

20

1 A Yeah.

2 Q Okay. You have spoken to a lot of inmates
3 over the years?

4 A Yes, I have.

5 Q Is the Jail society different from the
6 outside society?

7 A Completely different.

8 Q Is there any sort of trust among people who
9 are from similar backgrounds?

10 A Yeah.

11 THE COURT: You have to say yes or no.

12 THE WITNESS: Yes; yes.

13 MR. DUNLEAVY: I'm going to object to
14 similar background as being vague and ambiguous.

15 MR. SEATON: Let me clarify that.

16 THE COURT: Sustained -- okay.

17 BY MR. SEATON:

18 Q People who are in Jail together, I take it,
19 will more readily talk to one another?

20 A Yes, they do, certain individuals.

21 Q Because they are both --

22 MR. WOLFSON: Judge, counsel is leading the
23 witness. That's my objection.

24 THE COURT: Sustained.

20

1 BY MR. SEATON:

2 Q And, in that context, where they have this
3 trust built up, will they talk to one another about their
4 cases?

5 A It depends on who they're talking to. If
6 it's someone you know and trust, yeah, you will; you got no
7 problem talking to that person.

8 Q Did you have a reputation in Jail?

9 A Yes, I did.

10 MR. WOLFSON: Objection; that calls for
11 speculation. As to what he thinks other people thought of
12 him, that's what reputation is.

13 THE COURT: Sustained.

14 MR. WOLFSON: Thank you.

15 BY MR. SEATON:

16 Q Did you have an opportunity to talk to many
17 inmates about their particular cases?

18 A Yeah. You always ask the guy what's he in
19 for, what did you do; a lot of times that comes up.

20 Q And then sometimes, does the conversation
21 just stop there?

22 A Yeah, sometimes.

23 Q And then sometimes, does it go further?

24 A It goes -- sometimes the guy sits down and

20

1 tells you everything he did.

2 Q And that's what happened with Mr. Ripppo?

3 A Yes, sir, it is.

4 Q What is a snitch jacket?

5 A Snitch jacket?

6 Q Yes.

7 A It's when you tell on someone; you go
8 against your kind, and you go and you tell on someone else,
9 tell the authorities, such as yourself, such as the
10 administration, and you tell them information that you are
11 not supposed to be telling them.

12 Q Not supposed to be telling them, according
13 to the --

14 A According to the code, yeah.

15 Q The code?

16 A Yeah.

17 Q And the code is don't tell on each other?

18 A Exactly.

19 Q Do you now have a snitch jacket?

20 A Oh, yeah, definitely.

21 Q Is that because of your participation in
22 this case?

23 A Yeah.

24 THE COURT: Yes?

1 THE WITNESS: Yes.

2 BY MR. SEATON:

3 Q What does that mean when you go back to
4 prison with a snitch jacket?

5 A It means I'll probably be killed.

6 Q You will be killed or there could be the
7 opportunity for it?

8 A Well, they're going to try it; they'll try.

9 Q Are you getting benefits from your
10 testifying here or is it hurting you?

11 A It's hurting me.

12 MR. WOLFSON: Objection; it's asked and
13 answered.

14 MR. SEATON: Well, that question has never
15 been asked and answered.

16 THE COURT: Overruled.

17 THE WITNESS: It's hurting me. This is --
18 this is hurting me.

19 BY MR. SEATON:

20 Q Mr. Dunleavy took you to page ten of your
21 statement that you made to Detective Ray Chandler on August
22 10th, 1993.

23 Do you remember giving that
24 statement?

1 A Yeah, pretty much.

2 Q And you've had an opportunity to read this
3 particular document.

4 A Yes, sir, I have.

5 Q Did I give it to you some time ago to read?

6 A Yeah.

7 Q Let me show it to you.

8 He mentioned something about
9 Mr. Rippe saying to you that he had killed somebody and he
10 would kill once again.

11 A Yeah.

12 MR. WOLFSON: Judge, I think before he shows
13 the witness something in the -- in the transcript, I think a
14 question has to begin. I don't think you can just show the
15 witness a document.

16 MR. SEATON: Can you remember word-for-word
17 the words in that statement?

18 MR. WOLFSON: I think he thinks you're
19 asking me.

20 THE WITNESS: No, I can't. No, I can't.

21 BY MR. SEATON:

22 Q Would it help refresh your recollection if I
23 showed it to you?

24 A Yes, sir, it would.

1 Q Let's do that.

2 Let me have you read from the
3 second question -- or the last question on the bottom of the
4 page, of page 10, over to, including the first line on page
5 eleven.

6 Just read that to yourself, if
7 you would.

8 A (Complies.) Okay.

9 Q Was the question asked of you:

10 What do you mean bragging, that
11 he had to do some shit?

12 And was your answer:

13 Well, that he killed somebody,
14 you know, like, uh, 'cause he had some problems
15 with people -- with some people here. He said I
16 already killed once, I'll kill again, you know,
17 stupid -- stupid.

18 A Yeah.

19 Q Is that what you told the officers?

20 A Yeah.

21 Q Is that what Mr. Rippe told you?

22 A Yes, he did.

23 Q Is that pretty close to the way he said it?

24 THE COURT: The answer is?

1 THE WITNESS: Yes, sir.

2 MR. SEATON: I don't have anything more.

3 MR. WOLFSON: Court's indulgence.

4 THE COURT: Recross?

5
6 RECCROSS-EXAMINATION

7 BY MR. DUNLEAVY:

8 Q Now you indicated that you thought you were
9 going to be killed because you're a snitch in this case; is
10 that right?

11 A No, that's not true.

12 Q Okay. What did you say?

13 A I said I could be.

14 Q Could be.

15 Didn't you also testify in the
16 other case?

17 A Yes, I did.

18 Q Back in 1993, was it?

19 A Yes, it was.

20 Q Appear to be alive today.

21 A Yes, sir.

22 Q You indicated that Michael told you that
23 this occurred in a house?

24 A No, I didn't say that.

1 Q You didn't say that.

2 A If -- he didn't specify it was a house,

3 apartment, whatever; he didn't say.

4 Q You don't remember using the term house when

5 you talked to the detectives?

6 A I could have, but I didn't -- he didn't

7 specific- -- specifically say a house, apartment, duplex; he

8 didn't go in to any detail.

9 Q The one that owned the house?

10 A The one that owned the place.

11 Q So to you, house and place is just generic

12 terms?

13 A Basically the same thing to me, yeah.

14 Q Now, the D.A. talked to you some about the

15 jail society,

16 It's important to know who you

17 can trust; is that right?

18 A Yes, sir, it is.

19 Q And you talk about how it's very common to

20 get together and talk with people: Gee, what are you in

21 here for and so on and so forth?

22 A Yes.

23 Q How often is it that you strike up that

24 conversation, then call the police?

1 A Not that often.

2 Q You specifically said on the record that you
3 were doing this because you wanted a letter to the parole
4 board?

5 A No. I didn't say I was doing it because I
6 wanted a letter to the parole board. I said that's what I
7 requested at the interview, is a letter written to the
8 parole board.

9 Q That was the understanding, you were going
10 to get a letter to the parole board, right?

11 A That's correct, basically, yeah.

12 Q Ask them to talk to a Mr. Anderson?

13 A Yeah.

14 Q Or Armstrong? I'm sorry.

15 A Yes, sir.

16 Q Mr. Armstrong.

17 And you, in fact, got that
18 parole, didn't you?

19 A Yeah. I was getting one anyway.

20 Q So why would you do this if you were getting
21 it anyway?

22 A Incentive reasons, sir; incentive for me
23 never to come back to prison.

24 Q In this prison society is it common that

2

1 people that are in the prison society express their beliefs
2 and so forth with tattoos --

3 A Sometimes, yeah.

4 Q -- their attitudes?

5 And so you can read them like a
6 book, can't you?

7 A Pretty much, yeah.

8 Q Do you have any prison tattoos?

9 A Quite a few.

10 Q Would you show them to the jury?

11 A Yeah, I could show it to them.

12 THE COURT: Go ahead.

13 THE WITNESS: I got to take my shirt off,
14 man.

15 THE COURT: That's all right.

16 BY MR. DUNLEAVY:

17 Q Is it very common people in prison have
18 tattoos?

19 A Yeah, most everybody has.

20 Q Almost everybody?

21 A Yeah.

22 A (Complies.)

23 Q Now, would you describe them, starting with
24 your right arm, forearm.

2

1 A This is just about prison, dead times that
2 I've done.

3 Q There is -- like, on the back of your right
4 forearm, there is a face?

5 A That's a demon, like a graveyard, seed of
6 dead years; this is just about prison.

7 Q Skulls?

8 A Yeah. That's all just dead time, just
9 represents being in prison.

10 Q What about the left arm?

11 A This is just art basically.

12 Q There is skulls on that arm as well?

13 A Yes, it is.

14 Q Are the skulls used to identify any
15 particular group?

16 A No, they ain't.

17 Q What about the swastika on the wings on the
18 chest?

19 A It's a White Supremacy tattoo.

20 Q And is there a name or something above it?

21 A That's my kids' names.

22 Q How old are your kids?

23 A I got several. I got a 19 year old son, a
24 17 year old son and I got five stepchildren.

2 1 Q Five stepchildren, okay.

2 Now you -- what's the
3 importance of the White Supremacy tattoo?

4 A What do you mean importance? It's no
5 importance to it.

6 Q None at all?

7 A Not really. It just means I represent my
8 white -- my white race; that I believe in White Supremacy.

9 Q Is that a pretty popular belief where you're
10 staying?

11 MR. SEATON: Now, I've let this go on a
12 little bit. That calls for speculation, and it doesn't
13 really have any relevance to these proceedings.

14 THE COURT: Sustained.

15 MR. DUNLEAVY: Your Honor, the District
16 Attorney specifically asked him about the code in the prison
17 and the society in the prison. I think this is exactly
18 that.

19 THE COURT: I'll allow it.

20 BY MR. DUNLEAVY:

21 Q Is there a code in the prison about wearing
22 a tattoo like this? Does it mean that you stand for certain
23 principles?

24 A Yes, it does.

2 1 Q Does one of those principles include
2 testifying against your fellow inmates?

3 A That's -- that's a no no.

4 MR. DUNLEAVY: No further questions.
5

6 FURTHER REDIRECT EXAMINATION

7 BY MR. SEATON:

8 Q Mr. Hill, why are you testifying here today
9 against Michael Rippo?

10 A Well, I got a couple reasons, personal
11 reasons.

12 Q Tell us what they are.

13 A Well, one, I feel it's the right thing to
14 do. Okay?

15 Q Why do you feel it's the right thing to do?

16 A I don't know. It just seems like the right
17 thing for me to do.

18 And, second, it's a deterrent
19 for me to ever go back to prison, because it is the wrong
20 thing to do. If you are going to testify against someone,
21 you don't want to be in prison around the people that you
22 did it to.

23 Q Is that because of the snitch jacket?

24 A Yes, sir, it is.

2

1 Q How did you feel -- how do you feel about
2 the acts that he told you he committed against two young
3 women?

4 A I feel they were very wrong; wrong to go --
5 to take anyone's life, you know.

6 MR. SEATON: Nothing further, Judge.

7 THE COURT: Anything else?

8

9 FURTHER RECROSS-EXAMINATION

10 BY MR. DUNLEAVY:

11 Q This would be the same deterrent that you
12 got when you talked to the detectives so that you wouldn't
13 come back, right, when you made your parole board?

14 A I don't understand what you are saying.

15 Q Well, earlier, you said that the reason you
16 did this was because you wanted to make sure you didn't go
17 back --

18 A It was an incentive, yes.

19 Q And then you got out in 1994?

20 A Yes, I did.

21 Q But you're back, right?

22 A People make mistakes.

23 MR. DUNLEAVY: No further questions.

24 MR. SEATON: Nothing further.

THE COURT: Thank you, Mr. Hill.

You are excused.

THE WITNESS: All right. Thank you.

(Whereupon, the witness
was excused.)

MR. SEATON: James Ison.

THE CLERK: Step forward up here, please.

THE COURT: Over here, sir.

THE CLERK: Please remain standing and raise
your right hand.

Whereupon,

JAMES ISON

having been called as a witness by the Plaintiff and
having been first duly sworn to tell the truth, the
whole truth and nothing but the truth, was examined
and testified as follows:

THE CLERK: Thank you.

Please be seated.

Will you state your name and
spell it for the record, please.

THE WITNESS: My name is James Ison. My
first name is J-a-m-e-s; my last name is I-s-o-n.

DIRECT EXAMINATION

BY MR. SEATON:

Q Mr. Ison, do you know a gentleman by the name of Michael Rippo?

A Yes, sir, I do.

Q Is he present in court?

A Yes, sir, he is.

Q Point to him and tell us what he's wearing and where he's sitting, please.

A White sweater, blue collar. (Indicating)

Q Between the two gentlemen to my left?

A Yes, sir.

MR. SEATON: May the record reflect identification of the defendant, Judge?

THE COURT: The record will so reflect.

BY MR. SEATON:

Q How long have you known him?

A Approximately nine years.

Q In April of 1992, did you find yourself in jail?

A Yes, sir, I did.

Q And while you were there, did you see Mr. Rippo?

A Yes, sir, I did.

3 1 Q Was he in Jail along with you?

2 A Yes, sir.

3 Q Did you have a particular job in the Jail?

4 A Yes, sir. I was an orderly.

5 Q What does that mean?

6 A Due to my conduct, they didn't lock me down

7 when they locked the other inmates down; and I was allowed

8 out to clean and take care and serve meals and dinners.

9 Q When you saw Mr. Rippe in Jail -- in April

10 of 1992, in Jail, did you recognize him as the person you

11 had known before?

12 A Yes, sir.

13 Q Did you begin talking with him?

14 A Yes, sir, I did.

15 Q When you knew him before, did you have a

16 good relationship with him?

17 A It was real brief, you know; we just

18 basically talked every now and then, not nothing much.

19 Q No problems between you?

20 A Oh, no, sir; never has been.

21 Q And when you saw him again in April of 1992,

22 did that relationship, whatever it was the first time,

23 continue on?

24 A Yes, sir. We just -- we talked and

1 everything.

2 Q No problems between you?

3 A Oh, no, sir.

4 Q Did you talk for several days?

5 A More than several.

6 Q More than several? How long did you have
7 conversations with him?

8 A A couple weeks at least.

9 Q A couple weeks?

10 A Yes, sir.

11 Q While you spoke to him, did you come to find
12 out from him why he was in jail?

13 A Yes, sir, I did.

14 Q And what charges were against him?

15 A He had a murder charge -- double murder
16 charge.

17 Q The charges that we're here on today in
18 court?

19 A Yes, sir.

20 Q Did he speak to you about those charges?

21 A Yes, sir.

22 Q And did he speak to you about the facts
23 underlying those charges?

24 A A lot of them, yes, sir.

1 Q Now you said you spoke to him for over a
2 period of two weeks.

3 Did you speak on and off during
4 that period of time about the same subject matter?

5 A Yes, sir.

6 Q During that period of time, did he tell you
7 what happened?

8 A Yes, sir; he gave me a couple stories on it.

9 Q He gave you two stories?

10 A Yes, sir.

11 Q Were they different stories?

12 A They were close, but they were different.

13 Q All right. Would you tell the jury what the
14 first story was that Mr. Rippe told you while you are in
15 Jail with him?

16 A Yes. We -- we were sitting at the table
17 talking, and Mike was sitting there doing some figuring,
18 paperwork and stuff like that; and we started talking about
19 his case a little bit; and he was with real upset at his
20 girlfriend.

21 He had -- him and his
22 girlfriend had gone down to get some drugs, to take some
23 drugs from these two girls; and when they went in the
24 apartment -- they had gotten into the apartment with the

3

1 girls -- this is the first story he told me -- that they
2 were back in the bathroom and they were shooting up some
3 dope; that the phone rang and the one girl went out and his
4 girlfriend, Michael's girlfriend, went with her; and that in
5 the -- there became a struggle in the bathroom.

6 Q Now who was the struggle between?

7 A Michael Ripppo and -- I think the girl's name
8 was Lauri.

9 Q Did he tell you what was happening to --
10 with the other girl?

11 A No, it was Denise. Excuse me.

12 Q Denise?

13 A Denise.

14 Q Denise was in the bathroom with -- with
15 Michael Ripppo?

16 A With Michael Ripppo.

17 Q And what were his girlfriend and the other
18 girl doing?

19 A They want to answer the telephone. His
20 girlfriend went behind her. And Mike said that he had ended
21 up in a struggle with the girl in the bathroom, because he
22 was trying to get her quiet and was shoving something in her
23 mouth and choked her out.

24 And then his girlfriend

3 1 strangled the girl in the living room and killed her,
2 because answering the phone and somebody came to the door
3 and things got all out of hand.

4 Q Did he say what happened to the girl in the
5 bathroom?

6 A He shoved something in her mouth to make her
7 be quiet and he had choked her out, strangled her basically,
8 with a cord; and then he had just shoved her in a closet. I
9 don't think he meant she was dead.

10 And when he come back, the
11 other girl was dead, in the living room with his girlfriend.
12 And they put her in the closet, and they -- when they opened
13 the closet up, the other girl was dead. And he had to make
14 sure the other girl was dead as well by choking her again.

15 Q As a result of him telling you the first
16 story, did you come to the conclusion that he had killed one
17 girl and the girlfriend had killed the other one?

18 A Yeah.

19 Q Did he go on talking to you at a later time
20 and indicate a different story?

21 A Yes, sir.

22 Q Did he say anything about them being in the
23 bathroom in that one?

24 A Yes, sir.

4 1 Q What --

2 A Both times, everything started in the

3 bathroom.

4 Q All right. Was there a phone call in this

5 conversation?

6 A Yes, sir.

7 Q And did one of the young ladies go out to

8 answer that phone call?

9 A The same girl, Lauri -- Laura.

10 Q Lauri went out?

11 A Yes, sir.

12 Q And did he say what happened to Lauri?

13 A His girlfriend had hit her and knocked her

14 down.

15 Q Now, the first story was that the girlfriend

16 had strangled her and killed her?

17 A Yes, sir.

18 Q And this story, he said the girlfriend --

19 A Hit her.

20 Q Did he say what he hit her with?

21 A No.

22 Q Did he say what happened to her after she

23 got hit?

24 A Somebody apparently come to the door and she

4

1 was, like, on the ground, and --

2 Q Now, when you say she, to whom are you
3 referring?

4 A Lauri.

5 Q Lauri, the one that went out to answer the
6 telephone and got hit on the head?

7 A Right.

8 Q All right.

9 A And somebody come to the door. Well, they
10 were worried about her making noise. And the other girl was
11 already in the closet; he had done put the gag in the girl's
12 mouth and had got her tied up and put her in the closet.

13 Q Now, let's stop and talk about that for just
14 a second.

15 When Lauri went out into the
16 other room to answer the telephone, the girlfriend was with
17 her?

18 A Yes, Michael's girlfriend was.

19 Q Where did that leave Michael and Denise?

20 A They were still in the bathroom.

21 Q And what did he tell you that he and Denise
22 did at that time?

23 A He had gotten into a struggle with Denise
24 because he wanted the drugs; and this was -- all this was

4 1 supposed to take place and happen right then and there. He
2 went there with the intentions to getting the dope, and that
3 was just -- that was their intention.

4 Q And how did he subdue Denise?

5 A He shoved something in her mouth.

6 Q Did he say what it was?

7 A No, sir.

8 Q You had mentioned the word gag before.

9 A Yeah, like a gag -- well, it was like -- he
10 said he just shoved something in her mouth and gagged her.

11 And then he choked her out and
12 tied her up and put her in the closet.

13 Now, I honestly, from his
14 story, don't believe that at that particular time he thought
15 he killed her.

16 Q He told you that he didn't think that she --

17 A Not at that time, that particular time.

18 Q After he had gagged her and put her into the
19 closet, where did he go next? Did he tell you?

20 A He went into the living room.

21 Q And who was in the living room?

22 A His girlfriend and Lauri.

23 Q Did he say what he did with Lauri at that
24 time?

4

1 A Somebody came to the door and he said he
2 freaked out and he tried to gag her and pull her back into
3 the closet area.

4

And then --

5

6

Q Did he say whether or not he had tied her
up; Lauri, that is?

7

A Not at that particular moment.

8

9

Q All right. But he drug her back to the
closet?

10

11

A Because she was, like, in and out of it from
what it sounded like.

12

13

Q And when he drug her back to the closet, is
that the same closet where Denise was found?

14

A Yes, sir.

15

16

Q What did he tell you he discovered when he
took Lauri back to the closet?

17

18

A He said he freaked 'cause when he opened the
door, the other girl was dead.

19

20

Q Would that be Denise was dead?

21

22

Q Okay. What did he tell you he did when he
discovered that Denise was dead?

23

24

A He wanted to -- he had to make sure this one
was dead.

4

1 Q Which one?

2 A Lauri.

3 Q What did he do?

4 A And then he got a cord and choked her out.

5 I mean -- when I say choke, I mean, you know, he strangled
6 her.

7 Q He strangled Lauri?

8 A Uh-huh. And then he used his hand, too,
9 because he wanted to make sure. Once he got them in the
10 closet and was tied up, he used his hand again.

11 Q Did he say he used his hand and a cord?

12 A Yes, sir.

13 Q And did he say whether or not he did that
14 with both victims or did it vary?

15 A It started in the bathroom like -- with
16 Denise was a struggle, with the hand first and then he got a
17 cord from some place in the bathroom and put it around her
18 neck and pulled tight.

19 Q And did he say whether or not they both died
20 from these acts?

21 A Yes, sir.

22 Q Did he -- what did he say?

23 A He said they were -- you know, he said he
24 had to firm it, make sure they were dead.

5

1 Q Did he say anything about doing anything
2 with the house -- with the house?

3 A They straight -- they left. They went
4 outside; the girl and him went outside; and then he went
5 back in to make sure that the house was -- his fingerprints
6 weren't there, straighten it up, make sure he hadn't missed
7 any dope and make sure they hadn't really overlooked
8 anything.

9 Q What happened to the girlfriend?

10 A She -- the -- what happened is she booked.
11 He told her to go home.

12 Q She left?

13 A Yes, sir.

14 And then what Mike's biggest
15 fear was another guy named Mike, and --

16 Q Did he tell you the last name of this other
17 Mike?

18 A No, sir, he never said his last name.

19 Q All right. Did he say if Mike had a
20 relationship with anybody?

21 A He was Lauri's girl -- boyfriend.

22 Q Lauri's boyfriend?

23 A Yes, sir. I'm pretty sure that's the way it
24 was.

5

1 Q Let me just stop you for just a moment.

2 All right. You can continue

3 on.

4 A And he was scared of Mike.

5 Q Now this is Mike Rippo, right?

6 A Right, the other Mike, the -- Lauri's
7 boyfriend Mike.

8 Q Mike Rippo was afraid of --

9 A This other guy named Mike.

10 Q All right.

11 A And he was scared his girlfriend would get
12 to Mike first and tell him that he did it, and he went to
13 tell him that she did it.

14 Q Let's go back to the house for just a
15 minute.

16 You said that he had -- that
17 Mike Rippo had sent his girlfriend away?

18 A Uh-huh.

19 Q And then did he tell you he returned into
20 the apartment?

21 A Yeah, he went back into the apartment.

22 Q And what did he do there?

23 A Straightened it up basically, cleaned up;
24 make sure there wasn't no fingerprints and make sure that

5

1 the -- he couldn't tell he was there.

2 Q Did he say anything to you about an
3 automobile?

4 A Yes, sir.

5 Q What was that?

6 A They took the automobile -- her automobile.

7 Q Took whose automobile?

8 A I think it was Lauri's automobile; the best
9 of my recollection, it was Lauri's.

10 Q And did he say who drove Lauri's automobile?

11 A I think he took it with him at first, but
12 now I'm guessing.

13 MR. DUNLEAVY: I'm going to object to --

14 THE WITNESS: I really don't recall.

15 THE COURT: Sustained.

16 MR. SEATON: Let me reask the question.

17 THE COURT: Okay.

18 BY MR. SEATON:

19 Q Do you have any recollection?

20 A One of them took the car with them, okay,
21 and I cannot say that he said it was her or they -- they
22 left in separate cars. I do know that.

23 Q Between the defendant Mike Rippe and his
24 girlfriend, one of them took --

5

1 A Yes, sir.

2 Q -- one of the victims' automobile?

3 A Yes, sir.

4 Q And you believe it was Lauri's?

5 A Yes, sir.

6 Q Did he say who maintained possession of that
7 automobile?

8 A She did, his girlfriend.

9 Q The girlfriend did.

10 A Because he -- he was pretty upset that she
11 hadn't got rid of the car, is one of the things too.

12 Q That his girlfriend had not got rid of the
13 victim's car?

14 A Right. This is later, not at that
15 particular moment.

16 Q Did he say anything about credit cards?

17 A Yes. He said -- well, not just credit
18 cards, also syringes.

19 Q What did he say about those two things?

20 A That they had gone there to get -- they knew
21 that they kept syringes and dope in the house and they took
22 ten syringes and credit cards.

23 Q Did he say where he got the syringes from?

24 A No, sir, not -- out of the apartment, but he

5

1 didn't say where at in the apartment.

2 Q And what about the credit cards, what did he
3 say about those?

4 A He said that was one of his biggest
5 mistakes, was --

6 Q How so?

7 A 'Cause he signed one. I mean, he just -- he
8 used one of the credit cards.

9 Q What did he say to you about that, in terms
10 of it being a mistake?

11 A And he said, well, they got me for one
12 thing; they get my signature -- they got my signature off of
13 a credit card.

14 Q Did he characterize his actions?

15 A What do you mean?

16 Q Did he say if it was smart or stupid?

17 A It was stupid. He said that was my
18 stupidest mistake.

19 Q Did he tell you anything about the location
20 of the victims' bodies?

21 A Yes, sir. They were in the closet.

22 Q And did he say anything about what he should
23 have done?

24 A He should have moved them is what he said.

6

6

1 Q Is that what he said?

2 A He said when he went back -- he said he
3 should have got rid of the bodies; at least he would have
4 had more time to, you know, cover all this up.

5 Q Did he say anything about a fight, other
6 than in the apartment there?

7 A Between him and his girlfriend.

8 Q What did he tell you about that?

9 A He had gotten together with Mike and he
10 was --

11 Q Now, when you say he got together with Mike,
12 is that Mike -- the boyfriend of one of the victims?

13 A Yes, sir. And they started --

14 Q Let me take you through this a little more
15 slowly, Mr. Ison.

16 A Okay.

17 Q Did he say where he got together with the
18 boyfriend?

19 A No, sir.

20 Q How soon after the killings?

21 A No, sir.

22 Q Did he say what the purpose was of getting
23 together with the boyfriend?

24 A To let him know that his girlfriend had

6

1 killed his girlfriend.

2 Q Michael Rippe wanted to tell Mike that his
3 girlfriend Diana had killed Mike's girlfriend?

4 A Yes, sir.

5 Q The second Mike, not Michael Rippe.

6 A Right.

7 MR. DUNLEAVY: I'm going to object to the
8 State putting words in his mouth. A minute ago, it was
9 Lauri's boyfriend Mike.

10 THE WITNESS: It is Lauri and Mike.

11 MR. SEATON: I don't think we said anything
12 different, did we?

13 MR. DUNLEAVY: I thought you said Denise.

14 MR. SEATON: If I did, I apologize.

15 THE COURT: I think you may have said
16 Denise.

17 BY MR. SEATON:

18 Q Whose boyfriend was it?

19 A It's Lauri's boyfriend Mike is who Mike went
20 to talk to. It's confusing, I know, because you're saying
21 two Mikes, and then you go --

22 BY MR. SEATON:

23 Q Let's use --

24 A I can go by Mike, little Mike.

6

1 Q No, Mike and Mike Rippo.

2 A Okay.

3 Q That differentiates the two of them.

4 A Sorry.

5 Q Let's say it one more time to clarify it.

6 A Okay.

7 Q Mike Rippo went to see Mike --

8 A Lauri's boyfriend.

9 Q -- Lauri's boyfriend, to convince Lauri's
10 boyfriend --

11 MR. WOLFSON: Judge, I'm going to object.

12 You know, the District Attorney
13 is feeding the witness. The proper question is: What did
14 Mike say?

15 The way it's coming out, it's
16 like he was there and watched the whole thing.

17 What did Mike Rippo say?

18 Let's hear it from the witness.

19 not Mr. Seaton.

20 BY MR. SEATON:

21 Q Can you answer his question?

22 A Yes, sir.

23 Q Go ahead.

24 A Mike said he want to talk to Mike, okay,

6

1 which is Lauri's boyfriend, and to tell him that his
2 girlfriend killed his girlfriend.

3 THE COURT: Use names, sir, not his.

4 THE WITNESS: I don't know Mike's
5 girlfriend's name. I think it's Dinny --

6 THE COURT: All right, as far as the girls
7 go, but if you are referring to him or his, use Mike Rippo
8 or Mike. Okay?

9 THE WITNESS: Okay.

10 MR. SEATON: Start over and use Mike Rippo
11 and Mike.

12 THE WITNESS: Michael Rippo told me that he
13 went to see Lauri's boyfriend, whose name is Mike.

14 BY MR. SEATON:

15 Q And what was the purpose of Mike Rippo --

16 A To tell him that Michael Rippo's girlfriend
17 killed Lauri, which is Mike's girlfriend.

18 Is that okay?

19 Q Gotcha.

20 A Okay. What happened during that, Mike's
21 girlfriend -- Michael Rippo's girlfriend was there. They
22 got into it because --

23 Q Who got into it?

24 A Michael Rippo and his girlfriend got into

1 it.

2 Q When you say got into it, the --

3 A Into a fight because she wasn't going to
4 take the blame for this killing.

5 Q And was the boyfriend Mike there at the
6 time?

7 A Yes.

8 Q Okay. What happened in the fight?

9 A Well, this is -- it was kind of funny the
10 way he put this -- do you want me to put it exactly the way
11 he put it?

12 Q Exactly the way he put it.

13 A He said the damn girl about took me, so I
14 had to stun her.

15 Q The damn girl about took me so I had to stun
16 her, you said?

17 A Yes, sir.

18 Q What did he mean by -- or did he tell you
19 what he meant by stun?

20 A It's a -- I don't know if you've seen the
21 little devices that you hit people with, they knock you out.

22 Q Stun guns?

23 A Yes, sir.

24 Q And he used that on her, he told you?

6

1 A Yes, sir.

2 A And then he just said he literally beat the
3 hell out of her, and they -- she booked, or left.

4 Q What did he say he did?

5 A I can't remember.

6 Q Mr. Ison, do you have felony convictions?

7 A Yes, sir.

8 Q How many?

9 A Two.

10 Q What for?

11 A Robbery.

12 Q Do you know a Don Hill?

13 A Yes, sir, I do.

14 Q Do you know him personally?

15 A We're acquaintan- -- we've been acquainted
16 with one another, you know; we're not friends or nothing
17 like that.

7

18 Q Do you know a David Levine?

19 A Yes, sir.

20 Q And the same way?

21 A Yes, sir.

22 Q Have you spoken to either one of them about
23 this case?

24 A No, sir.

7 1 Q Are you around them at this time?

2 A Oh, no, sir.

3 Q Do you know where -- do you know of their

4 whereabouts, where they reside on a daily basis?

5 A Oh, no.

6 Q How long ago was it that you last saw

7 these -- either of these people?

8 A '92. I've been -- I went to the federal

9 system and I was in --

10 Q Are you in or out of prison today?

11 A I'm out and have been out since January of

12 '95.

13 Q Do you live in the eastern United States?

14 A Yes, sir.

15 Q Do you have a parole officer?

16 A Yes, sir, I do.

17 Q What is that person's name?

18 A Bruce Frost.

19 Q Are you married?

20 A Yes, sir.

21 Q Do you have children?

22 A Yes, sir.

23 Q How long have you been married?

24 A Been married 12 years and I have four

7 1 children.

2 Q Are you presently employed?

3 A Yes, sir.

4 Q And for how long have you been employed?

5 A Since I've been out; since January. I
6 worked for Ionics, quite well.

7 MR. SEATON: That concludes direct
8 examination, Judge.

9 THE COURT: Cross-examination.

10
11 CROSS-EXAMINATION

12 BY MR. DUNLEAVY:

13 Q Who is Leon Andrews?

14 A Who, sir?

15 Q Leon Andrews.

16 A (No audible response.)

17 Q You don't know?

18 A No, sir.

19 Q No idea?

20 A I probably know -- I probably know him more
21 by face than I do by name.

22 Q Now, you had two robbery convictions?

23 A Yes, sir.

24 Q And were those both here in Nevada?

7 1 A Yes, sir.

2 Q And you wound up in the federal system?

3 A Yes.

4 Q And how is that?

5 A 'Cause it was a federal crime, bank robbery.

6 Q It was bank robbery?

7 A No, the first one was a state crime.

8 Q State crime. And then the federal crime?

9 A Yes, sir.

10 Q And how many other times have you offered

11 testimony against someone, or information?

12 A Once.

13 Q And who was that again?

14 A I think it was Leon Andrews; the name comes

15 back to me.

16 Q Yet you didn't know?

17 A Well, names, I don't know the names.

18 MR. DUNLEAVY: Well, I can understand that.

19 MR. SEATON: I can't understand his

20 gratuitous comment, even though it is true.

21 THE COURT: Okay.

22 BY MR. DUNLEAVY:

23 Q Now you gave a statement to the police; is

24 that correct?

1 A Yes, sir.

2 Q What was the purpose of giving this
3 statement?

4 A Which time, Leon Andrews or Michael Rippo?

5 Q Well, which one was first?

6 A I don't remember.

7 Q So let's go to Leon Andrews.

8 A Uh-huh.

9 Q What was the motive for giving this
10 statement?

11 A At that particular time in my life?

12 Q Uh-huh.

13 A Honest truth, I wanted to get my time cut.

14 Q It happens a lot in prison, right?

15 A Yes, sir.

16 Q Same thing with the reason you are giving
17 the statement against Mr. Rippo?

18 A No, sir.

19 Q And what happened?

20 A Michael Rippo's statement was -- was he
21 didn't care about what he had done at all.

22 I have a daughter and when you
23 can just take two people's live like that, and not care, I
24 don't think you deserve to be on the street.

7 1 If I did it, I wouldn't deserve
2 to be on the street.

3 Q Did you ever think that maybe he was lying?

4 A Which time?

5 Q About the crime.

6 A No, sir.

7 Q Never downed on you?

8 A No, sir.

9 Q Now, you said there were two different
10 stories.

11 A Uh-huh.

12 Q And you gave the first version and then you
13 gave the second version?

14 A Yes, sir.

15 Q And you put in a lot of details.

16 Struggle for drugs, right?

17 A Yes, sir.

18 Q That it started in the bathroom.

19 A Yes, sir.

20 Q That his girlfriend -- or that he choked one
21 and put a gag in her mouth and put her in the closet, right?

22 A He said he shut her up by placing something
23 in her mouth, yes, sir.

24 Q Then he went into the front room and found

7 1 out his girlfriend had already killed the other one.

2 A That's the first story, yes.

3 Q That's the first story, right?

4 And then you said something
5 about he went back and opened the door and put the other
6 girl in the closet.

7 A Yes, sir.

8 Q You remember all of that?

9 A Yes, sir.

10 Q Do you remember giving any of that in your
11 statement to the police?

12 A Yes, sir.

13 Q It's there, huh?

14 Would you please review your
15 statement.

16 While you are reviewing it,
17 look for both versions, please.

18 A It isn't both versions in both of them,
19 'cause I thought I was going to spend up to ten years with
20 Michael Ripppo and the likes of him.

21 Q Now, you don't give them the story when you
22 talked to the police?

23 A Not the second one; not the second
24 statement, no.

7 1 Q Review your statement.

2 A I don't think I really missed anything in
3 the first statement.

4 What is it?

8 5 Q Where do you mention it started in the
6 bathroom?

7 A I probably didn't say it the first time.

8 Q Or the second time.

9 Or you didn't give a second
10 statement?

11 A No, sir.

12 Q Nothing in here about it starting in the
13 bathroom; is that correct?

14 A No. Everything else is in there about the
15 closet, cord.

16 THE COURT: Okay. We'll --

17 MR. SEATON: Judge, from now on, when the
18 witness gives an answer, could counsel allow him to finish
19 when he starts talking?

20 MR. DUNLEAVY: He wasn't answering the
21 question, Your Honor.

22 THE COURT: All right. Well, let's one
23 person at a time talk.
24

8 1 BY MR. DUNLEAVY:

2 Q And the way it works, I get to ask questions
3 and you get to answer the question I ask.

4 A I fully understand that.

5 Q What kind of case was Leon Andrews?

6 A It was a murder case.

7 Q You get the best deal in prison if you have
8 evidence against someone --

9 A I didn't have a deal for that, none
10 whatsoever.

11 Q Just --

12 A I've never asked for a deal.

13 Q Didn't just a few minutes ago, you say the
14 reason --

15 A The reason was, but I never asked for one,
16 and I was never offered one.

17 Q Right. Now, you said the first one came
18 about, you are sitting at a table with paperwork.

19 A A newspaper, if you call that paperwork, and
20 a pencil and --

21 Q And there was a story in the newspaper about
22 this?

23 A No, sir. I've never read any article about
24 this, none whatsoever.

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8

1 Q Not a one of them?

2 A No, sir.

3 Q Wasn't that the topic of conversation on --

4 what was it? 5-B, I believe, was the floor you were on,

5 5-B?

6 A I think it was 5-B, to my best

7 recollection -- we were on the fifth floor.

8 Q That's over in the Detention Center, right?

9 A Yes, sir.

10 Q And Mr. Rippe was in there and you were in

11 there --

12 A Uh-huh.

13 THE COURT: That yes?

14 THE WITNESS: Yes.

15 BY MR. DUNLEAVY:

16 Q And there wasn't any discussion about the

17 newspaper articles and the pictures about this case?

18 A No, sir.

19 Q Nothing?

20 A No, sir.

21 At that particular time, I

22 don't even think it was making news because it had happened.

23 He was the one talking about his girlfriend.

24 Q Did I ask you that question?

8

1 A Oh, no, sir.

2 Q You said they got in an argument over some
3 drugs.

4 A Yes, sir.

5 Q And that someone had ripped Mr. Rippo off?

6 A No, sir, I never said that.

7 Q You didn't say that?

8 A I have not said that since I've been sitting
9 up here.

10 Q You didn't say anything about an argument
11 over drugs?

12 A I said they were trying to get some -- steal
13 some from the girls.

14 Q Page four of your statement, line -- the
15 first paragraph there, didn't it begin with an argument over
16 drugs?

17 A Yeah, they wouldn't give them to him. I
18 mean, you know, if that's what you consider to be an
19 argument.

20 Q So when you said an argument over drugs,
21 what you meant is that they wouldn't give them to him; you
22 just didn't say that?

23 A I guess so.

24 Q Now, did you say that he told you that he

8

1 strangled both girls with a cord?

2 A Yes, sir.

3 Q In both stories?

4 A No, sir.

5 In the first story, it was his
6 girlfriend; the second story, it was him.

7 Q Now, wait a minute. In the first story, his
8 girlfriend strangled one of them with a cord?

9 A Yes, sir.

10 Q And he strangled one with a cord?

11 A Yes, sir.

12 Q And in the second story, he strangled both
13 of them with the cord?

14 A Yes, sir, and his hand.

15 Q No question about that? Both stories are
16 consistent with that, that the cord was used?

17 A Yes, sir.

18 Q Were both stories consistent with putting
19 them in the first -- the first one in the closet and then
20 getting the second one and having to open door and put the
21 other one in the closet?

22 A Yes, sir.

23 Q No question about that?

24 A No question.

1 Q Talked to you about that too, and having to
2 open it and drag the bodies through it?

3 A Yes, sir.

4 Q Do you remember him saying that one of them
5 was not supposed to have been killed?

6 A Yes, sir.

7 Q That it happened accidentally?

8 A Yes, sir.

9 Q Which one?

10 A The first one.

11 Q Now, is this the first story --

12 A The bathroom, the girl in the bathroom.

13 Q The one that he was in a struggle with --

14 A In both stories.

15 Q -- and she wasn't supposed to have died?

16 A Right.

17 Q And that's the one who caused the second --

18 A And that's the one that caused the second
19 one to get --

20 Q And then the first version, he didn't kill
21 the first one; and in the second, he killed both of them?

22 A Say that again, sir.

23 Q In the first version, the first one to die
24 was killed by his girlfriend?

8 1 A No, sir, the first one to die was the
2 struggle in the bathroom.

3 Q I thought you just said he did that --

4 A He didn't realize --

5 Q -- and found out that his girlfriend had
6 killed one.

7 Isn't that the first story?

8 A That's the same in both. I mean -- except
9 what I'm saying is, the first girl, he did not know she was
10 dead. He didn't realize he had killed her. That's in both
11 stories that was said.

12 The second story -- that is in
13 the first story, his girlfriend had killed the other girl.

14 Q So, in the first story, basically, one of
15 them died by accident?

16 A Yes, sir.

17 Q And the second was killed by his girlfriend.

18 A Yes, sir.

19 Q And in the second story, one of them died by
20 accident and he panicked and killed the second one?

21 A Yes, sir.

22 Q Did you have all this information when you
23 gave this statement?

24 A Yes, sir.

Q Why did you only give one version?

A 'Cause I was spending ten years in the Nevada prison system, because I thought, here I got -- the State was supposed to have dropped the charge against me on the bank robbery.

Q That was because of your first offer to testify?

A No, sir. This -- there was no offer to testify whatsoever.

When you have a federal -- can I explain this?

MR. DUNLEAVY: Well, let me ask you a few questions.

THE COURT: Just answer the questions.

THE WITNESS: Okay.

BY MR. DUNLEAVY:

Q You've given statements against two different people?

A Yes, sir.

Q Both of them murderers?

A Yes, sir.

Q And neither one of these was an exchange for you to try and get any kind of a deal?

A No, sir. I wasn't offered a deal on either

1 one because my testimony wouldn't have been any good.

2 Q So why are you here today?

3 A Because he -- he killed two girls and he
4 told me about it.

5 Q But your testimony isn't any good.

6 A In what sense?

7 Q You just said they wouldn't give you a deal
8 because your testimony was --

9 A If I said -- if I wanted -- if I said I want
10 a deal, I want my time reduced, then you are buying my
11 testimony, and I didn't want my testimony to be bought.

12 I'm sorry. I still believe
13 murderers should be behind prison, even if I'm there.

14 Q Now, when you robbed this bank, did you have
15 a gun?

16 A No, sir.

17 Q What did you have, a pen?

18 A No, sir.

19 Q What?

20 A I had a toy gun I shoplifted from K-Mart.

21 Q A toy gun. Because you are not for
22 violence?

23 A I ain't never killed nobody, if that's what
24 you mean.

1 Q Now you indicated that -- and correct me as
2 to which story this was, okay -- that after his girlfriend
3 left, Mr. Rippe told you he went back up and cleaned up?

4 A Straightened up; got rid of his prints.

5 Q Did he describe what he did?

6 A Not really, except he just covered up his
7 tracks by getting rid of his prints.

8 Q And how did he say he got rid of his prints?

9 A He said he wiped down everything he could
10 find.

11 Q Wiped down everything he could find.

12 You remember that?

13 A I remember him saying he wiped down
14 everything he could find.

15 Q Is that in either one of your statements?

16 A No, sir.

17 Q So, basically, this statement is just a
18 teeny little snippet of what you knew, but you didn't really
19 want to tell everything?

20 A That particular moment, I was supposed to
21 have been moved to a federal system. I wasn't moved. I had
22 a marshal -- or deputy show up on me --

23 Q During the giving of this statement?

24 A No. The deputy showed up on me after I had

9 1 been transferred back to the Nevada prison system. I
2 thought I'm in the Nevada prison system.

3 Q So you went ahead and gave a statement?

4 A I went ahead and gave the statement, but I
5 didn't figure it was good enough to get myself put up on a
6 witness stand.

7 Q So you deliberately tried to give them a bad
8 statement?

9 A Yes, sir.

10 MR. DUNLEAVY: Okay. No further questions,
11 Your Honor.

12 THE COURT: Redirect?

13
14 REDIRECT EXAMINATION

15 BY MR. SEATON:

16 Q Just stay in that same area.

17 A little earlier, you had tried
18 to give an explanation to Mr. Dunleavy about the difference
19 between the federal and the state system and the problems
20 that it was causing you, and you weren't able to do that.

21 A Okay.

22 Q Would you do that now for us?

23 A You got to understand, the State can charge
24 you with a robbery, and the federal system can charge you

9 1 with that same robbery. It's not considered double
2 Jeopardy, like, you hear a person can't be tried twice for
3 the same crime.

4 Well, on that particular -- the
5 State had a charge against me, and the feds had a charge
6 against me.

7 I thought I was going to end up
8 in the Nevada system. I did not think Nevada was going to
9 release me because I was on parole when I had done what I
10 had done. I didn't think the Nevada system was going to
11 release me to the federal system.

10 12 And when you come before any
13 type of court system -- if you have never been in prison,
14 you won't know what I'm talking about -- and you testify
15 against somebody, and you get the name -- what we all called
16 what I'm sitting here doing, is being a snitch, your life
17 ain't worth two cents inside the prison system.

18 I got a wife and I got kids. I
19 wasn't going to risk my life to get killed inside a prison
20 system for him. My wife and kids are more important, me
21 being alive than them being out -- than me testifying
22 against him. And that's the way I felt about it at that
23 time.

24 Q Mr. Dunleavy asked you -- he said -- about

10

1 the stories that Mr. Rippe told you, he said didn't you
2 think he was lying, and your answer was no.

3 Do you remember that?

4 A Yes, sir.

5 Q Did he tell the stories in such a way that
6 you believed him?

7 A Yes, sir. I've been told -- you got -- in
8 prison, people brag. Okay? They brag about who they've
9 killed, who they've hurt, what they've done, how many crimes
10 they've committed, who they've raped, what they've --
11 everybody, they -- they brag.

12 People -- this is prison.
13 Ninety-nine percent of them are full of it; Just straight
14 up, they lie to you.

15 But when somebody is so cold
16 and so callous to sit there and just tell you exactly what
17 they're saying, and they can look you in the eye and it's
18 not bragging, it's a real low whisper tone talk, so nobody
19 else can hear it, that's not lying.

20 You can pick out who is lying
21 and who is bragging in prison all day long. It's a totally
22 different world and you know who's telling you the truth and
23 who's not telling you the truth.

24 MR. SEATON: That's all, Judge.

1 THE COURT: Recross.

2
3 RE CROSS-EXAMINATION

4 BY MR. DUNLEAVY:

5 Q Now, I thought on direct you said you had
6 two felony convictions.

7 A Yes, sir.

8 Q But you said you were on parole when you
9 committed this robbery.

10 A Yes, sir.

11 Q But you got two convictions out of this
12 robbery?

13 A No, sir.

14 Q Didn't you get a state conviction out of
15 this robbery?

16 A I have a state conviction from 1986.

17 Q For what?

18 A For robbery.

19 Q Bank robbery?

20 A Yes, sir -- I'm a gamble-holic. I'm just a
21 straight up gambler.

22 Q Now, then, you've got a federal conviction?

23 A Yes, sir; while I was out on parole.

24 Q So it's a different robbery?

10

1 A Yes, sir.

2 Q Not the same robbery at all?

3 A Correct.

4 Q You also said that when you get a snitch
5 Jacket, your life is not worth two cents?

6 A That's right.

7 Q But you gave two statements on two different
8 murderers --

9 A Uh-huh.

10 Q -- right?

11 How long were you in the state
12 prison system after you gave these statements?

13 A I was thrown into isolation.

14 Q How long were you in the state prison system
15 after you gave these statements?

16 A I think six months.

17 Q And then you were transferred to the federal
18 system?

19 A Yes, sir.

20 Q Anything happen to you?

21 A I was locked up in isolation because an
22 attempt was made on my life, yes, sir.

23 Q Anything happen to you?

24 A No, I was big enough to fend it off.

10

1 Q Size is important in prison, isn't it?

2 A Yes, sir, it is.

3 Q And when you brag, sometimes you need to
4 make people think that you are tough; doesn't that happen a
5 lot in prison?

6 A No, sir. The smallest person I know inside
7 the prison system has probably killed more than anybody.

8 Q Or at least he said he did.

9 A No, I saw saw that for a fact.

10 Q And you are there and you saw it?

11 A No. He's been in death row a long time.

12 Q Is Mr. Rippo a big guy?

13 A No, he's not.

14 Q Do a lot of people in the yards brag because
15 they want everybody to think they are tough?

16 A Yes, sir.

17 MR. DUNLEAVY: Thank you.

18 No further questions.

19 MR. SEATON: No further questions.

20 THE COURT: Thank you.

21 You are excused.

22 THE WITNESS: Thank you, sir.

23 (Whereupon, the witness
24 was excused.)

10 1 THE COURT: Mr. Harmon.

2 MR. HARMON: Your Honor, the State doesn't
3 have any additional witnesses to call during its case in
4 chief. That will conclude the taking of testimony.

5 We conversed with the clerk and
6 we do have a number of offers to make regarding exhibits
7 that have been marked.

8 THE COURT: Okay.

9 MR. HARMON: There are a number of
10 photographs from the crime scene marked as proposed Exhibits
11 6 through 17.

12 MR. DUNLEAVY: Your Honor, I would just
13 suggest we have a number of pictures to sort out, so it
14 might be easier to do it out -- send the jury home.

15 MR. HARMON: I thought we sorted these out,
16 Your Honor. We had agreed on these.

11 17 MR. DUNLEAVY: I know we've agreed on a
18 certain number of pictures. I didn't know they had been
19 separated out.

20 MR. HARMON: No, the ones we agreed upon,
21 about which there was some disagreement, have already been
22 admitted.

23 These are photographs not
24 showing the decedents. They are simply proposed 6 through

11 1 18, photographs of other areas of Apartment 317. They
2 document the scene as it was when the police arrived.

3 THE COURT: You better get them out or what,
4 so we know what we're talking about. 6 through 18?

5 MR. HARMON: Yes, Your Honor.

6 MR. WOLFSON: No objection to 6; no
7 objection to 7.

8 THE COURT: 6 and 7 are admitted.

9 MR. WOLFSON: No objection to 6 through 18.

10 THE COURT: 6 through 18 are admitted.

11 MR. WOLFSON: Mr. Harmon said they're
12 pictures of the crime scene. He's right. I don't have an
13 objection.

14 THE COURT: Okay.

15 (Whereupon, State's Exhibits
16 6 through 18 were admitted
into evidence.)

17 MR. HARMON: Your Honor, we also offer
18 proposed Exhibit 73, which is a picture of the interior of
19 the Ford Pinto, which is not admitted.

20 MR. WOLFSON: That wasn't offered yet, was
21 it, Mr. Harmon?

22 MR. HARMON: I just offered it.

23 THE COURT: The interior of the Ford Pinto?

24 THE CLERK: Uh-huh.

11 1 MR. WOLFSON: I have no objection to the
2 admission of that document.

3 THE COURT: Is that 73?

4 MR. HARMON: Yes, Your Honor.

5 THE COURT: It will be admitted.

6 (Whereupon, State's Exhibit 73
7 was admitted into evidence.)

8 MR. HARMON: We also offer proposed 75,
9 which is a photograph of the interior of the Dodge Colt.

10 MR. WOLFSON: I don't have an objection.

11 THE COURT: 75 will be admitted.

12 (Whereupon, State's Exhibit 75
13 was admitted into evidence.)

14 MR. HARMON: Proposed 78 is another
15 photograph. It is of the front of Tommy's Maintenance.

16 MR. WOLFSON: No objection.

17 THE COURT: Admitted.

18 (Whereupon, State's Exhibit 78
19 was admitted into evidence.)

20 MR. HARMON: Your Honor, proposed Exhibits
21 83, which is simply an evidence bag, and 83-A, a pair of
22 Oakley sunglasses.

23 MR. WOLFSON: No objection.

24 THE COURT: They will be admitted.

(Whereupon, State's Exhibits
83 and 83-A were admitted
into evidence.)

MR. HARMON: Then, Your Honor, a series
consisting of an evidence bag and documents, proposed 93,
which is the bag -- proposed Exhibit -- I think it is 93-A,
a Gold Coast credit card receipt.

MR. WOLFSON: Is it A or is it E, Mr.
Harmon?

Are you offering 93-A, -B,
-C, -D and -E?

MR. HARMON: Yes.

MR. WOLFSON: No objection.

THE COURT: They will be admitted.

MR. HARMON: Did you say 93, 93-A, -B,
-C, -D and -E?

MR. DUNLEAVY: If you want the evidence bag
in, the evidence bag will come in too. That's 93.

THE COURT: I'll admit it.

(Whereupon, State's Exhibits
93, 93-A through 93-E were
admitted into evidence.)

MR. HARMON: Proposed Exhibit 100, Your
Honor, which is the Guilty Plea Memorandum for Diana Hunt.

MR. WOLFSON: We agree with its admission.

THE COURT: It will be admitted.

11

1

(Whereupon, State's Exhibit 100
was admitted into evidence.)

2

3

MR. HARMON: Your Honor, if I might approach
the clerk, I need to examine what proposed Exhibit 108 is.

5

THE COURT: You may.

6

THE CLERK: All I have is a memo.

7

MR. WOLFSON: She doesn't have it.

8

THE COURT: She said she didn't have it.

9

MR. HARMON: Is that something we didn't

10

give you?

11

MR. WOLFSON: It might have been one of

12

the --

13

14

(Whereupon, a sotto voce at this time.)

15

16

MR. HARMON: Your Honor, that completes the

17

offers.

18

The State rests.

19

THE COURT: Okay. I understand the defense

20

wishes to begin Monday morning.

21

MR. DUNLEAVY: That's correct, Your Honor.

22

THE COURT: All right. We'll be in recess

23

for the weekend.

24

We'll start Monday morning

11 1 at -- what does Monday look like?

2 MR. POTTER: One bucket. It wouldn't be --
3 we'll definitely be ready by 10:30.

4 THE COURT: Let's try and get here a little
5 early, 10:15, if possible.

6 Remember, do not discuss this
7 case among yourselves or with anyone else; or

8 Read, watch, listen to any
9 report or commentary on this case by any medium of
10 information, including, without limitation, newspaper,
11 television or radio; or

12 Form or express any opinion on
13 this case until the matter is finally submitted to you.

14 Have a good weekend.

15
16 * * * * *

17
18 (Proceedings adjourned until Monday,
19 March 4, 1996, at 10:30 a.m.)

20
21 ATTEST: Full, true and accurate transcript of proceedings.

22 
23 RENEE SILVAGGIO, CCR NO. 122
24 OFFICIAL COURT REPORTER

— FILED IN OPEN COURT —

March 5, 1996

LORETTA BOWMAN, CLERK

By

Joseph [Signature] Deputy

ORIGINAL

DISTRICT COURT

CLARK COUNTY, NEVADA

The State of Nevada,

Plaintiff,

vs.

Michael Damon Rippo,
#0619119

Defendant.

Case No. C106784

Dept. No. IV

Docket No. "C"

Before the Honorable Gerard J. Bongiovanni,

Monday, March 4, 1996, 10:30 o'clock a.m.

Reporter's Transcript of Proceedings

JURY TRIAL

VOLUME I

REPORTED BY: Renee Silvaggio, C.C.R. No. 122

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RENEE SILVAGGIO, CCR 122 391-0379

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APPEARANCES:

For the State: MELVYN T. HARMON, ESQ.
DANIEL SEATON, ESQ.
Deputies District Attorney

For the Defendant: STEVEN B. WOLFSON, ESQ.
PHILIP H. DUNLEAVY, ESQ.
Attorneys at Law

Law Clerk: Delwin Potter

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I N D E X

WITNESSES ON BEHALF OF DEFENDANT:

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LUKENS, John

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003064

1 Las Vegas, Nevada, Monday, March 4, 1996, 9:00 a.m.

2
3 * * * * *

4
5 (The following proceedings were
6 had in open court outside the
presence of the jury:)

7 THE COURT: State of Nevada versus Michael
8 Damon Rippo.

9 Let the record reflect the
10 presence of the defendant, and his attorneys Steve Wolfson,
11 Phillip Dunleavy; Dan Seaton and Mel Harmon for the State.

12 The record will also reflect
13 we're outside the presence of the jury.

14 MR. DUNLEAVY: We had two things we want to
15 do quickly, Your Honor. Hopefully, it will help to move
16 things along.

17 First, we had a list of
18 proposed exhibits and so -- that we have submitted during
19 the trial. We didn't want to do it in front of the jury
20 because many of ours were exhibits that were used in
21 hearings outside the presence of the jury.

22 So we thought it would be best
23 to clear that list up at this time, rather than do it in
24 front of the jury, and make sure that what we have had

003065

1 marked has also been admitted.

2 Most of ours would be admitted
3 for appellate purposes and wouldn't go to the jury, so we
4 want to make sure there was some kind of record kept on
5 these.

6 THE COURT: All right.

7 (Whereupon, a sotto voce at
8 this time.)

9 THE COURT: Did you go over these with the
10 State?

11 MR. DUNLEAVY: We all got a copy of it on
12 Friday, except there was one, I believe, that was not on the
13 list, that was perhaps on another list.

14 THE CLERK: It was on the evidentiary
15 hearing list.

16 MR. DUNLEAVY: Evidentiary hearing list.

17 Okay. So we need to make sure
18 all those are covered as well.

19 THE CLERK: Well, that -- if you want me to
20 put it on -- add it to this list? I'll put it next in order
21 on this list.

22 MR. DUNLEAVY: While she's doing that, Your
23 Honor, the other thing is we thought it might speed things
24 up if the Court wanted to advise our client of his right to

003066

1 testify, and so -- which is required to be done out of the
2 presence of the Jury.

3 THE COURT: Okay. Mr. Ripppo, do you
4 understand you have the right to testify in your own behalf?

5 THE DEFENDANT: Yes.

6 THE COURT: And in the event you don't
7 testify, the State cannot make any comment to a Jury of that
8 fact.

9 THE DEFENDANT: I understand.

10 THE COURT: And you've discussed this with
11 your attorneys?

12 THE DEFENDANT: Yes.

13 THE COURT: And do you wish to testify in
14 this case or --

15 THE DEFENDANT: No, I don't.

16 THE COURT: -- or have you decided not to?
17 No?

18 THE DEFENDANT: No, I do not wish to
19 testify.

20 MR. DUNLEAVY: And we would be requesting a
21 jury instruction on no emphasis to be drawn on his lack of
22 testimony.

23 THE COURT: Okay.

24 (Whereupon, a sotto voce at

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this time.)

MR. WOLFSON: Well, Your Honor, a point of procedure: One of the evidentiary exhibits is also going to be used during the guilt phase as well.

Do we make it or the evidentiary --

THE CLERK: Can we get a copy of it?

MR. WOLFSON: Okay.

MR. DUNLEAVY: Specifically, what we're talking about is the case history notes from the file on those.

MR. WOLFSON: She's getting a copy; no need to worry.

Can we rest at ease for a moment?

THE COURT: Off the record.

(Whereupon, an off-the-record discussion was had.)

THE COURT: Could we bring the jury in?

THE BAILIFF: Yes.

(The following proceedings were had in open court in the presence of the jury:)

00306.9

1 THE COURT: Counsel stipulate to the
2 presence of the jury?

3 MR. DUNLEAVY: Yes, Your Honor.

4 MR. WOLFSON: Yes, Your Honor.

5 MR. SEATON: Yes, Judge.

6 THE COURT: The State is going to begin
7 their case.

8 MR. WOLFSON: The defense.

9 THE COURT: I mean the defense.

10 MR. WOLFSON: Tom Christos.

11
12 Whereupon,

13 THOMAS CHRISTOS

14 having been called as a witness by the Defendant and
15 having been first duly sworn to tell the truth, the
16 whole truth and nothing but the truth, was examined
17 and testified as follows:

18 THE CLERK: Thank you.

19 Please be seated.

20 Will you state your name and
21 spell it for the record, please.

22 THE WITNESS: Thomas Christos; last name
23 C-h-r-i-s-t-o-s.

24 THE CLERK: Thank you.

003069

DIRECT EXAMINATION

BY MR. WOLFSON:

Q Good morning, Mr. Christos.

A Good morning.

Q You remember testifying in this trial previously, do you not?

A Yes, I do.

Q Mr. Christos, do you remember the dates that you provided voluntary statements to the Las Vegas Metropolitan Police Department?

A Yes, I do.

Q What was the first date that you provided a voluntary statement?

A It was February the 20th.

Q And did you provide a subsequent statement to the police?

A Yes, I did.

Q What date was that?

A I'm sorry. I don't recall. It was -- I believe it was the 27th.

Q Of what month?

A Of March.

Q Of 1992?

003070

1 A Yes.

2 Q How many statements did you actually provide
3 to the police?

4 A Two.

5 Q Okay. And -- Mr. Christos, I know you are
6 looking at a document. I'm going to ask you not to look at
7 the document during your testimony.

8 If I showed you photocopies of
9 your two voluntary statements, could you recognize them?

10 A Yes.

11 MR. WOLFSON: May I approach, Judge?

12 THE COURT: You may.

13 BY MR. WOLFSON:

14 Q Going to show you two groupings of documents
15 and ask you to quickly look at those and see if those are
16 the voluntary statements that you gave to homicide
17 detectives in this case.

18 A Yes. This one is correct.

19 Q Okay. What date did you give that statement
20 to the police on?

21 A This is March the 27th, 1992.

22 Q Thank you.

23 What about the other one?

24 A Yes. This is on March the 4th, 1992.

003071

1 Q Okay. So just a few moments ago, when you
2 said February 20th, '92, were you mistaken?

3 A Yes, I was.

4 Q Okay. So for the purposes of complete
5 clarification, did you give two statements, one on March
6 4th, 1992, and one on March 27th, 1992?

7 A That is correct.

8 Q Did you give both statements to the same
9 police officer?

10 A Yes, I did.

11 Q Do you remember what that police officer's
12 name is?

13 A Detective Dibble, Don Dibble.

14 Q Thank you.

15 Did there come a time when you
16 agreed to do something, with the agreement of Detective Don
17 Dibble?

18 A Yes.

19 Q And what did you agree to do?

20 A I agreed to wear a microphone and tape
21 recorder in an interview with Mr. Rippo.

22 Q You're talking about Michael Rippo, the
23 defendant in this case?

24 A Yes, sir.

003072

1 Q And you've identified Michael previously.

2 Where is he sitting?

3 A To your right.

4 MR. WOLFSON: The record will reflect
5 identification of the defendant?

6 THE COURT: The record will so reflect.

7 BY MR. WOLFSON:

8 Q Do you remember whose idea it was to wear
9 this microphone when you went to speak with Mr. Rippo?

10 A It was Detective Dibble.

11 Q Okay. How did you wear this microphone?

12 Tell the jury.

13 A Ah, they stripped me to the waist, taped it
14 to my skin, and secured the recorder, the microphone, to my
15 skin and secured the recorder in the rear of my pants.

16 Q I believe you said they.

17 Who are you referring to?

18 A I was assisted by someone that -- in the
19 police department. I wasn't aware of his name.

20 Q Could this microphone be seen by the naked
21 eye?

22 A No, sir.

23 Q What was the purpose for you agreeing to
24 wear this microphone when you went to see Michael Rippo?

003073

1 MR. HARMON: Objection. This calls for
2 speculation.

3 THE COURT: Sustained.

4 BY MR. WOLFSON:

5 Q What was your understanding --

6 MR. HARMON: I object. His understanding
7 isn't relevant. He may describe what happened, but not
8 speculation about the law enforcement motive, Your Honor.

9 THE COURT: Sustained.

10 BY MR. WOLFSON:

11 Q Did you discuss with Detective Dibble why
12 you were wearing this body microphone, yes or no?

13 A Yes.

14 Q Did you eventually do something with this
15 body microphone?

16 A Yes.

17 Q What did you do?

18 A I wore it in an interview with Michael
19 Rippo.

20 Q Where did you have this interview with
21 Michael Rippo?

22 A Clark County Detention Center.

23 Q How did you get to the Clark County
24 Detention Center that day?

003074

1 A I was driven by Mr. Dibble.

2 Q Detective Dibble of the --

3 A Detective Dibble, yes, sir.

4 Q Was it your understanding he was one of the
5 homicide detectives on this case?

6 A Yes, sir, it was.

7 Q What date did you go to the detention center
8 with this body microphone on to speak with Michael Rippo?

9 A As I recall, it was March 27th, 1992.

10 Q If you looked at a copy of the transcript of
11 that interview, would that help clarify your memory as to
12 the exact date?

13 A Yes, it would.

14 Q Do you have a copy of that in your
15 possession right now?

16 A I do.

17 Q By looking at it, would it help you in
18 determining the exact date you went?

19 A Yes, it would.

20 MR. WOLFSON: With the Court's permission,
21 could you look at that document?

22 THE COURT: You may do so.

23 THE WITNESS: (Complies.)

24 BY MR. WOLFSON:

003075

1 Q Has that helped clarify your memory?

2 A Yes, it does.

3 Q What date did you go visit Mr. Rippo at the
4 detention center?

5 A On March 27th.

6 Q 1992?

7 A Correct.

8 Q Which did you do first, Mr. Christos, give
9 your second interview with the police and then go see
10 Michael at the jail or vice versa?

11 A As I recall, I gave the second interview
12 preceding the tape at the correctional center.

13 Q Preceding, meaning you gave the second
14 interview before --

15 A Correct.

16 Q -- you went and saw Michael Rippo?

17 A Correct.

18 Q How did you go about arranging for your
19 visit with Michael Rippo?

20 A Michael had contacted me in an attempt to
21 set bail for him or arrange bail for him.

22 Q Did you or Detective Dibble make any special
23 arrangements for this visit with Michael Rippo?

24 A Yes.

003076

1 Q Which one?

2 A The special arrangement was in regard to
3 recording a conversation.

4 Q When you went to the jail, tell us what
5 steps you took to cause your eventual interview of Michael.

6 A I'm sorry. I'm not too clear on that.

7 Q Okay. When you went to go see Michael, did
8 you go in to the lobby of the jail?

9 A Yes; yes.

10 Q What did you do?

11 A I signed my name in at the desk, which is
12 the general procedure that a bondsman uses when arranging
13 bail. That was the first step.

14 Q Then what did you do?

15 A I was escorted to the elevator by the
16 marshal.

17 At that time the microphone was
18 on and I initiated a contact visit with Mr. Rippe.

19 Q Are there two types of visits that a person
20 can have with an inmate at the county detention center?

21 A Yes, there are.

22 Q What are the two types of visits?

23 A One is a telephone interview between a glass
24 panel that secures you from the inmate. The other is a

003077

1 contact visit in a secured room.

2 Q And did you say that you eventually had a
3 contact visit with Mr. Rippo?

4 A That's correct.

5 Q And I believe you said in a secure room; is
6 that right?

7 A Correct.

8 Q Was anybody else present during this
9 interview?

10 A No, there was not.

11 Q Just you and Mr. Rippo?

12 A Correct.

13 Q How long did the interview last?

14 A As I recall, approximately a half an hour.

15 Q To your knowledge, did Mr. Rippo see the
16 microphone you were wearing?

17 A Not to my knowledge.

18 Q Was there any discussion by you with Mr.
19 Rippo regarding the fact that you were wearing a microphone?

20 A No, there was not.

21 Q Did you and Mr. Rippo talk about the murder
22 case?

23 A Yes, we did.

24 Q If I were to ask you approximately what

003078

1 percentage of the approximate 30 minutes you and Mr. Ripppo
2 talked about his case, what would you say?

3 A Twenty-five out of the 30 minutes.

4 Q At the conclusion of the interview, what did
5 you do?

6 A I secured the **conclusion of the end of the
7 tape.

8 Q Where did you do that?

9 A In the elevator on the way down.

10 Q Out of Mr. Ripppo's eyesight?

11 A Yes.

12 Q And you said you secured the conclusion.

13 What does that mean?

14 A Signed off. I -- I was a novice at doing
15 this. It was not exactly my cup of tea, you might say.

16 Q Then what did you do?

17 A I exited the secured area at the bottom of
18 the elevator, where I was greeted by Detective Dibble, and
19 the marshal of the day.

20 Q Then what did you do?

21 A Ah, I was taken back up to an office at the
22 police department and they removed the microphone and the
23 tape recording.

24 Q When you say they, are you referring to

003079

1 Detective Dibble and a helper?

2 A Correct.

3 Q Okay. Did you ever listen to the tape?

4 A No, never.

5 Q Have you ever read a transcript of the
6 conversation that took approximately 30 minutes?

7 A Briefly.

8 (Whereupon, a sotto voce at
9 this time.)

10 BY MR. WOLFSON:

11 Q Mr. Christos, why did you agree to wear a
12 microphone into your interview with Michael Rippo?

13 MR. HARMON: Objection; irrelevant.

14 MR. WOLFSON: Well, I think his state of
15 mind is important, Judge. He testified twice in this case.

16 MR. HARMON: Why is it important, Your
17 Honor?

18 All he can testify to is what
19 he saw and heard. He's not here because he's charged with
20 anything. He's not here because his state of mind is
21 pertinent at all.

22 MR. WOLFSON: A lot of witnesses, during
23 this trial, have been asked why they did things, and --

24 THE COURT: I'll overrule the objection.

You may answer.

003080

1 MR. WOLFSON: Thank you, sir.

2 BY MR. WOLFSON:

3 Q Mr. Christos, why did you agree to wear this
4 microphone into your visit with Michael Rippo?

5 A I was afraid that Diana was intentionally
6 trying to implicate or frame me in -- in this case.

7 MR. WOLFSON: That concludes direct
8 examination.

9 THE COURT: Cross-examination?

10
11 CROSS-EXAMINATION

12 BY MR. HARMON:

13 Q Mr. Christos, did you have anything whatever
14 to do with the murders of Denise Lizzi and Lauri Jacobson?

15 A Absolutely not.

16 Q Did you harbor any ill feelings towards
17 either of those individuals?

18 A None whatsoever.

19 Q Did you even know them?

20 A No, sir, I did not.

21 Q You've mentioned, in connection with this
22 interview you had with Mr. Rippo, on March the 27th, 1992,
23 that you were acting as a novice in this sort of thing.

24 A I beg your pardon?

003081

1 Q You used the word novice when you were
2 referring to what happened on March the 27th, 1992.

3 A Ah, that was in reference to being attached
4 to a tape recorder and -- and having an interview that was,
5 in all regards, supposed to be a confidential interview that
6 was no longer a confidential interview. It was -- it was
7 being taped, and I was a little bit nervous and -- and --
8 and not skilled at that.

9 Q Words mean different things to different
10 people.

11 What did you mean when you said
12 novice? Are you saying this was your first time to have
13 done this sort of thing?

14 A Yes, it was.

15 Q Now, I couldn't help but notice, when Mr.
16 Wolfson approached you and showed you your second statement,
17 the one on March the 27th, 1992, that in bold, red letters
18 on the back were the words: Police Agent - Concealed Tape.

19 Was that your handwriting?

20 A No, sir, it was not.

21 Q In working with Detective Dibble that day,
22 March the 27th, 1992, were you cooperating with him?

23 A Totally.

24 Q Were you, in a sense, acting on behalf of

003082

1 the police department?

2 A Yes.

3 Q Acting as an agent of Detective Dibble?

4 A You might say that.

5 Q Now, you've also explained to us that you
6 were wired when you went into the Clark County Detention
7 Center.

8 A Correct.

9 Q Did you have concealed on your person a
10 microphone?

11 A Yes.

12 Q Did you also have a tape recorder?

13 A Yes.

14 Q And did you also have a tape concealed on
15 your person?

16 A Yes.

17 Q And this was all done by prearrangement?

18 A Yes, it was.

19 MR. HARMON: Your Honor, that concludes
20 cross-examination.

21 THE COURT: Redirect?

22 (Whereupon, a sotto voce at
23 this time.)

24 MR. WOLFSON: No questions.

003083

1 THE COURT: You are excused, Mr. Christos.

2 THE WITNESS: Thank you.

3 (Whereupon, the witness
4 was excused.)

5 THE COURT: Call your next witness.

6 MR. WOLFSON: John Lukens.

7 THE CLERK: Please remain standing and raise
8 your right hand.

9

10 Whereupon,

11 JOHN LUKENS

12 having been called as a witness by the Defendant and
13 having been first duly sworn to tell the truth, the
14 whole truth and nothing but the truth, was examined
15 and testified as follows:

16 THE CLERK: Thank you.

17 Please be seated.

18 Would you state your name and
19 spell it for the record.

20 THE WITNESS: My name is John Lukens;

21 L-u-k-e-n-s.

22

23 DIRECT EXAMINATION

24 BY MR. WOLFSON:

Q Good morning, Mr. Lukens.

003084

1 A Good morning.

2 Q How are you employed, sir?

3 A I am a prosecutor with the Clark County
4 District Attorney's Office.

5 Q You are a prosecutor with the same office as
6 Mr. Harmon and Mr. Seaton; is that correct?

7 A Yes, I am.

8 Q How long have you been employed at the Clark
9 County District Attorney's Office?

10 A I have been there since approximately 1987.

11 Q Before your employment with that office in
12 1987, would you please tell the jury how you were employed.

13 A I was -- originally a law clerk for the
14 Honorable Paul Goldman here. I was in the Clark County
15 Public Defender's Office for two years, two and a half years
16 about, and was in private practice.

17 Q How long were you in private practice
18 approximately before joining the Clark County D.A.'s Office?

19 A Probably 12 years, 12, 14 -- somewhere in
20 there. I don't know exactly, but --

21 Q When were you licensed to practice law in
22 the state of Nevada?

23 A 1975.

24 Q Did there come a time when you were assigned

003085

1 the responsibility of the prosecution of Michael Rippo?

2 A Yes.

3 Q Do you remember approximately when you took
4 over the prosecution of Michael Rippo?

5 A I do not.

6 Q Were you the first prosecutor on the case?

7 A I was not.

8 Q Were you assisted by any other prosecutors
9 in your prosecution of this case?

10 A Yes.

11 Q If I were to ask you approximately how long
12 you were prosecuting the case of State versus Michael Rippo,
13 what would your answer be?

14 A Several months.

15 Q During the course of your work on this case,
16 did you interview witnesses?

17 A Yes.

18 Q Is that a normal part of a prosecutor's job,
19 to interview witnesses?

20 A I think so.

21 Q Why do prosecutors interview witnesses?

22 A We interview witnesses so that you will know
23 what it is that they will testify to.

24 Q Do prosecutors have other means of learning

003086

1 what witnesses will say, other than their conversations with
2 witnesses?

3 A Yes.

4 Q What other methods of information does a
5 prosecutor have?

6 A You read reports and transcripts of their
7 prior statements.

8 Q Referencing this case, were you familiar
9 with a witness by the name of Tom Sims?

10 A Yes, I was.

11 Q In your work on this case, did you have
12 occasion to read his voluntary statements and Grand Jury
13 testimony?

14 A Yes.

15 (Whereupon, a sotto voce at
16 this time.)

17 BY MR. WOLFSON:

18 Q Did there come a time when you recall having
19 an interview with Tom Sims?

20 A Yes.

21 Q Do you remember what year that was?

22 A It would have been 1993.

23 Q We have received testimony in this case from
24 Mr. Sims himself that he sat down and had an interview with
you and another prosecutor, Teresa Lowry, in the fall and

003087

1 winter period of 1993.

2 Does that sound consistent with
3 your recollection?

4 A It does.

5 Q What was your purpose for sitting down with
6 witness Tom Sims?

7 A To speak with Mr. Sims about his knowledge
8 with reference to this particular case.

9 Q Was that a normal part of your preparation
10 in the prosecution of a case?

11 A Yes. Mr. Sims was one of many witnesses in
12 this case that I spoke with.

13 Q Normally speaking, when will a prosecutor
14 sit down with a witness regarding the trial date that's
15 coming up?

16 A It's difficult for me to answer that when --
17 using the word normally speaking.

18 A homicide trial will, by
19 necessity, be treated differently than a possession of
20 stolen property trial.

21 The more severe the charges in
22 the case, the more time a prosecutor will develop to --
23 preparing for that trial.

24 So when you say normally,

003088

1 this -- this case is not a normal case.

2 Q Do you recall the interview that you had
3 with witness Tom Sims?

4 A In general terms, I do.

5 Q Did Tom Sims ever tell you that Michael
6 Rippo told him that he accidentally killed one of the girls,
7 so he had to go ahead and kill the other girl?

8 A No, he did not.

9 Q If Tom Sims had told you that Michael Rippo
10 had made such a statement, would that have been important to
11 you?

12 A Of course.

13 Q When you were prosecuting this case, were
14 you aware of Tom Sims having charges pending against him?

15 A Yes, I was.

16 Q As you sit here today, do you remember what
17 those charges were?

18 A They were narcotics charge. I think it was
19 possession or -- it was narcotics and the drug involved was
20 marijuana, I believe.

21 Q And you recall the specificity of what the
22 charges were against Tom Sims?

23 A No; other than the information that I've
24 just given you, I cannot.

003089

1 Q If I showed you a copy of a criminal
2 complaint, would that aid you in recalling what the specific
3 charges were?

4 A It would refresh my recollection, yes.

5 MR. WOLFSON: Mr. Harmon?

6 BY MR. WOLFSON:

7 Q Showing you what's been marked for
8 identification as Defendant's proposed Exhibit H.

9 Do you recognize that document?

10 A Yes.

11 Q What is that document?

12 A This is a copy of a criminal complaint at
13 the Justice Court level.

14 Q Do you believe that, as you look at that
15 document, to be the criminal complaint carrying charges that
16 were pending against Tom Sims when you were prosecuting this
17 case?

18 A Yes. I would have no reason to -- to think
19 otherwise.

20 Q All right. And what charges do or does that
21 document reflect that Tom Sims had pending against him back
22 in 1993 when you were interviewing him?

23 A Possession of controlled substance with
24 intent to sell, the drug being marijuana; possession of

003090

1 controlled substance; that drug is phencyclidine, otherwise
2 known as PCP; and possession of a firearm by an ex-felon.

3 Q Thank you.

4 Are all three of these charges
5 felonies in the state of Nevada?

6 A They are.

7 Q When you were prosecuting the case of State
8 versus Michael Rippe, were you aware that Tom Sims had a
9 pending felony case against him being prosecuted by your
10 office?

11 A Yes.

12 Q Did you have any direct contact with the
13 prosecution of Tom Sims in the case that is reflected in
14 Defendant's proposed Exhibit H?

15 A Well, when you say direct contact, what do
16 you mean by that?

17 Q To your knowledge, did you ever appear in
18 court as a representative of the State of Nevada --

19 A Yes.

20 Q -- against Tom Sims?

21 A Yes, I would have done that; at least, I
22 think that I did, on one or two occasions.

23 Q Did you ever make any bargains or
24 concessions or provide any consideration to witness Tom Sims

003091

1 for his testimony in the case of State versus Michael Rippo?

2 A No, I did not.

3 Q Is it common in the prosecution of an
4 individual, who is a witness in a murder case, to cause that
5 prosecution of that witness' case to drag on?

6 A I don't know how to answer that question,
7 since you put it in the context of being a witness in a
8 murder case. I -- I wouldn't know whether it would be
9 common or not.

10 Q Generally speaking, is it beneficial to a
11 defendant to have his case prolonged?

12 A That, as a general statement, is correct,
13 yes.

14 Q Do you know how long the case of State of
15 Nevada versus Tom Sims, Case Number 93F04256X, has been
16 pending?

17 A I do not know precisely. I assume that it
18 is still pending today. It was my intention, with that
19 case, that that case will remain pending until the
20 conclusion of the case against Mr. Rippo.

21 Q It was your intention that it remain
22 pending; is that what you said?

23 A Yes, yes.

24 Q Did you cause it to remain pending?

003092

1 A As much as I could influence it and keep it
2 pending, the answer to the question is yes.

3 Q Do you know what case history notes are that
4 are commonly used by the Clark County District Attorney's
5 Office?

6 A Yes.

7 Q What are case history notes?

8 A In Dis- -- in the District Attorney's file,
9 in the office, when you open those manila files, generally
10 as you look at it, on the right-hand side are police
11 reports, witness statements, things of that nature.

12 On the left-hand side is, like,
13 a diary, what we refer to as case notes. Every time the
14 case is in court, generally, there is the date, the court
15 that the case appears in, initials for the attorney who
16 happens to be there, and then what happened on that day, an
17 arraignment date was set, a preliminary hearing date was
18 set, or it was continued until whatever the next court date
19 is; and that's how we keep track of the history of a case.

20 Q Are case history notes a regular set of
21 documents that is maintained by a deputy District Attorney
22 concerning individual cases?

23 A I'm going to answer the question in that
24 they are not maintained by a single deputy District

003093

1 Attorney. They're notes that are maintained in the regular
2 course of our doing business, and whoever happens to be
3 there, that District Attorney, on that day, will put a note
4 in the file.

5 It -- it may be one of 15
6 different deputies and it may be a different deputy each
7 time it appears in court.

8 Q Do you know when Mr. Sims was accused of
9 committing the crimes that are the subject of his pending
10 criminal complaint?

11 A I -- I do not know when he was accused.

12 Q And when he was accused, I mean the date
13 that he's alleged to have committed these crimes.

14 A I do not know.

15 Q If I showed you the criminal complaint,
16 would that help aid you in your memory?

17 A I don't know that I ever knew. I would
18 certainly accept the date in the complaint as being correct.

19 Q What date is Mr. Sims accused of committing
20 the three felonies that are the subject of that criminal
21 complaint?

22 A May of 1993 --

23 Q Okay.

24 A -- the 13th day.

003094

1 Q So if his case is still pending, which there
2 has been testimony in this case that it is, his case has
3 been pending for almost three years.

4 A That would be correct.

5 Q To your knowledge, was Tom Sims ever being
6 considered by the federal government in a prosecution
7 involving a gun charge?

8 A I don't -- I don't know. It may have been
9 possible. I -- I don't know what the mechanisms of the
10 federal government with the gun charge are.

11 But I know that there was some
12 interest by the federal government in that area. But beyond
13 that, what that interest was and the extent of it, I don't
14 know.

15 Q How do you know that there was some interest
16 by the federal government in proceeding with a federal gun
17 case?

18 MR. SEATON: Judge, I'm going to object to
19 this. That would call for hearsay, and even if the hearsay
20 came out, it would all be speculation. Mr. Lukens has
21 indicated he just doesn't know.

22 MR. WOLFSON: Well, I'm not sure if it's
23 hearsay. It's not being offered for the truth of the matter
24 asserted. This is impeachment evidence as against Mr.

003095

1 Sims, who says that no considerations were made on his part.

2 MR. SEATON: If there are federal people who
3 can testify to that, they may subpoena them and bring them
4 in to court and then we will have people who I can
5 cross-examine.

6 MR. WOLFSON: But if the District Attorney
7 made certain concessions on his behalf, we don't need the
8 federal government.

9 MR. SEATON: Then ask him if he made
10 concessions.

11 THE COURT: Why don't you ask that question?

12 BY MR. WOLFSON:

13 Q Did you ever have any conversations with
14 Agent Terry Clark, in charge of the ATF, the Bureau of
15 Alcohol, Tobacco and Firearms department?

16 MR. SEATON: Judge, he is getting into
17 hearsay. The question to Mr. Lukens should be: Did he make
18 any concessions to the witness?

19 MR. WOLFSON: I know how to ask questions.

20 MR. SEATON: Well, I'm objecting to the form
21 of this one.

22 MR. WOLFSON: My question was: Did he ever
23 have any conversations with Terry Clark? That was my
24 question.

003096

1 THE COURT: Overruled.

2 You may answer the question.

3 BY MR. WOLFSON:

4 Q Do you remember the question, Mr. Lukens?

5 A The question was: Did I ever have a
6 conversation with Mr. Terry Clark of the ATF?

7 Q Yes.

8 A I don't remember whether I had a conver- --
9 I don't remember if it was Mr. Clark or who it was.

10 Q Do you remember having any conversations with
11 anybody from the Alcohol, Tobacco and Firearms division of
12 the federal government concerning Tom Sims?

13 A Yes.

14 Q So you did have, as you recall,
15 conversations with somebody from ATF concerning a possible
16 prosecution of Tom Sims.

17 A It -- I don't remember whether it was with
18 ATF or the U.S. Attorney's Office. I -- I don't have a
19 recollection of that. I remember speaking with somebody
20 involved in the federal criminal justice system.

21 Q To your knowledge, were any charges brought
22 against Tom Sims by the federal government?

23 MR. SEATON: Objection; that calls for
24 hearsay.

003097

1 He just brought a criminal
2 complaint in showing some charges. If he's got other
3 charges, he can bring in proof of that.

4 MR. WOLFSON: Well, Mr. Sims says that he
5 has not been prosecuted by the federal government. I
6 believe that came out of Mr. Sims' mouth himself.

7 My question is whether this
8 witness has knowledge --

9 THE COURT: Overrule the objection.
10 BY MR. WOLFSON:

11 Q To your knowledge, was Mr. Sims ever
12 prosecuted by the federal government or for any gun related
13 type charge, that you recall perhaps having a conversation
14 with someone about?

15 A I don't know.

16 MR. WOLFSON: Okay.

17 (Whereupon, a sotto voce at
18 this time.)

19 BY MR. SEATON:

20 Q In your conversations with witness Sims, did
21 he ever tell you of any conversations that he had with
22 Michael Rippe concerning any luggage that Mr. Rippe may have
23 had anything to do with?

24 A That's possible, but I don't have a distinct

003098

3

1 recollection of that.

2 MR. WOLFSON: That concludes my examination.

3 THE COURT: Cross-examination.

4 MR. SEATON: Thank you, Judge.

5

6

CROSS-EXAMINATION

7

BY MR. SEATON:

8

Q Regarding the charges that the State, our

9

office, had against Mr. Sims that you were aware of and that

10

were reflected in the defense exhibit -- was it H? -- that

11

showed his criminal complaint --

12

MR. WOLFSON: Yes.

13

MR. SEATON: Is that correct?

14

MR. WOLFSON: Yes.

15

BY MR. SEATON:

16

Q -- did you enter into any negotiations with

17

Mr. Sims regarding our office taking care or doing anything

18

with those charges in return for his testimony?

19

A No, I did not. I specifically did not.

20

Q Did he have a lawyer?

21

A He did.

4

22

Q That's Mr. Sims had a lawyer?

23

A Yes.

24

Q Who was that lawyer?

003099

1 A Robert Archie.

2 Q And were you aware of that at the time you
3 were having your conversations with Mr. Sims; is that --

4 A The very first conversation I had with Mr.
5 Sims, I asked him -- I had found out by then that there were
6 charges active in the office. I asked him if he had a
7 lawyer. He said yes. And I specifically requested that Mr.
8 Archie be present when we talked.

9 Q And when you talked with Mr. Sims, was Mr.
10 Archie, his lawyer, present?

11 A Yes.

12 Q Did you make any sort of negotiations or
13 anything with Mr. Archie in regard to Mr. Sims' case?

14 A Absolutely not.

15 Q To the best of your knowledge, then, Mr.
16 Sims had no deals with the District Attorney's Office
17 regarding his case and the testifying that he was going to
18 eventually do in this particular case against Mr. Rippo; is
19 that correct?

20 A Unless postponing his case until after the
21 conclusion of the Rippo case is considered that type of
22 arrangement or understanding, the answer is correct, there
23 were no deals, no offers.

24 Q In other words, if what Mr. Wolfson

003100

1 suggested to you, that somehow, in general terms, it's
2 beneficial to a defendant to have his case continued, that
3 would be the only benefit that Mr. Sims got out of all of
4 his dealings with the District Attorney's Office.

5 A That would be correct.

6 Q All right. And I'm going to get back to
7 that in just a moment.

8 Just having to do with this
9 discussion about the feds and ATF or the U.S. Attorney's
10 Office, are you aware, not -- 'cause I know you are not
11 aware of any charges that were pending against him with
12 those folks -- but were there any deals, any negotiations,
13 that you were aware of or you had anything to do with,
14 regarding any federal involvement at all on Mr. Sims'
15 behalf?

16 A No. I -- and I don't think I could bind the
17 federal government to anything at all.

18 Q And as you tell us here, you don't even know
19 if anything was going on with the federal government?

20 A No, I do not.

21 Q You said you had -- to the extent you could,
22 you had something to do with the continuing of Mr. Sims' own
23 personal charges?

24 A Yes.

003101

1 Q What?

2 A It would insure -- or it would do the best
3 that it could to insure that Mr. Sims would be present for
4 this trial.

5 If a criminal case -- there are
6 only two things that can result from the conclusion of a
7 criminal case:

8 One of those things is that the
9 defendant's -- the case goes forward and the defendant is
10 eventually acquitted, or the charges are resolved or
11 dismissed, and as a result, that individual then need have
12 no further contact with the system.

13 In Mr. Sims' case, I knew that
14 Mr. Sims was a very important witness in this case and
15 wanted him to be available for the time of trial.

16 The other alternative to going
17 forward with Mr. Sims' case would be equally bad, if not
18 worse, and that would be that if Mr. Sims were, in fact,
19 tried and convicted of the charges, then there would be a
20 substantial likelihood that he would be incarcerated, in
21 prison; and being incarcerated in prison and having given
22 testimony in a criminal case against a defendant, it is not
23 a good place to be. It puts his life in jeopardy.

24 And, therefore, that is also a

003102

1 bad result for the purposes of just achieving regular,
2 straight testimony at this trial. So to proceed with Mr.
3 Sims' case, there are two alternatives, both of which were
4 undesirable.

5 Q And so not to proceed with his case allows
6 things just to remain in the status quo, and he would then
7 ultimately be available to testify for the State?

8 A Absolutely.

9 And there is no -- then there
10 is no further -- once this trial is over, regardless of the
11 outcome, Mr. Sims' case can be decided on its own merits,
12 without -- because there have been no negotiations with
13 reference to testimony in this trial.

14 Q So now you had something to do with Mr.
15 Sims' case throughout its pendency, at least as it relates
16 to this case. And this case is about over.

17 What's going to happen to Mr.
18 Sims' own personal case?

19 MR. WOLFSON: Objection. I think that calls
20 for speculation on the part of this witness. He doesn't
21 know.

22 MR. SEATON: Well, he certainly does know.
23 He is the person who has been, to the extent he can, causing
24 it to be continued.

003103

1 Now I want to find out from him
2 if that's going to continue, if he's going dismiss the
3 charges, if he's going to try the case, what Mr. Lukens'
4 intent is on this.

5 MR. WOLFSON: I'm not even sure if Mr.
6 Lukens is the assigned prosecutor who can make that
7 decision. I think you need a better foundation on that one.

8 THE COURT: Lay more foundation.

9 BY MR. SEATON:

10 Q Mr. Lukens, you have testified here that Mr.
11 Sims had a case that was going on while the Ripppo case was
12 going on; is that correct?

13 A Yes, that's correct.

14 Q You became aware of that?

15 A Yes.

16 Q You decided to continue the -- the Sims case
17 so that Mr. Sims would be available for testimony in the
18 Ripppo case.

19 A Yes.

20 Q So that he wouldn't -- if -- but you didn't
21 want to have -- what you didn't want to have happen is for
22 his case to be concluded in such a way that he would leave
23 the system and be lost and we would not be able to find him;
24 or he would get what we call a snitch jacket, for having

003104

1 testified in court on Mr. Ripppo, put on him and get in
2 trouble in prison?

3 A That's correct.

4 Q And then perhaps choose not to testify as a
5 result of that.

6 A Correct.

7 Q That the position you've taken up to this
8 point?

9 A Yes.

10 Q And you were -- you were aware that his case
11 is still pending in the system?

12 A I believe it to be.

13 Q And in the same light as what you had -- to
14 the extent you had involved yourself before, do you plan on
15 trying to have his case dismissed or otherwise treated in a
16 favorable manner after the conclusion of the Ripppo case?

17 A I do not.

18 Q And you are an administrator in the office
19 of the District Attorney's Office, are you not?

20 A I am a chief deputy.

21 Q And you are in charge of a particular unit?

22 A Yes.

23 Q And you have people working underneath of
24 you?

003105

1 A Yes.

2 Q And you have control over cases.

3 A Yes.

4 Q Is the Sims' case going to go forward as it
5 originally had?

6 MR. DUNLEAVY: Objection, Your Honor.

7 There is no foundation that the
8 unit he's in handles this case.

9 THE COURT: Sustained.

10 MR. SEATON: It doesn't matter. They
11 brought him on. This is cross-examination. This isn't
12 direct examination anymore. They brought him on. They
13 asked him what his past history with the case is. I have
14 the right to ask him what his future intentions are with the
15 case.

16 THE COURT: Well, why don't you ask him, in
17 his position, could he still have any control over the Sims'
18 case.

19 BY MR. SEATON:

20 Q Just as you had control over the Sims case,
21 to some extent before, in terms of its continuance, could
22 you still maintain some control over it as it --

23 A Could I --

24 Q -- as --

003106

1 A The answer --

2 Q Let me finish.

3 A Yes.

4 MR. SEATON: You've always talked over me,
5 John. It's my turn now.

6 THE COURT: And will continue to do so.

7 BY MR. SEATON:

8 Q Are you in a position where, if you chose,
9 and you have indicated before that you still maintain an
10 interest in this case, could you have some bearing on the
11 Sims case in terms of how it was to be treated within the
12 office of the District Attorney?

13 A Yes.

14 Q And how is it going to be treated by the
15 District Attorney from your point of view?

16 A It will go back to being a regular case that
17 will stand and fall on its own merits.

18 Q All right. You were asked something about
19 whether or not Tom Sims had said to you something about an
20 accidental killing; and you said that he had not made that
21 kind of statement to you; is that correct?

22 A That's correct.

23 Q What kind of statements did he make to you?

24 A He talked about the statement that the --

003107

1 with reference --

2 Q No. Just let me interrupt for just a
3 second.

4 These are statements that Mike
5 Ripppo, here in court with us today, made to Tom Sims, that
6 Tom Sims related to you; is that correct?

7 A Yes.

8 MR. WOLFSON: Excuse me. I'm going to
9 object as to the form of that question.

10 These are statements that Mr.
11 Lukens is going to relate that Tom Sims said Michael said.
12 Mr. Seaton put kind of a twist on it, that he knew that
13 Michael said that.

14 MR. SEATON: Far be it from me to put a
15 twist on anything.

16 BY MR. SEATON:

17 Q Mr. Lukens, would you tell us exactly what
18 it was that Tom Sims told you that Mike Ripppo told him.

19 A With reference to this case, he mentioned --
20 he said that Mike Ripppo, in talking about the car, said that
21 somebody had to die for this car.

22 Q Mr. Ripppo had said that to Mr. Sims?

23 A Mr. Ripppo had said that.

24 There was discussion about some

003108

1 tapes, and that's why, in response to Mr. Wolfson's question
2 about the -- some luggage, I gave pause to that because I
3 don't know if there was discussion about the tapes and the
4 luggage at the same time.

5 Q And then there was some discussion at one
6 time, um, about a brown vial?

7 A I remember statements concerning a brown
8 vial.

9 Q Is that brown vial supposed to contain
10 anything?

11 A It was supposed to have contained morphine.

12 Q Okay.

13 A Then there was a statement that I was
14 particularly interested in, with reference to his statement
15 that he was cured.

16 Q Whose statement that he was cured?

17 A Mr. Ripppo's statement to Tom Sims: I'm
18 cured. I didn't rape the bitches.

19 That was the extent of the
20 statements concerning this case. There was probably more
21 detail, but that's the extent that I remember now.

22 Q When you met with Mr. Sims, did you take
23 notes?

24 A I did not.

D03109

1 Q Why not?

2 A Because I wanted to look at Mr. Sims,
3 evaluate Mr. Sims, his response, his emotions, how he was
4 looking. I wanted all of my attention focused on him.

5 And also, Miss Lowry was with
6 me and she generally takes excellent notes, either
7 contemporaneously, as they are being said, or shortly
8 thereafter, she will go back and take notes, so I did not
9 need to take notes at that time.

10 MR. SEATON: Thank you, Mr. Lukens.

11 I have no more questions.

12

13 REDIRECT EXAMINATION

14 BY MR. WOLFSON:

15 Q Mr. Lukens, do you know how many prior
16 felony convictions Tom Sims had or has at the present time?

17 A I do not know. I know that there are
18 several, multiple. That's one of the reasons why I believed
19 that if he were convicted of anything, the likelihood of him
20 going to prison was great.

21 Q Possession of controlled substance with
22 intent to sell, which is the first felony Mr. Sims has
23 pending, carries what possible sentence, as if he were
24 convicted for an offense in May of 1993?

003110

1 A Probably it's a one to fifteen.

2 Q Possession of controlled substance carries a
3 possible present sentence of how many years?

4 A It -- simple possession, I think, is one to
5 six.

6 Q And possession of a firearm by ex-felon, do
7 you know what possible sentence that carries?

8 A It's either one to ten or one to five or one
9 to six, somewhere in those ranges.

10 MR. WOLFSON: I think the Court can take
11 Judicial notice that it's a one to six year possible prison
12 sentence.

13 Mr. Prosecutor, do you have any
14 objection to the Court taking Judicial notice of that fact?

15 MR. SEATON: No, I don't.

16 THE COURT: The Court will so take.

17 BY MR. WOLFSON:

18 Q So Mr. Sims was then facing 27 years in
19 prison, and is still facing 27 years in prison for the
20 criminal complaint he's being proceeded against by your
21 office?

22 A Probably, yes, if those numbers are correct.

23 Q And do you know what the habitual criminal
24 statute is?

003111

1 A Yes, I do.

2 Q What is that?

3 A Habitual criminal statute is a statute that
4 says after a person has committed so many felonies, we may
5 treat him as an habitual criminal.

6 And it falls into two
7 categories: One, it is known as the little bitch; and then
8 the other, what's known as the big bitch.

9 The little bitch can carry -- I
10 think it's -- I think it's a 20 year sentence; and a big
11 bitch can carry a life sentence.

12 Q There has been testimony in this case from
13 Mr. Sims himself that he has three prior felony convictions.

14 Would that qualify him for the
15 small habitual criminal prosecution or the big bitch, as you
16 call it?

17 A I think the big bitch is five and I think
18 the little one is three.

19 Q Could you be wrong?

20 A Yes.

21 Q In any event, that would be a potential
22 additional number of years on top of the 27 that he's
23 currently facing, if the District Attorney chose to file
24 habitual criminal --

003112

1 A I don't think so. I think it's sentencing
2 in lieu of. In other words, you don't do the regular
3 charges; you sentence him in lieu of those.

4 Q And is that a choice that's within the
5 discretion of the prosecutor's office?

6 A No. It's a discretion -- in other words, we
7 would file it. We would ask the judge to sentence him as
8 that, but I think it's up -- the Judge has discretion.

9 Q Okay.

10 A So the discretion is with the Judge.

11 Q But the District Attorney has the discretion
12 whether to file the habitual criminal allegation, do they
13 not?

14 A Yes.

15 Q And to your knowledge, was that filed
16 against witness Tom Sims?

17 A It would not have been at that time. It
18 would have been not the appropriate time to do it.

19 MR. WOLFSON: Court's indulgence.

20 Your Honor, we'd -- I'm sorry.

21 (Whereupon, a sotto voce at
22 this time.)

23 MR. WOLFSON: Your Honor, would you take
24 Judicial notice that three prior felony convictions

003113

1 qualifies a person for potential habitual criminal status?

2 THE COURT: The Court will take judicial
3 notice of that fact.

4 BY MR. WOLFSON:

5 Q As you sit here today, Mr. Lukens, after
6 absorbing the discussion, in your opinion, do you believe
7 that Tom Sims received any consideration for his testimony
8 in this case?

9 A No.

10 Q So a person who has his prosecution delayed
11 for almost three years, no habitual criminal filing and a
12 delayed prosecution is receiving no benefit?

13 A If you say that the -- the answer to the
14 question with reference to the habitual criminal filing,
15 doesn't apply because those charges are not filed until --
16 you don't seek that until after the conviction of the
17 underlying charges. So that's premature.

18 The delay, I assume you could
19 probably consider to be an advantage to him; if he is going
20 to be incarcerated, it delays that incarceration. And if it
21 allows him to remain out and free and with his family, and
22 if that's an advantage, then you could consider it as an
23 advantage that he is receiving.

24 MR. WOLFSON: That concludes my examination.

003114

RE-CROSS-EXAMINATION

BY MR. SEATON:

Q But his kind of charges require the testimony only of police officers and lab personnel, do they not?

MR. WOLFSON: Objection; that calls for speculation on the part of Mr. Lukens.

THE COURT: Sustained.

MR. WOLFSON: He doesn't know what the capabilities --

MR. SEATON: I don't have any more questions.

THE COURT: Thank you, Mr. Lukens.

You are excused.

(Whereupon, the witness was excused.)

MR. WOLFSON: Court's indulgence.

(Whereupon, a sotto voce at this time.)

THE WITNESS: Your Honor, am I excused?

THE COURT: Yes, sir.

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(Whereupon, a sotto voce at this time.)

MR. DUNLEAVY: Your Honor, may we approach the bench for a moment?

THE COURT: Of course.

(Discussion off the record.)

THE COURT: Do you want to put your stipulation on the record?

MR. DUNLEAVY: Yes, Your Honor.

At this time, we want to advise the Jury that there is a stipulation between the State and the defense that, in fact, Mr. Ripppo has no tattoos.

MR. HARMON: That's correct, Your Honor.

THE COURT: Okay. What we're going to do -- there may be some more testimony. We won't know that until tomorrow.

So -- but at any rate, this case is going to end tomorrow. So be prepared to begin your deliberations late afternoon tomorrow.

We'll reconvene tomorrow morning at 10:15.

So until then: Do not converse

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1 among yourselves or with anyone else on any subject
2 connected with this trial;

3 Read, watch, listen to any
4 report or commentary on the trial, by any medium of
5 information, including, without limitation, newspaper,
6 television and radio; or

7 Form or express any opinion on
8 this trial until the matter is finally submitted to you.

9 Have a good day.

10
11 (Proceedings adjourned until Tuesday,
12 March 5, 1996, at 10:15 a.m.)

13 * * * * *

14 ATTEST: Full, true and accurate transcript of proceedings.

15 
16 RENEE SILVAGGIO, C.C.R. NO. 122
17 OFFICIAL COURT REPORTER
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IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL RIPPO,
Appellant,
-vs-
E.K. McDANIEL, et al.,
Respondent.

No. 53626

FILED

OCT 19 2009

TRACEY A. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

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33	253. Pre-Sentence Report, <u>State v. Rippo</u> , Case No. 97388, dated April 23, 1982		JA07776-JA07782
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8

1 Q And in reference to the driveway in the
2 street, is there a sidewalk there?

3 A Yes, there is, but it's got a chain link
4 fence around it that's got a rolled gate for the driveway.

5 Q Were you inside that fence and gate?

6 A When Dan grabbed him, yeah.

7 Q And how did Mr. Rippo get away?

8 A Um, it was -- then they were struggling like
9 they were in the street then.

10 Q Oh, the struggle moved out past the gate
11 into the street?

12 A Yes.

13 Q And then when Mr. Rippo broke away and ran
14 away, did he run down the street, the sidewalk --

15 A The street.

16 Q Was he running slow or fast?

17 A He was moving.

18 Q Fast?

19 A Yes.

20 Q Did anyone catch him?

21 A No.

22 Q Did anyone go after him?

23 A We started to and then he was gone.

24 Q So you discontinued your effort?

002640

8

1 A Right.

2 Q You said that he had driven up to the Nelson
3 Street address in the brown Isuzu; is that correct?

4 A Yes.

5 Q The truck?

6 MR. DUNLEAVY: Your Honor, I object. That's
7 been asked and answered.

8 THE COURT: Overruled.

9 BY MR. SEATON:

10 Q Did he take that with him when he left?

11 A No, no.

12 Q Did it stay?

13 A Yep.

14 Q Did the police officers come?

15 A Yes.

16 Q How soon after he left did they come?

17 A Twenty, 25 minutes later.

18 Q Do you know, of your own knowledge, if
19 someone within your group called the police?

20 A Yes.

21 Q When they came, did they ask all of you
22 questions?

23 A Yes, they did.

24 Q Did they ask specifically you questions?

002641

8 1 A Yes.

2 Q Did you answer them?

3 A Yes.

4 Q Did they -- were they able to recover the
5 brown bag at your -- in your brother's car?

6 A Yes, they were.

7 Q How did they get there to do that?

8 A They went to my father's house and --

9 Q Did you go with them?

10 A No, I didn't.

11 Q Did you end up going to -- did you tell
12 them, the police, that is, where the brown bag was?

13 A Yes.

14 Q Did you do that voluntarily?

15 A Yes.

16 Q Did you go to the Metropolitan Police
17 Department?

18 A Yes.

19 Q And while there, did you give a formal
20 statement?

21 A Yes, I did.

22 Q After that was over, where did you go?

23 A After the formal statement was over?

24 Q Yes.

002642

9

1 A I believe I went home.

2 Q Did you ever go to a K-Mart parking lot?

3 A Yes, I did.

4 Q When did that occur?

5 A That was a couple days later.

6 Q What was the purpose in going to the K-Mart?

7 A We were looking for a car that Diana was
8 driving.

9 Q And what kind of a car was that?

10 A A white Pinto.

11 Q Had you ever seen that car before?

12 A No.

13 Q But you had learned that she had a white
14 Pinto?

15 A Yes.

16 Q What was your purpose in going to locate a
17 white Pinto?

18 A Maybe find some more of Denise's belongings.

19 Q And when you went to the K-Mart, where is
20 that located?

21 A It's on Rainbow and Spring Mountain.

22 Q When you got to Rainbow and Spring Mountain
23 in the K-Mart parking lot, did you find a Pinto automobile
24 there?

002643

9

1 A Yes, we did.

2 Q Did you look into it?

3 A Yes, we did.

4 Q How did you get into the car?

5 A Broke the window.

6 Q And did you gain entry that way?

7 A Yes.

8 Q When you looked in it, did you find anything
9 that belonged to Denise?

10 A Nothing.

11 Q Showing you 72 -- 71 and 72, does that
12 appear to be the Pinto?

13 A Yes, it does.

14 Q Okay. When you found the Pinto in the
15 K-Mart, did you call the police?

16 A No.

17 Q Mr. Beaudoin, have you been convicted of a
18 felony?

19 A Yes, I have.

20 Q How many?

21 A Two.

22 Q What were they for?

23 A Drugs.

24 MR. SEATON: That concludes direct, Judge.

002644

9 1 THE COURT: Do you want to do cross?

2 MR. WOLFSON: May we approach?

3
4 (Whereupon, an off-the-record
5 discussion was had.)
6

7 THE COURT: We'll begin tomorrow with
8 cross-examination at approximately 10:30.

9 Remember: Do not converse
10 among yourselves or with anyone else on any subject
11 connected with this trial;

12 Read, watch, listen to any
13 report or commentary on the trial by any medium of
14 information, including, without limitation, newspapers,
15 television or radio; or

16 Form or express any opinion on
17 any subject connected with this trial until the matter is
18 finally submitted to you. Have a good evening.
19

20 (Proceedings recessed until Friday,
21 March 1, 1996, at 10:30 a.m.)
22 * * * * *

23 ATTEST: Full, true and accurate transcript of proceedings.
24


RENEE SILVAGGIO, C.C.R. NO. 122
OFFICIAL COURT REPORTER

002645

--FILED IN OPEN COURT--

MAR 05 1996 19

LORETTA BOWMAN, CLERK

Josephine Deputy

ORIGINAL

DISTRICT COURT

CLARK COUNTY, NEVADA

The State of Nevada,

Plaintiff,

vs.

Michael Daman Rippe,
#0619119

Defendant.

Case No. C106784

Dept. No. IV

Docket No. "C"

Before the Honorable Gerard J. Bongiovanni

Friday, March 1, 1996, 9:00 o'clock a.m.

Reporter's Transcript of Proceedings

JURY TRIAL

BY: Renee Silvaggio, C.C.R. No. 122

CE12

RENEE SILVAGGIO, CCR 122 391-0379

1 APPEARANCES:

2 For the State: MELVYN T. HARMON, ESQ.
3 DANIEL SEATON, ESQ.
Deputies District Attorney

4 For the Defendant: STEVEN B. WOLFSON, ESQ.
5 PHILIP H. DUNLEAVY, ESQ.
6 Attorneys at Law

7 Law Clerk: Delwin Potter
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RENEE SILVAGGIO, CCR 122 391-0379

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Las Vegas, Nevada, Friday, March 1, 1996, 9:00 a.m.

* * * * *

(The following proceedings were
had in open court outside the
presence of the jury:)

THE COURT: State of Nevada versus Michael
Damon Ripppo.

Let the record reflect the
presence of the defendant, with his attorney Phillip
Dunleavy; Mel Harmon for the State.

The record will reflect we're
outside the presence of the jury.

MR. DUNLEAVY: Which order would you like to
take these in, Your Honor?

THE COURT: What?

MR. DUNLEAVY: Which order would you like to
take these in?

THE COURT: It doesn't matter to me.

MR. DUNLEAVY: May I suggest we take the one
to preclude consideration of the victim impact.

THE COURT: Okay.

MR. DUNLEAVY: What I've set forth -- and
I'll try and be real brief because it's set forth in the

RENEE SILVAGGIO, CCR 122 391-0379

points -- is that in Payne versus Tennessee, they didn't mandate this kind of testimony come in; they only said if the State felt it was necessary, they could enact laws authorizing it to come in, as long as it didn't violate due process.

Our statutory scheme is three statutes: 175.552, which is very vague and ambiguous, and just says defendant or victim in any other matter; that's a wide open statute;

N.R.S. 200.033, which is the aggravating circumstances, which says circumstances aggravating first degree murder, the only circumstances by which murder of the first degree may be aggravated are, and it lists them. Victim impact is not on that list;

And N.R.S. 200.035, which, in essence, says any other, but it has to be mitigating and it's to be presented in a mitigating fashion. This is clearly not mitigating evidence.

We submit that there is abundant case law that an inappropriate aggravating circumstance is invalid. It would invalidate the verdict and it should not be allowed.

The bottom line is: Even the Supreme Court has indicated that this kind of testimony is

1 aggravating -- what other purpose does it have? It pulls at
2 the Jury's heart strings. It's what the State relies upon
3 to try and get their death penalty. It's the club the State
4 is using to get people killed.

5 And we submit that it's
6 improper when they are using it basically as an aggravating
7 circumstance; and we have a statutory scheme that limits
8 aggravating circumstances to only 12 possible options, and
9 this is not one of them.

10 Since our state did not choose
11 to create a specific statute defining aggravating
12 circumstances and including the victim impact statement,
13 then I don't believe our state has properly enacted a
14 statute authorizing it.

15 THE COURT: Mr. Harmon?

16 MR. HARMON: Your Honor, our state has done
17 that. The very point in time that the statutory scheme was
18 created, which applies to penalty hearings, our state
19 enacted 175.552, and that language makes it very clear that
20 a relevant factor will be evidence regarding the victim.

21 I'm talking about subheading
22 (3) of 175.552:

23 In the hearing -- and it's
24 talking about the penalty hearing -- evidence may

1 he presented concerning aggravating and mitigating
2 circumstances relevant to the offense, defendant or
3 victim and on any other matter which the Court
4 deems relevant to sentence, whether or not the
5 evidence is ordinarily admissible.

6 Your Honor, what Payne v.
7 Tennessee did was remove a striking imbalance, which, up to
8 that point, was occurring in penalty hearings, and it
9 actually was a travesty, that the defense was left free,
10 without any type of evidentiary restraint, to parade
11 witnesses before the jury extolling the background and
12 virtues of the killer, while the prosecution was left with
13 no opportunity to personalize the type of victim who had
14 been murdered and to bring out the devastating impact the
15 killing had on family and friends of the victim.

16 Mr. Dunleavy says what other
17 reason could there be than to inflame the jury and assist in
18 securing a death penalty?

19 Well, the reason is, Your
20 Honor, to establish that, just as the defendant is a unique
21 human being, so the victim also has his or her uniqueness;
22 and the only way the jury can actually determine what
23 specific harm has occurred in a particular case is for them
24 also to hear the so-called victim impact evidence.

2

1 Your Honor, since Payne v.
2 Tennessee, which made it possible, under the strict language
3 of that case, for the prosecution to present evidence
4 regarding the type of individual the victim was, and also
5 evidence regarding the impact the death has caused upon the
6 family, our state Supreme Court, here in Nevada, on at least
7 four separate occasions, has approved the use of victim
8 impact evidence at penalty hearings.

9 And they pointed out that the
10 applicable statute is 175.552. They pointed out that the
11 trial court has broad discretion in permitting victim impact
12 evidence under that language.

13 And I cite, for the Court's
14 consideration, Guy v. State -- that's G-u-y -- reported at
15 108 Nevada, 770. It is a 1992 decision;

16 Lane v. State, L-a-n-e, at 110
17 Nevada, 1156, a 1994 decision;

18 Smith v. State, reported also
19 at 110 Nevada, 1094; another 1994 decision;

20 And these cases also reference
21 Hamick v. State, H-o-m-i-c-k.

22 Your Honor, it's abundantly
23 clear that in order to keep the playing field even, in order
24 for the jury to be able to assess not only the background

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1 and the personality of the defendant, but to keep it even,
2 to keep it fair, and for them to be able to assess the
3 gravity of a particular crime, so they can determine the
4 precise moral culpability, they have a right, as Payne
5 informs this Court and all other courts, to hear from the
6 family of the victim.

7 MR. DUNLEAVY: Very briefly, Your Honor.

8 I would just point out, those
9 cases emphasize the presiding Judge in a capital sentence
10 proceeding must exercise great caution in determining the
11 admissibility of victim impact. There is a lot of limits on
12 it.

13 Payne never said it has to come
14 in. Payne didn't even say it should come in. Payne just
15 said it's not a violation of the Eighth Amendment to allow
16 it to come in and put the burden on the states to create a
17 statutory scheme.

18 Now, our Supreme Court has
19 looked at this 175.552, but nobody has pointed out to them
20 that there is absolute bars to expanding the aggravating
21 circumstances, and the aggravating circumstances are
22 statutorily defined in this state.

23 If we have a general statute
24 that authorizes something, and a specific statute that

1 narrows it, the specific statute is supposed to control; and
2 we submit the specific statute is 200.033, which says it's
3 not there.

4 I would submit it.

5 THE COURT: All right. All right.

6 The motion to preclude
7 consideration of victim impact evidence, pursuant to N.R.S.
8 175.552, 200.033 and 200.035, is denied.

9 MR. DUNLEAVY: Any preference on the next
10 one?

11 THE COURT: You can make your choice.

12 MR. DUNLEAVY: Pretrial judicial review.

13 THE COURT: Okay.

14 MR. DUNLEAVY: What we're asking the Court
15 to do is require the State, through calling the witnesses
16 and demonstrating to the Court, what testimony they are
17 intending to solicit, because the Supreme Court in Payne
18 made it quite clear that this testimony can be so
19 prejudicial as to taint or poison the entire proceedings.

20 We don't want to see this case
21 mistried in this phase of the hearing, if we should ever get
22 to it. This is the one specifically where I cite the
23 language about the obligation of the trial judge to exercise
24 great care in trying to limit this.

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2 1 Payne only authorizes a
2 snapshot. Now we're talking about an entire movie of the
3 victim's life, and that is not what happened in Payne.

4 In Payne, there was basically a
5 one sentence victim impact statement. Now the states have
6 expanded that to have witness after witness after witness
7 come in and testify.

8 In Payne all that it said is
9 that the child missed its mother and baby sister and
10 wondered when they were going to come home.

11 We've gone a long ways from
12 there since then, and I think the Court has to look at how
13 highly prejudicial this evidence can be, how emotionally
14 compelling it can be to the jury, because the Supreme Court
15 has made it quite clear, if a jury is emotionally compelled
16 to a verdict, it is an unreliable verdict and not one that
17 can be trusted, and they overturned the cases.

18 And we have to have a narrowing
19 limitation, and I submit that the appropriate way to do it,
20 as we're asking for, is to have the State put these
21 witnesses on the stand so we can see what the nature and
22 scope of the testimony is going to be before we taint the
23 jury.

24 MR. HARMON: And are we going to do the same

3

1 thing, then, Judge, and try the penalty hearing twice for
2 every defense witness who is summoned to present evidence of
3 the character of Mr. Rippo?

4 Well, I think that would be
5 inappropriate, just as I think this is inappropriate.

6 Now, Mr. Dunleavy talks about
7 the Payne decision. With the Court's indulgence, I'd like
8 to refer to specific language from the decision on two
9 pages. Payne is reported -- it's P-a-y-n-e, versus
10 Tennessee -- at 111 Supreme Court, 2597, a 1991 decision.

11 And at page 2608, the Court
12 says, quote:

13 We are now of the view that a
14 State may properly conclude that for the jury to
15 assess meaningfully the defendant's moral
16 culpability and blameworthiness, it should have
17 before it -- it should have before it, at the
18 sentencing phase, evidence of the specific harm
19 caused by the defendant.

20 And then there is reference a
21 little later to the importance of not turning the victim
22 into a faceless stranger at the penalty hearing of a capital
23 trial.

24 The main court then cites

3

1 language used by the Tennessee Supreme Court as follows--
2 and I quote from page 2609:

3 The Supreme Court of Tennessee
4 in this case obviously felt the unfairness of the
5 rule pronounced by Booth when it said, subquote:

6 It is an affront to the
7 civilized members of the human race to say that at
8 a sentencing in a capital case, a parade of
9 witnesses may praise the background, character and
10 good deeds of the defendant, without limitation as
11 to relevancy, but nothing may be said that
12 bears upon the character of, or the harm imposed
13 upon, the victims.

14 And then the court, in Payne,
15 presents its holding, which is also at 2609:

16 We thus hold that if the State
17 chooses to permit the admission of victim impact
18 evidence and prosecutorial argument on that
19 subject, the Eighth Amendment erects no per se bar.
20 A State may legitimately conclude that evidence
21 about the victim and about the impact of the murder
22 on the victim's family is relevant to the jury's
23 decision as to whether or not the death penalty
24 should be imposed. There is no reason to treat

3
1. such evidence differently than any other relevant
2. evidence is treated.

3. Your Honor, we oppose this
4. motion because we understand very well what the guidelines
5. are of the Payne holding.

6. We've already instructed those
7. who intend to give victim impact statements, in the event
8. there is a penalty hearing in this case, that they are not
9. to take the witness stand and offer interpretations about
10. how heinous these crimes are; that they are not to volunteer
11. information about their wishes regarding punishment.

12. We have instructed them
13. already, and will continue to give them guidance, that the
14. victim impact statement is limited to the following
15. parameters:

16. It is important that the victim
17. be personalized to those who will impose the punishment, and
18. so impact witnesses are permitted to explain what type of
19. person the victim was and to share with the jury things
20. about the personality and life of that individual; and,

21. Number two, the impact
22. statement will include a recitation of what type of impact
23. the murders have had upon the victims.

24. Your Honor, that is clearly the

3
1 holding of Payne. The Court undoubtedly, pursuant to
2 175.552, should properly exercise its discretion in
3 providing those types of limitations on the victim impact
4 evidence.

5 I'm simply saying, Judge, we
6 understand what the guidelines are. We don't intend to step
7 beyond the boundary established by the Payne decision.

8 Therefore, this motion, which
9 calls for some type of pre-hearing judicial review of the
10 evidence is unnecessary.

11 MR. DUNLEAVY: Your Honor, very
12 briefly.

13 Your Honor, Mr. Harmon started
14 off saying that they want the same kind of hearing on the
15 defendant, but the court has repeatedly held: Any
16 relevating -- relevant mitigating evidence that the
17 defendant proffers in support of a sentence less than death,
18 virtually no limits are placed on the relevant mitigating
19 evidence.

20 Mitigating is wide open. The
21 statutes say so; the Supreme Court says so; everybody says
22 so.

23 There is a lot of difference
24 between that and this new area we're getting into, the

4
1 victim impact statements.

2 And that -- in the Payne case,
3 they pointed out the jury should see a quick glimpse of the
4 life which a defendant chose to extinguish. A quick
5 glimpse; it's not a wide open, call everybody you can think
6 of who wants to say something, and they have been repeatedly
7 cautioned that this testimony can violate the constitutional
8 provision.

9 Mr. Harmon has already
10 addressed some of the issues I raised in another motion
11 about the limited areas of this, but we submit there should
12 be some kind of a pretrial screening, a written proffer or
13 something, saying that they are going to limit the areas of
14 this and that the judge can preview it before the jury does.

15 I submit that.

16 THE COURT: As long as they stay within the
17 parameters set forth by Mr. Harmon and do not -- these
18 impact witnesses do not state what they believe the penalty
19 should be or make any statements regarding how heinous the
20 crime was, stay within those parameters, as to just the
21 effects and -- character of the victim and the effects on
22 the family, I think it should be allowed.

23 I see no reason to preview all
24 these witnesses. I consider it a waste of court time.

4
1 because I can't be assured that what they state outside the
2 presence of the jury is going to be the same testimony
3 they're going to make when they're asked a question in front
4 of the jury.

5 So the motion is denied.

6 MR. DUNLEAVY: I think the next one, which
7 should be very brief now, is the motion to limit
8 characterizations and opinions about the crime, the
9 defendant and/or the appropriate sentence, which is -- I
10 have as a separate motion.

11 I would submit it on the
12 argument we just made in the other motion. I believe what
13 we're talking about is making sure they do limit themselves
14 to what Payne has authorized and do not make comments
15 regarding the characterization of the crime, the defendant
16 or the appropriate sentence. And I believe Mr. Harmon has
17 already indicated that they've been advised on that.

18 MR. HARMON: Yes, Your Honor.

19 MR. DUNLEAVY: That was the purpose of this
20 motion, to make sure that happens.

21 THE COURT: That takes care of that motion.

22 MR. DUNLEAVY: The next motion I think
23 logically would be the cumulative motion, the motion to bar
24 admission of cumulative victim impact evidence. This is

4 1 motion number three.

2 MR. HARMON: Your Honor, a very brief
3 response. I have checked with the family in anticipation of
4 the hearing this morning. Regarding Mr. and Mrs. Jacobson,
5 they've decided that if the Court permits it, Mr. Jacobson
6 will address the Jury on behalf of Lauri Jacobson.

7 So in terms of that victim, if
8 there is to be a penalty hearing, there would be one victim
9 impact witness. So there certainly is going to be no --
10 nothing cumulative at all regarding that victim.

11 Regarding Denise Lizzi, there
12 are three members of the family who wish to address the
13 Jury: The parents and a brother. They have assured me that
14 they have a different perspective. The impact of her death
15 has affected them differently. There isn't going to be any
16 cumulative testimony offered to the Jury, Your Honor.

17 MR. DUNLEAVY: Your Honor, I
18 would submit the reason I filed this motion is I was made
19 aware there are several jurisdictions that have barred
20 certain areas and it's working its way up through the courts
21 at this time.

22 And what the bars have been is,
23 for instance, calling the mother to come in and testify
24 about what the impact has been to her; then calling the

4

1 husband to tell us what the victim's -- or what the impact
2 has been to the wife; and then you call the son, who comes
3 in and says this is how it affected my mother; and it's just
4 stacking up one particular person.

5 THE COURT: Okay.

6 MR. DUNLEAVY: We want to make sure they
7 know they can't do that.

8 THE COURT: I think Mr. Harmon said it's
9 going to be limited as to how each victim impact witness --
10 the effect it had on them personally.

11 Is that correct?

12 MR. HARMON: Yes, Your Honor.

13 THE COURT: All right. It will be limited
14 in that way.

15 MR. DUNLEAVY: And the final one, Your
16 Honor, is the motion to disclose exculpatory evidence in
17 this area.

18 It's one of those things where
19 the defense really has no access; and we're asking the State
20 to inquire: Are there members of this family that are
21 opposed to the death penalty; or are there members of this
22 family that are going to feel bad if the death penalty
23 should be imposed; are there family members that -- one or
24 more members -- don't believe in the death penalty; or one

5

5 1 or more members believe that it's wrong or that they're
2 going to feel guilty about it or something like that.

3 If that's out there, we should
4 have that information or it should be provided to the jury,
5 to know that not everybody in the family agrees on the death
6 penalty.

7 Some families, there is a lot
8 of dissension on this issue; some there is not. Statistics
9 show that most families -- there is a diversity on this
10 issue.

11 THE COURT: You just argued before that you
12 don't think it's right for them to say what should happen to
13 the defendant.

14 MR. DUNLEAVY: That's right, Your Honor.

15 THE COURT: And now you are contradicting
16 yourself.

17 MR. DUNLEAVY: Because courts have held that
18 beliefs that they're quoting established that the victim's
19 family members would experience anxiety, guilt, depression,
20 blame, trepidation, doubt or moral indignation in the event
21 the defendant was executed for the murder of his or her
22 loved one is exculpatory.

23 That comes under the open
24 mitigating, if they're opposed to the death penalty, and

5
1 that's why it's couched in that specific language. If they
2 have anxiety, depression, blame, trepidation, doubt or moral
3 indignation in the event, then we're entitled to know that,
4 and we could make a decision whether or not we feel the jury
5 should be advised of that as a mitigating factor.

6 MR. HARMON: Your Honor, with due respect to
7 Mr. Dunleavy, this motion is a joke, and it also is a
8 contradiction.

9 Even assuming, for the sake of
10 argument, fitting his very loose definition of exculpatory
11 evidence, that there was that type of sentiment somewhere
12 hidden within the Lizzi and Jacobson families, it wouldn't
13 be admissible because he's already argued that they're not
14 permitted to talk about punishment.

15 I would suggest that any
16 statements by family members, whether it's from Mr. Rippo's
17 family or friends or from the victims, which pertains to
18 their opinions about punishment is not pertinent, is not
19 relevant, and should not be permitted to come before the
20 jury.

21 I will tell the Court, just for
22 the benefit, I suppose, of Mr. Dunleavy, that there is no
23 such exculpatory evidence available for us to make
24 discoverable to him. There is no such sentiment in the

5 1 families of these victims.

2 THE COURT: All right. Your motion is
3 denied.

4 Is that it?

5 MR. DUNLEAVY: Yes, Your Honor.

6
7 (Whereupon, a recess was had in
8 the proceedings, at the
9 conclusion of which the
10 following was had:)

11 (The following proceedings were
12 had in open court in the
13 presence of the jury:)

14 THE COURT: Good morning.

15 Case Number C106784, State of
16 Nevada versus Michael Damon Rippe.

17 Let the record reflect the
18 presence of the defendant, with his attorneys Philip
19 Dunleavy and Steven Wolfson; Dan Seaton and Mel Harmon
20 representing the State of Nevada.

21 Counsel stipulate to the
22 presence of the jury?

23 MR. SEATON: Yes, Judge.

24 MR. DUNLEAVY: Yes, Your Honor.

THE COURT: I believe you were recalling

1 Mike Beaudoin.

2 Do you understand you are still
3 under oath?

4 THE WITNESS: Yes, sir.

5 THE COURT: Cross-examination.

6
7 MICHAEL BEAUDOIN

8 the witness on the stand at time of adjournment,
9 having been previously duly sworn, resumed the
10 stand, and testified further as follows:

11
12 CROSS-EXAMINATION

13 BY MR. DUNLEAVY:

14 Q Good morning, sir.

15 Now, I need to clarify a couple
16 things. Yesterday, I got confused.

17 You and Denise Lizzi had been
18 friends -- or was it you and Lauri Jacobson?

19 A Denise.

20 Q Okay. -- and for about ten years?

21 A Yes, sir.

22 Q She had been your live-in girlfriend for
23 about the last three --

24 A Yes.

5

1

Q -- is that correct?

2

And what was your relationship

3

with Diana Hunt?

4

A Acquaintance.

5

Q Just a casual acquaintance?

6

A Yes.

7

Q Was there any business transactions going

8

on?

9

A Yes.

10

Q Was she selling drugs for you?

11

A She wasn't selling drugs for me. She was

12

buying drugs from me.

13

Q She was buying them from you. Okay.

14

You met on a regular basis for

15

that purpose?

16

A No.

17

Q Weekly, monthly; how would it be?

18

A No. I'd only known Diana Hunt maybe two

19

months.

20

Q Had you ever met Mike Rippo before?

21

A No, I haven't.

22

Q Now, there came a time when you were

23

arrested on some drug charges, like February 1st or 2nd of

24

1992; is that correct?

5
1 A I made a plea bargain; they gave me
2 probation; and part of the agreement was that I spend 30
3 days in jail.

4 Q So you were -- you went to jail on that,
5 pursuant to your plea bargain?

6 A Right.

7 Q Okay. So you knew you were going to be
8 going? I mean, they didn't just come and pick you up; you
9 knew you had 30 days to do and when it was going to start,
10 that kind of thing?

11 A Well, it went into warrant.

12 Q Oh, okay. It went into warrant.

13 You had been having an argument
14 with Denise Lizzi just before that?

15 A Yes.

16 Q You indicated yesterday that you were in the
17 process of breaking up; is that correct?

18 A Yes.

19 Q You also said that you had been in a fight
20 with Dan Barton?

21 A Yes.

22 Q What was Dan Barton to Denise Lizzi?

23 A Friends.

24 Q Boyfriend or just --

6 1 A Could have been.
2 Q You didn't know?
3 A No.
4 Q Had you met him before?
5 A Yeah, Dan was a friend.
6 Q Okay. A friend of your as well?
7 A Yes.
8 Q Okay. And what -- I mean, there is a lot of
9 different kinds of fights.
10 What was this about?
11 A Drugs.
12 Q And was it an oral fight, you know, yelling
13 at each other or was it a fist fight or were there weapons
14 involved? Tell us about it.
15 A It was just a yelling match, four o'clock in
16 the morning.
17 Q And Denise Lizzi was there?
18 A The night before she was.
19 Q Was she there when you had the fight with
20 Dan Barton?
21 A Yes. I let them both in the apartment door.
22 Q So they were both inside the apartment and
23 the fight occurred inside the apartment?
24 A Yes.

6

1 Q And then, do you have any idea what day that
2 was?

3 A 31st of January, right around there; the
4 30th, 31st.

5 Q Maybe the 1st, you mean, right in that
6 ballpark area?

7 A Right.

8 Q Okay. How long after that fight were you
9 arrested?

10 A Like, eight, nine hours later.

11 Q Did you know who told the police where to
12 find you?

13 A They pulled me over.

14 Q Pulled you over, traffic stop?

15 A Yes.

16 Q What were you driving when you were pulled
17 over?

18 A Red Camaro.

19 Q Now, yesterday, you said you had a Corvette.
20 Is that --

21 A Yes.

22 Q Did you have more than one vehicle?

23 A Yes.

24 Q How many did you have?

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6

1 A Three.

2 Q Three different vehicles?

3 Now, who was there with you
4 just before you got pulled over?

5 A Who was with me?

6 Q Hadn't you just left your apartment?

7 A Yes.

8 Q And was there somebody with you just before
9 you left?

10 A I don't believe so. This was later on in
11 the afternoon. The fight occurred --

12 Q Wasn't Diana Hunt there just before you
13 left?

14 A Ten o'clock.

15 Q About ten o'clock in the morning?

16 Okay, okay.

17 A Diana Hunt was there earlier.

18 Q Earlier that day?

19 A Right after the fight happened, Diana Hunt
20 and a couple other people showed up at the apartment.

21 Q And did you consider Diana Hunt a
22 particularly close friend?

23 A No, sir.

24 Q Had you ever talked about going out together

6

1 or anything like that, a romantic relationship?

2 A No.

3 Q Just strictly a business transaction kind of
4 thing?

5 A Yes, sir.

6 Q When you went in to jail, what happened to
7 your car?

8 A It went in to impound.

9 Q And you were in jail for 30 days?

10 A Yes.

11 Q Did you go get it when you got out of jail?

12 A No.

13 Q Why not?

14 A 'Cause she had got it out.

15 Q She who?

16 A Diana Hunt and Brenda Brummett got it out.

17 Q And they went to the impound and got your
18 car out?

19 A Uh-huh.

20 Q Had you asked Diana Hunt to do this?

21 A No, I didn't.

22 Q And did Diana Hunt come visit you while you
23 were in the jail?

24 A Yes, she did.

6 1 Q Why?

2 A She was trying to get me out.

3 Q Did she talk to you, you know, about how to

4 get you out; is that why she came?

5 A Yes.

6 Q You couldn't help her with any drugs or

7 anything while you were in jail; is that right?

8 A No.

9 Q And how many times did she visit you in the

10 jail?

11 A I believe just once, because Brenda showed

12 up at the time and they got into a fight.

13 Q At the jail?

14 A Yes, right downstairs.

15 Q Do you remember indicating before that she

16 had visited you a couple times?

17 A I may have.

18 Q Yesterday, you said that there was a

19 conversation between yourself and Diana Hunt, where Diana

20 apparently volunteered to track Denise down and beat her up.

21 Do you remember that?

22 A Yes.

23 Q When did this occur, while you were in jail?

24 A Yes.

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6

1 Q And had there also been some discussion
2 about finding Denise's car and cutting her tires, things
3 like that?

4 A She mentioned it.

5 Q Now, did you ask her to do any of these
6 things or did she just volunteer to do them?

7 A She volunteered.

8 Q So you didn't say can you help me out with
9 this or something; she just said, gosh, I'd like to do this
10 for you?

11 A She mentioned it. She didn't say, gosh, I'd
12 like to do this. She mentioned it.

13 Q How did it come up?

14 A She asked -- she was asking what all was
15 missing from the apartment.

16 Q And how did she know what was missing from
17 the apartment?

18 A She had showed up right after it happened.

19 Q So she hadn't been there since you'd been in
20 Jail; it was just what you seen that day before you were
21 arrested?

22 A Right, right.

23 Q Did you discuss with her why she wanted to
24 go out and get Denise Lizz?

6
1 A No, I didn't.
2 Q Do you remember testifying that she said she
3 was going to get Denise?
4 A Yes.
5 Q And you hadn't asked her to do that?
7
6 A No, I didn't.
7 Q And these conversations all occurred while
8 you were in the jail; is that correct?
9 A Yes.
10 Q And you did not get out of jail until after
11 the murders?
12 A Right.
13 Q So if you had wanted somebody to do Denise,
14 that would have been good timing, wouldn't it?
15 A I suppose.
16 Q Now, you had never met Mr. Rippe before; is
17 that right?
18 A That's right.
19 Q But he contacted you on your phone; is that
20 how the first contact came about?
21 A No. He was calling Brenda.
22 Q Brenda Brummett?
23 A Yes.
24 Q And she was your girlfriend?

7

1 A She was a friend. She is a friend.

2 Q Is she the mother of your child?

3 A Yes, she is.

4 Q And how long have you known Brenda?

5 A About five years.

6 Q So he had somehow contacted Brenda.

7 Do you know how he knew Brenda
8 would know you or --

9 A Probably through Diana.

10 Q You don't have any firsthand knowledge?

11 A No, I don't.

12 Q Okay. When he got in touch with you, he
13 asked for a meeting; is that correct?

14 A Yes. He ask -- he said I have some things
15 you might be interested in.

16 Q And you wound up at the Showboat on the
17 fourth floor or third floor of the parking garage to meet
18 with him; is that correct?

19 A Yes.

20 Q And he gave you a bag?

21 A Yes. It wasn't just here.

22 Q Well, the meeting was for the purposes of
23 him giving some things to you?

24 A Yes.

7 1 Q What besides the bag did he deliver to you?

2 A What he did is he, like, brought the wallet,
3 the empty wallet, a garage door opener -- I'm not exactly
4 sure what he brought. He brought a few items.

5 Q The things you saw yesterday?

6 A Yes, a few of them items.

7 And then I knew they were
8 Denise's --

9 Q Did he ask you if you knew whose they were
10 or did you just say I know what they are?

11 A He --

12 Q Let me rephrase it.

13 Did you tell him that you knew
14 whose property this was?

15 A No, he knew by coming to me. He said I have
16 some -- some things you might be interested in.

17 When I met him, he brought a
18 couple of items over to the car, and I was like,
19 dumbfounded.

20 Q At this time, you knew that she had died?

21 A Of course.

22 Q And you had been to the funeral, in fact?

23 A Right.

24 Q So were you actively trying to find out what

7 1 had happened?

2 A Yes, I was.

3 Q Did you think this information was important
4 to that?

5 A Yes, I did; after I seen what he had, yes.

6 Q And you had had a fight, but you were upset,
7 you had been to the funeral; is that what you said
8 yesterday?

9 I mean, you had a fight with
10 Denise Lizzi?

11 A Almost a month before the funeral.

12 Q You cooled off over that?

13 A Of course.

14 Q So he gave you this bag that you identified
15 yesterday; is that correct?

16 A He gave me a few items. He said I got some
17 more in the car. And then, we both took a walk to his
18 truck.

19 Q And he gave you that bag?

20 A And then he gave me that bag.

21 Q And all of the items you saw in there
22 yesterday, as best as you can recall, were in it when you
23 got out?

24 A Right.

7 1 Q Other than the ones he had already handed
2 you?

3 A Right.

4 Q And you put those items in that bag?

5 A Right.

6 Q And did you know that the police were
7 investigating this case?

8 A Yeah.

9 THE COURT: Yes; is that a yes?

10 THE WITNESS: Yes.

11 BY MR. DUNLEAVY:

12 Q And your friend of ten years has been
13 murdered?

14 A Yes.

15 Q Did you call the police?

16 A When we got him at the Nelson Street
17 address, we did.

18 Q But before that, what did you do with this
19 evidence that you had just received that might point to who
20 killed your friends?

21 A Went up to Darrell's.

22 Q That's your brother's or --

23 A A good friend.

24 Q Okay. Darrell Scott; is that correct?

7

1 And then you went over and you
2 tested the garage door opener to see if they worked; is that
3 right?

4 A Yes.

5 Q Then you took the bag to your brother -- or
6 your father's house and put it in your brother's car; is
7 that correct?

8 A Yes.

9 Q Was that an operative car or was it one that
10 was just sitting there?

11 A It was one just sitting there.

12 Q Didn't have license plates on it or
13 anything, right?

14 A No, sir.

15 Q Does your brother work for the police or
16 something?

17 A No.

18 Q But you thought the back of that car would
19 be the safest place to put this in, and you left it there?

20 A Yes.

21 Q What time?

22 A Probably before 12.

23 Q And then you went to, I believe it was,
24 Brenda Brummett's uncle's house?

7
1 A Yes.
2 Q I'm not sure what his name was.
3 A Bob.
4 Q Okay. That's a name I can get.
5 When you got there, was Diana
6 Hunt there?
7 A I don't believe so. It's been so long.
8 Q Do you remember seeing Diana Hunt arrive?
9 A Yes, I think -- yes.
10 Q Did she arrive in a limosine?
11 A No, she didn't.
12 Q How did she get there?
13 A I didn't actually see her pull up.
14 Q So you don't know what car she arrived in?
15 A No.
16 Q When did you first see Diana Hunt that night
17 or early morning?
18 A When she arrived there.
19 Q Did she walk into the house or did you see
20 her out in the yard or in the street?
21 A I believe she knocked on the door.
22 Q Were you inside?
23 A Yes.
24 Q Okay. So you saw her coming into the house?

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1 A I believe so.

2 Q Did you confront her about things you had

3 heard?

4 A Right away.

5 Q And was there any physical confrontation or

6 was this just a discussion?

7 A It was just a discussion.

8 Q Then somehow, you got in touch with Mr.

9 Rippe, is that correct, or had somebody get in touch with

10 him?

11 A Yes.

12 Q Do you know if you called him or Brenda

13 dialed the phone or do you remember who actually made the

14 phone call?

15 A I think Diana was the one that got him

16 there.

17 Q How long was it before he showed up?

18 A It was actually pretty fast, about 20 --

19 Q Twenty minutes?

20 A Yeah, 20, 25 minutes.

21 Q It wasn't just seconds or --

22 A No.

23 Q Now, when he got there, did he come into the

24 house?

1 A No, he didn't.
2 Q Did everybody go outside to meet him?
3 A I think me and Dan went out.
4 Q That would be Dan --
5 A Barton,
6 Q -- Barton?
7 A And I think Diana was right behind us.
8 Q Is that the same Dan Barton you had had a
9 fight with towards the end of the month?
10 A (No response.)
11 Q So you, Dan -- Mr. Scott was there as well?
12 A Yes.
13 Q Did he go out with you?
14 A I believe so. It's been so long.
15 Q And they went out and there was a fist
16 fight; is that right?
17 A Between --
18 Q Diana Hunt and Mr. Rippo?
19 A It wasn't actually a fist fight. He was
20 more or less beating on her.
21 Q Isn't she taller than he is?
22 A Yeah.
23 Q How long did this fight last?
24 A Probably five minutes; over five minutes.

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1 Q And you just stood there and watched it?
2 A Yes.
3 Q Did you have a club or anything with you?
4 A Yeah.
5 Q Did you use this club?
6 A When it was done.
7 Q After it was done?
8 A After they — yeah.
9 Q Okay. What did you do with it?
10 A Went after Rippo with it.
11 Q So there was Mr. Scott was there and Diana
12 and Bowman?
13 MR. SEATON: Diana and Bowman?
14 BY MR. DUNLEAVY:
15 Q I'm sorry. What's his name, the guy you had
16 the fight with?
17 A Barton.
18 Q Barton.
19 Dan Barton and yourself and
20 Diana Hunt and Brenda Brummett was there.
21 And what about Bob, the guy who
22 owns the house or lives there?
23 A I didn't see him the entire night.
24 Q So there were the five of you and Mr. Rippo;

1 and Mr. Rippe ran?

2 A (No response.)

3 Q Now, you had a club in your hand.

4 Did anybody else have a club in
5 their hand?

6 A No.

7 Q Other kind of weapons?

8 Is that a yes or a no?

9 A I said no.

10 Q Okay. No other kind of weapons were there
11 at all?

12 A And I don't believe Brenda came out of the
13 house the entire time.

14 Q So Brenda didn't take an active part in any
15 of this?

16 MR. SEATON: Judge, if -- if I might
17 interrupt, we're having some trouble. If Mr. Dunleavy
18 repeats his question, sometimes the witness just shakes his
19 head and/or nods it and doesn't give an answer.

20 THE COURT: You have to answer aloud, sir.

21 THE WITNESS: All right.

22 MR. SEATON: So the court reporter can get
23 it all.

24 BY MR. DUNLEAVY:

8

1 Q And then I'm not sure how long after this
2 confrontation, you -- somebody told you there was a car in a
3 K-Mart parking lot or you found out there was a car in a
4 K-Mart parking lot?

5 How did you find out about it?

6 A That morning when the cops took us up to
7 City Hall to --

8 Q That would have been the day this fight
9 occurred?

10 A Yeah.

11 Q Okay.

12 A Brenda overheard Diana Hunt's statement.
13 That was how I knew it was there.

14 Q And you believe that car was Diana Hunt's
15 car, so you went to the parking lot; is that correct?

16 A Yes.

17 Q And you just came from the police station
18 after giving the statement about all this, right?

19 A Went directly up there after the statement.

20 Q Same day?

21 A Might have been later that night or even the
22 following day.

23 Q You had met the police officers that were
24 involved and you had given a statement?

8 1 A Re- -- could you repeat the question?

2 Q You had met the police officers involved and
3 given the statement the day of this fight; is that correct?

4 A The day of the fight at Nelson Street, yes.

5 Q And at some time during that meeting, you
6 told them about the brown bag of stuff you had in your
7 brother's car --

8 A Right.

9 Q -- right?

10 And then you heard where the
11 car might be that could be involved in this, is that right,
12 after this statement you heard about the car?

13 A I didn't actually hear it. I heard it from
14 Brenda. Brenda overheard that I --

15 Q You found out that that might be the
16 location of the car?

17 A Right.

18 Q And you went there, and it looked like the
19 car you had seen before?

20 A After hours -- the white Pinto was the only
21 thing sitting in the parking lot at twelve o'clock -- twelve
22 o'clock at night.

23 Q And you believe there might be more
24 information in the car?

9

1 A Right.

2 Q So did you call the police?

3 A No, I didn't.

4 Q You broke the window out.

5 A Right.

6 Q Do you have any idea whose car that actually

7 was?

8 A I was told it was Diana's.

9 Q But there was no evidence in the car, right?

10 A Nothing.

11 MR. DUNLEAVY: Court's indulgence for just

12 one second.

13 THE COURT: Okay.

14

15 (Whereupon, a sotto voce at

16 this time.)

17 BY MR. DUNLEAVY:

18 Q Do you remember being asked questions in

19 your statement to the police about Diana Hunt?

20 A Vaguely.

21 Q You were asked what do you know about her?

22 They were trying to find out what your relationship to her

23 was; is that right? Do you remember what your answer was?

24 A No, I don't.

1 MR. DUNLEAVY: Would it refresh your
2 recollection to take a look at your statement?

3 Showing him page three of his
4 statement.

5 MR. WOLFSON: Philip, have him answer out
6 loud.

7 THE COURT: Would it refresh your memory?

8 THE WITNESS: Yes.

9 BY MR. DUNLEAVY:

10 Q Direct your attention to page three.

11 Does that refresh your
12 recollection as to what you said?

13 You were being asked basically
14 what her reputation was among the people you knew, and your
15 opinion of her based on that; is that correct?

16 A Yes.

17 Q And what was your answer?

18 A She -- she hardly ever tells the truth.

19 MR. DUNLEAVY: No further questions, Your
20 Honor. Thank you.

21 THE COURT: Redirect?

22
23 REDIRECT EXAMINATION

24 BY MR. SEATON:

9

1 Q Weren't your words actually I know she has a
2 hard -- I know she has a hard telling the truth about
3 anything?

4 A Yes.

5 Q Did you mean a hard time telling the truth
6 about anything?

7 A Yes.

8 Q Did you go on to -- that same answer -- to
9 say a little bit more about Diana Hunt?

10 Would it help if I showed you
11 that statement again?

12 THE COURT: Speak up, sir.

13 THE WITNESS: Yes, sir.

14 BY MR. SEATON:

15 Q The very top of the page I just read to you,
16 I know she has a hard telling the truth about anything, and
17 then the two sentences after that.

18 A (Complies.)

19 Q Did you say in this that you really didn't
20 know very much about her?

21 A Yes, I did.

22 Q There has been some discussion about the
23 date that you went to Jail in February and the date that you
24 got out of Jail in February.

9

1 Do you recall testifying before
2 a Grand Jury in this case?

3 A Yes, I do.

4 Q And during the testimony in that Grand Jury,
5 do you recall saying what the dates were that you had gone
6 in and out of jail; do you remember that?

7 A Probably. I --

8 Q Would it help if I showed you the Grand Jury
9 testimony to refresh your memory?

10 I'm showing you the Grand Jury
11 transcript from June the 4th, 1992.

12 Do you agree that that's what
13 it says here on the front cover?

14 A Yes.

15 MR. SEATON: And I'm referring you to page
16 130.

17 Page 130, counsel, page 130 of
18 that Grand Jury testimony.

19 MR. WOLFSON: Thank you.

20 BY MR. SEATON:

21 Q Let me wait until they get to that.

22 In fact, while they're getting
23 to it, I'm going to show you, on line -- on page 130, lines
24 12 through 16.

9

1 Would you just read those to
2 yourself, 12 through 16.

3 A (Complies.)

4 Q I'm going to ask you two questions:

5 First, does that refresh your
6 memory as to what happened on the 1st of February?

7 A Yes.

8 Q What happened on the 1st of February?

9 A The fight at the apartment.

10 Q And when did you go to jail?

11 A On the 2nd.

12 Q Do you think that that is probably a more --
13 is a better time than -- you said before the 31st and the
14 1st; you weren't really sure.

15 Did you have a better idea, on
16 June 4th, 1992, of the date that you had the fight and went
17 to jail?

18 A Yes.

19 Q And as to the question of when you got out
20 of jail, let me again show you the same Grand Jury
21 transcript, page 127 this time, lines 23 through 25.

22 And on the next page, line
23 one -- if you would read those lines to yourself, 23, 24,
24 and 25, okay? -- and line one.

1 A (Complies.)

2 Q Does that refresh your recollection as to
3 the exact date that you got out of jail when you had gone in
4 on February the 2nd?

5 A Yes.

6 Q What date did you get out of jail?

7 A The 24th of February.

8 Q 1992?

9 A Yes.

10 Q Mr. Dunleavy, on cross-examination, asked
11 you a question, something having to do with Diana was going
12 to do Denise.

13 Do you recall that?

14 A Yes.

15 Q What did you mean?

16 A I -- I don't know.

17 Q What had she talked about doing?

18 A Slicing her tires.

19 Q Anything else?

20 A No.

21 Q Beating her up?

22 A Yeah, maybe beating her up.

23 Q Did she ever mention murder?

24 A No, she didn't.

10

1 Q Let me show you, on page 129 of the same
2 Grand Jury transcript -- I'm going to have you read -- well,
3 let me have you read lines one through eleven.

4 A (Complies.)

5 Q Have you read that?

6 A Yes.

7 Q In that Grand Jury testimony, had you given
8 an answer:

9 Okay, two, three days later, I
10 found out she got my car out of impound; how I
11 don't know. She came and seen me twice in jail.
12 She had made a couple of small threats, like she
13 was going to do Denise's tires, where she was
14 staying.

15 Question: That would be Denise
16 Lizzi? Did she tell you what --

17 Answer: What was that?

18 Question: Did she tell you why
19 she was going to do Denise's tires?

20 Answer: No. I didn't think
21 nothing of it.

22 Were those the questions and
23 answers given to you at Grand Jury on June the 4th, 1992?

24 A Yes.

1 Q And you mentioned in that testimony that
2 they were small threats; is that correct?

3 A Yes, they were.

4 Q Is that how you thought of them?

5 A That's how I thought of them.

6 Q You were there having the conversation with
7 Denise Lizzi.

8 Did you find it was just that?

9 A Diana?

10 MR. SEATON: I'm sorry, Diana Hunt, I'm
11 following along with Mr. Dunleavy here.

12 MR. DUNLEAVY: It's contagious.

13 MR. SEATON: It is.

14 MR. WOLFSON: You and I are okay, right,
15 Mel?

16 MR. SEATON: So far.

17 BY MR. SEATON:

18 Q You were there having the conversation with
19 Diana Hunt. You alone know what that conversation was like.

20 Did it have to do merely with
21 small threats, small talk, about cutting someone's tires or
22 getting after them, beating them up or something like that?

23 A It was small talk.

24 Q Did it have anything at all to do with

10

1 murder?

2 A No.

3 Q Anything serious like that at all, in your
4 mind?

5 A No, sir.

6 Q In your testimony, didn't you say you didn't
7 think nothing of it?

8 A Yes.

9 Q Mr. Dunleavy asked you about hiding the
10 evidence in your brother's car, the evidence of the brown
11 bag that we showed you yesterday.

12 And I brought out the fact that
13 you didn't call the police then. And if I remember
14 correctly, you told him that when you got to the Nelson
15 Street address, you did call the police and had them come
16 and you told them where the bag was.

17 Why did you wait?

18 A Because I wanted to keep the bag, until I
19 started to think about it.

20 Q You wanted to keep the bag for what purpose?

21 A Because it belonged to Denise.

22 Q Were you thinking of it in terms of evidence
23 in a murder case at that time?

24 A No, I wasn't.

10

1 Q Did you, at a later time?

2 A Yes.

3 Q You had a fight with Denise around -- Just
4 before the -- on the 1st of February, according to the Grand
5 Jury testimony that we heard today.

6 Were the two of you angry with
7 each other?

8 A Yes, we were.

9 Q Had she moved out of your apartment?

10 A Yes.

11 Q Over the month that you spent in Jail, what
12 were your feelings for her?

13 A I still loved her; still wanted to be with
14 her.

15 Q Would you have tried for some sort of a
16 reconciliation had she been alive?

17 A Yes.

18 Q Because of your feelings for her, were you
19 concerned about who had committed these killings?

20 A Yes, I was.

21 Q Was there talk about it among the people who
22 you associate with?

23 A Yes, there was.

24 Q Barton and Brenda Brummett, people probably

1 whose names we haven't even heard.

2 Was everyone discussing the
3 murder and who could have done it?

4 A Yes.

5 Q And was there speculation as to who may have
6 done it?

7 A It was all kinds of them.

8 Q Did you have a purpose in mind of getting
9 Diana Hunt and Mike Rippp together at the Nelson Street
10 address?

11 A Yes.

12 Q What was that purpose?

13 A To find out which one of them was actually
14 there when it happened.

15 Q And did you get a feeling as to that at the
16 time that you stopped the fight?

17 MR. DUNLEAVY: I would object to what his
18 feelings may have been at that point, Your Honor.

19 THE COURT: Sustained.

20 BY MR. SEATON:

21 Q Was that the reason that you stopped the
22 fight?

23 A Yes.

24 MR. DUNLEAVY: I'd also object, Your

1 Honor -- it's my recollection his testimony yesterday was
2 that somebody else stopped the fight by grabbing my client,
3 not him.

4 THE COURT: Sustained.

5 BY MR. SEATON:

6 Q Did you ask someone to stop the fight?

7 How did you --

8 Would you answer out loud,
9 please.

10 A Yes. And I told Don Barton to grab them.

11 Q And were you satisfied in your own mind at
12 that time?

13 A Yes.

14 MR. SEATON: That concludes redirect, Judge.

15 THE COURT: Recross?

16
17 RECROSS-EXAMINATION

18 BY MR. DUNLEAVY:

19 Q I'm a little confused now. It seems to
20 happen easily.

21 You had had a relationship with
22 Denise Lizzi for some time, three years, ten years, or quite
23 a while.

24 And you hardly knew Diana Hunt;

11

1 you said you met her maybe five times; is that right?

2 A Yes, sir.

3 Q But Diana Hunt goes and gets your car out of
4 impound, not Denise Lizzi; and then Diana Hunt comes to
5 visit you in the Jail and offers at one point to do Denise's
6 tires; is that right?

7 A Yes.

8 Q At another point, she said she was going to
9 do Denise; is that right?

10 A I don't think she said do Denise. I think
11 she said beat Denise's ass.

12 Q The same page Mr. Seaton just showed you, I
13 believe you stopped at: I didn't think nothing of it.

14 The next question:

15 Question: Okay. Okay.

16 And what did you say -- wasn't
17 the question: No, I didn't think nothing of it.

18 Answer: Okay, go ahead.

19 Answer: She had seen me twice,
20 the 20 days I was in there; and one of these times,
21 she said she is going to do Denise.

22 Is that your answer?

23 A Yes.

24 Q Now, you said she visited you twice while

11 1 you were in Jail; is that correct?

2 A Yes.

3 Q And one of those times, Denise Lizzi was
4 there as well?

5 A No.

6 Q Didn't you say they got in a fight at the
7 Jail?

8 A Brenda and Denise -- Brenda and Diana.

9 Q So she visits you one time and she returns
10 to do Denise, or thereabouts.

11 That offer was made, right?

12 Was this early the day you got
13 in or two days after you got in or when was this?

14 A Couple days in.

15 Q And then she visited you again? When?

16 A Shortly after that. Brenda was there.

17 Q Within a few days or a week or --

18 A Couple days, I would assume.

19 Q And this lady that you had met four, five
20 times before, is visiting you in Jail and offering to get
21 Denise for you, to do Denise?

22 A She also was offering to help get me out of
23 Jail.

24 Q Didn't you give her the address where she

11

1 could find Denise?

2 A No, I don't think so.

3 Q You don't remember that?

4 A No. I don't even think I know the address
5 where Denise was.

6 Q Now, after this Nelson Street incident, did
7 Diana Hunt stay in touch with you?

8 A No.

9 Q Did Michael Rippe stay in touch with you?

10 A No.

11 Q He didn't? Didn't he contact you several
12 times in the next few days?

13 A He may have.

14 Q But Diana Hunt didn't?

15 A Not -- not that I recall. It's been so
16 long.

17 Q And you thought that the threats Diana Hunt
18 was making were small threats; is that correct?

19 A Yeah.

20 Q Didn't turn out that way, did it?

21 MR. DUNLEAVY: No further questions.

22

23 FURTHER REDIRECT EXAMINATION

24 BY MR. SEATON:

11 1 Q Do you have a case pending in the system
2 right now?
3 A Yes.
4 Q What is that about?
5 A Um, I borrowed a girl's car and I kept it
6 too long. She reported it stolen.
7 Q And that's a case that is within the system
8 at this time?
9 A Yes.
10 MR. DUNLEAVY: Your Honor, this is beyond
11 the scope of redirect -- or re-redirect.
12 MR. SEATON: I can --
13 THE COURT: What's the --
14 MR. SEATON: I can quit if the defense
15 counsel wants me to.
16 THE COURT: What's the relevancy?
17 MR. SEATON: Well, I'd like to --
18 MR. DUNLEAVY: Court's indulgence for a
19 second.
20 (Whereupon, a sotto voce at
21 this time.)
22 MR. DUNLEAVY: May we approach for just a
23 second, Judge?
24 THE COURT: You may.

11

(Whereupon, an off-the-record discussion was had.)

MR. SEATON: May I continue, Judge?

THE COURT: You may.

BY MR. SEATON:

Q So you have a case in the system that is presently in District Court?

A Yes.

Q A courtroom like this one?

A Yes.

Q And you've been making your court appearances; you have a lawyer?

A Yes.

Q The District Attorney is handling that case against you; is that true?

A Yes.

Q Am I that person?

A No.

Q Mr. Harmon?

A No.

Q All right. Have any deals been made, any promises been made to you, by either the Las Vegas District Attorney's Office, the Las Vegas Police Department?

A No.

11 1 Q: So you are just going through that case on
2 your own, without it having any impact on this case or this
3 case having any impact on it; is that correct?

4 A: Yes.

5 MR. SEATON: Thank you.

6 I have nothing further, Judge.

7 MR. DUNLEAVY: We would reserve the right to
12 recall him after lunch, Your Honor, just for a few
8 questions.

10 THE COURT: Okay.

11 MR. SEATON: That will be fine, Judge.
12 We'll have him here.

13 THE COURT: All right. You are excused for
14 now. Return approximately 1:30.

15 (Whereupon, the witness
16 was excused.)

17 THE COURT: Do you have a short witness?

18 MR. SEATON: We may, Judge. We may have two
19 real short witnesses.

20 THE COURT: Well, if you do --

21 MR. SEATON: Bob Arndt.
22
23
24

1 Whereupon,

2 ROBERT ARNDT

3 having been called as a witness by the Plaintiff and
4 having been first duly sworn to tell the truth, the
5 whole truth and nothing but the truth, was examined
6 and testified as follows:

7 THE CLERK: Thank you.

8 Please be seated.

9 Will you state your name and
10 spell it for the record, please.

11 THE WITNESS: Robert Arndt; A-r-n-d-t.

12 THE CLERK: Thank you.

13
14 DIRECT EXAMINATION

15 BY MR. SEATON:

16 Q Mr. Arndt, how are you employed?

17 A I'm a correction officer of the Las Vegas
18 Metropolitan Police Department.

19 Q What are your duties?

20 A Custodian responsibility for those people
21 who have been incarcerated; receiving people who have been
22 freshly arrested.

23 Q When someone is arrested and brought to you,
24 just very briefly, tell us what the procedure is.

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12

1 A The patrol officer has an arrestee; he
2 brings them to Jail; he fills out a Temporary Custody Report
3 on him. After he's filled out his paperwork, the arrestee
4 is turned over to a correctional officer, and then he is
5 searched by me. All his property is taken off of him, any
6 contraband or whatever.

7 Q When the -- the -- I'm sorry. Go ahead.

8 A Then he's handcuffed; his picture is taken;
9 he's booked into the Jail.

10 Q With regard to the property, which is taken,
11 what happens with the property?

12 A There is a property inventory sheet that has
13 his name; his identification number are given to him.
14 Everything is logged, his clothes, his personal property,
15 whether it was cigarettes, lighter, glasses, his clothing,
16 the color of clothing, shirts, pants, belt; everything that
17 he has with him when he arrives is logged inventory. And
18 then the records technician signs it, puts her personnel
19 number on there and I sign it, put my personnel number on
20 there.

21 MR. SEATON: Let me show you what's been
22 marked as State's Proposed Exhibit 95.

23 MR. WOLFSON: Thank you, sir.

24

12

1 BY MR. SEATON:

2 Q Do you recognize what exhibit -- proposed
3 Exhibit 95 is?

4 A Yes, sir.

5 Q What is it?

6 A It's a copy of our standard permanent
7 Property Inventory sheet.8 Q Is that the same inventory sheet that you
9 were just telling us about, that you fill out when a
10 prisoner is brought in?

11 A Yes, sir. It's a copy.

12 Q All right. Do you recognize this particular
13 one?

14 A Yes, I do.

15 Q And for whom was the inventory made, what
16 prisoner?

17 A Michael Rippo.

18 Q Aside from the sheet, the Exhibit 95 that
19 you are looking at, do you have any independent recollection
20 of this particular booking process that went on with Mr.
21 Rippo?

22 A Yes, sir, I do.

23 Q Would you recognize Mr. Rippo if you were to
24 see him again?

12 1 A Yes, sir, I would.

2 Q Is he present in court?

3 A Yes, sir, he is.

4 Q Would you point him out and tell us what
5 he's wearing today and where he's seated.

6 A He's sitting in between Mr. Dunleavy and
7 Wolfson, wearing a white sweater.

8 MR. SEATON: Thank you.

9 May the record reflect the
10 identification of the defendant?

11 THE COURT: The record will so reflect.

12 BY MR. SEATON:

13 Q Why is it -- when -- when was this
14 particular -- well, let's do it this way:

15 That inventory form that you
16 have got there, is that a fair and accurate copy of the form
17 that you utilized on the date that you booked Mr. Rippe in?

18 A Yes, sir.

19 MR. SEATON: I would move for its
20 introduction into evidence.

21 MR. WOLFSON: Could we reserve until after
22 cross?

23 THE COURT: Okay.

24

12

1 BY MR. SEATON:

2 Q When you booked Mr. Rippo in, what date was
3 it?

4 A I don't recall the exact date, but it's time
5 stamped March 1992 -- March 15th, 1992, at 12:14 p.m.

6 Q Did he have certain personal property which
7 you impounded?

8 A Yes, sir, he did.

9 Q Without looking at the sheet now, is there
10 any of that property that you can tell us about from memory?

11 A Yes, sir.

12 Q What was it?

13 A Basically it was the black stun gun.

14 Q Why does that stand out in your mind?

15 A I've been an officer for 17 years and he's
16 the only individual that I've ever taken a stun gun off
17 that's been arrested.

18 Q When you book them?

19 A Yes, sir.

20 Q This was a black stun gun?

21 A Yes, sir, I -- sometimes we put the makes
22 and models down. I believe it was called a Nova.

23 Q I'm sorry?

24 A Nova; N-o-v-a.

1 Q Okay. Do you remember what it looked like?

2 A Yes, sir.

3 Q Tell us.

4 A It was black, standard. I believe it was a
5 50,000 volt capability.

6 Q 50,000 volt?

7 A Yes, sir.

8 Q How big was it?

9 A Approximately seven inches. (Indicating)

10 Q Seven inches long?

11 A Seven inches long, four inches wide; it's

12 black. It has four connector prongs. It has two prongs
13 that make contact to the skin; two are prongs that are
14 angled to carry the current. It has a nine volt battery in
15 it. This certain one had black tape around the battery
16 holder.

17 Q And once impounded into evidence, where was
18 it kept?

19 A It's kept back in a secure property bag.
20 It's a secured area that the only people that have access to
21 it are the property clerks.

22 MR. SEATON: Thank you.

23 I have nothing further.

24 THE COURT: Cross.

CROSS-EXAMINATION

BY MR. WOLFSON:

Q May I see the document, sir?

A (Complies.)

MR. WOLFSON: Thank you.

May I use this, Phil?

BY MR. WOLFSON:

Q Officer, you are still a correctional officer, are you not?

A Yes, sir.

Q Does your signature or initials appear on State's proposed 95?

A My personnel number is 2109.

Q So your answer is --

A Yes.

Q And is the rest of the writing on this document your writing, (indicating), other than Mr. Rippe's signature?

A No, sir.

Q What is your writing on the document?

A Just my P number.

Q Okay.

A All right. And sometimes, I don't personally put my P number on there. The records tech, who

13

1 I've taken this off, we sit down and we inventory together.

2 Q Other than your personnel number on that
3 document, is any of the other writing your writing?

4 A No, sir.

5 Q Okay. Let's assume that Mr. Rippo signed
6 where it says inmate's signature. (Indicating)

7 A Yes, sir.

8 Q Is that the normal course, where an inmate
9 would sign where it says inmate's signature?

10 A Yes, sir, unless there is another
11 circumstance where he wouldn't. I -- he's combative when he
12 comes in and he --

13 Q That wasn't the case here, was it, Officer?

14 A No, sir.

15 Q So who else's writing is on the document
16 besides Mr. Rippo's and yours?

17 A The record technician who booked him in.

18 Q And is it that record technician who takes
19 an inventory of the property?

20 A As well as I do, physically and with visual,
21 yes.

22 Q Okay. So the two of you then are having the
23 person take his keys, his wallet --

24 A No, sir.

13

1 Q Tell us.

2 A No, sir.

3 While the person is still
4 handcuffed, I search him. I take the keys, the wallets, any
5 other items I find, off of him until I'm sure that there is
6 no more contraband on him.

7 Then when I feel that I am
8 safe, I take the handcuffs off the individual, and if there
9 is anything else he has on him, he can take it off, his
10 belt, or if he has any thing hidden -- he usually takes his
11 shoes off too.

12 Q So you take the personal property off of the
13 inmate?

14 A Yes, sir.

15 Q And in this case, it was the other
16 technician, if you will, who noted the property that was
17 taken from Mr. Ripppo?

18 A His picture was taken at -- at the camera;
19 he was taken up to a booking counter, and items were removed
20 from him one at a time, placed on the cabinet and then put
21 in the report.

22 Q And it's the other person --

23 A It's the other person that wrote those
24 things down, yes, sir.

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Q Thank you. Thank you.

And there were a lot of other things taken besides the stun gun, weren't there?

A Yes, sir.

Q And would you consider the other things that were taken from Mr. Rippe to be ordinary things, wallet, belt, keys and clothing?

A Yes, sir.

MR. WOLFSON: I don't have an objection to its admission now.

THE COURT: Okay. It will be admitted.

(Whereupon, State's Exhibit 95 was admitted into evidence.)

BY MR. WOLFSON:

Q With that in mind, Officer, do you know what word is next to -- to the right of the word stun gun?

A Yes, sir. It's NV DR, Nevada driver's license.

Q So there was a Nevada driver's license --

A Yes, sir.

Q -- also taken?

Are stun guns legal in the state of Nevada?

A Yes, sir, they are.

13

1 Q Does one have to have a permit to own a stun
2 gun?

3 A I don't believe so.

4 Q Does one have to have a special license to
5 own a stun gun?

6 A No, sir.

7 Q Does one have to qualify with Metro's
8 division, of whatever division there would be --

9 A No, it's not.

10 Q -- to obtain a stun gun?

11 A I'm not sure of the N.R.S., to be honest,
12 because I'm not sure.

13 But, at that point in time,
14 anybody could go down and buy mace, cap stun -- cap stun was
15 not out yet -- and purchase a stun gun.

16 Q So a person, lawyers, doctors, citizens, can
17 go into a store and purchase a stun gun?

18 A I believe you have to be over the age of 18
19 years old, I believe.

14

20 Q This was the first time though in your
21 career that, while you booked somebody, they came in with a
22 stun gun?

23 A Yes, sir.

24 MR. WOLFSON: No further questions.

REDIRECT EXAMINATION

BY MR. SEATON:

Q Do you have an approximation of how many people you've booked over the years?

A Hundreds; 500.

Q How many years was it?

A Seventeen years.

Q How many a night would you book?

A It varies. If it's a Friday night, a lot.

Q Twenty, 30?

A Thirty, 40, 50. It depends on what's going on, if there is a fight in town, if there is a -- a raid on the Strip, if there is a prostitute raid. It varies; there is no set things; and some nights, it's real quiet.

Mr. Rippe was booked during the daytime.

MR. SEATON: Nothing further.

THE COURT: Anything else?

MR. WOLFSON: No.

THE COURT: Thank you.

THE WITNESS: Thank you.

THE COURT: Thank you, Officer Arndt.

(Whereupon, the witness was excused.)

1 MR. HARMON: We have one more quite short
2 witness.

3 THE COURT: Okay. Let's do it.

4 MR. HARMON: Lori Aiken.

5 THE CLERK: Remain standing and raise your
6 right hand.

7
8 Whereupon,

9 LORI AIKEN

10 having been called as a witness by the Plaintiff and
11 having been first duly sworn to tell the truth, the
12 whole truth and nothing but the truth, was examined
13 and testified as follows:

14 THE CLERK: Thank you.

15 Please be seated.

16 Will you state your name and
17 spell it for record, please.

18 THE WITNESS: Lori Aiken; L-o-r-i,
19 A-i-k-e-n.

20
21 DIRECT EXAMINATION

22 BY MR. HARMON:

23 Q Is it Miss or Mrs. Aiken?

24 A Mrs.

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Q Mrs. Aiken, what is your business or occupation?

A I work as a records technician for the Metro Police Department over at the county jail.

Q How long have you worked with the Las Vegas Metropolitan Police Department?

A It will be ten years in June.

Q How much of that time has been as a records technician?

A The entire time.

Q Were you employed as a records technician with the Las Vegas Metropolitan Police Department assigned to the Clark County Detention Center on March the 22nd, 1992?

A Yes, I was.

Q Are you involved as a records technician from time to time in the release of property which has been impounded during the booking process?

A Yes, I do.

MR. HARMON: May I approach the witness,

Your Honor?

THE COURT: You may.

BY MR. HARMON:

Q Mrs. Aiken, I'm showing you what has been

14

1 marked by the clerk of our court as proposed Exhibit 96.

2 Do you recognize what this

3 document is a copy of?

4 A Yes. It's a Property Release.

5 Q Is it a property release that you had some
6 involvement with?

7 A Yes, I did. I released the property
8 described on the release.

9 Q Is this Property Release form, proposed
10 Exhibit 96, the copy of a document prepared, kept and
11 maintained as part of the ordinary course of business of the
12 Las Vegas Metropolitan Police Department?

13 A Yes, it is.

14 Q Specifically of the Clark County Detention
15 Center?

16 A Yes.

17 Q Does it appear to be a true and accurate
18 copy?

19 A Yes, it is.

20 MR. HARMON: Your Honor, the State offers
21 proposed Exhibit 96.

22 MR. WOLFSON: I have no objection.

23 MR. DUNLEAVY: One clarification: I thought
24 the last one was 96.

1 MR. SEATON: It was 95.

2 THE COURT: 95.

3 MR. HARMON: Is 96 admitted?

4 THE COURT: It will be admitted.

5 MR. HARMON: Thank you.

6 (Whereupon, State's Exhibit 96
7 was admitted into evidence.)

8 BY MR. HARMON:

9 Q How is it, Mrs. Aiken, that you were able to
10 identify Exhibit 96 as involving the release of property
11 that you were personally involved with?

12 A Well, I have my personnel number and my
13 initials on the Property Release.

14 Q Where does that appear?

15 A Okay. At the lower left-hand side.

16 Q Will you identify -- is that your writing?

17 A Yes, it is.

18 Q Will you identify what it says there?

19 A In the property --

20 Q No, just for the time being --

21 A My initials, L.A., and my personnel number,
22 3193.

23 Q Are you responsible for any of the other
24 writing which appears on Exhibit 96?

14

1 A Yes, I am.

2 Q What is your handwriting?

3 A The items listed that I released.

4 Q What items were released on March the 22nd,
5 1992?

6 A I show that I have written down a black
7 belt, a stun gun, a black wallet, a pager, a Nevada driver's
8 license, a battery, black gloves, six keys, and a brush.

9 Q And all that is in your handwriting?

10 A Yes, it is.

11 Q Who is the inmate whose property was
12 released on March the 22nd, 1992?

13 A Inmate's name, Michael Ripppo.

14 Q Did you ever have any personal contact with
15 Mr. Ripppo?

16 A No, I didn't.

17 Q Is there a place on the form, Exhibit 96,
18 for the signature of the inmate?

19 A Yes, there is.

20 Q On that line, is there a signature which
21 reads Michael Ripppo?

22 A Yes, it does.

23 Q To whom, on March the 22nd, 1992, did you
24 release the various items of property you have referred to.

14

1

including a stun gun?

2

A Carol Anne Campanelli.

3

Q Will you spell the names for the record,

4

please.

5

A The full name?

6

Q Yes.

7

A C-a-r-a-l, A-n-n-e, C-a-m-p-a-n-e-l-l-i.

15

8

Q Is there also a place on Exhibit 96 where

9

the form was signed by the person to whom the property was

10

released?

11

A Yes, there is.

12

Q Do you know what the relationship was of

13

Carol Anne Campanelli to the inmate, Michael Rippo?

14

A No, I don't.

15

MR. HARMON: Thank you.

16

Your Honor, that concludes

17

direct.

18

THE COURT: Cross?

19

20

CROSS-EXAMINATION

21

BY MR. WOLFSON:

22

Q Were you the actual person who physically

23

took the property out of Mr. Rippo's property and handed

24

them to the person Carol Campanelli?

15

1 A Yes, I was.

2 Q So in a face-to-face meeting, if you will,
3 with Carol Campanelli, you handed her the property?

4 A Yes.

5 Q Was this a normal part of your every day
6 job?

7 A Yes, it was.

8 Q Is that all you do, eight hours a day --

9 A No. We're assigned to different posts.
10 That happened to be where I was that day.

11 Q Was this an uncommon event to happen at the
12 Clark County Detention Center?

13 A To release property?

14 Q Yeah.

15 A No.

16 Q Was it uncommon to release property at the
17 request of either an inmate or a friend or family member of
18 the inmate?

19 A No.

20 MR. WOLFSON: Nothing further.

21 Thank you.

22 MR. HARMON: No redirect, Your Honor.

23 THE COURT: Thank you. You are excused.

24 THE WITNESS: Thank you.

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(Whereupon, the witness
was excused.)

THE COURT: All right. We'll take our noon
recess.

Remember: Do not discuss this
case among yourselves or with anyone else;

Read, watch, or listen to any
report or commentary on this case by any medium of
information; or

Form or express any opinion on
the case until the matter is finally submitted to you.

We'll reconvene at 1:45.

(Whereupon, a recess was had in
the proceedings, at the
conclusion of which the
following was had:)

15

1 Las Vegas, Nevada, Friday, March 1, 1996, 1:40 p.m.

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* * * * *

4

5

(The following proceedings were
had in open court outside the
presence of the jury:)

6

7

THE COURT: Let the record reflect we're
outside the presence.

8

9

Mr. Dunleavy, I believe you had
something to put on the record.

10

11

MR. DUNLEAVY: A couple things very briefly.

12

13

The District Attorney has
allowed us to see two different files involving Mr.
Beaudoin. There was some mention that he was going to be a
witness, but there was also mention, before they even knew,
that they were offering him a misdemeanor. It doesn't
appear that it's really relevant.

16

17

18

19

We did object to the late
notice, since we found out about it on re-redirect of the
witness, but it doesn't appear that there is anything in the
file that justifies recalling him or going further.

20

21

THE COURT: Okay.

22

23

MR. DUNLEAVY: The other thing is that they
are calling two witnesses this afternoon, James Ison and

24

15

1 Donald Hill, both of whom are basically snitches.

2 We have asked and been advised
3 that there is no deals pending and no charges pending
4 against these individuals; that one of them had requested a
5 letter be sent to the parole board by the detective and that
6 that was done; but that there is no other potential
7 exculpatory evidence hanging out there, according to the
8 District Attorney's Office. We want to make a record of
9 that before they testify.

10 THE COURT: Okay.

11 MR. SEATON: That's a correct
12 representation.

13 THE COURT: All right. Anything else?

14 MR. DUNLEAVY: No.

15 THE COURT: Bring in the Jury, Mr. O'Leary.

16 THE BAILIFF: Yes.

17 (The following proceedings were
18 had in open court in the
presence of the Jury:)

19 THE COURT: Counsel stipulate to the
20 presence of the Jury?

21 MR. SEATON: Yes, Judge.

22 MR. DUNLEAVY: Yes, Your Honor.

23 THE COURT: Call your next witness.

24 THE BAILIFF: No response, Your Honor.

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MR. SEATON: Well, we still call him, Judge.

THE COURT: Call him again. He's supposed to be down here.

MR. HARMON: He's in custody, Your Honor, so he isn't far away.

THE CLERK: Step forward, please; remain standing and raise your right hand.

Whereupon,

DONALD HILL

having been called as a witness by the Plaintiff and having been first duly sworn to tell the truth, the whole truth and nothing but the truth, was examined and testified as follows:

THE CLERK: Thank you.

Please be seated.

Will you state your name and spell it for the record, please.

THE WITNESS: Donald Hill; D-o-n-a-l-d, H-i-l-l.

DIRECT EXAMINATION

BY MR. SEATON:

Q Mr. Hill, are you known by another name as

15

1 well?

2 A Yeah; William Burkett.

3 Q William Burkett?

4 A Yes. W-i-l-l-i-a-m, B-u-r-k-e-t-t.

5 Q All right. Would you pull the microphone
6 down just a little bit. There you go. Thanks.

7 Where do you live today?

8 A I'm incarcerated.

9 Q Where are you incarcerated?

10 A California.

11 Q In July of -- in July and August of 1993,
12 were you in jail at that time?

13 A Yes, sir.

14 Q What were you in jail for?

15 A Robbery.

16 Q Do you have other convictions besides that
17 robbery?

18 A Yes, sir.

19 Q Tell us what they are.

16

20 A Attempted escape, false imprisonment, and
21 possession of a prison made weapon.22 Q Do you know the defendant in this case,
23 Mr. Michael Rippe?

24 A Yes, sir, I do.

16

1 Q Is he present in court?

2 A Yes, he is.

3 Q Can you point to him for us; tell us what
4 he's wearing and where he's sitting.

5 A He's sitting right there, between the two
6 gentlemen; a white sweater too.

7 MR. SEATON: May the record reflect
8 identification of the defendant, Judge?

9 THE COURT: The record will so reflect.

10 BY MR. SEATON:

11 Q In that July and August of 1993, when you
12 were in jail, was he in jail with you?

13 A Yes, he was.

14 Q Did you get to see him at that time?

15 A Yes, I did.

16 Q How long have you known Mr. Rippe?

17 A Since about 1986, about ten years.

18 Q When you knew him back then, were you on a
19 friendly basis with him?

20 A Yes, I am.

21 Q Did you have a chance to speak with him and
22 carry on a --

23 THE COURT: You have to speak up.

24 THE WITNESS: Yes, sir, I have.

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BY MR. SEATON:

Q -- and carry on about different things?

A Yes, sir, I did.

Q Would you consider your relationship with him ten years ago a good relationship?

A Yes, I do.

Q And when you saw him again in 1993, in July and August, was the relationship the same?

A Yeah. I consider him a friend of mine.

Q All right. When you met him, in July and August of 1993, did you learn from him that he was in jail for a double homicide?

A Yes, I did.

Q And did you have an occasion, while you were with him, to talk to him about that particular case?

A Yes, I did.

Q And do you recognize that that is the case that we're here about today?

A Yes, sir.

Q Where did your conversations take place within the jail? Where were you when you would talk?

A On the rec yard.

Q Is that an outdoor area --

A Yeah.

16

1 Q -- where you get together and have
2 recreation?

3 A Yes.

4 Q Are inmates allowed to gather together with
5 whomever they wish at that time?

6 A Yes, sir.

7 Q And he was a person who you spoke with?

8 A Yes, sir.

9 Q When you would have conversations with him,
10 during that period of time, were other people present or was
11 it usually just the two of you?

12 A It was just -- when we talked about his
13 case?

14 Q Yes.

15 A Just me and him.

16 Q For how long a period of time, from the
17 beginning of those talks until the end of the talks, did it
18 last?

19 A Oh, it all depends.

20 MR. DUNLEAVY: I'm going to object, Your
21 Honor. I'm not sure what that question is about.

22 Are we talking a series of
23 conversations or one conversation?

24 THE COURT: Be more specific.

16 1 MR. SEATON: I will, Judge.

2 BY MR. SEATON:

3 Q Did you have a number of conversations with

4 Mr. Rippe?

5 A Yes, I did, on different occasions.

6 Q Did it last over a period of time?

7 A Yeah, over -- over hours.

8 Q Did it last -- did you have conversations

9 over a period of days and weeks?

10 A Yes, sir, I did.

11 Q For how long a period of time did those

12 talks go on?

13 A Well, we talked about a lot of things, but,

14 specifically, you're talking about just the case?

15 Q Yes.

16 A For sometimes 30 minutes, sometimes two

17 hours, you know, just whatever, we was kicking back, talking

18 to each other, that's all.

19 Q And did all of those conversations last for

20 a week's period of time or a month or two months or what --

21 how long were you and he together speaking about this case?

22 A We were together four months.

23 Q Four months?

24 A Yeah.

MEIPO-07030-02614

- 1 Q During the course of those conversations,
2 did he ever tell you who was killed?
- 3 A Yes, he did.
- 4 Q Did he name them?
- 5 A Yes, he did.
- 6 Q What names did he give to the two people who
7 were killed?
- 8 A One girl was named Lauri; another one was
9 Denise.
- 10 Q Did he tell you who killed Lauri and Denise?
- 11 A Yes, sir, he did.
- 12 Q Who did he say did the killing?
- 13 A He said he killed them.
- 14 Q He himself killed them?
- 15 A He himself killed them.
- 16 Q I'm sorry. Say that again.
- 17 A Yes, sir, he himself killed them.
- 18 Q Did he tell you how he killed them?
- 19 A Yes, he did.
- 20 Q What did he say about that?
- 21 A He said he tied their hands behind their
22 back and he strangled them to death.
- 23 Q Each of them?
- 24 A Each one of them.

RENEE SILVAGGIO, CCR 122 391-0379

16 1 Q Each girl had her hands tied behind her
2 back?
3 A Yes, sir.
4 Q And each girl was strangled to death?
5 A Yes, sir.
6 Q Did he say why he killed them?
7 A Yes, he did.
8 Q What was the reason?
9 A One girl -- I'm not sure which one it was.
10 I believe it was Lauri -- burned him on a previous dope deal
11 and that's why he killed her.
12 Q What does it mean to burn someone on a dope
13 deal?
14 A She was supposed to get him some drugs and
15 she didn't get him none; she burned him, took his money and
16 didn't get him what she was supposed to.
17 Q Did he tell you then this was a pay back for
18 that --
19 A Yeah.
20 Q -- the killing of them?
21 A Yeah.
22 Q The killing of her?
23 THE COURT: You have to say yes.
24 THE WITNESS: Yes, sir, a retaliation.

17

1 BY MR. SEATON:

2 Q All right. Did he tell you, during these
3 conversations that you had with him, whether or not these
4 crimes were planned?

5 A Yes, sir, he did.

6 Q What did he say about that?

7 A He said he planned to kill the girl that --
8 that robbed him for his money, that took his money and
9 burned him.

10 Q He had planned to kill her?

11 A He had planned to kill her.

12 Q Did he have any plan to kill the other girl?

13 A No, he didn't.

14 Q That one Denise?

15 A I don't know which one it was.

16 Q All right. The other one --

17 A The other girl just happened to be there
18 when he killed this one, so he had to get rid of both of
19 them.

20 Q Well, yeah, explain to us what he said to
21 you about the fact that while he wanted to kill one of them,
22 he ended up killing two.

23 How did that come about?

24 A He killed the other one because he didn't

17

1 want no one to testify against him.

2 Q Was she there at the scene?

3 A She was there at the scene, yes.

4 Q Did he tell you what he did with the two
5 bodies after he had killed them?

6 A Yes, he did.

7 Q What did he say?

8 A He said he put them in a closet.

9 Q In a closet?

10 A Yes, he did, inside the apartment.

11 Q Did he mention whether or not he had anyone
12 else there in the apartment with him?

13 A Yes, he did.

14 Q What did he say about that?

15 A He had a girl for a co-defendant.

16 Q Did he say her name?

17 A Denise.

18 Q Denise?

19 A I believe Diane or Denise -- Diane; excuse
20 me, Diane.

21 Q Diana?

22 A Yes.

23 Q Diane or Diana?

24 A I'm not sure. It was Diana, I think, Diana;

17

1 something like that. I can't remember. It's a long time.

2 Q Did he ever say whether or not Diana played
3 a role in these killings?

4 A Yes, she did.

5 Q What did he say about that?

6 A After they gained entry to the -- to the
7 residence, he -- he had a gun, some kind of a gun; he handed
8 it to the girl; the girl got the gun on them while he tied
9 them up and he strangled them.

10 Q Some kind of a gun?

11 A Yeah.

12 Q Do you know -- did he say whether or not
13 that gun was a pistol?

14 A No, he didn't.

15 Q Did he say if it was a stun gun?

16 A No, he didn't. He didn't make no reference
17 what kind of gun it was; just the gun.

18 Q Did he tell you where Diana was located, at
19 the time you were having your conversations with him?

20 A Well, where she was located when I was
21 talking to him?

22 Q Yes.

23 A Yes, he did.

24 Q Where was she located?

1 A She was in the women's prison.

2 Q Where is the women's prison?

3 A Carson City.

4 Q Did he say whether or not he wanted
5 anything --

6 MR. WOLFSON: Your Honor, I'm going to
7 object.

8 This is quite leading at this
9 point. The foundation has been laid, counsel.

10 MR. SEATON: Well, Judge, I need to go into
11 specific areas to get him to talk about it.

12 None of what I'm asking him is
13 leading. It's all capable of being answered with a yes or
14 no answer.

15 MR. WOLFSON: That's the definition of a
16 leading question, counsel.

17 MR. SEATON: Not necessarily; but I'll
18 reword the questions if it will make counsel happy.

19 MR. WOLFSON: Even Mr. Harmon laughed at
20 that.

21 BY MR. SEATON:

22 Q When he was -- even the jurors laughed at
23 it.

24 When Mr. Rippe was talking to

17 1 you in Jail and he had told you that Diana was in the
2 women's prison, what did he say about her?

3 A He approached me, if I still had -- my
4 fiancée was still in the women's prison --

5 Q Was she?

6 A No, she wasn't. But he approached me and
7 wanted to know if she was and he told me why.

8 Q Why did he want to know --

9 A He wanted to try to have someone kill Diana
10 to keep her from testifying against him.

11 Q How would they do that?

12 A He wanted to know if some way he could send
13 some drugs in there, would my old lady give to it to her,
14 overdose.

15 Q An overdose of drugs?

16 A An overdose, yes.

17 Q Mr. Rippo told you he wanted an overdose of
18 drugs sent into the women's prison --

19 A He wanted to send some drugs in to overdose
20 Diana.

21 Q Why did he want to do that?

22 A 'Cause she was testifying against him in
23 this case.

24 MR. DUNLEAVY: Objection, Your Honor.

17

1

That would obviously call for speculation, why does somebody want to do something.

2

3

MR. SEATON: Let me ask the question a little differently.

4

5

THE COURT: Okay.

6

BY MR. SEATON:

7

Q Did Mr. Rippo tell you why he wanted that done?

8

9

A He said because she was testifying against him.

10

11

Q In this case?

12

A In this case.

13

Q Did he tell you if this had to be done in a certain period of time?

14

15

A Before he went to trial.

18

16

Q Did he have a -- did he tell you if he had a trial date scheduled, when you were talking to him in 1993?

17

18

A At that time, he wanted it done before July, I believe it was.

19

20

Q And when was his trial date?

21

A I think July or August. He wanted to do it before then.

22

23

Q Do you know a person by the name of David Levine?

24

18

1 A No, I don't.

2 Q Do you know a person by the name of James
3 Ison?

4 A No, I don't.

5 Q Mr. Hill, any promises been made to you for
6 your testimony here today?

7 A Not at all.

8 Q Has anything been done for you, up until
9 this point in time, regarding your testimony in this case?

10 A No.

11 Q Has a letter been written for you?

12 A From a detective, there was a letter
13 written.

14 Q Do you know the name of the detective?

15 A Detective Chandler.

16 Q And did he tell you at some time that he
17 would write the letter?

18 A Yes. That -- that was what I requested at
19 the time I seen him, yes.

20 Q When you saw him, was that when you gave the
21 statement?

22 A Yes, sir.

23 Q Did he write such a letter, to your
24 knowledge?

18

1 A Yeah, he did.

2 Q Have you seen it?

3 A I got a quick glimpse of it, yeah.

4 Q And to who was that letter to be written?

5 A To the parole board, just explaining -- all
6 he did was explain what I did, give my interview to the
7 detective.

8 Q Have any other promises been made to you
9 other than the writing of the letter?

10 A No, sir.

11 Q The Las Vegas Metropolitan Police
12 Department --

13 A Nope.

14 Q -- has made no promises?

15 A Nope.

16 Q How about Mr. Harmon or myself, have we made
17 you any promises?

18 A Nope.

19 Q Has any member of the District Attorney's
20 Office made you a promise in return for your testimony?

21 A Not at all.

22 MR. SEATON: I have no further questions.

23 THE COURT: Cross-examination.

24

18

CROSS-EXAMINATION

BY MR. DUNLEAVY:

Q Your Honor -- Mr. Hill, you said you are in prison in California now?

A Yes, sir, I am.

Q Is this on a new case?

A Yes, it is.

Q What happened to your time on this case, the one you were in on when you talked to the defendant?

A I was paroled, '94.

Q After the detective wrote the letter to the parole board --

THE COURT: He said after you talked to the detective, not the defendant.

THE WITNESS: Yeah.

BY MR. DUNLEAVY:

Q And what is your real name; is it Burkett or Hill?

A Burkett is my real name.

Q And what's your Social Security number?

A Off the top of my head, I don't -- I couldn't tell you.

Q You don't remember which one you used?

A Not off the top of my head, no. I'd have to

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see it.

Q You've used several?

A I got two different Social Security numbers,
yeah.

Q Two different dates of birth?

A Yeah.

THE COURT: You have to say yes or no.

THE WITNESS: Yes, sir.

BY MR. DUNLEAVY:

Q Now, how many other cases have you worked
out deals to testify in?

A Just this one.

Q Just this one?

A Oh, one other; there was one other case that
I give information.

Q And what would that man's name be?

A Jim Mison.

Q What about a man by the name of Ballard?

A Never heard of him.

Q And what kind of charges did Jim Mison have
on him?

A He had a murder case on him.

Q And did you testify in that case too?

A Yes, I did.

18

1 Q And I suppose you didn't get any kind of --

2 A Got nothing.

3 Q Now, how is it that the police knew to come
4 to the prison and talk to you?

5 A I contacted him, the detective.

6 Q And asked him to come up and talk to you?

7 A Told him that I had information concerning
8 this case.

9 Q And at that time, you were in on robbery
10 with the use?

11 A Yeah, and two other charges.

12 Q What were the other charges?

13 A Attempted escape and possession of a prison
14 made weapon.

15 Q What are you in on in California now?

16 A False imprisonment.

17 Q And your friend, Michael, supposedly talked
18 to you in the yard, right?

19 A Yes, he did.

20 Q And did you see his discovery?

21 A No, I didn't.

22 Q You didn't look at some paperwork while you
23 were discussing things?

24 A Never -- he never showed me no paperwork

18

1 Whatsoever.

2 Q Do you remember talking to him about
3 newspaper articles --

4 A No.

5 Q -- pictures in the paper?

6 A Nope.

7 Q You said you talked to him off and on,
8 sometimes 30 minutes to two hours, for a month or so?

9 A Yeah.

10 Q Well, how much time would you say you
11 actually spent talking about this case?

12 A Excuse me. Can you --

13 Q How much time did you actually spend talking
14 about this case?

15 A Within that whole period?

16 Q Uh-huh.

17 A About eight hours.

18 Q Eight hours total?

19 A Maybe; about.

20 Q And you told us everything today that he
21 said?

19

22 A Pretty much, yeah.

23 Q In what, fifteen minutes or so?

24 A (No audible response.)

19

1 Q Now, you indicated that he had told you that
2 she had burned him on a dope deal?

3 A Yes, sir.

4 Q Who was she?

5 A The person that owned the house.

6 Q Owned the house?

7 A The one that owned the residence that got
8 murdered is the one that burned him.

9 Q So in his story, this occurred in a house?

10 A No, it wasn't specific whether it was a
11 house, apartment. I'm not sure.

12 Q Did he describe the closet he put them in?

13 A No, he didn't.

14 Q You indicated that he said he himself killed
15 them both.

16 A Yeah.

17 Q I mean, you are walking around the yard
18 talking inmate to inmate, right, and he says I myself killed
19 both?

20 A No. It didn't go down like that, no.

21 Q I didn't think so.

22 Why don't you tell us how it
23 did go down.

24 A Well, when I seen him there, some people

19 1 said that he killed two little kids. So I asked him: Did
2 you kill two little kids? He said: No, I didn't kill them.
3 He goes: It was two women I killed.

4 I said what happened and he
5 told me.

6 Q Now, when you asked him this, was this after
7 you had already agreed to testify in the other murder case?

8 A No.

9 Q How long after you got him to talk to you
10 before you called the police?

11 A I don't know; can't remember.

12 Q Did you talk to him about anything that was
13 taken during this robbery --

14 A Yeah.

15 Q -- or this murder?

16 A Yeah.

17 Q And what was the answer to that?

18 A He -- I didn't -- I just asked him a couple
19 things that he took and he said a garage door opener and a
20 gate opener.

21 Q And you remember being asked that by the
22 detectives?

23 A No, no, I wasn't asked that by the
24 detectives.

1 I think he asked me -- he told
2 me this at a different time. I talked to the detectives and
3 then he told me this later on.

4 Q So this was after you talked to the
5 detectives?

6 A Yeah. See, we talked several different
7 times.

8 Q As a matter of fact, you specifically asked
9 the detectives if there was anything you wanted him to ask,
10 right --

11 A No.

12 Q -- or anything they wanted you to ask him?

13 A No.

14 Q Do you remember saying: I could get Mr.
15 Rippe to speak to me, you know, whatever you did,
16 you know. It's no problem.

17 A I can't recall.

18 Q Does that sound like you are talking to
19 them?

20 A It could have been. I can't recall really.

21 Q Do you remember what you said after that?

22 A Told them that three years ago.

23 Q Would it refresh your recollection to take a
24 look at a transcript of what you said?

19

1 A Yeah, most definitely.

2 Q I'd like you to take a look at pages ten and
3 eleven of your statement.

4 And this statement was taken on
5 August 10th, 1993, by Detective Chandler, I believe.

6 A Yeah, I guess I did.

7 Q And what happened right after you said that?

8 MR. HARMON: Right after he said what?

9 BY MR. DUNLEAVY:

10 Q About you can get him to talk to you?

11 A The detective told me, no, that if he talks
12 to me, he talks to me. He goes: You can't ask him no
13 questions, because then you would be, like, representing me
14 and you can't do that.

15 Q And that's on this transcript?

16 A No. This is -- you asked me what happened
17 and that's what happened.

18 Q But isn't this transcript the tape recording
19 of what was said?

20 A Yeah. He didn't say it right after that,
21 no. He might have said --

22 Q Wasn't it immediately after that you said:

23 I could get Mr. Rippe to speak
24 to me, you know; whatever you did, you know. It's

19

1 no problem.

2 Question: Okay.

3 Answer: 'Cause it kinda brags,
4 you know, kinda brags him a little bit about.

5 What you were saying?

6 A Saying he kind of brags, yeah.

7 Q And you talk about him bragging a lot?

8 A Yeah, he brags a lot; yeah, he was bragging
9 about it.

10 Q And then you said:

11 Because he had some problems
12 with people here.

13 A Yeah, because they thought he killed two
14 little girls.

15 Q And he said: I already killed once. I can
16 kill again?

17 A Uh-huh.

18 THE COURT: Is that a yes or no?

19 THE WITNESS: Yes, sir.

20 BY MR. DUNLEAVY:

21 Q Would it be fair to characterize jail as
22 kind of a violent place?

23 A Yeah, it is.

24 Q And if you are five feet four and about

19

1 130, -40 pounds, is it important to make people think you're
2 tough?

3 A Yeah.

4 Q For your own safety?

5 A Pretty much, yeah.

6 Q And you knew that he was charged with the
7 murder?

8 A Not until he told me, no.

9 Q I thought you said that you -- other people
10 had been talking to you about him being charged with murders
11 and that's why you approached him.

12 A Yeah. But I'm talking about the two little
13 girls. I heard he killed two little girls and that's when I
14 approached him.

20

15 Q Is that a different kind of murder?

16 A No.

17 Q So you knew he was charged with murder?

18 A Yes, sir.

19 Q And if you are on the yard and people are
20 threatening you, is it a good idea to say, hey, I've been
21 violent before; I'll be violent again; stay away from me
22 kind of thing? Didn't that happen a lot?

23 A No.

24 Q It doesn't?

20

1 A No.

2 Q Didn't you describe Mr. Rippo as somebody
3 who bragged a lot?

4 A Yeah, he bragged, but that isn't what you
5 say to people. If someone is out to get you, that ain't no
6 way to speak to nobody. That ain't going to do you no good.
7 Nobody is intimidated by that statement.

8 Q Nobody is intimidated by that statement?

9 A No.

10 Q Immediately after you said that, the
11 question was:

12 Okay. The only thing that you
13 are asking me to do in reference to your
14 cooperation was testify -- in reference to this
15 upcoming trial and the statement made by Mr.
16 Rippo -- the only thing you are asking me to do is
17 write a letter to the parole board; is that right?

18 A That's right.

19 Q And you got that letter, right?

20 A Yes, sir.

21 Q And you got paroled?

22 A Yeah.

23 THE COURT: Yes?

24 THE WITNESS: Yes, sir.

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MR. DUNLEAVY: No further questions, Your Honor.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. SEATON:

Q You mentioned that you were paroled in 1994, and then you went back to prison because of another case.

A Yes, sir.

Q What was that case?

A False imprisonment.

Q Who did that have to do with?

A Domestic violence, me and my wife.

Q And what happened with that?

MR. WOLFSON: Objection; relevance.

MR. SEATON: Well, they brought it up, Judge, not me. They asked about the other case. I intentionally had not gone into that on direct. They have opened the door that I'm able to explore just a little bit.

MR. WOLFSON: Not as to the facts of the case.

MR. SEATON: It has to do with why he's back in.

MR. WOLFSON: I don't think the door was

20

1 open as to the facts of the case and things like that.

2 THE COURT: Sustained.

3 MR. WOLFSON: Thank you.

4 BY MR. SEATON:

5 Q How many years have you spent behind prison
6 walls?

7 MR. WOLFSON: Objection.

8 Counsel approach the bench?

9 THE COURT: Okay.

10

11 (Whereupon, an off-the-record
12 discussion was had.)

13 BY MR. SEATON:

14 Q How many years have you spent in Jail and in
15 prison?

16 A I've been on the streets nine months since
17 1982.

18 Q In your lifetime, how many years --

19 A That's how much --

20 Q You've been off the streets?

21 A I've been in prison since 1982 except for
22 nine months.

23 Q And you've been in Jail during that same
24 period of time?