

Q It seemed like an hour or so to you?

A Yes.

Q Did he tell you why he waited so long before he got out that printed form labeled Rights Statement or whatever it is called?

A No.

Q He never told you?

A No.

Q And you never asked?

A No.

Q When you saw the Rights Statement in Court this week, it had your dad's signature on the bottom below yours?

A Yes.

Q Did you see your dad sign that?

A No.

Q Did your dad see your sign that statement?

A No.

Q Why not, if you know?

A He was in a separate room than me when they brought the paper to me and had me sign it, and I guess they took it to him and had him sign it.

Q But your dad's signature is below yours?

A Yes.

Q But you say he was nowhere around when you signed it?

A No.

Q And you were nowhere around when he signed it?

A No.

Q When did Detective Mullins or his partner of some fifteen or seventeen years, tell you, young man, that you were a suspect or words like that?

A I don't recall him saying it.

Q Whether they said it or not, did it make any difference to you?

A No.

Q What you were saying to them was the truth, was it?

A Yes.

Q At one point in time the officers indicated to you that they were keeping you up late?

A Yes.

Q And you responded how?

A That is okay. I wouldn't be going to sleep early. It was my birthday anyway. I usually stay up until 3:00 or 4:00 o'clock in the morning. It was my birthday. I would have probably stayed up all night anyway.

Q When you stay up late at night, what do you do?

A Usually watch TV or listen to stereo and sleep until 3:00 or 4:00 o'clock in the afternoon.

Q When you went to the Police Station with the Moraine officers that evening, did you expect to stay as long as you did?

A No.

Q Why not?

A I thought they was just, like they said, had me come down to answer a few questions. I didn't figure I'd be staying like that.

Q You were cooperative with them, were you not?

A Yes.

Q You were willing to answer their questions?

A Yes.

Q And you did?

A Yes.

Q Several times?

A Yes.

Q About the same subject?

A Yes.

Q About when did you get the idea that you weren't going to be left to go back home to celebrate your birthday?

A When Detective Mullins said he thought I did it.

Q When Detective Mullins said he thought you did it?

A Yes.

Q And it was sometime after that that you thought you better call home and let your family know what was going on?

A Yes.

Q And that is what you did?

A Yes.

Q During the course of that evening and the early morning

Wampler - D

hours of the next day while you were at the Moraine Police Station, I notice on the tape there were occasions when both officers would ask you questions?

A Yes.

Q Did this occur after the tape was turned off for that hour or so?

A I don't remember.

Q When they were both in the room, did they remain?

A Yes.

Q It didn't matter to you whether one or two or two dozen asked you questions, isn't that true?

A Yes.

Q Your answers would have been the same?

A Yes.

Q Keith, I just have another question or so, if I may. I want you to think about this question after I ask it. Is there anything that you are trying to hide from the members of this Jury?

A No.

Q Absolutely nothing?

A Absolutely nothing.

MR. BOSTICK: Your Honor, I think that is all the questions we have.

THE COURT: Very well. Cross examination?



CROSS EXAMINATION

BY MR. LANGER:

Q I want to show you Defendant's Exhibit A. Is this the knife that you told Detective Mullins that you gave to your father and he got rid of?

A I believe so. I can't say for sure. There's probably a lot more like that.

Q Did you own this knife at one point in time?

A I believe so. I believe that is the knife.

Q That is a bone handled knife, isn't it? Take a look at it.

A I don't know what a bone handled knife is.

Q Is that a wooden handle?

A I guess. It feels like it.

Q Would it be fair to say the tips on this particular knife are silver like?

A Silver? Pretty much so.

Q Do you know what a lock blade knife is?

A A blade that locks when you open it.

Q That is not a lock blade knife, is it?

A No.

Q Here is State's Exhibit Number 9. That is definitely a brown wooden handled knife, isn't it?

A Yes.

Q How would you describe the tips of this particular knife?

A. Brass.

Q. Brass?

A. Yes.

Q. Does that lock when you open it?

A. Yes.

Q. In fact, I can't unlock it now. Do you recall during the course of your interview with Detective Mullins he asked you to describe the knife for him? Do you recall telling Detective Mullins it was kind of a big knife, had a brown handle, like wooden handle, two something like copper, brass tips or something like that? That is what you told Detective Mullins, isn't it?

A. Yes.

Q. Were you truthful with Detective Mullins during that interview?

A. Yes.

Q. Do you remember Detective Mullins also asked you: A Buck knife, probably about that long. That is probably five or six inches long. You say it is a locked blade. In other words, when it pops open, it locks. Do you remember you told Detective Mullins, yes?

A. Yes.

Q. Did you tell him the truth?

A. Yes.

Q. How old were you when you started drinking beer?

A. About fifteen, I guess.

Q Fifteen years old?

A Yes.

Q When did you start smoking pot?

A Probably about ten.

Q And you shared your beer and your pot with your friends in the area, isn't that true?

A Yes.

Q Who were your friends in the area there in the trailer park?

A Mike Johnson, James Combs, John McGarvey, and Gail Loftis, Mike Rowell. That's about it.

Q I notice you didn't include David Rowell on your list. He wasn't your friend, was he?

A Well, really, he didn't use none of my beer or pot.

Q He wasn't your friend, was he?

A Yes.

Q He was your friend?

A Yes.

Q Did you think he was a smart mouth?

A To me, he wasn't. I don't know if he was to other people or not.

Q You don't know whether he was a smart mouth with other people?

A Right. I heard he was, but I don't know whether he was or not.

Q Were you friends with Lisa Collins?

A No.

Q How about Judy Tabor?

A I knew her, but I wasn't friends with her.

Q How many times have you been to the Civic Center?

A Probably about six or seven.

Q Is that all? You lived in that trailer park how long, almost a year?

A Yes.

Q And only six or seven occasions did you go to that Civic Center, is that right?

A That's about right.

Q I want to talk about February 5. You recall, do you not, that Michael Rowell came to your trailer at about 5:00 o'clock or so?

A A little bit earlier than 5:00 o'clock.

Q Maybe 4:30?

A Probably about 3:00 or 4:00.

Q What did you and Mike Rowell do while he was there?

A Drank a glass of Vodka and grapefruit juice and watched TV; talked a little bit.

Q You had some Vodka yourself?

A Yes.

Q And David Rowell eventually showed up, didn't he?

A Yes.



Q What did he do when he came into that trailer?

A Just came in, sat down. After a few minutes, he asked what we was drinking. His brother told him orange juice or something like that. He got up and took a drink of his brother's. His brother told him to sit it down. He went back over and sat down and watched TV.

Q As David was sitting on that -- was it a chair or a couch?

A Chair.

Q What did you and Mike do?

A Just kept watching TV.

Q Then what happened?

A I finished my drink, got up, and went to the bathroom. As I was coming out of the bathroom, Mike was walking out the door. I went out to see why he was leaving. I went running after him, and he started running. So, I got a little ways past Jim Shipman's trailer, and I just gave up running after him, turned around, and come back. David Rowell was talking to Jim Shipman and Joey Shipman. So, I went back to my house and laid down on the couch and watched more TV.

Q While you were, you say, in the bathroom, did Mike say, hey, Keith, I'm going over to Lisa Collins' house?

A No, he didn't say anything.

Q He just got up and walked out?

A Yes. That is why I went out after him. Usually, if he

is going somewhere, he will say, I got to go here or something like that.

Q David, while he was there in your trailer, stayed in the living room, is that the truth?

A I am pretty sure he didn't leave the living room.

Q Has David ever been to your trailer alone?

A Yes. Once or twice, he come over looking for his brother.

Q He has been inside your trailer, hasn't he, on one or two occasions?

A Yes.

Q Later that evening, Ted Ritchie and Mike Johnson, Jim Shipman and Joey Shipman came to your trailer, is that correct?

A Yes.

Q About what time did they arrive?

A About I'd say 9:00.

Q You didn't call those fellows and invite them over?

A No.

Q When they came in, what was the first thing they did?

A Just sit down and started talking. After a few minutes, they asked me did I have any beer.

Q I presume the first thing they did was they took their coats off, didn't they?

A I don't think they did.

Q When did they take their coats off?

A I don't know.

Q They took them off at some point that evening, isn't that right?

A I don't remember.

Q How long were they there?

A Around two hours.

Q Are you testifying that they kept their winter coats on for two hours inside your trailer?

A No. I said I don't remember. They might have taken them off.

Q Tell us exactly what happened there while those boys were at your trailer?

A Well, I got us all a beer out. We sit down and drank a beer. Jim Shipman said he cut his hand and then he was wiping off his hand like that to see if he could find the cut. His brother picked up a beer can and said, you must have cut yourself on this. Then, a few minutes later, Jim said he wasn't feeling well. I said, well, go ahead back there and lay down if you are going to get sick. He went back in my room and laid down for a little while. We just sit around talking. He got up and said he was ready -- he said he better get home because it was getting late. They walked out and went home.

Q Who is they who walked out?

A Jim and Joey Shipman.

Q You actually saw Jim Shipman walk from your bedroom out your door?



A Yes. Well, I seen him coming down the hallway. I didn't see him coming from the bedroom.

Q Do you recall he put his coat on before he left?

A I don't remember.

Q Was he carrying anything?

A I don't know. Nothing that stands out in my mind that I seen.

Q Jim and Joey are gone. How long did Ted and Mike Johnson remain?

A About I'd say around fifteen minutes after they left, they got up and said they had to go, too.

Q They sat in the living room for fifteen minutes with you?

A Yes.

Q What did you do during that fifteen minutes?

A Talked and finished up another beer.

Q I guess they put their coats on and they left?

A Like I said, I don't know whether they had their coats off or not, but they did leave.

Q Did you see them carrying anything?

A Nothing that stuck out in my mind that I seen.

Q After they left, no one else came into your trailer, is that right?

A That is right.

Q You were there alone?



A Yes.

Q Mike Johnson is a friend of yours, is he not?

A Yes.

Q Ted Ritchie -- strike that. Jim Shipman at the time was a friend of yours, wasn't he?

A Yes.

Q Ted Ritchie you had just met that evening?

A Right.

Q Had you had an argument with Ted Ritchie while he was in your trailer?

A No.

Q Sometime the next day, Saturday or Sunday, did you have a conversation with your father about some blood spots on the door?

A He said something about Mike Rowell saying something about blood being on the door, but that is all I know about it.

Q Did he ask you about it?

A He might have asked me where they come from. I don't know.

Q You don't know whether he asked you about it?

A I don't remember. I know he told me that Mike Rowell said something about some blood being on the door or something.

Q And your father wiped the blood off the door, isn't that right?

A I don't know.

Q On Friday, February 5, you were home just about that entire day, am I right?

A Yes.

Q How many times did you use the bathroom?

A I don't know.

Q What would you say?

A I couldn't even estimate.

Q More than four times?

A Probably.

Q Your bathroom had a green -- your toilet had a green covering? You have seen the exhibit, haven't you?

A Yes, I seen it.

Q The seat, the toilet cover seat, was on that seat on Friday, wasn't it?

A I don't know. I really don't. I didn't even really know we had one at all.

Q You didn't know you had what?

A A toilet seat cover like that.

Q When you go to the bathroom, do you look at the toilet?

A Not really.

Q Do you recognize this towel I am showing you?

A I don't recognize it.

Q Have you ever seen this towel inside your trailer?

A I don't know.

Q You don't know?

A. No.

MR. LANGER: For the record, I am holding the pink towel with the letter A on it.

BY MR. LANGER:

Q Haven't you ever seen a towel with the letter A on it inside your trailer?

A It could have been there. Like I said, I don't pay no attention. I just dry off and throw them in the hamper.

Q You never look at your towels?

A I just dry off with them.

Q You heard Mike Rowell testify that when he was at your trailer on Friday, the reason he left was because you punched him?

A Yes.

Q Are you saying he lied about that?

A Yes.

Q You heard little Joey Shipman testify that he saw David walk back to your trailer. Is Joey Shipman lying about that?

A Yes. He didn't come to my trailer. He might have walked past it to go home, but I didn't see him.

Q Is your trailer in a direct route on the way to his house?

A It depends on whether he is going to take the dirt path by the field or not.

Q You heard Mike Rowell testify that he came back to your trailer at 7:00 o'clock. He did come back to your trailer, didn't he?

A. Yes.

Q. He said he asked you where David was and you said you hadn't seen him. Was he lying about that?

A. Yes.

Q. You heard Ted Ritchie testify that while he was at your trailer Friday night that he overheard you tell Mike Johnson that you and David had drunk a half a fifth of Vodka or had drunk Vodka. Did you tell Mike Johnson that?

A. No.

Q. He is lying about that?

A. Yes.

MR. BOSTICK: Your Honor, please forgive me for interrupting. I think this is an important point. In his question, we seem to be intertwining two questions. He first said half a fifth and then said some Vodka. Perhaps he wants to separate those two questions.

BY MR. LANGER:

Q. Did you say anything to Mike Johnson about drinking any amount of Vodka with David?

A. No.

Q. What about this comment that Ted overheard to the effect that you had to rough somebody up for a hundred dollars regarding pit bulls.

A. There was nothing about roughing nobody up, but some guy asked me if I could either show him where this guy was or ask him



myself and get the information to him where his pit bull was. There was nothing about beating or roughing nobody up. All I had to do was ask him where his pit bull was. He heard it was in West Carrollton. I had to find out whether the dog was in West Carrollton. If I found out and told him where his dog was, he would give me a hundred dollars.

Q Ted Ritchie is lying about what he said he overheard you say to Mike?

A He is lying about the roughing up part.

Q I want to be clear. You and Ted had no personal problems while he was there?

A No.

Q What time did you go to bed that night?

A I couldn't tell you. Probably a little after 12:00.

Q Did you turn the light out?

A Yes.

Q You heard Mr. West testify that the lights in your trailer went out at 1:30 in the morning?

A They went out. It wasn't that late because it wasn't -- after Mike Johnson left about quarter after eleven, I was out long enough to throw beer cans away and empty the ash trays. Then I took the TV back in the bedroom, turned out the lights, and went to bed.

Q Mr. West is lying when he says he saw your lights on until 1:30 in the morning?

A. Yes.

Q. James Combs said that the next day, as the body was being recovered, he went to your trailer and you came out of the bathroom. He asked you what was going on and you said that David was found dead in the field; he had been strangled. Did Jim Combs lie about that?

A. Yes.

Q. You are a friend of Jim Combs, aren't you?

A. Yes.

Q. Chief Carmichael testified that outside there he had a little conversation in which you were present and David's brother, Mike, was present and you made the comment that David was a smart ass, always butting into a conversation. Did you say anything of that sort to Chief Carmichael?

A. No.

Q. He is lying about that?

A. Yes.

MR. LANGER: Nothing else, Your Honor.

THE COURT: Any redirect?

MR. BOSTICK: Yes, Your Honor.

REDIRECT EXAMINATION

BY MR. BOSTICK:

Q. Keith, what did you say if anything to Chief Carmichael?

A. Just answered what questions he asked me. Had I heard anything about any queers or anything like that around the trailer

park. I told him just the rumors I had heard.

Q You told that to Chief Carmichael?

A Yes.

Q Chief Carmichael also asked you had you heard anything about queers around the trailer park?

A Yes.

Q And you answered his question?

A Yes.

Q What else did he ask you?

A Just -- that was just about it. I started to tell him something and he said, wait a minute. That was a few minutes later. That is when I started to talk to Detective Mullins.

Q Chief Carmichael, you started to tell Chief Carmichael something?

A Yes.

Q Other than what he had asked you?

A I was getting ready to tell him about what happened that night, you know, me being around all that stuff after Mike Rowell told me not to tell them about the boys drinking.

Q You were getting ready to tell who?

A Chief (sic) Mullins.

Q Mullins is not a chief yet.

A I know.

Q Beg pardon?

A I forgot his name already.

Q The one Mr. Langer was asking you about?

A Yes.

Q Chief Carmichael?

A Yes.

Q He testified the other day, remember?

A I was getting ready to tell him about them guys coming over drunk. He said, wait a minute.

Q Chief Carmichael said to wait a minute?

A Yes.

Q He cut you off?

A Yes.

Q You weren't able to tell him anything other than what he asked you?

A Right.

Q Before you got cut off, had Chief Carmichael asked you anything about David Rowell?

A Not that I remember.

Q You did have a conversation with James Combs about little David, didn't you?

A I don't remember.

Q Could you have said anything at all to James Combs about David being in the field?

A I could have.

Q What did you know about David being in the field?

A I just knew that he was out in the field and was



supposed to be cut up.

Q Where did you get that information from?

A Mike Rowell.

Q Michael Rowell?

A Yes.

Q David's brother told you that?

A Yes.

Q Until Michael told you that, did you know anything about little David being out in the field?

A No.

Q I wonder where Michael found that out about?

A I don't know.

Q You don't have any idea, do you?

A No.

Q You did mention that evening a conversation about a pit bull and what you just told everybody?

A Yes.

Q But you didn't say anything about roughing anyone up?

A No.

Q All you had to do to earn your one hundred dollars was get this information?

A Right.

Q You never roughed anybody up?

A No.

Q You never told anybody you roughed anybody up?

A. No.

Q. Do you know where Ted Ritchie got that information?

A. No.

Q. You don't have any idea, do you?

A. No.

Q. You had your Vodka with Michael Rowell?

A. Yes.

Q. You didn't drink Vodka with David Rowell, did you?

A. No.

Q. When Michael came back that evening, do you know what he came back for?

A. It was either a cigarette or a light, one or the other. I don't remember which one.

Q. Had he come to your trailer before and asked for a cigarette or a light any other time?

A. Yes.

Q. He had bummed cigarettes off of you?

A. Yes.

Q. Had you ever bummed cigarettes off him?

A. No. I usually had some, but I knew if I wanted any and he had any, I could get them.

Q. He had a nicotine fit and that is why he came to your trailer that night?

A. I guess.

Q. You don't know if he had a nicotine fit, but he asked for a

cigarette, right?

A. Right.

Q. He didn't say anything about his brother?

A. No.

Q. Do you have any way of knowing why Michael Rowell said he had been punched by you earlier in the day?

A. No.

Q. I mean, after all, you provided him with some of your birthday Vodka, hadn't you?

A. Yes.

Q. He had been drinking heavily that night, had he, Michael Rowell?

A. No. Just one glass.

Q. One glass?

A. Yes.

Q. He can hold one glass, can't he?

A. He seemed fine to me.

Q. He seemed fine to you. Not under the influence or anything?

A. No.

Q. The pink and white towel that Mr. Langer held up for you some twenty feet away from you, the police officers showed you that, didn't they?

A. Yes.

Q. And you told them the same thing you told Mr. Langer

here today?

A Yes.

Q If they asked you the same question six months from now, your answer is going to be the same, isn't it?

A Yes.

Q In response to Mr. Langer's question, you indicated that the Shipman boy didn't even know that he cut his hand until the brother pointed it out to him?

A He seen the blood on his hand and started wiping it away. He didn't know what he cut it on. I don't think he knew he cut it until he seen blood on his hand. His brother pointed out what he cut it on.

Q Had you been smoking pot that night?

A No.

Q But you had been drinking beer?

A Yes.

Q And Vodka?

A Yes.

Q Vodka and grapefruit juice?

A Yes.

Q Did you fix your own Vodka and grapefruit juice?

A Yes.

Q How much Vodka would you pour in the glass with the grapefruit juice?

A About that much Vodka (indicating).



Q How tall a glass would this be?

A About that big (indicating).

Q What would you put in there with the Vodka?

A Grapefruit juice.

Q How many of those had you had that evening?

A Probably about three or four.

Q Three or four?

A Yes.

Q Had you ever had words before with Mr. West about anything?

A Yes. Well, it kind of made me mad when he went over and jumped on Gail for whatever. I don't even remember what that was about. I think it was about backing over some bricks, but then one night he -- the snowmobile died. I was coming back to get starting fluid for it. He said something smart to me and acted like he was going to hit me. I walked up to him and, you know, we exchanged a few words, and he went in the house. I haven't talked to him since.

Q Do you have any idea why Mr. West, a grown man, would say something smart to you, a fifteen year old lad?

A No.

Q On any occasion?

A No.

Q Had Mr. West to your knowledge ever been in your trailer?

A I don't think so. He might have been when we were

working on John's truck, but not that I recall.

MR. BOSTICK: I think that is all we have, Your Honor.

THE COURT: Any recross?

MR. LANGER: No, Your Honor.

THE COURT: You may step down. Ladies and Gentlemen, we will take our afternoon recess at this point. I would again remind you of the instruction of the Court that covers your behavior during any recess period the Court might take. We will take about twenty-five minutes and reconvene at 3:30.

(Whereupon a recess was had.)

THE BAILIFF: I apologize. I opened Court and one of the attorneys isn't here. He is using the phone, apparently.

THE COURT: All right. Did you wish to continue or would you like to wait?

MR. STEPHAN: I'd like to wait.

THE COURT: Ladies and Gentlemen, we were a bit premature in putting you back in the Jury box. Mr. Bostick did have an errand to run during our afternoon recess, and he just hasn't quite completed it. So, we will take another two or three minutes. I hate to keep you running back and forth, but I see no way to avoid it.

(Whereupon a recess was had.)

(Whereupon Court reconvened.)

THE COURT: Thank you, Ladies and Gentlemen, for indulging us. Is Defense ready to proceed?

MR. BOSTICK: Your Honor, at this time, the Defense rests.

THE COURT: Very well. Any rebuttal?

MR. STEPHAN: Prior to making that a matter of record, the Defense would move for the introduction of Defendant's Exhibits A and B.

THE COURT: Any objection?

MR. HEAD: We will object to Defendant's Exhibit A.

THE COURT: Overruled. It may be admitted.

MR. BOSTICK: Thank you, Your Honor.

MR. STEPHAN: Thank you, Your Honor. Defense rests.

THE COURT: Very well. Rebuttal evidence?

MR. HEAD: Yes, Your Honor.

\* \* \* \* \*

WHEREUPON:

JOE DANIEL WYNNE

the witness, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HEAD:

Q Sir, tell the Jury your name?

A Joe Daniel Wynne.

Q Spell your last name?

A W-Y-N-N-E.

Q What do you do, Joe?



A I am a Sergeant with the Moraine Police Department.

MR. STEPHAN: Excuse me. May we have a conference?

THE COURT: Certainly.

(Whereupon the following was had at the Bench:)

MR. STEPHAN: If it please the Court, I'd like the record to reflect that Sergeant Wynne has been in the courtroom on various occasions throughout this trial, in violation of the Separation Order. We would ask that his testimony be prevented at this time.

MR. HEAD: Your Honor, if I may be heard. Sergeant Wynne will be testifying on rebuttal concerning the testimony of Defense witness John McGarvey, and he was not in the courtroom any time during the testimony of Mr. McGarvey.

MR. STEPHAN: If it please the Court, as I understand the Separation Order, that means witnesses excluded from the courtroom at all times during any period of time of the trial. On that basis, we ask that the testimony be prevented.

THE COURT: His presence in the courtroom would be a matter you would be allowed to bring up on cross examination. The Court does not find the Separation Order was violated in regard to the proposed witness in chief which, of course, this would go to directly. But, beyond that, the Prosecution's statement that the witness was not present during the questioning and testimony should be sufficient to guard against any evils.

(Whereupon Counsel returned to their respective tables.)



BY MR. HEAD:

Q How long have you been a police officer?

A Since 1967.

Q Fifteen years?

A Yes.

Q How long have you been a sergeant?

A Since 1974.

Q Did you become involved in this Wampler case we have going on now?

A Yes, I did.

Q Did you supervise that?

A Yes, sir.

Q Bill Mullins was one of the detectives that worked for you on this case, was he?

A Yes, sir.

Q Did you have the occasion on February 9 to talk to a John McGarvey at the Police Station?

A Yes, sir, I did.

Q At that time, did he indicate to you his whereabouts on Friday, February 5, 1982?

A Yes, sir, he did.

MR. STEPHAN: Objection.

THE COURT: Overruled.

BY MR. HEAD:

Q Where did he say he was at that time on that day?

A He said that he was at his girlfriend's, Gail's parents' house doing laundry.

Q Did he say when he left that afternoon?

A Yes, sir. He told me he left around 3:00 or 3:30 that afternoon.

Q Did he indicate to you whether or not he had seen the Defendant on that day prior to leaving?

A Yes, sir, he did.

Q When did he say he saw him?

A He advised me as he was starting to leave he saw Keith Wampler. He waved at him but did not talk to him.

Q We are talking about the Keith Wampler sitting here at the right of Mr. Bostick, are we?

A Yes, sir.

Q Did you have the occasion on another time or another date to talk to John McGarvey?

A Yes, sir, I did.

Q I will hand you what we have marked State's Exhibit 9. Could you open that up and tell us what it is and if you have seen it before?

A Yes, sir.

Q Where was this conversation that you had with Mr. McGarvey?

A On the day I saw the knife?

Q Yes.

A. It was at his trailer.

Q. What date was that, do you recall?

A. March 9.

Q. Did you talk about hunting or let's ask it this way.

What if anything did you talk about with Mr. McGarvey?

A. I had received information from the dispatcher that Mr. McGarvey wanted to see me. I stopped by there to talk to him to see what he had. I thought he had some information concerning the case. As the conversation went on, he didn't appear to have any information but was seeking information.

Q. From you?

A. Yes, sir.

Q. About the case?

A. Yes, sir.

Q. What did you talk about?

A. We talked about a variety of things. He is a student at Sinclair Community College in law enforcement. We discussed law enforcement in general. I had, years ago, gone through the same course of study.

Q. Did you talk anything about hunting?

A. Yes, sir, we did.

Q. As a result of that conversation, were you shown a knife by Mr. McGarvey?

A. Yes, sir. I asked to see his knife, and he showed it me.

Q. State's Exhibit 9, is that the knife we are talking

about?

A. Yes, sir.

Q. Where did he retrieve that knife?

A. He retrieved it from, I believe it would be the first bedroom that had appeared to have been made into a study, from a desk drawer.

Q. Do you know where in that desk drawer?

A. Yes, sir. If I am not badly mistaken, the lap drawer. He pulled it open. It was approximately halfway back. It may have been covered by some paper.

Q. Did you ask him why he kept his hunting knife in that desk drawer?

A. No, sir. I thought it was rather unusual.

Q. Did you see any other hunting equipment around in that study?

A. Yes, sir. There was some type of a long gun, either a shotgun or a rifle, standing in the corner.

Q. Did you talk to him at that time about whether or not he took anything out of the Defendant's trailer between the time that you and Detective Mullins took the Defendant down to Headquarters for questioning and came back later on that evening with a search warrant?

A. Yes, sir, I did.

Q. Tell us what you said and what he said in that conversation?



A I told him that we had received information that he had been observed going into the Wampler trailer, he and Mr. Wampler, and that they had returned with John McGarvey carrying something, what appeared to be something under his jacket.

Q How did he respond to that?

A He told me they must be mistaken; he didn't take anything out of the trailer.

MR. HEAD: No other questions.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. STEPHAN:

Q Sergeant Wynne, you say you talked to Mr. John McGarvey for the first time on February 9, 1982?

A Yes, sir.

Q And what was your reason for meeting with him at that time?

A He was a neighbor of the Wampler's. We were trying to contact most of the neighbors.

Q This would have been three days after the body was discovered?

A Yes, sir.

Q You already had your suspect in the case, didn't you?

A We had a suspect, yes, sir.

Q That was Keith?

A Yes.

Q You are not telling us today that you got this State's Exhibit 9 from anyplace but Mr. McGarvey, right?

A This (indicating)?

Q Yes.

A Yes, sir, I got that from Mr. McGarvey.

Q Did you submit this to the Lab for analysis?

A No, sir, I didn't. Patrolman Adkins did.

Q Do you know how to close that?

A (Indicating).

Q Then you saw Mr. McGarvey again to pick up the knife on March 9?

A Yes, sir.

Q Did you make any report of your first meeting with him?

A Yes, sir.

Q What about the second meeting?

A I don't believe I wrote a report on it.

Q Any reason why you didn't?

A Nothing that I thought was beneficial at the time other than we received a knife and we had a request for a lab examination.

Q Why in the world would you submit that knife for a lab examination?

A I thought possibly Mr. Wampler, since he was a close friend of McGarvey, would have access to the knife.

Q But it wasn't important enough to make a report on?

A No, sir.

MR. STEPHAN: That is all the questions I have, Judge.

THE COURT: Redirect?

MR. HEAD: One question.

REDIRECT EXAMINATION

BY MR. HEAD:

Q Joe, at your direction, did Patrolman Adkins make a report about the recovery of this knife?

A Yes, sir.

MR. HEAD: No other questions.

MR. STEPHAN: No recross.

THE COURT: You may step down, sir.

MR. HEAD: We have no other rebuttal witnesses.

THE COURT: Very well. Any surrebuttal?

MR. BOSTICK: No surrebuttal, Your Honor.

THE COURT: Ladies and Gentlemen, this concludes the presentation of evidence in this case. Since we have reached an hour close to our regular hour for adjournment, I am going to allow you to separate for the evening and to go home. Tomorrow morning we will commence with the closing arguments of Counsel and the instructions of law that the Court will deliver to you on the charges that you must make your determination on. The Court would remind you during this recess period of the particulars of your instructions. That is, you are not to discuss this case among yourselves or to discuss it with anyone else. Do not permit anyone to discuss this case with you or to discuss it in your



presence. Do not form or express any opinion on the case until it is finally submitted to you by the Court. Again, you must explain this rule to your family and to your friends. As you know, when this trial is over and you are released from your Jury duty, you will be released from this instruction. At that time, you may discuss the case and your experiences as a Juror with anybody who you wish to discuss it with, but, of course, you are not required to discuss it with anyone. Until that moment, you must control any desire you would have to discuss this case both here and at home. As you know, you are not to talk with the attorneys, the parties, or any of the witnesses at anytime. Likewise, these individuals must not talk with you. If anyone should attempt to discuss the case with you, please report that at your earliest opportunity to Mr. Findlay or Mrs. Maynard. Again, do not investigate or attempt to obtain any additional information about this case outside the courtroom. It is highly improper for anybody to attempt to do that. Again, I will tell you that it is quite likely that this case will be the subject of news broadcasts or of news writings. Therefore, you are instructed not to read, view, or listen to any report in the news, on the radio, or on the television on the subject of this trial. Further, do not let anyone read to you or comment to you about any news account about the subject of this trial. Again, if you should acquire any information in this manner your requirement is the same as already described. In the event that any personal problem arises during



the recess period, please report that at your earliest opportunity to Mr. Findlay or to Mrs. Maynard and those matters then will be taken up with the Court.

Anything further by Counsel?

MR. HEAD: No, Your Honor. Thank you.

MR. BOSTICK: Nothing further, Your Honor. Thank you.

THE COURT: As far as the time to reconvene, Ladies and Gentlemen, if it is not too much of an inconvenience, Counsel, as I said, will be giving closing arguments and the instructions will follow. This can be sometimes rather lengthy. So, in order to hopefully complete all of that in the morning tomorrow, I am going to ask that you report to the Jury Room at 8:30 tomorrow morning.

Court is in recess.

(Whereupon a recess was had.)

(Whereupon the following was had in Chambers:)

MR. STEPHAN: The record should reflect we are in Chambers with all Counsel present and the presence of the Defendant being waived. If it please the Court, we would renew our Motion now for acquittal previously made at the end of the State's case.

THE COURT: For the reasons indicated earlier, the Motion is overruled. Do you want to talk about the instructions? I recall there was one suggested instruction.

MR. BOSTICK: State vs. Shepard.

THE COURT: Lancaster?

MR. BOSTICK: I don't know why I keep talking about Shepard. State vs. Lancaster.

THE COURT: The Court intends to give the pattern instruction as far as circumstantial evidence is concerned. That would be Ohio Jur. Instruction 405.03, Sub-Sections A through -- No. Make that Sub-Sections 1 through 6, which is the pattern instruction. But, beyond that, insofar as the Section describing purpose as it relates to the aggravated murder instruction, the Court will entertain a proposed instruction in the motive section of that pattern instruction. That would be, for reference, 409.01, Sub-Section 7, which would conform to their requirements of the law stated in State vs. Lancaster.

Anything else on the instruction?

MR. HEAD: For the record, we object to the proposed instruction, which wasn't in writing. Counsel for the State did not receive a written notice.

THE COURT: I said I haven't received it.

MR. HEAD: You said you would entertain it.

MR. BOSTICK: Your Honor, that was 401. --

THE COURT: 409.01, Sub-Section 7. Anything else that I may anticipate?

MR. HEAD: Not for the State.

MR. LANGER: What about the instruction on the Defendant testifying?

THE COURT: I intend to use the standard instruction on

that, that being, testimony of the Defendant is to be weighed by the same rules that apply to other witnesses. That is the only instruction on that topic that I am thinking about. There is one 405.89, the instruction as to statements made to police officers by a Defendant, which would read as follows: You should consider with caution evidence of any statement made by a Defendant to a police officer. In weighing such evidence, you should consider whether it was made by the Defendant, whether it was truthful, whether it was accurately recorded, whether the Defendant understood what was said, the circumstances under which it was made, the emotions of hope or fear that may have existed, and the difficulty in contradicting such statement. However, upon you alone rests the duty to apply the general rules for testing the credibility of witnesses and deciding what weight should be given to all or any part of such evidence.

MR. BOSTICK: That starts out again how?

THE COURT: You should consider with caution evidence of any statement made by a Defendant to a police officer.

MR. BOSTICK: We respectfully request that not be given.

MR. STEPHAN: We further add, Your Honor, that the conclusion of that particular instruction is identical to the other instruction regarding the Defendant taking the witness stand.

MR. BOSTICK: We say this based upon the evidence as presented.

THE COURT: Does the State have any feeling about that?

MR. LANGER: I don't think so.

THE COURT: It will not be given then. If you can, have the written proposed instructions for me tomorrow.

\* \* \* \* \*



July 27, 1982

THE COURT: Good morning, Ladies and Gentlemen. This morning, as I have told you, we are going to have the closing arguments of counsel, after which you will be given the instructions of law by the Court before you retire for your deliberations.

Before you hear the closing arguments of counsel, I should tell you that closing arguments, like opening statements, are not evidence. They are an opportunity for the counsel for each side to tell you about what they believe the evidence has shown in the case and to argue to you again their theory of the case.

With that explanation, is counsel ready to proceed?

MR. LANGER: Yes, Your Honor.

MR. STEPHAN: Yes, Your Honor.

THE COURT: You may proceed.

MR. LANGER: Your Honor, may it please the Court, Mr. Bostick, Mr. Stephan, Mr. Head, Ladies and Gentlemen of the Jury. The very first thing I want to do is, on behalf of the State of Ohio, express our appreciation for the attentiveness that you have displayed thus far during this trial. It has obviously been conscientious, and we are sure as you get into the jury deliberations you will be just as conscientious.

As has been made clear from the beginning of this trial, this necessarily is a circumstantial evidence case. Homicide cases are unlike other sorts of cases because in a homicide case, of course, the victim cannot tell you exactly what happened or who did it, and

so we have to arrive at the truth by examining the surrounding circumstances.

I don't believe defense counsel will argue that these crimes were not committed. Obviously, David Rowell was raped and murdered and his body was abused and for some period of time he was being held against his will. The obvious issue in this trial is identity. Is the Defendant the person who is responsible for these crimes? And you have before you a whole mass of evidence, circumstantial evidence in the form of physical evidence and also evidence in the form of testimonial evidence, persons who talked with the Defendant shortly before and shortly after the commission of these crimes. What I want to do in my opening statement is to briefly discuss with you what I would submit are the circumstances which point at this Defendant and point at no other person. Mr. Bostick and Mr. Stephan will then have a chance to present their arguments and, since the State has the burden of proof in this case, you will be hearing from Mr. Head lastly.

The first circumstance that I think is important is motive. Motive. Does this Defendant have or did he have motive to cause injury to David Rowell? One point I want to be very clear with you is, and the Judge will instruct you, that motive or the reason why a crime is committed is not an element of the crime. In other words, if for some reason you simply can't understand why this Defendant did these crimes, that does not justify an acquittal. But, having said that, nevertheless, motive or absence of motive is one of the

circumstances you ought to consider, of course, in trying to decide what happened.

I submit to you we have presented ample motive on the part of this Defendant to do these terrible crimes against David Rowell. The killer in this case obviously had an intense dislike for David Rowell. Just look at that body. Whoever did that felt something very deeply against David Rowell. This Defendant intensely disliked David Rowell. There was a personality clash to begin with, some sort of chemistry that didn't jive between the two of those individuals. But, David Rowell, in the eyes of Keith Wampler, committed the ultimate transgression against his ideal, John McGarvey, his substitute father, his big brother, the person he spent just about everyday with. He'd get up at 5:00 in the morning and do anything that his ideal, John McGarvey, would have him do. And, David Rowell had the temerity to tamper with those rabbit traps, and greatly upset Mr. McGarvey and, therefore, it greatly upset this Defendant. And, you can picture that scene in that trailer, the whip being snapped, McGarvey twisting those nunchakues trying to scare the living daylights out of David and Mike Rowell.

I think the last indication of this intense dislike is on the day the body is being recovered in the field. There is the brother of the decedent standing there with Chief Carmichael, and the Defendant feels compelled to blurt out that David was a smart ass, quote, unquote. And he said that twice, according to Chief Carmichael, unless you believe the Chief is lying, as the Defendant



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would have you think. He says that twice. There is something deep down inside of that Defendant that moved him to commit these crimes. He had the motive.

Number two, David is last seen alive going back to that trailer. Joey Shipman. Joey Shipman -- there is no question Joey Shipman was there at the time of that last conversation with David Rowell. If you listen to the Defendant's tape, three times you will remember he says, and I do believe Joey Shipman was also standing there. There is no question he was standing there, and he was able to hear what David was saying, and part of what Joey testified to is corroborated by his brother. His brother, Jim, did hear the part about I am going to get drunk. Jim didn't remember hearing the rest of it. Joey testified that he said I am going to get drunk at Keith's; and Joey said, I saw David walk back to Keith's trailer. I asked the Defendant, is Joey lying about that? His response, well, perhaps David was walking back to his home. Well, you saw where the Rowell home was on Kreitzer. That is in the direction opposite from the Defendant's trailer, and why would David be walking home? He didn't want to go home that night, it is obvious. He had been kicked off that bus. He had bad grades. He didn't want to go home to face what he knew was coming. He didn't want to go home. He was full of anxiety, and he wanted something to drink, and his brother wouldn't let him drink a little bit of grapefruit and vodka but apparently this Defendant was rather generous with his booze.

David is last seen going to the trailer, and that is Keith



Wampler's trailer.

The footprints. The police arrive at the scene, and they, being the professionals that they are, immediately recognize the evidentiary value of those footprints leading from the body to the patio of the Defendant. It is abundantly clear they took every precaution to protect that particular path of footprints so that later on into trial it could be presented to this jury as evidence. And you will remember they created their own path to go out to that body.

Now, there are a couple points about the foot path, I submit, are rather interesting. Evidence Technician Adkins, at the time he looked at those footprints, this is before the Defendant is a suspect, at that time, he estimated the size of the shoe of that footprint to be about a size 10 or so. You are going to have the Defendant's boots. He wears about a size 10. And it is a smooth soled shoe with a heel clearly separated from the ball of the foot, the cowboy boot, and the toe of the shoe print angles forward. The cowboy boot. And, of course, that cowboy boot has wedged in it some pieces of grass, which you would expect to be wedged in it if he walked through the field. This is where I think a point is interesting. Of course, the footprints are incredibly incriminating. The Defendant is being interviewed by Detective Mullins and for some reason he feels compelled to volunteer the following comment. This is from the transcript of the tape. You will have the tape to play in the jury room. So, after they left last night -- let me back up.

Back up on the 5th, which was Friday, you were home most of the

day Friday? The Defendant: Yeah, except when I threw the grill away. Mullins: Threw what grill away? The Defendant: There's an old grill right there in those -- you go out through my shed. Mullins: Out there in the old gardens? The Defendant: No, it's not out in the gardens. Mullins: You did not go out into that field? Is that what you're saying? The Defendant: Not yesterday. Mullins: Where did you throw the grill? The Defendant: Yesterday. Mullins: Yesterday afternoon? And the Defendant says, Yeah, but there's a big old patch of weeds right there at my house, and I threw the grill away there. That grill was not thrown out there on Friday. It's an old grill. Why would he throw it out in February? That's a grill you use in the summertime. Why, on a February day, he throws it there I don't know.

But, Dennis Adkins examined that grill. It was rusted. It was covered with debris and covered with snow. He is lying about that; the Defendant is lying about that. But, why does he feel compelled to lie about it? He knows the footprints are there. He knows they lead from his patio, and he has to attempt some explanation as to why the footprints begin from his patio.

The path of the killer leads not only from the body back to the patio itself. I would submit to you it leads even into the trailer because on the end table we find blood, two spots of blood. You saw the photographs. Those two spots were typed by Larry Dehus. -- look at this chart again -- as Type O, PGM, 1. We have here on this chart one, two, three, four individuals with Type O, PGM, 1. Bobby

Rowell. Of course, there is no evidence he was in that trailer. Cecil Wampler. Could it be his blood? We will come back to that in a second. Ted Ritchie was in that trailer, but where is any evidence Ted Ritchie cut himself? It was Jim Shipman who cut himself that night. Of course, we have David Rowell, Type O, PGM, 1. Is it Cecil Wampler's or is it David Rowell's blood? It is David Rowell's blood. We know that for several reasons. Number one, Officer Adkins closely examines that table and he observes that throughout the table is a thin layer of dust except where the blood spots are. Those blood spots fell upon that table quite recently. And then Officer Adkins examines the head and arm and hand of Mr. Wampler, and he doesn't see any recent cuts. In fact, Mr. Wampler verified it. He hadn't cut himself recently. Those blood spots are the blood spots of David Rowell.

The path of the killer leads not only just to the patio; it leads into the trailer itself.

The beer cans. Officer Adkins finds two Old Milwaukee Light beer cans, and they happen to be right along that patio. No snow on those beer cans. And is it merely coincidence that if you follow that path back into the trailer, that you happen to find other Old Milwaukee beer cans and they just happen to have the same dates stamped on the bottom of the can, January 17 and January 18? Is that just coincidence or does that further point to this Defendant?

The grocery bags. We have an Imperial bag containing David



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Rowell's clothing, and we have a Super Rite bag which contained his genitals. You will follow that path back to the point of the trailer. You go into that trailer. Is it just coincidence we also found other Imperial Food bags and Super Rite bags? Is that just coincidence? Remember this one Imperial bag, State's Exhibit 25? That was found by Officer Adkins sitting on the kitchen table in a partially opened-closed condition, like it had been pulled out and then for some reason not used. Can you picture it? Grabbing for bags, stuffing items in, left over bag left on the kitchen table.

The towels, the pink towel in particular. Obviously, that towel came from that Defendant's trailer. There is no question about it. Mrs. Gennette, the Aunt of the Defendant, showed you the other part of the matching set. Obviously, that came from the Defendant's trailer. To further confirm it, Officer Larry Dehus finds two hairs on that towel and they match only the hair of Cecil Wampler. Obviously, that towel came from that trailer.

The Defendant is in a terrible bind. That bloody towel containing the blood of David is linked to his trailer. Now, he is in a real dilemma. On the one hand, while he can say Detective Mullins lied, Carmichael lied, his friends lied, he can't quite say his Aunt lied. On the other hand, he can't quite bring himself to say, yes, that's my towel because that ties him in incredibly. So, he walks the middle line. He says, well, I'm not sure. I'm not sure. Hoping that you will not be sure and you will not use this evidence against him. Do you believe him when he says he doesn't recognize that



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monogram towel? Is he being honest with you?

The toilet seat cover with David Rowell's blood on it. Again, you follow that path from the body. You go into the trailer, and is it just coincidence that inside that trailer is a toilet covering set, but absent from that set is the cover, and that cover that we found in the field matches the remainder of the set? Obviously, that seat came from inside that trailer. When was it taken from the trailer? This is where I was particularly interested in learning the Defendant's answer. When did he last see that in the trailer? Was that taken sometime long before David Rowell's murder or did it suddenly come up missing that night? And he tells you, his explanation is, I don't know. I don't know. I don't look at the toilet when I go to the bathroom. If you believe that --

One last point about this toilet seat cover. You see on the seat a V shape pattern. This seat, this toilet seat cover was placed under the buttocks of David Rowell when his genitals were cut off. The Defendant wanted to avoid any blood from getting on his bed or his father's bed, whichever room he did it in.

The fibers. Now I am talking about the fibers in the shoes of David Rowell and that extra fiber found in his clothing. I will draw your recollection to Larry Dehus's testimony. He told you those fibers -- there were four different fibers, and they were unusual fibers and, also, the die was unusual because normally die is soaked into the fiber. But, this was a surface type of die. There were twodies. So unusual are these fibers and those dies that Larry

Dehus said if it didn't come from the Defendant's blanket, then it has to come from one identical to it. This particular item of evidence is crucial. When did those fibers become wedged in the shoes of David Rowell? Larry Dehus said they had to become wedged into the shoes. Couldn't have picked them up walking along the carpet. When was the Defendant -- strike that. When was David inside the Defendant's bedroom? We know from Mike Rowell that while he was there that Friday, David remained seated on that couch, and the Defendant confirmed it when he testified. Mike said even the previous day when he had been there with David, David did not go into that back bedroom. So, when is David in the back bedroom? Obviously, it had to be after Mike left, after he ran after being struck by the Defendant. Mike left and David immediately went over to Shipman's. He had to have walked back to that trailer in order for those fibers to become wedged in his shoes. And, why are they wedged in his shoes? Why is his shoes, why is David's shoes on that Defendant's bed? Is he struggling? Is he kicking in an effort to try to protect himself?

The Defendant, of course, denies he did any of these crimes, but he does admit he was in that trailer on the night of that killing. There is no question that the killing and the other crimes happened inside that trailer. At 5:30, David is last seen walking to that trailer. On Friday, 3:30 the next day, his body is found away from the trailer in a path that leads up to that same trailer that he was last seen going into. We have all this other evidence indicating