

NORTH CAROLINA
GUILFORD COUNTY

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

STATE OF NORTH CAROLINA)
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RONNIE LEE KIMBLE)

T R A N S C R I P T

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

A P P E A R A N C E S

Richard E. Panosh
Assistant District Attorney
Eighteenth Judicial District
P.O. Box 2378
Greensboro, North Carolina 27402
on behalf of the State



HATFIELD & HATFIELD
John B. Hatfield, Jr.
Attorney at Law
219 West Washington Street
Greensboro, North Carolina 27401
W. David Lloyd
Attorney at Law
101 South Elm Street
Greensboro, North Carolina 27401
on behalf of the Defendant

Reported by Marsha M. Garlick, RPR
Official Superior Court Reporter
Eighteenth Judicial District
Greensboro, North Carolina 27402

TUESDAY, AUGUST 25, 1998

(Court convened at 10:02 a.m. The defendant was present.
The jury was not present.)

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

MR. HATFIELD: No, Your Honor.

MR. PANOSH: Your Honor, I think we talked about
taking a witness out of order at the end of the day, and as
I understand it, he's present, and we have no opposition to
that.

MR. HATFIELD: I didn't hear what was said. I'm
sorry. I didn't hear what Mr. Panosh said.

THE COURT: He said he consented to taking a
witness out of order. Are you ready to proceed with that
witness, or --

MR. HATFIELD: I'd rather finish the direct and
then proceed with the witness.

THE COURT: The State have any objection to that?

MR. PANOSH: If we're going to interrupt, we'd ask
it be interrupted now. I'd like to go straight into cross-
examination.

THE COURT: All right, sir.

MR. HATFIELD: I don't know why he -- it's up to
him.

THE COURT: Well, the Court's going to rule that

way. I think he's entitled to keep it together. Since there's an out-of-county, out-of-state witness here, ready to proceed?

MR. HATFIELD: Yes, sir.

THE COURT: All right.

MR. HATFIELD: Can we complete the direct and then let the out-of-county witness take the stand?

THE COURT: Well, I thought I understood we were going to interrupt right now. That was agreed yesterday, when we had the administrative meeting here at the bench.

MR. LLOYD: Your Honor, my only request would be to let Mr. Kimble at least establish the background that he did go to see --

MR. HATFIELD: If we can just agree that there's a basis for this witness's testimony, then we're ready to move along.

MR. PANOSH: We don't intend to object.

THE COURT: All right.

(The jury entered the courtroom at 10:05 a.m.)

THE COURT: Very pleased to have the jury panel back. I hope the first day of school went okay so far.

(Jurors nodded their head up and down.)

THE COURT: Okay. Good.

And I hope everybody had a nice evening. Anyone having any problems on the jury panel today? If so, raise

your hand.

Our court reporter is celebrating her birthday today, Marsha's birthday. She didn't tell me until just awhile ago, walking down the hall. We send best wishes for her on her birthday. And I'm sure you can, too.

Members of the jury, we're going to interrupt Mr. Kimble's testimony. We have an out-of-state witness that's here. And for the convenience of that witness, it's been agreed to by both the State and the defense, we're going to put that witness up at this point. He's being taken out of order and out of sequence, so please remember that when we come back to Mr. Kimble's testimony, the cross-examination (sic) will follow with regards to his testimony. Does everyone understand that?

Okay. If you'll call the witness, please.

MR. LLOYD: Father Ron Soutiere, please.

RONALD A. SOUTIERE, being first duly sworn, testified as follows during DIRECT EXAMINATION by MR. LLOYD:

Q Father Soutiere, would you state your name for the record, please.

A Ronald A. Soutiere.

Q And how are you employed?

A I'm a commander in the United States Navy, chaplain corps.

Q And how long have you been in the Navy?

A Total service counting reserves, about 23 years.

Q And how long have you been a commander?

A A little over three years.

Q And as a chaplain, are you an ordained priest?

A I'm a Roman Catholic priest for the Diocese of Burlington, Vermont, on loan to the military archdiocese as a chaplain in the United States Navy.

Q And prior to becoming an ordained Catholic priest, Father Soutiere, did you have any special education in your background?

A Yes. We have a year of spiritual formation, followed by eight years of study, first four years being undergraduate degree in the field of our choice, including a philosophy major. Then the next four years is four years of theological studies, full-time four years. After which I went on to graduate school in education at Boston College, University of Massachusetts, Johnson State Teachers College, all in preparation for a certification in teacher -- as a teacher in Massachusetts.

Q And when were you ordained, Father Soutiere?

A 1974.

Q And did you follow up on your teaching?

A I had originally hoped to come in the Navy as a chaplain, but my bishop had other ideas. Because of my preparation, he wanted me to be a teacher at an elementary

school in a parish in Barre, Vermont. Then later on, I became a principal. And then after that, I requested to come into the chaplaincy, and he said, "Well, I need you in the high school." So I went to teach in the high school, and then became principal of that high school, and then resigned from there to come in the Navy as a chaplain in 1983.

Q And while you were a Navy chaplain, did you have a tour of duty at Camp Lejeune?

A Yes, I did.

Q All right. And when was that, Father Soutiere?

A August of '95 until January of '98.

Q And what was your position at Camp Lejeune?

A I'm the -- I was the assistant command chaplain in the Marine Corps base. We had supervision of 12 chapels, 14 chaplains, 32, 33 enlisted, would be what we call religious program specialists, who work directly with us in the administrative and religious programming area, and some FAPs, or Fleet Assistance Program Marines.

Q And where are you stationed now, Father Soutiere?

A I'm at Lakehurst, New Jersey, naval air and engineering station in Lakehurst, New Jersey.

Q And what is your position there?

A I'm the command chaplain.

Q Now, during your tour of duty at Camp Lejeune, did you

know the defendant in this case, Ronnie Kimble?

A Yes, I did. Lance Corporal Kimble worked for me as a FAP. He had multiple responsibilities. He was the driver, one of the drivers that we used, to go to different chapels, to deliver supplies, to pick up supplies, do general mail runs, interoffice, interbuilding mail runs. He also assisted in setting up for services, whenever and wherever that was needed. As I say, we had nine chapels that we directly needed to minister from our people, that is, our assistant people. So he was responsible in that area. And as a FAP, another one of his responsibilities was to be a maintenance man, do the cleaning, the buffing, that sort of thing.

Q Now, did you see Ronnie Kimble on a daily basis?

A I would say every day that I was there, from August, until sometime when he left, or I left to go to school at one point. So, yes, I saw him often. He was -- his office and mine were just within 10, 15 feet.

Q And Father Soutiere, would you have been Ronnie Kimble's commanding officer?

A Commanding officer was an O6, a captain. I was assistant to him. So insofar as when the captain was away, then I was the commanding officer, yes.

Q And how would you evaluate Ronnie Kimble's performance as a Marine?

A Outstanding.

Q Now, did there come a time, Father Soutiere, when Ronnie Kimble came to you in your capacity as a chaplain?

A Yes. Generally, because of the proximity of his office to the coffee urn, he gathered there with some of the other FAPs and so we talked. And then, he came into my office, I think the first time out of curiosity about what the Catholic church was all about, the Catholic faith was all about.

Q And did you have a conversation and answer his questions concerning the Catholic --

A Several conversations along that line, since the orientation was different, religious orientation.

Q Now, as a chaplain in the Navy or the Marine Corps, would conversations that -- private conversations between you and enlisted men, would they be held in confidence?

A Yes, sir, privileged.

Q All right. And was that fact made known to the enlisted men who were under your command?

A Well, usually it started in boot camp. They were told that if they needed to speak to a chaplain, that whatever they told the chaplain would be privileged. So I would say several times in the development, they have this what's called rights and privileges course that they have to be given. It's a -- part of the indoctrination course. And

that's --

Q Now, after these initial conversations, when Ronnie Kimble came in and asked you about the Catholic faith, did there come a time when he came and talked to you about problems of a more personal nature?

A He was concerned about his -- he had a sleep disorder. He came in to pray over that. We prayed often --

Q All right.

A -- on that particular issue.

Q And when he came and talked to you about his sleep disorder, what were his concerns that he voiced to you at that time?

A Well, he wanted to get back into the units, and he couldn't do that, because he was on that medical situation, when he was FAPPED to us. So, if he couldn't find a cure or correct it or whatever, he wouldn't be able to stay in the Marine Corps. He wanted to be a career Marine.

Q All right. And so, when you say "get back into the units," you mean get back into infantry or that sort of thing?

A Uh-huh.

Q Now, how long do you think that time that Ronnie Kimble came to you and you talked to him about his sleep condition, how long do you think that conversation was?

A They were never usually more than 15 or 20 minutes at

any given time. It was -- my schedule pretty much dictated how much time I had for any of the in-house people.

Q Now, Father Soutiere, did there come a time when Ronnie Kimble came to you concerning the death of his sister-in-law?

A Yes. Right after he came back from emergency leave, right after the death of his sister-in-law, he came in and asked me to pray for the families, because of this tragic event, and they were hurting. And so, we prayed over that, yes.

Q All right. And so, that you prayed over the -- he explained to you that his -- that that was his brother's wife?

A That's correct.

Q Do you recall him mentioning any of the details concerning her death?

A Only that she had been shot and there had been a fire.

Q And you prayed for the healing of his family and also for the healing of Patricia's family; is that right?

A That's correct.

Q Now, did there come a time after that when he came and talked to you again about events concerning Patricia Kimble's death?

A Yes. A little later on in that same time frame, he came in and said that our Navy intelligence service people

wanted to speak to him about the case. And I said, "Well, you know you better get a lawyer. Don't answer any questions about anything like that." But I gave that advice to everybody that had problems that came and talked to me, whether it was -- they had been on an unauthorized leave. We have a JAG, Judge Advocate Generals, they're lawyers for our Marines and sailors, and they give them advice and direction.

Q All right. And so, that was pretty much your standard advice, whenever someone came in contact with law enforcement?

A Anytime they had anything that might be nonjudicial punishment oriented, as well, because they have a right to either have nonjudicial punishment review or an administrative review or a court martial. And they can choose that. But very often, they're not aware of those rights. And so, I always, not being a lawyer, and we don't do the legal end of it, we refer them to our JAG, our Judge Advocate General staff, lawyers.

Q Now, when Ronnie Kimble talked to you concerning the fact that he was going to be interviewed by Naval Intelligence officers, did he tell you what he was going to do concerning the interview? Was he going to grant it?

A Oh, yes. But I told him that he should get a lawyer. He said he couldn't afford one. I said, "Well, use your

brother's lawyer."

Q Now, did -- was there a time, Father Soutiere, that Ronnie Kimble came and talked to you about his concerns about the way the investigation was being handled?

A He was concerned that they weren't handling it properly, yes. He said they hadn't even talked to him at that time. And --

Q So this would have been before he came and talked to you --

A Well, this was --

Q -- about the --

A -- this was after, when they said that -- when he came in, he was -- he was telling me that the investigators were looking at his brother, and it was in that time frame.

Q And when he said to you that the investigators had not even talked to him, did he cite some specific reason why they should have talked to him?

A Yes. He had -- he told me he had used his brother's truck that day for some work, and at the end of the day, he finished his job and went to gas the truck up, and left a receipt for the gasoline on the seat. And he -- and the truck was parked somewhere in the driveway there.

Q All right. Now --

A And they hadn't even asked him about it, to --

Q Father Soutiere, do you recall if he told you when he

brought the truck back, did he tell you whether it was early afternoon or late afternoon or when?

A Early afternoon --

Q All right.

A -- I believe he said.

Q But he was basically concerned, because the investigators did not question him concerning the receipt, which had his signature on it, which he had left in the front seat of the truck; is that right?

A Well, he was more concerned that they were questioning his brother and hadn't talked to him --

Q All right.

A -- that's correct.

Q Now, after that time, when he came to you and talked to you about the situation regarding his brother, did he talk to you again concerning the death -- the events surrounding the death of Patricia Kimble?

A It would have been sometime after that. I mean, he did come in at other times to talk and to pray, just about his health thing. He was going to some medical. And then he was going to go to be interviewed in town.

Q All right. And --

A And again, I cautioned him and told him he should use his brother's lawyer, or a lawyer of some kind, but he didn't.

Q All right. And when he talked to you, Father Soutiere, what was his position on whether or not he would grant the interview with officers?

A Always went, always was going to go.

Q All right. And he told you that he was going to go?

A Yes, sir.

Q Even though you advised him to seek legal counsel?

A Yes -- well, yes, sir.

Q Now, during any of the interviews that -- or any of the conferences that you had with Ronnie Kimble, did he ever make any sort of admission concerning his involvement with respect to Patricia Kimble's death?

A No.

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

CROSS-EXAMINATION by MR. PANOSH:

Q Father, you wouldn't have an independent recall of the dates of these particular interviews that he referred to?

A No. Just a general time frame of after the -- after the death of his sister-in-law.

Q And in that general time frame, which discussion do you believe came first?

A On the -- on the case? About the --

Q Yes, about the case.

A The first thing was after he came back from emergency leave, and he asked to pray for the families.

Q And the next would have been?

A Short while after that, when the NIS investigators are going to speak to him.

Q And then the next one would have been?

A When he came in and said that he was upset with the investigators, because they hadn't questioned him and they were questioning his brother.

Q And so, in the third interview that you had with him, which would have been, I take it some weeks after the death of Patricia, he said that he had not been questioned yet?

A Yes, sir. Yes, sir.

Q And was there a subsequent one, Father?

A There was no more discussion about the investigation, until he was going to be questioned by, not NIS, there were going to be people in town, and I've learned since then that it was the local sheriff and investigators from here and the SBI.

Q And is it your recollection that was several months after the death of Patricia?

A Long -- yes.

Q You started to explain Fleet Available Personnel -- or I'm sorry. That wasn't the term.

A FAP.

Q What was that term, sir?

A It's Fleet Assistance Personnel. It's a sea services

term, whenever someone is going to act outside of their capacity, to help the fleet in some other way and -- by assisting chaplains or assisting other units, they were FAPped out. It wasn't always to chaplains. It could be to -- supposing that the individual was an infantryman and he had just come back from a deployment, six months overseas, the usual thing was that the units were drawn down, they were pushed off to the side. Some of their men were taken and put in other units who were working their way up to go out on a deployment. And so, these other men that weren't chosen to go out were FAPped out to assist in different roles aboard the base. Some of them worked with the MAA, master-at-arms. Some of them worked with communications people. They assisted in practically every staff job as maintenance people and drivers.

Q So it's your understanding then that he was -- Ronnie Kimble was an infantryman and he was temporarily assigned or FAPped to you, due to his medical --

A I believe that was -- I wasn't there when he originally came aboard. I came in after he was there. But it seemed to me that it was because of his sleep disorder.

Q Okay. And you used the word "sleep disorder." Those were Ronnie Kimble's words?

A No, sir. Those are mine. He said he kept falling asleep and he didn't know why.

Q But you are aware that he was tested?

A Yes, sir, uh-huh.

Q Do you know the results?

A He was seeing medical people. I don't know exactly what it was. There was a program specifically for sleep disorders, but I don't remember exactly when that was.

Q Are you aware of the results of the testing?

A No, sir.

Q But that would be reflected in his official military Marine medical history, right?

A More than likely. I didn't have access to that data. We don't have access to their records.

Q In the course of your dealing with him, did he ever tell you about any type of dreams he was having?

A No, sir.

Q Now, you indicated that there is legal counsel available for him at no charge?

A On an advice basis. They don't represent them in court. But yes, sir, we had the Judge Advocate staff.

Q And there's also psychiatric staff available?

A Oh, yes, at the hospital, uh-huh.

Q And if he felt that he had some sort of problem with dreaming, he could have consulted with the psychiatric staff at no cost?

A Yes, sir.

Q Now, when you suggested to him that he use his brother's lawyer, did he tell you why he didn't want to or could not?

A I don't think there was a time frame there. I don't -- I don't know whether he could. I really don't know. He didn't -- never said.

Q Did he ever tell you that he and his brother weren't close?

A They were close as brothers.

Q They were close as brothers?

A I think so. I -- yeah. They were friendly, at least. They liked each other, I presume. But he never said that they worked close or whatever that --

Q Nothing in your conversation led you to believe that he couldn't use his brother's lawyer because of any barriers between himself and his brother?

A No, sir. I think the main issue, if I may, was that he didn't have any money. You know how that is.

Q And in that -- on that topic, did he tell you that he sold his plasma a couple of times a week or anything along those lines?

A No, sir.

Q Now, in the course of your duties there as chaplain -- I believe you said that you started there August of '95?

A Yes, sir.

Q And your duties there went to January of '97 approximately?

A '98.

Q I'm sorry. '98.

A Yes, sir.

Q In the course of your duties there, did you know Mitch Whidden?

A I knew that he was one of our FAPs, and that, as you told me this morning, he was at Courthouse Bay. We had 12 chapels, and very often we would put them in those chapels to man the telephone and to set up for services.

Q Did you ever have -- remember having conversations with Mitch Whidden?

A You asked me that this morning, and I would say yes, in a general way, because their room, their office space, Ron's office space, their office space, was a place of congregation very often. And when they came in for training on Tuesdays, we had coffee, we generally talked about a lot of things basically. So Whidden could have been one. I've seen so many of them in my office, because there was a great interest in religion in that group. There was a great interest in religion in the Bible.

Q And do you have any specific recollection of discussing a book or series of books known as the Apocrypha with Mitch?

A Could have been.

Q And could you briefly tell the ladies and gentlemen of the jury what the Apocrypha is.

MR. LLOYD: Well, objection, Your Honor.

MR. PANOSH: I believe it was raised.

THE COURT: Overruled.

You may answer that, sir.

A The Apocrypha is a difference of books between the Catholic canon and the Protestant canon, the Protestant Bible. The original texts in the Old Testament were taken from the Alexandrian Code, in Alexandria, Egypt. In about 100 A.D., as a result of the rise of Christianity, in a Council of Jammia, the rabbis decided that they should eliminate seven whole books and parts of three books from the Old Testament canon. Those eliminations became known as Apocrypha. The original code, the Alexandrian code, was kept in Christianity from the beginning. The official canon of the Bible wasn't until sometime in 300 or so A.D., and it included those seven whole books and parts of the three others that were eliminated by the Council of Jammia.

Q And just let me run over them. Are those the Estras, Tobit, Judith, Wisdom of Solomon, Sirach, Barach or Baruck (phon.) --

A Baruck (phon.).

Q -- Prayer of Manasses, Macabees, Ester, Daniel parts?

A First and Second Macabees, yes.

Q And although you may have discussed them with Mr. Whidden, you don't have any specific recollection of that?

A It's one of the things that happened a lot. People interested in finding more history of the Bible came in and said, "Well, why are our Bibles different? What's the difference?" And that was usually -- and it was -- I had a Bible on the side, I didn't memorize all the books, but I just picked it up and denoted the Bible differences.

Q And again, as to any medical condition that Ronnie Kimble told you he had, the more accurate information about that would be his medical records; is that correct?

A Absolutely, yes, sir. I didn't get to see the medical records. But that's -- if you wanted a source, that probably would be the best.

MR. PANOSH: No, thank you -- No further. Thank you.

MR. LLOYD: Just a couple of questions, Your Honor.

REDIRECT EXAMINATION by MR. LLOYD:

Q Now, Father Soutiere, you have no specific recollection of any conversations with Mitch Whidden?

A I've talked to all the boys and a young lady -- other young men and women that worked with us, so I probably did have conversations with all of them at one time or another.

Q Do you even remember what Mitch Whidden looked like,

Father Soutiere?

A If he were standing here, I'm sorry, I wouldn't be able to identify him right now.

Q Now, Mr. Panosh asked you a question about Ronnie Kimble and his brother. You've never met Ronnie Kimble's brother, have you?

A No, sir.

Q All right. So you've never seen Ronnie Kimble or his brother interact, have you?

A No, sir.

Q Now, Mr. Panosh asked you basically a question concerning the order of the times that Ronnie Kimble came to see you and what was discussed. And I believe you indicated to Mr. Panosh that you thought that the second time that Ronnie Kimble talked to you, the discussion centered on Ronnie informing you that he was going to talk to the NIS agents, and there was some concerns about that, and you advised him at that time to get a lawyer?

A (The witness nodded his head up and down.)

Q And then at some time after that, I thought you indicated to Mr. Panosh that Ronnie expressed concerns that he had not been questioned concerning the gas receipt that had his signature, that he left in the truck?

A That's correct.

Q Are you sure about the order of those things, Father

Soutiere, or could one of them -- could they have happened in reverse order?

A I don't think so. I think that was the way it went.

Q All right.

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

MR. PANOSH: No further.

THE COURT: You may step down, Father.

THE WITNESS: Am I excused?

THE COURT: Step down, sir.

MR. LLOYD: Your Honor, could Father Soutiere be excused?

THE COURT: Any objection?

MR. PANOSH: No, Your Honor.

THE COURT: You may be excused, sir. The Court appreciates your attendance.

THE WITNESS: Thank you.

(The witness left the witness stand.)

THE COURT: Next witness, please.

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

MR. HATFIELD: Are you ready to proceed, Judge?

THE COURT: Yes.

RONNIE LEE KIMBLE, having been previously duly sworn, testified as follows during CONTINUED DIRECT EXAMINATION by MR. HATFIELD:

Q Mr. Kimble, last night, right before we broke, I asked you if you killed Patricia, and you said you did not.

A Yes, sir.

Q Did your brother ever ask you to do anything like that?

A No.

Q Did Ted ever tell you he was looking for a hit man?

A No.

Q Did you have any knowledge whatsoever of Ted's and Patricia's life insurance arrangements?

A No.

Q Did Ted ever discuss what he perceived to be a need to cover his own life or his wife's life?

A No. I had no knowledge of any of their financial status.

Q Now, concerning insurance, as a matter of fact, you had life insurance coverage through the Marine Corps, didn't you?

A Yes.

Q Would you tell the jury about that.

A It was standard -- when you join the Marine Corps, it's standard that you received \$100,000 policy. I believe that's approximately \$16 a month or -- excuse me. It's \$8 a month. You can receive an additional \$100,000 coverage, which is \$200,000 total, for another \$8. I think it was a total of \$16 a month. I chose to take the \$200,000 policy,

because if anything happened to me, I wanted to be sure that my wife would be taken well care of.

Q So your wife was the beneficiary of the policy on your life; is that correct?

A Yes.

Q In the course of your making a decision about the insurance coverage that you chose in the Marine Corps, did you ever talk to Ted about anything like that?

A No, not at all.

Q Did you know anything about the details of Ted Kimble's obligations to Gary Lyles or to your parents, in connection with his purchase of Lyles?

A No, huh-uh.

Q At no time did Ted inform you of how much money he owed?

A Owed?

Q Owed to Gary or owed to --

A Oh.

Q -- your parents?

A No, huh-uh.

Q At any time, did Ted indicate to you that he might lose the business, because of his obligations to Gary and to your parents?

A No, sir.

Q Did Ted tell you he was still seeing Janet Blakley

after he married Patricia?

A No.

Q Do you have any knowledge that he was continuing to see an old girlfriend after he got married?

A If Ted was doing anything like that, I would have no idea, because I hardly seen Ted.

Q Now, during the period of time the secret marriage, between December, when Ted and Patricia were formally married in Virginia, and the time that the public service was held later on in the following year, do you know -- were you around, could you say of your own knowledge whether Ted was dating girls during that period that he was secretly married?

A I don't know, because I don't -- I'm not even certain that I knew until after his real wedding, when -- that they were -- had been secretly married.

Q Did Ted ever tell you that his marriage was too confining and that he wanted to get a motorcycle and cruise High Point Road?

MR. PANOSH: We object to leading.

A No.

THE COURT: Sustained.

Q Did he tell you that he felt confined in his marriage?

MR. PANOSH: Object to leading.

THE COURT: Sustained.

A No.

THE COURT: Don't lead him, sir.

Q What did Ted tell you --

MR. HATFIELD: Well, Your Honor, it's already in evidence. They introduced --

THE COURT: Well, let him --

MR. HATFIELD: -- the hearsay --

THE COURT: -- testify, sir.

MR. HATFIELD: -- of Ted --

THE COURT: Don't lead him, sir.

Q Did Ted tell you how he felt about whether he had freedom in his marriage?

A No, not at all. We never discussed anything, as far as marriage goes.

Q Did he tell you he was interested in plastique and other explosives?

A No.

MR. PANOSH: Objection to leading.

Q Did you receive any training --

THE COURT: Sustained.

Q -- during your infantry training, that is, after your basic training, in the use of sophisticated explosives?

A Yes.

Q Did you ever discuss anything you learned in the military with your brother, Ted?

MR. PANOSH: We object to leading, please.

A Nothing that --

THE COURT: Sustained.

A -- I can recall.

Q Did you have any discussions with your brother about explosives?

MR. PANOSH: Object to leading, please.

A Nothing that --

THE COURT: Overruled.

A -- I can recall. It's just not something that we would discuss. I mean, I -- about the extent of our discussions as far as my military career was, I think I might have expressed to him some of the things that the military had taught me. But I had very little training in any kind of explosives. It was just like a one- or two-day course, and that was like for our whole company to go through, and it was just the basics. But as far as being able to set it up today, I don't know if I could set it up or not.

Q Did you discuss with your brother how to rig an explosive in a traffic pylon?

MR. PANOSH: Object, please.

A No.

THE COURT: Sustained. Don't lead him, sir.

MR. HATFIELD: Your Honor, the interminable hearsay statements of Ted have been admitted without --

THE COURT: Well --

MR. HATFIELD: -- objection, and I want to clarify what --

THE COURT: The Court's sustained. Just ask the question. Don't lead him. Let him answer. You're putting words in his mouth.

Q Do you know anything about your brother making silencers?

A No. I have no -- I've heard all this hearsay in the -- some of the paperwork, some of the testimony that's been said. I had no knowledge of that kind of stuff until after the fact that it had been brought out.

Q Did your brother, Ted, ever tell you that he would pay you money if you would assist him in eliminating her?

A No. And I certainly --

MR. PANOSH: Object to leading, please.

THE COURT: Sustained.

A No. And I certainly hope to say and think to say that --

MR. PANOSH: We ask the witness be instructed, please.

THE COURT: Don't answer, sir. The Court has --

MR. HATFIELD: Your Honor --

THE COURT: -- sustained the objection.

MR. HATFIELD: -- he is accused of conspiracy.

THE COURT: Move along.

MR. HATFIELD: None of the evidence comes in if the conspiracy's never been --

THE COURT: The Court has ruled on it. Leave it with the Court's ruling.

Q Do you know --

THE COURT: Move along.

Q -- a woman named Lynn McLeod Johnson?

A Yes.

Q Who is she?

A I just know who she is, because I met her on a couple of occasions, and I've seen her testify in the courtroom.

Q Now, do you recall when you met her on prior occasions?

A I recall the time that she testified to. And I specifically recall that, because that was the first time I remember meeting her. And Ted had come over to the house, and when he got ready to leave, I walked him out to say good-bye. We walk everybody out. So I was walking out to say good-bye, and the first thing I noticed that she was sitting in the vehicle. And I looked at Ted and I asked him, "Who's she? And what's she doing with you?" And Ted responded with, "She's a friend from church. Why? Is something wrong with that?" And I told him, "Well, your wife just died, Ted." (Crying.) And that's -- that's the extent of it. I don't remember any other response.

Q Was it -- did you have a heated discussion with Ted on that occasion?

A I don't recall it being heated. After he told me that she was just a friend from church, I didn't think too much of it. I just -- I didn't think it looked good.

Q Do you know whether he continued to see her?

A Of my -- the understanding that I have is that Lynn started hanging all over Ted and --

MR. PANOSH: We object, please.

A -- insinuating --

THE COURT: Sustained.

A -- to people that --

THE COURT: Don't answer, sir.

Q What did you observe of your own? Did you observe anything firsthand?

A I did not observe anything firsthand, only what -- basically only what I was told.

Q Did you speak to her on that occasion?

A He introduced me, and I just -- "Hello. How are you doing?" And that was the extent of it. I went back inside.

Q Did you think he was dating her?

A I didn't have a clue. Like I said, I felt better once he told me that she was a friend from church. But as far as dating her, I don't know. It was my understanding that he was not.

Q After Patricia died, did you notice any change in Ted?

A Yes.

Q Would you describe it for the jury, please.

A For a period of time after Patricia's death, Ted was very humble. That's the only time in my life that I've ever seen Ted humble, because most of the time, Ted has always walked around like he -- I guess you could say arrogant, to a degree.

Q By October of 1995, you had been in the Marine Corps for two and one-half years, hadn't you?

A Yes.

Q And will you tell the jury again, when were you married to Kim?

A December 10, 1994.

Q Now, making reference to the period of time between December 10, 1994 and October of 1995, will you describe for the members of the jury what your personal financial situation was like.

A Well, Kim handled all of our finances. I just felt that she was better with that stuff than me. And -- but we were doing -- the best of my knowledge, we were doing real good. We had -- we both had two nice vehicles. We had purchased our mobile home. And basically -- like I said, basically, I let her handle everything. I had direct deposit. And she gave me what money I would need each week

or gas, for traveling back and forth, and to eat on or --

Q Will you tell the --

A -- whatever.

Q -- jury what kind of an automobile you had, and if you can recall, what the financing arrangements for that vehicle were.

A I think our payments on that car were about around 250. I'm sorry. It was a Daytona, white Daytona. We had purchased that shortly after we had been married. Because the truck that I owned was on the -- on its -- about on its last legs, so we decided to purchase the Daytona. And I needed something efficient on gas to travel back and forth to Camp Lejeune. At that time, Kim owned a Camaro, which we -- there was some discussion of getting rid of the Camaro, because of the fact it fishtailed very badly. It was light in the rear end.

Q Do you know what the payments on the Camaro were?

A I don't remember.

Q Was your wife employed at a full-time job at that time?

A Yes.

Q What was her job?

A She was working for a physical therapy clinic out close to -- out towards Battleground.

Q Now, did you and Kim have any financial difficulties that you were aware of?

A No. We had -- we were doing pretty good.

Q It's been said that you sold plasma at the base. Can you tell the jury about that, please.

A Yes. A friend of mine had read an article in the newspaper, where you --

MR. PANOSH: We object, please.

A -- you could donate plasma. And so, we decided to check it out and see if it was a legit thing. And you could donate plasma a couple of times a week, and you could make like, I think, \$15 for each time that you done it. And it was basically something for me to do, to fill my time during the week while I was away from my wife. And it was something to give me a little extra spending money, where I could go out and buy a hamburger or basically whatever I wanted, to just -- money to waste, more or less, spending money.

Q Did you have any other casual sources of income while you were in the Marine Corps?

A Yes. I collected -- me and my friend would go out to some of the ranges and we would collect spent brass. We would collect aluminum cans around the base and various metals of value. And we'd go out to the local salvage yard and they would buy that. And again, it was something to fill the time away from my wife. And my friend and I, we had a good time doing it. It was something we enjoyed to

do. Because most -- basically, if you're familiar with the Marine life, as far as the single Marines, their biggest interest is to go out and drink and so on, and that just wasn't my interest.

Q Now, where did the spent brass -- where did you retrieve that?

A There wasn't too many ranges that we could go to. It was really one particular range. It was sort of an open range. It's off -- right off Highway 24. And most ranges that we would police call. What I would mean by police call, we would pick up the brass after we had used the range.

Q Was this a firing range?

A Oh, yes, it was a firing range. And -- but most of the time, we would always pick up the spent brass, so there wasn't many ranges that you could go to and find any brass. But this particular range, they pick up some of the brass, but they really done a halfway job. It was a range where you go down range as you -- as you fire on the target -- the targets were maybe 500, 600 yards away. And as you fired on the targets, you progressed. You have what is called a platoon, and different parts of your platoon would progress towards the target. So this spent brass would be all over the range. And of course, it was impossible for them to go through and pick up all the brass. Mainly, they would

police call the first part of this range, and then that was it. So it was actually a rough terrain, and it was actually doing the base a favor, as well as us, because of the fact that on many occasions, many Marines were hurt by this spent brass and other items discarded on the range, from progressing, run up and you jump -- you fall on brass, you could get cut.

Q Okay. Now, returning to your familiarity with Lyles Building Supply. During the period that you were on active duty in the Marine Corps, did you occasionally work at Lyles?

A Yes, on occasion.

Q Were you on the payroll there? Did you receive a paycheck?

A No. Basically, for the most part, I would get items from Ted that I needed. It -- and then I would work those -- work to pay those items off. For example, I bought some crossties, four-by-four posts. It was sort of a -- it was really more or less a favor to Ted, because basically, at times, I would just pay cash. But the way that it was a favor to me was because, rather than saving up the money to pay for these materials, I could just work it off, and therefore, I could purchase them a lot quicker than if I saved up the money to buy the items.

Q Now, who was the boss at Lyles during that period?

A Ted was.

Q Could you describe very briefly to the jury what your view of his business practices and responsibilities were.

MR. PANOSH: Object.

THE COURT: Overruled.

A I don't know a lot about, as far as when I'm away, but it had been my experience when I was there that Ted was either in the office or out on the lot somewhere, waiting on customers or directing his men. He basically ran the office, unless he had someone there to help him. Like I know on occasion, my father helped him, because a lot of times, Ted would have to go out and run errands for his business. And that's basically the -- basically my knowledge.

Q Who kept the information on the prices of the goods?

A That -- there wasn't really any set price, except for items that were regularly inventoried, such as treated lumber, dog houses. Those were all things that were set prices. But other than that, the majority of items, there is no set price, because he gets in a variety of windows, doors, that are used out of -- where people have restored, done restoration to their home, and he'll buy the -- what has been taken -- the old stuff that's been taken out of the home. On occasion, he would get new order stuff that where a contractor had overordered or ordered and he got the wrong

order, like the wrong size windows, for example. And they would sell those, rather than sending them back to the manufacturer.

Q Well, if a customer came on the lot and wanted to know a price, how did you know what the price was?

A Basically either Ted set the price, or James, his more experienced employee, usually knew.

Q Now, how were the items paid for, and how were the transactions completed?

A As far as I know, it was basically -- it was mainly cash. Some people pay by check. I -- at one point or another, I think just before Gary turned the business over to Ted, they actually put in the credit card system, so they actually had started accepting credit cards.

Q Did you at any time receive money from customers or quote prices to customers?

A Now, as far as quoting prices, half the time, I didn't know what to tell the people. Half the time, I had to -- on the occasions that I worked up there, I didn't work up there often enough to know the prices, so basically, if it -- if it wasn't on the price sheet, I had to ask someone. And the -- what was the rest -- what was that question again?

Q Did you yourself handle cash or monetary transactions with customers?

A Okay. So that was the extent of the pricing on items.

I would have to ask.

As far as handling money, there was only one occasion that I ever handled any money, and that was September of -- I think of 90-- December of '96 or 90-- yeah, I believe December of '96, Kim and I had just -- Kim and I had just lost our child, and I took leave from the military.

(Crying.)

Q All right. Cool it.

A And --

Q Get some water and --

A Yeah.

Q We're talking about Lyles now. Do you remember when it was?

A Well, that -- I'm sorry. That was the relation. That's the reason I recall the reason that I was handling money was, during that period of time, I took leave, because I wanted to be able to spend time with my wife during her recovery. And so, I asked Ted if he -- to make up for Kim's paycheck, the loss of Kim's paycheck, I asked Ted if he'd mind if I work up at the business, to be able to give Kim time off to recoup and be able to replenish her paycheck.

Q So did he let you work there?

A So he let me work there. And it was -- I -- he was basically out running his errands, and I was taking in money from customers. Basically, James Ogburn was running the

yard, because like I said, I don't know -- I don't have a good knowledge of the prices.

Q Now, are there offices out -- this is an outdoor operation, isn't it?

A Yes. It's about a two-acre lot. So most people come in, they browse the lot. People usually that come in with the knowledge that they know what they want, those are usually the people that have been there before, and they usually go directly to what they want and start loading up. And then they'll come to the office and somebody will check their order, write it up on a receipt. And whoever's handling the money, Ted would receive the money. And so, basically, everything -- there was no cash register. Everything was basically -- the receipts were handwritten. And whoever was helping the customer had to write up that receipt.

Q Now, how big is the office?

A The office is --

Q It's hardly any bigger than the area where you are right there, is it?

A Exactly. It's half the size of the jury box. It's a pretty small office. There was actually two office buildings, one side by side. The other one was sort of like a private office.

Q Now, were you -- was that kept locked all the time?

A Yes. Both --

Q Did you have --

A -- offices were.

Q -- access to it? Did you have access to it?

A No, huh-uh.

Q Now, prior to December of 1996, when Kim lost her baby and you worked for a few days up there, had you ever had access to either of those offices?

A No, not without -- not without getting the key from Ted.

Q And with Ted's special permission to go in and run some errand in the office?

A Right. Basically, the only reason I would go in the office at all was to use the rest room.

Q Now, you remember a young man that was a friend of yours in the Marine Corps named Justin Dobesh, don't you?

A Yes.

Q When's the last time you saw Justin Dobesh?

A I think sometime around February or March of 1996.

Q So it was basically more than a year before you were arrested and put in jail here in Greensboro; is that right?

A I'm sorry. I -- wasn't I arrested in '97?

Q You were arrested in April of '97.

A I'm sorry. It was -- no, I meant -- I meant '97. I'm sorry.

Q So it was like February of '97, is the last time you saw Justin Dobesh?

A Sometime around that time frame.

Q Did he continue to be a friend of yours throughout the period up until you didn't see him anymore in February of '97?

A Basically, but I hardly seen Justin.

Q Now --

A I mean, we were friends, but I hardly seen him.

Q Now, did Justin Dobesh accompany you to Greensboro on a few occasions?

A Yes, he did. I -- the main purpose of him accompanying me was because of my sleep condition. And that was really the main purpose for anybody accompanying me. It wasn't really that I wanted somebody to drag around my house all weekend. I just -- it was sort of a favor to me and it was a favor to them. It gave them a chance to get away from the base, and it was a help to me because of my condition. I didn't like riding alone, if I didn't have to.

Q So, many, many times when you came back on the weekend to visit your wife, one of the Marines accompanied you; is that what you're saying?

A Yes. I would try to get friends to come home with me.

Q Now, do you recall the last weekend in September, that is, the weekend prior to the weekend of October 6, 1995? Do

you recall that weekend?

A The week --

Q The week prior, the weekend prior.

A To October 9th?

Q Yes. The weekend prior to the weekend that began on October 6, do you remember that period?

A Yes.

Q Do you know whether anyone accompanied you to Greensboro on that weekend?

A Yes. Justin Dobesh did.

Q Now, when you went back, what -- do you know when you and Justin returned to Camp Lejeune at the end of that weekend in September?

A I think the normal time, because I don't think I had duty that weekend. So --

Q Did you ride back with him?

A Yes. That would have been -- I believe we left Sunday night. I'm not -- I'm not certain, but I believe we left Sunday night, because I don't think I had duty that weekend.

Q So when -- so the weekend prior to the weekend that involved Patricia's death, you went back to the base with Justin Dobesh; is that right?

A Yes.

Q And where did your car remain?

A I left my car at home. What it was, we knew we were

going to be getting a 96 the following weekend, so I decided to just ride back with him.

Q So you were able to avoid driving altogether on that occasion; is that right?

A Yes.

Q Now, what happened later on, when October 6th approached, and you needed to be back in Green-- back in Julian?

A I'm not certain, but I think for some reason, he didn't want to go, but I was like, you know, "I've got to have a way back to Greensboro." So -- and I think I went ahead and convinced him to come on up. He said he would -- because --

MR. PANOSH: Object, please.

THE COURT: Sustained.

A Excuse me. He had duty that coming Sunday, so he didn't really want to -- he wasn't really that interested in coming up. But I told him, you know, "I've got to get back to Greensboro." And so, he came on up, and he --

Q So do you know where Justin Dobesh spent Friday night, October 6, 1995?

A Yes. He spent the night at my house.

Q Now, do you know what you and Justin Dobesh did the next day?

A Yes. The next day, we went out, and he pulled a trailer for me, which I had borrowed from my brother, so

that I could go look to pick up some underpinning.

Q And where did you go to do that?

A We went out to Lowe's on Wendover Avenue. And basically, after going out there and looking at the material, the price was not good, and -- but the biggest thing, other than the price, was, they did not sell it in 12-foot lengths. They only sold it in eight-foot lengths. And the amount of waste that I would have had would have been tremendous. It would have been -- it would have been -- I just couldn't have bought it in that length.

Q Explain to the jury why 12-foot lengths would have resulted in more waste than eight-foot lengths, please.

A It was actually the eight-foot lengths that would have resulted in more waste. Because I would have only been able to get two pieces out of the eight-foot lengths, and I would have a tremendous amount of waste. But with the 12-foot lengths, I could actually end up getting four pieces out of it.

Q So, because you couldn't get the length you wanted, what decision did you make while you were with Justin Dobesh at Lowe's?

A Well, I decided that -- I knew of -- I knew of Atlantic Mobile Home Supply, and I knew that they had carried it in the past in 12-foot lengths. So I decided that I would go there on Monday, because they had -- they were -- I think

they were -- at the time I found out, I think they had already closed, or I would not have time to get out there. I don't remember the reasoning.

Q In any event, do you remember what happened later Saturday afternoon when you and Justin got back? Where did you go after you left Lowe's with Justin Dobesh? Do you know?

A I don't remember -- I don't remember when we did what. I remember certain occurrences. Now, one thing I remembered, and it was when I heard the testimony of Nancy Young, when she mentioned the yard sale. I remember that Justin and I had went by the yard sale at Cinnamon Ridge Apartments. That's the only time I've ever been by Cinnamon Ridge Apartments. Apparently I had heard about it or something and decided to go by there and see what they had at the yard sale.

Q And were there a bunch of balloons on display? Did they have balloons, to attract the public to the yard sale?

A I don't remember.

Q Did you see Patricia Blakley Kimble at the yard sale?

A No, huh-uh. I don't recall.

Q Anybody you knew at the yard sale?

A My mother, and I think my mother had a friend with her. I'm not certain.

Q Now, do you know where Kim and her mother were that

afternoon?

A Kim and Judy -- actually, all the ladies went to a wedding.

Q Now, what -- did you and Mr. Dobesh go back to your mobile home at any time that afternoon?

A The -- yes, we returned to my mobile home. And as far as I know, sometime that afternoon, he left. I don't remember what time he left. It was -- I believe it was sometime after 2:00.

Q Now, was the next day Sunday?

A Yes, sir.

Q What did you do first thing Sunday morning?

A Same thing we always do Sunday morning. We got up and got ready for church.

Q Was Sherry Wilson at church?

A Best I can recall. I -- Sherry's always at church.

Q Justin Dobesh at church with you?

A No.

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

Q Now, I show you what's been marked for identification Defendant's Exhibit 15, ask you if you can identify this.

A Yes. This is the receipt where I went and purchased the underpinning at Atlantic Mobile Home Supply.

Q What's the date on it?

A October 9, 1995.

Q Now, did you personally receive that receipt on the morning of October 9, 1995?

A Yes, I did.

Q And does it reflect the purchase of the underpinning that's been discussed in this case?

A Yes, it does.

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

THE COURT: The Court'll allow the introduction of Defendant's Exhibit Number 15.

Q Now, Mr. Kimble, there are some notations on that receipt that do not appear to have been written by the employee at the mobile home place. Do you see those?

A Yes, sir.

Q What are they?

A They are -- they are my own personal notations, where I was working these materials off for Ted. I had actually purchased these materials through Lyles Building Material, in order to get a discount, and I was working them off for Ted. Some of it I paid cash, some of it I worked off.

Q So, from time to time, are you saying that you gave Ted some money, actual money?

A Yes. I have noted here the amounts that I gave him. I don't have no dates, just the amounts.

Q Now, this transaction was a noncash transaction on the morning of the 9th of October, 1995, wasn't it?

A Yes. I believe -- I'm not certain, but I believe a check was written from Lyles Building Material.

Q So, in any event, either a bill was sent to Lyles, or Lyles simply directly paid for the purchase of the materials?

A Yes.

Q And do you know what time you went to Lyles -- Excuse me. Do you know what time you went to Atlantic Mobile Home Supply on the morning of October 9, 1995?

A Sometime between 9:00 and 10:00 I left from Lyles Building Material and went down to Atlantic Mobile Home Supply.

Q And can you explain to the jury why you didn't go a little earlier than that?

A It was my assumption, the type of business that it is, that it wouldn't open before 9:00 o'clock.

Q Okay. So, what did you do between the time that Lyles opened, around 8:00, and the time you went over to Atlantic Mobile Home?

A I just hung around Lyles and waited on customers, talked, just chatted with people.

Q Now, at any time during October 9, 1995, did you see Patricia Kimble?

A No, I did not.

Q Did you see her in the morning, when you went over to

Ted and Patricia's house to get the box truck?

A No. Patricia was still in bed when I went over.

Q Did you enter the house on that occasion?

A Yes. When -- I got -- I actually -- I got up and left my house at a few minutes before 7:00, and got over to Ted and Patricia's about 7:15, and I knocked, and Ted came to the door and told me to be quiet, because Patricia was still asleep. So, I went on into the living room. And he went and got the key to the box truck and brought it back to me a few minutes later. And I went on out and I went in the garage and got the drop cord and went out to the box truck and started warming the box truck up, to leave.

Q Was it necessary to warm the engine of a truck in October?

A Well, this particular truck, it always -- it always took a few minutes to get this particular vehicle going, whether it was hot or cold.

Q Did you wait outside from then on, after you got the truck started? Did you just remain outside until Ted came along?

A Yes. Yes. I was trying to get the vehicle running.

Q So, for what duration of time were you actually inside Ted and Patricia's house that morning?

A Less than five minutes.

Q Could you tell whether Patricia was padding around in

the back part of the house?

A No. Everything was quiet.

Q Now, in driving to Lyles, did you and Ted actually drive in tandem, where you kept your respective vehicles in sight, or did you just both head in the same direction?

A As far as -- as far as I know, I followed him all the way up to Lyles, the best I can recall.

Q Now, when you went to Atlantic Mobile Home Supply, did you have anyone with you?

A No.

Q You didn't have a friend from the military or a helper from Lyles or no companion that went with you on that trip?

A No. I was by myself.

Q Okay. Tell the jury what happened when you got to Atlantic Mobile Home Supply.

A The way Atlantic Mobile Home Supply is set up, they have a main office up front. And it's sort of an L shape, because the back part of their office building is a warehouse. The front part, where you -- where customers walk in, there's a desk across -- I believe all the way across the front area. And then they have things on display out in that area, where customers can see, certain items that you would purchase for a mobile home, I guess, a mobile home door, door handles, various items such as that.

So I went in that first part and then -- and told the

guy what I was looking for. He directed me to take my vehicle around back. Now, around back, they had a large parking lot, and out to the back, they had another building, a separate building from their warehouse, I guess some kind of garage. I don't remember very well now. And we went out into that building. I backed my vehicle up there to that building, at -- by his direction. And we went in that building.

And it took us awhile, because they didn't have tan, the color that I wanted. My -- our trailer is desert sand. They didn't have that color. So I chose to go with white. But we were going to go through several boxes, to accumulate enough white for the job that I had to do. And I ended up going with more vented underpinning than I did the solid underpinning, because their supply was low. Now, they did have a tan trim kit that would match my trailer, so I went -- I went with the trim -- the tan trim kit, which the trim kit is the top part and the bottom track.

Q Now, how long did it take you to select the items that you wanted to purchase, once you got the truck back to that warehouse that you told about?

A It didn't take long to select. It just took a period of time to get it together. Like I said, we -- they had pieces of boxes, where basically -- I would assume what had happened, they had had people like me, you know, you're not

going to want a specific amount of boxes. And they -- you may need a few -- you may need a few more pieces, but you may not need a whole box. So they had pulled out bits and pieces of boxes. So, basically, we had to fill the boxes back up with the amount that was supposed to be in them.

Q Now, how long did that whole process take, if you can recall?

A Over an hour, between that and going back up to the office and him writing up my receipt. I also made a call up to Lyles. That may have been about the billing of it. And then, after that was settled, I headed back to Lyles. I think I had headed back to Lyles around -- it was sometime after 11:00 that I headed back to Lyles, because I arrived at Lyles right around -- right around noon.

Q Now, what is the location of Atlantic Mobile Home Supply in relationship to Lyles?

A It is on the opposite end of High Point -- actually, Lyles is on Lee Street. Atlantic Mobile Home Supply is on High Point Road. Lee Street and High Point Road is the same road, but it's all the way on the other end. Atlantic Mobile Home Supply is down by where the -- where the little driving range is, or used to be.

Q Is it near Groometown Road?

A It's on the other side of Groometown Road.

Q So it's almost in Sedgefield?

A In fact, I think it is -- I think it would be considered to be in Sedgefield.

(Time was allowed for the witness.)

A Well, actually, it's -- it doesn't say. It just says

--

Q Did you --

A I think it says Greensboro.

Q -- drive on High Point Road? Is that the way you went there and came back?

A Yes. It's a straight stretch, but you have a lot of traffic lights to go through, from there all the way to the other end of High Point Road.

Q Okay. So what time did you get back to Lyles?

A I got back to Lyles around 12:00.

Q And what did you do then?

A I -- oh, well, the purpose of me going back to Lyles was the fact that on the -- when I got ready to go back to -- when I was actually going to be heading home, I believe, but I noticed that the gas hand was low, so I decided to go back by Lyles and ask Ted if it would be okay if I filled the vehicle up on the business account, since it was a business vehicle. And he said that would be fine, when I stopped back by. And I decided to call Kimberly, to see if she wanted to meet for lunch.

Q Did you talk to Kimberly?

A Yes.

Q What did she say about lunch?

A She said -- she told me, no, to go on home and get started on the underpinning.

Q All right. So, she wanted you to get this job done?

A Well, I think she thought I was going to have it finished in a day, which is impossible.

Q Okay. So, after you talked to Kim and after you got permission to buy some gasoline, what did you do next?

A I went by Sprinkle's gasoline, in which, they pump for you, so it doesn't take long. You pull in, they pump the gas for you. They bring you the pad, little receipt pad, and you sign the pad, and then they gave you a copy of the receipt. And I left from there, and I went straight home, where --

Q What time did you get home?

A I'm not certain. It was sometime before 1:00 o'clock.

Q And looking at the drawing on the -- that's over on the bulletin board to your left, is your home indicated there as -- by one of the dots?

A Yes, sir. Number 1.

Q And that's where you --

A I'm --

Q Can you tell from looking at that map which route you took from your location at Sprinkle's? Is Sprinkle's on

that map?

A I'm sorry. My house is 2.

Q Okay. Would you stand up and point to the location of your house.

(The witness approached the map and indicated.)

Q Now, could you show the jury where Sprinkle's is on that map.

A Well, Lee Street is not here. But -- Hold on just a moment.

(Time was allowed for the witness.)

Q If it's not on there, you can just say you can't show it.

A Well, I was orientating myself, so I could direct where it would be. Sprinkle's would probably be in this vicinity here. (Indicated.)

Q All right. You can have a seat.

(The witness returned to the witness stand.)

Q So it's not on the map; is that right?

A No, sir.

Q Sprinkle's is not on the map?

A No, sir.

Q Do you know how long it took you to get from Sprinkle's down to your house?

A 20, 25 minutes.

Q And what did you do as soon as you got to your house?

A I pulled -- I pulled up in the turnaround, backed up in my yard, threw the back doors open of the box truck. And since all the underpinning was in boxes, it was easy to unload. I just grabbed it by the end, yanked it, and let it slide. And I just done that with all the boxes. I got the sawhorses out, threw the drop cord out, and I just went ahead and went back over to Ted's, to drop the box truck off.

Q Now, when you say you went to Ted's, what do you mean by that?

A Well, excuse me. Actually, I went to Ted and Patricia's house.

Q Now, what time did you get there?

A I got there sometime, I think, around 1:15.

Q And what did you do with the box truck?

A I pulled it up where I had got it from that morning. There -- before they had -- Can I refer to the diagram?

Q Yes, sir.

(The witness approached the diagram.)

A Their driveway is right here. (Indicated.) There used to be a turn-- a little turnaround here. (Indicated.) It wasn't -- they didn't have gravel down or nothing, but it was just where they had pulled their vehicles around some. Right here on this end of it was where I got the box truck from. (Indicated.) That's -- I pulled the box truck back

up in where I had got it from that morning. And my car, I had parked it on the other end of that little turnaround. I got in my car and I left.

(The witness returned to the witness stand.)

Q Now, did you see Patricia at any time while you were back there around 1:00 o'clock?

A No. I didn't see anyone there.

Q Did you go in the house?

A No.

Q Did you step into the carport?

A No.

Q Do you have any idea whether the door into the kitchen was open or closed?

A No. I -- I actually didn't really pay attention to anything. I just -- my only objective was to go in and get my vehicle. So I -- if -- basically somebody could have been parked in the cul-de-sac and I wouldn't have noticed it.

Q Now, could you tell whether the lawn needed to be mowed?

A I don't recall paying attention.

Q Had anyone told you that Patricia was going to leave work early and go mow the lawn?

A Before or after?

Q On that day or before.

A No. Not at that time. I found out later on that Patricia was -- in fact, I think I found out the evening after Patricia's death, because everybody said that she was supposed to go home and then mow -- go home, mow the lawn, and then meet at the church. That was my understanding.

Q Now, so you don't recall whether the lawn appeared to need to be mowed?

A Like I said, I didn't pay any attention. I just pulled the vehicle in, got in my vehicle and left.

Q So you never walked into the carport or looked inside the carport?

A No. I had no reason to.

Q Did you lock the vehicle, the truck?

A No. No. Huh-uh. I had in fact -- I had in fact left -- I couldn't lock the vehicle, because I left the keys in the vehicle. The seat had tears in it, so I stuck the keys inside the tear of the seat, and I laid the gas receipt on top of the seat.

Q Now, had you signed that gas receipt?

A Yes. The --

THE WITNESS: Could I get some water, please?

MR. HATFIELD: Could he have some water, please,

Mr. Bailiff? Thank you.

A Yes, I had signed the gas receipt. And all those gas receipts are dated.

Q Now, do you know what quantity of gasoline was purchased on that receipt?

A I don't have a clue. As far as I know, they filled it up, and I don't remember.

Q Did you -- you didn't notice the amount indicated on the receipt when you signed it?

A I didn't -- I didn't pay it no mind. I just told the gentleman to fill it up.

Q Did you think you were going to have to reimburse your brother for the entire amount of gasoline?

(The bailiff placed a cup of water on the witness stand.)

A No. That was the -- my intention of asking him if he minded if I -- that was the reason that I had asked -- went by and asked Ted if I could fill it up on the business account, so that I wouldn't have to pay for it.

Q Now, did you have any portable gas containers at Sprinkle's that you needed to get filled up at the same time?

A No.

Q Had you seen or touched the gas can that Ted and Patricia had at their house, near their riding mower?

A No.

Q Have you ever mowed that lawn out there at Brandon Station Court?

A I've never mowed it. I think I went out there one time

and I done some leaf blowing for Ted.

Q Now, you said that there's a cul-de-sac there and there could have been a car parked in the cul-de-sac. Did you actually see a vehicle in the cul-de-sac?

A No. What I was referring to is, I wouldn't have noticed if somebody was down there. I just -- that was how little attention I paid. My intent was to drop the vehicle off and get in my vehicle and leave.

Q Now, after that, you got back in Kim's Camaro; is that correct?

A Yes.

Q And where did you go?

A I went directly back home.

Q And what time was it when you got home?

A It was -- it was sometime around 1:30.

Q What did you do then?

A I immediately -- when I got home, I immediately started working on the underpinning. I started setting up to work. And that was when I realized I needed a fine-toothed saw blade, so I went ahead and stopped. Plus, I was hungry, too, because it was already getting late. So I decided to go ahead and stop, take a lunch break, and call Ted and ask him if I could borrow a blade from him.

Q Now, in borrowing this blade, what was your intention with the blade? What were you going to do with it?

A Well, my intention was to cut the underpinning, because the blade that I had, if you know anything about cutting wood or materials, a fine blade will not chip or scar wood as bad. Well, with this vinyl underpinning, it is very thin, and if you use a wide-toothed blade on that, it will just chip it, tear -- it'll leave big, old gaps in it. So --

Q What is the underpinning made of?

A Some kind of thick vinyl or hard plastic.

Q There's no wood composition to it?

A No. No.

Q Did you later learn from your father-in-law that it would have been better to cut it with shears?

A Yes. I just -- I didn't have that kind of tool.

Q Did you know that at the time? Did you know that shears would have been better than a saw?

A No, because I had seen it cut with a saw before.

Q All right. What time did you go in to eat your lunch?

A It wasn't long after I got there. Before -- I probably went in before 2:00.

Q Do you know what time you left your mobile home, to go back to the area of Lyles, to get the saw blade?

A By association, I left around 3:00 o'clock or --

Q Why did you --

A -- shortly after.

Q What's the -- I'm sorry. I didn't mean to interrupt you.

A I'm sorry. It was actually a few minutes after 3:00 that I left.

Q And you say "by association." Will you explain to the jury what you mean by that.

A I went to Southeast High School, and I knew from experience that Southeast High School gets out at 3:15. And when I went by the school on my way to Lyles, the parents were lined up outside the school, because -- because the school was getting ready to let out. It -- the place was packed when I drive -- drove by there, so I know it was about 3-- it was almost 3:15, 3:10, 3:15 when I drove by the school, so it had to have been after 3:00 when I left the house.

Q And did you tell one of these investigators subsequently that you had left around the time the school gets out?

A Best I can recall, the -- on the first interview, where I talked to Agent Munroe, I told -- I made Agent Munroe aware of that.

Q How long did it take you to get from the area of Southeast School back to Lyles?

A About 20, 25 minutes from there. It -- I probably arrived at Lyles right around 3:30, 3:35, sometime in that

period.

Q And what's the -- did you have some garbage with you?

A Yes. I had taken my trash with me. And upon arriving, I threw that out of my car, so it wouldn't stink my car up anymore.

Q And what was your reason for taking that up in the direction of Lyles?

A Kimberly and I don't have trash pickup, and so, it was convenient for me to just take it up there and throw it in Ted's dumpster.

Q All right. And did you speak to Ted that afternoon?

A Well, when I arrived, that was the first thing I done, because I happened to catch him when he wasn't busy. So that was -- I got the saw blade from him and we talked for a minute, and then that was it. I went out from there, and I think I helped one of his employees work -- well, I know I -- I helped him -- I helped one of his employees, Steve, he was out on the lot, trying to build dog houses.

Q Is this individual named Steve Swaney?

A Yes.

Q And you -- had you worked with Steve before on assembling dog houses?

A I believe on -- I believe on the same day, that earlier -- I think earlier, maybe, that morning, on the same day, I had tried to direct him in cutting out parts for the dog

houses.

Q Did he have difficulty doing it?

A Steve was very slow in learning. Like I said, I believe that morning, I had tried to show him. And then, again that afternoon, I knew that he was having a difficult time, so I -- again, I tried to -- tried to help Steve. But he was very slow to catch on.

Q All right. Now, do you recall what your activities were after that?

THE COURT: Well, let's stop there.

MR. HATFIELD: All right.

THE COURT: Let's let the jury take a morning break.

MR. HATFIELD: Yes, sir.

THE COURT: Mr. Kimble, you may step down a moment, please.

Members of the jury, we're going to take the morning recess. It'll be about a 15-minute recess. Remember the instructions the Court has previously given you.

(The witness left the witness stand.)

(The jury left the courtroom at 11:32 a.m.)

THE COURT: 15 minutes.

(A recess was taken at 11:33 a.m.)

(Court reconvened at 11:48 a.m. The defendant was not

present. The jury was not present.)

(The defendant entered the courtroom at 11:49 a.m.)

THE COURT: The witness return to the witness stand, please, sir.

(12 jurors entered the courtroom at 11:49 a.m.)

MR. HATFIELD: Your Honor, could we approach on a scheduling matter?

THE COURT: Yes, sir.

Mr. Panosh.

(Counsel conferred with the Court at the bench.)

(Three jurors entered the courtroom at 11:51 a.m.)

MR. HATFIELD: All right. Are you ready for the witness, Your Honor?

THE COURT: Yes. Go ahead.

(The witness returned to the witness stand.)

CONTINUED DIRECT EXAMINATION by MR. HATFIELD:

Q Are you ready to proceed, Mr. Kimble?

A Yes, sir.

Q All right. Now, Mr. Kimble, you were talking about your activities at Lyles after you returned there in the afternoon. Will you just very briefly tell the jury what you did at Lyles before you left and what time you left.

A Okay. I arrived there, threw the trash out. I got the saw blade from Ted, while he wasn't busy. And then from there, I helped Steve Swaney. I tried to help him. I

finally ended up giving up. I just -- because I needed to get back home and get back to my own thing and get started on the underpinning, so -- and so, I just went ahead and I got ready to leave.

And before I left, I talked to James Ogburn for a few minutes. And I had waited on, I think, one or two customers before I left. I had kidded James about buying my car. Well, actually, it was Kim's Camaro. Because Kim and I had discussed that, but had never really made a legit -- had a legit conversation about really selling it.

Q Now --

A And --

Q All right. Have you finished your answer?

A I'm sorry. Well, you asked me what time I left. I left approximately around -- sometime after 4:15.

Q Did you -- are you absolutely sure that you did not get to Lyles on or before 3:20 p.m. that day?

MR. PANOSH: Objection. He never testified to --

A I didn't --

THE COURT: Sustained.

MR. HATFIELD: I believe he said he got there at 3:35.

Q What time did you say you got to Lyles that day?

A Sometime around 3:30, 3:35. It would have been impossible for me to have been there at 3:20.

Q So you have no personal knowledge of whether or not Ted Kimble called Patricia Kimble at her place of employment at Cinnamon Ridge at 3:20 p.m.?

A No.

Q Now, you say you left at what time?

A Left where?

Q Lyles, to go home.

A Oh. Sometime after 4:15.

Q And how long did it take you to drive home?

A 25 -- 25 minutes, something like that. That's the average drive.

Q And do you know what time you got home, or did you pay any attention to what time you got home?

A I didn't pay it any mind. I just pulled up in -- pulled up in the driveway, got out and started working.

Q And were you working when you finally saw James Stump a little later?

A Yes.

Q Now, Mr. Kimble, what time did your wife get home that day?

A Kim got home at 5:40.

Q And how do you know that?

A Well, she told me. I got the information from her, because I don't know her average time of getting home. I wasn't certain, but she told me she gets home every day at

5:40.

Q Now, after she got home, what did you do, do you recall?

A From the time she got home, I began getting cleaned up. I got my tools put away, and started -- I went in and took a shower, and changed real quick, so that we could go over to her parents' house. She had some kind of order to -- Christmas order or something to get ready with her mother.

Q Now, were you planning on going back to Camp Lejeune? When were you going to go back to Camp Lejeune?

A I actually -- I actually had wanted to leave that evening, and I would have left shortly after the time that Kimberly got home, but Kim wanted me to stay and get a good night's rest and just leave early in the morning.

Q So was that what your plan was?

A Yes.

Q Do you remember when you were due back at Camp Lejeune?

A I had to be back at Camp Lejeune on Tuesday at 12:00 o'clock.

Q Now, on the evening of the 10th of October, after it was recognized that Patricia had died in the fire, and that -- and I believe after it had been recognized what her cause of death was, did you go to Reuben Blakley's house?

A Yes. I rode over with James Stump to Reuben Blakley's house, to meet the family.

Q Do you know what time that was?

A I only remember that it was still daylight. I don't recall the time.

Q What was your intention in going over there?

MR. PANOSH: Object.

A To meet --

THE COURT: Overruled.

A To meet with the family, to meet with both the Blakley family, the Kimble family.

Q And was that sort of a little private gathering of just close relatives?

A Basically, close relatives and close friends.

Q Do you remember on that day when you actually learned what her cause of death was?

A I'm not certain. I know sometime that evening, I knew, because of information that I had gained from people there.

Q Did you personally address Richard Blakley or Reuben Blakley or any of the close relatives?

A I had actually met -- the first time I had actually met some of the family was at the church, on the 9th. Well, actually -- excuse me, it was the 10th. It was the -- it was early morning hours, though. And -- but there, at Reuben's house, I met many of the other members of the family. In fact, I met Patricia's grandmother, and I recall hugging her. And some of the other family members. Ms.

Blakley.

Q Do you recall leaving the Blakleys' with your brother, to run some kind of errand?

A Yes. My mother asked me to ride with Ted --

MR. PANOSH: Objection.

A -- uptown.

THE COURT: Sustained.

A He had to --

Q As a result of something that your mother said to you, did you do anything with Ted?

A Yes. My mother asked me to ride uptown with Ted.

MR. PANOSH: Objection.

THE COURT: Sustained.

Q Without telling specifically what your mother said to you, just tell what you and Ted did.

A I went uptown with Ted. The understanding that everybody had was that, Ted was asked --

MR. PANOSH: Objection --

A -- to --

MR. PANOSH: -- please.

THE COURT: Sustained.

Q Were you afraid for some reason concerning Ted?

MR. PANOSH: Objection.

Q What was your feeling about --

THE COURT: Overruled.

Q -- Ted's state of mind at that time?

MR. PANOSH: Object to feelings.

A Ted was very --

THE COURT: Overruled.

Q You can go ahead and answer.

A Ted was very emotional and upset, more so when he got to himself than openly around people. And that was the main concern. It wasn't -- that was not only my concern, but other people's concern, that they didn't want him to be alone.

Q So what happened?

A So, so that he wasn't alone, I rode uptown with him. He was asked to pick up some business --

MR. PANOSH: Objection.

A -- records of --

MR. PANOSH: Objection.

THE COURT: Sustained.

MR. PANOSH: We ask that be kept out --

THE COURT: Sustained.

MR. PANOSH: -- as hearsay.

MR. HATFIELD: Well, I don't -- I think --

THE COURT: Sustained. Move on.

MR. HATFIELD: Well, just a minute, Your Honor.

He was in the middle of answering a question, and he got interrupted by the DA.

THE COURT: Well, the DA had a right to interrupt at that point, because that was matters that the Court had previously ruled on.

MR. HATFIELD: I thought that everything that Ted said comes into evidence in this case. It does for the prosecution. I would like to know if it does for the defense. Otherwise, I'll --

THE COURT: The Court's --

MR. HATFIELD: -- stay away from it.

THE COURT: -- already ruled on it. Move along.

Ask the next question.

Q What did Ted tell you he was doing?

A The purpose of going uptown was to obtain --

MR. PANOSH: We object, unless --

A -- records of --

MR. PANOSH: -- Ted said it.

THE COURT: Sustained.

Q Did Ted tell you what you were doing on this trip?

A Yes, he did.

Q What did he tell you?

A I was told the purpose of going uptown was to pick up prior employment records of prior employees that had worked at Lyles Building Material.

Q And did Ted tell you what the purpose in doing that was?

A The purpose of that was for the investigators.

Q And did you do with Ted?

A I rode with him and walked in the office with him. I don't know what all he acquired while he was there.

Q Did he show you what he found?

A No. I don't -- as far as the employment records, I don't think he was able to find them. Patricia -- Reuben Blakley and his wife had found Ted a flashlight, and it didn't work. So he -- the building that he needed to obtain these records from, he was -- there was no lighting in that building, where he stored his files, so he wasn't able to find the files, without being able to see them, because it was already dark.

Q After you -- after he finished doing this -- By the way, did you even get out of the car?

A I had got out and walked in the office with him. And I think I walked over to the door of this garage out on the lot. But -- and then I -- that was the extent of it.

Q Did you see any papers that he may have obtained?

A He didn't obtain any paper -- papers from the building, but he did obtain some things from the office.

Q What were those?

A He took a box and he went in the bottom drawer of his desk and pulled out a stack of magazines and put those in the box, and some other -- I don't -- I don't know what all

he put in the box. He put some various things in this box. And after that, we went out of the office, and that was when he went to the building, and he couldn't get the flashlight to work, so then we left.

Q And where did you go?

A We went somewhere down the street and -- to a local dumpster, and he tossed the magazines.

Q And did you go anywhere else?

A From there, we went to my house, to pick up some food that I had forgot to bring. Some friends -- some friends of ours had brought some food over for the family, for me and Kim to take over to the gathering. Well, it was actually for us, but we decided to take it over there and share it with the whole family. And so, Ted and I went to my house, to pick up that food that I had forgot to carry with me.

Q And then did you go directly back from your house to the Blakleys'?

A Yes.

Q And did you give the Blakleys the food?

A Yes. Well, I mean, we took it in the kitchen and sat -- unwrapped it for everybody.

Q Was there other food there in the kitchen, too, that had been brought by friends and others?

A Oh, yes, there was plenty of food donated by friends of both families.

Q Now, during this trip back to town with Ted, did he in any way indicate to you that he had been responsible for Patricia's death?

A No, not at all.

Q Did he give you any instructions on what you were to say or not say and do or not do?

A No. There -- there wasn't much discussion. The best I can recall, Ted was emotional. I asked him how he was doing, how he was handling it. And I felt really bad for Ted. (Crying.)

Q All right. Now, did Ted promise you money on that occasion?

A No.

Q Did he promise you money on any other occasion?

A No.

Q Has Ted ever given you any money?

A In regards --

Q Has he ever given you any money since Patricia's death?

A No.

Q Has Ted conferred upon you any other benefit that he may have thought was -- you were deserving of, because of something he may have thought you did in connection with Patricia's death?

A No.

Q Now, do you recall in January of 1997 being directed by your superiors in the Marine Corps to go to Portsmouth, Virginia?

A I'm sorry. What was the date?

Q In January of 1997 --

A Yes.

Q -- were you directed by your superiors to go to Portsmouth?

A Yes. I was directed by the naval hospital. They had -- through the hospital, they had set up an appointment for me to have a sleep study done. I had already prior had one done, and they were sending me again, because the outcome of the first results.

Q What was the outcome of the first results, if you know?

A The first results did not really show anything that -- Should I describe the purpose of the test that --

Q Just as briefly as you possibly can, answer the question for the jury.

A The purpose of the test is to rule out narcolepsy. There are many number of sleep disorders. And the main goal of this particular sleep study is to rule out obstructions, such as nasal, when you have trouble breathing, because you have problems sleeping, or narcolepsy. That was -- that was the purpose of the second series of naps.

On the first results, the only thing that I was ever

told -- and I was told by the person that conducted the test -- that I fell asleep at the rate of an elderly person, and that I slept more than the average person. On the series of naps, I did go into the dream state on one time, and I almost went into it a second time, but -- which would -- which would prove that I have narcolepsy, but I -- since I didn't go into it the second time, they aren't certain. But that does not necessarily rule out the fact. I could still have narcolepsy. They made that clear. It is just -- that is just a test that they do, to try to see whether or not you have it.

Q All right. Now, were any physical obstructions repaired at any time during your tenure in the Marine Corps?

A After the first sleep study was done, a period of time passed. They did fix my nose. The cartilage in my nose was to the right, which caused an obstruction in my right nasal passage. Therefore, I did have a little bit of snoring. And in order to rule that out as a possibility of the cause of my sleep disorder, they went ahead and fixed that.

Q Now, did you go to Portsmouth for a subsequent study?

A I'm sorry?

Q In January of 1997, did you go to Portsmouth for a -- were you previously talking about studies that were done at Camp Lejeune, or were you talking about --

A I was talking about the previous studies done. And

that was actually -- the first study was done up there in Portsmouth, Virginia.

Q Now, when you went to Portsmouth, were you given a durational pass, like a 96 or something like that, to get this treatment covered by your pass?

A I was giving -- given -- actually, it -- the way the military works, they gave me orders to go there, as though I were going to be stationed there, but it was only a temporary -- temporary orders.

Q So was it a combination of an order and a leave combined, or was --

A No.

Q -- there any --

A No. This was on the -- this was done -- this test was done by order of the Marine Corps, and it was done on orders, and not on vacation time.

Q All right. Now, did your wife, Kim, go up there with you?

A I had found out that -- I was told by admin that --

MR. PANOSH: We object, please.

THE COURT: Sustained to what they may have told you.

Q As a result of whatever it was that admin said to you, did Kim go with you?

A Yes. By recommendation of the doctor, my wife rode

with me up there.

Q And were your expenses for the sleep study at Portsmouth paid for by the Marine Corps?

A Yes.

Q So do you know what night you spent in Portsmouth in the hospital?

A Yes. Wednesday night.

Q And did Kim stay in public accommodations somewhere in town?

A She stayed at the Holiday Inn.

Q What time did you get to Portsmouth to begin the study?

A If I had to guess, it would be maybe around 5:00. I don't really recall.

Q Were they ready for you, or did they just have you -- did the study begin then or when did it begin?

A No. I went over and checked in at the hospital, to let them know that I was there. And after checking in, they told me what time I needed to be there. I believe I needed to be there at 9:00 o'clock to begin this sleep study.

Q Did they tell you anything about what you could eat and drink before the study?

A No. As I could -- as normal. I could eat anything I wanted to.

Q All right.

A Now, they recommended no -- I think no tobacco use, no

drinking, that the -- normal things.

Q So you had to forego dipping snuff; is that right?

A Yes.

Q All right. So did you show up at 9:00 clock, as directed?

A Actually -- I'm sorry. I answered that incorrectly. They actually told me, since I had been dipping the amount of time that I had, it wouldn't make any difference on the test anyways.

Q Okay. So --

A And I'm sorry. What was the next question?

Q All right. What time did you show up for the study?

A For the --

Q Did you show up in the evening, as directed, after the --

A Yes. I showed up after -- after we had made accommodations for Kim, she dropped me back off at the hospital for the test.

Q And were you then connected to electrodes and put to bed?

A Yes.

Q What happened the next day?

A The next morning -- they allow you to sleep approximately eight, eight and a half hours. After this, they wake you up, and you go through a series of naps. They

wake you up. I think the period of naps were like an hour, hour and a half apart. They wake you up. You eat breakfast. And like an hour, hour and a half later, you lay down and go back to sleep, and for a period of -- period of five naps.

Q All right. So how long did the study continue the following day?

A I was finally finished sometime, I believe, around 5:00 the next evening.

Q So the test lasted from Thursday -- from Wednesday evening, when you checked into the hospital, and beginning at 9:00 p.m. --

A Yes.

Q -- until approximately 5:00 p.m. the following afternoon; is that correct?

A Yes.

Q So the duration of the study, when you were actively involved in the study, was approximately 20 hours, is that right, from 5:00 p.m. --

A Yes.

Q -- from 9:00 p.m. until the following 5:00 p.m.; is that right?

A Yes.

Q And during that period, did you see Kim or anyone else, just the testers and professionals associated with the test?

A Right. I think Kim came over the next day, and I seen her some in between the naps.

Q Now, did you feel that the test went as expected?

MR. PANOSH: Objection.

Q Were you able to participate and follow all of the --

THE COURT: Overruled.

Q -- directions given to you by the testers?

A Yes.

Q Did you have any difficulty with the test?

A No.

Q When you left, when you were released, at 5:00 p.m. on Thursday, did you have any residual bad effects from spending a night being tested?

A Just the usual results expected from them, you know. You're -- despite the amount of sleep you've had, you're pretty worn out.

Q Did you still have glue on your body from the electrodes?

A Yes. Mainly in my hair, where they had glued the electrodes to my head.

Q Now, at 5:00 p.m., you were in Portsmouth, Virginia. Did you get in the car and start driving west, toward Lynchburg, Virginia?

A Yes.

Q Do you know how long it took you to get to Lynchburg,

Virginia?

A I don't remember specifically. I think it was about a -- I want to say a four-hour trip. I'm not certain.

Q Pretty well across the state, from the coast to the foothills of the mountains?

A It was a good ways. And I think we actually went out of the way by about an hour.

Q You got lost?

A Well, yes and no. We could have went -- there was a better way we could have went, but we missed our turnoff, so we continued -- I believe we continued on the way that we were going, because we could still get there that way, too.

Q Now, when you got to the Lynchburg area, did you immediately call the Whidden family, or did you do something else?

A I actually -- we actually called them, I believe, about an hour before we ever arrived. Kim and I stopped -- were getting pretty hungry, because it was so late, and we hadn't eat. So we stopped at Shoney's. And I believe from there, it was about an hour drive. But before we left, I used the pay phone there and called Mitch and his wife, to let them know that we were coming -- going to be coming -- getting there shortly.

Q And do you know how much time it took from the Shoney's location until you finally got to the campus of Liberty

University?

A I believe that was about an hour.

Q Do you know where that Shoney's was located?

A If I were given a map, I might -- I might could -- well, actually, I wouldn't have a clue.

Q All right. Now, do you know what time you got to Liberty University campus?

A Sometime after 9:00.

Q After 9:00 p.m.?

A I'm guessing sometime after 9:00.

Q Did you know how to find the campus?

A Yes. The campus was not hard to find. There were -- there were signs on the highway, directing you to the campus.

Q Did you at that time have any idea where Mitch and his wife lived?

A No, huh-uh.

Q But you did know his telephone number?

A Yes.

Q And had he assured you in the call from Shoney's that you were welcome to stop by his house?

A Well, actually, that was arranged before I had ever -- Kim and I had ever left for Virginia, that was already arranged.

Q So, when Mr. Whidden said that you arrived

unexpectedly, did you arrive unexpectedly?

A No.

Q Now, when you got to Liberty and called Mr. Whidden, did he come over to pick you up?

A He met us at the campus. There was a ball game going on, and the place was packed. Even the median going out to the main road was packed. We pulled up in the grass median there at the front of the college campus, to watch for him when he come in. And I had seen his car before, at Camp Lejeune, and so I knew -- basically knew what to be looking for.

And when he came over to meet us, he had his little son with him, and we -- I motioned with the lights, I believe, and waved my hand, and he went up and turned around, and we went ahead and followed him back to the house. I think -- I think he had to stop and get some gas on the way back to the house. I don't think he had enough gas to get back to the house, though.

Q What time did you all get to his house?

A Sometime around 10:00.

Q And was his wife still up at that hour?

A Yes.

Q Did he have any other children?

A They had a -- had a, I believe, an infant.

Q What arrangements were made for you and Kim by the

Whiddens that night?

A They said that we could stay in their child's bedroom, which is right next door to their bedroom. And we slept in the floor on a mattress.

Q Was that an uncomfortable situation for you and Kim?

A It might have been for Kim. For me, I can sleep anywhere. So --

Q Wasn't bad for you?

A Huh?

Q It was not bad for you?

A No.

Q Did you sleep the whole night?

A Yes.

Q And do you know what time you all got up the next morning?

A It was early. I think it was sometime after 7:00.

Q And what activities did you and the rest of the people engage in during the early part of the day?

A Well, I think his wife got up and fixed him some -- I don't remember. Basically, the plan was for me and Kim to drive Mitch to school and for us to check out the college campus.

Q Is that what happened?

A Yes.

Q During the classes, did you notice any sleepiness?

A I fell asleep.

Q Did the teacher notice that?

A I don't -- I don't know if the teacher did or not.

Q In any event, did you -- after that, did you and Kim make a decision, about how you wanted to spend your time?

A We decided to go ahead and go look around the campus a little bit. At that point, Mitch went with us. He took -- actually took us to the -- to I think the dean's office. I don't know if Dr. Wilmington is the dean or not. I think he's the dean. He -- we had wanted to see him while we were there, and we tried to go over to his office and see if maybe he was there, because he was actually supposed to be teaching a class. He wasn't there. Mitch showed us the little chapel there in the middle of the school campus. And from there, I think we took him back to class. And so --

Q So some of this --

A -- then Kim and I went back and looked around a little bit.

Q So, was some of this riding around in the vehicle, to look at the campus, rather than walking?

A Oh, yes.

Q Was it a big campus?

A Fairly large.

Q So you left Mitch off, for him to resume his attendance at classes?

A Yes.

Q And what did you and Kim do?

A Kim and I -- I can't remember where we went from there. I think we may have looked around the campus a little bit more. I know that after we left him, we went over to a little -- I can't say -- well, it was sort of like a -- a restaurant where it's an all-you-can-eat bar. It was very modern and -- but the cooking was like home cooking. It was really good food. They had a good variety. I would rate it better than Golden Corral.

Q And you had lunch with Kim there?

A Yes. We ate lunch there and then returned to the campus.

Q Did you find Mitch again?

A Yes. We returned to pick him up, because we knew it was about time for him to get out of class.

Q And then what happened next, please?

A We had tried to see Mr. Falwell, but we were unable to catch him at that point. I don't think he was in the office. So then we went ahead and went back to the house.

Q You and Mitch and Kim went back to Mitch's house?

A Yes.

Q Was Debra there?

A Yes.

Q And what happened then?

A We still tried to call Dr. Falwell's office. And during that period of time, we played games and watched a video.

Q And what was the video?

A Jerry -- it was a debate between Jerry Falwell and Flynt.

Q Larry Flynt?

A Yes, Larry Flynt.

Q Is he the owner of Hustler magazine?

A Yes.

Q Is Hustler magazine pornography?

A Yes.

Q And what was the debate about?

A Basically, there had been hard feelings between him and Jerry, because he had made some nasty comments about Jerry and his mother in one of his magazines. And basically, the -- the debate was on pornography. Jerry, of course, due to our beliefs, does not believe in that. And that was the big debate. And the whole time, Flynt was basically trying to down Jerry, and Mr. Falwell was basically patting him on the back, telling him he loved him.

Q So, who owned this video? Is this something that you and Kim had brought with you, or did this belong to Mr. Whidden?

A That belonged to Mitch.

Q And did you notice, was there a lot of enjoyment in the room while you and the Whiddens watched this video?

A Yeah, we had a good time.

Q Do you know how long you watched it?

A It may have lasted 30 minutes. I don't remember the variation of time.

Q Now, other than watching this debate between Jerry Falwell and the pornographer, Larry Flynt, was there any other reference to pornography that day?

A No, not at all.

Q Did you at any time tell Mitch Whidden that you had a problem with pornography?

A No.

Q Do you have a problem with pornography?

A Would you be more specific, as --

Q Well --

A -- far as problem. I don't have any.

Q You don't have any pornography?

A No.

Q Do you -- have you told Mitch or anyone else that you had some kind of problem with it?

A No.

Q That you wanted to have it, but knew you shouldn't, or something along those lines?

A No.

Q So are you saying to the jury that there was simply no discussion of pornography with Mitch Whidden?

A I can't say that. I have discussed pornography on occasion with people. And I have had it in the past, and I chose not to have it, because of the fact it is contrary to my beliefs. And therefore, basically, at the time that I knew Mitch Whidden, my only problem with pornography was that I didn't want it around me, and I had told my roommates "If you leave it laying out, you'll find it in the toilet."

Q All right. Now, after you watched the video, what time was it, or do you know?

A Sometime between -- sometime around -- I guess around 1:00, 2:00 o'clock in the afternoon.

Q And what happened next, please?

A We -- well, I can't remember the time frame, because I know we watched the video. And then Kim and I went back over to the college again, to see if we could catch Dr. Falwell. And he was in a meeting at the time, but his secretary told us to wait. And he did come out for a minute and meet with us.

Q And did you get to talk to him?

A Yes.

Q Did he remember you, from prior meetings?

A I'm not certain that he remembered me, but he did -- certainly remembered my father.

Q Now, how long did you get to talk to Dr. Falwell?

A It was very brief. He didn't have a lot of time. He's a very busy man. And so, we just stood right there in the receptionist's area. And he talked to us maybe five minutes.

Q Did he -- did you tell him that you had any concerns about the sleep test you'd been going through the day before?

A It wasn't so much the sleep test. My only concern -- my biggest concern was falling asleep in class. I was afraid that I would not make a good student, because of that. I was afraid that I wouldn't learn what I needed to learn, from falling asleep in class.

Q At that point in time, did you feel that you had received a calling from the Lord to enter the ministry?

A I was not certain of that. I was praying about it. And I wanted it to be God's calling, and not man's calling. I know that I have had lots of influence from friends that -- and associations that have influenced me to go into ministry, but I was really still searching for God's calling.

Q Did you tell Dr. Falwell anything about that?

A I asked him, as I have many pastors, "What made you feel that the Lord called you?"

Q Did he tell you?

A I believe he did. Or actually, I don't remember if -- what his response was to that, but he assured me and encouraged me to come to the school.

Q All right. After that, what did you do next?

A From there, Kim and I went back to the vehicle and left. Well, actually, I do recall. He -- before we left, he gave us a book and autographed it. And he autographed my Bible. And so, then from there, we left and went back to Mitch's house.

Q What time was it then?

A Oh, it was getting on later into the evening. I believe at that time, we had discussed going to dinner.

Q And so, did the entire group go to dinner?

A Yes.

Q Now, while you were at dinner, was there any point in time when either Kim went to the food line without you or you went to the food line without Kim?

A Not that I recall, because I was sitting on the outside. And I believe we only got up and went to the bar once after the initial first time getting our food.

Q So this was a serve yourself, all-you-can-eat arrangement at this particular restaurant?

A Yes. Now, Mitch expressed, when he testified, that you ordered your meat. I don't remember how that worked. I thought that there was meat on the bar. But I've only been

there one time. I certainly would not argue that.

Q Now, do you know how old the children were at that time?

A I believe one was an infant and the other one was about three to maybe four years old. He was very rambunctious and playful.

Q Did the infant -- did they have one of these plastic recliners for the infant, that you can carry, sort of like a basket with a handle, so that you can carry the infant? Was that the arrangement? Or did Debra Whidden carry the infant under her arm?

A I think she carried the baby under the arm. Now, I don't -- they may have had one. I don't remember. I remember that they had a child seat in the -- in the van.

Q Was that for the older kid?

A No. That was for the baby.

Q That was for the baby?

A Yes.

Q So what were the arrangements in the van for the three-year-old?

A Just buckled in.

Q Was Mrs. Whidden occupied tending her baby the entire time?

A Entire time that we were there?

Q Time in the restaurant.

A Oh. I believe the baby --

MR. PANOSH: We object to --

A -- was sitting --

MR. PANOSH: -- leading, please.

A -- in a child --

THE COURT: Overruled.

A -- seat at the end of the table. I'm not certain. The best I can recall, the baby was sitting in the child seat.

Q All right. Was there any occasion when either Mrs. Whidden or Mr. Whidden would have been able to be alone with you, without Kim being there?

MR. PANOSH: Object to leading, please.

A None that I --

THE COURT: Overruled.

A -- recall at all.

Q Now, did you at any time indicate to either of the Whiddens that you had misgivings about your past life, that you were not sure you'd -- you were the right kind of person for the ministry, and such things as this?

A No.

Q Did you at any time use the term "haunted"?

A Haunted is not even a word that I would use in my vocabulary, unless I'm referring to a haunted house at Halloween time.

Q You would not describe yourself under any circumstances

as haunted?

A No, not at all.

Q Do you say to this jury that you've never said that you

--

MR. PANOSH: We object, please.

THE COURT: Sustained.

Q Tell the jury whether you've told those people you had a haunted past.

A No, I did not.

THE COURT: Let's stop for lunch.

MR. HATFIELD: Sir?

THE COURT: Stop for lunch.

MR. HATFIELD: Yes, sir.

THE COURT: Step down, sir.

(The witness left the witness stand.)

THE COURT: Members of the jury, at this point the Court's going to allow you to take your luncheon recess. You need to be back at 2:00 o'clock. Please remember the instructions the Court's previously given you, the jury responsibility sheet.

Have a nice lunch. And I'll see you at 2:00.

(The jury left the courtroom at 12:29 p.m.)

THE COURT: Let me see the attorneys up here about an administrative matter.

(All three counsel conferred with the Court at the bench.)

THE COURT: 2:00 o'clock, sheriff.

(A recess was taken at 12:30 p.m.)

(Court reconvened at 2:00 p.m. The defendant was present.

The jury was not present.)

(The witness returned to the witness stand.)

(The jury entered the courtroom at 2:01 p.m.)

THE COURT: Pleased to have the panel back. I hope each of you had a nice lunch and feeling okay. Anyone having any problems this afternoon, if you'll raise your hand, I'll be glad to talk with you about that.

Okay. You may continue.

MR. HATFIELD: Thank you, Your Honor.

CONTINUED DIRECT EXAMINATION by MR. HATFIELD:

Q Mr. Kimble, after you and the Whiddens finished with your supper at the restaurant, what happened next?

A We -- Mitch and I went to the van and -- with the children, and Kim and Debbie -- excuse me, Debra, they went window shopping, or they walked through, sort of -- I can't really explain it. The way it was set up, the restaurant was on this end (Indicated), and there were other stores on the other side of the building. So, somehow they walked through the building and met us over on the other side. We drove around in the vehicle.

Q Who carried the little infant at that time, do you know?

A I believe I did.

Q All right. And when you got to the vehicle, did you all put the kids -- did you put the infant in the car seat?

A We buckled the child -- the infant in the car seat. And little Mitchell got up in the seat next to the baby and buckled in.

Q And then you and Mitch drove around to meet the women?

A Yes.

Q Did you discuss anything with Mitch while you were in the van by yourselves?

A I don't recall any discussion at all. We may have spoke, but I don't recall any discussion at all.

Q Any discussion of pornography or anything like that?

A No.

Q Any discussion of a haunted past?

A No.

Q Any discussion of whether you were worthy to join the ministry?

A No.

Q Did you and Mitch eventually park the van and get out and meet the women?

A Yes. We met on the other side. I believe the ladies were still outside.

Q And how long was the drive that you and Mitch took?

A Oh, it was just around the building. That's the reason

I say there was really no discussion. There wasn't even time for really any conversation, because we just drove around the building and parked again.

Q All right. Now, then, what did you do after you got back out of the van?

A We met with the girls outside of Best, and we went inside Best to look around.

Q And how long were you all in Best?

A We were there for a little while. We were looking at what they had left. Basically, Best was going out of business, and they kept discounting -- each week, they would reduce the prices like 10 percent off, 80 percent off, whatever, they kept lowering the prices. And we looked around throughout the store. There wasn't a lot left of any great value to me. The only thing that Kim and I came across, I had found the office chairs had been marked down to, I believe we paid about \$15 for it. And that was a great price. Kim and I had a little office at our house, so that's the reason I decided to get the chair. When -- I believe Mitch -- I believe I showed the same thing to Mitch. And at that time, Mitch and Debra decided to buy one, also.

Mitch was looking at a portable speaker microphone, they're referred to as a karaoke machine, and he was considering buying that. I thought it was overpriced. In fact, I convinced him "Well, if you're going to buy it, at

least try to see if the manager would come down on the price." And the manager wouldn't -- I asked the manager for him, he wouldn't come down on the price, so he didn't buy it.

Q So, how much time did you all spend in that Best store?

A I'd say a good hour.

Q And what time was it when you were getting ready to leave?

A At that point, I'm not sure. I was out of town. And under those circumstances, I wasn't paying a lot of attention to the time. It was a leisure thing, it was a thing of enjoyment, so I just did not pay a lot of attention to the time.

Q How would you characterize the mood of you and Mitch Whidden?

A Everything was great. I had a good time.

Q Now, at that point in time, you already knew that there had been a telephone call from Detective Church, didn't you?

A Yes. That was prior to us going to dinner.

Q Did that call and the discussions that followed that call have any effect on your mood?

A Only at the moment, it sort of irritated me.

Q It was described earlier in this trial that you were angry. Is that fair to say?

A I wouldn't say angry. I was just irritated.

Q And did you let your irritation show to the Whiddens?

A I wouldn't think so, because -- there was a little bit of -- there was a little bit of discussion, but very little, because when Kim got off the phone, she told me that Judy had been talking to Detective Church. I can't recall if I expressed anything at all.

Q Now, by the time you had finished dinner and shopping and everything, were you still thinking about the fact that Church was calling your mother-in-law's house?

A During dinner or anything? No. I -- I hadn't really gave it a second thought after we had left the house. Like I said, there was brief discussion. There was very little said. Mitch already knew about the situation at home, because on previous occasions, we had discussed it at the Courthouse Bay Chapel when we would shoot pool.

Q How many times did you discuss your legal problems in Greensboro with Mitch Whidden at the Courthouse Bay facility?

A I would say -- estimate approximately three times maybe.

Q No more than that?

A It -- I would certainly say three times. If it was any more or less, I don't recall. I would certainly say at least three times we discussed it.

Q Did you tell him there was some suspicions associated

with a gas receipt?

A Yes. The suspicions about -- well, actually, I wouldn't even call it suspicions. The only -- the whole thing -- there's been a lot of talk about this gas receipt. The only issue about -- concerning this whole gas receipt is, I purchased gas at Sprinkle's Gas Station. They filled the vehicle up. The gas receipt -- then I replaced (sic) the gas receipt on top of the seat of the vehicle. Now, my signature and the date was on this gas receipt. And the thing that I had -- I had told many people, I'm a very talkative person, and I told many people about this. It concerned me that the police had been doing this investigation, and they didn't even know that I had left a gas receipt with my signature and the date on it sitting in that vehicle? That was what irritated me. That's what made me feel like that they were doing a poor investigation.

Q Well, why didn't you pick up the phone and call Church or one of the investigators and tell them they were doing a poor investigation?

A I didn't feel it was my place to, because it wasn't my wife. And I -- I didn't know anything to tell them, to help them. I didn't know what to say. I mean, I had no involvement in that area.

Q Did you tell Mitch Whidden that you were suspected of having been seen at 6:20 p.m. near Brandon Station Court?

MR. PANOSH: Objection.

A I'm not certain --

THE COURT: Overruled.

A -- who I told, because I actually told many people that. And that came after having a discussion with --

MR. PANOSH: If he's not certain, we object, please.

MR. HATFIELD: Your Honor --

THE COURT: Overruled.

Proceed.

A That came after I was told by Detective Church that a woman had identified me by face and also had identified my car at around 6:20, 6:25, around that period of time. And I had -- just as I had expressed to him then, I expressed to my friends, there's no way. I was with my family at that time.

Q All right. Now, did you tell Mitch Whidden that these ill-founded suspicions of you being around the location where Patricia lived at 6:20, did you tell him about that?

A Yes. I expressed to him that I felt like that they were basically trying to involve me in some way or point the finger at me.

Q And did you tell -- did you also tell him, but that you had a gas receipt that would prove you weren't there at 6:20 p.m.?

A No. The gas receipt, as I expressed, that had nothing to do with any kind of alibi. The only thing that had to do with was the fact that I had left the gas receipt in the vehicle. And I knew eventually, because of that gas receipt being left in the vehicle, of course, certainly I knew that I would be questioned. And to my surprise, I was never questioned for that. I was just questioned because the fact I'm Ted Kimble's brother.

Q Now, did you suggest somehow to Mitch Whidden that that gas receipt would prove that you weren't around Patricia's house at 6:20 p.m.?

A No. In no way.

Q Did Mitch ever tell you that that's what he understood you to say?

A No.

Q Did Mitch let you know that to a certain extent, he didn't believe your explanations?

A No. He -- he had never really expressed anything of that nature to me.

Q Do you remember having a conversation with Mitch Whidden and some other chaplain's assistants, concerning whether you'd be capable of taking a life in the course of duty?

A We may --

MR. PANOSH: Objection.

A -- have, but I --

MR. PANOSH: This is too --

A -- don't remember anything --

THE COURT: Sir?

MR. PANOSH: Leading the witness, please.

THE COURT: Don't lead him, sir.

MR. HATFIELD: Yes, sir.

A There may have been that discussion. I've had that discussion with many Marines, you know. And basically, that's just a question -- that's a question any Marine should know when they enlist into the United States Marine Corps, because when you're -- at the time that you're sworn in, you're telling them that, yes, in the line of duty, that you can do your job.

Q Is that what you would have said in any conversation with Mitch Whidden, about whether you were willing to do your duty as a Marine, regardless of what that duty would require you to do?

A Certainly.

Q Now, as you and Mitch and your wives and children finished up shopping at Best Products, did you go back to the car and go back to the townhouse?

A I believe -- I believe Mitch went out and pulled the vehicle up to the building, so we could load up the chairs. We loaded those up in the back of the van and buckled the

children in, and we all got in the van and left and went back to the house.

Q Were the chairs in some kind of packing containers?

A They were in cardboard.

Q And did they need assembly?

A Yes.

Q So when you got --

A That --

Q When you got back to Mitch's location, what did you all do then?

A When we got back, the -- actually, I believe on the way back, or right when we got back, I had asked Kim if she wanted to go ahead and leave that night, because I had duty on Sunday, and I wanted to be able to get back and get some rest. But instead, we decided to leave the next morning, and then I could get -- just get some rest before I had to drive back to Camp Lejeune.

So, when we got back, since we decided not to leave, the first thing we done was, we stuck the -- our chair in our vehicle, and then we took his chair in and we began assembling it in the living room floor. I believe -- I don't know if it was right then, our -- I believe -- well, the ladies were talking at that point, while we were putting the chair together. And little Mitchell was running around the living room.

Q Now, who assembled Mitch's chair?

A Both Mitch and I did. We began -- we didn't read the directions. Most men don't. We just began -- opened up the box and began putting it together. We got the -- I think we got something backwards, but we got it right after a moment. And once we got it together, little Mitchell set in the seat and I was spinning him around, and we were playing a little bit. And I believe at that point, the ladies may have began -- they began -- yeah, in fact, they began playing the Nintendo, and Mitch and I went to the kitchen table. It's a very small apartment. So we're basically almost back to back. They're right here in the living room, and we're right here at the kitchen table. (Indicated.) We began studying the Bible. Mitch was sharing with me about the Apocrypha, which Chaplain Soutiere has previously testified to. Of course, our views on the Apocrypha and his are totally different.

And then, from there, we -- Mitch suggested that we go upstairs to pray, because it was fairly noisy downstairs, with the ladies playing the game and little Mitchell running around.

Q So how much time passed, between the time you got the chair in there and you and Mitch assembled the chair, and the time when Mitch suggested that you go upstairs, continue your discussions about the Bible?

A I would say an hour maybe. I -- I'm not -- like I said, I just was not paying much attention to the time. It was a leisure thing.

Q Is there any possibility that it was, as Debra Whidden previously stated, within five minutes?

A Within --

Q Is it possible that you were only occupied in all of those activities for five minutes, as Debra Whidden --

MR. PANOSH: We object.

Q -- previously stated?

A There was --

THE COURT: Sustained.

A It was certainly --

Q How much time -- is it possible it was as little as five minutes?

A No. It was certainly longer than five minutes.

Q And between five minutes and an hour, how long was it?

A I'd say 20, 30 minutes for the chair. Between 30 to 45 minutes maybe.

Q Since you walked in the door, to when he finally suggested that y'all go upstairs?

A Yes.

Q Now, at that point in time, were you under any emotional distress?

A No.

Q Were you sad or concerned about Detective Church's calls to your mother-in-law or anything else like that at that point in time?

A No.

Q Did you intend to discuss the circumstances of the investigation of the death of Patricia when you went upstairs?

MR. PANOSH: Objection. Leading.

A No.

THE COURT: Sustained.

Q Now, after you -- Who led the way upstairs?

A Mitch did. He led us up to his bedroom.

Q And had you ever been in that bedroom before?

A No.

Q Was the bed made?

A Yes.

Q And was it a -- and where did you and he sit?

A We sat on the edge of the bed and began discussing prayer requests.

Q Discussing what?

A What he would call prayer requests, things that we wanted to pray about.

Q And who made the first prayer request?

A I don't know.

Q Do you remember what your prayer request was?

A I don't specifically recall the things that I wanted to pray over. Certainly I wanted to pray over my health and my career.

Q And did you do that?

A As far as I recall. Now, I know Mitch was the one that led us in prayer, and that was the first thing we done. Did you want me to --

Q I just want to know if you can remember what your prayer request was.

A That was -- I can't recall what all I asked to pray for. Like I said, certainly my health was a concern, because I wasn't sure at that point what the Marine Corps was going to do. If they discharged me, with a diagnosis of a sleep disorder, certainly I would have to put that on any job application. That would limit me to the jobs that I would be able to partake. And, you know, I wasn't sure how it would affect me, as far as career-wise.

Q Now, after the prayer requests, which direction did the conversation go?

A Mitch asked me -- during discussion of the things we wanted to pray for, he had asked me "Well, how are things going at home?" And he was referring to the case. And I'm certain that he brought it up because of the earlier discussion of Mr. Church. And at that point, I basically told him that it had aggravated me enough, I had even

dreamed about it on occasion.

Q And did you go any further along those lines and tell him anything else about it?

A Well, I expressed to him a dream that I'd had. And when I say "occasion," I recall dreaming of it once or twice. I dreamed -- I felt -- I expressed to Mitch, I felt like I had dreamed of Patricia's death and her murder. And I -- basically, I could not recall the face of the person that done it. I just recall a person being in the house, a house, with Patricia, and I recall hearing a loud noise, and that's when I would wake up. Prior to that, I had said that -- prior to that part of the dream, there was an offer of a reward of \$20,000. And that was by Ted. Mitch asked me if that was blood money, and I told him "I don't know." It was just in the context of my dream, and I remember that some.

And at this point, Mitch expressed to me a dream that he had. And the key thing that made me recall this dream was the fact that he expressed to me, after he woke, that he got up and began praying about it. And it was the fact of what he prayed, was what concerned me. He told me that he dreamed that a man was abusing a child, a little girl, and he woke up and he was upset over it. He got up and began praying the Lord would kill this man. And the next day, he read in the paper that a man had died, and he told me that he felt like that was the man.

Q So, you told him about a dream you had, and he told you about a dream he had; is that your testimony?

A Yes, sir.

Q Now, after Mitch told you about the dream that he had, did you exhibit any intense emotion, such as crying?

A Him?

Q Did you?

A Oh. No.

Q Did he?

A No.

Q Now, concerning this reward money, tell the jury what you know about your brother offering a reward for the solution of the murder of his wife.

A Well, Ted had in fact, after the death of Patricia, offered a sum of \$20,000 reward to the leading -- or any information leading to the arrest of the person or persons involved in the death of Patricia.

Q Do you know when he made that offer?

A I would say within a month after her death.

Q Did you ever see any fliers that he prepared and circulated to the public?

A Oh, yes. There were fliers all over town. In fact, I recall, after that reward was offered, I recall going down to Sprinkle's Gas Station and seeing it in their shop window, and I thought that was very nice of them to display

that for us.

Q Now, where was your brother going to get \$20,000 to pay a reward?

A I don't know.

Q Did he tell you he'd give you \$20,000, if you could figure out who killed Patricia?

A Well, that reward was, as far as I know, would be open to anyone.

Q Did you think that you might be able to solve the crime and get that money?

A No, not really.

Q Did you tell Mitch Whidden that because of the --

MR. PANOSH: We object to leading, please.

THE COURT: Don't lead him, sir.

MR. HATFIELD: Your Honor, I'm going to ask him things that Mitch Whidden testified to. I don't believe that's leading. If Mr. Whidden testified to it, I think I have a right to ask him if he said it.

THE COURT: Well, rephrase your question.

MR. HATFIELD: Yes, sir.

Q What did you tell Mitch Whidden about your expectation of receiving any money in consequence of Patricia's death?

A I never told him anything about receiving any kind of money.

Q Well, what did Mitch Whidden say to you about money

that day?

A Like I said, the only -- the only mention of money was the \$20,000. And he asked me if there was -- if that was supposed to be blood money. And I told him I didn't know. It was in the context of my dream.

Q Did you tell Mitch Whidden that you felt that that -- that you were unworthy to have that money, that it was blood money, and that when you got it, you would like to give it to him or give it to Falwell's school, or in some other way dispose of it for good purposes?

A No.

Q You never said anything like that?

A No.

Q How can you explain to this jury Mitch Whidden coming in here and saying that you said these things?

A I only have my opinions. And I certainly think that Mitch is very confused in what he is saying. I feel like Mitch jumped to a conclusion, and now he is too proud to admit that he made a mistake.

Q Now, after you and Mitch -- By the way, while you and Mitch were upstairs in the bedroom that he shared with his wife, did the little three-year-old come upstairs and interrupt you?

A Little Mitchell was running up and down the stairs, and I know Debra fussed at him, told him to stop, because he did

come up there. And I think Mitch sent him back downstairs.

Q When you went upstairs, was Debra conscious?

A Yes, she was.

Q Were you able to tell by observing her any signs that she was about to pass out?

A Not when I went upstairs. But when we came back downstairs, she was not feeling very good. She had laid down on the couch, to see if she wouldn't get to feeling any better. She went unconscious, and Mitch, I believe, got her a hand -- wet hand towel.

Q Did you do anything to help her?

A Not until later. We -- we had spent a little bit of time downstairs. Kim and I had gone upstairs to go to bed, and when we got ready to go to bed, Mitch came up and asked me if I would come back down and help me (sic) with Debra, that she had passed out again. And when I went down -- well, he asked me, because he couldn't carry her by himself. And he certainly, even if he could have carried her by himself, he couldn't have got her up the stairs, without hitting the walls. So when I went back down, I picked up Debra, and she was totally unconscious. Because -- and I know that, I am certain of that, because when we -- when I got her over to the stairs, I was sort of leaned backwards, he walked up in front of me, and he held her head and held her legs from hitting the walls. But he had to literally

hold her head up, because she was totally unconscious.

Q Is there any -- I'm sorry. Go ahead and finish.

A We got her up the stairs. And Kim was at the top of the stairs. And when I got her in the bedroom, Mitch helped me lay her into the bed, because I didn't want to just drop her, so he helped me lay her down. And I certainly right then expressed a lot of concern. I told him that he needed to take her to the hospital. If it had been my wife, I would have taken her to the hospital.

Q Now, what was his response when you suggested taking her to the hospital?

A I'm not certain of his response, other than the fact I think he was concerned about his financial well-being.

Q Did he tell you she had a doctor's appointment the next Monday, and just not worry about it for a few more days?

A That's right. I'm sorry. I apologize. I do recall he said that she had the doctor's appointment. But also, as he had expressed earlier, that the -- that this had been occurring, and the doctor said that -- just told her to eat something sweet. But my concern was that, she was passing out this often? I mean, she had already passed out downstairs once, when we came down, and then again. You know, that's what concerned me. It wasn't that she had passed out, it was the -- how close she was passing out together.

Q Now, do you know whether she was pregnant at that time?

A Yes, she was pregnant. And all the more reason that it concerned me.

Q Had you and Kim already experienced the lost pregnancy at that point in time?

A Yes.

Q And did that pass through your mind, when you saw the condition that she was in?

A Yes.

Q Well, now, can you explain to us what Mitch said to justify his not taking her to the emergency room?

A I'm not certain. Like I said, I'm not certain, other than the fact, I think -- I think the financial -- his -- their financial situation concerned him. I know that Mitch had already expressed to me that both he and Debra were working, I believe, at the same place, and they had decided to quit their jobs and live -- and what he told me was live off faith. And they were living off of school loans, is what he told me.

Q So neither one of them was employed at that time?

A No.

Q But they had advised you they'd quit their employment?

A Yes. And that was basically -- I -- actually, I was already aware of their financial condition prior to dinner, because it was actually me that had suggested that Kim and I

pay for their dinner. I felt very sorry for them. And so, there again, I think that was why Mitch was concerned about taking her to the doctor.

Q So, what else did you see that let you know they had a bad financial condition?

A It wasn't really anything that I seen. Now, I know their vehicles were not in the best of condition. But that -- you know, that didn't really mean nothing to me. The only thing that I knew of was directly what Mitch told me. And I didn't know what to think of that, both of them quitting their jobs. It -- that certainly didn't make sense to me.

Q Now, after you took Mitch's wife upstairs, along with Mitch, what happened then? Did y'all go to bed?

A Yes. After that -- well, like I said, there was discussion between us that he should take her to the hospital. He said she would be okay, so we ended up, we went ahead and went to bed.

Q Now, after you got in your room, did you and Kim make any observations together about what you just gotten through seeing?

A I'm sure we discussed it. I can't remember what we discussed.

Q Did you sleep that night?

A Yes.

Q Now, what time did y'all get up the next morning?

A Sometime before 8:00.

Q And did you ever see Debra again during that visit to Lynchburg, Virginia?

A No. She and the kids were still asleep when Kim and I got up. And we got up and began getting our stuff together, and I loaded up the Jeep. And Mitch was already downstairs and -- to see us off. And so, we packed up and got ready to leave.

Q Did you determine, from looking at Mitch and dealing with him, that he had any bad feelings toward you?

A No. Mitch acted perfectly normal. In fact, as we were leaving, he was like, you know, "Are you sure you can't stay and go to the church with us, to see Dr. Falwell?" And I told him, no, because I had to get back for duty. And basically, the reason we were getting an early start was, I wanted to get back, because I had -- you know, we had to drive back to Greensboro, and then I needed to get some rest before I headed back to the base.

Q So, you were going to head back to the base on Sunday morning?

A No. I had to go back Saturday, the same day that we left from Virginia. What had happened was, Kim and I had left, I believe, from -- I'm not certain -- I thought -- I'm not certain if we left from -- left from Greensboro or Camp

Lejeune when we went to Virginia. But I had left my vehicle at the house, and so, I needed -- here in Greensboro, North Carolina. I had to take Kim back to Greensboro, here to Greensboro, and drop her off, get my things together, and go back to base, because I had duty on Sunday morning. I had to open up the Protestant chapel and set up for services.

Q So it was never in the cards that you would get to go to Thomas Road and hear Dr. Falwell preach?

A No. There's no way we could have stayed, because of the fact I had duty on Sunday morning.

Q And yet, you say that on Saturday morning before you left, Mitch asked you if you could stay to Sunday?

A Yes.

Q Now, a few days later, did you see Mitch again?

A I don't -- I don't know when it was that I seen him. I knew that it was relatively close to the time that we had gone to Virginia.

Q But you don't agree that it was a mere four days later, on the 28th of January?

A I don't know if it's because of the period of time that it has been since then, or at that time. I knew at that time when he came down to the base, I thought to myself, it was relatively soon. I know -- I thought -- I felt it had been within a week or two weeks. I wasn't sure. I think it -- I felt like it -- it seemed like it had just been a week

prior that I had seen him. And I thought it odd, because their financial condition.

Q Now, when did you first realize down at Camp Lejeune that Mitch Whidden and his wife were in town?

A Mitch called me at my office and asked me if I wanted him to come over and meet me, to go to lunch.

Q And did his wife get on the phone?

A Yes. He told me that he wanted to come over and meet me and go to lunch with me. And she got on the phone, and she expressed she was sorry that she had passed out on me and -- me and Kim, and said that she had a good time, that she couldn't wait till we came up and seen them again.

Q There was nothing in what she said to you to let you know that she was absolutely terrified of you?

A No. She seemed very happy.

Q And she did not -- she seemed to you -- she expressed to you that she wanted to see you and Kim again?

A Yes.

Q Now, was it in Lynchburg or was it in Camp Lejeune that Mitch Whidden told you he'd like you to call him anytime?

A It -- I believe it may have been both in Lynchburg and at the base. In fact, after I had -- after we had left Lynchburg, sometime before he came down to Camp Lejeune, I know that I had tried to call him at least once, and I had got no answer at his house.

Q Now, did -- where were you and what time was it when you first saw Mitch down at Camp Lejeune?

A It was -- I usually went to lunch anytime between 11:00 and, I believe, 1-- excuse me, anytime between 11:00 and 1:00 o'clock -- excuse me, 11:30 and 1:00 o'clock, because the chow hall was open between 11:30 and I believe 1:00 o'clock. So he arrived -- when he arrived at the chapel, I was vacuuming.

Q And you expected to see him, didn't you?

A Yes. Yes. I believe it was some-- like I said, I believe it was sometime around 11:30.

Q Did he -- what was his manner and what did he say when he greeted you?

A I don't really recall. I was in the chapel vacuuming. I turned the vacuum off. I don't know how he greeted me. That I can't recall. I turned the vacuum cleaner off and I told him I'd be with him in a few minutes. I asked him if he had time to wait, so that I could finish up vacuuming the chapel and then we would go to lunch. And he said, "Sure. Go ahead." So I finished up vacuuming the chapel. I put the vacuum cleaner away. And we went by my office door and I locked up, because Dorsey (phon.), my assistant, wasn't there to watch things. So I went ahead and locked the door behind me.

Q Did you see terror and fear in his eyes?

A No, I did not.

MR. PANOSH: We object.

THE COURT: Sustained.

Don't lead.

Q Did you see any signs in his demeanor that indicated what he might have been thinking?

A No. He acted normal.

Q Did he seem friendly?

A Yes.

Q All right. So what was the first thing he said to you?

A When he got there or --

Q Yes.

A When he got there, I don't recall. I was vacuuming.

Q So, did you and he just decide to lock up and leave together?

A Well, as soon as I finished up, like I said, I locked up, we walked out. And as we were walking to the vehicle, the first thing that he had to say to me was, he told me that he had seen a lawyer friend of his. And the way he said it, I thought he meant that he had a friend who was a lawyer, that he talked to. And he told me that he had told my dream to him. And I was like, "Yeah."

And so, we went on out to the vehicle, and we got in my truck. And he continued on on this conversation. And he asked me, "Are you sure what you told me in Virginia was a

dream?" And I said, "Yes." And I thought it odd that he was asking me about this. It didn't make no sense, because he had just started right into this. And I said, "Yes." And he asked, "Well, do you know any details about the murder, like where the gun is?" And I just looked at him, I said, "No. Why would I?" And I don't remember his response to that, or that he did respond.

Other than that, the only thing I recall, he said something about asking my brother about that money that I had mentioned. And I told him, you know, my brother would think I'm nuts. That was a reward money for information leading -- well, actually, I had not expressed to him -- I -- what that was, earlier. But like I said, when he asked me, I was just -- told him that that was a reward. I don't -- I didn't understand where he was coming from.

Basically, from there, the conversation was dropped. I asked him where he wanted to go, if he wanted to go to Burger King or go to the chow hall. And then he acted like he -- "Well, I need to go see some friends." And he told me that he wasn't sure that he had time. And I thought, well, maybe he don't have the money to eat lunch. So I was like, "Well, I'll pay for it." And he told me, "Well, I need to get, because I need to go see some friends across the street. But you can drive me around to my vehicle." So I drove around the building and -- because the chapel is

located here, and we have a little annex behind it, and I was parked out behind here. (Indicated.) He was parked out to this side of the chapel. (Indicated.) So I drove him around to his vehicle. And instead of getting in his vehicle, he just walked across the street. I just went ahead and went to lunch from there. And that was the last time I seen Mitch.

Q Until he came to this courtroom and testified against you in this murder trial?

A Yes.

Q Now, at any time while Mitch was down there with you in Camp Lejeune, did he say anything to you about his fears that you would kill yourself?

A No.

Q Could you tell that he was afraid that you might take your own life?

A No.

Q At any time, either in Richmond -- in Lynchburg or down in Camp Lejeune, did you and Mitch Whidden discuss suicide?

A No.

Q Did Mitch Whidden tell you that you, a Christian person, would not have to fear hell and damnation if you did commit suicide?

A I don't ever -- I have had that topic of conversation with people. I do not ever recall discussing that with

Mitch Whidden. I know that I have had people on occasion ask me, and there's -- it's a -- to some people, it's a debatable thing, whether or not suicide will send you to hell. I've had a lot of people say it does. And in my viewpoint of the Bible, according to God's word, suicide will not send you to hell. It is -- the only thing that will send you to hell is unbelief.

Q So, regardless of what your beliefs may be about suicide, did Mitch tell you anything about his beliefs about suicide?

A If there was ever any discussion about suicide between me and Mitch, I do not recall it.

Q Is there any possibility there was any discussion about suicide while were you up in his house in Lynchburg on January 24, 1997?

A No.

Q Now, how long were you with Mitch, between the minute that you turned that vacuum cleaner off, and the minute that he stepped out of your truck and started walking across the way to the dormitory, where he was going to go find some people he knew?

A From the time we left out of the chapel?

Q From the time --

A Oh, oh, I'm sorry, from the vacuum cleaner.

Q -- you turned off your vacuum cleaner, until the time

he got out of that truck and walked across the street, how much time elapsed?

A 15, maybe 20 minutes.

Q Was anything else discussed, other than the things you've told the jury just now?

A No.

Q Did Mitch Whidden suggest to you that it would be best for you to contact the police and tell them of your knowledge or your involvement in Patricia's death?

MR. PANOSH: Object to leading, please.

A The only --

THE COURT: Sustained.

A -- thing that I ever remember --

THE COURT: Objection sustained.

Rephrase it.

Q All right. What did he tell you about the police?

A The only -- the only thing that I can recall ever mentioned about the police was the prior earlier discussion, when Mr. Church had called Judy. But then, as far as our discussions, the only thing I remember was, I remember he said -- he asked me something about, if I had told this dream to the police. And I just sort of laughed about it. And I -- and I -- and I said that basically -- well, I told him that it was a dream, and if I -- if I told them something like that, they would certainly think that I done

fell off my rocker and try to twist it into some kind of reality.

Q And that's exactly what they've done, isn't it?

MR. PANOSH: Objection.

THE COURT: Sustained.

MR. PANOSH: Ask that the question and any inference therefrom be stricken.

MR. HATFIELD: I object to that request and would like to be heard outside the presence of the jury.

THE COURT: Sit down, sir.

The Court will admonish the jury to disregard that statement and answer.

MR. HATFIELD: Would like to be heard off the record.

THE COURT: We'll take care of it at the break.

Move on.

Q Now, do you recall meeting Father Soutiere?

A Oh, yes.

Q Tell the jury about meeting Father Soutiere, please.

A I was working in the chaplain's office, and he came on board as the -- as the new head Catholic chaplain. And at that time, he was only an acquaintance. I had met him through professional means. And as time progressed, to the period of time that he was there -- I knew everybody in the office, and I basically worked for everybody in the office,

because of my job. And so, a relationship built there. I ended up looking to Father Soutiere as sort of a fatherly figure.

Q Now, were you aware that he was a Roman Catholic priest?

A Oh, yes.

Q That's pretty far away from your traditional religious beliefs, isn't it?

A Our beliefs are totally different. But as far as -- I'll tell you what. From --

MR. PANOSH: We object, please.

A -- my experience -- from my experience in --

THE COURT: Objection sustained.

A -- dealing with the chaplain's --

THE COURT: Now, just answer the question, Mr.

Kimble.

A Would you please restate the question.

MR. HATFIELD: Could I have the question read back from the court reporter, please, since we were interrupted? (The court reporter read back from Page 2157, Line 7 to Line 8.)

A Yes.

Q Mr. Kimble, did you discuss with Father Soutiere your concerns about the investigation that Mr. Church was conducting in Greensboro?

A Yes, on occasion.

Q What did you tell Father Soutiere about that?

A The first time I ever went to Chaplain Soutiere about it was after I came back from emergency leave, I expressed concern for both families, that I asked him to pray with me and continue to pray for the families.

Q At that time, did you have any idea that the police in Guilford County suspected your brother of some involvement in Patricia's death?

A Not at that point.

Q Did you have any idea that they might suspect you of some involvement in it?

A Not at that point.

Q Now, before October 30, 1997, when you -- or 1995, when you were interviewed by Officer Munroe, did you have any more discussions with Chaplain Soutiere?

A I'm sorry. Would you say that again.

Q After that time that you just told about and prior to October 30th, when Mr. Munroe from the naval investigators' office scheduled an investigation, did you have an additional conversation with Chaplain Soutiere?

A He -- according to his testimony, he expressed that, but I recalled it being afterwards.

Q So you did not consult him about whether you should voluntarily make a statement to Mr. Munroe on the 30th about

whatever your activities may have been?

A Excuse me. I -- I could be confused. If I did in fact consult him prior to the interview that I had on the 30th, it may have been because it was -- I think it may have been -- I don't know at what point, but my family did express that they didn't think it was a good idea that I talk to him. But I'm thinking that that was after that interview.

Q Did you receive a telephone inquiry from Detective Church sometime after you returned from your emergency leave, and before you met with Officer Munroe?

A I am not certain. There may have been, but I do not remember it.

Q Did you make any attempt to conceal or withhold from anybody the fact that you'd been in Greensboro for several days around the time that Patricia died?

A No. In fact, I was at the church that night, I was at the funeral home, and I was at the memorial service.

Q Now, did you -- when you went into the interview with Mr. Munroe, did you understand that you had a right to a lawyer, but that you just wanted to go ahead and tell Mr. Munroe whatever it was he needed to know?

A Well, at that time, I didn't feel I needed a lawyer, so I just went ahead and talked to him.

Q And in your conversation with him, did you freely and honestly answer every question that he asked you?

A Yes, I did.

Q Was there anything, to the best of your recollection, that he asked you, that you didn't answer?

A No, there's nothing that I did not answer.

Q Now, after that meeting with Mr. Munroe was over with, did you think the matter was basically settled as to what your activities had been?

A Yes. I assumed that would probably be the end of it.

Q Now, when did you find out next that more inquiries were going to take place?

A A very short time later, Sergeant Deberry from the Guilford County Sheriff's Department came down and had set up an interview with me down at the NCIS building.

Q Now, did you speak to Father Soutiere before you went to that particular meeting?

A I may have at that point. I may have discussed whether or not I should continue to talk to investigators, because I believe at that point, it had already been brought to my attention from my parents that they were basically --

MR. PANOSH: We object to --

A -- trying to accuse Ted.

MR. PANOSH: -- statements of his parents.

THE COURT: Sustained.

Q Now, at that time or at some time close to that time, did Detective Church state to you that you were the last

person to see Patricia alive?

A I know later on, that statement was made by Detective Church, but I don't recall whether or not it was made then.

Q When you met with Mr. Munroe on October 30th, did he tell you that he had information that you were the last person to see Patricia alive?

A No.

Q And when you talked to Commander Soutiere on various occasions, did you tell him that the law-enforcement people in Guilford County were saying you were the last person to see Patricia alive?

A No. The only time that that was ever -- like I said, that that was ever mentioned was, after the time that Detective Church said that someone had identified me. And then, I had discussed that. I talked -- generally talked to everyone.

Q Everyone who was trying to investigate this case?

A Well, that -- what I mean -- what I meant by that particular statement is, basically, it was -- had become -- after a period of time, it had become common knowledge around my office.

Q So, when -- what kind of a meeting did Detective Deberry arrange?

A He arranged that -- I -- I'm not certain, but I believe they came by and picked me up at my office. That was the

second time that they had done so. They told -- they told my comman-- the people in charge of me to hold me and not to tell me why they were holding me.

Q And when was this?

A That was -- it was sometime after October 30th. It may have been within the next month. I'm not certain when that interview took place.

Q And did you give a full and complete interview on that occasion?

A I can't hardly remember anything he asked me. More or less, it seemed to me that he was there giving me more information than he was taking. And --

Q Did he give you the information that he believed you were the last person to see Patricia alive?

A No. He was giving me information about Ted.

Q And was he telling you that Ted was responsible for her death?

MR. PANOSH: Objection.

Q What was he --

MR. PANOSH: Leading, please.

Q -- telling you?

THE COURT: Sustained.

Q What was he telling you?

A He was telling me personal things about Ted, telling me that -- well, he was -- Excuse me. He was asking me, did I

know if -- did I -- did I know that Ted had went out and bought a motorcycle with church money, did I know that Ted had forged a \$200,000 insurance policy. I'm not certain, but I believe at that point I told him, you know, basically this stuff is none of my business. If my brother wanted me to know this kind of personal information, I'm certain that he would tell me.

Q So you don't really recall that you were being interviewed by Deberry, you were being told things by Deberry; is that right?

A More or less. He was -- he was asking me questions about Ted.

Q Now, did you know Natalie Kelly?

A Yes.

Q Can you tell the jury who she is.

A I cannot remember her -- the name of her position, but basically, she was in charge of all the proceeds that was taken in from the chapels that we operated. And my relationship to her was, I -- being duty driver, I ran all of her errands for her.

Q And during what period of time, if you can recall, did you know Mrs. Kelly?

A I had met Ms. Kelly sometime -- I'm guessing sometime maybe in -- sometime around January, in 1995.

Q So you knew her for a significant period of time before

Patricia died?

A Yes.

Q And again for a significant period after that; is that correct?

A Yes.

Q During the time when you became aware of being investigated by the people in Guilford County, did you then know Mrs. Kelly?

A Yes.

Q And did you consider her to be a friend and an advisor to you?

A Again, she was sort of like a mother figure to me away from home. She was always asking me how I was doing, how things were going at home.

Q Do you know whether Ms. Kelly was acquainted with Ms. Cato Jackson?

A Yes. Their offices were across the hall from each other. And they had a -- I don't know what their job was together. I -- RP-1 Cato was responsible for supplies, and as far as the funding for those supplies, they came through Ms. Kelly's responsibility of handling the funds.

Q Did you hear Ms. Cato, now married name Jackson, testify in this case?

A Yes.

Q And do you have any recollection within your own mind

of anytime when Ms. Cato Jackson may have discussed your case with Ms. Kelly? Do you know of your own knowledge whether such thing happened or not?

A No, not that I know of.

Q So, in other words, if there was a discussion between the two of them, you weren't present?

A No, not that I know of.

Q All right. Moving to the last topic that I want to ask you about, do you remember the events of April 1, 1997?

A Yes.

Q What happened on that day?

A I got up, as normal, and I was actually getting to the office a few minutes late, because basically I was in the latter parts of my military career, and that's sort of a laid-back time for anyone. And my superior at that time told me that basically I could sort of drag in. And so, I drug in and -- a little bit. And right after I arrived, a staff sergeant in the office walked up to me and told me that someone needed to see me upstairs. And so, I was like "Okay." And I left my breakfast sitting there with my cover, which is a Marine Corps ball cap, more or less. And he took me upstairs to a, either a master sergeant's office or a first sergeant that I had never seen before. And when they got me up there, he told -- the first sergeant or master sergeant told me that Guilford County had a warrant

for my arrest for first-degree murder and that they were coming to pick me up.

Q What time was that?

A That was around -- that was around 8:00 o'clock in the morning.

Q And were you then taken into custody by these gentlemen?

A Yes.

Q And was it made clear to you that you were not free to leave?

A Yes. In fact, from that master sergeant's office, NCIS, two agents from there came and picked me up. They handcuffed me. They refused to get my cover for me or my breakfast. And they cuffed me and took me out to their government vehicle and transported me to NCIS building, which is on the back side of the base.

Q And what time did you get to the NCIS building?

A An estimation, shortly after 8:00 o'clock.

Q At that point in time, were you introduced to some officers involved with military affairs?

A Who?

Q Did you talk to some military people at that point in time?

A No. The only people that I talked to were the two agents that picked me up. They began questioning me and

telling me that if I wanted to, I could give them a full statement prior to the arrival of Detective Church, that once -- but once he arrived and once they signed my custody over to him, that I could -- they could no longer be in control, there was nothing that they would be able to do for me.

Q So they were offering you an opportunity, what, to confess to your involvement in Patricia's murder?

A Yes. More or less, they were insinuating that I could go ahead and confess and tell them what I needed -- whatever I needed to get off my chest --

MR. PANOSH: We object.

A -- and that they --

MR. PANOSH: Those people --

A -- could arrange --

MR. PANOSH: -- haven't testified.

A -- for me to have --

THE COURT: I'm sorry?

MR. PANOSH: Hearsay. They haven't testified. I don't think they'll be called here.

THE COURT: Sustained.

Q All right. How long were you with these men?

A I was with these men until the arrival of Detective Church and Detective Pendergrass. When they -- when they arrived, it was about, I would say, between 9:00 and 10:00

o'clock. And they took over from there.

Q Now, you heard Detective Church say that a great deal of time was expended in your agreeing to be extradited from Marine Corps jurisdiction to Guilford County jurisdiction. Was a great deal of time spent doing that?

A There was very little time involved in that. The big wait -- the big wait was on my paycheck, my final paycheck, and on the base attorneys, I think it's called the JAG officer. They were waiting on them to bring the paperwork and sign me over to Detective Church. And -- but during that time, I was questioned.

Q Who questioned you?

A Excuse me. I keep saying questioned. They were not asking me direct questions, but indirectly, they were telling me that I needed to give a statement.

Q And who were these people telling you this?

A Well, it started off with the NCIS agents. And then, when Detective Church arrived, the first thing he did, he came in and sit down in the office. And my first response to him was, "You don't have nothing to say that I care to hear. I want an attorney present."

Q And what time was that?

A That -- like I said, that was sometime between 9:00 and 10:00 o'clock.

Q And what followed involving Detective Church?

A His statement to that was, "I don't want to see an attorney. I don't want to talk to an attorney. I think you owe it to me and your family to sit here and listen to what I have to say."

Q So, Mr. Church did not ask you to make a statement, he asked you to allow him to give a statement?

A It -- yes.

Q And did he commence to give a statement?

A Yes, he commended (sic) to give -- into giving a statement.

Q Tell the jury about that, please.

A He began telling me that he already knew the truth, that my brother had convinced me to go and kill his wife, and that I -- I can't remember word for word what he said, but more or less, he was telling me that -- the wording that he used, he was basically saying that my brother had dominated me and pressured me into killing his wife.

And basically, when he -- to -- when he got to a point where he felt like he wasn't getting anywhere with me, as far as trying to get me to give him the confession that he wanted, or that he seemed to think that I was just going to start giving or something, he then pulled out a photograph of Patricia's body, where -- in fact, it was a photograph in which they said that they did not have access to, because I recall it as being one of the photographs that have been

presented by the coroner. He threw that in my face and I -- and I said, "That's horrible," and just sort of turned away, because the fact, I knew that was my sister-in-law.

Q So he showed you a picture of her charred and burned body in the -- down at the autopsy room?

A Yes. The --

Q What --

A The reason I specifically recall it was, the picture -- her body was laid out in the -- in the background of the picture, that was what caused me to remember, when I seen the pictures presented here, that that was one of the autopsy pictures.

Q Now, what else did Mr. Church say to you during this period?

A This badgering went on and on. He kept telling me that, "Mr. Kimble, you need to just go ahead and tell me the truth of what happened," and tell him -- basically, calling me a liar.

Q And how long did that last?

A This went on for several hours, because what -- there were interruptions that happened in between this time. But there was a lot of discussion on his behalf. And now, the interruptions was, yes, I had to go to the bathroom once or twice. But even when they took me to the bathroom, the NCIS agent was badgering me while I'm trying to use the bathroom,

telling me that I needed to give a statement. He in -- they had in fact also began offering me, telling me that I could -- that they would arrange for me to see my wife and be able to have a chance to explain this to my wife.

Q Did you at some point have lunch before you -- this stuff continued?

A At some point, there was a break. They decided that they were going to go and get some lunch, because we were still waiting for the base attorneys to arrive. And Detective Church asked me what I wanted for lunch. I told him what I wanted, and he still brought me back something different.

Q All right. After that, did they eventually depart from the Camp Lejeune area and head back toward Greensboro?

A Yes. Finally, after the JAG officer came, they -- they did not read me my rights, they only explained how, if I did not sign the custody release, that I would be put in a jail out in town. And I -- and I decided that it would be best that I go ahead and sign the release, that-a-way I could come back here to Greensboro, because it would be a convenience to my family to be able to come and see me.

Q And do you know what time you and Mr. Church left the Jacksonville area and headed back toward the Greensboro area?

A That was sometime around 2:00 or 3:00 o'clock.

Q And how long did the drive take?

A I don't know -- they had taken my watch. I don't know how long that particular drive took. I know from experience it is a three to a three hour and a half drive. It's a three-hour drive, if you do not stop, it's a three-hour drive. If you stop, it's about a three and a half. Now, we stopped and got gas, and we stopped once on down the road so I could use the bathroom, because they would not allow me to use the bathroom at the convenience store that we were at. So, after -- I'm sorry. With that hold-- even with those holdups, I would say it took four -- and the holdup with the wreck, there was an accident, or a backup in traffic, it was four hours to four hours and 15 minutes.

Q Now, when you finally got to Guilford County, did someone give you your Miranda rights and tell you that you could then have an attorney to advise you on the situation you found yourself in?

A Yes. They put me in a little office, and I sat in that office for a short period of time. They came back a few minutes later and brought in the paperwork and read me off my Miranda rights. And I refused to waiver my rights, and I signed the paperwork.

Q Now, finally, when all that was over with, what time was it?

A Sometime after 7:00 o'clock. I'm not certain. I

didn't have my watch.

Q Did you ever get a chance to talk to a lawyer that day?

A No. When I requested a phone call down at the base, I requested to Mr. Church to make a phone call. Mr. Church told me that I could not make a phone call, because his family was at home. He had in fact insinuated that by making a phone call, that I would have something done to his family.

Q He told you that you might endanger his family, and thus, he couldn't let you use a phone?

A Yes.

Q Did he explain to you how he thought you'd do that?

A I don't know. He laughed when he said it. Well, excuse me, he laughed when I asked to use the phone. He said, "My family's at home." And like I said, he insinuated that I would have something done to his family, by making a phone call. But I -- but I had in fact requested to be able to call my family, in order to get a lawyer.

Q So I asked you, did you ever see a lawyer on April 1, 1997?

A I'm sorry. No.

Q Did you get a chance to talk to James or Judy Stump or Kim?

A I don't think I ever talked to anybody in my family that day.

Q So, for the first day that you found yourself under arrest for this murder, you were prevented the entire day from talking to family or counsel; is that right?

A They finally gave me a chance to make a phone call. After I was read my rights, they took me -- their office -- the sheriff's department and their office is in the same -- in the same -- their office is in the same building as the jail, but it is a different part of the jail. They walked me from their office over to the jail, to be booked. After they had gave me my charges and set me before the magistrate for bond or information of such, he presented me my charges. Then they allowed me to make a phone call. And at that time, I was unable to reach anybody from my family.

Q The next day, did you get a chance to see a lawyer?

A I believe -- I was appointed a lawyer at first appearance. No, I did not see a lawyer on that day.

Q So you heard a judge say that you had a court-appointed lawyer?

A Yes.

Q But you didn't see that court-appointed lawyer?

MR. PANOSH: We object, please.

THE COURT: Sustained.

MR. HATFIELD: No further questions.

Thank you very much.

THE COURT: All right. I believe you had a

witness you wanted to --

MR. LLOYD: Yes, sir, Your Honor. With the Court's permission, we'd call Ms. Natalie Kelly --

THE COURT: All right.

MR. LLOYD: -- out of order.

THE COURT: Again, members of the jury, this witness is being taken out of order, in order to convenience the witness, who's concerned about the hurricane. She lives in Jacksonville, she wants to get back down here, and I think you can understand that. She's being taken out of order. We'll resume the cross-examination of Mr. Kimble when we finish her testimony.

Come around, please, ma'am.

You may step down, sir.

THE WITNESS: Yes.

(The witness left the witness stand.)

NATALIE BELL KELLY, being first duly sworn, testified as follows during DIRECT EXAMINATION by MR. LLOYD:

Q Ms. Kelly, would you state your full name for the record, please, ma'am.

A Natalie Bell Kelly.

Q And where do you live, Mrs. Kelly?

A I live in Jacksonville, North Carolina.

Q And where do you work?

A I work for the base command chaplain at Camp Lejeune,

North Carolina.

Q And what are your duties there?

A I'm the fiscal manager. I take care of all the appropriated and the nonappropriated funds for the command chaplain. Now, the nonappropriated are all the offerings from all the outlying chapels.

Q And how long have you been working there at Camp Lejeune?

A This December will be 19 years for the chaplain.

Q And Mrs. Kelly, do you know the defendant, Ronnie Kimble, in this case?

A Yes, I do.

Q How do you know him?

A Ronnie came to work for us, I believe -- it may have been early, but I was thinking it was probably around July of '95. It could have been earlier. But he was working at the command chaplain's office, in the -- as our driver at that time.

Q Now, did you have a regular association with Ronnie Kimble?

A Yes, I did.

Q How often would you estimate that you saw him during that period of time?

A Every day he was at work, I saw him -- I would see him, because he did all of our -- he did all my runs, he would

pick up supplies, he delivered supplies to the chapels. And I was in charge of providing -- there's like nine chapels or something to that effect, numerous services. And he took care of delivering all the supplies.

Q Now, Mrs. Kelly, are you an enlisted Navy or Marine personnel, or are you a civilian?

A I'm a civilian.

Q All right. Now, would you characterize your working relationship with Ronnie Kimble as one of boss and employee, or how would you characterize it?

A Well, Ronnie worked for me -- he worked for everybody in the building. I think probably he -- I think maybe he worked for me a little more, because I take care of -- I just have all the responsibility of supplying all the chapels. So he was constantly making runs or delivering mail, not only to the chapels, but to the purchasing office and to different people that we interact with on the base.

Q But you frequently told Ronnie essentially what to do?

A Yes.

Q All right.

A As far as -- as far as my part of the job. He also worked for the -- you know, he delivered, did things for the chaplains, also.

Q All right. Now, Mrs. Kelly, did Ronnie talk to you concerning the events surrounding Patricia Kimble's death?

A Yes, he did.

Q All right. Now, do you know a woman, an enlisted woman by the name of Mrs. Jackson, formerly Mrs. Cato?

A Yes, I do. She worked for me.

Q All right. And during this time that you knew Ronnie Kimble, was Mrs. Jackson there working in the same office with you?

A Yes. Well, she worked in an office across the hall. I had three supply people across the hall, she and Lance Corporal Lodge, and also a sergeant who was a supply clerk.

Q All right. Now, did there come a time, Mrs. Kelly, when you had a conversation with Ronnie Kimble, when Mrs. Cato Jackson might have been present and overheard the conversation?

A There were probably lots of times -- my door was always open. The only time I ever closed my door is if I had some important report to get out, that I needed to keep everybody out. But at that time, nobody would be there but me. But yes, my door stayed open. She just come. The copy machine was in my office. She made copies, she did a lot of the work in my -- in my office.

Q Now, during this conversation, Mrs. Kelly, do you ever remember Ronnie Kimble saying to you that he was the last person to see Patricia Kimble alive?

A Never. He never said that.

Q Was any such statement as that made by anybody?

A Yes.

Q And who was that person?

A That was Detective Church.

Q All right. Did there come a time, Mrs. Kelly, when you relayed -- Well, let me ask you this. You said Detective Church made that statement. When did he make that statement?

A He had called me for an interview. And it was Detective Church, and I think the other gentleman was Mr. Pendergrass. And there was a, I call them NIS agent, there.

Q All right. And do you remember the approximate time frame that this interview took place?

A You mean in the afternoon or the day?

Q Well, yeah, the day, if you remember.

A They said it was the 3rd or 4th of March. I think that's about right.

Q All right.

A And it was after lunch --

Q All right.

A -- that they called me in, sometime after lunch.

Q And if you could tell the jury what the circumstances of Detective Church's remarks were.

A That particular remark?

Q Yes, ma'am.

A He asked me, as we were concluding our interview, he said to me, "Mrs. Kelly, are you aware that Ronnie Kimble was the last person to see his sister-in-law alive?" And I said, "No, I wasn't." It didn't -- it didn't hit me what -- really what he was saying at that time, because he had told me that Ronnie had been to the house that morning, and he also told me that Ronnie had been in the house and saw his brother. And so, when he said, "Did you know he was the last person to see his sister-in-law alive?" I said, "No, I didn't know that." And as I walked out the door, I thought to myself, well, gee-whiz, you know, he's saying that Ronnie murdered his sister-in-law.

Q Now, Mrs. Kelly, did you have occasion to talk to Ronnie about that statement that Detective Church made to you?

A Yes, I did.

Q All right. And when was that?

A That was after the interview, maybe about an hour after I got back to the office, just prior to going home for today -- the day. Ronnie came by my office and he said, "Have you been interviewed?" And I said, "Yes. In fact, I just got back shortly --" you know, "just a little while ago." And he said, "Was there anything -- were they trying to say that I was guilty of anything?" And I said, "Well, no, not really." And I said, "There is one thing they said." And I

said, "I want to share that with you, because I think it's important to you." Because in the past, I had told Ronnie that I thought he needed to get an attorney. Because they kept calling him and they kept calling him. And I said, "You'd better get an attorney." He said, "I have nothing to get an attorney for. I haven't done anything."

So anyway, I told him, I said, "Before I left the interview, Detective Church asked me, did I know that Ronnie Kimble was the last person to see his sister-in-law alive." And Ronnie said, "Oh, my gosh," he says, "you know what he was saying?" And I said, "Yes. I thought about it after I got out." I said, "I know what he was saying." And Ronnie said, "Well, would you mind typing up a statement for me and signing it, because I'm going to get an attorney, and I want to give him that statement." And I said, "Ronnie, what I'd like to do is, talk to my husband." And I said, "I really don't want to write any statements, until I talk to my husband." I said, "Let me talk to him tonight." But that is what the man said.

So I talked to my husband, Leo, and he had worked in corrections for a good number of years. And I said, "Do you think I should type up a statement for him?" And he said, "What I think you should do is, tell him if he gets an attorney, and they need any information, to have them call you, and you'll be glad to share whatever you know." And

so, that's what I told Ronnie.

Q Now, Mrs. Kelly, did there come a time when you did make notes of your conversations with Detective Church?

A Yes, I did.

Q All right. Now, when Detective Church interviewed you, do you recall whether or not he took notes during the interview?

A I saw him jotting down something just occasionally. He would -- he would talk, and it was kind of like he was asking me questions and he was -- kind of more like a -- just a conversational thing, you know, like "I'm talking to you. You're a mother. You understand these things. This girl has been murdered, and we're trying to apprehend the murderer." So it was kind of more like a discussion type thing, but he was asking me questions. And -- but I --

Q I didn't mean to interrupt you. Go ahead.

A Now, I sensed when I went in that day, though, that -- I just felt like they were really against Ronnie and thought that he might have something to do with it. And I told them when I first went in, I said, "I don't know what you're going to tell me, but I want you to know that I've worked with Ronnie Kimble for a long time. He seems to be a very good person. And I don't think you can tell me anything that would make me think he's guilty, although," you know, "I don't know, but I don't think he's guilty."

Q Mrs. Kelly, after your interview -- Well, let me ask you this. Do you remember Agent Pendergrass taking notes during your interview?

A I don't recall ever seeing him ever take a note.

Q All right. What about the NIS agent?

A No, I don't recall seeing him take a note.

Q Now, did Detective Church, after he got through with the interview, did he ever present you with an -- with the write-up, his write-up of your interview --

A No, sir, he didn't.

Q -- and ask you to check it over for accuracy?

A No, sir.

Q Now, in fact, Mrs. Kelly, did there come a time when you were able to see Detective Church's write-up of your interview?

A Yes.

Q And at that time, Mrs. Kelly, did you check it for accuracy?

A Yes, I did. And I was very disturbed.

Q All right. Do you recall telling Detective Church that Ronnie Kimble told you his sister-in-law had been shot, and the house set on fire?

A I did tell him that, that Ronnie had told me that, that she had been shot.

Q Do you recall what Detective Church put in his report?

A He said that she -- that I said that Ronnie told me that his sister-in-law had been shot in the head and her body set on fire.

Q All right. Now, do you recall Detective Church telling you -- or do you recall your response to Detective Church, that Ronnie had told you that he borrowed his brother's truck to pick up some materials for his mobile home, but that he was with his wife and her parents at the time investigators said his sister-in-law was murdered?

A Yes, I remember that.

Q All right. Do you recall what Detective Church wrote about that?

MR. PANOSH: We object, please.

THE COURT: Overruled.

A He said that Ronnie borrowed the -- Let's see. Would you rephrase that question. I'm sorry.

Q Well, do you recall Detective Church stating that -- Well, strike that, Mrs. Kelly. Let me ask you another question. Do you recall Ronnie making a statement to you concerning a tool chest?

A Yes, I do.

Q All right. And what did Ronnie say to you concerning this -- the tool chest?

A He said that a tool chest had been -- or a tool box, something of that nature, had been pulled out from the wall,

and that it appeared that somebody may have been trying to burglarize the house. There was -- I think a pistol was in the floor, and the tool chest had been pulled out, and that's what it appeared to be --

Q All right.

A -- that --

Q And do you recall what Detective Church wrote in his statement about your -- what you said to him?

A Yes. He said that I said that Ronnie told me that whoever murdered his sister-in-law was in the process of burglarizing the house, and when she came home, that she caught them and they murdered her.

Q All right. Now, Mrs. Kelly, do you recall Detective Church writing in his write-up of what you told him that "Kelly stated Kimble never told her that he was the last person to see his sister-in-law alive"?

A He -- well, he put that in there, and I did a rebuttal of that. I said, he never said that to me. Kimble never told me he was the last person to see his sister-in-law alive. Detective Church told me, asked me if I knew that Kimble was the last person to see his sister-in-law alive.

Q Now, do you recall, Mrs. Kelly, what Ronnie Kimble told you about the circumstances of his sister -- his sister-in-law entering her house at the time a burglary might have been in process?

A Well, he -- they said that -- I had talked to Ronnie and asked him if he thought maybe, you know, it was a burglary. He had told me about the tool chest being there. And I said, "Do you think maybe she walked on --" you know, "she went home and found somebody burglarizing the house?" you know. We had discussed this and just, you know, kind of questioning, do you think or do you think this could happen or that. And Detective Church, of course, said that I said that she went home and that -- that Ronnie said she went home and burglarized the house (sic). Now, the -- I guess the NCIS now, they told -- the agent there told me, and --

MR. PANOSH: We object. He's not testified.

THE COURT: Sustained to what he may have said.

THE WITNESS: Okay.

Q Don't say what the NIS --

A Okay.

Q -- agent might have said. Do you recall Detective Church saying in his statement as to what you said, that "Kelly related she does recall Kimble telling her that he had purchased gas on the day of his sister-in-law's death and may have put gas in the lawn mower located at his sister-in-law's residence on this same occasion"? Do you recall Detective Church putting that in his statement of what you told him?

A Yes, I do. And I never said that.

Q All right. And what in fact did you tell him that Ronnie Kimble had told you concerning that?

A We had talked about the fact that he had talked about expressing some concern that -- because they kept calling him, they kept coming down there, and he was concerned about this. And he said -- we were just talking about the house, and I said, "Well, you know, if -- even if your fingerprints were there, that wouldn't necessarily mean that you had done anything, because he's your brother. You've been in his house." And he said -- I think he might have even mentioned that he had used their lawn mower before. He did not say he put gas in that lawn mower.

Q Did he ever --

A I don't ever recall anything about that.

Q Did he ever say anything to you about putting gas in the lawn mower?

A No, I don't remember him ever saying anything --

Q Or purchasing any gas for the lawn mower?

A No, sir. No, sir.

Q Now, do you remember Detective Church putting in his statement, as to what you said, that "Kelly stated that Kimble further mentioned to her during conversations that the gun used in the murder of his sister-in-law was found near the body"? Do you recall Detective Church saying that about what you said that Ronnie had said?

A Yes, I do.

Q And what in fact did Ronnie say?

A Ronnie told me that he did not know if the gun was the murder weapon. I asked him if it was the murder weapon, the gun that was found in the floor of the house. And he said he did not know, that the detectives, investigators, whoever, had never said if the gun was or not. In fact, I recall him saying that his father had even asked them about that and they wouldn't even tell him. They hadn't told anybody. So, there's just no way I could have said that, because I didn't know. And I still don't know.

And the next sentence they had in the statement said that, again, "Mrs. Kelly said that she --" "that Kimble told her he did not know," after they had just said I said he said he did know, that it was the murder weapon.

Q Now, Mrs. Kelly, did you have a chance to evaluate Ronnie's performance as a Marine?

A Yes, I did. I wasn't in charge of anything militarily on that side, but I did have a chance to see.

Q And what was your evaluation of Ronnie's performance, Mrs. Kelly?

A He was a very good Marine. He was -- as far as I know, he was well thought of. The chaplains thought his work was exceptional. From what the chief at the office told me --

MR. PANOSH: We object.

A -- he had --

THE COURT: Sustained.

Q Well, don't say --

A Okay.

Q -- what other people said.

A Okay. He was -- my own observance is that he was a very good Marine. He was always neat in his uniform. He was dependable. And he was very trustworthy. And he was -- he was recommended by the base command --

MR. PANOSH: We object, please.

Q Well, don't --

THE COURT: Sustained.

Q You can't say what --

A Okay.

MR. LLOYD: Thank you, Ms. Kelly.

A Okay.

THE COURT: Further questions?

MR. LLOYD: Just if the Court -- if I could beg the Court's indulgence.

(Mr. Lloyd and Mr. Hatfield conferred.)

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

THE COURT: Mr. Panosh, how long is your cross-examination going to be?

MR. PANOSH: About five minutes.

THE COURT: You may proceed.

CROSS-EXAMINATION by MR. PANOSH:

Q Drawing your attention, not to the March 4th conversation, but to the conversations when you first talked to Ronnie after the death of his sister-in-law.

A Yes.

Q Do you remember saying that Ronnie was crying about it?

A He did cry when he told me about his sister-in-law having been murdered.

Q And do you remember him telling you that later on in July, he had an interview with investigators, and they allowed him to tape record that interview?

A No, sir. I did not say that. I --

Q I'm not asking you what you're saying.

A Uh-huh.

Q I'm asking you what Ronnie Kimble said.

A What Ronnie --

Q Do you remember --

A -- Kimble told me --

Q -- Ronnie Kimble telling you that?

A Okay. Ronnie Kimble told me that he was supposed to have a -- that the investigators wanted to meet with him again. He said, "If I meet with them again, I am going to take a tape recorder with me and," he said, "I'm going to record it, because they've changed -- they try to change what I say, and I'm going to put it on tape."

Q In a subsequent conversation, did he tell you in fact he did tape it?

A No, sir, he did not.

Q And your duties do not include evaluating Marines, do they?

A No, sir, it doesn't.

Q And when Ronnie Kimble talked to you -- talked about you, he referred to you as a mother figure. Is that accurate?

A Well, I think a lot of the young service people there like to come in and talk to me. I guess I have a good ear for listening.

Q Well, specifically Ronnie Kimble, did --

A Yes, he did.

Q -- was he accurate when he said --

A Yes, I --

Q -- referred to you as a mother --

A -- think he did --

Q Do you remember Ronnie telling you about the life insurance policy that Ted had taken out on his wife?

A Yes, I do.

Q About the motorcycle and all the spending Ted did?

A Not the spending. He didn't tell -- he said that Ted had bought a motorcycle. And he even told me he had dated some girl not too long after his sister-in-law's death. And

he said he -- you know, that didn't really look real good, but, you know, it wasn't like he had -- you know -- it wasn't like he wasn't in love with his wife, I'll put it that way.

Q And Ronnie told you that Ted had taken an insurance policy on his wife just before her death and forged her signature?

A Yes, he did.

MR. PANOSH: No further questions.

MR. LLOYD: Just one or two follow-ups.

REDIRECT EXAMINATION by MR. LLOYD:

Q Mr. Panosh asked you about -- a question about Ronnie Kimble crying when he first told you about his sister-in-law's death?

A Yes, sir.

Q In your experience and relationship with Ronnie, Mrs. Kelly, was he an emotional young man?

A I think he was. He was very emotional when -- at the time that his sister-in-law was murdered, he showed a lot of emotion about that. And then, when his wife lost their child, he was very emotional about that.

Q All right. Did he cry on that occasion?

A Yes, I've seen him cry about that. And I'm not talking about a boohoo crying now. I'm talking about the tears welling up in his eyes, you know, and that sort of crying.

But I think so. I think he just impressed me to be a very tender-hearted person.

MR. PANOSH: We object to this.

THE COURT: Sustained.

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

THE COURT: Step down, ma'am.

(The witness left the witness stand.)

MR. LLOYD: Your Honor, may Mrs. Kelly be excused?

THE COURT: Any objection?

MR. PANOSH: No.

THE COURT: You may be excused, ma'am.

We're going to take our afternoon recess, members of the jury. It'll be a 15-minute recess. Please remember the Court's instructions. You may now take a recess.

Everyone else remain seated.

(The jury left the courtroom at 3:36 p.m.)

THE COURT: 15-minute recess, sheriff.

(A recess was taken at 3:37 p.m.)

(Court reconvened at 3:50 p.m. The defendant was not present. The jury was not present.)

(The defendant entered the courtroom at 3:51 p.m. and returned to the witness stand.)

(The jury entered the courtroom at 3:51 p.m.)

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

CROSS-EXAMINATION by MR. PANOSH:

Q Mr. Kimble, if I understand your testimony, what you're telling the ladies and gentlemen of the jury is that everything Mitch Whidden said was false?

A Not everything.

Q When Mitch Whidden said that you confessed to him that you killed Patricia, that was false?

A Yes.

Q He made that up?

A Yes.

Q And when Mitch Whidden said that -- or rather, when Mrs. Whidden said that you said in her presence that you had a haunted past, she made that up?

A Yes.

Q And what you're saying is, that immediately after you left, Mitch Whidden made this up, and went to Jerry Falwell, and told Jerry Falwell this false information?

A I don't think he made all of it up. I think he had some help.

Q What do you mean by that?

A I think more than likely, after the investigators got hold of him, I'm sure they helped along with his statement.

Q Sir, are you saying that the investigators spoke to him between the time you left, and the time he spoke to Jerry Falwell the same day?

A I don't know. They -- as far as I know -- for all I know, they could have talked to him before I ever went to Virginia, because Mitch knew to expect me in Virginia.

Q You're saying that you believe that the investigators were laying a trap for you up there?

A No, I'm not saying that. I said, for all I know. I don't know what they done.

Q You're saying that Mitch Whidden is so deceitful that he intentionally invited you into his home to spend the night, in an effort to get you to confess?

A No, I in no way said that.

Q Well, what did you mean when you said that you --

MR. LLOYD: Well, object. Let him finish his answer, Your Honor.

A It was because of --

THE COURT: Overruled.

A -- the question -- I answered the question that I was asked.

Q My question -- when you said, for all you know, "the investigators talked to Mitch before I got there"; isn't that what you said?

A You asked -- Excuse me, Mr. Panosh. You asked me about the -- did I have any knowledge of -- I'm sorry, I can't recall what the question was, but it had something to do with the investigators, and I answered that question.

Q Was your answer that for all you know, the investigators talked to Mitch Whidden before you got there?

A Yes.

Q You believe that?

A For -- no, I didn't say I believed that. I said, for all I know. I don't know what they done.

Q Do you believe that Mitch Whidden is so deceitful that he could have invited you into your -- his home in an effort to get you to confess, conspiring with these investigators?

A Oh, yes.

Q You think he's that deceitful?

A After what I've heard, yes.

Q And you think that he would go to Jerry Falwell and tell him something that he knew was a lie?

A I don't know what Mitch Whidden would do at this point, after what I've heard.

Q My question to you, sir, is, do you think he would go to Jerry Falwell and tell Jerry Falwell what he knew to be a lie?

MR. HATFIELD: Objection. He doesn't have to speculate about that.

A I don't know.

THE COURT: Overruled. He may answer that.

A I don't know. I don't know what goes through his mind. I don't know what he would think to do.

Q Is there a reason that you won't answer that question, sir?

MR. LLOYD: Objection.

MR. HATFIELD: Objection.

MR. LLOYD: He's answered it twice.

THE COURT: He has answered it.

Q Do you believe that Mitch Whidden would drop out of school and leave the state and tell everyone, including his attorneys and Reverend Falwell, that he was afraid for his safety, because of a lie he made up?

A Certainly, with his financial situation.

Q And how would it improve his financial situation to drop out of school and go leave the state?

A Well, if he went back home to where his family lived, I'm sure he could receive some support from his family.

Q And he had to make up a lie to justify dropping out of school; is that what you're saying?

A I don't know -- I do -- I do not understand Mitch Whidden's reasoning. I only have speculations and opinions of why he's doing this. I don't know. I think he jumped to some kind of conclusion, and he's too proud to admit that he made a mistake.

Q He jumped to a conclusion?

A Yes.

Q Isn't it a fact that you said that the next morning,

when you were leaving, he invited you to stay?

A Yes.

Q And isn't it a fact that he totally denies that?

A As far as I know. I don't know --

Q Is that jumping --

A -- if he did or not.

Q Is that jumping to a conclusion?

A I believe we're talking about two different things.

Q All right. Drawing your attention to the conversation that you had with Mitch Whidden as you were leaving his house, in which you said he asked you to stay, tried to convince you to stay, are you saying that when he told the jury that that did not occur, that was a conclusion on his part?

MR. HATFIELD: Objection. He doesn't have to comment on another witness's credibility.

THE COURT: Overruled. Cross-examination.

A I don't understand what you mean, sir.

Q Isn't it a fact, sir, that when you were leaving on that Saturday morning, you've testified that Mitch Whidden tried to get you to stay for an extra day?

A Yes, he did.

Q And isn't it a fact that Mitch Whidden has said that never occurred?

A I don't know if he said it or not.

Q You didn't hear his testimony?

A Yes, but I don't recall if that was ever addressed.

Q Do you remember him saying that he wanted you to leave because he was afraid of you, that you had a discussion about that, talked about maybe leaving because of the weather?

A No. He never asked me to leave.

Q Do you remember him saying that on the witness stand?

A Oh, yes, I remember him saying that on the witness stand.

Q And isn't it a -- and are you saying now that that's just a mistake, or was that --

MR. HATFIELD: Objection. He has not said it was a mistake.

THE COURT: Sustained.

Q You've said you think it was because of his financial situation. Do you know his financial situation?

A Yes.

Q How?

A I only know what he told me, and he told me that both he and his wife quit their jobs, and they said that they were going to live off faith. And in fact, he told me that they were living off of school loans.

Q And there are a lot of students who live off school loans and do just fine; isn't that right?

A I don't know. I was only a student in a college for a short period of time, and I was living at home, so I don't know what the average life of a college student is.

Q And they had two vehicles?

A Yes.

Q They were renting an apartment off campus?

A Yes. In which Mitch told me that they were going to have to move, because they couldn't afford to stay in that apartment.

Q And you know that he had a family in Florida and family in Richmond?

A I didn't know he had family in Richmond.

Q Well, didn't you say just a few minutes ago that you assumed that he went back to live with his family?

A Yes.

Q He had a --

A I assumed that --

Q -- family to support him --

A -- to be --

Q -- didn't he?

A Excuse me?

Q He had a family to support him, didn't he?

A I don't know what his --

Q And all this information about financial stress is all what you assumed?

A No, that's not what I assumed. That's what Mitch Whidden told me.

Q He told you that he didn't have enough money to continue in school?

A No, he didn't tell me that.

Q He told you in fact that he planned to complete his four semesters at Liberty University, didn't he?

A No, I don't recall him telling me that, either.

Q Did he tell you he planned to drop out?

A No.

Q So there was no basis for you to assume that he didn't have enough money to continue, was there?

A No. I assumed that -- you know, like I said, I didn't think they were doing great, but I assumed they would have been okay.

Q March the 3rd of 1994, do you remember reporting that you passed out while standing in military formation?

A When?

Q March the 3rd of 1994. You passed out, taken to sick bay. Do you recall that?

A Oh, yes, yes, I -- but that was not in formation.

Q It was during your military duties; is that right, sir?

A Yes. But I don't recall the date. I recall passing out and being taken to medical.

Q Do you recall telling the doctors that this has

happened twice before, once in boot camp and once in high school?

A No, I don't recall that. I -- I recall --

Q Well, let me ask you this.

MR. HATFIELD: Objection.

MR. LLOYD: Well, objection. Let him finish his answer.

THE COURT: Finish your answer, sir.

A I recall in high school once passing out.

Q You recall passing out in high school?

A Yes, but I don't remember the conditions. I just -- I recall the occasion, but I don't remember the conditions of which.

Q And you did report that to the doctors in March of '94?

A The best I can recall.

Q Do you remember May the 15th of 1996, reporting to the doctors and saying that you had a history of falling asleep, and that you had slepwalked as a child?

A I don't recall any date. I recall telling -- I'm sorry. Would you repeat that, please.

Q Do you remember on May the 15th of 1996 talking to doctors about your difficulties with sleeping and telling them that you had a problem falling asleep at night, and that you had slepwalked as a child?

A Well, I don't recall saying that I had a problem going

to sleep. I've never had trouble going to sleep. But I do recall saying something about that -- when they were asking me about my history, they had asked me if I had any sleepwalking in my past. And I said yes, as a child.

Q All right. And do you remember on a number of occasions, when you were speaking to the medical personnel, the doctors, the ENT doctors, the neurologists --

MR. HATFIELD: Objection. That's a compound question. Impossible to answer.

THE COURT: Let him finish the question.

Q -- when you said that you had had this difficulty falling asleep during the daytime throughout your life?

THE COURT: Overruled.

You may answer, sir.

A You're saying -- stating many people. I've only had discussions with few doctors. The -- basically the way the medical system works at the naval hospital is, they have assistants. The assistant may initially write up the report -- write why you're coming in, but then the doctor fills out the paperwork and the doctor asks you the questions.

Q Isn't it accurate to say that you reported to medical personnel that you'd had this difficulty with sleeping, that is, falling asleep in the daytime, throughout your life?

A I have -- I have had problems with falling asleep throughout my life, that I can recall.

Q And you reported that?

A Yes.

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

MR. PANOSH: May I approach the witness?

THE COURT: You may.

Q I show you now what's been marked as State's Exhibits 140-A and 140-B. Would you look at those, please, sir.

(Time was allowed for the witness.)

A Yes.

Q Drawing your attention to the second page, 140-B, do you recognize your signature on that?

A Yes.

Q And 140-A, do you recognize your handwriting, as filling it out?

A Yes, sir.

Q And the date was what date, sir?

A January 27, 1993.

Q And that was when you were a civilian and you were applying to go into the Marine Corps; is that correct?

A Yes.

Q And when you answered this question here, you were asked, "Have you ever been a sleepwalker?" And what did you say?

A I said -- I had him check no. And the reason for that is, because I'm sure that I questioned the person filling it

out, and I told him as a child. But what they were referring to -- in other words, it -- was it a reoccurring thing that happened when you got older.

Q Sir, this question says, "Have you ever been a sleepwalker?" What did you answer?

A I answered no, because that was what I was directed.

Q You were directed to put information on this form that wasn't accurate?

A I'm sure -- I am positive that if I was asked something like that, I'm sure that I asked them -- basically, when I done the paperwork for the Marine Corps, in enlisting, they were basically willing to do anything to get me enlisted. They wanted me to enlist. And they wouldn't want anything minor like that to hold me up in any way.

Q Is this your handwriting?

A Yes, sir, it is.

Q Is the information on here true?

A Yes, sir, it is. To the best of my knowledge, that is true and accurate to what they wanted me to fill out.

Q Well, sir, is it what they wanted you to fill out or what's the truth?

A It was both. I --

Q When you --

A If anything was in question, I asked them about, prior to putting a check.

Q When you were asked if you've had periods of unconsciousness, what did you say? (Indicated.)

A I put no.

Q Was that true?

A At the time, I probably -- I may not have remembered -- recalled passing out, and that may have been insignificant at that time.

Q Sir --

A Again, I probably questioned the people, as to what I should check. I just told them I passed out once.

Q So all the misinformation on here is somebody else's fault?

A No.

Q It's your fault?

A I guess since I filled it out, I'm sure it is.

Q And when you put down that you had not had periods of unconsciousness, you were not telling the truth?

A I don't know, because I don't know what I recollected at that point when I filled that out. I may have forgot that I had passed out.

Q Do you remember testifying before this jury on direct examination that you knew that it was a federal offense to put down information on your application --

MR. HATFIELD: Objection.

Q -- which wasn't true?

MR. HATFIELD: That has never been testified.

THE COURT: Overruled.

Take your own recollection of the evidence, members of the jury.

A Would you ask the question again, please.

Q Do you remember testifying before this jury that you knew that when you applied for the Marine Corps, you had to put down accurate information, because it's a federal offense not to?

A Yes.

Q So, when you filled this out and you said that you've never had periods of unconsciousness, you were aware that was a federal offense?

A At that time? I was aware it was a federal offense, but I don't know that I recalled at that time passing out. I may not have recalled it at that time. At the time that I filled that out, I filled it out to the best of my knowledge and ability, and as honest as I could at the time that I filled that paperwork out.

Q And you didn't recall that you had been a sleepwalker, either?

A Actually, I don't recall ever being a sleepwalker. The only reason that I even recall it is because the fact my mother has told me I have slepwalked. That's the only reason. I don't have any personal memories of sleepwalking.

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

MR. PANOSH: May I approach the witness?

THE COURT: You may.

Q Showing you now what's been marked as 140-J, do you recognize your name and your social number and your date of birth on that health record?

A Yes.

Q Do you recognize the date up there?

A Yes.

Q What's the date, sir?

A It is March 3, 1994.

Q Okay. It says. "Patient passed out while standing. Patient stated he can't remember when he woke up, just that everyone was talking and he was being helped off the floor. Denies drinking last night. Patient stated happened two times before, in boot camp and high school." Now, you remembered on March the 4th of 1994 that you had passed out in high school; is that correct?

A Yes.

Q Well, the --

A Apparently so, since I said so.

MR. LLOYD: Well, let him finish his answer.

THE COURT: Finish your answer, sir.

A Apparently so, since I stated it to the doctor.

Q But you're saying to the ladies and gentlemen of the jury when you filled out your application in January of 1993, you didn't recall that event in high school, and that's why you put down no?

A I have no clue. That has been nearly five or six years ago.

Q Were you also asked if you had problems with your sleeping?

A I don't recall if I was or not.

MR. PANOSH: May I approach?

THE COURT: You may.

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

Q Frequent trouble sleeping? (Indicated.)

A I have no trouble sleeping.

Q So you're telling the ladies and gentlemen of the jury now that you do not have trouble sleeping?

A No. The problem is, I sleep too much.

Q So you don't have any trouble with nightmares?

A No.

Q And when your wife testified that she remembered you having nightmares, and I think she said sitting up at the edge of the bed and barking like a dog, that would be correct?

A Yes, that would be. That is her opinion. And I remember the dream that she is referring to.

Q But when you filled out this application, you said you didn't have any trouble sleeping?

A I don't have any trouble sleeping. I sleep too much.

Q Do you or do you not have nightmares, as your wife has testified?

A It depends on what you consider a nightmare. I don't have dreams where I wake up and I'm terrified. So -- I mean, that's what I would guess a nightmare is considered. So I don't have dreams where I wake up and I'm terrified, but I have woke up -- woke up -- been woke up by many of my dreams, like that dream. I dreamed that a wolf was chasing me.

Q And you were barking like a dog?

A I don't recall -- I don't recall barking like a dog. But I do remember when I came to, I was sitting up in the bed, and I still seen the image of the wolf, like -- sort of like when you look at the sun and you close your eyes, you still see the image. Well, when I opened my eyes, I still seen the image, and then it faded away, when my eyes adjusted.

Q Didn't you just say a minute ago that you do have dreams, but you don't remember them when you wake up?

A No, I didn't state that a minute ago.

Q When you're dreaming of the dog, it wasn't the dog that died in the fire, was it?

A No.

Q You've told the ladies and gentlemen of the jury that you were -- you wanted to stay in the Marine Corps and they were forcing you -- or that they were -- they wanted to decide the issue of your sleeping problem before they would let you out; is that correct?

A I'm sorry. Would you say that again. I -- you kind of lost me.

Q You told the ladies and gentlemen of the jury that you were due to be released, I believe, in April of '97; is that correct?

A Yes, sir.

Q But the military wanted to determine whether or not you had a sleeping disorder before they released you?

A They wanted to do -- to do further tests and be more -- Excuse me. Actually, they had basically already determined, the doctor had already diagnosed me with hypersomnolence, and they put me on medical hold. I don't know if they were going to do more tests. I don't think there was really any more tests that they could determine to get any more specific of what kind of sleep disorder I had. So the extension was, basically to determine whether I would be medically discharged, with or without any kind of disability. And that was not something that I applied for, that is something that I was -- they were automatically

putting me through.

Q You didn't request it?

A No, I did not. They were automatically putting me through that. They automatically put me onto medical hold.

It --

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

MR. PANOSH: May I approach?

THE COURT: You may.

Q You had two sleep tests at Portsmouth; is that right?

A Yes, I did.

Q First time sometime in July of '95 approximately?

A Yes, sir.

Q Showing you now 140-P, do you recognize your signature, your social security and your date of birth on that medical record?

A Well, that's not my signature.

Q I'm sorry. Your name?

A Yes, sir.

Q Do you see where it says July 26th of '95?

A Yes, sir.

Q "Patient in for a CBC and glucose test." And then, "Requests consult for sleep disorder." Isn't it a fact that you requested it in '95?

A Excuse me. You said requested the medical discharge.

Q My question to you now, sir, is, did you request the

sleep consult in 1995?

A Oh, yes.

Q And after that first sleep consult, it was found that you had basically no problems; isn't that right, sir?

A No, sir.

(Time was allowed.)

A I'm sorry. Would you say that question again. Did you say because of the test results?

MR. PANOSH: May I approach the witness?

THE COURT: Yes, sir.

Q My question to you, sir, is, based upon that July 31st report of '95, you had basically no medical problem; isn't that correct?

A Hold on. I'm not understanding you. Are you saying because of the results of the test?

Q Did the results of the test indicate that you had no medical problem?

A Yes and no. There -- there was -- the test eliminated the fact -- no, it was not positive, because the test results are not always positive. The test results can be wrong. They do not always show up. It may take several of those studies -- having several of those studies done before it will show up positive. So, just because that test showed -- does not show nothing, does not mean that there is not a problem. But the test results on that particular occasion

did not show anything extremely -- when the doctor presented it to me, he said the test results did not show anything that they could -- to where they could determine anything. But the person that conducted the test on me, who has done this --

MR. PANOSH: Well, we object --

A -- hundreds of times --

MR. PANOSH: -- to hearsay.

THE COURT: Sustained.

Q Drawing your attention to 140-R --

A I'm --

Q -- Page 1 and Page 2, is this the report of your sleep test of 1995, July?

(Time was allowed for the witness.)

A Where are the real page numbers? Because the page numbers that are written on here are written in pencil, and I don't know that the -- I don't -- I'm not positive, but I thought there was more to this report than this.

Q Sir, is this the report?

A Yes, it is.

Q All right.

A But I don't --

Q Let's go --

A -- think it's the complete report.

Q Let's go over it. Says here that "Overnight

polysomnograph was performed with EEG, EOG, EMG, EKS, respiratory effort, respiratory airflow and pulse oximeter (sic) leads attached in standard fashion.

"Sleep Quality. The subject went to bed at 2200," which is 10:00 o'clock; is that correct?

A Yes, sir.

Q "And arose at 6:30 --" "0630," which is 6:30 in the morning, right?

A Yes, sir.

Q "Sleeping for 474 minutes out of 511 in bed, for a sleep efficiency of 93 percent. Sleep architecture was normal." Is that what it says?

A Yes, sir.

Q Later on it says, in Paragraph F, "Multiple Sleep Latency Test. An MSLT was performed that (sic) morning after his polysomnogram. This was normal." And then the impression on the second page is "normal"; is that correct, sir?

A That's what it says.

Q You're not disputing these are the official records of the United States Navy as they apply to you, are you, sir?

A No, sir.

Q And that would have been the end of it, if you had not requested a second test in 1997; isn't that right?

A Yes, sir.

Q And you're the one that requested the second test, it wasn't the Navy or the Marine Corps that was requesting it?

A Yes, sir. And I would like to explain that. The problem was, the doctor that I was seeing -- Excuse me. Generally, anyone that goes to medical, they have the attitude that if you go to medical, that you're malingering. And that was the attitude that I got from this particular doctor. In fact, the way this doctor dealt with me was very unprofessional. In fact, after his leaving the base, they -- and I found out that he had left the base, without turning my medical progress over to another person, he had told -- Let me back up. He told me to come back and see him in about five or six months, to continue on with the sleep rules that he suggested. And at a period of about four or five months, when I checked, he had left the base, had not done any follow-up with me, had not suggested another doctor or recommended another doctor. He was a civilian doctor, and he certainly had enough knowledge ahead of time that he could have contacted me or referred me to another doctor.

And at the time that I found out that he had left the base and unprofessionally dealt with me the way that he had, they immediately scheduled me for an appointment the next day. And it is not easy to get in to the neurologist. So immediately upon my request, the very next day, they

scheduled me an appointment, because of the way he dealt with me unprofessionally.

Q Who was this unprofessional doctor?

A Dr. DeBeck.

Q And where did he have his office?

A His office was there on the base. He was a civilian doctor who was under contract through the Marine Corps.

Q When you say "the base," are you talking about Camp Lejeune?

A Yes.

MR. PANOSH: May I approach the witness with the same document?

Q But this report, sir, comes from Portsmouth, doesn't it?

A Yes, it does.

Q These are the doctors you dealt with in Portsmouth, who said your sleep condition was normal. Now, are you saying that it is --

A No, they did not.

Q -- because of an unprofessional doctor --

A The report did.

Q They didn't say it, the report did?

A The report said that everything was fine.

Q Isn't this their report?

A According to the test --

MR. LLOYD: Well, let him finish his answer, Your Honor.

THE COURT: You may continue.

A According to the tests that they done, the test results were fine. But the person conducting the tests, who has conducted these tests for many years, told me that there were some things, but it would not be part of -- it would not be something written in the results, but that there were some unusual things about my sleep patterns.

Q So, you do agree this is the official poly--

A Yes, it is.

Q May I finish? -- polysomnograph report from the Naval Medical Center in Portsmouth, Virginia, and that this report indicates that everything is normal?

A Yes, sir.

Q And now you're saying that there were professional people in Portsmouth who did not include things in this report?

A Yes, sir. They included what was part of that exam.

Q So you're saying that Dr. DeBeck, who was in Camp Lejeune, was unprofessional, and the folks in Portsmouth left out the important stuff?

A No. That -- I believe that was misunderstood. The reason that I was saying that he dealt with me unprofessionally was because, basically, he gave me the

traditional malinger attitude, pat me on the back, "See you later. You'll be all right," instead of doing any kind of follow-up, doing any other kind of test. When I began seeing the next doctor, he saw it through, he seen to it that I was basically put under -- through any test that he could think of, to help determine what my problem was. Not all sleep disorders are detectable.

Q Sir, didn't you say that someone in Portsmouth left things out of this report?

A Nothing that was not part of the results. They -- there is a computer -- that is an analogy of the computer reports. The things that they told me were of things that they knew from their professional ability, from things that they had seen from other test results, that they noticed were unusual about the way I slept. One of those being, that he told me that at one point, I made so much movement in that test, that a normal person, under normal conditions, would have woke up. Instead, I went straight back into the same stage of sleep. That is not something that is going to be part of that final report. The report --

MR. PANOSH: May I approach --

A -- is to determine --

MR. PANOSH: -- the witness?

A -- whether or not I had narcolepsy, and it was also to determine obstructions. In other words, like I said before,

breathing problems.

MR. PANOSH: May I approach the witness?

THE COURT: Yes.

Q Drawing your attention to the portion about periodic leg movements, what does it say? Paragraph E. (Indicated.)

A "Periodic Leg Movements. There were no PLM's noted."

Q Which is periodic leg movements; isn't that right?

A Yes, sir.

Q So, now you're saying that you had so much movement, that a normal person would have woken up, but in the report, they put down no movement?

A I am stating that -- I am stating what he told me after those test results were done. Just because my legs didn't move, doesn't mean that I didn't move my upper body and move around.

Q You're saying that your upper body was moving, but your legs weren't? They included the fact that your legs weren't moving, but they left out the part that your upper body was moving?

A The way the electrodes are hooked up, just because you move one part of your leg doesn't necessarily mean that the electrode is going to pick that up, because the best I can recall, there was only one on your legs anyways.

Q So, now you feel that the way that they hooked you up was not intended to be accurate?

A No, I'm not saying that at all.

Q In any event, the second sleep study was also your request, wasn't it, sir?

A These were my -- my request was to be checked out for a sleep disorder, to -- I wanted them to find out what was the cause, why I was falling asleep uncontrollably. These results, the same as any other test, of course I have to request these tests, but these tests were requested by direction of my doctor. My doctor said, "Look, that is what you can do." Of course it has to be at my request. Otherwise, I'm denying. He can't tell me "You have to go take this test."

Q So it wasn't the military that wanted you tested, to determine whether you had some disability, you were the one that requested it; isn't that correct, sir?

A Would you ask that again, please.

Q It wasn't the military who was testing you to see if you had some disability, you were the one that requested it?

A What does my testing have to do with disability? I don't understand the question.

Q Did you have a second -- Let me rephrase that. Did you have a second sleep test?

A Yes, sir, I did.

Q Was that also at Portsmouth?

A Yes, sir, it was.

Q And did that also indicate that you were basically normal in your sleep patterns?

A I don't recall for certain that I seen results from that test, but I believe that there again, it showed up normal, because I did not go into the dream state on the second -- for the second time during the nap stage. These test results -- again, they do not show all sleeping disorders. They only rule out certain sleep disorders.

Q Let me try to shortcut, sir. Isn't it a fact that on your second test showed normal?

A As far as I recall. I'm not certain that I seen the results. If I did, I can't remember.

Q Would you like --

A But as far as --

Q -- to see --

A -- I know, they --

Q -- them again?

A -- were normal.

MR. LLOYD: Well, if you'd let him finish his answer, please, Your Honor.

THE COURT: Finish your answer, sir.

A As far as I know, they were normal. And if that's what the report reads, then I certainly agree.

Q And after that second test, which was in January of 1997, you were still being considered for disability; isn't

that right?

A I don't think it was until after that test, that was the period of time which -- it was sometime after -- yes, it was sometime after that, that the question of disability arose. It -- there may have been a little bit of question there before. But if I was able to stay in the military, there would be no need of me having any kind of disability.

Q Well, sir, if you were planning to leave anyway, there would have been no need for you to have this test, would there?

A Would you say that again, please.

Q If you were planning to leave anyway, there would have been no need for you to have the test and the consideration of disability?

A Well, the purpose of the test was to find out what was wrong and if there was a cure for my condition.

Q The disability request was yours, wasn't it, sir?

A No. That was something that automatically came up because of my condition.

Q Normal?

A No. The doctor determined that I had hypersomnolence.

Q You indicated that you and your wife had a very close relationship?

A Yes.

Q You indicated that you didn't hide anything from her?

A I don't know of many things that my wife -- I don't know of anything that I -- that my wife does not know today, that I hold in secret from her in any way. I think she knows everything there is to know about me.

Q On direct examination, didn't you indicate that you and she had a very close relationship and you didn't hide anything from her?

A Yes, sir.

Q Didn't you indicate that it was a loving relationship?

A Yes.

(Mr. Panosh showed exhibits to Mr. Hatfield.)

MR. HATFIELD: We've never seen this before. We demand an opportunity to examine this. It's never been shown to us.

THE COURT: Well, look at it.

(Time was allowed for Mr. Lloyd and Mr. Hatfield.)

MR. HATFIELD: Object. Ask for a hearing outside the presence of the jury.

THE COURT: All right.

Step out, members of the jury.

(The jury left the courtroom at 4:33 p.m.)

THE COURT: All right, sir.

MR. LLOYD: Your Honor, I believe Mr. Panosh can correct me if I'm wrong, these pictures -- he's handed us a book with three pictures in it. I believe these pictures

are all of a woman by the name of Janet Smith. This is the motion in limine that we filed earlier. This was the jailer. This is probably -- I would assume that Mr. Panosh intends to go into this.

THE COURT: Let me see the book, see the pictures.

MR. LLOYD: Yes, sir. I don't think there's anything objectionable about the book.

(Mr. Lloyd handed the exhibits to the Court.)

MR. HATFIELD: There is objection about the book.

THE WITNESS: May I talk to --

MR. HATFIELD: We've never been shown the book before, and in time to know what it is. He's supposed to have shown all the exhibits in advance of trial, pursuant to the order of a Superior Court judge, and now he comes up with this thing at 4:35 in the afternoon.

MR. PANOSH: Your Honor --

MR. HATFIELD: I object to it, regardless of whether or not co-counsel does.

THE COURT: All right, Mr. Panosh.

MR. PANOSH: Your Honor, these items were seized from the defendant, from his jail cell, on November the 19th. Shortly thereafter, I told counsel about it. At a subsequent date, I gave them a discovery memorandum, with certain copies of certain items that were seized, and a report, indicating a book and three pictures were seized.

The book and the three pictures have been in the Guilford County Sheriff's Department evidence at all times.

MR. HATFIELD: That is a different case, and he's not being tried for that case.

THE COURT: Sir, let him finish. I'll let you be heard.

MR. PANOSH: I gave -- I told them that it existed. I told them where it was. I gave them an opportunity to go look at it. No, I didn't give them a copy of the book, but I told them this book was in evidence.

THE COURT: Who's the book from?

MR. PANOSH: Seized from this defendant on November the 19th of 1997.

THE COURT: And where did the book come from?

MR. PANOSH: It was in his hand.

THE WITNESS: No.

MR. PANOSH: It was in his jail cell or in his immediate possession.

THE COURT: All right. What else, sir?

MR. PANOSH: And it goes to contradict his statement of a loving relationship with his wife, that he never hid anything from his wife, because those three pictures are of another woman.

THE COURT: How far do you intend to go with the examination of the witness in regards to these pictures at

this point?

MR. PANOSH: I've just said it.

THE COURT: Sir?

MR. PANOSH: I've just stated it. Because they were pictures of another woman.

MR. HATFIELD: Before the Court decides, could we be allowed to be heard?

THE COURT: Yes, sir.

MR. HATFIELD: Your Honor, this defendant was indicted in the most preposterous and ridiculous indictment ever handed --

THE COURT: Well, don't get --

MR. HATFIELD: -- down in this county.

THE COURT: -- into that --

MR. HATFIELD: Let me --

THE COURT: -- at this time. Right now --

MR. HATFIELD: I want to -- if you will permit me to --

THE COURT: This is not a jury speech, and I'm not going to listen to a jury speech at this point.

MR. HATFIELD: All right. I mean what I say.

THE COURT: All right, sir.

MR. HATFIELD: He was indicted for a crime that has never been heard of in North Carolina, the idea of some kind of conspiracy to violate a violation of the law that a

custodial officer did.

THE COURT: Well, as I understand, Mr. Panosh is not going to get into that.

MR. HATFIELD: He has not been tried on that, and it has not been joined in these proceedings. It is pending, and eventually will be dismissed, because of the reasons that I just said.

Now, those pictures have nothing to do with this case. That is intended to poison these proceedings in a way that will open the door to three or four days of litigation, because there are numerous letters and all kinds of other things that are going to have to be developed here.

THE COURT: We're not going to get into that. The extent of it is, you intend to ask him about these pictures

--

MR. PANOSH: And the --

THE COURT: -- who they are and who she is?

MR. PANOSH: Yes.

THE COURT: You may do that.

MR. HATFIELD: Your Honor, the only way -- if he does that, we are going to have to put on the whole --

THE COURT: Your client has -- the defendant has testified there was a loving relationship between his wife. The jury's entitled to know that there's something different from that.

MR. HATFIELD: If he -- he didn't have any kind of unloving relationship with his wife, and he didn't have any relationship whatsoever with the person who is depicted in those pictures. They searched his cell without a search warrant, and for I -- for ulterior motives and found these photographs, which apparently had been given to him by this woman, who was an employee of the sheriff's department while this was going on. The fact that he had those pictures doesn't mean anything. It doesn't mean he loves that woman.

THE COURT: He may explain that, if that's the case.

MR. HATFIELD: Sir?

THE COURT: He may explain that, if that's the case.

MR. HATFIELD: Your Honor, these pictures are irrelevant. And the State knows that in bringing these pictures in here, they are simply trying to open the door, so that they can further go into the question of what this sheriff's department employee, which is what she was, a sworn law-enforcement officer, a deputy of the sheriff, was doing in her numerous unilateral communications with him. And the fact that he had pictures of her, which perhaps she gave him, or someone else gave him, only means that he may have known her and liked her. I have numerous photographs around my home of friends that I know at the courthouse,

friends that I know in cities that I've been to. It doesn't mean -- it is of no probative value to establish that a person has photographs in their possession. And it certainly doesn't mean that when he said he loved his wife, that because he had photographs of another person, that means he didn't love his wife.

This has zero probative value. It is calculated to open the door to this whole problem of what the sheriff's department did with this deputy, by putting her into constant contact with him, to see if he would make a mistake. And if they're going to use her picture and imply that he felt affection toward that woman or that in some way he didn't feel affection toward his wife, we submit that the only fair thing to do, would be for us to be able to go into the whole matter. Because the sheriff put her there as jailbait. She was dangling there for weeks on end, under the supervision of Jim Church and the high sheriff of the county, with the intention of hopefully --

THE COURT: Is she still employed at the sheriff's department?

MR. HATFIELD: No. She's been fired and indicted. And he has been indicted, although he was a victim of the things she's been accused of, he has been indicted as conspiring with her to be this victim.

THE COURT: What are the other questions you

intend to ask this witness, Mr. Panosh?

MR. PANOSH: I intend to have him identify the book. I expect that he'll say that was a book seized from him or his cell November the 19th. I'm going to ask him if he had those photographs in the book. I'm going to ask him the name of that person. And I'm going to ask him if he revealed -- if his wife knew that he had those photographs.

MR. HATFIELD: That doesn't prove anything.

THE COURT: That's for the jury to decide.

(The Court handed the exhibits to Mr. Panosh.)

MR. HATFIELD: Well, just a minute, Your Honor. First of all, we ask that this Court take evidence concerning Janet Smith and whether or not there was any relationship. Because I'll tell the Court right now, as an officer of the court, there was never any relationship between him and Janet Smith. Her lawyer has assured me of that. She has stated that unequivocally in her own right. There is no relationship. This is a classic --

THE COURT: The State may ask him if he had pictures of another woman and why he had those pictures.

MR. HATFIELD: What about the book? What value does the book have?

THE COURT: I don't understand --

MR. HATFIELD: Are we going back --

THE COURT: -- the relevance of the book --

MR. HATFIELD: -- over the --

THE COURT: -- other than that it was the receptacle for the pictures. That's the only value it would have.

MR. PANOSH: That's correct.

MR. HATFIELD: Well, how do we know the pictures were found in the book?

THE COURT: He can answer that.

MR. HATFIELD: Your Honor, that is 403, because it has no probative value, as you can easily see, and --

THE COURT: It's cross-examination. It goes to credibility of this witness, as to what he's testified to.

MR. HATFIELD: Your Honor, it doesn't go to his credibility --

THE COURT: Well, it does.

MR. HATFIELD: -- because you can make no assumptions about his feelings toward his wife or his feelings toward anyone else, because he --

THE COURT: He testified to that before this jury, and the jury's entitled to know that there may have been someone else, or there may not have been someone else.

MR. HATFIELD: No. If he had a real relationship with that person -- which as an officer of the court, I will unconditionally assure you he did not -- if he had a real relationship with her, it might have probative value. But

he had no relationship with that woman, except that she was sent there by Detective Church and by Sheriff Barnes, in order to interfere with him and see if he would make some kind of mistake.

I submit that probably the pictures -- she was told by her handlers to give him those pictures. They're not naked pictures. They're not pictures that show any events that took place between him and that woman. They're just pictures. And if I had a picture of the clerk who's sitting over here, it doesn't mean anything. It just doesn't have any probative value. But it has tremendous prejudicial effect, because it's asking him to deny a negative. There was no relationship with this woman. Mr. Panosh wants to embarrass him in front of this jury, make him tear up, like he does when he's asked serious questions, and have him say, no, he had no relationship with that woman. All it is is calculated to disrupt this trial, mislead this jury, and put this defendant in a false light. And it would be -- I think that we would be completely unprofessional if we didn't open up the whole thing and show what this woman's role --

THE COURT: If you open the whole thing up, you'll be opening the door and it'll come in. But right now, I'm going to restrict the statement simply to the questions that Mr. Panosh indicated he intends to ask, he's entitled to

ask.

Bring them back.

MR. LLOYD: Your Honor, if I could just take one second. If I could beg the Court's indulgence. Right now, he's before the jury, he's questioned on cross-examination. Mr. Panosh asked Kim Kimble what was her marital status. And if Your Honor will recall, she said that she had filed for divorce. All right. That's what the jury knows as the current status.

Now, it is true that Ronnie Kimble said on direct examination that he had no secrets from his wife, but this was in the context of the statements -- first of all, he had been asked about whether or not Kim Kimble knew about Joy Hedgecock. This was a relationship that he had before he got married. He said yes. And then, that was when he made the statements -- the statement that he had no secrets from his wife. This was in that context, not in the -- not in any sort of present context. And if Your Honor please, it goes to the state that existed between them, between Ronnie Kimble and Kim Kimble, at the time that the alleged statements were made to Mitch Whidden, because that's what that was all about.

So now, under the guise of coming in on cross-examination, what Mr. Panosh is really trying to do is smear Mr. Kimble's reputation with these, you know, pictures, that

imply an adulterous relationship with this jailer, that go to, as Mr. Panosh has already admitted --

THE COURT: Mr. Hatfield says there's no relationship.

MR. LLOYD: Well, no sexual relationship, that's exactly right, Your Honor. And we don't back up. But that's part of the problem. They imply this adulterous relationship. They simply don't have anything to do with this trial. They don't have anything to do with the relationship as it existed between Ronnie and Kim Kimble at the time of the whole thing with Mitch Whidden.

THE COURT: Are you saying that since that time, there has been a change, and they're not entitled to show that change?

MR. LLOYD: No, because it has no relevance. Mrs. Kimble, Kim Kimble, has already testified that she filed for divorce, Your Honor, and that's before the jury. We hadn't gone into the exact nature of that. I'm sure Your Honor would not have allowed that. But that's exactly what this, under the guise of cross-examination, is attempting to do. And I just beg Your Honor to take another look at it, before you let this Pandora's box open in front of the jury.

THE COURT: It's not going to open very wide, unless somebody opens it.

MR. LLOYD: But it puts us in a situation, Your

Honor, that because of the vast implications, he's got pictures of another woman and, you know, in his cell in jail, and he's carrying on an affair, we don't have any choice at that point, we have to open it up. And surely, Your Honor will see that that's not proper for this jury to consider in this lawsuit. And I would just ask Your Honor to reconsider in this matter.

THE COURT: What other questions you would like to ask, Mr. Panosh, if the Court allows you to?

MR. PANOSH: Your Honor, I intend to ask --

THE COURT: Very restrictive. Very restrictive, what are they, sir?

MR. PANOSH: I intend to ask him to identify 138 as his book, because that's where the pictures were contained. I intend to ask him if the pictures, which are 139-A, B and C, were in 138. I intend to ask him if that is his wife's pictures. And of course, this occurred on November the 19th of 1997. And --

THE COURT: You may not ask him that question about the wife's pictures. It's obviously not the wife's pictures.

MR. PANOSH: Well, Your Honor, can I ask him whose pictures they are?

THE COURT: You may ask him that. And that's the extent of what you can ask him.

MR. PANOSH: That's it.

THE COURT: If he wants to explain it away, open the door, and we go the other way.

MR. HATFIELD: I would like to know whether or not, when he answers who those pictures are of, that he has to say any more than her name?

THE COURT: He doesn't have to say any more than her name.

MR. HATFIELD: He doesn't have to say her former employment?

THE COURT: No, he doesn't have to say that.

MR. HATFIELD: And he doesn't have to answer where he got them?

THE COURT: He doesn't have to answer that.

Bring them back.

(The jury entered the courtroom at 4:47 p.m.)

THE COURT: You may continue.

CONTINUED CROSS-EXAMINATION by MR. PANOSH:

Q My question to you before we broke was, you testified that your wife -- you and your wife had a loving relationship and you didn't keep any secrets from her; is that correct?

A Yes, in my earlier statement, within context.

MR. PANOSH: May I approach?

THE COURT: You may.

Q Showing you now State's Exhibit labeled 138, do you recognize this book?

A Yes, sir, I do.

Q What is 138?

A It is a -- The Complete Book of Bible Lists.

Q And was that book taken from you on or about November the 19th of 1997?

A Yes, it was.

Q And showing you then State's Exhibit 139-A, B and C, what are those?

A These are pictures of Janet Smith.

Q Were those in the book at the time it was taken?

A I don't know if they were or not.

Q Were those pictures in your possession on that day?

A Yes.

Q Did you tell your wife about those pictures?

MR. LLOYD: Well, objection, Your Honor.

A Yes, I --

THE COURT: Sustained.

Don't answer it.

MR. LLOYD: Move to strike, Your Honor.

THE COURT: Disregard the question, members of the jury.

Q You indicated that you and Ted were not close?

A Yes, sir.

Q And that I take it was throughout your growing up?

A Basically. Prior to Ted getting his license, I would say a little -- for a little short time that Ted had his license, we may have had a -- we may have got along okay for a short period of time, but never -- I don't really know how to describe it. Basically, the only time that we've ever really had any kind of thing where we went off together was -- the last that I can recall was at -- when I was 15, I think he was 16, 17, we may have went off a little bit together, but not much.

Q Did you do things together as you were growing up?

A In reference -- in what way?

Q Do you recall doing things together with your brother as you were growing up, in your preteen and teen years?

A In us going off together, him and me, like we were buddy, buddy or something?

Q Yes.

A No.

Q Did you ever get in trouble with him?

A Yes.

Q When was that?

MR. LLOYD: Well, objection, Your Honor.

MR. HATFIELD: Objection. Goes to a juvenile matter.

THE COURT: Sustained.

MR. PANOSH: Your Honor, it goes to his --

THE COURT: Well --

MR. LLOYD: Your Honor, may we approach?

THE COURT: -- let's stop right here. We've heard enough today.

We're going to let you take your break, members of the jury, and I'll sort this out with the lawyers.

We're going to -- tomorrow we're going to do it a little bit different. We're going to start at 9:30 and we're going to take a shorter lunch hour, between 12:30 and 1:30, and we're going to quit about 3:00 tomorrow afternoon. And the reason for that is, I have a longstanding doctor's appointment in Salisbury, I need to be there at 4:00 o'clock. And that's the reason, so you can kind of plan your day around those guidelines.

Have a nice evening and I'll see you tomorrow.

(The jury left the courtroom at 4:51 p.m.)

THE COURT: All right, sir.

MR. PANOSH: Your Honor, on direct examination, the defendant stated, referring to his brother, Ted, "We have never been close. We probably talk more today than ever." And we submit the fact that he and his brother broke into an elementary school together in 1984 would certainly rebut that.

MR. HATFIELD: Your Honor, that is a matter that

was disposed of in juvenile court when this young man was a child. Those matters are customarily not admissible.

THE COURT: How old was this defendant at that time?

THE DEFENDANT: I was 15 years old.

THE COURT: All right, sir. What else?

MR. HATFIELD: It has nothing to do with his credibility, because just because he was -- another young man was involved in that. There's no reason to assume that it reflected any closeness between Ronnie and his brother. It is too remote in time from the scenario that we're talking about in this case, where a conspiracy was supposedly formulated by a -- these two men when they were in their mid 20s. This would have been some 10 or 12 years before that. And that was not a conspiracy. Another young man, whose mom has been a previous witness in these proceedings, this trial, child was also involved. And it doesn't show closeness. It doesn't show planning, intention, design, purpose, acting in concert or anything like that. It's just an isolated event. It was taken care of by the juvenile authorities with some kind of informal probation. And there was never any recurrence of behavior of that kind again, as far as I know.

MR. PANOSH: Your Honor, we'd agree on direct it's not admissible, but this man has painted a picture of not

being close to his brother, of not associating with his brother, specifically saying, "We've never been close. We didn't do things together." There was a long period of time when counsel examined him about what he did when he was 14 and his brother was 15, his brother working at Lyles, he working doing the yard service that he related to. And this directly goes to rebut what he has painted. He has painted this picture of "My brother goes that way and I go this way, and we don't have any association." No, it shouldn't be admissible to show his prior misconduct, but yes, it should be admissible to show that he has tried to deceive this jury, by saying, "My brother does those things over there and I go this way, and we don't have any association. We never have. We're closer now than ever."

MR. HATFIELD: Your Honor, they lived under the same roof. You know, you don't choose your siblings. They were raised by the same parents. They lived under the same roof. They went to the same church. There were many things that they did. None of these things reflect any unusual closeness between the two of them.

What makes this so sensitive is the fact that Mr. Panosh promised you when this trial began that he was going to produce evidence of a conspiracy between these boys, and he has never succeeded in producing the first scintilla of evidence of a conspiracy. This case, as it's been presented

in nine days of evidence by the State, shows a total failure of any evidence pointing to any kind of conspiracy.

Now, this defendant has not put his character at issue in any way. He has merely told the truth as best he knows how about the questions that he's been asked. He does not deny that when he was 15 years old, and his brother was 17 years old, that they probably lived in the same house and were being taken care of and directed by the same parents. That in and of itself doesn't mean anything. The fact that they went to the same church doesn't mean anything.

And the fact that they participated in an isolated incident -- and I submit, Your Honor, that if you did make a factual inquiry into the facts of this incident, this juvenile incident, you would see that even those facts don't suggest that there was any particular closeness between Ted and Ronnie. Ronnie went out and mowed those lawns that he's described in detail. There was never any evidence that Ted was involved in any of that. Ronnie says that he worked occasionally for Gary Lyles, while Gary Lyles owned that company. There's no indication that that led to any closer relationship between Ted and Ronnie. They're just two brothers. It is not proper, when a person has not put their character into evidence, to introduce unadjudicated conduct that was handled by the juvenile court. Our courts traditionally declare that to be off limits and don't go

into it, and I think that that's the right thing to do here.

THE COURT: The Court's going to exclude any evidence of any testimony about anything that may have happened 10 years previously and happened while this defendant was a juvenile.

MR. HATFIELD: Thank you.

THE COURT: Other matters before we recess for the evening?

MR. PANOSH: No, Your Honor.

THE COURT: Let me see the attorneys at the bench about an administrative matter.

You may declare a recess until 9:30 in the morning, sheriff.

(The witness left the witness stand.)

(A recess was taken at 4:58 p.m. until 9:30 a.m. Wednesday, August 26, 1998.)

* * * * *

I N D E XDEFENDANT'S WITNESSES

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E X H I B I T S

<u>STATE'S EXHIBITS</u>	<u>IDENT.</u>	<u>INTRO.</u>
138. Book	2236	----
139-A. Photograph	2236	----
139-B. Photograph	2236	----
139-C. Photograph	2236	----
140-A. Medical Documents of Ronnie Kimble	2204	----
140-B. Medical Documents of Ronnie Kimble	2204	----
140-J. Health Record of Ronnie Kimble	2208	----
140-P. Medical Record of Ronnie Kimble	2212	----
140-R. Sleep Test Report	2214	----

NORTH CAROLINA
GUILFORD COUNTY

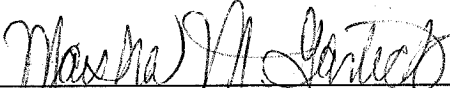
IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 97 CrS 23654
FILE NO. 97 CrS 39580
FILE NO. 98 CrS 23485

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

C E R T I F I C A T E

I, Marsha M. Garlick, Official Superior Court Reporter, Eighteenth Judicial District, do hereby certify that the foregoing 218 pages constitutes the complete and accurate transcript of my stenograph notes of the proceedings in this matter on August 25, 1998, at the August 3, 1998 Regular Criminal Session of Superior Court, Guilford County, North Carolina, and were transcribed by me personally.

This the 16th day of January, 1999.



Marsha M. Garlick, RPR
Official Superior Court Reporter

Transcript Ordered: September 8, 1998

Transcript Delivered: January 22, 1999