

1 of that order, sir.

2 THE COURT: What?

3 MR. KIMBLE: I'd like to object to that
4 entry.

5 THE COURT: You may do that. Objection is
6 noted. Are you ready to proceed?

7 MR. CRUMPLER: Your Honor, I believe at one
8 point you mentioned that a hearing January 25th, 1995.

9 THE COURT: I'm sorry, January 28th, 1999. I
10 will correct any, uh---

11 MR. CRUMPLER: I think you were right on the
12 day and month, but I did hear '95.

13 THE COURT: I'm sorry, I will correct that
14 upon review.

15 MR. PANOSH: Your Honor, with your
16 permission, we'd like to proceed at 2:00. I don't think
17 we can finish this quickly.

18 THE COURT: Okay, we'll be in recess until
19 2:00.

20 (A lunch recess was taken.)

21 THE COURT: State ready to proceed?

22 MR. PANOSH: Yes, sir.

23 THE COURT: Defendant ready to proceed?

24 MR. ZIMMERMAN: Yes, Your Honor.

25 THE COURT: Matter is before the Court for

1 judgment. Is there further evidence for the State at
2 this time?

3 MR. PANOSH: Your Honor, yes, there is. In
4 reference to the homicide and the conspiracy and the
5 arson, I'd like to summarize the evidence, unless counsel
6 has objection. This case was tried and, therefore,
7 everyone is aware of the evidence. The evidence is
8 contained in transcripts of the prior trial of co-
9 defendant, Ronnie Kimble. The evidence shows that on or
10 about December the 2nd, of 1993 the defendant and the
11 victim got married, and this was a somewhat secret
12 wedding. They went to Virginia and were married in
13 private. Thereafter on May the 7th, 1994 they had a
14 public wedding. The evidence showed that the defendant
15 had worked at Lyles Building Supply since he was about 15
16 years of age. He worked himself up to a position of
17 trust, and then he decided that he would purchase the
18 building supply business, and he in fact did purchase it
19 prior to the wedding. The evidence showed through a
20 number of sources that one of the things that was
21 necessary for him to purchase the business was that he be
22 married, and that he have a stable environment because
23 the person who was selling the business, Mr. Lyles,
24 wanted -- was going to take back the mortgage on the
25 business. He wanted to make sure that Mr. Theodore

1 Kimble was a stable person at the time that he sold the
2 business and took back that second mortgage.

3 The evidence shows that shortly after they
4 were married, on June the 28th, defendant started
5 changing the victim's life insurance policies to his own
6 name. June the 28th he spoke with Mr. Apple, who was the
7 insurance agent who had previously represented Patricia
8 Kimble, and changed her first life insurance policy to
9 his name as beneficiary. That was a \$25,000 policy with
10 double indemnity or \$50,000 insurance coverage.

11 On November the 5th, of 1995 there was a
12 second policy issued through Mr. Apple, which increased
13 the coverage to a total of \$50,000 double indemnity of
14 \$100,000.

15 Then just prior to her death on September the
16 14th, of 1995 he went to Mr. William Jarrell and applied
17 for a \$200,000 policy. Now, the evidence showed that he
18 had previously spoken to two other agents. In March of
19 1995 he attempted to obtain life insurance on Patricia at
20 that time. And in the course of the testimony of one of
21 those other agents, he indicated that Patricia Kimble
22 came to the location where they were filling out the
23 application and unequivocally said that she didn't want
24 any further life insurance. He then went to a different
25 life insurance agent, Mr. William Jarrell, and on -- in

1 September, that is, of 1995 he took out an application in
2 the amount of \$200,000 on Patricia's life. Patricia did
3 come to the location, but the meeting was Mr. Jarrell was
4 outside in the car getting some forms, and during that
5 period of time Mr. Jarrell believed that she signed the
6 application since she was present at the business where
7 the application was filled out. But it turned out the
8 defendant in fact forged her signature, and she became
9 very upset when she found out about this subsequent
10 insurance policy.

11 The evidence -- the defendant, at a much
12 later time, about a month after her death, admitted that
13 he did in fact forge her signature, and he said it was
14 just for the purpose of convenience. But the evidence
15 indicated that Mr. Jarrell was present, that the victim
16 came to the meeting, went into the meeting and spoke to
17 the defendant while Mr. Jarrell was out in the parking
18 lot. At that time she refused to sign the papers, and at
19 that time he forged her signature after she left.

20 As we get closer to the date of her death,
21 which was Monday, October the 9th, of 1995, she some how
22 found out that he had in fact submitted the \$200,000
23 application, and that there was a scheduled blood test
24 done. Or a blood test was scheduled to be done, and she
25 became very upset about that. She told several

1 individuals, close friends of hers and Mrs. Lyles, that
2 she was very much afraid because of this policy being
3 issued, that Ted was taking this policy without her
4 knowledge, and she was afraid for her life.

5 The evidence indicated that on the date of
6 her death she was working, and she was working with Nancy
7 Young at an apartment project, and she had previously
8 told Miss Young about her concerns about the life
9 insurance policy and the fact that Ted was trying to take
10 out this large policy without her knowing about it.

11 Just before her death, she indicated that she
12 had discussed it with her husband and that was all
13 resolved. That he was not going to try to take out that
14 policy. She left her place of employment. She was going
15 home. She left at 3:30. She should have been home about
16 3:45 in the afternoon, cut the lawn, and then she was
17 going to go to a meeting at her church at 6:00. As I
18 said, this was Monday. This was a holiday. And they
19 planned to be out of town the following weekend;
20 therefore, she needed to be home to cut the lawn so it
21 wouldn't get too long over the next weekend when they
22 would be out of town.

23 The defendant, on October the 9th, 1995 was
24 continuously at his place of employment, which was Lyles
25 Building Supply. The evidence showed he opened the

1 business supply by 8:30. He was there throughout the
2 lunch period. And, in fact, he and Patricia talked on
3 the telephone and met for lunch. That at or about the
4 time of her death, which we believe to be about 4:00, he
5 was at Lyles Building Supply. He left Lyles Building
6 Supply and went to a second job at Precision Fabrics. He
7 checked in there at 6:00, having left Lyles about 5:30.

8 Evidence indicated that he met with his
9 mother between the time he left Lyles Building Supply and
10 got to Precision Fabrics.

11 The evidence showed that the defendant did in
12 fact apply for this second job at Precision Fabrics in
13 September, and that he had just entered employment there.
14 He had gone through one week of training. It was day
15 shift, and then he was actually to begin his regular
16 shift, which is second shift, beginning at 3:00 on that
17 day. This was his first day of employment and also his
18 last day of employment. And the State argued that he
19 obtained the second position simply to have an alibi at
20 the time of her death. The evidence showed that he was
21 supposed to be there at 3:00, but he called in and said
22 he'd be late because he had to close up his business, and
23 he did arrived there at 6:00.

24 Sometime around 7:00 p.m. he started making
25 telephone calls. He called his brother-in-law, Rubin.

1 That's his wife's brother. And indicated that he wanted
2 Rubin to check on Patricia. And this was very unusual,
3 and made Rubin somewhat concerned that he drove the five
4 miles or so to her residence and found that the residence
5 was on fire.

6 The fire was very much contained within the
7 building. There was no visible signs, but there was
8 extreme heat at the doors. They called the fire
9 department. When the fire department eventually got
10 there, they found it to be a very intense contained fire.
11 They went in, fought the fire, and sometime later on they
12 found the victim's body.

13 All of the evidence indicated that this
14 particular home had been broken into on two prior
15 occasions, and that she was very much afraid of someone
16 breaking into her home.

17 The evidence indicated on this particular
18 night she came home, as we said, about 3:45 in the
19 afternoon. Pulled into the driveway, and for one reason
20 or another, she pulled all the way to the left side of
21 the driveway. It's a two-car garage. The State argued
22 the reason she pulled all the way to the left was because
23 she recognized her brother-in-law's car there. The
24 reason she went into the home without being at all afraid
25 was because she assumed that the brother-in-law was in

1 there.

2 The evidence indicated that this was a
3 typical ranch house. First entry point is the kitchen.
4 You go through the living area down the sharp hallway to
5 the bedrooms. And as she entered and went down those --
6 down that hallway, she passed a bathroom on the left, and
7 the State's contention always was that the person, Ronnie
8 Kimble, was in the bathroom with a .45 caliber pistol
9 with a laser sight, and as she walked passed the door, he
10 shot her once in the head.

11 The autopsy results were consistent with
12 that. She had one shot to the left side of the head.
13 Traveled parallel and did not exit, and death was almost
14 instantaneous. She fell there in the floor, and the
15 evidence showed that either before her death or after her
16 death the house was ransacked. But all of the ransacking
17 was limited to the back bedrooms. There was nothing
18 taken whatsoever in the front bedrooms.

19 Evidence showed that -- State's contention
20 always was that they were staging a breaking and entry to
21 make it look like a burglar had killed her. But that
22 didn't fool the law enforcement officers because they
23 noticed that they passed up cash, they passed up t.v.s,
24 they passed up stereos. There were a number of things
25 that would normally have been taken, and law enforcement

1 officers quickly came to the conclusion that this was in
2 fact a staged breaking and entering.

3 After her death, someone poured a great deal
4 of gasoline on her body and around her body and in the
5 kitchen area and in the living room area, over the couch
6 and somehow ignited it. The evidence -- the experts who
7 testified said it was very intense fire that lasted a
8 short period of time because it was a fairly new house.
9 The fire was deprived of oxygen and burned down and
10 around her body. Burned very hot, but very contained.
11 It actually burned through the floor boards, through the
12 joists, and her body fell into the crawl space.

13 By 5:30 or 6:00 that evening the witnesses
14 who were in the area smelled the smoke which was
15 prevented from going out the roof or the windows, but was
16 going down through the crawl space and out the vents.
17 And the evidence indicated, and the experts testified,
18 that the evidence indicated it was consistent with a fire
19 that would have been set at approximately 4:00 p.m. and
20 burned until it was discovered until 8:00 p.m.

21 Your Honor, at this time I have a series of
22 photographs I'd like to introduce. They've been
23 previously marked in the other trial. I'm going to use
24 the same numbers. And I've showed them to counsel. May
25 I approach?

1 THE COURT: You've reviewed those exhibits,
2 Counsel?

3 MR. CRUMPLER: We have, Your Honor.

4 (PHOTOGRAPHS HEREINAFTER REFERRED TO WERE MARKED FOR
5 IDENTIFICATION AS: STATE'S EXHIBIT NOS. 1, 4, 5, 11, 17,
6 46, 57, AND 60.)

7 MR. PANOSH: State's Exhibit that is marked
8 number one is a picture of Patricia prior to her death at
9 the time of her wedding.

10 State's 4 and 5 show the exterior of the
11 house, the front of the house, particularly the driveway
12 area.

13 State's 11 shows part of the interior of the
14 house that is the doorway leading from the kitchen area
15 to the hallway that goes between into the bedrooms.

16 State's 17 shows the area that was burned
17 through in the hallway where her body was found. You'll
18 see there remnants of a washer and dryer. That was in a
19 hallway closet. When the floor gave way, that actually
20 fell on top of her body. Her body was found below the
21 floor on top of aluminum heating ducts that were
22 underneath the house.

23 When her body was removed, it's depicted in
24 State's Exhibit 46.

25 State's Exhibits 57 and 60 show the murder

1 weapon, or what the State has always contended was the
2 murder weapon. This is a .45 caliber pistol that
3 belonged to and was registered to the defendant.

4 **(AN ITEM HEREINAFTER REFERRED TO WAS MARKED FOR**
5 **IDENTIFICATION AS: STATE'S EXHIBIT NO. 84-A.)**

6 MR. PANOSH: Your Honor, I'll hand that up.
7 It's previously marked at State's Exhibit 48-A -- excuse
8 me, 84-A.

9 The evidence was that the defendant carried
10 this weapon. He had purchased it several years before.
11 That he carried it almost all the time. Certainly
12 carried it when he was closing his business. And the
13 evidence indicated that it was left in the house, and
14 found in the bedroom area underneath some rubble as
15 depicted in those photographs.

16 The evidence showed that the weapon, when it
17 was recovered, was fully loaded. That it was missing one
18 round in order to be fully loaded. That was a Golden
19 Sabre type .45 caliber weapon. The bullet that was
20 recovered from her head was microscopically consistent,
21 although not identical to that barrel. It was also a .45
22 caliber Golden Sabre, which is fairly expensive and not
23 that common.

24 As I said, there is a laser sight that's
25 attached to the weapon that is used for aiming the

1 weapon. The evidence indicated through a number of her
2 friends said she was concerned about her marriage,
3 concerned about the way her husband had -- the defendant
4 had changed shortly after marriage. He was very much
5 concerned with money and no longer concerned with her.
6 That she told Mrs. Dudley specifically that -- she called
7 her, she was very upset. Ted had taken out a big life
8 insurance policy on her. She doesn't understand how he
9 could have done it. She never signed anything. She
10 indicated he must have forged it. He must have used cash
11 to buy it, and she kept saying that she didn't want to
12 believe that he could hurt her, but she wanted to call
13 Mrs. Dudley and let her know about this in case something
14 ever happened to her.

15 Mrs. Rose Lyles at the time lived in Long
16 Beach. Mrs. Lyles was an acquaintance of Patricia's and
17 a close friend. Rose Lyles and Gary Lyles owned the
18 business before it was sold to the defendant. Just
19 shortly before her death, the victim called Mrs. Lyles.
20 She was very much afraid. According to Mrs. Lyles she
21 said that she had never heard such fear in anyone's voice
22 before. And she went on to describe the life insurance
23 policy and indicated that she didn't know if she would
24 wake up each morning and that she was very much afraid of
25 Ted.

1 Subsequent to the fire there was a policy
2 life -- or rather a policy on the home. The insurance
3 policy eventually paid out \$52,606 for personal property.
4 That went to the defendant and his family. That included
5 \$16,000 that was given to defendant's father for
6 temporary lodging while the defendant was living in his
7 father's home.

8 Of the \$86,000 policy limits on the house,
9 they paid \$53,417 to the estate, and that has yet to be
10 distributed.

11 It's interesting to note that in the proof of
12 loss they claim \$191,000 worth of replacement items in a
13 \$60,000 home. That includes the defendant's wardrobe,
14 which was \$17,000. And the victim's wardrobe was
15 \$68,000. And linens valued at \$4,700.

16 Your Honor, all that evidence went to show,
17 plus we had evidence showing that in the past, that prior
18 to meeting Patricia, the defendant had been involved in
19 certain schemes to defraud insurance company. All that
20 evidence tended to show that this was a scheme to defraud
21 the insurance company.

22 Just prior to her death, as I said, on
23 October the 5th she was scheduled to appear and have
24 blood drawn. The defendant called and canceled that
25 appointment. He eventually did have it drawn subsequent

1 to her death because there was also a life insurance
2 policy been issued on him that had actually lapsed.

3 Shortly after her death, the defendant
4 attempted to make claims on the \$200,000 life insurance
5 policy. The application was pending. That included
6 calling the insurance agent, Mr. Jarrell, and asking for
7 payment. Calling Mr. Hendrix, who represented the
8 company at the main office and asking for payment, and
9 hiring an attorney who filed a demand for payment on Life
10 of Georgia, which was the company that had the \$200,000
11 life insurance application. Their position was, of
12 course, that because the blood test hadn't been done
13 there was no policy in effect, and they have not paid.

14 In the period of time after the defendant's
15 death -- er, uh, after the victim's death, the defendant
16 went into a -- or entered into a scheme where he and two
17 other persons working in the business were going out and
18 stealing large amounts of building supplies and taking
19 them back to Lyles and selling them. Lyles essentially
20 is a place that sells used goods, surplus items.

21 In the course of that he met, or he dealt
22 with Mr. Nichols. And after he and Mr. Nichols got
23 close, defendant admitted to Mr. Nichols that he was
24 responsible for Patricia's death. He went on to say,
25 "Ask me no questions and I'll tell you no lies." He said

1 that Mr. Nichols would never understand why he did it
2 because his father, meaning defendant's father, was an
3 alcoholic and had beat him and his mother when he was
4 young.

5 In the course of interviewing Mr. Nichols, he
6 made reference to guns and silencers and all kinds of
7 devices that defendant had to intimidate him to keep him
8 silent. When we searched the business at or about the
9 time of the defendant's arrest, we did in fact find a
10 homemade silencer and a number of books and video tapes
11 on making bombs, making C-4 explosives.

12 There was evidence that the defendant, when
13 he felt that the Sheriff's Department was closing in on
14 him, that he purchased a sniper rifle in the amount of
15 \$5,500. And he showed that to various persons in an
16 effort to keep them quiet in reference to his
17 participation in the offense.

18 He also got to know Mr. Pardee. And Mr.
19 Pardee participated in the stealing. Mr. Pardee was a
20 close friend of his. He indicated that the defendant
21 told him the police were closing in on him, but he had an
22 alibi. And when Mr. Pardee said an alibi for what, he
23 said Patricia's death. Mr. Pardee asked him, you didn't
24 do it, did you; and he said, no, my brother Ronnie did.
25 He went on to tell about shooting the victim, pouring

1 gasoline on her and indicated it was for the insurance
2 money. He also indicated the weapon that was used was
3 the Glock .45 that the police had, and that he was upset
4 because they had not paid the \$200,000 life insurance
5 policy.

6 Shortly after the victim's death, this was
7 three weeks after her death, defendant started dating
8 other women, including Miss Lynn McLeod. She testified
9 that he was very much upset because the insurance company
10 wasn't paying him. That on one day he took Miss McLeod
11 back to the house where the victim's body had been found.
12 That he saw the defendant -- she saw the defendant go
13 down into the hole, look around, and exhibited no
14 emotions whatsoever about the fact that that's where her
15 body was located, but he was very much upset about the
16 insurance not paying.

17 The investigation went until January of 1997.
18 At that time the co-defendant, Mr. Ronnie Kimble, was
19 visiting a friend of his, who is now a reverend. That
20 was Reverend Whidden. He was visiting in Lynchburg,
21 Virginia. At that time he confessed to his involvement
22 and indicated his brother. Reverend Whidden hired an
23 attorney, or worked through an attorney and contacted our
24 office. We reached an agreement whereby we would attempt
25 to protect him from the defendant and his brother. And

1 he gave us critical information that led to the arrest,
2 which occurred on April the 4th, 1997.

3 THE COURT: Mr. Panosh, excuse me for just a
4 minute.

5 (Pause.)

6 THE COURT: Thank you, Mr. Panosh, you can
7 proceed.

8 MR. PANOSH: Your Honor, essentially that
9 would be the State's evidence. If this matter had gone
10 to trial, we would have relied upon the statements that
11 the defendant made to his co-conspirators in the breaking
12 and entry scheme, and the statements that his brother
13 made to Reverend Whidden, and all of the circumstantial
14 evidence, which was extremely powerful indicating that he
15 had a motive, and that he was acting for pecuniary gain.

16 Your Honor, as to the -- I've prepared a
17 sentencing memorandum, and I'll give Your Honor a copy.
18 (Document handed to the judge.)

19 THE COURT: Thank you.

20 MR. PANOSH: I've given one to counsel. As
21 to the offenses that occurred in Troy, I'd ask Agent
22 Bowman to testify briefly.

23 THE COURT: Come around, please.

24 **AGENT JAMES BOWMAN, being first duly sworn, testified as**
25 **follows during DIRECT EXAMINATION by MR. RICHARD PANOSH:**