

**START
FILE
NUMBER**

85-7851

Vol VII

IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA
CASE NO. 85-7851-CFANO-D
85-5467-CFANO-D

STATE OF FLORIDA,
Plaintiff,
vs. 416099
JACK PEARCY,
Defendant.

TAKEN BY:

Attorney for Defendant

PLACE:

Criminal Court Complex
Room A236
5100 - 144th Avenue North
Clearwater, Florida 33520

DATE:

May 8, 1986

TIME:

Commencing at 10:30 a.m.

REPORTED BY:

KAREN FRANK
Deputy Official Court Reporter
Sixth Judicial Circuit
Notary Public
State of Florida at Large

DEPOSITION OF SHERRY BOGGIO

ORIGINAL

PAGES 1 - 16

MORGAN J. MOREY & ASSOCIATES
COURT REPORTERS
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APPEARANCES:

ROBERT HEYMAN, ESQUIRE
Assistant State Attorney
Criminal Court Complex
5100 - 144th Avenue North
Clearwater, Florida 33520
Attorney for the State

KY M. KOCH, ESQUIRE
BAUER, KOCH, PLATTE & MARIANI
1550 South Highland Avenue
Clearwater, Florida 33516
Attorney for the Defendant

P R O C E E D I N G S

1
2 THEREUPON,

3 SHERRY BOGGIO,

4 was adduced as the deponent herein, and after having been
5 duly sworn on her oath, was examined and testified as
6 follows:

DIRECT EXAMINATION

7
8 BY MR. KOCH:

9 Q Would you please state your name and address?

10 A Sherry Boggio. 5867 - 59th Street, North.

11 Q 5867 - 59th Street, North?

12 A Yeah.

13 Q Sherry, what is your age?

14 A 18.

15 Q Sherry, were you with your sister during the
16 course of the day prior to her death?

17 A During the day, out at the beach on Madeira Beach.

18 Q And who were you all with?

19 A We were with Dennis, Tom, Linda a bunch of our
20 friends.

21 Q Dennis Massingill?

22 A Uh-huh.

23 Q Tom who?

24 A Stala.

25 Q Who else?

1 A Let's see. Probably Juanita Massingill was out
2 there, Terry Thompson.

3 Q Anyone else?

4 A Not that I can remember.

5 Q Was Stacy there?

6 A No.

7 Q And Shelly was there?

8 A Oh, and Harry Nash was out there. That's who we
9 rode to the beach with.

10 Q Were either Mr. Percy or Mr. Daly there?

11 A No.

12 Q Had you met either Mr. Percy or Mr. Daly prior
13 to that day?

14 A Met? Do I know them?

15 Q Yes, ma'am.

16 A Yes.

17 Q How do you know them?

18 A From Mark Gross and Lori Green.

19 Q Who is Mark Gross?

20 A He was a friend of ours.

21 Q And Lori Green?

22 A His girl friend.

23 Q How long had you known Mr. Percy?

24 A Probably four or five months.

25 Q Have you ever been to his home?

1 A Yeah.

2 Q How many times?

3 A Probably three or four times.

4 Q On the occasions that you had been to his house,
5 was Mr. Pearcy's girl friend there?

6 A Yeah.

7 Q Who else was at Mr. Pearcy's home on those
8 occasions?

9 A Jimmy Dee.

10 Q Jimmy Dee is James Daly?

11 A Right. Just Jimmy Dee, Gail, Jack and lots of
12 times Mark and Lori.

13 Q Did you come to know an individual by the name of
14 Oza Shaw?

15 A No.

16 Q Or Dwayne Shaw?

17 A Uh-uh.

18 Q That was living at that residence?

19 A No.

20 Q To your knowledge, this place that you had been
21 where Pearcy was living was the same place where he was
22 living on the date of your daughter's death -- I'm sorry --
23 the date of your sister's death; correct?

24 A Right.

25 Q What day of the week was this that you all were

1 out at the beach?

2 A Sunday.

3 Q And where specifically at the beach?

4 A Madeira Beach, down by the Holiday Inn.

5 Q Were you all drinking?

6 A No.

7 Q No one?

8 A Yeah, probably Tom was drinking and Juanita.

9 Q Was Shelly drinking?

10 A No.

11 Q How about you?

12 A No.

13 Q Okay. And I think you told me Stacy was not
14 there?

15 A Right.

16 Q Were these -- was this a date situation or just
17 a bunch of people that was there that were friends?

18 A We just go out there every Sunday, a bunch of us
19 get together and go out there.

20 Q How long were you all at the beach?

21 A Probably from about 11:00 until maybe 4:00.

22 Q You all went with Harry Nash you told me?

23 A Uh-huh. Shelly left with him early.

24 Q What time did Shelly leave?

25 A Probably about 3:00 o'clock.

1 Q Did you know where they were going?

2 A Yeah. Shelly was going to go home and clean the
3 house.

4 Q And Mr. Nash was going to drop her off?

5 A Right.

6 Q Did she go home?

7 A Yeah.

8 Q Was anyone at the house to your knowledge when
9 she arrived there?

10 A Not that I know of, no.

11 Q What time did you get home?

12 A Probably about 4:30.

13 Q Was she there?

14 A No.

15 Q Do you know where she had gone?

16 A No.

17 Q When did you last see your sister?

18 A When she left the beach.

19 Q Was Stacy home when you arrived there?

20 A No.

21 Q Did you later learn where Shelly was?

22 A Yeah.

23 Q After she left the house?

24 A Yeah, because I saw Stacy after they dropped
25 Stacy off and she said they were with Jack and Jimmy Dee

1 at Jerry's.

2 Q When did you see Stacy next?

3 A The next day.

4 Q About what time?

5 A In the morning, in the morning. I don't know
6 what time.

7 Q Are we talking shortly after midnight or are we
8 talking --

9 A I'm talking like in the morning, maybe nine
10 o'clock in the morning after we woke up.

11 Q And did Stacy tell you what time she got back
12 home?

13 A No, she didn't say.

14 Q Did she tell you she was at Jerry's with Shelly
15 and Jimmy Dee and Mr. Pearcy?

16 A No. She went there and they went to the
17 drive-thru and got beer or something and her and Stephanie
18 got dropped off at Stephanie's house so it was just Shelly
19 and Jack and Jimmy Dee and Gail.

20 The next day I went to Dennis' house, because
21 Shelly didn't come home and he said he had saw her at the
22 bar with Jack and Jimmy Dee.

23 Q Okay. To your knowledge, had your sister ever
24 been out with either Jimmy Dee or Jack Pearcy?

25 A No, she never went out with them.

1 Q To your knowledge, had either Jimmy Dee or
2 Jack Pearcy ever come on to your sister?

3 A I don't know.

4 Q She never said anything to you about that?

5 A No. She always just thought they were nice.

6 Q What did you think?

7 A I didn't like Jimmy Dee. I never really knew him
8 that good, just from what Shelly told me.

9 Q Why did you not like Jimmy Dee?

10 A He was always weird, seems weird, strange.

11 Q Did you ever observe Jimmy Dee to be violent in
12 any way?

13 A Him and Mark used to get into fistfights a lot
14 when they were drunk.

15 Q You saw that?

16 A I saw one, yeah.

17 Q How long prior to this incident was that fight
18 between Mark and Jimmy Dee?

19 A Oh, God. I don't know.

20 Q That would be Mark Gross we're talking about?

21 A Right.

22 Q Can you guess for me?

23 A Three weeks, maybe.

24 Q Do you know what that fight was about?

25 A I don't remember.

- 1 Q Are you and Mr. Gross still friends?
- 2 A Not really.
- 3 Q Were you ever friends?
- 4 A Yeah.
- 5 Q You just don't see much of he and Lori anymore?
- 6 A Well, no. I don't really want to.
- 7 Q Do you know where he lives?
- 8 A No. Everywhere, pretty much. He's kind of a bum.
- 9 Q Do you know where he works?
- 10 A He doesn't.
- 11 Q Are he and Lori still together?
- 12 A No.
- 13 Q Do you know where Lori lives or works?
- 14 A No, I can't remember. I saw her the other day and
15 she told me where she worked.
- 16 Q Where did you see her?
- 17 A I saw her over Tommy Todd's a lot.
- 18 Q Where?
- 19 A Tommy Todd's -- it's over by my house.
- 20 Q Is that a bar?
- 21 A No, it's a friend of ours house.
- 22 Q Is she going out with one of those two guys?
- 23 A No, she goes out with Mark's brother Sean.
- 24 Q Sean Gross?
- 25 A Uh-huh.

1 Q And do you know where he lives?

2 A I'm not really sure. I think they might be staying
3 over Tommy Todd's house, him and Lori.

4 Q Do you know Tom's last name?

5 A No.

6 Q Todd's last name?

7 A No.

8 Q Address?

9 A No. I just know it's right by our house.

10 Q Where do they work?

11 A They work on the side like cutting down trees
12 and doing people's lawns and stuff like that.

13 I can help you find her, because I know she goes
14 over there just about every day.

15 Q Describe for me the location that Tom and Todd
16 lived at; what street is it on?

17 A It's the street off 54th Avenue where
18 Burger Doodle is.

19 Q Burger Doodle?

20 MR. HEYMAN: 54th Avenue.

21 THE DEPONENT: Yeah, it's off 54th, I think.

22 Q (By Mr. Koch) Burger what is there?

23 A Doodle.

24 Q That shouldn't be hard to find.

25 MR. HEYMAN: You said you will be seeing them?

1 THE DEPONENT: Yeah. I see her a lot.

2 (DISCUSSION OFF THE RECORD.)

3 Q (By Mr. Koch) Do you know Jimmy Dee to be a
4 heavy drinker?

5 A Yeah, him and Jack both.

6 Q Both heavy drinkers?

7 A (Indicating in the affirmative.)

8 Q Have you talked to anybody that saw Shelly at
9 Jerry's that night?

10 A Uh-huh.

11 Q Who?

12 A Dennis and Tom Stala.

13 Q Just one at a time.

14 Did Dennis tell you whether or not he observed
15 anybody to be drinking in that group?

16 A He didn't say.

17 Q Did he indicate to you whether or not he formed
18 an opinion as to whether or not Jimmy Dee or Percy were
19 intoxicated when you saw them?

20 A He didn't say. He just said he was with two older
21 guys at the bar.

22 Q Did you assume that to be Percy and Daly?

23 A Yeah. Well, I knew that's who it was.

24 Q Did he also tell you that Gail Bailey or someone
25 fitting Gail Bailey's description was with them?

1 A No.

2 Q Who else did you talk to that saw them at Jerry's?

3 A That's it.

4 Q Have you ever come to learn where they went from
5 Jerry's?

6 A I guess out to the beach; right? Isn't that where
7 they killed her?

8 Q Did anybody ever tell you anything about Driftwood?

9 A No.

10 Q Or Hank's Seabreeze? Are you familiar with either
11 of those two bars on the beach?

12 A The Driftwood, yeah.

13 Q To your knowledge had Sherry -- I'm sorry --
14 Shelly ever been there before?

15 A The Driftwood, yeah, at the beach.

16 Q Okay. Do you know Debra North who works at
17 Hank's Seabreeze?

18 A No.

19 Q Or Bobbie Green that works at the Driftwood?

20 A No.

21 Q Or perhaps was at the Driftwood?

22 A No.

23 Q You don't know who those people are?

24 A No.

25 Q Did Stacy tell you what time it was she last saw

1 Shelly that day?

2 A No.

3 Q Did you or anyone, to your knowledge, ever attempt
4 to contact Jack Pearcy or Jimmy Dee after you all had found
5 that your sister was missing?

6 A No.

7 Q Are you aware of anyone that has spoken to either
8 Pearcy or Daly since that time?

9 A No.

10 Q Other than the police officers?

11 A No.

12 Q Did you go out to the scene at which your sister
13 was discovered?

14 A No.

15 Q Or your sister Stacy, did she go out there?

16 A (Indicating in the negative.)

17 Q Did you ever go by Pearcy's home after your sister
18 was found missing?

19 A No.

20 Q Did anyone, to your knowledge, go by there?

21 A Yeah. Betsy did; didn't she go get his mail or
22 something like that?

23 Q Betsy who?

24 A My dad's girl friend's sister.

25 Q Do you know her last name?

1 A Uh-uh.

2 Q And she went by there and got the mail?

3 A Or something like that. Yeah, they wanted to find
4 out their names for the police.

5 Q When did that happen?

6 A I think it was -- it was right after we went and
7 identified her. It was the next day, I'm pretty sure.

8 Q And to your knowledge, did she go by there and get
9 the mail?

10 A She didn't get the mail, because there were
11 police outside or something that stopped her that were
12 watching the house. That's how they found out that nobody
13 had been home since after Shelly was killed.

14 Q So Betsy never made it so far as the mailbox?

15 A Right.

16 Q Was it the very next day after that Betsy went
17 over there?

18 A I'm pretty sure after we identified her, I'm
19 pretty sure it was the very next day. Things were kind of
20 foggy after that.

21 MR. KOCH: Thank you for coming.

22 (THEREUPON, THE TAKING OF THE DEPOSITION
23 WAS CONCLUDED AT 10:50 A.M.)

24
25

* * * * *

I have read the foregoing pages and herewith subscribe to same as a true and correct transcription of the questions contained herein and my answers thereto, subject to corrections noted, if any there be.

SHERRY BOGGIO

DATE

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1 STATE OF FLORIDA)

2 COUNTY OF PINELLAS)

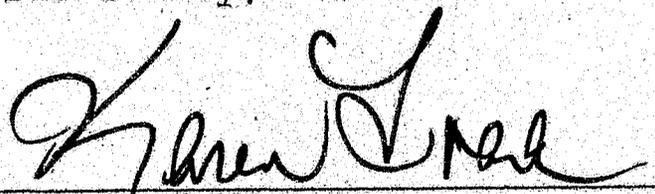
3 I, KAREN FRANK, Deputy Official Court Reporter,
4 Notary Public, State of Florida at Large,

5 DO HEREBY CERTIFY that the foregoing deposition
6 of SHERRY BOGGIO was taken before me at the time and
7 place set forth in the caption thereof; that the deponent
8 therein was by me duly sworn on oath to testify the
9 truth; that the proceedings of said deposition were
10 stenographically reported by me, and that the foregoing
11 pages, numbered 1 through 15A, inclusive, constitute a
12 true and correct transcription of said proceedings as had.

13 I FURTHER CERTIFY that I am not a relative or
14 [REDACTED] y or counsel of any of the parties
15 hereto, nor a relative or employee of such attorney or
16 counsel, nor do I have any interest in the outcome or
17 events of the action.

18 IN WITNESS WHEREOF I have hereunto affixed my
19 official signature and seal of office this 30th day of
20 June, 1986, at Clearwater, Pinellas County, Florida.

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22
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KAREN FRANK, Deputy Official
Court Reporter. Notary Public,
State of Florida at Large.
My commission expires: 10-31-88.

IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA
CASE NO. 85-7851-CFANO-D
85-5467-CFANO-D

STATE OF FLORIDA,
Plaintiff,

vs.

JACK PEARCY,
Defendant.

TAKEN BY:

Attorney for Defendant

PLACE:

Criminal Court Complex
Room A236
5100 - 144th Avenue North
Clearwater, Florida 33520

DATE:

May 8, 1986

TIME:

Commencing at 10:50 a.m.

REPORTED BY:

KAREN FRANK
Deputy Official Court Reporter
Sixth Judicial Circuit
Notary Public
State of Florida at Large

DEPOSITION OF STACY MARIE BOGGIO

ORIGINAL

PAGES 1 - 25

MORGAN J. MOREY & ASSOCIATES

COURT REPORTERS

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APPEARANCES:

ROBERT HEYMAN, ESQUIRE
Assistant State Attorney
Criminal Court Complex
5100 - 144th Avenue North
Clearwater, Florida 33520
Attorney for the State

KY M. KOCH, ESQUIRE
BAUER, KOCH, PLATTE & MARIANI
1550 South Highland Avenue
Clearwater, Florida 33516
Attorney for the Defendant

P R O C E E D I N G S

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THEREUPON,

STACY MARIE BOGGIO

[REDACTED] ent herein, and after having been
duly sworn on her oath, was examined and testified as
follows:

DIRECT EXAMINATION

BY MR. KOCH:

Q Would you please state your name and address?

A Stacy Marie Boggio.

Q And your address?

A 5867 - 59th Street, North.

Q Stacy, Shelly was your twin sister?

A Uh-huh.

Q Would you tell me, please, what happened the day
before your sister was found deceased?

A You mean --

Q Sunday?

A Sunday. Do you want to know from when we got --
we were with them, how we got with them?

Q Let's start even before that. Let's start with
what you all did during the course of that day.

A Okay. Well, we were -- okay, see, what happened --
can I tell?

MR. HEYMAN: Well, maybe if you can get --

1 you mean from the time they woke up?

2 MR. KOCH: Let's start with when you woke up.

3 THE DEPONENT: Well, see, my sister came over
4 to -- see, I was at my girl friend's house,
5 Stephanie.

6 Q (By Mr. Koch) You spent Saturday night at
7 Stephanie's?

8 A Yeah.

9 Q And Shelly came over there?

10 A Yeah, during the day, and then we all -- we were
11 hitchhiking and stuff.

12 Q Hitchhiking to where?

13 MR. HEYMAN: Take your time.

14 THE DEPONENT: To the beach, and just --
15 I really don't remember what we did that day.

16 I remember a guy picked us up and he wanted
17 us to get him a bag of reefer and he had us
18 park behind Silver Lake Apartments.

19 We had him park behind there and this
20 was getting towards the evening, like supper time
21 and he gave us \$30 to get him a bag and we all --
22 me and Stephanie and my sister, Shelly, ran out
23 to 54th Avenue by the Twisty Treat and Jack and
24 Jimmy Dee were driving by and they knew my
25 sister, apparently, and they just stopped and

1 they gave us a ride and -- but after they gave
2 us a ride and stuff, we drank some Coolers and
3 stuff and we went to Jack and Jimmy Dee's house
4 and about 11:00 o'clock they dropped us off at
5 home.

6 Q (By Mr. Koch) Okay. 11:00 o'clock that morning?

7 A It was about -- that evening, 11:00 in the
8 evening.

9 Q Okay. Let's go back to that day. Did you all go
10 out to the beach together?

11 A In the night we did, yes.

12 Q During the day you weren't with Sherry and Shelly
13 out at the beach with Dennis and Tom Stala and those guys?

14 A No.

15 Q Had you seen her before she went out to the beach
16 with them?

17 A No.

18 Q Okay. So it was after she returned from the
19 beach that you first saw her that day?

20 A Yes.

21 Q That would have been in the afternoon sometime?

22 A Uh-huh.

23 Q Did she tell you that she had been at the beach
24 earlier?

25 A (Indicating in the negative.)

1 Q Never mentioned it?

2 A We really didn't even talk about it. I mean she
3 did what she did and we did what we did.

4 Q So you were at Stephanie's when Shelly came over
5 to Stephanie's?

6 A Uh-huh.

7 Q What time was that?

8 A I'm not sure. I know what time that Jack -- it
9 was probably around 2:00 o'clock, 3:00 o'clock. It wasn't
10 late yet or nothing.

11 Q How did she get over to Stephanie's?

12 A She probably hitchhiked. I'm not sure, I don't
13 know.

14 Q And it was from Stephanie's that you all
15 hitchhiked somewhere?

16 A Yeah.

17 Q Where were you hitchhiking to?

18 A I remember we were on Park Boulevard and we were
19 hitchhiking back towards Silver Lakes and the man that
20 picked us up asked us if we could get a bag of reefer.

21 Q Why were you going to Silver Lakes and what is
22 Silver Lakes?

23 A Well, it's right by my house. It's apartment
24 buildings.

25 Q Why did you go there?

1 A We told him we could get a bag, but we never did.
2 Do you understand?

3 Q I do, but let me back up a minute. You were
4 hitchhiking obviously for the purpose of getting to
5 someplace. What place were you going to?

6 A Maybe back -- we weren't -- we were going back to
7 Stephanie's, because we were headed towards Stephanie's
8 house on Park Boulevard.

9 Q How did you get away from Stephanie's?

10 A We hitchhiked to A&W Root Beer and got something
11 to eat and something like that, but I remember we were
12 there and the man picked us up and then he took us to
13 Silver Lakes to get him some reefer and we never did.

14 Q You asked him after he asked you for reefer, you
15 told him to take you to Silver Lakes?

16 A Yeah.

17 Q Had you ever seen this guy before?

18 A No.

19 Q Once you got to Silver Lakes, I understand then
20 you saw Percy and Daly drive by?

21 A Yeah.

22 Q And you all got out of this guy's car and got in
23 Percy's and Daly's car?

24 A No, no. See --

25 Q Explain that to me.

1 A The man that picked us up before parked behind
2 Silver Lakes and he gave us the money to get the reefer and
3 he didn't see us. That's why we had him park behind
4 Silver Lakes and then we all went up to 54th Avenue and
5 Jack and Jimmy Dee drove by and they were with their
6 friends.

7 Q So you guys cut out on this guy that gave you
8 30 bucks?

9 A Exactly.

10 Q Three of you; Stephanie, yourself and Shelly?

11 A Right.

12 Q Okay. Once you saw Percy and Daly, where did you
13 go?

14 A Well, we went to a convenience store and we got
15 some wine coolers and some coolers and stuff and we were
16 drinking and stuff and we drove out to the Driftwood and we
17 were out there for awhile and then we went to the
18 Quarterdeck and tried to get in the bar, but they ID'd us
19 and we had no ID's.

20 Q Did anybody card you at the Driftwood?

21 A We didn't go in the bar. We were just outside.
22 We went in to use the bathroom, but that was it.

23 Q All right. First you get wine coolers at a
24 convenient store?

25 A Uh-huh.

1 Q Do you know how much total did you all buy?

2 A We probably had two six-paks of wine coolers and
3 a six-pak of Coors.

4 Q At what time was that that you stopped at the
5 convenience store about?

6 A It was not quite yet -- it was getting close to
7 dark, but it was not dark yet.

8 Q Had you all smoked any pot prior to that?

9 A We smoked a joint, but then after we went to the
10 Driftwood and all that and the Quarterdeck, we went over to
11 Jack and Jimmy Dee's house.

12 Q All right. You're jumping ahead of me now.
13 Stick with the time before you stopped and buy the wine
14 coolers and the beer, had you smoked any pot or anybody in
15 your presence done any drugs?

16 A Oh, you mean before? No.

17 Q Okay. After you buy the wine coolers and the
18 Coors, where did you go to drink those?

19 A We were in the car.

20 Q Okay. Did you just take the car down to the
21 beach and sit in the car?

22 A Yeah -- no. We all got out of the car.

23 Q And who was it -- was it Pearcy, Daly,
24 Stephanie, yourself and Shelly?

25 A There was another man with a baseball cap on.

1 Q Was that Oza Shaw or Dwayne?

2 A I don't know his name. I'm sorry.

3 Q Was Gail Bailey there?

4 A No.

5 Q Do you know Gail?

6 A Yeah.

7 Q Okay. What was Pearcy drinking; do you recall?

8 A The same thing we were.

9 Q Was there any other alcohol in the car at that
10 time?

11 A Just what we had had.

12 Q Who was driving?

13 A Jack.

14 Q Who's car was it?

15 A Jack's.

16 Q Did you ever see any weapons in that car?

17 A No.

18 Q Where did you sit?

19 A I was in the back seat.

20 Q How about your sister; where was she sitting?

21 A In the back seat with me.

22 Q Stephanie also?

23 A No. Stephanie was sitting in the middle on the
24 break thing.

25 Q Okay. Up front?

1 A Yeah.

2 Q How long did you all stay at the beach?

3 A Not very long. About, I'd say, half an hour.

4 Q Did you see the sun set there?

5 A No.

6 Q You left before sunset?

7 A It was dark when we were at the beach, I know that.

8 I don't -- then we went to the Quarterdeck.

9 Q Before the Driftwood you went to the Quarterdeck?

10 A No, after.

11 Q Okay. So you didn't go in the Driftwood, you just
12 went to the beach at the Driftwood?

13 A Right.

14 Q I understand. When you went to the Quarterdeck,
15 you said you all had trouble getting in because of ID's?

16 A Right.

17 Q Did Shelly have a fake ID?

18 A No.

19 Q And you didn't have a fake ID?

20 A Uh-uh. Neither did Stephanie.

21 Q But you all tried to get in there?

22 A (Indicating in the affirmative.)

23 Q Who was carded first?

24 A Shelly was with Jack and my friend Stephanie was
25 with Jimmy Dee and I was with the man with the cap and we

1 were supposed to walk by, you know, walk by the men and
2 they carded us when we got in by the tables, all of us.
3 They said can we see some ID and we didn't have no ID, so
4 we had to leave.

5 Q Was Gail Bailey there at that point in time?

6 A No.

7 Q Did you see Gail at all during the course of that
8 day?

9 A Yeah.

10 Q We're not there yet?

11 A Not during the day. In the evening when we went
12 over there.

13 Q Where did you go from the Quarterdeck?

14 A We went over to Jack and Jimmy Dee's to drop the
15 man off with the cap and stuff.

16 Q Did anybody have anything to drink at the
17 Quarterdeck?

18 A No. We got ID'd as soon as we walked in.

19 Q Did Percy drive back to the house?

20 A Uh-huh.

21 Q At approximately what time did you arrive at the
22 house?

23 A The Alfred Hitchcock movie was on. I know that
24 we were watching T.V. Still it was around 10:00 o'clock,
25 because that movie comes on at 10:00.

1 Q Who was there at the house?

2 A Gail, Jimmy Dee, Jack, me, Stephanie and the man
3 with the cap and Shelly. That's all.

4 Q How long did you stay there.

5 A For about a half hour and Jack rolled some joints,
6 about four joints, and we left.

7 Q Did you smoke any there?

8 A Yeah.

9 Q Whose pot was it?

10 A Jack's.

11 Q Any other drugs there at the house?

12 A No, not that I recall.

13 Q Did Percy smoke?

14 A Yeah.

15 Q Did Daly smoke -- Shelly, everybody?

16 A (Indicating in the affirmative.)

17 Q Did you see Percy or Daly drink anything there
18 at the house?

19 A No, 'cause we didn't have no more after that.

20 Q And who all left?

21 A Me, Shelly, Stephanie, Gail, Jack and Jimmy Dee.

22 Q Where did you go?

23 A Okay. Jack and Jimmy Dee wanted to go to Jerry's,
24 so Gail got her ID from my sister Shelly to use or
25 something like that, but the ID didn't -- all's I know, she

1 got the ID for her and stuff and me and Stephanie didn't
2 want to go to Jerry's, so I went over to Stephanie's house.
3 They dropped me and Stephanie at home.

4 Q About what time?

5 A It was about 11:00, 11:15.

6 Q About who all was there at Stephanie's house when
7 you all were dropped off?

8 A Probably her mother and her sister, just the three
9 of them live there.

10 Q Did Gail or Shelly or Jack or Jimmy Dee go inside?

11 A Uh-uh.

12 Q They just dropped you off and left?

13 A Yeah.

14 Q Was Jack driving?

15 A Yeah.

16 Q Have you ever talked to anybody that saw a knife
17 or any sort of weapon inside that car?

18 A (Indicating in the negative.)

19 Q I'm sorry. You need to answer out loud.

20 A No.

21 MR. HEYMAN: Just so she can take it down.

22 THE DEPONENT: All right.

23 Q (By Mr. Koch) Did you all get high in the car on
24 the way to Stephanie's?

25 A That night?

1 Q Were you still smoking pot after you left the
2 house?

3 A I think we did. I'm pretty sure we did.

4 Also, I know he took some joints. That's why he
5 rolled four of them, because he took them with him.

6 Q What was Daly's condition at the time you last
7 him that night?

8 A Well, not Jack, Jimmy Daly?

9 Q Jimmy Daly?

10 A He was definitely buzzed, you could tell.

11 Q How about Pearcy?

12 A I don't know. He didn't seem as buzzed.

13 Q How about Shelly?

14 A Shelly? She was bubbly. Quiet, bubbly.

15 Q How about Gail?

16 A No, she wasn't.

17 Q She was pretty straight?

18 A Yeah, because we brought -- yeah.

19 Q Did she even smoke any pot that you saw?

20 A Not that I saw. I think she was pregnant at the
21 time or something.

22 Q Did you see Jimmy Dee or Jack Pearcy come on to
23 your sister at all?

24 A Come on to my sister? No.

25 Q When you --

1 A They came on to me, though.

2 Q Which one did?

3 A Both of them.

4 Q Was Gail there?

5 A No.

6 Q When Pearcy did that?

7 A No, no.

8 Q When did that happen?

9 A Before, like when we were at the Quarterdeck.

10 Q What was said and by whom?

11 A They just, you know, how guys when they're
12 flirting around with you and stuff?

13 Q Who said something to you?

14 A Jack and Jimmy Dee, both of them. They told me
15 I had nice legs and stuff like that.

16 Q And who said that, specifically?

17 A Jack.

18 Q What did Jimmy Dee say?

19 A He just acted all weird. He was weird. Oh, he
20 acted weird.

21 Q Had you ever seen Jimmy Dee in a fight?

22 A No. That was the first night I had met them.

23 Q You never met them before?

24 A My sister, Shelly, had, but I never met them before.

25 Q When you and Stephanie got out of the car, where

1 was everybody sitting in the car when the car left
2 Stephanie's home?

3 A Jack, 'cause I know Gail was sitting up front with
4 Jack, because she was protective of them like. So I think
5 because it was only Jimmy Dee and Shelly, so they probably
6 both were sitting in back, I would think.

7 Q Was Jimmy Dee and Shelly both in the back seat
8 when you were in the car?

9 A Yeah. I'm pretty sure.

10 Q Had you heard Jimmy Dee come on to your sister
11 at all?

12 A No.

13 Q Was there any conversation prior to you and
14 Stephanie getting out of the car about them going to Jerry's
15 to dance?

16 A Yeah, yeah. Because that's where they wanted us
17 to go.

18 As a matter of fact, Jack started driving there
19 and I had to tell them ten million times I wanted to go
20 home, because he wasn't listening.

21 Q Was there some good bands at Jerry's that night?

22 A It's a rockin' disco. They have a deejay that
23 plays records and stuff like that.

24 Q What was the purpose of the guy in the baseball
25 cap wanting to go home?

1 A I'm not sure.

2 Q He never said?

3 A He just -- 'cause my sister and I asked him, well,
4 aren't you going to come with us and he said no, I'm
5 staying here and he didn't come with us.

6 Q Who is Bobby Greene; do you know?

7 A Bobby Greene? I know a girl named Lori Green.

8 Q Okay. How about Debra North?

9 A (Indicating in the negative.)

10 Q Do you know a bar called Hank's Seabreeze?

11 A No.

12 Q It's my understanding that you all got stuck
13 out at the beach in the car. Were you there at that point
14 in time?

15 A No.

16 Q Okay. That didn't happen when you were there?

17 A Uh-uh.

18 Q Explain to me again the situation involving the
19 fake ID. Whose ID was that?

20 A Gail's.

21 Q And Gail gave it to Shelly?

22 A Uh-huh.

23 Q Was the conversation about Shelly needing a fake
24 ID in order to get into Jerry's?

25 A Yes.

1 Q Is the time that you and Stephanie dropped off at
2 Stephanie's home the last time you saw your sister?

3 A Yeah.

4 Q Is it also the last time you saw Percy or Daly?

5 A Uh-huh.

6 Q Gail?

7 A Yeah.

8 Q It's the last time you saw anybody that remained
9 in the car?

10 A Well, besides Stephanie.

11 Q She didn't remain in the car?

12 A Right, okay.

13 Q Had Shelly ever mentioned to you Percy or Daly
14 before that day?

15 A Yeah, but I mean their names were just -- 'cause
16 my sister did know them, I didn't.

17 Q You knew them as Jack and Jimmy Dee?

18 A Right.

19 Q What had she said about them before that day?

20 A Well, see, her friend Lori Green lived with them,
21 her and her boy friend lived with Jack and Jimmy Dee, so
22 they just were acquaintances. You know, she really didn't
23 say nothing about him. He came over one time.

24 Q Who's he?

25 A Jack.

1 Q Came to your house?

2 A Yeah, but it was a long time ago, but my dad
3 answered the door and stuff.

4 Q What happened on that occasion?

5 A Well, my dad just sort of let him know that he
6 was a little too old to be hanging around a 14-year old,
7 so he never came over again.

8 Q What was Jack's purpose for coming there; do you
9 know?

10 A I really don't know. I'm sorry.

11 Q To your knowledge, had Jack and Shelly been out
12 before, been together on a date or anything?

13 A Oh, no.

14 Q Or Jimmy Dee?

15 A No.

16 Q Had Shelly ever said anything derogatory about
17 Jimmy Dee; in other words, had she bad-mouthed him at all?

18 A No.

19 Q Or Jack?

20 A No.

21 Q Did she ever tell you either one of them were
22 violent?

23 A Never. If she thought they were violent we
24 wouldn't have been with them to begin with, to be totally
25 honest.

1 Q Did she ever mention anything about them having
2 alcohol problems?

3 A No.

4 Q Or seeing either one of them drunk?

5 A I'm sure she partied with them before, if that's
6 what you mean.

7 Q But she didn't mention anything about that to you?

8 A No.

9 Q What did she tell you about either one of them?

10 A That night?

11 Q Any time?

12 A Any time?

13 Q Let's do this. Let's separate it from that night.
14 Let's say what she told you before that night and then later
15 on with you I'll go into what she told you that night.

16 A Okay. She really -- well, her -- okay, Lori Green
17 -- I'm sure my sister stayed over there before, but not with
18 them.

19 Q Uh-huh.

20 A Not all -- I mean, because Lori lived there and
21 she just told me about staying there and stuff. I mean that
22 she stayed over and stuff and they partied and that was it.
23 She would never mess with them guys.

24 Q Okay. Did she tell you anything else about them
25 before that night?

1 A No.

2 Q That's it?

3 A Yeah.

4 Q Okay. That night when you and she and Stephanie
5 and Jimmy Dee and Jack and Gail and the baseball cap guy
6 were together, did she tell you anything about them at that
7 time?

8 A No.

9 Q Were there any problems between any of you all
10 while you all were together?

11 A Not at all.

12 Q No fights, no disagreements, no arguments?

13 A Well, Gail had an argument, because me and
14 Stephanie wanting to go home and she was getting upset,
15 you know.

16 Q At who?

17 A Me and Stephanie.

18 Q What did she say?

19 A She was just -- well, drop them off here, drop
20 them off here and shit like that.

21 Q Okay.

22 A I'm sorry.

23 Q That happened after you all left Percy's house?

24 A Yeah, because Stephanie lives right by Big Daddy's.
25 See, we had them drive by the amusement center and there was

1 no one there and we just said we wanted them to go home and
2 we didn't want to go to Jerry's. She was getting mad,
3 because she was driving.

4 Q Gail was driving?

5 A No, but --

6 Q Because she was riding around?

7 A Yeah.

8 Q Jack was driving?

9 A Yeah.

10 Q Did anyone, during the entire course of that
11 night, drive other than Jack?

12 A No.

13 Q Let me back up for a second.

14 Silver Lakes, did you all just happen to be at
15 that location when you passed Pearcy?

16 A Yeah.

17 Q You weren't going to Silver Lakes; that's just
18 where you happened to be driving at the time?

19 A Yeah. See, we cut through Silver Lakes and went
20 out to 54th Avenue by the Twisty Treat and that's where they
21 seen them.

22 Q Okay. Did Shelly have any money that you are
23 aware of?

24 A Yeah.

25 Q That night?

1 A She did, because of the money -- see, me and
2 Stephanie and Shelly split the \$30 that the guy gave us for
3 the bag. We split it three ways.

4 Q \$10 each?

5 A Yeah, plus, I think, she had a little more,
6 because I'm pretty sure she did.

7 Q All right. How about Jimmy Dee?

8 A I don't know. I know Jack went in and bought the
9 wine coolers. I don't know if Jimmy Dee had money or not.

10 Q Was there any discussion about who was buying the
11 drinks at Jerry's?

12 A No.

13 Q Had Shelly been at Jerry's before that you are
14 aware of?

15 A Yeah.

16 Q Had you ever heard Jimmy Dee talk about weapons
17 of any sort?

18 A No.

19 Q Or Percy?

20 A Not that I recall, because, see, I was pretty high
21 myself after awhile there, you know.

22 Q Okay.

23 A So I can't remember every single thing they said.

24 MR. KOCH: I don't have any other questions.

25 MR. HEYMAN: Read.

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(THEREUPON, THE TAKING OF THE DEPOSITION
WAS CONCLUDED AT 11:20 A.M.)

I have read the foregoing pages and
herewith subscribe to same as a true
and correct transcription of the
questions contained herein and my
answers thereto, subject to corrections
noted, if any there be.

STACY MARIE BOGGIO DATE

1 STATE OF FLORIDA)

2 COUNTY OF PINELLAS)

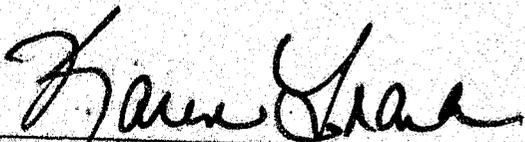
3 I, KAREN FRANK, Deputy Official Court Reporter,
4 Notary Public, State of Florida at Large,

5 DO HEREBY CERTIFY that the foregoing deposition
6 of STACY MARIE BOGGIO was taken before me at the time and
7 place set forth in the caption thereof; that the deponent
8 herein was by me duly sworn on oath to testify the truth;
9 that the proceedings of said deposition were
10 stenographically reported by me, and that the foregoing
11 pages, numbered 1 through 24A, inclusive, constitute a
12 true and correct transcription of said proceedings as had.

13 I FURTHER CERTIFY that I am not a relative or
14 employee or attorney or counsel of any of the parties
15 hereto, nor a relative or employee of such attorney or
16 counsel, nor do I have any interest in the outcome or
17 events of the action.

18 IN WITNESS WHEREOF I have hereunto affixed my
19 official signature and seal of office this 30th day of
20 June, 1986, at Clearwater, Pinellas County, Florida.

21
22
23
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25


KAREN FRANK, Deputy Official
Court Reporter. Notary Public,
State of Florida at Large.
My commission expires:
October 31, 1988.

IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA
CASE NO. 85-7851-CFANO-D
85-5467-CFANO-D

STATE OF FLORIDA,
Plaintiff,
vs.
JACK PEARCY,
Defendant.

TAKEN BY:

Attorney for Defendant

PLACE:

Criminal Court Complex
Room A236
5100 - 144th Avenue North
Clearwater, Florida 33520

DATE:

May 8, 1986

TIME:

Commencing at 9:00 a.m.

REPORTED BY:

KAREN FRANK
Deputy Official Court Reporter
Sixth Judicial Circuit
Notary Public
State of Florida at Large

DEPOSITION OF KATHLEEN DEWEY BUCHAUS

ORIGINAL

PAGES 1 - 14

MORGAN J. MOREY & ASSOCIATES
COURT REPORTERS
CLEARWATER — ST. PETERSBURG
447-8626 894-7407

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APPEARANCES:

ROBERT HEYMAN, ESQUIRE
Assistant State Attorney
Criminal Court Complex
5100 - 144th Avenue North
Clearwater, Florida 33520
Attorney for the State

KY M. KOCH, ESQUIRE
BAUER, KOCH, PLATTE & MARIANI
1550 South Highland Avenue
Clearwater, Florida 33516
Attorney for the Defendant

P R O C E E D I N G S

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THEREUPON,

KATHLEEN DEWEY BUCHAUS

was adduced as the deponent herein, and after having been first duly sworn on her oath, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KOCH:

Q Would you please, state your name and occupation?

A Kathleen Dewey Buchaus. Patrolman for Indian Rocks Beach Police Department.

Q As in Mrs. Terry Buchaus?

A Yes.

Q Congratulations.

A Thank you.

Q Officer Buchaus, would you please tell us what your involvement is in the case of the State of Florida versus Jack Pearcy?

A Sure. I was the first officer on the scene.

Q What time?

A Oh, boy. I would have to refresh my notes here. It was approximately eight thirty in the morning.

Q What date was that?

A May 6th, 1985.

Q How was it that you got the call?

1 A I was dispatched through the computer, MDT from
2 the Sheriff's Department.

3 Q What did you observe when you arrived there?

4 A Upon arrival I observed the complainant who was
5 the bridge tender and a black male and as a approached the
6 water, I observed a female body.

7 Q Who is the black male?

8 A I didn't interview him, I'm sorry. I don't know
9 his name.

10 Q Does anyone have his name?

11 A Yes. Detective Buchaus had his name.

12 Q Do you have an indication in your report of that
13 individual's name either from your report or someone else's?

14 A I don't have anyone else's report in mind. I just
15 have him present, not his name.

16 Q Okay. Describe for me the location of the body.

17 A Okay. The location of the body was located off of
18 a peninsula that we refer to as the Loop. It was laying
19 face up in the water and was, I would say, approximately --
20 I'm guessing -- about 16 feet out.

21 Q From the shoreline?

22 A Right. That would have been -- it would have been
23 probably closer to the southeast point of the peninsula
24 than anything.

25 Q Did you observe any clothing?

1 A No, sir.

2 Q How long --

3 A Not at that time.

4 Q How long did you stay at the scene?

5 A I stayed at the scene until I turned the scene
6 over to the proper chain of command.

7 Q Who was that?

8 A That was Lieutenant Spragg and Detective Buchaus.

9 And then I returned to the scene later to take a
10 position securing the crime scene and taking people in and
11 out.

12 Q How long were you there at the scene before you
13 left the first time?

14 A I would say I was there quite awhile. The exact
15 time, I don't know. It seemed to me about an hour and a
16 half or so.

17 Q Did you secure the area to make sure no one came
18 around the area at which the body was discovered?

19 A Yes, I did.

20 Q Did you all rope that area off?

21 A No. I just -- it's positioned so that, sir, there
22 is only one way into the location and you can preserve it
23 quite easy. The only other way would have been by boat.

24 Q Other than Mr. Hoff and the black male, to your
25 knowledge, were there any civilians in the crime scene area

1 from the time that you arrived there?

2 A Other than those people, no.

3 Q What did you do upon your arrival?

4 A Upon my arrival I noted that -- talked to the
5 complainant and called for a second officer to come out and
6 the supervisor --

7 Q Who next arrived?

8 A Officer Michael Stivers.

9 Q He's the gentleman that is now in Chicago?

10 A I don't know where he is.

11 Q He is no longer with you all?

12 A No, that's correct.

13 Q What did he do?

14 A He called for a supervisor and just protected the
15 scene.

16 Q Did you touch or move the body in any way?

17 A Yes, I did.

18 Q What did you do?

19 A After Lieutenant Spragg's arrival, which was a
20 very short period of time I --

21 Q How long?

22 A I really don't know, sir. It was, you know,
23 according to radio and then our police department is only
24 a few blocks away.

25 Q We're talking minutes?

1 A Yes.

2 Q From your arrival?

3 A Yes, a very short amount of time.

4 Q Okay.

5 A And I was instructed by him to get the body, so
6 I took off my shoes and socks, went into the water and
7 moved the body up enough so we could determine -- we called
8 paramedics to determine whether or not there was any chance
9 of any life.

10 Q Were there any photographs taken prior to the time
11 that you were instructed to move the body?

12 A No, sir. Because Officer Stivers and myself were
13 the only ones there prior to that.

14 Q And to what location did you move the body?

15 A Just enough on the shore to, I believe, she was
16 partially in the water, but enough so that we could
17 determine -- have the paramedics be enroute and determine
18 what condition she was in.

19 Q Was it obvious to you that she was dead?

20 A Yes.

21 Q How long after the time that you moved the body
22 up on the shoreline did the paramedics arrive?

23 A I would say a minute or not a very long period
24 of time. They're located very close also.

25 Q What did they do?

1 A They moved her up additionally and then
2 pronounced her, I believe. I don't know what their exact
3 thing was. Of course, I was busy at that time.

4 Q Did you see them doing anything to the body?

5 A No, sir. I did not.

6 Q Did you do any search of the scene itself?

7 A No, sir. I did not.

8 Q Who did?

9 A That I don't know.

10 Q Once you removed the body from the water, what
11 was your capacity at the scene?

12 A At that time I left to do a neighborhood search
13 for witnesses or possibly, someone that had heard or seen
14 anything in the neighborhood.

15 Q Did you determine who the bridge tender was
16 during the course of the evening preceding the discovery of
17 the body?

18 A Before the call you mean?

19 Q Let's say the midnight to seven shift if there is
20 such a thing?

21 A No, sir. I did not.

22 Q Did anyone, to your knowledge, determine that?

23 A To my knowledge, no. I don't know.

24 Q Who did you talk to in your neighborhood?

25 A I spoke with all the residents present and home

1 on 6th Avenue which is north and across the water from the
2 location.

3 Q Is there not also a roadway that leads and
4 dead-ends into that peninsula area?

5 A That's the only roadway. There are no residents
6 there. There were no people, to my knowledge. We did
7 visibly look and couldn't find anything.

8 Q From the people that you spoke to, did you
9 determine any information relative to this case?

10 A No, sir.

11 Q Did you observe at the scene any items that you
12 determined to be vomit?

13 A No, sir. I did not see that.

14 Q Did you see any car tracks?

15 A There were car tracks evident.

16 Q So that is that unusual for that location, for
17 there to be car tracks?

18 A No, it is usual. There is fishermen that use that
19 piece of property and other people.

20 Q To your knowledge, were there tire tracks that
21 were linked to the discovery of the body?

22 A I have no idea, sir.

23 Q That wasn't part of your duty?

24 A No.

25 Q Did you see any areas that contained what you

1 thought to be blood?

2 A Yes.

3 Q How close and in what proximity to the body?

4 A They were on the shoreline.

5 Q Directly opposite the body?

6 A A little to the north, I believe. Not very much.

7 Q Did you see any weapons?

8 A No, sir. I did not.

9 Q What else did you do?

10 A Other than that, my duties were to be positioned
11 at the outside of the crime scene and register those

12 [REDACTED] d leaving the crime scene area and
13 the times.

14 Q You did take a register of people coming in and
15 going?

16 A Yes, I did.

17 Q Do you have that with you?

18 A No, I don't.

19 Q Is that at the Police Department?

20 A I turned it in with my other reports. I don't
21 know, sir. I believe so.

22 Q What else did you do?

23 A That day, that was all, sir.

24 Q Okay. What did you do after that day?

25 A Just assisted with duties given to me by the

1 detectives.

2 Q What were those duties?

3 A Securing evidence and transporting and reports
4 and whatnot.

5 Q What evidence did you secure?

6 A I secured the clothing found at the scene. It
7 was turned over to me.

8 Q Who found that clothing?

9 A I don't know and it was turned over to me. I
10 placed it in a secure spot.

11 Q What was that; in the evidence locker there?

12 A We have a room that's locked.

13 Q Okay.

14 A And I then transported certain evidence and
15 reports from the Medical Examiner's Office.

16 Q Transported evidence from the Medical Examiner's
17 Office to Indian Rocks?

18 A Well, the paperwork and whatnot.

19 There was some evidence found on the body that we
20 had not had in our original reports.

21 Q What evidence was that?

22 A They were some things on the body; an earring
23 that was found on the body and I believe that was all.

24 Q And you transported that kind of stuff from the
25 Medical Examiner's Office to your department?

1 A That's correct.

2 Q Anything else that you did in this case?

3 A No.

4 Q Did you talk to any witnesses that knew anything
5 about this case?

6 A We talked to several people, all the personnel,
7 of course.

8 Our phones were ringing off the hook. Lots of
9 people to try to determine, but nothing that I was told
10 was relevant to this case, no.

11 Q Do you know Debra North?

12 A No, I don't remember the name.

13 Q Bonnie Green?

14 A No.

15 Q Ringo Yeargin?

16 A No.

17 Q Did you ever speak to any of the Boggio family?

18 A No, I did not.

19 Q Did you ever interview any witnesses that said
20 they knew anything relevant to this matter?

21 A I spoke briefly with individuals that were going
22 to or going to go to the Medical Examiner's Office for
23 purposes of identifying the body.

24 Q Who?

25 A A gentleman by the name of Massingill.

1 Q What did Mr. Massingill tell you?

2 A Nothing. I just spoke to him at the Police
3 Department prior to his going over there.

4 Q What did you all talk about?

5 A I knew his sister. We talked about that. I asked
6 his purpose for being there and he told me.

7 Q Do you know anything else?

8 A No, sir. I can't remember anything.

9 MR. KOCH: That's all the questions I have.

10 Thank you, very much.

11 Do you want to read it or waive it?

12 THE DEPONENT: Read.

13 (THEREUPON, THE TAKING OF THE DEPOSITION
14 WAS CONCLUDED AT 9:15 A.M.)

15 I have read the foregoing pages and
16 herewith subscribe to same as a true
17 and correct transcription of the
18 questions contained herein and my
19 answers thereto, subject to corrections
20 noted, if any there be.

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KATHLEEN DEWEY BUCHAUS

DATE

1 STATE OF FLORIDA)

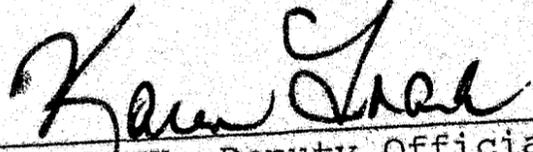
2 COUNTY OF PINELLAS)

3 I, KAREN FRANK, Deputy Official Court Reporter,
4 Notary Public, State of Florida at Large,

5 DO HEREBY CERTIFY that the foregoing deposition of
6 KATHLEEN DEWEY BUCHAUS was taken before me at the time and
7 place set forth in the caption thereof; that the deponent
8 therein was by me duly sworn on oath to testify the truth;
9 that the proceedings of said deposition were
10 stenographically reported by me, and that the foregoing
11 pages, numbered 1 through 13, inclusive, constitute a
12 true and correct transcription of said proceedings as had.

13 I FURTHER CERTIFY that I am not a relative or
14 employee or attorney or counsel of any of the parties
15 hereto, nor a relative or employee of such attorney or
16 counsel, nor do I have any interest in the outcome or
17 events of the action.

18 IN WITNESS WHEREOF I have hereunto affixed my
19 official signature and seal of office this 30th day of
20 June, 1986, at Clearwater, Pinellas County, Florida.

21 
22 KAREN FRANK, Deputy Official
23 Court Reporter. Notary Public,
24 State of Florida at Large.
25 My commission expires: 10-31-88.

IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA
CASE NO. 85-7851-CFANO-D
85-5467-CFANO-D

STATE OF FLORIDA,
Plaintiff,
vs.
JACK PEARCY,
Defendant.

TAKEN BY:

Attorney for Defendant

PLACE:

Criminal Court Complex
Room A236
5100 - 144th Avenue North
Clearwater, Florida 33520

DATE:

May 8, 1986

TIME:

Commencing at 9:15 a.m.

REPORTED BY:

KAREN FRANK
Deputy Official Court Reporter
Sixth Judicial Circuit
Notary Public
State of Florida at Large

DEPOSITION OF DENNIS ALLEN MASSINGILL

ORIGINAL

PAGES 1 - 9

MORGAN J. MOREY & ASSOCIATES

COURT REPORTERS

CLEARWATER
447-8626

— ST. PETERSBURG
894-7407

1 APPEARANCES:

ROBERT HEYMAN, ESQUIRE
Assistant State Attorney
Criminal Court Complex
5100 - 144th Avenue North
Clearwater, Florida 33520
Attorney for the State

KY M. KOCH, ESQUIRE
BAUER, KOCH, PLATTE & MARIANI
1550 South Highland Avenue
Clearwater, Florida 33516
Attorney for the Defendant

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P R O C E E D I N G S

1
2 THEREUPON,

3 DENNIS ALLEN MASSINGILL

4 was adduced as the deponent therein, after having been
5 duly sworn on his oath, was examined and testified as
6 follows:

7 DIRECT EXAMINATION

8 BY MR. KOCH:

9 Q Would you please state your name and address.

10 A Dennis Massingill. 5980 - 15th Avenue.

11 Q I'm sorry. 5980?

12 A 15th Avenue, Pinellas Park.

13 Q And your phone number there?

14 A No, no phone.

15 Q Zip?

16 A 33565.

17 Q And your place of employment?

18 A Bill Osborne Enterprises, stucco.

19 Q Where are they located?

20 A We go all over job sites. I don't know his home
21 address.

22 Q Mr. Massingill, do you know Jack Pearcy?

23 A No.

24 Q Do you know anybody involved in this case?

25 A Yeah, Shelly.

1 MR. HEYMAN: He was at Jerry's that night.

2 THE DEPONENT: I seen her with two guys and
3 a girl and that was it.

4 Q (By Mr. Koch) What time did you get to Jerry's?

5 A It's been so long I forgot. I told them that
6 night when I went to Indian Rocks Shore, but I don't
7 remember.

8 Q How long were you at Jerry's?

9 A Until about 12 or 12:30.

10 Q How many hours had you been there when you left?

11 A About two, maybe three.

12 Q Who did you see Shelly with?

13 A Two guys and a girl. I don't know their names.
14 I never seen the two guys before.

15 Q Had you seen the girl before?

16 A No.

17 Q Would you recognize either of the two guys or the
18 girl?

19 A No.

20 Q How long had you known Shelly?

21 A Maybe two years.

22 Q How did you know her?

23 A How did I know her? Friends, through friends.
24 She lived right around the corner, too.

25 I seen her walking down the road with her sisters.

1 Q Had you seen her at any time earlier that day?

2 A No, I sure didn't.

3 Q Did you talk to her that night at Jerry's?

4 A No.

5 Q Did you have an occasion to see what she was
6 drinking that night or if they was drinking?

7 A She was trying to stay away from me.

8 Q She was trying to stay away from you?

9 A Yeah.

10 Q Why is that?

11 A I'm her friend. I don't want to see her in a bar.

12 Q Had you had conversations with her earlier about
13 that?

14 A No, I didn't even see her.

15 Q At any time during the two years that you have
16 known her?

17 A No.

18 Q Why is it that you felt she wanted to stay away
19 from you?

20 A Because she knows she ain't supposed to be in a
21 bar.

22 Q Do you know of anyone that talked to her that
23 night at Jerry's?

24 A Not really.

25 Q Who were you there with?

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A Ringo Yeargin.

Q Did he talk to her that night?

A (Indicating in the negative.)

Q Is that a no?

A No.

Q Do you know of anyone that saw her anywhere that night other than you and Ringo at Jerry's?

A No.

Q Did you know whether or not she went to the Driftwood that night?

A No, I don't.

Q Do you know where Hank's Seabreeze is?

A No.

Q Do you know if she was drinking any alcohol that night?

A No, I don't.

Q Do you know if the guys she was with were drinking alcohol?

A No, I don't.

Q Was Jerry's pretty crowded?

A Yeah.

Q Was she dancing?

A Yes.

Q Who was she dancing with?

A One of them guys.

1 Q Can you differentiate for me the two guys by
2 physical description?

3 A Yeah. One was taller than the other.

4 Q Was she dancing with the taller or the shorter
5 of the two?

6 A I don't remember. There was a lot of people.

7 Q Did she appear to be with one of the two guys?

8 A No.

9 Q Were they making out or --

10 A No.

11 Q Did you see her with anybody else in the bar
12 other than the two guys and the girl?

13 A No. She stayed right there at the table.

14 Q Did you see either of her sisters that day?

15 A I don't remember.

16 Q Did you see either of them at Jerry's that night?

17 A No, they wasn't there.

18 Q Was she dancing with just one of the two guys or
19 was she dancing with both?

20 A As far as I can recollect, one. I'm not sure.

21 Q Do you know anything else about this case, sir?

22 A No.

23 Q Did you know where she lived at the time that this
24 occurred?

25 A Yeah, yeah.

1 Q Had you seen either of these two guys at her house
2 earlier?

3 A No.

4 Q Do you know whether or not --

5 A I have never seen the guys.

6 Q You don't know where she lived?

7 A No.

8 MR. KOCH: That's all I've got.

9 MR. HEYMAN: Thank you.

10 THE DEPONENT: I hope I helped.

11 (THEREUPON, THE TAKING OF THE DEPOSITION
12 WAS CONCLUDED AT 9:30 A.M.)

13 I have read the foregoing pages and
14 herewith subscribe to same as a true
15 and correct transcription of the
16 questions contained herein and my
17 answers thereto, subject to corrections
18 noted, if any there be.

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DENNIS ALLEN MASSINGILL

DATE

1 STATE OF FLORIDA)

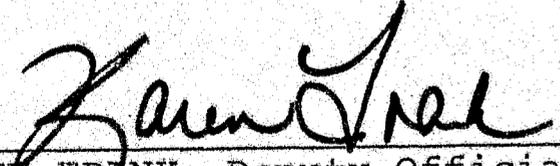
2 COUNTY OF PINELLAS)

3 I, KAREN FRANK, Deputy Official Court Reporter,
4 Notary Public, State of Florida at Large,

5 DO HEREBY CERTIFY that the foregoing deposition of
6 DENNIS ALLEN MASSINGILL was taken before me at the time and
7 place set forth in the caption thereof; that the deponent
8 therein was by me duly sworn on oath to testify the truth;
9 that the proceedings of said deposition were
10 stenographically reported by me, and that the foregoing
11 pages, numbered 1 through 8, inclusive, constitute a
12 true and correct transcription of said proceedings as had.

13 I FURTHER CERTIFY that I am not a relative or
14 employee or attorney or counsel of any of the parties
15 hereto, nor a relative or employee of such attorney or
16 counsel, nor do I have any interest in the outcome or
17 events of the action.

18 IN WITNESS WHEREOF I have hereunto affixed my
19 official signature and seal of office this 30th day of
20 June, 1986, at Clearwater, Pinellas County, Florida.

21 
22 KAREN FRANK, Deputy Official
23 Court Reporter. Notary Public,
24 State of Florida at Large.
25 My commission expires: 10-31-88.

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APPEARANCES:

ROBERT HEYMAN, ESQUIRE
Assistant State Attorney
Criminal Court Complex
5100 - 144th Avenue North
Clearwater, Florida 33520
Attorney for the State

KY M. KOCH, ESQUIRE
BAUER, KOCH, PLATTE & MARIANI
1550 South Highland Avenue
Clearwater, Florida 33516
Attorney for the Defendant

3

P R O C E E D I N G S

1
2 THEREUPON,

3 RINGO WILLIS YEARGIN

4 was adduced as the deponent herein, and after having been
5 duly sworn on his oath, was examined and testified as
6 follows:

7 DIRECT EXAMINATION

8 BY MR. KOCH:

9 Q Please state your name and address.

10 A Ringo Yeargin. I live at 6771 - 68th Avenue, North,
11 Pinellas Park.

12 Q And what do you do for a living, Mr. Yeargin?

13 A Stucco, buildings.

14 Q Osborne?

15 A No. I'm with Quality Dry Wall. I was with
16 Osborne.

17 Q What do you know about this case?

18 A All I know is I seen her at the bar, you know,
19 and they were dancing and shit. That's all.

20 Q You saw who at the bar?

21 A Shelly and, I guess, one of them guys. I didn't
22 know them too well.

23 Q Had you met them before?

24 A No, I hadn't.

25 Q You saw them at Jerry's?

1 A Yeah.

2 Q And that would be before she died?

3 A The night she died, I guess.

4 Q I'm sorry. Did you tell me that you had met these

5 guys before?

6 A No, I have not.

7 Q Had you ever seen them before?

8 A No, not since that night.

9 Q What time did you see them before that night?

10 A Just that night. That's when I seen them. I

11 seen them about 11:30 or 12:00 o'clock that night.

12 Q What time did you get to Jerry's?

13 A What time did I get there? I usually get there

14 about 11:00, 11:30.

15 Q Did you get there 11:00 that night?

16 A No. Probably more around 11:30.

17 Q And how long were you there?

18 A Until about 1:00. Right after the show. They got

19 a little show.

20 Q Was Shelly still there when you left?

21 A No. She left around, I guess, around 12:00, 12:30,

22 right in that area.

23 Q Did you see her arrive there?

24 A No, I didn't.

25 Q She was already there when you arrived?

1 A I guess. There's a lot of people in there.

2 Q Who all was she with?

3 A Two dudes and a girl. I think the girl had reddish
4 blond hair or something like that, maybe. That's all I know.
5 Scruffy-looking guys.

6 Q Were the two guys physically distinguishable by
7 height; was one taller than the other?

8 A That I didn't really even notice, because there
9 was so many people, but one dude had black hair and a
10 mustache or something like that.

11 Q Who was she dancing with?

12 A The dude with the black hair and the mustache.

13 Q How many times did she dance with this guy; do
14 you know?

15 A I only noticed once. I was busy myself.

16 Q What were you doing?

17 A Dancing, having a good time.

18 Q Did you see whether or not Shelly was drinking?

19 A That I didn't even know. Probably, she was in a
20 bar, you know.

21 Q Did you see whether or not the guys were drinking?

22 A Probably. That's what they go to the bar for.

23 Q Did you see them drinking?

24 A I seen them at the table partying, that's about it.
25 I can't say I seen them take a drink, but they were there.

1 Q Did you formulate any opinion about whether or not
2 either of these two guys were drunk?

3 A I couldn't even tell you.

4 Q Did you see them for a sufficient length of time
5 in order to --

6 A No.

7 Q -- enable you to make that opinion?

8 A No, I didn't watch them.

9 Q How about Shelly?

10 A No, I didn't watch them either.

11 Q How long had you known Shelly?

12 A I guess about three months or four months before
13 that. I know her sister, the whole family.

14 Q How did you know her?

15 A How did I know her? Through her sister, Sherry.

16 Q Did you live in the same neighborhood with her?

17 A Me? Yeah, right down about seven or eight blocks.

18 Q Were you and Massingill living together at the
19 time?

20 A No. He lived right down the street from me, about
21 three houses down, so we were always together.

22 If I more or less want to get away from my house,
23 I'd go to his, you know.

24 Q Did you talk to Shelly that night?

25 A No, I didn't talk to her. I just seen her, I seen

1 her dancing and everything, but I was with some people,
2 so I didn't bother walking over there.

3 Q Did you or anyone else that you know of talk to
4 anybody in the party that she was with, the four people?

5 A I don't think so. Not that I know of, you know,
6 but I wasn't paying no attention.

7 Q Did she appear to be with this guy?

8 A Yeah, they were definitely partying.

9 Q In a relationship?

10 A Yeah, they were definitely partying. She was
11 sitting on his lap at the table. That I know, I seen that.

12 Q And was the other guy that was there with the
13 other girl that was there?

14 A I couldn't even tell her. I didn't look at her.
15 She didn't look good to me.

16 Q I'm sorry?

17 A She didn't look good to me at all, so I wouldn't --

18 Q Do you have any idea how many times she danced
19 with this guy?

20 A No, I don't.

21 Q Was she up on the dance floor for a pretty long
22 period of time?

23 A Maybe one or two songs. I don't know.

24 Q One or two songs?

25 A Yeah, probably. I hadn't paid too much attention

1 to it.

2 Q Who were you with there?

3 A I was there with Dennis. I seen Dennis there and
4 who else did I see there? I forgot her name.

5 I think it was Debbie Johnson or something like
6 that.

7 Q Did you see Shelly talk to anybody other than the
8 people she was with?

9 A Like I said, I seen her there and I seen him, you
10 know, and then I went and partied on.

11 Q You actually saw them leave?

12 A No, I didn't see them leave. Like I said, I got
13 there around 11:00 and like 12:30 she was gone, they left.

14 She wasn't in the bar anymore that I know, but
15 other than that, that's about it and then I guess two days
16 later they come to my house and told me she was dead,
17 something like that.

18 Q Her sisters weren't at Jerry's that night that
19 you saw?

20 A Her sister?

21 Q Either of them?

22 A I don't think so. That I don't know. I couldn't
23 be sure.

24 Q You don't know where they went from there?

25 A No.

1 Q And you don't know anything about Jack Pearcy?

2 A No, I don't know nothing about him.

3 Q How about James Daly?

4 A No, I don't know personally.

5 MR. KOCH: That's all I have.

6 (THEREUPON, THE TAKING OF THE DEPOSITION
7 WAS CONCLUDED AT 9:55 A.M.)

8 I have read the foregoing pages and
9 herewith subscribe to same as a true
10 and correct transcription of the
11 questions contained herein and my
12 answers thereto, subject to corrections
13 noted, if any there be.

14 _____
15 RINGO WILLIS YEARGIN DATE
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1 STATE OF FLORIDA)

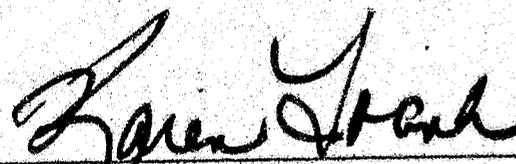
2 COUNTY OF PINELLAS)

3 I, KAREN FRANK, Deputy Official Court Reporter,
4 Notary Public, State of Florida at Large,

5 DO HEREBY CERTIFY that the foregoing deposition of
6 RINGO WILLIS YEARGIN was taken before me at the time and
7 place set forth in the caption thereof; that the deponent
8 therein was by me duly sworn on oath to testify the truth;
9 that the proceedings of said deposition were
10 stenographically reported by me, and that the foregoing
11 pages, numbered 1 through 9, inclusive, constitute a
12 true and correct transcription of said proceedings as had.

13 I FURTHER CERTIFY that I am not a relative or
14 employee or attorney or counsel of any of the parties
15 hereto, nor a relative or employee of such attorney or
16 counsel, nor do I have any interest in the outcome or
17 events of the action.

18 IN WITNESS WHEREOF I have hereunto affixed my
19 official signature and seal of office this 30th day of
20 June, 1986, at Clearwater, Pinellas County, Florida.

21 

22 KAREN FRANK, Deputy Official
23 Court Reporter. Notary Public,
24 State of Florida at Large.
25 My commission expires: 10-31-88.

APPEARANCES

LARRY SANDEFER, ESQUIRE
Assistant State Attorney
5100 144th Avenue North
Clearwater, Florida 33520

Attorney for State of Florida

RONNIE G. CRIDER, ESQUIRE
CARLSON, MEISSNER, WEBB & CRIDER, P.A.
[REDACTED]^e
Clearwater, Florida 33516

Attorney for Defendant

PROCEEDINGS

1
2 THEREUPON,

3 JOAN WOOD, M.D.

4 was adduced as the Witness herein, being first duly sworn,
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. CRIDER:

8 Q State your name and occupation for the record,
9 please.

10 A Joan Wood. Medical Examiner, Sixth Judicial
11 Circuit of Florida.

12 Q Pursuant to your duties as a medical examiner for
13 the Sixth Judicial Circuit did you have an occasion to
14 become involved in an investigation concerning a homicidal
15 death of a white female identified as Shelly Boggio?

16 A Yes.

17 Q My understanding is that your first knowledge of
18 that was when you were called to the scene of that
19 particular incident.

20 A Yes.

21 Q First, I would like to ask you about what you
22 observed and what you did at the scene. Who requested you
23 to come to the scene?

24 A Indian Rocks Beach Police Department

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ROBERT A. DEMPSTER, OFFICIAL COURT REPORTERS
Clearwater, Florida

1 Q Who did you speak with when you arrived at the
2 scene?

3 A One of the detectives. I don't know who.

4 Q Do you recall anything that they told you or any
5 information that they gave you?

6 A Yeah. She was floating free approximately ten
7 feet from shore. She was pulled into shore and there was
8 an area on the bank where it was believed she was dragged
9 from the grass down into the water. Then we found an area
10 of blood approximately three feet in diameter west of the
11 body and Officer Dewey was the first on the scene with two
12 paramedics.

13 Q Do you remember who gave you that information?

14 A No.

15 Q Was the body recovered from the water when you
16 arrived?

17 A Yes.

18 Q What was the position of the body and the
19 location of the body when you arrived?

20 A The body was faced up on the shore with a sheet
21 or something, a sheet covering it. That's the way it
22 looked when I got there.

23 Q Still partially in the water?

24 A Yes.

25 Q Did you make any observations of the crime scene

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ROBERT A. DEMPSTER, OFFICIAL COURT REPORTERS
Clearwater, Florida

1 itself?

2 A Yes. I saw the area of blood. I saw some black
3 underpants on the bank. I can't read my writing. I think
4 it says "a bag with blood close to the body." And then
5 an area of vomitus that was collected at 10:45 a.m. and
6 given to the police.

7 Q This large area of blood, and I guess we could
8 characterize that area that you first described as a larger
9 area of blood?

10 A Yes.

11 Q Approximately how far was that from the body?

12 A You would have to check with the people who
13 measured.

14 Q That was a distance from the body, though?

15 A Yes. There is my very rough drawing. There is
16 the bridge, here is the edge of the water, apartments over
17 here, she was there, and the blood was here and the
18 underpants there.

19 Q Now, did you observe any forensic evidence--by
20 that I mean blood--any kind of, I don't know, forensic
21 evidence that would indicate how that body got from the
22 area where the blood was to the shore line?

23 A Yes.

24 Q Okay.

25 A There were multiple drag marks on her back and it

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ROBERT A. DEMPSTER, OFFICIAL COURT REPORTERS
Clearwater, Florida

1 appeared that she had been dragged on her back, at least
2 over the rocks, presumably over the grass and the rocks to
3 the water, and there was a path through the grass where it
4 was pushed down that you could see what appeared to be the
5 path through which she was dragged.

6 Q Was there any blood along that path?

7 A Not that I recall.

8 Q Do you have a picture of her back?

9 A Yes.

10 Q Let me show you, you have previously showed me a
11 picture indicating the condition of the body when you
12 arrived with a sheet over on the bank here, and this is a
13 very rocky area here, there is no real sand, it's just
14 pretty jagged rocks?

15 A Just rocks, yeah.

16 Q Are these rocks consistent with these cuts and
17 drag marks on the back?

18 A Yes.

19 Q In your opinion, within a reasonable degree of
20 medical certainty, could these kind of marks or contracting
21 marks have been caused by being drug across grass?

22 A Not the cutting marks, but these areas of
23 abrasion could have come from the grass.

24 Q So, really, this would indicate to you that the
25 body had been pulled or drug probably across the rocks and

MORGAN J. MOREY & ASSOCIATES
ROBERT A. DEMPSTER, OFFICIAL COURT REPORTERS
Clearwater, Florida

1 possibly grass also?

2 A Yes.

3 Q Other than the marks you have described in the
4 grass and the marks that we have just talked about on the
5 back of the victim, was there any other evidence that you
6 observed of any nature that would indicate the body was
7 drug from the area of the large pool to the area where it
8 was found?

9 A No, except that her blue jeans were in the water.
10 But separate from the body, and that would suggest somebody
11 threw those in.

12 Q Now, do you have any forensic evidence through
13 any examination of the body or the scene that would
14 indicate to you that more than one perpetrator was involved
15 in transporting the body from that large area of blood to
16 the edge of the water?

17 A No.

18 Q Impossible to make that determination based on
19 what you determined?

20 A Right.

21 Q Did you observe any other evidence at the scene
22 that you correlated with any wounds or injuries on the
23 victim?

24 A No.

25 Q Any other observations at the scene that you made

1 note of or felt were pertinent to your examination?

2 A That she was nude; that blue jeans were found at
3 10:10 that washed in from the same area; she had stab
4 wounds. She had old burn scars. She had bruising around
5 both eyes; she had a stab wound on the left back of her
6 head; knife wounds are to the right neck; a stab wound to
7 the back; multiple defensive wound; and froth and foam
8 coming from her mouth.

9 Q Let me talk to you about what all that means in a
10 minute.

11 Did you do any initial examination or testing of
12 the body at the scene?

13 A I felt the temperature of the body. It was warm
14 on the front and cool on the back.

15 Q What did that indicate to you?

16 A Well, that in and of itself was not that helpful
17 since she had been in the water.

18 She did have hard rigor. It takes about six
19 hours for hard rigor to develop.

20 I saw her at 9:33 a.m., so, the minimum going
21 back about six hours would mean that the time of death is
22 somewhere around probably 3:30 back to--well, I would put
23 it from 2:30 to 4:30, somewhere in there as my best
24 estimate.

25 Q That's subject to some degree of error?

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ROBERT A. DEMPSTER, OFFICIAL COURT REPORTERS
Clearwater, Florida

1 A Right.

2 The other thing I can do is I collected a
3 vitreous potassium at 10:22 a.m., and I will have to go
4 look on the chart to tell you what that means. But I
5 believe that that's in the range of seven to nine hours
6 back from 10:22. So, on the chart I will look it up for
7 you when we get finished.

8 Q Okay.

9 That test is based on the potassium in the eye
10 fluid?

11 A Right, going up in a linear fashion after death.

12 Q Let me talk to you a little bit about the wounds.
13 Can you characterize the wounds to the hands as defensive
14 wounds?

15 A Yes.

16 Q Were you able to match those wounds to the hand
17 up with the head wounds?

18 A I didn't attempt to do that. They are through
19 and through stab wounds and I would feel that the
20 likelihood is great that they stabbed through a hand into
21 some part of the body, but whether it's the neck or what
22 part of the head it is I couldn't say.

23 Q Joan, help me, but I don't know what term I want
24 to use, but based on the photographs that I have, I guess
25 what I want to say is the most serious knife wounds were

MORGAN J. MOREY & ASSOCIATES
ROBERT A. DEMPSTER, OFFICIAL COURT REPORTERS
Clearwater, Florida

1 the wounds to the head?

2 A Well, the stab wound to her left back went
3 through the inner part of the ninth left rib and then went
4 into the lung, filling the left chest cavity with blood.

5 There was no injury to the brain. About all of
6 the stab wounds, the back of the head, the side of the
7 head, all of those.

8 There was hemorrhage in the neck from stab wounds
9 and the right external jugular vein was severed.

10 The other veins of the neck and the arteries of
11 the neck were intact.

12 So, the two most severe were the one to the back
13 and at least one to the neck stabbing the jugular vein, the
14 remainder just caused some bleeding--it's not a just, but
15 you bleed a lot to head wounds, but causing damage to
16 muscle, skin and fat.

17 Q Discounting the wounds to the hands and the arms,
18 we have got the four wounds on the back of the head, the
19 one in the back and then how many in the neck?

20 A Well, unfortunately I didn't do them that way.
21 There actually were seven stab wounds to the back of the
22 head, three of which were very superficial, just little
23 pricks. You can see it closer here.

24 The left side of the face and neck showed six
25 wounds.

MORGAN J. MOREY & ASSOCIATES
ROBERT A. DEMPSTER, OFFICIAL COURT REPORTERS
Clearwater, Florida

1 And the right side of the neck showed five
2 wounds, three of which are stab wounds, and two of which
3 are stab wounds combined with cutting actions, as you see
4 here. There is a cutting action and a stab wound.

5 Q It's almost like somebody tried to slit her
6 throat?

7 A Yes.

8 Skin is very tough, so you have to have a pretty
9 sharp knife to cut it open as opposed to stab through it.

10 Q Would this wound be consistent then with
11 an attempt to slit her throat? Would that be your opinion?

12 A Yes.

13 Q Can you give me an opinion on how a person could
14 remain conscious with these type of wounds?

15 A No, because she was also choked. I don't know
16 when the choking occurred.

17 Q That could have resulted in a loss of
18 consciousness also?

19 A Yes.

20 Q So, we could have a scenario where she would be
21 choked unconscious and then stabbed?

22 A I think that's unlikely, given the areas of her
23 body that are stabbed.

24 Q Because it would indicate really a struggle?

25 A It would indicate some movement by her relative

1 to the person with the knife.

2 Q Especially with the defense wounds?

3 A Right. But to say that everyone of those wounds
4 had to come before she was unconscious, I can't say.

5 Q The same with the drag marks, you can't tell
6 anything about the character of the drag marks in terms of
7 an indication as to whether or not she was conscious or
8 unconscious at the time she was drug? Could you give us an
9 opinion on that?

10 A No.

11 Q Now, you had mentioned some bruises around the
12 eyes. Are those traumatic bruises?

13 A Yes.

14 Q Is there anything about those bruises that you
15 can give us any opinions on, how they occurred?

16 A They appear to be compatible with blows to that
17 region by some object. They are not the result of blows
18 with a knife.

19 Q Would they be constructed consistent with being
20 struck with a fist?

21 A Yes.

22 Q Again, is there any bruising to the body
23 consistent with a blunt object or a fist that would
24 indicate to you that there was more than one assailant?

25 A There was bruising over the nose with abrasion.

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1 There was bruising of the outer right lower lip.
2 There was some bruises to the extremities.

3 Some abrasions over the neck, but there is no way
4 to say whether these were the actions of one person or more
5 than one.

6 Q Pursuant to the autopsy, did your office conduct
7 a drug screen of body fluids from the victim?

8 A Yes.

9 Q What was the result of those?

10 A Blood alcohol was .06 grams per deciliter, and
11 urine screen and drug screen on the vomit were negative
12 except for nicotine found in the urine.

13 Q Do you test or does your office test for
14 tetrahydrocannabinol?

15 A No. We can test for it or have it tested but we
16 can't interpret the results.

17 Q Can you tell me whether or not there was THC in
18 the urine of this victim?

19 A No. We did not test for it.

20 Off the record for a second.

21 (Thereupon, an off-the-record discussion took
22 place.)

23 Q Now, was there any evidence from your examination
24 of a sexual battery?

25 A I didn't see any; however, I did take swabs and I

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1 don't know the results of those. They would have gone to
2 FDLE or wherever the agency would have sent them.

3 Q Tell me what you mean by you didn't see any.

4 A I didn't see any signs of trauma in the vaginal
5 area. There was no evidence of pregnancy. And I didn't
6 find any sperm present, although that didn't get written in
7 the report. But I did take the swabs and gave those to
8 Technician Dewey from Indian Rocks, DEWEY. They would have
9 had to have them further tested.

10 Q What kind of test would they do on those?

11 A They would essentially reconstitute the dry swabs
12 and look for acidphosphatase and blood groupings that were
13 foreign to her.

14 Q And you don't have any knowledge whether that was
15 ever done?

16 A No, I do not.

17 Q Any other evidence of any type of a sexual
18 battery, any evidence of any injury to her breasts or
19 anything like that?

20 A No. The only indication is that she was nude.

21 Q And I know you have talked to me in the past
22 about--I don't remember what you referred them to--but like
23 tease marks with a knife, that kind of thing, did you
24 observe any of those kind of wounds on this victim?

25 A There are at least three pricking wounds to the

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1 back of the head which might be considered tease marks;
2 however, we have to take into account the fact that she may
3 have had her hands there. So, the fact that the knife
4 didn't go through her hand and penetrate more deeply into
5 the neck could be an explanation for that as opposed to
6 tease marks.

7 Q More than likely, given the overall
8 characteristic of this homicide, that wouldn't be
9 consistent with these types of tease marks that you have
10 described in the past, would it?

11 A I don't think so.

12 Q One of the pictures, and I haven't seen all of
13 these photographs, one of the photographs I just saw had
14 Q-Tips or swabs through the hands indicating that those
15 wounds were through and through.

16 A Right.

17 Q I think you said before that you didn't make any
18 attempt to match any of those wounds up with the wounds in
19 the back of the head.

20 A Right.

21 Q Can you give me an opinion as to whether the
22 wounds in the back of the head and the through and through
23 wounds of the hands are consistent with defense wounds,
24 namely her placing her hand behind her head while she was
25 being stabbed?

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1 A Yes, these are clearly defense wounds.

2 Q Would that be your opinion?

3 A I [REDACTED]ld have occurred.

4 Q I guess what I'm asking you, there can be defense
5 wounds when somebody puts their hands up or tries to grab a
6 knife and that sort of thing.

7 A And she does have some of those, too, because if
8 you look, she has a cutting wound there, she has got a
9 superficial incized wound on that finger, she has got
10 an incized wound right there on that finger. So, some of
11 these appear to have come clearly from her attempts to ward
12 the knife off. Those which are through and through wounds
13 may represent still defensive wounds but defensive wounds
14 created by her hands over her skin when they were stabbed,
15 when the stabbing occurred.

16 Q Are we talking about different hands here? Is
17 this the same hand that had the through and through wound?

18 A That's her left--well, actually there are two
19 wounds there. That's her left hand, and this is
20 her--again, it looks like her left hand. The right
21 hand--okay, on her right hand, she had a cutting wound on
22 the second finger, a cutting wound on the third finger, and
23 on the front of the first finger, a wound on the third
24 finger down here, and she had some through and through stab
25 wounds also.

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1 And then the left hand also showed through and
2 through stab wounds.

3 Q Now, I want to ask you the same question about
4 these stab wounds that I asked you about the bruises. Is
5 there any indication from the stab wounds that there was
6 more than one assailant?

7 A No. There is nothing about the stab wounds that
8 allows me to differentiate, for instance, two knives.

9 Q Or one knife and two assailants?

10 A Right.

11 Q If they are taking turns sort of thing?

12 A Right.

13 Q The same opinion as regards to one assailant
14 punching and one assailant with a knife?

15 A Could be. I don't know.

16 Q Could have been one assailant that did the
17 punching and the stabbing?

18 A Yes.

19 Q I just want to be clear on that.

20 What other examination did you make of the victim
21 that we haven't discussed, other than, you know, the
22 standard autopsy? I don't want you to go through your
23 whole autopsy on it, but I'm just talking about that is
24 relevant to this homicidal death.

25 A We didn't specifically discuss the fact that she

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1 does have some bruises on her right forearm and her left
2 forearm which appeared recent, not more than a few hours
3 old.

4 Q Did you observe any bruises on her forearms that
5 would be consistent with grabbing her by her arms and
6 dragging her?

7 A There is a three-fourths by one-half inch bruise
8 six-and-a-half inches below her elbow on the outer portion
9 of her forearm.

10 Q And you said that was how old?

11 A Appeared recent. A few hours old at the most.

12 Q Could that be something that happened during the
13 recovery process?

14 A What recovery?

15 Q When they were recovering the body.

16 A No. That's a premortem.

17 Q Do you have a postmortem bruising, do you have
18 such a thing as that?

19 A Some people say there is, if you hit something
20 hard enough you can force blood out into the tissue.

21 In my experience, I haven't seen any bruise that
22 I could contribute to that. Normally after death, if you
23 put water, if you cut into an area of hemorrhage that
24 occurs after death and put water on it, you can wash it all
25 out, because the blood hasn't dissected through the

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1 tissues, it's lying in the plain between the tissues
2 because there was no blood pressure present.

3 And there was another bruise on her left forearm
4 and there was just one and so I can't say somebody grabbed
5 her.

6 Q But you think a couple hours premortem?

7 A It could be a few hours premortem, it could be
8 during the rest of this assault.

9 Q Okay. All right. What I was trying to get at
10 here, too, is when I was asking you about bruising on the
11 arms, I guess I should ask you about bruising on the
12 ankles, too. I would like to know if you could form an
13 opinion within a reasonable degree of certainty as to
14 whether or not when these drag marks occurred she was being
15 drug by her hands or by her feet?

16 A Looking at the drag marks I would say she was
17 being dragged by the feet because the small of the back,
18 the marks were from the small of her back and buttock.

19 Q You would expect to see the marks lower on the
20 body if she was being pulled by the arms?

21 A Yes, because her buttocks would be--also if you
22 pull somebody by their legs, you tend to straighten their
23 back out as you pull and kind of round it. So, you would
24 be more likely, I believe, to get this kind of mark in the
25 midline of her back. And if someone couldn't support her

1 entire weight and was pulling her by the arms, they
2 certainly would get her shoulders, you know, I would think,
3 and her buttocks would be the next main point of contact.

4 Q So, would it be your opinion to a reasonable
5 degree of medical certainty that she was pulled by her
6 feet?

7 A Yes.

8 Q You were telling me about other examinations you
9 did relating to the--

10 A Oh, sorry.

11 Also she has an abrasion on the outer part of her
12 left upper arm, which would be consistent with her arms
13 being down when she was dragged.

14 No, the description is incredibly long, but I
15 don't see anything else.

16 Q I didn't want to go through that whole thing.
17 To what did you ultimately attribute the cause of
18 death?

19 A Drowning.

20 Q And what did you base that opinion on?

21 A I based that opinion on the appearance of the
22 body, the consistency of the lungs, the froth within the
23 mouth, and a confirmatory testing of the blood of the right
24 and left sides of the heart for the presence of chloride.
25 The reasoning being that salt water contains high levels of

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1 chloride, and blood which circulates through the lungs and
2 comes back into the heart, thereby being on the left side
3 of the heart, would have more chloride in it than blood
4 that has not made that pass and is in the right side of the
5 heart.

6 In this case we found a right side chloride of 97
7 and a left side chloride of 181.

8 Q In your opinion, or can you give me an opinion as
9 to whether or not the knife wounds would have been fatal?

10 A They could have been. Most specifically the one
11 to the left chest which caused bleeding into the left chest
12 cavity, that's treatable. But if she didn't receive
13 medical attention, she could have died from that.

14 Q I guess that's the operative situation here, she
15 could very possibly have survived those knife wounds if she
16 would have obtained competent medical treatment?

17 A Yes.

18 Q Let me ask you [REDACTED]
19 indication that she was choked.

20 A Okay. She was choked to the extent that she had
21 bruising in her neck tissues that was not associated with
22 any of the knife wounds, and she had bruising over her
23 hyoid bone.

24 She had petechiae, which were prominent in both
25 eyes consistent with choking.

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1 She was, therefore, choked to the point in all
2 likelihood of unconsciousness.

3 She went on to drowned so she appeared to have
4 survived it. Had she not received medical attention and
5 had that degree of injury, she could have gone on to
6 develop severe swelling of her larynx and a respiratory
7 embarrassment without sufficient oxygen.

8 Q What significance do you attach to the fact that
9 the hyoid bone was not broken?

10 A I attach none. The injuries to the neck were
11 clearly consistent with choking. The petechiae were
12 consistent with choking. The hyoid in the voice box was
13 consistent of choke. She is 14 years old and it would be
14 the exception rather than the rule to see a fractured hyoid
15 in this age group.

16 Q The vomit that you observed there at the scene,
17 was that submitted to the lab here for any type of
18 analysis?

19 A Yes, it was. It was submitted and drug testing
20 was done of the vomitus. No drugs were found.

21 Q Were you able to make any kind of a determination
22 as to whether or not that vomitus was from the victim?

23 A I did not. Her stomach contained a lot of fluid
24 and partially digested food that had an odor reminiscent of
25 frankfurters or possibly chili. I didn't examine or

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1 visually examine the vomitus to look for similar findings.
2 It's not necessarily hers.

3 Q Can you say that within a reasonable degree of
4 medical certainty that it isn't hers?

5 A No.

6 Q Could that be done?

7 A Theoretically, yes.

8 Q How?

9 A You would have to get someone who is trained in
10 the examination of vomitus for the foods that are in it.
11 We should still have the vomitus from the scene, and her
12 vomitus--and then someone could compare them.

13 Q What kind of a person would do that? What type
14 of an expert?

15 A Well, it would be a forensic evidence specialist.
16 The only person who comes to mind off the top of my head is
17 Mary Cowan, COWAN, who is with the Cuyahoga County, Ohio
18 corner's office and I am aware of a case where she could
19 match a kielbasa that some man shoved into a woman's vagina
20 with kielbasa when he was in her house and I've never heard
21 of anybody that could do that.

22 The problem I would say in this case that would
23 be the fact that even if the contents of the stomach are
24 essentially the same, it would not rule out the fact that
25 the person with her might have had exactly the same kind of

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1 food to eat that she had, so you wouldn't necessarily know.

2 Q But if the contents were dissimilar?

3 A If they were different, then it wouldn't be hers.

4 Q For instance, if one was potato salad and the
5 others were the frankfurters and chili--

6 A --then it wouldn't be hers.

7 Q Is there anybody here locally that could just
8 make a visual determination? For instance, if we are
9 talking about potato salad on the one hand and frankfurters
10 and chili on the other hand?

11 A Well, I could do that. I don't think it takes a
12 lot of training to look and see that two things have the
13 same things inside them. I don't know why I didn't do it
14 in this case except that the autopsy took so incredibly
15 long. I can do that.

16 Q Would you do that?

17 A Sure.

18 MR. CRIDER: Let's go off the record a second.

19 (Thereupon, an off-the-record discussion took
20 place.)

21 Q The underwear that was found at the scene, were
22 any tests performed of that by you?

23 A No, other than to look at it as it lay on the
24 ground.

25 Q Any evidence of sexual battery in the underwear?

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1 A I didn't test it. I didn't see anything. I
2 don't know what they did with it. It really requires
3 forensic testing.

4 Q Okay.

5 A The T-shirt, by the way, which was not on the
6 body, does have stab wounds through the material of it. I
7 think this is a duplicate. No, it isn't.

8 Q That clearly indicates that she was stabbed while
9 she had the undershirt on; is that right?

10 A Yes. There is the plastic bag that had blood on
11 it.

12 There is a tire track.

13 Q Who are these fellows right here that are so
14 interested in this bag? Do you know those guys?

15 A One is the ID technician from the Sheriff's
16 office. The other two are from Indian Rocks Beach. I
17 don't know who they are. Most of these agencies change
18 people faster than I can keep up with.

19 Q This shirt that you have showed me a picture of
20 for example, it has "back" marked on it. You have four
21 arrows here. Those four arrows point to holes in the
22 shirt?

23 A Yes, linear cutting marks in the shirt compatible
24 with the stab wounds.

25 Q Those are consistent with stab wounds?

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1 A Yes.

2 Q The collar shown up in the photograph, could the
3 collar have been folded down and--

4 A The fact that those together make one, yes, sir.

5 Q But we don't have any in the stab wounds in the
6 back area where that shirt would have been?

7 A We have stab wounds up here, and depending on how
8 she got, you know, you could get into a situation where you
9 had your shirt pulled up. I don't know that that's--but
10 there are stab wounds to the back, there are cuts to the
11 shirt in the back.

12 Q You can't form any opinions about that other than
13 just that they are there?

14 A Well, it suggests that she was wearing it, but
15 it's not the only possibility.

16 Q These are not consistent, though, with the
17 pattern of wounds in the back of the head, are they?

18 A No.

19 Q These are on more of a linear pattern, and we've
20 got more of a four-corner kind of pattern in the back of
21 the head.

22 A Yes, but you have some small wounds, too, and I
23 think you are assuming that that shirt if it were on her
24 body was in one position, and I don't think that that's
25 reasonable. You know, if she moved and fought, it twisted.

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1 Q I'm really not making any assumptions. I'm just
2 kind of interested in what assumptions you could make.

3 A It's not proof positive. It suggests that she
4 was wearing a shirt, plus the fact that there was so much
5 blood on it.

6 Q You told me earlier that there was no injury to
7 the brain from these stab wounds. What significance is
8 that?

9 A Well, the knife may not have had a heavy enough
10 blade to penetrate bone.

11 Q Is it pretty hard for a guy to stab through the
12 skull? Would that be a pretty hard thing to do?

13 A In the back of the skull, yes, because the bone
14 is very thick. In the front or on the sides, in this
15 region the bones are pretty thin. But on the stab wounds
16 they are on into the muscle, it does not go to the brain.
17 The function is the path and how oblique it is to the body,
18 and secondly, it's the knife and the force that's used.
19 I've seen buck knives penetrate the brain.

20 Q This picture right here, there this is the bruise
21 that you were talking about that's over the--that was
22 consistent with the choking?

23 A Yes, that's one of them and then there is other
24 bruising. The hyoid bone is up in this region and there
25 was bruising in this region also. You can't see the hyoid

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1 bone but it's the ridge right there.

2 Q This is the chin, isn't it?

3 A Yes, but it's up under the chin. My hyoid bone
4 is right there. It's a small bone, it doesn't go back that
5 far. It's from about here around to the front. What you
6 have to do is grab it and move it back and forth.

7 Q Is there anything else that you did or any other
8 opinions that you formed relative to the homicidal death of
9 this victim that we haven't talked about? Any other
10 examinations or any other opinions?

11 A Well, the only thing you didn't ask me about is
12 the identification of the body, and it was identified to
13 me by three people.

14 Q Was the body fingerprinted?

15 A Yes.

16 Q Do you know if there was any latent prints lifted
17 from the body? I don't mean fingerprinted her. I should
18 say was her body processed for fingerprints?

19 A No, because she was found in the water. She was
20 fingerprinted.

21 Q Okay. I didn't phrase that question properly.
22 Anything else?

23 A No.

24 MR. CRIDER: No further questions.

25 MR. SANDEFER: Read or waive?

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THE WITNESS: I'll read.

(Thereupon, a pause in the proceedings took place.)

The vitreous potassium of 7.2 falls right between the mean four, five to seven and seven to nine. So by numbers it appears to be around seven hours backwards, whatever, to ten, whatever that was.

By doing it by the graph, it's close to eight hours, between seven and eight. So, it's around there.

MR. CRIDER: You drew the vitreous fluid right there at the scene, didn't you?

THE WITNESS: Yes.

MR. CRIDER: Thank you very much.

(Thereupon, the deposition was concluded at 1:53 p.m..)

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF PINELLAS)

I, ROBERT A. DEMPSTER, Official Court Reporter,
Certified Shorthand Reporter, Registered Professional Court
Reporter, Notary Public at Large,

DO HEREBY CERTIFY that the foregoing Deposition
of JOAN WOOD, M.D. taken before me at the time and place
set forth in the caption thereof; that the
Deponent therein was by me duly sworn on oath to testify
the truth; that the proceedings of said Deposition were
stenographically reported by me in shorthand, and that
the foregoing pages, numbered 1 through 29, inclusive,
constitute a true and correct transcript of my said
stenographic report.

I FURTHER CERTIFY that I am not a relative or employee
or attorney or counsel of any of the parties hereto, nor a
relative or employee of such attorney or counsel, nor do I
have any interest in the outcome or events of this action.

IN WITNESS WHEREOF, I have hereunto affixed my
official signature and seal of office this 17th day of
July, 1986, at Clearwater, Pinellas County, Florida.

Robert A. Dempster

ROBERT A. DEMPSTER,
Certified Shorthand Reporter
Registered Professional Reporter
Official Court Reporter
Notary Public, State of Florida
at Large.
My Commission Expires: 8/26/88

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IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA

CASE NO. 85-7851 CFANO-D
85-5467 CFANO-D

STATE OF FLORIDA,

Plaintiff,

vs.

416099

JACK PEARCY,

Defendant.

FILED
ORIGINAL COURT REG. DEPT.
OCT 27 12 31 PM '86
KARLEEN E. SLAKER
CLERK CIRCUIT COURT
PINELLAS COUNTY FLORIDA

DEPOSITION OF: JOHN LESLIE HILL
TAKEN BY: Defendant
PLACE: Maximum Security
Pinellas County Jail
1440 - 49th Street North
Clearwater, Florida 33520
REPORTED BY: JEAN WISEMAN
Deputy Official Court Reporter
Notary Public
State of Florida at Large
Sixth Judicial Circuit
DATE: October 14, 1986
TIME: Commencing at 2:30 P.M.

ORIGINAL

PAGES 1-56

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APPEARANCES:

ROBERT HEYMAN, ESQUIRE
Assistant State Attorney
1550 144th Street North
Clearwater, Florida 33520
Attorney for the Plaintiff

KY M. KOCH, ESQUIRE
1550 South Highland Avenue
Clearwater, Florida 33516
Attorney for the Defendant

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P R O C E E D I N G S

THEREUPON,

JOHN LESLIE HILL

was adduced as the deponent herein and, after having been duly sworn on oath, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KOCH:

Q Let me have your name.

A John Leslie Hill.

Q And your date of birth?

A 6-13-39.

Q And your Social Security number?

A [REDACTED].

Q Are you presently in custody at the Pinellas County Jail?

A Yes, sir.

Q For what offense?

A I'm serving a forty year sentence in Florida State Prison.

Q That's forty, as in 40?

A That's correct.

Q For what offense?

A Burglary and grand larceny.

Q Out of what county?

A Ft. Lauderdale.

1 Q How many counts of burglary?

2 A One count.

3 Q How many counts of grand theft?

4 A One.

5 Q And you got forty years?

6 A That is right.

7 Q Was this a burglary with intent to commit assault
8 therein?

9 A No, sir, it was a burglary of a residence, and
10 they filed a Habitual Offender's Act against me, and they gave
11 me ten years on the burglary and five years on the grand
12 larceny, and that was doubled, and together with other charges
13 that I had pending, that brought it up to a forty year sentence
14 which runs concurrent.

15 Q Who was the prosecutor in that case?

16 A Don Watson.

17 Q When did you receive that sentence, Mr. Hill?

18 A August 8th of this year.

19 Q Have you ever been sentenced for any offenses in
20 Pinellas County before?

21 A Yes, sir.

22 Q When was that?

23 A It was in June of last year.

24 Q Of 1985?

25 A Yes.

1 Q Was that the only offense that you have ever been
2 sentenced to out of Pinellas County?

3 A Yes.

4 Q What was that offense?

5 A Well, there were -- let me see -- I believe it was
6 two counts of car theft and one count of burglary.

7 Q Was that also a burglary to a residence?

8 A Yes, and there might have been one count of grand
9 larceny, too. I think I got three 2 year sentences, all running
10 concurrent, but I went to court several times on those charges,
11 and I'm not sure if it was three or four counts.

12 Q Who was the prosecutor that handled that case?

13 A I don't know.

14 Q What judge were you before?

15 A I don't know that either. It was one of those
16 plea bargains where I was just whisked into court and then they
17 ran me right out.

18 Q Who was your attorney?

19 A Some lady from the Public Defender's Office.

20 Q You don't know her name?

21 A No, I don't.

22 Q You were sentenced in June of '85?

23 A Yes.

24 Q To three -- I'm sorry -- to three 2 year sentences
25 all concurrent?

1 A I think that's what it was.

2 Q You are presently in what state prison facility?

3 A Cross City.

4 Q Are there any pending charges against you anywhere
5 that you are aware of?

6 A Not that I am aware of. Now, there may be a hold
7 on me from the State of Montana for a car theft charge. I'm
8 not sure. This was a couple of months ago, but I haven't heard
9 anything about it.

10 My corrections officer at Cross City tells me that
11 he has nothing in the file, so I don't know what has happened
12 to that charge.

13 Q What is your prior record?

14 A Extensive. I have been in a penitentiary five
15 times.

16 Q All in Florida?

17 A No. I have been in the State of Texas, Colorado,
18 Montana, Illinois, Tennessee and Florida.

19 Q Tennessee, Colorado, Montana, Illinois, Texas and
20 Florida?

20 A Yes.

21 Q That's six states.

22 A Yes.

23 Q Does that mean that you have been in state prison
24 six times?

25 A Yes.

1 Q How many different offenses are you able to tell me
2 about?

3 A In my PSI -- when they habitualized the sentence,
4 the judge ordered a PSI, and I think they said that there were
5 13 previous convictions.

6 Q Have you ever been arrested for perjury?

7 A No, sir.

8 Q Have you ever been convicted of perjury?

9 A No, sir.

10 Q Are all of your priors along the lines of grand
11 theft, auto theft, burglary and grand larceny?

12 A Yes, all of them.

13 Q All right. Who was your lawyer in Ft. Lauderdale?

14 A His name is Barry Butin.

15 Q Is he a Public Defender?

16 A Yeah, he called himself that.

17 Q Can you spell that for me?

18 A B-U-T-I-N.

19 Q During what period of time were you here in Pinellas
20 County?

21 A Well, do you mean last year, '85?

22 Q Yes.

23 Q I was here off and on from about January until June.
24 I also had charges in Hillsborough County, and they were being
25 prosecuted simultaneously with the charges here, so I would have

1 been here in this jail for two or three weeks, and then I would
2 go there and be there for two or three weeks.

3 Q What charges did you have in Hillsborough?

4 A The same charges, car theft, burglary.

5 Q What sentence did you receive there?

6 A A two year sentence to run concurrently with my
7 Pinellas County sentence.

8 Q Have you been prosecuted by any other counties in
9 the State of Florida in your lifetime other than Hillsborough,
10 Pinellas and Broward?

11 A I had a charge against me in June or July over in
12 Orange County. This was in 1985. I had a burglary over there,
13 and that charge was dismissed by the prosecutor. I don't know
14 why.

15 Q Other than Pinellas County, Orange County,
16 Hillsborough County and Broward are there any other counties
17 in Florida in which you have been arrested?

18 A No, sir.

19 Q Have you ever been a witness in a case?

20 A Not in a Circuit Court, no.

21 Q Any case?

22 A I testified before the grand jury one time about
23 twenty years ago.

24 Q Which grand jury?

25 A This was a specific governor's grand jury called by

1 Governor Kirk, when he was the govenor, and it was here in
2 Pinellas County.

3 Q About what did you testify?

4 A It was about some criminal activity that had to
5 do with some attorneys here in the city.

6 Q In Clearwater?

7 A In St. Pete.

8 Q Were you represented in that matter?

9 A No.

10 Q What was this matter about?

11 A It concerned a couple of attorneys, Jenkins,
12 Abernathy --

13 MR. HEYMAN: You don't have to answer any more
14 questions about your specific testimony.

15 Q (BY MR. KOCH:) Were you granted any sort of
16 immunity in that matter?

17 A I was.

18 Q Who represented you in that matter?

19 A I didn't have an attorney.

20 Q What other names have you gone by other than John
21 Leslie Hill?

22 A I don't know if I can recite them all.

23 Q Let me do that for you. Jack Francis Leachman.

24 A Yeah, a long time ago.

25 Q Carl Randz?

1 A Uh-huh.

2 Q How about George Martin?

3 A Yes.

4 Q How about Jack Gene Hill?

5 A Sure.

6 Q Edward Elmer Thompson?

7 A Yes.

8 Q John Tom Colburn?

9 A Yes.

10 Q Jack Martin?

11 A Yes.

12 Q Have you likewise used the date of birth of
13 July 11, 1939?

14 A Yes, and a lot of other ones.

15 Q Would you be able to list for me the different
16 dates of birth that you have used?

17 A Probably not. I just created them on the spot.

18 Q How about Social Security numbers?

19 A I have probably used several of those.

20 Q Are you able to list any of those for me?

21 A No.

22 Q In what state or states did you use the name Jack
23 Francis Leachman?

24 A That was either in California or Colorado. I don't
25 remember exactly.

1 Q Were you ever arrested in California?

2 A Yes.

3 Q When?

4 A Sometime in the early '60's.

5 Q For what?

6 A On a burglary charge.

7 Q What happened to that?

8 A It was reduced to trespassing. I was given a six
9 month suspended sentence.

10 Q Were you convicted of that charge?

11 A Of the misdemeanor trespass, yes, not the burglary.

12 Q Any other arrests in California?

13 A No.

14 Q Why did you use the name Leachman?

15 A To try to avoid some prosecution.

16 Q Did you?

17 A I don't think I did, no. I don't remember. Like I
18 say, it was a very long time ago. It was 20, 25 years ago.

19 Q How about Carl Randz? Where did you use that?

20 A It was in California, too. I think it was at the time
21 of the same arrest that I was using that name.

22 Q How did you get the name Jack Francis Leachman?

23 A I don't recall.

24 Q Why did you use the name Carl Randz?

25 A For the same reason. I think I was on parole at

1 the time from Montana.

2 Q On what charge?

3 A It was a grand theft and larceny charge, and I
4 think I was trying to avoid them finding out that I was a
5 parole violator.

6 Q Did they find out?

7 A It ended up that I wasn't a parole violator.

8 Q That must have been pleasant news.

9 A Yeah.

10 Q Did you use both of the names, Leachman and Randz,
11 as a result of that California burglary?

12 A Let's see, I may have, but I don't know that I
13 used the Randz name because I had identification in that name.
14 Like I told you, it's been a very long time ago, and the
15 details of that are vague to me. I wish I could tell you, but
16 I can't remember the details.

17 Q Where did you get the Randz I.D.?

18 A I stole it from a Carl Randz.

19 Q Were you ever prosecuted on that?

20 A No.

21 Q Did you ever obtain any I.D. from a Jack Francis
22 Leachman?

23 A No.

24 Q How was it that you were able to use that name?

25 A I knew a Jack Francis Leachman all my life. I grew

1 up with him. It was a name that came to my mind when I needed
2 it.

3 Q He's a friend of yours?

4 A Yes.

5 Q Where does he live?

6 A In Sterling, Colorado.

7 Q To your knowledge, has he ever been arrested?

8 A Yeah. He was in the Colorado State Reformatory a
9 long time ago. He's been out for a while, and he's been out
10 ever since.

11 Q Was he a friend of your, Carl Randz?

12 A He was someone that I knew.

13 Q When you were arrested in Pinellas County, what
14 name did you use?

15 A George Martin.

16 Q Why did you use that name?

17 A To avoid a probation violation in Tampa.

18 Q Were you prosecuted for a probation violation in
19 Tampa?

20 A I was.

21 Q Do you have identification for the name George
22 Martin?

23 A I had a Social Security card in that name.

24 Q Where did you get that?

25 A I stole it from a George Martin.

1 Q Who is he?

2 A Some person that I went into some house and took it
3 from.

4 Q Were you prosecuted on that burglary?

5 A I was.

6 Q Where was that?

7 A Here in Pinellas County.

8 Q How about the name -- let's go back to George
9 Martin. Have you ever used that name anywhere else other than
10 in Pinellas County?

11 A I don't think so.

12 Q Have you ever used the name Carl Randz other than in
13 California?

14 A No.

15 Q Jack Francis Leachman anywhere other than in
16 California?

17 A No.

18 Q Jack Gene Hill. Where did you use that name?

19 A I don't recall that. I don't recall using that
20 name.

21 Q Edward Elmer Thompson?

22 A That's the name I used in Sarasota.

23 Q Were you ever arrested in Sarasota?

24 A Yes.

25 Q For what?

1 A Car theft.

2 Q When?

3 A In '85, sometime. I think in early '85.

4 Q Were you prosecuted?

5 A To that charge, to my understanding, it was
6 dismissed.

7 Q Did you ever have to make an appearance in court
8 on that charge?

9 A Yes.

10 Q What was the purpose of that appearance?

11 A It was to advise me of what my bond was, to set my
12 bond, and later, I was prosecuted here in Pinellas County and
13 Hillsborough County and sent to prison, and the Sarasota charge
14 was not filed against me. When I got out of prison, I was
15 arrested in Ft. Lauderdale on the charge I now have forty years
16 on, and there was a hold on me from Sarasota on that charge,
17 and then I was taken to the state prison, and they have taken
18 that hold off me, so evidently, they have decided they don't
19 want to prosecute.

20 Q When was it that you first approached anyone
21 regarding your testimony in this case?

22 A I don't remember the exact date, but it was the
23 day after I met Jack Percy. I met him on a Friday night, and
24 it was on Saturday morning that I sent a note to the detectives.

25 Q Okay. Edward Elmer Thompson. I think your testimony

1 earlier was that the only time that you used that was in
2 Sarasota?

3 A Uh-huh, I believe so.

4 Q John Tom Colburn. Where was that name used?

5 A John Tom Colburn? Maybe that was the name in
6 Sarasota. I'm not sure.

7 Q Do you recall?

8 A I'm not sure. I have used so many names it's hard
9 for me to keep track of one name from one place to the other.

10 Q Jack Martin. Where did you use that name?

11 A I don't believe I ever used that name.

12 Q Okay. Any other names that you would have used
13 other than those that we just went through?

14 A Well, I used a lot of different names, but I just
15 don't remember them all at this time. There were times in my
16 life when I wrote bad checks and used different names, and when
17 I went to hundreds of motels and used a different name that I
18 made up at the time. I just don't recall all of them.

19 Q Would it be fair to say on each of those occasions
20 that the reason you used another name, other than your given
21 name, was to avoid prosecution?

22 A Yes, because I lived a criminal lifestyle.

23 Q To your knowledge, did the PSI from Ft. Lauderdale
24 reveal all of the prosectuions that you have ever experienced
25 under any name?

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MR. HEYMAN: Have you read the PSI?

MR. KOCH: I'm asking him to his knowledge.

THE DEPONENT: As far as I know, I didn't read the PSI. They didn't give me a copy of it.

Q (BY MR. KOCH:) But the statement regarding your prior record that was supplied to the court during the habitualization process was accurate to the best of your knowledge?

A Yes.

Q To the best of your knowledge, were the authorities in Ft. Lauderdale aware of the prior aliases that you listed?

A Yes.

Q The names that we have been through, were they the same ones that were brought out then?

A When they had that prepared, the PSI, they asked me those same questions.

Q Tell me again the name that you used in Sarasota? Was it either Colburn or Thompson?

A I think it was Colburn as I now think about it.

Q Have you ever used the name James Edward Hill?

A No.

Q That's another guy that has a very close name to yours and also has the same date of birth. I'm not suggesting to you that --

A There's a guy in my hometown named John Hill that

1 also has the same date of birth.

2 Q Let's go back to Mr. Pearcy. How long was it that
3 you were in the same cell as Mr. Pearcy?

4 A It was from Friday until Wednesday.

5 Q A total of five days?

6 A Right.

7 Q Did Mr. Pearcy and you ever discuss his case
8 person to person, or were the conversations such that you
9 overheard them?

10 A No, we talked person to person extensively.

11 Q Prior to this deposition, have you had an
12 opportunity to discuss your testimony with Detective John
13 Halliday?

14 A Yes.

15 Q And Mr. Heyman?

16 A Yes.

17 Q Have you ever had a chance to review the transcript
18 that was made of the testimony on June 24, 1985?

19 A Yes.

20 Q Have you reviewed anything other than that
21 transcript?

22 A No.

23 Q Does that transcript fairly and accurately recite
24 the statement that you gave to the detective on that day?

25 A It does.

1 Q Is that the only time you spoke to the detective
2 other than in preparation for this deposition?

3 A No.

4 Q How many times total?

5 A I think -- let's see -- three times.

6 Q When was the first of those three occasions?

7 A June 24th.

8 Q When were the second and third occasions?

9 A (The witness does not respond.)

10 Q Were they about Mr. Percy?

11 A Yes, they were. I am trying to think of exactly
12 when they were.

13 Q What day was this statement?

14 A What statement?

15 Q You have a copy of it in your pocket, don't you?

16 A No, I don't. This is something else.

17 Q The statement of June 24th, 1985.

18 A Well, I think I spoke to them a couple of days
19 later. I spoke to them and to the District Attorney's Office.

20 Q Who?

21 A Slater, Jamie Slater.

22 Q Was that during the State Attorney's investigation?

23 A Yes.

24 Q When did you next speak to either Detective Halliday,
25 Detective Flesher or Mr. Slater?

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A I was returned from Cross City. It's been a month or so ago.

Q Who did you talk to then?

A Halliday.

Q Halliday?

A Yes.

Q So you talked to Halliday only twice?

A Three times. The day that this statement was taken on the 24th, and then maybe a couple of days later I talked to Mr. Slater and Mr. Halliday, and then I saw Mr. Halliday again.

Q Those were the only three occasions that you have met with Halliday?

A I believe so, yes. As I recall, that was on a Monday, the first time that I saw Detective Halliday. On Sunday, I spoke to another detective, who was just a detective who worked in the jail.

Q Would that have been Detective Hart?

A That's right, Detective Jim Hart.

Q And he referred --

A He just contacted me, to ask me what the matter was about, and then he told me he would refer me to the proper authorities, and that happened to be Detective John Halliday. The next day I talked to him, so on Sunday, I spoke to Detective Hart briefly, and then on Monday I gave -- I had to go to court on Monday, and I was sentenced on Monday, and it was sometime

1 after court that morning that I talked to John Halliday.

2 Q Did Detective Hart take your statement?

3 A No.

4 Q Has there ever been a tape recording made of any
5 of your statements other than the June 24th transcript that
6 I have?

7 A I don't believe so.

8 Q Has there been a court reporter present at any of
9 your statements?

10 A No, except I think that when I spoke with Mr. Slater,
11 I think that my statement to him was taken under oath, but
12 I don't think that it was transcribed.

13 Q Or recorded?

14 A I don't think so, maybe it was, but I don't remember.

15 Q Do you know a Ronald Lee Hunt?

16 A No.

17 Q Shotgun?

18 A Yeah, I know who that was.

19 Q Was Shotgun in the same cell with you and Percy?

20 A Yes.

21 Q You were all in what cell?

22 A I think the name of it was D6.

23 Q And Shotgun was there?

24 A Yes.

25 Q Was Chuck Jaffee (phonetic) there?

1 A I don't recall the name. I know Shotgun was next
2 door to Jack Percy and me.

3 Q Did Shotgun ever talk to Percy?

4 A Lots of times. They were the best of friends.

5 Q Were you pretty much of a loner in the cell?

6 A I don't think so.

7 Q Did you consider yourself to be outgoing?

8 A Sure.

9 Q How was it that you got introduced, or did you just
10 introduce yourself to Mr. Percy?

11 A It just happened that I was put in the same cell
12 on a Friday night. There are one man cells, but the jail was
13 so overcrowded that they had to put more than one person in a
14 cell, and when I was there, I had to sleep on the floor, and
15 it just so happened that Jack Percy's cell was the only one
16 that was open.

17 Q Do you know anything about there being a leak in his
18 cell? Was the floor wet when you were there?

19 A No. I was only in his cell one night though.

20 Q And that was June 24th?

21 A That was that Friday night.

22 Q The 24th was the day of the transcribed statement?

23 A Yes.

24 Q So this was the Friday preceeding the statement?

25 A It was the 21st.

1 Q Over what period of time did you have conversations
2 with Mr. Pearcy, the subject of which appears in this
3 transcribed statement?

4 A There were three occasions when I talked to him.
5 On Friday night, we talked almost all night. After
6 Miami Vice had gone off, and he watched it, I stayed in the
7 cell. When Miami Vice had gone off, he had come back to the
8 cell, and he discovered that we had many things in common. We
9 ended up talking all night until breakfast time, which is about
10 four o'clock in the morning.

11 Q Was that the first time that you and he spoke
12 together?

13 A Yes.

14 Q Were you and he locked in the cell together at that
15 time?

16 A Yes, we were.

17 Q Did anyone else overhear this conversation?

18 A Not that I know of.

19 Q Was anyone else participating in this conversation?

20 A No.

21 Q At any time?

22 A No.

23 Q From start to finish?

24 A No.

25 Q Were there ever any occasions that Mr. Pearcy spoke

1 to you about anything contained in that transcript in the
2 presence of someone else?

3 A No.

4 Q Shotgun was in the cell next door?

5 A Yes, I think he was in Cell 5. We were in Cell 4,
6 and he was in Cell 5.

7 Q What cell did you get moved into after the night of
8 the 21st?

9 A I moved into Cell 2.

10 Q Which would have been how many cells removed from
11 Percy?

12 A Two cells.

13 Q What did you and Percy discuss about the incident
14 leading to Ms. Boggio's death on the night of the 21st?

15 A Well, the conversation started -- he asked me about
16 what I thought the implications were of him having failed a
17 lie detector test, and we talked about that, and he told me
18 that he had failed one question on a lie detector test about
19 the murder, and then he asked me --

20 Q Did he tell you what the question was?

21 A Yes.

22 Q What was it?

23 A He said that the question was, "Do you know anymore
24 about this that what you are telling us?", or something to that
25 effect.

1 Q Did you discuss with him the questions that he had
2 passed?

3 A He said that he had passed all of the questions
4 except that one.

5 Q Did you discuss those questions with him?

6 A No.

7 Q Okay. What was it that started this conversation
8 out?

9 A Well, what started the conversation was when he
10 began talking about the death of this young girl.

11 Q Did you know that he had been in for a polygraph?

12 A Not until he told me.

13 Q He brought the subject up?

14 A He did.

15 Q What did he first mention about the polygraph?

16 A Well, he asked me -- what did he first mention
17 about it?

18 Q Yes.

19 A He said, "I'm worried about failing the polygraph
20 test."

21 Q How did the subject come up?

22 Q Well, we were talking about -- I told him that I
23 work in the law library, and he said, "Well, I want to ask you
24 about some evidence in this case that I'm involved in."

25 At that time, he was not charged with murder, and

1 he was wondering to himself what charge to anticipate, and he
2 told me that he thought that he was going to be charged with
3 being an accessory after the fact to the murder, and he said
4 that he had been charged at that time with a crime that had to
5 do with supplying marijuana to the victim.

6 Q During this conversation, did he indicate to you
7 that he was innocent of the murder?

8 A No.

9 Q Did he indicate that he was guilty of the murder?

10 A Yes.

11 Q How so?

12 A Well, he told me that on two different occasions.
13 One was that he had stabbed the girl two times himself.

14 Q Did he use the words "stab"?

15 A No, he used the word "hit". He said he hit her a
16 couple of times, and that took the fight out of her, and he
17 also helped to dispose of the body. He said to his friend, Jim
18 Dailey, "Mother fucker, get her in the water and let's get out
19 of here!"

20 Q Did Percy indicate to you that he had thrown up
21 there at the time of the murder?

22 A Yes, twice, he threw up.

23 Q Did he tell you why?

24 A He had been drinking a lot at the bar with this
25 girl and his wife and another person and Dailey, and they had

274
1 been smoking a lot of marijuana, and that during the struggle,
2 that it had upset him, and he had been physically jostled about,
3 and I guess it upset his stomach, and he vomited. I think that
4 he told me that he vomited twice.

5 Q Let's get back to the polygraph.

6 What else did he and you discuss about the polygraph
7 on the night of the 21st?

8 A Only that I told him that I thought his attorney
9 was a damned fool for allowing him to take it.

10 Q What did he say to that?

11 A Well, he said that he passed one before on two
12 armed robberies that he was guilty of, and he felt like he
13 could beat it again, so he thought he would give it a shot.

14 Q Did he indicate to you that he was being truthful
15 to all of the other questions other than that one?

16 A No, he did not.

17 Q Did he indicate to you that he was being untruthful
18 about those other answers?

19 A Yes.

20 Q How so?

21 A Well, he said that that's the only one that I
22 didn't pass. He said, "I beat it up until that time. That's
23 the only question that they told me that I didn't pass."

24 Q Did he tell you that he was lying about the answers
25 to the other questions?

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A That was my impression, yes.

Q That's what you understood him to be saying?

A Yes.

Q But Mr. Pearcy didn't tell you that, did he?

A I think he did tell me that, yes.

Q How?

A By telling me that he -- I guess I did infer it, yes.

Q What else did you and he discuss about this incident on the night of the 21st?

A Well, then he asked me about some shoes that he had disposed of in Colorado. He said that he had gone to Colorado and disposed of some shoes that had blood on them, and I asked him why he had disposed of them, and he told me because the blood had fallen on the top of them, and I said, "So it showed that your feet were underneath her body, right?", and he said, "Yeah.", and that's why he got rid of the shoes.

At that time, he told me that they were tennis shoes, but later on he told me that they were boating shoes, and there was blood that had fallen on them, so they disposed of them in the dumpster in Colorado, in Denver.

Q Did Dailey ever live in that cell during the time that you were there?

A No, Dailey wasn't arrested during that time.

Q As a matter of fact, Pearcy made some statement to

1 you about Dailey, didn't he?

2 A Uh-huh.

3 Q What did he tell you?

4 A He said that he had known him -- had met him two
5 or three years before.

6 Q Let's confine our conversation about Dailey to the
7 incident itself, that is, Ms. Boggio's death and the events that
8 led up to that. I understand from your transcript that there
9 were all kinds of statements made about robberies and burglaries
10 in Kansas and Florida.

11 A Okay. Well, you asked me.

12 Q I understand.

13 A He told me on the night of the -- so far, we have
14 been talking about what was said on Friday night, right?

15 Q Uh-huh.

16 A Is that where we are still?

17 Q Uh-huh, Friday night, yes, sir.

18 A He told me that -- well, he told me a lot of things.
19 It was strange.

20 Q Did he tell you that Dailey wasn't to be trusted?

21 A Yes, and he told me that Dailey was strange, that
22 he was some kind of a weirdo. He called him Gentleman Jim,
23 but he thought when he met him that he was a faggot.

24 He said that many times he tried to fix him up with
25 various women to have sex with them, and he always turned them

1 down. He had assaulted people, and he slapped around some
2 young boys in the neighborhood.

3 Q Did he tell you that Dailey was violent?

4 A Yes, very.

5 Q Did Mr. Percy ever indicate to you that Dailey --
6 if Dailey were to tell the truth, it would vindicate Percy?

7 A No, no. As a matter of fact, it was just the
8 opposite. He wanted me to help him with a motion for speedy
9 trial in the one case that he had because he wanted to force
10 the case -- he wanted to hurry up and go to trial before Dailey
11 was arrested because he was afraid of what Dailey might say.

12 Q Did Percy tell you how it was that he and Dailey
13 and Ms. Boggio ended up in the car at that location in which
14 Ms. Boggio died?

15 A That Friday night?

16 Q Yes.

17 A No.

18 Q At any future time?

19 A Yes.

20 Q When?

21 A On the following Tuesday, the next conversation
22 that we had, when we went to the law library together, and it
23 was at that time that he told me a kind of narrative story
24 about what had happened on that night.

25 Q Is there anything that you and he had to sign in

1 order to go to the law library together?

2 A Yes.

3 Q So there would be a document in the jail showing
4 that you and he went to the law library together?

5 A Yes.

6 Q What was that document called?

7 A A sign-in sheet, I guess.

8 Q Okay. Go ahead. You were talking about that
9 Tuesday.

10 A Yes, I think so.

11 Q Tell me about that conversation.

12 A Well, we went over to where -- he wanted me to help
13 him look up what qualified as a murder charge that would carry
14 the death penalty in the Florida Statutes as a capital offense,
15 and so we did that, and he told me at this time more of a
16 narrative story about what happened on that evening, and he
17 said --

18 Q Start at the beginning and then go all the way
19 through it.

20 A I'll try to do that.

21 He said that during the afternoon, that this girl,
22 Shelly, I think her name was, and her sister were over at his
23 house, and they were partying in the afternoon, and that about
24 6:30 or 7:00 is when Jim Dailey and Percy were taking Shelly
25 and her sister home -- not home, they were going to some other

1 boy's house or party or something. I don't recall exactly.

2 But anyway, when they got there, Shelly said that
3 she didn't want to be dropped off, that she wanted to go
4 partying with Jack and Jim and Gail who was also there with
5 them, so they went back to Percy's house, and then they went
6 to a place called Jerry's Bar and they drank some, and they
7 went back to their house.

8 He said that she kept going back and forth from
9 Jerry's Bar to Percy's car to smoke some weed, and then she
10 [REDACTED] r to drink, and he said that this girl

11 was acting very provocatively -- that Shelly was doing that,
12 and at one point, he went in the bathroom and Dailey followed
13 him in there, and he said, "Hey, Man, why don't we go and get
14 us some pussy?"

15 Q This was at the bar?

16 A Yes, and Percy said, "I have to get rid of my old
17 lady first, and as soon as I do that, we'll go see what we can
18 do about that."

19 So it was shortly after that conversation that
20 they took Gail -- I think that was her name -- they took her and
21 dropped her off and a friend of his from Kansas City, and Jim
22 and Jack took Shelly and went to the Indian Rocks Beach Bridge
23 there, and he told me that Shelly was in the back seat.

24 He also told me that a conversation began between
25 Shelly and Jim about her having sex with the two of them, and

33

1 that Shelly objected, and Jim went into a rage and pulled her
2 out of the car, jerked her out of the car and took a knife,
3 which Pearcy said was a survival knife, that was lying between
4 the seats, and he took her out of the car, and Jack told me
5 that he felt like Jim had everything under control, and he said
6 that he thought he would sit there for a few minutes and give
7 him a chance to work on her, but after a little while, he said
8 there was a hell of a struggle going on, and when he got out of
9 the car, Jim had already stabbed her several times, and in the
10 struggle with her she began screaming, and there were people
11 on the bridge, and he was afraid that they were going to hear,
12 so that's when he grabbed the knife and hit her a couple of
13 times, and took the fight out of her.

14 Q Was that the first time that he used that word to
15 you, or that expression, "took the fight out of her"?

16 A No, that was the second time. As a matter of fact,
17 that was the second time that he used that.

18 Q He told you that in an earlier conversation that
19 she was screaming and that he was afraid that the people on
20 the bridge would hear her?

21 A Yes.

22 Q Was that the evening of June 21st?

23 A No, I don't think so. I think that was the Sunday
24 when he told me that. We had three conversations, one on
25 Friday, one on Sunday and one, I think, on Tuesday.

1 Q Uh-huh.

2 A But on the Friday night, I don't think that he told
3 me about the people on the bridge.

4 Q You had two conversations prior to that tape
5 recording of June 24th, is that correct?

6 A Yes.

7 Q Had he told you about the screaming prior to that
8 tape recording?

9 A It seemed like he did, but I'm not sure. No, it
10 was prior to the tape recording.

11 Q So he told you that on only one occasion?

12 A Yes, I think so.

13 Q And that was following that tape recording?

14 A I think so.

15 Q Did you make any notes of either of those three
16 conversations?

17 A No.

18 Q Either immediately after the conversation or any
19 time up until today?

20 A I think I did in the law library. I think I wrote
21 some things down that he told me.

22 Q Did you give those to the detective?

23 A No.

24 Q When was it that you first spoke to Detective Hart?

25 A On Sunday.

1 Q Was that following your second conversation with
2 Mr. Pearcy?

3 A No, that was Sunday morning.

4 Q Before your second conversation?

5 A That's right.

6 Q So at that point in time, you had only one
7 conversation with Jack Pearcy?

8 A Yes, on Friday night.

9 Q Okay. We are going to need to back up to the Friday
10 evening conversation.

11 A Do you want me to finish telling you the rest of
12 this story?

13 Q Later. Friday evening. Start me at the top and
14 tell me every detail that you can recall about what Mr. Pearcy
15 related to you about the events leading to Shelly Boggio's death.

16 A At that time, he was not telling me the story. He
17 was asking me questions that had mostly to do with what I
18 thought the charge would be against him. He told me about
19 the statement that he had given to the police. He told me
20 about the robberies. He told me that Jim was his crime partner,
21 and that his girl was a friend of theirs in the neighborhood,
22 and that she was something of a vamp of a girl. He painted a
23 picture of her to me that she was a girl of very loose morals.

24 We talked about our common backgrounds.

25 Q What is your education, speaking of backgrounds?

1 A I went to college.

2 Q Where?

3 A University of Southern Illinois and University of
4 Southern Colorado.

5 Q Was that through the state prison program?

6 A The one in Illinois was.

7 Q What was the other one?

8 A University of Southern Colorado. Let's see. I
9 spent one semester there in 1980, I guess.

10 Q Okay. I interrupted you.

11 A So mostly, our conversations had to do with our
12 common backgrounds. We had both been in the same reformatory
13 at different times, and then he told me about going to Colorado
14 and about disposing of the shoes, and I asked him if he had
15 told the police about that, and he said, "Yeah.", and I told
16 him that I thought it was very foolish, and he said, "Well --",
17 and that's when he explained to me about the blood marks on top
18 of his shoes. That's when he told me that.

19 I asked him what the cause of death was, and he
20 knew what the cause of death was, and I said, "So the cause of
21 death was stabbing, right?", and he said, "No, I think that she
22 drowned because she was still struggling when she hit the water,
23 when we threw her in the water." Those were his exact words.

24 That was the first time that he told me that, and
25 of course, we talked about the -- like I told you, we talked about

1 the polygraph test. As far as I can remember, that's about it.

2 Q Did he tell you on that Friday evening that he had
3 stabbed Shelly Boggio?

4 A He said that he picked up the knife and hit her a
5 couple of times, and that took the fight out of her.

6 Q Did he give you details about how it was that they
7 got Shelly to the water?

8 A Not on Friday night.

9 Q Did he give you any details about who it was that
10 cut Shelly under the water?

11 A Not on Friday night.

12 Q Did he tell you who did the vomiting?

13 A Yes.

14 Q On Friday night, he did tell you that?

15 A I think so, uh-huh.

16 Q Did he explain to you why he vomited on Friday night?

17 A Because he got upset during the struggle with her.

18 Q Did he tell you how long that struggle had ensued?

19 A It doesn't come to my mind, no.

20 Q Did he on Friday night tell you how long it was
21 that he sat in the car while Dailey and Shelly were outside?

22 A Just a few minutes. He said a few minutes. I
23 asked him that very specific question. I said, "How long were
24 you out there?", and he said, "Well, it was just a very few
25 minutes."

1 Q And in your conversation on Friday night, did he
2 tell you why it was that he left the car?

3 A Yeah, because of her, because of the struggle that
4 was going on.

5 Q Did he hear the struggle?

6 A Yes.

7 Q Did he tell you on Friday night that he left the
8 car because she was screaming?

9 A I don't think so, no, but there were people on the
10 bridge.

11 Q He told you that on Friday night?

12 A I think so. I'm not exactly sure.

13 Q Any other details that you can recall other than
14 the previous scenario that we have just been through about the
15 conversation between you and Percy on that Friday night?

16 A Well, he mentioned that the knife was between the
17 seats.

18 Q Did he tell you on Friday night that Dailey had
19 jerked this girl out of the car?

20 A Yes.

21 Q Did he tell you on Friday night that Dailey had
22 said, "Getting the pussy" at Jerry's Bar -- was that the first
23 time that that phrase had surfaced?

24 A That happened at the law library when he told me
25 the narrative about the story.

1 Q On Friday night, did he mention anything sexual to
2 you at all?

3 A Yes.

4 Q What?

5 A Well, he told me Jim Dailey's problems with girls,
6 and that he was suprised that he was interested in going out
7 to have sex with Shelly.

8 Q Dailey was?

9 A No, Pearcy was suprised that Dailey wanted to have
10 sex with her.

11 Q Did Pearcy on Friday night say that he had
12 anticipated having sex with Shelly on that evening that she
13 got killed?

14 A No.

15 Q The first time that you became aware of that was
16 in your conversation on Tuesday night?

17 A I had asked him on Friday night if he had sex with
18 her, and he told me that he didn't, and he also told me that
19 Dailey did not have sex with her.

20 Q This comment, quote unquote, "Getting the pussy",
21 when was the first time that that was spoken?

22 A At the law library on Tuesday, I think.

23 Q And that was the first occasion in which Mr. Pearcy
24 indicated that Mr. Dailey was interested in having sex with
25 Shelly?

1 A Yes.

2 Q When was it that you first contacted Detective Hart?

3 A I sent him a note on Saturday morning.

4 Q Do you have a very clear recollection of each of
5 those three conversations, Mr. Hill?

6 A Well, I remember having three conversations. It's
7 a little difficult to separate what was said from one conversation
8 to the other. It's been over a year ago, and I don't remember
9 exactly what was said in each of the three conversations.

10 Q Why is it that you contacted Detective Hart?

11 A Because I was offended by this crime.

12 Q Why was it that you didn't contact Detective Hart
13 on Saturday morning?

14 A I did.

15 Q I'm sorry. I thought you told me it was Sunday.

16 A It was Saturday morning, first thing.

17 Q Had you even slept at that point in time?

18 A No.

19 Q How was it that you got in contact with Detective
20 Hart?

21 A I sent him a note.

22 Q What did that note say?

23 A It said, "I have information concerning a homicide,
24 and I would like to see whoever is in charge of the homicide
25 division."

1 Q Who did you give the note to?

2 A Some officer.

3 Q Did Detective Hart come see you?

4 A He called me on Sunday afternoon.

5 Q Did you mention Pearcy's name directly in that
6 note?

7 A No.

8 Q Did you have a conversation with Detective Hart
9 about the Friday evening conversation between you and Pearcy?

10 A Yes.

11 Q And was it an in depth conversation?

12 A Not at all. It didn't last two minutes.

13 Q Was that the only time that you spoke to Detective
14 Hart?

15 A No. It was the only time that I spoke to him about
16 Pearcy.

17 Q What did you speak to Detective Hart about other
18 than about Jack Pearcy?

19 A Leter, I talked to him on two or three occasions.

20 Q About what?

21 A Not about Pearcy.

22 Q About what?

23 A About my sentences, and what I was going to do when
24 I got out of prison, just those general things.

25 Q Did you ever talk to Detective Hart about information

1 that you had regarding any other inmate in the Pinellas County
2 Jail?

3 A No.

4 Q Have you ever offered to provide information against
5 any individual other than the incident in which you testified
6 in front of the grand jury that you have already mentioned?

7 A Never.

8 Q Did you have a conversation with -- well, tell me
9 about your conversation with Detective Hart on Sunday afternoon.

10 A I just told him what it was about. I told him that
11 I was in the cell with a guy named Jack Percy, and he told me
12 the details of a very gruesome murder, and that I thought the
13 Homocide Division would be interested in hearing about it.

14 Q Did you mention names?

15 A I told him Percy.

16 Q Did you mention the name Shelly Boggio?

17 A I didn't know that name.

18 Q How about James Dailey?

19 A No.

20 Q You didn't mention that name?

21 A I don't think so.

22 Q Is that because you didn't know the name at that
23 time?

24 A No, I knew it at that time. I knew Shelly's first
25 name and Dailey's name at that time, but I didn't mention those

1 names to Detective Hart.

2 Q Why not?

3 A Because he made it clear to me that he was just
4 going to contact whoever it was that was in charge of the case,
5 and he really didn't want to hear it then.

6 Q Did Detective Hart give you any instructions to go
7 back to the cell and keep your ears open?

8 A Not at all. As a matter of fact, -- no, he did not.

9 Q As a matter of fact, he what?

10 A He asked me if I wanted to move out of the cell
11 right then, if I was afraid for my life or anything like that,
12 and I told him no that it wouldn't be necessary, and I told him
13 that I had moved to another cell, and that I felt comfortable
14 there, and he said, "Okay."

15 Q Did you ask Detective Hart about what your
16 cooperation could do for you?

17 A Not at all. In fact, I told him I wasn't looking
18 for a deal. I had already been sentenced by the time I made
19 the statement.

20 Q Had you been sentenced in Ft. Lauderdale?

21 A Well, I hadn't committed that crime yet.

22 Q Had the charge in Sarasota been dismissed?

23 A I don't think that they had even put the hold on me
24 yet.

25 Q Was that crime committed before or after this

1 conversation with Hart?

2 A It was committed before. As a matter of fact,
3 Sunday I was there on a different alias, and it took some time
4 for them to catch up to me on that. It wasn't until after I
5 was already out of prison that they had the Sarasota hold on
6 me at that time.

7 Q Had you been sentenced in Hillsborough County as
8 of the conversation with Detective Hart?

9 A Yes, I had been sentenced twice in Hillsborough
10 County, and I still had to be sentenced one more time over
11 there.

12 Q What was the remaining charge, a burglary charge?

13 A No, a car theft charge.

14 Q Under what name were you sentenced in Hillsborough
15 County?

16 A John Hill.

17 Q And under what name were you sentenced in Ft.
18 Lauderdale?

19 A Well, John Hill and George Martin. In Ft.
20 Lauderdale?

21 Q Yes, sir.

22 A John Hill.

23 Q On June 24th, when you met with Detective Halliday
24 and Detective Flesher, I assume that you all had a conversation
25 prior to the tape recording being turned on?

1 A Yes.

2 Q Tell me what the substance of that conversation
3 was?

4 A It was the same as what followed.

5 Q Was there any conversation about you going back to
6 the same cell?

7 A Yes.

8 Q Tell me about that conversation.

9 A They wanted to know if I was worried about my
10 well-being at that time, and I told them no, I thought I was
11 all right, and they just insisted on moving me, and I demanded
12 that they did not. I had been in that cell, in D-6 every time
13 that I came to the jail. I knew the people in that cell, and
14 I felt comfortable with them, and they wanted to move me right
15 then. As a matter of fact, they tried to, and I wouldn't allow
16 them to do that, and then finally, I talked to Mr. Slater later
17 on, and he just made me move.

18 Q Have you directed anyone on your behalf in Ft.
19 Lauderdale to file a Petition for Reconsideration of Sentence?

20 A No.

21 Q Are you aware of any available remedies for you
22 there to reduce your sentence?

23 A No.

24 Q Have you discussed any of these aspects with Mr.
25 Butin?

1 A No.

2 Q You are expecting nothing in return as a result of
3 your testimony?

4 A No.

5 Q And you are doing this because you -- what were
6 your words?

7 A Because I'm offended by this crime. I'm appalled
8 by it, as a matter of fact.

9 Q Have you ever carried a weapon into anyone's home
10 that you burglarized?

11 A I carried a weapon out of a home. I didn't carry
12 one in to, but I have stolen weapons out of houses and carried
13 them out.

14 Q Have you ever been arrested for a crime of violence
15 such as aggravated assault, aggravated battery or any form of
16 murder?

17 A I was arrested for, not convicted, but I was arrested
18 for assault.

19 Q As a misdemeanor or a felony?

20 A As a felony.

21 Q Where?

22 A In Colorado.

23 Q When was it that you were convicted of this?

24 A I was not convicted.

25 Q Did you go to trial?

1 A No.

2 Q What happened?

3 A I was found not guilty by reason of insanity.

4 Q When was that?

5 A January of 1977.

6 Q Were there psychiatrists that examined you at that
7 time?

8 A Yes.

9 Q Was there an actual trial, or was there a stipulation
10 between the parties -- ?

11 A There was a stipulation.

12 Q Were doctors' reports submitted?

13 A One.

14 Q In what city was this?

15 A Denver.

16 Q Denver?

17 A Uh-huh.

18 Q Do you remember the name of the prosecutor?

19 A No, I don't.

20 Q What was the name of your lawyer?

21 A His name was Larry Posner (phonetic).

22 Q Was he a Public Defender?

23 A Yes.

24 Q Since 1977, have you ever been examined by a
25 psychiatrist or psychologist?

- 1 A No.
- 2 Q Either in a state prison facility or otherwise?
- 3 A In the hospital I was. When I was committed to the
4 hospital, I was examined by thousands.
- 5 Q For what period of time were you hospitalized?
- 6 A Five years.
- 7 Q From 1977 to 1982?
- 8 A Yes.
- 9 Q In what hospital?
- 10 A Colorado State Hospital in Pueblo, Colorado.
- 11 Q What was the diagnosis at the time of your trial?
- 12 A Schizophrenia, paranoid reaction.
- 13 Q Did you testify at your trial?
- 14 A No.
- 15 Q Did witnesses other than doctors testify?
- 16 A Not even a doctor testified, I don't think.
- 17 Q Did everyone agree that you were insane?
- 18 A The report from the doctor was what the judge looked
19 at, and the judge committed me.
- 20 Q What was it that happened -- are you insane now?
- 21 A I don't think so, no.
- 22 Q What was it that happened following 1977 that
23 caused you to be sane?
- 24 A I wasn't insane in 1977.
- 25 Q Tell me about your drug use following 1977.

1 A I never used drugs.

2 Q Never?

3 A Never.

4 Q Other than the 1977 offense, have you ever been
5 declared to be mentally incompetent and insane?

6 A Several times.

7 Q Several times?

8 A You see, some years ago, a long time ago, that
9 used to be a pretty good decent way to beat a charge, to plead
10 insanity to it.

11 Q Are you telling me that in 1977 you fooled a shrink?

12 A Of course.

13 Q During the course of your five year hospitalization,
14 did you also fool doctors into thinking that you were insane?

15 A Yes.

16 Q How many different doctors wrote reports to the
17 effect that you were insane or mentally incompetent during
18 that period of time?

19 A In 1977?

20 Q From 1977 to 1982.

21 A Just one.

22 Q And that was a shrink?

23 A Was he a psychichiatrist?

24 Q Yes, sir.

25 A He was a full mental medical doctor, yes.

1 Q They appointed him?

2 A Yes.

3 Q And would he be the one who filed those reports
4 that appear during your trial in 1977?

5 A That's correct.

6 Q Was that the same guy that had you as a patient
7 from 1977 to 1982?

8 A No.

9 Q A different doctor?

10 A Yes, and they all said that I was insane.

11 Q But you were not?

12 A No.

13 Q And yet you remained hospitalized for five years?

14 A Uh-huh.

15 Q So you fooled them into thinking that you were
16 insane, but you couldn't fool them into thinking that you were
17 sane?

18 MR. HEYMAN: I'm going to object to the form of that
19 question.

20 Q (BY MR. KOCH:) Tell me about Utah.

21 A I think it was a burglary charge there, and two
22 psychiatrists found me insane, and they sent me down to the
23 Utah State Hospital in Provo, and I stayed there about eight
24 or ten months, something like that.

25 Q When was that?

1 A '65 or '66.

2 Q What city was the prosecution hold in?

3 A Salt Lake City.

4 Q And what charge was that?

5 A I think it was a burglary charge.

6 Q And you were found not guilty by reason of insanity
7 there also?

8 A That's right.

9 Q Any other places in which you were found not guilty
10 by reason of insanity?

11 A No.

12 Q Any other doctors that have rendered an opinion
13 that you were insane other than during the '65 or '66
14 prosecution in Salt Lake City and the '77 prosecution in Denver?

15 A No.

16 Q Were you examined by any psychiatrists in Ft.
17 Lauderdale?

18 A No.

19 Q Ever been examined by a psychiatrist in Broward
20 County at all?

21 A No.

22 Q Did you suggest to your attorney in Broward County
23 that the defense of not guilty by reason of insanity be advanced?

24 A No. As a matter of fact, I told him otherwise.

25 Q You told him what?

1 A That I didn't want to use it as a defense.

2 Q Was there some discussion of it?

3 A Sure.

4 Q How did that arise?

5 A Because he saw my past record, and he happened to
6 see it on there, and it was his duty to inquire about it, and
7 he did, and I told him that I wasn't interested.

8 Q Why was that?

9 A Well, the evidence that convicted me was entirely
10 circumstantial.

11 Q Did you go to trial on that?

12 A Yes, I did.

13 Q Did you testify?

14 A Yes, I did.

15 Q Has there been an appeal?

16 A It's on its way.

17 Q Who is appealing that?

18 A I'm represented by the Public Defender's Office in
19 West Palm.

20 Q Do you know the person's name?

21 A Not yet.

22 Q How many trials were held in Ft. Lauderdale?

23 A I don't know.

24 Q How many different charges were you facing in that
25 trial?

1 A Four.

2 Q Is that the sum total of the charges that you
3 have ever faced in Broward County?

4 A No -- let me see.

5 Q Did you plead to any charge?

6 A No.

7 Q Okay. You were going to tell me about other charges?

8 A I have another charge, but I don't know whatever
9 happened to it. I had a charge, some two or three or four
10 years ago. It was one of the charges that you get charged with,
11 and then they ROR you, and that one went away.

12 Q It just went away?

13 A As far as I know.

14 Q Did you ever meet Janes Dailey?

15 A No.

16 Q At your sentencing before Judge Futch, was it
17 mentioned that you were a witness in this prosecution?

18 A I don't think so. No, It wasn't mentioned.

19 Q In your PSI, to your knowledge, was that fact
20 mentioned in there?

21 A I don't think so. I know the woman that had
22 prepared the PSI happened to notice on some computer print-out
23 that I was to be held for Pinellas County as a material witness
24 in this case.

25 Q There was a warrant out for your arrest. This was

1 not as a result of your being a material witness in this case,
2 was it?

3 A I don't believe so.

4 Q Was there a hold?

5 A There was some kind of hold about that. She asked
6 me about that, and I told her that I was going to be a witness
7 over here, but that didn't have anything to do with the
8 problem.

9 Q Did you ever tell your lawyer about the fact that
10 you are a witness in a murder prosecution over here?

11 A Yes.

12 Q And that's Mr. Butin?

13 A Yes.

14 MR. KOCH: Well, Mr. Hill, your life has been a
15 hell of a lot more exciting than mine. I'll give you
16 that. I have no further questions.

17 MR. HEYMAN: He'll read.

18 (THEREUPON, the foregoing deposition was concluded at
19 4:00 P.M.)
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I have read the foregoing pages
and herewith subscribe to same
as a true and correct transcription
of the questions contained therein
and my answers thereto, subject to
corrections noted, if any there be.

DEPONENT

DATE

1 STATE OF FLORIDA)

2 COUNTY OF PINELLAS)

3 I, JEAN WISEMAN, Deputy Official Court Reporter, Notary
4 Public, do hereby certify that I was present at the taking of
5 the foregoing sworn testimony of JOHN LESLIE HILL at the time
6 and place set forth in the caption hereof; that I reported in
7 shorthand the statements made; and that the foregoing pages,
8 numbered 1 to 55, inclusive, constitute a true and correct
9 record of said testimony.

10 WITNESS MY HAND AND SEAL this 27th day of October,
11 1986, at Clearwater, Pinellas County, Florida.

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Jean Wiseman
JEAN WISEMAN, Notary Public
State of Florida at Large.
My commission expires: 4/5/89.

IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA
CIRCUIT CRIMINAL NO. CRC-85-7851CFANO-D

STATE OF FLORIDA
vs.
JACK PEARCY,
Defendant.

DEPOSITION OF:

WAYNE SHIPP.

TAKEN BY:

State.

BEFORE:

Robin S. Carroll,
Deputy Official Court Reporter.
State of Florida at large.

DATE:

November 17, 1986.

PLACE:

State Attorney's Office.
Criminal Court Complex,
Clearwater, Florida 33520.

FILED
NOV 20 9 40 AM '86
KARLEEN M. BLANKER
CLERK OF DISTRICT COURT

Tampa Bay
KANABAY

KANABAY & KANABAY

Official Court and Shorthand Reporters

PLAZA SUITE 1400
201 E. KENNEDY BLVD.
TAMPA, FL 33602
(813) 224-9500

265 PINELLAS COUNTY BUILDING
150 FIFTH STREET NORTH
ST. PETERSBURG, FL 33701
(813) 821-3320

CRIMINAL COURTHOUSE
5100 144th AVENUE NORTH
CLEARWATER, FL 33520

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APPEARANCES:

MS. BEVERLY ANDREWS,
Assistant State Attorney,
Attorney for State of Florida.

MR. BOB HEYMAN,
Assistant State Attorney,
Attorney for State of Florida.

MR. KY M. KOCH,
1550 Highland Avenue South,
Clearwater, Florida 33516,
Attorney for defendant.

MR. RONNIE G. CRIDER,
410 Lincoln Avenue South,
Clearwater, Florida 33516,
Attorney for defendant.

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WAYNE SHIPP,

the deponent herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. ANDREWS:

Q State your full name, please.

A Wayne E. Shipp.

Q And how were you employed back in 1985 of this year up until --

A 1985 until August of '85, I was employed by the Public Defender's Officer here in Pinellas County.

Q And as such, did you represent a Jack Pearcy?

A I did.

Q How long did you represent him?

A From the day of his arrest -- approximately May 6th -- until, I guess, August 1st, when I resigned.

Q And when you resigned, who did you turn the files over to?

A I think it was Stepheny Willis Kelly.

Q And starting with the day of his arrest, May 6th, did you have an occasion to speak with him in the Pinellas County Jail?

A Several.

Q During those interviews, were you alone or did you take other people from the Public Defender's Office with

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you?

A Alone.

Q Did you have the occasion to tape record an interview with him?

A No.

Q Are you aware that Mr. Percy insists that you did tape record a statement with him?

A Myself?

Q Or someone from the office, while you were his attorney.

A It's possible one of the investigators may have tape recorded, initially, or one of there conversations with him.

Q Not in your presence?

A Not in my presence.

Q Have you listened to that tape recorded interview?

A No.

Q Do you know the location of that tape recorded interview?

A I never knew it existed prior to today's date.

Q What is the standard procedure with the Public Defender's Office for tape recorded interviews? Are they kept with the file in the office?

A It's my understanding that tape recorded interviews weren't normally used -- my belief is that an investigator went

1 to the client, took the statement from him, and then later
2 dictated it to be taped. I mean to be dictated to be typed,
3 excuse me. I never knew that anybody ever recorded the
4 statement.

5 Q Never with your experience with the Public Defender's
6 Office, you were not aware of any defendants that have had
7 their interviews by the office taped?

8 A Not to the best of my knowledge -- I can't think
9 of none.

10 Q You can't tell me whether or not the tape recorded
11 interview exists or not?

12 A No, I can't.

13 Q Have you seen a transcript of an interview with
14 Mr. Pearcy that would indicate to you that it came from a
15 tape recording?

16 A No.

17 MR. KOCH: We don't have questions.

18 MS. ANDREWS: I'm not done.

19 BY MS. ANDREWS:

20 Q I just know we are going to play a game in a minute.
21 I'm trying to figure out how to get around it. Starting
22 with your very first interview with Mr. Pearcy, do you remember
23 what day that would have been?

24 A Sometime after the 6th -- probably around the 8th
25 I would have talked to him.

1 Q That would have been in the Pinellas County Jail?

2 A Yes.

3 Q And you are pretty certain that would have been
4 alone, without anyone else from your office present?

5 A Yes.

6 Q And at that time what was the substance of the
7 interview you had with your client, Mr. Pearcy?

8 A I think that is a problem. My reading of the
9 transcript of the Judge's ruling only went -- doesn't seem
10 to indicate a total waiver of any attorney-client privilege.

11 Q So you are standing on the fact that there was
12 no waiver of this conversation?

13 A Correct. I surely don't like doing it, either.

14 Q You are aware that you have been listed as a defense
15 witness in the case?

16 A Yes.

17 Q Have you had discussions with Mr. Crider and Mr. Koch
18 to what the substance of testimony would be should you be
19 called to the stand?

20 A No. I received a subpoena -- for clarification
21 purposes -- I think I received a subpoena from Mr. Koch's
22 Office Friday. Monday I received the subpoena for this
23 deposition -- Thursday morning.

24 Q Your second interview with Mr. Pearcy would have
25 been how long after the first, approximately?

1 A Probably a week to ten days -- somewhere in that
2 area.

3 Q These interviews -- the dates of and times of --
4 would be documented in your file downstairs?

5 A Probably, other than specific notations that I
6 made about conversations. They probably wouldn't be there.
7 They probably would be listed on the records of the jail,
8 where I signed in.

9 Q But your file does not reflect the dates of when
10 you made jail visits?

11 A Probably not. Bad work habits.

12 Q But the notes and the substance of the conversations
13 would be in your file downstairs?

14 A Well, I didn't interview Mr. Percy specifically
15 about what had happened. Someone else already did that.

16 Q Is the investigator noted in the file downstairs,
17 that you have reviewed?

18 A I have looked at it quickly, yes.

19 Q Do you know who that person is?

20 A I think it was -- in all honesty, I don't want
21 to venture a guess as to who it was. I really don't remember.

22 Q The file would reflect what his name would be on
23 the interview?

24 A The initials would be there. There were several
25 people involved in the investigation. It makes me hard to

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be sure who was in charge of it.

Q Are you saying that you had never had a conversation with your client, Mr. Pearcy, about facts of the case?

A Probably not. Probably what I did do is I took the investigator's statement, went over it, asked him if that is what happened?

Q Do you specifically recall what you did in this case or is that your standard procedure?

A I specifically did that, but I'm not sure if it was on the first visit.

Q And what did he respond when you asked him if that is what happened?

A "Yes".

Q Has the investigator's report been handed over to Mr. Crider and Mr. Koch?

A Not to the best of my knowledge. I know it isn't policy to hand over client's interviews without authorization from the client.

Q But you don't know whether this one has or not?

A No, I don't.

Q Other than asking him to confirm or deny what was in the investigator's report, did you have any other conversations with Mr. Pearcy about who killed Shelley Boggio, whether it was himself or Dailey, or what the extent of his involvement was?

1 A I'm sure we must have talked about it, but remembering
2 any specificity, I can't think of any specific conversation
3 we had.

4 Q And your memory would be jogged only by reviewing
5 this investigator's report?

6 A It would only be jogged to the extent of reminding
7 me of what he had said, without any specific conversations
8 we had about that report. -- probably, no.

9 Q How many times did you talk to him before you went
10 and discussed the polygraph issue with him?

11 A We started talking about that, probably the week
12 of June 10th. I probably didn't see him more than four -- six
13 times at that time, the month between his arrest.

14 Q How did the polygraph issue come up? Who started
15 the conversation and how?

16 A Who started the conversation? Mr. Pearcy brought
17 it up.

18 Q In what contents -- what did he say?

19 A He said that he would like to take one.

20 Q To your knowledge, had he been approached by
21 anyone in law enforcement or not, to ask him to take one?

22 A To my knowledge, he had not.

23 Q This was your own client's idea?

24 MR. KOCH: I'm going to object to the form of the
25 question.

1 THE DEPONENT: It's not an unusual idea when accused
2 of a crime, to want to take a polygraph.

3 BY MS. ANDREWS:

4 Q What did you say when he informed you he wanted
5 to take the polygraph?

6 A I told him it was a bad idea.

7 Q Why did you tell him that?

8 A Because the results of the polygraph are as strong
9 as the person interpreting it. I have seen people probably
10 well convincing were guilty to the best results. I think
11 from a police polygraph interview there was some deception.
12 I never had a police polygraph ever say the person was telling
13 the truth.

14 Q Do you have any reason to believe that Percy told
15 a different story on the polygraph than he told your interviewer
16 or yourself?

17 A No.

18 Q What other discussions as to what -- were there
19 discussions as to what would be asked and what would be answered
20 in the polygraph, between you and Percy?

21 A Our understanding is we talked about it. They
22 went through the story. Obviously polygraphs isn't a narrative
23 thing. I kind of explained how a polygraph works. They
24 take his answers and take them back to the jail.

25 Q Did he go over with you what he was going to say

1 in this polygraph?

2 A No. We didn't go over what he was going to say
3 because the polygraph basically determines what you are going
4 to say.

5 Q That is true. We are talking about four pertinent
6 questions that everyone could figure out. I'm sure those
7 [REDACTED] were discussed. Do you recall what
8 Mr. Percy told you before the polygraph, as to what he was
9 going to answer? His extent of involvement in this crime?

10 A I told him that if his involvement was any bit
11 more than he told me, to not take the polygraph.

12 Q And he responded?

13 A He didn't have no problem.

14 Q And was there anyone else present during this
15 conversation?

16 A No.

17 Q How soon before the polygraph did this conversation
18 take place?

19 A Well, we discussed it. I know specifically the
20 week of June -- somewhere in the week of June 10th, and so
21 it was discussed during that period of time.

22 Q Did you have a discussion with him immediately
23 after the polygraph? You weren't present for the polygraph,
24 were you?

25 A No.

1 Q Or have any conversations with law enforcement
2 that they had with him, directly before the polygraph or
3 directly after?

4 A Right.

5 Q When was the next time you spoke with your client?

6 A Probably the following Monday -- possibly Tuesday.
7 He took it on a Thursday. I probably didn't talk to him
8 until Monday or Tuesday of the next week.

9 Q And what did your client relate to you that occurred
10 in the polygraph?

11 A I'm not trying to think about that. I'm trying
12 to think about what was said at the hearing. It was my
13 understanding -- my understanding was that the waiver only went
14 as far as the statements made during this hearing.

15 (WHEREUPON, THERE WAS A DISCUSSION OFF THE RECORD AND A RECESS)

16 DIRECTION EXAMINATION

17 BY MR. HEYMAN:

18 Q So, you did have a discussion concerning the
19 polygraph?

20 A Correct.

21 Q And your statement to him was what?

22 A Probably the first statement was that he shouldn't
23 take it at all, especially, if he was being less than truthful
24 with me.

25 Q Did he indicate any problem with that?

1 A He said, "No problem."

2 Q Did you have any further discussions with him
3 concerning the polygraph?

4 A No.

5 Q How about how many days this conversation took
6 place before he actually took the polygraph?

7 A We started talking about it probably the week of
8 the 10th, and he took it on the 20th.

9 Q Were you present when he gave a statement to
10 Mr. Slatter?

11 A Correct.

12 Q And you had conversations with him about the fees,
13 whether or not giving this statement would be helpful to
14 him?

15 A Correct.

16 Q Could you tell us what those conversations were
17 about with Mr. Pearcy?

18 A We discussed -- I indicated to him that there were
19 only two people that knew what happened, he and Mr. Dailey.
20 My understanding was the State didn't have any evidence
21 against him. Mr. Slatter wanted to take his statement for
22 his own use. He wouldn't receive any immunity for the
23 statement. He understood that and was willing to do that.

24 Q And that was taken at the State Attorney's Office?

25 A Correct.

1 Q How long was that statement?

2 A A couple of hours. He gave it twice. One time
3 prior to it being transcribed -- Mr. Slatter went through
4 it with him. I probably asked a few questions, and then we
5 went through it again for the court reporter.

6 Q Had you had conversations with him during the
7 polygraph before this statement was made?

8 A Yes.

9 Q When did the State first indicate they wished to
10 conduct a polygraph?

11 A Probably the week before. Mr. Slatter had been
12 talking about it. I believe he didn't have enough evidence
13 to proceed against him. He would take the statement, and
14 he would like the polygraph for his own conscious sake.

15 Q Now after this statement was taken, was there also
16 some discussions about looking for some evidence -- Mr. Pearcy
17 hating the Pinellas County Sheriff's Office?

18 MR. KOCH: I'm not going to let you go through
19 the motion to suppress again.

20 MR. HEYMAN: He's never been deposed, Ky.

21 MR. KOCH: The motion to suppress is over with
22 and done, with that decision. A decision has been made
23 to all faces of the motion to suppress, as it relates
24 to Mr. Shipp.

25 MR. HEYMAN: Are you saying you are not going to

1 get into any of this if he is called to testify as a
2 witness?

3 MR. KOCH: As it relates to the legality or to
4 the understanding made between he and the State Attorney.

5 MR. HEYMAN: I'm not getting into the legality.
6 I think that Mr. Pearcy may get up and testify that
7 he was forced to go. I'm not relitigating the motion
8 to suppress. I'm not going to elaborate it. There
9 are discussions about going to Walsingham.

10 THE DEPONENT: Correct.

11 BY MR. HEYMAN:

12 Q Can we get into those discussions?

13 A I don't have anything to add. They had discussions,
14 and the police wanted his help, and he agreed to go with him.

15 Q Did he indicate he knew where or if there was any
16 evidence at Walsingham?

17 A I think the statement says a little lake off of
18 Walsingham. Mr. Dailey threw the knife and the sheath into
19 what he thought was a lake. He knew some signs of "Beware of
20 Alligators" were there. He thought he could find it again.

21 Q Did he describe this knife at all?

22 A In the deposition, he did, yes, in the statement?

23 Q How about to you?

24 A Yes.

25 Q Anything different?

1 A It wasn't as complete of a description than he
2 gave during the sworn statement.

3 Q When he returned from Walsingham, did he have
4 any conversations with you about what had happened?

5 A No, not until the next week. He went on a Wednesday
6 afternoon -- Wednesday evening -- I guess, and the statement
7 was taken. He went and took the polygraph exam on Thursday,
8 and I didn't talk to him again until, probably Tuesday of
9 the next week.

10 Q Wayne, you said that when you left the office,
11 the case was reassigned to Stepheny Kelly?

12 A Correct.

13 Q Do you know if Eula Mason was also involved?
[REDACTED]

15 Q Did you have an investigator -- an older woman
16 who wears glasses?

17 A Yes.

18 Q What is her name?

19 A Angie Graver (phonetic).

20 Q Does she still work there?

21 A To the best of my knowledge, she does.

22 Q Does she conduct interviews at the jail of clients?

23 A Yes.

24 Q Have you had any conversations with Stepheny about
25 whether Angie Graver (phonetic) was at all involved in this

1 case or conducted an interview with anyone?

2 A I know that she spoke with Mr. Percy on several
3 occasions.

4 Q Did she speak to any of the witnesses, that you
5 know of?

6 A There were a lot of witnesses spoken to.

7 Q Any at the jail?

8 A Not to my knowledge, but I left before anything
9 happened at the jail, allegedly.

10 MS. ANDREWS: What do you mean by that?

11 THE DEPONENT: What I mean is that I didn't hear
12 of any jail-house statements being made by Mr. Percy
13 until after I left the Public Defender's Office.

14 MS. ANDREWS: Thank you.

15 BY MR. HEYMAN:

16 Q Your office represented James Dailey for a short
17 period of time?

18 A Not to my knowledge.

19 Q Not at all?

20 A I don't have any knowledge of that. I think
21 Mr. Dailey was at large.

22 Q When you left the office, he was still at large,
23 but to your knowledge -- do you have any knowledge whether
24 they did get him at all?

25 A I would assume that he was. They were appointed

1 at advisories, and they probably didn't stay on that long,
2 either.

3 Q There has been a little bit of a break since the
4 first attempt of deposing you this morning. Have you had
5 any further conversations with Mr. Crider or Mr. Koch regarding
6 your testimony at trial?

7 A No. I spoke to Mr. Pearcy. I explained to him
8 what was going on.

9 Q Was that in regard to whether or not he waived
10 attorney-client privilege?

11 A Correct.

12 Q Are you at liberty to discuss that?

13 A It was my impression that he waived attorney-client
14 privilege.

15 Q So, if you are to testify at trial, it's his
16 understanding that he made an affirmative waiver?

17 A Yes.

18 MR. HEYMAN: Were you present during this, also?

19 Is this news to you guys?

20 MR. KOCH: I was not present.

21 MS. ANDREWS: I got some questions.

22 DIRECT EXAMINATION

23 BY MS. ANDREWS:

24 Q Has Pearcy ever admitted to you that he stabbed that
25 girl?

1 A No.

2 Q Ever admit he choked the girl?

3 A No.

4 Q Ever drown the girl?

5 A No.

6 Q Ever tell you who did?

7 A He said that Mr. Dailey did.

8 Q Knifed, choked, and drowned?

9 A I'm not too sure about the choking part of it.

10 Off the top of my head, I can't remember him saying choking
11 was going on. I can remember him saying some movements.

12 Q What kind of movements? Did he describe them to
13 you?

14 A Hand movements -- that he saw Mr. Dailey on the
15 girl. From those movements, Mr. Dailey was stabbing the
16 girl.

17 Q Is that how he spoke?

18 A No.

19 Q What did he say?

20 A I think he called him "Jimmy-D".

21 Q What did he see "Jimmy-D" doing?

22 A It was in the dark, and there were shadows, and
23 he saw his arm moving. It led him to believe he was stabbing.
24 When he got closer, he saw the knife.

25 Q Did he describe the knife then?

1 A He described it as a knife they kept in the vehicle.

2 Q "They"?

3 A Those kept in the vehicle that belong to Mr. Dailey.
4 Apparently, they have been traveling together for some months.

5 Q Whose vehicle?

6 A I believe it was Mr. Percy's, but I'm not sure
7 or his girlfriend's.

8 Q Other than the up and down movements of the arm
9 that led him to believe the girl was being stabbed, did he
10 tell you anything else?

11 A He said that he saw her with her pants pulled down.
12 Apparently, her blouse was pushed up at some point, and he
13 saw Jimmy dragging her to the water.

14 Q Did he tell you he assisted in dragging her to
15 the water?

16 A No.

17 Q Did he tell you how Jim was dragging her to the
18 water?

19 A I think it was by her ankles.

20 Q Did he tell you whether or not the girl was still
21 alive when he was doing that or active in any way?

22 A I think he said that Jimmy said, "She is still
23 alive. I'm going to drown her."

24 Q And proceeded to walk down to the water? Where
25 was Percy when this was going on?

1 A Back at the car.

2 Q Doing what?

3 A Being sick. He indicated he was sick in two places.

4 He was sick at the scene, itself, and sick at the car, other
5 than he might have had dry heaves at that point.

6 Q Did he tell you he only got sick at that point
7 or that he got sick at any other point during the course
8 of the events?

9 A He got sick when he first apparently approached
10 them and tried to somehow interfere -- felt he was pushed
11 off the embankment. At that point, Dailey was dragging her,
12 and when he saw the blood is when he first got sick.

13 Q How far away was the car from this activity?

14 A My impression, that it was somewhere between ten
15 and twenty feet. From my memory, somewhere in that range.

16 Q When did he tell you he got out of the car, in
17 the sequence of events?

18 A When he heard some noises.

19 Q What kind of noises?

20 A Apparently from the girl -- screaming or something.
21 He heard some kind of sound.

22 Q Did he hear any conversation between the girl or
23 Dailey?

24 A No. Apparently, he was in his car and had a lot
25 to drink and was listening to the radio, and heard some type

1 of scream.

2 Q Why did he tell you they went to that area to begin
3 with?

4 A Mr. Dailey asked him to pull over.

5 Q And he did so unquestioning?

6 A Right.

7 Q What did he think Dailey wanted to go to that area
8 for?

9 MR. KOCH: I'm sorry. Are you asking? You told
10 Mr. Shipp he told Dailey what he went there for.

11 MS. ANDREWS: I guess.

12 THE DEPONENT: Apparently, Dailey and the young
13 lady had been friendly during the evening and engaged
14 in some type of sexual activity.

15 BY MS. ANDREWS:

16 Q Dailey never said anything -- just "Pull over"?

17 A Right.

18 Q Did he see them necking or engaging in any sexual
19 activity at the scene?

20 A I think that he said there was something going
21 on in the back seat while he was driving, and then they
22 exited the car, and he wasn't paying any attention to what
23 was going on.

24 Q Something?

25 A Necking -- something in that area. I don't remember

1 any details.

2 Q He didn't tell you that they had sexual intercourse
3 in the back seat of the car on the way to the scene? Dailey
4 says, "Pull over," and the two get out of the car?

5 A Yes.

6 Q Percy said that he stayed in the car listening
7 to the radio? How much did Percy say he had to drink?

8 A He told me that he had been drinking all day.
9 They had been drinking beer and wine coolers throughout
10 the day and mixed drinks into the evening and smoked some
11 marijuana.

12 Q How much marijuana did he say he smoked?

13 A Some how I got the impression it was -- like three
14 or four joints between four or five people.

15 Q Did he describe his condition to you as to whether
16 or not he was under the influence of alcohol or drugs?

17 A He said that he had a pretty good buzz.

18 Q Was that his words "Pretty good buzz"?

19 A Yes.

20 Q Did he in any way indicate to you that he had so
21 much to drink or so much to smoke that he wasn't able to
22 realize the consequences of his actions?

23 A We never got into that, but he indicated to me
24 that he didn't take any actions.

25 Q He admitted that he was driving a vehicle and carrying

1 on conversations?

2 A Correct.

3 Q Walking and talking?

4 A Yes, yes.

5 Q And he drove the vehicle away from the scene?

6 A Yes.

7 Q So, his description of his condition was buzzed and
8 nothing more than that?

9 MR. KOCH: I'm going to object. Mischaracterizing
10 what Mr. Shipp earlier stated in the response to a
11 similiar question.

12 BY MS. ANDREWS:

13 Q I'll rephrase the question. Other than his statement
14 that he was pretty buzzed, did he say anything else about
15 his condition as to alcohol or drugs?

16 A No.

17 Q What about Dailey -- did he describe Dailey's
18 condition?

19 A He said that they both had a pretty good buzz on,
20 and that was the term used to describe it.

21 Q Did he at any time compare himself to Dailey and
22 say that he had more or less of a buzz than Dailey?

23 A No.

24 Q How did he describe the girl's condition?

25 A He didn't really describe her condition, as far

1 as the consumption of drugs or alcohol.

2 Q You say he gets out of the car. He told you he
3 got out of the car when he heard the noise? Does he get
4 back into the car?

5 A Yes.

6 Q When?

7 A After he goes up and sees the young girl -- sees
8 what is going on. There, throws-up, comes back to the car,
9 and that is when he gets back into the car.

10 Q Does he leave the car again?

11 A No, I don't think so.

12 Q Did he tell you that he saw the girl running down
13 to the water?

14 A No.

15 Q Did he tell you that he saw the girl running at
16 all, with Jimmy chasing her?

17 A No.

18 Q Did he see how many times the girl was stabbed?

19 A No.

20 Q Did he tell you about the wounds to the hands or
21 defending off the blows?

22 A He did indicate that at one point, he thought the
23 young lady grabbed the knife or Dailey with the hand, and
24 he saw part of the struggle.

25 Q What else did he say about seeing the struggle?

1 A Mostly that when he realized what was going on,
2 he looked over and saw Dailey sitting on the girl, stabbing
3 her on the upper part of the body.

4 Q Sitting on her. Did he give anymore of a description
5 of her?

6 A Straddled.

7 Q On knees or sitting?

8 A Apparently she's faced down on the ground and he's
9 sitting on her back, lower back.

10 Q His head facing her head?

11 A Right.

12 Q Did he tell you he saw him beat her about the face?

13 A No.

14 Q Carrying the body down to the water? Did he tell
15 you other than -- I believe you said dragged her by the ankles --
16 was that a continuous motion down to the water in that fashion
17 or carry her in any other way?

18 A That is the only way I can remember hearing about it.

19 Q Did he describe the lighting conditions?

20 A No, he didn't -- not that I can remember.

21 Q Did he say what happened to her clothes?

22 A Apparently, some of them ended up in his car, in
23 some fashion.

24 Q Some of them? Did he tell you what?

25 A I think he knew about some shoes, and he didn't --

1 he wasn't able to describe the other articles.

2 Q You said that her pants were pulled down?

3 A Or jeans were pulled down.

4 Q They weren't off, they were down?

5 A That is how I remember it, correct.

6 Q And the blouse was up or off?

7 A I can't really say. I got the impression that it
8 was up -- maybe that is an assumption.

9 Q Did he tell you that his state of address changed
10 any between that time and when the body gets down to the
11 water?

12 A No, he didn't.

13 Q So, he didn't say anything one way or the other
14 about that?

15 A No.

16 Q Did he say anything about underwear -- where they
17 would have landed?

18 A No.

19 Q Did he tell you how the shoes got back in his car?

20 A No.

21 Q What about earrings or any other pieces of jewelry?

22 A He didn't mention any.

23 Q What does he see or what does he tell you he sees
24 when the body gets down towards the water?

25 A Dailey walking it out into the water.

1 Q And at this time, he told you he's in the car?

2 A Either in the car or the side of the car.

3 Q And what does Dailey do when he gets towards the
4 water?

5 A There is nothing after that. Apparently, he left
6 her go and came back to the car.

7 Q Does Percy tell you that he sees a struggle out
8 there?

9 A No.

10 Q The girl reacting in any way to the water?

11 A No.

12 Q To her wounds?

13 A No.

14 Q Any converstaions?

15 A Between who and who?

16 Q Dailey and the girl?

17 A No.

18 Q Any conversations between Percy and Dailey?

19 A Seems like at one point, Percy said something
20 about "Leave her alone. She's dead." And Dailey says, "She's
21 alive and I'm going to drown her," but I don't know if that is
22 while he's dragging her to the water or where or while he's
23 in the water.

24 Q And Percy denies to you, in any of your conversations
25 to him, that he goes out to the water and helps carry her

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to the water?

A That's right.

Q Does Percy tell you that he sees Dailey then take the clothes out?

A No.

Q So, you don't know how the clothes got out into the Intercoastal?

A No.

Q What conversations does Percy tell you he has with Dailey when Dailey comes back to the car?

A Something like, "You just -- you just killed that girl and they electrocute people down here for that, and you just killed me."

Q This is Percy talking? What does Dailey respond?

A "I'm sorry."

Q He apologizes? What does Percy say?

A They were driving away. Percy apparently was pretty upset at this point, and they were fairly quiet.

Q And what do they do then?

A At some point along the way home, Mr. Dailey stops him and describes those items.

Q The knife at Walsingham that you already told us about?

A Right.

Q Did they stop any place else, or do anything else

1 on the way home?

2 A No.

3 Q And Percy is driving?

4 A Correct.

5 Q Does Percy say he gets out of the car when the
6 knife is thrown?

7 A No, not that I can remember.

8 Q They get home. Then what happened?

9 A They get home. He says that he comes in the door,
10 first walks straight to the bedroom and lays down, looks
11 at the headboard for the rest of the evening.

12 Q Does he tell you he has any conversations with
13 anybody?

14 A None.

15 Q Does he tell you he sees anyone?

16 A Apparently his girlfriend and the other gentleman
17 staying there at the time, were there asking them where they
18 were, to that effect.

19 Q Does he respond?

20 A He walks straight to his bedroom and lays down.

21 Q Does Dailey respond?

22 A He doesn't have any eye contact with Dailey for
23 the rest of the evening. They don't have any contact
24 whatsoever. He comes in, first goes straight to his bedroom.

25 Q They don't discuss anything?

1 A Right.

2 Q Until the next morning?

3 A Right.

4 Q At which time, they go do their laundry?

5 A That is not the first thing they did.

6 Q What is the first thing?

7 A Mr. Percy goes into his room and says, "What did
8 you really do last night?" And apparently, they decided
9 to drive by the scene and see what happened. They stopped

drove by the scene. They see
11 a lot of things. They see police cars and ambulances.

12 Q What time do they say this is?

13 A They got up after ten o'clock in the morning.
14 So, I think it was before noon.

15 Q What conversations does Percy say he has with
16 Dailey on the drive-by?

17 A More conversations about, "You killed me. Why
18 did you do that?"

19 Q What does Dailey say?

20 A "I don't know. I'm sorry. I didn't mean to get
21 you involved."

22 Q Does Dailey give Percy a motive for killing the
23 girl?

24 A No.

25 Q Does Dailey acknowledge that he had sex with the girl?

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A No.

Q Does Percy tell you he had ever had sex with the girl?

A Never.

Q Never?

A Never.

Q Not that night -- not that night -- not ever?

A Right.

Q Did Percy and Dailey have a little dispute as to who was going to have sex with this girl?

A Not to my knowledge.

Q What do they do after the drive-by?

A They go back to the house. They go back to the house, and I guess, Percy makes a unilateral decision, to be in his best interest, to leave town.

Q Unilateral? This is not discussed with Dailey?

A Right.

Q They both end up in the same place?

A Right.

Q Did he explain to you how they both ended up in the same place?

A He said that he was leaving town and everybody went with him -- in the same vehicle.

Q Why did Percy say that he thought it was in his best interest to leave town?

1 A He didn't have to explain it to me.

2 Q He did not explain it to you?

3 A Yes.

4 Q What about the laundromat -- whose idea was it
5 to go wash the clothes?

6 A It was his. Apparently, they haven't done laundry
7 in a few days, and they were going to Miami.

8 Q What about washing the car?

9 A I don't remember any discussions concerning that.

10 Q Does Percy tell you that he told anyone else his
11 involvement in this crime before you represented him and
12 was brought back to our lovely jail -- girlfriend, mommy?

13 A His girlfriend asked him what happened, and he
14 said, "You don't want to know."

15 MR. HEYMEN: When you say girlfriend, you mean
16 Gail Bailey?

17 THE DEPONENT: The lady staying with him.

18 BY MS. ANDREWS:

19 Q Did he say that he told mommy anything?

20 A I don't think he did.

21 Q What about Ozzi?

22 A I think Ozzi.

23 Q Was one of the people he told, that didn't want
24 to know what happened?

25 A Run that by me again?

1 Q What did he tell you Ozzi told him?

2 A That he don't want to know what happened.

3 Q Did Percy ever tell you that Dailey was going
4 to come riding in on a white horse and take all the blame
5 and save him?

6 A Well, I think we discussed the fact that he felt
7 if Jimmy were ever apprehended, he would confess and save
8 him, and I pointed out to him that it probably wouldn't be
9 in Mr. Dailey's best interest to do that, and sometime people
10 might tend to be a little quiet under the circumstances.

11 Q Did he ever express to you that he thought that
12 when Dailey was arrested, that Dailey would spill the beans?
13 So, hurry up and get me to trial -- demand a speedy trial --
14 before Dailey is apprehended?

15 A No.

16 Q You never had that sort of discussion with him?

17 A No.

18 BY MR. HEYMAN: How long did he say he was in the
19 car before he heard the screams?

20 THE DEPONENT: I don't think he put any time on
21 it.

22 MR. HEYMAN: That was my only question.

23 BY MS. ANDREWS:

24 Q Do you know of anyway your testimony is not
25 admissible?

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MR...KOCH: Objection. He will read.

FURTHER DEPONENT SAITH NOT.

WAYNE SHIPP DATE

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STATE OF FLORIDA)
COUNTY OF PINELLAS)

I, ROBIN S. CARROLL, Notary Public, State of Florida at large, do hereby certify that on the 17th day of November, 1986, at the Criminal Court Complex, Clearwater, Pinellas County, Florida, the foregoing witness, WAYNE SHIPP, having been by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, gave his testimony, which was reported by me in shorthand, and that the foregoing pages, numbered 1 to 34, inclusive, constitute a true and correct record of the testimony given by said witness.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties hereto, nor a relative or employee of such attorney or counsel, nor am I financially interested in the action.

WITNESS MY HAND AND SEAL this 20th day of November, 1986, at Clearwater, Pinellas County, Florida.

Robin S. Carroll
ROBIN S. CARROLL,
Notary Public,
State of Florida at large.
My commission expires: 4/27/90.

1 IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA

2 CIRCUIT CRIMINAL NO. CRC-85-7851CFANO-D

3
4 _____)
5 STATE OF FLORIDA)

6 vs.)

7 JACK PEARCY,)

8 Defendant.)
9 _____)

NOTICE OF FILING

OF DEPOSITION

10 MR. JAMES T. RUSSELL,
11 State Attorney,
12 Criminal Court Complex,
13 Clearwater, Florida 33520.

14 MR. KY M. KOCH,
15 1550 Highland Avenue South,
16 Clearwater, Florida 33516,
17 Attorney for defendant.

18 MR. RONNIE G. CRIDER,
19 410 Lincoln Avenue South,
20 Clearwater, Florida 33516,
21 Attorney for defendant.

22 Gentlemen:

23 PLEASE BE NOTIFIED that on this 20th day of November, 1986,
24 I have delivered to the Clerk of the above-captioned court at
25 Clearwater, Pinellas County, Florida, the deposition of
WAYNE SHIPP, taken before me on the 17th day of November, 1986,
at the State Attorney's Office, Criminal Court Complex,
Clearwater, Florida 33520, for filing in said cause.

I HEREBY CERTIFY that on this 20th day of November, 1986,
I have delivered copies of the above Notice of Filing to each
of the above-named addresses, at the addresses indicated as above.

Robin S. Carroll
ROBIN S. CARROLL,
Notary Public,
State of Florida at large.
My commission expires: 4/27/90.

**Tampa Bay
KANABAY**

OFFICIAL COURT AND
SHORTHAND REPORTERS

TAMPA
CLEARWATER
ST. PETERSBURG

1 IN THE CIRCUIT COURT OF PINELLAS COUNTY, FLORIDA
2 CIRCUIT CRIMINAL NO. CRC-85-7851CFANO-D
3

4 STATE OF FLORIDA)

5 vs.)

6 JACK PEARCY,)

7 Defendant.)
8

NOTICE OF FILING
OF DEPOSITION

9 MR. JAMES T. RUSSELL,
10 State Attorney,
11 Criminal Court Complex,
12 Clearwater, Florida 33520.

12 MR. KY M. KOCH,
13 1550 Highland Avenue South,
14 Clearwater, Florida 33516,
15 Attorney for defendant.

14 MR. RONNIE G. CRIDER,
15 410 Lincoln Avenue South,
16 Clearwater, Florida 33516,
17 Attorney for defendant.

18 Gentlemen:

18 PLEASE BE NOTIFIED that on this 20th day of November, 1986,
19 I have delivered to the Clerk of the above-captioned court at
20 Clearwater, Pinellas County, Florida, the deposition of
21 MARK ALLEN DAVIS, taken before me on the 17th day of November,
22 1986, at the State Attorney's Office, Criminal Court Complex,
23 Clearwater, Florida 33520, for filing in said cause.

21 I HEREBY CERTIFY that on this 20th day of November, 1986,
22 I have delivered copies of the above Notice of Filing to each of
23 the above-named addresses, at the addresses indicated as above.

23 Robin S. Carroll
24 ROBIN S. CARROLL,
25 Notary Public,
State of Florida at large.
My commission expires: 4/27/90.

FILED
CRIMINAL COURT REC. DEPT.
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KARLEEN DE BLAKER
CLERK CRIMINAL COURT

IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA

CIRCUIT CRIMINAL NO. CRC-85-7851CFANO-D

STATE OF FLORIDA)

vs.)

JACK PEARCY,)

Defendant.)

DEPOSITION OF:

MARK ALLEN DAVIS.

TAKEN BY:

State.

BEFORE:

Robin S. Carroll,
Deputy Official Court Reporter.
State of Florida at large.

DATE:

November 17, 1986.

PLACE:

State Attorney's Office,
Criminal Court Complex,
Clearwater, Florida 33520.

Tampa Bay
KANABAY

KANABAY & KANABAY

Official Court and Shorthand Reporters

PLAZA SUITE 1400
201 E. KENNEDY BLVD.
TAMPA, FL 33602
(813) 224-9500

265 PINELLAS COUNTY BUILDING
150 FIFTH STREET NORTH
ST. PETERSBURG, FL 33701
(813) 821-3320

CRIMINAL COURTHOUSE
5100 144th AVENUE NORTH
CLEARWATER, FL 33520

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APPEARANCES:

MS. BEVERLY ANDREWS,
Assistant State Attorney,
Attorney for State of Florida.

MR. BOB HEYMAN,
Assistant State Attorney,
Attorney for State of Florida.

MR. KY M. KOCH,
1550 Highland Avenue South,
Clearwater, Florida 33516,
Attorney for defendant.

MR. RONNIE G. CRIDER,
410 Lincoln Avenue South,
Clearwater, Florida 33516,
Attorney for defendant.

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MARK ALLEN DAVIS,
the deponent herein, having been first duly sworn, was
examined and testified as follows:

DIRECT EXAMINATION

BY MS. ANDREWS:

Q Mr. Davis, for your information, the other person
present in the deposition, the gentleman that brought you
here is Scott Hopkins. He's an investigator with the State
Attorney's Office. Do you know every one else here?

A Yes.

Q Please state your full name.

A Mark Allen Davis.

Q How old are you, Mr. Davis?

A Twenty-three.

Q What is your date of birth?

A October 3, 1963.

Q And you are presently charged with what offenses?

A Murder one, robbery, and two separate counts of
grand theft.

Q What makes up the grand theft charges in the
document?

A What are you talking about?

Q Is it a car?

A Yes.

Q Two cars?

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A Yes.

Q How long have you been in the Pinellas County Jail?

A Since October 25, 1985.

Q And where were you brought from?

A The State of Illinois.

Q Were you incarcerated there?

A Yes, I was.

Q On what charge?

A It was a violation charge, violation of parole.

Q For burglary conviction?

A Yes.

Q Is this the burglary conviction that you were originally arrested on in March of '83?

A Yes, it is.

Q And you were released in June?

A Of '84.

Q Of '84 and then rearrested?

A Yes.

Q Why were you rearrested?

A For abscondity (sic).

Q And you only did a month that time? Why were you released in only a month?

A There was no reason to open -- it was abscondity (sic). I failed to report.

Q Why were you rearrested then in August?

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A For this charge here? I was arrested in the State of Illinois with warrants for a fugitive in this state.

Q Do you also go by the name of "Timmy Sunday"?

A I did once.

Q When was that?

A In New Orleans.

Q What were you charged with in New Orleans?

A Theft and it was a theft and something else.

Q Possession of stolen property?

A Yes.

Q What happened in those charges?

A I was incarcerated for fifteen days.

Q Did you plead to those charges?

A I pled guilty.

Q So, were you convicted of those charges?

A Yes.

Q Do you know if that theft was a felony or a misdemeanor?

A What they call a municipal misdemeanor.

Q How about the possession of stolen property?

A Misdemeanor.

Q And you pled to both of them?

A Yes, ma'am.

Q Were you released from New Orleans or transferred from there to Jula (phonetic)?

1 A I was released from New Orleans.

2 Q Why do you use the name "Timmy Sunday"?

3 A Because of the charges that were here.

4 Q Have you used any other names other than "Timmy
5 Sunday" and "Mark Allen" or "Mark Davis"?

6 A Nickname.

7 Q What is it?

8 A "Dead Eye".

9 Q How did you acquire that nickname?

10 A I'm blind in my left eye.

11 Q Since October 3rd -- October 25, 1985, you have
12 been incarcerated in what part of the Pinellas County Jail?

13 A Several parts.

14 Q You roomed with a Jack Pearcy?

15 A Yes, I did.

16 Q Have you roomed with a James Dailey?

17 A We were all in the same pod.

18 Q What pod was that?

19 A Echo two.

20 Q When?

21 A Around -- somewhere -- March, April, May, June --
22 right in there. This whole time has just ran together,
23 from transferring from one pod to the next.

24 Q Approximately how long were you in the same pod with
25 Pearcy and Dailey?

1 A With Dailey, about four days, -- with Jack, five
2 months.

3 Q Did you develop a friendship with Jack?

4 A Yes.

5 Q Talk to him about his offense?

6 A Just vaguely.

7 Q When you say "vaguely", what did he tell you about
8 his offense?

9 A Just what he was charged with.

10 Q What did he say, as best as you can remember, what
11 he did?

12 A He was charged with murder, and he had some other
13 drug charges, and I told him what I was charged with, and
14 he showed me a few motions that were put in, and I showed
15 him some of my motions that were put in. Details of the
16 case we didn't discuss.

17 Q Did he tell you whether or not he killed the girl?

18 A No. Not until after Dailey came into the cell.

19 Q Let's keep it before Daily gets into the cell.
20 What did he say about the girl that was killed?

21 A What did Jack say?

22 Q Right.

23 MR. KOCH: I'm sorry. Are you limiting this in
24 question of time before Dailey was brought into the
25 cell? Do you understand the question?

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THE DEPONENT: Yes. We didn't really talk about --
that much about cases until after Dailey got in there.
Cases weren't something you talk about.

BY MS. ANDREWS:

Q Did he say that he did not kill the girl?

A He had made that comment. He said that the only
thing he thought he would get was accessory after the fact,
from driving away from the crime.

Q Did he say that he did anything else other than
drive away from the crime?

A No, ma'am.

Q Did he tell you what Dailey did to the girl? This
is still before Dailey gets to the cell, now.

A He said that Dailey had killed the girl and that
they had put her in the water.

████████████████████ "they"?

A No. That Jim had put her into the water. Who
is this?

MR. HEYMAN: I am an Assistant State Attorney working
with Ms. Andrews.

THE DEPONENT: He said that Jim put her in the
water and that he had drove away from her with Jim;
that he tried to calm Jim down.

BY MS. ANDREWS:

Q A few minutes ago you said that they had put her



1 into the water?

2 A He -- I had my concentration on him, wondering
3 who he was. A figure of speech.

4 Q Let's back up a minute. Specifically, I want to
5 know exactly what you recall Percy told you Dailey did
6 to that girl?

7 A They had been dancing together -- stuff like that.

8 Q Stuff like what? I want to hear exactly as close
9 as you can remember?

10 A Dancing and partying that night.

11 Q Drinking?

12 A Yes.

13 Q Smoking?

14 A Probably.

15 Q I don't want you to speculate.

16 A Drinking.

17 Q They specifically -- Percy specifically told you
18 he had been drinking with the girl?

19 A Right.

20 Q Who else was present?

21 A Jim Dailey.

22 Q Anyone else present?

23 A He didn't mention anybody else.

24 Q What did they do after they left the bar?

25 A He didn't mention.

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Q How did they get to where the girl was killed?

A He did not mention that.

Q What did he say next?

MR. KOCH: I'm going to object. The witness is trying to answer your question. You are cutting him off.

BY MS. ANDREWS:

Q Do you have anything to add to that?

A You are trying to get a whole story together that was not said.

Q I want you to tell me the story as he told you, as best as you can remember.

A Well, see, he did not tell me -- sit down and tell me a whole story. I'm talking catches and phrases of different things that was said during that time that I was in that pod with Jack.

Q Did he tell you he had sex with that girl?

A No.

Q Did he tell you Dailey had sex with that girl?

A No.

Q Did he tell you that either he or Dailey had sex with any of the girls they were with that night?

A No, he didn't. The only thing he said about the girl is that she was young.

Q Did he tell you how old her age was?

1 A No, ma'am.

2 Q Did he tell you how it came to be that the three
3 of them were down by the water at Indian Rocks?

4 A No, ma'am.

5 Q Did he tell you that the three of them were down
6 by the water?

7 A Down by the water? I didn't know Indian Rocks
8 until just now.

9 Q Did he describe the area in any way to you?

10 A No, not at that time. It came up later in conversation,
11 that Dailey denied this thing.

12 Q What did he tell you -- back up to this again.
13 I don't think you completely answered this. What did he
14 tell you Dailey did to the girl?

15 A That they had been dancing together, and then there
16 was a struggle, and then he left it at that.

17 Q Did he tell you how or why the struggle took place?

18 A No, ma'am.

19 Q Who was the struggle between?

20 A Dailey and the girl.

21 Q And what was Percy doing while this struggle was
22 taking place?

23 A He did not say.

24 Q Did Percy tell you how much he had to drink?

25 A No.

1 Q Did he tell you how much Dailey or the girl had
2 to drink?

3 A He said that Jim had quite a bit to drink.

4 Q He leaves it at a struggle? How does he get from
5 there to the girl being dead?

6 A He does not say. It's just from there to there.
7 It's another object of the case that he was not going to
8 discuss.

9 Q So the last thing he tells you is there is a struggle
10 and then he drives away?

11 A Yes. That he had taken Jim from the area, yes.

12 Q Did he acknowledge that he drove the vehicle?

13 A Yes, he did.

14 Q Did he tell you what vehicle it was?

15 A No.

16 Q And by area, you said that you knew it was an area
17 by the water. Did he give it any other description at that
18 time other than that?

19 A No.

20 Q What else does he tell you, if anything, about
21 the incident before Dailey got to the cell?

22 A Nothing. Not about the actual incident.

23 Q Does he admit to you that he stabbed the girl?

24 A No, he does not.

25 Q Does he tell you how the girl was killed?

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A A knife and a choke because I seen his court paper that named the counts on there. It said knife and choke after that.

Q You saw his court papers? Did he tell you how the girl was killed?

A No.

Q When and where did you see his court papers?

A They come in through the mail.

Q How would you get your hands on the court mail?

A When the mail comes into the pod, there's a whole bunch of mail, and they pass it out -- just a small piece of paper that says court dates, charges, and counts. It's right next to the name.

Q Correct me if I'm wrong. I thought there was one person in the cell responsible for getting the mail and passing it out?

A Whoever is at the door when the mailman arrives.

Q There were times when the mail was at the door and you got it?

A Yes.

Q And that is how you saw his court papers?

A Yes. Just a court date.

Q How long were you in the cell with Pearcy before Dailey gets there?

A About four months.

1 Q During these four months, who else can you recall
2 is in this cell with you all?

3 A Probably I could name everyone in there. Let's
4 see. Charles Henry, Jim Powell, a black guy with the last
5 name of Lattimore, a guy named Ray Clark, Tim Chambers, Tony
6 Capers, and you really want me to name all of these people?

7 Q Yes. You said you could.

8 A Probably -- it's been awhile. Don Price, Gary
9 Johnson, Richard Hayes, Bill Wright, and Vern Lewis. That's
10 about all I can remember.

11 Q Other than Lattimore, Powell, Capers, is everyone
12 else white?

13 A No.

14 Q Who else is black?

15 A Ray Clark is black and Vern Lewis is a black and
16 Charles is mulatto, half black and half white.

17 Q Which of these people just listed was Pearcy friendly
18 with other than yourself?

19 A Charles Henry.

20 Q Anyone else he talked to?

21 A You talk to everybody -- just Charles Henry.

22 Q Were the three of you friendly or did Pearcy have
23 his own relationship?

24 A We also play Backgammon. Jimmy and I went to
25 recreation together.

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Q Did you hear Percy discussing his case with anyone of these other people other than Charles Henry?

A No.

Q All right. Now Dailey moves in. Who is Dailey friends with in that group?

A Jack until he meets me and Charles, and that is about it.

Q Who else does he talk to out of that group?

A He talks to a few people. You are living in a pod with 24 people. You talk to everybody eventually -- certain people you talk to your case about and that is it.

Q Did you ever see Dailey talk to anyone about his case?

A No.

Q Did he talk to you about his case?

A Yes, he did.

Q What does Dailey tell you about his case?

A Well, he looked at -- I had some paper work and on one part of the paper work it dealt with insanity defenses, and he was going to go about insanity.

Q What did he say about that?

A He talked about Vietnam. Different experiences in Vietnam -- about his drinking problem.

Q What did he tell you about Vietnam and his drinking problem?

1 A Just that he had been on some hairy things over
2 in Vietnam -- different missions. He was a Sergeant or
3 something -- Air Force or Army. I can't remember, and that
4 Vietnam -- he had psychology -- messed his head up, and that
5 is when he started doing a lot of drugs and drinking.

6 Q Did he tell you what drugs he was doing?

7 A All kinds of different drugs.

8 Q How did he characterize his drinking problem?

9 A Bad.

10 Q Did he tell you he was going to use the drugs and
11 drinking, in the Vietnam, to booster his insanity stuff?

12 A Yes, he did.

13 Q How did he tell you he was going to accomplish
14 this? What was he going to do?

15 A Well, he was -- Jim didn't do a whole lot of talking
16 The gist of the conversation took place when I was with
17 Jack, Charles, and Jim. We were all sitting in Jack's cell,
18 and Charles was sitting on the floor playing Backgammon,
19 and I overheard --

20 Q What did you overhear Jim and Jack talking about?

21 A Jim told Jack not to worry about it, that he would
22 take the weight for what he had done, but he had to see his
23 insanity defense through first because he didn't want to
24 go to the jail.

25 Q And what did Jack say after Jim told him this?

1 A That it -- Jim was right in doing so, and that
2 Jack said that the only thing I believe they could get me
3 for is accessory after the fact because I drove you away
4 from the scene.

5 Q Did they talk about the fact that Jack's trial
6 was set first?

7 A No.

8 Q No?

9 A No.

10 Q Did they talk about the fact that if Jack wasn't
11 found guilty that he would testify for Jim?

12 A No, they didn't.

13 Q What about the other way around? Was Jim going
14 to testify for Jack?

15 A The only thing Jim said about that was that if
16 it came right down to it, that he would take the weight for
17 it because he, himself, had done the crime, but he wanted to
18 play his insanity defense first. He wanted to sit and get
19 back with his lawyers and everything else and go through
20 that, and if it all came down at the end he don't have the
21 insanity defense, he would plead guilty for the crime, which
22 he would use the weight of off Jack.

23 Q When they had this conversation, were they aware
24 and did part of the conversation revolve around the fact
25 that Jack was going to go to trial first?

1 A Nothing was really said about that because Jim
2 just got there, and Jim didn't know what was going on with
3 his case. He was -- Jim was only in the cell for -- about
4 four days. It was a mess up that they put him in there,
5 and when they realized the mistake, they took him out.

6 Q Did Jack show or express any concern about how
7 Jim was going to come to his aid and take the heat -- how
8 or when? Did they discuss testifying in each other's trials
9 at all?

10 A No, they didn't.

11 Q Other than Jim -- was Jack saying that the only
12 thing they could get him for was accessory after the fact
13 for driving him away? We asked this before Jim got to the
14 cell, that at this point, does Jack say he did anything else
15 to that girl?

16 A No, he don't.

17 Q Does he at any time admit that he stabbed the girl?

18 A No.

19 Q Chokes the girl?

20 A No.

21 Q Drowns the girl?

22 A No.

23 Q Walks her down to the beach?

24 A No.

25 Q Other than drive away, does he tell you anything

1 else that happened that night out by the water?

2 A No, ma'am.

3 Q Does he tell you anything about being sick?

4 A Jack said that he got sick.

5 Q When did he tell you that?

6 A After something about -- after what Jim had done.
7 When he seen all the blood and stuff -- he, himself.

8 Q We haven't gotten there yet. We haven't talked
9 about all the blood. Was this before Jack got to the cell
10 or Jim got to the cell -- before Dailey got to the cell?

11 A No. That was after Dailey got to the cell.

12 Q When they were together?

13 A Yes.

14 Q When they were together, what does Percy tell
15 you about all the blood?

16 A He's not telling me nothing. He's telling Jim.
17 I'm playing Backgammon.

18 Q What did you hear about the blood?

19 A Jack got sick when he seen the blood. Dailey had
20 made some comment about Jack being sick -- getting sick.
21 That is when I heard Jack saying that. I didn't hear what
22 what Dailey said.

23 Q What exactly, as best as you can remember, did
24 Jack say about getting sick and all the blood?

25 A Just when he seen all the blood, he got sick on

the beach, and he threw-up everything he had to drink.

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Q All whose blood?

A All the blood.

Q You don't know if it was his own blood or the girl's blood?

A No.

Q He said that he got sick on the beach?

A Yes.

Q You used those words "on the beach"?

A Yes, ma'am.

Q What else did you hear Jack and Jim say to each other during the four days that they were in the cell together?

A Not a lot -- just different things. He asked about how his girlfriend was, and they talked about how the California Jail was and about how this jail is, and that is about it.

Q Did they talk about other crimes -- robberies?

A No.

Q Bank robberies?

A No.

Q Pizza Hut, Domino's robberies -- nothing?

A No.

Q Now Dailey leaves. What conversations do you have with Percy after he's gone?

A Nothing about his case. I just -- all types of

1 conversations. We talked. We were friends. His cell was
2 right there and mine was right here, right next to each other
3 on the corner.

4 Q Did he keep you informed of what was going on with
5 his case? What hearings were coming up?

6 A The trial got set-off again or something like that.
7 I told him the same thing about mine.

8 Q He didn't have any other conversations about his
9 case or that girl after Dailey leaves?

10 A No.

11 Q Did you hear him having conversations about the
12 murder or the girl with anyone else after Dailey leaves?

13 A No, ma'am.

14 Q Do you know anything else about Percy's involvement
15 in this case?

16 A No, ma'am.

17 Q When did you contact Detective Rhodes of the Sheriff's
18 Office?

19 A A couple weeks ago.

20 Q Why did you contact Detective Rhodes?

21 A My main reason was to get my tattoo equipment back.

22 Q Did you get your tattoo equipment back?

23 A No, ma'am.

24 Q So that was the main reason. What other conversations
25 did you have with Detective Rhodes?

1 A I asked him something about getting out on bond,
2 and he said that he didn't think it could be done. So I
3 left it at that.

4 Q What else did you have a conversation with Detective
5 Rhodes about?

6 A I told Detective Rhodes that if he could get me
7 out on bond, I think I would maybe testify against Jimmy
8 or a guy named Rex Walsh.

9 Q Did you tell Detective Rhodes that you would
10 testify against Jack Percy?

11 A No. He asked who Jim Dailey was, and I said that
12 he was a codefendant with a guy named Jack Percy.

13 Q You specifically did not tell Detective Rhodes
14 that you had anything to say one way or the other about
15 Percy?

16 A No.

17 Q What were you going to tell the Detective about
18 Dailey?

19 A Basically the same thing I'm saying here. The
20 conversation took place there with Jim admitting what he
21 had done.

22 Q What did Jim admit he had done?

23 A Committed this crime.

24 Q What did he say?

25 A That he had killed the girl, and then there was a

1 a little converstation. I made a wisecrack. He said,
2 "The body floated up on shore. Why didn't you weight her
3 down." It was in the Intercoastal Waterways. I asked about
4 the tide. I thought he was talking about the Gulf.

5 Q This was Dailey? How did he tell you he killed
6 the girl?

7 A He did not say.

8 Q Who else was present when he told you he killed
9 the girl?

10 A Me and Jim.

11 MR. KOCH: Objection.

12 MS. ANDREWS: Pardon?

13 THE DEPONENT: That was me and Jim.

14 MS. ANDREWS: Just you two talking?

15 THE DEPONENT: Yes, ma'am.

16 MR. KOCH: I take back the objection.

17 BY MS. ANDREWS:

18 Q Did he tell you how the girl got into the
19 Intercoastal?

20 A That he pulled her out as far as you could and
21 left her there.

22 Q Did he tell you why?

23 A No.

24 Q Did you ask him why he killed the girl?

25 A No.

1 Q Did he describe the girl to you?

2 A Just that she was young.

3 Q Did he tell you what they had all been doing earlier
4 in the evening?

5 A The same thing as I said before -- partying and
6 drinking.

7 Q Is that what Pearcy told you?

8 A Jim said the same thing.

9 Q What did Dailey say they had been doing earlier
10 in the evening?

11 A Drinking and partying and dancing.

12 Q Did they tell you where?

13 A Something about the bar. He didn't name a bar.
14 Some place where there was dancing.

15 Q More than one bar?

16 A He didn't say.

17 Q He said that the girl was young? Did he mention
18 anything about I.D. or trouble getting into bars?

19 A No. ma'am.

20 Q Did he tell you anyone else who was with them?

21 A No.

22 Q Did he tell you anyone else was with them?

23 A No.

24 Q Did he tell you it was just he and the girl, or
25 did he just not mention?

1 A He didn't mention.

2 Q Have you met this gentlemen?

3 A Yes. He didn't mention.

4 Q Now, he said that he dragged the girl out as far
5 as you could. Did he tell you what he was wearing?

6 A No.

7 Q Did he tell you what the girl was wearing?

8 A No.

9 Q Did he tell you what kind of car they were in?

10 A No.

11 Q Did he tell you whether or not Percy was there?

12 A He just said that Percy had drove him away, and
13 then that was it -- that he told me, himself.

14 Q That is what we are on -- just the conversation
15 between you and Dailey. And this happened in the four days?

16 A Yes.

17 Q Did he tell you whether or not he had sex with
18 the girl?

19 A No, he didn't.

20 Q Did he tell you what happened to her clothes?

21 A No.

22 Q Did he tell you anything else other than he dragged
23 the girl out?

24 A No, ma'am.

25 Q And he didn't tell you why?

1 A No.

2 Q Did you ask him why?

3 A No. The only thing I asked was how the body came
4 back to shore?

5 Q And what did he say?

6 A He said that it happened in the Intercoastal Waterway.
7 There was no tide to take her out.

8 Q Did you tell all this to Rhodes, or did you just
9 tell him that you talked about these two people?

10 A No, that is all I told him.

11 Q Have you told anyone else what you just told, other
12 than your attorney, what you just told us about what Dailey
13 told you about the girl?

14 A I have told their investigators.

15 Q Any other law enforcement?

16 A No, ma'am.

17 Q Any of the other prisoners in the cell that you
18 just listed all their names for me?

19 A No.

20 Q Do you know if Percy talked to any of the other
21 prisoners other than yourself?

22 A He might have talked to Charles Henry.

23 Q Do you know where Charles Henry is now?

24 A No, I don't.

25 Q Is he still in maximum?

1 A No. He's out of jail. Where he's at, I don't
2 know.

3 Q What about Rex Walsh -- what could you say about
4 him?

5 A That has nothing to do with this case.

6 Q Are you refusing to answer that question?

7 A Yes, ma'am.

8 Q What did Detective Rhodes tell you when you told
9 him that you could give information about Walsh and Dailey
10 if you were let out on bond?

11 A He didn't say nothing. He said that he would contact
12 someone over here.

13 Q Did anyone get in contact with you?

14 A No, ma'am. My lawyer asked me something about
15 it and I said, "No."

16 Q When did your lawyer ask --

17 MR. KOCH: I'm going to object to any attorney-client
18 privilege.

19 BY MS. ANDREWS:

20 Q When did your lawyer get with you about whether
21 or not you could testify?

22 MR. KOCH: Same objection, and if you desire,
23 Mr. Davis, you could talk to your lawyer outside for
24 a second about this question.

25 THE DEPONENT: Do you want to talk to me?

1 MR. WHITE: Just don't answer.

2 MS. ANDREWS: Are you claiming the privilege or
3 the relevance?

4 MR. WHITE: Yes.

5 MR. HEYMAN: I think relevancy is grounds not to
6 answer the question. If you claim relevance, I think
7 you have to go ahead and answer it.

8 MS. ANDREWS: If it's relevance, I'll ask for an
9 answer, and if it's a privilege, I'll drop it.

10 MR. WHITE: Both.

11 BY MS. ANDREWS:

12 Q When was the first time you met with the investigator
13 for Mr. Crider and Mr. Koch?

14 A A month and a half -- two months ago.

15 Q Was that before or after you talked to Detective
16 Rhodes?

17 A Way before.

18 Q And I take it that your bond has not been reduced
19 in any manner?

20 A No, ma'am.

21 Q Are you still in the same cell with Pearcy?

22 A No, ma'am. I went into the hospital.

23 Q When was the last time you and Mr. Pearcy were
24 in the same cell?

25 A Probably June -- May -- or June of this year.

1 Q Why are you in the hospital, now?

2 A Because I had an infection in my hand.

3 Q When is your trial set?

4 A December.

5 Q What else, if anything, did you discuss about
6 Percy's involvement or Dailey's involvement in this murder
7 with the investigators that came to talk to you?

8 A Nothing.

9 Q Is there anything else at all?

10 A No, ma'am. I have said it all.

11 Q Who else other than their investigators and maybe
12 these gentlemen this morning and your lawyer have you gone
13 over their involvement with?

14 A No one.

15 MS. ANDREWS: Can I talk to you outside a minute.
16 I need to see if he has any ideas. One minute.

17 BY MS. ANDREWS:

18 Q Do you know a James Van Dyke?

19 A No, ma'am.

20 Q Never heard of him?

21 A No.

22 Q Hyerman -- Jimmy Van Dyke -- last name doesn't ring a bell?

23 A No.

24 Q How about a Charles Michael Davy or Michael Charles
25 Davy? His last name is D-a-v-y.

1 A No.

2 Q Doesn't ring a bell?

3 A No.

4 Q How about a Ronald Hunt or Ronald Helmick?

5 A No.

6 MR. HEYMAN: Shotgun?

7 THE DEPONENT: I know Shotgun.

8 BY MS. ANDREWS:

9 Q What have you heard?

10 A Some guy named Shotgun is supposed to testify against
11 Jack -- got a hold of newspaper articles or something -- trying
12 to build a case -- go easier on his time.

13 Q Who did you hear that from?

14 A From Jack.

15 Q Do you know a John Leslie Hill?

16 A No, ma'am.

17 Q Jimmy More?

18 A No, ma'am.

19 MS. ANDREWS: Is there anyone else on that list,
20 Bobby? My mind is a blank, and I lost it.

21 BY MS. ANDREWS:

22 Q How about Ozzi Shaw?

23 A No, ma'am.

24 Q What else did Jack tell you about who was going
25 to testify against him?

1 A He didn't say anything. He said that and saw some
2 detectives.

3 Q And Shotgun?

4 A Shotgun. He mentioned a Shotgun, and I know a
5 Shotgun in Illinois.

6 Q Not the same person?

7 A No.

8 Q And he told you that the guy got a hold of some
9 newspaper articles?

10 A Newspaper articles and just build a story around
11 that. I got somebody doing the same thing on me. That is
12 how the conversation came up.

13 Q Did Percy promise you anything?

14 A No, ma'am.

15 Q Are you afraid of Percy?

16 A No, ma'am.

17 Q How about Dailey?

18 A No, ma'am.

19 Q Has anybody mailed you any promises?

20 A No, ma'am.

21 Q Why are you testifying?

22 A It's the truth of what I heard.

23 MS. ANDREWS: Anything Bobby?

24 MR. HEYMAN: He said that Percy -- if you don't
25 mind me asking questions?

1 MR. KOCH: Do you have any objections to Heymen
2 asking questions?

3 MR. WHITE: No.

4 MR. HEYMAN: You said that Percy told you that
5 this guy, Shotgun, had read newspaper articles and things
6 like instructing his testimony. Did he say how he found
7 this out?

8 THE DEPONENT: No, he didn't.

9 MR. HEYMAN: He just made that statement? Is that
10 basically the statement?

11 THE DEPONENT: The statement that was made at the
12 same time I made a statement about somebody doing that
13 in my case.

14 MR. HEYMAN: He never said he saw them doing this
15 or Shotgun was doing that or anything like that?

16 THE DEPONENT: No.

17 MR. HEYMAN: That's all I have.

18 BY MS. ANDREWS:

19 Q How did you get in touch with the investigator working
20 for Percy?

21 A I told Jack that I would testify in his trial for
22 him, and he asked me what I was going to say, and I told
23 him. I said, basically, what I said here, and he gave me
24 an attorney card.

25 Q What card did he give you?

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STATE OF FLORIDA)
COUNTY OF PINELLAS)

I, ROBIN S. CARROLL, Notary Public, State of Florida at large, do hereby certify that on the 17th day November, 1986, at the Criminal Court Complex, Clearwater, Pinellas County, Florida, the foregoing witness, MARK ALLEN DAVIS, having been by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, gave his testimony, which was reported by me in shorthand, and that the foregoing pages, numbered 1 to 32, inclusive, constitute a true and correct record of the testimony given by said witness.

I FURTHER CERTIFY that I am not a relative or employe or attorney or counsel of any of the parties hereto, nor a relative or employe of such attorney or counsel, nor am I financially interested in the action.

WITNESS MY HAND AND SEAL this 20th day of November, 1986, at Clearwter, Pinellas County, Florida.

Robin S. Carroll
ROBIN S. CARROLL.
Notary Public,
State of Florida at large.
My commission expires: 4/27/90.

IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA

CIRCUIT CRIMINAL NO. CRC-85-7851CFANO-D

416099

STATE OF FLORIDA

vs.

JACK PEARCY,

Defendant.

DEPOSITION OF:

CHARLES MICHAEL DAVY,

TAKEN BY:

State.

BEFORE:

Robin S. Carroll,
Deputy Official Court Reporter.
State of Florida at large.

DATE:

November 17, 1986.

PLACE:

State Attorney's Office.
Criminal Court Complex,
Clearwater, Florida 33520.

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PLAZA SUITE 1400
201 E. KENNEDY BLVD.
TAMPA, FL 33602
(813) 224-9500

265 PINELLAS COUNTY BUILDING
150 FIFTH STREET NORTH
ST. PETERSBURG, FL 33701
(813) 821-3320

CRIMINAL COURTHOUSE
5100 144th AVENUE NORTH
CLEARWATER, FL 33520

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APPEARANCES:

MS. BEVERLY ANDREWS,
Assistant State Attorney,
Attorney for State of Florida.

MR. BOB HEYMAN,
Assistant State Attorney,
Attorney for State of Florida.

MR. KY M. KOCH,
1550 Highland Avenue South,
Clearwater, Florida 33516,
Attorney for defendant.

MR. RONNIE G. CRIDER,
410 Lincoln Avenue South,
Clearwater, Florida 33516,
Attorney for defendant.

CHARLES MICHAEL DAVY,

the deponent herein; having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. ANDREWS:

Q Please state your full name.

A Charles Michael Davy.

Q Date of birth?

A 8/1/57.

Q You were brought here from a Federal facility?

A Yes.

Q What are your charges there?

A I got theft charges.

Q Felony or misdemeanor?

A Felony.

Q How many?

A One.

Q Pending right now?

A Nothing.

Q You are under sentencing?

A I finish in ten months.

Q I have your rap sheet. I am having a hard time figuring out what charge that was -- what jurisdiction did that Federal charge come from?

A Middle District.

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MR. KOCH: Federal court case out of Florida.

BY MS. ANDREWS:

Q What city?

A What city?

Q Yes.

A I went to trial -- Ft. Lauderdale.

Q Was it a firearm or auto? What were you charged with -- stealing?

A Auto -- firearm.

Q Both?

A Yes, I guess so. I don't know.

Q So there were two thefts?

A Only one theft.

Q They combined the auto and firearm into one charge?

A The auto wasn't a theft, they said.

Q Back up. What were you convicted of that you are now doing a sentence on?

A Theft of government.

Q And what were you sentenced to?

A Five years.

Q And do you remember the date of that conviction?

A No, I don't.

Q Approximately?

A '85.

Q Have you been continuously in custody since

1 that conviction?

2 A Yes, ma'am.

3 Q In a Federal facility?

4 A Yes, ma'am.

5 Q How long were you in the Pinellas County Jail?

6 A From March to -- like September, October -- minus
7 one month.

8 Q What do you mean minus one month?

9 A I went to court -- Sentenced in the Federal courts.

10 Q And you were brought back here?

11 A Right.

12 Q Other than that March to September, October, have
13 you ever enjoyed the company of our jail before?

14 A No.

15 Q So none of your time incarcerated has been in
16 Pinellas County?

17 A No. Now this is the second time I have been here,
18 but prior to that, I was here once before.

19 Q When you were here between March and September
20 and October, did you know a Jack Percy?

21 A Yes, I did.

22 Q How did you know Jack Percy?

23 A He was in "D" District with me.

24 Q How long were you and Mr. Percy in the same cell?

25 A Four or five months, I imagine.

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Q Did you talk to Mr. Pearcy about his case?

A No, I didn't discuss his case with him, no.

Q At all?

A I know what he was there for.

Q How do you know?

A It was on the T.V. and in the newspapers.

Q Were you there first or was he there first?

A I think I was there first, yes.

Q How long were you there before he got to the cell?

A I don't know. It's a long time ago.

Q Did he say anything to you at all about his case?

A No. Just what he was there for and that he was innocent. That is all.

Q Did he say who was guilty?

A I don't know.

Q Did he just make a flat out statement "I'm innocent," or did he elaborate?

A He said that he didn't have nothing to do with it.

Q Did he say who did?

A I don't recall.

Q Did he say that someone else was guilty of the crime?

A I imagine someone else would be guilty of the crime. I'm just saying if he says he's not guilty of the crime,

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then someone would have to be guilty of the crime.

Q Right. All he said to you is "I'm innocent" period?

A Yes.

Q End of conversation?

A End of conversation.

Q How many times have you been convicted of a felony?

A Who me?

Q Yes.

A Three. Four, I take that back, four.

Q You are sure about that?

A Yes.

MR. KOCH: Since I have not been provided the luxury on the rap, if you have information, I feel I am entitled to it.

MR. HEYMAN: Feelings are correct.

MR. KOCH: We might as well clear it up.

THE DEPONENT: I have been in presently twice -- three times.

MR. KOCH: You just need to answer when she asks you a question.

BY MS. ANDREWS:

Q Other than felony convictions, how many times have you been convicted of a crime, not necessarily a felony -- involving theft or dishonesty?

A None. I take that back. I had an assault and battery

once. That is not a theft or dishonesty.

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Q You had an assault and battery back when?

A Mid seventies, I think.

Q What happened to your Pinellas County charges?

A I plead to guilty -- five years run concurrent.

Q With what you are doing in the Federal?

A Yes.

Q Do you know a John Leslie Hill?

A John Leslie Hill. The name doesn't ring a bell.

Q Whatabout Dailey, James Dailey, J.D.?

A Don't ring a bell.

Q What about Mark Davis?

A That name sounds familiar.

Q He's in for murder right now.

A I just met him.

Q Just now in the holding cell?

A I think so.

Q Other than in the holding cell today while on your way here, did you know that guy?

A No.

Q What about Ozzi Shaw?

A No.

Q What about a James Hyerman or Jimmy Van Dyke?

A Jimmy, yes I know him.

Q How?

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A Association.

Q What kind of association?

A Before I answer anymore questions, am I on trial for something? Why are the questions all concerning me? I don't think it pertains to the case.

MR. KOCH: They have got a right to ask you questions about prior convictions since Mr. Van Dyke is listed as a witness. Tell her how you know Mr. Van Dyke.

THE DEPONENT: I know him from the jail.

BY MS. ANDREWS:

Q Do you know him other than from the jail?

A No.

Q How long were you in the same cell as Mr. Van Dyke?

A A month, approximately.

Q Is that the same time that you were associated with Mr. Pearcy?

A I think Jack was already gone. I'm not sure. I can't guarantee it. He was gone or just on his way, I believe.

Q Do you know if Van Dyke and Pearcy had conversations about Pearcy's case?

A I don't know.

Q Who were you represented by?

A Now?

Q When you were here on your charges?

1 A On my State charges, I plead guilty. I had a P.D.,
2 I think.

3 Q Do you remember his or her name?

4 A No, I don't recall.

5 Q What bout Ronald Helmick or Ronald Hunt -- do you
6 know him?

7 A Yes. I was in the cell with him.

8 Q How long?

9 A From when he came in, right after. It would be
10 March and on through October.

11 Q Did you have conversations with Mr. Helmick, Hunt
12 and Percy?

13 A Yes. There were different conversations. Statements
14 that he made, yes.

15 Q Like what? Tell me the statements.

16 A Like that he can give the police information --
17 anything on Jack -- and they would let him go, which they
18 did.

19 Q Did they -- they did let him go?

20 A Yes.

21 Q What kind of information did he say he would give
22 them?

23 A Things pertaining to Jack.

24 Q Like what?

25 A I don't know. He said he could tell the police

1 anything concerning Jack's case and definitely would let
2 him go. I think his bond originally was \$25,000, and he
3 obtained a lawyer -- his own lawyer -- and all of a sudden
4 he was released and rearrested again and released again.

5 Q So the conversations you had with him were during
6 his first incarceration?

7 A Yes. He came back the second time just for a week
8 or so, and they made him a trusty.

9 Q Did you talk to him when he came back a week or
10 so?

11 A Yes, I think I saw him once or twice down at the
12 library.

13 Q Did you talk about his case or Percy's case?

14 A No.

15 Q So the conversations you had with him were during
16 his first incarceration?

17 A Yes. It was -- like back in August because I came
18 back in May.

19 Q What did he tell you he was going to tell the police?

20 A He just said that he could tell the police anything
21 he wanted concerning Jack's case, he could say whatever he
22 wants and they would give him a break. A couple of other
23 people involved sat and listened. "I'm not saying I'm going
24 to tell the police anything, but I can, and they will believe
25 me."

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Q Who else was around when he said this?

A I don't remember their names. I come in contact with so many people.

Q You have no idea who else was involved?

A I don't remember their -- A guy named Rock.

Q Who else?

A Well, he said -- Jimmy Van Dyke, he was there.

Q He was there when that conversation took place?

A Yes.

Q So, he probably would be better able to remember?

MR. KOCH: Objection. Calling for speculation.

BY MS. ANDREWS:

Q Was he in the cell longer?

A Who?

Q Van Dyke.

A No. I was in the cell the longest.

MR. HEYMAN: Did he say there was a guy named Rock?

THE DEPONENT: Yes.

MR. HEYMAN: Do you know if he and Van Dyke were friendly at all?

THE DEPONENT: Yes, they were friendly.

MR. HEYMAN: I'm not asking you to speculate.

THE DEPONENT: Everybody got along.

MR. HEYMAN: Do you know if Van Dyke knows this guy's last name?

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THE DEPONENT: I don't know.

BY MS. ANDREWS:

Q Was there anyone else that Helmick said he could do this against and benefit himself?

A I don't recall.

Q So, he seemed to be singling out Pearcy for some reason?

A Yes. I think he was the only one in there with a murder case, in the cell at that time.

Q Were there other people with murder cases that came into the cell after that?

A I'm not for sure. I don't want to speculate. I mean, there would have been, I mean --

Q You didn't keep records?

A That's right.

Q Where did this conversation take place with Mr. Helmick?

A Shotgun -- in his cell. We were all in his cell sitting around B-S'ing.

Q This is before Shotgun became trusty?

A When you are a trusty, you go to another cell.

Q What was the response that you all gave him?

A After that, I didn't talk to him because I have had contact with his attorney and his attorney felt the same way.

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Q Who was his attorney?

A I don't remember his last name. His name is Tim.

Q How did you have contact with his attorney?

A Through people that I know.

Q Did you initiate the contact?

A Did I talk?

Q Yes. You started it?

A Yes. A friend of mine was looking for an attorney.

Q You talked to Attorney Tim about a friend of yours case?

A Yes. As a matter of fact, he just represented him on a case.

Q Tim ever represent you?

A No, he didn't.

Q So, you are talking to Hunt's lawyer about Hunt?

A No. He was -- kind of came up in conversation that he was an habitual liar.

Q Is that what the lawyer said to you?

A Yes.

Q Did he give you any descriptions?

A No, not really. I didn't question him that far.

Q Had you had any conversations with this Attorney Tim before that one?

A No.

Q How did you know him?

1 A Through friends.

2 Q Friends he represented?

3 A Yes and no -- just people that knew him. I know a
4 girl that dates him.

5 Q What is her name?

6 A Vicki.

7 Q Her last name?

8 A Taylor.

9 Q Dates Attorney Tim? Have you socialized with
10 Attorney Tim?

11 A No, I have not.

12 Q So, your connection with him would just be
13 conversations you had with him while incarcerated?

14 MR. KOCH: Far field here, aren't we?

15 MS. ANDREWS: No. This is a discovery deposition.

16 MR. HEYMAN: I think it's important for the record.

17 I think this witness already indicated -- that he
18 indicated Hunt was an habitual liar. I think we went
19 into Tim's knowledge.

20 BY MS. ANDREWS:

21 Q You just know Attorney Tim while you were incarcerated?

22 A Yes.

23 Q Have you talked to him any after that?

24 A I think I talked to him once after that.

25 Q About Helmick -- Hunt?

1 A No.

2 Q About anything to do with the Percy -- Dailey
3 murder case?

4 A No.

5 Q Who have you spoken to since you have been back
6 here in Pinellas County about this case?

7 A These two gentlemen right here.

8 Q Anyone else?

9 A Concerning the case or just high points?

10 Q Just --

11 A Be specific on what you are referring to. Have
12 I spoke to anybody?

13 Q About why you are here?

14 A I have had officers ask me why I'm here, yes.
15 I don't know their names and stuff.

16 Q Other than these two gentlemen here, has anyone
17 else come to the jail to ask you about your knowledge of
18 this case?

19 A No.

20 Q Have you seen or are you anywhere near Mr. Percy?

21 A No.

22 Q How about Mr. Dailey?

23 A No. I'm not -- I don't know the guy. Is that
24 the guy here, before me?

25 Q No.

1 A I don't know who he is. I wouldn't know him if
2 he walked in the door.

3 Q Before you left the Pinellas County Jail to head
4 up to whatever Federal facility --

5 A I went to Miami first.

6 Q Incarcerated?

7 A Yes.

8 Q Before you left Pinellas County Jail to go to Miami,
9 then did you talk to an investigator from these lawyer's
10 office?

11 A I talked to a Public Defender that was representing
12 Jack Percy.

13 Q Do you remember his name?

14 A It was a lady.

15 Q Was she a lawyer or investigator?

16 A I think she was a lawyer.

17 Q If I said the name, would you recognize it?

18 A Probably.

19 Q Stepheny Kelly?

20 A Could be. An older lady.

21 Q I don't think she wears glasses. How about Eula
22 Mason?

23 A Yes.

24 Q Grandmother-type?

25 A Yes.

1 Q And what did you speak to Ms. Mason about? Nothing
2 about your case or anything to do with you?

3 A Nothing.

4 Q What?

5 A Just about -- like Shotgun and Jack.

6 Q And what did you tell her?

7 A Things that I seen and where Shotgun was taking --
8 like Jack's mail while Jack was out in the yard -- somewhere
9 out of the cell.

10 Q Did you see this?

11 A Yes. The officer gave him the mail. He was in
12 the yard, and they came for mail-call. They would just give
13 it to him.

14 Q Did you see Shotgun reading Jack's mail?

15 A I seen Shotgun with Jack's wife's picture. I'm
16 not positive if it's his wife or girlfriend -- yes.

17 Q You totally lost me. You saw Shotgun with a picture?

18 A A picture that came in a letter.

19 Q Came in a letter?

20 A Yes.

21 Q Do you know how he got his hands on that picture?

22 A It was in the envelope that the police gave him.

23 Let me clarify something because you are supposed to be
24 confusing me, not me confusing you.

25 MR. HEYMAN: The point is --

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THE DEPONENT: In other words, Jack received a picture and a letter. Jack was in the yard. The officer gave Shotgun the mail and all of a sudden the picture came up missing. About two days later, the letter came up.

MR. HEYMAN: But you, yourself, never saw Shotgun open a letter?

THE DEPONENT: I seen Shotgun with the picture.

MR. KOCH: I'm not going to let you double team up on him. One person ask the questions.

THE DEPONENT: You can both ask me.

MR. HEYMAN: I certainly hope so.

THE DEPONENT: I didn't see him tear open the envelope and read it word for word.

MR. HEYMAN: That was my question.

BY MS. ANDREWS:

Q Did you ever see him take any of Jack's mail and read it?

A I can't really answer it because I'm not sure if he read it. He took it out of the envelope.

Q You saw him do that?

A I seen him open other people's stuff up that was stamped from the court and open it up and read it.

Q Did you see him do that to Jack's stuff?

A I don't know because he was in the next cell to

1 Jack. I was downstairs. I don't know if you are familiar
2 with the hotel they have over here. I mean he would go into
3 his room with Jack's letters and maybe Jack was out in the
4 yard.

5 Q You actually saw this?

6 A Yes. I can't guarantee that he read word for word.
7 I don't know.

8 Q How do you know that they were Jack's letters?

9 A When the guy -- when the officer came around with
10 the mail, he call's out peoples names.

11 Q Okay.

12 A If they call out your name and you weren't in there,
13 somebody grabs it. The officer gives it to anybody --
14 John Doe.

15 Q Did you see, specifically, an officer call out
16 Jack's name and Hunt get the mail?

17 A Yes.

18 Q And do what with that mail?

19 A He went up to his room.

20 Q Was it just Jack's mail he went up to his room
21 with or other people's mail?

22 A At different times, different people's mail.

23 Q And what did he do then after he left his room
24 with other people's mail?

25 A Eventually, gave to the individuals.

1 Q Where were these individuals when he would get
2 their mail?

3 A Might be out in the yard, might be over here talking
4 to you. I don't know. I don't know where they take them
5 once they go out that door.

6 Q They weren't there to get their own mail?

7 A Right.

8 Q So, if you don't get your mail, other people in
9 there will?

10 A Yes.

11 Q Take to their own cell?

12 A Yes.

13 Q When people took out deliberate mail, do they give
14 it back to you?

15 A Yes.

16 Q You don't know what they did with that mail?

17 A No. I think it's wrong for them to hand out the
18 mail.

19 Q We will look into that. Has anyone asked you any
20 other question or have you discussed with anyone else anything
21 that we haven't here, today, about your knowledge of Pearcy
22 and Dailey in this murder case? I can simplify that question
23 if you need me to.

24 A Simplify it.

25 Q Other than what you have said here in this room

1 today, have you told anyone else anything more about your
2 knowledge of Pearcy?

3 A The only other person I talked to besides the people
4 in this room is the lady in the P.D. Office.

5 Q Did Pearcy ever tell you that his mail was opened
6 when he got it?

7 A When the mail comes, it's opened already, but it's
8 stapled.

9 Q Did he tell you his mail was unstapled?

10 A Yes. And he was missing pictures. I think they
11 came in and stripped down Shotgun's room. Officers were
12 looking for pictures and also found other pictures with some
13 other same doing.

14 Q Were you there when the Officers stripped down
15 the room and found the pictures?

16 A Yes.

17 Q Did you see them find the pictures?

18 A Yes. Because there were some other pictures they
19 were looking for, about a girl on the streets that he was
20 running a scam on, that she sent him some pictures and he
21 threatened to send to her mother.

22 Q Where did the cops find these pictures?

23 A In Hunt's room.

24 Q Where in Hunt's room.

25 A I think in a room if I'm not mistaken. I wasn't

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in the room.

Q You didn't see them search the room?

A Yes, I did. The two officers went into a little room.

Q Came out waving the pictures?

A Yes. They had the pictures in there hands.

MS. ANDREWS: Nothing further.

MR KOCH: Read.

FURTHER DEPONENT SAITH NOT.

CHARLES MICHAEL DAVY DATE

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STATE OF FLORIDA)
COUNTY OF PINELLAS)

I, ROBIN S. CARROLL, Notary Public, State of Florida at large, do hereby certify that on the 17th day of November, 1986, at the Criminal Court Complex, Clearwater, Pinellas County, Florida, the foregoing witness, CHARLES MICHAEL DAVY, having been by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, gave his testimony, which was reported by me in shorthand, and that the foregoing pages, numbered 1 to 22, inclusive, constitute a true and correct record of the testimony given by said witness.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties hereto, nor a relative or employee of such attorney or counsel, nor am I financially interested in the action.

WITNESS MY HAND AND SEAL this 20th day of November, 1986, at Clearwater, Pinellas County, Florida.

Robin S. Carroll
ROBIN S. CARROLL,
Notary Public,
State of Florida at large.
My commission expires: 4/27/90.

IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA

CIRCUIT CRIMINAL NO.: CRC-85-7851CFANO-D

STATE OF FLORIDA

vs.

JACK PEARCY,

Defendant.

NOTICE OF FILING

OF DEPOSITION

MR. JAMES T. RUSSELL,
State Attorney,
Criminal Court Complex,
Clearwater, Florida 33520.

MR. KY M. KOCH,
1550 Highland Avenue South,
Clearwater, Florida 33516,
Attorney for defendant.

MR. RONNIE G. CRIDER,
410 Lincoln Avenue South,
Clearwater, Florida 33516,
Attorney for defendant.

Gentlemen:

PLEASE BE NOTIFIED that on this 20th day of November, 1986,
I have delivered to the Clerk of the above-captioned court at
Clearwater, Pinellas County, Florida, the deposition of
CHARLES MICHAEL DAVY, taken before me on the 17th day of November,
1986, at the State Attorney's Office, Criminal Court Complex,
Clearwater, Florida 33520, for filing in said cause.

I HEREBY CERTIFY that on this 20th day of November, 1986,
I have delivered copies of the above Notice of Filing to each
of the above-named addresses, at the addresses indicated as above.

Robin S. Carroll

ROBIN S. CARROLL,

Notary Public,

State of Florida at large.

My commission expires: 4/27/90.

**Tampa Bay
KANABAY**

OFFICIAL COURT AND
SHORTHAND REPORTERS

TAMPA
CLEARWATER
ST. PETERSBURG

1 IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA
2 CIRCUIT CRIMINAL NO. 85-7851 CFANO-D
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4 STATE OF FLORIDA
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6 vs.

7 JACK PEARCY,

8 Defendant.
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PROCEEDINGS:

Excerpt from Jury Trial
Witness: Mark Davis

BEFORE:

Honorable Thomas E. Penick, Jr.
Circuit Judge.

DATE:

November 25, 1986.

PLACE:

Criminal Courts Building,
Clearwater, Florida.

REPORTED BY:

Lynne J. Ide, CP, RPR, CM.
Deputy Official Court Reporter,
Sixth Judicial Circuit of Florida.

KANABAY & KANABAY - OFFICIAL COURT REPORTERS
ST. PETERSBURG, CLEARWATER - 821-3320
TAMPA - 224-9500

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APPEARANCES:

MS. BEVERLY ANDREWS,
MR. ROBERT HEYMAN,
Assistant State Attorneys.
Attorneys for State of Florida

MR. RONNIE G. CRIDER
410 S. Lincoln Avenue
Clearwater, Florida 33516

-and-

MR. KY KOCH
1550 Highland Avenue South
Clearwater, Florida 33516
Attorneys for Defendant.

* * * * *

MARK DAVIS,

a witness herein, having been first duly
sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KOCH:

Q. Could we have your name?

A. Mark Allen Davis.

Q. Mr. Davis, you are presently a resident of
the Pinellas County Jail, is that correct?

A. Yes, sir.

Q. You are in there on a charge of murder?

A. Yes, sir.

Q. Mr. Davis, your lawyer is John White, the
gentleman seated in the back of the courtroom over
there in the blue jacket, is that not correct, sir?

A. Yes, sir.

Q. Mr. Davis, during the course of you being in
the Pinellas County Jail, you were in the same cell
with Jack Percy, were you not?

A. Yes, sir.

Q. For how many months was that?

A. Approximately four to five months.

Q. Also in that cell was a James Dailey for a
short period of time, is that correct?

KANABAY & KANABAY - OFFICIAL COURT REPORTERS

1 A. Yes, sir.

2 Q. For how many days or weeks or months was Mr.
3 Dailey in that cell?

4 A. About four days.

5 Q. Why was he taken out, do you know?

6 A. Because the two of them were co-defendants.

7 Q. Is that general knowledge around the jail
8 that co-defendants are not to be in the same cell?

9 A. Yes, sir.

10 Q. What cell was that?

11 A. Echo Two.

12 Q. Which is the E-Wing over at the Pinellas
13 County Jail?

14 A. Yes, sir.

15 Q. Mr. Davis, explain to these folks the
16 surroundings in a jail cell, specifically at Echo Two?

17 A. It's a twenty-four man cell, two men to a
18 cell, with a day room.

19 THE COURT: Mr. Davis, could I get you to
20 talk a little closer into the microphone so everybody
21 can hear you, and Mr. Koch, could I get you to speak up
22 a little, too?

23 MR. KOCH: Yes, sir.

24 BY MR. KOCH:

25 Q. That day room is a room that has a bunch of

1 tables in it, correct?

2 A. Yes, sir.

3 Q. Television?

4 A. Yes, sir.

5 Q. And windows through which guards can look?

6 A. Yes, sir.

7 Q. Were you ever present when there were
8 conversations between Messers Pearcy and Dailey?

9 A. Yes, sir, I was.

10 Q. When was that?

11 A. It was right after Jim got into the cell.

12 Q. Had you determined how it was that James
13 Dailey had been arrested?

14 A. He was arrested in California and extradited
15 back.

16 Q. You understood he was extradited to be here?

17 A. Yes, sir.

18 Q. Did you understand that both Mr. Dailey and
19 Mr. Pearcy were facing the same charge, that is, first
20 degree murder?

21 A. Yes, sir.

22 Q. Relating to the same victim, that is, Shelly
23 Boggio?

24 A. Yes, sir.

25 Q. When was it that you overheard this

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conversation?

A. I think it was the first night or second night that Jim got back.

Q. That Dailey got back?

A. Yes, sir.

Q. And where were you when you overheard it?

A. Me and another guy was sitting on the floor playing backgammon.

Q. Where were Dailey and Pearcy when you overheard it?

A. Sitting on the bed.

Q. How far away from them were you?

A. Approximately three feet.

Q. Tell these folks what it was that you overheard, Mark?

A. That Jim was going to take the weight for the crime that he had done, it's just that he had to play an insanity defense first.

Q. What brought this conversation up?

A. The two were talking about different things.

Q. Which two?

A. Jim and Jack were talking about different things that have happened to each other since the last time they saw each other.

Q. Did Mr. Pearcy say he was scared?

1 A. Yes, he did.

2 Q. In response to that, what was it that Mr.
3 Dailey said?

4 A. Not to worry, Jack, that he would take the
5 weight for what he had done, for what Jim had done,
6 except that he wanted to play the insanity through.

7 Q. Did Mr. Dailey -- I'm sorry, did you
8 understand what "take the weight" meant?

9 A. Yes, sir, I did.

10 Q. Weight as in w-e-i-g-h-t?

11 A. Yes, sir.

12 Q. What did that mean to you?

13 A. That he had done -- that he was going to take
14 the weight for the crime, he was going to how would you
15 say it, he was going to admit to the crime.

16 Q. Did you hear anything else spoken by Mr.
17 Dailey during that conversation?

18 A. No, sir.

19 Q. Did you have any subsequent conversations
20 with Mr. Dailey?

21 A. Yes, I did.

22 Q. Would that be just you and he, or did you
23 overhear conversations between Dailey and Percy?

24 A. It would be me and Jim.

25 Q. Dailey?

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A. Yes, sir.

Q. Tell the jurors what it was that you and Dailey spoke about after that first conversation that you overheard?

A. Just still about his insanity defense and about the girl being in the water.

Q. What did he tell you about the girl being in the water?

A. Well, I had made kind of like a wise crack and asked him why she was found and why hadn't the tide taken her out, and he made the comment that it was on the Intracoastal Waterway.

Q. Did he indicate to you whether he had considered weighting the body down?

A. Well, I made that implication and he said that he just didn't think about it at the time.

Q. Mr. Dailey indicate to you whether or not he had spoken to law enforcement upon his arrest?

A. No, he didn't.

Q. What did he tell you?

A. He didn't tell me.

Q. Did you and Dailey have a further conversation about whether or not Jack Percy was involved in any way in the murder?

A. Well, Jim said that he himself was the one

1 that had done the crime, but he -- just right at that
2 time he couldn't come out and say it, he had to wait
3 and try insanity.

4 I showed him some paperwork on insanity.

5 Q. Did you understand that at that time Mr.
6 Dailey had a lawyer?

7 A. Mmm, he had a Public Defender at the time, I
8 believe.

9 Q. Mr. Davis, has there been an occasion that
10 you have ventured over to the State Attorney's Office?

11 A. I was there last Monday for a deposition.

12 Q. November 17?

13 A. Yes, sir.

14 Q. Was that deposition basically the same
15 information that you just now provided this jury?

16 A. Yes, sir, it is.

17 MR. KOCH: No further questions.

18 THE COURT: All right, Mr. Koch, thank you
19 very much.

20 State, you may inquire.

21 CROSS-EXAMINATION

22 BY MS. ANDREWS:

23 Q. Mr. Davis, besides being in custody for first
24 degree murder, you are charged with stabbing an old
25 man, isn't that correct?

- 1 A. Yes, it is.
- 2 Q. You also stole his car?
- 3 A. Yes, it is.
- 4 Q. Where did you take the car?
- 5 A. Mmm --
- 6 Q. Where is it alleged you took the car, sir?
- 7 A. Tampa.
- 8 Q. Pardon?
- 9 A. Tampa.
- 10 Q. Where were you arrested on your charge?
- 11 A. In the State of Illinois.
- 12 Q. How did you get back here to the State of
- 13 Florida?
- 14 A. I was extradited.
- 15 Q. Did you go through an extradition hearing or
- 16 did you waive extradition?
- 17 A. I waived extradition.
- 18 Q. And when is your trial set, sir?
- 19 A. December 16.
- 20 Q. Isn't it true, Mr. Davis, that you contacted
- 21 Detective Bob Rhodes of the Pinellas County Sheriff's
- 22 Office and told him that you could testify in three
- 23 murder trials?
- 24 A. No, it is not.
- 25 Q. What did you tell Detective Rhodes of the

1 Sheriff's office?

2 A. He asked about tattoo equipment that was
3 confiscated from me.

4 Q. Other than the conversation about the tattoo
5 equipment, did you have any other conversation with
6 Detective Rhodes about what you could do for law
7 enforcement in three murder trials?

8 A. Concerning Rex Walsh and Jim Dailey only.

9 Q. So you did have a conversation with them?

10 A. Yes, ma'am.

11 Q. What did you tell Detective Rhodes you could
12 do for Dailey and what was the other name, Walsh?

13 A. Yes, ma'am. I didn't tell him nothing. He
14 told me he couldn't do nothing for me, so he left.

15 Q. Did you mention that you could testify in the
16 trial of Percy?

17 A. No, I did not.

18 Q. You are sure about that?

19 A. Yes, ma'am.

20 Q. And isn't it true, Mr. Davis, that you were
21 trying to make a deal with Detective Rhodes, that you
22 told him that you would testify in these trials if you
23 could get your charge reduced to manslaughter?

24 A. No, ma'am.

25 Q. Because you wanted a low bond so you could

1 get out of jail?

2 A. We talked about a bond, but there was --

3 Q. You have got no bond right now, right?

4 A. That's right.

5 Q. You can't bond out no matter how much money
6 you had?

7 A. No, ma'am.

8 Q. And you told Detective Rhodes that you would
9 testify for law enforcement in three murder trials if
10 he could get your charge reduced to a manslaughter so
11 you could bond out, isn't that true?

12 A. No, ma'am.

13 Q. How long did you say Percy was in the same
14 cell that you were?

15 A. I think it was approximately four to five
16 months.

17 Q. You two became friends, didn't you?

18 A. Yes, ma'am.

19 Q. Played backgammon together?

20 A. Yes, ma'am.

21 Q. Spent a lot of time talking?

22 A. Yes, ma'am.

23 Q. And how long did you know Dailey?

24 A. For the time that he was in the cell.

25 Q. Four days?

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A. Yes, ma'am.

Q. Haven't seen him since?

A. I have seen him since.

Q. Have you had any discussions with him since?

A. A few.

Q. Did you tell him you were going to come in and testify against him?

A. No, ma'am.

Q. Which one of those three men would you say you are better friends with?

A. Jack.

MS. ANDREWS: May I have a minute, your Honor?

THE COURT: You may.

MS. ANDREWS: No further questions.

THE COURT: Mr. Koch, sir?

MR. KOCH: Nothing further, Judge.

THE COURT: All right, Mr. Davis, I thank you for coming to testify and you may be returned.

[Witness excused.]

* * * * *

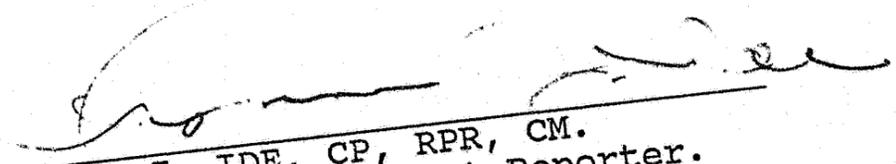
STATE OF FLORIDA)

KANABAY & KANABAY - OFFICIAL COURT REPORTERS

COUNTY OF PINELLAS)

I, LYNNE J. IDE, Court Reporter, do hereby certify that trial was held in the case of STATE OF FLORIDA versus JACK PEARCY, at the time and place set forth in the caption hereof; that I was authorized to and did report in shorthand the testimony and proceedings had in said trial, and that the foregoing pages, numbered 1 to 13, inclusive, constitute a true and correct transcription of an excerpt from my said shorthand report.

DATED THIS 1st day of December, 1986, at Clearwater, Pinellas County, Florida.



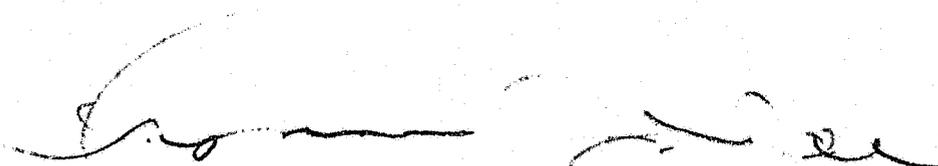
LYNNE J. IDE, CP, RPR, CM.
Deputy Official Court Reporter.

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