

NORTH CAROLINA
GUILFORD COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 97 CrS 23654
FILE NO. 97 CrS 39580
FILE NO. 98 CrS 23485

STATE OF NORTH CAROLINA)
)
 v.)
)
RONNIE LEE KIMBLE)

T R A N S C R I P T

Transcript of proceedings taken in the General Court of Justice, Superior Court Division, Guilford County, North Carolina, August 3, 1998 Regular Criminal Session, before the Honorable Preston Cornelius, Judge Presiding.

A P P E A R A N C E S

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WEDNESDAY, AUGUST 26, 1998

(Court convened at 9:30 a.m. The defendant was present. The jury was not present.)

THE COURT: Any matters we need to take care of before we bring the jury in?

MR. PANOSH: No, Your Honor.

MR. LLOYD: No, Your Honor.

(The jury entered the courtroom at 9:31 a.m.)

THE COURT: Very pleased to have the jury panel back. I hope everyone had a nice evening and feeling okay. Anyone having any problems this morning that I should know about, if you'd raise your hand, I'll be glad to talk with you about that.

The first day go all right with the youngsters?
(Jurors nodded their head up and down.)

THE COURT: All right. Did they want to go back today?

(Some jurors nodded their head up and down, and some jurors shook their head from side to side.)

THE COURT: Mr. Kimble, if you'll come back to the witness stand, please, sir.

(The witness Ronnie Lee Kimble returned to the witness stand.)

THE COURT: The Court'll remind you you're still under oath.

You may continue cross-examination, Mr. Panosh.

MR. PANOSH: Thank you.

RONNIE LEE KIMBLE, having been previously duly sworn, testified as follows during CONTINUED CROSS-EXAMINATION by MR. PANOSH:

Q Mr. Kimble, during your direct examination yesterday, you indicated that you worked at Lyles when you were approximately 15?

A I believe so. I believe that's correct.

Q And you said that was on the books but off the books. What did you mean by that?

A I don't understand exact-- well, I don't recall that I said that was on or off the books. I believe I was referring to the periods of time that I worked on occasion. I don't -- that was actually on the books.

Q Do you recall saying, "On occasions that I would work for Gary Lyles, no paycheck, they would pay cash. It was on the books but off the books"?

A Yes.

Q Are those your words?

A Yes, sir. That's what I was referring to. And when I would work there full-time, yes, I was on the books. And it -- well, it wasn't full-time, it was sort of a side job away from -- I think it may have been a summer job or something. But now, on the occasions that I worked off and on, like on

occasion he might have me -- for example, I think one time, he had me go down to his beach home with him and do some work on his beach home, and -- but then at the times that I would work up at the business off and on occasion, when he'd asked me to -- it's my understanding that somehow, they're allotted to be able to hire help for like a day or two at a time, and not put that on the books. So, I'm -- at the times that I may work for several days at a time, yes, he would put that on the books. But if I just worked for a day or two, he didn't put that on the books.

Q So during the period of times when you were regularly employed, you got a paycheck and you filed a W-2?

A Yes. He wrote me a check.

Q And did you file a W-2?

A That's been so many years ago, I don't recall.

Q But you brought it up on direct examination, and you said that you recalled then --

MR. HATFIELD: Objection to what he said.

Q -- you were working on the books --

THE COURT: Overruled.

Q -- and off the books, but now you say you don't recall?

MR. HATFIELD: Objection. That's not --

A Yes.

MR. HATFIELD: -- at all what he said. He said he didn't recall whether he filed a W-2.

THE COURT: Let him answer the question, sir.

A Yes, I recall working on and off on occasions, but I don't know how Gary filed it, and I don't recall whether I done a W-2 or not, because that's been so many years ago.

Q In December of '96, when you said you worked there for your brother, did you -- was that also on the books but off the books?

A Would you say that -- when?

Q December of '96, when you said you worked there for your brother, was that also on the books but off the books?

A I don't recall saying that I worked there in December.

Q When did you work there in '96, sir?

A I said sometime around September. And that's the last time I've ever worked for Ted.

Q September of '96?

A Yes, sir.

Q Was that on the books or off the books?

A I don't recall. I -- that may have been off the books. I don't recall. Because I was not a full-time employee. That was just a temporary situation.

Q I thought you said that during the period of time that you were working there, you are actually in charge of the office, because Ted wasn't there?

A I was not in charge. I was just taking in the money. Basically, the business was running itself. The only thing

I was doing was, when a customer came in, I wrote their receipt up and I took the money in, gave them their change.

Q So you were in charge of the money, but not in charge of the business?

A Correct. That was my understanding. That's what I was told, that I was not there -- my purpose was not to run the business, my purpose was to take in the money and let the employees do what they knew to do.

Q And you were there all day long?

A Yes, sir, for -- I don't know how many days. It was off and on. Most days that I worked up there at that period of time, I think it was for about a week, I think I spent pretty much the whole days -- I know Ted got aggravated with me, because I wasn't working every day, but I took several days off to spend with my wife, to help her cope.

Q And this was the period of time when you said you weren't close to your brother, Ted?

A I have never been very close to my brother. I love my brother, and we talk on occasion, but we've never been close.

Q He did come to your Marine Corps graduation?

A Yes, he did, with the rest of my family.

Q You were in his wedding?

A No, I was not.

Q You were not in his wedding?

MR. HATFIELD: Objection.

A No, I was not.

MR. HATFIELD: He just answered --

THE COURT: Sustained.

MR. HATFIELD: -- the question.

THE COURT: Sustained.

A May I correct myself? I just remembered something. I believe I was an usher.

(Mr. Panosh showed an exhibit to Mr. Lloyd and Mr. Hatfield.)

MR. PANOSH: May I approach the witness?

THE COURT: You may.

Q So when you saw me picking up the photographs of you in the wedding --

MR. HATFIELD: Objection.

THE COURT: Sustained.

Q -- you corrected yourself; is that --

MR. HATFIELD: Objection.

THE COURT: Sustained.

Q Well, let me ask you this. Showing you what's been marked as State's Exhibit 146-A. Is that in fact a picture of you in that wedding that you said you weren't in?

MR. HATFIELD: Objection.

THE COURT: Overruled.

MR. HATFIELD: He corrected himself.

A Yes. I was --

MR. HATFIELD: He didn't say he wasn't in it. He said he was in it.

A Okay. I did not take part in the wedding. And this -- I was in that photograph because of the fact he's my brother, and my mother wanted a picture of me as in the group. So that's why this picture was taken. And the reason that I -- I just happen to remember, they asked me to help usher people in, because of the fact I was in my uniform.

Q So that just kind of happened --

A That kind of --

Q -- the day you got there?

A -- happened that -- I don't think -- I don't recall that being planned. If it was planned, then it would be in the -- in the bulletin. I just don't recall whether or not that was a planned thing.

Q But your best recollection is, it just happened when you got there?

A I'm not certain. I -- if it was planned, it would be in the bulletin.

Q Let me show you 146-B, the invitation. And when it talks about --

MR. HATFIELD: Objection. It's not an invitation.

Q Excuse me. The document entitled "The Celebration of

Marriage of Patricia Gail Blakley and Theodore Mead Kimble," May 7th of 1994, at 7:00 o'clock at Monnett Road Baptist Church, where it indicates the wedding parties, and it's preprinted with your name there, sir, isn't it?

A Yes. It says, "Usher, Mr. Ronnie Lee Kimble."

Q Now, sir --

A So, I just did not recall that.

Q And this was during the period of time when you said you weren't close to your brother?

A Just because I'm in his wedding does not make me close to him. It just means I'm his brother and he asked me to take part.

Q You testified on direct that in 1991, you graduated from high school, and I believe you said that at that time, Kimberly was not your girlfriend; is that correct?

A Yes.

Q Who was your girlfriend?

A I don't know if I was dating any--

MR. HATFIELD: Objection. It's obviously irrelevant who his girlfriend was when he graduated from high school.

THE COURT: Overruled.

A I'm not certain who I was dating at that time. I think at that time, Joy and I had already broke up.

Q So this would have been May of '91, and you and Joy had

broken up?

MR. HATFIELD: Objection.

THE COURT: Sustained.

A I don't know the --

THE COURT: Don't answer, sir.

Q When was it that -- you've previously testified there came a time when Joy became pregnant. When was that?

MR. HATFIELD: Objection. It's not relevant.

THE COURT: Overruled.

A I don't know. As I testified before, I do not remember the time frame in which Joy and I dated. I just have an idea that it was between the time that I was 17 and 19, I think. 16, to sometime after I had been 19. I'm not certain.

Q During the period of time you were in high school?

A Yes.

Q And how old were you when she became pregnant?

MR. HATFIELD: Objection.

A I don't know.

THE COURT: Overruled.

MR. HATFIELD: Objection. Your Honor, how can this be relevant to a murder trial?

THE COURT: Overruled. He's testified on direct, so he's --

MR. HATFIELD: The reason he did --

THE COURT: -- entitled to cross-examine --

MR. HATFIELD: -- was because --

THE COURT: -- him about it.

MR. HATFIELD: -- they brought her up here and put her in the witness order, and then she said nothing about the case.

THE COURT: Overruled.

You may answer.

A As I stated, I don't know. I don't recall the time frame.

Q Do you recall the details?

A Would you say that again, please.

Q Let me rephrase that. Did there come a time when there was a pregnancy test done, as you testified before?

A Yes. And I said I wasn't certain of that, that was --

MR. HATFIELD: Objection, and ask for --

A -- my best recollection.

MR. HATFIELD: -- a voir dire on that point.

THE COURT: Overruled.

Move on.

Q Where was that done?

A The best I can recall, that was done at her parents' house.

Q Who purchased it?

A I believe I did, but we were together when we did.

Q Who took her to have the abortion?

A I went with her.

Q Did you go in?

A Yes, I did. I walked in with her.

Q Did you sign the forms?

A No, I don't recall signing any forms.

Q But you said that you could tell that she was pregnant before the pregnancy test was done, I think you said, by the

--

MR. HATFIELD: Objection.

Q -- during the sexual intercourse?

THE COURT: Overruled.

A Yes, I did state that.

Q What did you mean by that?

MR. HATFIELD: Objection.

MR. LLOYD: Objection, Your Honor.

MR. HATFIELD: How vulgar are we going to get?

THE COURT: Well, overruled. There's direct evidence to that. They're entitled to cross-examine on it. Move on.

A As I stated before, I could tell the difference in the way she felt.

Q So then it was your idea to get the test?

A Yes, because of her having morning sickness.

Q And you said that before you actually -- Let me

rephrase that. You said that your main concern was, embarrassing your family; is that right?

A Embarrassing -- our main concern was embarrassing our families.

Q But before you went and assisted her in having this abortion, you consulted with an adult who's a member of your church?

A Yes, I did.

Q And she told you to hide it from your parents?

MR. HATFIELD: Objection. He hasn't said what she told him.

THE COURT: Sustained.

Q As a result of that consultation, did you decide to hide it from your parents?

A No, I did not.

Q You told your parents about it?

A It -- you said as a result of that consultation.

Q After that consultation with this adult who's a member of your church, did you tell your parents about it?

A No, I did not. I never did. They found out through the paperwork that has been presented in this trial.

Q Now, you've previously made reference to a period of time that you were on duty with the Marine Corps, and you said you were on float or --

A Yes.

Q When was that?

MR. HATFIELD: Objection. That was deemed irrelevant on direct. Certainly it's irrelevant on cross. I was told not to ask about the float.

THE COURT: Sustained.

MR. PANOSH: I'm just going to ask about the date, Your Honor.

MR. HATFIELD: Objection.

THE COURT: Overruled.

You may do that.

A As I stated before, that -- I believe that was between the dates of June -- May, June, sometime in there, because it was right after the period of time that Patricia and Ted got married. It was within a month, I left to go on float. And I arrived back sometime, I think, in November.

Q And what year, sir?

A I believe that was '94.

(Mr. Panosh showed an exhibit to Mr. Lloyd and Mr. Hatfield.)

MR. PANOSH: May I approach?

THE COURT: You may.

MR. HATFIELD: Your Honor --

Q Showing you --

MR. HATFIELD: Your Honor, this is irrelevant. You deemed the float business to be irrelevant on direct.

Now he's just playing around with it on cross, and I just think it's inappropriate and a waste of time.

THE COURT: Well, I don't know what he's going to ask him. I'm going to overrule you at this point, until I hear the question.

Q Do you recognize this as being your medical record from August of 1994, August the 9th?

A Yes.

Q And in fact, you recorded that you had been injured riding a truck at Camp Lejeune; isn't that correct?

A I -- no, I did not.

MR. HATFIELD: Your Honor, if he wants to refresh his memory --

A I did say --

THE COURT: Wait just a minute.

A I did say that I had injured my foot, but that was overseas.

Q So you were riding a truck on the boat?

A No. That was when we were doing a -- we were on land.

We were doing a combined operation with, I believe the Spanish World Marines. I could be wrong about what group it was. I believe that was somewhere in Spain.

Q So these records are not from Camp Lejeune --

MR. HATFIELD: Objection.

Q -- they're --

THE COURT: Wait a minute.

Finish the question, sir.

Q -- they're from Spain?

THE COURT: Overruled.

A My medical record -- well, same as any Marine, your medical record follows you no matter where you go. I guess you could call it your home of origin, I guess, would be related back to Camp Lejeune. That is the base we -- everybody on that ship was from. When we get back off float, we would be going directly back to Camp Lejeune. That was my duty -- Camp Lejeune was our duty station, but we were temporarily away from that duty station on float.

Q And I believe you testified earlier that during that period of time, you began corresponding with Kimberly?

A Yes.

Q And it was during that period of time that -- when was it that you returned to Camp Lejeune?

A Sometime November, close to -- yeah, sometime in November.

Q '94?

A Yes, sir.

Q And when were you married?

A I was married December 10, 1994.

Q And you said there was a period of time on direct examination when you were hanging around Joy Dyer, and I

believe you said you went -- were seen at the parking lot of the restaurant, the Mayflower restaurant, where she worked?

MR. HATFIELD: Objection. That's irrelevant.

A She was not Joy Dyer then.

THE COURT: Overruled.

Q What was her name then?

A Her name was Joy Hedgecock.

Q Okay.

A And on several occasions after we had broke up, she -- I had gone by there to see her. Like one night, I went by and gave her a dozen roses.

Q Did you also follow her at church?

A I don't recall. I may have.

Q Sit in the pew behind her and drop notes over her shoulder?

A I don't recall that.

Q Are you saying you did that or didn't do that?

A I'm not saying I did or didn't. I don't recall that happening.

Q While she was sitting there with her husband-to-be?

MR. HATFIELD: Is this relevant to a murder trial?

A I certainly --

THE COURT: Overruled.

A I certainly would not have done that. So --

Q And again, about what time frame are we talking about

that you were following -- or that you were at the parking lot of the Mayflower and you may have followed her to church?

A I don't know nothing about the following her to church. I said I may have, I may not have. I don't remember that. The -- as far as the Mayflower, going over by the Mayflower, that probably went on for maybe a month after we broke up. And I finally had a conversation with her at her house, and as a result of that conversation, I never bothered her again. I never seen her again. I never went around her again.

Q And what time frame was that?

MR. HATFIELD: Objection, Your Honor.

THE COURT: Overruled.

MR. HATFIELD: He's answered that.

THE COURT: Overruled.

A I said --

THE COURT: You may answer.

A I said within a -- I'm guessing within a month after the initial breakup. I -- it's been so many years ago, I don't remember.

Q Well, was it 1991, 1992, 1993?

MR. HATFIELD: I hope it was not 1991, because it's bound to be irrelevant.

THE COURT: Disregard that comment, members of the

jury.

And don't make any more like that, Mr. Hatfield.

MR. HATFIELD: Yes, sir. Your Honor --

THE COURT: If you want to object, object.

MR. HATFIELD: Your Honor, I do object on relevancy grounds --

THE COURT: Overruled. There's been --

MR. HATFIELD: -- of this inquiry.

THE COURT: There's been direct testimony, and I'm going to let him ask the question.

A Would you repeat the question, please.

Q Do you know what year it was?

A Which?

Q You've previously testified on direct examination that there was a period of time when you were -- went to the Mayflower parking lot, in an attempt to see Joy Hedgecock. What year was that?

A Again, I don't recall. I -- it was sometime -- we dated between the period of when I was -- I think I was 16, and -- or 17, up until the time that I was 19. It was a period of two years that we dated. I was -- sometime around '91 maybe. I don't know. Sometime around that period of time. I don't know.

MR. PANOSH: May I approach the witness?

THE COURT: Yes.

Q You previously testified that you had in fact seen State's Exhibit 84-A in the possession of your brother; is that correct?

(Mr. Panosh held up an exhibit.)

A Yes.

Q How frequently?

A I only recall seeing it in his possession, in his hands, maybe once or twice, and I couldn't really say where that was.

Q Did you also see it in his vehicle?

A On two occasions.

Q Did you also see it in his place of business?

A No, not unless that may have been where I seen him handle it.

Q And you said that your only experience is one particular occasion, your only experience with a handgun like that is one particular occasion, when you fired a 9mm with Charles Dunn; is that correct?

A Yes. To the best of my knowledge, that's the only time that I can recall handling a gun of that nature. And as far as I know, it's a totally different name brand, but they do resemble.

Q Now, in the course of your military training, did you receive any training as to pistols?

A No, not at all.

Q Just rifles and explosives?

A Yes.

Q And you previously testified about shooting that particular pistol with your brother, at Hedgecocks', and you said, "If it happened, I do not remember"; is that correct?

A Yes. Because, like I said, first of all, I have never fired that pistol. The only pistols that I can ever recall firing in my life was the 9mm that belonged to Charles. And I'm not certain that I fired that one. I believe I did. That was about -- it was probably about six years ago. That's the reason I can't recall specifically firing it. And other than that was a black powder pistol that belonged to Dobesh.

Q Drawing your attention to this particular weapon, on cross -- on direct examination, you said, "If it happened, I do not remember"; is that correct?

A Yes, that's correct.

Q So you're not denying that it happened?

A Well, basically, yes. I don't think it ever happened.

Q Well, sir, why didn't you just say that never happened?

MR. HATFIELD: Objection. He has the right --

THE COURT: Sustained.

A Because just as --

MR. HATFIELD: Objection.

THE COURT: Don't lecture the witness, Mr. Panosh.

MR. PANOSH: Yes, sir.

Q But you did say that you have handled that particular weapon?

A Yes.

Q You just don't recall firing it?

A Yes.

Q And you testified that the major reason -- or one of the major reasons that you joined the Marine Corps was, you were heartbroken over Joy?

A Yes.

Q That would have been 1993?

A Yes. I still had hurt emotions.

Q From 1991?

A Yes.

Q And you talked about your wife, Kimberly, and you said that you and she have no secrets?

MR. HATFIELD: Objection. He's been over that yesterday.

THE COURT: Overruled.

A Yes, in the context of which I was asked.

Q Did you tell her about the fact that during the period of time November of '95, to April of 96, when she was living in that trailer with Sherry Wilson, that your parents were claiming to be living there?

MR. HATFIELD: Objection.

THE COURT: Overruled.

A I --

MR. HATFIELD: He needs to lay a foundation, I believe.

A I --

THE COURT: Overruled at this point.

A I didn't even have any clue that anybody had any intentions of volunteering my home at all. The -- my first knowledge of that was when I was flipping through some of the discovery and I seen that.

Q So, your parents didn't tell you about that?

MR. HATFIELD: Objection.

THE COURT: Overruled.

MR. HATFIELD: There is no basis for this.

Furthermore, it's requesting that he answer questions about hearsay. His parents have not testified in this case.

THE COURT: Overruled.

You may answer.

A I have been told very recently by my parents, because I questioned that when I -- when I read that, I questioned my parents about that. They told me that that was a matter that came up that was discussed amongst them, Ted and the insurance agent, it was only an idea. It never came to light in any way, so therefore, they never asked me about it or Kim.

Q But they got \$16,000 from it, didn't --

MR. HATFIELD: Objection. This is highly misleading. I'd like to have --

THE COURT: Sustained.

MR. HATFIELD: -- a voir dire on this.

THE COURT: Objection sustained.

Q Are you close to your parents?

MR. HATFIELD: Objection.

THE COURT: Overruled.

A In what way?

Q In the same way that you described not being close to Ted.

A I would say I'm much closer to my parents than I am my brother. I see my parents a lot more than I do my brother.

Q But they never discussed this insurance claim with you after the fire and after the death of Patricia?

A No.

Q You were testifying on direct examination about Ted's life insurance, and I believe you said you had no knowledge of Ted and Patricia's financial situation; is that correct?

A Yes, that is.

Q How long did you know Ted and Patricia?

A Well, since -- I've known Ted, of course, all my life. But I met Patricia, I believe, at my Marine graduation.

Q So that would have been mid-1993?

A Yes. I --

Q And --

A -- believe that's correct.

Q -- during the period of time when you left Swansboro and moved to Greensboro, you -- or Julian, rather, you lived about eight miles away from them; is that right?

A Would you say that again, please.

Q During the period -- after you left Swansboro and you moved to Greensboro, you lived about eight miles away from them; is that right?

A I don't know what the mileage is. I guess that would sound about right.

Q And from time to time, you worked with Ted at Lyles?

A Yes. On occasion I worked -- done some work for him.

Q And you saw that they had vehicles?

A Yes.

Q And you saw that he had a business?

A Yes.

Q And you saw they had a boat?

A Yes.

Q But you said on direct examination that you had no knowledge of their financial situation?

A I don't. I don't know what they paid for any of those things. I don't know how they can afford to pay for them. I have no knowledge of their financial situation.

Q But in the two days you were with Mitch Whidden, you came to a firm opinion about his financial situation, based upon less observations than that; isn't that right?

A Because he told me their financial situation. He directly told me that they had both quit their jobs, for some reason or another, I can't recall what the reasoning for that was. I didn't think it was a significant reason. I recall that. But he said that they decided that they were going to live off faith, and he told me that they were living off of school loans.

Q And you said that you didn't discuss things with Ted?

A I -- of what nature? Business, yes.

Q Business nature?

A Yes, business nature. You know, if I wanted to buy some materials from him, and either work them off or pay cash, he might give me a little bit of a discount, since I was his brother.

Q Did you discuss the case, the case about Patricia's death?

A Yes, on occasion, I had -- but no more than I had discussed it with my parents.

Q You called him and he called you?

A No, not particularly. I don't ever remember calling him specifically to talk about the case.

Q Do you remember him calling you?

A No, I don't. He may -- he may have. I don't remember if he did.

Q Do you remember him calling you and discussing Patricia's death?

A He may have. My brother and I so rarely talk on the phone, that if he called, I don't remember.

(Mr. Panosh showed an exhibit to Mr. Lloyd and Mr. Hatfield.)

MR. PANOSH: May I approach the witness?

THE COURT: Yes.

Q I show you a pad of paper, sir. Do you recognize that number?

A Yes, sir.

Q 451-1113?

A Yes, sir.

Q What is that?

A That is my business -- my office phone, as well as the one below it. And that might be a pay phone down at Camp Lejeune. (Indicated.)

Q All right.

A I'm not certain.

Q Will you start with 451-1113, and write down the identity or the location of that phone.

(The witness complied.)

A Building 37, chaplain's office?

Q That would be enough, if that's what you're talking about.

(The witness complied further.)

THE COURT: What's that exhibit number, Mr.

Panosh?

MR. PANOSH: It'll be 145, Your Honor.

A Same thing here. (Indicated.)

Q 451-3210 is a building --

A Yes.

Q -- is the chaplain's office? In fact, is that Ms. Kelly's office?

A No. This -- the 3210, that was later turned in -- it was actually the general office's number. What happened was, we could -- when a call came in, the front desk answered the call. Whoever was watching the front desk would receive the phone calls. And then, they would put the person on hold and buzz the person's office that they wanted to talk -- that the person wanted to talk to, and let them know which line to pick up on.

Q And the next number, 577-9562?

A I'm not certain. That could be a pay phone at Camp Lejeune. I don't know.

Q And the next number, 451-1781?

A I believe that may be the barracks number. I'm not sure.

Q Why don't you put that down, "Barracks, question mark."
(The witness complied.)

Q And as to the pay phone, why don't you put down "Pay phone, question mark." And when you say "pay phone," which one are you referring to?

A I have no clue. The only reason I'm speculating is, the 577, I can't remember if that is the prefix for the pay phones down there or not. I don't really have a clue. I'm just guessing.

MR. HATFIELD: I believe he answered that he doesn't know.

A Do I need to put that or not?

Q Put down the best you know, sir.

MR. HATFIELD: Objection. He should put down only what he actually knows.

THE COURT: Overruled.

(The witness complied.)

Q Do you remember whether or not your brother contacted you at these numbers?

A No.

Q Do you remember October the 30th of 1995?

A Yes.

Q What happened on October the 30th of 1995?

A I was questioned by Agent Munroe.

Q And would it surprise you to learn that your brother

called that 451-1113 at 11:24 in the morning, at 11:27 in the morning, at 11:41 in the morning?

A Yes, that would surprise me, because I believe those are the times that my father called me.

Q Your father called you?

A Yes.

Q And where was your father calling you from?

A I believe from Ted's business.

Q And would it surprise you to find out that there was telephone calls made to the barracks, Building 51, at 7:42 in the evening?

A No, not at all, because on many occasions, I would call up to Lyles, to find my dad during the daytime, and I would have my dad call me back. I would -- I -- like sometimes I would call Ted and ask Ted to page him, and give him the number for my dad to call me back at. So if he wasn't there at the business, that's usually what I done.

Q And then at 8:43 on October 31st, there was another phone call to that pay phone. And you're saying all those were your father?

A Excuse me. The barracks phone number that is on there is a strictly business phone. A person can call and leave a message, or they can call and ask for them to go and get you. You can only talk on that phone or a minute or two, if you talk on it at all. It's supposed to be strictly for

business, to let people know that they need to contact somebody.

Q My question to you, sir, is, on October the 30th, on those three occasions in the morning, did Theodore Kimble call you?

A No. I --

MR. HATFIELD: Objection. He's already answered that question. He said his father called him.

THE COURT: Sustained.

Q That was your father?

A I don't remember for certain, but I know on many occasions, my father called me from uptown, because he usually spent a lot of time hanging around there during the day. If not helping Ted, it would be because he might -- may go up in the morningtime and visit at the hospital and then wait around till lunchtime and go out with my mother. So, during the period of time that he would have to wait, he may spend time there at the business. So that was the reason that I knew that I could call up there and catch my dad on many occasions.

Q The question to you, sir, is, was that your father that called you on those occasions?

MR. HATFIELD: He's already --

A The best I recall, yes.

THE COURT: Overruled.

MR. HATFIELD: -- answered that.

Q And then at 7:42 in the evening, was that your father?

A I'm sure it was.

Q Calling from Ted's business phone?

A At 7:42 in the evening? I don't know.

Q And the next day, at 8:43 in the evening, was that your father?

A I don't know.

Q In fact, sir, on that particular day, you and Ted were discussing your interview with Agent Munroe of the Naval Intelligence Service on October the 30th?

A We may have. Because I'm sure I discussed all the interviews with my family.

Q You talked to Ted about it; isn't that right?

A No, not every time. But I -- yes, I talked to Ted on occasion about what was going on. He told me what was going on with him.

Q Do you remember a few minutes ago saying that he never called you at Camp Lejeune?

A I didn't say that he did or not. I don't recall saying that.

Q You didn't say just a few minutes ago that you don't -- that "No, Ted never called me at Camp Lejeune"?

A If I did say that, I apologize. I did not mean to say that. Because I believe -- I believe Ted may have called me

a few times. I just don't recall it.

Q Now that you've had a chance to reflect on it, you believe that you and Ted did have conversations on the day that you had your first interview with Naval Intelligence Service about the death of Patricia Kimble?

A That's not what I said. I said that I'm sure we did discuss the interviews, but I don't know when we discussed the interviews.

Q There are telephone calls from Ted to you on the day of the interview.

MR. HATFIELD: Objection.

Q My question to you, sir, is, did you discuss the interview with Ted on that day?

MR. HATFIELD: Objection. I'd like to be heard.

A I don't know.

THE COURT: Overruled.

MR. HATFIELD: If Your Honor please, telephone records do not in any way indicate who --

THE COURT: He may answer that.

MR. HATFIELD: -- used the telephone.

THE COURT: Mr. Hatfield, he can answer that, if it's within his knowledge.

A I don't know who called me. My father could have very well called me from that business number. On many occasions, my father called me from that business number.

Ted may have called me. I don't remember. That has been approximately three years ago.

Q So you're telling the ladies and gentlemen of the jury that if you had a conversation with Ted, about three weeks after the death of Patricia, you don't recall?

A No.

Q But you didn't have any trouble recalling the conversations that you had on October the 10th, at the Blakleys' residence, did you?

A Yes, I have trouble recalling. I recall only bits and pieces.

Q You recall addressing Patricia's grandmother and hugging her?

A Oh, yes, I recall that, because she was a very sweet lady.

Q You recall going to get some food from your house and taking it to the Blakleys'?

A Yes, because I've been questioned about that.

Q And that was on --

A And I've had time --

Q -- October the 10th?

A -- to think that over. Huh?

Q That was on October the 10th?

A Yes.

Q You recall talking to Ted about these records that you

went and looked for?

A I don't recall any discussion. I just know what I was told, what the purpose of us going there for was.

Q But you don't recall a discussion that you may have had with Ted on October the 30th of 1995, the first time that you were interviewed by the Naval Intelligence Service?

A No, I do not.

Q You said that when you went with Ted that evening, on October the 10th, you had no discussion with him?

A No, I did not say that. I don't know what the discussion was about. I mean, I know -- I knew bits and pieces, but I don't know no details of what we talked about.

Q About 10 seconds ago, sir, didn't you say that you had no discussion with Ted that evening?

A That was in the context of a -- of a different subject.

Q All right. Let me try again. On October the 10th of 1995, after you and Ted left Reuben Blakley's residence, did you have a discussion with Ted Kimble?

A I'm sure we talked, but as to what we talked about, I don't really recall. I know that he was emotional. That's all I can remember.

Q And you were there for emotional support?

A I guess. I was asked to ride with him, because my parents did not want him to be alone.

Q Would that be emotional support?

A I would imagine so.

Q But you weren't close to your brother then, nor now?

A No.

Q And this was down in Randolph County, is that right, Reuben Blakley's home?

A I thought it was part of Greensboro. It -- if it's in Randolph County, it's just over the line or something.

Q How long did it take you to drive to Lyles?

A I don't know. I wasn't driving. Ted was driving.

Q Did it seem like a long time?

A Well, I would guess, from the distance, I would guess it would be a 25-minute drive or longer.

Q And before you left, you borrowed a flashlight?

A No, I didn't.

Q Before you left, you were present when Ted borrowed a flashlight?

A Yes.

Q And so, you get in the car with Ted with a flashlight, and you drive 25 minutes, the day after Patricia is murdered, and you don't discuss where you're going or why you're going there?

A Well, it was my understanding that I was asked to ride with him to make sure that he would be okay by himself. And that he was going after employee records.

Q But you didn't discuss it?

A I don't recall the topic of conversation.

Q Your brother was emotional and you were there for emotional support, and it was a day after Patricia was killed, and you're taking this ride, in the evening, with a flashlight, 25 minutes, and you don't remember asking why or where or discussing it at all?

A Discussing what?

Q Where you're going or why you're going there.

A Well, I already knew he was going up there to get the employment records.

Q For who?

A That's what I was told.

Q For who?

A I believe -- I believe that was for the detectives.

Q The detectives weren't at the Blakleys', were they?

A No, not that I know of. I don't recall seeing them there.

Q Did he get the records?

A Not to my knowledge.

Q Because the flashlight didn't work?

A Right. That was my understanding.

Q So you drove 25 minutes to Lyles, and because the flashlight didn't work, you just stopped looking?

MR. HATFIELD: Objection.

THE COURT: Overruled. He can answer.

A I was just along for the ride.

Q There're all kinds of convenience stores and gas stations there on High Point Road and Lee Street, in the vicinity of Lyles; isn't that right?

A Yes.

Q They all stock flashlights, don't they?

MR. HATFIELD: Objection.

THE COURT: Overruled.

A Yes.

Q So if you needed a flashlight, to get these records that are so important you got to drive 25 miles (sic), you could just go get another flashlight, couldn't you?

A For all that --

MR. HATFIELD: Objection.

Q You just drove 25 minutes.

THE COURT: Overruled.

A Certainly, yes.

Q But you just got there, and because the flashlight didn't work, you stopped looking?

A I had nothing to do with him getting his employment records. I was just asked to ride with him.

Q You were present?

A Yes, I was.

Q You knew what the objective of the trip was?

A Yes.

Q And the fact the flashlight didn't work is why you stopped?

A That's why he didn't find the records, because he couldn't see in the storage building to find them.

Q But he did find some pornography?

A He found some -- he got some -- well, I don't think he found it, apparently he knew where it was. He got that out of his office desk.

Q Did he show it to you?

A No.

Q What makes you believe it was pornography?

A Well, I seen the top magazine, I seen the cover of it.

Q So you did see it?

A I seen the top -- the cover of the top magazine on the stack.

Q And after that, took this -- these materials that you believe to be pornography, and he threw them away?

MR. HATFIELD: Objection. He did not testify that he threw anything away. He's just putting words in his mouth.

Q That Ted threw them away?

THE COURT: Sustained.

A Yes.

Q And then you went to get some food and drove back to the Blakleys'?

A Yes.

Q Another 25, 30 minutes?

A I don't know, because that was -- well, yes, because it was about -- I'm guessing maybe 25, 30-minute drive from Reuben's house to Lyles, and then from Lyles to my house would be another 25 minutes.

Q And on that occasion, when you were in his office, did you see any other kind of books?

A Not that I recall. Like I said, he put those in a box. And I don't know what else he got. I just specifically recall that, because seeing the cover of the magazine.

Q In September of '96, when you were in charge of the office there for those days, did you see any other kind of books?

A No. Those -- that stuff was taken out of his personal office. The other office was the office that I was in, the business office.

Q Which office were you in, sir?

MR. HATFIELD: He just answered the question. He said he was in the other office.

THE COURT: Overruled. He may clarify his answer.

A I was in the business office when I was taking in the money. That stuff was taken out of his personal office.

Q And his personal office is located where?

A Right next to the main office, which is on the very

front of the lot.

Q And you didn't have access to that?

A I didn't have access to either building. I mean, I'm sure if I asked my brother if I could go in the building, I'm sure he would have let me.

Q Sir, on -- in that period of time in September, when you said you were there and you were taking in the cash and -- for the business, but you weren't in charge of the business, you were working in the office there, weren't you?

A Yes. Now, at that -- for those days, I had access to the office.

Q Which office?

A To the business office.

Q And no access to the personal office; is that what you're saying?

A Not that I recall. Like I said, I'm sure I could have -- I'm -- I could have went in that office, I guess, if I wanted to, but --

Q During the period of --

A -- I had no business to.

Q During the period of time that you were working there, in September of '96, did you go into that office, that personal office?

A During when?

Q September of '96.

A Not that I -- not specifically that I recall.

Q But you do specifically recall an occasion when Ted Kimble came to your residence with Lynn McLeod Johnson, who was then Lynn McLeod?

A No, I do not.

Q You don't?

A No, I do not.

Q Do you remember testifying on direct about that meeting?

A No, I did not.

Q Do you remember --

A She never came to my house.

Q All right. Do you remember an occasion when Ted brought her to the Stumps' house when you were present?

A Yes.

Q And you said Ted came in, but she did not; is that correct?

A Yes.

Q Was there a telephone call prior to that meeting?

A I don't recall.

Q Do you remember calling your brother at his temporary residence there at your parents' house --

A No.

Q -- that evening, prior to him coming to the Stumps'?

A No. If I -- if anything, I may have called to let my

parents know that I got in okay.

Q Did you call and speak to your brother?

A No.

Q So when Ms. McLeod said that there was a telephone conversation and Ted identified you as being the person who called, she was incorrect?

A No, I'm not saying that, because I don't recall making that phone call, and that's what I said.

Q So it may have happened?

A It may have happened, but I don't recall calling Ted. I've never -- like I said, I don't ever recall making phone calls to Ted, other than to maybe find out whether or not I could get something --

Q Do you remember --

A -- from the business.

Q -- that particular evening when he came to the Stumps' residence and Ms. McLeod was in the vehicle?

A Yes, I recall that.

Q You remember that clearly?

A Yes. I don't remember it clearly, but I remember it.

Q Backing up a few hours, did you call Ted's residence at your parents' home and talk to him?

MR. HATFIELD: Objection. It's already been asked and answered.

THE COURT: Overruled.

You may answer.

A I don't know.

THE COURT: He's answered.

Q Now, when he got there, he came into the Stumps' residence?

A Yes.

Q Do you know what time it was?

A I don't have a clue. It was after dark, is all I know.

Q Were the Stumps present?

A Yes.

Q Did you have a conversation with Ted?

A In the house? I don't remember what went on in the house, other than the fact that there was "Hello. Hey. How are you doing?" in the house. I don't remember any conversation.

Q So you remember him coming and leaving, but you don't remember why he was there?

A No. I -- my assumption was, and the idea -- the idea that I have now, and I think the -- I thought the same thing then was, that they had -- they were just coming -- driving by and seen that my vehicle was there and decided to stop and say hello.

Q But sir, you said that you didn't even realize that Ms. McLeod was in the vehicle until Ted left.

A Well --

Q Isn't that --

A -- that's how --

Q -- what you said?

A That's how I created that assumption. I thought maybe that they were just driving by, seen my vehicle, Ted seen my vehicle, and decided to stop and say hello.

Q So you have a clear recollection of him coming and a clear recollection of him leaving, but you don't recall what he was there to talk about?

A No. I -- you know, did he need a reason to stop? No.

Q But you do recall that whatever the conversation was, it wasn't heated or agitated?

A Well, he may have gotten aggravated at me. I don't know. I don't recall his response. I just recall the conversation, because of the fact, my first impression -- first thing I noticed the moment I walked out the door to say good-bye, I seen Lynn sitting in the vehicle, and my first response is, "Who is she and what's she doing with you?" And he may have -- he may have gotten an attitude about it. I don't recall whether he did or not.

Q So you recall him coming and you recall him leaving, but you can't recall whether he got an attitude?

A That has been so long ago. I don't remember what his response was. I specifically recalled that because of the fact that she was with him. And his -- and his response

was, she was a friend from church. That gave me a little bit of comfort, hearing him say that.

Q But you didn't become agitated or animated?

A No, not that I -- not that I recall. I --

Q So when Ms. McLeod said she observed that, she was incorrect?

MR. HATFIELD: Objection. He doesn't have to pass on her thoughts.

THE COURT: Sustained.

Q And you talked to her?

A I didn't carry on any conversation. I just said, "Hello. How are you doing?" because he introduced me.

Q And you're certain of that?

A I'm sure of that. Because -- and I may have seemed -- I may have seemed a little bit -- a little bit snotty towards her. If I did, I didn't mean to. It was just, you know, I didn't really think she had any business being with him.

Q Because it was right after the death of Patricia?

A Yes, basically.

Q And even though it was right after the death of Patricia, and obviously that was causing a lot of turmoil in your lives, you and your family's lives, you don't recall why Ted was there that night to see you?

A I have no idea. I do not know.

Q Do you remember how long Ted was at the house?

A No.

Q Do you remember whether it was a short visit or long visit?

MR. HATFIELD: Objection. That's entirely inappropriate, when he said he didn't know how long.

THE COURT: Sustained.

Q And on direct examination, you talked about your financial situation, and you said that you were doing fine?

A Yes.

Q And there was no reason -- the only reason you were selling plasma twice a week was to get, I believe you said \$30 a week, was -- or was it \$60 a week?

A Well, you could only donate twice a week. But I done various things, and I -- depending on how I felt and what I wanted to do during the -- during the week, I made anywhere from 20 to \$50 a week. But that's not just with plasma. That was doing other things.

Q But you didn't need it?

A No. It was spending money.

Q Just like going to the range and picking up brass, that was for spending money?

A Yes. In fact, I took the money that I had earned from that stuff, I saved it up -- saved up and bought me a real nice watch. And I also bought several Christmas presents

with it.

Q Isn't it a fact, sir, that that was a federal violation, taking property off the Marine Corps base?

A I don't know that it was any kind of federal violation.

Q Well, when you went through training, you were taught that you couldn't take a rifle; isn't that right?

A Well, that's a big difference in taking a rifle and picking up brass that is discarded.

Q Is that correct, you were taught that you could not take military property?

A Well, you can't take a rifle, most certainly not.

Q And the brass is military property?

A Well, but -- I guess possession is ownership. It was on the military property. I would take it, yes, it's military property.

Q And if fact, they have a machine that they'd use to go out there and pick up that brass and recycle it; isn't that right?

A If they do, I don't know of it. Because the only machine I know of that ever picked it up was the Marines that just -- that after they had fired on the range, they picked it up.

Q In any event, the Marine Corps picks it up, saves it and recycles it; isn't that right?

A On some ranges. On that range, no. Only on --

Q And isn't it a fact --

A -- on the front portion of that range do they.

Q Isn't it a fact that that range is posted, tells you that unless you're there on official training, you're not supposed to be there at all?

A No, it is not posted that. It is posted no POV, which is privately-owned vehicles. That's because the government does not want to be responsible for any damage that may occur to your vehicle. But there is no sign posted "No Trespassing."

Q Every range on that Marine Corps base is posted and tells you not to go in there, unless you're on official training, because it's hazardous; isn't that right, sir?

A No, I've never seen any signs of that nature. When a range is getting ready to be used -- now, there are some ranges -- Excuse me. There are some ranges that are posted, but that is because there is an area of Camp Lejeune that is encircled by firing ranges. And the way they have these ranges set up is, basically, there may be a group of Marines over here firing on this range. (Indicated.) There may be a group here. (Indicated.) And these -- and the rounds may be crossing in that area. So, of course, they would have that posted, because they don't want you going out in this area, because you could -- even if nobody's on this range, and the flag's up, somebody could be on another

range, and it would be dangerous for you to be in that area. That is why it is posted --

Q And --

A -- for safety purposes.

Q And you were trained and taught and told not to go on those ranges, unless you are on official duty, firing; isn't that right?

A No, I was never told that.

Q And you were trained and taught that it's a federal violation, Article 121 of the military code, to take any property belonging to the military, of any kind or of any value; isn't that right?

A I wasn't taught that.

Q They didn't teach you that in Marine school?

A Well, it would be obvious not to -- that you're not to walk off with a rifle or military gear.

Q You really want this jury to believe that the reason you were out there picking up the brass was to make sure the Marines didn't get hurt, and that you thought it was perfectly okay?

A It was discarded metal that would never be picked up. It was tromped into the ground. And as far as I know, there was nothing wrong with us doing that. I had been seen on the range, and there was nothing -- no -- I didn't -- in fact, I had been seen by a captain in the Marine Corps, and

he thought it was great that we were actually motivated enough to go out and do something like that.

Q What's his name, sir?

A I have no clue. They were out checking out the range. I have no clue. But he did -- but he did ask that we stop doing that. He had no problem with us doing it, he was just concerned about the safety. So, at that point, we did not do it anymore.

Q And you told them that you were taking that brass off base and selling it, and he had no problem with that?

A Yes.

Q A captain in the Marine Corps?

A Yes. He had no problem with that, because of the fact that the -- that on that particular range, the only part of that range that was police called was the front portion. Once in a while, they might walk down range and pick up some of the bigger piles. Because I've used that range twice, I've been on that range, and both times, the only thing we were responsible for doing was just, picking up the big piles. That was all. And mainly, the front portion of the range. Other than that, it was just discarded. Half the time, half the brass we picked up, we would take -- you'd -- we'd take an empty cartridge and go around and dig it out of the ground, where it had been tromped into the ground. So that brass would have never been picked up anyways.

Q You worked at Lyles?

A Yes, sir, on occasion.

Q Ted allowed you to buy things through Lyles?

A Yes.

Q Bought four-by-fours?

A Yes.

Q Bought the gravel for your driveway?

A I believe so. I don't remember.

Q Bought crossties?

A If I did that, it was probably for some kind of discount. Yes.

Q Got the skirting for your trailer?

A Yes.

Q Got the wooden pickets for the skirting from your trailer through Lyles?

A Yes.

Q And all that's from a brother that you're not close to?

A Yes. I worked those items off. I paid for those items.

MR. PANOSH: May I approach the witness?

THE COURT: You may.

Q You talked about going to the Atlantic Mobile Home Supply, and I believe you brought in a receipt?

A Yes.

(Mr. Panosh handed an exhibit to the witness.)

Q What is that number right there, sir?

A I don't have a clue.

Q Did you have an 800 number?

A Yes, I had a 800 number on my pager.

Q And what was that 800 number on your pager?

A I -- that has been -- I haven't had that pager in over a year and a half. I don't remember what that was.

Q Is that in fact your pager number?

A That might be. I don't remember.

Q So now that you've thought about it, you do have a clue?

MR. HATFIELD: Objection.

THE COURT: Sustained.

A I don't -- I don't know that that was my pager number. It -- I just said that it may be because of what you said.

Q How does that 800 pager work, sir? Or how did it work during the period of time that you possessed it?

A Someone could call me and leave a message, and I would -- they could call me and leave a voice-activated message. When my pager went off, it would give me -- it wouldn't give me -- instead of giving me a number, it would give me the number, my 800 number, to let me know that I had gotten a message.

Q In fact, during the period of time that you were under the custody of the Naval Intelligence Service, on April the

1st of 1997, that pager went off on two occasions, didn't it, sir, indicating that you had a message?

A Yes.

Q And they gave you an opportunity to return those calls, and you declined; isn't that right, sir?

A No, they did not give me an opportunity to. In fact, I believe the reason it went off was, I believe my family was trying to contact me. They had paid \$50 to hire a lawyer, to have a lawyer call down there and tell them to leave me alone. And they refused to let that lawyer talk to me.

Q Sir, if you're arrested on April the 1st, and you're in custody, and you haven't had an opportunity to contact your family, how did they know to pay to get a lawyer to call down there for you?

A Because my brother had been picked up in Greensboro while my mother was riding with him, on the side of the highway. The -- these detectives could have picked me up up here in Greensboro, but they wanted to make a big scene, by picking me up down at Camp Lejeune.

Q So, your family assumed that you would be arrested, because your brother was arrested?

A I don't know how my family came to that conclusion or how my family knew. It was probably because of the fact that it was all over the news, I believe, if I'm not mistaken.

Q The fact that you were arrested?

A I don't know. I'm speculating. I'm guessing. I think I heard something about it being on the news, prior to them even arriving to Camp Lejeune. So the news knew before we knew.

Q Do you remember telling the Naval Intelligence officer that you recognized the page as being your father, and that there was no need to return the call?

A No, I do not. I certainly asked for a phone call on several occasions, and they would not allow me to make any phone calls. As I expressed before, I asked to make a phone call, to Detective Church, and he laughed about it and insinuated that by making a phone call, I would have something done to his family.

Q So you went and told the Naval Intelligence officers that you wanted to have an attorney; is that correct?

A I don't recall what I told them. But I know the moment that Church, Detective Church --

Q Sir, I'm asking what you told the --

MR. HATFIELD: Objection. He --

Q -- Naval Intelligence officer.

MR. HATFIELD: This witness --

THE COURT: Wait a minute.

MR. HATFIELD: -- is trying to answer the question.

THE COURT: You may finish the question and he may ask (sic) the question.

A Now, I do not recall what I told them. I don't recall if I told them or not I wanted an attorney. Because basically, they were just holding me until Detective Church arrived. And the moment he arrived, before he could even sit down in the seat, as he was sitting in the seat, I told him, "You have nothing to say that I care to hear. I want an attorney present." And he refused me.

Q During the period of time that you were with the Naval Intelligence officers, prior to Detective Church arriving, did you ask for an attorney?

A I do not recall if I did or not. I may have.

Q Are you saying that you asked them and the Naval Intelligence officers did not provide you with one?

A I just -- at what -- Would you say that again and --

Q I'm asking you, sir --

A -- rephrase that, please.

Q -- during the period of time that you were in custody, and prior to coming into contact with Detective Church, number one, did you ask them for an attorney?

A Prior to Detective Church's arrival?

Q Yes.

A Because you had actually asked me two questions. I do not recall whether I asked them or not. And the base will

not provide me an attorney. The only thing that I can get from the base is legal advice, and that is it. They will not provide me with an attorney to defend me in any way or to uphold my rights. They are there for legal advice. They are there if you have things that involve the military, if you're going up for a court-martial, say you've gotten in trouble in the military or --

MR. PANOSH: Not responsive, please, Your Honor.

MR. HATFIELD: He wants to interrupt him. He asks him a question --

THE COURT: Just answer --

MR. HATFIELD: -- he can't answer.

THE COURT: -- the question, sir. The question is pretty straightforward.

Q Did you ask the Naval Intelligence officers --

MR. HATFIELD: Objection. Asked and answered.

Q -- for an attorney?

THE COURT: Overruled. He may answer.

A For about the third or fourth time, I do not remember.

Q Did there come a time when there came JAG officers, attorneys who are assigned to the Marine Corps, who are officers of the Marine Corps, who came in and talked to you on April the 1st of '97?

A Yes. They came with the intention to have me sign the paperwork to have me released. That was the only reason

that they were there. They were there in no way to represent me.

Q Did you say to them "I need an attorney. I need to make a phone call"?

A I probably did. I do not recall.

Q And those officers in the Marine Corps, those trained attorneys in the Marine Corps, did not allow you to have access to an attorney or make a phone call; is that what you're saying?

A I do not recall. I recall requesting specifically to Mr. Church the moment he walked in that room, that I wanted an attorney, and he would not -- he denied me and would not allow me to have an attorney present.

(Mr. Panosh showed an exhibit to Mr. Lloyd and Mr. Hatfield.)

Q My question to you, sir, is, are you saying that you asked the Marine Corps attorneys for an attorney and they refused to give you one?

A I do not recall. The only time that I recall, I specifically recall, because I specifically remembered my exact words of what I had to say, I asked for an attorney to Mr. Church. That is the only time that I specifically recall asking for an attorney. If I asked anyone else, I do not remember.

MR. HATFIELD: We request a voir dire on this

whole line of questioning, based on this document that's been marked for identification. This is highly misleading.

THE COURT: Just don't make any comments.

Members of the jury, disregard the comment made by counsel.

MR. HATFIELD: May we approach the bench, Your Honor?

THE COURT: Approach the bench.

It's about time to take the morning recess. I'm going to let you take the morning recess. It'll be a 15-minute recess. Again, remember the Court's instructions. Do not come back into the court area until the Court has recessed, also.

(The jury left the courtroom at 10:43 a.m.)

THE COURT: All right, sir.

MR. HATFIELD: Your Honor, I am not trying to in any way express anything unpleasant about opposing counsel.

THE COURT: Well, just object. That's all you got to say, "I object," and the Court will rule.

MR. HATFIELD: I'd like to just say this.

THE COURT: Well, you're making comments. That's what the Court --

MR. HATFIELD: Your Honor, this whole cross-examination this morning has been highly argumentative, to the point, I believe, of going beyond normal practices in

this state.

THE COURT: Let's don't get into that, sir. The Court is here and the Court has ruled. And --

MR. HATFIELD: This --

THE COURT: -- I already had a voir dire about two documents that --

MR. HATFIELD: This witness has said that he specifically asked the officers who arrested him for murder for a lawyer and for an opportunity to make a phone call. He said it on direct examination. He said it again on cross-examination. Mr. Panosh is asking him, did the JAG officers not provide him with a lawyer, or are they -- somehow did they misrepresent the situation. Mr. Panosh has now marked for identification a document which the JAG officers say, "We are not your lawyer." And they say nothing about providing him with a lawyer. They -- the document that he has marked is not going to contradict this witness. It is perfectly consistent with what the witness --

THE COURT: Why are you objecting to it?

MR. HATFIELD: Because we have gone long enough with this. He has explained, I think as clearly as anybody could explain in a law school class, that he understood that the Marine Corps was not going to defend him in these murder charges, and that the JAG Corps was not there to give him

representation in a murder charge.

THE COURT: What's the basis of your objection, that the --

MR. HATFIELD: The objection is, number one, he's been asked enough questions about the JAG officers. Number two, this document is offered for the purposes of argumentation and trying to trick up the -- trick the witness, when he's already clearly stated that he knew that the JAG officers were not his lawyers, and the document indicates they are not his lawyers. And when he first saw Mr. Church, who was the person serving the murder warrant on him for which he's being tried this week, he told Mr. Church he wanted to make a phone call and have a lawyer.

I think we should move past this, without marking more documents and asking him the same question 15 different ways, which is what has been going on this morning. And I just ask the Court to let the prosecutor move on to the next part of this inquiry, and leave this business of the JAG Corps alone, since they were not his lawyers. It is a fact that they were not his lawyers. He's already explained that he knew they were not his lawyers and they would not offer him any advice whatsoever on how to handle his murder charges.

THE COURT: Mr. Panosh, do you wish to respond?

MR. PANOSH: Your Honor, 146-B says that Elizabeth

Ann Martineau, who was an attorney for the JAG Corps, told him that he was -- she was not his attorney, and then went on to discuss and advise him of his rights, including his right to assistance of a lawyer, and Mr. Kimble initialed that right.

MR. HATFIELD: It doesn't --

MR. PANOSH: Mr. Kimble --

MR. HATFIELD: -- say that.

(Mr. Panosh handed the exhibit to Mr. Hatfield.)

MR. PANOSH: Mr. Kimble in his direct examination went for a long period of time saying that "All that day, I wanted a lawyer, and nobody gave me one." And I'm pointing out that he was advised of his right to assistance of counsel, and he initialed it. If he wanted a lawyer, all he had to do was tell that officer. And it's certainly common sense that officer would have arranged it at that point.

MR. HATFIELD: That is not true. That is the part that we object to. There's no reason to make that assumption. The Marine Corps had no intention and no means of providing him with a lawyer. And we discussed this with Commander Soutiere when he was here yesterday, and I believe to some extent, Commander Soutiere may have said a little bit about that on the witness stand. The JAG Corps does not defend Marines in state court proceedings. And he may have put his initial alongside the words "my right to the

assistance of a lawyer."

THE COURT: The State's entitled to show that he was -- that the statement was made to him and he initialed it, and that's the extent of what I'm going to allow you to get into. Move along.

MR. PANOSH: Yes, sir.

THE COURT: We'll do that when the jury comes back. We'll take a recess. It'll be about a 10-minute recess.

(The witness left the witness stand.)

(A recess was taken at 10:48 a.m.)

(Court reconvened at 11:02 a.m. The defendant was present. The jury was not present.)

THE COURT: Okay. Mr. Kimble, if you'd come back to the witness stand, please, sir.

THE WITNESS: Yes, sir.

(The witness returned to the witness stand.)

(The jury entered the courtroom at 11:04 a.m.)

THE COURT: You may continue with your cross-examination, Mr. Panosh.

MR. PANOSH: Yes, sir. May I approach?

THE COURT: Yes, you may.

CONTINUED CROSS-EXAMINATION by MR. PANOSH:

Q Showing you now, sir, a document. And that document is labeled 146-A, B and C. Do you recognize that to be the

extradition papers signed by you on April the 1st of 1997?

(Time was allowed for the witness.)

Q Have you had a chance to review it, so you recognize it as those documents, sir?

A No, sir, not yet.

(Further time was allowed for the witness.)

A Yes, I recognize it as the extradition. But the first page was by Detective Church and not by me. That was, I guess, his part in it.

Q Drawing your attention specifically to the second page, 146-B, does that include an advice of rights given to you by Captain Martineau of the Judge Advocate Corps, which included your right to counsel?

MR. HATFIELD: Objection. It's an improper --

THE COURT: Overruled.

MR. HATFIELD: -- form of question.

(Further time was allowed for the witness.)

A Now, what was your question again, please, sir?

Q My question to you, sir, is, was that form used to advise you of your rights, including your right to counsel, by Captain Martineau?

A It was -- my rights were explained to me.

Q Including your right to counsel?

A Yes. It was explained to me.

Q And that was done before Detective Church took custody

of you; is that correct?

A Yes, but -- Well, excuse me. In what sense? Before he was able to leave those premises with me? Yes.

Q Drawing your attention then to October the 7th of 1995, do you remember that day?

A October 7th?

Q October the 7th of 1995.

A Yes.

Q Saturday, you were with Justin Dobesh; is that correct?

A Yes.

Q Borrowed your brother's trailer?

A Yes.

Q Two days later, on the 9th, you borrowed your brother's truck?

A Yes.

Q You testified on direct examination that you -- when you borrowed the truck, you went and warmed it up, because you were familiar with it and knew that it had to warm up for a while before it would run?

A I knew that it had -- yes.

Q You testified that you'd been there on a prior occasion and had not mowed the lawn, but had blown leaves for your brother?

A Yes, at some point.

Q That was prior to Patricia's death?

A Yes.

Q After you were in the Marine Corps?

A I don't remember when that was. I just -- I just recall, because I recall what his leaf blower looked like.

Q He was married to Patricia at the time, and it was Patricia's house that you blew leaves around; is that right?

A I'm sorry. Did you say were they married, or --

Q Yes.

A -- was I in the Marine Corps? Which was the question?

Q The question to you now, sir, is, at the time that you used his leaf blower and assisted him by blowing the leaves in his yard, was he married to Patricia?

A Yes. In fact -- Yes. And also, I was in the Marine Corps, because it was -- I think the first time I ever met Patricia was at my graduation, so, yes, I would say yes to both, now that I recall.

Q You testified that on October the 9th of 1995, you were at Atlantic Mobile Home Sales for an hour; is that correct?

A Well, that was just an estimation of the time. I don't know any specific amount of time that I was there.

Q Could you give the jury your best recollection of how long you were there?

A I'm sure I did at that moment.

Q Can you now give the jury your best recollection of how long you were at Atlantic Mobile Home Supplies?

A Approximately an hour, I guess. I'm not certain of the time. That was just an estimation of the time.

Q You were dealing with a salesman?

A Yes.

Q What's his name?

A I don't remember.

Q Did not go back to check?

A His name may be on the receipt. I'm not certain.

(Time was allowed for the witness.)

A No, I don't know. And I had no reason to go back and check.

Q After you were charged and it became apparent that your whereabouts of October the 9th were important to you, did you go back and check?

MR. HATFIELD: Objection. He was in jail --

THE COURT: Sustained.

MR. HATFIELD: -- after he was charged.

Q Did you request to have your private investigator go back and check?

MR. HATFIELD: Objection. That's between --

THE COURT: Overruled.

MR. HATFIELD: -- him and his investigator.

THE COURT: Overruled. He may answer.

A Did I request?

Q Yes.

A I didn't personally request for him to go back and check that.

Q On October the 9th of 1995, you testified you went to Atlantic Mobile Home, picked up the materials, went back to Lyles, in order to get permission to put gas in the truck; is that correct?

A Yes.

Q Based upon all the other times that you have borrowed the truck, you felt you still needed to get permission; is that correct?

A Well, the way that worked was, I was asking for permission. That way, I wouldn't have to pay for that gasoline.

Q Who did you talk to at Lyles while you were there asking for permission?

A I know I spoke to Ted. I'm sure I spoke to James. I don't recall if I waited on any customers at that time or not. I may have. I may not have. I don't recall.

Q What were the customers' names?

A I just said, I don't remember at that point whether I'd waited on any customers or not at that point, so certainly I wouldn't remember their names.

Q During the period of time you were at Lyles, did Mr. Ogburn assist you by loading those stakes, those wooden pieces of -- those pieces of wood that you were going to

use?

A When?

Q On October 9, 1995, sir.

A Which time that I was at Lyles?

Q On any occasion that you were at Lyles --

A Yes.

Q -- on October the 9th of 1995. When did he do that?

A Yes, that morning, either -- thinking that morning before I went to -- either before or after -- that may have been at lunchtime, when I came back, that we ran around back and threw the pickets in.

Q And during the period of time that you were putting those pickets in the truck, with Mr. Ogburn, did you have a conversation with him?

A I don't even recall when we put the pickets in. I don't recall if that was before I went to Atlantic Mobile Home Supply or after I came back. I don't remember which.

Q But you did talk to him while you were loading the pickets; is that right, sir?

A I don't remember even whether or not he helped me load the pickets. He may have picked the pickets out for me, while I was going to Atlantic Mobile Home Supply. I don't remember the scenario there. If there was any conversation between us, I don't remember. I mean, I certainly addressed him or spoke to him while I was there. I certainly seen

him.

Q In order for him to know that he was supposed to pick out the pickets for you, you had to talk; isn't that right, sir?

MR. HATFIELD: Objection.

THE COURT: Overruled.

A Well, I wouldn't have been the one to tell him to pick out pickets for me, because I'm not his employer or his boss. If he was directed to pick out the pickets, Ted may have asked him to pick out the pickets. The reason I'm saying that, I'm thinking -- I'm not positive, I think Ted actually told him to pick out the pickets while I was gone to Atlantic Mobile Home Supply. I'm not positive. I'm guessing at that. It's been so long ago, I don't remember.

Q On that day, did you talk to Mr. Ogburn?

A Yes. I talked to Mr. Ogburn all three times that I was there. I just don't remember any specific conversation, other than -- other than, when I was kidding him about buying my car. I remember that.

Q You say you got home to your trailer about 12:00 to 1:00 p.m.?

A Yes, sir, sometime around there.

Q Could you be more specific?

A No, because I'm not certain what time it was at that point. I just knew it was sometime relatively around that

time. I don't specifically recall looking at my watch.

Q And then, you decided to -- Let me rephrase that. You unloaded the materials, returned the truck, and decided to return to Lyles?

A Yes, at a later period of time.

Q Took the trash with you, I think you said?

A Yes.

Q That's a normal thing for you to do?

A Sometimes.

Q How frequently?

A If I'm going -- if I'm going up there. But usually, James dropped the trash at his workplace for me.

Q James?

A I'm sorry. James Stump, my father-in-law. A lot of times, he'd picked up the trash for us and take it and throw it in the dumpster at work for us. But on occasion, if I remembered, I might grab the trash and take it with me.

Q You went there to borrow a saw?

A No.

Q Why did you go there?

A I went there to borrow a saw blade.

Q What type of saw blade did you need?

A A fine-toothed saw blade for a circular saw.

Q To cut what?

A To cut the underpinning.

Q Is your signature on Page 4?

A Correct.

Q Okay. Showing you then 151, it says Page -- it's a two-page document. Is your signature on Page 1?

A Correct.

Q Is your signature on Page 2?

A Correct.

Q Okay.

MR. HATFIELD: We object to the second document.

THE COURT: Overruled at this point.

Q Showing you then State's 152, this is a, says five pages; is that right, sir?

A Correct.

Q Is that your signature on Page 1?

A Yes, sir.

Q How about Page 2, sir?

A That's my name. It don't look like my handwriting, though.

Q Okay. So you don't know if that's your signature?

A No.

Q Okay. How about Page 3?

A No.

Q Page 4?

A No, that one isn't.

Q Page 5?

where I could get started on putting some underpinning, so at that point, I decided to just go ahead and go up to Lyles. Which, actually, before I left, I decided to call Kim and see if maybe she would swing by and get the blade for me.

Q You asked Kim to go and get the blade for you?

A Yes.

Q When was that?

A That was when I called her around 3-- around 3:00 o'clock, maybe a few minutes after, a few minutes before.

Q What time did you go to Lyles to pick up the saw blade?

A I left around probably -- my house, I left around probably about 3:05 to 3:10, sometime in there. The reason I'm certain of that isn't because I looked at my watch, it's because I went by my old high school, and I know they get out at 3:15 --

Q So, you went to Lyles --

A -- and that's about five minutes from my house.

Q You went to Lyles at 3:00 o'clock to pick up the saw blade?

MR. HATFIELD: Objection. He did not say that.

THE COURT: Sustained.

Q Is the reason that you made a trip to Lyles at approximately 3:00 o'clock --

MR. HATFIELD: Objection.

Q -- to pick up the saw blade?

MR. HATFIELD: He did not say 3:00 o'clock.

A Shortly after --

THE COURT: Well, rephrase the --

A -- 3:00, I left my house.

THE COURT: Answer the question, sir.

A Shortly after 3:00 o'clock, I left my house --

THE COURT: He's answered --

A -- with the intention --

THE COURT: -- the question, Mr. Panosh.

Q Why did you go to Lyles around lunchtime?

A I was going back by there after I had -- after I had purchased the underpinning from Atlantic Mobile Home Supply, I went by there with the intention to ask Ted if he minded if I filled the box truck up with gas on the business account. And I also called to see if my wife wanted me to meet her for lunch.

Q So, the time that you went there to discuss with him gassing the truck was around lunch?

A It -- it was probably shortly before -- I would imagine it was shortly before noon.

Q How many pickets did you have up before you left to get the saw blade?

A I don't recall. Three or four. I don't specifically recall. Because I had put the track down first.

Q So, when you left to go to Lyles, you had -- at approximately 3:00 o'clock, to pick up the saw blade, you had track down and three to four pickets up?

A Yes. I had screwed them up.

Q And you went back to Lyles, and the first thing you did was, got the saw blade from Ted?

A Yes.

Q Where was that kept?

A Do what?

Q Where was that kept?

A I believe -- I believe it was in the office. I believe he walked out and handed it to me.

Q And then you hung around to wait on customers?

A Yes. Well, actually -- actually, I went out and helped Steve a little bit. I was trying to explain to him how to work on the -- do the -- cut out -- I can't remember which portion he was working on. It was either cutting out parts or actually building the dog houses. I don't remember which, but I tried to explain it to him.

Q And then you hung around to help out customers?

A Well, I wasn't particularly hanging around to wait on customers, but, yes, I waited on some customers --

Q Who did you wait on?

A -- because they were very busy.

Q Excuse me? Who did you wait on?

A I don't recall anybody specific. But I was told, after that period of time, that --

MR. PANOSH: We object.

A -- a customer specifically said that --

THE COURT: Sustained.

Q You don't recall the names of the persons you waited on?

MR. HATFIELD: Objection. He asked him a question

--

THE COURT: Sustained.

MR. HATFIELD: -- and then he objects to the answer.

THE COURT: He's answered it.

Q In any event, you returned to your home, to your mobile home, after waiting on those customers?

A Yes. Well, I did speak to James before I left.

Q James Ogburn?

A Yes.

Q Probably the last thing you did before you left?

A Yes. I recall that being my last conversation, because I was getting in my car to leave.

Q And then at approximately 4:50 to 5:00 o'clock, Mr. James Stump arrived at your place of business -- or your place of home, rather -- your mobile home?

A Yes, at 4:50.

Q And on cross-examination, you said that in January of 1997, you were directed to go to the hospital by your supervisors, the hospital at the Norfolk naval base, in reference to the sleep study; is that correct?

A Yes, by direction of my doctor. And they -- by direction of the doctor, the orders were cut for me to go and have the sleep study done.

Q And those orders required that you be back to work January --

A I believe on that Thursday or Friday.

(Time was allowed for Mr. Panosh.)

Q The orders required that you be back to work on the 26th of January, a Sunday; is that correct?

A I didn't recall it as being that.

Q What do you recall it being?

A I'm not certain. I was thinking it was required, since the test would be finished on Thursday, driving time, I would -- I would figure I would have to have reported in Friday evening. I'm not -- I'm not sure.

Q So your orders would have required that you return to the base at Camp Lejeune on Friday evening, the 25th (sic)?

A That's what I had thought. I'm not sure, because you're saying the dates are different. I'm not -- I don't know.

Q Do you need to see a calendar, sir?

A Well, a calendar isn't going to do me any good, because I don't remember what the date was that the orders said. I'm just speculating.

Q Do you remember which day the orders required that you return to Camp Lejeune?

MR. HATFIELD: I believe he just answered that.

A No.

THE COURT: Sustained.

Q Where are those orders?

A There would be a -- should be a copy in my service record.

Q Do you have that with you?

A No, I do not. That would be in -- that would be in the -- in possession of the Marine Corps, and at this point, I believe it has been reduced to microfiche.

Q Do you remember testifying on direct that the reason that you left Mitch Whidden's home on the morning of Saturday, the 25th, was that it was because you had to be back for Sunday service at Camp Lejeune on the 26th?

A Yes. I had duty. But that had nothing to do with my orders on --

Q The orders would not have reflected that duty that day?

A No.

Q The orders would have reflected that you had to be back on Friday?

A May I explain, to save a lot of hassle?

Q If you would answer the question, and then you can explain, please.

A Would you repeat the question, please.

Q Your recollection is that your orders required that you be back at Camp Lejeune on Friday, the 25th?

A I don't remember what the orders stated. I'm assuming that they would have given me -- since the tests would not be completed until sometime on Thursday, I would imagine that they would have gave me Friday morning for driving home and expected me to be back that Friday evening. But the -- so may I explain this, so it makes sense?

THE COURT: If your answer requires an explanation, you may do that, sir.

THE WITNESS: Okay.

A The situation on this was, the orders were cut for me to go up there and have the sleep -- the sleep study done. The orders would not reflect my duties at my assigned duty station. These orders were apart from that. These orders overrode any duties that I may have had. What I had done was, my -- I would have been due back to be back before Sunday, because of my orders. But to save myself from having to drive all the way back to Camp Lejeune, just to check in and say that I'm there and then be off, because I was supposed to have that Friday off -- because I had to

work Sunday, I had Friday off. So I arranged it with -- I got consent from my -- those -- from my superiors that instead of having to return because of the orders, to check in with Camp Lejeune, that I could just go ahead, and from the -- from the time I was released from the hospital, that have them -- I believe have them sign my papers that I had been released, and just return on Sunday and check in, that I was -- had returned.

Q What superior did you arrange that with?

A I'm sorry?

Q You said you had arranged it with your superior. What superior did you arrange that with?

A I believe that would have been Master Chief Morales. I'm sure I went to him to get it arranged. I doubt if he is the person to -- who had approved it, but he is my direct superior, in which I would have had to go through to get something like that approved.

Q Is that the Victor Morales that appears on your witness list?

A Yes, it is.

Q When you left Portsmouth and drove to Lynchburg, it would have been on the 23rd, is that correct, of January of 1997?

A May I see a calendar, please?

MR. HATFIELD: Objection. He's never left

Lynchburg and drove to Portsmouth.

Q I'm sorry. Let me rephrase that. When you left --

THE COURT: Sustained.

Q -- Portsmouth to drive to Lynchburg, it would have been on January the 23rd; is that correct?

A I don't know. I only know by days.

Q What day, sir?

A I don't know the dates.

Q What day of the week did you leave?

A From Portsmouth to go to Lynchburg? Thursday evening.

Q And I believe you said you were tired, because you hadn't gotten a good night's sleep the night before?

A Oh, I had gotten plenty of sleep, but as a result of that test, that test basically wears you out, and that is something they warn you of.

Q Now, the test consisted of sleeping eight hours --

A Yes.

Q -- during the nighttime --

A Yes, sir.

Q -- or more?

A Yes, sir.

Q And then five naps the following day?

A Yes, sir.

Q And that wore you out?

A That is what they expect. They say that regularly

happens, despite the fact --

Q Without stating what they expected, sir, did that wear you out?

A I felt pretty worn out. I was -- I was pretty wired up, because I'd had so much sleep, but I was almost like a zombie, because of the fact I'd had so much sleep. I don't know how to explain my condition. I did feel exhausted to a degree, but not -- I guess --

Q When you drove to --

A -- I guess not physically.

Q When you drove to Lynchburg, what were the weather conditions on that Thursday evening?

A I guess fair. I don't remember specifically. I think the conditions were okay.

Q On Friday, when you spent the day with the Whiddens, what were the weather conditions?

A Now, over in Lynchburg, it was icy.

Q When you say "icy," what do you mean?

A Now, I don't know if it was icy the night we came in. I know that it was a little bit chilly. I believe I was wearing my heavy coat, so I think it was a little bit chilly that evening. I'm not sure.

Q When you say the conditions were icy, what do you mean?

A Well, because of the temperature being low, the moisture that had -- any moisture that had accumulated in

any areas, it had turned to ice.

Q Are you saying that it was raining or sleeting, sir?

A I don't recall it -- I don't recall it raining or sleeting. I'm saying the accumulation of any moisture, water puddles, it had -- because of the low temperature, had froze up, I believe. I don't specifically recall. I'm -- I'm really guessing. I know certainly on the next day, on Friday, I know that it was icy, because the trees -- the trees and vehicles had started icing.

Q And did you hear your wife testify, did you hear Kimberly Kimble testify that the reason that you decided to leave on Saturday morning was to avoid the ice conditions?

A No, not at all. Well, did I hear her testify to it? I --

Q Yes, sir.

A -- don't recall how she spoke of that.

Q Is that accurate, sir?

MR. HATFIELD: Objection. He just said --

THE COURT: Sustained.

Q Let me ask you this. Is it accurate that there were icy conditions on Saturday morning?

A Yes, but that was not our intention of leaving Saturday morning.

Q When you say icy conditions on Saturday morning, what are you referring to?

A I didn't say icy condition on Saturday morning.

Q Let me ask you again, sir. What were the weather conditions on Saturday morning when you left Lynchburg?

A I don't think there was any ice on the streets. I think there was ice on the trees and vehicles, stuff of that nature, but I don't recall there being any ice at all on the streets when we left.

Q And was there an ice storm or sleet or anything like that predicted for that area --

MR. HATFIELD: Objection. That --

Q -- if you know?

MR. HATFIELD: -- calls for hearsay.

THE COURT: Sustained.

Q Was the upcoming weather a factor in your decision to leave on Saturday morning?

A Not mine personally. I was -- we were -- I intended to leave that Saturday morning, because of the fact I wanted to get back home, get some rest, before I had to drive another four hours to go back to Camp Lejeune.

Q Did you discuss the weather with your wife, in making your decision to leave Saturday morning?

A No, I don't recall that being any factor of us leaving. We intended to leave, so that I could get back, get some rest and then leave Saturday evening, to go back to Camp Lejeune, because I had duty on Sunday morning.

Q When you went to dinner -- or excuse me, when you arrived at Lynchburg, were you low on cash, as Kimberly indicated?

MR. HATFIELD: Objection.

THE COURT: Sustained.

Q When you arrived at Lynchburg, were you low on cash?

A I -- the thing that lost me there, I don't know which she was referring to. We had money in the bank. We had money on credit card. I don't think we had a lot of currency on us at the time. I'm not certain of the amount of currency that we had, because of the fact, Kim handles all of our money.

Q When you paid for the meal that evening, did you use the credit card or cash?

A I'm pretty certain we paid cash. And again, I think I got the money from Kim to go pay for it.

Q When you walked to Best on that particular occasion -- excuse me, when your -- when you drove and the women that were with you walked to Best, was it icy?

A I don't recall whether or not it was -- I don't think it was. I mean, there -- I'm sure -- yeah, there was ice on the trees, and again, there was ice on the vehicles, I believe. But that's all -- that's the extent of what I recall. I don't recall it being on the streets.

Q That evening, you and the Whiddens got together in

their apartment; is that correct?

A Yes.

Q And --

A After we returned from dinner?

Q Yes.

A Yes.

Q Would you say you were having a good time?

A Had a good time the whole time I was up there.

Q Pleasant?

A Yes.

Q And then you went upstairs with Mitch Whidden; is that right?

A Yes.

Q Did you tell him at that time that -- about the gas receipt?

A No, I don't recall -- I recall telling him about the gas receipt before he ever left to go to Lynchburg.

Q Do you recall when there was a telephone call to or from Mrs. Stump, prior to you going up to the upstairs with Mitch Whidden?

A Yes. That was actually prior to dinner.

Q And did you discuss the gas receipt at that time?

A I don't recall any discussion of the gas receipt in Virginia. I made Mitch aware of that down at Camp Lejeune, when we were shooting pool.

Q But you do recall sitting with Mitch upstairs, and you each had prayer requests?

A Yes.

Q And he asked you how things were going at home?

A Yes.

Q And you took that to mean that he was referring to the case?

A I knew specifically what he was referring to. And I can't remember his specific words, but I know specifically what he was referring to. I -- I believe -- I don't know if he said something -- I don't remember his wording. But more or less, he either said something about "How is things -- the investigation going with your sister-in-law?" something along those lines, that I knew specifically in what reference he was referring to.

Q And you told him about your dream?

A Yes, I did.

Q When did you have that dream?

A I don't recall. Sometime prior to arriving in Virginia.

Q Where were you when you had the dream?

A I believe I was at home one time, and I may have been at base the other time. I don't -- I don't recall.

Q Same dream twice?

A Basically.

Q And the details of the dream were?

A I dreamed that someone was present in the house with Patricia. I recognized Patricia, but I did not recognize the other person. I don't even recall a face. Even if I seen somebody -- I wouldn't know who it was. And I -- after hearing a loud noise, I woke up.

Q What part of the house?

A I don't know. It -- it wasn't -- it was just a house. I don't know whose house. I -- I can't recall at this point. It -- at the time I had the dream, it was a vivid dream, but at this point, I've stated the specifics of what I recall.

Q And this dream upset you enough that you felt it was necessary to discuss it with Mr. Whidden?

A Well, I wouldn't say that it upset me. I was certainly curious, you know. I felt basically what I -- because of the things that had been on my mind, I felt basically like I was dreaming of the person that murdered Patricia, but obviously since I didn't know who killed Patricia, obviously that person drew a blank.

Q The question to you, sir, was, is it a fact that this dream upset you enough that you found it necessary to discuss it with Mitch Whidden?

A I said no.

Q But the first thing that you told Mitch Whidden, after

he said, "How are things going at home in regard to the investigation?" was about the dream?

A I said that basically the stuff had bothered me enough. I didn't say that the dream bothered me. I said that this stuff -- as far as basically what -- and when I refer to that, what I'm talking about, I'm talking about them questioning me, them questioning my friends, and so on, that kind of thing. It had been on my mind a lot. So I in turn dreamed about it. That was the way -- in the context of which I told Mitch.

Q So when Mitch asked you how things were going at home, you said that what was bothering you was that they had questioned your friends?

A I didn't put it in that way. I just -- the best I can recall, I just said, basically that this stuff had bothered me enough or been on my mind enough, I can't remember the exact words that I used, something along those lines, that I had even dreamed about it.

Q And you were referring to the fact they had questioned your friends?

A I was referring to -- I was just giving that as an example of why these things were on my mind enough that I had dreamed about them.

Q In fact, the questioning of your friends didn't occur until March 4, 5, 6 and 7 of 1997 --

A No --

Q -- and this was January the 25th of 1997, so you couldn't have been referring to the questioning of your friends, could you?

A Yes, I could have, because they questioned a very close friend of mine and tried to accuse him of driving my car.

Q Who was that?

A Neil Silverthorne.

Q And when was that done?

A That was done way prior to my visit with Mitch Whidden.

Q The interview with Neil Silverthorne was prior to talking to Mitch Whidden?

A As far as I can recall. The best I can recall, that was prior.

Q That was the one friend that you knew about?

A Well, I knew that -- Hold on. I knew that was something personal to me, but then -- I was just using that as one specific example. There were many things. They were questioning my family. They came to me on numerous occasions. They came to me -- or I had the -- I had the interview with Agent Munroe. And then they -- I had an interview with Sergeant Deberry. And then, I believe an interview with Mr. Church and Mr. Pendergrass. They came to me at a different time and got my fingerprints. They came to me at a different time, took my photo. So it was on

numerous occasions that I had contact with them, I had cooperated with them. But it had come to my attention, it was apparent that they were trying to accuse me.

Q Did you say a few minutes ago "I said this stuff bothered me, that they were questioning my friends"? Isn't that what you told the jury a few minutes ago?

A I may have used those words, but when I said "friends," I was speaking in general. Maybe I was referring -- I don't -- I chose a poor word. Okay? I said friends. I meant friends and family or friend and family. I don't recall --

Q And the questioning --

A -- who was questioned at that point.

Q And the questioning of your friends occurred in March of '97; isn't that right?

A I was speak-- when I made that remark, I was referring to basically specifically one person.

Q You told Mitch Whidden about this dream?

A Yes.

Q Did you tell anyone else about it?

A I mentioned it to my wife.

Q You told your wife about it?

A I didn't go into no great detail about it, but I told her I felt like I had dreamed about Patricia's death.

Q Isn't it a fact that she was asked that, and she denied that you told her about the dream?

MR. HATFIELD: Objection.

MR. LLOYD: Well, objection, Your Honor.

THE COURT: Sustained.

MR. LLOYD: That is not true.

THE COURT: Sustained.

MR. LLOYD: Ask to strike the question.

THE COURT: Members of the jury, disregard that question.

Q When did you tell your wife about the dream?

A I don't recall. Like I said, I didn't go into no specific detail with her over it.

Q Well, what did you tell her about the dream, the same dream that you related to Mitch Whidden?

A I just said that I had had a dream. That's -- I don't recall going into it. I mean, at the time that Mitch and I had discussed it, we were both -- he shared a dream with me, I shared a dream with him.

Q Drawing your attention to when you're talking to your wife about this particular dream, what details did you give your wife?

A I don't remember.

Q Did you identify Patricia in those details?

A I do not -- with who?

Q With your wife.

A I don't think I went into no detail about it. I just

-- I just stated the fact -- the best I can recall, I just stated the fact that I had had a dream about Patricia's death.

Q So, Mitch Whidden was the first and the only person that you discussed the specifics of this dream with?

A Yes, because we were discussing -- both had discussed dreams.

Q Did you talk to the people at the sleep study and tell them about this specific dream?

A No. I seen no need to. I told them that I had -- I did not dream a lot, but when I did dream, I dreamed vivid dreams.

Q In the course of them working you up for the sleep problems that you referred to, they referred you to a psychiatrist; isn't that right?

A That was one of the tests that I had to go through, in order to just eliminate the possibility that it would be a sleep disorder caused by mental problems. Because narcolepsy is basically a sleep disorder that is caused by nerves.

Q Did you tell that psychiatrist about this dream?

A No. I don't even know if I had it at that time. I don't recall.

Q This psychiatrist was available to you through the services of the Marine Corps; is that correct?

A Yes. And he gave me a clean bill of health.

Q And he would have been available to you to discuss this dream, if you thought it was appropriate; isn't that right?

A Yes.

Q And you told Mitch Whidden about the reward?

A Yes.

Q There in the bedroom?

A In the context of the dream.

Q Do you remember in your direct examination saying, when you were talking about the Lejeune conversation, "Actually, I had not told him about the fact there was a reward, before our conversation at Camp Lejeune"?

A I don't recall saying that, because as far as I know, I've always said, and I know for a fact, Mitch was aware of all the reward money, because that was a topic of conversation, because -- the reason I specifically remember that, because I had discussed the fact that I was disgusted that a detective had basically offered this reward money to -- for a witness, to tell him what he wanted to hear.

Q And you know that -- you knew that at this point, when you're talking to Mitch Whidden?

A At which point?

Q When you talked to Mitch Whidden upstairs in the bedroom, you knew what a detective had offered a witness?

A I don't know what he offered him, but I know that he

insinuated that if that certain individual told him what he wanted to hear, then he could collect on a lot of insurance money -- a lot of reward money.

Q You told Mitch Whidden that?

A Yes. At the time I heard -- at the time I heard it, it was on my mind. And I remember talking to him about it when we were shooting pool. I told him it disgusted me.

Q During the period of time that you were upstairs with Mitch Whidden in your bedroom -- his bedroom, when you were talking about the dream, did you also tell him about the reward money?

A Yes, but that -- I told him that was part of the dream.

Q You told him the reward money was part of the dream?

A Yes. The part -- the first part of the dream, I had dreamed about -- and I don't remember dreaming that both times, I remember dreaming that once, that Ted had offered a \$20,000 reward.

Q And in fact, Ted did offer a \$20,000 reward right after the death of his wife?

A Yes, he did.

Q And in fact, he announced on that occasion and subsequent that that reward was good for one year, and it was revoked on the first anniversary of her death; isn't that right?

A I don't remember the details of it.

Q My question to you sir, is, is that correct?

A I don't know.

Q That was not general knowledge around the community?

MR. HATFIELD: Objection. I don't think --

THE COURT: Sustained.

Q But in your subsequent conversation at Camp Lejeune, you said, "He told me I could go to my brother and ask about the reward money"?

A Yes, I recall him saying something to that degree. I don't remember the exact words that he used.

Q Not the insurance money, the reward money?

A He said -- he said reward money.

Q What did he say about going to your brother and asking about the reward money?

A It was in the context of what he had asked. I believe prior to that, he said something to the degree that -- it was something within the context of which he had asked me whether -- you know, if I was sure that it was a dream, and I -- told me that I could be sure if I asked my brother. And I told him, my brother would think I'm crazy, that that was in the context of a dream.

Q You could be sure if you asked your brother what?

A I could be sure that whether or not it was a dream, if I went and asked my brother for this reward money.

Q In fact, he was telling you, you could be sure it

wasn't a dream if you asked your brother for the money he was supposed to pay you for the death of Patricia, wasn't it?

A No.

Q He didn't say that?

A I told him -- he referred to it as reward money.

Excuse me. I don't know that he referred to it as reward money, but that's what I thought he was talking about.

Q Didn't you say three times before this jury in the last three minutes that he referred to it as reward money, and now you're not sure?

A Well, that was -- Excuse me. That was my assumption that that's what he was talking about. To my knowledge, that is what he referred to it as being. But I don't want to put words in his mouth. I don't remember how he referred to it. I think I would have certainly noticed if he said it otherwise.

Q Isn't it a fact, sir, that you said three times to this jury that "He told me to ask my brother about the reward money" and now you're not sure?

A I know that he told me that, but what I'm saying is, whether or not he referred to that as reward money, I don't recall specifically. Certainly I think I would have noticed if he had said otherwise, if he had told me that it was -- if he had expressed it had been -- supposed to be some kind

of payment.

Q And you said you now believe that Mitch Whidden is very confused; is that correct?

A I don't know what Mitch Whidden is. I think that he created some kind of assumption.

Q And that assumption is that you killed Patricia?

A Yes.

Q For --

A It is apparent by his testimony.

Q For insurance money?

A I don't know that that was his assumption. I didn't hear him state for insurance money.

Q His assumption is that you were promised to be paid by your brother to kill Patricia?

MR. HATFIELD: Objection. That's not consistent with Mitch Whidden's testimony. He knew nothing about insurance.

THE COURT: Members of the jury, you'll take your own recollection of the evidence.

A What is the question?

Q What is the assumption that you believe he made?

MR. HATFIELD: Objection. He doesn't have to --

THE COURT: Well, sustained as to that.

Let me interrupt.

Members of the jury, stand up and stretch a

moment, if you'd like.

Those people out in the hall can come in at this time, if they'd like.

(Time was allowed.)

THE COURT: You may continue.

Q How do you explain that Mitch Whidden's description of how the murder occurred is exactly the same as the description --

A Can you start --

Q -- that Patrick Pardee --

A -- over. I -- Can you start over. I couldn't hear you, with the movement.

Q How can you explain, sir, that Mitch Whidden's description of how the murder occurred is exactly the same as the statements made by your brother to Patrick Pardee as to how the murder occurred?

MR. HATFIELD: Objection.

THE COURT: Overruled.

A Because of the fact that he knew all the details that everybody else, everybody here in this courtroom knew, prior to this trial.

Q Who's that?

A Mitch.

Q Mitch knew all the details? Mitch knew that Patrick Pardee --

MR. HATFIELD: Objection.

Q -- was told by --

THE COURT: Overruled.

Q -- Ted Kimble how the murder occurred?

MR. HATFIELD: Objection.

THE COURT: Sustained.

Q Are you saying --

A That was in the newspaper.

MR. HATFIELD: Objection. He doesn't have to --

THE COURT: Sustained.

MR. HATFIELD: -- answer the question.

Q Are you saying that the reason that there's a similarity between what Mitch Whidden has testified to and what Patrick Pardee has testified to is because Mitch Whidden knew what Patrick Pardee knew?

MR. HATFIELD: Objection. He --

A I don't --

MR. HATFIELD: -- doesn't have to answer about a similarity.

THE COURT: Overruled.

A I don't understand what you're referring to. I don't -- I don't understand the question.

Q Mitch Whidden testified that you were to be paid to kill your sister-in-law, Patricia, and that you did that, correct?

A No. I mean, I -- that is Mitch's assumption.

Q That's what he testified to?

A Yes. I -- certainly, I guess.

Q Patrick Pardee testified that Ted told him that you killed Patricia for the insurance money?

A I don't know what Ted told Patrick Pardee.

Q Isn't that what he testified while you were present in this room?

A I recall him saying my name, but I don't recall him saying that it was for insurance money or for money in any way.

Q And how do you explain the fact that those two people came up with this same description of how the murder occurred?

A That wasn't the same description.

MR. HATFIELD: I really think this is going too far, in making the witness --

THE COURT: Would you like to make an objection, sir?

MR. HATFIELD: Yes, sir. I'm sorry.

THE COURT: Sustained.

MR. HATFIELD: Thank you.

Q Are you saying that Mitch Whidden and your brother were conspiring?

MR. HATFIELD: Objection.

THE COURT: Overruled.

MR. HATFIELD: Objection. There's no basis for that.

A Ask the question --

THE COURT: Sustained.

A -- again, please.

THE COURT: Rephrase it.

Q Are you saying that Mitch Whidden conspired with Ted Kimble, so that Ted Kimble would say the same thing to Patrick Pardee?

A I don't understand that.

Q Are you saying that Mitch Whidden conspired with Ted Kimble, so Ted Kimble would describe the murder to Patrick Pardee the same way that Mitch Whidden would describe it when he testified?

A That makes no sense to me, Mr. Panosh.

Q Are you saying that --

A How can -- this is what I'm not understanding. How can Ted Kimble -- how can Ted, my brother, conspire with Mitch Whidden, to which, the best of my knowledge, they don't know each other?

Q Do you believe Ted Kimble is responsible for Patricia's death?

A I do not know. I -- I have my suspicions, but I would like to say that my brother had nothing to do with his

wife's murder.

Q Do you believe that Ted Kimble is responsible for Patricia's death?

A No, I do not.

Q You do recall that dinner in Lynchburg with the Whiddens?

A Yes, I do.

Q You do recall discussing the fact that you may or may not have been called to the ministry?

A Yes, we discussed that.

Q So that part of what the Whiddens said was accurate?

A Yes.

Q Do you recall making excuses about your dog and your trailer and not knowing if you wanted to come to the ministry?

A No.

Q That part was inaccurate?

A I don't think that would take -- yes, that's inaccurate.

Q And when you -- when Debra Whidden testified that you said that you had a haunted past --

MR. HATFIELD: It's already been asked.

Q -- that was inaccurate?

THE COURT: Sustained. He's answered it.

Q Mitch Whidden, in the course of that conversation with

you in the bedroom, asked you if you told the police about your dream?

A I don't recall if that was there or at Camp Lejeune. I don't remember which.

Q Do you recall saying that you laughed?

A Yeah, I laughed at the gesture, because of the fact it was a dream.

Q Do you recall saying that anything you told them, they would twist around?

A Yes, I said something along those lines.

Q Well, what was the basis of that, sir?

A What was my basis? Because I knew from the prior statements that I had given, that they will try to make something say what they want it to. And in fact, they write down what they want to hear.

Q Sir, the only real statement you gave to this detective was in June of '96; isn't that right?

A Yes, that was the only formal interview that we had, where I went and met him on his -- on his terms, under his conditions, and I gave him -- answered every question that he asked me.

Q And on that occasion, they allowed you to tape record your own statement?

A Yes, they did.

Q Well, how could they twist it around, sir?

A I only had one 30-minute tape with me. I didn't think this interview was going to take no four hours. And after this tape ran out, I just let it go. And later on in the interview, when Mr. Church started raising his voice and getting nasty with me, I reached over and turned this tape recording back on, and he automatically went from a high-pitched, mean voice down to an absolutely normal voice.

Q They did allow you to tape record any part of the conversation you wanted?

A Yes, they did. But like I said, I did not even -- I didn't -- only had one tape with me. I certainly didn't expect to spend four hours being questioned.

Q Do you remember talking to Father Soutiere?

A Yes.

Q Father Soutiere suggested that you use your brother's lawyer?

A Yes.

Q And that was right after the death of Patricia?

A Yes.

Q So you'd obviously told him that your brother had a lawyer?

A At some point. I don't know when.

Q Well, it would have been before he suggested you use that lawyer?

A Yes.

Q And you never said, "I can't use that lawyer, because my brother and I aren't close," did you, sir?

A That -- that lawyer was hired for Ted, not for me. I had any -- had no -- I didn't have no rights to use him in any way. I certainly wasn't going to ask him to defend me or listen to -- in on this stuff in any way. He wasn't my lawyer. I -- I don't know what more to say, other than that.

Q When you were arrested on April the 1st, you said that Mr. Church was badgering you, kept calling you Mr. Kimble --

A Yes --

Q -- is that right?

A -- he badgered me, because he was telling me that he wanted me to tell him the truth of what he wanted to hear. He -- what he was wanting me to do -- well, that's what he was wanting me to do, he was wanting me to give him a full confession to what he wanted to hear.

Q And he kept calling you Mr. Kimble when he was badgering you?

A I don't remember how he referred to me, whether he referred to me as Ronnie or Kimble. I don't know which.

Q In your direct testimony, didn't you say he kept referring to you as Mr. Kimble?

MR. HATFIELD: Objection.

THE COURT: Overruled.

A I don't recall saying that in my direct testimony. I may have. I don't know.

Q And you complained about not getting your rights soon enough on April the 1st?

A Do what?

Q In your direct testimony, you complained that you were not given your rights quickly enough on April the 1st; is that right?

A They held me all day long and did not read me my rights or allow me the right to an attorney until sometime after 7:00 that evening.

Q Immediately after you left the custody of the Naval Intelligence officers and were turned over to Detective Church, didn't he give you the option of going before a magistrate in Onslow County, right there in Jacksonville?

A It was explained to me by the JAG officer that by signing these release papers -- if I did not sign these release papers, that they would put me out in town, at a local jail, and eventually I would still end up transferred to Greensboro. And basically, to avoid being in Detective Church's custody any longer -- because I'm certain that if I had gone that route, that he would have certainly been the person to come and pick me up from that jail and transport me, to try to get another opportunity to try and badger me and question me. So that was one of the reasons I went

ahead and signed the release papers, other than the fact that I also wanted it to be more convenient for my family, to be able to come and visit me, and it would certainly have been difficult for them to come 200 miles to see me.

Q My question to you, sir, is, didn't Detective Church, as you were leaving the Naval Intelligence -- or the naval base -- excuse me, the Marine base, didn't he give you the option of going directly before a magistrate in Onslow County there in Jacksonville?

A No, he did not. The JAG officer explained that stuff to me.

Q And if you had gone to a magistrate in Onslow County, you'd have had your booking and your rights done right then, and you wouldn't have had to wait through the four-hour trip to Greensboro; isn't that correct?

A I don't know.

Q Well, the time that you were read your rights is when you were booked and all the paperwork was done; isn't that right?

A Shouldn't -- I don't know what the laws was. I felt that I should have been read my rights the moment he served the warrant against me.

Q Regardless of what you felt, sir, isn't it correct that as soon as you went through the booking process in Greensboro, you were given your rights?

A After I had been questioned and badgered, yes. After they finally -- and then after a four-hour trip, where he again, he was asking me personal questions about someone I worked with --

Q And isn't it a fact --

A -- he then read me my rights. When I got -- when he got me back here to Greensboro, and stuck me in a room for a few minutes, and then come back with paperwork, then he decided to read me my rights.

Q Isn't it a fact, sir, that if you'd gone before that magistrate in Onslow County --

MR. HATFIELD: Objection.

Q -- as you were given the option, you would have been read your rights during that immediate booking process?

MR. HATFIELD: He's already answered.

A I don't know.

THE COURT: Sustained. He's answered.

Q You indicated that you were irritated with the Guilford County Sheriff's Department right after the investigation, because you knew about that gas receipt, and they had never questioned you?

A I felt that they were doing a sorry investigation, from the things that I'd heard, and that was one example that I personally knew of. I thought they done a poor investigation, when, if they investigated that scene for two

days, and did not find that gas receipt with my signature and the date on it, they would have automatically known that I had been there that day --

Q Did it cross your --

A -- because it had --

Q -- mind that perhaps the gas receipt was stolen?

MR. HATFIELD: Objection.

THE COURT: Sustained.

Q There's no dispute to the fact, sir, that you were the last person at Patricia Kimble's house, that anybody knew about, prior to her death --

MR. HATFIELD: Objection.

Q -- in the weeks immediately following her death?

THE COURT: Overruled.

A Well, I certainly was not the last person there. Obviously someone else was there after my presence, because whoever was there after I was there killed Patricia.

Q Isn't it a fact, sir, that you were the last person there that everybody knew about?

A Well, we all know that somebody was there after me.

Q Sir, aren't you the last known person?

A Oh, yes, I'm the -- I -- I'm the last known person, because I said that I was there at 1:15.

Q And in the weeks, days and weeks following her death, before you went back to Camp Lejeune, you never thought it

was important to go to the sheriff's department and say, "Hey, I was there at 1:15, and this is what I saw" or "this is what I didn't see"?

A I had seen nothing to tell them about. I seen no importance for me to tell them.

Q I thought you just --

A And I assumed -- and I assumed, since the gas receipt was there, with my signature and date on it, I figured -- assumed that surely that they would come and talk to me.

Q Gas receipt was important, in your opinion?

A Yes, considering it had my signature and the date on it, surely that they would come question me, since it had --

Q Didn't you --

A -- the same date on it.

Q And you didn't think it was appropriate to go to them and point out the fact that you were there at 1:15 and there was a gas receipt on the seat of that truck?

MR. HATFIELD: Objection. Asked and answered.

THE COURT: Overruled.

A What was the question, please?

Q You didn't think it was important to go to the Guilford County Sheriff's Department and point out to them that you were the last person there, at about 1:15, and that there was a gas receipt in the truck?

A I seen no importance to that, because the fact I didn't

see anything to be able to tell them. I didn't see in any way that I could have helped them.

Q From the date that Patricia was killed, on October the 9th of 1995, until October the 30th of 1995, when you were interviewed by Naval Intelligence officers, you never went to any law-enforcement officer and told them about the fact that you were at her house that day --

MR. HATFIELD: Objection.

Q -- at approximately 1:15?

MR. HATFIELD: Asked and answered.

THE COURT: Overruled.

A No.

MR. PANOSH: No further questions.

MR. HATFIELD: Thank you.

May I go ahead, Your Honor?

THE COURT: Yes, you may.

REDIRECT EXAMINATION by MR. HATFIELD:

Q Mr. Kimble, I'll show you what's been marked for identification Defendant's Exhibit 20, ask you to look at that and identify it for the jury, please.

A This is the reward poster that was done up by Ted, my brother.

Q Does it have any expiration date on it?

A No, there's no expiration date on it.

Q Does it have any origination date on it?

A No.

Q Have you seen it before today?

A Oh, yes. I seen it posted at Sprinkle's Gas Station.

Q Where else have you seen it?

A I've seen it posted at Lyles Building Material. I believe it was posted -- I can't -- those are the specific places I remember seeing it. But I believe it was posted basically at various grocery stores on billboards of that nature.

Q Do you know whether your brother was serious about paying this reward, if anyone came forward?

A Oh, yes.

MR. HATFIELD: Move for its admission, Your Honor.

THE COURT: The Court'll allow the introduction of Defendant's Exhibit Number 20.

Q Mr. Kimble, I don't know the exhibit number, but just to save time, if you will look at this Report of Medical History. Is that the same as the exhibit that Mr. Panosh asked you questions about yesterday?

A Yes.

Q Was it -- can you read the date on there?

A January 27, 1993.

Q Now, when -- under Section 9 of this Report of Medical History it says, "Have you ever," and it lists five conditions, doesn't it?

A Yes.

Q And one of those is, "Coughed up blood," right?
Another one's "Attempted suicide"?

A Yes.

Q And the last one, "Has been a sleepwalker"?

A Yes.

Q Do you see that? Now, you told Mr. Panosh yesterday that when you answered this form, that you allowed the person who was filling --

MR. PANOSH: We object, please. He's leading his own witness.

Q Did you --

THE COURT: Overruled.

A Can I just explain it?

Q Well, just let me ask you a question.

A Okay.

Q Did you put these check marks in these various categories yourself?

A I believe so.

Q Or did the interviewer put them there?

A Let me see this just a moment.

(Time was allowed for the witness.)

A I'm not certain. The interviewer may have. I know I filled out -- I am not positive, but I think -- the interviewer may have. I'm not certain. I can't remember.

Q Now, you did in fact check the "No" box or the interviewer checked the "No" box next to the line "been a sleepwalker"; is that right?

A Yes.

Q Now, will you explain to the jury why, if you had experienced sleepwalking at an earlier time in your life, that you let the interviewer or you yourself check "No," instead of "Yes"?

A Yes. Basically, what they want to know on this is --

MR. PANOSH: Objection to what they want to know.

A -- if you have --

THE COURT: Sustained as to what they want to know.

Q Just tell what you -- your intention was in filling out that particular part of the form.

A It was my understanding, my knowledge, that --

MR. PANOSH: Object to what his understanding was.

THE COURT: Sustained.

A Would you please ask the question again.

Q Did you -- when you checked that form, were you aware that you had ever slepwalked?

A I'm not certain that I did. I don't know if it was after that period of time that I had talked to my mother about it, and she had brought to my attention that I sleepwalked as a child, or not.

Q Now, looking back on your life now -- you're 26, aren't you?

A Yes, sir.

Q Can you remember what your age was when you slepwalked, if you slepwalked?

A I don't remember, but I was at such a young age, that I can't remember it.

Q So do you have any recollection of sleepwalking?

A No.

Q It's part of your upbringing, that you've been told by your parents that you slepwalked?

A Yes.

Q Did you know at the time on January 27th of 1993, did you know that you had slepwalked at some time in your childhood?

A I apparently -- I would say apparently at that point, I didn't know, since I checked "No."

Q Now, there's another category here under Item 11, isn't there?

A Yes.

Q Could you read what your instructions are there.

A "Have you ever had or have you now."

Q So that group of items is in the alternative, isn't it?

A Yes, sir.

Q Now, one of them is -- in fact, the very last one, out

of quite a few, is "periods of unconsciousness"; is that right?

A Yes.

Q Now, when you checked -- allowed the checker, or you yourself checked "No" to "periods of unconscious (sic)," were you saying that you had never had a period of unconsciousness, or that you didn't have one then?

A I -- at that -- at the time I filled this out, I may have remembered passing out, but that would be insignificant to my ability to do my duty.

Q So you understood that you had a choice between saying "have you ever had, or have you now --"

A Right.

Q -- is that right? Now, with regard to your answers on January 27th of 1993, did you have any intention to deceive anybody?

MR. PANOSH: Objection.

THE COURT: Overruled.

A No, not at all.

Q Now, showing you what's been marked for identification Defendant's Exhibit 17, does it bear the same date, the 27th of January, 1993?

A Yes.

Q And what is it? Is that the result of the doctor interviewing you?

A "Report of Medical Examination" for --

Q Can you tell whether that's signed by a doctor?

A Yes, this is a -- yes, this is a -- this is a doctor stamp.

Q It's a two-page document. Do you see any signatures on the second page?

A Yes.

Q Now, this is stamped "For WEPS Use Only." What does that mean?

A That's actually an M. It's MEPS. MEPS is the department -- see, you get recruited here in Greensboro, and then you go down -- they -- when you get ready to go into the Marine Corps, or they may send you to MEPS. You get recruited here in Greensboro. Then the recruiter transports you to the MEPS station, which is in Charlotte. That's the local station, where they do all their paperwork and get you ready to ship you out. So all the recruiters offices around Charlotte would send their recruits to the MEPS center in Charlotte, and all this paperwork would be done. Once you're processed, they send you out.

Q So, part of the record that contains this bunch of check marks that you've just talked about is also the report of the medical examination itself, isn't it?

A Yes.

Q And that has the results of your HIV test, which was

negative, right?

A Yes.

Q Blood pressure?

A Yes.

Q Whether you had any drugs or alcohol, which was negative, and so forth, right?

A Yes.

Q Do you see all that?

A I don't see the alcohol, but --

Q Does it have an alcohol test? (Indicated.)

A Oh, oh, oh. Yes.

Q All right. Now, this was filled out by the doctor, wasn't it?

A Yes.

Q So these check marks were not put by you, were they?

A Yes. I can tell -- I think I did do that, because by the check marks, I can tell the difference. I think those are the kind of check marks I do. (Indicated.)

Q All right. So this was the initial survey of your recollection of your condition?

A Yes.

Q And this was the doctor's determination of your condition? (Held up an exhibit.)

A Yes.

Q And the doctor circled "Acceptable"?

A Yes.

Q And as a result of that --

MR. HATFIELD: Move for admission of 17, if Your Honor please.

THE COURT: The Court'll allow the introduction.

Q As a result of that, you were found acceptable to be in the military, and the doctor evaluated your physical condition and all the aspects required by the Marine Corps; is that right?

A Yes.

Q All right. Now, I'll show you what's been marked for identification Defendant's Exhibit 16, and ask you if you can tell us very quickly, by looking at the heading up here and the date, what this is.

A "Naval Medical Center, Sleep Disorder Laboratory, Portsmouth, Virginia. Date: 31 July, 1995."

Q And the referring physician's name is?

A Dr. DeBeck.

Q This is the doctor that just picked up his bags and moved his office and never followed up on your case; is that right?

A Yes, sir.

Q Now, does it say what the reason for the referral in July of 1995 was?

A "Daytime drowsiness."

Q That's the chief complaint, isn't it?

A Yes.

Q What's the reason for referral?

A "Rule out narcolepsy and myoclonus," which I believe is another type of sleep disorder.

Q Now, this goes on and describes the tests that were administered, and we don't want to waste time on that.

A Yes, sir.

Q And then it goes to what is the impression, they give an -- now, what do they say, in terms of their impression?

A "Normal overnight polysomnogram. No evidence of pathologic sleepiness or multi (sic) REM sleep onsets on his MSLT. Recommended: Review sleep hygiene (handout). Try to increase allotted sleep time by one to two hours per night. Follow up with the neurologist (sic) at Camp Lejeune."

Q Now, did you follow up with the neurologist at Camp Lejeune?

A I followed up with Dr. DeBeck. He told me -- he gave me a list of rules to sleep by. And he told me to come back and see him in about five or six months. And I think a period of four months went by, there was no difference in my condition at all. And I was -- I was sleeping about 10 hours a night. There was no difference in my sleep problems.

Q Now --

A When I -- I'm sorry.

Q I'm sorry. Go ahead.

A I was explaining the condition in which -- The condition was that -- so -- and I found -- I got news --

MR. PANOSH: Object as not responsive.

THE COURT: Sustained.

Q Okay. So you complained of daytime drowsiness, right?

A Yes.

Q And they ruled out a pathological condition; is that right?

A Yes, sir.

Q Now, this --

MR. HATFIELD: Move for 16 to be admitted, if Your Honor please.

THE COURT: The Court'll allow the introduction.

Q At this point in time, had the possibility that the obstruction in your nasal --

MR. PANOSH: We object, Your Honor. This is -- it's his own witness and he continues to lead him.

THE COURT: Overruled.

Q At this point in time, had the obstruction in your nasal passage been evaluated?

A Once -- I believe once before it was evaluated. And then at a later date, I seen a -- I got a second opinion from another doctor, who then said that it -- that he could

do the surgery and remove the blockage.

Q All right. So your -- the blockage, a pathological condition, was treated at a later date, after the recommendation that you've just talked about, is that right, the 1995 evaluation?

A Yes.

Q Now, showing you what I've marked for identification Defendant's Exhibit 18, which is -- appears to be dated the 10th of March, 1997, can you -- do you see this, and can you read the heading up here?

A "Naval Medical Center Portsmouth. Automated Version of 5-- S5600 (sic)." I don't know that's important.

Q All right. Now, there's a bunch of handwriting there, that appears to have been done by Margaret Stock, a registered nurse, or a United States Navy nurse of some kind; is that right?

A Yes.

Q And does she summarize what your complaints were in March of 19-- or what your complaints were prior to this report being electronically created? Does she show what you reported to them in 1997?

A Yes. Commander Margaret listed --

Q And what was the first thing you said to her?

A "Have a sleeping disorder."

Q "I have a sleep disorder"?

A Yes. "I have a sleeping disorder. They don't know what" -- I can't make out her handwriting -- "what --" what's that word? "What kind."

Q What's the next thing they have?

A "They want me to have --"

Q Allergy testing.

A "-- allergy testing. I used to do landscaping. If I had --" "If I had had allergies, I'd have --" "In the past four years," something.

Q All right.

A I can't hardly make out --

Q So --

A -- some of her handwriting.

Q So you told them that you had a sleep disorder, right?

A Yes, sir.

Q And you told them you sleep all right at night, right?

A Yes.

Q And you're not aware of restless or uncomfortable sleep?

A Yes.

Q Not a snorer or a deep breather?

A Yes.

Q Have had two sleep studies?

A Yes.

Q And the recent septoplasty, which was the operation on

our nasal passage, right?

A Yes.

Q "Nasal airway seems clear," right?

A Yes.

Q "Exam. He appears well. Somewhat poorer space in the nostril. It is extremely easy to determine his atopic status, but I would have to defer the interpretation of the tests vis-a-vis medical problems," right?

A Yes.

Q All right. Now, were you seeking -- when you answered these questions that she wrote down, or when you told them what your problem was, were you seeking to collect disability from the Marine Corps?

A No. I was seeking to find out the -- what kind of condition I had and if there was any cure for it.

MR. HATFIELD: Move for the admission of 18,

please.

THE COURT: The Court'll allow the introduction of Defendant's Exhibit Number 18.

Q Now, I show you a document marked Defendant's Exhibit 19. Is this the original copy of the final report of your final diagnosis, after the visit to Portsmouth in early 1997? Do you see the date of the board, 18 March, 1997?

A Yes, sir.

Q All right. Do you see on the second page, "Final

diagnosis"?

A "Hypersomnolence with excessive daytime sleepiness."

Q All right. And "It is therefore the opinion of the Medical Board that the above diagnosis is correct. The Board concludes that this condition limits or deters the patient's ability to satisfactorily fulfill the duties of an active duty Marine." Doesn't it say that?

A Yes, sir.

Q "The Board therefore refers the patient's case to the Physical Evaluation Board for final disposition," right?

A Yes.

Q So on March 17 -- March 18, 1997, it was formally resolved by the United States Marine Corps, that you could no longer fulfill your duties, due to your condition; isn't that right?

A Yes, sir.

Q And the condition was hypersomnolence with an excessive daytime sleepiness, wasn't it?

A Yes.

MR. HATFIELD: Move for 19 to be admitted, Your Honor.

THE COURT: The Court'll allow the introduction.

Q Now, Mr. Kimble, as a result of that report, were you notified by your commanders in the Marine Corps that you would have to attend a series of meetings, in order to

determine whether you would receive vocational rehabilitation in connection with your -- the disability, or whether some other resolution would be made? Do you remember that?

A I don't -- I know there was some kind of board that I was supposed to go to. The board is to determine my condition. And there were classes that they referred me to, in which I could get information in rehabilitation, in helping me to find job placement.

Q I show you what I've marked for identification Defendant's Exhibit 21, and ask you to look at that. Is that a communication to you from the Department of the Navy?

A Yes.

Q Does the Navy -- the Marine Corps is part of the Navy, isn't it?

A Yes.

Q And it's dated 17 March, 1997?

A Yes.

Q And it's -- indicates "Ronnie L. Kimble, United States Marine Corps," and gives your identification number, right?

A Yes.

Q And were you told that you would be given information regarding the process of the Physical Evaluation Board following a class on Friday, 21 March, 1997?

A Yes. I remember that now.

Q Did you go to that class?

A Yes, sir.

Q And you were told that if you were a no-show, you'd be penalized for that; isn't that right?

A I believe so.

Q You -- (Indicated.)

A Yes. In fact, the only way I could miss it, I believe, was through prior arrangements and to let them know through my command.

Q All right. Now, this -- they said that the initial diagnosis is hypersomnolence, right?

A Yes.

Q And they limited your duty, didn't they, at that point?

A Yes.

Q "No PFT." What is that?

A That is the -- we have to take PF-- a physical fitness test every six months. It consists of --

Q In this case, they said don't take that test --

A Right.

Q -- right? "No drilling, squatting, digging, no firing range, no prolonged standing, no formation," right?

A Yes.

Q "No driving military vehicles, no lifting weights over 10 pounds, no guard duty, no kneeling, jumping and crawling"?

A Yes.

Q You were instructed by your commanders in the Marine Corps not to do any of those things, as a result of the sleep test that was given to you in January of 1997 in Portsmouth --

MR. PANOSH: Object.

Q -- weren't you?

A Yes.

MR. PANOSH: We object.

MR. HATFIELD: Move for --

THE COURT: The basis of the objection?

MR. HATFIELD: Move for the admission --

MR. PANOSH: That is a separate document from the sleep test. This has nothing to do with the sleep test.

MR. HATFIELD: It was in the --

THE COURT: Overruled.

MR. HATFIELD: -- materials that were turned over to the prosecutor, as per --

THE COURT: Overruled.

Just proceed.

MR. HATFIELD: All right. Move for the introduction of 21, please.

THE COURT: The Court'll allow the introduction.

Q Now, does it say -- and I'll wrap this up as quickly as I can. Does it say that your next D-TAP program will be

held on 9 April, 1997, at the naval hospital in Camp Lejeune?

A Yes.

Q Disability Transition Program is what D-TAP means, doesn't it? Disability Transition Program --

A Yes.

Q -- it says it right here? (Indicated.)

A Yes.

Q And it is mandatory, "I have been --" you had to sign, is this your signature?

A Yes, sir.

Q That you had been informed that you had to go to a D-TAP meeting on the 9th of April, 1997, right?

A Yes, sir.

Q Now, that instruction was as mandatory upon you as any other command that you would have received at any time you were a Marine, wasn't it?

A Yes, sir.

Q But you didn't go to that, did you?

A I don't think so.

Q Because Mr. Church had put you in jail?

A Yes, that was the reason why.

Q So no determination concerning any disability with the Department of the Navy might have felt you were entitled to was ever made, was it?

A No, not at all.

Q And these proceedings involving D-TAP were not at your request, were they?

A No. These were orders by the naval hospital.

Q Now, I'll ask you just one or two more questions. When you were working under Father Soutiere, there was a steady accumulation of cans in his office, weren't there?

A Would you -- I couldn't hear you good.

Q Drink cans. When you were working for Father Soutiere, there was a steady accumulation of drink cans in his office, weren't there?

A Oh, he would actually bring in -- apparently he drank a lot of drinks. He would bring me in a bag of cans. He saved them up for me.

Q And you took them to the recycling depot, didn't you?

A Yes.

Q Because that part of the Marine Corps base had no recycling program; isn't that right?

A They had a little recycle program on the base.

Q Did the chaplain's office participate in the formal recycle program?

A Yes. Now, our bins -- I had bins in my office, where we put our recyclable materials, and as a duty driver, I delivered those materials to the base recycle center.

Q So the recycling of cans that you did was not for your

personal benefit, it was just to help out; is that right?

A Well, that portion was through the office. That went to the base. What I -- what I and Neil done, we went out and collected cans from dumpsters, various sources. Some people would save their cans for me.

Q And this was your friend Neil Silverthorne?

A Yes.

Q Who was interviewed by Mr. Church shortly after Patricia died, to -- or shortly after June of 1996, in order to see if he'd been driving your car on the day Patricia died?

A Yes.

MR. PANOSH: Objection. Hearsay.

THE COURT: Objection sustained.

MR. HATFIELD: Nothing further.

Thank you very much.

THE COURT: All right. We'll take --

You may step down, Mr. Kimble.

(The witness left the witness stand.)

MR. PANOSH: May we approach on a scheduling matter?

THE COURT: Yes, sir.

(All three counsel conferred with the Court at the bench.)

THE COURT: Members of the jury, the Court is going to allow you to take your lunch recess. I originally

told you it'd be an hour, but there's another matter that will require the Court's attention, that you will not be in the courtroom during that period of time. So I'm going to let you go ahead and take the full lunch recess. You'll need to be back at 2:00 o'clock. If the Court's here in session, just remain in the hall, until we get you in the courtroom and in the jury room. Do you understand that? So you may take the full lunch recess. We're going to be working some during the lunch recess. You'll need to be back at 2:00 o'clock.

Again, remember the Court's instructions and the jury responsibility sheet. Have a nice lunch, and I'll see you at 2:00.

(The jury left the courtroom at 12:34 p.m.)

THE COURT: All right. How long is it going to -- what are you referring to, Mr. Panosh, that's come up at this particular point?

MR. PANOSH: Your Honor, this is Number 142, and I've already shown it to counsel, and I'll approach.

(Mr. Panosh handed the exhibit to the Court.)

MR. PANOSH: This is a letter from the defendant, in the jail, to Janet Smith, in which he says -- and I've put a sticky tab, to direct you to that portion of the letter -- "What if the jailhouse snitch were to see anything? This one could automatically involve you in my

trial. You would have to deny or confirm it. If you confirmed it, it would hurt both of us. Like I said before, I will deny it, no matter what."

Your Honor, we'd submit that that is a statement by the defendant that he intends to lie. And we would submit it's admissible, and the State should be allowed to go into it for the limited purpose of his credibility. (Time was allowed for the Court.)

MR. HATFIELD: Your Honor, there's more that needs to be considered, before you make a final decision.

THE COURT: Sir?

MR. HATFIELD: Your Honor, I thought that you had already decided on this issue, and I did not bring --

THE COURT: Well, let me ask counsel.

How is it relevant at this point, Mr. Panosh?

MR. PANOSH: It goes to his credibility. He has made a statement that he intends to lie. If he's ever questioned about this particular topic, he intends to lie.

THE COURT: As I read the letter, he's going to lie about the relationship between he and Ms. Smith or whoever she is.

MR. HATFIELD: He's not going to lie. He's going to tell the truth. He's promising to tell the truth in that statement. That's what's even more complicated. It never happened.

THE COURT: I don't think that's what it says, Mr. Hatfield, or what I'm --

MR. HATFIELD: He says he will deny it, and he -- what he's going to deny is, what he will deny if they ever try him on these charges, it never happened, Your Honor.

And if I may say this to the Court. There is a whole series of --

THE COURT: Well, have you read the letter?

MR. HATFIELD: Yes, sir.

THE COURT: A lot of things happened in his own words.

MR. HATFIELD: Your Honor --

THE COURT: Do you want to read the letter into the record?

MR. HATFIELD: If you're going to belittle me, I'll drop the subject.

THE COURT: No, you read the letter, and you tell me in his own words what he said, if something happened there.

MR. HATFIELD: Your Honor, if I may say this to the Court. There is a long series of correspondence, and we filed --

THE COURT: This is his letter to her. You read it.

(The Court handed the exhibit to Mr. Hatfield.)

MR. HATFIELD: Will you allow me to --

THE COURT: Yes, I'll allow --

MR. HATFIELD: -- finish my statement?

THE COURT: I want you to go back and read it, and then tell me that something didn't happen.

(Time was allowed for Mr. Hatfield.)

THE COURT: Have you read the letter, sir? I'm going to keep the letter out. I don't think it's -- I think the prejudicial aspects of that greatly outweigh any probative value.

You may ask him if he's ever told anyone -- well

--

MR. HATFIELD: I hope you're not ruling before I've had a chance to --

THE COURT: All right. I'll --

MR. HATFIELD: -- even address the Court.

THE COURT: -- hear you. Yes, I'll hear you.

MR. HATFIELD: Now, may I just say what the situation is?

THE COURT: You may say what you wish to say, sir.

MR. HATFIELD: There are a large number of letters written by this jail guard, Janet Smith, and there are letters written by Ronnie Kimble. This is only one of a number of letters. We requested that the Court receive under seal a couple of letters that were written in early

April, by Janet Smith, when she was beginning her infatuation with him. And those letters are highly important, to show that the sheriff's office --

THE COURT: I'm going to -- it sounds like it's kind of mutual to me, Mr. Hatfield, as I read the letter.

MR. HATFIELD: Your Honor, I am imploring the Court to let me just tell you what --

THE COURT: Well, you're trying to make it all one way, and I'm just telling you, my interpretation of the letter is, it's kind of a mutual situation.

MR. HATFIELD: Well, Your Honor, you haven't read the other letters.

THE COURT: I've read that one.

MR. HATFIELD: Your Honor, I don't wish to in any way incur your displeasure, but I would like to be allowed to tell the whole story.

THE COURT: You may present what you wish to present.

MR. HATFIELD: Beginning in April, Janet Smith wrote him and told him how much she was interested in him, and how she knew that nothing could ever happen between them. She told him that she knew that her supervisors were watching every move that she made, and that her supervisors were monitoring her conduct, and that they were aware of her infatuation with him. Now, bear in mind, Your Honor, that

he, like every prisoner, has an absolute right not to be interfered with by a guard.

Now, according to what Janet Smith wrote, in the letters that are -- that were turned in by us and were placed under seal by the Court, Sheriff Barnes, Jim Church and others absolutely knew that she was violating the law on a daily basis, by her infatuation with him and by her excessive interest in him. She disobeyed internal regulations of the jail, in order to constantly communicate with him.

If you read those letters, you will see that it began as a very innocent relationship, in which she was concerned and liked him, and he enjoyed the attention that he was receiving from her. And there was absolutely no sexual overtones to it at all.

Now, this progressed through this series of letters, and they seized many of these letters, but not all of them.

In the end, they let -- they watched this situation for the period of time between April, May, June, July, August, September, October, November. They allowed her to continue to violate their rules, and to interfere with him, and she became progressively more self absorbed in him. She is the one who had the keys, not him. She would go to his cell, give him little favors, give him a piece of

candy, pass him a note. Most of that correspondence was extremely innocent. Unfortunately, it reached a tempo of fantasy.

And there are snitches in the jail, as he refers to here. And I mean fantasy when I say fantasy. There are snitches in the jail who saw them -- saw her open his cell door. She went so far as to wait until he was naked, taking a shower, and used her key to open his door and go in there, and then she pulled him close to her and kissed his mouth. And apparently one of the snitches saw that. This man at that point in time had been in confinement since April 1st of 1997, and this all happened in November, and I will have to say that I'm afraid that when the jail guard broke every regulation known to man, and approached him when he was naked and kissed him, it turned his head.

Now, I have talked to her lawyer --

THE COURT: Well, I just want to know --

MR. HATFIELD: I've talked to her --

THE COURT: I'm not going to get into all of that. I've got enough respect for his former wife and his parents not to read that letter.

MR. HATFIELD: They know all this. Mr. Church --

THE COURT: No, I don't think --

MR. HATFIELD: Mr. Church and Mr. Pendergrass made sure that they knew all this.

THE COURT: Well, I'm not going to -- I'm going to put the letter in the record, and I want to deal with the sole issue of whether or not that one statement that he would lie if it came down to it can be introduced into evidence, and that's --

MR. HATFIELD: He doesn't say he'll lie. He says he'll --

THE COURT: Well, the --

MR. HATFIELD: Can I just say it, Judge?

THE COURT: Read it.

MR. HATFIELD: "What if the jailhouse snitch were to see anything? This one could naturally involve you in my trial. You would have to deny it or confirm it. If you confirmed it, you would hurt both of us. Like I said before, I will deny it, no matter what."

Now, nothing had happened. If you ask me if I've done something improper and I haven't, then I have a perfect right to say that I will deny it under any circumstances. I can -- I promise this Court, I have fully investigated this matter. Nothing of a sexual nature happened. Now, I'm afraid that this young man, after all those months in confinement, and all the attention he was receiving from this woman, I think that -- and after she had come into his cell --

THE COURT: I want to restrict the argument to

that one issue. That's the only issue I'm interested in.

MR. HATFIELD: Your Honor, there's a whole course of letters. You can't --

THE COURT: Well --

MR. HATFIELD: -- introduce one sentence out of context, and not allow the party that is being injured by that introduce the rest.

THE COURT: I've heard your version.

Mr. Panosh, do you want to be heard about the legal question I've raised?

MR. PANOSH: Your Honor, we submit that the letter clearly says that in the event they are caught, he intends to lie about it. That directly goes to his credibility. And we'd ask to be allowed to inquire as to that.

MR. HATFIELD: He never said lie. He does -- you know, Your Honor, if you tell me that I'm raising my voice while I'm addressing this Court, I have a right to deny it, even though a lot of people in here will say that I was wrong. Your Honor, to say that you will deny something that has never happened is not a lie. What this is is more germ warfare. It is more of the smear tactics that we've seen enough of in this trial. And its probative value --

THE COURT: Let me see the letter again, sir.

(Mr. Hatfield handed the exhibit to the Court, and time was allowed for the Court.)

THE COURT: The Court will mark 142 as a Court exhibit. It's being placed into the record.

After the jury was excused from the courtroom, the Court has heard counsel for the State and for the defendant. The State's motion -- tenders this document for purpose of testing the credibility of the witness. The one statement the State has tendered for the Court's consideration is, "Like I said before, I will deny it, no matter what." That this letter from defendant to some third party, the Court finds as a whole that the letter -- the prejudicial aspects of it would outweigh the probative value it might have, and the Court will deny the State's right to introduce it into evidence.

Put it in the record.

(The Court handed the exhibit to the bailiff, and the bailiff handed the exhibit to the clerk.)

MR. PANOSH: Your Honor, the next -- you -- the letter and any part of the letter?

THE COURT: Yes, sir.

MR. PANOSH: Your Honor, next is a series of documents, and I've given counsel these, and I'll give Your Honor the originals. These are in biohazard, because at the time they were taken from the defendant, they were in his mouth. I have reduced them to typewritten form for Your Honor to review.

(Mr. Panosh handed exhibits to the Court.)

MR. HATFIELD: It's the same thing, Your Honor.

It's more of the --

THE COURT: Well, are these the letters from him to her or her to him or whatever it might be?

MR. PANOSH: Yes, sir. Your Honor, I'm specifically referring to Exhibits A, C, D and H. If you want to review them before I go through them.

THE COURT: Which ones, sir?

MR. PANOSH: A, C, D and H on the typewritten --

THE COURT: A?

MR. PANOSH: A is in Adam.

THE COURT: Right.

MR. PANOSH: C, D and H.

THE COURT: All right.

(Time was allowed for the Court.)

THE COURT: All right, Mr. Panosh.

MR. PANOSH: Your Honor, on cross-- on direct examination, the defendant said that he cannot abide by pornography. He said, "There was no discussion of pornography I even recall. I choose not to have it. I do not want it around me. I told my roommates that if I find it, if you leave it around, you'll find it in the toilet." He went on at some length, beyond my limited notes there, saying that he abhors and cannot abide by pornography.

These letters, under any stretch of the imagination, these are definitely pornography. The defendant has taken the stand, but for some reason, painted himself as an upright citizen, saying that he cannot abide by pornography, can't have it around him, and yet, this pornography is found in his mouth. He's trying to eat it, when the jailers come into his cell. And we submit that this now is admissible to rebut his testimony on direct.

MR. LLOYD: Your Honor, just very briefly. First of all, my recollection is that what -- the defendant made these comments about pornography in the context of two things. What Mr. Panosh had asked him about concerning this conversation about pornography with Mitch Whidden, he was clarifying that situation. There was some talk about the magazines that Ted Kimble threw away were pornographic. The defendant said something about that, that he had seen the top magazine on that.

This is merely another subterfuge, to smear the defendant's character. I mean, that's what it is, purely and simply. If this doesn't fail under a 403 balancing test, I don't know what does, Your Honor. I just -- it's more about this affair with the jailer, if that's what you want to call it, Your Honor. I thought we had already crossed that bridge, when we talked about the photographs, and Your Honor's ruling was that Mr. Panosh could ask him if

the photographs were in his possession, but that was it. This is just another way to convict the defendant on the basis of smearing his character and reputation. It doesn't have anything to do with pornography. That's just a sideshow here. Mr. Panosh's purpose is -- if the relevance of these letters are to titillate the jury, then certainly they have relevance, but that's not an issue for this jury to decide.

MR. PANOSH: I can only point out, Your Honor, I didn't ask those questions. That was their testimony. And we are now entitled to rebut that.

MR. HATFIELD: Well, I asked the questions, and if I may speak to the Court about it. In the pretrial disclosures of the statements made by Mitch Whidden, he specifically said that there was discussion of pornography in his vehicle. The reason for bringing up the pornography was not to put the defendant's character in issue, about whether he personally approves of pornography or not. It was to show that there was not a discussion about pornography. And in fact, we tried to refresh Mr. Whidden's recollection that he had a video about a debate about pornography.

Pornography is in the eye of the beholder. And it isn't necessarily a violation of law to write dirty letters back and forth to another individual, and it's not

necessarily a violation of the law to possess girly pictures or whatever the pornography was that Ronnie would throw in the trash or the pornography that his brother threw in the trash when he went up to the office.

These letters are calculated to make Ronnie look like a person that he is not. This is not relevant to the period of time that is under examination in this trial. These letters were seized in November of this year, after, as I explained to the Court before, the sheriff's office had continually allowed this woman to conduct this -- and this really shows you what the relationship was. It was a relationship of her slipping her (sic) these notes, and this poor man, who has no entertainment, he's just sitting alone -- and by the way, Your Honor, he wears a red suit in the jail. He's been on a suicide watch since the day he was brought here.

THE COURT: Well, that --

MR. HATFIELD: He is in solitary confinement.

THE COURT: That doesn't have anything to do with this.

MR. HATFIELD: Well, it does. Because she sends him -- she breaks jail rules and goes -- and sends him titillating letters, and he's sitting --

THE COURT: Well, I don't want to get into that. I know what the letters say. I've got a synopsis of them,

and they certainly paint him in a different light than what the jury may have --

MR. HATFIELD: He didn't put his character in issue in this case.

THE COURT: Sir?

MR. HATFIELD: He very scrupulously avoided that.

THE COURT: Well, if he puts it in issue, then it may be relevant in the case.

The Court would find that Exhibits 143-A through 144-D (sic) have been submitted to the Court, and the Court has read a synopsis of these letters, and based upon the Court's reading of the synopsis and arguments of counsel for the State and the defendant, the Court would find that these documents may have some relevance as to the defendant's propensity towards pornography, or unusual desires, and -- but however finds that the prejudicial aspects of these documents as a whole would outweigh any probative value, and the Court would exclude them. They may go somewhat to test the credibility of the witness from the standpoint of statements within them, but at this point, the Court feels that they would be prejudicial to the defendant and would outweigh any probative value it might have. It may be relevant if he testifies different.

(The Court handed exhibits to the bailiff, and the bailiff handed the exhibits to the clerk.)

MR. PANOSH: Your Honor, since it's a 403 ruling, we'd ask then that the jury be instructed to disregard his statements that he says, "I choose not to have it around me. I told my roommates that if you (sic) find it, I'll throw it away."

THE COURT: I'm not going to do that. You may ask him if he has any interest in pornography, and if he answers different, then you may get into it. I'll look at it at that time. I'm not going to strike it at this point. The jury's heard it. I'm not going to strike it.

MR. HATFIELD: I would like to know how Mr. Panosh can open the door, so that my client --

THE COURT: Don't you open it, too. I may not close it next time.

MR. HATFIELD: I'm through.

THE COURT: All right, sir.

We are going to take our lunch break. We'll be back at 2:00 o'clock.

(A recess was taken at 1:00 o'clock p.m.)

(Court reconvened at 2:00 o'clock p.m. The defendant was present. The jury was not present.)

(The witness returned to the witness stand.)

(The jury entered the courtroom at 2:01 p.m.)

THE COURT: Pleased to have the panel back. I hope each of you had a nice lunch. Anyone on the panel

experiencing any problems this afternoon?

The court officer's told me that one of the jurors has a conflict on Friday and needs to be in Raleigh by what time is that, you need to be there?

JUROR NUMBER 9, MS. SIDWELL: At least by 3:00.

THE COURT: Okay. We'll get you there.

MS. SIDWELL: Thank you.

THE COURT: Okay. You may continue with your examination of the witness.

MR. HATFIELD: I'm finished with my questioning, Your Honor.

THE COURT: Mr. Panosh?

MR. PANOSH: Yes, sir.

May I approach the witness?

THE COURT: You may.

RE-CROSS-EXAMINATION by MR. PANOSH:

Q Number 17 there, Defense 17, do you see that, sir?

A Yes, sir.

Q That was the doctor's assessment of you when you were -- had the first military physical?

A Yes, sir.

Q And that was based upon the answers you gave in 140-A and 140-B, isn't that right, that's also in front of you?

A I don't know what his -- how he came to this determination. I don't remember. It's been so long ago.

Q Did the doctor ask you questions contained on 140-A and B, before he filled out his report?

A I just stated, I don't recall whether he asked me or went by the report I filled out.

Q But the information you gave him was the basis of his assessment, whether you said it or wrote it?

MR. HATFIELD: Objection. He doesn't know what a doctor's basis for an assessment is.

THE COURT: Overruled.

You may answer.

A What was the question again?

Q The information you gave him, whether written or spoken, was the basis of his assessment of your ability to serve?

A As best as I can recall, because I don't -- it's been over five years ago. I don't recall -- they -- I think they do some kind of medical exam. I don't recall. I think basically, yes, I believe that these questions were answered by assessment of information he gained from me. I'm not certain.

Q And you now believe that the reason you did not note that you had sleepwalking is because, subsequent to filling out that form, you had a conversation with your mother; is that what you're saying?

A I don't know at what time that information came to me.

I feel certainly if I had known it at that time, I would have marked it. Otherwise, if I did know at that time, I may have forgot about it and not marked it.

Q And you are saying in reference to the periods of unconsciousness, because it says "Do you now have or have you ever had," you felt that you could just answer the portion about "Do you now have"?

A The concern -- yes, because the concern was that present health conditions that would keep you from doing your duties.

MR. PANOSH: May I approach the witness?

THE COURT: Yes, sir.

Q In reference to the question that's contained on 140-A about --

A Number 11.

Q -- periods of unconsciousness.

(Time was allowed for the witness.)

Q Do you see that on there, sir?

A I have.

(Further time was allowed for the witness.)

A Yes.

Q The question was, "Have you ever had or have you now periods of unconsciousness?" And you said, "No"?

A Yes.

Q Because you thought they were just asking "Do you have

it now"?

A I don't know what I thought five years ago. And I don't know what I remembered five years ago.

Q These exhibits that your counsel has introduced, 16, 17 and -- 16, 18, 19 and 21, you're familiar with those?

A Yes, after he showed me. And I may have seen them prior to that.

Q And basically, they indicate that you had no documentable problems; isn't that right?

MR. HATFIELD: Objection. They did not say that.

A May I see that, please.

THE COURT: Sustained.

Q Starting with where it says "Assessment" there.
(Indicated.)

A Am I supposed to read this aloud?

Q If you need to, to answer the question, sir.
(Time was allowed for the witness.)

A May I read it?

Q If you need to, to answer the question, sir.

A Would you restate the question, please.

Q Isn't it a fact, sir, that every medical test you had indicated that you were normal and there was no documentable -- no problem which could be documented?

A No, it did not. In fact, this paragraph tells that I was diagnosed. "Assessment is hypersomnolence." That is

the diagnosis. That is -- that was their assessment. "Assessment is hypersomnolence, with excessive daytime sleepiness," which -- Excuse me. "The patient has had two polysomnogram multi (sic) sleep latency tests, which did not show any evidence of definite pathology. There is no definite evidence of significant obstructive sleep apnea or narcolepsy. However, this has been interfering with his work, and he did not --" excuse me, "did at one point fall asleep while driving. The plan is to, one, stop tobacco use; increase excessive --" excuse me, "increase exercise to at least three times per week; and three, get to --" excuse me, "to get in contact with the Sleep Disorder Association of America."

So they in fact did assess that I had hypersomnolence, though the test results did not show the things that they tested for.

Q Hypersomnolence just means overly sleepy?

A It means excessive sleepiness. In fact, there is actually a definition for -- there is a medical term for hypersomnolence. The doctor read me that term in his office, and it pretty much almost to a tee described my condition.

Q And drawing your attention then to the report that was introduced by your counsel as Number 18. You read the admitting nurse's notes; is that right?

A Yes, sir.

Q What note did she put at the very top?

A She put, "I have a sleeping disorder. They don't know what kind."

Q What note did she put above that, sir?

A Oh. "He drove here. He says he is able to --"

Q Predict?

A "-- predict his --"

Q Episodes?

A "-- episodes and pull off the road." Yes, that is true. That is why it is un-- it is similar, but different from narcolepsy, because with narcolepsy, there is no prediction, there is no knowledge. I could be sitting here and just (snapped fingers) fall asleep and have no consciousness that I am about to fall asleep. With my condition, I am able to predict when I'm going to fall asleep uncontrollably.

Q How many times have you fallen asleep while the jury's been watching you, sir?

A None thus far, because I've been taking naps during the lunch break, to help me stay awake.

Q In the course of your direct examination, you made reference to pornography, a discussion of pornography, and is it correct that you said, "I choose not to have it around. I do not want it around. I have told my roommates

that if you find it or leave it laying around, you'll find it in the toilet"? Do you remember saying that?

A Yes, I did.

Q And basically, you can't abide by pornography; is that correct?

A I disagree with pornography, though I have owned it off and on on occasion, it is a temptation to me.

Q And as a matter of fact, on November the 19th of 1997, you had pornographic materials --

MR. LLOYD: Objection, Your Honor.

Q -- in your jail --

THE COURT: Wait a minute.

Finish your question, sir.

Q -- you had pornographic materials in your jail cell?

THE COURT: Overruled.

A Yes.

MR. PANOSH: No further.

MR. HATFIELD: Nothing further.

Thank you very much.

THE COURT: Step down, sir.

(The witness left the witness stand.)

THE COURT: Stretch, if you'd like.

Next witness, please.

MR. LLOYD: The defense would call Rodney

Woodberry.

RODNEY LAMONT WOODBERRY, being first duly sworn, testified as follows during DIRECT EXAMINATION by MR. LLOYD:

Q Mr. Woodberry, would you state your name for the record, please, sir.

A Rodney Lamont Woodberry.

Q All right. Now, Mr. Woodberry, do you know Ted Kimble?

A Yes, sir.

Q And how is it that you know Ted Kimble?

A I was employed through him.

Q And when and where did you work for Ted -- Well, excuse me. Where did you work for Ted Kimble?

A Lyles Building Material.

Q All right. And when did you work for Ted Kimble?

A I'm not for sure when I started, but it might have been like '93. I received two W-2 forms from there, so it might have been like '93.

Q And when did you stop working for Ted Kimble?

A Sometime during the summer of '95.

Q Would it have been sometime in August of 1995?

A If I can recall to my knowledge, maybe July, August.

Q All right. Shortly before Patricia Kimble's death?

A Yes, sir.

Q How would you describe your relationship to Ted Kimble?

A Well, he was -- I mean, you know, he was pretty good during then.

Q Was it just that of an employee and a boss?

A Well, no. Everybody down there pretty much, you know, got along, joked around, whatever.

Q So, is it fair to say, Mr. Woodberry, that it was more than -- that your relation to Ted Kimble was more than that of just an employee and a boss?

A Yes, sir.

Q In fact, you had been to Ted Kimble and Patricia Kimble's house before, had you not?

A Yes. On several occasions, a couple employees worked there.

Q All right. And you had -- you -- and you had been given a key, when you worked at Ted Kimble's house, had you not?

A Well, no. One time before, me and another employee, we worked out there, we had to paint a building in the back of Ted's and them's house, and weed eat the yard. They were having something that Sunday. And Ted and Patricia wanted us to go out there and paint that building. He gave us a key to the building. Which I think Robert Tidwell had the key, because I didn't have no license or nothing to drive a truck.

Q All right. Now, had you been invited inside Ted Kimble's house before and eaten with Ted and Patricia?

A Yes. On several occasions when we work out there,

Patricia would normally cook dinner or make sandwiches for us.

Q Do you recall, in reference to the -- to the -- my question about the key, Mr. Woodberry, do you recall telling investigators in this case that Ted and Patricia had given you a key to the house?

A No. Like I said, they gave -- I'm pretty sure he gave the key to Robert, because he gave it to him that -- I think they were going out of town that Friday, and we was supposed to have went out there and painted it that Saturday.

Q Now, Ted Kimble made a number of calls after Patricia's death, in an effort to locate you, did he not?

A Yes, sir.

Q And he called over to a woman's -- a woman by the name of Laura Shepard's house; is that right?

A Yes, sir.

Q Now, who is Laura Shepard?

A She's an ex-girlfriend of mines.

Q All right. So at one time, you had a relationship with Laura Shepard?

A Yes, sir.

Q Would you describe that as a close relationship, Mr. Woodberry?

A Well, it started off that way.

Q All right. Did you -- were you two engaged?

A No, sir.

Q All right. Did you live together?

A I stayed at her mother's house.

Q All right. Now, in regard to your relationship with Ted Kimble, he's -- he had in the past given you money --

A Yes.

Q -- in advance, had he not?

A Yes, sir. It was a -- I call it a company policy. If any one of -- any one of us wanted to borrow money, they lent us money, and they took it back that Saturday when we got paid.

Q All right. But Ted Kimble did that with respect to you; is that right?

A Yeah. Well, all of us.

Q All right. Now, Mr. Woodberry, you were a suspect in Patricia Kimble's death, were you not?

A Yes, sir.

MR. PANOSH: Object.

THE COURT: Overruled.

Q What was your answer, Mr. Kimble -- Mr. Woodberry?

A Yes, sir.

Q And officers came and interviewed you about the case, didn't they?

A Yes, sir.

Q And they started asking you questions; is that right?

A Yes, sir.

Q Wanted to know where you were on October the 9th, the day Patricia died?

A Yes, sir.

Q Wanted to know who you were with?

A Yes, sir.

Q Wanted to know things like how long you had worked at Lyles?

A Yes, sir.

Q Asked you questions about your relationship with Ted?

A Yes, sir.

Q They wanted to know the kinds of questions that I asked you earlier about, was your relationship with Ted just that of an employee and a boss?

A Yes, to my knowledge.

Q And they asked you if you worked at Ted's house before?

A Yes, sir.

Q And they wanted to know how Ted paid you, didn't they?

A Yes, sir.

Q And they wanted to know why there were so many calls by Ted, trying to get in touch with you?

MR. PANOSH: Object to all these leading questions, please.

THE COURT: Sustained.

Don't lead him, sir.

MR. LLOYD: Well, Your Honor, I would suggest that he is a hostile witness, that under the rules of evidence, I would be allowed to lead him.

THE COURT: Don't lead him.

Q Did they ask you questions, Mr. Woodberry, about the fact that Ted called you a number of times, around the time of Patricia's death?

A To my knowledge, I think so.

Q All right. And did they ask you questions about Ted Kimble calling you, even after you had quit working at Lyles?

A Yes, sir.

Q And did they ask you questions, Mr. Woodberry, about whether or not you had any contact with Ted Kimble around the time of Patricia's death?

A I can't recall, but I -- I think that might have come up.

Q Now, Mr. Woodberry, when the detectives asked you all those questions, you didn't tell them the truth, did you?

A I just told them what I know. I mean, I might not have been totally, you know, according to them, whatever.

Q Well, you recall, Mr. Woodberry, in July of this year, that you talked to detectives involved in this case and to Mr. Panosh, and you apologized for not telling them the truth earlier; do you remember doing that?

A Yes, sir.

Q So you didn't tell them the truth earlier?

A Well, like I was saying earlier, not totally.

Q Now, you gave an affidavit in connection with this case, didn't you?

A To who?

Q Well, you gave an affidavit on -- that was signed on March 21st?

A I had a private investigator working for Ted and them to come and see me, and I think that's what it was.

Q Now, Mr. Woodberry, I show you what's been marked as Defendant's Exhibit Number 23, and ask you if you recognize that.

(Time was allowed for the witness.)

Q You can look on the second page, if you need to, Mr. Woodberry.

(Further time was allowed for the witness.)

A Yes, sir.

Q Is that the affidavit that you signed in connection with this case on March 21, 1996?

A I think this is what I signed with the private investigator. I can't remember.

Q All right. And let me ask you this, Mr. Woodberry. Did you say -- and in doing this affidavit, you swore to tell the truth, did you not?

A Yes, sir.

Q All right. And you swore that this affidavit was the truth in front of a notary, didn't you?

A It was me, my girlfriend and the private investigator in the house.

Q All right. And this is -- just so we're clear on this, Mr. Woodberry, this is your signature on the back here --

A Yes, sir.

Q -- is that correct?

A As a matter of fact, when he showed me the paper, I just ran through it, you know. I mean, I read it and everything, but I --

Q All right.

A -- didn't sit down and try to take no hour or so to look at it.

Q But he told you to be as accurate as you possibly could, did he not?

A Yes, sir.

Q All right. And he encouraged you to make corrections, did he not?

A I can't recall.

Q All right.

A I mean, like I said, I --

Q Let me ask you this, Mr. Woodberry. On Paragraph Number 9, do you see where part of the typewritten material

has been crossed out, the last part of it, where it says, "and I continued to do some work at the Kimbles' residence, after ending my employment at Lyles Surplus Building Materials"? (Indicated.)

A Yes. I think I worked out there like once or twice. I even worked at Lyles once after that day.

Q All right. And you crossed out that last part of the sentence and initialed it with R.L.W. Those are your initials, aren't they?

A Yes, sir.

Q And you crossed that out? (Indicated.)

A I can't remember crossing that out. Like I said, I might have, but I can't remember.

Q You crossed it out because it wasn't a factual statement, it wasn't accurate; is that right, Mr. Woodberry?

A Well, no, because I still -- like I said, I have worked even at Lyles once or twice. I even worked for Gary once after that.

Q So --

A I think it was during that time.

Q Well, let me ask you this, Mr. Woodberry. In the third paragraph it says, "I am currently employed --" the typewritten word is Bojangles?

A Yes, sir.

Q And that was crossed out by you, was it not, and you

put Cobb Sign Company?

A I didn't start at Cobb Sign Company until like in January, I think.

Q So you're saying, even though it has your initials out here to the side, R.L.W. -- those are your initials?

A Yes, sir.

Q And that's your handwriting, isn't it?

A Yes, sir.

Q All right. So are you saying that the original statement, that you are currently employed, as of March 21, 1996 --

A During that time, I was at Cobb Sign Company.

Q You were working at Cobb Sign Company?

A Yes, sir.

Q What I'm asking you, Mr. Woodberry, is, didn't you cross out the Bojangles that's typewritten in here, and make the correction that you were working at Cobb Sign Company? Didn't you do that?

A Like I said, I might have, but I can't remember.

Q Well, those are your initials on there, aren't they?

A Yes, sir. Like I say, I probably -- as far as the crossing, I can't remember that.

Q All right. But there -- but those were corrections -- even if you didn't make them, those were corrections that somebody made because of what you told them; is that

correct?

A Must have been. Well, Bojangles was my last job before I started at Cobb.

Q All right.

A Uh-huh.

Q And Mr. Woodberry, there are even a couple of extra paragraphs that are handwritten here; is that right?

(Indicated.)

A Yes, sir.

Q All right. And they've got your initials right beside Number 23 and Paragraph Number 24; is that right?

A Yes, sir.

Q And those paragraphs were put in based on the information that you gave the individual at that time; is that right?

A It must have been.

Q All right. And that was a -- that was done by you, in an effort to be accurate and fully correct; is that correct?

A Yes, sir, as far as what I can remember.

Q Now, let me ask you this, Mr. Woodberry. Did you say on that occasion, in the affidavit, that -- in Paragraph Number 5 -- and you can follow along with me, if you want to -- Paragraph Number 5, "On or around July 7, 1994, I was employed at Lyles Surplus Building Material, 1700 West Lee Street, Greensboro, North Carolina"? Did you make that

statement, Mr. Woodberry?

A I think so. Like I say, I can't remember exactly when I had -- you know, as far as starting or whatever. But I believe I was still working there during that time.

Q All right.

A Because on one occasion before, I had stopped working there. That's when I was living over here. And then -- like I said, I think I worked down there for Gary one day, while Ted was on vacation, and I went and helped Gary for one day. And I might have worked another occasion after that. I can't --

Q All right. Well, back in March of 1996, when you signed this affidavit, you said that statement was true, didn't you?

A I guess, to my knowledge.

Q All right. Well, you signed this piece of paper, this affidavit, didn't you?

A Yes, sir.

Q All right. And you -- the first sentence of the affidavit says, "I Rodney Woodberry, being first duly sworn and deposed, say the following in regard to Ted Kimble and the events of October 9, 1995." So you were swearing that that was true on -- in March of 1995, were you not?

A That I was employed there?

Q Yes, sir. The sentence I just read, on Number 5.

A Well, now, I wasn't employed there in March 1995.

Q No, sir, not in March of '95.

A Okay.

Q That's when you made the affidavit.

A Oh, okay.

Q All right? And you said in Paragraph Number 6, "While at work, I developed a friendship with Ted Kimble that continues today"?

A Yeah. I had became close to the whole family.

Q All right. Was that statement true?

A Yes.

Q All right. "That on or around August 4, 1995, I ended my full-time employment with Lyles Surplus Building Materials"?

A Yes, sir.

Q Did you make that statement?

A Yes, sir, as far as to my knowledge, yes, sir, I think so.

Q All right. Well, it's on that sheet of paper, isn't it?

A Yeah. That's what I'm saying, as far as my knowledge.

Q All right. Is it true?

A Yes.

Q And Paragraph Number 9, "During my employment at Lyles Surplus Building Materials, I also did work for Ted Kimble

at his residence"?

A Yes.

Q All right. Number 10, "While employed at Lyles Surplus Building Materials, I knew Ted and Patricia Kimble on a personal level"?

A Yes, sir.

Q All right. Is that statement true?

A Yes.

Q Number 11, "I observed Patricia Kimble at Lyles Surplus Building Materials on numerous occasions"?

A Yes, sir. Patricia would come and have lunch a lot of times.

Q All right. So that statement's true?

A Yes, sir.

Q Number 12, "From my observations, the Kimbles appeared to be a happy and loving couple"?

A I mean, that's the way I seen it.

Q All right. Is that statement true?

A Yes, sir.

Q Still stand by that statement?

A I mean, from what I seen then, my employment there.

Q All right. Number 13, "I never saw Ted and Patricia Kimble fight or argue with one another." Did you make that statement?

A Yeah. I never seen them fight. I mean, I seen them

have like little, you know, not what you'd call out cussing arguments or nothing like that.

Q All right. Is that statement true? Do you still stand by it today?

A I guess so, because I --

Q Mr. Woodberry, I ask you if you said in Paragraph 14, "I learned of Patricia Kimble's death by watching television at home"?

A Yes, sir.

Q Do you still stand by that statement?

A Yes, sir.

Q And Number 15, "Upon learning of Patricia Kimble's death, I attempted to contact Ted Kimble, but did not reach him until just before the memorial service." Is that statement true?

A I think that's when I was able to reach him. Because I had called to see -- well, first, I apologized about Patricia, and I wanted to know if he needed anybody to come up and work. I told him that I'd be glad to come up, you know, on the weekends, I think.

Q All right. Did you reach him before the memorial service?

A I can't recall. I mean, I had messages that he was trying to get in touch with me, through Laura, through my parents.

Q So he had called you a number of times before that; is that right?

A Yeah. That's what Laura Shepard had told me.

Q So your testimony is that Ted Kimble had called you on a number of occasions prior to your being able to reach him before the memorial service; is that right?

A Yes, sir. That's what was told to me.

Q Now, Number 16, "I had never heard Ted Kimble say he wanted or wished harm to come to his wife, Patricia." Did you make that statement, Mr. Woodberry?

A I can't recall. Like I say, I might have, but I can't recall that.

Q Well, my question to you, Mr. Woodberry, then is, did you sign this affidavit?

A Yes, sir, that's my signing.

Q Did you read over all these statements?

A Yeah. Like I said, when the guy came, I didn't really -- because mostly we talked. And then, you know, I didn't really take the time out, as far as trying to sit there and --

Q So these corrections that you made earlier, they didn't involve any time; is that what your testimony is, Mr. Woodberry?

A I don't understand. I mean --

Q Well --

A -- what are you saying?

Q -- did you read that statement that I've just read?

A Number --

Q "I have never heard Ted Kimble say he wanted or wished harm to come to his wife, Patricia," did you make that statement?

A I think so. I can't recall.

Q Is that statement true, Mr. Woodberry?

A Well, I mean, I've heard Ted make remarks like, "I hate I got married" or "I wish I was single" or "God, I could kill her" or stuff like that, you know. And then he would always -- I mean, which I wasn't the only one. You know, he would say that in front of me -- it was only three of us employed there, not counting Ted. And then he would always like joke it off, you know.

Q So your testimony here today is, you heard Ted Kimble say, "God, I wish I could kill her"?

A No. I'm saying, I done heard him make remarks like, "I hate I married her" or "I hate I got married" or "God, I could strangle her." Like, I recall one incident, Ted had went and purchased some shoes and workout clothes during the morning. He left me, Robert Tidwell and Mike, Mike Wall, because Mike was pretty much in charge. And later on that evening, we got busy, and Patricia came down and she was upset. Well, I think Ted had called her and told her about,

he had bought the sneakers and the other items or whatever. And they were out in the yard and Patricia was crying. And I mean, we didn't know what was going on, till afterwards. And then Ted said that she was upset about him going and spending the money, said they had some kind of agreement that if they spend more than \$25 or \$50, they'd let the other one know, to that effect, you know.

Q So Patricia was out on the yard, and she was crying and obviously upset?

A Yes, sir.

Q And was this when Ted made the comment, "God, I wish I could strangle her"?

A Well, after Patricia left, he was telling us about like when she was crying, and then he made the comment like, "God, I hate I married her. God, I wish I could strangle her."

Q And he was upset and he was mad on that occasion; is that right?

A I mean, I couldn't tell his, you know, full response. Like I said, when he said it, he just walked off.

Q Well, let me ask you again, Mr. Woodberry. Is this statement true that you made on March of 1996, "I have never heard Ted Kimble say he wanted or wished harm to come to his wife, Patricia"?

A I -- well, from what I just said, not --

Q All right.

A What I just said is the truth.

Q All right. So it was not true, what you said on March of 1996; is that right?

A To the private investigator?

Q Yes. To this signed affidavit that you signed right here.

A Must not have been.

Q Well, either it was or it wasn't, Mr. Woodberry.

A Well --

MR. PANOSH: Your Honor, we object.

THE COURT: Overruled.

MR. PANOSH: They each have a copy. Is there a reason he has to stand there and direct the questions to him?

A Like I said --

THE COURT: Overruled.

A -- I -- you know, I can't remember as far as all this.

Q Mr. Woodberry, let me ask you if back in March of 1996, you made this statement. "I have never heard Ted Kimble discuss or plan to commit a crime."

A Outside of -- I mean, like I said, when he made those remarks, I didn't consider that to be a crime. I figured he was, you know, upset or something like that, you know.

Q Well, have you ever heard Ted Kimble discuss a plan to

commit a crime?

A No, sir.

Q So your testimony here today is, that that statement's true, that you've never heard him discuss any intention to commit a crime; is that correct?

A During my employment there?

Q Yes.

A No. I heard him make those remarks, but I never heard him, as far as sit down and talk about committing a crime.

Q Or at any time, Mr. Woodberry, not just the time you worked there.

A Outside of those remarks.

Q Let me ask you if this statement is true, Mr. Woodberry. Number 19, "Ted Kimble has not --" Well, let me ask you question -- Paragraph Number 18. Excuse me. I skipped that one. "Ted Kimble has never asked me to participate in any criminal activity"?

A No, sir.

Q No, sir, what? Is that statement true?

A Yes. He never asked me.

Q All right. Do you stand by that statement that you made in March of 1996?

A Yes, I stand by that.

Q Number 19, "Ted Kimble has not and did not ask me to kill or participate in the death of Patricia Kimble"?

A No, sir.

Q Did you make that statement --

A Yes, sir.

Q -- Mr. Woodberry?

A Yes, sir.

Q Is that statement true?

A Yes, sir.

Q You still stand by that statement today?

A Yes, sir.

Q Number 20, Mr. Woodberry, "I have seen no indication and I do not believe that Ted Kimble was involved in the death of Patricia Kimble." Did you make that statement?

A When was this again?

Q This was on March the 21st of 1996.

A I think I told the guy that, the guy who I talked to.

Q All right. And is that statement true?

A Well, during then, like I was telling him, outside of those remarks that I had heard Ted made, and this and that, you know -- during the time, I couldn't figure, you know, that he would, you know, be involved in something like that. Because like I said, the times I seen him, they pretty much seemed to be, you know, a happy couple.

Q My question to you, Mr. Woodberry, is that statement true, Number 20? Do you want me to read it --

A No.

Q -- for you again?

A I can.

(Time was allowed for the witness.)

A I haven't seen -- no, I didn't see no indication.

Q Let me ask you, Mr. Woodberry -- well, have you -- let me ask you, have you heard of any indications?

A Have I heard of any?

Q Uh-huh. Have you heard any indication -- the question -- what you stated on March 21, 1996 reads, "I have seen no indication and I do not believe that Ted Kimble was involved in the death of Patricia Kimble."

A During then, I might have said that, yes.

Q All right. And is that statement true?

A During then, it was.

Q All right. And with regard to question -- Paragraph 21, "I have no information about the death of Patricia Kimble, except what was --" "for what has been broadcast on television"?

A Yes, sir.

Q Is that statement true?

A Yes, during then.

Q All right. And let me ask you this, Mr. Woodberry. Number 23, directing your attention to the handwritten items, Paragraph Number 23, did you say, on March 6, 1996 -- March the 21st, "On the day of Patricia Kimble's death,

October 9, 1995, I was at my residence in Graham --"

A Yes.

Q "-- 711 Oakley Street"?

A Yes, sir.

Q Did you say that?

A Yes, sir.

Q Is that statement true?

A Yes, sir.

Q And Number 24, Mr. Woodberry, "At approximately 6:30 p.m., I went to Carolina Careers on Maple Avenue to fill out a job application"?

A Uh-huh.

Q Is that statement true?

A Yes, sir. I couldn't be for sure about the time, because Carolina Temporary closes like 8:00. And I think prior to that, earlier that day, I had been calling up there, and they said you have to come in and put an application in. But they did have a couple of job openings. So I didn't have no transportation during that time, and I told the lady that my girlfriend was at work, and maybe I could come later on this evening, I get a ride up there. So she told me to be up there before 8:00 o'clock. I think my girlfriend's sister had took me up there sometime between 7:00 and 7:30. I didn't have my Social Security card, so the girl who waited on me, she told me that, what we'll do

is, go ahead and start filling out the application. And she sent Barbara back to our residence, to get my Social Security card.

Q So is your testimony, Mr. Woodberry, that it was somewhere around 7:00 or 7:30 p.m. that night --

A Yes, sir.

Q -- that you filled out your job application?

A I think so.

Q So it was not 6:30 p.m., as you stated on your affidavit, was it?

A Well, I know it was late during the evening, because like I said, they close at 8:00. And if I'm for sure, I think her sister might have got there sometime 7:00, might have been a little after 7:00.

Q So is your testimony, Mr. Woodberry, that it was sometime after 7:00 o'clock?

A I can't be definite, but I'm pretty sure it was, because like I said --

Q And the --

A -- the lady was like telling me that if I send them to get the Social Security card, that way, by the time they get back, we'll have enough time, we'll be able to complete the application, and she won't have to take nothing but my Social Security number, before they close.

Q So it was shortly before 8:00 o'clock when they closed;

is that right?

A I think they -- well, they closed at 8:00 during then.

Q All right. So there was enough of a problem, in terms of them closing, that you were concerned about them actually closing before you got the application filled out; is that correct?

A Yes, sir.

Q So all you really know, as far as that's concerned, Mr. Woodberry, is that it was before 8:00 o'clock; is that right?

A Yes, sir.

Q Now, Mr. Woodberry, I believe you've indicated earlier that you do know a woman by the name of Laura Shepard; is that right?

A Yes, sir.

Q Do you recall her going to your house in April of 1996?

A Going to my house?

Q Yes, sir.

A No, sir.

Q Excuse me. Do you recall going over to her house in April of 1996?

A I can't recall, but I did go over Laura's house a couple times after that. I was close to her family.

Q All right. Now, on this occasion in April of 1996, Mr. Woodberry, would this have been after you two had broken up?

A Yes, sir.

Q So you would no longer have been boyfriend and girlfriend?

A No, sir.

Q Though you knew each other at this time?

A Yes, sir.

Q Well, let me ask it again. Do you recall going over there and staying at her house -- and this would have been in Greensboro; is that correct?

A Yes, sir.

Q All right. Around April the 4th?

A I can't remember the dates. Like I said, I did go over Laura's house probably three or four times.

Q All right. Do you recall asking Laura if you could spend the night over at her house?

A No, sir, I don't recall asking her if I could stay the night. I have stayed the night there on occasion.

Q All right. Do you recall sleeping on the couch?

A No, sir.

Q Do you recall waking up -- waking Laura up 5:00 in the morning, when you were upset?

A No, sir.

Q Do you recall her coming in there and asking you why you were crying?

A No, sir.

Q Do you recall telling her -- or asking her if she would come to visit you in prison? Do you remember making that statement to her?

A No, sir.

Q Do you remember making the statement to her on that occasion, Mr. Woodberry, while you were upset and crying, that you had done something terrible that you might receive the death penalty for?

A No. I recall I never made no statement like that to her.

Q And do you recall, after her response, that you told her that even if you were in prison, you would be coming into some money and you would be able to supply her with money, if she were willing to come visit you in prison?

A No, sir. The only time I ever told Laura, as far as money is concerned, is that when I get my income tax back, that I probably get me an apartment, and that was it. But I never told her anything to that knowledge.

Q So if Laura Shepard were to come in court and state that you told her those things, she would not be telling the truth?

A No, sir.

Q Let me ask you this, Mr. Woodberry. Do you deny that you were at Laura's house on that occasion?

A No, because like I said, I have went over there, but

I'm not for sure about the dates that I have been over there. I went and visited one night, me, her mother and a neighbor of theirs. And during that time, Laura wasn't in there. I think she was taking a bath or taking her kids a bath or whatever. And me and her mother done sat there and talked, and then Laura came in. And if I'm for sure, I went to my mama's house that night. Because a lot of times, even before we break up -- you know, before we broke up, if I was over at Laura's house, I'd call a taxi late that night, unless her mother decided to take me home.

Q So is it your testimony, Mr. Woodberry, that you did not spend the night at Laura Shepard's house anytime early in April?

A Like I say, I can't recall staying the night. I might have. Because I did stay there on several occasions before we broke up. And I might have stayed there once or twice after we broke up.

Q Well, do you recall being upset?

A No, sir.

Q Crying early -- in the early morning hours?

A No, sir.

MR. LLOYD: If I could have just a moment, Your

Honor.

(Mr. Lloyd and Mr. Hatfield conferred.)

Q Now, Mr. Woodberry, do you recall giving a statement to

Detective Church in early June of 1996?

A I may have. I talked to Mr. Church on several occasions.

Q All right. Do you recall telling Detective Church on that occasion that you remembered Ted telling you last summer that he wished he had a hit man? Do you remember making that statement?

A Like I said, I remember him making statements to that effect. I wasn't the only one that he made some of these statements.

Q Well, that statement was made in reference to whom, Mr. Woodberry?

A He just said, "I wished I had a hit man." And then he said, "Rodney, you know somebody need a lot of money?" And then he'll laugh it off. He even said one time before, "Rodney, you could use a lot of money, couldn't you?" He just laughed it off.

Q Now, Mr. Woodberry, do you recall telling Detective Church on that occasion, that same occasion, that you had nothing to do with Patricia's death, and would cooperate in any way to clear yourself? Do you remember --

A Yes, sir.

Q -- saying that?

A Yes, sir.

Q And do you recall telling Detective Church that you

were going to the SBI to clear yourself? Do you remember saying that?

A Not to that effect, but I did go to the SBI.

Q All right.

A I mean, I'm not for sure about the exact words, you know.

MR. LLOYD: That's all I have, Your Honor.

THE COURT: Mr. Panosh, any questions?

MR. PANOSH: Yes, sir.

CROSS-EXAMINATION by MR. PANOSH:

Q You were asked if Laura Shepard said that, it would not be the truth. What do you know about her truthfulness?

A Excuse me, Mr. Panosh?

Q What do you know about Laura Shepard's truthfulness?

A It's not worth a bubble.

Q What do you mean?

MR. LLOYD: Well --

A I've had --

MR. LLOYD: -- objection, Your Honor. There's a proper way to do this and an improper way to do this, and this is not the proper way to do that.

THE COURT: I'm not sure what he said.

A I've had several bad occasions with Laura. During my un-- I mean, during my --

MR. LLOYD: Object, Your Honor.

THE COURT: Sustained.

Q All right. You were asked by the defendant's counsel if Laura Shepard said that you said those things, would that be the truth, and you said no. What do you know about Laura Shepard's truthfulness?

MR. LLOYD: Well, Your Honor, if I may be heard just briefly. The rule states that he's allowed to give his opinion on anybody's veracity, but it's limited to his opinion.

THE COURT: Sustained.

Q Do you have an opinion about her truthfulness, about Laura Shepard's truthfulness?

A Anything she tell me, I would have to see it myself.

Q So the answer then is, you do have an opinion?

A Yes, sir.

Q And what would that opinion be?

A When it comes to Laura, as far as the truth, it's very low on my pole.

Q Now, what was your relationship with Laura Shepard?

A Well, like I said -- I met her through my brother. As a matter of fact, it was like a blind date. He worked with Laura at K-mart, and he was telling me he knew a friend of his, said that she was single, you know, she's a nice girl. I said, "Sure, I'll meet her." The first time I met Laura, she supposedly came to my mama's house that night. And she

caught a taxicab. I remember that. Me and about three more guys was sitting in the house, drinking beer. And when she came, I met her. I took her out to a club. We talked. We got to know each other.

MR. LLOYD: Well, Your Honor, I question the relevance of this, how they met and all this other stuff.

THE COURT: Overruled at this point.

A And after that, we just started what you would call going together.

Q Did there come a time when the going together wasn't so smooth?

A Yes, plenty of times.

Q Tell about that, please.

A Well, during my unemploy-- during my employment at Lyles, on several occasions, Laura would call, call, call. I recall plenty of times Ted or either Patricia or whoever was down there during the time, they even stopped her from calling one time, because she would always constantly call. And she would make up these wild stories about --

MR. LLOYD: Well, objection to this, Your Honor.

THE COURT: Overruled.

A She would make up these wild stories about being pregnant, I mean, to the point where she went as far as, to my knowledge, having a baby shower. And the girl wasn't even pregnant. Her own family even told me that --

THE COURT: Well, sustained as to that.

MR. LLOYD: Well, objection.

THE COURT: Sustained.

THE WITNESS: I'm sorry.

Q Based upon these occurrences, did there come a time when you ended the relationship or tried to end the relationship?

A Plenty of times.

Q What, if anything, happened?

A Laura would go into this crazy stage or --

MR. LLOYD: Well, objection.

THE COURT: Overruled.

A I mean, on several occasions, I would even tell Laura, face to face --

MR. LLOYD: Well, objection to what he told Laura.

THE COURT: Overruled.

Proceed.

A -- that it was over, it just wasn't working out. And Laura was the type, she would call, she would threaten, she would say things to people, just like the pregnancy, you know. I mean, she had me going to the doctor with her.

Q Did she ever indicate to you that she -- or let me try that again. Did there come a time when you found a new girlfriend?

A Yes, sir.

Q Who was that?

A Beverly Jeffers.

Q And did there ever come a time when she showed you or indicated to you that she was jealous of Ms. Jones (sic)?

A On several occasions.

Q Would you describe that, please.

A Well, one incident was, Laura knew I was seeing Beverly. I made it clear to her. And like I said, I was close to her family. I even still went over there. But during the time when I had told her about Beverly, she went into this rage about what she would do to me, and this and that. One night, I tried to leave, I had my bags, and I was walking down the street. Laura followed me, she chased me. I even ran, trying to get away from her. She cried. And Beverly picked me up. When I got in the car with Beverly, we were in the process of pulling off, and Laura chased the car.

Then on several occasions, she would call my mama and make comments to the effect that "I'm going to kill your son. I can't stand it."

MR. LLOYD: Well, objection to --

THE COURT: Sustained.

MR. LLOYD: -- this, Your Honor.

Q Who is your mother?

A Peggy Millen, maiden name is Woodberry.

Q Who is Sara Haith?

A She's the girl who lived next door to Beverly on 711 Oakley Street. I met her through Beverly.

Q And where were you -- specifically where were you on October the 9th of 1995, in the afternoon and evening hours?

A Well, to begin, the morning, I baby-sitted for Beverly, because she's working at McDonald's during that time. And like I --

Q Where was that, sir?

A 711 Oakley Street, Graham. And I wasn't employed during the time. But I was -- like I said, that day, I had been calling to these places, and I had called Carolina Temporary. So, to my knowledge, I believe Beverly had got home 1:00, sometime between that. But during this time, me and Sara, we had been sitting over there talking, because we always used her telephone.

Q You and who were?

A Sara, Sara Haith.

Q And why were you at Sara Haith's house during that period of time?

A Well, she was at our house that morning, but I had been back and forth, using the telephone. Me and her had been sitting around my house talking -- or around Beverly's house.

Q And you were using the telephone for what?

A Calling about a job. I think that's where I called Carolina Temporary from.

Q And approximately what time did you say Beverly got home?

A During that time, I think she's working till like 1:00 o'clock, to my knowledge. I think she's working till like 1:00 o'clock in the evening.

Q Where were you from 1:00 o'clock in the afternoon of October the 9th on?

A Me, Beverly and Sara had sat around, talked. And I called Beverly's sister's and asked her would she take me to Carolina Temporary --

Q Why didn't --

A -- because I --

Q Why didn't you drive there yourself?

A Well, we had -- Beverly had a car, but prior to this, she was taking me to Lexington, North Carolina, to get my daughter, and her car had broke down in Lexington. Her motor was already bad, and it gave out on us, so we had to get a ride from Lexington to Greensboro, from Greensboro back to Burlington. And I had her car towed by my stepfather, sometime late October, may have been November, towed back to Burlington, placed in Beverly's driveway.

Q So on October the 9th, was the vehicle there?

A Yeah, I think she still had it in the driveway, because

we was trying to get a motor for it. But everywhere she called, they either didn't have no motor or it cost too much.

Q Did you have a driver's license at that time?

A No, sir.

Q Now, as Mr. --

MR. PANOSH: Madam Clerk, do you know my last number?

THE CLERK: I think it was 146.

MR. PANOSH: Okay. Thank you.

THE COURT: Mr. Panosh, how long are you going to be with the witness?

MR. PANOSH: 15, 20 minutes.

THE COURT: Well, we'll need to break then.

You may stand down, sir.

(The witness left the witness stand.)

THE COURT: As I indicated, members of the jury, we'll need to be recessing at 3:00 o'clock this afternoon. I need to leave at this point.

Please remember the Court's instructions. Do not discuss the case. Do not read or watch any news accounts. Remember the instructions you've signed on the jury responsibility sheet.

Have a nice evening. I'll see you in the morning at 9:30, 9:30 in the morning.

(The jury left the courtroom at 2:59 p.m.)

THE COURT: Let me see the attorneys at the bench about an administrative matter, please.

(All three counsel conferred with the Court at the bench.)

THE COURT: Okay. You may declare a recess until 9:30 in the morning, sheriff.

(A recess was taken at 3:03 p.m. until Thursday, August 27, 1998.)

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I N D E XDEFENDANT'S WITNESSES

RONNIE LEE KIMBLE

Continued Cross-Examination by Mr. Panosh . PAGE 2248

Redirect Examination by Mr. Hatfield PAGE 2357

Recross-Examination by Mr. Panosh PAGE 2394

RODNEY LAMONT WOODBERRY

Direct Examination by Mr. Lloyd PAGE 2401

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E X H I B I T S

<u>STATE'S EXHIBITS</u>	<u>IDENT.</u>	<u>INTRO.</u>
142. Letter	2378	----
142-A. Letter	2388	----
142-C. Letter	2388	----
142-D. Letter	2388	----
142-H. Letter	2388	----
143A-G. Letters	2392	----
145. Pad of Paper with Phone Numbers	2273	----
146-A. Photograph	2252	----
146-B. Invitation	2253	----
146-A. Extradition Paper *	2309	----
146-B. Extradition Paper *	2309	----
146-C. Extradition Paper	2309	----

* Duplicate Exhibit Number

E X H I B I T S (CONT'D.)

<u>DEFENDANT'S EXHIBITS</u>	<u>IDENT.</u>	<u>INTRO.</u>
16. Naval Medical Center Report	2365	2367
17. Report of Medical Examination	2363	2365
18. Naval Medical Center Report	2368	2370
19. Report of Final Diagnosis	2370	2371
20. Reward Poster	2357	2358
21. Department of Navy Letter	2372	2374
23. Affidavit of Rodney Woodberry	2407	----

COURT'S EXHIBIT

142. Letter (State's Exhibit)	2387	
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NORTH CAROLINA
GUILFORD COUNTY

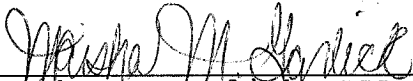
IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 97 CrS 23654
FILE NO. 97 CrS 39580
FILE NO. 98 CrS 23485

STATE OF NORTH CAROLINA)
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RONNIE LEE KIMBLE)

C E R T I F I C A T E

I, Marsha M. Garlick, Official Superior Court Reporter, Eighteenth Judicial District, do hereby certify that the foregoing 195 pages constitutes the complete and accurate transcript of my stenograph notes of the proceedings in this matter on August 26, 1998, at the August 3, 1998 Regular Criminal Session of Superior Court, Guilford County, North Carolina, and were transcribed by me personally.

This the 25th day of January, 1999.



Marsha M. Garlick, RPR
Official Superior Court Reporter

Transcript Ordered: September 8, 1998

Transcript Delivered: January 27, 1999