

NORTH CAROLINA
GUILFORD COUNTY

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

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

T R A N S C R I P T

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

A P P E A R A N C E S

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WEDNESDAY, AUGUST 19, 1998

(Court convened at 9:39 a.m. The defendant was present.
The jury was not present.)

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

MR. PANOSH: Very briefly, Your Honor. In
reviewing the exhibits -- May I approach?

THE COURT: Yes.

MR. PANOSH: The clerk and I had different entries
as to 104 and 105. These are the estate papers. I show
them to be admitted, and she showed them to be admitted for
the record only.

THE COURT: That's right. She's right.

MR. PANOSH: But my records show that 106 is the
one that was admitted for the record only. This has to do
with the -- these are the items that they objected to and I
took out. Those were the estate papers that, my
recollection is, Your Honor said were admissible.

(Mr. Panosh handed exhibits to the Court, and time was
allowed for the Court.)

THE COURT: 105 and 104 are -- I'll allow its
admission.

MR. PANOSH: Thank you.

THE COURT: Do you want this back?

MR. PANOSH: I'll put it on my table, Your Honor.

(The Court handed exhibits to Mr. Panosh.)

THE COURT: Any other matters?

MR. PANOSH: No.

(The jury entered the courtroom at 9:41 a.m.)

THE COURT: Pleased to have the jury panel back.

I hope each of you had a nice evening and feeling okay. Anyone on the panel experiencing any problems today that I should know about, if you'll raise your hand, I'll be glad to talk with you about that.

Okay. Officer Church, if you'll return to the witness stand, please, sir.

(The witness James D. Church returned to the witness stand.)

THE COURT: You're still under oath.

You may continue with cross-examination, Mr. Hatfield.

MR. HATFIELD: Thank you, Your Honor.

JAMES D. CHURCH, having been previously duly sworn, testified as follows during CONTINUED CROSS-EXAMINATION by MR. HATFIELD:

(Time was allowed for the witness.)

Q Are you ready to proceed?

A Yes, sir.

Q Okay. Mr. Church, did you get a chance last night to check out the route from Lyles, past the Greensboro Coliseum, down Coliseum Boulevard, to Freeman Mill Road?

A I did that this morning.

Q And is it a fact that once a driver from Lyles proceeds a couple of hundred yards to the coliseum intersection and makes a left onto Coliseum Boulevard, that that driver can follow four-lane roads all the way to the intersection of 421 South and Alliance Church Road?

A My findings this morning was, from Lyles Building Material to Coliseum Boulevard, which I always refer to as Chapman Street -- and when you said Coliseum Boulevard, if you'd have said Chapman Street, I would have knew exactly -- is two and a half tenths of a mile. If you turn left onto Coliseum Boulevard, it dead ends into Freeman Mill Road. And I did do the distance from Lyles Building Materials driveway to the driveway of Brandon Station Court, the former residence of Patricia Kimble.

Q All right. Now, what you have always thought of as Chapman at some point has been renamed Coliseum Boulevard?

A Yes. I think at the time of her death, it was Chapman Street. And I didn't even know it was Coliseum Boulevard. I still refer to it as Chapman Street.

Q In any event, it is a four-lane road, and it does --

A Yes, it is.

Q -- and it does merge with Freeman Mill Road, doesn't it?

A Yes. Deads right into it. 35 mile an hour speed

limit.

Q And Freeman is also a four-lane highway, isn't it?

A Yes, it is.

Q And Freeman merges with I-40, doesn't it?

A It crosses I-40.

Q But you can just go to the right and get right on I-40, can't you?

A You sure can.

Q And I-40 is a six-lane highway, isn't it?

A I think so. In that area, sure is.

Q And then I-40 has an exit marked 421 and Sanford, North Carolina?

A It does, at Martin Luther King Boulevard.

Q And Martin Luther King Boulevard quickly turns into Hunt Boulevard, named after one of the famous Hunts of Guilford County, doesn't it?

A I think there's a short strip there named after someone in the state, yeah, goes --

Q And it's a --

A -- up to Pleasant Garden Road, yeah.

Q And it's a four-lane highway, isn't it?

A Yeah.

Q 45 miles an hour part of the way and 55 the rest?

A It's 45 until you get to the intersection of Pleasant Garden Road and 421. Then it goes to 55.

Q And then it proceeds for a couple more miles, till the exit at Highway 22 South, which is also Alliance Church Road?

A Yes.

Q And Alliance Church Road has a 55 mile per hour limit?

A Yes, it is, posted 55 miles an hour.

Q And of course -- I'll show you what's been -- would you look and see, is that marked for identification as Defendant's Exhibit 7?

A Are you talking about the map?

(The witness approached the diagram.)

Q Yes, sir. I put a blue Defendant's --

A Yes, it is. It's the same as State's --

Q Is it Defendant's 7?

A Yes, it is.

Q All right. Thank you. Now, will you just quickly show the jury again the line that represents 421 South merging with 22, which is Alliance Church, and going down to Brandon Station Court.

A This is 421. (Indicated.) This is the intersection of Highway 22, which is also Alliance Church Road.

(Indicated.) And it continues on down, crosses Neeley Road. And there is a stop sign right here. (Indicated.) You have to come to a stop, where Appomattox ends and 22 take a left, and 22 will carry you on down to Brandon Station Court,

which is on the right. (Indicated.)

Q And actually, from the point at Martin Luther King where you make that right onto 421 from I-40 and I-85, it's due south, isn't it?

A Well, I don't know a compass reading, but I'd say it's south.

Q Okay. Now, Mr. Church, you said you did that -- Go ahead and have a seat. Thank you.

(The witness returned to the witness stand.)

Q You said you ran that route this morning; is that correct?

A I sure did.

Q What was the overall mileage?

A The overall distance was 13 miles even, by my speedometer on my county car.

Q Okay. And what was the elapsed time?

A 16 minutes.

Q Okay. Now, did you try to run the reverse, or was that enough? Did you go back the same route or another similar route back to Lyles?

A No, sir. I went one way.

Q Now, how would you describe the traffic conditions which you encountered this morning?

MR. PANOSH: Object.

THE COURT: Sustained.

Q Well, you don't know what the traffic conditions were on the afternoon of October 9, 1995, do you?

A No, I don't.

Q But you know what the humidity was and you know what the air temperature was, but you don't know what the traffic conditions were?

A Not in that particular route that you're referring to, sir, no, I don't.

Q Now, do you recall an individual named Nancy Young?

A Yes, I do.

Q Would you tell the jury who Nancy Young is.

A Nancy Young was an employee of Cinnamon Ridge Apartments. She worked for Patricia Kimble, worked in the same office.

Q And did Nancy Young testify earlier in this trial?

A Yes.

Q Did you hear her testimony?

A Yes.

Q Did you on a number of occasions interview Nancy Young?

A I think I interviewed her two times.

Q Do you recall the information that you obtained from your interviews of Nancy Young?

A Well, I recall some of it. I don't recall all of it. I couldn't, without reading back through the interviews.

Q As soon as you knew that it was going to be your

unhappy duty to investigate the death of Patricia Kimble, you got in touch with Nancy Young, didn't you? She was one of the first people --

A Well, not actually the way you refer to as unhappy duty. It is the duty, and that's the reason I'm in the squad that I'm in. Yes, I did get in touch with Ms. Young.

Q Was that on or about October 12th of the year Patricia died?

A It was shortly after her death. I'd have to see my report, to see exactly what date it was.

MR. PANOSH: May I approach with the report?

MR. HATFIELD: If Your Honor please, I believe that I'm conducting this examination.

THE COURT: Well, he's entitled to provide the witness with his own report.

(Mr. Panosh handed documents to the witness.)

A Yes, Mr. Hatfield, it shows here that I did talk to Ms. Young on October the 12th.

Q Now, I see that you have several pages in your hand, but I'm only aware of a one-page report for October 12th. What else have you got there?

A I talked to Nancy Young again on the 15th of August, 1996.

Q Okay. So you also have -- you have two investigative reports there, both written by you?

A Yes.

Q And both indicate -- summarizing your interviews of Nancy Young?

A Yes, sir.

Q Will you look at the October 12th interview. Did Ms. Young tell you that Patricia got to work at 9:40 a.m.?

A Yes, that is what she told me.

Q And did she tell you anything about when Patricia had her lunch and where it might have taken place?

A She stated that Patricia went to lunch, as she recalled, around 11:45.

Q And what time did she come back?

A And returned at 1:15.

Q And where did she have lunch?

A Said she had went and had lunch with her husband, Ted Kimble.

Q And of course, when you talked to Ted Kimble, he said the same thing, didn't he?

A Yes, I think Ted told me he ate lunch with Patricia, yes.

Q All right. Now, looking at your report for the next day -- the next time you talked to Nancy Young, which was August 15th of 1996, some eight months later --

A Yes, sir.

Q -- you went and talked to her again, didn't you?

A Yes, I did.

Q And on that occasion, did she tell you that Patricia returned from lunch "before 1400 hours"?

A Yes, she did. She stated that on the day Patricia died, that she returned from lunch before 1400 hours, before 2:00 o'clock.

Q All right. So would you tell the members of the jury who didn't serve in the military what 1400 hours is.

A Yes. 2:00 o'clock.

Q So it has been conclusively established that Patricia was alive at 2:00 p.m. on October 9, 1995, hasn't it?

A Yes.

Q And it has been conclusively established that she was dead at 8:30 p.m. that night, hasn't it?

A Well, thereabouts. After the fire department got there and found the body. I don't know exactly what time that was.

Q But no one left the house after Reuben, her brother, got there at 8:30 and alerted the authorities, certainly no one left the house?

A Not that I --

Q And no one entered, either, did they?

A Not until the fire department entered.

Q I mean, you just know that she had already died by 8:30 p.m. or even earlier, don't you?

A I think that's pretty well obvious.

Q Now, did -- looking at the October 12th report again, did -- down at the bottom, did Nancy Young tell you that Ted called Patricia at a certain time that day?

A Yes, she did.

Q So it is clear from your report that the call was originated by Ted and received by Patricia, isn't it?

A Yes, it is.

Q And it was witnessed by Nancy Young, wasn't it?

A Yes.

Q And then what was the next thing that Nancy Young witnessed?

A She witnessed Patricia Kimble leaving Cinnamon Ridge at 3:30.

Q All right. So the next thing that Nancy witnessed was Patricia leaving at 3:30; is that right?

A Yes.

Q And the call that Nancy Young witnessed occurred at 3:20 p.m., didn't it?

A As I have written here, the call came from Ted around 3:20. And a few minutes, in her words, approximately 10 minutes later.

Q Of course, Ted told you that he called her at 3:30, didn't he?

A I don't recall what Ted did tell me. It was right

before she left from work, though, he told me that he called her.

Q Now, when Ted called her at either 3:20 or sometime between 3:20 and 3:30, do you know where Ted was?

A By his account, he was at Lyles Building Material.

Q But do you know where he was?

A I don't know where he was.

Q And you don't know any witness who can tell you where he was at 3:20 p.m., do you?

A Yes, sir, I do.

Q You have witnesses who -- have they testified in this trial?

A No.

Q So you have witnesses unknown to the jury who can tell you where Ted was at 3:20 p.m.?

A I have a witness -- well, I'm -- witnesses told me that Ted Kimble was at Lyles Building Material.

Q But you didn't bring those witnesses in here to testify?

MR. PANOSH: Objection.

THE COURT: Sustained.

Q Now, looking at the August 15th report that you wrote, that was your final interview of Nancy Young, wasn't it?

A Yes.

Q Did you -- just for the record, did you have occasion

to talk to Nancy Young at any time between August 15, 1996 and when she testified in this trial?

A No, sir. I don't recall ever talking to Nancy Young, from the day I talked to her on August 15th, until -- and I didn't talk to her when she came in here.

Q Okay. Now, looking at the very middle of your August 15th report, where you are reporting what you said to Nancy Young, you said, "I told her that none of the Kimble family would cooperate with me in the case, and this didn't appear to have any effect on her, and would not say a word about any of the Kimbles"; is that your statement in your report?

A Along with other statements, yes.

Q Well, you wrote the report?

A I wrote that, yes, sir.

Q And you had --

A I said that.

Q You had complete control over how it was written?

A Yes, sir. It's my report.

Q And everything that was said in it, you put in it?

A I sure did.

Q Did you tell Nancy Young that none of the Kimble family would cooperate with you in the case?

MR. PANOSH: Asked and answered, please.

THE COURT: Well, he may answer it again.

You may answer the question.

Q Did you tell her that?

A Yes, I did.

Q Okay. So you didn't just put it in the report, you actually told her?

A If it's in this report, I told her.

Q Now, when you told her that none of the Kimble family would cooperate with you, had you simply forgotten that at your request, Ronnie Kimble gave a full statement to Officer Munroe of the Naval Investigative Services on October 30, 1995? Had you just forgotten that?

A No, sir --

MR. PANOSH: Object.

A -- I hadn't forgotten that.

THE COURT: Sustained.

Q Had you -- had it slipped your mind --

MR. PANOSH: Object.

THE COURT: Let him finish his question.

MR. HATFIELD: He objects before a word --

THE COURT: You may finish your question, sir.

MR. HATFIELD: Sir?

THE COURT: Let him finish the question, Mr.

Panosh.

You may finish your question.

Q Did it slip your mind when you were talking with Nancy Young that you had telephoned Ronnie Kimble a few days after

Patricia's funeral and discussed with him his activities on October 9, 1995?

MR. PANOSH: Objection.

THE COURT: Overruled.

Q Had it slipped your mind?

A I don't recall. However, the statement that I made is true. None of the Kimbles cooperated with me in this investigation, as I tried to get them to come to my office for interviews. I traveled -- one occasion, we went to Camp Lejeune, to talk to Ronnie Kimble, and he flat said, "I'm not talking to anybody, any of you folks." However, one time, the agents and I went down there and he did grant an interview. But during that time, he got up and walked out. So I really didn't get any information.

Ted Kimble never came in for an interview. The information that I got from any of the Kimbles was a short telephone call, trying to impress them to talk to me. And on one occasion, when I did approach Ted Kimble at Lyles Building Material, I was told by him that he was trying to avoid people like me, and that was shortly after Patricia's death, I think within a month.

That's the nature of the cooperation that I got. Yes, the Kimbles did talk to me, but as far as coming down and me asking the husband and the brother-in-law, "Your wife has been murdered. Please set down and help me with this

interview," and asking him (Indicated) to cooperate 100 percent, I never got that.

Q Have you finished?

A Yes, sir. Does that answer your question?

Q No.

A Okay.

Q Now, when you went and spoke to Ted, and he said the thing you quoted a minute ago, he was joking with you, wasn't he?

A No, sir, he wasn't joking.

Q And that was the day that you and Deberry went over there and saw that he had a brand new motorcycle that he was polishing up; isn't that right?

A I think that was the second day that we went to Lyles, and Sergeant Deberry had spoke to him about the forgery.

Q And the second thing that he said to you was, "Have you got any good news for me?" didn't he?

A Yeah, he said that.

Q And you said, "No"?

A No, I didn't say that. I didn't answer him. Sergeant Deberry answered him.

Q All right. Now, let's get back to the facts concerning Ronnie Kimble. You do understand that Ronnie Kimble is on trial here?

MR. PANOSH: We object to these comments.

THE COURT: Sustained.

Q You do understand that Ted Kimble is not on trial?

MR. PANOSH: We object to these comments.

THE COURT: Sustained. He understands that.

MR. HATFIELD: Your Honor, I'd like to know the

basis of --

THE COURT: Well, we --

MR. HATFIELD: -- your ruling.

THE COURT: -- all understand that. Move along.

MR. HATFIELD: Well, I'd like to know if he

understands it.

THE COURT: He's the investigating officer.

Do you understand it, sir?

THE WITNESS: Yes, sir.

Q So this is Ronnie's trial and not Ted's trial?

A Yes, sir.

Q Then let's talk about Ronnie's cooperation.

MR. PANOSH: Object to the comments of counsel.

THE COURT: Sustained.

Q Moving now to Ronnie's cooperation. I'd like to know the basis of --

(Mr. Hatfield showed a document to Mr. Panosh.)

Q I'd like to show you four single-space typewritten pages and ask you if you can simply refresh your memory as to what that may be.

A Yes, sir. I know exactly what this is.

Q Can I have it back?

A Oh, yeah.

(The witness handed the document to Mr. Hatfield.)

Q Thanks. Now that you've looked at what I just showed you, you recall that at your request, Mr. Ronnie Kimble gave a four-page, single-spaced statement to Agent Munroe? Do you remember that?

A Yes, sir, I do remember that.

Q And that was on October 30th, barely three weeks after poor Patricia had died; isn't that right?

A I don't remember the date, but I think that's right. I'll agree that that's October the 30th.

Q What?

A Whatever the date on it is. I didn't look at the date. (Mr. Hatfield handed the document to the witness.)

A Yes, October 30, 1995.

(The witness handed the document to Mr. Hatfield.)

Q That was three weeks to the day after Patricia had died, wasn't it?

A Yes.

Q Ronnie Kimble answered every question that he was asked, didn't he?

A So far as I know, he did.

Q And one of your close associates was present for that

interview, wasn't he?

A Not to my knowledge.

Q Wasn't Mr. Deberry down there?

A No, sir.

Q Okay. Now, now that you've refreshed your recollection, you remember that on October 30, '95, Ronnie Kimble made a detailed statement concerning the facts of the case as he understood them to be?

A Yes, sir. I didn't have to refresh my memory. I knew that.

Q All right. But even before that, even before October 30, 1995, you had a telephone conversation with Ronnie Kimble, didn't you?

A I do not recall if I had a telephone conversation.

Q I show you what's been marked for identification Defendant's Exhibit 2, it was sent to me by Mr. Panosh, and ask you to read that and see if it refreshes your recollection.

A I'm familiar with this.

MR. PANOSH: Your Honor, we've been over all this yesterday. We'd ask to move on.

THE COURT: I don't know -- Proceed at this point.

A There's one word in here that's not my word. It says "shortly." And I think I testified seven to 10 days before

I knew Ronnie Kimble was in Guilford County at the time Patricia Kimble was murdered. "Shortly" there is to mean seven to 10 days in my testimony.

(The witness handed the exhibit to Mr. Hatfield.)

Q But the fact is, that the reason that you asked Agent Munroe to take a full statement from Ronnie Kimble was because you had already talked to Ronnie Kimble on the telephone about his whereabouts on October 9th; isn't that right?

A No, sir, I don't recall talking to Ronnie Kimble about his whereabouts for October the 9th. And I don't recall seeing that there. I recall -- can -- if you can show it to me again and show me that, I'll --

(Mr. Hatfield approached the witness.)

A Yes, sir. I do remember.

Q Do I have to show it to you?

A Yeah, you have to show it to me. No, you don't have to, but I'd appreciate it.

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

A I do remember that I found out Ronnie Kimble was in Guilford County before October 30th -- I mean -- yeah, before October 30th.

(Time was allowed for the witness.)

A Okay.

Q Thank you.

(The witness handed the exhibit to Mr. Hatfield.)

Q And as soon as you found it out, you called him up, didn't you?

A Apparently I did, yes.

Q And in your telephone conversation with him, he freely admitted that he had been in Greensboro on that weekend, didn't he?

A Yes.

Q He answered every question that you asked him, didn't he?

A I don't recall.

Q Well, didn't you write -- I assume you didn't, but I'll ask you why you did not write a memorandum, in order to remember this momentous occasion, which was your first contact with Ronnie Kimble, a person who was later charged with murder.

A What's your question? I don't --

Q My question is, why didn't you write a memo, confirmatory memorandum, so that we could all know --

A If there's no memo written, it's because of the content of the telephone conversation was not as such to write a memo, that I did not get the information, which in turn is why I called the Naval Criminal Investigative Service and asked an agent, federal agent, to interview him for me.

Q The reason that you did not write a memorandum of your

first conversation with Ronnie Kimble is, because there was nothing about what you knew about him or anything that he said that made you think he was a suspect; isn't that right?

A I don't recall. I can't testify to that. I can testify to the fact that Ronnie Kimble and everyone else at that point that hadn't been eliminated was a suspect. Not only Ronnie Kimble, but anybody that had access to that area, Patricia Kimble, and Brandon Station Court on that day was a suspect in this homicide, and that included Ronnie Kimble.

Q Okay. Thank you. So you had a conversation with Ronnie Kimble before October 30th, and on October 30th, Ronnie Kimble was interviewed by Mr. Munroe. Now, when did Mr. Deberry interview Ronnie Kimble?

A I don't know the date, sir.

Q Well, he's your sergeant, isn't he?

A Yes, he's my sergeant.

Q And he's sitting in the courtroom right now, isn't he?

A I don't know if he's here or not.

Q You're the lead investigator of the case.

MR. PANOSH: Well, we object to him belittling this witness.

MR. HATFIELD: I'm not belittling him.

THE COURT: Well, it's cross-examination. You may proceed.

Q Do you have knowledge of the case file in State versus Ronnie Kimble?

A Yes.

Q Do you know whether or not your supervisor, Sergeant Deberry, interviewed Ronnie Kimble?

A Yes.

Q He did, didn't he?

A Yes.

Q Well, then, why didn't you just say "Yes"?

A That wasn't the question you asked. If you asked me if he interviewed him, yes, but I don't know what he interviewed him about.

Q You didn't ascertain what Mr. Deberry had found out from his interview of Ronnie Kimble?

A You would -- you would need to ask Sergeant Deberry that question, what he got in the interview with Ronnie Kimble.

Q Now, on March 20, 1996, Agent Munroe talked to Ronnie Kimble again; isn't that right?

A I know he talked to him again. I don't recall the exact date.

Q And on that occasion -- let me see if I can refresh your memory by just telling you what I think happened -- Ronnie told Mr. Munroe that his dad had told him that he'd said enough about this case; isn't that right?

MR. PANOSH: Objection.

THE COURT: Overruled.

A I don't know what he told Agent Munroe, unless I have Agent Munroe's interview to read.

Q But wouldn't it be part of the case file in --

THE COURT: Well, he's answered the question, Mr. Hatfield.

Q So you don't know without reviewing your file?

A I can't remember --

THE COURT: Objection sustained.

A -- without reading it.

THE COURT: Well --

Q Have you finished?

A I can't remember, without --

THE COURT: Have you finished your answer?

THE WITNESS: Yes, I finished.

Q On July 18, 1996, you, Jim Church, talked to Ronnie Kimble on the telephone, didn't you?

A I don't remember the dates again, but I did talk to Ronnie Kimble on the telephone at his -- at work, Camp Lejeune, North Carolina.

Q All right. And then again, on July 25, 1996, there was a four-hour interview of Ronnie at Camp Lejeune, wasn't there?

A No, sir.

Q Isn't it a fact that on July 25, 1996, you participated in an interview of Ronnie Kimble at Camp Lejeune that lasted some four hours?

A No, sir. It wasn't at Camp Lejeune.

Q Where was it?

A It was in the State Bureau of Investigation office in Jacksonville, North Carolina. And the amount of time that was four hours, not with me.

Q It was probably -- it was four hours like those 11 hours on the day he was arrested, wasn't it?

A Yes. And on that concern, Ronnie Kimble was not in my custody but five hours on that day that he was arrested.

Q All right.

A And also on that note, he was given his rights by a JAG officer, a Captain Elizabeth Ann Hardin and -- which I have here, and he was afforded an attorney at that time. I was not with Ronnie Kimble 11 hours the day he was arrested.

When --

Q Well, Ronnie Kimble was --

MR. PANOSH: May he finish, please?

MR. HATFIELD: I believe he's finished.

THE WITNESS: No, I'm not finished.

A Ronnie Kimble was turned over to my custody sometime after 2:00 o'clock. As soon as he was turned in to my custody, I could not take him away from that military

installation until he was departed, all the paperwork was done, the attorneys with the Marine Corps and the Navy said, "He's in your custody." At that time, he was placed in a Guilford County vehicle, in restraints, as our policy, and he was transported to Guilford County.

During that time to Guilford County, there was two stops, one for refreshments, one for rest room. And also, I had forgotten yesterday when I testified, there was a traffic accident in the Raleigh/Durham area, that held us up nearly 45 minutes. Other than that, Ronnie Kimble was not asked one question about this case or anything about Patricia Kimble.

Q Have you finished?

A Yes, sir.

Q Do you now remember that on July 25, 1996, you and other agents who are assigned to this case interviewed Ronnie Kimble in the vicinity of Camp Lejeune in Jacksonville?

A Yes, sir, I remember interviewing him there. As to the date, again, I'm sure you're right. I'd just have to look at the report.

Q And on that occasion, he was not in custody, was he?

A No, sir.

Q And in fact, he voluntarily came into the office, didn't he?

A After some -- yes.

Q He voluntarily came into the office --

A Yes, he did.

Q -- didn't he? He was not under arrest or anything, was he?

A No, he was not under arrest.

Q And he talked to you and Sergeant Deberry --

A No, sir.

Q -- and answered your questions?

A No, sir, he didn't.

Q Sergeant --

A Sergeant Deberry was not present.

Q Who was present on that occasion?

A Agent Pendergrass --

Q All right.

A -- with the SBI.

Q And can you tell us the environment in which you and Mr. Pendergrass and Ronnie Kimble met?

A When we first met Ronnie, it was in -- it was in the shopping center, as I recall, at the end of Sears, I think it was on Western Boulevard, in Jacksonville. As I had arranged on the telephone with him, "Would you please meet me. I want to talk to you." And he agreed. We met. He followed us to the SBI branch office in Jacksonville in his truck. And there was also another investigator with us, as

I recall, Agent Webster, who has testified in this case. And the interview in the SBI office was in a conference room, on a large, long table, and it's a real large room.

Q What time of day was it when Ronnie got there?

A I don't recall, without looking at the report that was written up.

Q And do you agree that he went to that conference room voluntarily?

A Yes, sir, he did.

Q Before you asked him any questions, did you read him his Miranda rights?

A No, sir, I didn't.

Q Is that because he was not a suspect in this murder case at that time?

A No, sir. It was because he -- it was a non-custodial interview, and I'm not required to read him his Miranda rights. He was free to get up and walk out of the building at any time he chose, in which he did choose to do that.

Q So how long did the interview go on, before he chose to get up and walk out?

A With me?

Q Yes, sir.

A The interview with me consisted of going over Agent Munroe's interview with him, and his denial of telling Agent Munroe a lot of the things that was written.

And Mr. Kimble, Ronnie Kimble, was allowed to tape this interview. He brought his own tape recorder, and taped the interview, so he should have a record of what was said.

Q So the first thing that you did in the interview was, show him Agent Munroe's report that was based on Mr. Munroe's interview of Ronnie Kimble on October 30, 1995?

A As I recall, that's -- you asked me what I did. Yes.

Q And yesterday, you -- I asked you about a memo you wrote, where you told yourself some questions that you had --

A Uh-huh.

Q -- after you had studied Mr. Munroe's report, didn't I?

A Yes.

Q So on this meeting of July 25, 1996, with Ronnie Kimble, did you endeavor to have those questions that were in your mind much earlier resolved?

A I don't recall asking the questions. If I did ask the questions, I didn't get a satisfactory answer, because I wrote no follow-up to it. The information that I got from Ronnie Kimble was no value to this case at all, other than -- it was no help to me. He just denied what he had already told a federal agent.

Q Well, what did he specifically deny that he had previously told the federal agent? Let's have some examples.

A If I can see a copy of the report, Agent Munroe's report.

MR. PANOSH: May I approach?

THE COURT: You may.

(Mr. Panosh handed documents to the witness, and time was allowed for the witness.)

A I think, as I recall, the first thing Ronnie Kimble denied telling Agent Munroe was, Agent Munroe entered -- he said it was about two weeks prior to her death, was the last time that he saw her. And as I recall, Ronnie Kimble said he didn't tell him that. And --

Q Well, excuse me. May I -- Remembering where you were, if you don't mind. You say that in Ronnie's statement to Mr. Munroe, he said he'd seen Patricia a couple of weeks before? Is that what he said to Mr. Munroe?

A "Kimble was asked when's the last time he saw Patricia alive. He said it was about two weeks prior to her death."

Q And then you say that when you went over Mr. Munroe's statement with Ronnie on July 25, 1996, that he said that he had not said that to Detective Munroe?

A As I recall, that is the first thing he denied.

Q Well, what is the significance of that?

MR. PANOSH: Well, we object, please.

THE COURT: Sustained.

Q You -- Excuse me.

(Mr. Hatfield and Mr. Lloyd conferred.)

Q You remember that after you completed this July 25, 1996 interview, that you had your colleague, Detective Pendergrass, write up a report to summarize what happened --

MR. PANOSH: Object.

Q -- isn't that right?

MR. PANOSH: We'd object.

THE COURT: Overruled.

A No, I didn't have Agent Pendergrass to write the report. Agent Pendergrass wrote the report as a part of his duties with his employment.

Q And he didn't put anything in there about --

MR. PANOSH: We object.

Q Excuse me. Your familiarity with Pendergrass' report allows you to answer this question. He didn't say anything about that, did he?

MR. PANOSH: Objection.

THE COURT: Overruled.

A I don't recall what is in his report. You'd need --

Q So --

A You'd need to ask Agent Pendergrass that.

Q Well, thank you. Thank you. Now, with regard to your testimony, what is the significance of Ronnie saying that it's not accurate that he had seen Patricia some two weeks before?

MR. PANOSH: Object, please.

THE COURT: Sustained.

Q Did you draw any conclusions that enabled you to judge whether or not Ronnie Kimble was telling you the truth, when he said to you -- if he did say that to you -- that he didn't agree with Mr. Munroe's statement that he'd seen Patricia two weeks before?

MR. PANOSH: Objection.

THE COURT: Overruled.

A The opinion that I drew from that interview was, the defendant, Ronnie Kimble, had given a federal agent a statement, which I later confronted him with, and he denied certain portions of that statement. He was asked, "Do you think this agent made this stuff up and just typed it up and mailed it to me, and you didn't say it?" And he still denied some of the statements that's made in this report.

Q All right. You've given this example. If you could move on to the next example.

MR. PANOSH: We object, please.

THE COURT: Overruled.

(Time was allowed for the witness.)

Q Are you ready to answer the question?

A Yes, as best as I recall.

Q What's the answer?

A Ronnie Kimble, as best I recall, when I talked to him,

did not go along with the statements of the times, and did not go along with what he told about Patricia, about the gasoline, and about him buying gasoline, that's in here.

Those are the three things that I do remember, that I recall, to the best of my knowledge, that he didn't agree with.

Q All right. Now, Mr. Church, you have now read every word of Agent Munroe's October 30, 1995 report of his interview with Ronnie Kimble, haven't you?

A Yes.

Q And I asked you to tell the jury examples of things that you recognized were at variance or wrong in that report, that you talked to Ronnie about on July 25, 1996, when you met him at Jacksonville, North Carolina. Can you give the jury an example of something that was inaccurate in Ronnie's statement to Mr. Munroe, that you were able to question Ronnie about on July 25, 1996?

MR. PANOSH: Objection.

THE COURT: Sustained. He's answered it.

MR. HATFIELD: He has not specifically answered it.

THE COURT: He gave you three examples, sir.

Q You say that he was wrong on the gasoline. What do you mean by that?

MR. PANOSH: We object.

THE COURT: Overruled.

A Ask the question, please.

Q You say he was wrong on the gasoline. What do you mean by that?

A As best I recall, Ronnie Kimble was upset about the times on the gasoline, as him being a suspect in Patricia Kimble's murder, and that he didn't tell Agent Munroe exactly what was written here about the gasoline, as best I recall.

Q Well, just a minute. Are you saying that Agent Munroe got it wrong, when he reported what Ronnie Kimble said about purchasing gasoline that day?

A No --

Q So Agent Munroe --

A -- that's not what I'm saying.

Q -- didn't make any mistakes, did he?

A That's not what I'm saying, sir.

Q Ronnie told Agent Munroe that he'd bought some gasoline and put it in the truck, didn't he?

MR. PANOSH: We object.

THE COURT: Sustained.

Q Isn't it a --

MR. HATFIELD: Your Honor, I really think that cross-examination is a little more important than just having Mr. Panosh shutting down every time he feels like it.

THE COURT: Well, you keep going back to the same thing again.

MR. HATFIELD: I want to --

THE COURT: He's answered your question.

MR. HATFIELD: He won't answer the question, Your Honor, because he wants to --

THE COURT: You phrased it different than the way you did previously. He testified --

Tell him what you said, sir.

A As best I recall, the four instances that I recall, I do recall Ronnie Kimble not agreeing with Agent Munroe's statement. But at this point, the best I recall was the four things that I mentioned, the times, the gasoline and the -- when he last saw Patricia alive. That's what I recall.

Q All right. Now, look at Page 2 of Agent Munroe's report, please. And look about six lines down into the second paragraph on that page, please. Now, can I ask you a question about that?

A Yes, sir.

Q Did Ronnie Kimble tell Mr. Munroe that he went over to Ted Kimble's house the morning of October 9, 1995 and met with Ted?

A I think I'm on the wrong page. You said Page 2?

Q Yes, sir.

A Second paragraph?

Q Yeah. The sixth line down into the second paragraph.

A No. We were talking about marital problems on my second page.

Q Well, I'm sorry. The third page. Six lines down into the third page. I apologize to you.

A Okay. What was your question, did he --

Q Did he tell Agent Munroe that he'd gone over and met with Ted early in the morning on October 9th?

MR. PANOSH: We object, please.

THE COURT: Overruled.

A He said he went to Ted Kimble's house around 7:15 that morning.

Q And what did he say about whether or not he saw Patricia?

A Said he didn't see her that morning.

Q You have absolutely no evidence from any conceivable source in this world that that statement's not true, do you?

MR. PANOSH: Object, please.

THE COURT: Sustained.

Q Do you have any evidence whatsoever that Ronnie Kimble saw Patricia that morning?

MR. PANOSH: Object, please.

THE COURT: Sustained.

Q Isn't it a fact that Ron-- that Patricia Kimble was

seen alive that day as late as 3:30 p.m. by Nancy Young?

A Yes, sir.

Q There was nothing misleading whatsoever about what Ronnie Kimble told Agent Munroe, was there?

MR. PANOSH: Object.

THE COURT: Sustained.

MR. HATFIELD: Does he just object to every question?

THE COURT: Well, he's got a right to, if it's legally objectionable.

MR. HATFIELD: Your Honor, I think that since he's reviewing the --

THE COURT: Objection sustained. Next question, please. Move along.

Q Now, looking down that same page, did Corporal Kimble talk about after unloading materials that he had purchased earlier that day, and transporting them in a truck that his brother owned that is commonly referred to as a box truck, did Corporal Kimble tell Agent Munroe that he got to Ted's between 1300 and 1315 hours, according to Munroe's report?

A Yes, that's what's written here.

Q And did Ronnie Kimble tell Munroe that he dropped off the truck and left?

A That's what's written, yes.

Q That's what Ronnie Kimble told Munroe, isn't it?

A That's what's written.

Q Now, at 1315 hours, you absolutely know to a dead certainty that Patricia Kimble was still alive, don't you?

A Yes.

Q Now, returning to the subject of Nancy Young and your conversation with her on August 15, 1996, and you will agree with me that August 15th was a few weeks after July 25, wasn't it, a couple of weeks?

A Yes.

Q You told Nancy Young "None of the Kimble family will cooperate with me in this case," didn't you?

A I did.

Q And yet, Agent Munroe gave you a four-page, single-spaced report, you talked to Ronnie Kimble at least twice on the telephone, you met with Ronnie Kimble in Jacksonville with other agents and he talked to you, and you called him up on the telephone and asked him for information, he said his dad had told you not to -- him that he'd given enough information, and yet, you told a family friend of Ronnie Kimble that he hadn't cooperated at all, didn't you?

A I did tell them that, and he had not cooperated.

Q And what was -- your idea of cooperation was confessing guilt, wasn't it?

MR. PANOSH: Object. I believe we went over this.

THE COURT: Sustained.

Q I show you what's been marked for identification Defendant's Exhibit 6, ask you to take a look at that.

(Time was allowed for the witness.)

Q Know what it is?

A Appears to be a copy of AT&T billing invoice for telephone calls.

Q Does it look like Judy and James Stump's telephone records?

A Well, it's got James R. Stump on it.

Q Is he married to Judy Stump?

A Yes, I think he is, for about 35 years.

Q For about 35 years. Bringing your attention to State's Exhibit 119 and Defendant's Exhibit 7, what's indicated here at Number 1? (Indicated.)

A That's the Stump residence.

Q And Number 2, what is that?

A That is Ronnie Kimble's residence.

Q All right. Now, do you know whether or not this billing record is based upon the Stumps' telephone number?

MR. PANOSH: We'll stipulate.

MR. HATFIELD: Thank you.

Q Is that the Stumps' phone record?

A So far as I know, it is.

Q All right. Do you see a call to Lynchburg, Virginia?
(Indicated.)

A Yes, I do.

Q Is there any information relevant to this case involving Lynchburg, Virginia?

A Yes, sir.

(The witness handed the exhibit to Mr. Hatfield.)

Q Lynchburg, Virginia was the residence at one time of a guy named Mitch Whidden; isn't that right?

MR. PANOSH: We object to the terminology of "guy named."

THE COURT: Sustained.

Q Did Mitch Whidden live in Lynchburg, Virginia for a while?

A Yes, sir.

Q Is it your information that Mitch Whidden was living in Virginia, Lynchburg, Virginia on January 24, 1997?

MR. PANOSH: We'll stipulate to that.

MR. HATFIELD: Your Honor, I'm not asking Mr.

Panosh questions.

THE COURT: If he stipulates --

MR. HATFIELD: Well --

THE COURT: -- the jury may take that as an admitted fact.

MR. HATFIELD: Well, I'd rather have the witness answer that.

THE COURT: He's already stipulated.

Q Do you know whether Mitch Whidden was living in Lynchburg, Virginia on January 24th?

A Yes.

Q You went up and visited him right around that time, didn't you?

MR. PANOSH: He said yes. Why is he arguing with him? It's not proper, Your Honor.

THE COURT: He's answered the question. The State stipulated that he lived there on that date, sir, January the 24th, Lynchburg, Virginia, Mr. Whidden lived there.

Q Did he live there?

THE COURT: He stipulated to it. Move on.

MR. HATFIELD: Okay. Fine. Thank you.

Q Did you go up and visit Lynchburg, Virginia shortly after January 24, 1997?

A I think I went to Lynchburg in February.

Q All right. Now, you're satisfied from the stipulations that a telephone call was made from the Stump residence to the Whidden residence at 5:35 p.m. on January 24th, aren't you?

A As that record shows, yes.

Q Okay. Thank you very much. Now, when Ronnie Kimble went to Lynchburg, Virginia around January 23, 1997, did you know that he was going there?

A No, sir.

Q Can you explain to the members of the jury why you telephoned Judy Stump on January 24, 1997?

A I called the Stumps more than once. I'm sure it was in reference to the investigation on this case. I don't remember what the telephone conversation was about, other than, I probably wanted to talk to her or Ronnie Kimble's wife, her daughter.

Q So you do not know deny at this point in time that you called Judy and James Stump's residence around the same time that this call was made, and talked to them in connection with your investigation, do you?

A No, sir, I don't deny that. I probably did. I think I called those folks several times.

Q Well, then, if you called them so many times, why did you tell Nancy Young that you'd gotten no cooperation from the Kimble family?

A They're not the Kimble family. They are the James Stump family. And they --

Q So you --

A The James Stump family cooperated with me every time I asked them to. Not a problem.

Q Did you know that Nancy Young was a personal friend of the James Stump family?

MR. PANOSH: Object to relevance.

A No.

THE COURT: Overruled.

A I knew at one time --

THE COURT: Overruled.

A I knew at one time Nancy Young attended the same church.

Q So when you told Nancy Young that you couldn't get any cooperation out of the Kimble family, you weren't talking about Ronnie's wife and Ronnie's in-laws, were you?

THE COURT: He's answered that. Sustained.

Q You weren't talking about the Stumps?

THE COURT: He's answered that, sir. He just said they cooperated fully with him.

MR. HATFIELD: Okay. Thank you.

Q Now, do you recall writing an investigative report on November 2, 1995, based upon your telephone communications back and forth with Ted Kimble?

A Yes, I do.

Q And do you remember putting in your investigative report something that you told Ted Kimble on November 2, 1995 --

A What are you --

Q -- and that is --

A -- referring to, sir?

Q -- "I also told Ted that at this point in the investigation, that Ronnie was the last known person at his

and his wife's residence before she was murdered"? Did you tell him that?

A I certainly did tell him that.

Q And what did you base that statement upon?

A Upon -- the statement is, at that particular time, Ronnie Kimble was the last known person at Ted and Patricia's house before her murder. And at that time, I had information that he had took the truck back sometime after lunch, and there was conflicting times as to when he actually took it back. So -- that answers the question.

Q But you had already asked Officer Munroe down in Jacksonville or Camp Lejeune to interview Ronnie on that point, hadn't you?

MR. PANOSH: Asked and answered, Your Honor.

THE COURT: Overruled.

A Yes.

Q So you knew what you just told us all that you knew, which is that Ronnie had told Officer Munroe that he got to Ted's between 1300 and 1315, with the -- and dropped off the truck and left; isn't that right? It's Page 3, in the middle of the page, Officer Munroe's report, prepared at your request.

A I was trying to read the date that he sent me this. Your question was, did I know about this --

Q Yeah.

A -- at the time I made this statement to Ted?

Q Yeah.

A Yes.

Q You did? And you also had talked to Ronnie on the telephone and asked him what his whereabouts were that day, hadn't you?

A As I recall, yes.

Q So you knew that Ronnie had returned that truck while Patricia was still living and breathing, didn't you? You knew it?

A I knew when -- Yes. That's pretty obvious.

Q Right.

A When he returned the truck, she was still living and breathing.

Q So when you told Ted -- because you knew that Ted had had lunch with her at 1:15, didn't you?

A I knew he had lunch with her.

Q And from talking to Nancy Young, you knew that she had come back from lunch probably around 1:45, didn't you?

A Yes. That was her statement.

Q So you knew, when you said to Ted Kimble that "at this point in the investigation, Ronnie was the last known person at his and his wife's residence before she was murdered," you knew that had nothing to do with her death, didn't you?

MR. PANOSH: Objection.

THE COURT: Sustained.

Q Didn't you know that Ronnie did not murder her when he returned that truck, because she was still alive after he returned that truck? Didn't you know that, sir?

A No, sir. At the time, I did not know that.

Q But you had Mr. Munroe's report, you had your telephone conversation with Ronnie?

A Yes, sir, I had.

Q And subsequently, you interviewed a few people around Lyles Building Supply, didn't you?

A Are you referring to employees?

Q Yes.

A Yes.

Q And you knew that Ronnie Kimble had been present at Lyles during the time that Patricia was still alive in her office with Nancy Young, didn't you?

MR. PANOSH: Object, please.

THE COURT: Sustained.

Q You knew that?

MR. PANOSH: Objection.

THE COURT: Sustained.

MR. HATFIELD: Objecting to what? It's just a question.

THE COURT: Sustained.

MR. HATFIELD: All right.

Q So you were just telling Ted something that you thought would provoke him into confessing to you; isn't that right?

MR. PANOSH: Object.

THE COURT: Overruled.

Q That's all you were doing, isn't it?

A No, sir, that's not what I was doing. I was making the statement to Ted Kimble, as to the fact that his brother, Ronnie Kimble, was the last one that I knew in this investigation was at Patricia Kimble's residence before she was murdered.

Q But you knew that she had been alive after he left?

MR. PANOSH: Objection.

THE COURT: Sustained.

Q You don't contend even now in this trial that when he returned that box truck to her residence, that he killed her, do you?

MR. PANOSH: Object.

THE COURT: Sustained.

Q You don't contend that, do you, sir?

MR. PANOSH: Object.

THE COURT: Sustained.

Q Do you have knowledge of this alleged conspiracy between Ted Kimble and Ronnie Kimble?

A Yes, I do.

Q Do you think that in connection with that conspiracy,

that Ronnie Kimble murdered Patricia around 1:00 or 1:15, when he returned that box truck?

A No, sir.

Q Thank you.

(Mr. Hatfield and Mr. Panosh conferred.)

THE COURT: Come up here, gentlemen, right now, all three of you.

(The Court conferred with all three counsel at the bench, as the court reporter was approaching the bench.)

(The following proceedings were had by the Court and all three counsel at the bench, out of the hearing of the jury.)

THE COURT: Let the record show that the Court brought the attorneys to the bench, admonished them not to make any more personal comments, to stick strictly to the professionalism required of all attorneys that are practicing before this Court. And I indicated I will cite them for contempt, if they persist in that type of conduct.

MR. HATFIELD: I would like to make this -- may I make a statement?

THE COURT: You may put whatever you'd like in the record.

MR. HATFIELD: All right. It is 10:45. I am cross-examining the witness. I have a piece of paper in my hand, which are my personal notes and my work product. I was approaching the evidence table, in order to find some

pictures that I wanted to cross-examine the witness about. Mr. Panosh asked me to show him the piece of paper that I had in my hand. I saw nothing rude or insulting about Mr. Panosh's request. I notified him that the piece of paper was my personal notes. And I was then told to come to the bench.

I under no circumstances concede that I have at any time been rude in any way, shape or form, either to the Court or to Mr. Panosh. And I am deeply offended that remarks made were published in the newspaper, suggesting that in some way, I have misbehaved in this trial, when I have not. And I am prepared to put as many witnesses on the record as necessary, to show --

THE COURT: We're not going --

MR. HATFIELD: -- that my conduct --

THE COURT: -- to get into that --

MR. HATFIELD: -- has been --

THE COURT: -- what's in the newspaper, anything you read in the paper.

Anything you want to put in?

MR. PANOSH: No, sir.

THE COURT: All right. Thank you, gentlemen. Do your job.

(Proceedings continued in open court.)

MR. HATFIELD: May I go to this table?

THE COURT: As soon as the court reporter gets ready, yes, you may go to the table.

(Time was allowed for Mr. Hatfield.)

MR. HATFIELD: Approach the witness with exhibits?

THE COURT: You may do that.

Q I show you what's been marked as State's Exhibit 9. It's already in evidence. Do you see that?

A Yes, sir.

Q What is that, please?

A This is the doorjamb to Patricia Kimble's residence --

Q And I'll show you --

A -- from the -- in the garage.

Q Okay. And I'll show you State's Exhibit 8, which is already received in evidence. What is that, please?

A That is the door to the same entrance.

Q All right. So the two exhibits that you have before you illustrate the side door leading kitchen (sic) and the carport in the Kimble -- the Patricia Kimble residence on Brandon Station Court, don't they?

A Yes.

Q And you got to the scene fairly shortly after the crime was discovered, either in the late hours of the 9th, and you were also back through the early hours of the 10th; is that correct?

A Yes.

Q Have you had a chance to look at the subject matter of that picture?

A I did.

Q Are you satisfied from your observation that the dead bolt was in the unlocked position, when the firemen got to the house and went in to do their duty?

A Yes, sir, I am.

Q And are you satisfied, from looking at the crime scene and from reviewing those photographs, that in no way was the door forced with the dead bolt in the locked position?

A No, sir, you're right, it was not forced with the dead bolt engaged.

Q All right. On the other hand, your observation also was that the striker plate on the ordinary lock seemed to be missing?

A It was missing.

Q Okay. It just wasn't anywhere around there at that time?

A I don't recall. As I -- I do recall that it was found in the floor in the kitchen, after the washdown and cleanup that the fire department did --

Q Okay.

A -- to establish the pour pattern for the gasoline.

Q So the striker plate may have been intact before the emergency developed, it's just not known now; is that right?

A What I -- what I know about the striker plate, Ted Kimble told me that he had to keep tightening it up, that it would come off.

Q So were your observations at the scene consistent with what you found out from him and other sources about the lock? About the door. Excuse me.

A When you say "him," who is "him"?

Q Strike the word "lock." About that door, as it's illustrated in that picture.

A Who is "him"?

Q Ted Kimble and others. Are you satisfied that the information given to you by Ted Kimble is consistent with your own observations and what you found out from other people about that lock?

A Yes.

Q Do you believe, based upon your knowledge, that if there's any B&E damage visible, that it may have been -- may have predated August (sic) 9, 1995?

A Yes. My investigation showed that the breaking and entering, what appeared to be damage to this door, occurred before October 9, 1995.

Q So, based upon your experience as an investigator, you concluded that probably the -- that particular door had not been forced on October 9th?

A Well, I think it's been established, Mr. Hatfield, that

that door was easy to enter, if the dead bolt was not engaged. And --

Q All right.

A -- it had previously been entered by the victim's brother, I think, as he testified.

Q So you're satisfied that it wasn't forced open that day, to the best of your memory?

A I'm satisfied no one broke into that house as a burglary, to steal anything.

Q Now, on the other hand, because of a previous experience that you'd had, you were aware of a prior breaking and entry at that residence during the time that Patricia owned the house, weren't you?

A Before she was married. I worked that case.

Q And subsequent to your working that case, and after she was married, there apparently was another B&E at that residence, you didn't work that case?

A No, I didn't work that case.

Q But you know that there were two B&E's prior to October 9, 1995?

A Yes. The individuals was arrested in both cases.

Q All right. And based upon your experience with Patricia in the earliest occasion that you talked about, before she married Mr. Kimble, you said that she was very apprehensive of a repeat of the experience that she'd had

with the B&E; is that right?

A That's what she told me. She was afraid to go to the house, if she'd have seen anything strange when she would go home.

Q All right. So you're -- you would assume, based upon everything you know, that when Patricia left the house that morning, that she would have locked that dead bolt, wouldn't she?

A No, I'm not to assume that.

Q Even though you knew of your own knowledge that she was apprehensive of security at her residence, you won't assume that she locked the dead bolt that day?

A I don't know what Patricia Kimble done when she left that house that morning. She might have exited that house through the front door. I don't know how she left the house and what condition she left it in. I also don't know who had keys to it, other than her and her husband. I don't know who she gave keys to, don't know who he gave keys to. There's no indication that she gave keys to anyone. I don't know about Ted Kimble.

Q So you don't know whether, when Patricia left the house, after Ted and Ronnie had already gone to Lyles, you don't know if she locked up or not, do you?

A No, sir, I don't know. Don't --

Q And therefore, you do not know whether someone entered

that house later in the day with a key, or whether they were able to just push their way in the way the fireman was when he got there, do you?

A No, I don't.

Q I show you what's been received in evidence as Exhibit 60, and ask you to tell me a little bit about that, please. What is it?

A Exhibit 60, State's Exhibit 60 is a -- the Glock .45 pistol on the table over there. (Indicated.)

Q Now, you were not the first person to locate the Glock .45 pistol on the night of the investigation, were you?

A I didn't locate the gun at all.

Q Did you ever have any part in retrieving it or determining what kind of evaluation it should be subjected to?

A No, sir.

Q Had nothing to do with any of that?

A That's done by the ID and evidence section of the sheriff's department.

Q So would that be Mr. Lindell?

A He is the supervisor of that area, and they have --

Q So --

A -- protocol as to what they do with this.

Q Is it your testimony then this morning that you had nothing to do with sending the gun to the SBI lab for

scientific evaluation?

A I didn't -- no, sir, I didn't have anything to do with that. I didn't request it.

Q You understand that when it was sent, that you were listed as the investigating officer, don't you?

A That's the way it's done. It's submitted by the evidence officers or the ID officers, and the investigating officer's name and the case number is put on whatever item is sent to the SBI lab, was the best of my knowledge.

MR. HATFIELD: I'd like to make a private inquiry of counsel, please.

THE COURT: All right.

(Mr. Hatfield and Mr. Panosh conferred.)

MR. HATFIELD: Thank you.

Q I show you what I've marked for identification Defendant's Exhibit 9, and ask you to look at that.

(Time was allowed for the witness.)

Q Can you identify it from looking at it?

A Oh, yes, sir.

Q What is it?

A This is a request for examination of physical evidence.

Q And does it have your name on it?

A I'm sure it does. Just -- where is it?

(Mr. Hatfield indicated.)

A Yes.

Q Okay. And what is this date, the date of the offense?
(Indicated.)

A The date of the offense, 10/9/95.

Q All right. Can you ascertain the date of the document?

A It was stamped in at the SBI lab October 12th, 11:30 --

Q All right.

A -- in the morning.

Q I'm sorry. I didn't mean to interrupt you. But from looking at this document, you can tell that the gun was very quickly forwarded to the SBI crime lab, wasn't it?

A Yes.

Q And can you tell us, from looking at this, what request was made of the crime lab, by the -- by your office, by the sheriff's office of Guilford County?

MR. PANOSH: We object.

THE COURT: Overruled.

A Examination of bullet comparison from the projectile retrieved from the victim, as to bullets -- well, that's what it says.

Q All right. Now, looking again at Exhibit 60, which is already admitted in evidence, is that a picture of the gun?

A Yes, sir.

Q Do you know whether that picture was taken before the gun was touched by law-enforcement personnel?

A I have no idea. I had nothing to do with taking the

pictures or recovering or -- the evidence off that scene.

Q Now, can you tell from looking at that picture whether the gun was covered with any kind of dirt or extraneous material?

A Appears to be.

Q Sir?

A It appears to be.

Q Based upon your 15 years in this type of work, and countless burglary investigations, as you've already testified, do you know whether or not there are any crime labs anywhere in the United States that could have determined whether or not that Glock pistol bore fingerprints?

A I do not.

Q Can you explain why the obvious murder weapon was not sent to some competent laboratory for fingerprint analysis?

A No, I cannot explain that, because I don't think that fingerprints, in my opinion, could be gotten off of this -- of this handgun in the condition it was in, as not to destroy anything for the serology department --

Q But you know --

A -- in my opinion.

Q -- that --

A I don't -- I don't know -- if you're asking the question about fingerprints, I by no means am an authority

on fingerprints at all. I don't take fingerprints. I don't determine them. I don't work with them. The ID people do that. AFIS people compare them. I don't have any -- I don't do that job. Frankly don't know how to do that job.

Q Where did you obtain your education after high school?

A At a community college and a university.

Q Did you attend Liberty University in Lynchburg, Virginia?

A Yes, I did.

Q How long were you up there?

A I don't recall. I think it was approximately two years. Most of that was an extension course, that required -- didn't require full-time on campus.

Q You didn't receive a degree from Liberty?

A Yes, I did.

Q You did? What degree did you receive?

A Bachelor's degree.

Q Did you know Dr. Harold Wilmington while you were there?

A No, sir.

Q Did you know Dr. Jerry Falwell while you were there?

A Never met the man. I know him. I know him very well.

Q What?

A I know him, know him very well, but I've never met him.

Q Did Mitch Whidden go to Liberty for a while?

A Yes, he did.

Q Did you discuss the fact that you and Mitch had both gone to the same school for a little while?

A I didn't discuss the fact. I think I informed him that I also went there. However, I was -- Mitch Whidden was in the Bible Institute. I didn't attend a Bible Institute. Very aware of the Bible Institute and what it stands for. But that was not what I went to school for up there.

Q Now, do you know whether or not the weekend before Patricia died, that she and her husband had had a luau at their house?

A That's what I was told.

Q Was that the -- of course, she died on a Monday, didn't she?

A Yes, she did.

Q Was the weekend that the luau took place the weekend of the 7th and 8th, or was it the previous weekend?

A I don't recall, Mr. Hatfield. I know that previous to her death, that they had had a -- people over there and had what they called a luau, had a Hawaiian theme to it.

Q Okay.

A And that's about the extent of what I know about it.

Q Do you know whether the grass had already been mowed before they had this little social gathering for their friends?

A I don't know.

Q I show you what's been marked for identification State's 55, and let you take a look at it. What is that?

A This is a picture of the house after the fire.

Q Can you see the grass?

A I can see what's left of it, after being tromped down with all the firefighters and investigators.

Q So you say that it doesn't -- the fact that it doesn't look like it needs to be mowed doesn't have to do with the fact that it had already been mowed the week before?

A What are you asking me?

Q Does it look like it needs to be mowed?

A This grass right here does not appear that it needs mowing. You're only showing about a 12-foot spot on the yard, which extends for 200 feet to the road or more. I don't know the exact distance.

Q Well, with all due respect, I wasn't out there taking pictures, was I?

A Neither was I, sir.

Q All right. Looking at that photograph, you can't tell that the residence needs any lawn mowing done, can you?

A No, sir, I can't tell.

Q And as a matter of fact, it didn't need a lawn -- any part of it, not just the part in the picture, but the rest, didn't need being mowed, did it?

A Are you asking my opinion?

Q Yeah.

A Yes, it did.

Q Most of the lawn is under trees and probably only needs to be mowed three or four times a year; isn't that right?

A Again, my opinion, it needs to be more -- mowed more than three or four times a year.

Q All right. Now, you examined the riding mower, didn't you?

A I know the make of the riding mower.

Q And you saw signs in your examination of the riding mower that indicated it hadn't been touched in a real long time; isn't that right?

A Well, I don't know what a real long time is, the term you're using. I examined the lawn mower and saw the spider webs was from the stern wheel to the two-by-four studding in the wall. And there was also dust on the seat. However, a spider can build a web overnight. And dust, with a gravel driveway, can get in there in one day. So I have no idea when that lawn mower was used prior to October the 9th.

Q And you really have no information that Patricia actually intended to mow the lawn, except what Ted told you, do you?

A Yes, I have other information.

Q Can you tell us another witness that's testified --

A Nancy Young told me that.

Q Nancy Young told you, but --

A She said Patricia told her she was going home to mow the grass.

Q But the fact is that we just don't know where Patricia may have gone when she left her workplace at 3:30 p.m., do we?

A No, sir.

Q And indeed, she was last seen at approximately a quarter of 4:00, heading in a northerly direction, wasn't she?

A Thereabouts.

Q And she could have made a right and taken that route, that fast route, home, or not, couldn't she?

A She could -- she could -- she could have went anywhere. I don't know where she went. I can assume, in my opinion, she done a little errand and went straight home.

Q But you don't have any facts to base that opinion on, do you?

A I don't have anything to say she didn't do that, either.

Q So that's like a spider could weave a web in one night?

THE COURT: Objection sustained.

Q It's not evidence, because you don't know, do you, Mr. Church?

MR. PANOSH: He answered it, Your Honor.

THE COURT: Sustained. Objection sustained. He's answered the question.

Q Now --

THE COURT: How much longer are you going to be with the witness, Mr. Hatfield?

MR. HATFIELD: I'm sorry, Your Honor. I don't know.

THE COURT: Well, I need some idea, because these jurors would like to have a break at some point. And I wouldn't mind having one.

MR. HATFIELD: I would like to take a break, too, Your Honor.

THE COURT: Well, I want to know how long you're going to be, so -- before I take a break.

MR. HATFIELD: Maybe 30 more minutes.

THE COURT: All right. We'll take a break.

You may step down, sir.

(The witness left the witness stand.)

THE COURT: Take a 15-minute recess. Remember the Court's instructions.

(The jury left the courtroom at 11:10 a.m.)

THE COURT: You may declare a 15-minute recess.

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

(Court reconvened at 11:27 a.m. The defendant was not

present. The jury was not present.)

(The defendant entered the courtroom at 11:28 a.m.)

(Time was allowed, until two jurors entered the jury room at 11:31 a.m.)

THE COURT: All of them?

THE BAILIFF: Yes, sir.

THE COURT: All right. Bring them back.

(The jury entered the courtroom at 11:31 a.m.)

THE COURT: Okay. Officer Church, if you'll return to the witness stand, please, sir.

(The witness returned to the witness stand.)

THE COURT: Mr. Hatfield, you may continue with your cross-examination of the witness.

MR. HATFIELD: Okay. Thank you, Your Honor.

CONTINUED CROSS-EXAMINATION by MR. HATFIELD:

Q Mr. Church, I only have two or three more topics that I would like to cover with you.

You were able to determine from your investigation who the individuals were who were present at Lyles Building Supply on West Lee Street on October 9, 1995, between the hours of noon and 5:00 p.m., weren't you?

A I don't know everyone was there. Who are you referring to?

Q Well, would you tell the jury what people you are satisfied were physically present at one time or another at

that location between noon and 5:00 p.m.

A The owner, Ted Kimble. Two employees. The defendant, Ronnie Kimble, was there after lunch. There was people buying material. There was a Smith -- last guy (sic) by the name of Smith there that we talked to. That's all I remember.

Q Was Patricia there?

A Yes, Patricia was there, until after lunch, until she went back to Cinnamon Ridge, yes, sir.

Q So Ted was there and Patricia was there; is that right?

A Ted was there, until he closed the place. Patricia was there for a short while, until she returned to her job.

Q And then Ronnie was there at some point?

A Yes.

Q And a customer named Billy Smith was there?

A A what Smith?

Q Was there a customer named Billy Smith there?

A I think that's his name.

Q Can you tell us the names of the employees who were there?

A There's a James Ogburn and a Swaney. I don't recall the Swaney guy's first name.

Q Did you talk to the Swaney guy?

A I did.

Q Was his name Steve Swaney?

A I believe it was.

Q And do you recall your interview of him?

A Yes, I do.

Q Based upon your interview, did you conclude that he was too stupid to testify?

THE COURT: Objection sustained to that.

A I don't think I'd use --

THE COURT: Objection sustained.

Q Did you write in your report that he had low intelligence or was an LD person?

A Yes, I did.

Q Yeah. And so, did you decide that he was an unreliable witness, due to his lacking in intelligence?

A Along with other things. To my understanding, he was in a motorcycle accident, and in my opinion, with the interview with Mr. Swaney, his answers to me were to his knowledge right, but I knew that they were not at all the way he was telling it.

Q All right. So Mr. Swaney was present that day, but in your judgment, because of a variety of factors, having to do with his personal situation, he's just not a reliable person; is that right?

A Exactly, he is not a reliable person.

Q But he did tell you that he wasn't sure that Ted was there the whole day, didn't he?

MR. PANOSH: Objection.

THE COURT: Overruled.

A Again, I'll have to see my interview sheet, to remember exactly what he told me.

MR. HATFIELD: Approach for purposes of just refreshing memory?

THE COURT: Yes, sir.

MR. HATFIELD: Thank you.

(Mr. Hatfield handed a document to the witness, and time was allowed for the witness.)

A Do I need to read this whole thing?

Q Does it refresh your memory as to whether Mr. Swaney told you that he wasn't sure Ted was there the whole day or not?

A He did say Ted could have left and come back, but he didn't think he did.

(The witness handed the document to Mr. Hatfield.)

A He also told me that Reverend Kimble was there all day, too.

Q So he told you that Ted could have left and come back?

A Yes, he did.

Q But he didn't think he could?

A He said -- I think the statement reads that Ted could have left and come back, but he didn't think that he did.

Q After he told you that, you decided he was too

unreliable to use, didn't you?

A After the interview, I absolutely decided that he was unreliable. However, I did write the interview up.

Q Now, I don't want to belabor this, because we've all been at this a long time. Is there anybody else who you know, based upon your investigation, was present at Lyles between noon and 5:00 p.m. on October 9, 1995?

A I named the two employees, Ronnie Kimble, Ted Kimble, Patricia Kimble, Mr. Smith. Some guy from Guilford College bought some roofing. I never did know his name. That's all I recall.

Q Now, Ted was the boss out there, wasn't he?

A He was the owner, boss.

Q And he could come and go as he pleased, couldn't he?

A As far as I know, he could.

Q He didn't have to ask Mr. Ogburn if he could leave for a minute to get a soda, did he?

A I don't know -- I -- my opinion is, no, he could do what he wanted to. He owned the place.

Q All right. And he certainly didn't have to ask poor Mr. Swaney any permissions, did he?

A On -- no.

Q And he didn't have to ask his customers, did he?

A No.

Q And you don't know if there were any people who tried

to be customers, but just got there and couldn't be waited on, because there wasn't anybody around, did you? You never found anybody like that, did you?

MR. PANOSH: Speculation, please.

THE COURT: Sustained.

Q Did you find any witnesses who were at the scene who did not tell you that they saw Ted Kimble there, while they were at the scene?

A I think you're asking me, has anybody told me that they were at Lyles Building Material and did not see Ted Kimble present?

Q Yes, sir. Thank you.

A I do not recall anybody telling me that. However, I don't know everybody was there, because I'm sure customers was out and in that evening. But I don't recall anybody telling me that, no, sir, I don't.

Q Now, after the tragedy of Patricia's death on October 9th, agents of the sheriff's department set up a roadblock down on 22 near the scene, in order to locate people who may have known something that had happened on the 9th; isn't that right?

A Yes, they did.

Q Now, did you set up any kind of a roadblock situation around Lyles, in order to determine if any of their regular customers or any casual customers might have known something

that was relevant to the investigation?

A No, sir, we did not.

Q Did you not do that, because Lyles is in the city limits, and you got a concurrent jurisdiction with the police there, whereas, you're the sole law-enforcement authority out in the county?

A My jurisdiction is the same in the city as it is in the county. And no, we didn't set up a roadblock there, in my opinion, because -- I didn't have the roadblock set up. That was -- my supervisors did that. Obviously, we wouldn't set one up on Lee Street, with the volume of traffic that goes through there. And, too, the purpose of setting it up was to find out about Brandon Station Court, not Lyles Building Material.

Q But within 24 hours of Patricia's death, you were receiving Crime Stoppers tips indicating that Ted was a suspect, weren't you?

A Oh, we --

MR. PANOSH: Object, please.

THE COURT: Overruled.

A Yes.

Q So it wouldn't have been difficult at all to set up some sort of control point near Lyles, now that you knew that Ted was a suspect, and see what turned up; isn't that right?

A No, that's not right.

Q Now, there's a little side street right beside Lyles that seems to be a public vehicular area, that you could have set a control point up in, couldn't you?

MR. PANOSH: We object.

THE COURT: Overruled.

A Are you talking about me personally?

Q Anybody in your office.

A Yes. As long as we have the property owner's permission, and we deem it necessary to set up an operation, yes, we can do that.

Q But if Ted Kimble wouldn't give you the permission, as I just got through saying, there's a public vehicular area adjacent to the front of his business, you could have probably used that without Ted's permission for a control point, couldn't you?

MR. PANOSH: Object. That is not in evidence.

THE COURT: Sustained.

MR. HATFIELD: Well, he knows it, just as well as he knows Chapman Street. He knows there's a public vehicular area there.

Q Don't you, sir?

A Are you -- are you speaking of the parking lot in the front of Mayberry Ice Cream or Mayberry?

Q Yes. Isn't there a --

A To the machine shop?

Q Yeah. A --

A I think that --

Q -- publicly maintained --

A I'm sure that's a public vehicle area, part of it, and part of it's probably owned by whoever owns the property there.

Q You could have set up a control point there, couldn't you?

THE COURT: He's testified as to why he didn't do that, Mr. Hatfield.

MR. HATFIELD: All right. Thank you.

Q Now, you did set up a control -- your people in your office did set up a control point down on 22, very close to Brandon Station, didn't you?

A They did set up on 22, between where Appomattox ends and Brandon Station Court.

Q All right. And as a result of that, certain people indicated that they had seen things of some worth investigating; isn't that right?

A There was some motorists that came by that gave information, and we followed up on all of it.

Q And --

A To my knowledge, everything we got in this case was followed up on.

Q But sometime, you didn't follow up until seven or eight months later, did you?

A Yes, on some information we got, and the volume of information that we got, and the extent. And also, this wasn't the only case that I was working. After time went on, I became assigned to other cases to work. I couldn't devote every working day to this. But to answer your question, yes, there was -- this investigation continued for two and half years.

Q Is that why it was more than eight months before you talked to a woman named Tammy Patton?

MR. PANOSH: We object.

THE COURT: Overruled.

MR. PANOSH: Not a witness, Your Honor. Hearsay, please.

MR. HATFIELD: She's on their witness list.

THE COURT: He may answer that question, whether or not he talked to a Tammy Patton.

A I talked to a Tammy Patton.

Q And as a result of talking to Tammy Patton, you asked the people down at Camp Lejeune to prepare a photo ID type of thing, including Ronnie's picture, didn't you?

A I did.

Q And --

MR. PANOSH: We object and like to be heard.

MR. HATFIELD: I haven't asked the question.

MR. PANOSH: We'd like to be heard.

MR. HATFIELD: I just said --

THE COURT: Well, approach the bench a moment.

(The following proceedings were had by the Court and all three counsel at the bench, out of the hearing of the jury.)

THE COURT: All right. What's the problem?

MR. PANOSH: We're not going to call Ms. Patton. We don't believe that he should be allowed to get into her hearsay statements, unless he announces that he intends to call her.

THE COURT: Well, I don't know what Ms. Patton is going to say. I haven't --

MR. PANOSH: Ms. Patton's going to say that at or about 6:20 in the evening, she identified -- she saw Ted -- excuse me, Ronnie Kimble turning into Brandon Station Court. And in June of 1996, about nine months after, she had picked him out of a photo spread.

THE COURT: Well, why do you want to put that in?

MR. HATFIELD: It's just -- stupid, I guess.

THE COURT: Puts your man right where he shouldn't be. Is that the extent of it?

MR. HATFIELD: Your Honor, I'm actually questioning him concerning why, after doing -- after interviewing this witness, he did other things. And I don't

really know why I'm up here explaining my tactics in this cross-examination. I'm trying to wrap this thing up.

THE COURT: Well, do it.

MR. HATFIELD: Your Honor --

THE COURT: Move on with it.

MR. HATFIELD: -- I would really appreciate it if the Court would not make the jury feel that I'm somehow --

THE COURT: Well, you're doing it to yourself. I mean, you're taking a long time here on stuff that's not really relevant to the case. He's answered some of these questions.

You certainly may ask him if he talked with this lady and what he did about it. She's on the State's witness list. I don't see any reason why you can't ask him about that. Proceed.

MR. HATFIELD: Thank you.

(Proceedings continued in open court.)

Q After you talked to this woman named Tammy Patton, you asked the naval investigators to prepare a series of pictures, including Ronnie Kimble's picture, to show to her, didn't you?

A Yes, I did.

Q And after that, you notified Ronnie Kimble and members of his family that a woman had seen him in the vicinity of Patricia Kimble's house at 6:20 p.m. on October 9, 1995;

didn't you do that?

MR. PANOSH: We object. Previously stated reasons.

THE COURT: Overruled.

A At that particular time in the investigation, that is exactly what I did.

Q And afterwards, when -- in March of 1997, when a number of companions and colleagues of Ronnie Kimble's in Camp Lejeune were called out by naval investigators on March 4th and March 5th of 1997, Mr. Dziadaszek related to investigators that Ronnie Kimble had told him that you were accusing him of being in the vicinity of Patricia Kimble's house at 6:20 p.m.; didn't he -- didn't Mr. Dziadaszek say that?

A Mr. Dziadaszek didn't say anything to me. I didn't interview him. He -- now, I saw Mr. Dziadaszek, but I didn't interview him. If you've got something to refresh my memory, that's all I can go by.

Q I show you what's been marked for identification Defendant's Exhibit 1, and ask you if you are familiar with that.

MR. PANOSH: We'll stipulate that be admitted.

MR. HATFIELD: I didn't ask to admit it.

A This is not my interview.

Q Excuse me.

(Mr. Hatfield turned the exhibit to the second page.)

A As I said, this is not my interview.

Q Does it say, "Reporting officer, J.D. Church?"

A That's what it says, but it's not my interview. That interview was entered into the computer system as being Agent Munroe's interview. If you'll read that right there, it'll tell you. (Indicated.)

Q Well, now, you talked to Mr. Dziadaszek -- you signed this, though, didn't you?

A No, sir, I didn't sign it. The computer automatically puts my name at the bottom of any report that's done when I push "Enter," and when I'm signed onto the computer. I have no control over that. And that's why my name's on the bottom of that. I entered the interview that Agent Munroe did, word for word, into this case file. And when --

Q And you know --

A -- I pushed "Enter," my case -- my name went to the bottom of it.

Q After you talked to Tammy Patton, the information was widely circulated that Ronnie Kimble had been sighted by a witness near Patricia's house at 6:20 p.m. on October 9, 1995; isn't that right?

A I made that statement.

Q And you were the gatherer of that information and you were the releaser of that information, weren't you?

A At that particular time in the investigation, I did get that information, and I did say that --

Q And --

A -- yes, I did.

Q And you communicated that information, among other people, to Ronnie Kimble, didn't you?

MR. PANOSH: Asked and answered, please.

THE COURT: Overruled.

You may answer it for the record.

A No, sir, I didn't do that.

Q And isn't that one of the things that you asked Ronnie Kimble about on July 25th --

A Yes, I did.

Q -- when you questioned him?

A I sure did.

Q So you made it known to him and others that because of this woman and her, whatever it was she saw, that you believed that he had been at Patricia's house at 6:25 p.m., right?

MR. PANOSH: Objection.

THE COURT: Overruled.

A At that particular time in the investigation, the answer is yes.

Q And you also know, based upon the fact that you're completely familiar with this report, that Mr. Dziadaszek

reported to Mr. Munroe that one of the things that Ronnie Kimble had told him while they were friends down in the Marine Corps, was that police officers in Greensboro were claiming that he'd been seen by a woman at 6:20 near Patricia's, right?

MR. PANOSH: We object. He said he's not going to admit that.

THE COURT: Sustained.

MR. HATFIELD: Well, I didn't say I wasn't going to admit it. I can't offer evidence when --

THE COURT: I know that.

MR. HATFIELD: -- it's the State's case. As soon as the State rests, I'll offer evidence. I can't get these documents in until it's my --

THE COURT: He answered that question, sir.

MR. HATFIELD: I'm sorry. I'm not -- I'm not --

THE COURT: Rephrase -- ask the question again.

Q You know that Mr. Dziadaszek reported to Mr. Munroe that one of the things that Ronnie was concerned about was that you were circulating the information that he'd been seen near Patricia's house at 6:20 p.m.? Don't you know that?

A That's what's in the report.

Q Is it true?

A I don't recall it right now, but if that's in the

report, I'm sure at some time that I did have that knowledge.

Q All right.

A But right now sitting here, I don't remember that.

Q Thank you so much. My last topic, Precision Fabrics.

A Uh-huh.

Q You wrote a report on November 9, 1995, concerning your investigation of Ted Kimble in connection with his employment at Precision Fabrics. Are you -- do you remember that report?

A I should have it right here, sir.

Q It's my last topic, Mr. Church.

A November -- what was the day?

Q It was written -- the time of the report was November 9, 1995. And it begins with a narrative, describing Rita Stewart's information that was given to you, and goes on from there.

A Must have been one --

Q I'm going to --

A Yeah, if you would, please, yes, sir.

MR. HATFIELD: Mr. Panosh, do you -- would you like to look at this first?

MR. PANOSH: No, thank you.

MR. HATFIELD: Your Honor, approaching the witness with what's been marked for identification Defendant's

Exhibit 10.

Q I'll ask you to take a look at that, please.

(Time was allowed for the witness.)

A This is -- this is my report. Do you want me to read it?

Q Well, do you recall it?

A I recall talking to Rita Stewart, a person who has testified in this case.

(The witness handed the exhibit to Mr. Hatfield.)

Q Do you also recall investigating whether or not Ted Kimble was employed at Precision Fabrics a few days before October 9, 1995?

A I gained that information through another investigator working -- helping me on the case.

Q But you did -- based upon this report, you did form some conclusions on your own about that, didn't you?

A Yes.

Q Now, his schedule, based upon the information given to you by the personnel department there, was that he had agreed to work a 3:00 p.m. to 11:00 p.m. shift; isn't that right, sir?

A The best I recall, I think that's right.

Q And before he started his regular employment there, the 3:00 p.m. to 11:00 p.m. shift, he had gone through a training session; isn't that right?

A I think that was testified, an orientation week.

Q Yeah. And the orientation was in the daytime; in other words, it wasn't that shift from 3:00 p.m. to 11:00 p.m., it was a -- like an 8:00 a.m. to 4:00 p.m. shift or something like that, wasn't it, 7:00 to 3:00?

A That's what I recall, daytime.

Q Daytime shift; is that right?

A Yeah.

Q Now, you knew from Ms. Rita Stewart, whose responsibility it was to get Patricia's blood before any insurance policy could be issued by Life of Georgia, Ms. Stewart was dealing with Mr. Kimble, in order to schedule that blood test, wasn't she?

A Yes.

Q And she related to you that she had called Mr. Kimble at Lyles, during times when he should have been at his training session at Precision; isn't that right?

A At that time during the investigation, I think when he took the job at Precision Fabrics, I understood that the first week was orientation, but I understood under testimony as I understand now, the -- it was not the first week orientation. And I'm just really not clear when he was -- when he was over there working the daytime. To answer your question, yes, that did come up.

Q And didn't you, if not conclude, didn't at least set

off a red light in your mind that it was possible that he had received a call from Ms. Stewart at Lyles during a time when he -- when Precision thought he was at their place?

MR. PANOSH: Object to the officer's conclusions.

THE COURT: Sustained.

Q Well, that's what you wrote in the report, isn't it?

MR. PANOSH: Object to the officer's conclusion.

THE COURT: Sustained as to --

MR. HATFIELD: Your Honor --

THE COURT: -- conclusions. He may testify as to what he put in his report.

Q Now, didn't you write in your report that the information that you got from Ms. Stewart, plus other information, enabled you to write the following: "These times would indicate that Ted was on the clock at Precision Fabric and had left and was at Lyles at the time the calls came from Rita on 4 October '95 and 5 October '95"? Didn't you write that?

A Based on the investigation to that point and my knowledge of the investigation, yes, I did write that.

Q So your conclusion, based upon what you wrote here, was that Ted had deceived Precision and you about his actual whereabouts then, hadn't he?

MR. PANOSH: Object to conclusion.

THE COURT: Sustained.

Q He said he was at Precision and Rita called him up at Lyles; isn't that right?

A Yes.

Q And furthermore, you wrote, "This would further indicate that Ted would be able to leave Precision Fabric Company and no one know that he was gone"; didn't you write that, sir?

MR. PANOSH: Object to his conclusion.

A Based on the investigation --

THE COURT: Overruled.

Q Did you write that?

A Based on the investigation at that time, when that report was written, that's what I thought.

Q And that his supervisor or someone in Precision Fabric knew -- or that his supervisor and someone in Precision Fabric knew that he was gone and covered for him; you wrote that, too, didn't you?

A If you're reading it, sir, I'm sure -- I wrote it. That's my report.

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

Q Just for clarity and to save time, would you just read the last two pages of your report, or the whole report, if you'd prefer.

A Are you talking about the last two paragraphs?

Q Yes, sir.

A "This time would indicate that Ted was on the clock at Precision Fabric Company and had left --" "and had left and was at Lyles at the time the calls came from Rita on the 4th of October and the 5th of October of 1995. This would further indicate that Ted would be able to leave Precision Fabric and no one know that he was gone, and still be on the clock, or that he --" "that his supervisor or someone at Precision Fabric Company ..."

(The witness handed the exhibit to Mr. Hatfield.)

Q Okay.

A And at the time of the investigation, that was -- that is correct. However, that changed.

Q All right. Mr. Church, we know that he was the sole boss of Lyles and could come and go as he pleased, couldn't he?

MR. PANOSH: Objection.

THE COURT: Sustained. We've been over that.

Q And you know, based upon this report, that he may or may not have been at Precision Fabric when he said he was, because he could slip away, couldn't he?

A Based on that report, at that particular time in the investigation.

Q Now, the only reason that Mr. Ted Kimble would need an alibi, such as being at Precision Fabric between 3:00 p.m. and, say, 11:00 p.m. on October 9, 1995, would be if he had

had someone else murder his wife; isn't that right?

MR. PANOSH: We object. All the evidence is, he got there at 6:00.

THE COURT: Sustained.

Q He was scheduled every other day to be there between 3:00 and 11:00, wasn't he?

A His regular work time, I understand, was to be that time, second-shift job. That's what they testified to.

Q And you found out later that Mr. Kimble had arranged with one of his supervisors to come in at 6:00 p.m. or thereabouts on the night of October 9th; isn't that right?

A Yeah. I think I heard testimony to that, as I recall, yes.

Q But you don't know whether anyone else on earth knew on October 9th that Ted had arranged to be late at Precision Fabrics, except Ted and the supervisor that he told, do you?

A Yes, I do.

Q Who else knew that Ted was scheduled to be -- come in late at Precision Fabrics on October 9th?

A Ted Kimble's mother.

Q And you talked to her about that?

A No. Ted Kimble kept his mother's dog that day. When he -- when he left Lyles Building Material shortly after 5:30, he returned the dog to his mother, and then he went to Precision Fabric.

Q But you have no way of verifying that, do you?

A I can only go by what the Kimbles said. And also, there was a person there that day that saw that dog and knew it was there, one of the people that I've already named, and that the dog was there, he was keeping the dog. Reverend Kimble was in Lynchburg, Virginia that day.

Q You can only go by what the Kimbles say; is that right?

MR. PANOSH: Objection, Your Honor.

THE COURT: Sustained.

MR. PANOSH: He's answered the question.

THE COURT: He's answered the question, sir.

Q You stated a minute ago that you didn't talk to Ted Kimble's mother about this dog business, did you?

A I talked very, very little to Ted Kimble's mother. Never an interview --

Q You have no --

A -- just a comment here and there.

Q You do not have information, based upon any interview or conversation you had with Ted Kimble's mother, as to whether or not he met her at Biscuitville, went through Mrs. Winner's chicken place with her, had her dog, or anything else, do you?

A That information --

Q You can't verify that based on anything Mrs. Kimble told you, because you didn't talk to her about it, did you?

A I don't recall talking to Ms. Kimble about that. I sure don't.

Q And Mr. Kimble was in Lynchburg, Virginia on this particular day, wasn't he?

A Yes, I think he was.

THE COURT: You asked that question repetitively, Mr. Hatfield.

MR. HATFIELD: I don't believe I've ever asked him before the --

THE COURT: He told you.

MR. HATFIELD: -- whereabouts of Ron Kimble, Sr.

THE COURT: He said that. That's what he just got through saying.

Q So you don't have any evidence, independent of what Ted Kimble told you, as to where he was prior to his reporting to Precision Fabrics that day, do you?

A Yes, I do.

Q What do you have?

A His employee helped him close up shortly after 5:30.

Q Is that Mr. Swaney?

A No, it's Mr. Ogburn. Mr. Ogburn was there, saw Ted.

Q But Mr. Ogburn wasn't at the premises the whole day, was he?

A He left for lunch.

Q That's right. And his car broke down while he was at

lunch and he was delayed, wasn't he?

A I think he said that, yes, he did.

Q And furthermore, Mr. Ogburn didn't tell you --

MR. PANOSH: We object.

Q -- whether there was a dog there or not, did he?

THE COURT: Overruled.

A I don't recall if Mr. Ogburn told me that or not.

Q And he didn't tell you whether Mr. Kimble had gone to Mrs. Winner's chicken, did he?

A No, he didn't tell me that. Ted Kimble told me that.

Q And yet, you told Nancy Young that the Kimbles had been completely uncooperative with you and refused to furnish you with any information whatsoever, didn't you?

MR. PANOSH: Objection.

THE COURT: Sustained. It's been over and answered. Move on.

Q You previously stated that, and yet now, the only information that you can give this jury as to Ted Kimble's whereabouts is stuff Ted Kimble told you; isn't that right?

MR. PANOSH: Objection. He's answered that.

THE COURT: Sustained.

Q And as for Precision Fabrics, although you think that Ted Kimble reported there around 6:00 or 6:15, you really don't know whether he told anyone, other than his supervisor at Precision Fabrics, that he'd planned on coming in late

that day, do you?

MR. PANOSH: Objection.

THE COURT: Asked and answered. Sustained.

MR. HATFIELD: I'd like to know what his answer is. And that'll be my last question.

THE COURT: Do you want to answer it again, sir?

THE WITNESS: I think I'm sort of mixed up on his question, Judge.

MR. HATFIELD: Maybe the reporter could read the question back.

THE COURT: Marsha, can you read the last question back?

(The court reporter read back from Page 1379, Line 22, to Page 1380, Line 1.)

THE COURT: Answer that question.

A No, I don't.

MR. HATFIELD: Thank you very much.

Thank you, Your Honor.

THE COURT: Any additional questions, Mr. Panosh?

MR. PANOSH: Yes, please.

REDIRECT EXAMINATION by MR. PANOSH:

Q In the course of your investigation, were you able to determine the time of death of Patricia Kimble?

A Yes.

Q What time?

A Shortly after 4:00 o'clock.

Q Shortly after 4:00 o'clock, where was Theodore Kimble?

A Lyles Building Material.

Q How are you able to verify that?

A By employees. And the defendant, Ronnie Kimble, left

--

MR. HATFIELD: Objection. It's not responsive to the question.

THE WITNESS: Okay.

Q Did you verify it through employees?

A Yes, I did.

MR. PANOSH: May I approach the witness?

THE COURT: You may.

Q Showing you now --

MR. HATFIELD: Objection to this, because Swaney's not testifying, as Mr. Panosh so eloquently pointed out.

MR. PANOSH: Your Honor, he was allowed to --

THE COURT: Overruled.

MR. PANOSH: -- read excerpts.

THE COURT: Proceed.

Q Showing you now 127, what was the key reason that you disregarded the statements of Mr. Swaney, based upon that interview?

A He told me that Ted Kimble's father was also at Lyles Building Material that entire day.

Q And what did you know about that?

A I knew for a fact that Ted Kimble's father, Reverend Kimble, was not there that day, he was in Lynchburg, Virginia.

Q Drawing your attention to the lab report that you were shown, did you submit that lab report?

A No, I did not.

Q Was that the only lab report submitted?

A No. There were many lab reports submitted, I'm sure.

MR. PANOSH: May I approach the witness?

THE COURT: You may.

Q You were asked questions about the witness --
(Mr. Panosh showed exhibits to Mr. Lloyd.)

Q -- the witness Nicholes. I'm showing you now State's Exhibits 121 through 124.

A Yes, sir.

Q Are those the prior statements of the witness Nicholes?

A Yes, they are.

Q Are they signed by yourself and by the witness Nicholes?

MR. LLOYD: Well, objection, Your Honor. We've been over this. Mr. Nicholes has testified in this case. His testimony speaks for itself.

THE COURT: Well, he's entitled to ask him that question, whether or not they were signed by both of them.

Q Are they signed and dated?

A Yes, they are.

Q And are these the statements that Mr. Hatfield asked you a lot of questions about?

MR. HATFIELD: Objection to whether I asked a lot or a few.

MR. PANOSH: I'll rephrase that.

Q Did he ask you a number of questions about that?

THE COURT: Sustained.

Q Are these the statements Mr. Hatfield referred to in his cross-examination of you?

THE COURT: You may answer that.

A Yes, sir.

MR. PANOSH: Seek to introduce those into evidence.

MR. LLOYD: Well, we'd object, Your Honor, on the grounds previously stated. They're -- Mr. Nicholes has testified at length --

THE COURT: Overruled.

MR. LLOYD: -- in this case.

THE COURT: You may -- the Court'll allow the introduction.

MR. PANOSH: May I approach the witness?

THE COURT: Yes.

Q Showing you now State's Exhibits 125 and 126.

MR. PANOSH: For the record, Madam Clerk, that was 121 through 124.

THE CLERK: Yes.

Q What is 125 and 126?

MR. LLOYD: Judge, we object, and ask to be heard at the bench on this.

THE COURT: Approach the bench.

(The following proceedings were had by the Court and all three counsel at the bench, out of the hearing of the jury.)

THE COURT: What are Exhibit Numbers 125 and 126?

MR. PANOSH: These are the photo identifications that he was asked about on cross-examination.

THE COURT: Taken at Camp Lejeune?

MR. PANOSH: Yes.

MR. LLOYD: These are from the witness Tammy Patton, who has not testified in this case.

THE COURT: Well, Mr. --

MR. PANOSH: Which is exactly --

THE COURT: -- Hatfield's already asked him about them.

MR. PANOSH: That's what I pointed out at the bench.

MR. HATFIELD: I just asked him if he prepared it.

MR. PANOSH: He asked him if he made an -- if she made an identification. He said she did make an

identification. He asked if he communicated that identification to a number of witnesses. He asked that at least three times, as I recall.

Before they got into this, I came to the bench, I said this was not the way we should be going. They've opened the door. The State is now entitled to show that in fact there was an identification, and that it was a valid identification. Otherwise, at closing argument, they're going to argue, "Well, this was some --"

THE COURT: The Court will allow you to introduce it.

MR. HATFIELD: Excuse me. I'd like to be heard.

THE COURT: All right, sir.

MR. HATFIELD: My purpose of asking whether this lineup was prepared was to show that as a result of its preparation, he did other things, which was to communicate with other witnesses. I in no way suggested that this lineup was either reliable or unreliable or had been utilized to provide any testimony. Now, I would hate for this Court to allow a photo lineup, when the witness who supposedly looked at the photo lineup has not testified in the case. Therefore --

THE COURT: Well, you can call her.

MR. HATFIELD: Well, I don't have the burden of proof.

THE COURT: I know, but you've opened the door for it to come in.

MR. HATFIELD: I did not open the door. I asked him that, as a result of the roadblock that was set up down there, did he meet a certain individual, and as a result of meeting that certain individual, did he communicate things to other people.

THE COURT: The Court will allow you to ask the witness whether or not the witness (sic) was in fact identified.

MR. HATFIELD: Wait a minute. She has to testify. Then it's relevant. Then it's admissible. If she doesn't testify, then there can be said nothing about it.

MR. PANOSH: Judge --

MR. HATFIELD: If she testified --

THE COURT: Wait a minute.

MR. PANOSH: Your Honor, I would agree with his statement of the law, except for the fact that before they got into this, I came to the bench and I said, "We are not going to --"

MR. HATFIELD: We're tired of hearing "I, I, I."

THE COURT: Well, just don't mention it in your argument. Keep it out.

MR. HATFIELD: Thank you.

MR. PANOSH: And your ruling is that they cannot

refer to the --

THE COURT: They cannot refer to what she may have identified any other person.

MR. PANOSH: Or to the credibility or lack of credibility --

THE COURT: That's correct.

MR. PANOSH: -- of the identification?

THE COURT: That's correct.

MR. LLOYD: Okay.

THE COURT: Leave it out.

(Proceedings continued in open court.)

MR. PANOSH: We'd seek to introduce the diagram that this witness prepared and referred to on direct.

THE COURT: The Court'll allow the introduction of the diagram.

MR. PANOSH: No further. Thank you.

THE COURT: Additional questions, Mr. Hatfield?

RE-CROSS-EXAMINATION by MR. HATFIELD:

Q With regard to Mr. Swaney, the fact is that you stated in your report, "Steve appears to me to be of low intelligence or an LD person," didn't you?

A Yes.

Q And then you stated just a minute ago that the reason that you thought he was unreliable was also that he had said that Ted Kimble's father was at Lyles that day and you knew

he wasn't; isn't that right?

A Yes.

Q But now, you say that he is reliable, because based on what he says, Ted either was there or wasn't there; isn't that right?

A I think I was referring to James Ogburn, the other employee. Mr. Swaney left before Ted Kimble and James Ogburn left.

MR. HATFIELD: Your Honor, then I move that this Swaney business be withdrawn. It's obvious that everyone misunderstood what he said.

THE COURT: Well, I think -- the Court'll deny your request. I think the jury heard what they heard.

Q So, based on Swaney's -- whatever it was Swaney said to you, you have no idea whether Ted stayed there all day or not, do you?

A Based on what Mr. Swaney said, his information is not reliable. That's what I've already stated.

Q And you don't know whether Ted stayed there all day or not, based on Swaney, do you?

A Not based on Swaney, I don't.

Q Where is Swaney?

A I have no idea.

Q Have you seen him lately?

A I've met Mr. Swaney one time, and that's when that

report was done.

MR. HATFIELD: Thank you very much.

No further questions.

FURTHER REDIRECT EXAMINATION by MR. PANOSH:

Q Based upon what Mr. Ogburn told you --

MR. HATFIELD: Objection.

THE COURT: Overruled.

Q -- where was --

MR. HATFIELD: Objection, Your Honor. Mr. Ogburn has not testified in this case.

THE COURT: Well, you asked him about that, and he's testified as to how Mr. Ogburn fit into this.

You may ask the question, sir.

Q Based upon what Mr. Ogburn told you, where was Theodore Kimble from the 4:00 o'clock, until 5:30, when Lyles was closed?

MR. HATFIELD: Objection.

THE COURT: Overruled.

A He was at Lyles Building Material.

MR. PANOSH: No further.

FURTHER RECROSS-EXAMINATION by MR. HATFIELD:

Q Is Mr. Ogburn going to testify in this case?

THE COURT: He has no way of knowing that.

A I don't know.

THE COURT: Don't answer, sir. You don't have to

answer.

Sustained. That's the State's responsibility, who they want to call.

Q Mr. Ogburn participated in the conspiracy with Pardee, Nicholes and Ted Kimble, to receive and cover the ownership facts of stolen merchandise; isn't that right?

A Mr. Hatfield, I did not work that stolen property case. To answer your question, I think Mr. Ogburn had knowledge of what was going on and did, as an employee at Lyles Building Material, follow his -- Ted's advice and handle some of the property. There's no evidence whatsoever that Mr. Ogburn was involved in any thefts, any conspiracy, or any unlawful act with Ted Kimble.

Q You said that there's no evidence whatsoever that Ogburn was involved in any conspiracy or unlawful act with Ted Kimble?

A Not to me.

Q But --

A I did not work those cases.

Q But you know as a fact that Mr. --

MR. PANOSH: Now he's arguing with the witness.

Q -- Mr. Ogburn --

THE COURT: Overruled.

Q -- sawed up stolen two-by-fours and two-by-eights and other structural wood pieces, so that they could not be

recognized, either by the law-enforcement people or by their owners; isn't that right?

A Yes, I know that.

Q And he removed bar graphs from stolen merchandise, didn't he?

A Yes, I know that he did that.

Q And he sawed color codes off stolen merchandise, didn't he?

A I'm not sure about that.

Q He --

A He did what?

Q -- intentionally and knowingly obliterated the identification marks of numerous items of stolen property, didn't he?

A I don't recall about that now.

Q And he has worked continuously at Lyles Building Supply since the days when Gary Lyles owned that business, hasn't he?

A No.

Q Didn't Mr. Ogburn work there when Gary Lyles owned the business?

A Not to my knowledge. I thought, to my understanding, Ted Kimble hired him in the late summer of 1995.

Q So Mr. Ogburn was there before Patricia died; is that correct?

A Yes.

Q And he's there today, isn't he?

A So far as I know, sir. I don't know where he's at.

Q He has remained continuously employed there throughout that period; isn't that right?

A To the best of my knowledge, that -- he has been gainfully employed at a place called Lyles Building Material.

Q And there are no felony charges pending against Mr. Ogburn in consequence of his repeated knowing attempts to obliterate the identification marks on stolen goods --

MR. PANOSH: Objection.

Q -- are there?

THE COURT: Sustained to the form of the question.

Q Isn't it a fact that he has not in any way been prosecuted for his crimes and misdeeds in association with Patrick Pardee, Rob Nicholes and Ted Kimble?

MR. PANOSH: Assumes facts not in evidence.

Object.

THE COURT: Sustained.

MR. HATFIELD: They're all in evidence.

THE COURT: Objection sustained.

Q He stole that stuff, and he did it with Ted, Pardee --

THE COURT: Objection sustained. You may ask him if he made any further indictments against Mr. Ogburn and he

may answer that.

Q Has he been charged?

THE COURT: Has he been charged, sir?

THE WITNESS: Not that I know of.

THE COURT: He's answered it.

Q Has he not been charged because you want to be sure he testifies the way you hope he'll testify?

THE COURT: Objection sustained.

Q Have you entered into some kind of an understanding with Mr. Ogburn that he won't be charged if he'll tow the line in this case?

A No, sir.

MR. HATFIELD: Thank you.

THE COURT: Additional questions, Mr. Panosh?

MR. PANOSH: No further.

THE COURT: Step down, sir.

(The witness left the witness stand.)

THE COURT: Do you have a short witness, Mr.

Panosh?

MR. PANOSH: I would hope to have two between now and lunch.

Mr. Sibert.

THE COURT: Come around.

You may stand and stretch, if you'd like, members of the jury. Stand up and take a stretch.

CHAD SIBERT, being first duly sworn, testified as follows during DIRECT EXAMINATION by MR. PANOSH:

Q State your name, sir.

A Chad Sibert.

Q And your occupation, sir?

A I'm a detective with the Guilford County Sheriff's Department.

Q How long have you been a detective there, sir?

A Since October of 1991.

Q And in the course of your duties, did you assist Detective Church in going to the Camp Lejeune area and conducting certain interviews in reference to the death of Patricia Kimble?

A I did.

Q And did you on March the 4th of 1997 interview Ms. Jackson, who was then Louise Cato?

A Yes.

MR. PANOSH: May I approach the witness?

THE COURT: You may.

Q Showing you now Number 104, do you recognize that?

MR. LLOYD: Your Honor, I would object to this. Ms. Jackson has testified. The jury heard her testimony. I don't know what the purpose of this witness's testimony is.

THE COURT: Overruled at this point.

Q Did you take her statement?

A I did.

Q And is 104 her statement?

A This is the SBI statement.

Q All right. Do you have her statement from that day?

A I do.

Q Okay. So, you reduced it to writing, and the SBI did, also?

A Correct.

Q Let me change that then. 104 is now marking your report; is that correct?

A Yes.

Q Would you tell the ladies and gentlemen of the jury what Ms. Jackson, who was then Louise Cato, told you.

MR. LLOYD: Well, object, Your Honor.

THE COURT: Overruled.

Members of the jury, this is being offered for the purpose of corroborating the testimony of a witness who's already testified. It'll be for you to say and determine whether it does in fact so corroborate her testimony. It's not being offered for the truth or falsity of the statement, but whether or not she in fact made the statement.

A Ms. Jackson, at that time when I spoke to her, she was Ms. Cato, told me that she was aware of Patricia Kimble's death, that it was common knowledge in the office --

MR. HATFIELD: Objection. She has --

THE COURT: Sustained.

MR. HATFIELD: -- already fully --

THE COURT: Sustained.

MR. HATFIELD: -- testified, Your Honor.

THE COURT: Sustained.

Q Please continue.

A While she said that Ronnie Kimble had never spoken to her directly about Patricia Kimble's death, she did have occasion to overhear Ronnie Kimble speaking with a Natalie Kelly. Ms. Cato was present in the same room at the time that conversation took place, and that she overheard Ronnie Kimble telling Ms. Kelly that he was the last person to have seen Patricia Kimble, that he had gone by the house, her house, Ms. Kimble's house, to either pick something up or drop something off, Ms. Cato couldn't recall which.

Q In the course of your duties, did you also interview Mr. Dziadaszek on October the 5th of 1997?

MR. LLOYD: Well, object to this as well, Your Honor. He's testified as well.

THE COURT: Overruled.

A Yes, I did.

Q Showing you Number --

MR. LLOYD: We would request the instruction on this.

THE COURT: Again, members of the jury, this is

being offered for the purpose of corroborating the testimony of an earlier witness. It will be for you to say and determine whether or not it does in fact so corroborate that witness's testimony. It's not being offered for the truth or falsity of the statement, but whether in fact he in fact made that statement on that occasion.

Q Showing you Number 105, is that the statement?

A Yes, it is.

Q And what did Mr. Dziadaszek tell you at that time?

A Mr. Dziadaszek told us that he had had a conversation with Ronnie Kimble on the 4th, at which time he had told Ronnie Kimble that we had been there on the 4th and spoken with Mr. Dziadaszek. Mr. Dziadaszek told me that he'd advised Ronnie Kimble of the substance of our conversation on the 4th, specifically, that Dziadaszek had told me that Ronnie Kimble had told Dziadaszek that Kimble was at Ted's house at 4:00 o'clock on the day of the murder.

Q And what did Ronnie reply?

A Mr. Dziadaszek stated that Kimble raised his voice and said, "What are you trying to do, get me convicted?"

Dziadaszek also stated that Kimble then went on to tell him that in fact what Ronnie had told Dziadaszek was that he had dropped off Ted's truck at 4:00 o'clock at the business, not at the house, and that a lady had identified him as being near the business at 6:20. Dziadaszek said that his

understanding of what Ronnie told him was that Ronnie had dropped the truck off at Ted's house and had been identified as being near the residence.

MR. PANOSH: Your Honor, we'd seek to introduce 104 and 105.

MR. HATFIELD: Objection.

MR. LLOYD: We'd object, Your Honor.

MR. HATFIELD: Your Honor, Dziadaszek's testimony in particular is very unclear. He's threatened with perjury by these people --

THE COURT: Well, don't get into that.

MR. HATFIELD: -- and will he admit it, and which he'll testify to again. But his testimony is not corroborable by this, because that's not what he said. And he said that there was confusion over whether the references to Ted's meant the business or the home, and it's -- I don't think that they can use a prior statement of his that he no longer says is accurate, when it doesn't corroborate the statement that he gave on the witness stand. They're just trying to put words in his mouth.

THE COURT: It'll be for the jury to determine. The Court's already ruled. It's for corroborative purposes only, members of the jury. The Court'll allow the introduction for that purpose only.

MR. PANOSH: Your Honor, I've misnumbered.

There's already a 104 and 105. Can I change that to 128 and 129?

Is that correct, Madam Clerk?

THE CLERK: Yes, sir.

MR. LLOYD: What is Mrs. Jackson's statement.

MR. PANOSH: 128 will be Louise Cato, now Jackson.

129 will be --

MR. HATFIELD: Your Honor, Mrs. Cato's statement contains inflammatory material that's not admissible under 403.

MR. PANOSH: We'll agree that it be redacted at the appropriate time.

MR. HATFIELD: Yes. Thank you.

THE COURT: Questions?

MR. LLOYD: Thank you, Your Honor.

CROSS-EXAMINATION by MR. LLOYD:

Q Now, Mr. Sibert, did you indicate on direct examination that you wrote up both of these interviews?

A Yes.

Q All right. Do you have your initial notes that you took on that?

A I still have them. I do not have them with me.

Q You do not have them with you?

A No, sir.

Q Are they where you could get them?

A They're at the sheriff's department.

Q That's what you used to write up your report, is it not?

A Correct.

Q All right. So you wrote up the typewritten report that you've referred to, that Mr. Panosh has introduced into evidence in both these cases, based on your handwritten notes; is that right?

A That's correct.

Q Did you take these notes contemporaneously with what the witnesses were telling you --

A Yes.

Q -- or did you --

A As they --

Q -- take them later on?

A No, as they were talking.

Q All right. So, then, later, when you got back to the sheriff's department, you used those notes to write up your report; is that right?

A That's correct.

MR. LLOYD: Your Honor, in light of that, I would ask that the witness get his notes and we resume cross-examination after the lunch recess.

THE COURT: All right, sir.

You may step down, sir.

(The witness left the witness stand.)

MR. PANOSH: Do you want me to do the other witness?

THE COURT: Pardon?

MR. PANOSH: Do you want me to do the other witness?

THE COURT: You told me this was going to be a short witness. It's taken 15 minutes.

MR. PANOSH: Yes, sir.

THE COURT: No. We're going to take the lunch break.

MR. PANOSH: Yes, sir.

THE COURT: Recall him back after lunch.

Members of the jury, we'll take our lunch recess. You need to be back at 2:00 o'clock. Report to the jury room at that time. Again, remember your jury responsibility sheet. Have a good lunch, and I'll see you at that time.

(The jury left the courtroom at 12:27 p.m.)

THE COURT: You may declare a recess until 2:00 p.m., sheriff.

(A recess was taken at 12:28 p.m.)

(Court reconvened at 2:05 p.m. The defendant was present. The jury was not present.)

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

MR. PANOSH: No, Your Honor.

(The jury entered the courtroom at 2:06 p.m.)

THE COURT: Well, I hope you had a nice lunch period and feeling okay. Anyone having any problems this afternoon, if you'll raise your hand, I'll talk to you about that.

Okay. The State call its next witness, please.

MR. PANOSH: I believe we were in the middle of cross-examination --

THE COURT: Oh, that's right.

MR. PANOSH: -- of Mr. Sibert.

THE COURT: You're right.

Come back, Mr. Sibert.

(The witness Chad Sibert returned to the witness stand.)

CONTINUED CROSS-EXAMINATION by MR. LLOYD:

Q Mr. Sibert, you've indicated that -- in your direct examination that you did an interview with Officer Jackson or Mrs. Jackson, who testified earlier in this case; is that right?

A Yes.

Q All right. Now, Mrs. Jackson indicated to you that she overheard a conversation involving Ronnie Kimble and a woman she worked with, by the name of Natalie Kelly; is that right?

A That's correct.

Q All right. And did she tell you, Detective Sibert, that that conversation took place in Mrs. Kelly's office?

A Ms. Cato stated that she was in the office. She didn't specify whose office it was.

Q Okay. But she did not specifically tell you it was Mrs. Kelly's office, but she just said "the office"; is that right?

A She said the office where he was talking to Natalie Kelly.

Q And she indicated to you in the course of what she told you she overheard this conversation?

A Correct.

Q All right. So that would imply to you that it certainly was not Mrs. Jackson's office; is that right?

A I wouldn't assume that. She indicated that they knew she was present and continued.

Q Okay. I understand that. Now, did you talk to Mrs. Kelly, after you talked to Mrs. Jackson?

A No, I did not.

Q So you were not able to verify from Mrs. Kelly whether this conversation took place and what was said, were you?

A No. I was not able to --

Q All right.

A -- speak with Ms. Kelly.

Q Now, this, I believe, was on March the 4th; is that

right?

A Yes.

Q And you and other investigators were interviewing a number of witnesses down at the Marine Corps base at Camp Lejeune; is that right?

A I believe I interviewed four people --

Q All right.

A -- during that trip.

Q But there were other law-enforcement people down there who were interviewing other potential witnesses, as well; is that right?

A Yes.

Q All right. So there were a number of people at Camp Lejeune who were interviewed?

A Yes.

Q All right. Now, did Mrs. Jackson tell you when she allegedly overheard this statement?

A She didn't mention the date or a time, no.

Q Did you specifically ask her about that?

A I don't recall asking her. It would have been on the course of an interview, to try to pin somebody down as to date and time. She may not have remembered. In my notes, just that she stated on one occasion, she overheard a conversation.

Q Okay. But your normal procedure, of course, would be

to ask a witness about dates and times --

A Yes.

Q -- is that right?

A Yes.

Q All right. So you probably did that on this occasion; is that what your testimony is?

A Yes, sir.

Q All right. But you got no response that you indicated?

A I wouldn't say I got no response. She evidently did not remember --

Q All right.

A -- a date or a time.

Q Okay. Now, did you talk to Mrs. Jackson or any of the other people that you interviewed about perjury or anything like that, detective?

A No, sir.

Q All right. Do you know if anyone else interviewed Mrs. Kelly?

A I'm not aware of anybody interviewing Ms. Kelly, no.

Q Now, you also indicated in your direct examination that you questioned Mr. James Dziadaszek; is that right?

A Yes.

Q Did you question him specifically, detective, on what was meant by the term "Ted's," when he said in his statement that Ronnie had left the box truck at Ted's?

A He didn't say Ted's, he said Ted's house.

Q Ted's house. And what your notes indicate -- Well, strike that. Now, you interviewed Mr. Dziadaszek on another occasion, as well as the first occasion; is that right?

A I interviewed him on March 4th and on March 5th.

Q All right. Do you know how many times James Dziadaszek was interviewed by law-enforcement officers?

A No, I do not.

Q All right. Was that the fourth or fifth interview that was done of Mr. Dziadaszek?

A I believe this was the first time he had been spoken to --

Q All right.

A -- by our office.

Q Do you know if he was interviewed by naval intelligence investigators?

A He may have been, but I'm not aware of the specific instance.

Q Now, in Mr. Dziadaszek's statement, you indicated that Ronnie Kimble, to Mr. Dziadaszek, had never confirmed or denied guilt?

A Dziadaszek told me that Ronnie Kim had never admitted to or denied being involved in the death, yes.

Q All right. Now, did you specifically phrase a question to Mr. Dziadaszek along those lines?

A I don't believe that -- I don't remember the exact words I used, something along the lines "Did Mr. Kimble ever tell you anything about the case? Did he ever admit any involvement in it?"

Q Okay. So your question to him was, did Mr. Ronnie Kimble ever admit any involvement in the case; is that right?

A I don't recall my specific words, but I believe it was along those lines, yes.

Q All right. And what you wrote in your notes, as far as James Dziadaszek's response, was that he indicated to you that Ronnie Kimble had never confirmed or denied guilt; is that right?

A That's correct.

Q Did you -- it was not your impression, from the answer that he gave you, detective, that he was telling you that Ronnie Kimble was in any way admitting any involvement in Patricia Kimble's death, was he?

A I didn't form an impression either way. I was simply recording what he told us.

Q All right. But he never told you that "Ronnie Kimble has told me that yes, I had something to do with Patricia Kimble's death"?

A No.

Q He never told you anything like "Ronnie Kimble had said

yes, I had something to do with my sister-in-law's death"?

A No.

Q And Mr. Dziadaszek never gave you any reason to believe that, did he, that Ronnie Kimble had made any such statements as that to you?

A Again, I don't believe I formed an impression either way.

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

MR. PANOSH: No further.

THE COURT: Step down, sir.

(The witness left the witness stand.)

MR. PANOSH: Mr. Whidden, please.

LOUIE MITCHELL WHIDDEN, JR., being first duly sworn, testifies as follows during DIRECT EXAMINATION by MR. PANOSH:

Q Would you state your name, please.

A Louie Mitchell Whidden, Jr.

Q And your occupation, please?

A I am a Baptist pastor.

Q Are you an ordained minister?

A Yes, sir, I am.

Q When were you ordained?

A I was ordained on May the 17th of this year.

Q And your congregation is in Florida; is that correct?

A Yes, sir.

Q Drawing your attention to the period of time prior to

working as a minister in Florida, where were you, sir?

A I was in school at Lynchburg, Virginia.

Q And prior to being in school in Lynchburg, Virginia, where were you, sir?

A I was at Camp Lejeune Marine base.

Q And were you an enlisted man in the United States Marine Corps?

A Yes, sir, I was.

Q When did you enter the Marine Corps, please?

A August the 19th of '94.

Q And you had a four-year commitment; is that correct?

A Yes, sir.

Q And what was your assignment there, your original assignment in the Marine Corps?

A I was a TOW gunner in the infantry.

Q And in the course of your duties there, you went through basic infantry training; is that correct?

A Yes, sir.

Q Toward the end of your four-year commitment, did you receive a transfer to the chaplain's corps?

A Yes, sir, I did.

Q Would you explain that, please.

A I requested a transfer to be out to the chaplain corps for the last six months, to assist them, so that I could learn more about what chaplains do in the Marine Corps.

Q You were not a minister while you were in the Marine Corps; is that correct?

A Yes.

Q And what were your duties during the period of time that you were with the chaplain's corps?

A Mostly clerical, just clerical type activities, and taking care of whatever cleaning or clerical activities that the chaplain would ask me to do.

Q Did there come a time in the period of months when you were with the chaplain's corps when you met the defendant, Ronnie Kimble?

A Yes, sir.

Q Would you tell the ladies and gentlemen of the jury how you met him.

A Shortly after I was detached out to the chaplain corps, I met Ronnie Kimble. He would deliver supplies out to the chapel where I was working weekly. He would bring them out there and give them to us.

Q And during the period of time that you knew him, what was your relationship?

A We were somewhat coworkers and friends.

Q How frequently did you see him?

A About once a week.

Q Under what circumstances would you see him?

A I would see him when he would bring supplies out to the

chaplain's office. And occasionally, I would see him in the midweek, and we would all meet together at the main chaplain's base.

Q And other than associating with him in the course of your duties, did you do things with him as a friend?

A No, sir.

Q Did there come a time when he came to your facility -- Where was your facility, to start with?

A It was at Courthouse Bay at Camp Lejeune, towards the back of the base.

Q Did there come a time when he came to your facility and you and he spoke in reference to the death of his sister-in-law?

A Yes, sir, he did. We would go back in the back recreational facility from time to time when he would come out, and he would talk to me about the case and say that they were accusing his brother of things, and he would discuss it with me.

Q During those periods of time when he discussed it with you, did he give you any details about the case?

A Yes, sir, he did.

Q What do you recall him telling you?

A He told me that they were accusing his brother of having some involvement in his wife's death, and that they were questioning him, to try to get to his brother.

Q Did he give you details of the actual death?

A Yes, sir. He told me that they had a -- he told me that they had a witness that saw a car that was similar to his leaving the scene of the accident. And I recall him mentioning something of a large tool box being moved in the house. He would basically go over things with me that would come up in the case, because he told me he was trying to figure out for his self who actually committed the murder.

Q Now, when you eventually left the Marine Corps, where did you go?

A I went to Lynchburg, Virginia, to attend college.

Q And what school is that?

A Liberty University.

Q And what type of studies were you pursuing?

A Pastoral ministries.

Q And did you go there in August of '96; is that correct?

A Yes, sir.

Q When you left the Marine Corps, did you have any further contact with Ronnie Kimble?

A Yes, sir, I did.

Q When was that?

A Sometime later after I left, he called and -- he called me on the phone and expressed interest that he would like to come up and visit the school.

Q Between the time you left the Marine Corps, and the

time you got that initial phone call from Ronnie Kimble, did you have any other contact with him?

A No, sir.

Q When you left the Marine Corps, had you formed any type of an opinion as to his guilt or innocence in regards to the death of his sister-in-law?

A Yes, sir. I thought he was innocent at that time.

Q You were living at Liberty University on the campus itself; is that correct?

A No, sir.

Q Where were you living?

A I was living at a townhouse about 10 minutes from the school.

Q And who were you living there with?

A My wife and two children.

Q When Ronnie Kimble called you, did he call you at that townhouse?

A Yes, sir, he did.

Q And would you relate to the ladies and gentlemen of the jury what you recall of that conversation.

A He called me to ask questions about the school, because he said that his father went to the school, and that he was interested in coming and pursuing the work of the ministry, by attending the same school that his father did and that I was going to attend.

Q What, if anything, did you tell him?

A I invited him to come up and stay with my family and I for a couple of days, while he checked out the school and to sit in through classes with me.

Q Were any definite plans made?

A Not at that time.

Q Did there come a time on or about January 20-- or prior to January 24th of 1997, when you received another telephone call?

A Yes, sir, there did.

Q Would you tell the jury about that.

A He called and said he would be traveling near the area, and that it would be a good time for him to come up and possibly check out the school, if he could get away and had extra time to get over there.

Q And during that conversation, were plans made for him to visit you?

A There was no specific day scheduled, just a tentative that he would come up soon.

Q Did there come a time when you received another telephone call?

A Yes, sir. He called me from the -- from the campus and let me know he was in town and he would -- that it would be a good time for him to come visit.

Q And what, if any, arrangements were made?

A We agreed that I would go meet him at the campus and then he could follow me to my house and stay with us a few days.

Q Did you do that?

A Yes, sir, I did.

Q And do you recall what the date was when they arrived or what the day of the week was?

A No, sir, I do not.

Q When they arrived, was it before or after dark?

A It was after dark.

Q And when they arrived, who arrived at your home?

A Ronnie Kimble and his wife.

Q On the evening that they arrived at your home, what did you do?

A We got acquainted with one another, talked for a little while, and then went straight to bed.

Q Went straight to --

A Went straight to bed.

Q Were there plans made for the following morning?

A Yes, sir, there was. He had planned to go to class with me in the morning.

Q And what time was your class in the morning?

A 8:00 o'clock.

Q Now, how big was the townhouse that you were occupying?

A It was two bedroom, one and a half bath, small

townhouse.

Q And were the bedrooms up or down?

A The bedrooms were upstairs.

Q And what accommodations or arrangements were made to allow the Kimbles to stay with you that night?

A They slept upstairs in the children's room, on a mattress on the floor, while my children slept in our room with us.

Q Tell the jury what happened the next morning.

A The next morning, we all got up, and Ronnie and his wife went to school with me in the morning and set through class.

Q You said it started at 8:00. How long did the classes go?

A They went from 8:00 to noon, with breaks in between.

Q And did Mr. and Mrs. Ronnie Kimble stay with you throughout that time period, from 8:00 till noon?

A No, sir, they did not.

Q Do you know where they went?

A Yes, sir. They left to go grab something to eat and -- actually, we left together at one point, to go try to meet with the chancellor of the school, so that he could speak with him, and the chancellor was not available, so I went back to class, and they went out to see the campus and to grab something to eat.

Q Did you get together again around lunchtime that day?

A Yes, sir, we did.

Q Would you tell the jury about that, please.

A We -- I rode into the campus with them that morning, so we rode back to the house at that time. And then they left shortly after, to go back up to the school, to try to meet with the chancellor once again.

Q When you say "they left," who left?

A Kim and Ronnie.

Q And did they come back later in that afternoon?

A Yes, sir, they did.

Q Tell the ladies and gentlemen of the jury what you remember about the events of that afternoon, going into the evening.

A We set around the house, played Nintendo awhile, and later on, we went out to eat that evening.

Q Before you went out to eat, do you remember anything specific occurring?

A I remember a phone call that was made. Kim called her mother, I believe it was, to tell her that she had met with the chancellor of the school, and to let her know how that went.

Q Do you remember anything else about that particular phone call?

A Yes. The phone call was cut short, because her mother

was on the line with an investigator or detective of some sort. And Ronnie Kimble got very upset about it. I remember him being very mad about that.

Q Eventually, were they able to contact Mrs. Kimble's mother?

A Yes, they were. I believe she called back to our house, and that's when they talked, and they discussed the -- they discussed apparently the subject of the phone call that was made to her mother by the detectives or investigators, whoever it was that had called them about this case.

Q After that phone call, did there come a time when you went to dinner?

A Yes, there did.

Q Do you remember where you went to dinner?

A Yes. We went to Country Cooking.

Q And when you say "we," who are you talking about?

A My children, my wife, Ronnie and Kim Kimble.

Q In the course of that dinner, was there certain conversation that you recall?

A Yes, there was. We talked, and Ronnie was talking about the ministry and expressing an interest in going into the ministry, but he was making excuses and made the statement that his past was haunting him, that he thought some things in his past might prevent him from going into

the ministry, and said he would like to discuss that with me later.

Q Do you recall what happened after dinner?

A Yes. We went to a -- we went to Best to shop. We did some shopping. And then we drove back to home.

Q What occurred when you and your family and Ronnie and Kimberly Kimble arrived at your home?

A We went inside and assembled a chair that I had bought at the store, an office chair. And shortly after, Ronnie said he needed to talk to me about some things, and asked if we could go upstairs away from the girls, to talk.

Q What did you do?

A We went directly upstairs, into my bedroom.

Q What occurred in your bedroom?

A Ronnie Kimble told me that he'd killed his sister-in-law.

Q Would you tell the ladies and gentlemen of the jury the details of that conversation.

A We went in and set down at the bed, and he said he had some things that he wanted to tell me, but he was afraid to tell me, because he thought the things that he would tell me would come back to haunt me. And he wanted to know if he was sure -- if I was sure that he could talk to me. And then we prayed together, and he proceeded to tell me that he killed his sister-in-law. I asked him why he killed his

sister-in-law. And he told me that he did it out of greed, and that his brother would pay him to do it.

He also told me that -- he asked me if I could do something with the money, if I could possibly give it to the university or use it in some way to put it to use at God's work. And I told him that he should not do that, that that was blood money, that I didn't want it. And he told me that he -- he wanted to know if it was -- if it would send him to hell if he killed his self. I told him that he would not go to hell for killing his self, but that he should not think of such things and that he should turn his self in.

Q What, if anything, did he respond, when you suggested that he turn himself in?

A He said that he was not going to turn his self in, that he would die first.

Q Did you have further discussions with him?

A Yes. We talked and he asked me -- he asked me if I would like him to leave. I told him I thought that would be best. Then he asked me if I thought any less of him. I told him I didn't know what to think of him. And we then decided together that we would find an excuse for him to leave that night. And so, we were going to go down and look at The Weather Channel, to see if the weather would be a valid excuse for him to leave, without his wife getting suspicious of him leaving so abruptly. And we went down and

looked at The Weather Channel, and the weather wasn't bad, so we agreed that he could stay the night, provided that he left first thing in the morning.

Q Did you have a conversation with him about how this was affecting his relationship with God?

A Yes, we did.

Q Would you tell the jury about that, please.

A I told him that in order to be right with God, he would have to turn his self in, and have to confess to what he's done. He then told me that he had already asked God's forgiveness, and that it was okay -- it would be okay, because it was her time to go anyway. And I said, "Well, at least you can't lie. You're lying to the people that are asking you. And you know that's wrong." And he said, "But they never have directly asked me if I did it."

Q In your discussion, do you know what he meant when he said it was her time to go?

MR. HATFIELD: Objection to what he meant.

THE COURT: Overruled. Well, sustained as to what he meant.

Q Based upon your discussion, what was he indicating when he said it was her time to go?

MR. HATFIELD: Objection. That's exactly the same question.

MR. PANOSH: Let me rephrase that.

THE COURT: Sustained.

Q Did he say anything else in that topic?

MR. HATFIELD: Objection. He's already told the witness what to say.

THE COURT: Overruled.

You may answer.

A He said that -- what he said was that it was her time to go, and that she would have died either way, because basically when your number's up, your number's up and that's it.

Q After you talked about the possibility of him leaving early, what occurred?

A We went downstairs and checked The Weather Channel, and decided that they could stay till morning.

Q Why was that?

A I would have asked him to leave that night, but I did not want to upset him, I did not want to make him angry, because in light of what he had just told me.

Q What occurred that night?

A We all went up to bed shortly after, and I laid awake all night, while my family slept, until morning.

Q What occurred the next day?

A The next day, after they were awake, they left.

Q And did anything occur after they left your home?

A Yes. I moped around the house awhile, because I was

completely sick over what he had told me. And my wife asked me why they had left so soon, and I couldn't even talk about it. I just told her I didn't want to talk about it. And finally, she asked me if he had killed his sister-in-law, and I had told her that he did, and that I had to turn him in.

Q What action did you take in that regard?

A I called my sister, to ask her to come down and arrange a meeting with myself and Jerry Falwell, to get some advice. And I also asked her to bring down her handgun, so that I could have home protection.

Q And did your sister come down?

A Yes, she did.

Q And did she in fact help you arrange that meeting?

A Yes, she did.

Q When did that meeting occur?

A That night, at a basketball game.

Q Would you describe that for the ladies and gentlemen of the jury, please.

A We went into the basketball game and sat down and watched the game by the Falwells and their family, and afterwards, I spoke with Dr. Falwell about this.

Q What did you tell him?

A I told him that the young man that had come and talked to him the day before, Ronnie Kimble, had confessed that he

had killed his sister-in-law, to me. And I asked him what my moral and legal obligations were, in light of what he had told me.

Q And did he give you advice?

A Yes, sir, he did.

Q And what was that advice?

MR. HATFIELD: Objection.

THE COURT: Overruled.

MR. HATFIELD: It's just hearsay.

THE COURT: Overruled.

A He then told me that I had no moral obligation, unless they could provide protection for my family, but that I should speak with a lawyer, his son, about my legal obligations.

Q And did he arrange that meeting?

A Yes, he did.

Q And what did you do after meeting with Dr. Falwell?

A I spoke with Dr. Falwell's son, which is a lawyer. And he said that he would look on the Internet and try to --

MR. HATFIELD: Objection.

THE COURT: Sustained.

Q Without stating what Dr. Falwell's son said to you, did he arrange for further meetings with you? Did Dr. Falwell

--
MR. HATFIELD: Objection to leading.

MR. PANOSH: Let me rephrase that.

Q Did Jerry Falwell, Jr., the attorney, arrange for further meetings?

A Yes, we did.

Q After that, what did you do?

A After that, I went and left the ball game, and went home and grabbed a few items and went and got a hotel for the night.

Q Who went to the motel?

A My family and I.

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

MR. PANOSH: May I approach?

THE COURT: You may.

Q I show you now State's 117. Do you recognize that?

A Yes, I do.

Q And is that a receipt for the hotel for that evening?

A Yes, it is.

Q And do you recognize the handwriting thereon?

A Yes, I do.

Q Was that your wife's?

A Yes, it is.

Q Why was it that you saw fit to take a motel room that night?

A Because Ronnie Kimble then knew where we lived and how to get to our house, and I wanted my family to be somewhere

where he knew we weren't at -- somewhere where he couldn't find us.

Q What happened the next day?

A The next day, we left the hotel, went to church that evening, and then I believe we returned to our home.

Q Did there come a time when you left Lynchburg and went to Camp Lejeune?

A Yes. Directly after, we decided that it would be best to go down and try to talk him into turning his self in again at Camp Lejeune.

Q Would you describe how you went to Camp Lejeune.

A My family and I packed up and went down to Camp Lejeune for a couple of days and stayed with friends, so that I could talk to him, try to convince him to turn his self in one last time.

Q Did you stay on the base or off the base?

A Off the base.

Q Did there come a time when you came in -- when you contacted Ronnie Kimble?

A Yes, there did.

Q How did you do that?

A I went up to the chaplain base on base and spoke with them and asked where he was, and then went over to talk to him at the chapel he was stationed at.

Q When you found him, where was he?

A He was in the main Protestant chapel.

Q And what was he doing?

A Cleaning and vacuuming the floor.

Q Did you have a further conversation with him?

A Yes, I did.

Q Tell the ladies and gentlemen of the jury how and where that took place.

A He left his cleaning and we went out to his truck, in the parking lot, and set in his truck, while I tried to convince him to turn his self in.

Q Would you describe that conversation, please.

A Yes. I tried to convince him to turn his self in, asked him to, and he said -- and then he tried to back out of it, by saying that maybe it was just a bad dream, that all of this may have never happened. And I told him that if his brother tried to give him some money, then he would know that he did it.

Q Were you able to convince him to turn himself in?

A No, I wasn't.

Q Did you have any further contact with him after that?

A No, I didn't.

Q Did you return to Lynchburg?

A Yes, I did.

Q And when you returned to Lynchburg, did you consult with an attorney, specifically Mr. Yeatts?

A Yes, I did.

Q And what did Mr. Yeatts tell you?

MR. HATFIELD: Objection.

MR. PANOSH: He'll be testifying.

THE COURT: Members of the jury, this is being offered for the purpose of corroborating a later witness's testimony. It'll be for you to say and determine whether it does in fact so corroborate that witness's testimony. It's not being offered for the truth or falsity of the statement, but whether in fact the statement was made on that occasion to this witness.

Q What advice did Mr. Yeatts give you?

A He told me that it would be a good idea if I had some sort of agreement. So they then reached an agreement with, I assume the District Attorney's Office down here, stating that I would -- I would have police protection, in the event that I -- in any information that I gave them that they could use, I would have police protection if I needed it.

Q And thereafter, on February the 3rd of 1997, did he arrange for you to meet with agents of the State Bureau of Investigation and the Guilford County Sheriff's Department?

A Yes, he did.

Q Do you recognize Agent Pendergrass and Detective Church as the individuals you met with? (Indicated.)

A Yes, I do.

Q And also present during that meeting was Mr. Yeatts; is that correct?

A Yes.

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

Q Showing you then Number 130, do you recognize this, sir?

A Yes, I do.

Q And you've previously had a chance to look that over; is that correct?

A Yes, sir.

Q Are those the statements you gave on February the 3rd, in the presence of your attorney, to Detective Church and Agent Pendergrass?

A Yes, sir.

Q Now, after you gave those statements, what did you do?

A I withdrew from school, or I told them I was leaving at school, and we packed our things and put all of our furniture in a storage shed and moved out of state.

Q Why did you do that?

A In fear for our lives.

Q Did there come a time when you returned to Liberty University in Lynchburg?

A Yes, there did.

Q And tell the jury about that, please.

A After I was down there about six months or so, the --

Ronnie Kimble was in jail, so I came back up to Lynchburg, to finish school.

Q And how many semesters did you go to school at Liberty University?

A Three.

Q Were you able to finish your program?

A No, sir.

Q And would you briefly explain that.

A I was not able to finish my program, because it was a four-year program -- or excuse me, a four-semester program, that takes two years, and I missed the semester that I needed to finish in that six-month period that I left.

Q And thereafter -- after you completed the studies you could, where did you go?

A To Florida.

Q And that's when you became an ordained minister; is that correct?

A Yes, sir.

MR. PANOSH: No further. Thank you, sir.

MR. HATFIELD: Is that all?

MR. PANOSH: That's all. Thank you.

MR. HATFIELD: Thank you.

Do you want me to go ahead, Judge?

THE COURT: Let's let the jury stretch.

Take a stretch, if you'd like.

(Time was allowed.)

THE COURT: How long are you going to be with the witness, Mr. Hatfield? Are you going to be examining the witness?

MR. HATFIELD: Yes, sir.

THE COURT: How long will it take, sir? Do you have any idea?

MR. HATFIELD: I'm sorry. I truly don't know, Your Honor.

THE COURT: Let's just go ahead and take our afternoon break. It'll be a 15-minute recess at this point. (The jury left the courtroom at 2:55 p.m.)

THE COURT: You may step down, Mr. Whidden. (The witness left the witness stand.)

THE COURT: Court will be in recess 15 minutes. (A recess was taken at 2:55 p.m.) (Court reconvened at 3:14 p.m. The defendant was present. The jury was not present.)

THE COURT: Come back to the witness stand, please, Mr. Whidden.

(The witness returned to the witness stand.)

(The jury entered the courtroom at 3:15 p.m.)

THE COURT: You may begin your cross-examination, Mr. Hatfield.

MR. HATFIELD: All right. Thank you, Your Honor.

CROSS-EXAMINATION by MR. HATFIELD:

Q Mr. Whidden, you met Ronnie Kimble while you were attached to the chaplain's department at Camp Lejeune; is that right?

A Yes, sir.

Q And that was within approximately five to six months of the -- of your release date from the Marine Corps; is that correct?

A Yes, sir.

Q And as I understand it, you were released from the Marine Corps in the middle of August of that particular year; is that correct?

A Yes, sir.

Q Mr. Whidden, in connection with your academic and attendance records at Liberty Bible Institute, I believe that the term that you -- the first term that you completed there began on July 1, '96, and ended on December 31, '96; is that correct?

A Around those dates.

Q What I'm asking you is, my understanding is, that semester began on July 1, but I understand you didn't get out of the Marine Corps until the middle of August. Can you explain that?

A I don't remember the exact dates that that semester began. I know that I got out of the Marines on August the

19th, and that's when I was officially released. I do not recall whether or not I took a period of leave. I may have taken leave that I'd saved up. I do not recall.

Q Okay. So what you clearly recall is, your release date from the Marine Corps, obviously?

A Yes, sir.

Q And that was August 19th?

A Yes, sir.

Q But you may have accumulated leave that allowed you to go and begin your studies at Liberty a little early, before your official release from the Marine Corps; is that what you're telling me?

A I'm not sure.

Q Okay.

A It's possible.

Q But if you went to Liberty as early as July 1, then the period that you knew Ronnie Kimble would be much shorter than what you described a little while ago, wouldn't it?

A I don't understand the question, sir.

Q Well, if the -- I believe the '96 fall semester at Liberty began on July 1st and concluded on December 31st, and I know that you completed that.

A Yes, sir.

Q And I'm just asking you, were you in fact in Lynchburg as early as July 1, 1996, so that you could complete that

first semester at Liberty Bible Institute?

A I'm sorry, sir. I don't remember the exact dates.

Q Okay. In any event, you do recall that you completed the program, that first program -- that first semester, got all of your course credits and everything, didn't you?

A Completed the first semester, yes, sir.

Q And then the second semester began on January 13, 1997, didn't it?

A I don't recall the dates again, sir.

Q And do you remember what day you withdrew from the school?

A I didn't officially withdraw from the school.

Q You just packed up and left and then notified them?

A I discussed it with the dean of the Bible Institute, and then I left, and I withdrew at a later date, when I came back up to get my grades straightened back out.

Q So if the records indicate that you withdrew on January 5th, that does not necessarily pinpoint the day that you actually left?

A It may. What happened was, I did not officially withdraw, due to time, I did not officially withdraw with the registrar's office, and I left and went to -- went to Florida. And when I came back up, I had to get a note stating the reason I left and when I left, and then I assumed they backdated my withdrawal.

Q Okay. So the fact is -- and I don't mean to suggest anything negative -- you simply left Lynchburg with your wife and children, and then took care of official withdrawals from the school and other things like that later; is that right?

A Yes, sir.

Q Now, assuming that you were actually enrolled in your first semester at Bible college from July 1, can you recall when you first met Ronnie Kimble?

A I first met Ronnie Kimble shortly after I went to the chaplain's department.

Q Do you know when that was?

A No, sir, I'm sorry. I don't recall the dates.

Q There's a statement that you made on February 3, 1997, that would -- if you looked at that and -- would it refresh your recollection?

A I recall that I met him about five or six months before I got out, because that was when I -- five or six months previous to August 19th, because that's when I went over to the chaplain corps.

Q Five or six months previous to August 19th?

A Yes, sir.

Q All right. Now, August is the eighth month of the year, so if you subtract five months from that, you go back to the third month of the year, which is March, isn't it?

A Yes.

Q So are you saying that you probably met Ronnie Kimble around March of 1996?

A Sometime in that time frame. I don't remember exact date, but in that time frame.

Q Now, when you met Ronnie Kimble, you and he became friends; would that be the right word to describe it?

A Yes, sir.

Q But I think you said a little while ago that you didn't socialize with him in any way or anything like that; is that correct?

A We weren't close friends, we were acquaintances and friends. We --

Q You were married and he was married; is that right?

A Yes.

Q And you had two children at that time?

A Yes.

Q Can you remember your -- the dates of birth of your children, so you can give me an accurate answer to how many children you had? You met him in March of 1996. How many children did you have in March of 1996?

A At that time, I believe I only had one.

Q And of course, you would have had your hands full with a wife and kid at Camp Lejeune. Did you know anything about Ronnie's marital status at that time?

A Yes, sir. Sometime after we met, he told me he was married. I remember, because I saw a picture of his wife and him on the desk.

Q Now, prior to January of 1997, when you received a visit from Ronnie and his wife, you had never actually met Ronnie's wife, had you?

A No, sir.

Q And in turn, your wife had never met Ronnie or his wife, had she?

A No, sir.

Q Now, did you know that Ronnie's wife basically lived in Julian, North Carolina, and not in the Camp Lejeune area?

A Yes, sir, I did.

Q So I take it that the reason you didn't become social friends was just because you were married and he was married and your paths didn't cross in that way; is that right?

A I can't say the reason we didn't become close friends. My wife and I didn't have a large social life with many friends.

Q Did you ever talk to Ronnie about activities that he engaged in while he was in -- during regular duty, that is, not on the weekends around Camp Lejeune? Did he tell you any of his activities?

A Can you elaborate on the question, please.

Q Well, you were getting to be friends with him, even

though your wives weren't friends. Did Ronnie tell you any activities that he engaged in?

A Yes, he did.

Q What did he tell you he did?

A He said he liked to fish.

Q Did he tell you anything else about his activities?

A That's about all I recall.

Q Did Ronnie tell you anything about donating plasma and receiving token payments when you give plasma?

A I don't recall.

Q I'm sorry. Someone was coughing. What was your answer?

A I don't recall, sir.

Q Did Ronnie Kimble tell you about going out with friends of his and looking for scrap brass and other semivaluable metals?

A I don't recall.

Q He didn't tell you anything like that? At the time that you knew Ronnie before you withdrew from the Marine Corps, did you know what kind of motor vehicle he drove?

A Yes, sir. He drove a truck.

Q Is that -- are you basing that on your visit to him in January, after you talked to him about Patricia's death, or are you basing that on what you knew between March and August of 1996?

A I knew that before, because I had rode with him in his truck, we were moving some furniture for the --

Q Did he bring -- when he went on his rounds around the various chaplain offices, did he drive his truck or did he drive a Marine vehicle?

A He drove a Marine vehicle.

Q Now, at one point, you said that you saw him about once a week. Is that accurate?

A Once to twice a week, roughly.

Q So if you were up at Liberty Bible College in July, and if you met him in March, that would have been approximately a five-month period, wouldn't it?

A That sounds accurate.

Q But didn't you say on a prior occasion that it was a couple of months before he mentioned anything to you about the trouble that was going on in Greensboro, that he was worried about?

A I don't recall whether I said that or not.

Q In any event, he didn't just start talking about investigations of his sister's (sic) death in Greensboro the first time you ever met him, did he?

A I'm sure he wouldn't have.

Q Well, it's important that you remember what happened at the time, so that this jury can decide.

A Yes, sir.

Q Did Ronnie tell you on more than one occasion that there was an investigation of his sister's (sic) death going on?

A Yes, sir, he did tell me on more than one occasion.

Q And can you tell us how many occasions he told you that?

A I -- that would be hard to guess, sir. You're correct in stating that he didn't tell me that right away. But we would talk about it on occasion, and I would -- I -- it would be hard for me to guess how many occasions he talked to me about that.

Q You could not guess sitting here today how many times he talked to you about that?

A I don't think so.

Q Well, now, I know that you didn't socialize with him, and I understand that you were married, but have you ever been out with him in public, say at a mall or a restaurant or a bar or anything like that?

A Yes, sir. I believe on one occasion, we had lunch together, just off the base, during our lunch break.

Q You have never seen Ronnie Kimble demonstrate any violence to a person, have you?

A No, sir, I haven't.

Q And I know you're both good Christians and both married men. There was no fighting during the period of time you

knew Ronnie, was there?

A Between us?

Q Well, you never observed Ronnie engage in a fight with anybody or anything like that, did you?

A I saw him engage in an argument one time.

Q And was that with one of his co-Marines?

A It was with a Navy personnel.

Q And where was that?

A That was at the -- at the base chaplain's office.

Q You didn't see any violence displayed, did you?

A No, sir.

Q Did Ronnie Kimble ever let you know that he possessed any weapons while you knew him at Camp Lejeune?

A No, sir.

Q Did he have a pistol?

A I don't know.

Q You have no reason to think he did, do you?

A No.

Q He never told you he did, did he?

A Not that I recall.

Q And he never showed you one, did he?

A No.

Q And you -- he wasn't interested in weapons of mass destruction and all of that stuff, was he?

A Not that I recall. Most -- it could have come up in a

conversation, but not that I recall.

Q You can't remember it, can you?

A I remember one conversation that was out of the ordinary.

Q And tell us about that.

A We were sitting around talking, as Marines do often, about if there was a wartime, if we were actually in war, could we kill someone, if we had to. And the reason this sticks out in my mind was, there was debate, some said they could, some said they thought it would be hard, but Ronnie Kimble looked at me and said that he knows that he could kill someone, if he had to.

Q And that's the training that every Marine receives, isn't it?

A Yes, sir, it is.

Q And you received it, too, didn't you?

A Yes, sir, it is.

Q How many people were present for that discussion?

A There were roughly four of us standing around there.

Q Was it part of a discussion in the chaplain's office or something like that?

A Yes, sir, it was.

Q And do you remember when that was?

A I don't remember any exact dates.

Q But it stuck in your mind, didn't it?

A Yes, sir, it did stick in my mind.

Q You didn't really have to think about it to remember that just now, did you?

A No, sir.

Q Now, you said that there were many occasions, you couldn't guess how many, when he alluded to the arrest -- I mean the investigation in Greensboro of Patricia's death; is that right?

MR. PANOSH: Objection. That was not his testimony.

Q Did you say that --

THE COURT: Overruled.

MR. HATFIELD: I'm sorry. I didn't mean to interrupt.

THE COURT: You may rephrase it.

MR. HATFIELD: Yeah. Thank you, Your Honor.

Q Didn't you say a minute ago that there were quite a few occasions when he brought up the subject of an investigation of Patricia's death in Greensboro, so that you could not guess how many times he brought it up?

A If I had to guess, I would say under 10.

Q Under 10?

A Yes, sir.

Q Do you have to guess, or if you really think about it, can you remember how many times?

A No, sir, I can't remember how many times.

Q You know that, if you knew him five weeks -- I mean five months, and there are four weeks in each month, that there might have been 20 weeks at most that you and he were acquainted; isn't that right?

A Yes, sir.

Q And you know he didn't bring this stuff up right away, so the first few weeks, there was no discussion; isn't that fair to say?

A Yes, sir.

Q So there maybe were 15 weeks that you knew him when he might have -- you would have seen him once a week or perhaps twice a week; is that right?

A Yes, sir.

Q So being fair in estimating, you probably never even laid eyes on the man more than 25, 30 times; isn't that right?

A That sounds accurate.

Q And you didn't talk about his problems with investigators in Greensboro every time after he first brought it up, did you?

A No, sir, we didn't.

Q And there were times when other people were around, and that kind of thing wouldn't necessarily come up anyway; isn't that right?

A Yes, sir.

Q So out of 25 possible times, making allowances for some number of times that there was no discussion, how many times do you actually think you and he had private conversations about his concerns about this investigation?

MR. PANOSH: Objection. He's answered.

THE COURT: Overruled.

A Again, I couldn't make that statement accurately, except to say it's safe to say it was under 10.

Q All right. Now, you had a piece of paper in front of you that indicates that you made a statement to the investigators, Mr. Church over here, and Mr. Pendergrass, right behind Mr. Church. You know those gentlemen, don't you?

A Yes, I do.

Q You've talked to them this morning, haven't you?

A Yes, sir.

Q And probably yesterday; is that right?

A Yes, sir.

Q And you talked to them on other occasions, haven't you?

A Yes, sir, I have.

Q Among Mr. Church and Mr. Pendergrass and Mr. Panosh, you've discussed this case quite a bit, haven't you?

A Yes, sir.

Q Well, then, why is it so hard for you to remember the

details when you're in here in front of the jury?

MR. PANOSH: Objection.

THE COURT: Sustained.

Q Do you recall the paper -- Will you please tell me what the number is on that paper that you've got in front of you.

A 130.

Q 130?

A Yes, sir.

Q Have you -- I believe you've told Mr. Panosh already, you've had a chance to read 130 before, haven't you?

A Yes, sir, I have.

Q Now, is 130 an accurate summary of what you stated concerning this case?

A Yes, sir, it's basically accurate.

Q Now, February 3rd was within one week of the time that you say that Ronnie Kimble told you he killed Patricia, wasn't it?

A Yes.

Q So, obviously, whatever he said to you, and whatever you said to him, it would have been fresher in your mind then than at any other time, wouldn't it?

A Yes, sir, it would.

Q Now, will you look at Page 2 of the exhibit that you have in front of you, 130, and I'll ask you to look at the

first three lines on -- at the top of that page. Do you see that, those lines, or the second line and the third line and part of the fourth line, do you see that, on Page 2?

A Could you repeat the lines, please, sir.

Q Yeah. The second, third and fourth lines on Page 2, do you see those?

A Of which paragraph?

Q Of the top paragraph, at the very top of the page.

A Yes, sir.

Q Do you see where it says, "... Whidden stated, he was befriended by Kimble and recalls on one occasion Kimble telling Whidden about the death of Kimble's sister-in-law"? Do you see that?

A Yes, sir, I do see it.

Q So you had your lawyers, Mr. Yeatts and Mr. Falwell, and you had the investigators, Mr. Pendergrass and Mr. Church, and it had only been a week since you'd had your conversation with Ronnie Kimble, and you told those gentlemen that on one occasion he mentioned this?

A No, sir, that's incorrect.

Q It is incorrect?

A Yes, sir. I believe, if I'm not mistaken, sir, that that was a reference to one specific occasion.

Q "After meeting Kimble, Whidden stated, he was befriended by Kimble and recalls on one occasion Kimble

telling Whidden about the death of Kimble's sister-in-law. Whidden stated he was told by Kimble that the police suspected Kimble and his brother of the murder." Didn't you tell those gentlemen --

MR. PANOSH: He's answered that question.

Q -- that it was one occasion?

A I was speaking of one specific occasion, sir.

Q So it doesn't mean what it says?

MR. PANOSH: Objection.

THE COURT: Sustained.

Q It's inaccurate, isn't it?

MR. PANOSH: Objection.

Q It doesn't accurately --

THE COURT: Overruled.

Q -- reflect your position on this subject, does it?

A I couldn't say, sir. The way I read it, I would think it means one specific occasion. I'm not exactly sure, the way it's written, what it means.

Q Well, then, since I might have read it wrong, beginning with the words "After meeting Kimble," would you read it, and let's see how it sounds.

A Yes, sir, I will.

MR. PANOSH: Objection.

THE COURT: He's read it. Sustained.

MR. HATFIELD: Well, he hasn't answered the

question.

THE COURT: I think he has, sir, to the best of his ability.

One more time, read it, if it would help you, sir.

A Would you like me to read it out loud?

Q Yes, I would. Thanks.

A "After meeting Kimble, Whidden stated, he was befriended by Kimble and recalls on one occasion Kimble telling Whidden about the death of Kimble's sister-in-law."

Q Would you read the rest of the sentences in that paragraph.

A Yes, sir. "Whidden stated he was told --" "Whidden stated he was told by Kimble that the police suspected Kimble and his brother-in-law of the murder. Whidden stated Kimble went on to say that the police wanted to arrest someone for the murder and did not care who they arrested."

Q Is that accurate? Is that what Ronnie Kimble told you?

A That was basically what he told me.

Q Told you that they wanted to arrest somebody and they didn't care who they arrested; is that what he told you?

A Yes, sir.

Q Now, in the next -- in the third paragraph, if you'll look down, beginning with the words "On January 24th," you stated that Mr. Kimble and his wife appeared unexpectedly at your house in Lynchburg, didn't you?

A That's what the statement says. That's not the way that I recall it.

Q So, once again, the statement is inaccurate, based upon your recollection; is that right?

A It was not unexpected. It was -- If I can elaborate on that. It wasn't -- it wasn't unexpected, in that we knew he was coming, but the specific day he was going to be there was a little shock. I forget exactly what the arrangements were made, but I remember that it was -- it was unexpected in that, that specific date, but we did know that he was coming.

Q Now, it says a little further down in the same paragraph that certain discussions took place between you and Ronnie Kimble, according to the statement, on July 20-- I mean, I'm sorry, on January 24, 1997, doesn't it?

A Yes, it does.

Q Now, just to try to clarify the time frame, the Kimbles arrived at your and your wife Debra's house on late evening hours of the 23rd, didn't they?

A Yes, sir.

Q And as you said a little while ago, they called you and notified you that they were in the vicinity, and rather than try to explain all the lefts and rights and things, you just went over and met them and led them back to your house; is that correct?

A Yes, sir.

Q Now, you did not in any way feel imposed upon by that, did you?

A No, sir, I didn't.

Q And he was a friend of yours from the Marine Corps, and you were glad to see him, weren't you?

A Yes, sir, I was.

Q Now, when he -- when you knew -- when you got that call, the ball was in your court, wasn't it? You could have either said, "Ronnie, you know, I've got a kid and another one on the way, and a very small townhouse. You know, maybe it would be better if you'd get some accommodations at a motel and I'll see you tomorrow morning and show you around." You could have done that, couldn't you?

MR. PANOSH: Objection.

MR. HATFIELD: I'm not asking --

THE COURT: Overruled.

MR. HATFIELD: -- him to speculate.

THE COURT: You may answer that.

Q You could have done that, couldn't you?

A Yes, sir, I could have.

Q And it wouldn't have offended Ronnie Kimble in the least, would it?

MR. PANOSH: Objection.

THE COURT: Sustained.

Q You felt that it was not too big an inconvenience for you to have these people into your home, and that you'd find someplace for them to sleep; isn't that right?

A Yes, sir.

Q Now, do you recall exactly what time everybody got back to your house?

A The evening of the 23rd?

Q Yes, sir.

A It was after dark. If I had to guess, I would say it was around 9:00, but I can't be accurate on that.

Q Do you remember, at that time, did you have one child or two children?

A At that time, we had two children.

Q All right. And another one on the way?

A Yes, sir.

Q Do you have three children now?

A Yes, sir, I do.

Q Were the two children that you had then, did they have a little bedroom beside your wife's and your bedroom, or did just one of them have it?

A They shared the same bedroom.

Q So there was a children's room and a parents' room?

A Yes, sir.

Q And I believe you said that you put a mattress on the floor for Ronnie and Kim, and the kids came in and stayed

with you and Debra; is that right?

A Yes, sir.

Q Now, do you remember whether Ronnie Kimble took a shower before they went to bed?

A No, sir, I do not.

Q Do you remember his telling you that he had a bunch of glue on his body, due to electrodes that had been attached by Navy medical people over in Portsmouth?

A That sounds familiar.

Q You knew why Ronnie Kimble was in Virginia that particular time frame, didn't you?

A Yes, sir, I did.

Q What was the reason?

A He was going for some sort of test at a naval installation.

Q Do you know where that naval installation was?

A I couldn't be for sure.

Q Well, most naval installations are on the coast, aren't they?

A Yes, sir. It was more than likely at Norfolk, Virginia.

Q Or in the general vicinity of Norfolk; is that right?

A Yes, sir.

Q Have you been to Norfolk, Virginia?

MR. PANOSH: Objection.

THE COURT: Sustained.

Q Have you been to Portsmouth, Virginia?

MR. PANOSH: Objection.

THE COURT: Sustained.

Q You spent three and a half years in the Marine Corps; is that right?

A Three years and nine months.

Q Did you ever go to the naval medical facility in Portsmouth, Virginia for any reason?

A Not that I recall.

Q Now, when Ronnie got to your house, do you recall that he told you that he had this glue on his body and it was sticky, and he needed to take a shower?

A I don't really recall. Like I said, that sounds familiar, but I couldn't be for sure.

Q You can't remember?

A No, sir.

Q You can't even remember whether he took a shower?

MR. PANOSH: He's answered, please.

THE COURT: Sustained.

MR. HATFIELD: Well, he's answered that he can't remember.

THE COURT: He's answered that, Mr. Hatfield. Move on.

MR. HATFIELD: Your Honor, it's going to take a

long time to cover this case --

THE COURT: Well, we're going to move along, and you need to move along.

Q You said you had a bath and a half in this apartment?

A Yes, I did.

Q Where was the shower?

A Upstairs.

Q There's only one shower in the entire apartment; isn't that right?

A Yes, sir.

Q Now, the next day, what time did you all get up in the morning?

A I would guess around 7:00, between 6:00 and 7:00, because school started at 8:00.

Q And you went off and you went to some classes, and after a while, Ronnie and Kim drifted off on their own; is that correct?

A Yes, sir.

Q They didn't go to all the classes that you went to that morning, did they?

A No, sir.

Q And in the afternoon, did you all meet back at your place?

A I rode back home with them. They met me at school, and they -- we drove back home together.

Q What time did you get back to your house?

A I would guess around 12:15, 12:30.

Q And then, did you stay at your townhouse the rest of the afternoon, until you went out to eat, or were there some afternoon activities?

A We stayed at the townhouse, while Ronnie Kimble and his wife left sometime after lunch, to go back up to the campus.

Q Now, when you spoke of the chancellor, you were talking about Dr. Wilmington, weren't you?

A No, sir.

Q You were talking about Dr. Falwell?

A Yes, sir.

Q Did you learn later in the day that Ronnie and Kim had a chance to see Dr. Falwell?

A Yes, sir, I did.

Q And what time did Ronnie and Kim come back to your townhouse after they'd seen Dr. Falwell?

A I don't recall the time, sir.

Q Do you remember what activities the family and Kimbles engaged in during that period?

A Yes, sir. We played Nintendo.

Q Did you watch any videos?

A Not that I recall.

Q Well, are you having difficulty recalling the details of this event?

MR. PANOSH: Objection to comments of counsel.

THE COURT: Sustained.

MR. HATFIELD: That's a question, not a comment.

THE COURT: Move along.

Q Well, do you remember looking at a video of Dr. Falwell?

A I don't remember that specifically.

Q Do you remember a video that you had in your house, of Dr. Falwell appearing on "Larry King Live" and debating Larry Flynt, a guy that has a dirty magazine that he'd made millions of dollars off of? Do you remember that?

A I remember having that tape. I don't remember if I had it at the time.

Q Did you show it to Ronnie and Kim?

A I don't recall.

Q Can you tell me how Ronnie and Kim would know about that tape, if you didn't show it to them?

MR. PANOSH: Objection, please.

THE COURT: Sustained.

Q Did you tell them about that, or did you look at it?

MR. PANOSH: Objection. He's answered.

THE COURT: He says he didn't recall.

Q Isn't it a fact that you looked at it, and everybody laughed and thoroughly enjoyed that video?

A I don't recall.

Q You recall a confession of murder, but you can't recall anything else; is that your testimony?

A A confession of murder would stick in my mind more than a day-to-day conversation I would not remember a year later.

Q All right. So you don't remember what your activities were that afternoon with the Kimbles. Do you remember what time you went to dinner?

A Sometime in the evening.

Q You don't know what time?

A I don't recall the exact time, sir.

Q Now, in going to dinner with the Kimbles, who paid for the dinner meal?

THE COURT: How is that relevant?

MR. HATFIELD: The Kimbles paid for it.

A I don't recall.

Q You don't recall?

A No, sir.

Q Do you recall what you had to eat?

A I recall that we ordered the meat, and we had to get the vegetables, because it was a vegetable bar.

Q Now, what time did you leave the restaurant?

A Sometime after dark.

Q Well, this was January, so dark comes early, doesn't it?

A Sometime after dark.

Q Do you remember where you bought the chair?

A Yes, sir.

Q Where was that?

A Best.

Q Is that Best Products?

A Best Department Store, sir.

Q Best Department Store? How many chairs were purchased?

A I believe Ronnie Kimble bought one, also.

Q So the two of you bought chairs, Ronnie --

A I believe he bought one. I know I bought one.

Q Looking at your statement of February 3rd, do you see anything in there about buying a chair?

(Time was allowed for the witness.)

A No, sir, I don't see anything in regards to buying a chair.

Q Now --

A I didn't think that was relevant.

Q -- after the chairs were purchased, they were loaded into your vehicle and brought back to your townhouse, weren't they?

A Yes, sir.

Q Along with your two kids and everybody else; is that right?

A Yes, sir.

Q And then, did the Kimbles put their chair in their car,

unassembled in the box?

A Yes, sir.

Q And the other chair was taken into your apartment?

A Yes, sir.

Q Now, isn't it a fact that Ronnie Kimble got down on the floor and assembled that chair?

A Yes, sir, it is.

Q And isn't it a fact that your oldest kid -- what's your oldest kid's name?

A Mitchell.

Q Mitchell had a hilarious time playing with Ronnie in that chair, didn't he?

MR. PANOSH: Object to relevance.

THE COURT: Sustained.

MR. HATFIELD: Your Honor, I want to cross-examine the witness about everything that happened, so we can determine if his memory is good.

THE COURT: Objection sustained. Move on.

Q Do you remember your child and Ronnie playing together?

MR. PANOSH: Objection.

THE COURT: Sustained.

You don't have to answer.

Move along.

Q Do you remember making a statement to Mr. Panosh over here on July 21, 1998, in his office?

A Yes, sir, I remember making a statement to him.

Q Do you remember that?

A Yes, sir.

Q And Mr. Panosh carefully took down everything that you said about these events; do you recall that?

A Yes, sir.

Q Do you have that statement in front of you?

MR. HATFIELD: Would you furnish the witness with a copy of it.

MR. PANOSH: Your Honor, there is no statement.

MR. HATFIELD: He was interviewed, and I was given a copy of what he said.

MR. PANOSH: Your Honor, all I did was a telephone interview of Mr. Whidden, and I gave Mr. Hatfield a copy of my notes only.

THE COURT: Is it a signed statement, Mr. Hatfield?

MR. HATFIELD: No, sir.

THE COURT: All right, sir. Move along. You may ask him about any conversation he had with Mr. Panosh, if that's the gist of the notes.

(Time was allowed for Mr. Hatfield.)

THE COURT: You may stand and stretch, if you'd like.

(Further time was allowed.)

Q Mr. Whidden, when you talked to Mr. Panosh on the telephone on July 21st of 1998 -- do you remember having that conversation with Mr. Panosh?

A Yes, sir, I do.

Q Were you trying to relate the facts of your encounter with Ronnie Kimble as best you could when you talked to Mr. Panosh?

A Yes, sir.

Q Now, did you tell Mr. Panosh that it was a month or two after you met Ronnie that you first became aware that there had been a murder at all?

A That sounds accurate.

Q All right. So, assuming that you knew him five months, as we said earlier, it would have only been through a period of about three months that he would have discussed this with you; is that right?

MR. PANOSH: We object.

Q Is that --

THE COURT: Overruled.

Q -- correct, sir?

A It could have been as many as four months.

Q All right. And did he tell you that his brother had not done this crime?

A Yes, sir, he did.

Q And did you say to -- and did he tell you that at one

time, someone had said that his car had been seen at the time of the murder? He told you that, didn't he?

A Yes, sir.

Q And this was a matter of concern to him, that the investigators were telling him his car had been seen at the time of the murder; is that right?

A Yes.

Q But didn't he tell you, according to what you told Mr. Panosh, that that was impossible, because he had a receipt from a gas station from across town? Is that what you said to Mr. Panosh?

A Yes, sir.

Q So, you remember something about a gas receipt; is that correct?

A Yes, I do.

Q And you thought that Mr. Kimble was saying to you that the gas receipt proved that he hadn't been in the vicinity; isn't that what your understanding was at that time?

A Yes, sir.

Q And then you said, "Every time he would come out, he would tell me more details"; isn't that right?

A Yes, sir.

Q So what you told Mr. Panosh on July 21, 1998, where you said, "Every time he would come out, he would tell me more details," is quite different from what you told Mr.

Pendergrass and Mr. Church when you said on one occasion; isn't that right?

MR. PANOSH: Objection.

THE COURT: Overruled.

Q It's substantially different, isn't it?

A No, sir.

Q That's not different?

A No, sir.

Q All right. Now, you recall -- of course, your statement to Mr. Panosh over the telephone was not under oath, was it?

A No, sir.

Q You were just trying to tell it as best you could; isn't that right?

A Yes, sir.

Q Now, do you remember testifying under oath in these proceedings, when the jury was not here, about the matters that you are testifying to today?

A Yes, sir.

Q And do you remember that you were asked the question, not by me, but by someone else, "On how many occasions approximately did you and he discuss this?" Do you remember that question?

A Yes, sir.

Q And what was your answer?

A I believe I answered five to six.

Q If I said that you -- that your answer was "Estimated three to four," would that refresh your recollection?

A Yes, sir.

Q Thank you. Now, in connection to talking to Mr. Panosh on the telephone about this case, and making reference to a woman who had seen him near where Patricia's house was, and making reference to a gas receipt, you said, "I remember thinking at the time that did not really impress me, because anyone could get a receipt." Did you say that?

A Yes, sir.

Q So at that point in time, you had concluded that he was probably guilty of that business that they were investigating him for, because you didn't even believe what he had to say about it, did you?

A No, sir, that's incorrect.

Q Then why did you say, "That did not really impress me, because anyone could get a receipt"?

A At that time, I still thought that he was innocent, yet, I said that, because that seemed to be the evidence that he was relying on to keep him from being charged, and I remembered thinking that he's got to have more than that, because that's not very impressive.

Q You were judging this man, while he thought you were his friend, weren't you?

MR. PANOSH: Objection.

A No, sir, I wasn't.

THE COURT: Sustained.

Q You were forming opinions on a weekly basis, as he came out and visited you and shot pool, you were forming opinions about whether or not you thought he was somehow actually guilty of this stuff; isn't that right?

A Yes, sir, I was forming opinions.

Q And you told Mr. Panosh that "He," meaning Ronnie Kimble, "had said he was trying to figure it out in his own head, and he was always going over it with me"; isn't that right?

A Yes, sir.

Q Those were not admissions of guilt by him, were they?

A No, sir.

Q Then there was some reference to a tool box, wasn't there?

A Yes, sir.

Q What did he tell you about the tool box?

A I remember him telling me there was some large tool box that was moved, so that they thought there may have been more than one person involved.

Q And you thought to yourself, I'll bet Ronnie Kimble was involved in this, and so was some other person; isn't that right?

A No, sir.

Q Then you said, "He didn't --"

MR. PANOSH: Your Honor, there are no quotes in here at all. We object. These are simply my notes.

Q Did you say at that time, or words to this effect, "He didn't really let on that they were investigating him, also"? Did you say that?

A Yes, sir.

Q Now, in your February 3rd statement, will you look on Page 2 of your February 3rd statement.

(Time was allowed for the witness.)

Q On your February 3rd statement, you said that you were told by Kimble -- I'm talking about the top paragraph on Page 2 -- that the police suspected Kimble and his brother of the murder. That's what you said to Yeatts and Falwell and Mr. Pendergrass and Mr. Church, isn't it?

A That doesn't sound accurate.

Q So there's another inaccuracy in the earliest statement that you made; is that right?

(Time was allowed for the witness.)

A I may have been referring to a later date, than the previous conversations. The previous conversations took place, he never let on that they were investigating him. And then at a later date, it was -- he did tell me towards -- more towards the time before I got out that they were

investigating him, also, because of the people that were coming down to interview him on the base. So that was two different time frames.

Q But you didn't tell Mr. Falwell and Mr. Yeatts that, did you?

MR. PANOSH: Object.

THE COURT: Overruled.

Q I mean, how could they have known? It's just inaccurate, isn't it?

A No, sir, it's not. It's referring to two different time frames. And these are parts of several different discussions.

Q The fact is, Mr. Whidden, when you talked to Mr. Yeatts and Mr. Falwell and Mr. Pendergrass and Mr. Church, you didn't want them to know that you had had a whole series of conversations with Ronnie Kimble, and you knew all about the police investigation in Greensboro, and you knew what Ronnie Kimble's concerns were, didn't you?

A Could you rephrase the question, please.

Q Yes, I can. When you were talking to Messrs. Yeatts, Falwell, Pendergrass and Church, you did not want them to know that you in fact knew all about this investigation in Greensboro and the suspicions that the Greensboro police authorities had about Ronnie Kimble; isn't that true?

A No, sir. That's an inaccurate statement.

Q You didn't want them to know that, because you wanted to act like this was some sort of spontaneous confession; isn't that right?

A No, sir, that's not true.

Q Well, then, why does it appear in the written report that's been entered into the record of this case? Why are there so many inaccuracies in that report?

MR. PANOSH: Object, please.

THE COURT: Sustained.

Q It's not a very good account of what you told them, is it?

A Yes, sir, it's a fairly good account.

Q And yet, your memory should have been better than at any other time; isn't that right?

A Yes, sir.

Q Now, you have said on a number of occasions that Ronnie Kimble told you that he had a haunted past, haven't you?

A Yes, sir, he did tell me that.

Q And yet, if you look at the statement that you have in your hand, Exhibit 130, there's nothing in there about a haunted past, is there?

(Time was allowed for the witness.)

A No, sir.

Q So this business about a haunted past came up later, didn't it, add a little color to the story?

MR. PANOSH: We object to comments. Ask that --

THE COURT: Sustained.

Disregard that, members of the jury.

Q Now, when did you decide that Ronnie Kimble had told you he had a haunted past?

A The moment he told me.

Q What? Sir?

THE COURT: Repeat your answer, Mr. Whidden.

Q I'm sorry. I couldn't hear you.

THE COURT: He said he didn't hear your answer.

A Could you please repeat the question, sir.

Q Yeah. When did you first tell anybody -- when do you contend that Ronnie Kimble said he had a haunted past?

A The moment he told me.

Q But in fact, when you told Mr. Panosh over the telephone what your recollection of these events were, you said that you and Ronnie Kimble and your wives and children -- your children, were riding in your van, and that Ronnie Kimble said something about a haunted past, didn't you?

MR. PANOSH: Objection.

A Yes, sir, he did.

MR. PANOSH: That's not --

THE COURT: Overruled.

Q Is that when you referenced the haunted past?

A He talked about his haunted past during dinner, and he

further elaborated on some of that on the van ride on the way home.

Q Now, are you saying to this jury that you heard Ronnie Kimble say in the presence of his wife, while riding in -- while eating dinner with you and your wife and your children, that he had a haunted past?

A Yes, sir.

Q And are you saying that you concluded from that that he must have fooled around with some girl and --

A Yes, sir.

Q But why would he tell you that in front of his own wife?

A I don't know.

Q Did you think it was important?

A That he told me that?

Q Yes, sir.

A Not particularly.

Q Now, looking at State's Exhibit 130, that you have before you, and look -- if you please, look at the third page. And there's one large paragraph there. If you would go down that paragraph about two-thirds of the way, you can see the language "Kimble further told Whidden that Kimble believed 'it was her time to go.'" Do you see that?

(Time was allowed for the witness.)

A Yes, I do see it.

Q Now, when did he tell you that it was Patricia's time to go?

A I believe he told me that during the conversation upstairs in my home, when he confessed the murder to me, in the course of that same conversation.

Q Now, do you remember when you were talking to Mr. Panosh on July 21, 1998 over the telephone?

A Yes, sir.

Q You told Mr. Panosh that after Ronnie Kimble had been at your house and talked to you about the investigation and his feelings about the investigation, that you were very concerned about what you'd found out from him; is that right?

A Yes, sir.

Q And so, you took it upon yourself to pack up your car, with your wife and your two children, and drive down to Camp Lejeune; is that right?

A Yes, sir, we did.

Q Do you know what day you think you did that on?

A I don't remember the exact date. I have a -- I have a receipt with a date on it, because I had to get a pass to get on the base. I don't recall the exact date. I assume it would have been somewhere around the 28th, somewhere in that time frame.

Q Now, Ronnie Kimble was in your house the night of the

24th of January, and you say that on the 28th of January, you went down to Camp Lejeune; is that right?

A Again, I don't remember the exact date, but it's --

Q And then you had another conversation with Ronnie Kimble down there; is that right?

A Yes, I did.

Q And isn't it a fact that you told Mr. Panosh that during your conversation with him in Camp Lejeune, you tried to convince him to turn himself in?

A Yes, sir, I did.

Q And you talked to him about whether God could forgive him; is that right?

A Yes, sir.

Q And then you told Mr. Panosh that Ronnie said to you, "Nobody dies before it's their time to go"?

A That must --

Q Isn't that what you said to Mr. Panosh in your telephone conversation of July 21st?

A I don't recall exactly what I said.

Q If I showed you --

MR. PANOSH: May he finish, please?

THE COURT: You may finish. You may finish your answer, sir.

A I don't recall exactly what I said. In the course of the conversations that I had with Mr. Panosh, I would be

talking -- we'd talk through one portion, and then I would remember back to another portion at another date. And sometimes they would interchange and get somewhat confused in the source of -- in the -- as the conversation proceeded.

Q So you're not holding to this -- the fact that you told Mr. Panosh that you told -- that Ronnie said something to you about it was her time to go when you were down in Camp Lejeune, you're not holding to that now?

A He did say that, but I -- but I do not recall if he said it also when I was in Camp Lejeune. I know he said it at the time of his confession, but I don't recall if he repeated himself at Camp Lejeune.

MR. PANOSH: May we approach?

THE COURT: Yes.

MR. PANOSH: We don't need the court reporter.

It's for scheduling.

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

THE COURT: Members of the jury, at this point, we are going to interrupt this witness's testimony. We'll come back to this witness's testimony. There is a witness that will be testifying who has commitments for the rest of the week, will not be available. And so, by consent of the defendant and the State, this witness is being taken out of sequence, for his convenience, to get his testimony in. So please remember that cross-examination of this witness will

continue after the intervening witness.

You may step down, Mr. Whidden, at this time, sir.

THE WITNESS: Yes, sir.

(The witness left the witness stand.)

THE COURT: You can stand and stretch, if you'd like, while the witness is coming, move around, whatever you need to do. If you need to step in the jury room, you may do that.

(Time was allowed.)

JERRY FALWELL, being first duly sworn, testified as follows during DIRECT EXAMINATION by MR. PANOSH:

Q Would you please state your name, sir.

A Jerry Falwell.

Q And Dr. Falwell, you're the chancellor of Liberty University; is that correct?

A I am.

Q And you're also the pastor of the church there; is that correct?

A Thomas Road Baptist Church, for 42 years.

Q And in the course of your duties as chancellor and as pastor, did you get to know Mr. Mitch Whidden?

A I did.

Q And on or about January the 25th of 1997, at a basketball game, did he come to you and speak to you?

A He did.

Q Would you tell the jury about that, please.

A Well, I was watching a basketball game at Liberty University and a young man approached me, who at the time was a student there, Mitch Whidden. He asked to talk with me, about something that I could tell had him obviously disconcerted.

He began to tell me a bizarre story that clearly had him very frightened. He said, "Pastor, I need to tell you about what happened at my home." He and his wife apparently had invited a couple friends to spend the evening with them, spend the night with them. And in the course of the conversations of the evening, the husband, the visiting husband, asked to talk privately with Mr. Mitch Whidden. They did get away from the rest of the two families. And he said the conversation basically was a confession made by Ronnie Kimble, Jr., to him, that he had shot to death and murdered his sister-in-law, for money, from his brother. And he asked me if -- what he should do.

Well, obviously, this was a rather unique happening. I did not know the details. He began to mention who the person was, and reminded me that I had met him the day before, in my office, when he and his wife came by, he being Ronnie Kimble, and his wife came by, to talk with me about the possibility of enrolling later in the Bible Institute there at Liberty. And I did remember the young man, because

he -- though he only talked a couple minutes, he mentioned he had a sleeping disorder, and that he would have difficulty staying awake in the -- in the classes. So I -- that did jar my recollection.

As I recall, my advice to Mitch was twofold. One, "You probably have a legal responsibility, and you need to talk to an attorney, not to me, about that." My son is an attorney. He's general counsel for Liberty University, Jerry Falwell, Jr. And so, I told him that I would call Jerry later that night after the game and would set him up an appointment.

I said, "My second concern would be, the welfare of your family, if in fact the story is true, and if in fact you now know what allegedly was told you. If I were you, I'd have concern about my own welfare and the welfare of the -- of your family. And so, I would recommend that you not take this lightly."

He apparently took my advice. He did meet with my son. And my son at the time had another attorney serving with him at Liberty University in the general counsel office, Patric Yeatts. They both met with him.

And later, Mitch met with the dean of Liberty Bible Institute, which Mitch at the time was attending. And I was not present at either place, but it's my opinion that he relayed the story on both occasions. And as a matter of

fact, I know from conversation with my son, with Patric Yeatts, who's here today, and with Dr. Wilmington, that in fact what I have just told you was also relayed to them. All of that happened probably --

MR. LLOYD: Well, objection as --

A -- within a 24--

MR. LLOYD: -- to what was --

A --hour period of time.

MR. LLOYD: -- relayed to them, Your Honor.

THE COURT: Well, sustained.

Q Doctor, could you describe in a little bit more detail Mitch's demeanor when he spoke to you.

A He was very nervous. He was very disconcerted. This was at the basketball game. It was a tight game, and I was wanting to get -- I was wanting to watch it. And normally, when a student comes by and starts talking, I say "Yes" and "No" and "God bless you. Now go have a seat." And -- but about 30 seconds into the conversation, I forgot the ballgame, because he was -- he was a frightened young man.

He later pulled out of school and left the state, and missed the next semester. So he was a very, very upset young man, and understandably so.

MR. PANOSH: No further. Thank you, doctor.

MR. LLOYD: Thank you, Your Honor.

CROSS-EXAMINATION by MR. LLOYD:

Q Dr. Falwell, you've indicated that the day before, you saw Ronnie Kimble in your office; is that right?

A That is correct, a day or so before. It's been two years now.

Q All right. And you talked to him at that time?

A Standing in the lobby of the -- of the office building in which my office is located.

Q Okay. But your conversation was long enough, Dr. Falwell, that Ronnie Kimble relayed to you that he had an interest in coming to Liberty, to the Bible college there, but he was concerned about this sleep disorder that he had; is that right?

A That's correct.

Q And he indicated to you that his primary concern was that he might fall asleep during classes and wouldn't be a good student; is that right?

A That is correct.

Q All right. And do you recall, Dr. Falwell, his discussing with you whether you thought it was appropriate that he was receiving a call from the Lord to become a minister?

A I don't remember the exact nature of the conversation 20 months or so ago, but I remember that he did want to study the Bible. He did want to attend the Bible Institute. And as I recall, he either had talked to or was going to

talk to the appropriate registrar people on the campus. I don't know if he actually did that or not.

Q And do you recall, Dr. Falwell, whether or not you encouraged him to attend Liberty Bible College?

A I would always encourage a young person who shows an interest in studying the Bible to do so.

Q And especially when that young person showed enough concern to be concerned about the fact that he might fall asleep in class?

A That's correct.

Q Now, did Ronnie seem at that time concerned or troubled about anything other than what he expressed to you about his sleep problems and falling asleep in class?

A I did not detect any such concern.

Q All right. So you didn't see any -- it didn't appear to you that he was burdened with heavy guilt or anything that you noted in your conversation, did you?

A It would have been impossible for me to discern that in the couple of minutes that I stood with other people in the foyer, as well, chatting with he and his wife.

Q Okay. But the only concern that he expressed to you, Dr. Falwell, was this concern about whether or not his sleep disorder would allow him to be a competent student there at Liberty Bible College; is that right?

A That is my recollection.

Q All right. And you've indicated on direct examination that you talked to Mitch Whidden at the basketball game, if it was the next day or whenever it was; is that right?

A That's correct. It was a night.

Q And was the circumstances of Mr. Whidden talking to you where he just came up to you at the basketball game and started talking to you, or were there special circumstances?

A Well, I'm chancellor at Liberty University. We had about 8,000 people there. And I was sitting in the chancellor's box, which is a reserved section down at center court. And he was a little persistent. In order to get through ushers and persons who were standing nearby, he had to do a pretty good job of convincing them that it was urgent. And as I recall, one of them came to me first and said, "There's a young man here," and I looked at him and motioned to come on over.

Q All right. So if someone such as myself were at a basketball game and just wanted to talk to Dr. Falwell, that would have been difficult to do; is that right?

A Not impossible. But I would discourage -- I would say, "Wait till the game's over."

Q I understand that. I promise not to do it. Now, did you know Mr. Whidden? I understand that you make an effort to know all of your students. Did you know Mr. Whidden personally, before you talked to him on this occasion?

A The reason I knew Mitch Whidden and did not hesitate to invite him over, his sister attended Liberty University a number of years ago with my daughter. My daughter's now a surgeon in Richmond, Virginia. And his sister, Kay Whidden, also is a professional person, living in Richmond, Virginia, and they're to this day closest friends. And so, through his sister, Kay, I had met him. And because of the relationship between my daughter and Kay, I would have had that special connection with Mitch.

Q But is what you're indicating to the jury, Dr. Falwell, is that, you didn't know him as a friend or anything of that, but he was an acquaintance of yours; is that correct?

A That would be a correct statement.

Q All right. Now, you indicated on direct examination that he basically came to you and asked for your advice; is that right?

A He did.

Q And I believe that what you said earlier to the jury was, that he wanted advice on two issues, one, what was his moral obligation, and the other, what was his legal obligation; is that right?

A And I added that "You probably need to be concerned about your family, if in fact such a thing has happened." We did not know -- I didn't know at the moment that such a crime had ever even happened. I -- it could have been just

a concoction. But I simply said to him, "If this is real, then I can tell you as a pastor, you with a wife and children, you should have some concern about knowing this."

Q All right. But you said to him before you -- you prefaced that remark with the statement, "If this is fact, if this is real"; is that right?

A That's correct.

Q And was that your advice, in terms of his moral obligation, that his first moral obligation was to his wife and family?

A I thought he had two moral obligations. If he knew something involving a felony, a capital crime, he had -- I felt he had a moral obligation to reveal it. And secondly, obviously, a strong moral obligation for the safety of his family. I did not know, when he was telling me this, whether the crime had actually been committed, if somebody had just concocted a story, or if in fact such a crime had committed -- been committed, and if the person who told him about it had actually committed the crime.

Q Yes, sir.

A None of that I have any knowledge about.

Q And you -- and that's true to this day --

A To this --

Q -- is that correct?

A -- day, that's correct.

Q And you -- but did you tell him, Dr. Falwell, that he had a moral obligation, as far as you were concerned, to report this felony?

A I did.

Q All right. And in addition, you mentioned something about the welfare of his family; is that right?

A That's correct.

Q Now, do you recall any details that Mr. Whidden related to you concerning this?

A It was -- it was one of the more unusual stories that had been told to me. And because that it had an afterlife, it got indelibly imprinted on my mind. I would not normally remember a conversation at a basketball game two years ago, the details of it, that is. But I do recall that he said that his guest had told him that he was deeply, deeply convicted (sic) over what he had done. And I recall that he said, "I'm going to be --" either "I'm going to be" or "I have been," I don't recall that, "paid for it. And I'd like to give it to you, to use in the Lord's work, at least, so that some good might come out of the money." And -- which made me feel that the person doing the talking to him, if telling the truth, was going through a time of remorse and sorrow because of what he had done.

Q But what Mr. Whidden told you was that the -- that this person that had confessed to him -- and at that time, he

didn't use any names; is that right?

A That's correct.

Q Was --

A Later in the conversation, he did.

Q Was deeply conflicted?

A Yes.

Q All right. Now, did he give you any details concerning the crime itself?

A Yes. He said he had -- he had killed his sister-in-law, had shot her to death, and then burned her.

Q Did he give you any further details, past that?

A No. That led me to tell him that he should as quickly as possible meet with an attorney and discuss his legal liability.

Q And it was only towards the end of the conversation that Mr. Whidden mentioned a name; is that right?

A Well, I -- again, I do not want, at the risk of being inaccurate, to say at what point in the conversation that he mentioned the name and reminded me that I had met the person. But somewhere in the conversation, he did tell me that.

Q All right. And that jogged in your memory the fact that --

A I'd had the meeting.

Q Well, he reminded you that you had met with the person

--

A That's correct.

Q -- is that right? Now, you used the word, I believe, in your direct examination that Mr. Whidden told you this bizarre story; is that right?

A That's correct.

Q Now, did Mr. Whidden at that time indicate to you that he had talked to anyone else concerning this admission, as he characterized it?

A I don't definitely recall that he had told anyone else. I think I advised him not to talk about this to anyone, except an attorney, but I could not definitely attest to whether he told me he had or had not mentioned it. I think that he said he had not, but I don't know that for a fact. I later learned -- and I don't know the chronology of events -- that he called his sister, Kay, whom I mentioned earlier, my daughter's best friend in Richmond, and communicated to her what had happened. And what the chronology was, I'm not capable of saying, but he -- as I remember, he asked her to please come to Lynchburg. And she in fact did come to Lynchburg, to -- he was looking, I think, for support.

Q Now, Dr. Falwell, did he talk to you at that time about dropping out of school? Did that come up in the conversation?

A I do not think that came up, so I can't be confident,

but I do know that in a matter of days, he did drop out of school, he did leave the city, and he lost a semester in the process.

Q All right. But as far as your recollection is concerned, he did not talk to you about that on that occasion there at the basketball game, about the possibility that this was bothering him and that --

A I do not recall.

Q -- that he might drop out of school?

A I do not recall that he did.

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

MR. PANOSH: No further. Thank you.

THE COURT: You may step down, Dr. Falwell.

(The witness left the witness stand.)

MR. PANOSH: Your Honor, we also have Mr. Yeatts here from Virginia. May we take him out of order?

THE COURT: You may do that.

FRANK PATRIC YEATTS, being first duly sworn, testified as follows during DIRECT EXAMINATION by MR. PANOSH:

Q Would you state your name, sir.

A It's Frank Patric Yeatts.

Q And Mr. Yeatts, you're a licensed attorney in the state of Virginia; is that correct?

A I am.

Q In the course of your duties and responsibilities, in

January of 1997, did you represent Liberty University?

A I did.

Q And you were in partnership with whom, please?

A Jerry Falwell, Jr.

Q In the course of your duties on or about January the 25th, did there come a time when you met Mitch Whidden?

A Yes, I had occasion.

Q Could you tell the ladies and gentlemen of the jury about that, please.

MR. LLOYD: Well, Your Honor, I'd object at this point. I mean, obviously Mr. Panosh could call, I don't know how many witnesses, to bolster --

MR. PANOSH: That is the only other corroborating witness.

THE COURT: Overruled.

Members of the jury, this testimony is being offered for the purpose of corroborating the testimony of an earlier witness. It would be for you to say and determine whether it does in fact so corroborate that witness's testimony. It's not being offered for the truth or falsity of the statement, but whether in fact the witness made a statement to this witness on that occasion.

A I believe it was in late January, was the first occasion I had the opportunity to meet Mr. Whidden. Dr. Falwell had called his son, Jerry Falwell, Jr. and myself

and indicated that he would like us to meet a student, that there was a story that a student needed to discuss with us or a legal matter that he needed to discuss with us, and it was quite urgent, so he would appreciate us meeting with him that particular afternoon. And I believe that was the day after the basketball game, in which Mitch Whidden had talked to Dr. Falwell.

We made arrangements for Mitch to come up and meet with Jerry Falwell, Jr. and myself, and -- at which time, Mitch told us the events leading up to this trial.

Q Briefly, what did he tell you?

A Mitch had indicated that he was in the Marine Corps. He had worked in -- worked in the chaplain's office, and he had an acquaintance or a friend named Ronnie Kimble that occasionally would drop by the chaplain's office, and that he, I guess, had befriended during his time in the Marines.

He indicated that -- and I may need to refer to my notes on occasion -- but he indicated that at some point during his relationship with Ronnie Kimble, Ronnie had brought up on several occasions the death of his sister-in-law.

Mitch indicated that at some point in time -- and I'll refer to my notes for maybe an exact date.

(Time was allowed for the witness.)

A I believe it was the 23rd of January, 1997, Ronnie

Kimble had phoned and stated that he wanted to come up and visit Mitch and get some information on the Liberty Bible Institute.

The next day, Ronnie Kimble and his wife arrived, and Ronnie Kimble and his wife discussed the murder and the circumstances that were taking place in North Carolina.

Mitch indicated that, I believe it was during dinner or maybe some other time when they were traveling from dinner back to Mitch's apartment, that Ronnie Kimble had indicated to him that -- well, he was frustrated with the way that things were proceeding. And Mitch did indicate that he thought it was quite unusual that he was frustrated with the investigation and were -- was frustrated to the point that he was -- he was getting questioned about the murder. He thought it was -- he thought it was odd that Ronnie would be concerned that the investigators were just doing their job and trying to find out and that they were questioning, you know, anybody who might have any information relating to the murder.

He stated that at some point during their meeting that night, Ronnie had indicated that he had a gas receipt and that he didn't understand why they were questioning him and trying to implicate him in this murder, but that he had a gas receipt that would prove that he was nowhere near the scene during the time of the act.

Mitch indicated later on that night, Ronnie had indicated he would like to speak with him privately, wanted to discuss a matter with him. And I believe Mitch said that they proceeded upstairs, and that's where Ronnie confessed to him that he was the one who had actually killed his brother's wife, he had shot her, and that they had burned, I believe it was a trailer that they were living in at the time, and basically that he wanted to get it off his chest.

He indicated that to Mitch, he was questioning about the money that they had received from insurance proceeds, and then indicated to Mitch that he would like to give that money to Mitch, so Mitch could get it to the university or use it in building his church when he became a pastor and so it could be used for God's work.

Mitch indicated that he responded to Ronnie, stating that he didn't want anything to do with the money, and in his opinion, it was blood money, and that he thought that Ronnie should confess, should turn himself in and get himself straight with the Lord.

Mitch indicated that he had asked Ronnie to leave that night, and that they did try to find a valid excuse, because he was -- he said he was very concerned about not wanting to startle Ronnie, to the point of where Mitch -- or Mitch or his wife or any of his children would be in danger. So he indicated that he really couldn't -- they couldn't come up

with a valid excuse to ask Ronnie and his wife to leave, and he didn't know what to do. So he indicated that he sat up all night, basically looking over his family and kids, to make sure nothing happened.

He did state that Ronnie left the next day, and -- but before leaving, he did indicate to Mitch at some point that Mitch was basically the only person he had confessed this crime to. And Mitch, you know, was concerned about that, from the standpoint that he knew he was the only individual who had actual knowledge of Ronnie's testimony.

Mitch indicated that several days later -- and I'm not exactly sure what date, I believe I have the 28th of January in my notes -- Mitch traveled to North Carolina, to try to convince Ronnie to turn himself in. And Mitch and his wife stayed with some friends about 30 miles away and -- just to make sure that they were, you know, a safe distance away. Then Mitch traveled in to meet with Ronnie, and I believe they had lunch together.

Once they were at lunch, Mitch had tried to convince Ronnie once again to turn himself in. Mitch had stated that Ronnie's response was, at some point -- I can't remember if his response was, at this particular time he would -- he would die before he went to prison or he'd kill himself before he went to prison. But I remember specifically on this encounter when Mitch went to North Carolina, Mitch

indicated that Ronnie stated that he really didn't think he killed his sister-in-law, that he believed he was dreaming it up, and Mitch said, "Well, Ronnie, if that's the case, the money from the insurance company and the weapon should be," you know, "evidence enough of whether you did or didn't commit this act. So if you're dreaming it, there shouldn't be any insurance money and there shouldn't be a weapon."

And this was the last contact that Mitch had with Ronnie Kimble, was at the meeting down there at the end of January.

Q Thereafter, did you make certain inquiries for Mitch?

A We did. Mitch had come to see us for several reasons. He had -- he was concerned with his moral obligation, as well as his legal --

MR. LLOYD: Object to what he was concerned about, Your Honor.

THE COURT: Sustained.

Q Did he ask you to do something?

A Yes. Mitch asked us to find out what his legal obligation was. If he had this information that had been revealed to him by Mr. Kimble, he wanted to know whether he was legally obligated to reveal the information to the detectives and to the -- to the District Attorney's Office.

Q And what did you tell him?

A Well, not being a North Carolina attorney, and being a

Virginia --

MR. LLOYD: Objection to what he told him, Your Honor.

MR. PANOSH: All right.

THE COURT: Sustained.

Q Did there come a time when you contacted the District Attorney's Office?

A Yes. I believe we contacted the District Attorney's Office on the -- I believe it was the 31st of January.

Q And in the course of your contact, did you negotiate an agreement?

A We did.

Q Do you have that agreement with you?

A I do.

(The witness handed a document to Mr. Panosh.)

MR. PANOSH: Is my next Number 131, Madam Clerk?

THE CLERK: Yes, sir.

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

MR. LLOYD: May we approach, Your Honor?

THE COURT: Yes, sir.

(The following proceedings were had by the Court and all three counsel at the bench, out of the hearing of the jury.)

(Mr. Lloyd handed the exhibit to the Court, and time was allowed for the Court.)

THE COURT: What's the problem?

MR. LLOYD: Well, Your Honor, first of all, I don't know what relevance that an agreement between the District Attorney's Office and Mitch Whidden and his attorneys has in this case.

THE COURT: It's --

MR. LLOYD: And secondly, Mitch Whidden hasn't testified about it. I mean, I'm not doubting its authenticity, but I just question what it's doing in this case. I mean, what is the purpose of it?

THE COURT: Well, he just testified that he wanted assurances that he would be protected by the DA's office --

MR. LLOYD: Well --

THE COURT: -- the State.

MR. LLOYD: -- I mean, they're welcome to say that. One of the problems we run into --

THE COURT: Why don't you just restrict it to that, restrict his testimony to that agreement, and not get into any of that stuff about any --

MR. PANOSH: Yes, sir.

MR. LLOYD: All right. Thank you, Your Honor.

(Proceedings continued in open court.)

(The Court handed the exhibit to Mr. Panosh, and Mr. Panosh handed the exhibit to the witness.)

Q Drawing your attention to State's Exhibit 131 -- marked

as 131, that is -- did Mitch Whidden have specific concerns that you discussed with the DA's Office and reached an agreement?

A I'm sorry? I --

Q Did Mitch Whidden have specific concerns that caused you to enter into an agreement with the DA's Office of Guilford County?

A Yes, he did.

Q What were those concerns?

MR. LLOYD: Object, Your Honor.

THE COURT: Overruled.

A The concerns were namely the safety of his family. Mitch was quite concerned if he revealed this information, and if he was called to testify, that his family --

MR. LLOYD: Object, Your Honor.

THE COURT: Overruled. He's testifying to the nature of the understanding.

A -- that his family, namely his wife and his children, would be in danger.

Q And did the agreement that you reached address protection for Mitch in that event?

A It did. Under the circumstances, it was the best agreement, you know, we could -- we could reach with the District Attorney's Office here.

Q Was it satisfactory to Mr. Whidden?

A Yes, it was.

Q And thereafter, did you advise him to meet with law-enforcement officers?

A I did.

Q And were you actually present when that meeting took place on February the 3rd?

A Yes, I was.

Q Now, without going through everything Mitch told you previously, in that February 3rd meeting, did he say anything different or additional?

MR. LLOYD: Well, object, Your Honor.

THE COURT: Overruled.

A No. Basically Mitch recounted -- he recounted everything that I've said up to this point in time.

Q And do you recall Agent Pendergrass being present and taking notes --

A Yes, I --

Q -- the gentleman there? (Indicated.)

A Yes, I do.

MR. PANOSH: No further questions. Thank you.

CROSS-EXAMINATION by MR. LLOYD:

Q Mr. Yeatts, you've referred to your notes in the course of your testimony; is that correct?

A Yes.

Q Are these the notes, Mr. Yeatts, that you took in the

first conversation that you had with Mitch Whidden?

(Mr. Lloyd approached the witness and indicated.)

A Let's see.

(Time was allowed for the witness.)

A These notes are notes from that first conversation.

Q Okay. I notice the notes are typewritten?

A Right.

Q Obviously, you don't type as you take --

A That's correct.

Q -- notes?

A That's correct.

Q So that's some sort of transcription from what -- the actual notes you took?

A From my chicken scratch.

Q All right. And so, you did actually take --

A I did.

Q -- longhand notes?

A Uh-huh.

Q If I could see those, Mr. Yeatts. Are these the notes?

(Indicated.)

A Let's see. I believe the notes --

(Time was allowed for the witness.)

A I don't believe I have that complete file here. I have some notes after my employment with the university, but I believe all of those notes may still be at the university --

Q All right.

A -- in a particular file. These are -- this is actually a copy of probably what was in that file. Of course, I didn't take the original files with me --

Q Okay.

A -- once my employment -- when I left the university.

Q But this is what you referred to in refreshing your recollection for your testimony here?

A Correct.

Q All right. Thank you, Mr. Yeatts.

(The witness handed documents to Mr. Lloyd.)

Q Now, when you got a call from Dr. Falwell, he told you basically that there was a student with a, I believe your characterization on direct examination was a story; is that right?

A Or a legal -- a legal concern he needed --

Q All right.

A -- to discuss with us.

Q And you indicated that in your discussions with Mitch Whidden -- And this would have been the first time that you talked to him about it?

A Uh-huh.

Q -- that the murder was discussed with Ronnie and his wife; is that right?

A I believe generally. I believe the -- not the

specifics of the murder, not what Ronnie had revealed to Mitch in the bedroom that night, but the -- they had discussed generally the murder. I believe there was testimony -- or I believe that Mitch had indicated that Ronnie's wife had talked about an alarm -- this is just something that's coming back from my recollection -- about that they had in fact purchased an alarm for their home, and they had just discussed, you know, the murder and the investigation generally, as Mitch said that he and Ronnie had done on several occasions before.

Q All right. And if I understand you correctly, Mr. Yeatts -- and correct me if I'm wrong -- you're saying that Ronnie Kimble's wife indicated that they had purchased an alarm for their home?

A Yeah, I remember that. Now, I don't know if that's in my notes or, you know, why that's coming back to me, but for some reason, there seemed to -- they seemed to have a discussion, I don't know whether it was at dinner or later that night, when his wife was talking about, you know, the actual act or the criminal act and stating that it had caused them so much concern, that they had gone to actually putting an alarm in their home.

Q Now, you indicated that during the course of your conversation with Mitch Whidden, he told you that what Ronnie Kimble had said to him was that he had a gas receipt

and that he was nowhere near the scene; is that right?

A Something to that effect. I remember the gas receipt, and basically it having a time on the receipt, which would show that wasn't -- you know, couldn't be at two places at the same time.

Q And when Mitch -- the time frame that Mitch Whidden put that in was that Ronnie Kimble had told that to him that night, was it at dinner, or was it on the way home from dinner, on January 23rd --

A You know --

Q -- or 24th?

A I mean, I don't know at what point, you know, he talked to him about the gas receipt. I just remember that they had a discussion about a gas receipt.

Q But it was your impression that what Mitch was relating to you was conversation that had taken place on this night in January, up there in Lynchburg; is that right?

A As far --

MR. PANOSH: Objection to --

A -- as the --

MR. PANOSH: -- his impression.

A -- gas receipt's concerned?

Q Yes, sir.

A I don't recall whether the gas receipt was something that was in their earlier conversations, or whether it was

in the conversation that night, but there was discussion about a gas receipt.

Q All right. Now, did you ever discuss with Mitch Whidden the possibility of his receiving any reward money in this case?

A No, I did not.

Q Now, what Mitch Whidden related to you was that, sometime after the conversation in Lynchburg, that he went to Camp Lejeune; is that right?

A That's correct.

Q And that he had lunch with Ronnie Kimble on that occasion; is that correct?

A I believe that was the nature of their meeting, was at lunch.

Q That's what Mitch Whidden related to you?

A I believe so.

Q And it was at this time that Mitch Whidden told you that Ronnie Kimble had said that this was a dream?

A Yeah. Mitch had basically had approached Ronnie again, to try to convince him to turn himself in, and Ronnie's response was, you know, "I didn't --" "I didn't mean that" or "I didn't do that. This was a dream." Something along those lines, to the effect that what he had told him earlier really wasn't true.

Q He was just relating a dream, is --

A Yeah. Yeah.

Q -- what the crux of that was?

A Right.

Q And that Mitch's response, as Mitch told it to you, to Ronnie at that point was, well, he would know whether or not it was a dream if he got the money from his brother; is that right?

A Yeah. Mitch indicated -- at some point, you know, Mitch had told Ronnie, "Well, you'll know whether it's a dream or not, because either your brother has given you money and you have money in your account, or you've done something with the money, or you've done something with the murder weapon."

Q All right. But he cited those two factors, as evidence that would refute the dream explanation, if you will; is that right?

A He recited them to Ronnie.

Q To Ronnie Kimble?

A That's correct.

Q Okay. He did not tell you that he confronted Ronnie Kimble and said, "What you told me about up in Lynchburg, you were not talking about a dream"? He never said that to you, did he?

A I don't believe so. I -- you know, I can't remember, you know, every detail of our conversation and of what took

place a year and a half ago.

Q But you remember it in sufficient detail that you've been able to relate to the jury that he did tell you, number one, that he would know it was not a dream when he received money from his brother; is that right?

A Uh-huh.

Q All right. And he would know it was not a dream when he found the murder weapon?

A Right. I remember specifically Mitch making -- or telling myself that he had stated that to Ronnie.

Q Now, when Mitch Whidden related this story to you, that he -- he told you that Ronnie Kimble was very angry after this telephone call had come in; is that right?

A After the telephone call -- I guess after the telephone call of the investigator --

Q Yes.

A -- inquiring information or details from his mother-in-law?

Q Yes.

A Yes. I remember -- I don't remember specifics about that, but I believe that's what led into the conversation about the investigation generally --

Q But --

A -- between them.

Q -- when Mitch related it to you, the word he used was

"angry," is that correct, or some form thereof?

A That Ronnie --

Q Yes.

A -- was angry?

Q Yes.

A Maybe so. I don't know how -- he characterized it as looking back in hindsight, that it was strange, the way Ronnie reacted, that he would be angry about investigators calling, you know, his mother-in-law about this investigation.

Q And Mr. Yeatts, you wrote in your notes, "Ronnie Kimble was very angry that detectives had questioned his wife's parents," right?

(Mr. Lloyd handed documents to the witness.)

A Well, I guess -- yeah, that's what I have in my notes.

Q And the next phrase of that sentence is, "and even more angry that they had questioned him"; is that correct?

A Uh-huh.

Q And --

A I think -- of course, this is my notes, and it's notes that I have, you know, paraphrased from meeting with Mitch.

Q Well, of course, you were trying to be as accurate as you possibly could when you took the notes, were you not?

A That's correct.

Q All right. You were simply at this point, in terms of

getting down -- you were simply relating what Mitch told you at that point; is that right?

A That's correct.

Q All right. You weren't trying to superimpose your own impressions on what Mitch was telling you --

A No.

Q -- or substitute your own judgment or impressions for what Mitch was giving you, were you?

A No.

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

MR. PANOSH: Just briefly.

REDIRECT EXAMINATION by MR. PANOSH:

Q In the course of your employment -- or association with Mitch, was there any discussion of reward?

A I believe the first discussion of reward -- And of course, we did not bring up the reward. I believe Detective Church at some point told Mitch that there was a reward. And Mitch indicated that he wasn't interested in the reward, and that he -- that he had no, you know, no interest in the reward whatsoever. Mitch never mentioned the reward to us, you know, after that point in time.

Q In the course of your discussions with the detectives, was there ever a discussion about him wearing a recording device or a wire, about Mitch wearing that?

A I believe there was.

Q What did Mitch say?

A Mitch indicated that he believed that that was being deceitful, that he did not feel like in good conscience, and being a minister, or being -- studying to be a minister, that he could go under the guise of befriending Ronnie and going down there and being hooked up to a wire, to obtain information related to this investigation.

Q Would you describe Mitch's demeanor the first time you met him and discussed this.

A Mitch's demeanor --

MR. LLOYD: Well, objection, Your Honor. We've --

THE COURT: Have we not been over that on cross-examination?

MR. PANOSH: No further.

THE COURT: Any questions, Mr. Lloyd, on those two points?

MR. LLOYD: Just a couple, Your Honor.

RE-CROSS-EXAMINATION by MR. LLOYD:

Q Mr. Yeatts, did Detective Church mention the amount of the reward in this case?

A I don't recall an amount being mentioned. Mitch brushed it off very quickly, when Detective Church mentioned that there was a reward. That was during the conversation when Detective Pendergrass and Detective Church came to the university and met with Mitch, and towards the end of the

conversation, Detective Church did say, "Mitch," you know, "we just wanted you to be aware, there is a reward," you know, "for information leading to arrests." And Mitch said, "I'm not interested in the reward, and the information I've given you," you know, "is not because there is a reward or is no reward."

Q Of course, when was the last time that you talked to Mitch Whidden in your professional capacity?

A I'd have to look back at my notes, but it's been -- I mean, it was -- I believe sometime in '97, probably maybe June or July of '97, possibly.

Q So it's been a year ago or thereabouts?

A Correct.

Q Did Detective Church or Agent Pendergrass, when they talked about the reward, did they talk specifically about a governor's reward in this case?

A No, they didn't.

Q All right. Talk about a reward from the family in this case?

A I don't remember the specifics about a reward, because I -- my recollection was, Mitch cut them off pretty short when he even mentioned the word "reward."

Q But you haven't been working for the university or with Mitch Whidden for over a year now; is that right?

A That's about right, about a year.

MR. LLOYD: All right. Thank you, Mr. Yeatts.
That's all I have.

THE COURT: Step down, sir.

(The witness left the witness stand.)

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

Have a nice evening. I'll see you tomorrow.

Everyone else please remain seated.

(The jury left the courtroom at 5:09 p.m.)

THE COURT: You may declare a recess until 9:30 in the morning, sheriff.

(A recess was taken at 5:10 p.m., until 9:30 a.m. Thursday, August 20, 1998.)

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E X H I B I T S

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122. Statement of Robert Nicholes **	1382	1383
123. Statement of Robert Nicholes **	1382	1383
124. Statement of Robert Nicholes **	1382	1383
125. Statement of Mr. Swaney **	1381	----
126. Photo Identification **	1384	----
127. Photo Identification	1384	----
128. Statement of Louise Jackson	1399	1398
129. Statement of James Dziadaszek	1399	1398
130. Statement of Louie Mitchell Whidden	1429	----
131. Agreement with Louie Mitchell Whidden	1494	----
** Duplicate Exhibit Numbers		

DEFENDANT'S EXHIBITS

6. AT&T Billing Invoice	1328	----
7. Map/Diagram	1294	----
9. Request for Examination of Phys. Evid.	1345	----
10. Report by Detective Church	1371	----

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 222 pages constitutes the complete and accurate transcript of my stenograph notes of the proceedings in this matter on August 19, 1998, at the August 3, 1998 Regular Criminal Session of Superior Court, Guilford County, North Carolina, and were transcribed by me personally.

This the 15 day of December, 1998.



Marsha M. Garlick, RPR
Official Superior Court Reporter

Transcript Ordered: September 8, 1998

Transcript Delivered: December 29, 1998