

Robert Nicholes : "Proof of Perjury"

Transcript Testimony / First B & E and Ted's Confession

Summary:

Robert Nicholes committed perjury several times during his testimony at the trial of defendant Ronnie Kimble. It can be proven that Mr. Nicholes lied about his, "First B & E and Ted's Confession."

(Direct-Examination) Mr. Robert (Rob) Nicholes worked part-time and stated he worked at Lyles Building Materials from the beginning of September '96, till April 1, 1997 (TTP.1027.18-20). Although Mr. Nicholes had a prior criminal history, Ted Kimble did not. Still Rob made the assertion, "... we began stealing lumber and materials from job sites." (TTP.1028.10-12)

Mr. Nicholes claims he became closer to Ted Kimble toward November, December (TTP.1031.19-25), and continued to ask questions about the death of Ted's wife, Patricia Kimble. One late evening while on the way to a job site to steal building material, Rob asked Ted if he had anything to do with the death of his wife and Ted said, "yes." Ted then threaten to kill Rob if he told anyone (TTP.1032.1-25). Ted became upset and hysterical, and crying, and spent 20 minutes discussing his childhood (TTP.1033.1-8).

(Cross-Examination) Rob Nicholes asserts the theft of building material started December 1996 (TTP.1053.21-25), and occurred over a three month period, from December 1996, till February 1997. During which time Rob had the knowledge of Ted's confession (TTP.1054.1-8).

Once pressed Rob admits to being paid \$300 for his first trip to steal materials, but claims he was lead to believe the transaction was legitimate, despite the fact the trip took place at 3:00 AM. in the morning, while it was snowing (TTP.1056.6-23). Rob flip-flops over rather or not he actually

believed the transaction was legitimate (TTP.1057.6-25). Once at the scene of the first B&E Rob claims to have waited in his car and studied for a Spanish test, while Ted removed screws from "windows and doors." Rob then helped load the items into the truck (TTP.1058.9-24). This B&E took place off Brassfield Road near Bryan Boulevard. It involved only "doors and windows" worth several thousand dollars (TTP.1060.6-23).

In the following day of testimony Rob continued to flip-flop as to whether or not he believed his first trip was legitimate, but then Rob admitted when Ted said \$300 dollars, he was there for the money (TTP.1069.9-25). Even so Rob went on trying not to give a straight answer (TTP.1070.1-13).

Rob went on to tell the jury that Ted had written him company checks labelled for "building materials" (TTP.1071.19-25), in order to pin the B&E's on him in the event he were to tell police of the confession (TTP.1072.1-25). Rob cashed the checks because as a college student he really needed the money. Rob then made it clear, prior to the 3 A.M. excursion for theft of windows and doors, he never sold any building materials to Ted (TTP.1073.1-25).

According to Rob it was during these thefts, this stealing, that he and Ted became close, and Ted made this admission to him. Rob says his first theft excursion was approximately two and a half months after meeting Ted (which would be Nov. '96) and agrees on December (96). Rob also says, "It was whenever the first snowfall was. That's how I remember. I don't remember the date" (TTP.1074.1-25).

Suddenly Rob contradicts everything he's said by making the

comment, "And I mean, for the first couple months, I'd done it for the money" (TTP.1078.2-5). Throughout Rob's entire testimony he claimed to have been fearful for his life, that Ted was going to kill him.

Although Ted left his gun at Rob's parent's house, Rob was still scared of Ted and returned the gun. Rob said this happened at his wedding reception (TTP.1079.2-17). In early February (TTP.1087.11-20).

Mr. Nicholes goes on to acknowledge his involvement in stealing go-carts from Northern Hydraulics in late January ('97). This was before his wedding (TTP.1089.17-25). Rob then agrees Ted's intimidation came well before this time (TTP.1090.1-5).

NOTE: It's important to note Rob's claims of intimidation followed Ted's supposed confession, which by all accounts of Rob's testimony took place sometime in early December '96. The thefts occurred over a three month period (Dec. '96-Feb '97), during which time Mr Nicholes had the knowledge of Ted's confession (TTP.1054.1-8)

***FACTS**: The FACTS do not support Robert Nicholes testimony. Anyone can see the minor contradictions and flip-flop in Mr. Nicholes testimony, but the following proves he committed "PERJURY".

Mr. Nicholes gave plenty of details to distinguish his supposed "first B & E" involvement, from all other cases. Rob said, "the theft took place off Brassfield Road near Bryan Boulevard, the only items taken were doors and windows worth thousands of dollars" (TTP.1060.6-23). Of course Rob failed to mention his parents live only two blocks away from the crime scene. As Rob stated twice, it had snowed (TTP.1056.18 / TTP.1074.16); "But it WASN'T the first snow of the year."

Nevertheless both Rob and Ted were indicted on this crime, because Rob rode around with police and pointed out all the robbed building sites (TTP.1090.23-25/TTP.1091.1-14). According to the indictments, this B & E took place in mid-January 1997, and NOT December 1996 as Rob testified. (See EXHIBITS/Indictment File No. 97CRS23708; File No. 97CRS23664.)

Mr. Nicholes also claim he never sold building materials to "Lyles" prior to his first B & E (TTP.1073.17-24), that after the first B & E Ted wrote company checks in order to pin crimes on him, if he didn't keep silent about the supposed confession. (TTP.1071.19-25/TTP.1072.1-25). Upon review of company records, the checks show Robert Nicholes sold stolen building materials to Lyles a month or more prior to the first B & E. (See EXHIBIT / Lyles Building Material, Cancelled Ch. #'s 14090 ^{See additional checks})

While Mr. Nicholes claims Ted Kimble lead him into a life of stealing, the FACTS show it to be the other way around. Rather it be Rob's prior conviction in California for having stolen property (TTP.1049.21-24), or the company records which show Rob selling stolen lumber to Lyles prior to the first B & E. By Mr. Nicholes own testimony and supporting facts, Ted wasn't involved in this theft until January 1997, therefore Ted wasn't riding around with Rob during December 1996, stealing building material and making a supposed confession.

Patrick Pardee's Transcript Testimony, and Theodore (Ted) Kimble's affidavit also contradicts Robert Nicholes' Testimony. Patrick testified that he noticed Rob bringing Ted building material on a regular basis around Christmas '96, and the first time out he was told Rob had bought the lumber from a friend (TTP.1138.1-25).

Patrick Pardee gave details of his first B&E involvement, which included Ted and Rob. According to Patrick the crime ~~took~~ place in the vicinity of Westridge and Bryan Boulevard (TTP.1139.1-25), In an upscale subdivision. The only thing taken was boards of some type; two-by-something (TTP.1140.1-16) Patrick guessed at the date and said, "approximately mid, late January," (97). (TTP.1112.21)

According to Ted Kimble's affidavit the forgoing statements of Patrick were truthful, with the exception of the date. Ted stated the same facts and said the theft was of "two-by-fours". It took place on January 2, 1997. These statements are proven FACT by the Indictment. (See EXHIBIT/Indictment File No. 97 CRS 23658)

This "Evidence" further proves perjury on the part of Robert Nicholas. According to the dates on the indictments, the theft of "two-by-fours" took place prior to the theft of "Doors and Windows." Rob Nicholas intire testimony revolved around his claim, his first involvement in the B&E's took place over the theft of "doors and windows."

Yet another lie comes to light. Rob made the claim he and Ted went and picked up "two-by-fours" Ted had bought from a job superintendent or foreman, that "we" had a billed receipt. (TTP.1061.22-25/TTP.1062.1-11). In case at bar, defendant contends Rob was making a reference to the two-by-fours reported stolen, in the Indictment File No. 97 CRS 23658. This shows another example of "Perjury". Rob Nicholas is caught in yet another lie! These were the same two-by-fours Rob lead Ted to believe he had bought from a friend. This was the first theft involvement for Patrick Pardee and Ted Kimble.

434

32

STATE OF NORTH CAROLINA

In the General Court of Justice
Superior Court Division
GUILFORD COUNTY

File No. 97 CRS 23708

Film No.

STATE VERSUS

Defendant

ROBERT HAROLD NICHOLS

Date of Offense

Between 01/01/97
and 02/01/97

Offense in Violation of G.S.

14-54(a); 14-72(b)(2);

INDICTMENT

- I. FELONIOUS BREAKING AND ENTERING
- II. FELONIOUS LARCENY

I. The jurors for the State upon their oath present that on or between January 1, 1997 and February 1, 1997 and in Guilford County, the defendant, Robert Harold Nichols unlawfully, willfully and feloniously did break and enter a building under construction lot #22 located at 2017 Brassfield Rd with the intent to commit a felony therein: larceny.

II. And the jurors for the State upon their oath present that on or between January 1, 1997 and February 1, 1997 and in Guilford County, the defendant, Robert Harold Nichols unlawfully, willfully and feloniously did steal, take and carry away Eight MW vinyl clad windows and three pre-hung doors, including a 9-foot triple door set, the personal property of Dees Building Inc. having a value of \$6,000 dollars, pursuant to the commission of the felonious breaking and entering described in Count I above.

Signature of Prosecutor

WITNESSES

D.D. Kasey G.P.D. 97-58152

The witnesses marked "X" were sworn by the undersigned Foreman of the Grand Jury and after hearing testimony, this bill was found to be:

A TRUE BILL by twelve or more grand jurors, and I the undersigned Foreman of the Grand Jury, attest the concurrence of twelve or more grand jurors in this Bill of Indictment.

NOT A TRUE BILL

Date **NOV 03 1997**

Signature of Grand Jury Foreman

Michael Smith

D!

STATE OF NORTH CAROLINA

In the General Court of Justice
Superior Court Division
GUILFORD COUNTY

File No.97 CRS 23664

Film No.

STATE VERSUS

Defendant

THEODORE MEAD KIMBLE

Date of Offense

Between 01/01/97
and 02/01/97

Offense in Violation of G.S.

14-54(a);14-72(b)(2);

INDICTMENT

- I. FELONIOUS BREAKING AND ENTERING
- II. FELONIOUS LARCENY

I. The jurors for the State upon their oath present that on or between January 1, 1997 and February 1, 1997 and in Guilford County, the defendant, Theodore Mead Kimble unlawfully, willfully and feloniously did break and enter a building under construction lot #22 located at 2017 Brassfield Rd with the intent to commit a felony therein: larceny.

II. And the jurors for the State upon their oath present that on or between January 1, 1997 and February 1, 1997 and in Guilford County, the defendant, Theodore Mead Kimble unlawfully, willfully and feloniously did steal, take and carry away Eight MW vinyl clad windows and three pre-hung doors, including a 9-foot triple door set, the personal property of Dees Building Inc. having a value of \$6,000 dollars, pursuant to the commission of the felonious breaking and entering described in Count I above.

Signature of Prosecutor

WITNESSES

D.D. Kasey G.P.D. 97-58152

The witnesses marked "X" were sworn by the undersigned Foreman of the Grand Jury and after hearing testimony, this bill was found to be:

A TRUE BILL by twelve or more grand jurors, and I the undersigned Foreman of the Grand Jury, attest the concurrence of twelve or more grand jurors in this Bill of Indictment.

NOT A TRUE BILL

NOV 03 1997

Signature of Grand Jury Foreman

Michael Smith

STATE OF NORTH CAROLINA

In the General Court of Justice
Superior Court Division
GUILFORD COUNTY

File No. 97 CRS 23658

Film No.

STATE VERSUS

Defendant

THEODORE MEAD KIMBLE

Date of Offense

Between 12/30/96
and 1/2/97

Offense in Violation of G.S.
14-54(a); 14-72(b)(2);

INDICTMENT

- I. FELONIOUS BREAKING AND ENTERING
- II. FELONIOUS LARCENY

I. The jurors for the State upon their oath present that on or between December 30, 1996 and January 2, 1997 and in Guilford County, the defendant, Theodore Mead Kimble unlawfully, willfully and feloniously did break and enter a house under construction at located at 4202 Butternut Terrace Greensboro, N.C. with the intent to commit a felony therein: larceny.

II. And the jurors for the State upon their oath present that on or between December 30, 1996 and January 2, 1997 and in Guilford County, the defendant, Theodore Mead Kimble unlawfully, willfully and feloniously did steal, take and carry away 2X4X10, 2X4X12 Lumber, the personal property of Dennis Ray Sosebee Greensboro, NC having a value of \$1758.43 dollars, pursuant to the commission of the felonious breaking and entering described in Count I above.

Signature of Prosecutor

WITNESSES

- D.D. Kasey G.P.D. 97-52452
-
-

The witnesses marked "X" were sworn by the undersigned Foreman of the Grand Jury and after hearing testimony, this bill was found to be:

A TRUE BILL by twelve or more grand jurors, and I the undersigned Foreman of the Grand Jury, attest the concurrence of twelve or more grand jurors in this Bill of Indictment.

NOT A TRUE BILL

Date NOV 03 1997

Signature of Grand Jury Foreman

Michael Smith

CC
21

IF IMAGE SAFE logo in light gray tone is not present on back of document - Do not cash.

LYLES BUILDING MATERIALS - SALVAGE INC.

1700 W. LEE ST. 294-0789
GREENSBORO, NC 27403

14159

66-55/531
02

PAY TO THE ORDER OF

Rob Wickles

12-7 19*96* \$

\$ 164.22

DOLLARS

Security Features
NationsBank

NationsBank
NationsBank, N.A.
Carolinas

FOR *Well Entry 12-7-96*

Ron I. Kehl

⑆014159⑆ ⑆053100559⑆ 021248588⑆

⑆000016497⑆

CLARKE AMERICAN BA SAFETY GUARDIAN

IF IMAGE SAFE logo in light gray tone is not present on back of document - Do not cash.

LYLES BUILDING MATERIALS - SALVAGE INC.

1700 W. LEE ST. 294-0789
GREENSBORO, NC 27403

14194

66-55/531
02

PAY TO THE ORDER OF

Rob Wickles

12-14 19*96* \$

\$ 162.02

DOLLARS

Security Features
NationsBank

NationsBank
NationsBank, N.A.
Carolinas

FOR *Well Entry 12-14-96*

R. I. Kehl

⑆014194⑆ ⑆053100559⑆ 021248588⑆

⑆000016207⑆

CLARKE AMERICAN BA SAFETY GUARDIAN

IF IMAGE SAFE logo in light gray tone is not present on back of document - Do not cash.

LYLES BUILDING MATERIALS - SALVAGE INC.
1700 W. LEE ST. 294-0789
GREENSBORO, NC 27403

14208

66-55/531
02

8/06/99
10/10/99
10/10/99
OK

00205 033 068169 12-30-96 11:51 CASHED CHECK
021248588 \$200.00
00205 091 008013 12-24-96 14:29 CASHED CHECK
9E10960139

PAY TO THE ORDER OF **Rob Nicholas** \$ 200.00

Two Hundred Dollars

DOLLARS

NationsBank
NationsBank, N.A.
Carolinas

Ed Lamb

MP

FOR **14208** :05100559: 021248588 :0000020000

CLARKE AMERICAN BA GUARDIAN & SAFETY

IF IMAGE SAFE logo in light gray tone is not present on back of document - Do not cash.

LYLES BUILDING MATERIALS - SALVAGE INC.
1700 W. LEE ST. 294-0789
GREENSBORO, NC 27403

14212

66-55/531
02

8/06/99
10/10/99
10/10/99
OK

00203 033 068169 12-30-96 11:51 CASHED CHECK
021248588 \$110.00
00203 033 068169 12-30-96 11:51 CASHED CHECK
9E10960139

PAY TO THE ORDER OF **Rob Nicholas** \$ 110.00

One Hundred Ten Dollars

DOLLARS

NationsBank
NationsBank, N.A.
Carolinas

Ed Lamb

MP

FOR **14212** :05100559: 021248588 :0000011000

CLARKE AMERICAN BA GUARDIAN & SAFETY

IF IMAGE SAFE logo in light gray tone is not present on back of document - Do not cash.

LYLES BUILDING MATERIALS - SALVAGE INC.
1700 W. LEE ST. 294-0789
GREENSBORO, NC 27403

14219

66-55/531
02

12-28 19 76

PAY TO THE ORDER OF

Rob Nicholas

\$ 140.00

one Hundred forty Dollars

DOLLARS

NationsBank
NationsBank, N.A.
Carolinas

Security Features are included on back

GUARDIAN * SAFETY

FOR

Rob Nicholas

⑆0⑆④④②①9⑆ ⑆053①00559⑆ 02①248588⑆

⑆00000①4000⑆

MP

CLARKE AMERICAN BA

IF IMAGE SAFE logo in light gray tone is not present on back of document - Do not cash.

LYLES BUILDING MATERIALS - SALVAGE INC.
1700 W. LEE ST. 294-0789
GREENSBORO, NC 27403

14171

66-55/531
02

12-11 19 76

PAY TO THE ORDER OF

Rob Nicholas

\$ 220.00

Two Hundred twenty Dollars

DOLLARS

NationsBank
NationsBank, N.A.
Carolinas

Security Features are included on back

GUARDIAN * SAFETY

FOR

Rob Nicholas

⑆0⑆④④①7①⑆ ⑆053①00559⑆ 02①248588⑆

⑆00000②2000⑆

MP

CLARKE AMERICAN BA

LYLES BUILDING MATERIALS - SALVAGE INC.
1700 W. LEE ST. 294-0789
GREENSBORO, NC 27403

14472

66-55/531
02

PAY TO THE ORDER OF Rob Winkles 3-19 1997 \$
ONE HUNDRED DOLLARS \$ 100.00

DOLLARS

NationsBank
NationsBank, N.A.
Carolinas

FOR Payee + Debits [Signature]

MP

⑈014472⑈ ⑆05310059⑆ 021248588⑈ ⑈0000010000⑈

CLARKE AMERICAN BA GUARDIAN & SAFETY

ImageSAFE logo in light gray tone is not present on back of document - Do not cash.

LYLES BUILDING MATERIALS - SALVAGE INC.
1700 W. LEE ST. 294-0789
GREENSBORO, NC 27403

14228

66-55/531
02

PAY TO THE ORDER OF Rob Winkles 12-30 1996 \$
one hundred fifty two Dollars \$ 152.00

DOLLARS

NationsBank
NationsBank, N.A.
Carolinas

FOR [Signature]

MP

⑈014228⑈ ⑆05310059⑆ 021248588⑈ ⑈0000015200⑈

CLARKE AMERICAN BA GUARDIAN & SAFETY

IF IMAGE SAFE logo in light gray tone is not present on back of document - Do not cash.

LYLES BUILDING MATERIALS - SALVAGE INC. DL9748908
1700 W. LEE ST. 294-0789
GREENSBORO, NC 27403

14217

66-55/531
02

9E1095075 23

885842120

60.00 \$

96-03-21 891890 8E0 E0E00

PAY TO THE ORDER OF *Bob Nicholas*

\$ 210.⁰⁰

DOLLARS

Two Hundred Ten Dollars

NationsBank
NationsBank, N.A.
Carolinas

FOR

Bob Nicholas

⑆014217⑆ ⑆053100559⑆ 021248588⑆ ⑆0000021009⑆ MP

CLARKE AMERICAN BA

GUARDIAN * SAFETY

LYLES BUILDING MATERIALS - SALVAGE INC.
1700 W. LEE ST. 294-0789
GREENSBORO, NC 27403

14207

66-55/531
02

9E1095075 21 96

885842120

\$173.34

96-03-21 891890 8E0 E0E00

PAY TO THE ORDER OF *Bob Nicholas*

\$ 173.³⁴

DOLLARS

One Hundred seventy three Dollars

NationsBank
NationsBank, N.A.
Carolinas

FOR

Bob Nicholas

⑆014207⑆ ⑆053100559⑆ 021248588⑆ ⑆0000017334⑆ MP

CLARKE AMERICAN BA

GUARDIAN * SAFETY

IT IMAGESafe logo in light gray tone is not present on back of document - Do not cash.

LYLES BUILDING MATERIALS - SALVAGE INC.

1700 W. LEE ST. 294-0789
GREENSBORO, NC 27403

14450

66-55/531
02

PAY
TO THE
ORDER OF

Justice works

3-14 19 *97*

ONE Hundred & five Dollars \$ *105.00*

DOLLARS

NationsBank

NationsBank, N.A.
Carolinas

[Signature]

FOR

⑆0⑆⑆450⑆ ⑆053⑆00559⑆ 02⑆248588⑆

⑆00000⑆0500⑆

MP

CLARKE AMERICAN BA

GUARDIAN * SAFETY

IT IMAGESafe logo in light gray tone is not present on back of document - Do not cash.

LYLES BUILDING MATERIALS - SALVAGE INC.

1700 W. LEE ST. 294-0789
GREENSBORO, NC 27403

14095

66-55/531
02

PAY
TO THE
ORDER OF

Bob Nichols

11-14 19 *94*

Two hundred and four and 09/100 \$ *204.09*

DOLLARS

NationsBank

NationsBank, N.A.
Carolinas

FOR

⑆0⑆⑆4095⑆ ⑆053⑆00559⑆ 02⑆248588⑆

⑆00000⑆20409⑆

MP

CLARKE AMERICAN BA

GUARDIAN * SAFETY

IF IMAGE SAFE logo in light gray tone is not present on back of document - Do not cash.

LYLES BUILDING MATERIALS - SALVAGE INC.

1700 W. LEE ST. 294-0789
GREENSBORO, NC 27403

PAY TO THE ORDER OF Rob Nicholas

982842120 021248588 01-31-97 14102 CASHED CHECK \$239.81

9748908 10-a-2001 97

66-557531 02

Two Hundred Thirty Nine Dollars 81/100 DOLLARS

NationsBank
NationsBank, N.A.
Carolinas

Red Smith

FOR _____

⑆014262⑆ ⑆053100559⑆ 021248588⑆

⑆000002398⑆

MP

GUARDIAN & SAFETY CLARKE AMERICAN BA

LYLES BUILDING MATERIALS - SALVAGE INC.

1700 W. LEE ST. 294-0789
GREENSBORO, NC 27403

PAY TO THE ORDER OF Rob Nicholas

885848588 021248588 01-31-97 14102 CASHED CHECK \$192.08

982842120 021248588 01-31-97

66-557531 02

One Hundred Ninety Two Dollars 08/100 DOLLARS

NationsBank
NationsBank, N.A.
Carolinas

Red Smith

FOR _____

⑆014332⑆ ⑆053100559⑆ 021248588⑆

⑆0000019208⑆

MP

GUARDIAN & SAFETY CLARKE AMERICAN BA

IF IMAGE SAFE logo in light gray tone is not present on back of document - Do not cash.

LYLES BUILDING MATERIALS - SALVAGE INC.
1700 W. LEE ST. 294-0789
GREENSBORO, NC 27403

14485

PAY TO THE ORDER OF *Justice watts*

3-24 19 *97* \$

66-55/531
02

Two Hundred twenty Dollars 00/100 \$ *220.00* DOLLARS

NationsBank
NationsBank, N.A.
Carrollinas

Security Features
 Clear on Back

Good of family

FOR _____

⑈014485⑈ ⑆053100559⑆ 021248588⑈

⑈000002000⑈

CLARKE AMERICAN BA

GUARDIAN SAFETY

IF IMAGE SAFE logo in light gray tone is not present on back of document - Do not cash.

LYLES BUILDING MATERIALS - SALVAGE INC.
1700 W. LEE ST. 294-0789
GREENSBORO, NC 27403

14465

PAY TO THE ORDER OF *Justice watts*

3-18 19 *97* \$

66-55/531
02

Two Hundred sixty Dollars 00/100 \$ *260.00* DOLLARS

NationsBank
NationsBank, N.A.
Carrollinas

Security Features
 Clear on Back

Good family

FOR _____

⑈014465⑈ ⑆053100559⑆ 021248588⑈

⑈000002600⑈

CLARKE AMERICAN BA

GUARDIAN SAFETY

LYLES BUILDING MATERIALS - SALVAGE INC.
1700 W. LEE ST. 294-0789
GREENSBORO, NC 27403

14437

PAY TO THE ORDER OF

Justice Watts

3-10-97

66-55/531 02

Three Hundred & fifty Dollars ⁰⁰/₁₀₀

\$ 350 ⁰⁰/₁₀₀

NationsBank

NationsBank, N.A.
Carolinas

DOLLARS

Security Features are included. Check on back.

GUARDIAN * SAFETY

FOR

Just Watts

⑈014437⑈ ⑆053100559⑆ 021248588⑈

⑈0000035000⑈ MP

If IMAGE SAFE logo in light gray tone is not present on back of document - Do not cash.

LYLES BUILDING MATERIALS - SALVAGE INC.
1700 W. LEE ST. 294-0789
GREENSBORO, NC 27403

14422

PAY TO THE ORDER OF

Justice Watts

11/02

885842120

001248588

CASHED CHECK

00.5025

981095075

00222 050 127297

66-40-80 262721 850 53200

19 97

66-55/531 02

Two Hundred & five Dollars ⁰⁰/₁₀₀

\$ 205 ⁰⁰/₁₀₀

NationsBank

NationsBank, N.A.
Carolinas

DOLLARS

Security Features are included. Check on back.

GUARDIAN * SAFETY

FOR

Just Watts

⑈014422⑈ ⑆053100559⑆ 021248588⑈

⑈0000020500⑈ MP

Robert Nicholes "Proof of Perjury"

Transcript Testimony / Prior Conviction in California

(Summary)

Robert (Rob) Nicholes had prior criminal convictions in California (TTP.1049.21-24). One conviction was for receiving stolen property, knowing it was stolen. When asked, "Did you work out a deal on that case?" Rob said, "No, sir. I served 90 days." Upon being pressed on the issue Rob became offensive, D.A. Panosh jumped in with several objections (TTP.1050.1-25). Once again Rob said, "No," in reference that he had received anything from the State of California in exchange for his guilty plea. Then came several more objections from Panosh (TTP.1051.1-25).

Finally Rob broke down, he started by claiming it had been eight, nine years ago, and hard to remember. D.A. Panosh broke in with a final objection and was overruled. Rob made the claim that he had already answered the question. Yet Rob then admitted the State of California reduced his felony charge down to a misdemeanor in exchange for his guilty plea. (TTP.1052.1-14).

(FACTS)

Rob first said he did NOT work a deal, and then admitted he did, thus Rob Nicholes lied and committed perjury. D.A. Panosh knew Rob was lying when he denied working a deal, and kept trying to object in order to cover up.

Rob's criminal records show his conviction in California took place in 1993, only 5 years prior, and NOT the 8-9 years earlier as he claim. Once again, proof of another lie. (see Exhibit C-1).

Robert Nicholes: "Proof of Perjury"

Transcript Testimony / Plea Agreement Limited to Property Crimes -
Excludes (2) D.W.I.

(Summary)

Robert Nicholes signed a plea agreement with District Attorney Richard Panosh on April 18, 1999 (TTP. 1030.12-13). This agreement was limited to property crimes (TTP. 1039.24-25).

Mr. Nicholes denied having a drinking problem despite a number of D.W.I. charges, "two arrest, one dismissal." Mr. Nicholes made it clear his plea agreement with the prosecution only pertained to property crimes, that in no-way was he to receive any help from the prosecution toward the two pending D.W.I. charges, in exchange for his testimony (TTP. 1083.1-21).

(FACTS)

Upon review of Robert Nicholes' D.O.C. criminal records (see Exhibit C-1) anyone can see that Mr. Nicholes committed perjury. Both D.W.I. charges were ran concurrent on 4/30/1999, with the property crimes. Mr. Nicholes received probation on "ALL" charges.

NOTE: According to Robert Nicholes D.O.C. record, he is currently serving prison time, an active-sentence. Rob committed more property-crimes in '2002. He also committed an assault on a female in '2003.

EXHIBIT C-1




North Carolina Department of Correction Public Access Information System

W3C WAI-A
WCAG 1.0

Instructions: Here is the information you have requested for this offender.
(Note: Click here to view an Explanation of Terms and Data Elements used in the summary boxes.)

Data current as of 2:00 AM EST on: 09/21/2004

General Summary Information			
DOC Number: 0302131		Inmate Status: ACTIVE INACTIVE	
Name(s): NICHOLS, ROBERT NICHOLS, ROBERT H.		P&P Status:	
Demographics			
Gender:	MALE	Race:	WHITE
Age:	32	Birth Date:	10/08/1971
			

Most Recent Incarceration Summary	
Conviction Date: 12/11/2003	Total Term: 2 YEARS 4 MONTHS
Projected Release Date: 10/15/2005	
Primary Offense: B & E WITC FELONY (PRINCIPAL)	
Admission Date: 02/09/2004	Admitting Location: CRAVEN CI
Special Characteristics: COURT RECOM WORK REL	
Custody Classification: MINIMUM 1	Next Custody Review Date: 02/01/2005

Control Status: REGULAR POPULATION	Next Control Review: UNKNOWN
Number of Infractions: 0	Last Infraction On: N/A
Current Location: FORSYTH CC	
Previous Location: TYRRELL WORK FARM	
Last Movement: RECEIVED FROM TYRRELL WORK FARM	On: 08/03/2004
Prior Incarcerations? Y Detainers? N Escapes? N	

Most Recent Probation and Parole Summary
Status: CLOSED
Office of Supervision: DISTRICT 05 UNIT B
Crime: POSSESSING STOLEN GOODS (PRINCIPAL)
Crime Type: FELON
Punishment Type: INTERMEDIATE SS

**The sentence history for the offender follows.
Incarceration records are light blue; Supervision records are light green**

Incarceration Record for Sentence Number: BB-001					
Commitment Type:	INMATE				
Conviction Date:	12/11/2003	County of Conviction:	BRUNSWICK		
Service Status:	ACTIVE	Sentence Status:	ACTIVE		
Projected Release Date:	11/09/2004	Sentence Begin Date:	12/11/2003		
Actual Release Date:					
Punishment Type:	ACTIVE SS				
Sentence Type 1:	DEPT OF CORR DIV OF PRISONS				
Minimum Term:	11 MONTHS	Maximum Term:	1 YEAR 2 MONTHS		
Commitment	Docket#	Offense (Qualifier)	Offense Date	Type	Sentencing Penalty Class Code
INITIAL	03050120	B & E WITC FELONY (PRINCIPAL)	12/10/2002	FELON	CLASS H

Incarceration Record for Sentence Number: BB-002

Commitment Type: INMATE
Conviction Date: 12/11/2003 **County of Conviction:** BRUNSWICK
Service Status: FUTURE **Sentence Status:** ACTIVE
Projected Release Date: 10/15/2005 **Sentence Begin Date:** 11/09/2004
Actual Release Date:
Punishment Type: ACTIVE SS
Sentence Type 1: DEPT OF CORR DIV OF PRISONS
Minimum Term: 11 MONTHS **Maximum Term:** 1 YEAR 2 MONTHS

Commitment	Docket#	Offense (Qualifier)	Offense Date	Type	Sentencing Penalty Class Code
CONSECUTIV TO SENTENCE NUMBER BB-001	03050120	LARCENY (PRINCIPAL)	12/10/2002	FELON	CLASS H

Incarceration Record for Sentence Number: BB-003

Commitment Type: INMATE
Conviction Date: 10/01/2003 **County of Conviction:** NEW HANOVER
Service Status: ACTIVE **Sentence Status:** ACTIVE
Projected Release Date: 09/22/2004 **Sentence Begin Date:** 01/26/2004
Actual Release Date:
Punishment Type: ACTIVE SS
Sentence Type 1: DEPT OF CORR DIV OF PRISONS
Sentence Type 2: PROBATION REVOCATION
Minimum Term: 8 MONTHS **Maximum Term:** 10 MONTHS

Commitment	Docket#	Offense (Qualifier)	Offense Date	Type	Sentencing Penalty Class Code
CONCURRENT TO SENTENCE NUMBER BB-001	03000769	LARCENY (PRINCIPAL)	12/21/2002	FELON	CLASS H

Incarceration Record for Sentence Number: BB-004

Commitment Type: INMATE
Conviction Date: 04/30/1999 **County of Conviction:** GUILFORD
Service Status: EXPIRED
Projected Release Date: 09/15/2004 **Sentence Begin Date:** 01/26/2004
Actual Release Date: 09/15/2004
Punishment Type: ACTIVE SS
Sentence Type 1: DEPT OF CORR DIV OF PRISONS
Sentence Type 2: PROBATION REVOCATION
Minimum Term: 8 MONTHS **Maximum Term:** 10 MONTHS

Commitment	Docket#	Offense (Qualifier)	Offense Date	Type	Sentencing Penalty Class Code
CONCURRENT TO SENTENCE NUMBER BB-001	97023715	B & E WITC FELONY (PRINCIPAL)	02/14/1997	FELON	CLASS H

Incarceration Record for Sentence Number: BB-005

Commitment Type: INMATE
Conviction Date: 04/30/1999 **County of Conviction:** GUILFORD
Service Status: EXPIRED
Projected Release Date: 09/15/2004 **Sentence Begin Date:** 01/26/2004
Actual Release Date: 09/15/2004
Punishment Type: ACTIVE SS
Sentence Type 1: DEPT OF CORR DIV OF PRISONS
Sentence Type 2: PROBATION REVOCATION
Minimum Term: 8 MONTHS **Maximum Term:** 10 MONTHS

Commitment	Docket#	Offense (Qualifier)	Offense Date	Type	Sentencing Penalty Class Code
------------	---------	---------------------	--------------	------	-------------------------------

CONCURRENT TO SENTENCE NUMBER BB-001	97023711	B & E WITC FELONY (PRINCIPAL)	01/20/1997	FELON	CLASS H
---	----------	----------------------------------	------------	-------	---------

Incarceration Record for Sentence Number: BB-006					
Commitment Type:	INMATE				
Conviction Date:	04/30/1999		County of Conviction:	GUILFORD	
Service Status:	EXPIRED				
Projected Release Date:	09/15/2004		Sentence Begin Date:	01/26/2004	
Actual Release Date:	09/15/2004				
Punishment Type:	ACTIVE SS				
Sentence Type 1:	DEPT OF CORR DIV OF PRISONS				
Sentence Type 2:	PROBATION REVOCATION				
Minimum Term:	8 MONTHS		Maximum Term:	10 MONTHS	
Commitment	Docket#	Offense (Qualifier)	Offense Date	Type	Sentencing Penalty Class Code
CONCURRENT TO SENTENCE NUMBER BB-001	97023700	B & E WITC FELONY (PRINCIPAL)	02/04/1997	FELON	CLASS H

Incarceration Record for Sentence Number: BB-007					
Commitment Type:	INMATE				
Conviction Date:	03/18/2004		County of Conviction:	NEW HANOVER	
Service Status:	EXPIRED				
Projected Release Date:	07/26/2004		Sentence Begin Date:	03/18/2004	
Actual Release Date:	07/26/2004				
Punishment Type:	ACTIVE SS				
Sentence Type 1:	DEPT OF CORR DIV OF PRISONS				
Minimum Term:			Maximum Term:	5 MONTHS	
Commitment	Docket#	Offense (Qualifier)	Offense Date	Type	Sentencing Penalty Class Code

CONCURRENT TO SENTENCE NUMBER BB-001	03059817	ASSAULT ON FEMALE (PRINCIPAL)	08/12/2003	MISD.	CLASS A1 MISDEMEANOR SS
--------------------------------------	----------	-------------------------------	------------	-------	-------------------------

Incarceration Record for Sentence Number: BA-001

Commitment Type: INMATE
Conviction Date: 04/30/1999 **County of Conviction:** GUILFORD
Service Status: EXPIRED
Projected Release Date: 10/07/2002 **Sentence Begin Date:** 04/15/2002
Actual Release Date: 07/18/2002
Punishment Type: DWI
Sentence Type 1: DEPT OF CORR DIV OF PRISONS
Sentence Type 2: PROBATION REVOCATION
Sentence Type 3: REGULAR PAROLE
Minimum Term: **Maximum Term:** 1 YEAR
Parole Begin Date: 07/18/2002 **Parole End Date:** 07/18/2002

Commitment	Docket#	Offense (Qualifier)	Offense Date	Type	Sentencing Penalty Class Code
INITIAL	97079416	DWI LEVEL 2 (PRINCIPAL)	11/21/1997	MISD.	NON CLASS CODE

Incarceration Record for Sentence Number: BA-002

Commitment Type: INMATE
Conviction Date: 04/30/1999 **County of Conviction:** GUILFORD
Service Status: EXPIRED
Projected Release Date: 04/23/2002 **Sentence Begin Date:** 04/15/2002
Actual Release Date: 04/23/2002
Punishment Type: DWI
Sentence Type 1: DEPT OF CORR DIV OF PRISONS
Sentence Type 2: PROBATION REVOCATION
Minimum Term: **Maximum Term:** 1 MONTH

Commitment	Docket#	Offense (Qualifier)	Offense Date	Type	Sentencing Penalty Class Code
CONCURRENT TO SENTENCE NUMBER BA-001	97076136	DWI LEVEL 4 (PRINCIPAL)	10/25/1997	MISD.	NON CLASS CODE

Supervision Record for Sentence Number: 08-001					
Commitment Type:		PROBATION/PAROLE			
Conviction Date:	10/01/2003	County of Conviction:	NEW HANOVER		
Punishment Type:	INTERMEDIATE SS				
Sentence Type 1:	PROBATION				
Sentence Type 2:	SUSPENDED SENTENCE				
Sentence Type 3:	DEPT OF CORR DIV OF PRISONS				
Commitment	Docket#	Offense (Qualifier)	Offense Date	Type	Sentencing Penalty Class Code
CONCURRENT TO SENTENCE NUMBER 07-001	03000769	POSSESSING STOLEN GOODS (PRINCIPAL)	12/14/2002	FELON	CLASS H

Supervision Record for Sentence Number: 07-001					
Commitment Type:		PROBATION/PAROLE			
Conviction Date:	10/01/2003	County of Conviction:	NEW HANOVER		
Punishment Type:	INTERMEDIATE SS				
Sentence Type 1:	PROBATION				
Sentence Type 2:	SUSPENDED SENTENCE				
Sentence Type 3:	DEPT OF CORR DIV OF PRISONS				
Commitment	Docket#	Offense (Qualifier)	Offense Date	Type	Sentencing Penalty Class Code
CONCURRENT TO SENTENCE NUMBER 06-001	03000769	LARCENY (PRINCIPAL)	12/14/2002	FELON	CLASS H

Supervision Record for Sentence Number: 06-001	
Commitment Type:	PROBATION/PAROLE
Conviction Date:	04/30/1999 County of Conviction: GUILFORD
Punishment Type:	INTERMEDIATE SS
Sentence Type 1:	PROBATION

Sentence Type 2: SPECIAL PROBATION (SPLIT)

Sentence Type 3: COUNTY JAIL

Commitment	Docket#	Offense (Qualifier)	Offense Date	Type	Sentencing Penalty Class Code
CONCURRENT TO SENTENCE NUMBER 05-001	97023715	B & E (FEL/MISD) (PRINCIPAL)	02/04/1997	FELON	CLASS H

Supervision Record for Sentence Number: 05-001

Commitment Type: PROBATION/PAROLE

Conviction Date: 04/30/1999

County of Conviction: GUILFORD

Punishment Type: INTERMEDIATE SS

Sentence Type 1: PROBATION

Sentence Type 2: SPECIAL PROBATION (SPLIT)

Sentence Type 3: COUNTY JAIL

Commitment	Docket#	Offense (Qualifier)	Offense Date	Type	Sentencing Penalty Class Code
CONCURRENT TO SENTENCE NUMBER 04-001	97023711	B & E (FEL/MISD) (PRINCIPAL)	01/30/1997	FELON	CLASS H

Supervision Record for Sentence Number: 04-001

Commitment Type: PROBATION/PAROLE

Conviction Date: 04/30/1999

County of Conviction: GUILFORD

Punishment Type: INTERMEDIATE SS

Sentence Type 1: PROBATION

Sentence Type 2: SPECIAL PROBATION (SPLIT)

Sentence Type 3: COUNTY JAIL

Commitment	Docket#	Offense (Qualifier)	Offense Date	Type	Sentencing Penalty Class Code
CONCURRENT TO SENTENCE NUMBER 03-001	97023700	B & E (FEL/MISD) (PRINCIPAL)	02/04/1997	FELON	CLASS H

Supervision Record for Sentence Number: 03-001

Commitment Type: PROBATION/PAROLE
Conviction Date: 04/30/1999 **County of Conviction:** GUILFORD
Punishment Type: DWI
Sentence Type 1: PROBATION
Sentence Type 2: SPECIAL PROBATION (SPLIT)
Sentence Type 3: COUNTY JAIL

Commitment	Docket#	Offense (Qualifier)	Offense Date	Type	Sentencing Penalty Class Code
CONCURRENT TO SENTENCE NUMBER 02-001	97079146	DWI LEVEL 2 (PRINCIPAL)	11/21/1997	MISD.	NON CLASS CODE

Supervision Record for Sentence Number: 02-001

Commitment Type: PROBATION/PAROLE
Conviction Date: 04/30/1999 **County of Conviction:** GUILFORD
Punishment Type: DWI
Sentence Type 1: PROBATION
Sentence Type 2: SUSPENDED SENTENCE
Sentence Type 3: COUNTY JAIL

Commitment	Docket#	Offense (Qualifier)	Offense Date	Type	Sentencing Penalty Class Code
INITIAL	97076136	DWI LEVEL 4 (PRINCIPAL)	10/25/1997	MISD.	NON CLASS CODE

Supervision Record for Sentence Number: 01-001

Commitment Type: PROBATION/PAROLE
Conviction Date: 03/22/1993 **County of Conviction:** OTHER
Punishment Type: NON-N.C. OFF.
Sentence Type 1: PROBATION
Sentence Type 2: SUSPENDED SENTENCE
Sentence Type 3: INTERSTATE COMPACT
Interstate Compact State: CALIFORNIA

Note: For the most recent information on the status of the offender's record, check with the state of conviction.

Commitment	Docket#	Offense (Qualifier)	Offense Date	Type	Sentencing Penalty Class Code
INITIAL	00000000	LARCENY (OVER \$200)	11/10/1992	UNKN.	NON CLASS CODE

(PRINCIPAL)

[Back](#)

Disclaimer

Every effort has been made to report accurate and complete information. Any questions concerning the accuracy of this information should be submitted, in writing, to the North Carolina Department of Correction, c/o Public Information Office, MSC 4202, Raleigh, NC 27699-4202. Any misuse of this information is strictly prohibited and violators are subject to prosecution.

This page has been accessed 13,998,255 times since 05/06/2003.

[\[NC DOC Home Page](#) [Main Menu \]](#)

©2002 North Carolina Department of Correction.
All rights reserved.

Revision: 1.19
Send comments to webmaster@doc.state.nc.us

STATE OF NORTH CAROLINA

Guilford County

In The General Court Of Justice
Before The Clerk

IN THE MATTER OF:

Name And Address

Robert Harold Nichols

CRIMINAL RECORD CHECK

Records Check From This Date To Present

May 1983

This is to certify that I have searched the indices to criminal actions in this office from the date shown above to the present to determine:

only the convictions and pending charges, if any,

the entire criminal record, if any,

which appear in the records under the name given above, and found:

that no record was indexed by the name given above.

the following excerpts from the public records indexed by the name given above.

The criminal records in this office are indexed solely by name and not by any other identifying characteristic. This office cannot guarantee that the records listed herein belong to the individual for whom such record is sought.

File No.	Race/Sex	DOB	Charge	Date Disposed And Disposition
		10/8/71	See Attached 4 pages	

Date Of Search

8/28/00

Signature

Melissa Sutton

Deputy CSC Assistant CSC Clerk Of Superior Court

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023715 51
DF:030297 (F) FELONY LARCENY GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023715 51

DF:OFFENSE DATE, DOB=BIRTH, (M)MISD, (F)FELONY, (T)TRAFFIC, MORE-
400 GUILFORD-GR
082800 CRIMINAL CHECK- PENDING--DISPOSED--MOTOR V.--UNSERVED--CONVICTED
CRITERIA- NAME: NICHOLS,ROBERT,H? R=RACE: S=SEX: DOB:

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023723 G
DF:050997 (F) BREAKING AND OR ENTERING (F) NEVER 010200 CRS
SPEC. COND: DISMISS/ADA PANOSH
DF:050997 (F) LARCENY AFTER BREAK/ENTER NEVER 010200 CRS
SPEC. COND: DISMISSAL/ADA PANOSH

NICHOLS,ROBERT,HAROLD * 5665 HORNADA S=M R=W DOB=10081971 97CR 040741 G
AKA NICHOLS,ROBERT,HAROLD @
DF:013097 (F) BREAKING AND OR ENTERING (F) TRANSFERRED TO S.C. 110397 CR
DF:013097 (F) LARCENY AFTER BREAK/ENTER TRANSFERRED TO S.C. 110397 CR
DF:013097 (F) POSSESSION OF STOLEN GOODS (F) TRANSFERRED TO S.C. 110397 CR
DF:013097 (F) BREAKING AND OR ENTERING (F) GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023715 51
DF:013097 (F) LARCENY AFTER BREAK/ENTER GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023715 51
DF:013097 (F) POSSESSION OF STOLEN GOODS (F) DISMISSED BY DA 043099 CRS

DF:OFFENSE DATE, DOB=BIRTH, (M)MISD, (F)FELONY, (T)TRAFFIC, MORE-
400 GUILFORD-GR
082800 CRIMINAL CHECK- PENDING--DISPOSED--MOTOR V.--UNSERVED--CONVICTED
CRITERIA- NAME: NICHOLS,ROBERT,H? R=RACE: S=SEX: DOB:

NICHOLS,ROBERT,HAROLD * 5665 HORNADA S=M R=W DOB=10081971 97CR 040742 G
AKA NICHOLS,ROBERT,HAROLD @
DF:021097 (F) BREAKING AND OR ENTERING (F) TRANSFERRED TO S.C. 110397 CR
DF:021097 (F) LARCENY AFTER BREAK/ENTER TRANSFERRED TO S.C. 110397 CR
DF:021097 (F) POSSESSION OF STOLEN GOODS (F) TRANSFERRED TO S.C. 110397 CR
DF:021097 (F) BREAKING AND OR ENTERING (F) DISMISSED BY DA 043099 CRS
SPEC. COND: DISMISSED BY ADA RICHARD PANOSH
DF:021097 (F) LARCENY AFTER BREAK/ENTER DISMISSED BY DA 043099 CRS
DF:021097 (F) POSSESSION OF STOLEN GOODS (F) DISMISSED BY DA 110597 CRS
SPEC. COND: DISMISSAL-PANOSH (DEFT INDICTED ON 1ST & 2ND COUNTS)

DF:OFFENSE DATE, DOB=BIRTH, (M)MISD, (F)FELONY, (T)TRAFFIC, *END*

OF:OFFENSE DATE,DOB=BIRTH,(M)MISD,(F)FELONY,(T)TRAFFIC, MORE-
400 GUILFORD-BR
082800 CRIMINAL CHECK- PENDING--DISPOSED--MOTOR V.--UNSERVED--CONVICTED
CRITERIA- NAME: NICHOLS,ROBERT,H? R=RACE: S=SEX: DOB:

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023714 G
OF:020397 (F) BREAKING AND OR ENTERING (F) GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023711 51
OF:020397 (F) LARCENY AFTER BREAK/ENTER GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023711 51

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023715 G
OF:020497 (F) BREAKING AND OR ENTERING (F) GUILTY 043099 CRS
FINE/COSTS# REST# 1286.00 SENT:008-010M TYPE: I FROB:060M SUPERVISED
SEE ALSO: 97CRS023716, 97CRS023717, 97CRS023718, 97CRS023719 PLUS MORE
OF:020497 (F) LARCENY AFTER BREAK/ENTER GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023715 51

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023716 G
OF:020397 (F) BREAKING AND OR ENTERING (F) GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023715 51
OF:020397 (F) LARCENY AFTER BREAK/ENTER GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023715 51

OF:OFFENSE DATE,DOB=BIRTH,(M)MISD,(F)FELONY,(T)TRAFFIC, MORE-
400 GUILFORD-BR
082800 CRIMINAL CHECK- PENDING--DISPOSED--MOTOR V.--UNSERVED--CONVICTED
CRITERIA- NAME: NICHOLS,ROBERT,H? R=RACE: S=SEX: DOB:

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023717 G
OF:022497 (F) BREAKING AND OR ENTERING (F) GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023715 51
OF:022497 (F) LARCENY AFTER BREAK/ENTER GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023715 51

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023718 G
OF:020297 (F) FELONY LARCENY GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023715 51

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023719 G
OF:031397 (F) BREAKING AND OR ENTERING (F) GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023715 51
OF:031397 (F) LARCENY AFTER BREAK/ENTER GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023715 51

OF:OFFENSE DATE,DOB=BIRTH,(M)MISD,(F)FELONY,(T)TRAFFIC, MORE-
400 GUILFORD-BR
082800 CRIMINAL CHECK- PENDING--DISPOSED--MOTOR V.--UNSERVED--CONVICTED
CRITERIA- NAME: NICHOLS,ROBERT,H? R=RACE: S=SEX: DOB:

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023720 G
OF:031797 (F) BREAKING AND OR ENTERING (F) GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023715 51
OF:031797 (F) LARCENY AFTER BREAK/ENTER GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023715 51

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023721 G
OF:031997 (F) BREAKING AND OR ENTERING (F) GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023715 51

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 77CRS023704 G
OF:010197 (F) FELONY LARCENY GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023700 51

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023705 G
OF:010197 (F) BREAKING AND OR ENTERING (F) GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023700 51
OF:010197 (F) LARCENY AFTER BREAK/ENTER GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023700 51

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023706 G
OF:010197 (F) BREAKING AND OR ENTERING (F) GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023700 51
OF:010197 (F) LARCENY AFTER BREAK/ENTER GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023700 51

OF:OFFENSE DATE, DOB=BIRTH, (M)MISD, (F)FELONY, (T)TRAFFIC, MORE-
400 GUILFORD-GR
082900 CRIMINAL CHECK- PENDING--DISPOSED--MOTOR V.--UNSERVED--CONVICTED
CRITERIA- NAME: NICHOLS,ROBERT,H? R=RACE: S=SEX: DOB:

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023707 G
OF:010197 (F) BREAKING AND OR ENTERING (F) GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023700 51
OF:010197 (F) LARCENY AFTER BREAK/ENTER GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023700 51

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023708 G
OF:010197 (F) BREAKING AND OR ENTERING (F) GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023700 51
OF:010197 (F) LARCENY AFTER BREAK/ENTER GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023700 51

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023709 G
OF:010197 (F) BREAKING AND OR ENTERING (F) GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023700 51
OF:010197 (F) LARCENY AFTER BREAK/ENTER GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023700 51

OF:OFFENSE DATE, DOB=BIRTH, (M)MISD, (F)FELONY, (T)TRAFFIC, MORE-
400 GUILFORD-GR
082900 CRIMINAL CHECK- PENDING--DISPOSED--MOTOR V.--UNSERVED--CONVICTED
CRITERIA- NAME: NICHOLS,ROBERT,H? R=RACE: S=SEX: DOB:

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023711 G
OF:013097 (F) FELONY LARCENY GUILTY 043099 CRS
FINE/DOSTS# REST# 6366.00 SENT:008-010M TYPE: I PROB:060M SUPERVISED
SEE ALSO: 97CRS023712, 97CRS023713, 97CRS023714
SPEC. COND: (EAGLES)

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023712 G
OF:020697 (F) FELONY LARCENY GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023711 51

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023713 G
OF:021297 (F) FELONY LARCENY GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023711 51

400 GUILFORD-BR
082800 CRIMINAL CHECK- PENDING--DISPOSED--MOTOR V.--UNSERVED--CONVICTED
CRITERIA- NAME: NICHOLS.ROBERT,H? R=RACE: S=SEX: DOB:

NICHOLS,ROBERT,HAROLD #11 KELVINGT S=M R=W DOB=10081971 95CR 040123 B
OF:042295 (T) LICENSE NOT IN POSSESSION DISMISSED BY DA 102695 CR
SPEC. COND: ADDED ON 26 102695

NICHOLS,ROBERT,HAROLD 11 KELVINGTD S=M R=W DOB=10081971 95CR 066878 G
OF:100595 (T) DWLR DISMISSED BY DA 010596 CR

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023699 G
OF:011497 (M) MISDEMEANOR LARCENY GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023700 51

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023700 G
OF:020497 (F) BREAKING AND OR ENTERING (F) GUILTY 043099 CRS
FINE/COSTS# REST# 9545.21 SENT:008-010M TYPE: I PRDB:060M SUPERVISED
SEE ALSO: 97CRS023699, 97CRS023701, 97CRS023702, 97CRS023703 PLUS MORE
SPEC. COND: (EAGLES)
OF:020497 (F) LARCENY AFTER BREAK/ENTER GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023700 51

OF:OFFENSE DATE, DOB=BIRTH, (M)MISD, (F)FELONY, (T)TRAFFIC, MORE-
400 GUILFORD-BR

082800 CRIMINAL CHECK- PENDING--DISPOSED--MOTOR V.--UNSERVED--CONVICTED
CRITERIA- NAME: NICHOLS.ROBERT,H? R=RACE: S=SEX: DOB:

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023701 G
OF:110197 (F) BREAKING AND OR ENTERING (F) GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023700 51
OF:110197 (F) LARCENY AFTER BREAK/ENTER GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023700 51

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023702 G
OF:123096 (F) BREAKING AND OR ENTERING (F) GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023700 51
OF:123096 (F) LARCENY AFTER BREAK/ENTER GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023700 51

NICHOLS,ROBERT,HAROLD 5665 HORNADA S=M R=W DOB=10081971 97CRS023703 G
OF:010197 (F) BREAKING AND OR ENTERING (F) GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023700 51
OF:010197 (F) LARCENY AFTER BREAK/ENTER GUILTY 043099 CRS
CONSOLIDATED FOR JUDGMENT WITH 97CRS023700 51

OF:OFFENSE DATE, DOB=BIRTH, (M)MISD, (F)FELONY, (T)TRAFFIC, MORE-
400 GUILFORD-BR

Robert Nicholes: "Proof of Perjury"

P.1

Transcript Testimony / Mr. Nicholes Voluntary Aid to Law Enforcement and Plea Agreement

(Summary)

Robert (Rob) Nicholes signed a plea agreement on April 18, 1997, with D.A. Richard Panosh of Guilford County (TTP. 1030.12-17).

Mr Nicholes never spent any time in jail despite being charged with 28 felonies (TTP. 1044. 2-14). Under cross examination Mr Nicholes "slip", and makes a reference to an agreement that came with the original three felonies (TTP. 1044. 12-18), Then goes on to deny working a deal before his arrest (TTP. 1044. 19-24).

Once Rob spoke to Mr Panosh, he was offered an agreement in which he would not serve any time. Detective Church had promised to help Rob on the B & E charges although it wasn't his case (TTP. 1045. 6-16). Rob never had to post a bond (TTP. 1045. 17-25), despite his earlier three felony charges (TTP. 1046. 1-10).

Mr. Nicholes claims he came to the police and confessed on his own. This took place on the morning of April 1, 1997 (TTP. 1047. 12-23). Rob wanted to come forward until he knew Ted had been arrested, because he feared Ted would kill him. The minute, the morning that Ted was arrested, Rob told everything, before there was a signed plea agreement (TTP. 1055. 1-19).

Under Redirect Examination Mr Nicholes tries to explain what happen on April 1, 1997 (TTP. 1090. 19-25), But actually avoids giving much detail. Rob does mention working with Detective John Davis from Guilford County sheriff's office. Rob showed Det. Davis the stolen building materials.

Rob says he hadn't been charged on April 1, when he told Det. Davis of his involvement (TTP. 1091. 1-23). At the time of the agreement (April 18) Rob only had three charges, and ended with an additional 25-26 (TTP. 1092. 7-16).

(FACTS) Now the problem with the picture Mr. Nicholas and D.A. Panosh conspired to create is that of a small report or notice from "Crime-Stopppers." Prior to April 1, 1997, and Rob's supposed confession, Jeff Roberts called Crime-Stopppers and wanted to know if there was a reward for information on stolen go-karts. Rob testified that he was involved in the theft of go-karts (TTP. 1089. 17-21).

And who is Jeff Roberts? Jeff was Rob's best friend until the two had a big argument and fell out. Police were on stakeout around Lyles Building Material (2) weeks before an arrest was made. Ted and Patrick were only involved in the thefts during January and February '97, and stopped. Rob needed money to support his cocaine habit, so he began stealing with Jeff Roberts. Unfortunately Rob told Jeff about Ted and Patrick.

D.A. Richard Panosh didn't want anyone to know about Jeff Roberts, because Jeff could have destroyed Rob's credibility. While Mr Panosh gave the information of Crime-Stopppers to the defense of Ted Kimble, he withheld the evidence from the defense of Ronnie Kimble.

Mr. Nicholas spoke of working with Det. James Davis. It's of little wonder that Det. Davis also worked on Ted Kimble's case in the death of Patricia Kimble.

Jeff Roberts was prepared to testify for the defense, but

D.A. Panosh threaten this witness, and ran him out of town. For further details see "Grievance to The N.C. State Bar." Note the Affidavit by Theodore M. Kimble.

Less than a week after Robert Nicholes signed a plea agreement with D.A. Richard Panosh, he broke into Lyles Building Material, loaded shingles on a trailer worth \$6,000, which belong to Theodore Kimble, and stole it.

A month or two later, Jeff Roberts came into Lyles, confess to (Sr.) Ronnie Kimble, that he and Rob Nicholes were crime-partners and responsible for the theft. A police report was filed, yet D.A. Panosh refused to prosecute the case.

Two years later, while reading the Raleigh (N.C.) News & Observer, Ted Kimble found his stolen trailer for sale in the newspaper. (Sr.) Ron Kimble and wife, went and verified the trailer, filed a police report. Det. David Sizemore did a complete investigation and traced the trailer back to Rob Nicholes. Det Sizemore turned over the evidence to D.A. Panosh, but Panosh refused to issue a warrant to allow the arrest of Rob Nicholes. Exhibits supporting this claim follow. For further details see "Grievance to The N.C. State Bar."

EXHIBIT () 1 of 6



Newspaper Ad from the
Raleigh News and Observer
N.C.

Field Reference Card
CARRBORO POLICE DEPARTMENT

POLICE
EMERGENCY
911

INFORMATION
ONLY
968-7709

CASE REFERENCE NUMBER: 99-10390

OFFICER: P. Tivnan

PLEASE MAKE REFERENCE TO ANY QUESTIONS
CONCERNING YOUR CASE BY USING THE ABOVE NUMBER.

EXHIBIT () 2 of 6

Greensboro Police Detective

David Sizemore (336) 433-7277

P.O. Box 3136

Greensboro NC. 27406

EXHIBIT () 3 of 6

CASE NO: 19970127779	GREENSBORO POLICE DEPARTMENT	PAGE: 1
TIME: 1616	INVESTIGATIVE REPORT - PUBLIC COPY	DATE: 11/18/2003
Case No.: 19970127779	DIV/SQUAD: CID/AUT	Earliest Occ: 04/25/1997 2100
Off/Class: AUTOTH	AUTO THEFT - OTHER MV	Latest Occ: 04/26/1997 0800
Location: 1700 W LEE ST		Reported: 04/29/1997 0953
Location:		
Premises: BUSINESS LOT		
ATTACKED		
Prop Value: 6,000	Damage Value:	
Extent:	Type Inj:	
Method: BY TAKING AND CARRYING AWAY.		
PROPERTY DESCRIPTION		
96 3 AXLE 18FT 18,000 TON TRAILER		
SOLVABILITY		
Evidence Spe:	NONE CALLED	
Inv Officer:	1144 D L HOLLIMAN	
Case Status:	Ins Rpt: Y	Warrant Adv: N Warrant Iss: N
Victim Pros?: Y	Evidence: N	Arrest: N Suspect ID: N Initial Stat: INA
N A M E S E C T I O N		
Role: VIC	Victim Code:	
Name:		
Race:	Sex:	Age: DOB:
----- HOME ADDRESS -----		
Street Addr:		
City/St/Zip:		
----- BUSINESS ADDRESS -----		
Bus. Name:	LYLES BUILDING MATERIAL	
Street Addr:	1700 W LEE ST	
City/St/Zip:	GREENSBORO	NC 27403
E N D O F R E P O R T		

NOTE: There is a second police report which Detective David Sizemore (336)433-7277 (Gboro N.C.) can provide a case number. In the second police report (not shown) A Jeff Roberts confessed to Mr Sizemore, he and Robert Nicholes stole the trailer, yet Prosecutor Panish still refused to issue a warrant and arrest these people.



MARTIN & MARTIN

AUCTIONEERS, INC.
1618 Easley Hwy., Pelzer, SC 29669
(864) 947-7888 • George W. Martin SCAL 148, NCAL 2610

Address Service Requested



AUCTION

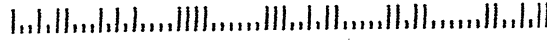
★ Wednesday ★

August 18 ★ 9:30 A.M.

★ Durham, NC ★

Presorted
First Class Mail
U.S. Postage
PAID
Eugene, Oregon
Permit No. 305

EXHIBIT () 4 of 6



#BWNFBRZ# **AUTO*****3-DIGIT 275
#NOR001339# C--- EXPRESS NUMBER
NORINA ELEC. MECH COMPANY
201 N GREENSBORO ST
CARRBORO NC 27510-1903

FOR FASTER REGISTRATION, BRING THIS BROCHURE WITH YOU!!!

AUCTION SITE PHONE

919) 477-6107

AUCTION SITE FAX

919) 471-2617

AUCTION LOCATION

3013 Denfield Street, Durham, North Carolina
Jello L. Teer (Durham Quarry)

INSPECTION

Tuesday, August 17, 9:00 A.M. to 5:00 P.M.

PAYMENT PROCEDURES

Payment in full on auction day by cash, cashier's check or certified funds. If payment is made by personal or company check, you MUST have a current letter to Martin & Martin Auctioneers, Inc., guaranteeing payment of check. Sample letter of guarantee: "Mr. _____ is a customer in good standing of our bank. We will guarantee payment of checks written on his account number ____ up to (specify amount) dollars for purchases at your auction on August 18, 1999." All titles will be mailed ten banking days after the Auction.

All sales subject to North Carolina tax laws.

DIRECTIONS TO AUCTION

FROM CHARLOTTE, NC: Take I-85 North to Exit 176B (Duke Street). Follow it north to the sixth light, turn right onto Horton Road. Go under the next light. You are now on Denfield Street. Follow to the end of Denfield Street through the gate to Auction Site.

FROM RICHMOND, VA: Take I-85 South to Exit 176B (Duke Street). Go north to the fifth light, turn right onto Horton Road. Go under the next light. You are now on Denfield Street. Go to the end of the road through the gate to the Auction Site.



* 843-700 0000

Hand CK # 1515

EXHIBIT () 6 of 6

Transcript Testimony / Explosives and Target Practice

(Summary)

Robert (Rob) Nicholes made the claims that Ted Kimble showed him a silencer, rifles, several guns, and small explosives (TTP.1035.20-24). At one point Rob possess one of Ted's guns (TTP.1103.22-25). Although Rob possessed a gun he was still afraid of Ted, because over a period of months working at Lyles, Ted had showed Rob his capabilities of being a sniper, and how to make C-4 explosives. Rob stated they had made explosives at work, he was convinced Ted had many ways to take someone out and get away with it. Rob then said his discussions with Ted on such subjects were one-way, that he only listen to Ted talk of such things, that it wasn't a give-and-take situation (TTP.1104.1-25). Rob then changed his testimony and admitted to his involvement in the conversations (TTP.1105.1-13).

Suddenly Rob takes off in another direction, and claims Ted would bring out guns and silencers when Patrick Pardee was around, that Ted would shoot at a picture of Michael Jordan on a billboard across the street. This supposedly happen at Lyles Building Material (TTP.1105.14-25). Rob claimed there was target practice taking place in the middle of town. Rob then changed his statement and claimed the sign was actually on the same side, but down Lee Street. Rob said "we" were using a .22, but then denied firing the gun himself. Rob then tries to recant and says he doesn't want to get into that, "Never mind. I withdraw that." (TTP.1106.1-16).

Rob goes on to deny he ever mention "C-4", but explosives, yes. Then said he was present when Ted blew some stuff up, and felt it was all methods

of intimidation to keep him in line (TTP. 1107.1-10).

(FACTS)

First, Rob Nicholes made the claim that these outrageous acts took place at Lyles Building Material, 1700 West Lee Street, Greensboro, N.C. Lee Street is a major road with heavy traffic, there are other businesses all around Lyles. It's simply impossible that anyone could stand 20 Ft. beside a major road shooting a .22 rifle at a billboard for target practice, in the middle of the city, and have no one call the police. Maybe this is why Rob said, "Never mind. I withdraw that." (TTP. 1106.16). To my knowledge there is NO bullet holes in any of the billboards near Lyles.

Second, Rob claim, "we had made explosives at work" (TTP. 1104.6-7), and that he witness Ted blow stuff up. Once again, Rob is making the claim that this happen next to a major road, in the middle of town. It's important to note, in Rob's testimony he claim Ted showed him how to make "C-4" (TTP. 1104.6), then denied he ever said "C-4" (TTP. 1107.3).

It should also be noted, after Ted's arrest and Lyles Building Material was searched, the Greensboro newspaper printed "mis-information," and stated explosives were recovered from Lyles. Actually, there was only a small bag of holiday fireworks. Rob testified that he researched the case (TTP. 1054.17-20/1079.18-24/1087.21-25/1088.1-2). Obviously Rob read the mis-information and based his lies upon it.

Rob Nicholes was only a part-time employee, while James Ogburn was a full-time employee. Where was James Ogburn when the target practice was going on, or the explosives were going off?

Robert Nicholes "Proof of Perjury"

Transcript Testimony / Gun Left at My home - Parent's home

(Summary)

Robert (Bob) Nicholes made the claim Ted Kimble came to his house on several occasions, early in the morning, and flashed a gun on him. Bob was intimidated and very scared (TTP. 1077. 9-17). Bob was so scared he couldn't go to his parents for help, nor could he quit his job. Ted even brought a Glock 19 to Bob's wedding reception, at Bob's parents, to intimidate him. But Ted accidentally forgot the gun when he left. Bob returned the gun because his father didn't want the gun at his house (TTP. 1079. 1-17).

Bob went on to explain how he couldn't tell his father of the situation he was in for fear of dragging his family into a dangerous situation. (TTP. 1086. 1-25). Bob's father only learned of the situation just prior to Ted's arrest (TTP. 1087. 9-13).

(FACTS)

First, Bob made a mistake and said Ted left the gun at his house. Transcript Testimony Page 1079. Line 6 "... And left it at my house." Then lines 9-10, "... and the man brings a gun to intimidate me, inside my house and my parent's home." Bob was directly asked, "... Ted Kimble left his Glock pistol at your house; is that right?" (TTP. 1085. 23-25). Bob said, "Uh-huh" (TTP. 1086. 1). Bob was then asked, "That was your folks' house at that time, is that right?" Bob answered, "Correct." (TTP. 1086. 2-3). Bob did NOT live with his parents. Bob lied, he changed his testimony in the middle of questioning.

Robert Nicholas

Transcript Testimony / Coworker: James Ogburn

Direct Examination

TTp. 1027. 18-Q. And how long did you work at Lyles for Ted Kimble?

19-A. I worked there from the beginning of September, till
20 April 1, 1997.

21-Q. So September of '96 through April of '97?

22-A. Yes, Sir

23-Q. And were you a full-time employee?

24-A. No, I was not. I was part-time employee. I was --

TTp 1034. 25-Q. Did you know James Ogburn?

TTp 1035. 1-A. Yes.

2-Q. Who is James Ogburn?

3-A. James Ogburn is another one of Ted's employees, my
4 coworker.

5-Q. Did you discuss this matter with James Ogburn?

6-A. Yes, I did.

7-Q. Did he make any statements to you about keeping your
8 mouth shut?

9-A. Is that Ted Kimble you're --

10-Q. Yes.

11-A. -- referring to? Yes.

NOTE: Where was James, why didn't he testify? Because Parosh threaten him!

EXHIBIT () 1 of 2 Time 12:00
4-19-97

Robert informed me that the Police
was on him concerning Ted and the
murder ^{case}. Robert also says that, Ted
told him some things that he shouldn't have,
but nothing concerning the murder. Robert
says he was going to plea guilty to
all necessary charges.

James Ogden

7-29-97

On July 22nd, I saw Robert Nicklous in the parking^{lot} down from Syler Blvd. Materials. He stated to me that he wasn't going to testify against Ted, concerning the murder of his wife. Rob also asked me to inform Mr. Kimble of this matter too. Robert says that he would be in contempt of court, for not testifying, and that he would deal with that. His primary message was for me to inform Mr. K

of his actions concerning this matter.

James Ogden

EXHIBIT ()

Leaving work, James and I ran into Rob and talked with him in the parking lot of the boat place. He talked about how well he was doing with his new business and the new home he just purchased. He also spoke on Ted and Ron in reference to how they were doing etc. and mentioned that he was not going to testify to that "bull-shit" because it wasn't right. He stated that he and his wife had talked about it and he had had a change of heart and realized it was wrong to do so. She had the same feelings. He stated that instead he would take the "contempt of court charge" and do the time at the County farm. He told James that he was telling him this so that he could relay it to MR. Kimble.

Walter A. Cole Jr.
8/2/97

Robert Nicholas

Transcript Testimony / Contradiction

Direct Examination

TIP. 1029. 1-A. A lot of the building materials were resold on the
2 premises. Others, there was a storage trailer across the
3 street that was rented by Ted, and he had had the blueprints
4 for a home that he was going to build, and was taking the
5 materials in order to build a home. He was filling up the
6 trailer with the materials he needed.

TIP. 1041. 7-Q. As a result of your efforts, was there certain property
8 recovered?

9-A. Yes, there was a lot of it recovered.

Note: First, Rob testified a lot of the building materials were resold, then claims by his help, a lot of it was recovered.

Robert Nicholes: Proof of Perjury Transcript Testimony / Arrest Warrant

(Summary)

Robert Nicholes testified that he did not work his Plea Arrangement (April, 1997) prior to his arrest (TTP-1044.19-24).

(FACTS)

As the following arrest warrant shows, Robert Nicholes wasn't arrested until 11/03/97, "Yet another lie."

1610891 CHECK DIGITS WERE FOUND

ORDER FOR ARREST

STATE OF NORTH CAROLINA VS.

MARSHALL, ROBERT HAROLD
1665 HORNADAY RD

GREENSBORO NC 27409

RACE: W SEX: M DOB: 10/08/71

DR LIC NO:

SOC SEC NO:

LIC NO:

COMPLAINANT:

CLERK OF SUPERIOR COURT

RELATED CASES:

380

- 97CRS023700 97CRS023701
- 97CRS023702 97CRS023703
- 97CRS023704 97CRS023705
- 97CRS023706 97CRS023707
- 97CRS023708 97CRS023709
- 97CRS023711 97CRS023712
- 97CRS023713 97CRS023714
- 97CRS023715 97CRS023716

Location Of Court GREENSBORO, NC ROOM 6E4C

STATE OF NORTH CAROLINA

GAULFORD-GR. COUNTY

Superior Court Division

In The General Court Of Justice

CTS	CHARGE DESCRIPTION	G. S. NUMBER
01	M MISDEMEANOR LARCENY	14-72(A)
19	BREAKING AND OR ENTERING (P)	14-54(A)
19	LARCENY AFTER BREAK/ENTER	14-72(B)(2)
06	FELONY LARCENY	14-72(A)

TO ANY OFFICER WITH AUTHORITY AND JURISDICTION TO SERVE AN ORDER FOR ARREST:

THE GRAND JURY OF THIS COUNTY HAVING RETURNED A TRUE BILL OF INDICTMENT, A COPY OF WHICH IS ATTACHED.

YOU ARE DIRECTED TO ARREST THE DEFENDANT AND BRING HIM BEFORE THE COURT AT THE PLACE, DATE AND TIME INDICATED BELOW OR UPON THE FIRST DAY OF COURT FOLLOWING HIS ARREST. IF COURT IS NOT IN SESSION, THEN YOU ARE TO TAKE HIM BEFORE A JUDICIAL OFFICIAL FOR THE PURPOSE OF DETERMINING CONDITIONS OF RELEASE AND COMMITMENT IF HE IS UNABLE TO COMPLY.

RELEASE IS TO BE THE OFFICIALS DISCRETION.
Def't. must be fingerprinted.

97CRS23719-23

Court Date 12/05/97 Court Time 09:30 AM

Date Of Issue 11/03/97

Signature ESTEE REMINGTON

Deputy CSC Assistant CSC Clerk Of Superior Court

Magistrate District Court Judge Superior Court Judge

97030657

ORIGINAL (Over)

... and for arrest and for arrest... not served within one hundred and...
 ... of the United States...
 ... of the United States...
 ... of the United States...

RETURN OF SERVICE

11-6-97
 11-6-97
 11-6-97

...
 ...
 ...

REDELIVERY/REISSUANCE

...
 ...
 ...

RETURN FOLLOWING REDELIVERY/REISSUANCE

...
 ...
 ...

...
 ...
 ...

...
 ...
 ...

...
 ...
 ...

APPEAL ENTRIES

...
 ...
 ...

WAIVER OF PROBABLE CAUSE HEARING

...
 ...
 ...

...
 ...
 ...

AOC-CR-217AS, Side Two
 Rev. 12/95 (Structured Sentencing)

District Attorney
 Attorney For Defendant At Time Of Trial Or Plea
 Appointed
 Retained
 Wanted
 No./H. w/1: 0
 (K1-4)
 (K1-4)

PLEA: guilty no contest
 guilty no contest
 not guilty

JUDGMENT: The defendant appeared in open court and freely, voluntarily and understandingly entered the above plea on the above date.
 It is ORDERED that the defendant: pay costs and a fine of _____ days in the custody of the sheriff. DOC. Pretrial credit _____ days.

Work release is recommended. is not recommended. (use form AOC-CR-6021)
 The Court finds that a _____ longer _____ shorter period of probation, than that which is specified in G.S. 15A-1343.2(d), is necessary.
 With defendant's consent, execution of the sentence is suspended and the defendant is placed on unsupervised probation for _____ months, subject to the following conditions: (1) commit no criminal offense in any jurisdiction. (2) possess no firearm, explosive or deadly weapon listed in G.S. 14-289. (3) remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training, that will equip the defendant for suitable employment, and abide by all rules of the institution. (4) satisfy child support and obligations, as required by the Court. (5) pay to the Clerk the costs of court and any additional sums shown below.

Fine _____ Restitution _____ Attorney's Fee _____ Community Service Fee _____ Other _____

(Name(s), address(es), amount(s) & social security number(s) of aggrieved party(ies) to receive restitution:

6. complete _____ hours of community service during the first _____ days of probation, as directed
 7. not be found in or on the premises of the complainant or _____ days of probation, as directed
 8. not assault, communicate with or be in the presence of the complainant or _____
 9. Other: _____

It is ORDERED that this: Judgment is continued upon payment of costs.
 case be consolidated for judgment with _____
 sentence is to run at the expiration of the sentence in _____

COMMITMENT: It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff and sheriff cause the defendant to be retained in custody to serve the sentence imposed or until the defendant shall have complied with conditions of release pending appeal.

PROBABLE CAUSE: Probable cause is found as to all Counts except _____ and the defendant is bound over to Superior Court for trial.
 No probable cause is found as to Count(s) _____ of this criminal pleading, and the Count(s) is/are dismissed.

CERTIFICATION

I certify that this Judgment is a true and complete copy of the original which is on file in this case.
 Date _____ Date Delivered To Sheriff _____ Signature _____
 NOTE: If DWI, use AOC-CR-301 (revise) or AOC-CR-310 (probation). If active sentence to DOC, use AOC-CR-602. If supervised probation, use AOC-CR-604.

1 Q And Mr. Nicholes, do you know Theodore Kimble?

2 A Yes, I do.

3 Q How do you know Theodore Kimble?

4 A He was my employer at Lyles Building Materials.

5 Q Would you keep your voice up when you speak, please.

6 A Yes, sir.

7 Q When did you start to work for Ted Kimble?

8 A I believe it was September. It was in correlation to
9 me starting with school.

10 Q And this was subsequent to the death of Patricia
11 Kimble?

12 A Yes.

13 Q In addition to working with him -- or describe your
14 duties at your place of employment, Lyles.

15 A Stacking of lumber, building dog houses, storage
16 buildings, assisting customers with loading of lumber,
17 shingles, building materials, etc.

18 Q And how long did you work at Lyles for Ted Kimble?

19 A I worked there from the beginning of September, till
20 April 1, 1997.

21 Q So September of '96 through April of '97?

22 A Yes, sir.

23 Q And were you a full-time employee?

24 A No, I was not. I was a part-time employee. I was --
25 one of the reasons I worked there, Ted had given me the

1 opportunity to be able to come and work in between classes.
2 I was in my last semester at UNCG. And it was, you know,
3 within two blocks of the school, so I could come up there
4 and work.

5 Q Now, did there come a time when your relationship with
6 Theodore Kimble went on to other matters?

7 A Yes, there was.

8 Q Would you briefly describe that for the ladies and
9 gentlemen of the jury.

10 A We just -- we became closer and confided in each other
11 certain things that had happened in our lives. And we began
12 stealing lumber and materials from job sites.

13 Q And when this lumber -- how was this lumber or
14 materials from job sites stolen?

15 A It was loaded up into trailers and trucks and vans of
16 -- that were Ted's.

17 Q And who participated in that?

18 A Myself, Ted and Patrick Pardee.

19 Q And was Pardee with you on all these occasions or some
20 of them?

21 A No, sir, he was -- just some of them. There's some
22 where we were all together, some maybe where they were all
23 together, some where Ted was alone.

24 Q What was -- what happened to the building materials and
25 lumber that was stolen?

1 A A lot of the building materials were resold on the
2 premises. Others, there was a storage trailer across the
3 street that was rented by Ted, and he had had the blueprints
4 for a home that he was going to build, and was taking the
5 materials in order to build a home. He was filling up the
6 trailer with the materials he needed.

7 Q Were there any of the materials that were sold from
8 Lyles?

9 A That were stolen that were resold?

10 Q Yes.

11 A Yes, sir.

12 Q And as a result of your conduct, you have been charged;
13 is that correct?

14 A Yes, I have.

15 Q And you've been charged with multiple counts of
16 breaking and entry and larceny; is that correct?

17 A Yes, 28, 30.

18 (Mr. Panosh showed an exhibit to Mr. Lloyd.)

19 Q And did there come a time when you reached an agreement
20 with the State of North Carolina?

21 A Yes.

22 MR. PANOSH: May I approach the witness?

23 THE COURT: You may.

24 Q I show you Number 115. Would you look at that, please.

25 A Yes.

1 Q What is 115? First of all, do you recognize your
2 signature on the second page?

3 A Yes, I do.

4 Q Is 115 an agreement to testify in this case?

5 A Yes, it is.

6 Q And did you have an attorney to prepare that agreement?

7 A Yes, I did.

8 MR. PANOSH: Your Honor, we'd seek to introduce
9 into evidence 115.

10 THE COURT: The Court'll allow the introduction of
11 Exhibit 115.

12 Q What is the date of that agreement?

13 A April 18, 1997.

14 Q On April the 18th and subsequent to that date, did you
15 -- were you interviewed by officers of the Guilford County
16 Sheriff's Department?

17 A Yes, I was.

18 Q And also the State Bureau of Investigation?

19 A Yes.

20 Q And did you give them information pertaining to the
21 theft that you were involved in?

22 A Yes, I did.

23 Q In the course of the time that you knew Theodore
24 Kimble, did there come a time when you became aware of the
25 fact that his wife had been killed?

1 A Yes.

2 Q Would you explain that to the jury.

3 A As Ted and I during this theft ring, I guess, for lack
4 of better words, we became very close. We were with each
5 other from, you know, 7:00 o'clock at night until 3:00,
6 4:00, 5:00 in the morning sometimes. He would say that he
7 was spending the night at Patrick's, tell his parents that,
8 and then we'd really all be out at night. We -- I guess we
9 got to a point where we had confided enough, and I'm -- I
10 mean, I've done a lot of things that I'm not really proud
11 of. I've made some mistakes. But we began to get to a
12 point where Ted really confided in me and I guess began to
13 trust me or needed someone to talk to.

14 And October -- my birthday is October 8, so I can
15 recollect the day pretty well, the -- it was near the
16 anniversary of Patricia's death, and the news crews came
17 around. And that was the first time I learned of it, was
18 about a month after I started working there. And as the
19 months progressed, when we got closer, more towards
20 November, December, I was interested and heard more about
21 it, and had asked questions, just for my own well-being, and
22 I'd become close with Ted. And I hindered him and asked him
23 a lot of questions. And at first, you know, "I have an
24 alibi. No, I didn't," and --

25 MR. LLOYD: Well, object for the record, Your

1 Honor, as to what Ted Kimble said on those occasions.

2 THE COURT: Objection's overruled.

3 Again, members of the jury, the Court would
4 caution and admonish you that you should not -- that this
5 evidence is being offered for the purpose of statements that
6 Ted Kimble may have made. They may not be considered
7 against Ronnie Kimble, unless you find that he was part of a
8 conspiracy and was a co-conspirator with Ted Kimble, and
9 only under those circumstances or under that finding by you
10 beyond a reasonable doubt there was a conspiracy would they
11 be admissible and be considered against this defendant,
12 Ronnie Kimble.

13 Proceed.

14 A The evening in particular, it was actually late
15 evening, night, Ted and I were in his white box truck,
16 heading out to a job site, to get some materials. And I
17 flat out asked him "Did you have anything to do with -- or
18 did you kill Patricia, or kill your wife?" And he said no.
19 And then I asked if he had anything to do with it, and he
20 said yes, he did. And it's -- a lot happened that night, as
21 far as that, but he said yes, he did. He -- I continued to
22 ask questions, and he kind of danced around it, but said,
23 you know, "Ask me no questions and I'll tell you no lies."
24 And I continued to ask. And then I was threatened to be
25 quiet about it, and I would be killed if I ever said

1 anything.

2 He then began to -- he was very upset and hysterical
3 and crying, saying I didn't understand, and went on to a 20-
4 minute discussion on Ted as a child. His father drank a
5 lot, and that's one reason he didn't want me to drink -- me
6 to drink at all. His father drank a lot and would hit him
7 and his brother and his mom. And told me, you know, the
8 stories like that. And then it just kind of ended.

9 Q In the course of discussing the situation, did you ever
10 make reference to the life insurance policy?

11 A Yes, we had -- we had discussed it.

12 Q What did he tell you?

13 A He -- in regards to the insurance policy, he said
14 something to the effect of, that he was mad because he
15 wasn't getting any money, because she hadn't taken a
16 physical.

17 Q Did he ever discuss or make reference to the life
18 insurance application?

19 A In reference to, he had forged an application
20 signature.

21 Q What do you mean?

22 A He had signed his wife's name.

23 Q When you said he threatened you, specifically what did
24 he say?

25 A Specifically, he told me that if I ever went and told

1 everyone, that he would kill me, and that I should know that
2 he could get away with it.

3 Q What did he say about that?

4 A He just -- I mean, if -- he just told me -- I mean, he
5 could -- he'd get away with it. If the law hadn't caught
6 him now, you know, they're obviously not going to come after
7 him. It was a good year later.

8 Q During the period of time that you were with him, did
9 you ever see him carrying a gun?

10 A At all times. He carried either a Glock pistol, or he
11 had a small, I believe it was a .25-caliber that he would
12 carry. One of the two were with him I'd say 90 percent of
13 the time. Whenever we went out at night or anything like
14 that, he carried it.

15 Q Did he make any statements to you in reference to law
16 enforcement's ability to apprehend him?

17 A He said that they couldn't. If they had anything on
18 him, that they would have picked him up already.

19 Q Did he make any statements to you in reference to what,
20 if anything, was taken at the time of her death?

21 A He had -- he had talked about, this was in the same --
22 along the same conversation as how stupid the law was, that
23 they had -- no one even realized that stuff that was put
24 down as stolen was never even taken.

25 Q Did you know James Ogburn?

1 A Yes.

2 Q Who is James Ogburn?

3 A James Ogburn is another one of Ted's employees, my
4 coworker.

5 Q Did you discuss this matter with James Ogburn?

6 A Yes, I did.

7 Q Did he make any statements to you about keeping your
8 mouth shut?

9 A Is that Ted Kimble you're --

10 Q Yes.

11 A -- referring to? Yes.

12 Q What did he say?

13 A I was -- again, I was told to keep my mouth shut, or I
14 was -- my life was threatened.

15 Q When you say your life was threatened, what do you
16 mean?

17 A That he would kill me. And it was on -- it was on
18 several occasions, and that was in -- you know, in
19 correlation with always having the gun around.

20 Q Besides the gun, did he have any other objects that he
21 showed you?

22 A A silencer, miscellaneous rifles, I mean, several guns,
23 rifles, his Glock, the small gun, the silencer, small
24 explosives and whatnot.

25 Q In your presence, did he make threats toward any other

1 person?

2 A Mr. Church.

3 Q Who's that?

4 A Jim Church sitting next to you, the investigating
5 officer.

6 Q Detective Church?

7 A Yes, Detective Church.

8 Q What, if anything, did he say about Detective Church?

9 A It was -- when we are talking, it was -- Ted had told
10 me that Mr. Church was following him around everywhere,
11 going around, talking bad about him, had gone to his
12 girlfriend's house, who was Rhonda, and told her parents
13 that she was dating a murderer, and was very upset about it,
14 and said that if he kept it up, that he was going to kill
15 him.

16 Q He was going to do what?

17 A That he was going to kill Detective Church.

18 Q Now, on this occasion, when you got in trouble, was
19 this the first time that you've been involved in criminal
20 activity?

21 A No, it's not.

22 Q Have you been convicted of other criminal matters?

23 A Yes, I have.

24 Q Would you tell the jury about that, please.

25 A I have been convicted of, in California, knowledge of

1 stolen property, and fighting in public. And here, in
2 Greensboro, solicitation to commit embezzlement, and I have
3 a larceny charge.

4 Q And all those are misdemeanors?

5 A Yes.

6 Q Now, have you ever been convicted of a felony?

7 A I have not been convicted of a felony.

8 Q Now, prior to reaching the information -- the agreement
9 that is State's Exhibit Number 15 (sic), what have you done
10 in reference to law-enforcement officers, and specifically,
11 Detective Church?

12 A I'm not following.

13 Q Well, let me ask you this. Just read the State's --
14 the agreement, please.

15 A Starting with "That the defendant," or --

16 Q "The parties agree." The very first line, please.

17 A "The parties to this criminal action hereby stipulate
18 and agree to the following facts:

19 "That the defendant is charged with several counts of
20 breaking and entry and larceny, may be charged with related
21 offenses, which are also property crimes.

22 "That the defendant has offered and agreed to testify
23 in regard to the death of Patricia Kimble and to the
24 involvement of Theodore Kimble in various crimes related to
25 breaking and entry and larcenies. That the defendant has

1 been interviewed by his attorney and stated that he has
2 information to offer in these cases, and that said
3 information directly points to the guilt of Theodore Kimble,
4 Ronnie Kimble or Patrick Pardee and is direct and personal
5 knowledge of the type that North Carolina can use in its
6 prosecution of Theodore Kimble, Ronnie Kimble or Patrick
7 Pardee.

8 "Based upon the foregoing facts, the State of North
9 Carolina hereby agrees that in the event that the defendant,
10 Robert H. Nicholes, agrees to cooperate with officers of the
11 Guilford County Sheriff's Department and the Greensboro
12 Police Department and testifies, if called upon, in a
13 truthful manner, consistent with previous statements to the
14 Guilford County Sheriff's Department and the Greensboro
15 Police Department, the State of North Carolina will
16 recommend that he receive a probationary sentence.

17 "In return, the defendant agrees, Robert H. Nicholes,
18 that he will voluntarily appear and testify in any trial
19 related to the death of Patricia Kimble.

20 "That he will voluntarily appear and testify in any
21 trial related to the breaking and entry and larceny crimes
22 involving Theodore Kimble or Patrick Roy Pardee.

23 "That said testimony shall be truthful, complete, and
24 not inconsistent with prior statements of the defendant to
25 the Greensboro Police Department.

1 "The defendant, Robert H. Nicholes, understands that if
2 he fails to cooperate as set forth in his (sic) agreement by
3 (sic) the State of North Carolina shall have the option of
4 moving to set aside this plea agreement and prosecute the
5 defendant to the fullest extent allowed by the law. That
6 the defendant consents and agrees that the State of North
7 Carolina shall have the right to move to set aside his plea
8 agreement and sentence, in the event that the defendant
9 willfully fails to comply with this agreement.

10 "Further, the defendant, Robert H. Nicholes, agrees to
11 take a polygraph or participate in other law-enforcement
12 activities designed to corroborate his testimony.

13 "The defendant, Robert H. Nicholes, understands that he
14 must be totally truthful in his cooperation with the State
15 of North Carolina, that if the defendant, Robert H.
16 Nicholes, lies or intentionally omits or mistates the facts
17 of the death of Patricia Kimble, or his knowledge of the
18 facts leading up to the death of Patricia Kimble, or if he
19 refuses to testify or intentionally submits false testimony,
20 the State of North Carolina will not be bound by this
21 agreement, and that the State of North Carolina will use his
22 statements to prosecute him to the fullest extent of the
23 law.

24 "The defendant understands that this agreement is
25 limited to property crimes, and that if in the course of the

1 investigation, it is determined that he has participated as
2 a principal or an accessory in any crime against a person,
3 this agreement does not protect the defendant from
4 prosecution for that crime against a person. Further, if in
5 the course of the investigation it is determined that he has
6 participated as a principal or an accessory in any crime
7 against a person, his statements and any information gained
8 or uncovered as a result of this (sic) statement can be used
9 to prosecute him to the fullest extent of the law.

10 "Further, this agreement only binds the District
11 Attorney's Office of Guilford County and is not intended to
12 bind or affect or hinder the decision of any other
13 prosecutorial agency, state or federal, to indict and
14 prosecute the defendant, Robert H. Nicholes, and that this
15 agreement does not prohibit said prosecution.

16 "This 18th day of April, 1997," and signed --

17 Q Now --

18 A Yes.

19 Q -- in there, it's made reference to your cooperation
20 with the Greensboro Police Department. What was that in
21 regard to?

22 A The Greensboro Police Department in regards to the
23 materials that were taken.

24 Q Did some of those offenses occur in the city of
25 Greensboro?

1 A Yes.

2 Q As a result of that, did you meet with Detective Kasey
3 of the Greensboro Police Department?

4 A Yes, I did.

5 Q And did you show her the locations?

6 A I did.

7 Q As a result of your efforts, was there certain property
8 recovered?

9 A Yes, there was a lot of it recovered.

10 MR. PANOSH: No further questions.

11 THE COURT: You may cross-examine the witness.

12 MR. LLOYD: Thank you, Your Honor.

13 CROSS-EXAMINATION by MR. LLOYD:

14 Q Now, Mr. Pardee --

15 THE COURT: Mr. Nicholes.

16 Q Excuse me. Mr. Nicholes. You've just gone over the
17 deal that you and your attorney worked out with the State of
18 North Carolina, in exchange for your testimony; is that
19 correct?

20 A Yes.

21 Q And basically -- Well, let me ask you this, Mr. Pardee
22 (sic). You were charged with how many counts of theft or
23 larceny or breaking or entering? How many felonies as a
24 result of the theft conspiracy ring involving you and Ted
25 Kimble and Patrick Pardee?

1 A To my count, it's 25 total.

2 Q 25?

3 A 19 B&E, six larceny.

4 Q All right. And had you not -- and those are all felony
5 charges, are they not?

6 A Those are felony charges.

7 Q All right. And had you not worked out a deal, you were
8 aware that those are all Class H felonies and you could have
9 gotten at least, depending on your record, but assuming the
10 very best, that none of your record came in, you could have
11 gotten at least five to six months for each one of those
12 felonies, could you not?

13 A Yes, I could have.

14 Q And if you had been convicted of all 28 of them or
15 however many it was, the judge could have given you six
16 months on each one, to run consecutively, one after another?

17 A Yes, sir.

18 Q So, conservatively, Mr. Nicholes, you were facing
19 possibility of some 14 years in prison for your actions in
20 the theft ring with Ted Kimble and Patrick Pardee, were you
21 not?

22 A It was a possibility.

23 Q All right. And you talked to your lawyer?

24 A Yes.

25 Q All right. And you and your lawyer negotiated this

1 deal, the one you've just referred to, with the State of
2 North Carolina, didn't you?

3 A Yes.

4 Q All right. And the fact of the matter is, Mr. Pardee
5 -- Mr. Nicholes. Excuse me. I apologize. -- Mr.
6 Nicholes, that if Mr. Panosh is satisfied with your
7 testimony, you will get probation in these offenses, and you
8 will not serve one single day of time; is that correct?

9 A According to the agreement, that is correct.

10 Q All right. And in terms of the agreement and what you
11 must do, you have to testify consistent with your previous
12 statements; is that correct?

13 A Correct.

14 Q And that's set out in the agreement as you read, that
15 if you're called upon to testify, you must testify
16 consistent with your earlier statements?

17 A Correct.

18 Q Now, when you were arrested in this case, Mr. Nicholes,
19 did you post a bond?

20 A I don't recall.

21 Q All right. Well, let me ask you this, Mr. Nicholes.
22 You're not in jail awaiting trial or the disposition of
23 these 28 felonies that you've referred to earlier, are you?

24 A No, I'm not.

25 Q All right. So you're out of jail?

1 A Yes.

2 Q All right. So at some point, you were arrested; is
3 that right?

4 A Yes.

5 Q And how long did you spend in jail, before you were
6 released?

7 A I didn't spend any time.

8 Q You did not spend any time?

9 A No, sir.

10 Q So was that because the magistrate didn't set a bond in
11 your case, even though you were charged with 28 felonies?

12 A No. I believe the agreement came with -- the original
13 charge was three felonies, and I agreed to tell everything I
14 knew. It didn't go in the order you're referring to.

15 Q All right.

16 A I was charged with three, and then I admitted to the
17 rest of it and everything else I knew, because until Ted was
18 put in jail, I didn't have a chance.

19 Q So you actually worked out your deal before you were
20 even arrested; is that right?

21 A No. I had -- I had told additional -- had told
22 additional -- yeah, I'd agreed to disclose information that
23 I knew before I'd actually signed an agreement. And that
24 was stuff I had discussed with Detective Church.

25 Q All right. So you talked to Detective Church about

1 that; is that right?

2 A Yes, it is.

3 Q And he assured you that if you told him what he wanted
4 to hear, you wouldn't spend any time in jail, you wouldn't
5 be arrested on this charge?

6 A That's not true. I did not -- I was not offered any
7 agreement in regards to me not serving any time until I had
8 talked to Mr. Panosh.

9 Q All right. Well, Detective Church told you that he'd
10 help you out, didn't he?

11 A Yes.

12 Q All right. And he didn't serve an arrest warrant on
13 you and take you across the street and bring you before the
14 magistrate at that time, before he took you over to talk to
15 Mr. Panosh, did he?

16 A No. It wasn't his case.

17 Q Well, the police officers in charge of the case didn't
18 serve a warrant on you and take you across the street to the
19 magistrate?

20 A Yes, they did.

21 Q All right. But you were not required to post a bond;
22 is that right?

23 A No, I wasn't.

24 Q All right. And Mr. Nicholes, isn't it true that
25 Detective Church talked to the magistrate, in terms of your

1 bond?

2 A I don't know.

3 Q All right.

4 A I did not have much relation with Mr. Church.

5 Q But at any rate, you were not -- even though you were
6 arrested on three felonies --

7 A Uh-huh.

8 Q -- you were not put in jail, and you were not required
9 to post a bond at that time; is that right?

10 A No, I wasn't. No, I wasn't.

11 Q Now, you indicated earlier that -- Well, let me ask
12 you this, Mr. Nicholes. When you talked to Detective
13 Church, did you have a lawyer at that time?

14 A No.

15 Q All right. So this was something that you and
16 Detective Church worked out; is that right?

17 A We didn't work out anything. I told him what I knew.

18 Q Okay.

19 A I was in a situation where I couldn't just come out and
20 announce this to the world.

21 Q All right. So you talked to Detective Church at that
22 time, and he told you that he would help you out; is that
23 right?

24 A It's his job. Yes.

25 Q His job is not --

1 A His job is --

2 Q -- to arrest people --

3 MR. PANOSH: We'd object to his arguing with the
4 witness, please.

5 THE COURT: Overruled. He's clarifying his
6 answer.

7 Q Is his job not to arrest people and bring them to
8 justice?

9 A That was not his case. It was his job to find the
10 murderer of Patricia Kimble, and that's what he was doing,
11 through me.

12 Q All right. So even though this wasn't his case, he
13 talked to you?

14 A Yes.

15 Q And he told you he'd help you, right?

16 A Yes. I came to them, though. It was before any of
17 this, before any of this. The 20-- the 25 additional
18 larcenies came because I told where the materials were. I
19 didn't want part of it anymore, as of Ted being arrested on
20 April 1. I came to the police. I'm the one that told them
21 what was going on. It was not --

22 Q Okay.

23 A -- vice versa.

24 Q So -- and Mr. Nicholes, the reason you came to the
25 police at this time and told them about the 28 -- to some 28

1 break-ins and larcenies is because you were a good citizen?

2 A No. It was because Ted had been arrested, and I didn't
3 have to worry about him killing me.

4 Q Well, Mr. Nicholes, if you had gone to Detective Church
5 prior to that time, and told him what you knew, don't you
6 think that Detective Church would have offered you
7 protection at that time?

8 MR. PANOSH: Object to speculation.

9 THE COURT: Sustained to the form.

10 MR. LLOYD: All right.

11 Q Well, Detective Church would have offered you
12 protection at that time, wouldn't he?

13 A I don't know that. It had been a year, and there
14 hadn't been an arrest. I'm not willing to risk my family's
15 life or my life on speculation, whether Detective Church can
16 help me.

17 Q Well, you certainly could have gone to Detective Church
18 prior to that time and told him what you knew, and asked him
19 if he would offer you protection at that time, or if he
20 would arrest Ted Kimble and put him in jail, so you wouldn't
21 have to worry about it; couldn't you have done that, Mr.
22 Nicholes?

23 A I was in fear.

24 Q But you could have done that, you could have gone to
25 Detective Church. Were you worried that Detective Church

1 was going to run to Ted Kimble and say that "Rob Nicholes is
2 ratting on you"? Is that what you were worried about, Mr.
3 Nicholes?

4 A Not at all. I feared for my life.

5 Q All right. But you certainly could have done that, and
6 asked Detective Church if he would offer you protection, or
7 arrest Ted Kimble and put him in jail?

8 MR. PANOSH: Object. I believe he's answered.

9 THE COURT: Overruled.

10 You may answer that.

11 A Not without knowing 100 percent that something would be
12 done. Like I said, I'm not willing to gamble my life on
13 that. I know what I knew. I know what was told to me. And
14 I wasn't willing to go and risk my life on that. I was
15 threatened. I wasn't going to do that.

16 Q Well, you certainly didn't think that when you gave
17 that information to Detective Church, that he was going to
18 turn around and run to Ted Kimble and tell him that "Rob
19 Nicholes had given me this information," did you?

20 A No.

21 Q Now, you indicated on direct examination that you had
22 convictions in California for what you referred to as
23 knowledge of stolen property?

24 A Yes.

25 Q Is that basically, Mr. Nicholes, that you received

1 stolen property, knowing that it was stolen?

2 A Yes.

3 Q All right. And did you work out a deal on that case,
4 with the District Attorney's Office there?

5 A No, sir. I served 90 days.

6 Q All right. Did you plead guilty to that charge --

7 A Yes, I did.

8 Q -- or did you --

9 A I've made mistakes, and I feel bad about it, but I tell
10 the truth.

11 Q Well, in connection with your 90-day plea, what I'm
12 asking you, Mr. Nicholes, is --

13 MR. PANOSH: We object.

14 MR. LLOYD: Well --

15 MR. PANOSH: He's answered --

16 THE COURT: Overruled.

17 MR. PANOSH: -- about his prior criminal history.

18 THE COURT: Finish your question, sir.

19 MR. LLOYD: Thank you, Your Honor.

20 Q In connection with this knowledge of stolen property
21 that you pled guilty to in California, my question to you,
22 Mr. Nicholes, you said you did a 90-day sentence upon a
23 guilty plea. State of California give you anything in
24 exchange for your guilty plea?

25 MR. PANOSH: We object.

1 THE COURT: Overruled.

2 A No.

3 Q Were you represented by a lawyer in that case?

4 MR. PANOSH: We object. Details of this prior
5 conviction are not appropriate.

6 THE COURT: Overruled.

7 A The question --

8 Q Did you have a lawyer in the California case?

9 A Yes, I did.

10 Q All right. So is what you're telling the members of
11 the jury is that your lawyer didn't do anything for you,
12 that you just pled guilty and you got 90 days?

13 MR. PANOSH: Object, please.

14 THE COURT: Sustained.

15 Q Mr. Nicholes, isn't it a fact that that charge was
16 reduced from a felony charge to a misdemeanor charge?

17 MR. PANOSH: We object, please.

18 THE COURT: Overruled.

19 You may answer.

20 A I don't remember what the original charge I was
21 arrested for was.

22 Q Well, you got something from the state of California,
23 in exchange for your guilty plea; your lawyer did something
24 for you in that case, didn't he?

25 A I'm sure.

1 Q All right.

2 A I was 19 years old.

3 Q All right.

4 A I mean, it's hard to -- it was something to that
5 effect, when the actual charge or the actual situation
6 arose. It's hard to remember. It's, you know, going on
7 eight, nine years ago.

8 Q Okay. And your lawyer got the charge reduced from a
9 felony down to a misdemeanor?

10 MR. PANOSH: Objection.

11 THE COURT: Overruled, if he knows.

12 A I've answered that. Yeah, that's his job.

13 Q All right. So that is in fact what happened?

14 A It's in fact what happened.

15 Q All right. Now, this charge of solicitation to commit
16 embezzlement, was that here in Greensboro or was that in
17 California?

18 A That was here --

19 MR. PANOSH: We object.

20 A -- in Greensboro.

21 MR. PANOSH: Rule 609.

22 THE COURT: Overruled.

23 Q You can answer the question.

24 A That was here in Greensboro.

25 Q All right. Did you have a lawyer in that situation?

1 A Yes, I did.

2 Q All right. And in that situation, Mr. Nicholes, did
3 you work out an agreement with the State of North Carolina?

4 A Yes, I did.

5 Q All right. And was that charge reduced from a felony
6 charge down to a misdemeanor charge?

7 A Yes, it was.

8 Q So, Mr. Nicholes, you're well-versed in how to make
9 deals with the State, aren't you?

10 A No. I'm well-versed on how to tell the truth, when
11 I've done something wrong. That's what I'm well-versed on.
12 It's not being versed, it's telling the truth. I said I've
13 made mistakes and I'm not proud of it --

14 Q Well --

15 A -- but admit it and deal with it.

16 Q You certainly had this information for a considerable
17 period of time that you've testified to, haven't you, Mr.
18 Nicholes?

19 A Not really. In the whole scheme of things, no, it's
20 not a long time.

21 Q Well, you -- I believe you indicated to Mr. Panosh that
22 as far as the thefts were concerned, you got started in
23 December of 1996 --

24 A Yes.

25 Q -- is that right?

1 A Uh-huh.

2 Q All right. And the thefts were ongoing through January
3 and February?

4 A Yes.

5 Q All right.

6 A That's three months.

7 Q Okay. So you had that knowledge at that time?

8 A Yes.

9 Q You could have come forward with that knowledge at that
10 time?

11 A Not when a man had told me he had had his wife killed,
12 and my life was threatened, no, I couldn't. What don't you
13 understand about that? I couldn't. I was -- I was
14 threatened. My life was threatened. I had nowhere to go.
15 If he wasn't arrested, what would make me think that what I
16 say is going to change anything? Nothing.

17 Q You could have gone to Detective Church or whoever was
18 the -- you found out was the lead investigator in the case.
19 You'd researched this case, didn't you?

20 A Sure.

21 Q All right. You could have gone to the lead
22 investigator, which you knew to be Detective Church --

23 A Sure.

24 Q -- given him this information, and he could have
25 arrested Ted Kimble?

1 A I didn't know that, and it wasn't worth -- I mean, it
2 wasn't worth it to me to find out. The minute -- the
3 morning that Ted was arrested, I told everything that I knew
4 about everything, because I knew that I was covered. I
5 wasn't going to risk my life. I've got two little girls and
6 a wife that I've got to protect, too.

7 Q In fact, Mr. Nicholes, you knew -- you had figured out
8 the system here, and you knew you could parlay information
9 to save your own skin --

10 A That's not true.

11 Q -- as long as you told the authorities what they wanted
12 to hear; isn't that right, Mr. Nicholes?

13 A That's not true. I came to them. Before I was offered
14 an agreement, I offered information. That was the whole
15 reason the truck and all the goods were found, was before I
16 signed anything on April 1. This agreement is April 18th.
17 Everything was taken care of before this agreement was even
18 signed, and that was when I knew I was going to probably
19 serve 10 years in jail.

20 Q So you knew early on that you were looking at a whole
21 --

22 A Sure.

23 Q -- armload of time here, didn't you?

24 A Uh-huh. Sure did.

25 Q Now, Mr. Nicholes, going back to your activities in the

1 theft ring, you -- what did you get out of the theft ring?

2 A A ruined life. I mean, look where I am.

3 Q Well, let me ask you this, Mr. Nicholes. Did you get
4 anything else out of it besides a ruined life, such as money
5 or goods or --

6 A I was compensated for my time.

7 Q Well, what was your pay rate at Lyles Building Supply?

8 A \$6.50 an hour.

9 Q Are you saying that Ted Kimble paid you at the rate of
10 \$6.50 per hour when you went out on these theft excursions?

11 A I don't recall what it was.

12 Q Well, you told investigators that the first time you
13 went out with Ted Kimble, that he paid you \$300?

14 A Right. But if you also read the first time I went out,
15 I was told it was legitimate. Ted told me that we were
16 going up -- going to pick up materials that were his. He
17 called me at 3:00 in the morning, to go help him, when it
18 was snowing. That was before there was any knowledge that
19 any of these materials were stolen.

20 Q Okay. So your testimony is, the first time you went
21 out with Ted Kimble, that you thought it was legitimate?

22 A There was a number of times before I figured out what
23 was going on, yes.

24 Q All right. And Mr. Nicholes, Ted Kimble called you at
25 3:00 a.m.; is that right?

1 A Approximately, yes.

2 Q All right. And he told you -- what did he tell you at
3 that time?

4 A Asked me to -- or asked -- said he needed some help and
5 to meet him at the shop.

6 Q Okay. Did you not think it was a little odd that you
7 were meeting at 3:00 o'clock in the morning?

8 A Sure. But at the time, he was my boss and he was my
9 friend.

10 Q Okay. And --

11 A Wasn't an -- I mean, it wasn't an odd request. Ted,
12 you know, liked people to do favors for him and help him
13 out. And he treated me well.

14 Q All right. Well, prior to this time, had he ever
15 called you up at 3:00 o'clock in the morning and asked you
16 to come down to the shop and help him out?

17 A No.

18 Q Was Patrick Pardee down at the shop at that -- on that
19 occasion?

20 A No.

21 Q All right. So it was just you and Ted?

22 A Yes.

23 Q And what did Ted -- when you got down to Lyles, what
24 did Ted say to you?

25 A I don't remember exactly. Something to the effect, we

1 needed to go pick up some doors and windows.

2 Q Okay. Did you say something to Ted at that time about
3 the fact that it was 3:00 o'clock in the morning, and you
4 thought that was a little bit odd time to go to be picking
5 up doors and windows?

6 A No.

7 Q Didn't say anything to him?

8 A Huh-uh.

9 Q Did you in fact go and pick up doors and windows?

10 A I drove there. I didn't pick up anything.

11 Q All right.

12 A I had to actually study for a Spanish test that night,
13 while in the car, while we was up there.

14 Q Okay. So you just drove the truck?

15 A Yeah. I mean, I helped him -- what the situation was,
16 and I guess I -- I mean, he went up there and had to take
17 out some screws and whatnot. I helped him load the windows
18 afterwards into the truck.

19 Q Okay.

20 A That's what I was there for. He couldn't carry them by
21 himself.

22 Q All right. So they were too heavy to be carried by
23 themselves?

24 A Sure. Right.

25 Q But before he got the windows to the truck, he had to

1 remove some screws, to get the windows out of the house; is
2 that right?

3 A Uh-huh.

4 Q And what about the doors, Mr. Nicholes? Did he have to
5 remove any screws or any hinge pins or anything like that,
6 to get the doors?

7 A Yes.

8 Q All right. So, while you were studying for your
9 Spanish test real hard at that time, you noticed him moving
10 the -- removing the screws and the hinge pins?

11 A No. When I picked up the windows -- if you know
12 anything about windows, you have a replacement window and
13 you have windows with nailing fins. When we got them into
14 the car, they had obviously been nailed into the house.

15 Q Okay.

16 A And that's how I know that. That's what I do for a
17 living. I'm in home improvements.

18 Q Okay.

19 A I mean, I knew that. I was working at Lyles Building
20 Material.

21 Q So you were well-versed in construction techniques, and
22 you knew all about installing windows and how to frame a
23 house basically --

24 A No.

25 Q -- and that sort of thing?

1 A Well, well-versed isn't it. It's not -- doesn't take
2 rocket science to know that a nail's been put in a window
3 and whether it's a brand new window from Home Depot.

4 Q Okay.

5 A That's not being well-versed.

6 Q So you were sitting out in front of some residential
7 section. Where was this, Mr. Nicholes?

8 A It's off of Brassfield Street --

9 Q Okay.

10 A -- Brassfield Road.

11 Q Was this near Bryan Boulevard?

12 A Close to.

13 Q Okay. Was it an upscale residential section?

14 A Yes.

15 Q All right. And there were a number of houses under
16 construction in that section?

17 A Several.

18 Q All right. And since you know about home improvements,
19 Mr. Nicholes, what would you estimate the value of these
20 doors and windows was?

21 A Several thousand dollars.

22 Q So they were expensive doors and windows --

23 A Uh-huh.

24 Q -- is that right? Did you question Ted Kimble about
25 the nails that had been removed?

1 A No, not that night, I didn't.

2 Q All right.

3 A He just said that it was -- that what had come up was,
4 on the first several occasions, you know, knowing builders
5 and whatnot. And there was some stuff, there was some
6 lumber that was legitimately acquired through these means.
7 Sometimes builders will purchase special-order items that
8 aren't right or aren't correct, and they're already paid
9 for, they need to get the other items, so they would sell
10 them. And oftentimes, people would come in and sell, you
11 know, brand new windows to Ted. And, you know, there is --
12 I mean, at the time, I didn't know anything, in regards to
13 anything different. I mean, there -- sure, there was new
14 windows, and people would bring in lumber that was left over
15 from a building site and whatnot to Lyles. That's what
16 Lyles is about --

17 Q All right. Did you --

18 A -- selling materials.

19 Q I didn't mean to cut you off, Mr. Nicholes. Do you
20 need to say anything more in your answer?

21 A No. I'm fine.

22 Q But had you ever been out to a residential site with
23 Ted Kimble, to pick up any building materials from a
24 residential site?

25 A Yes. We had -- we had picked up two-by-fours before,

1 and had a billed receipt for them for that.

2 Q Was somebody present then?

3 A Yes. I mean, we had receipts and everything. And we
4 had showed Ted's dad everything, because he was concerned
5 about it, at first.

6 Q So on those occasions, you went out to a residential
7 site, and Ted actually paid for the materials, he paid the
8 job superintendent or the foreman --

9 A Right.

10 Q -- whoever it was?

11 A Correct.

12 Q But on this occasion, Mr. Nicholes, this was at 3:00
13 o'clock in the morning; is that right?

14 A Approximately 3:00 o'clock in the morning, yes.

15 Q All right. And after you got these items loaded up in
16 the truck, Ted -- did Ted Kimble pay you the \$300 when you
17 got back to Lyles, or did he pay you then?

18 A I don't remember. It may have been within the next
19 couple days. I'm really --

20 Q All right.

21 A -- not sure. I don't recall.

22 Q And how long did that take, Mr. Nicholes?

23 A What, to load the doors and windows.

24 Q Yes, sir. Well, the whole thing, the trip from Lyles
25 and back to Lyles.

1 A Three and a half, four hours.

2 Q Okay. But if you'd gotten paid at your normal rate,
3 you would have gotten a little bit under \$30; is that right?

4 A Correct.

5 Q Okay. Now, you said earlier that you did this several
6 times, before you realized that Ted Kimble was stealing
7 these items; is that right?

8 A I don't remember the amount of times or anything like
9 that, but it was -- it was all in -- I mean, everything was
10 so where, you know, when we were out doing this stuff and we
11 became closer, and he was inviting, you know, my wife and
12 child and myself out to dinner and everything, just became
13 close, and then, you know, I was told about Patricia, and I
14 mean, everything just came into line at one time. I mean, I
15 feel I was manipulated. I feel that it was all set up to be
16 like this.

17 Q Well, do you feel like Ted Kimble tricked you, by
18 telling you that, when you went out that first time, and any
19 subsequent times, that this was a legitimate trip, where he
20 was just going to get some doors and windows that he'd
21 already paid you -- that he had already paid for?

22 A I don't know what I was feeling at the time. I mean,
23 -- I mean, I don't -- I don't know how to address that.

24 THE COURT: I hate to interrupt you at this point.
25 How much longer are you going to be with this witness?

1 MR. LLOYD: Awhile, Your Honor.

2 THE COURT: You may step down, sir. You may step
3 down, Mr. Nicholes.

4 THE WITNESS: Me?

5 THE COURT: Yes.

6 (The witness left the witness stand.)

7 THE COURT: Members of the jury, we'll take our
8 evening recess. You'll need to be back in the morning at
9 9:30. Please report to the jury room. Again, remember your
10 jury responsibility sheets.

11 Have a nice evening. I'll see you in the morning.

12 (The jury left the courtroom at 5:03 p.m.)

13 THE COURT: Any other matters before the evening
14 recess?

15 MR. PANOSH: No.

16 MR. LLOYD: No, Your Honor.

17 THE COURT: 9:30 in the morning, sheriff.

18 (A recess was taken at 5:04 p.m., until 9:30 a.m. Tuesday,
19 August 18, 1998.)

20

21

* * * * *

22

23

24

25

1 this morning that I should know about, if you'll raise your
2 hand, I'll be glad to talk with you about that.

3 Okay. I believe -- you may continue with the
4 examination of the witness, cross-examination, Mr. Lloyd.

5 MR. LLOYD: Thank you, Your Honor.

6 ROBERT H. NICHOLLES, having been previously duly sworn,
7 testified as follows during CONTINUED CROSS-EXAMINATION by

8 MR. LLOYD:

9 Q Now, Mr. Nicholes, you told us yesterday that the first
10 several trips, first several stealing trips that you went on
11 with Ted Kimble, where you were stealing building materials
12 from home sites --

13 A Yes, sir.

14 Q -- you thought those were legitimate excursions, didn't
15 you?

16 A Better put, I wanted to believe they were legitimate.
17 Ted was a friend of mine and -- I mean, of course, 3:00
18 o'clock in the morning, it would cross my mind that maybe it
19 wasn't legitimate. Ted was a friend. I mean, I -- my
20 better judgment, I knew it was wrong. I was there to -- for
21 the money. When he said \$300, I was there for the money.

22 Q Well, I thought you told us yesterday, Mr. Nicholes,
23 that certainly with respect to that first trip, the one at
24 3:00 o'clock in the morning, you thought that was a
25 legitimate enterprise?

1 A I thought it was -- it was legitimate. I mean, it
2 crossed my mind, but at first -- I mean, you believe in a
3 friend, you don't know any different. You go with your
4 judgment at the time. Sure, it crossed my mind.

5 Q And you told investigators that the first several
6 occasions when you went with Ted to steal these building
7 materials, that you thought that those times were
8 legitimate; is that right?

9 A Wanted to believe they were legitimate, yes.

10 Q And you told investigators that you thought they were
11 legitimate?

12 A That I wanted to believe they were legitimate, yes, I
13 did.

14 Q When was the first time, Mr. Nicholes, that you
15 realized conclusively that these late-night excursions to
16 people's homes, where you took windows and doors and other
17 building materials, were not legitimate?

18 A Soon thereafter the first couple I believe -- I knew --

19 Q Now --

20 A -- that it was wrong.

21 Q I didn't mean to cut you off. Are you through with
22 your answer?

23 A That's okay.

24 Q Did Ted Kimble pay you the same way he had for the
25 first one at 3:00 a.m. in the morning?

1 A No.

2 Q All right. Did he pay you in cash?

3 A Yes.

4 Q All right. When you say "No," did he just not pay you

5 --

6 A It was -- it was --

7 Q -- as much?

8 A Yes, sir, it was not as much.

9 Q Was that because what you were stealing was not as
10 valuable as the valuable doors and windows that you stole
11 that first time, at 3:00 a.m. in the morning?

12 A I'm not sure how he came up with his method of payment

13 --

14 Q All right.

15 A -- but it was not \$300.

16 Q All right. But at any rate, you were satisfied with
17 that, were you not?

18 A Yes.

19 Q And at some point, Mr. Nicholes, Ted Kimble actually
20 wrote you checks from the business for the building
21 materials supplies that you had stolen; is that right?

22 A No, that's not. He had written me checks for building
23 materials that we had stolen.

24 Q All right.

25 A It was not checks that I had -- it was -- when we are

1 out and -- as I had said yesterday, when we were out going
2 to steal stuff, and he told me that he was responsible for
3 the death of Patricia, he told me that everything was there,
4 and if I ever went to the police, that I would be in
5 trouble, and that's why the checks were there, to -- so he
6 would be able to pin it on me. He asked myself and my wife
7 to get the trailer in our name, so it could not come back to
8 him. He's a very smart man. He was not stupid.

9 Q Well, Mr. Nicholes, did you get the trailer in your
10 name?

11 A No, I did not.

12 Q All right. But you accepted the checks, nevertheless?

13 A Yeah. That was included in my paychecks, for the most
14 part. There was -- then -- when you're talking about
15 receiving checks, you're maybe talking about one or two, and
16 usually, that was put right into my weekly pay at \$6.50 an
17 hour.

18 Q So you're saying that Ted inflated your hours there at
19 the business, and included that in your paycheck, when he
20 paid you for these building supplies.

21 A Sometimes. There were checks that were given to me
22 that said "For building materials." And Ted had explained
23 that that was if anything ever came about, it was -- it was
24 -- he had the proof on paper that I brought him the building
25 materials.

1 Q Okay. So on these checks that were separate from your
2 pay, that said "building materials," you accepted those
3 checks, didn't you?

4 A Yes, I did.

5 Q And you cashed them and you negotiated them?

6 A Yes, I did.

7 Q All right. Even though you say that Ted Kimble's motive
8 in doing that was to get something on you; is that right?

9 A To help -- partially, yes. I mean, of course -- I
10 needed the money. I mean, I'll be -- I needed the money. I
11 was a student. Ted had helped me out a lot. He was a
12 friend. But I had gotten into a situation where, you know,
13 when we became friends, that I just knew too much. And he
14 knew. I mean, the reason, you know, that I did this stuff,
15 I was -- that's why I believe precisely why he told me
16 everything he did.

17 Q Now, Mr. Nicholes, prior to the 3:00 a.m. excursion,
18 when you and Ted stole the windows and doors, had you ever
19 sold any building materials --

20 A No.

21 Q -- to Ted Kimble --

22 A No.

23 Q -- before that time?

24 A Huh-uh.

25 Q Now, over the course of the time that you and Ted were

1 involved in these thefts, this stealing, as you indicated
2 yesterday in your testimony, this is when this, as you
3 described it, closeness between you and Ted transpired; is
4 that right?

5 A That's correct.

6 Q And as this closeness developed, it was at some point
7 when, after that closeness between you and Ted became
8 established, that Ted made this admission to you that you've
9 testified to in court yesterday; is that right?

10 A That is correct.

11 Q Now, how long had you known Ted before you got this
12 3:00 a.m. call and he came over and picked you up and you
13 went out on this first theft excursion?

14 A Approximately two and a half months.

15 Q All right.

16 A It was whenever the first snowfall was. That's how I
17 remember. I don't remember the date.

18 Q All right. So you -- do you recall telling
19 investigators that it was about three months after you'd
20 known him --

21 A Yeah. That would put --

22 Q -- that that occurred?

23 A -- it in the December --

24 Q All right.

25 A -- area.

1 Q So that would have been sometime in December --

2 A Correct.

3 Q -- sometime before the first of the year? And the
4 stealing escalated with time; is that right?

5 A Yes.

6 Q And you told police that there were at least 20
7 occasions when you and Ted went out to steal, by yourselves;
8 is that right?

9 A Yes.

10 Q And that there were another, say, three to five times
11 when Patrick Pardee went with you two to steal?

12 A Correct.

13 Q Now, when was the first time that Patrick Pardee was
14 involved?

15 A I don't recall.

16 Q Well, with relation, starting with the 3:00 a.m. theft
17 as the first actual theft --

18 A Right.

19 Q -- involving you and Ted, can you pinpoint a time when
20 Patrick became involved after that?

21 A I really can't, no.

22 Q Now, if you know, Mr. Nicholes, was Patrick Pardee and
23 Ted Kimble involved in stealing building materials before
24 you and Ted became involved in stealing building materials?

25 A I don't believe so.

1 Q And when you first -- when Patrick Pardee first became
2 a member of your conspiracy, what did you tell -- you and
3 Ted tell him was the purpose of going out late at night and
4 taking these building supplies from homes?

5 A I never discussed it with Patrick. They were -- they
6 had been best friends. Patrick just came along.

7 Q All right. So it was obvious to you that Patrick knew
8 exactly what you and Ted were doing; is that correct?

9 A Yes.

10 Q All right. I mean, you were going out late at night.
11 Did you have the scanners operating at that time, Mr.
12 Nicholes?

13 A There were police scanners.

14 Q And the purpose of the scanners was, that one of you
15 would listen in on the scanners, to see if the police had
16 any report of a theft going on?

17 A That is correct.

18 Q And if they -- if you did hear something on the police
19 scanner concerning a theft in your area, then you would know
20 to leave; is that correct?

21 A Yes.

22 Q Now, you told police officers that you were basically a
23 reluctant participant in these thefts involving Ted; is that
24 right?

25 A As time went on, yes, I was reluctant.

1 Q All right. And you told police officers that at times,
2 you told Ted that you would not participate --

3 A That is --

4 Q -- in the thefts?

5 A That is correct.

6 Q And that -- and you told police officers at that time
7 that Ted should -- told you you were going to participate?

8 A That is true.

9 Q And showed you his gun?

10 A Right. And came to my home at 3:00, 4:00, 4:30 in the
11 morning --

12 Q All right.

13 A -- several occasions.

14 Q And you were intimidated?

15 A Yes, I was intimidated.

16 Q And you were scared?

17 A I was very scared.

18 Q All right. And you went ahead and went on these theft
19 excursions because you were afraid of Ted; is that right?

20 A On -- I got out of what I could. I would -- there's
21 many times when he'd call or come over and I'd hide, and my
22 wife would tell him I wasn't there. But yes, I mean, I did
23 go on some, for fear. I mean, I had -- it was -- he was my
24 sole source of income. He was threatening me with, you
25 know, my life and my family's well-being, because of the

1 things I knew, because of the things he told me.

2 Q So basically, at this time, you were participating
3 almost solely because you were afraid of Ted?

4 A As the time went on, yes. And I mean, for the first
5 couple months, I'd done it for the money.

6 Q Now, Mr. Pardee (sic), during that period of time when
7 you say you participated, not for the money, but out of fear
8 for Ted, did you look for another job at that time?

9 A Yes, I looked for other jobs. It's -- I mean, I was
10 senior year, last semester. There were certain courses I
11 had to take, you know. Many employers are not going to hire
12 you for two hours in the morning and then three in the
13 afternoon. It was -- there was no way I could do it. Plus,
14 I was -- I was told that I could not leave.

15 Q Did you go to your parents, and tell them that you were
16 in a real bind, and that you only needed enough money to
17 finish up your last semester, and could they please help you
18 out?

19 A No, I didn't.

20 Q But you could have, couldn't you, Mr. Nicholes?

21 A Sure. But why involve even more people, is the way I
22 was thinking. I mean, yeah, I was -- I was -- I was scared,
23 I was frightened. I'm not going to bring in my -- the rest
24 of my family. I didn't know what I was dealing with.

25 Q Well, Ted wouldn't have known if you'd gone to your

1 family, would he?

2 A Sure, if I come up with the money and quit. He told me
3 I was not going to quit, that I was staying there. I was
4 staying there. I mean, the man brought a Glock 19 to my
5 wedding reception. That's how -- that's how it was. That's
6 how the relationship was. And left it at my house. My
7 father made me return it to him that night. That was the
8 kind of situation I was in. This is my wedding reception,
9 and the man brings a gun to intimidate me, inside my home
10 and my parents' home.

11 Q And this same man who brought the gun to intimidate
12 you, left the gun at your house; is that correct?

13 A Yes, he did, by accident.

14 Q All right. But you returned the gun to him; is that
15 correct?

16 A I returned it. My father told me it could not be at
17 our house.

18 Q Now, during the time that you worked for Ted Kimble,
19 you developed curiosity about his probable involvement in
20 his wife's death; is that correct?

21 A Yes.

22 Q And you even went to the trouble of looking up old news
23 articles on the school's computer; is that correct --

24 A Yes, I did.

25 Q -- Mr. Nicholes?

1 A I did that, I believe, the day after the anniversary.

2 Q All right. And you read those articles?

3 A Yes.

4 Q And you learned something about the facts, at least
5 what was known in the news articles, about -- surrounding
6 Patricia's death; is that right?

7 A There -- in those articles, there wasn't many facts,
8 because it was still part of a pending investigation. It
9 just said that she was shot and burned, and it looked like
10 an apparent, someone was trying to rob them. There weren't
11 any details.

12 Q But at any rate, you started essentially badgering Ted,
13 about whether or not he had anything to do with his wife's
14 death?

15 A Inquiring, yes.

16 Q All right. So you asked him on a number of occasions?

17 A A number of occasions.

18 Q And you told investigators that the response you got
19 from him was usually just no response at all; is that right?

20 A No response, or he had an alibi.

21 Q All right. But you persisted?

22 A Yes.

23 Q You kept asking him again and again?

24 A To an extent, yes.

25 Q All right.

1 A I mean, it wasn't like daily 30 times, but yes --

2 Q All right.

3 A -- I kept on asking him.

4 Q And according to your testimony here yesterday, finally
5 one night, he basically admitted having involvement in his
6 wife's death --

7 A Yes.

8 Q -- is that correct? And Mr. Nicholes, this was the
9 same man that you were very much afraid of; is that right?

10 A Yes.

11 Q This was the man that you were too afraid to even quit
12 your job?

13 A Yes.

14 Q Too afraid to turn him down on any of these stealing
15 excursions?

16 A I turned him down on some. I told you that. I did.
17 On most of them I went, though, yes. Yes, I was very
18 afraid.

19 Q All right. Too afraid to involve your parents?

20 A Correct.

21 Q Too afraid to even go to the police; is that right, Mr.
22 Nicholes?

23 A Yes.

24 Q Now, on some of these stealing excursions, Mr.
25 Nicholes, when you were with Ted, he spoke to you about your

1 drinking; is that right?

2 A Not on the -- on the trips themselves, but he had
3 talked to me about going out and drinking, yes.

4 Q And basically, he didn't approve of your drinking; is
5 that right?

6 A No, he did not.

7 Q All right.

8 A That was one thing he was -- he did not like drinking.

9 Q Now, Mr. Nicholes, at that time, did you have a
10 drinking problem?

11 A Not a drinking problem. I was a senior in college and
12 I would go out and drink, just like -- yes -- I mean, I
13 would not have a drinking problem, I went out and socially
14 drank, yes.

15 Q Well, have you been convicted of DWI?

16 A No.

17 Q All right. Had you been arrested for that?

18 MR. PANOSH: Object.

19 THE COURT: Overruled.

20 A Yes.

21 Q And had you been arrested more than once, Mr. Nicholes?

22 A At that time, no. Yes, I have been arrested more than
23 once for that.

24 Q And Mr. Nicholes, as a result of those DWI arrests,
25 have you had a substance abuse assessment?

1 A No.

2 Q Do you feel like, Mr. Nicholes, that you have a
3 drinking problem?

4 A No.

5 Q That's despite the fact that you had at least two
6 arrests for DWI; is that right?

7 A Two arrests, one dismissal.

8 Q All right. And was that dismissal as a result of your
9 cooperation in this case?

10 A No.

11 Q And have the police or prosecution or anyone made you
12 any promises concerning your other DWI arrests, in exchange
13 for your testimony here against Ted Kimble?

14 A No. I read yesterday on this, it clearly states that
15 it has nothing to do with anything else but the larcenies
16 and B&E's with Ted Kimble. Everything else is not part of
17 this agreement.

18 Q Do you expect any help from the prosecution concerning
19 your DWI, even though it's not stated on your written plea
20 agreement?

21 A Not at all.

22 Q Did you talk to your lawyer concerning that?

23 A I don't have a lawyer.

24 Q All right. In fact, Mr. Nicholes, you don't need a
25 lawyer, do you?

1 A That's not it at all. There's, I mean, situations that
2 has nothing to do with this really. I mean, if you want the
3 answer, I blew a .07 and was taken in. That's -- I should
4 have been let go at the time, and that's why it's going to
5 go to trial and be dismissed. I was drinking, yes, but I
6 was legally not intoxicated.

7 Q All right.

8 A And that's why I don't need an attorney.

9 Q Well, did the police officer cite you for being
10 intoxicated with some other intoxicants, such as marijuana
11 or some drug?

12 A No, sir.

13 Q Now, Mr. Nicholes, were you drinking when you were out
14 with Ted Kimble on these incidences when you were stealing
15 from people's homes?

16 A Rarely. Rarely.

17 Q Was that because Ted didn't approve of it?

18 A Yes.

19 Q Now, Mr. Nicholes, you and Ted Kimble didn't steal just
20 from people's homes, did you?

21 A No.

22 Q You stole from Home Depot --

23 A Uh-huh.

24 Q -- is that right?

25 A That's right. Ted rented a forklift and brought all

1 his equipment down, and we stole material from Home Depot,
2 with Patrick.

3 Q All right. So Patrick Pardee was involved in that one?

4 A Yes, sir.

5 Q All right. And there was another occasion when
6 Northern Hydraulics was broken into --

7 A Yeah.

8 Q -- and items stolen from that? Were you involved in
9 that, Mr. Nicholes?

10 A Yes.

11 Q All right. Was Patrick Pardee involved in that one?

12 A Yes, he was.

13 Q And what did you all steal from Northern Hydraulics?

14 A Go-carts.

15 Q Okay. Anything else that you can recall --

16 A Yeah.

17 Q -- Mr. Nicholes?

18 A There's -- my direct involvement was go-carts. There
19 was just -- some generators taken, a lawn mower taken.

20 Q And out of that theft, did you get one or some of the
21 go-carts?

22 A I received a go-cart.

23 Q Now, Mr. Nicholes, you indicated in your testimony that
24 at some point, Ted Kimble left his Glock pistol at your
25 house; is that right?

1 A Uh-huh.

2 Q That was your folks' house at that time; is that right?

3 A Correct.

4 Q All right. And your dad was well -- was aware of the
5 fact that the gun was not yours and was Ted's?

6 A Right.

7 Q All right. And you told him that, didn't you?

8 A Yes.

9 Q And he told you at that time that he wanted you to take
10 it back to Ted, that he didn't want any guns in his house;
11 is that right?

12 A Yes.

13 Q Mr. Nicholes, wasn't that the perfect opportunity to
14 bring up to your father the mess you were in, and talk to
15 him about it?

16 A I believe not. My dad is in a very prominent position
17 in the -- in the city. It's already -- this has brought him
18 a bunch of embarrassment. I knew that bringing him into it
19 at that time would be even worse. I mean, I could not
20 afford to bring my family into that situation. And I didn't
21 know -- you know, I didn't know what I was getting into.

22 Like I said, I was very, very terrified of the situation.

23 Q Well, you stated that at this time, you feared for your
24 life --

25 A I sure did.

1 Q -- did you not? And you thought that that was --
2 despite the fact that you feared for your life, you could
3 not bring your father into this situation?

4 A Correct, for fear of his.

5 Q Now, before you talked to police officers, when you
6 were arrested, did you tell anyone that you were scared to
7 death of Ted Kimble?

8 A Yes.

9 Q Did you tell anybody in authority?

10 A Not at the time, no.

11 Q All right. You certainly didn't tell your father?

12 A My father knew before I -- before Ted was arrested,
13 when everything was kind of coming to a head, so to speak.

14 Q All right. But you didn't tell him on this occasion,
15 when the gun was in the house, did you?

16 A No, I didn't. That was early February.

17 Q While you and Ted were still stealing things --

18 A Yes.

19 Q -- is that right?

20 A Yes.

21 Q Now, you indicated in your testimony earlier, Mr.
22 Nicholes, that you had read the newspaper articles off the
23 Internet, the old newspaper articles; is that right?

24 A It's not the Internet. It's a microfiche file that has

25 --

1 Q Okay.

2 A -- the Greensboro paper on it, yes.

3 Q All right. So these -- but these at any rate were the
4 old newspaper articles that covered the course of the
5 investigation of Patricia's death; is that right?

6 A It was the -- it was the original -- the original
7 article --

8 Q All right.

9 A -- is what I had read.

10 Q So you would have known as much as anybody in the
11 general public knew, at least at that time; is that right?

12 A That she was shot in the head and burned to death, yes.

13 Q Okay. So you were certainly armed with enough facts,
14 and you knew that Detective Church was the lead investigator
15 in the case, based on your review of the newspaper articles,
16 that you could have gone to Detective Church and told him
17 about Ted Kimble, and asked for his protection, couldn't
18 you?

19 A I was in fear of myself, and Ted had all that other
20 stuff. I'm a senior in college, graduating, you know, great
21 grades, have a great future in front of me, Ted's sitting
22 there with -- you know, I mean, I had been in trouble
23 before. I had told you that. At the time, I knew I was
24 doing wrong, and I had been manipulated to the point where I
25 was in between a rock and a hard place. That's precisely

1 the reason why I was -- why Ted told me those things.

2 Q But as far as your participation in the theft ring, Mr.
3 Nicholes, some of this was, according to your testimony, was
4 done based on Ted's coercion of you, you were virtually
5 doing these thefts at gunpoint on some occasions; is that
6 right?

7 A Not at gunpoint, with -- not -- I mean, reference to
8 showing me his pistol, yeah. It wasn't at gunpoint, though.

9 Q But as far as you were concerned, it was life-
10 threatening intimidation; that's what you've testified to,
11 isn't it?

12 A That I was afraid for my life, yes.

13 Q And that's why you did at least some of these thefts;
14 is that correct? That's what you've testified to before,
15 isn't it?

16 A Some of them, yes.

17 Q All right. Now, Mr. Nicholes, when was it that you and
18 Ted and Patrick Pardee stole the go-carts from Northern
19 Hydraulics?

20 A I really don't remember the date. Generally late
21 January, perhaps.

22 Q Okay. Was it after your wedding, right about your
23 wedding?

24 A No. It was before.

25 Q Okay. In terms of when Ted was intimidating you, was

1 this before or after the intimidation? Was this -- this was
2 after Ted had come to your house on several occasions and
3 shown you his gun and said that you were going out with him;
4 is that right?

5 A Correct.

6 Q All right. And isn't it a fact, Mr. Nicholes, that
7 after y'all got the go-carts, that you went out riding on
8 the go-carts?

9 A No, I actually did not go ride the go-carts. Patrick
10 and Ted rode the go-carts. I had the one at my house, but
11 as far as going and taking them around the shop and taking
12 them out, they did that. Ted had taken them out with his
13 girlfriend a couple times.

14 Q Well, you certainly drove your go-cart, didn't you?

15 A I drove my go-cart, yeah.

16 Q All right.

17 MR. LLOYD: That's all I have, Your Honor.

18 REDIRECT EXAMINATION by MR. PANOSH:

19 Q You indicated that you cooperated with the police and
20 the sheriff's department prior to making your agreement.
21 Would you give the ladies and gentlemen of the jury the
22 details of that, please.

23 A The details of that were, upon April 1st, when it was
24 brought up about the -- when Ted was arrested, I had worked
25 with the Greensboro Police Department, to show them -- drove

1 around with them in the car, to show them where items had
2 been stolen. I took them to -- what's the name of that? --
3 there's a place where trucks -- where you can put stuff
4 inside trucks, and I took them across the street and pointed
5 out everything that was taken there. This is before any
6 agreement or anything. I done this as soon as I knew that
7 Ted was arrested. I felt I had to. And worked with the
8 Greensboro Police Department and then everything out of the
9 city. I had worked with John Davis of the sheriff's
10 department, the Guilford County sheriff, and went through
11 much of the same thing, showing him what stuff on Lyles
12 Building Material property was stolen and what stuff over in
13 the truck had been stolen, and the different job sites where
14 the stuff had come from.

15 Q What day was it that you showed John Davis the items
16 that were in possession of Lyles Building Supply that were
17 stolen?

18 A That was the day of the arrest, April 1st.

19 Q At that time, had you been charged?

20 A I hadn't been charged.

21 Q Did you tell Detective Davis of your involvement on
22 that day?

23 A Yes, I did.

24 Q Drawing your attention to the agreement, State's Number
25 115 I believe it is, do you see that in front of you?

1 A Yes.

2 Q How many case numbers are on it? Would be --

3 MR. PANOSH: May I approach the witness?

4 THE COURT: You may.

5 A I don't have that one --

6 (Mr. Panosh indicated on the exhibit.)

7 Q Do you see that portion of the agreement that makes
8 reference to the case numbers?

9 A Yes, I do.

10 Q How many cases were you charged with at the time you
11 made the agreement?

12 A I was charged with three.

13 Q And because of your statements, were there subsequent
14 charges that you made reference to, totaling how many?

15 A Yeah. I was -- I was charged after -- I was charged
16 with additional 25, 26.

17 (Mr. Panosh showed exhibits to Mr. Lloyd and Mr. Hatfield.)

18 MR. LLOYD: Your Honor, I'd like to be heard
19 outside the presence of the jury.

20 THE COURT: All right.

21 Members of the jury, if you'll step in the jury
22 room a moment, please.

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

24 THE COURT: All right, sir.

25 MR. LLOYD: Judge Cornelius, Mr. Panosh has handed

1 us a number of exhibits. They are mainly books or
2 pamphlets. Here's one called "Homemade Detonators, How to
3 Make Them, How to Salvage Them, How to Detonate Them."
4 "Two-Component High-Explosive Mixtures." "Snipers."
5 "Ultimate Sniper, the Video." "Homemade C-4, Closer Look."
6 "Dispensable Silencers." Must be another one called
7 "Silencers" in this. I don't know what it is. Here's
8 another item on silencers.

9 Your Honor, I would assume that he intends at this
10 time to introduce these items through the testimony of Mr.
11 Nicholes. I would first point out that he certainly had a
12 chance to do that on direct. We've now been through cross-
13 examination, and now he seeks to introduce these.

14 Obviously, our position on this stuff, Your Honor,
15 is, it's very damaging, from the standpoint of simply smear.
16 I don't know whether it would be admissible against Ted in
17 his trial, under some sort of 404(b) rationale. I think it
18 goes basically to character, Your Honor. And the problem
19 that we have with it, although none of this -- I don't
20 expect Mr. Nicholes to testify that Ronnie Kimble had
21 anything to do with this. It's once again trial by
22 innuendo, trial by character assassination, character
23 assassination on Ted Kimble, and therefore, character
24 assassination on Ronnie Kimble, by virtue of the fact that
25 he is Ted Kimble's brother. And that's why I think it is so

1 objectionable, Your Honor. If there was ever a body of
2 evidence that failed under whatever else you want to
3 consider, Your Honor, this has to fail under a 403 balancing
4 test. The potential and the danger for unfair prejudice so
5 far outweighs any possible probative value on this, that it
6 just cannot be admissible. And I ask Your Honor to exclude
7 it.

8 THE COURT: Mr. Panosh?

9 MR. PANOSH: May I ask questions?

10 THE COURT: Sir?

11 MR. PANOSH: May I ask the witness questions?

12 THE COURT: Yes, you may.

13 VOIR DIRE EXAMINATION by MR. PANOSH:

14 Q Drawing your attention to the exhibits that I'm placing
15 before you, are you familiar with these items from working
16 at Lyles Building Supply?

17 A Yes, I am.

18 Q And referring to the red sticker number, would you tell
19 the Court for the record what they are.

20 A State's Exhibit 117 is "How to Build Silencers, an
21 Illustrated Manual." Ted had showed me this, on how to go
22 to Lowe's or Home Depot and build a silencer.

23 Do you want me to go through them all, Mr. Panosh?

24 Q Yes. If you can keep them in numerical order, it would
25 be appreciated.

1 A Okay.

2 Q If you can find 115 and start with that.

3 A Start with this, 116, perhaps?

4 Q All right. Start with 116.

5 A Okay. 116 is "How to Make Disposable Silencers."

6 Q Is there more than one book in there?

7 A Yes, there is.

8 Q And in the course of dealing with Theodore Kimble, did
9 he show you or discuss those books, which are State's
10 Exhibit 116?

11 A Yes. I'd seen them all. He was proud of being able to
12 do this and handiwork with guns and whatnot. He would -- we
13 -- a couple times, Patrick and myself and he were at the
14 shop and he'd shoot animals or shoot at billboards and
15 whatnot.

16 Q Drawing your attention to Number 117, what is that?

17 A That was the -- 117 was how to build the silencers.
18 And this is where you can go down to Home Depot or Lowe's
19 and buy the materials, in order to not hear the gunshot.

20 Q Number 118, what is that, please?

21 A 118 is "Homemade C-4."

22 Q What is C-4, if you know?

23 A C-4 is an explosive.

24 Q Did you discuss that with Theodore Kimble?

25 A Yes, on -- Yes. He had told me how to -- how to do it

1 at one point.

2 Q Number 119?

3 A 119 is "Ultimate Sniper, the Video."

4 Q Did he discuss the fact that he considered himself to
5 be a sniper?

6 A He did not use the word "sniper," but yes, how he could
7 -- often, he had a -- one rifle that you could shoot someone
8 at a half a mile away, and he frequently talked about seeing
9 people on utility poles and whatnot down on Lee Street and
10 how he could shoot them and no one would ever know.

11 Q 120?

12 A "Improvised Radio Detonation Techniques."

13 Q What's that about?

14 A Again, with explosives, how to, you know, with radio
15 control, how to be able to detonate explosive devices.

16 Q Did Theodore Kimble discuss with you his ability to
17 make bombs?

18 A Yes, mailbox bombs, how to put them under a pylon, and
19 when the pylon was moved, the person would be killed.

20 Q 121?

21 A "Detonators, How to Make Them, How to Salvage Them, How
22 to Detonate Them."

23 Q Again, is that referring to his ability to make bombs?

24 A It is.

25 Q 122?

1 A "Two-Component High-Explosive Mixtures."

2 Q Did you see that in Ted Kimble or did he -- Ted
3 Kimble's presence or did he discuss it with you?

4 A We discussed this, and he had -- he had made some
5 mixtures on Lyles' premises before.

6 Q 123?

7 A "Never Say Lie."

8 Q What is that?

9 A It's a book on how to beat a polygraph test, how to act
10 truthful when you're in interviews and whatnot.

11 Q Did he discuss that with you?

12 A Yes, in detail. I was taking sociology classes when I
13 started working there, and that's when he disclosed that he
14 had failed a polygraph test in regards to this, and did I
15 know how he could pass it.

16 Q If you testify in that regard, you're not to mention
17 that he took a polygraph.

18 A Do not mention that?

19 Q Do not mention it.

20 A Okay.

21 Q 124?

22 A "How Big Brother Investigates You."

23 Q Is there a 125?

24 A I do not have a 125.

25 Q Did there come a time when you became aware of the fact

1 that he had a silencer?

2 A Yes.

3 Q I show you now 125. Do you recognize that item?

4 A Yes.

5 Q Is that -- what is that item?

6 A That is a silencer.

7 Q Is that the one that Ted Kimble showed you, or one of
8 the ones he showed you?

9 A This is one of the ones he showed me. I've seen them
10 made out of plastic, too, or PVC.

11 Q I show you now 126. What is that?

12 A Video, "Deathtrap, the Video." It's --

13 Q And what does -- does that refer to booby traps?

14 A It's booby trap devices.

15 Q Did you and Ted discuss that?

16 A We discussed not the video per se, but yes, we had
17 discussed different booby traps and whatnot, how to rig up
18 certain things.

19 Q Based upon your experience at Lyles, did you know he
20 had that in his possession, that videotape?

21 A No, I did not.

22 MR. PANOSH: We'd withdraw that one.

23 Q When you testified to the jury earlier that you were
24 afraid of Theodore Kimble and his ability to harm you, did
25 you know about all these materials?

1 A Yes. It was made very evident to me at all times.

2 MR. PANOSH: No further on voir dire.

3 MR. LLOYD: I don't have any questions, Your
4 Honor.

5 THE COURT: Do you wish to be heard, gentlemen?

6 MR. PANOSH: Your Honor, we agree that on direct
7 examination, these items were not relevant, and we would
8 agree with some of counsel's arguments. However, on cross-
9 examination, they spent 20 minutes trying to stake this man
10 out to say how his fears were unreasonable. They
11 specifically pointed out that at one point, he had Ted
12 Kimble's gun, and at that point, he could have gone to the
13 police. But now, in light of that, Your Honor, we're
14 entitled to show why this man had a real, substantial fear
15 of Ted Kimble. He didn't need a gun to kill him. He knew
16 that he knew how to make bombs, remote-control detonating
17 devices. He knew that he was -- considered himself to be a
18 sniper. He had a book on sniping. And he could kill people
19 from a half mile away.

20 These are the things that went into this man's
21 consideration, when he decided not to go to the police. And
22 we wouldn't have brought it out on direct, but now that
23 they've spent all this time trying to show that his fears
24 were unreasonable, they have opened the door and it should
25 come in.

1 MR. LLOYD: Judge, in terms of our opening the
2 door, I don't see how my cross-examination opened the door.
3 He'd already testified that he was very afraid of Ted
4 Kimble, scared to death of him, were his words on direct
5 examination. And he went into the reason for that. He told
6 him that, according to his testimony, was that Ted had
7 threatened to kill him if he ever went to the police. Now,
8 certainly we're entitled to probe that.

9 It doesn't make any difference, Your Honor, in
10 terms of the legal analysis of this -- whether this evidence
11 is admissible. We're certainly entitled to sift him on
12 cross-examination, based on what he said on direct
13 examination, which is what we did.

14 And, Your Honor, regardless of what Mr. Panosh
15 says about our opening the door on this matter through our
16 cross-examination, you still have to pass this evidence
17 through the final sieve of 403. You've got to determine
18 whether the danger for unfair prejudice substantially
19 outweighs any probative value this might have. And we're
20 not -- from Mr. Panosh's standpoint, the witness has never
21 said, "Well, maybe I wasn't afraid of Ted Kimble." He has
22 been steadfast throughout all my cross-examination that he
23 was very much afraid of Ted Kimble, and that's why he never
24 went to the police or anyone else.

25 So this is just a subterfuge to gain admission for

1 this evidence, which wasn't admissible in the first place.
2 Mr. Panosh even admits that. And it's not admissible now,
3 Your Honor.

4 THE COURT: Do you have any evidence at any point
5 that a silencer was used in this offense?

6 MR. PANOSH: The silencer was not used in this
7 offense. That silencer was seized on April the 1st at Lyles
8 Building Supply from the desk of Ted Kimble.

9 THE COURT: The Court's going to exclude the
10 evidence and would find that the probative value -- the
11 prejudicial value -- prejudicial aspects of this evidence
12 would outweigh any probative value it might have to this
13 defendant.

14 Other questions for this witness?

15 MR. PANOSH: Your Honor, does your ruling preclude
16 me from asking him the basis of his fear?

17 MR. LLOYD: It's already been covered, Your Honor.
18 It's gone over.

19 THE COURT: What is the basis for his fear?
20 What's the question you intend to ask him, sir?

21 FURTHER VOIR DIRE EXAMINATION by MR. PANOSH:

22 Q Let me ask you, sir, specifically, in regard to the
23 time that you had possession of Ted Kimble's gun, were you
24 still afraid of him?

25 A Yes.

1 Q Why?

2 A Because he was capable of hurting me, regardless of a
3 gun. He had many other guns. He had taught me how to -- or
4 showed me how -- you know, how to explode things through
5 mailboxes. Or I had gotten in an argument at school once,
6 and he told me to get rid of the guy by putting a bomb under
7 a pylon at the end of his driveway, and when he lifted it
8 up, he would be killed.

9 MR. PANOSH: Your Honor, that would be the
10 substance of what I'm trying to get in.

11 MR. LLOYD: We'd raise the same arguments as
12 before, Your Honor. I think now we've got evidence of Ted
13 Kimble supposedly telling this witness that you need to get
14 rid of this -- somebody who's done you wrong at school or
15 whatever, by putting a bomb on his property.

16 MR. PANOSH: We wouldn't seek to introduce the
17 statements of that in regard to that. We want to introduce
18 the fact that he was afraid at the time that he had
19 possession of Ted's gun, and the reasons being that he knew
20 that Ted Kimble had the ability to use a sniper rifle or use
21 a bomb or use other weapons in his possession to kill him,
22 even though he had possession of his 9mm Glock.

23 MR. LLOYD: Well, his testimony, Your Honor, has
24 been entirely consistent with that. He's never backed up on
25 that. When I cross-examined him about it, he said he was

1 still afraid of Ted, regardless of whether he had his gun or
2 not. So I don't even see what the relevance of that is.

3 MR. PANOSH: The relevance is, they went into it
4 on cross-examination. They asked him again and again and
5 again if it wasn't a reasonable thing for him to do at the
6 time he had Mr. Kimble's gun, was just go turn himself in.
7 They implied, if they didn't state it, there would be no
8 reason for him to be afraid of Mr. Kimble at the time he had
9 Kimble's gun.

10 THE COURT: The Court'll allow very limited
11 questions in that area, not any specific instance of blowing
12 up someone's -- dealing with this witness, but you may
13 establish the witness's knowledge of Ted's capabilities as
14 to ability to do certain things.

15 MR. PANOSH: May I instruct the witness, so he
16 doesn't --

17 THE COURT: Yes, make sure he understands.

18 (Mr. Panosh conferred with the witness.)

19 (The jury entered the courtroom at 10:28 a.m.)

20 THE COURT: Proceed.

21 CONTINUED REDIRECT EXAMINATION by MR. PANOSH:

22 Q Drawing your attention to that period of time when you
23 were in possession of Mr. Kimble's gun, Mr. Ted Kimble's
24 gun, were you still afraid of him?

25 A Yes, very much so.

1 Q Would you explain to the ladies and gentlemen of the
2 jury why you were still afraid of him.

3 A Over the period of months working for Ted Kimble, he
4 had shown me that he was capable of being a sniper and
5 proclaimed, you know, being very proud of that, had showed
6 me silencers, how to make C-4 explosives. We had made
7 explosives at work. He made it very evident to me that he
8 was able to take someone out and able to get away with it,
9 and that's why I feared. I could have his gun, I could have
10 two of them, but he had three more and explosives,
11 silencers, everything else, how to get away with it, he knew
12 how. I feared for myself and my family. I couldn't go to
13 anyone else.

14 MR. PANOSH: No further.

15 THE COURT: Mr. Lloyd?

16 MR. LLOYD: Just a few questions, Your Honor.

17 RE-CROSS-EXAMINATION by MR. LLOYD:

18 Q Mr. Nicholes, you testified just a moment ago that you
19 were afraid of Ted Kimble because he had shown you silencers
20 and talked to you about how to make C-4. When Ted Kimble
21 talked to you about -- discussed with you how to make
22 silencers and that sort of thing, this was a give-and-take
23 situation, where you discussed back with him, didn't you?

24 A No, I did not. I was shown. I was told. He was -- at
25 the time, you know, I'd be working, he was my employer. I

1 would go in and he would show me this stuff. It was, as far
2 as I feel, just straight intimidation. I have no interest
3 in guns. I've never owned one. I've never had any interest
4 in that whatsoever.

5 Q So is it your testimony, Mr. Nicholes, that during
6 these -- would you characterize them as lectures then?

7 A Conversations. They weren't lectures. I mean -- I
8 don't know.

9 Q So there was some response on your part; is that
10 correct?

11 A Sure there was response. I didn't say there -- sit
12 there and just, you know, not say anything. I'm sure there
13 was a conversation involved, yes.

14 Q Well, let me ask you this, Mr. Nicholes. Did you ever
15 tell Ted Kimble that you weren't interested in that sort of
16 thing and that you didn't care about it, and, you know, why
17 not let's talk about basketball?

18 A Yes, I did. I did. Myself and when Patrick Pardee was
19 there, when he would bring out guns and silencers, I did not
20 like them around. He would shoot Michael Jordan's picture
21 off a billboard across the street, and I didn't like that.
22 I do not like guns.

23 Q All right. Now, this was at Lyles Building Supply?

24 A Uh-huh.

25 Q All right. And this was basically, what you're

1 testifying to was target practice from Lyles across the
2 street? Was this across Lee Street?

3 A The sign was actually on this side of Lee Street, on
4 the same side, but down the street.

5 Q Okay. And what kind of gun was this that Mr. Kimble
6 had?

7 A At the time what we were using was simply a .22.

8 Q Now, did you fire the gun on these occasions --

9 A No, I --

10 Q -- Mr. Nicholes?

11 A -- did not.

12 Q Okay. You indicated that Patrick Pardee was there.
13 Did he fire the gun on these occasions?

14 A No, Patrick didn't fire any guns. Patrick really
15 didn't -- I mean -- No, I don't want to get into that.
16 Never mind. I withdraw that.

17 Q All right. Well, what is your testimony regarding
18 Patrick Pardee?

19 A He was a friend of Ted's. I really was -- besides just
20 "Hi, bye" and being around, there's really -- I really don't
21 know anything about Patrick.

22 Q All right. But did he fire the gun on these occasions,
23 is my question?

24 A No, he did not fire the gun.

25 Q All right. Now, you've indicated that there was some

1 discussion from Ted Kimble involving C-4 explosives; is that
2 right?

3 A I didn't mention C-4, but explosives, yes.

4 Q Explosives?

5 A Uh-huh.

6 Q And is it your testimony, Mr. Nicholes, that you didn't
7 participate in those discussions with Ted Kimble?

8 A On -- I was there when he had blown some stuff up. But
9 as I -- as I stated, I believe this was all methods of
10 intimidation, to keep me in line.

11 Q Did it occur to you at that time, Mr. Nicholes, to go
12 to Detective Church and tell him about this activity?

13 A No, it didn't, because all I could think about is going
14 home and having my door blow up, or my wife going in her car
15 and having her car blow up. It was made very clear to me
16 that, you know, a gun was a moot point. I mean, it was -- I
17 mean, he had many methods of hurting me. I was very scared
18 for myself and my family.

19 Q You knew from your research of the death of Patricia
20 Kimble, and you knew from what Ted Kimble had told you, that
21 he was a suspect in his wife's murder; is that correct?

22 A That is correct.

23 Q All right. And it didn't occur to you, Mr. Nicholes,
24 to go to Detective Church or some other law-enforcement
25 official and say, "This is the situation. I'm scared to

1 death. I'm scared to death that this man is going to kill
2 me. Whatever you do in this situation, you cannot let him
3 know that I've been to see you"? It didn't occur to you to
4 do that?

5 A No, it didn't.

6 Q Now, when Ted Kimble was talking to you about all these
7 silencer things and explosive things, did you ever tell
8 Kimble that -- Mr. Ted Kimble that you had fought somebody
9 and ripped out somebody's eye?

10 A No.

11 Q And that it cost your insurance company a great deal of
12 money, as a result of that?

13 A No.

14 Q You never told him anything?

15 A No, sir.

16 Q Did that in fact happen, Mr. Nicholes?

17 A No, sir.

18 Q You weren't involved in a fight, under those
19 circumstances?

20 A Not under those circumstances, no.

21 Q Were you involved in a fight when there was a serious
22 injury?

23 MR. PANOSH: Objection. He's answered that,
24 please.

25 THE COURT: Overruled.