?

23 A. No.

24 Q. Do you recall whether or not you were at Big Ed's Bar on that
25 evening, on Friday the 17th?

1 A. No; but, we always went on Fridays and Saturdays.

2 Q. Do you recall whether or not you went on that Friday if you
3 always went there on Fridays?

4 A. No, I can't be for sure.

5 Q. Now, I'll ask you whether or not you recall that the incident
6 that you described involving Lynn Rogers and the Defendant, Robert,
7 I'll ask you if that did not occur, involving the beer purchase
8 and argument, I'll ask you if that didn't occur on Friday night.

9 A. No. It happened on the night that Frank was killed.

10 Q. Is that the night that Lynn Rogers called Big Ed at his home,
11 Mr. Ed Champ at his home, and complained about Robert being rude?

12 A. Well, that I don't know. All I know is that she wouldn't sell
13 him beer.

14 Q. Well, now, on Saturday night, the 18th, Mr. Ed Champ was
15 there, wasn't he?

16 A. I don't remember if Ed was there or not. I know that the
17 other Champs were.

18 Q. What other Champs were there?

19 A. Well, let's see. Kevin; Curtis; Gail; Gail's husband--

20 Q. And, who is Gail's husband.

21 A. Little Ed is all I know.

← 22 Q. Ed Champ, Jr.?

23 A. Yeah. Mazey--I think that's her name.

24 Q. Did you see Lottie Champ there?

25 A. The wife?

1 Q. Big Ed's wife, did you see her there, Lottie?

2 A. I don't remember her.

3 Q. Where were they during the night when you saw them?

4 A. In the dance room.

5 Q. Did you see them or any one of them or any combination of the
6 people that you named seated at the table that is just inside the
7 door of Big Ed's Bar?

8 A. Are you talking about the table right when you walk in the
9 door?

10 Q. That's right. That's exactly what I described.

11 A. Yes.

12 Q. Now, who all did you see there?

13 A. Well, I saw Gail and Mazey--I guess that's how you say her
14 name--I seen them settin' there, and the rest of them were in
15 there on the dance floor.

16 Q. What time did you say that you arrived on Saturday night at
17 Big Ed's Bar the first time that you went there?

18 A. Opening.

19 Q. What is opening?

20 A. Well, I don't know. They open it whenever Lynn gets there.

21 Q. Well, when did they open on that day?

22 A. It was around--I would say it was around 7:00.

23 Q. Were you standing around there and waiting for them, or, did
24 you arrive when Lynn did, or, had she already opened the bar when
25 you got there?

1 A. She had already opened the bar.

2 Q. Was there a band playing there that night?

3 A. Yes, later that night when we came back.

4 Q. Do you know what time the band arrived?

5 A. Around--about the time we were leaving.

6 Q. And what time was that?

7 A. Between 8:00 and 8:30.

8 Q. Did you see the Defendant--you call him Robert--did you see
9 him assisting the band in unloading the equipment and settin' up?

10 A. No, because, like I said before, he was in the dance room.
11 I was at the bar.

12 Q. So you couldn't see what he was doing, could you?

13 A. No.

14 Q. Do you know whether or not he remained there until the band
15 was set up and ready to play?

16 A. No, because we left.

17 Q. Had the band started to play when you left?

18 A. No.

19 Q. Were they playing when you came back?

20 A. Yes.

21 Q. They were playing when you came back.

22 A. Yes.

23 Q. Do you know what time it was that you left the bar the first
24 time?

25 A. Around--between 8:00, 8:30.

- 1 Q. Between 8:00 and 8:30?
- 2 A. Uh-huh.
- 3 Q. And you say that the time that you returned was what time?
- 4 A. Well, we was gone about an hour and a half to two hours.
- 5 Q. An hour and a half to two hours.
- 6 A. Uh-huh.
- 7 Q. And, you say when you all came back into the bar, the band
- 8 was playing?
- 9 A. Yes.
- 10 Q. Now, did the Defendant look any different in his appearance
- 11 at that time than he does now, other than the fact that he's got
- 12 on a tie?
- 13 A. Are you talking about when we first went to the bar?
- 14 Q. Yes, at that time.
- 15 A. No, just besides the tie.
- 16 Q. So, physically, does he appear about the same?
- 17 A. Yes.
- 18 Q. How about Leroy Spruill? How did he have his hair styled at
- 19 that time?
- 20 A. Like he normally does.
- 21 Q. And how is "normally does"?
- 22 A. I don't pay attention to Leroy's hair. He's not my boyfriend.
- 23 Q. Well, you were living with him, weren't you?
- 24 A. Uh-huh.
- 25 Q. You lived in the same house, didn't you?

1 A. Yes.

2 Q. You slept in the same home there.

3 A. Uh-huh.

4 Q. And, you never noticed that about him; is that right?

5 A. Just normal. It was just Leroy. I mean, I don't know
6 exactly how he styled his hair.

7 Q. Do you know what color his hair is?

8 A. Well, it's kind of sandy-blonde.

9 Q. Now, that night, when you got ready to leave the bar, when
10 you left the first time that you left, who went out of the
11 building first?

12 A. Well, I guess you could say--well, Leroy.

13 Q. Leroy went out first?

14 A. Yeah. And then us.

15 Q. And then who?

16 A. Robert and I.

17 Q. Did you go out one after the other, or, did you and Robert
18 leave together?

19 A. Well, it was like we all left together; but, I'm saying that
20 Leroy went out first and then Robert and I.

21 Q. And, how had you gotten to Big Ed's Bar when you first went
22 there?

23 A. Well, I explained that. I can't remember that I explained
24 that earlier.

25 Q. On that Saturday night, you don't know how you got there?

1 A. Well, I know that we were in his daddy's truck, in Leroy's
2 daddy's truck; but, I'm not sure if we drove there or if Ray
3 Hurst gave us a ride. I'm not sure.

4 Q. Who is Ray Hurst?

5 A. He's a friend of Leroy's.

6 Q. What kind of a vehicle did he have?

7 A. He's got a blue truck.

8 Q. Very much like Leroy's father's truck?

9 A. Uh-huh.

10 Q. About the same color, isn't it?

11 A. Yeah, just a little trashier inside.

12 Q. So you don't know which truck you went there in then, do you?

13 A. Yes, I've identified which truck we went in.

14 Q. You went in there in Leroy's father's truck.

15 A. Uh-huh.

16 Q. And that's how you first arrived at the bar; is that correct?

17 A. I told you I don't remember--well, I'm trying--we went to
18 the bar in the truck; but, I'm telling you, the second time--do
19 you understand what I'm saying?

20 Q. No, I don't. I'm asking you how did you get to Ed's Bar the
21 first time you went there.

22 A. How did we get to the bar the first time?

23 Q. Yes, when you went there--

24 A. We went in the truck the first time.

25 Q. Which truck is the truck?

- 1 A. Leroy's daddy's.
- 2 Q. Do you know what kind of truck it is?
- 3 A. Yes. It's a blue truck.
- 4 Q. Do you know what make or model it is?
- 5 A. No. But I know what it looks like.
- 6 Q. Ray Hurst has a blue truck?
- 7 A. Uh-huh.
- 8 Q. Do you know what make or model his is?
- 9 A. No.
- 10 Q. When you went there to the bar the first time, were all three
- 11 of you together?
- 12 A. What do you mean? Hangin' out together?
- 13 Q. Did you all leave from the same place, stay together from
- 14 that place to the bar, and did you get there together?
- 15 A. Yeah, we went to the bar together.
- 16 Q. But you don't know how, do you?
- 17 A. I just told you, we went in the truck to the bar the first
- 18 time. *Said bly she didn't know.*
- 19 Q. Was there anybody else in the truck with you?
- 20 A. No, not the first time.
- 21 Q. Just you, Leroy, and the Defendant.
- 22 A. Yes.
- 23 Q. Three people in one truck, right?
- 24 A. Yes.
- 25 Q. Now, after you got there, you arrived at opening and at 7:00.

1 Are they the same times?

2 A. Well, usually, it was around 7:00 or 7:30.

3 Q. Is 7:00 or 7:30, is that about the same time that the bar
4 opened on both Friday and Saturdays?

5 A. Yes. To my knowledge, yes.

6 Q. When you first arrived there, did you notice who was sitting
7 at the table just inside the door?

8 A. The first time we went to the bar, there wasn't any people in
9 there.

10 Q. I didn't ask you how many people were there--

11 A. I'm just saying that I didn't recognize anyone sitting there.

12 Q. You didn't recognize anybody sitting there.

13 A. No, not when we first got there.

14 Q. Now, isn't that table generally occupied by somebody in the
15 Champ family during the entire course of the evening?

16 A. Yes.

17 Q. Do you know what the reason for that is?

18 A. No. Sometimes they would take money at the table or at the
19 counter.

20 Q. And, you can see who comes in and you can see who goes out
21 if you're sitting at that table, can't you?

22 A. Yes.

23 Q. And you can see when they come in and when they go out if you
24 sit at that table, can't you?

25 A. Yes.

1 Q. Did you see any part of the band settin' up before you left
2 the bar the first time?

3 A. Yes, they were setting up.

4 Q. How were they setting up?

5 A. I don't know how they were setting up. I was setting at the
6 bar.

7 Q. Could you see into the dance room where the band was settin'
8 up?

9 A. Yeah, when we were leaving.

10 Q. How does the band set up? Have you ever been there when they
11 were?

12 A. Yes.

13 Q. How do they do it?

14 A. Right down to the other end of the dance floor.

15 Q. How do they get in the building?

16 A. They come through the back door.

17 Q. When you say the back door, which door do you mean?

18 A. The side door.

19 Q. When you say the side door, which one is that? Is that on the
20 front of the building or is it on the side of the building?

21 A. The front.

22 Q. What size are those doors?

23 A. They're double doors.

24 Q. After the band sets up, those doors are closed, aren't they?

25 A. Yes.

1 Q. Do you know which door you went in when you first arrived at
2 the bar?

3 A. Yes.

4 Q. Which door?

5 A. The entrance door.

6 Q. The one that goes by the little table?

7 A. Yes, the one by the cooler.

8 Q. And that's also just inside the bar area there, is it not?

9 A. Yes.

10 Q. When you were going to the bar, who was driving the truck?

11 A. Leroy.

12 Q. Where were you sitting?

13 A. In the middle.

14 Q. Robert, was he on the outside passenger seat?

15 A. Yes.

16 Q. When you say that you left the bar, how were you seated in the
17 truck at that time?

18 A. In the middle.

19 Q. Do you know how far it is from Big Ed's Bar to the Freeman
20 Mobile Home Park on Folly Road?

21 A. I don't know how far it is; but, I know where it's at.

22 Q. Do you know how long it took you to get there?

23 A. I don't know exactly how long it took me to get to the place,
24 no.

25 Q. How far is it from the mobile home park on Folly Road to the

1 place where you said that Big Ed lived on the Mill Pond Road;
2 how far is it from there?

3 A. I don't know.

4 Q. How long did it take you to do that?

5 A. About--comin' from the driveway in Folly, about 10 minutes.

6 Q. About 10 minutes to drive it?

7 A. Uh-huh.

8 Q. Did it take longer than that to go from Big Ed's Bar to the
9 Freeman Trailer Park or Mobile Home Park?

10 A. From Big Ed's Bar?

11 Q. To the mobile home park.

12 A. Yes.

13 Q. Do you know how much longer?

14 A. No.

15 Q. How long did it take you to go from Big Ed's residence, how
16 long did it take you to go from there back to Leroy Spruill's
17 home?

18 A. I don't know. I wasn't wearing a watch. I don't know exact
19 times. I don't know how far it is or how much time it takes.

20 Q. Do you know--actually, I believe you identified Leroy Spruill's
21 home.

22 (Mr. Vosburgh presents diagram to the witness.)

23 Q. Did you identify this (indicates) as the place where Leroy
24 Spruill lived?

25 A. Yes.

1 Q. Did you identify it as being on the corner of Plume Street
2 and Buncombe Street?

3 A. Plume Street.

4 Q. It's not on the corner, is it?

5 A. No, it's not. It's the second house over.

6 Q. Do you know what the speed limit is between Big Ed's Bar and
7 Freeman Mobile Home Park?

8 A. No. I've never drove.

9 Q. You do not have a driver's license?

10 A. Yes, but I didn't drive it because it wasn't my vehicle, and
11 I didn't have insurance.

12 Q. Had you ever ridden that distance before from those two places
13 before?

14 A. From Leroy's to Folly Road, yes.

15 Q. I believe you stated that you went there earlier that day to
16 Freeman Park on Folly Road?

17 A. Yeah, I went twice that day.

18 Q. Now, what time was the first time that you saw the Defendant,
19 Robert, on Saturday?

20 A. What time?

21 Q. Yes. What time of day did you see him on Saturday, the 18th?

22 A. That afternoon.

23 Q. Was it in the middle of the afternoon, early afternoon, or
24 late afternoon?

25 A. Well, it was after Lewis had left.

1 Q. After Lewis Jarvis had left?

2 A. Uh-huh.

3 Q. Do you know whether or not he worked that day?

4 A. No. He told me he hadn't been.

5 Q. He told you he hadn't been at work.

6 A. Uh-huh.

7 Q. When did he tell you that?

8 A. That afternoon. It was after Lewis had left. It was like
9 4:30, 5:00 when Lewis left.

10 Q. 4:30 or 5:00 when Lewis left?

11 A. Uh-huh.

12 Q. Did he say anything about having worked on the 17th of
13 December, which would have been the Friday before?

14 A. No; but, I know--when I asked him to get me some cigarettes,
15 he said he didn't have no money.

16 Q. I didn't ask you about that. I asked you, did you know
17 whether or not he was working.

18 A. No.

19 Q. Now, during that period of time in December of 1993, he was
20 working with Ed Champ almost every day pumping out septic tanks,
21 was he not?

22 A. Not that I know of.

23 Q. Did you ever see him working with Mr. Champ?

24 A. No. I know he spent a lot of time at my house.

25 Q. Was he spending the time at yours and Leroy's house? Is that

1 where it was?

2 A. Uh-huh.

3 Q. You say he was not working?

4 A. Not to my knowledge. I don't know. I wasn't with him 24/7.

5 Q. Now, you've described the consumption of a rather large amount
6 of alcohol on the afternoon--you said you got up at noon--
7 sometime in the afternoon. Were you drunk during that period of
8 time, Ms. Maybin?

9 A. No, sir.

10 Q. How much of the alcohol did you drink?

11 A. Well, it's hard to say. There were three of us drinking out
12 of it.

13 Q. You drank brown liquor?

14 A. Uh-huh.

15 Q. What do you mean by "brown liquor"? What is that?

16 A. I don't remember what it was. It was like Wild Turkey or
17 something.

18 Q. Was it a fifth bottle, a half a gallon? What size bottle was
19 it? Do you know?

20 A. Like that (indicates).

21 Q. Is it that tall?

22 A. Yeah. It's like this (indicates) tall, and it kind of fits
23 in your back pocket.

24 Q. Three of you were drinking out of that; is that correct?

25 A. Uh-huh.

1 Q. The Defendant was not even there during that period of time,
2 was he?

3 A. No.

4 Q. Did you say you also consumed some beer?

5 A. Yes.

6 Q. Was the beer already there, or, did you have to leave to go
7 get the beer?

8 A. The store behind Leroy's house. It was one of those big
9 Budweisers.

10 Q. Just one?

11 A. Uh-huh, a big one, and I split it with the wine. It's a
12 drink.

13 Q. What kind of wine was it that you were drinking?

14 A. It was either Mad Dog or Wild Irish Rose.

15 Q. What size bottle was that?

16 A. The small one.

17 Q. The small one?

18 A. Uh-huh.

19 Q. Had you taken or used any type of drugs other than alcohol
20 that afternoon?

21 A. I don't believe so.

22 Q. Did you smoke any marijuana?

23 A. Not that I can recall, no.

24 Q. You're not sure about that?

25 A. No, I just--there wasn't nobody around that would have any.

1 Q. But you don't know whether you smoked any or not; is that
2 right?

3 A. Well, I would say I didn't because there was no one around
4 that would have any.

5 Q. Did you smoke any crack that afternoon?

6 A. No.

7 Q. When you were drinking the brown liquor and wine, were you
8 mixing that with the beer or mixing them with each other?

9 A. You mix the wine and the beer and it's called "Odies Spodies."
10 It's a drink.

11 THE COURT: It's what?

12 A. Odies Spodies. It's a drink.

13 Q. It's a drink.

14 A. Yeah.

15 Q. How many of those did you drink?

16 A. The beer.

17 Q. Did you mix the drink that you just described? How many of
18 those Odies Spodies or whatever they are, how much of that--

19 A. As many as I could.

20 Q. As many as you could?

21 A. Yeah; but, it's not going to get you drunk.

22 Q. How many of them could you before all the liquor was gone?

23 A. I'm not sure.

24 Q. You're saying that the liquor was gone, the beer was gone,
25 and the wine was gone, and you weren't drunk; is that right?

1 A. That's right.

2 Q. Did you mix the brown liquor with all that stuff? Is that
3 part of the Odie Spodie?

4 A. Right.

5 Q. Tell me just exactly what the ritual is for drinking that
6 combination of brown liquor, wine, and beer.

7 A. Well, we were drinkin' brown liquor first--

8 Q. Was that by itself?

9 A. Yes.

10 Q. Were you chasing it with anything?

11 A. With Pepsi or Coke. Then the wine and the beer. What you
12 do is, you pour half and half in a cup.

13 Q. What size cups were you using?

14 A. They were like this (indicates).

15 Q. Do you know how many ounces they would hold?

16 A. Like that (indicates).

17 Q. If they were that tall, how big around were they?

18 A. Like that (indicates).

19 Q. Did that combination of alcohol, did that ever make you sick?

20 A. No. I've been drinking since I was 13.

21 Q. So it had no affect on you..

22 A. No.

23 Q. Now, what time did you leave to go get the tequila?

24 A. Right before Lewis left. He took us to Plymouth to get it
25 before he left.

1 Q. Did he drive to Plymouth?

2 A. No. Leroy did in Lewis' van.

3 Q. Leroy drove Lewis' van to Plymouth to get tequila.

4 A. Uh-huh.

5 Q. Then you went back to Leroy's house?

6 A. Yes.

7 Q. And then Lewis left.

8 A. Yes.

9 Q. And then you and Leroy drank the tequila; is that right?

10 A. Not all of it. We drank some on the way.

11 Q. Some on the way back?

12 A. Uh-huh.

13 Q. Did you have any chasers in the truck, or, did you do the
14 lemon, salt, and all that kind of stuff?

15 A. No. No lemon and salt.

16 Q. Did you drink it straight?

17 A. No. Chased it with Pepsi.

18 Q. Chased it with Pepsi-Cola.

19 A. Either it was Pepsi or Coke. It was Two-Fingers tequila.

20 It's a brown bottle. It's a white tequila.

21 Q. It's a brown bottle; but, the liquid in it is white--

22 A. Uh-huh.

23 Q. --and, it's made out of cactus juice, right?

24 A. I don't know; but, it's smooth.

25 Q. Now, you say that that combination of alcohol did not make you

1 drunk?

2 A. No, because I didn't drink it all by myself.

3 Q. How much of the tequila did you drink?

4 A. I don't know. There was three of us drinking. I can't tell
5 you exactly how much I drank.

6 Q. So, by the time you had finished all the drinking, is that
7 when you left Leroy's house to go to the Freeman Mobile Home Park
8 on Folly Road?

9 A. Yes. Well, we went to Clover Farm first.

10 Q. Clover Farm is about a block, a block and a half away, isn't
11 it?

12 A. Uh-huh. About two blocks.

13 Q. How long did you stay at the Clover Farm?

14 A. I don't know. Stood in line, paid for the stuff, and left.

15 Q. Did you see anybody in there that you knew?

16 A. No. I don't know hardly anybody in Roper.

17 Q. Did you go inside to make the purchases?

18 A. Yes, me and Leroy.

19 Q. You did?

20 A. Uh-huh.

21 Q. Did you see Wyatt Spruill in there?

22 A. Wyatt, his cousin?

23 Q. Yes.

24 A. Well, I don't recall seeing him.

25 Q. You don't recall seeing anybody?

1 A. Huh-uh. They might have seen me, but I don't--I'd only talked
2 to Wyatt once before.

3 Q. And, I believe you said that you purchased dog food,
4 cigarettes, and what else?

5 A. Hair spray and bottled water.

6 Q. Do you own any dogs?

7 A. No.

8 Q. Who does?

9 A. Leroy.

10 Q. What kind of dogs did he have?

11 A. Huge muts.

12 Q. How many packs of cigarettes did you buy; do you remember?

13 A. Well, I know I bought a pack, and Leroy bought a pack. He
14 smoked a different brand than I do.

15 Q. Each of you bought a pack of cigarettes?

16 A. Yes.

17 Q. Were all three of you in the store together at that time?

18 A. No. Just me and Leroy.

19 Q. Just you and Leroy?

20 A. Uh-huh.

21 Q. Do you know where the Defendant was?

22 A. In the truck.

23 Q. Did you see him get out of the truck?

24 A. No. I was in the store.

25 Q. Well, when you left to go to the mobile home park on Folly

1 Road, was it dark at that time?

2 A. No.

3 Q. What time did you leave to go there?

4 A. Well, we left Leroy's around 6:00.

5 Q. Around 6:00?

6 A. 'Cause Lewis left about 4:30 or 5:00. It might have been
7 before that 'cause if Lewis--

8 Q. But this was on the 18th of December--

9 MR. NORTON: If Your Honor please, he's cutting her off.

10 THE COURT: Let her finish her answer.

11 Q. Go ahead and finish your answer. Excuse me.

12 A. Well, if Lewis left around 4:30 or 5:00, I guess we--it would
13 have been about 5:30, between 5:30 and 6:00 by the time we got
14 there.

15 Q. Between 5:30 and 6:00.

16 A. Yeah.

17 Q. When you arrived at the mobile home park and let Leroy out,
18 how far did you go down the road--

19 A. Let Brandon out.

20 Q. Excuse me, I'm sorry. Brandon, the Defendant, when you let
21 him out, how far did you go down the road before you came back to
22 pick him up?

23 A. I don't know. We turned around in somebody's driveway that
24 had a fence around their house.

25 Q. A fence around their house?

1 A. Uh-huh.

2 Q. Did you go up into the mobile home park at all on that trip?

3 A. Yes..

4 Q. All right. Where did you go?

5 A. To Frank's trailer.

6 Q. Did you go all the way down to his trailer?

7 A. Yes.

8 Q. Where is his mobile home located?

9 A. It's in a trailer park.

10 Q. I know; but, where in the trailer park? How do you get there?

11 A. You go all the way--you come in the driveway, and it turns,
12 the next little drive, and you go all the way around to the back,
13 and it was the last trailer.

14 Q. Have you gone over these diagrams, these various diagrams and
15 aerial photographs, with the law enforcement officers in
16 discussing your testimony? Have you seen those diagrams?

17 A. Last Sunday, I believe it was.

18 Q. You saw them last Sunday?

19 A. Uh-huh.

20 Q. How wide was the road after you make your right-hand turn?
21 When you go up into the mobile home park and make the right-hand
22 turn, you've got to go down and go around a rather long curve,
23 hadn't you?

24 A. Uh-huh.

25 Q. How wide is that road?

1 A. Well, kind of--enough to get the truck through.

2 Q. Is it any wider than enough to get a truck through?

3 A. Well, yeah; but, it's not enough for two cars to go side by
4 side.

5 Q. The mobile homes that are in there are located right very
6 close to the edge of that little road, aren't they?

7 A. Uh-huh.

8 Q. Is the road paved?

9 A. No.

10 Q. Do you remember which mobile home you went to to get to the
11 crack man's house, as you call it?

12 A. Yes.

13 Q. Which one was that?

14 A. Well, it was the last one.

15 Q. The very last one.

16 A. Uh-huh.

17 Q. When you went there the first time, did you see any other
18 vehicles around anywhere?

19 A. No, sir. I was ducked down.

20 Q. You didn't see anything then?

21 A. Huh-uh.

22 Q. How long would you say that you were there?

23 A. I don't know. Leroy got out, and then Robert got out.

24 Q. When Leroy got out, how long did he stay before he came back?

25 A. I heard him beat on the door, and he come back.

1 Q. Right away?

2 A. Uh-huh. He just said he couldn't get him up.

3 Q. Then you say the Defendant went to the door?

4 A. Uh-huh.

5 Q. Did he knock on the door?

6 A. Uh-huh.

7 Q. Did someone open the door?

8 A. I don't know.

9 Q. Did he go in?

10 A. I don't know. I was ducked down. I mean, I didn't--

11 Q. So, you don't know anything that occurred there.

12 A. No. He told me to stay down, so I stayed down.

13 Q. What did he come back with? The Defendant, what did he come
14 back with?

15 A. I don't know..

16 Q. Did you see him with anything?

17 A. No.

18 Q. Did he show you any drugs of any kind?

19 A. No.

20 Q. Did you ask him about any drugs?

21 A. No.

22 Q. Did you see him consume any drugs after you left?

23 A. No, because I didn't do it with him.

24 Q. Well, you didn't see them do it either, did you?

25 A. No. But, that's what I'm saying--

1 Q. You don't even know whether they did any at all, do you?

2 A. Huh-uh. But it would have been a wasted trip.

3 Q. Well, now, have you ever done any crack cocaine with the
4 Defendant?

5 A. Yes.

6 Q. When?

7 A. At Leroy Spruill's house.

8 Q. Was that on a different day?

9 A. That was right after Thanksgiving.

10 Q. Is that the only time that you'd ever seen this Defendant do
11 any crack cocaine?

12 A. No.

13 Q. Well, when were some of the other times that you saw him do
14 crack cocaine?

15 A. Well, I seen him at Stacy Allen's.

16 Q. Stacy Allen's home?

17 A. Uh-huh.

18 Q. Is that where Ms. Bessie Tarkington lived?

19 A. No, that's where Stacy lives.

20 Q. But she's her daughter; is that correct?

21 A. Yes.

22 Q. Now, you mentioned you've known him as Robert Solis and also
23 Robert. He knew you as Nikki, didn't he?

24 A. Yes.

25 Q. What did he know you as your last name to be when you first

1 introduced yourself to him?

2 A. Tarkington.

3 Q. That was not your real name, was it?

4 A. No.

5 Q. Why were you using that name?

6 A. Because Bessie told me I needed to use it so Sherry's father
7 and so the law wouldn't find Sherry.

8 Q. Was the law looking for you, too?

9 A. No.

10 Q. They were not looking for you?

11 A. No.

12 Q. But you were going to help deceive the law by using another
13 name; is that correct?

14 A. Well, I didn't know she was runnin' from the law until I got
15 here.

16 Q. Well, after you got here and found it out, then you started
17 using another name, didn't you?

18 A. Yes. I was stuck.

19 Q. So, you figured that taking on a new identity was all right
20 for you so it would help her; is that correct?

21 A. I guess.

22 Q. Now, the first time--when was the first time that you ever
23 went to Frank Swain's place?

24 A. It was with Sherry Honea.

25 Q. Was Sherry Honea living with Frank Swain at that time?

1 A. No.

2 Q. She was not?

3 A. (Witness shakes her head.)

4 Q. Do you know whether or not she ever did?

5 A. She was living with Robert Spruill. → *Huh*

6 Q. Do you know who she lived with before she lived with Robert
7 Spruill?

8 A. Bessie Tarkington.

9 Q. Before that, she was living in South Carolina and came here
10 with you; is that correct?

11 A. Yes. Well, I came here with her.

12 Q. You came here with her?

13 A. Uh-huh.

14 Q. Now, when you went there with Sherry, who was driving when
15 you went to Frank Swain's place with Sherry?

16 A. It was Robert Spruill's car.

17 Q. Robert Spruill's car?

18 A. Uh-huh; it was Robert Spruill, Leroy, Sherry, and I.

19 Q. When you went there that first time, did you hide down in the
20 vehicle so he wouldn't see you?

21 A. We didn't go up the driveway.

22 Q. You did not?

23 A. Huh-uh.

24 Q. So, you didn't make any effort to hide your presence when you
25 went there on that occasion, did you?

1 A. No.

2 Q. How far did you go into the trailer park?

3 A. We didn't.

4 Q. Who did you let out on that occasion?

5 A. We let out Leroy.

6 Q. Did you go down and turn around in the same place?

7 A. No.

8 Q. Where did you go?

9 A. We'd go down to the end of the road and turn around anywhere.
10 There's no certain spot where you turn around at.

11 Q. Well, one time when you turned around, it was at a house where
12 there was a fence around it; is that right?

13 A. Uh-huh.

14 Q. Did you go farther than that to turn around this time?

15 A. I don't remember. I mean, that was like after Thanksgiving.

16 Q. Was it daylight or dark when you went on that occasion?

17 A. Dusk/dark.

18 Q. Dusk/dark?

19 A. Yes.

20 Q. Now, Ms. Maybin, when you got ready to leave Big Ed's Bar on
21 the night after you say that you had gone down to Frank Swain's
22 mobile home, who was present when you got ready to leave?

23 MR. NORTON: Objection, if Your Honor please, unless we
24 know which time he's talking about.

25 THE COURT: What time are we talking about, Mr. Vosburgh?

1 MR. VOSBURGH: After she had come back when they were
2 leaving to go home and the bar had closed.

3 MR. NORTON: On December the 18th?

4 THE COURT: Well, ask the question again.

5 MR. VOSBURGH: All right.

6 Q. Ms. Maybin, on December the 18th, you've described how you
7 went to the bar, how you left the bar, how you went back to the
8 bar.

9 A. Uh-huh.

10 Q. On December the 18th, what I'm asking you now, who was with
11 you when you left the bar?

12 A. Robert.

13 Q. Who else?

14 A. No one.

15 Q. What happened on the way home?

16 A. Well, when we were leaving, he got in an argument with Lynn.
17 Are you talking about on the walk?

18 Q. Yes.

19 A. Big Ed stopped and asked if we wanted a ride, and I said no.

20 Q. Was there anybody with Big Ed when he stopped and asked if
21 you wanted a ride?

22 A. Yeah, there was a truck-full.

23 Q. Do you know who was in the truck? Did you recognize anybody
24 that was in the truck?

25 A. Well, I seen one girl.

In talk
1 Q. A girl?

2 A. Yeah. It was Angela Martinez, I think. She's like the
3 daughter of a cop or something.

4 Q. Are you looking anywhere in the courtroom for any answers to
5 any of these questions that I'm asking you?

6 A. No, sir. I was looking to see if I seen her.

7 Q. You were looking to see if she was in the courtroom?

8 A. Uh-huh.

9 Q. Now, after you left the bar and went home, I guess you'd call
10 it, did you go back to Leroy's house?

11 A. Yes.

12 Q. Now, who did you say was there besides yourself and Leroy and
13 Robert and Smartie Spruill?

14 A. That's it.

15 Q. That's all?

16 A. That's it.

17 Q. Do you know whether or not Smartie Spruill had had any
18 surgery at that time?

19 A. I don't know.

20 Q. You don't know?

21 A. Huh-uh.

22 Q. Now, let me invite your attention back to Leroy's house.
23 After you had been to the crack man's house the second time, did
24 Leroy have water running, either cold or hot, in his home at that
25 time?

1 A. Yes.

2 Q. Which?

3 A. Cold.

4 Q. Now, were you ever living there with him at any time when the
5 pipes were frozen, and he had to turn it off to the house?

6 A. Yes, New Year's.

7 Q. Are you sure it wasn't right about on the 17th or 18th of
8 December?

9 A. I'm positive.

10 Q. What did you use to clean up with? Cold water?

11 A. Yes, cold water.

12 Q. And towels?

13 A. Yes.

14 Q. I believe you indicated that you only had one change of
15 clothes; is that right?

16 A. No. I said I didn't have many clothes.

17 Q. Didn't have many clothes.

18 A. Uh-huh.

19 Q. Did you save your clothes, or, did they actually get burned?

20 A. They actually got burned, all except for my tennis shoes.

21 Q. All except for your tennis shoes.

22 A. Uh-huh.

23 Q. Were they the tennis shoes that you were wearing that night?

24 A. Yes.

25 Q. The same shoes?

1 A. Yes.

2 Q. Has the State or any of the law enforcement officers ever
3 asked you for those shoes to see whether or not they had any
4 traces of blood on them?

5 A. Yes. They were about a month late.

6 Q. What happened to your tennis shoes?

7 A. Jeff made me throw them away, and he bought me a new pair.

8 Q. Why did Jeff make you throw them away?

9 A. Because they were ugly. I worked in the pasture with them.

10 Q. Did they still have blood on them?

11 A. Huh-uh. I would think not. It had been a year.

12 MR. NORTON: Objection, Your Honor.

13 THE COURT: Overruled.

14 Q. Ms. Maybin, you mentioned that you were first brought to the
15 Beaufort County Jail when you were first arrested.

16 THE COURT: Mr. Vosburgh, I think we'll stop if you're
17 going to be getting into the statement and so forth now.

18 MR. VOSBURGH: I wasn't going to quite get there yet.

19 THE COURT: All right. We'll go a little while longer.

20 Q. Where were you first confined?

21 A. In South Carolina.

22 Q. That was Oconee County, I believe?

23 A. Uh-huh.

24 Q. And, from there, you went to the Beaufort County Jail; is that
25 right?

1 A. Yes.

2 Q. Where did you go from the Beaufort County Jail?

3 A. Raleigh safe-keeping.

4 Q. Raleigh safe-keeping is essentially the women's main prison.
5 in Raleigh; is that right?

6 A. Yes.

7 Q. On Bragg Road?

8 A. Bragg Street.

9 Q. How long did you remain in Raleigh?

10 A. Approximately--about three to four months, I guess. About
11 four months.

12 Q. How long were you here in Beaufort County before you were
13 appointed an attorney?

14 A. First appearance. I don't remember when my first appearance
15 was.

16 Q. Regina Moore was your attorney?

17 A. Yes.

18 Q. How many times did Regina Moore visit you when you were
19 confined in the Beaufort County Jail?

20 A. Twice, I believe.

21 Q. How many times did she visit you in Raleigh?

22 A. None.

23 Q. What visitors did you have when you were in Beaufort County?

24 A. Are you talking like regular visitation or like lawyers?

25 Q. Regular visitation.

1. A. Mitchell Nowarah; Jennifer--I don't remember Jennifer's last
2 name.

3 Q. Jennifer Spruill?

4 A. Yes.

5 Q. Jennifer, Mitchell, and who else?

6 A. That's all I can recall.

7 Q. They're the only two people that you had--

8 A. Well, I had a friend visit me, L. B. Crisp, Lonnie Crisp.

9 Q. Does he live in Beaufort County?

10 A. Yes.

11 Q. So, you were in the Beaufort County Jail from sometime in
12 December until February?

13 A. December 15th to February the 22nd.

14 Q. And, during that period of time, your lawyer visited you two
15 times.

16 A. Yes, besides seeing her in court.

17 Q. How long were you in Raleigh?

18 THE COURT: She's already answered that, Mr. Vosburgh.

19 A. Approximately four months.

20 Q. You were not visited by your attorney at any time during that
21 period of time in Raleigh.

22 MR. NORTON: Objection, if Your Honor please.

23 THE COURT: Objection sustained. You've already asked
24 her that once.

25 Q. Now, you mentioned that you were cellmates with a Nichole Mills

1 in Beaufort County.

2 A. Yes.

3 Q. Now, did that association with her begin when you first were
4 locked up in Beaufort County?

5 A. Yes; and, she told me that she was Ed Champ's niece.

6 Q. She told you that?

7 A. Uh-huh.

8 Q. Were you afraid of her?

9 A. Yeah. She's big.

10 Q. She's a big girl; but, did she ever threaten you or harm you
11 in any way?

12 A. No, 'cause I stayed on my side of the room.

13 Q. Didn't you and she attend church services together there?

14 A. Well; everybody did. You have to. It's right in front of
15 your cell.

16 Q. Did you participate in the church services?

17 A. Uh-huh.

18 Q. There was also Monica Bland, I believe. Is that her name?

19 A. Uh-huh.

20 Q. And, Jackie Smith?

21 A. She wasn't a cellmate. She was only in there a day.

22 Q. Wasn't she in there the same time you were?

23 A. Yeah. She came in and left. She went to prison.

24 Q. Now, how long were you in the Beaufort County Jail before you
25 mentioned anything to Nichole Mills about what you were there for?

1 A. Her first day there, she asked me what I was in for.

2 Q. What did you tell her?

3 A. I told her murder; and, she asked why, and I said I was
4 involved in a murder.

5 Q. That's exactly what you said was, "I was involved in a
6 murder."

7 A. Yes.

8 Q. And she never asked you any more about it for a while, did
9 she?

10 A. Yeah, she asked. You want to know what kind of a roommate
11 you're with.

12 Q. Well, did you develop a confidence in her?

13 A. Well, yeah, I guess you could say that.

14 Q. It was right away, was it not, that you began talking to her
15 about how you had lied?

16 A. No.

17 Q. How long was it before you started talking about that?

18 A. Well, I kept telling her that they did it; that Robert and
19 Leroy did it. She says, "Well, they don't have no evidence. I
20 talked to Vosburgh, and he says they don't have no evidence. All
21 they've got is your testimony," and she said, "How are you going to
22 fight this--?"

23 Q. When was that? Do you know what day that was?

24 MR. NORTON: Objection, if Your Honor please. He's
25 cutting her off again.

1 THE COURT: Let her finish.

2 A. She said, "How are you going to fight this?"

3 THE COURT: Now, ask your next question.

4 Q. All right. Now, do you know what day that was?

5 A. It was in December.

6 Q. But it doesn't show up in your diary entries anywhere, does
7 it?

8 A. I don't know.

9 Q. Well, you're the one that wrote these things down.

10 A. Well, yeah. I mean, I wrote them down, but I don't remember
11 what I put in them. I remember the bad dreams one, but I don't
12 remember the other ones.

13 MR. VOSBURGH: Now, Judge, I'm about to move into the
14 statement aspect of it.

15 THE COURT: All right. I think we'll quit if that's
16 all right with the jury. During the recess, ladies and
17 gentlemen, remember not to talk about the case among yourselves,
18 and the only time you may talk about the case is when I instruct
19 you to begin your deliberations. Do not talk about the case with
20 anyone or allow anyone to talk with you or in your presence about
21 this case. If anyone attempts to communicate with you or in your
22 presence about these cases, you must notify me immediately. Do not
23 form or express any opinion about the guilt or innocence of the
24 Defendant. Keep an open mind until you've heard all of the
25 evidence, the arguments of the attorneys, and the Court's

1 instructions as to the law. Do not speak with any party
2 participating in the trial of this case. This includes any
3 witness, the Defendant, the attorneys, or anyone else who might
4 have an interest in the outcome of the cases. This rule applies
5 inside as well as outside of the courtroom, and it prohibits any
6 type of conversation, whether about the issues in the case or
7 about the weather. You must understand that you should have no
8 conversation or contact with anyone who is involved or interested
9 in these cases. It's your further duty not to read, to watch,
10 or to listen to any accounts of this trial or make any
11 investigation or attempt to obtain information outside of the
12 courtroom about the cases. You must follow these instructions.
13 I'll ask everyone to leave the badges in your seats. I'll ask
14 everyone to remain seated. I'll ask you to return tomorrow
15 morning at 10:00.

16 (The jury is excused at 5:05 p. m. and is no longer present in
17 the courtroom.)

18 THE COURT: Mr. Sheriff, take the witness down. You
19 may step down. Take a recess until 10:00.

20 (Evening recess is taken at 5:08 p. m.)

21 SEPTEMBER 22, 1995, 10:00 A. M.

22 (Mr. Norton, Mr. Anglim, Mr. Vosburgh, Mr. Skinner, and the
23 Defendant are present.)

24 (The jury is in the Commissioner's Room.)

25 THE COURT: Bring the witness to the stand.

1 (The witness returns to the witness stand.)

2 THE COURT: Bring the jury in.

3 (The jury returns to the jury box.)

4 THE COURT: All right, Mr. Vosburgh.

5 MR. VOSBURGH: Thank you, Your Honor.

6 CROSS EXAMINATION by MR. VOSBURGH RESUMES:

7 Q. Ms. Maybin, back in April of 1994, when you were in South
8 Carolina, how many law enforcement officers were there present
9 at the time that you were initially interviewed in South Carolina?

10 A. I believe there was two.

11 Q. Who were they?

12 A. The S. B. I.

13 Q. Was it Special Agent Varnell? Do you recall that name?

14 A. Yeah, I think so.

15 Q. And, Special Agent Parrish, do you recall that name, also?

16 A. Uh-huh.

17 Q. Now, during that interview, did you tell them of your hate for
18 Robert Solis or Robert Jones, whichever way you knew him?

19 A. I'm not sure. I believe I did.

20 Q. You believe you did?

21 A. Uh-huh.

22 Q. And, that's true - you do hate him, do you not?

23 A. In a way.

24 Q. Now, when you gave the second statement on June the 25th of
25 1994, I'll ask you if you did not again announce your severe hate

1 for Robert Jones or Robert Solis.

2 A. I don't recall; but, I might have.

3 Q. You might have?

4 A. Uh-huh.

5 Q. And, when you made the third statement, which was in December
6 of 1994, didn't you again indicate your intense hatred for
7 Robert Jones, or, the Defendant?

8 A. I probably did.

9 Q. Now, in one of these statements, you indicated that you were
10 to go to Asheville, North Carolina, for the purposes of a lie
11 detector test. Did you ever go to Asheville, North Carolina?

12 A. Well, yes; but, I didn't take the lie detector test.

13 Q. Did you go to Asheville, or, did you go to Raleigh?

14 A. It was in the mountains.

15 Q. It was in the mountains.

16 A. Uh-huh.

17 Q. And, the test was not given because you were pregnant; is that
18 correct?

19 A. That's right.

20 Q. Now, during that first statement back in April of 1994, were
21 you under arrest at that time?

22 A. No.

23 Q. Were you told that you could leave at any time you wanted to?

24 A. Well, yes.

25 Q. You were?

1 A. Uh-huh.

2 Q. In the course of that statement, you did not implicate
3 yourself in any way whatsoever in the death of Frank Swain, did
4 you?

5 A. No.

6 Q. Did you tell them that you'd never been to his house?

7 A. I probably did because I didn't want to have anything to do
8 with it.

9 Q. So, you denied any knowledge at all about the death of Frank
10 Swain--

11 A. Yes.

12 Q. --or, excuse me. About any participation, your participation
13 in the death of Frank Swain.

14 A. Yes; right. I believe I told them that I'd went to his house
15 once.

16 Q. That was in the first statement?

17 A. I believe.

18 Q. Are you sure?

19 A. No.

20 Q. Now, do you recall telling them that you didn't know whether
21 you had told Sherry Honea about it?

22 A. Uh-huh.

23 Q. You didn't remember whether you'd even told her about it, did
24 you?

25 A. Well, that's what I was telling them, yes.

1 Q. That's what you were telling them.

2 A. Uh-huh.

3 Q. Now, when you gave the second statement, was that the first
4 time that you implicated yourself in it, or, did you leave
5 yourself out the second time?

6 A. I believe I told them that I was there.

7 Q. You told them that you were there the second time?

8 A. Uh-huh.

9 Q. Were you under arrest at that time?

10 A. No.

11 Q. Were you free to leave at that time if you wanted to go back
12 in June of 1994?

13 A. Yes.

14 Q. Now, in that statement, did you describe to them when you
15 first went to Frank Swain's mobile home?

16 A. I'm not sure exactly what I said in the statement. I haven't
17 read the statement--I haven't--

18 Q. Have you ever seen a copy of the statement that you were
19 supposed to have made back in April of '94?

20 A. Yes, I've got them. I just--I haven't read all of them--

21 Q. Now, going back to that first statement and when you told them
22 that you were there at Frank Swain's mobile home, how did you
23 approach Frank Swain's mobile home as far as the second statement
24 is concerned? Do you remember that?

25 A. I don't remember what I said in the second statement.

1 Q. Did you go in the front door or go to the back door?

2 A. Well, when I went to the house, I went to the front door.

3 Q. When you went to the front door, what was the first thing
4 that you did?

5 A. I stepped in the door.

6 Q. Was the door closed?

7 A. No.

8 Q. How far was it open?

9 A. About that far (indicates).

10 Q. Did you push it open or did you pull it open?

11 A. I slid my hand in and pushed it.

12 Q. Did the door open to the inside or did the door open to the
13 outside.

14 A. To the out.

15 Q. I beg your pardon?

16 A. To the out.

★ 17 Q. To the outside?

18 A. Uh-huh.

19 Q. Well, if it opened to the outside, how did you push it to get
20 it open?

21 A. I said I stuck my hand in and pushed.

22 Q. So, when you stuck your hand in and pushed, it came out this
23 way (indicates) instead of going in this way (indicates); is that
24 right?

25 A. I just stuck my hand in and pushed it, and it ope

1 Q. But do you know which way it opened?

2 A. To the outside.

3 Q. To the outside of the mobile home?

4 A. Yes.

5 Q. Away from the outside wall; is that correct?

6 A. Away from the front of the trailer, yes.

7 Q. What was the first thing that you saw after you pushed the
8 door open in the fashion you described?

9 A. I saw Robert and Leroy and Frank.

10 Q. Where were they when you saw them?

11 A. To my right.

12 Q. Had you already gone in the mobile home at that time?

13 A. (Witness nods.)

14 Q. How far in were you?

15 A. I stepped in. I just stepped in.

16 Q. Just stepped inside the door.

17 A. Yes.

18 Q. Now, in the third statement that you made in December of 1994,
19 were you under arrest at that time?

20 A. Yes.

21 Q. Did you have an attorney at that time?

22 A. No.

23 Q. Were you told that you had the right to an attorney at that
24 time?

25 A. Yes.

1 Q. Did you waive that right and talk to them without an
2 attorney present?

3 A. Yes...

4 Q. And, did you tell them in that statement that, even if you got
5 a little time, you were going to make this statement?

6 A. Well, I wanted to go ahead and tell what I had to say and get
7 it over with.

8 Q. And, in that statement, did you again indicate your hatred for
9 the Defendant?

10 A. I'm not sure, Mr. Vosburgh.

11 Q. You're not sure?

12 A. Huh-uh.

13 Q. Now, the first time that you changed your mind about this
14 statement, whose fault did you say it was?

15 MR. NORTON: Objection, if Your Honor please.

16 THE COURT: Well, what statement are you talking about?

17 MR. VOSBURGH: I'm talking about the one where she
18 indicated that Sherry Honea was the one who was at fault.

19 MR. NORTON: Objection, if Your Honor please.

20 THE COURT: Well, ask her once again. Maybe the word
21 "fault" is misleading.

22 MR. VOSBURGH: All right. Excuse me. May I locate the
23 exhibits so that I could have her hold State's Exhibit No. 27?

24 THE COURT: Sure.

25 Q. Ms. Maybin, I'll show you what's been marked for

1 identification as State's Exhibit No. 27 and ask you if you would
2 re-examine that.

3 (Witness complies.)

4 A. It's the fax.

5 Q. I beg your pardon?

6 A. It's the letter that was faxed.

7 Q. That's the one that you faxed; is that correct?

8 A. Uh-huh, after my first statement.

9 Q. And, in that statement, do you imply that Sherry Honea was
10 the person who had something to do with Frank Swain's death as
11 opposed to you?

12 A. No, I didn't say that.

13 Q. Well, what did you say in it?

14 A. It says--let me find where it's at, and I'll tell you
15 exactly. I wasn't saying that Sherry had anything to do with it.
16 I was trying to put it off on somebody else because I didn't want
17 to have nothin' to do with it. I said that maybe Sherry's got
18 somethin' to do with it; maybe you should ask her, is what I was
19 implying 'cause I didn't want to have nothin' to do with it.

20 Q. But is that the first time that you put down in writing
21 anywhere that you lied to the law enforcement officers?

22 A. Yes. It's right here (indicates).

23 Q. Later on, did I understand from your testimony that you
24 indicated that the reason that you lied was because of Nichole
25 Mills; is that correct?

1 A. Not on this.

2 Q. Later on, after you had been in Beaufort County?

3 A. Uh-huh.

4 Q. Then, I believe, later on, you indicated that it was because
5 you had talked to me; is that correct?

6 A. Well, Nichole was talking to you.

7 Q. Well, that's not what I asked you. Was it because you had
8 talked to me?

9 A. You and Maynard.

10 Q. Do you imply that Maynard Harrell had anything to do with
11 your changing your story?

12 A. Yes, when I was in Raleigh safe-keeping.

13 Q. When you were in Raleigh safe-keeping and talked with Maynard
14 Harrell, he made a recording of your entire conversation, didn't
15 he?

16 A. Yes, the second time he visited me.

17 Q. I was not with him at that time, was I?

18 A. Not at the second time.

19 Q. Has the district attorney played that tape recording for you?

20 A. No.

21 Q. If you were given an opportunity, could you identify your
22 voice and that of Mr. Harrell on the tape?

23 A. Well, yes, I'm sure I could.

24 MR. VOSBURGH: Your Honor, at this time, I would like
25 to ask the district attorney to play the tape that she made in

1 Raleigh.

2 THE COURT: I believe the witness is with you and not
3 with the district attorney.

4 MR. VOSBURGH: Well, he's got the only copy that I had,
5 and I got it from Maynard.

6 THE COURT: You don't have a copy?

7 MR. VOSBURGH: No, sir, I do not.

8 THE COURT: Do you have the tape?

9 MR. NORTON: If Your Honor please, I do not have the
10 tape with me. The tape was given to me for discovery purposes.
11 I've had the thing identified. It was given to me Monday, I
12 believe, here in the courtroom.

13 THE COURT: Where is the tape?

14 MR. NORTON: I think, Judge, the tape is probably in
15 my jacket. The tape was given to--Mr. Harrell, I think, has a
16 copy of the tape over in his recorder from what I understand.

17 MR. HARRELL: Yes, sir, I do. I have the original.

18 THE COURT: He has the original tape.

19 Q. If I played that tape, would you recognize your voice and that
20 of Mr. Harrell on that tape?

21 A. Probably so. I know I'd recognize mine.

22 Q. You know you could recognize yours?

23 A. Uh-huh.

24 MR. VOSBURGH: Your Honor, at this time, I would like to
25 play the tape.

1 THE COURT: Let's take the jury out for just a minute.
2 Would you let him use your copy of the tape?

3 MR. HARRELL: I don't have a copy, sir. I have the
4 original tape.

5 THE COURT: Would you let him use it?

6 MR. HARRELL: Yes, sir.

7 (The jury is excused to the jury room and is not present in the
8 courtroom.)

9 MR. VOSBURGH: This will be marked for the purpose of
10 identification as Defendant's Exhibit No. 1.

11 (Defendant's Exhibit No. 1 is marked for the purpose of
12 identification.)

13 (The tape recording marked as Defendant's Exhibit No. 1 is
14 played outside the presence of the jury.)

15 (During the course of the tape recording being played, the Court
16 interjects as follows:)

17 THE COURT: Who is that doing the talking?

18 A. Maynard Harrell.

19 THE COURT: Who's the other voice?

20 A. That's me.

21 (The tape recording is paused.)

22 MR. VOSBURGH: Do you want me to go ahead and play it
23 all the way through?

24 THE COURT: Didn't you introduce the transcript of this
25 tape recording?

1 MR. NORTON: I've had it marked, Judge. I don't believe
2 that I have actually offered it into evidence, have not yet.
3 It was No. 35. Do I understand that Mr. Vosburgh is getting
4 ready to offer this into evidence?

5 MR. VOSBURGH: No. I had it marked, and I'm going--
6 I'll have her identify her voice.

7 THE COURT: Well, if you're going to play it before the
8 jury, it's got to be introduced. I'll be glad to let you play it
9 out of the presence of the jury, and then you won't ask her any
10 questions about it.

11 MR. VOSBURGH: I'd like to play it all the way through
12 and then ask her in front of the jury if she's heard it.

13 (The tape recording marked as Defendant's Exhibit No. 1 is
14 played in its entirety, from 10:30 a. m. until 11:05 a. m.,
15 outside the presence of the jury and with the witness remaining
16 on the witness stand.)

17 VOIR DIRE CROSS EXAMINATION by MR. VOSBURGH:

18 Q. Ms. Maybin do you recognize both of those voices on that
19 tape?

20 A. Yes.

21 Q. Were you present in the Women's Prison in Raleigh with
22 Mr. Harrell when the tape was made?

23 A. Yes.

24 Q. Does the tape appear to have been altered in any way since
25 that day that you talked to Mr. Harrell?

1 A. No.

2 THE COURT: You can bring the jury back.

3 (The jury returns to the jury box at 11:06 a. m.)

4 CROSS EXAMINATION by MR. VOSBURGH RESUMES:

5 Q. Ms. Maybin, I invite you now to look at State's Exhibit

6 No. 44 and ask you to turn to the second page. Do you have it?

7 A. Uh-huh.

8 Q. Were you under oath at the time that you put your signature
9 on the back of it?

10 A. You mean did I sign--in the courtroom?

11 Q. Yes.

12 A. Yes.

13 Q. Were you under oath? Did you put your hand on the Bible and
14 raise your right hand before you signed it?

15 A. Yes.

16 Q. Do you know what an accessory after the fact of murder is?

17 A. Yes.

18 Q. What is it?

19 A. It's knowing about a crime and not telling.

20 Q. Knowing about it and not telling.

21 A. Uh-huh.

22 Q. Do you know what the elements of Common Law Robbery are?

23 A. I'm not sure; but, I know that I did take the money out of
24 his pocket. I am guilty of it.

25 Q. And, the Breaking and Entering, do you know what the elements

1 of that are?

2 A. I know I went in his house without permission.

3 Q. Now, over on the page where it says--Question No. 11, right
4 up there at the top--

5 A. Uh-huh.

6 Q. It says,

7 "Do you now personally plead guilty or no contest....,"
8 but neither one of them are marked out there. And then the next
9 one, under 12(a) it says,

10 "Are you in fact guilty?"

11 and you didn't answer that question, did you?

12 A. Well, that's what prayer for judgment is for.

13 Q. Is that what prayer for judgment was for?

14 A. For me to give my testimony.

15 Q. For you to give your testimony.

16 A. Yes.

17 Q: In other words, you weren't going to answer whether or not
18 you were in fact guilty until after you testified in this trial;
19 is that right?

20 MR. OGLETREE: Your Honor, may we approach the bench?
21 (Bench conference with all counsel present, including Mr. Charles
22 Ogletree, defense counsel for the witness; reporter waived at the
23 bench.)

24 THE COURT: Continue with your examination.

25 Q. (By Mr. Vosburgh) I'll invite your attention back to

1 Question No. 12(a) which says,

2 "Are you in fact guilty?"

3 and there's an N/A there. Do you know what that means?

4 A. Not applicable.

5 Q. Not applicable.

6 A. Uh-huh.

7 Q. And then the next question under (b) says,

8 "Do you understand that upon your plea of no contest, you
9 will be treated as being guilty whether or not you admit
10 your guilt?"

11 and you answered that "yes"; is that right?

12 A. Uh-huh.

13 Q. Under (c), it says "offered plea." Do you know what an
14 offered plea is?

15 A. It's--she explained it to me. I can't remember now; but, I
16 remember her, Regina Moore, telling me what everything was on
17 here.

18 Q. Do you know what an offered plea is?

19 A. I guess it would be--

20 MR. NORTON: Well, objection.

21 A. I'm really not sure, I don't guess.

22 Q. Under C(1), it said,

23 "Do you now consider it to be in your best interest to
24 plead guilty?"

25 and your answer to that was what?

1 A. Yes, because I was guilty.

2 Q. It says,

3 "Do you understand that upon your offered plea, you will
4 be treated as being guilty whether or not you admit you
5 are in fact guilty?"

6 and your answer to that was what?

7 A. Yes.

8 Q. Then, No. 13 is,

9 "Have you agreed to plead as a part of a plea arrangement,
10 and, before you answer, I advise you that the courts have
11 approved plea negotiating, and, if there is such, you may
12 advise me truthfully without fear of incurring my
13 disapproval,"

14 and your answer to that was what?

15 A. Yes. But I know that I was guilty of accessory. I mean, I
16 knew I was guilty of that. I didn't feel like, you know, I
17 wasn't guilty.

18 Q. Well, you weren't charged with being an accessory after the
19 fact of murder, were you?

20 A. No, not in the beginning.

21 Q. You were charged with Murder in the First Degree, were you not?

22 A. Yes.

23 Q. And, the punishment for an accessory after the fact to murder
24 is 10 years; is that correct?

25 A. Yes.

1 Q. And the punishment for First Degree Murder is either life
2 imprisonment or death, is it not?

3 A. Yes.

4 Q. And the punishment for Breaking and Entering is what?

5 A. Ten.

6 Q. And, if two of the 10-year felonies are consolidated, then
7 the maximum exposure that you would get is 20 years; is that
8 correct?

9 A. Yes, with all of them combined.

10 Q. Did anybody explain that to you?

11 A. Yes, I understand.

12 Q. Did anybody tell you that the date of this offense, if it was
13 before October the 1st of 1994, would have a bearing on how long
14 you would stay in prison?

15 MR. NORTON: Well, objection, if Your Honor please.

16 THE COURT: Objection sustained.

17 Q. The date of this offense was December the 18th, 1993; is that
18 correct?

19 A. Yes.

20 Q. Now, where have you been housed since the 21st of August when
21 you signed this transcript of plea?

22 A. Edgecombe County Jail.

23 Q. Have you had any visitors since you've been in the Edgecombe
24 County Jail?

25 A. My lawyers.

1 Q. Anyone besides your lawyer?

2 A. Mitchell.

3 Q. Mitchell who?

4 A. Nowarah.

5 Q. How often has he been to see you since the 21st of August?

6 A. Every weekend, every other weekend.

7 Q. Was he the only person other than your attorneys that you
8 have had visit you?

9 A. A friend from jail, Cheryl Newbold.

10 Q. Newbold--?

11 A. Newbold. She come once.

12 Q. Now, Ms. Maybin, in the statement that you made on April the
13 25th of 1994, you named a Curtis Furlough as being a participant.

14 A. Yes.

15 Q. Why did you change from Curtis Furlough to another name?

16 A. What do you mean?

17 Q. Did you mention Leroy Spruill and Curtis Furlough, too?

18 A. Yes.

19 Q. Do you know why Curtis Furlough wasn't charged along with
20 Leroy and yourself and Mr. Jones, the Defendant?

21 A. I'm not sure why he wasn't. I told them that he didn't have
22 nothin' to do with it; that I used him.

23 Q. That you used him.

24 A. Yeah.

25 Q. Was this a name that you just pulled out of the air and said,

1 you know, "Curtis Furlough was there"?

2 A. Well, he hung out with Robert.

3 Q. Is that why you used his name, just because he and Robert were
4 friends?

5 A. Yeah.

6 Q. Now, Ms. Maybin, you mentioned that Mr. Harrell had been to
7 see you when you were housed in Raleigh. Did Mr. Harrell ever
8 harass you in any way?

9 A. No. He didn't like--what do you mean by "harass"?

10 Q. Well, did he pressure you into saying or doing anything?

11 A. Like saying stuff?

12 Q. He did?

13 A. Yes. Well, he told me that I needed to say this because I
14 was the only witness.

15 Q. He told you that you needed to say what--

16 A. What I said on the transcript.

17 Q. What you said on the transcript of that tape?

18 A. Uh-huh.

19 Q. He told you that?

20 A. Yes.

21 Q. Is that on this tape?

22 A. No. He wrote down the answers on a sheet of paper. I'm sure
23 you all don't have that; but, he wrote them down.

24 Q. Now, at the beginning of this tape, Mr. Harrell, wasn't he
25 seated in a room there?

1 A. Yes.

2 Q. And, on the tape, can't you hear you walking in the room and
3 sitting down?

4 A. No, sir. You can hear the officer behind me.

5 Q. And then the door closes?

6 A. Yes, sir.

7 Q. And that's all on the tape, isn't it?

8 A. That's where these two inmates come in to clean the building.
9 You can hear them talking in the background.

10 Q. Now, Ms. Maybin, you tried several times to call your own
11 attorney on the phone, did you not?

12 A. Yes.

13 Q. Were you able to complete any of those calls while you were
14 in Raleigh?

15 A. No. She had family problems.

16 Q. She had family problems?

17 A. Yes.

18 Q. Okay. So you didn't complete any of your calls to your
19 lawyer while you were in Raleigh, to Ms. Moore?

20 A. I talked to her once, and that was when she got her new
21 secretary. Her secretary had had a death in the family.

22 Q. How long were you there in Raleigh?

23 A. It was around four months.

24 Q. Ms. Maybin, I invite your attention back to the statement
25 that you gave in April of 1994. Did you tell the officers down

1 there in South Carolina that, right after Mr. Swain's death,
2 Leroy Spruill bought a great big maroon Cadillac?

3 A. Yeah, he bought a big car.

4 Q. Was it a big maroon Cadillac?

5 A. Yeah, it kind of looked maroon. I don't know if it was a
6 Cadillac. It was a big car, four-door.

7 Q. But you called it a big maroon Cadillac; is that right?

8 A.. Yeah, that's what I guess it is.

9 Q. How long was it after that?

10 A. About Christmas.

11 Q. Around Christmas?

12 A.. Yeah.

13 Q. Now, you also stated that neither one of them were working
14 during that time around the 18th of December.

15 A. Uh-huh.

16 Q. Didn't you know that Leroy Spruill was working with a fellow
17 by the name of Ray Price?

18 A. Huh-uh.

19 Q. Are you saying that he never got up and went to work in the
20 morning this entire time you lived with him?

21 A. He worked with Steve Furlough, I thought.

22 Q. That was my next question. Do you know Steve Furlough?

23 A. He came lookin' for Leroy several times.

24 Q. Do you know whether or not Leroy was working for him at that
25 time?

1 A. He come by the house lookin' for him, and he wasn't there.

2 Q. You also stated that the Defendant was not working at that
3 time.

4 A. Uh-huh.

5 Q. But he worked, tending bar some at Big Ed's, did he not?

6 A. Well, yeah. That was earlier when I first met him.

7 Q. Did he work, helping Ed Champ pump out septic tanks?

8 A. I don't know.

9 Q. Didn't you know that?

10 A. I don't know. I know he worked for Big Ed. I thought he was
11 doing asphalt or something.

12 Q. And, my other question is, didn't you know that he was also
13 working as a hand for Mr. Champ in his paving contracting
14 business?

15 A. Yeah, I knew that when I met him.

16 Q. Ms. Maybin, when you left South Carolina to come to North
17 Carolina, how old was your daughter at that time back in 1993?

18 A. Well, she had just turned--I guess she would be three.

19 Q. She was three years old?

20 A. Uh-huh.

21 Q. Where is she now?

22 A. She's with my mother.

23 Q. With your mother?

24 A. Uh-huh.

25 Q. When was the last time you had an opportunity to see your

1 daughter?

2 A. The night I was arrested.

3 MR. VOSBURGH: Your Honor, that's all the questions I'd
4 have at this time.

5 THE COURT: All right. We're going to take our morning
6 recess at this time. Remember not to talk about the case among
7 yourselves during the recess. Sheriff, take them to the jury
8 room now. If any of them need to go to the snack area, go down
9 there with them and take them. Wait. Take them to the
10 Commissioner's Room instead.

11 (The jury is excused to the Commissioner's Room at 11:25 a. m.
12 and is not present in the courtroom.)

13 THE COURT: You can take the witness. We'll be in
14 recess until 20 minutes until 12:00.

15 (Recess is taken at 11:25 a. m. until 11:40 a. m.)

16 (Mr. Norton, Mr. Anglim, Mr. Vosburgh, Mr. Skinner, and the
17 Defendant are present.)

18 (The jury is in the Commissioner's Room.)

19 THE COURT: You can bring the witness back in.

20 (The witness returns to the witness stand.)

21 THE COURT: Did you say you had no further questions,
22 Mr. Vosburgh?

23 MR. VOSBURGH: On this portion of my examination, no
24 further questions of this witness at this time.

25 THE COURT: Gentlemen, I want both sides to understand

1 that the Court's position is that re-direct and re-cross are
2 designed to clarify any matters that were brought out by the
3 other party on their examination of the witness, and; I do not
4 intend to have either side, on re-direct or re-cross, to
5 introduce new evidence. Bring the jury back in.

6 (The jury returns to the jury box.)

7 THE COURT: Does the State have any further questions?

8 MR. NORTON: Yes, if Your Honor please.

9 REDIRECT EXAMINATION by MR. NORTON:

10 Q. Ms. Maybin, you were asked by Mr. Vosburgh about your
11 April 25th statement that you first gave when you were in South
12 Carolina, I believe.

13 A. Uh-huh.

14 Q. Have you read through that statement?

15 A. Well, I have them, but--

16 Q. You say you do have them?

17 A. Uh-huh.

18 Q. Where did you get those statements from?

19 A. From Mr. Ogletree, my lawyer.

20 Q. But you have not had the opportunity to look at them--or, have
21 not read them?

22 A. (Witness shakes her head.)

23 (State's Exhibit No. 46 is marked for the purpose of
24 identification.)

25 Q. I'll show you now what's been marked for identification as

1 State's Exhibit (No. 46) and ask you to look at that and see if you
2 recognize that, Ms. Maybin.

3 (Witness complies.)

4 A. It's the first statement--April.

5 Q. What day in April was it?

6 A. The 25th.

7 Q. What time was it that that statement was given, Ms. Maybin?

8 A. At 5:30 p. m.

9 Q. Would you read through that statement, Ms. Maybin?

10 A. What part?

11 Q. Just read it to yourself. I'm not asking you to read it
12 outloud.

13 THE COURT: I must say that I'm shocked that you have
14 not let her review this statement before you called her as a
15 witness. We'll just wait for you to read it now.

16 A. Okay.

17 Q. Ms. Maybin, have you had an opportunity to read through that?

18 A. (Witness nods.)

19 Q. Now, anywhere in the statement, do you use the phrase that
20 you had any intense hatred of Mr. Solis?

21 A. No.

22 Q. What did you tell them your feelings were about Mr. Solis
23 in that statement?

24 A. I said that I was scared.

25 MR. VOSBURGH: Your Honor, I didn't hear her answer.

1 A. I said that I was scared.

2 Q. Why did you tell them that you were afraid of Mr. Solis?

3 A. Well, he had told me he had killed two people already, and,
4 plus, I'd seen him--

5 MR. VOSBURGH: Objection; move to strike.

6 THE COURT: Well, we've been over every bit of that.

7 The objection is sustained.

8 Q. You say you were scared of him.

9 A. Uh-huh.

10 Q. Now, in the June statement, Ms. Maybin, do you ever use the
11 words "intense hatred," that you intensely hated Mr. Solis?

12 A. I don't know.

13 Q. What were your feelings about Mr. Solis?

14 A. I was scared of him.

15 Q. Were you scared of him after this murder?

16 A. Yes.

17 Q. Are you scared of him today?

18 A. Yes.

19 Q. Why are you afraid of him today?

20 A. Because I seen what he done.

21 MR. VOSBURGH: I can't hear her.

22 A. 'Cause I seen what he done.

23 Q. Ms. Maybin, I'll ask you to take a look at State's Exhibit

24 No. 29. Do you recall that?

25 (Witness complies.)

1 A. Yes.

2 Q. In that statement--

3 THE COURT: Let me see it just a minute.

4 (The Court examines paper-writing furnished by the witness.)

5 THE COURT: You have already examined her about this
6 exhibit, have you not?

7 MR. NORTON: Yes, sir, I had asked her about that one.

8 THE COURT: What was asked about that on cross-
9 examination?

10 MR. NORTON: Pardon?

11 THE COURT: What was asked about State's Exhibit No. 29
12 on cross-examination that now needs to be clarified?

13 MR. NORTON: State's Exhibit No. 29, if Your Honor
14 please, was not referred to directly; but, all of this material,
15 the questions revolve around not only State's Exhibit No. 29,
16 the statements made to the police and also the diary entries,
17 although it was not referred to directly and specifically. All of
18 this material is interwoven.

19 THE COURT: Take the jury out.

20 (The jury is excused to the jury room at 11:55 a. m. and is not
21 present in the courtroom.)

22 THE COURT: Mr. Norton, you had this witness on the
23 stand for three hours and 50 minutes. Now, tell me what it is
24 about that statement that you want to ask her that hasn't already
25 been asked.

1 MR. NORTON: She, I believe, has read this letter into
2 evidence. The question is asked, if Your Honor please, about
3 didn't she say in the April statements, in the June statement,
4 that she had an intense hatred for Mr. Solis. Nowhere in either
5 of those statements is that present. She has indicated that she
6 had not read those statements. That was--

7 THE COURT: As I recall, she testified that she had
8 intense hatred for this Defendant from this witness stand this
9 morning.

10 A. I said I wasn't sure if I wrote that.

11 THE COURT: I beg your pardon?

12 A. He asked me if I had wrote it in the statements, if I'd said
13 it, and I said, "I don't know because I haven't read my
14 statements."

15 THE COURT: She's testified, as I recall, that she has
16 intense hatred. She's read that statement into evidence, and
17 the jury can recall what was in that statement. You said she'd
18 read it already to the jury. You can retry your whole case, and
19 you can spend another three hours and 50 minutes going over
20 matters that you've already been over, and I'm not going to allow
21 that.

22 MR. NORTON: If Your Honor please, as I understood her
23 testimony and the questions that were asked of her were relative
24 to not whether she has intense hatred for him but whether or not
25 she had said in those statements or in the letters that she had

1 intense hatred.

2 THE COURT: Well, you can ask her whether or not she
3 has intense hatred for the Defendant. I'm not allowing you now
4 to go back and have her testify from the statements you've already
5 had read into evidence before the jury. Bring the jury back.
6 (The jury returns to the jury box.)

7 Q. (By Mr. Norton) Ms. Maybin, you were asked whether or not
8 you had intense hatred for Mr. Solis. Did you tell Officer
9 Varnell in December and Officer Spruill in June of '94 and this
10 Court here this week, this jury this week, that you observed the
11 death of Frank Swain at the hands of Leroy Spruill and Robert
12 Solis because of intense hatred?

13 MR. VOSBURGH: Objection.

14 A. No.

15 THE COURT: Sustained. That question makes no sense
16 whatsoever.

17 Q. Why did you tell the jury what you saw there that day?

18 A. Because--

19 MR. VOSBURGH: Objection.

20 THE COURT: Objection is sustained.

21 Q. Do you hate Leroy Spruill?

22 MR. VOSBURGH: Objection.

23 THE COURT: Overruled.

24 A. No.

25 Q. In fact, what kind of relationship did you have with Leroy

1 Spruill?

2 MR. VOSBURGH: Objection.

3 THE COURT: She's already been over that.

4 Q. Now, you were also asked about--it was phrased as an "offered
5 plea." Who instructed you about the law when you gave this plea,
6 Ms. Maybin?

7 A. My lawyers.

8 Q. Who was that at that time?

9 A. Regina Moore and Charles Ogletree.

10 Q. Did they also sign off on that form with you?

11 A. Yeah. I think it's on the back.

12 Q. Now, you were also asked about your April statement, and I
13 believe the question was if you knew why Curtis Furlough was not
14 charged. Did Mr. Furlough have anything to do with this killing?

15 A. No.

16 Q. Did you later tell the officers that?

17 A. Yes.

18 Q. Now, you were also asked whether or not you had attempted to
19 contact your attorney. That was Ms. Regina Moore. Did you do
20 that?

21 A. Yes, when I was in safe-keeping.

22 Q. What was the result of that?

23 A. She said she was going to try to come see me.

24 Q. Did she ever do that?

25 A. She couldn't.

1 Q. Were you able to get in touch with her by telephone or she
2 return your calls?

3 A. That once. She couldn't return my calls because we had to
4 call collect.

5 Q. Did you make records of that?

6 A. Yes.

7 Q. What did you make the records or notes about that on,
8 Ms. Maybin?

9 A. I wrote it in the diary entries.

10 THE COURT: Take the jury out.

11 (The jury is excused to the jury room at 12:02 p. m. and is not
12 present in the courtroom.)

13 THE COURT: I assume you're now going to offer her
14 documents to identify?

15 MR. NORTON: No, sir. These documents have already been
16 identified--

17 THE COURT: What documents are they?

18 MR. NORTON: It would be Nos. 34, 36, 37, 38, and 39,
19 I believe.

20 THE COURT: What did he ask about those on cross-
21 examination that now you need to clarify?

22 MR. NORTON: Again, if Your Honor please, he has not
23 specifically asked about whether--has not specifically asked about
24 these particular exhibits. He has not. The question that was put
25 to her was in the form of whether or not she had tried to get in

1 touch with her attorney. She responded--

2 THE COURT: She said she did, and you asked her that,
3 and she said she had tried to do that.

4 MR. NORTON: Right. And, she said that she could not
5 get in touch with them--

6 THE COURT: That's what she told Mr. Vosburgh.

7 MR. NORTON: And, she has made a record of it. The
8 question that I want to ask is--she said she made a record--is
9 this the documents in which she makes a record of that.

10 THE COURT: There's no dispute about it. She told
11 Mr. Vosburgh the same thing she told you, and the Court will not
12 allow you to go into that with the jury. Bring the jury back.
13 What you want to do is retry your case,--

14 MR. NORTON: No, sir. I want--

15 THE COURT: --and I'm not going to allow that.

16 MR. NORTON: No, sir. What I want to do is to have it
17 specifically listed that the times that she recorded this is in
18 this series of documents because it appears nowhere else, in
19 either the statements or the diary transcripts, with the exception
20 of this right here.

21 THE COURT: Those documents are in evidence, and you can
22 certainly argue from those documents when you argue your case to
23 the jury. Bring the jury back.

24 (The jury returns to the jury box at 12:05 p. m.)

25 THE COURT: Ask your next question.

1 Q. (By Mr. Norton) When did you make these entries, Ms. Maybin?

2 A. When I was in Raleigh.

3 Q. Did you record them daily at that time?

4 A. No.

5 Q. Not every day?

6 A. Huh-uh.

7 Q. You were asked about whether or not Mr. Leroy Spruill
8 purchased some automobile. When was that?

9 MR. VOSBURGH: Your Honor, objection.

10 THE COURT: Well, are you talking about when was she
11 asked that, or--?

12 Q. Do you know when he purchased the automobile?

13 THE COURT: Overruled.

14 A. It was around--about two weeks after the murder.

15 Q. Do you know where the money came from?

16 A. He said his father.

17 Q. He said his daddy gave it to him?

18 A. Uh-huh.

19 (State's Exhibit No. 47 is marked for the purpose of
20 identification.)

21 THE COURT: Take the jury out.

22 (The jury is excused to the jury room at 12:08 p. m. and is not
23 present in the courtroom.)

24 THE COURT: I'll hear what document you now wish to
25 offer and why.

1 MR. NORTON: If Your Honor please, this document here--
2 I'm attempting to save the Court some time hopefully. It's a
3 series of diary entries, dated the 21st of December, 22nd of
4 December, 23rd, 24th, 25th, 26th, 27th, 28th of December, down
5 through the 28th of December. This material is not--was not asked
6 about during cross. I would attempt just to have her to identify
7 it. I would offer the evidence for corroborative as to her prior
8 testimony. It's either that, or I would ask the Court to consider
9 to allow me to recall her after she comes off the stand.

10 THE COURT: I'll not allow you to recall her, and I'm
11 not allowing you to put that into evidence. Bring the jury back.
12 (The jury returns to the jury box at 12:11 p. m.)

13 Q. (By Mr. Norton) Ms. Maybin, you were also asked by
14 Mr. Vosburgh about this Nichole Mills. You indicated that she was
15 Ed Champ's niece. How were you aware of that?

16 A. She told me.

17 MR. VOSBURGH: Your Honor, I'd object.

18 THE COURT: Overruled. She testified as to that.

19 Q. When was it that she told you that?

20 A. When I met her and told her the people I was involved with
21 in the case.

22 Q. Was that after you had been arrested and brought back to the
23 Beaufort County Jail?

24 A. Yes.

25 Q. Why was that important to you, Ms. Maybin?

1 A. Robert told me that, if he didn't get me, the gypsies would,
2 and, she was kin to them--

3 MR. VOSBURGH: Objection; move to strike.

4 THE COURT: Overruled; motion denied. That's about as
5 far as you're going to be allowed to go.

6 Q. This Ed Champ, is that the same family that Mr. Solis was
7 working with at the time?

8 A. Yes.

9 Q. --or, working for. Excuse me. Was he also living with them
10 at the time--

11 MR. VOSBURGH: Objection.

12 Q. --that you were going with him?

13 THE COURT: Overruled.

14 A. Who?

15 Q. Mr. Solis.

16 A. No.

17 Q. Was he living out at the house at the time that this murder
18 occurred?

19 A. At the Champ's.

20 Q. Now, you were also asked about the transcript that was taken
21 in Raleigh, I believe, by Mr. Harrell. That's State's Exhibit
22 No. 35. Now, when Mr. Harrell first came in, was the tape
23 recorder cut on immediately?

24 A. No.

25 MR. VOSBURGH: Objection, Your Honor.

1 THE COURT: Overruled.

2 Q. What occurred prior to the tape recording being cut on,
3 Ms. Maybin?

4 A. Well, he came in and sat down with me and told me what he was
5 going to do; he was going to ask me questions, and, if I needed
6 any help, he would help me. He basically told me what he was
7 going to ask.

8 Q. What about--had you gone over and discussed what the answers
9 were going to be?

10 A. Yes.

11 Q. How about when you had earlier met with both Mr. Harrell and
12 Mr. Vosburgh a couple of days before this; had you gone over the
13 statements at that time?

14 A. We had went over who had seen us at the bar. They were
15 saying that they had no evidence; that all they had was my
16 testimony, and; I told them that Robert had killed the man, and
17 they were saying no. And, about the truck, he said the truck
18 wasn't used because it was tore up; and, you know, that's what
19 Leroy's daddy said; that the truck was tore up, and he was going
20 to testify as to that.

21 Q. Was the truck tore up?

22 A. No, because we drove it.

23 Q. Had you gone over the answers and the questions at the time
24 prior to this being recorded?

25 A. Yes.

1 Q. Had you gone over some of the answers and the questions at the
2 prior meeting?

3 A. Yes.

4 Q. Now, was the first meeting, was it recorded?

5 A. No.

6 Q. At the first meeting, were you under oath at that time; in
7 other words, Mr. Vosburgh asked you and you put your hand on the
8 Bible and swore to tell the truth at that time?

9 A. No.

10 Q. How about at the time that you gave this statement,
11 Ms. Maybin?

12 A. No.

13 Q. And, at the time that you gave the first April statement, the
14 April 25th statement in '94, were you under oath at that time?

15 A. No. I didn't place my hand on no Bible or anything.

16 Q. How about the June statement?

17 A. No.

18 Q. And, the December statement, for that matter?

19 A. No.

20 Q. Now, you were also asked about your plea transcript, your
21 guilty pleas. Now, you were also asked about a no contest plea.
22 Did you plead no contest or did you plead guilty to what you were
23 charged with--?

24 MR. VOSBURGH: Objection, Your Honor. The transcript
25 is the best evidence.

1 THE COURT: Overruled.

2 A. I pleaded guilty.

3 Q. Were you guilty of those offenses?

4 A. Yes.

5 Q. The maximum sentence of 20 years that you could receive--

6 THE COURT: We've been over every bit of that. You went
7 over that on direct examination.

8 Q. Who's going to sentence you in this case?

9 A. The judge.

10 Q. Judge Brown?

11 A. Uh-huh.

12 MR. NORTON: That's all the questions I have.

13 MR. VOSBURGH: I have no further questions of this
14 witness, Your Honor.

15 THE COURT: Call your next witness.

16 MR. NORTON: Maurice Wilkins.

17 MAURICE WILKINS, being first duly sworn, testified as follows
18 during DIRECT EXAMINATION by MR. MITCHELL NORTON:

19 Q. You're Mr. Maurice Wilkins?

20 A. Yes.

21 Q. How old are you, Mr. Wilkins?

22 A. Twenty-two.

23 Q. Where do you live, sir?

24 A. Macedonia.

25 Q. Have you always lived here in Washington County?

Handout 106

STATE OF NORTH CAROLINA

COUNTY OF WASHINGTON

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
CASE NO. 94 CRS 1973; 95 CRS 1565
SUPERIOR COURT DIVISION

VS

TRANSCRIPT

WALLACE BRANDON JONES,
aka ROBERT SOLIS,
aka CHRISTOPHER REED BASS
Defendant.

Transcript of proceedings taken in the General Court of Justice, Superior Court
Division, Washington County, State of North Carolina, at the 28 August 2000 Criminal
Session, the Honorable J. Richard Parker, Judge Presiding.

APPEARANCES:

MS. MARY WINSTEAD
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For the State of North Carolina

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1 THE FOLLOWING PROCEEDINGS ARE HAD ON AUGUST 30, 2000,
2 BEGINNING AT APPROXIMATELY 9:50 A. M.

3 THE COURT: The one that I want to start on is
4 Wallace Brandon Jones. That's the case I want to start on.
5 (Ms. Winstead, Ms. Echols, and Mr. Carter are present in the
6 courtroom; the defendant is not present.)

7 THE COURT: Identify yourselves for the record.

8 MS. ECHOLS: Good morning. I'm Letitia Echols with
9 the North Carolina Prisoner Legal Services, along with my
10 co-counsel, James Carter, representing the Defendant in this
11 case.

12 MR. WINSTEAD: Mary Winstead with the Attorney
13 General's Office appearing for the State.

14 THE COURT: Is the Defendant going to be present,
15 Ms. Echols?

16 MS. ECHOLS: Yes. He's at the jail and needs
17 to be brought up.

18 THE COURT: Has anybody sent for him?

19 BAILIFF DAVENPORT: Yes, sir.

20 THE COURT: Do you want him to be here before we get
21 into any preliminary matters?

22 MS. ECHOLS: Yes, sir.

23 THE COURT: All right. We'll just wait on him then.
24 (The Defendant enters the courtroom at 9:55 a. m. and is now
25 present at defense counsel table.)

1 THE COURT: Mr. Jones is here now?

2 MS. ECHOLS: Yes.

3 THE COURT: Let me get each one of you to give me
4 some best estimate as to how long you think this Motion for
5 Appropriate Relief will take because we have other matters
6 that I need to kind of schedule.

7 MS. ECHOLS: Your Honor, as far as we are concerned,
8 we expect the testimony on our part of the case to take half a
9 day. I'm not sure what the State is going to put on.

10 THE COURT: What about you, Ms. Winstead? Some best
11 estimate as to the length of time this might take.

12 MS. WINSTEAD: Before I got here today, I was
13 thinking it would probably take two days. But, after talking
14 with defense attorneys, with their estimate, it may be that
15 can complete it today.

16 THE COURT: All right. Those of you who are
17 involved in the next Motion for Appropriate Relief, I'm going
18 to release you for the balance of the day and ask that you be
19 back tomorrow morning at 9:30.

20 I have not had a chance to read everything in this file,
21 obviously. It's quite thick. I would like for each one of
22 you to take a little bit of time to brief me on what this is
23 about. Mr. Carter?

24 MR. CARTER: Thank you, sir. Your Honor, we are
25 here today for a hearing on a Motion for Appropriate Relief,

1- setting forth basically two claims.

2 Number one is that there was an actual conflict of
3 interest between the Defendant and his defense team that arose
4 during the trial which constructively denied him effective
5 assistance of counsel.

6 The second issue, the main issue that we're going to go
7 into today, is the State's failure to provide exculpatory
8 information under Brady.

9 Now, Mr. Jones was tried September 18th, 1995, in this
10 courtroom on capital murder. His attorney at that trial at
11 that time was James Vosburgh, and he will testify that the
12 State's evidence in this case was weak. There was no physical
13 evidence that tied Mr. Jones to the crime that he was accused
14 of. The State will relied very heavily on one witness, a lady
15 by the name of Dana Maybin. Dana Maybin gave conflicting
16 statements of what she knew about this to law enforcement
17 implicating Mr. Jones in this case. Ms. Maybin also gave a
18 taped statement to the defense team indicating that Mr. Jones
19 had not been involved with the death of Frank Swain.

20 After the final pre-trial motions were heard the day of
21 trial, the District Attorney's Office raised a potential
22 conflict of interest issue. That conflict was based on a
23 document which was actually an interview done by an S. B. I.
24 agent with a cellmate of Dana Maybin's by the name of Nicole
25 Mills. And, in that statement, Ms. Mills is alleged to have

1 told the S. B. I. agent that, while she was a cellmate of
2 Ms. Maybin's, the defense team was passing information to her
3 that she was passing to Dana Maybin. She would get Dana
4 Maybin's reaction, and then she would pass that information
5 back to the defense team. She also alleged that, in that
6 statement from the S. B. I., that one of the members of
7 another of a co-defendant's defense team had actually asked
8 her to get Dana Maybin's diary and copy it for him. Because
9 this issue was raised at the last minute, it was raised just
10 at the instant before jury selection started in this case.
11 The attorneys for the defense team, James Vosburgh and
12 John Skinner, all the information they had about the conflict
13 was this letter that Nichole -- or, excuse me, this interview
14 with Nicole Mills. There were also some other statements
15 made. But they went back and had a conference with their
16 client, and, after that conference, they determined there
17 wasn't a conflict, they so advised their client there wasn't a
18 conflict, and there was a brief proceeding in front of Judge
19 Brown, and the trial continued. Nicole Mills was never called
20 to testify, the lady that had done the interview. She never
21 testified at the trial. The State didn't call her. Nor was
22 she called by the defense team. But Dana Maybin did testify.
23 And what Dana Maybin testified to is that she wrote diary
24 entries while she was incarcerated that would recant her
25 admissions to law enforcement that she knew something about

1 this case. And she will testify that Nicole Mills and the
2 defense team was the one that was giving her information to
3 write these recantations. And that came out during her
4 testimony. In essence, what Ms. Maybin will testify to is
5 that, "Because of the defense team and because of the
6 information I got from Nicole Mills, I changed my story."

7 Those allegations coming out at trial was something that
8 the defense team wasn't prepared for. They didn't have any of
9 this information prior to the time they advised their client.
10 Judge Brown, according to the record, did not have this
11 information prior to the time that he spoke with the Defendant
12 in open court. So the defense team went ahead with the trial,
13 these statements come out, and, at this point in time, what
14 Jim Vosburgh will tell you is that, when the statements came
15 out, had he known about this at the pre-trial meeting, he
16 would have been forced to withdraw from this case because of
17 the conflict. In essence, Dana Maybin's statements and where
18 she had got the information to change her stories she said
19 came from the defense team through Nicole Mills. And that
20 testimony basically goes un rebutted.

21 So, what we have is, we have a jury who now has been
22 charged with determining the guilt or innocence of a client
23 but they've also got an issue there of conflict between the
24 Defendant and the defense team, that the defense team's
25 integrity has been brought into question at the same time.

1 The second issue, Your Honor, is that Ms. Maybin, who wa
2 basically the State's star witness, and another individual by
3 the name of Maurice Wilkins who supplied testimony for the
4 State, both took the stand and indicated that they had been
5 given lie detector or polygraph tests. This information, even
6 though no results of the polygraph tests were offered into
7 evidence, these statements by both those witnesses were not
8 objected to. So, what the jury heard was this State's witness
9 and this State's witness saying, "Hey, I took a lie detector
10 test," or "I took the polygraph test." It was never objected
11 to; it was never stricken from the record.

12 You'll also see evidence today, Your Honor, that two
13 cellmates, or two persons, who were cellmates of Mr. Jones'
14 during this pre-trial incarceration will come forward and te
15 you that the State had attempted to get inculpatory
16 information from them regarding Mr. Jones and they could prove
17 him guilty at trial. One of them, in fact, was asked to get a
18 letter or something to give to law enforcement authorities.
19 None of this information was brought to the attention of the
20 defense team, even though a specific Brady request had been
21 made for the names of all people who had been interviewed by
22 the State that may have exculpatory information in regard to
23 this claim.

24 So, basically, Your Honor, what we believe we will show
25 you is that from the evidence, this is a very close case. The

1 jury had it for three days. The conflict issue at trial.
2 There were statements made by defense witnesses that they had
3 taken lie detector tests that weren't objected to. And there
4 was information that was exculpatory to Mr. Jones that was
5 never given to the defense team. We believe for those reasons
6 Mr. Jones did not receive the fair trial that he deserved.

7 THE COURT: Thank you. Ms. Winstead.

8 MS. WINSTEAD: Judge, first of all, with regard to
9 the conflict of interest claim, I would direct the Court's
10 attention to the trial transcript. I assume -- is that here
11 in the courtroom? Do you know, Madam Clerk, if the trial
12 transcript is here in the courtroom or not? If I could hand
13 up my copy of that, Judge, Volume I, part of the jury
14 selection. Page 31 of that transcript, Mr. Norton, the
15 District Attorney, brought to the Court's attention the
16 possibility of a conflict of interest. Judge Brown heard
17 trial counsel briefly on that issue and then asked the defense
18 attorneys, Mr. John Skinner and now Judge Vosburgh, to retire
19 with the Defendant to discuss the matter of a possible
20 conflict of interest and the fact that some of the evidence
21 might show that specifically Judge Vosburgh might look bad in
22 front of the jury. They retired with the Defendant, came back
23 into open court, and announced that they wanted to proceed as
24 counsel and that the Defendant wanted them to as well. Judge
25 Brown examined the Defendant in open court on the record, and,

1 at that time, the Defendant told him in no uncertain terms
2 that he wanted these two attorneys to continue, and he was
3 asked by Judge Brown, "Are you going to waive this issue
4 forevermore? If you are convicted and get the death penalty,
5 are you telling this Court that you're not going to ever raise
6 this conflict of interest issue?" and the Defendant told him
7 in open court that he was not going to do that.

8 So, our argument with regard to the conflict of interest
9 claim, Judge, and I've attached a copy of the Supreme Court
10 Opinion in the direct appeal in this case, is that this claim
11 is very clearly procedurally barred under North Carolina
12 General Statute 15A-1419(a) (3), which bars a claim on a motion
13 for appropriate relief if, upon a previous appeal, the
14 Defendant was in a position to adequately raise the ground
15 issue underlying the present motion but did not do so, and
16 that's exactly what we have here. We have a matter that was
17 addressed by the trial court. It's apparent from the record.
18 Different appellate counsel represented the Defendant on
19 appeal. Judge Vosburgh and Mr. Skinner did not. They chose
20 not to raise this claim before the North Carolina Supreme
21 Court. And so, under the statute, it is very clearly
22 procedurally barred. If you have a chance to look at the
23 Supreme Court Opinion, towards the very end of it, several
24 issues are raised about Nicole Mills, what Dana Maybin said
25 Nicole Mills told her, and I quoted parts of that in the

1 State's response - the Court, reviewing the transcript and
2 basically finding no wrongdoing on the part of the defense
3 attorneys. And so they argued all around the issue on appeal
4 but never raised the conflict of interest issue, and so it is
5 very clearly procedurally barred.

6 Additionally, the Defendant waived his right to raise
7 this issue there before the judge in open court. So, the
8 State would argue that it's procedurally barred and that he's
9 waived it and that we shouldn't even have to hear testimony
10 with regard to the conflict of interest issue.

11 With regard to the alleged Brady claims, the State would
12 contend that none of these will reveal exculpatory information
13 that should have been provided to the defense attorneys; that
14 even if some of this information is -- even if somehow these
15 inmates come up with some exculpatory information that they
16 say they provided the State that was not provided to the
17 defense, this simply is not the kind of information that rises
18 to the level to make out a Brady violation, and I've set out
19 in here the Strickler versus Green case, which I believe is
20 the latest United States Supreme Court case, also capital
21 murder, or tried as capital murder and was actually convicted
22 in that case. At any rate, there's no reasonable probability
23 of a different result based on the character of the evidence
24 that has been proffered through the affidavits of these three
25 prospective witnesses, Tommy Ward; James Travis Clark, and;

1 Lynn Rogers.

2 With regard to the polygraph issue, I've set out in here
3 and I've expanded on the defense attorneys -- the case they
4 cited in their Brief, Plath v. Moore. Actually, this case is
5 pretty much on point with that with regard to the fact that
6 the witnesses, Dana Maybin and Maurice Wilkins, who made
7 mention of having taken a polygraph test, did not testify as
8 to the results. Dana Maybin's testimony was very lengthy.
9 The jury had the opportunity to judge her credibility for
10 themselves as well as Maurice Wilkins and to have objected to
11 that would have simply highlighted the testimony. So the
12 State would argue that this nor any of the other evidence, or
13 purported evidence, that's mentioned in the Defendant's motion
14 would cause the defense attorneys to have been ineffective.

15 I should mention as well, I believe Mr. Carter said that
16 Dana Maybin's testimony about the diary entries was, I believe
17 he said it went largely unrebutted. Actually, Maynard Harrell
18 and Seth Edwards represented this Defendant's co-defendant
19 whose name was Leroy Spruill. At the trial, the defense
20 called as their first witness Maynard Harrell, and he rebutted
21 the claims that Dana Maybin had made about these conversations
22 she had had with Judge Vosburgh and with Maynard Harrell. And
23 so I would also direct the Court's attention to Volume IV of
24 the transcript and to the testimony of Maynard Harrell. And
25 our contention would be that, and I believe the former defense

1 counsel will testify as well, that that adequately covered the
2 issue, and, actually, that Mr. Harrell was probably in a
3 better position to be able to persuade the jury of the fact
4 that no wrongdoing had occurred than was Mr. Vosburgh. If he
5 had withdrawn and later had testified for the Defendant, well,
6 he's someone who the jury might perceive has had an interest
7 or a stake in helping this defendant, whereas Mr. Harrell
8 represented the co-defendant and that perception would not be
9 there. And so our contention would be, if we reach the
10 substantive issue, that his testimony adequately covered that.
11 And I can hand that up as well.

12 THE COURT: All right.

13 MS. WINSTEAD: Volume IV, Page 917.

14 (Ms. Winstead furnishes transcript to the Court.)

15 (Mr. Norton is now present at State's counsel table.)

16 THE COURT: Does the Defendant have any evidence?

17 MR. CARTER: Yes, Your Honor, we do.

18 THE COURT: Call your first witness.

19 MR. CARTER: We'd call as our first witness

20 Mr. James Vosburgh.

21 JAMES R. VOSBURGH, after first being duly sworn, testifies as
22 follows during DIRECT EXAMINATION by MR. CARTER:

23 Q. Would you please state your name.

24 A. James R. Vosburgh.

25 Q. And how are you currently employed?

1 A. I'm presently a superior court judge.

2 Q. Prior to being appointed to the bench, how were you
3 employed?

4 A. I was in the private practice of law in Washington, North
5 Carolina, and had been in practice since -- in Washington
6 since 1964.

7 Q. Had you been an attorney before 1964?

8 A. No. Not a practicing attorney.

9 Q. What type of practice did you have here in Washington?

10 A. I had a predominantly criminal practice. About 60 to 65
11 percent of my practice was criminal work, and 40 to 35 percent
12 was civil work. Mostly trial work. I didn't do a lot of
13 title searches and things like that. Most of the time that I
14 spent was in either the district courts or the superior court
15 in the five counties of this district court and also actually
16 from the Virginia line down to Wilmington.

17 Q. How many capital trials had you participated in before
18 you were in this one?

19 A. I had participated I think in 14 First Degree Murder
20 trials, not all of which were capital because some of them
21 came during the period of time when there was a hiatus with
22 regard to death penalty cases in North Carolina. I
23 participated as a private prosecution attorney in the case of
24 Sam Nick Moore in Washington, North Carolina. The jury
25 imposed the death -- or the death penalty was imposed in that

1 case. He got a new appeal based on errors committed in the
2 trial, and, when he was re-tried, he got a life sentence
3 because it came during the period of time when there was not
4 a death penalty in North Carolina.

5 Q. Were you a retained attorney or were you appointed to
6 represent Mr. Jones?

7 A. I was appointed by the court to represent Mr. Jones as
8 the second chair. Mr. John Skinner had previously been
9 appointed.

10 Q. When you were first appointed to represent Mr. Jones,
11 what was he charged with?

12 A. He was charged with First Degree Murder, and there was
13 some other charge. This is the only one that I really have
14 any real recollection of preparing for.

15 Q. You say that Mr. Skinner was appointed initially?

16 A. Yes.

17 Q. So you were appointed under 7450(b)(1) --

18 A. I believe he was appointed after a Rule 24 hearing that
19 was held here. I think I was appointed at that time.

20 I know I think Judge Michael Paul was the district court
21 judge that appointed me.

22 Q. How did you and Mr. Skinner divide the responsibilities
23 of preparing for this trial?

24 A. Well, most of the actual trial tactics to be used in the
25 courtroom, I assumed the responsibility for that. Mr. Skinner

1 handled a lot of the administrative things, for instance,
2 located witnesses for me to interview. And, also, he prepared
3 primarily for a sentencing phase, the specialist that had been
4 used as an expert witness, he handled just about all of that.

5 Q. So, would it be a fair statement to say that you were the
6 one making the tactical decisions for this trial?

7 A. Well, it didn't start out that way, but after we got into
8 the trial, I felt like that we would maybe have a better
9 result if we divided it up that way, and that's the way it was
10 done.

11 Q. Was anybody charged along with Mr. Jones in this trial?

12 A. Yes. Dana was charged as a defendant and Leroy Spruill.
13 All three of them, I think, were initially charged with First
14 Degree Murder.

15 Q. And do you know who represented Mr. Leroy Spruill?

16 A. Maynard Harrell and Seth Edwards from the Beaufort County
17 Bar.

18 Q. And how about Ms. Maybin?

19 A. Ms. Maybin was represented by Regina Moore from
20 Williamston and later I believe Mr. Charles Ogletree from
21 Tyrrell county, Columbia, I believe he was appointed because
22 of the nature of the offense with which she was charged.

23 Q. Did you have a working relationship with the attorneys
24 for co-defendant Spruill?

25 A. I've had a professional and a friendly relationship

1 especially with Maynard Harrell for, gosh, I don't know how
2 many years. I guess ever since he's been here to practice.
3 Regina Moore, I've always gotten along with her well.
4 Mr. Skinner. I think I recommended that Seth Edwards be
5 appointed to work with Mr. Harrell because he was young, but
6 he also was very energetic, he's very thorough, and I thought
7 that he would be good help for Mr. Harrell in the preparation
8 of the case.

9 Q. Did you share information with the attorneys for either
10 Leroy Spruill or Dana Maybin?

11 A. I shared everything that I got with Maynard Harrell, and,
12 as far as I know, he did the same with me. And we prepared as
13 though they were going to be joint trials, and I had had a
14 conversation with Mr. Norton which led me to believe that the
15 Spruill and Jones cases would be tried together, but Dana
16 Maybin's case would not be.

17 Q. Were in fact Mr. Spruill and Mr. Jones tried jointly?

18 A. No, they were not. We were served with a Motion to
19 Sever I think within a matter of anywhere from three to five
20 minutes before the start of the trial.

21 Q. Who was tried first then?

22 A. Wallace Brandon Jones.

23 Q. And his case was called for trial that day?

24 A. It was called that day.

25 Q. Did the severance cause you concern at that time?

1 A. Yes, it did, because Mr. Harrell and I had done all of
2 our preparation jointly, and I know that if the two defendants
3 had been tried together, they had both been prepared to
4 testify as witnesses in their trials, and it -- well, it was
5 like throwing a hand grenade in a small room. It just blew up
6 everything that we had worked together in order to prepare.

7 Q. Based upon your investigation of these charges, what
8 physical evidence did the State have that implicated your
9 client?

10 A. I don't believe they had any physical evidence. And,
11 whatever they had would be in the record, and I don't think
12 that the record discloses much, if any.

13 Q. Was there any key evidence that you considered the most
14 troublesome in preparing your defense?

15 A. The key evidence and the most troublesome was trying to
16 find out what the key State's witness would testify on the
17 stand because I had received information from Ms. Maybin's
18 attorney on one occasion" --

19 MS. WINSTEAD: Objection.

20 THE COURT: Overruled.

21 A. I had also received information from a cellmate of Dana
22 Maybin's who was in the Beaufort County Jail at the same time
23 she was. And Maynard Harrell and I went to, with Ms. Moore's
24 permission, we went to Raleigh, North Carolina, talked to
25 Ms. Maybin. She indicated that her testimony would be such

1 that would not implicate any of the three in the offense, and,
2 after that, Mr. Harrell went back and tape-recorded a re-play,
3 if you will, of the information that she gave us when the two
4 of us went up there together. So the most difficult thing was
5 trying to prepare for what we didn't know, as to what her
6 testimony would be, and that it was a hundred and eighty
7 degrees out of phase with itself several times.

8 Q. Immediately prior to beginning jury selection, what
9 happened?

10 A. The motion to sever was filed and allowed. Mr. Norton
11 announced to the Court that there was a possibility that I
12 might have a conflict of interest developed based upon some of
13 my contact's with one Nicole Mills who was in the Beaufort
14 County Jail, and, as I understand, was a cellmate of Dana
15 Maybin's. Judge Brown asked me if I was aware of that, and I
16 told him that I was aware of conversations that I had had with
17 Nicole Mills. And he asked me if I thought that I had a
18 conflict, and I told him I didn't think so. And so we went
19 back in the room back here to confer with Mr. Jones. I
20 explained to him that, if I were to appear as a witness in the
21 case, that I would no longer be able to be his attorney. And
22 I also told him that I thought that any conflict that I might
23 have based upon anything that Nicole Mills or Dana Maybin
24 might say would be cured by testimony in a separate trial by
25 Mr. Harrell because of the tape-recording which he had. We

1 asked Mr. Jones if he wanted me to continue as his attorney,
2 and he indicated that he did. And, all during the trial
3 preparation, I guess I had spent some time with him on every
4 weekend, just about every weekend, from the time I was
5 appointed until the time of the trial. I didn't see
6 Mr. Spruill because he was in another detention facility. But
7 I did see Mr. Jones. And, being a sole practitioner, my trial
8 preparation for this case, almost all of it took place on the
9 weekend.

10 Q. So, at that moment just before jury selection, were you
11 given a document or anything that raised this conflict?

12 A. No, I don't recall receiving a document. I think there
13 was reference made to one or more documents. But I don't
14 recall being given one. I may have been, but I don't recall
15 it.

16 MR. CARTER: Your Honor, may I approach the witness?

17 THE COURT: Yes, sir.

18 Q. I have what's marked as Defendant's 13.

19 MR. CARTER: If I may, I have exhibit notebooks for
20 both the State and yourself.

21 (Mr. Carter furnishes the same to Ms. Winstead and to the
22 Court.)

23 A. This appears to be a copy of a statement given by Leslie
24 Nicole Mills to Special Agent D. R. Varnell and Special Agent
25 W. E. Godley and District Attorney Mitchell Norton on the --

1 it was dictated on February 1st, 1995, and the activity
2 actually occurred on January the 24th of 1995. And it appears
3 to be a copy of statements that Ms. Mills made in response
4 to questions. There's no copies of the questions in here, but
5 they are the statements that she is alleged to have made in
6 response to some conversation between her and whoever was
7 conducting the interview. And I have seen it before, and I
8 believe the first time I ever saw it was actually during the
9 trial.

10 Q. You mean it was actually during the trial?

11 A. Uh-huh.

12 Q. In that statement, does Ms. Mills allege that you told
13 her to tell Dana Maybin not to waive her probable cause
14 hearing?

15 A. Yes.

16 MS. WINSTEAD: Objection.

17 A. It says that in the third paragraph.

18 MS. WINSTEAD: Objection.

19 THE COURT: Overruled.

20 A. It said, "Ms. Mills stated that the defense attorney
21 Vosburgh had told her to tell Dana Maybin not to waive her
22 probable cause hearing today. Ms. Mills stated that she had
23 also told Dana not to waive the p. c. hearing on her own."
24 But now I did tell Nicole Mills to ask her not to waive the
25 probable cause hearing so that we could go to school on the

1 probable cause hearing and find out exactly what the State's
2 case was in order to prepare us for our defense work.

3 Q. In that statement, it also states that you were passing
4 things to Nicole Mills to give to Dana Maybin and Dana Maybin
5 would relay information to you?

6 MS. WINSTEAD: Objection to what the statement says.

7 A. Well, the statement is the best content of what it says...

8 THE COURT: Are you going to offer the statement?

9 MR. CARTER: Yes, sir.

10 THE COURT: Are you objecting to it?

11 MS. WINSTEAD: Yes, sir.

12 THE COURT: I'll be glad to hear you.

13 MS. WINSTEAD: It's hearsay; it's an out-of-court
14 statement.

15 MR. CARTER: Your Honor, we've not offering that
16 statement for the truth of the matter. What we're offering
17 this statement for is this is the document that was given to
18 Judge Vosburgh as the basis for the conflict. I'm not arguing
19 that anything in there is necessarily true. What I'm arguing
20 is that this is the information he had at that time, at that
21 instant before jury selection started that raised the conflict
22 issue.

23 THE COURT: Does the State want to be heard?

24 MS. WINSTEAD: No, sir.

25 THE COURT: Objection is overruled.

1 A. Would you repeat your question, please, sir.

2 Q. Yes, sir. Did that statement also allege that yourself
3 and Seth Edwards were telling Nicole Mills things to give to
4 Dana Maybin so that Dana Maybin could hear what her response
5 was and give that back to you?

6 A. It says that in here.

7 Q. Did that in fact happen?

8 A. No, it did not. I don't know what happened at any time
9 that Seth Edwards spoke with Nicole Mills because if he ever
10 spoke to her at all, I was not present. But I do know that I
11 did see her frequently in the Beaufort County Jail, and I
12 asked her to keep her eyes and her ears open and relay to me
13 anything that she thought might be helpful to me as Robert
14 Brandon Jones' defense attorney during the course of a trial.

Q. When the District Attorney raised the issue of the
16 conflict just before trial, did you have that letter?

17 A. I can't remember whether it was handed to me at that
18 time. I think it was. I think it was, and I believe it was
19 handed -- I think a copy was also given to the judge. And I
20 believe that I had a copy of this in my hand when we spoke to
21 Mr. Jones back here in the jury room.

22 Q. Did the District Attorney mention that there would be any
3 other evidence about a potential conflict?

1 A. Not that I recall.

MR. CARTER: May I approach the witness?

1 THE COURT: Yes, sir.

2 MS. WINSTEAD: Judge, I think I need to borrow back
3 my Volume I.

4 THE COURT: Let's see if I can find it.

5 Q. Would you please identify that for me.

6 A. This appears to be a portion of the transcript of the
7 trial beginning on Page 31 and continuing through Page 40.

8 THE COURT: Is that one of the exhibits in this
9 book?

10 MR. CARTER: Yes, Your Honor, it's No. 12. I'm
11 sorry.

12 Q. I'd ask you to refer to Page 33 of that, Line 4.
13 If you would please, I'd like to you review Lines 4 through
14 16.

15 A. Yeah, this is, beginning with Line 4, is a paragraph of
16 what Mr. Norton informed the Court at the time that he brought
17 this possibility of a conflict to the Court's attention.

18 Q. And in there, did Mr. Norton say that there might be some
19 additional statements from Dana Maybin?

20 A. He said, beginning on Line 10, at the end of Line 10, it
21 says, "So there would be some additional statements that may
22 come from the witness." It didn't say there would be but said
23 there may be from the witness Dana Maybin in addition to what
24 you have there.

25 Q. Before you advised your client on this issue, were you

1 given any statements by Dana Maybin?

2 A. We got statements from Ms. Maybin during the course of
3 the trial. In fact, I think we got a group of them, and Judge
4 Brown told us to review them, after she had testified, to
5 review them at lunchtime for the purposes of
6 cross-examination.

7 Q. So you didn't have them at the time you advised your
8 client.

9 A. I didn't have any other statements. But I had this
10 (holds up), which is Defendant's Hearing Exhibit No. 13. I
11 had that at that time.

12 Q. But you had none of the statements that Dana Maybin had
13 made to law enforcement.

14 A. Not at that time.

15 Q. You had no statements that Dana Maybin had made to the
16 District Attorney's Office.

17 A. Are you telling me that or asking me that?

18 Q. I'm asking you. I'm sorry, sir. Did you have any
19 statements?

20 A. I got copies of Ms. Maybin's statements during the trial.

21 Q. Thank you.

22 A. And I believe they were given to us all at once, and I
23 think that the trial transcript should reflect that we
24 reviewed those statements over lunch period to prepare for
25 cross-examination.

1 Q. At the time you advised Mr. Jones on this issue, did you
2 have any copies of diary entries that were made by Dana
3 Maybin?

4 A. No.

5 Q. Had you in fact met Dana Maybin before this conflict
6 issue was raised?

7 A. Yes, I met her in the Women's Prison in Raleigh. I don't
8 recall the date, but I was present with Maynard Harrell. I
9 met her there.

10 Q. Do you remember the date of that meeting?

11 A. No, I don't.

12 Q. Do you keep a fee schedule?

13 A. I did keep one in this case.

14 Q. Did it have all your activity on it that you prepared in
15 this case?

16 A. Yes, it did.

17 Q. If you saw a copy of that, would it refresh your memory
18 as to what date you visited?

19 A. It probably would.

20 MR. CARTER: Your Honor, may I approach the witness?

21 THE COURT: Yes, sir.

22 MR. CARTER: This is not an exhibit. It's a copy of
23 his fee schedule for questioning.

24 MS. WINSTEAD: Is this a copy of what's in the
25 court file?

1 THE WITNESS: (Nods affirmatively.)

2 MR. CARTER: Yes, sir, it is.

3 Q. Could you identify that, please.

4 A. This appears to be a copy of my application for a fee in
5 the Wallace Brandon Jones case.

6 Q. What is attached to that, please?

7 A. There is attached a chronology of work events that took
8 place in my preparation for the trial.

9 Q. Is there a notation on there that would tell you what
10 date you visited Ms. Maybin?

11 A. It ought to be, but I'll have to look for it.
12 I don't see a notation on here. If there is one, I don't see
13 it.

14 MR. CARTER: Your Honor, may I approach?

15 THE COURT: Yes, sir.

16 A. It appears on March the 8th of 1995, from 11:00 to
17 11:45, visited with Dana Maybin in Women's Prison.

18 Q. That's Women's Prison in Raleigh?

19 A. Uh-huh.

20 THE COURT: What's that date again?

21 THE WITNESS: March the 8th of 1995, 115 miles from
22 Washington to Williamston to Raleigh. I met Mr. Harrell in
23 Williamston, and I think he parked his truck in front of
24 Wal-Mart over there, and then we went to Raleigh together.

25 Q. How was that meeting arranged?

1 A. I had called Regina Moore asking several times if we
2 could have a joint meeting with Mr. Harrell and Ms. Moore and
3 myself with Dana Maybin. And, at first, she said no, and then
4 she said, "You can go talk with her any time you want to.
5 She's in Women's Prison in Raleigh." And I wrote her a letter
6 confirming the fact that she had granted permission for me to
7 go up there and talk to Dana Maybin.

8 Q. Other than Ms. Maybin and Mr. Harrell, was anyone else at
9 that meeting?

10 A. There was a lady who was a prison guard who came in and
11 stayed just a couple of minutes to see that the things were
12 arranged in the room physically, but she did not remain in
13 there. There were only three of us in there, Mr. Harrell and
14 Ms. Maybin and myself.

15 Q. What was the purpose of this meeting?

16 A. To find out what her testimony would be.

17 Q. Did you relate information about your client's case to
18 Ms. Maybin?

19 A. When I went up there with Mr. Harrell, he did most of
20 the talking to her. I sat over by the door. I introduced
21 myself to her, and I had very little to say to her, and
22 Mr. Harrell conducted most of the interview with her. And,
23 actually, it really wasn't much of an interview. Once she got
24 started talking, she just talked and talked and talked, and
25 Mr. Harrell asked her very few questions.

1 Q. Did you tell Dana Maybin that there was no evidence in
2 this case other than her testimony?

3 A. I told her that her testimony was the principle evidence
4 that the State had and that I was not aware of a whole lot of
5 other damaging evidence that they may have.

6 Q. Did you tell Ms. Maybin that she should change her story
7 so this would all go away?

8 A. I did not. I told her that the purpose of Mr. Harrell
9 and my being there was for her to tell us the truth so that we
10 would know what to expect when we got in the courtroom.

11 Q. Did you tell Ms. Maybin that you had witnesses that would
12 put her and Mr. Jones and Mr. Spruill at Big Ed's Bar all
13 night?

14 A. I told her that we had witnesses that would put them at
15 Big Ed's Bar during the night. I didn't say all night, I
16 don't believe, because I couldn't do that.

17 Q. At that meeting on March the 8th, did you tell Ms. Maybin
18 that Leroy Spruill's father's truck couldn't be driven; it was
19 broke?

20 A. I don't know whether I told her that or whether
21 Mr. Harrell did. But I do know that there was something
22 mentioned about it, and I think there was evidence in the
23 trial transcript that came out about it.

24 Q. After that March 8th meeting, did you have any further
25 conversations with Ms. Maybin?

1 A. No. I was not there when Mr. Harrell made the tape.

2 Q. Now, you said that immediately before jury selection that
3 Judge Brown had requested you to discuss this potential
4 conflict with Mr. Jones?

5 A. Yes, I did say that.

6 Q. What was the purpose of that conference?

7 A. The purpose of the conference was to explain to
8 Mr. Jones what had happened that lead up to it being brought
9 to the Court's attention in the first place. It was also to
10 let him know that if I testified in the trial that my
11 participation in it would stop. And I think I told him that I
12 could continue to represent him up until the time that I
13 testified; but, when I did, then I would have no more
14 participation in the trial.

15 Q. Other than yourself and Mr. Jones, who was in that
16 meeting?

17 A. Mr. Skinner. And I believe we had a bailiff that was in
18 there with us. I know he was not restrained in any way. And
19 it seems to me like we had a bailiff that was present at least
20 part of the time during the time we talked with him.

21 Q. Now, I had earlier given you Defendant's Exhibit 13,
22 which was the statement of Nicole Mills. Did you take that
23 into that meeting with you?

24 A. Yes. I had a copy of it handed to me right up here in
25 front of the bench.

25 and he was made aware of the tape and that the tape itself
 24 not have to because Mr. Harrell would be able to handle that,
 23 A. No. I explained to him during the meeting that I would
 22 stand to rebut any allegations?
 21 Mr. Jones, did you believe that you would have to take the
 20 Q. With the information you had going into that meeting with
 19 him in the jail.
 18 good relationship with him over a large number of visits with
 17 visibly upset over that because I had established had a pretty
 16 withdraw from the case that I would do that. He became
 15 was there. But I did tell him that if he wanted me to
 14 obtained, that that would nullify any potential conflict that
 13 with regard to the tape and its contents and how it was
 12 conflict because I felt like that Maynard Harrell's testimony
 11 And I also told him that I did not think that there was a
 10 with him what Dana Maybin had said in my presence in Raleigh.
 9 A. I didn't have any of those at that time. I did share
 8 Attorney's Office?
 7 Maybin had given to law enforcement or to the District
 6 Mr. Jones, did you share with him any statements that Dana
 5 Q. When you were having your consultation with
 4 don't know that I had him read it in its entirety.
 3 what I considered to be pertinent parts of it to him. But I
 2 A. I don't know that I did. I would imagine that I read
 1 Q. Did you have Mr. Jones read that statement?

1 would be introduced into evidence.

2 Q. Mr. Harrell was not present at that meeting. Was
3 Mr. Harrell present at that meeting?

4 A. No. It was Mr. Skinner and myself. Mr. Harrell was in
5 the courtroom, but I don't believe he was in that meeting.

6 Q. How would Mr. Harrell have taken the stand testifying
7 answered the issues in regard to Nicole Mills?

8 A. Do what now?

9 Q. Let me try that question again. I'm sorry. You talked
10 about -- excuse me. Let me try that again. Could Maynard
11 Harrell have testified to resolve any issues raised by Nicole
12 Mills?

13 A. In my opinion, yes.

14 Q. Now, when you spoke with Mr. Jones, did he say anything
15 to you specifically that made you believe he understood the
16 conflict?

17 A. No. He did not say anything specifically. But I told
18 him that he had one of two choices to make. Number one, I
19 could move to withdraw from the case and no longer -- and
20 then, if it became necessary, for me to become a witness to
21 testify. Or, I could, if he felt like that I needed to remain
22 in the case, that I felt like Maynard Harrell's testimony with
23 regard to the inconsistent statement which it turned out to be
24 by Dana Maybin, that it would resolve any conflict. And I -
25 frankly didn't see a conflict then. I don't see one now.

1 Q. At the time you advised him, you did not see one.

2 A. At the time I advised him, no.

3 Q. Approximately how long did that conversation last between
4 you and Mr. Jones and Mr. Skinner?

5 A. I don't know, but I would imagine the trial transcript
6 would show how much time it was. I would guess maybe 15
7 minutes. And I would imagine that Ms. Braziel probably
8 recorded it in the transcript of the proceedings.

9 Q. I would ask you to take a look at Page 34 of Defendant's
10 12. I'm going to revise that. I'm sorry. I'd ask you to
11 look at Page No. 35, Lines 4 through 6.

12 MS. WINSTEAD: What page?

13 MR. CARTER: Page 35.

14 A. Line what?

15 Q. Four, 5, and 6.

16 A. It says, "Mr. Vosburgh, Mr. Skinner, Mr. Harrell, and the
17 Defendant retire to the jury room for consultation at
18 11:55 a. m. and return to the courtroom at 12:17," which means
19 that we were there for 22 minutes and Mr. Harrell was present,
20 according to this.

21 Q. Had the Court placed any limitation on the amount of time
22 you had in your consultation?

23 A. I don't believe that they placed any -- I don't think
24 that Judge Brown placed any limitation on that.

25 Q. Now, after you had your consultation with Mr. Jones and

1 you returned to the courtroom, did Judge Brown consult with
2 Mr. Jones?

3 A. My recollection is that he asked him if that was -- if he
4 had decided or if he understood that I was going to remain in
5 the case, and he said, yes, that he did, and he asked him if
6 he -- he asked him about a waiver of his right to raise the
7 question at some subsequent time. Mr. Jones said he
8 understood that. And he told him, he asked him, if he planned
9 to raise the question later at some time, Mr. Jones said that
10 he would not, and Judge Brown called him a liar, I believe,
11 right in open court.

12 Q. Did the trial judge inform Mr. Jones of his right to
13 conflict-free counsel?

14 MS. WINSTEAD: Objection. The record speaks for
15 itself.

16 THE COURT: Sustained.

17 MR. CARTER: Your Honor, I'd ask the Court to take
18 judicial notice of Pages 36 through 37 of the trial
19 transcript. I'd ask to have Judge Vosburgh review it and ask
20 him questions on it.

21 THE COURT: That's fine.

22 A. What pages?

23 Q. Thirty-six and 37, sir, starting at Line 2 through
24 Line 25 on Page 37.

25 A. I believe that those pages accurately reflect what Judge

1 Brown did after we returned to the courtroom regarding the
2 decision that Mr. Jones made after we had the conference in
3 the jury room, and I believe it's accurately reflected there
4 in the transcript.

5 Q. Did Judge Brown indicate whether or not he was going to
6 allow you to continue in this case?

7 A. Well, I assume that he allowed me to continue because he
8 did not tell me that I was not going to continue. And, after
9 we had lunch, we came back and I think we began selecting the
10 jury immediately after returning. I believe we had lunch
11 first. And, so, I assumed by him letting me continue that he
12 decided I could.

13 Q. Now, after jury selection and the trial began, was Nicole
14 Mills called by the State?

15 A. She was not called by the State or the defendant.

16 Q. After the trial began, did any information come out that
17 altered your opinion about there not being a conflict?

18 A. I never formed an opinion that I had a conflict. But I
19 did form an opinion that if it was to do over again, I would
20 have withdrawn and appeared as a witness. I still don't think
21 there was a conflict.

22 Q. Why could you have withdrawn?

23 A. Because I felt --

24 MS. WINSTEAD: Objection.

25 THE COURT: Overruled.

1 A. I would have felt that I could have done him more good as
2 a witness than as his attorney.

3 Q. Now, at the time you advised your client regarding the
4 conflict, did you know that Dana Maybin would take the stand
5 and testify that she was lying and writing recantations
6 because Ms. Mills told her to write them?

7 A. I didn't have any idea she would testify to that.

8 Q. Did you have any idea that Dana Maybin would testify that
9 Nicole Mills was --

10 MS. WINSTEAD: Objection to the leading.

11 A. I didn't have any idea what Dana Maybin was going to
12 say, period.

13 Q. So you didn't know that Dana Maybin was going to get up
14 and testify that she had recanted her written diary entries
15 she was told to?

16 A. No, I did not know that she was going to do that. I
17 thought that Dana Maybin was going to testify in the manner in
18 which she spoke to me and Maynard Harrell in the Women's
19 Prison and in the manner in which Mr. Harrell recorded her
20 conversation with him when he went back up there.

21 Q. Based upon the testimony at trial, did you have enough
22 information when you consulted with Mr. Jones to adequately
23 advise him regarding a conflict of interest?

24 A. I think I had enough time to advise him about the
25 conflict. I do not know whether or not Mr. Jones fully

1 understood the nature and the consequences and the seriousness
2 about all that we were handing to him in a very short --

3 MS. WINSTEAD: Objection; unresponsive.

4 THE COURT: Sustained.

5 Q. Did you have enough information at that time to
6 adequately advise him?

7 A. I think I did, yes. And I think I did adequately advise
8 him.

9 MR. CARTER: I just want to clarify one thing, Your
10 Honor.

11 Q. At the time you advised him, before the trial testimony
12 of Dana Maybin, did you have enough information to adequately
13 advise Wallace Brandon Jones on the conflict.

14 MS. WINSTEAD: Objection; asked and answered.

15 A. Based on what information I had, I had enough --

16 THE COURT: Overruled.

17 A. -- information to tell him what I knew. And I told him
18 everything that I knew at that time.

19 Q. Who was Maurice Wilkins?

20 A. Maurice Wilkins was a witness on behalf of the State,
21 and, immediately after the Swain homicide, it's my
22 understanding that he was a suspect.

23 Q. During Maurice's testimony, he testified to having taken
24 a polygraph examination.

25 MS. WINSTEAD: Objection. It's not a question.

1 THE WITNESS: No, it's not.

2 Q. Did Maurice Wilkins testify to that?

3 A. In response to one of Mr. Norton's questions, he did.

4 Q. Did you object to that?

5 A. No, I did not.

6 Q. Was there a strategic or tactical reason why that wasn't
7 objected to?

8 A. Well, no testimony, no question, followed it up with what
9 the results were. And the fact that he took a polygraph and
10 nobody made an effort to bring out the results, I felt like it
11 wouldn't hurt one way or the other because, the jury, they
12 were going to be loaded up with all sorts of inconsistent
13 testimony, and fact that somebody took a polygraph and they
14 didn't bring out the results of the thing, I don't think that
15 that damaged our case at all.

16 Q. Did Dana Maybin also make reference to having taken the
17 polygraph?

18 A. Yes, she did.

19 Q. And, again, was there a strategic reason for not
20 objecting to that?

21 A. Yes, because she admitted that she had lied repeatedly
22 while she was on the witness stand.

23 MR. CARTER: May I approach the witness, Your Honor?

24 THE COURT: Yes, sir.

25 Q. I've got Defendant's 1. Can you identify that for me?

1 A. This appears to be an affidavit of someone by the name of
2 Tommy Nathaniel Ward. This is Defendant's Exhibit No. 1.

3 Q. Have you seen that document before?

4 A. Yes, I have. It was attached to a copy of the Motion
5 for Appropriate Relief that I received. I was made aware of
6 its contents sometime back in 1997, I believe. But I don't
7 believe I ever received a copy of it until fairly recently.

8 Q. Now, in that affidavit, does Mr. Ward allege that members
9 of the Washington County Sheriff's Department, the S. B. I.,
10 and the District Attorney's Office met with him and told him
11 if he could get a letter from Wallace Brandon Jones that they
12 would speak for him when he went to court?

13 A. Yes, it does say that.

14 Q. Does it indicate whether or not he provided any
15 information?

16 MS. WINSTEAD: Objection to what the affidavit says.
17 THE COURT: Sustained.

18 Q. Would knowledge of the information contained in that
19 affidavit have assisted you in the preparation of your defense
20 of Mr. Jones?

21 A. Yes, it would.

22 Q. Why?

23 MS. WINSTEAD: Objection. Assuming facts not in
24 evidence.

25 THE COURT: Sustained. We're going to take our

1 morning recess at this time. It's 11:00. We will be in
2 recess 15 minutes.

3 (Recess is taken at 11:00 a. m. until 11:15 a. m.)

4 (Mr. Carter, Ms. ECHOLS, Ms. Winstead, and the Defendant are
5 present in the courtroom.)

6 THE COURT: You may continue your direct
7 examination.

8 MR. CARTER: Your Honor, we would pass the witness
9 at this time with request to recall at a later time.

10 THE COURT: All right. Any cross-examination.

11 MS. WINSTEAD: Yes.

12 CROSS EXAMINATION by MS. WINSTEAD:

13 Q. Judge Vosburgh, you said that you practiced law from
14 1964 until 1997?

15 A. That's what I said, yes.

16 Q. And in 1997 you were appointed as a superior court judge?

17 A. As a special superior court judge, yes.

18 Q. And continue to be a superior court judge at this time?

19 A. Yes, I do.

20 Q. And you indicated that you had done mostly trial work in
21 those 33 years and primarily criminal; is that accurate?

22 A. Yes.

23 Q. Approximately how many jury trials would you say that you
24 handed during that time?

25 A. I stayed in court as much as I could. I would say that I

1 averaged trying a jury trial about once every two weeks during
2 my entire career as a trial attorney. Not all of them were
3 criminal. Many of them were civil cases.

4 Q. Now, you indicated that the only real recollection you
5 have of preparing for the charges in this case was preparing
6 for the murder charge. But you did prepare for all of the
7 charges that the defendant had lodged against him by the State,
8 did you not?

9 A. If there were any other charges, I'm sure I prepared for
10 them.

11 Q. The Robbery with a Dangerous Weapon?

12 A. Right. The thing that occupied my time was the homicide
13 with which he was charged. Anything else was of lesser
14 importance to me.

15 Q. But, nevertheless, you prepared for all the charges I
16 take it?

17 A. Yes. There was no way we could prepare a defense in the
18 murder charge without it affecting any other charges that he
19 might have had.

20 Q. And, in the course of your representation of the
21 defendant, you indicated that your co-counsel was John
22 Skinner; is that right?

23 A. That's right.

24 Q. And you discussed trial tactics with him throughout the
25 trial I take it.

1 A. I did with him. Actually, I discussed trial tactics more
2 with Mr. Harrell than I did with Mr. Skinner, although we did
3 discuss them, and he was present many, many times when I was
4 speaking with Mr. Harrell.

5 Q. But, during the course of the actual trial, Mr. Harrell
6 was not there with you, and so it was Mr. Skinner that you
7 conferred with, I take it, about matters that arose during the
8 trial; is that a fair statement?

9 A. Say it again.

10 Q. During the trial.

11 A. During the trial, all of the calls that were made during
12 the trial that had to do with trial tactics, I made all of
13 them.

14 Q. Judge Vosburgh, could you find a copy of the Motion to
15 Sever in your file if I asked you to do that?

16 A. I don't know whether I could or not because my file was
17 two or three folders, and I have given the counsel for
18 Mr. Jones, I've given them everything that I have, and I did
19 this years ago, at least a couple or three years ago, and I
20 turned my entire file over to him. I did go back to my office
21 yesterday and found the list of the jury questionnaires. That
22 was all I had left, and I gave those to him yesterday.

23 Q. Okay. Let me just move on to another line of inquiry and
24 then I am going to ask you, if you will, to look through that
25 file. Do you recall the morning of the trial being given some

1 additional Brady material by the State?

2 A. Yes. I believe I was given some Brady material at the
3 same time I was given a Motion to Sever.

4 MS. WINSTEAD: Judge, I'm going to ask that he look
5 through his file and find that Brady material as well as the
6 Motion to Sever.

7 THE COURT: Who's got the file?

8 MR. CARTER: I do, Your Honor.

9 (Mr. Carter furnishes a box to Judge Vosburgh, and Judge
10 Vosburgh searches through the same.)

11 A. I don't find -- this thing is all confused. And it may
12 have been at least partially confused when it was delivered to
13 them because I kept it all in looseleaf notebooks. Instead of
14 giving them the notebooks, I usually saved those and used them
15 over and over again, and I took the materials out and put them
16 in the file. And I don't see what you identify as a group of
17 materials known as Brady material. I don't see that here
18 separated. And it's been separated into files that are for
19 their purposes and not mine.

20 Q. What do you recall being in the Brady material?

21 A. I don't recall what it consisted of primarily because I
22 was somewhat taken aback with the Motion to Sever, and I
23 don't have any recollection of what was contained in the
24 other documents, although I do recall receiving other
25 documents.

1 Q. The other documents contained some additional statements
2 by Dana Maybin, did they not, some letters that had been
3 written?

4 A. I believe they did because there was certain contents in
5 there that tended to be exculpatory statements on behalf of
6 our defendant, and I believe that there were some letters,
7 correspondence, in there, that contained some statements by
8 Dana Maybin that would tend to exculpate our client.

9 Q. So, you were aware through the pretrial discovery that
10 you got that there were going to be problems with Dana
11 Maybin's testimony as well as the Nicole Mills information
12 that you were provided; is that right?

13 A. I don't recall receiving those things until right before
14 the trial.

15 Q. Yes, sir.

16 A. And I did not have time to read those things and also
17 talk with him about the conflict and the other things. And so
18 we proceeded immediately to jury selection, and I don't know
19 that I became familiar with those statements until actually
20 during her testimony.

21 Q. And are you saying you don't recall specifically what was
22 in the Brady material?

23 A. No.

24 Q. Specific letters or specific entries?

25 A. No, I do not.

1 MS. WINSTEAD: Judge Parker, I'd ask the defense
2 attorneys to give me from Judge Vosburgh's file what -- I
3 asked for the whole file, and they gave me what they deemed to
4 be relevant to this proceeding, and that obviously is very
5 important material that I would like to have and be able to
6 cross-examine Judge Vosburgh about. If someone could find
7 that information in the file. I know they've done something
8 different with it from apparently the way he had it organized,
9 but --

10 MR. CARTER: Your Honor, if I could find out what's
11 wanted from that file, Brady material, statements from
12 Ms. Maybin or what-have-you, I could look through there and
13 see if I can find those statements.

14 THE COURT: Just let him know what you're looking
15 for.

16 MS. WINSTEAD: The Brady material that was provided
17 the morning of the trial by the State.

18 MR. CARTER: Do you have any idea of what material
19 that was or what you believe it was?

20 MS. WINSTEAD: I believe it was information from
21 Ms. Maybin.

22 MR. CARTER: Diary entries or --?

23 MS. WINSTEAD: Yes. And letters.
24 (Mr. Carter looks through the box at the witness stand.)
25

MS. WINSTEAD: Mr. Carter, as well as the Motion to

1 Sever.

2 (Mr. Carter continues to look through the box at the witness
3 stand.)

4 MR. CARTER: Your Honor, I believe this may be a
5 file of partially what was in the Brady material. And I do
6 not have a copy of the Motion to Sever in the file. I've
7 never seen one. Also, Your Honor, we did check the court file
8 for that motion, and we never did find it.

9 THE COURT: All right.

10 MS. WINSTEAD: May I approach the witness?

11 THE COURT: Yes, Ma'am.

12 (State's Exhibit No. 1 is marked for the purpose of
13 identification.)

14 Q. I'm handing you what I've marked as State's Exhibit
15 No. 1 and ask you to look at that and see if you can identify
16 it.

17 (Mr. Norton enters the courtroom and is now present at
18 State's counsel table at 11:30 a. m.)

19 A. This appears to be a group of letters written by Dana
20 Maybin to other people, and my recollection is that I
21 received these materials either during or immediately
22 before the trial.

23 MS. WINSTEAD: May I approach the witness?

24 THE COURT: Yes, Ma'am.

25 Q. Judge Vosburgh, I want to direct your attention now to

1 Volume I of the transcript, Page 33, and ask you just to read
2 to yourself Mr. Norton's comments there.

3 A. (Complies.) All right.

4 Q. In that portion of the transcript, Mr. Norton explained
5 to the Court and to you that some information from Dana Maybin
6 that was contained in the Brady material, he was alerting
7 everyone that that was also going to be raised and he raised
8 it as part of this general conflict of interest issue; is that
9 a fair statement?

10 A. That's an accurate copy of what Mr. Norton stated to the
11 Court.

12 Q. So, clearly, you knew at that time that there was going
13 to be a problem with regard to Dana Maybin's testimony
14 regarding your involvement in the case; is that a fair
15 statement as well?

16 A. That was the first time that we became aware that that
17 might raise its head at some time during the trial, yes.

18 Q. Right. And so, at the time you had the conference with
19 your client and Mr. Skinner, you knew at least about the
20 issues involving Nicole Mills and Dana Maybin; is that a fair
21 statement as well?

22 A. Yeah, that's an accurate statement.

23 Q. Now, with regard to the conversation that you had with
24 the defendant, I believe you said you explained to him
25 clearly that you would not be able to testify in the case

1 if you were representing him as his attorney; is that
2 right?

3 A. No. I told him that I could represent him up until the
4 time that I testified, but when I testified then my
5 involvement in the case as an advisor to him or an advocate
6 for him would be over.

7 Q. And did you also tell him that you wanted it to be his
8 decision?

9 A. Yes.

10 Q. And he told you that he wanted you to continue as his
11 attorney; is that right?

12 A. That's what I said a while ago.

13 Q. Yes, sir. And I believe you also testified that it was
14 your opinion then and now that Maynard Harrell could
15 adequately address any issues related to Nicole Mills'
16 statement that you had or to any testimony that Dana Maybin
17 might give contrary --

18 A. That's what I testified to just awhile ago, yeah.

19 Q. And you felt like he did adequately address those issues
20 at the trial, did you not?

21 A. I felt like that his testimony was adequate insofar as it
22 addressed any question regarding any impropriety on my part or
23 on his part.

24 MS. WINSTEAD: May I approach the witness?

25 THE COURT: Yes, Ma'am.

1 Q. Judge Vosburgh, I'm handing you a document, and I'll ask
2 you to take a look at that and see if you can identify it or
3 have you seen that before?

4 A. Yes. This was attached to a copy of the Motion for
5 Appropriate Relief that was sent to me by Mr. Skinner, I
6 believe.

7 Q. And did you also have an opportunity to review the Motion
8 for Appropriate Relief?

9 A. Yes, I brought a copy with me here.

10 Q. Could I direct your attention to Pages 21 and 22 of that,
11 which refer to this document, State's Exhibit -- I mean
12 Defendant's Exhibit 6 in their motion? It would be the bottom
13 of Page 21, top of Page 22.

14 A. I'm looking at the copy of the Supreme Court Opinion.
15 There's a paragraph that starts "prior to trial" at the
16 bottom of Page 21? Is that it?

17 Q. Yes, sir, at the very bottom of that paragraph, "although
18 defendant, after an off-the-record conference."

19 A. Yes, I see that.

20 Q. And that's not true, is it, Judge Vosburgh?

21 A. No, that's not true.

22 Q. In fact, what you told the defendant was that you could
23 not continue to represent him and testify on his behalf; is
24 that right?

25 A. That's exactly what I told him. And I also told him that

1 if I had to withdraw during the middle of the trial, that this
2 was proceeding as a First Degree Murder case, and I didn't
3 know what affect that might have on it because then he would
4 only have one attorney.

5 Q. But you knew that the Court would make sure that he had
6 two attorneys during the course of the trial.

7 A. I did not know exactly what the Court would have done at
8 any time during this trial.

9 Q. But you knew what the law was with regard to that.

10 A. Yes.

11 MS. WINSTEAD: May I have a moment, Your Honor?

12 THE COURT: Yes, Ma'am.

13 (Ms. Winstead and Mr. Norton confer.)

14 Q. (By Ms. Winstead) Judge Vosburgh, additionally, you
15 were asked about some polygraph testimony that came out during
16 the trial through Dana Maybin and Maurice Wilkins, and I
17 believe you indicated that it was your opinion that - correct
18 me if I'm wrong --

19 A. No, I'll tell you what I said. I said that when it came
20 out, I did not object to it. If they had proceeded further
21 with it, I would have objected. But the fact that they took a
22 polygraph test and the jury was never exposed to what the
23 results were, I figured that that could help us or hurt us,
24 but we really didn't know because there was so much
25 inconsistent statements, testimony, there was such

1 inconsistency within itself, that I didn't think that that one
2 reference to the polygraph, I didn't think it would hurt.

3 MS. WINSTEAD: May I approach the witness again?
4

5 THE COURT: Yes, Ma'am.

6 (State's Exhibit No. 2 is marked for the purpose of
7 identification.)

8 Q. I'm handing you what I've marked as State's Exhibit
9 No. 2. I'd ask you to take a look at that just for a second
10 and see if you recognize that.

11 A. This appears to be a copy of a transcript of a proceeding
12 before Judge Griffin on June the 19th of 1995.

13 Q. Does that reflect that you were present at that
14 proceeding?

15 A. It says, "Appearances: Mr. Robert Hensley for the State;
16 James R. Vosburgh and Mr. Robert Skinner and Mr. Jones.

17 Q. And, if you could turn over to the page, it's tabbed with
18 a little green tab. I'm not sure what page number --

19 A. Page 28?

20 Q. Yes, sir, and just read over that.

21 A. (Complies.) I see that.

22 Q. Does that refresh your recollection about when you might
23 have known that Wallace Jones was going to be tried separately
24 from Leroy Spruill?

25 A. No, it does not. I have no recollection of this taking
place, although I did remember that the Dana Maybin case was

1 going to be treated separately. I had no recollection about
2 it being with all three defendants, and it says here by
3 Mr. Hensley that they did not anticipate joining them at any
4 time. And I was not cognizant of that, and I don't believe
5 Mr. Harrell was because we did all of our work together.

6 Q. But were you present at that proceeding; is that correct?

7 A. It says that I was present and I remembered having a
8 conversation with Mr. Ogletree about the case, and I think
9 that was about the only time I talked with him. So I was
10 present.

11 (Ms. Winstead, Ms. ECHOLS and Mr. Carter confer.)

12 MS. WINSTEAD: Judge, we are narrowing the issues
13 here. I think it would be helpful for everybody.

14 THE COURT: All right.

15 (Ms. Winstead, Ms. Echols, and Mr. Carter continue to confer.)

16 THE COURT: If you all need some more time to
17 discuss this matter, we can take our lunch recess early.

18 MS. ECHOLS: Yes, Your Honor.

19 THE COURT: Sheriff, take a recess until 1:30.

20 (Recess is taken at 11:50 a. m. until 1:30 p. m.)

21 (Ms. Winstead, Mr. Norton, Ms. Echols, and Mr. Carter are
22 present in the courtroom at 1:30 p. m.; the Defendant is not
23 present in the courtroom.)

24 THE WITNESS: Do you want me to resume the witness
25 stand now?

1 MS. WINSTEAD: Actually, I don't have any further
2 questions of you at this time.

3 THE COURT: Is there any redirect of Judge Vosburgh?

4 MR. CARTER: There's no redirect, Your Honor.

5 MS. WINSTEAD: Judge, just for clarification, I
6 think we have at this point narrative issues, and, in light of
7 that, I don't have any further questions of Judge Vosburgh at
8 this time. If it becomes necessary to recall him, I'd like
9 to have the opportunity to do that.

10 THE COURT: I understand he's got a conflict with
11 Friday; that he needs to be in Nash county. If he needs to be
12 re-called, you might try to do it today, if possible.

13 THE WITNESS: Do you wish for me to resume the
14 stand now?

15 (The Defendant enters the courtroom and is now present at
16 defense counsel table at 1:32 p. m.)

17 MR. CARTER: Your Honor, I'd like to make a motion
18 to have the affidavit of Tommy Nathaniel Ward entered into
19 evidence under the declarant unavailable exception to the
20 hearsay rule.

21 MS. WINSTEAD: I object to that.

22 MR. CARTER: Your Honor, we subpoenaed Mr. Ward to
23 be in court on August 23rd, and we have made reasonable
24 efforts to get hold of Mr. Ward. We have been to his house
25 today, and I've been to his house at lunch, and the purpose of

1 entering this affidavit of Mr. Ward, which is authenticated
2 under 902(a) because it was signed under notary seal, would be
3 to question Judge Vosburgh on the contents and how they would
4 have affected this trial.

5 THE COURT: Was the subpoena served on Mr. Ward?

6 MR. CARTER: Yes, sir, it was.

7 THE COURT: We can have the sheriff go out and find
8 him if you need him.

9 MR. CARTER: That would be helpful, Your Honor.

10 THE COURT: Sheriff, see if you can get somebody to
11 locate Tommy Nathaniel Ward and bring him in for me. Have you
12 got an address on him?

13 MR. CARTER: Yes, sir, I do, Your Honor. It's
14 106 Fourth Street.

15 THE COURT: He was subpoenaed to be here today?

16 MR. CARTER: Yes, Your Honor, he was.

17 THE COURT: Put him in custody, Sheriff, and bring
18 him back in. I won't rule on your motion right now.

19 MS. WINSTEAD: Can I see the subpoenas, please,
20 that's in the court file, the subpoenas, served copies?

21 CLERK SPEAR: Is he a white male or a black male?

22 MR. CARTER: He's a black male.

23 (Mr. Carter furnishes paperwritings to Ms. Winstead, she
24 examines the same, and then returns paperwritings to Mr.
25 Carter.)

1 MS. WINSTEAD: All right, thank you.

2 THE COURT: I assume you all want Judge Vosburgh to
3 stay available in court for a little while anyway to see if
4 you need him again this afternoon?

5 MR. CARTER: Yes, Your Honor, if we could.

6 MR. VOSBURGH: I'll make myself available for the
7 rest of the day and all day tomorrow but will not be able to
8 do so on Friday.

9 THE COURT: I understand. Thank you. You may call
10 your next witness.

11 MS. ECHOLS: At this time, Your Honor, we'd like to
12 call James Travis Clark.

13 JAMES TRAVIS CLARK, after first being sworn, testifies as
14 follows during DIRECT EXAMINATION by MS. ECHOLS:

15 THE COURT: You may proceed with your witness.

16 JAMES TRAVIS CLARK, after first being duly sworn, testifies as
17 follows during DIRECT EXAMINATION by MS. ECHOLS:

18 Q. Please state your name.

19 A. John Travis Clark.

20 THE COURT: Speak up good and loud, Mr. Clark, so
21 everybody can hear you.

22 A. James Travis Clark.

23 Q. Where do you currently live?

24 A. Columbus Correctional Institution.

25 Q. Have you ever been incarcerated in the Washington County

1 Jail?

2 A. Yeah.

3 Q. Where you incarcerated there during 1995?

4 A. Yeah.

5 Q. How long were you there?

6 A. From February of 1995 to August of 1995.

7 Q. Do you know Wallace Brandon Jones?

8 A. Yeah, from when I come to jail.

9 Q. Did you associate with Mr. Jones while you were at the
10 jail?

11 A. Yes.

12 Q. Were you cellmates with Mr. Jones?

13 A. Yes.

14 Q. What charges were you facing while you were at the jail?

15 A. Assault with a Deadly Weapon with Intent to Kill
16 Inflicting Serious Injury.

17 Q. Were you convicted of those charges?

18 A. Yes.

19 Q. Where did you go when you left the jail?

20 A. High Rise in Morganton, North Carolina.

21 MS. ECHOLS: Your Honor, may I approach the witness?

22 THE COURT: Yes, Ma'am.

23 Q. I'm handing you what has been marked as Exhibit No. 2
24 for the Defendant. Do you recognize that?

25 A. Yes.

1 Q. What is it?

2 A. It's my affidavit -- hold on. (Reading.)

3 Q. Were you contacted concerning the murder of Frank Swain
4 after you left the Washington County Jail?

5 A. Yes, I was.

6 Q. Who contacted you?

7 A. An S. B. I. agent. I don't know his name.

8 Q. Why did he contact you?

9 A. On this case here. (Reading.)

10 Q. Yes. Why did he contact you?

11 MS. WINSTEAD: Objection.

12 THE COURT: Overruled.

13 A. He asked me --

14 MS. WINSTEAD: Objection. Judge, that's hearsay,
15 what someone else told him.

16 THE COURT: Do you want to be heard?

17 MS. ECHOLS: I'll redirect the question.

18 THE COURT: All right.

19 Q. Did you have a discussion with the S. B. I. agent?

20 A. Yes.

21 Q. And what was the subject of your conversation?

22 MS. WINSTEAD: Objection.

23 THE COURT: What did you tell him. Put it that way.

24 A. Oh, I told him that the only thing he ever told me was

25 that he didn't do it. And he asked me if there was any

1 valuable information --

2 MS. WINSTEAD: Objection.

3 THE COURT: Sustained.

4 Q. Did you have any information that would be helpful in
5 prosecuting Mr. Jones?

6 A. No.

7 Q. Were you offered anything in exchange for any assistance
8 you could offer?

9 MS. WINSTEAD: Objection.

10 A. Yeah.

11 MS. WINSTEAD: Objection.

12 THE COURT: You're talking about something that --
13 he doesn't know the S. B. I. agent's name. It's not only
14 hearsay, but you got other problems. We don't even know who
15 he's talking about here. I'll sustain the objection.

16 Q. Mr. Clark, how did you become involved in this motion
17 for appropriate relief?

18 A. The S. B. I. agent.

19 Q. How did you become involved in a procurement of your
20 affidavit?

21 A. I was questioned by the S. B. I. agent when I went to
22 High Rise in Morganton, North Carolina. Do you mean why did
23 they come to talk to me?

24 Q. I'm asking specifically about after they had come to talk
25 to you, did you inform anybody about having been questioned by

1 the S. B. I.

2 A. Yes, I did.

3 Q. Who did you talk to?

4 A. I told my mother about it. I told -- ah -- I know I told
5 my mother about it.

6 Q. Eventually you were contacted by Mr. Jones' attorneys
7 regarding this; is that correct?

8 A. (Witness nods affirmatively.)

9 Q. Did you have anything to gain by offering this affidavit?

10 A. No.

11 Q. Were you offered anything by offering this affidavit?

12 A. Offered anything? Yeah, but it's -- by the S. B. I.
13 agent --

14 MS. WINSTEAD: Objection; motion to strike. She was
15 referring to the affidavit.

16 THE COURT: Sustained; motion allowed.

17 Q. Specifically in signing this affidavit to the events
18 that you stated occurred, did you have anything to gain by
19 signing this affidavit?

20 A. No, I didn't.

21 Q. Did you have anything to gain by appearing to testify
22 here today?

23 A. No.

24 MS. E: Thank you. No further questions.

25 THE COURT: Any cross-examination?

1 MS. WINSTEAD: Yes, sir.

2 Q. Mr. Clark, you were convicted not only, sir, of Assault
3 with a Deadly Weapon with Intent to Kill Inflicting
4 Serious Injury but also Felonious Larceny, weren't you,
5 sir?

6 A. Yes.

7 Q. And you are serving --

8 Q. You said yes?

9 A. Yes.

10 Q. You are serving a 72- to 96-month sentence for that
11 offense; is that right?

12 A. Yes, I am.

13 Q. And are you presently in the process of trying to
14 institute some post-conviction proceedings of your own?

15 A. Yes.

16 Q. In fact --

17 May I approach the witness?

18 THE COURT: Yes, Ma'am.

19 (State's Exhibit No. 3 is marked for the purpose of
20 identification.)

21 Q. I'll show you what I've marked for identification
22 purposes as State's Exhibit No. 3 and ask you to take a look
23 at that and see if you can identify it.

24 A. (Gestures.)

25 Q. Can you identify that?

1 A. Yes, that's my charge, my time, and my guilty plea.

2 Q. Is State's Exhibit No. 3 a copy of a letter that you
3 wrote to the Clerk of Court asking for certain documents
4 out of your court file so that you would file a motion
5 for appropriate relief?

6 A. Yes.

7 Q. That is what that is?

8 A. Yes, I did.

9 Q. And is an attorney helping you with that motion for
10 appropriate relief?

11 A. No.

12 Q. You are doing it on your own?

13 A. No. It's just no more good. I got to serve the rest of
14 my time.

15 Q. So you're not presently filing a motion for appropriate
16 relief?

17 A. No. I did, but it's over with now.

18 Q. And no attorney represented you on that?

19 A. No, I never made it to court or nothin' like that.

20 Q. In the judgment for the charges that you are serving time
21 for now, the felony assault and the felony larceny, it was
22 recommended that you receive psychological and
23 psychiatric treatment. Have you done that in the
24 Department of Corrections?

25 A. In the Department of Corrections?

1 Q. Since you've been in custody?

2 A. Yes.

3 Q. And when was it, Mr. Clark, that you say that you talked
4 with someone from the S. B. I.?

5 A. September of 1995.

6 Q. Do you know the date?

7 A. No. I'm sure it's in the file somewhere.

8 Q. And when was it, sir, that you told your mother about
9 the conversation? Did you tell her right after it happened?

10 A. Right after I called her.

11 Q. Right after you --

12 A. Yeah, about sometime when I called her. After -- I don't
13 know the exact date.

14 Q. Would it have been in September of 1995?

15 A. Most likely, yeah.

16 MS. WINSTEAD: I don't have anything further of this
17 witness at this time.

18 THE COURT: Any redirect?

19 MS. ECHOLS: No, Your Honor.

20 THE COURT: Thank you, sir. You may step down.

21 Call your next witness.

22 MS. ECHOLS: We'd like to call Wallace Brandon
23 Jones, please.

24 WALLACE BRANDON JONES, after first being duly sworn by the

25 Clerk, testifies as follows during DIRECT EXAMINATION

1 By MS. ECHOLS:

2 THE COURT: You may proceed.

3 Q. Please state your name.

4 A. Wallace Jones.

5 Q. Where do you currently live?

6 A. Hyde Correctional Institution.

7 Q. What are you currently serving time for?

8 A. First Degree Murder and Armed Robbery, Robbery with a
9 Deadly Weapon.

10 Q. Let me call your attention to the date of your trial. On
11 the morning of trial, were you prepared to be tried jointly
12 with your co-defendant?

13 A. Yes, Ma'am.

14 Q. Were you prepared to testify in this case?

15 A. Yes, Ma'am.

16 Q. Were you tried with your co-defendant?

17 A. No, Ma'am.

18 Q. What happened?

19 A. I really don't understand what happened, why we wasn't
20 tried together.

21 Q. When did you learn that you would not be tried jointly?

22 A. When we started picking the jury.

23 Q. Before the trial started, did you leave the courtroom and
24 talk with your attorneys?

25 A. Yes, Ma'am.

1 Q. What did your attorney tell you that conversation was to
2 be about?

3 A. When we went in the back room?

4 Q. Yes.

5 A. That -- they had a couple of pieces of paper. I didn't
6 even look at it. And they -- Mr. Vosburgh had told me that it
7 wasn't about him; that it was about Seth Edwards, another
8 attorney; that, you know, that he hadn't done nothin' wrong
9 and wasn't nothin' for me to worry about.

10 Q. Did your attorney discuss your right to conflict-free
11 counsel?

12 A. No, Ma'am.

13 Q. Did he discuss your right to the effective assistance of
14 counsel?

15 A. No, Ma'am.

16 Q. Did you understand that Vosburgh could have been taken
17 away as your attorney?

18 A. Could the judge have took him away?

19 Q. Yes.

20 A. Yes, Ma'am, I knew they could have taken him away.

21 Q. How did you feel about the prospect that Vosburgh could
22 be taken away as your attorney?

23 A. It upset me because, really, I hadn't talked to
24 Mr. Skinner but very few times during the process of being
25 appointed to him. Really, he didn't know much about my case

1 that I had talked to him before about. I had always talked
2 directly to Mr. Vosburgh.

3 Q. Did Mr. Vosburgh seem worried about this problem?

4 MS. WINSTEAD: Objection.

5 THE COURT: Sustained.

6 Q. Did Mr. Vosburgh express concern about this conflict of
7 interest?

8 A. Him and Mr. Harrell were arguing back and forth about it,
9 saying that it was some scheme concocted by the District
10 Attorney to get him off of my case. They was back and
11 forth with it.

12 Q. Did you talk about with your attorney what Dana Maybin
13 would say?

14 A. No, Ma'am.

15 Q. Did you talk about --

16 MS. WINSTEAD: Objection to all the leading.

17 THE COURT: Overruled. Goes a little quicker that
18 way.

19 Q. Did you discuss Nicole Mills' statement?

20 A. Briefly. He just told me that it was concerning Cliff
21 Edwards or some other attorney besides himself; that it had
22 nothing to do with him.

23 Q. What did you believe would happen if Mr. Vosburgh had
24 been taken away as your attorney?

25 A. That I would have went to trial with Mr. Skinner and I

1 would have had no chance.

2 Q. Were you asked if you wanted Mr. Vosburgh to continue as
3 your attorney?

4 A. Yes, Ma'am.

5 Q. Did you understand that Mr. Vosburgh could not testify if
6 he continued as your attorney?

7 A. No, Ma'am.

8 Q. When you returned to the courtroom after this
9 conversation, did the judge ask you anything regarding
10 your desire to keep Mr. Vosburgh on as your attorney?

11 A. Yes, Ma'am.

12 Q. Did the judge explain your Sixth Amendment right to
13 conflict-free counsel?

14 A. No, Ma'am.

15 Q. Did the judge ask you to explain your understanding of
16 the particular conflict?

17 A. No, Ma'am.

18 MS. ECHOLS: One moment, please, Your Honor.

19 (Ms. ECHOLS and Mr. Carter confer.)

20 MS. ECHOLS: No further questions at this time.

21 THE COURT: Any cross-examination?

22 MS. WINSTEAD: Yes, sir.

23 CROSS EXAMINATION by MS. WINSTEAD:

24 Q. Mr. Jones, Judge Vosburgh told you that one option was
25 that the case would be continued or put off; is that right?

1 A. No, Ma'am.

2 Q. He never told you that?

3 A. No, Ma'am.

4 Q. Well, he told you, sir, that you had two options in the
5 case as he's testified here today; didn't he tell you that,
6 sir?

7 A. I don't understand what you're saying.

8 Q. Didn't he tell you that there were two available options
9 to you with regard to the conflict of interest? Either he
10 could continue as your attorney, or he could withdraw; didn't
11 he tell you that?

12 A. Yes, Ma'am.

13 Q. And you were present in open court when the discussion
14 was had about Nichole Mills and her statement that she had
15 given, weren't you?

16 A. I don't understand what you're trying to say.

17 Q. You knew about Nicole Mills' statement that the attorneys
18 had that they discussed in open court before you went back in
19 to talk with your attorneys, right?

20 A. The only thing I knew about any statement anybody had
21 made was when we went in the back room and they said it was
22 concerning Seth Edwards, not Mr. Vosburgh.

23 Q. And what did they say was concerning him?

24 A. Actually, I can't remember. But it wasn't --

25 Q. But you do recall that they told you about the situation

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1 and what it involved.

2 A. They told me it wasn't about Mr. Vosburgh; that it was
3 concerning Seth Edwards.

4 Q. And you understood, did you not, Mr. Jones, from their
5 conversations with you and from what transpired in court that
6 some testimony might come out that would make Mr. Vosburgh
7 look bad, didn't you?

8 A. No, Ma'am.

9 Q. You didn't know that from what you heard in open court?

10 A. No, Ma'am.

11 Q. And Mr. Vosburgh didn't tell you that.

12 A. No, Ma'am. What they said in the back room was
13 concerning Seth Edwards, not Mr. Vosburgh. Mr. Vosburgh tol
14 me that he had done nothing wrong.

15 Q. Well, you never asked Mr. Vosburgh to testify for you,
16 did you?

17 A. I assumed that he would, him and Mr. Harrell both.

18 Q. Well, he told you that Mr. Harrell was going to cover
19 this issue, didn't he, when you were back in there discussing
20 the issue between Mr. Skinner and Mr. Vosburgh and you?
21 Didn't he tell you that?

22 A. The way Mr. Vosburgh said, that him and Mr. Harrell both
23 would, and that's what I thought, that Mr. Vosburgh would
24 take the stand, too.

25 Q. So Mr. Vosburgh told you when you were back in the room

1 that he was going to testify and remain as your attorney.

2 A. Mr. Vosburgh told me that him and Mr. Harrell would
3 rebut -- revoke -- some word they used, big word, rebuttal or
4 something, against it, and I thought he'd take the stand.

5 Q. So, is it your testimony, Mr. Jones, that Mr. Vosburgh
6 did not tell you that he would have to withdraw from your
7 case in order to testify?

8 A. Now, can you resay that again, please?

9 Q. Is it your testimony before this Court that Mr. Vosburgh,
10 now Judge Vosburgh, did not tell you that he would have to
11 withdraw in order to testify in your case?

12 A. Yes, Ma'am. He never told me that.

13 Q. He didn't tell you that?

14 A. No.

15 Q. But he did tell you that one option was that the case
16 would be continued; is that right?

17 A. No.

18 Q. He never told you anything about the case being put off.

19 A. No, Ma'am. The way he said it, I would go into court
20 with Mr. Skinner, go on through the trial if he had, you know,
21 quit.

22 Q. Mr. Vosburgh told you, did he not, that it was your
23 decision?

24 A. Decision in what now?

25 Q. Whether he would remain in the case.

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1 A. He asked me -- well, he didn't really ask me.
2 Mr. Vosburgh was in charge the whole nine yards of my case.
3 I really didn't have too much to say about what went on. But
4 he assured me that he had done nothing wrong and that him and
5 Mr. Harrell would handle, you know, anything that came up
6 because they hadn't done nothin' wrong. I had been in jail
7 for all that time for something I hadn't done.

8 Q. Yes, sir, but what I'm asking you is, did Mr. Vosburgh
9 tell you that it was your decision to make whether or not he
10 remained in the case? He did tell you that, didn't he?

11 A. He asked me -- do what? I'm not understanding where
12 you're going with this. I'm not understanding --

13 Q. Well, I'm just looking for the truth. Did Mr. Vosburgh
14 tell you that it was your decision whether he remained in the
15 case?

16 A. Yes.

17 Q. He did tell you that, and you made that decision, didn't
18 you, Mr. Jones?

19 A. Yes.

20 MS. WINSTEAD: I don't believe I have anything
21 further, Judge.

22 THE COURT: Any redirect.

23 MS. ECHOLS: Yes, Your Honor.

24 REDIRECT EXAMINATION by MS. ECHOLS:

25 Q. Mr. Jones, when you were deciding whether or not

1 Mr. Vosburgh should continue as your attorney, what things did
2 you think about?

3 A. Oh, I knew there was no way that I could come in this
4 courtroom and not have Mr. Vosburgh as my attorney and go with
5 John Skinner, go with just John Skinner, because he didn't
6 know nothin' about my case - to my opinion, you know, because
7 I hadn't talked to him but four times, four or five times, the
8 whole time that he had been appointed to me. There was just
9 no way I could go to trial with him. And they never said
10 nothing about postponing or putting nothing off either.

11 MS. ECHOLS: No further questions.

12 THE COURT: Thank you, sir. You may step down. You
13 may call your next witness.

14 MR. CARTER: Your Honor, we would call John Skinner.
15 JOHN SKINNER, after first being duly sworn, testifies as
16 follows during DIRECT EXAMINATION by MR. CARTER:

17 THE COURT: You may examine this witness.

18 Q. Mr. Skinner, how did you become Mr. Jones' attorney?

19 A. I was appointed.

20 Q. You were appointed --

21 THE COURT: Let him state his name for the record.
22 You're John Skinner, Attorney at Law?

23 THE WITNESS: Yes, sir.

24 Q. When did your representation of Mr. Jones begin?

25 A. I would have been appointed in the winter before the

1 trial began, around the end of December, the year before,
2 1994.

3 Q. Was co-counsel assigned?

4 A. Not at that time.

5 Q. Was co-counsel assigned at any time?

6 A. Yes.

7 Q. And who was that co-counsel?

8 A. Judge Vosburgh.

9 Q. Prior to this case, had you tried any other murder
10 trials?

11 A. Yes.

12 Q. Do you know approximately how many?

13 A. Capital, non-capital, what are you looking for here?

14 Q. Both capital and non-capital.

15 A. I tried the State versus Terry Ball in Beaufort county
16 with Mr. Maynard Harrell; Shawn Bonnett case in Martin county
17 with Mr. Maynard Harrell. This case would be the third
18 capital case. Mr. Denny Cherry in Bertie county, started out
19 capital, appointed with Mr. Harrell in that. It went
20 non-capital the day of trial. Shawn Patterson was a capital
21 case initially in Beaufort county, appointed to that with
22 Mr. Harrell, and it went non-capital about three months prior
23 to trial. There was a Herndon case in Martin county that
24 started out capital, and I was appointed to that with
25 Mr. Harrell. There was a "Gibbs" case in Hyde county with

1 four co-defendants, non-capital, represented one of the
2 co-defendants in that case. Shawn Boston, it was a First
3 Degree Murder case that pled guilty two sessions of court in
4 this county, non-capital murder. And a Second Degree Murder
5 case about 15 years ago in Martin county. And an Immanuel
6 Hymen case with Mr. Harrell that was non-capital in Washington
7 county. How many is that? Ten cases total?

8 Q. How did you and now Judge Vosburgh divide up the
9 responsibilities for Wallace Brandon Jones' case?

10 A. Exactly as he answered it. I took the mitigation,
11 expert witnesses, and I had two secretary at the time that did
12 most of the administrative work that was assigned. Nothing
13 different from the way he answered.

14 Q. When it came down to responsibility for making tactical
15 decisions during the guilt/innocence phase, who would normally
16 make those?

17 A. Judge Vosburgh. And can I explain that answer and how
18 this came about?

19 THE COURT: Yes, sir.

20 Q. Yes, sir, please.

21 A. When I was appointed initially in this case, I had one
22 capital case I'd tried with Mr. Harrell. Harrell and I have
23 worked together on many of them. He was appointed to the
24 co-defendant at a different session of court, Mr. Spruill.
25 Approximately three weeks later, either talking to Assistant

1 D. A., Mr. Frank Bradsher, or Mr. Rob Hensley, was told that
2 this case would probably go capital before a Rule 24 hearing
3 was conducted. I then asked Judge Paul, based on this, given
4 the complexity of this case, that the best way to represent
5 this gentleman would be to have someone very experienced to
6 come in and handle the tactical part of this case. And Judge
7 Vosburgh, I called him several times, was unsure at the time
8 when he may be appointed a superior court judge, but, with his
9 consent, he joined the case and took over this roll at my
10 insistence.

11 Q. During the investigation of the case, did you ever have
12 occasion to speak with Dana Maybin?

13 A. No, I did not get involved talking to her at all or any
14 other witnesses. I think I talked to Leroy Spruill up in the
15 jail, said "Greetings," and that was about it.

16 Q. So, you -- excuse me. Do you know Nicole Mills?

17 A. Do I know her?

18 Q. Yes, sir.

19 A. No, sir.

20 Q. Had you ever talked to Nicole Mills during the
21 preparation of this case?

22 A. No.

23 Q. Prior to the day of trial, were you aware that Nicole
24 Mills had made statements to an S. B. I. agent regarding the
25 conduct of the investigation in this case?

1 A. Judge Vosburgh advised me what was going on on his end
2 of the investigation. We also had a private investigator that
3 I was in charge of getting the stuff typed and out to him.
4 But other than updating me as to the progress, I was not
5 actively involved in the guilt or innocence early on. I later
6 became more involved when crunch time came.

7 Q. Prior to the day of trial, were you aware of any
8 potential conflict of interest?

9 A. I had no factual basis, but there's always a potential
10 conflict when lawyers are interviewing co-defendants. But
11 actually no real assessment that it was a real problem because
12 Ms. Moore had allowed Mr. Harrell and Mr. Vosburgh to speak to
13 Dana Maybin.

14 Q. So you knew that they had spoken to Dana Maybin?

15 A. Yeah.

16 Q. But you didn't know of any conflict.

17 A. Had nothing to base a good concrete definition of it.

18 Q. Now, just prior to trial, there was a conference held to
19 talk about the conflict of interest. Did you attend that
20 conference?

21 A. Yes.

22 Q. And who all was in the room?

23 A. To refresh memories, I talked to Mr. Harrell and Judge
24 Vosburgh about that particular issue, and I did not remember
25 the details as Mr. Harrell and Mr. Vosburgh did. My

1 recollection, since the work was split up and since we decide
2 tactically early on to have Mr. Harrell involved in exchange
3 of information among co-defendants -- repeat the question. I
4 kind of lost myself wandering there.

5 Q. Let me try it again then.

6 A. That's my fault.

7 Q. Who was present at that conference?

8 A. Mr. Harrell, according to my recollection. This was in
9 the back room. Judge Vosburgh was sitting, as the table faces
10 in this direction, back corner seat and against the wall,
11 outside, and I was at this corner. Wallace was to my left,
12 and Mr. Harrell was back off on the same side as Judge
13 Vosburgh a seat or two. And Ronnie Cherry I think was the
14 bailiff, if he was present. And I remember asking Mr. Harrell
15 to come in, if he'd join us. He had a lot of rapport with
16 Wallace, as did Judge Vosburgh. Both of them have better
17 bedside manners than I do.

18 Q. During that conversation, what did you personally tell
19 Mr. Jones regarding -- excuse me. What did you tell Mr. Jones
20 regarding any conflict?

21 A. What did I tell him?

22 Q. You personally, yes, sir.

23 A. I don't recall telling him anything very concrete. What
24 I do recall is that Judge Vosburgh had detailed what a
25 conflict of interest was. And the curing of it, calling

1 Mr. Harrell as a witness, was briefly mentioned. And Judge
2 Vosburgh explained to Wallace that the case would be continued
3 if he was out of the case.

4 My recollection, I was involved with the mental health
5 aspect of this case. Wallace was in tears, very distraught,
6 when he heard the word "continue." He was crying and looked
7 at Judge Vosburgh and myself and said, "I want you guys to
8 represent me. Nobody else." At that point, that reaction,
9 the only interaction I had was, as softly as I could speak,
10 "Do you understand what Judge Vosburgh just told you?" And
11 more crying, but then Judge Vosburgh reiterated the two
12 choices. "We continue it, and I withdraw, or, if you don't
13 agree that I have a conflict of interest, the case will not be
14 continued and it will go to trial today."

15 Q. Did Mr. Jones say anything to you that made you believe
16 that he fully understood the conflict situation?

17 MS. WINSTEAD: Well, objection to the form of that.

18 THE COURT: Overruled.

19 A. State the question again.

20 Q. Did you or anybody in that room solicit a narrative
21 response from Mr. Jones that he understood the conflict?

22 A. No. I will stand by what I just said; that I asked him
23 did he understand, and he did not simply say, "No, I don't."
24 It was repeated. Judge Vosburgh said what the consequences
25 were.

1 Q. You were in charge of the mitigation in this case, or you
2 worked in the mitigation aspect of this case.

3 A. Yes, sir.

4 Q. What did you argue to the jury about Wallace Brandon
5 Jones' mental health?

6 MS. WINSTEAD: Objection.

7 THE COURT: Is that part of this motion? Have you
8 alleged that issue? I mean, what --

9 MR. CARTER: Your Honor, no, it's not actually part
10 of this motion. I was trying to get to the point of
11 mitigation as to what Mr. Jones' mental state was. There
12 may be a better way to ask him that.

13 THE COURT: Ask him that.

14 MR. CARTER: Just ask him that question directly?
15 Thank you, Your Honor.

16 Q. Did Mr. Jones have a learning disability?

17 MS. WINSTEAD: Well, objection.

18 THE COURT: Overruled, if he knows.

19 Q. If you know.

20 A. Yes.

21 Q. In your dealings with him, in your dealings with him, did
22 it ever affect his ability to comprehend?

23 MS. WINSTEAD: Objection..

24 THE COURT: Overruled.

25 A. What do you mean by that? I'm not sure. Ability to

1 comprehend - what exactly?

2 Q. In your dealings, your personal dealings, with
3 Mr. Jones, did you ever have a problem getting him to
4 understand what you were trying to relate to him?

5 A. Yes and no to that. What he did understand, which was
6 explained to him very early, when it's a capital case, there
7 are two lawyers. He had no problem understanding two versus
8 one. When I explained to him we were dividing the work and
9 that Mr. Vosburgh was on board, very competent counsel, how we
10 would divide it, he had no problem understanding that. As far
11 as diagnosing his own depression, understanding the effects of
12 alcoholism in his family, as far as understanding
13 inner-breeding relatives, I would say, no, he did not
14 understand the consequences of all that and how I would use
15 it.

16 MR. CARTER: Those are my questions, Your Honor.

17 THE COURT: Any cross-examination?

18 CROSS EXAMINATION by MS. WINSTEAD:

19 Q. Mr. Skinner, how long have you been practicing law?

20 A. I graduated law school in 1975. Actually engaged in the
21 criminal and domestic areas, 1986, in Martin county.

22 Q. And has that been continuous up until the present?

23 A. Since 1986 in this type of practice, yes.

24 Q. And what percentage of your practice is criminal?

25 A. Defining criminal as district court, criminal practice,

1 infractions, and that kind of thing? Everything?

2 Q. Yes.

3 A. Probably 80 percent, other 20 percent being the domestic
4 area. I do no civil litigation; no real estate.

5 Q. Mr. Skinner, do you have a recollection of the State
6 providing you and Mr. Vosburgh with some Brady material on the
7 day of the trial?

8 A. My recollection differs from Mr. Vosburgh's and is more
9 based on what normally happens. I remember the Brady
10 materials being provided as far as Ms. Maybin goes after
11 direct. That's usually what happens. And, other than that, I
12 have no independent recollection.

13 Q. So, it could have been that the Maybin materials were
14 provided pretrial as part of a Brady obligation?

15 A. Pretrial, no, I don't think. The xerox statements,
16 diaries, or letters, I never saw any of that prior to the
17 beginning of trial.

18 Q. Well, let me just rephrase that. The morning of the
19 trial. You could have been provided those as part of the
20 Brady obligation, Dana Maybin's statements and diary entries,
21 on the morning of the trial?

22 A. If it was provided, I probably took the stack and handed
23 it to Judge Vosburgh. And then if he needed me to do
24 something, review them, I would have done it. We had other
25 witnesses I was trying to talk to in the back of the

1 courtroom.

2 Q. Do you recall, though, that you were provided some Brady
3 materials that day, or do you not have any recollection of
4 that at all?

5 A. I don't recall anything different than what I just said.

6 Q. Let me ask you --

7 MS. WINSTEAD: May I approach the witness?

8 THE COURT: Yes, Ma'am.

9 Q. If you will, take a look at Volume I, Page 33, and see if
10 that might refresh your recollection.

11 A. This where you underlined?

12 Q. Yes. Mr. Norton's statement there.

13 A. (Complies.) All right.

14 Q. Does that refresh your recollection about the Brady
15 material?

16 A. No, it doesn't --

17 Q. Okay --

18 A. -- from this.

19 Q. All right. Do you recall, Mr. Skinner, knowing at the
20 time you embarked on the conference with the defendant about
21 the conflict of interest, knowing about Dana Maybin's
22 involvement as it related to Nicole Mills?

23 A. Did I know her involvement?

24 Q. Yes.

25 A. I only knew she was in the jail and some statements or

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1 letters had been passed. But, no, I was not actively
2 focusing on any of that.

3 Q. Did you then review the defendant's exhibit, that
4 interview with Nicole Mills, there that morning?

5 A. Probably looked over it quickly and gave it back to Judge
6 Vosburgh.

7 Q. And when you conferred with the defendant, you say Judge
8 Vosburgh clearly explained to him that there were two
9 options involved?

10 A. I think Judge Vosburgh was very clear, very concise,
11 especially after I'd asked Wallace did he understand what
12 Judge Vosburgh said the first time. There was no more --
13 after the choices, any more questions asked by Wallace.

14 Q. There were no more what?

15 A. Questions asked by Wallace.

16 Q. So, Judge Vosburgh twice explained to him that there
17 were two options involved.

18 A. He explained it more in legalese the first time and
19 then simplified it the second time.

20 Q. At any rate, he told him, did he not, both times that one
21 of the options was for him to withdraw as counsel so that he
22 could testify?

23 A. He explained to him about what conflict was. At that
24 point, the crying started, and the continuance, that's when I
25 asked him did he understand.

1 Q. And I'm not sure it's in the record. He did explain to
2 him twice that one of the options was that he could
3 withdraw as counsel so that he would have the opportunity to
4 testify on the defendant's behalf?

5 A. He explained to him that if he withdrew, that it would
6 be -- it was his decision. I do remember that part.

7 Q. That it was Wallace Jones' decision?

8 A. He had explained that to him. And there was no question
9 asked, "What does that mean?" - but it would be continued and
10 another attorney would be appointed.

11 Q. So that he could testify?

12 A. That I don't recall exactly. But a conflict of interest
13 legally was explained, and then it got down to the A-B-C's
14 level - choice one, choice two, type thing - the way Judge
15 Vosburgh, you know --

16 Q. And the defendant ultimately chose for?

17 A. No continuance. Wanted to proceed with counsel.

18 Q. And, if I understand you correctly, Mr. Skinner, you
19 don't recall now what you knew then about Dana Maybin and what
20 she would say later at the trial?

21 A. I wasn't in the middle of that part of it.

22 Q. All right.

23 MS. WINSTEAD: If I could have one second, Your
24 Honor.

25 THE COURT: All right.

1 MS. WINSTEAD: I believe that's everything.

2 THE COURT: Any redirect?

3 MR. CARTER: No, Your Honor.

4 THE COURT: Thank you, sir. You may step down. You
5 may call your next witness.

6 MR. CARTER: Your Honor, the defendant would call
7 Maynard Harrell.

8 MR. SKINNER: Do you need me to stand by?

9 MS. WINSTEAD: Please.

10 MAYNARD A. HARRELL, JR., after first being duly sworn,
11 testifies as follows during DIRECT EXAMINATION by MR. CARTER:

12 THE COURT: You may proceed.

13 Q. Would you please state your name.

14 A. Maynard A. Harrell, Jr.

15 Q. How are you employed, sir?

16 A. I'm an attorney.

17 Q. How long have you been practicing law?

18 A. Twenty-eight years.

19 Q. Always the state of North Carolina?

20 A. No, sir. I practiced five years in the state of
21 Mississippi as a district attorney.

22 Q. So you've been practicing law in North Carolina for 23
23 years?

24 A. Yes, sir.

25 Q. Do you know the defendant in this case, Wallace Brandon

1 Jones?

2 A. Yes, sir.

3 Q. How do you know him?

4 A. I knew he was a co-defendant in a case that I had. My
5 defendant was Leroy Spruill.

6 Q. During the investigation of your case with
7 Mr. Spruill, what kind of working relationship did you have as
8 far as sharing information with James Vosburgh and John
9 Skinner?

10 A. Most of the information that was shared was with Judge
11 Vosburgh because he was trying the guilt phase of the case,
12 and, in my case, I was trying the guilt phase. We
13 conferred -- at the time, we thought we had a joint trial, and
14 we did share information back and forth. I think the comment
15 was made by me at one time that "we would paddle in the same
16 boat as long as we can, and, if we have to, then we're going
17 to have to separate."

18 Q. Did you in fact have to separate?

19 A. No, not really. My client ended up entering a plea after
20 the trial of Brandon Jones.

21 Q. Was co-counsel assigned in your case?

22 A. Yes, sir.

23 Q. Who would that have been?

24 A. Seth Edwards, attorney in Washington, North Carolina.

25 Q. Do you recall when you were first notified that

1 Mr. Spruill and Mr. Jones were to be tried separately?

2 A. My recollection is we found out the day of trial.

3 Q. The day of Mr. Jones' trial?

4 A. Yes.

5 Q. Were you in the courtroom the day of Mr. Jones' trial?

6 A. The day his trial started?

7 Q. Yes, sir.

8 A. Yes. In fact, I was in the courtroom pretty much
9 throughout his entire trial because I anticipated having the
10 following trial which would have been pretty much the same
11 elements.

12 Q. Do you know Dana Maybin?

13 A. Yes.

14 Q. How many times have you spoken with her?

15 A. On three occasions.

16 Q. When was the first occasion?

17 A. I don't recall the exact date. I recall where it was and
18 that Judge Vosburgh went with me to Women's Prison in Raleigh
19 to interview her. After he had obtained permission from
20 Regina Moore, I followed that up and obtained permission from
21 Regina Moore as to my client.

22 Q. What was the purpose of that visit?

23 A. To determine what information that she may have and what
24 she was going to testify to. It was interviewing a potential
25 -- a major potential witness in a capital case.

1 Q. Did you share any evidence with Ms. Maybin about either
2 your client's case or Mr. Jones' case?

3 A. I do not recall sharing anything specifically with Dana
4 Maybin about the defense I was going to put on on behalf of
5 Leroy Spruill. I questioned her about what she knew.

6 Q. Did you share with her any discovery material?

7 A. No.

8 Q. What was your next meeting with Dana Maybin?

9 A. After the first meeting, I arranged - I think it maybe
10 was like a week later - again, I called Ms. Regina Moore to
11 obtain permission, and I also specifically got permission to
12 tape-record the conversation, and it would have been some week
13 or ten days later. I don't recall exactly how long. I went
14 alone at that meeting. Mr. Vosburgh did not go. That was the
15 second meeting.

16 Q. Now, at that second meeting, which was tape-recorded, did
17 you share any information with Ms. Maybin, any discovery
18 information, relevant to your case or Mr. Jones' case?

19 A. No, sir.

20 Q. Did you make the statement to Ms. Maybin that "They don't
21 have any evidence"?

22 A. I may have made that statement. I don't recall.

23 Q. Did you tell Ms. Maybin that Mr. Leroy Spruill's father's
24 truck was broke down on the night of the murder?

25 A. I don't recall telling her that.

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1 Q. Now, that second interview you had, that was
2 tape-recorded you say?

3 A. Yes, sir.

4 MR. CARTER: May I approach?

5 THE COURT: Yes, sir.

6 Q. We have Defendant's Exhibit No. 4.

7 THE COURT: What number is that?

8 MR. CARTER: No. 4, Your Honor. I'm sorry.

9 Q. Would you identify that for me?

10 A. Yes, sir. It's Defendant's Exhibit No. 4, and it's
11 titled "Examination of Dana Maybin conducted by Maynard
12 Harrell, Esquire."

13 Q. Does that have a date on it, when it was?

14 A. Let me check.

15 Q. Let me withdraw that question.

16 A. I don't see one. There may be one in here somewhere.

17 Q. Have you seen that document before?

18 A. No, sir.

19 Q. You've never seen -- have you seen the original to that
20 document?

21 A. Not to my knowledge. I've never read my testimony -- I
22 mean, this was testified to in the trial, also. I testified
23 on behalf of Mr. Jones. I don't recall seeing this. I heard
24 the tape. I think this is going to be a transcript of the
25 tape.

1 Q. That is a transcript of the tape.

2 A. Okay. But I don't recall having seen the printed
3 document.

4 Q. When you met with Dana Maybin and made this recording?
5 A. Yes, sir.

6 Q. Did Dana Maybin recant her allegations that with your
7 client and Wallace Brandon Jones were involved in the death of ...
8 Frank Swain?

9 A. You mean recant the statement that she had implicated
10 them?

11 Q. Yes, sir.

12 A. Yes. She had recanted that statement and indicated that
13 they had nothing to do with it.

14 Q. Did you, during that interview that was taped, did you
15 indicate to Ms. Maybin that she should make that statement?

16 A. I don't think I indicated to her that she should. When
17 the interview started, I had already talked to her the week
18 before, 10 days before. I told her I was back to talk to her
19 again. I told her that I was going to record the conversation
20 with her permission. And I believe she gave permission to do
21 it.

22 Q. Now, the day of trial, were you involved in a meeting
23 with Wallace Brandon Jones, James Vosburgh, and John Skinner?

24 A. I do not recall that. I've heard the testimony earlier
25 today. I do not recall being -- if you're talking about the

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1 conference in the back room here, the jury room?

2 Q. Yes, sir.

3 A. I do not recall being present in that meeting.

4 Q. Did you ever discuss with James Vosburgh or John Skinner
5 after that meeting or before that meeting any need for you to
6 testify in this trial -- excuse me -- in the trial of Wallace
7 Brandon Jones?

8 A. I don't think it came up at that time.

9 Q. Did it come up later?

10 A. I don't recall that it did.

11 Q. Were you planned to be a witness at the Wallace Brandon
12 Jones trial?

13 A. I hadn't planned to be a witness. I knew in the
14 separation I could be a witness.

15 Q. Do you know Nicole Mills?

16 A. No, I do not.

17 Q. Have you ever spoken with Nicole Mills in the presence of
18 James Vosburgh?

19 A. No, I have not.

20 MR. CARTER: Those would be my questions, Your
21 Honor.

22 THE COURT: Any cross-examination?

23 CROSS EXAMINATION by MS. WINSTEAD: .

24 Q. Mr. Harrell, have you had the opportunity to look at the
25 Rule 24 conference transcript?

1 A. Yes, ma'am, I have.

2 Q. And you were present at that conference, were you not?

3 A. Yes. I believe so, yes.

4 Q. And --

5 A. Are you talking about the Rule 24 on Brandon Jones?

6 Q. Right.

7 A. I am not certain I was at that Rule 24. I have read the
8 transcript of it.

9 Q. All right. And, in that transcript, it states that the
10 cases will not be joined for trial; the State announced that
11 at the Wallace Jones Rule 24 conference; is that right?

12 A. As I read the statement, it said that, and I took the
13 statement to be that the trials would be separated in that
14 Dana Maybin would be tried first.

15 MS. WINSTEAD: I don't have any further questions of
16 this witness.

17 THE COURT: Any redirect?

18 REDIRECT EXAMINATION by MR. CARTER:

19 Q. You testified about a third meeting with Dana Maybin.

20 A. Yes, sir.

21 Q. When was that?

22 A. If my recollection is correct, and I did some research to
23 verify that yesterday, one of the reasons, and this makes me
24 feel that we were anticipating a joint trial because the
25 Sunday before the trial was to begin, Mr. Charles Ogletree,

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1 A. Yes, ma'am, I have.

2 Q. And you were present at that conference, were you not?

3 A. Yes. I believe so, yes.

4 Q. And --

5 A. Are you talking about the Rule 24 on Brandon Jones?

6 Q. Right.

7 A. I am not certain I was at that Rule 24. I have read the
8 transcript of it.

9 Q. All right. And, in that transcript, it states that the
10 cases will not be joined for trial; the State announced that
11 at the Wallace Jones Rule 24 conference; is that right?

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13 statement to be that the trials would be separated in that
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16 this witness.

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19 Q. You testified about a third meeting with Dana Maybin.

20 A. Yes, sir.

21 Q. When was that?

22 A. If my recollection is correct, and I did some research to
23 verify that yesterday, one of the reasons, and this makes me
24 feel that we were anticipating a joint trial because the
25 Sunday before the trial was to begin, Mr. Charles Ogletree,

1 A. When you asked me who was present when Dana Maybin was
2 here, there may well have been a jailer present, but I don't
3 recall. I would suspect there probably was a jailer present.

4 MS. WINSTEAD: May I approach the witness?

5 THE COURT: Yes, Ma'am.

6 Q. Mr. Harrell, I'm handing you the court files for your
7 client, Leroy Spruill, 94 CRS 1984 and 95 CRS 1566, and ask
8 you to take a look at a document in there entitled "Motion for
9 Trial Transcript" and direct your attention to Paragraph 4 of
10 that document.

11 A. Yes, Ma'am.

12 Q. Does that refresh your recollection as to when you knew
13 that the cases were not -- that is, the cases of Leroy
14 Spruill?

15 A. This appears that I would have been aware of it on
16 August 21st, 1995.

17 Q. Because you stated that in that motion.

18 A. That's correct.

19 MS. WINSTEAD: Your Honor, I'd ask you to take
20 judicial notice of that since it's in the court file. I
21 could mark it and make it -- why don't I mark it and make a
22 copy of it. I'll mark it State's Exhibit 4. If you'll just
23 hand that up.

24 (State's Exhibit No. 4 is marked for the purpose of
25 identification.)

1 MS. WINSTEAD: No further questions.

2 THE COURT: Anything further?

3 MR. CARTER: Your Honor, at this time, I would renew
4 my motion to have Tommy Ward declared unavailable. I have no
5 further questions of Mr. Harrell.

6 THE COURT: Any luck finding him, Sheriff?

7 SHERIFF: I contacted his residence at that number,
8 and they were trying to locate him, also. They said he walked
9 over to Social Services. I walked over there, and he hadn't
10 come. I called back and advised them of his need for presence
11 here, and they said they're going to try to find him.

12 MS. WINSTEAD: Judge, we would be glad to assist in
13 locating him. I know that he's on probation currently. I
14 don't know if anyone has checked with his probation officer,
15 but --

16 MR. BRIAN LAWRENCE, PROBATION OFFICER: I went and
17 looked for him and got the same thing. They said he was going
18 to Social Services. I went over there, and he wasn't there.
19 I left a message for him to call me.

20 MS. WINSTEAD: You are the probation officer?

21 MR. BRIAN LAWRENCE, PROBATION OFFICER: Yes.

22 MS. WINSTEAD: But I'd like the opportunity to be
23 able to try to locate him before the Court considers allowing
24 that statement in under the unavailability exception.

25 THE COURT: Well, I think it's just a matter of time

1 before we can locate him. The question is, is that the only
2 other witness you were going to call?

3 MR. CARTER: Yes, Your Honor.

4 THE COURT: That's your last witness?

5 MR. CARTER: Yes, Your Honor.

6 THE COURT: Well, let me suggest that maybe we take
7 him out of order if he shows up later on today or tomorrow
8 maybe and let the State go ahead and proceed with any evidence
9 it might have.

10 MS. WINSTEAD: Before we do that, may we have a
11 brief recess?

12 THE COURT: Yes, Ma'am. We'll be in recess about 15
13 minutes.

14 (Recess at 2:40 p. m. until 2:55 p. m.)

15 (Ms. Winstead, Mr. Norton, Ms. Echols, Mr. Carter, and the
16 Defendant are present in the courtroom.)

17 THE COURT: Are you ready to proceed?

18 MS. WINSTEAD: Actually, I'm not. Could we possibly
19 just have five more minutes? Judge, people have left the
20 office and people spread out all over. It's been kind of hard
21 to get everybody together. But if I could just have five more
22 minutes, I think we can --

23 THE COURT: All right. We'll just wait right here
24 for you.

25 (Ms. Winstead and Mr. Norton leave the courtroom at 2:57 p. m.)

1 and return to the courtroom at 3:04 p. m.)

2 MS. WINSTEAD: Thank you for your patience. We will
3 call Mitchell Norton.

4 MITCHELL NORTON, after first being duly sworn, testifies as
5 follows during DIRECT EXAMINATION by MS. WINSTEAD:

6 Q. Would you state your name for the Court.

7 A. Mitchell Norton.

8 Q. How are you employed?

9 A. I'm the District Attorney for the 2nd Judicial District.

10 Q. And how long have you been so employed?

11 A. I've been in the office since 74; District Attorney since
12 84.

13 Q. And, in that capacity, were you responsible for the
14 prosecution of this defendant?

15 A. I was.

16 Q. Now, there was also a co-defendant in the case, two
17 co-defendants, Dana Maybin and Leroy Spruill; is that correct?

18 A. That's correct.

19 Q. Was it ever the State's intention to try Wallace Brandon
20 Jones and Leroy Spruill jointly?

21 A. No. Not after we got into reviewing the case files and
22 setting the case up for preparation for trial.

23 Q. And, in preparing the case for the trial of this
24 defendant which was to begin on September 18th of 1995, did
25 you make a decision to make certain disclosures to the Court

1 on that morning?

2 A. We made certain disclosures that morning. The decision,
3 I think, was made probably earlier than that. There was a
4 problem in what I perceived to be a conflict of interest, and
5 I was trying to determine how was the best way in which to
6 deal with what I perceived to be a problem.

7 Q. And how did you determine to deal with that?

8 A. I had gone through and read the information in the file.
9 There was a former assistant who had worked with me that we
10 had tried a number of cases together who is currently the
11 District Attorney in Burlington, Rob Johnson. I had talked --
12 Rob and I from time to time bounced different things off each
13 other. I had contacted him, and he and I discussed a
14 potential problem. Rob related to me a case in which he had
15 either prosecuted or at least he was familiar with in the
16 Burlington area with a somewhat similar type thing. As a
17 result of that, and on reflecting on it at that time, was when
18 I made the decision that that needed to be brought before the
19 Court on the morning of the trial. There were some, as I
20 recall, some pending motions that were reserved for the trial
21 judge, and, after we got started that morning is when I
22 brought that information to Judge Brown's attention.

23 Q. What is your recollection as to what transpired from that
24 point forward on the conflict of interest issue?

25 A. At that point, we came up to the bench. I think it was

1 Judge Vosburgh, Mr. Skinner, and myself. Tom Anglim came up
2 to the bench. I gave him at that time --

3 Q. Him being Judge Brown?

4 A. Judge Brown a copy of the -- I think I initially -- I
5 showed him my file, is my recollection. I talked with him
6 about the information that was in the file.

7 Q. Now, was this at the bench?

8 A. This was at the bench. I also discussed at the bench at
9 some point -- because I think at that time Judge Brown asked
10 Judge Vosburgh and Mr. Skinner about Ms. Mills at that time
11 and whether or not they had seen that particular document.

12 Q. Now, is that what was previously introduced, I believe,
13 as Defendant's Exhibit 13?

14 A. I can't see the number. I'm not sure.

15 (Mr. Carter furnishes paperwriting to Ms. Winstead and
16 Ms. Winstead furnishes the same to Mr. Norton.)

17 A. I think this is the one that was passed up or a copy of
18 that.

19 Q. At any rate, the Court was made aware of the substance of
20 the statement of Leslie Nicole Mills at that time?

21 A. Yes. And also at the bench we discussed what I viewed as
22 a potential problem with Dana Maybin at that time.

23 Q. Do you remember the nature of that discussion?

24 A. It basically was a material somewhat similar to this.
25 Also, the information that Dana Maybin testified to on the

1 stand as it related to Judge Vosburgh and Mr. Harrell in going
2 to Raleigh to talk with her and also as it related to her
3 conversations with Ms. Mills.

4 Q. So, you made everyone aware of that at the bench at that
5 time?

6 A. Yes. We talked about that at the bench. And, at that
7 time, after that, Mr. Vosburgh, now Judge Vosburgh,
8 Mr. Skinner, and Mr. Jones, my recollection was the judge
9 asked them to go back and to talk to their client about that.
10 They left, went back, and they came back. There was some
11 further discussion here in open court. My recollection is
12 that after that we went back to the bench again. I don't
13 know. You'd have to look at the transcript. And then,
14 following that, Judge Brown addressed Mr. Jones directly.

15 Q. Let me ask you, the time that you recollect that you went
16 back to the bench before Judge Brown addressed the defendant,
17 do you recall what was said at that conference?

18 A. At the bench?

19 Q. At the bench.

20 A. Just that, in addition to the -- I don't recall the exact
21 words, but the gist of it was that, in addition to Defendant's
22 Exhibit 13, that there was also what I viewed as a potential
23 problem with Dana Maybin, and I wanted that addressed before
24 we got into the case and the jury was impaneled.

25 Q. And then after that discussion at the bench, Judge Brown

1 questioned the defendant in open court?

2 A. Well, no. After the initial bench conference when all
3 this came about, Mr. Vosburgh, Mr. Skinner, the defendant, as
4 I recall, came back into the jury room. They had some type of
5 discussion, came back out, and then my recollection was that
6 there was another bench conference.

7 Q. Right.

8 A. But, at any rate, after that, Judge Brown addressed the
9 two attorneys, I think. And then Mr. Jones, he addressed
10 Mr. Jones directly, going through the questions of whether or
11 not the two attorneys had discussed with him about the
12 conflict and that type of thing.

13 MS. WINSTEAD: May I approach the witness?

14 THE COURT: Yes, Ma'am.

15 Q. I'm handing you Volume I of the transcript. If you
16 would just read, take a second and read your comments on
17 Page 33.

18 A. (Complies.) Okay.

19 Q. When you are talking on Page 33 about the Brady
20 material, to what are you referring at that point?

21 A. This was information -- there were some diary entries and
22 letters from Ms. Maybin and diary entries that were given in
23 which she basically was recanting her testimony. There was a
24 whole series of things in there. She had talked about in some
25 of the letters some of the things about Mills, and it was

1 about the case itself.

2 Q. And that was provided to the defendant in discovery as
3 part of the State's Brady obligation?

4 A. Yes. Mr. Anglim, Tom Anglim, who was an assistant at
5 that time, Tom was taking care of the discovery matters and
6 was told to give the attorneys in all the cases everything to
7 which they were entitled and to take care of the Brady
8 material, and Mr. Anglim did that.

9 Q. And so would that have been - that is, the diary entries
10 and letters of Dana Maybin that you're referring to - would
11 they have been given to Mr. Vosburgh and Mr. Skinner as part
12 of the State's Brady obligation before jury selection?

13 A. Yes. Some of it may have been given to them that
14 morning, some of the things. And then I believe that during
15 the course of the trial, that there may have been times in
16 which material was brought to our attention that he responded
17 to our continuing duty to disclose anything. As I recall,
18 there were some other letters or things that we didn't have at
19 that time that, as soon as they were brought to our attention,
20 we would turn those over.

21 MS. WINSTEAD: May I approach?

22 THE COURT: Yes, Ma'am.

23 Q. Looking at Volume I of the transcript, Mr. Norton, and
24 directing your attention to the bottom of Page 34, to what
25 were you addressing your -- first of all, would you read into

1 the record your statement there.

2 A. Are you talking about right here at the bottom?

3 Q. Yes.

4 A. Judge Brown -- it says,

5 "THE COURT: Sure. Does the D. A. have
6 something else you want to say?"

7 I responded,

8 "No, not about that. But I do want to remind
9 them about the other stuff from Ms. Maybin that
10 may come up."

11 Q. And to what were you referring there?

12 A. Judge Brown, at the time that he -- here away from the
13 bench, there were statements that were made both to
14 Mr. Anglim and myself. Judge Vosburgh and Mr. Skinner kept
15 referring to the Mills' document, and this is -- and they were
16 just getting ready to go out and talk to Mr. Jones. And
17 this -- when Judge Brown directed his comments to me, I wanted
18 to remind Judge Vosburgh and Mr. Skinner and Mr. Jones that,
19 even though the judge kept talking about the Mills' statement,
20 that the Maybin material was also coming up, to be aware of
21 that.

22 Q. And was some of what you had provided the defendant as
23 part of the Brady obligation prior to jury selection, did it
24 contain information that is the subject of this hearing
25 regarding Ms. Maybin and Mr. Vosburgh?

1 A. Yes, that's my recollection. As I said, when we got
2 into it, Mr. Anglim and I had discussed that, and I said,
3 "Make sure you -- you take care of this. You make sure that
4 this is done."

5 MS. WINSTEAD: Nothing further of this witness at
6 this time.

7 THE COURT: Any cross-examination?

8 MS. ECHOLS: Yes, Your Honor. May we have a moment,
9 please?

10 THE COURT: Yes, Ma'am.

11 CROSS EXAMINATION by MR. CARTER:

12 Q. Mr. Norton, when would you have received a copy of the
13 Mills interview that was done by Agent Varnell?

14 A. It looks like the statement itself was taken by
15 Mr. Varnell on the 24th of January. I don't know exactly what
16 time. Probably within -- I don't know. A couple of months
17 after that. March. April, perhaps.

18 Q. Now, I need to be very precise about this, if you bear
19 with me. Maybin's statements, when did you receive those
20 statements she gave to the law enforcement officers?

21 A. I can't tell you an exact date. I can go back probably
22 to the file and tell you when the statements were given to the
23 law enforcement officers. They were statements from
24 Ms. Maybin, as I recall, that were given both to S. B. I.
25 agents; they were statements that were given by Ms. Maybin to

1 members of the Washington County Sheriff's Department. And
2 those came to me at different times. The other thing about
3 when the statements came in, the case was still under
4 investigation. And so, what occurs in many of those cases,
5 even when the file comes in, that they're kept, and, until you
6 start gearing up for the trial of the case, they're just
7 there, you know, in the office, and no one had been looking at
8 them. And I can't tell you with any certainty, first, as to
9 when they came into the office, nor, secondly, at what point
10 in time that they were actually taken out to start preparing
11 for this trial.

12 Q. Do you know when you received the Dana Maybin diary
13 statements?

14 A. I can't tell you when I received those. Perhaps one of
15 the agents can. I don't -- I don't know. Like I said, there
16 was some material -- to my recollection, there was some of the
17 material, maybe not from the diary statements, but there was
18 some material that we were made aware of during the trial.
19 And, when we got that information, as soon as it came in,
20 copies of that were made and were given to either Mr. Vosburgh
21 or Mr. Skinner or both.

22 Q. Would it be a fair statement to say on September 18th of
23 1995, you are not really sure what statements would be in the
24 hands of the defendant's attorneys?

25 A. I think on the 18th there certainly would have been the

1 diary entries would have been given to them and many of the
2 letters that we'd gotten. Now, to say exactly which ones, we
3 gave them what we had at that time. And, if there was
4 anything that came in later that came to our attention at a
5 later time because Mr. Anglim knew from the beginning in this
6 case to give them what they were entitled to under the
7 statute. And I believe that he attempted to do that.

8 The other thing, too, about it is, in looking at the
9 information that was in the diary, the information that came
10 from the Mills statement, the information that was contained
11 in the letters that were all produced here, indicated to us,
12 and the information that we had was that the defense lawyers
13 knew about this information before we did. And one of the
14 reasons for that is part of the Washington county documents,
15 interviews were being typed and were being handled by the
16 sister of the defendant, Spruill, and we had information, or
17 at least we had the belief, that everything that was coming
18 through the Sheriff's Office at that time was going to
19 Mr. Spruill and was being disseminated through the attorneys.
20 And then when you look at the diary entries and the statements
21 that were going from Ms. Maybin to Mills, and, as I recall,
22 there was a statement from the mother of Ms. Maybin, that she
23 had been contacted by attorneys for one or more of the
24 co-defendants, that they were all aware of this. But, in an
25 abundance of caution is when Mr. Anglim prepared these things

1 to give to them.

2 Q. But you were aware of the situation before the day of
3 trial.

4 A. When you say "aware of the situation," was I aware of the
5 potential for conflict? Yes.

6 Q. You were aware of the potential for conflict before
7 beginning the trial.

8 A. Yes. And it was something that I kept going over to try
9 to get advise of how was the best way to handle it, and that's
10 why it was brought to Judge Brown's attention.

11 Q. And you just read through your statements you made on
12 Page 33 of the transcript. I believe at Line 10, you stated
13 to the judge that there would be some additional statements
14 that may come in from the witness Dana Maybin in addition to
15 what you have there. Is that what you stated, sir?

16 A. Yes, sir. This would have been in reference to -- in
17 addition to the -- this document that is when we were talking
18 about Ms. Maybin, that there were statements that would be
19 coming in from Ms. Maybin. And this is why, over on Page 34,
20 that I wanted to remind them again. Judge Brown kept talking
21 about Mills. But the information that was here, the
22 information that was given on Brady, went beyond Mills. It
23 included Ms. Maybin's statements.

24 Q. But, basically, what you related to the Court on Pages 33
25 and 34, there may be some other statements but no other

1 definition.

2 A. That's what I said. The court reporter, I mean, she
3 wrote down what I said. But that is what the reference was
4 was to the material that was given on Brady and the
5 information that we had relative to Mills, Maybin, and how it
6 would relate to any potential conflict. And it was something
7 that I wanted the judge to look at, to have the lawyers to
8 look at, and make a determination before I got into this
9 thing.

10 MR. CARTER: May we have a moment?

11 THE COURT: Yes, sir.

12 (Mr. Carter and Ms. Echols confer.)

13 Q. But at the time you raised this conflict, or you raised
14 this potential issue of conflict, there were no other
15 statements given to anybody at that time physically.

16 A. Yes, sir. The statements had been given by
17 Mr. Anglim to the defense lawyers in Brady and my recollection
18 is I think they gave them some statements perhaps that
19 morning. But there was other material that was given to them
20 earlier. So, no, sir, that's not correct. There were other
21 statements that were given to them. I don't know why Judge
22 Brown kept referring to this unless he had it right here. But
23 I wanted him to understand that we were going back over the
24 whole thing.

25 Q. I'm sorry. You misunderstood my question. At the time

1 when you raised this conflict with Judge Brown, at that time,
2 you provided no additional documents to Judge Brown, did you?

3 A. I don't recall whether Judge Brown looked at the packet.
4 I know that when we were at the bench we talked about Maybin;
5 we talked about Mills. Judge Brown had this document I know
6 in his hand. I can tell that by what I've just been asked to
7 read. And they went back and they talked about this. But as
8 far as what they had, the information had been given to them,
9 and Judge Brown was made aware of the problem that I saw with
10 Maybin. That's why I kept coming back to, "Look, let's don't
11 forget this."

12 Q. At the time when this conflict came up at either the
13 second conference on Page 33 or the third one on Page 34, I
14 believe, you never discussed the substance of the other
15 statements or the other stuff.

16 A. The substance of the other statements were discussed here
17 at the bench. The attorneys had copies of the statements. As
18 I said, and also, at that time, we knew that they had been to
19 Raleigh; that they had talked to her. We knew that there had
20 been conversations with Ms. Mills about it. I don't think we
21 knew until this hearing that they had had Ms. Maybin here in
22 the courtroom. I don't think I knew that until just a little
23 while ago. But the other stuff we were aware of, and we had
24 the belief and the feeling that they were aware of all the
25 things. But, again, Mr. Anglim made copies of it so that we

1 wouldn't have this problem. And that's why it was brought to
2 Judge Brown's attention.

3 MR. CARTER: Those are my questions, Your Honor.

4 THE COURT: Any redirect?

5 MS. WINSTEAD: Yes, Your Honor, just briefly.

6 REDIRECT EXAMINATION by MS. WINSTEAD:

7 Q. Mr. Norton, just for clarification, were the defense
8 attorneys and Judge Brown made aware, prior to them meeting
9 with the defendant on the potential conflict of interest
10 issue, were they all made aware of additional information
11 other than Defendant's Exhibit 13?

12 A. Yes. Yes.

13 Q. And, specifically, were they made aware of Dana Maybin's
14 contentions about her involvement with Leslie Mills and Judge
15 Vosburgh?

16 A. Yes.

17 MS. WINSTEAD: That's all.

18 THE COURT: Thank you, sir. You can step down. You
19 may call your next witness.

20 MS. WINSTEAD: The State would call Tom Anglim.

21 TOM ANGLIM, after first being duly sworn, testifies as follows
22 during DIRECT EXAMINATION by MS. WINSTEAD:

23 Q. State your name for the Court, please.

24 A. Tom Anglim.

25 Q. How are you employed?

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1 A. I'm an assistant district attorney in the First
2 Prosecutorial District.

3 Q. How long you been so employed?

4 A. About 15 months.

5 Q. And, prior to that, how were you employed?

6 A. I was an attorney with Aldridge, Seawell and Khoury, and,
7 prior to that, as an assistant district attorney in the Second
8 Prosecutorial District.

9 Q. How long were you an assistant district attorney in the
10 Second District?

11 A. A little more than five years.

12 Q. And, in that capacity, were you involved with Mr. Norton
13 in prosecuting this defendant?

14 A. Yes, Ma'am.

15 Q. And were your responsibilities -- did you have
16 responsibilities regarding the discovery?

17 A. Yes, Ma'am.

18 Q. Would you tell the judge about your involvement with that
19 process.

20 A. Basically, as we got stuff in, if it was stuff they were
21 entitled to prior to trial, send it to them; if it was stuff
22 that they were entitled to at trial, prepare it to be
23 delivered at trial.

24 Q. And, in that regard, were you responsible for compiling
25 the Brady material?

1 A. Yes, Ma'am.

2 Q. And would you tell the judge about that, what that
3 encompassed and when that was delivered.

4 A. What it encompassed, the majority of it, were the journal
5 entries and letters or statements by Ms. Maybin involving the
6 case, and her recantations and things mentioned in those
7 included the attorneys, Judge Vosburgh, as well as -- I'm not
8 sure if Mr. Harrell was mentioned, but I know Judge Vosburgh
9 was. It was prepared and compiled, made copies of it,
10 delivered copies I believe to Mr. Skinner on the first day,
11 the morning of the start of the trial, and, shortly
12 thereafter, the transcript as it plays out is what unfolded.
13 I also gave a copy of it to the clerk, which I think is still
14 in the file. Basically participated in the conversations that
15 Mr. Norton spoke about earlier today.

16 Q. You said, first of all, that the diary entries were
17 included in that. What diary entries would those have been?

18 A. Those were diary entries maintained by Ms. Maybin in
19 which she recanted and talked about different aspects of the
20 case and her involvement. And I think it went on for some
21 period of time until it stopped. And I don't know when we got
22 hold of it, but I gave it to the defense on the day of trial.

23 Q. And some of those diary entries were the subject of
24 cross-examination, actually direct and cross-examination, of
25 Ms. Maybin at the trial; is that right?

1 A. That's correct.

2 Q. Some the judge allowed to be introduced and some he did
3 not.

4 A. That's correct.

5 Q. And is your recollection of the conference with Judge
6 Brown regarding the potential conflict of interest, does that
7 meet with Mr. Norton's testimony?

8 A. Yes. I remember the specific questions about the Mills
9 statement. But I also remember our bringing attention to the
10 other potential conflict issues. And, if I recall correctly,
11 I actually got the stack of stuff and gave it to the judge
12 because I thought it was clear that he was focusing on one
13 item. We wanted more than one item focused on.

14 Q. And when you say "the stack of stuff," are you referring
15 to the Brady information?

16 A. Yes. That's correct.

17 MS. WINSTEAD: Nothing further of this witness.

18 THE COURT: Any cross-examination?

19 MR. CARTER: If we might have one moment, Your
20 Honor.

21 THE COURT: Yes, sir.

22 (Ms. Echols and Mr. Carter confer.)

23 MR. CARTER: No questions, Your Honor.

24 THE COURT: Thank you, sir. You may step down.
25 Call your next witness.

1 MS. WINSTEAD: If I could have one second, Judge.

2 THE COURT: Yes.

3 (Ms. Winstead and Mr. Norton confer.)

4 MS. WINSTEAD: Judge, we don't have any further
5 witnesses at this time subject to how we resolve the Tommy
6 Ward issue.

7 THE COURT: Sheriff, have we heard anything?

8 SHERIFF: Yes, sir. He's here.

9 THE COURT: Do you all want to call him as a
10 witness?

11 MS. ECHOLS: Yes, Your Honor.

12 THE COURT: Come up, please.

13 TOMMY WARD, after first being duly sworn, testifies as
14 follows during DIRECT EXAMINATION by MS. ECHOLS:

15 Q. Please state your name.

16 A. Tommy Ward.

17 Q. Where do you currently reside?

18 A. 106 West Washington Street.

19 THE COURT: Speak up good and loud, Mr. Ward, so
20 everybody can hear you.

21 A. 106 West Washington Street -- no, Fourth Street.

22 Q. Have you ever been incarcerated in the Washington County
23 Jail?

24 A. Yes.

25 Q. Were you incarcerated there during 1995?

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1 A. Yes.

2 Q. How long were you there in 1995?

3 A. About eight months and a half.

4 Q. Please tell the Court which eight months you were there,
5 from what month to what month.

6 A. From February to December.

7 Q. Was Wallace Brandon Jones at the jail while you were
8 there?

9 A. Yes.

10 Q. Did you know Wallace Brandon Jones before you were
11 incarcerated?

12 A. No.

13 Q. Did you interact with Mr. Jones while you were at the
14 Washington County Jail?

15 A. Yes.

16 Q. What did your interaction consist of?

17 A. Friends.

18 Q. Were you cellmates with Mr. Jones?

19 A. Yes.

20 Q. How did you become his cellmate?

21 A. By an officer asked me --

22 MS. WINSTEAD: Objection.

23 A. Janice Spruill asked me --

24 MS. WINSTEAD: Objection.

25 THE COURT: I'm going to overrule it.

1 A. Janice Spruill asked me would I stay in the cell with
2 him.

3 Q. Did you have any problem?

4 A. No.

5 MS. ECHOLS: May I approach the witness, Your Honor?
6

7 THE COURT: Yes, Ma'am.

8 Q. I'm handing you what's been marked as Defendant's
9 Exhibit No. 1. Would you please review that document?

10 A. (Complies.)

11 Q. Do you recognize it?

12 A. Yes.

13 Q. What is it?

14 A. My affidavit.

15 Q. While you were cellmates with Mr. Jones, did you do
16 anything to assist law enforcement in his case?

17 A. Yes.

18 Q. What did you do?

19 A. They asked me if I had information --

20 MS. WINSTEAD: Objection.

21 THE COURT: The question was what did you do to
22 assist law enforcement.

23 A. I gave them a note that Wallace or Leroy wrote one
24 another, and I gave it to one of the sheriffs.

25 Q. Did you do anything else?

26

1 A. (Witness shakes his head in a negative response.)

2 THE COURT: A note written by who?

3 THE WITNESS: Wallace or Leroy Spruill. A note
4 that stated that --

5 MS. WINSTEAD: Well, objection.

6 THE COURT: Do you know which one it was?

7 THE WITNESS: No.

8 THE COURT: You don't know?

9 THE WITNESS: No.

10 THE COURT: Sustained.

11 Q. On the second page of your affidavit, let me call your
12 attention to Paragraph 15. Please read Paragraph 15.

13 A. "About two weeks --

14 MS. WINSTEAD: Well, objection.

15 THE COURT: Just read it to yourself.

16 THE WITNESS: Oh.

17 A. (Complies.)

18 Q. Does this refresh your recollection of who wrote the
19 letter to whom?

20 A. Yes.

21 Q. Who wrote the letter?

22 A. Brandon.

23 MS. WINSTEAD: Objection without further
24 authentication.

25 THE COURT: Sustained.

1 Q. Is this affidavit a true and accurate statement of your
2 recollection of the events that transpired while you were in
3 the jail?

4 A. Yes.

5 Q. And this bears your signature on the last page of this
6 document?

7 A. Yes.

8 Q. And this is your notarized signature on the last page?

9 A. Yes.

10 Q. Who authored the letter that you found? Who wrote the
11 letter?

12 A. Brandon wrote it to Leroy.

13 Q. Did you read the letter?

14 A. Yes.

15 Q. What did the letter say?

16 MS. WINSTEAD: Well, objection, again, without
17 further authentication.

18 THE COURT: Sustained. You don't have the letter, I
19 assume.

20 MS. ECHOLS: We do not have -- no, Your Honor, we
21 do not have such a letter.

22 Q. Did you talk to Mr. Jones about the case, about his case?

23 A. About his case?

24 Q. Yes.

25 A. No more than they were trying to frame him.

1 MS. WINSTEAD: Well, objection; motion to strike.

2 THE COURT: Motion denied; overruled.

3 Q. Did you offer any additional information to law
4 enforcement regarding Mr. Jones' case?

5 A. Just the letter. Just the letter and a --

6 Q. While you were at the jail, were you facing out-standing
7 charges?

8 A. Yes.

9 Q. What charges were you facing?

10 A. Burglary.

11 MS. ECHOLS: May I approach the witness?

12 THE COURT: Yes, Ma'am.

13 Q. I'm handing you what's been marked as Defendant's
14 Exhibit No. 32. Would you review the document, please.

15 A. (Complies.)

16 Q. Can you tell us what it is?

17 A. My charges.

18 Q. And this document at top right-hand corner says what?

19 A. This right here?

20 Q. (Nods affirmatively.)

21 A. My transcript of plea.

22 Q. And is this your transcript of plea?

23 A. It's the one that -- yes.

24 Q. And were these the charges that you were facing at the
25 time you were in Washington County Jail?

1 A. Yes.

2 Q. If you'll look at the second page towards the bottom of
3 that document -- on the back of it. I'm sorry. Can you see
4 the date of your conviction towards the bottom?

5 A. 11/9/95.

6 Q. What were the terms of your plea agreement?

7 A. Reduced to less -- time cut.

8 Q. In exchange for what?

9 A. Information about Brandon's case.

10 Q. Were you assisting on any other cases at that time?

11 A. No.

12 Q. Were any charges dismissed as a result of this plea
13 agreement?

14 A. No. Just got less time.

15 Q. Did you tell your attorney about your arrangement with
16 law enforcement to assist in this case?

17 A. No.

18 Q. Did you know the victim in Mr. Jones' case, Frank Swain?

19 A. Yes.

20 Q. How did you know Mr. Frank Swain?

21 A. Cousin.

22 Q. Were you on good terms with your cousin before he was
23 killed?

24 A. Yes.

25 Q. Did you have regular contact with him?

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1 A. Yes.

2 Q. Were you concerned that his murderer be caught and
3 prosecuted?

4 A. Yes.

5 Q. Did anyone made you any promises in exchange for your
6 testimony today?

7 A. No.

8 Q. Did you have anything to gain by testifying in this
9 hearing today?

10 MS. WINSTEAD: Objection.

11 THE COURT: Overruled.

12 A. Did I have anything to gain?

13 Q. Yes.

14 A. To see Brandon get off these charges here.

15 MS. ECHOLS: No further questions.

16 THE COURT: Any cross-examination?

17 MS. WINSTEAD: Yes, sir.

18 CROSS EXAMINATION by MS. WINSTEAD:

19 Q. The last thing you said, did you say you are trying to
20 help him get out of his charges?

21 A. She asked me did I have anything to gain.

22 Q. Right.

23 A. I'm saying we all do something that we ain't got no
24 business doing. But to see two innocent persons do time for
25 something they didn't do, it's wrong.

1 Q. So what you're trying to do is help him get out of his
2 charges. Is that what you said?

3 A. If it will help him, to tell the truth, that's what I'm
4 going to do. I'm not saying I'm going to lie for nobody.

5 Q. What have you been convicted of in the past ten years
6 punishable by more than 60 days, Mr. Ward?

7 A. Break and Enter.

8 Q. Breaking and Entering?

9 A. Breaking and Entering and Manslaughter and Burglary.

10 Q. What else?

11 A. That's it.

12 Q. Larceny?

13 A. Yes.

14 Q. How many times?

15 A. Two.

16 Q. How many counts of Breaking and Entering?

17 A. I can't recall.

18 Q. Sir?

19 A. I can't recall.

20 Q. How about Second Degree Burglary?

21 A. Once.

22 Q. And Breaking and Entering a Motor Vehicle, three counts.

23 Have you been convicted of that as well?

24 A. Yes.

25 Q. And how many counts of Felony Breaking and Entering have

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1 you been convicted of?

2 A. I can't recall.

3 Q. So many you can't recall?

4 A. It ain't that many.

5 Q. But you can't count them, right?

6 A. About five or six.

7 MS. WINSTEAD: May I approach the witness?

8 THE COURT: Yes, Ma'am.

9 Q. Who was Dewayne Rogers?

10 A. Cousin.

11 Q. And were you involved in a crime with him?

12 A. Yes.

13 Q. What crime was it?

14 A. Break and Enter.

15 Q. And so on the plea agreement that you have there before
16 you, Mr. Ward, it says -- what it says is that you will
17 truthfully testify for the State in the cases involving
18 Dewayne Rogers. Isn't that what it says?

19 A. The case been handled.

20 Q. Isn't that what that says, sir?

21 A. Where? Up here where?

22 Q. Your plea agreement.

23 A. On that case there, I was framed for something I didn't
24 do.

25 Q. You were framed.

1 A. That's right.

2 Q. But you agreed to testify for the State, didn't you, in
3 that case?

4 A. Yes, I did.

5 MS. WINSTEAD: May I approach the witness?

6 THE COURT: Yes, Ma'am.

7 Q. Right here where it says -- you've seen these transcript
8 of plea forms before?

9 A. Yes.

10 Q. Where it says, Paragraph 14, the district attorney and
11 your lawyer have informed the court that these are all the
12 terms and conditions of your plea. What it says is that some
13 charges will be dismissed and that you will give truthful
14 testimony in the case of Dewayne Rogers. Isn't that what it
15 says?

16 A. The charge was not dropped. I don't care what that
17 paper says, but those charges wasn't dropped.

18 Q. Well, I'm asking you right now what the paper said, okay?

19 A. Right. I understand what the paper say. But the charges
20 wasn't dropped.

21 Q. It says, does it not, that all other charges will be
22 dismissed and that the defendant will give truthful testimony
23 in the case of Dewayne Rogers? Is that what it says?

24 A. That's what it said, but the charges wasn't dropped.

25 Q. And was your agreement, sir, that you would give truthful

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1 testimony in the case of Dewayne Rogers?

2 A. To tell the truth.

3 Q. Sir?

4 A. To tell the truth.

5 Q. In the case of Dewayne Rogers.

6 A. Yes.

7 Q. And so your plea agreement in that case did not have

8 anything to do with Wallace Brandon Jones, did it, sir?

9 A. That's on another charge here.

10 Q. What's on another charge?

11 A. This charge happened in another county. This charge

12 didn't happen in Washington county.

13 Q. Well, do you have a plea agreement that says that you

14 will give truthful testimony in the case of Wallace Brandon

15 Jones?

16 A. The only thing I got is my affidavit. What I said,

17 everything is true.

18 Q. No, sir. What I'm asking you is, do you have a plea

19 agreement that said that you would give truthful testimony in

20 the case of Wallace Brandon Jones?

21 A. No.

22 Q. And all that you've told this Court that you found out

23 from him was that he told you that he'd been framed; is that

24 right?

25 A. Yes.

1 Q. And so that testimony would not have been helpful to the
2 State, would it have? Sir?

3 A. What are you trying to say?

4 Q. Would you just answer my question?

5 A. What is the question again now?

6 Q. That your testimony that he told you that he had been
7 framed would not have been helpful testimony for the State,
8 would it have?

9 A. The man was framed.

10 Q. I'm sorry?

11 A. He was framed.

12 Q. Would you answer my question, sir?

13 A. There was no plea agreement.

14 Q. That wasn't my question.

15 A. Say your question again then.

16 Q. Your testimony that you told the judge that Wallace Jones
17 told you he had been framed would not have helped the State in
18 any way; is that right?

19 A. I can't say that.

20 Q. Now, you indicated earlier in your testimony, I couldn't
21 catch what you were saying, that Janice Spruill asked you if
22 you would go into a cell with the defendant?

23 A. Yes.

24 Q. And when was that?

25 A. Sometime in the middle part of 95.

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1 Q. What month would that have been?

2 A. I can't say.

3 Q. You said you were in the Washington County Jail from
4 February until December of 1995; is that right?

5 A. Yes.

6 Q. Is there a reason that you just put in your affidavit
7 that you were only in there from February to June --

8 A. No. I said between the month of February and June,
9 that's when Janice Spruill asked me would I sleep it the cell
10 with Wallace Brandon.

11 Q. That's when she asked you that.

12 A. Yes.

13 Q. Were you in the cell with him for that entire period,
14 from February to June?

15 A. No.

16 Q. When did you go in the cell with him?

17 A. Between February and June.

18 Q. But you don't know what month.

19 A. No.

20 Q. How long were you in the cell with him?

21 A. About four months.

22 Q. Now, the way the cells were in the jail at that time,
23 there's a big open area where the inmates would congregate
24 during the day; is that right?

25 A. Yes.

1 Q. And then there were five, I think, individual cells that
2 had four bunks each in them; is that right?

3 A. Four.

4 Q. Four bunks each, four cells with four bunks each?

5 A. Yes.

6 Q. But, during the day, all the inmates were together
7 basically out in the common area; is that right?

8 A. Yes.

9 MS. WINSTEAD: May I have a moment, Your Honor?

10 THE COURT: Yes, Ma'am.

11 (Ms. Winstead and Mr. Norton confer.)

12 MS. WINSTEAD: Nothing further at this time.

13 THE COURT: Any redirect?

14 MS. ECHOLS: No, Your Honor.

15 THE COURT: Thank you, sir. You may step down. Any
16 further evidence for the defendant?

17 MR. CARTER: One moment, Your Honor.

18 (Ms. Echols and Mr. Carter confer.)

19 MR. CARTER: Your Honor, at this time, we'd move
20 Exhibit 1 into evidence. Before I begin, Your Honor, I'd like
21 to excuse Judge Vosburgh at this time.

22 MS. WINSTEAD: I would object to Exhibit No. 1
23 coming into evidence in this area. A lot of the matter here
24 was not testified to.

25 THE COURT: What is Exhibit 1?

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1 MS. WINSTEAD: The affidavit of Tommy Ward.

2 THE COURT: I'll sustain the objection. He's
3 testified. Do you have any objection to releasing Judge
4 Vosburgh?

5 MS. WINSTEAD: If I may have one moment, Judge.

6 THE COURT: All right.

7 (Ms. Winstead and Mr. Norton confer.)

8 MS. WINSTEAD: I don't have any objection to release
9 the witness, Judge.

10 THE COURT: Judge, you are excused if you care to
11 leave.

12 MR. VOSBURGH: I'll stay until court is out. I
13 can't do anything but travel.

14 THE COURT: All right. Any further evidence for th
15 defendant?

16 MR. CARTER: Your Honor, we'd also like to move
17 Exhibits 12 and 13 into evidence. No. 12 was Transcript Pages
18 31 through 40, and we'd ask the Court to take judicial notice,
19 and, on Exhibit 13, we'd accept a limited instruction that
20 that is being admitted to show what the basis of the conflict
21 was and not necessarily to the truthfulness of the statements
22 contained therein.

23 THE COURT: Any objections? Any objection from the
24 State?

25 MS. WINSTEAD: No, sir.

1 THE COURT: Defendant's Exhibits 12 and 13 will be
2 received into evidence. Any further evidence?

3 MS. ECHOLS: No, Your Honor.

4 THE COURT: Is there any further evidence from the
5 State in light of Mr. Ward's testimony?

6 MS. WINSTEAD: Judge, I'm going to ask you to take
7 judicial notice of the entire trial transcript of Wallace
8 Jones as well as the Opinion of the Supreme Court and
9 specifically referencing those items in Volume No. I about the
10 potential conflict and in Volume IV, the testimony of
11 Mr. Harrell, and would move the introduction of State's
12 Exhibit 3, which is the James Travis Clark letter about the
13 post-conviction.

14 THE COURT: Where is State's Exhibit 3?

15 MS. WINSTEAD: I think all the exhibits are here.
16 State's Exhibit No. 4, you have the original from the court
17 file, and I have a copy that I'm going to substitute, and I
18 move the introduction of that as well.

19 COURTROOM CLERK: I already substituted it.

20 MS. WINSTEAD: You've already done that?
21 Thank you.

22 THE COURT: Does the defendant care to be heard on
23 those matters?

24 MR. CARTER: No, Your Honor.

25 THE COURT: Let them be received into evidence. Any

1 further evidence from the State?

2 MS. WINSTEAD: No, sir.

3 THE COURT: Be glad to hear arguments.

4 MS. ECHOLS: Your Honor, we'd like to request a very
5 brief recess to gather our thoughts for closing arguments.

6 THE COURT: How long do you anticipate it will take?
7 I'm going to try to get out of here by 5:00.

8 MS. ECHOLS: I would anticipate 15 to 20 minutes for
9 the argument.

10 THE COURT: All right. We'll take about a ten
11 minutes recess then.

12 (Recess is taken at 4:20 p. m. until 4:30 p. m.)

13 (Ms. Winstead, Ms. Echols, Mr. Carter, and the Defendant are
14 present in the courtroom.)

15 THE COURT: Be glad to hear from you.

16 MS. ECHOLS: Your Honor, this case is about
17 credibility. There's no physical evidence - no blood; no
18 fingerprints; no footprints; no bloody clothes, and; no DNA
19 evidence that connected Wallace Brandon Jones with the murder
20 of Frank Swain. The State's case against Mr. Jones was based
21 on the testimony of Dana Maybin primarily who was
22 Mr. Jones' ex-girlfriend and also a co-defendant in the crime.

23 There were problems with the State's witnesses. Dana
24 Maybin had changed her story about her awareness of and
25 participation in the Swain murder several times. She gave

1 several statements.

2 On April 24th, 1994, her first statement to law
3 enforcement, was while she was still in South Carolina, and
4 she stated that she had gone to the victim's home once that
5 day; that Robert Solis, also known as Wallace Brandon Jones,
6 had killed Mr. Frank Swain, and that Robert, Mr. Jones, had
7 cut Frank Swain's throat with the help of Leroy and
8 Curtis Furlough. She said she knew about it because Mr. Jones
9 had told her.

10 On May 3rd, she faxed a letter to the Washington County
11 Sheriff's Department stating that she didn't know anything
12 about this crime and she was at Big Ed's Bar all night. She
13 did not know what happened that night.

14 And then on June 25th, 1994, she made two different
15 statements. She first told law enforcement she didn't tell
16 them the truth that morning, which was basically repetitious
17 of the first statement, and the officers told her she was
18 lying, took her for a lie detector test. And the second
19 statement she made that day was that she, Mr. Jones, and Leroy
20 Spruill went to the victim's house and killed him and she took
21 money from the victim at that time.

22 On December 15th, 1994, there was a fourth statement when
23 she was picked up in South Carolina and returned to North
24 Carolina, and that's the statement that she basically
25 testified to at trial.

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1 All these changes in her statements about her knowledge
2 and participation in the murder of Frank Swain had changed
3 before Mr. Vosburgh was even appointed to the case.

4 Two weeks after her fourth statement, she began entering
5 diary entries that talked about her participation in the case,
6 saying that she did not participate, she didn't know anything
7 about it, and those went on for a few months and also included
8 her meeting with Mr. Vosburgh and Mr. Harrell which was later
9 recorded by Mr. Harrell in which she recanted any involvement
10 in this case and denied Mr. Jones' involvement in this case.

11 To explain these changes in Ms. Maybin's story, the State
12 called into question the credibility of the defendant's
13 attorneys. Although Maybin's statement had flip-flopped,
14 Mr. Vosburgh's credibility was called into question. These
15 accusations created a conflict of interest between
16 Mr. Vosburgh and his client. An attorney laboring under a
17 conflict of interest cannot provide effective assistance of
18 counsel. And, therefore, Mr. Jones could not receive a fair
19 trial.

20 In addition, Mr. Jones did not have the effective
21 assistance of counsel or all the information from the State
22 that he was entitled had to under Brady versus Maryland to
23 prepare his case. Therefore, Mr. Jones is entitled to a new
24 trial.

25 The Sixth Amendment right to counsel provides that in all

1 criminal prosecutions, the accused shall enjoy the right to
2 the effective assistance of counsel. And this was held by
3 the Supreme Court in Strickland versus Washington. A necessary
4 corollary to the right to effective assistance of counsel is
5 the right to counsel free from the conflict of interest. In
6 general, under Strickland, the test for ineffective assistance
7 of counsel claims is that the defendant must show that his
8 counsel's performance fell below an objective standard of
9 reasonableness, and; secondly, the defendant must establish
10 prejudice by showing a reasonable probability that, but for
11 counsel's errors, his case would have had a different
12 outcome.

13 In this case, the ineffective assistance of counsel was
14 premised on a conflict of interest, and, therefore, the test
15 for ineffective assistance of counsel changes slightly. To
16 establish that counsel was involved in a conflict of interest,
17 the effective performance of counsel requires meaningful
18 compliance with the duty of loyalty and the duty to avoid
19 conflicts of interests. And a breach of these basic duties
20 can lead to a lapse in representation. And this was held by
21 the Fourth Circuit in United States versus Tatum in 1991 and
22 also mentioned in Strickland at Page 692.

23 Was there an actual conflict of interest in this case.
24 The State recognized that there was a potential conflict of
25 interest in this case and pointed it out on the morning of

1 trial. The question became did James Vosburgh try to shape
2 Dana Maybin's testimony without regard for the truth. Did
3 James Vosburgh try to manipulate Dana Maybin through Nicole
4 Mills? These accusations implicated Mr. Vosburgh in personal
5 wrongdoing and also co-counsel's attorney, Mr. Maynard
6 Harrell. In implicating Mr. Vosburgh in personal wrongdoing,
7 it shifted the focus away from the guilt or innocence from his
8 client, Mr. Jones, and to the lawyers' conduct, to the
9 lawyers' credibility, and, therefore, Mr. Jones was not the
10 only person on trial; it was also his counsel and his
11 counsel's behavior that was on trial.

12 (Mr. Norton is now present in the courtroom at 4:18 p. m.)

13 MS. ECHOLS: Judge Brown recognized that if the jury
14 would believe Ms. Mills it could put defendant's counsel in a
15 bad light. And, although Ms. Mills was not called to testify
16 in that case, her testimony ended up coming through Dana
17 Maybin. Because Judge Vosburgh was not allowed to testify and
18 to represent Mr. Jones and decided to represent him instead,
19 the Nicole Mills controversy came into testimony and was
20 basically uncontroverted.

21 In United States versus Fulton, a Second Circuit case,
22 the court held that an actual conflict of interest exists when
23 an attorney engages in wrongful conduct related to the charge
24 for which the defendant is on trial. Here, the conduct of
25 James Vosburgh is coming into play when he's basically charged

1 with suborning perjury, basically charged with telling Dana
2 Maybin that, "Hey, without you, there is no case. You could
3 change your story." Unfortunately, Mr. Vosburgh didn't stand
4 and answer to these accusations. Mr. Harrell did stand and
5 answer to the dealings with Dana Maybin. But, as he had no
6 contact with Nichole Mills, he could not answer to Judge
7 Vosburgh's participation and his meetings with Nicole Mills.

8 The Supreme Court has held that when counsel is burdened
9 by an actual conflict of interest, a limited presumption of
10 prejudice is accorded to the defendant and prejudice is
11 presumed only if the defendant demonstrates that counsel
12 actively represented conflicting interests. Counsel had to do
13 a juggling act. He had to decide how to continue his client's
14 defense without tripping over himself and getting himself
15 involved. It was much too late for that. There was nothing
16 he could do to keep himself from being involved.

17 At the time the conflict arose, Nicole Mills' statement
18 was put before the Court and Mr. Vosburgh had a copy of it.
19 He took that back with him when he advised his client,
20 Mr. Jones. But he didn't have sufficient information of what
21 Dana Maybin was going to say when she got up on the stand to
22 advise his client. He had the statements that she made in her
23 diary entries that basically recanted her prior statements.
24 He had the statements that said, "I didn't do this. We didn't
25 do this," and, "The people who are saying that Nicole Mills is

1 feeding my information from Vosburgh are wrong. He's not
2 feeding me information," so that the information that Vosburgh
3 did have was exculpatory. The inculpatory statements that I
4 mentioned earlier, the four contradictory statements, were not
5 considered when they were in the back room. Had counsel had
6 this information, he would have been better able to advise his
7 client. Now, Mr. Vosburgh testified later on in the case when
8 the conflict arose, if he had it to do all over, he would
9 have withdrawn. Counsel did not receive Ms. Maybin's
10 statements until she testified. Therefore, he couldn't advise
11 him based on what she was going to say.

12 The State has proposed that Mr. Jones waived his right to
13 conflict-free counsel, and, in this case, I would assert that
14 he certainly did not. In order to waive a known right, the
15 right has to be known first of all, but the waiver has to be
16 knowing and intelligent. Mr. Jones' rights were not fully
17 explained to him during the conflict discussion. No one
18 talked about his Sixth Amendment right to conflict-free
19 counsel. It was simply explained to him that Judge Vosburgh
20 could not continue to represent him and testify at the same
21 time. All that Mr. Jones understood was that Mr. Vosburgh,
22 his attorney that he had trusted, his attorney who had visited
23 him on just about a weekly basis for months, who was very
24 competent and very self-assured, had told him that this was
25 not a problem. Mr. Jones was upset at the prospect that he

1 might actually lose this attorney whom he trusted and whom he
2 believed on his case. It may have been told to him that
3 there would be a continuance; it may have been told to him
4 that this may go away. But the key point is what did he
5 understand. In order to knowingly and intelligently waive a
6 right, you have to understand it. Mr. Skinner testified to
7 Mr. Jones' limitations and mental health that were used in
8 mitigation evidence in his arguments in the sentencing phase.
9 Mr. Jones testified that he only understood that the D. A. had
10 raised a problem, that the D. A. was trying to get
11 Mr. Vosburgh off the case, but that Mr. Vosburgh could handle
12 this problem. There was an understanding that Maynard Harrell
13 would testify to rebut these presumptions, but he could not
14 testify to the Nicole Mills problem, as he had no dealings
15 with her as he testified today.

16 Another issue was that there was not a sufficient amount
17 of time for the defendant to comprehend what was going on.
18 According to the transcript, they spent 22 minutes discussing
19 what would happen with the rest of Mr. Jones' life. He was on
20 trial for capital murder. This was a very important
21 decision. They were in the back room for 22 minutes. At that
22 time, he had to digest what the conflict entailed and what to
23 do about it.

24 In addition, there was not a sufficient inquiry by the
25 Court as to what the nature of this conflict was. The Court,

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1 although it was discussed in the record, the Court did not
2 have a hearing to see what the witness' testimony would be and
3 therefore determine the conflict severity - didn't ask for
4 written statements or require the State to explain what the
5 other evidence was that could come up. The Court never ruled
6 in the record what was going to happen. It never said whether
7 or not a conflict exists and whether or not it would allow
8 Mr. Vosburgh to continue. After the discussion was had, they
9 simply returned from lunch and went on with the trial.

10 The Court did not ask the defendant to explain his
11 understanding of the conflict. It's been held in a North
12 Carolina case, State versus James, that it is best for the
13 court to seek an understanding of what's going on, to make
14 sure that the defendant understands what rights he's waiving.
15 This is a very difficult prospect to do. There are varying
16 methods which the Court may employ for gaining the necessary
17 insight to determine whether or not the defendant's waiver is
18 knowing and intelligent. In United State versus Swartz, the
19 Fourth Circuit held that the court should address the
20 defendant personally and forthrightly and advise him of the
21 potential dangers of the conflict representation; that the
22 defendant must be given a chance to question the court to
23 figure out what exactly is going on. There was no opportunity
24 given for Mr. Jones to question the Court about the situation.
25 And, most significantly, the Court should seek to elicit a

1 narrative response from the defendant, have him explain, after
2 he's been advised of his rights, what he understands the
3 conflict to be and what he understands that he may be giving
4 up.

5 In this case, the conflict actually hampered the defense
6 strategy in defending Mr. Jones. Here, the defense had
7 difficulty with the Mills question. If they had called Nicole
8 Mills to testify and Nicole Mills had supported fully the
9 statements that S. B. I. had taken, then someone would need to
10 explain the difference between what she said and what was
11 actually accurate. Therefore, Vosburgh would have needed to
12 explain away her testimony. If she had not supported the
13 statement and had contradicted the statements, saying that
14 they were not true, there would also need to be someone to
15 step forward and say, "I agree with what Nicole Mills has
16 said," someone to support her, and Vosburgh was the best
17 person to do that because only Vosburgh knew of his
18 involvement with Nichole Mills - he knew what he told her; he
19 what he didn't tell her. He knew what he did not instruct her
20 to do in relation to Dana Maybin. And there was no better
21 person to do that than Judge Vosburgh. Unfortunately, he
22 could not represent his client and testify for his client at
23 the same time.

24 The final issue of credibility is the State's response
25 to the defendant's request for discovery. Under Brady versus

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1 Maryland, the State had an obligation to turn over potential
2 helpful information to the defense. The defendant's rights
3 under Brady are violated when the State fails to turn over
4 potentially exculpatory evidence or evidence that would lead
5 to potentially exculpatory evidence. Despite his detailed
6 discovery requests, the State did not provide information
7 concerning the attempts of law enforcement to elicit
8 information from defendant's cellmates while at the Washington
9 County Jail.

10 Your Honor, again, to sum up, Mr. Jones' rights were
11 violated by having counsel who labored under a conflict of
12 interest. Counsel was not able to advise his client properly
13 based on the information that he had at the time the conflict
14 was raised. And, further, Wallace Brandon Jones did not
15 knowingly and intelligently waive his right to conflict-free
16 counsel because he did not fully understand and fully
17 comprehend the nature of the situation and the explosiveness
18 of Dana Maybin's potential testimony. As Judge Vosburgh
19 testified, they didn't know what she was going to say. As
20 Maynard Harrell testified, up until the Sunday before the
21 trial, they thought that she was going to tell a recantation
22 of her statements against Mr. Jones, and, at that time,
23 without having the statements before them, did not have reason
24 to believe that she would testify otherwise. Therefore, we
25 ask that, because Mr. Jones did not receive a fair trial based

1 on ineffective assistance of counsel and the refusal to
2 provide information he was entitled to under Brady versus
3 Maryland, that he be given a new trial in this matter.

4 THE COURT: Thank you. Ms. Winstead.

5 MS. WINSTEAD: Thank you, Your Honor. Just
6 briefly, I want to start out by addressing the alleged Brady
7 violations and direct the Court to the State's responses and
8 specifically the case of Strickler v. Green which is I believe
9 the most recent United States Supreme Court case dealing with
10 the issue.

11 I would first of all argue to the Court that the
12 evidence that's been presented on the Brady issue on the two
13 alleged things that were not turned over to the defense is
14 very weak and it's not even established that this information
15 was in the possession of the State. The testimony of Tommy
16 Ward, I would argue to the Court, was inherently incredible.
17 But probably more important than that, there's no testimony at
18 all from Tommy Ward that even if the defendant told him while
19 they were in custody that he'd been framed, there was
20 absolutely no testimony that Tommy Ward ever told anyone on
21 behalf of the State that the defendant had told him that. So,
22 I would argue to the Court that that is severely lacking and
23 that certainly cannot be imputed to the State without
24 testimony that the State had that statement, that is, that
25 Wallace Jones told him he had been framed, in the State's

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1 possession.

2 Additionally, there's no evidence -- he says that Janice
3 Spruill asked him if he would be in the cell with the
4 defendant. There's no testimony from Janice Spruill that she
5 did that, about why she did that, was she working in the jail
6 was she someone that was responsible for inmate assignments.
7 There's absolutely no testimony before this court that an
8 inmate was planted in the Washington County Jail for the
9 purpose of getting information from this defendant, as the
10 Court might have believed when you initially read the motion
11 and Tommy Ward's affidavit. So that is not before the Court.
12 And, probably, the most telling thing about Tommy Ward's
13 testimony was not what he said but what he didn't say because
14 he didn't say the large portion of what is alleged in the
15 affidavit, and, without that, their entire argument, I would
16 argue to the Court, with regard to the Brady issue fails, and
17 there's no evidence that the State had this information in
18 their possession. The information from James Clark was that
19 he told some unknown S. B. I. Agent that the defendant hadn't
20 told him anything. I believe that's basically what it was. I
21 would argue to the Court that that is not even exculpatory
22 information, that the defendant told fellow inmates that he
23 had been framed or that he hadn't done it. I dare say that a
24 defense attorney in a case such as this would not call an
25 inmate to the stand to say, "My fellow inmate told me he

1 didn't do it." I mean, that just simply is not probative
2 testimony and probably not believable either and certainly
3 does not rise to the level of reasonable probability of a
4 different result that would have to be made out in order to
5 establish a Brady violation under the law.

6 Clearly, I would say with regard to the Brady issues,
7 they've not shown that this information was in the possession
8 of the State with regard to Tommy Ward, and I don't believe
9 they've established that there's a reasonable probability that
10 a different verdict would have been reached in this case. Had
11 the jury known, even just assuming for the sake of argument
12 that it's true, had the jury known that supposedly this
13 defendant told two people that he was housed with while he was
14 awaiting trial that he didn't do it, it was no surprise. He
15 didn't tell anybody that he did do it. This is not a case
16 like Cagle which they've cited in their brief where you have
17 testimony of an inmate that he confessed to him, and then a
18 Tennessee Bureau of Investigation agent to whom he -- who
19 tried to get him to admit involvement and he didn't. And so
20 this is not a case like that where that kind of information
21 was not disclosed and in the context of that scenario, it was
22 deemed to be exculpatory or Brady. And I don't think -- they
23 still haven't cited a case that says that an inmate telling
24 another inmate that he didn't do it is Brady material. I
25 haven't seen that before this Court.

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1 With regard to the potential conflict of interest issue,
2 well, with regard to that, we are right where Judge Brown said
3 we would be. We are back in court arguing as he said we would
4 be about that issue. And so, Mr. Norton, well, he did the
5 right thing. He brought it to the Court's attention. And,
6 the lawyers, they did the right thing. They went back and
7 talked to the defendant about it and explained to him his
8 options. And, the judge, he did the right thing. He brought
9 the defendant in and talked to him about it, and the defendant
10 waived supposedly for all time's sake raising that issue ever
11 again, and here we are. But, Your Honor, what they have not
12 addressed and what is certainly the State's first line of
13 argument here is the procedural bar. And, clearly, this issue
14 was apparent from the trial transcript. Any appellate
15 attorneys that reviewed the transcript of this trial saw at
16 the very beginning of the trial, before it even started, this
17 issue was raised before the trial judge, and they chose not to
18 assert this issue on appeal. And, under 1419(a)(3), they have
19 lost the right to complain about that because there it was not
20 raised in the direct appeal and they are absolutely barred
21 from proceeding on it at this point based on that statute.

22 What they did do, Judge Parker, I think is very
23 important. And, again, if you look at the Supreme Court's
24 Opinion at Paragraph 12, it discusses I believe everything
25 that we are arguing about here, and that is the out-of-court

1 statements of Nicole Mills to Dana Maybin. Those are things
2 that the appellate, I believe it was the appellate defender,
3 chose to litigate in the Supreme Court rather than this
4 conflict of interest issue probably because they saw in the
5 transcript that the defendant had waived it. At any rate, if
6 you look at the Supreme Court's Opinion, they go all over this
7 issue of the diary entries and the letters and Nicole Mills
8 and Judge Vosburgh. They state,

9 "The trial court sustained objections to
10 subsequent attempted questions regarding what
11 Mills might have told Maybin about Mr.
12 Vosburgh."

13 This shows that the trial court protected the interests of
14 Mr. Vosburgh, if you will, in its rulings, and that the things
15 that the appellate defender deemed might have been damaging to
16 Mr. Vosburgh and hence this defendant were raised in this
17 context before the Supreme Court of North Carolina. And the
18 Supreme Court found,

19 "What defendant's attorney said to Maybin
20 during their meetings was the subject of
21 extensive inquiry on direct examination.
22 This testimony revealed that defense
23 counsel interviewed Maybin and many others
24 in an effort to establish the truth about
25 their client's case. There is little

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1 reason to conclude that the State must
2 regard rumors of what Maybin was telling
3 people could have led the jury to believe
4 defendant's counsel was acting improperly,
5 or, in light of the substantial evidence
6 presented of defendant's guilt, that these
7 statements resulted in the jury's reaching
8 a different verdict in the trial."

9 Previously, before that, when they are addressing these
10 assignments of error regarding rumors, that Judge Vosburgh was
11 telling Nicole Mills to tell Dana Maybin what to say, they go
12 into an examination of those, and, again, find no impropriety.
13 And that's what I would urge this Court to do, if you even
14 reach that issue. If you get past the procedural bar and the
15 fact that the defendant knowingly and intelligently on the
16 record waived his right to conflict-free counsel, waived his
17 right to pursue this issue further on appeal. If you get past
18 that and you look at actually what transpired at the trial,
19 you had the opportunity to see Maynard Harrell testify and see
20 exactly what kind of witness he would have made in front of
21 the jury. And, if you look in Volume IV at the testimony that
22 Maynard Harrell presented to the jury, it involves both him
23 and Judge Vosburgh, and I would argue to you that his
24 testimony before the jury must have been credible then as it
25 certainly was before this Court and that the jury had the

1 benefit of that which would have been, I argue to you, much
2 more persuasive perhaps than having Judge Vosburgh in a later
3 proceeding testify about what he did or did not do with regard
4 to his former client; that it was actually better to have
5 Maynard Harrell address these issues and that he addressed
6 them quite well.

7 I wanted to point out one part of the transcript.
8 I may not be able to put my hands on it right now. But if
9 you review Mr. Harrell's testimony at the trial, I believe he
10 testified, he was asked, "Did you or anyone in your presence
11 tell Ms. Maybin what to say?" and I believe he responded that
12 he did not or no one else in his presence. So I would argue
13 to the Court that, to the extent there is any concern about
14 the potential conflict of interest, that that was addressed
15 adequately, as Judge Vosburgh testified that he believed it
16 was addressed adequately by Mr. Harrell's testimony. Judge
17 Vosburgh testified that he did not feel that there was a
18 conflict then; he does not feel that there was a conflict now;
19 that any issues with regard to any impropriety were
20 well-addressed and covered by the testimony of Maynard
21 Harrell.

22 Your Honor, as the Supreme Court said in their Opinion,
23 this was a strong case. There was ample evidence of this
24 defendant's guilt. They went into a long description of the
25 evidence which I've cited in here. There's no reasonable

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1 probability that the jury would have reached a different
2 verdict with this purported Brady information. And, with
3 regard to the conflict of interest issue, I would argue to the
4 Court that the hearsay that was allowed in about the Nicole
5 Mills circumstances which was the subject of the direct appeal
6 shows that the Supreme Court felt there was no impropriety on
7 a reading of the transcript. We probably know a lot more
8 about what went on during the course of the proceedings
9 obviously than the jury did. And so we have to look at it
10 from their eyes and from what was presented in the
11 courtroom - not from all the information that we know about
12 what went on. And, additionally, I would argue to the Court
13 that, on the issue of whether the Defendant had this
14 information before them, that the evidence through Mr. Angli.
15 and Mr. Norton shows that both the Court and defense counsel
16 had the Brady information, had knowledge at least not only
17 through the written materials, but through the conversations
18 that were had at the bench about what the possible
19 implications were; that everyone was well-versed and very
20 familiar with that; that that shouldn't be an issue in the
21 Court's consideration, and; that the Court's ruling -- or what
22 actually transpired was proper. The advise that was given to
23 the Defendant and the fact that it was the Defendant's own
24 decision - he is the one who made the decision that he wanted
25 things to remain as they were, for Mr. Vosburgh to remain in

1 the case and not to become a witness. And, of course, his
2 testimony and Judge Vosburgh's and Mr. Skinner's are
3 diametrically opposed on that point. Both of the lawyers say
4 that he was fully informed that Mr. Vosburgh could not
5 continue on representing him if he were to testify in the
6 case. And that was very clear from their testimony. What I
7 think is important and what we never heard in this proceeding
8 is, we never heard this defendant, either in his affidavit or
9 in his testimony, tell this Court, "Wait a minute. Whoa.
10 When I heard what Dana Maybin was saying, or the implications
11 that were made of wrongdoing, I never....," he never told this
12 Court, he never made any attempt to halt the proceedings, to
13 get his attorneys aside, to say, "Mr. Vosburgh, hey, I thought
14 you were going to testify." And I would argue to the Court
15 that that is very probative testimony in its absence of what
16 the Defendant was actually thinking, and certainly he has the
17 greatest stake in the outcome of this proceedings. So I would
18 ask you to believe what the attorneys said about what they
19 advised him and what he knew at the time the conflict of
20 interest was addressed. But I think it's very important that
21 he never told this court that, at some later point in the
22 proceeding when he realized that Judge Vosburgh wasn't going
23 to testify, that he said to Judge Vosburgh or Mr. Skinner,
24 "Wait a minute. I thought you were going to be able to
25 testify." I'd argue to the Court that we didn't have

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1 testimony of that because that's not the truth, and that's not
2 what happened, and that's not what he believed. So I would
3 ask Your Honor to find the procedural bar and the waiver, and
4 then, the alternative, that the conflict of interest, actual
5 conflict of interest, did not exist.

6 THE COURT: I'm going to deny the defendant's
7 Motion for Appropriate Relief and direct Ms. Winstead to
8 prepare the appropriate order with the appropriate findings of
9 fact and conclusions of law, including primarily that there
10 are no Brady violations by the State of North Carolina; that
11 the Defendant is procedurally barred from pursuing the
12 conflict of interest matter, and; that he fully waived his
13 right to conflict-free counsel, and, in the alternative, that
14 no actual conflict of interest exists.

15 Ms. Winstead, if you'll prepare the order with the
16 appropriate findings of fact and conclusions of law and submit
17 it for my signature.

18 MS. WINSTEAD: Your Honor, could the court reporter
19 prepare a transcript prior to me doing that?

20 THE COURT: That would be fine.

21 MS. WINSTEAD: Thank you.

22 (Whereupon this proceeding is concluded at 4:50 p. m.)
23
24
25

Handout 107

NORTH CAROLINA
WASHINGTON COUNTY

GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

STATE OF NORTH CAROLINA,

Plaintiff,

vs.

WALLACE BRANDON JONES,

Defendant.

FILE NOS.:

94 CRS 4973

95 CRS 1965

STATE OF NORTH CAROLINA,

Plaintiff,

vs.

LEROY SPRUILL,

Defendant.

FILE NOS.:

95 CRS 1566

94 CRS 1984

Recorded Interview

This is the transcript of the recorded interview taken of Janice Spruill, which was conducted by Sharon Stellato, Staff Investigator, Adam Wrenn, Case Coordinator, and Catherine Matoian, Intern, from the North Carolina Innocence Inquiry Commission. The recorded interview took place on June 15, 2011.

APPEARANCES:

Sharon Stellato, Staff Investigator
Catherine Matoian, Intern
Adam Wrenn, Case Coordinator
North Carolina Innocence Inquiry Commission
Administrative Office of the Courts
P.O. Box 2448
Raleigh, NC 27602

Also Present: Janice Spruill

1 P R O C E E D I N G S

2 MS. STELLATO: Okay. What -- how should I
3 address you? How would you like me to address you?

4 MS. SPRUILL: Just Janice, Janice Spruill.

5 MS. STELLATO: Uh-huh. And I just want to talk
6 a little bit -- can you tell me about your work history
7 when you were with the sheriff's department?

8 MS. SPRUILL: Okay. Do you want me to go back
9 prior?

10

11 MS. STELLATO: Uh-huh. Yes, ma'am.

12 MS. SPRUILL: Okay. I started early '70s. And
13 I can't remember the year. I want to say '71 at Plymouth
14 Police Department.

15 MS. STELLATO: Okay.

16 MS. SPRUILL: I was a dispatcher with the police
17 department. I was hired under Chief -- what was his name?
18 I can't remember the chief's name at that time. He
19 retired. Then I worked under Chief Brookes and then he --
20 he got fired. And then I worked under Chief Floyd
21 Woodley.

22 I got married. My second marriage. And I left
23 and went to work at the Coca-Cola Company as a secretary
24 so that I would have a day job.

25 I left the Coca-Cola Company and then I went to

1 work at First Colony Farms in Creswell as a maintenance
2 foreman's secretary.

3 Me and my husband split up. I then went to work
4 at McKenzie Security at Weyerhaeuser. And I worked there
5 for about maybe a year, a year and a half. And then I
6 came to work in 1980 at the sheriff's department under
7 Sheriff Jim Whitehurst.

8 I was working as an office deputy to begin with.
9 That consisted of maintaining the jail, doing the
10 different reports.

11 We were a very, very small department at that
12 time. There was probably only seven, eight deputies. So
13 I worked mostly the night shift. And I did paperwork.
14 You know, did all the reports; maintained the jail;
15 answered the radios; answered the telephones. We didn't
16 have a 9-1-1 system at that time.

17 The sheriff then asked me would I consider going
18 to work on the road as a deputy. So I -- I was a sworn
19 police officer when I was with the Town of Plymouth. I
20 got in under what's called the grandfather clause at that
21 time.

22 And I worked on the streets under Chief Woodley
23 for maybe a couple of years prior to leaving the police
24 department. Mostly, it was day shift during that time
25 when I worked under chief Woodley and it was like

1 investigating wrecks, answering complaints, you know,
2 just -- just minor work. You know, I wasn't the one that
3 was out doing investigations or any of that stuff.

4 And so when I came to work under Sheriff
5 Whitehurst, I did pretty much the same thing. I worked
6 general deputy duties.

7 And then the sheriff -- we were able to get a
8 couple of more positions through the budgets. And then he
9 wanted to break up the department as everybody was then a
10 deputy. And he assigned one deputy as a civil officer
11 that handled all the civil papers and executions and stuff
12 like that. That was Jim Davenport. And he asked me would
13 I take under the investigation part of it. This was after
14 our chief deputy, Walter Peele, died in a car accident.
15 Walter was the one that did most of the serious
16 investigations prior to that. So I did.

17 I still worked shift work. I still worked
18 deputy work. But any major investigations or anything,
19 they would call me and just --

20 MS. STELLATO: And what year was that? About --
21 about, just approximately.

22 MS. SPRUILL: I would say probably '86, '87.
23 Somewhere along in there. I'm not really sure of the
24 year.

25 So I did a variety of things. I would transport

1 prisoners. I would trans -- all females. Whether it be
2 for going to detox or going to the mental hospital or if
3 we had a female that got arrested in another county, we'd
4 have to go get them and bring them. Or if we arrested a
5 female here. We at that time did not have a female jail,
6 so we would have to take our females to another county,
7 whether it be Beaufort County or Edgecombe County,
8 wherever we could find a place that somebody would accept
9 them.

10 The sheriff -- being I was the only female at
11 that time that worked with the sheriff's department, he
12 felt it better that a female transport a female. You
13 know, he didn't want the guys to have to be exposed to any
14 kind of allegations or whatever that might arise. So he
15 felt more comfortable calling me, you know, whether it be
16 day or night. And I did that for a number of years.

17 So then it became more crime, more -- we got
18 more deputies. Then I become primary an investigator.
19 That was one of my bigger duties as the years progressed,
20 you know.

21 But starting out, we did it all. You know, it
22 was nothing that a sheriff's department does that we, as
23 deputies, did not have to undertake. That included
24 bailiff duty; that included working the jail; that
25 included everything that -- that the sheriff was

1 responsible for, we did, you know.

2 Later, I got burned out on the investigations.
3 I went to the sheriff and told him. And I also found that
4 I had not been receiving my investigator pay, as I was
5 supposed to have been getting. That kind of concerned me,
6 too, and upset me.

7 So I went to the sheriff and I told him, you
8 know, I am burned out. You know, I am really tired of
9 this investigative work. I'm tired of -- of the phone
10 calls all hours of the day and night from informers or
11 this or that. I don't feel like I have a life. I'd like
12 to go back on the road. So he did. He put me back on the
13 road. And then we had --

14 MS. STELLATO: Do you remember what year that
15 was? I know it's just approximate.

16 MS. SPRUILL: Let's see. I'm trying to think
17 the year that the sheriff lost the election. I want to
18 say that was in -- it was just prior to me leaving, going
19 to work as a school resource officer. Because I didn't
20 work on the road that -- that long. I want to say
21 somewhere around 2000, 2001. I'm not really sure of the
22 time limit.

23 MS. STELLATO: So you were an investigator in
24 some form for 15 years, I mean in some form --

25 MS. SPRUILL: Some form.

1 MS. STELLATO: -- for about 15 years? Okay.

2 MS. SPRUILL: I was the one that got called when
3 nobody else didn't want to do anything.

4 And my right hand was always the SBI. You know,
5 we were a small department. We didn't have a lot of
6 training. I would always -- if I had something major, you
7 know, I would always call the SBI, you know. They were a
8 whole lot better, more efficient. They had better
9 resources, so.

10 We had really good working relationships. There
11 were several officers with the SBI that I worked with, you
12 know, on several cases. And they always would come. They
13 would always, you know, pretty much take the -- the lead
14 in just about anything that we had undergoing that was a
15 major type.

16 And after I left investigations, went back to
17 work on the road for a brief period of time. We had a
18 changeover in the sheriff. Another sheriff came in --
19 into office. And there were some things going on that he
20 was implementing that I -- I had some problems with that I
21 didn't agree with some of the ways that -- that he was
22 doing things. Some of them was for the better, some of
23 them was for the worse, in my opinion.

24 And so Jeff Swain quit. And he was the school
25 resource officer at Washington County Union School. And

1 the sheriff put out a memo that anyone wanted to take that
2 position to sign up for it. Which I did. And nobody else
3 wanted that job, so I then went to work as a school
4 resource officer at Washington County Union School. And I
5 think that was in 2002.

6 MS. STELLATO: Okay.

7 MS. SPRUILL: And I worked there until the
8 sheriff was civilly removed in -- no -- yeah, 2002.
9 Somewhere along 2002. It might have been 2003. I'm not
10 sure. But the sheriff got civilly removed. And because I
11 was the deputy with the most years of experience -- we, at
12 that time, did not have a chief deputy because Sheriff
13 James had never appointed anybody in that position after
14 he insisted that Tim Davenport, which was chief deputy,
15 resign, I was appointed as the sheriff for a period of
16 about three and a half years.

17 MS. STELLATO: Why was he -- I don't need the
18 whole -- the whole story, but why was he removed?

19 MS. SPRUILL: Wrongdoings. Embezzlement and --

20 MS. STELLATO: Okay.

21 MS. SPRUILL: -- obstruction of justice. It was
22 an investigation that was done as a result of an
23 allegation that a check that had been issued by the
24 federal government for -- to break it down in simple
25 terms, from the way I understand it was, we were holding a

1 female that was AWOL from the military in our jail for
2 some period of time.

3 And there was a contract that was obtained by
4 the sheriff and the provost marshal's office of the
5 military that they would pay X amount of money per day for
6 this female to stay in our jail. Because it was closer --
7 I think she was pregnant. And she was having to go
8 through medical attention at Norfolk. And this was like
9 halfway in between from -- between there and I think it
10 was Camp Lejeune or one of the military bases over there.
11 I'm not really sure which one it was.

12 And the check came. It was a 2- -- \$3,000
13 check. The check came, and instead of depositing it into
14 the general funds of the county, he instructed his chief
15 administrator of the jail to sign the check, because the
16 check was made out to both Sheriff James and John Ritten
17 (phonetic), which was the administrator of the jail, to
18 sign the check. And the check was taken to the WACO
19 Credit Union and deposited in the Law Enforcement
20 Officers' Association account. And then some of the money
21 was given to him in cash money. And then some of the
22 money was later transferred from the Law Enforcement
23 Officers' Association account into Sheriff James' personal
24 account.

25 So the SBI was investigating that case. And it

1 went to court. He was tried in Martin County and found
2 guilty. And he was sentenced a few -- a few days in
3 prison and was civilly removed from office (inaudible).

4 MS. STELLATO: So you at that time became
5 sheriff for about three -- three and a half years?

6 MS. SPRUILL: Three and a half years. And then
7 I retired after that. I did not run, seek re-election or
8 anything. I -- I really didn't never want to be a
9 sheriff, so...

10 MS. STELLATO: So was that about 2007?

11 MS. SPRUILL: '06.

12 MS. STELLATO: '06. Okay.

13 MS. SPRUILL: Well, I think my actual retirement
14 date was probably January the 1st of 2007.

15 MS. STELLATO: So you retired from -- from law
16 enforcement at that time?

17 MS. SPRUILL: Uh-huh. I still maintain my
18 certification. I still have a -- the sheriff here, I do
19 my -- my trainings, you know, my firearms training and I
20 do the paperwork and everything just like every other
21 deputy does. So I am still a certified deputy.

22 MS. STELLATO: And do you still work for the
23 sheriff's department on occasion?

24 MS. SPRUILL: Once in a while if they need
25 something, yes. The secretary over there, she had cancer

1 and she was out for a period of time, and I went in and
2 did, you know, work at the office, you know, did the
3 paperwork and everything there while she was out. And I
4 had filled in for an SRO when there were some
5 complications there. You know, I went in Plymouth High
6 School and worked as a SRO for a while.

7 So, yeah, you know, if he needs something or
8 whatever, I'm there to help him any way he I can.

9 MS. STELLATO: And did he -- I'm sorry, what's
10 his name?

11 MS. SPRUILL: James Ross.

12 MS. STELLATO: Did he come in when you retired?

13 MS. SPRUILL: Yes. Uh-huh, yeah.

14 MS. STELLATO: Okay. And he just won
15 re-election?

16 MS. SPRUILL: Yes.

17 MS. STELLATO: Do you still do any kind of
18 investigation work any longer?

19 MS. SPRUILL: No, ma'am.

20 MS. STELLATO: Do you work now?

21 MS. SPRUILL: Yes, ma'am.

22 MS. STELLATO: And where do you work?

23 MS. SPRUILL: I have worked for about 15,
24 16 years at a little convenience store called Makin
25 Tracks. It's the Liberty store out on 64 and 32. I

1 maintained a part-time position there the whole time I was
2 working at -- I did take a leave of absence during the
3 time I was the sheriff. I didn't feel like it was
4 appropriate for me to be working as a cashier as sheriff.

5 MS. STELLATO: Oh, you took a leave -- okay.

6 MS. SPRUILL: I took a leave of absence.

7 MS. STELLATO: Okay.

8 MS. SPRUILL: And after I retired, I took a
9 couple of months off and then I went back to work.

10 MS. STELLATO: And --

11 MS. SPRUILL: I've got to stay busy.

12 MS. STELLATO: And have you been doing that for
13 all those years, I would assume, to make extra money in
14 addition to --

15 MS. SPRUILL: Yeah. I had two kids in college
16 and I was a single parent. So I worked two jobs just
17 about my whole life.

18 MS. STELLATO: Are you married now?

19 MS. SPRUILL: In fact, I have three kids.

20 MS. STELLATO: Three kids, okay.

21 MS. SPRUILL: Uh-huh. Both of my daughters
22 graduated. My oldest daughter went to College of the
23 Albemarle in Elizabeth City and then transferred over to
24 East Carolina University. And she graduated from there.

25 My middle daughter, well, she had two degrees.

1 She went as a hairdresser. She graduated from that. She
2 decided that wasn't what she wanted to do the rest of her
3 life. So she went back to school and she got a degree in
4 nursing. And she's a registered nurse at the Baptist
5 Hospital in Winston-Salem.

6 My son is a correctional officer at Tyrrell
7 County Work Farm. He decided that he didn't want to go to
8 college. He had a learning disability and he didn't want
9 to go to college. So we accepted that for what it was and
10 he's doing what he wants to and he's happy, so.

11 MS. STELLATO: That's all that matters.

12 MS. SPRUILL: And I have four beautiful
13 grandchildren.

14 MS. STELLATO: Are you married now?

15 MS. SPRUILL: No. I've been divorced for
16 numerous years. Probably -- let's see, Danny is 30. I've
17 been divorced for 24 years.

18 MS. STELLATO: So how many -- during the time --
19 I guess really from the time -- we'll go all the way back
20 through your career. How many murders would you say that
21 you have worked?

22 MS. SPRUILL: Not that many. And when I say
23 "worked," I don't feel myself as qualified as saying that
24 I was the lead investigator or anything like that because
25 I never had the training that it took to solve murders. I

1 was there. I did everything I could, but I always reached
2 out for my SBI buddies, you know. Because I felt like
3 they were more qualified. They had better resources.
4 They had the crime scene wagon. They had everything that
5 we really did not have or funding to even have or have the
6 training to learn how to use it if we did have, you know.
7 So I guess --

8 MS. STELLATO: And you'd say that's pretty
9 common in the department at that time?

10 MS. SPRUILL: Yes, uh-huh. And still to today.
11 I mean until today, we still -- if there's anything major
12 goes on, they're called, you know.

13 MS. STELLATO: How many --

14 MS. SPRUILL: Let's see --

15 MS. STELLATO: -- how many do you think you
16 might have been involved in?

17 MS. SPRUILL: -- I would say there was a lady on
18 Hortontown Road that was murdered. And I was not involved
19 in that one. That was Tim Davenport. Mr. McNair was
20 killed in his home. He was an elderly minister. He was
21 tied up and gagged. In fact, the cause of his death was
22 suffocation from a pajama shirt crammed in his mouth and
23 taped together. And he -- robbery. He was beaten and
24 robbed. That was -- that was the early '80s. I'd say
25 probably '83, '84. I responded to that call.

1 Mr. Phelps (phonetic), he was killed in his
2 home. And then Frank Swain. So four out of five I
3 responded to of the murders that -- that I'm aware of.

4 MS. STELLATO: And those numbers, would you --
5 do you think that there's probably only been approximately
6 five murders here since you -- since you've been here, is
7 that what you're saying or --

8 MS. SPRUILL: In the county.

9 MS. STELLATO: In the county.

10 MS. SPRUILL: We've had some in the city
11 limits --

12 MS. STELLATO: Right. Right.

13 MS. SPRUILL: -- you know, but in the county.
14 I'm hoping I can remember.

15 MS. STELLATO: I know it's approximate.

16 MS. SPRUILL: There was Ms. Arnold on
17 Hortontown. A gentleman on McNair Road, Mr. McNair.

18 MS. STELLATO: Yeah. Okay.

19 MS. SPRUILL: As far as I can remember.

20 MS. STELLATO: What do you remember, if you can,
21 and I know that it's been a long time, but going all the
22 way back to your prior experience with -- with any of the
23 people involved, whether it was Frank Swain or Leroy
24 Spruill or any of those people, what were your experiences
25 with them? Did you know them? That kind of information.

1 MS. SPRUILL: Yeah. I knew Leroy Spruill. His
2 grandmother lived directly beside my mama and grandmother
3 in Roper. I've known him pretty much all of his life.

4 Linda, his sister, was a deputy with our
5 department. She was an office deputy. A close personal
6 friend of mine. We, you know, socialized somewhat
7 together, you know, as far as cookouts or something like
8 that, you know, we were always -- we didn't visit in each
9 other's home constantly or anything like that. But I
10 considered her one of my closest friends.

11 I knew his sister, Jackie, and her husband, Ray
12 Price. I knew her -- first cousin. Leroy's first cousin
13 was one of my closest friends during our elementary/high
14 school years. Now, we were really close.

15 MS. STELLATO: Who is that?

16 MS. SPRUILL: Hazel Furlough. That is Leroy's
17 -- I think his first -- first cousin. And we -- we grewed
18 up together. So I've known that family pretty much all my
19 life.

20 The first time I ever saw Wallace Brandon Jones
21 and Dana Maybin, I was working part time as a police
22 officer in Creswell at night. And I'd get off work like
23 2 o'clock in the morning from that position that I was
24 holding as a part-time position with the town of Creswell.
25 And I was --

1 MS. STELLATO: Is that near here? I'm sorry to
2 interrupt. Is that close to here? I mean is --

3 MS. SPRUILL: Yeah. It's in Creswell.

4 MS. STELLATO: Okay. Okay.

5 MS. SPRUILL: Uh-huh. It's in our county.

6 MS. STELLATO: Okay.

7 MS. SPRUILL: But they give deputies, anybody
8 that wanted to work, they paid us \$10 an hour, you know,
9 to go down and control just the town of Creswell. They
10 were having a lot of problems with break-ins and stuff
11 like that. So I -- I did do that on occasion.

12 And this one particular night, I was driving
13 home from Creswell back to my house on Mariner Road in
14 Roper and I saw this young guy and girl walking on the
15 side of the road. And I had noticed a car was stopped at
16 a little country store down in what we call Pleasant
17 Grove. It was pulled in there. And it was really strange
18 because this is kind of out in the country, you know, and
19 you don't really see cars. I mean, I travel that road all
20 the time, you know. And when I saw this car in there, I
21 kind of paid attention to it because I didn't know, you
22 know, what a car would be doing there at 2 o'clock in the
23 morning.

24 Well, just on up from that, this boy and this
25 girl was walking. So I stopped and asked them, you know,

1 what was -- what was wrong. You know, were they broke
2 down or what. And they had ran out of gas. And that
3 asked me if I would give them a ride to Leroy Spruill's
4 house in Roper.

5 So I was armed. I had my gun and everything
6 with me and I had my -- my uniform on for the Town of
7 Creswell. So I told them, Sure. You know, I'll give you
8 a ride. So they got in the car with me and I took them to
9 Leroy Spruill's house and put them there.

10 In that little short ride, we started
11 communicating. And the guy started asking me, he says,
12 You -- you're Janice Spruill, aren't you? And it seemed
13 kind of strange to me that he knew who I was because I had
14 no clue in the world who he was. Never seen him before;
15 never seen the girl before.

16 And I said, Yeah. I said, How do you know that?

17 He said, I live behind Ed Champ. And Ed Champ
18 told me that you're a police officer here.

19 I said, Oh, okay. I know Ed Champ. He's one
20 of -- we called him gypsies. You know, they do paving
21 work and different things like that. We had had some
22 problems with some of the scams, you know, and stuff that
23 they would pull throughout the community and adjoining
24 counties and adjoining states really. So I knew exactly
25 who he was talking about when he said he lived behind Ed

1 Champ.

2 So that was the first time I ever witnessed
3 Wallace Brandon Jones and Dana Maybin. Which at that
4 point in time, she was not going by the name Dana Maybin.
5 She was going by the name of -- Sherry Honea, Dana Maybin
6 -- I can't remember their --

7 MS. STELLATO: Nikki.

8 MS. SPRUILL: Nikki Talkington. And what was
9 Sherry Honea's other name? She had a different name, too.

10 MS. STELLATO: It was Nichole or --

11 MS. SPRUILL: I can't remember now what it was.

12 MS. STELLATO: So was this before the murder?

13 MS. SPRUILL: Yes.

14 MS. STELLATO: Okay.

15 MS. SPRUILL: This was before the murder.

16 MS. STELLATO: Okay. Do you know -- I know
17 you're not going to remember, obviously, how close, but do
18 you think it was close in time?

19 MS. SPRUILL: No.

20 MS. STELLATO: You don't think it was?

21 MS. SPRUILL: Uh-uh. Probably -- I don't know.
22 I'd say three or four months prior.

23 MS. STELLATO: Okay. Okay.

24 MS. SPRUILL: Two or three months. I'm not
25 really sure of the time.

1 MS. STELLATO: Did you know Frank Swain?

2 MS. SPRUILL: Yes. Uh-huh.

3 MS. STELLATO: And how did you know him?

4 MS. SPRUILL: I knew him as -- as a guy that
5 always drank a lot, you know.

6 I had some informers in the community that would
7 provide a lot of information about different drug
8 activities and stuff that was going on. And Frank Swain's
9 name would come up as somebody that they could purchase
10 narcotics from, mostly cocaine or marijuana or crack.

11 I knew who he was. I knew his sister better
12 than I knew him. Diane. She worked with my brother at a
13 little country store in Roper called the Red Apple Market.

14 MS. STELLATO: Okay.

15 MS. SPRUILL: And my brother worked there part
16 time with her, you know. So I knew who he was. I knew
17 who his family was. I knew where he lived at as a -- as a
18 result of people giving me information about drug sales
19 and who you could go to or whatever. But know him
20 personally, I did not. I knew who he was.

21 MS. STELLATO: Didn't Frank Swain also work at
22 the Red Apple for a short period of time?

23 MS. SPRUILL: Not that I know about or remember.

24 MS. STELLATO: Not that I you know of?

25 MS. SPRUILL: Uh-uh.

1 MS. STELLATO: Okay. So had you --

2 MS. SPRUILL: His sister worked there.

3 MS. STELLATO: So had you ever arrested him or
4 been involved in any of that or --

5 MS. SPRUILL: No.

6 MS. STELLATO: No?

7 MS. SPRUILL: Uh-uh.

8 MS. STELLATO: So what do you remember about the
9 night of the murder?

10 MS. SPRUILL: I was at a Christmas party at
11 Sheriff Whitehurst's house. It was probably 10 o'clock,
12 11 o'clock, somewhere along in there. The sheriff's
13 office called and said that they had had -- somebody found
14 Frank Swain dead in his house and they needed somebody to
15 go. So I went.

16 When I got there, Jimmy Peele was already there.
17 He was a deputy that was working that night. And there
18 was somebody else and I can't remember. I want -- I want
19 to say one of the police officers from the Town of
20 Plymouth went down there also. And they were there when I
21 got there. I was talking to them on the radio, you know,
22 on the way and just telling them, you know, to secure the
23 scene, not let anybody in, keep everybody away. You know,
24 that kind of thing. And I was instructing the dispatcher
25 to go ahead and call the SBI. That was even before I ever

1 got there.

2 And when I got there, Jimmy was standing at the
3 front door. And he was keeping everybody back. There was
4 a large crowd of people. I remember there was some ladies
5 and gentlemen out there and they were fussing. A couple
6 of the ladies was pretty intoxicated. And they were
7 having an argument over something. I don't even know --
8 remember now what they were arguing about. But we were
9 trying to get them to move off the property, you know, to
10 get off the property and so that we could wait for the SBI
11 people to come.

12 I also called for the medical examiner.
13 Dr. Hudson was the medical examiner at that time. He also
14 responded to the -- to the crime scene.

15 Pretty much what we did is just backed off and
16 maintained control of the area outside. Because like it
17 is with anywhere else, when you've got ambulances and
18 you've got police cars, and everybody in the world starts,
19 you know, coming in. And so we just roped everything off
20 and made everybody stand back and wait until the SBI come.

21 There was numerous agents that responded.
22 Donnie Varnell was what I considered the lead agent with
23 the SBI. He came. Flip Wilson with the SBI came. Dennis
24 Honeycutt with the crime lab came. The medical examiner
25 came. And there was another agent. I can't remember who

1 that one was. I remember another one being there, but I
2 can't recall today who it was. Anyway, we just started
3 talking to people, you know.

4 The first thing I done when I got there was talk
5 to Wyatt Spruill. Because Wyatt Spruill was the person
6 that had called in that he had found Frank dead in his
7 house.

8 So I was out in the patrol car. And some of the
9 problems was that some of the people were saying that
10 Wyatt was the one that killed him. And they were just --
11 everybody getting mad and all that. You know, a white guy
12 in a predominately black neighborhood.

13 You know, Frank had been in a relationship with
14 Wyatt's sister, Sonja. And the people in the community
15 knew that. Some of them didn't like the idea of him being
16 with a white woman. A lot of whites didn't like the idea
17 of Sonja being with a black. It was a very prejudice
18 time. You know, a lot of whites and blacks just was not
19 an accepted thing in our community. You know, that -- a
20 lot of people didn't like it. Both black and white.

21 Sonja and Frank had lived together for a period
22 of time. They had lived in a little house up on
23 Mill Pond Road close to where Sonja's daddy -- Sonja and
24 Wyatt are brother and sister. Sonja's daddy and mother
25 were separated. And Sonja's daddy lived on Mill Pond

1 Road. Sonja's mother lived on the Mackeys Road. And
2 Kenneth Spruill, which is Sonja and Wyatt's daddy, had a
3 little house on their farm. And that's where Sonja and
4 Frank lived during the time they were going through their
5 courtships and stuff.

6 Sonja had one son. A biracial son, Matthew, by
7 a prior relationship. And Matthew also lived there with
8 Sonja and Frank in that house up there by her daddy.

9 So I knew the situation there. You know, I knew
10 that her stepfather didn't agree with that. You know,
11 David Spruill was Sonja's stepfather. He was a very
12 racially-oriented man. He did not approve of Sonja living
13 with a black guy.

14 Sonja also was a heavy drug user. She had been
15 in rehab a couple of times that I had taken -- she had
16 written some bad checks. She had done some odd and end
17 stuff that I was aware of that, for her drug use, she had
18 got in trouble. She was in prison.

19 In fact, I think she was in prison at the time
20 Frank was murdered. Because I called her at the prison
21 and talked with her to find out if she knew anybody that
22 would want Frank dead or any association that she knew
23 about that Frank may have had with anybody else, you know,
24 that would help us end the investigation. Statements of
25 hers contained in all this. And that was a telephone

1 interview that I did with her. It was not -- I did not go
2 to the prison and talk with her personally. It was over
3 the telephone.

4 So that's basically what I did prior to the SBI
5 arriving. The SBI arrived and Ms. Honeycutt conducted the
6 crime scene and the pictures and everything that was done
7 in that -- that area. But the other agents was
8 interviewing various people out, you know, in the crowd,
9 taking pictures of people in the crowd.

10 MS. STELLATO: How many people would you say
11 were there?

12 MS. SPRUILL: I'd say probably 25, 30 people.

13 MS. STELLATO: And so you interviewed Wyatt
14 Spruill?

15 MS. SPRUILL: Uh-huh.

16 MS. STELLATO: And do you remember -- and I know
17 that I have those interviews, but do you remember anything
18 specific about his interview?

19 MS. SPRUILL: Not really. I was just kind of
20 suspicious of Wyatt to begin with. Because he had been --

21 MS. STELLATO: Do you remember his --

22 MS. SPRUILL: -- he had been with Frank pretty
23 much that day, from what he was telling me. You know, he
24 was -- Wyatt had had a criminal record in the past. Wyatt
25 was a heavy drug user also. He had done various crimes to

1 help support his drug habits.

2 And his mother and his stepfather, David
3 Spruill, you know, would call, you know, concerning stuff
4 that was missing out of their house and so forth and so
5 on. And naturally, you know, they associated it with
6 Wyatt because Wyatt would steal from them. Would steal
7 money from Gene; would steel tools and stuff from David
8 and sell it for narcotics or trade it off or whatever.

9 So -- and he had said that he had been with --
10 with Frank pretty much that whole day. And he knew about
11 Frank's dealings in drugs and so forth and so on. So I --
12 Wyatt, to me, I was suspicious of, you know.

13 Q. Do you remember --

14 A. Naturally, I guess the being the last person
15 that saw him alive and the person that found him dead, you
16 know, you kind of really want to tighten down everything
17 you could get off of Wyatt. So that's what I did.

18 MS. STELLATO: Do you remember his demeanor at
19 the time?

20 MS. SPRUILL: He was visually upset. You know,
21 he was very upset, shaking.

22 MS. STELLATO: And -- and these people who, you
23 know, the racial thing happening, do you remember any of
24 the people who were there who were accusing Wyatt -- or
25 who -- who, you know, were making a fuss over Wyatt

1 Spruill?

2 MS. SPRUILL: They were more fussing about
3 David.

4 MS. STELLATO: David Spruill?

5 MS. SPRUILL: David Spruill. They had seen
6 David come up. And nobody liked David because David, you
7 know, made no beans about it, that he did not like Sonja
8 and Frank living together, you know.

9 MS. STELLATO: Was David Spruill there?

10 MS. SPRUILL: I didn't see him. Now, some of
11 the black people in that crowd had said that he had been
12 up there. But I personally did not see him.

13 MS. STELLATO: And how is he a Spruill, too?
14 Is -- that's not their dad, right?

15 MS. SPRUILL: No. Uh-uh. No.

16 MS. STELLATO: But is it -- is it -- okay. All
17 right.

18 MS. SPRUILL: Yeah. That's a different set of
19 Spruills.

20 MS. STELLATO: He is a Spruill, though.

21 MS. SPRUILL: (Inaudible.)

22 MS. SPRUILL: Okay. I was just making sure.

23 MS. SPRUILL: Everybody thought that -- that
24 Sonja was my sister. You know, everybody thought that I
25 was kin to Leroy and I was kin to Sonja. No.

1 MS. STELLATO: Okay. It's just another --

2 MS. SPRUILL: We're not.

3 MS. STELLATO: -- set of Spruills. Okay.

4 MS. SPRUILL: It's a completely different set.

5 MS. STELLATO: Okay. I get it.

6 MS. SPRUILL: I'm the Pea Ridge set. Sonja
7 was -- Sonja and Wyatt was the Mill Pond set. Leroy was
8 the Mill Pond set. Now, they are cousins.

9 MS. STELLATO: Right.

10 MS. SPRUILL: They are family, you know, but
11 entirely different.

12 MS. STELLATO: Okay.

13 MS. SPRUILL: And a lot of people didn't want me
14 there because they thought Wyatt or David was the one that
15 had killed him. You know, this is the way the people in
16 the crowd were feeling at that time. I mean this had just
17 happened. No investigation had been done, nothing. You
18 know, everybody was just mad and we don't want her here;
19 we don't want her here. You know, she's family.

20 You know, and I'm like, I'm not family. You
21 know, I don't have anything to do with this. You know,
22 I'm just here to find out what happened, folks, you know.

23 They were all getting upset with me. They
24 didn't want me here. And I told them, I said, I don't a
25 problem with that. I'm calling the SBI. The SBI can take

1 care of it, you know, so.

2 After a while, that pretty much calmed down and
3 settled down and everybody started being normal and, you
4 know. But it was kind of hectic that night. That's what
5 I remember about my first -- first initial approaching
6 that crime scene.

7 MS. STELLATO: Did you go into the crime scene?

8 MS. SPRUILL: Yes, I did.

9 MS. STELLATO: Okay. Then after that, the SBI I
10 know does their work and -- and you all do yours. What
11 happens then? I mean because there is a big lull.

12 MS. SPRUILL: There was a long -- I mean we
13 interviewed numerous people that night. Several, several
14 people. Dennis was there pretty much all night.

15 One thing that really sticks out in my mind
16 today is when the medical examiner come, and of course he
17 pronounced him dead. And he was talking about the
18 autopsy, you know, taking him on to Greenville to do the
19 autopsy the following morning.

20 The first thing he said to me, was he took (sic)
21 around, and he says, Deputy Spruill, the first thing you
22 need to do is you need to go to the laundry mat and you
23 need to check -- check who is at the laundry mat washing
24 clothes.

25 I never thought of that, you know. I'm like,

1 Huh? Why would I do that?

2 He said, Because whoever killed this man is
3 going to have some bloody clothes. There's going to be a
4 lot of blood on the people that killed him.

5 So the first thing I did is I asked the police
6 officer that was there from the Town of Plymouth, Go to
7 the laundry mat and check to see if anybody is in there
8 washing clothes, you know. Because we're there with no
9 means of a whole lot of people, you know, a whole lot of
10 resources available.

11 So that police officer did. He left and he went
12 and checked. We had two laundry mats in Plymouth. And he
13 went and checked those and called back and said that there
14 was nobody at the laundry mats.

15 So that kind of stuck out in my mind as a
16 learning thing that you -- this is something that you look
17 for if you ever have another murder or whatever is you
18 look for bloody clothes or whatever, you know, so.

19 But there was a long period of time that there
20 was numerous people interviewed during that period of
21 time. No real -- no real source of anything that you
22 could build a case on.

23 MS. STELLATO: At that time, you weren't --
24 Leroy Spruill and Brandon Jones weren't suspects at that
25 time?

1 MS. SPRUILL: Uh-uh.

2 MS. STELLATO: You were just talking to people
3 trying to figure out what was --

4 MS. SPRUILL: Well, let me back up. The very
5 next morning on December the 20th, Linda, Leroy's sister,
6 calls me at the sheriff's office. And she's crying and
7 she's all upset and she wants to know if we've got Leroy
8 in jail.

9 I said, Why would we have Leroy in jail? She
10 said that she had got phone calls saying that Leroy was
11 the one that had killed Frank.

12 And I said, No. I said, We have not got Leroy
13 in jail. This is the first I've heard of it.

14 And I was trying to calm her down because she
15 was all upset and crying, all -- all to pieces.

16 Well, it won't long after that that Ray Price,
17 her sister's husband, called and wanted to know if we had
18 Leroy in jail. Said that Patty Ray, Leroy's mother, had
19 called her and she was tore all up saying that -- that
20 people were saying that Leroy was the one that had killed
21 him and that he wanted to know if we had Leroy in jail.

22 Then a guy by the name of Pinky Morrow that
23 lived there in Roper, close to where Leroy used to live.
24 In fact, I think Leroy lived in a house right beside where
25 Pinky Morrow lived at. He had been drinking pretty heavy

1 and he starts calling the sheriff's office and he's
2 talking to the communicator. And he was saying, you know,
3 that he didn't want that guy coming to his house. That he
4 had just killed a man and he didn't want him up there.
5 And that somebody needed to go and talk to Leroy and --
6 and get him to, you know, not come around him because he
7 was going to do what he had to do and so forth and so on.

8 So that was the information that we received the
9 very next morning, you know.

10 MS. STELLATO: All three calls do you think
11 happened that day, that time period?

12 MS. SPRUILL: Yes.

13 MS. STELLATO: Okay.

14 MS. SPRUILL: And so naturally, we go out and we
15 pick up Leroy, you know. We bring Leroy in, start talking
16 with him. And he says, you know, that he was at Big Ed's
17 bar. That he had been there. That he had gone over and
18 -- I can't remember everything that he said he done. That
19 him and -- I asked him, I said, when was the last time he
20 had seen Frank. And he said that he had seen Frank that
21 morning, the morning of his death.

22 MS. STELLATO: The morning of the murder?

23 MS. SPRUILL: Uh-huh. And I asked him, I said,
24 Where did you see him at? He said that he bumped into him
25 at the Winn-Dixie. That Frank was in there buying some

1 candy and fruit and stuff. That he was going to the
2 prison to see Sonja. And that he was talking to him at
3 the Winn-Dixie.

4 He said that he had gone to the Winn-Dixie to
5 get some Kibbles'n Bits dog food for his dog and that he
6 had seen Frank there while he was there and that they
7 talked briefly. And he said he hadn't seen him after
8 that, you know.

9 And I began asking him, you know, Why would we
10 be getting these phone calls, you know, that he it was one
11 that was supposed to have killed Frank?

12 And I also asked him -- this is another thing
13 that I don't think got cleared up in the court trial. But
14 I asked him how did he get to the Winn-Dixie. And he told
15 me that he drove his daddy's truck to the Winn-Dixie that
16 morning.

17 Now, when his father gets to court and testifies
18 under oath, he states that his truck was broken down and
19 that there's no way that Leroy had his truck the night of
20 the murder.

21 But out of Leroy's own statements to me, he
22 admitted that he had drove his daddy's truck to the
23 Winn-Dixie the morning of the murder to buy dog food. And
24 that he had, in fact, had talked to Frank at the
25 Winn-Dixie that morning. And that was the last time he

1 was supposed to have seen him.

2 So we didn't have enough. You know, he -- he
3 was saying he was at Big Ed's bar. We talked to Big Ed.
4 Big Ed confirmed that he was there. Big Ed was saying --
5 this is Ed Champ. We called it Big Ed's bar. He
6 confirmed that he was there the entire night.

7 We later found out, some time later, that that
8 was not true. That he was there. He left and then came
9 back. That was from another witness that was later found
10 by the name of Lynn Rogers.

11 MS. STELLATO: So let's just -- before we go
12 right there, because I know where that's going. At the
13 time that you talked to Big Ed, he confirmed the alibi.
14 And are you thinking --

15 MS. SPRUILL: Well, it was a dead end.

16 MS. STELLATO: Okay.

17 MS. SPRUILL: He -- he was at the bar. I mean
18 he was there with these people that -- that lived at his
19 house. And I knew that they had stayed there with him
20 because I personally had taken Dana Maybin and Wallace
21 Brandon Jones to his house.

22 Linda had also been telling me, you know, about
23 these people that were hanging out at Leroy's and that she
24 was worried that Leroy was going to get in some serious
25 trouble.

1 She -- she feared for her parents. Leroy was
2 taking stuff out of their freezer and taking it down to
3 the crossroads and selling it for -- for drugs. And he
4 was taking some of his daddy's wood off of the woodpile
5 and taking it to the crossroads and selling it down there
6 to get drugs with.

7 She was worried that Leroy was getting in over
8 his head. And she didn't like all these parties and stuff
9 that Leroy was having at his house. You know, she come to
10 work several days, you know, tore all to pieces.

11 She had let Leroy use her car one time. And she
12 was worried that he may have left some drugs or something
13 in her car. And she wanted me to go out with her to check
14 her car, you know, to search her car, you know, to make
15 sure there was nothing in her car.

16 I mean she was -- she was really having some
17 grave concerns about what was going on in Leroy's life at
18 that time.

19 They're a real close family. They loved each
20 other tremendously. You know, Leroy had been in prison
21 one time before when him and Wyatt had got in trouble.
22 And Wyatt had testified in court against Leroy.

23 So the family kind of had some hard feelings
24 from that aspect with Wyatt because he had told on Leroy
25 when they did these break-ins down in Creswell in the

1 early '80s. That's when Representative Tim Spear, which
2 is now a U.S. representative, but he was a deputy sheriff
3 at that time. And he and Walter Peele had investigated
4 numerous break-ins down at the Creswell area. And I think
5 the school and some other areas was broken into. And they
6 were charged in that crime.

7 And Wyatt went to court and testified. And
8 Leroy and Wyatt both were found guilty. And there was
9 another boy, which was Linda's boyfriend at that time.
10 Her boyfriend was involved in it, too.

11 So I had knowledge of all this stuff that was
12 going on, you know, with Leroy. Hanging out at what's
13 called the Depot, which was a little bar here on the
14 outskirts of Plymouth. He was also hanging out over
15 around Williamston some with some construction workers and
16 stuff that Linda was concerned about, you know.

17 And she was just scared that he was going to
18 hurt her parents is what her -- her main concern was, you
19 know. That she didn't want him to be having these
20 construction workers and all these people at his house and
21 then going over to her momma and daddy's house. She
22 didn't know whether with the associations of what Leroy
23 was dealing with at that time could endanger her mom and
24 daddy, you know, because Leroy was already taking stuff
25 from them.

1 Q. Going back to --

2 A. To support his drug habits and stuff.

3 Q. Going back to what -- what you were telling
4 me. I know from reading all of it that all of -- all of
5 this stuff is in the reports and things that we've
6 reviewed, except for the phone call with Ray Price and the
7 phone call with Leroy's sister. And I'm wondering if
8 maybe you didn't put the phone call with Leroy's sister in
9 the report because of your relationship with her or
10 something like that?

11 MS. SPRUILL: I thought it was in there.

12 MS. STELLATO: I mean not -- not that I recall.
13 That doesn't mean -- it could just be that -- I definitely
14 have never seen a report --

15 MS. SPRUILL: (Inaudible).

16 MS. STELLATO: -- that indicates that -- that
17 Linda had -- had phoned you to find out if -- if he was in
18 jail.

19 MS. SPRUILL: Well, she did.

20 MS. STELLATO: I do remember Pinky Morrow --

21 MS. SPRUILL: I -- I really thought that it was
22 in the reports. I remember talking to the SBI about it.

23 MS. STELLATO: But today talking to me -- and it
24 is what it is -- but you're confident that Linda Ray Price
25 and Pinky Morrow all called you the next day --

1 MS. SPRUILL: Uh-huh. Absolutely.

2 MS. STELLATO: -- and in some way said I've
3 heard Leroy did this, is he in jail?

4 MS. SPRUILL: Yeah. Is he in jail?

5 MS. STELLATO: Okay.

6 MS. SPRUILL: Have you all got him? Have you
7 got my brother in jail? I can hear her right now.

8 MS. STELLATO: Okay. So then you find out that
9 he has this alibi and at that time it --

10 MS. SPRUILL: And that's the reason I picked him
11 up was because of the phone call. You know, so I -- I
12 can't believe I wouldn't have documented that.

13 MS. STELLATO: And then --

14 MS. SPRUILL: And then also, he was picked up
15 several times and talked to. One of the SBI agents, Ken
16 Inscoe, he was in on one the interviews because he knew --
17 he knew Leroy and he knew Wyatt and he knew Linda, you
18 know, from the break-ins back in the early '80s. Because
19 I think he was one of the agents that worked those cases.
20 So Ken came in because he had a real good rapport with --
21 with that family. And this was after he had actually
22 become a suspect.

23 Ken tried to talk him into telling, you know,
24 what happened. And he just, I'm not a ratfink. You know,
25 I'm not -- I don't know anything about it. I haven't done

1 it. I don't know what you're talking about. And I'm not
2 answering any more questions. I'm out of here, you know
3 so.

4 MS. STELLATO: Did you get the impression when
5 you were interviewing Leroy Spruill that he found this
6 humorous?

7 MS. SPRUILL: Yeah. To a certain degree. I
8 mean he was kind of cocky about it, you know.

9 MS. STELLATO: At that time --

10 MS. SPRUILL: But that's -- that's somewhat
11 Leroy's personality, too, you know, so.

12 MS. STELLATO: At that time --

13 MS. SPRUILL: And I guess I really wanted to
14 believe that Leroy didn't have anything to do with this,
15 you know. I really wanted to believe that he would not
16 have done anything like this. I've known him probably his
17 whole life, you know. It's kind of hard to think that
18 somebody that you've seen your brothers out playing
19 football with in the backyard of his grandmother's house
20 could kill a man in the manner that Frank Swain was
21 killed. You know, it's kind of hard to put your head
22 around that, you know.

23 MS. STELLATO: Do you remember Leroy Spruill
24 always telling you that he was with Brandon Jones and, at
25 that time, Nikki at Big Ed's bar?

1 MS. SPRUILL: Uh-huh.

2 MS. STELLATO: And during this time, were you
3 investigating other people as well?

4 MS. SPRUILL: Yes, uh-huh. There was several
5 people that we interviewed. Maurice Wilkins became a -- a
6 pretty -- in my opinion, I thought Maurice was a drug
7 user. Maurice had a temper. Maurice -- I had
8 investigated one time before where he was down at a club
9 called the Zodiac Club where he was in possession of a
10 gun. And a gun had been discharged on the outside of the
11 Zodiac Club.

12 So I knew -- I knew Maurice. And in my mind,
13 I'm thinking, you know, he could be capable of doing
14 something like this, you know. So I really centered in on
15 Maurice.

16 MS. STELLATO: And where did that go?

17 MS. SPRUILL: A dead end. He had an alibi where
18 he was at. He was going with a girl named Monique Norman.
19 And he was talking about -- I asked him to retrace where
20 he had been that night and so forth and so on. And he had
21 been up to the Golden Skillet where she was working at
22 talking with her. And then he had gone to Joseph Lynn's
23 and Billy McNair's and different places. I can't remember
24 exactly everything that -- that he done. Then they had
25 ended back up at the Zodiac Club and were talking with

1 other people. It was confirmed that's where he was, you
2 know.

3 MS. STELLATO: Do you remember Maurice Wilkins
4 telling you that he had been in the neighborhood when --

5 MS. SPRUILL: Yes.

6 MS. STELLATO: -- when Frank Swain was killed?

7 MS. SPRUILL: Uh-huh. In fact, he was one of
8 the ones that testified in court that he saw Leroy Spruill
9 in a blue truck. He thought it was his daddy's truck or
10 it could have been Ray White's truck. And somebody else
11 was in the vehicle with him. And they had gone back up
12 the path where Frank Swain -- where Frank Swain lived.

13 MS. STELLATO: So how do you reconcile his alibi
14 for not being involved in the murder and, as you said,
15 going to the Golden Skillet and the Zodiac Club and being
16 around his friends, but having been at the scene at the
17 time of the murder?

18 MS. SPRUILL: He was at the scene for a brief
19 period of time while he was waiting on some boy to iron
20 some clothes or something. And then they all left in the
21 truck.

22 And as far as the time that Wyatt said that he
23 left him and the time that Wyatt said that he found him,
24 he was out of the area. He was at the Golden Skillet at
25 9 o'clock talking to Monique Norman. So he was out of the

1 area at the time that -- from the time that Wyatt left
2 him, which was somewhere around 9:00 and when Wyatt came
3 back sometime a little after 10:00. Out of his -- and out
4 of what Monique told us, he was with her. He was not
5 there.

6 MS. STELLATO: But he -- but he puts -- I mean
7 he absolutely puts Leroy Spruill on that road --

8 MS. SPRUILL: Yep.

9 MS. STELLATO: -- going to the crime scene?

10 MS. SPRUILL: He saw Leroy Spruill. He knew it
11 was Leroy and he knew somebody else was in the vehicle.

12 MS. STELLATO: So he was there at the time --

13 MS. SPRUILL: That's right.

14 MS. STELLATO: -- at least the beginning of --

15 MS. SPRUILL: Yeah. But you would think if he
16 had already killed Frank and he's at -- at the Golden
17 Skillet buying supper and asking her to go out with him
18 and courting and all that stuff, first of all, where was
19 all the blood that the medical examiner was telling us we
20 needed to be looking for, if he's dressed all up and ready
21 to go out partying and he's out talking to the girlfriend,
22 if he just killed a man? It didn't add up.

23 MS. STELLATO: I mean, yeah. But the same could
24 be said about Leroy Spruill and Brandon Wallace Jones
25 who -- who leave the bar for a period of time and come

1 back in different clothes. I mean, the same can be -- I'm
2 just trying to get a better idea of the timeline. And it
3 seems like Wilkins was cleared because he had an alibi and
4 he was all these places. And I see that you've done all
5 these interviews. But at the same time, it seems like
6 Maurice Wilkins is the one who puts Leroy Spruill at the
7 crime scene. So I've been trying to kind of reconcile
8 that, you know, time wise.

9 But the -- the basic reason that you kind of
10 move away from Wilkins is he has an alibi?

11 A. Yes.

12 MS. STELLATO: Okay.

13 MS. SPRUILL: And then also other information
14 that starts filtering in to us, you know, later. I mean
15 it was -- this investigation went on for over a year, you
16 know. Then we -- we start getting these phone calls from
17 a boy named Robert Spruill from Creswell. He starts
18 telling -- well, let me back up.

19 He starts telling about this girl Sherry Honea
20 that he's liking and she's living in the home with him.
21 Which Sherry Honea was not the name she was known as at
22 that time. And I can't remember the name that she went
23 by. Dana Maybin was Nikki Talkington and Sherry Honea
24 was -- I can't remember her name.

25 Anyway, Robert has a drinking problem. He's had

1 the telephone booth down at Ms. Donny's restaurant. They
2 lived in a little trailer right directly behind
3 Ms. Donny's restaurant. I knew these people. I knew who
4 they were. I knew where they lived.

5 He's in the phone book (sic) and he's telling
6 me, you know, You need to come down here and get this
7 crazy girl out of my house. She's tearing my house up.
8 And she -- she -- she knows who it was that killed that
9 man up there in Roper and I don't want him -- her killing
10 me. And these girls are crazy. And they're from South
11 Carolina and they're running from the law and this and
12 that and, you know, everything else.

13 So naturally, I get interested. So I set out to
14 find Sherry Honea or whatever her name was at that time.
15 Because I'm thinking, well, you know, she may know
16 something about Frank Swain's murder. Because that's the
17 only man that we had had killed in Roper. You know, he
18 didn't tell me the man's name.

19 MS. STELLATO: Right.

20 MS. SPRUILL: He just says that these girls
21 are -- know who killed the man in Roper. And he was
22 visually, you know, upset and everything.

23 We go down. Well, Jimmy Peele and Frank Davis
24 goes down and talks with them. You know, but the girls
25 are long gone. They don't know where they're at or

1 whatever.

2 And so I start -- me and Willie start talking.
3 And we decided we needed to find these girls and find out
4 who they were and find out what they were running from the
5 law about and all this stuff.

6 Robert does tell me that they're staying with
7 Betsy Talkington. I knew Betsy. I've arrested a couple
8 of her sons in the past for some breaking and enterings
9 and so forth. So I knew where Betsy lived.

10 Also Charlie Spruill, which was an informer of
11 mine. He's now dead. He was my sister-in-law's brother.
12 He had been attending a party at Betsy Talkington's house.
13 Betsy Talkington starts talking about this murder down
14 here in Roper of Frank Swain.

15 Charlie calls me up and he tells me, you know,
16 Hey, these girls that come in here from South Carolina,
17 they know about that man getting murdered. You need to
18 talk -- you need to -- you need to find out about who they
19 are, you know. Betsy is telling me, you know, they're in
20 here under different names and they're running from the
21 law and all of this.

22 So we get up with Donnie Varnell. Donnie comes
23 down. We wire Charlie and a friend of his. And we send
24 them back into Betsy Talkington's house getting them to
25 start talking about Nikki Talkington and whatever the name

1 is of Sherry Honea.

2 Betsy spills the beans. She tells them -- tells
3 Charlie everything about them. What their real names are.
4 Just the whole nine yards.

5 So then with that information, we're able to run
6 down in South Carolina that they're on the run for
7 probation violations. They've left the state without any
8 permission or whatever. And I actually talk to the
9 probation officer.

10 Well, she turns around and she issues a warrant
11 for Sherry Honea. I don't think there was one issued for
12 Dana Maybin. So that gave us something then that we could
13 pick Sherry Honea up on. That we, you know, had some
14 probable cause to pick her up and bring her in and talk
15 with her.

16 During the course of the investigation, I found
17 out, too, that she was gay, a lesbian, and that she was
18 having relationships with a girl that I knew that lived
19 down at Pea Ridge. Now, what was that girl's name?
20 Loralene (phonetic) Spruill's daughter. I can't remember
21 her name. Anyway, I knew that that's where she was then
22 staying.

23 So we caught them on the road going into the --
24 to the house that morning. It was a Sunday morning. And
25 got her out of the car and we placed her under arrest on

1 the probation officer's warrant from South Carolina.

2 Brought her in and was fingerprinting her.

3 Talking to her, you know, about the charges that she was
4 under. And she ends up spilling the beans, that Dana
5 Maybin had told her, you know, that she was with Leroy and
6 Brandon at the time of the murder. And tells the same
7 story that Dana had told. And that Dana had told her that
8 she was wearing Sherry's shoes at the time and that she
9 was having to -- she would have to get her another pair
10 because they had burned all the clothes up in Leroy
11 Spruill's heater. That they had got bloody and that she
12 had burned the shoes up in Leroy Spruill's heater. And
13 that she was scared of Brandon because Brandon had branded
14 her with a -- with an iron, a hot iron that he had put in
15 the heater and put it on her stomach in the past. And she
16 was scared that Brandon was going to kill her and that
17 they wanted to get back to South Carolina. They were
18 trying to get money in order to go back home on. That
19 they were on -- on the run down here, but had got down
20 here and got in all this stuff and they wanted to go back.

21 So then that's how we all -- along with a phone
22 call that I received at my house. And to today, I don't
23 know who the person was that called me. They told me that
24 I needed to check on the guy that lived behind Ed Champ's
25 house. That he was the one that had killed the drug

1 dealer. And it was a white male. I don't have a clue who
2 it was that called me.

3 But as a result of that phone call, I was
4 talking to Willie about it. We went to Big Ed's bar.
5 This was like a couple of nights before we were going to
6 pick up Brandon and talk to Brandon. And Brandon was at
7 the bar. He saw us go in there. Which is -- now we would
8 go by the bar. We would ride through the parking lot. We
9 probably tipped our hand by actually getting out and going
10 in the bar. But I wanted Willie to see who he was because
11 Willie didn't know him. And I wanted Willie to see what
12 this boy looked like so that he would know who he was.

13 And as a result of us going in the bar, he
14 got -- and I did not know at that time that he was on the
15 run from Texas for possibly another murder he had
16 committed in Texas. Later in the investigation, all that
17 was found out.

18 So he got really hinky and he started hiding
19 out. And it won't long after that that Big Ed got the
20 boy, Kevin Furlough, which was going with Big Ed's
21 daughter, to get him out of the state and took him to the
22 bus station to get him out of here.

23 MS. STELLATO: So after you talked to Sherry --

24 MS. SPRUILL: It's a long -- a whole lot of
25 stuff that kept coming in.

1 MS. STELLATO: You were getting a lot of
2 information?

3 MS. SPRUILL: Yeah. A lot of stuff. And then
4 that's when we really started looking really heavy and
5 strong at Leroy, Brandon, and Dana.

6 MS. STELLATO: So after you talked to Sherry,
7 you tried to find Dana, I -- I assume. And do you ever
8 interview Dana?

9 MS. SPRUILL: Uh-huh. Myself and the SBI.

10 MS. STELLATO: What does Dana tell you the first
11 time?

12 MS. SPRUILL: The SBI went down to South
13 Carolina and found her. They talked to her. I don't know
14 exactly everything that she told them, but she denied,
15 denied, denied.

16 Me and Willie later went down and we talked to
17 her. She was in a relationship with some -- some guy down
18 there then. She had a child by a previous relationship
19 that her mother was taking care of.

20 And the deputy sheriffs down there at South
21 Carolina picked her up and brought her up to the sheriff's
22 office. And we were talking to her and telling her, you
23 know, that we had reason to believe, you know, that she
24 was there and she knew about this murder.

25 And her story would switch from I won't there

1 to, yes, I know about it; I won't there. So forth and so
2 on. She wanted to take a lunch break.

3 They had taken her for a polygraph test, I
4 remember. They had taken her for a polygraph test
5 somewhere there in South Carolina. But when she got
6 there, she told them that she might be pregnant. And the
7 polygraph examiner would not examine her because of the
8 fact that she was saying that she thought she possibly was
9 pregnant. And that they didn't want to take the
10 liability, I guess, if she got in there and got upset or
11 whatever. I don't know.

12 But anyway, I was asking her, you know, Are you
13 in fact pregnant? And she says, no, she didn't think she
14 was. She felt that that was a -- a misreading, that she
15 didn't feel like she was pregnant.

16 She wanted to take a lunch break. She agreed to
17 come back and talk to us after. She was going somewhere
18 to check on her daughter and she wanted to talk to her
19 boyfriend. And she agreed to come back. And she did.

20 And when she came back, then she started giving
21 us statements, you know, concerning some parts of the
22 crime. You all got the statements in the thing and I
23 don't remember everything she said.

24 But we were in contact with Mitchell Morton, the
25 district attorney at that time. And Mitchell was telling

1 us to try to get her pinned down. You know, to get her to
2 say, you know, what part she played in and stuff like
3 that. And she -- she wouldn't give that up. You know,
4 she was like I was there or I know or whatever. And so we
5 left.

6 And it was some time before the warrant was
7 issued for Dana. But the warrant later got issued. She
8 was put in jail down there.

9 We went back. Donnie Varnell, Willie, and I
10 went back and picked her up and brought her back. And
11 then Donnie started interviewing her. And then that's
12 when I think the full -- that she testified to the full
13 investigation and came out.

14 But she was really reluctant to begin with. She
15 was scared. She was scared of the gypsies. She was
16 scared that these gypsies -- she said that she knew they
17 had family in West Virginia and that -- that she had been
18 threatened. That they could come in at any time and kill
19 her and nobody would know where she was at.

20 Some of these gypsies were showing up at court
21 during the time that she was here to testify. I remember
22 one time I was in the bathroom with her. She had gone in
23 the bathroom and some of Ed Champ's daughters and some
24 other people from West Virginia came in the bathroom at
25 the same time we were in there. And she freaked out. She

1 literally freaked out. She thought they were there to
2 kill her. She got really petrified and really scared.
3 So, you know, it -- she was going through a rough time.

4 MS. STELLATO: Do you remember -- just one thing
5 that -- that you didn't mention that -- when you talked to
6 Sherry Honea, she told you -- is this accurate, that Dana
7 Maybin was there and knew who did it and it was
8 Brandon and -- or Wallace Brandon Jones and Leroy Spruill
9 and then that led you on the path to go talk to Dana
10 Maybin?

11 MS. SPRUILL: Yeah. Well, I don't know, to be
12 honest with you. I think I was already looking for Dana,
13 too.

14 MS. STELLATO: Okay. Because you had heard the
15 South Carolina girls --

16 MS. SPRUILL: Yeah. Yeah.

17 MS. STELLATO: Okay.

18 MS. SPRUILL: But --

19 MS. STELLATO: Where did Curtis Furlough come
20 into this? Because actually, it wasn't --

21 MS. SPRUILL: That came from Dana. I think, if
22 I remember correctly. Dana, to begin with, had said that
23 Leroy and Wallace Brandon Jones had left Big Ed's bar with
24 Curtis Furlough. We ran that down. Curtis Furlough's
25 mother brought us a videotape from -- Curtis's child was

1 being born the same night of the murder. He was at the
2 hospital with his wife. Had him on video, date, time,
3 everything of when the baby was born. You know, him
4 holding the baby. The whole nine yards. So we knew that
5 she had lied to us, that Curtis Furlough was not at Frank
6 Swain's house.

7 So then that's when they go back and start
8 talking to her again. And then that's when she says, No,
9 I went. I was there.

10 MS. STELLATO: So you remember it as, she told
11 you it was the three of them?

12 MS. SPRUILL: That left and went. Uh-huh.

13 MS. STELLATO: And then when you proved --

14 MS. SPRUILL: She pulled herself out of it.

15 MS. STELLATO: -- that it couldn't be Curtis
16 Furlough -- I guess I'm --

17 MS. SPRUILL: Furlough.

18 MS. STELLATO: -- saying that wrong. Furlough.

19 MS. SPRUILL: Because his baby was being born.
20 He was at the hospital on video. We looked right at the
21 video with him there holding the baby. You know, date and
22 time and everything on the -- on the screen of the video.

23 MS. STELLATO: Why -- why do -- why does
24 everyone call the Champs gypsies? Why do they call --
25 what -- what -- I don't --

1 MS. SPRUILL: They're gypsies.

2 MS. STELLATO: What do you mean?

3 MS. SPRUILL: How do I put this? They flimflam
4 a lot of people. They -- they have a paving business and
5 a septic tank business.

6 Now, Ed Champ himself has always been a pretty
7 honest, decent -- his reputation is that of he does what
8 he says he'll do. But some of the people that work with
9 him, some of the people that come in from West Virginia,
10 they -- they just got labeled the gypsies. You know, the
11 Belcher Stanley and -- they're all family, but it's like
12 cousins marrying cousins and -- it's just weird. It's
13 really weird.

14 And we got so many different complaints from the
15 Stanleys, the Furloughs, the Champs.

16 See Curtis -- Curtis Furlough was married to
17 Belcher Stanley's daughter. So he married into to what we
18 call the gypsy family. The Belchers and the Champs and
19 the -- what was that other family that came in here from
20 West Virginia? I can't remember. Jerry Phelps and that
21 bunch that lived on Mill Pond. We got numerous complaints
22 about them taking advantage of older people. They'd go
23 out and they'd pave their driveway and they'd tell them
24 I'm going to do it for \$500. And when they'd go back up,
25 they'd say it was \$1,500. We had to put more asphalt

1 down, whatever.

2 They were taking advantage of a lot of people.
3 They had been arrested. Some of them had been arrested by
4 obtaining property by false pretenses because of -- of the
5 different things that's gone on.

6 So in the law enforcement community, we
7 associated all of them as gypsies, you know, because they
8 moved in, they moved out. You know they innergated (sic).
9 They had their own little village of people. You know,
10 they married their cousins. They, you know -- it's just
11 weird.

12 MS. STELLATO: Did you ever think that Sherry
13 Honea was involved in -- I know what she told you and I
14 know what ultimately happened, but did you ever feel that
15 she was there and involved also?

16 MS. SPRUILL: I think she knew about it, but I
17 don't think she was there. I think Dana told her. In
18 fact, she said in her own statement, she said that Dana
19 told her, you know.

20 I think she -- she had all the knowledge of what
21 had happened. And I think she had related that
22 information to Robert Spruill because Robert knew it,
23 Betsy Talkington knew it. You know, and I think that came
24 from Sherry.

25 But her actually being at the crime scene, we

1 could never pin that down that she was there.

2 MS. STELLATO: What do you think about Lynn
3 Rogers', you know, statements changing basically? What --
4 what -- were you just interviewing people?

5 MS. SPRUILL: I didn't even know anything about
6 Lynn until -- how did it come about? I'm trying to
7 remember how we knew to talk to Lynn Rogers. I don't
8 remember how we knew to talk to Lynn Rogers. Did Dana
9 tell us or did Sherry tell us?

10 One of the girls told us that we needed to talk
11 to the bartender at Big Ed's because she could tell us
12 about how they had changed their clothes and how they
13 didn't have any money. And when they came back, they were
14 buying drinks for people and dancing on the bars and doing
15 the different stuff. But I can't -- I can't recall which
16 one -- where we got that information.

17 But I do know that Donnie Varnell and -- there
18 was another agent and I can't remember that agent's
19 name -- and I went to Lynn Rogers' house. She lived over
20 in Beaufort County. We were able to find out who the
21 bartender was. And it turned out that that's who it was.

22 And that she started talking about that Leroy
23 was talking about, you know, killing a Nigger and all that
24 stuff, you know, that night. And how he was talking about
25 the party and, you know, spending a lot of money and

1 drinking and the different change of clothes and all that.

2 Then the Martinez girls, they also testified in
3 court that they saw them leave and come back. And one of
4 them said that they saw a spot of blood -- what they
5 thought to be blood on -- on the cuff of his pants or
6 something, if I remember correctly.

7 MS. STELLATO: By the time that -- that Lynn
8 Rogers and the other girls were interviewed, it had been
9 several months --

10 MS. SPRUILL: A year or more.

11 MS. STELLATO: -- since the murder had happened.
12 I mean, you know, how do you -- how do you think that they
13 remember specifically the night of the murder that they --

14 MS. SPRUILL: I don't how they remembered. I
15 don't know. I don't know how they remembered. I guess
16 because it was out of the ordinary. And this is a small
17 community and everybody had been talking about that
18 murder, you know. Everybody knew about it. The whole
19 county knew, you know, about this murder and how gruesome
20 it was and how -- I mean everybody was talking about it.
21 It was all over everywhere.

22 MS. STELLATO: Was Ray Hurst ever a suspect?

23 MS. SPRUILL: He was interviewed, yes.

24 MS. STELLATO: And -- and do you remember
25 what --

1 MS. SPRUILL: And he -- he, too, gave a
2 statement saying that Leroy Spruill had told him that he
3 was there. And he was scared that his fingerprints might
4 be there. And that Frank had been in an argument -- he
5 was saying Sonja, but Sonja was in prison -- that Frank
6 had been in an argument with somebody. And he was there
7 and he was trying to break up the argument or something.
8 And that Leroy had told him that Sonja had killed him, you
9 know. And he was scared his fingerprints might be there
10 at the crime scene or whatever.

11 Ray Hurst bought drugs from Frank. He admitted
12 that, you know, that he was there. But Leroy bought drugs
13 from Frank. I mean just about -- Frank had a big
14 clientele for different white guys going there and buying
15 drugs. Everybody loved Frank. He'd give you credit or
16 he'd take a gun or he'd hold something, a VCR or whatever,
17 you know, until -- if you didn't have money, he would --
18 he'd work with you, you know. He was like their friend.
19 And, you know, they knew that if Frank had drugs that they
20 could get drugs. All they'd have to do is take a gun and
21 let him hold it or whatever, you know.

22 MS. STELLATO: Who -- do you know who Frank
23 Swain's supplier was?

24 MS. SPRUILL: No. But we did interview one
25 gentleman that said that he was the driver for Frank when

1 he got arrested over in Virginia. Evidently, Frank was
2 supposed to be going to court somewhere in Virginia for
3 some drugs that they found on him in a car or something.
4 They had been to Virginia and picked drugs up and was on
5 the way back to North Carolina and they got stopped and
6 Frank got arrested. And I can't remember that guy's name.
7 He had a bad arm. I remember he had a bad arm.

8 And his statement should be in there somewhere.
9 So his supplier was somewhere in Virginia.

10 Everybody in the world was saying Bo Jack, you
11 know. And Bo Jack could have been. I don't know.
12 Bo Jack was a big drug dealer in this county. I received
13 a lot of information during the time. Bo Jack got
14 arrested in February on some federal violations from the
15 task force that our county, Chowan County, and Tyrrell
16 County was involved in.

17 I had a couple informers that was providing a
18 lot of information on Bo Jack. And the information that I
19 was given, I was passing on to Greg Hassell, which was
20 then the task force commander of the task force. He also
21 was an investigator with the Plymouth Police Department
22 prior to being the captain of the task force. And Greg
23 worked a lot of drugs. I mean his main thing was -- was
24 drug investigations. And so --

25 MS. STELLATO: So you were getting information

1 from your informants and passing it on for the federal
2 investigation --

3 MS. SPRUILL: Yeah. I had an informer --

4 MS. STELLATO: -- and that's --

5 MS. SPRUILL: -- that worked with him at
6 Weyerhaeuser. And she was able to find out a whole lot of
7 stuff about his dealings and people that he had dealt
8 with. The other people that had got arrested. And it was
9 kind of like all blending together. And I was passing the
10 information on to Greg. And Greg was passing the
11 information on to Eric Hooks, which was an SBI agent here
12 at that time. I was giving Eric Hooks some information
13 also about Bo Jack.

14 There was some other females that had got beat
15 up pretty badly by Bo Jack over some drug money that they
16 owed him. She's now dead, but she was giving information
17 on Bo Jack.

18 So the information and stuff that I was getting
19 on Bo Jack, I was passing on to the SBI and Greg Hassell.
20 That helped target some of the information that I was
21 providing to them helped in the federal investigation
22 where Bo Jack was taken down. A pile of property was
23 removed from him. Cars, money, properties.

24 MS. STELLATO: Was that before the Frank Swain
25 murder? Was Bo Jack in prison during the Frank Swain

1 murder?

2 MS. SPRUILL: I don't -- I don't know.

3 MS. STELLATO: Okay.

4 MS. SPRUILL: I can't remember. Oh, and then
5 the rumor was going on that I was strung out on drugs. My
6 mother had died. I had been in a romantic relationship
7 with another guy. That had split up.

8 I used to be, like this. I'm back where I was
9 maybe -- maybe ten pounds lighter. But when I was a
10 deputy, I was kind of big. I probably weighed over 200
11 pounds. I was going through a lot of stress. My mother
12 passed away with cancer. My relationship filtered out. I
13 lost weight. I did that to better myself, you know.

14 Not only was I going through a state of
15 depression from what was going on in my home, but I was
16 not happy with -- with what I felt about my myself.

17 The guy that I was with was, he found a younger
18 lady. And they ended up getting married, whatever. That
19 made me take a better look at myself, who I was and where
20 I was going.

21 And so I started exercising. I started eating
22 salads. I started walking eight miles a day. And I lost
23 weight. I knew everybody had that I was strung out of
24 drugs. That I was at the Betty Ford Center. When in the
25 world did I have time to go to the Betty Ford Center?

1 Where would I get the money from to go to the Betty Ford
2 Center? That I was Bo Jack's girlfriend. Everybody in
3 the world was making all kinds of rumors up.

4 And it was filtering down to my children. My
5 children were hearing this kind of stuff. I was getting
6 very pissed off about it because I was taking it very
7 personal.

8 You know, when my daughter -- my middle daughter
9 was a waitress at the Pizza Hut here in Plymouth. And
10 this lady -- she's waiting tables and this lady said, Oh,
11 is your mom back from rehab yet? Is your mama doing good?

12 I was in Pocatello, Idaho. My grandson was
13 being born. He's 17 years old. My grandson was being
14 born. I was in Pocatello, Idaho, with my daughter for
15 three weeks taking care of my grandson. People had it
16 that I was in rehab.

17 MS. STELLATO: So --

18 MS. SPRUILL: I guess because I was targeting
19 people and I was passing on information and Bo Jack was
20 getting arrested and Carl Spruill got arrested and the
21 Alexander boy got arrested. And people know that I was
22 out there and I was paying attention and I was, you know,
23 helping Greg, that I became the bad guy, you know. People
24 making up all kind of --

25 MS. STELLATO: So rumors started?

1 MS. SPRUILL: -- rumors and telling all kinds of
2 lies and -- it was getting on my nerves. It was really
3 getting on my nerves.

4 I've never had no affair with Bo Jack. I've
5 never used any drugs of any kind in my entire life. I
6 could have been subject to drug testing any time that
7 Sheriff Whitehurst or Sheriff James choose to do it. I've
8 never ever -- I detest drugs. I've seen what it does to
9 people. I've seen what it does to people's family. I
10 worked hard to try to prevent it from being in our
11 community.

12 And, you know, I really got to the point I took
13 a direct insult by it. Especially when it starts coming
14 down to my children. I really got pissed off about that.
15 And I started letting people know, hey, this stuff is
16 going to stop and it's going to stop now.

17 So I suffered a lot of abuse as a result of the
18 job I had to do. I'm thankful for it. You know, I'm
19 thankful I got through 30 years of it. But when I look
20 back on it, sometimes I ask myself was it really worth it,
21 you know; what did you accomplish.

22 People can be vicious. People can sure make
23 things different than what they really are.

24 MS. STELLATO: Why do you think -- I mean
25 obviously there -- many of the reasons you said, but

1 why -- if -- if you're given information detrimental to
2 Bo Jack, why do you think that people believed you were
3 having an affair with him?

4 MS. SPRUILL: I don't know.

5 MS. STELLATO: Just want to --

6 MS. SPRUILL: I think that started from Leroy
7 Spruill and Linda Spruill. I think because Linda knew
8 that I was targeting Bo Jack so hard. And I think that
9 they were trying to make me look bad to discredit me.
10 It's the only thing I can think of.

11 MS. STELLATO: Do you have --

12 MS. SPRUILL: For the life of me, I can't figure
13 it out.

14 MS. STELLATO: Have you ever had any
15 relationship with Bo Jack?

16 MS. SPRUILL: No. I've arrested him.

17 MS. STELLATO: But not you -- you wouldn't even,
18 I would assume, classify your relationship as a friendship
19 even?

20 MS. SPRUILL: No.

21 MS. STELLATO: It is strictly --

22 MS. SPRUILL: Absolutely not.

23 MS. STELLATO: -- you've arrested him and --

24 MS. SPRUILL: I've arrested him. I arrested him
25 for hitting his mother. His mother came and got an

1 warrant on him and I served the warrant. I arrested him.

2 MS. STELLATO: You and Linda are not --

3 MS. SPRUILL: We were really close friends, as I
4 said. You know, I've known them my entire life. I reckon
5 they felt like I owed them some kind of loyalty or
6 something. I don't know. I really don't know. Or maybe
7 they thought I was targetting them too hard or -- I don't
8 know. I really don't know why she turned on me the way
9 she did, you know.

10 During the time that we were doing the
11 investigation, she was typing our reports. She, we found
12 out later, was taking some of what we were having in our
13 reports and providing it to Maynard Harrell, the defense
14 attorney. And when we found that out, that stopped. You
15 know, she was no longer -- had privilege to typing our
16 statements and typing our reports and -- and stuff like
17 that. Because we found out that Maynard was finding out
18 things that he shouldn't have even had access to. Nobody
19 knew how he was getting it. It was coming from Linda.

20 And I think the sheriff put an end to that. It
21 was like you don't have anything else to do. Because of
22 the conflict of interest, you don't do anything here.

23 Because Donnie Varnell and Mitchell Norton and
24 those were saying, Hey, Maynard is coming to us with
25 questions about this or that. How is he getting that

1 information? We didn't know. We didn't talk to Maynard.
2 It came from Linda.

3 MS. STELLATO: When they --

4 MS. SPRUILL: And I think that is when she
5 started, you know, starting these rumors and trying to
6 discredit me and trying to make me look bad and so forth
7 and so on. That's the only thing I can figure. I don't
8 know why else. Honest to God, I don't know why else.

9 But that family shuns me. They don't have
10 anything to do with me. They -- you know, it's like
11 you're dirt under my feet, you know.

12 MS. STELLATO: When the -- let's see. Let me --
13 let me go to this place first.

14 So you're -- I'm trying to remember what year
15 this is, but --

16 MS. SPRUILL: I think the murder was in '98.

17 MS. STELLATO: '93.

18 MS. SPRUILL: Oh, '93.

19 MS. STELLATO: But your -- let's see, where are
20 you at this time? John Floyd starts looking into the
21 case. You know this?

22 MS. SPRUILL: I did not know that. I knew
23 something was going on. John never came to me. He never
24 asked me anything. He never told me anything.

25 Willie that works at the police -- was working

1 at the police department at this time -- my former
2 partner. The one that we worked together -- he started
3 telling me, he said, Something is going on over here. He
4 said, I don't understand it. He said, But something --
5 something is happening.

6 I said, What do you mean?

7 He said, Jack Spruill keeps coming down here.
8 He keeps -- and they're having these meetings in John's
9 office. John will always send me out when he comes. He
10 said, Seth Edwards, which was Leroy's defense attorney,
11 he's coming in sometimes and they're having these meetings
12 back here. He said, I don't know what they're doing. He
13 said, But it's got to be involving Leroy and Brandon and
14 Dana.

15 And I said, Well, let them do what they've got
16 to do, you know. Whatever they're doing, it will come
17 out.

18 Then Patsy Lynn, Joseph Lynn's mother, comes to
19 me out at the store one night. And she starts telling me
20 that John Floyd and Preston Ward had been to the prison
21 and was confronting Joseph, her son, about the Frank Swain
22 case and that they were accusing him of murdering Frank
23 Swain.

24 Now, Joseph Lynn was in jail at that time for
25 some heroin violations that John Floyd helped investigate

1 to put him there. I mean, I think John was one of the
2 people that found out about the heroin being in Patsy's
3 house, as a matter of fact.

4 And Joseph was found guilty and sent to prison.
5 John and Preston goes over to the prison. I think it was
6 at Hyde County or -- I believe it was Hyde County -- I
7 think that's where she told me they were at -- and
8 confronts him and starts showing him a lab sheet telling
9 him, you know, that your fingerprints was found at the
10 crime scene.

11 And Joseph was like, You're crazy. I've been in
12 that house. My fingerprints are probably in that house,
13 but I didn't kill Frank Swain. I didn't have nothing to
14 do with murdering Frank Swain. Blah, blah, blah.

15 And she was upset about it. And she wanted to
16 know what she could do about it. And I told her, I said,
17 Well, call the chief of police and register a complaint
18 about it, you know. In fact, I think John was the chief
19 of police at that time. Oh, I told her to call the
20 district attorney and file a complaint about it. So I
21 don't know. I didn't hear anything else out of that.

22 But then sometime later -- it was after the
23 hurricane. There had been a bad hurricane here and there
24 had been a lot of damage over there at the police
25 department, water damage, and they were having to redo the

1 roof and all that stuff. And they had taken a pile of
2 files and stuck them up on -- on a desk in the office over
3 there that they were going to use.

4 And Willie called me one day and he said, I've
5 got something I want to show you. He said, Meet me at the
6 rest area.

7 So we met at the rest area. And he had this lab
8 sheet. And he said, Why would the police department have
9 a lab sheet from our case?

10 I said, Well, what does it consist of?

11 And he started showing it to me and it had a
12 different date.

13 I said, Well, this ain't the date of the -- of
14 the murder. Where did this come from?

15 And he said, Well, I found it on the desk. He
16 said, This has got to be what Seth and Jack Spruill and
17 all them are doing back there in John's office.

18 He said, But look at what it says, "Positive
19 match" to Maurice Wilkins, Joseph Lynn, and there was
20 somebody else. I can't remember all the names that was on
21 it.

22 I said, I don't know. I said, But this don't
23 look right to me. I said, I'm going to call the SBI.

24 So I took it and I made a copy of it. And I
25 told him, I said, You take it back and put it where --

1 where you got it from. Put it right back where you got it
2 from.

3 And I called the SBI and I told them, you know,
4 what -- what had happened.

5 It won't long, the SBI was coming down here.
6 They wanted us to meet Cheryl Mc -- what is her last
7 name -- McNeil and a black lady. She's now the -- the
8 director over there. What is her name? I've been out of
9 law enforcement too long. I can't remember names. Two
10 SBI agents that worked at the Greenville office. They
11 called and wanted us to meet them at the airport. Well,
12 no, first of all -- I'm -- I'm getting a head of myself.
13 Wanted us to come to the Greenville office. And this was
14 after hours, you know. That they couldn't be there until
15 5:30, 6 o'clock. They wanted us to come over there, that
16 they had something they wanted to talk to us about and
17 wanted us to keep it to ourself, not to say anything about
18 it to anybody. Come when we got off duty, you know. Me
19 and Willie. So we did.

20 We go over there and they have this SBI lab
21 sheet that I had gave them. And they wanted -- they were
22 talking to us about how we had got it; where it had come
23 from. The whole nine yards. We told them exactly what we
24 done.

25 They started examining it. And then they asked

1 us this, Well, do you know why John Floyd would have this
2 sheet?

3 I was like, No. That's what we're trying to
4 figure out. I said, Because the date is different than
5 the date of the -- of the -- of the murder. I said, I
6 don't understand what it's about. I said, But I do know
7 that they took it to Joseph Lynn in prison and tried to
8 force Joseph Lynn into giving a statement against Maurice
9 Wilkins and these other guys. I said, Because his mother
10 come to me and was very upset about it. I said, And I
11 don't know what they're doing.

12 And then that's when they told us that it was a
13 falsified document, that it had been forged and that it
14 was not authentic.

15 So first of all, the agent's name down here,
16 he's a drug agent. He ain't even a fingerprint analysis
17 agent. She said that's what jumped out at them first was
18 the agent's name, Stalls or Steels or something. I can't
19 remember now what it was.

20 I said, You are kidding? I said, Well, why
21 would he do that?

22 She says, He wants to run for sheriff. And he
23 thinks that if he can get this case -- get these people
24 retried that he'll have a chance to form his campaign on
25 that and that he wants to be the sheriff. And that's what

1 he's trying to do, he's trying to get this case
2 overturned. And he's falsified these documents and took
3 it and tried to get people to confess to a crime that they
4 hadn't confessed to.

5 So then that started taking place. Then the
6 evidence in another murder case had gotten disposed of.
7 And they were looking at him and Preston Ward on that.
8 And they actually got indicted on that.

9 What they ever done with the lab case, I don't
10 know. I don't -- I guess nothing. I guess they did
11 nothing about it.

12 But they were running it down as to why that --
13 where we got it from and how we got in possession of it
14 and what happened with it.

15 And then both of them got removed from office
16 due to their criminal charge of obstruction of justice I
17 think is what they got charged with for disposing of the
18 bloody sheets and stuff.

19 This mess has drug on and on and on. So you see
20 why I'm so aggravated?

21 MS. STELLATO: I really am almost done. I mean
22 I -- just I'm almost done right now.

23 MS. SPRUILL: And my name has been throwed under
24 the train so many times that I'm just fed up with it.

25 MS. STELLATO: So you know, I believe from

1 whatever conversations that the attorney general's office
2 and the SBI, reopened --

3 MS. SPRUILL: I found that out back in --
4 probably just before I left office in 2006. Jim Coman and
5 another SBI agent, I don't remember who that was, came
6 down and they wanted -- well, they called me first and
7 said that they wanted to come and look at the evidence
8 in -- in this case and that they were reopening it.

9 So we had all the evidence brought from the
10 evidence storage room up to my office. And they came in
11 and they retrieved several pieces of evidence. I think
12 some of them was the fingerprints. And I don't remember
13 everything that they got. But they took that with them.

14 And they interviewed me again and talked -- you
15 know, asked me different questions and so forth and so on.

16 And then I didn't hear anything else from them
17 about that until after I had left office. And I had left
18 office and the SBI agent -- and I can't remember his
19 name -- he called me at home and said that they were
20 finished with it and that who could they turn the evidence
21 back over to. And I told them to give it to the sheriff,
22 that he would know where the other stuff, that they didn't
23 take with them, was located and to just give the stuff
24 back to him.

25 MS. STELLATO: So did he tell you --

1 MS. SPRUILL: They had also gone to the clerk of
2 court's office and retrieved some evidence from them, too.

3 MS. STELLATO: Did he tell you the results of
4 their investigation?

5 MS. SPRUILL: He said everything looked fine to
6 him is what they told me.

7 MS. STELLATO: Do you remember when that was?

8 MS. SPRUILL: No, I don't. I was already
9 retired. I was at home when they called, you know. I
10 would say maybe 2007, 2008. It's been a while.

11 MS. STELLATO: Why were they calling you at home
12 to find out where to return the evidence from the clerk's
13 office and the sheriff's office?

14 MS. SPRUILL: I guess because I was the one that
15 signed off on it.

16 MS. STELLATO: The contact person --

17 MS. SPRUILL: Yeah.

18 MS. STELLATO: -- or something of that nature?
19 And you told him to return it to the sheriff?

20 MS. SPRUILL: The sheriff.

21 MS. STELLATO: James Ross?

22 MS. SPRUILL: James Ross, uh-huh.

23 And I called the sheriff and told him. I said,
24 Look, I just got a call from -- and I -- I can't remember
25 the agent's name. He's retired now.

1 MS. STELLATO: Is it -- is it Mac Warner?

2 MS. SPRUILL: He was retiring, too, because he
3 told me he was retiring.

4 MS. STELLATO: Is it Mac Warner or is it --

5 MS. SPRUILL: I don't know.

6 MS. STELLATO: I know who it is, but I can't --
7 I can't recall either.

8 MS. SPRUILL: Kind of a little baldheaded guy.
9 Kind of sandy blond hair, what little bit of fizz he did
10 have.

11 MS. STELLATO: I can't -- I can't --

12 MS. SPRUILL: I can't remember his name.

13 MS. STELLATO: So you --

14 MS. SPRUILL: But he was telling me that he was
15 retiring and he was clearing out all of his evidence and
16 everything and that they had finished with it and that he
17 wanted to get this stuff back to where it needed to go and
18 who did he need to turn it over to now that I was no
19 longer there. And I told him to make sure that the
20 sheriff got it, that the sheriff knew exactly -- because
21 when I left, you know, that case, Ms. Arnold's case,
22 Mr. McNair's case, all the evidence was combined in one
23 place. And I showed the sheriff exactly where all that
24 stuff was at, you know, so that he would be responsible
25 for it after that.

1 MS. STELLATO: And did you say you called the
2 sheriff to tell him that --

3 MS. SPRUILL: Yeah.

4 MS. STELLATO: -- about that phone call?

5 MS. SPRUILL: I did call the sheriff and told
6 him, you know, that they were going to be coming and
7 bringing the stuff back and just put it back, you know,
8 with the other stuff. And he knew where it was.

9 MS. STELLATO: And do you know that it's not
10 there?

11 MS. SPRUILL: Huh? No. Now, Kevin Sawyer had
12 called me and asked me, you know, where the tire tool was.
13 I said, I didn't give them the tire tool. I don't know.
14 That had to come from the clerk of court's office.

15 MS. STELLATO: It did.

16 MS. SPRUILL: I said, But I don't know anything
17 about the tire tool.

18 MS. STELLATO: But none of the evidence,
19 including the evidence they took from you and from the
20 clerk's office, which was all together --

21 MS. SPRUILL: Well, did he ever bring it back?

22 MS. STELLATO: They mailed it back, yes.

23 MS. SPRUILL: They mailed it back?

24 MS. STELLATO: Yes.

25 MS. SPRUILL: No. I didn't have no knowledge of

1 that. That happened after I left.

2 MS. STELLATO: So there is a court order for --
3 to turn over all the evidence. And we have collected all
4 the evidence that -- that was located in the sheriff's
5 office and also searched the storage unit out there.

6 MS. SPRUILL: Why would he mail it back? I mean
7 that was -- some stuff, won't it?

8 MS. STELLATO: They only mail when they return
9 evidence. They rarely will drive it back, unless there's
10 a specific reason. We have the logs where they've mailed
11 it back.

12 Lieutenant Sawyer says that at that time he was
13 the evidence custodian and that it would have come
14 directly to him unless it had the sheriff's name on, in
15 which case it would have gone directly to the sheriff.

16 MS. SPRUILL: Well, I told him to give it to the
17 sheriff, to turn it back over to the sheriff. So it
18 probably had the sheriff's name on it then because that's
19 who I told him.

20 MS. STELLATO: So there's a court order for, you
21 know, anyone who has ever had any of the evidence to turn
22 it over to the Commission and --

23 MS. SPRUILL: So what's missing?

24 MS. STELLATO: Lieutenant Sawyer has told me
25 that he has searched all of his rooms. We went --

1 MS. SPRUILL: Yeah. Because he called me at
2 home and asked me did I know anything about where the tire
3 tool was. I said, No. They didn't get the tire tool from
4 me. I said, They got that from -- because that was
5 introduced. I said, Everything that was introduced was
6 maintained at the clerk of court's office. I didn't have
7 anything to do with that after that.

8 I said what they got from me was -- there's a
9 yellow sheet, I told him, that was contained in the box of
10 evidence. I said, And that shows everything that they
11 took. I said, They took the fingerprints. They took some
12 pictures. They took some statements. I said, But other
13 than, that's all they got from -- from me, you know, that
14 day that they came. Where the other stuff come from, I
15 don't know.

16 MS. STELLATO: Based on that phone call, they --
17 they took all of the evidence and returned -- I mean the
18 clerk won't take evidence back. You know, the clerk
19 enters evidence, keeps it for however long --

20 MS. SPRUILL: Right. When somebody --

21 MS. STELLATO: -- but the clerk does not receive
22 evidence back.

23 MS. SPRUILL: -- comes and gets it --

24 MS. STELLATO: Based on the phone call that they
25 had with you, they returned all of those items to the

1 sheriff's department. The sheriff's department has
2 been -- Sheriff Ross says he doesn't recall any
3 conversation about it at all. Lieutenant Sawyer says that
4 he has searched the facilities in that -- in that building
5 and been unable to locate it. And then we met with him
6 and searched the storage unit facility that's out -- you
7 know, out there.

8 MS. SPRUILL: That's where it was at was on 32.

9 MS. STELLATO: Which is where he had got the box
10 originally from. We do have to go back over today, I
11 believe. I'm going to go and try to catch the sheriff, if
12 he's there, and go ahead and search what's over here to
13 confirm --

14 MS. SPRUILL: So what, in fact, is missing?

15 MS. STELLATO: Everything that they had. The
16 fingerprints, the tire iron --

17 MS. SPRUILL: Everything that they --

18 MS. STELLATO: -- and every --

19 MS. SPRUILL: -- the attorney general?

20 MS. STELLATO: Yes.

21 MS. SPRUILL: Well, I don't know. Because that
22 happened after I left, so I don't have a clue where that
23 could be.

24 I know they called me at home and asked me what
25 were they -- who did they need to turn it back over to.

1 He said he was retiring and he was clearing out all the
2 evidence that he had. And that he had this evidence. He
3 said they were through with the case. Everything looked
4 okay. And that they wanted to turn it back so it could be
5 maintained.

6 And I told him, I said, Well, give it to
7 sheriff. You know, he knows where the other stuff is at.

8 MS. STELLATO: Do you remember last year when we
9 entered a court order to get -- to get the evidence and
10 copy of the files?

11 MS. SPRUILL: Uh-huh. Yeah. I remember him
12 being down. Was it you, too?

13 MS. MATOIAN: No.

14 MS. SPRUILL: I didn't think it was you. I
15 remember him coming. In fact, I was working up there in
16 April's position when you came. And he had a couple of
17 questions about some of the -- the stuff that he was
18 looking at at that time.

19 MS. STELLATO: So who -- who got the evidence
20 from the storage facility and brought it to the sheriff's
21 department?

22 MS. SPRUILL: The day that the attorney
23 general --

24 MS. STELLATO: No. The day that he came --

25 MS. SPRUILL: Kevin Sawyer.

1 MS. STELLATO: Kevin Sawyer went over there and
2 brought the box back?

3 MS. SPRUILL: Brought it back, uh-huh.

4 MS. STELLATO: And -- and I know you were there
5 when he did the copying and --

6 MS. SPRUILL: Right.

7 MS. STELLATO: -- and, you know, saw the
8 evidence and all that. Did you see those items at that
9 time?

10 MS. SPRUILL: No, I didn't look.

11 MS. STELLATO: The missing items?

12 MS. SPRUILL: I didn't look. He was asking me
13 some general questions and I was answering them, you know.
14 But, no, I wasn't looking at what -- I know he was copying
15 a lot of different things and he was asking questions
16 about -- it seemed like there was a picture or something
17 that you had that you were asking me a question about or
18 something. But no, I wasn't paying attention to what was
19 in the box or whatever.

20 MS. STELLATO: Given your time there and, you
21 know, knowing -- knowing how that place runs, as I'm sure
22 you do, do you have any thoughts on where -- I mean where
23 to go to find the evidence in the sheriff's department?

24 MS. SPRUILL: When I left, all of the -- all --
25 the whole box -- there was two boxes. One of them had

1 boxes with a big -- some envelopes like that that had some
2 handwritten statements. There was a notebook, a flip
3 notebook that had tabs on it with different interviews and
4 everything. All those -- all that stuff was in two big
5 cardboard boxes. And it was placed on Highway 32 at the
6 storage facility there that we had rented, along with the
7 cases of Mr. Phelps, the cases of Ms. Arnold, the cases of
8 the other gentleman. What evidence that I had, which was
9 very little on those cases, along with several other
10 folders and several other incident reports.

11 I mean, there's -- that storage room out yonder
12 was packed full. You could --

13 MS. STELLATO: We went there.

14 MS. SPRUILL: We had to take bicycles out. We
15 had to take boat motors out. We had to take stuff that
16 people had turned in. You know, we had -- and they -- we
17 had them all the way to the back, boxed up, taped up, "Do
18 not destroy." Had my initials, had Willie's initials.
19 You know, everything was contained in those boxes. That's
20 where it was when I left. Now, what happened to it after
21 that, I don't have a clue.

22 MS. STELLATO: When you worked at the sheriff's
23 department and if you had a case -- if you had evidence
24 like in an active case or something like that, where was
25 it kept then?

1 MS. SPRUILL: In my desk drawer locked up behind
2 keys that I only had until it got disposed of, you know,
3 after it went to court and then we'd box it up and we'd
4 take it to 32.

5 MS. STELLATO: Is there an evidence room at the
6 sheriff's department?

7 MS. SPRUILL: No. I think they've started one
8 since then.

9 MS. STELLATO: Okay. But you haven't seen it?

10 MS. SPRUILL: Uh-uh. I haven't seen it. There
11 was -- at the courthouse, there was a room behind the
12 courtroom. Two rooms, as a matter of fact, that we were
13 storing stuff into also because that one out yonder got so
14 full.

15 And then Kevin was telling me that he had had a
16 place over at the Strayder (phonetic) building that he was
17 maintaining stuff at. Now, that was after I left. So I
18 don't know anything about that.

19 MS. STELLATO: Did you see Kevin Sawyer over
20 there today?

21 MS. SPRUILL: Uh-uh.

22 MS. STELLATO: Okay. We're going to have to go
23 back over there.

24 MR. WRENN: What was the name of that other
25 building?

1 MS. SPRUILL: The Strayder building.

2 MR. WRENN: Strayder building?

3 MS. SPRUILL: Uh-huh. Strayder building. They
4 have a room over there that they were -- him and Pam
5 Spencer was moving stuff out of the office. And they
6 were -- the fire marshal had got on them, according to
7 what they told me, because they had boxes of old OCA files
8 and stuff stacked on cabinets back there at the back and
9 it was up too high on the ceiling. And that they had to
10 move all that stuff. And they got room over there at the
11 Strayder Building that they were putting stuff in, so --
12 that's all I know. And that's since I left, so I don't
13 know anything about where it's at or anything. Never been
14 to it.

15 MS. STELLATO: How -- who called you to tell you
16 that -- on the -- on the day that Adam -- that's Adam --
17 came to copy, you know, the files and all that, who called
18 you to tell you that was happening?

19 MS. SPRUILL: Who called me?

20 MS. STELLATO: Uh-huh.

21 MS. SPRUILL: Somebody with the innocence
22 commission told me that he was coming.

23 MS. STELLATO: No. We scheduled that through
24 the sheriff's department. Is that -- is that -- were you
25 there at the Sheriff's --

1 MS. SPRUILL: Uh-huh. I was there working.

2 MS. STELLATO: Okay. So that's how you knew?

3 MS. SPRUILL: Uh-huh.

4 MS. STELLATO: You didn't come up because he was
5 here to talk about the case?

6 MS. SPRUILL: Now, the first time I did. You
7 came two times. The first time I did.

8 MR. WRENN: I came several times, I think.

9 MS. SPRUILL: Well, I've only seen you twice. I
10 don't know how many times you've been, but I've seen you
11 twice.

12 MR. WRENN: I think I've been three times.
13 Three times.

14 MS. STELLATO: So the first time --

15 MS. SPRUILL: So you've been three times?

16 MR. WRENN: I think. I'm pretty sure.

17 MS. SPRUILL: Okay.

18 MS. STELLATO: The first time did someone call
19 you to --

20 MS. SPRUILL: Somebody called me, yeah.

21 MS. STELLATO: And who was that?

22 MS. SPRUILL: I don't remember.

23 MS. STELLATO: But someone from the sheriff's
24 department?

25 MS. SPRUILL: I think it was Kevin. I believe

1 Kevin called me. Yeah, I'm almost sure it was Kevin
2 because he told me that he wanted me to come up there and
3 help him get the evidence together of where the stuff was
4 at. And we went out there and pulled all that stuff out
5 of this box -- those boxes out of that storage unit and
6 brought it up to the office and had it there waiting when
7 they come.

8 MS. STELLATO: So you -- you think he called you
9 to tell you what was going on or whatever?

10 MS. SPRUILL: Right.

11 MS. STELLATO: And then you guys went to the
12 storage unit, got all that stuff, brought it over?

13 MS. SPRUILL: And got it. Uh-huh.

14 MS. STELLATO: Ultimately, as you know --

15 MS. SPRUILL: And had it locked up in Kevin's
16 office until he -- and there was a girl with you the first
17 time that I saw you.

18 MS. STELLATO: At that time, there were two
19 court orders. And I think there was some confusion. But
20 one -- one court order that we do is for all the documents
21 files and then another one is for all the physical
22 evidence.

23 MS. SPRUILL: I never saw the court order, so I
24 don't know.

25 MS. STELLATO: Right. So what had happened, I

1 believe, is that Lieutenant Sawyer, or whomever received
2 that, thought that we wanted the evidence. Adam actually
3 couldn't take the evidence. I had to come and get the
4 evidence later.

5 MS. SPRUILL: Oh, okay.

6 MS. STELLATO: So -- but I'm just trying to
7 figure out that you were coming with the purpose of
8 getting the evidence and the files and bringing that --

9 MS. SPRUILL: And being there if they had in any
10 questions they wanted to ask me or whatever.

11 MS. STELLATO: About the case?

12 MS. SPRUILL: Uh-huh. And I think you all did
13 ask a few, like what is this a picture of or what is that,
14 whatever. Some of it I can remember, some of it I
15 couldn't.

16 MS. STELLATO: Did Willie Williams tell you that
17 I interviewed him?

18 MS. SPRUILL: Uh-huh.

19 MS. STELLATO: And what's --

20 MS. SPRUILL: Yeah. He told me about the --
21 about the accusations about the Bo Jack thing again and
22 all that stuff.

23 MS. STELLATO: But that really isn't -- I would
24 assume, my interview wasn't the first time you had heard
25 that, you had heard --

1 MS. SPRUILL: Oh, I've heard it before.

2 MS. STELLATO: You've heard that been before?

3 MS. SPRUILL: Yeah. Yeah.

4 MS. STELLATO: This wasn't the first time?

5 MS. SPRUILL: That started -- that started right
6 down there at the schoolhouse. I know where it started.

7 MS. STELLATO: So you've known that there's
8 these -- apparently coming from that direction --
9 accusations of you and Bo Jack or drugs or what have you?

10 MS. SPRUILL: Yes. I thought it --

11 MS. STELLATO: Did Willie Williams --

12 MS. SPRUILL: -- I thought it had pretty much
13 died out. I mean, you know, nobody said anything for a
14 long time. I'm like, yes.

15 MS. STELLATO: Did Willie Williams play you
16 the -- the recording of our interview?

17 MS. SPRUILL: I listened to it this morning.

18 MS. STELLATO: What's your relationship with
19 Mr. Williams?

20 MS. SPRUILL: Partners. Friends.

21 MS. STELLATO: Partners as in law enforcement
22 partners?

23 MS. SPRUILL: Yeah. We were partners, uh-huh.

24 MS. STELLATO: And now you're friends?

25 MS. SPRUILL: Uh-huh.

1 MS. STELLATO: Is there any truth to a romantic
2 relationship between you and him?

3 MS. SPRUILL: No. I've been accused of every
4 man I've ever worked with.

5 MS. STELLATO: Apparently.

6 MS. SPRUILL: Including some I didn't work with.
7 Including Bo Jack. No. We were close friends. I'm close
8 friends with his sisters. Both of his sisters has worked
9 with me. I know his entire family. He knows my family.
10 His sisters -- his sister works with my son at the Tyrrell
11 County Prison Work Farm. I mean, it's a small community.
12 You know everybody. And I guess because he's a man and
13 I'm a woman and we're out interviewing or we're out doing
14 this, automatically you're having an affair. But no.

15 MS. STELLATO: I want to ask this in the right
16 way or word it the right way. Why -- why is Mr. Williams
17 playing you an interview that we did?

18 MS. SPRUILL: Because I was asking him what kind
19 of questions were you asking. What were they about and
20 all this stuff. And he said, Well, I've got the tape if
21 you want to hear it.

22 I said, Yeah, I'd like to hear what they had to
23 say.

24 MS. STELLATO: And why is that? Why are you --
25 I mean, I guess --

1 MS. SPRUILL: I guess being nosey. I wanted to
2 know what you all were --

3 MS. STELLATO: And that's all there is to that?

4 MS. SPRUILL: Because, you know, when I talked
5 with you the other day, you were saying that there was
6 some things that had come up that I was not aware of.

7 MS. STELLATO: Oh, I don't -- I don't actually
8 know what you're -- to be honest, until today, I don't
9 know what you were aware of and what you didn't. I feel
10 like I have a better idea now.

11 MS. SPRUILL: Well, you were saying that there
12 was something about the DNA or something. And I said,
13 Well, what are they talking about? I said, Because no DNA
14 was presented at the trial, you know.

15 MS. STELLATO: I believe that that --

16 MS. SPRUILL: I don't know that DNA would have
17 helped anyway because these people frequent Frank's house
18 all the time. You know, they were always there. What --
19 what are they trying to -- what are they trying to -- what
20 door are they trying to open? That was my concern, you
21 know, is, well, have they found out something that we
22 didn't do?

23 MS. STELLATO: I mean --

24 MS. SPRUILL: Because when I talked with you on
25 the telephone, you were saying there were some things

1 that -- that -- that you had found out that might be
2 beneficial. Something to that effect.

3 MS. STELLATO: I -- I don't --

4 MS. SPRUILL: Might not have been them exact
5 words.

6 MS. STELLATO: Right. Right. And I know and --

7 MS. SPRUILL: Yeah.

8 MS. STELLATO: -- I'm sure you know, as law
9 enforcement, be careful about your words because the next
10 thing you know --

11 MS. SPRUILL: Yeah.

12 MS. STELLATO: -- I'm saying Leroy Spruill is
13 innocent or you know what I mean --

14 MS. SPRUILL: Right.

15 MS. STELLATO: -- something like that happens.

16 So we --

17 MS. SPRUILL: No. You -- you were pretty
18 plain about that.

19 MS. STELLATO: -- I'm real careful to not make
20 that --

21 MS. SPRUILL: That you felt like if they were
22 the ones that did it that they were right where they need
23 to be.

24 MS. STELLATO: Right. I think during our
25 conversation what I -- what I remember is that we -- we

1 had a discussion about DNA and that, you know, as a -- as
2 I mentioned then, there was no DNA testing in 1993 that --
3 that could be done.

4 MS. SPRUILL: It was probably very rarely even
5 known about.

6 MS. STELLATO: Right. Very.

7 MS. SPRUILL: There was a test that was done at
8 some lab pursuant to a court order by Maynard Harrell.
9 But I know --

10 MS. STELLATO: Actually, it was stopped.

11 MS. SPRUILL: -- what we talked was, you know.

12 MS. STELLATO: That -- that was a blood --
13 because you could do blood typing back then. And that was
14 a blood typing test that was stopped.

15 MS. SPRUILL: It was some place in Raleigh that
16 we carried everything to.

17 MS. STELLATO: LabCorp?

18 MS. SPRUILL: LabCorp. Yep. Uh-huh.

19 MS. STELLATO: Yeah.

20 MS. SPRUILL: But none of that ever came out or
21 nothing. So I didn't never know -- even know what the
22 results of it was.

23 MS. STELLATO: Today, you know, as -- as
24 everything -- you obviously remember the case really,
25 really well. I interview a lot of people who can't

1 remember anything.

2 MS. SPRUILL: Well, I guess it's because it's
3 been beat in me so much, you know.

4 MS. STELLATO: I think when we spoken on the
5 phone -- and I just want to talk about this briefly and
6 then we're -- we're done.

7 Even now, listening to the story of how Leroy
8 Spruill and Wallace Brandon Jones become suspects, it
9 appears that you were getting a lot of investigation from
10 all kinds of places leading you in that direction. But
11 originally, there were other suspects. Ultimately, those
12 didn't pan out and it ended up where it is now. And are
13 you still confident today in that conviction?

14 MS. SPRUILL: Yes, ma'am. I truly believe
15 they're the ones that murdered him. And I truly believe
16 that -- that they committed this crime.

17 MS. STELLATO: Do you think that from all the
18 information you were getting at the time, you or anyone
19 really working on the case, was going in the direction of
20 Spruill and Jones and maybe you didn't look at other
21 avenues?

22 MS. SPRUILL: No, ma'am.

23 MS. STELLATO: You feel like you went down the
24 avenues you could --

25 MS. SPRUILL: That's right.

1 MS. STELLATO: -- and they didn't pan out?

2 MS. SPRUILL: Right. Yes, ma'am.

3 MS. STELLATO: I think we've done all the
4 question I have.

5 MS. SPRUILL: All right.

6 MS. STELLATO: Which I know is a lot.

7 Do you have any questions or -- or anything?

8 MS. SPRUILL: No, ma'am. I hope you can find
9 that evidence though. That kind of concerns me that that
10 stuff is not here. I don't know what could have happened
11 to it, you know. I don't know if he mailed it back. Did
12 he, in fact? Did anybody have to sign for it?

13 MS. STELLATO: They didn't sign for it, but
14 there's a log. You know, the SBI keeps a log of what they
15 mail and when they mail it and all that. And that is
16 there. You know, I don't know who signed for it because I
17 haven't gone over the sheriff's log. Ultimately, at this
18 point --

19 MS. SPRUILL: So did they have like a return
20 receipt guaranteed or anything --

21 MS. STELLATO: I believe they had some --

22 MS. SPRUILL: -- that went back to the lab?

23 MS. STELLATO: I believe they had some kind of
24 mail verification.

25 MS. SPRUILL: Oh, okay.

1 MS. STELLATO: I think at this point, the
2 sheriff's office -- we're going to have show cause to the
3 sheriff's office because it ultimately ends there. And,
4 you know, we have to figure out where is it; what's
5 happened. And that's why I just want to be sure that
6 we're searching -- that's kind of why I asked you with
7 your experience where else could things be because I want
8 to be sure --

9 MS. SPRUILL: That is the only place that --
10 well, when I was here, that place, that Strayder building
11 was nonexistent. We didn't have that. There was two
12 rooms behind the courtroom that evidence was maintained.
13 Not the murder cases. They were not there. They've
14 always been maintained on Highway 32 when I was there.

15 MS. STELLATO: Do you have --

16 MS. SPRUILL: Now, whether they've moved it
17 since then, I don't know.

18 MS. STELLATO: Do you have now -- and I have no
19 idea if you do, but do you have the authority now to take
20 me over and show me those two rooms behind the -- the
21 courtroom?

22 MS. SPRUILL: No. I wouldn't feel comfortable.

23 MS. STELLATO: You wouldn't, okay.

24 MS. SPRUILL: I can show you --

25 MS. STELLATO: No. I can go over there and ask

1 for --

2 MS. SPRUILL: With the consent of the sheriff,
3 you know.

4 MS. STELLATO: Oh, and that's what -- I mean,
5 yeah.

6 MS. SPRUILL: I'll be glad to show you where
7 they're at. I don't remember the code that we used to
8 open the door.

9 MS. STELLATO: No. I'm not asking you to do
10 that. I need to go back over to the sheriff's office
11 and -- and see them.

12 MS. SPRUILL: I would be glad to ask the
13 sheriff --

14 MS. STELLATO: And I meant could you go with me.

15 MS. SPRUILL: -- is it okay that I show you.
16 And if he says fine, you know, I don't mind.

17 MS. STELLATO: Okay. That would be great.

18 MS. SPRUILL: Yeah.

19 MS. STELLATO: That would be great. I'm going
20 to go ahead and conclude this interview at 12:20.

21 (The recorded interview concluded.)

22

23

24

25

CERTIFICATION OF TRANSCRIPT

This is to certify that the 97 pages of this transcript of the recorded interview of Janice Spruill was taken on June 15, 2011, is a true and accurate transcript to the best of my ability.

I further certify that I am not counsel for nor related to any party or attorney, nor am I interested in the results of this action.

This the 17th day of May 2017.

A handwritten signature in blue ink that reads "Donna Rowe". The signature is cursive and fluid, with the first name "Donna" and last name "Rowe" clearly distinguishable.

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